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Green Card and Green Card Unemployment in Germany

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Green Card and Green Card Unemployment in Germany

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1 Introduction

In the course of the boom in information and communication technology (IT) around the turn of the millennium, industry and associations in Germany proclaimed a pronounced shortage of skilled manpower. They reported that it was not possible to fill this gap either with German personnel or with specialists from EU countries (Dostal 2000). Against this background the federal government enacted regulations concerning work permits and residence permits “for highly qualified foreign specialists in information and communication technology”. These regulations came into force as of 1 August 2000 (referred to in the following for short as “Green Card Programme“, ¹ IT-ArGV and IT-AV 2000).

According to these regulations up to 20,000 foreign IT specialists can be granted a work or residence permit, limited to a maximum of five years. The precondition is that “they have a degree from a university or polytechnic with the main emphasis on the field of information and communication technology or (...) that their qualification in this field is proven by means of an agreement with the employer regarding an annual salary of at least DM 100,000” (IT-ArGV 2000: 1).² The Green Card does not relate to the IT industry but to IT occupations, which can also be performed in other industries. If certain requirements are met, spouses and children who are under age and single may enter Germany at the same time as the IT specialist (Bundesministerium für Arbeit und Sozialordnung [Federal Ministry for Labour and Social Affairs] 2001: 12f.). Work and residence permits can also be granted to foreigners studying at German universities if they go into an IT occupation in Germany after gaining a degree in a relevant subject.

Originally it was intended only to accept applications for work permits for a first employment in Germany until 31 July 2003. As a more extensive Immigration Act (Zuwanderungsgesetz 2002) has not yet been able to come into force in Germany³, in July 2003 the federal government extended this deadline to the end of 2004. In addition the upper limit of 20,000 work and residence permits was cancelled.

By the end of 2002 some 10,000 IT specialists had come, from almost all over the world, some with their families (Chapter 2). In the meantime, however, things have changed: since 2001 the IT sector has been in crisis. In research circles this crisis is regarded more as the normalisation of a previously overheated labour market, as coming into line with “normal” labour market segments (Dostal 2002). This alignment is associated among other things with rising unemployment (cf. Table 1). Against the background of the turbulences in the New Economy with its young age structure, it even affected the “cores”, the young highly qualified

¹ In the USA the term “Green Card” stands for a permanent residence status (Martin/Werner 2000, Chapter 5), whereas in Germany it denotes a stay that is limited to a maximum of five years. In this respect the term “Green Card” can give rise to incorrect associations for Germany; it is not used as such in the relevant regulations of the Federal Ministry for Labour and Social Affairs (IT-ArGV) or the Federal Ministry of the Interior (IT-AV). Nonetheless the abbreviation “Green Card” is used in the following since it has become established in colloquial German and in political and public usage.

² Adjusted to the change-over to the Euro: € 51.000. In the case of foreign IT specialists with university degrees it is necessary, in the context of the work permit, to check whether they are being employed on a comparable salary and with comparable conditions of employment as would apply for specialists from Germany.

³ On 18 December 2002 the Federal Constitutional Court (Bundesverfassungsgericht) of the Federal Republic of Germany declared the Immigration Act invalid for formal reasons. It could therefore not come into force on 1 January 2003 as planned. As the act is disputed between the different political parties, there are currently attempts to find a solution that is consensus-orientated.

people coming more or less straight from the universities.⁴ And it also affected holders of Green Cards.

Table 1

Employment liable to social security and unemployment of IT specialists in western Germany													
	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
Employment													
In absolute figures	206,415	222,568	235,981	242,070	242,821	248,108	261,190	287,886	307,772	332,442	365,593	394,681	407,169
Development (1990 = 100)	100	108	114	117	118	120	127	139	149	161	177	191	197
Unemployment													
In absolute figures	10,164	9,757	11,681	17,462	20,983	19,363	19,298	19,629	16,105	15,581	16,006	23,276	38,039
Development (1990 = 100)	100	96	115	172	206	191	190	193	158	153	157	229	374

IT specialists: Occupational group 774 "data processing specialists".

Employment: employment subject to social security excl. trainees; as of 30 June.

Unemployment: target occupation; as of September.

Sources: Employment and unemployment statistics; IAB VI/4.

Nevertheless we know little about Green Card unemployment – just as we know little about the destination of the Green Card holders at all in Germany. The main reason for this is that although the inflow into Germany is recorded relatively well, apart from that “Green Card” is not a characteristic recorded in the various statistics of the employment service or the aliens authority (Chapter 3).

This report is intended to shed some light in this darkness. In addition to general information on the allocation of the Green Cards in Germany (Chapter 2), a case study in the employment office area of Munich as a Green Card centre is used to make an approximation of the extent and structures of Green Card unemployment (Chapter 4). Against the background of critical reports in the press, the paper is also to take a look at procedures followed by the authorities in cases of Green Card unemployment – also beyond Munich as far as this is possible in the context of this study (Chapters 4 and 5). In Chapter 6 foreign IT specialists themselves have a chance to speak on the basis of a relevant discussion forum in the Internet. Finally in a summary, more fundamental issues regarding (labour) migration policy are touched upon (Chapter 7).

2 “Allocation of Green Cards”: structures and developments

From August 2000 – the time when the Green Card regulations were introduced – until the end of December 2002, a total of 13,373 Green Card work permits were assured by the employment service in Germany and 267 applications from employers (two percent) were turned down (cf. Table 2). The vast majority of assurances of work permits (85 percent) referred to IT specialists with a university degree. Almost 60 percent of the assurances of work permits went to people who were to work in firms with no more than 100 employees.

⁴ Between September 2000 and September 2002 registered unemployment among computer scientists with university degrees rose from 1,156 to 2,382 and among computer scientists with polytechnic degrees from 623 to 1,845. The proportion of unemployed people under the age of 35 increased in this period from 19 percent to 32 percent (polytechnic: 21% to 41%).

