



**BILATERAL AGREEMENT ON THE FREE MOVEMENT OF PERSONS ALCP
EFFECTIVE AS FROM 1ST JUNE 2002**

The Swiss Confederation, of the one part, the European Union (EU), namely: Belgium, Denmark, Germany, Greece, Spain, France, Ireland, Italy, Luxembourg, The Netherlands, Austria, Portugal, Finland, Sweden, The United Kingdom of Great Britain and Northern Ireland, and The European Free Trade Association (EFTA), namely: Norway and Iceland, of the other part, have ratified the agreement on the free movement of persons.

OPENING UP OF THE SWISS LABOUR MARKET IN VARIOUS STAGES

For EU/EFTA nationals on the Swiss labour market, the **transition period will last five years (01.06.2002 - 31.05.2007)**. After seven years, Switzerland and the EU/EFTA will decide whether the agreement is to remain in force (optional referendum). In the case of a positive response, the free movement of persons will be fully established after twelve years.

Transition period

- During the first two years after the ALCP comes into force (01.06.2002 - 31.05.2004), Switzerland will continue to give preference to native workers.
- As from 1st June 2004, abolishment of national preference, i.e., no longer any distinction between native workers and EU/EFTA nationals.
- Throughout the transition period, work permits are issued according to a quota system (**maximum numbers**). Not included in these maximum numbers are permits issued under article 13 of the Ordinance on the Limitation of the Number of Aliens (OLE), (Ph.D. students, Ph.D. student/assistants, postdoctoral researchers, scholarship holders and academic guests) and border commuter permits (article 23 OLE).
- During the first two years after the ALCP comes into force, the EPFL must apply for work permits to the competent cantonal authorities (SPOP) in order that the SPOP can issue a guarantee of a residence permit. Employment cannot be taken up without this permit.
- After the end of the second and up to the fifth year after the ALCP comes into force, the worker must be in possession of a work permit before taking up employment. This involves two possibilities, namely :
 - ◆ to obtain a residence permit before entering Switzerland, the worker can request a promise of admittance (known as «guarantee of residence permit») from the Swiss authorities
 - ◆ the worker, once in Switzerland, can apply directly to his commune of residence to obtain a work permit. Employment may only be taken up after the afore-mentioned permit has been obtained
 - ◆ in the two above-mentioned cases, the employer no longer has to make a preliminary application.

In order to provide services of the best possible quality, and avoid problems in connection with the taking up of employment, the Human Resources has decided to continue to make preliminary applications to the competent authorities during the entire transition period.

Introduction of free movement on a trial basis - 01.06.2007

- The EU/EFTA national is no longer obliged to previously obtain a work permit, regardless of the purpose of his stay. However, he is obliged, within eight days of his arrival in Switzerland, to go in person to the Bureau des étrangers of his commune of residence in order to present his work contract. A residence permit will then be automatically issued to him by the competent cantonal authorities (SPOP).
- A professional activity of three months maximum no longer necessitates a residence and work permit. The worker is obliged to go in person to his commune of residence within eight days of his arrival in Switzerland.
- Abolishment of maximum numbers.

RESIDENCE PERMIT

EU/EFTA RESIDENCE PERMITS FOR PH.D. STUDENTS, PH.D. STUDENT/ASSISTANTS AND POSTDOCTORAL RESEARCHERS (ART. 13 L OLE), following a decision of 15.10.2002 by the Federal Office of Immigration, Integration and Emigration (IMES), will henceforth be issued for a period of five years, providing that a work contract has been signed for a period of at least 12 months.

No notable change concerning residence permits for **SCHOLARSHIP HOLDERS, ACADEMIC GUESTS AND VISITING PROFESSORS (ART. 13 L OLE)**.

For all these categories of persons, subsequent family immigration is limited to spouse and dependent children.

BELOW ARE THE NEW CONDITIONS FOR RESIDENCE AND WORK IN ACCORDANCE WITH THE ALCP FOR EU/EFTA NATIONALS ALREADY IN POSSESSION OF A RESIDENCE AND WORK PERMIT OR IN THE PROCESS OF OBTAINING ONE (PERMITS ALSO KNOWN AS FIXED-QUOTA PERMITS).

- **THE EU/EFTA SHORT-TERM RESIDENCE PERMIT** is renewable at any time, upon presentation of a new work contract. In the two cases mentioned below, the worker no longer has to leave Switzerland between two contracts.
 - ◆ with a work contract of less than one year, the worker obtains an EU/EFTA short-term residence permit for the duration of his professional activity
 - ◆ with a contract of one year or more, the worker obtains an EU/EFTA residence permit.
- The worker in possession of a work contract of one year or more obtains an **EU/EFTA RESIDENCE PERMIT** for five years. In principle, this residence permit is not extended since an **EU/EFTA PERMANENT RESIDENCE PERMIT** is then issued.
- **EU/EFTA short-term residence and EU/EFTA residence permits cannot be withdrawn** if, for reasons of illness or accident, the worker is temporarily incapable of working. The same applies to unemployment. The worker must nonetheless obtain a certificate from the competent Office du travail, proving involuntary unemployment.
- **EU/EFTA nationals who are already integrated into the Swiss labour market receive preferential treatment.** Indeed, once the ALCP comes into force, the latter are entitled to be treated as nationals and can, regardless of their residence status (apart from residence permits issued under article 13 OLE), claim all the rights provided for in the ALCP :
 - ◆ subsequent family immigration
 - ◆ unlimited professional and geographical mobility. Possibility at any time of changing employer, profession, place of work and residence.
- **EU/EFTA nationals who, on the date the ALCP comes into force, have been holders, for over one year, of a short-term residence or residence permit** are entitled, upon its expiry, to be

issued an EU/EFTA residence permit upon presentation of a work contract of undetermined duration or valid for one year or more.

- **EU/EFTA nationals who, on the date the ALCP comes into force, are holders of a residence permit, valid for less than one year** are entitled, upon the expiry of this permit:
 - ◆ to be issued an EU/EFTA short-term permit, upon presentation of a work contract valid for less than one year
 - ◆ to be issued an EU/EFTA residence permit upon presentation of a work contract of undetermined duration or valid for one year or more.

SUBSEQUENT FAMILY IMMIGRATION

Subsequent family immigration is possible for spouse and descendants : children or grandchildren of under 21 years of age or dependent, and ascendants : dependent parents, grandparents. The right to subsequent family immigration assumes the existence of an original right to residence granted to an EU/EFTA national (main permit holder). The right thus conferred on family members is dependent on the duration of the original right to residence.

BORDER PERMIT

- For the first five years (transition period) after the ALCP comes into force, border commuters are obliged to live and work in border zones; at the end of this period, this obligation no longer applies. However, any change (employer and place of work) must be announced to the authority responsible for the place of work.

Below are the new measures applicable after the ALCP comes into force :

 - ◆ six months' previous residence in border zone no longer necessary
 - ◆ all EU/EFTA nationals can be border commuters, providing they take up residence in a foreign border zone neighbouring Switzerland
 - ◆ the obligation of the daily return is replaced by that of a weekly return. Border commuters wishing to acquire a secondary address on Swiss territory must inform their commune of residence
 - ◆ a work contract of undetermined duration or valid for one year or more entitles the worker to an EU/EFTA border permit for five years. A five-year extension is possible providing the necessary conditions are fulfilled
 - ◆ a work contract for a duration of less than one year entitles the worker to an EU/EFTA border permit for the duration of this employment.