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Subject: Article 29 Working Party

A short comment to the Working Document on the processing to personal data relating to health in electronic health records (EHR):

The Working Document seems quite a lot generic, and probably it will be necessary to develop some specific aspects. Concretely, in relation to the explicit consent, article 8, (2) (a), we thought that the conditions to obtain it must be regulated. Thinking in electronic contexts and particularly with vulnerable populations or in specially sensible situations we must consider the conditions in which it is possible, or not, to obtain the explicit consent from a patient. I mean that it should have special requirements for some situations or cases where the consent is obtained by an electronic way or on line. It is necessary to investigate which guarantees we need to comply with our ethical obligations to obtain genuine consents. For this we could anticipate possible scenarios when the informed consent could lack of sufficient validity and where the right of autonomy of patients were not enough preserved.

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