

COMMISSION IMPLEMENTING DECISION (EU) 2022/1949**of 13 October 2022****establishing the equivalence, for the purpose of facilitating the right of free movement within the Union, of COVID-19 certificates issued by New Zealand in respect of the Cook Islands, Niue and Tokelau 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 and test certificates issued by New Zealand in respect of the Cook Islands, Niue and Tokelau 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 and test certificates issued by New Zealand in respect of the Cook Islands, Niue and Tokelau 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 15 November 2021, the Commission adopted Implementing Decision (EU) 2021/1993 ⁽³⁾, establishing the equivalence, for the purpose of facilitating the right of free movement within the Union, of COVID-19 certificates issued by New Zealand under the system 'My Covid Record' to the certificates issued in accordance with 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).

⁽³⁾ Commission Implementing Decision (EU) 2021/1993 of 15 November 2021 establishing the equivalence, for the purpose of facilitating the right of free movement within the Union, of COVID-19 certificates issued by New Zealand to the certificates issued in accordance with Regulation (EU) 2021/953 of the European Parliament and of the Council (OJ L 405, 16.11.2021, p. 20).

- (4) On 19 April 2022, New Zealand informed the Commission that the Cook Islands, Niue and Tokelau have requested it to seek an extension to Implementing Decision (EU) 2021/1993 so as to cover COVID-19 certificates issued in the Cook Islands, Niue and Tokelau. As noted by New Zealand, the Cook Islands and Niue are self-governing states in free association with New Zealand, while Tokelau is a non-self-governing territory of New Zealand. The request by New Zealand was made in the exercise of its obligations to take account of the vital interests of the Cook Islands, Niue and Tokelau.
- (5) In this context, New Zealand provided the Commission with detailed information on the issuance of interoperable COVID-19 vaccination and test certificates in respect of the Cook Islands, Niue and Tokelau under the system entitled 'My Covid Record', that is, the system covered by Implementing Decision (EU) 2021/1993. New Zealand informed the Commission that it considered that the COVID-19 certificates issued in respect of the Cook Islands, Niue and Tokelau using the 'My Covid Record' system 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, New Zealand informed the Commission that COVID-19 certificates issued in respect of the Cook Islands, Niue and Tokelau in accordance with the 'My Covid Record' system contain the data set out in the Annex to Regulation (EU) 2021/953.
- (6) New Zealand also informed the Commission that, the Cook Islands, Niue and Tokelau accept interoperable vaccination and test certificates issued by the Member States and EEA countries in accordance with Regulation (EU) 2021/953.
- (7) On 25 July 2022, following a request by New Zealand made on behalf of the Cook Islands, Niue and Tokelau, the Commission carried out technical tests that demonstrated that the COVID-19 vaccination and test certificates issued by New Zealand in respect of the Cook Islands, Niue and Tokelau in accordance with the 'My Covid Record' system are interoperable with the trust framework established by Regulation (EU) 2021/953, allowing for the verification of the authenticity, validity and integrity of the certificates. The Commission also confirmed that the COVID-19 vaccination and test certificates issued by New Zealand in respect of the Cook Islands, Niue and Tokelau in accordance with the 'My Covid Record' system contain the necessary data.
- (8) In addition, New Zealand informed the Commission that it issues interoperable vaccination certificates for COVID-19 vaccines in respect of the Cook Islands, Niue and Tokelau, which currently include Comirnaty.
- (9) New Zealand also informed the Commission that it issues interoperable test certificates for nucleic acid amplification tests and for 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 ⁽⁴⁾, on the basis of the Council Recommendation of 21 January 2021 ⁽⁵⁾, in respect of the Cook Islands, Niue and Tokelau.
- (10) Furthermore, New Zealand informed the Commission that it does not issue interoperable certificates of recovery in respect of the Cook Islands, Niue and Tokelau.
- (11) In addition, New Zealand informed the Commission that when verifiers in the Cook Islands, Niue and Tokelau verify certificates, the personal data included in them will be processed only to verify and confirm the holder's vaccination or test result and will not retain the data afterwards.
- (12) The necessary elements for establishing that COVID-19 certificates issued by New Zealand in respect of the Cook Islands, Niue and Tokelau in accordance with the 'My Covid Record' system are to be considered as equivalent to those issued in accordance with Regulation (EU) 2021/953 are thus fulfilled.

⁽⁴⁾ 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).

⁽⁵⁾ 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).

- (13) Therefore, COVID-19 certificates issued by New Zealand in respect of the Cook Islands, Niue and Tokelau in accordance with the 'My Covid Record' 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.
- (14) In order for this Decision to be operational, the connection of New Zealand to the EU Digital COVID Certificate trust framework established by Implementing Decision (EU) 2021/1993 should be extended to cover certificates issued in the Cook Islands, Niue and Tokelau.
- (15) 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.
- (16) In view of the need to extend the connection of New Zealand to the EU Digital COVID Certificate trust framework established by Regulation (EU) 2021/953 to cover certificates issued in respect of the Cook Islands, Niue and Tokelau as rapidly as possible, this Decision should enter into force on the day following that of its publication in the *Official Journal of the European Union*.
- (17) 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 and test certificates issued by New Zealand in respect of the Cook Islands, Niue and Tokelau in accordance with the 'My Covid Record' system shall, for the purpose of facilitating the right of free movement within the Union, be considered as equivalent to those issued in accordance with Regulation (EU) 2021/953.

Article 2

The connection of New Zealand to the EU Digital COVID Certificate trust framework established by Regulation (EU) 2021/953 shall be extended to include the certificates covered by Article 1.

Article 3

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

Done at Brussels, 13 October 2022.

For the Commission
The President
Ursula VON DER LEYEN
