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ANNEX

ANNEX

to the

Commission Decision XXXX
on records management and archives
Implementing rules

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Scope

These implementing rules, adopted pursuant to Article 20 of the Commission Decision **XXXXXX**, concern:

1. the validity of records and procedures within the meaning of Article 5 of the Decision;
2. the creation of records within the meaning of Article 6 of the Decision;
3. the capture of records within the meaning of Article 7 of the Decision;
4. the registration of records within the meaning of Article 8 of the Decision;
5. the filing plan within the meaning of Article 9 of the Decision;
6. the preservation and availability of records within the meaning of Article 12 of the Decision;
7. the transfer of files to the Historical Archives Service within the meaning of Article 13 of the Decision;
8. the network of Document Management Officers within the meaning of Article 18 of the Decision.

Chapter I

Records management

1. VALIDITY AND/OR ADMISSIBILITY CRITERIA OF RECORDS

1.1. Identification of the member of the staff

The identification of the member of the staff from whom the record emanates may be assured by any of the following ways:

- a) they sign the record by means of their electronic signature;
- b) they sign the record by means of their handwritten signature;
- c) they (or someone authorised by them) send the record via their Commission email address;
- d) they (or someone authorised by them) send the record via an IT system to which access has been granted by means of the EU Login or equivalent access system.

If no signature is required, the name of the member of the staff from whom the record emanates can be omitted in the text if:

- a) they are clearly mentioned in the metadata of the corresponding electronic record and the service
and
- b) the capacity they are acting in is made explicit in the text of the record
or
- c) the team or the service they belong to is made explicit in the text of the record.

1.2. Circles of parties involved in electronic exchanges of documents

Parties involved in exchanges of documents fall into the three following circles:

- a) **circle 1:** internal circle made up exclusively of the Commission and its Directorates-General and equivalent departments, which exchange documents electronically among themselves;
- b) **circle 2:** semi open circle made up, on the one hand, of the Commission and its Directorates-General and equivalent departments and, on the other hand, of partner administrations (other institutions, Member States, national public administrations and duly identified bodies with which the Commission has regular transactions) which electronically exchange documents via networks and procedures mutually agreed between the parties;
- c) **circle 3:** entirely open circle made up, on the one hand, of the Commission and its Directorates-General and equivalent departments and, on the other hand, of organisations, non-member countries, commercial businesses, corporate bodies, recipients of Commission payments who are not members of its staff and the

citizens, who exchange documents via networks such as the Internet or electronic mail.

1.3. Identification of the outside person

The requirements of the system making it possible to duly identify the person from whom the record emanates are laid down according to the circle concerned and the formalism required for the area or the stage of the procedure. The guarantees of clear identification must accordingly be stricter if the record is to have legal effects, and less stringent if the record is a simple exchange of information.

Within circle 1, electronic identification of persons is performed by the EU Login system or any other equivalent certified system¹. The Directorate-General for Informatics is responsible for the operation and maintenance of the identification system (currently EU Login).

Within circle 2, any record is admitted; for parties involved in electronic exchange processes, they must be identified by a system mutually accepted.

Within circle 3, an outside person can, as appropriate, be duly identified:

- by the use of a simple electronic signature, unless the clear and unambiguous identification of the author and/or the addressee is required, e.g. for reasons of confidentiality linked to the content of the record to be transmitted;
- by the authentication function required by a Commission application which complies with the principles of these implementing rules;
- by successive acceptance of exchanges of records by senders/recipients².

Within circle 3, any analogue record coming from an outside physical or legal person **is** admitted assuming that the declared sender is the actual sender. Nevertheless a record cannot be admitted, if, following an assessment of its form and content, reasonable doubts arise about the fact that the outside physical or legal person is the actual author of the record.

The Commission's services do not admit any anonymous incoming record, unless they assess that the information contained is an asset and the record is to be captured.

¹ EU Login is used for authentication when an IT application is used. For transmission of documents by e-mail, the SECEM (secure electronic mail) system offers a guarantee of identification of the sender.

² While receipt of a single document may raise doubts as to the author (e.g. simple electronic address), the continuation of exchanges and acceptance of messages increases the guarantees of proper identification of the person. If necessary, a check can be conducted at the end of the procedure. This occurs, for instance, with requests for access to documents, where the final decision can give rise to the right to appeal, submission of applications for a competition where a check can always be conducted at the recruitment stage and submission of projects under calls for proposals where a check can be made at the final selection stage.

1.4. Reliability of the Commission's production context

The Commission's services create records according common and specific rules and taking into account all the formality requirements, as set out in the paragraph 6.1 of the Decision XXXX.

1.5. Reliability of a third part's production context

The Commission's services assess whether the author of the record and the form and the content of the incoming records correspond and if they correspond to the apparent production context of the record and no reasonable doubt arises about authenticity and integrity of the record, consider the record as reliable and admissible.

The Commission's services admit records in any media, included copies of originals, unless a specific medium or format is required by an applicable rule established by the Commission or by a Union or national provision.

1.6. Guarantee of integrity of the content of the record, of its metadata and their preservation

The required guarantee of integrity of the content of the record, of its metadata and the method used to provide this guarantee, are directly proportional to the degree of formalism required by the type of exchange of records concerned.

Whatever the circle of parties involved and the system used for the exchange of records, the content received is assumed to be equivalent to the content sent unless proven otherwise.

Paper records drawn up by the Commission's services are considered intact if no alterations are found.

In case of damages caused by preservation issues, the record is to be considered valid if its essential parts are still readable by any means and by comparison with the corresponding digitised version.

2. VALIDITY AND/OR ADMISSIBILITY OF DIGITISED DOCUMENTS

2.1. General principles

The Commission systematically digitises all analogue documents which are inserted in its documentary resources.

Digital objects resulting from digitisation procedures and inserted in the Commission's documentary resources from that very moment replace the analogue documents from which they originate.

2.2. Formats

Documents are digitised in a format which offers guarantees of permanence, legibility over time and facility of access to the information they contain.

Whenever it is possible, any format chosen for Commission's records' is enriched by an optical character recognition (OCR) procedure leaving the image intact but facilitating full text searches.

2.3. Quality control

The department in charge of digitisation within each Directorate-General or equivalent service will put in place a verification procedure to provide a reasonable assurance that the digitised object obtained corresponds to the original document in content and form (quality control)³.

The strictness of the quality control is directly proportional to the value and/or retention period of the digitised documents.

Without prejudice to the rules concerning the disposal of originals, as a precaution, all records are kept on their original medium for six months, during which time any errors reported are immediately corrected.

2.4. Preservation of original paper copy

When the original is a paper copy for which signature is a substantial formality, this original is preserved and subsequently transferred or eliminated in accordance with the retention rules.⁴

If the original paper record is required for any other reason established by any other applicable Union or national provision, it is preserved during all the period stipulated by those rules. All administrative requirements are properly satisfied by production of the digitised electronic document.

When the original paper copy is a record for which signature is not a substantial formality and when this original paper copy is not required by any other express rules, it is eliminated at the end of the period of quality control and validation of the results of digitisation stage. Any subsequent requirement to produce the record is properly satisfied by production of the digitised document.

2.5. Documentation of the digitisation procedure

The digitisation procedure must, in all cases, be duly documented as follows:

- a) documentation of the scope;
- b) documentation of the procedural framework;
- c) documentation of the validation of results;

³ Quality control takes place at two levels — automatic and manual. Automatic quality control is provided by the combined digitisation/OCRisation system. In the event of errors relating to the metadata, duplications, etc., the system automatically sends an error message to the digitisation department which corrects them. The manual quality control focuses on the pages (checks that all pages of the document have been digitised, especially for documents printed front and back, that the pages have not been inverted, wrongly digitised, etc.).

⁴ See Chapter II.

- d) documentation relating to the elimination of the original medium.

All documentation relating to digitisation operations must be kept permanently.

3. ELECTRONIC SIGNATURES

Only digital documents can be signed by means of an electronic signature.

The qualified electronic signature is based on a qualified certificate and created by a qualified electronic signature creation device; it has the equivalent legal effect as a handwritten signature.

The use of electronic signatures within the Commission does not affect the rules of competence under which the signatory is, or is not, empowered to take decisions binding on the Commission.

