

## JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

### DECISION 1248

**IN RE: *Review of a Bishop's decision of law in the Congo Central Conference regarding mandatory retirement age for bishops in light of ¶¶ 50, 408, 543.3***

#### DIGEST

Bishop Streiff's decision of law is affirmed. For the bishops in the Congo Central Conference who will continue in active ministry beyond their 68<sup>th</sup> anniversary, the mandatory retirement age remains at their 72<sup>nd</sup> birthday. Paragraph 408.1b in the 2012 *Discipline* provides an interim step toward a uniform rule for the retirement of bishops as required by ¶ 16.5.

#### STATEMENT OF FACTS

The sixth ordinary session of the Congo Central Conference of The United Methodist Church was held August 19-23, 2012, in Kolwei/Mutoshi, Jourdain District, in the South-West Katanga Annual Conference in the Katanga Province. On August 21, 2012, in a regular business session during the time of the election of a new bishop for the Congo East Episcopal Area, a lay member of the conference requested a decision of law from Bishop Streiff who was presiding during the session whether the 2012 General Conference or the Central Conference could authorize the extension of Bishop Yemba's and Bishop Kainda's episcopal terms beyond the mandatory retirement age of 68.

Bishop Streiff gave a verbal response at the beginning of the afternoon session on August 21, 2012, and promised to put it in writing, as well as to give it to the Central Conference Secretary, in order to send a copy to the Judicial Council of The United Methodist Church. The bishop's written response was published in the Journal of the Congo Central Conference 2012 on pages 13-15.

The questions asked were:

1. Did the 2012 General Conference, in its legislative actions regarding paragraph ¶ 408 of the *Book of Discipline*, authorize the extension of Episcopal tenures in the DR Congo beyond the mandatory retirement age of 68 years?
2. Do the paragraphs ¶ 50 of the Constitution and ¶ 543.3 of the Book of Discipline constitute an authorization of the Central Conference to extend Episcopal terms beyond the mandatory retirement age of 68 years?
3. In the absence of the above-mentioned authorizations, can the Bishops extend their Episcopal terms themselves?

The bishop gave the following written response to the above-stated questions of law:

- “1. Concerning the retirement age of bishops, the reference should not be made to the Book of Discipline of the central conference, published in 1990 (based on the Book of Discipline 1988). The reference has to be to the Book of Discipline established by the General Conference.
2. At General Conference 2008, the mandatory retirement age for all clergy was changed from age 70 to age 72 (BOD 2008, par. 358.1) BOD 2008, par. 50 and par. 543.3 speak about the power given to central conferences to fix the tenure of its bishops. However, the ministry of a bishop is not a third order which would not be subject to the rule for mandatory retirement age of clergy; see the reference made to par. 358.1 in BOD 2008, par. 408.1c, last part.
3. The Book of Discipline 2008 includes a specific regulation for bishops in jurisdictions in the United States. This regulation mentions as mandatory retirement age if a bishop has reached his/her 68<sup>th</sup> anniversary before July 1<sup>st</sup> of the year in which is held the session of the jurisdictional conference; see BOD 2008, pr. 408.1a. The Book of Discipline 2008 does not mention a similar regulation concerning bishops in central conferences.
4. General Conference 2012 wanted to clarify this question for bishops in central conferences through a petition (petition 20416; calendar item 372). The petition was amended in the Legislative Committee on superintendency, based on a recommendation from the Standing Committee for Central Conference Matters, for adjusting to the different dates of the sessions of central conferences (they have to be held within a year following the general conference, see BOD 2008, Par. 30), and thus added a new par. 408.1b for the central conferences, but still mentioned a clear indication that it would become effective immediately. In the final vote, it was approved by the general conference that the amended petition on par. 408.1b shall be “effective on January 1<sup>st</sup>, 2016”. In the discussion on the floor, the persons who spoke verbally mentioned the situation in the episcopal areas of Central Congo (for one speaker) and of South Congo (for another speaker).

