

## Week 7      Rechtspraak

### Literatuur

- *Staatsrecht*, nrs. 156-164 en 169-175

### Jurisprudentie

- HR 31 december 1915 (*Guldemond/Noordwijkerhout*) **Burgerlijke rechter is bevoegd als iemand zich op OD beroept**
- HR 27 januari 1961 (*Van den Bergh/Staat*)
- HR 14 april 1989 (*Harmontisatiwet*)
- HR 28 februari 1992 (*Changoe*) **Zolang er beroep mogelijk is bij de bestuursrechter mag de burgerlijke rechter niet de zaak behandelen**
- HR 21 maart 2003 (*Waterpakt*)

### Leerdoelen

- De hoofdlijnen van de inrichting van de rechtsprekende macht uitleggen;
- De waarborgen voor de onafhankelijkheid en onpartijdigheid van de rechter uitleggen;
- De normenhierarchie en toetsingsverboden toepassen;
- De regels over toegang tot de bestuursrechter en burgerlijke rechter toepassen.

## Vergeet ook de digitale toets (Canvas) niet

### Oefenvragen (maken voor werkcollege)

1. Welke grondwettelijke en andere wettelijke bepalingen beschermen de onafhankelijkheid van de Nederlandse rechter?  
**De grondwet heeft het over de rechtspositionele onafhankelijkheid van de rechter in artikel 117 en 118**
  - Benoemingprocedure voor de leden van de Hoge Raad, artikel 118 lid 1
  - Benoeming voor het leven, artikel 117 lid 1
  - Schorsing of ontslag door een bij de wet aangewezen, tot de rechterlijke macht behorende gerecht, artikel 117 lid 3
  - Rechtspositie is bij de wet geregeld, artikel 117 lid
  - Het geheim van de raadkamer, artikel 7 lid 3 en artikel 13 RO
  - Artikel 96 RO
2. In 2003 bepaalde het EHRM in een zaak tegen Nederland dat het adviseren en daarna rechtspreken door dezelfde personen in dezelfde zaak strijd kan opleveren met artikel 6 lid 1 EVRM.
  - a. Welk onderscheid maakt het EHRM tussen rechterlijke onafhankelijkheid en rechterlijke onpartijdigheid?  
**Bij de onafhankelijkheid hecht het EHRM aan institutionele waarborgen tegen inmenging door de uitvoerende macht of door de partijen in een zaak:**
    - De wijze van benoeming
    - De benoemingstermijn
    - De waarborgen tegen druk van buitenaf, in het bijzonder bescherming tegen ontslag
    - De indruk naar buiten

# Ontwerpen Van Notarieele Akten Rechtspraak En Literatuur Aflevering 2

**Karin Nielsen-Saines**



## **Ontwerpen Van Notarieele Akten Rechtspraak En Literatuur Aflevering 2:**

Verzamelde werken van prof. mr. A. A. H. Struycken, onder leiding van mr. J. Oppenheim ... Antonius Alexis Struycken, 1925      **Rechtsgeleerd magazin Themis**, 1948      **Weekblad voor privaatrecht, notaris-ambt en registratie**, 1923      **Weekblad van het recht**, 1878      Nieuwsblad Voor Den Boekhandel, 1899 With 1855 1927 are issued and bound Handelingen van de algemeene vergadering      **Indisch weekblad van het recht**, 1887      **Ontwerpen van notarieele akten** J. P. W. Schermer, J. G. Klaassen, Pieter Jacobus Albert Adriani, Constantijn Marinus Böhtlingk, G. J. H. Kuyk, C. Punt, Arend Mijs, Jannes Eggens, A. W. J. van Vrijberghe de Coningh, Henri François Reinier Dubois, 1893

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