

White Paper

# Flexibility and Social Partnership

Key characteristics  
of a liberal labor market



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## Introduction

Switzerland's liberal labor market is a model of success: it is the core of Switzerland's competitive ability and serves as a guarantee of long-term low unemployment. From an international point of view, the liberal labor market and the extensive social system are an accomplishment that combines the advantages of the American and European economic systems. Recently, the liberal labor market has been under increasing pressure in politics and the media. Lower unemployment rates in Germany and the USA are gnawing at trust in the current system. The social desire to reduce migration has resulted in regulations that are supposed to control labor market results in the name of "domestic potential." Numerous actors are using this political moment to push through measures such as minimum wages in the cantons, an expansion of termination protection, and a restriction of temporary staffing – measures that until recently wouldn't have had a chance in Switzerland, which is characterized by the liberal social partnership. The implementation of such measures conceals more threats than opportunities. With labor market participation of 84.2%, Switzerland is number 2 among the OECD countries and therefore is already exploiting domestic potential better than nearly any other nation. The risk of reducing the efficiency of the labor market with well-intentioned state interventions and gutting the principle of the liberal labor market in the long term is high.

Switzerland's liberal labor market is frequently undefined for advocates and opponents alike. swisstafing, the association of staffing service providers, closes the gap with a company survey of nearly 700 Swiss HR managers. The conclusion of the survey, which was conducted by the opinion and social research institute gfs-zürich:

*Flexibility and a functioning social partnership are the key characteristics of the liberal labor market.*

A reason to take a closer look. Using the example of temporary staffing, this white paper will demonstrate how flexibility creates good labor market results and how concrete attempts at restriction threaten the liberal labor market.

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## Staffing service providers take a stand

swisstafing advocates for a liberal labor market, social acceptance of flexible work, and a fair social partnership.

### **Maintenance of the flexible labor market is crucial for the business location Switzerland because:**

- liberal solutions level the path back for people outside the labor market
- flexibility on the labor market reinforces international competitive ability
- the proportion of underground economy is kept low

### **Decisive for a liberal labor market:**

- flexible working time arrangements and the availability of flexible forms of work
- few regulations and a slim digital bureaucracy
- clear primacy of the social partnership as opposed to legal regulations

### **Three opportunities to strengthen the business location Switzerland:**

- the return to a fair social partnership that does justice to company- and industry-specific challenges
- a sustainable economic and educational system that trains the required skilled employees, enables life-long learning, and encourages inclusion
- maintenance of the bilateral path and free movement of people

### **Two dangers for the business location Switzerland:**

- restriction of the free determination of wages due to (canton-specific) minimum wages
- the erection of entry barriers to the labor market, for example through increased termination protection

## What's important for companies

How do Swiss companies regard the liberal labor market? On behalf of swissstaffing, the opinion and social research institute gfs-zürich investigated this, surveying nearly 700 Swiss HR managers. The message is clear. The liberal labor market rests on three pillars: the availability of flexible forms of work, the flexible design of working hours, and a social partnership that works well. 82% of the HR managers regard these are important characteristics of a liberal labor market. The satisfaction rates are much lower. Every second person surveyed is satisfied or very satisfied with the way the three most important labor market characteristics are implemented. The strong deviation between significance and satisfaction indicates that the supposedly flexible Swiss labor market is regarded skeptically from companies' point of view.

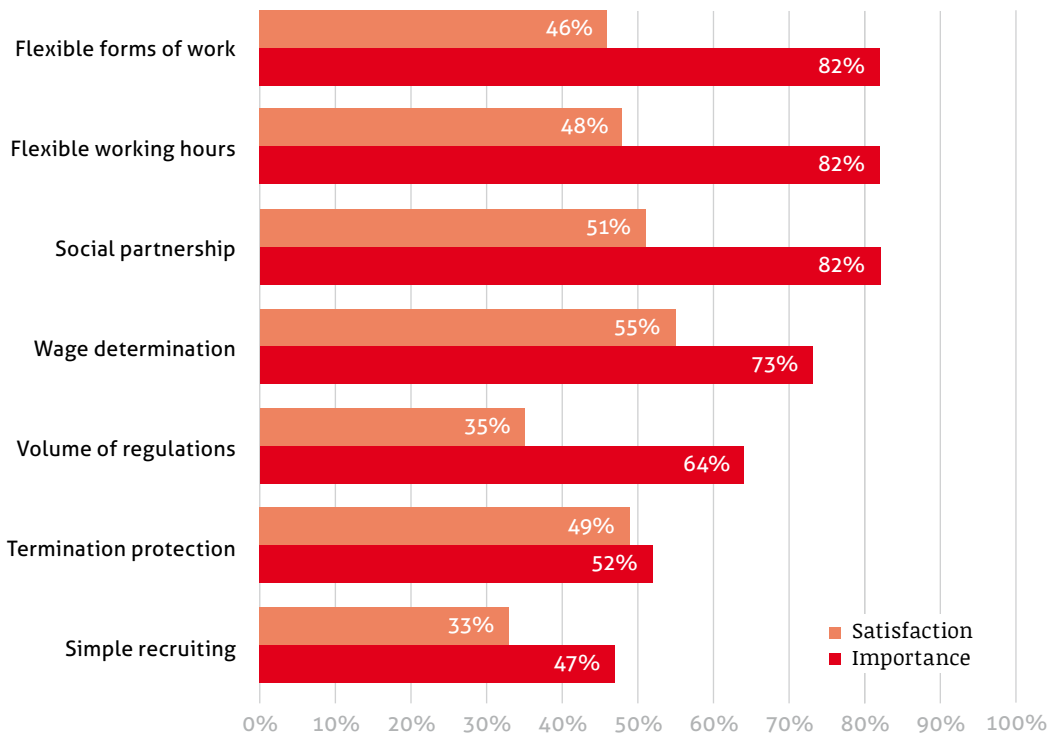
A glance at the employment mix suggests why flexibility enjoys such great importance in the economy. According to figures from HR managers, on average one-quarter of the work done is not performed by permanent employees, but rather by

freelancers, temporary employees or employees with time-limited employment contracts. The employment of these flexworkers is crucial for the companies in order to be able to react to order fluctuations, minimize permanent employees' overtime hours, and incorporate experts for projects. Flexibility cannot just be achieved with flexible forms of work, but also with a flexible internal design of working hours. 74% of companies already have working time accounts.

