

Act LXVI of 1995
on Public Records, Public Archives, and the Protection of Private Archives*

Parliament enacts the following Act on the basic rules about protection, continuous acquisition and use of archives, which serves as the primary source of historical past, being indispensable for the continuous fulfilment of public duties, the enforcement of civil rights, as well as forming part of the cultural heritage of the nation:

Chapter I

GENERAL PROVISIONS

Purpose

Section 1

The purpose of this Act shall be to ensure that

- a) current records of public agencies are proficiently handled and classified, are readily accessible sources, in view of the interests of administration and archives as well as based on the principle of publicity of data with general interest;
- b) the part of current records of any agency, as well as that of the documentary legacy of natural persons which is of permanent value, be preserved in an intact and usable state also for future generations, whether in public archives or open private archives, or as protected archival documents;
- c) in the course of using archival holdings the enforcement of fundamental constitutional rights guaranteeing free access to data of public interest and freedom of scientific research, be realized together with the protection of fundamental constitutional rights related to personality and to personal data;
- d) protection of state secrets, official secrets or business confidential data be affected.

Term of Reference

Section 2

The scope of this Act shall extend to

- a) current records of agencies fulfilling public duties;
- b) current records of business companies operating with a permanently state owned property share;
- c) records kept in public archives;
- d) records kept in open private archives;
- e) records of permanent value, owned by agencies and natural persons, which/who do not come under the effect of paragraphs a) to d).

Definitions

Section 3

For purposes of this Act

- a) *agency*: a legal entity or juridical person, or an unincorporated organization;
- b) *public agency*: an agency or a person performing duties of state administration or local authority, as well as other public duties defined by a legal rule;
- c) *record*: any text, series of numerical data, map, blueprint and sketch - except for a book-like manuscript, prepared with the intent of publication - which has been made in connection with the official business of an agency or related to the activity of any person, by means of any type of media, in any form, using any tool and any method whatsoever;
- d) *public record*: irrespective of the time of origin and the place of custody, any document which belongs or belonged to the current records of an agency fulfilling public duties;
- e) *private record*: a document belonging to the current records of an agency fulfilling no public duties, as well as a document owned by a natural person;
- f) *current records*: the totality of documents created in the course of the function of a given agency, or received by it and belonging to its registry according to their designated purpose;
- g) *registry*: duly established and outfitted premises suitable for the professional and safe custody of current records;
- h) *records management*: an activity covering collectively the creation of a document, its registration, systematization and selection thereof from the aspect of disposal, preparation of finding aids, its professional and safe custody, its release for use, disposal and/or transfer to an archives repository;

i) records schedule: a list serving as a basis for selection of public records from the aspect of systematization and disposal, which lists the current records classified according to items (such as subject groups, or where necessary, by the type of document) in a system adapted to the scope of duties and competence, as well as the organization of the agency fulfilling public duties, and defines the retention period - for administrative purposes - of records belonging to the archival items that may be destroyed (hereinafter: destroyable records), and also the time limit for transferring records to the archives that must not be destroyed (hereinafter: undestroyable records);

j) record of permanent value: a document containing data important from economic, social, political, legal, national defense, national security, scientific, cultural, technological or other aspect, which are indispensable for the research of historical past, for becoming acquainted with and understanding it, and/or for the continuous fulfillment of public duties and the realization of citizens' rights, which are not - or only partially - available from other sources;

k) archives: that part of current records of an agency and of the documents of natural persons kept in an archives repository, representing permanent value, as well as the protected private records with permanent value;

l) archives repository: an institution established for the purpose of permanent retention and archival processing of records with permanent value, and to ensure their use in accordance with their designated purpose;

m) public archives: an archives repository maintained by a public agency, which carries out archival tasks - both scientific and administrative - related to undestroyable public records;

n) open private archives: an institution established for the permanent retention of records with lasting value, which are owned or possessed by a natural person or an agency fulfilling other than public duties, which meets the requirements laid down in Section 30, subsection (2);

o) archival access: consulting archives, collecting data therefrom for scientific or other purposes;

p) the interpretation of personal data and of the terms related to the handling of personal data shall be governed by the Act LXIII of 1992 on the Protection of Personal Data and on the Publicity of Data with Public Interest (hereinafter: Data Protection Act or DPA);

r) competence of public archives (scope of competence): that part of the current records with permanent value which is obliged by law to be transferred to public archives, and the given public archives is bound to take over by virtue of provisions of the law, and of decision of the maintainer, respectively;

s) archival collection interest: that part of the non-public records with permanent value which is not obliged by law to be transferred to public archives, or there is no such obligation ordained by the maintainer, furthermore the records of natural persons with permanent value which is collected (accepted as gift or purchased) by the given archives service in order to enrich the archival sources in its custody.

