

Abstracts

The relationship between the public prosecutor and the Minister of Justice.

P.B. Cliteur

In Dutch society a debate is going on about dependence or independence of the public prosecutor from the executive power of the state. Some scholars emphasize the need for independence of the public prosecutor's office. Other scholars stress the importance of democratic supervision over the activities of the public prosecutor. Cliteur adheres to the last point of view. He advocates (i) a clear distinction between law and managerial directives and (ii) the separation of law as it is and law as it ought to be. Interpreting the law *as it is* one cannot deny that The Netherlands has rejected all claims to independence of the public prosecutor. This is also the most satisfying option.

The relationship between the public prosecutor and the Minister of Justice. A Commentary.

J.L.M. Boek

Boek criticizes the contribution of Cliteur. He advocates an independent public prosecutor in the sense that the public prosecutor must have some discretionary power. He is critical towards the concept of a democratic supervision of the public prosecutor because he fears political influences in the judicial dimension that ought to be avoided. He advocates a limitation of the competence of the Minister of Justice vis à vis the public prosecutor to *general* directives.

Domainstruggles

R. Pieterman

The actual debate in the Netherlands about the relationship between the Public Prosecutor and the Minister of Justice is in fact an old debate already going on since the founding of the Kingdom of The Netherlands. It is part of the more general discussion about the relationship between the executive and the juridical powers of the state. In a more general perspective, this relationship has been a matter of discussion from the very start of the process of state formation.

By regarding the debate this way, it appears that we are dealing with a problem that can never be solved. Essentially it is a matter of power. In this way, the question appears to be political, not juridical in its nature. But in the actual debate, it is taken as a juridical problem which means that it is transformed from a political to a technical matter. And at that time, we agree, for the moment, about the priorities of certain values above others, which means, we agree about the priority of certain interests above others.

