

**EUROPEAN UNION DIRECTIVES:
BETWEEN THE RECOGNIZED VERTICAL
AND THE UNACCEPTED HORIZONTAL DIRECT EFFECT**

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Abstract. *Directives are legal acts which bound Member States only in regard to the objectives and results to be achieved, while the choice of form and methods to achieve them is left to the discretion of national authorities. Due to their legal nature and place in the EU legal system, directives do not create direct rights and obligations for individual subjects but only for the Member State which it is refers to. The problem, however, arises when a Member State, infringing its obligation, fails to implement the directive or adopt inadequate implementation measures within the prescribed deadline. Faced with this kind of situation, the Court of Justice recognized a vertical direct effect of EU directives, but is still hesitant in acknowledging a horizontal direct effect. In addition, the Court accepted their interpretative and incidental effect, as well as state liability in damages, in situations of non-implementation of directives.*

Key words: *directives, direct effect, vertical direct effect, horizontal direct effect, interpretive effect, incidental effect, compensation liability.*

1. INTRODUCTION

According to the founding treaties of the European Union, directives are legal acts which bound Member States only in regard to the objectives and results to be achieved, while the choice of form and methods to achieve them is left to the discretion of national authorities.¹ The creators of the founding treaties envisioned directives as a means for harmonization rather than unification of the national law of Member States. Directives, therefore, are not intended to fully unify national laws. They approximate national law to the extent necessary to achieve the EU objectives but leave to the Member States the

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¹ Art. 288 Treaty on the functioning of the EU.

possibility of regulating certain issues in a variety of ways. Directives set only a regulatory goal to the Member States, leaving them the freedom of choice how it is to be achieved.²

Due to their legal nature and place in the EU legal system, directives do not create direct rights and obligations for individual subjects but only for the Member States which it refers to. The rights and obligations of individuals arise directly from the national implementation measures of the directive at hand. A directive should produce effects only through the national implementation act; thus, a regular mode of its operation is actually the application of the national law in which it is installed.

The problem, however, arises when a Member State, infringing its obligation, fails to implement the directive or adopt inadequate implementation measures within the prescribed deadline.³ According to the text of the founding treaties, directives could not produce any legal effect for individual subjects without adopting appropriate national implementation within the envisaged time-frame. In other words, when the national legislator does not install, or incorrectly incorporates the directive into domestic law, individuals are deprived of the possibility to directly call upon the provisions of the specific directive before national authorities and courts in order to exercise the rights which they do not have under the national law but which they would have had if the directive had been properly implemented. In case the State fails to fulfill its implementation obligations, the ultimate consequence would be that directives become ineffective EU legal acts, which have no benefit for individual subjects.

Faced with this kind of situation, the Court of Justice took a stand that individuals may directly invoke the provisions of a directive before domestic courts and bodies of authority, whereby the national authority is obliged to ensure the exercise of the individual rights arising from these provisions.⁴ Thus, the Court of Justice has enabled individuals to protect their rights stemming from directives before the Member States authorities but, concurrently, it has limited the direct effects of its provisions only to procedures against the State. The Court, therefore, has recognized only the vertical direct effect of directives, without allowing individual subjects to invoke its provisions in proceedings against other individuals.⁵

The Court has, to this day, persisted in its position not to accept the horizontal direct effect of directives, despite the criticisms in theory.⁶ Elaborating on its stance, the Court pointed out that the binding nature of directives as envisaged in the founding treaties, which may serve as a legal ground for calling upon a specific directive before national courts, exists only in relation to each Member State it refers to. Since directives are binding only for States, they cannot generate direct obligations or rights to individuals at the horizontal level. More specifically, as the directive cannot directly impose obligations on individual subjects, individuals do not have the right to invoke its provisions before the national court to compel another individual to perform the obligation.⁷

² T.Čapeta, S.Rodin, *Osnove prava Europske unije*, Zagreb, 2011, p.68.

³ V.Knežević-Predić, Z.Radivojević, *Kako nastaje i deluje pravo Evropske unije*, Beograd, 2009, p.146.

⁴ Case 41/74, *Yvonne Van Duyn v. Home Office*, ECR, 1974, p.1337.

⁵ Case 152/84, *M.H.Marshall v. Southampton and South-West Hampshire Area Health Authority*, ECR, 1986, p.723.