Section 3/A

Public and private records with permanent value constitute the parts of cultural goods, while archives represent those of protected cultural goods. Public and private records with permanent value, as well as archives shall be protected and preserved in intact and usable condition in accordance with the provisions of this Act and of the Act on the Protection of Cultural Heritage.

General Rules for Protecting Current Records and Archives

Section 4

The agencies having current records, and natural persons keeping documents of permanent value shall provide for retaining the integrity and the original order of organically related records as well as for preserving records with permanent value owned or possessed by them.

Section 5

(1) No public records as well as archives considered public records but kept in any archives repository, shall be alienated, damaged, or made unusable in any other way, or destroyed other than authorized disposal procedure.

(2) Prohibition of damaging or making unusable in any other way as well as that of destruction shall also cover open private archives, and private records with permanent value under protection as well.

(3) Prohibition on alienation as defined in subsection (1) shall not preclude the alienation of records kept in public archives but not considered public records, to another archives, a museum, or a library through an exchange contract. To conclude an exchange contract or to alienate a private record kept in an open private archives shall need the permission issued by the Minister of Cultural Heritage. Alienation of a private record under protection shall be proceeded as provided by the Act on the Protection of Cultural Heritage.

Section 6

(1) Archives or private records defined in Section 33, subsection (1), may only be exported from the territory of the country in accordance with the provisions of the Act on Protection of Cultural Heritage.

(2) Before any archival record is taken out of the country, a security copy of it has to be made by the National Archives of Hungary, or the archival repository keeping it.

Section 7

Deposition of records in a public archives shall not affect their ownership, except for the case when they represent a gift, are purchased or exchanged by contract.

Control over Protection of Archives

Section 8

Departmental control over the protection of archives shall be carried out by the Minister of Cultural Heritage. Performing his duty the Minister

a) shall regulate in a decree the professional requirements related to the archival supervision of public records management, as well as the registration, proper and safe custody, processing and guaranteeing the use of the holdings both in public archives and open private archives, as well as the rules for disposal may be performed in archives holdings, and shall control the enforcement of professional requirements with the co-operation of inspectors;

b) shall control and supervise the National Archives of Hungary;

c) shall make decisions in specific cases falling within his competence.

Chapter II

PUBLIC RECORDS

Management and Protection of Public Records

Section 9

(1) The public agency shall

a) register the records received by it and those prepared by it, at the time of receipt or origin, respectively;

b) keep the registers and the related administrative supports serving the lucidity of current records in a manner usable also for archival purposes;

c) in the course of business processes classify the destroyable records as well as those of permanent value which, therefore, are undestroyable, under the appropriate item of records schedule, indicate the notation of the item on the record and enter it in the register;

d) apply means, materials and processes enabling the permanent retention of undestroyable records, when such should be created;

e) file the records of completed matters, in addition to the control of the correctness of systematization and selection in accordance with records schedule in its registry, and provide for the proper and safe retention - as well as release for use - of its current records;

f) destroy those parts of its current records that may be weeded out, after the retention period as indicated in records schedule, with the permission of public archives authorized to take over the undestroyable records of the agency (hereinafter: competent public archives);

g) transfer the records classified as undestroyable to the competent public archives at its own cost, together with the related registers and finding aids as specified in Section 12.

(2) The detailed rules of complying with the requirements defined in subsection (1) shall be contained in a single (prepared individually by an agency performing public duties), or in a standard (prescribed as compulsory for a public agency) regulation on records management and records schedule.

(3) The head of the agency, which performs public duties, shall be responsible for complying with the requirements defined in subsection (1), as well as for the establishment and operation of a registry, suitable for the proper and safe custody of records and for guaranteeing other material, technical and personal conditions required for records management.

Section 9/A

(1) In case of dissolution of an agency performing public duties or of a change in the range of its duties, the disposing agency shall provide for the further placement, safe custody, maintenance and usability of current records of the agency concerned.

(2) If the agency being dissolved merges with another one, its records shall be placed in the registry of the agency taking over its duties.

(3) If the duties of the agency being dissolved are divided between more than one agencies, or the duties of an agency are taken over by another one, current records shall only be separated by the records schedule items. A claim for a single file shall be met by making a copy or lending. Separation of current records by the records schedule items shall be carried out with the consent of the competent public archives.

(4) If an agency performing public duties dissolves without a legal successor, the part of its records with permanent value shall be transferred to the competent public archives. Concerning the rest, the agency arranging for dissolution shall ensure the costs required to keep and manage as well as dispose them for a definite period of time.

Issue of Regulations on Records Management

Section 10

(1) The Government shall issue - in compliance with the opinion of the National Archives of Hungary - a model regulation on records management for the ministries and the agencies with nation-wide competence. The Minister of the Interior shall issue for the local authorities, while the ministers providing for departmental control issue for the institutions of the state and local authorities - in compliance with the opinion of the professional body commissioned by the Minister of Cultural Heritage - a model regulation on records management.

