

**PROTOCOL**

**to the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons, regarding the participation, as contracting parties of the Republic of Bulgaria and Romania pursuant to their accession to the European Union**

THE EUROPEAN COMMUNITY,

represented by the Council of the European Union, and

THE KINGDOM OF BELGIUM,

THE REPUBLIC OF BULGARIA,

THE CZECH REPUBLIC,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE REPUBLIC OF ESTONIA,

IRELAND,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

THE ITALIAN REPUBLIC,

THE REPUBLIC OF CYPRUS,

THE REPUBLIC OF LATVIA,

THE REPUBLIC OF LITHUANIA,

THE GRAND DUCHY OF LUXEMBOURG,

THE REPUBLIC OF HUNGARY,

MALTA,

THE KINGDOM OF THE NETHERLANDS,

THE REPUBLIC OF AUSTRIA,

THE REPUBLIC OF POLAND,

THE PORTUGUESE REPUBLIC,

ROMANIA,

THE REPUBLIC OF SLOVENIA,

THE SLOVAK REPUBLIC,

THE REPUBLIC OF FINLAND,

THE KINGDOM OF SWEDEN,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

hereinafter referred to as 'the Member States', also represented by the Council of the European Union,

of the one part, and

THE SWISS CONFEDERATION, hereinafter referred to as 'Switzerland',

of the other part,

hereinafter referred to as 'the Contracting Parties',

HAVING REGARD to the Agreement of 21 June 1999 between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons (hereinafter referred to as the Agreement), which entered into force on 1 June 2002,

HAVING REGARD to the Protocol of 26 October 2004 to the Agreement of 21 June 1999 between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons regarding the participation, as contracting parties, of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic pursuant to their accession to the European Union (hereinafter referred to as the Protocol of 2004), which entered into force on 1 April 2006,

HAVING REGARD to the accession of the Republic of Bulgaria and Romania (hereinafter referred to as the new Member States) to the European Union on 1 January 2007,

WHEREAS the new Member States are to become Contracting Parties to the Agreement,

CONSIDERING that the Act of Accession grants the Council of the European Union the power to conclude on behalf of the Member States of the European Union a protocol on the accession of the new Member States to the Agreement,

HAVE AGREED AS FOLLOWS:

#### *Article 1*

1. The new Member States hereby become Contracting Parties to the Agreement.

2. From the entry into force of this Protocol, the provisions of the Agreement shall be binding on the new Member States as on the present Contracting Parties to the Agreement under the terms and conditions laid down in this Protocol.

#### *Article 2*

In the main body of the Agreement and in Annex I thereto the following adaptations shall be made:

1. the list of Contracting Parties to the Agreement shall be replaced by the following:

THE EUROPEAN COMMUNITY,

THE KINGDOM OF BELGIUM,

THE REPUBLIC OF BULGARIA,

THE CZECH REPUBLIC,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE REPUBLIC OF ESTONIA,

IRELAND,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

THE ITALIAN REPUBLIC,

THE REPUBLIC OF CYPRUS,

THE REPUBLIC OF LATVIA,

THE REPUBLIC OF LITHUANIA,

THE GRAND DUCHY OF LUXEMBOURG,

THE REPUBLIC OF HUNGARY,

MALTA,

THE KINGDOM OF THE NETHERLANDS,

THE REPUBLIC OF AUSTRIA,

THE REPUBLIC OF POLAND,

THE PORTUGUESE REPUBLIC,

ROMANIA,

THE REPUBLIC OF SLOVENIA,

THE SLOVAK REPUBLIC,

THE REPUBLIC OF FINLAND,

THE KINGDOM OF SWEDEN,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

of the one part, and

THE SWISS CONFEDERATION,

of the other part;'

2. Article 10 of the Agreement shall be amended as follows:

- (a) the following paragraph shall be inserted after paragraph 1a:

'1b. Switzerland may maintain until two years after the entry into force of the Protocol to this Agreement regarding the participation, as Contracting Parties, of the Republic of Bulgaria and Romania quantitative limits in respect of access by workers employed in Switzerland and for self-employed persons who are nationals of the Republic of Bulgaria and Romania for the following two categories of residence: residence for a period of more than four months and less than one year and residence for a period equal to, or exceeding, one year. There shall be no quantitative restriction on residence for less than four months.

