

Information for foreign theatre and film professionals with a temporary engagement in Switzerland

Preliminary remarks

This information sheet is intended to address the most important issues in connection with foreigners engaged in theatre and film in Switzerland. Naturally, it cannot answer all the questions that might arise, it only attempts to provide general information regarding the administration of these topics in Switzerland. In addition, the legal foundations and their judicial interpretation are subject to constant change in regard to labour, social security and tax law, so it goes without saying that the SBKV can assume no liability for the information presented here.

The distinction as to whether an occupational activity is subject to a contract of service or a contract for service (or contract for specific services) is central to most of the issues herein. Therefore, first and foremost, these definitions:

Individual employment contract or contract of service: Subordination relationship (one person agrees to employ another as an employee), employer has the right to issue instructions, integration into the work organisation, obligation to be present and perform the work in the service of the employer, respect the working hours set according to the contract, provision of the work material by the employer.

Work order or contract for work and services: Work independently (an independent contractor) under own name and for own account; own financial risk (ex. self-employed person or vendor) and the contractor is engaged for a fee to carry out an assignment or project for various clients (non-exclusive work for an individual or a small "group" of clients).

This SVA Zürich checklist is helpful in making the distinction:

https://www.svazurich.ch/pdf/Checkliste_se.pdf

It is important to note that in actual practice these matters may be handled differently by the various cantonal authorities. Therefore, when in doubt, consult the compensation office of the canton of assignment.

(Intellectual) Work contract: In this case, the contractor undertakes to do a certain work and the customer to pay for it. Unlike in the contract for services, not only proper performance is required but the contractor guarantees to deliver a concrete piece of work. This type of contract mainly plays a role in architecture and visual arts and is therefore only of importance here in relation to the creation of a stage or set design. For clarification:

<https://www.auftrag.ch/einfacher-auftrag/abgrenzungen#werkvertrag>

Work permit

EU/EFTA Citizens

Citizens of EU/EFTA states do not require authorisation for short-term employment up to a maximum of three consecutive months or 90 days per calendar year. Nevertheless, registration with the competent cantonal authority is required.

There is a simplified registration procedure for work of a maximum of 8 working days per calendar year. Information:

<https://www.sem.admin.ch/dam/data/sem/rechtsgrundlagen/weisungen/fza/20080701-weisung-seco-bfm-d.pdf>

Citizens of EU/EFTA states who wish to take up employment in Switzerland lasting between three months and one year are entitled to a short-stay permit, whose period of validity matches the duration of the employment contract. You must present proof of employment (preferably an employment contract).

Information:

<https://www.sem.admin.ch/dam/data/sem/eu/fza/personenfreizuegigkeit/factsheets/fs-bew-aufenthalt-d.pdf>

For persons who are third-country nationals, those who are not citizens of an EU/EFTA member state, there are special regulations and it is mandatory to consult the cantonal immigration and labour market authorities in advance.

Addresses for the Cantonal immigration and labour market authorities:

https://www.sem.admin.ch/sem/de/home/ueberuns/kontakt/kantonale_behoerden/adressen_kantone_un_d.html

Insurance

Compulsory health insurance: You and your family must take out insurance with a Swiss health insurance company no later than three months after arrival or after having taken up gainful employment in Switzerland. Cross-border commuters residing in certain EU countries have the right to choose to take out insurance in the country of residence instead of in Switzerland.

Accident insurance at the workplace: If you work eight hours or more per week, you are covered against accidents by your employer.

Not insured are self-employed and (inactive, non-working) persons such as housewives and househusbands, children, students, pensioners. These persons must be insured against accidents under the compulsory health insurance.

AHV and IV: For all persons who live or work in Switzerland (longer than three months), the old-age and survivors' insurance and disability insurance schemes are an important part of the compulsory Swiss social insurance system. Everyone living and working in Switzerland is insured and must pay contributions. Total income of less than CHF 2,300 per year is excluded.

Old-age insurance coverage through an occupational pension scheme (pension fund or vested benefits institution) is mandatory for salaried persons with an annual income of at least CHF 21,150 per year (since 2015) and CHF 21,330 (from 2019). Self-employed persons can take out insurance through a pension fund on a voluntary basis.

Unemployment insurance: A person is entitled to unemployment benefits when he or she is resident in Switzerland with a valid residence permit and had been employed and paying compulsory contributions for at least 12 months during the two-year period immediately prior to registering with the unemployment office. Your nationality plays no role in this.

Taxes

The income of artists, musicians, athletes, etc. may, in principle, only be taxed in the state in which they carry out their activities. This also applies if the remuneration is transferred to third parties (agents, managers, etc.). An exception exists only for self-employed persons resident abroad who do not exercise any performing activity (stage designers, make-up artists, costume designers, choreographers). In this case, taxation occurs in the country of residence.

In the case of tax residence or stay abroad, a flat-rate withholding tax (tax at the source) will be deducted directly from the salary. This tax must be deducted from the fee by the organizer of the respective event or the employer or client and forwarded to the tax administration. Both parties are jointly and severally liable for the payment of the withholding tax.

Withholding taxes are also regulated at the cantonal level and the tax rates vary, sometimes even within the different communities of a canton. Information regarding the tax rates can be obtained from the cantonal tax authorities. Here is a current overview:

<https://steuerportal.ch/news/auslandische-kunstler-musiker-und-sportler-im-interkantonalen-steuerwettbewerb>

Double taxation agreements between Switzerland, Germany and Austria must also be taken into consideration. These agreements state that groups subsidized with public funds in the sending state, more than 30% (Germany) or 50% (Austria), as an exception, are exempted from withholding tax in the host country. An exemption limit of maximum CHF 300 per calendar year for net income applies.

