



Judgement

In re The CILJ Clerk
[2018] CILJ Int 1

1 Notes

Judgement given 21 July 2018.

Judgement revised and lightly edited by Imperium Anglorum 15 February 2020.

2 Opinion of the Court

Christadelphians (Head Judge), Fortvento, and The Noble Thatcherites.

[1] **Assessment of Jurisdiction**

[2] According to 6.1 the Charter of the Court of International Law and Justice ‘The “Chamber of Inter-Regional Affairs” shall hear all cases regarding, but not limited to inter-regional alliances, treaties, agreements and disputes between governments; nations and/or other polities in different regions and may be used as either a Court of Appeal or Original Jurisdiction, upon agreement’.

[3] This clause does not expressly state ‘accords’ as an item this Chamber has jurisdiction to consider. As was discussed by the decision in *In re The CILJ Clerk*, [2018] CILJ Int 1 (on the membership status of colonial regions), the question of whether the Chamber has the jurisdiction to consider a matter should be determined by whether an area listed under 6(1) of the CILJ Charter can be characterised as having the same effect as one of the listed areas. Definitions of ‘treaty’ or ‘agreement’ were not given in the aforementioned case necessitating the definition for the purpose of this case.

[4] A treaty is commonly defined as ‘an agreement under international law entered into by actors in international law, namely sovereign states and international organisations’. As inter-regional affairs are negotiated by regions, the above definition shall be read to replace ‘sovereign states’ with ‘regions’. Agreement (referred

to by 6(1) of the CILJ Charter) shall also share this definition however must be entered into with the intention of being binding to come under the jurisdiction of this Chamber.

[5] It can be clearly derived from the text of the ‘Interregional Anti-Bullying and Discrimination Accord’ (IABDA) that it is intended to be multi-regional in that there is a provision for a number of Regions to become a party to the accord and that it is intended to be binding on its member regions as it directs signatories to ‘ratify [the] Accord in line with the regulations and procedures set forth by the domestic law of their region’.

[6] It is clear that the IABDA has the same effect as an inter-regional agreement which the Chamber of Interregional Affairs does have jurisdiction over as per 6(1) of the CILJ Charter.

[7] The following clause is also in text of the IABDA:

RECOGNISE the Court of International Law and Justice as having original jurisdiction for any disputes which may rise from time to time in reference to this Accord.

[8] As the parties to this agreement explicitly agree for the CILJ to have jurisdiction over affairs related to the IABDA which is permitted by 6(1) of the Charter as well as the accord being able to be characterised as an agreement for the purposes of 6(1), the CILJ does have the ability and necessary jurisdiction to preside over this case.

[9] **Legality of Embassy Closure**

[10] One of the requirements of signatories to the IABDA binds parties to:

COMMIT to make every effort to ensure that their Regions are free

from all forms of bullying and discrimination.

- [11] The first area to determine is whether this section of the agreement entitles parties to close Embassies. The language of the text is extremely strong in that regions must make every effort to ensure it is free from bullying & discrimination. ‘Every effort’ implies that all reasonable actions must be taken by a Region. This language is very broad and instructs Regions to use every possible action to prevent bullying and discrimination. Based on this alone, if Region A is a party to the IABDA and there is a reasonable belief that having an Embassy with Region B could mean that any form of bullying and/or discrimination may come from this relationships, closing the Embassy would be a reasonable step in ensuring that they prevent bullying and discrimination thus remaining compliant with the terms of IABDA.
- [12] As a note, there may be a number of options available to a Region when faced with a perceived likelihood of bullying and/or discrimination. The charter does not mention whether an ‘effort’ or action needs to be proportionate to the level of bullying or discrimination and this questions falls beyond this case as the question was whether it was a valid (not proportionate) exercise. As the IABDA asks Regions ‘to make every effort’, it is the current view of this Chamber that proportionality of the action taken by a region to prevent or condemn perceived or actual bullying and/or discrimination (noting there are offences which can have a higher or lower impact than others) should not be considered unless the action is so clearly disproportionate or extends beyond the intention of the IABDA which is to ensure Regions are free from bullying and discrimination.
- [13] The next question in this case is whether a reasonable belief could be formed that having an Embassy with Farkasfalka could prevent the Union of Christian Nations being free from all forms of bullying and harassment. A objective test will be used to assess whether this belief was reasonable. It should not be sufficient if the belief was subjective as this would enable any action to be taken by any Region if someone formed a belief that bullying or discrimination could occur even if this belief was formed irrationally or not in good faith. This would clearly extend beyond the intention of the agreement.
- [14] The facts show that the Founder, Ecclestia

