

## **Opinion on a Notification for Prior Checking received from the Data Protection Officer of the European Investment Bank (EIB) on Medical records and services management**

Brussels, 17 March 2006 (Case 2005-0396)

### **1. Proceedings**

On 12 December 2005, the European Data Protection Supervisor (EDPS) received from the Data Protection Officer of the European Investment Bank a notification for prior checking relating to Medical records and services management at the institution.

On 19 December 2005, the EDPS requested some complementary information from the European Investment Bank DPO. The answer was received on 4 January 2006. Further information was requested on 3 February 2006, and the response was received on 13 February 2006. Finally, the EDPS asked certain questions on 20 February 2006, and the answers were received on 27 February.

### **2. Examination of the matter**

#### **2.1. The facts**

In conformity with clinical practice the occupational health team of the EIB is charged with keeping accurate information relating to individual staff members' health for the purpose of prevention, diagnosis, provision of care, treatment and follow-up of medical problems at an individual level, for the purpose of surveillance of the health situation at the Bank on a general level, as well as for the management of the services. The pre-employment exam checks for fitness-for-work and for admission to the Bank's Pension Scheme.

The Occupational Health Centre (OHC) is part of the Health, Prevention and Social Services Unit, itself under the Administration Division, Human Resources Department. As far as the medical examinations and most other aspects are concerned, the OHC is now, with the transfer of all medical records from the Commission to the Bank, fully operational. The physical transfer took place on 20 February 2006. The agreement with the Commission will consequently terminate on 31 March 2006 (until the Bank's OHC was fully functioning, members of staff medical records were held by the Medical Service of the European Commission in Luxembourg, with which the Bank had an agreement for provision of occupational health services). As far as sickness absence certificates are concerned, a fully operational status is awaiting a level of staffing which will allow the OHC to manage and process the data. The EDPS has been informed that this is expected to take place within the next few months.

The data subjects concerned are all current and retired EIB members of staff, as well as persons considered for employment.

Personal data are processed in the following contexts: (1) Preventive Medicine; (2) Data Relative to Sickness Absence; and (3) Invalidity Pension.

(1) Preventive Medicine: This concerns all current and retired EIB members of staff, as all members are required to undergo annual medical exams (Staff Rules, chapter 7), by the Bank's medical service or by a medical practitioner of their own choosing. In instances where members of staff exercise the option to have the examination performed by a medical practitioner of their own choosing, a report of the examination must be communicated to the Bank's Occupational Health Centre. In addition, members of staff may, free of charge, undergo an annual ophthalmological examination as well as, with certain intervals subject to age, a full medical examination, on the basis of a specified programme. Reports concerning these examinations are submitted to the Bank's OHC. Further, as already mentioned above, persons considered for employment by the Bank are required to undergo a pre-employment medical examination to determine their suitability for the post in question and for admission to the Bank's Pension Scheme. This examination takes place at the Bank's OHC. In all of the above cases, reports resulting from these examinations are kept in the staff member's medical record.

(2) Data relating to Sickness Absence: Any member of the staff absent for more than three consecutive days through illness or accident shall provide the Bank with a medical certificate on the fourth day at the latest. The Bank may have a medical examination carried out at any time during the illness (Staff Regulations, Article 27). Medical certificates concerning sickness absence are currently kept with the staff members' health insurance files. However, once fully operational, the OHC will receive such certificates, which will be kept with the staff member's medical file.

(3) Invalidity Pension: The Bank's Staff pension Scheme Regulations (Article 46-51) provide for an invalidity pension when a member is considered, on the basis of medical opinion, permanently unable to fulfil his duties. To qualify for an invalidity pension, a member of staff must authorise his doctors to give to the medical practitioner chosen by the Bank or the Pensions Board and, in the case of a dispute, to the members of the Committee (Article 48.1) detailed information concerning his state of health. If the insured refuses to give such authorisation, the Board may disqualify him from entitlement to invalidity pension.

Regarding the categories of data, the processing concerns, indeed, special categories of data "for the purposes of preventive medicine, medical diagnosis, the provision of care or treatment or the management of health-care services". Data include information revealed by members of staff to the authorised OHC personnel concerning their health status. It includes findings in physical examinations carried out at the OHC, as well as laboratory analyses, x-rays and other image diagnostics, ECGs, cardiology exams, discharge letters from hospitals, reports of operations, of pathology findings, from speech therapists, psychologists, and nutritionists, vision tests, audiograms, physiology tests, videos and other results of endoscopies, physiotherapy records, photographs, slides, and other information from providers of diagnostic, preventive, promotive, therapeutic and rehabilitative medical services.

