



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

The Registrar
La Greffière

GUIDELINES

on the records and archives policy of
the European Court of Human Rights

25 May 2021

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1. Introduction

The present policy reaffirms the commitment of the European Court of Human Rights (hereafter “the Court”) to the efficient management of its records and archives. It sets out the regulatory framework, the guiding principles and the procedures governing the management of the Court’s records and archives, and also defines the main responsibilities of the players tasked with implementing the policy.

Based on the general principles of the Council of Europe, the present policy takes account, at the same time, of the specific features of the Court, especially with regard to its missions and functioning.

Accordingly, it supplements the Council of Europe Records and Archives Policy, adopted on 23 November 2018 by the Council of Europe’s Information and Technology Governance Board¹, with additional provisions specifically applicable to the Court².

2. Objectives and scope

The present policy provides the framework for management of the Court’s records and archives. The aim is to ensure coherent and systematic governance of the records and archives in order to support the Organisation in the performance of its tasks, make optimum use of its intellectual capital and raise its visibility.

The detailed provisions set out below apply to all records created or received by the Court in the course of its activities, and also to the records and archives of the European Commission of Human Rights, of which the Court has been custodian since 1 November 1999, irrespective of the medium used (paper, electronic, audiovisual, etc.) or the context in which they were created. These provisions are binding on all staff members and affiliated personnel³ working for the Court.

3. Regulatory framework

This policy conforms to the texts governing the missions and functioning of the Court, and in particular the European Convention on Human Rights⁴ and its Protocols, and the Rules of Court⁵.

It must be applied in a manner compatible with the Council of Europe’s undertakings concerning the protection of private data and with the principle of transparency and citizens’ right of access to public documents, in accordance with the practical arrangements laid down by the Registrar.

¹ Council of Europe, DGA/DIT(2018)1, Council of Europe Records and Archives Policy, 23 November 2018, <https://rm.coe.int/168090759d>.

² The word “records” is used here as defined by Council of Europe document DGA/DIT(2018)1, Council of Europe Records and Archives Policy; see also chapter 8 of the present document. It should be noted that the Registrar’s instructions concerning the Court’s archives, and other internal documents, use the word “archives” in the broad sense, starting from the point at which the document is created and thus encompassing the notion of “records”.

³ Judges, trainees, seconded judges, etc.

⁴ *Convention for the Protection of Human Rights and Fundamental Freedoms*, 4 November 1950, https://www.echr.coe.int/Documents/Convention_ENG.pdf.

⁵ European Court of Human Rights, *Rules of Court*, https://www.echr.coe.int/Documents/Rules_Court_ENG.pdf.

4. Guiding principles

4.1. Definition and value of records and archives

“Records” are any documents created or received by the Court in the course of its activities which provide evidence of decisions or action taken, regardless of their format, medium or means of storage. Archives comprise those records that are selected for permanent keeping.

The Court recognises the value of its records and archives and considers them essential to its proper functioning and to the fulfilment of its missions.

Good governance of the records and archives enables the Court to achieve its objectives, improve its effectiveness, preserve its collective memory and foster a culture of openness towards the public. It entails implementing the procedures required in order to ensure the reliability, integrity and authenticity of the records and archives and to ensure that they are usable throughout their life cycle.

4.2. Ownership of records and archives

All records created or received by staff members of the Court or affiliated personnel in the performance of their duties, as well as the records and archives of the European Commission of Human Rights, are the property of the Court. The archives form part of the Court's property.

4.3. Registrar's instructions

In accordance with Rule 17 § 4 of the Rules of Court, the internal instructions issued by the Registrar and approved by the President of the Court define the rules on the management of the records and archives, in particular as regards access and retention. These are confidential.

4.4. Retention/disposal schedules

The retention/disposal schedules (*tableaux de gestion*) specify how and for what length of time records are to be kept, the final processing arrangements, and the appropriate classification level. The retention/disposal schedules are drawn up by the Court's Archives team in cooperation with each originating department.

