

REGISTER NUMBER: 576

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 15/02/2010

Case number: 2010-002

Institution: REA

Legal basis: article 27-5 of the regulation CE 45/2001⁽¹⁾

(1) OJ L 8, 12.01.2001

INFORMATION TO BE GIVEN⁽²⁾

(2) Please attach all necessary backup documents

1/ Name and address of the controller

Wim DE MEYERE
Research Executive Agency (REA)
Unit A.3.001 (Human Resources)
COV2 15/052
B - 1049 Brussels

2/ Organisational parts of the institution or body entrusted with the processing of personal data

REA, Unit A.3.001 (Human Resources). The REA has established a Service Level Agreement (SLA) with the Medical Service of the European Commission that is responsible for the processing of all medical data "strictu senso" (SLA enclosed to the notification).

3/ Name of the processing

Processing of Health Data by the REA

4/ Purpose or purposes of the processing

To ensure conformity to the relevant regulations and guidelines

5/ Description of the category or categories of data subjects

Candidates who have been offered an employment (temporary/contractual agents, SNEs, and trainees) in the REA

6/ Description of the data or categories of data (including, if applicable, special categories of data (article 10) and/or origin of data)

Administrative data related to health in the sense of article 10 of the Regulation 45/2001 and processes for the purposes mentioned in article 10, 2 b) of this Regulation.

The data that is collected for the above scope is presented in detail in the subsequent sections:

a) Pre-recruitment medical visits: Candidates that have received an offer for employment in the REA have to have a pre-recruitment medical examination by the Medical Service of the European Commission. The detailed results of the examination are communicated only to the candidate. The Medical Service keeps the results of the examination in the medical file of the candidate. The certification of aptitude sent by the Medical Service to the REA states only whether the candidate is capable (apt/inapt/apt with reserve) of assuming his/her duties in the Agency.

Note: If a candidate is still working for another European Institution or used to work for another European Institution but the period that elapsed by the time he/she left the previous Institution until the date that he/she will assume duties in the REA is less than six months then he/she does not have to have a re-recruitment medical examination.

b) Annual medical visit, occupational medical visits and other medical visits: The REA staff may have a medical check-up, on an annual basis, performed either by the Medical Service or by a medical practitioner of their choice. The results of the annual medical check-up are communicated only to the staff member.

No medical data, in the strict sense, mentioned in the medical examination report may be sent to the REA.

In the case that the medical check-up is performed by the Medical Service:

- The REA (HR) arranges for the date that the staff can have the check-up at the Medical Service,
- The only information that the REA (HR) receives is whether or not the staff had the annual medical check-up.

c) Medical check to verify absence because of sickness/accident: No medical data, in the strict sense, mentioned in the medical examination report may be sent to the REA. The REA GECO receives a memo from the medical officer's decision containing the following data:

- Name,
- The purpose of the memo (check in relation to absence from work on medical grounds, with dates of absence),
- The decision (absence justified/not justified) of the medical officer. The relevant data is updated in SIC CONGE.

d) Medical certificates: The staff member sends his certificate only to the Medical Service. Regularly, the Medical Service sends a list of the certificates received to the REA GECO with the following information: Name, surname, type of absence (MTM, MAL, MAT, ACC, MAC), duration of the validity of the medical certificate and the date that the certificate was encoded into the medical service system. Based on that, the REA GECO modifies the data introduced in SIC CONGE by the secretary of the pertinent unit from MSC (illness without certificate) to MAL (illness with certificate).

e) Management of family leave, part-time for medical reasons: A medical certificate with a diagnosis of the illness (problem) must be sent by the concerned REA staff to the Medical Service. As soon as the application request has been authorised by the appointing authority and by the Medical Service (concerning the medical aspects), the data is transferred to the PMO for the payment of the salaries. In case of a request for a family leave, the REA GECO receives a copy of the Medical Service decision and depending on the case may approve, or not, the request.

f) Management of special leaves of a medical nature (ill child, parent, etc): the certificate has to be sent only to the REA GECO. The relevant data is then encoded in SIC CONGE. Depending on the specific nature of the information mentioned on the certificate, the staff member may decide not to disclose all the relevant information (e.g. medical data is not needed by the REA GECO) provided that sufficient information is still available for the appointing authority to establish the right. In case there is a request for more days, than the official ones, of leave the staff member has to send the request to the Medical Service for approval.

g) Invalidity procedure: Depending on the decision of the invalidity committee, the Medical Service will either inform the REA (HR) that the staff member should immediately suspend his/her professional activities due to medical reasons (no medical information is communicated to the REA) or will communicate to the REA (HR) the modalities of "the return to work" (no medical information is communicated to the REA).

