

# Minutes of the General Assembly of Association of European Administrative Judges, Sofia, 5 June 2015

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## **Apologies for absence and proxies**

- Ms Karin WINTER was given proxies to represent the Slovenian Association of Administrative Judges, the Romanian member Ms Cristina COMAN, the Dutch member Ms Katy VAN BOEVEN and the Luxemburg Association of Administrative Judges.
- Mr Heinrich ZENS has proxy to represent the Croatian Association of Administrative Judges.

After the General Assembly was opened, the President Ms Edith ZELLER welcomed the participants.

## **1. Report of President Edith ZELLER**

Before giving the report President Edith ZELLER states that the necessary quorum of more than half of the member states is met and she expresses her deep thanks to Ms Sibila SIMONEOVA, Mr Boïan MAGDALINTCHEV and Mr Dragomir NIKOLOV YORDANOV for having organized the meeting and the General Assembly.

The President gives her report to the General Assembly, briefly pointing out the board activities since the last meeting of the General Assembly in Helsinki in 2014. She once again expresses her thanks to Ms Hannele KLEMETTINEN and Ms Marja-Liisa JUDSTRÖM for having organized the last General Assembly.

The President reports on the following meetings:

- The working group (WG) “Independence and Efficiency” held its meeting in Manchester on 19 June 2014. On 20 June the joint AEAJ/UK Association of Women Lawyers seminar took place on “judgement writing” from the citizens’ perspective. The President expresses her gratitude to Mr Bernard McCLOSKEY for having organized the meeting as well to the WG co-chairs Vice-President Annika SANDSTRÖM and Vice-President Bernard EVEN.
- The WG “Asylum and Immigration” held its meeting in Nice on 25 and 26 September 2014. Despite some organizational problems, the meeting finally was perfectly well received. The President expresses her thanks to the president of the tribunal, Ms Lilian BENOIT, and Ms Geraline SORIN for their support and to the WG co-chairs Ms Bettina MAURER-KOBER and Vice-President Holger BÖHMANN.
- The WG “Taxation” took place in Sevilla on 23 and 24 October 2014. The President expresses her gratitude to co-chair Aiste MEDELIENE for having organized the meeting all

by herself. The topics were “Tax avoidance, tax evasion and tax mitigation”. Meanwhile our Greek colleague Ms Eugenia PAPAPOULOU agreed to be co-chair.

- Also the WG “Environmental law” took place in Sevilla on 23 and 24 October 2014 in cooperation with the University, the General Council of the Judiciary and the European Commission (European IPPC Bureau). The subject was „Industrial emissions and the IED-Directive”. The President expresses her thanks to our Spanish colleague Ms Maria FERNANDA MIRMAN CASTILLO for organising everything and to the WG co-chairs Werner HEERMANN and Anders BENGTTSSON.
- On the basis of a joint co-ordination between the President Edith ZELLER and DG Justice, on 17 November 2014 AEAJ-members (following an invitation by DG JUSTICE) attended a meeting in Brussels organised by the European Commission on issues related to judicial training on EU rules on free movement of EU citizens and their family members.
- From 2 to 4 December 2014 there was a meeting in Vienna for an ad-hoc co-operation of AEAJ with EUI, the European University Institute in Florence. Prof. Fabrizio CAFAGGI from EUI drafted together with President Edith ZELLER, Heinrich ZENS and Secretary General Karin WINTER a scientific questionnaire on the topic “General principles and judicial remedies – The interaction between international and domestic courts”, which was then sent to 9 specific country rapporteurs (France, UK, Sweden, Austria, Germany, Poland, Romania, Lithuania, Netherlands). The President expresses her gratitude to Heinrich ZENS and Secretary General Karin WINTER as well as to the country rapporteurs.
- On 6 and 7 February 2015 the board met a delegation of judges and the President of the Czech Supreme Administrative Court in Brno for an exchange of information and a board meeting was held in Vienna at the Austrian Federal Administrative Court. President Edith ZELLER expresses her thanks to our Czech colleague Ms Karolina TYLOVA and Secretary General Karin WINTER for organizing the events.
- On 23 and 24 April 2015 the WG “Independence and Efficiency” held its annual meeting in Utrecht. The President expresses her deep thanks to the constant support given to AEAJ by our colleague from the Netherlands, Mr Theo SIMONS, who hosted the WG excellently. The topic was the before mentioned scientific questionnaire “General principles of EU law and development of judicial remedies/sanctions: The interaction between international and domestic courts”. The President expresses her gratitude to Prof. Fabrizio CAFAGGI, to the co-chairs Vice-President Annika SANDSTRÖM and Vice-President Bernard EVEN as well as to Secretary General Karin WINTER for organizing the event.

