

Data Protection Statement/Privacy Statement on the processing of personal data in the procedure/context of Management of teleworking requests for COVID-19 reasons outside the remit of the medical protocol (Safety Measures in EMSA under COVID-19 circumstances 1.13 version)

The protection of privacy is of high importance to the European Maritime Safety Agency ('EMSA'). EMSA is responsible for the personal data it processes. Therefore, we are committed to respecting and protecting the personal data of every individual and to ensuring efficient exercising of data subject's rights. All the data of personal nature, namely data that can identify an individual directly or indirectly, will be handled fairly and lawfully with the necessary due care.

This processing operation is subject to Regulation 2018/1725 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data. The information in this Privacy Statement is given pursuant to Articles 15 and 16 of the Regulation 2018/1725.

1. Nature and the purpose(s) of the processing operation

EMSA, like all governments, public and private organisations throughout Europe is taking measures to contain and mitigate COVID-19 pandemic to protect its staff. As such, EMSA put in place the Safety Measures under COVID-19 circumstances. This document establishes internal procedures divided by phases towards a return to normality during the COVID-19 outbreak. It is updated regularly, following the developments and recommendations from the Portuguese authorities, the European Commission, international health authorities and considering EMSA's situation.

There are two exceptional situations described in the Safety Measures under COVID-19 circumstances where staff can request to telework or avail from continuous teleworking outside the remit of EMSA Medical Protocol:

- Staff members may opt to continue teleworking during the phases where some presence in the office is mandatory if they or any of their dependents (if applicable) have an underlying health condition who are considered at high risk of exposure to COVID-19.

The health condition allowing continued teleworking is assessed by EMSA's external Medical Advisor, based on the criteria set in the latest Portuguese legislation regulating the matter.

To request continued teleworking, staff members have to send a detailed medical certificate to EMSA's external Medical Advisor and book an appointment with his assistant. The Medical Advisor will inform the staff member during the appointment and afterwards the HR Leave Manager by e-mail of the validity of the certificate in line with the current legislation in place. The HR Leave Manager officially informs the staff member and the line manager about the clearance. The line manager then approves or rejects the telework request.

The purpose of processing the personal data is to implement procedures to protect the health of vulnerable staff members.

- Staff with children attending kindergarten/schools may opt to telework if the school/grade/class closes due to COVID-19 related matters or in order to care for a COVID-19 positive child.

Proof of closure or the Declaração para efeitos de isolamento profilático shall be sent to the HR Leave Manager. In case both parents are EMSA staff, teleworking shall be used by one parent only.

The purpose of processing the personal data is to implement procedures to allow staff members to take care of their children during sickness or closure of the school.

EMSA will not reuse the personal data for another purposes that is different to the one stated above.

2. Categories/types of personal data processed

The categories/types of personal data processed are the following:

- Personal details: PT SNS Number, full name, passport or national ID or diplomatic ID Number.
- Family: If there are positive cases for dependents, the staff member can opt to telework: PT SNS Number, full name, passport or national ID or diplomatic ID Number, Proof of school closure or the Declaração para efeitos de isolamento profilático.
- Data concerning health: For continued telework for vulnerable staff and dependents (if applicable): a detailed medical certificate. Dependent Child(den): the Declaração para efeitos de isolamento profilático .

3. Processing the personal data

The processing of the personal data is carried out under the responsibility of the Head of Corporate Services (Department 4), acting as delegated EMSA data controller.

Personal data are processed by

- Human Resources and Internal Support Unit (4.1)
- SAGIES – Segurança, Higiene e Saúde no Trabalho SA (Contractor)

4. Access to and disclosure of personal data

The personal data is disclosed to the following recipients:

- Data subjects themselves: the concerned staff member
- Managers of data subjects: To approve (or not) telework requests
- Designated EMSA staff members:
 - Head of Department 4 – as delegated controller
 - Head of Unit 4.1 - as direct manager of the HR Leave Managers
 - HR Leave Managers and back up (Unit 4.1)
 - ICT colleague in charge of Corporate Applications to delete data from LeaMa in case staff members voluntarily declare health data or attach supporting documents in their telework request
 - Senior HR Officer to delete data from LeaMa in case staff members voluntarily declare health data or attach supporting documents in their telework request
- Designated Contractors' staff members: EMSA External Medical Adviser and his assistant
- Other: if appropriate, access will be given to EU staff with the statutory right to access the data required by their function, i.e. the European Ombudsman, the Civil Service Tribunal, the Internal Audit Service, the European Court of Auditors, OLAF and the European Data Protection Supervisor

The information concerning the management of teleworking requests for COVID-19 reasons outside the remit of the medical protocol will only be shared with people necessary for the implementation of such measures *on a need to know* basis. The data are not used for any other purposes nor disclosed to any other recipient.

