

# Covid-19 health status certificates in brief:

## A framework for decision-making

This brief proposes a framework that can guide decision-makers in determining whether and how to implement Covid-19 health status certificates. The framework considers three essential elements:

1. The context of deployment of these certificates
2. The impact on rights and freedoms
3. The necessary safeguards in place

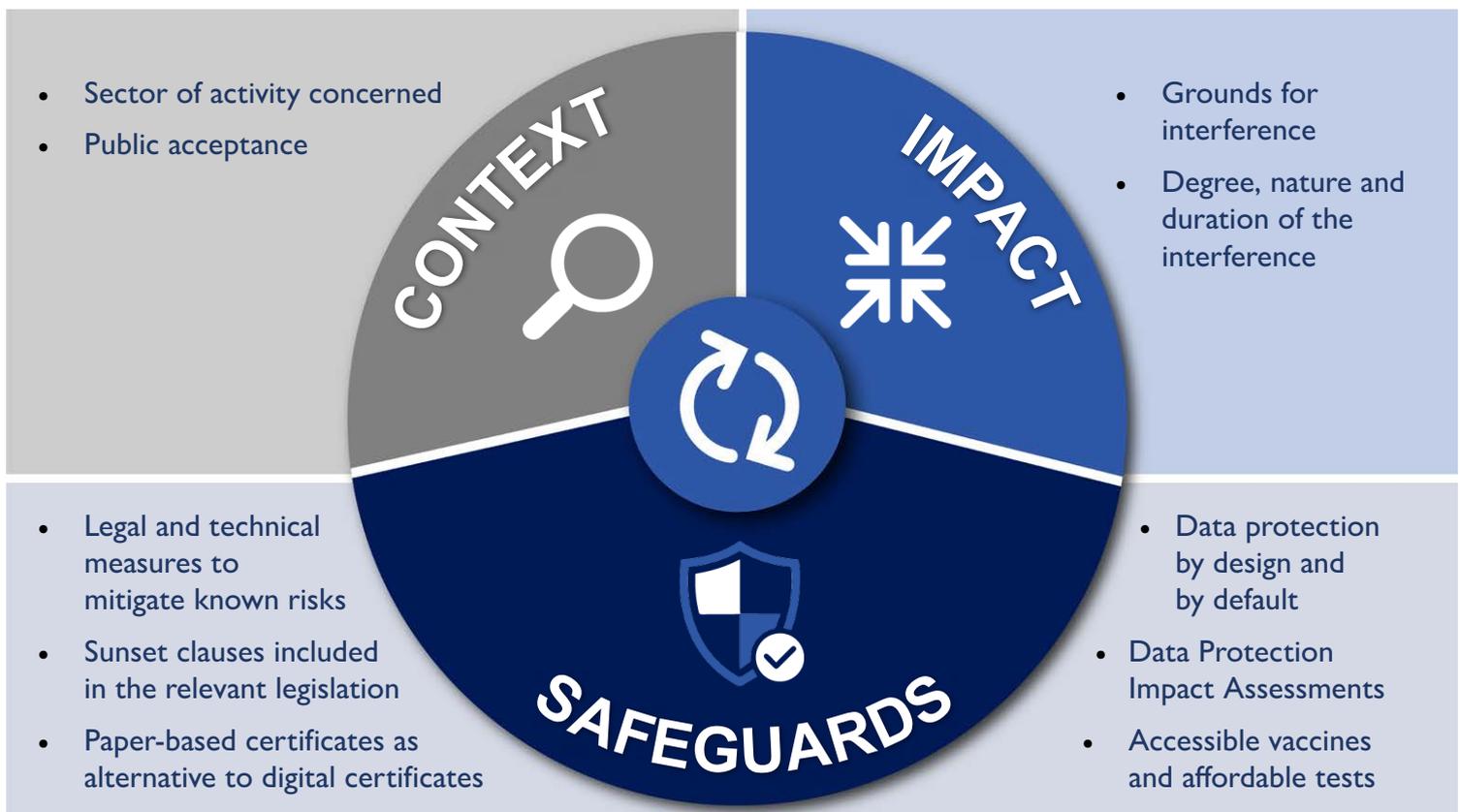


Figure 1 – A framework for decision-making in matters relating to data privacy and human rights.

Extract from A. Beduschi, 'Covid-19 health status certificates: Key considerations for data privacy and human rights' (2021) *ECIL Working Paper 2021/1*.



## CONTEXT

### International travel

There is a growing consensus about requiring Covid-19 health status certificates for international travel.

Nonetheless, concerns remain relating to, for example:

- The lack of equitable access to vaccines by populations worldwide.
- International recognition and global standards for issuing certificates.

### Domestic uses

Using Covid-19 health status certificates domestically remain controversial and present significant challenges, including:

- Implementation difficulties (e.g. appropriate checks at entry points by staff).
- Risk of discrimination.
- Issues with the recognition of Covid-19 certificates issued by authorities abroad.



## IMPACT

### Data protection and privacy

#### Legal basis:

- Covid-19 test results and vaccination records relate to a natural person's physical health and reveal information about their health status (health data).
- Health data enjoy a reinforced level of protection (Article 9 GDPR).
- The right to respect for private life includes the protection of personal information concerning an individual's health (Article 8 ECHR).

#### Implications:

- Respect data protection rules when processing personal information, including health data (Article 2 GDPR).
- No arbitrary and disproportionate interference with one's private life.
- Justification of an interference with this right by public authorities only if:
  - They safeguard a legitimate aim (e.g. "the protection of health" or "the economic well-being of the country").
  - They satisfy the cumulative tests of legality, necessity, and proportionality.



## SAFEGUARDS

### Sunset clauses and technical measures

- Sunset clauses should be introduced in the relevant legislation to ensure that Covid-19 certificates are used only during the pandemic.
- Technical measures (e.g. phasing out Covid-19 certificates apps on smartphones) should be adopted to ensure the discontinuity of their uses beyond the pandemic.

### Accessibility and Inclusion

To minimise the risks of creating a two-tiered society, decision-makers should:

- Ensure that vaccines are accessible to all.
- Have exemptions for individuals not yet vaccinated (e.g. children) and those who cannot be vaccinated (e.g. on medical grounds).
- Ensure that Covid-19 tests are available and affordable to all.
- Provide paper-based certificates as alternatives to digital ones.

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## Disclaimer

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