



Archive Legislation:
**Email archiving
in France**

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 obligation to archive professional emails (understood as electronic correspondence) and the requirements applicable to electronic archiving systems to ensure the validity of archived professional emails before a Court are set forth by the following regulations which constitute the main frame of rules applicable to professional email archives:

- Art. L. 123-22 of the French Commercial Code;
- Art. L. 110-4 of the French Commercial Code;
- Law n°2000-230 dated March 13, 2000 (on electronic evidence and electronic signature), completed by Decree n°2001-272 dated March 30, 2001;
- Law n°2004-575 dated June 21, 2004 (electronic commerce);
- Ruling n°2005-674 dated June 16, 2005 (concerning in particular electronic correspondence and electronic official letters with delivery receipt);
- Law n°78-17 of January 6, 1978 on Data Processing, Data Files and Individual Liberties.

Who is required to archive email?

All French companies, whatever their size, activities and clients (professionals or consumers, businesses or individuals) having recourse to email systems for correspondence internally or with their clients and suppliers, are subject to the obligation to archive such professional emails in order to (a) comply with a legal obligation and/or (b) store written evidence.

(a) The legal obligation to archive is mainly set forth under article L. 123-22 of the French Commercial Code which states that “accounting documents and supporting documents must be stored for ten years”. Correspondence is usually included in the category of “supporting documents” when it justifies accounting entries. Authors agree that correspondence comprises commercial correspondence such as orders, offers, shipment notification, delivery notifications, etc.

The requirements for preservation of accounting records apply irrespective of technology and preservation form. This means that the obligations in the Danish Bookkeeping Act apply if preservation of accounting records takes place in electronic form, including in the form of emails archived in a central database.

Penalties

If a company fails to archive such “supporting documents” or erases them before the term of the 10-year period, it may face the following penalties:

- A fine of €1,500 or €3,000 (in the event where the company cannot regularize its situation) - article 1740-1 and 1740 bis of the French General Tax Code;
- A fine up to €75,000 in the event where the Tax inspector would be prevented from accomplishing his mission (evidence of breach of Tax laws) and 6 months’ imprisonment (in case of repeated offences) - pursuant to articles 1737 and 1746 of the French General Tax Code;
- Tax authorities may reconsider the declarations made by the company.

(b) Professional emails constitute written proof of facts or obligations, whether internally or to/from third parties. Thus, it is a company’s duty to store and archive professional emails inasmuch as they could later be used as evidence in the event of litigation. Indeed, not archiving professional emails would incur material risks since the company would have little chance of successfully defending itself or summons third parties without any written evidence. It must be emphasized that written evidence is mandatory for all transactions exceeding €1,500. Unless otherwise stated by law, professional emails should be archived for a 10-year period (art. L.110-4 of the French Commercial Code).

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,
please visit: www.gfi.com/contact-us

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