Pre-employment examinations (as referred to in Staff Pension Scheme Regulations, Article 6.1, 6.2 and 6.3), however, are not part of the normal therapeutic or preventive relationship and the conclusion of these (rather than the whole examination) will be communicated, in the form of "fit for work", "fit for work under specific conditions" or "unfit for work", to the Bank's staffing services.

Applicants undergoing pre-employment examinations are informed that the data, provided by themselves as well as clinical, will be held as an integral part of a future occupational health record. It has also been indicated that staff members will be aware that records of their health data are held by the Bank's OHC. As far as future annual/periodic medical examinations are concerned, the DPO has pointed out that staff members are implicitly aware that data originating from such exams -if performed internally- is held in their medical record.

The following policy is foreseen regarding the right of access and rectification:

(1) data subjects may consult their file at the medical service and in the presence of a member of the medical staff, after prior arrangement;

(2) data subjects may be denied access to the personal notes of medical officers when, in the light of Article 20(1) c of Regulation (EC) 45/2001 and on the basis of a case by case approach, it may be necessary to protect the data subject or the rights and freedoms of others;

(3) the right to rectify inaccurate or incomplete data (Article 14, Regulation (EC) 45/2001) would, since assessment of accuracy or completeness of medical data requires a medical qualification, apply only to administrative data. The administrative data included in the individual medical record derives solely from the data subject himself or from the Bank's personnel files, held in the Bank's PeopleSoft database. Staff members have access to their personal data and may, subject to documentation where needed, rectify inaccurate or incomplete data.

At present, data are almost exclusively paper-based and only immunisation records are held in a PeopleSoft module.

The notification forms describes that data from members of staff medical records held by the OHC will only be disclosed to third parties, including to the Bank's services, against signed consent by the staff member in question, or in certain circumstances where consent may be implied, e.g. referral or emergency, and then only to health professionals providing healthcare to the data subject concerned.

Members of staff's medical data originating from the OHC itself or from external providers of services will be kept on file for the duration of the member of staff's employment at the Bank. Records older than 10 years will be kept by the Bank's central archives, rather than at the OHC. However, only members of staff at the OHC will have access to these files. At the end of employment, a staff member may request, in writing, to have a copy of his medical record forwarded to a physician of his choice. The original medical record will be kept at the Bank's central archive for a period of 30 years upon termination of employment. This period is fixed and is not affected by the death of the data subject. Records pertaining to the management of the OHC, such as e.g. timetables of reservations, will be kept for a period of five years.

A question relating to the duration of the conservation of medical records was raised by the *College medical interinstitutionnel* to the *Collège des Chefs d'administration* (CA-D 1975/00). The *Collège des Chefs d'administration*, in its meeting on 6<sup>th</sup> October 2005, discussed the possibility of a 30-year conservation period. This was based on a survey showing that most member states, due to the possibility of long-term health consequences of certain exposures (ionising radiation, asbestos) observe a conservation period of this length.

The time limit for the conservation of pre-employment medical examination data for persons not employed will be two years. The reason invoked by the DPO is that the medical examination is only valid for six months after which it must be renewed. The Human

Resources Directorate keeps applications and records of interviews and other documentation relative to persons never employed for two years (after which it goes to the central archives).

Transfer of data to third countries and international organizations can only take place on the basis of written approval, or when consent may be implied, e.g. referral or emergency, and then only to health professionals providing healthcare to the data subject concerned.

All information contained in medical files is stored according to strict security measures, which guarantee exclusive access by the Medical Service.

## **2.2. Legal aspects**

### **2.2.1. Prior checking**

The prior checking relates to the processing of personal data contained in medical files held by the European Investment Bank (Articles 2(a) and (b) of Regulation (EC) No 45/2001 (hereinafter "the Regulation"). The processing activity is carried out by a European institution, in the framework of the first pillar of Community law (Article 3.1 of the Regulation). The processing of personal data is carried out partly by automatic means (Article 3.2 of the Regulation). As a consequence, the Regulation is applicable.

