



GIOVANNI BUTTARELLI
ASSISTANT SUPERVISOR

Ms Rose-Marie WEGNEZ
Head of Division
European Court of Auditors
12, rue A. de Gasperi
L - 1615 Luxembourg

Brussels, 22 June 2009
GB/JL/ktl/ D(2009) 858 C 2009-0201

Subject : Notification for prior checking concerning the management of medical certificates

Dear Ms WEGNEZ,

Having examined the notification concerning the management of medical certificates (ref. EDPS: file 2009-201), we have come to the conclusion that this file **is not subject to prior checking by the EDPS.**

The processing operation was notified pursuant to Article 27(2)(a) of Regulation (EC) No 45/2001 (hereinafter referred to as "the Regulation").

Article 27(1) makes subject to prior checking all "*processing operations likely to present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes*".

Specifically, Article 27(2) of the Regulation contains a non-exhaustive list of processing operations likely to present such risks, notably "*processing of data relating to health [...]*" (point (a)).

The data processing operation as described in the notification certainly involves processing of data relating to health, since data concerning absences on medical grounds are processed.

However, after examining the documents accompanying the notification and the additional information you forwarded to us on 5 May 2009, we consider that this processing operation is not likely to present *specific* risks to the rights and freedoms of data subjects within the meaning of Article 27(1) of the Regulation.

According to the information received, the processing carried out by the Court of Auditors is confined to the encoding of data (name, first name, personal number, period of absence) in the

SYSPER 2 system. The Court does not process medical certificates forwarded by data subjects directly to the Commission, nor "strictly" medical data, in particular those relating to specific pathologies.

We would nevertheless draw your attention to certain aspects of this operation:

- A procedure should be set up to enable data subjects to check the accuracy of their data and correct any encoding errors.

- Data may not be communicated outside the managing department unless they are required for the legitimate performance of tasks within the competence of the recipient. Should such communication take place, it must be explicitly pointed out to any person receiving and processing data that they may not be used for purposes other than those for which they were transmitted. In particular, any use of data by the data subject's superiors for assessment purposes must be prohibited.

If you feel there are other reasons that warrant prior checking by the EDPS we are prepared to reconsider our position. Similarly, should there be any change in this processing operation we would ask you to notify the changes to the Court's Data Protection Officer for an assessment as to whether the operation needs to be submitted to the EDPS for prior checking.

Yours sincerely

(Signed)

Giovanni BUTTARELLI

Cc: Mr Jan KILB, Data Protection Officer, European Court of Auditors