



Judgement

UCN Board of Elders v Upper Chantler [2018] CILJ FB 1

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1 Notes

Judgement given 1 November 2018. No hearing occurred. Document and citation appendix attached. Judgement was revised on 15 February 2020.

Ecclestia representing UCN Board of Elders, bringing request for appeal.

A request for a Regulation 1 order was made after judgement was rendered. The order was issued.¹ On 3 November 2018, the Chamber of Regional Appeals issued judgement in *UCN Board of Elders v Upper Chantler*, [2018] CILJ App 1.

2 Opinion of the Court

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

¹ *In re UCN Board of Elders*, [2018] CILJ FB 2, [5]–[8].

[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 *UCN Board of Elders v Upper Chantler*;² second, the UCN Tribunal records relating to *Upper Chantler*;³ and third, a note from the CILJ Clerk asking for the Bench to render judgement on the merits of the case.⁴

[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.⁵ Moreover, the question of jurisdiction was raised by the Bench and not any of the parties of 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 render a decision.⁶ The Clerk justified this with section 5(1) of the CILJ Charter, which permits appeals for procedural errors.

[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,

² Appeal for UCN Board of Elders, Document 1.
³ See *Upper Chantler v UCN Board of Elders* (UCN Tribunal, 7 August 2018); [2018] Int RR 1.

⁴ CILJ Clerk request, Document 2.

⁵ Upper Chantler response to request, Document 8; Ecclestia response to request, Document 10.

⁶ Note that Xagill, Head Judge of the Chamber of Regional Appeals, produced a draft opinion. At the times of access, it was dated to 12 October 2018. The dispatch itself was created on 10 August.

⁷ Xagill response at [2], Document 12.

⁸ Ibid

some 63 days later.⁹ The Bench believes it unreasonable for a person to have to wait more than four weeks for resolution of a question 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 against 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 a 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 Ecclesia’s request. Use of this regulation to address a request made before its promulgation would effectively make Upper Chantler liable for defending himself in a proceeding which was not permissible at the request’s submission. Therefore, under section 15(1) of the Charter,¹⁴ we cannot grant a Reg-

ulation 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 claimant continue to desire relief, he should submit to the Bench a request for a Regulation 1 order.
- [12] The case is dismissed for want of jurisdiction.

3 Documents

3.1 Appeal for UCN Board of Elders

- [1] Almost two 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 Charter and that the election was not valid.
- [2] A Tribunal was held where a number of points were put forward by the parties and a subsequent judgement was given.
- [3] 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.
- [4] *Error of fact* – The judge ruled about the legality of ‘casting lots’. The case was [on the use of] ‘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 to support a 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
- ¹⁵ Ibid s 18(1) (‘enforcement of rulings by the Court shall be enacted by ... or by any other body as is reasonably determined by the Judges’).

⁹ See n 6.

¹⁰ CILJ Charter s 5(1) (specifically for ‘procedural error, error of fact, error of law, or any other reasonable grounds as approved by the Chief Justice’).

¹¹ Xagill response (n 7).

¹² CILJ Charter s 14(1) (specifying that ‘the Chief Justice together with the Board shall ... create the Regulations of the Court necessary for its routine functioning’).

¹³ CILJ Regulation 1.

¹⁴ CILJ Charter s 15(1) (stating ‘a party shall not be liable ... unless the conduct in question constitutes, at the time it takes place, an area within the jurisdiction of the Court’).

the original question regarding the tiebreaking mechanism.

- [5] *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 is currently the Charter which doesn't list any right to free speech. Section 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 on 'freedom of speech'.
- [6] *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.
- [7] *Guidance* – The judgement gave not guidance as to whether the 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.
- [8] I ask for the Court to assess these points by reviewing the original case and giving a revised judgement.

3.2 CILJ Clerk request

Excerpted.

- [1] 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.
- [2] 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.

3.3 Facts submitted by Ecclestia

Excerpted from single telegram which also included text of the appeal in Appeal for UCN Board of Elders. Lightly edited for typography.

- [1] 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.
- [2] A Tribunal was held where a number of points were put forward by the parties and a subsequent judgement was given.

3.4 Chief Justice request for information

Addressed to Upper Chantler. Excerpted from original.

- [1] A few questions regarding *Ecclestia v Upper Chantler, ex p UCN Board of Elders*.¹⁶ Please provide an answer to all questions.
- [2] 1. Have you been informed of the appeal by Ecclestia? If so, have you received a copy of the appeal?
- [3] 2. Do you have any further arguments to make for or against what was made in the appeal?
- [4] 3. What is the scope of the UCN Founder's ability to make Executive Orders? Can such orders be found ultra vires?
- [5] 4. Does there exist precedent already, outside of this case and its origination, defining the meaning of an election?
- [6] 5. Does there exist precedent already, outside of this case and its origination, defining the scope of valid precedents to consider?
- [7] 6. Does there exist primary legislation outside of the Charter which must be taken into consideration?

