

**11.2 BESWAARSKRIF (KO, ARTT 31 EN 46) VAN DS FM DREYER TEEN  
BESLUIT VAN DIE ALGEMENE SINODE 2015 OOR APPEL-  
PROSEDURES**

**11.2 PETITION OF PROTEST (CO, ARTS 31 AND 46) OF REV FM DREYER  
AGAINST DECISIONS OF THE GENERAL SYNOD 2015 ON APPEAL  
PROCEDURES**

<p><b>1. Inleiding: Beswaarskrif</b></p> <p>1.1 Die Beswaarskrif word ingedien (KO, artt 31 en 46) omdat die besluite van die Algemene Sinode 2015 oor die Appèlprosedure in stryd is met:</p> <p>1.1.1 die Kerkorde – artt 30, 31, 33, 46 en 49;</p> <p>1.1.2 die beginsels van die Presbiteriale kerkregering; en</p> <p>1.1.3 algemene regsbeginsele.</p> <p>1.2 Die Beswaarskrif word, in die lig van die Algemene Sinode 2012 se besluite (Acta 2012:23-24, 5), direk by die Algemene Sinode ingedien.</p> <p><b>2. Besluite: Beswaar</b></p> <p>Beswaar word gemaak teen die besluit van die Algemene Sinode 2015, waar die Appèlprosedure soos deur die Studiedeputate aanbeveel, goedgekeur is: <i>“Besluit: Punt 3.1 goedgekeur”</i> (Acta 2015:27, 3.1).</p> <p><b>3. Beswaargrond 1</b></p> <p>Die besluit van die Algemene Sinode 2015 oor die Appèlprosedure is in stryd met KO, artt 46 en 49.</p> <p>3.1 <i>Motivering: Beswaargrond 1</i></p> <p>3.1.1 Die Studiedeputate het die opdrag ontvang (Acta 2012:29, 52) om die Appèlprosedure wat deur die Algemene Sinode van 2012 goedgekeur is te ‘verfyn’. Die Deputate het egter verder as hulle opdrag van ‘verfyning’ gegaan en maak ‘n uitbreiding ten opsigte van die besluit van die Algemene Sinode 2012 oor Appèlprosedure.</p> <p>3.1.2 Die besluit van die Algemene Sinode 2012 het die reg van die partye in die appèlsaak, die appellant en die verweerder, nie die geleentheid ontneem om deur die betrokke meerdere vergadering gehoor te word nie. Die beginsel van ‘audi et alteram partem’ (luister ook na die teenparty) is gehandhaaf.</p>	<p><b>1. Introduction: Petition of Protest</b></p> <p>1.1 The Petition is submitted (CO, arts 31 and 46) because the decisions of the General Synod 2015 on the Appeal procedure contradict:</p> <p>1.1.1 the Church Order – arts 30, 31, 33, 46 and 49;</p> <p>1.1.2 the principles of the Presbyterian church government; and</p> <p>1.1.3 general legal principles.</p> <p>1.2 The Petition is, in the light of the General Synod 2012 decisions (Acta 2012:23-24, 5), submitted directly to the General Synod.</p> <p><b>2. Decisions: Protest</b></p> <p>Objection is made against the decision of the General Synod 2015, where the Appeal procedure as recommended by the Study Deputies was approved: <i>“Decision: Point 3.1 approved”</i> (Acta 2015: 27, 3.1).</p> <p><b>3. Basis of protest 1</b></p> <p>The decision of the General Synod 2015 on the Appeal procedure is contrary to CO, art 46 and 49.</p> <p>3.1 <i>Motivation: Basis of protest 1</i></p> <p>3.1.1 The Study Deputies were instructed (Acta 2012:29, 52) to ‘refine’ the Appeal procedure approved by the General Synod 2012. The Deputies however went beyond their instruction to ‘refine’, and added an extension to the decision of the General Synod 2012 on Appeal procedures.</p> <p>3.1.2 The decision of the General Synod in 2012 did not deny the parties in the Appeal, the appellant and defendant the right to be heard by the major assembly. The principle of ‘audi et alteram partem’ (listen to the other party as well) was maintained.</p>
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<p>3.1.3 Die Algemene Sinode 2015 het besluit dat, “<i>Slegs die Rapport en aanbevelings van die Deputate word, sonder verdere toeligting deur die appellant of die betrokke mindere vergadering, ter tafel geneem. Aan die appellant en toeliger word geen spreekbeurt gegee nie</i>” (Agenda 2015:9, 8.2).</p>	<p>3.1.3 The General Synod in 2015 decided that, “<i>Only the Report and recommendations of the Deputies, without any further elucidation by the appellant or the relevant minor assembly, are reviewed. Neither the appellant nor the representative are given the opportunity to speak</i>” (Agenda 2015:9, 8.2).</p>