Whereas only a small proportion of Commission records require a signature as a substantial formality in order to be valid, an advanced electronic signature or a qualified electronic signature may be required for electronic exchanges in particular within circle 3, which require clear and unambiguous identification of a person, in accordance in particular with the need-to-know principle.

3.1. Management of electronic records signed by means of electronic signatures

Regarding records drawn up by the Commission, electronic secure signature creation devices⁵ must, by appropriate technical and procedural means, ensure at the least that:

- (1) the electronic signature creation data used can in practice occur only once and their secrecy is reasonably assured;
- (2) the electronic signature creation data used cannot, with reasonable assurance, be derived and the signature is protected against forgery by the most advanced technology available;
- (3) the electronic signature creation data used can be reliably protected by the legitimate signatory against use by others.

In addition, secure electronic signature creation devices must not alter the data to be signed or prevent such data from being presented to the signatory prior to the signature process.

Regarding records received by the Commission, the Directorate-General for Informatics, assisted by the Security Directorate, makes available to the other Directorates-General and services the infrastructure and software required to read and technically validate advanced and qualified electronic signature in accordance with generally accepted standards.

These are in particular most records relating to administrative procedures, whether purely internal (e.g. relations between the administration and officials) or external (relations with the other institutions and bodies of the Union, Member States, firms or citizens), in particular:

⁵ See Articles 3, 29-31 and Annex II of Regulation (EU) No 910/2014 of the European Parliament and of the Council.

- a) records drawn up by the Commission relating to the internal⁶ or interinstitutional⁷ legislative process. This series comprises not only the preparatory documents themselves but also the notes and studies or other reports aimed at evaluating the content or consequences of the legislation to be proposed, and those preparing public documents, such as Green Papers, White Papers, communications, etc.
- b) certain records concerning the management of contracts and grants⁸, such as information about calls for tenders (e.g. technical specifications) or calls for proposals (e.g. guidelines for applicants), reports of opening or evaluation committees;
- c) records drawn up by the Commission having legal effect in internal administrative procedures (e.g. application of the Staff Regulations);
- d) records relating to the purely internal operation of a Directorate-General or service (e.g. minutes of meetings);
- e) records of an administrative nature drawn up by the Commission and intended to be sent outside (other institutions, Member States, firms, citizens);
- f) records of a financial or budgetary discipline nature drawn up by the Commission or its services and intended for the other institutions, the Member States or outside bodies acting under policies of the Union.

These are in particular most of the records relating to administrative procedures coming from institutions and bodies of the Union, Member States, firms or citizens, in particular mail coming to the Commission from outside, where national or Community legislation or the administrative practice concerned does not require the signed original of the record, for example:

- a) exchanges of information with Member States and other institutions and bodies under policies of the Union;
- b) requests by citizens for access to documents;
- c) complaints about infringements of Community law;
- d) submission of applications for competitions, selections or unsolicited applications;
- e) supporting documents for the submission of grant applications and, where appropriate, the submission form itself, following a call for proposals under a framework programme;

⁶ Excluding the authentication of acts, as provided for in the Commission's Rules of Procedure.

⁷ Transmission of such documents can nevertheless require an electronic signature as proof of the origin and of the preservation of the integrity of the content during transmission.

⁸ This does not mean the contract and the grant agreement or decision, which, if they are electronic documents, require a qualified electronic signature, unless they are exchanged through an electronic exchange system; a document sent or notified through such a system shall be considered as equivalent to a paper document and the relative electronic signatures shall have a legal effect equivalent to handwritten signatures (cf. Article 148 of the Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council).

- f) statistical and financial data required under Community legislation, in particular those relating to common policies, their management, control or financing.

4. VALIDITY OF ELECTRONIC PROCEDURES

Within the Commission, the IT solutions which manage its specific procedures use EU Login or some other equivalent certified system for electronic identification of persons authorised to be involved in the procedure.

These information systems manage procedures in such domains as human resources, the policy and legislation lifecycle, program management, procurement and grant management, case management and administrative procedures. They can involve circle 1, 2 or 3 exchanges.

4.1. Protection of content and stages of the procedure against alteration

In order to be able to check that the content of records and the stages of procedure have not been altered, the computer systems managing procedures specific to the Commission must:

- (1) offer effective control measures over rights of access in order to prevent any access, any elimination, any alteration or any illegal, malicious and unauthorised moving of records, files, metadata and stages of the procedure;
- (2) be equipped with systems of protection against virus attacks, hackers, theft, fire, excessive temperature or water damage;
- (3) prevent, by various means, any unauthorised change and incorporate integrity mechanisms (via digital fingerprint) to check that a record has not changed over time;
- (4) keep an audit trail for each essential stage of the procedure;
- (5) save stored data in a safe environment;
- (6) provide reliable format conversion and migration procedures in order to guarantee legibility and accessibility of records throughout their entire retention period;
- (7) provide sufficiently detailed functional and technical documentation on the operation and characteristics of the system, accessible at all times to the organisational entities responsible for the functional and/or technical specifications⁹. This documentation must be kept up to date and, in the event of a change in the departments concerned, transmitted directly to the new lead departments for the functional or technical aspects.

Computer systems which manage procedures in which the Commission and other entities are involved and for which the conditions and technical guarantees are determined by

⁹ By organisational entities responsible for the functional and/or technical specifications is meant in particular departments which are the project owners of the IT systems (e.g. Secretariat-General or directorates-general), the Directorate-General for Informatics, the Security Directorate, as well as the Document Management Officers (DMOs) and IT departments (information resource managers (IRMs) and their teams) in the directorates-general and equivalent departments.

agreement, must offer *mutatis mutandis* guarantees equivalent to the computer systems managing procedures specific to the Commission.

4.2. Priority use of the workflow system for structured transmissions

The Directorates-General and equivalent departments put in place workflow systems¹⁰ wherever possible.

These workflow systems may take the following forms:

- (1) electronic form in XML format, the metadata of which are entered by the user, which is sent via an internal or external web application and which contains in an annex that cannot be separated from it the record or records to be transmitted;
- (2) information system managing a process which can contain, in an annex that cannot be separated from it, the documents linked to this process;
- (3) information system for transmitting records in a particular area of activity;
- (4) electronic signatory providing a hierarchical validation chain and enabling at all times any person with the necessary access rights to modify, validate/sign or send back the records to be signed.

4.3. Reasonable use of ordinary electronic means for non-structured and/or short-lived transmissions

For non-structured and/or short-lived transmissions the Commission shall make reasonable use of the following means of communication:

- (1) the Commission's standard electronic mail system for exchanges of records which do not fall under a workflow handled by a computer application or which contain only short-lived information;
- (2) notification via electronic mail with a hyperlink to the record and its metadata, without the record being sent.

5. CREATION

The records created automatically by any IT system shall be subject to the same analysis as the other records at the prior stage of the configuration of the IT system which will create them. This in order to determine the degree of formality required, the layout, the way of formulating the content as well as their management.

The procedural and technical details of digitisation are set out at the point 2 of these Implementing Rules.

6. CAPTURE

Information created deemed useful for the understanding of a case or an activity, or which could potentially raise the interest of other colleagues, services or other institutions or persons, whether at the time of creation or later, may be made available, kept and managed through the action of

¹⁰ Giving preference, wherever possible, to the formula of single storage of the document in a place accessible to all the persons concerned and them alone.

capture. Information in the form of a document, a collection of data or other types of digital or analogue information that is also a record must be captured.

6.1. Purpose and aims

The purpose of capturing a record is to:

- a) identify the record in question with certainty and in a way it cannot be altered during all its lifecycle;
- b) put the information contained at disposal of other colleagues or services at present or in the future;
- c) provide more information about the context and the reasons why the other records of the file have been captured and filed.

Documents which do not fulfil the conditions for capture do not make part of the documentary resources of the Commission.

6.2. A two stage process

Capture consists of two distinct operations to be carried out together in the presence of the original, namely:

- a) saving metadata: this involves saving the metadata of the record in the system concerned to ensure that it is properly described for administrative, legal and archival purposes;
- b) permanently linking the record to its metadata: the original record must be linked to its metadata in a permanent and non-modifiable manner so as to allow the unequivocal identification of the record in the future by any individual or department.

