



Association of European Administrative Judges/Vereinigung Europäischer Verwaltungsrichter /
Fédération Européenne des Juges Administratifs
Associazione dei Magistrati Amministrativi Europei /
Based at: Europäische Rechtsakademie D-54295 Trier, Metzer Allee 4

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Minutes of the General Assembly of Association of European Administrative Judges, Lyon, 15 Oct 2021

1. Representatives of member organizations, board members and observers:

PRÄSENT

Austria

Siegfried KÖNIGSHOFER
Markus THOMA
Eva WENDLER
Karin WINTER (Secretary-General)
Edith ZELLER (President)

Finland

Marja-Liisa JUDSTRÖM (Auditor)

France

Maguy FULLANA
Sylvain MERENNE (Vice-President)
Camille VINET

Germany

Holger BÖHMANN (Vice-President)
David RABENSCHLAG

Greece

Nikos DRAKOPOULOS
Danias PANAGIOTIS

Eugenia PAPADOPOULOU (Vice-President)

Lithuania

Rasa RAGULSKYTĖ-MARKOVIENĖ (Vice-President)

Luxembourg

Carlo SCHOCKWEILER (Observer)

Sweden

Hanna WERTH

ONLINE

Bulgaria

Sibila SIMEONOVA

Estonia

Daimar LIIV

Latvia

Lauma PAEGLKALNA

France

Emmanuel LAFORÊT

Italy

Chiara CAVALLARI

Luxembourg

Michele STOFFEL

Romania

Ramona Gratiela MILU

Slovenia

Andrej KMECL (Vice-President)

Jasna SEGAN

Ukraine

Natalie BLAZHIVSKA

Apologies for absence and proxies:

Marja-Liisa JUDSTRÖM was given proxies to represent the Association of Administrative Judges of FINLAND.

Karin WINTER was given proxies to represent the DUTCH member Katy VAN BOEVEN, the Association of Administrative Judges of LITHUANIA, the POLISH member Ewa MICHNA, the member from ROMANIA Silviu Gabriel BARBU and the SWISS member Thomas STADELMANN.

2 Report of President Edith ZELLER

Before giving the report Edith ZELLER states that the necessary quorum of more than half of the member states is met.

She asks the GA to decide that our colleagues from the USA, ABA, NCALJ National Chapter Administrative Law Judiciary, can attend as observer according to Art. 4 of our statutes.

The GA approves.

She further asks the GA to change item 10 to item 9 of the agenda: i.e. first admission of new members and then the election of the board?

The GA approves.

She expresses again her thanks to Camille VINET for inviting AEAJ to have the annual meeting and the meeting of the working group on taxation here in Lyon.

Full of sorrow Edith ZELLER announces that Heinrich ZENS and Francesco MARIUZZO have passed away.

Heinrich ZENS was president of AEAJ from 2006 to 2014 and brought our association to blossom.

Francesco MARIUZZO was vice-president of AEAJ from 2000 to 2006 and is one of the fundamentals of our association.

Both colleagues were not only excellent and true judges but most of all wise, thoughtful and had not only a deep sense for true justice but also a good sense of humor, a good sense for humanity and European values.

Edith ZELLER reports about the following events since our last GA:

2020+2021

- UN high-Level Meeting of the Global Judicial Integrity Network in Doha, Katar in February 2020.
- AEAJ-EJTN seminar and board meeting, Barcelona in March 2020.
- OSCE online meeting concerning the COVID-19-pandemic and to elaborate a best practice and a publication on the functioning of courts in the COVID-19-pandemic. Many thanks to Eva WENDLER and Eugenia PAPADOPOULOU for assisting the online meeting.

- The CEELI Institute has organized quite some online events devoted to COVID-19-pandemic issues and also released an excellent guidance for videoconference for remote court hearings.
- Global Pandemic-Network: a University initiative (sponsored by WHO) to summarize jurisprudence on COVID-19-legislation. Many thanks Markus THOMA, David RABENSCHLAG, Alen RAIKO and Sylvain MERENNE for having agreed to contribute.
- AEAJ-EJTN seminar which had to be held in online mode in March 2021 as well as a new EJTN seminar on the role of the administrative judge which also had to be held in online mode in April 2021.
- WG Independence could hold an excellent online meeting in May 2021 and the WG ENV held an online meeting last week.
- WG Asylum and Immigration could meet in person in Marseille as well as our WG TAX yesterday and today also in person.

