



### THE CONSTITUTIONAL AND EUROPEAN LEGITIMACY OF THE FRENCH *PASSE SANITAIRE*: BETWEEN INDIVIDUAL FREEDOMS AND HEALTH PROTECTION

The main purpose of this paper is to examine the legitimacy of the French health pass (i.e. *passé sanitaire*) both under the national and the European legal's framework and in the light of the Conseil constitutionnel case-law, along with the relevant decisions of the European Court of Human Rights in this matter. This analysis also aims to demonstrate the lawful foundation of the European digital Covid certificate, perusing also the powers conferred to the EU institutions by the European Treaties, in the field of public health (more and more considered as a problem of global concern). It's well known, in fact that in response to the COVID-19 global crisis, the EU has introduced the digital health pass (through the Regulation n. 953/2021 EU) to restore the freedom of movement and to reach “*a high level of human health protection*” in accordance with the article 168 of The Treaty on the Functioning of the European union.

However, since the spread of the omicron Covid-19's variant, many European countries, like France and Italy, hardened the application of the said pass, by make it mandatory to access even to the workplace and schools. This has raised many concerns regarding whether the French pass constituted a mandatory vaccination or not and if it was compatible with the right to respect for private and family life under the article 8 of the European convention of human rights and with the European regulation as well too.