Before the end of the transitional period mentioned above, the Joint Committee shall review the functioning of the transitional period applied to nationals of the new Member States on the basis of a report from Switzerland. Upon completion of the review, and no later than at the end of the period mentioned above, Switzerland shall notify the Joint Committee whether it will continue applying quantitative limits to workers employed in Switzerland. Switzerland may continue to apply such measures until five years after the entry into force of the aforementioned Protocol. In the absence of such notification, the transitional period shall expire at the end of the two-year period specified in the first subparagraph.

At the end of the transitional period defined in this paragraph, all quantitative limits applicable to nationals of the Republic of Bulgaria and Romania shall be abolished. These Member States are entitled to introduce the same quantitative limitations for Swiss nationals for the same periods.;

- (b) the following paragraph shall be inserted after paragraph 2a:

'2b. Switzerland and the Republic of Bulgaria and Romania may maintain, until two years after the entry into force of the Protocol to this Agreement regarding the participation, as Contracting Parties, of the Republic of Bulgaria and Romania, for workers of one of these Contracting Parties employed in their own territory the controls on the priority of workers integrated into the regular labour market and wage and working conditions applicable to nationals of the other Contracting Party concerned. The same controls may be maintained for

persons providing services, as referred to in Article 5(1) of this Agreement, in the following four sectors: Horticultural service activities; Construction, including related branches; Security activities; Industrial cleaning (NACE (\*) codes 01.41; 45.1 to 4; 74.60; 74.70 respectively). Switzerland shall, during the transitional periods mentioned in paragraphs 1b, 2b, 3b and 4c, give preference to workers who are nationals of the new Member States over workers who are nationals of non-EU and non-EFTA countries as regards access to its labour market. The controls on the priority of workers integrated into the regular labour market shall not apply to providers of services liberalised by a specific agreement between the Contracting Parties concerning the provision of services (including the Agreement on certain aspects of government procurement in so far as it covers the provision of services). For the same period, qualification requirements may be maintained for residence permits of less than four months (\*\*) and to persons providing services, as referred to in Article 5(1) of this Agreement, in the four sectors mentioned above.

Within two years of the entry into force of the Protocol to this Agreement regarding the participation, as Contracting Parties, of the Republic of Bulgaria and Romania, the Joint Committee shall review the functioning of the transitional measures contained in this paragraph on the basis of a report prepared by each of the Contracting Parties implementing them. Upon completion of the review, and no later than two years after the entry into force of the aforementioned Protocol, the Contracting Party which has implemented the transitional measures contained in this paragraph, and has notified the Joint Committee of its intention to continue applying such transitional measures, may continue to do so until five years after the entry into force of the aforementioned Protocol. In the absence of such notification, the transitional period will expire at the end of the two-year period specified in the first subparagraph.

At the end of the transitional period defined in this paragraph, all restrictions referred to above in this paragraph shall be abolished.

(\*) NACE: Council Regulation (EEC) No 3037/90 of 9 October 1990 on the statistical classification of economic activities in the European Community (OJ L 293, 24.10.1990, p. 1). Regulation as last amended by Regulation (EC) No 1882/2003 of the European Parliament and the Council of 29 September 2003 (OJ L 284, 31.10.2003, p. 1).

