

Attracting migrants through the backdoor: Business migration in Switzerland

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Abstract

In regulating immigration, governments in Western democracies face a ‘liberal paradox’: they must balance economic and judicial pressures to admit and protect migrants with domestic political demands for restriction. A key strategy to navigate this tension is the ‘market model’ of migration policy, which emphasizes temporariness and limited rights. While commonly associated with low-skilled migration, we argue that this model also applies to highly skilled business migration. Business migrants—such as intra-corporate transferees, business visitors, and contractual service suppliers—form a substantial share of labour mobility but do not formally enter host labour markets, circumventing both associated rights and politicization. In this article, we study the policy frameworks and political dynamics surrounding business migration, demonstrating how it serves as an escape route from the liberal paradox. Key characteristics of business migration—temporary admission, restricted rights, ‘quiet politics’, and all-party consensus—enable governments to meet economic demands while limiting political backlash. Analysing Switzerland, a most likely case, we show how business migration operates as a high-skilled variant of the market model, reconciling economic openness with political closure. This study sheds light on the broader implications of business migration for immigration policy and politics in Western democracies.

Keywords: liberal paradox, business migration, posted workers, intra-corporate transferees, market model, GATS mode four, highly-skilled migration, preferential trade agreements, temporary migration, Switzerland, migrant rights.

1. Introduction

Governments of liberal democracies face difficult choices when it comes to immigration policies. Economic transformation towards knowledge-intensive service economies, together with demographic decline, press for wider openings for labour mobility. At the same time, the politicization of immigration policy has reached an all-time high, posing serious limits to states’ discretion to open up to foreign labour. One way to cope with this ‘liberal

paradox' (Hollifield 1992) is what scholars have coined the 'market model' of migration policy. Contrary to the 'liberal model', according to which immigrants have increasingly been endowed with social and economic rights, the market model 'permits governments to have it both ways – effectively sanitizing globalization from its purported ills but exploiting the economic benefits of human movement' by granting immigrants 'fewer rights' (Dauvergne and Marsden 2014: 259; Boucher and Gest 2018: 156; Vosko 2022). Indeed, and contrary to restrictive policy discourses, most Organisation for Economic Cooperation and Development (OECD) countries have not reduced the opportunities for labour immigration but have made them more selective and, in particular, temporary, and less inclusive in terms of social and economic rights. This has led scholars to interpret contemporary policy trends as 'allowing mobility' but 'preventing migration' (Lutz 2024) or, at least, 'long-term settlement' (Solano, Schmid, and Helbling 2024).

A prevailing assumption is that the market model primarily applies to migration into low-skilled jobs. By contrast, international competition for highly skilled migrants—the so-called 'global race for talent'—is expected to motivate more generous policies in an effort to attract supposedly 'desirable' candidates. But is high-skilled immigration truly exempt from the liberal paradox? We challenge this assumption by highlighting a specific form of skilled migration—business migration—that mirrors the features of the market model. As developed by Alvarado *et al.* (2025), business migration is a specific type of transnational economic mobility between trade and labour. Business migration includes intra-corporate transferees (ICT), business visitors (BV), and contractual service suppliers (CSS). A defining characteristic of business migrants is that they do not formally enter the host country's labour market, as they retain their employment contract abroad (Lavenex *et al.*, 2025). Business migration remains understudied, yet evidence suggests it constitutes 30–50 per cent of non-EU labour migration in the UK (Salt and Brewster 2023), and Switzerland (Alvarado *et al.*, 2025).¹ In the USA, ICT and BV categories account for roughly 40 per cent of highly skilled temporary work visas (Wang 2021: 644). Recently, business migration has also come under public scrutiny, with companies accused of using business immigration routes to outsource jobs and undercut wages (Economic Policy Institute 2020; Congressional Research Service 2024).

Switzerland provides a critical case for studying this phenomenon. As a highly globalized economy with strong demand for skilled labour, it faces a particularly stark liberal paradox, intensified by direct democracy and strong anti-immigrant mobilization (Armingeon and Lutz 2024; Lavenex 2023), making the open promotion of immigration politically difficult. Against this backdrop, we ask: How does business migration emulate the market model, and why do states and businesses perpetuate exclusionary policies even for highly skilled migrants? Our central argument is that business migration represents a high-skilled variant of the market model. By enabling firms to access flexible human capital while avoiding permanent settlement, it reconciles economic needs with political constraints. Echoing Dupont and Paquet (*this issue*), it allows for the attraction of 'desirable' migrants even amid heightened politicization.

The article is structured as follows: we first discuss the market model of immigration as a response to the dilemma produced by the liberal paradox. We then introduce the concept of business migration and develop our argument that both the policy features of business migration—the substance of how it is regulated—and its politics features—the way in which business migration rules are made, applied, and discussed—allow it to escape the politicization of migration and hence the liberal paradox. These features are: the temporary nature of admission, the restriction of post-entry rights, a 'quiet politics' mode of rule-making and an all-party consensus. We then examine how these four features apply to business migration in Switzerland, relying on a variety of data sources and methods including an analysis of the legal framework, novel registry data, archival evidence, policy documents, and expert interviews, in addition to secondary literature. We show that the

promotion of business migration in Switzerland is an important strategy to attract labour serving business interests while avoiding immigrant integration and circumventing popular opposition—at the expense of migrant rights. The conclusion reflects on what the rise of business migration means for the analysis of migration policy in liberal democracies and draws conclusions for contemporary migration politics in a context of intensifying tension between economic needs and political demands.

2. The liberal paradox and the rise of the market model of migration

Immigration policy in Western democracies is generally seen as constrained by a liberal paradox (Hollifield 1992; Adamson, Chung, and Hollifield 2023). On the one hand, their open economies demand liberal admission policies to fulfil domestic labour needs. The liberal convergence hypothesis further posits that over time, immigrants have come to benefit from a well consolidated set of social and economic rights guaranteed by dedicated bureaucracies and jurisprudence (Joppke 1998; Guiraudon 2003), allowing them to acquire a formal status comparable to that of citizenship, except for political rights (Soysal 1995: 199; Brubaker 1996). On the other hand, this imperative of liberal openness which flows from market needs and human rights faces political opposition stemming from anti-immigrant sentiments and democratic politics mobilizing the migration-sceptic citizenry. This interplay of economic demand for openness with political demand for closure is considered characteristic of Western liberal democracies that cannot ignore either demand without undermining their legitimacy (Boswell 2007). This tension has only increased over time with the internationalization of labour markets and labour shortages from demographic ageing on the one hand, and the domestic politicization of immigration issues and the electoral success of far-right, anti-immigration parties on the other hand.