<p>3.1.4 Die besluit maak ‘n uitbreiding op en wesentlike verandering aan die besluite van die Algemene Sinode 2012. Geen motivering is vir die aanbeveling en verandering gegee nie.</p>	<p>3.1.4 This decision made an extension and material change to the decisions of the General Synod 2012. No motivation was given for this recommendation and change.</p>
<p>3.1.5 Die uitbreiding en verandering was nie deel van die Deputate se opdrag nie en is daarom in stryd met KO, art 49.</p>	<p>3.1.5 The extension and change were not part of the deputies' instruction and is therefore in violation of CO, art 49.</p>
<p>3.1.6 Die noodsaak vir die uitbreiding en verandering van die besluit van die Algemene Sinode 2012 is nie bewys nie (KO, art 46) en is daarom in stryd met die artikel.</p>	<p>3.1.6 The need for the extension and change of the decision of the General Synod in 2012 has not been proven (CO, art 46) and is therefore in breach of the article.</p>
<p>3.2 <i>Bevinding: Beswaargrond 1</i> Die besluit dat die appellant en verweerder nie gehoor mag word nie, is ‘n ongemotiveerde uitbreiding en verandering van die besluit van die Algemene Sinode 2012 in stryd met KO, artt 46 en 49. Met die uitbreiding en verandering handel die Studie-deputate buite hulle opdrag (KO, art 49) en hulle bewys nie die noodsaak vir die verandering nie (KO, art 46).</p>	<p>3.2 <i>Finding: Basis of protest 1</i> The decision that the appellant and defendant may not be heard, is an unmotivated extension and change of the decision of the General Synod 2012 contravening CO, arts 46 and 49. With the extension and change the Study Deputies acted outside their mandate (CO, art 49) and they did not prove the need for the change (CO, art 46).</p>
<p><b>4. Beswaargrond 2</b> Die besluit van die Algemene Sinode 2015 oor die Appèlprosedure is in stryd met KO, art 30.</p>	<p><b>4. Basis of protest 2</b> The decision of the General Synod 2015 on the Appeal procedure is in breach of CO, art 30.</p>
<p>4.1 <i>Motivering: Beswaargrond 2</i> 4.1.1 KO, art 30 bepaal dat kerklike sake op ‘n kerklike wyse behandel en afgehandel word.</p>	<p>4.1 <i>Motivation: Basis of protest 2</i> 4.1.1 CO, art 30 stipulates that ecclesiastical matters shall be dealt with in an ecclesiastical manner.</p>
<p>4.1.2 Kerklike wyse in regspraak beteken dat daar in die lig van die Skrif oor sake geoordeel en besluit word. Spoelstra (1989:394) wys daarop dat die Bybel uitdruklik stel dat die waarheid in die mond van twee getuies vasstaan (Deut 19:15; Matt 18:16; 2 Kor 13:1).</p>	<p>4.1.2 Ecclesiastical manner means that matters are judged and decided upon in the light of Scripture. Spoelstra (1989:394) points out that the Bible explicitly states that the truth be established in the mouth of two witnesses (Deut 19:15; Matt 18:16; 2 Cor 13:1).</p>
<p>4.1.3 Kruisondervraging van getuies (Acta 2015:25, 7.5.6; 7.5.7; 7.5.9) word in die Appèlprosedure deur die Algemene Sinode 2015 goedgekeur.</p>	<p>4.1.3 Cross-examination of witnesses (Acta 2015:25, 7.5.6, 7.5.7, 7.5.9) is approved in the Appeal procedure by the General Synod in 2015.</p>

