

WRITTEN PROCEDURE-2017-06-GB

EXPLANATORY INFORMATION

In accordance with the Archives regulation (EEC, Euratom) 354/1983, the EU Institutions and Agencies are required to preserve historical archives and to make them accessible to the public after 30 years.

The Historical Archives of the European Union (HAEU) are deposited at the European University Institute (EUI) in Florence in order to provide access to these archives from a central location, to promote their consultation and to stimulate research into the history of European Integration and the European Institutions.

Detailed provisions for the management of the historical archives at the EUI, including their deposit, access and public consultation, as well as the mutual roles and responsibilities of the institutions and of the EUI are set out in a framework partnership agreement concluded by the European Commission on behalf of the depositing institutions. The cost for management of the historical archives of the Union is financed through contributions by all depositing institutions proportionate to their respective establishment plans.

Where previously EU agencies were permitted to manage their archives on site, the amended Archives regulation ([EU\) 2015/496 of 17 March 2015](#)) obliges EU agencies henceforth to deposit their historical archives at the HAEU.

The Archives regulation requires that each institution adopts internal rules for the application of the regulation, including rules for the preservation and opening to the public of the historical archives and on the protection of personal data contained therein.

In order that Eurofound may transfer its historical archives to the EUI, the Governing Board should adopt implementing rules for the Archives regulation.

It should be noted that Regulation (EC) 45/2001 on the protection of individuals with regard to the processing of personal data by the institutions and bodies of the Community and on the free movement of that data, will be replaced in line with the new General Data Protection Regulation (GDPR) which comes into force in May 2018, and it will be necessary to review and possibly revise these internal rules in light of that replacement¹.

¹ [See European Commission proposal of 10 January 2017 COM\(2017\) 8 final 2017/0002 \(COD\)](#)

THE GOVERNING BOARD OF THE EUROPEAN FOUNDATION OR THE IMPROVEMENT OF LIVING AND WORKING CONDITIONS HEREINAFTER REFERRED TO AS “EUROFOUND”

HAVING REGARD to Council Regulation No.1365/75 on the creation of a European Foundation for the Improvement of Living and Working Conditions, as amended by Council Regulation (EEC) 1947/93 of 30 June 1993 and Council Regulation (EC) No 1111/2005 of 24 June 2005,

HAVING REGARD to Regulation (EU) 2015/496 amending Council Regulation 354/1983 concerning the opening to the public of the historical archives,

HAVING REGARD to Regulation (EC) 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data,

WHEREAS in particular:

Under the terms of Council Regulation 354/1983 as amended by Regulation (EU) 2015/496, each institution has to establish its historical archives and open them to the public after thirty years.

Article 9 of Council Regulation 354/1983 as amended by Regulation (EU) 2015/496 provides that each institution shall adopt internal rules for the application of that Regulation. These internal rules shall include rules for the preservation and opening to the public of historical archives and on the protection of personal data contained therein.

The European Data Protection Supervisor underlines the need to adopt adequate implementing rules to ensure that data protection concerns are effectively addressed in the context of legitimate record keeping for historical purposes³.

HAS DECIDED to adopt internal rules for the application of Council Regulation 354/1983 as amended by Council Regulation 1700/2003 and Council Regulation (EU) 2015/496 of 17 March 2015.

Done by written procedure, 14 July 2017

For the Governing Board

The Chairperson

PF

³ Opinion of the European Data Protection Supervisor on the data protection reform package, 7 March 2012 see https://edps.europa.eu/sites/edp/files/publication/12-03-07_edps_reform_package_en.pdf.

**INTERNAL RULES FOR THE APPLICATION OF COUNCIL REGULATION
354/1983 AS AMENDED BY COUNCIL REGULATION 1700/2003 AND COUNCIL
REGULATION (EU) 2015/496 of 17 March 2015**

Article 1

Purpose

These provisions provide internal rules for the application of Council Regulation 354/1983 at Eurofound. They include rules for the preservation and opening to the public of the historical archives and on the protection of personal data contained therein, as well as rules for the deposit of the historical archives at the European University Institute (EUI) in Florence, Italy.

