



Judgement

Ecclestia v Upper Chantler, ex p UCN Board of Elders

Before

Imperium Anglorum

Kundu

Khevo

Notes

Judgement given on 1 November 2018

No hearing occurred

Document and citation appendix attached

Appellants

Ecclestia

Defendants

Upper Chantler

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Opinion of the Court

The Chief Justice (Imperium Anglorum), joined by Khevo and Kundu

1. We received: first, an appeal from Ecclestia directed to us against the decision made in *Upper Chantler v UCN Board of Elders*, which on appeal has been entitled *Ecclestia v Upper Chantler, ex p UCN Board of Elders*;¹ second, the UCN Tribunal's records relating to *Upper Chantler*;² and third, a note from the CILJ Clerk asking for the Bench to render judgement on the merits of the case.³

2. Further questions on the facts of the case were asked by the Chief Justice. For them, see Documents *infra*. However, a responding brief was not requested. Upper Chantler and Ecclestia declined to produce more argumentation.⁴ Moreover, the question of jurisdiction was raised by the Bench and not any of the parties to the case.

3. The case was given us due to an administrative decision by the CILJ Clerk, mentioning significant delays in the Chamber of Regional Appeals rendering a decision.⁵ The Clerk justified this with section 5(1) of the Charter, which permits appeals for procedural errors.⁶

4. **Delay.** Xagill, Head Judge of the Chamber of Regional Appeals, received Ecclestia's appeal on 10 August.⁷ He acted quickly to start drafting an opinion the same day.⁸ This speed was not matched by his colleagues or in later months.

5. His final opinion draft was released 12 October, some 63 days later.⁹ The Bench believes it unreasonable for a

¹ Document 1 *infra* p 5. On citation, see guidance *infra* p 18.

² See *Upper Chantler v UCN Board of Elders*, [2018] UCN Tribunal 1, 1 (can be found [here](#)).

³ Document 1 *infra* p 5.

⁴ Document 8 *infra* p 12; Document 10 *infra* p 15.

⁵ A draft opinion written by Xagill, the Head Judge of the Chamber of Regional Appeals, can be found [here](#). At the time of access, it was dated to 12 October 2018. The dispatch itself was created on 10 August.

⁶ Court of International Law and Justice Charter § 5(1) ("During proceedings in the Court, any party to a case, ongoing or decided, may appeal to the Full Bench. The Full Bench shall hear that appeal if it is granted by the Chief Justice or by any two members of the Full Bench") (can be found [here](#)).

⁷ Xagill response at [2], Document 12 *infra* p 17.

⁸ *Id.*

⁹ See draft opinion linked *supra* note 5.

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person to have to wait more than four weeks for resolution of a case asking this simple of a question.

6. **Jurisdiction.** Nevertheless, the Bench has come to the conclusion that it cannot render judgement on this case due to its lack of jurisdiction.

7. Section 5(1) of the Charter states that “Any decision of a Chamber” may be appealed to the Bench for enumerated reasons.¹⁰ It does not deal with the possibility that a chamber fails to make a decision. It does not provide any other means by which an appeal may be submitted to the Bench.

8. Insofar as no decision has been made,¹¹ the Charter grants no means by which an appeal can be made to the Full Bench. To resolve delays of this sort in the future, The Chief Justice created the following regulation under authority granted by section 14(1) of the Charter:¹²

Parties to a case within the court with unreasonable delay may request from the Full Bench an order for a Chamber to produce a decision. The Full Bench shall hear such requests if any one member of the Full Bench grants it. If the Full Bench has not rendered decision on that request within three days thereof, the Chief Justice shall be empowered to issue the order. If the Chief Justice does not do so within two days of being so empowered, any one member of the Full Bench may do so.¹³

9. **Ex post facto.** Regulation 1 was made after the submission of Ecclestia’s appeal. Use of this regulation to address an appeal made before its promulgation would effectively make Upper Chantler liable for defending himself in a proceeding which was not permissible at the appeal’s submission. Therefore, under section 15(1) of the Charter,¹⁴

¹⁰ CILJ Charter § 5(1) (“Any decision of a Chamber may be appealed to The 'Full Bench' for reasons of a procedural error, error of fact, error of law or any other reasonable grounds as approved by the Chief Justice”).

¹¹ Xagill response at [2], *supra* note 7.

¹² CILJ Charter § 14(1) (“The Chief Justice together with the Board shall, in accordance with this Statute create the Regulations of the Court necessary for its routine functioning”).

¹³ CILJ Regulation 1 (can be found [here](#)).

¹⁴ CILJ Charter § 15(1) (“A party shall not be liable under this Statute unless the conduct in question constitutes, at the time it takes place, an area within the jurisdiction of the Court”).

we cannot grant a Regulation 1 order until a new request is made.

