



Archives Policy of the EDPS

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1 Introduction

The EDPS shall ensure that cases and records of historical or administrative value are identified, preserved and made available to the public wherever possible, in accordance with the Archives Regulations¹ and other applicable rules and procedures.

To achieve this objective, the EDPS shall establish its historical archives and put in place measures to ensure their proper management.

The EDPS historical archives are those records and files which have been selected for long term preservation, according to the EDPS Retention Schedule, in view of their historical, legal or administrative value.

By ensuring the long term preservation and availability of its historical archives, the EDPS will contribute to creating and maintaining a corporate memory in the context of transparency and accountability of its activities in the public interest.

2 Purpose

The purpose of this policy is to provide a framework for the management of EDPS archives, so that the institution can ensure their correct appraisal and long term preservation and opening to the public, in line with applicable legislation and following established standards and good practices.

Failure to appropriately manage and archive records and files can cause losses to the EDPS corporate memory, and result in damage to operations and/or reputation. Adherence to this policy will help mitigating that risk.

3 Scope

This policy applies to the historical archives of the EDPS, regardless of format and location.

The policy should be read together with associated policies and procedures, covering the whole life-cycle of documents, records and files, and take into account applicable legislation, established standards and good practices for archives management, as well as inter-institutional work on guidelines, procedures and tools.

4 Owner of the Policy

This policy is owned by the Director.

¹ Regulation (EEC, Euratom) No 354/83, as amended by Council Regulation 1700/2003 and Council Regulation 496/2015.

5 Legal framework

[COUNCIL REGULATION \(EU\) 2015/496](#) of 17 March 2015 amending Regulation (EEC, Euratom) No 354/83 as regards the deposit of the historical archives of the institutions at the European University Institute in Florence.

[COUNCIL REGULATION \(EC, EURATOM\) No 1700/2003](#) of 22 September 2003 amending Regulation (EEC, Euratom) No 354/83 concerning the opening to the public of the Historical archives of the European Economic Community and the European Atomic Energy Community.

[COUNCIL REGULATION \(EEC, EURATOM\) NO 354/83](#) of 1 February 1983 concerning the opening to the public of the historical archives of the European Economic Community and the European Atomic Energy Community.

[REGULATION \(EU\) 2018/1725](#) OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC.

[REGULATION \(EC\) No 1049/2001](#) OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 30 May 2001, regarding public access to European Parliament, Council and Commission documents.

[DECISION](#) OF THE EUROPEAN DATA PROTECTION SUPERVISOR, 2013/504/EU, of 17 December 2012 on the adoption of Rules of Procedure, Art. 53: Documentation.

[RETENTION SCHEDULE](#) of the European Data Protection Supervisor, July 2014, and subsequent modifications.

[RECORDS MANAGEMENT POLICY](#) of the European Data Protection Supervisor, December 2015, and subsequent modifications.

6 Definitions

For the purposes of this policy, the below definitions are used²:

Appraisal - Process of assessing the value of records for the purpose of determining the length and conditions of their preservation. It determines what records will be kept and what will be disposed of.

Archival description - Creation of an accurate representation of a unit of description and its component parts, if any, by capturing, analysing, organizing and recording information that serves to identify, manage, locate and explain archival materials and the context and records systems which produced it.

Archiving - Process of transferring records to a specific repository allowing for future retrieval and use of information, to preserve evidence in case of a legal claim or audit, and to preserve the historical memory and proof of an activity.

Declassification - the removal of any security classification.

Digitally born record - Information created in electronic format.

Digitised record - Records converted from an analogue copy to a digital format, through scanning or other forms of digital reproduction.

Historical Archives - Records and files selected for long term preservation on the basis of their enduring evidentiary, financial/administrative, historical value.

Metadata – data describing the content, context, structure and management over time of a document, a record or a file.

Personal data - any information relating to an identified or identifiable natural person.

Preservation - protection of files, whatever their medium, for a certain length of time, in a safe storage, with relevant metadata.

Record - “information created, received, and maintained as evidence and information by an organization or person, in pursuance of legal obligations or in the transaction of business” (ISO 15489). “Recorded information produced or received in the initiation, conduct or completion of an institutional or individual activity and that comprises content, context and structure sufficient to provide evidence of the activity” (ICA Committee on Electronic Records).