Article 2

Scope

These provisions are applicable to the archives of Eurofound irrespective of where these archives are held.

Article 3

Definitions

Appraisal: process to determine whether documents and/or files will be transferred to the historical archives for permanent preservation or destroyed.

Archives: all those documents of whatever type and in whatever medium, which have originated in or been received by Eurofound or by its representatives or servants in the performance of their duties.

Authenticity: the quality that documents are genuine and free from tampering. An authentic document is one that can be proven (a) to be what it purports to be, (b) to have been created or sent by the person purported to have created or sent it, and (c) to have been created or sent at the time purported.

Declassification: the removal of any security classification.

Document: any content drawn up or received by Eurofound in whatever medium, concerning a matter related to the policies, activities and decisions falling within the competence of Eurofound and carried out in the framework of its official tasks.

File: an aggregation of all the documents organised related to the same affair, event, person, place project or other subject. As a general rule files should have a clear beginning and end and not span more than a limited time, e.g. a maximum of five years.

Historical archives: that part of the archives of Eurofound which has been selected for permanent preservation, in accordance with the rules set out in this decision.

Identity: the whole of characteristics of a document that uniquely identify it and distinguish it from any other document.

Integrity: the quality that a document is complete and unaltered.

Personal data: any information relating to an identified or identifiable natural person⁴.

Preservation: Processes and operations involved in ensuring the technical and intellectual survival of authentic records through time.

Retention schedule: a policy that identifies documents or aggregations of documents, such as files, in the archives of Eurofound and determines the length of time that they should be kept before they are transferred to the historical archives or destroyed.

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 Eurofound or to Member State interests.

Transfer to the historical archives: selection of archives for preservation as part of the historical archives of the institution.

Usability: a useable document is one that can be located, retrieved, presented and interpreted. It should be capable of subsequent presentation as directly connected to the business activity or transaction that produced it

Article 4

Principles

1. Eurofound shall ensure that documents of historical or administrative value are preserved and made available to the public wherever possible. To achieve this it will put in place measures to ensure the proper management of its archives and historical archives.
2. Eurofound will open its historical archives to the public in accordance with Council Regulation 354/1983 and these internal rules.
3. Eurofound aims to make its historical archives available by electronic means and to facilitate their consultation on the internet as widely as possible.

Article 5

Archives

⁴ Regulation (EC) 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, OJ L8 12.01.2001.p1.

1. Eurofound shall ensure the authenticity and integrity of its archives and keep and preserve its historical archives in their entirety.
2. All documents and files of the institution must be identifiable and traceable and able to be retrieved within a reasonable time frame.
3. Documents which have more than a very short-term value shall be organised in files or aggregated by other means that associate them closely with closely related documents and with the business activity or process that generated them. To allow compliance with the requirement to open documents to the public in accordance with Regulation 354/1983, a file or other aggregation of documents should be closed within a reasonable period of time.

Article 6

Preservation

1. The Director shall attribute responsibilities internally to guarantee the preservation and the short, medium and, where applicable, long-term retrievability of its archives.
2. Eurofound shall develop and implement a digital preservation strategy to ensure the integrity and authenticity of its digital documents over time. It shall ensure that its digital preservation strategy and the development of the corresponding IT tools are compatible with the consultation of their archives at or via the EUI.

Article 7

Appraisal

1. Eurofound shall lay down criteria to identify the documents in its archives that have an enduring administrative, legal or historical value. These documents shall be transferred to its historical archives.
2. Eurofound will establish a retention schedule to apply the criteria referred to in subparagraph 1. The retention schedule will be applied to each document or file in the institution's archives. The retention period may vary for different types of documents or files.
3. Transfer to the historical archives will take place in accordance with the retention schedule and in any case not later than 15 years after the creation of the documents concerned.
4. Documents and files not selected for transfer to the historical archives will be destroyed at the end of the relevant period identified in the retention schedule. Eurofound shall keep the following metadata about the files and documents destroyed:
 - i) Date of destruction
 - i. File classification code(s)
 - ii. Date of creation

- iii. Date of closure
- iv. Title of the file
- v. File description
- vi. User or service responsible for destruction
- vii. Reason for destruction (this can be a reference to the retention schedule or a manually entered reason).

