IN THE EMPLOYMENT COURT OF NEW ZEALAND
AUCKLAND

I TE KŌTI TAKE MAHI O AOTEAROA
TĀMAKI MAKAURAU

[2024] NZEmpC 76
EMPC 144/2024

IN THE MATTER OF	an application for judicial review
AND IN THE MATTER OF	an application for interim injunction
BETWEEN	ALADDIN AL-BUSTANJI First Applicant
AND	GLEN JENNER Second Applicant
AND	CORRECTIONS ASSOCIATION OF NEW ZEALAND INCORPORATED Respondent

Hearing:	9 May 2024 (Heard at Auckland)
Appearances:	M O'Flaherty, counsel, and A Little, advocate for applicants JM Roberts and K Kleingeld, counsel for respondent
Judgment:	13 May 2024

INTERLOCUTORY JUDGMENT OF JUDGE KATHRYN BECK
(Application for interim injunction)

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[1] These proceedings involve an application for judicial review of the actions and, more particularly, the proposed actions of the Corrections Association of New Zealand Incorporated (CANZ or the union) by the applicants, Aladdin Al-Bustanji and Glen Jenner, members of the national executive of that union.

[2] The proceedings relate to a disciplinary meeting that is proposed to take place on 13 and 14 May 2024. The applicants seek an interim injunction preventing the process pending the determination of their substantive claim. They say that if the

process goes ahead as proposed, it will breach the Rules of CANZ (the Rules), breach their right to natural justice, and breach the obligations of good faith owed to them by CANZ under s 4 of the Employment Relations Act 2000 (the Act).

[3] The application is opposed by CANZ. It says that the meeting on 13 and 14 May 2024, and the process it has undertaken to address complaints raised with it, have not and will not be in breach of the Rules, that at all times it has complied with the principles of natural justice, that it has complied with good faith obligations, and that the most appropriate body to determine breaches of the Rules is the national executive of the union. CANZ at first sought non-publication orders in respect of these proceedings, but that application has now been withdrawn.

[4] Affidavits have been filed in support of the application for interim injunction by Mr Al-Bustanji and Mr Jenner as applicants. Juan du Plessis, the president of the union, also filed an affidavit.

[5] The parties were directed to mediation in the first instance, which was unsuccessful.

[6] The matter was then heard under urgency on 9 May 2024. Towards the end of the hearing, concessions were made by CANZ, which I will deal with later, and a further affidavit was filed by Mr du Plessis overnight. Further submissions were heard from both parties on 10 May 2024 by telephone.

[7] After the hearing, I made an order granting the interim injunction pending the determination of the substantive claim on the basis that such claim should be pursued expeditiously.[1] The Court would be in a position to hear the matter before 30 June 2024 which is the date by which the election of the union's executive and officers must have taken place. I advised that reasons for my decision would follow. These are those reasons.

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1 *Al-Bustanji v Corrections Association of New Zealand Inc* EmpC Auckland EMPC144/2024, 10 May 2024.

Background

[8] The applicants are corrections officers employed by the Department of Corrections (Corrections) and are members of CANZ and of CANZ's national executive.

[9] CANZ is a duly incorporated society under the Incorporated Societies Act 1908 and a duly registered union under the Act. It is a union for prison-based Corrections staff, and it is run by Corrections staff. It represents the majority of corrections officers and staff in prisons. It is managed on a day-to-day basis by its four national officers – a president, a national vice-president, a national secretary and a national treasurer. It also has four employees – an industrial officer, an education officer and two administrators. The operation is governed by its Rules which deal with a range of matters including the objects and powers of CANZ, disciplinary matters, national executive, national officers, elections, removal from office and various other matters.

[10] CANZ is governed by a national executive which consists of 24 members; this includes the four national officers and one member from each prison area. Mr Al-Bustanji and Mr Jenner are members of the national executive for the Rimutaka (Wellington) and Tongariro regional prisons respectively.

[11] The national executive is elected by members to represent their collective interests within CANZ at regional and national levels and to help establish and support a well functioning, engaged, effective and visible site branch. The national executive acts as a conduit to share the decisions and directions as agreed nationally to their site, and to support those directions with the local membership. They meet three times a year.

[12] The applicants have been members of the national executive since July 2022.

[13] They have had an increasingly tense relationship with Mr du Plessis as president of the union. They have taken issue with various decisions (some historical) made by officers and the national executive (of which they are members).

