

**12.2.1 BESWAARSKRIF (KO, ARTT 31 EN 46) VAN DS FM DREYER TEEN 'N BESLUIT VAN DIE ALGEMENE SINODE 2015 OOR DIE APPÈL VAN DS FM DREYER TEEN 'N BESLUIT VAN STREEKSINODE RANDVAAL 2012**

**12.2.1 PETITION OF PROTEST (CO, ARTS 31 AND 46) OF REV FM DREYER AGAINST A DECISION OF THE GENERAL SYNOD 2015 ON THE APPEAL OF REV FM DREYER AGAINST A DECISION OF REGIONAL SYNOD RANDVAAL 2012**

<p><b>1. Inleiding</b></p> <p>1.1 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>1.2 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 hanteer die Deputate se aanbevelings aan Sinode 2015 oor die Appèl. Die Deputate kan nie as regter in eie saak optree nie.</p> <p>1.3 Die Algemene Sinode word versoek om noukeurig aandag te gee aan die <u>opmerkings</u> wat in die Beswaarskrif gemaak word. Die opmerkings dien om die inligting beskikbaar te stel wat noodsaaklik is, dat reg geskied.</p> <p><b>2. Besluit : Beswaar</b> Die besluit (Acta 2015:49, 6) waarteen beswaar gemaak word is die volgende: <i>“6. Finale aanbeveling Appèl nie ontvanklik nie. Besluit: Goedgekeur (wysiging reeds aangebring – Deputate Handeling)”.</i></p> <p><b>3. Opmerking 1 : Besluit</b> Uit die weergawe van die besluit in die Acta 2015 kan 'n besluit om 'n wysiging aan te bring sowel as die wysiging self nie uitgewys word nie.</p> <p><b>4. Beswaargrond 1</b> Die Algemene Sinode 2015 gee geen motivering vir sy besluit waarom die Appèl nie ontvanklik is nie.</p> <p>4.1 <i>Motivering : Beswaargrond 1</i></p> <p>4.1.1 Geen rede word deur die Algemene Sinode gegee oor waarom die Appèl nie ontvanklik is nie.</p> <p>4.1.2 Grondige motivering van 'n besluit in 'n regszaak is noodsaaklik soos be-</p>	<p><b>1. Introduction</b></p> <p>1.1 The Petition is, in the light of the General Synod 2012 decisions (Acta 2012:23-24, 5th), submitted directly to the General Synod.</p> <p>1.2 The General Synod is requested that the Deputies for Appeals – who handled the Appeals at the General Synod 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>1.3 The General Synod are requested to pay particular attention to <u>remarks</u> made in the Petition. The remarks provide information necessary for justice to be done.</p> <p><b>2. Decision : Protest</b> Objection is made against the following decision (Acta 2015:49, 6): <i>“6. Final recommendation Appeal not receptive. Decision: Approved (amendment already added – Deputies Acta)”.</i></p> <p><b>3. Remark 1 : Decision</b> From the version of the decision in the Acts of 2015 the decision to make a change as well as the change itself is not clear.</p> <p><b>4. Basis of protest 1</b> The General Synod 2015 gives no reasons for its decision that the Appeal is inadmissible.</p> <p>4.1 <i>Motivation : Basis of protest 1</i></p> <p>4.1.1 No reason is given by the General Synod on why the Appeal is not receptive.</p> <p>4.1.2 Sound reasons for a decision giving judgment is necessary as confirmed</p>
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<p>vestig deur:</p> <p>4.1.2.1 Spoelstra (1989:171, 5) “Omdat die besluit van ‘n kerkvergadering deur sy kwaliteit en inherente waarde gedra moet word, moet dit op duidelike oorweging of grond rus, ongeag die vorm van die Beskrywingspunt, versoek, Rapport of Appèl waaroor besluit is” en deur</p> <p>4.1.2.2 Prof J Smit (Acta 2010:92, 3.1) “Op advies van Prof Smit berus regspraak op duidelike aantoonbare gronde wat genotuleer behoort te word”.</p> <p>4.2 <i>Bevinding : Beswaargrond 1</i> Aangesien die Algemene Sinode 2015 geen motivering gee vir sy besluit dat die Appèl onontvanklik is nie, laat die besluit nie reg geskied aan regspraak wat deur die Appèl gevra word nie.</p> <p><b>5. Opmerking 2 : Beswaar</b> Aangesien die Algemene Sinode 2015 geen motivering gee vir sy besluit waarom die Appèl nie ontvanklik is nie, word aangeneem dat die Rapport van die Deputate vir Appèl vermoedelik wel genoegsame gronde gee vir sodanige besluit. Geen van die gronde wat die Deputate waarskynlik aanvoer, kan as rede aanvaar word oor waarom die Appèl nie ontvanklik is nie. Die redes hiervoor word in volgende beswaargronde gemotiveer.</p> <p><b>6. Beswaargrond 2</b> Die betoog van die Deputate vir Appèl oor die indiening van die Appèl (Acta 2015:48, 2; 3.2) kan nie as rede aanvaar word oor waarom die Appèl nie ontvanklik is nie.</p> <p>6.1 <i>Motivering : Beswaargrond 2</i></p> <p>6.1.1 Die indiening van die Appèl word nie deur die Algemene Sinode 2012 (Acta 2012:27, 2.4) as vereiste gestel vir die ontvanklikheid van die Appèl nie.</p> <p>6.1.2 Die inligting wat deur die Deputate oor die indiening van die Appèl verstrekkend is, is nie die volle waarheid nie. Die Deputate verswyg die volgende inligting wat die appellans oor die indiening van die Appèl op 1 Januarie 2015 per e-pos aan hulle deurgegee het:</p>	<p>by:</p> <p>4.1.2.1 Spoelstra (1989:171, 5) “Omdat die besluit van ‘n kerkvergadering deur sy kwaliteit en inherente waarde gedra moet word, moet dit op duidelike oorweging of grond rus, ongeag die vorm van die Beskrywingspunt, Versoek, Rapport of Appèl waaroor besluit is” and by</p> <p>4.1.2.2 Prof J Smit (Acta 2010:92, 3.1) “Op advies van Prof Smit berus regspraak op duidelike aantoonbare gronde wat genotuleer behoort te word”.