10. Under the provisions of regulation 1, if there were submitted such a request, the Bench (or elements thereof) may order the relevant Chamber to produce a decision on the merits of the case. Additionally, section 18(1) of the Charter empowers the Bench to enforce that order in a manner it deems reasonable.¹⁵ Such enforcement could include the Bench ruling on the merits of the case in the stead of a Chamber so ordered.

11. Should the plaintiff continue to desire relief, he should submit to the Bench a request for a Regulation 1 Order.

12. **Judgement.** The case is dismissed for want of jurisdiction.

It is so ordered.

¹⁵ *Id.* at § 18(1) (“The enforcement of Rulings by the Court shall be enacted by the parties of the Case or by any other body as is reasonably determined by the Judges”).

Appendix

Documents

No 1. Appeal by Ecclestia for UCN Board of Elders¹⁶

25 October 2018

I am appealing the judgement as I believe that the judgement contains error of fact, error of law, did not address the points raised by the parties and gave no guidance as to whether or not the election was valid.

Error of Fact — The judge ruled about the legality of 'casting lots'. The case was regarding using 'influence' as a tiebreaking mechanism in the election and if that is valid. Whilst casting lots to appoint leaders in the Bible was quoted as a reason supporting the tiebreaking mechanism, it was not at all what the case was about and was merely used as an additional argument. As such, I am appealing this case and asking the Court to rule on the legality of the original [sic] question regarding the tiebreaking mechanism.

Error of Law — The judge ruled that the decision was made because it “isn't allowing the citizens to have a excellent right of free speech”. No such right exists in the Region. Our only legal authority currently [sic] is the Charter which doesn't list any right to free speech. Sections 3.3 and 3.4 touch on something similar however I believe that there is no express right to free speech and that the Judge made an error of law to rule on 'freedom of speech'.

Points Raised – The judge was asked to determine whether past cases from other Regions were binding or persuasive precedent for the Union of Christian Nations. This point was not even mentioned in the judgement

Guidance – The Judgement gave not guidance as to whether to election was valid or not which was the whole point of the case meaning there was nothing tangible for the government to change/apply as a result.

I ask for the Court to assess these points by reviewing the original case and giving a revised judgement.

¹⁶ Full telegram edited to only relevant parts of the appeal itself. An encoding error was fixed, where an apostrophe was wrongly encoded. Separate sections have been broken up into different documents.

No 2. CILJ Clerk statement¹⁷

25 October 2018

Around 2 months ago, I received a case lodgement from Ecclestia who was requesting that a decision from a case in the Union of Christian Nations, *Upper Chantler v The UCN Board of Elders*, be appealed to the Chamber of Regional Appeals of the Court of International Law and Justice (CILJ). Despite numerous attempts and a large amount of correspondence with Xagill, the Head Justice of that Chamber, no decision has been made or published despite numerous attempts to get one from that Chamber. I am now of the opinion that the Chamber of Regional Appeals will not produce a ruling on this appeal.

In order to have this case resolved, I am now elevating it to the Full Bench of the Court of International Law and Justice of which you are the Chief Justice. The details of the appeal have been forwarded onto you and should be sufficient for you to be able to produce a ruling on this case. If [sic] however you feel there is any element of uncertainty, let me know and I'll be happy to help you.

¹⁷ Full telegram edited to only relevant parts.

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No 3. Facts submitted by Ecclestia¹⁸

25 October 2018

Almost 2 months ago, the Union of Christian Nations held an election for the position of ‘Elder’ which is a group of nations responsible for governing the Region. The election was conducted by a poll which can be viewed [here](#). The result was a tie 2-2. In the initial telegram to the nations of the Region, it was noted that in the event of a tie, the nation with the highest influence will either progress to the next round or be elected. Upper Chantler then brought a case forward claiming that this provision breached section 7.1 of the regional [Charter](#) and that the election was not valid.

A [Tribunal](#) was held where a number of points were put forward by the parties and a subsequent judgement was given.

¹⁸ Excerpted from single telegram, which also included the text seen in Document 1, *supra*.

No 4. Chief Justice request for information

26 October 2018

Hello,

A few questions regarding *Ecclestia v Upper Chantler, ex p UCN Board of Elders*. Please provide an answer to all questions.

1. Have you been informed of the appeal by *Ecclestia*? If so, have you received a copy of the appeal?
2. Do you have any further arguments to make for or against what was made in the appeal?
3. What is the scope of the UCN Founder's ability to make Executive Orders? Can such orders be found ultra vires?
4. Does there exist precedent already, outside of this case and its origination, defining the meaning of an election?
5. Does there exist precedent already, outside of this case and its origination, defining the scope of valid precedents to consider?
6. Does there exist primary legislation outside of the Charter which must be taken into consideration?