6.3. Records to be captured

Each Directorate-General or equivalent department shall regularly analyse the typology of records produced in the course of its activities in order to identify which records are to be created and captured and, taking account of the context in which they are produced, how to manage them throughout their life-cycle.

A captured record may be removed from the official electronic repository of Commission records where it has been captured if its information is no longer considered an asset by the service which has created the record.

6.4. Criteria to be fulfilled by all capture systems

All capture systems that manage records shall fulfil minimal criteria.

Basic features

The system must save the capture metadata and preserve the association of the original record in a permanent manner to the metadata describing it for as long as the record needs to be retained.

Only Document Management Officers can modify metadata in case of mistake, inaccuracy or insufficiency. Such corrections must be documented in a way that shows:

- who made them,
- when they were made, and
- what the data were before the correction.

This information must be preserved for as long as the record to which it pertains.

Assignment of a unique identifier

Whenever a new record is created in or captured by a system that manages records, the system must associate it with an identifier that provides the required level of uniqueness to allow users and systems to retrieve, refer to, and use, the record.

The system must assign a registration number when the record will no longer be modified. The capture or registration number assigned by the IT system managing records shall constitute a unique identifier containing a number that is reset to zero on 1 January each year, except for duly substantiated reasons.

This numerical series shall be unique to each general or specific register kept by each Directorate-General or equivalent department and shall offer the best possible guarantees of consistency and continuity in numbering.

Alongside the numerical series, alphanumeric identifiers may also be used to provide additional information on which register is concerned, or on the type of entry.

Any processing of the records subsequent to their capture shall refer to their initial capture and unique identifiers.

No alteration

A document can only be considered captured once it can no longer be altered. Nevertheless, it can be removed from the electronic system where it is stored or replaced by subsequent versions with different unique identifiers.

Audit trails

All capture systems shall provide the required specific audit trails and be designed to preserve essential metadata, whenever a captured record is removed.

7. REGISTRATION

Registration is the main type of capture. It benefits from reinforced rules.

7.1. Purpose and aims

The purpose of registering a record drawn up or received by the Commission departments is to:

- a) certify that the record, which fulfils the established or generally recognised minimum requirements within the Commission, has been transmitted by an author to an addressee at a given date, as incoming or outgoing mail, or by its incorporation into one of the official repositories of the Commission;
- b) ensure that the record received or formally drawn up is integrated into the Commission's documentary resources;
- c) facilitate:
 - assignment of the record to a given individual, department or information system for action, follow up, information or preservation;
 - traceability of the record concerned throughout its life cycle;
 - creation of registers containing the references to records registered by the departments and designed to meet the Commission's needs as well as its legal obligations regarding public access to documents under Article 11 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001.

Any official register shall be connected to one or more official electronic storage of records. The Secretariat-General allocates the official character to electronic registers and repositories.

Registration is performed in a short timeframe after receipt or finalisation of the drafting and the possible signing of the record.

The effect of integrating the record into the Commission's documentary resources by registering it is that a registered record may only be removed from the records management system by the Document Management Officer if the registration has been performed by mistake.

7.2. Records to be registered

Records that are drawn up for the purpose of providing evidence of decisions, situations, intentions or events linked to the activities of the Commission or its departments must be registered in an official register unless they are governed by rules or procedures with equivalent effect.

A record that does not have the aforementioned conditions of formality to be registered is in any case registered if it has to be made publicly available; nevertheless, if its original state is a draft or a not-approved version of a document, this character shall be marked in its registered version.

7.3. Rules and procedures with effect equivalent to registration

Certain records, although fulfilling the conditions for capture and registration, may depart from the capture or registration rules if other procedures guarantee equivalent results to those of capture or registration or if the administrative rules and practices of the Directorates-General and equivalent departments do not require such a formalised record of their transmission.

These include:

- a) records whose processing and well-ordered preservation are ensured by a reliable and stable procedure the correct and constant application of which can easily be verified;
- b) documents and memoranda which Commission departments agree to exchange in good faith without involving formality.

7.4. Provisional registration procedure

Each Directorate-General or equivalent department shall adopt adequate procedures enabling to carry out a provisional registration, and meet in this way any obligation to transmit a record where, for technical reasons (prolonged power or computer failure), the registration system is unavailable and registration of the record may not be postponed.

8. FILING

Records captured (whether registered or not) are organised in files. For each matter falling within the competence of the Directorate-General or equivalent department, a single official file shall be constituted. Each official file must be completed with records created and received during the course of the case, and corresponding to the department's activities in the case in question.

It is the responsibility of the Directorates-General and equivalent departments to ensure that the metadata of the files are allocated in a reliable, sustainable and usable way for the carrying out of operations arising from legal obligations¹¹.

8.1. Purpose and aim of filing

The purpose of filing is:

- a) to complete the integration of the records received or created into the Commission's documentary resources;
- b) to organise records according to their original relationships with one another, and with the activities which led to their existence, so as to reflect the circumstances in which they were created and their value in the development of the case.

The aims of filing are:

- a) to interpret and use records in the context in which they were created so as to be able to give due account of the administration's activities and serve as proof of the work it has carried out;
- b) to facilitate targeted searching through better traceability of the file and constituent records throughout their life cycle;
- c) to improve the quality and continuity of administration, notably where another official takes charge of the case and/or the case is taken up by a different department;
- d) to assign the record its retention period and disposal action as defined by the retention category of the file.

¹¹ Under Regulation (EC) No 1049/2001 of the European Parliament and of the Council, and Council Regulation (EEC, Euratom) No 354/83.

8.2. Commission's filing plan

The filing plan is drawn up at Commission level. The consistency of the Commission's filing plan is guaranteed by a common methodology and a terminology based on common principles at central and local level.

The creation of a file and its connection to a part of the filing plan is the responsibility of the department in charge of the area covered by the file, in accordance with practical arrangements to be defined in each Directorate-General or equivalent department.

The Secretariat-General, in consultation with the departments responsible for keeping files, may consider other ways of aggregating records, linking information and defining the organisation of files.

The aim of the Commission's filing plan is:

- a) to provide an overview of the Commission's documentary resources;
- b) to ensure the consistency of the Commission's filing systems across all common sectors of activity;
- c) to make it easier to find Commission files and records by means of the metadata used for the filing plan headings and files.

8.3. Principles of the filing plan

The filing plan is dependent on the mission of the Commission in general and of the mission, functions and activities of the individual DGs/services in particular. Consequently, the filing plan is adapted whenever there are fundamental changes in Union law by which it is affected.

The filing plan takes the form of a tree structure with headings that represent the activities carried out by the Commission's departments in the exercise of their mandates.

The filing plan is divided into levels as follows:

- (1) the first levels of the tree structure, known as the common nomenclature, are defined by the Secretariat-General;
- (2) the following levels of the tree structure, known as specific levels, are defined by the DGs/services, which bear full responsibility for them, particularly as regards the drawing-up, management and upkeep of the headings relating to their respective activity areas.

The DGs/services are considered to own the headings they create. DGs/services which share the management of certain activities can nevertheless decide to create common headings and may, if necessary, call on the Secretariat-General to assist with coordination.

The filing plan is equipped with the means and tools to achieve both:

- the flexibility needed to reflect accurately the way in which the activities of the Commission and the DGs/services evolve over time;

- the stability in terms of independence in relation to the organisation charts of the DGs/services which is essential to guarantee its operation.

A change of Commission or the reorganisation of a DG/service shall not affect the stability of the filing plan unless such change or reorganisation is accompanied by the definition of a new mission or the attribution of new functions.

The filing plan shall be completed and adapted, if necessary, in the light of the results of a detailed analysis based not only on the procedures, working methods and rules in force, but also on the documentary needs and operating procedures of the authors of the records.

The headings of the filing plan are identified by a clear and succinct title and by a code.

8.4. Creation and management of files

Lead department (*chef de file*)

At a given moment in the course of a case, one unit is always lead department within the DG/service.

The lead department is in charge of the case, even though another unit may be involved in performing related tasks or other units may provide *ad hoc* assistance.

It is the responsibility of the lead department to allocate every record to the appropriate file — either directly or by delegation as part of a procedure specific to the DG/service.