[14] They have primarily directed correspondence on these issues to Mr du Plessis directly, although they have, on the evidence, also shared their views with a limited number of other members of the union.

[15] A meeting of the national executive took place on 19–22 February 2024.

[16] On 23 February 2024, the applicants each received a telephone call from Mr du Plessis, during which he took issue with the way in which they had conducted themselves at that meeting and the fact that they had not raised concerns they appeared to have had directly in that forum. Mr du Plessis says he had been advised that Mr Al-Bustanji and Mr Jenner no longer had trust and confidence in him and were attempting to gather the telephone numbers of executive members to arrange external communications and an external meeting. He accepts he used strong language in those telephone conversations.

[17] The applicants take serious issue with the tone and content of those calls and describe them as offensive and an attempt to intimidate them.

[18] After returning from leave, on 3 March 2024, Mr Al-Bustanji emailed Mr du Plessis, referring to the call, setting out a range of concerns and seeking a meeting with him and Mr Jenner for "the purpose of reaching a positive outcome for our union and our members". He asked that the meeting be in person and suggested Taupo as a central venue.

[19] Mr du Plessis acknowledged that he could have spoken more professionally on the call and apologised. He responded to the issues raised by Mr Al-Bustanji, noted that there were other concerns, and stated he was happy to meet. However, he indicated there were difficulties with getting Mr Jenner to Taupo and suggested bringing him in remotely via Teams.

[20] In emails on 8 March 2024 Mr Al-Bustanji and Mr Jenner both advised that they were not happy with what they referred to as a "sensitive" meeting taking place other than in person.

[21] On 11 March 2024, Mr du Plessis responded asking for a written breakdown from each of them as to their concerns so he could prepare for any meeting.

[22] The applicants regarded this as unnecessary, overly formal and causing delay. They implied that taking a formal approach and putting things in writing could have negative consequences. They reiterated their desire for a "friendly constructive casual meeting".

[23] Mr du Plessis' response indicated a willingness to meet but raised logistical difficulties with getting Mr Jenner released from work. On 12 and 13 March 2024, emails were exchanged that showed a willingness by all to try and meet. Unfortunately, those exchanges were then derailed.

[24] In the February national executive meeting, a document had been approved setting out the role description of a national executive member. On 13 March 2024, a group email message was sent, asking national executive members to sign and return the document.

[25] Mr Jenner, in reply to the whole of the executive, confirmed he would return the form but noted his concern about "the lack of a democracy, through voicing one's opinion".

[26] Mr Al-Bustanji, responding to this, again to the whole of the executive, noted:

> The form doesn't mean you can't voice your opinion, it simply means that majority rules. You still have the right to raise concerns over any union matter and to express your opinion specially whenever an executive decision is unreasonable, ignores basics or doesn't make sense. At the end of the day, we represent the best interests of our mates who trusted us to do so and we have no bosses in this matter.

[27] Both applicants signed the form. However, there were responses from other national executive members noting that the time for robust discussion and raising concerns was at the executive meeting but that once a majority decision was made, everyone should follow it. One member of the executive responded to the applicants in a manner that was aggressive and highly offensive.

[28] The applicants raised their concerns with the president that he appeared to have taken no steps to deal with this email. Mr du Plessis's evidence was that he was busy during the day and did not see the email. However, once he did become aware of it, he took steps to email the person concerned, advised him that his view was welcomed but that the negative language was unacceptable and asked him to apologise, which he did. It is fair to say, however, that the wording of the apology was less than emphatic – he stood by what he said but agreed he could have used a "more professional dialect".

[29] The applicants remained dissatisfied with the way in which this particular matter had been dealt with, and it became the focus of the ongoing correspondence between them and Mr du Plessis.

[30] On 19 March 2024, Mr Al-Bustanji formally requested that the president activate disciplinary proceedings under r 12 of the Rules in relation to the email. Communications appeared to be deteriorating at this point, with Mr du Plessis advising that he was seeking legal advice on the appropriate process and Mr Al-Bustanji and Mr Jenner taking issue with what they viewed as a failure to deal with the situation properly in the first instance.

[31] On 25 March 2024, Mr du Plessis requested that Mr Al-Bustanji specify the parts of r 12 which he considered the executive member had breached. He did so on 26 March 2024 and cited four statements that he attributed to the executive member, which he alleged amounted to harassment, defamation, ridicule, bullying and humiliation.

