

Social Policies as a Tool of Migration Control: the case of Switzerland

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Abstract

Many governments use social policies as a tool of post-entry migration control, but we still do not know their impact on the life chances of migrants. To fill this gap, this article examines the impact of social policies as a tool of migration control on the life chances of migrants in Switzerland. The data suggest that the new amendments to the Foreign Nationals Act (2019), which provide for the downgrading or revocation of residence permits in case of dependence on social assistance, may have had three main consequences for migrants: delays in procedures, fear and non-take-up of social benefits, and new obstacles to family reunification.

Keywords: Migration control, social policies, Switzerland, Foreign Nationals Act, life-chances

Introduction

All nation states have an interest in controlling migration, but governments face an important contradiction: they want migrants to improve the country's economy, while at the same time they are under pressure from sections of society that have negative views about migration (Geddes 2003: 150). Political parties have to respond both to the demands of their constituencies to control migration in order to win votes in the sphere of political competition (Ataç/Rosenberger 2019: 5), and to businesses that need to fill skills shortages. To address this contradiction, most governments implement selective migration strategies to allow the entry of migrants to fill skills gaps in specific sectors of the economy, while barring the entry of 'undesirable' migrants, which mostly refers to economically inactive migrants and the poor (Geddes 2003). To this end, many nation-states have adopted visa or guest worker regimes that have allowed governments to control migration flows at the gate of the external borders.

However, migration policy has undergone several changes in recent decades. First, many states have externalised border control by outsourcing this task to countries through which migrants pass on their way to Europe (Liguori 2019). Also, the intensification of economic

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globalisation and the consolidation of an international order have blurred the control of external borders for many nation-states (Sassen 1996: 12). Many countries have signed international human rights conventions that regulate the deportation and social rights of migrants. Governments must therefore take human rights obligations into account when developing national migration policies (Ataç/Rosenberger 2019: 1). Furthermore, the existence of areas of free movement, such as the European Union and the Schengen area, hinders the possibility of pre-entry border controls (Bruzelius et al. 2023: 3).

As a result, migration control has shifted from external geopolitical borders to domestic institutions (Ataç/Rosenberger 2019: 2) in order to find ways to control migration after entry. This shift from external to internal borders (Ratzmann/Sahraoui 2021: 441) has led to the use of national welfare institutions to control migrant populations. Governments can do this indirectly by restricting migrants' access to social benefits in order to deter economically vulnerable migrants from migrating, or directly by asking welfare services to inform migration authorities which migrants are receiving social benefits in order to remove their legal status (Ataç/Rosenberger 2019: 3-4; Bruzelius/ Ratzmann/Reiss 2023: 1).

To date, the literature on the nexus between migration control and social policy has mostly focused on analysing the difficulties that these policies encounter during the implementation phase. Many factors contribute to the fact that the outcomes of these policies are often not as intended by policymakers, who are constrained by the existence of international human rights obligations (Rosenberger 2019: 13). In addition, the intersection between migration and social policy areas, which are managed by different administrative levels and driven by different logics, can hinder implementation (Ataç/Rosenberger 2019). Finally, social policies to manage migration are designed in a context of intense politicisation, leading to much ambiguity about how they should be fully applied (Kramer/Heindlmaier 2021: 381).

However, while we know much about the difficulties of implementing social policies to control migration, we still do not know how they affect migrants' life chances. Social policies are initially conceived and designed to reduce insecurity and increase life chances (Faist et al. 2015), that is, to help people improve their social mobility and support them in moments of economic vulnerability and illness. In contrast, when they are combined with migration control, their objectives are reversed and they can become a source of instability (Jasso 2011). How do they affect the legal status of migrants? How do they affect their employment opportunities and well-being? This article aims to answer these questions by examining the consequences for migrants' life chances of the use of social policies to control migration in Switzerland.

To this end, it uses case study methodology and relies on qualitative data collection. Switzerland is a perfect 'inductive case study' (Levy 2008:4) because it has a long history of using social policy to control migration. Moreover, the country's Foreign Nationals and Integration Act was amended in 2019 to provide for the downgrading or revocation of residence permits in cases of dependence on social assistance. These changes were complemented by an obligation for social services to provide the migration authorities with information on which migrants receive social assistance benefits. This allows us to examine empirically the impact of our independent variable (social policies to control migration) on our dependent variable (migrants' life chances). We do this by analysing secondary literature and policy reports. We have also collected primary data through the exchange of information between the researcher

and social organisations and public services for the integration of migrants in the cantons of Geneva and Bern. The data collected allows us to formulate three main hypotheses about the consequences of using social policies to control migration for the life chances of migrants: delays in migration procedures and uncertainty about legal status, fear and non-take-up of social benefits, and obstacles to family reunification. Future studies should further define and test these three hypotheses.

