

Requirements for the award of a residence permit in Switzerland from the perspective of a EU/EFTA citizen

1. Facts and Legal Issues

During the last decade Switzerland has become a country of immigration. The reason for this is – besides the high quality of life – the attractive range of jobs and working conditions. However, immigration to Switzerland from abroad requires the prior fulfilment of various conditions. First of all, to be able to stay legally in Switzerland for a long period of time, a residence permit is required. The Agreement on the Free Movement of Persons between Switzerland and the European Union, grants EU/EFTA nationals certain advantages that make it much easier to move to Switzerland and obtain a residence permit, compared to citizens of non EU/EFTA countries.

In this memorandum the following questions will be addressed:

- What types of residence permits does Switzerland have?
- What are the requirements for an EU/EFTA national to get a residence permit?
- What is the duration of the residence permit?

2. Legal

Types of Residence Permits for EU/EFTA Nationals in Switzerland

For EU/EFTA nationals, Switzerland has the following residence permits:

➤ **B EU/EFTA Permit (Resident foreign nationals)**

The B EU/EFTA permit is for persons who are staying in Switzerland for a longer period of time for a specific purpose, with or without gainful employment. As long as the following conditions are fulfilled, the person has a legal entitlement to a residence permit:

1. Salaried Employees: Working contract for a minimal duration time of one year.

2. Self-Employed People: Proof of self-employment (note that in the case of legally regulated professions, the requirements for professional qualifications and diplomas laid down by Swiss law must be met)

The proof can be brought by submitting the following documents:

- Confirmation from the AHV/IV compensation office that there is an obligation to pay contributions as a self-employed person;
- Proof of establishment of a company, entry in the commercial register (possibly business plan);
- Invoices issued and received, accounting submission;
- Employment contracts with employees

3. Persons who are not gainfully employed::

- Proof that the person has sufficient financial means for themselves and their family so that they do not need to claim social assistance or supplementary benefits;
- Proof that they have health insurance cover for themselves and their family members that covers all risks.

The residence permit is issued for a period of 5 years and can be extended for a further period of 5 years if the person continues to fulfil the requirements.

➤ **C EU/EFTA Permit (Settlement Permit)**

The C EU/EFTA permit is issued to persons who have already resided in Switzerland for 5 or 10 years. It grants an unrestricted right of residence. The settlement permit is not subject to any conditions. The granting of the settlement permit is governed by the Foreign Nationals and Integration Act (FNIA) and the corresponding settlement agreements.

1. The main requirement for the granting of a permanent residence permit is that the foreigner has been in possession of a short-term residence permit or a residence permit in Switzerland for a total of 10 years and has been in possession of a residence permit without interruption for the last 5 years (Art. 34 para. 2 lit. a FNIA).

On the basis of the settlement treaties, nationals of Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden and EFTA (Iceland, Liechtenstein and Norway) can apply for a settlement permit after a proper and uninterrupted stay of 5 years.

2. There must be no reasons for revoking the permanent residence permit. Pursuant to Art. 62 para. 1 lit. a. to g. FNIA, the following are the reasons for revocation:

- Making false statements or concealing material facts in the authorisation procedure;
- Sentencing to a long-term custodial sentence or ordering of a criminal measure within the meaning of Articles 59-61 or 64 of the Criminal Code against the person making the application;
- Significant or repeated violation of public security and order in Switzerland or abroad or endangering the same and/or internal/external security;
- Failure to comply with the condition attached to an order;
- Dependency on social assistance of a person for whom the applicant has to care for;
- Attempt to obtain Swiss citizenship in abuse of rights [...];
- Failure to comply with an integration agreement without an excusable reason.

3. The applicant must fulfil the integration criteria pursuant to Art. 58a para. 1 FNIA.

The integration criteria are:

- Respecting public safety and order;
- Respecting the values of the Federal Constitution;
- the language skills (written at least A2 and linguistic at least A1);
- Participation in economic life or the acquisition of education.

The settlement permit is not limited to a specific duration. However, the settlement permit can be withdrawn if the person stays outside Switzerland for longer than 6 months without requesting that the settlement permit be maintained.

➤ **Ci EU/EFTA permit (residence permit with gainful employment)**

The Ci EU/EFTA residence permit is intended for family members of officials of domestic governmental organisations and for employees of foreign representations. The validity is limited to the duration of the function of the main holder.

