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Maartje Verhoeven

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National administrative authorities are obliged to leave provisions of national law unapplied when these are incompatible with European Union law. Irrespective of their position and powers under national law, national administrative authorities are supposed to comply with this so-called 'Costanzo obligation' as established by the Court of Justice. This raises questions of both EU law and national constitutional law, particularly with regard to the principle of legality. This book explores three issues: a) Which European obligations apply to national administrative authorities, with regard to provisions of national law that are incompatible with directly effective provisions of European law? b) Which national constitutional obstacles do they come across by giving effect to these obligations? c) How should the tensions between the European obligations and the national constitutional obstacles be solved? The national law part of the research is focused on the legal systems of France, Germany, and the Netherlands. The last question combines the European and national perspective and reveals a clash, which gives rise to the question whether the obligation in the current form should be maintained. The 'Costanzo obligation' has not been explored very often thus far, as the focus is mostly on the application of EU law by national courts. This research shifts the focus to the position of national administrative authorities in cases of conflict between national law and EU law. Moreover, the book offers a new point of view, as it not only discusses the European perspective, but also explores the 'Costanzo obligation' from the viewpoint of the Member States in a comparative legal study. This combined approach makes the book interesting and valuable for readers with a background in European law or in national constitutional and administrative law.

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