



EDPS - European Data Protection Supervisor

CEPD - Contrôleur européen de la protection des données

Opinion on the notifications for prior checking received from the Council Data Protection Officer on "ASSMAL Application" and "ASSMAL-WEB".

Brussels, 4 July 2005 (Cases 2004-246 and 2004-247)

Procedure

On 20 July 2004 the European Data Protection Supervisor (EDPS) sent a letter to the Data Protection Officers asking them to contribute to the preparation of an inventory of data processing that might be subject to prior checking by the EDPS as provided for by Article 27 of Regulation (EC) No 45/2001. The EDPS requested notification of all processing operations subject to prior checking, including those that commenced before the Supervisor was appointed and for which checking could never be regarded as prior, but which would be subject to "*ex post*" checking.

On 9 September 2004 the Council's Data Protection Officer presented the list of cases that required prior checking *ex-post*, in particular those concerning the reimbursement of medical expenses, insofar as they could contain data relating to health care (Article 27(2)(a)).

The European Data Protection Supervisor identified certain priority topics and selected a number of processing operations subject to prior checking *ex-post* that required notification. Reimbursement of medical expenses is among them.

Notification within the meaning of Article 27(3) of Regulation (EC) No 45/2001 concerning the "ASSMAL application" dossier was given by Mr Pierre VERNHES, Council Data Protection Officer by e-mail dated 21 March 2005.

On 18 April 2005 the European Data Protection Supervisor requested the second notification concerning the ASSMAL-WEB dossier as the latter was the ASSMAL application's consultation tool.

Notification within the meaning of Article 27(3) of Regulation (EC) No 45/2001 concerning the "ASSMAL-WEB" dossier was given by Mr Pierre VERNHES, Council Data Protection Officer by e-mail dated 23 May 2005.

Information was requested by an e-mail dated 9 June 2005.

Facts

The "ASSMAL application" dossier

The "ASSMAL application" has been designed to manage the scanning and referencing of documents, incoming mails and claims for reimbursement as well as hospital bills received by the Sickness Insurance Department.

It manages the coding of the claims for reimbursement of medical expenses, the management of sickness insurance coverage entitlements, the drafting of covering letters, preparation of lists of payments of hospital bills and lists of reimbursements to members of the sickness insurance scheme.

It also enables statistics to be kept with a view to drawing up the annual report on the Joint Sickness Insurance Scheme (JSIS).

Finally, it enables sickness insurance operations to be booked and the bank account to be managed.

The departments have the necessary equipment and two programmes containing personal data to which access is limited or wide-ranging depending on the user's tasks (archivist, claims assessor, supervisor, head of department, doctor, etc.):

- the ASSMAL system concerning the actual reimbursement of medical expenses, which is also used in other EU institutions;
- the GPWIN system, to which they have been granted limited access, for consultation only.

Access to files and programmes is as follows:

- for all officials in the Sickness Insurance Department for consultation in order to deal with claims for reimbursement;
- for certain officials in the Sickness Insurance Department for amendment of data solely concerning entitlement to sickness insurance coverage.

The data supplied on the reimbursement breakdown are as follows:

- patient's name and forename;
- treatment, date of treat., pat., nbr. trt.;
- file reference;
- authorisation reference;
- (currency) received;
- total paid (currency);
- total paid (EUR);
- total reimbursement (EUR);
- remb. %;
- expenses to insured person;
- not covered by special reimbursement based on Article 72(3)

The Medical Officer is involved in the process when a medical opinion is required concerning a request for prior authorisation (cure or 100% reimbursement in the case of a serious illness) or agreement to reimbursement of certain types of treatment or proprietary medicinal products.

The relevant information (everything concerning the claim for reimbursement, as well as the data added by the claims assessor, depending on the treatment concerned) given to the persons

concerned is as follows:

- Information provided to members of the JSIS
 - The Staff Regulations laying down the general rules
 - The general implementing provisions defining the procedures for applying the rules.
- Administrative Notices from the Central Office
 - All the Administrative Notices are available at the following address:
http://intracomm.cec.euadmin.net/pers_admin/sick_insur/docs/index_en.htm
- Council Staff Notes referring to the Administrative Notices
- Staff Notes issued only by the Council, some of which are issued very year (marked by an asterisk)
 - statement of income from spouse: Staff Note 118/04*
 - acknowledgement of receipt of claims: Staff Note 32/01
 - claims for reimbursement of medical expenses: Staff Note 157/01
 - loss of entitlement to reimbursement of medical expenses: Staff Note 203/04

Dossiers are archived as follows:

- While the dossier is being processed by a member of the Sickness Insurance Department, electronic archiving in that department, by staff number.
- Archiving on paper in the department, in chronological order (payment date) and by staff number until a discharge is given by the Court of Auditors.
- Archiving in the Sickness Insurance Department.