7/ Information to be given to data subjects

As specified in the SLA signed between the REA and the Medical Service, the latter applies the provisions of the regulation CE 45/2001 concerning the collection and processing of relevant data.

The candidates who are offered an employment contract with the REA will have to fill in and sign all the required forms (containing personal data) to be sent to the PMO.

A privacy statement will be distributed to all newly recruited staff regarding the processing of their personal data (a relevant document will be created during the first quarter of 2010).

Regarding the management of leaves, the REA GECO complies with the instructions issued by DG ADMIN (Instructions for the manual processing of supporting documents). This document will be communicated to all newly recruited staff and will be available under the REA Intranet.

8/ Procedures to grant rights of data subjects (*rights of access, to rectify, to block, to erase, to object*)

Access to medical files: In conformity to Article 6a of the Staff regulations, staff members, upon request, have the right to access all the documents/information residing in their medical files and receive a copy of them. In case of an error, the staff member may request the correction of the relevant data/information. These procedures are managed directly by the Medical Service of the European Commission.

Access to personal files: In conformity to Article 26 of the Staff Regulations, staff members have the right, even after leaving the service, to access all the documents/information residing in their personal files and receive a copy of them. The personal file is confidential and may be consulted mainly in the offices of the Institution/Agency. The information regarding leaves can be reviewed under SIC CONGE. In case of erroneous information, the staff member has the right to request that incomplete or incorrect data are rectified. In the future, the personal file will be accessible under Sysper II.

9/ Automated / Manual processing operation

Pre-recruitment aptitude certificate: The certificate (paper format) is inserted in the personal file of the staff member and is accessible only by the authorised agents of the REA (HR).

Annual medical visit, occupational medicine visits and other medical visits: The REA (HR) keeps a list (in electronic format) of the staff members who have requested an appointment with the Medical Service. This list is used in order to coordinate the appointments with the Medical Service and to verify the invoices sent from the Medical Service to the REA finance department.

Sick leaves and family leaves of a medical nature: The approved requests for leave are entered manually into SIC CONGE and/or SIC PER.

10/ Storage media of data

The personal files of the REA staff are stored in a locked archive.

Pre-recruitment aptitude certificate: The certificate (paper format) is inserted in the personal file of the staff member and is accessible only by the authorised agents (REA HR).

Annual medical visit, occupational medicine visits and other medical visits: The lists of staff that have requested an appointment with the Medical Service are kept in an electronic format in the REA's shared network drive (with restricted access rights). There is no paper format of the list.

Sick leaves: The list of medical certificates (paper format) sent by the Medical Service is stored by the REA GECO in a locked cupboard.

Family leaves of a medical nature: A copy of the appointing authority's decision to authorise the request is stored by the REA GECO in a locked cupboard.

Special leaves of a medical nature: The justifying documents are conserved by the REA GECO in a locked cupboard.

Invalidity procedure: The note from the Medical Service is inserted in the personal file of the staff member.

11/ Legal basis and lawfulness of the processing operation

The Staff Regulations are mainly the legal basis for the processing of administrative data related to health:

Pre-recruitment medical visits: Articles 28 and 33 of the Staff Regulations and Articles 12(d), 13 (2) and 83 (2) of the CEOS state that: "An official may be appointed only on condition that: ... (e) he is physically fit to perform his duties" (Article 28)." 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)" (Article 33).

Annual medical visit, occupational medicine visits and other medical visits: Article 59 (6) of the Staff Regulations, Articles 16 (1), 59 and 91 of the CEOS state that: "officials shall undergo a medical check-up every year either by the institution's medical officer or by a medical practitioner chosen by them". The obligation of supervising the health of the Commission employees is provided for by the Framework Directive 89/391/CEE.