Table 2

Assured and rejected work permits for foreign IT specialists - August 2000 to December 2002 -		
	absolute	as %
Work permits assured		
Total	13,373	100
<i>of which:</i>		
graduates	11,303	85
with annual salary >51.000 Euro	2,070	15
<i>of which:</i>		
in a firm with ...		
... up to 100 employees	7,895	59
... 101 to 500 employees	2,199	16
... over 500 employees	3,279	25
Rejections		
Total	267	2*

* referring to all applications for the assurance of a work permit.

Source: Statistics of the assured/rejected work permits
in accordance with the IT-ArGV; BA IIIb3.

What is meant by “assurance of a work permit”? What generally precedes it? Typically the course of events can look like this: a firm wishes to fill a vacancy with an IT specialist from a country outside the EU area. They apply to the employment office responsible for their area for an approval of the recruitment, which is granted to them for a period of six months if certain requirements are met. If for instance the firm has found a suitable and interested applicant via Internet job sites, they apply to the employment office for the assurance of a work permit. If the requirements outlined in Chapter 1 are met, the employment office grants the assurance within a maximum of one week. The employer passes this on to the person interested in a Green Card to that he/she may apply for a visa from the German foreign mission in the country of origin. After entering Germany the assurance of the work permit replaces the IT specialist’s actual work permit for the first three months of his/her employment. Towards the end of these three months at the latest the IT specialist or his/her employer applies to the employment office for the actual work permit to be granted. There can thus be up to six months between the assurance and the granting of the work permit.

Up to the end of December 2002, 9,614 work permits were granted to IT specialists in Germany (Tables 3 and 4). This order of magnitude is equivalent to the number of computer scientists graduating from German universities in more than one and a half years.⁵ (Up until the end of July 2003, 14,876 work permits were assured and 10,643 work permits were granted for a first job and 3,838 for an extension of a contract of employment or a change of job.) The discrepancy between the number of work permits assured and the number actually granted has to do with the time factor: in the meantime firms may have revised their needs or people interested in the Green Card may have changed their plans for migration (cf. also: Dostal 2002: 5). It is also possible that several firms have applied for assurances of a work

⁵ In 2000 about 5800 final examinations were passed in the subject area of computer science at German universities, in 2001 the figure was about 6,100 (Statistisches Bundesamt [Federal Statistical Office] 2001: 71 and 2002: 75).

Table 3

Work permits granted for foreign IT specialists by nationality - August 2000 to December 2002, first employment, Germany -			
Nationality*	Shares as %	in absolute figures	
		total	of which: from Germany**
India	20.9	2,008	67
Romania	8.0	771	30
Russian Federation	7.2	695	50
Poland	5.9	572	26
Slovakia	4.2	400	8
China, People's Republic	4.1	398	129
Hungary	3.9	377	11
Turkey	3.8	367	28
Ukraine	3.8	363	21
Czech Republic	3.2	305	6
Bulgaria	3.1	297	27
Yugoslavia	2.4	229	10
United States	2.1	198	7
Croatia	1.8	176	11
White Russia	1.6	158	3
Morocco	1.6	153	93
Indonesia	1.2	119	39
Pakistan	1.2	112	13
Brazil	1.2	111	10
South Africa	1.0	100	2
Iran	1.0	98	25
Bosnia-Herzegovina	1.0	94	21
Tunisia	0.9	87	44
Canada	0.8	73	3
Mexico	0.7	70	6
Israel	0.7	68	4
Cameroons	0.7	66	43
Lithuania	0.7	64	3
Australia	0.6	54	2
Argentina	0.5	47	3
Colombia	0.4	42	3
Vietnam	0.4	41	16
Philippines	0.4	40	0
Jordan	0.4	36	15
Malaysia	0.3	33	1
Moldavia	0.3	31	0
Lebanon	0.3	29	9
Latvia	0.3	28	3
Macedonia	0.3	28	3
Egypt	0.3	28	8
Thailand	0.3	28	4
Peru	0.3	27	6
Venezuela	0.3	27	4
Bangladesh	0.3	27	2
Singapore	0.3	27	1
Korea, Republic	0.3	26	4
Armenia	0.3	25	3
Syria	0.2	21	9
Switzerland	0.2	19	4
Japan	0.2	19	0
Algeria	0.2	18	0
Georgia	0.2	18	3
China (Taiwan)	0.2	16	5
Estonia	0.2	15	3
New Zealand	0.2	15	0
Sri Lanka	0.1	14	4
Ecuador	0.1	13	6
Slovenia	0.1	12	0
Korea, Democratic People's Republic	0.1	12	0
Senegal	0.1	11	2
Zimbabwe	0.1	10	4
Mauritania	0.1	10	5
Total***	100.0	9,614	936

* With at least 10 work permits granted.

** Generally foreign graduates from German universities.

*** Incl. other nationalities.

Source: Statistics of work permits granted in accordance with the IT-ArGV; BA IIIb3.

Table 4

Work permits granted for foreign IT specialists - in absolute figures, August 2000 to December 2002 -					
		First employment		Change of job/ extension of contract	
		total	of which: from Germany*		
Germany overall		9,614	936	2,972	
of which: women		abs.	1,265	162	379
		as %	13	17	13
of which: western Germany		abs.	9,156	894	2,844
		as %	95	96	96
eastern Germany		abs.	458	42	128
		as %	5	4	4

* Generally foreign graduates from German universities.

Source: Statistics of work permits granted in accordance with the IT-ArGV; BA IIIb3.

permit for the same IT specialist. Some IT specialists have come to Germany on the basis of the assured work permit just for short-term project work and thus have not needed a work permit to be granted at all. Furthermore the work permit may become obsolete due to a termination of the employment relationship during the first three months of the probationary period.

