

SUBJECT TO FINAL EDITING

## JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

### MEMORANDUM 1465

[Docket No. 1022-08]

**IN RE: Request for Declaratory Decisions from the Burundi Annual Conference as follows:**

- 1. Does Judicial Council Decision 1446, which stipulates January 1, 2023, as the retirement date for "bishops whose sixty-eighth birthday has been reached on or before July 1, 2020," apply to the central conferences?**
- 2. Under ¶ 408.1b and Judicial Council Decision 1446, given that General Conference did not meet in 2020 and has been postponed until 2024, must a bishop who reached the sixty-eighth birthday on or before the date upon which the central conference would have been held in 2020-21 be retired before 2024?**
- 3. Must the central conference colleges of bishops schedule a central conference meeting in 2022 in order to replace those bishops retiring under this provision?**
- 4. Pursuant to question 3 above, should Central Conference 2024 be postponed again, must Burundi be given the go ahead to become an Episcopal Area and elected a Bishop as was passed at General Conference 2016 under the five new Bishop for Africa question?**

#### STATEMENT OF FACTS

At its session on July 22, 2022, the Burundi Annual Conference voted to submit a Petition for Declaratory Decision with the following questions:

- 1. Does Judicial Council Decision 1446, which stipulates January 1, 2023, as the retirement date for "bishops whose sixty-eighth birthday has been reached on or before July 1, 2020," apply to the central conferences?**
- 2. Under ¶ 408.1b and Judicial Council Decision 1446, given that General Conference did not meet in 2020 and has been postponed until 2024, must a bishop who reached the sixty-eighth birthday on or before the date upon which the central conference would have been held in 2020-21 be retired before 2024?**

3. Must the central conference colleges of bishops schedule a central conference meeting in 2022 in order to replace those bishops retiring under this provision?
4. Pursuant to question 3 above, should Central Conference 2024 be postponed again, must Burundi be given the go ahead to become an Episcopal Area and elected a Bishop as was passed at General Conference 2016 under the five new Bishop for Africa question?

### DIGEST

The Judicial Council lacks jurisdiction. Although the Burundi Annual Conference has standing to submit a request for declaratory decision, such request is limited to “matters relating to annual conferences or the work therein” under ¶ 2610.2(j). In its long-standing jurisprudence, the Judicial Council held “that a request for a declaratory decision that comes from an annual conference must be germane to the regular business, consideration, or discussion of the annual conference and must have a direct and tangible effect on the work of the annual conference session...[and] relate to some action taken or to be taken by the annual conference.” Memorandum 1114, *aff'd*, Memoranda 1277, 1336, 1428. From the record submitted, it is evident that the questions pertain to **central conferences** or the work therein and, therefore, do not meet this requirement.

March 7, 2023

### **Dissenting Opinion**

I respectfully disagree with my colleagues regarding the complete lack of jurisdiction concerning the questions raised by the Burundi Annual Conference, especially the subject matter contained in question number four. The question pertains directly to the Burundi Annual Conference. Pursuant to prior legislative actions, it had been determined that the Burundi Annual Conference would become its own episcopal area and thus receive its own assigned Bishop. Whether the Judicial Council can actually answer the question is a matter that is separate and apart from the fact that we have jurisdiction over the subject matter. Thus, although the question may not be one that we can fully address, it is important to explain those reasons to the petitioning Annual Conference.

I also note that at times it is important, while staying within the mandates of the *Discipline*, to appreciate the contextual circumstances that may cause a body to have to resort to raising an issue with the Judicial Council. It is helpful if we are aware as to whether the other organizational bodies have been constituted, are operational, and are doing so in full compliance of the *Discipline*. For example, although we are accustomed to Colleges of Bishops or the Council of Bishops raising those questions which might pertain to the episcopal elections in the Jurisdictional Conferences, is there any evidence that the College of Bishops in the Central Conference of which the Burundi Annual Conference is located, has made any such requests of this or any other nature?

It is also important to note that the majority opinion could give the reader the mistaken impression that the requested declaratory decision must relate specifically to the work of the annual conference *session*. That would be incorrect. Although an individual's request for a Bishop's ruling on a question of law must relate directly to the agenda and the actions of the session of the annual conference wherein the request is made, a petition for a Declaratory Decision by vote of an annual conference is governed by different criteria and standards.

The *Discipline* provides:

¶ **2610. Declaratory Decisions**—1. The Judicial Council, on petition as hereinafter provided, shall have jurisdiction to make a ruling in the nature of a declaratory decision as to the constitutionality, meaning, application, or effect of the *Discipline* or any portion thereof or of any act or legislation of a General Conference; and the decision of the Judicial Council thereon shall be as binding and effectual as a decision made by it on appeal.

2. The following bodies in The United Methodist Church are hereby authorized to make such petitions to the Judicial Council for declaratory decisions: (j) any annual conference on matters relating to annual conferences or the work therein.

The term “annual conference” refers to the organized body of churches and districts, *not* the annual **session** of the annual conference. Thus the *Discipline* itself specifies that subject matter must pertain to either:

matters relating to annual conferences  
or  
matters relating to the work within the annual conference.

The Judicial Council has issued a significant number of decisions which apply to the interpretation of “matters relating to annual conferences” and “matters relating to the work therein.” However, when one examines the decisions in their entirety, it is clear that the Judicial Council has not undermined the legislative intent of General Conference by narrowing and restricting the applicable scope of ¶ 2610.2j to the sessions of annual conference or the actions of the annual conference when it is *convened*.

In Decision 1114 the annual conference’s questions were focused on the number of Bishops that would be serving its jurisdiction generally, separate and apart from the needs of the annual conference. In this matter, the Burundi Annual Conference is asking specifically about the application and effect of the adopted reports and proceedings of the 2016 General Conference related to an additional five proposed episcopal offices among the three Central Conferences in Africa, and the planning that has been occurring pursuant thereto, taking into account the various contingencies. Although we might not be able to answer their question, in this request for a declaratory decision, the Burundi Annual Conference has set forth and explained how the answers to these questions effect the Burundi Annual Conference specifically as opposed to their Central Conference generally, which distinguishes this case from the jurisdictional issue that existed in JCD 1114. Thus we believe that jurisdiction attaches to the questions herein, in whole or in part.

Kabamba Kiboko  
Lidia Gulele joins in this dissent  
Beth Capen also joins in this dissent

March 7, 2023