

TEMPLATE FOR RECORDING OF PROCESSING ACTIVITY

NOTIFICATION TO THE DATA PROTECTION OFFICER (ARTICLE 31 REGULATION 2018/1725)

Filling instructions

NAME OF PROCESSING ACTIVITY¹:

Management of personal data in the appraisal of the official files and official records at EMSA

1) Controller(s) ² of data processing operation (Article 31.1(a))
<p>Controller: European Maritime Safety Agency (EMSA), Cristina Romay Lopez, HoU A.1</p> <p>Organisational unit responsible³ for the processing activity: A.1</p> <p>Contact person: Carmen Ruiz León: carmen.ruiz-leon@emsa.europa.eu</p> <p>Data Protection Officer (DPO): Radostina Nedeva-Maegerlein: dpo@emsa.europa.eu</p>
2) Who is actually conducting the processing? (Article 31.1(a)) ⁴
<p>The data is processed by EMSA itself <input checked="" type="checkbox"/></p> <p>The organisational unit conducting the processing activity is: EMSA Appraisal Committee Ares(2018)1501853</p> <hr/> <p>The data is processed by a third party (contractor) or the processing operation is conducted together with an external third party [indicate third party] <input type="checkbox"/></p> <p>N/A</p> <p>Contact point at external third party (e.g. Privacy/Data Protection Officer):</p>
3) Purpose of the processing (Article 31.1(b))

¹ **Personal** data is any information relating to an identified or identifiable natural person, i.e. someone who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity. This information may, for example, be the name, date of birth, a telephone number, biometric data, medical data, a picture, professional details, etc.

Processing means any operation or set of operations which is performed on personal data, whether or not by automatic means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

² In case of more than one controller (e.g. joint operations), all controllers need to be listed here

³ This is the unit that decides that the processing takes place and why.

⁴ Is EMSA itself conducting the processing? Or has a provider been contracted?

Why are the personal data being processed? Specify the rationale and underlying reason for the processing and describe the individual steps used for the processing.

The Council Regulation (EU) 2015/496 of 17 March 2015 amending Regulation (EEC, Euratom) No 354/83 as regards the deposit of the historical archives of the institutions at the European University Institute in Florence requires the European agencies to preserve their historical archives and to open them to the public after thirty years.

Under the new Regulation, the European Agencies are obliged to put in place organisational and physical structures to implement the regulation; to establish its Historical Archives and to develop strategies for preserving born digital records.

The EMSA Records Management Policy establishes that all official files are managed through their lifecycle regardless of whether they are in paper, purely electronic or hybrid. A file is created when a new project/inspection starts. Once the project or the inspection has come to the end, the corresponding official file needs to be formally closed, this means that no more records will be created or received for that file.

The closed files will not be consulted frequently however they have to be kept for administrative and legal reasons for a period of time known as “Administrative Retention Period” (ARP). The EMSA Specific Retention in force since 13/12/2018 [Ares\(2018\)6452032](#) is the instrument that sets the ARP for the different types of files as well as the disposal actions to be taken after the expiration of its ARP. The EMSA Specific Retention List applies to all official files irrespective their form: paper, electronic or hybrid.

EMSA migrated to HAN (Hermes-Ares-NomCom) the 3rd of April of 2017. Since then, all official documents created and received in the Agency are registered in Ares, the Advanced Records System. All registered documents are filing in official files which are managing by NomCom. Hermes Repository Services (HRS) is a web services layer that allows system integration with the Hermes internal repository. HRS provides almost all Ares functionalities to other corporate information systems, allowing them to automatically manage files and documents.

The files created in EMSA before the deployment of HAN are known as “legacy files”. The legacy files created from the origin of the Agency to the migration to HAN will need to be officially closed by Executive Director Decisions (for example, the first set of files corresponding to the period 2002 to 2004 were officially closed by ED Decision No 2017/034 [Ares\(2017\)6313436](#)). Following ED Decision 2017/034, an appraisal committee was established on 19 of March 2018 to conduct the appraisal of the EMSA legacy files.

Appraisal is the process to determine whether records which belong to an official file will be destroyed or will be transferred to the historical archives for permanent preservation in compliance with the retention periods and the disposal actions stated in the EMSA Retention List. Therefore, the role of the Appraisal Committee is:

- Making appraisal decisions taking into account the EMSA Specific Retention List and the applicable legislation especially, the compliance with the rules on the protection of personal data;
- Documenting the appraisal decision by submitting the appropriate report for the approval of the Head of

Department;

- Nominating and coordinating other colleagues as relevant;
- Ensuring the implementation of the EMSA Specific Retention List as well as, providing input when necessary.

There might be cases where the appraisal committee members when performing their tasks have access to personal data, for this reason, there is a need to have a notification in place. Therefore, this notification concerns the processing operation named "Management of personal data in the appraisal of the official files and official records at EMSA". The processing operation involves the handling of personal data and consequently is subject to the Regulation (EU) 2018/1725.

The following safeguards are in place to ensure the rights of the data subjects:

- The members of the appraisal committee sign a declaration of confidentiality every time the appraisal committee meets for an appraisal exercise of legacy files.
- During the appraisal exercise, the members of the appraisal committee confirm that the retention periods finished and the disposal actions for the legacy files are the correct actions according to the EMSA Retention List.
- During the appraisal exercise, the members of the appraisal committee screen official files which has reach to the end of the retention period for any personal data they may contain and to ensure that the appropriate measures (see pt.9) are taken to safeguard the rights and freedoms of the data subject.