Article 27.1 of the Regulation subjects to prior checking by the EDPS all "*processing operations likely to present specific risks to the rights and freedoms of data subject by virtue of their nature, their scope or their purposes*". Article 27.2 of the Regulation contains a list of processing operations that are likely to present such risks.

Under Article 27.2(a) of the Regulation, processing operations relating to health shall be subject to prior checking by the EDPS. In the case in point, the processing operation is directly related to the processing of health data.

Since prior checking is designed to address situations that are likely to present certain risks, the Opinion of the EDPS should be given prior to the start of the processing operation. In this case, the processing operation conducted by the Bank's OHC is a new one. It is a transitional situation since some processing activities have already started. Given this scenario, the activities mentioned should not have commenced before the reception of the EDPS Opinion. However, considering the circumstances of this particular case, this is not a serious problem as far as any recommendations made by the EDPS may still be adopted accordingly.

The notification of the DPO was received on 12 December 2005. According to Article 27(4) the present Opinion must be delivered within a period of two months. The procedure has been suspended during thirty-three days. The Opinion will be issued no later than the 17 March 2006.

### **2.2.2. Legal basis for and lawfulness of the processing**

The processing of data contained in medical files is based on the EIB Staff Regulation (Article 27), EIB Staff Rules (Article 7), and EIB Staff Pension Regulations.

Concerning the pre-employment examination, every candidate interviewed for a post is duly and unambiguously notified that an integral element of the process is a pre-employment medical examination and that irrespective to the outcome of the other elements of the interview, the signature of an employment contract by the Bank is dependent on, and will

await, a satisfactory medical examination. However, neither the Bank's staff regulation nor the staff rules make any reference to a pre-employment examination.

In this context, account should be taken by analogy to Articles 28 and 33 of the EC Staff Regulations, which foresee what follows:

Article 28: *"An official may be appointed only on condition that: (...); (e) he is physically fit to perform his duties; (...)"*.

Article 33: *"Before appointment, a successful candidate shall be medically examined by one of the institution's medical officers in order that the institution may be satisfied that he fulfils the requirements of Article 28(e)"*.

*Where a negative medical opinion is given as a result of the medical examination provided for in the first paragraph, the candidate may, within 20 days of being notified of this opinion by the institution, request that his case be submitted for the opinion of a medical committee composed of three doctors chosen by the appointing authority from among the institution's medical officers. The medical officer responsible for the initial negative opinion shall be heard by the medical committee. The candidate may refer the opinion of a doctor of his choice to the medical committee. Where the opinion of the medical committee confirms the conclusions of the medical examination provided for in the first paragraph, the candidate shall pay 50% of the fees and of the incidental costs"*.

Alongside the legal basis in relation to the Regulation the lawfulness of the processing operation must also be considered. Article 5(a) of the Regulation stipulates that personal data may be processed only if: "a) processing is necessary for the performance of a task carried out in the public interest on the basis of the Treaties establishing the European Communities or other legal instruments adopted on the basis thereof or in the legitimate exercise of official authority vested in the Community institution or body (...)".

The collection and further processing of personal data in the present framework is carried out in the public interest and fall under the scope of the legitimate exercise of official authority vested in the European Investment Bank and may be considered necessary for the relevant tasks in the light of Community practice. Nevertheless, concerning the processing of pre-employment data, the EDPS recommends the adoption of a specific legal basis (in the light of Articles 28 and 33 of the EC Staff Regulations as mentioned *supra*), in order to legitimate the processing activities conducted in this context more consistently.

However, taking into account that special categories of data are processed, special conditions need to be fulfilled.

### **2.2.3. Processing of special categories of data**

According to Article 10 of the Regulation, personal data concerning health is prohibited unless grounds can be found in Article 10(2) and 10(3).

Personal data concerning health is clearly being processed in this case.

As has been explained above concerning the legal basis, the justification for processing of such data is to be found in the Staff Regulations and other legal instruments already mentioned and is therefore compliant with Article 10(2)(b) according to which the prohibition shall not apply where the processing is *"necessary for the purposes of complying with the specific rights and obligations of the controller in the field of employment law insofar as it is*

*authorised by the Treaties establishing the European Communities or other legal instruments adopted on the basis thereof*". However, as to the pre-employment examinations the observations apply as already made in point 2.2.2 before.