(\*\*) Workers may apply for short-term residence permits under the quotas mentioned in subparagraph 3b even for a period of less than four months.;

- (c) the following paragraph shall be inserted after paragraph 3a:

'3b. Upon entry into force of the Protocol to this Agreement regarding the participation, as Contracting Parties, of the Republic of Bulgaria and Romania and until the end of the period described in paragraph 1b, Switzerland shall reserve on a yearly basis (*pro rata temporis*), within its overall quota for third countries, for workers employed in Switzerland and for self-employed persons who are nationals of these new Member States a minimum number of new residence permits (\*) according to the following schedule:

Period of time	Number of permits for a period equal to or exceeding one year	Number of permits for a period of more than four months and less than one year
Until the end of the first year	362	3 620
Until the end of the second year	523	4 987
Until the end of the third year	684	6 355
Until the end of the fourth year	885	7 722
Until the end of the fifth year	1 046	9 090

(\*) These permits will be granted in addition to the quotas mentioned in Article 10 of this Agreement which are reserved for employed and self-employed persons who are nationals of the Member States at the time of the signing of this Agreement (21 June 1999) and of the Member States that became Contracting Parties to this Agreement by the Protocol of 2004. These permits are also in addition to permits granted through existing bilateral trainee exchange agreements between Switzerland and the new Member States.;

- (d) the following paragraph shall be inserted after paragraph 4b:

'4c. At the end of the period described in paragraph 1b and in this paragraph and up to 10 years after entry into force of the Protocol to this Agreement regarding the participation, as Contracting Parties, of the Republic of Bulgaria and Romania, the provisions of Article 10(4)

of this Agreement shall apply to nationals of these new Member States.

In case of serious disturbances of its labour market or threat thereof, Switzerland and any of the new Member States which has implemented transitional measures shall notify such circumstances to the Joint Committee before the end of the five-year transitional period specified in paragraph 2b(2). In this case, the notifying country may continue to apply to workers employed on its own territory the measures described in paragraphs 1b, 2b and 3b until seven years after the entry into force of the aforementioned Protocol. In such a case, the annual number of residence permits referred to in paragraph 1b shall be:

Period of time	Number of permits for a period equal to or exceeding one year	Number of permits for a period of more than four months and less than one year
Until the end of the sixth year	1 126	10 457
Until the end of the seventh year	1 207	11 664'

- (e) the following paragraph shall be inserted after paragraph 5a:

'5b. The transitional provisions of paragraphs 1b, 2b, 3b and 4c, and in particular those of paragraph 2b concerning the priority of workers integrated into the regular labour market and controls on wage and working conditions, shall not apply to employed and self-employed persons who, at the time of the entry into force of the Protocol to this Agreement regarding the participation, as Contracting Parties, of the Republic of Bulgaria and Romania, are authorised to pursue an economic activity on the territory of the Contracting Parties. Such persons shall in particular enjoy occupational and geographical mobility.

The holders of residence permits valid for less than one year shall be entitled to have their permits renewed; the exhaustion of quantitative limits may not be invoked against them. The holders of residence permits valid for a period equal to, or exceeding, one year shall automatically be entitled to have their permits extended. Such employed and self-employed persons shall therefore enjoy the rights to free movement accorded to established persons in the basic provisions of this Agreement, and in particular Article 7 thereof, from the entry into force of the aforementioned Protocol.;

3. in Article 27(2) of Annex I to the Agreement, the reference to 'Article 10(2, 2a, 4a and 4b)' shall be replaced by the reference to 'Article 10(2, 2a, 2b, 4a, 4b and 4c)'.

*Article 3*

By derogation from Article 25 of Annex I to the Agreement, the transitional periods in Annex 1 to this Protocol shall apply.

*Article 4*

1. Annex II to the Agreement shall be amended in accordance with Annex 2 to this Protocol.

2. Annex III to the Agreement shall be adapted by decision of the Joint Committee established by Article 14 of the Agreement.

*Article 5*

1. Annexes 1 and 2 to this Protocol shall form an integral part thereof.

2. This Protocol, together with the Protocol of 2004, shall form an integral part of the Agreement.

*Article 6*

1. This Protocol shall be ratified or approved by the Council of the European Union, on behalf of the Member States and the European Community, and by Switzerland in accordance with their own procedures.