Existing scholarship gives us some indication of how states manoeuvre this tension in their migration policy-making. Comparative research suggests that Western states' labour immigration policies have become more liberal over time and have therefore rather withstood countervailing political pressures (Helbling and Kalkum 2018; Lutz 2019). Along with more liberal admission rules, immigrants have been found to gain in their legal status after admission with more social and economic rights (Schmid 2020; Adamson, Chung, and Hollifield 2023). Other studies however note that in an effort to navigate between liberal trends, economic needs, and political opposition many governments have moved towards a 'market model' that evades but does not openly defy the liberal model of immigration policy (Boucher and Gest 2018). The market model is characterized by its promotion of migration as temporary labour mobility and the circumvention of the social and economic rights traditionally associated with migrants' integration in liberal democratic welfare states (Dauvergne and Marsden 2014; Boucher and Gest 2018; Vosko 2022). This interpretation is supported by recent comparative analyses of policy developments in OECD countries which find that countries favour temporary mobility regimes and tend to have less restrictive regulations on the entry of labour migrants than on their stay, hence 'preventing [long-term] migration' (Lutz 2024: 20). In a detailed review of migration policy trends over the last decades, Solano, Schmid, and Helbling (2024: 3) find that in particular 'long-term settlement has been limited'.

Our study contributes to this literature and shows that while the market model of immigration policy has heretofore been used to describe the situation of low-skilled migrants, it has in fact also spread to the population of highly skilled migrants—a population that is commonly excluded from the literature on the constraining effects of the liberal paradox. Indeed, high-skilled migrants are commonly considered a 'desired' and scarce resource for which states compete with generous policies designed to attract talents. Literature on highly skilled migration finds that states usually offer far-reaching rights including labour protection, employer portability, spouse's work rights, or permanent residency rights

(Dauvergne and Marsden 2014: 526; Cerna 2016) and sees no trade-off between ‘numbers and rights’ for high-skilled migrants (Ruhs and Martin 2008: 252).

We argue that the deepening tension between economic needs and political opposition has motivated a turn towards the ‘market model’ in high-skill migration too, and analyse this turn by studying business migration—a form of temporary economic mobility that precludes formal access to the labour market alongside longer-term integration and corresponding social and economic rights. By pointing to the implications of applying the market model to highly skilled business migrants, we also contribute to the growing literature on precariousness and temporary migration even among ostensibly desirable highly skilled migrants (Babar, Ewers, and Khattab 2019; Isaakyan 2022; Triandafyllidou 2022; Vosko 2022; Hoffmeyer-Zlotnik 2024a).

3. The rise of business migration: a new market model?

Business migration is an important way in which high-income countries admit labour migrants and consists in temporary migration for the purpose of work to another country but without formally entering this country’s labour market (Lavenex *et al.*, 2025; Alvarado *et al.*, 2025). This form of migration has been introduced via trade liberalization rather than immigration policy reforms; and hence mostly escapes political discourse around migration policy. It took shape in the early 1990s and unfolded in parallel in regional fora, at the multilateral level, and in bilateral preferential trade agreements (PTAs) worldwide (Jurje and Lavenex 2019). In the EU, business migration was introduced under the label of ‘posted workers’ to allow citizens from newly associating Central and Eastern European states to work temporarily for an EU firm in an EU member state pending their admission to intra-European freedom of movement (Arnholtz and Lillie 2019; De Wispelaere and Rocca 2023). The EU Court of Justice defined the principles guiding this new form of temporary migration in 1990 in its *Rush Portuguesa* case, setting the tone for other international fora of regulation. The Court distinguished the situation of posted workers from the one of ‘standard’ mobile workers on the basis that the former ‘return to their country of origin after the completion of their work *without at any time gaining access to the labour market* of the host Member State’ (emphasis added).² At the multilateral level, the regulation of business migrants was introduced with the 1995 General Agreement on Trade in Services (GATS) of the World Trade Organization (WTO). This agreement liberalizes the cross-border mobility of natural persons in the context of service trade, known as ‘mode 4’ (Carzaniga 2003; Mattoo and Carzaniga 2003).³ Mode 4 commitments by WTO Member States mostly comprise the three categories of business migrants described in the introduction—ICT, BV, and CSS—and some member states also committed to the admission of self-employed independent professionals (Carzaniga 2003). The GATS mode 4 shows strong similarities with the notion of posted workers in the EU as it specifies that ‘this agreement *is not concerned with natural persons seeking access to the employment market* of a Member, nor shall it apply to measures regarding citizenship, residence or employment on a permanent basis’ (emphasis added).⁴ In parallel, states have opened up to mode 4 mobility via plurilateral and bilateral PTAs. Today, a host of provisions in PTAs facilitate the admission of temporary migrants beyond what the GATS provides, that is, via admission commitments, the abolition of Economic Needs Tests, the easing of quotas, the facilitation of qualification requirements or expeditious visa procedures (Lavenex, Lutz, and Hoffmeyer-Zlotnik 2024). While EU posted workers and business migrants whose mobility is facilitated via PTAs hence share the characteristic that they migrate for work temporarily while their employment contract remains ‘at home’, the two frameworks tend to cover different skill levels: posting of workers within the EU is not limited to any particular skill level, profession, or sector, but it tends to be concentrated in sectors requiring lower or more manual skills such as construction (Arnholtz and Lillie 2019; De Wispelaere and

Rocca 2023). On the other hand, mode 4 commitments are often limited to certain service sectors, and ICT commitments generally comprise executives, managers, and specialists, hence requiring either a high position within a company or specialist skills, which often implies a higher education degree.

In the following, we argue that this form of labour migration epitomizes a market model of immigration policy and thereby helps navigate the political tension inherent in the liberal paradox. We argue that business migration provides a way to attract necessary foreign labour for high-income countries and thereby economic benefits to the receiving countries, while at the same time keeping the political costs of immigration at a minimum. It does so because of the particular features of the policy which align perfectly with the market model—temporary admission and limited rights—and via the politics by which it is promoted—a quiet mode of policy-making and a political consensus among parties, including anti-immigrant parties, that allows to circumvent the heated electoral arena in which the liberal paradox usually unfolds.

3.1 Policy features

3.1.1 Temporariness

Business migration is by its nature a temporary form of migration as migration is permitted for a project or task of a specific and limited duration, but not a long-term employment relationship. This implies that business migration is not meant for settlement but that migrants are admitted only for a temporary presence. Such temporariness means that in most cases, it will not lead to a permanent stay and to business migrants becoming part of the host society, thereby helping reduce conflicts with the native population (see Lutz 2024). By way of example, national rules on the entry and stay of CSS are often issued specifically for that purpose and hence only for the duration of the actual posting (de Lange, Tans, and Azhar 2021: 44). The EU ICT Directive allows ICT to stay for a maximum of three years, after which they can only stay based on a different residence title or through a renewed application (Lutz 2018: 20). However, many EU States do actually allow a transfer to a regular residence permit, and hence a ‘quiet’ change from a posted to a non-posted status (Deloitte 2018). The same is true in the USA where the visa category applied for ICT, the L-1 visa, allows, yet under difficult circumstances, to apply for a green card granting permanent residency (Wang 2021).