The prohibition regarding the processing of data concerning health can also be lifted where the processing is *"necessary for the purpose of preventive medicine, medical diagnosis, the provision of care or treatment or the management of health-care services, and where those data are processed by a health professional subject to the obligation of professional secrecy or by another person also subject to an equivalent obligation of secrecy"* (Article 10(3)). By virtue of their function, the medical officers and nurses are health professionals subject to the obligation of professional secrecy. This also implies that there must be functional separation of those professionals, which is the case, as the Medical Service appears to have functional separation within the Personnel Division of the European Investment Bank. Therefore Article 10(3) is fully respected.

Furthermore, in the event of the transfer of data relating to health to third parties other than the Medical Service, it must also be ensured that Article 10 is complied with (see point 2.2.6 below).

#### **2.2.4. Data Quality**

According to Article 4(1)(d) personal data must be *"adequate, relevant and non excessive"* in relation to the purposes for which collected and/or further processed.

Even though certain standard data will always be present in medical files such as the name, data of birth and personnel number, the precise content of a medical file will of course be variable according to the case. Guarantees must however be established in order to ensure the respect for the principle of data quality. This could take the form of a general recommendation to the persons handling the files reminding them of the rule and recommending to them that they ensure the respect of the rule.

Data quality must also be ensured in any medical questionnaire submitted to potential or actual agents. Any information requested must be pertinent as concerns the purpose for which the data are collected. The questionnaire used in the pre-employment medical may only serve the purpose of determining whether or not the person is physically and/or mentally fit to perform his/her duties. This raises the issue as to what can be considered as medical data which are likely to have an impact on the performance of an agent's duties. In any event the type of data will vary according to the type of function (office work or other, for example). The EDPS would like to underscore the fact that the relevance of a series of data collected in the questionnaire must be demonstrated as concerns the medical fitness to carry out one's duties: on this point the EDPS questions the relevance of information such as that concerning the spouse or children's past or present medical condition, the use of oral contraception by women, etc. The EDPS recommends an evaluation of the data in the questionnaire on medical relevance in the light of the data protection principles.

In case T-121/89 and T-13/90 the Court of First Instance has found that "the medical officer of the institution may base his finding of unfitness not only on the existence of present physical or psychological disorders but also on a medically justified prognosis of potential disorders capable of jeopardizing the normal performance of the duties in question in the foreseeable future". Even if the ruling was subsequently annulled by the Court (C-404/92), this interpretation of the notion of "unfitness" was not challenged. Even if terms such as "potential disorders" and "foreseeable future" are vague in terms of data protection, the

relevance of the data in respect to the normal performance of the duties must be proved. The link between a potential disorder and the ability to carry out ones duties will need to be demonstrated.

Article 6.2 of the Bank's Pension Scheme Regulations provide that "*[i]f the medical examination undergone prior to entry into service shows that a member is suffering from an illness or disability, the Pensions Board provided for in Article 7 may decide to withhold from the member or his rightful claimants complete or partial entitlement to the death and invalidity benefits laid down by these Regulations for no more than the first five years of service insofar as the effects or consequences of such illness or disability are involved. This period may subsequently be reduced on the opinion of a medical practitioner acceptable to the Bank.*" The medical questionnaire submitted at the time of the medical examination for recruitment also contributes, then, to the determination of the insurability of the data subject. However one must bear in mind that no more data than that strictly necessary for this precise purpose may be communicated to the Appointing authority and by the authority to the payment unit.

Considering that the information gathered in the questionnaire and medical examination serve other purposes than that of verifying the medical aptitude of the data subject to perform his/her duties, such as admitting the person concerned to guaranteed benefits in respect of invalidity or death, the EDPS suggests dividing the questionnaire in different parts so that the relevance of the data may be assessed accordingly. It must be made clear that only data relevant for the medical aptitude to carry out ones duties may be requested relating to medical fitness. Adequacy as concerns insurance should be subject to a specific examination. Here again it should be underlined that health related data which is not processed for medical reasons must be assessed according to strict criteria concerning the adequacy of the data.

In the frame of annual medical check-ups carried out by a medical practitioner chosen by the official (Article 7.1 of the Staff Rules), it must be assessed to what extent the medical service needs to receive the medical report and any copies of complementary examinations carried out. It must be examined whether the precise purpose of the medical check-up cannot be reached by a statement by the medical practitioner attesting the medical condition of the official and determining whether or not certain examinations have been carried out or not.