Previously, that department applied the following rules: claims for reimbursement and documents attached to those claims were filed and stored permanently.

At the end of 2003, the Sickness Insurance Department started to put into effect the rules recommended by the Commission's Central Office, namely that all documents held by the Settlement Offices, apart from the dossiers concerning subrogations, accidents and occupational diseases may be routinely destroyed after a period of seven years.

In the context of insurance against sickness for officials of the European Communities, the Commission's Central Office is responsible for:

- coordinating and monitoring the work of the Settlements Offices;
- ensuring that the rules concerning the payment of benefits are consistently applied;
- providing the secretariat for the Management Committee;
- carrying out any statistical survey or analysis required for the smooth operation of this Scheme so as to give the Management Committee an

accurate view of the extent, distribution and trend of the risks insured against and enable it to deliver opinions as provided for in Article 18(6)(g) of the rules on sickness insurance for officials of the European Communities.

With regard to optical archiving and the ASSMAL database, everything concerning Article 72 of the Staff Regulations (sickness insurance) will be archived for a minimum of ten years and everything concerning Article 73 (occupational disease and accident insurance) and Article 85a (subrogation to rights and action against the third party responsible for causing death) will, if possible, be archived for life.

- Paper documents earlier than 12/95 have been destroyed.
- Paper documents covering the period 12/95 → 03/98 will be destroyed in the second half of 2005.
- Paper documents covering the period 04/98 → 12/99 will be destroyed in the second half of 2007.

In this way, the Central Office's rules will be complied with. The change in the archiving method from 2000 subsequently enables routine destruction of documents to take place for each calendar year.

- Documents concerning the year 2000 will be destroyed in 2008 and so on.
- Confidential documents (medical reports, etc.) will be destroyed professionally using suitable tools (shredders).

In the context of information transfers, we are faced with an inter-institutional transfer because personal data are also transferred to the Brussels Settlement Office, the Commission's Central Office, the Management Committee of the Joint Sickness Insurance Scheme¹ and the Commission's accounts unit (as the Commission's Central Office administers the Joint Sickness Insurance Scheme). In fact, in the case in point, certain data specific to the Sickness Fund are communicated to the Medical or Dental Officer.

With regard to security measures, access to each personal computer and to the scanning unit is protected by an individual password. This is also the case for access to TEAMMAIL and ASSMAL. The UNIX servers are located in locked premises. Paper documents are kept in

¹ The purpose of these bodies is laid down in the Staff Regulations – Regulations and Rules applicable to officials and other servants of the European Communities, part IV: Rules applicable to officials and other servants of the European Communities drawn up by agreement between the institutions, point 4: Rules on sickness insurance for officials of the European Communities.
The latter two bodies participate in the management of the sickness insurance scheme for officials of the European Communities. The other bodies participating in it are the Settlement Offices and the Medical Council.
The Management Committee ensures that these Rules are applied consistently and put to the institutions any relevant suggestion or recommendation. It examines the financial position of this Scheme, make a detailed annual report on the financial position, and deliver opinions and recommendations on its financing.
The Central Office is responsible for coordinating and monitoring the work of the Settlements Offices, for ensuring that the rules concerning the payment of benefits are consistently applied and other administrative tasks.

locked cupboards in locked offices. During breaks, dossiers undergoing processing are locked away. The entrance doors to the Sickness Insurance Department are locked by means of a magnetic card system.

Regarding the "ASSMAL-WEB" dossier

The purpose of the ASSMAL-WEB application, or intranet site of the Sickness Insurance Department of the General Secretariat of the Council – to which access is limited to members of the GSC's internal network – is to allow members to:

- follow progress made in processing each application for reimbursement of medical expenses submitted to the Sickness Insurance Department; this will replace acknowledgements of receipt of applications by the Department;
- and, consult data concerning themselves and/or any dependants, corresponding to the data included on the reimbursement print-outs sent by the Sickness Insurance Department.

