



Brussels, March 2011
ERCEA

SPECIFIC PRIVACY STATEMENT
ERCEA Unit D2
Processing Health Data and Administrative Information linked to Health

This statement concerns the processing operation called "**Processing Health Data and Administrative Information linked to Health**". This processing requires the handling of personal data, and is therefore subject to Regulation (EC) No 45/2001¹.

1. What personal information do we collect, for what purpose and by what means?

The purpose of this processing operation is to ensure that the data subject is physically fit to perform his/her duties, and monitor the state of health of staff working at the ERCEA in line with the applicable provisions of the Staff Regulations and the Conditions of Employment of Other Servants (CEOS).

The health data are collected and processed mainly by the Medical Service² which is keeping your medical file, but also the ERCEA collect and process some health data (especially administrative data linked to health).

ERCEA – The health data (supporting documents) collected and processed by the HR Unit of the ERCEA are the following: **(a)** pre-recruitment certificate of aptitude sent by the Medical Service to the HR Unit, and then inserted in your ERCEA personal file; **(b)** medical certificates for special/family/parental leaves and certain requests for part-time work sent by the ERCEA staff member directly to the GECO (Gestionnaire de Congés) in order to determine the rights, and possibly kept in your ERCEA personal file as essential supporting document; **(c)** administrative information linked to the annual check-up and vaccination campaign, and occupational medicine in order to pay the due amount to the Medical Service for its provision of services.

In case **(b)**, if the certificate contains personal and health data going beyond the necessity to establish the rights, they may be blocked out by the staff member; if such certificate contains information both confidential and essential, it has to be sent directly to the Medical Service, and the GECO has to be informed and he/she will receive a certificate/declaration by the Medical Service.

The information are collected on paper version and archived in locked cupboards. They are not scanned nor kept electronically. The absences due to sickness and pertinent leave rights are recorded in Sysper2 (TIM).

¹ Regulation (EC) 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, OJ L 8, 12.1.2001, p. 1.

² The Director General of DG RTD signed for the ERCEA a Service Level Agreement (SLA) with the Medical Service of the Commission on 20 May 2008 – RTD/S3/D(2008)528670.

MEDICAL SERVICE – It collects two types of data: **(i)** Identification data; **(ii)** Medical data:

(i) Identification data

Surname, forename, personnel number, date and place of birth, nationality, language, sex, civil status, children, family history, postal address, e-mail address, telephone numbers, name of family doctor, languages, post requested or occupied, type of contract.

(ii) Medical data

Medical history, objective examination, results of laboratory tests, x-rays, ECGs, allergies, current treatments, common medicines, chronic diseases, pregnancy (certain examinations and/or vaccines can be contra-indicated in specific cases), results of other medical examinations (ophthalmic, audiometric, etc.) necessary for a particular individual, medical certificates, periods of absence and other medical records.

There is both a paper and electronic handling of information by the Medical Service. It uses Sysper2, COMREF, SERMED and DREC (details in the Specific Privacy Statement mentioned below in point 8).

Important Notice:

If you chose a private practitioner for your annual check-up, he/she will have to transfer to the Medical Service the result(s) of the medical examination with the relevant invoice(s). This will allow the private practitioner to be paid, and your medical file will be completed and updated. All the administrative and practical steps are described at the following address:

http://myintracomm.ec.testa.eu/hr_admin/en/medical/Pages/check.aspx#2

2. Who has access to your information and to whom is it disclosed?

ERCEA – Your data held by the HR unit are accessed by the GECCO, some duly authorised HR agents, the Head of Unit D2, your direct superior(s), the ERCEA Director, the budget cell (only partially for the payment to the Medical Service of their services), the legal team (to prepare a response to a complaint, an appeal and/or Article 24 lodged by you against the ERCEA), possibly the PMO for calculation/payment of financial/leave rights deriving from your health status.

MEDICAL SERVICE - The medical officers of the Medical Service and their medical secretariat have access to the data held by the Medical Service. The results of examinations can be sent to your family doctor at your request. If you request to be recognised as suffering from an occupational disease, the data will be sent to the Accidents and Occupational Diseases Department of the Sickness Insurance Fund.

In addition, some personal data may be disclosed, in compliance with the relevant current legislation and established case law, and on a temporary basis to: (a) the Civil Service Tribunal, at its request; (b) the Ombudsman, at his request; (c) the European Data Protection Supervisor, at his request; (d) the audit and control bodies such as OLAF, Court of Auditors, ERCEA Internal Audit Office, the Internal Audit Service, IDOC/Appointed investigators; (e) other Commission service as the Legal Service and DG HR DS.

Important Notice:

It may occur that a national authority in the context of an investigation asks for information. The possible transfer of such information will be carried out under Article 85(a) of R. 45/2001, i.e. the national authority has to demonstrate the necessity of such transfer which will include only adequate, relevant and not excessive data. The recipient will be also reminded to use the data only for the purposes for which they were transferred.

3. How do we protect and safeguard your information?

ERCEA – The data held by the HR unit are accessed only by authorised staff and they are kept in locked archives. The GECO and the other HR agents dealing with health data sign a specific declaration on the medical secret.

MEDICAL SERVICE - Medical records are kept in a separate file for each individual and stored in secure archives that are accessible only to authorised staff.

