

12.1.3 APPEAL OF CLASSIS ETOSHA AGAINST THE DECISION OF REGIONAL SYNOD BUSHVELD (articles 54 and 57, Minutes of Regional Synod Bushveld, November 2008) (Artt 19, 107, 246)

- A. Dr WC Opperman states the Appeal.
- B. Rev SA Cilliers elucidates the decision of Regional Synod Bushveld.
- C. Opportunity is granted for informative questions.
- D. The appellants and elucidator answers the questions.
- E. **Decision:** The appeal is referred to Appeals Commission 2.
- F. Dr FP Kruger reports on behalf of Appeals Commission 2.
- G. Opportunity is granted for a reply by the appellant.
- H. Opportunity is granted for a reply by the elucidator of the Regional Synod.
- I. Opportunity is granted for a reply by the elucidator of the Appeals Commission.
- J. The delegates of Regional Synod Bushveld do not take part in the vote.

K. APPEAL

1. Appeal

The Classis Etosha appeals against the decision of Regional Synod Bushveld, November 2008, articles 54 and 57, in which a verdict is given regarding the Appeal of Classis Etosha to this Regional Synod against a decision of Classis Waterberg in September 2007.

(Official edition: Article 57. Point 6.4.2 Decision: The appeal does not succeed in its entirety.

- The complete documentation, as by the Deputy Correspondence, Regional Synod Bushveld 2008, made available to us, is added as Appendix A)

Shortly summarised the matter that is being appealed relates to decisions of the Regional Synod regarding the recommendations of the Appeals commission (artt 54 and 57, Minutes Regional Synod Bushveld), namely that the Appeal succeeds. Although the Appeals Commission recommended with motivations that the Appeal succeeds, the recommendation is rejected through a vote in the Regional Synod. The Synod decides that the Appeal does not succeed without any reason from Scripture, Confession of Church Order being indicated for this decision.

In own formulation the course of events can be summarised as follows: Classis Etosha protested to Classes Waterberg against a decision to allow four congregations from Namibia to meet with them instead of with their neighbouring churches in Namibia, who meet as Classis Etosha annually. The petition of protest was not approved. Therefore an appeal was brought before Regional Synod Bushveld 2008 for jurisprudence. The Appeal did not succeed. The Classis hereby appeals to the General Synod of 2009.

Purpose of the Appeal: The important aspect is that the General Synod 2009 should give a verdict regarding the merit and content of the matter. The verdict should centre on the right or wrong of the actions of those four congregations, as well as the Classis and Regional Synod.

The request for jurisprudence from Classis Etosha thus holds that the Synod takes the Appeal into consideration and judges whether there was an infringement of rights against Christ and therefore against Classis Etosha. Jurisprudence includes that the Synod delivers a verdict regarding the Appeal, and not only refers the Appeal back to Regional Synod Bushveld to be dealt with there.

2. Short background

The Classis Etosha protested to Classis Waterberg in April 2006 because four congregations from Namibia who for decades resorted under Classis Etosha geographically (previously also classis Nossob) were granted permission to meet with other congregations in the resort of Classis Waterberg. This firstly does not uphold the

unity of the church of Christ, as revealed in the Reformed church denomination, nor does it uphold the order for the calling of a classis as stipulated in CO, art 41. The Petition of Protest was initially not taken into consideration during Classis Waterberg's meeting that year. Classis Etosha appealed to Regional Synod Bushveld 2006 against the decision of Classis Waterberg not to deal with the Petition of Protest. The Appeal succeeded. Consequently the Petition of Protest was taken into consideration by Classis Waterberg in September 2007.

However, Classis Waterberg did not approve (maintain) the protest, as can be read in the quoted decisions underneath (Appendix 3). Therefore the Appeal was brought before the Regional Synod Bushveld, November 2008. The Regional Synod decided that the Appeal does not succeed, without noting any reason for the decision.

Appendices: Five (5) Appendices are attached

*Appendix 1: Petition of Protest of Classis Etosha against a decision of Classis Waterberg.

