

**Data Protection Statement/Privacy Statement on the processing of personal data in the
procedure/context of Transfer of Personal Data to The Directorate of International Relations of the
Portuguese Tax Authorities (AT- DSRI)**

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

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, period of start and end functions, 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:

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: Name and Surname
- 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)
- Financial details: PT Tax Number (Número de Identificação Fiscal - NIF)

3. Processing the personal data

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

Personal data are processed by:

- Unit 4.1. Human Resources and Internal Support.
- AT-DSRI

4. Access to and disclosure of personal data

The personal data is disclosed to the following recipients:

- Designated EMSA staff members: EMSA Protocol team, Head of Unit 4.1 and Head of Department 4;
- Other: 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).

The information concerning the transfer of Personal Data to AT- DSRI 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 transfer of Personal Data to AT- DSRI 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.

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 Department 4 – Corporate Services.

The right of rectification can only apply to inaccurate or incomplete factual data processed within the transfer of Personal Data to AT- DSRI 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 Article 5a of the Regulation 2018/1725.

The personal data are collected and processed in accordance with:

[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.

8. Storing Personal data

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

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

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, the Head of Department 4 – Corporate Services under the following mailbox: protocol@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.