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# **IMPLEMENTING RULES**

**FOR THE DECISION 2002/47/EC, ECSC, EURATOM ON  
DOCUMENT MANAGEMENT**

**AND**

**FOR THE DECISION 2004/563/EC, EURATOM ON  
ELECTRONIC AND  
DIGITISED DOCUMENTS**

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## EXPLANATORY NOTE

The purpose of this document is to recast and simplify the Commission's rules on document management and archiving.

In 2002, the Commission began the process of modernising its document management and archiving, the aim being to make its work more efficient, transparent and accountable.

This process involved the adoption of two Commission Decisions annexing to the Commission's Rules of Procedure provisions on document management (Decision 2002/47/EC, ECSC, Euratom of 23 January 2002<sup>1</sup>), on one hand, and provisions on electronic and digitised documents (Decision 2004/563/EC, Euratom<sup>2</sup>), on the other hand.

Five implementing rules<sup>3</sup> covering the whole life cycle of a document in whatever medium (electronic or paper) have been added to the above-mentioned decisions. The effective implementation of these implementing rules depends on several factors, such as having good document management organisation in each service, adequate training for staff and modern electronic document management and archiving systems.

Experience has shown that these implementing rules need to be updated. Moreover, their reading and implementation is complicated by the fact that they are scattered over several texts. It is therefore appropriate to recast the implementing rules adopted between 2002 and 2008 and submit them for adoption by the Secretary General, in agreement with the Directors-General of ADMIN and DIGIT in accordance with the relevant provisions of both above-mentioned decisions.

Most of the substantive provisions remain, but the presentation is more coherent. Redundant text has been removed and a number of changes have also been introduced to simplify and clarify the rules applicable to document management in general and electronic and digitised documents, in particular.

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<sup>1</sup> OJ L 21, 24.1.2002, p. 23.

<sup>2</sup> OJ L 251, 27.7.2004, p. 9.

<sup>3</sup> "Registration and keeping registers of the Institution's documents" [SEC(2003)349/1 of 8 April 2003]; "Filing and the management of the Institution's files" [SEC(2003)349/2 of 8 April 2003]; "Preservation of the Institution's files" [SEC(2007)734 of 24 May 2007]; "Appraisal and transfer of files to the Commission's historical archives" [SEC(2008)2233 of 2 July 2008]; "Electronic and digitised documents" [SEC(2005)1578 of 29 November 2005].



# **I. Common provisions**

**I.1. COMPLIANCE WITH PROVISIONS ON SECURITY, SECURITY OF INFORMATION SYSTEMS, PROTECTION OF PERSONAL DATA, PUBLIC ACCESS TO DOCUMENTS AND OPENING TO THE PUBLIC OF HISTORICAL ARCHIVES**

**I.1.1. Commission provisions on security**

The implementing rules shall apply without prejudice to the provisions on security, as annexed to the Commission's Rules of Procedure by Commission Decision 2001/844/EC, ECSC, Euratom of 29 November 2001<sup>4</sup> and its amendments<sup>5</sup>, and supplemented by the relevant circulars and internal administrative procedures.

**I.1.2. Commission provisions on the security of information systems**

The implementing rules shall apply without prejudice to the provisions on the security of information systems laid down in Commission Decision C(2006) 3602 of 16 August 2006 concerning the security of information systems used by the European Commission.

**I.1.3. Provisions on the protection of personal data**

The implementing rules shall apply without prejudice to the provisions on the protection of personal data laid down in Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data<sup>6</sup> and supplemented by the relevant circulars and internal administrative procedures.

**I.1.4. Provisions on public access to Commission documents**

The implementing rules shall apply without prejudice to the provisions on public access to Commission documents laid down in Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents<sup>7</sup>, supplemented by the detailed rules for the application of Regulation (EC) No 1049/2001 annexed to the Commission decision 2001/937/EC, ECSC, Euratom of 5 December 2001 amending its rules of procedure<sup>8</sup>.

**I.1.5. Provisions on opening of historical archives to the public**

The implementing rules shall apply without prejudice to the provisions on opening of historical archives to the public laid down in Council Regulation

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<sup>4</sup> OJ L 317, 3.12.2001, p. 1.

<sup>5</sup> OJ L 29, 2.2.2005, p. 39; OJ L 31, 4.2.2005, p. 66; OJ L 34, 7.2.2006, p. 32; OJ L 215, 5.8.2006, p. 38.

<sup>6</sup> OJ L 8, 12.1.2001, p. 1.

<sup>7</sup> OJ L 145, 31.5.2001, p. 43.

<sup>8</sup> OJ L 345, 29.12.2001, p. 94.

(EEC, Euratom) No 354/83<sup>9</sup> amended by Council Regulation (EC, Euratom) No 1700/2003 of 22 September 2003<sup>10</sup>.

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<sup>9</sup> OJ L 43, 15.2.1983, p. 1.

<sup>10</sup> OJ L 243, 27.9.2003, p. 1.

## **I.2. ENTRY INTO FORCE**

The implementing rules of the Commission provisions on document management and electronic and digitised documents shall come into force on the day of their formal adoption.

On that day, they shall replace the following implementing rules:

- “Registration and keeping registers of the Institution’s documents”. Implementing rules for Article 4 of the provisions on document management annexed to the Commission’s rules of procedure and to be applied in the Commission’s Directorates-General and equivalent departments [SEC(2003)349/1 of 8 April 2003].
- “Filing and the management of the Institution’s files”. Implementing rules for Article 5 of the provisions on document management annexed to the Commission’s rules of procedure and to be applied in the Commission’s Directorates-General and equivalent departments [SEC(2003)349/2 of 8 April 2003].
- “Preservation of the Institution’s files”. Implementing rules for article 6 of the provisions on document management annexed to the Commission’s rules of procedure and to be applied in the Commission’s Directorates-General and equivalent departments [SEC(2007)734 of 24 May 2007].
- “Appraisal and transfer of files to the Commission’s Historical Archives”. Implementing rules for article 7 of the provisions on document management annexed to the Commission’s rules of procedure and to be applied in the Commission’s Directorates-General and equivalent departments, [SEC(2008)2233 of 2 July 2008].
- “Electronic and digitised documents”. Implementing rules for the provisions on electronic and digitised documents, annexed to the Commission’s rules of procedure by Commission decision 2004/563/EC, EURATOM, [SEC (2005) 1578 of 29 November 2005].

They constitute the common standards to be complied with by all Directorates-general and equivalent departments in the Commission concerning document management.

They will be updated in line with the development of information technologies and the emergence of new standards, by means of circulars adopted by the Secretary General and sent to Directorates-General and equivalent departments for implementation.

### I.3. DEFINITIONS

- (1) **Document:** any content drawn up or received by the Commission concerning a matter relating to the policies, activities and decisions falling within the institution's competence and in the framework of its official tasks, in whatever medium (written on paper or stored in electronic form or as a sound, visual or audio-visual recording).
- (2) **Electronic document:** a data-set input or stored on any type of medium by a computer system or a similar mechanism, which can be read or displayed by a person or by such a system or mechanism, and any display or retrieval of such data in printed or other form.
- (3) **Original:** signed or authenticated or original document containing all the information as transmitted by the sender to the addressee, whether the latter is an individual, an organisational entity or an information system, in so far as the parties involved confer on the document concerned the status of original by mutual consent, by tacit agreement or under a well established procedure.
- (4) **Register:** administrative tool establishing the receipt and dispatch of documents that are complete and properly constituted from an administrative and/or legal standpoint, as well as the regularity of their transmission.
- (5) **Registration department:** group of persons to whom, in accordance with the organisational structure (centralised, decentralised, mixed) within each Directorate-General or equivalent department, responsibility for registration is entrusted by means of a general authorisation issued at the appropriate hierarchical level.
- (6) **Registration system:** set of tools, whether or not computerised, used to achieve registration either in the general register or in a specific register.
- (7) **Case:** coherent set of administrative measures begun either explicitly, following instructions from the appropriate hierarchical level, or implicitly, as part of a specific procedure, and ending with the completion of the instructions or expiry of the procedure.
- (8) **File:** core around which documents are organised in line with the institution's activities, for reasons of proof, justification or information and to guarantee efficiency in the work. The group of documents making up the file is organised in such a way as to form a coherent and relevant unit in terms of the activities conducted by the Commission and/or its departments.
- (9) **Hybrid files:** files containing both paper and electronic documents.
- (10) **Life cycle:** all the stages or periods in the life of a document from the time it is received or formally drawn up until it is transferred to the Commission's historical archives and/or opened to the public or until it is destroyed according to the rules.

- (11) **Archives:** documents, registered or not, regardless of form or medium, kept in files and to be preserved by the European Commission and its Directorates-General and equivalent departments in the framework of their activities, either for a limited period or permanently. Collective term for *current records*, *intermediate records* and *definitive archives*.
- (12) **Current records:** open files created by the departments that are regularly and frequently used in the framework of their activities for the conduct of their current business and which are generally kept nearby.
- (13) **Intermediate records:** closed files that are no longer deemed to be current records and that correspond to the stage at which, once a case has been dealt with, the Commission and its DGs/Services are required to keep them for administrative or legal reasons.
- (14) **Definitive or historical archives:** files which, in accordance with the appraisal rules in force, are transferred to the Commission's Historical Archives and selected for permanent preservation.
- (15) **Archives Service of the DG/Service:** members of staff who, depending on the type of organisation (centralised, decentralised, mixed) in the Directorate-General/Service, are responsible for the preservation of the current and intermediate records of their unit, directorate or DG/service in line with a general authorisation from the appropriate tier of the administration.
- (16) **Historical Archives Service:** service in the Commission responsible for the management of the historical archives and related repositories.
- (17) **Metadata:** data describing the context, contents and structure of documents and their management over time.
- (18) **Commission's documentary resources:** all documents, files and metadata drawn up, received, registered, filed and preserved by the Commission.
- (19) **Integrity:** fact that the information contained in the document and its metadata are complete (all the data are present) and correct (each data item is unchanged);
- (20) **Legibility over time:** fact that the information contained in the documents and their metadata remain easily readable by any person who is required or entitled to have access to them throughout the life cycle of the documents, from their formal establishment or reception until their transfer to the Commission's historical archives and/or their opening to the public or until their destruction according to the rules.

- (21) **Filing:** operation involving identifying documents and ordering them in categories following the logical organisation, principles, methods and rules of a filing system.<sup>11</sup>
- (22) **Filing plan of the institution:** hierarchical and logical structure taking the form of a tree diagram made up of a given number of interlinked headings at several levels, which allows for the intellectual organisation of the institution's files on the basis of its activities.<sup>12</sup>
- (23) **Common nomenclature:** hierarchical body of terms, concepts and headings which make up the first three levels of the institution's filing plan.
- (24) **Common Commission level retention list (CRL):** regulatory document that sets the conditions and retention periods for the various types of Commission files<sup>13</sup>. The common retention list is applicable to all Commission departments.
- (25) **Specific DG/Service-level retention list (SRL):** regulatory document that sets the conditions and retention periods for the types of files specific to a DG/Service that are not included in the common retention list.
- (26) **Administrative retention period (ARP):** period of time during which the DG/Service must preserve a file based on its administrative usefulness and the statutory and legal obligations linked to it. The ARP, established by the common retention list or, where appropriate, by the specific retention list, is calculated from the date the file is closed.
- (27) **Appraisal:** process of determining the disposal of documents based on their archival value. Appraisal at the Commission is carried out by the process of the first and second review.
- (28) **First review:** evaluation of files by the Directorates-General and equivalent departments to determine whether they must be eliminated or transferred to the Commission's Historical Archives.
- (29) **Second review:** evaluation of certain files transferred to the Historical Archives Service with a view to identifying the files that have enough value to be preserved as historical archives.

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<sup>11</sup> Very often, people use the term "filing" when in fact they mean "storing". Storing is a physical operation consisting, in the case of paper documents, of placing a document in a file and, in the case of electronic documents, for example, of saving a document to an electronic file.

<sup>12</sup> There are two aspects to the institution's filing plan: consistency of activities at the level of the European Commission on the one hand, and specificity of activities at the level of the Directorates-General and equivalent departments on the other hand. The tree structure of the filing plan takes both aspects into account. The first three levels of this tree structure – common to the whole institution and defined by the Secretariat-General – guarantee consistency, while the following levels – specific and defined by the Directorates-general/Services – guarantee specificity.