formed a belief that ‘Farkasfalka has made statements denying the holocaust, promoting anti-semitism, supporting white supremacy and neo-nazi organisations. These are things which I know we are all strongly uncomfortable with’. After having reviewed the RMB of Farkasfalka, it can be seen that comments along these lines have been made and promoted. This behaviour can be clearly categorised as indirect discrimination, as defined in the IABDA as it ‘maliciously disadvantages a person or group because of a personal characteristics including: race, religion’. As such, there is significant evidence to suggest that the belief formed was reasonable. As the Union of Christian Nations allows nations in Embassy Regions to post on their RMB, it is reasonable to believe that a nation from Farkasfalka could post comments ammounting to bullying and/or discrimination. As a result the Government of the Union of Christian Nations did act consistently with its obligations as a party to the IABDA. This is because the government had formed a reasonable belief that having an Embassy with Farkasfalka placed the Union of Christian Nations in a position where there was a higher likelihood that they may be subject to bullying and/or discrimination and that by closing an Embassy, they were making an effort to ensure bullying and/or discrimination did not eventuate from this source.

- [15] As such, the decision to close the Embassy with Farkasfalka was consistent with the terms of the ‘Interregional Anti-Bullying and Discrimination Accord’ and no further action needs to be taken by the Government of the Union of Christian Nations.

3 Documents

3.1 Request for review¹

The UCN is a signatory to the Interregional Anti-Bullying and Discrimination Accord (IABDA). The Accord states that signatories:

COMMIT to make every effort to ensure that their Regions are free from all forms of bullying and discrimination.

The Founder, Ecclestia, closed the Region’s Embassy with Farkasfalka citing the accord and the accompanying description. Below is an RMB post detailing Ecclestia’s rationale for closing the Embassy: . . . ²

The primary questions before the Court include:

¹ Lightly edited from here.

² See Ecclestia RMB post, Document 2.

1. Whether or not the Court has jurisdiction to hear this type of [referral].
2. Whether the decision to close the Embassy with Farkasfalka was consistent with the terms of the ‘Interregional Anti-Bullying and Discrimination Accord’.

3.2 Ecclesia RMB post³

Hi everyone,

A bit more context... As our Region is a party to the “Interregional Anti-Bullying & Discrimination Accord; we are required to ‘COMMIT to make every effort to ensure that their Regions are free from all forms of bullying and discrimination’.”

There is significant evidence that Farkasfalka has made statements denying the holocaust, promoting anti-semitism, supporting white supremacy and neo-nazi organisations. These are things which I know we are all strongly uncomfortable with.

As Embassy Regions can post on our RMB and participate in our discussions, closing the Embassy was a preemptive attempt to ensure our Region stays as one which is free from Bullying & Discrimination.

I am further troubled by the statements that Farkasfalka has defended these positions by using Christianity as a shield to defend these damaging positions. Whilst we are welcoming of a broad set of theological beliefs in this Region, ideas which degrade and belittle whole groups of people and elevate the power and position of others is very far beyond the scope of reasoned Christian thought. As a result, removing our association not only fulfils our legal duty as mention previously but also our moral duty.

I am aware that this has been viewed as heavy handed by some in the Region. I’d like to thank those who sent me telegrams on the matter. There is an option to appeal this decision to the Court of International Law & Justice as it hears cases in relation to the accord and can rule if this was a fair exercise of this power. To see if this sentiment is shared, I will place a poll up to see if nations would like me to place this decision up for review by the CILJ.

In the meantime, I pray we can unite behind the belief that Jesus loves us all and asks us to act this out in full faith.

4 Appendices

4.1 Interregional Anti-Bullying & Discrimination Accord

SIGNATORIES OF THIS ACCORD:

³ Original text can be found here.

ACKNOWLEDGE that the persecution and unfair treatment of Nations frequently and unjustly occurs on NationStates leading to unacceptable bullying and discrimination.

UNDERSTAND the need for a framework to be established through a collective, interregional effort which shall be fulfilled by this Accord.

COMMIT to make every effort to ensure that their Regions are free from all forms of bullying and discrimination.

THIS ACCORD DEFINES:—

BULLYING as behaviour where people intentionally use words or actions against someone or a group of people to cause distress and/or risk to their wellbeing. These actions are usually done in a way to make someone else feel less valued, powerful or helpless.

DISCRIMINATION as the direct or indirect treatment or proposal to treat someone unfavourably because of a personal characteristic or attribute which is protected by the law and/or other relevant policy. This includes bullying someone because of a protected attribute or characteristic.

DIRECT DISCRIMINATION occurs when someone is treated unfavourably because of a personal characteristic or protected attribute.

INDIRECT DISCRIMINATION occurs when an unreasonable requirement, condition or practice is imposed that maliciously disadvantages a person or group because of a personal characteristic.

PROTECTED CHARACTERISTICS AND ATTRIBUTES—

- Sex
- Age
- Religious belief and activity
- Political belief or activity
- Sexual orientation
- Gender identity
- Marital status
- Race including colour, nationality, ethnic or national origin, descent or ancestry)
- Disability including physical, intellectual or psychological disabilities)
- World Assembly Membership or lack thereof
- Personal association with a person who has any of the above attributes