

ELECTRONIC ARCHIVING OF PAPER ORIGINALS

Legal Framework for Electronic Archiving

Although some countries require certain types of documents to be kept and archived in their original paper form, for most categories of documents, including HR-related records, there is no such requirement, and it is generally acceptable to use electronic versions of paper records (i.e., scanned copies of paper originals) during most government agencies' inspections and audits or in court proceedings.



The evidential or probative value of electronic versions of paper records may be more easily challenged before a court than it would

be for the originals. This is mainly because the original records could be tampered with or changed before being scanned, and, unless proper technology has been used (e.g., encryption and timestamping), it may not be easy to detect such changes from a scanned copy. In specific situations, it may be good practice for employers to retain archives of paper originals in the event such originals would be requested by a specific investigator, auditor, judge or authority.

Are electronic scanned copies of paper originals legally valid?

It is advisable to retain original documents in Finland - and not only electronic scanned copies - due to the fact that some documents may be requested by the Courts or may need to be relied upon in litigation by the employer. According to

the Code of Judicial Procedure (Ch. 17, Sec. 39), copies of documents may be presented as evidence to a court of law, unless the court requires the original document to be presented. In this case, any party involved in the judicial procedure may challenge the veracity or authenticity of a document. In practice, this is rare as courts usually trust that electronic copies are accurate copies of the original. If a document is questioned, it will be necessary to provide the original to defeat a challenge to authenticity.

Are there any legal requirements for electronic archiving systems (EAS)?

There are no legal requirements for an electronic archiving system to be considered as legally valid from a Finnish labor law perspective. That said, in case of a labor dispute, employers should be able to demonstrate that employees have received or signed (if applicable) the relevant documents.



HR Best Practices: The full electronic archiving era is approaching, but for now it is not possible to guarantee that all paper documents can

be destroyed. Indeed, the acceptance of digital copies remains subject to the discretion of the judge. Similar to the electronic signature, electronic archiving will probably also develop to a three-level structure: simple, advanced and certified archiving. Over time, this means that certified electronic archiving will make the burden of proof fall under the responsibility of the challenging party.

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