focus MIGRATION

POLICY BRIEF

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The German "Green Card"

The German "Green Card" is among the most fiercely disputed topics within the broader immigration debate in Germany. Introduced in August 2000, its goal was to provide a non-bureaucratic means of bringing foreign experts (non-EU/EEA[1] foreign nationals) in the information and communication technology (ICT) fields to Germany.

The success of the Regulation on Work Permits for Highly Qualified Foreign Labourers in Information and Communication Technology (IT/ArGV), or the so-called "Green Card", has generally been a rather contentious issue. Critics primarily refer to the low number of foreign ICT expert recruits as an indicator that Germany is lagging behind in the worldwide competition to acquire the best minds, the so-called "war for talent".

To measure the success or failure of the Green Card based upon the number of hired skilled labourers would not, however, do justice to the actual outcome of this initiative. For instance, it served to initiate a public debate around the necessity for labour migration. A public examination of immigration in terms of skilled labourers with a particular specialisation and limited length of stay seemed more likely in the midst of high unemployment in Germany. A public debate, albeit controversial and emotionally guided, was also especially important for the implementation of a new immigration law. Thus, the Green Card aided in paving the way for the Immigration Act[2] of July 2004, which provides for the labour migration of highly qualified individuals.

Secondly, the Green Card enabled small and medium-sized enterprises (SMEs) in the ICT sector to significantly improve their competitive edge against the market's leading global players.

Background

The Green Card initiative arose from complaints made by trade associations like BITKOM (German Association for Information Technology, Telecommunications and New Media) over the lack of ICT specialists. Even individual corporations and lobbying agencies from this sector, such as Initiative D21[3], noted a scarcity of specialised personnel (D21, for example, is run by the former CEO of IBM Germany, Erwin Staut). The lack of specialised labourers could, according to the argument, jeopardise the innovative and competitive capability of this rapidly growing sector in Germany. According to estimates from the Cologne Institute for Business Research (Institut der deutschen Wirtschaft Köln, IW), 50,000 to 75,000 job vacancies were supposed to be filled by ICT specialists in the short term. BITKOM further claimed that the scarcity of highly qualified personnel was a fundamental impediment to the future sustainable development of the sector.

Against the background of this discussion, Chancellor Gerhard Schröder announced the Green Card programme rather unexpectedly during the international computer trade show "CeBIT 2000" in Hanover. It was intended to be one initiative within a complete technology-specific package which was aimed at improving education and training conditions in Germany. The Green Card, however, triggered a heated debate concerning labour migration and the necessity for reforms to German immigration legislation.

Cornerstone of the Green Card regulation

The Green Card regulation was intended to attract foreign experts from third states (i.e. non-EU nationals) to Germany. It has frequently been confused with its American namesake. The American green card allows for an indefinite work and residence permit and offers the possibility for naturalisation. In contrast, the German version merely granted a limited work permit up to a period of five years, assuming the foreign expert was offered a position by a German company. It was, therefore, more akin to the American H-1B visa, which provides for immigration of highly qualified individuals within certain professions for a limited period of time.

A few months after its introduction, the original quota of 10,000 German Green Cards was increased to 20,000. A university or technical college degree or a guaranteed gross annual salary of at least € 51,000 was required. Likewise, the Green Card could be obtained by international ICT students, allowing them to sign a labour contract in Germany directly following the culmination of their studies. In doing so, they would be spared a lengthy process to obtain a residence permit. The regulation also allowed Green Card holders to change jobs.

Working conditions and salary reflected German standards. The foreign experts were on equal legal terms with German employees with respect to taxes and social security. Consequently, German companies were required to pay health, unemployment and retirement benefits to their foreign experts as well. Furthermore, the experts could bring their families with them. Following an initial waiting period of one year, a spouse was also eligible for a work permit. In 2003 the waiting period was shortened to six months.

One particular aspect of the Green Card provision was the extremely quick approval process. The entire procedure, from filing the application to the approval of a work permit, took

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no more than a week in most cases. The Green Card had an obvious advantage over earlier approval procedures for highly trained foreign nationals, which could last several months.

How successful was the German Green Card?

