



Transitioning to eSignatures for employment documents in Central Europe

January 2024

eSignatures and the opportunities of HR digitalisation

What are the benefits of transitioning to eSignatures for employment documents?

With the recent COVID-19 pandemic and an increase in workcation opportunities, more and more people now find themselves working remotely. Companies have employees working in different cities and even in different countries, which for HR departments makes the task of coordinating the physical signing of employment documents cumbersome, if not entirely impractical.

Allied to these labour dynamics, corporate ESG strategies are increasingly encouraging companies to look towards paperless solutions. From a purely operational perspective, too, we have seen that multinational enterprises find it easier to integrate fully digital (rather than paper) solutions into their workflows and approval processes, resulting in a move towards paperless operation in the workplace.

The digitalisation of HR processes allows companies to save time signing contracts and reduce their archiving costs. Naturally, this requires a legal framework to be in place that allows employers and employees to sign and deliver employment documents electronically. In recent years, countries in Central Europe have taken significant steps to adapt their legislation accordingly.



Brigitta Gal

Head of Employment Practice, Deloitte Legal Göndöcz and Partners Law Firm
bgal@deloittece.com

Which legal criteria should be considered when planning to transition to eSignatures for employment documents?

In this publication, we will identify the legal requirements and obstacles to implementing legally compliant HR digitalisation solutions in Central Europe.

First, we will examine the levels of eSignatures required to validly sign employment documents in each country, with a review of the legal status of the simple electronic signature (SES), advanced electronic signature (AES) and qualified electronic signature (QES).

We will then assess the legal requirements for the delivery of e-signed documents and whether the electronic delivery of employment documents is permitted by national laws.

Finally, to complete our overview of the e-document landscape, we will assess the rules governing the retention and archiving of employment documents.

We hope you find this publication helpful. Feel free to contact us to discover how you can integrate eSignatures into your business operations.

Summary of key regulations in Central European jurisdictions

Albania

Can employment documents be signed using an eSignature less secure than QES?

- Under Albanian legislation the employment contract is signed in handwriting by the employer and the employee.

Is the electronic delivery of employment documents permitted by law?

- Under Albanian legislation the employment contract should be delivered in hard copy to the employee.

Is the digital archiving of employment documents permitted by law?

- Under the Albanian law on Electronic Documents, electronic documents must be stored in their original format in information systems which protect the stability of electronic records throughout the designated storage period, as well as being stored in the electronic document archive.

Contact



Ened Topi

Senior Managing Associate, Deloitte Legal Albania
etopi@deloittece.com

Austria

Can employment documents be signed using an eSignature less secure than QES?

- Austrian labour law applies the principle of freedom of form, so AES and SES are generally sufficient. However, certain contractual elements and agreements (e.g. agreements concerning reimbursement of education costs, intellectual property and part-time work during maternity leave, apprenticeship contracts etc.) must be in writing and signed using a QES.

Is the electronic delivery of employment documents permitted by law?

- + No specific delivery rules apply. In general, documents that have been signed electronically are treated as originals and should be delivered using the signing tool used (if possible) or by e-mail.

Is the digital archiving of employment documents permitted by law?

- + It is essential that documents are saved and archived in an audit-proof manner; in other words, they must not be modifiable in a way that would make it impossible to distinguish their original content. It must also be ensured that any changes are time-trackable.

Contact




Stefan Zischka


Partner, Jank Weiler Operenyi Rechtsanwälte (JWO) | Deloitte Legal Austria
s.zischka@jankweiler.at

Bosnia and Herzegovina


Can employment documents be signed using an eSignature less secure than QES?

-  Electronic signatures have not yet been fully implemented, particularly in regulated areas. Employment documents should be executed in a regular written form (wet ink signature and company seal).

Is the electronic delivery of employment documents permitted by law?

-  Employment documents must be delivered in person or by post.

Is the digital archiving of employment documents permitted by law?

-  This depends on the type of document but, generally speaking, personal employee files (including employment contracts) are kept permanently, either in electronic or written form. There are special rules governing the archiving of documents, which must be observed by business entities.

Contact




Haris Jasarevic


Attorney-at-Law, Advokatsko društvo Legal Partners doo, in cooperation with Deloitte Legal
hjasarevic@deloittece.com

Bulgaria

Can employment documents be signed using an eSignature less secure than QES?

-  Employers are required to use a QES, whereas employees may use an SES/AES (the parties must agree how the document should be signed). If the employer requires an employee to sign using a QES, all expenses must be borne by the employer.

Is the electronic delivery of employment documents permitted by law?

-  Confirmation of receipt must be generated for all documents sent to employees. The confirmation must contain the registration number, time and date of receipt. Confirmation should be sent to the email address specified by the employee or through an electronic registered delivery service.

