

# International Comparative Legal Guides



Practical cross-border insights into corporate immigration law

# Corporate Immigration 2023

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# Switzerland

VISCHER AG



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## 1 Introduction

### 1.1 What are the main sources of immigration law in your jurisdiction?

The main sources governing immigration law in Switzerland are: the Federal Act on Foreign Nationals and Integration (“**FNIA**”); the Ordinance on Admission, Residence and Gainful Employment (“**OARG**”); the Ordinance on Foreign Nationals and Integration (“**OFNI**”); the Federal Act on Posted Workers (“**FAPW**”); the Ordinance on Posted Workers to Switzerland (“**OPW**”); the Federal Labour Act (“**FLA**”); the Federal Act on Illegal Work (“**FAIW**”); the Federal Act on Employment Services (“**FAES**”); the Agreement on Free Movement of Persons (“**AFMP**”) between the European Union (“**EU**”) and Switzerland; the Ordinance on the Agreement on Free Movement of Persons; the European Free Trade Association (“**EFTA**”) Convention; the Schengen Agreement; and the General Agreement on Trade in Services, (“**GATS**”).

Moreover, the Directives of the State Secretariat for Migration (“**SEM**”) are an important source when interpreting Swiss immigration law, even if they are not legally binding.

### 1.2 What authorities administer the corporate immigration system in your jurisdiction?

In a Federal State such as Switzerland, immigration authorities exist on two levels: cantonal; and federal. In principle, applications for work and residence permits are examined at both levels.

Each canton autonomously determines its organisation and the administration of its immigration authorities.

In the canton of Zurich, the cantonal Migration Office is the competent authority regarding the aspects strictly related to immigration, such as a foreign national’s personal compliance with Swiss immigration law. The Office for Economy and Labour is the competent cantonal authority to verify the employment-related aspects of immigration, such as local market testing (see question 10.2).

The competent federal authority is the SEM.

### 1.3 Is your jurisdiction part of a multilateral agreement between countries (EU/NAFTA/MERCOSUR) which facilitates the movement of people between countries for employment purposes?

Switzerland is part of the AFMP with the EU and the EFTA. The AFMP gives nationals of its Member States the right to

circulate freely, and to work and establish themselves within the other Member States’ territories.

Furthermore, it should be noted that the United Kingdom (“**UK**”) left the EU on January 31, 2020 (“**Brexit**”). Nevertheless, the AFMP continued to apply to the UK during a transitional period until the end of 2020. The UK and Switzerland have concluded various bilateral agreements that have been applied since the end of the transition period. In particular, the Agreement on the Acquired Rights of Citizens, which entered into force on January 1, 2021, must be observed.

As a Member of the EFTA, Switzerland is also involved in negotiations on an agreement with MERCOSUR. One of the aims of the agreement is to provide simplified market access for service providers. Currently, the agreement is undergoing legal review. Due to the COVID-19 pandemic, this process has been delayed and it is unclear when the agreement will enter into force.

## 2 Business Visitors

### 2.1 Can business visitors enter your jurisdiction under a relevant visa waiver programme?

It is important to note that Swiss visas only entitle the holder to enter the country but not to work. Switzerland does not have business visas as such.

Foreigners can, in principle, work for up to eight days per calendar year without a special permit. Any work beyond eight days requires a work permit or, in the case of EU/EFTA nationals posted for up to 90 days per calendar year, a notification to the immigration authorities (see questions 2.3 and 2.4).

### 2.2 What is the maximum period for which business visitors can enter your jurisdiction?

A business visitor’s stay in the Schengen area (including Switzerland) may not exceed 90 days in any 180-day period.

### 2.3 What activities are business visitors able to undertake?

According to the SEM, business visitors are permitted to engage in non-gainful employment, such as:

- business meetings;
- theoretical and technical courses without any involvement in work processes;
- scientific, economic, cultural, religious or sporting events; or

- professional conferences, seminars or meetings, including invitations of international organisations, non-governmental organisations or associations.