The lead department shall ensure that the logical unity of the file is maintained, even if the case is dealt with in conjunction with several entities within the DG/service.

File

The file is opened by the lead department at the start of the case with the encoding of the metadata for the file.

The file is closed by the lead department when all the actions stemming from the case have been concluded and no further record has to be created or modified within the file. The date of closure is the date when the most recent record was added to the file.

Every registered record must be kept permanently in a file.

Other records may also be filed in the file concerned as an aid to the proper understanding of how a case was handled. Where they are not removed before the file is closed, these records become a permanent part of the file at the moment of closure, and may thereafter no longer be changed or removed from the file.

Each file accounts for the way in which a case has been handled within the DG/service concerned. This means that there may be several files for a given case.

A file may be made up of several subfiles. All the subfiles together make up a single file.

File list

The file list is a records management tool designed:

- to list the files created and held by the Commission;
- to describe the files created under headings in the filing plan;
- to provide the Commission and its departments with a tool to facilitate the retrieval of and access to the files.

The file list must contain, for each file, its metadata.

9. DATA AND INFORMATION WITHIN THE COMMISSION

In order to:

- facilitate the collaborative working of its staff,
- facilitate research and the reuse of data and information,
- promote the synergy of its resources and to gain efficiency,

data and information shall be made available and shared as widely as possible within the Commission, unless legal obligations or clearly defined reasons of other nature require a more limited and targeted access based on the need-to-know principle, which shall be implemented in a uniform and rigorous manner.

In the interests of information sharing, Directorates-General and equivalent departments shall ensure that the visibility of the files is as widely as possible available, in proportion to the sensitivity of their content.

Directorates-General and equivalent departments may apply the limits to the principle of information sharing for certain cases in the short, medium or long term, due to the sensitivity of the subjects and the cases being dealt with.

Effective systems and tools shall be adopted to facilitate the search for data and information through its various official electronic repositories.

10. DATA AND INFORMATION PROTECTION

The management of Commission's records and archives shall respect the provisions of Regulation (EU) 2018/1725 of the European Parliament and the Council, throughout their life cycle.

The information systems, networks and means of transmission used to integrate records into the Commission's documentary resources must be checked for compliance with the legislation or rules governing security, personal data protection, information systems security and management of access rights, either directly by the Security Directorate or under its control.

Records containing sensitive non-classified information shall be subject to this Decision, while also being subject to specific rules in relation to their drafting, stamping, recording and other processing in accordance with the rules in force on the security of information.

Classified records, although subject to this Decision, are subject to specific processing in accordance with current rules on information security.

In addition, the Commission shall implement these provisions in the procedures and in the configuration and adaptation of its IT systems for the management of records and archives.

Each department owning an information system is responsible for the security of this system in its entirety. If an information system is subject to major changes after being found compliant, a request for renewal of the statement of compliance is essential.

Chapter II

Preservation and historical archives

The Commission departments must ensure the physical protection of the records and files integrated into the Commission's documentary resources, *i.e.* files created and kept as part of the activities of the Commission or its Directorates-General and equivalent departments.

The Commission shall take the necessary steps to implement the measures necessary to preserve and make available to the public the records which it holds.

Commission departments which are responsible for the establishment and maintenance of registers in a given domain and for the management of the digital structure to manage and/or maintain records and files, shall ensure the protection and accessibility of electronic records which are under their responsibility.

The purpose of the preservation rules is to:

- a) ensure the physical protection of files necessary for the existence and proper functioning of the Commission from an administrative or legal point of view;
- b) facilitate transparency and the right of public access to Commission documents in accordance with Regulation (EC) No 1049/2001;
- c) allow the opening to the public of the historical archives of the Commission after 30 years, in accordance with Council Regulation No 354/83 and its amendments.

The aims of the implementing rules on preservation are to:

- a) determine the retention period for the files of the Commission and its Directorates-General and equivalent departments in the context of their activities;
- b) identify responsibilities within the Directorates-General and equivalent departments with a view to guaranteeing the short- and medium-term accessibility of such files, in order to improve the quality and continuity of the public service;
- c) allow for the elimination of certain records by means of an administrative procedure for elimination, in accordance with the common Commission level retention list or, where appropriate, the specific DG/service-level retention list;
- d) manage in a rational manner the areas and infrastructure for storage in electronic or paper form both at the level of the Directorates-General and equivalent departments and at Commission level.

11. ELECTRONIC FILE REPOSITORY

The electronic and digitised records of the Commission are kept in an electronic repository system that covers their entire life cycle. The electronic file is the master file; it can be completed by analogue records whose preservation is compulsory because of a Union or national provision.

As soon as they are captured, all electronic records must be stored into the electronic file repository together with all the required metadata.

Any computer system which establishes or receives records intended to form part of the Commission's documentary resources, shall be integrated with one of the official electronic file repositories in accordance with the procedures laid down by the Secretariat-General and the specific indications provided on a case-by-case basis.

If these records are signed electronic documents, the electronic signatures or the certificates of authenticity of these signatures must also be integrated into the related electronic file repository.

11.1. Architecture

The electronic file repository, is based on a common electronic file repository for all the Directorates-General and services of the Commission, other than in duly justified exceptional cases which have received the prior approval of the Secretariat-General.

The architecture of the Commission's electronic file repository system takes account of the fact that the requirements are not the same for short- and medium-term preservation (current and intermediate records) as for long-term preservation (definitive or historical archives). For this reason, the electronic file repository system is made up of several separate repositories; the two main repositories are:

- a) electronic file repository for current and intermediate records

When captured in the system, electronic and digitised documents are automatically integrated into the electronic file repository for current and intermediate records in their original and/or permanent format, together with all their metadata. They remain there throughout the retention period.

- b) electronic file repository for definitive or historical archives

The electronic and digitised records that are not eliminated at their first review are transferred to the electronic file repository for definitive or historical archives, solely in the permanent format, together with all their metadata.

11.2. Functionalities

The electronic file repository must offer the following minimum functionalities:

- (1) capture and filing of records in accordance with their respective rules;
- (2) preservation of records, the relevant metadata and the stages of the procedure in accordance with the rules on preservation and these implementing rules;
- (3) digitisation in a permanent format, followed by an optical character recognition (OCR) procedure.

- (4) migration of format and/or computer environment at intervals sufficient to guarantee legibility and accessibility of records throughout the retention period required;
- (5) management of major language and historical versions of the same record;
- (6) time stamp certifying the deposit of the record and its metadata on the date of deposit, and renewal of this time stamp at suitable intervals depending on any security risks;
- (7) non-alteration of records bearing an electronic signature, via digital fingerprint (*hash value*);
- (8) access management and control based on the predefined rights of users and owner departments of records, and on the level of accessibility to the records themselves;
- (9) elimination of files, records, metadata and stages of the procedure which are to be eliminated upon expiry of their retention period and preservation of an audit trail of such eliminations;
- (10) efficient search tools enabling easy retrieval of records, their metadata and the stages of the procedure;
- (11) reporting function making it possible to set up reports on the basis of predefined criteria, with sorting facilities according to various criteria, and possibility of saving these reports, exporting them or printing them;
- (12) material protection of the electronic file repository against any danger of loss or alteration of its integrity (appropriate temperature and levels of humidity, fire and theft detection systems, protection systems against virus attacks, hackers and any other non-authorised access);
- (13) regular backups and availability of a mirror site mirroring the entire content of the electronic file repository and ready to take over whenever the emergency plan has to be applied.

The Directorate-General for Informatics is responsible for the operation and maintenance of the common electronic file repository in agreement with the Secretariat-General and the Commission's Historical Archives Service.

11.3. Physical protection of files

Physical protection encompasses all the techniques and practices used to preserve files in such a way as to ensure their integrity and legibility over time, so that they can be accessed for as long as necessary, whatever the medium.

The physical protection of files involves:

- a) definition of the organisation and responsibilities for preservation within the Commission and its departments;
- b) physical protection over time, in accordance with what is foreseen by the common retention list or, where appropriate, by the specific retention list;

- c) physical protection in storage infrastructures;
- d) archiving of the preservation, registration and filing metadata or of any other relevant metadata accompanying the file throughout its life cycle;
- e) definition of an elimination procedure for records subject to an administrative procedure of elimination in accordance with the common Commission-level retention list and/or, where applicable, the specific DG/service-level retention list.

