**Horizontal effect of EU-Directives and fundamental rights**

– a legal analysis of legal certainty and the consequences for the Member State

Summary: The overall purpose of the thesis is to address and examine the horizontal direct effect of EU directives and fundamental rights with a specific emphasis on legal certainty and the consequences for the Member State.

The offset of the thesis is the theoretical starting point for the conflict between national law and EU law. In the thesis, national law and the legal framework of the Danish constitution in relation to transferring sovereignty to EU is defined. The interplay between EU law and national constitutional law is examined with regard to horizontal effect of EU law and the Supreme Court's judgment in the Ajos-case. Analyzing the concept of legal certainty and the various definitions in case law and in the academic literature and both from a Member State perspective and in EU law. It is found that there is convergence more than conflict between the concepts under Danish law and EU law, even though the Supreme Court's decision in the Ajos-case might indicate the opposite. It is concluded that “legal certainty” in horizontal law involves predictability, which is a constitutional principle that might have constitutional rank.

Also dealing with the latest developments in the horizontal direct effect of the EU Charter and identifying new areas of conflict and thereby taking an EU law-approach. The purpose is to derive the conditions upon which the European Court of Justice will focus when granting a fundamental right horizontal effect and to discuss the interplay with national constitutional law and the principle of legal certainty.

The discussion leads to an analysis of the legal remedies available for the individuals of the Member State and the consequence of non-conformity with EU law for the Member State, including infringement proceedings and the risk of and conditions for Member State liability. The focus is particularly on the Member State as legislator. Guidelines and considerations are set out that can be taken into account in assessing whether the Member State has taken measures necessary to ensure that EU law is complied with, by ensuring that national law is changed “as soon as possible“ as the Jonkman case-law of the Court of Justice stipulates.

Finally, discussing counterarguments in regard to state liability, The Danish rules of limitation periods and the case-law limiting the temporal effects of judgments from the European Court of Justice. Also reflecting on whether courts can be held liable for their judicial activities for failure to comply with EU law. The case law from the European Court of Justice indicates liability, but under Danish law the opposite is the case due to the principle of *res judicata*. Furthermore, it is considered how reparation of non-compliance can be done, and a recommendation to legislative initiatives is made to remedy the lack of foreseeability for private individuals.