

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

NAME OF PROCESSING ACTIVITY<sup>1</sup>: STAFF UNDER THE EU AND PT PROTOCOL – TRANSFER OF PERSONAL DATA TO THE DIRECTORATE OF INTERNATIONAL RELATIONS OF THE PORTUGUESE TAX AUTHORITIES (AT- DSRI)

1) Controller(s) <sup>2</sup> of data processing operation (Article 31.1(a))
<p>Controller: European Maritime Safety Agency (EMSA)</p> <p>Organisational unit <b>responsible</b><sup>3</sup> for the processing activity: Department 4. Corporate Services</p> <p>Contact person: Rui Fernandes / José Baptista, <a href="mailto:protocol@emsa.europa.eu">protocol@emsa.europa.eu</a></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 itself <span style="float: right;"><input checked="" type="checkbox"/></span></p> <p>The organisational unit conducting the processing activity is: Unit 4.1. Human Resources and Internal Support</p>
<p>The data is processed by a third party or the processing operation is conducted together with an external third party – Directorate of International Relations of the Portuguese Tax authorities (<i>Direcção de Serviços de Relações Internacionais da Autoridade Tributária</i>) (AT-DSRI) <span style="float: right;"><input checked="" type="checkbox"/></span></p> <p>Contact point at external third party (e.g. Privacy/Data Protection Officer): <a href="mailto:epd@at.gov.pt">epd@at.gov.pt</a></p> <p>Privacy statement published here: <a href="#">Política de privacidade - Portal e-financas</a></p>

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

*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 purpose of the processing activity is to ensure a proper and efficient implementation of the Protocol on the Privileges and Immunities of the European Union (EU Protocol) and the Seat Agreement between EMSA and Portugal (PT Protocol) to EMSA staff, i.e.: officials, other servants and (PT Protocol only) seconded national experts.

Furthermore, the processing activity aims at ensuring that AT- DSRI may follow EMSA staff cases and are informed about the identity, functions' start and end period, and domicile in the latter country before being recruited to EMSA.

This will allow them to ensure that EMSA staff are properly covered by the EU and PT Protocols and have the necessary information to ensure swift coordination on questions related to administrative and tax issues that may occur in relation to the country of origin, the country of residence, and the country of employment.

This procedure consists in transferring to AT-DSRI at least once a year, via email, the following limited personal data:

- Name and Surname;
- PT Tax Number (Número de Identificação Fiscal - NIF);
- Country of Recruitment;
- Date of Starting Functions;
- Date of Ending Functions (in the case of those no longer in functions).

For the first transmission, staff who ended functions at EMSA from 2016 onwards, will be included.

The transmission of personal data of EMSA staff, in a spirit of sincere cooperation on the basis of Article 15 of the EU Protocol and Article 4(3) of the Treaty on European Union (TEU), shall be legitimate if made for the above-mentioned purposes. Additionally, EMSA as an EU employer within the scope of the Duty of Care towards its staff, should provide support concerning administrative issues in the country in which EMSA is based (Portugal).

The transmission of data to AT- DSRI is accompanied by a legal clause excluding its use for other than the predefined purposes and prohibiting the further transfer of data. Specifically, the

recipient may not transfer data received from EMSA to any third party, i.e. entities outside the AT, unless there is an overriding public interest in an emergency situation:

*“The data on EMSA staff is to be used by AT-DSRI solely and exclusively for the purpose of implementing the Protocol on the Privileges and Immunities of the European Union and the Protocol between Portugal and EMSA. The data must not be used totally or partially, directly or indirectly, for any other purpose.*

*AT-DSRI shall keep the data secure by effective and reasonable means in such a way as to prevent unauthorised access. AT-DSRI shall not make the data available, either in whole or in part, to any third parties, i.e. entities outside the AT unless there is an overriding public interest in an emergency situation.*

*In the event that AT-DSRI becomes aware of any unauthorised use of the data in the public domain or by third parties, it shall, in addition to its internal procedures in case of data breach, also immediately inform EMSA thereof.”*

In Portuguese:

*“Os dados relativos ao pessoal da EMSA serão utilizados pela AT-DSRI única e exclusivamente para efeitos da implementação do Protocolo sobre os Privilégios e Imunidades da União Europeia e do Protocolo entre Portugal e a EMSA. Os dados não devem ser utilizados total ou parcialmente, direta ou indiretamente, para qualquer outra finalidade.*

*A AT-DSRI manterá os dados seguros por meios eficazes e razoáveis, de forma a impedir o acesso não autorizado. A AT-DSRI não disponibilizará os dados, total ou parcialmente, a terceiros, ou seja, entidades externas à AT, a menos que exista um reconhecido interesse público numa situação de emergência.*

*Caso a AT-DSRI tome conhecimento de qualquer utilização não autorizada destes dados no domínio público ou por terceiros, deverá, além dos seus procedimentos internos em caso de violação de dados, informar imediatamente a EMSA desse facto.”*

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)



[Treaty on European Union](#) (TEU)

According to Article 4(3) of the TEU, pursuant to the principle of sincere cooperation, the Union and the Member States shall, in full mutual respect, assist each other in carrying out tasks which flow from the Treaties.

