

20.7 RAPPORT DEPUTATE REGSAANGELEENTHEDE (Artt 58, 61, 62, 64, 203)

20.7 REPORT DEPUTIES LEGAL AFFAIRS (Arts 58, 61, 62, 64, 203)

- A. Die voorsitter, ds P Venter, vra die vergadering se begrip vir die feit dat die vergadering laat begin het.
The Chairperson, Rev. P Venter, ask the meeting's understanding for the fact that the meeting started late.
- B. Die Moderamen was in gesprek met prof J Smit aangaande advies wat hy wou gee aangaande die orde van die dag se gebeure.
Prof J Smit se advies is aangehoor in teenwoordigheid van dr GJ Meijer as vorige voorsitter van die Kuratore van die TSP.
Daar is saam besin oor die advies en die orde-reëlings waarna die moderamen reël dat volgende orde gaan geld:
- Rapporte 2-3 van die Kuratore TSP (24.2-24.3) word voorgehou.
 - Inligtingsvrae word gestel.
 - Rapporte 1-3 van Deputate Regsaangeleentehede (20.7) word voorgehou.
 - Inligtingsvrae word gestel.
 - Rapport word na Kommissie Teologiese Skool verwys vir advies.
- The Moderamen engaged with Prof J Smit regarding advice he wanted to give regarding the order of the day's events.
Prof J Smit's advice was heard in the presence of Dr GJ Meijer as previous Chairperson of the Curators of the TSP.
The advice was deliberated and the order arrangements by which the Moderamen arrange for the following order to apply:
- Reports 2-3 of the Curators TSP (24.2-24.3) are presented.
 - Information questions are posed.
 - Reports 1-3 of Deputies Legal Matters (20.7) are presented.
 - Information questions are posed.
 - Reports are referred to Commission Theological School for advice.
- C. Die Sinode gaan *in camera*
The Synod meets *in camera*.
- D. Prof J Smit stel die Rapport en Aanvullende Rapport asook die Advies aanvullend tot die Aanvullende Rapport.
Prof J Smit tables the Report and Supplementary Report as well as the Advice supplementary to the Supplementary Report.
- E. Geleentheid word gegee vir inligtingsvrae.
Opportunity is given for questions of information.
- F. Prof RM Britz beantwoord spesifieke vrae ter opheldering van die proses.
Prof RM Britz answers specific questions for clarification of the process.
- G. **Besluit:** Die Aanvullende Rapport en Advies word verwys na Kommissie Teologiese Skool.
Decision: The Supplementary Report and Advice are referred to Commission Theological School.
- H. Ds TJ van Vuuren rapporteer namens Kommissie Teologiese Skool.
Rev. TJ van Vuuren reports on behalf of Commission Theological School.

- I. Die Moderamen kry opdrag om 'n mediaverklaring aangaande die besluite voor te berei en uit te laat stuur.
The Moderamen is instructed to prepare and have a media release regarding the decisions sent out.

J. RAPPORT / REPORT

<p>1. Opdrag Acta 2003:454-458. Acta 2009:361. Acta 2012:260. Acta 2015:275. Besluit: Kennis geneem.</p> <p>2. Sake waarvan die Sinode kennis neem 2.1 <i>Aard van die werksaamhede van die Deputate vir Regsaangeleenthede</i> 2.1.1 Verskeie kerke en kerklike instansies waaronder plaaslike kerke, Deputate, die Administratiewe Buro en die Kuratorium kan die Deputate om regsadvies nader. 2.1.2 Die Deputate is in die afgelope termyn een keer saamgeroep om advies uit te bring oor 'n "nuwe" Ooreenkoms wat die Kuratore met die NWU onderhandel het. Die Deputate oordeel daaroor of 'n afsonderlike Rapport by hierdie dokument oor die bogenoemde aangeleentheid voor die Sinode behoort te dien en sal, indien nodig, so spoedig moontlik beskikbaar gestel word. 2.1.3 Die aard van die werksaamhede van die Deputate is soms sodanig dat advies telefonies en/of mondelings gegee moet word, in soverre dit moontlik is. Besluit: Punte 2.1.1 tot 2.1.3 kennis geneem.</p> <p>3. Sake waarvoor die Sinode besluit 3.1 Die Sinode benoem weer Deputate vir Regsaangeleenthede met die opdrag om kerke, kerklike vergaderings, Deputate, die Kuratore en instansies waaronder die Administratiewe Buro in dringende aangeleenthede en noodsaaklike gevalle van regsadvies te bedien, en/of te help om regsadvies te verkry. Besluit: Goedgekeur.</p>	<p>1. Mandate Acta 2003:454-458. Acta 2009:361. Acta 2012:260. Acta 2015:275. Decision: Noted.</p> <p>2. Matters that the Synod takes note of 2.1 <i>Nature of work of the Deputies Legal Affairs</i> 2.1.1 Different churches and churches institutions among which local churches, Deputies, the Administrative Bureau and the Curators can ask the Deputies for legal advice. 2.1.2 The Deputies were called together once in the past term to give advice on a "new" Agreement that the Curators negotiated with the NWU. The Deputies judge whether a separate Report to this document on the above matter should serve before the synod and will, if necessary, be made available as soon as possible. 2.1.3 The nature of the work of the Deputies sometimes requires giving advice telephonically and/or orally, as far as possible. Decision: Points 2.1.1 to 2.1.3 noted.</p> <p>3. Matters that the Synod decides on 3.1 The Synod is to appoint Deputies Legal Affairs with the mandate to provide legal advice and/or assist in obtaining legal advice to churches, church assemblies, Deputies, the Curators, and institutions such as the Administrative Bureau on urgent matters and necessary matters. Decision: Approved.</p>
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K. AANVULLENDE RAPPORT / SUPPLEMENTARY REPORT

1. Inleiding

Punt 2.1.2 van die *Rapport van die Deputate vir Regsaangeleenthede van die Algemene Sinode van die Gereformeerde Kerke in Suid-Afrika* verwys: “Die Deputate is in die afgelope termyn een keer saamgeroep om advies uit te bring oor ‘n “nuwe” Ooreenkoms wat die Kuratore met die NWU onderhandel het. Die Deputate oordeel daaroor of ‘n afsonderlike Rapport by hierdie dokument oor die bogenoemde aangeleentheid voor die Sinode behoort te dien en sal, indien nodig, so spoedig moontlik beskikbaar gestel word.”

2. Toeligting

Die Deputate vir Regsaangeleenthede is deur die Kuratore TSP versoek om ‘n advies uit te bring oor ‘n sogenaamde “konsep” Ooreenkoms, wat tussen die GKSA en die NWU vir die opleiding van Teologiese Studente onderhandel is. Binne hierdie konteks het die opleiding van teologiese studente spesifiek betrekking op die opleiding van kandidaatstudente. Dit is studente wat teologie studeer met die oog daarop om hulle as predikante in die Gereformeerde Kerke in Suid-Afrika beroepbaar te stel. Die bogenoemde onderhandelinge het teen die agtergrond van ‘n omvattende Rapport wat by die Algemene Sinode (2018) gedien het én die besluit wat dié Sinode op grond daarvan geneem het, plaasgevind (Acta 2018:1005, 2).

Die Deputate vir Regsaangeleenthede het geoordeel dat dit nodig is om oor hierdie aangeleentheid in meer detail aan die Algemene Sinode te rapporteer. Deputate het in die eerste plek ‘n verantwoordelikheid teenoor die Sinode as opdraggewer van Deputate. Daarby het die Deputate in ag geneem dat die kerke saam vir die opleiding van teologiese studente (KO, artt 18, 19) verantwoordelik is. Dié saak handel in geheel oor die behoud en voortbestaan van Gereformeerde teologiese opleiding in die GKSA. Ons oordeel dat die Sinode van al die beskikbare inligting voorsien behoort te word om ‘n verantwoordelike besluit daarvoor te neem.