(2) The minister providing for departmental control, or the head of an agency with nation-wide competence shall issue a single regulation on records management for the state administration agencies, the armed forces, the organizations for the protection of law and order, and the civil national security services. The single regulation on records management for the courts shall be issued by the National Council of Jurisdiction, and by the Attorney General for the prosecutors' offices.

(3) On the issue of the single regulations on records management for the agencies mentioned in subsection (2), the National Archives of Hungary shall exercise the right of consent.

(4) The agencies performing public duties, not mentioned in subsection (2), shall prepare individual regulations on records management, and issue them with the consent of the competent public archives.

(5) The right of consent of the National Archives of Hungary or of the competent public archives shall extend to issues in connection with development of records schedule items, designation of those items that must not be destroyed, as well as to matters connected with the rules affecting the archival use of undestroyable records. In any dispute arising in connection with exercising of the right of consent by public archives, decision shall be made by the Ministry of Cultural Heritage.

Public Records Management Control by the Archives

Section 11

In order to secure the survival of undestroyable public records, the protection of records of public agencies and the order of their records management shall be controlled by the competent public archives, on the basis of the regulation on records management. In the course of carrying out its duty of control

a) it may have access to registration offices and registries; it may inspect the records - except for those containing state secrets, official secrets or business confidential data - and the registers; it may examine the records management activity while in progress;

b) it shall provide consultation in records management issues, it shall take the minutes on the faults and deficiencies jeopardising gravely the intact and usable preservation of undestroyable records; it shall fix the time limit for the elimination of such faults and deficiencies;

c) if an agency fails to take steps by the time limit defined in the minutes, then the archives shall notify the supervisory authority with the aim of the latter instituting contravention proceedings; failing any supervisory authority it shall institute the contravention proceedings itself.

Transfer of Public Records to Archives

Section 12

(1) The complete and concluded annual volumes of undestroyable public records - with the exception specified in subsection (5) shall be transferred to the competent public archives by the end of the fifteenth year from the calendar year of their creation.

(2) The agency and the competent public archives shall jointly agree on the date of transfer of undestroyable public records.

(3) The deadline for transfer defined in subsection (1) may be extended for a further five years without any special permission if the agency is still regularly in need - from an administrative aspect - of the undestroyable records, or where the competent public archives does not have the space required for the storage of records. The extension of time limit for transfer beyond five years may be authorized on one occasion only, for a period of not more than ten

years by the Minister of Cultural Heritage. A retention period in the registry which exceeds this, can only be set by a legal rule.

(4) A public archives can only be compelled to accept public records that were created within fifteen years by virtue of a legal rule.

(5) Undestroyable records created more than fifteen years before, containing state secrets, official secrets or business confidential data, shall be transferred to the competent public archives by the end of the calendar year following the expiry of the closure period specified by the classifying authority.

(6) Upon the initiative of the agency preserving the records, the competent public archives may transfer records containing state secrets, official secrets or business confidential data even before the expiry of the closure period, if conditions of their proper custody and management are guaranteed.

(7) An agency performing public duties shall guarantee the use of those undestroyable records, which are in its custody even after the elapse of the closure period defined in Section 22, subsection (1), in accordance with the rules applied to records kept in public archives.

Chapter III

PUBLIC ARCHIVES

Duties of Public Archives

Section 13

In the framework of its duties public archives shall

a) transfer and preserve with exclusive right - with the exceptions defined in Section 31 - the undestroyable public records of agencies coming under its competence;

b) transfer or collect under a legal rule, as well as preserve as a deposit free of charge the private records with permanent value;

c) register, properly maintain and safely retain the records taken over or collected, process the archives in its custody through disposal, arrangement as necessary, as well as through compilation and publication of scientific finding aids, and make possible the use of records;

d) issue certified copies or abstracts on records in its custody;

e) supervise disposal of non-current records and records management of public agencies as well as those of business companies operating with a permanently state owned property share, in order to protect records of permanent value;

f) ensure conservation and restoration of deteriorated or damaged archives; prepare or have a security copy prepared of these archives and of archives of particular importance, and hand over a copy thereof - unless a legal rule otherwise provides - to the security film repository in the National Archives of Hungary;

g) carry out researches on archives administration and historical science in order to promote the development of archival activity and the exploitation of archives, make the achievements available to the public, and within the scope of scientific division of labour, participate in publishing archival sources in its custody;

h) facilitate through publications and in other ways the exploitation of archival holdings for educational or cultural purposes as well as promote public awareness of archival activities;

i) provide consultation related to the selection and proper maintenance of private records with permanent value, and contribute to the declaring of private records with permanent value as protected.

Public archives and their competences and collection interests

Section 14

(1) Public archives shall be divided into general archives, specialized state archives, archives of local authorities by settlements, of public bodies, of public foundations, or of any other public agencies, as defined in a legal rule.

