

11.2 BESWAARSKRIF (KO, ARTT 31 EN 46) VAN DS FM DREYER TEEN BESLUIT VAN DIE ALGEMENE SINODE 2015 OOR APPEL-PROSEDURES (Artt 21, 81, 108, 259)

11.2 PETITION OF PROTEST (CO, ARTS 31 AND 46) OF REV FM DREYER AGAINST DECISIONS OF THE GENERAL SYNOD 2015 ON APPEAL PROCEDURES (Arts 21, 81, 108, 259)

- A. Die Beswaarskrif is gestel.
The Petition of protest is tabled.
- B. Ds FJ Potgieter stel die Rapport van die Ordekommissie met betrekking tot die aanbeveling van die Ordekommissie dat Beswaarskrif 11.2. so gou as moontlik gestel word aangesien dit reeds deur die vergadering ontvanklik verklaar is.
Rev FJ Potgieter tables the Report of the Order Commission with regard of the recommendation of the Order Commission that the Petition of protest 11.2 be tabled as soon as possible, seeing as the meeting already decided that the document is receptive.
- C. **Besluit:** Verwys na Kommissie Beswaarskrifte 3.
Decision: Referred to Commission Gravamina 3.
- D. Ds PW Kurpershoek rapporteer namens Kommissie Beswaarskrifte 3.
Rev PW Kurpershoek reports on behalf of Commission Gravamina 3.

E. BESWAARSKRIF / PETITION OF PROTEST

<p>1. Inleiding: Beswaarskrif</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>2. Besluite: Beswaar</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>3. Beswaargrond 1</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</p>	<p>1. Introduction: Petition of Protest</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>2. Decisions: Protest</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>3. Basis of protest 1</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</p>
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<p>Algemene Sinode van 2012 goed-gekeur 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>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 toeligter word geen spreekbeurt gegee nie</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>3.1.5 Die uitbreiding en verandering was nie deel van die Deputate se opdrag nie en is daarom in stryd met KO, art 49.</p> <p>3.1.6 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>3.2 <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>4. Beswaargrond 2 Die besluit van die Algemene Sinode 2015 oor die Appèlprosedure is in stryd met KO, art 30.</p>	<p>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> <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 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 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 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>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>4. Basis of protest 2 The decision of the General Synod 2015 on the Appeal procedure is in breach of CO, art 30.</p>
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<p>4.1 <i>Motivering: Beswaargrond 2</i></p> <p>4.1.1 KO, art 30 bepaal dat kerklike sake op 'n kerklike wyse behandel en afgehandel word.</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>4.1.3 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>4.1.4 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></p> <p>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.</p> <p>[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 <i>Motivation: Basis of protest 2</i></p> <p>4.1.1 CO, art 30 stipulates that ecclesiastical matters shall be dealt with in an ecclesiastical manner.</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 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 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></p> <p>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.</p> <p>[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>5. Beswaargrond 3</p> <p>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</p>	<p>5. Basis of protest 3</p> <p>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)</p>

<p>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 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 appellans 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 getuies aangehoor en dat albei partye aangehoor moet word, word verbreek. “Geen oordeel kan oor ‘n party in ‘n saak gevel word sonder dat hy regverdig gehoor en verhoor is nie” (Spoelstra 1989:179,3).</p>	<p>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 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 appellans 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. “No judgment can be passed on a party in a matter if they were not fairly heard and judged” (Spoelstra 1989:179, 3).</p>
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<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>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>6. Beswaargrond 4 Die besluit van die Algemene Sinode 2015 oor die Appèlprosedure is in stryd met KO, art 33.</p> <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</i></p>	<p>6. Basis of protest 4 The decision of the General Synod 2015 on the Appeal procedure is contrary to CO, art 33.</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.</i></p>