The public debate surrounding the Green Card in Germany refers almost solely to the assurances of work permits. The number of IT specialists that actually immigrated to Germany will be lower, however. In the following information regarding structural aspects at any rate the statistics of the work permits that were granted are used and not the statistics of the work permits that were only assured:⁶

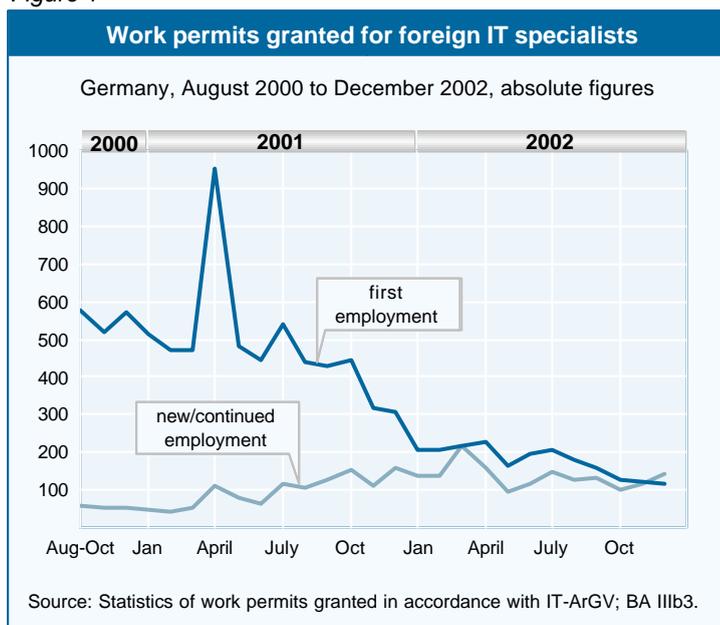
- In Germany in June 2000 only 17 percent of all IT specialists with university degrees who were in employment subject to social security were women (polytechnic: 15%). The male dominance in the IT occupations was not reduced by the Green Card: only 13 percent of the Green Cards granted by the end of 2002 went to women (Table 4).
- Just under one in ten Green Cards were granted to IT specialists who had recently graduated in computer science at a German university.
- In addition to the almost 10,000 Green Cards granted for a first employment across Germany, the employment offices granted just under 3,000 further work permits in cases where fixed-term employment contracts were extended or there was a change of job.
- In eastern Germany the Green Card is of little significance: only five percent of all Green Cards were granted by eastern German employment offices.
- There is also a “north-south difference”: most of the Green Cards were granted in Bavaria, Hesse and Baden-Württemberg, Germany’s more southern states.
- A good fifth of IT specialists come from India. IT experts from south-eastern and eastern European countries are also well represented. Furthermore, many of the IT specialists are Chinese or Turkish (Table 3).

⁶ The characteristics of qualification and size of establishment (Table 2) are shown only in the statistics of the assurances of work permits and not in the statistics of the work permits granted.

- Three quarters of the Green Card holders “found a position in firms in the IT sector. Here the manufacturers of IT hardware played a very secondary role. By far the best preferred sectors were software manufacture and IT services (64 percent). The remaining quarter is spread across almost the whole economy. The spectrum of industries interested in the Green Card ranges from farming to the Office for Veterinary Medicine” (Hohn 2003: 56).

The crisis in the IT sector can be seen among other things from the fact that there was a drop in the number of Green Cards granted. Nonetheless this labour market segment is still in motion, as can be seen from the monthly figures for work permits that are granted for first employment or in the case of a change of job or extension of a contract (cf. Figure 1).

Figure 1



3 Methodical approach used in the study

The situation regarding data on the Green Card is difficult. Relatively good statistical information only exists on the inflow of foreign IT specialists (assurance or granting of work permits; Chapter 2). Information regarding destinations on the other hand is meagre.⁷ One key reason for this is that “Green Card” is not a filter characteristic in the employment and unemployment statistics. There is also no comprehensive statistical information about the migration of Green Card holders out of Germany – whether it is back to their countries of origin or to other immigration countries such as the USA or Great Britain. According to information from the aliens office of the city of Munich, Green Card holders should report their departure to the local aliens office. This office passes the information to the central register of aliens. Like in the employment and unemployment statistics, the characteristic “Green Card” is already not recorded at the aliens office that makes the report, so that it is not possible to make a relevant identification.

⁷ In a study conducted by Wimmex AG (2001) an attempt was made using company surveys among other things to make a provisional appraisal after six months of the Green Card in Germany. The Carl Duisberg Fördererkreis e.V. (2002) published a stock-taking of the situation of Green Card holders in firms in Germany on the basis of surveys conducted in firms and among foreign IT specialists.

Also against the background of the difficult data situation, qualitative methods were used in part in this study. In particular expert interviews were conducted with professional players in this field, generally in the form of qualitative interviews following a guideline.⁸ The people interviewed included above all employees at the aliens office of the city of Munich and at the public employment service who were concerned with the Green Card.

In addition investigations were conducted by telephone at other aliens offices in the Munich region. Furthermore a wealth of documents was analysed and evaluated, such as relevant regulations and ordinances as well as advertising and information material, press articles, relevant correspondence at Munich's employment office, literature and such like. The points of view of Green Card holders themselves were found out via a discussion forum in the Internet (Chapter 6).

In addition to these rather qualitative approaches to the subject under study, the statistics on the assurances and granting of work permits for foreign IT specialists gathered by the Federal Employment Service (Bundesanstalt für Arbeit) were analysed and evaluated (Chapter 2). At the employment office in Munich the staff responsible for Green Card placements set up and maintained a database with additional information on the assurances of work permits, in view of enquiries from the press. It was possible to use this database for this study. It made it possible in particular – in spite of the lacking characteristic of Green Card in the unemployment statistics – to portray at least lower limits and rough structures of Green Card unemployment by means of a relatively complicated procedure (Chapter 4).

4 Green Card and unemployment in Munich

Approximation of lower limits and structures

In view of the data problems described above, the case of Munich was taken as an example in order to try to approximate the extent and structure of Green Card unemployment. The most Green Cards were granted in the employment office area of Munich – in addition to Frankfurt – with a figure of 1,532 up to the end of 2002. Munich is one of the central IT locations: one in ten IT specialists in employment subject to social security in western Germany works there. But the crisis in the IT sector has had an effect in Munich, too. The unemployment of IT specialists overall doubled between September 2001 and September 2002 from about 1,200 to about 2,400 affected people.

