



**SI Ad Hoc Query regarding the application of the Directive 2005/36/EC
on the recognition of professional qualifications**

Requested by SI EMN NCP on 19 October 2012

Compilation produced on 13th December 2012

**Responses from Bulgaria, Czech Republic, France, Germany, Hungary, Italy, Latvia, Lithuania, Luxembourg, Poland,
Slovak Republic, Slovenia, Spain, Sweden and United Kingdom (15 in Total)**

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1. Background Information

The Ministry of Labour, Family and Social Affairs of the Republic of Slovenia is considering the revision of Act Regulating the Qualification Recognition Procedure of Citizens of EU Member States, European Economic Area and Swiss Confederation for the pursuit of Regulated Professions and Professional Activities in the Republic of Slovenia. Since we are in doubt regarding the application of the Directive 2005/36/EC on the recognition of professional qualifications, we would very much appreciate your reply on whether you apply the rules and procedures of the directive or your national rules and procedures (ENIC/NARIC) in the process of the recognition of professional qualifications in the following cases:

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2. Responses¹

		Wider Dissemination?²	<ol style="list-style-type: none"> 1.) A third-country national who applies for an EU Blue Card in your country with professional qualifications obtained in a third country (first recognition); 2.) an EU citizen or his family member with professional qualifications obtained in a third country (first recognition); 3.) a family member (a third country national) of your own national with professional qualifications: <ol style="list-style-type: none"> a.) obtained in an EU country, b.) obtained in a third country (first recognition).
	Bulgaria	Yes	<ol style="list-style-type: none"> 1. In case of a third-country national applying for an EU Blue Card in the Republic of Bulgaria with professional qualifications obtained in a third country he/she has first to get his/hers qualifications recognised (first recognition) in order to apply for an EU Blue Card. The procedure of recognition in this case prescribes different paths for different professions – if the profession in question is regulated in the Republic of Bulgaria (according also to the rules prescribed in the Directive 2005/36/EO) than the application for recognition should be filed at the respective competent bodies, while if the profession is not-regulated than the application should be filed at the National Centre for Information and documentation (NACID - http://mail.nacid.bg/newdesign/en/index.php) by the Ministry of Education, Youth and Science. The procedures of recognition at the respective competent bodies and NACID by the Ministry of Education, Youth and Science comply with the minimum standards prescribed in the Directive 2005/36/EO. 2. In case of an EU citizen or his family member has obtained professional qualifications in a third-country and wants to have these qualifications recognised in the Republic of Bulgaria, the procedure for recognition (first recognition) depends on the type of profession he/she wants to exercise – regulated or not, and on whether the Republic of Bulgaria has signed a bilateral agreement in the field of recognition of qualifications with the respective third-country. Regulated professions for example are medics and medical staff, veterinary physicians, architects, specialised engineers, suppliers of toxic materials, and some other specific professions (according to the minimal standards prescribed in the Directive 2005/36/EO). These professions require special qualifications and the respective regime for recognition of the latest rests in the scope of the competent bodies – the Ministries, Government Agencies and Chambers of Professionals for the respective professions. Not-regulated professions require the respective qualifications obtained in a third-country to be reviewed and recognised by NACID at the Ministry of Education, Youth and Science, or the higher education institution if the purpose of recognition is applying for study at this specific institution. In addition, if the Republic of Bulgaria has signed a bilateral agreement in the field of recognition of qualifications with the third-country in question than the recognition of the diplomas has to follow the rules laid down in the agreement. The same procedures apply also for Bulgarian citizens who have obtained qualifications in third-countries. 3. In case of a third-country national who is a family member of a Bulgarian national and wants to have recognised qualifications

¹ If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.

² A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."