Furthermore, and according to Article 14 OARG, business visitors are permitted to pursue gainful employment for a non-Swiss employer for eight days per calendar year without a work permit. If the period of gainful employment is longer than eight days, non-EU/EFTA nationals in particular need a work permit to stay in Switzerland (for EU/EFTA nationals and posted non-EU/EFTA nationals see question 2.4).

Due to the considerable discretion of the migration authorities, however, it is advisable to verify on a case-by-case basis whether the activities are classified as gainful or non-gainful employment.

#### 2.4 Are there any special visitor categories which will enable business visitors to undertake work or provide services for a temporary period?

According to the AFMP, employees of the EU/EFTA labour market who are taking up employment, providing services or being posted to Switzerland for a maximum period of 90 days per calendar year do not need work permits, but can instead benefit from an online registration procedure where companies only need to inform the immigration authorities of the employment or secondment by completing an online form (“90-day online authorisation”). Non-EU/EFTA nationals can benefit from the 90-day online authorisation if they are posted to Switzerland and if they have worked in the EU for at least one year before coming to Switzerland.

#### 2.5 Can business visitors receive short-term training?

As explained in question 2.3, business visitors can receive short-term business training, although it must be verified on a case-by-case basis that the training does not constitute gainful activity or that the gainful activity does not last longer than eight days.

### 3 Immigration Compliance and Illegal Working

#### 3.1 Do the national authorities in your jurisdiction operate a system of compliance inspections of employers who regularly employ foreign nationals?

The immigration authorities have inspectors who ensure that foreign nationals working in their canton have the adequate immigration status and documents. The controlling authorities receive notifications concerning undeclared work and verify whether companies and employees comply with the reporting and permission requirements under social security, immigration and withholding tax law. If violations are detected, they inform the immigration, social security and tax authorities.

#### 3.2 What are the rules on the prevention of illegal working?

The main sources governing illegal working in Switzerland are the FNIA, FAIW, OARG, FAES, FAPW and FLA.

The cantons are responsible for ensuring that the illegal work rules are complied with (Article 4 FAIW).

Employers are responsible for declaring their employees for the purposes of social security and unemployment insurance.

Employers must also comply with certain requirements of Swiss law concerning minimum wage, holidays, working hours, security, hygiene and health standards and must provide lodging for posted workers (Articles 2 to 4 FAPW).

#### 3.3 What are the penalties for organisations found to be employing foreign nationals without permission to work?

Any employer who intentionally employs foreign nationals who are not entitled to work in Switzerland, or who uses a cross-border service in Switzerland for which the service provider does not have a permit, will be punished with a fine or imprisonment for up to one year. In more serious cases, prison sentences can reach three years. If prison sentences are ordered, they are combined with a fine (Article 117 FNIA).

Employees who work in Switzerland without a permit can be fined, imprisoned or banned (up to five years) from entering all Schengen countries (Article 115 FNIA).

## 4 Corporate Immigration – General

#### 4.1 Is there a system for registration of employers who wish to hire foreign nationals?

There is no particular Swiss system for such registration. EURES (European Employment Services) is, however, a European platform for job advertising in the EU and EFTA, which is also used in Switzerland.

#### 4.2 Do employers who hire foreign nationals have ongoing duties to ensure immigration compliance?

The employer’s main obligation is to ensure that the minimum wage and working hours according to the applicable law, the collective labour agreements (if applicable) and the local customs are complied with (Article 1 FAPW). Furthermore, employers must always ensure that employees have a valid work permit (see question 3.3).

#### 4.3 Are employers who hire foreign nationals required to show a commitment to train or up-skill local workers?

No, there is no obligation for employers who hire foreign nationals to train or up-skill local workers.

#### 4.4 Are employers who hire foreign nationals required to pay government charges and fees which contribute towards the training or up-skilling of local workers?

No, there is no such government charge or fee.

#### 4.5 Do the immigration authorities undertake routine inspections of employers who sponsor foreign nationals, to verify immigration compliance?

No, there are no routine inspections of employers in Switzerland. Rather, Switzerland operates through random inspections and the reporting of potentially illegal situations. The cantonal immigration authorities are tasked with verifying the employers’ and the employees’ compliance with Swiss law.

#### 4.6 Do the immigration authorities maintain a list of skilled occupations which may be filled by foreign nationals?

No, the Swiss immigration authorities do not maintain such a list.