<sup>13</sup> "Type of file" means, for example, a file pertaining to the Commission decision-making process, a file relating to a call for tenders or to a call for proposals, a personal file, a state aid file, an infringement file, an audit file, etc.

- (30) **Sampling:** method of appraisal whereby, on the basis of objective criteria, a representative portion of files is chosen for preservation from a larger body of files that will not be preserved in its entirety.
- (31) **Selection:** method of appraisal whereby, on the basis of the selector's assessment, a certain number of files are chosen for preservation from a larger body of files that will not be preserved in its entirety.
- (32) **Elimination:** regulated procedure or any other intentional action leading to the physical destruction of archives or any other operation resulting in a total or partial loss of information.
- (33) **Transfer to the Historical Archives:** change of custody and responsibility for the Commission's files and documents from the Directorates-General and equivalent departments to the Commission's Historical Archives Service.
- (34) **Disposal:** actions taken with regard to non-current archives (closed files) at the expiry of their retention periods and after their appraisal. These actions can be either permanent preservation or elimination.
- (35) **Sensitive information:** information whose unauthorised disclosure might undermine the private or public interests protected by the legislation in force.
- (36) **Classification:** allocation of an appropriate level of security to a piece of information, the unauthorised disclosure of which might cause a certain degree of prejudice to Commission or to Member State interests.<sup>14</sup>
- (37) **Declassification:** removal of any classification.
- (38) **Circles of parties involved in electronic exchanges of Commission documents:** Parties involved in exchanges of Commission 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 electronically among themselves drawn up or received documents;
  - (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

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<sup>14</sup> The term classification and the levels of security are defined by the Commission Decision 2001/844/EC, ECSC, Euratom and by the Council Regulation No 3 of 31 July 1958 implementing Article 24 of the Treaty establishing the European Atomic Energy Community.



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 Internet, Extranet or electronic mail.

- (39) **Electronic file repository:** electronic file deposit system that covers the entire life cycle of electronic and digitised documents.
- (40) **Time stamp:** electronic system used when a document and its metadata are integrated into the electronic file repository to serve as proof of the exact date and time of entry.
- (41) **Document digitisation:** process of transforming a document on paper or any other traditional medium into an electronic image. Digitisation concerns all document types and can be carried out from various media such as paper, fax, microforms (microfiche, microfilms), photographs, video or audio cassettes and films.
- (42) **Electronic signature:** data in electronic form which are attached to or logically associated with other electronic data and which serve as a method of authentication.
- (43) **Advanced electronic signature:** electronic signature which meets the following requirements: a) it is uniquely linked to the signatory; b) it allows to identify the signatory; c) it is created by means that the signatory can maintain under his sole control; and d) it is linked to the data to which it relates in such a way that any subsequent change of the data is detectable.
- (44) **Private Key:** private cryptographic key used by the signatory to create an electronic signature.
- (45) **Public key:** public cryptographic key which is used to verify the electronic signature and which is known by the addressee. The identity of the signatory is confirmed by the creation of a certificate containing the public key of the signatory electronically signed by the private key of the certification authority.
- (46) **Public key infrastructure (PKI):** infrastructure for issuing and managing keys to permit reliable and secure electronic exchanges.

- (47) **Certificate:** electronic attestation which links signature verification data to a person and confirms the identity of that person.<sup>15</sup>
- (48) **Qualified certificate:** qualified certificate within the meaning of Article 2, point 10 of Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures.
- (49) **Certification authority (CA):** recognised trustworthy authority which issues certificates enabling the recipient of a document to check that the signature is indeed that of the person who has signed in with his/her private key.
- (50) **Audit trail:** mechanism incorporated in a computer system which guarantees the traceability – and hence the history – of the major stages (e.g. identification, receipt, creation, modification, addition, digitisation, filing, destruction, signing, transmission, transfer and archiving) throughout an electronic management process of documents, metadata, files or procedures.
- (51) **Digital fingerprint:** digital fingerprint is to a document what fingerprint or genetic print is to a person. Technically, the fingerprint of a document (or hash-value) is the result of a calculation performed by means of an appropriate algorithm to verify that the integrity of the signed electronic document has not been altered.
- (52) **Electronic seal:** image and text which can be printed with the document containing all the information relating to the electronic signature, the time stamp and a reference to a system for ensuring validity and integrity.
- (53) **Workflow:** automation of a process – in full or in part – during which documents, information or tasks move from one participant to another, within a working group, in accordance with a set of predefined rules. A workflow system defines, creates and manages implementation of such processes.
- (54) **ECAS** (*European Commission Authentication Service*): system used by the Commission to authenticate users of internal IT systems. This system offers centralised authentication of users with various levels of guarantee concerning the person providing authentication details.
- (55) **Cryptography** (or encryption): one of the elements of the process of coding and decoding messages which ensures confidentiality of the data. It consists in converting data by means of mathematical operations to protect them. It is an essential tool to ensure confidentiality of data, as only authorised persons are able to view such data. It also guarantees data integrity, as it can detect any unauthorised modification.

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<sup>15</sup> Definition contained in Article 2, point 9 of Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures. OJ L 13, 19.1.2000, p.12.

#### I.4. ABBREVIATIONS AND ACRONYMS USED

ADMIN	Personnel and Administration DG
ARP	Administrative Retention Period
CA	Certification authority
CRL	Common Retention List
CCN/CSI	Common Communication Network/Common System Interface
DIGIT	Informatics DG
DMC	Document Management Centre (cf. <i>CAD, Centre d'Administration des Documents</i> )
DMO	Document Management Officer
DPI	Dots Per Inch
DTD	Document Type Definition
ECAS	European Commission Authentication Service
EDPS	European Data Protection Supervisor
EL	Elimination
EDMS	Electronic Document Management System
EUI	European University Institute [in Florence]
IDOC	Investigation and Disciplinary Office
IRM	Information Resource Manager
ISO	International Organization for Standardization
JPEG	Joint Photographic Experts Group – here refers to their standard for compressed digital representation of still images
OLAF	European Anti-Fraud Office
OCR	Optical Character Recognition
PDF	Portable Document Format
PKI	Public Key Infrastructure
PP	Permanent Preservation
SAM/SEL	Sampling/Selection
SECEM	Secure Electronic Mail
SRL	Specific Retention List
TAH	Transfer to the Historical Archives
TIFF	Tagged Image File Format
XML	Extensible Mark-up Language

## **II. Implementing rules for the decision 2002/47/EC, ECSC, Euratom on document management**

## **II.1. SCOPE OF THE IMPLEMENTING RULES ON DOCUMENT MANAGEMENT**

These implementing rules, adopted pursuant to Article 12 of the provisions on document management annexed to the Commission's Rules of Procedure by Commission Decision 2002/47/EC, ECSC, Euratom of 23 January 2002 concern:

- (a) the registration of documents within the meaning of Article 4 of those provisions;
- (b) the filing of documents and the management of files within the meaning of Article 5 of those provisions;
- (c) the preservation of the Institution's files within the meaning of Article 6 of those provisions;
- (d) the appraisal and transfer of files to the Historical Archives within the meaning of Article 7 of those provisions.

## **II.2. REGISTRATION OF THE INSTITUTION'S DOCUMENTS**

### **II.2.1. Registration: purpose and aims**

#### *II.2.1.1. Purpose*

Commission departments shall analyse the documents they receive or formally draw up with a view to determining their subsequent treatment, including whether or not they have to be registered.

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

- (a) identify the document in question with certainty;

and

- (b) certify that the document, which fulfils the established or generally recognised minimum requirements within the Commission<sup>16</sup> has been transmitted by an author to an addressee at a given date as incoming or outgoing mail or by its incorporation into an archival storage system.

#### *II.2.1.2. Aims*

Registration furthermore:

- (a) ensures that the document received or formally drawn up is integrated into the Commission's documentary resources;<sup>17</sup>
- (b) facilitates:
  - assignment of the document to a given individual, department or information system for action, follow-up, information or preservation;
  - traceability of the document concerned throughout its life cycle;
  - creation of registers containing the references to documents 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.

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<sup>16</sup> Compliance with established procedures and forms must be verified in the case of all Commission documents. Documents from other institutions or third parties are presumed to comply with established procedures and forms unless there is an obvious error.

<sup>17</sup> The effect of integrating the document into the Commission's documentary resources by registering it is that the registered document may only be removed from the document management system with the prior, formal and express authorisation of the duly empowered official or department and in compliance with preservation rules (see chapter II.4).

## **II.2.2. Documents to be registered**

Documents to be registered are all documents, regardless of the medium<sup>18</sup>, that:

(a) are received or formally drawn up<sup>19</sup> by a Commission department in the course of its activities;

and

(b) (i) are likely to require action, follow-up or a reply from the Commission or one or more of its departments;

or

(ii) involve the responsibility of the Commission or one or more of its departments;

and

(c) contain important information which is not short-lived.

Documents that are drawn up as effective administrative or legal evidence<sup>20</sup> of decisions, situations, intentions or events linked to the activities of the Commission or its departments must also be registered.

Documents which fulfil either the condition set out in the preceding paragraph or all the conditions set out in points a) to c) above must be registered in the general register<sup>21</sup> or in a specific register<sup>22</sup> unless they are governed by rules or procedures with equivalent effect.

It is not necessary to register a document in the general register if it is already registered in a specific register and vice versa.

A specific register must fulfil the same criteria as the general register<sup>23</sup>, and the procedure involved must afford equivalent guarantees.

## **II.2.3. Documents not covered by the registration requirement**

Documents which do not fulfil the conditions set out in point II.2.2 are exempted from the registration requirement.

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<sup>18</sup> This includes e-mail. Given the informality of many e-mails exchanged within the Commission and the informal appearance of the e-mail format as such, confusion might arise as to whether e-mails carrying formal communication should be registered or not. To address this problem, Guidelines on the registration of e-mails have been adopted by the Secretary General [see SEC(2006)353].

<sup>19</sup> For detailed definitions of these and related notions, see Annex 3.

<sup>20</sup> “Effective evidence” means the capacity of the document to produce the effects intended by the author on the addressee: the addressee must be able to regard the document (and the facts represented therein) as credible and therefore be able (or required) to act accordingly.

<sup>21</sup> “General register” here means the register of mail of the Commission, in particular Adonis and ARES.

<sup>22</sup> Any other register based on a similar procedure but separate from the general register. For example, ABAC-Invoices or the registers of classified documents.

<sup>23</sup> See Annex 2.

Nevertheless, the fact that a document has not been registered does not prevent it from being kept in the official file concerned<sup>24</sup> as an aid to a better understanding of how an issue has been handled.

#### **II.2.4. Rules and procedures with effect equivalent to registration**

Certain documents, although fulfilling the conditions set out in point II.2.2, may depart from the registration rules if other procedures guarantee equivalent results to those of registration<sup>25</sup> 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) documents distributed in a number of copies by another body that is responsible for them in as far as these documents are identified and monitored by a well established procedure which is generally recognised by the departments;
- (b) documents 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;<sup>26</sup>
- (c) documents and memoranda which Commission departments agree to exchange in good faith without involving formality that would add nothing in terms of cost-effectiveness to the speed of the process, the reliability of the transaction or the quality of the administrative activity<sup>27</sup>.

#### **II.2.5. Registration: a two-stage process**

Registration consists of two distinct operations to be carried out together in the presence of the original, namely saving the metadata and permanently linking the document to its metadata.

##### *II.2.5.1. Saving metadata*

This involves saving the metadata of the document in the system concerned to ensure that it is properly described for administrative, legal and archival purposes.

These metadata are listed in Annex 1, point IV.1.1.

After appropriate quality control, some or all of these metadata will be used for compiling the registers of the directorates-general and equivalent departments.

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<sup>24</sup> See point II.3.4.2.2.

<sup>25</sup> In particular that they are identified with certainty and unambiguously and are dispatched properly.

<sup>26</sup> A procedure is reliable provided that it is set down in writing and adequately monitored. For instance, we may mention documents handled by corporate information systems like MIPS (mission orders) or SYSPER2 (leaves, Career Development Review).

<sup>27</sup> For example, notes or e-mails that the Commission departments exchange among themselves for advice or comment before finalising a document in the framework of their activities.



