

# Free Movement of Workers within the Single European Market

## Unequal Equal Pay Policies

Swiss German Swiss comparisons across gender and ethnicity

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# Introduction

**Why are the Swiss equal pay policies for migrant workers more effective compared to those for women in Switzerland and migrants in Germany?**

## Research design

## Implementation of equal pay policies

DE: German and EU posted workers act (1996-)

CH: Gender Equality Act (1996-)

CH: “Accompanying measures” to EU/CH agreements on the free movement of workers (1999-)

## Comparative analysis

# The puzzle

Equal pay for natives and foreigners

**DE: Ineffective *collective agreements* –  
*lower legal minimum wages***

**CH: Enforceable collective agreements**

**Wage controls in 35,000 companies (2010)**

Equal pay for men and women

**CH: Ineffective equal pay legislation**

**Less than 100 individual cases (2010)**

# Factors that may explain variations in the implementation of equal pay policies

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**Political support for equal pay policies**  
(population, parliament, government)

**Role played by interest politics** (employer organizations, trade unions, NGOs)

**Regulatory strategy** (state centered liberal vs. corporatist implementation methods)

**Framing of equal pay policy** (anti-discrimination vs. anti-social dumping discourse)

# Our cases

## A 'most similar systems research design'

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### Implementation of German equal pay policies

1. Ethnicity: **Lacking extension of collective agreements German and EU posted workers act (1996-)**

### Implementation of Swiss equal pay policies

2. Gender: **Gender Equality Act (1996-)**
3. Ethnicity: **'Accompanying measures' to EU/CH agreements on the free movement of workers (1999-)**

# **Accompanying measures to bilateral EU/CH agreements on the free movement of workers**

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## **Political origins**

2000: Bilateral EU/CH agreements (...) on the free movement of workers (67.3% yes-vote)

2005: Extension of the EU/CH agreement on the free movement of workers to EU 8 (56 % yes-vote)

2009: Extension of the EU/CH agreement on the free movement of workers to Bulgaria and Romania (59.6% yes-vote)

-> Political support for equal pay policies was high

# Accompanying measures to bilateral EU/CH agreements on the free movement of workers

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## Role Played by Interest Organizations:

**Trade unions:** effective use of exchange power

**Employers organizations:** more or less reluctant  
acceptance of the acts

**NGO's:** weak role of migrant rights groups

-> **Presence of a corporatist policy network  
that could play a role in the act's  
implementation**

# **Accompanying measures to bilateral EU/CH agreements on the free movement of workers**

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**Regulatory strategy:**

**Corporatist implementation method supported by  
statutory instruments:**

- facilitated extension of collective agreements;**
- enactment of standard labour contracts with  
minimum wages in non-unionized sectors;**
- tripartite commissions at federal and cantonal  
level to police the labour market (without using  
the police or the court system).**



# **Accompanying measures to bilateral EU/CH agreements on the free movement of workers**

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## **Framing of equal pay policy:**

**The Swiss gender equality policy debate is framed in terms of a “anti-social dumping” discourse.**

**This triggered the successful enactment of the accompanying measures but also explains the presence of an effective corporatist implementation network**

	<i>DE Equal pay for migrants</i>	<i>CH Gender Equality Act</i>	<i>CH Flanking Measures</i>
Low/High EFFECTIVNESS	0	0	1
Political Support			
- Population	1	1	1
- Parliament/Government	1	1	1
Interest group /NGO support			
- Trade union	1	1	1
- Employer associations	0/1	0	1
- Women/migrant NGOs	0	1	0
Regulatory strategy			
- Liberal (Police & Courts centred)	1	1	0
- Corporatist	0	0	1
Framing of equal pay policy			
- Anti-discrimination	0	1	0
- Anti-social dumping	1	0	1

# Conclusion

## Limits of the rights-based anti-discrimination discourse

### **Equal pay policy dilemma:**

Employer support for equal pay policies is crucial  
Employers don't like to pay higher wages

### **A solution for this dilemma:**

Employers like their competitors to pay higher wages

See the origin of EU's equal pay Article 157 TFEU  
(Article 119 Treaty of Rome of 1957)

# Conclusion

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**Limits of the courts / police based equal pay regimes**

**Equal pay policy dilemma:**

Migrant workers support for equal pay policies is crucial

Liberal equal pay regimes aren't protecting them

**A solution for this dilemma:**

Corporatist implementation regimes that protect the anonymity  
of the workers concerned

## **PS: Will the Swiss accompanying measures have a future?**

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**There is a point at which the regulatory costs of further ‘illiberal’ flanking measures for businesses exceed the benefits from the bilateral agreements with the EU (FDP President P. Müller 2014).**

**<http://www.social-europe.eu/2014/03/explain-swiss-vote-free-movement-workers-european-union/>**

## Das UNIA-Rezept für mehr Armut:



**Mindestlöhne führen zu Arbeitslosigkeit – ohne Arbeit ist die Gefahr von Armut massiv höher. Nein zu diesem Eigengoal.**

# **NEIN** zur Mindestlohn-Initiative!

If one assesses the 1930s-style "hooknose" caricature of Switzerland's biggest trade union (UNIA) by the FDP, the prospects of shared solutions to the equal pay problem seem to be rather grim