According to Article 4.1(d) of the Regulation, personal data must be "*accurate and where necessary kept up to date*", and "*every reasonable step must be taken to ensure that data which are inaccurate or incomplete, having regard to the purposes for which they were collected or for which they are further processed, are erased or rectified.*"

In this case, it concerns data such as results of medical examinations or notes taken down by a medical officer. The accuracy of these data cannot be easily ensured or assessed. However, the EDPS underlines the necessity for the institution to undertake every reasonable step to ensure up-dated and relevant data. For example, so as to ensure the completeness of the file, any other medical opinions submitted by the data subject must also be kept in the medical files.

Lastly, data must also be "*processed fairly and lawfully*" (Article 4.1(a) of the Regulation). The question of lawfulness has already been considered. As for fairness, it is related to the information to be given to the data subject (see below point 2.2.8).

### **2.2.5. Conservation of data/ Data retention**

Personal data must be *"kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the data were collected or for which they are further processed. The Community institution or body shall lay down that personal data which are to be stored for longer periods for historical, statistical or scientific use should be kept either in anonymous form only or, if that is not possible, only with the identity of the data subjects encrypted. In any event, the data shall not be used for any purpose other than for historical, statistical or scientific purposes"* (Article 4(1)(e) of the Regulation).

The data and a time period of conservation are proposed, as described in point 2.1 of the present Opinion. The EDPS underlines the importance of the determination of a time limit. However, the final proposal of the limit mentioned is still under discussion among the institutions. The EDPS considers that a consultation in this regard would give the possibility to have a general view on the subject matter. Therefore, the EDPS welcomes the presentation of an eventual proposal of Agreement in this regard for its consideration in the light of the Regulation. As a consequence, the EIB will have to implement the conservation periods finally fixed inter-institutionally, once agreed by the EDPS.

A further point must be made as concerns the conservation of medical exams concerning future candidates which, even after having been subjected to a medical examination have not been recruited whether or not this is linked to a medical reason. The EDPS maintains that the data should only be kept within a certain time frame which could be that of the period during which the data or decision taken on the basis of such data, can be contested or the time during which the examination is valid, which is of 6 months in the present case. Therefore, the conservation time has to be reduced, and data has to be destroyed after this moment.

### **2.2.6. Transfer of data**

Article 7 of the Regulation stipulates: "(1) Personal data shall only be transferred within or to other Community institutions or bodies if the data are necessary for the legitimate performance of tasks covered by the competence of the recipient".

The notification form submitted does not make reference to any systematic transfer (apart from the one to the Medical Service of the European Commission in Luxembourg, which no longer occurs since the establishment of the Bank's OHC). Nevertheless, occasional transfers may take place, for instance, if the person changes his/her post from one EU institution to another, in case of emergency, etc., cases that would fall under Article 5(c),(d) or (e). Apart from those cases, when a request for transfer of information contained in the medical file is made following a request from the recipient, the medical service will be required to verify the competence of the recipient and to make a provisional evaluation of the necessity of the transfer of the data. The recipient shall only process the data for the purposes for which they were transmitted.

Concerning the transfer of data to third countries or international organizations, the rules established in Article 9 of the Regulation should be respected if such a transfer takes place. Thus, *"personal data shall only be transferred to recipients, other than Community institutions or bodies, which are not subject to national law adopted pursuant to Directive 95/46/EC, if an adequate level of protection is ensured in the country of the recipient or within the recipient international organization and the data are transferred solely to allow tasks covered by the competence of the controller to be carried out"*.



If the country of destination does not ensure an adequate level of protection, the exceptions of Articles 9.6 and 9.7 must be considered. Given the characteristics of the case under analysis, sub-paragraph (e) of Article 9.6 will be of particular relevance: *"By way of derogation from paragraphs 1 and 2, the Community institution or body may transfer personal data if: (...) (e) the transfer is necessary in order to protect the vital interests of the data subject; (...)"*.

### **2.2.7. Right of access and rectification**

According to Article 13 of the Regulation, the data subject shall have the right to obtain without constraint from the controller, communication in an intelligible form of the data undergoing the processing and any available information as to their source.

Article 20 of the Regulation provides for certain restrictions to this right notably where such a restriction constitutes a necessary measure to safeguard the protection of the data subject or of the rights and freedoms of others. This is reflected in point (2) of the access policy, as transcribed in point 2.1 of the present Opinion.

