

REGISTER NUMBER: 96**NOTIFICATION FOR PRIOR CHECKING**

Date of submission: 22 May 2006

Case number: 2006-240

Institution: European Central Bank

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

Head of Compensation and Staff Relations Division (Klaus Riemke)
 European Central Bank
 Kaiserstrasse 29
 60311 Frankfurt am Main

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

Directorate General Human Resources Budget and Organisation - Compensation and Staff Relations Division

ECB Medical Centre (Medical Adviser and his/her staff acting as processors on behalf of the Controller)

3/ Name of the processing

Medical files kept by the ECB's Medical Adviser

4/ Purpose or purposes of the processing

In order to implement the relevant legal provisions as they are laid down in the ECB Conditions of Employment, the ECB Staff Rules, and the ECB "Rules for Recruitment", the Medical Adviser of the ECB acting on behalf of the Controller has to keep the medical files of those candidates selected to fill permanent or fixed-term positions (incl. those of selected candidates having been declared non fit to fill the position due to healthy reasons) and the medical files of all ECB staff members.

5/ Description of the category or categories of data subjects

1. All staff members with permanent or fixed term contracts are subject to the "Conditions of Employment for staff at the ECB" and the "ECB Staff Rules"; all staff members with a short-term contract are subject to the Conditions of Short-term Employment and the Rules for Short-term Employment. Therefore all members of staff are potential data subjects for the relevant data processing operations.
2. Selected candidates having failed the pre-appointment "medical clearance procedure" due to health reasons.
3. Successful candidates who undergo the "medical clearance procedure" but finally do not take up the appointment for personal reasons other than health.
4. Children or other dependents of staff members whenever medical information concerning them is regarded as necessary to benefit from a specific ECB policy (e.g. claims of higher child allowance, pension scheme).

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

Basic personal data of staff members and medical data related to the fulfilment of their professional duties and their employment relationship with the ECB and basic personal data and medical data of candidates who did not take up the appointment after the "medical clearance procedure" (for the latter only No. 6 below applies). Those data could be divided in the following two categories:

A. Data requested by the ECB from the Medical Adviser (in form of a "high-level" confirmation letter) and which are related to the following activities:

1. Assessment by the Medical Adviser of staff members' fitness to return to work after long term sick leave.
2. Assessment by the Medical Adviser of staff members' health situation related to work accidents or to healthy and safety conditions.
3. Assessment of the medical certificates and referrals for second opinions requested by the Medical Adviser where the Medical Adviser is not satisfied with the prescribing private doctor's prognosis or where the Medical Adviser does not have the ability to judge or where it is necessary for the fulfilment of requirement imposed by specific ECB policies (e.g. disability pension).
4. Contact by the Medical Adviser with staff members who are on long term sick leave or disability.
5. Notices of reduced working hours due to medical circumstances.
6. Assessment whether a selected external candidate can take up the appointment ("medical clearance procedure"). In the case of confirmation the standard letter sent to HR only states that "there is no objection from a medical point of view to fulfil the position offered".
7. Data related to children or other dependants of ECB staff members whenever medical information concerning them is regarded as necessary to benefit from specific ECB policy (e.g. claims for higher child allowance on account of a physically challenged child, pension scheme).

B. The medical data as such deriving from the medical examinations which form the main part of the medical files kept by the ECB's Medical Adviser (the medical file contains all relevant information that serves as basis for the communication of the "conclusion" to the Controller). To this category belong also data contained in part 1 of the medical questionnaires which are filled in by the selected candidates, if need be, with the help of his/her private doctor. The Medical Adviser documents the results of his/her examination in the second part of the questionnaires. It is also possible that the candidate's private doctor examines the candidate and documents the results in part 2 of the questionnaire. The filled in questionnaires form the basis of the Medical Adviser's assessment regarding the ability of candidates to fulfil their professional duties.

7/ Information to be given to data subjects

Staff members are informed about the most important provisions laid down in the Conditions of Employment for staff of the ECB and the ECB Staff Rules or Conditions of Short-term Employment and the Rules for Short-term Employment, which describe the rules and procedures related to the medical files, when they start working at the ECB in specifically organized "induction seminars". The relevant documents are also published on the ECB's intranet site. The same documents plus the relevant AC 05/2004 on the "Rules for Recruitment" are also published on the specific pages of ECB's Website in order to be available for candidates.

