

Corporate Immigration - Switzerland

Switzerland approves initiative to stop mass immigration

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Introduction

On February 9 2014 the Swiss public approved a popular initiative aimed at stopping mass immigration. This brings with it the prospect of systemic changes to Switzerland's immigration policy. The new constitutional provisions require that immigration be restricted by means of quantitative limits and quotas. The vote brings back strict quotas for immigration from EU countries.

The Federal Council interpreted the outcome of this referendum as a reflection of the unease regarding population growth in recent years. The outcome can be described as a pivotal decision with far-reaching consequences.

New constitutional provisions

The new constitutional provisions require that residence permits for foreign nationals be restricted through quantitative limits and quotas. These limits and quotas will apply to all permits covered by legislation on foreign nationals, including cross-border commuters and asylum seekers, and must be geared towards Switzerland's overall economic interests. Businesses must give Swiss nationals priority when hiring staff.

Legislative level

The new constitutional text does not specify how high the quotas should be, nor does it specify who should set and allocate them and according to what criteria. These details now need to be defined at the legislative level. The new constitutional provisions stipulate that the Federal Council and Parliament have three years to implement the new system.

Implementation

The constitutional text is formulated in an open manner. The Federal Council will submit a proposal on its implementation to Parliament by the end of 2014. As the new constitutional text runs contrary to the agreement on the free movement of persons between Switzerland and the European Union, the Federal Council will also enter into discussion with the relevant EU bodies and member states in order to discuss the next steps and open negotiations. The constitutional provisions allow a period of three years for these negotiations.

Swiss-EU agreement on freedom of movement

The Federal Council will explore ways in which Switzerland's relations with the European Union can be put on a new footing. The agreement on the free movement of persons and other bilateral agreements will remain in place until a new legal status has been established.

Comment

The existing immigration legislation regarding non-EU nationals and the corresponding quota system remain in force for the time being; the referendum reintroduces strict quotas for immigration from EU countries. In principle, the vote thus invalidates the Swiss-EU agreement on freedom of movement.

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The consequences with regard to immigration of EU and non-EU nationals are not yet clear and will depend on the concrete wording of the new legislation to be implemented.

On February 12 2014 the Federal Council announced its decision to implement a plan of action by the end of June 2014. A first project of law will also follow by the end of 2014.

With immediate effect the Federal Council is to start discussions with the European Union in order to clarify the perspectives of opening new negotiations regarding the Agreement on Free Movement of Persons. The aim is to also discuss the possibilities of existing and ongoing bilateral agreements negotiations. Furthermore, Switzerland has also stopped negotiations for the extension of the Agreement on Free Movement of Persons to Croatia.

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