2. The Council of the European Union and Switzerland shall notify each other of the completion of these procedures.

*Article 7*

This Protocol shall enter into force on the first day of the first month following the date of the last notification of ratification or approval.

*Article 8*

This Protocol shall remain in force for the same duration and in accordance with the same arrangements as the Agreement.

*Article 9*

1. This Protocol, as well as the Declarations annexed thereto, shall be drawn up in duplicate in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each of those texts being equally authentic.

2. The Bulgarian and Romanian language versions of the Agreement, including all Annexes and Protocols thereto and the Final Act shall be equally authentic. The Joint Committee established by Article 14 of the Agreement shall approve the authentic texts of the Agreement in the new languages.

Съставено в Брюксел, на двадесет и седми май две хиляди и осма година.

Hecho en Bruselas, el veintisiete de mayo de dos mil ocho.

V Bruselu dne dvacátého sedmého května dva tisíce osm.

Udfærdiget i Bruxelles den syvogtyvende maj to tusind og otte.

Geschehen zu Brüssel am siebenundzwanzigsten Mai zweitausendacht.

Kahe tuhande kaheksanda aasta maikuu kahekümne seitsmendal päeval Brüsselis.

Έγινε στις Βρυξέλλες, στις είκοσι εφτά Μαΐου δύο χιλιάδες οκτώ.

Done at Brussels on the twenty-seventh day of May in the year two thousand and eight.

Fait à Bruxelles, le vingt-sept mai deux mille huit.

Fatto a Bruxelles, addì ventisette maggio duemilaotto.

Briselē, divtūkstoš astotā gada divdesmit septītajā maijā.

Priimta du tūkstančiai aštuntų metų gegužės dvidešimt septintą dieną Briuselyje.

Kelt Brüsszelben, a kétezer-nyolcadik év május havának huszonhetedik napján.

Maġmul fi Brussell, fis-sebġha u għoxrin jum ta' Mejju tas-sena elfejn u tmienja.

Gedaan te Brussel, de zevenentwintigste mei tweeduizend acht.

Sporządzono w Brukseli, dnia dwudziestego siódmego maja roku dwa tysiące ósmego.

Feito em Bruxelas, em vinte e sete de Maio de dois mil e oito.

Întocmit la Bruxelles, douăzeci și șapte mai două mii opt.

V Bruseli dňa dvadsiateho siedmeho mája dvetisícosem.

V Bruslju, dne sedemindvajsetega maja leta dva tisoč osem.

Tehty Brysselissä kahdentenäkymmenentenäseitsemäntenä päivänä toukokuuta vuonna kaksi-tuhattakahdeksan.

Som skedde i Bryssel den tjugosjunde maj tjugohundraåtta.

За държавите-членки  
 Por los Estados miembros  
 Za členské státy  
 For medlemsstaterne  
 Für die Mitgliedstaaten  
 Liikmesriikide nimel  
 Για τα κράτη μέλη  
 For the Member States  
 Pour les États membres  
 Per gli Stati membri  
 Dalībvalstu vārdā  
 Valstybių narių vardu  
 A tagállamok részéről  
 Għall-Istati Membri  
 Voor de lidstaten  
 W imieniu państw członkowskich  
 Pelos Estados-Membros  
 Pentru statele membre  
 Za členské štáty  
 Za države članice  
 Jäsenvaltioiden puolesta  
 På medlemsstaternas vägnar

