

## Update on Swiss immigration

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### 1. Current work-permit quota situation

Last week, several cantons announced a lack of B-permit quotas for Non-EU nationals. However, L-permit quotas are still available.

#### What does this mean?

In the coming weeks, the cantons that no longer have any B permits available, will issue L permits to Non-EU nationals instead.

#### What happens next?

We expect a shortage of L permits towards the end of the year. If the cantons run out of L permits as well, they may try to obtain additional quotas from cantons that still have L permit quotas available. Should the cantons not be able to obtain quotas from other cantons and the federal reserve is used up as well, the cantons also have the possibility of issuing quota-free 120 day or 4 month permits until the end of the calendar year, which would bridge the gap until the new quota release on 1 January 2017.

Cantons and companies are hoping the Federal Council will decide to increase the number of quotas. There is, however, political pressure against this given the on-going discussion about the implementation of art. 121a of the Swiss constitution, which aims to reduce 'mass immigration'.

### The quota system for Non-EU nationals in brief

Switzerland applies a quota system for work permits issued to Non-EU nationals and to EU assignees (i.e. EU nationals employed abroad and assigned to Switzerland by their foreign employer) for more than four months.

Non-EU work permit quotas for 2016 :

- Short term L-type permits : 4,000
- Long term B-type permits: 2,500

The Non-EU permit quotas are allocated annually and divided in half between the cantons and the federal authority. Once the cantonal quotas are exhausted, the cantons may reach out to other cantons or to the federal authority to request additional quotas.

Each canton is allocated a set number of permits at the beginning of each calendar year. In 2016, the canton of Geneva has quotas of 133 L permits and 83 B permits; Zurich 403 L and 252 B; Zug 36 L and 23 B; Vaud 158 L and 98 B; Basel-Stadt 84 L and 52 B; and Neuchatel 45 L and 28 B, etc.

### 2. Update on the implementation of the 'Mass Immigration' initiative

#### Background

On 9 February 2014, voters in Switzerland approved a new constitutional provision (art. 121 a Federal Constitution; Cst) by a narrow majority of just over 50 percent. The initiative demanded that Switzerland control immigration autonomously and set quotas and upper limits for foreigners. The vote was the result of years of political pressure, particularly in regions experiencing high migration inflows. Overall, Switzerland takes in up to 100,000 immigrants annually, mostly from European Union (EU) countries.

## **New implementation concept**

On 2 September 2016, a parliamentary commission ('Political Institutions Committee') of the first chamber of the Swiss Parliament ('National Council') issued a three-stage draft proposal ('Konzept') for the implementation of the new constitutional provision. The objective of the parliamentary commission's proposal is the smooth implementation of the new constitutional provision without breaching the Agreement on the Free Movement of Persons with the EU.

- In a first step, the Swiss Federal Council will undertake certain measures, which still have to be defined, to ensure the optimal utilisation of the domestic workforce with the aim of reducing the number of unemployed local persons and, at the same time, the demand for foreign workers.
- In a second step, Swiss employers will be obliged to report job vacancies to the cantonal unemployment centres as soon as immigration exceeds a certain threshold. This threshold has to be defined by the Federal Council and will take into account Switzerland's economic development, the unemployment rate and fluctuations in wages.
- If these two measures do not result in the desired reduction in immigration, the Federal Council could apply more drastic measures in agreement with the EU. Switzerland could even re-introduce quotas for EU nationals – if the EU agrees.

At this time, the assessment of the draft proposal in the second chamber of Parliament ('Council of States') is pending. It will likely be discussed during a session in December.

## **What's next?**

At the moment, it is not yet clear how the Council of States will position itself regarding the draft adopted by the National Council. It is likely, however, that the Council of States will introduce some amendments, which will result in a reconciling procedure between the two chambers. Once a final version is adopted by both chambers, it is still subject to a referendum, which means the law may be put to a vote if at least 50,000 voters demand it.

The new constitutional provisions have to be implemented by spring 2017. Should the law not be enacted by then, the Federal Council could enact implementation provisions by way of ordinances.

A further pending item is the so-called RASA ('Raus aus der Sackgasse' or 'Out of the Dead End') initiative, which aims at removing the 'mass immigration' article from the constitution. However, it isn't yet clear when this initiative will be put to vote and if there will be a counter-proposal.