</p> <p>4.2 <i>Finding : Basis of protest 1</i> Since the General Synod 2015 gave no reasons for its decision that the Appeal is inadmissible, the decision does not administer justice as requested by the Appeal.</p> <p><b>5. Remark 2 : Petition</b> Since the General Synod 2015 gives no reasons for its decision that the Appeal is inadmissible, it is assumed that the Report of the Deputies for Appeal probably did give sufficient grounds for such a decision. None of the grounds that the Deputies probably advanced can be accepted as a reason for the decision that the Appeal is inadmissible. The reasons for this are motivated in following bases of protest.</p> <p><b>6. Basis of protest 2</b> The argument of the Deputies for Appeal regarding the filing of the Appeal (Acta 2015:48, 2, 3.2) can not be accepted as a reason why the Appeal is not receptive.</p> <p>6.1 <i>Motivation : Basis of protest 2</i></p> <p>6.1.1 The filing of an Appeal is not a requirement for the admissibility of an Appeal according to the General Synod in 2012 (Acta 2012:27, 2.4).</p> <p>6.1.2 The information given by the Deputies for Appeal regarding the filing of the Appeal, is not the whole truth. The Deputies withheld the following information that the appellans gave them by e-mail about the filing of the appeal on January 1, 2015:</p>
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<p>(i) “n Appèl teen ‘n besluit van Streeksinode Randvaal 2012 is per e-pos deur my ingedien vir die Agenda van die Algemene Sinode 2015. Die e-pos is voor die Streeksinode Randvaal 2014, wat op 25 November 2014 vergader het, aan die Deputate korrespondensie van die Streeksinode en aan die Administratiewe Buro ge-e-pos. (Antwoord-rapport-jan1:1, 1.1)</p> <p>(ii) Waarom die Administratiewe Buro die Appèl eers op 4 Desember 2014 ontvang het – soos die Rapport in punt 2 en 3.2 aandui – is nie duidelik nie. In die lig van vorige ondervinding oor stukke ingedien vir die Sinode kan enige iets verwag word. My e-pos-posbus wys dat die Appèl soos reeds gemeld voor die vergadering van Streeksinode Randvaal op 25 November 2014 gestuur is. Die Deputate korrespondensie van die Streeksinode het die e-pos ontvang. Waarom die Administratiewe Buro die e-pos nie ontvang het nie – weet ek nie en hoe dit die ontvanklikheid van die Appèl kan bepaal – weet ek ook nie! (Antwoord-rapport-jan1, 2.2)”.</p> <p>6.1.3 E-pos kommunikasie met die Deputaat korrespondensie van Streeksinode Randvaal bevestig dat die Appèl voor die vergadering van die Streeksinode ingedien is.</p> <p>6.2 <i>Bevinding : Beswaargrond 2</i> Die rede waarom die Appèl nie voor 4 Desember 2014 per e-pos deur die Administratiewe Buro ontvang is nie, is nie duidelik nie. Dit kan nie as motivering dien waarom die Appèl nie ontvanklik is nie.</p> <p><b>7. Beswaargrond 3</b> Die betoog (Acta 2015:48, 3.1) dat die appellans versuim het om binne 6 weke kennis van Appèl te gee aan die adres van die vergadering waarheen geappelleer word, kan nie as rede aangevoer word dat die Appèl nie ontvanklik is nie.</p> <p>7.1 <i>Motivering : Beswaargrond 3</i> 7.1.1 Die kennisgewing van Appèl aan die</p>	<p>(i) “An Appeal against a decision of Regional Synod Randvaal 2012 was submitted by me by e-mail for the Agenda of the General Synod 2015. The e-mail was sent to the Deputy of correspondence of the Regional Synod and to the Administrative Bureau before the meeting of the Regional Synod Randvaal on November 25, 2014 (Answer-report-jan 1:1, 1.1).</p> <p>(ii) The reason why the Administrative Bureau only received the appeal on December 4th 2014 – as indicated in points 2 and 3.2 of the Report – is not clear. In light of previous experience regarding documents submitted to the Synod anything can be expected. My e-mail box shows that the e-mail, as mentioned above was sent before the meeting of Regional Synod Randvaal on November 25, 2014. The Deputy for Correspondence of the Regional Synod received the e-mail. Why the e-mail was not received by the Administrative Bureau – I do not know and I also do not know how this can determine the admissibility of the appeal! (Answer report-jan1, 2.2)”.</p> <p>6.1.3 E-mail communication with the deputy for correspondence of regional synod Randvaal confirmed that the appeal was filed before the meeting of the regional synod.</p> <p>6.2 <i>Finding : Basis of protest 3</i> Why the Appeal was not received by e-mail by the Admin Bureau before December 4, 2014 is not clear. This can not serve as reason why the Appeal is not receptive.</p> <p><b>7. Basis of protest 3</b> The argument (Acta 2015:48, 3.1) that the appellant has failed, to give notice of Appeal within six weeks to the address of the meeting at which the Appeal will be heard, cannot be presented as the reason that the Appeal is inadmissible.</p> <p>7.1 <i>Motivation : Basis of protest 3</i> 7.1.1 The notice of Appeal to the address of</p>
