

DELIBERATION 19 February 2004

UNOFFICIAL TRANSLATION

Technical rules for reproduction and conservation of documents on media suitable to ensure accordance of these documents to the original – Art. 6 (1), (2) of the Unified Text of the legislative and regulatory arrangements regarding administrative documentation, as of decree by the President of the Republic 28 December 2000, No 445 (Deliberation No 11/2004). (Official Journal No 57 of 9 – 3 – 2004)

THE BOARD

Visto l'art. 4, comma 1, del decreto legislativo 12 febbraio 1993, n. 39, così come sostituito dall'art. 176, comma 3, del decreto legislativo 2003, n. 196, che istituisce il Centro nazionale per l'informatica nella pubblica amministrazione;

Visto l'art. 6, comma 1, del decreto del Presidente della Repubblica 28 dicembre 2000, n. 445, il quale prevede che le pubbliche amministrazioni ed i privati hanno facoltà di sostituire, a tutti gli effetti, i documenti dei propri archivi, le scritture contabili, la corrispondenza e gli altri atti di cui per legge o regolamento è prescritta la conservazione, con la loro riproduzione su supporto fotografico, su supporto ottico o con altro mezzo idoneo a garantire la conformità dei documenti agli originali;

Visto l'art. 6, comma 2, del citato decreto del Presidente della Repubblica 28 dicembre 2000, n. 445, il quale prevede che gli obblighi di conservazione ed esibizione dei documenti di cui al comma 1 si intendono soddisfatti, ai fini sia amministrativi sia probatori, anche se realizzati su supporto ottico quando le procedure utilizzate sono conformi alle regole tecniche dettate dall'Autorità per l'informatica nella pubblica amministrazione;

Vista la deliberazione AIPA n. 42 del 13 dicembre 2001, con la quale sono state dettate le regole tecniche per la riproduzione e conservazione di documenti su supporto ottico idoneo a garantire la conformità dei documenti agli originali;

Ritenuto di dover procedere alla revisione prevista dall'art. 10 della citata deliberazione n. 42/2001 al fine dell'adeguamento alle esigenze di rinnovamento tecnologico e che, pertanto, è necessario provvedere all'adozione di una nuova deliberazione che sostituisca integralmente la detta delibera n. 42/2001;

Commento [FR1]: No translation: it's just a reference to the rules of law that enable this Deliberation.

Deliberates:

The present deliberation, that substitutes deliberation No 42 of 13 December 2001, is in force since the day following its publication on the Official Journal of the Italian Republic.

Art. 1. Definitions

1. For the purposes of the present deliberation the following definitions apply:

- a) document: representation of acts, deeds, data with informatic or analogic means that are comprehensible either directly or through electronic processing;
- b) analogic document: document formed by using a physical measure that takes continuous values, like tracks on paper (e.g. paper documents), like images on film (e.g. medical films, microfiche, microfilm), like magnetic recordings on tape (e.g.: audio and video magnetic cassettes and tapes). It is distinguished in "original" and "copy";
- c) original analogic document: analogic document that can be "unique" or "not unique" if, in this second case, it is possible to go up to its content through other writings or documents the conservation of which is mandatory, even if in possession of third parties;
- d) **informatic document**: informatic representation of acts, facts, deeds having juridical relevance;
- e) optical storage media: physical means that allows storing of informatic documents through laser technology (such as, e.g., optical discs, magneto-optical discs, DVD);
- f) storage: process to transpose on any suitable media, through processing, analogic or informatic documents, even subscribed as per art. 10 (1), (2) of the decree by the President of the Republic 28 December 2000, No 445, as modified by **art. 6 of Legislative decree 23 January 2002, No 10**;
- g) electronic archival: process to store, on any suitable media, informatic documents, even subscribed, as specified in the preceding letter f), uniquely identified through a reference code, assigned prior to a possible conservation process;
- h) archived document: informatic document, even subscribed, as specified in the preceding letter f), that was submitted to the electronic archival process;
- i) substitutive conservation: process implemented as specified at articles 3 and 4 of the present deliberation;
- l) conserved document: document submitted to the substitutive conservation process;
- m) exhibition: operation that allows to visualise a conserved document and to obtain a copy of it;
- n) direct transposition: process to transfer one or more conserved documents from one optical media to another, without alteration of their informatic representation. For this process no specific procedures are envisaged;
- o) substitutive transposition: process to transfer one or more conserved documents from one optical media to another, modifying their informatic representation. For this process the procedures described at art. 3 (2), and art. 4(4), of the present deliberation are required;
- p) time reference: information on time and date, associated to one or more informatic documents;
- q) public officer: the notary, except what is laid down in art. 5(4) of the present deliberation and in those cases for which the other functions may be involved, as laid down at art. **18(2) of the decree by the President of the Republic 28 December 2000, No 445**;

