



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, Metzger Allee 4

President of the Association: Dr. Edith Zeller  
Judge at the Administrative Court of Vienna  
Muthgasse 62, 1190 Wien  
Tel: 0043 1 -4000-38614, Fax: 0043 1 -4000-99-38700, e-mail: [edith.zeller@vgw.wien.gv.at](mailto:edith.zeller@vgw.wien.gv.at)

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## **Minutes of the General Assembly of Association of European Administrative Judges, Darmstadt, 17 May 2019**

### **Representatives of member organizations and board members:**

#### **Austria**

Rainer FELSEISEN  
Andreas FERSCHNER  
Michael FUCHS-ROBETIN  
Markus THOMA  
Barbara WEIß  
Eva WENDLER  
Karin WINTER (Secretary-General)  
Edith ZELLER (President)

#### **Estonia**

Sirje KALJUMÄE

#### **Finland**

Marja-Liisa JUDSTRÖM (Auditor)  
Hannele KLEMETTINEN (Auditor)

#### **France**

Sylvain MERENNE  
Pierre VINCENT

#### **Germany**

Holger BÖHMANN (Vice-President)  
Werner HEERMANN  
Ralf HÖHNE (Treasurer)

Jutta SCHILD  
Christiane STOPP

**Greece**

Vanessa-Panagiota DEGA  
Aikaterini KOUTSOPOULOU  
Kypriani NIKOLOPOULOU  
Eugenia PAPADOPOULOU (Vice-President)

**Italy**

Marco MORGANTINI  
Rosa PERNA

**Lithuania**

Rasa RAGULSKYTĖ-MARKOVIENĖ (Vice-President)  
Jurgita PAUZAITE-KULVINSKIENE

**Luxembourg**

Anne GOSSET

**Romania**

Ramona Gratiela MILU

**Serbia**

Jelena IVANOVIC

**Slovenia**

Andrej KMECL

**Sweden**

Hanna WERTH

**Apologies for absence and proxies:**

Karin WINTER was given proxies to represent the Dutch member Katy VAN BOEVEN, the Polish member Dagmara DOMINIK-OGIŃSKA, the Association of Administrative Judges of LATVIA, the SLOVENIAN Association of Administrative Judges as well as the UK member Bernard McCLOSKEY.

Werner HEERMANN was given proxy to represent the Association of Administrative Judges of BULGARIA.

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

She expresses again her thanks to the BDVR for inviting AEAJ to have the annual meeting and the meeting of the working group on Independence and Efficiency here in Darmstadt and to Gabriele WOHMANN, President of the Verwaltungsgericht Darmstadt, and especially to Jutta SCHILD for having organized the General Assembly meeting.

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

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

### **2018**

- GA meeting on 15<sup>th</sup> June 2018 in Tallinn: Many thanks to our Estonian colleagues.
- In cooperation with NIM: Seminar on access to justice in order to seek fundamental rights in Bucharest, by Heinrich ZENS and Edith ZELLER.
- Alumni board meeting in Ljubljana, hosted by Jasna SEGAN in a perfect way. Many thanks to her.
- Environmental WG meeting in Salzburg; many thanks to Barbara WEISS, who has hosted AEAJ in a perfect way.
- Asylum WG meeting in Riga. Many thanks to our Latvian colleagues, most of all Dace ABELE.
- Tax WG meeting in Lisbon, many thanks to our Portuguese colleagues.

### **2019**

- AEAJ-EJTN joint seminar in Ljubljana: A board meeting took also place.
- Alumni board meeting in Luberon, perfectly organized by Carlo SCHOCKWEILER. Many thanks to him.
- WG Independence: yesterday here in Darmstadt during the German Verwaltungsgerichtstag. Many thanks to our German colleagues.

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.

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

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

After the resignation of Bettina Maurer-Kober and me as co-chairs of the WG and the election of Andrej Kmecl (Slovenia) as a new board member in the election at the General Assembly 2018 in Tallinn/Estonia, the board has decided to assign the position of the co-chairs of the WG to Harald Dörig (Germany) and Andrej Kmecl. In its board meeting on 15.03.2019 in Ljubljana/Slovenia the board has decided to reassign the position as a co-chair of the WG to me again until Andrej will decide different until autumn 2019.

Until September 2018 the Members of the WG continued the exchange of information on mainly asylum matters within the network.