* Appendix 2: Commission report on the Petition of Protest of Classis Etosha.

* Appendix 3: Decisions on the Report of the Protest Commission, Classis Waterberg.

* Appendix 4: Report of the Appeals Commission of Regional Synod Bushveld 2008

* Appendix 5: Official edition: Decision regarding the Report of the Appeals Commission, Regional Synod 2008

3. According to Classis Etosha infringement of rights took place against Christ and his Church regarding the following matters

- 3.1 The command of Christ to maintain the unity that the Holy Spirit has brought between believers has not been obeyed by the decision of Classis Waterberg. The Gereformeerde Kerke acknowledges the unity in Christ and expresses it in doctrine, service and discipline. Based on this neighbouring churches meet as a Classis to deal with matters that can promote the unity of churches (CO, art 41). The decision of Classis Waterberg does not maintain this unity. In so doing the rights of Christ as Head of his church have been infringed upon.
- 3.2 The Classis Etosha's rights have been infringed upon by the fact that Classis Waterberg from the beginning did not listen to the other party's (Etosha) side. In their verdict regarding Etosha's appeal Regional Synod Bushveld condoned this infringement of rights. The audi alteram partem rule was not adhered to. A decision was initially made by Waterberg regarding a matter that has so many implications for the order of the church, mutual relationships of believers, as well as amongst congregations and others, without evaluating the matter in its full circumference. Classis Waterberg's defence that the content of the matter (namely the long motivations of the four congregations for why they can no longer stay part of Etosha) were not taken into consideration in fact confirms that the Classis did not do its work properly, or that one party was heard without the other party being heard. In its decision that Etosha's appeal does not succeed, the Regional Synod Bushveld 2008 approves this manner of dealing with the matter.
- 3.3 Classis Waterberg's decision also infringes on the right of the church of Christ, because the decision of National Synod 2006 regarding the division of Classes and Regional Synods were not taken into consideration.
- 3.4 Classis Waterberg does not consider the order within the denomination when they accept that the four congregations "no longer meet with Classis Etosha".
- 3.5 Regional Synod Bushveld continued with infringement of rights against Christ and his church by deciding the the Appeal of Classis Etosha does not succeed without indicating any Scriptural, Confessional or Church Order principles as reasons for the decision.

In the light of the above-mentioned alleged infringement of rights the Classis Etosha calls on the General Synod 2009 for a fair verdict regarding the matter.

4. The alleged infringement on rights are motivated by the following grounds of Appeal

4.1 Grounds of Appeal 1

The rights of Christ are infringed upon through the fact that the churches do not adhere to His command, “Make every effort to keep the unity of Spirit through the bond of peace.” (Eph 4:3, NIV).

A Classis convened according to CO, art 41 has the responsibility to express this unity in Christ and to fight everything that could possibly disturb it.

The decision to let churches from Namibia meet with Classis Waterberg is contrary to CO, art 41 (also add the relevance of CO, art 86 here). Churches who are in one church denomination are now allowed to “detach” themselves from one group of churches from the same church denomination at will and to form a Classis with another group. In so doing the unity that was formed by the Spirit is not maintained, but is allowed to be disturbed.

4.1.1 Motivation

According to CO art 41 a Classis is a meeting of neighbouring churches. The article is formulated as follows:

“Article 41

The Classis is a meeting of neighbouring churches who each delegate a minister of the Word and an elder, or where there is no minister, two elders. The place and time of the following meeting is determined by the previous meeting. At this meeting the ministers of the Word should take turns to preside or otherwise the one elected by the meeting should preside, but the same minister may not be elected at two consecutive meetings. The praeses should amongst other things ask whether the churches have church council meetings, whether church discipline is practiced, whether the poor and the schools are being taken care of and whether there is anything that a church asks the help of the Classis for in managing their own affairs. At the last meeting before the Regional Synod the delegates to this Synod should be elected.”