⁶ P.E.Morris, The Direct Effect of Directives - Some Recent Developments in European Court, *Journal of Business Law*, 1989, Vol. II, pp.318-320.

⁷ Case 152/84, *Marshall*, ECR, 1986, 723, para.51.

The judgment rendered in *Faccini Dori* case was the final confirmation of the Court standpoint that directives do not have horizontal direct effect. In this case, the Court of Justice refused to recognize the direct effect of provisions in the Directive on consumer protection that allowed the cancellation of contracts concluded away from business premises.⁸ In other words, the Court decided to protect the rights of individuals who would be obliged to perform the obligation pursuant to the horizontal effect of directives even if it has not been installed into the national law.

The Court of Justice justified this decision by underscoring that allowing to extend the direct effect of directives to relations between individuals would imply recognizing the power in the European Community to impose obligations on individuals, not only under the immediate effect of a specific regulation (as envisaged in the founding treaty) but also by the power of the directive, even if the EC is not competent to do so.⁹ It would undermine the fundamental difference between the two types of legal acts established by the founding treaties and, therefore, impair the distribution of competences between the Union and the Member States. Ultimately, the ban of the horizontal direct effect of directives stems from the principle of delegated powers and it is an expression of observing the sovereignty of the Member States and the principle of subsidiarity.¹⁰

Along with the decision not to recognize the horizontal direct effect, the Court of Justice has established another limitation on the effects of directives. The Court banned the reverse vertical direct effect of directives; the ban applies in case the State fails to fulfill an obligation to implement the directive. The Court was of the opinion that an unimplemented or inappropriately implemented directive must not have the effect of creating obligations for individuals, nor can they be prosecuted on the basis of such a directive. Therefore, individuals are not responsible for the States' failure to properly incorporate the directive into their domestic laws. For these reasons, in domestic court proceedings against private individuals, the State cannot invoke (for its own benefit) the provisions of the directive which has not been incorporated into the domestic legislation for the purpose of imposing an obligation on individual subjects.¹¹

The consistency of the Court in denying the horizontal direct effect of directives can basically be explained by some alternative methods that the Court developed in the meantime. These alternative methods enabled the individual subjects to rely on the provisions of unimplemented directives before the national courts in order to exercise the guaranteed rights. The application of these alternative methods has also opened up a possibility to indirectly recognize a certain effect of directives in proceedings between private subjects and, thus, bridge the gap between the recognized vertical and unaccepted horizontal direct effect. The Court has resorted to a number of *passarelle* clauses enabling the Court to: 1) impose an obligation on national authorities to interpret the national law in accordance with the directive (so-called indirect or interpretive effect of the directive); 2) allow individuals in private disputes to call upon the provisions of the directive in order to refuse the application of conflicting norms of national law (so-called incidental effect of the directive); 3) oblige the Member States to compensate for the damage caused by the failure to implement the directive to individual subjects (state liability for damages).

⁸ Case C-91/92, *Paola Faccini Dori v. Recreb Srl*, ECR I, 1994, p.3325.

⁹ *Ibid.*, para.24.

¹⁰ T. Josipović, *Načela europskog prava u presudama Suda Europske zajednice*, Zagreb, 2005, str.228.

¹¹ Case 80/86, *Criminal Proceedings against Kolpinghuis Nijmegen BV*, ECR, 1987, p.3969.

2. INTERPRETIVE EFFECT OF DIRECTIVES

Although the Court of Justice did not use the terms *indirect* or *interpretative effect*,¹² this method has solid foundation in jurisprudence, on the basis of which the national court is bound to take into account the provisions of the directive in interpreting the national law and (if possible) attach meaning to national law provisions in order to achieve the objectives of the directive. This technique is used in the process of interpreting national legal acts where the directive has been incompletely, incorrectly or ineffectively implemented by the State. However, the obligation of national courts to interpret national law so as to achieve the objectives set out by the directive extends to all other national laws and regulations that are not aimed at its implementation, including those which were adopted before and after the adoption of the directive.

By imposing the obligation on the State to interpret the national law in accordance with the objectives of the directive in proceedings between individual subjects, the Court of Justice managed to take a detour and bridge the gap created by banning the horizontal direct effect of the directive. In effect, thus constructed *passarelle* enabled the Court (under the pretext of interpretation of the national law in light of the wording and purpose of the directive) to achieve the same result as if the directive were directly binding for individuals. In this construction, the obligation for private individuals and entities arises directly from the national legislation and not from the directive as such, which is not in contravention with the firmly established Court's view that the directive cannot directly create obligations for individuals. Ultimately, the interpretation of national law in accordance with the directive has enabled the obligations to be indirectly imposed on individuals.

