

Digital Archiving

From January 1st, 2024, the implementation of the Regulation on unique technical and technological requirements and procedures for the storage and protection of archival material and documentary material in electronic form ("Official Gazette of RS", no. 107/2021 and 94/2022, "**Regulation** ") will begin.

The Regulation determines the obligations of the creator and owner of documentary material in electronic form with regard to reliable storage and archiving, the manner of supervision by the competent archive, the obligation to keep an archive book in electronic form, as well as the procedure for extracting and destroying documentary material in electronic form and the selection and handing over of the archive of documentary material which is kept permanently after the expiration of a period of 30 years from the creation of that material.

All creators and owners of documentary material in electronic form are bound by this Regulation with the difference that state bodies and organizations, bodies of territorial autonomy and local self-government units, institutions and holders of public authority will perform digital (electronic) archiving in the eArhiv, while other creators and owners (private entities) are free to choose a software solution for that purpose - a reliable storage system that suits them. Business entities will not have to hire a professional (archiving service provider) but can perform reliable storage themselves (electronic archiving) with auxiliary software for that purpose (which ensures the possibility of proving the validity of a qualified electronic signature/seal).

The Regulation refers to electronic documents, which are originally created in digital form and not in paper form. There is no obligation to

scan printed documents (a simply scanned document is a copy of a printed document and does not fall under this Regulation unless it is digitized and thus has the same evidential force as the original).

For now, there is no official interpretation that the Regulation will apply to documents created before January 1st, 2024, but only to those created after this date. It remains unclear whether the archiving of electronic documents is carried out daily, weekly, monthly, or annually (assumptions are at the beginning of the year, for the previous calendar year).

Additional amendments to the Regulation are expected in December, which will stipulate that business entities will not have the obligation to store documentary material in electronic form if that documentary material is already kept by a state body or organization. This means that business entities will not be obliged to keep their electronic documents such as electronic invoices (SEF), tax returns (Tax Administration), financial reports (APR), employee registrations and deregistrations (CROSO), etc.

Most business entities do not generate electronic documents other than those they send to state bodies and organizations, so they will not have any obligation in this sense starting from January 1st, 2024. Business entities whose work creates electronic documents other than those mentioned above will have to perform classification, reliable storage as well as ensure the availability of such documents in accordance with the Regulation.

For any additional consultation or legal assistance, you can contact the Tasić & Partners team by email at office@tasiclaw.com or by phone at +381116302233.