(2) The competence of public archives shall be defined in respect of public records by this Act, in respect of documents not considered public records as to the county (Budapest City) archives by Section 18 of this Act, as to the National Archives of Hungary by the Minister of Cultural Heritage, in respect of other public archives by the maintaining entity, with the consent of the Minister of Cultural Heritage.

(3) Collection interests of a public archives shall cover all private records of permanent value, defined in Section 3, paragraph *s*), which fit into the archival holdings and enrich the archival sources kept by the public archives.

Duties of the Entity Maintaining a Public Archives

Section 15

(1) The entity maintaining a public archives shall make sure that its archives

a) have the skilled staff and technical equipment required for the fulfillment of the duties specified in Section 13, as well as

b) have a repository (repositories), that may be made inaccessible, is (are) fireproof, dry, contain the appropriate degree of humidity, that cannot be used simultaneously for any other purpose beside the custody of archives, outfitted with the storage means required for proper custody, and guarantee(s) the regular capture of records, furthermore a reading room and other conditions necessary for its function.

(2) A public archives may only be established subject to the combined securing of the conditions specified in subsection (1), paragraphs *a*) and *b*).

(3) The head of a public archives shall be appointed through competition, or relieved, in the case of the National Archives of Hungary by the Minister of Cultural Heritage, while in the cases of specialized state archives as well as the archives of the county authorities, local authorities of settlements, public bodies, public foundations and other public agencies - having requested the opinion of the Minister of Cultural Heritage - by the maintaining entity.

General Archives

Section 16

(1) The records of public agencies having no archives of their own, shall belong to the competence of general archives. General archives may be established or dissolved by an Act, with the designation of the public archives competent to take over the holdings of the archives being dissolved.

(2) General archives are the National Archives of Hungary as well as the public archives maintained by the local authorities of the counties and the Municipality of Budapest, respectively.

Section 17

(1) The National Archives of Hungary shall act as central general archives. The following shall fall within its competence: the records of the President of the Republic and his Office, that of Parliament and its Office, as well as the offices of Parliamentary Ombudsmen, of the Constitutional Court, the Prime Minister and his Office, - with the exception defined in Section 19, subsection (2) - of the Ministries and other agencies with nation-wide competence, as well as of the institutions and the bodies of foreign representation falling under the direct supervision and direction of the above, of the Supreme Court, of the Attorney General's Office, of the State Audit Office and of the National Bank of Hungary, as well as of the predecessors of all these agencies, and of all national public bodies and public foundations having no archives of their own.

(2) Over and above the duties defined in Section 13, the National Archives of Hungary shall

a) elaborate methodological recommendations and other auxiliary materials to promote enforcement of professional requirements specified in a separate legal rule, and make them available with the consent of the Ministry of Cultural Heritage;

b) register all public and private archives;

c) explore, register and collect (acquire a copy of, or purchase) any foreign archival records of Hungarian relevance;

d) keep the original copies of the Acts;

e) keep up a research library of archives science;

f) provide consultation to other archives on preservation issues;

g) keep in its security film repository a series of security copies prepared of the records preserved in domestic public archives;

h) contribute to the advanced professional training of archivists, and achieve its duties related to professional training at the intermediate level;

i) annually publish the accession register of public archives, and the essential data of their operating;

j) carry out the duties concerning the maintenance of Archival Inspectorate;

k) enforce the right of first refusal specified in Section 34, subsection (1);

l) collect and process the data of service provided by public archives and open private archives, according to the considerations stated by the Ministry of Cultural Heritage.

Section 18

The county public archives and Budapest City Archives shall act as territorial general archives, under the direct supervision and direction of the county authorities and the Municipality of Budapest, respectively. Their competence shall extend to the records of the body, offices and institutions of the maintaining local authority, as well as to that of their legal predecessors, and to any archival record that were created on the territory of the county (Budapest City), and does not fall within the competence of another archives.

Specialized State Archives

Section 19

(1) Specialized state archives include the Archives of War History, the Archives of the Central Statistical Office, and the Water Management Archives, the Historic Archives of State Security Services as well as archives of institutions of higher education, institutions performing scientific, cultural or public health services, which are maintained by the state.

(2) The competence of specialized archives – with the exception of the Historic Archives of State Security Services - shall extend to the archival material of

a) the Ministry of Defence and the Command Headquarters of the Hungarian Army as well as of the military organizations – with the exception of military national security services - coming under the direct supervision or control of the above, in the case of the Archives of War History,

b) the Central Statistical Office and the agencies coming under the direct supervision thereof, in case of Archives of the Central Statistical Office,

c) the agencies of water management coming under the supervision of the Ministry of Transport and Water Management, in case of Water Management Archives,

d) the maintaining entity, in case of the archives of institutions of higher education and of institutions performing scientific, cultural and public health services,

as well as to all archival records which were created in the course of the activities of the legal predecessors of the above.