The possibility of recognizing the indirect effect of directives was first acknowledged in the landmark case *Van Colson and Kamann v. Land Nordrhein-Westfalen*, concerning the Directive prohibiting gender-discrimination which had been improperly implemented into the German national legislation. In its decision, the Court of Justice underscored the obligation of national courts to interpret the national law in light of the wording and goal of the Directive in order to attain the result which the directive should produce under the founding treaty. The Court explained that this obligation refers to the legal provisions adopted in order to implement the directive in accordance with the requirements of *acquis communautaire*, in line with the scope of discretionary power vested in the national courts.¹³

As the main reason for imposing the obligation of interpretation in accordance with directives, which otherwise the community law did not foresee for national courts, the Court referred to the principle of sincere cooperation proclaimed in Article 4, paragraph 3 (formerly Article 10) of the EU Treaty. According to this provision, Member States shall take all necessary measures to fulfill the obligations arising from the EU founding treaty and the Union scope of operation. In particular, they are obliged to facilitate the achievement of the Union tasks by assisting each other in carrying out the Union objectives and to refrain from any measure which could jeopardize the attainment of the EU Treaty objectives.

In the opinion of the Court of Justice, the clause of sincere cooperation equally applies to all state bodies, which means that it is binding not only for the legislative and executive

¹² For more on these terms, see: P.Craig, G. De Burca, *European Union Law – Text, Cases and Materials*, Oxford, 2008, p.288; T.Čapeta, S.Rodin, *op.cit.*, p.75. Some authors (N.Misita, *Osnovi prava Evropske unije*, Sarajevo, 2007, pp.398-399) use the term indirect horizontal effect of directives.

¹³ Case 14/83, *Sabine von Colson and Elisabeth Kamman v. Land Nordrhein-Westfalen*, ECR, 1984, p.1981.

authorities but also the national courts. By acting within the framework of their competences, the courts are obliged to enable the attainment of goals envisaged in the directive. Since their competences include the interpretation and application of the national law, the clause of sincere cooperation obliges them to take into consideration the text and the purpose of the directive when interpreting national norms.

The Court of Justice significantly expanded the scope of the interpretive effect of directives in *Marleasing* case, where the Court considered the legal grounds for nullity of the company association agreement. In particular, the earlier provisions of domestic legislation in this area were not in accordance with the subsequent directive whose provisions were not implemented in that Member State. On that occasion, the Court explained that the obligation of harmonized interpretation extended to the national regulations which had been adopted before its entry into force.¹⁴ Moreover, this obligation is stronger if the Member State argues that the existing national law is already in accordance with the directive at hand.¹⁵

A practical implication of such reasoning of the Court of Justice is that, in the case of non-implementation or improper implementation of a specific directive, the national courts of Member States are obliged to interpret the entire national law within the scope of application of that directive in light of its text or objectives. In this regard, it is irrelevant whether the national legislation has been passed before or after the directive has entered into force, and whether the legal act has been adopted only for the purpose of its implementation. In any case, the national court must strive to interpret the national legislation in accordance with the Directive to the fullest possible extent, which also includes possible changes in the former judicial practice. In such cases, the courts are entitled to interpret *proprio motu* domestic law in accordance with the specific directive without waiting for the disputing parties to file a request for such a proceeding.

Recognizing that the directive may have interpretive effect, the Court of Justice concurrently set boundaries for the harmonized interpretation of the national law. In *Adeneler* case, the Court limited the obligation of interpretation in accordance with the directives by restricting it to the period after the expiry of the deadline for its implementation.¹⁶ Another limitation is that harmonized interpretation of national law may lead to or aggravate individual criminal responsibility. Thus, in *Kopinghuis Nijmegen* case, the Court did not accept the interpretive effect of directives if it would result in criminal liability and other criminal obligations for individuals. According to the explanation given by the Court on this issue, the obligation of harmonized interpretation of the national law in accordance with the directive ceases at the moment when it would lead to or aggravate the criminal liability of an individual.¹⁷

Apart from the former restriction, the national court may not be obliged to interpret the national law provisions as being *contra legem*, i.e. as being in contravention with the national law. However, as the Court of Justice pointed out in *Pupino* case, before determining that certain interpretation would be *contra legem*, the national court must try to find an acceptable solution, bearing in mind the national law as a whole and not only a specific

¹⁴ Case C-106/89, *Marleasing SA v. La Comercial Internacional de Alimentacion SA*, ECR I, 1990, p.3969.