1. Introduction

Point 2.1.2 of the *Report of the Deputies: Legal Affairs of the General Synod of the Gereformeerde Kerke in Suid-Afrika* refers: “The Deputies were convened this past term to offer advice about the ‘new’ Agreement the Curators negotiated with the NWU. The Deputies is considering whether a separate Report should be tabled to the Synod in conjunction to this document about the above matter and will, if necessary, be made available as soon as possible.”

2. Elucidation

The Curators TSP requested the Deputies: Legal Affairs to offer advice regarding a so-called “draft” Agreement negotiated between the GKSA and the NWU for the training of theology students. In this context the training of theology students specifically relates to the training of candidate students, i.e. students studying theology with the aim to becoming ministers in the GKSA. The above negotiations occurred against the background of a comprehensive report tabled to the General Synod and the decision this Synod made (Acta 2018:1005, 2).

The Deputies: Legal Affairs deemed it necessary to Report about this matter to the General Synod in greater detail, since the Deputies have a responsibility toward the Synod which give them their instructions. The Deputies also took into account that the churches are collectively responsible for the training of theology students (CO, arts 18, 19). This matter is in essence about the preservation and continuation of Reformed theological training in the GKSA. In our view the Synod should be provided with all the relevant information in order to make a responsible decision.

<p>Die advies wat die Deputate vir Regsaangeleenthede oor hierdie aangeleentheid uitgebring het, word by hierdie dokument aangeheg. Ons wys die Sinode hier kortliks op enkele aspekte van die saak, wat verdere aandag vereis:</p> <p>2.1 Die Kuratore het van (ander) regsgeleerdes gebruik gemaak sonder om die Regsdeputate daarvan te verwittig. Dit is problematies, aangesien dit nie moontlik is om te kontroleer óf en tot watter mate dieselfde inligting met die dieselfde nuanses aan die verskillende regsgeleerdes gegee is nie.</p> <p>2.2 Ons het nie insae in die “finale” bewoording van die konsep wat aan die Sinode vir goedkeuring voorgelê word nie.</p> <p>2.3 Ons het ernstige bedenkinge gehad oor verskeie aspekte van die konsepooreenkoms wat aan ons voorgelê is, en weet dus nie of die tekortkominge wat ons geïdentifiseer het uit die weg geruim is nie (Advies November 2022 aangeheg).</p> <p>2.4 Die verdere inligting wat ons aangevra het, is skynbaar vervat in die notules van die Kuratore en Kuratore Dagbestuur, maar ons het nie toegang tot wat op die oog af riskante juridiese besonderhede daarvan is, nie. (Een van die kwessies waaroor duidelikheid noodsaaklik is, is die vraag of die Kuratore of Kuratore Dagbestuur regtens oor die bevoegdheid beskik om 'n regspersoon namens of ten behoeve van die GKSA op te rig.)</p> <p>2.5 Daar is wesenlike risiko's verbonde aan die goedkeuring deur die Sinode van die ooreenkoms met die NWU en die oprigting van die GTA indien dit nie vooraf behoorlik deur die Deputate vir Regsaangeleenthede oorweeg kan word sodat aanbevelings daarvoor aan die Sinode voorgelê kan word.</p> <p>In die bogenoemde dokument (2.3) het die Regsdeputate hulle teleurstelling oor die verloop van hierdie aangeleentheid soos volg uitgespreek: “[D]it is jammer dat die Kuratore nie in hul onderhandelinge met die NWU vroeër die hulp van die Deputate vir regsaangeleenthede van die Algemene Sinode ingeroep het nie, sodat betyds</p>	<p>The advice of the Deputies: Legal Affairs about this matter is attached to this document. We briefly point out the following aspects that require attention:</p> <p>2.1 The Curators consulted (other) legal experts without notifying the Deputies: Legal Affairs. This is problematic since it is impossible to verify if and to what degree the same information, with the same nuances, was provided to the different legal experts.</p> <p>2.2 We have had no input into the “final” wording of the draft tabled to the Synod for approval.</p> <p>2.3 We had serious concerns about a number of aspects of the draft agreement tabled to us and, therefore, do not know whether the shortcomings we identified were addressed (Advice November 2022 attached).</p> <p>2.4 The additional information we requested is apparently set out in the Minutes of the Curators and Executive committee of the Curators, but we do not have access to the seemingly risky judicial details contained therein. (One of the issues that needs clarification is whether the Curators and Executive committee of the Curators have the legal authority to establish a legal entity on behalf of the GKSA.)</p> <p>2.5 There is significant risk associated with the Synod's approval of the agreement with the NWU and the establishing of the GTA if it is not first properly reviewed by the Deputies: Legal Affairs in order to table recommendations to the Synod.</p> <p>In the above document (2.3) the Deputies: Legal Affairs expressed their disappointment with the course this matter has taken as follows: “It is unfortunate that the Curators did not request the assistance of the Deputies: Legal Affairs of the General Synod earlier in their negotiations with the NWU that timeous support may be provided about</p>
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<p><i>ondersteuning gebied kon word oor hierdie sake wat ingrypende regs- en ander implikasies vir die opleiding van predikante en die posisie van beroepe teologiese professore inhou.”</i></p> <p>3. Aanbeveling</p> <p>3.1 Dat die konsepooreenkoms met die NWU, die opsegging deur die NWU van die 2006-ooreenkoms en die oprigtingsproses van die GTA na die Deputate vir Regsaangeleenthede vir studie en advies verwys word.</p> <p>Besluit: Die hele Rapport word verwys na Kommissie Teologiese Skool.</p>	<p><i>matters that have significant legal and other implications for the training of ministers and the position of called theology professors.”</i></p> <p>3. -Recommendation</p> <p>3.1 The draft agreement with the NWU, the NWU's termination of the 2006 agreement and the establishing process of the GTA should be referred to the Deputies: Legal Affairs for scrutiny and advice.</p> <p>Decision: The Report in its entirety is rereferred to Commission Theological School.</p>
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**L. AANVULLENDE RAPPORT – ADVIES AAN DIE KURATORE TSP
SUPPLEMENTARY REPORT – ADVICE TO THE CURATORS TSP**