[32] From the outset, Mr du Plessis forwarded all correspondence to his fellow officers.[2] It is apparent from those exchanges that he and they were becoming increasingly frustrated and concerned at what they perceived to be unspecified issues and threats by the applicants to take matters further.

[33] From 14–19 March 2024, the applicants were also communicating with a union member who was concerned as to the outcome of the bargaining and the most recent

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2 This was not disclosed to the applicants at the time.

collective agreement settlement. In those emails the applicants expressed support for the right of the member to raise his concerns with the industrial officer of the union.

[34] Mr du Plessis was not involved in all of this correspondence, nor is all of it referred to in the correspondence between him and the applicants. However, Mr Al-Bustanji used his national executive email, meaning it was accessible to the union on its server. On 21 March 2024, Mr du Plessis obtained the correspondence from the union server and forwarded it to his fellow officers.

[35] On 31 March 2024, the vice-president wrote to Mr du Plessis as president making formal complaints against Mr Al-Bustanji and Mr Jenner under r 12 of the Rules. He referred to the email correspondence above, including those obtained from the server, and earlier correspondence from the previous year. Under the heading "remedy", he recorded his personal view that they should be removed as members of the national executive and as CANZ members.

[36] On 2 April 2024, the applicants received a letter from Mr du Plessis as president, advising that each of them was the subject of a complaint from the vice-president, alleging they had publicly and maliciously raised false allegations, were actively undermining the president, were attempting to destabilise the national executive by spreading misinformation and disinformation, had defamed national officers in discussions with members, had incited members of the respondent against the national officers, had undermined the work and actions of the respondent's industrial officer, and had actively worked to undermine and destabilise the union.

[37] The letter attached copies of various email correspondence upon which it relied and advised that the executive would make a majority decision on whether an offence had been committed under the Rules and whether any sanctions were to be imposed. The letter invited the applicants to make any comment before the national executive decided on the complaint, stating that the national executive would meet on 13 and 14 May 2024 to consider the complaint and any sanction.

[38] The letter confirmed that the vice-president would be excluded from the meeting as the person who had made the complaint in subsequent correspondence. It

was apparent, however, that the president who was the subject of much of the complaint and the alleged undermining behaviour, would be present, as would the national executive member against whom the applicants had made their own complaint which was also being dealt with at the same time.

[39] Possible sanctions under r 12 include: no further action, a warning, suspension for a period or expulsion from CANZ. Rule 12 contains a right to appeal which would be heard by two or more officers of the union.

[40] On 17 April 2024, the solicitors for the applicants wrote to Mr du Plessis as president, raising concerns about his involvement in the meetings on 13 and 14 May 2023, and a concern that the Rules would be breached if steps were taken to remove the applicants from the national executive (that only being available as a sanction under r 25, not r 12). They stated their view that the complaint of the vice-president and the actions of the union were flawed and inherently unjust. They sought confirmation that the disciplinary meeting would not proceed and an agreement to participate in mediation. They advised that if that was not agreed to, they may seek judicial review and injunctive relief.

[41] On 23 April 2024, the solicitors for the union responded, noting that they did not accept there had been any breach of the Rules and that any concern about the operation of r 25 was premature. They stated that there was no reason to exclude the president and confirmed he and the national executive member, against whom Mr Al-Bustanji had made a complaint, would be attending the meetings. They denied any breaches of natural justice or good faith. They refused mediation and confirmed the disciplinary process would proceed.

[42] On 2 May 2024, these proceedings were filed, seeking a review of the proposed disciplinary process.

Law

[43] Judicial review proceedings may be brought under s 194 of the Act in respect of any exercise or proposed exercise of a statutory power by a union under its rules.

Where judicial review proceedings are brought under that section, the provisions of the Judicial Review Procedure Act 2016 apply.

[44] Section 15 of the Judicial Review Procedure Act provides for interim measures prior to the hearing of the substantive review proceeding:

> **15 Interim orders**
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> (1) At any time before the final determination of an application, the court may, on the application of a party, make an interim order of the kind specified in subsection (2) if, in its opinion, it is necessary to do so to preserve the position of the applicant.
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> (2) The interim orders referred to in subsection (1) are interim orders—
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> (a) prohibiting a respondent from taking any further action that is, or would be, consequential on the exercise of the statutory power:
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> …
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> (4) An order under subsection (2) or (3) may—
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> (a) be made subject to such terms and conditions as the court thinks fit; and
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> (b) be expressed to continue in force until the application is finally determined or until such other date, or the happening of such other event, as the court may specify.

