

THE PRIME MINISTER OF THE CZECH REPUBLIC

hereby approves of the publication of

the final and conclusive text of Act No. 499/2004 Coll.

on Archiving and Records Management and on the Amendment of Selected Acts, as derived from amendments implemented by Act No. 413/2005 Coll., Act No. 444/2005 Coll., Act No. 112/2006 Coll., Act No. 181/2007 Coll., Act No. 296/2007 Coll., Act No. 32/2008 Coll., and Act No. 190/2009 Coll., Act No. 227/2009 Coll., Act No. 424/2010 Coll., and Act No. 167/2012 Coll.

A C T

on Archiving and Records Management

The Parliament has adopted the following Act of the Czech Republic:

PART ONE

ARCHIVING AND RECORDS MANAGEMENT

TITLE I

INTRODUCTORY PROVISIONS

Section 1

Scope of Application

This Act shall regulate the following:

- a) selection and registration of archival records;
- b) protection of archival records;
- c) rights and obligations of owners of archival records;
- d) rights and obligations of holders and administrators of archival records (hereinafter referred to as the “holder of archival records”);
- e) use of archival records,
- f) processing of personal data for the purposes of archival records;
- g) the system of archives;
- h) rights and obligations of archives’ founders;
- i) record management;
- j) competences of the Ministry of the Interior (hereinafter referred to as the “Ministry”) and other administrative authorities responsible for archiving and performance of record management;
- k) administrative offences.

Section 2

Definition of Terms

For the purposes of this Act the following definitions shall apply:

- a) “archiving” shall be understood as a human activity in the field of care for archival records as part of the national cultural heritage performing administrative, information, scientific and cultural functions;
- b) “care for archival records” shall be understood as their selection, recording, protection, arrangement, storage, and access;
- c) “archives” shall be understood as facilities under this Act serving for storage of and care for archival records;
- d) “agency” shall be understood as any entity creating a record; documents submitted or otherwise transferred to such entity shall be also considered created by that entity;
- e) “record” shall be understood as written, picture, audio-video or any other registered information in an analogue or digital form, authored by or submitted to an agency;
- f) “archival record” shall be understood as a record which has been (due to the period of its origination, content, origin, external attributes and permanent value deriving from its political, economic, legal, historical, cultural, scientific or informative importance) selected in the public interest for permanent storage and has been included in the registers of archival records; seal-matrices, stamps or other material objects relating to the archival fonds or archival collections which had been (due to the time of their establishment, content, origin, external attributes and permanent value deriving from their political, economic, legal, historical, cultural, scientific or informative importance) selected in the public interest for permanent storage and included in the registers of archival records;
- g) “selection of archival records” shall be understood as assessment of the value of records and decision upon their selection among archival records and inclusion in the registers of archival records;
- h) “archival fonds” shall be understood as an aggregation of archival records which originate from the same creator;
- i) “archival collection” shall be understood as an aggregation of archival records which have one or more common attributes;
- j) “finding aid” shall be understood as an information system developed during arrangement of archival records and serving the purpose of registering and retrieving the content and time span of the archival fonds, the collection of archival records, or parts thereof;
- k) “arrangement of archival records” shall be understood as classification, breakdown and description of archival records;
- l) “performance of record management” shall be understood as professional management of records created by activities of an agency and/or by activities of their legal ancestors including their due delivery, registering, distribution, circulation, administration, creation, signing, dispatching, storing and setting aside within the appraisal process, including checks of all activities herein;
- m) “registry” shall be understood as a place designated for storing, finding and/or retrieving and submitting records for the requirements of an agency, and for their discarding;
- n) “records centre” shall be understood as a unit of the agency designated to supervise the record management performed by the agency and to store, search and/or retrieve and submit records retention period of which exceeds five years;
- o) “metadata” shall be understood as data describing coherency, content and structure of records and their management over a period of time;
- p) “Record Management Rules ” shall be understood as an internal document stipulating basic rules of the record management and the appraisal process;
- q) “classification code” shall be understood as a reference code which allocates records into specific groups for the purposes of their future location, storing and discarding;
- r) “disposition mark ” shall be understood as a reference mark under which the record is assessed within the appraisal process;

- s) “retention period” shall be understood as a period of time for which the record shall be stored at the agency;
- t) “employee” shall be understood as a person having a service contract, employment contract or any other similar job contract with the given entity.

TITLE II

ARCHIVING

Chapter 1

Selection of Archival Records and Their Registration

Selection of Archival Records

Section 3

(1) The following entities shall be obliged to store records and allow for selection of archival records:

- a) central public authorities;
- b) armed forces;
- c) security forces;
- d) public organisations receiving contributions from the government budget;
- e) publicly owned companies;
- f) territorial self-governing units;
- g) organisational units of territorial self-governing units should they create records stipulated in Annex 1 or 2 hereto;
- h) legal entities established or founded by territorial self-governing units should they create records stipulated in Annex 1 or 2 hereto;
- i) institutions of higher learning;
- j) schools and education facilities with the exception of kindergartens, institutional care facilities, boarding schools, and school canteens (hereinafter referred to as “schools”);
- k) health insurance companies;
- l) public research institutions;
- m) legal entities established by virtue of law;

(hereinafter referred to as “public agencies”).

(2) The obligation to store records and allow for selection of archival records upon conditions stipulated herein shall apply accordingly to the following:

- a) registered companies and cooperatives with the exception of housing societies, should it concern records stipulated in Annex 1 hereto;
- b) political parties, political movements, civil associations, trade unions, employers’ organisations, churches and religious societies, professional chambers, foundations, trust funds, and public associations;
- c) public notaries, should it concern records stipulated in Annex 1 hereto,

(hereinafter referred to as “private agencies”).

(3) Successors of private as well as public agencies shall be obliged to store and allow for selection of archival records should it concern documents this obligation pertained to with the original private as well as public agencies.

(4) Storage of digital archival records shall also mean verification of the origin of such documents, integrity of their contents and legibility, creation and maintenance of metadata pertaining to such documents in line with this Act and attachment of information proving the existence of such documents in time. The above properties shall be kept until the archival records will have been selected.

(5) Selection of archival records shall be made by competent archives (hereinafter referred to as “competent archives”).

Section 4

Archival records shall be selected with regards to their permanent value deriving from:

- a) the date of their creation;
- b) their content;
- c) their origin;
- d) their external attributes.

Section 5

(1) The competent archives shall select the following records with respect to the date of origin:

- a) records originated prior to 1850;
- b) records pertaining to industrial or agricultural production, credit and insurance systems, the financial sector, and mining, including patents for important inventions originated prior to 1900;
- c) photographic documents originated prior to 1900;
- d) audio documents originated prior to 1930;
- e) film documents originated prior to 1930.

(2) Competent archives shall select, in line with their content, as archival records those records which are of permanent value given by their political, economic, legal, historical, cultural, scientific, or informative importance; records listed in Annex 2 hereto shall always be submitted for selection.

(3) Competent archives shall select, in line with their origin, as archival records those records which are of permanent value given by their importance, function or status of their agency.

(4) Competent archives shall select, in line with their external attributes, as archival records those records which are of permanent value given by their artistic value, language, calligraphy, writing material, production style and/or other similar features.

Section 6

(1) Selection of archival records from among records of an agency shall be made by competent archives either within or outside of the appraisal process.

Selection of Archival Records within the Appraisal Process

Section 7

(1) Selection of archival records within the appraisal process shall be made by competent archives from among records of public agencies, records of their legal ancestors and records of private agencies should such agencies have established private archives.

(2) Selection of archival records within the appraisal process shall be made by competent archives from among records of a private agency should this be so requested by the relevant private agency.

(3) The appraisal process shall be a procedure in the course of which the records, the retention period of which has lapsed and which are not further necessary for activities carried out by the agency, shall be set aside.

(4) Agencies or their legal successors shall bear responsibility for the due execution of the appraisal process. The said entities shall be obliged to allow competent archives to supervise the appraisal process and the selection of archival records within the appraisal process.

Section 8

(1) The appraisal process shall be executed within one calendar year following the lapse of the retention period of the relevant record. The appraisal process may be, after agreement with competent archives, executed later should the entity referred to in Section 7 (4) need such records for its activities.

(2) The appraisal process shall be executed in compliance with a proposal for discarding. The entity referred to in Section 7 (4) shall send an appraisal proposal to the competent archives to be assessed and shall select archival records.

(3) The appraisal process shall be always executed before a public agency will have been dissolved. Should this be impossible, selection of archival records shall be made outside of the appraisal process.

Section 9

(1) An appraisal motion drafted by the entity referred to in Section 7 (4) shall include the following:

- a) the name of the entity referred to in Section 7 (4);
- b) a list of records proposed for the appraisal process and the time of their origin; should the list of records proposed for the appraisal process include documents created by an agency the entity preparing the appraisal proposal is a successor of, such documents should be listed separately and their creator disclosed.

(2) The implementing legal regulation shall lay down details of the appraisal process and the procedure for discarding records.

Section 10

(1) Based on the appraisal process, the competent archive shall determine which agency should care for the documents selected as archival records and draw up a protocol on the appraisal.

