

Settlement of individuals in Switzerland

Introduction

Staying in Switzerland essentially requires a residence permit, provided the stay lasts for more than three months. If the stay in Switzerland is combined with a gainful occupation, a work permit is required in addition. However, for certain nationals and occupations, the permit requirement applies from the date of their first entry or start of work.

In every case, the stay in Switzerland requires the relocation of the main place of life to Switzerland.

The various residence permits

The types of permits and requirements depend on nationality. A difference is made between citizens of EU/EFTA countries and other citizens (so-called Third Country nationals).

Both for nationals from EU/EFTA countries and for Third Country nationals there are various categories of residence permits which differ primarily in the duration of the stay. The most frequent types of permits are: Short-term stay (L-permit, valid for up to a year), residence permit (B-permit, valid up to five years), permanent residence permit (C-permit, unlimited stay) and commuter permit (G-permit, weekly return to foreign residence).

EU/EFTA Nationals

Free movement of persons / Summary of EU/EFTA countries

In 1999, a bilateral agreement on the movement of individuals (Free Movement of Persons, FZA) was signed by EU/EFTA countries and Switzerland. The Agreement provides for the phased introduction of free movement of persons in Europe, including entry and stay in Switzerland, access to independent occupation or paid employment and, within limits, cross-border services. Owing to the phased introduction of Free Movement of Persons (FZA), a distinction is made between the following states:

EU-25/EFTA States: Belgium, Denmark, Germany, Finland, France, Greece, Great Britain, Ireland, Italy, Luxemburg, Malta, the Netherlands, Austria, Portugal, Sweden, Spain, Cyprus, Principality of Liechtenstein, Iceland, Norway, Estonia, Latvia, Lithuania, Poland, Slovakia, Slovenia, Czech Republic, Hungary

EU States with specific requirements: Bulgaria, Romania, Croatia

The Free Movement Agreement applies without restrictions to the EU-25/EFTA countries. However, paid employees from Romania or Bulgaria (EU-2 countries) are subject to permit restrictions for the time being.

Residence and stay without gainful activity

Nationals from EU-25/EFTA countries can take up residence in Switzerland without following a gainful activity if they can prove that they have taken out the compulsory medical insurance in Switzerland and that they possess adequate financial means (income and assets) to provide for their subsistence.

Residence and stay with paid employment

Taking up residence and stay of nationals from EU/EFTA countries in connection with paid employment necessitates the submission of a signed employment contract as well as information about their housing arrangements (e.g., a lease). The residence permit granted is simultaneously a work permit. The application for a residence permit must be filed 14 days after entering into Switzerland at the latest.

Starting an independent gainful activity necessitates the submission of documents to prove effective self-employment (e.g., proof of starting capital, possibly entry in commercial register, business plan, etc.). Furthermore, proof of housing arrangements is required (e.g., a lease).

Third Country nationals

The approval of the application must be awaited abroad if the settlement requirements are not obviously fulfilled.

Residence and stay without gainful activity

In order for a Third Country national to obtain a residence permit in Switzerland without following gainful activity, the following conditions must be met cumulatively:

- A minimum age of 55 years
- A special personal relationship to Switzerland, e.g., family, visits over a long time with establishment of relations, etc. Mere possession of property is not sufficient for this.
- Relocation of official domicile to Switzerland, i.e. fundamentally 6 months or longer stay in Switzerland per calendar year.
- Adequate financial means (income and assets) to provide for subsistence.
- Concluding a compulsory medical insurance in Switzerland.
- Proof of housing arrangements in Switzerland.
- No gainful activity in a foreign country or in Switzerland.

Residence and stay with paid employment

The admission of Third Country nationals for *paid employment* is purely elite-immigration. Only executives, specialists and other qualified employees are admitted. The permit is only granted if this conforms to general economic interest and if there is a corresponding application of the future Swiss employer. Further conditions for the granting of a work permit are proof of adherence to the work conditions and remuneration usual to the branch of business and location, of housing arrangements and the feasibility of successful integration into the Swiss labour market and social environment. Furthermore, proof is required that the relevant position could neither be filled by a Swiss nor by an EU/EFTA national. If the above-mentioned conditions have been fulfilled, an application for a residence permit can be submitted which is, however, numerically subject to quotas.

Taking up *self-employment* by a Third Country national requires proof of effective independence. Furthermore,

proof must be submitted that the financial means realized from business income and assets are adequate for funding both the operation and subsistence. The application includes, among others, a detailed business plan. Further, self-employment must be in the interest of the general economy (e.g. job creation), in addition the self-employed individual has to fulfill personal conditions (inter alia integration into the social environment, proof of housing arrangements etc.). Self-employment also is subject to a numeric quota.

Integration

Third Country nationals must integrate into Switzerland. Integration criteria include, among others, knowledge of a national language spoken at the place of residence or employment. The authorities may oblige the applicant to acquire appropriate language skills during the stay.

Providers of services

The provider of services (seconded employee) works in Switzerland for a foreign employer for a limited time. The need for obtaining a permit depends on the duration of the employment and the nationality. In some cases, a simple notification is sufficient.

Conclusion

Moving one's domicile to Switzerland needs careful and systematic planning. Apart from work- and residence-law related questions, as a rule optimization potential exists for social insurance, taxes and marital- as well as inheritance provisions.

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