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COMMISSION DECISION

of 21.10.2021

**amending Decision C(2020) 5973 as regards the digital verification of COVID-19
certificates**

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THE DIRECTOR-GENERAL FOR HUMAN RESOURCES AND SECURITY,

Having regard to the Staff Regulations of Officials of the European Union¹, and in particular Article 1e(2) thereof, and the Conditions of Employment of Other Servants of the European Union², and in particular Articles 10(1) and 80(4) thereof,

Having regard to Commission Decision C(2006) 1623/3 of 26 April 2006 establishing a harmonised policy for health and safety at work for all Commission staff³, and in particular Article 3(1), point (a) thereof,

Whereas:

- (1) The Director-General for Human Resources and Security has delegated powers to adopt health and safety rules for the Commission sites of Brussels and Luxembourg.
- (2) Commission Decision C(2020) 5973 lays down specific health and safety rules for the Commission sites of Brussels and Luxembourg in order to prevent the further spread of SARS-CoV-2 and to protect staff, while ensuring business continuity and adopting solutions for staff to enable them to perform their work efficiently and effectively.
- (3) Commission Decision C(2021) 6669 amending Commission Decision C(2020) 5973 lays down additional specific health and safety rules, by introducing the requirement that visitors exhibit vaccination, test or recovery certificates to be granted access to the Commission sites of Brussels and Luxembourg. The possession of those certificates is to be verified manually by means of a visual check.
- (4) However, the manual verification of COVID-19 certificates alone involves a significant risk of fraud, e.g. the use of counterfeit certificates, which poses a risk to Commission staff members' health.
- (5) In accordance with Decision C(2021) 6669, the main tools to limit the presence of non-vaccinated persons in Commission premises are the certificates issued in accordance with Article 3(1), point (a), (b) or (c) of Regulation (EU) 2021/953 of the European Parliament and of the Council⁴. Those certificates contain a transport encoding mechanism in a machine-readable optical format (QR code) which ensures the security, authenticity, validity and integrity of those certificates. Accordingly, scanning the QR codes would significantly reduce the risk of counterfeit COVID-19 certificates, thereby protecting staff members' health.

¹ OJ L 56, 4.3.1968, p. 1.

² Ibid.

³ PV(2006) 1742, point 11.

⁴ Regulation (EU) 2021/953 of the European Parliament and of the Council of 14 June 2021 on a framework for the issuance, verification and acceptance of interoperable COVID-19 vaccination, test and recovery certificates (EU Digital COVID Certificate) to facilitate free movement during the COVID-19 pandemic (OJ L 211, 15.6.2021, p. 1).

- (6) On 1 February 2021, Europol issued an Early Warning Notification on the illicit sales of counterfeit COVID-19 certificates. Given the availability and ease of access to technological means, fraudsters are able to produce high-quality counterfeit COVID-19 certificates.
- (7) To protect staff members from infection, it is necessary to ensure that the certificates have not been forged and that they belong to the persons presenting them. This can only be achieved effectively by using a scanning solution for validation of the QR codes displayed on certificates, while processing the minimum amount of personal data and without recording the results of the check nor the content of the certificates.
- (8) There are no less intrusive means available for achieving that objective. The collection of aggregated data regarding the vaccination status of visitors prior to their arrival on-site would not allow to identify specific individuals that should not be granted access to the sites due to the health risk that they might pose. Hence, it would not be a suitable alternative. Moreover, digital checks of COVID-19 certificates are more reliable to verify the validity and authenticity of certificates compared to manual verifications by means of a visual check. They also ensure that anyone verifying the certificate has access only to the minimum amount of information necessary.
- (9) Vaccination, test and recovery certificates of visitors should be verified digitally, that is to say by scanning the QR code on the document presented, for the purpose of verifying the authenticity and validity of those certificates and avoiding document fraud. The visual check of COVID-19 certificates of visitors should be used as a second option whenever a digital check is not possible. In addition, the name and date of birth of the certificate's holder should be compared with his or her identity documents to prevent impersonation.
- (10) The digital verification of certificates involving the scanning of the QR code on the document constitutes processing of personal data within the meaning of Article 2(5) of Regulation (EU) 2018/1725 of the European Parliament and of the Council⁵.
- (11) Pursuant to Article 5(1), point (a) of Regulation (EU) 2018/1725, processing of personal data is lawful if it is necessary for the performance of a task carried out in the public interest. Pursuant to Article 5(2) of Regulation (EU) 2018/1725, the basis for such processing should be laid down by Union law. This Decision provides for such basis.
- (12) The processing of personal data may reveal personal data concerning health, such as data relating to the vaccination status, test results or recovery from a SARS-CoV-2 infection. Health data is considered a special category of personal data, the processing of which is, in principle, prohibited under Article 10(1) of Regulation (EU) 2018/1725. The processing of such data for the purpose of digital verification of COVID-19 certificates on the basis of this Decision falls under the exceptions provided for in Article 10(2), points (b), (g) and (i) of Regulation (EU) 2018/1725. As this Decision constitutes a measure intended to protect health and safety of staff members, the Commission acts as data controller in the field of employment and social security as laid down in Article 1e(2) of the Staff Regulations. The reasons for substantial public interest and public interest in the area of public health are linked to

⁵ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

the current COVID-19 pandemic which requires the Commission to adopt specific health and safety measures for the Commission sites in Brussels and Luxembourg in order to prevent the spread of the SARS-CoV-2 virus and to protect staff members.