(2) The protocol pursuant to Article 1 shall encompass the following:

- a) a list of records or files of records which have been selected as archival records;
- b) the name of the archive determined pursuant to Article 1; and
- c) a list of records which may be destroyed; no list shall be drawn up should there be a possibility to use the list of documents proposed for the appraisal process in line with Section 9, Art. 1, letter b).

(3) Should the entity referred to in Section 7 (4) not agree with the content of the protocol referred to in Article 1, it may challenge it at an administrative authority responsible for archiving and performance of the records' management within 15 days from the date of the protocol delivery. The administrative proceedings shall start upon the filing of the above motion.

(4) The entity referred to in Section 7 (4) may destroy records selected within the appraisal process for destruction and included on the list of records under Article 2 (c) after the time limit for filing of motions under Article 3 has expired, and, should motions had been filed, after the respective administrative proceedings have been completed.

Selection of Archival Records Outside the Appraisal Process

Section 11

(1) Selection of archival records outside the appraisal process shall be made by competent archives from among records:

- a) of a private agency;
- b) of an agency referred to in Section 7 (1) which have not been selected within the appraisal process;
- c) offered by their owner to the Czech Republic or any other establisher of public archives for purchase or to be taken into custody;
- d) owned by Czech Republic as inherited from a deceased donor;
- e) found.

(2) Selection of archival records outside of the appraisal process executed pursuant to Article 1, letter a) and c) shall commence on request of the agency or the owner of the documents. The agency or the owner of the documents shall, following the request, agree on the dates in which the selection of archival records outside the appraisal process should be executed; should the agency terminate its activities, enter into a liquidation process, or fall into bankruptcy, it shall request the selection of archival records outside of the appraisal process without any undue delay. The designated archive may request, prior to the execution of the selection of archival records outside the appraisal process, the agency or the owner of the documents to submit a list of documents proposed for the selection of archival records together with the dates of their origination. Should the documents included in the selection of archival records outside the appraisal process originate from the activities of the agency the legal successor of which is the executor of the appraisal proposal pursuant to Article 1, letter a), such documents shall be listed separately and bear the name of their creator; the same process shall apply should the selection of archival records outside the appraisal process include documents pursuant to Article 1, letter c).

(3) Selection of archival records outside the appraisal process pursuant to Article 1 (b) and (d) and in cases when the agency ceases its existence without a legal successor, shall be made *ex officio*.

(4) The selection of archival records outside the appraisal process pursuant to Article 1 (b) shall be made by archives which would have been competent for selection of archival records within the appraisal process.

(5) Records deposited in museums, libraries, galleries, memorials, public research institutions and institutions of higher learning (hereinafter referred to as “cultural and/or scientific institutions”) as a consequence of activities relating to their acquisition and collection satisfying the criteria pursuant to Sections 4 and 5, or those listed under Annex 2 hereto and registered as archival records shall be deemed to be archival records selected outside the appraisal process. Provisions of the first sentence shall not prejudice obligations of cultural and/or scientific institutions pursuant to Section 3, should it concern documents originated from their activities.

Section 12

(1) Following the termination of the selection of archival records outside of the appraisal process, the competent archives shall draft a protocol on the execution of the selection of archival records outside the appraisal process and determine the institution to the care of which to entrust such archival records. In case of a selection of archival records outside the appraisal process upon request of the owner of the document selected as an archival record, such archival records may be entrusted in the care of an archive solely upon consent of such owner and based on such consent accompanied by a decision on whose care the document shall be entrusted in.

(2) Provisions of Section 10, Article 2, letter a) and b) shall be applied accordingly to the contents of the protocol pursuant to Article 1.

3) Should the agency or the owner of the record in question not agree with the contents of the protocol on the selection of archival records outside the appraisal process, they may challenge it at an administrative authority responsible for archiving and performance of

archival record management within 15 days from the date of the protocol delivery. The administrative proceedings shall start upon the filing of the above motion.

Joint Provisions for Selection of Archival Records

Section 13

(1) As regards records containing classified information²⁾, only records suggested for discarding and destruction may be proposed for the selection of archival records; with regard to other records the selection of archival records may be executed after the degree of confidentiality has been waived. Selection of archival records the degree of confidentiality of which has not yet been waived or may not be waived shall be made by competent security archives.

(2) As regards records containing commercial³⁾, banking⁴⁾ or similar classified information, only records suggested for discarding and destruction may be proposed for the selection of archival records; selection of other records may be executed solely upon consent of the agency. Should a record be selected as an archival record, the agency shall attach to the selected record a clause containing information about the nature of the classified information concerned. Protection of commercial, banking or similar classified information shall not be prejudiced by the selection of such records to become archival records.

(3) Consent of the natural person to the selection of archival records from among records including personal data, and to their permanent storage, shall not be required under the special legal regulation.⁵⁾

(4) When selecting archival records, the person making such selection of archival records shall be entitled, upon consent of the agency or the owner, to enter premises, property or other facilities should the selection of archival records may not be made otherwise. Should the owner of the record concerned not be the owner of the premises, property or other facility where the record is being stored, the person in charge of the selection may enter such premises solely upon consent of their owner.

(5) An agency nor performing electronic records' management in electronic records' management systems shall transfer the record in the digital form designed for the selection of archival records outside of the appraisal process to a data format stipulated by an implementing bylaw and provide such record with metadata stipulated by an implementing bylaw in line with Section 19, letter g), at the latest in the course of preparing selection of archival records outside of the appraisal process. Should it be impossible, even in cooperation with the competent archive, to transfer the document to the given data format and attach metadata, the agency shall transfer the record to the analogue form.

(6) Records shall be submitted for selection of archival records to the competent archives regardless of storage location.

²⁾ Act No. 412/2005 Coll. on the Protection of Classified Information and Security Clearance

³⁾ Section 17 of the Commercial Trade, as amended

⁴⁾ Section 38 of Act No. 21/1992 Coll. on Banks, as amended

⁵⁾ Section 5(2) and Section 9 of Act No. 101/2000 Coll. on the Protection of Personal Data and on the Amendment to Some Other Acts, as amended

Section 14

(1) Employees of administrative authorities responsible for archiving and record management, employees of archives and their founders shall be obliged to refrain from any disclosure of information acquired in the performance of their duties under this Act. They may be released from this obligation only by the relevant administrative authority responsible for archiving and record management; any such release must be in writing and must state the scope and the purpose of the release. The duty of confidentiality stipulated by special legal regulations⁶⁾ shall hold no bias or prejudice.

(2) Should a legal entity be a founder of the archives the duty to refrain from any disclosure of information pursuant to Article 1 shall apply to natural persons who, due to their employment, job or similar position in the legal entity concerned, have come in touch with the classified data.

(3) The persons concerned shall remain bound by the obligation to refrain from any disclosure of information after termination of their service contract, employment contract or any other similar contract.

Section 15

(1) Records selected as archival records and designed to be entrusted in the care of archives shall be delivered to the designated archives by the agency or the owner upon the protocol on execution of the appraisal process, or the protocol on the selection of archival records outside the appraisal process. The delivery shall be recorded in an official report, which shall include a list of documents submitted. Each digital document shall bear data necessary for its search. Details of such list of digital records submitted shall be stipulated in the implementing bylaw.

(2) Archival records in the ownership of the Czech Republic and archival records in the ownership of territorial self-governing units or any other public agencies shall be entrusted in the care of public archives. Archival records obtained by acquisition or collection activities of a cultural and/or scientific institution shall be entrusted in the care of these institutions.

(3) Digital archival records entrusted in the care of the National archives, the Archives of security forces or state regional archives shall be deposited in the National archives. Digital archival records entrusted in the care of other archives shall be deposited in such archives should their founders have the right to store digital archival records. Should the founder of the archive not have the authorisation to store archival records in the digital form, the digital archival data entrusted in its care shall be, upon a written agreement of the founders of respective archives, deposited in the National archives or archives the founders of which are authorised to store data in the digital form (hereinafter only “digital archives”). Should the founder of the archives in question not conclude an agreement on storage of archival records,

⁶⁾ For example: Act No. 218/200 Coll. on the Service of Civil Servants in Administrative Authorities and on Remuneration of Such Servants and other Employees in Administrative Authorities (the Civil Service Act), as amended, Act No. 312/2002 Coll. on Officials of Territorial Self-governing Units and on the Amendment to Some Other Acts, as amended, Act. No. 531/1990 Coll. on Territorial Financial Authorities, as amended, Act No. 89/1995 Coll. on the State Statistical Service, as amended, and Act No. 361/2003 Coll. on the Service of Members of Security Forces.

the digital archival records entrusted in their care shall be deposited in the National archives. The competence of the archives, the care of which the digital archival records belong to, shall not be prejudiced by the deposition of such archival data in the National archives or archives, the founder of which are authorised to store data in the digital form.

(4) Competent archives may, upon request of the agency, provide a permanent discarding consent applying to specified types of records, which may be destroyed without the selection of archival records. Should the agency fail to comply with conditions set out in the permanent discarding consent, the competent archives may withdraw from such consent *ex officio*. Should the agency be wound up, the aforementioned permanent discarding proposal shall not pass to the legal successor.