(3) The competence of the Historic Archives of State Security Services shall extend to the records specified in Section 1, subsection (1) of the Act on the disclosure of the activity of secret services in the past regime, and on the establishment of the Historic Archives of State Security Services.

(4) The special functional rules for the Historic Archives of State Security Services as well as the duties in addition to those specified in this Act shall be stipulated by the Act mentioned in the above subsection (3).

(5) The establishment and dissolution of a specialized archives specified in subsection (2), paragraph *d)* shall be authorized by the Minister of Cultural Heritage, subject to a prior request of the opinion of the Minister (Head of the agency with nation-wide competence) performing the supervision or direction of the agency concerned.

(6) The Minister of Cultural Heritage shall provide for the deposition of the holdings of a specialized archives being dissolved.

Archives of Local Authorities by Settlements

Section 20

(1) The local authority of a settlement may establish a public archives with competence over the records of its body, offices and institutions, as well as over that of the legal predecessors of the above. This archives shall function under the direct supervision and direction of the maintaining local authority.

(2) The establishment of an archives by the local authority of a settlement shall require the prior consent of the Minister of Cultural Heritage. The Minister may refuse the consent, if he feels the personal and material conditions of continuous functioning of the archives to be established [Section 15, subsection (1)] are not guaranteed on a long term. If the conditions determining the function of the archives cease to exist, the Minister may withdraw his consent. In this case the maintaining local authority must dissolve its archives.

(3) If the local authority of a settlement dissolves its archives, the holdings thereof shall be placed in the county (Budapest City) archives competent for the relevant territory. In such a case the local authority of the settlement shall also give over to the county local authority (Municipality of Budapest) its assets that have served the purposes of the archives, for their use.

Archives of Public Bodies, Public Foundations and Other Public Agencies

Section 21

Public bodies, public foundations or other public agencies as defined in a legal rule may establish public archives for the custody of their own records. The establishment or dissolution shall be entered in the central register of public archives. In case of dissolution, the Minister of Cultural Heritage shall provide for the placement of the archives of the public body, public foundation and other public agencies.

Chapter IV

USE OF THE HOLDINGS OF PUBLIC ARCHIVES

Access to Public Archives

Section 22

- (1) Upon request, containing the subject to be researched, any natural person may have free of charge access to archives, or may obtain at his own cost copies of records released for inspection, and kept in public archives, created after 1 May 1990, or archives older than thirty years from the calendar year of their creation, archives that were created before 2 May 1990, if older than fifteen years from the calendar year of their creation - with the exceptions in Sections 24 and 25 - as well as without any time limitation to archives, which have already been made public, and/or the content of which anyone may become familiar with, in accordance with DPA.
- (2) Before the beginning of research, the public archives shall issue a visiting card to the person wishing to perform research in the holdings of the public archives. The visiting card - on annual prolongation - may be continuously used in the given public archives.
- (3) On the issue of the visiting card the public archives shall keep a record of the researcher's: name, mother's name, the place and date of birth, address, and the number of the document proving his/her identity.
- (4) The public archives shall register the archival records being delivered for research, and ensure the protection of researcher's personal data according to the provisions of DPA.

Section 23

- (1) Access to archives originally prepared for internal use as well as containing preliminaries to decisions, that were created after 1 May 1990 but before the expiry of thirty years from the calendar year of their creation, shall be authorized by the public archives keeping the records concerned, with the consent of the agency, which handed them over. Access to archives of an agency dissolved without any legal successor, shall be authorized by the public archives keeping the records concerned.
- (2) The Advisory Board specified in subsection (3) shall authorize access to archives that were created before 2 May 1990 and within fifteen years from the calendar year of their creation - including those originally prepared for internal use as well as containing preliminaries to decisions - with the consent of the agency which handed them over. Access to archives of an agency dissolved without any legal successor, as well as of the records defined in Section 2 of the Act LXXXIII of 1991 shall be authorized by the Advisory Board. The Advisory Board shall also authorize scientific research to be performed in the Historic Archives of State Security Services.
- (3) The Advisory Board is composed of five members, three of them appointed by one from each of the National Archives of Hungary, the Institute for the History of Politics, and the Documentation and Research Institute for the 1956 Hungarian Revolution (Public Foundation), as well as two members appointed by the Hungarian Academy of Sciences.