The Classis Waterberg approved the following argument and statement: *“Furthermore your commission argues that neighbouring, different than how the protesters state it, is not necessarily a matter of geographical unity, but of churches that share a mutual agenda”* (Commission report regarding Petition of Protest of Etosha 4.1.1, see Appendix 2). Based on this the recommendation was approved that the Classis Etosha does not adequately prove that the action of Classis Waterberg to approve that Namibian Gereformeerde Kerke meet with South African churches in one Classis, is contrary to CO, art 41.

In the verbatim quote of CO, art 41 above the concept “neighbouring churches” is used. We are convinced – according to the application of the article in the history of the GKSA, as well as by other Reformed churches – that the article intends to say nothing else but geographically neighbouring Gereformeerde congregations. A Classis does not form a fixed continuing structure, but there is a certain order according to which subsequent meetings of a fixed number of congregations in the resort of the Classis are organised. The necessity for a majority meeting lies in the need to meet with neighbouring Gereformeerde Kerke for the sake of the establishment and edification of the local churches. The actions of the four congregations, as well as the decision of Classis Waterberg, transgresses the order arrangement of the Church Order for majority meetings in its very essence.

The statement that *churches who share a mutual agenda*, are neighbouring churches throws the door wide open. This implies that the matters on the Agenda, regardless of the geographic position of congregations, give churches the right to choose a Classis where they want to meet. In fact it means that congregations turn their back on Gereformeerde Churches with whom they met in a Classis up to such a time. It would seem as if it is then not the Agenda, but rather the Minutes, that provides the motivation to not meet with certain churches in a Classis.

Thereby the unity in Christ, binded by the Holy Spirit, which is confirmed in a common Reformed Confession and Church Order, is no longer maintained. Peace can not be sought by discussing matters of mutual interest in a Classis and by edifying each other. Rather, discord is tolerated in this manner, because dissatisfied churches who are not willing to meet with certain neighbouring churches, will be allowed to persevere in this attitude.

The statement that neighbourliness is *not necessarily a matter of geographic unity*, twists the grounds of protest in the Petition of Protest by Etosha. For Classis Etosha geographical unity does not force the denomination into unity. Rather, a majority meeting of geographically neighbouring churches who are already one in Christ through the work of the Holy Spirit, based on Scripture, Confession and Church Order, is a visible expression of unity. Then the first circle of churches that meet (regarding communal matters that can not be dealt with locally) is a meeting of those churches who are already one and who function in the same geographical area.

We have tested the point of departure of Classis Waterberg that neighbourliness can be determined by a Classis' Agenda as widely as possible. Accepted commentaries on the Church Order writes as follows on the application of CO, art 41:

Bouwman, H. Gereformeerde Kerkrecht (1934), Part 2:124-132

He states that neighbouring churches from the start implied a certain geographical region that gathers in a meeting. Already the Synod of Emden in 1571 said in Art 7-12 that different congregations should gather in a Classis. The "samenleven" with other Reformed churches was based on the communal ground of God's Word and the Reformed Confession. Neighbouring churches in one geographic region were not forced to meet in a Classis meeting, but not randomness was allowed. The Classis did not endanger the independence of the local church, but it was aimed at the edification and welfare of the congregations. Once a local church accepted the unity of the church denomination, that church was not free to break this bond unless the churches with whom it was in unity, left the Confession according to God's Word (own emphasis).

Van der Linde, GPL. Die Kerkorde (1983), p156-159

We quote him verbatim: "Die bedoeling van die artikel is tog duidelik. *Die afgevaardigde ouderlinge en predikante uit plaaslike kerke van dieselfde omgewing (ons onderstreping) wat dieselfde belang het, kom byeen om hierdie belange te behartig in ooreenstemming met die Woord van die Here."*

Spoelstra, B. Gereformeerde kerkreg en kerkregering (1989), p247-253

The local church is the complete revelation of the body of Christ. Spoelstra emphasises that the unity of Christ is not endangered by the gathering in different Classes. Different Classes within one geographical region has been grouped according to culture in history though (Welsh, Dutch, English). However, we do not find any trace of churches who share the same Reformed Confession, detached themselves from on Classis based on the Agenda in order to add themselves to another Classis. (Remark of appellants: The same went for the GKSA when the majority meetings were grouped according to language and culture).