With a view to opening the historical archives to the public after 30 years the Archives, EMSA will examine in due time and in any case no later than 25 years after their creation whether any documents are covered by the exception relating to the commercial interest of a natural or legal person referred to in article 2.1 of Council Regulation 354/1983.

The disclosure of the following categories of personal data in historical archives is excluded a-priori: structured personal data, such as personnel and medical files; special categories of personal data as defined in Article 10 of the data protection regulation (unless the processing is necessary for archiving purposes in the public interest and respects the essence of the right to data protection); personal data in relation to proceedings that are not a matter of public record.

4) Lawfulness of the processing (Article 5(a)–(d)): Processing necessary for:

Mention the legal basis which justifies the processing

- (a) a task carried out in the public interest or in the exercise of official authority vested in EMSA (including management and functioning of the institution) ☒
- (b) compliance with a legal obligation to which EMSA is subject ☐
- (c) necessary for the performance of a contract with the data subject or for the preparation of such a contract ☐

(d) Data subject has given consent (*ex ante*, explicit, informed) ☐

Describe how consent will be collected and where the relevant proof of consent will be stored

5) Description of the categories of data subjects (Article 31.1(c))

Whose personal data are being processed?

EMSA staff ☒

Non-EMSA staff (contractors staff, external experts, trainees) ☒

Visitors to EMSA building ☐

Relatives of the data subject ☐

Other (please specify):

6) Categories of personal data processed (Article 31.1(c))

Please tick all that apply and give details where appropriate

(a) **General personal data:**

The personal data contains:

Personal details (name, address etc) ☒

Education & Training details ☒

Employment details ☒

Financial details ☒

Family, lifestyle and social circumstances ☒

Goods or services provided ☒

Other (please give details):

(b) **Sensitive personal data** (Article 10)

The personal data reveals:

Racial or ethnic origin ☐

Political opinions ☐

Religious or philosophical beliefs ☐

Trade union membership ☐

Genetic, biometric or data concerning health ☐

Information regarding an individual's sex life or sexual orientation ☐

7) Recipient(s) of the data (Article 31.1 (d))

Recipients are all parties who have access to the personal data

Data subjects themselves ☐

Managers of data subjects ☐

Designated EMSA staff members ☒

Designated Contractors' staff members ☐

Other (please specify):

8) Transfers to third countries or recipients outside the EEA (Article 31.1 (e))

If the personal data are transferred outside the European Economic Area, this needs to be specifically mentioned, since it increases the risks of the processing operation.

Data are transferred to third country recipients:

Yes ☐

No ☒

If yes, specify to which country:

If yes, specify under which safeguards:

Adequacy Decision of the European Commission ☐

Standard Contractual Clauses ☐

Binding Corporate Rules ☐

Memorandum of Understanding between public authorities ☐

9) Technical and organisational security measures (Article 31.1(g))

Please specify where the data are stored during and after the processing

How is the data stored?

EMSA network shared drive ☐

Outlook Folder(s) ☐

Hardcopy file ☒

Cloud (give details, e.g. public cloud)

☐

Servers of external provider

☐

Other (please specify):

EMSA legacy paper files are stored in EMSA Archiving Rooms, located in the basement of the EMSA building. The files are stored in locked filing cupboards in two locked archive rooms. The archiving rooms are only accessible to EMSA archive team.

Regarding the paper documents and paper files to be permanent preserved, appropriate measures to ensure the rights and the freedom of the data subjects will be in place. These measures will be technical (e.g. redaction, pseudonymisation) or organisational (e.g. Appraisal and 2nd review).

The electronic data (electronic files) are stored in the Commission's Data Centre in Luxembourg and are therefore protected by a number of measures introduced by DG DIGIT to protect the integrity and confidentiality of the Commission's electronic assets. Physical access to the data centre is restricted to selected personnel only and secured by recent security protocols.

Regarding the electronic documents and electronic files to be permanent preserved, appropriate measures to ensure the rights and the freedom of the data subjects will be in place. These measures will be technical (e.g. redaction, pseudonymisation) or organisational (eg. Appraisal and 2nd review).

EMSA has signed a Memorandum of Understanding on "HAN Services" with the Directorate-General for Informatics of the European Commission (DIGIT) about the user of Hermes-ARES-Nomcom (HAN) Reference: DIGIT-00737-000 (Annex 2).

Regarding the EMSA electronic files for permanent preservation, an amendment of the existing MoU with DIGIT or a new SLA/MoU (to be defined by the EC) will be signed by EMSA with the EC for the use the EC electronic archive repository for files after the administrative retention period (a-REP).

10) Retention time (Article 4(e))

How long will the data be retained and what is the justification for the retention period? Keep in mind that there are pre-determined retention periods for most types of files. Those are explained in the Records Management Policy and Procedure of the Agency. You can check EMSA Records Management Policy and

Procedure available on EMSA Intranet.

The storage period of documents is defined by EMSA Specific Retention List⁵ and varies from topic to topic.

**Thank you for completing the form.
Now please send it to the DPO using the ARES workflow**

⁵ EMSA Specific Retention List: <http://emsanet/index.php/dm/procedures.html>