

## NOTIFICATION FOR PRIOR CHECKING

**Date of submission: 17/09/2007**

**Case number: 2007-570**

**Notification of: EMSA**

**Legal basis: Article 27-5 of the regulation CE n° 45/2001<sup>(1)</sup>**

## INFORMATION TO BE GIVEN<sup>2</sup>

### Name and address of the controller

Controller: TOM VAN HEES

Delegated controller: CRISTINA ROMAY LOPEZ

### Organisational parts of the institution or body entrusted with the processing of personal data

Section Human Resources/ Unit A/ European Maritime Safety Agency (EMSA)

### Name of the processing

#### Renewal of Contracts for Temporary Agents and Contract Agents/ Extension of Secondments of Seconded National Experts

- a) Renewal of Contracts for Temporary Agents and Contract Agents: The procedure starts with an exchange of letters between HR and the relevant hierarchical superior of the staff member concerned (TA or CA), at least six months before the end of the agents' contract. If the superior wishes to renew the contract, the Appointing Authority (via HR) sends to the staff member concerned a contract amendment for his/her signature. If the superior does not wish to renew the contract, the Appointing Authority (via HR) sends to the staff member concerned a letter informing him/her that the contract will not be renewed.
- b) Extension of Secondments of Seconded National Experts: The procedure starts with an exchange of letters/e-mails between HR and the relevant hierarchical superior of the national expert concerned, at least four months before the end of the secondment. The next step is an exchange of letters between the Executive Director of the Agency and the Permanent Representation of the relevant EU Member States (or EEA) in Brussels asking for the extension of the secondment or informing about the intention not to extend the period of secondment.

<sup>1</sup> OJ L 8, 12.01.2001.

<sup>2</sup> Please attach all necessary backup documents

### **Purpose or purposes of the processing**

In order so the Agency could keep the Temporary Agent, Contract Agent or Seconded National Expert who performs well in employment, his/her contract or secondment is prolonged. On the contrary, if the hierarchical superiors of the Job Holder or SNE are not satisfied with his/her performance, the contract/ secondment runs to its end and is not prolonged.

### **Description of the category or categories of data subjects**

- a) TAs and CAs
- b) Seconded National Experts

### **Description of the data or categories of data (including, if applicable, special categories of data (Article 10) and/or origin of data).**

Professional data, no special categories of data.

#### a) For TAs and CAs

1) Letter from the Head of Unit/relevant hierarchical superior indicating his/her wish to renew/not to renew the contract and in most cases a motivation for it relating to the Job Holder's performance.

#### 2) In the contract amendment

- name of the Job Holder
- personnel number
- period of extension
- signature of the Job Holder and of the AIPN

#### b) For SNEs

1) Letter/e-mail from the Head of Unit/relevant hierarchical superior indicating his/her wish to renew/not to extend the secondment and in most cases a motivation for it relating to the SNE's performance.

#### 2) Letter from the Permanent Representation of the relevant Member State to the EU containing:

- name of the SNE
- title
- period of extension
- Administration of origin

### **Information to be given to data subjects**

There is no direct communication between the HR and the staff member concerned until the last moment (eventual contract renewal or secondment prolongation) but the staff member knows his rights from the Intranet page on the Personal Data Protection and from the following general clause on personal data protection at the Human Resources Intranet webpage:

*Any personal data provided by EMSA staff members in relation to the operations performed by the Human Resources is processed pursuant to Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movements of such data.*

*The staff members can have access to their data and can exercise their rights in relation to this data as provided in the Art. 13-20 of Regulation (EC) No 45/2001. For this reason they can address themselves to the Delegated Controller of the data, Head of Human Resources section.*

*The staff members can also access the notifications on the processing of personal data submitted by the Delegated Controller to the Data Protection Officer. The notifications are kept in a file in the DPO's office.*

### **Procedures to grant rights of data subjects**

In this procedure the only real document containing personal data seems to be the amendment to the contract relating to its prolongation. At any time the data subject can access for consultation his/her personal files (according to art. 26 of the Staff Regulations).

Moreover, the TA or CA is informed about the extension/non-extension of his/her contract, approximately six months before the date of the end of the contract and the SNE about the extension/non-extension of his/her secondment approximately four months before the date of its termination.

In case of extension, the TA or the CA receives an original of the contract amendment (as it is done in duplicate) as soon as it is signed and the SNE receives a copy of the exchange of letters with the Permanent Representation. If the contract/secondment is not extended they receive an information letter from the HR.

### **Automated / manual processing operation**

Manual

### **Legal basis of the processing operation**

- a) In relation to TAs and CAs: Conditions of Employment of Other Servants of the European Communities (CEOS), laid down by Council Regulation (EEC, EURATOM, ECSC) No 259/68 last amended by Council Regulation (EC, EURATOM) No 31/2005 of 20 December 2004, and in particular, Art. 2a and Art. 3a.
- b) In relation to SNEs: Decision of the Administrative Board of the Agency of 20 March 2007 on Rules Applicable to Detached National Experts on Secondment to EMSA – Annex I.

c) In relation to both: Regulation (CE) n° 1406/2002 of the European Parliament and of the Council establishing a European Maritime Safety Agency, amended by Regulations (CE) N° 1644/2003 and 724/2004, and in particular Art. 6.

Moreover, it is to be reminded that in order to fulfil its mandate EMSA needs to employ and **retain** those staff members and national experts who are performing well and who are capable to support the Agency in fulfilling its mandate (public interest, in accordance with art. 5 (a), Reg. 45/2001).

**The recipients or categories of recipient to whom the data might be disclosed**

- a) In relation to TAs and CAs: Internal (HR, relevant hierarchical superior, Appointing Authority). In addition, HR informs the Pay Master Office of the European Commission (PMO)
- b) In relation to SNEs: Internal (HR, relevant hierarchical superior, Appointing Authority), as well as the relevant Permanent Representation and Administration of Origin.

**General indication of the time limits**

**for blocking:**

**and/or**

**for erasing:**

**of the different categories of data** (*Please, specify the time limits for every category, if applicable*)

The letters exchanged prior to the signature/non-signature of the renewal/extension are kept altogether in a separate file in the HR storage room. A period of storage has not been determined yet, as EMSA is a young Agency and only a few renewals/extensions took place. However such retention period will be determined later and it might be shorter than the period of storage of personal files.

The amendments to the contracts/ extensions of secondments are kept in the personal file of the TA or CA/National Expert.

So far, there is no time limit as to how long they should be kept (obviously a certain period after the Job Holder/ SNE finished his/her employment with the Agency). However before taking any decision on this matter, the Agency would like to see the results of the Working Party on Time Limits and Blocking.

**Historical, statistical or scientific purposes**

*If you store data for longer periods than mentioned above, please specify, if applicable, why the data must be kept under a form which permits identification.*

N/A

**Proposed transfers of data to third countries or international organisations**

None

**The processing operation presents specific risk which justifies prior checking (*Please describe*):**

**as foreseen in:**

↑ Article 27.2.(b)

*Processing operations intended to evaluate personal aspects relating to the data subject,*

The purpose of this processing is to determine whether to renew or not the contract of a TAs or a CAs and whether to extend or not the secondment of an SNE.

**Comments**

---

**Place and date:** Lisbon, 2007 .....

**Data Protection Officer:** Malgorzata Nesterowicz .....

**Institution or body:** European Maritime Safety Agency