² Definitions are derived from ISO Standard 15489-1, Inter-Pares Trust terminology project database (last consulted on 06/06/2019 at: <http://www.ciscra.org/mat/mat/termlist/1/English>), legal texts quoted in the policy. The definition of personal data is the one provided by Art. 3 of Regulation (EC) No 1725/2018 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L295/39 21.11.2018.

Retention period – length of time records should be retained for by an organisation, before being transferred to archives or disposed of as established in the organisation's retention policy.

Retention schedule - Document which identifies the records kept by an entity and determines the length of time that they should be kept before they are transferred to the historical archives or destroyed.

Sampling - method of appraisal whereby, on the basis of objective criteria, a representative portion of files is chosen for preservation from a larger body of files that will not be preserved in its entirety.

Security classification - the allocation of an appropriate level of security to information for which the unauthorised disclosure might cause a certain degree of prejudice to the EDPS, the EU or Member State interests.

Selection - method of appraisal whereby, on the basis of the selector's assessment, a certain number of files are chosen for preservation from a larger body of files that will not be preserved in its entirety.

Transfer to archives - Change of custody, ownership and/or responsibility for records (ISO 15489-1).

7 Roles and responsibilities

Management

The Management supports the application of the policy throughout the organisation and ensures that necessary resources are allocated to its implementation.

Archivist

The archivist is responsible for the appraisal and management of the EDPS archives, both in paper and electronic format; draws up policies and specific procedures, provides advice and guidance to staff.

Staff working on archives

Staff working on EDPS archives shall apply relevant rules, procedures and standards in processing archived material.

Data Protection Officer (DPO)

The DPO coordinates with the archivist the implementation of the rules on the protection of personal data in archives management activities at the EDPS.

Local Security Officer (LSO) and Local Information Security Officer (LISO)

The LSO and LISO coordinate with the Archivist in managing the security of physical and electronic information of the EDPS.

8 General principles

8.1 Appraisal of cases and records

At the end of the Administrative Retention Period (ARP) an appraisal of case files and records takes place according to the indications of the EDPS Retention Schedule³, to define which files and records are to be eliminated, which ones subject to sampling or selection, and which ones prepared for long term preservation.

The appraisal of files consists of a first and a second review. A first review is applicable to all files after the expiration of their administrative retention period, follows the indications set in the Retention Schedule, and is conducted by the originating services in cooperation with the archivist where needed.

Files transferred to the archives after the first review will be subject to either direct long term preservation or second review, according to the indications in the Retention Schedule, and depending on the presence of classified information or possible exceptions to disclosure related to privacy and the integrity of the individual or related to commercial interests of a natural or legal person⁴.

The second review is undertaken by the archivist, in co-operation with the originating service where needed, and shall consider criteria based on the potential long-term public interest of the files concerned.

Criteria and processes for elimination, sampling and selection shall be developed and documentation of respective exercises shall be kept.

For records and files maintained in other, inter-institutional, systems and subject to other retention procedures, appropriate documentation must be in place with regard to retention periods and consequent actions to which said records and files are subject.

8.2 Archiving and long term preservation

Records and files identified as having long term archival value will be processed accordingly and become part of the historical archives. The following types of records and files shall be part of the EDPS historical archives:

- records documenting the origins of the EDPS, its organisation and structure, legal status, rights and entitlements;

³ The EDPS Retention Schedule details how long case files and records should be retained according to financial, legal, regulatory, and business/administrative requirements, once they have been closed; it also establishes what will be the actions to be taken on the case files at the end of their retention period (permanent preservation, sampling or selection, disposal).

⁴ Council Regulation (EC, Euratom) No 1700/2003 of 22 September 2003 amending Regulation (EEC, Euratom) No 354/83 concerning the opening to the public of the historical archives of the European Economic Community and the European Atomic Energy Community, Art. 2, 3, 5.

- regulations and procedures governing the EDPS together with policies, deliberations, decisions and actions;
- records and cases documenting the mission and goals of the EDPS and providing evidence of the EDPS activities (both operational and administrative) and specific projects;
- other records and cases identified by the originating service or the archivist as having long term historical and evidentiary value and relevance.

