



# CAN I MOVE TO SWITZERLAND? SWISS IMMIGRATION REGULATIONS FOR ENTREPRENEURS, INVESTORS, PENSIONERS AND WEALTHY INDIVIDUALS EXPLAINED

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## 1. Introduction

Political and economic stability, an attractive fiscal environment as well as the high quality of the general standard of living has made Switzerland for decades the preferred destination for people who want to relocate abroad. When granting residence permits, Switzerland differentiates between two categories of foreign nationals: the EU-28/EFTA (Austria, Belgium, Bulgaria, Croatia, Czech Republic, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom)-nationals on the one hand, and the nationals of so-called third countries (non-EU-28/EFTA states) on the other. There are still some special provisions applicable to Croatian nationals, but for purposes of providing you with a general overview, we will not yet discuss those more nuanced rules in this particular blog piece.

In order to help familiarize you with the general Swiss residence requirements for **EU-28/EFTA nationals**, we first present a basic overview. Subsequently, we focus in on Swiss residence requirements applicable for **third-country nationals**, particularly those who are entrepreneurs, investors, retirees and wealthy private individuals.

## 2. The Basics of Swiss Residence

### 2.1. In General

As a general rule, there is an important distinction in Swiss immigration law between people who plan to reside in Switzerland while practicing gainful activity and people who plan to live here without doing so.

Should residence in Switzerland be desired **without gainful employment**, according to the legislation on foreign nationals, the following applies:

- For stays without gainful activity of **up to three months**, foreigners do **not require any residence permit**; if the visa granted to a foreigner is limited to a shorter period of stay, then this shall apply.
- If a **longer period of stay** without gainful activity is foreseen, then a **residence permit is required**. This is to be applied for before the entry into Switzerland with the competent authority in the planned place of residence.

If, on the other hand, residence **with gainful activity** in Switzerland is planned, then according to legislation on foreign nationals, the following applies:

- Foreigners, who wish to exercise a gainful activity in Switzerland, **require a permit** regardless of the period of stay. This is to be applied for with the competent authorities in the canton of planned work.
- Activities of value performed for an employer or independently are considered as gainful activity, even if they are done free of charge.
- In the case of employed gainful activity, the permit must be applied for by the employer.

## 2.2. EU-28/EFTA Countries

### 2.2.1. In General

**Special provisions apply to foreigners from the European Union (EU) and the European Free Trade Association (EFTA).**

### 2.2.2. Employment lasting shorter than 3 months

Nationals of EU-27/EFTA (special provisions are still currently in force for Croatia) countries do not require a work permit for employment with an employer in Switzerland lasting **shorter than 3 months** per year. However, the gainful employment must in any case be registered.

### 2.2.3. Employment lasting longer than 3 months

If an EU-27/EFTA national wishes to work in Switzerland for **longer than three months** (special provisions are still currently in force for Croatia), the principle of "no starting work without a permit!" applies. The validity period of a permit for people working for an employer (not self-employed workers) is dependent upon the length of the employment contract. An extension of the permit is possible. In spite of the connection between the permit's validity period and the employment contract, the employee has the right to occupational and geographical mobility; change of employer or change of work location are therefore possible.

If an employee has a fixed-term employment contract of between three months and one year, a short-term residence permit is granted. The validity period of the permit will match the length of the employment contract.



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If an employee has an employment contract of more than one year or of unlimited duration, a residence permit with a validity period of five years is issued. The residence permit is normally automatically extended by five years. Upon the first renewal, the period of validity may be shortened if the holder has been involuntarily unemployed for more than twelve consecutive months.

#### **2.2.4. Self-Employed Gainful Activity**

EU-27/EFTA nationals have the right to be gainfully self-employed in Switzerland (special provisions are still currently in force for Croatia). For this purpose, the self-employed person must register with the local commune of residence and apply for a residence permit as a self-employed person.