➤ **G EU/EFTA Permit (cross-border commuter permit)**

The G permit is intended for EU/EFTA nationals who work in Switzerland but reside in an EU/EFTA state. Cross-border commuters generally return to the EU/EFTA state every day. Prerequisite for issuance:

1. residence in an EU/EFTA state;
2. employment with a Swiss employer for an indefinite period of gainful employment or for a fixed-term period of gainful employment lasting for more than one year.

The duration of the permit is linked to the duration of the gainful employment.

➤ **L EU/EFTA permit (short-term residence permit)**

The L EU/EFTA permit is intended for shorter stays in Switzerland (usually less than one year). It is linked to a specific purpose of stay with or without gainful employment. EU/EFTA nationals are legally entitled to this permit. The conditions for issuance are as follows:

1. When taking up employment: existence of a contract of employment during the year (more than 3 months but less than one year));
2. In the case of a stay for educational purposes: apprenticeship contract or confirmation from the educational institution as well as proof that sufficient financial means are available for living expenses without claiming social assistance..

The duration of the short-term residence permit is limited to the duration of the contract or training and expires 6 months after termination of the employment relationship. It can be extended up to a total duration of less than 12 months.

➤ **S permit (for people in need of protection)**

According to Art. 4 of the Asylum Act, Switzerland may grant temporary protection to persons in need of protection as long as they are exposed to a serious general danger, in particular during a war or civil war as well as in situations of general violence. To be able to get this permit, a certain group of people has to be appointed by the federal council as “people in need of protection”. The S permit grants admission to a limited group of people, without having to check if the requirements for them to be qualified as refugee apply.

The S permit is not a residence permit per se. It entitles its holders to stay in Switzerland provisionally, but not to cross the border and return to Switzerland. The duration of its validity does not entail any right of residency.

Excursus: Due to the recent events concerning the war in Ukraine, the federal council decided on March 11th 2022 to grant this permit to people coming from Ukraine and seeking protection. Thanks to this decision, the protection seekers will receive the mentioned permit without having to undergo a formal asylum-seeking procedure. The permit is limited in time and granted for the time of the duration of the danger. People who have been granted a S permit have the right to bring direct family members to join them. Not only Ukrainian citizens have the right to receive the S permit; Ukrainian residents (not nationals) and their families who were obliged to leave the country because of the war, are also entitled to receive a S permit. Additionally they must be in possession of a valid residence permit for the Ukraine and not have the possibility to return to their homeland safely or at all. Seekers who have already received a protection status in another EU country, are not entitled to be granted a S permit. The federal council has also decided that people in possession of a S permit will be allowed to pursue an employed activity or to work independently.

➤ **N permit (permit for asylum-seekers)**

According to Art. 3 of the Asylum Act anyone can apply for asylum on entry at a border crossing, border control at a Swiss airport or directly at one of the six federal asylum centres with processing facilities. To be granted asylum the seeking person must have refugee status. The applications are examined individually and carefully according to the actual circumstances in each case by the State Secretariat for Migration (SEM).

To have refugee status, the asylum seeker must have the following characteristics:

- The persecution of the fugitives must be actual
- The persecution must be serious
- The persecution must be selective
- The subject of the persecution must be relevant
- No protection is granted in the home country

➤ **Swiss Citizenship**

Switzerland recognises the acquisition of Swiss citizenship firstly through paternal or maternal descent (ius sanguinis), regardless the place of birth. Besides that, there is the possibility of becoming a Swiss citizen by means of naturalisation. The ordinary naturalisation is the option for foreigners who lived in Switzerland for a minimum of 10 years and are in possession of a C Permit. Depending on the canton the person lives and makes the request, the requirements on the time of residence may vary. The canton of Zurich requires the person to have lived constantly in the same municipality

for at least two years. Besides that the person must be successfully integrated, familiar with the Swiss living conditions and not threat to internal or external security. For persons married to a Swiss citizen or for persons who have been born in Switzerland and belong to the third generation of a family of foreign citizens living in Switzerland, a simplified naturalisation can apply. There is also the possibility to be granted the Swiss Citizenship in a simplified way if the person applying is descendant of Swiss citizens (parents / grandparents).

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