Since the last report on the activities of the WG at the General Assembly 2018 in Tallinn/Estonia, the annual meeting of the WG 2018 took place on 13./14.09.2018 in Riga/Latvia at the Administrative Court. Due to the perfect organization by the hosting Latvian member association, e.g. by Dace Abele and her team from the Administrative Court of Riga, we were warmly welcomed at the meeting by the Vice President of the Court. We also had the opportunity to send our thanks to the President of the court, Ilze Freimane, for hosting us. It was again possible to engage CJEU Judge Lars Bay Larsen for a presentation of the recent jurisprudence of the CJEU in the field of asylum and immigration. Again the European Commission, DG Migration and Home Affairs, supported the meeting in sending two representatives. Ann-Kristin Hahnsson presented the current issues and challenges of the Dublin regime and the current stage of the recast of the Dublin regulation. Mauro Gagliardi discussed in his presentation on the return directive the recent jurisprudence, current issues and key challenges for the future. The Head of the Sector Asylum, Migration and Borders, Freedom and Justice Department at the EU Fundamental Rights Agency – Fra –, Adriano Silvestri, presented the large scale information system and its interoperability, which might increase litigation soon. Nina Kren, assistant lawyer at the Austrian Supreme Administrative Court introduced into the topic of Internal Protection Alternatives as a preparation for the following discussion of related national cases in working groups. Input from the Latvian hosts came from Anita Zikmane, Head of the Research and Case-law Unit of the Supreme Court of Latvia, who displayed the ECtHR's jurisprudence on current issues related to asylum and returns decisions. Baiba Kirsteina, assistant to the asylum judges of the Administrative Court in Riga, gave an overview of the Latvian asylum system and the key challenges. The seminar dinner took place on Thursday evening at the restaurant "Kolonade" in the very center of Riga and on Saturday our hosts showed us the Museum of the Occupation of Latvia. The meeting ended after guided city where we especially enjoyed the architectural art deco treasures of Riga.

In our cooperation with EASO and its Network of Courts and Tribunals of the Member States the association was again represented by Catherine Koutsopoulou (Greece). She attended the Annual Coordination and Planning Meeting in January in Malta. The WG members were informed about the EASO activities where AEAJ has the possibility to nominate participants, speakers and experts. In the past year there were no individual events with AEAJ organized. However, on the initiative and under co-ordination of co-chair Harald Dörig EASO has agreed

to have a Regional Workshop in German language on 12./13.09.2019 at the German Federal Administrative Court in Leipzig (Germany), where asylum and immigration judges from all instances mainly from Germany and Austria will participate. Topics will be the distinction between subsidiary protection and refugee status in the light of desertion from military service in Syria, the definition of social groups on the example of persecution of family members and for sexual orientation with discussion in working groups, credibility assessment in cases of religious conversion and homosexuality, as well as secondary migration and internal protection.

The annual WG meeting 2019 will take place on 26./27.09.2019 in Malaga/Spain at the Superior Tribunal for Justicia of Andalucia. CJEU judge Lars Bay Larsen again has agreed to present the recent developments in the jurisprudence of the CJEU in asylum and migration matters. Mauro Gagliardi from the Commission will give an update on the returns directive and Harald Dörig will introduce the topic of distinction between subsidiary protection and refugee status with case studies for discussion in groups. From the Spanish host's side the president of the Administrative Chamber at the Audiencia Nacional (Spanish Supreme Administrative Court) Eduardo Menendez Rexach will present the situation of asylum seekers and asylum law in Spain. A possibility for discussion on the future co-operation will be given after a presentation of EASO's work for Courts and Tribunals by Basia Opalska, Senior EASO officer.

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

The conference „The Status of Administrative Judges in Europe: the Question of Independence” took place on 14-15 June 2018 at the Legal Chancellor's Office in Tallinn, Estonia. The conference was organized together with co-chair Bernard Even, who reassigned the position as a co-chair of the WG after the General Assembly 2018 in Tallinn/Estonia.

Judge of the General Court of the EU Dimitrios Gratsias presented the current issues of the status of the European Union judges: he spoke about the guarantees of independence and ethics. Judge Anu Uritam, Vice-President of the Estonian Association of Judges reported about topical issues of the status and independence of judges in Estonia. Julija Kiršienė from Vytautas Magnus University in Kaunas, Lithuania discussed in her presentation on judgecraft and the fourth industrial revolution and key challenges for the future. During the discussion session judge Dariusz Mazur spoke about the current situation of the judiciary in Poland and explained the risks regarding the independence of the judiciary in Poland.

The conference „The Discretionary Power of the Judge“ on 16 May 2019 was one of the events of German Verwaltungsgerichtstag in Darmstadt, Germany. The conference was organized together with Holger Böhm, who started his position as a co-chair of the WG after the General Assembly 2018 in Tallinn/Estonia.

The speakers of the conference Colm Mac Eochaidh (judge of the General Court of the EU) and Bartosz Wojciechowski (judge at the Supreme Administrative Court in Poland) presented challenges surrounding an appropriate definition of judicial discretion.

Upcoming event: the AEAJ-GA 2020 will take place in May 2020 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 „The Liability of Judges“.

***Report of Vice-President Eugenia PAPADOPOULOU, co-chair of the working group  
“Taxation”***

On 11th-12th October 2018 the annual meeting of the WG Taxation was held in Lisbon. Around 20 colleagues from 11 participating countries participated.

This year, we held our Taxation seminar alone and by our own financial resources, without the collaboration or the funding of the DG TAXUD of the European Commission (as in Thessaloniki, Warsaw and Ljubljana).

The title of the seminar was: Intra Community Supplies and Triangular Transactions

Five speeches were presented in the field of indirect taxation law by colleagues and academics. The presented topics were the following:

„Intra Community Supply in the VAT- Directive“

Speaker: Aiste Medeliene, Attorney at law, Lithuania

„Proof of Intra Community Supply“

Speaker: Roman Wiatrowski, Supreme Administrative Court of Poland

„Discretionally Power“

Speaker: Professor Bartosz Wojciechowski, Supreme Administrative Court of Poland

„Change of the VAT-Directive – recent developments“

Speaker: Ewa Wdowczyk-Szpytma, Policy Officer of the Commission, Unit C1 VAT and other turnover taxes.