¹⁵ Case C-334/92, *Teodoro Wagner Miret v Fondo de Garantia salarial*, ECR I, 1993, p.6911.

¹⁶ Case C-212/04, *Adeneler and Others v. Ellinikos Organismos Galaktos*, ECR I, 2006, p.6057, para.115.

¹⁷ Case C80/86, ECR, 1987, p.3969. The Court of Justice had the same stance in case C-168/95, *Criminal Proceedings against Luciano Arcaro*, ECR I, 1996, p.4705.

norm relevant in the given dispute.¹⁸ On the other hand, the interpretation of national law in accordance with directives is also limited by some of the general principles of EU law. These principles are: the protection of legal certainty and the prohibition of retroactivity, which the national court is obliged to observe when giving a harmonized interpretation of the national law.¹⁹

3. INCIDENTAL EFFECT OF DIRECTIVES

The Court of Justice managed to mitigate the negative consequences of prohibition of horizontal direct effect of directives by applying another alternative method. Unimplemented directives are not intended to create rights for individual subjects; they directly refer to the authorities of Member States imposing an obligation to take specific action or to refrain from specific behavior. Thus, in *CIA Security*²⁰ and *Unilever*²¹ cases, pertaining to the Directive on technical standards, the Court allowed individuals to invoke the Directive provisions before a national court against another individual, not for the purpose of protecting their rights but in the order to exclude the application of the national norm which has not been harmonized with this Directive. The justification for this position is that referring to a directive with the intention to exclude the application of a non-harmonized national norm does not give rise to new rights, nor does it impose individual obligations directly based on the directive. The only result of cancelling the application of national legal norms which are contrary to the provisions of the unimplemented directive is a legal gap which is to be closed by some other national provisions.

In legal theory, the obligation of national courts to refuse the application of national rules which are contradictory to the directive is qualified as the secondary or incidental effect of directive.²² Under this theoretical construction, the possibility of allowing private individuals having a dispute with other individuals in national courts to request non-application of the national law (because it is contrary to the unimplemented directive) is just a reflection or an incidental effect of the Member State's obligation to implement the directive.²³ In addition, the unimplemented directive can produce incidental effect in the relations between individual subjects, given the fact that it indirectly creates an obligation or has detrimental consequences for the rights of third parties, in case another individual has called upon its provisions for the purpose of requesting non-application of unharmonized national rules where the specific rights are guaranteed. Thus, in *Wells* case, the Court found that the mere fact that a third party (individual) will sustain negative consequences shall not prevent private subjects to invoke the provisions of the directive which has not been implemented by the Member State.²⁴

¹⁸ Case C-105/03, *Criminal Proceedings against Maria Pupino*, ECR I, 2005, p.5285.

¹⁹ Joined cases C-74/95 and C-129/95, *Criminal proceedings against X*, ECR, 1977, p.113, paras.22-24.

²⁰ Case C-194/94, *Cia Security International SA v. Signalson SA and Securitel SPRL*, ECR I, 1996, p.2201.

²¹ Case C-443/98, *Uniliver Italia SpA v. Central Food SpA*, ECR I, 2000, p.7535.

²² P.Craig, G. De Burca, *op.cit.*, p.296; T.Çapeta, S. Rodin, *op.cit.*, p.81; G.Isaac, M.Blanquet, *Droit général de l'Union européenne*, Paris, 2012, pp.388-389.

²³ M.Schweitzer, W.Hummer, W.Obwekser, *Europarecht - Das Recht der Europäischen Union*, Wien, 2007, S.79.

²⁴ Case C-201/02, *Delena Wells v. Secretary of States for Transport, Local Government and Regions*, ECR I, 2004, p.723. paras.56-57.

