

Factsheet 16:

Erasure and archiving of personal data

Archiving

Personal data must not be stored for longer than necessary for the purposes for which they are collected and processed. Beyond that, the data must be deleted or anonymised.

Archiving is a processing operation carried out for a public or private archiving purpose for certain categories of personal data.

Concepts:

“Archives”: all documents, including data, whatever their date, place of storage, material form and medium, produced or received by any natural or legal person and by any public or private service or body in the exercise of their activity.

“Public archive” or **“archives in the public interest”**: pre-qualified documents produced or received by State administrations and departments, such as municipalities, municipal unions, state and municipal public institutions, the Chamber of Deputies, the Council of State, the Ombudsman, the Court of Auditors, the Grand Ducal Institute, etc. Minutes and directories of notaries are also covered.

For more information : [Article 2 of the Law on archiving](#)

Secure archiving - Archives must be secure in a manner appropriate to the risks presented by archiving data, the nature of the data to be protected and the impact on data subjects in the event of a breach.

Recommendations: Archived data should only be accessible to a specific department responsible for accessing it. Use supports with a sufficient guarantee of longevity.

Erasure of the data after a storage period has expired or following a request for erasure

Storage period expired: Article 5(1)(e) of the GDPR provides that personal data must be «kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which [they] are processed; (...)»

On the basis of this article, it is therefore your responsibility to determine, for each of the categories of data that you are required to process in the context of your commercial activity, how long it is necessary for you to keep them. The CNPD does not have a reference on the storage period of each document under Luxembourg law for each company, but specific and sectoral laws may contain limitation periods or storage obligations (labour law, Commercial Code, social security, taxes, financial sector, etc.). It is the responsibility of each company to analyse which limitation period or storage obligations apply to its case.

Exercise of the right to erasure: According to Article 17(1) of the GDPR, the data subject has the right to obtain from the controller the erasure of personal data concerning him or her without undue delay, where one of the grounds set out in this paragraph applies. However, the controller is not obliged to erase data if it can demonstrate that the processing falls within one of the exceptions set out in Article



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17(3) of the GDPR, such as the exercise of the freedom of expression and information, the processing of data for archiving purposes in the public interest, or for the purposes of scientific, historical or statistical research.

The right questions to ask yourself:

- How long do I really need the data to achieve the set objective?
- Do I have any legal obligations to keep the data for a certain period of time?
- Do I have to keep certain data in order to protect myself against possible litigation? Which data?
- Until when can I pursue this legal action?
- What information must be archived? For how long?
- What are the data deletion rules?
- What are the data archiving rules?