#### 4.7 Is there a recognition that some occupations may be in short supply and do special exemptions apply to certain sectors and occupations?

No, there is no recognition that some occupations may be in short supply, nor are there exemptions related to sectors or occupations that might have a supply shortage. That being said, in certain sectors, such as IT, authorities may be more flexible when deciding on the issuance of a work permit.

Swiss/EU/EFTA nationals have priority on the Swiss labour market before non-EU/EFTA nationals. Generally, the employer must show in a permit application that no Swiss/EU/EFTA-nationals could be found for the position (“local market test”; see question 10.2). However, since February 2023, the authorities may waive the generally required proof of unsuccessful search efforts regarding professions that are demonstrably affected by a shortage of skilled workers. The types of professions affected may include management professions in certain industries, engineering professions, scientists and researchers in mathematical, scientific and technical fields, as well as healthcare professions and university teaching staff.

Also, the Swiss parliament currently discusses amending the FNIA for an easier admission for foreigners with a Swiss university degree.

#### 4.8 Are there annual quotas for different types of employment-related work permits or visas?

The Swiss Federal Council sets annual quotas for the different types of work permits to be issued in favour of non-EU/EFTA nationals. The quotas only apply for the first granting of a work permit, not for any extension. For the year 2023, these quotas amount to 4,000 for short-term permits (i.e. L-permits, see question 8.1) and 4,500 for long-term permits (i.e. B-permits, see question 10.1; Article 19 OARG).

Due to Brexit, nationals of the UK must have a work and residence permit according to the rules of non-EU/EFTA nationals. However, the Federal Council has set for 2023 special, additional quotas for UK nationals (1,400 for L-permits and 2,100 for B-permits).

As a general rule, no yearly quotas apply for the different types of work permits to be issued in favour of EU/EFTA nationals hired by Swiss companies. However, specific quotas are applicable to workers posted for the provision of services who work for more than 90 days per calendar year in Switzerland. In 2023, with respect to workers posted for the provision of services, quotas amount to 3,000 for L-permits and 500 for B-permits.

#### 4.9 Are there restrictions on the number of foreign workers an employer may sponsor, in relation to a maximum percentage of foreign workers in the employer's workforce?

In the case of non-EU/EFTA nationals and posted EU/EFTA nationals, the authorities, within their discretionary powers when granting permits, supervise that the companies do not

have predominantly foreign employees. One hundred and twenty-day work permits are only granted if the workforce of the company applying does not consist of more than 25% foreigners. There is no restriction with regard to EU/EFTA nationals with a Swiss employer.

#### 4.10 Are employees who are sponsored to work in your jurisdiction required to demonstrate language proficiency?

Switzerland's national languages are German, French, Italian and Romansh. Employees are not required to show a national language proficiency.

Language skills are required when applying for a permanent residence permit (i.e. C-permit), which may be applied for after holding a B-permit for a certain number of years. In this case, foreigners will be required to demonstrate skills in the language of their place of residence (A2 oral level and A1 writing level of the Common European Framework of Reference for Languages; see question 13.1).

#### 4.11 Are employees who are sponsored to work in your jurisdiction required to undergo medical examinations before being admitted?

No; medical examinations are not required before admission into Switzerland.

#### 4.12 Are employees who are sponsored to work in your jurisdiction required to have medical insurance or are they entitled to any free public medical services?

As a general rule, anyone residing in Switzerland must take out a Swiss health insurance policy. This applies in particular to foreigners working in Switzerland for more than three months without proving equal coverage in their home country. Foreign employees who are permitted to work in Switzerland for three months or less are usually not required to have Swiss health insurance. In addition, special provisions apply to cross-border commuters and posted employees.

#### 4.13 Does the work permit system allow employees who hold work permits to be seconded to a client site?

Depending on the type of work permit, employees may be permitted to be posted to a client site within or outside Switzerland.

#### 4.14 Does the work permit system require the sponsoring employer to have a physical office space at which employees are required to be physically present?