„Triangular Transactions, Jurisdiction of the ECJ“

Speaker: Barbara Wisiak, Austrian Federal Tax Court, Co-Chair of the Taxation Working Group, AEAJ

Also, on the last day of the seminar, there was a Workshop on case studies of triangular transactions with presentation of the results of the case studies and a followed discussion.

It was a very successful meeting, on a topic of high importance that concerns the Courts which deal with European Taxation Law.

All the held speeches were at the highest scientific level.

We are also grateful to the hospitality of our Portuguese colleagues.

For the year 2019, the next meeting/seminar of the Taxation Working Group will be held in Helsinki/Finland.

It will take place from Thursday, 13th June 2019 morning until Friday, 14th June 2019 afternoon, at the premises of the Supreme Court of Finland and the topic of the seminar will be on comparative procedural aspects.

### ***Report of Vice-President Andrej KMECL***

The AEAJ-EJTN Seminar „Conflict of Norms“ in Ljubljana this March was a great success.

The draft agenda of the WG Asylum-Immigration meeting in Sept. 2019 is ready. There are already around 20 applications. Deadline for application : 1 June.

## **3. Reports of the working group chairs**

### ***Report of the co-chair of the working group “Environmental Law”, Werner HEERMANN***

The working group Environmental Law consists of 63 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 (3), UK (3), Ukraine (1). We have furthermore one honorary member from Japan and four observers.

#### **1. AEAJ workshop in Salzburg on 30 – 31 August 2018**

The working group's main event during 2018 was the annual workshop, held in Salzburg on 30 – 31 August. The event was supported by the European Commission, the University of Salzburg and Landeshauptmannschaft Salzburg and the Union for Public Service. The Salzburg University had provided a beautiful conference hall.

The workshop was dedicated to „The Aarhus Convention with a focus on Access to Information and Access to Justice“.

The workshop was attended by 29 AEAJ members from 13 countries (Austria, Bulgaria, Estonia, Germany, Finland, Hungary, Italy, Lithuania, Netherlands, Slovenia, Spain, Sweden and United Kingdom). Our honorary member from Japan and a speaker from the European Commission was also participating in this workshop. The event was organized locally by working group member Barbara Weiss. We owe many thanks to her!

Landtagspräsidentin Brigitta Pallauf's welcome speech was followed by introductory speeches by professor Michael Geistlinger, Salzburg University, and by the president of our association, Edith Zeller.

Then Martin Köhler, presiding judge at the Verwaltungsgerichtshof, gave us a presentation of Austrian environmental law. The second speaker was Fruzsina Bögös, judge at the Budapest-Capital Administrative and Labour Court, who gave an overview of the Aarhus Convention and her work as a member of the Aarhus Convention Compliance Committee. Daniele Franzone, senior expert -European Commission – DG Environment gave a presentation of the latest developments regarding the EU case-law related to the Aarhus Convention and the Notice from the European Commission of 28 April 2017.

In the afternoon Holger Böhmann, judge at the Federal Administrative Court in Leipzig (Germany), presented the recent EU case-law related to Access to Environmental Information and then guided us through a case study on Access to Environmental Information.

On Friday Julia Menguser, Salzburg University, gave a presentation of the Self-executing character of the Aarhus Convention from the Austrian law perspective. Matthias Keller, presiding judge at the Administrative Court of Aachen (Germany) and co-chair of the working group on environmental law, had prepared a questionnaire, which was sent out in advance to the workshop, requesting responses from each country represented at the workshop. He presented the results on the different approaches and problems met in the Member States. He then introduced us to a session in a moot court where some of the participants acted as the court, some as representatives of the administration and some as representatives of very active ENGOs.

As usual the workshop also included some very much appreciated touristic and social events.

## 2. Other conferences

Three members of the working group participated as speakers at a joint EJTN/ERA/AEAJ conference on environmental law in Trier the 9 – 10 July 2018.

A number of working group members also attended the EUFJE (EU Forum of Judges for the Environment) conference in Sofia, Bulgaria the 16-17 November 2018, „Training and Specialization in Environmental Law”.

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

During 2018 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. Other activities

Several members of the working group participated in an „Ad hoc meeting of national judges concerning Art. 267 TFEU in relation to access to justice in environmental matters”, arranged by the EU Commission and held in Brussels the 29 January 2019.

The AEAJ supported a Judicial Colloquium „SDG16: Role of Judiciary in Promoting the Rule of Law in Environmental Matters” held in Geneva the 27 -28 February and convened by the United Nations Economic Commission for Europe.

#### 5. Future activities

The 27 – 28 May EJTN/ERA/AEAJ will have joint conference on environmental law, as a follow up to last year’s event. The conference will take place in Trier. AEAJ will provide with speakers and participants.

The WGs annual workshop for 2019 will be held in Ljubljana (Slovenia) the 29 – 30 August. This year's topic will be „Judicial Review in Environmental Cases: Scope, subject matter, limits”.