Finally Edith ZELLER expresses her deep thanks to all WG-chairs, all board members, the treasurer and the Secretary General, all colleagues, who were willing to host AEAJ and last but not least all participants and active members.

3 Reports of the Vice-Presidents

Report of Vice-President Holger BÖHMANN, co-chair of the working group “Asylum and Immigration”

Since the last General Assembly on 17.05.2019 in Darmstadt/Germany I represented the Association on 29.01.2020 at the 6. Contact Person meeting of EJTN in Brussels. After a presentation of the work of the EJTN partners, a report of the various cooperation and EJTN planning for 2020, e.g. in the training field, a training needs assessment was conducted. Here I participated at the meeting of the Sub-Working group on administrative law, where I could confirm our availability and interest for future cooperation seminars like on « Conflict of Norms » and « Administrative Procedure ». During my attendance as speaker in several EJTN seminars I mentioned the cooperation between AEAJ and EJTN.

On 11.06.2021 I gave online an introductory speech as AEAJ representative upon invitation of the French, Italian and German Association of Administrative Judges VERDIF. The (virtual) meeting was dedicated to the topic « The administrative Judges in times of climate change and ecological transition ».

After a long break of in person events due to the COVID-19 pandemic the board met on 01.07.2021 in Athens/Greece

On 18./19.09.2021 I followed an invitation for the celebration of the 31. Anniversary of the judges association IUSTITIA in Gdansk/Poland. The event was organized as a gala at the impressive European Solidarity Centre - a rather unusual but very lively format. An overview on the various activities of the association in its fight against the so called judicial reforms in Poland was given, followed by prize awards and musical presentations. Most impressing was the work of IUSTITIA in organizing a joint approach of various actors in civic society, including the public, against the reforms and the infringement of judicial independence.

Report of Vice-President Rasa RAGULSKYTE-MARKOVIENE, co-chairs of the working group "Independence and Efficiency"

It was planned that the conference of the WG Independence and Efficiency „The Liability of Administrative Judges“ will take place in May 2020 on the island Crete in Greece. Due to the Covid 19 pandemic the conference was postponed till 2021 and was held online on 6 May 2021.

The conference was organized together with the Law Faculty of the Vilnius University. The colleagues from the Vilnius University took care for the technical part of the conference. We are very thankful for their assistance.

Our longtime colleague Jurgita PAUZAITE-KULVINSKIENE, professor of the Law Faculty at the Vilnius University presented the actual issues of the topic “Division of responsibilities between the national court and the European Court of Human Rights: the case of the consultation opinion”.

Bartosz WOJCIECHOWSKI, judge of the Supreme Administrative Court of Poland, professor of the University of Lodz reported about the moral responsibility of judges in the face of so called „bad“ law .

Antonis METAXAS from the National University of Athens discussed in his presentation about the judicial breaches of EU law, national procedural autonomy and the need of effective application of EU law.

During the discussion session the participants spoke about the actual problems and explained their approach to the liability issues.

Cooperation with EJTN:

EJTN-AEAI training on the topic „Conflicts of Norms / Multi-level Protection in the Application of Fundamental Rights“ was held online on 18 - 19 March 2021. I was one of the lecturers and reported on possible violations of fundamental rights and conflicts between national (ordinary) law and national constitutional law as well as national (ordinary) law and EU law.

Cooperation with ODIHR:

On 29 June 2021 ODIHR organized the online meeting on the role of judicial associations in protecting and promoting the rule of law in Poland. As a representative of the AEAJ I spoke about the recent activities of the AEAJ in questions of rule of law in Poland.

I participated active in communication between the board's members regarding a lot of issues connected with the judiciary in Europe.

Upcoming event – 2022

It is planned that the GA 2022 will take place on the island Crete in Greece. We are planning to organize the conference of the WG Independence and Efficiency at the same time on the island Crete. The suggested topic for the conference is "Disciplinary proceedings against judges".

Report of Vice-President Eugenia PAPADOPOULOU, co-chair of the working group "Taxation"

In the year 2020, the Taxation WG annual seminar/meeting got cancelled due to the Pandemic health crisis. This seminar was originally planned to be held in Lyon and would focus on the impact of the pandemic on State Aid.

