

On April 8, 2021, the Government of the Republic of Croatia established a Working Group for the development of a technical solution for cross-border interoperable digital green certificates, the so-called 'Covid-passports', which should facilitate the movement of people to the EU during the Covid-19 pandemic. Members of the Working Group are also representatives of the Personal Data Protection Agency, who will actively participate in the part related to the field of personal data protection. In its work, the Data Protection Agency will be guided by the joint opinion of the EDPB and EDPS 04/2021 on the Proposal for a Regulation of the European Parliament and of the Council on a framework for issuing, verifying and accepting interoperable vaccination, testing and recovery certificates. movements during the pandemic of the disease COVID-19 (digital green certificate) in the adoption of which she participated. The opinion of the European Data Protection Board (EDPB) and the European Data Protection Supervisor (EDPS) stated that the Proposal aims to facilitate the exercise of the right to free movement within the EU during the COVID-19 pandemic by establishing a common framework for issuing, verifying and accepting interoperable certificates. on vaccination, testing and relapse against COVID-19 under the name "digital green certificate".

The introduction of the digital green certificate would facilitate the safe free movement of people within the EU during the Covid-19 pandemic, and the so-called a covid-passport would be proof that a person has been vaccinated against Covid-19, that he or she has received a negative test result, or that he or she has recovered from the disease. The certificate would contain a QR code containing the necessary basic information and a digital signature to guarantee its security and authenticity, and would be available free of charge, in digital or paper form.

The EDPB and EDPS acknowledge that the current emergency caused by the COVID-19 pandemic has led to real and important risks, both for the exercise of the right to free movement within Member States and for public health due to the lack of common access to interoperable certificates. Moreover, according to Europol, there is a high risk associated with counterfeiting and illegal sale of false COVID-19 test certificates. According to the Proposal, the digital green certificate reduces these risks by harmonizing the documentation and adopting a number of security measures related to it. At the same time, it should be borne in mind that the introduction of a digital green certificate will not eliminate the risk of 'counterfeiting' and must therefore be accompanied by the adoption of appropriate technical and organizational measures to protect against tampering and counterfeiting.

In addition, the EDPB and the EDPS point out that the Proposal clearly limits the scope and use of the digital green certificate

only to facilitate the exercise of freedom of movement between EU Member States. Moreover, they point out that the legal basis of this Proposal does not allow and must not lead to the creation of any central database on personal data at EU level under the pretext of establishing a digital green certificate framework.

Accordingly, compliance with the principles of necessity and proportionality of the measures introduced by the Proposal should be carefully analyzed, in particular striking a fair balance between the general interest objectives supported by the digital green certificate and respect for fundamental rights to privacy, data protection and non-discrimination and other fundamental freedoms. , such as freedom of movement and residence.

The EDPB and the EDPS believe that if Member States start using the digital green certificate under national law for any further use other than the intended purpose of facilitating free movement within EU Member States, this could lead to unintended consequences and risks to the fundamental rights of EU citizens. . Indeed, it has already been proposed to extend the application of the digital green certificate to other situations in order to alleviate the current restrictions, and it is possible to use it for other purposes such as entering shops, restaurants, clubs or gyms. Any such further use of the digital green certificate and the related framework in accordance with the national legal basis should not lead to legal or factual discrimination based on vaccination or recovery from COVID-19 disease. For this reason, the EDPB and the EDPS emphasize that any possible further use of the digital green certificate and the personal data associated with it at Member State level must comply with Articles 7 and 8 of the Charter and be in line with the GDPR, including Article 6. .paragraph 4 of the GDPR.

This implies the need for an appropriate legal basis in the legislation of the Member States, which must comply with the principles of efficiency, necessity and proportionality, including strong and specific safeguards implemented after an appropriate impact assessment, in particular to avoid discrimination and prohibit data retention. in the context of the verification process.