### **4. Treasurer’s Report**

The treasurer Ralf HÖHNE reports on the budget and the calculation for the year 2018, explaining receipts and expenses.

The treasurer gives an account of the financial situation of 28 December 2018, adding that the account showed a plus of EUR 11 039,22. Income in 2018 was EUR 12 620,00.

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.

### **5. Auditors’ Report**

After examining the accounts the auditors Marja-Liisa JUDSTRÖM and Hannele KLEMETTINEN indicate that there was no complaint. All the accounts are in good order; the auditors congratulate the treasurer on his great and intensive work.

The membership fees have been paid quite well for the year 2018. Almost all the associations have paid the membership fees. One bigger national association has not paid the fee and two other have not paid.

On the account of the association at the end of the year 2018 there was a little less asset than previous year.

## **6. Approval of actions of board, treasurer and auditors for 2018**

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

## **7. Admission of new members**

- David BARNIVILLE (Ireland)
- Thomas STADELMANN (Switzerland) and
- Eddy STORMS (Belgium)

were unanimously admitted as individual members.

- Roxana MATEFI, Associate Professor at the Transilvania University of Brasov, Law Faculty
- Giovanni TULUMELLO, judge at the Tribunale Amministrativo Regionale della Sicilia, and
- Agne JUSKEVICIUTE-VILIENE, Lecturer at the Vilnius University, associate attorney at the law firm “Vilys”.

were unanimously admitted as observers.

The following memberships were unanimously ceased:

- Cristina COMAN (Romania)
- Fedora LOVRICEVIC STOJANOVIC (Croatia), and the
- Austrian Finance Academics Association (FINAK)

## **8. Report on activities within the Council of Europe**

Edith ZELLER expressed her thanks to Pierre VINCENT, the AEAJ correspondent with the Council of Europe.

He participated at the relevant meetings, mainly of CCJE and CEPEJ.

Pierre VINCENT refers to the CCJE reports and outlines the discussions about the situations in Russia, the Ukraine and Turkey.

Edith ZELLER reports that our reports on the situation of judiciary to CCJE are important. It is our great opportunity to address our national problems and to make them transparent. It is

an important tool also to make weaknesses of our systems more transparent in order to boost changes.

## **9. Report of the meeting of the alumni board**

Jasna ŠEGAN, former Board member of AEAJ, reports (via Karin WINTER) the following :

At our last General Assembly Edith Zeller already informed the members about the existence of the Alumni Board. For the first time the Alumni Board met in January 2016 in Vienna. The Alumni Board had had few meetings in previous years, the last one was in April this year in Luberon in Provence.

As in all our meetings we discussed the situation, work, program and future of AEAJ in contexts of actual situation. In the last meeting we discussed new approaches to strengthen judicial independence and new challenges for Judiciary, specifically issues on the future - strengths and weaknesses – of the European judiciary, of AEAJ and deliberated on future strategic setting. The emphasis of the discussion was on the Communication from the Commission to the European Parliament, the European Council and the Council on the topic: Further strengthening the Rule of Law within the Union.

We do believe that this kind of think-tank would be of advantage to our Association in the future years. The main purpose is to assist the Board with their work and promote our Association within the European Union and beyond.

The task of this body would be to give recommendations and opinions of general nature to the Board and to the General Assembly on all matters related to the objectives of the Association as enumerated at Article 1 of the Statutes. The recommendations and opinions of the body are in no way mandatory for the General Assembly or the members of AEAJ or indeed the AEAJ itself.

As for this matter I propose to the General Assembly to formally establish the body which consists of former board members of AEAJ and the current president of AEAJ, which should be formally called Advisory Committee.

## **10. Report on other external relations/co-operations**

- **ERA**

Edith ZELLER reports about the AEAJ-contributions in ERA-conferences; AEAJ has a seat at ERA. ERA is co-organizer of a conference in Budapest on the recruitment of administrative judges and issues of rule of law in this respect, at which Edith ZELLER will contribute.

- **EJTN**

Edith ZELLER reports about the two joint AEAJ/EJTN-seminars last year and this year: on general issues of conflicting law regimes and on environmental law issues.

AEAJ is one of the partners of EJTN. Andrej KMECL has attended the EJTN-partner meeting this year.

Edith ZELLER was involved in the specific circle of several seminars organized by EJTN on the rule of law, in one of the seminar AEAJ could nominate 5 colleagues to participate.

- **EASO**

Catherine KOUTSOPOULOU, AEAJ-contact person to EASO, reports:

The purpose of the Annual Coordination and Planning Meeting (ACPM) was to evaluate the activities undertaken by EASO in 2018 in the area of cooperation with members of courts and tribunals, as well as to discuss the activities to be implemented in 2019.

EASO gave an overview of the activities of the sector over the past year. The 20 meetings organised by EASO included, inter alia, the development of the new chapter of the PDS, 8 professional development workshops in MT, activities in BG and external dimension countries, ad hoc support given to DE, IE and ES, 1 meeting with IARMJ-Europe, and the High Level Judicial Roundtable held in Luxembourg with CJEU, ECtHR and IARMJ-Europe. Workshops organised by EASO in 2018 saw 267 participants trained by 24 judicial trainers. A high number of the participants were Italian and Greek given the operating plans EASO has with these countries, while a notable number of German judges were also trained.