There is no legal requirement that the sponsoring employer should have a physical office space at which the employees are physically present. However, the main goal of the Swiss immigration system is a positive effect on the Swiss and local economy. It is nearly impossible to show this positive effect without a stable presence in Switzerland. Therefore, a stable presence as a subsidiary or a branch is recommended. The physical offices can be with a service provider, such as Regus or others. Under the AFMP, only employees of employers with at least a branch in Switzerland are entitled to a work permit.

**4.15 Does the work permit system allow employees who hold work permits to work remotely including work from home?**

A legal requirement that the employees must work on the premises of the employer does not exist.

## 5 Non-Sponsored Highly Skilled, Exceptional or Extraordinary Talent Visas

**5.1 Is there an immigration category which covers highly skilled individuals (including those who are not sponsored by a company)?**

The Swiss immigration system only allows work permits for highly qualified individuals. If they are not sponsored by a company, they may work as self-employed. Work permits for self-employment can be granted if:

- A work permit is in the interest of the Swiss economy as a whole.
- The necessary financial and operational requirements are fulfilled.
- The individual has an adequate and independent source of income.
- Other requirements, such as quotas, personal requirements and adequate accommodation are met.

Work permits for self-employed individuals are very rarely granted. It is often more advisable to establish a small Swiss company. Such establishment of a Swiss company is inexpensive, fast and open to foreigners.

**5.2 Is there an immigration category which allows those with exceptional or extraordinary talent in their specialist field to obtain a work visa?**

Swiss immigration law generally does not have a special category for those with exceptional or extraordinary talent to obtain a work permit. Normally, they qualify for a regular work permit. However, Switzerland has special visas and permits for students and graduates of Swiss universities. Also there are work permits for artists which are subject to certain facilitation (see question 8.2).

## 6 Remote Working Visas

**6.1 Is there a visa category which allows employees of overseas companies who remain employed outside your jurisdiction to work remotely in your jurisdiction without the need to obtain a standard work permit?**

The immigration rules only apply to foreigners physically working in Switzerland. If the foreigner works from abroad (remotely) for a business in Switzerland, no Swiss work permit is required.

**6.2 To what extent do your visitor rules explicitly permit temporary remote working, for example where the employee of a foreign company cannot leave your territory due to health or other emergencies?**

Switzerland does not provide special immigration rules if the employee works in Switzerland and cannot leave Switzerland

due to health or other emergencies. However, the migration authorities will prolong the work and residence permit of the employee in Switzerland and not terminate the permit of the foreign person. This situation often occurred during the COVID-19 pandemic.

## 7 Investment or Establishment Work Permits

**7.1 Is there an immigration category which permits employees to be authorised to work based on investment into, or setting up a subsidiary or corporate presence in, your jurisdiction?**

As a rule, there are no specific work permits in Switzerland based on investments in a particular sector.

However, according to the FNIA, non-EU/EFTA nationals may apply for a self-employed work permit, which is granted if the Swiss authorities can establish that the self-employed activity may lead, among other things, to “substantial investments” and/or the creation of new workplaces for the benefit of the Swiss economy, and that the applicant has sufficient financial resources to carry out his/her activity.

## 8 Temporary Work Permits

**8.1 Is there an immigration category permitting the hiring of temporary workers for exchanges, career development, internships or other non-economic purposes?**

Switzerland has concluded bilateral agreements with around 30 countries (including the USA and Canada), which enable young people to gain work experience in other countries through internship programmes. The requirements are in general a completed apprenticeship or university degree and an age limit of – depending on the agreement – 30 to 35 years. The permit is usually issued for a maximum of 18 months. Stagiaire permits are particularly suitable for the employment of trainees in international corporations.

In addition to these specific agreements, the FNIA permits non-EU/EFTA nationals to stay in Switzerland for education and training purposes (Article 27 FNIA). In order to obtain such a permit, specific training, adequate accommodation and sufficient financial means, as well as adequate language skills, must be proven.

EU/EFTA nationals may also stay in Switzerland for training and education purposes if they have sufficient financial means, health insurance and a certificate of enrolment from a recognised educational institution. A permit is only required for stays of more than 90 days in any six-month period.