Retired staff do not have access to the site because their sickness insurance cover is administered by the Commission Settlements Offices. Staff whose service is terminated, on the other hand, should be able to access it (at least this is the plan).

Members of the Sickness Insurance Department can consult most of the data accessible via the ASSMAL application on the ASSMAL-WEB (via intranet). The presentation of the data is similar to that application and more user-friendly. Possible searches are similar to those which can be undertaken in ASSMAL. Because it facilitates navigation of data, ASSMAL-WEB makes it easier to cater for members' needs and the Department's tasks.

This application covers the same data as mentioned above with the exception of the amount not covered by special reimbursement based on Article 72(3). (These data are actually missing which is not logical since the calculation breakdown can be accessed by consulting ASSMAL-WEB and should be able to replace the ASSMAL paper version. This is a computer-related problem currently being dealt with).

The information given to the data subjects is covered by Staff Note No 119/02 of 30 July 2002 on the "*Creation of an ASSMAL-WEB Intranet site allowing members of the JSIS of the General Secretariat of the Council to obtain information on claims for benefits submitted to the Sickness Insurance Department pursuant to Article 72 of the Staff Regulations*". This Staff Note refers to another note – Staff Note No 32/01 of 12 March 2001 on "*Acknowledgements of receipt by the Administration of the General Secretariat of the Council of written requests and communications sent to it*".

In relation to the retention of data, they are accessible for 30 minutes during consultation of the ASSMAL-WEB Intranet. For obvious reasons of confidentiality, if there is a pause in active consultation of the site, connection to the protected pages ceases automatically. The member must then log on again if he wants to continue the initial consultation. The data are erased on termination of service at the General Secretariat of the Council.

A two-level security system has been installed.

Legal aspects

1. Prior checking

The notifications received by e-mail on 21 March 2005 and 23 May 2005 signify the processing of personal data ("any information relating to an identified or identifiable natural person" – Article 2(a)), and therefore come within the scope of Regulation (EC) No 45/2001.

Moreover, the processing of personal data wholly or partly by automatic means is subject to Regulation (EC) 45/2001 (Article 3(2)) which is the case for the ASSMAL application as the ASSMAL-WEB involves wholly automatic processing.

Article 27(1) of Regulation No 45/2001 makes "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" subject to prior checking by the European Data Protection Supervisor.

Processing is also subject to the provisions of Article 27(2)(a): "The following processing operations are likely to present such risks : processing of data relating to health ...", which is the case here since the data fall within the vast concepts of "data relating to health"² and even medical data. In the case of medical prescriptions, it may be quite easy to deduce the nature of the health problem of the data subject (doctor's specialism) or they may become medical data themselves (data communicated to the Medical Officer).

In principle, checks by the European Data Protection Supervisor should be carried out prior to introduction of the data processing operation. In this case, as the European Data Protection Supervisor was appointed after the system was set up, the check necessarily has to be performed *ex-post*. However, this does not alter the fact that it would be desirable for the recommendations issued by the European Data Protection Supervisor to be introduced.

The notification from the Council's Data Protection Officer was received by e-mail on 21 March 2005. The Assistant Supervisor sent a letter dated 18 April 2005 (exactly 4 weeks later) requesting additional information entailing a request for the notification of prior checking in relation to the "ASSMAL-WEB" dossier so that the two dossiers could be processed together. This suspends the time limit laid down in Article 27(4) of the Regulation.

Given that ASSMAL-WEB is simply a tool providing access to data contained in the ASSMAL application, it seemed necessary to request the second notification relating to ASSMAL-WEB to undertake the prior checking of the two notifications together.

The notification for prior checking of the "ASSMAL-WEB" dossier was sent by e-mail on 23 May 2005 by the Council's Data Protection Officer. In spite of the joint processing of the two dossiers and the different notification dates, the European Data Protection Supervisor will take account only of the date of notification of the first dossier.

A number of questions were asked in an e-mail dated 9 June 2005. Pursuant to Article 27(4) of Regulation (EC) 45/2001, the two-month period within which the European Data

² Judgment of the Court of Justice of the European Communities of 6 November 2003, Lindqvist, C-101/01, ECR p. I-0000.

Protection Supervisor has to deliver his opinion was suspended to allow time for the replies to be provided.

Replies were given by e-mail on 17 June 2005.

