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C 2017-0185

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correspondence

Re: Prior checking Opinion on the processing of medical data by the Medical/Social Service of the Committee of the Regions of the European Union (EDPS Case 2017-0185)

Dear Sir

On 13 February 2017, the European Data Protection Supervisor (EDPS) received a notification for prior checking under Article 27 of Regulation (EC) No 45/2001¹ ('the Regulation') on the processing of medical data by the Medical/Social Service of the Committee of the Regions of the European Union (CoR).

As indicated by the CoR Data Protection Officer (DPO), this notification replaces the one analysed in [EDPS Case 2007-0004](#)². Therefore, this Opinion analyses and highlights only those practices that differ from the earlier notification and that do not seem to comply with the principles of the Regulation.

Having analysed the changes made, it does not seem that a new opinion is necessary.

However, the EDPS notes that all the recommendations made in the aforementioned opinion are also valid for the processing of medical data as described in the updated notification.

¹ OJ L 8, 12.1.2001, p. 1.

² We have therefore updated our register of notifications accordingly.

1. Facts and analysis

As a general remark, the EDPS notes that the processing of health data presents specific risks to the rights and freedoms of data subjects, and refers to its guidelines in this respect³.

According to the information received, the notification concerning the processing of medical data by the CoR has been updated for several purposes:

- to reflect the new administrative structure of the two distinct and independent medical services of the CoR and the European Economic and Social Committee (EESC), given that the earlier notification was submitted by a joint medical service shared by the two committees;
- to clarify and detail the existing arrangements;
- to update the terminology in light of the 2014 revision of the Staff Regulations;
- to include a series of new agreements resulting from the reinforced cooperation provided for by the most recent cooperation agreement between the CoR and the EESC⁴.

1.1. Purpose of the processing

The EDPS notes that the new notification does not specify the purpose of each category of processing (pre-recruitment medical examination, annual medical check-ups, etc.), but simply lists these various categories. Given that the purpose of these categories of processing is not the same and that the purpose determines which types of data may be legitimately collected, the EDPS recommends that the purpose of each category of processing be clearly established and that the recommendations made in this regard in Opinion 2007-0004⁵ be taken into account.

<p>The EDPS recommends that the CoR clearly establishes the purpose of each category of processing and ensures that the recommendations made in this regard in Opinion 2007-0004 are fully respected. The confidentiality statement should be revised accordingly.</p>
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1.2. Categories of personal data

The EDPS notes that the annex containing a detailed list of medical data collected for each different category of processing (pre-recruitment medical examination, annual medical check-up, consultations and emergencies, etc.) has been replaced by a broader definition⁶ that does not take account of the different needs of each purpose. The EDPS reiterates his recommendations made in the aforementioned opinion on the adequacy, relevance and proportionality of the data collected (data quality), particularly in the context of the pre-recruitment medical examination⁷.

³ [EDPS Guidelines concerning the processing of health data in the workplace by EU institutions and bodies.](#)

⁴ See ‘Implementing arrangements for increased cooperation between the Health Services of the Committee of the Regions and the Economic and Social Committee’.

⁵ See pp. 10-12 of Opinion 2007-0004.

⁶ “... any medical or social data relating to the member of staff or members of his/her family deemed relevant by the medical/social service in the context of occupational health (individual or collective), including contact details and information obtained from external doctors treating or having monitored the person concerned or members of his/her family.”

⁷ See pp. 12-17 of Opinion 2007-0004.

The EDPS recommends that the CoR ensures that all the recommendations on data quality made in Opinion 2007-0004 are fully respected, despite this simplification of the notification.

1.3. Data transfer and recipients

The EDPS notes the changes made with regard to transfers and recipients of medical data as a result of the reinforced cooperation provided for by the cooperation agreement between the CoR and the EESC⁸. In the context of this cooperation, medical and personal data of members of staff of the CoR may be transferred to the EESC's medical team (and vice versa) in certain well-defined cases. The EDPS welcomes the fact that preventive measures and procedures are established for such cases.

1.4. Data retention

The EDPS notes that the new notification does not specify the retention period of pre-recruitment medical examination files that do not result in recruitment, whereas the confidentiality statement indicates that these will be destroyed after one year. In this context, the EDPS notes the importance of establishing specific rules according to the type of document and purpose of the retention⁹.

The EDPS recommends that the CoR establishes specific retention periods to reflect the different types of files and documents. The confidentiality statement should be revised accordingly.

1.5. Confidentiality statement

The confidentiality statement contains several shortcomings, as well as disparities with the notification, particularly under the point on categories of data¹⁰. The EDPS also notes that, as in the notification, the purpose of the different categories of processing is not specified¹¹.

⁸ See 'Implementing arrangements for increased cooperation between the Health Services of the Committee of the Regions and the Economic and Social Committee'.

⁹ As an example, retaining data on care provided at dispensaries for 30 years seems excessive.

¹⁰ NB: Family background does not constitute identifying data.

¹¹ As an example, 'monitoring the health of staff working for the Committee of the Regions' does not cover the pre-recruitment medical examination.

The EDPS reiterates his recommendations made in Opinion 2007-0004 and recommends that the CoR revises the confidentiality statement so that it contains all the information stipulated in Articles 11 and 12 of the Regulation and is consistent with the notification and the aforementioned recommendations.

2. Conclusion

In this letter, the EDPS has made several recommendations to ensure compliance with the Regulation. Provided that the CoR takes account of the aforementioned recommendations, the processing is compatible with the provisions of the Regulation.

The EDPS therefore entrusts the CoR with the implementation of those recommendations and decides to **close the case**.

The EDPS informs you that the register of notifications will be updated.

Yours sincerely

(signed)

Wojciech Rafał WIEWIÓROWSKI

Cc: Data Protection Officer