- On 7 and 8 May 2015 the WG “Environmental law” met (again) for a workshop in cooperation with the National Institute of Magistracy (NIM) of Romania. The topic was “Access to information in environmental matters”.
- On 4 and 5 June 2015 the WG “Environmental law” held its annual WG meeting (here) in Sofia.
- On 11 and 12 June 2015 a seminar on access to justice, among others on tools to handle conflicts of different legal sources of different origin, will be (again) organized together with the Romanian NIM, where Heinrich ZENS and President Edith ZELLER will be trainers.
- On 24 and 25 September 2015 the WG “Asylum and Immigration” will hold its annual meeting in Bologna.
- On 8 and 9 October 2015 the WG “Taxation” will meet in Thessaloniki. The topics will concern “Fundamental rights of EU citizens in the Tax jurisprudence/Case law of CJEU” and “Access to administrative justice in tax cases and state aid”.

***Report of the chair of the working group “Environmental Law”, Werner Heermann***

Co-chair Werner HEERMANN refers to the already mentioned meetings and mentions additionally that 3 WG-members attended the EUFJE (EU Forum of Judges for the Environment) conference in Budapest from 16 to 18 October 2014. The subject of the conference was “Impact assessments”.

11 WG-members attended the meeting of the "Aarhus Convention Commission expert group for national judges" in Brussels on 24 November 2014. On this occasion 2 new WG-members were recruited.

Co-chair Anders BENGTTSSON participated in the recent session of the EU programme “Support for Cooperation with National Judges in the Field of Environmental Law” on 24 January 2015. He will attend the eighth meeting of the Task Force on Access to Justice under the Aarhus Convention from 15 to 17 June 2015 in Geneva.

WG-members participated in workshops of the Academy of European Law (ERA) as speakers and as listeners.

The next annual working group meeting is planned in November 2016 in Tenerife (Canary Islands).

## **2. Reports of the Vice-Presidents**

### ***Report of Vice-President Annika Sandström***

Vice-President Annika SANDSTRÖM refers to the already mentioned meetings of the WG “Independence and Efficiency” and mentions additionally that at the WG meeting in Manchester last year the participants described the work with judgment writing at their respective courts, and the kind of problems that arise concerning working methods and writing traditions. The participants were also invited to two of the courts in Manchester – the court for immigration and asylum cases and the court for family and civil matters.

Concerning the WG meeting in Utrecht this year Prof. Fabrizio CAFAGGI presented his research project on “Remedies in EU Law” and a questionnaire on the impact of EU law on national enforcement bodies. Furthermore the topic “Criminal proceedings v. administrative proceedings – the *ne bis in idem* principle or the right to not be tried and convicted twice in the same matter” was discussed.

### ***Report of Vice-President Bernard Even***

Vice-President Bernard EVEN refers to the report of Vice-President Annika SANDSTRÖM. Unfortunately our Exclusive Correspondent with the Council of Europe, Mr Pierre VINCENT, could not take part in the General Assembly. He handed a summary to Vice-President Bernard EVEN:

The topic of the Consultative Council of European Judges (CCJE) meeting from 22 to 24 October 2014 was about the examination and adoption of a CCJE opinion n° 17 on “Evaluation of judges’ work and respect for the judicial independence”.

The topic of the next draft opinion (for 2015) will probably be “Independence of the judiciary and its relations with others powers in a democratic modern state.”

The next meeting will take place in London from 14 to 16 October 2015.

The “European Commission for the Efficiency of Justice” CEPEJ plenary meeting took place in Strasbourg on 11 and 12 December 2014, where Mr Georg STAWA from Austria was elected as president of the CEPEJ. 50 percent of the new board members are judges.

The Council of Europe General Secretary met the European commissioner for justice a few weeks ago. It was officially stated that the European Union would launch its own study on judicial systems using the methodology developed by the CEPEJ.

The CEPEJ is also cooperating with the EU Agency for Fundamental Rights in order to jointly prepare a handbook on access to justice in Europe.

***Report of Vice-President Holger Böhmann***

Vice-President Holger BÖHMANN refers to the already mentioned meetings of the WG “Asylum and Immigration”.

He outlines that EASO recently expressed its interest in the performance of seminars and meetings together with AEAJ.

For the annual meeting in autumn 2016 there is an offer from Mr Bernard McCLOSKEY to host it in London.

Comment of Mr Harald DÖRIG:

There is an EASO-cooperation with the IARLJ-Europe on the development of core modules. They are developed for judges by judges and will be translated in many languages.