*“As a large international company, flexibility in various respects is a decisive location advantage for us,”*

confirms Corinna Grünig, Head Employee Relations Switzerland at Novartis. “Thanks to our working time models such as flextime, WLB, part-time, and teleworking, we are in a position to offer our employees an excellent work-life-balance and at the same time, the company can handle sudden order peaks. Flexible forms of work such as

**Figure 1: Significance of and satisfaction with various labor market characteristics from the companies' point of view**



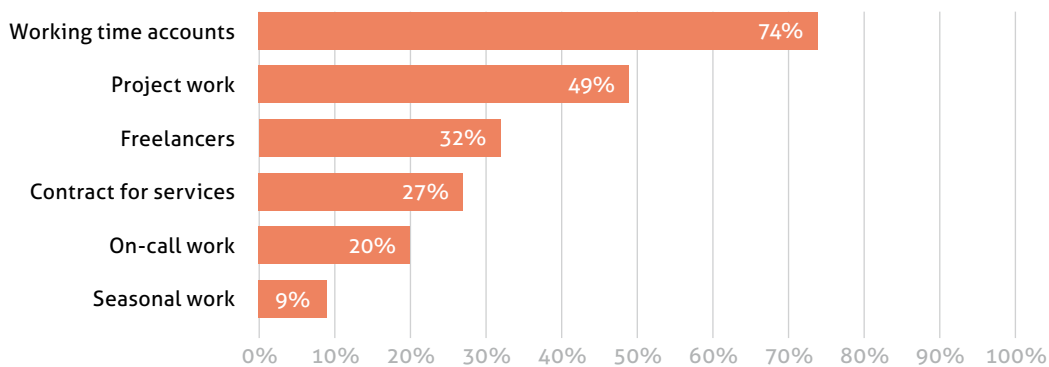
**Note:** The table shows the percentage of companies that regard the respective labor market characteristic as important and are satisfied with it. The companies' HR managers could evaluate each characteristic on a scale from 1 “not important at all/satisfied” to 5 “very important/satisfied.” For calculation of the percentage values, the scale values 4 and 5 were combined. An evaluation produced no significant differences between customers and non-customers of temporary staffing companies.

Observations: 627 to 687.

Source: swissstaffing, gfs-zürich, 2019.

temporary staffing are an important part of our agility and also help us acquire skilled employees.”

**Figure 2: Use of selected forms of flexible work by companies**



**Note:** The figure shows the percentage of companies that use the respective possibilities for flexible work. Because the survey was conducted based in part on staffing service providers' customer lists, the percentage of companies that use temporary staffing as a work form is not representative and therefore not included in the graphic. The share of these was 64%.

Observations: 664.

Source: swissstaffing, gfs-zürich, 2019.

**Table 1: Share of permanently employed personnel in the total work performed by industry**

	1st quartile	Average value	Median	3rd quartile	Standard deviation
Construction	70%	73%	80%	90%	25%
Service sector	70%	78%	85%	95%	24%
Industry	75%	82%	89%	95%	16%

**Note:** The table shows the share of permanently employed personnel by industry.

Observations: 645.

Source: swissstaffing, gfs-zürich, 2019.

*The HR managers regard a functioning social partnership as being just as important as flexible work.*

This confirms the broad anchoring of the social partnership in the Swiss economy. As the survey shows, those surveyed distinguish between the system of social partnership as pillar of the Swiss labor market and satisfaction with their own *Gesamtarbeitsvertrag* [Collective Bargaining Agreement (CBA)], even if there is a certain relationship between these. Companies that are satisfied with their own CBAs

are supporting the social partnership. More than 90% regard it as an important pillar of a liberal labor market. However, at nearly 70%, the social partnership is also accepted among those companies who have a neutral opinion of their CBAs or who are dissatisfied with them.

Given the broad support for the institution of social partnership, the low satisfaction ratings are surprising with an eye to established practice. It is hardly surprising that companies that have a neutral opinion of their own CBAs or are dissatisfied with them also quarrel with the system of social partnership. However, that just 62% of the companies that are satisfied with their CBAs translate this satisfaction

to the entire system is astonishing. Companies without CBAs demonstrate a similar phenomenon: Although they regard the social partnership as important and are not affected by its rules, only 52% evaluate established practice as positive. The main reason for the low satisfaction may be the conflict-ridden social partnership that the labor unions have experienced since the middle of the 1990s: On the one hand, social partnership; on the other hand, simultaneous attempts at legal regulation. Thus far, this strategy has not threatened the acceptance of the social partnership. In the long term, however, the labor unions could go too far and

allow the basis for the social partnership to erode; the latest conflicts in the large CBAs due to legal regulation attempts are the first signs pointing in this direction. “We stand behind the CBA Staff Leasing” asserts Robin Gordon, CEO of the Interiman Group and negotiator at swissstaffing. “However, I am very worried about the simultaneous restriction attempts from the employee side. Many members are coming to me and asking to what extent the CBA still represents a real partnership and why in the case of legal industry regulation they should continue to support it.”

