

**11.3 BESWAARSKRIF (KO, ARTT 31 EN 46) VAN DS FM DREYER TEEN
BESLUIE VAN DIE ALGEMENE SINODE 2015 OOR DIE HANTERING
VAN APPÈLLE**

**11.3 PETITION OF PROTEST (CO, ARTS 31 AND 46) OF REV FM DREYER
AGAINST DECISIONS OF THE GENERAL SYNOD 2015 ON THE
HANDLING OF APPEALS**

<p>1. Inleiding: Beswaarskrif</p> <p>1.1 Die Beswaarskrif word ingedien (KO, artt 31 en 46) omdat geldige regspraak, in die lig van die Algemene Sinode 2015 se besluite oor die hantering van die Appèlle, nie moontlik was en is nie.</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>1.3 Die Algemene Sinode word versoek dat die Deputate vir Appèlle – wat die Appèlle by die Algemene Sinode 2015 hanteer het – nie as Regsdeputate aanbevelings oor die Beswaarskrif maak nie. Die inhoud van die Beswaarskrif gaan oor die Deputate se aanbevelings aan Sinode 2015 oor die Appèlle. Die Deputate kan nie as regter in eie saak optree nie.</p> <p>2. Besluite: Beswaar Beswaar word gemaak teen die volgende besluite oor die hantering van Appèlle deur die Algemene Sinode 2015:</p> <p>2.1 <i>Besluit 1</i> Notule Art 202: Rapport Deputate vir Appèl Vergadering gaan in camera Besluit: <i>Verwys na ad hoc kommissie om die vergadering te adviseer oor verdere prosedure vir behandeling. Verder aandag gee aan die bottelnek wat die huidige prosedure veroorsaak tussen die laaste Streeksinode voor 'n Algemene Sinode. Kommissie: drr RM van der Merwe (s) G Meijer, JH Howell, ds PA Coetzee met adviseur J Smit (Notule 2015:N47, art 202).</i></p> <p>2.2 <i>Besluit 2</i> Notule Art 219: Rapport ad hoc kommissie art 202 van Notule Ds PA Coetzee stel die Rapport.</p>	<p>1. Introduction: Petition of Protest</p> <p>1.1 The Petition is submitted (CO, arts 31 and 46) as valid judgment, in light of the General Synod 2015's decisions about the handling of the Appeals, was not and is not possible.</p> <p>1.2 The Petition is, in the light of the decisions of General Synod 2012 (Acta 2012:23-24, 5), submitted directly to the General Synod.</p> <p>1.3 The General Synod is requested that the Deputies for Appeals – who handled the Appeals at the General Synod in 2015 – do not make recommendations on the Petition as Legal Deputies. The content of the Petition concerns the Deputies' recommendations to Synod 2015 on the Appeals. The Deputies cannot act as judges in their own case.</p> <p>2. Decisions: Protest Objection is made to the following decisions regarding the handling of Appeals by the General Synod 2015:</p> <p>2.1 <i>Resolution 1</i> Minutes Art 202: Report Deputies for Appeal Meeting goes in camera Decision: <i>Refer to an ad hoc commission to advise the meeting on further procedure for dealing with Appeal. Further give attention to the bottle neck caused by the current procedure between the last Regional Synod before a General Synod. Commission: drr RM van der Merwe (s), GJ Meijer, JH Howell, rev PA Coetzee with advisor prof J Smit (Minutes 2015, N47, art 202).</i></p> <p>2.2 <i>Resolution 2</i> Minutes Art 219: Report ad hoc commission art 202 of the Minutes Rev PA Coetzee tables the Report.</p>
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<p>Aanbeveling ad hoc kommissie: <i>Volg voorgestelde prosedure punt 8 soos vervat in Rapport A 11.1, pt 3 met vervanging van 8.4 met “8.4 Die betrokke vergadering moet hom oor die werkwyse van die Deputate uitspreek” en in 8.5 die vervanging van die woorde “die bevindings of aanbevole uitspraak” met “werkswyse”</i> Besluit: Goedgekeur (Notule 2015:N50, art 219).</p> <p>Die besluit in 2.2 hierbo verwys na die volgende aanbeveling van die Deputate:</p> <p>8. Beslissing oor ‘n Appèl <i>8.1 Die Rapport van die Appèldeputate dien soos enige ander Deputaterapport op die eersvolgende vergadering. 8.2 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 toeligter word geen spreekbeurt gegee nie. 8.3 Voordat die vergadering oor die Rapport van die Deputate besin en besluit, verlaat alle persone wat betrokke was by die besluit van die betrokke mindere vergadering asook die appellant, indien teenwoordig, die vergadering. 