Section 24

- (1) Unless an Act otherwise provides, archives containing personal data shall be disclosed for access by anyone thirty years after the year of the data subject's decease. If the year of death is unknown, protection period shall be ninety years from the birth of the subject, and when neither the date of birth nor of death is known, it shall be sixty years from the creation of the record held by the archives.
- (2) The archives specified in subsection (1) shall also be open for access before the expiry of protection period, if
 - a) research can be carried out - at the cost of the applicant - through an anonymized copy, or
 - b) the subject, or after his death any heir or relative of his/her, has consented to the research upon the request of the researcher, or
 - c) research is required for scientific purposes - provided that the thirty or fifteen years defined in Section 22, subsection (1) have already expired - and the researcher complies with the requirements specified in subsections (3) and (4).
- (3) Research for scientific purposes in accordance with subsection (2) paragraph *c*) shall be authorized by public archives, if the researcher attaches a statement of support issued by an institute or body performing public duties and scientific research in accordance with its designated purpose, granted on the basis of the detailed research plan of the researcher.
- (4) The researcher shall sign a written declaration accepting the limitations on handling and usage of the acquired or collected personal data in compliance with Section 32 of DPA, moreover in the declaration shall indicate the place of data handling.
- (5) On granting consent specified in subsection (2), paragraph *b*), the subject, or after his/her death any heir or relative of his/hers, shall sign a written declaration accepting the use of his/her personal data learnt by the researcher, in conformity with the purpose of research, as well as on making copies of records containing his/her personal data.
- (6) If research is conducted for scientific purposes in accordance with subsection (2) paragraph *c*), a non-anonymized copy of the record containing personal data may be obtained even before the expiry of protection period specified in subsection (1).

Section 24/A

(1) For scientific purposes, even before the expiry of protection period specified in Section 24, subsection (1), access to archives containing personal data may be permitted for the researcher of a country ensuring equivalent protection of personal data, supposing that 30 and 15 years respectively, specified in Section 22, subsection (1), have expired.

Access may be authorized, if

a) equivalent protection of personal data concerning the given country is verified by the Minister of Justice in agreement with the Data Protection Commissioner;

b) the researcher presents a supporting statement - granted on the basis of the detailed research plan - of the committee or institute of the Hungarian Academy of Sciences, that is competent in the subject of research, and accepts in a written declaration that acquired and collected personal data will be handled and used in accordance with data protection rules of his/her country.

(2) Concerning making copies of records explored by research permitted in accordance with the subsection (1), rules involved in Section 24, subsection (6) shall be applied.

(3) The Government shall be empowered to conclude a Data Protection Contract with regard to handing over a copy of records containing personal data – including sensitive data - to a foreign scientific institute in order to display the results of researches conducted on historical events, before the expiry of protection period specified in Section 24, subsection (1).

(4) Transferring of data abroad based on a Data Protection Contract specified in subsection (3), may be forbidden by the subject, or after his/her death any heir or relative of his/hers, until the expiry of protection period specified in Section 24, subsection (1). Rules of procedure related to the enforcement of right to protest shall be laid down by the Minister of Cultural Heritage.

Section 25

(1) Until the expiry of closure period specified by the classifying authority, researchers can only have access to archives containing state secrets, official secrets or business confidential data or any other secrets defined in an Act, with a permission issued by the classifier.

(2) No access may be authorized

a) to records that were created within the framework of an international commitment, or were handed over by a foreign agency or person for the duration specified in the international agreement or by the party handing them over;

b) to archives not considered public records, which cannot as yet be researched on the basis of conditions specified by the agency or natural person handing them over.

(3) If the records cannot be made available to the researcher due to their physical condition, the public archives may comply with the application by preparing a copy at its own expense, if this process does not involve the danger of further deterioration or destruction of the original, and does not entail an expense exceeding five times the fee for usual copying. However, in the latter case, if the researcher pays the excess cost, the public archives shall be obliged to make a copy.

Section 26

The public archives or the Advisory Board specified in Section 23, subsection (3) shall give written reasons for the partial or total denial of the application for access.

Other Ways of Use

Section 27

(1) Public archives shall give information about individual data on the basis of the information supplied by the applicant and required for identification.

(2) The partial or full denial of application for information shall be communicated by public archives in writing.

(3) Public archives shall carry out research for the purpose of information as a free of charge service only on the basis of a legal rule or upon the instruction of the maintaining entity.

Section 28

Public archives may lend its holding to other archives for research purposes, or to a body for the purpose of exhibition, on the basis of a separate legal rule, for a definite period of time. The archives shall be obliged to authorize the lending for administrative purposes to the agency which handed over the records, or to its legal successor. The application for borrowing may also be presented in the form of a copy.

Legal Remedy in Case of Denial of an Application for Access or Information

Section 29

- (1) In case of a partial or full denial of the application for access or information, the applicant may go to law.
- (2) With the exception specified in subsection (3), the rules included in Section 21, subsections (2) to (7) of DPA shall govern the institution of the lawsuit and the course of the proceedings.
- (3) In case of denial of an application for information relating to the applicant's own data the rules of Section 17 of DPA shall apply to the court proceedings.

