

Personal files

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□ Introduction

Personal files are the fundamental employee documentation that an employer must maintain for every person employed under a labor contract. Their maintenance and archiving are strictly regulated by law – including the regulation of the Minister of Family and Social Policy.

□ 1. Legal Basis

- **Labor Code** – Art. 94 point 9b, 94¹
- **Regulation of the Minister of Family and Social Policy from December 10, 2018** on employee documentation (Journal of Laws 2018 item 2369, as amended)
- **Act on the National Archival Resource and Archives**
- **GDPR** – personal data protection in files

□ 2. Who is required to maintain personal files?

Every employer – regardless of the size of the company or legal form – is required to maintain personal files **for every employee employed under a labor contract**.

□ The obligation does not apply to:

- contractors,
- persons on a work contract (for whom documentation related to GDPR and payments is maintained, but not personal files).

□ 3. Structure of personal files - 4 parts

As of January 1, 2019, personal files are divided into **four parts**:

- **A** - Documents related to **the establishment of the employment relationship** (e.g., CV, questionnaire, employment certificates, referral for medical examination, contract)
- **B** - Documents concerning **the course of employment** (e.g., contract changes, annexes, disciplinary penalties, medical certificates, training)
- **C** - Documents regarding **the termination of employment** (e.g., termination, agreement, employment certificate, request for issuance of the certificate)
- **D** - Documents related to **disciplinary penalties** (removed after their expiration)

□ Documents should be **numbered, arranged chronologically, and labeled** according to the regulation.

□ **4. Form of maintaining files - paper or electronic**

Possible forms:

- **paper** - traditional personnel folder,
- **electronic** - using an IT system (compliant with the technical requirements specified in the regulation).

□ Transition from paper to electronic form (or vice versa) **requires the preparation of a protocol and certification of compliance** with the original.

□ **5. Period of document retention**

□ **Since 2019, there are two main rules:**

The retention period for files from January 1, 2019 - 10 years

Before January 1, 2019 - 50 years, unless the employer submitted a ZUS RIA report

□ There is also **an obligation to destroy documentation** after the retention period, if it has not been provided to the employee or archived.

□ 6. Employee's right to files

An employee (current or former) has the right to:

- access their personal files,
- obtain copies (in paper or electronic form),
- request the issuance of documentation after the termination of employment.

□ The employer should issue the document **within 30 days** of the application submission (Art. 94¹ of the Labor Code).

□ 7. Personal data protection

In maintaining personal files, the employer must comply with GDPR:

- access to files should be limited to the HR department only,
- the obligation to secure files against unauthorized access,
- the obligation to maintain the integrity and confidentiality of documents.

□ 8. Consequences of violations

Lack of personal files - Fine from 1,000 to 30,000 PLN (Art. 281 of the Labor Code)

Unauthorized access to data -| GDPR sanctions - up to €20 million

Improper storage of documents - PIP order, monetary or judicial penalty

□ Legal basis

- **Labor Code** - Art. 94, 94¹
- **Regulation of the Minister of Family and Social Policy from 10.12.2018**
on employee documentation
- **GDPR** - Regulation 2016/679
- **Act on the National Archival Resource and Archives**