The article is structured as follows. The next section reviews the literature on the nexus between migration control and social policy. The third section presents the methodology and the data collection process. The fourth section analyses how social policies to control migration are implemented in Switzerland, and what consequences they have had for the life chances of migrants. The fifth section is a conclusion.

The migration control- social policy nexus

Internal migration control has been widely studied in the literature (Doomernik/Jandl 2008; Broeders 2007), but in recent years there has been much scholarly interest in welfare state bordering as a form of migration control (Bendixsen/Näre 2024). Bendixsen and Näre (2024) define welfare state bordering as “practices of controlling and managing access to social rights based on residence, migration and/or citizenship in a given socio-political order” (Bendixsen/Näre 2024: 5). Welfare institutions are susceptible to being used for “internal bordering” (Ratzmann/Sahraoui 2021: 441) for several reasons. First, welfare states were created as closed systems to provide social support to members of the national community (Lafleur/Vintila 2020: 4). Migration flows challenge the foundations of welfare states because they can alter the “ethnic homogeneity and solidarities necessary for the redistribution of wealth” (Joppke 2007: 38). Political and social actors who oppose migration often use discourses about the need for migrants to belong to the community (Ratzmann/Sahraoui 2021: 441), and belonging is tested through various criteria of integration, including, in many countries, participation in the labour market and economic self-sufficiency.

In addition, recent decades have seen a rise in 'welfare chauvinism', the idea that welfare services should be exclusively for members of the national community (Andersen/Bjørklund 1990: 2011). This has been reinforced by the emergence and growth of populist radical right-wing parties (PRRPs) in many European countries, which have influenced the adoption of restrictive reforms to exclude migrants from welfare benefits (Chueri 2023). Also, since the Eastern and Central European enlargements in 2004 and 2007, concerns about welfare migration (the idea that migrants move to another country to live on benefits rather than work) have been used to legitimise the restriction of social benefits for migrants (Gago/Hruschka 2022).

The second factor that makes welfare policies vulnerable to being used to control migration is the influence of neoliberalism on welfare and labour market policies. Neoliberalism advocates a minimal welfare state and the introduction of strict conditionality for access to welfare services (Spies-Butcher 2020). Some studies have shown how policies and court decisions that exclude migrants from social benefits are often driven by the neoliberal logic of

economic participation (Borrelli et al. 2021). Migrants in need of social support are seen as 'abusers' who are not making enough effort to participate in the labour market (Blachnicka-Ciacek/Budginaite-Mackine 2021). This is linked to the 'workfarist' regime that neoliberalism has imposed on capitalist economies, which sees migrant employment as a "civic duty that distinguishes between the deserving and undeserving residents of a country" (Chauvin/Garcés-Mascareñas/Kraler 2013). Political and social actors with negative views on migration also tend to use neoliberal frameworks to justify exclusionary reforms. Governments justify these reforms with arguments about the need to control 'undesirable' migrants who are an undue burden on national finances (Lafleur and Vintila 2020: 2). For these reasons, welfare states have become a tool for filtering 'undesirable' migration. The next section explains how governments use social policies to control migration in practice.

Residence-based welfare regimes

Social policy is used as a migration tool by linking residence rights with entitlement to social rights. This can be done prospectively, when migrants arrive in the host country, or retrospectively, when migrants apply for social assistance (Kramer/Heindlmaier 2021: 381). On arrival, governments require economically inactive migrants to have sufficient financial resources to support themselves in order to obtain the right of residence. After arrival, migrants can lose their right to stay if they apply for social assistance. The aim is to use negative incentives to force migrants without the right to stay to return voluntarily to their countries (Kraler 2019: 1). These policies are framed within what Morris (2010) calls a 'civic stratification approach', whereby governments assign different administrative categories to migrants with lower social rights. While workers who pay social insurance contributions are entitled to unemployment and other contributory benefits, the social rights of economically inactive migrants or jobseekers are often non-existent or very limited.

Excluding migrants from social benefits is an indirect strategy to control migration. It serves as a deterrent for governments (Ataç/Rosenberger 2019: 3-4), to discourage economically inactive migrants from coming to the host country (Ratzmann/Sahraoui 2021: 444). However, governments can also use social policy to directly control the migrant population by requiring welfare services to report migrants receiving social benefits to migration authorities (Bruzelius et al. 2023: 2). This helps governments to control migrants, as migration authorities can monitor migrants applying for benefits and identify those who no longer have the right to reside in the host country.

However, these policies face many difficulties during the implementation phase. Research on the nexus of migration control and social policy talks about the existence of an 'implementation gap', which refers to the distance between the objectives and outcomes of these policies (Ataç/Rosenberger 2019: 1; Schweitzer 2019: 61). Several factors can cause problems during the implementation phase. First, as mentioned above, many countries have to respond to international or European obligations to provide social protection rights to certain groups of migrants, thus constraining the ability of policymakers to exclude migrants from social benefits (Rosenberger 2019: 13). For example, international human rights generally provide asylum

seekers with a minimum level of subsistence benefits and prohibit forcible deportation before a decision on their right to stay has been made.

