

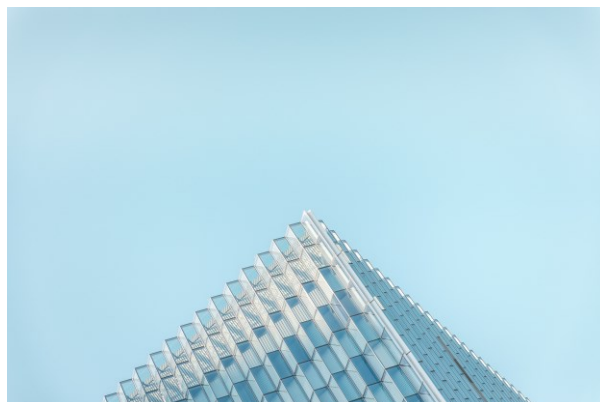
HR Electronic Records – Portugal

Electronic Archiving of Paper Originals

Legal Framework for Electronic Archiving

There are no general legal requirements for electronic archiving systems. To increase the validity of any electronically stored records, consider:

- How the electronically scanned record was generated, stored and transmitted. Records should be stored in an un-erasable medium and businesses should retain a backup copy in a separate location. Employers may designate



specific individuals to manage electronic records.

- The continued integrity and reliability of the stored data. Electronic archiving systems should be periodically maintained to ensure ongoing reliability.

Please be aware of the risks of, e.g., cloud systems of work and unsafe e-mailing, which may not have sufficient protective measures against intrusion. This might pose a contingency in

keeping personal data and sensitive corporate information safe.

Decree no. 121/2021 regulates the electronic archiving of documents drawn up by a notary and other documents filed at notary offices, the permanent notarial certificate, and the electronic reporting of acts to the Central Registry Office.

Are electronic scanned copies of paper originals legally valid?

There are no general legal or regulatory frameworks for electronic archiving in Portugal. That said, are a few Decree-Laws that regulate the archiving of specific types of documents and certification:

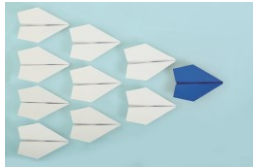
- Invoices and related tax documents are regulated under Decree-Law no. 28/2019 of 15th February 2019.
- The archiving of Public Administration Services, Municipalities, Private Charities and other relevant public entities is regulated by Decree-Law no. 447/88 of 10th December 1988. This Decree-Law gives authenticated microcopies the same probatory value of paper originals.
- Certification of hard copies is regulated under Decree-Law no. 28/2000 of 13th March 2000,

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and Decree-Law no. 207/95 of 14th August 1995.

Electronic scanned copies are legally allowed in Portugal, but the paper original should be retained in case it is requested for evidence.

"[P]hotographic copies of documents filed at notarial offices or other public offices have the



probative value of the certificates of contents if their conformity with the original is attested by the competent authority to

issue the latter" and "photographic copies of documents from the archives mentioned have the value of the public form if their conformity with the original is certified by a notary" (Article 387, Civil Code).

HR Best Practices: The full electronic archiving era is approaching, but for now it is not possible to guarantee that paper documents in Portugal can be destroyed (unless authenticated microfilm is used). 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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