

PROTOCOL
REGARDING THE FREE MOVEMENT OF PERSONS
BETWEEN SWITZERLAND AND LIECHTENSTEIN

Switzerland and Liechtenstein, hereinafter referred to as the “Parties”,

- Having regard to the conclusion by Switzerland, Iceland and Norway, within the framework of the Agreement amending the Convention establishing the European Free Trade Association, of an agreement regarding the movement of persons which is based on the Agreement between the European Community and its Member States on the one hand and the Swiss Confederation on the other on the free movement of persons;
- Having regard to the aim of Switzerland and Liechtenstein to conclude such an agreement as well;
- Considering the special situation of Liechtenstein, as a result of which Liechtenstein as a Member State of the European Economic Area (EEA) has negotiated a special solution in the field of free movement of persons that is based on the Declaration of the EEA Council regarding the free movement of persons, which in turn is part of the Conclusions of the second meeting of the EEA Council of 20 December 1994 and in which the EEA Council recognises that Liechtenstein is a very small habitable area of a rural character with an exceptionally high percentage of foreign residents and workers and also has a vital interest to preserve its national identity; and considering further the Decision of the EEA Joint Committee No 191/1999 of 17 December 1999;
- Having regard to the Joint Declaration on equal treatment between Switzerland and Liechtenstein of 2 November 1994;
- Implementing the Declaration of the delegations of Liechtenstein and Switzerland on free movement of persons that was signed on 6 April 2001 in Geneva within the framework of the negotiations for the amendment of the EFTA Convention;

have agreed as follows:

- A) As regards point 29 (Free movement of persons) and Annex VIII of the Agreement amending the Convention establishing the European Free Trade Association (Art. 20 and Annex K of the consolidated version of the EFTA Convention):

1. Principles

1.1. Liechtenstein and Switzerland agree that Liechtenstein will apply to Swiss citizens treatment equal to that applied to EEA citizens under the special solution granted to Liechtenstein in the EEA.

1.2. Liechtenstein and Switzerland agree that Switzerland will apply to Liechtenstein the provisions set out in Annex VIII of the Agreement amending the Convention establishing the European Free Trade Association (Annex K of the consolidated version of the EFTA Convention).

1.3. With a view to equivalent solutions, Liechtenstein and Switzerland shall concert their corresponding regulations.

1.4. If serious economic, societal or environmental difficulties of a sectorial or regional nature liable to persist are arising, Liechtenstein and Switzerland may unilaterally take appropriate measures. Such safeguard measures shall be restricted with regard to their scope and duration to what is strictly necessary in order to remedy the situation. Priority shall be given to such measures as will least disturb the functioning of this agreement.

A Party which is considering taking safeguard measures shall, without delay, notify the other Party thereof and shall provide all relevant information. Liechtenstein and Switzerland shall immediately enter into consultations with a view to finding a mutually acceptable solution and shall inform the EFTA Council thereof. The safeguard measures may not be taken until one month has elapsed after the date of notification of such measures to the other Party, unless the consultations have been completed before the expiration of the stated time-limit. When exceptional circumstances requiring immediate action exclude prior examination, the protective measures strictly necessary to remedy the situation may be applied forthwith.

Bilateral consultations shall take place at least every three months with a view to the abolition of safeguard measures before the date of expiry envisaged, or to the limitation of their scope of application.

If a safeguard measure taken by a Contracting Party creates an imbalance between the rights and obligations under this Protocol, each Party may towards the other Party take such proportionate rebalancing measures as are strictly necessary to remedy the imbalance. Priority shall be given to such measures as will least disturb the functioning of this agreement.

2. Implementation

2.1. After one year from the entry into force of the Agreement amending the Convention establishing the European Free Trade Association, Liechtenstein will apply to Swiss citizens who are already residing in Liechtenstein treatment identical to that applied to EEA citizens residing in Liechtenstein.

2.2. At the same time, Switzerland will, in accordance with Art. 10 para. 5 set out in Annex VIII of the Agreement amending the Convention establishing the European Free Trade Association (Annex K of the consolidated version of the EFTA Convention), grant the free movement of persons to Liechtenstein citizens who are already residing in Switzerland.

2.3. Within one year after the entry into force of the Agreement amending the Convention establishing the European Free Trade Association, Liechtenstein and Switzerland shall agree on provisions regarding the cross-border supply of commercial services.

2.4. Within two, or at the latest three years after the entry into force of the Agreement amending the Convention establishing the European Free Trade Association, Liechtenstein and Switzerland shall agree on the introduction of treatment of Swiss citizens equal to that of EEA citizens without residence in Liechtenstein and on the introduction of treatment of Liechtenstein citizens equal to that of EU-/EFTA-citizens without residence in Switzerland respectively.

B) As regards point 29 (Co-ordination of social security systems) as well as Annex VIII and Appendix 2 in Annex VIII of the Agreement amending the Convention establishing the European Free Trade Association (Art. 21 and Annex K of the consolidated version of the EFTA Convention):

The provisions set out in Annex VIII (Annex K of the consolidated version of the EFTA Convention) and Appendix 2 in Annex VIII (Annex K of the consolidated version of the EFTA Convention) of the Agreement amending the Convention establishing the European Free Trade Association shall apply to the relations between Switzerland and Liechtenstein.

C) As regards point 29 (Mutual recognition of diplomas) as well as Annex VIII and Appendix 3 in Annex VIII of the Agreement amending the Convention establishing the European Free Trade Association (Art. 22 and Annex K of the consolidated version of the EFTA Convention):

The provisions set out in Annex VIII (Annex K of the consolidated version of the EFTA Convention) and Appendix 3 in Annex VIII (Annex K of the consolidated version of the EFTA Convention) of the Agreement amending the Convention establishing the European Free Trade Association shall apply to the relations between Switzerland and Liechtenstein in accordance with the provisions on the movement of persons agreed upon by the Parties.

This Protocol forms an integral part of the Agreement amending the Convention establishing the European Free Trade Association and will enter into force simultaneously.

Declaration
of the Governments of Switzerland and of Liechtenstein
on further negotiations
between Switzerland and Liechtenstein
regarding the equal treatment of their own citizens in the other State

With regard to the provisions in points 2.1 to 2.3 of this Protocol (persons with residence in the other State), Switzerland and Liechtenstein shall examine together by the end of 2001 the legal requirements regarding the need for a regulation and with a view to elaborating an appropriate agreement between the two Parties. Thereafter, the studies for the clarification of the legal requirements regarding point 2.4 of this Protocol (persons without residence in the other State) will be initiated.