<p><i>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>7. Beswaargrond 5 Die besluit van die Algemene Sinode 2015 oor die Appèlprosedure is in stryd met die bepalings van KO, 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>8. Beswaargrond 6 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</i></p>	<p><i>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>7. Basis of protest 5 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>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>8. Basis of protest 6 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</i></p>
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<p><i>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 Pelser, dr DJ de Kock, di J Malan, AB van der Walt en PM Modise.</i></p>	<p><i>(v), Rev CA Jansen, drs JH Howell, RM van der Merwe, prof F Venter, Rev MP Fourie. Secundi: Revs SA Cilliers, PW Kurpershoek AL Pelser, dr DJ de Kock, Revs J Malan, AB van der Walt and 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>8.1.3 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 Geen of min ouderlinge is deel van die proses om regspraak te lewer.</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>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>9. Beswaargrond 7 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. Basis of protest 7 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>Motivering: Beswaargrond 7</i></p>	<p>9.1 <i>Motivation: Basis of protest 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>9.1.1 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 Hierdeur word die indruk geskep dat die Appèlprosedure wat aanbeveel word, die besluite van vorige Sinodes verreken en handhaaf.</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 Indien die besluite meer noukeurig nagegaan word, blyk die teendeel waar te wees.</p>	<p>9.1.3 When these decisions are examined more closely the contrary seems to be true.</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>9.1.4 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 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>9.1.5 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 Die noodsaak vir die verandering (KO, art 46) van die besluit van</p>	<p>9.1.6 The need to change (CO, art 46) the decision of Synod 1973, that the right</p>

<p>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>10. Beswaargrond 8 Die besluit van die Algemene Sinode 2015 oor die Appèlprosedure is in stryd met KO, artt 31 en 86.</p> <p>10.1 <i>Motivering: Beswaargrond 8</i> 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,</p>	<p>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>10. Basis of protest 8 The decision of the General Synod 2015 on the Appeal procedure is contrary to CO, arts 31 and 86.</p> <p>10.1 <i>Motivation: Basis of protest 8</i> 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</p>
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<p>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>11. Samevatting Die beswaargrond, die motivering daarvoor en die bevindings toon dat die Appèlprosedure waarop die Algemene Sinode 2015 besluit het, in stryd is met 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 bepalinge en die ter sake kerklike besluite daarvoor.</p>	<p>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>11. Summary 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 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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F. RAPPORT VAN KOMMISSIE BESWAARSKRIFTE 3 / REPORT OF COMMISSION GRAVAMINA 3

<p>1. Sake om van kennis te neem</p> <p>1.1 <i>Hantering van Beswaarskrifte</i></p> <p>1.1.1 Aanvanklik is net drie Beswaarskrifte (11.2, 11.3, 12.2.3) na die Kommissie verwys, maar na oorleg met die Orde-kommissie, ds FM Dreyer, asook met ds CJ van Vuuren (Voorsitter van Kommissie Beswaarskrifte 1), is een van die ander twee Beswaarskrifte van ds FM Dreyer (12.2.2) ook deur die Kommissie hanteer.</p> <p>1.1.2 Terwyl die Rapport al vier Beswaarskrifte hanteer, word net die Eerste Beswaarskrif (11.2) behandel terwyl op grond van die bevinding ten opsigte van die Eerste Beswaarskrif, sekere aanbevelings oor die ander drie Beswaarskrifte gemaak word.</p> <p>1.1.3 Ten opsigte van die Eerste Beswaarskrif (11.2), is beswaargrond 2, 4, 6 en 8 deur ds FM Dreyer teruggetrek, terwyl die laaste woorde van beswaargrond 7 (<i>en die Negende Gebod</i>) deur hom geskrap is.