[45] Before any interim orders may be made under s 15, the Court must first be satisfied that the orders sought are reasonably necessary to preserve the position of the applicant.[3] In assessing this threshold test, the Court must be satisfied that the applicant has a position to preserve and will consider the merits of the review application.[4] Ordinarily, in considering the merits, there must be a real contest between the parties, and the applicant must have a respectable chance of success.[5] The approach taken to merits is raised or lowered as appropriate depending on the nature of the interest at stake, such as where interim relief will effectively dispose of the proceedings.[6]

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3 *Carlton & United Breweries Ltd v Minister of Customs* [1986] 1 NZLR 423 (CA) at 430; and *Minister of Fisheries v Antons Trawling Company Ltd* [2007] NZSC 101, (2007) 18 PRNZ 754 at [3].

4 *Whale Watch Kaikoura Ltd v Transport Accident Investigation Commission* [1997] 3 NZLR 55 (HC) at 63; and *Parmanadan v Minister of Immigration* [2010] NZCA 136, [2010] NZAR 424 at [3].

5 *Esekielu v Attorney-General* (1993) 6 PRNZ 309 (HC) at 313.

6 Philip A Joseph *Joseph on Constitutional and Administrative Law* (5th ed, Thomson Reuters, Wellington, 2021) at 1319–1321.

[46] If the threshold test is met, the Court can then go on to consider whether it should exercise its discretion to issue interim orders. In exercising that discretion, the Court can consider all the circumstances of the case, including (for the purposes of this case):[7]

(a) the legal and factual context of the case;

(b) the circumstances of the parties;

(c) any delay in seeking interim relief;

(d) the expected duration of the interim orders;

(e) any improper purposes in seeking interim orders; and

(f) any prejudice to others.

[47] The Court can then stand back to assess where the balance of convenience lies and where the overall justice lies.

Analysis

Is there a position to preserve?

[48] The applicants' position is set out in their statement of claim dated 2 May 2024. It raises four broad concerns about the proposed investigation by the national executive of CANZ:

(a) The president of CANZ is an interested party in the complaint against the applicants and cannot be involved in any investigation of that complaint.

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7 See generally Jessica Gorman and others *McGechan on Procedure* (online ed, Thomson Reuters) at [JR15.01]–[JR15.05].

(b) There is a real risk of bias or predetermination by members of the national executive and/or officers of the union because of communications from the president of CANZ.

(c) The allegations in the complaint against the applicants could not constitute an offence, and raising such allegations is a breach of CANZ's duty of good faith towards the applicants.

(d) The complaint against the applicants should have been pursued under r 25 of the Rules rather than r 12.

[49] It is no longer necessary to consider the first concern because Mr du Plessis has indicated that he will not preside over any investigation of any complaint against the applicants. Towards the end of the hearing he indicated via counsel for CANZ that while he would need to be present for the first five minutes to deal with handover of his position as chairperson of the meeting, he would then leave and not be present for the rest of the meeting. That is appropriate. As the complaint against the applicants involves him, he cannot be a disinterested participant in the meeting related to that complaint, and his presiding over the meeting would likely have been a breach of r 12.3 of the Rules.

[50] The second concern raised by the applicants is that there is a real risk of bias or predetermination by members of the national executive and/or the officers of the union because of communications from the president of CANZ. There was insufficient evidence provided to date to raise any concerns about involvement of members of the national executive who were not otherwise involved as officers of the union or as parties to the complaints. However, the applicants' concern about the officers was further developed in submissions by the applicants' representative as a result of Mr du Plessis stating in an affidavit:

> … I work collaboratively with the other Officers and they are included in decision making. As a result, all correspondence in respect of this matter has been shared via the Officers' email group and with [the industrial officer, who] has significant experience and provides advice.

[51] Counsel for the applicants submitted that this statement was of concern because it indicated that the other officers (who would now be presiding over the disciplinary meetings) might also be at risk of being biased against the applicants. Subsequently, the Court received an affidavit containing email correspondence between the officers from 3 March to 26 March 2024. Mr Little for the applicants submitted that this raised further concerns for the applicants, noting that there is a tone in the emails that is negative towards them and that the contamination within the group of officers is clear. He also submitted that the emails were consistent with concerted action being taken by the officers of the union against Mr Al-Bustanji and Mr Jenner. Counsel for CANZ submitted on the other hand that the officers of the union were entitled to work together and this was part of being a functioning team. He says they operated as a unit and argues that there was no "smoking gun" in the emails provided.

