



A little more than one year after the entry into force of Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (the General Data Protection Regulation or "GDPR"), it seems there still remain many gray areas. This is particularly true with respect to retention periods for different categories of data collected and processed by data controllers.

The GDPR stipulates that the retention periods that data controllers apply to the personal data they process must be provided to the persons concerned or, failing that, the criteria used to determine those periods. Nonetheless, in most cases data controllers indicate that they retain the data as long as necessary for the purpose for which it was processed.

However, the Grand Duchy's National Commission for Data Protection (*Commission Nationale pour la Protection des Données*) is of the opinion that such information is not sufficient to guarantee the transparency and fairness of data processing.

To that end, DSM Avocats à la Cour has established a summary table for the personal data that is most often collected and processed by data controllers, as well as the associated retention periods to fill in those gaps and assist the various entities in the Grand Duchy with setting the retention periods for the personal data they process.

DSM makes available to all this table on the retention periods, all the while reminding its users that it is not exhaustive and bringing to their attention the fact that it may be outdated. DSM will use its best efforts to update it pursuant to any applicable legislative and regulatory developments. Nonetheless, DSM may not be held liable for any possible errors, omissions or the outdatedness of legal bases for the table. Users are hereby made aware of this point and the fact that it is their responsibility to keep themselves informed of such developments.

## SUMMARY TABLE OF RETENTION PERIODS

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### Definitions:

- **1915 Law** means the Law of 10 August 1915 on commercial companies, as amended;
- **Art.** means article(s);
- **AO** means *Abgabenordnung (Loi générale des impôts)* or general tax law of 22 May 1931 (consolidated version as of 1 January 2017) ;
- **CCiv** means Civil Code;
- **CCom** means the Commercial Code;
- **CNIL** means *Commission Nationale de l'Informatique et des Libertés*, the French data protection regulatory body;
- **CT** means the Labor Code (*Code du travail*);
- **Customs Law** means (*Loi générale des douanes et accises*) or general customs and excise tax law of 18 July 1977 ;
- **EL** means electronic/digital format;
- **FY** means financial year;
- **GDPR** means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (Text with EEA relevance);
- **OR** means original;
- **RP** means retention period;
- **RT** means retention policy;
- **VAT Law** means the Law of 12 February 1979 on Value Added Tax (consolidated version as of 1 March 2018); and
- **FY** means financial year.

	Documents / Data processing purposes	Recommended RP1 / beginning of RP	Data subject	Types of personal data	Format	Legal reference	Comment(s)
Human Resources	Employment contract, data related to identification, administration and organization	<b>10 years</b> From the closure of the FY during which the employment contract ended	Employees	Name data Contact data Special categories	OR EL	No legal text	No specific period provided by labor law. However the limitation period is 3 years for an action for the payment of Wages (Art. L-221-2 CT and Art. 2277 CCiv)  In practice, employment contracts and related data are regarded in principle as accounting & financing document supporting documents, 10 years from the closure of the relevant FY (Art. 14 and 16 CCom)
	Pay slips	<b>10 years</b> From the date of issuance	Employees	Name data Special categories Health data Financial data	OR EL	No legal text	No specific period provided by labor law. However the limitation period is 3 years for an action for the payment of Wages (art. L-221-2 CT and 2277 CCiv)  In theory, the deadline starts from the issuance of the document. However, the accounting & financing supporting documents must be kept for 10 years from the closure of the relevant FY (Art. 14 and 16 CCom and Art. §162(8) AO)
	Payroll data (taxes, social security, extra hours, bonus, expenses, advantage in kind)	<b>10 years</b> From the closure of the FY during which the employment contract ended	Employees	Name data Special categories Health data Financial data	OR EL	No legal text	No specific period provided by labor law. However the limitation period is 3 years for an action for the payment of Wages (Art. L-221-2 CT and Art. 2277 CCiv)  In practice, payroll data are regarded in principle as accounting & financing document supporting documents of the, and must be kept for 10 years from the closure of the relevant FY (Art. 14 and 16 CCom, and Art. §162(8) AO)
	Employee performance review information (assessment interview, copies of diplomas/qualifications, promotions)	<b>Duration of the contractual relationship</b>	Employees	Name data Special categories Assessment data	OR EL	No legal text Art. 5 <sup>3</sup> & 17 <sup>4</sup> of the GDPR Recommendation CNIL n°2005-002	Recommendation CNIL n°2005-002: Date of termination

