

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

NAME OF PROCESSING ACTIVITY¹:

Medical Protocol for handling of staff exposure to Covid-19 (Safety Measures in EMSA under COVID-19 circumstances 1.10 version onwards - [Ares\(2021\)7550704](#))

1) Controller(s) ² of data processing operation (Article 31.1(a))
<p>Controller: European Maritime Safety Agency (EMSA)</p> <p>Organisational unit responsible³ for the processing activity: Department 4</p> <p>Contact person: Dominika LEMPICKA-FICHTER</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: Department 4</p>
<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>

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?

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.

EMSA, like all governments, public and private organisations throughout Europe is taking measures to contain and mitigate COVID-19 pandemic to protect its staff. To ensure the protection of the personal data of all data subjects including its staff, several considerations were considered by the Agency to guarantee the lawful processing of personal data.

As such, EMSA put in place the Safety measures in EMSA under Covid-19 circumstances. This document establishes internal procedures 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. In the same document, the Medical Protocol to be followed for handling of staff exposure to Covid-19 is described in point 9.

This amended notification to the Data Protection Officer covers the medical protocol as from the version 1.10 onwards ([Ares\(2021\)7550704](#) of 08/12/2021) and includes a Data Protection Impact Assessment.

The purpose of processing the personal data during the application of the Medical Protocol is to solely enable the Agency to implement procedures aiming to reduce the risk of infection in its premises and thus protect its staff's health.

Medical Protocol (See Annex 1):

In summary, staff members are asked to inform by e-mail the following receipts in the following cases:

- If staff member is in the office and get to know that he/she was in contact with a confirmed COVID-19, tested COVID-19 positive, or has/had suggestive symptoms - the Line Manager and the HR Leave Manager to be informed.
- If staff member is at home and gets to know that he/she was in contact with a confirmed COVID-19 Case, tested COVID-19 positive or has/had suggestive symptoms - the Line Manager and the HR Leave Manager to be informed;
- If staff member is prescribed prophylactic isolation or isolation - the Line Manager and the HR Leave Manager to be informed;
- If prescribed prophylactic isolation or isolation has ended and staff member is tested COVID 19 positive - the Line Manager and the HR Leave Manager to be informed;
- If prescribed prophylactic isolation or isolation has ended and staff member is tested COVID 19 negative - the Line Manager to be informed;

Other follow up tasks related to the Medical protocol:

Excel table COVID Cases for statistical purposes

Once HR Leave Manager is informed, he/she collects the following data for statistics purposes:

- Tested positive (without name)
- Date of the event = date of the positive test
- Last day in the office
- Recovered yes/no & date (= date provided by SNS via the Declaração de Alta)

The data is saved in the HR drive for statistical purposes only.

When requested (usually for senior management meetings, quarterly to EU Interagency Network upon request) anonymous statistical data is given:

- Number of persons having tested positive and in isolation – on a certain moment and over a certain period
- Number of persons fully recovered – on a certain moment and over a certain period
- Number of persons in isolation because of close contact – on a certain moment and over a certain period

Inform Contacts:

In the Medical Protocol, it is explicitly written that staff members must isolate themselves from other individuals whatever they are and contact the Portuguese Health Line – SNS24 – 808 24 24 24 and follow the guidelines given by the PT Health Authorities. Thus the Manual Contact Tracing falls within the responsibility of the Portuguese Health Authorities.

Manual contact tracing has as objective to quickly identify potential cases to be able to intervene and interrupt the transmission chain. It is implemented at Member State level by the respective national health authority, by the Serviço Nacional de Saude (SNS) in Portugal.

EMSA decided that telework is to be used as preferred mitigation measure in case of any suspicion and real cases with COVID-19 in their premisses. EMSA does not intend to have a procedure in place for manual contacting tracing as the member states have a system which is broadly designed by national health authorities around persons living or entering the country. These authorities benefit from a well-defined public health legal framework with robust protocols related to the management of contagious diseases (source EDPS orientations on manual contact tracing by EU Institutions in the context of the COVID-19 crisis).

However, as an additional layer of protection, if a staff member is/has been in the office and get to know that he/she was in contact with a confirmed COVID-19, tested COVID-19 positive, or has/had suggestive symptoms, he/she is asked to inform his/her colleagues with whom he/she were in contact on a voluntary basis. The HR Leave Manager may assist the colleague concerned upon his/her request, meaning inform the persons who has been in contact in a way protecting the privacy of the other individual/s concerned.