***Report of Vice-President Gianmario Palliggiano***

Vice-President Gianmario PALLIGGIANO reports on the “Leiden Immigration Law Conference” at the University of Leiden on 24 and 25 October 2014, in which he, Secretary General Karin WINTER and our colleagues Ms Bettina MAURER-KOBER, Mr Peter NEDWED and Maria Laura MADDALENA participated. The initiative was managed by ELENA (European Legal Network on Asylum). ELENA is coordinated by the European Council on Refugees and Exiles (ECRE).

The topic of the conference was “The use of the EU Charter of Fundamental Rights in Immigration and Asylum Law” focusing on the role and the binding character of the Charter of Fundamental Rights, in asylum and immigration, as part of the member states legislation.

### **3. Report of the treasurer Ralf Höhne**

The treasurer Ralf HÖHNE reports on the budget and the calculation for the year 2014, explaining receipts and expenses.

The treasurer gives an account of the financial situation of 30 December 2014, adding that the account showed a plus of EUR 5,026.90. Income in 2014 was EUR 14,165.89. Luxembourg has paid all missing membership fees.

### **4. Report of the auditors Hannele Klemettinen and Marja-Liisa Judström**

After examining the accounts Auditor Hannele KLEMETTINEN gives the auditors' report, indicating that there was no complaint. All the accounts are in good order, the auditors congratulate the treasurer on his work. Regarding unpaid membership fees it is noted that the statutes provide the possibility of exclusion, this applies for individual members as well. Furthermore, it is noted that the membership fees for 2014 have not yet been paid by all participants.

### **5. Approval of actions of Board, Treasurer and Auditors for 2014**

The General Assembly unanimously decides to approve the actions of the board and the treasurer as well as the auditors.

### **6. Admission of New Members**

The following individual members are unanimously accepted by the General Assembly:

- Mr Jorge RIESTRA SIERRA (Spain)
- Ms Emilia GIMENEZ YUSTE (Spain)
- Mr Juan Carlos FERNÁNDEZ DE AGUIRRE (Spain)
- Ms Maria Luisa MARTIN MORALES (Spain)
- Ms Ewa MICHNA (Poland)
- Mr Ian William DOVE (UK)
- Ms Carole M. BILLIET (Belgium)

The following observer was unanimously approved by the General Assembly:

- Mr Vojtech VOMACKA (Czech republic): academic/legal assistant

Furthermore the General Assembly unanimously decided to cease the membership of Mr D. HUND (Netherlands) due to his retirement.

## **7. Report of the Exclusive Correspondent with the Council of Europe**

See the report of Vice-President Bernard EVEN under point 2 of the agenda.

## **8. Report on other external relations**

### ***Co-operation with EUI***

The President refers to the already mentioned joint project concerning remedies (see report on the WG meeting “Independence and Efficiency” above). She outlines that there are aims to get funding opportunities by DG Justice.

The President further reports that EUI applied for an action grant with 10 co-beneficiaries and 7 associate partners – with AEAJ among the associated partners – in November 2014. The project has already been granted by DG Justice. The Topic will be: “Active Charter Training through Interaction of National Experiences” to improve better knowledge and better application of the FRC. AEAJ would send expert participants.

### ***Co-operation with EJTN***

The President outlines that there will be a joint EJTN-AEAJ seminar in February or March 2016 in Naples. The seminar will be funded by EJTN; AEAJ can nominate 20 participants (funded by EJTN). The topic will be “Conflicts of norms in administrative jurisdiction” or “Judgment writing”.

So far several AEAJ members have been already active as trainers in different EJTN seminars. The President stresses that it is important to show AEAJ contributions as partners: when AEAJ colleagues, serving as trainers, indicate so by referring to AEAJ in the printed line of the agenda of the respective training, showing their name and function (as trainer), this would be an important contribution for AEAJ. Through this AEAJ can show that it actively fulfils its duties as partners of EJTN.

The President refers to the meeting of EJTN-partners in Brussels in March 2015 where she listed numerous training needs towards EJTN. It was stressed that awareness must be created as the workload is often a reason for non-participation.

The President says that she will represent AEAJ at the EJTN-GA mid June 2015 in Riga, where she will have the opportunity to introduce AEAJ to the EJTN-members.

### ***Co-operation with EASO***

See report of Vice-President Holger Böhmann (point 2 of the agenda).

The President refers to contacts with Mr Killian O'BRIAN, the chair of the trainings office of EASO, for launching specific co-operations.

### ***European Commission***

The President reports that she participated in two conferences last year in Brussels:

- June 2014: "Building upon good practices in European Judicial Training" within which the partnership agreement with EJTN was signed.
- December 2014: FRC – assessing and responding to the training.

