



Universiteit
Leiden
The Netherlands

Guidance documents of the European Commission in the Dutch legal order

Dam, J.C.A. van

Citation

Dam, J. C. A. van. (2020, February 11). *Guidance documents of the European Commission in the Dutch legal order*. Meijers-reeks. Retrieved from <https://hdl.handle.net/1887/86926>

Version: Publisher's Version

License: [Licence agreement concerning inclusion of doctoral thesis in the Institutional Repository of the University of Leiden](#)

Downloaded from: <https://hdl.handle.net/1887/86926>

Note: To cite this publication please use the final published version (if applicable).

Cover Page



Universiteit Leiden



The handle <http://hdl.handle.net/1887/86926> holds various files of this Leiden University dissertation.

Author: Dam, J.C.A. van

Title: Guidance documents of the European Commission in the Dutch legal order

Issue Date: 2020-02-11

Guidance documents of the European Commission in the Dutch legal order

J.C.A. VAN DAM

With the issuing of guidance documents the European Commission assists the Member States in the implementation of Union law. This thesis seeks to unravel the process of governance through guidance by tracing its role and legal implications in the Dutch legal order.

The first part explores the use of guidance documents by Dutch authorities and courts. Along the lines of five types of guidance and four perspectives on their binding force, different roles of guidance are discerned. National courts act as counterbalancing or facilitating actors by reinforcing or downplaying the role of guidance documents in implementation processes.

The second part assesses the implications in the light of legal principles. To this end, it formulates four 'promises', or ideal effects, that outline how the use of guidance documents could contribute to a predictable, consistent and transparent implementation process, whilst respecting the rule of EU hard law. The analysis finds that, in practice, these 'promises of guidance' are not always fulfilled: a gap between promise and practice exists.

The findings thus show how the issuing and use of guidance risks to challenge the rule of law that is so fundamental to the EU legal order. This thesis therefore invites to rethink governance through guidance.

This is a volume in the series of the Meijers Research Institute and Graduate School of the Leiden Law School of Leiden University. This study is part of the Law School's research programme 'The Legitimacy and Effectiveness of Law & Governance in a World of Multilevel Jurisdictions'.