Due to the above mentioned cancellation, the seminar took place in Lyon on 14th and 15th October 2021 in combination with the General Assembly.

In the year 2021, the Taxation WG annual seminar/meeting was held in Lyon – France.

On 14th and 15th October 2021 the annual WG Taxation meeting was held in Lyon – France.

Venue of the meeting: The premises of the Administrative Court of Appeal – Lyon (Palais des Juridictions Administratives, 184 Duguesclin, 69003, Lyon).

Participations: Around 30 colleagues have participated. In total, all the participating countries were: Austria, Bulgaria, Finland, France, Greece, Lithuania, Romania, Slovenia, Sweden and Ukraine. Four (4) speeches were presented in the field of State Aid. The presented topics in chronological order were the following:

A) State Aid Law - considerations and the recent jurisprudence of the ECJ

Speaker: Maria Papadopoulou, Judge at the First Instance Administrative Court of Thessaloniki.

B) State Aid Temporary Framework

Speaker: Barbara Wisiak, Judge at the Federal Tax Court.

C) Covid 19 and fiscal policy issues

Speaker: Georges Cavalier, Associate Professor of Law at the University of Lyon and Academic Director for International Programs.

D) Direct and indirect State Aid – aspects of legal protection

Speaker: Tina Ehrke-Rabel, Professor of tax law at the University Graz, Austria.

During the seminar, the members of the Taxation Working Group presented their respective national systems (Bulgaria, Finland, Slovenia, France, Greece and Lithuania)

General comments: It was a very fruitful and successful meeting, considering the Covid-19 situation and the participants should feel richer for attending it.

Lastly, we are very grateful for the warm hospitality of our French colleagues and the perfect organization of the event. Without their valuable contribution, a face to face event would have been impossible. Special thanks to Camille Vinet, who had the main load for all the organizational issues.

UPCOMING EVENT - 2022

For the year 2022, the next Taxation Working Group meeting will be held in Sofia-Bulgaria in October 2022.

The official topic of the seminar, the official venue and the date will be announced.

Report of Vice-President Andrej KMECL, co-chair of the working group “Independence and Efficiency”

Since the last General Assembly on 17.05.2019 in Darmstadt, Germany, I

- Prepared and co-ordinated the logistical aspect of the WG Environment meeting in Ljubljana, Slovenia, Aug 28 – 31, 2019, including accommodation, venue, turistical programme and a presentation of the Slovenian environmental law;
- Assisted in organisation of the WG Asylum meeting in Malaga, Spain, Sept 26 – 27, 2019. Though the majority of my engagement included desk work only, the sheer number and diversity of the participants required quite a bit of communication and co-ordination, especially as the local support was very limited;
- Moderated the joint AEAJ/EJTN seminar on Conflict of Norms in Barcelona, Spain, Mar 11 – 13, 2020, and participated in the co-located meeting on the Board, which turned out to be the last one before the lockdown;
- Represented EJTN at the (on-line) JUST meeting on the strategy of judicial training in the EU, Mar 23, 2020, where I tried to present the case of distributing funds for training among more players, including associations like AEAJ. I got an impression

that my interventions were met with at least some degree of understanding, but the main focus appeared to be on development of training for other legal professions as support to well-functioning judiciary;

- Represented AEAJ at the (on-line) EJTN meeting of the representatives of “LOT4 partners”, Jan 25, 2021, where I presented AEAJ’s activities in the field of training and confirmed our further activities, primarily in co-operation with AEAJ;
- Assisted in preparation and co-moderated the (on-line) meeting of the WG Independence and efficiency, May 14 – 15, 2021;
- Participated in the (long awaited!) face – to – face meeting of the Board in Athens, Greece, Jul 3, 2021.