3.1.2 Rights-limitation

The most important distinction between business migration and traditional forms of labour migration, including temporary ones, is the lack of an employment relationship in the host country. This ‘extraterritorial’ nature of business migration makes it more likely to evade the judicial scrutiny which has contributed to the expansion of migrant rights in liberal democracies. Expanding on Freeman’s political economy approach, authors such as Brubaker (1996), Guiraudon (2000), Joppke (1998), and Soysal (1995) have shown that normative dynamics in the bureaucracy and judiciary of liberal democracies lead to an expansive interpretation of migrant rights, reducing employers’ flexibility over foreign labour and fueling political backlash (Ruhs 2002). As business migrants do not formally enter the labour market and social security system of their host countries, their bargaining power in relation to the employer is decreased significantly. Scholars have argued that they are more likely to work in jobs below their professional qualification and gain comparatively lower wages than the domestic workforce (Migration Advisory Committee 2015; Costello and Freedland 2016; Herzfeld Olsson 2019: 46 et seq). The migrants are deprived of a direct employee–employer relationship with their host firm, but are dependent on it not only for complying with the working conditions as laid out in local laws and the employment contract, but also for their residence status in the host country. This privileges the interests of the firm over those of the migrants and puts the latter in a potentially vulnerable position (Herzfeld Olsson 2019). Analyses of posted workers in the EU context highlight that the

commodification of migrant workers leads to discrimination regarding fundamental economic and social rights such as change of employer, wage parity, right to association, or shift towards permanent residence. These risks are particularly pronounced because posted workers are resource-intensive for unions and labour inspectors to monitor and partially escape national labour regulations (Arnholtz and Lillie 2019; De Wispelaere and Rocca 2023). Similar concerns have been found for highly-skilled ICT in the EU under the EU Directive on ICTs, where it is unclear if ICTs can enforce their rights individually in local courts (Herzfeld Olsson 2019; Verschueren 2021). For all these reasons, critical scholars have referred to such forms of migration as ‘workers without footprints’ and their formal exclusion from the labour market as a ‘legal fiction’ that formally dissociates the regulatory framework of an employment relationship from the place of work (Hayes and Novitz 2013). At the same time, the lack of judicial constraints and rights provisions for business migration reduces the potential political and social ‘costs’ of business migration.

3.2 Politics features

3.2.1 Quiet mode of policy-making

Business migration has not only received little attention in the scholarly literature, it is also largely absent from otherwise heated political debates on migration. Instead, policy-making in this area conforms with what has been described as a ‘quiet’ mode of policy-making (Culpepper 2010; Hoffmeyer-Zlotnik 2024b). Despite the numerical significance of business migration, immigration statistics and register data usually do not differentiate between immigrants who formally enter the labour market and those who retain their work contract at home (OECD 2019). In political discourse, both policy-makers and companies prefer to refer to business migration as part of trade or ‘global mobility’ rather than immigration—thus separating this type of migration from the contentious sphere of migration politics. This could be observed in recent trade negotiations between the UK and India, when in 2022 the British trade minister Greg Hands declared that ‘in the area of trade, what we’re talking about is mode four arrangements. These aren’t immigration arrangements. These relate to business visas not for permanent settlement’ (Wickham 2022). Such a discourse places business migration outside the realm of immigration policies and seeks to de-politicize the issue by pointing to its technical nature—even though it accounts for a substantial part of labour migration. De-politicization and ‘quiet’ policy-making with privileged access for employers is further enhanced by the dominance of executive law-making (Culpepper 2010: 180–81). The regulation of business migration often occurs via such executive lawmaking in the sense that migration laws only provide the broad rules for labour migration while ordinances or decrees spell out the detailed rules for the entry and stay of business migrants (Offer and Mävers 2016). The formulation of these rules hence escapes parliamentary scrutiny while organized interests may have better access to decision-makers through informal channels largely outside of the public arena (Lavenex 2023).

3.2.2 Political consensus

The politics of business migration is not only characterized by quiet politics, but also by an elite consensus concerning the desirability of this type of migration. The literature on migration policy-making in Western liberal democracies has underlined that up until the 1990s, decision-making often took place behind closed doors and with political parties building silent coalitions (Perlmutter 1996). This resulted in ‘client politics’ yielding more labour immigration than what public opinion and political discourse would have suggested (Freeman 1995; Peters 2015). This has certainly changed since and immigration has become hotly politicized with political parties taking starkly diverging stances (van der Brug *et al.*, 2015). Anti-immigration parties, capitalizing on this politicization, have advanced to major political players impacting on electoral and legislative politics alike. Unlike for labour migration more generally, however, the temporary stay of high-skilled business

migration constitutes an exception in this regard as it is seen by both political and economic actors as a necessity and beneficial to the country. These arguments are put forward for high-skilled migration more generally (Menz 2009; Kolbe 2021), but the fact that business migration is strictly temporary and does not imply access to the labour market as such makes it particularly attractive to populist and anti-immigrant parties. This consensus beyond the mainstream parties further helps to keep business migration depoliticized. As a result, ‘client politics’ can continue to dominate the regulation of business migration as no political actors have an interest in politicizing the issue.

4. The case of Switzerland

With both sides of the paradox being particularly strong, Switzerland offers a most likely case for the need to avoid the tension between demands for openness and closure. More than a quarter of the Swiss resident population are non-citizens and around 40 per cent of the population are first or second generation immigrants (Bundesamt für Statistik 2023). Switzerland is therefore a country of immigration whose welfare depends strongly on the (continued) supply of foreign labour, and which is thus comparable to the classic immigration countries traditionally associated with the liberal model such as Australia, Canada, or the USA. However, the country never fully embraced this reality and is considered a ‘reluctant immigration country’ (Lavenex 2023).

Historically, Switzerland has been a prime example of the ‘guest worker’ model: a policy of temporary residence status for seasonal workers intended to strictly avoid the settlement of foreigners in Switzerland while allowing the economy to benefit from a flexible rotating labour force (Mahnig and Piguet 2003). This approach was anchored in the first immigration bill of 1931, which, in Article 16, formulated the objective that ‘In their decisions, the granting authorities shall take into account the intellectual and economic interests as well as the degree of “over-foreignization” (*Überfremdung*) of the country’ (own translation).⁵ This law did not undergo any legislative reform until 2005 with the adoption of the new Foreigners Act. Instead, migration was regulated via executive policy-making. According to Dhima (1991: 172, own translation) there was ‘a tacit understanding that aliens policy is regulated by the associations and executive authorities, while the parliament and political parties do not intervene’.