Staff members can contact the Controller for any additional information falling under the scope of Art. 11 and 12 of the Regulation. The Controller may refer the data subject to the Medical Adviser who is acting on behalf of the Controller, as appropriate.

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

In accordance with Article 1.3 of the ECB Staff Rules / Article 1.3 of the Rules for Short-term Employment, the medical file shall be retained by the ECB's Medical Adviser, who will be solely responsible for it.

a) As to the right of access (Art. 13):

1) In order to access data contained in the medical files kept by the Medical Adviser data subjects have to contact the Medical Adviser who can grant them access in accordance with the rules and the limitations governing the patient-physician relation.

2) In case a selected candidate fails the pre-appointment medical clearance procedure because of health reasons, he/she should address a request to access his/her medical data to the Medical Adviser in the first instance and the Medical Adviser informs then HR of the contact. The same rules and limitations as described above under a) 1) apply

b) As to the exercise of all other rights laid down in Section 5 of the Regulation, the data subject shall contact the Medical Adviser. The same rules and limitations as described above under a) 1) apply.

<p>9/ Automated / Manual processing operation</p> <p>Personal data contained in the medical files undergo both automated and manual processing operations:</p> <p>(a) Manual Processing operations take place:</p> <p>1) Upon personal data belonging to Category A. Hard copies of the relevant certificates or/and relevant forms etc. are stored in the medical file.</p> <p>2) Upon personal data belonging to category B. Documents related to medical examinations, medical questionnaires etc. are stored in the medical file.</p> <p>(b) Automated processing operations take place:</p> <p>1) Upon personal data belonging to category A.</p>
<p>10/ Storage media of data</p> <p>Hard copy in case of manual processing, hard disk (PC) in case of automated processing</p>
<p>11/ Legal basis and lawfulness of the processing operation</p> <p>- Conditions of Employment for staff of the ECB (especially Art. 31, Art. 32) / Conditions of Short-term Employment (especially Art. 28) and ECB Staff Rules (especially Art. 5.13) / Rules for Short-term Employment (especially Art. 5.10), Art 8 (8.1) of Administrative Circular 05/2004 on Rules for Recruitment. The processing operation is lawful according to Art. 5 a Regulation 45/2001 in connection with recital 27 Regulation 45/2001.</p>
<p>12/ The recipients or categories of recipient to whom the data might be disclosed</p> <p>1) As concerns data belonging to category A there is no disclosure vis-à-vis third parties with the following exceptions:</p> <ul style="list-style-type: none"> - The Controller receives from the Medical Adviser in writing a "high-level" assessment from a medical point of view, if requested. - The Medical Adviser may send medical certificates received from the staff member's private doctor to a medical referee in order to obtain a second medical opinion in the extended sick leave cases or in the disability pension procedure. <p>2) As concerns the data belonging to category B there are no recipients other than those defined by the Medical Adviser in accordance with the rules governing the patient-physician relationship.</p>
<p>13/ retention policy of (categories of) personal data</p> <p>In line with the retention period applicable for personal files, data contained in the medical files shall be destroyed 10 years after staff members have left the ECB if there are no pending claims or any other still open issues concerning their ECB employment relationship. The personal file of pensioners will be destroyed 10 years after the end of the year in which the last ECB pension payment was made to either the pensioner or one of his entitled dependants, respectively, provided that there are no pending claims or other still open issues.</p>
<p>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)</p> <p>There is no special period foreseen for blocking/erasing the data.</p>
<p>Different categories of data: n/a</p>
<p>14/ Historical, statistical or scientific purposes</p> <p><i>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,</i></p> <p>There are no specific rules or procedures in place concerning longer storage periods for historical, statistical or scientific purposes.</p>
<p>15/ Proposed transfers of data to third countries or international organisations</p> <p>There are no proposed transfers of data to third countries or international organisations</p>
<p>16/ The processing operation presents specific risk which justifies prior checking (<i>please describe</i>):</p>

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 in Article 27.1)

17/ Comments

Data derived from ECB- wide medical prevention measures like flu vaccinations campaigns, etc., where staff members voluntarily take part, are filed outside the medical files (separate folders).

PLACE AND DATE: Frankfurt am Main, 17 May 2006

DATA PROTECTION OFFICER: Wolfgang Sommerfeld *[signed]*

INSTITUTION OR BODY: European Central Bank