[Seat Agreement between EMSA and Portugal \(PT Protocol\)](#)

According to Article 6 of the PT Protocol, “staff members are exempted from national taxes on earnings, salaries and respective supplements.”

[Protocol \(Nº7\) of the Privileges and Immunities of the European Union \(EU Protocol\)](#)

According to Article 13 of the EU Protocol, “*In the application of income tax, wealth tax and death duties and in the application of conventions on the avoidance of double taxation concluded between Member States of the Union, officials and other servants of the Union who, solely by reason of the performance of their duties in the service of the Union, establish their residence in the territory of a Member State other than their country of domicile for tax purposes at the time of entering the service of the Union, shall be considered, both in the country of their actual residence and in the country of domicile for tax purposes, as having maintained their domicile in the latter country provided that it is a member of the Union. This provision shall also apply to a spouse, to the extent that the latter is not separately engaged in a gainful occupation, and to children dependent on and in the care of the persons referred to in this Article.*”

According to Article 15 (ex Article 16) of the EU Protocol, “*The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, and after consulting the other institutions concerned, shall determine the categories of officials and other servants of the Union to whom the provisions of Article 11, the second paragraph of Article 12, and Article 13 shall apply, in whole or in part. The names, grades and addresses of officials and other servants included in such categories shall be communicated periodically to the governments of the Member States.*”

- |     |   |                          |
|-----|---|--------------------------|
| (b) | compliance with a legal obligation to which EMSA is subject   | <input type="checkbox"/> |
| (c) | necessary for the performance of a contract with the data subject or for the preparation of such a contract | <input type="checkbox"/> |
| (d) | Data subject has given consent (ex ante, explicit, informed)  | <input type="checkbox"/> |

<b>5) Description of the categories of data subjects (Article 31.1(c))</b> <i>Whose personal data are being processed?</i>	
EMSA staff Officials, Temporary Agents, Contract Agents	<input checked="" type="checkbox"/>
Non-EMSA staff (Seconded National Experts, contractors staff, external experts, trainees) Seconded National Experts	<input checked="" type="checkbox"/>
Visitors to EMSA building	<input type="checkbox"/>
Relatives of the data subject	<input type="checkbox"/>
Other (please specify):	
<b>6) Categories of personal data processed (Article 31.1(c))</b> <i>Please tick all that apply and give details where appropriate</i>	
<b>(a) General personal data:</b> The personal data contains:	
Personal details: Name and Surname	<input checked="" type="checkbox"/>
Employment details: Country of Recruitment, Country of Recruitment; Date of Starting Functions, Date of Ending Functions (In the case of those no longer in functions)	<input checked="" type="checkbox"/>
Financial details PT Tax Number (Número de Identificação Fiscal - NIF)	<input checked="" type="checkbox"/>
Family, lifestyle and social circumstances	<input type="checkbox"/>
Goods or services provided	<input type="checkbox"/>

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 ☐

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 ☐

Designated EMSA staff members ☒

EMSA Protocol team

Head of Unit 4.1

Head of Department 4

Designated Contractors' staff members ☐

Other (please specify):

Designated Staff in AT-DSRI on a 'need to know basis'

Also, if appropriate, access will be given to EU staff with the statutory right to access the data required by their function in particular to bodies charged with monitoring the application of Union law., i.e. the European Ombudsman, the Court of Justice of the EU (CJEU), the European Public Prosecutor's Office (EPPO), the European Commission's Internal Audit Service (IAS), the European Court of Auditors, European Anti-Fraud Officer (OLAF) and the European Data Protection Supervisor (EDPS).

**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 ☒

**If yes, specify to which country:**

**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 network shared drive	<input checked="" type="checkbox"/>
P drive folder with restricted access to designated members of Unit 4.1 dealing with protocol issues.	
Outlook Folder(s)	<input checked="" type="checkbox"/>
Exchanges with staff members and the protocol team on a working basis.	
Hardcopy file	<input checked="" type="checkbox"/>
In a locked cupboard with access only to the protocol team.	
Cloud (give details, e.g. public cloud)	<input type="checkbox"/>
Servers of external provider	<input checked="" type="checkbox"/>
AT-DSRI	
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 [here](#).*

In line with the PT Protocol, EMSA keeps the data for 20 years.

After that period, and according to the EMSA specific retention list, the data is submitted to sample or selection and to a second review (Category EMSA 1.6 of the specific retention list). For the AT – DSRI retention period please contact the external third-party Privacy/Data Protection Officer: [epd@at.gov.pt](mailto:epd@at.gov.pt)