



Archive Legislation:

# Email archiving in Czech Republic

The key laws that affect your business

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**Email is a primary source of documentation for many organizations and it has taken on an increasingly critical role in corporate litigation and court cases.**

The need to archive all email correspondence is growing in importance because companies are realizing that being in a position to retrieve an old email could save them thousands of dollars (euros) in legal fees and fines as well as their credibility.

Today, more than ever before, legal and compliance issues are driving the case for email archiving. Email archiving legislation is complex and varies greatly from country to country. Unless companies are well versed in compliance and email compliance law, the various regulations affecting email can be a minefield.

This document provides an overview of the archiving legislation in your country.

## **Laws regulating archiving**

The legislation is structured as follows: (i) list of legislations related to the email archiving requirement, (ii) brief description of the obligations resulting from this legislation, (iii) penalties for non-compliance, (iv) demonstrative list of targeted companies which must comply with laws relating to email archiving. Acts relating to the requirement of email archiving.

### **1. Acts relating to the requirement of email archiving**

Various Czech Laws concern data storing, including email archiving, and many different entities cope with compliance issues under certain circumstances. Several Acts set forth the requirement to store specific types of information for a particular time period. This information may exist inter alia in email form.

Principal legislation applicable to email archiving are listed below. We distinguish between Acts providing an obligation to archive specific data (see Sec. 1.1.) and regulations set forth by professional corporations such as Attorney bar (see Sec. 1.2.) on one hand and Acts specifying the manner in which information is processed, with regards to confidentiality, personal data protection, etc. (see Sec. 1.3.) on the other hand.

#### **1.1 Acts providing an obligation to archive specific data**

- Archiving and Record Service Act No. 499/2004 Coll.
- Money Laundering Act No. 61/1996 Coll.
- Capital Market Undertaking Act 256/2004 Coll.
- Accountancy Act No. 563/1991 Coll.
- Public Procurement Act No. 137/2006 Coll.

#### **1.2 Acts which provide basis for the regulations set forth by professional corporations authorities**

- Auditors Act No. 254/1992 Coll.

- Advocacy Act No. 85/1996 Coll.
- Notary Act No. 538/1992 Coll.

### **1.3 Acts specifying the manner in which information is processed**

- Personal Data Protection Act No. 101/2000 Coll.
- Charter of Fundamental Rights and Freedoms No. 23/1991 Coll.
- Electronic Communications Act No. 127/2005 Coll.

## **2. Obligations resulting from this legislation**

The Acts listed under Sec. 1.1. provide an explicit requirement to keep certain data for a prescribed time period. For example, the Archiving and Record Service Act sets forth the obligation to preserve documents of particular public and private entities, the Accountancy Act requires keeping accountancy evidence or the Capital Market Undertaking Act requires to store all communication with a client related to the provided investment service. Pursuant to the Money Laundering Act, a large number of professionals are bound to collect and archive data concerning the specific transactions made by their clients who might be subject to email communication.

The Acts listed in Sec. 1.2. together with specific corporation rules set forth an obligation for the professionals to store client's files for a specific time period, including communication with the client in email form.

On the other hand email data archiving proved to be necessary for practical purposes, such as concluding business contracts or sending/receiving orders under the Commercial Code No. 513/1991 Coll.

The Acts listed under Sec. 1.3. set forth the rules of data protection which may apply to email correspondence, guarantee of post and email confidentiality and privacy of individuals sending and receiving emails.

Under certain circumstances, the evidence can be required to show that the email was intact.

## **3. Penalties for non-compliance**

Non-compliance with the laws concerning email archiving may result in various penalties. Professional corporations, such as the Attorney's bar or Auditor's bar, will in accordance with their internal regulations impose disciplinary sanctions. Breach of other rules, i.e. the Money Laundering Act, may result in a serious offence where a substantial fine amounting to CZK 10 million.

Compliance with personal data processing regulations is under public administration control and any interference with the right to privacy and/or private life in connection with email communication is subject to judicial scrutiny.

## **4. Targeted companies**

The above-mentioned obligations related to archiving of certain data, which might include emails, affect private businesses (i.e. companies, political parties, foundations, liquidators, unions) as well as public

organizations, public administration and self-governing authorities. Professionals such as brokers, auditors, attorneys, notaries, bankers and business people involved in important transactions may be asked to show evidence of certain activities or communications subject to email communication.

## GFI Archiver

GFI Archiver is used by thousands of administrators worldwide to comply with legislation on email archiving. GFI Archiver provides a secure, tamper-proof central storage for all company email and files while allowing fast and easy access to all archived items if required.

Using the auditing functionality, management can access any email that is requested for eDiscovery/ email compliance purposes and provide a guarantee that these emails have not been tampered with – a major requirement in corporate litigation cases.

### **With GFI Archiver, companies can:**

- Gain instant access anytime, anywhere to business critical emails, calendar entries and files via Outlook, laptop, smartphone or tablet. Retrieve old and deleted emails on demand - with full thread and conversation without any intervention needed from ITPublic Sector organisations and any other company or organisation that holds information on behalf of a public sector organisation
- Use advanced email search and 'Saved Search' capabilities
- Archive files and folders and share between different users and teams to enable collaboration on different projects
- Maximize compliance and minimize legal risk with a complete, tamper-proof archive of all company email and files

### **The benefits for IT administrators:**

- Reduce reliance on unreliable PST files and centrally store all archived items in one central database
- Free up space and resources on your mail servers by storing archived emails in a separate database. GFI Archiver is a stub-free solution and therefore does not impact your mail server performance
- Reduce user requests for retrieval of old emails or files from backup through the web-based GFI Archiver interface
- Avoid relying on third-party storage and sharing providers because your email and file archive is stored on premise, in your own environment
- Use the email setup you require, this includes Microsoft® Exchange, Office 365™, Google Apps™ and other email servers, because GFI Archiver works seamlessly with them.

More information about GFI MailArchiver can be found at <http://www.gfi.com/archiver/>.



For a full list of GFI offices/contact details worldwide,  
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