8.4 Die betrokke vergadering moet hom oor die werkwyse van die Deputate uitspreek. 8.5 Indien die betrokke vergadering nie die werkswyse van die Deputate goedkeur nie, moet skriftelike redes daarvoor en ‘n gemotiveerde alterniewe uitspraak deur die vergadering aan die appellant en die betrokke mindere vergadering verstrekk word, by gebrek waarvan die Deputate se bevindings en aanbevole uitspraak geag word die bevindings en uitspraak van die betrokke vergadering te wees. (Wysigings soos besluit in Notule art 219 reeds aangebring.)</i></p>	<p>Recommendation ad hoc commission: <i>Follow proposed procedure pt 8 as contained in Report A 11.1, pt 3 with replacement of 8.4 with “8.4 The relevant meeting must express itself on the working method with Deputies” and in 8.5 the replacement of the words “the findings or proposed decision” with “working method”</i> Decision: Approved (Minutes 2015, N50, Art 219).</p> <p>The decision in 2.2 above refers to the following recommendation of the Deputies:</p> <p>8. Deciding an Appeal <i>8.1 The Report of the Deputies for Appeals serves, just as any other Deputies’ Report, at the next assembly. 8.2 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. 8.3 Before the assembly confers and decides on the Deputies’ Report, all parties involved in the decision made by the relevant minor assembly as well as the appellant (if present) leaves the assembly. 8.4 The relevant meeting must express itself on the working method with Deputies” 8.5 Should the relevant assembly not approve the findings or the recommended judgement of the Deputies, the assembly must provide in the grounds for this as well as a motivated alternative judgement to the appellant and the relevant minor assembly in writing, failing which the findings and recommended judgement of the Deputies are deemed the findings and judgement of the relevant assembly. (Amendments already added – Deputies Acta.)</i></p>
<p>3. Toeligting: Besluite Die besluite word uit die Notule van die Algemene Sinode 2015 aangehaal omdat die Handeling die besluite NIE</p>	<p>3. Elucidation: Decisions Decisions are quoted from the minutes of the General Synod 2015 because the decisions are NOT recorded correctly in</p>

<p>korrek weergee NIE (Acta 2015:22, 11.1 A, B, C, D, E). <u>Motivering:</u></p> <p>3.1 In die Acta word besluite, oor (1) 'n Rapport van die Deputate vir Appèl en oor (2) die Rapport van 'n ad hoc kommissie wat daarvoor aangewys is, opgeneem as deel van (3) die Rapport van die Studiedeputate KO, art 31 oor Appèlprosedure. Die Rapport van die Deputate vir Appèl en die Rapport van die Studiedeputate was en is twee verskillende Rapporte.</p> <p>3.2 Die Algemene Sinode het nie soos die Acta beweer (Acta 2015:22, 11.1, A), met die behandeling van die Rapport van die Studiedeputate in camera gegaan nie. Die Rapport was toe nog nie ter tafel vir bespreking nie. Die Algemene Sinode het met die behandeling van die Rapport van die Deputate vir Appèl in camera gegaan.</p> <p>3.3 In die lig van die Rapport van die Deputate vir Appèl het die Algemene Sinode besluit om die hantering van die Appèlle na 'n ad hoc kommissie te verwys vir advies. Die ad hoc kommissie het aanbeveel dat die Appèlle in die lig van pt 8 van die Studiedeputate se Rapport (Agenda 2015:5-9) hanteer word.</p> <p>3.4 Ds CA Jansen het die Studiedeputate se Rapport gelewer, maar nie die Rapport Deputate vir Appèl nie. Die Rapport van die Studiedeputate (Notule 2015:N53, art 231) is gelewer en besluite daarvoor is geneem, nadat daar oor die Appèlle (Notule 2015:N47, art 202; N50, art 219, N52, art 224, 225 en 227) besluit is.</p> <p>3.5 Die frase "Punt 8 (beslissing oor 'n Appèl) word in die Acta (Acta 2015:22, C) verkeerdlik ingevoeg voor die besluit soos weergegee in die Notule (Notule 2015:N47, art 202). Nie pt 8 van die Studiedeputate se Rapport is na die ad hoc kommissie verwys nie maar die hantering van Appèlle wat in die lig van die Rapport Deputate vir Appèl ter tafel gekom het.