</p> <p>1.1.4 Uit gesprekke met ds FM Dreyer het dit duidelik geword dat sy bedoeling met sy Beswaarskrifte nie is om met die hele Appèlprosedure wat Sinode</p>	<p>1. Matters to take notice of</p> <p>1.1 <i>Dealing with Petition of protests</i></p> <p>1.1.1 At first, only three objections (11.2, 11.3, 12.2.3) were referred to the Commission, but after consultation with the Order commission, Rev FM Dreyer, as well as Rev CJ van Vuuren (Chairman of the Points of Protest Commission 1) one of the other two objections of Rev FM Dreyer (12.2.2) is also handled by the Commission.</p> <p>1.1.2 While the Report deals with all four objections, only the first objection (11.2) is dealt with in detail, while on the basis of the finding in respect of the First Petition of protest, certain recommendations are made regarding the other three objections.</p> <p>1.1.3 With regard to the first objection (11.2), objections 2, 4, 6 and 8 were withdrawn by Rev FM Dreyer, while the last words of objection 7 (<i>and the Ninth Commandment</i>) were deleted by him.</p> <p>1.1.4 From conversations with Rev FM Dreyer it became clear that the intention with his objections was not to put the entire Appeal procedure</p>
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<p>2015 vasgestel het, weg te doen nie, maar wel om te sorg dat die Appèl-prosedure hersien word.</p>	<p>established by Synod 2015 aside, but to ensure that the Appeal procedures were reviewed.</p>
<p>1.2 <i>Historiese agtergrond</i></p>	<p>1.2 <i>Historical background</i></p>
<p>1.2.1 Sinode Potchefstroom het in 1939 al 'n Appèlprosedure vasgestel.</p>	<p>1.2.1 Synod Potchefstroom already established an Appeal procedure in 1939.</p>
<p>1.2.2 Sinode 2012 het toe die versoek ontvang om 'n gewysigde Appèlprosedure te aanvaar, om sodoende met wysheid effektiewe regspraak te bevorder.</p>	<p>1.2.2 Synod 2012 then received the request to accept an amended Appeal procedure, in order to be wise in promoting efficient judgement.</p>
<p>1.2.3 Sinode 2012 het hierdie versoek toegestaan, maar aangedui dat Studiedeputate hierdie Appèlprosedure moes verfyn.</p>	<p>1.2.3 Synod 2012 granted this request, but indicated that Study Deputies had to refine this Appeal procedure.</p>
<p>1.2.4 Sinode 2012 het vir die interim die voorgestelde Appèlprosedure as Appèlprosedure vasgestel.</p>	<p>1.2.4 Synod 2012 set the proposed Appeal procedure for appeal as an interim Appeal procedure.</p>
<p>1.2.5 Sinode 2015 het op grond van die Studiedeputate se Rapport die finale Appèlprosedure vasgestel.</p>	<p>1.2.5 Synod 2015 established the final Appeal procedure on the basis of the Study Deputies' report.</p>
<p>1.3 <i>Afkortings gebruik</i> Die volgende afkortings word gebruik om die vloeï van die Rapport te vergemaklik:</p>	<p>1.3 <i>Abbreviations used</i> The following abbreviations are used to facilitate the flow of the Report:</p>
<p>1.3.1 2012-AP Appèlprosedure van 2012</p>	<p>1.3.1 2012-AP Appeal Procedure of 2012</p>
<p>1.3.2 2015-AP Appèlprosedure van 2015</p>	<p>1.3.2 2015-AP Appeal Procedure of 2015</p>
<p>1.3.3 2012-AP-besluit Besluit van Algemene Sinode 2012 oor die Appèlprosedure</p>	<p>1.3.3 2012-AP-decision Decision of General Synod 2012 on the Appeal Procedure</p>
<p>1.3.4 2015-AP-besluit Besluit van Algemene Sinode 2015 oor die Appèlprosedure</p>	<p>1.3.4 2015-AP-decision Decision of General Synod 2015 on the Appeal Procedure</p>
<p>Besluit: Punte 1.1 tot 1.3.4 kennis geneem.</p>	<p>Decision: Points 1.1 to 1.3.4 noted.</p>
<p>2. Evaluering van beswaargronde</p>	<p>2. Evaluation of grounds of protest</p>
<p>2.1 <i>Beswaargrond 1</i></p>	<p>2.1 <i>Basis of protest 1</i></p>
<p>2.1.1 <u>Bewering deur Beswaarskrif</u> Die Beswaarskrif beweer dat die 2015-AP-besluit in stryd is met die KO, artt 46 en 49, aangesien die opdrag aan die Studiedeputate was om die AP-2012 te verfyn, maar die 2015-AP-besluit uiteindelik 'n uitbreiding van die 2012-AP geword het toe gestel is dat die partye nie deur die volle meerdere vergadering aangehoor word nie.</p>	<p>2.1.1 <u>Claim by Petition of protest</u> The Petition of protest alleges that the 2015-AP-decision is contrary to the CO, arts 46 and 49, as the assignment to the Study Deputies was to refine the AP-2012, but the 2015-AP-decision ultimately extended the 2012-AP when it was stated that the parties are not to be heard by the meeting at large.</p>
<p>2.1.2 <u>Beredenering deur Beswaarskrif</u></p>	<p>2.1.2 <u>Argumentation by Petition of protest</u></p>
<p>2.1.2.1 Die Beswaarskrif stel dat die 2012-AP nie die partye in die Appèl die</p>	<p>2.1.2.1 The Petition of protest states that the 2012-AP did not deny the parties to</p>

<p>reg ontnem het om deur die meerdere vergadering gehoor te word nie.</p>	<p>the Appeal to be heard by the major meeting.</p>
