

Rapid steps towards a digital green certificate

In March 2021, the European Commission put forward a legislative proposal on a 'digital green certificate' that aims to facilitate free movement within the EU. The certificate would be available for Union citizens and their family members to indicate that they have either received a Covid-19 vaccine, had a recent negative test result, or have recovered from Covid-19. The proposal is complemented by another legislative proposal, which ensures that same rules apply to third-country nationals in the EU. With a view to the introduction of the certificate by summer 2021, the European Parliament decided to discuss the proposal under the urgent procedure. The Council has already agreed a mandate for negotiations. Parliament is expected to adopt its position during its April 2021 session so that interinstitutional negotiations can start as soon as possible thereafter in order to have the framework in place by summer 2021.

Background

In parallel to the EU digital green certificate, EU Member States (as well as other countries in the world) have, or are about to, launched similar but not identical [initiatives](#). These typically provide proof that the person has been vaccinated, include results of Covid-19 tests and information on the acquisition of antibodies. Unlike the European Commission's proposal, some Member States see much wider use for these certificates. For example, Denmark has launched a certification tool called [Coronapas](#). It is available via a secure mobile app or in paper format to the vaccinated or to persons who have tested positive for Covid-19 within the previous two to twelve weeks or who have tested negative over the previous 72 hours. Whereas [Coronapas](#) currently enables people to access certain non-essential businesses such as hairdressers and driving schools in Denmark, it is envisaged that the scope of the certificate will expand to allow access to other public venues, such as museums, theatres and cinemas. Some people are exempted from the requirement to carry a [Coronapas](#) (e.g. children under 15 years old). The initiative has generated citizen protests and discontent among some businesses, which face fines if they allow customers to enter without presenting a [Coronapas](#).

European Commission proposals

On 17 March 2021, the Commission adopted a [proposal](#) for a regulation on a 'digital green certificate' that aims (based on [Article 21 of the Treaty on the Functioning of the EU](#)) to facilitate the restoration of free movement in the EU. The certificate would provide proof that the person has been vaccinated, include results of Covid-19 tests and provide information on the acquisition of anti-bodies. It would be available for Union citizens or their family members. The certificate would be free of charge and be issued in paper format or on a mobile phone (using a QR code). Vaccines recognised by the European Medicines Agency (EMA) would have to be included in the certificate, but Member States would be allowed to decide on including other vaccines. The validity and use of the certificate would be limited to the duration of the pandemic.

The information included would be limited to what is strictly necessary for its purpose, e.g. name, relevant information about vaccine/test/recovery, certificate metadata. The personal data accessed would not be retained. The data processed to issue the certificate would be retained only as long as necessary, and in any event not longer than the end of the pandemic. No data would be centralised.

When a Member State accepts proof of vaccination or recovery to waive restrictions on free movement, such as quarantine or testing, it could not discriminate against holders of digital green certificates issued by other Member States. Furthermore, if a Member State decides to impose additional requirements on holders of digital green certificates (such as the requirement to undergo quarantine), or if it denies entry to such persons, it would have to notify the Commission and the other Member States about these restrictions. The digital green certificate would be valid in all EU Member States, and also open for Iceland, Liechtenstein, Norway and Switzerland.

The proposal is complemented by a [proposal](#) for a regulation (with a different legal basis, Article 77(2)(c)) which aims to ensure that the rules would also apply to third-country nationals who legally reside or stay in a Member State during the pandemic. Member States are expected to implement the [trust framework](#), agreed in the eHealth network, to ensure timely implementation, including EU-wide interoperability, of the digital green certificate. [Member States](#) have also agreed on guidelines on technical details of the system.

Stakeholder views

While transport and tourism representatives have strongly welcomed the Commission proposal on the digital green certificate, others have criticised it from a data protection, human rights and civil liberties perspective. The EU's [aviation associations](#), the [World Travel & Tourism Council and the European Travel Commission](#) have called for rapid adoption of the proposal. Tourism organisations' [representatives](#) have also called for a concrete EU roadmap for loosening and lifting current travel restrictions. The [European Data Protection Supervisor and the European Data Protection Board](#) have pointed out several areas where the proposal requires further alignment with the EU data protection framework. They call, for instance, to ensure that 'access [to] and subsequent use of the data by Member States once the pandemic has ended is not permitted'. Furthermore, they call for adequate technical and organisational measures to mitigate any risk of forgery and illicit sale of false Covid-19 certificates. [Liberties](#) – a non-governmental organisation (NGO) promoting civil liberties in the EU – has warned that the proposal raises several concerns regarding compliance with the EU Charter of Fundamental Rights. It proposes, for instance, to forbid Member States to apply different restrictions on free movement for the vaccinated, for those recovered from the virus and for others (until science proves that the vaccinated do not endanger public health).

European Parliament position

The [European Parliament](#) has repeatedly stated that internal border control and travel restrictions should be maintained only if they are necessary, coordinated and proportionate.

In line with Rule 163 of its [Rules of Procedure](#), Parliament decided on 25 March 2021 to use the urgent procedure for the two proposals. During the plenary [debate](#), a large majority of Members supported the swift creation of the digital green certificate. Several Members highlighted the need for strong data protection safeguards on personal and medical data, and stressed that those not vaccinated must not face discrimination.

On 13 April 2021, Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE) [discussed](#) the proposal with Commissioner Didier Reynders and the European Data Protection Supervisor. Several Members sought clarifications on the relationship between the EU digital green certificate and the aforementioned Member State initiatives. Others pointed to the problem of the cost of tests. They also warned against holding the certificate becoming a de facto precondition for travelling in the EU, and pointed to the lack of consensus around the issue of acquired immunity. Some raised the issue of people inoculated with vaccines not currently recognised by the EMA.

On 14 April 2021, Coreper, for the [Council](#), agreed a [mandate for negotiations](#) with Parliament on the digital green certificate. It proposed to specify that holding a digital green certificate is not a precondition to exercise free movement rights and it is not a travel document. It added a new article on the treatment of certificates issued to EU citizens and their family members as well as legally staying/residing third-country nationals vaccinated in third countries. The Council also sought to strengthen the data protection provisions and introduced a transitional provision. Lastly, a provision was added to the third-country regulation to extend its provisions to Ireland, since the legal basis for that regulation is a Schengen one in which Ireland does not take part.

Parliament is expected to hold a debate on the digital green certificate during its April plenary session, with a view to fixing its position for interinstitutional negotiations.

First reading without committee report (Rule 163); [2021/0068\(COD\)](#) and [2021/0071\(COD\)](#); Committee responsible: LIBE; For further information see our previous at the glance [publication](#) on 'Digital green certificate'.