Conclusion: General Conference 2012 voted the effective date in full knowledge of the implications for the two episcopal areas in the Congo and thus allowing its bishops who have passed the age of 68 to continue in active service beyond the session of the central conference in 2012. For the bishops in the Congo central conference who will continue in active ministry beyond their 68<sup>th</sup> anniversary, the mandatory retirement age remains at their 72<sup>nd</sup> birthday. At the time of their mandatory retirement during the quadrennium 2012-2016, the central conference (through its executive committee) may either call for an extraordinary session for the election of a successor, or ask the Council of

Bishops to name a bishop for overseeing the episcopal area under consideration until a successor is elected at the ordinary session of the central conference in 2016.”

This matter was before the Judicial Council during its 2012 Spring Session. The Council was unable to rule on the matter because of its requirement of official documentation. The Council repeatedly requested that the Secretary of the Congo Central Conference provide minutes of the August 21, 2012, session of the Congo Central Conference with no success; the Council retained jurisdiction of the matter. The Secretary of the Conference subsequently provided the minutes of the conference session.

## **JURISDICTION**

The Judicial Council has jurisdiction under ¶¶ 51 and 56.3 of the Constitution and ¶ 2609.6 of the *2012 Discipline* as modified by Decision 1244.

## **ANALYSIS AND RATIONALE**

The Council will only respond to the bishop’s written response to the request for a Decision of Law, and not to any alleged oral statements made before the written statement was generated.

The legislation adding a new ¶ 408.1b to the *2012 Discipline* was discussed, amended and passed in the General Conference plenary session of Thursday afternoon, May 5, 2012 (Daily Edition, Daily Christian Advocate, Vol. 4, No. 11, Thursday Afternoon, May 5, 2012 Proceedings, 2734-2735). In the discussion on the floor, the persons who spoke verbally mentioned the situation in the episcopal areas of Central Congo (for one speaker) and of South Congo (for another speaker).

The discussion and action on the item during the General Conference plenary session was a motion to “add to the end of the previously amended text: effective on January 1, 2016.” The amendment was adopted with a vote of 701-194. The vote on the main motion after the amendment was 808-99 on the same day.

The rationale for Petition Number 20416 when it was submitted to the 2012 General Conference was “provide uniform rules for retirement for both jurisdictional and central conference bishops and specifically the pension plan that will provide retirement benefits for them.”

The General Conference was aware that the amended effective date would result in bishops’ serving past their 68<sup>th</sup> birthday, but it was overwhelmingly (808-99) the will of the body to do so. This specific result does not give a bishop in the Central Conference the authority to extend his/her Episcopal term past the mandatory age of retirement.

Bishop Streiff cites two paragraphs of the *2008 Discipline*. Paragraph 408.1 provides that jurisdictional bishops “shall be retired on August 31 next following the regular session of the jurisdictional conference if the bishop’s sixty-eighth birthday has

been reached on or before July 1 of the year in which the jurisdictional conference is held.” This is to ensure that a bishop retires at the end of a quadrennium and before reaching age 72. Paragraph 358.1 of the *2008 Discipline* says, “Every clergy member of an annual conference who will have attained age seventy-two on or before July 1 in the year in which the conference is held shall automatically be retired.” While these paragraphs do not directly address a rule for retirement of bishops in the central conferences, in the absence of a specific mandatory retirement policy for central conference bishops and given that jurisdictional bishops must retire before reaching age 72, Bishop Streiff’s decision of law has made appropriate use of the paragraphs available to him.

Paragraph 408.1b in the *2012 Discipline* provides an interim step toward a uniform rule for the retirement of bishops as required by ¶ 16.5.

## **DECISION**

Bishop Streiff’s decision of law is affirmed. For the bishops in the Congo Central Conference who will continue in active ministry beyond their 68<sup>th</sup> anniversary, the mandatory retirement age remains at their 72<sup>nd</sup> birthday. Paragraph 408.1b in the *2012 Discipline* provides an interim step toward a uniform rule for the retirement of bishops as required by ¶ 16.5.

J. Kabamba Kiboko recused and took no part in this decision.

Dennis Blackwell was absent.

Timothy K. Bruster, first clergy alternate, participated in this decision.

John E. Harnish, second clergy alternate, participated in this decision.

William B. Lawrence, President

F. Belton Joyner, Jr., Secretary

October 26, 2013