The information in question will not be communicated to third parties, except where necessary for the purpose(s) outlined above.

Personal data are not intended to be transferred to third countries.

5. Protecting and safeguarding personal information

EMSA implements appropriate technical and organisational measures in order to safeguard and protect data subjects' personal data from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to them.

All personal data related to Management of teleworking requests for COVID-19 reasons outside the remit of the medical protocol are stored in secure IT applications according to the security standards of the Agency as well as in specific electronic folders accessible only to the authorised recipients. Appropriate levels of access *are granted* individually only to the above recipients.

All persons dealing with personal data in the context of the Management of teleworking requests for COVID-19 reasons outside the remit of the medical protocol procedures, at any stage, sign a confidentiality declaration that is kept in ARES.

6. Access, rectification, erasure or restriction of processing of personal data

Data subjects have the right to access, rectify, erase, and receive their personal data, as well as to restrict and object to the processing of the data, in the cases foreseen by Articles 17 to 24 of the Regulation 2018/1725.

If data subjects would like to exercise any of these rights, they should send a written request explicitly specifying their query to the delegated data controller, the Head of Corporate Services (Department 4).

The right of rectification can only apply to inaccurate or incomplete factual data processed within the Management of teleworking requests for COVID-19 reasons outside the remit of the medical protocol procedure.

The above requests will be answered without undue delay, and in any event within one month of receipt of the request. However, according to article 14 (3) of the Regulation 2018/1725, that period may be extended by two further months where necessary, taking into account the complexity and number of the requests. EMSA shall inform the data subject of any such extension within one month of receipt of the request, together with the reasons for the delay.

7. Legal basis for Data processing

Processing is based on Articles 5(a) and 10 (b) of the Regulation 2018/1725.

The personal data are collected and processed in accordance with:

- Under 15.2(e) of the EMSA Founding Regulation, Regulation (EC) No 1406/2002, as amended, the Executive Director shall exercise (e) he/she shall exercise, in respect of the staff, the powers laid down in Article 6(2). As part of the duty of care incumbent upon the Executive Director as Appointing Authority, staff need to be assisted during disruptions affecting the normal functioning of EMSA and which may have consequences for the health and wellbeing of the staff.
- Article 1(e) (2) of the Staff Regulations of officials according to which "Officials in active employment shall be accorded working conditions complying with appropriate health and safety standards at least

equivalent to the minimum requirements applicable under measures adopted in these areas pursuant to the Treaties".

- Article 59 of the Staff Regulations related to the management of medical leave is the relevant legal ground for the processing of COVID-19 medical information.
- Safety Measures in EMSA under COVID-19 circumstances (Ares(2022)1535230).

8. Storing Personal data

EMSA does not keep personal data longer than necessary for the purpose(s) for which that personal data is collected.

- Dependent Children's proof of positive cases is to be stored only for 21 days and then deleted in due time.
- Staff Members' Medical Certificates are kept for 30 years after the end of contract with EMSA.

In the event of a formal appeal, all data held at the time of the formal appeal should be retained until the completion of the appeal procedures.

9. Data protection points of contact

Should data subjects have any queries/questions concerning the processing of your personal data, they should address them to the data controller, Head of Corporate Services (Department 4) under the following mailbox: dominika.lempicka-fichter@emsa.europa.eu.

Any data subject may also consult EMSA Data Protection Officer at: DPO@emsa.europa.eu.

Recourse:

Complaints, in cases where the conflict is not resolved by the Data Controller and/or the Data Protection Officer, can be addressed at any time to the European Data Protection Supervisor: edps@edps.europa.eu.