Concerning point (1) of the said policy, it has to be noted that, in principle, there is no reason to deny the data subject a copy of his/her medical file. Indeed, the data subject shall have the right to obtain from the controller *"communication in an intelligible form of the data undergoing processing and of any available information as to their form"* (Article 13(c) of the Regulation). The present mechanism would only comply with paragraph (a) of Article 13, being that paragraphs (b) and (c) should also be respected. However, in certain cases, for instance when the patient suffers from a mental illness and accessing his/her data could be detrimental for him/her, the access could be restricted to the data subject (Article 20.1(c)). In those circumstances, an indirect access should be guaranteed, for instance by the patient's physician.

Article 14 of the Regulation provides the data subject with a right to rectify inaccurate or incomplete data. This right is somewhat limited as regards medical data to the extent that the accuracy or completeness of medical data is difficult to guarantee. It may however apply when it concerns other types of data contained in medical files (administrative data, for example). Furthermore, as mentioned above (quality of data, point 2.2.4), the data subject may request the completeness of his medical file in the sense that he may request that information such as contra opinions by another medical officer or a Court decision on an element of the medical file be placed in his file so as to ensure up-dated information.

### **2.2.8. Information to the data subject**

Articles 11 and 12 provide for information to be given to data subjects in order to ensure the transparency of the processing of personal data. Article 11 provides that when the data is obtained from the data subject, the information must be given at the time of collection. When the data have not been obtained from the data subject, the information must be given when the data are first recorded or disclosed, unless the data subject already has it. Since in this case information is at first obtained mainly from the data subject on the occasion of the medical exam prior to the entry into service, this should be the occasion to provide the data subject with adequate information at least concerning the processing of medical data in the framework of the medical examination. In the cases where the data is received from an external medical service, compliance with Article 12 must be assured at the moment of the reception.

The information currently provided to the data subject is limited and insufficient, and therefore has to be completed by all the requisites imposed by Article 11 and/or 12. The fact

that staff members be implicitly aware of some aspects of the processing activity does not in itself comply with Article 11. Full information must be explicitly provided, including further information as mentioned in paragraph (f) of Article 11 and 12, considering that it is necessary, having regard to the specific circumstances in which the data are collected.

### **2.2.9. Security measures**

After careful analysis by the EDPS of the security measures adopted, the EDPS considers that these measures are adequate in the light of Article 22 of Regulation (EC) 45/2001.

#### **Conclusion:**

There is no reason to believe that there is a breach of the provisions of Regulation 45/2001 providing the considerations are fully taken into account. In particular, the European Investment Bank must:

- adopt a specific legal basis (in the light of Articles 28 and 33 of the EC Staff Regulations as mentioned *supra*) concerning the processing of pre-employment data;
- ensure the respect for the principle of data quality, for instance, by providing a general recommendation to the persons handling the files in order to remind them of this rule;
- evaluate the questionnaire provided to the data subject in the context of the pre-employment examination in the light of the data protection principles, and limit the data requested only to those that are necessary for the purpose of processing;
- divide the questionnaire provided to the data subject in the context of the pre-employment examination in different parts according to the purposes for which the data are processed;
- avoid the provision of more data than those that are strictly necessary for the purposes indicated to the Appointing authority and by the authority to the payment unit;
- take any reasonable step to ensure up-dated and relevant data, for instance, concerning the completeness of the file, any other medical opinions submitted by the data subject must also be kept in the medical file;
- in the case of annual medical check-ups carried out by a medical practitioner chosen by the official, assess to what extent a statement by the medical practitioner attesting the medical condition of the official would suffice for the purpose of processing (instead of receiving all the copies and details of the examinations carried out);
- implement the conservation periods finally fixed inter-institutionally, once agreed by the EDPS;
- reduce the time limit of conservation of the pre-employment exams to 6 months;
- comply fully with Article 13 by providing the right of access as described in the Regulation, unless the exceptions foreseen in Article 20 of the Regulation would be of application;
- provide the possibility of rectification by, e.g., contra opinions by another medical officer or a Court decision on an element of the medical file, etc.;
- inform the data subject when there is a processing activity in conformity with Articles 11 and/or 12 of the Regulation.

Done at Brussels, 17 March 2006

Peter HUSTINX  
European Data Protection Supervisor