However, this shielding of corporatist ties between economic and administrative actors from the legislative arena did not prevent the fierce politicization of migration. Quite on the contrary, bemoaning the steadily increasing volumes of immigrants and the gradual extension of migrant rights, parties on the political right were quick to seize the direct democratic arena over the issue. Starting with the first initiative against ‘over-foreignization’ in 1968, no less than twenty-six popular initiatives had been initiated on the topic of immigration by 2021 (Lavenex 2023: Table 35.2). In the early 1990s, the politicization against immigration received a new boost from the European Union’s insistence that Switzerland allow freedom of movement for EU and European Free Trade Association (EFTA) citizens as part of its association to the Single Market. Both xenophobia and euroscepticism have since allied, explaining the rise of the radical right Swiss People’s Party (SVP) to the largest faction in Parliament (Kriesi et al., 2005; Manatschal and Rapp 2015). The 1999 Bilateral Agreement with the EU installing the freedom of movement for EU and EFTA citizens can be seen as the major factor motivating the comprehensive reform of the 1931 Aliens Act to the new Foreigners Act of 2005, and, with it, the advancement of migration to the core of legislative politics. This move does not mean, however, that the direct democratic arena has slowed down. Quite on the contrary, the narrowly adopted ‘mass immigration initiative’ (2014) and the ‘limitation initiative’, which was rejected in the fall of 2020, squarely challenged free movement, and, herewith, association to the EU and its Single Market by demanding that Switzerland returns to an ‘independent’ management of immigration based on annual quotas and without restrictions under international law (Armingeon and Lutz

2024). The immigration issue therefore remains a threat in the hands of the radical-right over the mainstream parties in the political game.

One implication of this political constellation is that the immigration rules for non-EU nationals have remained comparatively restrictive: the 2005 Foreign Nationals and Integration Act (FNIA) overcame key features of the guest worker model by replacing the precarious seasonal worker status with a short-term residence permit and giving more rights to regular migrants entering the labour market such as facilitations in changes of profession and place of residence as well as family reunification (Art. 37 and chap. 7 FNIA). Yet, at the same time, the FNIA stipulates that only ‘managers, specialists and other qualified workers’ are admitted from beyond the EU/EFTA—and only if no comparably suitable workers can be found in Switzerland and in the EU/EFTA (cf art. 2 FNIA). With an annual quota of 6,000 to 8,500 labour immigrants a year, immigration from outside the EU is also restricted in quantitative terms. Employer associations in Switzerland have continuously complained about mounting shortages, especially of skilled labour—and lobby for greater legislative openings, illustrating the tension between politicization and economic demands (Bundesrat 2000; Minsch 2023).

Switzerland’s immigration regime is thus a prime example of a liberal paradox in which strong economic dependence on foreign labour and the fierce mobilization of anti-immigration voices in domestic politics strongly constrain immigration policy-making, let alone immigration promotion. While the country has gradually shifted closer to the liberal model due to external pressure—in particular European integration and its requirement of freedom of movement with the EU/EFTA—the pressures for restrictive policies have not abated. This means that the political space of manoeuvre on labour immigration has become increasingly narrow for Swiss policymakers, leaving them with no option but to navigate within the liberal paradox (Hercog and Sandoz 2018).

5. Business migration in Switzerland

Business migration from outside the EU is hitherto hardly debated in Switzerland. Yet as we will see below, business migrants constitute between 31 per cent and 48 per cent of all third-country (i.e., non-EU/EFTA) labour immigrants in recent years.⁶ The overarching regulatory framework for business migration is set in Switzerland’s immigration law along with Switzerland’s commitments in the GATS and in bilateral PTAs. Its concrete specification however derives from ordinances, that is, executive law.

Business migrants come as ‘managers, specialists and other qualified workers’, and hence match the only group of persons who can be admitted as labour migrants from outside the EU according to the Swiss Foreign Nationals and Integration Act (Art. 22 FNIA; SEM 2020: 4.8.1.1). Business migrants’ stay in Switzerland can be based on three types of stay and work permits: a short-term Schengen visa or a visa-free stay for a maximum of 90 days, a short-term residence permit (L permit) for a stay between 4 months and one year or a renewable residence permit (B permit) that is valid for one year. Relative to traditional labour migrants coming from outside the EU/EFTA, business migrants benefit from important privileges that make them particularly attractive to employers wishing to hire foreign labour.⁷ First, the precondition that all admission of labour migrants from non-EU countries has to serve the Swiss economic interest (Art. 20 and 26 FNIA) is interpreted more leniently for posted migrants who count as service providers rather than labour market participants. Indeed, the very idea of admitting posted workers is based on trade agreements’ goal to increase the competition between local and foreign service providers, even if this might come to the detriment of local firms. As a result, whereas in most cases firms need to ‘convince the authorities that hiring a specific person will have positive repercussions on the local job market or that not hiring this person will have negative local repercussions (Hercog and Sandoz 2018)’, cantonal authorities have ‘almost *carte blanche*’ when interpreting this

condition for posted workers (Bueno 2010: 21). Second, the immigration rules laid out in the Ordinance on Admission, Residence and Employment (OARE) exempt ICT and CSS from the labour market test. That is, the recruiting firm is not required to establish that no Swiss or EU/EFTA employee is available to fill the specific position. ICT are also exempt from certain requirements of admission such as a proven prospect for integration into the Swiss society and labour market, including, for instance, language requirements (Art. 23 FNIA, SEM 2020, para. 4.8.1.1). Furthermore, business migrants are given priority in the allocation of federal immigration quotas when cantonal quotas are reached (Lavenex et al., 2025: 120), and some PTAs concluded by Switzerland—including the PTA with China signed in 2015—explicitly exempt business migrants from the limits imposed by the immigration quotas (Schlegel and Sieber-Gasser 2014: 10). Moreover, an important number of business migrants elude the limits imposed by immigration quotas altogether: those who come to work and stay for less than four months—such as CSSs and BVs (Art. 19 OARE). These foreign workers also do not enter immigration statistics.

To sum up, unlike other non-EU labour migrants, business migrants are subject to a number of exceptions and privileges that make it easier to enter and stay in Switzerland compared to locally employed labour migrants. On the other hand, given that business migrants are by definition sent abroad by their employer for a specific task, changing from a short-term residence permit issued for the posting to an annually renewable permit and the prospect of stable residence is more challenging than for regular labour migrants, as the Swiss company must prove that ‘the business requirements have changed to the point where the employer strongly needs the employee to stay in Switzerland for an indefinite period of time’ (Haegi, Leistner, and Napley 2020: 240).