За Европейската общност  
 Por la Comunidad Europea  
 Za Evropské společenství  
 For Det Europæiske Fællesskab  
 Für die Europäische Gemeinschaft  
 Euroopa Ühenduse nimel  
 Για την Ευρωπαϊκή Κοινότητα  
 For the European Community  
 Pour la Communauté européenne  
 Per la Comunità europea  
 Eiropas Kopienas vārdā  
 Europos bendrijos vardu  
 Az Európai Közösség részéről  
 Għall-Komunità Ewropea  
 Voor de Europese Gemeenschap  
 W imieniu Wspólnoty Europejskiej  
 Pela Comunidade Europeia  
 Pentru Comunitatea Europeană  
 Za Európske spoločenstvo  
 Za Evropsko skupnost  
 Euroopan yhteisön puolesta  
 För Europeiska gemenskapen

Für die Schweizerische Eidgenossenschaft  
 Pour la Confédération suisse  
 Per la Confederazione svizzera

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## ANNEX I

**Transitional measures on the purchase of land and secondary residence**

## 1. The Republic of Bulgaria

The Republic of Bulgaria may maintain in force for five years from the date of entry into force of this Protocol the restrictions laid down in its legislation, existing at the time of the signing of this Protocol, on the acquisition of ownership of land for secondary residences by Swiss nationals non-resident in Bulgaria and by legal persons set up in accordance with the laws of Switzerland.

Swiss nationals who are legally resident in Bulgaria shall not be subject to the provisions of the preceding subparagraph or to any rules and procedures other than those to which nationals of Bulgaria are subject.

The Republic of Bulgaria may maintain in force for seven years from the date of entry into force of this Protocol the restrictions laid down in its legislation, existing at the time of the signing of this Protocol, on the acquisition of agricultural land, forests and forestry land by Swiss nationals and by legal persons set up in accordance with the laws of Switzerland. In no instance may a Swiss national be treated less favourably in respect of the acquisition of agricultural land, forests and forestry land than at the date of the signing of this Protocol or be treated in a more restrictive way than a national of a third country.

Self-employed farmers who are Swiss nationals and who wish to establish themselves and reside in the Republic of Bulgaria shall not be subject to the provisions of the preceding subparagraph or to any procedures other than those to which nationals of the Republic of Bulgaria are subject.

A general review of these transitional measures shall be held in the third year following the date of entry into force of this Protocol. The Joint Committee may decide to shorten or terminate the transitional period indicated in the first subparagraph.

## 2. Romania

Romania may maintain in force for five years from the date of entry into force of this Protocol the restrictions laid down in its legislation, existing at the time of the signing of this Protocol, on the acquisition of ownership of land for secondary residences by Swiss nationals non-resident in Romania and by companies set up in accordance with the laws of Switzerland and being neither established nor having a branch or a representative agency in the territory of Romania.

Swiss nationals who are legally resident in Romania shall not be subject to the provisions of the preceding subparagraph or to any rules and procedures other than those to which nationals of Romania are subject.

Romania may maintain in force for seven years from the date of entry into force of this Protocol the restrictions laid down in its legislation, existing at the time of the signing of this Protocol, on the acquisition of agricultural land, forests and forestry land by Swiss nationals and by companies set up in accordance with the laws of Switzerland which are neither established nor registered in Romania. In no instance may a Swiss national be treated less favourably in respect of the acquisition of agricultural land, forests and forestry land than at the date of the signing of this Protocol or be treated in a more restrictive way than a national of a third country.

Self-employed farmers who are Swiss nationals and who wish to establish themselves and reside in Romania shall not be subject to the provisions of the preceding subparagraph or to any procedures other than those to which nationals of Romania are subject.

A general review of these transitional measures shall be held in the third year following the date of entry into force of this Protocol. The Joint Committee may decide to shorten or terminate the transitional period indicated in the first subparagraph.