#### *II.2.5.2. Permanently linking the document to its metadata*

The original document must be linked to its metadata in a permanent and non-modifiable manner so as to allow the unequivocal identification of the document in the future by any individual or department.

A registered document may not be changed, except to correct erroneous data in the document itself or in its metadata. 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 document to which it pertains.

#### **II.2.6. Provisional registration procedure**

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

## **II.3. FILING AND THE KEEPING OF THE INSTITUTION’S FILES**

### **II.3.1. Filing: purpose and aims**

#### *II.3.1.1. Purpose*

The purpose of filing is:

- (a) to complete the integration of the documents received or formally drawn up into the Commission’s documentary resources;
- (b) to organise the documents 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.

#### *II.3.1.2. Aims*

The aims of filing are:

- (a) to interpret and use the documents 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 documents 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.

### **II.3.2. Institution’s filing plan**

#### *II.3.2.1. Purpose*

A filing plan is drawn up at Commission level.

The aim of this filing plan, hereafter referred to as the “institution’s filing plan”, is:

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

#### *II.3.2.2. Hierarchical structure, consistency and management tools*

The institution’s filing plan is divided into levels as follows:

- (a) the first three levels of the tree structure, known as the common nomenclature, are defined by the Secretariat-General; they are either

common to all Directorates-General/Services, shared by several Directorates-General/Services, or specific to one Directorate-General/Service;

- (b) the following levels of the tree structure, known as specific levels, are defined by the Directorates-General/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 consistency of the institution's filing plan is guaranteed by a common methodology and a terminology based on common principles at central and local level.

The institution's filing plan as a whole is managed with the computer application NOMCOM provided by the Secretariat-General. This application, accessible via the intranet and available through the electronic document management systems (EDMS)<sup>28</sup> in use in the Commission, provides the usual audit trails for all its components and is designed in such a way that it can describe the content and evolution over time of each heading.

### **II.3.3. General principles of the filing plan**

#### *II.3.3.1. Criteria to be observed*

##### **II.3.3.1.1 Scope**

Any change to the filing plan applies to the documentary resources concerned (institution or Directorate-General/Service) from the date on which it takes effect.

It is not the purpose of the filing plan to reorganise all the documents received and/or drawn up before it comes into effect.<sup>29</sup>

Use of the filing plan respects the organisational independence and the concept of archival fonds by Directorate-General/Service.

##### **II.3.3.1.2 Functional model**

The filing plan is dependent on the mission of the institution in general and of the mission, functions and activities of the individual Directorates-General/Services in particular. Consequently, the filing plan is adapted whenever there are fundamental changes in Community law<sup>30</sup> by which it is affected.

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<sup>28</sup> EDMS or electronic document management system means both computer applications specialising in electronic document management and any other database-type IT application which references documents and files and/or stores them.

<sup>29</sup> Any pre-existing filing plan at Directorate-General/Service level will continue to apply until the time at which the new filing plan comes into force.

<sup>30</sup> Community law should here be taken to mean primary law (Treaties establishing the Communities and general principles of law), international agreements, secondary law (regulations and implementing regulations, directives, general and individual decisions), general principles of administrative law and conventions between the Member States, etc.

#### II.3.3.1.3 Tree structure

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 the mandates for which they are responsible within the institution.

The tree structure is hierarchical, moving progressively from the general to the specific headings.

The headings make up the filing plan. The files are exclusively linked to the final-level headings.

The Directorates-General/Services are considered to own the headings they create. Directorates-General/Services which share the management of certain activities can nevertheless decide to create common headings<sup>31</sup> in the filing plan if they so wish and may, if necessary, call on the Secretariat-General to assist with coordination.

#### II.3.3.1.4 Balance between stability and flexibility

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 institution and the Directorates-General/Services evolve over time;
- the stability in terms of independence in relation to the organisation charts of the Directorates-General/Services which is essential to guarantee its operation.

A change of Commission or the reorganisation of a Directorate-General/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.

#### II.3.3.1.5 Taking account of documentary needs and operating procedures

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 documents.

#### II.3.3.1.6 Codes

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

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<sup>31</sup> For external relations or the Structural Funds, for example.

A numerical code is allocated automatically to each heading by the computer application for managing the filing plan provided by the Secretariat-General.

Directorates-General/Services that so wish are also able to allocate an alphanumeric code in the form of a subfield forming part of the heading.<sup>32</sup>

#### *II.3.3.2. Metadata for filing plan headings*

Each heading of the filing plan must include the metadata listed in Annex 1, point IV.1.2.

### **II.3.4. General principles for the creation and management of files**

#### *II.3.4.1. Chef de file (lead department)*

At a given moment in the course of a case, one unit is always *chef de file* (lead department) within the Directorate-General/Service.

##### II.3.4.1.1 Definition

The *chef de file* (lead department)<sup>33</sup> is in charge of the case, even though another unit may be involved in performing related tasks or if other units may provide ad hoc assistance.

##### II.3.4.1.2 Responsibility

It is the responsibility of the *chef de file* (lead department) to allocate every document to the appropriate file – either directly or by delegation as part of a procedure specific to the Directorate-General/Service.

The *chef de file* (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 Directorate-General/Service.

#### *II.3.4.2. File*

##### II.3.4.2.1 Opening and closure

The file is opened and closed by the *chef de file* (lead department).

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

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<sup>32</sup> The computer application for managing the filing plan allows users to view the filing plan in several ways and to select their headings according to the numerical and/or alphanumeric code.

<sup>33</sup> The *chef de file* (lead department) is not a person. The concept of *chef de file* (lead department) refers to the responsibility that lies with a unit or is associated with a function. The *chef de file* (lead department) is usually a unit of the European Commission acting through one of its officials or other staff members.

The file is closed when all the actions stemming from the case have been concluded and no further document has to be created or modified within the file. The date of closure is the date when the most recent document was added to the file.<sup>34</sup>

#### II.3.4.2.2 Composition of the file

Every registered document must be kept permanently in a file.

Not registered documents<sup>35</sup> may also be filed in the file concerned as an aid to the proper understanding of how a case was handled. Whether they are not removed before the file is closed, these documents 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 Directorate-General/Service concerned. This means that there may be several files for a given case, each one reflecting the activity of the Directorate-General/Service concerned.

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

#### II.3.4.2.3 Metadata for files

The metadata for files are listed in Annex 1, point IV.1.3.

### II.3.5. File list

#### II.3.5.1. *Purpose and content*

The file list is a document management tool designed:

- (a) to list the files created and held by the institution;
- (b) to describe the files created under headings in the filing plan;
- (c) to provide the institution and the Commission's departments with a tool to facilitate the retrieval of and access to the files.

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

#### II.3.5.2. *Management*

The file list is managed:

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<sup>34</sup> Cf. point II.4.6.1, particularly footnote 56.

<sup>35</sup> Cf. point II.2.3.

- (a) either directly, through the file list management module incorporated in the computer application which manages the institution's filing plan (NOMCOM);
- (b) or indirectly, by the EDMS using the communication tools provided by the computer application NOMCOM.

## **II.4. PRESERVATION OF THE INSTITUTION'S FILES**

### **II.4.1. Preservation: purpose and aims**

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

#### *II.4.1.1. Purpose*

The purpose of the preservation rules is to:

- (a) ensure the physical protection of files necessary for the existence and proper functioning of the public service from an administrative or legal point of view;
- (b) facilitate transparency and the right of access to Commission documents in accordance with Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001;
- (c) allow the opening to the public of the historical archives of the Commission after 30 years, in accordance with Council Regulation (EEC, Euratom) No 354/83 of 1 February 1983, as amended by Council Regulation (EC, Euratom) No 1700/2003 of 22 September 2003.

#### *II.4.1.2. Aims*

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 documents 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 paper or electronic form both at the level of the Directorates-General and equivalent departments and at Commission level.

### **II.4.2. 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 at any time, whatever the medium.



The physical protection of files involves:

- (a) definition of the organisation and responsibilities for preservation within the institution 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 areas;
- (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 documents 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.

#### *II.4.2.1. Organisation and responsibility*

Commission staff is responsible for the preservation of the institution'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 term<sup>36</sup> until these responsibilities are transferred to the Commission's Historical Archives Service<sup>37</sup> or until they are eliminated.

Each Directorate-General/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).<sup>38</sup>

##### *II.4.2.1.1 Chef de file (lead department)*

Throughout its life cycle, the file must be placed under the responsibility of a clearly identified *chef de file* (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 *chef de file* (lead department) of a file may assume responsibility for all the aspects of preservation – physical protection and transmission – in cooperation with the

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<sup>36</sup> 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.

<sup>37</sup> 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 document or file which is less than 30 years old and which forms part of the transferred archives remains the responsibility of the DG.

<sup>38</sup> See point II.4.2.3.

archives service of the DG/Service. The *chef de file* (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<sup>39</sup>. Once this temporary body is no longer active, if no DG/Service takes over the activity concerned<sup>40</sup>, 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<sup>41</sup>. When this Directorate-General or equivalent department disappears, if no DG/Service takes over the activity concerned<sup>42</sup>, 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 *chef de file* (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 *chef de file* (lead department) for preservation must be properly documented.<sup>43</sup>

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<sup>39</sup> E.g. a task force.

<sup>40</sup> If another DG or service takes over the activity in question, this DG or service becomes *chef de file* (lead department) for preservation (case similar to point a).

<sup>41</sup> This was the case when the former Directorate-General for Financial Control was abolished.

<sup>42</sup> If another DG or service takes over the activity in question, this DG or service becomes *chef de file* (lead department) for preservation (case similar to point a).

<sup>43</sup> Transmission form or equivalent system.

#### II.4.2.1.2 Archives service of the DG/Service

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

- current records are available to the person dealing with the case;
- the department responsible<sup>44</sup> for preservation of the file is known and aware of its responsibilities;
- current and intermediate records, which remain in the DG, are kept in storage areas that comply with the principles set out under point II.4.2.3.2 below;
- the nature and location of intermediate records and definitive archives are known.

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<sup>45</sup>.

#### II.4.2.2. *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<sup>46</sup>, migration operations, etc.

##### II.4.2.2.1 Preservation metadata

The registration and filing metadata are supplemented by the preservation metadata, listed in Annex 1, point IV.1.4.

These compulsory metadata are inextricably linked to the files<sup>47</sup> they relate to. They are encoded by the *chef de file* (lead department) when the file is created and supplemented or adapted as appropriate throughout the life cycle of the file when one or

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<sup>44</sup> Depending on how the DG is organised, this responsibility may fall on well-defined persons. In such a case, the archives service of the DG/Service must make sure that these persons are well-known and made aware of their responsibilities.

<sup>45</sup> See point II.4.5.

<sup>46</sup> Rehousing means renewing the physical protection of records and archives (e.g. folders, boxes, straps, tubes, etc. in the case of paper files) without changing the medium.

<sup>47</sup> There is no file creation strictly speaking when series of registered documents are at stake. In this case, the preservation metadata required for a file apply *mutatis mutandis* to such series of documents.

several of them change (for instance, the *chef de file* [lead departement], location, medium).

These metadata are saved in the electronic file repository.<sup>48</sup>

#### II.4.2.2.2 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.<sup>49</sup>

#### II.4.2.3. *Physical protection in storage areas*

##### II.4.2.3.1 General principle of proportionality

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

##### II.4.2.3.2 General storage conditions applicable to all types of archives

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

- (a) the combination of temperature and relative humidity must prevent the development of micro-organisms and mould. If patches of damp, mould or indications of poor storage of documents are detected, the intervention of the Office for Infrastructure and Logistics must be requested so that appropriate measures can be taken;
- (b) archives should not be exposed to excessive light. Light switches must be readily accessible so that lighting can easily be switched on and off. A system of blinds must be placed on windows;
- (c) the storage area must be protected by a fire detection system. When the detector is triggered, a signal must be sent to the building's central detection point and transmitted to the remote-control system;
- (d) where appropriate, measures must be taken to avoid the presence of rodents (grills, procedures to eradicate rodents, etc.);
- (e) in the event of water infiltration or when fluids are piped through storage areas, a risk evaluation must be conducted. Depending on the risk, either corrective measures and/or

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<sup>48</sup> See point III.2.7.

