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Federal Office for Migration FOM



Foreigners and asylum seekers in Switzerland

Federal Office for Migration FOM

Activities at a glance

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Migration policy

For centuries, political, social and economic problems have caused people to leave their home countries in search of a better life elsewhere. Whether as asylum seekers, economic migrants or simply joining family members and loved ones, migrants come to Switzerland with the hope of finding refuge, work and a brighter future. It is fair to say that migration is a phenomenon that is as old as humankind itself.



Immigration, the asylum system and integration are the central planks of Switzerland's migration policy.

Switzerland cannot boost its economy if it cannot fill the jobs it creates. This is why immigrant labour is a key source of economic growth. However, immigration is also associated with certain problems which must not be overlooked, such as wage deflation due to the influx of cheaper labour. I intend to use my position as director of the Federal Office for Migration to see that Switzerland pursues an immigration policy which is pragmatic yet controlled.

It is important that anyone who comes to Switzerland to live and work finds way to integrate. Successful integration is the result of a willingness to integrate on the part of the migrant, and a spirit of openness towards others on the part of the Swiss people. Training opportunities and language instruction are two of the main tenets of Switzerland's migration policy.

Crises around Europe place considerable strain on Swiss migration policy and the Swiss asylum system. One of the challenges which my staff and I face is drastically reducing asylum processing times. International cooperation is at the core of Switzerland's migration policy. We cannot shorten the asylum procedure if unsuccessful applicants cannot be returned to their home country. It is therefore vital that Switzerland enters into agreements and treaties with both home and third countries.

Swiss migration policy relies on public support, hence my unwavering commitment to ensuring that both the Swiss people and the foreign communities who live here receive adequate and reliable information. It is hoped that this booklet will serve such a purpose.

Mario Gattiker
Director, Federal Office for Migration

FOM activities at a glance

The Federal Office for Migration (FOM) was established on 1 January 2005, out of a merger between the Federal Office for Refugees (FOR) and the Federal Office of Immigration, Integration and Emigration (IMES). The FOM is responsible for all matters covered by legislation on foreign nationals and asylum seekers in Switzerland.

Entry and residence

» Page 6

Anyone wishing to remain in Switzerland for an extended period of time must have both a valid travel document and a residence permit. Such permits are issued more readily to nationals of EU/EFTA member states than to third-state nationals. Foreign nationals fleeing from persecution may apply for asylum.

Employment

» Page 10

Nationals of EU and EFTA member states who wish to work in Switzerland may do so by virtue of the Swiss-EU Bilateral Agreement on the Free Movement of Persons. Only highly qualified third-state nationals are authorised to work in Switzerland and the number of permits issued is limited by quotas. Asylum seekers are not authorised to work for the first three months after they have submitted their asylum application.

Protection from persecution

» Page 12

Switzerland affords temporary or long-term protection to foreign nationals who face persecution in their native countries or wish to escape the ravages of war. Asylum seekers undergo an asylum procedure to determine whether they qualify for refugee status.

Integration

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Foreign nationals who live in Switzerland for an extended period of time should be as integrated as possible. Integration is defined as a process involving both the Swiss population and the foreign national. The Confederation may lend support to integration projects.

Naturalisation

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Well-integrated foreign nationals may apply for naturalisation, which falls mainly within the purview of cantonal and communal authorities. The Confederation establishes the criteria for naturalisation.

Returning abroad

» Page 18

Irregular migrants and asylum seekers whose application has been rejected must leave the country. The FOM encourages voluntary return but, if necessary, also enforces return.

Federal Office for Migration

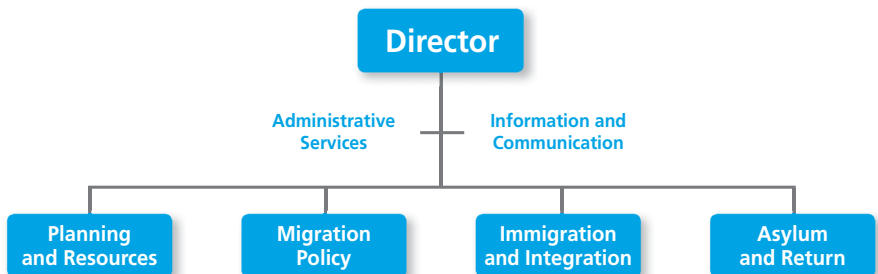
Part of the Federal Department of Justice and Police (FDJP), the Federal Office for Migration (FOM) is based in Wabern near Berne, and has around 742 employees. It also has seven field offices: one at the Zurich Airport, one at the Geneva Airport and five reception and processing centres in Altstätten, Basel, Chiasso, Kreuzlingen and Vallorbe.