The EDPS shall develop a preservation strategy to ensure the integrity and authenticity of its digital archives, which will constitute the majority of its archival holdings. This strategy shall take due account of technical/organisational requirements, recognised standards⁵ and available resources, as well as explore possible synergies in the context of inter-institutional cooperation at EU level.

Original documents received in paper, or scanned and sent electronically by the EDPS, shall be kept in the archives and identified with reference to their case files. In order to protect the original in paper format, access will preferably be given to a digital copy.

For digitally born files, digital files that are used as access copies shall be cared for separately from digital files that are accessioned as archival files. Metadata will enable tracing back to the original source files and collections.

The archivist and archives staff shall ensure the preparation of archival descriptions, inventories and finding aids, in accordance with recognised archival standards⁶ and guidelines prepared at inter-institutional level⁷, to promote a harmonised and coherent presentation of archives.

Particular attention shall be paid to preserve documents that EDPS publishes on its website or otherwise discloses to the public (e.g. in reply to standard requests for access to documents), as they should remain *available without restriction*⁸.

⁵ Such as ISO 19005-2:2010 – Document management—Electronic document file format for long-term preservation (PDF/A), and ISO 14721:2003 – Space data and information transfer systems—open archival information system (OAIS) reference model.

⁶ International Council on Archives, Standards on description and communication of archives: ISAAR (CPF): *International Standard Archival Authority Record for Corporate Bodies, Persons and Families*; ISDIAH: *International Standard for Describing Institutions with Archival Holdings*; ISDF: *International Standard for Describing Functions*; ISAD(G): *General International Standard Archival Description*; *Encoded Archival Description (EAD)*; *Encoded Archival Context-Corporate Bodies, Persons, and Families (EAC-CPF)*.

⁷ *Guidelines on archival description for the Historical Archives of the European Union; Guidelines on the management of the Historical Archives of the European Union Agencies*, elaborated by the Historical Archives of the European Union in Florence in cooperation with EU institutions and agencies.

⁸ *All documents available to the public before expiry of the period provided for in paragraph 1 shall remain available without restriction*: Council Regulation (EC, Euratom) No 1700/2003 of 22 September 2003 amending Regulation (EEC, Euratom) No 354/83 concerning the opening to the public of the historical archives of the European Economic Community and the European Atomic Energy Community, Art. 1(3).

8.3 Processing of personal data for archival or historical purposes

Personal data contained in the records and files selected for long term preservation in the context of archiving will be processed where they are an integral and necessary part of authentic historical records and files; personal data will be processed in accordance with applicable legislation and rules on data protection⁹.

Processing in the context of archiving includes acquiring, appraising, preserving, describing, communicating and, when appropriate, providing access to records of enduring value at appropriate time where regulations and conditions of material allow.

An assessment shall take place to ensure an appropriate balance between keeping and disclosing personal data in historical archives of the EDPS in the public interest and data protection principles and requirements. Specific appraisal criteria - including a screening of personal data categories likely to be found in the archival fonds - shall be developed, in cooperation with the Data Protection Officer, and in the context of a risk-based approach.

Appropriate safeguards for the rights and freedoms of individuals in accordance with data protection principles and requirements shall be defined, and implemented through technical and organisational measures.

Processing operations and relevant measures taken in the context of archives management shall be documented accordingly, including by establishing a record of processing activities. Thus, a screening of personal data subjects and categories should take place in order to ensure appropriate safeguards.

8.4 Security and access to archives

Archived files and records must be securely managed in an environment with controlled access, to prevent unauthorised access, destruction, alteration or removal. This applies to both electronic and paper files and records.

A special disaster prevention plan for archives shall be established and regularly updated, in cooperation with LSO and LISO according to their respective competences.

Closed case files shall remain accessible to EDPS staff according to pre-existing access conditions, for the duration of the administrative retention period (ARP), and shall not be modified.

⁹ See article 13 of Regulation (EU) 2018/1725: *Processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes, shall be subject to appropriate safeguards, in accordance with this Regulation, for the rights and freedoms of the data subject. Those safeguards shall ensure that technical and organisational measures are in place in particular in order to ensure respect for the principle of data minimisation. Those measures may include pseudonymisation provided that those purposes can be fulfilled in that manner. Where those purposes can be fulfilled by further processing which does not permit or no longer permits the identification of data subjects, those purposes shall be fulfilled in that manner.*

Once the ARP expires, files shall go through the appraisal process and be subject to related actions, and no longer be directly accessible to staff.