**Table 2: Significance of and satisfaction with various labor market characteristics according to CBA control and satisfaction with the company's own CBA**

	Without CBA 39%*		Neutral or dissatisfied with CBA 28%*		Satisfied with CBA 33%*	
Flexible forms of work	82%	43%	81%	36%	84%	57%
Flexible working hours	84%	47%	81%	39%	82%	59%
Social partnership	82%	51%	69%	35%	91%	62%
Wage determination	76%	62%	77%	40%	64%	58%
Volume of regulations	74%	31%	59%	35%	61%	46%
Termination protection	54%	52%	46%	41%	55%	59%
Simple recruiting	52%	32%	40%	27%	49%	39%

■ Importance ■ Satisfaction

\* Percentage share of the companies surveyed

**Note:** The table shows the percentage of companies that regard the respective labor market characteristic as important and are satisfied with it, broken down by CBA situation and CBA satisfaction. The HR managers at the companies could rate each characteristic on a scale of 1 “not important at all/satisfied” to 5 “very important/satisfied.” For calculation of the percentage values, the scale values 4 and 5 were combined. An evaluation produced no significant differences between customers and non-customers of temporary staffing companies.

Observations: 627 to 687.

Source: swissstaffing, gfs-zürich, 2019.

The HR managers are especially dissatisfied with the volume of regulations (35%) and staff recruiting (33%). A glance at the free-form answers shows: dissatisfaction with the volume of regulations is due to numerous specifications, which only become a burden when combined. The spectrum ranges from legal regulations to contract design and work time recording to specifications for data protection and occupational safety, on through to the job reporting requirements and ever more complex CBAs. “Assuming the social responsibility as employer at all times is part of Coople’s corporate philosophy,” explains Yves Schneuwly, Managing Director of Coople.

“A successful labor market must, in our opinion, be in a position to unite the increasing demand for flexible work and social safeguards for the employees.”

“At the same time, the numerous rules for an online platform represent a special challenge. Each regulation must be implemented in our platform’s system and at the same time be compatible with an electronic marketplace in which temporary staffing relationships can be established in real time.”

Simple recruiting of employees is least important to the HR managers with a view to a liberal labor market. At the same time, they are most dissatisfied with the current situation in this area. Three causes may be responsible for this result. First, the recruiting process was recently regulated with the introduction of the job reporting requirement – with a wide-ranging need for adjustments on the company level. Second, up to the time of the survey, there was a lack of both skilled and unskilled employees due to the favorable economic situation. Third, a restriction of the freedom to move within the European Union has been hanging over the Swiss economy for years like the sword of Damocles. An elimination would further complicate hiring for numerous vacancies that can hardly be filled.

In most people's view, free wage determination and protection against termination are the core of the liberal labor market. Among the seven labor market characteristics, those surveyed attributed less significance to both aspects than to the social partnership and flexible forms of work and working hours. On the one hand, this is surprising.

*On the other hand, it is in particular the social partnership, the superior, institutional vessel with which companies and unions seek to resolve questions of wage determination and protection against termination as partners and jointly develop company- and industry-appropriate solutions.*

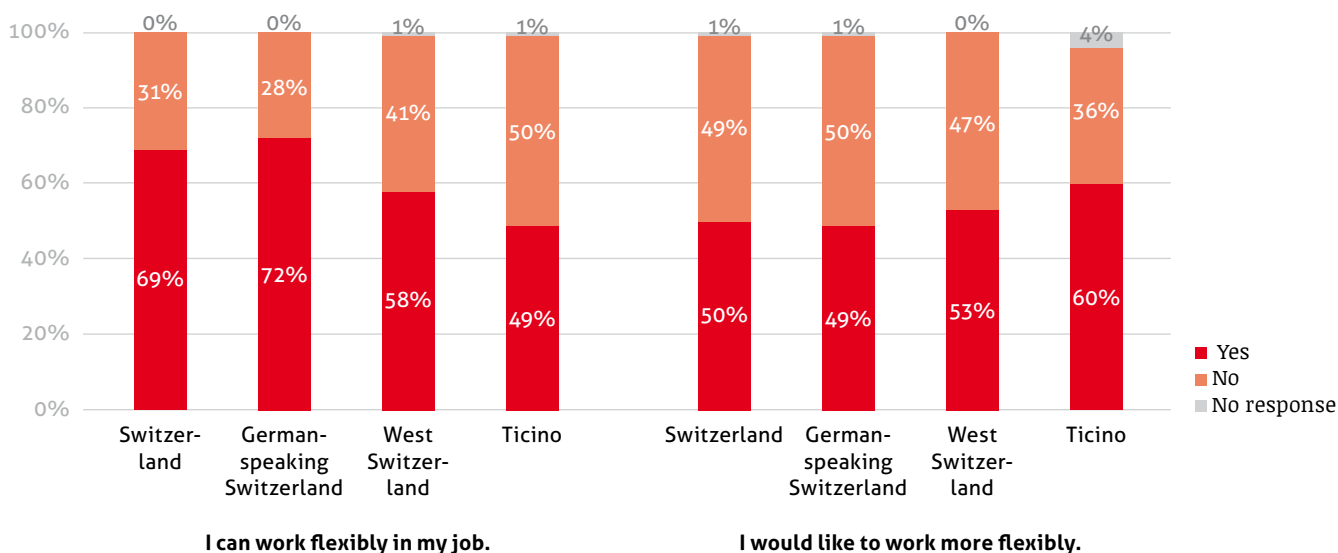


## Employee needs and promoter of integration

The need for flexibility is not a unilateral desire of the economy. A representative population survey by the gfs-zürich at the request of swissstaffing shows: Although nearly 70% of those employed say they can already work flexibly, every second person would like to have more flexibility in the workplace. There are big differences between the regions. While flexible work has become reality for most employees in German-speaking Switzerland, in Ticino, this is only the case for every other person. Therefore, it's no wonder that the desire for more flexibility in Ticino is the strongest, with a 60% share. "Whether specialists who are on their way to self-employment, employees who are striving for a

permanent position or just people with a great need for free time. Many of our employees are surprised at how much flexibility they can bring to their working lives with a temporary position," says Taco de Vries, CEO of Randstad Schweiz. "That's why a good work-life balance is one of the most important factors we can use to keep our employees." The recommendation rate, which was determined in a survey of 4000 temporary employees, confirms this. Two out of three temporary employees would strongly or very strongly recommend this form of work to a friend. Only one-third are skeptical according to the concept of the Net Promoter Scores for this form of work.