Second, migration and welfare are different policy fields that respond to different logics and legal sources (Ataç/Rosenberger 2019). Migration policies are regulatory policies that aim to manage, control and deport foreign citizens, while welfare policies are redistributive policies that pursue the idea of equality between individuals (Rosenberger/Koppes 2018: 4) or support them in moments of economic vulnerability and illness. Furthermore, migration and welfare policies are usually administered at different levels of government. Migration policies are national, while welfare services are usually administered by regions and municipalities. This can also lead to different outcomes than intended (Bruzelius et al. 2023: 4). For example, Spencer and Delvino (2019: 27) found that some municipalities exercise “municipal activism” and resist restrictive policies by facilitating access to services for irregular migrants. In contrast, other studies have found that the use of welfare policies to control migration can lead to “overcompliance”, meaning that welfare services that are, in principle, not obliged to report end up doing so (Bruzelius et al. 2023:1).

Finally, another factor that hampers the implementation of these policies is legal uncertainty. Migration policies are designed in contexts of intense politicisation (Kramer/Heindlmaier 2021: 381). Political and social actors with opposing views on migration and social rights have to make difficult compromises, often resulting in ambiguous legal frameworks (Schweitzer 2019: 62). Public administrators working in welfare and migration authorities have to deal with the existence of multiple and contradictory norms. At the same time, ambiguity increases the discretionary power of public officials. When the norm is ambiguous, the discretion of public agents increases, and they make decisions based on their own frames and opinions (Spire 2020). However, studies on the consequences of discretionary power for the welfare of migrants show contradictory results. Schweitzer (2019) found that discretionary power can lead to either more or less generous outcomes for migrants, depending on the level of professionalisation of the agents. In summary, social policies to control migration face many difficulties during the implementation process. However, it is still unclear how they affect the life chances of migrants.

The impact on migrant’s’ life-chances

Migrants' life chances could be defined as those conditions that allow migrants to improve their social mobility in the host country. This usually includes legal status and access to political and social rights. It also refers to conditions that allow migrants to enjoy good physical and mental well-being, as well as equal opportunities in education, employment or housing markets. Social science research has focused on analysing how immigration policies affect migrants' legal status or labour market opportunities. Söhn (2013: 296), for example, has analysed how different “modes of incorporation” (Portes/Böröcz 1989) affect migrants' socio-economic opportunities, particularly in the labour market and the education system. It has also been found that the lack of legal status or the threat of deportation is associated with negative emotional well-being for migrants and their families (Menjívar 2008: 180).

Social policies also influence the "material life situation" of migrants (Söhn 2013: 306). Welfare states aim to ensure an equal distribution of resources and life chances (Alber 1988: 451). If migrants have access to social support in the form of language courses, for example, this improves their chances in the labour market (Söhn 2013: 306). In this way, social policies can be associated with a positive impact on the life chances of migrants (Faist et al. 2015). Their aim is to "promote the security and equality of citizens in order to foster social integration" (Alber 1988: 456).

However, when social policies are used to deprive migrants of their rights of residence, we might hypothesise that their original objectives are reversed. This article explores how social policies, in interaction with migration control, may hinder the possibilities for improving the position of migrants in society, create uncertainty about their legal status, and worsen their well-being and employment opportunities. Jasso (2011: 1309) already shows for the US context that delays and obstacles in the visa process can create emotional costs for migrants. He also shows that legal status is a determinant of upward social mobility (Jasso 2011: 1298). This article builds on that line of research. However, given the lack of previous theoretical and empirical work on the relationship between the nexus of migration control and social policy and life chances, it does so inductively, exploring how this relationship operates in a specific context. The next section explains why Switzerland is a good case study for this task.

The Swiss case study and methodology

Switzerland is an excellent "inductive case study" (Levy 2008: 4) for analysing the effect of a present independent variable (social policies to control migration) on an 'unknown' dependent variable (consequences for the life chances of migrants). Inductive case studies aim to describe and explain a research problem based on empirical observations in order to generate theoretical propositions (Levy 2008: 4). Switzerland has a long history of restricting social rights for migrants (Mexi et al. 2021). Besides, the country's Foreign Nationals and Integration Act was amended in 2019 to provide for the downgrading or revocation of residence permits in cases of dependence on social assistance. These changes were complemented by an obligation for social services to provide the migration authorities with information on which migrants receive social assistance benefits. This allows us to examine empirically the impact of our independent variable (social policies to control migration) on our dependent variable (migrants' life chances).