In concrete terms it was compared whether the people who had a Green Card assured to them in Munich during the period 1 August 2000 to 15 October 2002, according to the database of the Munich employment office, which was outlined above, were later recorded in the customer file of the Federal Employment Service in Germany and were registered at least once as unemployed (or seeking work).⁹ In this way 102 Green Card holders were identified who had been registered as unemployed at a German employment office at least once by mid-November 2002. A further ten people were registered as just seeking work – without being unemployed at the time.

⁸ The investigations were conducted in the period from October 2002 to February 2003.

⁹ A similar file has been kept at the Frankfurt employment office only since October 2002, so such a comparison was not possible there.

If the number of Green Cards granted in Munich for a first employment (1,519 until November 2002) is taken as a reference quantity – again as a rough approximation – then that means that just under seven percent of the IT specialists who were granted their Green Card in Munich were later on registered as unemployed at least once in Germany. Similar orders of magnitude presumably exist in other employment office areas. And this is a lower limit. Press reports and chatrooms indicate that unemployed Green Card holders do not always report to the authorities – not even if they have gained an entitlement to unemployment benefit.¹⁰

For 100 of the identified unemployed Green Card holders, the information available in the placement department of the employment office was evaluated. In this way at least rough structures of Green Card unemployment should be described.

Only three of the total of 100 unemployed people were repeatedly registered as unemployed, as far as this can be gathered from the extracts. The proportion of women among the unemployed, at 14 percent, is approximately as large as their proportion of all Green Cards granted (Table 4).

More than one fifth of the identified unemployed Green Card holders had studied in Germany at some time. An exact comparative value is not available, since the statistics regarding the granting of Green Cards only include data on the people who completed a degree in computer science in Germany immediately before being granted a Green Card. The proportion in Munich is scarcely four percent. Nonetheless the large proportion of registered unemployed who had studied in Germany at some time stands out. It is possible that they know more about Germany's social system and their rights than others do. Their knowledge of the German language is also likely to be better and thus their inhibition level when contacting authorities is presumably lower.

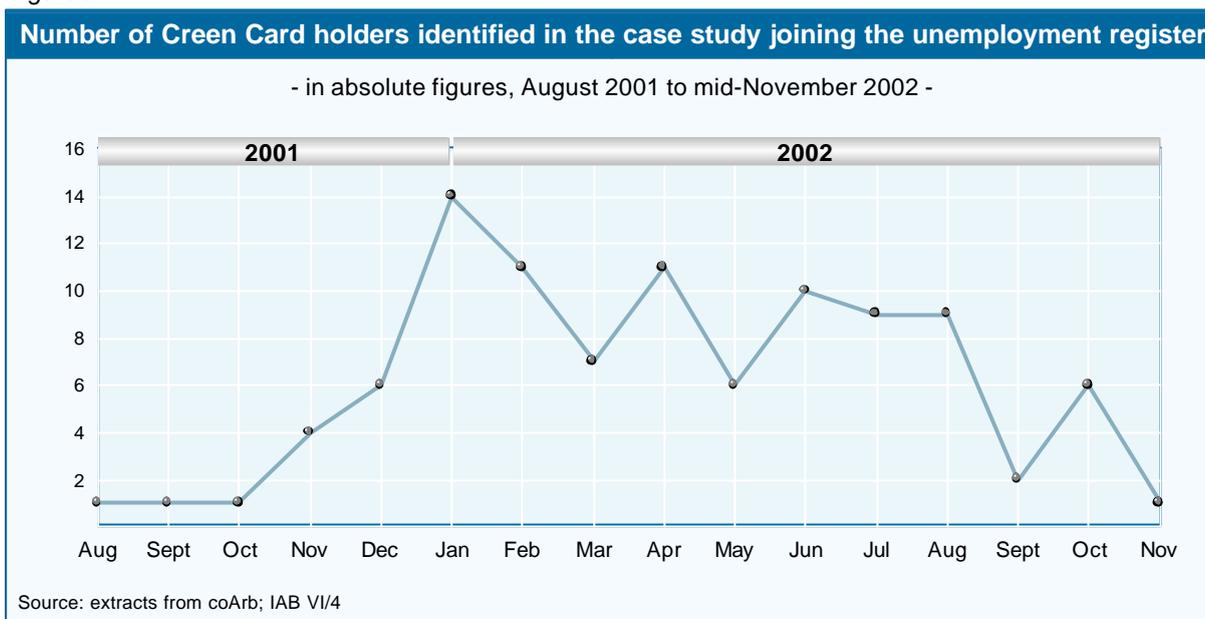
A fifth already had to register as unemployed during their first year in Germany – in other words at a time when it was not possible to have gained entitlement to any earnings replacement (for this it would be necessary to have been in employment subject to social security for at least twelve months).

Green Card unemployment began to arise as early as towards the end of 2001. At any rate Green Card holders joining the unemployment register were a great exception until October 2001 – as far as they could be identified in the procedure outlined above. Towards the end of 2001 their number began to rise; the highest level in the period under observation was reached in January 2002 with 14 Green Card holders joining the unemployment register (Figure 2).

Twenty eight people were still registered as unemployed at the time of our investigations. Thirty eight people had succeeded in taking up a new job. As a rule they had only been registered as unemployed for a short time, namely one to three months. We have no information about the destination of approximately one in four unemployed Green Card holders: contact to the employment office simply breaks off. In the case of eight people it must be assumed that they left the country after a spell of unemployment.

¹⁰ Thus for instance one of the job placement officers at the employment office in Frankfurt observes time after time that Green Card holders who are unemployed do not report to the public employment service until several months have passed, despite being entitled to benefits. This may be related to the fact that they do not find out about the benefit entitlement until some time later, but also to the fact that people do not go to the authorities until their own financial resources are exhausted.

