

## Employment contract

# How long does an employer have to provide a reference for an employee ?

Par Roxane Pedrazzini le 8 September 2025

In its ruling [4A\\_493/2024](#) of 17 June 2025, the Federal Court concluded that employers are required to provide references, in addition to employment certificates, to employees who request them. However, it refrained from setting a specific deadline for doing so, as this will depend on the specific circumstances of each case.

The employee had been working for a bank in Zurich since February 2011. The bank dismissed the employee on 2 December 2014 after facing regulatory proceedings in Switzerland, the United Kingdom and the United States, which resulted in convictions in November 2014. FINMA then opened separate enforcement proceedings against eleven employees of the Zurich bank. It is not specified whether the employee is subject to any of these proceedings.

On 1 June 2015, the employee moved abroad and entered into a new employment contract with a bank, with a start date of 3 August 2015, subject to obtaining a reference from his former employer. The Zurich bank did not provide the requested reference and the employee was therefore unable to take up his new position. The employee was finally hired by another bank in September 2016 and claimed the loss of earnings suffered between August 2015 and September 2016 from his former employer.

The Zurich *Arbeitsgericht* (Labour Court) upheld the employee's claim for payment, but this judgment was [overturned](#) by the *Obergericht* (High Court) on appeal by the bank. The employee therefore brought the case before the Federal Court.

In this case, the Federal Court was called upon to rule on whether the employer had a duty to provide a reference to its employee, in addition to a certificate of employment, and on the time limit within which it had to do so.

The Federal Court first noted that while the employer's duty to provide a work certificate is expressly provided for by law ([Art. 330a CO](#)), this is not the case for a reference. However, this duty arises from the employer's (post-)contractual obligation to protect the employee's personality and promote their economic future. The employer is therefore required to provide a reference at the employee's request, provided that this does not give rise to any particular difficulties. The Federal Court specifies that references must supplement the employment certificate without contradicting it. Furthermore, the provision of such references constitutes the processing of personal data subject to the employee's consent, in accordance with Art. 328b

CO and the [LPD](#).

In this case, the Federal Court considers that the Obergericht did not establish the facts inaccurately and did not violate federal law.

Admittedly, the employee's request constituted a request for a reference, as its content went beyond the scope of the employment certificate. In fact, the reference requested implied an implicit guarantee that the employee had no history of financial misconduct and that he met the requirements for obtaining 'FCA Approved Person' status, in accordance with the requirements of the English supervisory authority. According to the Federal Court, this request was made on 6 July 2015 and its exact content was specified on 3 August 2015.

In principle, the employer is required to provide a reference at the employee's request. However, in this case, the employee definitively waived this reference on 14 August 2015. The bank informed the employee on 13 August 2015 that it was unable to provide the requested reference due to its internal HR guidelines. Consequently, the employee's waiver expressed in his email of 14 August 2015 can validly be interpreted as acceptance of the bank's refusal, or a definitive waiver. Thus, as of 14 August 2015, the bank was no longer required to provide the requested reference and no longer had the employee's consent.

Furthermore, it does not appear from the established facts that the employee renewed his request between 14 and 20 August 2015, the date on which the job offer was withdrawn, nor that the bank's refusal played a decisive role in the withdrawal of the offer.

It remains to be determined whether the Zurich bank failed to exercise due diligence in processing the employee's request. In this regard, the Federal Court notes that the time limit within which an employer must provide a certificate of employment or a work certificate is not expressly stated in the law and that it has not yet ruled on this issue, which is the subject of doctrinal debate.

In particular, in the absence of other provisions, [Art. 75 CO](#) would require the employer to immediately provide a certificate of employment or a reference to the employee who requests it. However, the Federal Court is taking a wait-and-see approach, considering that the time limit depends on the specific circumstances, in particular the complexity of the request, the size of the company and the duration of the employment relationship.

In this case, the Federal Court held that the final version of the request for a reference was made on 3 August 2015. Therefore, a ten-day period to refuse to provide it was not excessive in view of the sensitivity of the request, the international nature of the case, the complexity of the bank's internal responsibilities and the obvious communication problems. Consequently, the bank did not breach its post-contractual obligations and the employee's appeal must be dismissed.

Admittedly, this ruling confirms the employer's obligation to provide a reference in addition to the employment certificate. However, it is regrettable that the Federal Court did not take this opportunity to set a more precise deadline for the issuance of an employment certificate and a reference. Clarification would have been welcome, given the importance of these documents for access to employment. Setting a minimum time limit, adjustable according to the complexity of the case, could have been a compromise.

Finally, the reasoning on the length of the time limit for execution in this case is debatable. Indeed, the purpose of the reference request seemed clear from the outset, given the regulatory context facing the bank. It would also have been useful for the Federal Court to rule on the merits of the request, in particular on the possible obligation of an employer bank to inform another bank of the existence of regulatory proceedings against an employee. However, this issue was not examined due to a lack of sufficient grounds on the part of the employee in this regard.

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