In terms of methodology, this article uses case study methods, which are appropriate for the inductive identification of variables (Bennett/George 1997: 13). Case studies involve a rich collection of empirical data. This article relies on the analysis of secondary data, which includes secondary literature, grey literature, policy reports, Federal Court case law, official communications and media. It also uses primary data based on interviews conducted by the researcher with social organisations and integration services in Geneva and Bern between June and August 2023 (Table 1). The cantons were chosen as to provide a sample of a Latin-speaking canton, which has a more generous integration policy, and a sample of a German-speaking canton, which has a more restrictive integration policy (Manatschal 2011). A total of seven interviews were conducted: five interviews based on the exchange of questions and documents

by e-mail and video or telephone interviews with representatives of the institutions. The interviews were semi-structured, all recorded and the interviewees were guaranteed anonymity. The other two interviews consisted of an exchange of questions and answers by e-mail only (Table 1).

With the exception of the Red Cross, all the organisations contacted provide social and legal counselling to migrants in Switzerland whose permit has been downgraded or withdrawn due to their dependence on social assistance. All interviewees were asked similar questions. Some examples are: 1) What are the main changes you have noticed following the new amendments to the Foreign Nationals Act in 2019? 2) Have you noticed an increase in cases of migrants whose permits have been downgraded or withdrawn? 3) Do migrants who receive threats from the migration authorities stop applying for social assistance? 4) What are the consequences of not receiving social benefits for their well-being and that of their families?

The Berne and Geneva Integration Services and the CCSI provided specific anonymous cases. In the next section, the case descriptions and expert interviews are used as pieces of evidence, together with other sources, to develop hypotheses about the impact of the use of social policies to control migration on the life chances of migrants. The description of individual cases and expert interviews are commonly used in migration studies as evidence to confirm hypotheses (see, for example, Shutes/Walker 2017 and Mahfoudh/Waldis/Kurt 2021). However, in our case, due to the limitations of the available data, case description and expert interviews are used to formulate hypotheses that need to be further refined and tested in future studies.

Table 1. Collection of empirical data

Code	Organisation	Format	Date
EX1	Schweizerisches Rotes Kreuz Abteilung Soziale Integration und Migration	E-mail	09.06.2023
EX2	Unia Migration	Videointerview	29.06.2023
EX3	Collectif de soutien aux sans- papiers de Genève	E-mail	20.06.2023
EX4	isa - Fachstelle Migration (Bern)	E-mail and phone call interview	14.08.2023
EX5	Stadt Biel / Ville de Bienne	E-mail and phone call interview	13.07.2023
EX6	Bureau de l'intégration et de la citoyenneté-OAIS-DCS	E-mail and phone call interview	08.08.2023
EX7	CCSI Consultation Permis de séjour (Geneva)	E-mail and phone call interview	21.06.2023 22.08.2023

Social policies to control migration indirectly in Switzerland

In Switzerland, social policy has been used to control migration indirectly by providing migrants with different residence permits (L, B, C) that grant different residence and social benefits depending on whether they are active in the labour market and on their country of origin. There are different types of social benefits in Switzerland. On the one hand, there are social insurance benefits, which are financed by social insurance contributions, and on the other hand, there are social assistance benefits, which are means-tested benefits aimed at reducing poverty (Federal Statistical Office)². While migrant workers have access to social insurance benefits, access to social assistance benefits is more restricted. They are divided into two types, social assistance benefits in the broad sense and social assistance benefits in the narrow sense. Social assistance benefits in the broad sense include, for example, supplementary benefits for old-age and disability. On the other hand, social assistance benefits in the narrow sense are benefits of last resort to help people at risk of poverty who do not (or no longer) qualify for other benefits.

Access to social assistance for migrants is regulated by the Federal Act on Foreign Nationals and Integration (FNIA³). Article 29a of the FNIA stipulates that "foreign nationals who reside in Switzerland solely in order to seek employment, and their family members, are not entitled to social assistance". In addition, Article 61a of the FNIA stipulates that in the event of involuntary termination of employment, the right of residence expires six months after unemployment benefit ceases to be paid. During these six months, migrants may have access to social assistance under certain conditions.

According to these rules, each residence permit has different conditions for access to social assistance. Permit L is a short-term residence permit for up to one year for job seekers or students. L permit holders must have sufficient resources of their own and comprehensive health insurance to obtain the right of residence. They are not entitled to contributory benefits (as they have not worked in the country) or social assistance. Permit B is also a short-term residence permit of one year or more for foreigners with a work contract or sufficient resources (e.g. pensioners, students for more than one year) (SKOS 2019). Migrant workers with permit B who have worked in Switzerland for one year and who lose their job involuntarily have access to social assistance once they have exhausted their unemployment benefits and as long as they are registered with the employment office and are actively looking for a job. Permit C (settlement permit) is issued to foreigners who have lived in Switzerland for more than ten years (or five years in some cases) and have access to all social benefits (SEM⁴). Finally, emergency assistance is available to all migrants regardless of their residence status. Emergency assistance is a social assistance benefit for all citizens who are experiencing an acute economic emergency.

