

Case C-6/90 Francovich v Italy [1991]

Facts: Italy failed to implement a Directive that would establish a guarantee fund to protect employees from loss of wages in case of the insolvency of their employer. The applicant had been affected by this failure and wanted to take advantage of EU law against Italy to receive compensation.

Held: An individual could rely on the directive as long as its provisions appeared to be unconditional and sufficiently precise in claiming against the State. Otherwise, the effectiveness of EU law would be hampered. The principle of State liability for harm caused to individuals by breaches of Community law was inherent in the system of the Treaty. Furthermore, Member States could not, against individuals, plead their own failure to perform the obligations which EU law entails. The right of a state to choose among several possible ways of implementing a Directive does not preclude individuals from enforcing rights whose content is sufficiently precise on the basis of the provisions of the Directive alone. EU law created its own legal system, and the subjects of that legal system are not only the MS but also their nationals. Just as it imposes burdens on individuals, Community law is also intended to give rise to rights which become part of their legal patrimony.