4 Reports of the working group chairs

Report of the co-chair of the working group “Asylum and Immigration”, Holger BÖHMANN

Since the last report at the General Assembly on 17.05.2019 in Darmstadt/Germany the annual meeting of the WG Asylum and Immigration took place on 26. and 27.09.2019 at the Tribunal Superior de Justicia de Andalusia in Malaga/Spain. As we did not had a contact person there, the organisation of the event was challenging. There were more than 30 participants from a variety of Member States and associations, not at least due to the very attractive city of Malaga, who opened a wide room for exchange. The program started with a presentation of the recent jurisprudence of the CJEU e.g. on the Gnandi case and following by CJEU judge Lars BAY LARSEN, followed by a presentation from Mauro GAGLIARDI as representative of the Commission on current issues and challenges under the Return Directive. Co-Chair Harald DÖRIG presented differences between refugee protection and subsidiary protection, especially in cases of Syrian and Eritrean nationals, which opened the presentation and discussion of case studies from Austria, Finland, France Germany Spain and Greece on the topic. Unfortunately, the envisaged presentation by the presiding judge of the administrative chamber of the Spanish Supreme Court was cancelled on short notice, so we used the time for an exchange of short reports on the current challenges in the asylum and migration field in the countries represented by the participants. Finally Basia OPALSKA from EASO presented the work and efforts of the Office in the framework of the courts and tribunals network with the most recent developments, e.g. on the so-called Professional Development Series and training activities for asylum judges. We had the chance of having dinners at traditional Andalusian restaurants and a guided city tour in Malaga on Saturday.

Due to the COVID-19 pandemic and its restrictions it was not possible to hold an annual meeting in person in 2020, which was planned for Marseille/France. However, the situation allowed postponing it to the 09. and 10.09.2021, thanks to the great efforts by Sylvain MERENNE and his team at the Administrative Court of Appeal in Marseille in cooperation with the French National Asylum Court CNDA. Around 20 participants from Austria, Germany

and France found their way to Marseille under the current travel restrictions. The first day of the meeting was dedicated to asylum topics, starting with a presentation on the use of country of origin information (COI) in France by Joseph KRULIC, presiding judge of a chamber at the CNDA. Arnaud KIECKEN, a French administrative judge currently serving at the DG Migration and Home Affairs of the EU-Commission, presented the Commissions strategy on the enforcement of EU law in the field of asylum and migration. Nicolas JACOBS, Head of the Courts and Tribunals Sector within EASO, gave an update on the current activities and developments there. The second day we were kindly welcomed by the president of the Marseille Administrative Court of Appeal, Ms. HELMLINGER, and Maguy FULLANA, president of our French member association, the Sydicat de la juridiction administrative. The topics were on migration law issues, starting with an online presentation by Silvio GRIECO from DG Migration and Home Affairs of the EU-Commission on legal pathways of immigration to the EU, e.g. by workers migration and the practical challenges in the Member States. Co-chair Harald DÖRIG displayed the new immigration rules in Germany, e.g. on work and secondary migration and the pathway from asylum to “regular” residence status, which opened the floor for the presentation and discussion of case studies from Austria, Lithuania and Germany on secondary migration by family reunification. We enjoyed the well known French cuisine at dinners and on Saturday we went on a boat trip to the famous Calanques, the rocky Mediterranean coast side near Marseille.

At the meeting on 01.07.2021 in Athens the board of AEAJ decided to call an additional co-chair on board of the WG. Catherine KOUTSOPOULOU from Greece agreed to join us and will be in charge of organisational issues in the future. The same time co-chair Harald DÖRIG took over her position as AEAJ contact person at the EASO Courts and Tribunals Network.

The annual meeting of the WG in 2022 is planned for the beginning of September at the High Administrative Court of Berlin-Brandenburg in Berlin/Germany. The WG so far agreed to have a part on asylum as well as on migration law issues again.

Report of the co-chair of the working group “Environmental Law”, Anders BENGTTSSON and Matthias KELLER

The working group Environmental Law consists of 64 members coming from 23 countries: Austria (4), Belgium (1), Bulgaria (3), Czech Republic (1), Estonia (1), Finland (5), France (3), Germany (9), Greece (2), Hungary (2), Italy (5), Latvia (2), Lithuania (3), Luxembourg (1), Netherlands (1), Poland (1), Portugal (1), Romania (2), Slovenia (1), Spain (8), Sweden (4), UK (3), Ukraine (1). We have furthermore one honorary member from Japan and four observers.

1. AEAJ workshop via Zoom on 7 – 8 October 2021

Due to the Covid 19 pandemic, the annual workshop for 2020 was postponed till 2021 and was then held via Zoom. The title of the workshop was “Environmental Law and its illustrative Cases - A “tutti frutti” in the shade of the pandemic”.