</p> <p>4. Beswaargrond 1 Die besluite oor die hantering van die Appèlle (Notule 2015:N47, art 202 en N50, art 219) verbreek die algemene</p>	<p>the Acts of the synod (Acta 2015: 22, 11.1 A, B, C, D, E). <u>Motivation:</u></p> <p>3.1 In the Acts, decisions, on (1) a Report of the Deputies of Appeal and (2) on a Report of an ad-hoc commission that was appointed in respect thereof, are included as part of (3) the Report of the Study Deputies CO, art 31 regarding Appeal procedure. The Report of the Deputies for the Appeal and the Report of the Study Deputies were and are two different Reports.</p> <p>3.2 The General Synod did not, as the Acta alleges (Acta 2015:22, 11.1, A), go in camera in dealing with the Report of the Study Deputies. The Report was not yet on the table for discussion. The General Synod went in camera with the handling of the Report of the Deputies for Appeal.</p> <p>3.3 In light of the Report of the Deputies for Appeal the General Synod decided to refer the handling of Appeals to an ad hoc commission for advice. The ad hoc committee recommended that the Appeals are handled in light of pt 8 of the Report of the Study Deputies (Agenda 2015:5-9).</p> <p>3.4 Rev CA Jansen delivered the Report of the Study Deputies, but not the Report of the Deputies for Appeal. The Report of the Study Deputies (Minutes 2015, N53, Art 231) was tabled and decided upon after decisions were taken on the Appeals (Minutes 2015, N47, Art 202, N50, Art 219, N52, Articles 224, 225 and 227).</p> <p>3.5 The phrase "Point 8 (a decision on Appeal) was inserted incorrectly in the Acts (Acta 2015:22, C) before the decision as reflected in the Minutes (Minutes 2015, N47, art 202). Point 8 of the Study Deputies Report was not referred to the ad hoc commission, but the handling of Appeals that was tabled in the Report of the Deputies for Appeal, was referred to.</p> <p>4. Basis of protest 1 The decisions about the handling of the Appeals (Minutes 2015, N47, N50 and Art 202, Art 219) are in breach of the general</p>
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<p>regsbeginnsel dat niemand 'regter in eie saak' mag wees nie.</p> <p>Motivering : Beswaargrond 1</p> <p>4.1 Die Deputate vir die beoordeling van Appèlle en Beswaarskrifte wat deur die Algemene Sinode 2012 aangewys is, is: “Ds PA Coetzee (Voorsitter), dr RM van der Merwe (Skriba), di JE Temba, PM Lekgetho en dr PK Lourens” (Acta 2012:521, 3.16.3).</p> <p>4.2 Die ad hoc kommissie deur die Algemene Sinode aangewys vir advies oor die hantering van die Appèlle is: “drr RM van der Merwe (s), GJ Meijer, JH Howell, ds PA Coetzee met adviseur prof J Smit” (Acta 2015:22, C).</p> <p>4.3 Lede van die Deputate vir Appèl is deel van die ad hoc kommissie en die adviseur is 'n appellant in een van die Appèlle.</p> <p>4.4 Lede van die ad hoc kommissie beveel aan hoe Rapportte waarin hulle betrokke is deur die Sinode hanteer moet word. Daardeur word die beginsel dat jy nie 'regter in eie saak' mag wees nie, in gedrang gebring.</p> <p>4.5 Verdere getuienis, dat die beginsel van 'nie regter in eie saak wees nie' in gedrang kom, is die volgende:</p> <p>4.5.1 Die Deputate lewer regspraak in hulle Rapportte oor die Appèlle.</p> <p>4.5.2 Deputate vir Appèl is lede van die ad hoc kommissie wat aanbeveel hoe die Rapportte hanteer moet word.</p> <p>4.5.3 Die ad hoc kommissie en daarmee lede van die Deputate het aanbeveel dat die Appèlle in die lig van pt 8 van die Studiedeputate se Rapport hanteer moet word. Daarmee beveel hulle aan dat slegs hulle Rapportte deur die vergadering gehoor word. Geen ander getuienis word gehoor nie. Die partye betrokke, die appellant en verweerder word nie gehoor nie. Geen geleentheid word gegee om gebreke en in die Rapport, siening of uitsprake van die Deputate aan te dui nie.