Regarding short-term work permits, Switzerland issues the following types of permits in order to permit the likes of temporary workers to be employed for a short time in Switzerland:

- L-permit: this is a short-duration permit, the purpose of which is to allow a foreigner to perform a short assignment in Switzerland. The validity of the L-permit is limited to a period of one year; however, it may be extended for another period of one year. Depending upon the duration of the stay in Switzerland, different sorts of L-permits may be applied for: (a) L-permit for 12 consecutive months; (b) L-permit for four consecutive months; and (c) L-permit for 120 days per 12-month period (“120-day work permit”).
- 90-day online authorisation: see question 2.4.

## 8.2 Are there sector-specific temporary work permit categories which enable foreign workers to perform short-term temporary work?

As a general rule, there is no sector-specific temporary work permit category. However, special rules may apply to artists in the fields of music, literature or art as well as for professional athletes in certain cases.

## 9 Group or Intra-Company Transfer Work Permits

### 9.1 Does a specific immigration category exist for inter-company transfers within international groups of companies?

According to the GATS, intra-company transfers of non-EU/EFTA and posted EU/EFTA nationals are possible for executive employees and highly qualified specialists, provided the foreign service provider has an entity or branch in Switzerland. Executive employees are persons who are responsible for the management of the company or one of its divisions and who are subject only to the general supervision or direction of senior management, the board of directors or the shareholders of the company. Highly qualified specialists are persons who are indispensable within a company for the provision of a certain service due to their knowledge and advanced experience in the field of services, research, technology or management of the company. In such cases, executive employees and highly qualified specialists are entitled to a permit for up to four years.

### 9.2 What conditions must an employing company or organisation fulfil in order to qualify as part of a group of companies?

According to the SEM, the company must have a legal entity or branch in Switzerland in order to qualify as part of a group of companies.

### 9.3 What conditions must the employer fulfil in order to obtain a work permit for an intra-company group employee?

According to the GATS, international groups of companies can transfer non-EU/EFTA nationals to Switzerland for up to four years under the following conditions:

- the employee is an executive, senior manager or highly qualified specialist (see question 9.1);
- the employee has worked for the company or group, outside of Switzerland, during at least the whole year preceding the filing of the Swiss work permit application; and
- the general conditions of the FNIA have also been met, in particular, the respecting of quotas (see question 4.8) and minimum wages.

The main advantage of intra-company transfers is that employers are not subject to the local market test condition (see question 10.2).

### 9.4 What is the process for obtaining a work permit for an intra-company group employee?

Once the conditions set out in question 9.3 are fulfilled, employers of non-EU/EFTA nationals must file a work permit

application with the competent cantonal authority. The application process usually requires the approval of the cantonal and federal authorities.

### 9.5 What is the process for the employee to obtain a visa under the intra-company group transfer category?

Non-EU/EFTA nationals must file for a travel visa with the Swiss authorities' representation of their residence abroad (e.g., an embassy or consulate).

Based on the Schengen Agreement, EU/EFTA nationals do not need visas in order to enter Switzerland.

### 9.6 How long does the process of obtaining the work permit and initial visa take?

The whole process for non-EU/EFTA nationals and posted EU/EFTA nationals usually takes about eight to 12 weeks after the work permit application is filed. Moreover, non-EU/EFTA nationals are not permitted to work until they have received their work permit and have registered with the local residents authority.

For EU/EFTA nationals hired by a Swiss company, the issuance of a work permit usually takes about two to three weeks after the registration. In addition, EU/EFTA nationals are essentially entitled to work in Switzerland from the moment they enter Switzerland; however, they are obliged to register within 14 days of arrival.

### 9.7 Is there a maximum period of validity for initial intra company transfer visas, can they be extended and is there a maximum period of stay in this category?

According to the GATS, international groups of companies can transfer non-EU/EFTA nationals to Switzerland for up to a maximum of four years.

### 9.8 Can employees coming under the intra-company route transfer to a permanent stay visa route and apply for permanent residence?

There is no specific procedure for employees under the intra-company route. In order to obtain an "unlimited" B-permit, the process mentioned under question 9.4 must be respected. In order to obtain a C-permit, they are subject to the conditions outlined in question 13.1.