The workshop was attended by 21 AEAJ members from 11 countries (Austria, Estonia, Finland, Germany, Greece, Italy, Netherlands, Portugal, Lithuania, Bulgaria and Sweden). Our honorary member from Japan, our observer from the European Commission was also participating in this workshop.

Matthias KELLER and Anders BENGTTSSON welcomed the participants whereafter the participants presented themselves and made a short summaries of the national situation, with a focus on environmental law.

René SEERDEN, senior judge at the District Court of Limbourg presented “Access to justice in the Netherlands after the ECJ-case C 826/18”.

Daniele FRANZONE, former senior expert – European Commission – DG Environment gave a presentation of “Recent CJEU case law on access to justice”.

Sanja BOGOJEVIC, gave some inspiring thoughts on “Litigation in times of climate change – what role for judges?”

These speeches was followed by three national reports on Climate Litigation in Court, with the perspectives from the Netherlands (René SEERDEN), Ireland (Andrew JACKSON, University College Dublin) and Germany (Jan Frederik ELLER, Administrative Judge at the Administrative Court in Hamburg).

On Friday Ana CELESTE CARVALHO, PhD in Law, Appeal Administrative Judge, President of the Administrative and Tax Courts of Lisbon, Azores and Madeira, presented “The Inquisitory Principle in Administrative Justice”. This contribution was followed by a discussion on national experiences.

PhD Candidate Sonja KAHL, University of Freiburg, presented “Environmental litigation before regional international courts in Africa and Latin America”.

Before summing up and informing on plans for next years’ workshop, we had a discussion on national experiences of climate litigation.

2. Other conferences

Members of the working group participated as speakers at joint EJTN/ERA/AEAJ conferences on environmental law in Trier the 25 – 26 May (via Zoom) and 28 – 29 September 2021 (face to face).

3. EU programme “Support for Cooperation with National Judges in the Field of Environmental Law”

During 2019 and 2020 members of the working group have participated and/or lectured in several of these workshops organized by ERA - workshops that are free of charge and financially supported by the European Commission.

4. Future activities

The WGs annual workshop for 2022 will be held in Lisbon (Portugal), either the 6-7-October, or the 13 – 14 October. The topic for that years' workshop has not yet been decided.

5 Treasurer's Report

The treasurer Ralf HÖHNE could not participate. He asked Karin WINTER to read his reports to the GA :

Treasurer's Report 2019

In 2019, all member associations and several individual members paid their membership fee, some of them also for the previous years. The receipts were 15.231,80 Euro.

Concerning the expenses, it was foreseen in the budget that 4.500 Euro could be spent for each working group meeting, plus 250 Euro for each co-chair. For the meetings in Helsinki (Taxation WG) and Malaga (Asylum WG) we spent all the money dedicated to these meetings, for the other workshops there were less costs.

For the General Assembly in Darmstadt, we did not need the calculated sum of 5.000 Euro.

But as we discussed it in 2019, we managed to fulfil the aim of the budget and reduced the amount on the account by giving more money to the working groups in 2019 as we are not allowed to make profit with our receipts.

At the end of the year, there were 4.343,36 Euro left.

For all the figures, please look at the overview, which was already sent by Edith ZELLER per E-Mail to all AEAJ members.

Treasurer's Report 2020

In 2020, nearly all member associations – except for Azerbaijan and Ukraine – and several individual members paid their membership fee, some of them also for the previous years. The receipts were 13.925,00 Euro.

Concerning the expenses, it was foreseen in the budget that 2.000 Euro could be spent for each working group meeting, plus 250 Euro for each co-chair. Due to the corona pandemic, we could not have any of the planned working group meetings in 2020 and therefore saved the money for the meetings in 2021. The only travel costs reimbursed in 2020 were for the Council of Europe representatives at the beginning of the year (before the corona pandemic) and for the president's travel to Warsaw.

At the end of the year, there were 17.113,84 Euro on the account.

Furthermore Edith ZELLER especially thanks the national court presidents and court administrations, who and which enable AEAJ-members to participate in AEAJ-meetings and even often finances their participations.

6 Auditors' Report

Marja-Liisa JUDSTRÖM reports:

I as an auditor of AEAJ, Marja-Liisa JUDSTRÖM, have with the other auditor Hannele KLEMETTINEN examined the accounts of AEAJ. We have again been given access to account information, payments and receipts.

