



INTERNATIONAL TRIBUNAL FOR NATURAL JUSTICE

At 8AM (GMT+2) on Wednesday 16 December 2015, the ITNJ held a second directions hearing for the matter of *Unified Common Law Grand Jury of Southern Africa ('UZA') v Republic of South Africa, and Constitutional Court of South Africa*. Like the first directions hearing, this hearing was conducted virtually, and Chief Justice of the ITNJ, Sir John Walsh of Brannagh, presided over the matter from his Chambers in Melbourne, Australia. Similarly, UZA was represented at the hearing by its Administrator, Brother Thomas, and Counsel, Miss T, who both attended the hearing from Cape Town, South Africa.

The main purpose of this directions hearing was to allow the Respondents an opportunity to defend the action and present their respective cases. Unfortunately, and despite numerous attempts by both UZA and the ITNJ to advise the Respondents to attend the hearing, there were no appearances from either the Republic of South Africa or the Constitutional Court of South Africa. Although a party's failure to attend a hearing is in no way advisable, particularly because it is not in the interests of justice or fairness, it does not necessarily preclude a matter from proceeding. Although like other courts and tribunals, the ITNJ has discretion to make default judgments where a party does not appear, in this instance, Chief Justice Walsh of Brannagh used the directions hearing as an opportunity to clarify further issues with UZA. After all, a trial in this matter has not yet happened (nor has it been scheduled) and as such, the Respondents still have opportunities to bring their individual cases forward.

On behalf of UZA, Brother Thomas clarified, per previous orders made at the 1 December directions hearing, the UZA's claim in the matter. At the hearing on 16 December, Chief Justice Walsh of Brannagh discussed points for UZA to consider, such as whether it wanted to give documentary evidence or *viva voce* evidence (witnesses giving oral evidence) at trial. An order was made that before the listed date for trial, UZA must confirm how it is seeking to support its claims at trial, and to notify the Respondents and the ITNJ in this regard. Brother Thomas advised that UZA had a number of parties in mind that could be called as witnesses at trial.

Brother Thomas and Miss T were both satisfied that all outstanding queries and issues had been cleared up at the directions hearing. Consequently, it was unanimously believed that the matter was ready to proceed to a trial. Although virtual trials are possible, they are not always convenient or appropriate given the complexity of a matter or the facts of the case. Chief Justice Walsh of Brannagh was of the opinion that this particular matter required that a hearing be conducted in person, and it was agreed that a hearing will take place in Johannesburg. This would be convenient for the parties and witnesses to be called, and it would also allow for many interested individuals in South Africa to witness the trial personally. A trial date will be set upon resolution of a number of administrative issues, and will be scheduled no earlier than 29 January 2016, per the request of the Applicant.

Julie-Anne Pho
ITNJ Court Officer
20 December 2015