<p>4.1.4 Kruisondervraging en kruisverhoor is deel van 'n wêreldse regsproses en nie deel van regspraak volgens kerklike wyse nie (KO, art 30).</p> <p>4.2 <i>Bevinding: Beswaargrond 2</i> Die besluit van die Algemene Sinode 2015 om 'n deel van wêreldse regsprosedure, naamlik kruisondervraging, as deel van die Appèlprosedure goed te keur, is in stryd met KO, art 30. [Appèlle in howe word gewoonlik net op die rekord van die verhoorverrigtinge beslis. Geen verdere getuienislewering of kruisondervraging word tydens die Appèl toegelaat nie. Dis nogal ironies dat die kerk wel getuienislewering en kruisondervraging op Appèl toelaat!]</p>	<p>4.1.4 Cross-examination is part of a worldly judgment process and not part of giving judgment in an ecclesiastical manner (CO, art 30).</p> <p>4.2 <i>Finding: Basis of protest 3</i> The decision of the General Synod 2015 to approve a part of worldly legal proceedings, namely cross-examination, as part of the Appeal procedure is contrary to CO, art 30.  [Appeals in courts are usually only decided on the record of the trial proceedings. No further evidence or cross-examination is allowed during the Appeal. It is quite ironical that the church allows additional evidence and cross-examination on Appeal!]</p>
<p><b>5. Beswaargrond 3</b> Die besluit van die Algemene Sinode 2015 oor die Appèlprosedure is in stryd met KO, art 31.</p> <p>5.1 <i>Motivering: Beswaargrond 3</i></p> <p>5.1.1 KO, art 31 bepaal dat 'n kerklike vergadering regspraak lewer in 'n Appèl. Iemand wat deur 'n besluit van 'n kerklike vergadering verontreg is, kan hom/haar op 'n meerdere vergadering beroep vir regspraak.</p> <p>5.1.2 Die rol van kerklike vergaderings in regspraak is van wesentlike belang in die presbiteriale kerkregering. Die verantwoordelikheid om reg te spreek (KO, art 31), berus nie by 'n persoon of enkele persone nie, maar by 'n kerklike vergadering.</p> <p>5.1.3 Die kerklike wyse (KO, art 30) waarop kerklike sake hanteer word, is besluitneming (KO, art 31) deur kerklike vergaderings (KO, art 29).</p> <p>5.1.4 Die besluit van die Algemene Sinode 2015 het die gesag om reg te spreek oor 'n Appèl vanaf 'n kerklike vergadering na Deputate verskuif.</p> <p>5.1.4.1 Deputate beslis oor die Appèl.</p> <p>5.1.4.2 Die Deputate maak bevindings en uitsprake waardeur regspraak gelewer word.</p> <p>5.1.4.3 Die kerklike vergadering spreek hom slegs uit oor die werkswyse van die Deputate (Acta 2015:26-27, 8.4 en 8.5).</p> <p>5.1.4.4 Die kerklike vergadering besluit nie</p>	<p><b>5. Basis of protest 3</b> The decision of the General Synod 2015 on the Appeal procedure is contrary to CO, art 31.</p> <p>5.1 <i>Motivation: Basis of protest 3</i></p> <p>5.1.1 CO, art 31 stipulates that a church assembly deliver judgment in an Appeal. If someone complains that he has been wronged by the decision of a minor assembly, he shall have the right to Appeal to a major assembly.</p> <p>5.1.2 The role of church assembly in judgment is of the utmost importance in presbyterian church government. The responsibility to judge (CO, art 31), is the task not of a person or a few persons, but of a church assembly.</p> <p>5.1.3 The ecclesiastical manner (CO, art 30) in which ecclesiastical matters are dealt with, is decision-making (CO, art 31) by church assemblies (CO, art 29).</p> <p>5.1.4 The decision of the General Synod 2015 moved the authority to pass judgment on an Appeal from a church assembly to Deputies.</p> <p>5.1.4.1 Deputies decide the Appeal.</p> <p>5.1.4.2 The Deputies make findings and rulings by which judgment is rendered.</p> <p>5.1.4.3 The church assembly only decides if the Deputies acted in accordance with the approved working method (Acta 2015:26-27, 8.4 and 8.5).</p> <p>5.1.4.4 The church assembly does not</p>