Registration of Archival Records

Section 16

(1) After the selection of archival records, selected items are listed in the registers of archival records.

(2) Archival records registered in the Czech Republic shall establish the National Archival Heritage. The National Archival Heritage is listed in basic, secondary and central archival records. A basic registering unit is archival fonds, archival collection or the part thereof, or individual archival records.

(3) Basic registers of the National Archival Heritage including registers of all acquisitions of and losses in numbers of archival records, registering cards of the National Archival Heritage and registers of finding aids shall be maintained by archives and by cultural and/or scientific institutions managing archival records. Archives and cultural and/or scientific institutions shall include basic registering units in basic registers of the National Archival Heritage, after the selection of the archival records. Should the selected archival record be in the digital form, it shall be stored as an archival record and its digital copy shall be deposited in the National archives or the digital archives. A digital copy shall mean, for the purposes of care for digital archival records, a computer sequence identical to the document in the digital form it had derived from.

(4) Basic registers of the part of the National Archival Heritage which has not been entrusted in the care of archives or cultural and scientific institutions shall be maintained by the National Archives (Section 46) or regional state archives (Section 49) in compliance with their competences.

(5) Secondary registers of the National Archival Heritage entrusted in the care of archives or cultural and scientific institutions, including registering cards of the National Archival Heritage and registers of finding aids, shall be maintained by the National Archives and the regional state archives in compliance with their scope of competence. Archives and cultural and/or scientific institutions shall be obliged to provide the archives, which maintain the secondary registers, with data from the registering cards of the National Archival Heritage and from registers of finding aids, and also to forward to archives duplicates of their finding aids.

(6) Central registers of the National Archival Heritage, including registering cards of the National Archival Heritage and registers of finding aids shall be maintained by the Ministry. Archives and cultural and/or scientific institutions maintaining basic registers shall be obliged to provide data from the registering cards of the National Archival Heritage and from registers of finding aids to the Ministry, and also to forward duplicates of their finding aids to the archives.

Section 17

(1) All archival records of the National Archival Heritage shall be maintained as hard copies or on electronic media or in combination of the above forms, and forwarded in the same form. Basic registers of the National Archival Heritage shall always be maintained also as hard copies.

(2) The Ministry shall, upon request of the founder of the archives, decide to discard from the archival records of the National Archival Heritage the following:

- a) archival fonds or archival collections the importance of which has been reassessed,
- b) archival fonds, archival collections or archival records that have been destroyed; archival fonds, archival collections or archival records in the digital form are considered destroyed also should their contents be compromised, should they be no longer readable or should they miss metadata necessary for the handling of archival fonds, archival collections or archival records in the digital form.
- c) archival fonds, archival collections or archival records transferred abroad.

(3) Archives and cultural and/or scientific institutions shall discard an archival record maintained in basic registers from archival records because its importance has been reassessed.

(4) A proposal for setting aside archival records from registers of the National Archival Heritage pursuant to Article 2 shall be submitted by entities maintaining archival fonds, archival collections or archival records in their basic registers.

(5) A proposal pursuant to Article 4 shall include the following:

- a) the name of the entity submitting the proposal;
- b) the name of the archival fonds, archival collections or archival records;
- c) the reason for discarding of the archival fonds, archival collections or archival records;
- d) a duplicate of the current registering card of the National Archival Heritage, archival fonds or archival collections which are subject of discarding, or of the archival fonds or archival collections to which the archival records to be discarded belong.
- e) the byte size of the discarded archival fonds, archival collections or archival records that have been transferred abroad should it be proposed to discard archival fonds, archival collections or archival records in the digital form.

Section 18

(1) The Ministry shall maintain registers of all archival records, archival fonds, or archival collections or comprehensive parts thereof declared as Archival Cultural Relics or

National Cultural Relics. Archives where these records, fonds, or collections (or comprehensive parts thereof) are stored shall maintain them in special registers. Special registers shall encompass

- a) description of basic features of archival records, archival fonds, or archival collections or comprehensive parts thereof;
- b) the data on when archival records, archival fonds, or archival collections or a comprehensive part thereof were declared to be Archival Cultural Relics or National Cultural Relics; and
- c) information on which institution has been caring for the archival records, archival fonds, or archival collections or their part and where they are stored.

(2) The Ministry shall record archives and cultural and/or scientific institutions maintaining basic registers of the National Archival Heritage. When maintaining such records the Ministry shall be entitled to learn about, process and maintain the following data:

- a) the name and seat of archives or a cultural and/or scientific institution;
- b) the name, seat and the identification number of the legal person that is a founder of the entity or facility referred to in letter a) or meets a function of a founder with respect to such entities;
- c) the name, surname, the date of birth and the place of permanent residence of a natural person if that person is a founder of the entity or facility referred to in letter a).

(3) When maintaining archival records under this Act the Ministry, the National Archives, the Archives of Security Forces and regional state archives shall be entitled to learn about, process and maintain the data on agencies, owners or holder of archival records in the scope as follows:

- a) the name(s), surname, the place of permanent residence and the date of birth, in the case of a natural person, or
- b) the name, identification number and the seat in the case of a legal entity.

Section 18a

(1) Should a public archive cease to exist, the Ministry shall decide which archive to entrust the archival records to; such decision shall be made before such archive has ceased to exist. The archival records may be entrusted in the care of the National archives or state regional archives.

(2) Upon a request of a private archive, the Ministry shall decide to transfer the archival records to the care of another archive. Should it be proposed to transfer the archival records to the care of a different archive but the National archives or state regional archives, the Ministry may allow for such transfer, should the respective archives agree to do so.

Section 18b

Portals to Allow for Access to Digital Archival Records

(1) Digital Archival Records entrusted in the care of the National archives shall be allowed access to by ways enabling remote access via a Digital Archival Records' portal, administered by the National archives. (hereinafter only the „national portal“).

(2) Digital Archival Records stored in a digital archive, with the exception of the security archive shall be allowed access to by ways enabling remote access via a Digital Archival Records' portal, administered by the National archives.

(3) The national portal is a public information system.

(4) Remote access via the national portal shall allow for the following:

- a) selection and reception of archival records in the digital form and their metadata,
- b) management and access to registers of the National Archival Heritage,
- c) reception or metadata pertaining to agency descriptions,
- d) reception or metadata pertaining to archive and cultural and scientific institutions,
- e) reception and presentation of digital finding aid,
- f) access to digital archival records and records in the digital form which are a digital copy of an analogue archival record.

(5) Remote access via the portal to enable access to digital archival records shall allow for the following:

- a) selection and reception of archival records in the digital form and their metadata,
- b) access to digital archival records and records in the digital form which are a digital copy of an analogue archival record.

Section 18c Management of Archival Records' Metadata

(1) The National archives as the national digital archives shall, in cooperation with the archives the care of which the digital archival records have been entrusted to, manage and facilitate access to, via the national portal, a group of metadata containing the following:

- a) basic identification of the archival record,
- b) description of the archival record,
- c) register of subjects authorized to access archival records including the scope of their access rights.

(2) The digital archives shall, in cooperation with the archives the care of which the digital archival records have been entrusted in, create, manage, and, with the exception of the security archives, facilitate access to, via its portal to facilitate access to digital archival records, groups of metadata containing the following:

- a) basic identification of the archival record,

b) description of the archival record,

c) register of subjects authorized to access archival records including the scope of their access rights.

(3) The archives, with the exception of the security archives, shall, in cooperation with the National archives, create, manage, and, via the national portal, facilitate access to the following:

a) registers of the National Archival Heritage,

b) description and registration of agencies,,

c) description and registration of archives and cultural and scientific institutions.

(4) The digital archives, with the exception of the security archive, shall facilitate access to groups of metadata pursuant to Article 3 via its portal to facilitate access to digital archival records, via a functional search engine with a link to the national portal.

(5) The National archives and the digital archive shall store the retention and disposition schedules.

(6) Should the National archives or the digital archives store a digital archival record pertaining to the care of other archives, they shall facilitate remote access of these archives to data concerning the following:

a) changes of metadata, data formats, and byte size of archival records concerned,

b) corruption of archival records concerned, loss or readability, or loss of metadata required to handle such archival records in the extent necessary for the competent archive to analyse whether conditions have been met to commence proceedings to remove the respective archival record from the register of the National Archival Heritage pursuant to Section 17 (2).

Section 19

The implementing legal regulation shall stipulate the following:

a) the manner of maintaining basic, secondary and central register;

b) the manner of transferring data from basic registers to secondary and central registers;

c) the manner of maintaining registers of archival records or archival fonds or comprehensive parts thereof declared as Archival Cultural Relics or National Cultural Relics;

d) the procedure and the manner of setting aside archival records from registers;

e) the manner of maintaining finding aids, types of finding aids, their structure and content and the manner of dispatching and registering duplicates of finding aids.

f) details of the process of creating, managing, and facilitating access to archival records' metadata, and

g) the scope of metadata of digital records selected as archival records outside the scope of the appraisal process at agencies, which do not perform electronic records' management in the electronic record management system.