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As per 2011

Did you know that ...

- ... foreign nationals produce a quarter of the entire volume of work in Switzerland?
Foreign nationals account for 27 % of all employed persons in Switzerland.
- ... one in five of us is a foreign national? This amounts to around 1.8 million people.

Entry and residence

Foreign nationals in Switzerland

Entry formalities

Depending on the reasons for coming (e.g. tourism, employment, studies or retirement), entry into Switzerland is subject to different rules and conditions. It is worth finding out about these in advance. Information can be obtained from Swiss diplomatic/consular missions abroad, from cantonal migration offices as well as from the Federal Office for Migration (FOM).

Rules on residence

A permit is required for individuals wishing to work in Switzerland or remain in Switzerland for longer than three months. Cantonal migration offices issue these permits. A general distinction is drawn between a short-term residence permit (valid less than one year), a standard residence permit (valid one year, renewable) and a settlement permit (unlimited validity). Depending on the type of permit, different rules apply for family reunification.

Swiss-EU Bilateral Agreement on Free Movement of Persons

The Swiss-EU Bilateral Agreement on the Free Movement of Persons came into force in 2002, at the same time as a similar agreement regarding EFTA member states. Since 1 June 2007 nationals of EU-17 member states (i.e. original 15 member states plus Cyprus and Malta) and EFTA member states enjoy complete freedom of movement without any transitional period. Since 1 May 2011, the bilateral agreement has been extended to include EU-8 member states. Labour market restrictions (annual quotas, preferential treatment for local workers, control of pay and working conditions) will continue to apply for Bulgarian and Romanian nationals until May 2016 at the latest.

Did you know that...

- ... a significant portion of foreign nationals residing in Switzerland belong to the second or even third generation? Around a quarter of these foreign nationals were born here and over half have been living in Switzerland for ten years or more.
- ... over the last few years, the largest group of immigrants to Switzerland have been German nationals? Together with Portuguese nationals, they account for half of all foreign nationals newly immigrating to Switzerland.
- ... on average, foreign nationals earn around 17 % less than Swiss nationals?

Entry and residence

Foreign nationals in Switzerland

Third-state nationals

Restrictions apply on the issuance of permits to third-state nationals (i.e. from non-EU/EFTA member states). Only highly qualified third-state nationals are authorised to work in Switzerland and the number of permits issued is limited by quotas. Under certain conditions, third-state nationals may remain in Switzerland without carrying out any economic activities (e.g. retirement, studies).

Procedures to remove and keep people away

Foreign nationals who pose a threat to public safety, who do not (or no longer) have the right to enter and remain in Switzerland will be removed from the country. Foreign nationals who pose a threat to public safety will be refused entry or will be deported. Foreign nationals may also be barred from re-entering Switzerland for a specified period of time (unlimited in serious cases).



Entry and residence

Asylum seekers in Switzerland

Entry

Most asylum applications are submitted directly to one of the FOM's five reception and processing centres in Altstätten, Basel, Chiasso, Kreuzlingen and Vallorbe. Foreign nationals may also apply for asylum at a Swiss diplomatic/consular mission abroad, at a border crossing, or at an airport.

Reception and processing centres: admission and fast-track processing of asylum applications

The admission of asylum seekers – which includes registration, identification (fingerprinting, photographs) and health screening at the border (film/questionnaire) – takes place at the FOM's reception and processing centres. Nearly 66 % of all asylum seekers do not have any official identity papers or travel documents when applying for asylum. This makes identification difficult, if not impossible. Fast-track processing applies in cases where the asylum application is obviously unjustified or abusive, but also in clearly positive cases. Fast-track processing allows many asylum applications to be decided directly at the reception and processing centre, which will also enforce deportation orders if necessary. The maximum stay at reception and processing centres is 90 days. In cases where the asylum application cannot be decided directly at the centre, the asylum seeker will be assigned to a Canton (on the basis of population size considerations). The authorities in that Canton will then provide the asylum seeker with food and shelter as well as support and guidance. Asylum seekers whose application has been dismissed or rejected may only apply to the cantonal authorities for emergency relief.

Did you know that...

- ... foreign nationals from 190 different countries live in Switzerland?
- ... 44 % of foreign nationals are Catholic, 18 % are Muslim, and 7 % are Protestant?
- ... foreign nationals use around 30 % less living space per person than Swiss nationals?



Residence

Once an asylum seeker has been assigned to a Canton, responsibility for the provision of food, shelter, guidance and support is handed over to the cantonal authorities. The Confederation will then pay general lump-sum amounts to cover the corresponding costs incurred by the Cantons.