Visser, J. Die kerkorde in praktyk (1999), p185-188

From Visser's practical advice regarding CO, art 41 it is clear that he accepts that "neighbouring churches" is noting else that geographically neighbouring Reformed churches who are one in Confession, Liturgy and Church Governance.

Conclusion from the quotes from commentaries on the Church Order

From above-mentioned commentaries there is clear agreement that "neighbouring churches" means geographically neighbouring Reformed churches.

Individual churches are bound in terms of CO, art 86 to hold themselves to the Church Order, also that they are called into a majority meeting as Classis (see CO, art 39) in a certain geographical area.

4.2 Grounds of Appeal 2

Classis Waterberg does not honour the legal principle of listening to both sides (audi alteram partem), but decides to allow four congregations from Namibia to meet with them without testing the motivations for this to the testimony of Classis Etosha

4.2.1 Motivation

Congregations who met with Classis Etosha (previously two Classes) for decades in Namibia, gave oral notice that they will no longer meet with Etosha (or that the congregation's Deputies at the Classis will recommend this at their Church Councils). The oral notice came after decisions of Classis Etosha regarding protests of one of the congregations against National Synod decision. The mentioned protests were not underwritten by the Classis, but the congregation could enter the protest at the National Synod on her own. (Some of the protests did not succeed at the Synod either. Other protests have not been dealt with yet due to a Synod decision regarding a technical point of all similar protests.)

The oral notification to the Classis that the congregations withdraw from future meetings was not dealt with at that Classis since it was not on the Agenda. A new matter could not be taken into discussion at the end of the meeting without proper documents and preparation. It would have been disorderly. Without communicating with Classis Etosha any further, three congregations requested Classis Waterberg at a special meeting to allow them to join their meeting in future. Later a fourth congregation made the same request at a subsequent meeting.

According to documents that Classis Waterberg provided to the appellants, several reasons were indicated why the four congregations did not want to meet with Etosha any longer. The protest from Etosha's side at a next meeting of Waterberg, namely that the motivations of the congregations were accepted as good reasons without the Classis Etosha's Minutes being checked or any person from the Classis being heard, were rejected. According to Waterberg the motivations were not tested, and therefore the other party did not have to be heard. Yet it was accepted that the four congregations already "detached" themselves from Etosha, a fact that wasn't tested either.

Waterberg decided to give permission to the four congregations to meet with them without hearing the other party in the matter (Classis Etosha).

Waterberg's "compassion" in having a place for the "denominationless" congregations, was misplaced. The enormously negative consequences for the church relations in Namibia were not considered at all. The schism that came in congregations, members who gave up their membership or who have to be ministered by neighbouring congregations, strain and uncertainty, a bad name in the broader community and many more bitter fruits that came to be as a result of this ill-considered decision, confirm that a decision made without listening to the other side of the matter did not edify the church of Christ.

Through this behaviour the basic legal principle of audi alteram partem was not maintained. Through this the right of Christ and his church to take fair decisions, was infringed upon. The decision of Regional Synod Bushveld 2008 to not let the appeal of Classis Etosha succeed, strengthened this infringement of rights.

4.3 Grounds of Appeal 3

Classis Waterberg does not respect the spirit of decisions regarding majority meetings as taken by the National Synod

4.3.1 Motivation

The most recent application of the concept "neighbouring churches" in the GKSA as geographical neighbours is found in National Synod 2006's decision on majority meetings (Acta 2006:387-399, art 19.2 Report Deputies CO, art 48). The most noticeable of this Report is that geographic division of majority meetings is priority, even where language and cultural differences exist. Therefore it was approved "That