<p>oor die Appèl nie.</p> <p>5.1.5 Die Appèl wat ingedien is, word nie deur die meerdere vergadering behandel nie.</p> <p>5.1.5.1 Die Appèl is nie deel van die stukke wat aan die vergadering beskikbaar gestel word nie.</p> <p>5.1.5.2 'n Kort oorsig en samevatting van die Appèl, kom deur die Rapport van die Deputate vir Appèl op die vergadering se tafel (Acta 2015:26, 8.2).</p> <p>5.1.5.3 Die vergadering kry die Deputate se siening en oordeel van die Appèl. Of die siening reg laat geskied aan die Appèl, kan nie beoordeel word nie.</p> <p>5.1.5.4 Die volle Appèl is nie aan die kerklike vergadering beskikbaar gestel vir beoordeling nie.</p> <p>5.1.6 Nie die appellant of die verweerder word die geleentheid gebied om hul saak te stel nie (Acta 2015:26, 8.2). Die Algemene Sinode 2015 het besluit dat alle party betrokke by die saak die vergadering moet verlaat voordat daar oor die Rapport van die Deputate besin en besluit word (Acta 2015:26, 8.3). Persone betrokke by die saak wat moontlike gebreke in die Rapport van die Deputate kan aantoon kry geen geleentheid om dit te doen nie.</p> <p>5.1.7 Die basiese regsbeginsels dat al die getuïenis aangehoor en dat albei partye aangehoor moet word, word verbreek. <i>“Geen oordeel kan oor 'n party in 'n saak gevel word sonder dat hy regverdig gehoor en verhoor is nie”</i> (Spoelstra 1989:179,3).</p> <p>5.2 <i>Bevinding: Beswaargrond 3</i> Die besluit van die Algemene Sinode 2015 oor die Appèlprosedure (Acta 2015:27, 3.1) dat Deputate regspraak lewer en nie 'n kerklike vergadering nie, is in stryd met KO, art 31. Die goedgekeurde Appèlprosedure deur die Algemene Sinode 2015 maak regspraak deur 'n kerklike vergadering soos vereis deur KO, art 31, onmoontlik.</p> <p><b>6. Beswaargrond 4</b> Die besluit van die Algemene Sinode 2015 oor die Appèlprosedure is in stryd met KO, art 33.</p>	<p>adjudicate on the Appeal.</p> <p>5.1.5 The Appeal that was filed, is not adjudicated by the major assembly.</p> <p>5.1.5.1 The Appeal is not part of the documents made available to the assembly.</p> <p>5.1.5.2 A brief overview and summary of the Appeal is tabled via the Report of the Deputies for Appeal (Acta 2015:26, 8.2).</p> <p>5.1.5.3 The assembly hears the Deputies' views and opinion of the Appeal. It cannot judge if their views do justice to the Appeal.</p> <p>5.1.5.4 The full Appeal was not made available to the church assembly for adjudication.</p> <p>5.1.6 Neither the appellant nor the defendant is offered the opportunity to state their case (Acta 2015:26, 8.2). The General Synod 2015 decided that all parties involved in the Appeal must leave the meeting before the Report of the Deputies is discussed and decided upon (Acta 2015:26, 8.3). People involved in the case that can point out any possible defects in the Report of the Deputies, have no opportunity to do so.</p> <p>5.1.7 The basic legal principles that all evidence be heard and that both parties should be heard, are violated. <i>“No judgment can be passed on a party in a matter if they were not fairly heard and judged”</i> (Spoelstra 1989:179, 3).</p> <p>5.2 <i>Finding: Basis of protest 3</i> The decision of the General Synod 2015 on the Appeal procedure (Acta 2015:27, 3.1), which determines that Deputies and not a church assembly judge an Appeal, is contrary to CO, art 31. The approved Appeal procedure by the General Synod 2015 does not allow a verdict by a church assembly as required by CO, art 31.</p> <p><b>6. Basis of protest 4</b> The decision of the General Synod 2015 on the Appeal procedure is contrary to CO, art 33.</p>
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<p>6.1 <i>Motivering: Beswaargrond 4</i></p> <p>6.1.1 KO, art 33 bepaal dat kerke afgevaardigdes met 'n geloofsbrief na meerdere vergaderings stuur.</p> <p>6.1.2 Die geloofsbrief omskryf die mandaat of bevoegdheid van die afgevaardigdes en bepaal die voorwaardes vir bindende besluite:  <i>Hierdie broeders ontvang hiermee las en volmag om namens die Kerkraad volgens die Woord van God, die Formuliere van Eenheid en die aanvaarde Kerkorde in alle sake wat op die Klassis sal voorkom, te help oordeel en besluit tot bloei van die kerke, tot uitbreiding van God se koninkryk en tot verheerliking van die Naam van die Here.