

Digital Green Certificate – pass to freedom?

Article 21 of the Treaty on the Functioning of the European Union (TFEU) declares one of the most important rights of the European citizen, namely the right to free movement. Legislative works have resulted in the Schengen Convention, providing free movement within the European Union, allowing the citizens from different EU countries easy passage on borders. However, COVID-19 and the unexpected consequences eventually led up to the clear restriction and violation of this right. Governments and the EU faced the challenges of the unknown, doing their best to put a stop to this pandemic. The hard work and dedication of the researchers has paid off, and now thousands of healthcare workers work on vaccinating the people, state by state, that may bring an end to this pandemic.

As a result of the vaccine, and to try and ease the undeniable tension, the European Commission has proposed an integrated system, where in collaboration with the Member States the citizens of the EU would be categorized into three departments. The first are the Europeans, who have been vaccinated; the second are the ones who tested negative for Covid-19; and the third category include people who have been infected with Covid-19, and have successfully recovered from it. All three categories would receive a so called Digital Green Certificate, which would enable them to practice their right to free movement within the EU. The ultimate goal of the certificate is to provide a safe and free movement for the Europeans during the pandemic; not only for those who got vaccinated, but also the ones who still have not had the opportunity to get the vaccine (for medical reasons, or they are not part of the target group of the currently recommended); or do not wish to be vaccinated.

The Digital Green Certificate is free, and the Member State shall provide it in either a digital format, or on paper. One may rightfully worry about data protection and data handling in relation with the Certificate. The proposal relies on the handling of personal data and health data, both which are known to be sensitive information of a person. The proposed regulation does not require a derogation from the current EU data protection regulations and Member States must apply clear rules, conditions and assurance in accordance with EU data protection provisions. The proposed regulation does not create a European database for vaccination, testing or cure against Covid19. For the purposes of the proposed regulation, personal data should only be included in the issued card, which should be protected against forgery or tampering.

According to the proposal, the card will contain only the most necessary details, including the name and date of birth of the person, the date of issue of the card, relevant information on vaccination / test / recovery, and the unique identification number of the card. The card will also have a QR code, unique to each card. To avoid the issue of discrimination, Member States will continue to be able to decide which public health restrictions, such as testing or quarantine, should be waived for travelers who can prove their protection against the virus, but they should also apply these exemptions to travelers holding a digital green card. The proposal and the there stated is to be limited to vaccines authorized in the EU, but individual Member States may decide to accept other vaccines as well.

Digital Green Certificate will be valid in the European Union, furthermore Iceland, Liechtenstein, Norway and Switzerland also have the opportunity to join. However, it is imperative to note, that Digital Green Card will not be a condition for free movement. In order for the system to operate before summer, the European Parliament and the Council must adopt the Commission's proposal as soon as possible. In parallel, Member States need to implement the framework and technical standards for the eHealth Network (a voluntary network linking national eHealth authorities) to ensure timely introduction, interoperability and the protection of personal data in digital green cards.