The European Data Protection Supervisor will therefore deliver his opinion by 4 July 2005 at the latest as laid down in Article 27(4) of the Regulation.

2. Legal basis and lawfulness of the processing operation

The legal basis for this processing is contained in Article 72 of the Staff Regulations of Officials of the European Communities and in the Joint Sickness Insurance Scheme. In general, officials, temporary agents of the institutions and the agencies, retired officials and their families are members of the JSIS. Contract staff may request cover under the JSIS or a national scheme.

Under the third subparagraph of Article 72 of the Staff Regulations, there is a reference to Article 110 of the Staff Regulations allowing each institution to "*adopt general provisions for giving effect to these Staff Regulations*". The Council is therefore justified in organising the system of reimbursement of sickness benefits. The legal basis is therefore valid.

Analysis of the legal basis in relation to Regulation (EC) No 45/2001 and analysis of the lawfulness of the processing operation are complementary. Article 5(a) of Regulation (EC) No 45/2001 stipulates that "*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 in the legitimate exercise of official authority vested in the Community institution*". The reimbursement of medical expenses administered by the Council Sickness Insurance Department to the institution's staff, retired staff and their dependants is part of the legitimate exercise of official authority vested in the institution and is necessary for the management of health services. The lawfulness of processing could also be based on Article 5(b) of the Regulation because the reimbursement of health expenses constitutes a legal obligation. The processing is therefore lawful.

Moreover, data relating to health are among the data which Article 10 of Regulation (EC) No 45/2001 classes as "special categories of data".

3. The processing of special categories of data

Article 10(2)(b) (*The processing of ... data concerning health ... are prohibited... shall not apply where: "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 ..."*) applies in this case. The Council, in its capacity as employer, is complying with Article 10(2)(b) by processing the data submitted.

In this case, certain data relating in particular to the Sickness Fund are communicated to the attending doctor or dentist. In addition to Article 10(2)(b), Article 10(3) of Regulation (EC) No 45/2001 lays down that: "*Paragraph 1("The processing of ... data concerning health ... are prohibited") shall not apply where processing of the data is required for the purposes 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". On account of their profession, the Medical or Dental Officer is subject to the obligation of professional secrecy and should be the sole recipient of these data. In this instance, Article 10(3) of the Regulation is duly complied with.

For the same reason, it should be emphasised that persons dealing with administrative dossiers who are not health practitioners must be subject to an "equivalent obligation of secrecy".

The European Data Protection Supervisor recommends that the staff mentioned above are informed that they are subject to the obligation of secrecy and that data relating to health are marked confidential when transmitted to the Medical or Dental Officer.

The reference to the application of Article 10(4) in the notification is not necessary since the legal basis is adequate.

4. Data quality

Since ASSMAL-WEB is merely the tool used for consulting the ASSMAL application, the only data considered in the analysis below are those contained in the ASSMAL application.

Data must be "*adequate, relevant and not excessive*" (Article 4(1)(c) of Regulation (EC) No 45/2001). The processed data described at the beginning of this opinion must be regarded as meeting these descriptions as regards processing.

However, because of the multiple origin of data, from the official, the administration and medical staff, during processing great care should be taken that non-authorized persons are not sent or given access to purely medical data.

Furthermore, data must be *processed fairly and lawfully* (Article 4(1)(a) of Regulation (EC) No 45/2001). The lawfulness has already been examined. Given the sensitivity of the subject, fairness warrants considerable attention. It is linked to the information that has to be forwarded to the data subject (see point 9 below).

Lastly, the data must be "*accurate and, where necessary, kept up to date; 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*" (Article 4(1)(d) of the Regulation).

However, the data provided on the breakdown produced by ASSMAL and the data mentioned during consultation of ASSMAL-WEB should be strictly identical so that the breakdown displayed in ASSMAL-WEB can replace the paper version produced by ASSMAL. Consequently, the data showing the "amount not covered by special reimbursement based on Article 72(3)" should appear on the calculation breakdown displayed in ASSMAL-WEB and the European Data Protection Supervisor requests that this is done so that the accuracy of data is complied with.

The controller should undertake updating and staff members should administer the right of access and of rectification so that the dossier is as complete as possible. Certain officials in

the Sickness Insurance Department are to have access to the files and programmes to amend certain data that concern sickness insurance entitlements only. As regards the right of access and of rectification see point 10. In this instance, Article 4(1)(d) of the Regulation is duly complied with.