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			<p>obtained:</p> <p>a) in a third-country than he/she should apply for recognition of his/hers qualifications according to the procedure in place for EU (incl. Bulgarian) citizens who have obtained professional qualifications in a third-country – described above in point (2.); in an EU member state than he/she should apply for a recognition of his/hers qualifications according to the procedure in place for EU (incl. Bulgarian) citizens – through the respective competent bodies for regulated professions, or NACID by the Ministry of Education, Youth and Science for not-regulated professions, or the higher education institution if the purpose of recognition is applying for study at this institution in particular.</p>
	Czech Republic	No	<p>Since the Directive 2005/36/EC does not apply to recognition of qualifications obtained in third countries, it is not the question whether to apply the rules provided therein in cases cited under 1, 2 and 3b.</p> <p>In case of applicant for a Blue card (1), the qualification must be recognized by a body competent for recognition of qualifications. This administrative procedure is more complex than the one based on the Directive, as transposed, applied in case of qualifications obtained in EU member states.</p> <p>In case of qualification obtained in an EU member state (3a), rules and procedures provided for in Act on recognition of professional qualifications (No. 18/2004 Coll.) are applied. The Directive as well as other relevant <i>acquis</i> was transposed into this Act.</p>
	France	Yes	<p>1) In France, the implementation of Directive 2005/36/EC on the recognition of professional qualifications is under the responsibility of the Ministry of Labour, and more specifically the General Delegation for Employment and Vocational Training (Délégation générale à l'emploi et à la formation professionnelle = DGEFP). It issues certificates, notably in the case of mobility, which indicate to the authorities of another Member State if employees can pursue their profession with their diplomas and/or professional experience.</p> <p>Regarding regulated professions, the relevant ministry will issue the necessary authorisations to practise.</p> <p>A third-country national who applies for an EU Blue Card in France with professional qualifications obtained in a third country has to fulfil in particular one of the following conditions:</p> <ul style="list-style-type: none"> - to hold at least a three-year university degree from an establishment of higher education recognised by the State where the diploma was obtained; - to have at least 5 years of professional experience of a level comparable to higher education qualifications. <p>2) and 3) <i>See above</i>. As the directive has been transposed into national law, France applies national rules and procedures in the process of the recognition of professional qualifications.</p>
	Germany	Yes	<p>The directive 2005/36/EC has been transposed into national law and thus forms the basis for the already existing national regulations and procedures for the recognition of foreign professional qualifications. The regulations and procedures are applied to all persons, irrespective of their nationality and their residence status if the same acquired evidence of a formal professional qualification abroad and state that they intend to work in Germany in a position corresponding to their professional qualifications (for applicants with residence in the EU, the EEA or Switzerland or holders of the nationality of one of the aforementioned states such a statement can, as a general rule, be waived).</p>
	Hungary	Yes	<p>1. Hungary applies its own national recognition laws (and not Directive 2005/36), these rules are identical for Hungarian nationals and for EU Blue Card holders.</p> <p>2. Hungary applies its own national recognition laws (and not Directive 2005/36), these rules are identical for EU nationals and for family members of EU nationals</p>

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			<p>3. a) Hungary applies the rules of Directive 2005/36. b.)Hungary applies its own national recognition laws (and not Directive 2005/36), these rules are identical for Hungarian nationals and for family members of Hungarian nationals.</p>
	Italy	Yes	Italy applies – both to EU as well as to non-EU nationals – EU Directive 2005/36/EC through an implementing provision (Legislative Decree 206/2007) for EU citizens, and through another national provision (Consolidated Immigration Act, Legislative Decree 286/1998) that allows to apply the rules on recognition of qualifications to non-EU nationals, except for issues concerning entry quotas.
	Latvia	Yes	Latvia applies the same procedure to all persons who submit their documents for recognition of a professional qualification (Law On the Regulated Professions and the Recognition of Professional Qualifications). EU citizens, their family members, EU Blue Card applicants and other third-country citizens who want to work in Latvia – all persons should submit their documents under the same procedure. Requirements applied differ depending on the country where professional qualification was obtained. For those whose professional qualification was obtained in the EU, simplified requirements, stipulated in the Directive 2005/36/EC are applied, for those who have obtained their qualification outside of the EU, more strict requirements (national ones) are applied.
	Lithuania	Yes	<p>Q1: Professional qualifications of a third-country national, obtained in a third country, who applied for the EU Blue Card, are recognized (first recognition) in accordance with Lithuanian rules (Resolution of the Government).</p> <p>Q2: Professional qualifications of an EU citizen, obtained in a third country, or his family member are recognized (first recognition) in accordance with Lithuanian rules.</p> <p>Q3: Professional qualifications of a family member (a third-country national) of Lithuanian citizen:</p> <p>a) obtained in the EU, are recognized under the Directive 2005/36/ES,</p> <p>b) obtained in a third country (first recognition), are recognized (first recognition) in accordance with Lithuanian rules and procedures.</p>
	Luxembourg	Yes	<p>Q1: Professional qualifications of a third-country national, obtained in a third country, who applied for the EU Blue Card, are recognized (first recognition) under the Directive 2005/36/EC.</p> <p>Q2: Professional qualifications of an EU citizen or his/her family member, obtained in a third country, are recognized (first recognition) in accordance with our national rules and procedures.</p> <p>Q3 a) : Professional qualifications of a family member (a third-country national) of a Luxembourgish citizen, obtained in the EU, are recognized under the Directive 2005/36/EC.</p> <p>Q3 b) : Professional qualifications of a family member (a third-country national) of a Luxembourgish citizen, obtained in a third country (first recognition), are recognized (first recognition) in accordance with our national rules and procedures.</p>
	Poland	Yes	<p>1. PL has applied rules and procedures of the directive concerning a third-country national who applies for an EU Blue Card with professional qualifications obtained in a third country with regards to foreigner`s right to stay on the territory of Poland. The provisions of the Directive 2009/50/EC were implemented by the Act of 27 April 2012 amending the Act on foreigners and the Act on the promotion of employment and labour market institutions (Dz. U. of 28 May 2012, item 589) entered into force on 12 June 2012. Currently PL is working on amending Polish law (through the new Act on Foreigners) in the scope of recognition of professional qualifications obtained in a third country.</p> <p>2.PL implemented the rules and procedures of the directive 2005/36/EC for an EU citizen and his family member with professional qualifications obtained in a third country. A person (EU citizen/his family member) who has qualifications from a third country can recognize them according to the Polish rules.</p>