Figure 2



Right of residence

The “regulation on residence permits for highly qualified foreign specialists in information and communication technology” (IT-AV 2000) states in §1 para. 2: “The residence permit is granted or extended for the duration of the employment, for a maximum of five years”. The Green Card holders generally have entries in their passports such as: “In accordance with §1 para. 2 of the IT-AV, the residence permit entitles the holder to work as a software developer at the firm XYZ and ceases with the termination of this activity”. In individual cases there are entries in the passports which permit a stay until 2005 for example without being explicitly tied to a job in a specific firm. There are therefore non-uniform procedures already at this level.

Such phrasings become significant in particular in the event that the job is lost: this is generally equated with the loss of the residence permit – especially when it was explicitly formulated in the passport that the residence permit was tied to a specific employer, which seems to be the predominant rule. The question now is what duration of residence do the aliens authorities grant for searching for a new job?

In the summer of 2002 – when the preliminary work for this study began – the aliens office in Munich granted a stay of three months as long as the unemployed Green Card holder had already gained entitlement to unemployment benefit (see below).¹¹ If the Green Card worker already lost the job during the first year of employment subject to social security and therefore had not yet been able to gain entitlement to unemployment benefit, two months were granted – but only if the unemployed person could prove that he/she could support himself/herself financially during that time.¹² The people who were not able to prove this

¹¹ In terms of administration the procedure is as follows: if an unemployed Green Card holder makes an application for a residence permit, then the stay is regarded as provisionally allowed for as long as it takes to make the decision about it. In this way the fictitiously permitted stay is set at three months for example.

¹² Doing temporary work to safeguard one’s subsistence – in as far as this would be conceivable for the individual – is not possible for this clientele, since, if the other requirements outlined at the beginning are met, they could only receive work permits for IT occupations.

were only granted one months' residence. This is intended to avoid the receipt of social assistance.

Because three months' time is frequently too short for finding work, the employment office asked the aliens office to be more generous with the deadline. The aliens office complied with this request and from autumn 2002, in agreement with the Bavarian Ministry of the Interior, went over to granting a stay of six months in the case of entitlement to unemployment benefit. According to the observations of a job placement officer, in individual cases the stay can be extended by a further two months if the recipient is still entitled to unemployment benefit and is known to be making an effort to find a new job. For cases where there is no entitlement to unemployment benefit, the regulation outlined above was retained.

The legal practice of the individual aliens offices continues to vary¹³. This can already be seen in a reasonably small region such as Munich and the area surrounding Munich. Hypothetical examples may illustrate this: two Green Card employees of a Munich firm are dismissed after a year. The unemployed Green Card holder who is resident in Munich is granted a stay of six months. His former colleague, however, who lives outside Munich, might only be given permission to stay for three months. He is not only put at a disadvantage by only being able to draw unemployment benefit for three months but above all by having to find a new job in a considerably shorter time. If he does not manage to do this, he must leave Germany.

The procedures followed by the authorities also vary in the case of unemployed Green Card holders who already lose their jobs during their first year in Germany. If the unemployed Green Card holder lives in the municipal area of Munich, he/she would be granted two months' stay, as described above – but only if he/she can prove to the aliens office that he/she can support himself/herself during this time, for instance from savings. If he/she can not prove this, he/she is granted a stay of only one month, in order to avoid receipt of social assistance. If, on the other hand, the unemployed Green Card holder lives in the area outside Munich, he/she would generally be granted three months to look for a new job.

Unemployment insurance

A valid residence status is also of utmost importance in the event of unemployment because it is the requirement for the payment of earnings-replacement benefits. Holders of Green Cards also gain an entitlement to unemployment benefit and unemployment assistance in the same way as other people in employment subject to social security. In order to be able to put forward a claim, the claimant must, in addition to other requirements, have worked in employment subject to social security for at least twelve months during the previous three years (Social Code Volume III (SGB III), §123 and §124; the full text can be found in the Internet under <http://www.arbeitsamt.de/hst1/services/sgb3/>; as at: 20.03.2003). The duration of the entitlement to unemployment benefit depends on the duration of the employment subject to social security and on the age of the individual (SGB III, § 127). It is generally at least six months.

If this requirement and other conditions of entitlement are met, the Munich employment office pays unemployment benefit to unemployed Green Card holders. The employment office tries to place these unemployed people in work again.¹⁴ Poor knowledge of the German

¹³ The investigations at aliens offices were conducted between November 2002 and January 2003.

¹⁴ According to accounts from one job placement officer, some unemployed Green Card holders are accompanied and looked after by their former employers when they have to go to authorities. The placement

language make placement more difficult during the IT crisis, whereas employers saw this as less of a problem during boom times.

Earnings-replacement benefits can not be paid, however, when a Green Card holder already loses his/her job during the first year in Germany – whether as a result of insolvencies, a declining order situation or for instance problems at the workplace. This at any rate affected one in five even of the people who could be identified as unemployed in this study. Social assistance may not be drawn, either, as this would jeopardise the residence permit, as was mentioned above. In quite a few cases this presumably leads to serious difficulties. For instance one job placement officer reports of a single mother who had come to Germany with her child to work as an IT specialist. In view of the difficulties on the housing market in Munich, she had to rent an expensive apartment and in addition had to pay estate agent fees and a deposit amounting to three months' rent. When she lost her job after only three months she had no savings at all, but was fortunately able to find work again very quickly.

5 A look beyond Munich: Germany and the USA

National insights: IT special team at the Central Placing Services in Bonn

The IT special team at the Central Placing Services (Zentralstelle für Arbeitsvermittlung (ZAV)) of the Federal Employment Service¹⁵ in Bonn was set up in spring 2000. It places foreign IT experts on the German labour market in cooperation with the specialists at the employment offices. The team also looks after IT experts who are in danger of becoming unemployed or are already unemployed, as well as firms which employ Green Card holders and are in economic difficulties. The IT special team therefore has national insights into Green Card unemployment.

According to observations made by the IT special team, up to the summer of 2002 many unemployed Green Card holders were asked by aliens offices to leave the country immediately. Frequently they were given only 72 hours for this. It was only after extensive intervention by the IT special team that it was possible in the majority of cases that had become known to the team to obtain a temporary residence permit for the purpose of searching for work. The duration varied between four and twelve weeks.