Social policies to control migration affect both EU nationals and third-country nationals. For EU/EFTA migrants, their right of residence is regulated by the Agreement on the Free Movement of Persons (AFMP), but their right of settlement is also regulated by the FNIA, in

² www.bfs.admin.ch/bfs/en/home/statistics/social-security/social-assistance/recipients-social-benefits/social-benefits-before-social-assistance.html

³ www.fedlex.admin.ch/eli/cc/2007/758/en

⁴ www.sem.admin.ch/sem/en/home/themen/aufenthalt/eu_efta/ausweis_b_eu_efta.html

the same way as for third-country nationals. In 2020, of the total migrant population receiving social assistance, 24.7% had a B permit and 59.5% a C permit. 2.7 per cent came from the EU and the countries of the European Free Trade Association (EFTA) and 18.3 per cent were migrants from third countries (BFS 2020).

Furthermore, participation in economic life and independence from social assistance are two of the factors evaluated by integration policies. Switzerland follows the “integration ladder model”, which is a set of policies aimed at verifying the cultural, social and economic competences of migrants in order to grant them residence rights (Kurt 2017). When migrants want to move up the integration ladder, for example to move from permit B to C or to apply for citizenship, the migration authorities check whether the migrant is dependent on social assistance. Therefore, although holders of permits B and C are in principle entitled to social assistance, integration policy discourages migrants from applying for it. For example, the new Federal Law on Swiss Citizenship (which came into force in January 2018) obliges naturalisation applicants to repay in full any social assistance they may have received in the three years prior to submitting their application or during the naturalisation process (art. 7, al. 3, BüV⁵). Therefore, the use of social policy to control migration is done through the provision of residence permits that exclude many migrants from social benefits, and an integration policy that considers the receipt of benefits as a factor for denying further rights.

Social policies to control migration directly in Switzerland

In the previous section, we saw the strategies used to impede or discourage migrants from applying for social benefits; in this section, we will see the strategies used to directly withdraw their residence permit if they receive social benefits. In 2019, a series of amendments to the FNIA came into force, which stipulate that migrants can have their residence permit downgraded (from C to B) or revoked (in the case of a C permit) if they do not meet certain criteria, mainly if they have been convicted of a criminal offence or if they are dependent on social assistance. More specifically, Article 62(1) states that “the residence permit may be downgraded or revoked if they are permanently and to a large extent dependent on social assistance”. For permanent residents (C permit holders), the requirements for revocation are higher. Article 63 (1) states: “the receipt of social assistance by persons with a settlement permit must be ‘substantial and permanent’”.

The 2019 changes also allow for the possibility of revoking the residence permit of migrants who have lived in Switzerland for 15 years, which was previously not allowed by law. Prior to 2019, the migration authorities could only revoke the permanent residence of foreigners who had lived in Switzerland for more than 15 years in the event of a long-term prison sentence, a serious threat to public safety and order, or a threat to Switzerland's internal or external security. The 2019 amendments to the Foreign Nationals Act included for the first time dependence on social assistance as a reason for revoking a permit, even if the person has been living in Switzerland for 15 years.

⁵ 141.01 Verordnung über das Schweizer Bürgerrecht (Bürgerrechtsverordnung, BüV) vom 17. Juni 2016 (Stand am 9. Juli 2019) www.fedlex.admin.ch/eli/cc/2016/405/de

This particular amendment was strongly contested by some sectors of society, who felt that the law had put dependency on welfare and criminal offences on the same level of seriousness. This led to the formation of an alliance of political parties and social organisations with the aim of repealing the amendments to the FNIA⁶. The alliance was made up of 65 political and social organisations and was supported by social organisations and trade unions such as the Swiss Conference for Social Welfare (SKOS), the Swiss Asylum and Foreigners Observatory and the trade union Unia. They launched the petition 'Poverty is not a crime' to specifically call for the abolition of this policy for migrants who have been in Switzerland for more than 15 years, and to raise awareness of the consequences of blaming migrants for being poor. In a study conducted at the University of Neuchâtel, the analysis of 18 cases of migrants whose residence permits were revoked shows that the Swiss Federal Supreme Court justified these decisions using self-inflicted criteria (Borrelli et al., 2021). Courts assess proportionality by examining whether "the foreign national has failed to do everything in his or her power to integrate into the first labour market" (Stanić 2021). This means that if the court considers that poverty is the responsibility of the migrants, then the revocation of the permit is justified.

The second step of the 'Poverty is not a crime' campaign was the presentation of the parliamentary initiative (20.451) by Socialist Party (Basel) MP Samira Marti on 21 September 2022. The Federal Council approved the initiative by 96 votes to 85 (Council of States 2023). More recently, on 12 June 2023, the initiative was also accepted by the Council of States, which means that the FNIA will have to be amended to remove the condition of dependence on social assistance for residents older than 15 years (Council of States 2023).