<p>1. Inleiding</p> <p>1.1 Die Regsdeputate is deur die Kuratore van die Teologiese Skool Potchefstroom (Teologiese Skool) versoek om te adviseer oor 'n konsepooreenkoms wat deur die Kuratore met die Noordwes Universiteit (NWU) onderhandel is.</p> <p>1.2 Die kern van die Kuratore se mandaat van die Algemene Sinode (2018:1005) was om onderhandelinge met die NWU oor die ooreenkoms tussen die Universiteit en die Gereformeerde Kerke in Suid-Afrika (GKSA) wat in 'n vorige termyn begin het, voort te sit en om die bestaande ooreenkoms te handhaaf of spesifieke punte daarvan nuut te onderhandel vir goedkeuring deur die volgende Algemene Sinode asook om deurlopend alle moontlikhede te ondersoek om die Gereformeerde opleiding van kandidaatstudente te verseker. Die besluit was soos volg geformuleer: <i>“2. Sake waaroor die Sinode moet besluit</i> <i>2.1 Aanbeveling van Kuratore 14 November 2017 Die Algemene Sinode besluit:</i> <i>2.1.1 Dat die Kuratore van 2018-2021 opdrag ontvang om</i> <i>2.1.1.1 Die onderhandelinge met die Universiteit in ooreenstemming met die Ooreenkoms en in die lig van die Rapport van die Kuratore en Sinodebesluite hieroor voort te sit.</i> <i>2.1.1.2 Volgens die regulasies van die</i></p>	<p>1. Introduction</p> <p>1.1 The Curators of the Theological School Potchefstroom (Theological School) requested the Deputies: Legal Affairs to advise on a draft agreement negotiated between the Curators and the North-West University (NWU).</p> <p>1.2 The Curators' core mandate from the General Synod (2018:1005) was to continue negotiations with the NWU, initiated in a previous term, to uphold the existing agreement between the NWU and the Gereformeerde Kerke in Suid-Afrika (GKSA) or to renegotiate specific points for approval by the next General Synod as well as to continually investigate opportunities to ensure the Reformed training of candidate students. The decision was formulated as follows: <i>“2. Matters for the Synod to decide:</i> <i>2.1 Recommendation of Curators 14 November 2017 The General Synod decision:</i> <i>2.1.1 The Curators of 2018-2021 are to be instructed to</i> <i>2.1.1.1 continue negotiations with the University in correspondence to the Agreement and in light of the Curators' report and Synod decisions;</i> <i>2.1.1.2 determine, in reference to the</i></p>
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<p><i>Raad vir Hoër Onderwys (CHE) die noodsaak vas te stel van die registrasie van 'n hoër onderwysinstelling.</i></p> <p><i>2.1.1.3 Die Kuratore wat met die saak gemoeid was (2015-2018) by die saak te betrek ten einde kontinuïteit te verseker.</i></p> <p><i>2.2 Om al die nodige finansiële en ander middele beskikbaar te stel om die Kuratore in staat te stel om die bestaande Ooreenkoms met die NWU te handhaaf of spesifieke punte van die Ooreenkoms nuut te onderhandel vir goedkeuring deur die volgende Sinode.</i></p> <p><i>2.3 Dat die Kuratore opdrag ontvang om deurlopend alle moontlikhede te ondersoek om die Gereformeerde opleiding van kandidaatstudente te verseker.</i></p> <p><i>Besluit: Punte 2.1 tot 2.3 goedgekeur" (Acta 2018, 1005).</i></p>	<p><i>regulations of the Council for Higher Education (CHE) the need to register a higher education institution; and</i></p> <p><i>2.1.1.3 coordinate with the Curators responsible in the matter (2015-2018) to ensure continuity.</i></p> <p><i>2.2 All necessary financial and other means must be made available to enable the Curators to uphold the existing agreement with the NWU or to renegotiate specific points for approval by the next Synod.</i></p> <p><i>2.3 The Curators are to be instructed to continually investigate opportunities to ensure the Reformed training of candidate students.</i></p> <p><i>Decision: Points 2.1 to 2.3 approved." (Acta 2018, 1005)</i></p>
<p>1.3 Ten aansien van die implementering van die besluit moet as uitgangspunt aanvaar word, teen die agtergrond van die Kerkorde, dat die Kuratore se basiese mandaat is om beheer en toesig uit te oefen oor die funksionering van die teologiese skool en die opleiding van teologiese studente wat deur beroepe professore waargeneem word. Hulle kan nie 'n mandaat hê om besluite te neem ten aansien van die bestaan al dan nie van die teologiese skool of die vestiging van ander instellings wat teologiese opleiding kan waarneem nie. Dit is nodig om dit ter agtergrond duidelik te stel.</p>	<p>1.3 The point of departure of the implementation of the decision, in reference to the Church Order, must be that the Curators' basic mandate is the management and supervision of the functioning of the Theological School and the training of theology students conducted by called professors. They cannot be mandated to make decisions regarding the existence of the Theological School or the creation of other institutions to monitor theological training. This must be made clear from the start.</p>
<p>1.4 Die advies wat versoek is, is nie in spesifieke terme nie, en dit is nie presies duidelik wat die vraag is waarop die Regsdeputate 'n antwoord moet gee nie. Ons het verdere inligting van die Kuratore versoek om die advies wat van die Regsdeputate versoek word in konteks te plaas, maar hierdie inligting is nie deur die Dagbestuur van die Kuratore aan die Regsdeputate verskaf nie. Ons volstaan met 'n enkele opmerkings daarvoor in paragrawe 1.14 en 1.15 hieronder.</p>	<p>1.4 The advice requested was not specific and it is not exactly clear what question the Deputies: Legal Affairs must answer. We have requested further information from the Curators to place the advice sought from the Deputies: Legal Affairs into context, but the Curators have not provided such information. We, therefore, limit ourselves to with a few remarks in this regard in paragraphs 1.14 and 1.15 below.</p>
<p>1.5 Daar was 'n aanduiding dat die</p>	<p>1.5 It would seem that the Executive</p>

<p>Dagbestuur van die Kuratore by die Regsdeputate wou uitvind of die konsepooreenkoms moontlik sou kon werk. Dit lei egter tot die vraag waaraan die konsepooreenkoms getoets behoort te word. Onses insiens kan dit net getoets word aan die Gereformeerde Kerkreg, die mandaat van die Kuratore en die houdbaarheid van die konsep uit 'n regsdoelwit. Ons behandel die kwessie daarom in die algemeen, uit die oogpunt van die Gereformeerde Kerkreg en die Kuratore se mandaat. Ons verwys ook kortliks na enkele ander praktiese aspekte en vrae wat opduik insluitend aspekte waaroor die konsepooreenkoms nie duidelik is nie of in die toekoms 'n probleem vir die kerke kan skep, byvoorbeeld oor die posisie van die beroepe professore.</p> <p>1.6 Die agtergrond is dat die Fakulteit Teologie van die NWU etlike jare gelede 'n leerstoel vir Pentekostalisme van die AGS aan die Universiteit se Fakulteit van Teologie ingestel het. Hierdie optrede het in kort daarop neergekom dat die NWU die bestaande ooreenkoms, wat op samewerking tussen NWU en die kerke gebaseer is en reformatiese teologiese opleiding by die Fakulteit in die vooruitsig stel, verbreek. Daarna het 'n uitgerekte proses gevolg wat ten doel het om 'n nuwe ooreenkoms te onderhandel om die ooreenkoms wat in 2006 tussen die kerke en die NWU gesluit is, te vervang. Die voorgestelde ooreenkoms wat nou aan die Regsdeputate voorgelê word is blykbaar die konsep wat dusver onderhandel is.</p> <p>1.7 Die NWU het dit by herhaling duidelik gestel dat dit hulle siening is dat die Wet op Hoër Onderwys dit nie moontlik maak om 'n ooreenkoms met die kerke te hê nie, maar slegs met 'n Privaat Hoër Onderwysinstelling wat in terme van die Wet op Hoër Onderwys by die Departement van Hoër Onderwys geregistreer is. (Dit is natuurlik nie heeltemal korrek nie aangesien die Universiteit met verskeie entiteite soos onder meer banke, professionele liggame,</p>	<p>committee of the Curators sought to find out from the Deputies: Legal Affairs whether the draft agreement could possibly work. This, however, leads to the question of how to test the draft agreement. In our view it can only be measured against Reformed Church Law, the mandate of the Curators and the soundness of the draft from a legal perspective. We, therefore, review the matter largely in terms of Reformed church law and the Curators' mandate. We also briefly refer to a number of other practical aspects and questions that would arise including items about which the draft agreement is not sufficiently clear or that might be problematic for the churches in future, for example, the position of the called professors.</p> <p>1.6 This matter stems from a decision a number of years ago by the Faculty of Theology of the NWU to institute a research chair for Pentecostalism of the AGS at the University's Faculty of Theology. This action basically constituted a breach of contract by the NWU of the existing agreement, which is based on cooperation between the NWU and the churches that is intent on Reformed theological training at the faculty. This led to a drawn-out process aimed at negotiating a new agreement to replace the agreement reached between the churches and the NWU in 2006. The proposed agreement tabled to the Deputies: Legal Affairs is apparently the draft negotiated thus far.</p> <p>1.7 The NWU has repeatedly made it clear that in their view the Higher Education Act does not provide for an agreement with the churches, but only with a private higher education institution registered in terms of the Higher Education Act with the Department of Higher Education. (This is of course not entirely correct since the University contracts with a variety of entities such as banks, professional bodies, contractors, etc. We assume, therefore, that here it relates to the</p>
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<p>kontrakteurs, ens kontraktee. Ons neem egter aan dit gaan hier oor die verskaffing van onderrig.) Daar word dan ook na die ooreenkoms as ‘n “diensvlakoooreenkoms” verwys. Hierin is die grootste verskil geleë: die 2006 ooreenkoms (en vorige ooreenkoms) het die selfstandigheid van die twee kontrakterende partye erken waar die nuwe benadering van die Universiteit (en die konsep-ooreenkoms wat aan ons voorgelê is) inhou dat die kerklike opleiding slegs ‘n afleweringpunt van en vir modules van die Universiteit word. Dit hou ‘n wesenlike verandering in die aard van die verhouding tussen die partye in.</p>	<p>provision of education.) The agreement is then also referred to as a “service-level agreement”. The main difference herein lies in the following: The 2006 agreement (and previous agreements) recognised the independence of the two contracting parties, while the new approach of the University (and the draft agreement tabled to us) means that church training would merely be a delivery point of and for modules of the University. This would be a significant change to the nature of the relationship between the parties.</p>
<p>1.8 Beskou vanuit die Kerkorde, is dit duidelik dat die opleiding van teologiese studente die verantwoordelikheid van die kerke is. Dit trek daarin saam dat die kerke professore in die teologie beroep om die opleiding waar te neem en dat die kerke (by wyse van die Kuratore), die verantwoordelikheid het vir die toesig oor die teologiese inhoud van die modules wat aangebied word. Die kerke het dus die bevoegdheid en die verpligting om toesig te hou oor die beroepe professore en oor die inhoud van die onderrig aan die teologiese studente, en hulle gee daaraan gevolg deur middel van die aanstelling van Kuratore.</p>	<p>1.8 Viewed from the Church Order perspective, the churches are responsible for the training of theology students, whereby the churches call professors of theology to conduct the training and the churches (by means of the Curators) are responsible for the supervision of the theological content of the modules presented. The churches, therefore, have the authority and obligation to supervise the professors called and the content of the training of theology students, which they do by appointing Curators.</p>
<p>1.9 Die kerke wou daarvoor voorsiening maak dat die teologiese opleiding van predikante van ‘n hoë akademiese standaard is. Die kerke het egter nie die bevoegdheid en kapasiteit om as onderwysinstelling in terme van die Wet op te tree nie. (Terloops, die destydse PU vir CHO het ook nie vanuit die teologiese skool ontwikkel nie, maar vanuit die literariese departement wat naas die teologiese skool ontwikkel is.) Daarby berus die verantwoordelikheid om onderwysinstellings daar te stel vir die opleiding van predikante nie by die kerke nie. Hulle taak is om die diens van die professore op so ‘n wyse te reël dat opleiding van teologiese studente kan plaasvind (KO, artt 2, 18, 19). Histories gesien wou die Universiteit (PU vir</p>	<p>1.9 The churches sought to ensure that the theological training of ministers is of a high academic standard. The churches do not, however, have the authority and capacity to act as an educational institution in terms of the Act. (Incidentally, the then PU for CHE did not develop from the Theological School, but from the literature department that was developed alongside the Theological School). It is not the churches’ responsibility to establish institutions for the training of ministers. Their task is to arrange the service of professors to enable the instruction of theology students (CO art 2, 18, 19). Historically speaking the University (PU for CHE) sought to establish a theology faculty that would be based on Reformed doctrine. The</p>