After it has been approved by the head of the originating department and the archivist, each retention/disposal schedule serves as the point of reference for the naming and saving of the electronic records, the depositing of paper archives with the Court's Archives department, the consultation of records and, as applicable, their destruction. The retention/disposal schedules must be updated regularly in line with developments within the Court and the evolving tasks and procedures of the originating department.

5. Procedures

Records and archives must be clearly identified as soon as they are created and throughout their life cycle. The procedures for managing them must be suited to their format and must aim to follow the recommendations of the relevant international standards⁶.

⁶ For instance, ISO 15489 - Information and documentation – Records management.

5.1. Creation and capture of records

The Court produces records in the course of its activities. The form, type and naming conventions of those records are laid down in the internal rules and procedures, in the interests of coherence and efficiency. All the relevant internal rules and procedures must take account of the need to produce and keep reliable, authentic and usable records.

The records must be created and named in accordance with the rules set out in the Case-processing Manual or in the department's retention/disposal schedule.

All electronic records and their metadata are to be captured in the computerised documents and records management system, in accordance with the applicable naming rules. The documents and records management system must support the required functionalities to guarantee the security and authenticity of the records and metadata, so as to ensure their probative value.

5.2. Storage of records

The records are to be stored in conditions which ensure their integrity, authenticity, reliability and usability throughout their life cycle.

Paper records must be stored on Council of Europe premises. No file may leave the Court's premises without the prior authorisation of the Registrar.

Electronic records must be stored in accordance with the Court's information management strategy. Electronic records and archives are to be stored in the Court's documents and records management system.

5.3. Retention

The records and their metadata are to be retained for the length of time defined in the Registrar's instructions or the retention/disposal schedules. This is determined according to the information value of the records, in line with the Court's objectives and bearing in mind the Court's administrative requirements and its legal obligations, the interests of the user community and, where applicable, the record's economic value.

Personal data may be retained only where this is justified in the light of the aforementioned criteria.

5.4. Security and access⁷

Access to the records and archives is controlled in order to prevent the leaking of confidential information and/or corruption of data, whether accidental or deliberate. The levels of classification of information applied at the Court are set out in the Registrar's instructions. Specific access rules for each type of record or archive are set out in the Registrar's instructions or in the retention/disposal schedules. Unless specified otherwise, all internal documents⁸ should be treated as confidential.

The proper application of these rules is the responsibility of all Court staff members and affiliated personnel who create or have access to records or archives. The technical arrangements required to ensure the security of the digital media must be applied to the records and archives throughout their life cycle. Paper archives are to be kept in locked premises accessible only to authorised personnel.

⁷ See also Rule 33 of the Rules of Court and Article 40 § 2 of the Convention.

⁸ Internal documents are any documents that are created for the sole purpose of internal use and are intended to preserve the secrecy of deliberations, such as notes, minutes or other documents containing instructions.

Persons from outside the Court have the right to access records and archives that are classified as public and declassified records and archives, in accordance with the arrangements laid down in the Registrar's instructions⁹.

As regards the judicial archives, only the documents deposited with the Registry and correspondence between the Registry and the parties (with the exception of friendly settlements) are accessible to the public.

The arrangements for retention of and access to the Court's records and archives are as follows:

Single-judge files are physically destroyed one year after the final decision. Committee, Chamber and Grand Chamber files are kept following the sorting process carried out five years after the decision or judgment terminating the case. Correspondence and documents deposited with the Court's Registry in connection with a case are accessible to the public unless the Chamber President decides otherwise under Rule 33 § 1 of the Rules of Court. Correspondence and documents deposited within the framework of friendly-settlement negotiations, and correspondence in cases examined by the Court before 1 November 1998, are confidential.

Confidential documents are accessible to the public 75 years after the date of the final decision or judgment in a case.

The arrangements for the retention of and access to the archives of the European Commission of Human Rights are as follows:

Decisions on admissibility are public. The reports of the Commission are public where this is specified by a resolution of the Committee of Ministers or where the case was referred to the European Court of Human Rights.

Confidential documents are accessible to the public 75 years after the date of the final decision or judgment in a case.