Chapter 2

Declaration of an Archival Record to Become a Cultural Archival Relic or a National Cultural Relic

Section 20

Repealed

Section 21

Declaration of an Archival Record to Become a Cultural Archival Relic

(1) The following may be declared to become an Archival Cultural Relic: an archival record, archival collection, archival fonds or comprehensive parts thereof which, with regard to the time of origin, content, form, agency or external signs, is important for general, national or regional history, history of technology or culture; or with respect to uniqueness or originality or to other types of singular features, its significance is exceptional for society. As regards archival records, their content and factual unity is always taken into account.

(2) An application for an archival record, archival collection, archival fonds or comprehensive parts thereof to be declared as a Cultural Archival Relic may be filed by

- a) archives or a cultural and/or scientific institution the care of which the archival records, an archival collection, an archival fund, or their respective part have been entrusted in;
- b) archives maintaining such archival records in basic or secondary registers;
- c) an owner of an archival record.

(3) An application for an archival record, archival collection, archival fonds or comprehensive parts thereof to be declared as a Cultural Archival Relic shall include

- a) the name and time determined as a time of origin of an archival record, archival collection, archival fonds or comprehensive parts thereof;
- b) registering data about an archival record, archival collection, archival fonds or comprehensive parts thereof;
- c) justification of the application according to the criteria referred to in Article 1;
- d) description of the condition of the archival record, an archival collection, an archival fond or their respective part including information on whether there have been copies made, properties of which and their nature secure the best possible durability of contents and material necessary for the long-term storage (hereinafter only “security copy“), or copies designed as user copies
- e) the name of the respective archive or cultural or scientific institution should the application be filed pursuant to Article 2 (a) and (b);
- f) the name, surname, the date of birth and the place of permanent residence of the owner of the archival record, archival collection, archival fonds or comprehensive parts thereof, if the owner is a natural person;
- g) the name, identification number and the seat of the owner of the archival record, archival collection, archival fonds or comprehensive parts thereof, if the owner is a legal entity.

(4) The Ministry shall pass decision on the application for an archival record, archival collection, archival fonds or comprehensive parts thereof to be declared as an Archival Cultural Relics according to the criteria referred to in Article 1.

(5) An owner of an archival record, archival collection, archival fonds or comprehensive parts thereof which are subjects to the proceedings on declaring them to be Archival Cultural Relics shall be, from the date on which such proceedings were commenced until such time as the decision adopted by the Ministry comes into effect, obliged to

- a) notify the Ministry in writing in advance of each intended change concerning storage of the items in question or transfer title to them;
- b) notify the Ministry, without undue delay, on passage of title to such archival records.

(6) The Ministry may cancel any declaration concerning archival records to become Archival Cultural Relics if their importance is reassessed. The proposal for such cancellation shall be filed by entities referred to in Article 2; the Ministry may also cancel any declaration concerning archival records to become Archival Cultural Relics without any prior proposal.

(7) The proposal for cancellation of the declaration concerning archival records to become Archival Cultural Relics shall encompass

- a) the name and registering data on an Archival Cultural Relic;
- b) justification of cancellation of the declaration concerning archival records to become Archival Cultural Relics due to reassessment of its importance.

Section 22

Declaration of an Archival Record to Become a National Cultural Relic

The Government may, by means of its Regulation, declare a Cultural Archival Relic to become a National Cultural Relic.¹¹⁾

Section 22a

Labelling of archival records which have been declared Cultural Archival Relics or National Cultural Relics shall be executed pursuant to the respective implementing bylaw.

Chapter 3

Protection of Archival Records, Rights and Obligations of Archival Records' Owners and Holders

Section 23

(1) Archival records in the ownership of the Czech Republic or legal entities established by virtue of law may not be transferred to any other person unless stipulated otherwise by the law.¹²⁾

¹¹⁾ Act No. 20/1987 Coll. on State Care for National Heritage, as amended

¹²⁾ For example Act No. 403/1990 Coll. on Mitigating Consequences of Certain Property Injustices, as amended

(2) Archival records in the ownership of the Czech Republic or legal entities established by virtue of law may be transferred abroad solely should a respective Government Regulation stipulates so.

(3) Archival records in the ownership of the Czech Republic or legal entities established by virtue of law may be allowed to be used by legal or natural persons only with the previous consent of the Ministry. The Ministry shall grant such consent only if natural or legal persons are able to meet conditions stipulated herein in order to protect archival records and to take due care of them

Rights and Obligations of an Owner and Holder of Archival records

Section 24

(1) An owner or a holder of an archival record shall have the right to free information and advisory services concerning the care of archival records. Such services shall be provided by the National Archives or by regional state archives.

(2) An owner of archival records which are not entrusted in the care of a public archive and at the same time an archival record which is not in the ownership of the Czech Republic, a legal entity established by virtue of law or a territorial self-governing unit shall be entitled to receive, in the context of declaration of a record to be an archival record, a one-off public contribution for the record declared as an archival record. The owner shall claim this within three months of the date of the record's selection as an archival record, otherwise the claim shall expire. The contribution shall be applied for in writing at the Ministry through relevant regional state archives or the National Archives, which maintains such archival records in either basic or secondary registers.

(3) The amount of the public contributions pursuant to Article 2 shall be stipulated in the implementing legal regulation taking into account costs incurred by the owner of archival records for making copies of such archival records, the possible loss of profit or any other expenditure incurred in the context of selecting a record as an archival record.

(4) The owner of archival records, with the exception of the Czech Republic, a legal entity established by virtue of law or a territorial self-governing unit, whose archival records are not entrusted in the care of public archives, shall have the right to compensation of necessary costs incurred by the care for archival records as stipulated by law. This compensation shall be applied for in writing at the Ministry through the National Archives or regional state archives that maintain such archival records in either basic or secondary registers. The owner shall apply for compensation within six months of date of costs incurred; otherwise the claim shall expire.

Section 25

(1) Owners or holders of archival records shall be obliged to:

- a) take due care of archival records in the analogue form with the aim of maintaining archival records in a good condition, protecting them from any damage, devaluation, destruction, loss or theft and using archival records only in compliance with their condition;
- b) create, from a digital record selected as an archival record, its copy in the digital form stipulated by the relevant bylaw and transfer such copy, without any undue delay and after the selection of archival records, for storage to the National archives or a digital archive.
- c) inform the National Archives or relevant regional state archives in advance and forthwith of each intended transfer of title to archival records or intention to enter into agreement regarding their custody.

(2) Owners or holders of archival records in the analogue form stored independently of the archives and maintained in the basic registers of the National Archival Heritage of at the relevant archives according to the scope of its competence shall be obliged to forward to those archives, upon request, data required for maintaining such registers.

Section 26

(1) Owners or holders of archival records may entrust an archival record into custody upon a written agreement on custody. In the period, during which such archival record stays in custody, the custodian shall exercise the rights and obligations of the owner or holder pursuant to Section 24 (1), Section 25, Article 1, letters a) and c), Section 25, Article 2, Section 27, Sections 29, 30, and 32.

(2) A custodian may give the archival records concerned into the custody of another party only upon a written consent of the owner or holder of the said archival records. The provisions of Article 1 shall apply accordingly.

Section 27

(1) Upon request of an owner or a holder of an archival record, who is not able to facilitate its proper protection and expert care and whose archival record does not belong to the care of an archive, the National archives or regional state archives shall:

- a) provide the respective owner or holder professional and free care, or
- b) accept the archival record in their care for a definite period of time.

(2) Should the reasons, for which the archival record had been taken into their care, the National archives or a regional state archive shall, upon request of the owner or holder, return such archival record back to its owner or holder without any undue delay.

Section 28

Transfer of Archival Records

(1) Should any owner of archival records intend to transfer such archival records in his/her possession to any other person, the Czech Republic shall have the right of the first refusal unless the transfer be:

- a) between close relatives, co-owners, religious legal entities of the same church or the same religious society;
- b) to the ownership of a territorial self-governing unit;
- c) to the ownership of a legal entity established by virtue of law; or
- d) to a publicly owned company or a public organization receiving contributions from the government budget.

(2) The owner of the archival record shall be obliged to offer the archival record to the Czech Republic in writing pursuant to Article 1 through the National Archives, the Archives of Security Forces or the relevant regional state archives.

(3) The owner shall be obliged to submit to the check of the archival record in question by an authorised employee of the National Archives, the Archives of Security Forces or the relevant regional state archives for the purpose of describing or making a photocopy of the archival record to comply with the draft purchase agreement. Such a check must be made within 30 days from filing the request. If the check is not made within the stipulated period due to reasons on the owner's side, the time limit for submission of the draft purchase agreement pursuant to Article 4 shall be extended by 30 days and the time limit for carrying out the check of the archival record shall be subsequently reset to run for 30 days more.

(4) Should the Czech Republic exercise its right of the first refusal, the National Archives, the Archives of Security Forces or the relevant regional state archives shall submit, within 180 days from the date on which a written offer to the owner of the archival record was duly delivered, the draft purchase agreement. The draft purchase agreement shall contain the description or a photocopy of the archival record concerned, the proposed price and the time limit for payment. This time limit shall not exceed 30 days from the date of entering into the purchase agreement unless the owner of the archival record concerned proposes a longer time limit.

