

Medical Services

Record of ESMA activities processing personal data, based on Article 31 of Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC.

Nr.	Item	Record information
Medical Services		
1	Last update of the record	30/01/2023
2	Reference number	ESMA40-133-796
3	Name and contact details of controller	Head of Resources Department European Securities and Markets Authority (ESMA) 201-203 Rue de Bercy 75012 Paris France

4	ESMA area entrusted with processing	ESMA/Resources Department /Human Resources Unit HR.helpdesk@esma.europa.eu
5	Processors (if any)	<p>1. European Commission Medical Services Brussels, Belgium (DG HR, Unit D3) Luxembourg, Luxembourg (DG HR, Unit D4) Ispra, Italy (DG HR, Unit D5)</p> <p>2. IPC ÉTOILE Association 6 rue La Pérouse – 75116 Paris, France IPC Étoile Data Protection Officer: dpo@ipc.asso.fr</p>
6	Name and contact details of DPO	ESMA DPO - dpo@esma.europa.eu
7	Name and contact details of processor (where applicable)	Please see row # 5 above
8	Purpose of the processing	<p>To comply with obligations related to the provision of the following medical services:</p> <ul style="list-style-type: none"> - Pre-employment medical tests: the pre-employment medical tests are mandatory examinations for selected candidates, as determined by the Article 28(e) and 33 of the Staff Regulations and Articles 12(2)(d), 13, 82(3)(d) and 83 of the Conditions of Employment of Other Servants of the European Union (CEOS). The future staff are requested to perform these general tests and examinations. The results of the tests are kept confidential and not being disclosed to ESMA HR staff. - Assessment of the results of the pre-employment medical tests for candidates by a doctor (a medical aptitude/ "fit for work" certificate): after the pre-employment medical examination, the European Commission Medical Services/IPC informs the responsible ESMA-

	<p>HR staff members working in this area, if the candidate is physically fit to perform their duties. No sensitive/confidential data in relation to the medical results are being disclosed to ESMA.</p> <ul style="list-style-type: none"> - Sick leave validation: staff (TA, CA, SNE) shall send sick leave certificates for special leave due to sickness or other sick-leave related matters directly to the European Commission Medical Services in line with Articles 59 and 60 of the Staff Regulations and Articles 16 and 91 of the CEOS. ESMA does not process the medical certificates. The processing of personal data is performed exclusively by the EC medical services in order to justify sickness-related absences of ESMA staff members. - Requests for allowances in case of serious illness of a child: staff shall send their requests for a double dependent child allowance and parental leave allowance due to serious illness of a child to HR.helpdesk, which then forward these to the European Commission Medical Services for their validation. This is a temporary solution pending the creation of a functional mailbox by the Commission (once established, staff members will be asked to send their requests directly to European Commission Medical Services via this functional mailbox). <p>Additional processing operations related to medical services might occur such as:</p> <ul style="list-style-type: none"> - Processing of other health-related certificates: the following health-related certificates are processed in-house by ESMA HR: sick leave certificates for trainees, certificate of pregnancy/due date, requests for breastfeeding. These certificates are sent to ESMA's functional mailbox (HR.helpdesk) then kept in ESMA (JIRA) ticketing tool. - Request for exceptional teleworking outside place of employment (above 10 days per year): this request may contain sensitive/health data of the staff member or his/her family members. This request must be submitted via Sysper and has to be approved by the Executive Director. HR is not involved in the Sysper workflow but HR is consulted by the ED on the process and to ensure coherent application across ESMA. No sensitive/confidential data in relation to the these special requests are being disclosed to ESMA HR.
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		<p>- Management of the invalidity procedure: either the European Commission Medical Services or a private doctor may be responsible for the organisation of the work of the Invalidity Committee and represent ESMA in line with Section 3 of Annex 2 of the Staff Regulations. The Invalidity Committee's role is to assess whether the staff member (TA or CA) is fit to perform their duties or if the staff member satisfies the invalidity conditions stated in the Staff Regulations and the CEOS. ESMA has no access to the medical information available to the Invalidity Committee.</p> <p>- Annual medical tests: a yearly health screening programme is proposed to staff members (TAs and CAs), as foreseen under Article 59(6) of the Staff Regulations. The European Commission Medical Services or IPC Étoile will be requested to perform these general tests and examinations and communicate the results to the staff members directly. No sensitive/confidential data in relation to the medial results are disclosed to ESMA.</p> <p>- Preventive care, heath and wellbeing campaigns: in order to promote the health of the ESMA (TA, CA, SNE and trainees), ESMA may ask the medical service providers to organise annual campaigns for seasonal influenza or similar vaccinations, give presentations and general recommendations on work-related, health style and well-being issues. ESMA HR simply collects the names of staff who want to benefit from these campaigns to facilitate their organization.</p>
9	<p>Description of categories of persons whose data ESMA processes and list of data categories</p>	<p>Data Subjects:</p> <ol style="list-style-type: none"> 1. Selected Candidates for recruitment: <ul style="list-style-type: none"> - Pre-employment medical tests. These data are processed by the European Commission Medical Services or/and IPC Etoile. 2. ESMA TA and CA: <ul style="list-style-type: none"> - Annual medical visit. These data are processed by the European Commission Medical Services or/and IPC Etoile. - Invalidity procedure. These data are processed by the European Commission Medical Services. - Annual medical visit to a Private Doctor.