</i>  <i>Die Kerkraad verbind hom om alle besluite van die Klassis wat nie met die genoemde reël in stryd is nie, as vas en bindend te beskou en dit getrou te help uitvoer en nalewe.</i>          Konsep geloofsbrief – Kerkordeboekie (1998:75).</p> <p>6.1.3 Kerke onderneem om besluite, wat nie met die voorwaardes van die geloofsbrief in stryd is nie, as vas en bindend te aanvaar.</p> <p>6.1.4 Kerke onderneem om besluite wat in 'n kerklike vergadering geneem is, as bindend te aanvaar.</p> <p>6.1.5 Besluite van Deputate het geen bindingskrag oor kerke nie. Spoelstra (1989:287) beklemtoon dit: <i>“Die kredensiebrief (KO, art 33) stel dit baie duidelik dat kerke net besluite eerbiedig wat in die vergadering geneem is en onder andere aan die Kerkorde beantwoord. Daarvolgens het Deputate as persone geen regeerbevoegdheid in sake van die kerke oor ander dienaars nie (KO, art 84)”</i>.</p> <p>6.2 <i>Bevinding: Beswaargrond 4</i>          Die besluit van die Algemene Sinode 2015 dat Deputate besluit of 'n Appèl slaag of nie, verbreek die bepalings van KO, art 33 en kan daarom nie kerke bind nie.</p>	<p>6.1 <i>Motivation: Basis of protest 4</i></p> <p>6.1.1 CO, art 33 stipulates that churches send delegates along with their letters of credence to major assemblies.</p> <p>6.1.2 The letter of credence define the mandate and competence of the delegates and determine the conditions for binding decisions:  <i>These brothers with order and authority, to, on behalf of the Church Council, help assess and make decisions in all matters that arise during the Classis, according to God's Word and the Three Forms of Unity and the approved Church Order – the purpose being the growth of the churches, the expansion of God's Kingdom and the glory of God's Name.</i>  <i>The Church Council commits to view all decisions of the Classis that is not contrary to the abovementioned rule, as binding and final and to faithfully help with living and carrying them out.</i>          Letter of credence (Received by email).</p> <p>6.1.3 Churches commit to regard all decisions that are not in breach of the conditions of the letter of credence as binding and final.</p> <p>6.1.4 Churches commit to accept decisions taken at a church assembly as binding.</p> <p>6.1.5 Decisions of Deputies have no power to bind churches. Spoelstra (1989:287) emphasizes this fact: <i>“The letter of credence (CO, art 33) makes it very clear that churches only honor decisions taken in an assembly and comply with the Church Order. Therefore Deputies as persons have no authority to rule over other servants in matters of the churches (CO, art 84)”</i>.</p> <p>6.2 <i>Finding: Basis of protest 4</i>          The decision of the General Synod 2015 that Deputies decide whether an Appeal succeeds or not, breaches the provisions of CO, art 33 and can therefore not bind churches.</p>
<p><b>7. Beswaargrond 5</b>          Die besluit van die Algemene Sinode 2015 oor die Appèlprosedure is in stryd met die bepalings van KO, art 49.</p>	<p><b>7. Basis of protest 5</b>          The decision of the General Synod 2015 on the Appeal procedure is in breach of the provisions of CO, art 49.</p>