Is the digital archiving of employment documents permitted by law?

-  Detailed requirements regarding digital archiving are set out in Bulgarian laws.

Contact




Miglena Micheva

Senior Managing Associate, Deloitte Legal Bulgaria
mmicheva@deloittece.com


Croatia

Can employment documents be signed using an eSignature less secure than QES?


-  The Croatian Labour Ministry has issued an opinion holding that employment agreements signed with a QES (created using a qualified certificate) fulfill the written form requirement (Article 14 of the Labour Act). All such employment agreements should be kept in electronic form.

The Ministry's opinion only references QES. There is no official stance holding that a less secure level of eSignature (AES or SES) would be insufficient for employment agreements.

Is the electronic delivery of employment documents permitted by law?

-  Employers can send certificates, documents and other notices to employees in either written or electronic form, except where the Labour Act provides otherwise. Any such document must be accessible to the employee, they must be printable or storable, and the employer must keep proof of their delivery or of their receipt by the employee (e.g. confirmation of receiving an email).

Is the digital archiving of employment documents permitted by law?

-  There are no specific rules governing digital archiving. However, any personal data that is to be archived should be kept in accordance with the GDPR (i.e. by taking the appropriate technical and organisational measures) and with the Croatian Act Implementing the GDPR (OG 42/18).

Contact




Valerija Cerovski

Attorney-at-law in cooperation with Deloitte Legal


vcеровски@kip-legal.hr

Czech Republic

Can employment documents be signed using an eSignature less secure than QES?

-  The Czech Labour Code requires the use of QES for particular HR documents (e.g. unilateral termination notices, agreements on work performed outside an employment relationship, letters of discharge or resignation from a managerial position, salary statements and public sector pay statements). For other employment documents, SES is sufficient.

Is the electronic delivery of employment documents permitted by law?


-  The employee must have given written consent to receiving employment documents electronically, and these must be delivered to a private email address.

Documents will be deemed delivered 10 days after their delivery through the secure “Data Box” system, or 15 days after delivery via another electronic delivery method or by post.

The new order of priority as regards delivery methods is as follows: (i) at the workplace, (ii) electronically (to the address provided by the employee for this purpose) either through “Data Box” or otherwise, and (iii) by post only if delivery at the workplace is not possible.

New priority order of delivery methods: at the workplace, electronically (to the address provided by the employee for this purpose), by data box vs. anywhere. By post only if delivery at the employer’s workplace is not possible.

Is the digital archiving of employment documents permitted by law?

-  Detailed requirements regarding digital archiving are set out in Czech laws.

Contact




Jan Prochazka

Partner, Deloitte Legal Czech Republic
jprochazka@deloittece.com

Hungary


Can employment documents be signed using an eSignature less secure than QES?

 QES is not strictly necessary for electronic documents to meet the written form requirement. However, to constitute a valid electronic document, the means of eSignature shall meet the following three criteria:


- allow for the retrieval of the unaltered information contained in the legal statement;
- enable the identification of the person making the legal statement, and
- enable the identification of the time when it was made.

These criteria are ensured by AES.

Is the electronic delivery of employment documents permitted by law?

 A legal statement made in writing is deemed delivered once it becomes accessible to the other party. For an electronic document to be deemed accessible, the person who is the subject of the statement or the person authorised to receive it must be provided with the opportunity to acquaint him or herself with its content.

Is the digital archiving of employment documents permitted by law?

 Detailed requirements regarding digital archiving are set out in Hungarian laws.

The main rule is that the electronic document should be archived in a way that protects the electronic document against

- deletion,
- destruction,
- subsequent modification
- damage,
- unauthorized access.

One of the most important requirements is that the eSignature shall be valid during the whole retention period, which may be a challenge for the employers. The retention period of employment documents will be significantly shortened starting from 1st January 2025, which will make the digital contracting and archiving easier.

Contact




Brigitta Gal


Head of Employment Practice, Deloitte Legal Göndöcz and Partners Law Firm
bgal@deloittece.com

Kosovo


Can employment documents be signed using an eSignature less secure than QES?

-  There are no specific regulations regarding the use of the eSignature or QES in employment matters.

Is the electronic delivery of employment documents permitted by law?

-  There are three delivery methods: a) post, b) in person and c) electronic delivery.
Under the Kosovan Law on Data Protection, a qualified electronic delivery service means an electronic registered delivery service, which must meet specific requirements.

Is the digital archiving of employment documents permitted by law?

-  There are no specific rules governing digital archiving. However, any personal/employee data is to be archived or stored in accordance with the Kosovan Law on Data Protection and the GDPR (i.e. it should be stored for as long as there is it serves its purpose - principle of purpose limitation).

