

Freedom of
Movement of Persons
A practitioner's handbook

Edited by
Joanna Apap

KLUWER LAW
INTERNATIONAL

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A practitioner's handbook

Joanna Apap (ed.)

With contributions by:

Joanna Apap, Laura Bruzzaniti, Richard Delpierre, Philippe De Bruycker,
Pietro Emili, Antoine Fobe, Marc Goodacre, Sören Haar and
Fabrice Van Michel



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This book accommodates developments in the adoption of legislation in this field till October 2001. It analyses rules inherent to the constitutional structure of the Union, the internal market imperative, the more recent Union citizenship which still needs to be developed further, as well as the position of third country nationals.

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Joanna Apap
ECAS, 2001

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Preface: Free movement of persons in the EU

"The challenge to the Union now is therefore to create a real European mobility area, in which freedom of movement becomes not only a legal entitlement but also a daily reality for people across Europe."

White Paper on European Social Policy: a way forward for the Union

Freedom of movement is part of the broader concept of the single market, which also embraces three other freedoms: the free movement of capitals, goods and services.

In 1986, the Article 7A of the Single European Act stated:

"The internal market shall comprise an area without internal borders in which the free movement of goods, persons, services and capital is ensured in accordance to the provisions of this Treaty."

Ideally, the individuals should not be hampered in their movements. However, this article gave rise to different interpretations of who had the freedom of movement rights, and on the methods of implementation.

Initially, the first provisions on the subject referred merely to the free movement of individuals considered as economic agents, either as employees or providers of services. Freedom of movement seemed to be initially intended for workers. The original economic has gradually expanded to take on a more general meaning connected with the introduction in the 1993 Maastricht Treaty of a Union citizenship, independent of any economic activity or distinctions of nationality.

More than thirty years have passed since the establishment of the right of free movement of persons in the European Union (EU). Substantial progress has taken place to facilitate the implementation of this right, including categories of persons other than workers. Most significantly, the two Schengen agreements (effectively applied in 13 of the Member States), which came into force on 26 March 1995, abolish internal border control for all people. Other directives and regulations, valid in all Member States, guarantee the right of residence for retired people, students, and family members of workers and self-employed persons.

However much more work needs to be done.