Access to archives shall be provided by the archivist and/or staff working on archives, in accordance with applicable legislation and specific rules.

External access shall be provided in accordance with relevant legislation. Access to cases and records less than 30 years old falls under Regulation 1049/2001 on access to documents, whilst access to cases and records older than 30 years falls under Regulations on archives.

Personal data contained in the archived records and files may be disclosed in accordance with applicable legislation and rules on data protection.

The public will be given access to the archives free of charge. Wherever possible, the EDPS shall make archives available to the public by electronic means, including digitised and born-digital archives, and facilitate their consultation on the internet.

8.5 Declassification and handling of commercial interests

Records and files bearing a security classification in the archives of the EDPS shall be clearly identified and must be declassified before they are opened to the public.

Equally, any records and files relating to commercial interests of a natural or legal person shall be identified and examined (including communication to interested parties) prior to opening to the public¹⁰.

The EDPS will examine such records and files in due time and in any case no later than 25 years after their creation with a view to the declassification / release of the information concerned. In the case that after such a first examination the information cannot be declassified or released, the document will be re-examined on a regular basis and at least once every 5 years.

In the case of classified information originating from outside the EDPS, the latter shall contact the other EU institution, member state or third party with a view to the declassification of that information.

8.6 Transfer to HAEU in Florence

Under the amended Archives Regulation, the EDPS shall deposit the original of its historical archives at the Historical Archives of the European Union (HAEU) in Florence, once they have been opened to the public; this does not exclude that the EDPS gives direct access to its own historical archives.

¹⁰ COUNCIL REGULATION (EC, EURATOM) No 1700/2003 of 22 September 2003 amending Regulation (EEC, Euratom) No 354/83 concerning the opening to the public of the Historical archives of the European Economic Community and the European Atomic Energy Community, Art. 2 and Art. 3.

The purpose of the deposit at the HAEU is to provide access to the EU archives from a single location, to promote their consultation and to stimulate research into the history of European integration and the European institutions. As regards processing of personal data contained in transferred archives, the HAEU will act as processor under the instructions from the depositing institution¹¹.

In the case of digital archives, the EDPS, as originating institution, will remain responsible for their long-term preservation; the EUI shall have permanent access to them to fulfil the obligation to make the historical archives accessible to the public from a single location and to promote their consultation¹².

9 Implementation of the policy

Specific procedures and guidance on the different aspects of archives management will complement this policy and support its implementation within the EDPS. They shall cover appraisal (including personal data processing), elimination, sampling and selection, digital preservation, access to archives.

10 Communication and training

This policy will be communicated to staff once adopted, and in case of major updates. Targeted information will be provided according to relevant roles and functions within the institution. The policy, the supporting practical guides and other relevant information will be published on EDPS intranet.

11 Monitoring compliance

Compliance with this policy will be monitored by the archivist in the context of regular reporting activities. Levels of compliance will be reported to senior management.

12 Revision of the policy

This policy will be updated as needed if there are:

- Changes in the regulatory environment.
- Changes in relevant administrative procedures.
- Changes in standards of reference for archives management, or in related ICTs.

¹¹ COUNCIL REGULATION (EU) 2015/496 of 17 March 2015 amending Regulation (EEC, Euratom) No 354/83 as regards the deposit of the historical archives of the institutions at the European University Institute in Florence, Art. 1.

¹² COUNCIL REGULATION (EU) 2015/496 of 17 March 2015 amending Regulation (EEC, Euratom) No 354/83 as regards the deposit of the historical archives of the institutions at the European University Institute in Florence, Annex.

A comprehensive review should take place every 5 years (based on the date of the last formal approval). The review process shall be led by the archivist, in cooperation with DPO, LISO, LSO and other staff members where appropriate.

When reviewing the policy, the Archivist shall take into account, where possible:

- Developments at inter-institutional level.
- Results of internal quality control activities.
- Results of audits and inspections on the EDPS (e.g. IAS).
- Latest versions of standards and best practices.
- Feedback from archives users.