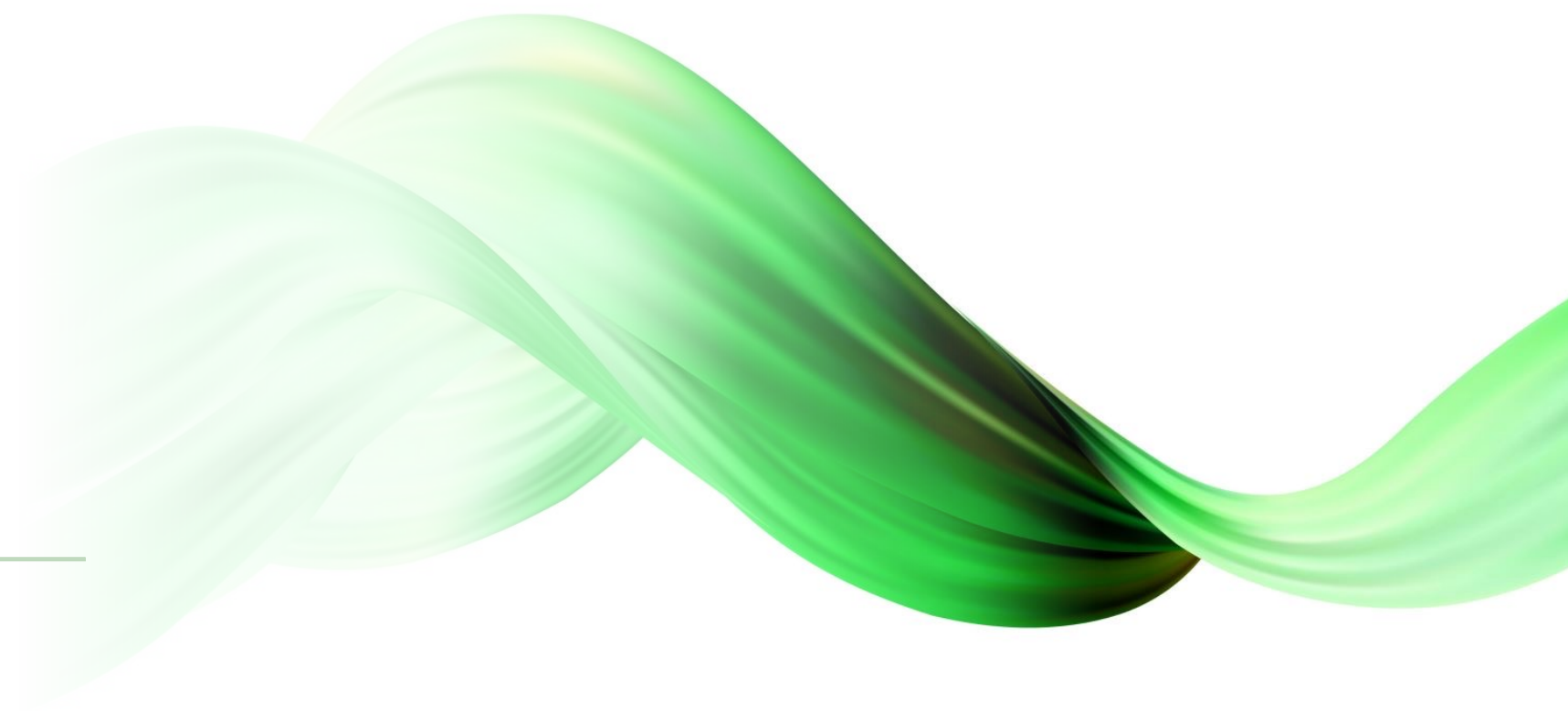




# Green passports

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And Human Rights





## **The context**

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Current pandemic situation and public health measures

Human rights approach to public health threats response

# Human rights during pandemic

The most challenging task for the states therefore is to balance infectious disease control and human rights protection. (McInnes and Rushton 2012; Gostin and Meier 2020);