5. Data retention

Since ASSMAL-WEB is merely the tool used for consulting the ASSMAL application, the only data considered in the analysis below are those contained in the ASSMAL application.

Article 4(1)(e) of Regulation (EC) No 45/2001 posits the principle that 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*".

In addition to the purpose for which it is necessary (reimbursement of treatment by the Sickness Insurance Department), data is also kept in the long term:

- 10 years in electronic and optical archives
- 7 years in paper archives.

As regards the retention of data in the context of cover against the risk of accident and occupational disease, in the light of Regulation (EC) No 45/2001 it seems reasonable to keep these data for life.

According to the notification, the possibility of keeping the data for statistical reasons is a matter for the Commission's Central Office. Since the notification of its activities should be made by the Commission (this will be processed when the notification for prior checking is received), we are not in a position to give an opinion on the substance. Long-term storage of data should be accompanied by the appropriate safeguards which might include rendering the data anonymous.

The European Data Protection Supervisor recommends informing data subjects of the duration of the data retention, and where necessary, the implementation of appropriate safeguards for using that data after treatment has been reimbursed.

6. Change of purpose, compatible use

Use of the official's personal number when archiving sickness insurance dossiers means that certain data are taken from staff databases. The processing operation being reviewed involves no general change of the specified purpose of staff databases and is not incompatible with that purpose. Accordingly, Article 6(1) of Regulation (EC) No 45/2001 is not applicable to the case in point and the conditions of Article 4(1)(b) of the Regulation are fulfilled.

7. Transfer of data

The processing operation should also be scrutinised in the light of Article 7(1) of Regulation (EC) No 45/2001. This processing in the light of Article 7(1) is the transfer of personal data 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.*"

This constitutes a transfer within the same institution (Sickness Insurance Department, Human Resources, bank transfers, staff concerned, Accounts Department, Medical or Dental Officer). It also constitutes a transfer between institutions since personal data are transferred to the Commission's Central Office, the Management Committee for Sickness Insurance and the Commission's Accounts Department.

It should therefore be ensured that the conditions of Article 7(1) are fulfilled which is the case since the data collected are necessary for carrying out the processing and, furthermore, are "*necessary for the legitimate performance of tasks covered by the competence of the recipient*". In this case, the task is the responsibility of the various Council and Commission departments. As regards the transfers, only relevant data must be transferred. This transfer is therefore indeed lawful insofar as the purpose is covered by the competences of the recipients. Article 7(1) is therefore duly complied with.

8. Processing including the personal or identifying number

The Council uses the personal number. While the use of an identifier is, in itself, no more than a means (and a legitimate one in this case) of facilitating the task of the personal data controller, its effects may nevertheless be significant. This was why the European legislator decided to regulate the use of identifying numbers under Article 10(6) of the Regulation, which makes provision for action by the European Supervisor. In this case, the use of the personal number may allow the linkage of data processed in different contexts. Here, it is not a case of establishing the conditions under which the Council may process the personal number, but rather of drawing attention to this point in the Regulation. In this instance, the Council's use of the personal number is reasonable because it is a means of facilitating the processing task, in particular archiving.

9. Information for data subjects

The notification states that the data subjects, in this instance the staff of the Council, are informed by means of information to members of the JSIS via the Intracomm page (Staff Regulations, general implementing provisions, Administrative Notices from the Central Office) and by means of staff notes addressed to Council staff and the ASSMAL web site, the intranet site of the Sickness Insurance Department of the General Secretariat of the Council.

The provisions of Article 11 (*Information to be supplied where the data have been obtained from the data subject*) on information for the data subject apply in this case. The provisions set out in subparagraphs (a) (identity of the controller), (b) (purposes of the processing operation), (c) (recipients or categories of recipients of the data) (d) (whether replies to the questions are obligatory or voluntary, as well as the possible consequences of failure to reply) and (e) ("*the existence of the right of access to, and the right to rectify, the data concerning him or her*") are indeed complied with.

The provisions of Article 12 (*Information to be supplied where the data have not been obtained from the data subject*) on information for the data subject also apply in this case because information may be obtained from clinics, Medical or Dental Officers. The provisions set out in subparagraphs (a) (identity of the controller), (b) (purposes of the processing operation), (c) (categories of data concerned) (d) (recipients or categories of recipients) and (e) ("*the existence of the right of access to, and the right to rectify, the data concerning him or her*") are indeed complied with.