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## ANNEX 2

Annex II to the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons is hereby amended as follows:

1. under the heading 'For the purposes of this Agreement, the Regulation shall be adapted as follows:', point 1 of Section A of Annex II to the Agreement shall be amended as follows:
  - (a) under (i), concerning Annex III, Part A, the following shall be added after the last entry 'Slovakia — Switzerland':

'Bulgaria — Switzerland  
None.  
Romania — Switzerland  
No convention.';
  - (b) under (j), concerning Annex III, Part B, the following shall be added after the last entry 'Slovakia — Switzerland':

'Bulgaria — Switzerland  
None.  
Romania — Switzerland  
No convention.';
2. the following shall be inserted under the Title 'Section A: Acts referred to' under point 1 'Regulation (EEC) No 1408/71' after '304 R 631: Regulation (EC) No 631/2004 ...':

'Section 2 (Freedom of Movement of Persons — Social Security) of Council Regulation (EC) No 1791/2006 of 20 November 2006 adapting certain Regulations and Decisions in the fields of free movement of goods, freedom of movement of persons, company law, competition policy, agriculture (including veterinary and phytosanitary legislation), transport policy, taxation, statistics, energy, environment, cooperation in the fields of justice and home affairs, customs union, external relations, common foreign and security policy and institutions, by reason of the accession of Bulgaria and Romania, in so far as its provisions concern Community acts referred to in Annex II to this Agreement.';
3. the following shall be inserted under the Title 'Section A: Acts referred to' under point 2 'Regulation (EEC) No 574/72' after '304 R 631: Regulation (EC) No 631/2004 ...':

'Section 2 (Freedom of Movement of Persons — Social Security) of Council Regulation (EC) No 1791/2006 of 20 November 2006 adapting certain Regulations and Decisions in the fields of free movement of goods, freedom of movement of persons, company law, competition policy, agriculture (including veterinary and phytosanitary legislation), transport policy, taxation, statistics, energy, environment, cooperation in the fields of justice and home affairs, customs union, external relations, common foreign and security policy and institutions, by reason of the accession of Bulgaria and Romania, in so far as its provisions concern Community acts referred to in Annex II to this Agreement.';
4. the following shall be inserted under the Title 'Section B: Acts of which the contracting parties shall take due account' under the points '4.18. 383 D 0117: Decision No 117 ...', '4.27. 388 D 64: Decision No 136 ...', '4.37. 393 D 825: Decision No 150 ...', after '12003 TN 02/02 A: Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, ...', and under the point '4.77: Decision No 192 ...':

'Section 2 (Freedom of Movement of Persons — Social Security) of Council Regulation (EC) No 1791/2006 of 20 November 2006 adapting certain Regulations and Decisions in the fields of free movement of goods, freedom of movement of persons, company law, competition policy, agriculture (including veterinary and phytosanitary legislation), transport policy, taxation, statistics, energy, environment, cooperation in the fields of justice and home affairs, customs union, external relations, common foreign and security policy and institutions, by reason of the accession of Bulgaria and Romania, in so far as its provisions concern Community acts referred to in Annex II to this Agreement.';
5. for workers who are nationals of the Republic of Bulgaria and Romania, the arrangements contained in paragraph 1 of the section Unemployment Insurance of the Protocol to Annex II shall apply until the end of the seventh year after the entry into force of this Protocol.

## JOINT DECLARATION ON THE ADAPTATION OF ANNEX III TO THE AGREEMENT

The Contracting Parties declare that, with a view to ensuring the smooth implementation of the Agreement, Annex III thereto shall be adapted as soon as possible in order to integrate, among other things, Directive 2005/36/EC as amended by Directive 2006/100/EC and new Swiss entries.

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## DECLARATION BY SWITZERLAND ON AUTONOMOUS MEASURES AS OF THE DATE OF SIGNING

Switzerland will provide provisional access to its labour market for citizens of the new Member States, based on its national legislation, before the entry into force of the transitional arrangements contained in this Protocol. For this purpose, Switzerland will open specific quotas for short-term as well as long-term working permits, as defined in Article 10(1) of the Agreement, in favour of citizens from the new Member States, as of the date of the signing of this Protocol. The quotas will consist of 282 long-term permits and 1 006 short-term permits per year. In addition, 2 011 short-term workers per year will be admitted for a stay of less than four months.

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