EASO presented the chapters of the PDS hitherto published and their translations, including the JA on Exclusion and QIP into Russian translated by UNHCR under the Quality Initiative in Eastern Europe and South Caucasus. The Executive Director a.i. explained that the number of translations is not growing at the rate one might expect due to budgetary reasons. The potential impact of a hard or no-deal Brexit will also have a direct impact on the budget released to the Office, therefore limiting its capacity to fund translations, among other activities. Moreover, EASO expressed thanks to the working group members and the coordinators for the development of the judicial analysis Detention of applicants for international protection within the context of the Common European Asylum System.

The presentation then moved to a plenary discussion on the proposal to update the methodology for the drafting process of PDS materials. EASO concluded from the plenary discussion on the methodology that the proposal will be amended and shared with the C&T Network.

The focus then turned to the future of the PDS and it was decided that the topic for the chapter to be produced this year is reception.

IARMJ presented their questionnaire on the use of the judicial analyses developed in the PDS.

Hugo Storey and Sebastiaan de Groot of IARMJ presented the findings of a questionnaire disseminated to members of IARMJ in November/December 2018. This was presented as a private initiative in order to gather feedback on the use of the PDS judicial analyses in national training contexts. A number of suggestions came out in order to encourage the use of the PDS: enhanced use of national and regional workshops delivered in languages other than English, and the implementation of virtual training using the webinar module and videoconferencing.

EASO Training officers Marion Jaillard and Ann-Sofie Galjaard presented the EASO European Training Curriculum. The methodology of EASO training since 2012, principally the multiplier effect, means that the unit is working at a ratio of 1 trainer to 12.7 people trained. The training officers presented the pilot workshop on QIP delivered in November 2018 with 20 participants. The aim was to assess the suitability of the blended learning methodology with the needs of members of courts and tribunals. There is a comprehensive online component to the module, while the workshop was tailor-made to suit the participants. Any fears as to the suitability and accessibility of the online component were assuaged by the positive feedback given by the participating judges.

In the plenary the group discussed the responsibility of the national judicial training bodies and the European networks/associations. EASO explained that workshops are conducted in English but the sector is considering workshops in French, German and Italian. The Office is even planning this year to do a workshop for German-speaking judges.

EASO also informed that the second call for nomination to the Judicial Trainers' Pool is forthcoming, and the selection meeting will take place through videoconference.

The participants were presented with the calendar for 2019. Foreseen in the coming calendar year are ten workshops, two more than 2018. Activities are foreseen within EASO's operational support to Italy, and one seminar is to be held with external dimension possibly to take place in Serbia.

Officers Jadwiga Maczynska and Maria Papaionnou from the Information and Analysis Unit (IAU) at EASO presented the Information and Documentation System (IDS) launched last year as a tool specifically dedicated to case-law. The tool is born of a desire to collate all information gathered during the researching of the EASO Annual Report and the Early warning and Preparedness System into an online searchable repository of case-law. The database aims to address information needs on CEAS implementation in the MS, though it is wary not to overlap or reproduce civil society, national and international databases. This system allows for a uniform point of reference for case-law and allows for common reference system for EASO products.

Jeff Walsh of the UNHCR presented UNHCR's engagement in a wide range of legal interventions on a diversity of themes and at varying jurisdictions (national and supranational), all within the mandate of UNHCR. UNHCR cooperates with judges through EASO, such as contributing to the judicial trainers' guidance notes on detention, and through IARMJ, such as participation in the High Level Judicial Roundtable in Luxembourg and joint conferences between IARLJ (as was formerly known) and Italian school of magistracy.

EASO expressed its gratitude to the 2 judicial associations AEAJ and IARMJ for their contribution and excellent cooperation.

- **University of Trento and EUI**

Markus THOMA, AEAJ-contact person to EUI, reports:

The project "Fundamental Rights in Courts and Regulation" (herein "FRICoRe") is a three-year judicial training project, funded by the Directorate General Justice and Consumers of the European Commission, started on 1st February 2019 and officially launched on the occasion of the kick-off event held in Trento on 4th and 5th March.

FRICoRe is characterized by the close continuity with the previous European project "ReJus", conducted in the field of judicial training in the two-year period 2016-2018. On the basis of the experience gained, FRICoRe hence aims at ensuring the consolidation and the further development of the methodology and the results achieved, as well as the enlargement of the network of judges and legal experts interested in exploring the impact of the CFREU and the EU law on national legal systems by means a mutual learning process.

The new project is intended to provide judges and legal practitioners with further guidelines on the choice of procedures and remedies in enforcing fundamental rights at national level, with particular reference to the areas of consumer protection, migration and data protection, as well as to two new sectors, not analysed throughout the previous project, namely health law and non-discrimination.

The project also investigates the use of technology in judicial decision making and its compatibility with fundamental rights in particular the right to fair trial and the right to an effective judicial remedy. Focusing on the ongoing judicial dialogue among national and European Courts around these specific sectors, the objective is to understand to what extent and in what way the general EU principles and Article 47 CFREU materially influence the effective protection of fundamental rights at a national and supranational level.