### 9.9 What are the main government fees associated with this type of visa?

The fees for the work permit and the travel visa amount to a total of approximately CHF 500-900.

## 10 New Hire Work Permits

### 10.1 What is the main immigration category used for employers who wish to obtain work permits for new hires?

Fundamentally, there are three main types of work permits under Swiss law:

- L-permit: this is a short-duration work permit, the purpose of which is to allow a foreigner to perform a short assignment in Switzerland (see question 8.1).

- B-permit: this is a long-duration work permit (for more than two years). Unless it is subject to specific conditions, the renewal of the B-permit is usually a mere formality.
- G-permit: this is a work permit for cross-border commuters.

#### 10.2 Is there a requirement for labour market testing, to demonstrate that there are no suitable resident workers, before a work permit can be issued to new hires?

As a general rule, when employers wish to hire non-EU/EFTA or posted EU/EFTA nationals, they must demonstrate beforehand that there were no suitable candidates on the local (Swiss/EU/EFTA) market to fill the position.

Employers can prove that adequate recruiting endeavours have been conducted by publishing job announcements on specialised websites and by sending the job description to the local authorities. This procedure can take up to three months. If no suitable candidate has been found, employers may file a work permit application (Article 21 FNIA; see exception in question 4.7).

#### 10.3 Are there any exemptions to carrying out a resident labour market test?

Yes, intra-company transfers permit employers to skip the local market test when applying for work permits for non-EU/EFTA or posted EU/EFTA nationals (see question 9.3).

#### 10.4 What is the process for employers obtaining a work permit for a new hire?

The process for non-EU/EFTA nationals comprises three approval stages: the Office for Economy and Labour assesses applications on the basis of the FNIA and takes a preliminary decision; the SEM reviews applications according to admission criteria that apply to the whole of Switzerland; and the cantonal Migration Office issues the work permit.

EU/EFTA nationals who work for a Swiss company are entitled to a work permit. The cantonal Migration Office is the only authority that issues the work permit.

#### 10.5 What is the process for the employee to obtain a visa as a new hire?

See question 9.5.

#### 10.6 How long does the process of obtaining the work permit and initial visa for a new hire take?

See question 9.6.

#### 10.7 How long are initial visas for new hires granted for and can they be extended?

In connection with work permits, initial visas are usually issued for three months and are only needed to enter the country. An extension of the visa is only permitted for restrictive reasons (e.g. *force majeure* or serious personal reasons). However, it is possible to apply for a new visa.

#### 10.8 Is labour market testing required when the employee extends their residence?

No; once the work permit has been granted, employers do not need to prove their inability to find a suitable local candidate in order to be able to renew non-EU/EFTA nationals' work permits.

#### 10.9 Can employees coming as new hires apply for permanent residence?

No; permanent residence permits cannot be granted to new hires (see question 13.1).

#### 10.10 What are the main government fees associated with this type of visa?

See question 9.9.

## 11 Conditions of Stay for Work Permit Holders

#### 11.1 What are the conditions of stay of those who obtain work permits and are resident on this basis?

As a matter of principle, L- and B-permits entitle their holders to freely reside and work in Switzerland for a specific period of time.

However, work permits granted to non-EU/EFTA nationals may be subject to conditions; they may, in particular, be restricted to a specific employer or the achievement of certain targets.

The renewal of permits granted for the establishment of new companies can be linked to the achievement of the objectives stated in the business plan.

Work and residence permits of all nationals can also be revoked if the person concerned has been sentenced to a long-term imprisonment, repeatedly violates public safety or provides false information during the authorisation procedure (Article 62 FNIA).

#### 11.2 Are work permit holders required to register with municipal authorities or the police after their arrival?

All work permit holders must notify their arrival to the competent residents authority of their place of residence in Switzerland within 14 days.

## 12 Dependants

#### 12.1 Who qualifies as a dependant of a person coming to work on a sponsored basis?

According to Article 45 FNIA, the spouse as well as minor children (i.e., under the age of 18) are considered dependants of a work permit applicant under the following conditions:

- the spouse or the child and the work permit holder live under the same roof;
- the lodging is deemed appropriate; and
- they do not financially depend on social assistance.