<p>CHO) 'n teologiese fakulteit, wat op 'n Reformatoriese basis funksioneer, daarstel. Die behoefte van die kerke en die Universiteit se ideaal het dus die ideale basis vir die jarelange samewerking tussen die partye geskep, soos vervat is in die 2006 ooreenkoms.</p>	<p>need of the churches and the University's ideal thus created the ideal basis for years of collaboration between the parties, as contained in the 2006 agreement.</p>
<p>1.10 Die 2006 ooreenkoms het as uitgangspunt die selfstandigheid van die Universiteit en kerke gehad en wedersyde samewerking ten doel gehad. Die Universiteit en die kerke kon hulle onderskeie ideale verweselik deur met mekaar saam te werk. Beide partye se regte en verpligtinge is in hierdie opsig gehandhaaf en kon wedersyds afgedwing word. Die kernpunt was dat hierdie samewerking in die diens van die professore saamtrek, soos dit in die onderskeie instellings se selfstandige reëling van die diens uitdrukking vind. Die konsep-ooreenkoms wyk fundamenteel van hierdie uitgangspunt af: Die uitgangspunt van die konsep-ooreenkoms is nie samewerking tussen die partye nie, maar berus eerder op diensverskaffing van die kerke aan die Universiteit. Dit beteken dat die kerke geen toesig meer oor die inhoud van die teologiese modules wat aan die kandidaatstudente aangebied word, het nie. Die kerke sal ook nie meer insae hê in wie aangestel moet word nie, hoewel hulle steeds finansiële sal moet bydra, en sal ook nie dissiplinêr teen enige sodanige personeel kan optree nie.</p>	<p>1.10 The 2006 agreement aimed at mutual cooperation between the University and the churches as autonomous institutions. The University and the churches could thereby achieve their particular ideals through mutual cooperation. The rights and obligations of both parties were as such upheld and could be mutually enforced. The key point was that this collaboration would converge in the work of the professors, as expressed in either party's independent organisation of such work. The draft agreement fundamentally deviates from this point of departure: The premise of the draft agreement is not collaboration between the parties, but rather the churches as service provider to the University. This means that the churches would no longer supervise the content of the theology modules offered to candidate students. The churches would also not have any involvement in the appointment of staff, while still having to contribute financially, and would not be able to take any disciplinary action against such staff members.</p>
<p>1.11 Soos gemeld was die basiese uitgangspunt van die 2006 ooreenkoms die selfstandigheid van die twee instellings. Klousule 1 van die ooreenkoms van 2006 stel dat die partye mekaar se wedersydse selfstandigheid erken en handhaaf. Dit is duidelik uit klousule 2 van die 2006 ooreenkoms dat die Universiteit slegs op voorstelling en aanbeveling van 'n aantal moontlike kandidate wat aan die gevraagde vereistes voldoen, heeltemal en selfstandig self besluit wie aangestel sal word. Die betrokke is dan deur die kerke in</p>	<p>1.11 As mentioned, the basic premise of the 2006 agreement was the independent functioning of the two institutions. Clause 1 of the 2006 agreement states that the parties recognise and uphold the other's autonomy. It is clear from clause 2 of the 2006 agreement that the University could only wholly and independently make appointments upon suggestion and recommendation of a number of possible candidates who meet the set requirements. The churches then called the relevant individual as professor of Theology according to their own procedures.</p>