	Recruitment data not resulting in candidate's hiring (contract, CV, etc.)	<b>Duration of the recruitment phase</b>	Candidates	Name data CV information Candidate assessment	EL	No legal text Art. 5 & 17 GDPR	Option to extend the retention period Recommendation CNIL n°02-017: 2 years from the last date of contact with the candidate
	Documents related to collective employment law matters (employee representation, collective bargaining agreements, etc.)	<b>Date of termination</b>	Employees	Name data Special categories	OR EL	No legal text Art. 5 & 17 GDPR Recommendation CNIL n°2005-002	
	Documents related to employee sick and maternity leaves	<b>5 years</b> From the expiry of the year during which contributions were paid	Employees	Name data Special categories Health data	OR EL	Art. 10 Law of 27 November 1933 on social contributions	Duration of the limitation period for social security contributions
<b>Business</b>	Partners (suppliers, subcontractors, data processors)	<b>10 years</b> From the end of the contractual relationship	Suppliers	Name data Contact data Financial data	EL	Art. 5 & 17 GDPR Art. 14, 16, 189 CCom	If the commercial correspondence is regarded in principle as accounting & financing document supporting documents, they must be kept for 10 years from the closure of the relevant FY (Art. 14 and 16 CCom)
	Commercial agreements and related documents/agreements with clients, suppliers, subcontractors non-disclosure agreements, etc.	<b>10 years</b> From the end of contract/end of performance	Clients/ Suppliers	Name data Contact data Financial data	OR EL	Art. 14, 16 and 189 CCom	If the commercial agreements are regarded in principle as accounting & finance document supporting documents, the retention period is 10 years from the closure of the relevant FY (Art. 14 and 16 CCom)
	Commercial correspondence (mail/email received and copies of mail/email sent) with clients, suppliers, sub-contractors, etc.	<b>10 years</b> From the end of contract/end of performance	Clients/ Suppliers	Name data Contact data Financial data	OR EL	Art. 14, 16 and 189 CCom	If the commercial correspondence is regarded in principle as accounting & finance document supporting documents, the retention period is 10 years from the closure of the relevant FY (Art. 14 and 16 CCom)
	Accounting & finance documents (general ledgers, financial statements, audit reports, P&Ls, etc.), including supporting documents and related correspondence in case of investigation or monitoring by the tax administration	<b>10 years</b> From the closure of the relevant FY	Employees Clients Suppliers	Name data Contact data Financial data	OR EL	Art. 14, 16, 189 CCom, Art. § 162 (8) AO	

Accounting, Finance, Tax & Audit	Bank documents (account statements, etc.)	<b>10 years</b> From the end of the FY during which it was issued	Employees Clients Suppliers	Financial data Bank account details	OR	Art. 14, 16, 189 CCom	If the bank statements are regarded in principle as accounting & financing document supporting documents, the retention period is 10 years from the closure of the relevant FY
	Tax returns <sup>1</sup> and documentation for inter-group pricing policies	<b>10 years</b> From the end of the year in which the last transaction was registered in the books and records, or the commercial documents or other documents were established.	Employees Clients Suppliers	Name data Financial data	OR EL	Art. § 162(8) and Art. §171 AO	
	VAT registry for the delivery or acquisition of goods or services within the EU, import/export documents related to the VAT	<b>10 years</b> From the closure of the FY for a book-keeping book and the date of issuance for other documents	N/A	N/A	OR EL	Art. 65 VAT Law	
	Invoicing information (including payment collection information and external dunning (judicial procedure))	<b>10 years</b> From the closure of relevant FY	Clients Suppliers	Name data Contact data Financial data Metering	OR EL	Art. 14, 16 and 189 CCom	
	Payment of suppliers	<b>10 years</b> From the closure of the relevant FY	Suppliers	Name data Contact data Financial data	OR EL	Art. 14, 16 and 189 CCom	
Administration	<b>Corporate documents</b> (shareholder register, minutes of board, committee and shareholder meetings, among others)	<b>5 years minimum</b> From the loss of legal personality/striking from commercial register published in the official gazette <sup>2</sup>	Employees	Name data Financial data Contact data	OR EL	Art. 1100-15 n°1, 1400-6 of the 1915 Law	If those documents are regarded in principle as accounting & financing document supporting documents of the, the retention period is extended to 10 years from the closure of the relevant FY (Art. 14 and 16 CCom)
	Official documents related to company business activity (title of intellectual property rights, licenses, permits and authorizations, among others)	<b>10 years</b> From the extinction of the rights or the loss of legal personality	Employees	Name data Financial data	OR EL	Art. 14, 16, 189 CCom	If the commercial correspondence are regarded in principle as accounting & financing document supporting documents, the retention period is 10 years from the closure of the relevant FY (Art. 14 and 16 CCom)