According to the AFMP, ascendants of an EU/EFTA national, i.e. parents or grandparents, can also be considered dependants if they have been financially supported by their descendant coming to work in Switzerland and the lodging conditions are appropriate.

#### 12.2 Do civil/unmarried or same-sex partners qualify as family members?

As a general rule, only registered (same-sex) or married partners have a right to come to Switzerland if their partner was admitted to Switzerland. However, the migration authority may also qualify stable (same-sex) partners as family members at its discretion.

#### 12.3 Do spouses and partners have access to the labour market when they are admitted as dependants?

According to Articles 26 and 27 OARG, spouses and partners of foreign nationals, who have an L- or B-permit, have access to the Swiss labour market under the following conditions:

- the work permit request comes from an employer;
- the working and salary conditions of the employment respect the standards set by Swiss law; and
- the spouse's/partner's personal abilities are taken into account.

Please further note that the validity period of a spouse's or a partner's work permit is limited to that of the main holder.

In addition, the FNIA provides implemented specific individual requirements in the case of a dependant applying for a work/residence permit as part of a family reunion procedure: indeed, in order to be granted a work permit, spouses of the initial work permit holder will have to demonstrate that they have sufficient language skills in the language of their Swiss place of residence (A1 oral level of the Common European Framework of Reference for Languages or registration to a language course with the equivalent target).

#### 12.4 Do children have access to the labour market?

According to Articles 46 FNIA and 26 and 27 OARG, foreign children are (within the general limits of Swiss law) permitted to work under the same conditions as the work permit holder's spouse or partner (see question 12.3).

### 13 Permanent Residence

#### 13.1 What are the conditions for obtaining permanent residence?

In order to obtain a C-permit in Switzerland, the applicant must comply with the rules set by Article 34 FNIA:

- the applicant must have lived in Switzerland for a minimum of 10 years, including the last five years without interruption, with a valid B-permit; however, note that most EU/EFTA nationals as well as nationals of certain non-EU/EFTA Member States that have special agreements with Switzerland (such as, e.g., Canada or the USA), and in some cases, other nationals with an exceptional level of integration in Switzerland, can obtain a C-permit after five years of uninterrupted residence in Switzerland;
- the applicant must have mastered the place of residence's national language to a certain level (A2 oral level and A1 writing level of the Common European Framework of Reference for Languages); and
- there is no cause for any kind of revocation according to Article 62 FNIA (see questions 14.1 and 14.2).

#### 13.2 Is it possible to switch from a temporary work visa to a work visa which leads to permanent residence?

In order to be able to switch from an L- to a B-permit, the employer and the work permit holder must prove that between the moment the applicant came to Switzerland and the expiration of the L-permit, the business requirements have changed to the point where the employer strongly needs the employee to stay in Switzerland for an indefinite period of time.

### 14 Bars to Admission

#### 14.1 What are the main bars to admission for work?

The local market test for non-EU/EFTA nationals can be considered a bar to admission for work (see question 10.2).

Moreover, both EU/EFTA and non-EU/EFTA nationals can be barred from being admitted to Switzerland or can have their work permit revoked under certain circumstances (e.g., false information during the work permit issuance procedure, threat to the internal or external security of Switzerland or dependence on social assistance support).

#### 14.2 Are criminal convictions a bar to obtaining work permission or a visa?

Depending on the gravity and the type of the offence, criminal convictions can be a bar to obtaining a work permit or a visa. Foreign nationals who have been sentenced to a prison sentence of one year or more can have their work permit revoked (Article 62 FNIA).



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VISCHER's immigration team has an excellent international reputation and was therefore, for the second time in a row, honoured to have been awarded Law Firm of the Year 2020 for Corporate Immigration by *Who's Who Legal*. VISCHER's immigration team supports national and international companies in bringing highly qualified workers to Switzerland. The focus is on providing comprehensive and holistic advice to companies and senior employees. The members of the team have extensive expertise in all relevant legal areas as well as excellent relations with the authorities in order to

achieve the best solutions in the interests of the client. VISCHER's services include support in all legal matters relating to immigration, visas, work and residence permits, as well as in social security and tax matters in the area of business immigration.

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