

The Consumer Voice in Europe

DIGITAL GREEN CERTIFICATE

BEUC recommendations for trilogue negotiations



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Why it matters to consumers

The COVID19 crisis has significantly impacted free movement across the EU. As the vaccination is being rolled out in all Member States, it is therefore important to adopt measures that aim at re-opening internal borders in the EU and facilitate the exercise of the freedom to circulate whilst containing the spread of the virus.

Summary

BEUC welcomes the Commission's proposal for a Digital Green Certificate (DGC) which aims at introducing a framework for the issuance, verification and acceptance of interoperable certificates on COVID-19 vaccination, testing and recovery in order to facilitate the exercise of citizens' right to free movement in the EU.

From a consumer perspective the following recommendations apply:

- *The DGC should provide updated information of the requirements to enter or pass through each Member State. This is the only way to ensure consumers get the information they need to exercise their right to move within the EU.*
- *Consumers should be informed about which COVID19 tests qualify for a certificate. To this end, the European Commission should establish a list of recognised tests.*
- *Member States should agree on which tests are required for travelling to avoid diverging solutions undermining the right to free movement.*
- *As long as vaccination is not accessible to the entire population, testing must be made available free of charge.*
- *The principle of non-discrimination needs to be reinforced.*
- *The rules on data protection could be strengthened by explicitly stating that the personal data contained in the certificates shall only be processed for the purpose of accessing and verifying the information included in them.*
- *It should be clarified how the DGC will interplay with Passenger Locator Forms.*

BEUC welcomes the Commission's proposal for a Digital Green Certificate (DGC) insofar this is a tool to facilitate the free movement of people within the EU during the COVID19 pandemic.

BEUC however does not take a position on whether there should be or not a hierarchy between the three certificates covered by the DGC (vaccination, test and recovery) since this is a matter of scientific evidence.

From a consumer perspective, the following elements could be considered during the negotiations between the European Parliament and the Council:

1. Different types of certificates covered by the DGC

BEUC welcomes the fact that the DGC comprises three certificates that can be used - subject to Member State approval - to prove that the traveller has been either vaccinated, has obtained a negative COVID19 test or has recovered after testing positive for SARS-CoV-2. However, in relation to Article 3(4) on the temporal validity of other proofs of vaccination, reliable test or recovery should be valid also after the entry into application of the Regulation if it has not been possible for the concerned person to obtain a DGC (e.g., because the first jab was administered before the entering into force of the regulation, which already concerns millions of EU citizens). Regarding COVID19 tests, it needs to be indicated in a clear manner which are the ones valid for the purpose of obtaining a certificate. This should be part of the information to be included regarding the requirements to enter the territory of a given Member State. Further to this, it should be harmonised which tests can be required for traveling. This can be facilitated by a list of recognised tests to be set up by the European Commission in cooperation with the relevant authorities.

2. Data protection

The DGC must be implemented in full compliance with the GDPR. BEUC welcomes the safeguards included in Article 9 of the proposed regulation, particularly in what concerns the limitations of the use of the personal data to what is strictly necessary (paragraph 2) and the data retention periods (paragraphs 2 and 3). To strengthen the purpose limitation obligation, paragraph 1 should explicitly state that the personal data contained in the certificates shall *only* be processed for the purpose of accessing and verifying the information included in them.

3. Non-discrimination

While the DGC can be required by a Member State to enter or pass by their territory, it must be avoided that the certificates are used to discriminate against consumers. In this regard we welcome that in recital 26 highlights the need to *"prevent discrimination against persons who are not vaccinated, for example because of medical reasons, because they are not part of the target group for which the vaccine is currently recommended, or because they have not yet had the opportunity or chose not to be vaccinated."* And that the *"possession of a vaccination certificate, or the possession of a vaccination certificate indicating a specific vaccine medicinal product, should not be a pre-condition to exercise free movement rights"*.

However, this principle does not cover the potential use of the DGC by private companies. The conclusion of private contracts, particularly in a business-to-consumer context, should not be subject only to proof of vaccination as this could lead to discrimination.

4. Information to consumers of Member States requirements

The application hosting the DGC should also provide information about any requirements concerning the use of the DGC to travel in the EU. It can be very confusing for consumers traveling in the EU to have to check what are the requirements in each country separately while this information could be included and regularly updated in the application hosting the DGC and well as information in all EU languages regarding the validity of the certificates to enter each Member State. The dedicated Re-Open EU portal is a step in the right direction.

5. Accessibility of COVID19 test

When a person has opted not to get the vaccine or they did not yet have access to vaccination (e.g., due to public vaccination strategies), according to the proposal it remains possible to show that the person does not carry a risk by providing a negative COVID19 test. However, it is important to ensure that such a test is reliable, affordable and easily accessible. It is necessary that is also clearly indicated which test can be the basis for a certificate. In addition, as long as vaccination is not accessible to the entire population, testing must be made available free of charge.

6. DGC and Passenger Locator Form

The interplay between the uses both DGC and Passenger Locator Forms (PLF) must be clarified. Furthermore, the use of both tools simultaneously must be assessed in terms of its proportionality: is PLF needed if DGC is used? How data collected through both tools can be minimised? The Commission's proposal on DGC must take into account PLF and vice-versa, as well as any other data collection measures which might be put in place.

Finally, it is essential that beyond the implementation of the DGC, Member States coordinate the requirements applicable to traveling in the EU to ensure consumers receive timely and reliable information. The reopening of borders must be done in the most aligned and effective possible way. The measures in place or to be out in place must be necessary, effective, proportionate, and temporary.



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