(5) Should the National Archives, the Archives of Security Forces or the relevant regional state archives fail to submit the draft purchase agreement to the owner of the archival record concerned within the time limit stipulated herein, the right of the first refusal of the Czech Republic with regard to the purchase of the archival record concerned shall become void.

Section 29

Export of Archival Records

(1) Archival records may be exported from the Czech Republic only on the basis of an approval of the Ministry issued upon the request of the owner or the holder of the archival record to be exported.

(2) The Ministry may issue a certificate for exporting archival records from the Czech Republic only for a fixed period of time and solely for the following reasons:

- a) exhibition;
- b) conservation;
- c) restoration;
- d) scientific research.

(3) The owner or the holder of the archival record shall be entitled to export the respective archival record solely for the purposes stipulated in the certificate issued by the Ministry. The owner or the holder of the archival record shall be obliged to import the undamaged archival record back to the Czech Republic within the time limit specified by the Ministry.

(4) The Ministry may, in its certificate, impose on the owner or the holder of the archival record the obligation to deposit a financial guarantee for meeting the conditions referred to in Article 3. The financial guarantee shall devolve on the Czech Republic should the owner or the holder of the archival record fail to respect the conditions stipulated in the certificate.

(5) The Ministry shall not issue a certificate if conditions of due care for the archival record and conditions of its protection under this Act have not been satisfied or the export is prevented by the condition of the archival record to be exported.

(6) An archival record which is subject to the proceedings on declaring the record to become a Cultural Archival Relic or a National Cultural Relic may not be exported from the Czech Republic until the final decision on such a declaration is adopted.

(7) An archival record declared as a National Cultural Relic may be exported from the Czech Republic only for a fixed period of time and upon previous consent of the Government, and then only to display or to restore it.

(8) The Ministry shall maintain registers of issued certificates for exports of archival records from the Czech Republic and check whether archival records were or were not damaged and within the specified time limit imported back to the Czech Republic.

Protection of Cultural Archival Relics and National Cultural Relics

Section 30

(1) After an archival record has been declared as a Cultural Archival Relic, the owner or the holder shall make a security copy of such an archival record within 90 days from the date on which the decision (on declaring the archival record to become an Archival Cultural Relic) had entered into effect. The holder shall bear all the costs of making a security copy.

(2) Archival Cultural Relics and National Cultural Relics shall be registered in archival collections or archival fonds they are a part thereof. A special plan, which is a part of the security records of the premises, shall be made for their storing.

(3) Archives and cultural and/or scientific institutions, Archival Cultural Relics and National Cultural Relics are entrusted in the care of, shall, at least once a year, review the physical condition of such records. They shall provide information on the results of this review in writing to the Ministry within 30 days from the date of the said review. Should a Cultural Archival Relic or National Cultural Relic be at risk, damaged, devaluated, destroyed, lost or stolen, the relevant archives or a cultural and/or scientific institution shall forthwith inform the Ministry thereof.

(4) As regards Archival Cultural Relics and National Cultural Relics which are not entrusted in the care of archives or cultural and/or scientific institutions, the relevant archives which maintain basic or secondary registers shall perform inspection of their physical condition at least once a year. They shall provide information on results of this inspection in writing to the Ministry within 30 days. Should the inspection reveal that the relevant Archival Cultural Relics and National Cultural Relics be at risk, damaged, devaluated, destroyed, lost or stolen, it shall forthwith inform the Ministry thereof.

(5) Damaged or endangered Archival Cultural Relics and National Cultural Relics shall be forthwith conserved or restored. The owner or the holder shall be obliged to ensure their conservation or restoration, however only on the basis of an approval of and in the manner determined by the Ministry.

Section 31

(1) The owner of a Cultural Archival Relic or a National Cultural Relic which is not entrusted in the care of a public archive and it is not a Cultural Archival Relic and National Cultural Relic in the ownership of the Czech Republic, a legal entity established by virtue of law or a territorial self-governing unit, shall be entitled to receive, in the context of declaration of an archival record to be a Cultural Archival Relic and National Cultural Relic, a lump sum public contribution for such a record declared as an archival record. The owner of the Cultural Archival Relic or the National Cultural Relic shall claim this contribution within three months from the date on which the archival record was declared to become an Archival Cultural Relic, or within three months from the date on which the Government Regulation on declaring the archival record to become a National Cultural Relic had come into effect; otherwise the claim shall expire. The contribution shall be applied for in writing at the Ministry through regional state archives, the Archives of Security Forces or the National Archives depending on which of them maintain such archival records in either basic or secondary registers.

(2) The amount of the public contribution pursuant to Article 1 shall be laid down in the implementing legal regulation, taking into account expenditure of the owner of an archival record for making copies of such an archival record, the possible loss of profit or any other expenses paid in the context of declaring the archival record a Cultural Archival Relic or a National Cultural Relic.

(3) The owner of a Cultural Archival Relic or a National Cultural Relic not entrusted in the care of public archives shall have the right for compensation of necessary expenditure incurred due to the proper care of Archival Cultural Relics or National Cultural Relics, as stipulated by law. The compensation shall be applied for in writing at the Ministry through the National Archives or regional state archives which maintain such relics in either basic or secondary registers. The owner shall apply for such compensation within six months from the

date on which the cost was incurred and shall be obliged to submit relevant records; otherwise the claim shall expire.

Section 32

(1) Upon request of the owner or the holder of a Cultural Archival Relic or a National Cultural Relic who is unable to ensure its protection and due professional care and whose Cultural Archival Relic or National Cultural Relic is not entrusted in the care of public archives, the Ministry shall:

- a) provide the owner or the holder with free professional assistance; or
- b) entrust, for a definite period of time which shall not exceed one year, the Archival Cultural Relic or the National Cultural Relic in the care of the National archives, Archives of the security forces or regional state archives.

(2) Should the owner or holder of a Cultural Archival Relic or National Cultural Relic fail to ensure their protection and due professional care (should the Cultural Archival Relic or National Cultural Relic not be entrusted in the care of public archives) and there is a danger that such a Cultural Archival Relic or a National Cultural Relic may suffer damage or be destroyed, the Ministry shall decide on the basis of a check to entrust such relic in the care of the National Archives, the Archives of Security Forces or relevant regional state archives. This may be done only for a period not exceeding one year.

(3) Should the owner or holder of a cultural Archival Relic or a National Cultural Relic fail to ensure protection and due professional care even after the period in which the given relic had been entrusted in the care of the National archives, Archives of the security forces or regional state archives pursuant to Article 2, the Ministry may decide to use its administrative power to keep such relic in the care of the respective archives.

(4) Should the reasons for which the Cultural Archival Relic or the National Cultural Relic concerned was entrusted in the care of the National Archives, the Archives of Security Forces or the relevant regional state archives cease to exist, the National Archives, the Archives of Security Forces or the relevant regional state archives shall forthwith return the Cultural Archival Relic or the National Cultural Relic concerned to its owner or holder, upon their request.

Section 33

As regards Archival Cultural Relics or National Cultural Relics, provisions of Section 23, Section 24 (1), and Sections 25, 26, 28 and 29 shall apply accordingly.

Chapter 4

Searching Information in Archival Records, Displaying Archival Records and Making Excerpts, Duplicates and Copies

Section 34

(1) Upon request and whilst satisfying conditions stipulated herein and the Research Rules of the relevant archives, it shall be possible to search for information in archival records entrusted in the care of archives.

(2) The Research Rules shall be issued by all archives in line with draft Research Rules issued by the Ministry. The Research Rules shall be permanently published on the official notice board of all archives or at any other publicly accessible place in each archive as well as in information systems allowing for an on-line access.

(3) It shall be possible to search for information only in copies designated for users. Information may be found in original archival records only if copies have not been made. If such copies have been made, originals of archival records may be provided for accessing information only with the consent of the archives such records are entrusted in the care of, if the purpose of looking up information requires it so.

(4) It shall be possible to find information in archival records trusted in the custody of archives in compliance with an agreement on custody only upon conditions stipulated herein and the relevant Research Rules and upon terms and conditions laid down in the agreement on custody. Rights and arrangements to the benefit of owners of an archival record shall not be prejudiced.

(5) Originals of National Cultural Relics may be used for looking up information only in archives where they are permanently stored with the previous approval of the Ministry; otherwise only their copies may be used.

(6) Digital archival records shall be consulted via the national portal or portals allowing access to digital archival records.

Section 35

(1) For the purpose of protection of archival records, public archives shall be authorized to process personal data of applicants for access to information in the relevant record. The data requested shall be as follows:

- a) name or names and surname;
- b) date and place of birth; citizenship
- c) address and residence of the physical person in the territory of the CR, or an address abroad to which documents are serviced pursuant to relevant bylaw,
- d) identification document number.

(2) Public archives shall also be authorized to process data pertaining to business entities or addresses and names of legal entities for which the access in the relevant records is executed, on identification number of a representative, should it be assigned, on the topic of the research, and its objectives and purposes.

