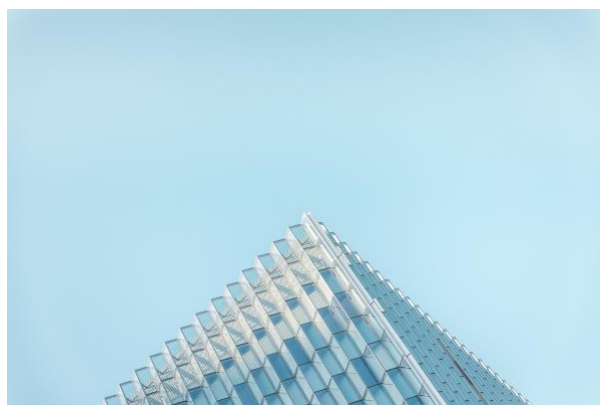


HR Electronic Records – Hungary

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?

Under Hungarian law, paper originals may be scanned and stored electronically (451/2016. (XII. 19.) Government Decree, Art. 55). In order to increase the legal value of an electronically scanned paper document, many steps can be taken, including:

- the original content should be preserved and, individuals should be able to see all changes that have been made after a scanned copy is certified;
- the electronic copy should be validated against the original and include a note confirming that the record has been authenticated against the original;
- there should be an indication when the record does not contain all the data that was included on the original hard-copy;
- an electronic stamp or electronic signature with certification is placed on the record (if multiple records have a time stamp or electronic signature, they should be retained together).

In addition, employers should ensure image or content compliance with the original paper-based document and include: (1) an advanced electronic signature or electronic seal and, (2) a time stamp (451/2016. (XII. 19.) Article 58).

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

The decree of Ministry of Innovation and Technology No 1/2018. (VI.29.) on rules of digital

UKG HR COMPLIANCE ASSIST



archiving sets certain requirements for the preservation of documents or deeds, as well as documents required to be kept in

their original form. Under this decree, electronic documents must be protected from deletion, destruction, accidental destruction, subsequent changes and damage as well as unauthorized access until the end of the required retention period. The understandability and readability of the document must also be protected. The ministerial decree names the following methods as methods to ensure the proper preservation:

- advanced electronic signatures;
- closed software and other IT systems;
- attaching the hash code to accounts affected by electronic reporting (i.e. systematically tracking all changes);
- archiving with electronic data interchange (EDI) systems for documents that are created via EDI.

The individual who is responsible for retaining and preserving the documents can determine the appropriate method to fulfill these requirements. Employers should ensure that any electronic archiving system meets the above requirements for storing paper originals. Individuals can use a qualified trust service provider to archive documents, though this is not usually necessary in the context of Human Resource records.

HR Best Practices: In Hungary, electronic scanned copies have full probatory value when:

- signed with an advanced electronic signature or stamp, based on a qualified certificate (and an electronic timestamp, if required by law);
- authenticated via a document authentication service with identification as specified in a government regulation; or,
- when prepared by a service provider (who meets the service requirement defined by law or government order) who assigned the document to the issuer and provides an advanced electronic stamp and timestamp.

In other instances, if the validity of a document is questioned in court, the genuineness of the document would be assessed on a case-by-case basis. 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.

Last updated October 2022.

DISCLAIMER: The information contained in this document is for general information purposes only and is not intended to be a source for legal, tax, or any other professional advice and should not be relied upon as such. This information is not intended to create, and the receipt of it by the reader does not constitute, an attorney-client relationship. All legal or tax questions or concerns should be directed to your legal counsel or tax consultant. Laws and regulations may change and UKG Inc. ("UKG") cannot guarantee that all the information in this document is accurate, current or complete. UKG MAKES NO REPRESENTATION OR WARRANTIES WITH RESPECT TO THE ACCURACY OR COMPLETENESS OF THE DOCUMENT OR THE INFORMATION OR CONTENT CONTAINED HEREIN AND SPECIFICALLY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES INCLUDING BUT NOT LIMITED TO ANY EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY, SUITABILITY, OR COMPLETENESS OF THIS INFORMATION. TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, NEITHER UKG, NOR ITS AGENTS, OFFICERS, EMPLOYEES, SUBSIDIARIES, OR AFFILIATES, ARE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES (INCLUDING PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, LOSS OF USE OR PROFITS, OR BUSINESS INTERRUPTION), EVEN IF THE UKG HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, ON ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, STRICT LIABILITY, OR TORT, ARISING IN ANY WAY OUT OF THE USE OF OR INABILITY TO USE THIS INFORMATION. This document and the content are proprietary and confidential information of UKG. No part of this document or its content may be reproduced in any form, or by any means, or distributed to any third party without the prior written consent of UKG © 2022 UKG Inc. All rights reserved.