Regional Classes and Regional Synods and a General Synod be instituted” (2.1, p388). “Regional” within the context of this Report means geographical regions. In a Supplementary Report practical suggestions are made for the implementation of the above-mentioned decision, namely “that churches may support each other in church governance over and above language and culture (according to geographical division).” (E. p391) The practical suggestions for the formation of Classes are all geographical, also regarding Namibia (p. 396, Classis 19). However, it was decided: “Regional Synods, Classes and local churches may ask the relevant assemblies to change this grouping” (3.4, p397). It remains clear from the Report that the concept “neighbouring churches” is regarded as geographically Reformed neighbours, both at Classes and at Regional Synods. If the “relevant assemblies” may be asked to modify the division, then there should at least have been an orderly route between two or more Classes (in our case Etosha and Waterberg). It can not be a one-sided decision by one Classis to “admit” congregations to their Classis. The one-sided decision was taken by Waterberg, without consulting with Etosha.

4.4 Grounds for Appeal 4

Classis Waterberg does not consider the order in the denomination when they accepted that the four congregation “no longer assembled with Classis Etosha”.

4.4.1 Motivation

Classis Waterberg indicated one of the reasons why the four Namibian congregations’ request was considered favourably as being: “The fact is that these congregations knocked on the door of Classis Waterberg after they have already decided not to assemble with Classis Etosha anymore and have informed Classis Etosha accordingly” (Commission Report, Appendix 2, 4.1).

Note: the congregations decided by themselves to give notice to Classis Etosha. The matter has not been on the Agenda of Etosha at all by the time Classes Waterberg considered the request of the congregations favourably by calling a Special Classis.

Denomination is formed by local churches, who are fully body of Christ, in relation with other local churches who are one with them in doctrine, service and discipline. Churches and denomination assemble in an orderly manner in majority meetings as organised by the Church Order. Churches who accepted for a time that they are in the resort of a majority meeting and who were therefore called to those meetings can not decide one-sidedly to give notice that they will no longer heed a call to those majority meetings.

Four Namibian congregations’ request to meet with Classis Waterberg, far from the geographical boundaries of Classis Etosha, should not have been evaluated only on the basis of “not being part of Etosha any longer”. A congregation can not (like a member) “break ties” at one majority meeting to then join another majority meeting to be “admitted” there. And this without the reason for the departure from their initial Classis having been placed on the Agenda of that Classis in an orderly manner.

Furthermore it does not make sense that the congregation breaks ties with a denomination that meets in Classes for certain reasons, while they are willing to meet in the Regional and General Synods with those churches without those same reasons being stumbling blocks then. This behaviour is contrary to CO artt 30, 31 and 46. With this they also contravene the intention of CO, art 33 as it is formulated in the Letter of Credence, namely that they will in all matters stay true to the stipulations of the Church Order. The fact that both Classis Waterberg and Regional Synod Bushveld keep condoning this behaviour, even without written motivation for it, shows that the only meeting that can deliver jurisprudence in the matter, is the General Synod.

The only concern is: How far should this disorderly view of denomination and majority meetings be taken? What order is there if the denomination and majority meetings do not honour the Church Order? May this behaviour be tolerated, and where may it take place, only at a Classis, or also at a Regional Synod and ultimately also at a General Synod? Does this open the door for a church denomination of churches within the

GKSA church denomination? It will be a church denomination that detaches itself from certain churches in the GKSA based on what the Agenda of a majority meeting looks like and how the decisions are made, to only meet with some churches.

4.5 Grounds of Appeal 5

Regional Synod Bushveld continued the infringement of rights against Christ and his Church by deciding that the Appeal of Classis Etosha does not succeed without providing any Scriptural, Confessional or Church Order principles as motivation.

4.5.1 Motivation

The Appeal of Etosha to Regional Synod Bushveld 2008 was (as is the order) tested for receptiveness and then referred to a Commission. The Appeals Commission recommended, according to the attached Commission Report (see Appendix 4), that the Appeal succeeds. The Regional Synod took the Commission Report into discussion, but decided that the Report is not accepted. Therefore the decision is documented that the Appeal does not succeed.

This is firstly an infringement on rights since the procedure with regard to the discussion of the Commission Reports were not followed. The Regional Synod could at most decide to refer the Report back to the Appeals Commission.

