



Immigration – CRD (Citizens' Rights Directive)

What is it about?

Switzerland and the EU concluded the Agreement on the Free Movement of Persons (AFMP) in 1999, allowing EU nationals to live, work and study in Switzerland under certain conditions. The same applies to Swiss citizens concerning the EU.

In 2004, the EU extended the right of residence of EU citizens within the EU through the Citizens' Rights Directive (CRD). The CRD regulates the right of EU citizens to move and reside freely within the territories of the member states. But it does not contain any provisions on political rights, in particular neither active nor passive voting rights. It does not create any obligations for any member states to grant political rights to other EU citizens in their country.

Switzerland has not adopted the CRD to date. As part of the further development of the bilateral approach, the EU wants Switzerland to adopt the CRD within the framework of the AFMP. During the exploratory talks, it was possible to obtain a concession from the EU that Swiss specificities will be taken into account if Switzerland agrees to adopt the CRD. It is therefore crucial for the Federal Council that, first, the consequences of such an adoption for the Swiss social system are limited, second, the provisions of the Federal Constitution on expulsion under criminal law (expulsion initiative) are complied with and, third, the level of Swiss wage protection is maintained (cf. factsheet on wage protection).

Outcome of the exploratory talks

In the exploratory talks, Switzerland obtained the EU's agreement to potential arrangements that would address the following Swiss concerns:

- Expulsion from Switzerland: Switzerland would be granted an exception in this area. The exception envisaged would ensure the continued applicability of the provisions of the Federal Constitution regarding expulsion from Switzerland under criminal law. Switzerland would not adopt any provision of the CRD that would broaden the AFMP's framework in this respect.
- Social assistance: The right of permanent residence provided for in the CRD, which EU citizens are entitled to after five years of residence, would only be granted to gainfully employed persons. It would be also possible to deny this right to individuals who, under EU law, are considered gainfully employed despite their status as unemployed, but are in fact dependent on social assistance. Lastly, Switzerland would be able to terminate the residence of unemployed non-permanent residents if they do not cooperate with the public employment service to find a job within a reasonable period.
- Wage protection: It would be possible to maintain the current registration procedure in Switzerland for those starting a job on a short stay (up to three months). This procedure makes labour controls possible. Under certain conditions, Switzerland would also be allowed to introduce a registration requirement for self-employed individuals. Such a requirement would make it possible to keep them from circumventing the 90-day limit on their freedom to provide services without a residence permit.
- Biometric identity cards: Swiss citizens would decide for themselves whether to apply for such a card. Non-biometric identity cards would remain valid for travel to the EU during a very long period of transition. The use of non-biometric identity cards within Switzerland would remain possible.

Furthermore, no longer some but all EU citizens would become be considered candidates for a permanent residence permit in Switzerland after five years in the country. The current waiting period is longer – ten years – for citizens from certain EU member states than for those from others (five years). This change would align the waiting period for EU citizens in Switzerland to the currently applicable period for Swiss citizens in the EU. Switzerland would retain its competence to freely determine the integration criteria to be applied.

Importance for Switzerland

The Swiss–EU institutional agreement draft did not mention the CRD. The extent to which Switzerland would have obligated itself to adopt the CRD as part of the AFMP would only have become clear by legal means. In contrast, the most recent exploratory talks with the EU made it possible to clarify the conditions for integrating the CRD into the AFMP and to find solutions that take into account Switzerland's specificities. In light of factors including its demographic development, Switzerland will in future continue to rely on the immigration of EU citizens that supplements the potential of the domestic workforce in order to meet its needs for workers and specialised professionals.