

**REGISTER NUMBER: 995**

**NOTIFICATION FOR PRIOR CHECKING**

Date of submission: 30/04/2013

Case number: 2013-0474

Institution: European Maritime Safety Agency

Legal basis: article 27-5 of the regulation CE 45/2001(1)

*(1) OJ L 8, 12.01.2001*

**INFORMATION TO BE GIVEN(2)**

*(2) Please attach all necessary backup documents*

**1/ Name and address of the controller**

Cristina Romay Lopez  
Head of Unit Human Resources  
European Maritime Safety Agency

**2/ Organisational parts of the institution or body entrusted with the processing of personal data**

Department A/ Unit A-1 (Human Resources)

**3/ Name of the processing**

Processing of personal data in relation to leave.

**4/ Purpose or purposes of the processing**

The processing has as its objective the management and recording of various types of leave of staff members.

Data relevant for staff members is managed by the Human Resources Leave Manager (GECO) and his/her backups. The types of leave are as follows:

Annual leave;  
Special leave as defined in the implementing rule on leave;  
Sickness related absences;  
Flexible holiday;  
Time compensation for missions;  
Parental/family leave;  
Leave on personal grounds (CCP)

Data relevant for Seconded National Experts (SNE's) and National Experts in professional training (NEPTs) is also managed by the Human Resources Leave Manager (GECO) and his/her backups. The types of leave are:

Annual leave;  
Special leave;  
Sickness related absences

Data relevant for Trainees is also managed by the Human Resources Leave Manager (GECO) and his/her backups. The types of leave are:

Annual leave;  
Sickness related absences

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

Staff members (permanent officials, temporary agents, contract agents), SNE's, Trainees and NEPTs of the Agency (including ex-staff members, ex-SNEs, ex-Trainees and ex-NEPTs: after retirement, termination of contract/secondment/traineeship, professional training, resignation, etc.).

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

**In LeaMa, the electronic management tool for the processing of leave used by EMSA (please also refer to section 9 below)**

**For all staff who introduce the data into the system (excluding MSS on shift, Trainees and NEPTs):**

**Annual Leave:** Name, type of leave – basic entitlement, dates requested (duration of leave), comments if applicable, attached documents if applicable, approval by Head of Unit.

**Special leave:** Name, type of leave – special leave and type of special leave (as mentioned in the implementing

rule on leave e.g. removal), dates requested (duration of leave), comments if applicable, attached documents if applicable, approval by Leave Manager.

**Illness with certificate/without certificate:** name, type of leave – illness with/without certificate, dates requested (duration of leave), comments if applicable, approval by Leave Manager. The staff member presents a medical certificate which should include their personnel number, their name, the dates of the absence and a signature of the doctor. With regard to medical certificates, the reason of illness is not detailed on the medical certificate.

Request and registration through a paper form

**For all staff (excluding SNEs, Trainees and NEPTs as they are not entitled to take parental/family leave or leave on personal grounds)**

Parental leave: name of the staff member, personal number, grade/function group, telephone, status, date of expiry of contract. Period of requested parental leave, child (name and date of birth), type of leave (50% - working hours are also requested or 100%) information on previous leaves, conditions for allowance received, single parent status and declaration if applicable, address during parental leave, legal basis. Verification by HR of conditions of increased allowance, approval /workflow.

Family Leave: name of the staff member, personal number, grade/function group, telephone, status, date of expiry of contract. Period of requested family leave, person for whom family leave is taken, name, date of birth and relation to staff member. A medical certificate of the diagnosis of the illness or handicap, Type of leave (50% - working hours are also requested or 100%) information on previous leaves, conditions for allowance received, address during family leave, legal basis. Approval /workflow.

Leave on Personal Grounds (CCP): Application type, request/renewal/declaration of outside activity, personal data of applicant - name of the staff member, personal number, grade/function group, telephone, status, date of expiry of contract. Duration of the leave and term of office if applicable, Duties at EMSA, address on leave, outside activity details if applicable, Declaration and Signature of Staff member, Verification by HR of period of CCP, approval/workflow.

Request through a paper form and registration in an Excel table

**For MSS staff on shift, Trainees and NEPTS**

**Annual leave:** Name, Personnel number, type of Leave requested, reasons for special leave if applicable, dates, contact details during leave, comments if applicable, approval of Head of Unit, registration by HR.

**Special leave, excluding trainees:** name, personal number, any other related and supporting documents for the requests for leave (adoption papers, attendance certificates, proof or removal delivery, copy of rental contracts, copies of birth, marriage or death certificates, medical certificate stipulating that the staff member was required to stay with the relevant family member for reasons of illness, including personal number and name of the absent staff member, the dates of the absence and a signature of the doctor). Approval of Head of Unit, registration and approval by HR.

Registration in an Excel table

## **For MSS on shift, Trainees and NEPTs**

**Illness with certificate/without certificate:** The staff member presents a medical certificate which should include their personal number, their name, the dates of the absence and a signature of the doctor. With regard to medical certificates, the reason of illness is not detailed on the medical certificate.