Medical check during an absence because of sickness or accident: Article 59 (1) of the Staff Regulations states that: "An official who provides evidence of being unable to carry out his duties by reason of illness or accident shall be entitled to sick leave. The official may at any time be required to undergo a medical examination arranged by the institution".

Processing of medical certificates: Article 59 (1) of the Staff Regulations, states that: "An official who provides evidence of being unable to carry out his duties by reason of illness or accident shall be entitled to sick leave... He shall produce a medical certificate if he is absent for more than three days. This certificate must be sent on the fifth day of absence at the latest, as evidenced by the date as postmarked. Failing this, and unless failure to send the certificate is due to reasons beyond his control, the official's absence shall be considered as unauthorised."

Management of family leave, part-time for medical reasons: Article 42b of the Staff Regulations states that " In the case of medically certified serious illness or disability of an official's spouse, relative in the ascending line, relative in the descending line, brother or sister, the official shall be entitled to a period of family leave without basic salary. The total period of such leave shall not exceed nine months over the official's entire career. The second paragraph of Article 42a shall apply."

Management of special leaves of a medical nature: Annexe V section 2 of the Staff Regulations concerning special leave.

Invalidity procedure: article 53 of the Staff Regulations states that "An official to whom the Invalidity Committee finds that the provisions of Article 78 apply shall automatically be retired on the last day of the month in which the appointing authority recognizes his permanent incapacity to perform his duties."

12/ The recipients or categories of recipient to whom the data might be disclosed

The recipients of the relevant information are mainly the authorised agents of the REA (HR) and the PMO.

In case a staff member requires the purchase of a special (medical) equipment in order to perform his/her daily professional activities, he sends the relevant certificate (no medical information is communicated) issued by the Medical Service, to the REA officers in charge of Infrastructure (Logistics, IT, etc).

In addition, certain administrative information can be disclosed to:

- The Legal Service (in case of an appeal before the Civil Service Tribunal),
- Judges of the Civil Service Tribunal,
- The European Ombudsman,
- The European Data Protection Supervisor (EDPS).

The communication of data to the above entities is in accordance to the relevant existing legislation and established case law (s).

13/ Retention policy of (categories of) personal data

The REA will apply the policy of the European Commission as per SEC(2007)970 "Common Commission-level retention list for the European Commission files". The Specific Retention List (SRL) for the REA is currently being established by the REA Document Management Officer (DMO) and will be available during the first quarter of 2010.

13 a/ time limits for blocking and erasure of the different categories of data
(on justified legitimate request from the data subject)
(Please, specify the time limits for every category, if applicable)

N.A.

14/ Historical, statistical or scientific purposes

If you store data for longer periods than mentioned above, please specify, if applicable, why the data must be kept under a form which permits identification,

N.A.

15/ Proposed transfers of data to third countries or international organisations

The personal files are always kept by the REA, for the time period mentioned in the Specific Retention List (SRL) for the REA, even after the data subject has resigned from the service.

The data subject may at any time request the REA to provide with a copy of his/her personal file.

In case that the new employer (e.g. European Institution or Body) of the data subject requests any clarifications/information relevant to his/her personal, the REA may provide them in accordance to the Article 7 of R. 45/2001. In such cases, prior consent of the data subject is required.

16/ The processing operation presents specific risk which justifies prior checking (*please describe*):

Article 27.2.(a)

Processing of data relating to health and to suspected offences, offences, criminal convictions or security measures,

AS FORESEEN IN:

- Article 27.2.(a)

Processing of data relating to health and to suspected offences, offences, criminal convictions or security measures,

Article 27.2.(b)

Processing operations intended to evaluate personal aspects relating to the data subject,

Article 27.2.(c)

Processing operations allowing linkages not provided for pursuant to national or Community legislation between data processed for different purposes,

Article 27.2.(d)

Processing operations for the purpose of excluding individuals from a right, benefit or contract,

Other (general concept mentioned under Article 27.1)

17/ Comments

During January 2010, the SIC CONGE and SIC PER will be replaced by Sysper 2.

List of Annexes provided separately:

- SLA established between the REA and the Medical Service of the European Commission
- SLA established between the REA and the PMO

PLACE AND DATE: Brussels, 21 December 2009

DATA PROTECTION OFFICER: Evangelos TSAVALOPOULOS

INSTITUTION OR BODY: Research Executive Agency (REA)