5.5. Destruction

The destruction of records must be carried out within the time-limits laid down in the Registrar's instructions and/or the retention/disposal schedules. The time-limits may be adjusted on a case-by-case basis if the specific situation so requires.

Whatever medium the record is stored on, its destruction must be carried out in accordance with the regulations and its classification level. A trace must be kept of each destruction action. Destruction must be irreversible and must be applied to all copies of the record concerned.

5.6. Archiving

The records selected for permanent keeping constitute the Court's archives. Whatever their format the archives must be kept in conditions that ensure their long-term preservation, protect their integrity and guarantee their usability. The procedures put in place must be aimed at safeguarding their content and the context in which they were created.

Paper archives are to be transferred to the Court's Archives department in accordance with the archiving procedures in place. Electronic archives are to be saved in the electronic documents and records management system.

⁹ In particular, the instruction issued by the Registrar and approved by the President on 2 May 2019 concerning declassification of judicial archives.

6. Roles and responsibilities

The implementation of the present policy is the responsibility of all the Court's staff members and affiliated personnel who create and use records. The respective roles and responsibilities of the persons concerned are set out in detail below.

The Registrar:

- has custody of the Court's archives¹⁰;
- issues instructions governing the management and accessibility of the records and archives;
- ensures availability of the resources required for good governance of the Court's archives.

The department supervising working methods:

- ensures the coherence of all the rules and procedures that are adopted.

The Court's Archives department:

- lends its expertise as regards management of the records and archives;
- assists the originating departments in managing their records and helps them to determine specific rules concerning them (period of administrative use, access rights and final processing arrangements) ;
- draws up and approves the retention/disposal schedules;
- provides the indexing and archiving tools for all types of records (paper and digital) in cooperation with the Information Technology department;
- ensures proper management of the records and archives and their long-term preservation;
- monitors and manages access to the archives (paper and digital).

The Information Technology department:

- lends its expertise as regards the storage, security and management of the electronic records;
- provides the technical environment for managing the electronic records;
- offers technological solutions to meet the specific needs of the user departments or the Court's Archives department;
- oversees the maintenance, development and security of the electronic records and documents management system.

The Section Registrars and managers:

- ensure that the staff in their department are properly informed of all the procedures to be followed in connection with the documentation policy;
- are responsible for compliance with those procedures within their department;
- appoint at least one archives correspondent within the department.

¹⁰. According to the Rules of Court.

The archives correspondents:

- act as the point of contact between the Court's Archives department and their department;
- ensure proper application of the rules on records management;
- assist the Court's Archives department in drawing up the retention/disposal schedules.

All members of the Registry:

- produce the records required in the context of their activities;
- apply the rules on safeguarding and retaining records;
- manage access to the records they have created;
- contribute, in cooperation with the Court's Archives department, to determining the specific rules governing their own records, set out in official form in the retention/disposal schedules.

7. Follow-up and review

The present policy is issued by the Registrar and approved by the President of the Court. It applies to the Court and its Registry in their entirety. It is to be supplemented by other documents detailing the means employed to give effect to the principles set out in the present document. It may evolve in line with technological and administrative changes within the Court and must in any event be reviewed every five years. Any comments or questions concerning this policy should be addressed to the Court's Archives department.

8. Glossary

Archives

Records selected for permanent retention for economic, administrative, legal or other reasons.

Capture

Registering of a record or archives document in a documents and records management system together with the metadata required to describe it, place it in context and manage it.

Life cycle

All the different stages in the life of a record, including its creation and capture, its use and the final processing arrangements.

Metadata

Structured or semi-structured information which enables the creation, management and use of records over time.

Preservation

All the policies, procedures and technical measures put in place to ensure that the records and archives are retained, with a view to guaranteeing their integrity and usability.

Record

Any object (document or other), regardless of its format, created or received by the Organisation in the course of its activities, that provides evidence of decisions or action taken.

Final processing arrangements

The series of actions taken at the end of a record's life cycle to ensure the secure destruction of records or their permanent retention as archives.

Retention/disposal schedule

Records management tool which defines how and for what length of time records are retained, the final processing arrangements and the appropriate classification level.