<p>terme van hulle eie prosesse as professor in die Teologie as professor in die teologie beroep. Die Universiteit behartig die aanstelling van so 'n persoon in terme van sy eie prosesse en reëls. Daar is geen verpligtinge op die Universiteit om 'n persoon aan te stel nie en daar is geen voorbehoud teen kerklike beroeping nie. Die kerke sou self die verantwoordelikheid vir 'n persoon dra wat beroep is, maar nie deur die Universiteit aangestel word nie. Wat betref detail reëlings oor die beroeping/aanstelling, versorging en die beëindiging of moontlike beëindiging van die diens van die beroepe professore wat ook deur die Universiteit aangestel word, is daar reëlings in plek gestel by wyse waarvan die selfstandigheid van die instellings gehandhaaf word. Die reëling het ingehou dat kandidaatstudente, wat betref die teologiese vakke, slegs deur die beroepe professore onderrig is. In die konsep ooreenkoms is daar nie meer sprake van so 'n reëling nie (kyk 5.4.4 tot 5.4.6).</p>	<p>The University would then make the appointment of such an individual in terms of its own procedures and regulations. The University was not obliged to appoint an individual and there were no provisions against church calling. The churches would bear the responsibility for an individual called, but not appointed by the University. The provisions instituted for the calling/employment, compensation and termination or possible termination of the services of called professors who are also employed by the University upheld the autonomy of the institutions. This arrangement meant that in terms of the theological subject candidate students would only be instructed by the called professors. The draft agreement does not contain such an arrangement (see clauses 5.4.4 to 5.4.6).</p>
<p>1.12 'n Wanbegrip van die Universiteit is dat hierdie proses van kerklike beroeping op die selfstandigheid van die Universiteit inbreuk maak asof die Universiteit verplig was deur die kerke om 'n sekere persoon aan te stel. In terme van die konsepooreenkoms stel die Universiteit by wyse van sy eie prosesse persone aan. Hierdie persone gee aan die kandidaatstudente klas en die kerke verloor gevolglik die toesig oor die beroepe professore wat voorheen vir die opleiding van kandidaatstudente verantwoordelik was.</p>	<p>1.12 The University is of the misconception that this process of church calling infringed on the autonomy of the University as though the University was obligated by the churches to appoint such a person. In the draft agreement the University appoints individuals according to its own procedures. These appointees would provide the theological instruction to candidate students and consequently the churches would lose supervision over the called professors that were previously responsible for the instruction of candidate students.</p>
<p>1.13 Die onderhandelinge tussen die NWU en die kerke is vir jare lank belemmer en selfs tot 'n stilstand gebring omdat die Universiteit daarop aangedring het dat 'n ooreenkoms slegs met 'n geregistreerde privaat hoër onderwysinstelling moontlik is. Die vraag ontstaan dan waarom die NWU nou bereid is om met die GKSA 'n ooreenkoms te sluit? Dit is eweneens nie duidelik wat die verskil tussen 'n sogenaamde "akademiese" ooreen-</p>	<p>1.13 Negotiations between the NWU and churches were impeded or even halted for years due to the University's insistence that an agreement would only be possible with a registered private higher education institution. This begs the question why the NWU is now willing to enter into an agreement with the GKSA? It is also not clear how a so-called "academic" agreement between the Reformed Theological Academy (GTA) (see</p>

<p>koms tussen die Gereformeerde Teologiese Akademie (GTA) (sien paragraaf 1.13 hieronder) en die universiteit sou wees nie, omdat die voorgestelde konsepooreenkoms ook sogenaamde “akademiese” aangeleenthede reël. Die konsepooreenkoms is nou ontdaan van inspraak van die GKSA oor die inhoud van die kursusse. Die verkeerde interpretasie van die 2006 Ooreenkoms oor die aanstelling van professore en oorlegpleging oor die inhoud van kursusse het daartoe aanleiding gegee dat hierdie items nou weggelaat is uit die ooreenkoms. (Kyk verder paragraaf 5.1 hieronder.)</p> <p>1.14 Die Kuratore se versoek aan ons sluit nie ‘n opinie oor die geldigheid van die daarstel van ‘n <i>Gereformeerde Teologiese Akademie</i> (GTA) in nie. Ons wys egter daarop dat die drie aangeleenthede, nl. die opsegging van die 2006 Ooreenkoms, die onderhandeling van ‘n konsepooreenkoms en die daarstel van die GTA klaarblyklik onlosmaaklik aan mekaar verbind is en in verhouding tot mekaar beoordeel behoort te word. Hoewel dit deel gevorm het van die algemene bespreking tydens die konsultasie met die Kuratore dagbestuur, is ons nie versoek is om daarvoor te adviseer nie en ten spyte van ons versoek, nie van die nodige dokumentasie voorsien is nie. Ons het dus nie al die feite nie maar voel genoepe in die lig van ons mandaat en verantwoordelikheid teenoor die Algemene Sinode om ons kommer kortliks uit te spreek oor die regsgeldigheid van die Kuratore se optrede (beide in terme van die kerkreg en siviele reg) en om enkele voorlopige opmerkings daarvoor te maak.</p> <p>1.15 Dit wil voorkom dat die Kuratore die probleem dat die NWU slegs met ‘n geregistreerde privaat onderwysinstelling kan kontrakteer, probeer ondervang het deur ‘n sg Gereformeerde Teologiese Akademie op te rig. Dit is gedoen by wyse van die inlywing van ‘n maatskappy sonder winsbejag waarvan die Kuratore se</p>	<p>paragraph 1.13 below) and the University would differ, because the proposed draft agreement also regulates so-called “academic” matters. The draft agreement is now devoid of the GKSA offering any input on the content of tertiary courses. The erroneous interpretation of the 2006 agreement over the appointment of professors and consultation on the content of modules has led to these items being omitted from the agreement. (Also see paragraph 5.1 below.)</p> <p>1.14 The Curators’ request for advice does not include an opinion on the validity of the establishing a <i>Reformed Theological Academy</i> (GTA). We do, however, point out that the three matters, viz. the termination of the 2006 agreement, the negotiation of a draft agreement and the establishment of the GTA are apparently inextricably linked and must be judged in relation to each other. Although it formed part of the general discussion during the consultation with the executive committee of the Curators, we were not requested to offer advice in this regard and despite our request, we were not provided with the necessary documentation. We, therefore, do not have all the information, but feel obliged in light of our mandate and responsibility toward the General Synod to briefly express our concern over the legal validity of the Curators’ conduct (both in terms of church law and civil law) and make a few provisional remarks in this regard.</p> <p>1.15 It would seem that the Curators attempted to sidestep the problem of the NWU only being able to enter into contract with a registered private education institution by establishing a so-called Reformed Theological Academy, which was done by incorporating a non-profit company whereby the executive committee of</p>
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<p>dagbestuur die direksie vorm en die Kuratore vermoedelik die aandeelhouders is. Ons sê vermoedelik want, soos genoem, is ons nie van die Memorandum van oprigting of besonderhede van die direksie en aandeelhouders voorsien nie. Dit lei tot die vraag of die Kuratore as “Kuratore” enigsins as ‘n direksie (die Dagbestuur van die Kuratore) van ‘n maatskappy kan optree en die Kuratore as aandeelhouders van sodanige maatskappy. Die Kuratore is immers ‘n kerklike vergadering en nie ‘n regs persoon nie. Enige benoemings en optrede in die bogenoemde verband sou daarom slegs in die naam van elkeen van die Kuratore afsonderlik (as individue) kon plaasvind. In die konsultasie wat die Regsdeputate met die Kuratore se dagbestuur gehad het, het dit geblyk dat hierdie Gereformeerde Teologiese Akademie geregistreer staan te word as ‘n privaat voorsiener van hoër onderwys. Daar sal dan sekerlik deur die Akademie ‘n verdere ooreenkoms gesluit moet word met die NWU, die besonderhede waarvan tot ons beste wete nog nie onderhandel is nie. Ons het egter ernstige twyfel daaroor of die Kuratore die nodige bevoegdheid het om so stap te neem of fondse daarvoor aan te wend. Ons gaan egter nie verder daarop in in hierdie advies nie. Die verdere vraag wat ontstaan is of dit sinvol is om die konsepooreenkoms tussen die NWU en die GKSA soos aan ons voorgelê is, verder te neem indien die weg van die Gereformeerde Teologiese Akademie gevolg gaan word. Dit is een van die redes waarom ons verdere inligting versoek het om die advies in konteks te plaas wat ongelukkig, soos genoem, nie verskaf is nie.</p> <p>1.16 Teen die bogemelde agtergrond, behandel ons hieronder etlike spesifieke bepalinge in die ooreenkoms.</p>	<p>the Curators constitutes the board of directors and the Curators are presumably shareholders. We say presumably because, as mentioned, we were not provided with the memorandum of incorporation or details about the board of directors or shareholders. The question then arises whether the Curators can act as board of directors as “Curators” (the executive committee of the Curators) and the Curators as shareholders of such company. The Curators are after all a church assembly and not a legal entity. Any appointments and actions in regard to the above could thus only be made in the name of each curator in their individual capacity. It would seem from the consultation of the Deputies: Legal Affairs with the executive committee of the Curators that this Reformed Theological Academy would be registered as a private provider of higher education. Surely the Academy would then have to enter into a further agreement with the NWU, the terms of which have not to our knowledge been negotiated yet. We, however, seriously doubt that the Curators possess the requisite authority to take such a step or allocate funds to do so. We will, however, not comment any further in this regard. The question then becomes whether there would be any point to pursue the draft agreement between the NWU and GKSA, as tabled to us, if the Reformed Theological Academy route is going to be taken. This is one of the reasons we requested further information that we may place the advice in context, which was as mentioned not provided.</p> <p>1.16 Against the above background, we address a number of specific stipulations in the agreement.</p>
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<p>2. Spesifieke bepalings in die Ooreenkoms Die Partye</p>	<p>2. Specific stipulations in the Agreement The Parties</p>
<p>2.1 Klousule 5.1.4 bepaal dat die fasiliteite vir gebruik deur die NWU en studente beskikbaar gemaak sal word deur die kerke. Uit klousule 5.2.3 is dit duidelik dat dit die teologiese skool gebou (K11) wat die <i>Jan Lion Cachet</i> Biblioteek insluit, is. Die ooreenkoms neem verkeerdelik aan dat hierdie gebou geregistreer is in die naam van die GKSA. Dit is geregistreer in naam van die Administratiewe Buro. Gevolglik moet die Administratiewe Buro 'n party tot die ooreenkoms wees.</p>	<p>2.1 Clause 5.1.4 stipulates that the churches will make facilities available for use by the NWU and students. It is clear from clause 5.2.3 that this would be the Theological School building (K11), which includes the <i>Jan Lion Cachet</i> Library. The agreement erroneously assumes that this building is registered in the name of the GKSA. It is registered in the name of the Administrative Bureau and consequently the Administrative Bureau must be a party to the agreement.</p>
<p>2.2 Die Gereformeerde Kerke in Suid-Afrika is partye tot die ooreenkoms. Regspersoonlikheid vestig in die betrokke kerke alleen. Soos in die geval van die 2006 ooreenkoms, sal die kontrakspartye die onderskeie Gereformeerde Kerke in Suid-Afrika wees wat saamkom in die Streeksinodes en vandaar in die Algemene Sinode en daar 'n besluit neem om saam 'n ooreenkoms te magtig wat die onderskeie kerke bind. Die beskrywing in klousule 1.2 van die ooreenkoms kan dit egter duideliker stel.</p>	<p>2.2 The Gereformeerde Kerke in Suid-Afrika are parties to the agreement. The legal person resides in the relevant churches alone. As with the 2006 agreement, the contract parties would be the different Gereformeerde Kerke in Suid-Afrika who assemble in Regional Synods and then in the General Synod at which a decision is made to enter into an agreement that binds the different churches. This could be put more plainly in clause 1.2 of the agreement.</p>
<p>Die gebruik van die Jan Lion Cachet Biblioteek</p>	<p>The Use of the Jan Lion Cachet Library</p>
<p>2.3 Die boeke in die biblioteek is aangekoop deur die kerke maar ook deur die Universiteit. Baie van die boeke wat gekoop is deur die GKSA is inderdaad nie afsonderlik gemerk nie.</p>	<p>2.3 The books in the library have been purchased by the churches, but also the University. Many of the books purchased by the GKSA have not been marked as such.</p>
<p>Gebruik van personeel – Klousule 5.4</p>	<p>Use of Staff – Clause 5.4</p>
<p>2.4 Alle personeel van die Fakulteit van Teologie wat beroep is deur die GKSA en aangestel is deur die NWU wat mede-befonds word deur die GKSA en daardie personeel wat ten volle befonds word deur die NWU, is voltydse werknemers van die NWU (klousule 5.4.1).</p>	<p>2.4 All members of staff of the Faculty of Theology called by the GKSA and appointed by the NWU who are co-funded by the GKSA and those members of staff that are fully funded by the NWU are full-time employees of the NWU (clause 5.4.1).</p>
<p>2.5 Wat dissipline betref sal die GKSA nooit geag word 'n party tot enige dispuut tussen die werknemer en die NWU te wees nie, ten spyte van enige</p>	<p>2.5 When it comes to disciplinary action, the GKSA will never be viewed a party to any dispute between the employee and the NWU, despite any</p>