11.4. Physical protection over time

The physical protection of archives involves management over time. This requires the use of various tools, techniques, procedures and operations, i.e. the preservation metadata, the common Commission-level retention list, where appropriate, the specific DG/service-level retention list, rehousing or migration operations.

Preservation metadata

The capture and filing metadata are supplemented by the preservation metadata.

These compulsory metadata are inextricably linked to the files they relate to. They are encoded by the lead department when the file is created and supplemented or adapted as appropriate throughout the life cycle of the file when one or several of them change (for instance, the lead department, location, medium).

These metadata are saved in the electronic file repository.

Migration

Depending on their retention period and without compromising their authenticity and integrity, the medium or format of archives may be changed (migration) in order to guarantee their accessibility and legibility over time.

11.5. Physical protection in storage areas

As a general principle, the level of the preservation requirements will be directly proportional to the length of time the archives will be preserved.

For electronic and digitised files, the Commission provisions on the security of information systems and the provisions referred to in point 11 apply in full.

Archives will be placed in storage areas with conditions guaranteeing their adequate physical protection. These conditions are as follows:

- a) The archives must be kept in a suitable location that is well designed, constructed, and maintained.
- b) The storage area must allow to control environmental conditions and to protect against excessive light, dust, dirt, dampness, heat, pests and mould.
- c) The storage area must offer suitable accommodation for records with different requirements such as shelving for boxes, and cabinets or drawers for maps and plans.

- d) The storage areas must be secure from unauthorised access.
- e) The storage areas must provide protection from damage and disaster and isolated from on-site non-compatible and hazardous activities and facilities.
- f) If any of the above conditions are unmet, the intervention of the appropriate Office for Infrastructure and Logistics must be requested so that appropriate measures can be taken.

For classified files, the Commission provisions on security apply in full.

Where stricter requirements than the general conditions are necessary (multimedia archives, etc.), the situation will be reviewed jointly by the Secretariat-General, the Office for Infrastructure and Logistics and the Directorate-General for Informatics to establish the appropriate technical and organisational measures to be taken.

11.6. Organisation and responsibility

Commission staff are responsible for the preservation of the Commission's files; however, under Article 18 of the Staff Regulations, these remain the property of the Commission.

Each Directorate-General or equivalent department assumes responsibility for ensuring the physical protection of the files which fall within its sphere of responsibility and for guaranteeing their accessibility in the short and medium term¹² until these responsibilities are transferred to the Commission's Historical Archives Service¹³ or until they are eliminated.

Each DG/service must take the necessary measures, in cooperation with the Commission departments responsible for storage areas, to ensure it has adequate space, equipment and infrastructure for its current and intermediate records, whatever the medium (paper, electronic or mixed).

Commission departments which are responsible for the establishment and maintenance of registers in a given domain and for the management of the digital structure to manage and/or maintain records and files, shall ensure the protection and accessibility of electronic records which are under their responsibility.

Lead department

Throughout its life cycle, the file must be placed under the responsibility of a clearly identified lead department. This responsibility usually follows the normal life cycle of the file in the documentary resources of the DG/service. Depending on the organisation — centralised, decentralised or mixed — of the DG, the lead department of a file may assume responsibility for all the aspects of preservation — physical protection and

¹² Short-and medium-term accessibility means accessibility during the entire administrative retention period as set out by the Common retention list or, where appropriate, the specific retention lists.

¹³ From the date of such transfer, the Commission's historical archives service is responsible for the physical protection of these archives. Nevertheless, any transmission of a record or file which is less than 30 years old and which forms part of the transferred archives remains the responsibility of the DG.

transmission — in cooperation with the archives service of the DG/service. The lead department acts within the scope of its activities with respect to these files.

In view of the creation, transfer or cessation of activities following changes in the Commission's organisation chart, the following scenarios may arise.

- a) An activity is transferred between units or DGs/services. The responsibility for files is transmitted to the new chef de file (lead department).
- b) The Commission is no longer responsible for a given activity. In that case, files relating to the activity are closed and the DG/service which produced the files remains responsible for them until they are transferred to the Commission's Historical Archives Service or eliminated.
- c) The creator of the files is a temporary body. Once this temporary body is no longer active, if no DG/service takes over the activity concerned¹⁴, all files related to the activity concerned are closed and transferred by the temporary body to the Commission's Historical Archives Service, which then takes charge of preserving them and deals with any request for consultation or access.
- d) The creator of the files is a Directorate-General or equivalent department which disappears. When this Directorate-General or equivalent department disappears, if no DG/service takes over the activity concerned¹⁵, all files related to the activity concerned are closed and transferred by the disappearing DG/service to the Commission's Historical Archives Service, which then takes charge of preserving them and deals with any request for consultation or access.

In all the above cases, the new lead department for preservation must preserve the files received in accordance with the rules in force, namely what the common retention list or, where appropriate, the specific retention list lays down for these types of files.

Such a change of lead department for preservation must be properly documented.

Archives service of the Directorate-General/service

The archives service of the DG/service must ensure that, whatever the medium:

- a) current records are available to the person dealing with the case;
- b) the department responsible for preservation of the file is known and aware of its responsibilities;
- c) current and intermediate records, which remain in the DG, are kept in storage areas;
- d) the nature and location of intermediate records and definitive archives are known.

¹⁴ If another DG or service takes over the activity in question, this DG or service becomes lead department for preservation (case similar to point a).

¹⁵ If another DG or service takes over the activity in question, this DG or service becomes lead department for preservation (case similar to point a).

Any creation, modification, adaptation or migration of the systems, means and location of the archives is carried out in agreement with the archives service of the DG/service concerned, in compliance with the rules in force.

The archives service of the DGs/services is responsible for the implementation of the preservation rules, depending on the organisation of each Directorate-General and equivalent department. To this end, the service must draw up an archive schedule.

12. RETENTION LISTS FOR THE COMMISSION FILES AND ARCHIVES SCHEDULES

12.1. Common Commission-level retention list

The common Commission-level retention list for the European Commission files (CRL)¹⁶ is a regulatory instrument that sets the retention period for the different types of Commission files. Structured as a retention schedule, it sets up the preservation metadata for each type of file.

The Secretariat-General draws up and updates the common Commission-level retention list, in close cooperation with all the DGs/services.

The CRL takes account of the organisational context, the existing legislation and the Commission's legal obligations.

The aims of the CRL are:

- a) to identify the file type of each file created and held by the Directorates-General (DGs) and equivalent departments in order to ensure that it is properly preserved;
- b) to lay down the retention period for each type of file, taking into account its administrative usefulness for the departments, the statutory and legal obligations and its potential historical value;

The retention period for each type of file is determined by:

- its administrative retention period (ARP);
- the action to be taken at the end of the ARP (post-ARP action¹⁷ or first review);
- where applicable, the action to be taken after transfer to the Historical Archives¹⁸;

These three parameters are set for each type of file in the CRL retention schedule;

- c) to establish the administrative procedures for the elimination of records which DGs/services must apply to certain types of files;

¹⁶ SEC(2019) 900/2 of 9 July 2019.

¹⁷ Three post-ARP actions are possible: elimination, transfer to the historical archives and sampling/selection.

¹⁸ Two post-transfer actions are possible: permanent preservation or second review.

- d) to define the action to be taken by the DGs/services on the various types of files once the ARP has expired;
- e) to determine what action should be taken by the Commission's Historical Archives Service on the various types of files received.

The CRL is applied by all Directorates-General and equivalent departments for all files created in accordance with these implementing rules.

The CRL applies to files irrespective of their form: electronic, paper or hybrid.

12.2. Specific DG/service-level retention list

Where Directorates-General/services have specific types of files that do not concern any other DG/service and are not included in the CRL, they have to draw up a specific retention list (hereafter SRL).

The rules applicable to the SRL are the same, *mutatis mutandis*, as those applicable to the common Commission-level retention list.

Before it is implemented within the Directorate-General/service, the SRL, which will have the same structure as the CRL, must have the prior approval of the Secretariat-General, the legal service and the Commission's Historical Archives Service. Where personal data are present, it shall be submitted to the EDPS under Article 41(1) of Regulation (EU) No 2018/1725.