		<p>3. ESMA TA, CA, SNE, trainees:</p> <ul style="list-style-type: none"> - Sick leave certificate. Related health data are processed by the European Commission Medical Services, with the exception of the sick leave for trainees, as these requests shall be sent internally to ESMA HR.helpdesk. - Preventive care, health and wellbeing campaigns. Related health data are processed by the European Commission Medical Services or/and IPC Etoile.
<p>10</p>	<p>Time limit for keeping the data</p>	<p>ESMA:</p> <ul style="list-style-type: none"> - Certificate and emails exchange with the staff members, paperless workflows demonstrating proof of attendance at medical appointments; confirmation of pregnancy etc. are kept for 2 years. - Email exchanges between candidates and ESMA-HR regarding pre-employment medical visit and information received from the European Commission Medical Services are kept by the ESMA for 30 years after the staff member ceases work at the ESMA, in line with the European Commission’s retention policy. <p>All documents are kept in an electronic format on the secure ESMA network (JIRA or Paperless) or EU network (Sysper). No physical documents are kept. The old personal files (of staff members recruited in 2011-2019) are kept for 120 years after the birth date (for pension purposes).</p> <p>European Commission:</p> <ul style="list-style-type: none"> - Medical files are kept for 30 years after the staff member ceases work at the ESMA. In the case of persons exposed to carcinogens or mutagens, files are kept for 40 years after the last exposure incident or, in any event, until the staff member reaches the age of 75. - Pre-recruitment medical examination files for applicants who are not recruited will be destroyed after one year. In the event of a negative medical opinion, the file will be destroyed after 5 years if no complaint has been lodged. <p>IPC Étoile:</p> <p>The data are kept for the duration of 4 years, as per the framework contract’s duration. Only the data of the dematerialized questionnaires are kept for a period of 3 months on an approved Hosting of Health Data (HDS) located in France.</p>

