DECISIONS

COMMISSION IMPLEMENTING DECISION (EU) 2021/1380

of 19 August 2021

establishing the equivalence, for the purpose of facilitating the right of free movement within the Union, of COVID-19 certificates issued by Ukraine to the certificates issued in accordance with Regulation (EU) 2021/953 of the European Parliament and of the Council

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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 ([1]), and in particular Article 8(2) thereof,

Whereas:

(1) Regulation (EU) 2021/953 lays down a framework for the issuance, verification and acceptance of interoperable COVID-19 vaccination, test and recovery certificates ('EU Digital COVID Certificate') for the purpose of facilitating the holders' exercise of their right to free movement during the COVID-19 pandemic. It is also to contribute to facilitating the gradual lifting of restrictions to free movement put in place by Member States, in accordance with Union law, to limit the spread of SARS-CoV-2, in a coordinated manner.

(2) Regulation (EU) 2021/953 allows for the acceptance of COVID-19 certificates issued by third countries to Union citizens and their family members where the Commission finds that those COVID-19 certificates are issued in accordance with standards that are to be considered as equivalent to those established pursuant to that Regulation. Furthermore, in accordance with Regulation (EU) 2021/954 of the European Parliament and of the Council ([2]), Member States have to apply the rules laid down in Regulation (EU) 2021/953 to third-country nationals who do not fall within the scope of that Regulation, but who are legally staying or residing in their territory and who are entitled to travel to other Member States in accordance with Union law. Therefore, any equivalence findings laid down in this Decision should apply to COVID-19 vaccination certificates issued by Ukraine to Union citizens and their family members. Similarly, on the basis of Regulation (EU) 2021/954, such equivalence findings should also apply to COVID-19 vaccination certificates issued by Ukraine to third-country nationals legally staying or residing in the territory of the Member States under the conditions laid down in that Regulation.

(3) On 16 July 2021, Ukraine provided the Commission with detailed information on the issuance of interoperable COVID-19 vaccination, test and recovery certificates under the system entitled 'Single State portal of electronic services' (Diia portal and mobile application)Ukraine informed the Commission that it considered that its COVID-19 certificates are being issued in accordance with a standard and a technological system that are interoperable with the trust framework established by Regulation (EU) 2021/953 and that allow for the verification of the authenticity, validity and integrity of the certificates. In this regard, Ukraine informed the Commission that COVID-19 certificates issued by Ukraine in accordance with the 'Single State portal of electronic services' (Diia portal and mobile application) system contain the data set out in the Annex of Regulation (EU) 2021/953.

([1]) OJ L 211, 15.6.2021, p. 1.

([2]) Regulation (EU) 2021/954 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) with regard to third country nationals legally staying or residing in the territories of Member States during the COVID-19 pandemic (OJ L 211, 15.6.2021, p. 24).

(4) On 4 August 2021, following a request by Ukraine, the Commission carried out technical tests that demonstrated that the COVID-19 vaccination, test and recovery certificates are issued by Ukraine in accordance with a system, the 'Single State portal of electronic services' (Diia portal and mobile application), that is interoperable with the trust framework established by Regulation (EU) 2021/953 and allows for the verification of their authenticity, validity and integrity. The Commission also confirmed that the COVID-19 vaccination, test and recovery certificates issued by Ukraine in accordance with the 'Single State portal of electronic services' (Diia portal and mobile application) system contain the necessary data.

(5) In addition, the Ukraine informed the Commission that it will issue interoperable vaccination certificates for COVID-19 vaccines. These currently include Vaxzevria, Comirnaty, Spikevax, COVID-19 Vaccine Janssen, CoronaVac-COVID-19 Vaccine (Vero Cell) Inactivated, Covishield, and NVX-CoV2373.

(6) Ukraine also informed the Commission that it will issue interoperable test certificates only for nucleic acid amplification tests or for rapid antigen tests listed in the common and updated list of COVID-19 rapid antigen tests agreed by the Health Security Committee, established by Article 17 of Decision No 1082/2013/EU of the European Parliament and of the Council ([3]), on the basis of the Council Recommendation of 21 January 2021 ([4]).

(7) Furthermore, Ukraine informed the Commission that it issues interoperable certificates of recovery at the earliest 14 days after a positive test. Those certificates are valid for not more than 180 days after the date of the first positive test.

(8) Ukraine also informed the Commission that it accepts vaccination, test and recovery certificates issued by the Member States, EEA countries, and other countries in respect of which an implementing decision is adopted pursuant to Article 8(2) of Regulation (EU) 2021/953. Ukraine also informed the Commission that people with EU Digital COVID Certificate test certificate for negative NAAT test and EU Digital COVID Certificate test certificate for negative RAT test are allowed to enter Ukraine, but like for the Ukrainian citizens, it is required for them to make additional NAAT\RAT test within 72 hours.

(9) In addition, Ukraine informed the Commission that when verifiers in Ukraine verify certificates, the personal data included in them will be processed only to verify and confirm the holder's vaccination, test result or recovery status and will not be retained afterwards.

(10) The necessary elements for establishing that COVID-19 certificates issued by Ukraine in accordance with the 'Single State portal of electronic services' (Diia portal and mobile application) system are to be considered as equivalent to those issued in accordance with Regulation (EU) 2021/953 are thus fulfilled.

(11) Therefore, COVID-19 certificates issued by Ukraine in accordance with the 'Single State portal of electronic services' (Diia portal and mobile application) system should be accepted under the conditions referred to in Article 5(5), Article 6(5), and Article 7(8) of Regulation (EU) 2021/953.

(12) In order for this Decision to be operational, Ukraine should be connected to the EU Digital COVID Certificate trust framework established by Regulation (EU) 2021/953.

(13) In order to protect the Union's interests, in particular in the area of public health, the Commission may use its powers to suspend or terminate this Decision if the conditions of Article 8(2) of Regulation (EU) 2021/953 are no longer met.

(14) In the light of the need to connect Ukraine to the EU Digital COVID Certificate trust framework established by Regulation (EU) 2021/953 as rapidly as possible, this Decision should enter into force on the day of its publication in the *Official Journal of the European Union*.

([3]) Decision No 1082/2013/EU of the European Parliament and of the Council of 22 October 2013 on serious cross-border threats to health and repealing Decision No 2119/98/EC (OJ L 293, 5.11.2013, p. 1).

([4]) Council Recommendation of 21 January 2021 on a common framework for the use and validation of rapid antigen tests and the mutual recognition of COVID-19 test results in the EU (OJ C 24, 22.1.2021, p. 1).

(15) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 14 of Regulation (EU) 2021/953,

HAS ADOPTED THIS DECISION:

Article 1

COVID-19 vaccination, test and recovery certificates issued by Ukraine in accordance with the 'Single State portal of electronic services' (Diia portal and mobile application) system shall, for the purpose of facilitating the right of free movement within the Union, be treated as equivalent to those issued in accordance with Regulation (EU) 2021/953.

Article 2

Ukraine shall be connected to the EU Digital COVID Certificate trust framework established by Regulation (EU) 2021/953.

Article 3

This Decision shall enter into force on the day of its publication in the *Official Journal of the European Union*.

Done at Brussels, 19 August 2021.

For the Commission
The President
Ursula VON DER LEYEN