



**Appeal number:** CRR/2014/0001  
CRR/2014/0006

**FIRST-TIER TRIBUNAL (CHARITY)  
GENERAL REGULATORY CHAMBER**

**KEBEDE AND OTHERS** **Appellants**  
**(THE TRUSTEES OF THE ETHIOPIAN ORTHODOX  
TEWAHDO CHURCH ST. MARY  
OF DEBRE TSION LONDON)**

**- and -**

**THE CHARITY COMMISSION** **Respondent**  
**FOR ENGLAND AND WALES**

**TRIBUNAL: JUDGE JONATHAN HOLBROOK**

**Sitting in Chambers on 6 July 2015**

**DIRECTIONS**

Upon considering the parties' written representations

**IT IS DIRECTED** as follows:

**Consolidation of proceedings**

1. The two sets of proceedings which have been allocated the case reference numbers CRR/2014/0001 and CRR/2014/0006 respectively shall be consolidated.

### **Mode and length of hearing**

2. The consolidated proceedings will be listed for an oral hearing in London, with a time estimate of one day. The parties are requested to provide the Tribunal with the dates to avoid for their representatives and witnesses during September and October 2015 by 5pm on 13 July 2015, following which the Tribunal will notify them of the hearing date and venue.

### **Agreed bundle of documents**

3. The parties are to use their best endeavours to agree the contents of a bundle of documents for the Tribunal hearing, in accordance with the arrangements set out below;

4. The first draft of the index to the hearing bundle is to be prepared by the Respondent and served on the Appellants by 5pm on 13 July 2015;

5. By 5pm on 20 July 2015, the Appellants are to notify the Respondent whether there are any additional documents in their possession that they wish to add to the bundle. The Appellants are to supply a copy of any documents to the Respondent if so requested;

6. A consolidated version of the bundle is to be prepared by the Respondent and forwarded to the Appellants by 5pm on 27 July 2015.

### **Witness statements**

7. By 5pm on 3 August 2015 the parties are to exchange with each other any written witness statements on which they wish to rely at the hearing or to confirm that they will not be calling witness evidence. If witness statements refer to any documents in the bundle, the relevant page number is to be used in the statement;

8. The witness statements (which must contain a statement of truth) are to stand as evidence in chief at the hearing, although supplementary questions may be asked with the permission of the Tribunal. No party is to call any witness in respect of whom a written statement has not been exchanged without the Tribunal's permission. Each party is to notify the other if they wish to cross examine any witness in respect of whom a statement has been filed by 5pm on 17 August 2015.

### **Lodging of bundles with the Tribunal**

9. A final version of the hearing bundle, to include any witness statements and any exhibits, is to be prepared by the Respondent and four copies are to be lodged with the Tribunal no later than seven days before the hearing date. A further copy is also to be brought by the Respondent to the hearing for use by witnesses (if any).

### **Skeleton arguments**

10. Statements of Case (Skeleton arguments) are to be exchanged by the parties and lodged with the Tribunal by e mail, by no later than seven days before the hearing date.

### **Bundle of authorities and statutory materials**

11. The parties are to use their best endeavours to agree a bundle of authorities and statutory materials, in accordance with the directions below;

12. The first draft of the index to the authorities bundle is to be prepared by the Respondent and served on the Appellants by no later than fourteen days before the hearing date;

13. The Appellants are to notify the Respondent whether there are additional materials which they wish to be included in the authorities bundle by no later than ten days before the hearing date;

14. A consolidated version of the authorities bundle is to be prepared by the Respondent and provided to the Appellants by no later than seven days before the hearing date. The index (only) to this bundle is to be sent by e mail to the Tribunal by no later than three days prior to the hearing date and three hard copies are to be lodged with the Tribunal at the hearing. The authorities bundle must contain only those authorities specifically referred to in the skeleton arguments.

### **Other**

15. The parties have permission to apply to vary these directions or to apply for further directions provided such application is in writing setting out the

full reasons for the application and (where applicable) before the time limit for complying with the direction has been reached.

## **REASONS**

1. The Respondent has applied for these two sets of proceedings to be consolidated pursuant to rule 5(3)(b) of the Tribunal's procedural rules. The Appellants oppose that application and I have considered the parties' competing arguments as they have been expressed in written submissions lodged with the Tribunal pursuant to the Tribunal's previous directions.

2. Those directions summarised the factors to which I should have regard when deciding whether to exercise the power to consolidate separate proceedings. These include: the commonality of identity of the Appellants; the commonality of witnesses; the degree of overlap of evidence; the desirability of sparing witnesses the need to give evidence more than once (and the risk that their evidence on the same point might be accepted in one appeal but not in another); the comparative cost and length of holding separate or consolidated hearings; and, importantly, the risk of prejudice to the Appellants in relation to the presentation of similar fact evidence.

3. Having assessed the respective arguments of the parties with these factors in mind, it is very clear that the two sets of proceedings should be consolidated. The parties are the same in each case, and in each the Tribunal is asked to review a decision to commence a statutory inquiry into the same charity. The factual background to both cases is basically the same and there are a number of common themes running through the Appellants' grounds for challenging the two decisions under review. It also seems likely that there will be a significant overlap in terms of the documentary evidence which will be placed before the Tribunal. Given that all the pleadings have now been filed, it is not premature to consolidate the proceedings.

4. The Appellants assert that there is a risk of prejudice to them if the proceedings are consolidated. However, this assertion appears to be based on a fear that, in reviewing the lawfulness of the first decision, the Tribunal will improperly have regard to evidence concerning the second decision. I do not consider there to be a real risk of prejudice in this regard. The Appellants also contend that a lack of commonality of witnesses weighs against consolidation. They intend to call a single (but different) witness in each case. The extent of any overlap in the witnesses to be called by the Respondent is not yet clear. In any event, however, I do not consider that this outweighs the above factors which point in favour of consolidation.

5. I consider a single hearing dealing with all the issues to be the proportionate means of enabling the Tribunal to deal with these cases fairly and justly. It is also likely to be the most cost-effective way of disposing of the proceedings – not only in terms of time and expense to the parties, but also in terms of the efficient utilisation of the Tribunal's resources.

6. I have therefore ordered that the proceedings be consolidated and have given directions to enable an oral hearing to take place during the autumn. It appears to me that completion of the hearing within one day should be possible. However, if the

parties consider this estimate unrealistic then they should inform the Tribunal as soon as possible.

7. Finally, I note that there has previously been a lack of adherence on the Appellants' part with deadlines imposed by directions of the Tribunal. I consider it important that the hearing of these proceedings should now be held without undue delay. The parties should note that the Tribunal is likely to take a firm approach in the event of non-compliance with the above directions.

SIGNED: J W HOLBROOK

DATED: 6 July 2015

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