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<p>adres van die vergadering waarheen geappelleer word, word nie as vereiste gestel vir die ontvanklikheid van die Appèl nie (Acta 2012:27, 2.4).</p> <p>7.1.2 Die volgende inligting wat die appellant in die verband op 1 Januarie 2015 per e-pos aan die Deputate deurgegee het (Antwoord-rapport-jan1:2, 2.4), word in die Rapport verswyg:</p> <p>(i) <i>“2.4 Die Deputate verwys in punt 3.1 na tegniese voorwaardes vir die indiening van ‘n Appèl. Regtens word gemeld dat daar tegnies binne die aangeduide tydperk kennis gegee is van die Appèl aan die Streeksinode. Tegnies het die appellant in gebreke gebly om kennis te gee van die Appèl aan die adres van die vergadering waarheen geappelleer word. Die Appèl verwys self na die tegniese prosedure rondom die indiening van die Appèl. Die Rapport beoordeel dit nie – is die Appèl gelees en beoordeel???? Die volgende opmerkings word gemaak oor die tegniese prosedure:</i></p> <p><i>2.4.1 Daar is ‘n wesentlike verskil tussen kennis gee van ‘n Appèl en die indiening daarvan. Kennisgewing van Appèl gee aan ‘n appellant die geleentheid om die besluit waarteen geappelleer word formeel aan te vra vir evaluering daarvan. Na ontvangs van die besluit moet die besluit in die lig van die Skrif, Belydenis en Kerkorde geweeg word. In die lig van die beoordeling word ‘n besluit geneem om te appelleer of nie.</i></p> <p><i>2.4.2 Om kennis te gee van Appèl aan die adres van die vergadering waarheen geappelleer word voordat die besluit ontvang en geweeg is – soos die Algemene Sinode 2012 besluit het (Acta 2012:27, 2.2) – is onredelik. Indien die besluit wat aangevra is nie binne die tydperk (2 weke) – soos deur die Sinode besluit – ontvang word nie, word</i></p>	<p>the meeting at which the Appeal will be heard, is not a requirement for the receptiveness of the Appeal (Acta 2012:27, 2.4).</p> <p>7.1.2 The following information that the appellant submitted by e-mail to the Deputies on January 1’ 2015 (Answer report jan1-2, 2.4), is not disclosed in the Report:</p> <p>(i) <i>“2.4 The Deputies in point 3.1 refer to technical conditions for filing an Appeal. It is correctly mentioned that notice of the Appeal was technically given within the indicated period to the Regional Synod. Technically the appellant failed to give notice of the Appeal to address of the meeting at which the Appeal will be heard. The Appeal itself refers to the technical procedure relating to the filing of the Appeal. The Report did not made an assessment on this – was the Appeal actually read and adjudicated??? The following comments are made about the technical procedure:</i></p> <p><i>2.4.1 There is a fundamental difference between giving notice of an Appeal and the submission thereof. Notice of Appeal gives an appellant the opportunity to formally request the decision under Appeal for evaluation thereof. After receiving the decision, the decision is weighed in the light of Scripture, the Confession and the Church Order. In the light of this evaluation a decision is made to appeal or not.</i></p> <p><i>2.4.2 To give notice of Appeal to the address of the meeting at which the Appeal will be heard before the decision was received and weighed – as the General Synod in 2012 decided (Acta 2012:27, 2.2) – is unreasonable. If the decision requested is not received within the period (2 weeks) – according to the Synod’s decision – the time frame of the</i></p>
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<p><i>die hele proses 'n onredelike tyds-drukvang.</i></p> <p><i>2.4.3 Die Appèl gee 'n rede vir die laat kennisgewing van die Appèl aan die Sinode. Die Rapport maak geen uitspraak daaroor nie. Is die Appèl gelees en beoordeel????</i></p> <p><i>2.4.4 Indien die Appèl nie ontvanklik is weens die tegniese rede dat daar nie binne 6 weke na die besluit geneem is, aan die Algemene Sinode kennis gegee is van die Appèl nie, sal dit teenstrydig wees met gees en besluit van die Algemene Sinode 2012 in die verband (Acta 2012:27, 2.6.1)”.</i></p> <p><b>7.2 Bevinding : Beswaargrond 3</b></p> <p>Die feit dat die appellant nie kennis gegee het van die Appèl aan die adres van die vergadering waarheen geappelleer word nie, kan in die lig van bogenoemde motivering, nie as voldoende rede aangevoer word vir die besluit dat die Appèl nie ontvanklik is nie.</p> <p><b>8. Beswaargrond 4</b></p> <p>Die administratiewe vereistes deur die Algemene Sinode 2012 gestel vir die behandeling van die Appèl – soos deur die Deputate betoog (Acta 2015:48, 3.3; 3.4; 3.5) kan nie as rede aangevoer word waarom die Appèl nie ontvanklik is nie.</p> <p><b>8.1 Motivering : Beswaargrond 4</b></p> <p><b>8.1.1</b> Die administratiewe vereistes (Acta 2015:48, 3.3; 3.4; 3.5) word nie as vereistes gestel vir die ontvanklikheid van die Appèl nie (Acta 2012:27, 2.4).</p> <p><b>8.1.2</b> Die volgende inligting wat die appellant in dié verband op 1 Januarie 2015 per e-pos aan die Deputate deurgegee het (Antwoord-rapport-jan1:2, 2.5-2.7), is nie geopenbaar nie:</p> <p>(i) <i>2.5 Die Rapport meld in pt 3.3 dat die nodige dokumente en bewyse aangeheg moet word by 'n Appèl. Die dokumente en bewyse is beskikbaar. Indien die Deputate die appellant gekontak het oor 'n geskikte datum vir 'n vergadering – sou die appellant</i></p>	<p><i>whole process is unreasonable.</i></p> <p><i>2.4.3 The Appeal gave a reason for the late notice of the Appeal to the Synod. The Report makes no judgment on it. Was the Appeal read and evaluated????