Contact




Ardian Rexha


Senior Legal Manager, Deloitte Legal Kosovo
arrexha@deloittece.com

Latvia


Can employment documents be signed using an eSignature less secure than QES?

-  AES or SES are considered as valid if (i) the employer and the employee previously agree this in writing and (ii) the agreement can be saved in a durable format. However, Latvian eSignature requirements are on the strict side and parties are advised to sign employment documents using eParaksts, the official QES of Latvia.

Is the electronic delivery of employment documents permitted by law?

-  No specific delivery rules apply, but rather what matters is how the documents were signed. Chiefly, both parties should sign either by hand or with QES and, in the case of employment agreements, these should be received countersigned by each party.

Is the digital archiving of employment documents permitted by law?

-  Employment-related documents can be archived electronically. Employment agreements and other documents that are required by law to be countersigned with a valid signature should be signed by both parties using QES (if signing electronically) and the format of the archived documents should show evidence of a valid QES signature.

Contact




Irina Gutmane


Senior Associate, Deloitte Legal Latvia
igutmane@deloittece.com

Lithuania

Can employment documents be signed using an eSignature less secure than QES?

-  QES is considered valid if used by both the employer and the employee (e. g. employment contracts). QES must be used for unilateral documents (e. g. notice of termination).
AES or SES are considered as valid if (i) the employer and employee previously agree this in writing and (ii) the agreement can be saved in a durable format.

Is the electronic delivery of employment documents permitted by law?

-  Documents can be delivered in written form or in electronic form using information technology commonly used between the employer and the employee (specific requirements apply).

Is the digital archiving of employment documents permitted by law?

-  Detailed requirements regarding digital archiving are set out in Lithuanian laws.

Contact




Ruta Passos


Legal Manager, Deloitte Legal Lithuania
rpassos@deloittece.com

Poland


Can employment documents be signed using an eSignature less secure than QES?

-  Employees are not generally required to sign employment-related documents using a QES for these to be valid, with some exceptions (e.g., employment agreement containing IP clauses, non-compete agreements, loyalty agreement). In practice, Polish employers signing employment documents electronically prefer to use QES on all documents signed on their behalf.

Is the electronic delivery of employment documents permitted by law?

-  Documents signed electronically are deemed delivered once sent to the recipient's server.

Is the digital archiving of employment documents permitted by law?

-  Detailed requirements regarding digital archiving are set out in Polish laws.

Contact




Katarzyna Sarek-Sadurska


Partner, Deloitte Legal Poland
ksareksadurska@deloittece.com

Romania


Can employment documents be signed using an eSignature less secure than QES?

-  Some employment documents can be signed using an electronic signature less secure than QES, subject to certain conditions. Romanian laws set out detailed requirements regarding signatures. For instance, a bilateral employment document must be signed by both signatories in the same way (electronically or by hand).

Is the electronic delivery of employment documents permitted by law?

-  Documents signed by hand can be validly sent by email, subject to certain conditions (e.g. the employer and the employee must customarily communicate by email). An exception applies to documents concerning disciplinary procedures.

Is the digital archiving of employment documents permitted by law?

-  Detailed requirements regarding digital archiving are set out in Romanian laws.

Contact



Florentina Munteanu

Partner, Reff & Associates | Deloitte Legal Romania
fmunteanu@reff-associates.ro

Serbia

Can employment documents be signed using an eSignature less secure than QES?

- Although the prevailing opinion is that the Serbian Labour Law implies that employment contracts should be signed in wet-ink (or using QES), the practical risk of challenges to the validity and/or content of an employment contract signed with a non-qualified eSignature is remote as long as the identities of the signatories can be undoubtably proven.

Is the electronic delivery of employment documents permitted by law?

- + Delivery can be in person, by post or electronic. However, some types of employment documents are specifically required to be delivered in person or by post. For electronic delivery, it is the opinion of the competent Serbian ministry that the employer should provide evidence that it delivered the document to the employee electronically (i.e. that the employee received and read the email). This suggests that the employer should obtain a confirmation email from the employee stating that he or she received the document sent to him/her.

Is the digital archiving of employment documents permitted by law?

- + Detailed requirements regarding digital archiving are set out in Serbian laws.

Contact



Srdjan Sijakinjic

Attorney-at-law in cooperation with Deloitte
ssijakinjic@deloittece.com

Slovakia

Can employment documents be signed using an eSignature less secure than QES?

- Signatures that are less secure than QES are not recommended for use in employment relationships. This is because, for a legal act to be considered valid, it must be proven that: (i) the document was signed by the acting person; (ii) the electronic format captures the content of the legal act and (iii) it is possible to determine (without doubt) the person who made the legal act.