(3) The application to look up information shall be on the research sheet. The applicant shall, to verify information contained in the research sheet, present, upon request of an employee of a public archive, his/her ID. An ID shall mean, for the purposes of this Act, any identification document which is a public document bearing the name or names, surname, date of birth, and address in the CR, or address abroad and bearing a picture or another identifier allowing recognition of the bearer as the genuine holder of such document.

Section 36

The implementing bylaw shall stipulate the following:

- a) sample Research Rules regulating the procedure for using archival records, the number of archival records to be made available to researchers for one day, the code of conduct at the place designated for work with archival records including manipulation of archival records, principles for using reproduction equipment, and the term for commencing and continuing the work with archival records; such terms shall be at least 30 days;
- b) a sample of a research sheet and a sample of a record on provided and returned archival records.

Section 37

(1) Only archival records older than 30 years and all published records shall be accessible for looking up information directly in archives, unless stipulated otherwise hereunder.

(2) It shall be possible to look up information in archival records encompassing personal data of a living person only if such a person has not raised any objections in writing. Archives shall inform the relevant person in writing on the application for accessing information in the archival record. If at least 30 persons are to be informed, such information may be delivered through a public statement posted on the official notice board of the relevant archives. If the archives do not possess an official notice board then the public statement shall be posted on the official notice board of the relevant superior regional state archives. The public statement shall encompass the data pursuant to Section 35, Art. 1, letters a) to c), personal data of the person who requests access to the archival records, the period for which the person intends to work with the archival records and instruction on legal consequences of filing or not filing appeals within the specified time limit. The person in question may file an appeal against the permit to look up information in the archival records under the first sentence within 30 days from the date of delivery of the information from the archives. The appeal shall explicitly specify the personal data that should not be disclosed. If the person does not file the appeal within the time limit pursuant to the fourth sentence it is assumed that he/she has consented. Delivery and calculation of time limits shall be subject to Part Two of the Code of Administrative Procedure.

(3) It shall be possible to look up information in the archival records encompassing sensitive personal data¹³⁾ of a living natural person only with the previous consent of the person concerned. The archives shall request the consent of the person concerned to providing access to information in such archival records. The request shall encompass the data pursuant

¹³⁾ Section 4 (b) of Act No. 101/2000 Coll., as amended

to Section 35, Art. 1, letters a) to c), sensitive personal data of the persons who intends to look up information and the period for which the person intends to work with the archival records.

(4) For the purpose of informing the person concerned, the archives may request that the relevant administrative authority supervising archiving and record management retrieve necessary data from the information system of the registry of inhabitants.

(5) Administrative authorities supervising archiving and performance of record management may, upon request of archives pursuant to Article 4 or within the scope of their competence in accordance with this Act, retrieve and use data on the individual concerned, in particular the following:

- a) reference data from the basic register of inhabitants,
- b) data from the information system of the registry of inhabitants;
- c) data from the information system of the registry of foreigners.

The application for data from the information system of the register of inhabitants and the information system of the register of foreigners may be on-line.

(6) Data provided pursuant to Article 5, letter a) are as follows:

- a) surname,
- b) name or names,
- c) address of residence,
- d) date of birth,
- e) date, place and district of death; or, should the subject of the data had deceased abroad, the date, place and country of death; or, should there be a court declaration of death, the date which is declared by the declaration as the date of death or the date which the subject of the data declared to have deceased did not survive, and the date of force of such declaration.

(7) Data provided pursuant to Article 5, letter b) are as follows:

- a) name or names and surname,
- b) date of birth,
- c) address of permanent residence,
- d) the date, place and district of death or, should it concern death outside the territory of the CR, the date of death and the country in the territory of which the person had died,
- e) the date stated in the court decision on the declaration of death of the person concerned as the date of death or the date, the individual declared to have deceased did not

survive.

(8) Data provided pursuant to Article 5, letter c) are as follows:

- a) name or names and surname,
- b) date of birth,
- c) address of permanent residence,
- d) the date, place and district of death or, should it concern death outside the territory of the CR, the date of death and the place and country in the territory of which the person had died,
- e) the date stated in the court decision on the declaration of death of the person concerned as the date of death or the date, the individual declared to have deceased did not survive.

(9) Data listed as reference data in the basic register of inhabitants shall be taken from the information system of the register of inhabitants or the information system of the register of foreigners only should they be in a form preceding the current situation.

(10) Provisions of Article 1 shall not apply to archival records created prior to 1 January 1990 as a result of activities of public authorities.

(11) Provisions of Articles 1 to 3 shall not apply to archival records created prior to 1 January 1990 as a result of activities of military courts and offices of prosecution of all instances, security forces under the Act on the Institute for Studies of Totalitarian Regimes and on the Archives of Security Forces, as well as special public courts, the State court, the National court as well as civil associations and political parties associated in the National Front and on archival records, created result of activities of German occupation authorities in the territory given up to the German Reich and in the territory of the Protected Lands of Bohemia and Moravia in 1938 to 1945; nor shall it apply to archival records which had been publicly accessible before the request for accession was filed, nor to archival records which had been publicly accessible before they were declared to become archival records.¹⁵⁾

(12) Provisions of Articles 1 to 3 shall not apply to archival records containing statistical sets of data acquired from demographic and statistical surveys should it be possible to make personal data contained in such archival records anonymous. The archives shall, upon request and within a reasonable time limit and with regards to archives' capacity and importance of the archival records concerned, make the data anonymous. After the data contained in the requested archival records have been made anonymous the archives shall, should the applicant had requested so in writing, duly inform the applicant thereof.

(13) Provisions of Articles 1 to 3 shall not apply to the creators of archival records. Agencies may look up information without any limitations in archival records they created.

¹⁵⁾ For example Act No. 140/1996 Coll. on making publicly accessible files resulting from activities of the former State Security Police, as amended, Section 95 (2) and Section 101 (3) of Act No. 128/2000 Coll. on municipalities (municipal establishment), as amended, Section 43 and Section 58 (3) of Act No. 129/2000 Coll. on Regions (regional establishment), as amended, Section 65, Section 70 (30), Section 87 (2) and Section 94 (1) of Act No. 131/2000 Coll. on the capital city of Prague, as amended.

The provisions of the first sentence shall apply accordingly to attorneys of agencies of the archival records. The provisions of Articles 1 to 4 shall not apply to entities referred to in Section 38 (5). Such entities may look up information without any limitations in archival records originated by the state or territorial self-governing units.

Section 38

(1) Accessing information in the archival records shall be rejected if

- a) the physical condition of archival records does not allow for such work;
- b) the manner in which archival records are processed does not allow for such work;
- c) a natural person has appealed against access of information in the relevant archival records, which contain his/her personal data; this provision shall not apply in the case of archival records referred to in Section 37, Articles 11 and 12;
- d) a natural person does not give his/her consent with looking up information in the archival records the content of which are sensitive personal data;
- e) the special legal regulation excludes the access of information in archival records or the applicant does not satisfy the conditions stipulated by the special legal regulation.²

(2) If the archives deny the request for access to information in the archival records, the final decision shall be adopted upon the request of a researcher by the competent archival authority responsible for the area of archiving and performance of records management.

(3) If accessing information in the archival records was rejected pursuant to Article 1 (b) the archives, upon the request and within the reasonable time limit, with regard to assignments of the archives and considering the importance of the relevant archival records, shall perform arrangement. After arrangement of the requested archival records is completed the archives shall forthwith inform the applicant thereof, if the applicant has requested so in writing.

(4) Accessing information in the archival records may be, in the case stipulated in Article 1 (b), exceptionally permitted for scientific researchers and students upon application supported by a written certificate of a cultural and/or scientific institution, stating the urgency of scientific research or studies that are limited by time.

(5) Public authorities, armed forces, security forces, intelligence services of the CR, territorial self-governing units as well as persons who are, in line with special legal regulations¹⁶⁾, authorized to look up information in records and archival records kept by archives the agency of which is the state or a territorial self-governing unit. Should it be it necessary to look up

¹⁶⁾ E.g. Act No. 141/1961 Coll., on Criminal Procedure (Code of Criminal Procedure), as amended, Act No. 99/1963 Sb., Code of Civil Procedure, as amended, Act No. 120/2001 Coll., on Court Bailiffs and Court Executions (Execution Act) and on amendment of other laws, as amended, Act No. 283/1991 Coll., on the Police of the Czech Republic, as amended.

information in such records outside the archives where they are stored they may be available for lending provided that borrowers undertake in writing to return such archival records complete, undamaged and within the agreed period of time.

Section 38a

(1) In order to inform the applicant pursuant to Section 38, Article 3 on access to archival records, pursuant to Section 38, Article 4, archives may ask the competent administrative authority responsible for archiving and performance of archival records' management to facilitate applicant data from the information system of the register of inhabitants as follows:

- a) name or names, and surname,
- b) date, place and district of birth; should the person be born abroad, the date, place and country of birth,
- c) permanent residence address, address to which documents are to be serviced pursuant to relevant bylaw.

(2) Administrative authorities responsible for archiving and performance of archival records' management may, upon request made by archives pursuant to Article 1 or to exercise their powers in compliance herewith, gather and use data on individuals, such as:

- a) reference data from the basic register of inhabitants,
- b) data from the information system of the register of inhabitants,
- c) data from the information system of the register of foreigners.