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			PL applies rules and procedures of the directive for a family member (a third country national) of a Polish national with professional qualifications obtained in both an EU country and a third country. In the first case PL comply with the directive 2005/36/EC. In the second case where qualification comes from a third country recognition is based on the Polish rules.
	Slovak Republic	Yes	<p>1. The Slovak Republic does not have any special provisions regulating the qualifications recognition for the purposes of the Blue Card issuance. The qualification recognition in this case is regulated by the provisions of the Directive 2005/36/ES. (see also the answer below).</p> <p>2. and 3.</p> <p>In 2007 while transposing the Directive 2005/36/ES on the professional qualification recognition the Slovak Republic used the option stated in the preamble of the Directive that the provisions of the Directive may be applied also to third country nationals (while the rights of the EU citizens are not touched). Before the transposition the system of the qualification recognition in the SR was unfavourable towards the EU citizens. Within the transposition the system was made equal to everyone including EU citizens as well as third country nationals (regardless of the citizenship, family relations of the concerned person or the country where the document on qualification has been obtained). The qualification recognition in case of a blue card application is regulated by the provisions of the Directive 2005/36/ES. The Slovak Republic did not introduce any special provisions for the qualification recognition of the third country nationals or for the cases when the qualification was obtained in the third country. In case of the non regulated professions the Ministry of Education, Science, Research and Sport of the Slovak Republic is issuing a statement to the document on education, which however is not to be considered as a decision.</p>
	Slovenia	Yes	<p>Q 1: Professional qualifications of a third-country national, obtained in a third country, who applied for the EU Blue Card, are recognized (first recognition) under the Directive 2005/36/ES.</p> <p>Q 2: Professional qualifications of an EU citizen, obtained in a third country, are recognized (first recognition) in accordance with our national rules and procedures, not the Directive 2005/36/ES, while the professional qualifications of a family member of an EU citizen, obtained in a third country, are recognized (first recognition) under the Directive 2005/36/ES.</p> <p>Q 3: Professional qualifications of a family member (a third-country national) of Slovenian citizen,</p> <p>a.) obtained in the EU, are recognized under the Directive 2005/36/ES,</p> <p>b.) obtained in a third country (first recognition), are recognized (first recognition) in accordance with our national rules and procedures, not the Directive 2005/36/ES.</p>
	Spain	Yes	<p>It should be emphasised that Directive 2005/36/EC has been transposed to Spanish law through Royal Decree 1837/2008 of 8 November, which incorporates into Spanish legislation Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005, and Council Directive 2006/100/EC of 20 November 2006, on the recognition of professional qualifications, as well as certain aspects relating to the practice of the legal profession.</p> <p>Regarding training qualifications, Article 6 of the aforementioned Royal Decree 1837/2008 establishes the following:</p> <p>"1. 'Training qualification' means any diploma, certificate or other qualification issued by a competent authority of a European Union Member State, officially sanctioning professional training predominantly acquired in the European Community.</p> <p>2. Likewise, any training qualification issued in a third country shall be standardised to a training qualification, as long as the holder has three years' work experience in the profession concerned, in the territory of the Member State that has recognised this training qualification and that this work experience is certified by this same Member State."</p>

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			<p>Here is, then, the response to the specific questions:</p> <p>1. Third-country nationals who request an EU Blue Card must request, in turn, the official validation of their foreign higher education qualification awarded in a third country in accordance with the national rules. The official validation procedure is initiated by the interested party after they have completed the necessary request forms and presented them in an official register. This can be done online via the web page of the Ministry of Education, Culture and Sport.</p> <p>However, the aforementioned Royal Decree 1837/2008 of 8 November which transposes Directive 2005/36/EC, stipulates in Article 6 that the qualification issued in a third country shall be standardised to a qualification awarded by an EU Member State if the qualification in question is recognised in another European Union Member State and if the party also has three years' certified work experience within the territory of the Member State that recognised the qualification.</p> <p>2. The same process must be followed in accordance with the national rules for EU citizens and their family members who may have been awarded their qualification in a third country.</p> <p>3. In this last case, if the qualification was awarded in a European Union Member State, Directive 2005/36/EC, which has been transposed into Spanish legislation through Royal Decree 1837/2008 of 8 November, shall apply. In the case of a qualification obtained in a third country, official validation of the qualification must also be requested, with the exception made for those that have already been recognised in another Member State where three years of work experience in that country has also been accredited.</p>
	Sweden	Yes	<p>1. Sweden has not yet implemented the Blue Card Directive.</p> <p>2. As a general rule, in Sweden, when it comes to the recognition of professional qualifications that have been obtained in a third-country, it is the national rules that are applied. Directive 2005/36/EC is applied in cases where are professional qualification has been obtained in a Member States of the EU-/EEA.</p> <p>See answer (2).</p>
	United Kingdom	Yes	<p>Whilst the UK is required to apply the Directive, its application raises no issues in these scenarios because the relevant immigration procedures do not involve checking the equivalence of professional qualifications gained abroad. The Home Office would therefore have no comments to offer.</p>