

# THE AGREEMENT ON THE FREE MOVEMENT OF PERSONS; SWITZERLAND – EU: PHYSICIANS AND DENTISTS

## SPORAZUM O PROSTEM PRETOKU OSEB; ŠVICA – EU: ZDRAVNIKI IN ZOBOZDRAVNIKI

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Letter to the editor

The Agreement on the Free Movement of Persons Switzerland – EU came into force on 1 June 2002. Employed physicians and dentists, physicians and dentists with their own practice, and physicians and dentists providing services who are citizens of an EU member state have a right to work in Switzerland. Persons without occupation can settle down in Switzerland only if they have enough financial means to support themselves not to become a burden to the state receiving them.

Employed physicians and dentists with an employment contract of maximum three months do not need to apply for a residence permit. Employed doctors and dentists with a contract valid for more than three months but less than one year are granted a residence permit for the duration of their employment contract. Those with a contract of more than one year are granted a residence permit for a minimum of five years. Doctors and dentists with their own practice get a residence permit for a minimum of five years if they prove that they have settled down or intend to settle down in Switzerland for the purpose of independent work. Persons who want to provide services can provide them for 90 working days in a calendar year. They do not need to apply for a residence permit.

Citizens of Switzerland or an EC member state can travel as service recipients to a contracting member state. In contrast to the EU law this “passive freedom of services” is unlimited.

The main rule of the Agreement on the Free Movement of Persons Switzerland – EU applies to the order of treating Swiss nationals and citizens of EU member states concerning the remuneration, cancellation and professional re-establishment in the case of unemployment. Physicians and dentists with own practice have the right to enjoy equal treatment as

Swiss nationals as concerns the establishment and carrying out of independent practice.

During a five-year period after the Agreement came into force, Switzerland can foresee an increase in the number of residence permits granted. The number of permits issued each year is 115,500 for residences of three months to one year and 15,000 for residences of more than one year.

Persons who on 1 June 2002 stayed legally in a contracting member state enjoy full rights to free movement. For the period of six to twelve years after the Agreement came into force, decreasing trends and full implementation of free movement of persons are foreseen.

In order to guarantee the practice of physicians at the Switzerland – EU level, the Directive 93/16/EEC was amended by Directive 2001/19/EU. Draft Directives 78/686/EEC and 78/687/CEE of 21 June 1999 refer to dental practice. Directive 93/16/EEC distinguishes between diplomas of physicians and those of physicians-specialists. Furthermore, the Directive makes a distinction between specialist diplomas recognised in all EU member states, and diplomas recognised in two or more EU member countries. A physician holding a specialist diploma recognised in two or several member states can only work as a specialist in the countries recognising this speciality. Diplomas in dentistry are listed in Articles 3 – 6 of the Directive 78/686/EEC.

The Swiss diplomas recognised for doctors are listed in Annex III Section A C. 6. lit.(a) – (d) and those of dentists in Annex III, Section A C. 9. lit.(b) of the Agreement on the Free Movement of Persons Switzerland-EC.

The social insurance regulations have been coordinated. In the future, the benefit can be claimed in one

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contracting member state even if the payment has been made in several contracting member states.

As concerns the acquisition of real estate, the Agreement distinguishes between holders and non-holders of residence permit. Citizens of a member state with a residence permit domiciled in this member state have the same rights as Swiss nationals concerning the acquisition of real estate. Individuals with a residence permit who are not domiciled in this state enjoy the same rights as Swiss nationals as concerns the acquisition of real estate they need for their practice.

In the plebiscite of 25 September 2005, the Swiss people voted in favour of extending the free movement of persons Switzerland – EU to include ten new EU member states.

The following rules will apply to the citizens of the ten new EU member states: the number of immigrants in Switzerland will be regulated by constantly increasing quotas. The initial number of 1,300 residences permits valid for more than a year will increase to 3,000 permits granted each year. As concerns residence permits valid for three months to one year, the initial number of 12,400 will increase to 29,000 permits granted each year. The quota restrictions will no longer apply after 2011.

For the citizens of Malta and Cyprus, there is no priority of Swiss nationals and no control of salary and work. For them the implemented quotas were valid until 2007.