Other amendments to the FNIA have modified the conditions for family reunification and, as of 2019, include non-reliance on social assistance (Art. 43(1)(c) and 44) and non-receipt of supplementary benefits (Art. 43(1)(e), 44(1)(e) and 85(7)(e) LEI) as a condition for family reunification. Since the application of the new amendments, the State Secretariat for Migration (SEM) has reported a total of 313 legally binding downgrades between 2019 and 2020, but the reasons for the downgrades or revocations have not been published (Webber/Truffer 2021). In most cantons, there is no information on the number of cases related to social benefits. The migration authorities do not register the reason for the revocation and only record that the person does not meet the integration criteria in general. Only the cantonal parliament of Geneva has published data on the number of migrants for 2021, following a request by Socialist MP Léna Strasser. In 2021, 59 warnings were issued in Geneva on the basis of social assistance, but only one decision was taken to downgrade the permit on the basis of social assistance (Geneva Parliament 2022). The lack of official figures seems not to correspond to the daily experience of public integration services, which very often encounter cases where migrants are expelled because of their dependence on social assistance, leading to painful family separations (Interviews 5, 7).

Furthermore, the new amendments to the FNIA in 2019 were complemented by an 'Ordinance on the admission, residence and exercise of lucrative activities' (OASA), which requires social welfare authorities to report to the migration authorities whether and to what extent foreigners are dependent on social assistance (Art. 97 para. 3 LEI in conjunction with

⁶ <https://poverty-is-not-a-crime.ch/en/>

Art. 82 para. 4 OASA; SKOS 2019). The application of the measures required by this ordinance has encountered some implementation problems due to the lack of clarity of certain criteria. In order to solve this problem, the State Secretariat for Migration (SEM) published a circular in 2021 clarifying the types of social assistance to be reported. The SEM has included five types of social assistance: basic social assistance, integration benefits, health and family support, means-tested benefits and child and adult protection measures (Table 2). In addition, the SEM has clarified the amount of money to be reported. For B permit holders, the limit is CHF 50,000 for individuals and CHF 80,000 for households. For permanent residents, the amounts are slightly higher, at CHF 60,000 for individuals. Finally, it was pointed out that migrants should have repaid the money three years before the end of the residence permit, and the application for a new one.

Table 2. Types of social benefits that can affect migrant's residence rights in Switzerland.

Type of benefit	Measures
Basic social assistance	Social assistance Benefits are non-contributory and means-tested
Benefits at Area integration, Health and family support	Training costs Language courses costs Integration allowances Measures of integration into the labour market Health care costs incl. KVG premium reductions Disability-related costs Support for families
Other means-tested benefits	Supplementary benefits and advance payment of alimony
Child and adult protection under civil law	Child protection measures under Art. 273, 306, 307-312, 314abis, 318, 324, 325 and Art. 327a CC - Adult protection measures under Art. 392-398, Art. 403 and Art. 426 ff. CC.

Self-elaboration, Source: State Secretariat for Migration SEM 2021

Despite these clarifications, the data suggest that there are major differences between the cantons in terms of what exactly the authorities report or who makes the report. In most cases, the administration follows a standardised procedure, but the information transmitted varies (Meier/Mey/Strohmeier Navarro Smith 2021). There are differences in the content of what is communicated, the regularity of this communication and the procedure after the notification

to the migrant (Meier et al. 2021). The downgrading of residence permits also depends on the discretion of agents and their assessment of official criteria (Achermann et al. 2022). Agents have to decide on two important conditions. First, whether or not the welfare dependency is self-inflicted, i.e. whether the migrant has done everything possible to obtain an income. And second, whether the amount received is a burden on Swiss taxpayers (Achermann et al. 2022). The uneven implementation of these measures seems to have created a great deal of legal uncertainty, and lawyers are advising migrants to make decisions without knowing how public authorities apply the law (Islas, 2020). Often the only strategy left for legal professionals is to gather all the evidence possible to prove that migrants are not responsible for their situation (Interview 7).

Consequences for migrants' life-chances

Delays in procedures

One of the main consequences of the new amendments to the Aliens Act seems to have been an increase in delays in the administration of migration procedures (Interviews 4,5,6,7). The migration authorities now have to check applications for the renewal of permits more thoroughly, which leads to administrative backlogs. The migration authorities in Geneva have reported that the new amendments "have considerably slowed down the processing of new applications, particularly with regard to language requirements and any additional benefits received. In addition, the files received are, in most cases, incomplete and the time taken by applicants to obtain the necessary documents can be several months (especially with regard to language requirements)" (Geneva Parliament 2022). Previous studies have suggested that delays in procedures can cause a lot of stress for migrant families in precarious situations (Hainmueller/Hangartner/Lawrence 2016). In many cases, these families have short-term jobs and low incomes. If the renewal of the permit comes when they are looking for a new job or when there is a family event such as the birth of a child, this can cause serious financial problems (Interview 5).