12.3. Archive schedule

The archive schedule is an administrative document **to be drawn up** and adopted by each DG to set out how it implements the preservation rules and the CRL/SRL via its internal procedures and actions.

This practical tool will define, for each DG/service, the actions to be taken, the stakeholders involved and their responsibilities as regards the preservation of files, on the basis of their retention period, which is determined by the common Commission-level retention list, supplemented, if needed, by the specific DG/service-level retention list.

Where this information is not available in the records management system, the schedule must also:

- a) indicate the location of files during their life cycle;
- b) name the successive lead departments;
- c) meet the practical questions concerning preservation over time;
- d) organise the elimination of records that fall under the administrative procedure for elimination.

These instructions may also refer to:

- a) the minimum content of the file;

- b) the preferred format in which each type of file should be preserved (electronic or paper);
- c) the circumstances that may give rise to the reuse of a file already closed (e.g. OLAF or IDOC investigation, court actions, complaints to the Ombudsman).

The DGs' archive schedules will be updated in line with changes in the way preservation is organised, reviews of the CRL and, if needed, the SRL.

12.4. Administrative retention period (ARP)

DGs and departments preserve the analogue documents of their files before the closing of files and during the administrative retention period (ARP) laid down by the CRL. During that period, files (analogue media included) may not be eliminated.

The ARP begins to run from the date of closure of the file, which is the date when the most recent record was added to the file¹⁹.

Where a closed file is needed to help protect the Commission's interests, particularly in the event of a litigation, an investigation or a complaint to the Ombudsman, any post-ARP action is suspended (under the legal hold process) until the case has been dealt with. This rule also applies if only some records in a file are covered by the legal hold. When the legal hold is over, any suspended post-ARP action can be carried out.

12.5. Preservation of records not signed electronically

When it is integrated into the electronic file repository, the record is preserved:

- in its original format and/or in a permanent format throughout the entire period of short- and medium-term accessibility;
- in the permanent format alone beyond that period if it is of interest for the definitive or historical archives and must not be eliminated under the procedure of first review.

Once a record is in the electronic file repository, any change of whatever kind is identified in an audit trail.

12.6. Preservation of records signed electronically and of electronic signatures

In order to guarantee the preservation of electronic signatures over time, the electronic file repository must offer guarantees that signed records cannot be altered or that any intentional or accidental alteration can at least be detected.

Records created or received by the Commission and signed by means of a simple, advanced or qualified electronic signature, both in its original format and in a permanent format, and the electronic signature, form part of the Commission's documentary resources as soon as they are captured.

At the time of integration into the electronic file repository, the electronic signature is preserved:

¹⁹ For registered records, this is normally equal to the registration date. If there is no registration date it is equal to the date of the record.

- a) in its original format throughout the period of short and medium term accessibility; this electronic signature, in its original format, is stored in the electronic file repository for current and intermediate records;
- b) beyond that period²⁰ the function of the electronic signature, i.e. to guarantee the integrity and authenticity of the records, is guaranteed by the electronic repository as such and certified by means of a digital fingerprint; the original formats of the signatures must not necessarily be preserved beyond that period.

For each record bearing a simple, advanced or qualified electronic signature, the electronic file repository generates and automatically associates with the record a time stamp which serves as proof of the date of entry in the system and certifies that the electronic signature, the key, the algorithm and the digital fingerprint were valid at the time of entry.

Provided this time stamp is generated (with renewals at appropriate intervals depending on security risks), the validity of the record cannot be challenged on the grounds that any element used to create the original electronic signature, valid when becoming part of the Commission's documentary resources, has been cancelled or become obsolete.

12.7. Administrative procedures for elimination of records during the ARP

Administrative procedures for elimination of records, which apply to some types of well-defined files, oblige DGs/services to eliminate from such files certain records or information for well-specified reasons, among others the protection of personal data.

These procedures of elimination must be foreseen explicitly by the common retention list (CRL) or, where appropriate, by the specific retention list (SRL). They correspond to a purging of the files through the elimination of certain records which do not need to be preserved for as long as the file to which they belong.

This elimination is always carried out before the end of the ARP and entails the physical destruction of the records in question.

The elimination processes must be documented. This documentation must be preserved permanently or, where appropriate, until the destruction of the complete file in question.

12.8. Appraisal and transfer to the Historical Archives Service

Purpose and aims

The purpose of the rules on the appraisal and transfer of files to the Commission's Historical Archives is to:

- a) guarantee the long-term preservation of those archives of the European Commission that:
 - (a) need to be preserved permanently for legal or administrative reasons
 - and/or

²⁰ Beyond the end of the administrative retention period (ARP), or, if this does not apply, 15 years at most.

- (b) are of interest with regard to the history of the European Union and in particular the Commission and its actions;
- b) facilitate access to such archives for anybody who is entitled to have access;
- c) guarantee that the historical archives of the European Commission can be opened to the public after 30 years²¹.

The aims of these rules are to:

- a) establish the procedures to be followed for the appraisal of the Commission's files in accordance with the applicable retention lists;
- b) establish the procedures to be followed for the elimination of files;
- c) identify the responsibilities of the Directorates-General and equivalent departments and of the Commission's Historical Archives Service with a view to guaranteeing the medium and long-term accessibility and preservation of archives.

Principles governing appraisal and transfer of files to the Commission's Historical Archives

- a) The retention periods for file categories shall take account of the obligation to transfer records no later than 15 years after their date of creation²²;
- b) Directorates-General and equivalent departments will review their archives in accordance with the applicable retention list with a view to their elimination or transfer to the historical archives. At the end of their administrative retention periods (ARP) all files that, in accordance with the applicable retention list (CRL or SRL), have to be permanently preserved or are susceptible to permanent preservation will be transferred to the Commission's Historical Archives Service.
- c) Within each Directorate-General and equivalent department, the Document Management Officer is responsible, under the authority of the Director-General or head of service, for the first review of files²³ and transfer to the Historical Archives. The Historical Archives Service may refuse transfers in cases where these rules have not been fully and correctly applied, in which case the department concerned shall be informed of the reasons for the refusal.
- d) In order to guarantee processing in compliance with the obligation to open the historical archives to the public, records and files containing sensitive information²⁴, shall be clearly identified when these files are transferred to the

²¹ In accordance with Council Regulation No 354/83.

²² In accordance with Article 7 of Regulation (EEC, Euratom) No 354/1983, as amended by Council Regulation (EC, Euratom) No 1700/2003 and Council Regulation (EU) 2015/496.

²³ This includes the post-ARP actions such as sampling/selection and elimination. In many cases operational units will be involved in the review of files. The respective roles of the Document Management Officer and of the operational units will depend on the internal organisation of the directorate-general or equivalent department concerned. In any case, the Document Management Officer must ensure that the first review of files takes place in accordance with these provisions.

²⁴ As defined under Article 2, paragraphs 1, 2 and 3, of Council Regulation No 354/83.

historical archives. Transferring departments will motivate the origin and duration of any exceptions to the opening of the archives to the public.

- e) Records and files that have not been identified as containing any classified or sensitive information will be fully opened to the public no later than 30 years after their production.
- f) At the time of first review, Directorates-General and equivalent departments shall, to the extent possible, verify that there are no external circumstances that could justify exceptions to the application of the retention list concerning the elimination of files²⁵. Any such exception will be motivated by compelling reasons and must be submitted to the Secretariat-General for agreement.
- g) Any exception to the obligation to transfer files must be motivated by compelling administrative or legal reasons and must be submitted by the Document Management Officer of the Directorate-General or equivalent department concerned to the Secretariat-General and to the Commission's Historical Archives Service for agreement. Such exceptions will not prejudice the opening of the historical archives to the public.

12.9. Rules governing the appraisal of files

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. Where a second review is present in the retention list, this will take place no later than 25 years after the files are closed.

a) First review

On the basis of the CRL and/or SRL, Directorates-General and equivalent departments undertake, at least once a year, the first review of their archives after the expiration of the administrative retention period.

To this end, departments consider the metadata available in their file lists, notably the file type and the date that the file was closed. In accordance with the applicable retention list, the first review will lead to either elimination or transfer to the historical archives, where applicable after sampling or selection.

b) Second review

Files transferred to the historical archives after first review will be subject to either permanent preservation or second review.