<sup>49</sup> See part III.

improvements must be carried out, or another storage area must be found;

- (f) storage areas will not be located under damp premises (kitchens, cooling towers, washrooms, etc.);
- (g) archives must be protected against criminal acts (theft, non-authorised access and handling, vandalism, etc.) by placing them in storage areas with doors that can be locked and by appropriate management of the keys.

#### II.4.2.3.3 Specific conditions of storage for classified archives

For classified files, the Commission provisions on security referred to in point I.1.1 above apply in full.

#### II.4.2.3.4 Specific requirements for the storage of electronic and digitised archives

For electronic and digitised files, both the Commission provisions on the security of information systems referred to in point I.1.2 above and the provisions concerning electronic and digitised documents and their implementing rules apply in full.

#### II.4.2.3.5 Special stricter archival storage requirements

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.

### **II.4.3. Common Commission-level retention list for the European Commission files**

The Common Commission-level Retention List for the European Commission files (CRL)<sup>50</sup> is a regulatory instrument that sets the retention period for the different types of Commission files. Structured as a retention schedule<sup>51</sup>, it sets up; for each type of file; the preservation metadata listed in Annex 1, point IV.1.4 (a) to (f).

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.

#### *II.4.3.1. Aims*

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 action<sup>52</sup> or first review);
- where applicable, the action to be taken after transfer to the Historical Archives<sup>53</sup>.

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 documents which DGs/Services must apply to certain types of files;
- (d) To define the action to be taken by the DG/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.

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<sup>50</sup> SEC (2007) 970 of 4 July 2007.

<sup>51</sup> See Annex 4.

<sup>52</sup> Three post-ARP actions are possible: elimination, transfer to the historical archives and sampling/selection.

<sup>53</sup> Two post-transfer actions are possible: permanent preservation or second review.

#### II.4.3.2. Scope

The CRL is applied by all Directorates-General and equivalent departments as follows:

- mandatory for all files created in accordance with these implementing rules;
- on a voluntary basis and with due care to closed files which have not been created in accordance with the aforementioned rules (past files).

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

#### II.4.4. Specific DG/Service-level retention list (SRL)

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 at stake, it shall be submitted to the EDPS under Article 28(1) of Regulation (EC) No 45/2001.

#### II.4.5. Archive schedule

The archive schedule is an administrative document which must be drawn up and adopted by each DG to settle the procedures and actions that derive internally from the implementation of the preservation rules and the CRL/SRL.

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.

It will also make a link between the list of files of the DG/Service and the types of files set out in the CRL and/or, where appropriate, in the SRL.

The schedule must also:

- (a) address the question of 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 documents that fall under the administrative procedure for elimination.

These instructions may also refer to:

- (e) the minimum content of the file;
- (f) the preferred format in which each type of file should be preserved (electronic or paper);
- (g) the circumstances that may give rise to the re-use 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 reviews of the CRL and, if needed, the SRL.

## **II.4.6. Administrative retention period (ARP)**

### *II.4.6.1. Principles and rules*

DGs and departments are required to preserve their files (on paper, in electronic or in hybrid form) during the administrative retention period (ARP) laid down by the CRL. During that period files may not be eliminated.<sup>54</sup>

The ARP begins to run from the date of closure of the file, which is the date when the most recent document was added to the file.<sup>55</sup>

Note that a file is closed by the *chef de file* (lead department) when the case has been dealt with, i.e. when no more documents need to be added to the file<sup>56</sup>.

However, certain events may prevent departments from closing a file.<sup>57</sup>

Where it turns out that a closed file is needed to help protect the Commission's interests,<sup>58</sup> particularly in the event of a litigation, an investigation or a complaint to the Ombudsman, any post-ARP action is suspended (under the

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<sup>54</sup> When a file exists in both electronic and paper form, elimination of one of the two forms does not constitute elimination of the file. If a department chooses to eliminate the paper file, it must nevertheless take account of the Commission's provisions on electronic and digitised documents (see part III) and, above all, it must not destroy certain paper documents which are rendered valid only by a handwritten signature (e.g. contracts, Commission minutes, etc.). Such documents must be preserved on paper and the DG will therefore have hybrid files (in electronic and paper form).

<sup>55</sup> This is normally equal to the registration date. If there is no registration date it is equal to the date of the document.

<sup>56</sup> For example, a "grant agreement management/grant decision management" file will be closed just after payment of the balance of the grant or, where applicable, after receipt of any additional report or other document required by the grant agreement after payment of the balance; a "procurement procedure" file will be closed just after the contract in question has been signed or, where applicable, just after the date on which the contract award notice has been sent to the Publications Office.

<sup>57</sup> For example, in the case of an investigation, where irregularities are suspected or have been established in relation to an open file with financial implications (e.g. a project receiving funding, a mission, etc.) this file can only be closed when: (1) it has finally been established that no irregularity took place; or (2) the irregularity has been rectified, possibly – but not necessarily – as a result of litigation.

<sup>58</sup> For example: a litigation where a number of closed files serve as the basic or additional source of information.



legal hold process) until the case has been dealt with. This rule also applies if only some documents in a file are covered by the legal hold.

When the legal hold is over, any suspended post-ARP action can be carried out.

When files are transmitted (lent) for administrative purposes, this does not result in a suspension of the ARP. However, if a file is on loan when the ARP expires, any action to be taken will be carried out after it has been returned.

#### *II.4.6.2. Calculating the ARP: Special rules*

Even though in principle, the ARP is a number of years that start to run after the closure of the file, the CRL's retention schedule mentions that; for certain types of files, the ARP may be calculated differently.<sup>59</sup>

### **II.4.7. Administrative procedures for elimination of documents during the ARP**

Administrative procedures for elimination of documents, which apply to some types of well-defined files, oblige DGs/Services to eliminate from such files certain documents 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)<sup>60</sup> or, where appropriate, by the specific retention list (SRL). They correspond to a purging of the files through the elimination of certain documents 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 documents 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.

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<sup>59</sup> For example: (1) "files belonging to cabinets": the ARP corresponds to the Commission's term of office; irrespectively of closure dates, all files are transferred to the historical archives at the end of the Commission's term of office; (2) "personal files" are kept for up to 8 years after the extinction of all rights of the person concerned and of any dependants, and for at least 120 years after the date of birth of the person concerned.

<sup>60</sup> The CRL [SEC(2007)970] establishes 3 administrative procedures for the elimination of documents: (1) elimination of unsuccessful grant applications after three years ("grant award procedures" files); (2) elimination of unsuccessful tenders after five years ("procurement procedures" files); (3) elimination after five years of all documents except application forms, offers of traineeships, letters of acceptance and attestations of traineeships ("trainee" files).

## **II.5. APPRAISAL AND TRANSFER OF FILES TO THE COMMISSION'S HISTORICAL ARCHIVES**

### **II.5.1. Appraisal and transfer: purpose and aims**

#### *II.5.1.1. Purpose*

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:
  - (i) need to be preserved permanently for legal or administrative reasons  
  
and/or
  - (ii) 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 years in accordance with Council Regulation (ECC, Euratom) No 354/83 as amended by Council Regulation (EC, Euratom) No 1700/2003.

#### *II.5.1.2. Aims*

The aims of these rules are to:

- (a) establish the procedures to be followed for the appraisal of the Institution'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.

### **II.5.2. Principles governing appraisal and transfer of files to the Commission's Historical Archives**

- (a) 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.

- (b) Archives that are not subject to a retention list shall be reviewed by the Directorates-General and equivalent departments concerned with a view to their elimination or transfer to the Historical Archives.<sup>61</sup> Such transfers will take place no later than 15 years after the files are closed. The Commission's Historical Archives Service may refuse the transfer of files in which case the department concerned shall be informed of the reasons for the refusal.
- (c) Within each Directorate-General and equivalent department, the Document Management Officer (DMO) is responsible, under the authority of the Director-General or Head of Service, for the first review of files<sup>62</sup> 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.
- (d) In order to guarantee processing in compliance with the Commission's provisions on security, documents and files containing any classified information shall be clearly identified at every stage of appraisal, transfer and, if applicable, elimination. Transferring departments will motivate the origin, level and duration of such classifications<sup>63</sup>.
- (e) In order to guarantee processing in compliance with the obligation to open the historical archives to the public, documents and files containing sensitive information as defined under article 2, par. 1, 2 and 3 of Council Regulation No 354/83 as amended by Council Regulation No 1700/2003, shall be clearly identified when these files are transferred to the Historical Archives. Transferring departments will motivate the origin and duration of any exceptions to the opening of the archives to the public.
- (f) Documents and files that have not been identified as containing any classified or sensitive information in accordance with points (d) and (e) above will be fully opened to the public no later than 30 years after their production.
- (g) 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 files.<sup>64</sup> Any such exception will be motivated by compelling reasons and must be submitted to the Secretariat General for agreement.

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<sup>61</sup> Directorates-General and equivalent departments may nevertheless, on a voluntary basis, review these files in accordance with the retention list.

<sup>62</sup> 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 DMO and of the operational units will depend on the internal organisation of the Directorate-General or equivalent department concerned. In any case, the DMO must ensure that the first review of files takes place in accordance with these provisions.

<sup>63</sup> This refers to documents classified in accordance with the applicable security provisions, see point I.1.1.

<sup>64</sup> Such exceptions could include the uncovering of episodes of past maladministration, an extraordinary public interest in the information or in the documents concerned or other reasons that could make it necessary to (temporarily) preserve the files concerned.

- (h) Any exception to the obligation to transfer files in accordance with points (a) and (b) must be motivated by compelling administrative or legal reasons and must be submitted by the DMO 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.

### **II.5.3. Rules governing appraisal, sampling, selection, transfer and elimination**

#### *II.5.3.1. Rules governing the appraisal of files*

The appraisal of files consists of a first and a second review.<sup>65</sup> A first review is applicable to all files after the expiration of their administrative retention period. Where a second review is foreseen 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 (execution of the post-ARP action) of their archives after the expiration of the administrative retention period.<sup>66</sup>

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.

The second review is undertaken by the Historical Archives Service, in co-operation 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.

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<sup>65</sup> See also point II.6.4 (b) and (c) below.

<sup>66</sup> Non compliance with this rule could lead to the Commission not fulfilling its legal obligations, for example with respect to the protection of personal data.

### *II.5.3.2. 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 while 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:
  - reference to the relevant category in the retention list;
  - indication of the files chosen for further preservation;
  - 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 II.5.3.3. Files selected for preservation will be transferred to the Historical Archives in accordance with point II.5.3.4, 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.

### *II.5.3.3. 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 media<sup>67</sup>, 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 of digital archives will comply with the Commission's provisions on electronic and digitised documents annexed to the Commission decision 2004/563/EC, Euratom and with its implementing rules.<sup>68</sup>

Elimination shall be properly documented. Such documentation shall include:

- (a) the justification for elimination;
- (b) the list of eliminated files including their relevant metadata as defined in point II.5.4;
- (c) the department and staff responsible for the decision to eliminate;
- (d) where physical destruction of storage media occurs:
  - the department and staff responsible for the physical destruction of the files;
  - 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 review files that have been transferred to them but that 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.

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<sup>67</sup> Storage media include paper, tapes, hard drives or any other physical material with recorded data.

<sup>68</sup> See part III.

#### *II.5.3.4. Rules governing the transfer of files*

All files transferred to the Commission's Historical Archives Service shall be accompanied by a transmission form and the metadata required for the appropriate reception and further processing of the files by the Historical Archives Service as defined in point II.5.4. The transmission form must be signed by the DMO acting under the authority of the Director-General and countersigned by the Commission's Historical Archives Service.

Transfers of electronic and digitised archives will comply with the Commission's provisions on electronic and digitised documents annexed to Commission decision 2004/563/EC, Euratom and with their implementing rules.<sup>69</sup>

Files from the past for which the above-mentioned metadata are not fully available, shall be reviewed and transferred in accordance with the instructions in Annex 5. The points II.5.2 and II.5.5 are fully applicable to transfers of such files.

### **II.5.4. Metadata**

#### *II.5.4.1. Transfer metadata*

Following first review, in addition to the acquired metadata<sup>70</sup>, the metadata listed in Annex 1, point IV.1.5 must be added to all transferred archives.

#### *II.5.4.2. Elimination metadata*

Following first or second review, the acquired metadata listed in Annex 1, point IV.1.6 must be preserved permanently in the references of eliminated files.