	Commercial lease	<b>10 years</b> From the end of the contract	Lessor	Name data Contact data Financial data	OR EL	No legal text Art. 5 GDPR	If the commercial leases are regarded in principle accounting & finance document as supporting documents, the retention period is 10 years from the closure of the relevant FY (Art. 14 and 16 CCom)
	Insurance contracts	<b>10 years</b> From the end of a contract	Clients Suppliers Employees	Name data Contact data Financial data	OR EL	Art. 44 of the Law of 27 July 1997 on insurance contracts	If the insurance contracts are regarded in principle as accounting & finance document supporting documents, the retention period is 10 years from the closure of relevant FY (Art.14 and 16 CCom)
Offices	Building visitor registration	<b>3 months</b> following the end of the visit	Visitors	Name data Contact data	EL	No legal text Arts. 5 & 17 GDPR Deliberation CNPD n° 64/2007	
Litigation	Litigation files	<b>Statutes of limitations for civil or criminal actions (30 years for civil litigation 10 years for commercial litigation)</b> From the closure of the FY during which the litigation terminated	Clients Suppliers Employees	Name data Contact data Financial data	OR EL	Art. 2262 CCiv Art. 14, 16, 189 CCom	In case the litigation files are regarded in principle as accounting & finance document supporting documents
Website	Cookies	<b>Duration of navigation min. 13 months max.</b> From the acceptance of the cookie policy, subject to certain exemptions	Website users	Electronic identification data Behavioral data	EL	No legal text Arts. 5 & 17 GDPR Recommendation CNIL n°2013-578 Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (the “ <b>e-privacy Directive</b> ”)	
Subscribers	Call detail records	<b>5 years</b> From the date of the recording <b>Or customer request</b>	Customer's subscribers	Electronic identification data Behavioral data	EL	Law of 24 July 2010 on electronic communications  Art.5 Law of 30 May 2005 on electronic communications (as amended by the Law of 24 July /2010)	Law of 24 July 2010 & Art. 5 Law of 30 May 2005: the traffic data related to electronic communication must be retained for 6 months by any service provider or operator processing subscriber and user traffic data.
	Subscriber feed	<b>5 years</b> From the date of the recording <b>Or customer request</b>	Customer's subscribers	Name data Contact data Electronic identification data Behavioral data	EL	Grand Ducal Regulation of 24 July 2010 on electronic communications	Grand-Ducal Regulation of 24 July 2010 defines the data to be retained, including the data necessary to trace

	Location data	<b>5 years or customer request (6 months min.)</b> From the date of the recording	Customer's subscribers	Name data Contact data Electronic identification data Behavioral data	EL		and identify the source of a telephone call, to identify the destination of a call, to determine the date, time and duration of a call, the type of call, mobile communication equipment and users.
	Transaction data records	<b>6 months min.</b> From the date of the recording	Customer's subscribers	Electronic identification data Behavioral data	EL		
	Community	<b>1 year</b> following the date of the recording	Customer's subscribers	Name data Contact data Financial data	EL		
	Digital identity	<b>6 months min.</b> From the date of the recording	Customer's subscribers	Name data Contact data	EL		
	Tickets resolution and litigation	<b>30 days</b> From the resolution of the ticket, once any applicable mandatory legal retention period is over	Customer's subscribers	All personal data listed in this table	OR EL		
Personal data protection	Data on the appointment of a DPO	<b>1 year</b> From the date the data controller or the sub-contractor, having made the appointment, informs the CNPD of the new appointment and/or the termination of the appointed DPO's position.	Any person	Name data Contact data	EL	Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)	
	Information request to the National Commission for Data Protection	<b>3 years</b> From the closing of the file related to the request	Any person	Name data Contact data	EL		
	Claims management	<b>10 years</b> From the closing of the file	Any person who is a victim of a personal data breach/violation	Name data Contact data	EL		

	Notification of the violation to the National Commission for Data Protection	<b>10 years</b> From the closing of the file	Person reporting the breach/violation and data controller's contact person	Name data Contact data	EL		
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1 The retention policy is applicable to the period during which the legal entity, contract, title, title of property, etc., is in force, plus the recommended retention period (RP) indicated in the table.

2 The application of a 2-month buffer on all retention periods might be considered.

3 Occurring on the publication date of the closure of the liquidation of the legal entity concerned.

4 Art. 5 of the GDPR: personal data shall be kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed.

5 Art. 17 of the GDPR: Personal data shall be subject to erasure by the data controller when no longer necessary in relation to the purposes for which it was collected or processed.

In the absence of specific Luxembourg regulation, the CNPD will, in practice, frequently follow the recommendations issued by the CNIL.

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<sup>i</sup> The limitation period for the establishment of the tax and payment of the tax is 5 years (Art. 144 AO and Art. 81 VAT Law) from the end of FY declared and begins to run at the end of the year that gave rise to the tax claim. However, in case of a non-filing of a return or in case of additional taxation for incomplete or incorrect return, with or without fraudulent intent, the limitation period is 10 years for direct taxation (Art.10 of the Law of 27 November 1933).

Please note that pursuant to Article § 162(8) AO, the books, records, and, inasmuch as they are relevant for the taxation, the corporate documents and other documents shall be kept for a period of 10 years starting at the end of the calendar year in which the last transaction was registered in the books and records, or the commercial documents or other documents were established.