4. STATE LIABILITY IN DAMAGES DUE TO NON-IMPLEMENTATION OF DIRECTIVES

In addition to the interpretive and incidental effect, the Court of Justice established the State's liability in damages caused by its failure to implement a directive. It was one of the ways to overcome the drawbacks in the individual rights protection system stemming from the absence of the horizontal effect of directives. It is a supplementary method which is used to protect the rights of individuals in cases where the goal cannot be achieved by other indirect means. This method is applied in case the individual rights, which they would have been granted if the directive had been properly implemented, may not be derived from the interpretation of the national law in accordance with the directive. Otherwise, when individuals are granted the same rights in the course of the harmonized interpretation of the national law which they would have if the directive were implemented, there is no liability of the state because the damage has not been caused. State liability is also excluded in case of the incidental effect; considering that the unimplemented directive does not grant rights to individuals, there is no legal ground for compensation of damage.

As the founding treaties do not mention State liability in damages due to non-implementation of the directive, this principle has been defined and developed by international jurisprudence. The principle was established by the EU Court of Justice in the 1990s, in the landmark *Frankovich and Bonifaci* case dealing with the Directive on the employees' protection in case of the employer's insolvency, which the Member State failed to incorporate into its national law. By proclaiming the principle of state liability in damages (i.e. compensation for damage caused to individuals due to non-implementation of the directive), the Court of Justice justified its decision by calling upon the need to promote the effectiveness of EU law, protection of rights of individuals, and the principle of sincere cooperation deriving from the EU founding treaty.²⁵

From the Court's point of view, the impossibility of obtaining compensation in cases where the rights of individuals are threatened or endangered by the breach of EU law by Member States would weaken the full effectiveness of EU law provisions and undermine the protection of individual rights recognized in those provisions. The recognition of the right to seek compensation from Member States is even more significant when the full effect of the EU law norms rests on the appropriate state action; hence, in the absence of such action, individuals cannot invoke the rights which they have been granted within the EU law framework. On this basis, the Court concluded that the principle of State liability in damages (compensation for damage caused to individuals), which may be incurred upon the State as a result of breaching the EU law, is inherent to the EU founding treaty system.²⁶

Alongside these considerations which are basically political in nature, the Court put forward legal arguments in favor of State liability for damage caused by its failure to implement the directive. The legal explanation was based on the sincere cooperation clause, which had already been employed in justifying the interpretive effect of directives. In the legal reasoning, the Court stated that the Member States' obligation to pay damages has its legal justification in the EU Treaty provision which envisages that Member States are obliged to take any appropriate general or special measure to ensure the performance

²⁵ Joined cases C-6 and 9/90, *Andrea Frankovich and Danila Bonifaci and Others v. Italian Republic*, ECR I, 1991, p.5357.

²⁶ *Ibid.*, paras.32-39.

of their obligations arising from the Treaty or resulting from the acts of the EU institutions.²⁷ Among them, there is a duty to eliminate unlawful consequences of EU law violations.

The State duty to compensate the damage does not arise only on the basis of damage caused to the individual which may be linked to the failure of the State to implement the directive. For the state to be liable in damages, there are certain conditions to be met. They were first formulated in *Frankovich and Bonifaci* case, and latter on amended in joined cases *Brasserie du Pêcheur and Factortame*. According to the original interpretation of the Court, in case of non-implementation of directives, the following conditions must be satisfied cumulatively: 1) the goal of the directive must be to grant a right to an individual; 2) the content of the rights given to an individual must be determinable on the basis of the directive; 3) there must be a causal link between the State's failure to implement the directive and the damage sustained by the individual.²⁸ Later on, these conditions for establishing state liability were supplemented by a requirement that a Member State committed a sufficiently serious breach of the EU law.²⁹

The first condition, according to which the goal prescribed by the directive includes the creation of the rights of individuals, assumes that the damage is a consequence of the fact that the State has not given to the individual the right provided by the said directive. Otherwise, if the provision of the directive does not intend to grant a right to a private subject seeking compensation, the said individual could not have suffered damage violation due to the violation of that provision.³⁰ The condition that the content of the individual right is determinable means that it can be determined on the basis of the directive. However, if the directive is not clear of what constitutes a right of the individual, it is not possible to determine the type and extent of damage and, therefore, there is no liability of the State. The third condition, which refers to the existence of a direct causal link between the non-implementation of the directive and the damage caused to the individual, excludes State liability for damage that would arise in case the State has not failed to implement the directive.³¹

The subsequently introduced requirement on the sufficiently serious breach depends on the level of discretionary powers which the State had when fulfilling its obligation to incorporate the directive into its domestic legal order. Generally speaking, the smaller the degree of discretion, the greater the chance of serious violation. Hence, the failure to implement the directive is always a sufficiently serious breach that gives rise to State liability, considering that the State has no freedom of choice whether to implement the directive upon the expiry of the specified deadline or not.

