

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION
of 7 July 2004
amending its Rules of Procedure
(2004/563/EC, Euratom)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Article 1

Having regard to the Treaty establishing the European Community, and in particular Article 218(2) thereof,

The Commission's provisions on electronic and digitised documents, the text of which is set out in the Annex to this Decision, are added as an Annex to the Commission's Rules of Procedure.

Article 2

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 131 thereof,

This Decision shall enter into force on the day of its publication in the *Official Journal of the European Union*.

Having regard to the Treaty on European Union, and in particular Article 28(1) and Article 41(1) thereof,

Done at Brussels, 7 July 2004.

HAS DECIDED AS FOLLOWS:

For the Commission

The President

Romano PRODI

ANNEX

Commission's provisions on electronic and digitised documents

Whereas:

- (1) The effect of the generalised use of the new information and communication technologies by the Commission for its own operation and for its exchanges of documents with the outside world, in particular with Community administrations, including the bodies responsible for the implementation of certain Community policies, and with the national administrations, is that the Commission's document system contains an increasing number of documents in electronic or digitised form.
- (2) Following the White Paper on the reform of the Commission⁽¹⁾, of which Actions 7, 8 and 9 aim to ensure the changeover to the 'e-Commission', and the communication 'Towards the e-Commission: Implementation Strategy 2001 to 2005 (Actions 7, 8 and 9 of the Reform White Paper)'⁽²⁾, the Commission intensified the development of computer systems which make it possible to manage documents and procedures electronically, in its own working procedures and in relations between departments.
- (3) By Decision 2002/47/EC, ECSC, Euratom⁽³⁾, the Commission annexed to its Rules of Procedure provisions on document management to ensure, in particular, that the Commission is able, at any time, to provide information on the matters for which it is accountable. In its communication on simplification and modernisation of the management of its documents⁽⁴⁾, the Commission set the medium-term aim of introducing a system of management and electronic archiving of documents based on a body of common rules and procedures applicable to all departments.
- (4) Documents must be managed in compliance with the security rules which are incumbent on the Commission, in particular as regards classification of documents in accordance with Decision 2001/844/EC, ECSC, Euratom⁽⁵⁾, protection of information systems in accordance with its Decision C(95) 1510, and personal data protection in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council⁽⁶⁾. The Commission's document system must accordingly be so conceived that information systems, networks and transmission facilities which feed it are protected by adequate security measures.
- (5) Provisions must be adopted to determine not only the conditions under which electronic and digitised documents and documents transmitted electronically are valid for the Commission's purposes, where these conditions are not determined elsewhere, but also the conditions under which they are to be stored, guaranteeing the integrity and legibility over time of such documents and of the related metadata throughout the period for which they are to be kept,

HAS DECIDED AS FOLLOWS:

*Article 1***Subject matter**

These provisions determine the conditions of validity of electronic and digitised documents for the Commission's purposes. They are also intended to ensure the authenticity, integrity and legibility over time of these documents and of the relevant metadata.

*Article 2***Scope**

These provisions apply to electronic and digitised documents established or received and held by the Commission.

⁽¹⁾ C(2000) 200.

⁽²⁾ SEC(2001) 924.

⁽³⁾ OJ L 21, 24.1.2002, p. 23.

⁽⁴⁾ C(2002) 99 final.

⁽⁵⁾ OJ L 317, 3.12.2001, p. 1.

⁽⁶⁾ OJ L 8, 12.1.2001, p. 1.

They may be made applicable, by agreement, to electronic and digitised documents held by other entities responsible for applying certain Community policies or to documents exchanged via data transmission networks between administrations of which the Commission is part.

Article 3

Definitions

For the purposes of these provisions, the following definitions shall apply:

1. *'document'*: document as defined both by Article 3(a) of Regulation (EC) No 1049/2001 of the European Parliament and of the Council⁽¹⁾ and by Article 1 of the provisions on document management annexed to the Rules of Procedure of the Commission, hereinafter referred to as 'provisions on document management';
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. *'document digitisation'*: the process of transforming a document on paper or any other traditional type of medium into an electronic image. Digitisation concerns all types of document and can be carried out from various media such as paper, fax, microforms (microfiche, microfilms), photographs, video or audio cassettes and films;
4. *'life cycle of a document'*: all the stages or periods in the life of a document from the time it is received or formally drawn up within the meaning of Article 4 of the provisions on document management until its transfer to the Commission's historical archives and its opening to the public or until its destruction within the meaning of Article 7 of the said provisions;
5. *'Commission's document system'*: all documents, files and metadata drawn up, received, recorded, classified and stored by the Commission;
6. *'integrity'*: the fact that the information contained in the document and the relevant metadata are complete (all the data are present) and correct (each data item is unchanged);
7. *'legibility over time'*: the fact that the information contained in the documents and the relevant 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 their opening to the public or until their authorised destruction in accordance with their required storage period;
8. *'metadata'*: the data describing the context, contents and structure of documents and their management over time, as determined by the implementing rules for the application of the provisions on document management and to be supplemented by the implementing rules for the application of these provisions;
9. *'electronic signature'*: electronic signature within the meaning of Article 2(1) of Directive 1999/93/EC of the European Parliament and of the Council⁽²⁾;
10. *'advanced electronic signature'*: electronic signature within the meaning of Article 2(2) of Directive 1999/93/EC.

⁽¹⁾ OJ L 145, 31.5.2001, p. 43.

⁽²⁾ OJ L 13, 19.1.2000, p. 12.

*Article 4***Validity of electronic documents**

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 or an electronic signature offering equivalent assurances with regard to the functionalities attributed to a signature.

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 stored in accordance with the conditions laid down in Article 7.

3. The provisions of this Article shall apply from the day following the adoption of the implementing rules referred to in Article 9.

*Article 5***Validity of electronic procedures**

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 the system in question ensures that the contents, including as regards the stages of the procedure, cannot be altered.

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.

*Article 6***Transmission by electronic means**

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 7***Storage**

1. Electronic and digitised documents shall be stored by the Commission throughout the period required, 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 contents of the document and the relevant metadata must be readable throughout the storage 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 despatch 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 stored under such conditions as to ensure that those stages and the authors and participants can be identified.

2. For the purposes of paragraph 1 the Commission shall set up an electronic file deposit system to cover the entire life cycle of the electronic and digitised documents.

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

Article 8

Security

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 which feed the Commission's document system shall be protected by adequate security measures concerning document classification, protection of information systems and personal data protection.

Article 9

Implementing rules

Implementing rules for the application of these provisions shall be drawn up in coordination with the Directorates-General and similar departments and shall be adopted by the Secretary-General of the Commission, in agreement with the Director-General responsible for information technology in the Commission.

They shall be regularly updated to reflect developments in information and communication technology and such new obligations as may become incumbent on the Commission.

Article 10

Application in departments

Each Director-General or Head of Service shall take the necessary measures to ensure that documents, procedures and electronic systems for which he is responsible meet the requirements of these provisions and of the implementing rules.

Article 11

Implementation

The Secretariat-General of the Commission is instructed to ensure the implementation of these provisions in coordination with the Directorates-General and similar departments, in particular the Directorate-General responsible for information technology in the Commission.