We can report that there has not been any reason for complaint. All account information, payment transactions and receipts are in good order. We auditors congratulate the treasurer on his great and intensive work.

We noticed that the membership fees of the national associations have been paid well for the year 2020. Almost all the associations have paid the membership fees.

Not yet all individual members have paid the membership fees for the year 2020. However, some members have paid the fees also for the years 2011-2019 and even 2021.

In the account of the association at the end of the year 2020 there were more funds than previous year.

7 Approval of actions of board, treasurer and auditors for 2019 and 2020

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

8 Decision concerning the number of board members

The GA unanimously decides to have 5 members on the board acc. to Art. 5 of the AEAJ-statutes.

10. Admission of new members

- The French association USMA (« Union syndicale des magistrats administratifs ») was unanimously admitted.

Furthermore :

- José Damián IRANZO CEREZO (Spain)

- Georgios SERAPHIM (Cyprus)
- Adela-Iliana ALBU (Romania)
- Adina Georgeta PONEA (Romania)
- Alexandre TSULADZE (Georgia)
- Shota GETSADZE (Georgia)

were unanimously admitted as individual members.

- Chiara FELIZIANI, University professor of administrative law in Macerata

was unanimously admitted as observer.

The following membership was unanimously ceased:

- Marilena LULEA (Romania)

9. Election of new board members and auditors

Edith ZELLER informs that from the old board Holger BÖHMANN, Rasa RAGULSKYTE-MARKOVIENE and Eugenia PAPADOPOULOU and she are candidates. Also Sylvain MERENNE, member of the French Association Syndicate de la Juridiction Administrative, is candidate and was proposed by our member association already ahead of the planned GA meeting in 2020.

Andrej KMECL is no longer candidate for a new board. Edith ZELLER thanks Andrej KMECL for all his work for AEAJ!

Edith ZELLER proposes that Carlo SCHOCKWEILER should chair the elections. The GA unanimously agrees.

Edith ZELLER, Holger BÖHMANN, Rasa RAGULSKYTE-MARKOVIENE, Eugenia PAPADOPOULOU and Sylvain MERENNE are unanimously elected as board members (18 pro, 0 con, 0 abstention).

Hannele KLEMETTINEN and Marja-Liisa JUDSTRÖM are unanimously elected as auditors.

After a short break the board informs the GA that it has elected Edith ZELLER as the new president and appointed Karin WINTER as Secretary General and Ralf HÖHNE as treasurer.

The new board consists of:

1. President Edith ZELLER, Verwaltungsgericht Wien, Muthgasse 62, 1190 Vienna, Austria, born 3 January 1971

2. Vice-President Holger BÖHMANN, Bundesverwaltungsgericht, Simsonplatz 1, 04107 Leipzig, Germany, born 13 November 1966
3. Vice-President Rasa RAGULSKYTĖ-MARKOVIENĖ, Lietuvos vyriausiasis administracinis teismas), Žygimantų g.2, 01102 Vilnius, Lithuania, born 16 October 1976.
4. Eugenia PAPADOPOULOU, Diikitiko Efetio Tripolis, Deligianni no 6., 22100 Tripolis, Greece, born 4 Sept 1971
5. Sylvain MERENNE, La Cour Administrative D'Appel Marseille, 45, boulevard Paul Peytral, 13006 Marseille, born 4. Jan 1984

11. change of statutes

Holger BÖHMANN explains the need for an amendment of the statutes regarding the term of office of the board members.

As a GA could not be held in May 2020 when the 2 years term of office of the current board members expired, the question arose, whether there is a need for an election of a new board.

The German legislator introduced a new law under which the acting board members remain in office until the election of a new board - without an explicit rule on this in the statutes and despite the term of office. This legislation is in force until the end of 2021.

To avoid a gap in our statutes on this - in case the pandemic situation does not allow an in person GA in the future, the board suggests to add a new sentence in Art. 5 (2) of the statutes after sentence one: *"They remain in office until a new board member is elected."*

The GA approves.

