

TEMPLATE FOR RECORDING OF PROCESSING ACTIVITY

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

NAME OF PROCESSING ACTIVITY¹: Management of the prevention of harassment policy at EMSA –**Informal Procedure-**

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: Unit 4.1, Human Resources and Internal Support.</p> <p>Data Controller: Cristina Romay Lopez, Head of Unit 4.1, Human Resources and Internal Support.</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 units conducting the processing activity are: Unit 4.1 Human Resources and Internal Support at EMSA.</p>	
<p>The data is processed by a third party (contractor) or the processing operation is conducted together with an external third party: N/A</p> <p>The Confidential Counsellors and the Coordinator of the Network of Confidential Counsellors in the Unit 4.1 are identified as processors of the data processing operation.</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.

The processing aims at preventing and remedying cases of alleged harassment and conflict resolution within the Agency during the informal procedure. The informal procedure aims at helping and protecting staff members seeking support at an early stage.

Data will be collected and processed for the following purposes:

- carrying out the informal procedure in case of alleged psychological or sexual harassment;
- monitoring and evaluation of the policy on protecting the dignity of the person and preventing psychological and sexual harassment;
- prevention and identification of recurrent cases in view of undertaking disciplinary actions and providing data for the formal procedure/replying to the judicial, administrative or other competent authorities at national or EU level.

The implementation modalities and the role of parties involved in the informal procedure are described in the [Manual on informal procedures](#) within the framework of the EMSA policy annexed to the Decision of the Administrative Board of 20 November 2009 on the European Maritime Safety policy on protecting the dignity of the person and preventing psychological and sexual harassment.

Personal data processed in the context of the informal procedure is the data linked to the statements addressed to the confidential counsellors by the person seeking support within the informal procedure (party 1). They are contained in the opening and closing forms and in an anonymous statistical form and the files or documents collected to properly administer the case.

Data may also concern the person cited as responsible (party 2). If party 1 has asked for conciliation/mediation with party 2, party 2 is informed of the existence of an informal procedure concerning him/her.

The following two categories of data can be distinguished:

- hard data: the administrative and identification data, usually collected directly from the data subjects through the files or documents collected to properly administer the case.
- soft data: the allegations and declaration based upon the subjective perceptions of data subjects, processed orally during the meetings with the confidential counsellors.

This processing does not cover the selection of Confidential Counsellors nor the formal procedure per se, which are covered by other records.

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) ☒
Article 1d, Article 12, Article 12a of the Staff Regulations and Articles 11 of the Conditions of Employment of Other Agents.
The Staff Regulations of Officials (SR) and the Conditions of Employment of Other Servants of the European Communities (CEOS), in particular Article 12(a) (SR) and Article 11 (CEOS) [Administrative Board of 20th November of 2009 on protecting the dignity of the person and preventing psychosocial harassment and sexual harassment](#)
[Manual of Procedures Prevention of Harassment updated 07 10 2020 inc. annexes](#)
- (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) ☐

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

Whose personal data are being processed?

- EMSA staff ☒
Officials, Temporary Agents, Contract Staff
- Non-EMSA staff (contractors staff, external experts, trainees) ☒
SNEs, NEPTs, Trainees and Interims
Every person working at EMSA including external contractors, security staff, cleaning staff, etc.
- Visitors to EMSA building ☐

Relatives of the data subject	<input type="checkbox"/>
Other (please specify):	
6) Categories of personal data processed (Article 31.1(c)) <i>Please tick all that apply and give details where appropriate</i>	
(a) General personal data: The personal data contains:	
Personal details	<input checked="" type="checkbox"/>
Name and Surname and signature	
Education & Training details	<input type="checkbox"/>
Employment details	<input checked="" type="checkbox"/>
Unit, job title, etc	
Financial details	<input type="checkbox"/>
Family, lifestyle and social circumstances	<input type="checkbox"/>
Goods or services provided	<input type="checkbox"/>
Other (please give details):	<input checked="" type="checkbox"/>
Type of complaint, start date of informal procedure and end date of the informal procedure, channel used for first contact, steps taken during the case, result, solution, move to formal procedure (if applicable), contact with other parties (if applicable), name of party 2 (if applicable). The allegations and declaration based upon the subjective perceptions of data subjects, processed orally during the meetings with the confidential counsellors.	
(b) Sensitive personal data (Article 10)	
Racial or ethnic origin	<input type="checkbox"/>
Political opinions	<input type="checkbox"/>
Religious or philosophical beliefs	<input type="checkbox"/>

Trade union membership

☐

Genetic, biometric or data concerning health

☐

Information regarding an individual's sex life or sexual orientation

☐

To manage the informal procedure, EMSA may process special categories of personal data.

This personal information may be disclosed voluntarily by the data subjects during the confidential counsellors' meetings. The collection (orally only) of this type of data does not follow systematic rules as to the type of data processed as it is not possible to determine a priori the type of data collected.