<p>2.1.2.2 Die Beswaarskrif wys daarop dat 8.2 van die 2015-AP-besluit stel dat aan die appellant en toeliger geen geleentheid tot toeligting of spreekbeurt gegee word nie wanneer die Rapport en aanbevelings van die Deputate ter tafel geneem word.</p>	<p>2.1.2.2 The Petition of protest indicates that 8.2 of the 2015-AP-decision stipulates that the appellant and representative shall not be given an opportunity to elucidate or speak when the Report and Recommendations of the Deputies are tabled.</p>
<p>2.1.2.3 Die Beswaarskrif stel dat hierdie <i>geen geleentheid tot toeligting of spreekbeurt</i> in die volle meerdere vergadering 'n uitbreiding op en wesentlike verandering aan die 2012-AP-besluit is.</p>	<p>2.1.2.3 The Petition of protest states that the <i>no opportunity to elucidate or speak in the meeting at large</i> is an extension and substantial change to the 2012-AP-decision.</p>
<p>2.1.2.4 Die Beswaarskrif stel dat die uitbreiding en verandering nie deel van die opdrag in die 2012-AP-besluit was nie en daarom in stryd is met KO, art 49.</p>	<p>2.1.2.4 The Petition of protest states that the extension and change were not part of the assignment in the 2012-AP-decision and therefore violated CO, art 49.</p>
<p>2.1.2.5 Die Beswaarskrif stel dat die uitbreiding en verandering sonder motivering gedoen is en daarom in stryd is met KO, art 46.</p>	<p>2.1.2.5 The Petition of protest states that the extension and change has been done without motivation and therefore violated CO, art 46.</p>
<p>2.1.3 <u>Beoordeling van beswaargrond</u></p>	<p>2.1.3 <u>Evaluation of basis of protest</u></p>
<p>2.1.3.1 Die kernvraag met hierdie beswaargrond is of die Studiedeputate 'n wesentlike uitbreiding gemaak het van die 2012-AP al dan nie.</p>	<p>2.1.3.1 The key question with this basis of protest is whether the Study Deputies made a significant extension of the 2012-AP.</p>
<p>2.1.3.2 Alhoewel die Beswaarskrif beweer dat daar 'n wesentlike uitbreiding was, word dit geensins bewys nie. Daar word net gestel dat die <i>geen geleentheid tot toeligting of spreekbeurt</i> in die volle meerdere vergadering 'n uitbreiding is. Op watter manier hierdie bepaling 'n uitbreiding en nie 'n verfyning was nie, word egter nie deur die Beswaarskrif beredeneer nie.</p>	<p>2.1.3.2 Although the Petition of protest claims that there was a substantial expansion, it is not proven at all. It is only stated that the opportunity to elucidate or speak in the major meeting is an extension. In what way this provision was an extension and not a refinement, however, is not reasoned in the Petition of protest.</p>
<p>2.1.3.3 Daar moet verder in gedagte gehou word dat die Studiedeputate die mandaat gehad het om die 2012-AP te verfyn ... <i>met inagneming van goedgekeurde Appèlprosedures, asook studies oor Appèlprosedures, wat deur kerke met wie die GKSA ekumeniese eenheid het, onderneem is.</i> Die Deputate kon dus in die lig van hul studiewerk veranderinge aan die 2012-AP aanbring.</p>	<p>2.1.3.3 It should also be borne in mind that the Study Deputies had the mandate to refine the 2012 AP ... <i>taking into account approved Appeal procedures, as well as studies about Appeal procedures, undertaken by churches with whom the GKSA have ecumenical unity.</i> The Deputies, therefore, could make changes to the 2012-AP in the light of their study work.</p>
<p>2.1.3.4 Waar die Beswaarskrif nie die beweerde uitbreiding bewys het nie,</p>	<p>2.1.3.4 Where the Petition of protest did not prove the alleged extension, it</p>

<p>kan dus ook nie gestel word dat hulle sonder motivering buite hul mandaat opgetree het nie.</p> <p>2.1.4 <u>Bevinding oor beswaargrond</u> Die Beswaarskrif is nie korrek om te beweer dat die 2015-AP in stryd met KO, artt 46 en 49, is omdat die Deputate 'n wesentlike uitbreiding van die 2012-AP gemaak het nie.</p> <p>Besluit: Punte 2.1 tot 2.1.4 kennis geneem.</p> <p>2.1.5 <u>Aanbeveling</u> Die beswaar slaag nie op beswaargrond 1 nie.</p> <p>Besluit: Goedgekeur.</p> <p>2.2 <i>Beswaargrond 3</i></p> <p>2.2.1 <u>Bewering deur Beswaarskrif</u> Die Beswaarskrif beweer dat die 2015-AP-besluit in stryd is met die KO, art 31, aangesien die 2015-AP dit vir die kerklike vergaderings onmoontlik maak om reg te spreek wanneer die partye nie deur die volle meerdere vergadering aangehoor word nie.</p> <p>2.2.2 <u>Beredenering deur Beswaarskrif</u></p> <p>2.2.2.1 Die Beswaarskrif stel dat KO, art 31, bepaal dat 'n kerklike vergadering in sy totaliteit in 'n appèl moet regsprek en nie net een of 'n paar persone nie.</p> <p>2.2.2.2 Die Beswaarskrif stel dat die 2015-AP-besluit egter die regspraak vanaf die kerklike vergadering na die Appèldeputate verskuif het, aangesien in die 2015-AP die Deputate die Appèl beoordeel en bevindings daarvoor maak, terwyl die kerklike vergadering net die werkswyse van die Deputate beoordeel.