On the initiative of the IT special team and the Federal Employment Service/the Federal Ministry for Labour and Social Affairs (Bundesministerium für Arbeit und Sozialordnung (BMA)), the Federal Ministry of the Interior (Bundesministerium des Innern (BMI)) wrote to the regional Ministries of the Interior and Senate Administrations of the Interior on 18 July 2002 asking them to work towards the aliens offices being more generous in their practice regarding residence in cases of Green Card unemployment. In this letter the Federal Ministry of the Interior explains that “after one year of employment IT specialists are entitled to unemployment benefit for six months. The Federal Employment Service assumes that they will generally be able to find a new position as an IT specialist within this period. I therefore

officer compares such “decent” employers, who support the employees they have dismissed for instance in their search for a new job, with the “irresponsible” ones, who drop their former employees without any care.

¹⁵ IT special team of the Central Placing Services (Zentralstelle für Arbeitsvermittlung (ZAV)), Villemombler Straße 76, 53 123 Bonn, Tel. 0228/713 1212; Email: Bonn-ZAV.IT-Experts@arbeitsamt.de; Internet: <http://www.arbeitsamt.de/zav/services/greencard/index.html>.

share the opinion of the Federal Ministry for Labour and Social Affairs that in these cases there is no cause whatsoever for a demand for immediate departure from the country. This applies especially when the IT specialist has come to Germany with his/her family. When granting residence in order to facilitate the search for work, the duration of the previous employment and the period for which subsistence is safeguarded by means of earnings-replacement benefits should be taken into account appropriately. In these cases facilitating the search for work for only 4 to 12 weeks is too restrictive and does not do justice to the aims pursued with the IT-AV of permanently gaining specialists for the field of information and communication technology”.

Not least as a result of this recommendation the IT special team has registered over time a more liberal practice in the granting of residence. Many aliens offices now grant six months of residence if there is an entitlement to unemployment benefit, although in some cases only after intervention by the IT special team. This is a length of time which generally permits a successful job search even in times of the IT crisis. According to the IT special team, if the individual concerned has not gained entitlement to benefits, in many cases a stay of three months is granted – even if this period of time is very short. They also report that there continues to be inconsistency in the granting of residence.

The IT special team registers a certain lack of uniformity in dealing with Green Card unemployment at the public employment service, too. For instance some employment offices finance measures of further vocational training or language courses for unemployed Green Card holders, others do not.

Frictions are reported to arise repeatedly in the everyday practice of the employment offices and the aliens offices because each authority requires certificates from the other authority. Thus the aliens offices frequently need proof of entitlement to unemployment benefit in order to grant a residence permit, whilst conversely the public employment service requires proof of a valid residence permit in order to pay unemployment benefit. Again and again the experience is made that the unemployed Green Card holders are not informed of the need to go to the respective other authority. Especially in regions outside the Green Card centres this is also reportedly because of the lack of experience with Green Card unemployment. From the author’s viewpoint it must also be assumed that hostility to foreigners reaching as far as racism can be found in all social institutions and thus also in the authorities of the Federal Republic of Germany.¹⁶

According to the experience of the IT special team, foreign IT specialists who are in danger of becoming unemployed or are already unemployed make an intensive effort to find a new job. Some try to avoid every single day of unemployment. In order to avoid a loss of qualification, which occurs rapidly in IT occupations, in particular the most highly qualified people also look for new employment at international level if dismissed and emigrate if necessary (“international labour nomads”), which would mean a loss for the economy here in Germany.

¹⁶ An example: during a phone call with a colleague from an employment office one of the people working on the project was informed in a brusque tone that unemployed Green Card holders would not receive unemployment benefit, as after all there were enough German unemployed. Although it became clear during investigations in the context of this study that this employment office does in fact pay earnings-replacement benefits to unemployed Green Card holders, in practice it is doubtful whether foreign IT specialists, with their often inadequate knowledge of the German language and laws, are able to push through any benefit entitlement they may have if they come across such employees at the employment office.

USA

With the American green card, non-Americans obtain the right to live and work permanently in the USA. After five years they may apply for American citizenship (Martin/Werner 2000). The German Green Card, in contrast, is limited to five years.

What is more comparable with the German Green Card is the “H-1B program” for highly qualified workers in the USA. In the context of this programme, work and residence permits are granted which are valid for three years and can be extended for a further three years. Some 60 percent of the H-1B visas go to high-tech workers. A transition to a permanent residence status is possible when an employer supports the application for a green card.

In the USA, too, losing a job means losing the residence permit: “In Silicon Valley and other IT strongholds, thousands of foreign employees of many years’ standing are leaving not only their desks: they have only ten days’ time to find a new job. Anyone who does not manage that has to leave the country immediately with his/her family” (Süddeutsche Zeitung of 26/27.05.2001). The crux of this press report was confirmed by an American expert on migration.¹⁷ The procedure followed at the authorities therefore seems to be rather more restrictive in the USA than in Germany – which does not legitimise rigid procedures, however.

Relevant Internet chatrooms, to which a separate chapter is devoted in the following, also provide insights into the differing practices in the case of Green Card unemployment, in this case from the viewpoint of the people affected.

6 Chatrooms: viewpoints of the people affected

Many foreign IT specialists are linked via chatrooms. A discussion forum was set up by a management consultancy which works in Green Card placement and sees itself as having social responsibility in times of the IT crisis (www.trust7.com).¹⁸ The forum sees itself on the one hand as a self-help institution for Green Card holders (“Our forum gives you the chance to discuss problems and to help each other with useful tips”)¹⁹. They can for example exchange experiences about problems concerning the family following to Germany or about losing a job. On the other hand the forum sees itself as an organ to articulate political-social interests (“We are trying to voice our opinion and problems!”).²⁰

Things are pretty lively in this forum, occasionally so lively that the participants in the discussion call to each other: “Keep cool!” As a rule communication is anonymous, using first names or fantasy names: thus for instance a “Just Me” replies to a “Just You” or a “Mr. Greencard” indicates his wish to speak.

¹⁷ E-mail from Prof. Philip Martin of the University of California of 11 December 2002.