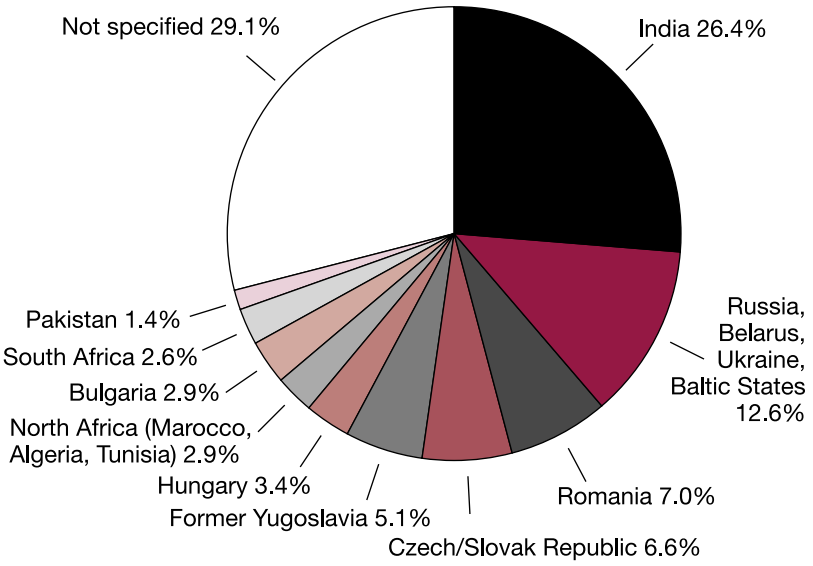
From August 2000 to July 2003, 14,876 work permits were issued on the basis of the Green Card regulation. The majority of ICT experts were employed by companies in Bavaria (25%), Baden-Württemberg (19%), Hesse (24%) and North Rhine-Westphalia (15%). Thus the initial desired quota of 20,000 experts, as well as the considerably higher estimates within economic circles, went greatly unmet. Declining economic development in the sector, particularly apparent following the 90s boom, contributed greatly to the low number of permits issued. Following a period of considerable growth in the second half of the 1990s, the ICT sector regressed significantly from 2002 to 2003.

The following diagram shows the countries of origin for the ICT recruits. The majority came from Eastern Europe.

Authorised IT-ArGV work permits up to 31 July 2004

Nationality	In %	Total	Companies with ..... employees		
			< than 100	100 to 500	> than 500
India	26.4	3,926	2,478	866	581
Russia/Belarus/Ukraine/ Baltic States	12.6	1,874	1,237	268	370
Romania	7.0	1,039	624	195	220
Czech/Slovak Republic	6.6	983	169	659	151
Ex-Yugoslavia	5.1	756	434	105	217
Hungary	3.4	510	322	79	109
North Africa (Morocco, Algeria, Tunisia)	2.9	432	26	227	72
Bulgaria	2.9	431	293	46	92
South Africa	2.6	389	183	68	138
Pakistan	1.4	211	136	21	54
Not specified	29.1	4,325	2,212	692	1.421
Total	**100**	**14,876**	**8,805**	**2,563**	**3,508**
		100%	59.2%	17.2%	23.6%

Source: German Federal Employment Agency (Bundesagentur für Arbeit)



A comparison between the target quota, in combination with the economy's estimates, and the actual number of Green Cards authorised led to an assessment that generally considered the programme a failure. A closer look at the figures and facts surrounding the Green Card programme, however, brings to light a more differentiated perspective.

When one considers the figures in terms of the size of the enterprises, it becomes clear that the IT-ArGV was taken advantage of mainly by SMEs, i.e. companies with fewer than 500 employees (see table). These companies applied for 11,368 work permits, which accounts for 75% of all permits granted. Companies with more than 500 employees (primarily multinational conglomerates) obtained only 25% of the permits. This is all the more astounding because, according to BITKOM, the 20 largest ICT firms (SAP, Deutsche Telekom, Siemens, IBM, Sun Microsystems, Microsoft, Intel, Vodafone, et al.) generate 70% of total revenue in this sector. The low number of international ICT experts hired seems, therefore, to conflict with both the companies' market positions and the market's oligopolistic structure. The major corporations were either not interested to the same degree in this recruiting opportunity or not dependent on it. It was the low demand for Green Cards from large companies, in particular, that was later commonly interpreted by the media as a sign of the Green Card initiative's failure.

