

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

NAME OF PROCESSING ACTIVITY<sup>1</sup>:

Carrying-out visits to Member States, including the reporting thereof, as referred to in Article 3 of Regulation (EC) No 1406/2002, as amended, to assist the Commission and the EFTA Surveillance Authority in the effective implementation of relevant binding legal acts of the Union.

1) Controller(s) <sup>2</sup> of data processing operation (Article 31.1(a))
<p>Controller: European Maritime Safety Agency (EMSA) – Joint Controllershship with the Directorate-General for Mobility and Transport of the European Commission (DG MOVE)</p> <p>Organisational unit <b>responsible</b><sup>3</sup> for the processing activity: Unit 1.2, EMSA and Unit D.2, DG MOVE</p> <p>Contact person: Mario Mifsud, Unit 1.2, EMSA</p> <p>Data Protection Officer (DPO): Radostina Nedeva-Maegerlein: <a href="mailto:dpo@emsa.europa.eu">dpo@emsa.europa.eu</a></p>
2) Who is actually conducting the processing? (Article 31.1(a)) <sup>4</sup>
<p>The data is processed by EMSA and the Commission <input checked="" type="checkbox"/></p> <p>The organisational unit conducting the processing activity for EMSA is Unit 1.2.</p> <hr/> <p>The data is processed by a third party (contractor) or the processing operation is conducted together with an external third party <input type="checkbox"/></p> <p>Contact point at external third party (e.g. Privacy/Data Protection Officer):</p>

<sup>1</sup> **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.

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

<sup>3</sup> This is the unit that decides that the processing takes place and why.

<sup>4</sup> Is EMSA itself conducting the processing? Or has a provider been contracted?

3) Purpose of the processing (Article 31.1(b))

*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.*

Article 2.2(b) of Regulation (EC) No 1406/2002, as amended, states that, "The Agency shall assist the Commission in the effective implementation of relevant binding legal acts of the Union, in particular by carrying-out visits and inspections as referred to in Article 3 of this Regulation".

Article 3 'Visits to Member States and inspections' states:

"1. In order to perform the tasks entrusted to it and to assist the Commission in fulfilling its duties under the TFEU, and in particular the assessment of the effective implementation of relevant Union law, the Agency shall carry out visits to Member States in accordance with the methodology established by the Administrative Board.

2. The Agency shall inform the Member State concerned in good time of the planned visit, the names of the authorised officials, and the date on which the visit starts and its expected duration. The Agency officials delegated to carry out such visits shall do so on presentation of a decision in writing from the Executive Director of the Agency specifying the purpose and the aims of their mission.

3. [...]

4. At the end of each visit or inspection, the Agency shall draw up a report and send it to the Commission and to the Member State concerned."

This task also extends to the EFTA Surveillance Authority and the EEA Member States by virtue of the Decision of the EEA Joint Committee No. 81/2003 of 20 June 2003, which incorporated Regulation (EC) No 1406/2002 into the EEA Agreement.

The organisation and reporting of the visits to Member States requires that personal data concerning the persons participating in a visit, including their names, job titles, responsibilities and work carried out by them, is recorded in various documents including the visit programme, documents or other evidence obtained before, during and after a visit, and in the report compiled afterwards and submitted to the Commission and to the Member State or other visited organisation. In some cases, this documentation or evidence may also include personal data of persons who did not participate in a visit but are referred to in the evidence obtained. This evidence may be provided orally or in documentary form.

This personal data needs to be referred to in EMSA's visit reports as a formal record of the persons who provided input or evidence, or are referred to therein, based on which the conclusions of a visit or inspection, including any findings identified in the effective implementation of the Union law the subject of the visit, have been based.

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 and the Commission

(including management and functioning of the institution)



(Legal basis: Article 2 'Core tasks of the Agency', par. 2 (b) and Article 3 'Visits to Member States and inspections' EMSA founding regulation)

(b) compliance with a legal obligation to which EMSA or the Commission 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?*

Staff from EMSA, the Commission, the EFTA Surveillance Authority, the Member States and companies or organisations carrying out work on their behalf.

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): Work carried out in the performance of their employment and/or the role(s) they perform in the organisation.

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

The personal data reveals:

Racial or ethnic origin ☐

Political opinions	<input type="checkbox"/>
Religious or philosophical beliefs	<input type="checkbox"/>
Trade union membership	<input type="checkbox"/>
Genetic, biometric or data concerning health	<input type="checkbox"/>
Information regarding an individual's sex life or sexual orientation	<input type="checkbox"/>
<b>7) Recipient(s) of the data (Article 31.1 (d))</b> <i>Recipients are all parties who have access to the personal data</i>	
Data subjects themselves	<input checked="" type="checkbox"/>
Managers of data subjects	<input checked="" type="checkbox"/>
Designated EMSA and Commission staff members	<input checked="" type="checkbox"/>
Designated Contractors' staff members	<input type="checkbox"/>
Other (please specify): Responsible staff members of the EFTA Surveillance Authority and the administrations of the Member States.	
<b>8) Transfers to third countries or recipients outside the EEA (Article 31.1 (e))</b> <i>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.</i>	
Data are transferred to third country recipients:	
Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

**If yes, specify to which country:** The third country where an inspection takes place.

**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 and Commission networks ☒

Outlook Folder(s) ☒

Hardcopy file ☐

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

Servers of external provider ☐

Other (please specify): ARES, CIRCABC, EMSA Maritime Applications – e-delivery portal.

**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 at the Intranet of the Agency.*

The personal data is stored in accordance with the applicable retention policies. In the case of EMSA, this is for 20 years in accordance with EMSA's Records Management Policy and Procedure. Following the expiry of the aforementioned Administrative Retention Period, Sampling and selection and Second Review shall be performed in compliance with the provisions of the above policy. For the Commission this is 5 years in accordance with the Commission's Common level retention policy.