<p>7.1 <i>Motivering: Beswaargrond 5</i></p> <p>7.1.1 Die Algemene Sinode het besluit om Deputate vir Appèl aan te wys in die lig van KO, art 49 (Acta 2015:24, 3.1).</p> <p>7.1.2 Deputate wat aangewys word in die lig van KO, art 49 ontvang 'n welomskrewe opdrag oor sake waarvoor 'n meerdere vergadering reeds besluit het.</p> <p>7.1.3 Die Appèlle waarvoor die Deputate vir Appèl beslis, is sake waarvoor die betrokke meerdere vergadering <u>nog nie</u> 'n besluit geneem het nie.</p> <p>7.1.4 Die Deputate wat aangewys word en hulle opdrag is in stryd met KO, art 49.</p> <p>7.2 <i>Bevinding: Beswaargrond 5</i> Die besluit van die Algemene Sinode 2015 om Deputate in die lig van KO, art 49 aan te wys om Sake/Appèlle te behandel waarvoor 'n kerklike vergadering nog nie besluite geneem het nie, is in stryd met KO, art 49.</p>	<p>7.1 <i>Motivation: Basis of protest 5</i></p> <p>7.1.1 The General Synod decided to appoint Deputies for Appeal in light of CO, art 49 (Acta 2015:24, 3.1).</p> <p>7.1.2 Deputies who are appointed according to CO, art 49 receive explicit instructions on matters on which a major assembly has already decided.</p> <p>7.1.3 The Appeals which the Deputies for Appeal adjudicate, are matters on which the major assembly has <u>not yet</u> taken a decision.</p> <p>7.1.4 The Deputies who are appointed and their instruction is contrary to CO, art 49.</p> <p>7.2 <i>Finding: Basis of protest 5</i> The decision of the General Synod 2015 to appoint Deputies in light of CO, art 49 adjudicate matters/Appeals on which a church assembly has not yet taken decisions, is a contrary to CO, art 49.</p>
<p><b>8. Beswaargrond 6</b> Die besluit van die Algemene Sinode 2015 oor die Appèlprosedure is in stryd met beginsels van die Presbiteriale kerkregering.</p> <p>8.1 <i>Motivering: Beswaargrond 6</i></p> <p>8.1.1 Die volgende Deputate vir Appèl is aangewys deur die Algemene Sinode 2012 (Acta 2012:521, 13.16.3): <i>Ds PA Coetzee (Voorsitter), dr RM van der Merwe (Skriba), di JE Temba, PM Lekgetho en dr PK Lourens.</i></p> <p>8.1.2 Die volgende Deputate vir Appèl is aangewys deur die Algemene Sinode 2015 (Acta 2015:534, 2.15.3): <i>Dr GJ Meijer (v), ds CA Jansen, drr JH Howell, RM van der Merwe, prof F Venter, ds MP Fourie. Sekundi: Di SA Cilliers, PW Kurpershoek, AL Pelsler, dr DJ de Kock, di J Malan, AB van der Walt en PM Modise.</i></p> <p>8.1.3 Die afwesigheid van presbiters/ouderlinge in die samestelling van die Deputate deur die Algemene Sinodes van 2012 en 2015 is opvallend. Slegs een van die Deputate deur die Algemene Sinode 2015 aangewys is 'n presbiter/ouderling.</p> <p>8.1.4 Geen of min ouderlinge is deel van die proses om regspraak te lewer.</p>	<p><b>8. Basis of protest 6</b> The decision of the General Synod 2015 on the Appeal procedure is contrary to principles of the Presbyterian church government.</p> <p>8.1 <i>Motivation: Basis of protest 6</i></p> <p>8.1.1 The following Deputies of Appeal were appointed by the General Synod 2012 (Acta 2012:521, 13.16.3): <i>Rev PA Coetzee (Chairman), dr RM van der Merwe (Secretary), Revs JE Temba, PM Lekgetho and dr PK Lourens.</i></p> <p>8.1.2 The following Deputies of Appeal were appointed by the General Synod 2015 (Acta 2015:534, 2.15.3): <i>Dr GJ Meijer (v), Rev CA Jansen, drs JH Howell, RM van der Merwe, prof F Venter, Rev MP Fourie. Secundi: Revs SA Cilliers, PW Kurpershoek AL Pelsler, dr DJ de Kock, Revs J Malan, AB van der Walt and PM Modise.</i></p> <p>8.1.3 The absence of presbyters/elders in the composition of the Deputies by the General Synods of 2012 and 2015 is striking. Only one of the Deputies appointed by the General Synod 2015 is a presbiter/elder.</p> <p>8.1.4 Few or no elders are part of the process to deliver justice.</p>

<p>8.2 <i>Bevinding: Beswaargrond 6</i> Die afwesigheid van ouderlinge in die proses van regspraak, is in stryd met skrifgefundeerde presbiteriale kerkregering.</p> <p><b>9. Beswaargrond 7</b> Die besluit van die Algemene Sinode 2015 oor die Appèlprosedure is in stryd met vorige Sinodebesluite (KO, art 46) en die Negende Gebod.</p> <p>9.1 <i>Motivering: Beswaargrond 7</i></p> <p>9.1.1 Die Studiedeputate aangewys deur die Algemene Sinode 2012 maak – bewustelik en/of onbewustelik – aanbevelings oor die hantering van Appèlle met verwysing na vorige Sinodebesluite.