5. Appraisal will take account of the applicable legislation, including especially the provisions for the processing of personal data as set out in article 9.

Article 8

Opening to the public

1. The historical archives of Eurofound will be made available to the public no later than 30 years after their production, taking account of the provisions in articles 9 to 12. Where documents created at different dates are, for administrative purposes, kept together in one file or other aggregation, all the documents in that file or other aggregation shall be treated for the purposes of these rules as having been created when the latest of those documents was created.
2. Eurofound will provide descriptions for the archives that have been opened to the public. These descriptions will be structured in accordance with recognised archival standards. Descriptions will be made available in digital format. The minimum level of description is the file.
3. The public will, free of charge, be given access to the historical archives that have been opened to the public in accordance with these rules.
4. In order to protect the originals of paper documents and files from deterioration, access will preferably be given to a microform or digital copy. If there is no duplicate available, if the quality of the duplicate is not sufficient or if the duplicate is not suitable for a specific purpose of consultation, access may be given to the original document.
5. The historical archives will be made available by electronic means and on the internet to the greatest extent possible. In order to facilitate online access to its historical archives, Eurofound, in cooperation with the EUI and the other EU institutions, will seek to comply with the standards for the dissemination and consultation of such archives via the European Archives portal.

Article 9

Processing of personal data for archival or historical purposes

1. Processing of personal data for archival or historical purposes is foreseen where personal data are an integral and necessary part of authentic historical documents. Such processing should respect the rights and freedoms of data subjects and adhere to the principle of data minimisation (i.e. that data are adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed). The criteria for retention and disclosure of

personal data in historical archives, is set out in the retention policy, which is reviewed by the Data Protection Officer.

2. Prior to transfer to the historical archives, archives will be screened for any personal data they contain and appropriate measures taken to ensure that the rights and freedoms of data subjects are safeguarded. Appropriate measures for safeguard may be technical (e.g. redaction, pseudonymisation) or organisational (e.g. appraisal and review).

Article 10

Disclosure of documents containing personal data

1. Prior to the disclosure of documents containing personal data it is necessary to review whether disclosure is compatible with safeguarding the rights and freedoms of data subjects. In principle, the advice of the Data Protection officer may be required prior to disclosure in order to ensure the rights of the data subjects are not adversely impacted as provided by Article 10.4 below.
2. The disclosure of the following categories of personal data in historical archives is excluded *a-priori*: structured personal data, such as personnel and medical files; special categories of personal data as defined in Article 10 of the data protection regulation⁵ (unless the processing is necessary for archiving purposes in the public interest and respects the essence of the right to data protection); personal data in relation to proceedings that are not a matter of public record.
3. Personal data for which disclosure is *a-priori* allowed includes: personal names of staff or duly appointed members of Eurofound's governing body where documents relate to their work as employees of Eurofound or members of the governing body, subject to the exceptions in subparagraph 2.
4. Where personal data are an integral and necessary part of authentic historical documents and it is necessary therefore to preserve the personal data, a risk-based approach shall be taken to the disclosure of the data. In this case, the risk of disclosure shall be assessed in relation to the impact on the rights of the data subject versus the public interest of disclosure. This review will be undertaken in consultation with the Data Protection Officer.

Article 11

Exception for documents relating to commercial interests

1. With a view to opening the historical archives to the public after 30 years the Archives service will examine in due time and in any case no later than 25 years after their creation, whether any documents are covered by the exception relating to the commercial interest of a natural or legal person referred to in article 2.1 of Council Regulation 354/1983.
2. Before such documents are made available to the public, Eurofound shall assess whether disclosure could undermine the commercial interests of a natural or legal person, including their intellectual property. If so, it will inform the person concerned of its

⁵ Regulation (EC)45/2001.

intention to make the documents accessible to the public in accordance with the following rules.