However, subparagraph (f) of both those articles which refers to information that is not compulsory (*legal basis for the processing operation, time-limits for storing the data, right to have recourse at any time to the European Data Protection Supervisor*) is not mentioned. The European Data Protection Supervisor would like this information to be mentioned to ensure total transparency of processing.

Since the end of 2003 the Council has been complying with the rules laid down by the Commission's Central Office. However, there is no information on the Intracomm site on the duration of archiving under the rules laid down by the Central Office. Consequently, data subjects are not informed of how long data concerning them are kept. As already mentioned above, the European Data Protection Supervisor would like to see this information provided.

Data subjects are informed about the ASSMAL-WEB in Staff Note No 119/02 of 30 July 2002 which cancels and replaces the Staff Note No 108/02 of 25 July 2002 creating an ASSMAL-WEB Intranet site.

The European Data Protection Supervisor would like all the relevant information contained in Article 12 of Regulation (EC) No 45/2001 applicable in this context to be mentioned in Staff Note No 119/02 of 30 July 2002 to ensure total transparency of processing.

Persons whose service is terminated should soon be able to access the ASSMAL-WEB. A specific information note should be addressed to them.

10. Right of access and of rectification

Article 13 of Regulation (EC) No 45/2001 makes provision – and sets out the rules – for right of access at the request of the data subject. These rights are guaranteed by Section 5 of the Council Decision of 13 September 2004 "*adopting implementing rules concerning Regulation (EC) No 45/2001 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data*", published in Official Journal L 296 of 21 September 2004. In this instance, the right of access to ASSMAL is provided by ASSMAL-WEB.

Article 14 of Regulation (EC) No 45/2001 allows the data subject a right to rectification.

Section 5 of the Council Decision on the procedure for data subjects to exercise their rights lays down general conditions as well as data subjects' right of access, rectification, blocking, erasure and right to object. Reference is also made to notification to third parties, automated individual decisions and exceptions and restrictions.

This set of provisions satisfies the conditions laid down in Articles 13 and 14 of Regulation (EC) No 45/2001. However, the staff notes do not refer to this Council Decision.

The European Data Protection Supervisor requests that the staff notes mention the Council Decision of 13 September 2004 outlining the rights afforded to staff affected.

Persons whose service is terminated should soon be able to access the ASSMAL-WEB. Provision of this access should be accompanied by checks to ensure that these persons can

exercise their rights of access to ASSMAL.

11. Security

In accordance with Article 22 of Regulation (EC) No 45/2001 on security of processing, "*the controller shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risks represented by the processing and the nature of the personal data to be protected*".

As regards the ASSMAL application, if we include the confidential transmission of data, all of the security measures described in the notification and the information subsequently received are adequate for processing sensitive data.

In relation to the ASSMAL-WEB the conditions set in Article 22 of Regulation (EC) No 45/2001 have been complied with. The processing of sensitive data is deemed appropriate.

Conclusion

The proposed processing operation does not appear to infringe the provisions of Regulation (EC) No 45/2001, subject to the comments made above. This implies in particular, that the Council should:

- inform staff dealing with claims for reimbursement that they are subject to the obligation of secrecy and that data relating to health are transmitted to the Medical or Dental Officer in an envelope marked confidential;
- take great care during processing that non-authorized persons are not sent or given access to purely medical data;
- ensure that the data showing "the amount not covered by special reimbursement based on Article 72(3)" appears on the calculation breakdown displayed in ASSMAL-WEB;
- inform data subjects of how long data are kept, and where necessary, of the implementation of appropriate safeguards for use of that data after treatment has been reimbursed;
- inform staff of the contents of subparagraph (f) of Articles 11 and 12 of Regulation (EC) No 45/2001 (*legal basis for the processing operation, time-limits for storing the data, right to have recourse at any time to the European Data Protection Supervisor*);
- send, upon provision of access to persons whose service is terminated, specific information notifying them of their rights in relation to Articles 13 and 14 of Regulation (EC) No 45/2001;

- include a reference in staff notes to the Council Decision of 13 September 2004 "*adopting implementing rules concerning Regulation (EC) No 45/2001 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data*".

Brussels, 4 July 2005

Assistant Supervisor

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