

Data Protection Statement/Privacy Statement on the processing of personal data in the procedure/context of Medical Protocol for handling of staff exposure to Covid-19 (Safety Measures in EMSA under COVID-19 circumstances 1.13 version)

The protection of privacy is of high importance to the European Maritime Safety Agency ('EMSA'). EMSA is responsible for the personal data it processes. Therefore, we are committed to respecting and protecting the personal data of every individual and to ensuring efficient exercising of data subject's rights. All the data of personal nature, namely data that can identify an individual directly or indirectly, will be handled fairly and lawfully with the necessary due care.

This processing operation is subject to Regulation 2018/1725 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data. The information in this Privacy Statement is given pursuant to Articles 15 and 16 of the Regulation 2018/1725.

1. Nature and the purpose(s) of the processing operation

EMSA, like all governments, public and private organisations throughout Europe is taking measures to contain and mitigate the 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 the handling of staff exposure to COVID-19 is described in the point 9.

Procedure for the Medical Protocol:

In summary, staff members are asked to inform the following recipients 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 in 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.

The purpose(s) of the processing of personal data 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.

EMSA will not reuse the personal data for another purpose that is different to the one stated above.

The processing is not intended to be used for any automated decision making, including profiling.

2. Categories/types of personal data processed

The categories/types of personal data processed are the following:

- Personal details: On the Declaração para Efeitos de Isolamento Profilático: Full name, passport or national ID or diplomatic ID Number, including validity date, PT social security number or PT SNS Number.
- Name of the employer (EMSA) is informed to SNS to provide the Confinement Certificate (Declaração para Efeitos de Isolamento Profilático) for the staff members.
- Genetic, biometric or data concerning health:
 - 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 Declaração para Efeitos de Isolamento Profilático.
 - Family members if they need a *Declaração para Efeitos de Isolamento Profilático*.

3. Processing the personal data

The processing of the personal data is carried out under the responsibility of the Head of Corporate Services (Department 4), acting as the delegated EMSA data controller.

Personal data are processed by

- The Corporate Services Department (Dept. 4) including Human Resources and Internal Support Unit (Unit 4.1) and Legal, Finance and Facilities Unit (Unit 4.2)
- The General Health Directorate of the Ministry of Health (Direção-Geral da Saúde (DGS-SNS))

4. Access to and disclosure of personal data

The personal data is disclosed to the following recipients:

- 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:
 - Head of Department 4 - as delegated controller
 - Head of Unit 4.1 - as direct manager of the HR Leave Managers and Protocol Tea,

- HR Leave Managers and back up (Unit 4.1) – as responsible for the implementation of the medical protocol
- Protocol Team (4.1) – for the Declaração para Efeitos de Isolamento Profilático
- 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
- 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

The information concerning the procedure Medical Protocol for handling of staff exposure to Covid-19 (Safety Measures in EMSA under COVID-19 circumstances 1.12 version) will only be shared with people necessary for the implementation of such measures *on a need to know* basis. The data are not used for any other purposes nor disclosed to any other recipient.

The information in question will not be communicated to third parties, except where necessary for the purpose(s) outlined above.

Personal data are not intended to be transferred to third countries.

5. Protecting and safeguarding personal information

EMSA implements appropriate technical and organisational measures in order to safeguard and protect data subjects' personal data from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to them.

All personal data related to the procedure Medical Protocol for handling of staff exposure to Covid-19 (Safety Measures in EMSA under COVID-19 circumstances 1.13 version) are stored in secure IT applications according to the security standards of the Agency as well as in specific electronic folders accessible only to the authorised recipients. Appropriate levels of *access are granted* individually only to the above recipients.

All persons dealing with personal data in the context of the Medical Protocol for handling of staff exposure to Covid-19 (Safety Measures in EMSA under COVID-19 circumstances 1.13 version) procedures, at any stage, sign a confidentiality declaration that is kept in ARES.

6. Access, rectification, erasure or restriction of processing of personal data

Data subjects have the right to access, rectify, erase, and receive their personal data, as well as to restrict and object to the processing of the data, in the cases foreseen by Articles 17 to 24 of the Regulation 2018/1725.

If data subjects would like to exercise any of these rights, they should send a written request explicitly specifying their query to the delegated data controller, the Head of the Corporate Services Department.

The right of rectification can only apply to inaccurate or incomplete factual data processed within the Medical Protocol for handling of staff exposure to Covid-19 (Safety Measures in EMSA under COVID-19 circumstances 1.13 version) procedure.

The above requests will be answered without undue delay, and in any event within one month of receipt of the request. However, according to article 14 (3) of the Regulation 2018/1725, that period may be extended by two further months where necessary, taking into account the complexity and number of the requests. EMSA shall inform the data subject of any such extension within one month of receipt of the request, together with the reasons for the delay.

7. Legal basis for Data processing

Processing is based on Articles 5 (a) and 10 (b) of the Regulation 2018/1725.

The personal data are collected and processed in accordance with:

- 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](#))

8. Storing Personal data

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

The data will be only retained for a maximum period of 21 days and then deleted in due time.

In the event of a formal appeal, all data held at the time of the formal appeal should be retained until the completion of the appeal procedures.

9. Data protection points of contact

Should data subjects have any queries/questions concerning the processing of your personal data, they should address them to the data controller, Head of Corporate Services (Dept 4) under the following mailbox: dominika.lempicka-fichter@emsa.europa.eu.

Any data subject may also consult EMSA Data Protection Officer at: DPO@emsa.europa.eu.

Recourse:

Complaints, in cases where the conflict is not resolved by the Data Controller and/or the Data Protection Officer, can be addressed at any time to the European Data Protection Supervisor: edps@edps.europa.eu.