As consequence, the HR Leave Manager will address the following questions to the concerned colleague:

- if there was close contact with other colleagues and if those persons have already been informed a by the concerned staff member.

Practice has showed that the concerned staff member usually informs colleagues close to him/her in an informal way.

Cleaning the EMSA premisses:

The office, common areas and other places in EMSA premises have to be cleaned/disinfected. As consequence, the HR Leave Manager will address the following questions to the concerned colleague:

- what was the office used, the common areas and the dates of presence in the office.

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) ☒
- 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(2021)7550704)
- (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 ☒
- The concerned staff member
 - Staff members contacts only if the staff member concerned ask for assistance
- Non-EMSA staff (contractors staff, external experts, trainees) ☒
- Trainees

- SNEs

Visitors to EMSA building

☐

Relatives of the data subject

☒

- If there are cases in the family for the approval of telework requests
- Statistics purposes as requested by the Interagency network

Other (please specify):

Data Subjects are informed about their rights via a Privacy Statement available in the intranet.

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:

Name and Surname

Personal details (name, address etc)

☒

- In the Declaração de Alta: Name, Surname, Date of birth, Name of the doctor, SNS number

Education & Training details

☐

Employment details

☒

Financial details

☐

Family, lifestyle and social circumstances

☒

- If there are positive cases in the family and staff member is requested to telework: Name, Surname, family relationship

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

☒

- Staff Member: COVID 19 test results (positive or negative), dates prescribed prophylactic isolation, medical discharge (declaração de alta).
- Family members:
staff is also asked to inform HR Leave Manager and Line Manager of situations where the staff member or a member of his household suspects/is confirmed to may have been in contact with a positive case or has suggestive symptoms as telework is mandatory in these cases.

Lawfulness of the processing sensitive personal data is Article 10 (b): the processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller or of the data subject in the field of employment and social security and social protection law insofar as it is authorised by Union law providing for appropriate safeguards for the fundamental rights and the interests of the data subject;

In order to safeguards for the fundamental rights and the interests of the data subjects, a data protection impact assessment (DPIA) is carried out.

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

☒

- In order to approve (or not) telework requests under the situations foreseen in the medical protocol

Designated EMSA staff members	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> - Head of Department 4 – as delegated controller - Head of Unit 4.1 - as direct manager of the HR Leave Managers - HR Leave Managers (Unit 4.1) – as responsible for the implementation of the medical protocol - Head of Unit 4.2 - as direct manager of the Logistic and Facilities Team and Security Officer - Logistic and Facilities Team (Unit 4.2)- as responsible for the cleaning of the shared offices and EMSA common areas <p>All recipients signed a Declaration of confidentiality.</p>	
Designated Contractors' staff members	<input type="checkbox"/>
Other (please specify):	
<p>8) Transfers to third countries or recipients outside the EEA (Article 31.1 (e))</p> <p><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></p>	
<p>Data are transferred to third country recipients:</p> <p>Yes <input type="checkbox"/></p> <p>No <input checked="" type="checkbox"/></p> <p>If yes, specify to which country:</p> <p>If yes, specify under which safeguards:</p> <p>Adequacy Decision of the European Commission <input type="checkbox"/></p> <p>Standard Contractual Clauses <input type="checkbox"/></p> <p>Binding Corporate Rules <input type="checkbox"/></p> <p>Memorandum of Understanding between public authorities <input type="checkbox"/></p>	

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



Personal Data collected is stored only for 2 weeks and then be deleted in due time.

For statistics purpose, the figures are kept in a table saved in the H Drive.

Outlook Folder(s)



E-mails from the staff members

Hardcopy file



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



Servers of external provider



Other (please specify):

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.

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

Sensitive personal data processed related to the EMSA Medical Protocol for handling of staff exposure to Covid-19 is to be stored only for 21 days and then be deleted in due time.

Personal data processed in the document called "Declaração de Alta" is kept until the new calendar year leave rights in LeaMa are established (n+1) and the carryover of the previous year is done (n-1) as staff may ask for the clarification of their annual leave carry over at the moment it happens.