This does not mean that the collection may be random. The data collected by the counsellors must be adequate, relevant, and not excessive in relation to the fight against harassment. This analysis must be conducted on a case-by-case basis by the counsellors.

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

Recipients are all parties who have access to the personal data

Data subjects themselves

☒

- Every person working at EMSA, regardless of grade or contract of employment and seeking assistance in the context of the Policy at hand (hereinafter known as party 1);
- The person who party 1 identifies as being the source of their difficulties at work (hereinafter known as party 2) is also considered as a data subject in so far as he/she is involved in the informal procedure.

Managers of data subjects

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The Coordinator/Confidential Counsellor may also, at the request of party 1 or a Confidential Counsellor, arrange meetings with party 2 or hierarchical managers. If such a meeting is arranged, party 2 should always be informed should his/her name be mentioned during that meeting.

Designated EMSA staff members

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- The Coordinator of the Network of Confidential Counsellors, solely with regard to the opening and closing forms;
- Confidential Counsellors, in charge of the core activity in the informal procedure and therefore keeping any information provided by Party 1 in strict confidentiality.

Ad hoc (case-by-case):

Ad hoc data transfers to recipients listed below may happen on a 'need to know' basis and should meet the cumulative conditions laid down in Article 9 of Regulation (EU) 2018/1725, i.e. the transfer should be necessary for the legitimate performance of tasks covered by the competence of the recipient and the recipients should process the data received only for the purposes for which they were transferred. Article 9 prescribes further conditions to be observed in any ad hoc transfer.

Subject to the above and after the informal procedure has been completed case-by-case transfers of opening and closing forms are possible to:

- The Appointing Authority (Executive Director) and/or the Head of Department 4 and/or the Head of Human Resources, for the sole purpose of identifying multiple or recurrent harassment cases;

Designated Contractors' staff members

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Other (please specify):

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Ad hoc data transfers to recipients listed below may happen on a 'need to know' basis and should meet the cumulative conditions laid down in Article 9 of Regulation (EU) 2018/1725, i.e. the transfer should be necessary for the legitimate performance of tasks covered by the competence of the recipient and the recipients should process the data received only for the purposes for which they were transferred. Article 9 prescribes further conditions to be observed in any ad hoc transfer.

- The Inquiry Team in the context of formal follow-up on the case by means of an administrative inquiry or disciplinary procedure,
- In the context of an admin inquiry, there is a need to contact OLAF to determine whether they have opened a case on the same matter, regardless of the subject.
- the European Data Protection Supervisor, the European Ombudsman, as well as the Court of the European Union or competent national judicial authorities in the context of legal action, which possibly justifies a transfer also to EMSA's Legal and Financial Affairs Unit in charge of follow-up on legal action involving EMSA.

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	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>
If yes, specify to which country:	
If yes, specify under which safeguards:	
Adequacy Decision of the European Commission	<input type="checkbox"/>
Standard Contractual Clauses	<input type="checkbox"/>
Binding Corporate Rules	<input type="checkbox"/>
Memorandum of Understanding between public authorities	<input type="checkbox"/>
9) Technical and organisational security measures (Article 31.1(g)) <i>Please specify where the data are stored during and after the processing</i>	
How is the data stored?	
EMSA network shared drive	<input type="checkbox"/>
Outlook Folder(s)	<input checked="" type="checkbox"/>
if party 1 sends e-mails to confidential counsellors	
Hardcopy file kept in a locked safe to which only the Coordinator has access	<input checked="" type="checkbox"/>
Cloud (give details, e.g. public cloud)	<input type="checkbox"/>
Servers of external provider	<input type="checkbox"/>
Other (please specify):	<input type="checkbox"/>

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 [here](#).

The tendency is to close the informal procedure approximately two months after its opening, unless there are substantive reasons for an extension, e.g. a period of absence of a key party involved. At the closure of the informal procedure:

- Confidential Counsellors shall pass the completed opening form, closing form and anonymous statistical form to the Coordinator;
- Confidential Counsellors shall under no circumstances retain personal data on a case for a period longer than three months following its closure. Personal data should be either destroyed or returned to the data subject who provided them (party 1) The Coordinator holds the historical memory of informal procedures:
- A central file is kept with opening and closing forms on each case for a maximum of five years from the opening of the informal procedure with the Coordinator of the Network of Confidential Counsellors in the Unit 4.1. Five years is the period considered necessary for Human Resources to evaluate the harassment prevention policy, to reply to any legal questions and to identify multiple or recurrent cases. Files may be retained for a further five years period in case an administrative or legal action is pending (e.g. with the European Ombudsman or the Court of the European Union);
- If the central file does not contain the name of the part 2, the retention is 3 months.
- An anonymous statistical record on informal proceedings is kept by the Coordinator without time limit.