Figure 3: Flexible work as reflected in the population



**Note:** The table shows, by region, what percentage of those employed can work flexibly in their jobs according to their own statements and what percentage would like to work more flexibly. The results are based on a representative survey of the population administered to 1200 people.

Observations: 639.

Source: swissstaffing, gfs-zürich, 2019.

*Flexibility is not just a need, but also an important aid for integration into working life.*

This becomes clear with the example of temporary staffing if you look at the professional situation of older employees and unskilled workers. 24 months after the start of the temporary staffing phase, 56% of the temporary staffers who are younger than 50 have found a permanent position. Among the 50-year-olds,

the share is lower, at 43%, proof of the difficult labor market situation of older employees. The flexibility of temporary staffing helps close this gap. 83% of the younger temporary staffers are still working after 24 months, whether as permanent employees, self-employed, temporary staffers or term employees. Among older employees, the figure is 77%. Thus the 13% difference between younger and older employees is cut in half if you look only at permanent positions; it drops to 6% for comprehensive employment integration. The opportunities for permanent employment



**Table 3: Recommendation rate of temporary staffers and Net Promoter Score by industry**

	Scale values 1 to 6	Scale values 7&8	Scale values 9&10	Net Promoter Score
Construction	27%	22%	51%	24%
Service sector	32%	21%	47%	15%
Industry	35%	21%	44%	9%
Total	33%	21%	46%	13%

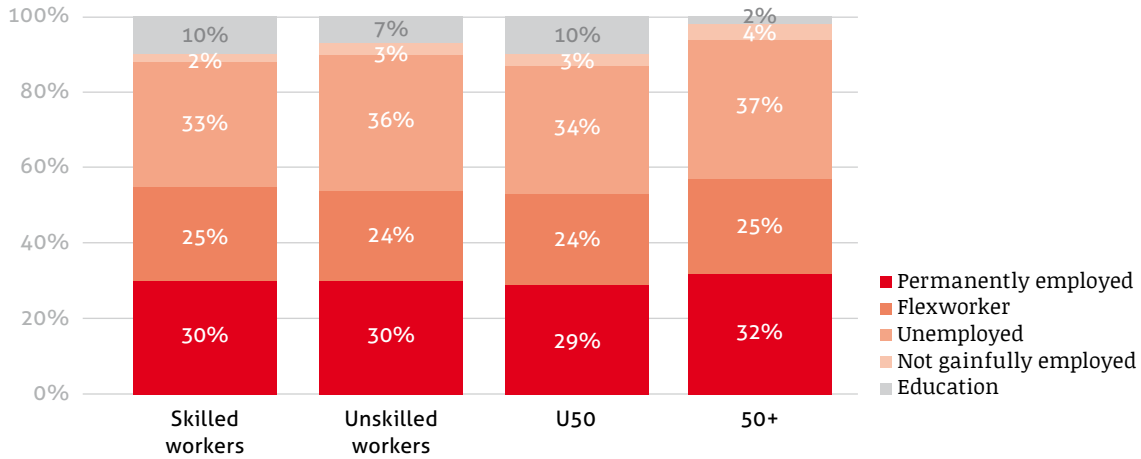
**Note:** The figure shows the share of temporary employees by industry, whether they would recommend temporary employment on a scale of 0 “highly unlikely” to 10 “highly likely” and the Net Promoter Score. Observations: 4081.

Source: swisstaffing, gfs-zürich, 2019.

for younger and older temporary staffers are highest and nearly identical if the change to temporary employment took place immediately after loss of the permanent position. Two causes are responsible for this: First, the quick job change is an expression of great marketability. If this is maintained, age plays no role on the labor market. Second, quick re-employment protects employees from the stigma of unemployment. Therefore, it is recommended that in case of job loss, employees should contact private staffing service providers immediately. Daniel Neugart, President of the association SAVE 50Plus Schweiz, is not surprised by these results:

*“Our members regularly find their way back onto the labor market via staffing service providers. Clearly, re-entry opportunities after a job loss exist with this form of employment.”*

**Figure 4: Professional situation of temporary staffers seeking permanent positions before starting temporary employment**