### **II.5.5. Responsibilities concerning files and documents transferred to the Commission's Historical Archives**

#### *II.5.5.1. Responsibilities of the Directorates-General and equivalent departments*

With regard to the archives transferred to the Commission's Historical Archives by the department concerned, each Directorate-General or equivalent department is responsible<sup>71</sup> for the following:

- (a) to co-operate<sup>72</sup> with the Historical Archives Service in the second review of archives;

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<sup>69</sup> See part III.

<sup>70</sup> This concerns registration, filing and preservation metadata as well as the metadata for electronic and digitised documents.

<sup>71</sup> These responsibilities concern both the archives for which the Directorate-General or equivalent department is the originator and the archives for which it is responsible under point II.4.2.1.1.

<sup>72</sup> In practical terms co-operation means that, at the request of the Historical Archives Service, the originating Directorates-General or equivalent departments will provide assistance and advice in order to better assess the historical value of the files.

- (b) to co-operate with the Historical Archives Service in the regular review of documents falling under points II.5.2 (d) or II.5.2 (e) above, with a view to declassifying them and/or determining whether the exceptions set out in Regulation No 1700/2003 should continue to apply;
- (c) to continue to treat all requests for access to documents emanating from other EU institutions and bodies until such a time as that the archives have been opened to the public in accordance with Regulation No 1700/2003;
- (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 in accordance with Regulation No 1700/2003.

#### *II.5.5.2. Responsibilities of the Commission's Historical Archives Service*

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

- (a) to ensure the physical protection and integrity of all transferred archives in conformity with the preceding rules and with the implementing rules on electronic and digitised documents;<sup>73</sup>
- (b) to ensure the preservation and integrity of the file metadata provided by transferring departments;
- (c) to make documents and files available, upon request, to the Directorates-General or equivalent departments;<sup>74</sup>
- (d) 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;<sup>75</sup>
- (e) 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;<sup>76</sup>

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<sup>73</sup> See in particular points III.2.2.6, III.2.6, and III.2.7.

<sup>74</sup> Exceptions may apply to certain file sor types of files (e.g. personnel files, merger files, state aid files, ...).

<sup>75</sup> This concerns both the archives for which the department concerned is the originator and the archives for which it is responsible under point II.4.2.1.1.

<sup>76</sup> Cf. point II.4.2.1.1 (d). This includes requests for public access to documents from the former Cabinets. In this case however, the Historical Archives shall consult the Cabinet which is currently responsible for the policy area concerned.



- (f) to undertake, where necessary and in cooperation with the originating Directorate-General or equivalent department or its successor, the second review of files no later than 25 years after the files concerned are closed. Second review is necessary:
- where this is indicated in the applicable retention list;
  - for the files that have been transferred to the Historical Archives but that are not subject to a retention list.
- (g) to examine documents identified as classified or as containing sensitive information [see points II.5.2 (d) or II.5.2 (e)], where applicable in cooperation with the Directorates-General and equivalent departments concerned or their successors, with a view to declassifying and/or determining whether the exceptions set out in Council Regulation No 354/83 as amended by Council Regulation No 1700/2003 continue to apply. Such examination 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.
- (h) to ensure that the Commission's historical archives are open to the public after 30 years in accordance with Council Regulation No 354/83 as amended by Council Regulation No 1700/2003.

## **II.6. COORDINATION AND MONITORING BY THE SECRETARIAT-GENERAL**

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

- (a) registration of documents;
- (b) filing and management of files;
- (c) preservation of files; and
- (d) appraisal and transfer of files to the Commission's Historical Archives.

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

### **II.6.1. Coordination and monitoring by SG: registration of documents**

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

- (a) a list of any specific registers they keep, together with the names of the individuals and/or departments responsible for those registers;
- (b) a list of any rules or procedures they apply whose effect is equivalent to registration.

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, on the one hand, and of the rules and procedures with effect equivalent to registration, on the other, 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.

### **II.6.2. Coordination and monitoring by SG: filing and management of files**

The Secretariat-General shall:

- (a) define 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 institution's filing plan (NOMCOM), 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.

### **II.6.3. Coordination and monitoring by SG: preservation of files**

The Secretariat-General shall supply:

- (a) the common Commission-level retention list;
- (b) the suggested methodology for drawing up specific DG/Service-level retention lists;
- (c) the procedures proposed for the elimination of archives;
- (d) the updated versions of the common Commission-level retention list.

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

The Secretariat-General shall keep the CRL up-to-date, in close cooperation with the Directorates-General and equivalent departments:

- (a) If necessary, the CRL might be reviewed for the first time three years after its adoption. The need for such a review will become clear once DGs have drawn up and implemented their archive schedule.
- (b) 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.
- (c) Any review of the CRL will be submitted to the EDPS under article 28 (1) of Regulation (EC) No 45/2001 on the protection of personal data.

### **II.6.4. Coordination and monitoring by 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 concerning appraisal, disposal, transfer and management of archives, in close cooperation with the Directorates-General and equivalent departments and the Commission's Historical Archives Service;
- (b) define, in close cooperation with the Inter-service Group of Document Management Officers and the Commission's Historical Archives Service, general criteria for the first review of files;<sup>77</sup>
- (c) define, in close cooperation with the Commission's Historical Archives Service and after consulting the Inter-service Group of DMO, general criteria for the second review of files;
- (d) ensure the deployment of IT tools for the appraisal, transfer and management of archives, including the electronic file repository for the

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<sup>77</sup> This will include the adoption of guidelines on the destruction and eventual re-use or recycling of physical storage media.

historical archives, in close cooperation with the Directorate-General for Informatics and the Commission's Historical Archives Service.

## **II.7. IMPLEMENTATION IN THE DIRECTORATES-GENERAL AND EQUIVALENT DEPARTMENTS**

The directorates-general and equivalent departments shall implement the implementing rules of Decision 2002/47/EC, ECSC, Euratom concerning document management as soon as they are adopted.

Nevertheless, account should be taken of the fact that:

- (a) The IT hardware and software for managing documents and files at central level and at the level of each Directorate-General/Service, will be gradually adapted to these implementing rules in accordance with a timetable that the Secretariat-General will lay down in collaboration with the Directorate-General for Informatics and the Directorates-General and equivalent departments;
- (b) The Office for Infrastructure and Logistics and the Directorate-General for Informatics will take the necessary measures, in collaboration with DGs/Services, to make available suitable storage areas (paper and electronic) and the necessary resources for the elimination of archives identified as dispensable in accordance with the common retention list and the specific retention lists. This will be done in accordance with the timetable that the Secretariat-General will lay down in collaboration with the Office for Infrastructure and Logistics and the Directorate-General for Informatics depending on available resources;
- (c) Directorates-General and equivalent departments will adapt their internal procedures in such a way as to integrate the common preservation rules into their procedures and working methods;
- (d) These rules shall become fully applicable to the transfer of electronic and digitised archives once the necessary IT tools have been put in production;
- (e) Until then, transitional operational instructions for the transfer of electronic and digitised archives as well as for the transfer of existing metadata of paper files, will be drawn up by the Secretariat-General, the Directorate-General for Informatics and the Commission's Historical Archives Service, after consulting the Interservices Group of DMO.

### **III. Implementing rules for the decision 2004/563/EC, Euratom on electronic and digitised documents**

### **III.1. SCOPE OF THE IMPLEMENTING RULES ON ELECTRONIC AND DIGITISED DOCUMENTS**

These implementing rules are adopted pursuant to Article 9 of the Commission's provisions on electronic and digitised documents annexed to the Commission's Rules of Procedure by Commission Decision 2004/563/EC, Euratom.

They cover all born-digital documents and electronic documents resulting from the digitisation of documents originally on a physical medium<sup>78</sup>, as drawn up or received by the Commission and belonging to the Commission's documentary resources, and the procedures managed by IT systems.

The basic principle underlining these implementing rules is that an electronic system for document management, procedures or transmission must offer the same guarantees, in terms of security and controlled access to data, as would be provided in the traditional environment of physical media, in particular paper.

They constitute the common standards to be complied with by all Directorates-General and equivalent departments in the Commission.

They may apply, *mutatis mutandis*, under agreements to be concluded between the Commission or its DGs/Services, on the one hand, and external bodies with which the Commission or its DGs/Services intend to have electronic transactions, on the other hand.

They are supplemented by technical annexes, which will be updated in line with the development of information technologies and the emergence of new standards, by means of circulars adopted by the Secretary-General, in collaboration with the Directorate-General for Informatics and sent to Directorates-General and equivalent departments for implementation.

They do not preclude the production of more detailed or more stringent technical standards in specialist areas.<sup>79</sup>

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<sup>78</sup> Such as paper, microforms, etc.

<sup>79</sup> E.g. for the award of public procurement contracts or the award of grants by electronic means.

## III.2. ELECTRONIC AND DIGITISED DOCUMENTS

### III.2.1. Rules for implementing article 4(1) – Validity of electronic documents

*[Article 4(1)] “Whenever the applicable Community or national provision requires the signed original of a document, an electronic document drawn up or received by the Commission satisfies this requirement if the document in question bears an advanced electronic signature which is based on a qualified certificate and which is created by a secure signature-creation device<sup>80</sup> or an electronic signature offering equivalent assurances with regard to the functionalities attributed to a signature.”*

#### III.2.1.1. General principles

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

Article 4(1) is about signing as a substantial formality, a situation in which only the advanced electronic signature based on a qualified certificate and created by a secure-signature-creation device is acceptable as it meets the same requirements (authenticity, non-repudiation and integrity) and has the same legal effects as a handwritten signature, in accordance with Article 5 of Directive 1999/93/EC.

As far as possible, the Commission uses the same type of electronic signature, whatever circle is concerned, or interoperable systems that are transparent for the final user.

The use of an advanced electronic signature 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 documents require a signature as a substantial formality in order to be valid, an advanced electronic signature may be required for electronic exchanges in particular within circle 3,<sup>81</sup> which require clear and unambiguous identification of a person, in accordance in particular with the need-to-know principle<sup>82</sup>.

The types of electronic documents drawn up by the Commission for which signature is a substantial formality would include minutes and acts to be authenticated pursuant to Articles 11 and 17 of the Commission’s Rules of procedure.

The types of electronic documents received by the Commission for which signature is a substantial formality would include documents constituting legal commitments, in particular tenders under public procurement procedures, grant agreements or decisions under grant award procedures and declarations of

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<sup>80</sup> As defined in Article 2, point 6) of Directive 1999/93/EC (OJ L 13, 19.1.2000, p. 12).

<sup>81</sup> Within circles 1 and 2 a person can be clearly identified with reasonable assurance by means of a simple electronic signature, as the institution (or the partner institutions in circle 2) have control over all the security aspects of the systems, networks and persons using them.

<sup>82</sup> E.g. where the document contains information or data which only the addressee is entitled to know.



expenditure, annual accounts and statements of assurance drawn up, in particular, under the shared management arrangements with the Member States.

*III.2.1.2. Principles of management of electronic documents drawn up by the Commission and signed by means of an advanced electronic signature*

Within the Commission, the Directorate-General for Informatics, assisted by the “Security” Directorate<sup>83</sup>, is putting in place the technical infrastructure and secure devices required for the creation and utilisation of a public key infrastructure in accordance with the rules of Community law governing electronic signatures, in particular Directive 1999/93/EC.

Secure signature-creation devices<sup>84</sup> must, by appropriate technical and procedural means, ensure at the least that:

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

In addition secure 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.

As regards certification services<sup>85</sup>, either the Commission performs these functions itself or it concludes a contract with an external certification-service-provider.

*III.2.1.3. Principles of management of electronic documents received by the Commission and signed by means of an advanced electronic signature*

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 an advanced electronic signature in accordance with generally accepted standards.

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<sup>83</sup> The “Security” Directorate is commonly referred to as the “Security Office” in official documents.

<sup>84</sup> See OJ L 13, 19.1.2000, p. 12, Annex III.

<sup>85</sup> Set up of the organisational structure to guarantee the creation, issue and management of the certificates is indispensable.

#### *III.2.1.4. Guarantee of integrity of the content of the document, the relevant metadata and their preservation*

Whatever the circle of parties involved and the system used for exchanging documents, the content received is presumed to be equivalent to the content sent unless proved otherwise.