4. How can you access, modify or delete your data?

ERCEA - If you want to check, modify, correct or delete any personal data held by the HR unit, you should apply to the Head of Unit D2, who is responsible for such processing (i.e. the Controller), by sending an e-mail giving details of your request to the mailbox indicated in point 6.

MEDICAL SERVICE - If you want to check, modify, correct or delete any personal data held by the Medical Service, you should apply to the Head of the Medical Service in Brussels, by sending an e-mail giving details of your request to the functional mailbox indicated in point 6.

Important Notice:

- (A) The results of medical examinations and the diagnosis cannot be altered, but you may add your own comments and/or a second opinion of other doctor(s). A copy of laboratory tests and medical reports can be sent to your family doctor at your request.
- (B) You have the possibility to have indirect access to psychological or psychiatric reports concerning you, through a private practitioner designated by you; however, you may not have access to the personal notes of the medical officer(s) when it is necessary to protect you or the rights and freedoms of others in accordance with art. 20.1(c) of R. 45/2001. This will be assessed case by case.

5. How long do we keep your data?

ERCEA – There are different retention periods according to the type of data. In details, with regards to supporting documents:

- ⇒ Where the timeframes below do not apply, as general rule data will be kept for **five years** (or longer in the case of an appeal).
- ⇒ To permit the application of Article 59(4) of the Staff Regulations (referral to the Invalidity Committee), data relating to absences due to illness may be kept **for up to three years**. This can be extended to five years in cases of dispute. If you transfer to another institution, data will be communicated relating to sick leave for the past five years only.
- ⇒ Data relating to days of annual leave taken may be kept **for up to two years**, so that days not taken can be carried over from one year to the next. Data for full calendar years (1 January – 31 December) will be kept, and at the beginning of Calendar Year "n", the data from Calendar Year "n -3" will be deleted.
- ⇒ However, in the case of part-time employment, parental leave or family leave, supporting documents are kept **at least until you have left the ERCEA**, or even beyond, given that they concern a subsisting right and that appeals can be lodged.
- ⇒ Your ERCEA personal file containing the pre-recruitment certificate of aptitude (and possibly any other essential supporting document determining rights linked to health/family status) is retained for **8 years after the extinction of all rights** of the

person concerned and of any dependants, and for **at least 120 years after the date of birth** of the person concerned.

MEDICAL SERVICE - Medical files are kept for **30 years after you cease work** at the ERCEA. In the case of persons exposed to carcinogens or mutagens, files are kept for 40 years after the last exposure incident (General regulation for the protection of workers, Belgium, Article 16, occupational medical services). The pre-recruitment files of candidates, who have not been recruited, will be destroyed **after one year**. Where a negative medical opinion is given the file will be destroyed after five years, if no claim took place.

6. Contact for information

ERCEA - If you would like to receive further information, you can contact the responsible person (the Controller) via the mailbox:

ERC-D2@ec.europa.eu

The ERCEA Data Protection Officer, Ms Donatella Piatto, is at your disposal for any clarification you might need on your rights under Regulation 45/2001:

ERC-DATA-PROTECTION@ec.europa.eu

MEDICAL SERVICE - Please refer to the six thematic Specific Privacy Statements mentioned in point 8 below and published also on ERCEA Intranet. However, first contact points which can readdress you to the competent service when needed are:

hr-mail-C3@ec.europa.eu

hr-data-protection-coordinator@ec.europa.eu

7. Right of Recourse

You have the right to have recourse to the European Data Protection Supervisor (edps@edps.eu) if you consider that your rights under Regulation 45/2001 have been infringed as a result of the processing of your personal data by the ERCEA.

8. Legal basis and source information

The legal basis of the **pre-recruitment medical visit** is the Staff Regulations Articles 28 item (e) and 33, and the CEOS Articles 12(2) item (d), 13 and 83.

The legal basis for the **annual medical check-up** is the Staff Regulations Article 59(6), and the CEOS Articles 16 and 91.

The legal basis for **recording sickness** leaves and related issues is the Staff Regulations Article 59 paragraphs (1),(2),(3),(4),(5), and the CEOS Articles 16 and 91.

The **access to medical file** is governed by Article 26a of the Staff Regulations and the Conclusion 221/04 of the "*Collège des Chefs d'Administration*" of 19 February 2004.

For details relating to the handling of medical files and personal data by the Medical Service, please refer to the six thematic Specific Privacy Statements posted in our intranet in the section "HEALTH" [<http://intranet.ercea.cec.eu.int/services/hr/Pages/Health.aspx>]:

- (1) SPS_medical file
- (2) SPS_access_dossier_medical (i.e. Conclusion 221/04 above mentioned)
- (3) SPS_IT tools used by medical service
- (4) SPS_control sickness leave
- (5) SPS_processing of supporting medical documents
- (6) SPS_invalidty procedure

Any other useful information can be found directly in the Commission Intracomm:

Medical service:

http://myintracomm.ec.testa.eu/hr_admin/en/medical/Pages/index.aspx

Sickness and Accident Insurance:

http://myintracomm.ec.testa.eu/HR_ADMIN/EN/SICKNESS_INSURANCE/Pages/index.aspx