The project activities, coordinated by the University of Trento, will be performed thanks to the cooperation of eight partner institutions from six different EU Member States.

In particular, the partner institutions are the following:

1. University of Trento (UNITN), Italy – Coordinating Partner

2. Institute of Law Studies of the Polish Academy of Sciences (INP PAN), Poland
3. University of Versailles (UVSQ), France
4. University of Groningen (UG), the Netherlands
5. Pompeu Fabra University (UPF), Spain
6. University of Coimbra (UC), Portugal
7. Bruno Kessler Foundation (FBK), Italy
8. Italian National School of Magistracy (SSM), Italy

Nevertheless, FRICoRe aims at reaching a far wider audience, including judges and legal practitioners from EU Countries not directly involved within the project Consortium.

#### LAUNCH OF THE PROJECT

The new project was officially presented at the University of Trento on 4th and 5th March 2019.

In conjunction with the launch event, a seminar concerning the project key-themes took place. During the workshop the first meeting of the Steering Committee and the Advisory Board were held.

#### PROJECT ACTIVITIES

The project schedule foresees both the organization of transnational workshops and the preparation of training materials (calls for participation will be published on the project website to ensure full and diverse participation of national judges coming from EU countries).

In particular, from the beginning of the 2020 six Transnational Training Workshops will be organized in the different countries involved in FRICoRe, each one concerning the five areas covered by the project as well as a final workshop characterized by a cross-sector perspective. Each TTW will host approximately 40 participants, selected among judges, lawyers and other legal practitioners:

- o TTW on Consumer Protection → Barcelona, Pompeu Fabra University, 3rd and 4th February 2020
- o TTW on Data Protection → Warsaw, March 2020
- o TTW on Non-discrimination → Groningen, June 2020
- o TTW on Health and Fundamental Rights → Trento, October 2020
- o TTW on Immigration and Asylum → Paris, January 2021
- o TTW on Cross-sector and horizontal perspective → Coimbra, June 2021

Three additional workshops will be specifically devoted to the training of trainers (Transnational “Training the Trainers” Workshops). Each TTTW is intended for about 30 selected participants. An E-learning pilot module will be also developed through the use of IT tools on one of the topics addressed during the TTTWs.

The "Training the Trainers" workshops will take place according to the following provisional plan:

- o TTTW 1 → Scandicci (Florence), December 2020
- o TTTW 2 → Barcelona, April 2021
- o TTTW 3 → Groningen, October 2021

Five Casebooks will be drafted, each one dedicated to one of the selected areas of law. Also, Guidelines for Judges and Guidance for Trainers will be provided as complementary and operational tools. All training materials will be developed in conjunction with the continuous updating of the REJus/FRICoRe Case Law Database, which will be freely reachable on the project website (currently under construction).

FRICoRe is currently establishing a network of national judges and legal experts engaged in the mutual development of the caselaw Database and the project Casebooks by suggesting relevant national judgments concerning the application of Article 47 CFREU, as well as the application of the general EU principles, in the areas of law covered by FRICoRe.

For the purpose of coordinating the various national teams, also including EU Countries not directly involved within the project Consortium, FRICoRe is identifying National Contact Points in charge of managing each group and communicating with the Coordination Unit in Trento by suggesting judgments and updates within domestic caselaw when affected by EU principles in the reference areas.

- **HELP-Programme of the Council of Europe**

Markus THOMA, AEAJ-contact person to HELP, reports:

HELP is an educational platform of the Council of Europe for legal professionals. Its aim is to train judges, lawyers and prosecutors on human rights standards in Europe.

HELP is an European Network of national training institutions (NTIs) for judges, prosecutors and lawyers in the 47 member states of the Council of Europe. The network is made up of representatives from NTIs and Bar associations (BAs) of the 47 member states.

Apart from the European Convention on Human Rights (ECHR), HELP covers other instruments like the European Social Charter (ESC) or CoE Conventions in key areas like data protection or labour rights. Furthermore, with EU support, we include the EU Charter of



Fundamental Rights and relevant EU law or CJEU jurisprudence in the courses specifically developed for EU countries, but also implemented in other CoE member states.

HELP courses shall enable legal professionals to better protect human rights on a national level and keep up to date with the ever-evolving standards and case law of the European Court of Human Rights.

The HELP methodology is built to fit in with the busy schedules of legal professionals. The curricula are made by experts to meet participants' specific training needs and learning pace.

HELP organises Training of Trainers sessions to train national tutors, who adapt the curriculum to the national legislation and to the type of legal professionals. The national tutor may also draft a chapter on the implementation of EU provisions and case law at the domestic level if relevant.

Once ready, the model course in English is published in the self-learning block of the HELP platform.

Each curriculum displays both mandatory resources and optional additional resources to cater for different levels of knowledge and interest.

The HELP e-learning platform is available for free online. A wide range of courses can be accessed on the platform in English and, increasingly, in the national languages of CoE countries.