[52] Having reviewed the affidavit evidence, it is apparent the officers were working together in dealing with the applicants as accepted by Mr Roberts. Further, I agree that the correspondence among the officers in relation to Mr Al-Bustanji and Mr Jenner has a negative tone. A few examples illustrate these points:

(a) On 14 March 2024, the president of CANZ forwarded correspondence from Mr Al-Bustanji to the officers of CANZ and the industrial officer stating: "FYI, there is no point he wants any excuse to complain". The vice-president, who subsequently made the complaint against the applicants, replied: "I think we need to after we have discussed". It is not clear what he considered that they needed to do, but it is at least possible that he was referring to the officers taking some form of action against Mr Al-Bustanji.

(b) On 21 March 2024, Mr du Plessis forwarded correspondence to the other officers which he had obtained from the union servers under the heading "constitutional issues". That correspondence was between the applicants and two other members of the union. It was subsequently used by the vice-president as evidence in the complaint against the applicants.

(c) On 22 March 2024, an officer of CANZ wrote that the applicants were becoming "lost in their own importance" and described Mr Al-Bustanji's correspondence as a "rant". In response, another officer wrote suggesting: "Fellas, can i suggest. we limit coms between us on this matter as it wouldn't surprise me if there were requests for all coms between us coming as well". If the officers were acting in good faith towards the applicants, it is not clear why such a suggestion would be necessary.

[53] Whether any of this or other correspondence creates issues is a matter for the substantive hearing, but at this stage, there is sufficient evidence to indicate that there is a real contest between the parties concerning whether the officers of the union are sufficiently disinterested to be fairly involved with any disciplinary proceedings against the applicants. I also consider, based on the limited evidence available which may look otherwise once placed within more context, that there is a reasonable chance of the applicants succeeding in that contest.

[54] In respect of the third concern, the parties disagree about whether the allegations could constitute an offence under the Rules. Generally, the Court is slow to intervene into the substance of such a matter as the national executive of CANZ is the proper body to assess whether there is any merit in the complaints. The role of the Court in a judicial review hearing is to review the procedure that is adopted by the national executive in that assessment. However, as the applicants have alleged that raising the allegations and pursuing them through the r 12 process was a breach of the Union's duty of good faith, it will be necessary for the Court to consider whether the allegations are so frivolous or vexatious or brought for an unlawful purpose so as to indicate that they could not have been brought in good faith. It would, however, be premature to carry out that analysis at this stage of the proceedings.

[55] In respect of whether the complaint against the applicants has been brought in good faith, the applicants' representative submitted that the timing of the complaint against them is at least "a little bit interesting". Mr Al-Bustanji provided the details of the complaint against the other executive member (after being requested to do so) on 26 March 2024. Five days later, on 31 March 2024 (Easter Sunday), the vice-

president made his complaint against the applicants. Mr Little argued that an injunction preserving their position pending the hearing of the substantive claim would enable a full disclosure process to be undertaken, which might throw light on the timing.

[56] Counsel for CANZ submitted that where an allegation is made against a member, it is not up to the officers to decide whether that allegation is fair or to conduct any preliminary assessment – it must simply be put to the national executive for consideration. He submitted the applicants' concerns about timing were speculative.

[57] In light of the correspondence among the officers, I consider that there are real and arguable issues as to whether the complaint was made in good faith which will need to be considered at the substantive judicial review hearing.

[58] The last concern raised on behalf of the applicants is that because they are members of the national executive of CANZ, any complaint needs to be dealt with under r 25 of the Rules rather than r 12. Rule 12 relates to disciplinary matters arising in relation to members of CANZ. Where a member is found to have committed an offence, possible sanctions include a warning, suspension or expulsion from CANZ.

[59] The applicants are concerned that if they are expelled or suspended from CANZ, that will also have the effect or removing them as members from the national executive. They say that r 25 should be followed in relation to such allegations because of its additional procedural protections. Counsel for CANZ submits that r 12 and r 25 can be used in tandem and that if a member of the national executive is found to have committed an offence under r 12 that deserves a sanction more serious than a warning, the process in r 25 can then be followed to remove that member from office.

