



Council of the European Union
General Secretariat

Brussels, 07 December 2020

**Interinstitutional files:
2016/0176(COD)**

WK 14263/2020 INIT

LIMITE

**JAI
MIGR
SOC
EMPL
EDUC
CODEC**

WORKING PAPER

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

INFORMATION

From:	Presidency
To:	JHA Counsellors (Migration, Integration, Expulsion)
N° prev. doc.:	ST 13407/20
Subject:	Proposal for a Directive of the European Parliament and the Council on the conditions of entry and residence of third-country nationals for the purposes of highly skilled employment - Blue Card Reform: State of play and possible way forward

As announced in the JHA Counsellors meeting on the Blue Card of 4 December 2020, delegations will find attached the following additional explanation regarding the Presidency's proposal concerning the recognition of professional qualifications in regulated professions in a second Member State (see point III.3. in the Presidency Paper; ST 13407/20).

WK 14263/2020 INIT

LIMITE

EN

Dear JHA Counsellors,

As announced in the JHA Counsellors meeting on the Blue Card of 4 December, the Presidency would like to provide the following additional explanation regarding the Presidency's proposal concerning the recognition of professional qualifications in regulated professions in a second Member State (see point III.3. in the Presidency Paper; ST 13407/20). The issue is indeed complex and the Presidency is thankful for the opportunity to explain what its intended proposal is.

As you know, for Union citizens, there are legal instruments that harmonise the recognition of professional qualifications in regulated professions (Directive 2005/36/EC and other sectorial legislation). If the qualification was acquired in a third country, Union citizens must have worked in that profession in a Member State for at least three years in order for Directive 2005/36/EC to apply (Art. 3(3)). However, in our view (supported by the Commission), Member States can have more generous rules on recognition, providing e.g. for Union citizens with a third-country qualification to have worked only for one year in another Member State in that profession in order to apply for a recognition procedure. In those cases, national rules on recognition would apply instead of EU rules.

Blue Card holders already benefit from equal treatment with regard to the recognition of professional qualifications in the Member State where they were issued the Blue Card (Article 15(1)(d) of the Proposal). However, they do not benefit from such equal treatment in other Member States, where they might wish to exercise mobility. Our proposal would be to extend this equal treatment with regard to the recognition of professional qualifications also in the situations of long-term mobility. This equal treatment would extend to Blue Card holders the application of EU rules on recognition of professional qualifications (such as Directive 2005/36/EC and other sectorial legislation), as well as national rules.

This implies that Blue Card holders with a third-country qualification could exercise their mobility to a second Member State after three years of experience in the first Member State, and benefit from EU rules on recognition; but also that they could exercise their mobility after e.g. only one year, to a Member State that has national rules allowing the recognition of third-country qualifications even after only one year.

So, to give you an example, we would suggest to make it possible that an Indian national who has obtained an Indian qualification in a regulated profession (let's say: a doctor/physician) and who is already a Blue Card holder in France should, for the purpose of applying for an EU Blue Card in Germany, enjoy equal treatment regarding access to the recognition procedure with a doctor/physician who is a Union citizen, holds an Indian diploma, and wishes to work in Germany.

To sum up the Presidency's suggestions regarding the recognition of regulated professions in the situation of mobility of Blue Card holders:

- A Blue Card holder with a diploma in a regulated profession obtained in a third country should have access to the recognition procedure in a second Member State just like a Union citizen who has obtained the same diploma in the third-country – if the Blue Card holder has worked at least 3 years in the respective profession in the first Member State (as foreseen by Directive 2005/26/EC).
- Where more generous domestic law exists for Union citizens holding diplomas from third countries (e.g. no requirement to have worked three years in one Member State), then this domestic law should not only apply to Union citizens but also apply to third-country nationals.

So, wherever Member State law is more generous to Union citizens holding diplomas from third-countries in regulated professions than foreseen in Directive 2005/36/EC (or other EU instruments on specific regulated professions), this more generous treatment in domestic law should be extended to third-country nationals holding third country-country diplomas (limited to the mobility situation of Blue Card holders). In our view this solution would not create new procedures, but would mean to treat third-country nationals who work in regulated professions in the same way as Union citizens.

For further illustration, two possible drafting suggestions that we think would express our intention and that could for example be added to Art. 20 (3) (c), read as follows:

- *“For the purpose of applying for an EU Blue Card in a second Member State, EU Blue Card holders shall enjoy equal treatment with Union citizens as regards recognition of professional qualifications, in accordance with applicable EU and national law.”*
- *“For the purpose of applying for an EU Blue Card in a second Member State, EU law and, if more generous, national law governing the recognition of professional qualifications of Union citizens shall also apply to EU Blue Card holders.”*

We hope this helps to clarify what the Presidency’s intention is. However, if any questions remain the Presidency is happy to answer them.