At this point the question arises as to why globally operating corporations failed to take greater advantage of the recruiting tool they so desperately seemed to need?

The key to answering this question lies in the growing importance of internal, transnational labour markets within individual corporations. Multinational corporations have created their own institutional channels to steer the migration of the highly qualified. They have, thereby, created their own instrument for human capital transfers and are not, to the same degree as small companies, forced to rely upon external methods like the Green Card to recruit international specialists.

The legislative framework for intra-corporate labour markets was created in 1998 via the enactment of two regulations. Both regulations made work permits possible for international personnel (Art. 4, paragraphs 7 und 8 ASAV[4]; Art. 9, paragraph 2 ArGV[5]). They aimed to ensure a fast and non-bureaucratic transfer of staff within a corporation. In contrast to these regulations, the external recruitment of international specialists took place via a time-consuming and bureaucratic process before the introduction of the Green Card.

The Green Card was, for this reason, an effective medium

for restoring equal opportunity to competing ICT companies, in particular equality for companies of all sizes. Before its introduction, the global ICT players, who had an obvious edge over SMEs, were clearly winning the race. SMEs were forced to demonstrate, via a laborious procedure, a "public interest" in hiring international employees (Art. 5, paragraph 2 ASAV). The Green Card can, therefore, be seen to represent the structural equivalent of a pendant to internal labour markets of multinational corporations. This explains the disproportionately high use of this instrument by SMEs.

Conclusion - future prospects

The success or failure of the Green Card should be viewed in a broader context and not judged solely by the number of Green Cards awarded. Likewise, it should be measured by the public debate concerning immigration politics in Germany and on the basis of the recently adopted Immigration Act.

The Green Card has undoubtedly improved the competitiveness of SMEs within the ICT sector. It is also clear that the introduction of the Green Card triggered a wide public debate concerning questions of immigration, which very likely contributed to the passing of the new immigration law. The new law, which took effect on 1 January 2005[6], provides for an unlimited residence permit for highly qualified workers and their families. Like the Green Card, the law offers students who graduate from a German university the possibility to find a post in Germany within the first year following the completion of their degree.

Critics of the legislation concerning labour migration within the Immigration Act argue that a so-called "points system", which is applied in Canada, for example, would have been substantially more promising. In accordance with this system, points are awarded on the basis of the qualifications and skills of the applicant. This system allows for a flexible and non-bureaucratic reaction to labour market shortages. The Green Card was intended to accommodate a sector-specific shortage, and a general points system as a part of the new Immigration Act would have served as a worthy successor to the Green Card concept. Nevertheless, the Green Card, which was halted at the end of 2004, contributed to the further development of immigration legislation in Germany.

Footnotes

1 The European Economic Area (EEA) is comprised of the countries of the European Union (EU) as well as Norway, Iceland and Liechtenstein.
2 The Act to Control and Restrict Immigration and to Regulate the Residence and Integration of EU Citizens and Foreigners (Immigration Act) entered into force on 1 January 2005, although some parts took effect on 1 September 2004.
3 D21 is Germany's largest public private partnership, with over 400 representatives from political parties, enterprises and associations. The aim of their work is to create the general conditions necessary to transform Germany into an information and knowledge society, with a view to making the country more internationally competitive.
4 Regulation Governing Exemptions to the Ban on Foreign Recruitment (Anwerbestopp-Ausnahmeverordnung, ASAV) (http://europa.eu.int/youreurope/nav/en/citizens/factsheets/de/entryintoms/familynoneunationals/en.html).
5 Regulation Governing Work Permits for Foreign Workers (Arbeitsgenehmigungsverordnung, ArGV).
6 See footnote #2.

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Internetlinks

- German Federal Ministry of the Interior: www.zuwanderung.de
- BITKOM Trade Association: www.bitkom.org/
- D21 Initiative: www.initiatived21.de/index.php