

Kleros General Court - Case No. 328

Claimant's Brief for the Third Appeal

Introduction

Before now reaching the General Court, the opposition and at least one juror **specifically raised "common sense" as the justification** for the madeup enforcement calling for UTC as the default time zone in court cases and situations leading to disputes.

A "UTC as common sense" blanket rule is an unsupported empirical and legal claim that fails to account the spirit and context of the situation. It would be a potential precedent a panel of the Kleros Court can flatly establish any "common sense" while leaving unacknowledged and unexamined attendant questions about reasoning and consensus, possibly without the necessary humility and self-reflection.

A decision that supports reasoning, consensus and the Court's long-term predictability should reverse the previous "no" jurors, as argued below.

The "No" Predominance in Previous Voting Should Be Ignored

In committing their votes, jurors should not be tempted to side with "no" based on previous predominance, because it was achieved by undue influence and intimidation in the briefs and chat rooms. The General Court should **review the case anew and impartially**.

Common Sense: A Commonly-held Self-evident Truth

Common sense came to form a meaning in English at the eighteenth century: "Those **plain, self-evident truths or conventional wisdom** that one needed no sophistication to grasp and no proof to accept precisely because they accorded so well with the basic (common sense) intellectual capacities and experiences of the whole social body." [1]

There can be variations of meaning per different contexts and interpretations. At its core, consensus for common sense can be found around shared experiences in the world: "it is an inherent characteristic of common-sense thought ... to affirm that its tenets are **immediate deliverances of experience, not deliberated reflections upon it**. ... [C]ommon sense rests its case on the assertion that it is not a case at all, just life in a nutshell. The world is its authority." [2]

How Common Sense Should Be Applied

"If, as [philosopher] Arendt suggests, invoking 'common sense' in judgment **requires attention to the knowledge of a relevant collective of judging others**, this requirement breaks down partiality in judgment and actively builds impartiality and reflective validity." [3]

This kind of prudence makes sense in Kleros Court because it is to judge with predictability per

community sense that is open to encompass very different people competent for a given subcourt (in this case, marketing).

The safe application of "common sense" is for ***truly common understandings from any experiences*** rather than relying on what may be *dominant or majoritarian partiality in a certain panel of jurors*. The latter could penalize and exclude because of reasonably different understandings.

In this case, we are talking about a single, nondrawn, technical juror who started **a campaign to force his sense upon marketing jurors, although from a legal standpoint there was no support for his claim** to mandate UTC time because it was not drafted in the Program Terms or as part of arbitration governance.

Application: Everyday Sense of Time of Ordinary People

But the sense of time may be different for ordinary people and marketing practitioners than for technical programmers. UTC is common for whom and for what? The opposition **cannot empirically demonstrate** any common sense or standard for UTC by marketing practitioners or by ordinary people who would participate in storytelling. Notably, **this case originates from the *Marketing Subcourt***, not from the *Technical Subcourt*.

The opposition is making a *case* for UTC as a shared experience based on their *deliberated reflection*, but **it remains unsupported by the *immediate experiences of ordinary people*** for the real common sense. (Referring to influential anthropologist Geertz's theorizing cited above and referenced at note 2.)

The fact of the matter is, unless otherwise stated, people immediately experience time and time frames as *local time or civil time*; **the conception of time is a matter of *local culture or public policy***. [4] There is no basis (such as a specified term or policy) to justify the opposition's centralized, retroactive UTC conception, now purported to apply to all Kleros disputes as "common sense." Can a localized insurance case be overridden to UTC without notice too?

Because the program was open and promoted anywhere on Earth with only a specific deadline for the form submission, **the storytelling was allowed to happen in those locations' civil time**. It was in [case 166](#) "a matter decided" (*res judicata*) between the same parties.

Other than wrongly invoking common sense, the "no" side has not supported its position by any doctrine of contract interpretation. The time frame term should be interpreted against Respondent (the drafter) and in favor of the ordinary understanding of a time frame.

Conclusion

It is common sense that fire burns. On the other hand, using UTC time is not really a conventional experience nor self-evident by ordinary people. It is not common sense.

By voting "YES," the panel on appeal should reject such a precedent of false consensus and

error, which is only calling for future decisions with partiality and without legal or empirical support.

Notes

[1] Rosenfeld, S., 2014. *Common Sense*. Cambridge, Mass: Harvard University Press, p. 23. Emphasis added. Similarly cited on the [Common Sense Wikipedia page](#).

[2] Geertz, C., 1983. *Common Sense as a Cultural System*. In *Local Knowledge: Further Essays in Interpretive Anthropology*, 73(93), p. 75. Emphasis added.

[3] Cochran, P., 2017. *Common Sense And Legal Judgment*. MONTREAL: MCGILL-QUEENS UNIV Press, p. 140. Emphasis added.

[4] For example, the jurisdiction of Québec, Canada in which Claimant was offered and accepted the Program Terms has a [Legal Time Act](#) that sets the local time as the civil time for local activities, including this type of program or promotion. Claimant did not want to get into this point, but it is meant to illustrate that the acceptance that avoids unnecessary issues and favors consensus is to simply accept time anywhere on Earth. *Legal Time Act*, CQLR c T-5.1, <http://canlii.ca/t/hctk> retrieved on 2020-08-31.