</p> <p>5. Beswaargrond 2</p> <p>Geldige regspraak is, in die lig van die besluit van die Algemene Sinode 2015 om die Appèlle te hanteer in die lig van pt 8 van die Studiedeputate se Rapport</p>	<p>legal principle that no one may be 'judge in your own case'.</p> <p>Motivation: Basis of protest 1</p> <p>4.1 The Deputies for the assessment of Appeals and Petitions of protest that were appointed by the General Synod in 2012, are: “Rev PA Coetzee (Chairman), dr RM van der Merwe (Secretary), Revs JE Temba, PM Lekgetho and dr PK Lourens” (Acta 2012:521, 3.16.3).</p> <p>4.2 The ad hoc committee appointed by the General Synod for advice on handling the Appeals consisted of: “Drs RM van der Merwe (s), GJ Meijer, JH Howell, Rev PA Coetzee with adviser prof J Smit” (Acta 2015:22, C).</p> <p>4.3 Members of the Deputies for Appeal are part of the ad hoc committee and the adviser is an appellant in one of the Appeals.</p> <p>4.4 Members of the ad hoc commission recommend how the Reports in which they are involved must be handled by the Synod. Thereby the principle that you can not be 'judge in your own case', is placed in jeopardy.</p> <p>4.5 Further evidence that the principle of 'not being judge in your own case' is in jeopardy, are the following:</p> <p>4.5.1 The Deputies deliver justice in their Reports on the Appeals.</p> <p>4.5.2 Deputies for Appeal are members of the ad hoc commission recommending how their Reports should be handled.</p> <p>4.5.3 The ad hoc commission and thus members of the Deputies recommended that the Appeals should be handled in the light of pt 8 of the Study Deputies Report. Thereby they recommended that only their Reports are to be heard by the assembly. No other evidence is heard. The parties involved, the appellant and defendant are not heard. No opportunity is given to point out any defects in the Report, opinions and statements of the Deputies.</p> <p>5. Basis of protest 2</p> <p>Valid judgment is, in light of the decision of the General Synod in 2015 to handle the Appeals in light of pt 8 of the Report of the study Deputies (Minutes 2015, N50,</p>
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<p>(Notule 2015:N50, art 219), NIE MOONTLIK NIE!</p> <p>Motivering : Beswaargrond 2</p> <p>5.1 Die Studiedeputate beveel 'n bepaalde werkswyse aan om tot regspraak te kom.</p> <p>5.2 Die werkswyse is 'n proses waarin pt 8 – die beslissing oor die Appèl – die finale handeling is.</p> <p>5.3 In die lig van die Studiedeputate se voorstel moet die voorgestelde werkswyse gevolg word om geldige regspraak te kan lewer.</p> <p>5.4 Die aanbeveling van die ad hoc kommissie maak pt 8 los van die voorgestelde werkswyse – pte 1 tot 7 van die Studiedeputate se Rapport.</p> <p>5.5 Algemene Sinode 2015 hanteer en besluit oor die Appèlle voordat daar oor die voorgestelde 'werkswyse /prosedure' besluit is. Eers na die hantering van die Appèlle is daar oor die werkswyse – pte 1 tot 7 van die Studiedeputate se Rapport besluit.</p> <p>5.6 Die Deputate vir Appèl het nie die Appèlle in die lig van die voorgestelde werkswyse deur die Studiedeputate hanteer nie. Hulle kon nie want:</p> <p>5.6.1 die Deputate vir Appèl het die Appèlle <u>vóór</u> die Algemene Sinode 2015 hanteer;</p> <p>5.6.2 die werkswyse soos voorgestel deur die Studiedeputate het eers <u>by</u> die Algemene Sinode 2015 ter tafel gekom;</p> <p>5.6.3 die werkswyse soos voorgestel deur die Studiedeputate is nie deur die Algemene Sinode 2015 goedgekeur voordat daar oor die Appèlle besluit is nie (Notule 2015:N53, art 231).</p> <p>5.6.4 die Rapporte van die Deputate vir Appèl wat by die Algemene Sinode 2015 gedien het, dui duidelik aan dat dit in uitvoering van die opdrag van die Algemene Sinode 2012 gedoen is (Acta 2015:35, E; Acta 2015:48, E; Acta 2015:50, E);</p> <p>5.6.5 Die feit dat die Deputate vir Appèl, nie die Appèlle in die lig van die voorgestelde werkswyse deur die Studiedeputate hanteer het nie, is deur die Skriba van die Deputate per e-pos bevestig.</p>	<p>Art 219), NOT POSSIBLE!