Second review is undertaken when it is foreseen in the applicable retention list and, in any case, for files transferred to the Historical Archives that are not subject to a retention list.

²⁵ Such exceptions could include the uncovering of episodes of past maladministration, an extraordinary public interest in the information or in the records concerned or other reasons that could make it necessary to (temporarily) preserve the files concerned.

The second review is undertaken by the Historical Archives Service, in cooperation with the originating department or its successor, no later than 25 years after the closure of the files concerned.

Disposal decisions following second review are based on the historical value of the files concerned and will lead to either elimination or permanent preservation, where applicable after sampling or selection.

12.10. Rules governing sampling and selection

Sampling and selection are both actions whereby a portion of the files is chosen for preservation from a larger body of files and the remainder is eliminated.

The rules for sampling and selection are applicable both for first and second review.

In the case of sampling, files are chosen for elimination or preservation on the basis of an automated or a random procedure with a view to keeping a portion of the files that is representative of the whole. In the case of selection, files are chosen for elimination or preservation on the basis of subjective criteria. In this case the files chosen for further preservation will not be representative of the larger body from which they came.

The procedure followed for the sampling or selection of files must be fully documented. The documentation shall include at least the following data:

- a) the justification and purpose of sampling or selection;
- b) a list of files undergoing selection or sampling, including:
 - (a) reference to the relevant category in the retention list;
 - (b) indication of the files chosen for further preservation;
 - (c) indication of the files chosen for elimination;
- c) the criteria applied and the motivation for these criteria.

Where sampling or selection is undertaken during first review, this documentation is produced by the originating department or its successor. Files selected for elimination will be eliminated in accordance with point 12.11. Files selected for preservation will be transferred to the Historical Archives in accordance with point 12.12, together with the file lists and accompanying documentation.

Where sampling is undertaken during second review, the Historical Archives Service will ensure the production and preservation of the lists of files chosen or identified for permanent preservation, the lists of eliminated files and the accompanying documentation. A copy of these lists and documentation will be sent to the originating Directorate-General or equivalent department or its successor.

12.11. Rules governing the elimination of files

Elimination entails the physical destruction of all the files for which elimination is foreseen in the applicable retention list, where it is the result of second review or where it is the result of sampling or selection.

The elimination of files will take place in accordance with the applicable security provisions.

Where applicable, elimination should always include the physical destruction of storage media²⁶, or alternatively, in the case of electronic archives, erasure and overwrite of all known instances of the eliminated material to ensure that the information is permanently and irrevocably eliminated.

Where the elimination of files entails the physical destruction of paper or other material support, Commission departments and the Historical Archives Service will apply the recycling/destruction standards in force within the Commission at the time of destruction.

Elimination shall be properly documented. Such documentation shall include:

- a) the justification for elimination;
- b) the list of eliminated files including their relevant metadata;
- c) the department and staff responsible for the decision to eliminate;
- d) where physical destruction of storage media occurs:
 - (d) the department and staff responsible for the physical destruction of the files;
 - (e) the conditions under which elimination took place, including the date and method of destruction as well as the respect of all relevant legal procedures.

Where elimination is undertaken following first review, the responsible department will produce the list of eliminated files and accompanying documentation and send them to the Historical Archives Service for permanent preservation.

Where elimination is undertaken following the second review, the Historical Archives Service will produce and preserve the lists of the eliminated files and the accompanying documentation. A copy of these lists and documentation will be sent to the originating Directorate-General or equivalent department or to its successor.

Where the Historical Archives Service reviews files that have been transferred to it but are not subject to a retention list, before undertaking any elimination, it must submit the lists of the files selected for elimination to the originating Directorate-General or equivalent department or its successor and to the legal service for their prior approval.

12.12. Rules governing the transfer of files

Only once the transfer proposal is accepted by the Historical Archives Service, the Document Management Officer will transfer files and records relating to the Historical Archives Service. All files transferred to the Commission's Historical Archives Service shall be accompanied by a transmission form and the metadata required for the

²⁶ Storage media include paper, tapes, hard drives or any other physical material with recorded data.

appropriate reception and further processing of the files by the Historical Archives Service. The transmission form must be signed by the Document Management Officer acting under the authority of the Director-General and countersigned by the Commission's Historical Archives Service

Directorates-General and related services shall transfer only the metadata of records containing classified information in files for which the administrative retention period has expired; the records concerned shall be transferred after they have been declassified.

Files from the past for which the abovementioned metadata are not fully available shall be reviewed and transferred in any case.

Responsibility for the intellectual content of any file shall be transferred to the Historical Archives Service after a maximum of 30 years²⁷.

12.13. Metadata

Following first review, in addition to the acquired metadata²⁸, transfer metadata must be added to all transferred archives.

Following first or second review, elimination metadata must be preserved permanently in the references of eliminated files.

12.14. Responsibilities concerning files and records transferred to the Commission's Historical Archives

With regard to the archives transferred to the Commission's Historical Archives by the department concerned, each Directorate-General or equivalent department is responsible for the following:

- a) to provide, at the request of the Historical Archives Service, assistance and advice to assess the historical value of the transferred files during the second review;
- b) to cooperate with the Historical Archives Service for the regular review of classified and sensitive²⁹ records with a view to their declassification or determining whether the exceptions for sensitive records continue to apply;
- c) to continue to treat all requests for access to records emanating from other EU institutions and bodies until such a time as that the archives have been opened to the public;
- d) to continue to treat requests for public access to Commission documents in accordance with Regulation (EC) No 1049/2001 until such a time as that the archives have been opened to the public.

²⁷ Under Regulation (EEC, Euratom) No 354/1983.

²⁸ This concerns registration, filing and preservation metadata as well as the metadata for electronic and digitised documents.

²⁹ As defined under Article 2, paragraphs 1, 2 and 3, of Council Regulation No 354/83.

13. HISTORICAL ARCHIVES SERVICE

The Commission's Historical Archives Service is responsible for the following:

- (1) to examine the transfer proposals to the Historical Archives Service, to advise departments on the quality of proposals and to accept the proposals if they comply with the obligations laid down in Decision XXX and its implementing rules;
- (2) to ingest the transferred files into its analogue and electronic repositories;
- (3) to provide archival descriptions of files and archives in accordance with recognised international standards;
- (4) to ensure the physical protection and integrity of all transferred archives in conformity with the preceding rules;
- (5) to ensure the preservation and integrity of the file metadata provided by transferring departments;
- (6) to ensure the management of the repositories for the long-term preservation of the archives;
- (7) to make records and files available, upon request, to the Directorates-General or equivalent departments;
- (8) to transmit requests for access to documents and files from other parties, be it other EU institutions or bodies or the public, to the originating Directorate-General or equivalent department or its successor for treatment;
- (9) to treat, in accordance with Regulation (EC) No 1049/2001, all requests for public access to documents that have not yet been opened to the public and for which the responsible Directorate-General or equivalent department no longer exists and a successor department cannot be identified;
- (10) to define, in cooperation with the Secretariat-General, general criteria for the second review of files;
- (11) to undertake, no later than 25 years after the files concerned are closed and in cooperation with the originating Directorate-General or equivalent department or its successor, the second review of files:
 - (a) where this is indicated in the applicable retention list;
 - (b) for the files that have been transferred to the historical archives but that are not subject to a retention list;
- (12) to review classified and sensitive records, where applicable in cooperation with the Directorates-General and equivalent departments concerned or their successors, with a view to their declassification or determining whether the exceptions for sensitive records continue to apply. Such review shall take place no later than 25 years after the closure of the files concerned and, where necessary, at least once every five years thereafter;
- (13) to ensure that the Commission's historical archives are open to the public after 30 years in accordance with Council Regulation No 354/83 and can, as far as possible, be made available by electronic means.