</i></p> <p><i>2.4.4 If the Appeal is inadmissible because of the technical reason that no notice of the Appeal was given to the General Synod within six weeks after the decision that is appealed, was made, it would be inconsistent with the spirit and the decision of the General Synod in 2012 in this regard (Acta 2012:27, 2.6.1)”.</i></p> <p><b>7.2 Finding : Basis of protest 3</b></p> <p>The fact that the appellant has not given notice of the Appeal to the address of the meeting at which the Appeal will be heard is, in light of the motivation given above, not sufficient reason for the decision that the Appeal is inadmissible.</p> <p><b>8. Basis op protest 4</b></p> <p>The administrative requirements approved by the General Synod 2012 for the adjudication of an Appeal can not – as the Deputies argued (Acta 2015:48, 3.3; 3.4; 3.5) – be advanced as reason why the Appeal is inadmissible.</p> <p><b>8.1 Motivation: Basis of protest 4</b></p> <p><b>8.1.1</b> The administrative requirements (Acta 2015:48, 3.3; 3.4; 3.5) are not part of the requirements for the admissibility of an Appeal (Acta 2012:27, 2.4).</p> <p><b>8.1.2</b> The following information that the appellant gave by e-mail to the Deputies in this regard on January 1, 2015 (Answer report jan1-2, 2.5-2.7), was not disclosed:</p> <p>(i) <i>2.5 The Report mentions in paragraph 3.3 that the necessary documents and evidence must be attached to an Appeal. The documents and evidence are available. If the Deputies contacted the appellant about a suitable date for a meeting – the</i></p>
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<p>die dokumente per hand ingehandig het. Dit is nogal moeilik om die Handeling van Streeksinode Randvaal en die formele besluit wat per slakkepos ontvang is – per e-pos aan te heg.</p> <p>(ii) 2.6 Die Rapport verwys in pt 3.4 na afskrifte wat die appellant moes indien. Hoeveel stukke word waarvan benodig? Die Appèl self is nie eers 2 volle bladsye nie. Die koste opmerking is belaglik! Indien die Skriba van die Deputate die appellant gekontak het en bepaalde stukke aangevra het sou hy dit so gou moontlik voorsien het.</p> <p>(iii) 2.7 Die Rapport meld dat die offisiële redaksie van die besluit ontbreek. Tegnieiese punt of swak argument?? Indien die Deputate 'n geskikte geleentheid gereël het om die appellant aan te hoor, sou hy afskrifte wat van die Deputate korrespondensie van die Streeksinode ontvang is, ingedien het. Indien die Deputate by die Deputate korrespondensie van die Streeksinode – wat ook 5 Desember 2014 by die Administratiewe Buro was – navraag gedoen het, sou hy bevestig dat die besluit in die Appèl weergegee, 'n korrekte weergawe van die 'offisiële' besluit is.</p> <p>8.2 <i>Bevinding : Beswaargrond 4</i> In die lig van die motivering hierbo kan die betoog van die Deputate oor die administratiewe vereistes vir die behandeling van 'n Appèl nie as rede aanvaar word vir die besluit dat die Appèl nie ontvanklik is nie.</p> <p><b>9. Beswaargrond 5</b> Die volgende 'voorlopige' bevinding (Acta 2015:48, 4.1) wat die finale bevinding van die Deputate is, kan nie as waar aanvaar word nie: "4.1 Die Appèl het soveel wesentlike, fundamentele gebreke dat dit nie beskou kan word as bloot tegnieiese, formele of prosedurele elemente nie (Acta 2012:27, 2.6.1)".</p>	<p>appellant would have presented the documents by hand. It is rather difficult to attach the Acts of Regional Synod Randvaal and the certified decisions received by normal snailmail, to an e-mail.</p> <p>(ii) 2.6 The Report refers in paragraph 3.4 to copies that the appellant had to provide. How many copies of what were required? The Appeal itself is not even two full pages. The cost comment is ridiculous! If the Secretary of the Deputies contacted the appellant and requested certain copies, he would have provided it as soon as possible.</p> <p>(iii) 2.7 The Report remarks that the official copy of the decision is missing. Technical point or weak argument?? If the Deputies arranged a suitable opportunity to hear the appellant, he would have submitted the official copies received from the Deputies for correspondence of the Regional Synod. If the Deputies enquired from the Deputy correspondence of the Regional Synod – who was also at the Administrative Bureau on December 5, 2014 – he would have confirmed that the decision rendered in the Appeal, is a correct version of the 'official' decision.</p> <p>8.2 <i>Finding : Basis of protest 4</i> In light of the above reasons, the arguments of the Deputies regarding the administrative requirements for the receptiveness of an Appeal can not be accepted as a sufficient reasons for the decision that the Appeal is inadmissible.</p> <p><b>9. Basis of protest 5</b> The following 'preliminary' findings (Acta 2015:48, 4.1) in the final verdict of the Deputies, can not be accepted as true: "4.1 The Appeal is deficient in so many essential and fundamental aspects that it cannot merely be deemed technical, formal or procedural in nature (Acta 2012:27, 2.6.1)".</p>
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9.1 *Motivering : Beswaargrond 5*