Fear and non-take up of social benefits

The data indicate that the new changes to the FNIA have spread fear among the migrant population in Switzerland (Guggisberg et al. 2018; Swissinfo 2023b, Interview 2). The Federal Migration Office has acknowledged this problem at its annual conference in Bern in 2023 (Swissinfo 2023b). Also, the Office for Labour and Social Policy Studies (BASS) has published a report showing how social workers are regularly confronted with migrants who are afraid of losing their right of residence, a situation that has worsened after the new amendments to the Foreign Nationals Act (Guggisberg et al. 2018). Some cantons, such as Zurich or Aargau, have sent letters to all migrants receiving social assistance when the law came into force, warning them of the possibility of having their permit revoked (Interview 2).

These letters contain a questionnaire from the cantonal migration office asking the migrant to provide information about the reasons for unemployment, letters of dismissal, medical

certificates, etc. They also ask for proof of job search efforts, a German language certificate, a chronological list of all stays in the country of origin, among other things (extract from the integration examination, in Webber/Truffer 2021). These letters can create a bureaucratic burden for migrants who have to spend a lot of time and energy gathering the information. An additional problem is the language barrier, which can cause fear and anxiety as migrants often do not know what information to provide or where to get it (Meier et al. 2021). The letters usually contain very detailed personal questions and direct threats, which can be very intimidating for migrants (Interview 5). The administrative burden and the threats may have an impact on the mental well-being of migrants and cause a lot of anxiety, as the description of the following case indicates:

“A woman from Afghanistan with a B permit has received a warning. She is married with two children of Swiss nationality. The family is dependent on social benefits because the husband can only work part-time due to health problems. The woman has never worked in Switzerland because she lacks professional and language skills and has devoted herself to raising the children and doing the housework. She is very anxious about having to leave Switzerland without her family. She is in a very bad mental state and cannot concentrate on professional integration” (Interview 4).

As a result of fear, migrants may not apply for social assistance benefits or may not ask for information about their entitlements even if they are eligible (Interview 5 RTS 2021, Swissinfo 2023b). This phenomenon, known as 'non-take-up' of social benefits, has increased in Switzerland since the adoption of the new law (Islas 2020). It is difficult to know exactly how many migrants who are entitled to social benefits do not claim them unless they provide this information to the social welfare authorities. Nevertheless, between 2016 and 2019, social assistance rates for migrants with permits B and C fell significantly in Switzerland: for third-country nationals with permit B, the rate fell from 9.7 to 8.9 per cent, and for permanent residents from 9.0 to 8.1 per cent (OFS 2020).

Moreover, the new amendments to the FNIA coincided with the start of the COVID-19 pandemic. Many migrants working in temporary jobs, who were severely affected by the economic closures, still refused to apply for social assistance for fear of having their residence permits revoked (Islas 2020). A study carried out in Geneva during the pandemic showed that 28.3 per cent of foreign residents with residence permits who visited food banks were entitled to some form of social assistance but did not apply for it for fear of the consequences (Petrucci/Alcoba/Jackson 2020). In response, the Federal Council decided to make some exceptions to the Foreign Nationals Act in order not to jeopardise the residence rights of migrants who had to rely on social assistance because of the pandemic.

On 6 May 2020, in response to a motion⁷ tabled by Green MP Sibel Arslan, the Federal Council stated that cases of recourse to social assistance would have to be examined individually to assess whether the situation of hardship was caused externally and was not the responsibility of the migrant (State Secretariat for Migration 2022). This was implemented by a decree in June 2020, which stipulated that if migrants could not obtain or renew the permit due to measures

⁷ Corona-Krise darf Aufenthaltsstatus und Einbürgerungen nicht gefährden. Motion 20.3406 (Swiss Parliament 2020)

related to the pandemic, these permits had to be granted. However, this relaxation of the rules was lifted after the pandemic.

Other studies have shown how not claiming benefits could increase precariousness and poverty among migrants and make it more difficult for them to re-enter the labour market (Lucas et al. 2021: 163). In 2021, the Federal Statistical Office reported that 19.4 per cent of poor people in Switzerland were foreign nationals from Eastern Europe or non-European countries, who are among the groups most affected by poverty (Federal Statistical Office, 2023). The data collected for this article also indicate that there are cases where migrants do not have adequate food, clothing or housing (Interview 2). In the case of families with children, they are unable to provide them with adequate clothing, and children do not have access to educational or recreational activities (Interview 2). It should also be noted that single mothers seem to be particularly affected by these policies. When women are solely responsible for looking after their children, they are more likely to need social assistance, as one salary cannot cover all their needs (Stanic 2021: 8). In some cases, foreign single mothers work long hours to avoid applying for social assistance, which might affect the well-being of all family members (Interview2).