</p> <p>2.2.2.3 Die Beswaarskrif stel verder dat die 2015-AP-besluit die regspraak vanaf die kerklike vergadering na die Appèldeputate verskuif het, aangesien in die 2015-AP net 'n samevatting van die Appèl deur die Deputate in hul Rapport voorgelê word en die volle Appèl nooit deur die volle vergadering ontvang word nie.</p> <p>2.2.2.4 Die Beswaarskrif stel ook dat die 2015-AP-besluit die regspraak vanaf die kerklike vergadering na</p>	<p>cannot therefore be stated that they acted outside of their mandate without motivation.</p> <p>2.1.4 <u>Finding about basis of protest</u> The Petition of protest is therefore incorrect to claim that the 2015-AP was in contravention of CO, arts 46 and 49, because the Deputies made a substantial extension of the 2012-AP.</p> <p>Decision: Points 2.1 to 2.1.4 noted.</p> <p>2.1.5 <u>Recommendation</u> The Petition of protest does not succeed in basis of protest 1.</p> <p>Decision: Approved.</p> <p>2.2 <i>Basis of protest 3</i></p> <p>2.2.1 <u>Claim by Petition of protest</u> The Petition of protest alleges that the 2015-AP-decision is in violation of the Church Order, article 31, as the 2015-AP makes it impossible for the church meetings to deliver judgement when the parties are not heard by the full plenary session.</p> <p>2.2.2 <u>Argumentation by Petition of protest</u></p> <p>2.2.2.1 The Petition of protest states that CO, art 31, stipulates that a church meeting in its entirety should deliver judgement in an appeal and not just one or a few persons.</p> <p>2.2.2.2 The Petition of protest states, however, that the 2015-AP-decision moved the delivering of judgement from the major meeting to the Appeal Deputies, as in the 2015-AP the Deputies judge the Appeal and make findings about it, while the major assembly only decides whether the Deputies acted in accordance with the approved working method.</p> <p>2.2.2.3 The Petition of protest further states that the 2015-AP-decision moved the case from the ecclesiastical meeting to the Appeal Depots, as in the 2015 AP only a summary of the Appeal was submitted by the Deputies in their Report and the full Appeal never received by the full meeting.</p> <p>2.2.2.4 The Petition of protest also states that the 2015 AP decision moved the adjudication from the major meeting</p>
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<p>die Appèldeputate verskuif het, aangesien in die 2015-AP die appellant en die verweerder geen geleentheid gegee word om in die volle kerklike vergadering te praat nie.</p>	<p>to the Appeal Deputies, as in the 2015-AP the appellant and the defendant were not given an opportunity to speak in the full major meeting.</p>
<p>2.2.2.5 Die Beswaarskrif stel uiteindelik dat hiermee die basiese regsbeginsele dat al die getuie en albei die partye aangehoor moet word, verbreek word.</p>	<p>2.2.2.5 Finally, the Petition of protest states that the basic legal principles that all evidence and both parties should be heard, are violated.</p>
<p>2.2.3 <u>Beoordeling van beswaargrond</u></p>	<p>2.2.3 <u>Evaluation of basis of protest</u></p>
<p>2.2.3.1 Die Beswaarskrif is korrek wanneer gestel word dat KO, art 31, bepaal dat die kerklike vergadering in die geval van 'n Appèl moet regsprek.</p>	<p>2.2.3.1 The Petition of protest is correct when it is stated that CO, art 31, stipulates that the major meeting has to deliver judgement in the event of an Appeal.</p>
<p>2.2.3.2 Die Beswaarskrif is ook korrek wanneer gestel word dat die 2015-AP bepaal dat die volle Appèl nie aan die kerklike vergadering voorgelê word, dat die appellant en verweerder geen spreekbeurt in die kerklike vergadering self kry nie en dat die kerklike vergadering net die werkswyse van die Deputate en nie die materie van die saak beoordeel nie.</p>	<p>2.2.3.2 The Petition of protest is also correct when it is stated that the 2015-AP determines that the full Appeal is not submitted to the major meeting, that the appellant and defendant do not receive an opportunity to speak at the major meeting itself and that the major meeting only adjudicates the working method of the Deputies and not the material content of the matter.</p>
<p>2.2.3.3 Hiermee toon die Beswaarskrif aan dat in die 2015-AP die wesentlike deel van die regspraak by die Deputate lê en nie by die kerklike vergadering nie.</p>	<p>2.2.3.3 In this way, the Petition of protest indicates that in the 2015-AP the material part of the judgement is with the Deputies and not with the major meeting.</p>
<p>2.2.3.4 Daar moet in gedagte gehou word dat die 2015-AP ontwikkel is om indringende regspraak te bevorder en die regspraak te bespoedig. Daarom is die wese van die behandeling van die Appèl in die 2015-AP met 'n welomskrewe opdrag na die Deputate verskuif, terwyl die meerdere vergadering die werkswyse van die Deputate beoordeel.</p>	<p>2.2.3.4 It should be borne in mind that the 2015-AP was developed to promote incisive judgement and to speed up the process. Therefore, the essence of the Appeal process in the 2015-AP has been moved to the Deputies with a well-defined mandate, while the major meeting evaluates the Deputies' working methods.</p>