</p> <p>9.1.2 Hierdeur word die indruk geskep dat die Appèlprosedure wat aanbeveel word, die besluite van vorige Sinodes verreken en handhaaf.</p> <p>9.1.3 Indien die besluite meer noukeurig nagegaan word, blyk die teendeel waar te wees.</p> <p>9.1.4 Die Studiedeputate verwys na ‘n besluit van Sinode 1973 (Acta 1973:191, 66.2) waardeur die reg tot repliek deur die appellant en die verweerder in die kerklike vergadering gehandhaaf word (Acta 2015:22, 2.2.3).</p> <p>9.1.5 Die aanbevelings van die Studiedeputate en die besluit van die Algemene Sinode 2015 verskuif die reg tot repliek van die kerklike vergadering na Deputate.</p> <p>9.1.6 Die noodsaak vir die verandering (KO, art 46) van die besluit van Sinode 1973, dat die reg tot repliek verskuif word van ‘n kerklike vergadering na Deputate, is nie bewys nie.</p> <p>9.2 <i>Bevinding: Beswaargrond 7</i> Die besluit van die Algemene Sinode 2015 (Acta 2015:26, 8.2) dat die partye betrokke, die appellant en verweerder nie in ‘n kerklike vergadering gehoor mag word nie, is in stryd met vorige Sinodebesluite, met KO, art 46 en met die Negende Gebod.</p> <p><b>10. Beswaargrond 8</b> Die besluit van die Algemene Sinode 2015 oor die Appèlprosedure is in stryd met KO, artt 31 en 86.</p>	<p>8.2 <i>Finding: Basis of protest 6</i> The absence of elders in the process of giving judgment is contrary to scriptural based presbyterian church government.</p> <p><b>9. Basis of protest 7</b> The decision of the General Synod 2015 on the Appeal procedure is contrary to previous Synods’ decisions (CO, art 46) and the Ninth Commandment.</p> <p>9.1 <i>Motivation: Basis of protest 7</i></p> <p>9.1.1 The Study Deputies appointed by the General Synod 2012 made – consciously and/or unconsciously – recommendations on the handling of Appeals citing previous Synods’ decisions.</p> <p>9.1.2 This created the impression that the Appeal procedure recommended has taken into account and maintains the decisions of previous Synods.</p> <p>9.1.3 When these decisions are examined more closely the contrary seems to be true.</p> <p>9.1.4 The Study Deputies refer to a decision of Synod 1973 (Acta 1973:191, 66.2) through which the right to counterplea by the appellant and defendant in the major assembly is maintained (Acta 2015:22, 2.2.3).</p> <p>9.1.5 The recommendations of the Study Deputies and the decision of the General Synod 2015 delegated the right to counterplea from the major assembly to Deputies.</p> <p>9.1.6 The need to change (CO, art 46) the decision of Synod 1973, that the right to counterplea is delegated from a church assembly to Deputies, was not proven.</p> <p>9.2 <i>Finding: Basis of protest 7</i> The decision of the General Synod 2015 (Acta 2015:26, 8.2) that the parties concerned, the appellant and defendant may not be heard in the major assembly is in contradiction to previous Synod resolutions, CO, art 46 and the Ninth Commandment.</p> <p><b>10. Basis of protest 8</b> The decision of the General Synod 2015 on the Appeal procedure is contrary to CO, arts 31 and 86.</p>
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<p>10.1 <i>Motivering: Beswaargrond 8</i></p> <p>10.1.1 Die aanbeveling van die Studie-deputate en die besluit van die Algemene Sinode 2015 daarvoor gee die reg tot Appèl teen 'n handeling van 'n kerklike vergadering – anders as 'n besluit – van 'n kerklike vergadering (Acta 2015:23, 3.1, 2.1, 2.2.2; 26, 7.6.1). Die betrokke handeling word duidelik onderskei van die besluite van die vergadering.</p> <p>10.1.2 Met die aanbeveling en die besluit word 'n onaanvaarbare, ongemotiveerde en on-goedgekeurde (KO, art 86) uitbreiding gemaak ten opsigte van KO, art 31.