<p>kontribusies wat ten aansien van die werknemer deur die GKSA gemaak word (klousule 5.4.6).</p> <p>2.6 Dit beteken dat die GKSA nie toesig oor sodanige personeel het nie en nie dissiplinêr teen so 'n persoon kan optree nie. Dit is in teenstelling met die 2006 ooreenkoms wat in klousule 3.1.2 bepaal het dat indien die Kuratorium van voorneme is om dissiplinêr teen enige professor aan die teologiese skool wat beroep is en deur die Universiteit as dosent benoem is, of maatreëls ten opsigte van die skorsing en/of afsetting van sodanige professor ooreenkomstig die Kerkorde wil toepas, die Kuratore die Universiteit vooraf inlig en dat na afhandeling van die saak deur die Kuratorium enige dissiplinêre maatreëls wat die Kuratorium toepas, deur die Universiteit erken word (klousule 3.1.2).</p> <p>2.7 Voorts het die Universiteit in klousule 4.4 van die 2006 ooreenkoms onderneem om saam met die Senaat van die teologiese skool die studie van teologiese studente waar te neem ooreenkomstig die Reformatoriese teologie. Kragtens klousule 3.2.2 van die 2006 ooreenkoms het die Kuratore die reg gehad om, indien 'n personeelid van die Universiteit wat nie 'n dosent aan die teologiese skool is nie, volgens die oordeel van die Kuratorium onderrig gee wat strydig is met die Reformatoriese teologie, die saak met volledige relevante dokumentasie, onder die aandag van die Universiteit te bring. Die Universiteit sou dan die aangeleentheid behandel en die Kuratorium van die uitslag in kennis stel.</p> <p>2.8 Hierdie dissiplinêre maatreëls vervat in die 2006 ooreenkoms word nou kragteloos aangesien slegs die Universiteit in terme van klousule 5.4.6 dissipline kan toepas. So verloor die Kuratore hul toesig oor die professore wat deur hulle beroep was en aangestel is deur die Universiteit. Onses insiens is dit in stryd met die Kerkorde.</p>	<p>contributions made by the GKSA toward the employee (clause 5.4.6).</p> <p>2.6 This means that the GKSA does not have any supervision over such staff and cannot take any disciplinary action against such staff, whereas the 2006 agreement stipulates in clause 3.1.2 that should the Curatorium intend to take disciplinary action against a professor of the Theological School who was called and appointed by the University or seek to impose measures in relation to suspension and/or dismissal of such professor in accordance to the church order, the Curators would inform the University in advance and that the University would recognise any disciplinary measures taken by the Curatorium (clause 3.1.2).</p> <p>2.7 Furthermore, the University undertook in clause 4.4 of the 2006 agreement to offer instruction to theology students, together with the Senate of the Theological School, in accordance to Reformed doctrine. According to clause 3.2.2 of the 2006 agreement, the Curators had the right to bring to the attention of the University, together with the relevant documentation, any instances of a lecturer, not employed at the Theological School, who in the Curatorium's view offers instruction in conflict with Reformed doctrine. The University would then address the matter and inform the Curatorium of the outcome.</p> <p>2.8 These disciplinary measures contained in the 2006 agreement would now be of no effect, since in terms of clause 5.4.6 only the University would have disciplinary power. As such the Curators would lose their supervisory power over professors called by them and appointed by the University. In our view this is in conflict with the Church Order.</p>
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<p>2.9 Voorts bepaal klousule 5.4.3 van die konsepooreenkoms dat aan studente van die fakulteit teologie teologiese vakke gedoseer mag word deur nie-beroepe lektore van die fakulteit. Dit skep die moontlikheid dat persone wat aan die teologiese fakulteit deur die Universiteit aangestel is, van watter denominasie ookal, teologiese vakke mag doseer al sou die inhoud daarvan in stryd wees met die Gereformeerde teologie, terwyl die Kuratore daar niks aan kan doen nie.</p>	<p>2.9 Clause 5.4.3 of the draft agreement, furthermore, stipulates that students of the Faculty of Theology may receive instruction from lecturers who have not been called. This creates the possibility that lecturers appointed by the University at the Faculty of Theology, of whatever denomination, may present theological subjects even if the content thereof does not conform to Reformed doctrine and the Curators would not be able to do anything about it.</p>
<p>2.10 Wat betref lektore en professore wat in terme van die 2006 ooreenkoms aangestel is, word bepaal dat die 2006 ooreenkoms van toepassing bly totdat die 2006 ooreenkoms gewysig is en of vervang is en of beëindig is. Dit beteken dat indien die 2006 ooreenkoms opgesê word hierdie professore in 'n onsekere posisie is. Die voorgestelde ooreenkoms is nie baie duidelik in hierdie opsig nie. Dit bepaal enersyds (in klousule 4.1) dat dit onbepaald geldig sal wees maar andersyds maak dit voorsiening vir 'n omslagtige proses (in klousules 4.2 tot 4.10) om die ooreenkoms te hernu na die sg beëindigingsdatum (welke datum egter nie omskryf word nie).</p>	<p>2.10 The 2006 agreement remains applicable to lecturers and professors appointed in terms of the 2006 agreement until such time as the said agreement is amended and/or replaced and/or terminated. This means that should the 2006 agreement be cancelled, these professors would find themselves in a very precarious position. The proposed agreement is not clear in this regard. It stipulates, on the one hand (in clause 4.1) that it would remain valid indefinitely, but then sets out an elaborate process (in clauses 4.2 to 4.10) for renewing the agreement subsequent to the so-called termination date (said date, however, not stipulated).</p>
<p>2.11 Klousule 5.4.7 plaas 'n beletsel op beroeping deur die Kuratore as die Universiteit nie instem nie. Dit bepaal dat geen aanstellings deur die NWU vanaf inwerkingtrede van die nuwe ooreenkoms, en ten aansien waarvan die GKSA 'n bydrae maak, gedoen kan word sonder die skriftelike toestemming van beide die GKSA en die NWU nie.</p>	<p>2.11 Clause 5.4.7 prohibits the Curators from calling a professor/lecturer if not agreed by the University. It stipulates that no appointments by the NWU, after the new agreement has taken effect, and to which the GKSA makes a contribution can be made without the written agreement of both the GKSA and the NWU.</p>
<p>Die inhoud van Curricula</p> <p>2.12 In terme van in die 2006 ooreenkoms het die kerke aanbevelings gemaak aan die Senaat van die Universiteit via die fakulteit van teologie oor leergange, leerplanne, regulasies, onderrig en eksamens met betrekking tot grade en diplomas, vir finale goedkeuring deur die Universiteit (kyk klousule 4 van die 2006 ooreenkoms) en die Universiteit het die finale verantwoordelikheid vir die</p>	<p>The Content of Curricula</p> <p>2.12 In terms of the 2006 agreement the churches presented recommendations to the Senate of the University via the Faculty of Theology about courses, syllabi, regulations, instructions and exams related to degrees and diplomas, for final approval by the University (see clause 4 of the 2006 agreement) and the University bore the final responsibility for the academic programmes,</p>