<p>2.2.3.5 Tog is dit so dat die huidige formulering van die 2015-AP daartoe lei dat – juis as daar verskil van mening tussen die appellant of verweerder en die Appèldeputate is – die meerdere vergadering nie na alle partye luister voordat 'n uitspraak oor die werkswyse gemaak word nie.</p>	<p>2.2.3.5 However, it is true that the current wording of the 2015-AP leads to the situation that – if there is a difference of opinion between the appellant or defendant and the Appeal Deputies – the major meeting does not listen to all parties before a judgement about the way of working is delivered.</p>
<p>2.2.4 <u>Bevinding oor beswaargrond</u> Die Beswaarskrif is korrek dat die</p>	<p>2.2.4 <u>Finding about basis of protest</u> The Petition of protest is correct that</p>

<p>2015-AP in stryd met KO, art 31, is, in dié opsig dat die meerdere vergadering nie na die repliek van alle partye luister voordat oor die werkswyse van die Appèldeputate geoordeel word nie.</p> <p>Besluit: Punte 2.2.1 tot 2.2.4 kennis geneem.</p> <p>2.2.5 <u>Aanbeveling</u> Die beswaar slaag op beswaargrond 3, soos aangedui in 2.2.4.</p> <p>Besluit: Goedgekeur.</p> <p>2.3 <i>Beswaargrond 5</i></p> <p>2.3.1 <u>Bewering deur Beswaarskrif</u> Die Beswaarskrif beweer dat die 2015-AP-besluit in stryd is met die KO, art 49, aangesien die 2015-AP Deputate oor Appèlle laat beslis waaroor die betrokke meerdere vergadering nog nie 'n besluit geneem het nie.</p> <p>2.3.2 <u>Beredenering deur Beswaarskrif</u></p> <p>2.3.2.1 Die Beswaarskrif stel dat KO, art 49, bepaal dat Deputate 'n welomskrewe opdrag ontvang oor sake waaroor 'n meerdere vergadering reeds besluit het.</p> <p>2.3.2.2 Die Beswaarskrif stel dat die 2015-AP egter Appèldeputate aanwys om Appèlle te hanteer waaroor die meerdere vergadering nog nie enige besluit geneem het nie.</p> <p>2.3.3 <u>Beoordeling van beswaargrond</u></p> <p>2.3.3.1 Die Beswaarskrif is korrek wanneer gestel word dat KO, art 49, veronderstel dat Deputate 'n welomskrewe opdrag het na aanleiding van 'n besluit wat reeds deur die meerdere vergadering beslis is.</p> <p>2.3.3.2 Die Beswaarskrif is egter nie korrek nie wanneer gestel word dat met die 2015-AP die meerdere vergadering nog nie 'n besluit oor die Appèl geneem het nie. Met die gebruik van die 2015-AP word naamlik in die aanwys van Appèldeputate deur die meerdere vergadering duidelik gemaak dat die Appèldeputate die opdrag kry om enige Appèl wat ontvang word, volgens die Appèl-prosedure te hanteer.</p> <p>2.3.4 <u>Bevinding oor beswaargrond</u> Die Beswaarskrif is dus nie korrek om te beweer dat die 2015-AP in stryd</p>	<p>the 2015-AP is in violation of CO, art 31, in that the major meeting does not listen to the counter-plea of all parties before a judgement about the way of working is delivered.</p> <p>Decision: Points 2.2.1 to 2.2.4 noted.</p> <p>2.2.5 <u>Recommendation</u> The Petition of protest does succeed in basis of protest 3, as stated in 2.2.4.</p> <p>Decision: Approved.</p> <p>2.3 <i>Basis of protest 5</i></p> <p>2.3.1 <u>Claim by Petition of protest</u> The Petition of protest alleges that the 2015-AP-decision is contrary to the CO, art 49, as the 2015-AP get the Deputies to decide on appeals on which no decisions were yet taken by the major meeting.</p> <p>2.3.2 <u>Argumentation by Petition of protest</u></p> <p>2.3.2.1 The Petition of protest states that CO, art 49, provides that Deputies receive a well-written mandate on matters that have already been decided by a major meeting.</p> <p>2.3.2.2 The Petition of protest states that the 2015-AP appoints Appeal Deputies to adjudicate Appeals on which the major meeting has not yet taken any decision.</p> <p>2.3.3 <u>Evaluation of basis of protest</u></p> <p>2.3.3.1 The Petition of protest is correct when it is states that CO, art 49, assumes that Deputies have a well-defined mandate following a decision already taken by the major meeting.</p> <p>2.3.3.2 However, the Petition of protest is incorrect when it is states that with the 2015-AP the major meeting has not yet taken a decision on the Appeal. With the use of the 2015-AP, the appointment of Appeal Deputies by the major meeting makes it clear that the appointed Appeal Deputies' mandate is to adjudicate any Appeal received in accordance with the Appeal Procedure.</p> <p>2.3.4 <u>Finding about basis of protest</u> The Petition of protest is therefore incorrect to claim that the 2015-AP is</p>