</p> <p>10.1.3 Meerdere kerklike vergaderings is tydelik. Al handeling wat van 'n meerdere vergadering oorbly, is sy besluite. Die besluite word in die Acta van die kerklike vergadering opgeteken. Geen ander handeling van 'n kerklike vergadering, anders as sy besluite bly oor nadat die vergadering tot 'n einde gekom het nie.</p> <p>10.1.4 Indien ander handeling – anders as die besluite van 'n meerdere vergadering – die reg krenk, kan dit nie regtens deur 'n volgende meerdere vergadering beoordeel word nie. Die afgevaardigdes verskil. Afgevaardigdes wat nie deel van die betrokke meerdere vergadering was nie, kan nie oor 'n ander vergadering se 'handeling', anders as oor sy eie, oordeel nie (KO, artt 35 en 43).</p> <p>10.1.5 Indien daar teen ander handeling van 'n kerklike vergadering, anders as sy besluite geappelleer kan word, behoort KO, art 31 in die lig van KO, art 86 dienooreenkomstig verander te word.</p> <p>10.2 <i>Bevinding: Beswaargrond 8</i> Die aanbeveling van die Studie-deputate en die besluit van die Algemene Sinode 2015 dat teen handeling van 'n kerklike vergadering, anders as sy besluite, geappelleer word is in stryd met KO, artt 31 en 86.</p> <p><b>11. Samevatting</b> Die beswaargronde, die motivering daarvoor en die bevindings toon dat die Appèlprosedure waarop die Algemene Sinode 2015 besluit het, in stryd is met</p>	<p>10.1 <i>Motivation: Basis of protest 8</i></p> <p>10.1.1 The recommendations of the Study Deputies and the decision of the General Synod 2015 grants the right to Appeal against an act of a church assembly – other than the resolutions of a church assembly (Acta 2015:23, 3.1, 2.1, 2.2.2; 26, 7.6.1). The action is clearly distinct from the resolutions of the meeting.</p> <p>10.1.2 This recommendation and the decision is an unacceptable, unjustified and un-approved (CO, art 86) extension made in respect of CO, art 31.</p> <p>10.1.3 Major church assemblies are temporary. Its decisions are the only actions that a major assembly leave behind. The decisions are recorded in the Acts of the church assembly. No actions of a church assembly, other than its decisions, are left behind after the assembly has ended.</p> <p>10.1.4 If other actions – other than the decisions of a major assembly – have wronged anyone, it cannot rightfully be judged by another major assembly. The delegates differ. Delegates who were not part of the particular major assembly, can not judge the actions of another assembly, other than its own (CO, arts 35 and 43).</p> <p>10.1.5 If an Appeal is possible against actions of a church assembly other than its decisions, CO, art 31 should in the light of CO, art 86 be changed accordingly.</p> <p>10.2 <i>Finding: Basis of protest 8</i> The recommendation of the Study Deputies and the decision of the General Synod 2015 that actions of a church assembly, other than its decisions, are Appealable is contrary to CO, arts 31 and 86.</p> <p><b>11. Summary</b> The bases of protest, the motivation and findings show that the Appeal procedure on which the General Synod 2015 decided, is in violation of Presbyterian</p>
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<p>Presbiteriale kerkregering soos dit neerslag vind in die artikels van die Kerkorde. In die lig hiervan word die Algemene Sinode versoek om die besluit ter syde te stel sodat kerklike vergaderings Appèlle kan hanteer in die lig van die Kerkordelike bepalings en die ter sake kerklike besluite daaroor.</p>	<p>church government as laid down in the Church Order. Therefore the General Synod is called to annul the decision so that major assemblies could deal with Appeals in light of the provisions of the Church Order and the relevant ecclesiastical decisions in respect thereof.</p>
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*Toelichter:* Ds FM Dreyer

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