- Eurofound will seek to contact the natural or legal persons directly or via an announcement published on the website EUROPA. The announcement will state the names of the persons concerned and provide references to the documents, including at least the title and date⁶
 - The documents will be disclosed if there is no response opposing the opening of the files concerned no later than four months following the publication on EUROPA.
 - Taking account of the observations of the natural or legal person concerned, Eurofound shall not disclose the documents if it considers that their disclosure would undermine the commercial interests of that person. This decision will be subject to review in accordance with subparagraph 3.
 - It may nevertheless decide to disclose the documents if there is an overriding public interest to do so. In this case it shall inform natural or legal person concerned and inform it of the remedies at its disposal.
3. In the case that after such a first examination the exception continues to apply, the document will be re-examined at least every 5 years.

Article 12

Declassification

1. Classified information shall be clearly identified at all times.
2. Classified information shall be processed in accordance with the applicable security rules of Eurofound.
3. Eurofound may specify in its security rules the time limits that should apply to classified documents. After the expiry of this time limit the classification shall automatically cease to apply.
4. Classified information in the historical archives of Eurofound must be declassified before the documents concerned are opened to the public.
5. Eurofound will examine documents that contain classified information in due time and in any case no later than 25 years after their creation with a view to the declassification of the information concerned. In the case that after such a first examination the information cannot be declassified, the document will be re-examined on a regular basis and at least once every 5 years.

⁶ The Legal Service will be consulted to see whether and how publication of names of natural persons on Europa can take place.

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

Article 13

Deposit at the EUI

1. The original documents and files of Eurofound which are part of its historical archives and have been opened to the public in accordance with these internal rules will be deposited at the EUI. The deposit will take place at least on an annual basis.
2. In the case of non-digital archives, the original documents and files shall be physically deposited at the EUI. Eurofound will provide transport to the EUI and assume any related insurance costs.
3. In the case of digital archives, 'deposit of the historical archives at the EUI' means that Eurofound shall provide permanent access to the documents in such a way as to allow the EUI to fulfil its obligation to make the historical archives accessible to the public.
4. The EUI is entrusted with the responsibility for the physical protection of the non-digital archives that are deposited there in accordance with subparagraph 2. Eurofound will ensure that its archives are preserved and protected at the EUI in accordance with the standards set out in article 8.6 of Council Regulation 354/1983.
5. In order to promote the online consultation of the historical archives, the EUI will be given access to digitised copies of non-digital archives wherever possible.
6. The EUI will be the primary point of public access for the historical archives of Eurofound without however excluding that Eurofound also provides direct access to its own historical archives.
7. Eurofound will provide the EUI with the descriptions of the archives that it deposits there. In order to facilitate the exchange of metadata with the EUI, Eurofound will seek to accommodate interoperability by the use of international standards and notably the standards used for the Archives Portal Europe.
8. Eurofound will continue to act as controller of personal data contained in its historical archives deposited at the EUI. It will give written instructions for the processing of such personal data by the EUI. It will supervise the processing by the EUI and provide guidance wherever necessary.

Article 14

Governance

1. The Director shall be responsible for the correct and full implementation of these internal rules. The Director may delegate responsibility to other functions within the institution.

2. Eurofound shall put in place the organisational, administrative and physical structure necessary for the correct and uniform implementation of these provisions.
3. Eurofound shall attribute responsibility to its services for the management of its archives and the implementation of these provisions. This will take account of the possibility that services/departments are reorganised or terminated.
4. Eurofound shall provide the staff needed for the implementation of these provisions. It shall ensure that the staff assigned to the processing and management of its archives has the requisite professional qualifications necessary to carry out the work in this domain. This does not preclude that certain tasks with respect to the processing and management of the archives and historical archives are entrusted to outside entities under the instructions and the responsibility of Eurofound.

Article 15

Implementation

Detailed rules for the implementation of these provisions may be adopted by Eurofound. These implementing rules will be communicated to the other EU institutions.

Article 16

Coordination and monitoring

1. The Inter-institutional Archives Group (IIAG) will monitor the implementation of the internal rules in the EU institutions. It may provide advice or recommend changes to the internal rules.
2. The IIAG will monitor the relations with the European University Institute with regard to the management of the EU historical archives. Depositing institutions that are not members of the IIAG will be consulted where the management of its historical archives at the EUI is concerned. Smaller institutions may be consulted collectively via a coordinating institution.