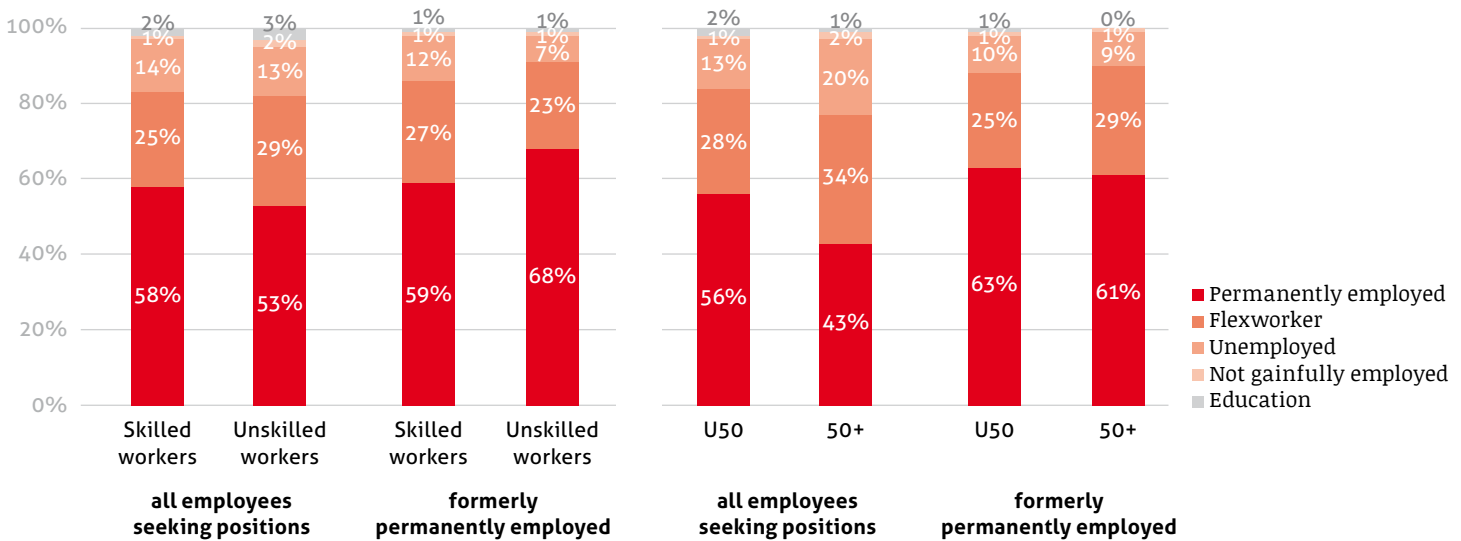


**Note:** The figure shows the employment situation of temporary employees before their last temporary work phase in 2017, broken down by age group and qualification. The category "flexworker" includes the self-employed, temporary employees, and limited term positions.

Observations: 2712.

swissstaffing, gfs-zürich, 2019.

**Figure 5: Professional situation of temporary staffers seeking permanent positions 24 months after start of temporary employment**



**Note:** The table shows the professional situation of employees 24 months after the start of their temporary employment. The "flexworker" category includes limited-term contracts, temporary work, and self-employment. The estimates rely on average partial effects, which were estimated based on a multinomial Logit model.

Observations: 1809.

swissstaffing, gfs-zürich, 2019.

That flexibility is a promoter of integration is also clear from the employment opportunities of skilled and unskilled workers: 24 months after the start of their temporary phase, unskilled workers have found permanent positions less often than skilled employees. For integration into working life, however, their chances are equal. The quick change from a permanent position to a temporary position increases the labor market opportunities of unskilled workers significantly. If they remain on the labor market

without interruption, 68% of these temporary employees have found another permanent position after 24 months. The labor market integration is 91% if you consider the self-employed, temporary work, and limited-term contracts in addition to permanent positions. This shows: Quick contact with a temporary office is especially important for unskilled workers. For skilled workers, there is no such effect. Their qualification is the stronger labor market signal than consistent employment integration.



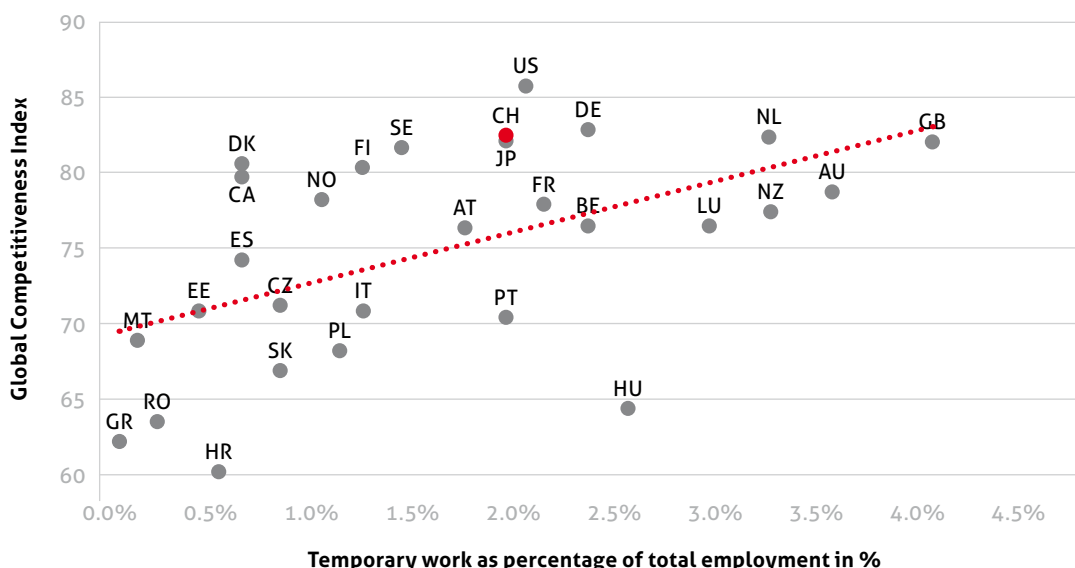
## An international comparison of liberal labor markets

The positive influence of liberal labor markets can also be demonstrated internationally. The share of temporary staffing of total employment will be used below as an indicator of the liberal nature of a labor market. Two aspects speak for this unusual approach: First, Lampart and Bühler (2019) demonstrate for the Swiss Federation of Trade Unions that with increasing regulation of flexible work forms, the share of temporary work of total work declines. Thus, the share of temporary work is also an expression of the general labor market regulation in a country. Second, restrictions on temporary work do not occur accidentally. Frequently, this is the result of symbolic politics

with which governments believe they can regulate a small, presumably insignificant part of the labor market without causing greater economic damage.