[60] I accept that the applicants have legitimate concerns about the interaction between r 12 and r 25. On the face of it, it would appear to be inconsistent with the Rules for the national executive to vote to remove or suspend the applicants from office without following the process set out in r 25. However, prior to reaching any decision about that, I consider that the union may be free to adopt the processes in r 12 to assess whether there is just cause for any such removal or suspension.

Ultimately, that means that although the union likely would not be able to make a decision about sanctions in its proposed meeting (unless it chooses to only issue a warning or do nothing), the Rules would not seem to prevent it from meeting to consider whether there is just cause to consider their removal. However, if necessary, this point can receive more comprehensive argument at the substantive hearing.

Are interim orders necessary to preserve the applicants' position?

[61] If interim orders are not made, the national executive of CANZ will investigate the complaint that has been made against the applicants. If the national executive considers them to have acted wrongfully, sanctions will need to be considered. That could include expulsion from the union and from the national executive, subject to r 25 being complied with.

[62] At the present stage, it is not clear to the Court that such an investigation could be carried out fairly in light of concerns that have been raised about the complaint and in light of the risks involved with officers of CANZ participating in the meeting. There is sufficient evidence to support the claim that if the disciplinary process was to proceed, there is a real risk it could result in a breach of the Rules, the statutory requirement of good faith, and the applicants' right to have their complaints heard in a manner consistent with natural justice.

[63] Therefore, I consider that, pending the Court being able to properly address the merits of the applicants' claims, interim orders are necessary to preserve their position. However, while the threshold test has been met, that is not the final word on the matter. It is necessary to assess whether the court should exercise its discretion to issue the orders.

Should the Court's discretion be exercised in favour of the applicants?

[64] These proceedings arise in the legal and factual context of judicial review proceedings being brought against a body corporate. However, it is also relevant that because the respondent is a union, good faith obligations apply to it that do not necessarily always apply under rules of a body corporate towards its members and

office holders. As a result, this increases the extent to which the union can be found liable in comparison to other body corporates.

[65] CANZ has prepared for the investigation of the complaints which has involved organising flights and accommodation for the union's national executive. If the investigation is delayed, it may cause some financial loss to the union. However, these are not the only matters that are to be discussed at the meetings[8]. It seems probable that the union will be able to mitigate most of its losses, and if it is unable to do so, the applicants have filed undertakings as to damages in relation to any loss suffered by CANZ in consequence of any order issued by the Court, so this factor cannot stand against any interim orders.

[66] I do not consider that there has been any delay in seeking interim relief by the applicants. They responded by letter from their lawyer on 17 April 2024, and the respondent's lawyers responded on 23 April 2024. Proceedings were then filed on 2 May 2024. In the circumstances of the case and noting that this is likely the first case of this type seen by this Court, I do not consider that there was any unreasonable delay on the part of the applicants.

[67] As I have previously indicated in this judgment, if orders were made to preserve the position of the applicants, the Court has indicated that it would be able to hear the matter on an expeditious basis. Therefore, interim orders need not cause excessive delay for the union's activities or be of long-lasting duration. Should it be impossible to arrange a hearing on an expeditious basis, either party would be free to seek variation of the interim orders.

[68] I do not accept that the applicants have acted improperly in bringing their application for interim orders. Their affidavit evidence indicates that they are concerned about the approach adopted by the union in respect of their issues that they have sought to raise. They are concerned that they will not receive a fair hearing should the complaint against them be successful.

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[8] It is intended that the applicants' complaint against the other member of the national executive also be dealt with.

[69] Finally, I accept that any interim injunction will cause some prejudice to the other members of the national executive. However, no evidence was provided as to the possible extent of that prejudice.

Overall justice

[70] Standing back, I consider that the applicants have established that there is a real contest between the parties and that there is a reasonable chance that they will be successful in that contest.

[71] Although interim orders will be inconvenient for CANZ and will cause some prejudice to the other members of the national executive, I consider that in all the circumstances, an interim injunction is necessary to preserve the applicants' position pending the hearing in relation to the substantive judicial review application.

Result

[72] The application for an interim injunction preventing the respondent from conducting a disciplinary process against Mr Al-Bustanji and Mr Jenner, currently scheduled for 13 and 14 May 2024, is granted until further order of the Court.

[73] This does not prevent the respondent union utilising the meeting time for any other business, including to deal with the complaint against the other member, but that is a matter for the union.

[74] Costs are reserved.

Kathryn Beck
Judge

Judgment signed at 6.30 pm on 13 May 2024