(3) Data provided pursuant to Article 2, letter a) shall be as follows

- a) name or names, and surname,
- b) permanent residence address, address to which documents are to be serviced pursuant to the relevant bylaw,
- c) date of birth,
- d) date, place and district of death; or, should the subject of the data deceased abroad, the date, place and country of death; or, should there be a court declaration of death, the date which is declared by the declaration as the date of death or the date which the subject of the data declared to have deceased did not survive, and the date of force of such declaration.

(4) Data provided pursuant to Article 2, letter b) shall be as follows

- a) name or names and surname,
- b) date of birth,

c) permanent residence address, address to which documents are to be serviced pursuant to relevant bylaw,

d) the date, place and district of death or, should it concern death outside the territory of the CR, the date of death and the country in the territory of which the person had died,

e) the date stated in the court decision on the declaration of death of the person concerned as the date of death or the date, the individual declared to have deceased did not survive.

(5) Data provided pursuant to Article 2, letter c) shall be as follows

a) name or names and surname,

b) date of birth,

c) permanent residence address, address to which documents are to be serviced pursuant to relevant bylaw,

d) the date, place and district of death or, should it concern death outside the territory of the CR, the date of death and the country in the territory of which the person had died,

e) the date stated in the court decision on the declaration of death of the person concerned as the date of death or the date, the individual declared to have deceased did not survive.

(6) Data listed as reference data in the basic register of inhabitants shall be taken from the information system of the register of inhabitants or the information system of the register of foreigners only should they be in a form preceding the current situation.

(7) In a particular case, authorities may use only data necessary to inform the individual concerned.

(8) The application for data from the information system of the register of inhabitants and the information system of the register of foreigners may be on-line.

Section 39

(1) Archival records may be displayed only if their physical condition allows so and upon conditions guaranteeing their protection and care under this Act and protection of personal data under the special legal regulation.¹⁷⁾

(2) Archival records which were under the agreement of custody vested in the custody of archives may be displayed upon the conditions referred to in Article 1 and in compliance with the conditions stipulated in the agreement on custody.

¹⁷⁾ Act No. 101/2000 Coll. on the protection of personal data and to the amendment to some other acts, as amended

(3) Archival records in the ownership of the Czech Republic entrusted in the care of archives may be displayed only upon conditions referred to in Article 1 and under the agreement or the registers confirming that these were lent.¹⁸⁾ The founder of the archive shall negotiate in the agreement or the registers, terms and conditions of such a display and the insurance amount under the special legal regulation.¹⁹⁾ An integral part of the agreement or the registers shall be the list of lent archival records, along with a protocol on their physical condition.

(4) A National Cultural Relic may be displayed only upon the approval of the Ministry.

Section 40

(1) Without prejudice to the provisions of the Copyright Act, anyone may request archives, the care of which the archival records have been entrusted in, to make an excerpt, duplicate or copy of the archival records in the analogue form or to make a copy of the archival records in the digital form. Making an excerpt, a duplicate or a copy of an archival record shall mean also to make an excerpt, a duplicate or a copy of parts thereof.

(2) An excerpt, duplicate or copy of the archival records in the analogue form or a copy of the archival records in the digital form shall be denied should conditions for accessing information in archival records not be met. This provision shall not apply should an excerpt, a duplicate or a copy of an archival record in the analogue form or a copy of the archival records in the digital form be made without previous arrangement of the relevant archival record.

(3) Should an archive not approve of an application to make an excerpt, a duplicate or a copy of an archival record in the analogue form or to make a copy of an archival record in the digital form, the administrative authority responsible for archiving and record management shall decide on any appeal on the part of the researcher.

(4) On request, archives shall approve of the match of the copy of an archival record in the digital form they had made with the copy of the archival record in the analogue form kept in the archives, or, in case of digital archives or the National archives, the match of the copy of an archival record in the digital form they had made with the copy of the archival record in the digital form or with a digital copy kept in the digital archives.

(5) Archives may ask to cover costs of making an excerpt, duplicate or copy of the archival records in the analogue form or to make a copy of the archival records in the digital form, costs related to the search for archival records, and their further management, or research of archival records. Costs of services rendered by archives shall be listed in a price list.

¹⁸⁾ Section 19 of Act 219/200 Coll. on the property of the Czech Republic and its status in legal relations, as amended

¹⁹⁾ Section 70 of Act No. 218/2000 Coll. on budgetary rules and on the amendment to some other acts /the budgetary rules), as amended

(6) Public archives shall not be allowed to ask to cover the costs should they be making excerpts, duplicates or copies of the archival records in the analogue form, making copies of the archival records in the digital form, searching for archival records, and further managing them, or researching archival records, to the benefit of:

- a) public authorities,
- b) legal entities or physical persons having competences pertaining to public authorities should the above be related to the execution of their public competences,
- c) an agency or an owner of an archival record stored in public archives, should the above relate to such archival record or should it be performed in relation to such archival record,
- d) a donor of an archival record stored in public archives, should the above relate to such archival record or should it be performed in relation to such archival record.

(7) A relevant bylaw shall stipulate maximum service fees pursuant to Articles 1 and 4, the public archives may ask as well as conditions, under which archives may withdraw such service fees.

Section 41

(1) Archival records, which have not been entrusted in the care of archives, may be consulted, made excerpts, duplicates or copies in an analogue or copies in the digital form of only with the consent of the owner or holder of the relevant archival records upon conditions stipulated herein and in the special legal regulation.^{2) 17)}

(2) Looking up information in archival records, in the care of public archives, with the exception of audio-video archival records, in the care of the National Film Archives as well as entry in the archives' premises designed to access archival records, shall be free-of-charge.

Chapter 5

System of Archives and Public Administration in the Field of Archiving and Performance of Record Management

Section 42

(1) Archives shall be divided as follows:

- a) public archives;
- b) private archives

(2) Public archives shall be divided as follows:

- a) the National Archives;
- b) the Archives of Security Forces;

- c) regional state archives;
- d) specialised archives;
- e) security archives;
- f) archives of territorial self-governing units

(3) Private archives shall be all other archives established by natural or legal persons.

Section 43

Responsibility shall be vested in the following authorities involved in the field of archives and performance of records management:

- a) the Ministry;
- b) the National Archives, the Archives of Security Forces, and regional state archives;
- c) competent ministries and other central government authorities, the Czech National Bank, security forces and intelligence services of the Czech Republic²⁰⁾, if they have established specialised or security archives; the Office of the Chamber of Deputies, the Office of the Senate, and the Office of the President of the Czech Republic shall have the same status.

Section 44

Scope of Competence of the Ministry

In the field of archives and performance of record management the Ministry shall:

- a) manage execution of state administration in the field of archives;
- b) draw up the strategy for development of archives;
- c) examine decisions adopted by the National Archives, the Archives of Security Forces, and regional state archives within administrative proceedings;
- d) manage professional activities of the National Archives, the Archives of Security Forces, and regional state archives and assign them professional archival tasks; provide other guidance to other archives and oblige them to participate in nation-wide inventory-taking of archival records;
- e) release from duty of confidentiality pursuant to Section 14 (1) employees of the Ministry, the National Archives, the Archives of Security Forces, and regional state archives;
- f) decide on accreditation of archives;
- g) decide on granting an exception pursuant to Section 82 (1);
- h) provide protection and registration of the National Archival Heritage, decide on reassessment of the importance of archival records and their discarding from the National

²⁰⁾ Act No. 153/1995 Coll., on Intelligence Services of the Czech Republic, as amended

Archival Heritage;

- i) publish calls for inventory taking of archival records under this Act;
- j) organise nation-wide thematic lists of archival records;
- k) organise international cooperation in the field of archives and organise research of foreign sources concerning Czech history;
- l) represent the Czech Republic in international archival bodies and organisation;
- m) publish archival publications of nation-wide importance;
- n) take decisions on the results of applications from owners of archival records for provision of one-off grants and compensation of necessary costs incurred in the context of the care of archival records;
- o) maintain registers about archives and cultural and/or scientific institutions where archival records are stored;
- p) maintain archival records centre-related registers;
- q) decide on proposals made by archives or agencies that agencies or their organisational parts are obliged to entrust their archival records in the care of other than locally competent archives; the function of the competent archives with regard to an agency or its organisational parts shall be met by the archives stipulated in the decision;
- r) decide, upon the request of archives or their founders, on merging sets of archival records and on depositing such sets of archival records;
- s) decide on discarding of archival fonds, archival collections or archival records from registers of archival records;
- t) decide on declaring or cancelling the status of archival records, archival collections, archival fonds or comprehensive parts thereof as Archival Cultural Relics;
- u) decide on other issues pertaining to the field of archives and performance of archival records' management if these are not covered by the National Archives, the Archives of Security Forces, and regional state archives.

National Archives

Section 45

(1) The National Archives are a central administrative authority and a central archival authority directly managed by the Ministry.

(2) The National Archives are a central public authority and an accounting unit; their budget is a part of the budget chapter of the Ministry.

