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**The President**

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Paris, January 20th, 2014

**Proposal**  
**for an amendment of the Statutes of the European Association of Judges (EAJ)**  
**concerning permanent working groups of the EAJ**

**In accordance with article 7 paragraph 1 of the Statutes, the President of EAJ submits the following proposal for an amendment of the Statutes**

**Existing situation**

There are several working groups within the EAJ, for example the working group "On the situation of Member Associations" or "Ways to Brussels". Although article 4, paragraph 4 of the Statutes allows for the possibility of establishing permanent working groups, the working groups have, up to now, been of a provisional character.

Aligned with the provisional nature of these working groups is the fact that the members of these groups are elected in their capacity as a delegate of a member association, and they attend the EAJ-meetings in that capacity, and not in the capacity of a member of the working group. This has the undesirable consequence that their participation in the EAJ meeting is dependent on the decision of their association on the composition of its delegation, even if EAJ needs their presence.

**Conclusion**

Taking into account the importance of these working groups for the EAJ, the General Assembly should, according to article 7 paragraph 4 of the EAJ-Statutes, create respective working groups thus establishing an official organ of EAJ. At the same time, the members of these working groups should be elected *ad personam* – as it is currently the case with the president and (in practice) with the executive committee of the EAJ or with the representatives for European or International organizations – which would allow them to participate in the EAJ meetings whether they are appointed as delegates of a member association or not.

## Recommendation

Paragraph 4 of Article 7 presently reads as follows:

"4. The General Assembly may establish permanent working groups to deal with recurring topics."

The following amendment to the Statutes should be made to article 7 paragraph 4:

"4. The General Assembly may establish permanent working groups **for particular topics**.

**Judges from member associations who have no other official function within the EAJ are eligible as members of those working groups. They shall be elected in a personal capacity by the General Assembly every other year at the same time as the President of the EAJ will be elected.**

**A member may be re-elected for a further term or terms, without limit on the number of occasions upon which the member may be so re-elected.**

**In case of the resignation of a member of the working group during the currency of the member's term of office, the President of the EAJ, in consultation with the Executive Committee of the EAJ, may appoint as a substitute a judge from a member association for the remainder of the term of office of the member who has resigned..**

**The General Assembly may appoint the president of the respective working group or may leave the organisation of the working group to the decision of the members of the group"**

### Variants to vote on:

1. a) The General Assembly may establish permanent working groups for particular topics.  
b) The General Assembly may establish a permanent working group "On the Situation of Member associations".
2. a) ...unchanged ...  
b) The working group consists [*groups consist*]<sup>1</sup> of 5 – 9 members.
3. a) They shall be elected every other year at the same time as the President will be elected.  
b) They shall be elected every other year by the General Assembly, alternating with the year of election of the President of EAJ.
4. a) Re-election is possible without limitations.  
b) The maximum tenure of office is 8 years.
5. a) The General Assembly may appoint a president of the respective working group or leave the organisation to the working group.  
b) The General Assembly shall elect the president of the [*respective*]<sup>2</sup> working group.

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**I recommend voting for variants 1a to 5a** for the following reasons:

1. Variant a) is giving more flexibility to the General Assembly. The General Assembly may

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<sup>1</sup> If the text should be "group consists" or "groups consist" depends on the outcome of the vote on proposition n. 1

<sup>2</sup> If "respective" is to be mentioned here depends on the outcome of the vote on proposition n. 1

establish or dissolve working groups as required by the needs of the EAJ. Variant b) on the other hand would make it necessary to have other amendments for the Statutes as soon as there is a need for other permanent working groups in similar circumstances.

2. Variant a) leaves it to the General Assembly to establish the working group / groups with as many members as are thought to be useful in a given case.
3. The proposal stipulates that members of the working group / groups may have no other official function within the EAJ. According to the decision taken by the general assembly in Yalta, the members of the WG will be elected at the same time as the president of EAJ.
4. Variant a) leaves it to the General Assembly whether it's useful to keep a member of a working group in office or to elect a new one. This regulation avoids the necessity to dismiss members of working groups merely due to a laps of time, even though they could be of great value for the EAJ as experts in the job they are doing.
5. Variant a) gives more flexibility to the General Assembly. It is up to the General Assembly if it wants to elect the president itself or hand over this competence to the working group.

The President

## **APPENDIX**

### **APPENDIX 1 - EAJ Statute**

#### **Article 7.**

1. These Statutes may be amended by the General Assembly upon the proposal of either the President or at least three ordinary members, submitted to the General Secretariat not less than three months before the meeting of the General Assembly.

Within one month of receipt of such a proposal, the Secretariat General must circulate it to all members of the association.

2. In order to amend the Statutes there must be a vote in favour by majority of not less than two thirds of the votes cast and of not less than half the members of the association.

3. A member may authorize a delegate of another member to vote on its behalf. Article 3, section 5, applies.

### **APPENDIX 2 - Minutes of the EAJ meeting in Yalta October 2013**

The first question was whether the amendment of the EAJ Statute should concern the institutionalization only of the WG on member associations: there were 4 votes in favor and no abstentions, therefore the assembly decided that the amendment should concern all the WGs.