In the course of those conferences she established contacts with various representatives of the European Commission, inter alia DG Justice, DG Tax, DG Market and Taiex.

### ***Other co-operations***

#### NCALJ

The President reports that NCALJ ("National Conference of the Administrative Law Judiciary"), one of the judicial divisions of the American Bar Association, addressed AEAJ to have a cooperative relationship.

#### Medel

They asked us for co-operation and exchange, which we formally installed as well.

#### Serbian colleagues

Very recently contacts were established with the Serbian administrative judges.

### Czech colleagues

As reported before, AEAJ tried to spread information in the Czech Republic.

### Bulgarian association

The President again expresses her thanks for having organized the meeting and General Assembly 2015.

Ms Sibila SIMONEOVA explains that further projects with AEAJ are planned.

## **9. Financial Situation**

The President outlines that as already reported last year the funding situation by the European Commission under the new funding framework programme affects AEAJ in that we are limited to our own membership fees.

Since representatives of DG Justice had explained to the President that judges are not on their list of priorities, no application for funding was made in 2014. However, in case of future calls for proposals for funding, AEAJ might fall in the category “co-operation”.

## **10. Reports concerning the current situation of administrative judges in certain countries**

### **a) Lithuania**

Ms Rasa RAGULSKYTE reports that the training of judges is now a problem, because the President of the Lithuanian court does not give permission any more. The Lithuanian colleagues already asked the Lithuanian judicial counsel but they have not received an official answer. Additionally it is against European standards if judges cannot attend any more training because of too much workload.

### **b) Greece**

Mr Panagiotis DANIAS reports on an update of his report, presented to the General Assembly in 2014. There now is a court judgment, which ruled that the cuts of judges' salaries, under the 2nd Memorandum with the Troika, were against the Greek Constitution and that the Greek state had to pay the judges the difference between their salaries in July 2012 and

the amounts actually paid after the cuts were implemented, retroactively. The Court also ruled that the taxation of the judicial salaries had to be the same as the taxation of the compensation of the Members of the Parliament: 25 percent of the annual judicial income should be excluded from taxation.

Negotiations with the Greek Government about the implementation of those judgments are still on the way. Some parts of the sums in question were paid, but not everything.

## **11. Work programme for 2016**

The President briefly refers to the prior reports on upcoming meetings:

- AEAJ-EJTN seminar in Naples, end of February/beginning of March 2016.
- Conference and AEAJ-GA 2016: 5 and 6 May 2016 in Vilnius: Ms Rasa RAGULSKYTE invites AEAJ to hold the GA 2016 on 6<sup>th</sup> May (morning session) in Vilnius, following a conference, which would be co-organized by AEAJ as well as others.
- Verwaltungsgerichtstag 2016: 1 to 3 June 2016 in Hamburg: the chairman of the German Association of Administrative Judges (BDVR), Mr Robert SEEGMÜLLER, invites AEAJ to participate at the German Verwaltungsgerichtstag 2016. AEAJ will contribute with a workshop in an “Arbeitskreis”, AEAJ-Topic: “Implication of IT for the Judges’ work”.
- WG-meeting “Asylum and Immigration” maybe in London in autumn 2016
- WG-meeting “Environmental Law” in November 2016 in Tenerife
- WG-meeting “Taxation Law” in autumn 2016 maybe in Naples or as part of the FISCALIS-Programme

## **12. Website**

The President thanks our Austrian colleague Ms Daniela URBAN for implementing the most urgent updates and providing technical assistance.

The President announces that according to a board decision Vice-President Gianmario PALLIGGIANO is the new webmaster.

She expresses her gratitude to Mr Marc CLEMENT, who has built the website so far.

Vice-President Gianmario PALLIGGIANO shows the General Assembly some aspects of the new website. There still is work to do. The board will continue to support the process, comments and suggestions to the new webmaster are welcome.

### **13. Miscellaneous**

#### "Apis Europe"

The President reports on her meeting with "Apis Europe" (a leading legal information provider for the Bulgarian market), which has designed a new data base on national jurisprudence, applying and implementing EU law and legal norms primarily in the field of consumer protection, taxation law, asylum law as well as private international law. They will provide AEAJ with 50 passwords and a short guide and would like to have a feedback by September 2015.

#### Contact persons

The President stresses again that the contact persons of national member associations of AEAJ have a key role – not only to disseminate information, but also to actively promote and support AEAJ by ensuring that each member receives the information on upcoming meetings and by reporting national needs to AEAJ. This might also support an increase in further active participation of members.