*Thus, the share of temporary employment becomes an indicator of the political institutions and the social mindset in a country.*

Figure 6: Competitive ability and temporary work as percentage of total employment



**Note:** The table shows the relationship between the Global Competitiveness Index of the World Economic Forum and the percentage of temporary work in a country.

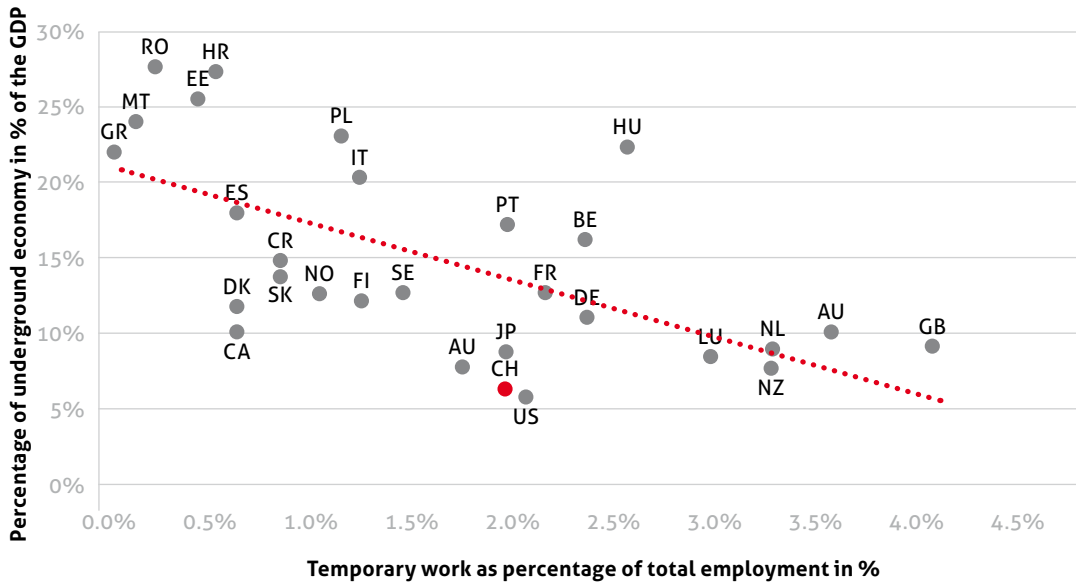
Source: WEF, WEC, 2019.

The international comparison shows: Liberally designed labor markets strengthen a country's competitive ability.

*The higher the share of temporary work in an economy, the more competitive it is on average according to the World Competitiveness Index of the World Economic Forum.*

Second, liberal labor markets limit the scope of a country's underground economy. If the percentage of temporary work increases by one percent in international comparison, the percentage of the informal sector of gross domestic product drops by 3.5 percentage points. Clearly, modest labor market regulation can even make illegal work legal again. The positive influence on competitive capability and the underground economy indicate the significance of flexible labor market solutions for successful economies.

**Figure 7: Underground economy and temporary work as percentage of total employment**



**Note:** The table shows the relationship between the percentage of a country's underground economy as % of gross domestic product and the percentage of temporary work in a country.

Source: Schneider, WEC, 2016, 2019.



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## The liberal labor market from the legal point of view

From the legal point of view, the recipe for success of Switzerland's liberal labor market is the social partnership. The Swiss Federal Constitution guarantees that the state will only intervene in the labor market if social partnership solutions are not possible. For decades, employers and employees have regulated company- and industry-specific working conditions in their companies, their industries, and their economic sectors, hardly influenced by state interventions. The compromises made are custom-tailored, pragmatic, and if necessary, consider the individual needs of the contracting parties.

*The success model of the social partnership is currently being threatened by legal initiatives on the federal and cantonal levels – with the risk of limiting its efficiency and its area of influence.*

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## Economic freedom – the basis of our economic system

The basis for the liberal labor market as a legal system is Article 27 of the Swiss Federal Constitution, which guarantees the basic principles of economic freedom, especially free selection of profession, free access to private economic employment, and its free exercise. Frequently this freedom is regarded solely from the employer's perspective: Own responsibility, free trade, free selection of means of production, and free setting of the hiring conditions. These entrepreneurial freedoms find their limitation in legal, fair competition. Economic

freedom also provides employees with the protection of the Swiss Federal Constitution. It guarantees them free access to the labor market and allows them to exercise their professional activity according to their personal priorities. The employee can choose how he will work: Full-time or part-time, as a primary or secondary occupation, for a limited or unlimited term. Economic freedom is the basis of Switzerland's liberal labor market, with the employer's entrepreneurial initiative and free exercise of profession by the employee as its central pillars.

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## Social partnership and the tripartite system

The social partnership is an effective instrument of the Swiss economic system that combines the principle of economic freedom with a socially responsible economy.

*For more than 100 years,  
the social partnership  
has guaranteed social peace.*

Its primary expression is the conclusion of Collective CBAs can be concluded both on the company level or on the industry level (OR, Articles 346-358). In them, employers and employee associations regulate jointly the provisions for the conclusion, content, and termination of work relationships, thus specifying jointly and in binding fashion the contract conditions for

the employees. These include minimum wages and normal working hours.

