

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

NAME OF PROCESSING ACTIVITY¹:

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 - [Ares\(2022\)4344341](#))

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| 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 4.0</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: Unit 4.1</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 checked="" type="checkbox"/></p> <p>SAGIES – Segurança, Higiene e Saúde no Trabalho SA</p> |
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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. 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 to avail from continuous teleworking outside the remit of EMSA's 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.

These two cases are described in the sessions 7.1 and 8.1 of Safety Measures under COVID-19 circumstances. This notification to the Data Protection Officer covers the procedures described as from the version 1.13 onwards ([Ares\(2022\)4344341](#) of 13/06/2022) and includes a Data Protection Impact Assessment.

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\(2022\)1535230](#))
- (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
- Non-EMSA staff (contractors staff, external experts, trainees) ☒
- The concerned SNE, Trainee, NEPT
- Visitors to EMSA building ☐

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| <p>Relatives of the data subject</p> <ul style="list-style-type: none"> - If there are vulnerable dependents for continued teleworking - If there are children who are COVID-19 positive or if the school/grade/class closes <p>Other (please specify):</p> <p>Data Subjects are informed about their rights via a Privacy Statement available in the intranet.</p> | <input checked="" type="checkbox"/> |
| <p>6) Categories of personal data processed (Article 31.1(c))</p> <p><i>Please tick all that apply and give details where appropriate</i></p> | |
| <p>(a) General personal data:</p> <p>The personal data contains:</p> <p>Name and Surname</p> <p>Personal details (name, address etc) <input checked="" type="checkbox"/></p> <p>PT SNS Number, full name, passport or national ID or diplomatic ID Number.</p> <p>Education & Training details <input type="checkbox"/></p> <p>Employment details <input type="checkbox"/></p> <p>Financial details <input type="checkbox"/></p> <p>Family, lifestyle and social circumstances <input checked="" type="checkbox"/></p> <p>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, Declaração para efeitos de isolamento profilático.</p> <p>Goods or services provided <input type="checkbox"/></p> <p>Other (please give details):</p> <p>(b) Sensitive personal data (Article 10)</p> <p>The personal data reveals:</p> <p>Racial or ethnic origin <input type="checkbox"/></p> <p>Political opinions <input type="checkbox"/></p> | |

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| Religious or philosophical beliefs | <input type="checkbox"/> |
| Trade union membership | <input type="checkbox"/> |
| Genetic, biometric or data concerning health | <input checked="" type="checkbox"/> |
| <ul style="list-style-type: none"> - For continued telework for vulnerable staff and dependents (if applicable): a detailed medical certificate - Dependent Child(den): Declaração para efeitos de isolamento profilático. | |
| <p>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;</p> <p>In order to safeguards for the fundamental rights and the interests of the data subjects, a data protection impact assessment (DPIA) is carried out.</p> | |
| Information regarding an individual's sex life or sexual orientation | <input type="checkbox"/> |
| 7) Recipient(s) of the data (Article 31.1 (d)) <i>Recipients are all parties who have access to the personal data</i> | |
| Data subjects themselves | <input checked="" type="checkbox"/> |
| The concerned staff member | |
| Managers of data subjects | <input checked="" type="checkbox"/> |
| <ul style="list-style-type: none"> - to approve (or not) telework requests | |
| 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 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.

The designated staff members signed a Declaration of Confidentiality.

Designated Contractors' staff members



EMSA External Medical Adviser and his Assistant

Other (please specify):

- Also, 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.

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

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If yes, specify to which country:

If yes, specify under which safeguards:

Adequacy Decision of the European Commission

☐

Standard Contractual Clauses

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Binding Corporate Rules

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Memorandum of Understanding between public authorities

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| <p>9) Technical and organisational security measures (Article 31.1(g))</p> <p><i>Please specify where the data are stored during and after the processing</i></p> | |
| <p>How is the data stored?</p> <p>EMSA network shared drive <input checked="" type="checkbox"/></p> <p>For statistics purpose, the figures are kept in a table saved in the H Drive.</p> <p>Outlook Folder(s) <input checked="" type="checkbox"/></p> <p>E-mails from the staff members</p> <p>Hardcopy file <input type="checkbox"/></p> <p>Cloud (give details, e.g. public cloud) <input type="checkbox"/></p> <p>Servers of external provider <input checked="" type="checkbox"/></p> <p>Other (please specify): LeaMa</p> | |
| <p>10) Retention time (Article 4(e))</p> <p><i>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.</i></p> | |
| <p>EMSA does not keep personal data longer than necessary for the purpose(s) for which that personal data is collected.</p> <p>Dependent Children's proof of COVID-19 positive cases is to be stored only for 21 days and then deleted in due time.</p> <p>Staff Members' Medical Certificates are kept for 30 years after the end of contract with EMSA.</p> | |

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