

Caroline Bradley

Spring 2012

**EUROPEAN UNION LAW
PAPER ASSIGNMENT**

The paper should be typed and no more than 4 pages in length (at approximately 250 words per page).

In the *Kücükdeveci* Case Advocate General Bot wrote:

65. In sum, the current line of case-law concerning the effect of directives in proceedings between private parties is as follows. The Court continues to oppose recognition of a horizontal direct effect of directives and seems to consider that the two principal palliatives represented by the obligation to interpret national legislation in conformity with Community law and the liability of the Member States for infringements of Community law are, in most cases, sufficient both to ensure the full effectiveness of directives and to give redress to individuals who consider themselves wronged by conduct amounting to fault on the part of the Member States.

66. The answer to be given to the court making the reference could, in the classic manner, therefore be to refer to the case-law I have just set out and state that the national court is required to use all the tools at its disposal to interpret its national law in accordance with the objective which Directive 2000/78 seeks to achieve and, if it is unable to find such an interpretation, to call upon Ms *Kücükdeveci* to bring a civil liability action against the Federal Republic of Germany on the basis of the incomplete transposition of the directive.

Write a critical analysis of the Court of Justice's decision in *Kücükdeveci*. In your answer, explain how the Court of Justice's judgment in the case reflects or does not reflect the approach suggested by Advocate General Bot in the paragraphs of his opinion set out above. What are the advantages and disadvantages of the approach the Court of Justice adopted in this case?