¹⁶ This was the original case name under which this case was litigated under the old citation guidance. Refer in the future under the new case name.

3.5 Chief Justice request for information

Addressed to Upper Chantler. Excerpted from original.

- [1] Moreover, two questions of fact:
- [2] 1. Does there exist legislation regulating elections?
- [3] 2. Could you provide to me a listing of all adjudicated Tribunal cases as far back as available?

3.6 Chief Justice telegram to Full Bench

- [1] 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:
- [2] 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
- [3] 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).
- [4] 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>
- [5] 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.
- [6] I have written a judgement expressing my opinion on the jurisdictional question for the Court. It is linked here [[LINK_REMOVED](#)]. 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.
- [7] To my colleagues on the Full Bench, I would [request]¹⁷ that you join my opinion on this matter.

¹⁷ Typographical error in original corrected.

3.7 Chief Justice reminder

Excerpted from original.

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

3.8 Upper Chantler response to request

Excerpted from original.

- [1] 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] 2. I have no further arguments
- [3] 3. Here are a few passages from our Charter which relate to the Founder's governing responsibility
- [4] 4.1 The Founder shall be responsible for the general welfare of the Region and Inter-Regional Affairs.
- [5] 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[.]
- [6] 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.
- [7] We also had an 'Elections Procedure Act' in the old Region which you can view 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.
- [8] 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](#).

- [9] 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.
- [10] 6. There is no relevant legislation in the current Region, only the legislation mentioned from the previous Region re The Elections Procedure Act.

3.9 Upper Chantler response to request

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>

3.10 Ecclestia response to request

Sorry it has taken a while for me to respond - I feel the UCs [sic; recte that Upper Chantler’s] 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.

3.11 Chief Justice request

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

- [1] 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.
- [2] 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?

3.12 Xagill response to request

Lightly edited for typography.

- [1] Apologies for the wait, I thought I sent this yesterday, but apparently, I did not.
- [2] 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.
- [3] Sincerely,
Xagill

3.13 Election Procedures Act (Christadelphia)

Elections Procedure Act 2017

Date of Proclamation: xx of April 2017

Aim

The aim of the Elections Procedure Act 2017, hereby referred to as ‘the act’, is to stipulate the procedures for the election process of AB’s and promote transparency and active participation in the elections.

Section 1: Expiry of Term

1.1 At the of expiry of the AB’s term, the seat shall be deemed vacant.

Section 2: Nomination Procedure

2.1 The nation responsible for overseeing the election must either post on the RMB and/or send a telegram to the entire region, stipulating the procedures and time frame for the forthcoming election, including the demand for notification of nomination for election.

2.2a In the correspondence, The AB shall designate a time in which nominations must be submitted by to be included in the ballot for election.

2.2b Nations shall be given a minimum of 2 days to submit for nomination however no longer than 5 days.

2.3 Candidate nations, at the time of nomination and throughout the election period, must be residents of the Region.

Section 3: Voting Procedure

3.1 The election shall be conducted by a poll which shall display every nation who nominated themselves to be placed on the ballot.

3.2a Subject to section 3.2d, all voting in the election shall be conducted using the Exhaustive Ballot System (EBS) which shall operate as follows:

3.2b If a nation receives 50% + 1 votes in the first round of the election, they shall be elected as

an AB with no subsequent rounds to be conducted. If no nation receives $50\% + 1$ votes in the 1st round, subsequent rounds of voting shall be conducted with the nation with the lowest amount of votes eliminated at the end of each round. Any nation which receives $50\% + 1$ of votes in any of the subsequent rounds shall be elected as an AB.

3.2c In the event of a tie, of the nations in question, the nation or nations as applicable to the circumstance, whose 'Regional Influence' is highest shall advance in the electoral process as opposed to the nation or nations with lower influence.

3.2d If there be only 1 candidate, a confirmation election shall be held by simple majority. If the majority accept the candidate, they shall be deemed elected as an AB. If the majority reject the candidate, the position shall be deemed vacant and the nation not be elected as an AB.

3.3 Nations shall be given a minimum of 2 days to vote in any round of the election however no longer than 5 days.

3.4 The AB responsible for overseeing the election shall post the results of each round of voting on the RMB and if a candidate be elected, declare the success of the candidate.

3.[5]¹⁸ Only nations who are residents in the region may vote in AB elections.

Author: Christadelphians

4 Citation

There was a citation appendix attached to this decision. It was removed upon revision on 15 February 2020.

The original citation appendix can be found in the original decision at <https://nbviewer.jupyter.org/github/ifly6/ifly-images/blob/master/nationstates/cilj/2018-cilj-fb-1/2018-cilj-fb-1-judgement.pdf>.

That citation appendix has been superseded by instructions in Citation appendix, *In re UCN Board of Elders*, [2018] CILJ FB 2 (Appendix). See also Citation appendix, *Europe v The Popular Populace*, [2019] Del 1 (Appendix) (Europe).

¹⁸ Original was 3.4. It was adjudged to be a typographical error and corrected.