- (13) The processing of personal data is to be carried out by means of the mobile applications CovidScan for Commission sites in Belgium and CovidCheck.lu for Commission sites in Luxembourg. Those applications allow for the digital verification of the QR code of EU Digital COVID Certificates, which constitutes proof attesting that a person has been vaccinated against COVID-19, or has been tested negative for SARS-CoV-2, or has recovered from a SARS-CoV-2 infection. The QR code contains a digital stamp to guarantee the certificate's authenticity, and the required essential identification data, such as name, surname, date of birth, date of issue, relevant information on the vaccine/test/recovery and a unique identifier.
- (14) The mobile applications synchronise with the national systems in order to be updated with the technical information in force in the Member States, as the national authorities (hospitals, testing centres and health authorities) are responsible for issuing the EU Digital COVID Certificates. Therefore, those certificates will be recognised and verified by the mobile applications.
- (15) Operational details on the scanning of QR codes should be laid down in a protocol adopted by the Director-General for Human Resources and Security.
- (16) Article 2b(1), point (c) of Decision C(2020) 5973 provides that visitors may also exhibit certificates other than EU Digital COVID Certificates issued by Member States and COVID-19 certificates issued by a third country in respect of which the Commission has adopted an implementing act pursuant to Article 8(2) of Regulation (EU) 2021/953. Those other certificates would not necessarily contain a QR code and, even where they do contain one, the QR code would not be recognised by the mobile applications. Consequently, those certificates should continue to be verified manually by means of a visual check to ascertain that they contain the information provided for in Article 2b(1), point (c) of Decision C(2020) 5973. The manual verification of those certificates should be carried out in accordance with a specific protocol adopted by the Director-General for Human Resources and Security.
- (17) Article 2b(1) of Decision C(2020) 5973 should be amended to clarify that COVID-19 certificates issued by countries of the European Economic Area other than Member States are also accepted to allow access to the Commission premises in Brussels and Luxembourg. Similarly, that Article should be amended to take into account the fact that the Commission adopted an implementing act pursuant to Article 3(10) of Regulation (EU) 2021/953 in respect of Switzerland.
- (18) Decision C(2020) 5973 should therefore be amended accordingly,

HAS DECIDED AS FOLLOWS:

Article 1

Decision C(2020) 5973 is amended as follows:

- (1) Article 2b(1) is replaced by the following:
"Visitors to the Commission sites in Brussels and Luxembourg shall exhibit one of the following certificates:

- (a) a certificate issued in accordance with points (a), (b) or (c) of Article 3(1) of Regulation (EU) 2021/953;
- (b) a COVID-19 certificate issued by a third country in respect of which the Commission has adopted an implementing act pursuant to Article 3(10) or Article 8(2) of Regulation (EU) 2021/953;
- (c) another certificate issued by a Member State or a third country containing at least the name and date of birth of the visitor and:
 - (i) confirming that the visitor has received a COVID-19 vaccine in the Member State or third country issuing the certificate; or
 - (ii) confirming that the visitor has been subject to a molecular nucleic acid amplification test (NAAT) or a rapid antigen test (RAT) carried out by health professionals or by skilled testing personnel in the Member State or third country issuing the certificate and indicating the type of test, the date on which it was carried out and the result of the test; or
 - (iii) confirming that, following a positive result of a NAAT carried out by health professionals or by skilled testing personnel, the visitor has recovered from a SARS-CoV-2 infection.”

(2) Article 2c is replaced by the following:

“Article 2c

1. A certificate referred to in Article 2b(1), points (a) and (b), shall be verified digitally by means of mobile applications which scan the QR code of the certificate. The verification of certificates shall be carried out in accordance with the protocol on digital scanning of COVID-19 certificates adopted by the Director-General for Human Resources and Security.
 2. For the purpose of verifying the validity and authenticity of the certificate, the following personal data shall be processed by means of mobile applications:
 - (a) a digital stamp to guarantee the certificate’s authenticity;
 - (b) the required essential identification data such as name, surname, and date of birth;
 - (c) relevant information on the vaccine/test/recovery.
 3. The name and date of birth mentioned in the certificate shall be compared with the data included in the certificate holder’s identity documents, such as passport or identity card.
 4. No personal data shall be stored by the mobile applications.
 5. By way of derogation from paragraph 1, a manual verification of the certificate by means of a visual check may be carried out in accordance with the procedures set out in Article 2d in case of technical problems with the digital verification by means of the mobile applications.”
- (3) the following Articles 2d and 2e are inserted:

“Article 2d

1. A certificate referred to in Article 2b(1), point (c), and any other COVID-19 certificate not recognised by the mobile applications shall be verified manually by means of a visual check. The manual verification of certificates shall be carried out in accordance with the protocol on manual verification of COVID-19 certificates adopted by the Director-General for Human Resources and Security.
2. The name and date of birth mentioned in the certificate shall be compared with the data included in the certificate holder’s identity documents, such as passport or identity card.
3. The name of the visitor, the content of the certificate and the result of the manual verification shall not be stored, transferred or further processed in any way.

Article 2e

1. Prior to the verification of their certificates, the Commission shall inform the data subjects about the processing of their personal data in accordance with Article 15 of Regulation (EU) 2018/1725 of the European Parliament and of the Council*.
2. The information referred to in paragraph 1 shall be conveyed to the data subjects by means of privacy statements published on the website of the Commission, or by other appropriate means that ensure individual information of the data subjects concerned.

* Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).”

Article 2

This Decision shall enter into force on 25 October 2021.

Done at Brussels, 21.10.2021

*For the Commission
Gertrud Ingestad
Director-General for Human Resources and
Security*