14. DEPOSIT OF THE HISTORICAL ARCHIVES AT THE EUROPEAN UNIVERSITY INSTITUTE (EUI)

14.1. Deposit

- (1) The historical archives that have been opened to the public will be deposited at the EU Historical Archives at the EUI in accordance with the provisions set out in the annex of Council Regulation No 354/83. Deposits will take place at least on an annual basis.
- (2) The Historical Archives Service will provide descriptions of the deposited archives. These descriptions will be in accordance with recognised archival standards and accompanied by an overview, e.g. transfer lists, of the deposited material.
- (3) The Commission will provide transport to the EUI of the non-digital archives deposited there and assume any related insurance costs.

14.2. Public access

- (1) The Commission will cooperate with the EUI as the primary point of public access for its historical archives. This does not exclude that the Commission may, where necessary, also provide direct access to its historical archives.
- (2) The Historical Archives Service will cooperate with the EU Historical Archives at the EUI wherever possible to promote access to the historical archives of the Commission as well as the related guides and inventories via the Archives Portal Europe.
- (3) In order to facilitate the exchange of metadata with the EUI, the Commission will ensure the interoperability of its Archives Management System and the Archives Management System at the EUI.

14.3. Data protection

- (1) The Commission will cooperate with the EUI to observe the data protection provisions set out in regulation (EU) No 2018/1725 that apply to its historical archives.
- (2) The Commission will continue to act as data controller of personal data contained in the historical archives deposited at the EUI. Where necessary, it will give instructions and provide guidance for the processing of such personal data by the EUI.
- (3) The Commission will cooperate with the EUI to ensure that the appropriate technical and organisational measures are in place so that processing by the EUI meets the requirements of Regulation 2018/1725.

Chapter III

Governance and implementation

15. COORDINATION AND MONITORING BY THE SECRETARIAT-GENERAL

The Secretariat General is responsible for coordinating records management and monitoring the implementation of the common standards by the Commission departments for:

- (1) capture of records, including the registration of records;
- (2) filing and management of files;
- (3) preservation of files; and
- (4) appraisal and transfer of files to the Commission's historical archives.

This entails the following for the different areas of records management.

The Directors-General and Heads of Service will inform the Secretariat General, upon formal approval, of all agreements they conclude with outside bodies in their area of responsibility, and of the validation procedure put in place for quality control as referred to in point 2 of these Implementing Rules, with a view to possible harmonisation on the basis of the most effective criteria.

The Secretariat-General (SG), in close collaboration with the Directorate-General for Informatics, will draw up and keep up to date a summary list of computer systems complying with the requirements of these implementing rules.

15.1. Coordination and monitoring by the SG: capture of records

At the request of the Secretariat-General, the Directorates-General and equivalent departments shall forward to it:

- a) a list of any rules or procedures they apply whose effect is equivalent to registration.
- b) a list of any computer system receiving or creating records which need to comply with the records management rules and to be integrated with the official repositories of Commission's records.

On the basis of criteria defined in collaboration with DIGIT, the Secretariat-General shall make an analysis aimed at checking the compliance of those specific registers, rules and procedures with effect equivalent to registration and of computer systems to be integrated, with all the rules contained in the implementing rules.

The Secretariat-General shall put down in writing the result of this compliance analysis in a list which it shall draw up and update regularly. This list is put at the disposal of Directorates-General and equivalent departments.

15.2. Coordination and monitoring by the SG: filing and management of files

The Secretariat-General shall:

- a) update the common nomenclature applicable to all Directorates-General and equivalent departments;
- b) monitor the terminological content of the common nomenclature and its links with the specific headings of the filing plan which fall under the exclusive responsibility of the Directorates-General/services;
- c) provide and maintain the computer application for managing the Commission's filing plan, including the file list management module;
- d) monitor the implementation of the rules concerning filing and the management of files in the Directorates-General/services.

15.3. Coordination and monitoring by the SG: preservation of files

The Secretariat-General shall supply:

- a) the updated versions of the common Commission-level retention list, in close cooperation with the Directorates-General and equivalent departments.
- b) the suggested methodology for drawing up specific DG/service-level retention lists.

The Secretariat-General shall be informed at once of any irregular destruction of archives or any serious infringement of the preservation rules.

The CRL might also have to be reviewed as a result of the adoption or amendment of legal bases, EDPS opinions or legal service opinions imposing retention periods for certain types of files.

Any review of the CRL will be submitted to the EDPS under Article 41(1) of Regulation (EU) No 2018/1725 on the protection of personal data.

15.4. Coordination and monitoring by the SG: appraisal and transfer of files to the Commission's historical archives

The Secretariat-General shall, inter alia:

- a) ensure the coherence of procedures and instructions in close cooperation with the Directorates-General and equivalent departments and the Commission's Historical Archives Service;
- b) define, in close cooperation with the network of Document Management Officers and the Commission's Historical Archives Service, general criteria for the first review of files;
- c) ensure the deployment of IT tools for the appraisal, transfer and management of archives, including the electronic file repository for the historical archives, in close cooperation with the Directorate-General for Informatics and the Commission's Historical Archives Service.

16. NETWORK OF DOCUMENT MANAGEMENT OFFICERS

16.1. Implementation in the Directorates-General and equivalent departments

The Directorates-General and equivalent departments shall implement Decision XXX on records management and archives. Each Director-General or Head of Service shall take the necessary steps to ensure that the data, information, records, archives, procedures and electronic systems for which it is responsible comply with the requirements of this Decision and its implementing rules.

Nevertheless, account should be taken of the fact that:

- a) The IT infrastructure, information systems, networks and means of transmission existing at central level are put at disposal by the Directorate-General for Informatics in collaboration with the Secretariat General and the Directorate-General for the Budget;
- b) The Office for Infrastructure and Logistics and the Directorate-General for Informatics take the necessary measures, in collaboration with DGs/services, to make available suitable storage areas (electronic and paper) and the necessary resources for the elimination of archives.

16.2. Document Management Officer

Each Director-General or Head of Service shall designate a Document Management Officer with up-to-date professional qualifications required for the performance of the tasks in this field. The Document Management Officer is responsible for ensuring that:

- a) to identify the types of records and files specific to the areas of activity of their Directorate-General or equivalent department,
- b) to establish and update the inventory of existing specific databases and systems;
- c) to maintain and update the parts of the filing plan relating to its Directorate-General or equivalent department, and to comply with the rules on filing;
- d) to establish, implement and update the rules and procedures specific to its Directorate-General or equivalent department which — without prejudice to this Decision — are used to manage records and files and to monitor their application;
- e) monitoring the drafting of metadata of records and files, the description of the archives of the Directorate-General or the assimilated service in order to facilitate the smooth running of the procedures for access to records and transfers to the historical archives, and to the opening of archives to the public;
- f) ensure within its Directorate-General or equivalent department, of the training of staff responsible for the implementation, control and monitoring of the rules of records and archive management set out in this Decision and its implementing rules.

The Document Management Officer shall ensure:

- a) horizontal coordination between the records management team(s) within the meaning of Article 18 of Decision XXX, and other relevant departments in its

Directorate-General or equivalent, in particular with staff dealing with data and information management;

- b) relations with the Secretariat-General, the Historical Archives Service and any other departments that may be involved in the performance of their duties.
- c) participate in the implementation of the need-to-know principle and security risk assessment of records and files;
- d) reporting of security incidents to the local IT Security Officer, to the Local Security Officer of his department, to the Directorate-General for Human Resources and Security, to the Directorate-General for Informatics, and to the Secretariat-General;
- e) referral to cases of personal data breaches which have come to the knowledge of the personal data protection coordinator of his or her Directorate-General or equivalent service.

16.3. Professional competence of records management and archives staff

The Secretariat-General will seek to ensure that Document Management Officers and other specialised records management and archives staff have the competencies and professional skills to carry out their tasks. To this end, the Secretariat-General will develop and maintain a competence framework which will be the basis for recruitment and professional development of records management and archives staff.

Directorates-General and Services will consult the Secretariat-General when they appoint a Document Management Officer.

The Secretariat-General will cooperate with the Directorate-General for Human Resources and Security to provide in-house training to maintain and improve the professional skills and competencies of records management and archives staff. Training on records management will also be made available for staff in general to increase staff awareness and knowledge of records management procedures and tools.

17. REPEAL OF PREVIOUS ACTS

Implementing rules for Decision 2002/47/EC and for Decision 2004/563/EC, adopted on 30.11.2009³⁰ are repealed.

³⁰ SEC(2009)1643.