Yours,
IA

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No 5. Chief Justice request for information

26 October 2018

Hello,

Moreover, two questions of fact:

1. Does there exist legislation regulating elections?
2. Could you provide to me a listing of all adjudicated Tribunal cases as far back as available?

Yours,

IA

No 6. Chief Justice telegram to Full Bench

27 October 2018

Hello,

I've reread the CILJ charter (after writing a 1375 word judgement addressing every single question raised in the case, naturally), and I am now of the opinion that the Full Bench lacks jurisdiction to hear this case, unless:

1. There is a decision given by the Chamber of Regional Appeals due to section 5(1) of the CILJ Charter, which itself must be appealed by a party to that decision, and
2. The Chamber of Regional Appeals itself has authority to hear the case under section 8(1) and 8(2) of the CILJ Charter, given that the UCN already fulfils the requirements necessary for hearing the case under section 8(1).

Moreover, after some more digging, it appears there already is a decision, unless CILJ Charter s 14(2) applies, which case the decision is not finalised (if the other judges in that Chamber have not yet ruled, of which I am unclear).

<https://www.nationstates.net/page=dispatch/id=1074941>

But even if that is the case, it does not appear to me that the Clerk has authority to by-pass a chamber in the appeal hierarchy. Secondly, the case files do not seem to include the appeal to the Chamber of Regional Appeals, which I request.

I have written a judgement expressing my opinion on the jurisdictional question for the Court. It is linked here [<https://www.dropbox.com/s/pzk7m97laoyg2eb/>]. If I had the power, I would remand the case to the Chamber of Regional Appeals with an order for them to produce a decision forthwith.

To my colleagues on the Full Bench, I would [request]¹⁹ that you join my opinion on this matter.

Yours,
IA

¹⁹ Typographical error from original corrected.

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No 7. Chief Justice reminder

28 October 2018

Hello,

I am requesting here response to the two telegrams requesting information sent on 26 October 2018. Please respond forthwith.

Yours,
IA

No 8. Upper Chantler response to request

29 October 2018

Apologies for my delay...

1. Yes, I am very aware of the appeal — a copy — kind of — I was aware an application was made and that it was before the CILJ and could see what was appealed in Xagill's factbook. I was satisfied with that.

2. I have no further arguments

3. Here are a few passages from our Charter which relate to the Founder's governing responsibility

4.1 The Founder shall be responsible for the general welfare of the Region and Inter-Regional Affairs.

5.3 The Founder shall have plenary power to implement Executive Orders (Directives).

From my interpretation, an executive order in 5.3 needs to be expressly stated (as it did in our previous Region) however could come under 4.1 however I feel that would need to be pretty serious to implement something without an express legal order considering the ability is conferred [sic] on the Founder by 5.3[.]

4. There is limited authority however some does exist. In our Charter it states:

7.1 In addition to the Founder and Delegate, there shall be a maximum of 3 nations, elected by the residents, to serve as Elders for a term of no longer than 6 months.

We also had an 'Elections Procedure Act' in the old Region which you can view [HERE](#). It hasn't been brought accross [sic] to the new Region however the election was run in accordance with it so it may be viewed as persuasive.

There is no precedent [sic] in case law explicit to this Region however this Region is the direct successor Region of 'Christadelphia'. There is case law in Christadelphia with *Librerepublic v Government of Christadelphia [2016]* and *Upper Chantler v Government of Christadelphia [2016]* on this topic. I argued in the case that these cases should be persuasive. You can access the cases [HERE](#)

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5. The Charter states regarding precedent that '8.4 Each Tribunal shall be informed by the decisions of prior Tribunals with precedence [sic] given to the decisions of Appellate Tribunals and/or Superior Courts.' There is nothing else I'm aware of which defines the scope of precedent except for Xagill's ruling.

6. There is no relevant legislation in the current Region, only the legislation mentioned from the previous Region re The Elections Procedure Act.

I apologise for the delay in getting this to you.

No 9. Upper Chantler response to request

29 October 2018

1. There is no active legislation in the Region regulating elections. There is legislation from our predecessor Region which was sent to you in our former telegram and may be persuasive.
2. Here is the Region's Tribunals Page (which contains all cases)

<https://www.nationstates.net/page=dispatch/id=1055158>

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No 10. Ecclesia response to request

29 October 2018

Sorry it has taken a while for me to respond - I feel the UCs [that Upper Chantler's] ²⁰ responses are sufficient in answering the questions :) The only area that I differ is that I believe the cases from 'Christadelphia' should be binding and failing that I argue that they should be persuasive.

²⁰ Likely text.

No 11. Chief Justice request²¹

29 October 2018

Hello,

I need to assess whether the delay in deciding the case before you, which has been provisionally titled *Ecclestia v Upper Chantler, ex p UCN Board of Elders*, has been unreasonable. I request confirmation that the Chamber of Regional Appeals has been unable to reach a decision; and, moreover, what you believe to be the proximate cause of that inability to reach a decision.

