



HR Electronic Records – Austria

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?

Yes. In Austria, documents required for personnel administration and accounting are permitted to be digitized and stored electronic form. Therefore, scanned electronic copies of paper HR documents generally have the same probative value as the original paper records.

Note that if an electronically scanned copy of a paper original is questioned, courts won't automatically assume that the record has the same value as the original document unless there is a certified transcript (certified copy) verifying that the electronic copy matches the original (a public authority, the relevant court, or, the issuing authority would complete the certification).

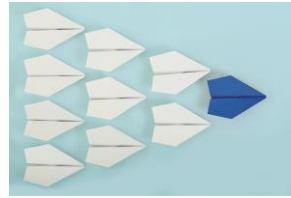
There are just a few exceptions where the original version of certain documents issued by public authorities are required for specific proceedings. In practice, these exceptions are usually not relevant for HR data processing. Austrian employers who store records electronically often only keep the paper originals if it becomes apparent that there will be legal proceedings in an individual case.

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

There are no special provisions or requirements in Austria relating to electronic archiving of personal data, beyond data protection laws.

Note that using an electronic processing system could trigger employee representation's participation rights under work constitution law, and may require concluding a works council agreement. Therefore, when launching a new electronic archiving system, employers should, at minimum, notify the works council (where one exists).



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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