**Digital Green Certificate Regulation – Vote NO**

On the 17th of March 2021, the European Commission published a proposal for a Regulation to the European Parliament and the Council on a framework for the issuance, verification and acceptance of interoperable certificates for vaccination, testing and recovery to facilitate free movement during the COVID-19 pandemic (commonly referred to as the Vaccine Passport).

On 25 March 2021, MEP’s were asked to vote on accelerating the examination procedure for the Regulation, meaning that less debate and scrutiny of the Regulation would be possible due to time constraints. The vote to accelerate the examination procedure was passed by 468 votes in favour and 203 votes against. In this regard 7 Irish MEP’s (all being either Fine Gael or Fianna Fail Members of the European Parliament) voted to accelerate the examination procedure.

In circumstances where the Regulation is without doubt the most dangerous precedent around liberty and freedom of movement since the inception of the Irish free state, it is extremely worrisome that all Fine Gael and Fianna Fail Members of the European Parliament sought fit to vote to accelerate the examination procedure around this Regulation.

The vote to pass or otherwise the Regulation into law has now been scheduled for 27/28 April 2021. As a lawyer and citizen of this country, I urge you to contact all Irish MEP’s immediately to ask them to **VOTE NO** to this Regulation, for reasons which include the following:

***The Regulation and its reliance on PCR Testing***

The Regulation proposes three kinds of passport:

1. a certificate confirming that the holder has received a COVID-19 vaccine;
2. a certificate indicating the holder’s result and date of Covid-19 test;
3. a certificate confirming that the holder has recovered from a SARS-CoV-2 infection following a positive Covid-19 test.

The reliance on PCR Testing within the Regulation is wholly inappropriate due to the fact:

* PCR tests cannot detect whether a person is sick or even infectious with Covid-19.
* The “***cycle threshold***” - the number of times genetic material is amplified - is not fixed across labs or assays and there may be a lack of standardised approach to testing.
* The number of cycles generally ran in labs across Ireland is 40-45. Research shows that the majority of samples with a Ct > 30 are not infectious.
* The external peer-review of the Corman-Drosten protocol has outlined many flaws with the PCR method and implementation that many labs across the world have adopted.
* The reliability of the results from PCR testing can be flawed and produce false positive results when single-gene-detections are reported as positive.
* PCR testing is open to a wide-range of human errors and it is vital that a standardised approach is taken across all labs. Otherwise, the data can be highly unreliable.

***The Regulation does not “facilitate” Free Movement but prevents it***

The most misleading part of Regulation is that it suggests its aim is to restore the right to travel freely within the European Union – in this regard, it states that due to Covid-19 Member States have adopted restrictions around travel which have impacted on the right to free movement and this Regulation through the creation of Digital Green Certificate will restore the right to travel freely.

Conditioning the free movement on one’s health status is an unjustifiable restriction to this freedom. By introducing a uniform EU format to certify the fulfilment of this health condition, the Regulation anchors in EU law a barrier to the free movement and breaches the principle of free movement within the EU guaranteed in Article 45 of the Charter of Fundamental Rights of the European Union.

Furthermore, and even more worryingly, the proposal around the Regulation provides no guarantee that it cannot be used for further restrictions, be it on the movement of people within or and across national borders, or any other infringement.

***The Regulation and Discrimination***

The Regulation in effect encourages discrimination against those not vaccinated.

While the Regulation states that it “*cannot be interpreted as establishing an obligation or right to be vaccinated*” in fact, it promotes such practice. The Regulation encourages the exercise of discrimination against those who “*are not part of the target group for which the vaccine is currently recommended, such as children, or because they have not yet had the opportunity or do not wish to be vaccinated*”.

It also stipulates that the right to free movement should be subject to limitations against any such group, including but not limited to mandatory testing and quarantine.

Compulsory medical intervention constitutes an interference with the right to free movement.

***The Regulation and Accountability***

The Regulation is marred by uncertainty and impossible to ascertain accountability.

The Regulation places important decisions onto doubtful bodies:

* **Health Security Committee** (HSC) which is an informal advisory group of the Member States’ Health Ministries and also includes representatives of observer states (Iceland, Liechtenstein, Norway, Serbia and Turkey). Such an informal group cannot be entrusted with responsibilities that directly impact EU citizens. (Article 3(6) and Article 7(1) of the Proposal).
* **WHO:** The ultimate trigger of the decision to stop the application of this Regulation is the WHO. It must be underlined that WHO **is not part of the EU legal framework,** nor have its Director General’s decisions any direct legal implications on the EU and its citizens.

If the Director-General of the World Health Organization (WHO) declares an international emergency because of any infectious disease with epidemic potential, the European Commission will automatically reimpose the Regulation (according to the proposal itself), until the WHO dictates otherwise, with the Member States having no say. It is highly inappropriate to concede such vast and far reaching decision making powers to a body not part of the European Union.

***The Regulation and the precedent it creates***

We know from bitter experience that once an emergency measure is put in place (an example being the universal social charge) it is seldom reversed. That in and of itself should be worrisome enough, however, this Regulation has the prospect of being developed by Member States (including Ireland) into a tool that may be utilised to impede access to goods and services within Ireland depending on a person’s health status or their consent to submission to forced medical treatment, such as vaccination.

To conclude, in light of the unprecedented interference with fundamental freedoms which the Regulation will endorse including:

* The abolition of the inalienable right to decide over one’s body;
* The elimination of other fundamental rights, including the right to free choice, right to consent, right to a dignified life;
* The eradication Freedom of Movement within the European Union;

coupled with the fact that the Regulation promotes discriminatory practises based on a person’s health status, I urge you contact all Irish MEP’s today and urge them to **VOTE NO** to the passage of this Regulation into law on the 27/28 April 2021.