9.1.1 Geen motivering word gegee vir die bewering dat die Appèl soveel wesentlike en fundamentele gebreke het nie. Die bewering is nie waar nie. Die Algemene Sinode 2015 het nie die Appèl ter insae gehad het nie en het ook nie die appellant aangehoor nie. Daarom kon die bewering nie as vals uitgewys word nie. Dat die Appèl nie wesentlike en fundamentele gebreke het nie, is duidelik uit die Appèl self – wat hieronder ingevoeg word.

*“1. Inleiding*

*1.1 Na oorweging van al die ter sake inligting, word die volgende Appèl teen die besluit van Streeksinode Randvaal 2012 oor die handhawing van ‘n Appèl teen ‘n besluit die Klassis Groter Johannesburg (KGJ) aan u voorgelê vir beoordeling.*

*1.2 Die appellant het by die vergadering wat die besluit geneem het kennis gegee van Appèl.*

*1.3 Die besluit waarteen geappelleer word is per e-pos aangevra – en is vanweë probleme in die pos (postkantoor staking?) laat ontvang in terme van die besluit van die Algemene Sinode 2012 (Acta 2012:27, 2.2).*

*1.4 Die vertraging in 1.3 genoem het meegebring dat die appellant nie in terme van die besluit van die Algemene Sinode 2012 (Acta 2012:27, 2.2) binne die voorgeskrewe tydperk aan die Deputate korrespondensie van die Algemene Sinode kennis gegee het van die Appèl nie aangesien daar eers oor die indiening van die Appèl besluit is na deeglike besinning en oorweging van die besluit waarteen daar geappelleer word.*

*1.5 In die lig van die besluit van die Algemene Sinode 2012 (Acta 2012:27, 2.5 en 2.6) word vertrou dat die Appèl ontvanklik is en nie deur tegniese en prosedure faktore – buite beheer – in die wiele gery word nie.*

*2. Besluit waarteen geappelleer word*  
*Die besluit waarteen geappelleer word, word gevind in die handeling van Streeksinode Randvaal 2012 (Acta 2012:93, 5.3.1):*

9.1 *Motivation : Basis of protest 5*

9.1.1 No reasons are given for the allegation that the Appeal has essential and fundamental flaws. The allegation is not true. The General Synod 2015 did not have the Appeal for inspection and did not hear the appellant. Therefore the falseness of the allegation could not be pointed out. That the Appeal does not have substantial and fundamental flaws, is clear from the Appeal itself – that is attached below:

*“1. Introduction*

*1.1 After considering all the relevant information, the following Appeal against the decision of the Regional Synod Randvaal 2012 to uphold an Appeal against a decision of Classis Greater Johannesburg (KGJ) is presented for your adjudication.*

*1.2 The appellant gave notice of Appeal at the meeting that took the decision.*

*1.3 The decision under Appeal was requested by e-mail – and because of problems in the mail (post office strike?) it arrived late in terms of the decision of the General Synod 2012 (Acta 2012:27, 2.2).*

*1.4 The delay mentioned above 1.3 meant that the appellant, in terms of the decision of the General Synod 2012 (Acta 2012:27, 2.2), could not give notice to the Deputies correspondence of the General Synod within the prescribed period since the decision to submit the Appeal was only made after careful deliberation and consideration of the decision appealed against.*

*1.5 In light of the decision of the General Synod in 2012 (Acta 2012:27, 2.5 and 2.6) it is trusted that the Appeal is admissible and is not derailed by technical and procedural factors beyond the appellant’s control.*

*2. Decision appealed against*  
*The decision appealed against, is found in the Acts of Regional Synod Randvaal 2012 (Acta 2012:93, 5.3.1):*

<p><i>“Nadat die Meerderheids- en Minderheidsrapport gestel is, gaan die vergadering tot stemming oor. Met geslote stembrief word die Meerderheidsrapport aanvaar. Die Appèl slaag dus”.</i></p> <p><i>3. Motivering van die Appèl</i></p> <p><i>3.1 Die besluit is strydig met KO, art 31.</i></p> <p><i>3.2 Geen motivering word vir die besluit gegee nie.</i></p> <p><i>3.3 KO, art 31 vereis dat regspraak in die lig van die Skrif en Kerkorde gegee moet word.</i></p> <p><i>3.4 Die Minderheidsrapport maak ‘n beoordeling van die Meerderheidsrapport en voer gronde aan waarom die Meerderheidsrapport nie aanvaar kan word nie. (Die betoog is nie relevant vir die Appèl nie.)</i></p> <p><i>3.5 Die Meerderheidsrapport maak geen beoordeling van die Minderheidsrapport nie en gee geen redes waarom dit nie aanvaar kan word nie.</i></p> <p><i>3.6 Al motivering waarop die besluit berus is – die meerderheid het besluit! (Sodanige besluitneming is vergelykbaar met ‘n meerderheidsregering wat besluite neem oor huisvesting van ‘n president – nie op gronde van reg en geregtigheid nie maar op die gesag van die meerderheid.)</i></p> <p><i>3.7 Streeksinode Randvaal het die afwesigheid van motivering by regspraak in terme van KO, art 31 as genoegsame gronde gevind in die handhawing van ‘n Appèl (Acta 2010:69, 24.7). Nou het die Streeksinode van 2012 homself hieraan skuldig gemaak. Die huidige professor in Kerkreg het by die Streeksinode vuriglik betoog dat regspraak sonder die nodige motivering geen regspraak is nie (Acta 2010:65, 24.1).</i></p> <p><i>4. Gevolgtrekking</i></p> <p><i>4.1 Die besluit van Streeksinode Randvaal 2012 waarteen daar geappelleer word gee geen motivering vir regspraak in die lig van die Skrif en die kerkorde nie (KO, art 31) en was daarom onregmatig en on-</i></p>	<p><i>“After both the Majority and Minority Reports were tabled the meeting voted by closed ballot. The Majority report is accepted. The Appeal therefore succeeds”.</i></p> <p><i>3. Motivation of the Appeal</i></p> <p><i>3.1 The decision is contrary to CO, art 31.</i></p> <p><i>3.2 No reasons are given for the decision.</i></p> <p><i>3.3 CO, art 31 requires that judgment must be given in light of Scripture and the Church Order.</i></p> <p><i>3.4 The Minority report makes an assessment of the Majority report and present reasons why the Majority report can not be accepted. (The argument is not relevant to the Appeal.)</i></p> <p><i>3.5 The Majority report makes no assessment of the Minority report and gives no reason why it should not be accepted.</i></p> <p><i>3.6 The only motivation for the decision is – the majority decided! (Such decision making is comparable to a majority government decisions on the home of a president – not on grounds of what is right and just but merely upon the authority of the majority.)</i></p> <p><i>3.7 Regional Synod Randvaal accepted the lack of motivation where judgment is given in terms of CO, art 31 as sufficient grounds for an Appeal to succeed (Acta 2010:69, 24.7). Now the Regional Synod 2012 has made himself guilty of this. The current professor of Canon Law ardently argued at the Regional Synod that judgment without the necessary motivation is not valid judgment (Acta 2010:65, 24.1).</i></p> <p><i>4. Conclusion</i></p> <p><i>4.1 The decision of Regional Synod Randvaal 2012 that is appealed gives no reasons in the light of Scripture and the Church Order (CO, art 31) for its judgment and was therefore unlawful and invalid.</i></p>