<p>11</p>	<p>Recipients of the data</p>	<p>All documents are kept in the electronic format on the secure ESMA network (JIRA or paperless) or EU network (Sysper) and no physical documents are kept.</p> <p>ESMA: At ESMA, only HR members working in this area have access to data related to the medical services (pre-employment medical certificate; proof of attendance at medical appointments; validation confirming sick leave, medical control, invalidity procedure, confirmation of pregnancy). Outside ESMA, our providers have access only to the information which is provided by the staff. The IPC clinic provides to ESMA HR only certificates of attendance and invoices and no sensitive/confidential data are being disclosed to ESMA).</p> <p>IPC Etoile: Only health professionals from the IPC medical and paramedical teams can access medical data. In order to guarantee coordination, continuity of care, medico-social or social follow-up of the patient, certain information can be shared or exchanged with the general doctor physician and the professionals providing care, at the request or with the consent of the staff member. Some anonymized (non-identifying) data could be transmitted to the Scientific Department of IPC Étoile or to partner research organizations in the context of statistical or epidemiological studies. The police authorities, judicial or administrative authorities may be recipients of such data when there is a legal obligation to do so or in order to guarantee the rights, property and safety of IPC Étoile.</p> <p>European Commission Medical Services: Access to the electronic medical file is only granted to Medical Services staff according to specific access rights. Staff members have access to their medical file according to the rules defined in Conclusion 221/04 of the Heads of Administration; the document is available on request. Restrictions may be applied in accordance with the Commission Decision (EU) 2019/154 of 30 January 2019 laying down internal rules concerning the restriction of the of data subjects to access their medical files (Decision (EU) 2019/154).</p>
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		The medical file can be transferred to another European Institution or body, with the staff members' prior agreement, when they move from an institution/body to another.
12	Are there any transfers of personal data to third countries or international organisations? If so, to which ones and with which safeguards?	No.
13	General description of security measures, where possible.	<p>IPC Etoile: The Security Insurance Plan (PAS) of the Caisse Nationale d'Assurance Maladie sets the IT security requirements for Health Examination Centres. On the basis of this repository, IPC Étoile implements appropriate physical, logical and organizational security measures to guarantee the confidentiality of data, and in particular to avoid any unauthorized access. Systems ensure that subcontractors provide appropriate guarantees to ensure the security and confidentiality of personal data. The hosting and processing of personal data is done within the establishment of IPC Étoile in Paris. Only the data of the dematerialized questionnaires are kept for a period of 3 months on an approved Hosting of Health Data (HDS) located in France.</p> <p>ESMA: Electronical documents are received through the IT system in place at ESMA. ESMA's IT infrastructure is protected by physical and logical security measures: the servers are installed on a high-security datacentre with restricted physical access to the machines. Network firewalls protect the logic perimeter of the ESMA IT infrastructure; and the main computer systems holding the data are security hardened. As part of the ESMA's administrative measures, there is the obligation for ESMA staff and service providers who maintain the equipment and systems to sign non-disclosure and confidentiality agreements.</p>

		<p>European Commission: Medical records are kept in an individual file and are stored in secure archives accessible only to authorised persons. Electronic medical records are stored in a secure environment and are accessible only to authorised persons. The protection measures of medical records are described in a document called "protection et archivage des données à caractère personnel", available on request.</p>
14	<p>Information on how to exercise your rights to access, rectification, object and data portability (where applicable), including recourse right.</p>	<p>Privacy statement: To exercise your Data Privacy Rights you can address your requests to the Controller at hr.helpdesk@esma.europa.eu</p> <p>a) You are entitled to access your information relating to your personal data processed by ESMA, verify its accuracy and, if necessary, correct it in case the data is inaccurate or incomplete. b) You have the right to request the erasure of your personal data, if your personal data is no longer needed for the purposes of the processing, if you withdraw your consent or if the processing operation is unlawful. c) You can ask the Data Controller to restrict the personal data processing, under certain circumstances, such as if you contest the accuracy of the processed personal data or if you are not sure if your personal data is lawfully processed. d) You may also object, on compelling legitimate grounds, to the processing of your personal data. e) Additionally, you may have the right to data portability which allows you to make a request to obtain the personal data that the Data Controller holds on you and to transfer it from one Data Controller to another, where technically possible.</p> <p>You may exercise your rights by contacting the Data Controller (see contact details above). In some cases your rights might be restricted in accordance with Article 25 of the Regulation (EU) 2018/1725. In each case, ESMA will assess whether the restriction is appropriate. The restriction should be necessary and provided by law, and will continue only for as long as the reason for the restriction continues to exist.</p>

		<p>If you have additional questions or concerns you can also contact: DPO@esma.europa.eu You have the right to lodge a complaint with the European Data Protection Supervisor edps@edps.europa.eu if you consider that your rights under the Regulation (EU) 2018/1725 have been infringed as a result of the processing of your personal data by ESMA. For more information please refer to: https://www.esma.europa.eu/about-esma/data-protection</p>
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