Employment

Gainfully employed foreign nationals are an important part of the Swiss economy. A total of about one million foreign nationals work in Switzerland. Foreign nationals do not merely hold unskilled positions in the construction industry, hotel and catering or agriculture. Increasingly, they also hold more highly qualified positions in commerce, management, health, technology and many other sectors.

Dual system for the issuance of permits

Switzerland applies a dual system for the issuance of permits to foreign nationals and their families, one applying to nationals of EU/EFTA member states and the other to nationals of all other countries (third-state nationals). Each system is governed by different sets of rules.

Nationals from EU/EFTA member states:

The Swiss-EU Bilateral Agreement on the Free Movement of Persons has been in force since 2002, which allows for mutual free access to labour markets. Over the past few years, nationals of "original" EU-17 member states (which includes Cyprus and Malta) as well as nationals of countries belonging to the European Free Trade Association (EFTA) have benefitted from free movement of persons provisions. On 1 May 2011, restrictions on the free movement of persons were lifted entirely for nationals of EU-8 member states. Restrictions will remain in place for Bulgarian and Romanian nationals until no later than 31 May 2016. Accompanying measures are in place to prevent wage dumping. Like Swiss nationals, nationals of EU and EFTA member states may take up residence and work in Switzerland as well as in EU and EFTA member states. To date, experiences with the bilateral agreement have been positive. The bilateral agreement also coordinates social insurance systems and provides for the mutual recognition of qualifications.

Third-state nationals:

Only highly qualified third-state nationals are authorised to work in Switzerland and the number of permits issued is subject to quotas. Eligible third-state nationals mainly include holders of a higher educa-

Did you know that...

... the Swiss global group Nestlé was established in the 19th century by a German immigrant, pharmacist Heinrich Nestlé?

... 69 % of all construction workers in Switzerland do not hold a Swiss passport?



tion qualification with several years of work experience. The Federal Council determines quota levels each year. Highly qualified third-state nationals may also be issued a permit if no one else with similar qualifications can be found on either the Swiss labour market or on the EU/EFTA labour market. When hiring, priority is given to Swiss nationals, foreign nationals with a settlement permit (C permit), foreign nationals with a standard residence/work permit (B permit) and foreign nationals of a country that has entered into an agreement with Switzerland on the free movement of persons (currently only the EU and EFTA). Salaries, social insurance contributions and working conditions for foreign nationals must match local conditions for the given occupation, profession and branch.

The above-mentioned requirements for the issuance of permits are set forth in the Foreign Nationals Act (SR 142.20) and the Ordinance of 24 October 2007 on Admission, Residence and Employment (SR 142.201). These requirements are further explained in the Directives on the Foreign Nationals Act.

Asylum and labour

Refugees are authorised to take up gainful employment. Asylum seekers, however, are not authorised to carry out any economic activities for the first three months after they have submitted their asylum application. The cantonal authorities may extend this period by another three months if the person's asylum application has been rejected. Once this waiting period has expired, asylum seekers are issued a work permit as long as labour market and/or general economic conditions are favourable and preference is given to hiring Swiss nationals and foreign nationals holding other permits (preferential treatment restrictions).

In contrast, since 1 January 2007, foreign nationals afforded temporary protection receive a work permit regardless of labour market and general economic conditions. Furthermore, such persons are not subject to any preferential treatment restrictions.

Protection from persecution

Asylum seekers in Switzerland

The term “refugee” refers to someone who flees persecution for reasons of race, religion, nationality, membership of a particular social group, or political opinion.

Around 200 million people worldwide live outside their countries of origin. Of these, approximately 15 million are considered refugees. Over and above this figure, around 27.5 million people are internally displaced, i.e. they have been forced to leave their homes to escape persecution or war but have not crossed the border into another country. Nearly 80 % of all refugees remain in their region of origin and seek asylum in a neighbouring country.

Many people flee from regional conflicts, famines or epidemics without being exposed to any personally targeted persecution. In most cases, large numbers of these people reach safer parts of their home country or cross the border to a neighbouring country, where they frequently stay in refugee camps. In such situations, nations that live in peace and enjoy stable economic conditions are asked to shoulder part of the burden. This support may come in the form of temporary admission of war refugees, peace missions or reconstruction aid.

Of the large number of people fleeing from violence worldwide, only a small proportion end up in Switzerland or another industrialised country. Considering its total resident population, however, Switzerland is among the European countries that receive a high number of asylum applications.

