

**MAX-PLANCK-INSTITUT**  
FÜR KOHLENFORSCHUNG



**By-laws of the  
Historical Archive**

**of the foundation  
MAX-PLANCK-INSTITUT  
FÜR KOHLENFORSCHUNG**

---

Passed by the Management Board on 30 March 2021

---

## Table of contents

|                                       |   |
|---------------------------------------|---|
| <b>§ 1 Status and purpose</b>         | 2 |
| <b>§ 2 Scope of application</b>       | 2 |
| <b>§ 3 Definitions</b>                | 2 |
| <b>§ 4 Responsibilities and tasks</b> | 3 |
| <b>§ 5 Provision and handover</b>     | 3 |
| <b>§ 6 Storage and safeguarding</b>   | 3 |
| <b>§ 7 Use</b>                        | 4 |
| <b>§ 8 Protection periods</b>         | 4 |

### **§ 1 Status and purpose**

The Historical Archive of the foundation Max-Planck-Institut für Kohlenforschung is responsible for storing those of the foundation's documents which required archiving, for an indefinite period. As a staff unit of Institute Management, it acts as the information service provider and also researches the Institute's history. It is open to general history research, where evidence of a legitimate interest can be provided.

### **§ 2 Scope of application**

These by-laws generally apply to the archiving of documents relating to all management and supervisory committees, administration and the authorized officers system of the foundation Max-Planck-Institut für Kohlenforschung. It also applies to the archiving of documents which the archive accepts, manages and stores permanently to supplement its stock.

### **§ 3 Definitions**

- (1) Documents pursuant to § 2 are documents, files, papers, publications, card indexes, cards, sketches, plans, posters, pictures, film and sound documents, collections and all others, including electronic records, irrespective of their form of storage, and also including all aids and supplementary data which are necessary for the preservation, understanding and use of this information.
- (2) Archive materials means all documents requiring archiving within the meaning of § 2 which are added to the archive, if applicable after the storage and retention periods have passed.
- (3) Documents require archiving, if they have a permanent value for science and research, legal management, administration, public institutions and authorized third parties. The archive decides whether a document requires archiving on the basis of professional criteria.
- (4) Archiving comprises the tasks of recording, evaluating and accepting documents and of storing the accepted archive materials properly, adding to them, securing them, maintaining and servicing them, acquiring and re-searching them and making them available for use in line with the by-laws.

#### **§ 4 Responsibilities and tasks**

- (1) The archive has the task of archiving the documents requiring archiving in the foundation Max-Planck-Institut für Kohlenforschung in accordance with these by-laws.
- (2) The archive accepts archive materials from elsewhere, to the extent that this is appropriate to supplement other archive materials and to research the history of the foundation Max-Planck-Institut für Kohlenforschung.
- (3) As part of its responsibility, the archive offers advice on written document management to the bodies mentioned in § 2.

#### **§ 5 Provision and handover**

- (1) The bodies mentioned in § 2 provide all documents to the archive for archiving which are no longer needed for the fulfilment of their tasks and whose storage and retention periods have passed. This shall take place no later than thirty years after the documents have been produced, unless other retention periods are laid down by law.
- (2) Documents labelled as confidential are also provided.
- (3) Documents that contain personal data and are subject to statutory confidentiality regulations are also provided.
- (4) Provisions and handovers shall also include documents that contain personal data that would have to be deleted or could be deleted in accordance with a provision of state or federal law, providing that storage of the data was not inadmissible.
- (5) The archive shall regulate the provision and handover of documents in consultation with the bodies mentioned in § 2.
- (6) Documents that do not require archiving (§ 3 para. 3 Sentence 2) must be destroyed by the body offering the documents, unless this is contrary to the legal provisions or data protection regulations or unless the documents have historic significance.

#### **§ 6 Storage and safeguarding**

- (1) Archive materials cannot be sold.
- (2) The archive must store archive materials securely long-term. It must be preserved in its original state, unless this is contrary to technical archiving purposes.

Technical archiving findings must be applied and the items must be protected against unauthorized use, against damage, changes to their content and destruction. The archive must take suitable technical and organizational measures to protect documents which are subject to special secrecy requirements.

- (3) Archive materials are permanently removed from the communications of the foundation Max-Planck-Institut für Kohlenforschung and are treated as destroyed in relation to data protection law. They may only be used in accordance with §7 of these by-laws and especially in line with Art. 89 of the EU General Data Protection Regulation.

### § 7 Use

- (1) Every member of the Institute has the right in accordance with these by-laws to view archive materials upon request, unless this is stipulated otherwise by the legal provisions or this is contrary to official reasons of secrecy. This only applies to third parties, if they can provide evidence of legitimate interest, e.g. as part of history research.
- (2) Use of some or all archive materials must be prohibited, if
1. they must be kept secret due to an overriding legitimate third-party interest,
  2. this would impair the affairs of the data subjects or third parties,
  3. this would violate the confidentiality obligation under § 203 of the German Criminal Code ("Violation of Private Secrets") or other legal regulations regarding secrecy,
  4. the preservation status of the archive materials does not permit them to be used,
  5. this would trigger an unreasonable administrative expense, or
  6. this is contrary to the internal interests of the foundation Max-Planck-Institut für Kohlenforschung.

Use may be made dependent on requirements, especially if publication is intended. The refusal to permit use does not require a justification.

### § 8 Protection periods

- (1) The archive materials may only be used in line with § 7 after a protection period of thirty years has passed since the documents were created. The protection period is sixty years from the time that the documents were created for archive materials which were subject to special confidentiality requirements.

For archive materials which relate to one or several natural persons due to their purpose or main content (personal archive materials), the protection period shall not end before

1. ten years have passed since the death of the data subject or the death of the last of several data subjects whose year of death is known to the archive,
  2. one hundred years have passed since the birth of the data subject or the birth of the last of several data subjects whose year of death is known to the archive, and
  3. sixty years have passed since the documents were created or neither the year of death or the year of birth of the data subject or of one of several data subjects is known to the archive.
- (2) The protection periods pursuant to para. 1 do not apply for documents which were already intended for publication or legally accessible to the public when they were created.
- (3) The archive can approve use of archive materials subject to protection periods pursuant to para. 1 upon application before the protection periods end. This is only permissible for personal archive materials, if this is not contrary to the contents of the data protection legislation and if
1. the data subjects have approved such use,
  2. in the event of the death of the data subjects, their legal successor have approved such use, except where a data subject can be shown to have objected to such use during their life,
  3. taking into account the concerns of the data subjects and of third parties, use is in the internal interest of the foundation Max-Planck-Institut für Kohlenforschung and the Management Board has approved this.