

Corporate Immigration - Switzerland

Free Movement of Persons Agreement extended to Croatia

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Existing situation

On June 21 1999 the European Union and Switzerland signed seven bilateral agreements, including the Free Movement of Persons Agreement, which came into force on June 1 2002. The right of free movement is complemented by:

- the mutual recognition of professional qualifications;
- the right to buy property; and
- the coordination of social security systems.

The same rules also apply to citizens of European Free Trade Agreement (EFTA) member states.

The agreement and its additional protocol lift restrictions on EU citizens wishing to live or work in Switzerland. The same rules apply to citizens of EFTA states. The citizens of the founding EU states, including Cyprus and Malta (EU-17),(1) and citizens of EFTA(2) states have enjoyed free movement rights for several years already. The citizens of the EU-8(3) were granted the same unrestricted free movement rights on May 1 2011. However, the safeguard clause was activated by the Swiss Federal Council for EU-17 and EU-8 states in May 2013 and a quota system for B-permits valid for more than 12 months has been introduced. The quota system will remain in force until the end of May and June 2014 respectively. The citizens of Bulgaria and Romania will remain subject to restrictions (quota system for short-term L-permits and long-term B-permits) until May 31 2016 at the latest.

Croatia

On July 1 2013 Croatia officially joined the European Union. However, Croatian citizens do not enjoy free movement rights so far. Therefore, the agreement signed between Switzerland and the European Union must now be extended to include Croatia. The opening of the Swiss market to Croatia will be performed on a progressive basis.

Switzerland will be able to restrict unilaterally the immigration of Croatian workers to Switzerland. This is the result of bilateral negotiations between Switzerland and the European Union recorded in the additional Protocol 3 of the agreement. Therefore, the same restrictions system for Bulgaria and Romania shall apply for a period of seven years (transition period) from the entry into force of Protocol 3, whereby Switzerland will be able to restrict access to its labour market via:

- a quota system;
- the priority of local workers; and
- control of work and employment conditions.

During the last two years of this transition period, the restrictions must be accepted by a mixed Switzerland-EU committee.

Beyond the seven-year transition period, Switzerland will also have the possibility to activate a safeguard clause for Croatian nationals, provided that quantitative conditions are fulfilled. Also, should the restrictions in the last two years not be accepted by the mixed committee, it will be possible for Switzerland to activate the safeguard clause for a five-year period at that time.

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The total transition period with safeguard clause – if applicable – is 10 years from the date of entry into force of Protocol 3.

It is intended that rules regarding restricted movement rights for Croatian nationals should enter into force at the beginning of 2014.

New measure

In order to avoid the cantonal migration authorities granting L-permits instead of B-permits due to the activation of the safeguard clause, as seen in some cantons with EU-17 citizens, the negotiators of Protocol 3 have included an additional measure in the agreement. The authorities will have the opportunity to introduce a quota system (provided that quantitative conditions are fulfilled) for one of the permit categories (either L-permits or B-permits) and, at the same time, to add number restrictions for other permit categories (which has not been the case so far). The goal of this new measure is to avoid a bypass of the limitations by falling back onto the other type of permit.

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Endnotes

(1) Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxemburg, Malta, the Netherlands, Portugal, Spain, Sweden and the United Kingdom.

(2) Iceland, Liechtenstein and Norway.

(3) The Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia.

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