6. Methods and data

In the sections that follow, we show how the policy and politics features associated with the market model of immigration policy apply to the case of business migration in Switzerland, demonstrating how business migration escapes politicization and hence the tensions inherent in the liberal paradox. For the analyses, we juxtapose business migration and traditional labour migration in an effort to identify the specificities of business migration that allow it to escape politicization.

Different data sources and methods are mobilized, as appropriate, to provide evidence in support of the four policy and politics features of business migration described above. As such, we use register data from the Swiss Population and Household Statistics (Statpop) to show the temporary nature of business migration, relative to traditional labour migration, using descriptive statistics (see [Supplementary Appendix](#) for details on the data). The rights limitations associated with business migration are highlighted using evidence from original interviews conducted with government officials and business associations, as well as regulatory analyses. The quiet mode of policy-making is brought to light using internal government documents found through archival research in Dodis, the Swiss Federal Archive, and the *Archiv für Zeitgeschichte* at ETH Zürich. Finally, we use party documents and parliamentary records as evidence of the political consensus surrounding business migration.

We therefore mobilize both quantitative and qualitative methods in an effort to provide a comprehensive evidentiary basis for our claims.

7. Analysis of Business Migration in Switzerland

7.1 Policy features

7.1.1 Temporary admission

We have argued that temporary admission is an important policy feature helping receiving countries respond to economic demand while avoiding the political costs of labour

immigration. As indicated in the literature on the market model of migration policy and other empirical analyses, temporary migration schemes have become the rule rather than the exception. Our case for business migrants epitomizing the market model is particularly strong if we can show that their stay is more temporary than that of other labour migrants. We test this using Swiss register data and compare the share of business migrants among the total number of third country labour immigrants by permit type and year. We differentiate not only between business migrants and regular labour migrants who work for a Switzerland-based employer, but also between the different types of permits held by labour migrants: residence permits (B-permits) issued for a duration of one year at a time, and short-term stay permits (L-permits) for stays between four months and one year. We refer here and in the following to the notion of ‘posted’ versus ‘non-posted’ stays to distinguish business migrants who are posted by their company to Switzerland from other non-EU immigrants who come with a work contract with a Swiss employer (and thus formally enter the labour market).⁸ Even though it is technically possible for business migrants to turn into ‘regular’ labour migrants (e.g., by changing the nature of their employment relationship; see above), most business migrants do not in fact stay to settle, and the vast majority hold an L permit for short-term stays (see Fig. 1).

Figure 1 shows that posted workers with both L- and B-permits have made up between 31 per cent and 48 per cent of all labour migration from non-EU countries between 2015 and 2021. Note that this does not include short-term business migrants who are staying for four months or less and are not counted in the immigration statistics other than short-term visa statistics. Therefore, the cumulative volume of business migration is considerably larger than what is presented in Fig. 1. Most third-country work stays in this period (2015–21) are conducted under short-term (L) permits (see Fig. A1 in the [Supplementary Appendix](#)): 89 per cent of posted workers have them, as opposed to only 56 per cent of not posted workers. Furthermore, before the Covid-19 outbreak, posted stays grew significantly among the L permit category while non-posted ones consistently decreased. The distribution of L and B permits among business and non-business migrants co-varies over time with the federal quota for third-country migrants (Fig. 2).⁹ While the number of residence (B) permits did increase as the federal quota expanded over this period, particularly among traditional (or non-posted) labour migrants, they still represent a minority of work

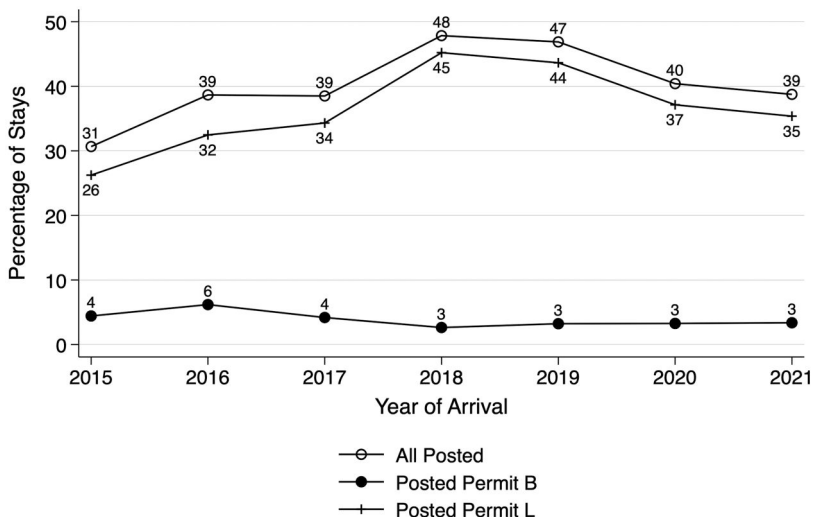


Figure 1. Annual share of posted stays out of total third-country labour migrant stays.

Source: Swiss Federal Registry, Statpop dataset.

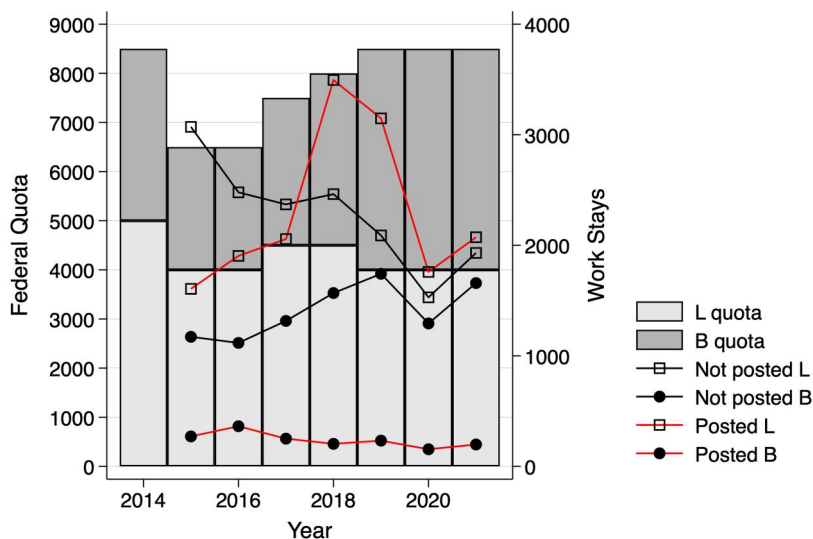


Figure 2. Annual number of third-country labour migrant stays and federal quota.

Source: Statpop and SEM.