The conditions for preserving the integrity of the content of the document, of its metadata over time and, where appropriate, of its electronic signature are set out in points III.2.6 and III.2.7.

### **III.2.2. Rules for implementing article 4(2) – Validity of electronic documents**

*[Article 4(2)] “Whenever the applicable Community or national provision requires a document to be drawn up in writing without, however, requiring a signed original, an electronic document drawn up or received by the Commission satisfies this requirement if the person from whom it emanates is duly identified and the document is drawn up under such conditions as to guarantee the integrity of its contents and of the relevant metadata and is preserved in accordance with the conditions laid down in Article 7.”*

#### *III.2.2.1. General principles*

Article 4(2) concerns documents for which signature is not required as a substantial formality. These form the bulk of the administrative documents drawn up by the Commission.

Points III.2.2.4 to III.2.2.5 below deal with born-digital documents. Point III.2.2.6 deals with the Commission’s digitisation procedure.

Born-digital documents drawn up by the Commission comply, at the time of their creation, with the format required for the type of procedure concerned.

#### *III.2.2.2. Due identification of the person from whom the document emanates*

The requirements of the system making it possible to duly identify the person from whom the document emanates are laid down according to the circle concerned and the formalism required for the area or the stage of the procedure to which the document relates. The guarantees of clear identification must accordingly be stricter if the document is to have legal effects (e.g. if it sets deadlines or if it contains data which only the addressee is entitled to know). On the other hand, they can be less stringent if the document is a simple exchange of information.

Within circle 1, electronic identification of persons is performed by the ECAS system or any other equivalent certified system.<sup>86</sup> The Directorate-General for Informatics is responsible for the operation and maintenance of the identification system (currently ECAS).

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<sup>86</sup> ECAS is used for authentication when an IT application is used. For transmission of documents by email, the SECEM (*Secure Electronic Mail*) system offers a guarantee of identification of the sender.

Within circle 2, the parties involved in the electronic exchange process must be identified by a system mutually accepted by the parties.

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 document 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 documents by senders/recipients<sup>87</sup>.

#### *III.2.2.3. Guarantee of integrity of the content of the document, of its metadata and their preservation*

The required guarantee of integrity of the content of the document, 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 documents concerned.

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

The conditions for preserving the integrity of the content of the document and of its metadata over time and where appropriate of its electronic signature are laid down in points III.2.6 and III.2.7.

#### *III.2.2.4. Types of documents drawn up by the Commission not requiring a signed original (non-exhaustive list)*

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

- (a) documents drawn up by the Commission relating to the internal<sup>88</sup> or interinstitutional<sup>89</sup> 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

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<sup>87</sup> 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, submission of projects under calls for proposals where a check can be made at the final selection stage.

<sup>88</sup> Excluding the authentication of acts, as provided for in the Commission's Rules of Procedure.

<sup>89</sup> 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.

to be proposed, and those preparing public documents, such as green papers, white papers, communications, etc.;

- (b) certain documents concerning the management of contracts and grants<sup>90</sup>, 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) documents drawn up by the Commission having legal effect in internal administrative procedures (e.g. application of the Staff Regulations);
- (d) documents relating to the purely internal operation of a Directorate-General or Service (e.g. minutes of meetings);
- (e) documents of an administrative nature drawn up by the Commission and intended to be sent outside (other institutions, Member States, firms, citizen);
- (f) documents 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 Community policies.

*III.2.2.5. Types of documents received by the Commission not requiring a signed original (non-exhaustive list)*

These are in particular most of the documents relating to administrative procedures coming from Community institutions and bodies, 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 document, for example:

- (a) exchanges of information with Member States and other institutions and bodies under Community policies;
- (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;
- (f) statistical and financial data required under Community legislation, in particular those relating to common policies, their management, control or financing.

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<sup>90</sup> This does not mean the contract and the grant agreement or decision, which, if they are electronic documents, require an advanced electronic signature.

### III.2.2.6. *Commission's digitisation procedure*

#### III.2.2.6.1 General principles

In order to build up, within the Commission, a fully electronic management system for its documentary resources allowing the gradual introduction of exclusively electronic procedures, the Commission is systematically digitising all documents drawn up or received on other supports, in particular paper.

#### III.2.2.6.2 Formats

Documents are digitised in a format which offers guarantees of permanence, legibility over time and facility of access to the information they contain. Without prejudice to other original media<sup>91</sup>, future developments and standards which might be recognised at international level, the digitisation format for paper is either

(a) PDF or PDF/A,<sup>92</sup>

or

(b) TIFF with a minimum resolution of 300 DPI.

These formats are then enriched by an optical character recognition (OCR) procedure leaving the image intact but facilitating full text searches.

#### III.2.2.6.3 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 document obtained corresponds to the original document in content and form (quality control).<sup>93</sup>

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

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<sup>91</sup> Such as audio or video files, photographs, films.

<sup>92</sup> When documents digitised from paper are integrated into the electronic file repository containing the current and intermediate records, the permanent format is PDF, PDF/A or TIFF. When these digitised documents are transferred to the electronic file repository containing the definitive or historical archives, all formats are converted into PDF/A approved by ISO 19005 or equivalent formats depending on developments in technology or standards, provided that the authenticity and legibility of the format in question will be guaranteed over the long term.

<sup>93</sup> 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 (check 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.).

Without prejudice to the rules concerning the disposal of originals, as a precaution, all documents are kept on their original medium for six months, during which time any errors reported are immediately corrected. Depending on how the DG/Service is organised, these originals can be stored by the Document Management Centre (DMC), by the originating department or its successor or by the department in charge of digitisation if it is not one of those two.

#### III.2.2.6.4 Preservation of original paper copy<sup>94</sup>

When the original is a paper copy for which signature is a substantial formality, this original is preserved and transferred in accordance with the document management rules<sup>95</sup>.

If the original paper copy is required for control or audit purposes, it is preserved during the period stipulated by the rules governing such controls or audits.<sup>96</sup> All internal administrative requirements are properly satisfied by production of the digitised electronic document and external administrative requirements can likewise be satisfied.

When the original paper copy is a document for which signature is not a substantial formality and when this original paper copy is not required by any 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 document is properly satisfied by production of the digitised document.

#### III.2.2.6.5 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;
- (d) documentation relating to the elimination of the original medium<sup>97</sup>.

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<sup>94</sup> The rules set out in this point concern official documents and files which form part of the Commission's documentary resources. They do not prevent users from keeping paper copies they need for everyday management purposes.

<sup>95</sup> See chapters II.4 and II.5.

<sup>96</sup> For example, Article 49 of the regulation laying down detailed rules for the implementation of the Financial Regulation applicable to the general budget of the European Communities provides that supporting documents are "to be kept for at least five years from the date on which the European Parliament grants discharge for the budgetary year to which the documents relate".

<sup>97</sup> Except in cases where the paper original must be kept.

All documentation relating to digitisation operations must be kept permanently.

### **III.2.3. Rules for implementing article 5(1) – Validity of electronic procedures**

*[Article 5(1)] “Where a procedure specific to the Commission requires the signature of an authorised person or the approval of a person at one or more stages of the procedure, the procedure may be managed by computer systems provided that each person is identified clearly and unambiguously and that the system in question ensures that the content, including the stages of the procedure, cannot be altered.”*

#### *III.2.3.1. Due identification of the person authorised to be involved in the procedure*

Within the Commission the computer systems which manage its specific procedures use ECAS or some other equivalent certified system for electronic identification of persons.

#### *III.2.3.2. Protection of content and stages of the procedure against alteration*

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

- (a) offer effective control measures over rights of access in order to prevent any access, any elimination, any alteration, any illegal, malicious and unauthorised moving of documents, files, metadata and stages of the procedure;
- (b) be equipped with systems of protection against virus attacks, hackers, theft, fire, excessive temperature or water damage;
- (c) prevent, by various means, any unauthorised change and incorporate integrity mechanisms (via digital fingerprint) to check that a document has not changed over time;
- (d) keep an audit trail for each essential stage of the procedure;
- (e) save stored data in a safe environment;
- (f) provide reliable format conversion and migration procedures in order to guarantee legibility and accessibility of documents throughout their entire retention period;
- (g) 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 specifications<sup>98</sup>; this documentation must be kept up to date and, in the

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<sup>98</sup> 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

event of a change in the departments concerned, transmitted directly to the new lead departments for the functional or technical aspects.

#### **III.2.4. Rules for implementing article 5(2) – Validity of electronic procedures**

*[Article 5(2)] “Where a procedure involves the Commission and other entities and requires the signature of an authorised person or the approval of a person at one or more stages of the procedure, the procedure may be managed by computer systems offering conditions and technical assurances determined by agreement.”*

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

#### **III.2.5. Rules for implementing Article 6(1) and (2) - Transmission by electronic means**

*[Article 6)] “1. The transmission of documents by the Commission to an internal or external recipient may be carried out by the communication technique best adapted to the circumstances of the case.*

*2. Documents may be transmitted to the Commission by any communication technique, including electronic means: fax; e-mail; electronic form; website etc.*

*3. Paragraphs 1 and 2 shall not apply where specific means of transmission or formalities connected with transmission are required by the applicable Community or national provisions or by an agreement between the parties.”*

Article 6(1) and (2) concerns the transmission of documents drawn up or received by the Commission where transmission is not subject to any special requirements, whether such requirements be laid down by law or by simple agreement between the parties.

##### *III.2.5.1. Priority use of the workflow system for structured transmissions*

In order to overcome the drawbacks linked to intensive use of electronic mail<sup>99</sup> and fax, the Directorates-General and equivalent departments put in place workflow systems<sup>100</sup> wherever possible.

These workflow systems may take the following forms:

- (a) electronic form in XML<sup>101</sup> format, the metadata of which are entered by the user, which is sent via an internal or external web application and

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Document Management Officers (DMO) and IT departments (Information Resource Managers – IRM – and their teams) in the Directorates-General and equivalent departments.

<sup>99</sup> The use of electronic mail multiplies the number of copies of any document and makes management difficult and preservation uncertain as they depend entirely on the sending or receiving user.

<sup>100</sup> 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.

<sup>101</sup> Structured by means of DTD (Document Type Definitions) or XML schemas.



which contains in an annex that cannot be separated from it the document or documents to be transmitted;

- (b) information system managing a process which can contain, in an annex that cannot be separated from it, the documents linked to this process;
- (c) information system for transmitting documents in a particular area of activity;
- (d) 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 documents to be signed.

#### *III.2.5.2. 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:

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

### **III.2.6. Rules for implementing article 7(1) – Preservation**

*[Article 7(1)] “Electronic and digitised documents shall be preserved by the Commission throughout the required retention period, under the following conditions:*

- (a) the document shall be preserved in the form in which it was drawn up, sent or received or in a form which preserves the integrity not only of its contents but also of the relevant metadata;*
- (b) the content of the document and the relevant metadata must be readable throughout the retention period by any person who is authorised to have access to them;*
- (c) as regards a document sent or received electronically, information which makes it possible to determine its origin and destination and the date and time of dispatch or receipt are part of the minimum metadata to be preserved;*
- (d) as regards electronic procedures managed by computer systems, information concerning the formal stages of the procedure must be preserved under such conditions as to ensure that those stages and the authors and participants can be identified.”*

### III.2.6.1. Required retention period

“Throughout the period required” means the retention period as laid down in the implementing rules on document management<sup>102</sup>.

### III.2.6.2. Preservation of the document in its original form or in a form which preserves the integrity not only of its content but also of its metadata

#### III.2.6.2.1 General conditions applicable to documents not signed electronically

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

- in its original format and/or in a permanent format<sup>103</sup> throughout the entire period of short- and medium-term accessibility<sup>104</sup>;
- in the permanent format alone beyond that period<sup>105</sup> if it is of interest for the definitive or historical archives and must not be eliminated under the procedure of first review.

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

#### III.2.6.2.2 Conditions applicable to documents bearing a simple or advanced electronic signature

Documents drawn up or received by the Commission and signed by means of a simple or advanced electronic signature form part of the Commission’s documentary resources as soon as they are registered.

As soon as:

- the electronic document, both in its original format and in a permanent format,
- and
- its simple or advanced electronic signature in its original format,

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<sup>102</sup> See chapter II.4.