Chapter V

PROTECTION OF PRIVATE ARCHIVES

Open Private Archives

Section 30

- (1) A natural person as well as a non-public agency who/which establishes or maintains an archives for the long term custody of his/its records with permanent value being in his/its ownership or possession, and accepts to comply with the requirements defined in subsection (2), may initiate with the Ministry of Cultural Heritage that his/its archives be registered as an open private archives. Upon the recommendation of the Archival Inspectorate, the registration as open private archives shall be authorized by the Minister of Cultural Heritage.
- (2) Open private archives shall
 - a) deliver the list of its holdings to the National Archives of Hungary for the purpose of registration;
 - b) fulfil its duties in compliance with the professional requirements prescribed for open private archives as to the description, professional and safe custody, processing and accessibility of its holdings;
 - c) give information, supply data, lend records and make possible free of charge access to its holding in accordance with its own regulations, according to the provisions applicable to public archives.
- (3) If open private archives fails to comply with the requirements specified in subsection (2), the Minister is entitled to have the archives deleted from the register. The Minister shall simultaneously take the initiative to declare the archives as protected.
- (4) Open private archives shall be granted a budgetary support as specified in Section 34/C. Open private archives, maintained by political parties are also entitled to a budgetary support.

Section 31

- (1) With the exception of public records, an open private archives may collect any records, however, competent ecclesiastical archives may also collect records of the educational institutions maintained by the church which are considered as public records.
- (2) The Minister of Cultural Heritage is entitled to permit the placement of holdings of the loci authentici of the capitular or convent bodies (*ecclesiastical bodies entrusted with notarial functions*) in the competent domestic ecclesiastical archives, and of other public records in open private archives, if the maintaining entity of the archives guarantees compliance with - as to the keeping, handling and use of the records - the conditions specified in Section 15, subsection (1), and makes possible access to the records in accordance with the rules applicable to those kept in public archives.

Protection of Private Records with Permanent Value

Section 32

- (1) Non-public agencies - with the exception under subsection (3) - may develop the ways of managing their current records themselves, but they may request professional advice of the competent public archives, and they may conclude an agreement therewith concerning the regular manner of assistance, as well as relative to the keeping of records as a gift or no charge deposit.
- (2) The donor or depositor may restrict the access to the records transferred to a public archives under an agreement as specified in subsection (1) to a definite period of time.
- (3) Business companies operating with a permanently state owned property share are obliged to regulate their records management in agreement with the competent public archives, to manage their records in accordance with the regulations, to facilitate on the spot information for the public archives while guaranteeing the protection of trade secrets and business confidential data, to transfer to the public archives their undestroyable records, if they are no

longer required for carrying out their tasks. These companies may dispose of the accessibility to records transferred to public archives in accordance with the contents of subsection (2).

Section 33

(1) By virtue of the Act on the Protection of Cultural Heritage – with the exceptions listed in subsection (2) - the Office for Protection of Cultural Heritage (hereinafter: Office) is entitled to declare as protected archives the private records with permanent value, which were created further than 50 years, and are not stored in archives, libraries or museums, furthermore irrespective of the time of origin:

a) documentary legacy of persons who took a prominent part in society, politics, economy, culture or science;

b) the records with permanent value from the registry of an agency performing non-public duties and being dissolved without a legal successor, except the records specified in Section 53, subsection (3) and Section 76 of the Act IL of 1991 on Bankruptcy and Liquidation Proceedings;

c) the records of a privatized state business company, that were created before privatization and specified in Section 34, subsection (3);

d) the records with permanent value from the registry of an agency in operation and performing non-public duties, if the owner – except the case when selling of the business company implies transferring of the registry - wishes to market them;

e) the records kept in a private archives being cancelled from the registration of open private archives.

(2) May not be declared as protected:

a) private records that are connected with the owner, or were created in the course of the owner's personal activity, and are properly kept in the owner's possession;

b) the current records of an agency in operation, except records specified in subsection (1), paragraph *c)* and *d)*.

(3) The Office may obligate the owner by decision to hand over his/her archives declared as protected to the National Archives of Hungary – for a definite period - for the purpose of making security copies thereof. Transportation of archives back and forth shall be ensured by the National Archives of Hungary, under agreement with the owner.

(4) The National Archives of Hungary shall preserve the security copies specified in subsection (3). The owner has the right to prohibit making further copies from the security copy, and having access to it for a definite period of time, if the research would violate his personal rights or would interfere with his lawful interests.

(5) Otherwise the provisions of the Act on the Protection of Cultural Heritage shall be applied in the process of declaration private records as protected and the archives declared as protected.

Section 34

(1) An owner who wishes to market his/her record(s) created further than 50 years, or, records specified in Section 33, subsection (1), paragraphs *a)*, *b)* and *d)* – with the exception of public auction - shall be obliged to offer it for purchase first to the National Archives of Hungary, or to present it with the aim of having it declared protected. If the National Archives of Hungary verifies that the presented record(s) - as regards contents or other features – suit(s) criteria specified in Section 3, paragraph *j)*, but cannot pay the purchase price set by the owner, it shall suggest to the Office to declare the record(s) as protected.

