

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?

The law regulating the digital archiving of data and documents in Serbia is the Electronic Document, Electronic Identification and Electronic Business Trust Services Law (Official Gazette of the Republic of Serbia no. 94/2017) (EDA) and related bylaws. Under the Law, scanned and stored records have the same validity as the paper original if they meet the two below conditions:



- The digitization of the record is carried out under the supervision of: (a) a proprietary of the document (i.e. proxy or employer's authorized representative); (b) an individual who is authorized to verify signatures, manuscripts and transcripts in accordance with the law; or (c) individuals who are authorized by special law to verify the digitized document.
- The person (or their successor) who supervised the digitization of the paper record confirmed that the scanned document is identical to the original (the individual must sign the electronic copy with a qualified electronic signature or qualified electronic stamp).

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

Electronic archiving in Serbia should meet the following recordkeeping requirements, per the EDA:

- All essential elements of the archived content should be included and match the original;
- Content within native documents must remain usable;

- All elements of the original document which are important for authenticity are retained;
- Records should be authenticated by electronic stamps or electronic signatures with time stamps;
- Controls should be put in place to ensure the validity of converted records, including the elimination of any errors from the conversion process;
- Records of modification to the original document should be stored separately;
- Information relating to the conversion of the document to electronic archiving should be recorded and stored.



If records will be held longer than five years, data should be stored in a format appropriate for long-term storage. The Serbian Government has adopted additional requirements relating to recordkeeping and storage. These regulations obligate the company to adopt an internal Rulebook regulating both the conditions in which electronic documents can be archived and the appropriate format for extended storage. The EDA is unclear on whether the above requirements apply to all electronically archived documents, or only to publicly important documents (under relevant legislation). At this time, there have been no court cases that would clarify this ambiguity.

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