It is secondly an infringement of rights since no reason was noted for why the Commission Report was not accepted. In so doing jurisprudence was given without an indication to the appellant of which Scriptural principles, Confessional basis or Church Order stipulations the Appeal's failure was based.

5. **In Conclusion**

If the Classis Waterberg wanted to make a positive contribution (in line with the calling to maintain the unity that exists in Christ through the order stipulations of the Reformed Churches that aim to promote unity and work peace in obedience to Christ) they should never have taken this decision. The consequences of this ill-considered decisions for the members, congregations and denomination in Namibia are not edifying for the church of Christ. In fact, it caused confusion, neglect and breakage in what was previously a powerful church denomination.

L. **REPORT OF THE APPEAL COMMISSION**

1. **Assignment**

Appeal of Classis Etosha against the decision of the Regional Synod Bushveld

Decision: Noted.

2. **Issues that the Synod should take note of**

2.1 The appeal was stated and referred to the commission.

2.2 Opportunity was given to the elucidator, appellants, members of the four congregations that combined with Classis Waterberg and various other persons to discuss the issue with the commission and provide further elucidation.

2.3 The advice of the advisor, prof A le R du Plooy, was heard.

Decision: Noted.

3. **Background of the Appeal**

3.1 *The chronological course of the issue is as follows*

Classis Etosha protested against Classis Waterberg for a decision that was made to allow four congregations from Namibia to meet with them, instead of with the neighbouring churches in Namibia. The four congregations fell within the geographic boundaries of Classis Nossob and later Classis Etosha for a long time. The protest of Classis Etosha did not serve in 2006 at Classis Waterberg. Hereafter Classis Etosha appealed to the "Particular Synod" Bosveld on the grounds of the decision of Classis Waterberg not to look at the petition of protest. The appeal was successful. In

September 2007 Classis Waterberg did look at the protest. Classis Waterberg did not uphold the protest. Classis Etosha appealed to the Regional Synod Bosveld for judicature in November 2008. The appeal at the regional Synod Bosveld was not successful. Therefore the appeal of Classis Etosha serves at the General Synod.

3.2 Classis Waterberg accepts these 4 congregations into their resort, although conditionally and aimed at reconciliation. The appeal reasons that the orderly way would have been to refer the four congregations back to Classis Etosha to solve their protests. The appeal makes the statement that Classis Waterberg must in the first place have had discussions with Classis Etosha on the claimed tension that exists. The appellants and the defendants deal with different interpretations of CO article 41. Classis Waterberg and Regional Synod Bosveld upheld the interpretation that "proximity" does not necessarily imply "geographic" proximity, but may include sharing a mutual agenda. Classis Etosha describes proximity as geographic proximity.

3.3 *The purpose of the appeal according to Classis Etosha*

Classis Etosha requests that the General Synod 2009 must adjudicate on the merits and contents of the issue. Classis Etosha requests that the verdict should be about the correct or wrong conduct of the four congregations, Classis Waterberg and Regional Synod Bosveld. According to Classis Etosha the conduct of Classis Waterberg and Regional Synod Bosveld condoned the conduct of these four congregations on various occasions.

Decision: Points 3.1 to 3.3 noted.

4. Findings

4.1 *Ground of appeal 1*

The right of Christ is offended by churches rejecting His assignment "Make every effort to keep the unity of the Spirit through the bond of peace" (Ephesians 4:3. NIV).