Note: Background bars measure annual Federal L and B quotas in left-hand side axis. Connected lines measure the number of posted and not posted L and B annual work stays in right-hand side axis, starting in 2015. Note that L permits issued for a duration of less than four months are not subject to quotas.

stays. These trends are maintained in the (early) post-pandemic period: third-country labour migrant stays predominantly take place with short-term permits and primarily as posted business migrants, confirming the highly temporary nature of this type of labour mobility as well as the demand for it.

Using stocks data to track changes in the status of individual third-country labour migrants over time, we can see that posted business migrants and traditional (or non-posted) migrants follow quite distinct trajectories.¹⁰ Individuals who have been registered as posted workers for at least one year are more likely to have arrived as such. They are also less likely to change their reason for stay from work to another reason such as on family grounds: only 3 per cent ever do, as opposed to 17 per cent of never-posted individuals. Among those who stay longer, the majority do so for family reasons. In contrast, those that are never posted are more likely than posted workers to arrive for other reasons (mostly family or studies) and then become workers. Posted stays are also more likely to be shorter, as shown in Fig. 3: 84 per cent of posted stays last two years or less, as opposed to 63 per cent for not posted stays. And posted workers tend to have slightly fewer stays. If we compare workers who have at least one stay as posted to those who are never posted, 81 per cent of both groups have only one stay, but 6.2 per cent of the latter have more than two stays, compared with only 3.6 per cent of the former (see Fig. A2). Finally, workers who have been posted at least once also have shorter total stays (summing across individual stays; see Fig. A3). This evidence shows that business migrants are not more numerous than traditional labour migrants but enter the country primarily on a temporary basis and for shorter stays. The expected policy feature of temporary admission is thus confirmed.

7.1.2 Rights limitations

If business migration follows the market model, the admission of business migrants should be associated with a more limited bundle of social and economic rights compared with traditional labour migrants.

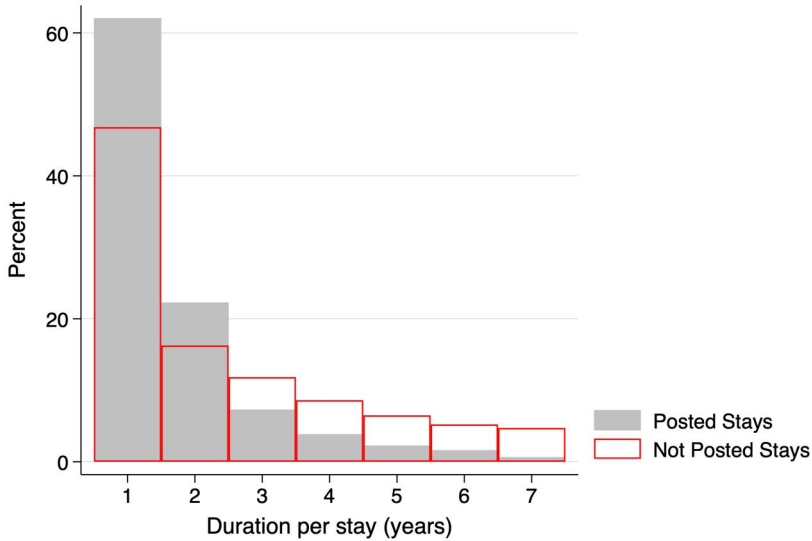


Figure 3. Stay duration by status (posted/not posted).

Source: Statpop.

When it comes to their status as workers, posted workers remain subject to their original work contract in the country of origin (Bueno 2010: 18), which might be supplemented by a secondment agreement. In the case of ICT, this means that legally, they report to their employer abroad, while doing work in connection to the employer in Switzerland. ICT encompass managers, executives, and specialists. While no data is available as to the distribution between these three groups in Switzerland, it is likely that similar to other European countries, specialists make up the largest group (available data for the EU suggest a share of over 80 per cent, see Hoffmeyer-Zlotnik 2024b: 371), meaning that most ICT are more akin to regular highly skilled workers than to high-ranking managers. In a written interview, the Swiss State Secretariat for Migration confirmed that the majority of requests for posted work permits concern IT specialists, while ‘internal transfers are also often [...] recognized in pharmaceuticals, financial and insurance sectors’ (Interview SEM). Within certain boundaries, employers can choose to apply the employment laws of the country of origin (rather than Swiss law) during the period of posting (Docherty *et al.*, 2023)—which implies the potential for unequal treatment compared to locally employed immigrants, although mandatory worker protections such as maximum work hours or a minimum of off days apply regardless of the applicable law (Wysshaar 2021).

Second, business migrants enjoy less protection against wage dumping. The obligation to ensure a comparable level of salaries and working conditions for posted migrants and locally hired employees is a condition for the admission of labour migrants, and the cantonal immigration and labour authorities verify this condition at the moment of deciding about the admission (see Art. 22 FNIA; Bueno 2010: 20–21). Once admitted however, it becomes difficult for posted workers to enforce their rights vis-à-vis their employers. While no public information exists on the actual salary levels of posted workers in Switzerland in comparison to local employees in similar positions, interview evidence suggests that multinational companies do at times pay lower wages to ICTs than to local employees (Interview Swiss Employer Association).

A third source of potential unequal treatment is the regulation of social security. For countries with which Switzerland has concluded a bilateral social security agreement, the provisions of the country of origin continue to apply to the posting, most often for a period

of up to five years (SEM 2024: 123). This potentially creates a cost advantage for employers as the social security contributions tend to be lower in many countries of origin compared to Switzerland. For the three countries which send the most posted workers to Switzerland—India, the USA, and China (Alvarado et al., 2025)—such agreements exist and even extend the duration to up to 6 years (FOPH 2023). On the other hand, posted migrants' salaries are usually taxed in Switzerland if they stay for more than 183 days, where tax rates are comparatively low (ECA International 2019; Haegi 2019). Taken together, these specificities of posted migration make it an attractive option for firms to engage the employees of foreign firms in the case of CSS or to transfer employees of branches abroad to Switzerland in the case of ICTs. A posting is not only less costly than local employment in some cases, it also deprives the employee of a direct connection to the Swiss host and hence makes it more difficult to invoke unequal treatment with local employees or violations of the applicable working conditions.

7.2 Politics features

7.2.1 Quiet mode of policymaking

We further theorized that the politics of business migration is characterized by a quiet mode of policy-making that is less visible and not as politicized as traditional immigration. Despite the importance of business migration in numbers (see above), the phenomenon remains largely unnoticed—both in terms of available statistics and in terms of public and political discussions. Indeed, Swiss immigration data did not allow for the identification of business migrants before 2015. Only in recent years has there been a separate statistical category for posted workers (for details on the register data which we obtained upon request see the [Supplementary Appendix](#)).