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<p>met KO, art 49, is wanneer dit Deputate oor sake laat handel waaroor die betrokke meerdere vergadering nog nie gehandel het nie.</p> <p>Besluit: Punte 2.3.1 tot 2.3.4 kennis geneem.</p> <p>2.3.5 <u>Aanbeveling</u> Die beswaar slaag nie op beswaargrond 5 nie.</p> <p>Besluit: Goedgekeur.</p> <p>2.4 <u>Beswaargrond 7</u></p> <p>2.4.1 <u>Bewering deur Beswaarskrif</u> Die Beswaarskrif beweer dat die 2015-AP-besluit in stryd is met vorige besluite van die Sinode is, aangesien Sinode Potchefstroom in 1973 reeds besluit het dat die appellant en verweerder die reg op repliek in die kerklike vergadering het.</p> <p>2.4.2 <u>Beredenering deur Beswaarskrif</u></p> <p>2.4.2.1 Die Beswaarskrif stel dat die Rapport van die Studiedeputate wat die 2015-AP saamgestel het, na vorige Sinodebesluite aangaande Appèlprosedures verwys het en dat dus verwag sou kon word dat hierdie Sinodebesluite in die 2015-AP verreken sou wees.</p> <p>2.4.2.2 Die Beswaarskrif wys op 'n besluit van Sinode Potchefstroom in 1973 waardeur die reg tot repliek deur die appellant en die verweerder in die kerklike vergadering gehandhaaf word.</p> <p>2.4.2.3 Die Beswaarskrif argumenteer dat die 2015-AP die repliek deur die appellant en verweerder na die vergadering van die Deputate verskuif, wat gevolglik in stryd met die besluit van 1973 sou wees.</p> <p>2.4.3 <u>Beoordeling van beswaargrond</u></p> <p>2.4.3.1 Sinode Potchefstroom 1939 het 'n Appèlprosedure daargestel waarin vasgestel is dat 'n meerdere vergadering 'n Appèlkommissie aanwys om onder andere <i>die meerdere vergadering van advies te dien omtrent die besluit wat geneem moet word, na 'n kort uiteensetting van die feite in die Appèl aangevoer, wel te verstane, behoudens die reg van die appellant volgens KO, art 31.</i></p> <p>2.4.3.2 Sinode Potchefstroom 1973 is</p>	<p>contrary to CO, art 49, when it allows the Deputies to deal with matters on which the major meeting didn't make any decision yet.</p> <p>Decision: Points 2.3.1 to 2.3.4 noted.</p> <p>2.3.5 <u>Recommendation</u> The Petition of protest does not succeed in basis of protest 5.</p> <p>Decision: Approved.</p> <p>2.4 <u>Basis of protest 7</u></p> <p>2.4.1 <u>Claim by Petition of protest</u> The Petition of protest alleges that the 2015-AP-decision is contrary to previous resolutions of the Synod since, in 1973, Synod Potchefstroom decided that the appellant and representative had the right to counter-plea in the major assembly.</p> <p>2.4.2 <u>Argumentation by Petition of protest</u></p> <p>2.4.2.1 The Petition of protest states that the Report of the Study Deputies which compiled the 2015-AP, referred to previous Synod decisions on Appeal procedures and that it could therefore be expected that these Synod decisions would be taken into account in the 2015-AP.</p> <p>2.4.2.2 The Petition of protest then refers to a decision of Synod Potchefstroom in 1973, whereby the right to counter-plea is given to the appellant and the representative in the major assembly itself.</p> <p>2.4.2.3 The Petition of protest argues that the 2015-AP moved the counter-plea by the appellant and representative to the meeting of the Deputies, which would therefore be contrary to the 1973-decision.</p> <p>2.4.3 <u>Evaluation of basis of protest</u></p> <p>2.4.3.1 Synod Potchefstroom 1939 established an Appeal procedure stating that a major meeting appoints an Appeal commission <i>to advise, inter alia, the major meeting of the decision to be taken after a brief exposition of the facts refer to in the Appeal, subject to the appellants' right according to CO, art 31.</i></p> <p>2.4.3.2 Synod Potchefstroom 1973 was</p>
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<p>versoek om hierdie bepaling en spesifiek die woorde <i>behoudens die reg van die appellant volgens KO, art 31</i> te interpreteer.</p> <p>2.4.3.3 Sinode Potchefstroom 1973 het hierdie interpretasie toe soos volg verwoord: <i>Die appellant en die verweerder moet na die Rapport van die Appèlkommissie ter tafel geneem is, die reg tot repliek hê.</i></p> <p>2.4.3.4 Die Beswaarskrif is dus korrek om te stel dat Sinode Potchefstroom 1973 bepaal het dat die appellant en die verweerder die reg op repliek in die volle vergadering het.</p> <p>2.4.3.5 Die Beswaarskrif is ook korrek wanneer dit stel dat die 2015-AP die reg tot repliek na die vergadering van die Deputate verskuif. Die 2015-AP gee naamlik in 7.5.14 aan die appellant die geleentheid om in die vergadering van die Deputate repliek te lewer, maar stel dan pertinent in 8.2 dat die appellant en toeligter geen geleentheid kry om – wanneer die Rapport van die Appèldeputate dien – enige toeligting te gee nie. Daar word selfs pertinent in die 2015-AP gestel: <i>Aan die appellant en toeligter word geen spreekbeurt gegee nie</i> (8.2).