The measures to protect public health in the context of an emergency should “be transparent, non-discriminatory, proportionate to the legitimate public health circumstances” (Zidar 2015)

# Current state of public health measures

- Cross – border
  - Testing
  - Quarantine/Isolation
  - Data sharing
- Domestic
  - Public Health Surveillance
  - Quarantine/Isolation/Home confinement
  - Restrictions for public spaces access



# Green passports EU Commission Vision

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Vaccination certificates

Negative PCR

Medical certificate for people who have  
recovered from COVID-19 in the last 180 days



**Right to  
respect for  
private life**

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Article 8 of the ECHR; Article  
7 of the ECFR

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Bodily integrity

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Privacy

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Interconnected with the right  
to freedom of movement

# Freedom of movement

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Article

13 of the UDHR

Article

12 of the ICCPR

Article

45 of the ECFR

## **Interference?**

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Testing and vaccination

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Requirement to show prove of your vaccination status or infection – related immunity

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Requirements to perform a test as a condition for entry

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**Equity and  
non-  
discrimination**

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The enjoyment of the abovementioned rights should be secured without discrimination

Articles: 14 of ECHR; 21 of the ECFR; Art. 1 of UDHR; Art. 26 of the ICCPR

# Is there a different treatment in an equal situation?

- Yes

- Vaccines and testing are not equally available, accessible and affordable for everyone
- Immunized persons are privileged
- People with contraindications to receive a jab

- No

- Objective criteria, based on scientific evidences
- Healthcare rationing/Infection – related immunity

# Reverse discrimination

When the state fails to treat differently persons, whose situations are significantly different

# Legitimate aim and proportionality





# Legitimate aim

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- Public health
- Right to health
- Restore rights and freedoms





# Proportionality

- Least restrictive measures
- Necessary and appropriate
- Objective criteria
- Fair balance

# Concerns

Availability and affordability

Medical exemptions from vaccination

Vulnerable groups

# **An open highway or a hurdle?**

Compensation of inequalities

Fair vaccine distribution

Waivers for people with medical  
contraindication for vaccination

Strict regulation of green  
passports





**What is  
next?**

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# Resources:

- European Convention on Human Rights (ECHR)
- Universal Declaration of Human Rights (UDHR)
- European Charter of Fundamental Rights (ECFR)
- International Convention of Civil and Political Rights (ICCPR)
- International Convention of Economic, Social and Cultural Rights (ICESCR)
- European Court of Human Rights Guides on Art. 8 and 14
- Brigit Toebe, L. Forman and G. Bartolini: Towards Human Rights Consistent Response to Health Emergencies: What is the Overlap between Core Right to Health Obligations and Core International Obligations and Core International Health Regulation Capacities. (Health and Human Rights Journal, 2020).
- A. L. Phelan; COVID Immunity Passports and Vaccination Certificates: Scientific, Equitable and Legal Challenges (Lancet, 2020)
- Beduchi. A. Digital Health Passports for COVID-19: Data Privacy and Human Rights Law (University of Exeter and ESRC, 2021).
- G. Persad, E. Emanuel: The Ethics of COVID-19 Immunity Based Licenses (JAMA Network, 2020).
- Rebecca H. Brown, J. Savulescu, Bridget Williams, D. Wilkinson: Passport to freedom? Immunity Passports for COVID-19. (JME, 2020)
- J. Savulescu: Are Immunity Passports a Human Rights Issue (JME, 2020)
- Sharifah Sekkalala and J. Harrington: Communicable Diseases, Health Security and Human Rights (L. Gostin and B.M. Meier: Foundations of Global Health and Human Rights, 2020).
- Therese Murphy: Health and Human Rights (2013).
- Andraz Zidar: WHO International Health Regulations and Human Rights: From Allusions to Inclusion (IJHR, 2015)