<p>akademiese programme, leergange, leerplanne, regulasies en eksamens met betrekking tot verkryging van grade en diplomas gehad (vgl klousule 4.3 van die 2006 ooreenkoms).</p> <p>2.13 In terme van die konsep ooreenkoms is die NWU verantwoordelik vir die vasstelling van enige veranderings aan die inhoud van curricula van die akademiese programme wat in terme van die ooreenkoms aangebied word. Dit is die curricula vir die grade genoem in klousule 3.1. Die ooreenkoms maak geen voorsiening vir insette deur die Kuratore ten aansien van inhoud van die curricula nie (klousule 5.2.4).</p> <p>2.14 Voorts word bepaal dat onderrig en studie van alle vakke en die kwaliteit van die inhoud daarvan sowel as die kwaliteit van die nasien en moderering daarvan, deur die Universiteit alleen behartig word (klousule 5.2.5).</p> <p>2.15 Die uitslae en punte van GKSA kandidate wat geregistreer is as NWU studente sal op versoek deur die NWU aan die Registrateur van die Teologiese skool verskaf word onderhewig aan toestemming van die studente (in terme van POPIA).</p> <p>2.16 Weereens is die Kuratore blote buitestaanders wat nie direkte kennis het van die akademiese vordering van die teologiese studente nie en slegs insae daarin kan verkry indien die betrokke studente daartoe toestem.</p>	<p>courses, syllabi, regulations and exams related to degrees and diplomas (cf. clause 4.3 of the 2006 agreement).</p> <p>2.13 In terms of the draft agreement the NWU is responsible for making any and all changes to the content of the curricula of academic programmes presented in terms of the agreement. This is the curricula for the degrees indicated in clause 3.1. The agreement does not make provision for input by the Curators in regard to the content of the curricula (clause 5.2.4).</p> <p>2.14 It is, furthermore, stipulated that instruction and study of all subjects as well as the quality of the content and marking and moderation thereof fall solely to the University (clause 5.2.5).</p> <p>2.15 The NWU will provide the results and marks of GKSA candidates registered as NWU students to the Registrar of the Theological School upon request, subject to the consent of the students (in terms of POPIA).</p> <p>2.16 Once again, the Curators are merely bystanders who do not have direct knowledge of the academic progress of theology students and can only obtain information in this regard upon the consent of the relevant students.</p>
<p>Doel van die ooreenkoms</p> <p>2.17 Uit die aanhef van die konsep ooreenkoms blyk dat die ooreenkoms een is ten aansien van akademiese programme, finansiële bydraes en gebruik van fasiliteite. Die NWU neem verantwoordelikheid vir die verskaffing en aflewering van die curricula. Die NWU se Fakulteit Teologie is verantwoordelik vir alle akademiese funksies in terme van die reëls en beleid van die NWU, wat insluit die ontwikkeling van akademiese materiaal. Die GKSA het geen inspraak hieroor nie en ook nie oor die aanstelling van personeel van die Fakulteit wat die kandidaatstudente oplei nie, behalwe</p>	<p>Purpose of the agreement</p> <p>2.17 It would seem from the preamble to the draft agreement that the agreement is consistent in nature when it comes to academic programmes, financial contributions and use of facilities. The NWU takes responsibility for the provision and presentation of the curricula. The NWU's Faculty of Theology is responsible for all academic aspects in terms of the regulations and policy of the NWU, including the development of academic content. The GKSA has no say in this and also not in regard to the appointment of the staff of the Faculty who instruct candidate students, except as set out</p>