Swiss Asylum Act based on the United Nations Convention Relating to the Status of Refugees (CRSR) and the European Convention on Human Rights

Responding to the horrors of World War II, the international community adopted the CRSR in 1951 to afford protection to individuals and groups fleeing persecution for reasons of race, religion, nationality, membership of a particular social group, or political opinion. At its

Did you know that ...

... 26,346 recognised refugees live in Switzerland? On average, Switzerland has granted asylum to around 14 % of applicants over the past decade.

Protection from persecution

Asylum seekers in Switzerland

core, the CRSR defines who is entitled to claim refugee protection from signatory states. The CRSR further stipulates that people must not be taken to a country where they would be subject to persecution for any of the above-mentioned reasons.

Asylum applications soar in times of crisis

In 1999, nearly 29,000 people from the former Federal Republic of Yugoslavia applied for asylum when the Kosovo conflict broke out. Switzerland received a total of around 46,000 asylum applications in that record year. The number of asylum applications remained high for a number of years after the war in the former Federal Republic of Yugoslavia. From 2004 onwards, the annual figure declined steadily to reach an annual level of 10,000 to 15,000 asylum applications by 2010. Political upheavals in the Arab world have led to a renewed increase in the number of asylum seekers since December 2010. Over 100,000 people, mostly from Northern Africa, have fled to Europe. In 2011, the number of asylum applications also increased in Switzerland, from 15,000 to 22,000.



Integration

In the past, very little attention was paid to the integration of foreign nationals who lived for extended periods of time in Switzerland. It was only in 2001 that integration was recognised as a federal task. Nowadays, federal support is given to integration activities. The Federal Office for Migration (FOM) coordinates integration efforts on the part of the Confederation, cantonal and communal authorities. In recent years, most cantons and municipalities have also appointed integration delegates.

For the first time, integration objectives and principles have been included in the new Foreign Nationals Act (SR 142.20), which came into force in January 2008. Integration is defined as a process involving both the Swiss population and the foreign national. Anyone who lives in Switzerland must accept and adhere to the rules and laws of this country. The legal framework enables the cantonal authorities to not only promote integration, but also to expect it. The preconditions for integration include openness and acceptance by the Swiss population.

Learning one of the national languages is a central factor in the integration process. Professional and social integration, day-to-day interactions and contact with authorities are all facilitated – and are often only possible – when the foreign national has a command of the local language. The FOM provides funding contributions to the Cantons that organise language courses for foreigners. Foreign nationals who are very well integrated may receive a settlement permit (type C) from the Canton early.

Did you know that...

- ... about half of the Swiss national soccer team have foreign roots?
- ... today, mixed nationality marriages account for nearly half of all marriages in Switzerland?
- ... the most popular cheese in Switzerland is neither Emmental nor Gruyère, but rather mozzarella? Today, this cheese is mainly produced in Switzerland and average per capita consumption is about 2.4 kilos per year.
- ... migrants pay 26.7 % of invalidity insurance contributions but claim only 25.6 % of invalidity benefits?



Foreign nationals afforded refugee status and temporary protection

Special efforts are made for foreign nationals afforded refugee status. Residence/work permits in Switzerland are issued regardless of their level of education and training and regardless of labour market demand and general economic conditions. Many refugees suffer from the after-effects of traumatic experiences. Careful attention must be paid to these aspects when it comes to ensuring their integration in the labour market. Since 2007, foreign nationals afforded temporary protection have been given easier access to the labour market. They are also permitted to bring their family to Switzerland after three years and qualify for various integration measures.

The FOM works closely with the Cantons and other federal offices to facilitate the integration of foreign nationals afforded refugee status or temporary protection.

Federal Commission on Migration (EKM)

The Federal Commission on Migration (EKM) is an advisory body of the Federal Council. It deals with social, economic, cultural, political, demographic and legal issues relating to foreign nationals in Switzerland. This also includes refugees, asylum seekers and persons afforded temporary protection. The EKM does the basic groundwork, takes a stance on current migration policy issues and publishes recommendations. The EKM secretariat is attached to the Federal Office of Migration (FOM).

Further information:

www.ekm.admin.ch

Naturalisation

Switzerland has an interest in the naturalisation of well-integrated foreign nationals who have lived here for a long time – with all the rights and obligations that Swiss citizenship entails. Some 45,000 people were naturalised each year between 2007 and 2009. This amounts to about 3% of all foreign nationals residing in Switzerland. In 2010, around 40,000 foreign nationals applied for naturalisation in Switzerland.