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

A clause on data protection has been put on the HR section of the EMSA Intranet:

*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. The Data Subjects shall have right of recourse at any time to the European Data Protection Supervisor.*

*Detailed information concerning processing of personal data in specific human resources exercises can be found on the DPO page.*

The data subjects can also learn in general about their rights from the Intranet page on personal data protection.

### **8/ Procedures to grant rights of data subjects(*rights of access, to rectify, to block, to erase, to object*)**

Data subject has rights of access to the data. If the data is incorrect, he/she can request the rectification from the data controller.

### **9/ Automated / Manual processing operation**

An electronic management tool (LeaMa) for the processing of leave is used for all staff and SNE's apart from those who carry out MSS (Maritime Support Services) shift work.

Staff who use LeaMa introduce a leave request, specifying the type of leave (Basic Leave, Special Leave or Sick leave, flexible holiday and the duration).

The Head of Unit is the responsible approver for annual leave.

The GecO approves special leave upon receipt of the relevant supporting document.

The staff member presents a medicate certificate and the absence is then approved where justified.

Flexible leave ie: Working on a public holiday is also registered in LeaMa and approved by the Leave Manager

upon receipt of supporting document.

Leave for MSS staff on shift, Trainees and National Experts on Professional Training (NEPTs) is managed by recording approved requests for leave in Excel sheets for the individual staff member.

#### **10/ Storage media of data**

Electronic storage of requests and their approval for all staff excluding MSS on shifts, Trainees and NEPTs.

Paper requests for trainees and NEPTs and the Excel record for the leave are kept in individual leave files which are kept stored in secure locked filing cabinets.

All relevant supporting documentation for special leave requests are stored in individual leave files which are kept stored in secure locked filing cabinets.

Supporting documentation for illness related absences stored in secure locked filing cabinets.

#### **11/ Legal basis and lawfulness of the processing operation**

##### Legal basis:

- Staff Regulations, chapter 2 title IV on Working Conditions (Articles 57-60) applied by analogy to other servants
- SR, Annex V: Leave
- SR, art 15, 37, 40 on leave on personal grounds and unpaid leave
- Rules applicable to other servants of the EC, art. 11, 16-18, 81, 91

EMSA also refers to the:

Decision of the EMSA Administrative Board of 24 November 2006 on the adoption of Implementing Rules to the Staff Regulations applying by analogy the Commission decision on measures concerning leave on personal grounds for officials and unpaid leave for temporary and contract staff of the European Communities.

Decision of the EMSA Administrative Board of 10 November 2011 on the adoption of Implementing Rules to the Staff Regulation applying by analogy the Commission Decision on Implementing Provisions for Leave, Parental leave and Family Leave.

##### Lawfulness of processing:

(1) Public interest (art. 5 (a), Reg. 45/2001): in order to fulfil its mandate the Agency needs to employ staff. Consequently, in order to manage the career, financial rights, obligations, status and other issues related to the employment of staff members and secondment of national experts, the Agency needs to have a register of leaves, sickness related absences and other absences of each staff member and each national expert.

(2) To fulfil the conditions of contracts of employment with its staff (art. 5 (c), Reg. 45/2001): the Agency needs to perform operations related to leaves, sickness related absences and other absences of staff members and for that reason a collection of certain data is necessary.

(3) A staff member or a national expert, by signing an employment contract or/ and providing information related to leave, sickness related absence and other absence indirectly agrees that the human resources of

the Agency will manage it for the purposes related to his/ her employment/ secondment and his/ her leave/ absence (art. 5 (d), Reg. 45/2001).

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

There is an automatic absence calendar that displays which staff members are out of the office. The calendar only gives detail on whether the staff member is on mission or on leave (can be annual leave, sick leave or special leave). This absence calendar is visible to the Head of Unit/Department, the secretariat for the unit/department and of the Bureau of the Executive Director and the Human Resources Leave Manager and back-ups.

**13/ retention policy of (categories of) personal data**

Annual leave – So far, EMSA has no time limit as to how long this data should be kept as this data is required to justify untaken leave or carry over for auditing purposes.

Sick leave – 3 years unless in case of dispute or appeal related to these issues

Special leave – data on special leave may be kept until the termination of employment or even longer if the data subject still has rights related to this leave.

**13 a/ time limits for blocking and erasure of the different categories of data**

(on justified legitimate request from the data subject)

*(Please, specify the time limits for every category, if applicable)*

If justified, can be done immediately

**14/ 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,*

None

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

None

**16/ The processing operation presents specific risk which justifies prior checking (*please describe*):**

AS FORESEEN IN:

Article 27.2.(a)  
Processing of data relating to health

**17/ Comments**

PLACE AND DATE: Lisbon, 30/04/2013

DATA PROTECTION OFFICER: Malgorzata Nesterowicz

INSTITUTION OR BODY: EMSA

*To be filled out in the EDPS' office*