4.1.1 Reasoning

4.1.1.1 The core of the ground of appeal is that Classis Waterberg infringed rights by accepting the congregations of Classis Etosha in Classis Waterberg and that the Regional Synod Bosveld condoned this. The ground of appeal rests on the quoted Scripture (Ephesians 4:3) and on CO article 41. Classis Waterberg and Regional Synod Bosveld understand "neighbouring churches" (CO article 41) as churches that share the same agenda. But the unity of churches is not determined by the agenda of a specific meeting, but rather the unity in service, doctrine and censure. Classis Etosha shows, with reference to acknowledged declarations of the Church Order regarding CO article 41, that neighbouring churches as geographic neighbouring congregations is a principle on which there is unanimity. Local churches experience the unity in denomination by supporting each other as neighbouring churches regarding issues of mutual importance in a geographical area (because of the unity in service, doctrine and censure). Churches in the same vicinity support each other in regionally bound circumstances. The Church Order organise in CO articles 4,6,10,11,12, 38, 41,44 as well as the censure articles the situations in which churches in the same region can support each other. In the Acta of Synod 2006 other criteria for the compilation of a classis is named, but not the criterion of an irreconcilable relationship. It is not the church way to leave a classis because of the differences between different churches. The church way is the church orderly way. This way must be followed to the end. The appellants show that regional synod Bosveld condones the decision of Classis Waterberg and this is contradictory to article 41 CO that determines that a Classis exists out of neighbouring churches.

4.1.1.2 Classis Etosha shows that the churches in terms of CO article 86 is bound to keep to the Church Order, also for the purpose of major assemblies. Synod 2006 departed from the principle of the division of geographic boundaries for Classes. This confirms the principle of geographic proximity, as was shown in Classis Etosha. The appellants show that the decision of Regional Synod Bosveld condones the

acts of Classis Waterberg and therefore is not in line with amongst others the Synod decisions of 2003 and 2006. The Regional Synod Bosveld condones these acts and viewpoints of Classis Waterberg by failing the appeal of Classis Etosha. With this they infringed the right of Classis Etosha because the unity with these four congregations was broken.

4.1.2 Finding

Prejudice is proved.

Decision: Noted.

4.1.3 Recommendation

The appeal succeeds is successful on this ground.

Decision: Approved.

4.2 *Ground of appeal 2*

Classis Waterberg does not honour the principle of law to listen to both sides of the issue (*audi alteram partem*), but decides to allow the four congregations from Namibia to assemble with them, without testing the motivations for this on the testimony of Classis Etosha.

4.2.1 Reasoning

4.2.1.1 It is a principle of Scripture that the other side of the issue must be heard (*audi alteram partem*) if there is an accusation against a party. From the documents and elucidation it seems that the congregations had different reasons why they did not want to continue to meet with Classis Etosha. Classis Waterberg decided to accept the four congregations into their Classis. This classis put effort into the process of reconciliation after the inclusion of the congregations. For the judgement of the ground of appeal this is not relevant. The question is: *Did Classis Waterberg, listen to the side of Etosha when the original claims were made against Classis Etosha?* It seems that Classis Waterberg knew that these four congregations did not experience unity with Classis Etosha in service, doctrine and censure. This is a claim touching on the very core of the denomination – it can also be seen as an accusation against Classis Etosha. Classis Waterberg did not listen to the version of Classis Etosha on the grounds of the claims, before they accepted the four congregations. From the elucidation and papers it further seems that Classis Waterberg in the process did not adhere to the principle of Scriptural and church political rule of *audi alteram partem*. The Regional Synod Bosveld also condoned this act.

4.2.1.2 Classis Waterberg accepts the congregations, without testing the reasons by listening to the other party to the matter. This classis failed to indicate the church orderly way to the congregations to handle their protests. The Church Order does not make provision for the fact that congregations can withdraw from a classis on the grounds of other reasons than those determined by the Synods 2003 (p.473) and 2006 (p.387-399). The Regional Synod Bosveld infringes the right of Classis Etosha, because they do not uphold the appeal of the classis that shows that the *audi alteram partem* rule was violated.

4.2.2 Finding

The appellants prove prejudice.

Decision: Noted.

4.2.3 Recommendation

The appeal succeeds on this ground.

Decision: Approved.

4.3 *Ground of appeal 3*

Classis Waterberg do not respect the spirit of the decisions on major assemblies that was taken by the National Synod.

