



1st Floor
34 Usher's Quay
Dublin 8
T: +353 1 912 1640
E: info@iccl.ie
w: www.iccl.ie

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Mr Stephen Donnelly TD,
Minister for Health
Department of Health,
Miesian Plaze,
50-58 Lower Baggot Street,
Dublin 2,
D02 XW14

Mr Ossian Smyth TD,
Minister of State for Public Procurement and eGovernment
Leinster House,
Kildare Street,
Dublin 2,
D02 XR20

30 June, 2021

Domestic Covid-19 vaccine/recovery passport system

Dear Ministers,

We note yesterday's announcement by An Taoiseach Micheal Martin that "a return to indoor activities, including hospitality, will be delayed" and that NPHET has advised the safest way to proceed with indoor hospitality is to limit access to such activities to people who are fully vaccinated or who have recovered from Covid-19.

We also note Minister Donnelly's comments on RTE Radio One yesterday in respect of the EU Covid-19 Certificate, which is being established to facilitate free movement in the European Union, and the possible use of QR codes by pub/bar owners and/or waiting staff to verify that a person has been fully vaccinated or has recovered from Covid-19.

The Irish Council for Civil Liberties (ICCL) has serious concerns about the impact such plans could have on the fundamental rights to privacy, data protection, bodily autonomy, movement and equality. The plan requires private actors to discriminate against people in Ireland on the basis of their health status. This is contrary to Ireland's obligations to ensure equal treatment of all persons. It also poses risks to community relations and undermines the approach of solidarity across society that the Government has emphasised throughout its Covid response. Further, the Government must consider how laying the foundations for a system that ultimately creates an infrastructure aimed at segregating and risk scoring individuals based on their health could be used in the future.

We are particularly concerned by this proposed move given Minister Smyth's previous confirmation to ICCL that there was "no plan to roll out or to use 'vaccine certificates' other than to facilitate international travel".

In respect of the above, and in the knowledge that members of Government have stated that they will now begin to work with industry members to create a domestic Covid-19 vaccine and/or recovery passport system by July 19, the same date that non-essential international travel will return, ICCL would greatly appreciate answers to the following questions:

- 1. What would be the legal basis for the collection of this data?**
- 2. Will the Government commit to carrying out and publishing a data protection impact assessment in advance of the introduction of any such system? And will the Government be consulting with the Data Protection Commission?**
- 3. Would the Government carry out a Human Rights Impact Assessment on the proposed system? Will the Government consult with the Irish Human Rights and Equality Commission on the potential impact of such a system on human rights and equality?**

4. Which indoor settings would be subjected to this system?

We note from the published letter NPHECT sent to Mr Donnelly that NPHECT advised “*a robust, non-reproducible and enforceable system of verification of vaccination or immunity status*” in respect of “*social mixing in indoor environments*”. This suggests that this will not just pertain to pubs and restaurants.

5. Is the Government planning to use the EU Covid-19 Certificate for this verification system?

6. Regardless of whether the Government will use it or not for this new proposal, will the Government embrace transparency and publish the source code of the Irish EU Covid-19 Certificate to allow for independent analysis?

As we approach July 19, ICCL believes publication of this code is *urgently* needed. You will both recall that the publication of the CovidTracker app’s Data Protection Impact Assessment, source code and other key documents, ahead of the app’s launch in 2020, helped the Government gain significant trust from the public in that project.

7. How would the proposed system prevent third parties, such as bar staff, private security staff or restaurant workers, from building a database outlining who has been at a particular location and when?

The Government must carry out a Data Protection Impact Assessment in respect of this project and publish the same for independent examination.

8. How would the Government prevent the forgery of the verification platform in any such system?

9. Would any proposed domestic passport system have a sunset clause? How would the Government safeguard against mission creep and the extension of such a system to other uses?

10. What evidence has the Government seen to demonstrate that a requirement for proof of Covid-19 vaccination and/or recovery at restaurants or bars has curbed the transmission of Covid-19?

Policies that drastically encroach on people’s fundamental rights must be rooted in robust evidence that

they are effective, and that they are necessary, proportionate, and have a legitimate aim. ICCL understands that, as of today, just nine countries across the EU and Iceland, Liechtenstein, Norway, Switzerland, require people to present proof of Covid-19 vaccination, recovery and/or a negative test to eat indoors at a restaurant or bar/pub. We also understand that of those nine, only one, Hungary, is enforcing a policy that matches that proposed by the Irish Government, i.e. requiring proof of Covid-19 vaccination and/or recovery.

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'LH', is positioned below the closing text.

Liam Herrick,
Executive Director