In terms of policy-making, both the emergence of business migration rules and their implementation occurs outside of the 'noisy' arena of party politics, and has escaped the propensity of immigration to move from 'quiet' to 'noisy' politics (Mach et al., 2021). Our archival research shows that existing exceptions for business migrants have their origins in the GATS negotiations, in which Switzerland not only played an active role but also preemptively adapted national laws even before international commitments emerged. This was done in the common form of executive law-making which is shielded from parliamentary influence but involves tight consultations with the cantons' labour market authorities and employer associations. The GATS was negotiated between 1986 and 1994 and entered into force in 1995. But while the negotiations and the creation of the WTO itself were important events that were followed by publics worldwide, the specific rules on business migration faced very little public scrutiny or interest. Discussed as the 'temporary entry of natural persons' (Bast 2008: 576) or 'mode 4', rules remained squarely in the realm of service trade. This trade language signalled that these openings were about trade mobility and not about migration—both to domestic audiences and to demands by developing countries for new pathways for labour migration within the GATS (Schmitz 2015: 386).

Switzerland was among the most active WTO members in the GATS negotiations (Marchetti and Mavroidis 2011: 705–06). Archival evidence of internal documents during the negotiations collected from Dodis, the Swiss Federal Archive, and the *Archiv für Zeitgeschichte* at ETH Zürich shows that Swiss negotiators anticipated that the GATS would have an impact on domestic immigration policies. They engaged in 'two-level games' (Putnam 1988) and put forward proposals on mode 4 that would require deregulation in Swiss immigration law, such as a revocation of the priority rule for domestically employed workers and a reconsideration of the work permit practice to issue, à priori, only temporary residence permits (Couchepin 1990; Mauron 1990a).

These two-level games reflect typical features of 'quiet politics' not only in discursive terms but also through the predominance of informal corporatist ties and administrative forms of executive policy-making that elude the heated migration policy arena and its main interlocutors.

Strongly supported by the associations of export-oriented industries, where multinational companies concentrate, some of the propositions of the Swiss GATS negotiators were met with hesitancy on the part of the Federal Office for Industry, Trade and Labour (BIGA), which was responsible for labour migration until 1998 (Mauron 1990). This office, as well as the cantonal authorities responsible for the allocation of migration quotas, shared close corporatist ties with the less competitive inward-oriented industries which used to be the main beneficiaries of earlier guest worker programmes (i.e., tourism, agriculture etc, see [Dhima 1991](#)). In internal communication, the BIGA pleaded for a narrow definition of the categories that would fall under mode 4 rules and for a continued primacy of immigration rules over GATS commitments ([Mauron 1990b](#)). The rising influence of export industries in immigration policy is reflected in the strong ties and regular consultations between the Federal Office for Foreign Trade who was in charge of the GATS negotiations, and export-oriented industries represented by large employers' associations such as *EconomieSuisse* ([Spescha 1999](#)). Archival evidence documents the pressure exerted by both domestic export-oriented and multinational companies and foreign multinationals on the Swiss government: in 1990, in an alarmed letter to the Federal Councillor in charge of economic affairs, BIGA's vice director reports of US multinationals' concern that Switzerland is becoming less attractive due in part to its labour market restrictions. Multinational companies allegedly threatened to leave Switzerland if it did not grant them the same conditions as the European Community ([Kind 1990](#): 2).

Meanwhile, as the negotiations were still ongoing for the GATS, Switzerland adapted its rules for business migrants on the national level by first introducing specific rules for ICT in the labour immigration ordinance (OARE) in 1990. Further modifications in 1992 and 1993 exempted ICT from the priority rule for domestically employed workers. This shows how the willingness to open up channels for business migration contributed to domestic rule-making even before international commitments came into force at the level of the GATS.

These new rules were instrumental in creating important exceptions in an otherwise hardening regulatory environment for non-EU labour migrants: in a 1991 report which proposed to limit labour immigration to EU/EFTA nationals and, in a second 'circle', citizens from Australia, Canada, and the USA, the Federal Council also stressed its 'will to free global trade, and especially trade in services, of inhibiting barriers' and grant exceptions to the restrictive policies applied to a third circle for highly qualified specialists from beyond these countries such as the types of persons who were subject to the GATS negotiations ([Bundesrat 1991](#): 302). The cautious formulation that 'such exceptions are also occasionally laid down in multilateral agreements' ([Bundesrat 1991](#): 303) shows again that the government was anticipating international commitments on what became 'mode 4' before such commitments were agreed upon. The changes in law and the accompanying rhetoric are remarkable not only because they illustrate the change in orientation towards the needs of an internationalized Swiss economy, but also because they show how such change was not driven purely by international pressure but actively shaped by the Swiss administration in close consultation with employer associations.

The quiet politics mode also applies to the practice of admission: generally speaking, labour immigration from outside the EU is a politically sensitive topic where the government and federal authorities are eager to project state control over immigration flows, including through the instrument of quotas ([Hercog and Sandoz 2018](#)). At the level of implementation, however, cantonal immigration authorities, who are in charge of processing residence and work permit applications, are often part of the cantonal department for the economy, and retaining major and often multinational companies is an important goal of cantonal administrations. As a result, '[r]eassuring major companies that sufficient numbers of permits will be available is one of the office's important tasks' (*ibid.* p. 10). Because the authorities need to 'be economical' when issuing limited quotas, they are more likely to

favour applications by large companies who are economically important and have the resources to navigate the immigration process.

Taken together, we can conclude that there is indeed a sharp contrast between the highly politicized politics of labour immigration and the largely quiet politics of business migration. The Swiss government is adamant in presenting its immigration policy ‘as restrictive as possible’ (Hercog and Sandoz 2018: 14), but leaves considerable leeway to the cantonal authorities to attract migrants, hence the political influence, economic importance, and financial means of the large multinational firms who are more likely to bring in business migrants (Fig. A4; Alvarado et al., 2025) become decisive factors in deciding who can get the limited spots for migration permits in Switzerland.