To reclaim Swiss wage withholding tax, it is best to contact the tax office in your county of residence and complete the relevant forms. The prerequisite for this is that the corresponding income has also been taxed in the country of residence (double taxation agreement).

Value added tax: Self-employed persons may be subject to VAT under certain circumstances if their annual turnover exceeds CHF 100,000. However, live performances directly in front of an audience are not subject to VAT. Those working in an employment relationship are not subject to VAT.

Engagements

Engagements with independent theatre ensembles: As a rule, a fixed-term employment contract is concluded between a theatre production company and a freelance employee, in the case of self-employed persons who fulfill certain criteria described in Swiss social security legislation (see above), these are so-called commissions or work contracts. The following are the most important points that should be included in an employment contract between an employer and a freelance, temporarily employed worker.

Essential contract content: The contract should describe as precisely as possible which services must be provided by the employee and in which time period. The precise amount of the salary (gross) must be specified as well as the terms of payment, whether it will be paid in installments or a lump sum and when

the payment is due to be made. The contract should clearly stipulate the deductions for social security contributions and allowances (such as holidays, additional pay for working night shift, expenses, etc.). Vacation allowances are mandatory for employed persons and cannot be waived. You can find information regarding standard fees at the following link:

http://a-c-t.ch/application/files/1514/5051/4981/ACT-Broschuere_Web.pdf

Collective labour agreement: Particular attention should be paid to the collective labour agreements concluded between the Swiss Stage Artists' Association (SBKV) and the Union of Swiss Theaters. They apply to the artistic personnel employed mainly by the larger theatres and there is one version for the solo personnel and a second version for the chorus and ballet, group personnel. It is obligatory for the theatres affiliated with the Union of Swiss Theaters and for the artists employed by these theatres.

Guest artist (project) contract: For engagements as a guest artist for a specific project or projects (fixed-term employment contract), the above-mentioned collective labour agreement is mandatory.

<http://www.sbkv.com/de/informationen/downloads-richtloehne-gagen-mustervertraege-gav-etc.html>

Advertising/commercial productions: The relevant artists' associations have published guidelines regarding fees and buyouts.

http://www.sbkv.com/fileadmin/user_upload/dateien/Richtlinien_Gagen_Buyouts_2017.pdf

Payment transactions in general: Payments can be made through a bank. For neighbouring countries, a wire transfer using the SEPA procedure is the most cost-effective method. It is not advisable to use cheques, since in addition to the collection risk, there are usually very considerable fees. It is customary to share the fees for the transfer, but it is also possible to agree for one party or the other to assume the costs. Caution: The import and export of large amounts of cash is subject to special conditions, such as the obligation to declare the amount.

Copyright/Neighbouring rights (also referred to as related rights): Copyright and neighbouring rights are also administered in Switzerland by licensed collecting societies. Reciprocal agreements between the Swiss collecting societies, SUISA, Suissimage, SWISSPERFORM and SSA and the surrounding countries ensure that the information is passed on to the societies in the country of residence. A change of membership is only necessary in the case of long-term residence in Switzerland.

Important Addresses

<p>SBKV Schweizerischer Bühnenkünstlerverband Kasernenstrasse 15 8004 Zürich +41 44 380 77 77 http://www.sbkv.com</p>		<p>SBKV Swiss Stage Artists' Association</p>
<p>Touring Artists Informationsportal für international mobile Künstlerinnen und Künstler https://www.touring-artists.info/home/</p>		<p>Touring Artists An information portal for artists and creatives working internationally</p>
<p>KTV ATP und ACT (t.) Schweizer Berufsverband der professionellen Theaterschaffenden</p>		<p>KTV ATP und ACT (t.) Swiss Association of Theatre Professionals Association of Artists – Theatres - Promoters</p>

<p>Vereinigung KünstlerInnen – Theater – VeranstalterInnen, Schweiz Obergasse 1, rue Haute Box 703 2501 Biel / Bienne +41 32 323 50 85 http://www.ktvatp.ch</p>		
<p>ssfv syndicat suisse film et video Heinrichstrasse 147 Postfach 2210 8031 Zürich +41 44 272 21 49 E-Mail info@ssfv.ch</p>		<p>ssfv Swiss Association for Film and Video</p>
<p>SSRS Syndicat Suisse Romand Du Spectacle CP 91 1000 LAUSANNE 16 +41 21 621 80 67 http://www.ssrs.ch</p>		<p>SSRS Association of French-speaking Swiss artists</p>
<p>ASTEJ Schweizerischer Verband für Kinder und Jugendliche Speichergasse 4 Postfach 107 3000 Bern 7 +41 44 226 19 19 http://www.astej.ch</p>		<p>ASTEJ International Association of Theatre for Children and Young People</p>
<p>UNIMA-Suisse / Vereinigung Puppen- und Figurentheater Eggstr. 20 9100 Herisau +41 77 534 74 53 http://www.unimasuisse.ch/?id=7</p>		<p>UNIMA Swiss Association of Puppet Theatres</p>
<p>ACT (t.) Berufsverband der freien Theaterschaffenden Atelier 157, Waisenhausplatz 30 3011 Bern +41 31 312 80 08 www.a-c-t.ch info@a-c-t.ch</p>		<p>ACT now (t.) Association of Freelance Theatrical Artists</p>
<p>SBV Schweizerischer Bühnenverband Gibraltarstrasse 24 6003 Luzern +41 44 918 18 80</p>		<p>SBV Union of Swiss Theaters</p>