The second question was on the opportunity to limit the duration of the mandate: there were 4 votes in favor and 1 abstention; therefore the assembly decided that the term of the WGs' members should not have a maximum duration.

The third question, on the geographical representation within the WG, was canceled because the assembly considered that it was not clear enough.

The fourth question was on the opportunity to postpone the elections of the WGs' members of one year with respect to the elections of IAJ Presidency Committee's members: there were 7 votes in favor and 2 abstentions; therefore the assembly decided that the elections of WGs'

members should take place on the same occasion as the elections of the PC members.

### **APPENDIX 3 – Report of the Working group**

#### **DRAFT-Proposal for an amendment of the Statutes of the European Association of Judges (EAJ) concerning permanent working groups of the EAJ**

**In accordance with article 7 paragraph 1 of the Statutes, the President of EAJ submits the following proposal for an amendment of the Statutes**

##### **Existing situation**

There are several working groups within the EAJ, for example the working group "On the situation of Member Associations" or "Ways to Brussels". Although article 4, paragraph 4 of the Statutes allows for the possibility of establishing permanent working groups, the working groups have, up to now, been of a provisional character.

Aligned with the provisional nature of these working groups is the fact that the members of these groups are elected in their capacity as a delegate of a member association, and they attend the EAJ-meetings in that capacity, and not in the capacity of a member of the working group. This has the undesirable consequence that their participation in the EAJ meeting is dependent on the decision of their association on the composition of its delegation, even if EAJ needs their presence.

##### **Conclusion**

Taking into account the importance of these working groups for the EAJ, the General Assembly should, according to article 7 paragraph 4 of the EAJ-Statutes, create respective working groups thus establishing an official organ of EAJ. At the same time, the members of these working groups should be elected *ad personam* – as it is currently the case with the president and (in practice) with the executive committee of the EAJ or with the representatives for European or International organizations – which would allow them to participate in the EAJ meetings whether they are appointed as delegates of a member association or not.

##### **Recommendation**

Paragraph 4 of Article 7 presently reads as follows:

"4. The General Assembly may establish permanent working groups to deal with recurring topics."

The following amendment to the Statutes should be made to article 7 paragraph 4:

"4. The General Assembly may establish permanent working groups to deal with recurring topics.

**Judges from member associations who have no other official function within the EAJ are eligible as members of those working groups. They shall be elected in a personal capacity every other year by the General Assembly, alternating with the year of the EAJ Presidential election.**

**A member may be re-elected for a further term or terms, without limit on the number of occasions upon which the member may be so re-elected.**

**In case of the resignation of a member of the working group during the currency of the member's term of office, the President of the EAJ, in consultation with the Executive Committee of the EAJ, may appoint as a substitute a judge from a member association for the remainder of the term of office of the member who has resigned..**

**The General Assembly may appoint the president of the respective working group or may leave the organisation of the working group to the decision of the members of the group"**

Variants to vote on:

6. a) The General Assembly may establish permanent working groups for particular topics.  
b) The General Assembly may establish a permanent working group "On the Situation of Member associations".
7. a) ...

- b) The working group consists [*groups consist*]<sup>3</sup> of 5 – 9 members.
8. a) They shall be elected every other year by the General Assembly, alternating with the year of election of the President of EAJ.  
b) They shall be elected every other year at the same time as the President will be elected.
9. a) Re-election is possible without limitations.  
b) The maximum tenure of office is 8 years.
10. a) The General Assembly may appoint a president of the respective working group or leave the organisation to the working group.  
b) The General Assembly shall elect the president of the [*respective*]<sup>4</sup> working group.

The president recommends voting for variants 1a to 5a for the following reasons:

6. Variant a) is giving more flexibility to the General Assembly. The General Assembly may establish or dissolve working groups as required by the needs of the EAJ. Variant b) on the other hand would make it necessary to have other amendments for the Statutes as soon as there is a need for other permanent working groups in similar circumstances.
7. Variant a) leaves it to the General Assembly to establish the working group / groups with as many members as are thought to be useful in a given case.
8. The proposal stipulates that members of the working group / groups may have no other official function within the EAJ. The election process is easier following variant a) in so far as for every candidate it's clear from the start if he or she is eligible. Variant b) might provoke complications if candidates decide to run for different functions at the same time.
9. Variant a) leaves it to the General Assembly whether it's useful to keep a member of a working group in office or to elect a new one. This regulation avoids the necessity to dismiss members of working groups merely due to a lapse of time, even though they could be of great value for the EAJ as experts in the job they are doing.
10. Variant a) gives more flexibility to the General Assembly. It is up to the General Assembly if it wants to elect the president itself or hand over this competence to the working group.

STT/21.10.2013 (Draft 3)

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<sup>3</sup> If the text should be "group consists" or "groups consist" depends on the outcome of the vote on proposition n. 1

<sup>4</sup> If "respective" is to be mentioned here depends on the outcome of the vote on proposition n. 1