7.2.2 Political consensus

The second politics feature that we expect to find for business migration but significantly less for traditional labour migration is a consensual approach among the political elite. The tension of the liberal paradox can only be avoided if political contestation remains low. The main anti-immigrant party, the SVP, plays a pivotal role rallying against ‘mass immigration’ and the free movement of people with the European Union. However, its party manifesto—arguably much less visible than popular initiatives and the accompanying, often sensational anti-immigration campaigns—displays a more nuanced position towards labour migration: The SVP does not voice opposition to migration in general, but rather to specific forms of migration (SVP 2023). The party recognizes that Switzerland’s economy requires migrant workers, but opposes policies that they see as giving up control over who can come to Switzerland, such as the freedom of movement with EU/EFTA countries. Even more explicitly, their 2019–23 party program squarely endorses business migration when it states: ‘*Companies with international activities need to be able to bring the best specialists to Switzerland to meet global competition. (...) However, (...) thanks to the free movement of people, any EU national can immigrate to Switzerland regardless of his or her professional qualifications*’. This suggests approval of the immigration regime for third-country nationals, which allows a greater notion of bureaucratic control and immigrant selection. In fact, according to SVP official documents, the party has a very specific idea of what ‘the right kinds of immigrants’ are: they must be coming for the purpose of work (as opposed to family reunification or asylum), they must be highly-qualified and thus add value to the economy, and they must leave once their contracts end (as opposed to remaining on a permanent basis and accessing social benefits including unemployment insurance). These are precisely the characteristics exhibited by business migrants. Accordingly, a 2014 public document reviewing the different immigration categories proposes that the group to which business migrants belong to should be the largest immigration contingent (SVP 2014). Therefore, while there is a strong debate over immigration, business migrants are the least contentious types of immigrants in the sense that everyone—including the anti-immigration SVP—supports this form of migration.

Finally, business migration also seems immune to the otherwise strong aversion voiced by the SVP against international and European interference with domestic politics. An illustrative case in point is the parliamentary debate in 2014 regarding the compatibility of the ‘initiative against mass immigration’ with the free trade agreement with China. While the accepted initiative requires all immigration to be subjected to quota, the free trade agreement explicitly excludes quantitative restrictions for ICT and CSS. Seized by a parliamentary motion, the minister in charge Karin Keller-Sutter stated that the question of quotas does not apply to business migrants as part of the PTAs because it is a specific group of people that only stay for a limited time in the country—even though the immigration regulations do not provide for a quota exemption based on international commitments (Ständerat 2014). The otherwise anti-immigration SVP did not request to even discuss this and agreed that trade commitments and

immigration are two different things that should be treated separately, confirming the unwillingness to politicize business migration.¹¹

8. Conclusion

This article has introduced business migration as a new ‘market model’ in immigration policy-making of liberal democracies that helps to escape the increasing tension between economic labour needs and political restriction demands, that is, the liberal paradox. We identify four distinct features of the policies and politics behind business migration that distinguish it from traditional labour migration and help to reduce the political costs of immigrant admission by implementing policies that maximize the factor labour and minimize the human footprint (Hayes and Novitz 2013). Studying the case of Switzerland—a most likely case of the liberal paradox with a highly globalized economy and strong domestic contestation of immigration—we show that business migration incorporates the policy and politics features associated with the market model of immigration policy particularly well. Switzerland has quietly opened up to business migration, which has become an important part of its labour immigration from outside the EU/EFTA states. Admission of business migrants is practically always temporary and comes with a limited set of rights. These policies hardly ever end up in the arena of immigration politics as there is an elite consensus on the desirability of these immigrants. This shows that the tensions of the liberal paradox are not confined to low-skilled immigration as commonly assumed in the literature, and that the concept of a ‘market model’ also expands to high-skilled immigration. This allows for the attraction of migrants from both ends of the skill spectrum in contexts where the open promotion of even highly skilled immigration is seen as politically undesirable (Hercog and Sandoz 2018: 508). As such, business migration shifts the responsibility—and opportunity—to promote immigration opportunities to multinational companies and investment promotion agencies (Sandoz 2019: 98).

While our analysis corroborates and even expands the notion of the market model in liberal democracies’ immigration policies, it also qualifies the importance of this change and—herewith—the hypothesis of a liberal convergence. The case of Switzerland shows in the longitudinal perspective the continuity between the features supporting the market model from ‘guest workers’ to highly skilled business migrants. Temporary admissions, limited rights, quiet politics by executive policy-making and via corporatist ties linked to a political consensus turn out to be long-term recipes allowing liberal democracies to navigate the liberal paradox. Qualifying the extent of change associated to the alleged advance of a market model of immigration policy, these findings also have implications for current research addressing the liberal paradox in other world regions (Adamson, Chung, and Hollifield 2023). While a recent global analysis of immigrant social rights states ‘some evidence for a trend of convergence’, with other world regions gradually moving towards more inclusive policies (Römer *et al.*, 2023: 16), our analysis suggests that this trend may be more differentiated, perhaps promoting social and economic rights for some, while maintaining exclusionary policies for many—including migrants usually seen as highly desirable.

Supplementary data

Supplementary data is available at *Migration Studies Journal* online.

Conflicts of interest

The authors declare that they have no competing interests.

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Notes

1. Note that significant labour immigration between European countries is realised through the free movement of persons. In Switzerland this is the case for the majority of labour immigrants.
2. CJEU, Case C-113/89, *Rush Portuguesa Ld v Office national d’immigration*, 27 March 1990, emphasis added.
3. The four modes of service delivery under the GATS are mode 1: cross-border supply; mode 2: consumption abroad; mode 3: commercial presence; and mode 4: presence of natural persons.
4. See Annex on Natural Persons at https://www.wto.org/english/tratop_e/serv_e/8-anmvt_e.htm
5. The original wording in German is ‘Die Bewilligungsbehörden haben bei ihren Entscheidungen die geistigen und wirtschaftlichen Interessen sowie den Grad der Überfremdung des Landes zu berücksichtigen’.
6. While business migrants represent a large share of third-country labour migrants (between 31 per cent and 48 per cent of annual stays between 2015 and 2021 according to STATPOP data), it must be noted that third-country labour migrants represent a small percentage of labour migrants in Switzerland, who mainly come from EU and EFTA countries. For example, in 2022, approximately 79,500 EU and EFTA citizens immigrated to Switzerland for work reasons, compared to only approximately 4,500 third country citizens (SEM 2023: 11)
7. On the other hand, there are some specific rules for posted workers to prevent unfair competition and wage dumping, namely that the employer has to cover the expenses related to the posting and that the salary and working conditions need to be equivalent to locally hired employees in similar positions (Art. 22 FNIA).
8. Note that ‘posted’ here has a different meaning than in the literature on the EU where it refers mainly to CSSs. In the Swiss case it encompasses both ICTs and CSSs.
9. The notable drop in federal quota between 2014 and 2015 seems to be a result of the 2014 Mass Migration Initiative, even though the purpose of that vote was to limit migration among EU/EFTA nationals and was therefore not directly related to third-country quotas.
10. This dataset, which is at the individual-year level, includes only third-country migrants who are coded as workers at least one year and codes as posted those individuals who were posted workers for at least one year.
11. <https://www.parlament.ch/de/ratsbetrieb/amtliches-bulletin/amtliches-bulletin-die-verhandlungen?SubjectId=29010> (accessed 04 January 2024) (see third statement by Toni Brunner).

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