</p> <p>Motivation: Basis of protest 2</p> <p>5.1 The Study Deputies recommend a specific working method to come to judgment.</p> <p>5.2 The recommended procedure is a process in which pt 8 – the decision on the Appeal – is the final act.</p> <p>5.3 In light of the Study Deputies' proposal, the specific procedure must be followed to deliver valid judgment.</p> <p>5.4 The recommendation of the ad hoc commission separates pt 8 from the proposed procedure – pts 1 to 7 of the Study Deputies' Report.</p> <p>5.5 General Synod 2015 dealt with and decided on the Appeals before they decided on the proposed procedure/ working method. Only after dealing with the Appeals, a decision was taken on the proposed working method – pts 1 to 7 of the Report of the Study Deputies.</p> <p>5.6 The Deputies for Appeal did not deal with the Appeals in light of the proposed procedure by the Study Deputies. They could not because:</p> <p>5.6.1 the Deputies for Appeal handled the Appeals <u>before</u> the General Synod 2015;</p> <p>5.6.2 the procedure as proposed by the Study Deputies was only tabled <u>at</u> the General Synod 2015;</p> <p>5.6.3 the procedure as proposed by the Study Deputies was not approved by the General Synod 2015 before the decisions on the Appeals were taken (Minutes 2015, N53, art 231).</p> <p>5.6.4 the Reports of the Deputies for Appeal submitted to the General Synod 2015, clearly indicate that it was done at the instruction of the General Synod 2012 (Acta 2015:35 E; Acta 2015:48 E; Acta 2015:50, E);</p> <p>5.6.5 The fact that the Deputies for Appeal, did not deal with the Appeals in light of the working method proposed by the Study Deputies was confirmed by e-mail by the Secretary of the Deputies.</p>
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<p>6. Samevatting: Beswaarskrif</p> <p>6.1 Aangesien die Deputate vir Appèl nie die Appèlle in die lig van voorgestelde werkswyse hanteer het nie, is die besluit van die Algemene Sinode 2015 dat die Deputate volgens die goedgekeurde werkswyse gehandel het, 'n onwaar stelling.</p> <p>6.2 Aangesien die Deputate vir Appèl nie die Appèlle in die lig van voorgestelde werkswyse hanteer het nie, kan die besluite oor die Appèlle nie as geldige regspraak aanvaar word nie.</p> <p>6.3 As jy 'n koek bak moet jy die resep volg – jy kan nie die laaste deel doen, versiersuiker aanmaak en op 'n bord smeer en dit voorsit as 'n 'koek' nie. Net so kan jy nie tot geldige regspraak kom, as jy van die voorgestelde prosedure en werkswyse, wat daarvoor neergelê is, afwyk nie.</p> <p>6.4 Indien die Algemene Sinode die beswaargronde handhaaf, word die besluite van die Algemene Sinode 2015 oor die wyse waarop Appèlle hanteer is, nietig te verklaar.</p> <p>6.5 Indien die Beswaarskrif gehandhaaf word, moet al die Appèlle wat by die Algemene Sinode 2015 gedien het, weer ter tafel geneem word vir beoordeling.</p>	<p>6. Summary: Petition of Protest</p> <p>6.1 Because the Deputies for Appeal did not handle the Appeals in light of the proposed working method, the decision of the General Synod 2015, that the Deputies acted according to the approved working method, is not true.</p> <p>6.2 Because the Deputies for Appeal did not handle the Appeals in light of the proposed procedure, the decisions on the Appeals can not be accepted as valid judgment.</p> <p>6.3 If you bake a cake you need to follow the recipe – you can not do the last part, make icing, smear it on a plate and serve it as a 'cake'. Similarly, you can not arrive at valid judgment, if you deviate from the proposed procedures and working method laid down for it.</p> <p>6.4 If the General Synod upholds the basis of Protest of the Petition, the decisions of the General Synod 2015 on how to deal with the Appeals are null and void.</p> <p>6.5 If the Petition of Protest is upheld, all the Appeals tabled at the General Synod in 2015, should again be tabled for adjudication.</p>
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Toeligter: Ds FM Dreyer

Elucidator: Rev FM Dreyer