Regular naturalisation

People who have been resident in Switzerland for at least twelve years may apply for regular naturalisation. The number of years spent in Switzerland between the ages of 10 and 20 count double. Additional requirements: candidates must be well-integrated in society and familiar with Swiss habits, manners and customs; they must comply with Swiss legislation; and they must not pose a threat to Switzerland's internal and external security. Depending on the place of residence, cantonal and communal authorities will also require different minimum periods of residence.

The regular naturalisation procedure mainly falls within the purview of the cantonal and communal authorities. The FOM verifies compliance with legal provisions and grants the federal naturalisation permit.

Facilitated naturalisation

Foreign spouses of Swiss nationals may apply for the facilitated naturalisation procedure if they have been married for at least three years; have lived in Switzerland for at least five years altogether; and at least one year prior to applying for naturalisation. Moreover, they must be well integrated in society; comply with Swiss legislation; and not pose a threat to Switzerland's internal or external security. If all of these requirements are met, the individual qualifies for facilitated naturalisation.

Did you know that...

... over one-third of foreign nationals residing in Switzerland are from a neighbouring country?
Of these, Italian nationals form the largest group.

... about one-third of all naturalised Swiss citizens were actually born in this country?

Naturalisation

Under certain legal conditions, the foreign children of a married couple may also qualify for facilitated naturalisation if at least one of the spouses is a Swiss citizen.

Reinstatement of citizenship

Individuals who have lost their Swiss citizenship (through forfeiture, marriage or renunciation) may apply to have their citizenship reinstated.

In matters relating to facilitated naturalisation and reinstatement of citizenship, the FOM reaches its decision following consultation with the respective cantonal authorities. Individuals whose application has been rejected by the FOM may appeal this decision before the Federal Administrative Court and later take their case to the Federal Supreme Court. Likewise, cantonal and communal authorities may challenge the FOM's decision to approve an application.

In the past, naturalisation fees varied from one Canton to another and tended to be very high. As of 2006, the maximum that Cantons may charge applicants for naturalisation is a break-even fee. The Confederation also charges a break-even fee for issuance of the federal naturalisation permit and for decisions regarding facilitated.



Returning abroad

Foreign nationals who do not fulfil the requirements to remain in Switzerland under the Asylum Act (SR 142.31) or the Foreign Nationals Act (SR 142.20) must leave the country. Although some foreign nationals in this category leave Switzerland voluntarily and under supervision, over half leave the country unsupervised. Others categorically refuse to leave Switzerland. In such cases, final removal orders must be enforced to avoid undermining rules on entry and residence.

Missing identity papers

Asylum seekers often conceal or destroy their personal documents before submitting their application. This is done to prevent the authorities from determining their true identity and nationality, which makes returning them to their home country more difficult, if not impossible.

When foreign nationals required to leave Switzerland refuse to assist the authorities in obtaining replacement travel documents, the Federal Office for Migration's Return Division has to procure replacement travel documents by lengthier and more intricate means, which involve analysis of the language and origin of the person in question. In cases where the person fails to cooperate, a delegation of officials from the country of origin is invited to Switzerland to assist with identification.

Once the identity and origin of the person have been determined, the Swiss authorities can request the authorities in the country of origin to send replacement travel documents to enable the person to return home. If, for reasons of security, the person cannot be deported on a scheduled flight, the FOM organises a chartered flight to ensure the removal of the unmanageable and/or violent individuals.

Some countries refuse to readmit their citizens for various reasons. Other countries delay readmitting their citizens on bureaucratic pretences. To remedy this problem, Switzerland has entered into

Did you know that...

... each month, 191 foreign nationals make use of return assistance services to return to their home country?

... one in every ten Swiss nationals, or around 700,000 people, live abroad. Swiss expatriates comprise the third largest Swiss „Canton“ after Zurich and Berne.



readmission agreements with many countries over the last few years. These agreements provide a legal basis for the return of foreign nationals who are not authorised to remain in Switzerland.

Return assistance

Return assistance is a system of services intended to help asylum seekers to return home on a voluntary basis and/or when required to do so. The FOM implements this instrument with its partners, the relevant cantonal offices, the Swiss Agency for Development and Cooperation (SDC), the International Organisation for Migration (IOM) and charities. Return assistance involves advising asylum seekers in Switzerland, providing individual assistance on their return, setting up programmes and structural aid abroad, and providing return assistance at the FOM's reception and processing centres directly.

Return assistance may be requested by all asylum seekers as well as by certain categories of foreign nationals (e.g. victims of human trafficking). However, it is not provided to persons who have committed a crime. Foreign nationals who have been afforded refugee status may also obtain return assistance if they wish to return to their home countries.