Commento [FR2]: The correct English term would be "electronic", but I used "informatic" for a closer consistency with the Italian text.

Commento [FR3]: This article essentially repeats Art. 5 of the Directive 1999/92/EC

Commento [FR4]: This article just specifies which other officers can act as public officers.

- r) informatic evidence: a sequence of binary symbols (bit) that can be processed by an informatic procedure;
- s) fingerprint: the sequence of binary symbols (bit) of predefined length generated by applying to the previous one a suitable hash function;
- t) hash function: a mathematical function that generates, from a generic sequence of binary symbols (bit), a fingerprint such that it is practically infeasible to derive a sequence of binary symbols (bit) that may generate it, and it is also practically infeasible to determine a pair of binary symbols (bit) for which the function generates equal fingerprints;
- u) digital signature: as defined at art. 1(1), letter n), of the decree by the President of the Republic 28 December 2000, No 445.

Commento [FR5]: i.e.: the "informatic evidence"

Commento [FR6]: For historical reasons and backward compatibility the Italian legislation calls "digital signature" a "qualified signature" created using asymmetric algorithms.

Art. 2. Obligations of substitutive conservation

1. The obligations of the document substitutive conservation, as laid down in the legislation in force either for public administrations and for the private, are met with full legal validity, except what is specified at art. 7, when the conservation process is implemented as specified at articles 3 and 4.
2. Informatic documents, even subscribed, as specified at art. 1, letter f), can be electronically archived before being submitted to the conservation process. The electronic archival is not bound to the obligations specified in the present deliberation.

Art. 3. Substitutive conservation of informatic documents

1. The substitutive conservation process of informatic documents, even subscribed, such as specified at art. 1, letter f), and, possibly, also of their fingerprints, is performed through storage on optical media and is concluded with application on the document set, or on an informatic evidence holding one or more fingerprint of the documents or of a set of them, of the time reference and of the digital signature by the responsible of the conservation attesting the correct process execution.
2. The substitutive transposition of conserved informatic documents is done through storage on different optical media and is concluded with the application on the document set, or on an informatic evidence holding one or more fingerprint of the documents or of a set of them, of the time reference and of the digital signature by the responsible of the conservation attesting the correctness of the process execution. If the process is related to subscribed informatic documents, as defined at art. 1, letter f), the application of the time reference and of the digital signature by a public officer is also requested, to attest the accordance to the original document of what was transposed.

Art. 4. Substitutive conservation of analogue documents

1. The substitutive conservation process of analogic documents is performed through the storage of the relative image directly on optical media, possibly, also of the relative fingerprint and is concluded with the application, to the document set, or to an informatic evidence holding one or more fingerprint of the documents or of a set of them, of the time reference and of the digital signature by the responsible of the conservation attesting the correct process execution.
2. The substitutive conservation process of unique analogic documents is concluded with the additional application of the time reference and of the digital signature, by a public officer, to attest the accordance to the original document of what is stored.
3. The destruction of analogic documents, the conservation of which is mandatory, is allowed only after having completed the substitutive conservation process, except what is specified at art. 6(4) of the decree of the President of the Republic 28 December 2000, n. 445.

Commento [FR7]: This article regards historical and artistic documents.