The EU-CoE "HELP in the 28" Programme was implemented to support legal professionals from the 28 member states of the European Union. It focused on the ECHR and European Social Charter of the Council of Europe, but also the Charter of Fundamental Rights of the European Union and CJEU jurisprudence.

The HELP in the 28 Programme was funded by the European Union, implemented by the Council of Europe and supported by Associate Partners such as EU NTIs, BAs and the European Judicial Training Network (EJTN) or the Council of Bars and Law Societies of Europe (CCBE). Under HELP in the 28, four new courses were developed and launched in several countries each:

Right to the integrity of the person (bioethics); Data protection and privacy rights; Fight against racism, xenophobia and homophobia; Labour rights.

The Directorate General of Human Rights and Rule of Law of the Council of Europe organized a Network Conference for its project HELP in the EU on 31 January – 1 February 2019 at the premises of the Council of Europe.

The annual General Assembly will take place at the beginning of July.

Edith ZELLER further reports that CEPS, a European think tank has contacted AEAJ on short notice for a project they were bidding with the European Commission for issues of legal migration law, where AEAJ could nominate some of our colleagues as future experts to participate and contribute to a possible meeting in the future.

Also the Czech Masaryk University is interested in co-operations for a possible project for which they have now applied for funding (in asylum law).

- **KAS Greece**

Markus THOMA attended the conference “The Crisis of Rule of Law in the European Union”, November 13th 2018 in Athens, organized by KAS Greece. He reports that AEAJ is a kind of “watchdog” on the international level: wherever the national judiciary is not able to defend itself against threats and attacks, the support of national NGOs, i.e. national associations of judges but also of international NGOs as AEAJ, is needed.

A “watchdog” can still bark while official institutions remain already silent.

Two rulings of ECJ, in the cases of Associação Sindical dos Juizes Portugueses and LM emphasized the independence of the judiciary not only as an individual right of parties granted in Art. 47 CFR, but also as an obligation of member states to guarantee the dialogue between national courts and ECJ as provided in Art. 19 TFEU.

At present, national judiciaries are essential and responsible for the rule of EU-law in member states. They need more support from the European at EU level, as set about in the two mentioned rulings of ECJ, in order to maintain their role and position against challenges on the at national level.”

- **OSCE**

Edith ZELLER reports that a representative of OSCE has participated in the AEAJ WG Independence meeting last year. OSCE has one department, which specifically deals with issues of administrative judiciary. There is a co-operation and exchange of information in between OSCE and AEAJ.

- **European Commission, DG Justice**

Edith ZELLER reports about the communication paper of DG Justice to strengthen the rule of law and the role of networks.

## **11. Reports concerning the actual situation of administrative judiciary in certain countries**

### **Austria**

Markus THOMA reports about the Opinion of the CCJE Bureau following a request by the Association of European Administrative Judges (AEAJ) as regards the legal setting of the position of the president (vice-president) of the Administrative Court of Vienna, Austria:

The Bureau of the CCJE agrees with the AEAJ that the provisions of the legislation on the role, position, organisational setting and powers of the president (vice-president) of the Administrative Court of Vienna in some regards deviate from European standards, and that as a consequence the protection of judicial independence and against undue pressure may in some respects be endangered.

The CCJE Bureau recommends the following:

- The selection and appointment procedure of the president and vice-president of the Administrative Court of Vienna should be the same as for the other judges of this court;
- As regards a Council for the Judiciary or an equivalent body, which provides for the consultation and participation of judges in selection and appointment procedures, the CCJE Bureau endorses Rec(2010)12, in particular its paras 8 and 26-29;
- The broad powers of the president of the Administrative Court of Vienna should be complemented by criteria for their application and exercised in transparency;
- This is of particular importance as regards the role of the president in supervising the length of procedures and in initiating disciplinary procedures;
- The situation as regards the possible subordination of the president (vice-president) of the Administrative Court of Vienna to the orders of the government of the province of Vienna in matters of judicial administration is unclear and should at least be clarified and, if it exists, be abolished through a change in legislation.

Further critical points in Austria

According to the report of AEAJ to the CCJE of May 10th 2019 the above mentioned opinion of CCJE mirrors the situation of the administrative judiciary in a whole.

This means the lack of

- Sufficient judicial independence (internal and external/budgetary)
- Judicial self-administration by an independent body
- Competence for disciplinary proceedings at some administrative courts
- Initial training of administrative judges
- An independent training institution for all administrative judges
- Appropriate remuneration of active (Styria: higher ranks awarded by the regional government; Vorarlberg: judges invested by treaties, not transparent) and retired judges (pensions of federal judges will reach only 44% of active-remuneration)

## **Greece**

Vanessa DEGA reports that during the years of the prolonged financial crisis in Greece, fundamental rights of our people have been seriously prejudiced. In particular, working conditions, as well as pensions have been dramatically affected, with Judges' pensions having been reduced by about 70%.

Our salaries however, despite the cuts, have been maintained at a satisfactory level taking into consideration the general financial environment. The decisive attitude of the judges has played a crucial role in this respect.

Another major issue is that Justice in Greece is not adequately funded. There are insufficient public resources, staff reductions, less public servants to support the role of the judiciary, lack of office supplies and related equipment. Moreover, there are inadequate infrastructure and maintenance of the buildings where the administrative courts are based.