(2) Prior to exporting any of the records specified in subsection (1), or archives declared as protected, the owner or rightful possessor – with the consent of the owner - shall put in an application for the export permit to the National Archives of Hungary or to any county archives having residence outside the area of the Capital. The archives, to whom the request was submitted, shall forward the application - along with its expert opinion - to the Office.

(3) Current records, that were created during the operation of a state owned business company, may only be destroyed in accordance with the guidelines stipulated by the competent public archives, even following privatization of the company. If the new owner does not wish to keep the undestroyable records any longer, he/she must deliver them to the competent public archives. If the new owner claims the undestroyable records, the competent public archives may initiate the declaration on protection of these records.

Chapter V/A

Some Questions Connected with Budgetary Support of Archives

Section 34/A

(1) Financial conditions, required in order to examine an annual 2 per cent of records kept in public archives and open private archives, to perform necessary disposals, and to make security copies specified in Section 13 paragraph *f)* as well as to carry out other issues serving permanent retention of endangered records or information contained by them, as the case may be, shall be allocated from the Budget of the Ministry of Cultural Heritage.

(2) The Ministry of Cultural Heritage shall provide for the distribution of the budget specified in subsection (1) among public and open private archives, by competitions. Rules on competition, judgement and spending of budget shall be settled by the Minister of Cultural Heritage.

(3) The personal, material and technical conditions required to perform tasks specified in subsection (1) must be created not later than 31 December 2000.

Section 34/B

The budget required to perform the tasks listed in Section 17, subsection (2) shall be determined as a separate heading within the Annual Budget of the National Archives of Hungary.

Section 34/C

(1) The budgetary support of open private archives shall be determined within the Annual Budget of the Ministry of Cultural Heritage.

(2) The amount of the budgetary support projected onto 1 running metre of the holdings preserved in an open private archives cannot be less than 25 per cent of the overhead costs - reduced by running receipts - allotted to 1 running metre of the holdings preserved in general archives during the two years earlier fiscal year.

(3) The rules for distribution of the budget specified in subsection (1) among open private archives shall be determined by the Minister of Cultural Heritage.

Chapter VI

MISCELLANEOUS AND CLOSING PROVISIONS

Section 35

(1) This Act shall come into force on 1 January 1996 with the exception specified in subsection (2).

(2) Section 3, Section 12, Sections 22 to 29 and Section 36 of this Act shall come into force on 1 July 1995.

(3) Simultaneously with the coming into force of the Act the following legal rules shall cease to be in force: Law-Decree 27 of 1969 on Protection of Archival Holdings and on Archives - with the exception of the first sentence of Section 10/A, Law-Decree 19 of 1972 amending this, and Section 1 of Act LXXXIII of 1991, as well as Government Decree No. 30/1969. (IX.2.) issued concerning the execution of Law-Decree 27 of 1969 on Protection of Archival Holdings and on Archives, Section 1 of Government Decree No. 34/1970. (IX.13.) amending it, Government Decree No. 37/1971. (XI.3.), Section 1 of Decree No. 29/1973. (XI.21.), Section 3, subsection (1), paragraph a), Section 3, subsection (2) paragraphs a), b) and e) of Government Decree No. 20/1992. (I.28.), as well as Government Decree No. 177/1991. (XII.28.) issued to amend the Legal Rules on Protection of Archival Holdings and on Archives, as well as on Certain Issues of Access to Public Collections, as well as Sections 1 to 2 and Section 4 of Government Decree No. 121/1992. (VII.1.) Section 3 of Government Decree No. 121/1992. (VII.1.) as well as Government Decree No. 102/1993. (VII.12.) issued to amend Decree No. 118/1989. (XI.22.) on Certain Issues of Access to Public Collections, shall cease to be in force on 1 July 1995.

(4) The Minister of Cultural Heritage shall be empowered hereby to regulate in a decree the functioning of the Advisory Board specified in Section 23, subsection (3), and the functioning of Archival Inspectorate and other professional bodies.

(5) Where a "record of historical value" is mentioned in a legal rule, a "record of permanent value" shall be understood thereby.

(6) Archives functioning at present and maintained by non-public agencies shall continue their activity as open private archives.

(7) The regulations on records management specified by Section 10 of this Act shall be prepared by 31 December 1998.

Section 36

Simultaneously with the coming into force of this Act

1. the second phrase of Section 30, paragraph *i*) of DPA shall cease to be in force, and the text part "agency or person performing state or local authority duty" in Section 19, subsection (1) of DPA shall be replaced by the text part "agency or person performing state or local authority or other public duties defined in a legal rule".

* The Act was passed by Parliament on 27 June 1995. Amended by the Act CXL of 1997 on the Protection of Cultural Goods, on Museums, Public Library Provision and General Education.