Is the electronic delivery of employment documents permitted by law?

- The only two valid types of delivery are (i) in person (ii) postal delivery. Under the Slovak Labour Code, documents containing information about wage components can be delivered electronically if so agreed between the employer and the employee.

Is the digital archiving of employment documents permitted by law?

- + Detailed requirements regarding digital archiving are set out in Slovak laws.

Contact




Robert Minachin


Senior Managing Associate, Deloitte Legal Slovakia
rminachin@deloittece.com


Slovenia

Can employment documents be signed using an eSignature less secure than QES?


 This matter is not specifically regulated.

Is the electronic delivery of employment documents permitted by law?

 For most employment documents, local employment legislation does not provide specific delivery requirements. However, some specific conditions apply to notice of termination served to employees. Specifically, electronic notice of termination - although generally considered equivalent to written notice - would not meet the delivery requirements of labour law.



Is the digital archiving of employment documents permitted by law?

 Documents and records can be stored in electronic format. However, these must share the same constancy, authenticity and reliability of storage characteristics as documents stored in physical format and must contain all information prescribed by relevant regulations. GDPR requirements must also be observed.

Contact




Alenka Gorencic


Director, Deloitte
agorencic@deloittece.com

Ukraine


Can employment documents be signed using an eSignature less secure than QES?

-  This should be assessed on a case-by-case basis. The Ukrainian legislation permits the use of an eSignature less secure than QES if the following conditions are met:
 1. There is a preliminary agreement between the employee and the employer regarding the signing of certain types of documents using an eSignature;
 2. There is no legal requirement to sign a document with another type of signature.

Is the electronic delivery of employment documents permitted by law?

-  This should be assessed on a case-by-case basis. The Ukrainian legislation permits the electronic delivery of employment documents if the following conditions are met:
 1. There is a preliminary agreement between the employee and the employer on the electronic delivery of employment documents;
 2. There is no legal requirement to deliver documents in another way.

Is the digital archiving of employment documents permitted by law?

-  Digital archiving is permitted but there is a requirement to submit paper copies of the documents that need to be stored long-term (over 10 years) for archiving purposes.

Contact



Olha Dyma

Lawyer/Senior Consultant, Deloitte Ukraine
odyma@deloitte.ua

How we can help you transition to eSignatures of employment documents

In the rapidly evolving business landscape, companies are increasingly seeking avenues to digitalize their HR processes, aiming to increase efficiency and cut costs. The key considerations in this journey involve the detailed examination of legal requirements for electronic signatures, the evaluation of the appropriate delivery methods and the establishment of archiving processes.

Meeting the regulatory demands can be a challenge for many organisations. We can help you with the local and regional assessment of the legal aspects regarding the digitalisation of each employment law document, considering its unique nature.

Combining legal knowledge and technology capabilities, we are well-placed to support in the selection of an appropriate technology service provider, including by analysing whether this supplier is compliant with the local legal requirements.

Addressing the nuanced needs of organisations as they navigate the complexities of modernising their HR, we regularly support them during the implementation phase to maintain compliance with the relevant requirements.



Deloitte. Legal

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities (collectively, the “Deloitte organization”). DTTL (also referred to as “Deloitte Global”) and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see www.deloitte.com/about to learn more.

Deloitte Legal means the legal practices of DTTL member firms, their affiliates or their related entities that provide legal services. The exact nature of these relationships and provision of legal services differs by jurisdiction, to allow compliance with local laws and professional regulations. Each Deloitte Legal practice is legally separate and independent, and cannot obligate any other Deloitte Legal practice. Each Deloitte Legal practice is liable only for its own acts and omissions, and not those of other Deloitte Legal practices. For legal, regulatory and other reasons, not all member firms, their affiliates or their related entities provide legal services or are associated with Deloitte Legal practices.

Deloitte is a leading global provider of audit and assurance, consulting, financial advisory, risk advisory, tax and related services. Our global network of member firms and related entities in more than 150 countries and territories (collectively, the “Deloitte organization”) serves four out of five Fortune Global 500® companies. Learn how Deloitte’s approximately 312,000 people make an impact that matters at www.deloitte.com.

Deloitte Central Europe is a regional organization of entities organized under the umbrella of Deloitte Central Europe Holdings Limited, a member firm in Central Europe of Deloitte Touche Tohmatsu Limited. Services are provided by the subsidiaries and affiliates of Deloitte Central Europe Holdings Limited, which are separate and independent legal entities. The subsidiaries and affiliates of Deloitte Central Europe Holdings Limited are among the region’s leading professional services firms, providing services through more than 13,000 people in 45 offices in 19 geographies.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms or their related entities (collectively, the “Deloitte organization”) is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.