However, when the state incompletely, insufficiently or incorrectly implemented the directive, the sufficient gravity of the breach depends on the scope of discretionary powers that the directive vests in the national authorities during the implementation. If the provisions of the directive are so precise that it does not leave the State any choice, any breach of EU

²⁷ Art.5 EEC Treaty (now art.4, para. 3 Treaty on EU).

²⁸ Joined cases C-6 and 9/90, *Frankovich and Bonifaci*, ECR I, 1991, p.5357, paras.40-41. For more, see: P.Craig, G de Burca, *op. cit.*, pp.257-260.

²⁹ Joined cases C-46/93 and C-48/93, *Brasserie du Pêcheur SA v. Bundesrepublik Deutschland and The Queen v. Secretary for Transport, ex parte: Factortame Ltd and others*, ECR I, 1996, p.1029.

³⁰ W.Frenz, *Handbuch Europarecht: Wirkungen und Rechtsschutz*, Neidelberg-Dordrecht-London-New York, 2010, S.342.

³¹ See: Z.Meškić, D.Samardžić, *Pravo Evropske unije I*, Sarajevo, 2012, p.210.

law shall be considered a substantial breach. However, when the directive provides the national authorities with broad discretionary powers, the State shall not be liable for sufficiently serious breach unless these powers are evidently and significantly exceeded.³²

The national courts of the breaching Member State are competent to decide on individuals' requests for the compensation of damage. The State liability is established on the basis of the applicable law of the given State, including both the procedural and substantive requirements for establishing liability for damages. The legal requirements for seeking damages must not be less favorable than those applicable under the national law to similar domestic claims. In addition, they must not be formulated so as to prevent or significantly hinder obtaining compensation in practice.³³

All things considered, by recognizing the principle of State liability for damage caused to individuals by its failure to implement a directive, as well as by acknowledging the interpretive and incidental effects of directives in the relations between individual subjects, the Court of Justice has made these kinds of acts more effective sources of EU law. Thus, the Court has provided for a more efficient and effective protection of the individual rights recognized by the directives in the internal legal orders of the Member States. At the same time, a proper and timely implementation of directives has been an incentive for the States to abide by the EU law. Finally, the Court has managed to close the legal gaps³⁴ in cases where directives do not have the horizontal direct effect.

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³² For more, see: T.Čapeta, S.Rodin, *op.cit.*, pp.88-89.

³³ Joined cases C-6 and 9/90, *Frankovich and Bonifaci*, ECR I, 1991, p.5357, para.43.

³⁴ A.Čavoški, *Pravni i politički poredak Evropske unije*, Beograd, 2006, p.140.

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DIREKTIVE EVROPSKE UNIJE: IZMEĐU PRIZNATOG VERTIKALNOG I NEPRIHVACENOG HORIZONTALNOG DIREKTNOG DEJSTVA

Direktive su definisane kao pravni akti obavezni za države članice samo u pogledu cilja i rezultata koje treba postići, dok se izbor oblika i načina njihovog ostvarivanja prepušta nacionalnim vlastima. Zbog njihove pravne prirode i mesta u pravnom sistemu EU, direktiva ne stvara neposredno prava i obaveze za individualne subjekte, već isključivo za države članice kojima je upućena. Međutim, problem nastaje kada država članica, kršeći svoju obavezu, propusti da sprovede direktivu ili usvoji neodgovarajuće mere implementacije u propisanom roku. Suočen sa ovakvom situacijom, Sud pravde je priznao vertikalno neposredno dejstvo directive, ali i dalje okleva da izričito prizna horizontalno direktno dejstvo. Pored toga, u situacijama neimplementacije direktiva, prihvatio je njihovo interpretativno i incidentno dejstvo, kao i odštetnu odgovornost država.

Ključne reči: *direktive, neposredno dejstvo, vertikalno dejstvo, horizontalno dejstvo, interpretativno dejstvo, incidentno dejstvo, odštetna odgovornost.*