If the self-employed person can prove that his or her work is sufficient to provide a livelihood, then he or she is granted a residence permit for five years. Self-employed individuals who are no longer able to financially support themselves and request social benefits lose their residence rights.

#### **2.2.5. Residence Without Gainful Activity**

If an EU-28/EFTA national wishes to reside in Switzerland for longer than three months, he or she requires a residence permit. The competent authorities will grant a residence permit if the necessary conditions are met, that is to say, that the applicant has **sufficient financial resources** to ensure that he or she does not become dependent upon public assistance, and is able to demonstrate insurance coverage that covers all risks arising from illness and accident.

The financial resources are considered sufficient if they exceed the base level that according to Swiss law gives entitlement to social benefits. This is determined by the approaches of the Swiss Conference on Social Aid. The calculation of the financial resources also takes into account pensions and social security benefits. Retirees must additionally prove that their financial resources exceed those which entitle a Swiss national to supplementary benefits for old-age, survivors' and disability insurance.

Regarding health insurance, it is regularly required that an appropriate insurance be concluded with a Swiss health insurance company. If a foreign insurance protection already exists which meets the Swiss minimum requirements, the Swiss authority can waive the requirement of concluding a Swiss policy. Experience, however, has taught us that this can be a relatively complex procedure.

Normally for EU-28/EFTA nationals who are not performing gainful activity, a residence permit is granted for a duration of five years and is valid for the whole of Switzerland. It is normally automatically renewed for an additional five years, as long as the requirements for the permit at the time of renewal continue to be met.

If, at a later stage, the authorities find that there are no longer sufficient financial resources, the authorization may be revoked or they may refuse to further extend it.

### **3. Requirements for Residence with Gainful Activity for Third-Country Nationals**

#### **3.1. Gainful Activity Completed for an Employer**

The granting of a residence permit in Switzerland and permission to at the same time be **gainfully employed** is possible for third-country nationals if the following requirements are cumulatively fulfilled:

- The authorization corresponds to the overall economic interest;
- An application from the employer has been submitted;
- The applicable quota for the first-time approval of a short-stay or residence permit with gainful activity has not yet been extinguished;
- There is no suitable employee from Switzerland or from the EU-27/EFTA area available for the position;
- The salary and employment conditions customary for the location, profession and sector are satisfied;
- All personal requirements are fulfilled;
- There is suitable accommodation available.

#### **3.2. Self-Employed Gainful Activity, Entrepreneurs and Investors**

The granting of a residence permit in Switzerland and permission to at the same time be a **gainfully self-employed person**, an **entrepreneur**, or an **investor** is possible for third-country nationals if the following requirements are cumulatively fulfilled:

- The authorization corresponds to the overall economic interest;
- The financial and operational requirements necessary for the pursuit of self-employment are fulfilled;
- The applicable quota for the first-time approval of a short-stay or residence permit with gainful activity has not yet been extinguished;
- All personal requirements are fulfilled;
- There is suitable accommodation available.



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Authorization of foreigners for residence with gainful activity in Switzerland should only occur if it serves the **overall economic interest**. The aim of Swiss migration policy is to create a balanced employment situation, to improve the structure of the labor market and to achieve sustainable economic development.

A sustainable benefit and thus an overall economic interest, due to which a residence permit for entrepreneurs, investors, and self-employed can be granted, is normally present if:

- A **new company** or the self-employed person contributes to the **sector-specific diversification** of the regional economy;
- Several jobs are **maintained** or **created** for the local population;

- **Substantial investments** are made;
- **New projects** are generated **for the Swiss economy**.

#### 4. Requirements for Residence without Gainful Activity for Third-Country Nationals

##### 4.1. Retired Persons

Third-country nationals who are **no longer completing any gainful activity** may be authorized to reside in Switzerland under the following conditions:

- They are at least **55 years of age**;
- They have **special personal connections to Switzerland**;
- They possess **the necessary financial resources** for the stay.