4. The substitutive transposition process of conserved analogic documents is performed through storage on a different optical media. The responsible of the conservation, upon completion of the process, attests its correct performance through the application of time reference and of digital signature to the document set, or to an informatic evidence holding one or more fingerprint of the documents or of a set of them.
5. If the process is related to unique original documents as per section 2, it is also required the additional application of the time reference and of the digital signature, by a public officer, to attest the accordance to the original document of what was transposed.

Art. 5. Responsible of the conservation

1. The responsible of the substitutional conservation process:
 - a. defines the characteristics and the conservation system requirements based on the type of the documents to be conserved (analogic or informatic), of which he keeps evidence. He organises accordingly the content of the optical media and manages the security and tracking procedures that ensure the correct conservation, in order also to allow for the exhibition of each conserved document;
 - b. archives and makes available, through suitable procedures, regarding each storage medium in use, the following information:
 1. description of the document set content;
 2. the responsible of the conservation identification data;
 3. identification data of persons possibly delegated by the responsible of the conservation, with the specification of their assigned duties;
 4. indication of the security copies;
 - c. keeps and makes accessible an archive of the managed software programs, in different versions where applicable;
 - d. verifies the correct operation of the system and of the managed programs;
 - e. adopts the necessary physical and logic security measures relative to the system relevant to the substitutive conservation process and to the storage media security copies
 - f. requests the presence of the public officer for the cases where his intervention is required, ensuring this officer is provided with the assistance and resources necessary to fulfil his specific duties;
 - g. defines and documents the security procedures to be met to apply the time reference;
 - h. periodically verifies, with a period no longer than five years, the conserved documents actual readability, and arranges, where necessary, for the direct or substitutive transposition of the media content.
2. The responsible of the substitutive conservation procedure may delegate, in whole or in part, the enacting of his own activities to one or more persons who, by competence or by experience, ensure the correct execution of the operations they have been delegated to.
3. The substitutive conservation process can be entrusted, in whole or in part, to other subjects, public or private ones, which must abide by what is provided for in this deliberation.
4. In the public administrations the role of public officer is enacted by the director of the office responsible of the document conservation or by another formally appointed by the previous, with the exception of what is laid down at art. 3(2), and at art. 4(2), (4), in which cases the intervention of a different subject of the same administration is required.

Art. 6. Obligation to exhibit

1. The conserved document must be made readable in any moment at the substitutive conservation system premises and available, upon request, on paper media.
2. The conserved document may be also exhibited via telematics means.
3. When a conserved document is exhibited on paper media out of the premises where the substitutive conservation system is installed, its accordance must be asserted by a public officer where the document conservation requires this officer's intervention.

Commento [FR8]: To the conserved document

Art. 7. Operational procedures

1. Any public or private subject that plans to implement a document substitutive conservation process can adopt integrative measures and procedures, provided that what is laid down in the present deliberation is fully complied with.
2. Public administrations shall preliminarily inform the Centro nazionale per l'informatica nella pubblica amministrazione (CNIPA) on the integrative measures they intend to adopt as per section 1.

Art. 8. Other storage media

1. Based on the technological evolution and on the rules laid down in the decree by the President of the Republic 28 December 2000, No 445, the public administrations and private organisations are allowed, where this is not prevented by specific reasons, to make use, in the substitutive conservation and substitutive transposition processes, of any storage media, even non optical, provided they are suitable to ensure the accordance of the conserved documents to the original, in full regard of the stipulations laid down in the present deliberation.

Art. 9. Pre-existing conservation systems

1. The technical rules specified in Deliberations No 15 of 28 July 1994, No 24 of 30 July 1998 and No 42 of 13 December 2001 still apply to the substitutive conservation systems that already exist, or are about to be acquired at the moment of publication of the present deliberation.
2. The documents conserved in abidance of the technical rules specified at section 1 can be transposed on a substitutive conservation system managed in abidance of the technical rules specified with the present deliberation.

Rome, 19 February 2004

The President: Zoffoli