

HET BEGINSEL VAN EFFECTIEVE RECHTSBESCHERMING : EEN TOOL OM DE RECHTSSTAAT IN DE EU TE BESCHERMEN?

Het rechtsstaatbeginsel is één van de fundamentele waarden waarop de Europese Unie rust. Het naleven van dit beginsel door de lidstaten is niet meer zo vanzelfsprekend. Er worden steeds vaker maatregelen getroffen die de werking en de organisatie van de rechterlijke macht hervormen en tasten de rechterlijke onafhankelijkheid aan (welke cruciaal is voor het rechtsstaatbeginsel).

RECHTSTAATSBEGINSEL : BELANG

Het rechtsstaatsbeginsel ligt vervat in artikel 2 van het VEU. Dit is een fundamentele waarde waarop de Europese Unie rust. Het artikel geeft aan dat het een waarde is, maar geeft verder niets weer over wat het precies inhoudt. Er bestaat geen vaste definitie van wat de rechtsstaat precies is.

De essentiële kenmerken van het rechtsstaatsbeginsel (de Commissie beschrijft het rechtsstaatsbeginsel aan de hand van verschillende rechtsbeginselen) :

- Het legaliteitsbeginsel
- Het rechtszekerheidsbeginsel
- Het verbod van willekeur voor de uitvoerende macht
- Het beginsel van onafhankelijke en doeltreffende rechterlijke toetsing
- Het recht op een eerlijk proces en de scheiding der machten
- Het beginsel van gelijkheid voor de wet

Omdat het onvoldoende gedefinieerd is in de wet, zal men naar de rechtspraak van het Hof van Justitie kijken. Het Hof heeft in het arrest *Ruslanas Kovalkovas* gezegd dat de scheiding der machten een belangrijk kenmerkend beginsel is voor het rechtsstaatsbeginsel. Het Hof heeft ook bevestigd dat de doeltreffende toepassing van het Unierecht inherent deel uitmaakt van het rechtsstaatsbeginsel.

Het beginsel dat de laatste jaren op de voorgrond verschijnt, is het beginsel van de onafhankelijke en doeltreffende rechterlijke toetsing. Ze wordt gezien als de kern van de rechtsgemeenschap en ze benadrukt het belang van het toezicht op de verenigbaarheid van de handelingen van de instellingen en de lidstaten met de geldende Verdragen om als dusdanig de doeltreffende werking van het EU-recht te verzekeren aan de hand van een volledig stelsel van rechtsmiddelen.

De onafhankelijkheid van de nationale rechters is cruciaal voor de Europese Unie en het EU-recht. Maar waarom is dit nu zo cruciaal en wat is het belang ervan?

Het belang van het rechtsstaatbeginsel kan opgesplitst worden in twee afzonderlijke delen :

- Respect voor het rechtsstaatsbeginsel is van essentieel belang, want het EU-recht is gebaseerd op de premisse dat de EU-lidstaten een reeks gemeenschappelijke waarden delen, zoals het rechtsstaatsbeginsel. Er is wederzijds vertrouwen tussen de EU-lidstaten en dit betekent dat alle lidstaten het EU-recht en de hiermee verbonden grondrechten respecteren. Een voorbeeld is het Europees aanhoudingsbevel en dit steunt op het beginsel van wederzijds vertrouwen tussen de EU-lidstaten en hun rechterlijke autoriteiten. Dit kan onder druk staan door een rechtstaatchteruitgang en dit is een gevaar voor het wederzijds vertrouwen. De uitvoering van een Europees aanhoudingsbevel kan geschorst worden wanneer er geen wederzijds vertrouwen ten gevolge van het niet naleven van het rechtsstaatsbeginsel.
- Anderzijds is het naleven van het rechtsstaatsbeginsel ook van belang voor de doeltreffende werking van de prejudiciële procedure (art. 267 VWEU). Het dialoog tussen de nationale rechter en het Hof kan slechts tot stand komen indien de nationale instantie (die een prejudiciële vraag stelt) kan worden gekwalificeerd als een rechterlijke instantie in de zin van het EU-recht. Opdat een instantie een rechterlijke instantie is, moet er rekening gehouden worden met een aantal criteria (wettelijke grondslag van orgaan, permanente karakter, de verplichte rechtsmacht, de procedure op

De Rechtsbescherming Van Nationale Overheden In Het Europees Recht

Ian Pickup



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Unveiling the Energy of Verbal Artistry: An Mental Sojourn through **De Rechtsbescherming Van Nationale Overheden In Het Europees Recht**

In a world inundated with displays and the cacophony of fast interaction, the profound power and mental resonance of verbal beauty frequently diminish into obscurity, eclipsed by the continuous barrage of sound and distractions. Yet, situated within the lyrical pages of **De Rechtsbescherming Van Nationale Overheden In Het Europees Recht**, a captivating perform of literary elegance that pulses with raw feelings, lies an unforgettable trip waiting to be embarked upon. Written with a virtuoso wordsmith, this interesting opus guides viewers on a psychological odyssey, lightly exposing the latent potential and profound impact embedded within the complicated web of language. Within the heart-wrenching expanse of the evocative evaluation, we can embark upon an introspective exploration of the book is main themes, dissect its charming writing type, and immerse ourselves in the indelible effect it leaves upon the depths of readers souls.

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