

COVID Passports in the EU and Switzerland

[Francesca Blythe](#), [Josefine Sommer](#), [Sabrine Schnyder](#)

Earlier this month, the European Parliament approved the establishment of the EU Digital COVID Certificate to facilitate travel among the Member States of the EU (EU Certificate). The [legislative resolution](#) approves a regulation setting out a framework that will make the EU Certificate interoperable and verifiable across the EU Member States. The system will be operational from July 1, 2021, and be in place for 12 months.

What will the EU Certificate be used for? The EU Certificate will be issued free of charge by the Member States' national authorities to interested individuals and will be used as proof that a person has been vaccinated against COVID-19, received a negative COVID-19 test result, or recently recovered from COVID-19.

When traveling, the EU Certificate holder should in principle be exempted from free movement restrictions such as polymerase chain reaction (PCR) tests and quarantines. Individuals have the option of whether to request an EU Certificate; it will not be a precondition for free movement within the EU and will not be considered an official travel document.

Which vaccines will be accepted for the EU Certificate? The EU Certificate will apply to COVID-19 vaccines that have (i) been granted a marketing authorization pursuant to Regulation 726/2004, (ii) been granted a marketing authorization by the competent authority of a Member State pursuant to Directive 2001/83/EC, (iii) been temporarily authorized pursuant to Article 5(2) of that Directive 2001/83/EC, or (iv) completed the World Health Organization emergency use listing procedure.

Which COVID-19 tests will be accepted for the EU Certificate? To ensure the reliability of the test result, only results of molecular nucleic acid amplification tests (**NAATs**) and rapid antigen tests will be eligible for the EU Certificate.

NAATs used must be intended to detect the presence of the SARS-CoV-2 ribonucleic acid (**RNA**). Examples of suitable NAATs include, for example, reverse transcription polymerase chain reaction (**RT-PCR**), loop-mediated isothermal amplification (**LAMP**) and transcription-mediated amplification (**TMA**) techniques. The list of NAAT examples is not exclusive and other tests not specifically mentioned can also be used provided they fulfil the requirements of the legislative resolution.

An EU Certificate may also be issued based on a rapid antigen test that relies on detection of viral proteins using a lateral flow immunoassay and that gives results in less than 30 minutes. Rapid antigen tests eligible to be used for the test certificate must be listed in the list of COVID-19 rapid antigen tests which is to be published and updated by the Commission. The tests must be carried out by health professionals or by skilled testing personnel in the EU Member State issuing the EU Certificate.

NAATs and rapid antigen tests used to issue EU Certificates of recovery must meet the same requirements as those set out above.

Will certificates issued outside the EU be accepted? The EU Certificate applies only to the EU. However, the EU Commission may adopt an implementing act establishing that COVID-19 certificates issued by a third country in accordance with standards and technological systems that are interoperable with the trust framework for the EU Certificate.

An example for such a certificate is the [COVID certificate \(Swiss Certificate\)](#) launched by Switzerland on June 7, 2021. The Swiss Certificate has been developed by the Swiss Federal Office of Public Health (FOPH) and will be issued by vaccination centres, medical practices, hospitals, pharmacies, test centres and laboratories on the same conditions as the EU Certificate. By the end of June, all Swiss residents fulfilling these conditions and wanting the Swiss Certificate should have received one.

However, at the time of drafting, it still remains uncertain, whether the EU Commission will accept the Swiss Certificate for travel into and within the EU by Swiss residents. The EU Commission confirmed that the Swiss Certificate was technically equivalent to the EU Certificate but has not yet made a formal decision about the former's validity as a digital health passport in the EU.

What are the potential privacy concerns? Whilst the EU Certificate received the greenlight from the European Data Protection Board, as with all measures implemented in response to COVID-19, the introduction of the EU Certificate (and indeed other forms of digital health passport) is not without challenge from an EU privacy perspective. For example, given the sensitive nature of the information being collected (i.e., health data), the need for effective information security is paramount. However, with the speed at which these solutions are being implemented and their inherently high profile nature, the digital health passports are likely targets for bad actors.

Next Steps? Although some uncertainty remains, companies in the EU and Switzerland are looking to these developments to help enhance the ability to resume "easier" cross-border travel for those who are able to utilize it.

The EU Certificate will be launched on July 1, 2021, and will apply until June 30, 2022. The Swiss Certificate was launched on June 7, 2021. Currently, its application is not limited in time.