The declaration of general applicability of CBAs is regulated by federal law via the *Allgemeinverbindlicherklärung von Gesamtarbeitsverträgen* (AVEG) [Declaration of General Applicability of Collective Employment Agreements]. Thus, the social partners can specify uniform minimum standards for hiring employees for an entire industry, always taking into consideration particularities such as the regional context and the company's size. This instrument makes it possible to declare the social partnership solutions found for an entire industry with a neutral state decision. Such a resolution is tied to particular conditions, especially adherence to the majority principle. According to this principle, both the

majority of employees and the majority of employers must be united under the umbrella of the CBA. Furthermore, equality and legality before the law must be ensured, as must pure competition to defend the working conditions gained. The geographic scope of the declaration of general applicability can refer to Switzerland as a whole, to one or more cantons or to an area or a city. Currently, the Federal Council has approved the Declaration of General Applicability of 47 CBAs on the national level and another 28 cantonal CBAs on the federal level.

*Therefore in total, approximately 70,000 employers and 960,000 employees are subject to the CBA system.*

The social partnership has developed dynamically in the staffing industry in recent years. An individual CBA declared generally binding has existed in the industry for more than 7 years. In 2018, it regulated the working conditions of more than 400,000 temporary staffers. It is the first and only CBA that regulates working conditions for employees in the area of flexible work (flexworkers). In addition, for 25 years, Swiss staffing companies have applied the other CBAs declared binding in Switzerland (AVG, Article 20, Para. 1). In the Swiss CBA environment, the staffing industry thus takes on an important double function: On the one hand, it plays an active role in the negotiation, conclusion, and renewal of the largest CBA declared binding in Switzerland; on the other hand, as promoter for the enforcement of the other CBAs declared binding with regard to wages and working hours. The system of social partnership in Switzerland has

been developed carefully in accordance with the free movement of people. With Articles 360a and 360b of the OR introduced in 2004, in addition to a multitude of social partnership-related and state-political measures, a new supervisory authority was created, the so-called tripartite commissions. These commissions, which exist on the federal and cantonal levels, include members from the employer and employee sides, as well as representatives of the state. The commissions' task is to monitor the labor market. If improper and repeated violations of wage conditions are determined and if no CBA exists with provisions about minimum wages that can be declared generally binding, then the federal or cantonal government can, at the behest of the tripartite commission, pass a limited-term *Normalarbeitsvertrag* (NAV) [Standard Employment Agreement] that provides minimum wages.

## Legal minimum wages – an intervention into economic freedom

However, the sophisticated interplay between social partnership and tripartite commission seems not to be enough for some cantons. The cantons of Neuchâtel and Jura recently passed a legal minimum wage and the Ticino electorate has also taken up a corresponding popular initiative.

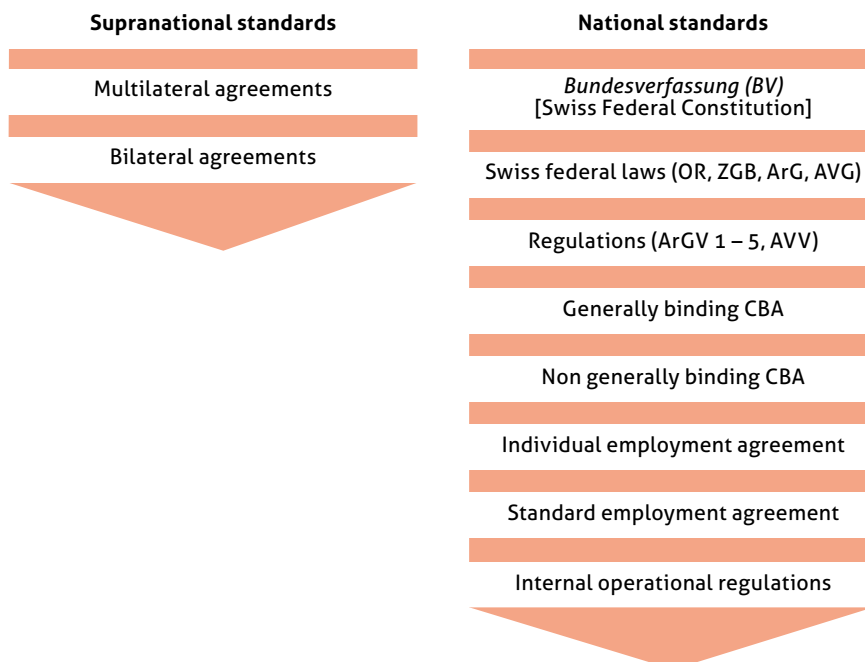
*However, a state-specified legal minimum wage disturbs the principle of the social partnership and lames its flexibility.*

The introduction of the minimum wage in the canton of Neuchâtel is a prime example of this situation. The application modalities of the minimum wage in Neuchâtel do not consider the wages specified in the CBA and override it with the legally specified minimum wage. In contrast to this, the minimum wage in the canton of Jura considers the applicable CBA minimum wages, regardless of whether or not these have been declared generally binding. The same applies for NAV with binding minimum wage. In Ticino, the implementation has not yet gone into effect, but some basic principles for the practical implementation have already been specified. As in the canton of Jura, the legal minimum wage may not be applied if there is a specified salary in the CBA.

Given these local initiatives that act in conflict with the social partnership, member of the Council of States Isidor Baumann submitted a motion to the Federal Parliament in Fall 2018 in order to strengthen this proven instrument. His goal was to restore the primary status of the CBAs declared generally binding as opposed to economic and political measures by the cantons – without completely eliminating cantonal minimum wages. With a change of the AVEG, a CBA declared generally binding would take precedence over cantonal law.

The line of attack of this motion would be still correct. Unilateral cantonal measures work around the provisions of the CBAs declared generally binding and devalue the corresponding resolutions of the Federal Council. Thus on the one hand, complex CBAs that have developed historically are upset, increasing the danger that ever more social partners must forgo CBAs and making the negotiation of existing CBAs more difficult. In an extreme case, this could even mean the end of the social partnership. On the other hand, such advances cause a fragmentation of labor market regulation in Switzerland.