<p>soos in klousule 5.4.7 bepaal, terwyl die kerke steeds finansiëel daartoe moet bydra.</p>	<p>in clause 5.4.7, while the churches remain obliged to contribute financially.</p>
<p>3. Gevolgtrekking</p>	<p>3. Conclusion</p>
<p>3.1 In die voorgaande blyk dat die GKSA 'n buitestaander word sonder samewerking met die NWU wat betref:</p>	<p>3.1 It would seem from the above that the GKSA becomes a bystander, without any collaboration with the NWU, in regard to the:</p>
<p>3.1.1 inhoud van kursusse</p>	<p>3.1.1 content of courses;</p>
<p>3.1.2 aanstelling van professore</p>	<p>3.1.2 appointment of professors;</p>
<p>3.1.3 uitoefening van dissipline oor personeel wat aan die GKSA kandidaatstudente opleiding verskaf en</p>	<p>3.1.3 exercising of discipline over staff providing instruction to GKSA candidate students; and</p>
<p>3.1.4 eksaminering van kandidaat-studente.</p>	<p>3.1.4 examination of candidate students.</p>
<p>3.2 Die GKSA het slegs deel aan die dosering in die mate wat die professore wat ingevolge die 2006 ooreenkoms aangestel is, opleiding behartig en dan slegs totdat daardie ooreenkoms opgesê word.</p>	<p>3.2 The GKSA only has input into lecturing as it pertains to the professors appointed under the 2006 agreement and then only until the agreement is terminated.</p>
<p>3.3 Geldelike bydraes word gelewer ten aansien van die professore in 7.2 genoem en die GKSA sal geldelike bydraes lewer ten aansien van die professore in paragraaf 7.2 genoem.</p>	<p>3.3 Monetary contributions are made in regard to professors named in 7.2 and the GKSA will make monetary contributions regarding the professors named in paragraph 7.2.</p>
<p>3.4 Die GKSA sal geen sê hê oor die aanstellings aan die teologiese fakulteit nie, behalwe aanstellings wat deur die GKSA geldelik befonds word, en ten aansien van sulke aanstellings is die skriftelike toestemming van die Universiteit nodig.</p>	<p>3.4 The GKSA will have no say over appointments at the Faculty of Theology, except for appointments funded by the GKSA, and such appointments are subject to written consent by the University.</p>
<p>3.5 Die ooreenkoms is na ons mening nie aanvaarbaar nie: afgesien daarvan dat die regstegniese versorging van die konsep veel te wense oorlaat, is dit ooglopend ontwerp om slegs die belange van die Universiteit ten koste van die belange van die kerke te bevorder.</p>	<p>3.5 The agreement is not acceptable in our opinion: Aside from the fact that the technical presentation of the draft leaves much to be desired, it has clearly been designed to solely promote the interests of the University at the expense of the interests of the churches.</p>
<p>3.6 Laastens, dit is jammer dat die Kuratore nie in hul onderhandelinge met die NWU vroeër die hulp van die Deputate vir Regsaangeleenthede van die Algemene Sinode ingeroep het nie, sodat betyds ondersteuning gebied kon word oor hierdie sake wat ingrypende regs- en ander implikasies vir die opleiding van predikante en die posisie van beroepe teologiese professore inhou. Ons merk dat die Algemene Sinode die Kuratore ook</p>	<p>3.6 Finally, it is unfortunate that the Curators did not request the assistance of the Deputies: Legal Affairs of the General Synod earlier in their negotiations with the NWU that timeous support may be provided about matters that have significant legal and other implications for the training of ministers and the position of called theology professors. We note that the General Synod specifically instructed the Curators to involve the</p>

<p>spesifiek opdrag gegee het om die Kuratore wat met die saak gemoeid was tydens 2015 tot 2018 by die saak te betrek ten einde kontinuiteit te verseker. Ons is wel van mening dat die hoof besware van die Universiteit teen die 2006 ooreenkoms, nie water hou nie.</p>	<p>Curators responsible for the matter from 2015 to 2018 in order to ensure continuity. We are, however, of the view that the University's main objections to the 2006 agreement do not hold water.</p>
<p>Deputate vir Regsaangeleenthede 18 November 2022 Besluit: Dat daar slegs van die Rapport (Advies) kennis geneem word aangesien daar geen sake is waaroor die vergadering moet besluit nie.</p>	<p>Deputies: Legal Affairs of the Synod 18 November 2022 Decision: That the Report (Advice) is only taken note of as there are no matters on which the meeting must decide.</p>

**M. RAPPORT: KOMMISSIE TEOLOGIESES SKOOL
REPORT: COMMISSION THEOLOGICAL SCHOOL**

<p>1. Opdrag Om die Sinode te adviseer rakende die Rapport en die Twee Aanvullende Rapporte van die Deputate vir Regsaangeleenthede. Besluit: Kennis geneem.</p> <p>2. Werkswyse Die Kommissie het gesprek gevoer met lede van die Deputate Regsaangeleenthede en ander lede van die vergadering om sekerheid te kry oor sake wat in die Rapporte genoem word. Relevante dokumente en stukke is nagegaan. Besluit: Kennis geneem.</p>	<p>1. Mandate To advise the Synod regarding the Report and the Two Supplementary Reports of the Deputies for Legal Affairs. Decision: Noted.</p> <p>2. Modus operandi The Commission engaged with members of the Deputies for Legal Affairs and other members of the meeting to gain certainty on matters mentioned in the Reports. Relevant documents and pieces were studied. Decision: Noted.</p>
<p>Eerste Rapport</p> <p>1. Opdrag Kan net van die opdrag kennis neem. Besluit: Goedgekeur.</p> <p>2. Werkswyse Al die tersaaklike punte is nagegaan. Besluit: Kennis geneem.</p> <p>3. Sake waarvan die Sinode kennis neem 3.1 Wat betref: Punte 2.1.1–2.1.3 dat die vergadering daarvan kennis neem. Besluit: Goedgekeur.</p> <p>4. Aanbeveling 4.1 Dat punt 3.1 goedgekeur word. Besluit: Goedgekeur.</p>	<p>First Report</p> <p>1. Assignment Can take note of the assignment. Decision: Approved.</p> <p>2. Modus operandi All the relevant points have been checked. Decision: Noted.</p> <p>3. Matters that the Synod takes note of 3.1 Regarding: Points 2.1.1–2.1.3 that the meeting takes note of it. Decision: Approved.</p> <p>4. Recommendation 4.1 That point 3.1 be approved. Decision: Approved.</p>

<p>Aanvullende Rapport 1</p> <p>1. Sake ter kennisname Dat die vergadering kennis neem van punte 1 en 2. Besluit: Goedgekeur.</p> <p>2. Aanbeveling Wat betref punt 3, dat daar nie aan die aanbeveling gevolg gegee word nie. Motivering: dit is die mandaat wat die Kuratorium ontvang het. Sien Prospectus van die Kuratorium p13 wat as volg lui:</p> <p><i>“As sodanig funksioneer die Kuratorium as ‘n Synodus Contracta en verrig dit ‘n besondere kerkregeringstaak met die oog op die voorsiening vir, die sorg en die toesig oor die diens van predikantsopleiding.”</i></p> <p>Besluit: Goedgekeur.</p>	<p>Supplementary Report 1</p> <p>1. Matters to take note of That the meeting notes points 1 and 2. Decision: Approved.</p> <p>2. Recommendation As for point 3, that the recommendation is not followed. Motivation: it is the mandate received by the board of Curators. See Prospectus of the board of Curators p13 which reads as follows: <i>“As such, the board of Curators functions as a Synodus Contracta and performs a particular ecclesiastical governing task for the purpose of providing for, the care, and the supervision of the service of ministerial training.”</i> Decision: Approved.</p>
<p>Aanvullende Rapport 2 (Advies)</p> <p>1. Sake ter kennisname Dat daar kennis geneem word van die Rapport in sy geheel. Besluit: Goedgekeur.</p> <p>2. Aanbeveling Dat daar slegs van die Rapport kennis geneem word aangesien daar geen sake is waaroor die vergadering moet besluit nie. Besluit: Goedgekeur.</p>	<p>Supplementary Report 2 (Advice)</p> <p>1. Matters to take note of That the Report is noted in its entirety. Decision: Approved.</p> <p>2. Recommendation That the Report is only taken note of as there are no matters on which the meeting must decide. Decision: Approved.</p>