</p> <p>2.4.4 <u>Bevinding oor beswaargrond</u> Die Beswaarskrif is dus korrek wanneer dit stel dat wanneer die 2015-AP die reg tot repliek tot die vergadering van die Deputate beperk, dit in stryd is met die besluit van 1973.</p> <p>Besluit: Punte 2.4.1 tot 2.4.4 kennis geneem.</p> <p>2.4.5 <u>Aanbeveling</u> Die beswaar slaag op beswaargrond 7.</p> <p>Besluit: Goedgekeur.</p> <p>2.5 <i>Samevattende aanbevelings</i></p> <p>2.5.1 Die Beswaarskrif slaag.</p> <p>Besluit: Goedgekeur.</p> <p>2.5.2 Aangesien die fokus van die beswaarde nie was om met die hele Appèlprosedure weg te doen nie, maar wel dat die Appèlprosedure hersien word, word Deputate aangewys met die volgende opdrag: <i>Hersien die Appèlprosedure wat deur Sinode</i></p>	<p>requested to interpret this provision and specifically the words <i>subject to the appellant's right according to CO, art 31.</i></p> <p>2.4.3.3 Synod Potchefstroom, 1973, made this interpretation as follows: <i>The appellant and the defendant should have the right to counter-plea after the Report of the Appeal committee has been tabled.</i></p> <p>2.4.3.4 The Petition of protest is therefore correct to state that Synod Potchefstroom 1973 determined that the appellant and the defendant had the right to counter-plea in the full meeting.</p> <p>2.4.3.5 The objection is also correct when it states that the 2015-AP moves the right to counter-plea to the meeting of the Deputies. According to 7.5.14, the 2015-AP gives the appellant the opportunity to counter-plea in the meeting of the Deputies but, in 8.2, also states that the appellant and the representative do not have the opportunity – when the Report of the Appeals Deputies is tabled – to elucidate anything. It is even stated in the 2015-AP: <i>Neither the appellant nor the representative are the opportunity to speak</i> (8.2).</p> <p>2.4.4 <u>Finding about basis of protest</u> The objection is therefore correct when it states that when the 2015-AP limits the right to counter-plea to the meeting of the Deputies, it contradicts the 1973-decision.</p> <p>Decision: Points 2.4.1 to 2.4.4 noted.</p> <p>2.4.5 <u>Recommendation</u> The Petition of protest does succeed in basis of protest 7.</p> <p>Decision: Approved.</p> <p>2.5 <i>Summary recommendations</i></p> <p>2.5.1 The Petition of protest succeeds.</p> <p>Decision: Approved.</p> <p>2.5.2 Since the focus of the Petition of protest was not to do the entire Appeal procedure aside, but for the Appeal procedure to be reviewed, Deputies are appointed with the following assignment: <i>Revise the Appeals procedures established by Synod</i></p>
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<p><i>2015 vasgestel is, met inagneming van die wesentlike problematiek wat in hierdie Beswaarskrif aangetoon is, naamlik dat die appellant en verweerder geen reg tot Appèl by die volle byeenkoms van die meerdere vergadering kan gee nie.</i></p> <p>Besluit: Goedgekeur. Verwys na Kommissie aanwys van Deputate.</p> <p>2.5.3 Aangesien die ander drie Beswaarskrifte van ds FM Dreyer (asook die oorblywende Beswaarskrif van ds FM Dreyer wat deur Beswaarskrifkommissie 1 hanteer word – 12.2.1) op die praktyk fokus van die beginsel wat in hierdie Beswaarskrif aan die orde gestel is, word – met instemming van ds FM Dreyer – hierdie Beswaarskrifte nie verder deur die Sinode hanteer en afgehandel nie. Die Beswaarskrifte word wel na die aangewese Deputate verwys om van die aspekte wat daarin genoem word, kennis te neem in die hersiening van die 2015-Appèlprosedure.</p> <p>Besluit: Goedgekeur, met byvoeging: Ds FM Dreyer stem in die vergadering in dat, omdat 2.5.3 goedgekeur is, die ander 3 Beswaarskrifte waarby hy betrokke is, asook 12.2.1 nie verder hanteer moet word nie.</p>	<p><i>2015, taking into account the material issues identified in this Petition of protest, namely that the appellant and the defendant are not given an opportunity for counter-plea at the plenary session of the major meeting.</i></p> <p>Decision: Approved. Referred to Commission appointing Deputies.</p> <p>2.5.3 Since the other three Petitions of protest of Rev FM Dreyer (as well as the remaining Petition of protest of Rev FM Dreyer handled by Points of Protest Commission 1 – 12.2.1) focus on the practice of the principle raised in this Petition of protest, these Petitions of protest – with the agreement of Rev FM Dreyer – are not handled and finalised by Synod. The Petitions of protest are referred to the designated Deputies in order to take note of during the review of the 2015 Appeal Procedure.</p> <p>Decision: Approved, with the addition: Rev FM Dreyer agrees in the meeting, that because 2.3.5 is approved, the other 3 Gravamina where he is involved in, as well as 12.2.1 is withdrawn.</p>
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