Figure 8: Hierarchy of the legal standards in Swiss labor law





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## Increased termination protection

The legal order to which employment agreements in Switzerland are subjected is primarily anchored in Articles 319ff of the *Obligationenrecht (OR)* [Swiss Code of Obligations] and the *Arbeitsgesetz (ArG)* [Employment Act] and its regulations. It is frequently cited as a balanced regulation model: a liberal model that at the same time includes employee-friendly protection measures. Thus, for example, the termination of employment agreements, which is regulated flexibly in Articles 335 ff. OR about the ending of employment relationships, in addition to Article 336c OR, which protects employees against premature termination by the employer in case of illness,

accident, pregnancy or mandatory military service. Luckily, a first motion submitted in 2015 with the goal of creating a legal basis for protecting employees over 50 failed. It's true that older employees need more time after they are let go to re-orient themselves on the labor market. However, the introduction of greater termination protection, in contrast to the actual intention, would represent an additional hurdle for the re-entry of older employees into the labor market.

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## Current intentions to restrict temporary staffing

The attacks on the liberal labor market are not restricted to minimum wages and termination protection. On the cantonal level, there are also attempts to restrict temporary staffing as a form of employment. Whether prohibitions, quotas or the introduction of a special requirement to report jobs: all of these measures are aimed at making staffing service providers' work more difficult. With such measures, the state is disturbing the activities of staffing service providers and not behaving neutrally toward different forms of employment. Temporary staffing relationships, in comparison to other forms of flexible work such as work with a time-limited employment agreement, work as freelancer, on-call work or as subcontractor, are especially disadvantaged, and this although temporary employees are specially protected by the CBA Staff Leasing.

Previously there were attempts, especially in the cantons of Geneva and Ticino, to restrict temporary staffing on the cantonal and community levels, thus far without success. At the end of 2018, the Constitutional Chamber of the Cantonal Court of Geneva approved the complaint from numerous Geneva staffing service providers and swissstaffing about cantonal regulation of the awarding of public contracts and completely abolished the new provisions for the restriction of temporary staffing via quota regulation. In Ticino in July 2019, a complaint was submitted about the cantonal law about public procurement. Currently, an appropriate proceeding to prevent this change of regulation from going into force is hung up

in the Federal Court. Following the cantonal trend, various Geneva and Ticino communities have attempted to create criteria for the restriction of temporary staffers in the performance of work in procurement on the community level. In these cases too, swissstaffing and its members have objected to the enactment of such regulations. While the Geneva communities have since given up continuing the proceedings, some proceedings are still hung up in Ticino.

Whether on the cantonal or community level, economic policy measures of this kind are generally a direct intervention into employers' and employees' economic freedom, and they hinder the smooth functioning of Switzerland's liberal labor market and the Swiss social partnership. Thanks to the complaints made, it has been possible thus far to prevent the implementation of such regulations. It would be desirable in any case if the Federal Court would clearly confirm the illegality of such measures and restrictions in order on the one hand to guarantee the economic freedom of Swiss employers and employees, and on the other hand to send a clear signal to the initiators of such measures directed clearly against the liberal labor market.

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## A look into the future

Switzerland's liberal labor market is under threat, not just due to large labor market policy initiatives such as free movement of people, but also due to numerous apparently small and medium-sized measures. It is precisely regulations that seem slight – perhaps only on the cantonal level – that conceal a danger that must be taken seriously: In and of themselves, individual measures may seem sensible with an eye to individual cases. Taken as a whole, however, they result in an increased number of rules that will hollow out the liberal labor market step by step.

*For a country without natural resources, a liberal labor market is crucial.*

Like education, infrastructure and political stability, flexibility and slim labor market regulations are among the central location factors for keeping up with international competition.

Switzerland's liberal labor market should not be confused with a labor market free of responsibility. With the social partnership, Switzerland has a tradition that can reconcile the location factors stability, flexibility, and lean regulation, which are normally difficult to reconcile with one another. Thanks to the social partnership, employers and employees have formulated joint corporate and industry-specific solutions on an even playing field, without adversely affecting actors outside of their partnership. It should be the place of the state to accompany this constant process with legislation that provides guideposts in case of acute need, removes traditional bureaucratic hurdles, and thus leaves the social partners as much freedom as possible.

A change of strategy on the part of the employees' representation would let this established system crumble. Popular initiatives and initiatives in parliament are the new means of employee representation in order to achieve employees' goals legally during and after conclusion of negotiation without incorporating the employer side. Before conclusion of the agreement, much more extreme impulses are serving to put pressure on the negotiations. After conclusion, on the one hand they serve the purpose of pushing through unachieved demands and undoing undesired parts of the compromise

achieved after the fact. On the other hand, with a legal shifting of the status quo, a better initial situation for the next negotiations is being striven for. This is why it is important for politics and the people to make their decision with awareness of this mechanism. If Switzerland continues its circumspect politics, there are good opportunities to maintain the bearing pillars of the liberal labor market: Flexibility and social partnership.

Whether or not the model of the social partnership is future-proof lies in the hands of employers' and employees' representatives. Automation and digitalization have not just resulted in a basic change of the economic structure, they have also created new employee milieus. Flexibility, constant professional and personal development and working regardless of time and place are essential characteristics of these groups, which are growing quickly now as before, groups that can hardly identify with the goals of traditional unions. This presents a challenge for the system of the social partnership:

*Numerous employees with essentially different needs and interests are not represented at the negotiation table by the employees' unions.*

Instead, unions are increasingly advocating for the interests of the losers of current economic and social development, with the risk that social partnership compromises will delay social transformation rather than designing it proactively. Therefore, for the future, they must work together to seek new ways to help employees return to a representative social partnership.



**Sources:**

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