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<p><i>geldig.</i></p> <p><b>5. Versoek</b>  <b>5.1</b> <i>In die lig van die motivering (3) en gevolgtrekking (4) hierbo word die Appèl gehandhaaf en die besluit van die Streeksinode Randvaal nietig verklaar”.</i></p> <p><b>9.2</b> <i>Bevinding : Beswaargrond 5</i>  Die Appèl dui die besluit aan waarteen geappelleer word. Die Appèl word gemotiveer. Geen wesentlike en fundamentele gebreke bestaan vir die besluit dat die Appèl nie ontvanklik is nie. Die bewering deur die Deputate dat die Appèl wesentlike en fundamentele gebreke het (wat nie aangetoon is nie), kan nie as motivering aanvaar word vir die besluit dat die Appèl nie ontvanklik is nie.</p> <p><b>10. Beswaargrond 6</b>  Die bewering deur die Deputate (Acta 2015:49, 4.2), dat die Appèl nie aan die vereistes en prosedure vir ontvanklikheid soos deur Sinode 2012 goedgekeur is voldoen nie, is nie waar nie.</p> <p><b>10.1</b> <i>Motivering : Beswaargrond 6</i>  <b>10.1.1</b> Die Algemene Sinode 2012 (Acta 2012:27, 2.4) besluit die volgende oor die ontvanklikheid van Appèlle  <i>“2.4 Die vereistes vir die ontvanklikheid en behandeling van die Appèl is die volgende:</i>  <i>2.4.1 Die besluit waarteen geappelleer word, moet woordeliks volgens en met bewys van die offisiële redaksie aangehaal word.</i>  <i>2.4.2 Die Appèl moet duidelik gronde vir Appèl aantoon”.</i></p> <p><b>10.1.2</b> Die Appèl het die besluit waarteen geappelleer word, woordeliks aangehaal.</p> <p><b>10.1.3</b> Die appellant het per e-pos op 1 Januarie 2015 aangedui (Antwoord-rapport-jan1:3, 2.5) dat hy die offisiële redaksie van die besluit by ‘n geskikte geleentheid aan die Deputate sou deurgee.</p> <p><b>10.1.4</b> Die Appèl toon duidelik gronde/motivering vir die Appèl aan.</p> <p><b>10.2</b> <i>Bevinding : Beswaargrond 6</i>  Die motivering hierbo wys dat die Appèl aan die vereistes vir ontvanklikheid soos deur die Algemene Sinode</p>	<p><b>5. Request</b>  <b>5.1</b> <i>In light of the motivation (3) and conclusion (4) above the Appeal succeeds and the decision of the Regional Synod Randvaal annulled”.</i></p> <p><b>9.2</b> <i>Finding : Basis of protest 5</i>  The Appeal indicates the decision appealed against. The Appeal is motivated. No essential and fundamental flaws exist for deciding that the Appeal is inadmissible. The allegation by the Deputies that the Appeal has essential and fundamental flaws (which were not pointed out) cannot be accepted as justification for the decision that the Appeal is inadmissible.</p> <p><b>10. Basis of protest 6</b>  The allegation by the Deputies (Acta 2015:49, 4.2), that the Appeal does not comply with the requirements and procedures for admissibility as decided by Synod 2012, is not true.</p> <p><b>10.1</b> <i>Motivation : Basis of protest 6</i>  <b>10.1.1</b> The General Synod in 2012 (Acta 2012:27, 2.4) decided the following on the receptivity of an Appeal:  <i>“2.4 The requirements for the admissibility and treatment of an Appeal are the following:</i>  <i>2.4.1 The decision appealed against, must be quoted verbatim, with the proof of the original decision.</i>    <i>2.4.2 The Appeal must clearly indicate reasons for Appeal”.</i></p> <p><b>10.1.2</b> The Appeal quoted the decision appealed against <i>verbatim</i>.</p> <p><b>10.1.3</b> The appellant indicated via e-mail on January 1, 2015 (Answer report jan1-3, 2.5) that he would present the official copy of the decision to the Deputies at a suitable opportunity.</p> <p><b>10.1.4</b> The Appeal is clearly motivated.</p> <p><b>10.2</b> <i>Finding : Basis of protest 6</i>  The above motivation proves that the Appeal complies with the requirements for admissibility as decided by Synod</p>
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<p>2012 besluit, voldoen.</p> <p><b>11. Beswaargrond 7</b> Die indruk wat die Deputate se Rapport skep, dat die appellante nie nodige dokumente en bewyse wil verskaf nie, is nie waar nie en kan nie as rede aangevoer word vir die besluit dat die Appèl nie ontvanklik is nie.</p> <p>11.1 <i>Motivering : Beswaargrond 7</i> 11.1.1 Die eerste kontak van die Deputate met die appellante was 'n e-pos op 31 Desember 2014. 11.1.2 Die e-pos word op 1 Januarie 2015 beantwoord met 'n versoek van die appellante dat 'n geskikte geleentheid gereël word om repliek te lewer. Die e-pos is nie deur die Deputate beantwoord nie. 11.1.3 'n Verdere e-pos versoek (4 Januarie 2015) dat die Deputate die appellante kan aanhoor vanaf 6 Januarie 2015 in Potchefstroom is nie beantwoord nie. 11.1.4 Die Rapport van die Deputate oor die Appèl is eers op Dinsdag 13 Januarie 2015 deur die Algemene Sinode behandel. Waarom die Deputate nie aan die appellante 'n geleentheid gegee het om hulle te woord te staan nie, is 'n ope vraag.