12. advisory committee of AEAJ

Carlo SCHOCKWEILER explains that the AEAJ-Alumni Board had a meeting this morning and discussed the cornerstones of an "Advisory Committee", which are:

- Kind of a think-tank
- Body adopted by the board
- without financial contribution
- composed and limited of former board members
- body established in AEAJ on the level as a WG
- no changes of statutes is needed
- Jasna SEGAN and Carlo SCHOCKWEILER could be entrusted with the establishment of the Advisory Committee

- Karin WINTER will be the secretary of the Advisory Committee

13. Report on activities within the Council of Europe

Sylvain MERENNE reports:

AEAJ is observer in two committees of the Council of Europe: the Consultative Council of European Judges (CCJE) and the European Commission for the Efficiency of Justice (CEPEJ). Moreover, the AEAJ is invited to the solemn hearing of the ECtHR.

The AEAJ was previously represented by our retired colleague Pierre Vincent, with whom I worked since 2018 to become more familiar with the functioning

- CCJE

The CCJE is the most strategic for the AEAJ. The CCJE issues each year a general opinion on a specific theme regarding justice and its organisation. On the whole the CCJE opinions converge with AEAJ views.

We generally do not participate to the working group for the opinion, but we do participate to the general meeting, which takes place at the beginning of November, propose amendments and take position into the debates.

The topic for 2020 (opinion n° 23) was on “the role of associations of judges in supporting judicial independence”, a crucial topic for the AEAJ as for its members. Edith ZELLER participated to the online-meeting in person.

The topic for 2021 (opinion n° 24) is the “Evolution of the Councils for the Judiciary and their role in independent and impartial judicial systems”. We already circulated the draft opinion among members.

The topic for 2022 will be the freedom of expression of judges.

Moreover, the CCJE delivers opinions on specific national topics or reforms of the judiciary. AEAJ members’ attention is drawn on their possibility to ask for a non-binding opinion on their matters of concern related to the independence of the judiciary.

- CEPEJ

Pierre VINCENT did usually assist to the CEPEJ meetings which seemed less strategic for the AEAJ. The general meeting takes place in June. I assisted to the 36th plenary meeting in June 2021 online. The plenary meeting got a presentation of many documents prepared by different working groups. The issues are technical and we need to assess our input and the resources we should invest into the functioning of the CEPEJ, which would require participating to working groups if we want to have an influence.

- Solemn hearings of the ECtHR

The ECtHR holds generally its solemn hearing the last Friday of January. The court organizes a working seminar with the representatives of the national supreme courts, followed by official speeches. The last solemn hearing was in January 2020; no solemn hearing took place in 2021 due to the pandemic.

The solemn hearing of the ECtHR gather many high profile people in the field of law, and gives the AEAJ an opportunity to address them directly on matters of interest for the association. However, such moves would need to be anticipated and prepared carefully.

14. Report on other external relations

Edith ZELLER reports about the excellent co-operation and exchange with our US colleagues (ABA, NCALJ National Chapter Administrative Law Judiciary).

Our dear colleagues, Mimi TSAKOV and Alex MANUEL, represent the National Chapter Administrative Law Judiciary of ABA.

Alex MANUEL reports about a planned delegation of US administrative judges to Europe in spring 2022.

Edith ZELLER reports about other external relations of AEAJ:

Pre-Covid

Hannele KLEMETTINEN represented AEAJ at a conference organized by EU Presidency in Helsinki in 2019.

Rasa RAGULSKYTĖ-MARKOVIENĖ represented AEAJ at a conference on FRC in Brussels in 2019.

Eva WENDLER represented AEAJ at an OSCE conference in Tashkent in 2019.

Eugenia PAPADOPOULOU represented AEAJ at the rule of law conference of EJTN in Luxemburg in 2019.

UN Judicial Integrity Network: represented AEAJ in a meeting of the respective working group.

During COVID

- AEAJ had continued relations with OSCE, ODIHR, thanks also to Eva WENDLER for her work concerning the adaptation of Kyiv Declaration. Thanks also to Eugenia

PAPADOPOULOU and Rasa RAGULSKYTĖ-MARKOVIENĖ for having stepped in in some meetings.

- CCJE: Sylvain MERENNE and Edith ZELLER have participated at last years's deliberation on the opinion 23 on the status of judicial associations

This year

ERA: director Wolfgang HEUSEL has retired

EJTN: the LOT4 meeting was covered by Holger BÖHMANN and Andrej KMECL. The AEAJ/EJTN Seminar "Conflict of norms" will take place again next year. There might be another seminar concerning the role of administrative judges in Europe (possible themes: artificial intelligence or judgecraft skills).