Moreover, the data indicate that the situation worsens when the residence permit is revoked, and the migrant remains in Switzerland without legal status and without the possibility to work. Several NGOs have warned that the risk of poverty increases dramatically for undocumented migrants (Turuban 2020). This fact was brought to the forefront of the political debate during the COVID-19 pandemic given that 52 per cent of those receiving food aid were undocumented migrants, only 10 per cent of irregular migrants had health insurance and they were less likely to report excellent or good health (Petrucci et al. 2020). Finally, another group of migrants who appear to be affected by these policies are pensioners, who avoid applying for supplementary benefits for fear of losing their permit, even though they are legally entitled to them (Swissinfo 2023a).

Obstacles to family reunification

The data suggest that another important consequence of the new amendments to the FNIA may have been the emergence of new barriers to family reunification. The literature has already shown that in the case of Switzerland, older migrants in particular are advised not to rely on social benefits when seeking family reunification (Bolzman 2008). Applications for family reunification seem to be also affected by delays, and the number of rejections due to social assistance problems has increased (Interviews, 2, 5, 7). In some cases, parents have had their residence permits revoked even though their children were born in Switzerland (Interviews 2, 7). In Geneva, the Cantonal Office for Migration (OCPM) issued 31 decisions refusing residence permits that also affected minors and there seem to be more cases in other cantons (Epitoux-Fallot 2021). Even when the cases arrive to the Federal court, the latter's decision has not taken children's interests into account and have decided to revoke some residence permits of mothers with a B permit (Stanic 2021: 7).

In other cases, the downgrading or revocation of permits does not occur because of welfare dependency, but because migrants have accumulated debts for non-payment of health insurance deductibles. This is the case, for example, of “a woman from the Philippines with an 8-year-old daughter who had her permit revoked because of accumulated debts for non-

payment of health insurance costs” (Interview 7). Even if the debt was the result of an illness or accident, this does not prevent threats from the migration authorities (Interview 5). Court decisions also show that the criteria for considering illness as a good reason for relying on social assistance are very strict (Stanic 2021).

Conclusion

This article has examined how social policy as an instrument of post-entry migration control is implemented in Switzerland and what the consequences are for the life chances of migrants. The article shows that social policies to control migration indirectly are very well anchored in Swiss migration and social policy, with the system of different permits granting migrants different social rights aimed at excluding economically inactive migrants. It also shows that the use of social policies to directly control migration has increased after the new amendments to the FNIA of 2019.

Moreover, the data collected for this article suggest that there have been various problems with the implementation of the new amendments to the FNIA, which have not been implemented uniformly across the cantons. Some cantons have implemented the changes in a strict manner by sending warnings to all migrants, while other cantons have targeted only those migrants who are required to register. In addition, some problems have arisen with regard to the administrative application of the procedures and the information required from migrants. Given the limitations of the data, it is not possible to say whether differences in implementation have also led to different impacts on the life chances of migrants. Further studies could therefore include more cantons in the sample to assess whether the division between German-speaking (more restrictive) and French-speaking (more generous) integration policies has also affected the way they use social policies to control migration.

Furthermore, the data allows us to formulate three main hypotheses about the consequences of using social policies to control migration for the life chances of migrants. The first hypothesis is that there could be significant delays in migration procedures. Migrants may have to wait months for a response from the migration authorities, which could create serious obstacles to the integration of migrants into the labour market, as they cannot look for a new job, find a new house, etc. until they receive the new permit. This legal vacuum puts migrants' lives on hold, which could cause anxiety and worsen their mental health.

The second hypothesis is that the fear of having their residence permit downgraded or revoked might have prevented migrants from applying for social benefits. The data suggest that non-take-up among migrants increased after the new amendments to the FNIA. Non-take-up of social benefits could lead to migrants living in deprivation and not being able to meet their basic needs, which in turn could affect their mental and physical well-being. The third hypothesis relates to barriers to family reunification. The data indicate that there have been cases of foreign parents of Swiss children whose residence permits have been revoked. It is also important to highlight the gender bias of these policies, as they seem to penalise women more for their role as family carers. Some of the cases described in this article concern single mothers

or mothers who do not have sufficient economic support from their partners. These three hypotheses need to be further defined and tested in future studies.

Finally, further research should also investigate whether the use of social policies to control migration has led to a reversal of their objectives. The data suggest that social policies fail to provide protection and security to vulnerable citizens such as migrants. Instead, these social policies seem to create legal instability, obstacles to labour market participation and barriers to family reunification. These are all fundamental conditions for improving the life chances of migrants, and they appear to be curtailed when social policies are used to control migration.

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