**Special personal connections to Switzerland** are present particularly if the applicant can demonstrate long or repeated previous stays in Switzerland (e.g. regular holidays, long-term business relationships, long-term training in Switzerland, or other longer stays in Switzerland), that close relatives live here (parents, children, siblings) or that the applicant's ancestors were Swiss. According to jurisprudence, however, personal connections to Switzerland must exist, and the applicant cannot just rely on the existence of relatives living in Switzerland. It is therefore necessary to demonstrate connections which are independent and separate from relatives that are of a sociocultural or personal nature. This criterion is fulfilled if connections to local communities, participation in cultural activities or direct contact with the local residents exist. Ownership of real estate in Switzerland or other purely economic connections to Switzerland are not sufficient in and of themselves.

With regard to the **necessary financial resources**, a retired person has the necessary financial resources if these funds will support their livelihood with great certainty (pensions, assets) until the end of their life and thus the risk of dependency upon social benefits is negligible.

In order to ensure that retirees have actually withdrawn from active working life, a corresponding confirmation must be submitted. Additionally, retirees must pledge not to pursue gainful employment either in Switzerland or abroad. Finally, retirees have to move their actual center of life to Switzerland.

Retirees, who wish to take their spouses and minor children to reside together with them in Switzerland may be authorized to do so. In such a case, the regular provisions on family reunification apply

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## 4.2. Wealthy Private Individuals

Wealthy private individuals from third countries may be granted a residence permit in Switzerland if this is justified by **substantial cantonal fiscal interests**.

The question of what exactly constitutes significant fiscal interests for this purpose is answered differently from canton to canton due to the federalist structure in Switzerland. As a **cantonal minimum for a finding of significant fiscal interests**, an individual must have an income of CHF 250,000 or an asset of CHF 1,000,000. In most cantons, however, a higher income and asset-base is required. In some cantons an annual income of up to CHF 1,000,000 or assets of up to CHF 20,000,000 is expected. Therefore, depending upon the canton, a person must have an income of between CHF 250,000 and CHF 1,000,000 or assets of a value between CHF 1,000,000 and CHF 20,000,000.

**Other cantons** do not directly account for income and assets, but expect a person to pay a **certain minimum tax** so that an authorization can be granted. Depending upon cantonal practice, a residence permit is only issued if the calculated effective taxes to be paid amount to at least CHF 250,000 (including the direct federal tax, state and municipal tax). On the other hand, some cantons expect that the taxes to be paid should amount to at least CHF 500,000. If a private individual makes use of the so-called lump-sum taxation regime, then normally a minimum tax liability of CHF 400,000 is expected.

Wealthy private individuals who wish to receive a residence permit have to prove that they will move their center of life to Switzerland and that they will spend most of their time in Switzerland. A pre-existing personal connection with Switzerland is not required for obtaining such a residence permit. If a residence permit is issued on the basis of considerable cantonal fiscal interests, the foreigner may not pursue any gainful activity in Switzerland. Gainful activity pursued outside of Switzerland is allowed, with the exception of a few cantons who do not allow any gainful activity at all, regardless of where it is completed. In any event, it is permissible for a foreigner to manage his own assets in Switzerland.



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## 5. Summary

For foreigners of third-countries, there are many varying possibilities for obtaining a residence permit in Switzerland. Switzerland has in particular special rules for entrepreneurs, investors, retired persons and for other wealthy private persons.



## WHO IS FRORIEP?

Founded in Zurich in 1966, Froriep is one of the leading law firms in Switzerland, with offices in Zurich, Geneva and Zug, as well as foreign offices in both London and Madrid, serving clients seeking Swiss law advice.

We have grown a domestic and international client base ranging from large international corporations to private clients. Our unique, truly integrated, international structure mirrors our strong cross-border focus. We value and promote continuity and strong client relationships. Our teams are tailor-made, assembled from every practice area and across our network of offices.

Many of our lawyers are recognised as leaders in their practice areas, and our clients benefit from our in-depth knowledge and the rich diversity of talents, languages and cultures that makes our lawyers particularly versatile and adaptive.

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