

**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 1.13 version - [Ares\(2022\)4344341](#))

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> <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>General Health Directorate of the Ministry of Health (<i>Direção-Geral da Saúde (DGS-SNS)</i>)</p> <p>Ministry of Health/ DGS : geral@dgs.min-saude.pt</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 1.13 onwards ([Ares\(2022\)4344341](#) of 13/06/2022) and includes a Data Protection Impact Assessment covering versions 1.12 and 1.13.

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 the following receipts in the following cases:

- If the staff member is in the office or at home and tests COVID-19 positive, the Line Manager and the HR Leave Manager are to be informed by e-mail;
- If the staff member is prescribed prophylactic isolation or isolation, the Line Manager and the HR Leave Manager are to be informed by e-mail;
- If the staff member is not in isolation, but waiting for the results of a PCR test prescribed by the SNS, the Line Manager and the HR Leave Manager are to be informed by e-mail;
- If the staff member does a test prescribed by the SNS and tests COVID 19 positive, the HR Leave Manager is to be informed by submitting a Confinement Certificate' (*Declaração para Efeitos de Isolamento Profilático*) by e-mail;

Staff in the above situations are allowed to telework if they are not on sick leave.

Other follow up tasks related to the Medical Protocol:

Procedure for the Confinement Certificate (*Declaração para Efeitos de Isolamento Profilático*)

For staff and family members without a PT Social Security number, an excel table is sent to the staff member to be completed with the following data: PT SNS Number, full name, passport or national ID number or diplomatic ID Number, date of the beginning of confinement.

This table is submitted to the PT Health Authorities by EMSA's Protocol. A **confinement certificate** is then issued and forwarded by EMSA's Protocol to the staff member (*Declaração para Efeitos de Isolamento Profilático*).

This procedure has been established because the SNS24 is also requesting the Portuguese Social Security Number to issue the certificate. Non-Portuguese staff do not possess the Portuguese Social Security Number, unless they have worked in Portugal before joining EMSA.

Excel table of COVID cases for statistical purposes

Once the HR Leave Manager is informed, he/she collects the following data for statistical 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 para Efeitos de Isolamento Profilático*)

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

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

- Number of persons having tested positive and in isolation – at a certain moment and over a certain period
- Number of persons fully recovered – at 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 if they are tested COVID-19 positive, 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 its 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 the preferred mitigation measure in case of COVID-19 on their premises. 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 tests COVID-19 positive, they are asked to inform the colleagues with whom they were in contact with on a voluntary basis. The HR Leave Manager may assist the colleague concerned upon their request if they prefer to remain anonymous.

Cleaning the EMSA premises:

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

- Which office was 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 1.13 version ([Ares\(2022\)4344341](#))
- (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) ☒
- Trainees
 - SNEs
 - NEPTs

Visitors to EMSA building	<input type="checkbox"/>
Relatives of the data subject	<input type="checkbox"/>
Other (please specify): - Family members if they need a <i>Declaração para Efeitos de Isolamento Profilático</i> .	
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)) <i>Please tick all that apply and give details where appropriate</i>	
(a) General personal data: The personal data contains: Name and Surname Personal details (name, address etc) <input checked="" type="checkbox"/> On the <i>Declaração para Efeitos de Isolamento Profilático</i> : Full name, passport or national ID or diplomatic ID Number, including validity date, PT social security number or PT SNS Number. Education & Training details <input type="checkbox"/> Employment details <input checked="" type="checkbox"/> Financial details <input type="checkbox"/> Family, lifestyle and social circumstances <input checked="" type="checkbox"/> - If family members need a <i>Declaração para Efeitos de Isolamento Profilático</i> . 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 <input type="checkbox"/>	

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 checked="" type="checkbox"/>
<ul style="list-style-type: none"> - Staff Member: Informs the HR leave Manager and Line Manager that they have tested positive for COVID 19. Dates of isolation are stated on the <i>Declaração para Efeitos de Isolamento Profilático</i>. - If family members need a <i>Declaração para Efeitos de Isolamento Profilático</i>. 	
<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 safeguard 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"/>
Managers of data subjects	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> - 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 and back up (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
- Protocol Team (4.1) – for the *Declaração para Efeitos de Isolamento Profilático*

The designated staff members sign a Declaration of Confidentiality.

Designated Contractors' staff members

☐

Other (please specify):

- Designated staff from the General Health Directorate of the Ministry of Health (Direção-Geral da Saúde (DGS-SNS) responsible to issue the *Declaração para Efeitos de Isolamento Profilático*.
- 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

☒

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



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 the handling of staff exposure to Covid-19 is to be stored only for **21 days** and then deleted in due time.

Personal data processed in the document called “*Declaração para Efeitos de Isolamento Profilático*” is to be stored only for **21 days** and then deleted in due time.