4.3.1 Reasoning

Church Order Article 31 determines that what was decided with a majority of votes on church meetings, must be considered fixed and binding, except if it can be shown that it is in contradiction to the Word of God or the articles of the Church Order. In 2006 the GKSA decided on the application of the introduction of neighbouring churches with the Report of the Deputies Article 48 Church Order. The appellants appeals to this point of departure that was used in 2006. Classis Etosha further shows that Classis Waterberg without consultation with Classis Etosha on taking up the four congregations from their resort did not respect the intention of decisions of major assemblies.

Regional Synod Bosveld condones the act of Classis Waterberg with their decision.

4.3.2 Finding

The appellants prove prejudice.

Decision: Noted.

4.3.3 Recommendation

The appeal succeeds on this ground.

Decision: Approved.

4.4 *Ground of appeal 4*

Classis Waterberg does not discount the order within the denomination, by accepting that the four congregations “did not meet with Classis Etosha any more.”

4.4.1 Reasoning

4.4.1.1 In Church Order Article 29 the various church meetings that are kept, is organised.

Each local church is independent. This principle is part of the Reformed church concept. But the local church is one with other churches with the same testimony, liturgy and church authority, and practically experiences the unity in the denomination. The denomination therefore rests on a spiritual unity. This unity is confirmed amongst others when the Public Declaration is accepted. It is therefore not tolerable that churches denounce unity with a specific classis, and then join another classis, because they feel one in service, doctrine and censure.

4.4.1.2 When the churches do not experience the unity within the classis, a church way exists that should be followed. Church Order Article 30 therefore determines that church issues must be dealt with in a church way and that issues that cannot be settled in minor assemblies should be settled in major assemblies. The request of a congregation to move to another Classis is an issue involving other churches in the vicinity. The bond with the Classis may not be annulled from one side only. Therefore Church Order Article 31 organises the orderly way of appeal and article 46 the way of protest if a congregation is dissatisfied, or is of the opinion that a certain decision should be altered in the light of circumstances. Classis Waterberg did not follow the church polity route with their decision. The Regional Synod Bosveld condones, by rejecting the appeal of Classis Etosha (without motivation), the disorderly act by not taking a closer look at the issue. With this they disregard the order of the denomination and infringe the right of Classis Etosha.

4.4.2 Finding

The appellants prove prejudice.

Decision: Noted.

4.4.3 Recommendation

The appeal succeeds on this ground.

Decision: Approved.

4.5 *Ground of appeal 5*

Regional Synod Bosveld continued with prejudice against Christ and his church, by deciding that the appeal of Classis Etosha fails, without indicating any Scriptural, Confessional or Church Order principles as reasons for the decision.

4.5.1 Reasoning

The Regional Synod Bosveld tabled the report of an appeal commission that recommends that the appeal of Classis Etosha is successful. It is the right of the Regional Synod to reject the recommendations of the commission. It happened in this case, but without providing a motivation for rejecting the appeal. Adjudication was delivered, but without any fundamental and motivated motivation. An appeal is adjudication, but in this instance we are dealing with church adjudication. Motivation of why an appeal fails is necessary, especially if the appeal has practical implications and is the responsibility of a church assembly. Therefore it is necessary that decision is properly motivated.

The Regional Synod Bosveld had, by condoning the decision, infringed on the right of Classis Etosha.

4.4.2 Finding

The appellants prove prejudice.

Decision: Noted.

4.4.3 Recommendation

The appeal succeeds on this ground.

Decision: Approved.

5. **Recommendation**

The appeal as a whole succeeds.

Decision: Noted.

6. **Implication**

The successful appeal causes the decision of Regional Synod Bosveld to be annulled. The implication is therefore that the decision of Classis Waterberg could also not have been taken on the grounds of church polity. The further implication is that the four congregations form part of Classis Etosha once more. The effect is that Classis Etosha and the four congregations should strive in prayer for reconciliation and follow a church orderly way in treating the problems of the four congregations.

Decision: Noted.

The assembly decides that the Synod appoints Deputies in terms of CO, art 49 to advise the relevant minority assemblies on their request for the sake of reconciliation.

An opportunity is granted to prof BJ de Klerk to dedicate the churches touched by the preceding decision, as well as the broader denomination, to the Lord in prayer.