EASO: Holger BÖHMANN explains that more conferences are planned. There might be again an AEAJ/EASO meeting.

OSCE: Eva WENDLER is still our contact person.

University of Trento and EUI: Markus THOMA, AEAJ-contact person to EUI, reports:

At the end of September FrCoRe organized a seminaire (with physical presence) in Spain on Fundamental Rights and effective judicial protection. AEAJ had disseminated the calls for participation but got only few answers and applications. The FriCoRe project got enhanced and with funds from WHO started an Covid-19-litigation project collecting case law on Covid-19 issues as the restrictions imposed in almost all countries. At the end of May 2021 there was a transnational workshop online on Judicial protection of health as a fundamental right, also under the participation of administrative judges. Under this project Fabrizio CAFAGGI and Paola IAMICELLI published already an opening survey on the global pandemic and the role of courts which is available on demand. Further case law is collected and will be evaluated. The project TRIAL of EUI waits in the pipeline for further developement. I close my stement with the appeal: if Edith delivers calls for applications for seminaires please disseminate them among our colleagues and encourage them to apply. Our participation in projects includes a participation in seminaires.

15. Reports concerning the actual situation of administrative judiciary in certain countries

Afghanistan

Edith ZELLER reports about the great teamwork with Carlo SCHOCKWEILER and the Luxemburg foreign minister saving two Afghan judge colleagues as well as for the most grateful contributions of several other colleagues in our association.

Greece

Danias PANAGIOTIS reports about new Greece laws concerning the evaluations of new judges, where the Greek association was not in time informed. He will inform Edith ZELLER about further developments.

Poland

Due to the judgement of the Polish Constitutional Court on 7 October 2021, K 3/21, the GA unanimously decides the following DECLARATION

“The delegates of the General Assembly of AEAJ want to express that the judgement, which denies the fundamental principle of primacy of EU law over national law, is clearly against basic principles of primary EU law, e.g. the primacy of EU law, to which Poland has agreed on by its accession to the EU.

The delegates of the General Assembly of AEAJ are well aware of the fact that certain national approaches of few EU Constitutional Courts leave some room of interpretation. However, so far none denies the fundamental principle of primacy and direct effect of the EU law as such. By assigning the general competence to all national courts to assess and set aside EU law against the national constitution, the Polish Constitutional Court acts *ultra vires* by itself.

The delegates of the General Assembly of AEAJ want to stress that judgements of the Court of Justice of the EU are binding for every Member State of the EU.

The delegates of the General Assembly of AEAJ want to highlight that every national judge within the EU acts as European judge. One of the fundamental principles for judges is to abide by the law, including the fundamental principle of primacy of EU law.

The delegates of the General Assembly of AEAJ want to express their solidarity with Polish colleagues who uphold the rule of law acting as European judges.”

Turkey

Edith ZELLER refers to her E-Mails and the reports on our website. Further, she reports about the European Platform, which sent an application for amicus curiae to ECtHR in pending cases but was denied. On the other hand jurisprudence of ECtHR on Art. 5 ECHR develops.

16. Work program AEAJ for 2020

Edith ZELLER reports about the future events:

- AEAJ-EJTN seminar “Conflict of norms”: 10 and 11 March 2022 envisaged in Lisbon
- April 2022: Role of the admin judge seminar: online

- GA and WG Independence: possible dates 26 and 27 May 2022 in Heraklion.
- WG Tax meeting: 6 and 7 Oct 2022 in Sofia as a possible venue
- Asylum WG meeting: 8 and 9 Sept 2022 in Berlin
- Env WG meeting: 13 and 14 October 2022 in Lisbon

17. Miscellaneous

Edith ZELLER reports about our representatives:

- Eva WENDLER is our Twitter-Representative – see more under <https://twitter.com/AEAJ2000>
- Eva WENDLER is our Rule of Law officer.
- Camille VINET is our Representative of Equity, Diversity and Inclusion
- David RABENSCHLAG is our new webmaster. Edith ZELLER thanks Daniela URBAN for her work.

Edith ZELLER 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.