</p> <p>11.2 <i>Bevinding : Beswaargrond 7</i> Die nodige dokumente en bewyse ter ondersteuning van die Appèl was beskikbaar. Dat die Deputate nie 'n geleentheid kon vind om die inligting te verifieer nie, kan nie as rede aangevoer word vir die besluit dat die Appèl nie ontvanklik is nie.</p> <p><b>12. Samevatting : Beswaarskrif</b> 12.1 Die Algemene Sinode 2015 gee geen motivering vir die besluit dat die Appèl nie ontvanklik is nie. 12.2 Beoordeel aan die vereistes deur die Algemene Sinode 2012 gestel het vir ontvanklikheid, is die Appèl ontvanklik. 12.3 Geen van die deel van die Rapport van die Deputate vir Appèl gee enige motivering vir die besluit waarom die Appèl nie ontvanklik is nie. 12.4 Die volgende inherente en fundamentele gebreke in die Rapport van die Deputate vir Appèl wys ernstige</p>	<p>2012.</p> <p><b>11. Basis of protest 7</b> The impression created by the Deputies' Report, that the appellant did not want to supply the necessary documents and evidence, is not true and it can not be presented as motivation for the decision that the Appeal is inadmissible.</p> <p>11.1 <i>Motivation : Basis of protest 7</i> 11.1.1 The first contact of the Deputies with the appellant was by e-mail on December 31, 2014. 11.1.2 This e-mail was answered on January 1, 2015 with a request of the appellant that a suitable occasion be arranged to respond. This e-mail was not answered by the Deputies. 11.1.3 A further e-mail request (January 4, 2015) that the Deputies could meet the appellant from January 6, 2015 in Potchefstroom was not answered. 11.1.4 The Report of the Deputies on the appeal was dealt with by the General Synod on Tuesday, January 13, 2015. Why the Deputies did not give the appellant an opportunity to be heard is an open question.</p> <p>11.2 <i>Finding : Basis of protest 7</i> The documents and evidence in support of the Appeal were available. That the Deputies could not find an opportunity to verify the information can not serve as reason for the decision that the Appeal is inadmissible.</p> <p><b>12. Summary : Petition of Protest</b> 12.1 The General Synod 2015 gives no reasons for the decision that the Appeal is inadmissible. 12.2 Judged by the requirements set by the General Synod 2012 for admissibility, the Appeal is receptive. 12.3 No part of the Report of the Deputies for appeal gives any reasons for the decision that the Appeal is inadmissible. 12.4 The following inherent and fundamental flaws in the Report of the Deputies for Appeal reveals serious</p>
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<p>leemtes uit in die huidige prosedure vir die hantering van Appèlle:</p> <p>12.4.1 Die Algemene Sinode aanvaar die aanbeveling van die Deputate sonder enige bewyse;</p> <p>12.4.2 Geen geleentheid word aan die partye betrokke gegee om die teen-deel te bewys nie;</p> <p>12.4.3 Partydigheid en vooroordeel, gebrek aan insig en deursigtigheid, is faktore wat bydra dat Deputate nie vir 'n kerklike vergadering regspraak kan lewer nie.</p> <p>12.5 In die lig van die beswaargronde, die motivering en die bevindings daaroor, word die Algemene Sinode versoek om die besluit, dat die Appèl van FM Dreyer teen 'n besluit van Streek-sinode Randvaal, nie ontvanklik is nie, nietig te verklaar.</p> <p><b>13. Opmerking 3 : Finale Rapport van die Deputate</b></p> <p>By navraag het geblyk dat die Bylaes waarna die finale Rapport van die Deputate vir Appèl in die saak verwys, nie aan die Algemene Sinode 2015 beskikbaar gestel is vir beoordeling nie.</p>	<p>deficiencies in the current procedure for the handling of Appeals:</p> <p>12.4.1 The General Synod accepted the recommendation of the Deputies without any proof;</p> <p>12.4.2 No opportunity is given to the parties concerned to prove the contrary;</p> <p>12.4.3 Bias and prejudice, lack of insight and transparency are factors that contribute that Deputies can not deliver valid judgment for a church assembly.</p> <p>12.5 In light of the bases of protest, the motivation thereof and the findings in respect thereof, the General Synod is called to annul the decision that the Appeal of FM Dreyer against a decision of Regional Synod Randvaal is not receptive.</p> <p><b>13. Remark 3 : Final Report of the Deputies</b></p> <p>Upon inquiry it became clear that the appendices to which the final Report of the Deputies for Appeal refer, were not made available to the General Synod 2015 for adjudication.</p>
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*Toelichter:* Ds FM Dreyer

*Elucidator:* Rev FM Dreyer