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Legal basis for access to the Swiss labour market by foreign nationals

Switzerland has a dual system for granting foreign nationals access to the Swiss labour market. Persons from EU or EFTA member states, regardless of their qualifications, are granted easy access to the Swiss labour market under the [Agreement on the Free Movement of Persons](#). By decree of the Federal Council, workers from all other states—third states, as they are referred to—are admitted in limited numbers to the labour market in Switzerland, if their skills are urgently required and they are well qualified. Experience has shown that this category of workers has a better chance of professional and social integration than less qualified persons.

The access requirements are listed in the Regulation on Limiting the Number of Foreign Nationals ([BVO](#)) and described in more detail in the Directives and Commentary on the Residence and Permanent Settlement of Foreign Nationals ([ANAG-Directives](#)). So that applicants understand the requirements for obtaining a work permit from the Swiss authorities and are therefore able to submit a comprehensive and well-documented application, the most important access requirements are summarized below.

Priority to Swiss nationals and applicants from EU and EFTA member states

([Art. 7 BVO](#) and [Art. 8 BVO](#))

Citizens of third states are granted access to the Swiss labour market only if an employer can prove that despite considerable efforts no suitable Swiss national or citizen from an EU or EFTA member state could be found to fill a vacancy.

Vacant positions must be registered with the Regional Employment Offices ([RAV](#)) together with a request to register the vacancy in the European Employment System ([EURES](#) = the European Union's Employment Services cooperation network). Once a potential employee has been put in contact with the employer and subsequently turned down, the employers generally receive a questionnaire in which they can state the reasons the potential employee was not hired.

Moreover, the employer must explain to the authorities why the search for a suitable candidate by means of the recruitment channels used in the specific industry, such as specialist journals, employment agencies, online job listings or corporate websites, etc., was not successful. Suitable proof includes job advertisements in newspapers, written confirmation from employment agencies, or other kinds of documentation. Often it is helpful for authorities if the employer submits a brief overview of all candidates with a short explanation of which qualifications for a particular job were lacking. In special cases, the authorities can request an employer to intensify his recruitment efforts.

Qualifications and particular circumstances

([Art. 8\(3\)\(a\) BVO](#))

Besides giving priority to Swiss nationals and applicants from EU and EFTA member states, the Swiss authorities require an employer to submit documentary proof of an applicant's qualifications and any special reasons the employer may have for employing a particular person.

A well-qualified person is someone who has a degree from a university or a technical college and several years' work experience. Depending on the profession or specialization of the candidate, the person may also be admitted if they have particular training and several years' of work experience.

The Swiss authorities examine the person's qualifications on the basis of their curriculum vitae, their education certificates and references. Applicants must submit copies of the original documents including a translation if the original documents are not in German, French, Italian, English, or Spanish.

If an applicant comes from a nation whose education system or system of professional training greatly differs from that of Switzerland, it is helpful for the Swiss authorities if documents are submitted containing additional information on the institution, the length and the content of the education or training course. Documents that may be helpful include the curriculum vitae and education certificates showing what exams were taken and what the results were.

The following overview showing special reasons for admission is not exhaustive but does illustrate those reasons for which an applicant stands the best chances of being considered:

<p>Cooperation agreements/projects:</p> <ul style="list-style-type: none"> - Joint Ventures - Service and guarantee work for products from the country of origin - Temporary duties as part of large projects for companies with headquarters in Switzerland (international assignments) - Execution of a special mandate 	<p>Practical training and further education:</p> <ul style="list-style-type: none"> - With professional associations - With international business enterprises - In specially defined fields with training programs for small and medium-sized companies - To take up a temporary teaching position at a university or research institute - To take up a temporary teaching position at a recognized foreign educational establishment
<p>Transfer of cadre or specialists:</p> <ul style="list-style-type: none"> - within international businesses - reciprocity agreements 	<p>Precarious situation in the Swiss labour market:</p> <ul style="list-style-type: none"> - Branches or groups of persons of economic significance who are urgently needed and who are determined by the Federal Office for Migration in consultation with the competent cantonal authorities and the trade associations involved
<p>Economic and other reasons with lasting effect or influence on the Swiss labour market:</p> <ul style="list-style-type: none"> - To open up new markets - To ensure important economic contacts abroad - To guarantee export volume - Formation of an enterprise or expansion of a company that creates long-term jobs for Swiss employees 	<p>Special cases of general interest without any economic significance:</p> <ul style="list-style-type: none"> - Cases involving art and culture - Pastoral care - International institutions

Since only persons already holding a C-permit in Switzerland are allowed to establish their own business in the country, only in exceptional cases do the Swiss authorities grant residence permits to persons who want to set up their own business.

Salary/terms and conditions of employment customary in the region and in the trade

(Art. 9 BVO)

The salary, social security contributions and the terms of employment for foreign workers must be in accordance with conditions customary to the region and the particular sector. Some sectors and trades lay down these conditions in a [collective labour agreement](#) which is legally binding either on a national or, at least, cantonal level. When applications are submitted from trades that do not have a collective labour agreement, the Swiss authorities usually request information directly from the employers' and employees' associations on the terms customary in a particular sector. By examining the salary rates and terms of employment beforehand, the authorities can ensure that foreign workers are not exploited and that Swiss workers are protected against wage dumping.

When submitting an application, the employer must enclose a contract of employment that has been signed both by the employer and the employee and that contains a note reading "contract only valid on condition that the authorities grant a work permit". This provides both contracting parties with legal certainty. It is helpful for the Swiss authorities if the employing business enterprise uses a contract of employment that is customary to the particular sector of industry.

Employers are obliged to register all employees with the various social security authorities. The Federal Social Insurance Office (FSIO) together with the State Secretariat for Economic Affairs ([seco](#)) has compiled a guidebook on social security ([Ratgeber Sozialversicherung](#)) that offers comprehensive and clear information on this subject.

Foreign employees that do not have a long-term residence permit are subject to tax at source and therefore must be registered with the tax authorities. It is then the responsibility of the employer to deduct the amount of tax each month from the employee's wage and pay the sum to the tax authorities. Further information on this subject is available from the cantonal tax authorities or from the [Federal Tax Administration](#).

Violations against compliance with the salaries and terms of employment customary to a particular region or sector of industry, as well as black labour are investigated first and foremost by the cantonal authorities or, in some sectors, by offices established mainly for this purpose. Employers

found not to comply with the legal requirements will not receive any further work permits for foreign workers.

Note

The information above applies to all industrial and service sectors. However, in certain sectors more stringent qualification requirements apply. What is more, minimum salaries, terms of employment, and cases in which an applicant may submit special reasons for obtaining a work permit are specified in greater detail

→ Sector regulations

More information on where to submit applications and on procedures is available under

→ Procedure

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