<sup>103</sup> E.g. PDF, PDF/A approved by ISO 19005, structured XML (by means of DTD or XML schemas), TIFF, JPEG or equivalent formats depending on developments in technology or standards.

<sup>104</sup> Short- and medium-term accessibility refers to the period for which the administrative retention period (ARP) for a file is still running, or, if the ARP does not apply, a period of fifteen years at most.

<sup>105</sup> When documents are transferred to the electronic file repository containing the definitive and historical archives, all formats are converted into PDF/A approved by ISO 19005 or equivalent formats depending on developments in technology or standards, provided that the authenticity and legibility of the format in question will be guaranteed over the long term.

are integrated into the electronic file repository, they become part of the Commission's documentary resources.

For each document bearing a simple or advanced electronic signature, the electronic file repository generates and automatically associates with the document 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<sup>106</sup>), the validity of the document 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.

Should it become necessary to produce a paper version of an electronic document issued by the Commission and bearing a simple or advanced electronic signature, the electronic file repository generates the document in a permanent format on Commission headed paper and produces the electronic seal containing all the information of the electronic signature and time stamp, leaving the electronic version as the "original".

### *III.2.6.3. Preservation of electronic signatures*

In order to guarantee the preservation of electronic signatures over time, the electronic file repository referred to in Article 7(2) must offer guarantees that signed documents cannot be altered or that any intentional or accidental alteration can at least be detected.

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

- (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 period<sup>107</sup> the function of the electronic signature, i.e. to guarantee the integrity and authenticity of the documents, 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.

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<sup>106</sup> To extend the length of the key, change the algorithm or method in line with developments in technology.

<sup>107</sup> Beyond the end of the administrative retention period (ARP), or, if this does not apply, fifteen years at most.

### III.2.7. Rules for implementing article 7(2) – Electronic file repository

*[Article 7(2)] “For the purposes of paragraph 1 the Commission shall set up an electronic file repository to cover the entire life cycle of the electronic and digitised documents.*

*The technical conditions of the electronic file repository shall be laid down by the implementing rules provided for in Article 9.”*

#### III.2.7.1. Content of the electronic file repository

As soon as they are registered, all electronic documents must be integrated into the electronic file repository together with all the required metadata<sup>108</sup>.

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

#### III.2.7.2. Entire life cycle of electronic and digitised documents

The Commission’s electronic file repository must cover the entire life cycle of an electronic or digitised document, i.e. the stages or periods in the life of a document from when it is received or formally drawn up until it is transferred to the Commission’s Historical Archives and opened to the public or eliminated.

#### III.2.7.3. Architecture of the Commission’s electronic file repository

##### III.2.7.3.1 Principle of single storage of the document in a single place, except in duly justified cases

The electronic file repository referred to in Article 7(2) 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.

##### III.2.7.3.2 Level of requirements depending on the retention period: electronic file repository for the current and intermediate records and electronic file repository for the definitive or historical archives

The architecture of the Commission’s electronic file repository 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 is made up of two separate modules:

- (a) Electronic file repository for current and intermediate records

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<sup>108</sup> See Annex 1.

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 documents 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.

#### *III.2.7.4. Functionalities of the electronic file repository*

The electronic file repository must offer the following minimum functionalities<sup>109</sup>:

- (a) registration of documents in accordance with the rules on registration;
- (b) filing of documents in accordance with the rules on filing;
- (c) preservation of documents, the relevant metadata and the stages of the procedure in accordance with the rules on preservation and these implementing rules;
- (d) digitisation in a permanent format, followed by an optical character recognition (OCR) procedure;
- (e) migration of format and/or computer environment at intervals sufficient to guarantee legibility and accessibility of documents throughout the retention period required;
- (f) management of major language and historical versions of the same document;
- (g) time stamp certifying the deposit of the document and its metadata on the date of deposit and renewal of this time stamp at suitable intervals depending on any security risks;
- (h) non-alteration of documents bearing an electronic signature, via digital fingerprint (*hash-value*);
- (i) access management and control based on the predefined rights of users and owner departments of documents and on the level of accessibility to the documents themselves;

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<sup>109</sup> These functionalities may be provided directly by the electronic file repository or by modules communicating with it via an effective interface.

- (j) elimination of files, documents, metadata<sup>110</sup> 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;
- (k) efficient search tools enabling easy retrieval of documents, their metadata and the stages of the procedure;
- (l) 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;
- (m) 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-authorized access);
- (n) 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, both as regards the electronic file repository for current and intermediate records and the electronic file repository for definitive or historical archives, in agreement with the Secretariat-General and the Commission's Historical Archives Service.

### **III.2.8. Rules for implementing article 8 – Security**

*[Article 8] “Electronic and digitised documents shall be managed in compliance with such security rules as are incumbent on the Commission. To that end, the information systems, networks and transmission facilities used for the Commission’s documentary resources shall be protected by adequate security measures concerning document classification, protection of information systems and personal data protection.”*

The information systems, networks and means of transmission used to integrate the electronic and digitised documents into the Commission's documentary resources must be checked for compliance with the legislation or rules governing security, personal data protection<sup>111</sup>, information systems security and management of access rights, either directly by the Security Directorate or under its control.<sup>112</sup>

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

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<sup>110</sup> For the metadata to be preserved, see Annex 1, point IV.1.6.

<sup>111</sup> As regards personal data protection, see Regulation (EC) No 45/2001 and in particular Articles 4, 21 and 22 thereof concerning the management of access rights.

<sup>112</sup> For the list of electronic procedures identified as having priority, see Annex 6.

changes<sup>113</sup> after being found compliant, a request for renewal of the statement of compliance is essential.

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<sup>113</sup> “Major changes” means, for instance, an information system intended initially solely for Commission departments (circle 1), but then extended to the other institutions and Member States (circle 2) or to the outside world in general (circle 3).

### **III.3. COORDINATION AND MONITORING BY THE SECRETARIAT-GENERAL**

The Directors-General and Heads of Service will inform the Secretariat-General, upon formal approval, of all agreements<sup>114</sup> 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 III.2.2.6.3, with a view to possible harmonisation on the basis of the most effective criteria.

The Secretariat-General, 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.

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<sup>114</sup> Within the meaning of the second paragraph of Article 2 of the provisions on electronic and digitised documents annexed to the Commission's Rules of Procedure by Decision 2004/563/EC, Euratom.



#### **III.4. IMPLEMENTATION IN THE DIRECTORATES-GENERAL AND EQUIVALENT DEPARTMENTS**

The Directorates-General and equivalent departments shall implement these implementing rules as soon as they are adopted.

Nevertheless, account should be taken of the fact that:

- the IT infrastructure, information systems, networks and means of transmission existing at central level are gradually adapted in accordance with a timetable that the Secretariat-General lays down in collaboration with the Directorate-General for Informatics and the Directorate-General for the Budget, on the one hand, and the Directorates-General and equivalent Services on the other;
- as soon as the adapted IT infrastructure, information systems, networks and means of transmission are made available at central level, the Directorates-General and equivalent departments will take the necessary measures so that the documents, procedures and electronic systems they are responsible for are compliant with these implementing rules. To this end the Directorates-General and equivalent Services will forward to the Secretariat-General an implementing action plan for their DG/Service. The timetable and content of the action plan of each DG/Service will be approved by the Secretariat-General, in collaboration with the Directorate-General for Informatics.

## **IV. Annexes**

## **IV.1. ANNEX 1: LIST OF METADATA**

### **IV.1.1. Registration metadata**

The metadata of a document are:

- (a) the date of the document;
- (b) the date of registration;
- (c) the registration number (unique identifier);
- (d) the author of the document and, in the case of an individual, the department or body to which he/she belongs;
- (e) the addressee of the document and, in the case of an individual, the department or body to which he/she belongs;
- (f) where applicable, the level of security classification of the document and the security designators and markings;<sup>115</sup>
- (g) the title or subject of the document;
- (h) the type of document concerned;
- (i) the relevant heading of the filing plan and more specifically the file title;<sup>116</sup>
- (j) wherever possible, the number and a brief description of the attachments.

After appropriate quality control, some or all of these data will be used for compiling the registers of the directorates-general and equivalent departments.

### **IV.1.2. Filing plan heading metadata**

Each heading in the filing plan must include the following metadata:

- (a) title;<sup>117</sup>
- (b) brief description of scope;
- (c) code;<sup>118</sup>
- (d) date of creation;

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<sup>115</sup> This refers to all the elements indicating the level of security classification of a document, setting limits to the validity of a level of classification or indicating a particular distribution on a need-to-know basis. See Commission provisions on security.

<sup>116</sup> The relevant heading of the filing plan and more specifically the file title is an essential item of information that must be included in the register. According to the organisational approach (centralised, decentralised, or a combination of both) of the directorate-general or equivalent department concerned, this shall be specified from the outset by the registration department and/or supplemented later by the official managing the file concerned.

<sup>117</sup> Unambiguous, concise and specific.

<sup>118</sup> Automatic numerical code to which an alphanumerical code can be added if necessary.

- (e) date of closure:
- (f) status;<sup>119</sup>
- (g) owner department and, where applicable, associated departments.

#### IV.1.3. File metadata

Each file must include the following metadata:

- (a) code of the heading in the filing plan;
- (b) code of the file;<sup>120</sup>
- (c) title of the file;
- (d) *chef de file* (lead department) for the file including, where applicable, successive *chefs de file* (lead departments);
- (e) where applicable, level of security classification of the file;<sup>121</sup>
- (f) date of creation;
- (g) date of closure;
- (h) status of the file;<sup>122</sup>
- (i) content of a standard file, where applicable;
- (j) electronic document management system, where applicable.

These metadata can be common or “inherited” by a document from a file. They can be deduced automatically by the computer systems on the basis of predefined rules.

#### IV.1.4. Preservation metadata

The preservation metadata for the files<sup>123</sup> are the following:

- (a) type of file;
- (b) content, where appropriate;<sup>124</sup>

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<sup>119</sup> The heading may have various status: active heading, frozen heading (i.e. heading which remains accessible for managing active files but with no possibility to create new files), extinct heading, etc.

<sup>120</sup> Automatic numerical code to which an alphanumerical code can be added if necessary.

<sup>121</sup> This refers to all the elements that indicate whether or not a level of security classification has been given to a file and, if this is the case, that determine its access status.

<sup>122</sup> The term file status refers to whether a file is active, closed, transferred, destroyed, etc.

<sup>123</sup> A file is not created as such for a series of registered documents. In this case, the compulsory metadata for a file apply *mutatis mutandis* to such series of documents.

<sup>124</sup> If the file is very structured (e.g. a financial file, an inter-service consultation file, a file pertaining to the Commission’s decision-making process or a parliamentary question/answer file), this item of metadata can be retrieved automatically by the IT application via the *check-list* procedure and will be compulsory. However, if the file is not very structured and is not based on a pre-established procedure for which there is no *check-list* procedure, this item of metadata is not compulsory.

- (c) period of time the file has to be retained for administrative reasons (ARP);
- (d) action to take when a file no longer holds administrative value (at the end of the ARP);<sup>125</sup>
- (e) action to be taken after transfer to the Historical Archives;<sup>126</sup>
- (f) *chef de file* (lead department) for preservation;
- (g) location;<sup>127</sup>
- (h) medium;<sup>128</sup>
- (i) declassification, where appropriate;<sup>129</sup>
- (j) list of documents contained in the file<sup>130</sup>.

#### IV.1.5. Transfer metadata

Following first review, in addition to the acquired metadata<sup>131</sup>, the following metadata must be added to all transferred archives:

- (a) date of transfer;
- (b) identification of the transferring service;
- (c) level of security classification;
- (d) exceptions referred to under article 2 of Council Regulation No 354/83 as amended by Council Regulation No 1700/2003;
- (e) expiration dates for the security classification or exceptions under article 2 of Council Regulation No 354/83 as amended by Council Regulation No 1700/2003 (where applicable).

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<sup>125</sup> Three actions are possible: (a) elimination; (b) sampling and/or selection; (c) transfer to the Historical archives.

<sup>126</sup> There are two possibilities: (a) permanent preservation; (b) second review by the Historical Archives Service.

<sup>127</sup> Physical place in the case of a paper file, IT application in the case of an electronic file.

<sup>128</sup> The file may be on paper, in mixed form (paper + electronic), in electronic form, audio, visual or audiovisual form.