The court access has also become in the last years expensive and has placed an undesirably onerous burden on a large number of people. Court fees, expenses and stamp duties, combined with the cost of legal services seriously discourage natural or legal persons to exercise their legal remedies and pursue their respective interests. This has resulted to a considerable reduction of court cases and judicial affairs.

On the other hand, in many categories of cases and especially in taxation ones, additional procedures before the administration have been regulated, as a sine qua non step before accessing justice. The above cases rarely reach the courts in the end. Citizens are accordingly practically deprived of their right for judicial protection, a fundamental right under both the Greek Constitution and the European Convention on Human Rights. The Greek Association of Administrative Judges disagrees with the aforementioned deterioration of judicial protection.

Finally, the Greek public administration, which faces many structural problems, often refuses to enforce or abide with court decisions that acknowledge specific rights to natural or legal persons. This resulted to the enactment of a special procedure in order to ensure that the administration complies with court decisions.

By pointing out briefly the above problems of the administrative justice in Greece before you, here in the General Assembly of AEAJ we seek your support and appreciation and we aspire to find solutions for the benefit of Greek people and for the improvement of the quality of the Greek judiciary.

## **Hungary**

Markus THOMA reports about his participation at the Conference 'The rule of law and the independence of the judiciary in Hungary and in Europe - trends, concerns, ways ahead',

January 25th 2019 at the Hungarian Academy of Sciences, Institute for Legal Studies in Budapest, organized by the Hungarian Helsinki Committee and Amnesty International Hungary with the support of the Embassy of the Kingdom of the Netherlands, the Embassy of Switzerland in Hungary and the OSCE Office for Democratic Institutions and Human Rights.

Programme Outline: The independence of the judiciary and the individual judges have been increasingly contested in Europe amidst calls for more accountability, efficiency as well as to legitimize the powers of the executive branch over the judiciary. In Hungary there is an ongoing debate between the court leadership and the judicial self-governing body that has jeopardized effective supervision of court administration in 2018. The Parliament of Hungary adopted a Law on Administrative Court System that introduces the ministerial model in court administration and provides the Minister of Justice with significant powers. In 2018 we researched appointments and promotions in Hungary to analyse risks of political interference in the independence of the judiciary. At the international conference, we will present the outcomes of the research and put it into international context. We discussed the present and future risks and patterns of interference in the judiciary using examples of Hungary and other countries in the EU (e.g. Austria and Bavaria/Germany, but also Czech Republic).

### **Poland**

Edith ZELLER refers to all the information she has forwarded to the AEAJ-members. She especially refers to the pending reference proceedings for preliminary ruling before CJEU in Luxemburg. There are cases of initiated disciplinary proceedings, the reasons for the initiation of which are not based on a serious and flagrant misconduct. Furthermore not only the Polish media, but also members of the Polish executive power still show public criticism of judiciary in a way, which undermines the independence and public confidence in the judiciary.

### **Romania**

Ramona Gratiela MILU refers to the already existing opinion of CCJE of 25th April 2019 (CCJE-BU(2019)4 followed a request by the Romanian Judges Forum Association as regards the situation on the independence of the judiciary in Romania.

She further reports that the promotion of magistrates has become based on more subjective grounds, because it is no longer founded on the objective criteria of professional competence. The promotion in superior prosecutor's offices and courts is done on the basis of "assessment of activity and conduct within the last three years" with a formal interview before the Plenary of the Superior Council for Magistracy. The professional standards have been relativized.

### **Turkey**

Edith ZELLER refers to the reports on our website.

Further, she reports about the mass dismissals (more than 4000 judges and prosecutors) and mass arrests (approximately still, the majority of the originally 2.450 judges and prosecutors put in pre-trial detention are still detained).

Dismissal decisions are neither based on a fair trial, nor issued in an individualized way and lacks basic requirements of a judicial decision.

The practise of enforced transfers of judges to other (remote) courts and sudden removal from certain cases are still practiced.

The High Council of Judges and Prosecutors (HSYK) was no longer an independent organ, but under broad political influence. The European Network of the Councils for the Judiciary has recently confirmed this, when it suspended the observer status of HSYK in December 2016. This decision is founded on the conviction that the HSYK is currently not an institution that is independent of the executive and legislature ensuring the final responsibility for the support of the judiciary in the independent delivery of justice. There are no signs that the new Council of Judges and Prosecutors would have a different setting in order to regard it as independent. The new Council of Judges and Prosecutors shows even more deficiencies that are relevant.

The mass dismissals and mass arrests without proper individualized accusations clearly have “chilling effect” within the judiciary. This means that those judges and prosecutors, who are still in power, fear to be subject to such arbitrary measures themselves. These judges and prosecutors can no longer be seen to be independent, as the pressure is too high on them.

YARSAV, the independent association of judges and prosecutors, was dissolved by means of a decree-law.

## **12. Work program AEAJ for 2020**

Edith ZELLER reports about the future events:

- GA and WG Independence: 14 and 15 May 2020, Heraklion, Greece.
- WG Tax meeting Oct 2020: Lyon
- Asylum WG meeting 2020: Marseille