
Contents

Preface

List of abbreviations

Introduction 1

Scope of the study 1

*The scope of the general principles
under investigation 2*

Legal certainty 3

Equality 3

Proportionality 4

The right to a hearing 4

Plan of the study 5

Notes 5

Part I: The free movement of persons

1 Free movement of persons: the legal framework 9

The EEC Treaty 9

Legislation 16

Free movement of workers 16

The right of establishment and

freedom to provide services 17

Direct effect 17

Notes 19

2 Free movement of persons: the principle of legal certainty 23

Notes 24

3 Free movement of persons: the principle of equality 25

Overt discrimination 27

Covert discrimination 38

Workers 38

The self-employed 45

Reverse discrimination 51

Notes 62

- 4 Free movement of persons: the principle of proportionality 70
The public interest exemption 70
The public policy proviso 92
Public service and official authority 100
National monitoring of aliens 105
Notes 108
- 5 Free movement of persons: the right to a hearing 114
Notes 124

Part II: Social Security

- 6 Social security: the legal framework 129
The EEC Treaty 129
Regulation 1408/71 131
Scope 132
Overlapping 137
Choice of law 138
Terminology 140
Title III 140
Notes 142
- 7 Social security: the principle of legal certainty 147
Aggregation and apportionment 148
Unemployment benefits 154
Family benefits and family allowances 159
Sickness and maternity benefits 162
The scope ratione personae of the Regulation 164
Transitional arrangements 165
National and international law 167
Notes 170
- 8 Social security: the principle of equality 174
Nationality 174
Sex 186
Residence 192
Reverse discrimination 197
Notes 199
- 9 Social security: the principle of proportionality 203
Notes 206
- 10 Social security: the right to a hearing 207
Notes 210

Part III: Equal treatment for men and women

- 11 Equal treatment for men and women: the legal framework 215
The EEC Treaty 215
The Directives 216
Recent developments and prospects for the future 218
Notes 222
- 12 Equal treatment for men and women: the principle of legal certainty 225
The temporal effect of the Court's ruling in Defrenne (No. 2) 225
Creating the wrong impression 228
The protection of vested rights 229
Notes 234
- 13 Equal treatment for men and women: the principle of equality 236
A fundamental but flexible principle 236
The direct effect of Article 119 238
Finding a comparator 241
The meaning of 'pay' 242
Working conditions 250
Sex as a 'determining factor' 255
Notes 259
- 14 Equal treatment for men and women: the principle of proportionality 264
Notes 266
- 15 Equal treatment for men and women: the right to a hearing 267
Notes 267

Part IV: Conclusions

- 16 Conclusions 271
Legal certainty 271
Equality 273
Proportionality 276
The right to a hearing 278
Concluding remarks 279
Notes 280

- List of cases 283
 Select bibliography 290
 Index 297