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You are an employer looking for a new employee: do not forget the obligation to communicate certain vacancies at the ORP !

Since 1 July 2018, employers looking for employees are obliged to communicate their vacancies exclusively for 5 working days to the regional employment offices in sectors where the national unemployment rate exceeds a certain threshold. Initially set at 8%, this threshold has been set at 5% since 1^{er} January 2020.

Thus, each year in the last quarter, a list of sectors of activity exceeding the threshold is updated and published. This list then applies from 1^{er} January to 31 December of the following year.

For 2023, the list has already been published and can be found on the travail.swiss (or arbeit swiss) website (<https://www.arbeit.swiss/secoalv/fr/home/menue/unternehmen/stellenmeldepflicht/stellenmeldepflicht-ab-2023.html>).

The good news for 2023 is that the list has been reduced compared to 2022!

Examples of professions on this list include conference and event organisers, call centre staff, telephone operators, receptionists, hotel staff, restaurant service managers, restaurant service staff, cleaners in offices, hotels and other establishments etc.

Thus, if you are an employer looking for an employee for 2023 in one of these professions, you are obliged, by virtue of Article 21a of the Federal Law on Foreigners and Integration (LEI), to communicate the vacant job to the competent public employment service in your region (i.e. the ORP in the canton of Vaud) before publishing an advertisement by another means.

This announcement can be made by contacting the Regional Employment Office by telephone or online on the travail.swiss website (<https://www.job-room.ch/home/job-seeker>).

The communication must contain the following information: occupation sought; activity, including special requirements, location of the occupation, occupation rate, starting date, type of employment relationship: fixed-term or open-ended, contact address, name of the employer and, in the case of lessors of services, name of the company hiring the services.

It is only 5 working days after publication on the ORP platform that it is possible to publish an advertisement through another channel.

During these 5 working days, jobseekers registered as jobseekers have exclusive access to information about the vacancy.

In addition, within 3 working days of receiving the job advertisement, the Regional Job Centre can send you relevant files of jobseekers.

However, you are under no obligation to accept and therefore hire a person proposed by the Regional Job Centre or a jobseeker who has contacted you following the announcement.

However, you must inform the regional employment office of the following: which people you consider suitable and which people you have invited to a job interview or a vocational aptitude test; whether you have taken on a candidate who has been proposed to you; and whether the post is still vacant.

In addition, there are three situations in which you are not obliged to make the announcement.

The first situation concerns positions within the company or group that are taken over by people who have already been employed for at least 6 months by the company or group. This situation also concerns apprentices who are hired after their apprenticeship.

The second situation concerns jobs that do not exceed 14 calendar days.

The third situation concerns persons who are hired and who are the spouse or registered partner of the person authorised to sign or are related to them in the direct line or up to the first degree in the collateral line, half-brothers and half-sisters being assimilated to brothers and sisters.

In these three situations, even if the job is in the list, an announcement to the Regional Job Centre is not required.

But beware, if you are not in one of these three situations and the job is in the list, failure to communicate to the ORP is not trivial.

This is a criminal offence under Article 117a of the Swiss Federal Act on Employment and the cantonal employment authorities carry out regular, or even permanent, checks on job channels such as [jobscout24.ch](https://www.jobscout24.ch) or [jobup.ch](https://www.jobup.ch).

While a warning is likely to be given for a first offence, a substantial fine may be imposed.

According to Article 117a LEIcet article, *“anyone who intentionally violates the obligation to communicate vacancies (Art. 21a, para. 3) or the obligation to conduct an interview or a professional aptitude test (Art. 21a, para. 4) is punished with a fine of up to 40,000 francs. If the perpetrator acts negligently, he shall be punished by a fine of up to 20,000 francs.*

Therefore, if there is a vacancy in your company, we strongly advise you to check whether the occupation is on the list published for the year in question. If this is the case, we strongly advise you to make the announcement to the Regional Job Centre immediately.

A very simple video explaining the steps to be taken can be found on the SECO website (<https://www.seco.admin.ch/seco/fr/home/Arbeit/Arbeitslose>

Source :

<https://www.wg-avocats.ch/en/actualites/labour-law/you-are-an-employer-looking-for-a-new-employee-do-not-forget-the-obligation-to-communicate-certain-vacancies-at-the-orp/>