¹⁸ In addition to this the author also knows of a chatroom of Romanian Green Card holders (www.romanians-de.org). As this is run in the Romanian language, it could not be utilised for this study.

¹⁹ In order to ensure authenticity, in the following the spelling and grammar of the originals in the forum are generally retained.

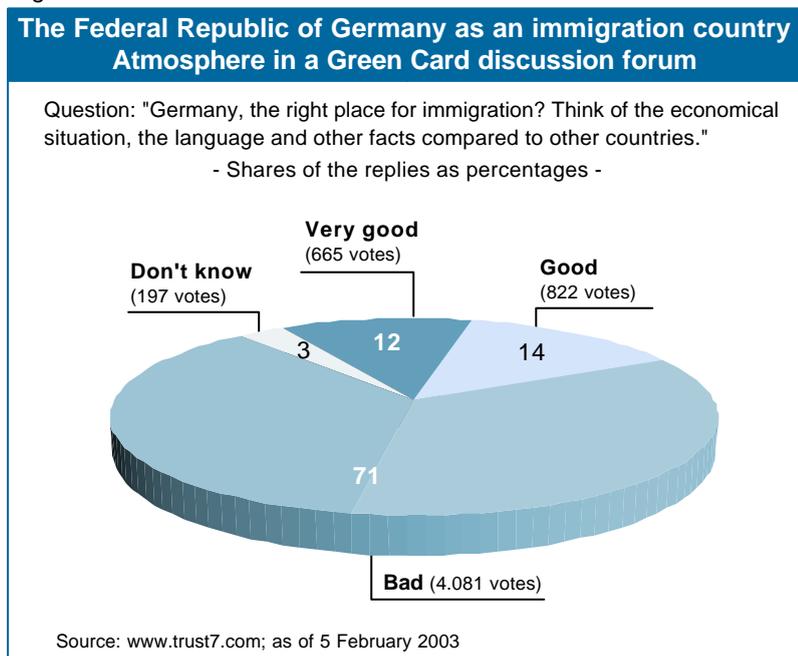
²⁰ It is therefore in agreement with this objective to consult and publish contents of the forum for the study. The author contacted the operators of the forum beforehand and will make the publication available to the forum.

The author adopted a “lurking” position in this forum, the position of “(secret) listening” (Stegbauer/Rausch 2001) – in other words the position of “passive” participation, not actively intervening in the discussion activity. The empirical material in this forum was not evaluated for this study systematically in the strict sense, e.g. by analysing the conversation, but is used more illustratively. An attempt was made in this respect to reproduce the general tenor of the forum.

Using a chatroom as an empirical data source is possible in this study in as far as Green Card holders are presumably a genuine clientele for Internet discussion forums. Selectivity problems will be less considerable here than with other social groups, not all of whose members even have access to the Internet. The decisive advantage of such an empirical data source is that a largely anonymous discussion forum permits open comments. It is doubtful whether interviews with people affected as an alternative method would have ensured a similar level of openness. They would have been conducted by a representative from an authority – which in this sensitive context, especially among people who avoid contact with authorities, could have raised problems.

Before the forum opens there is a survey. It is possible to take a vote on the question “Germany, the right place for immigration? Think of the economical situation, the language and other facts compared to other countries.” (cf. Figure 3). This survey is not to be regarded with scientific standards: for instance the same person can vote repeatedly and also people other than Green Card holders can vote in principle. It is also uncertain to what extent the

Figure 3



people responding can draw the desired comparison with other countries at all. The clarity of the result – over 70 percent speak badly of Germany – gives cause for thought, however.

In previous chapters the lack of uniformity of procedures followed by authorities in the case of Green Card unemployment even in small regions was already outlined. This lack of

uniformity is also taken as a theme by forum participants in numerous contributions, for example:

“The answers to these questions (questions on residence rights and benefit receipt, author’s comment) might change depending on the person in the foreign office or in Arbeitsamt. Isn’t this ridiculous for such a primary issue? There is either a law (that brought us all here) or not, subjectivity and different actions in different cities sound quite awful to me.”

For unemployed Green Card holders the lack of uniformity is obviously associated with uncertainty and feelings of unpredictability and being at the mercy of an arbitrary use of power – both in the negative and the positive sense. Thus for example one forum participant replies to another participant’s question regarding residence rights:

“It is possible if the responsible officer thinks it is possible. I am not kidding.”

In numerous other contributions, too, the importance of the “personal factor” in direct contact with representatives of the authorities is stressed, for example:

“This depends on (...) you have the luck to talk to a ‘nice guy’ at the Foreign Office.”

“It all depends (...) if the guy at the arbeitsamt likes you.”

“I am afraid they will not give me any money or visa to stay because all is dependent on their mood.”

In addition there are a great many contributions in which bitterness, fury and distress can be heard in view of rigid procedures following the loss of a job. For instance in reply to the question of a forum participant who is about to become unemployed, “Will I get social insurance money and will my pension and health insurance be paid within this interval?“, one unemployed Green Card holder who receives no unemployment benefit, presumably because of insufficient qualifying periods, and no other social benefits either, says:

“You might want to try to get Arbeitslosengeld. I didn’t get it. As I’ve mentioned: THEY DON’T CARE!!!! (...) The insurance will squeeze your neck until you pay. I didn’t pay my insurance for the 3 months (duration of the stay allowed following the loss of the job in this case, author’s comment). If I have nothing to pay, what am I suppose to do? Prostitute myself???”

Now, for your pension, kiss it, good bye. The only way you will get it, is from applying at the Finanzamt that you will be leaving Germany for good.”

In a more recent survey of 79 employed Green Card holders regarding their integration into the firms and into society, quite a high level of satisfaction becomes clear (Carl Duisberg Fördererkreis e. V. 2002). Unemployed Green Card holders on the other hand frequently do not speak highly of the Green Card in particular and of the political culture in Germany in general, e.g.:

“The Green Card is a Joke (...), in my mind it starts as a yellow card that quickly turns into a red card.”