<sup>129</sup> Some files are allocated an appropriate level of security to information, the unauthorized disclosure of which might cause a prejudice to Commission or to Member State interests (see Commission Decision 2001/844/EC, ECSC, Euratom). This level of security may, however, apply for a limited period of time, after which the file may be declassified, which means that any classification attached to the file (level of security) is removed.

<sup>130</sup> The list of documents in the file is automatic in the case of electronic files. This item of metadata is not required for the old paper files which were already closed when these implementing rules entered into force.

<sup>131</sup> This concerns the metadata for registration, filing, preservation and for electronic and digitised documents.

#### **IV.1.6. Elimination metadata**

Following first or second review, the following acquired metadata must be preserved permanently in the references of eliminated files:

- (a) all file codes (official, DG specific or other);
- (b) title of the file;
- (c) owner/lead department(s);
- (d) date of creation;
- (e) date of closure;
- (f) file type;
- (g) description of the file, including the number and type of archival units for paper files, or the comment 'electronic file' for electronic files, or the comment 'hybrid file' for files composed of both paper and electronic documents;

to which the following metadata must be added:

- (h) elimination date;
- (i) department responsible for elimination.

## **IV.2. ANNEX 2: CRITERIA TO BE FULFILLED BY ALL REGISTRATION SYSTEMS**

All registration systems, whether computerised or not, shall fulfil the following criteria:

### **IV.2.1. Basic features**

The system must save the metadata listed in Annex 1, point IV.1.1 and preserve the association of the original document in a permanent and non-modifiable manner to the metadata describing it.

### **IV.2.2. Assignment of a unique identifier**

The registration number assigned by the registration system shall constitute a unique identifier containing a number that is reset to zero on 1 January each year, except for duly substantiated reasons.<sup>132</sup>

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.<sup>133</sup>

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 in the register.

### **IV.2.3. Audit trails**

All registration systems shall provide the required specific audit trails and be designed to preserve, whenever a registration is cancelled, the metadata listed in Annex 1, point IV.1.1. The system shall also keep an indication of the reasons for cancellation, the date of cancellation and the name of the individual or department responsible for the operation.

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<sup>132</sup> By way of example, the Registry in the Secretariat-General assigns sequential numbers to Commission minutes according to a specific numerical series that is not reset to zero on 1 January of each year.

<sup>133</sup> The numerical continuity of the unique identifier offers certainty regarding the reliability of the registration system and the security of documents registered therein. Such continuity may be interrupted provided that the reasons for the discontinuity are documented or where this is a known specific feature of the system used.

### IV.3. ANNEX 3: DEFINITIONS OF THE KEY NOTIONS RELATING TO REGISTRATION CRITERIA

#### IV.3.1. Formally drawn up

A document is considered **formally drawn up** when it has been *approved as ready* by the author and is ready for transmission.

A document in general is **approved as ready** either by an act of approval (for example a signature), or by *de facto* treating the document as ready (for example by sending it to the intended recipient(s), by making it accessible via a website, etc.). An **e-mail** is **approved as ready** when the author decides to send it to the intended recipient(s).

**Author** does not mean the person(s) charged with the practical task of drafting or typing.<sup>134</sup> The author is the person or the organisational entity *responsible for the content* directly in accordance with the established rules and procedures of the Commission (including the rules and procedures on delegation).

**Ready** does not necessarily mean the final version. An intermediate or draft version of a document may be considered ready as such (for example ready to be sent out for an inter-service consultation).

**Transmission** means an author sending a document to a recipient.<sup>135</sup> This recipient can be a *person*, an *organisational entity*, or an *archiving/information system*.

If the recipient is a **person** or an organisational **entity**, *transmission* is **formal** when the recipient is the one for whom the document is ultimately intended. If the recipient is an **archiving/information system** (for example in the case of a note to the file) *transmission* is **formal** when the document is incorporated into the system, for example the file in question.

#### IV.3.2. Received

A document is **considered received** when it is available to the service(s) for which it is intended.

**Available** means that the document has arrived at the premises of the service or has been handed to an official competent to deal with the document or can be accessed through an information system available to the service.

An official **competent to deal with the document** is either an official involved in the handling of the matter to which the document is related, or an official charged with the task of receiving or treating incoming documents.

In the absence of formal procedures for the transmission, a document **handed to an official competent to deal with it** is considered available to the service at

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<sup>134</sup> Of course, the author in the formal sense and the person doing the typing may well be one and the same (for e-mail this is often likely to be the case), but this is beside the point. The key issue here is responsibility.

<sup>135</sup> “Author” and “Recipient” can be one or several persons, depending on circumstances.



the moment of handing over. If the document fulfils the conditions for registration, it must be registered as soon as possible.

A document **handed** to *any other official* is not considered available to the service at the moment of handing over, but must be forwarded to *an official competent to deal with it* as soon as possible.

An **e-mail** is available to the service(s) for which it is intended as soon as it is accessible to an official competent to deal with it through the Commission's e-mail system, i.e. when it has been delivered to that official's inbox, or to a functional mailbox available to that official.

In the case of a document **accessible through an external information system**, there must also be *intention of transmission* from the author to the Commission. A document is not received by the Commission simply because it is accessible via a website somewhere in the world. If, however, someone makes it known to the Commission that a document, which that someone wishes the Commission to read, is available at a certain web address, the document in question is then considered received by the Commission<sup>136</sup>, and should immediately be downloaded and processed for possible registration in the same way as a document received by post.

#### IV.3.3. Important and not short-lived

When deciding if a document should be registered, the key issue will often be to decide whether it is *important* and *not short-lived*.

**Important** and **not short-lived** are criteria subject to subtle judgement that will vary with the content and context of the document.

Documents containing information which is unimportant and short-lived are, in contrast, documents:

- whose loss would not prevent the departments concerned to meet the Commission's administrative or evidential needs;<sup>137</sup>
- or whose value is clearly temporary and rapidly lapsing<sup>138</sup>, ancillary and instrumental; or
- which are considered or treated as unimportant and short-lived by a records schedule, a procedural regulation or routine administrative practice.

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<sup>136</sup> Provided that the document can actually be found and identified on the given web site.

<sup>137</sup> Therefore, when judging the importance of a document, the effect of not having it available when accounting for the actions based on its content should be considered. Has the Commission made a decision, paid out money, entered into a legal obligation, or taken some other kind of action based on a certain document? Would it be needed if that action at some point had to be justified or explained? Or would it be necessary in order to prove that the Commission has fulfilled its legal, financial, administrative or other obligations? If yes, it is important.

<sup>138</sup> This importance may be short-lived. After a short time, it no longer matters if the action can be justified or explained. The issue is to define the duration of a short time. It seems reasonable that this should be measured in weeks rather than months.

#### IV.4. ANNEX 4: STRUCTURE OF THE CRL RETENTION SCHEDULE

The CRL retention schedule<sup>139</sup> lays down the retention period for each type of Commission file. It is set out in seven columns:

- (1) **File types:** files concerning the same type of activities, questions or procedures.

E.g. “contract management” file, “personal” file, “state aid” file, “infringement” file, etc.

- (2) **Description:** general content of files belonging to that type.

- (3) **ARP:** period (in years) during which the DG/department is required to keep a file depending on its usefulness for administrative purposes and the relevant statutory and legal obligations. The ARP begins to run from the time when the file is closed.

This column contains the following references for certain types of files:

- “**L<sub>n</sub>**” indicates the legal bases which lays down a specific retention period for that type of file and, where applicable, the opinions of the Legal Service and the European Data Protection Supervisor (EDPS), which recommend retention periods in order to comply with legal obligations for that type of file;
  - “**T<sub>n</sub>**” indicates that an administrative procedure for eliminating documents applies to that type of file.
- (4) **Post-ARP action or first review within the appraisal process<sup>140</sup>:** action to be taken by the DG at the end of the ARP, within a reasonable time-frame (the following six months).

Three courses of action are possible:

- **THA (Transfer to the Historical Archives):** the files are transferred to the Commission’s Historical Archives.
- **SAM/SEL (Sampling and/or Selection):** a group of files is chosen for preservation, the remainder is destroyed. The files identified for preservation are transferred to the Commission’s Historical Archives.
- **EL (Elimination):** the files are physically destroyed.

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<sup>139</sup> The CRL retention schedule [SEC(2007)970] is subject to updates, and therefore not included in this recast of the implementing rules.

<sup>140</sup> The rules to be followed by DGs in making this first appraisal are laid down in chapter II.5.

- (5) **Action following transfer to the Historical Archives:** the types of files to be transferred to the Historical Archives may be assigned (in their entirety or in the form of a sample or selection) for:
- **PP:** permanent preservation.
  - **2nd Review:** the Commission's Historical Archives Service assesses the historical value of the files to decide whether they should be permanently preserved or eliminated.
- (6) **Lead department for preservation:** the DG or DGs that have files of this type and are required to keep them according to the CRL retention schedule.
- (7) **Observations: Information** that DGs must take into account when preserving these types of files.

#### **IV.5. ANNEX 5: EXCEPTIONAL RULES APPLICABLE TO THE TRANSFER OF FILES**

In the case of a transfer of files to the Historical Archives whereby the metadata set out in point II.5.4 are not fully available, the following rules will be applied.

The transfer of such files to the Historical Archives will take place in accordance with the principles set out in point II.5.2 above. After transfer, the responsibilities set out in point II.5.5 will be fully applicable.

For each transfer, a file list (the so-called basic list) will be drawn up and accompanied by a transmission form. The file list must contain all the information necessary for the identification, management and retrieval of the transferred files.

Where a file consists of more than one physical item<sup>141</sup>, this will be clearly indicated. For each file the list will indicate the start year (the year of the oldest document) and the end year (the year of the most recent document).

In accordance with points II.5.2 (d) and II.5.2 (e), any documents that are classified or that fall under one of the exceptions set out in article 2 of Council Regulation No 354/83 as amended by Council Regulation No 1700/2003 must be identified in the basic list. The physical items containing such documents must be clearly marked.

The basic list must be accompanied by a transmission form specifying:

- (a) the transferring department (if this is not the originating department, the department that created the files must also be indicated);
- (b) the overall theme (subject) of the files;
- (c) the start and end periods covering all the files;
- (d) the type of physical files (folder, binder, boxes, etc.);
- (e) and the persons responsible.

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.

In the case of hybrid files, the basic lists for the transfer of the paper parts of the files and the metadata for the transferred electronic and digitised parts of the files must specify the hybrid nature of the files and include any additional information necessary that will make it possible to re-constitute, at any time, the complete and original files.

Where necessary, the application of these rules may be complemented by more detailed instructions issued by the Historical Archives Service.

#### **IV.6. ANNEX 6: LIST OF PRIORITY ELECTRONIC PROCEDURES**

A number of electronic procedures must be declared compliant with these implementing rules or brought into conformity with them.

The following is a non-exhaustive list, broken down by circle of parties involved, which may be extended and/or amended.

##### **IV.6.1. Circle 1**

- (a) budgetary procedures (ABAC, RAD, etc.) ;
- (b) administrative procedures (SYSPER2, ADONIS/ARES, HERMES, etc);
- (c) interservice consultation procedures (CIS-NET).

##### **IV.6.2. Circle 2**

- (a) decision-making procedures (e-Greffe, parliamentary questions, documents sent by the Parliament and the Council, notifications to the Member States);
- (b) CCN/CSI – OLAF – interinstitutional procedures, data-transmission exchanges with national administrations and outside bodies, private or public, acting under obligations laid down by Community legislation (common policies, market organisations, shared management of the Community budget), etc;
- (c) scrutiny of budget procedures (European Court of Auditors, Parliament's Committee on Budgets and Committee on Budgetary Control, etc).

##### **IV.6.3. Circle 3**

- (a) *e-procurement*, calls for tenders, calls for expressions of interest, calls for proposals, contracts, grant agreements, etc;
- (b) access to documents;
- (c) complaints (clear identification of complainant);
- (d) mail sent to the Commission or its departments from outside;
- (e) citizens' petitions (as provided for in the Lisbon Treaty);
- (f) unsolicited applications for a job, requests to take part in open competitions.

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<sup>141</sup> A file can consist of more than one physical item (folders/binders). Inversely, any one physical item (folder/binder) can contain more than one file.