Furthermore, would you also please provide the date at which *Ecclestia* submitted an appeal to your chamber and the date on which you drafted your opinion? Currently, your draft decision is dated 12 October. NS records the dispatch to be created on 10 August. Can you confirm that dating or provide clarification?

Yours,
IA

²¹ This request was resent verbatim, to Xagill, at 1 November 2018 12:03 EDT after no response.

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No 12. Xagill response to request

1 November 2018

Apologies for the wait, I thought I sent this yesterday, but apparently, I did not.

Ecclestia submitted an appeal to my chamber about the same date when the dispatch was created - indicating our accepting of hearing the case. The time between then and my draft decision was too long and completely my fault. Due to my fellow judges in the chamber being inactive, the draft judgement has not been affirmed as yet and hence no decision can be made.

Sincerely
Xagill

Citation

29 October 2018

This instruction can change. Refer to the latest Citation appendix attached to a Full Bench opinion for guidance. Opinions may declare exactly what version of citation they use. Follow formatting guidance where sensible.

Names. Case names before the Full Bench are generally appeals. Borrowing from OSCOLA guidance, they are entitled:

Appellant v Body under Review

Appellant Counsel v Body under Review, ex p
Appellant

The former is used if the Appellant is representing himself or herself. The latter is used if Appellant has counsel.

Cases. Cases are cited in a normalised fashion, dropping extraneous words like “The”. We use *neutral citations*, which do not refer to reporters. Instead, it uses the year, body, and case number like so:

[Year] Body #

[2018] UCN Tribunal 1

For CILJ bodies, there are four: (1) “CILJ Full Bench”, (2) “CILJ Appeals”, (3) “CILJ Original”, and (4) “CILJ Interregional”. These should be self-explanatory.

Page numbers. Many citations may also use a pin-cite, like the highlighted following:

Upper Chantler v UCN Board of Elders, [2018] UCN
Tribunal 1, 1.

The highlighted part is the page on which the referenced material can be found. This applies to pin-cites following *Id.* as well.²²

²² The style of citation used in this decision is influenced both by OSCOLA and by the American Bluebook. Neutral citations are borrowed from OSCOLA, while use of *Id.* and other Latin gadgets descends from Bluebook.

Paragraph numbers. If the number is enclosed with square brackets, this refers to the paragraph, counting from the top, including headers.

If there are explicit paragraph numbers, use them and do not manually renumber.

Thus, something like “Upper Chantler v UCN Board of Elders, [2018] UCN Tribunal 1, [8]” would refer to the eighth paragraph of the document. This applies to pin-cites following *Id.* as well.

Shortening. Case names may be shortened. When they are so, they are written in italics. The case “Upper Chantler v UCN Board of Elders” has been here shortened to “*Upper Chantler*”.

The Court of International Law and Justice, in citations, is shortened to CILJ. All other bodies should have their names written in full. Regional designations, if clarifying, precede the name of the judicial body and can be abbreviated.

Laws and constitutions. Legislation is cited with reference to sections, denoted with a sectional symbol (§) for constitutions and an “s” for normal legislation.

If legislation has name which would make its regional source unclear, provide clarification either with a preceding initialism or in a parenthetical.

For example, both of these are valid:

CILJ Charter § 7(1).

Chancery Act 2018 s 2 (Europe).²³

Links are provided where possible in a separate sentence.

Case materials. Case materials appearing in a separate case are cited as follows:

Title at Location, Case name (Case citation)
(Document #).

With Title being the title of the document, Location being the pinpoint citation (if necessary), Case name being the name of the case, Case citation being the shortened citation form, and

²³ The latter refers to the second section of legislation in the region *Europe*, titled the Chancery Act 2018.

Cite as: [2018] CILJ Full Bench 1
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being the Document number. Document number may be omitted if non-existent.

For example,

Appeal by Ecclestia for UCN Board of Elders at [4],
Ecclestia v Upper Chantler, ex p UCN Board of Elders
([2018] CILJ Full Bench 1) (Document 1).

If case materials are found in the same case or thread with document numbers, use the format

Title at Location, Document # *infra* p PAGE.

For example,

Appeal by Ecclestia for UCN Board of Elders at [4],
Document 1 *infra* p 5.

Referencing the fourth paragraph of Document 1, entitled “Appeal by Ecclestia for UCN Board of Elders”, which is below the citation on page 5.

If case materials are found in the same case or thread as the decision without document numbers, they are cited as if they were part of the decision.

For example, “Upper Chantler v UCN Board of Elders, [2018] UCN Tribunal 1, 1” cites the first page of the document, which contains opening arguments, not the decision.