“Human aspects are somewhere behind economical ones, especially those aspects of foreigners. This is how their (German politicians’, author’s comment) paradigm is.”

Thoughts about and concrete plans for leaving Germany and advising friends against migrating to Germany can be found repeatedly:

“I am really pissed off with this kind of treatment. I am thinking of going back and I don't advise people to come and work here. (...) In any case I have booked my ticket for going back on 3rd of August.”

On 18 December 2002 the Federal Constitutional Court in Germany declared the coming into being of a more extensive Immigration Act (Zuwanderungsgesetz 2002) to be unconstitutional. It therefore did not come into force on 1 January 2003, as had been planned. For Green Card holders it could have smoothed the way to a permanent residence status if certain conditions formulated in §9 were fulfilled. One forum participant writes disappointedly:

“Hopefully (...) they will come up with something. Makes a very uncertain life otherwise, if you know what I mean.”

And once again emigrating from Germany is considered:

“I suggest that the green-card owners should start to search jobs in other countries where (...) they don't play with peoples life like that. I am so tired of all this shit. Really.”

7 Summary and conclusions

In order to prevent misunderstandings: this study did not examine the issue of the success or failure of the Green Card scheme in Germany. After the description of the extent and structures of the practice of granting Green Cards so far, it concentrates more on one specific problem, that of the Green Card unemployment which has arisen in the course of the IT crisis and the way that the authorities deal with it.

From August 2000 up until the end of December 2002 a total of 13,373 Green Cards were assured by the public employment service in Germany. This is what is usually referred to in public debate in Germany. The number of IT specialists who actually immigrated is probably lower, however. For the statistics of the work permits that were not only assured but were actually granted for a first employment show for the same period only 9,614 permits. This order of magnitude is equivalent to the number of students graduating in computer science at German universities in more than one and a half years. Thirteen percent of the Green Cards granted by the end of 2002 went to women. A good fifth of IT specialists come from India. IT experts from south-eastern and eastern European countries and from China and Turkey are also well represented.

Just under seven percent of the IT specialists who obtained their Green Cards in Munich were registered as unemployed in Germany at least once later on. Similar orders of magnitude presumably exist in other districts. This is a lower limit, since unemployed Green Card holders do not always report to the authorities owing to bad experiences and ignorance of

their legal rights. As far as it is reconstructible in the context of this study, considerable Green Card unemployment began to arise from the end of 2001. Twenty eight of the approximately 100 unemployed Green Card holders identified in this study were still registered as unemployed at the time of the investigations. Thirty eight people had managed to take up a new job. In the case of about one in four Green Card holders, contact to the employment office ceased, so there is no information about their destination. In the case of eight people it must be assumed that they left the country after a spell of unemployment.

In spite of practice having become more liberal in many cases meanwhile, there is still pressure from problems associated with procedures followed by the authorities in cases of Green Card unemployment. This applies with regard to the lack of uniformity in particular in decisions to do with residence law, which is understandably experienced by those affected as arbitrariness. Also, despite all improvements some procedures are still too rigid, above all if the job is already lost during the first year of residence. If one to three months are currently not sufficient to find a new job and if there is a desire to keep these specialists in Germany, then more generous regulations should be found for this group, too – even at the expense of social assistance, which in the case of this highly qualified and highly motivated group of people would surely only need to be paid temporarily.

What reasons can be given in favour of the most generous possible and uniform procedures? Firstly a humanitarian-ethical reason: one does not treat people the way that some unemployed Green Card holders have been and are being dealt with – and definitely not when they were courted desperately as immigrants only a short time before.

In Germany's debate surrounding migration – and not only there – it is not humanitarian-ethical viewpoints that dominate, however, but economic ones (cf. e.g. Zuwanderungsgesetz [Immigration Act] 2002). But even from an economic point of view, rigid and non-uniform procedures in the case of Green Card unemployment are dysfunctional, since they undermine the attractiveness of Germany as an immigration country.

Germany is dependent on immigration: not only because it may have to fall back on foreign IT specialists again very quickly if the IT situation improves – IT specialists who may have been asked to leave the country only shortly before on losing their jobs. In the course of the demographic change and the ageing of society, the social insurance systems are also faced with considerable problems and labour is becoming scarce – even with a high level of immigration and of female labour force participation (Fuchs/Thon 1999; Unabhängige Kommission "Zuwanderung" 2001: 26f.). Above all a shortage of highly qualified labour will probably arise (Reinberg/Hummel 2003; Bund-Länder-Kommission für Bildungsplanung und Forschungsförderung 2001).

Germany will have to compete with other developed industrial countries for well qualified labour migrants.²¹ The attractiveness of an immigration country can be seen, however, not least by the way it treats its (labour) migrants in times of economic crisis.

²¹ What should also be discussed in more detail, however, are issues of global inequality, against the background of which such migratory movements take place, and what can be done to counteract it. What right do the developed industrial countries, which can advertise for themselves with (financially) more attractive working conditions, have for example to take away elites from the poorer countries – especially when they have often been trained and educated at the expense of the poorer countries (cf. on this subject also: Unabhängige Kommission "Zuwanderung" 2001: 80f.)?

One can only agree with the IT special team of the Central Placing Services (ZAV) when they write: “What sets us thinking of course are the complicated problem cases and individual fates with which we have been increasingly confronted recently. Here it can be seen what older colleagues remember vividly as their experience of the 1970s and what Max Frisch put in a nutshell accurately at that time with his legendary “We called guest workers and humans came”: the mobile labour nomads of the New Economy, too, the powerful rulers of source codes and virtual cyberspace are real people with families, children, plans for the future and totally human reactions when they suddenly lose their jobs and are threatened by expulsion from the country. They, too, have to observe notice periods in their rented apartments, and, like any other employee, they too gain an entitlement to unemployment benefit and require the services of the public employment service in an emergency” (Zentralstelle für Arbeitsvermittlung 2003: 3). And they need a migration policy orientated towards the longer-term as well as an open receiving society that does not drop them and other migrants when economic problems arise. For, to end with a quotation from the Internet discussion forum: “Foreigners are no Toys!”

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