(3) The National Archives are headed by a director appointed and recalled by the Minister of the Interior. The Ministry shall be a superior authority with respect to the director of the National Archives under the special legal regulation²¹⁾.

(4) An internal organisation of the National Archives and its management shall be regulated by the Rules of Organisation approved by the Minister of the Interior.

(5) The National Archives are located in Prague.

Section 46

(1) The National Archives shall:

- a) supervise the record management executed by central administrative authorities having nation-wide competences; state organisations receiving contributions from the government budget established by the aforementioned central administrative authorities, and legal entities established by virtue of law and having nation-wide competences with the exception of those which have established specialised or security archives and of those which are supervised by the Archives of Security Services;
- b) select archival records within the appraisal process from agencies referred to in letter a) and agencies referred to in letter c) that have established private archives or that request selection of archival records within the appraisal process;
- c) select archival records outside of the appraisal process from among records of managing and similar bodies connected to political parties, political movements, civil associations, trade unions, employers' union, professional chambers, churches and religious societies, foundations and foundation funds, public associations, selected natural persons and selected founders of private archives;
- d) select archival records outside of the appraisal process from among records offered to the Czech Republic as gifts or for purchase and from among records found, or records of owners who apply for such selection;
- e) decide on appeals against protocols on the completed appraisal process and protocols on selection of archival records outside of the appraisal process (Section 10 (3) and Section 12, Article 4) filed by agencies or owners of any records earmarked for selection to become archival records;
- f) assess protocols on completed appraisal process and on archival records selected outside of the appraisal process; such appraisal process are carried by specialised archives of central administrative authorities, which have nation-wide competence, and state organisations receiving contributions from the government budget established by the aforementioned central administrative authorities; such appraisal process are carried out by specialised archives of legal persons established by virtue of law, which have nation-

²¹⁾ Act No. 218/2002 Coll., on the Service of Civil Servants in Administrative Authorities and on Remuneration of Such Servants and Other Employees in Administrative Authorities (the Civil Service Act), as amended

wide competences;

- g) decide on appeals filed by researchers who were not permitted to look up information in archival records or to make excerpts, duplicates or copies of archival records the analogue form or digital copies entrusted in the care of the National Archive or private archives subjects to selection of archival records;
- h) under this Act impose sanctions for administrative offences on natural and legal persons where the National Archives are responsible for checking of the record management and where select archival records, including those who established specialised or private archives;
- i) search in archival records entrusted in their care for those archival records necessary for the work of administrative authorities and other central administrative authorities, regional and local authorities, natural and legal persons and make authenticated excerpts and duplicates or copies or digital copies of such records;
- j) grant permissions, upon conditions stipulated herein, for access to information in the archival records entrusted in their care;
- k) maintain relevant registers of archival records under this Act;
- l) examine Archival Cultural Relics and National Cultural Relics which are maintained in their registers and which are not entrusted in the care of archives;
- m) meet assignments pertaining to the area of archiving and arising from international agreements;
- n) exercise other powers stipulated herein or in any other related Act;

(2) In the field of care for archival records, the National Archives shall:

- a) take care of archival records taken over from agencies referred to in Article 1 (a) and (c) and of archival records created by supreme authorities of the Czech state, the Czechoslovak Republic, the Czechoslovak Socialist Republic, the Czech and Slovak Federal Republic, the Czech Socialist Republic, and the Czech Republic; excepted are those which are in the care of the Archives of Security Forces or are in specialised archives established by any of the following: ministries, other central government authorities, the Office of the Chamber of Deputies, the Office of the Senate, and the Office of the President of the Czech Republic, the Czech National Bank, security forces and intelligence services of the Czech Republic, other state authorities or regional and local authorities and organisation for the Czech Land in the past, central occupational bodies between 1939 and 1945, the Government of the Czechoslovak Republic in exile between 1939 and 1945. Furthermore, it shall take care of archival records created by supreme authorities of the Habsburg Monarchy and enable researchers to access information in them;
- b) accept, on behalf of the Czech Republic, offers for purchase, gifts and custody of archival records and enter into relevant agreements on behalf of the Czech Republic;

- c) provide to owners of archival records free professional advisory services and consultancy;
- d) review the physical condition of Archival Cultural Relics and National Cultural Relics entrusted in the care of National Archives;
- e) perform the inventory of archival records when required by the Ministry;
- f) cooperate with other archives and develop contacts with scientific, cultural, educational and other institutions in order to exchange expertise with a view to use archival records in scientific research, culture, education, economy and regional and national studies;
- g) perform scientific and research activities in the field of archives, auxiliary historical sciences, and related scientific branches;
- h) act as a central scientific and research institute in the area of preventive care for archival records, their conservation and restoration, maintaining and facilitating access to all types of information media, including digital records; provide guidance and training pertaining to the area in question;
- i) establish specialised libraries for the field of archival science and performance of archival records' management;
- j) publish publications on archival science and record management, history of administration, auxiliary historical science, and history;
- k) perform conservation and restoration archival records;
- l) perform other professional archival tasks imposed upon it by virtue of this Act.

(3) In the field of care for archival records in the digital form, the National Archives shall:

- a) store archival records in the digital form entrusted in their care as well as archival records in the digital form entrusted in the care of the Archives of the security forces, regional state archives, and archives which are not digital archives and do not store archival records in the digital form, in line with a written agreement, in other digital archives; should it not concern archival records in the digital form entrusted in their care, the National archives shall limit themselves to the maintenance of integrity and readability of such archival records,
- b) administer the national portal,
- c) provide guidelines and consultancy in the field of pre-archival care for records in the digital form and in the field of digitalisation of archival records, in the analogue form,
- d) perform scientific and research activities in the field of the life cycle of records in the digital form,

e) supply archives with data necessary for the registration of archival records in the digital form and provide services related to the gathering and access to the description of archival records in the digital form as well as copies of archival records in the digital form,

f) issue binding positions to applications for authorisation to store archival records in the digital form.

Regional state archives

Section 47

(1) Regional state archives are:

- a) Regional state archives in Prague;
- b) Regional state archives in Trebon;
- c) Regional state archives in Pilsen;
- d) Regional state archives in Litomerice;
- e) Regional state archives in Zamsrk;
- f) Moravian Provincial Archives in Brno;
- g) Provincial Archives in Opava

(2) Regional state archives are administrative authorities under direct supervision of the Ministry.

(3) Regional state archives are central administrative authorities and accounting units; their budgets are drawn down from the budget chapter of the Ministry of the Interior.

(4) Regional state archives are headed by directors appointed and recalled by the Minister of the Interior. The Ministry shall be a superior authority with respect to the directors of the National Archives under the special legal regulation.²¹⁾

(5) Regional state archives are located in municipalities, respective regional state archives are named after.

(6) District state archives are internal organisational units of regional state archives. District state archives are listed in Annex 4 hereto. Further details on the internal organisation structure of regional state archives and their management shall be regulated by rules of internal governance subject to approval of the Minister of the Interior.

Section 48

(1) Administrative districts of regional state archives are defined by territories of regions as follows:

- a) the Regional state archives in Prague shall cover the territory of the Central Bohemian Region and the Capital City of Prague;

- b) the Regional state archives in Třeboň shall cover the territory of the South Bohemian Region;
- c) the Regional state archives in Pilsen shall cover the territory of the Karlovy Vary region and the Pilsen Region;
- d) the Regional state archives in Litoměřice shall cover the territory of the Liberec Region and the Ústi Region;
- e) the Regional state archives in Zámorsk shall cover the territory of the Hradec Kralové Region and the Pardubice Region;
- f) the Moravian Provincial Archives in Brno shall cover the territory of the South Moravian Region, the Vysočina Region and the Zlín Region;
- g) the Provincial Archives in Opava shall cover the territory of the Moravian-Silesian Region and the Olomouc Region.

(2) The territorial competence of the regional state archives shall be governed by:

- a) the place of permanent residence, should the agency, owner or holder of archival records be a natural person who is not an entrepreneur;
- b) the seat of a business, should the agency, owner or holder of archival records be a natural person who is an entrepreneur;
- c) the registered address of the agency, owner or holder of archival records should not be a legal entity.

Section 49

(1) Regional state archives shall:

- a) supervise the record management executed by the following organisations: central administrative authorities having the territorial competence defined by the territory of a region, district or municipality; state organisations receiving contributions from the government budget established by the aforementioned central administrative authorities; state owned companies; legal persons established by virtue of law, with the exception of those which are directly supervised by the National Archives or the Archives of Security Services or those that have established a specialised archives. Further to this, they shall supervise the record management executed by the following organisations: organisational units and legal persons established or founded by a territorial self-governing unit or by organisational units established by territorial self-governing units; higher education institutions, with the exception of those which have established a specialised archives; schools; health insurance companies; public research institutions, with the exception of those which established specialised archives or which fall under the responsibility of the National archives;
- b) select archival records within the appraisal process from agencies referred to in letter a) and agencies referred to in letter c) that have established private archives or request

selection of archival records within the appraisal process;

- c) select archival records outside of the appraisal process from among records of business entities and cooperatives, with the exception of housing societies and from among records of political parties, political movements, civil associations, trade unions, employers' unions, occupational chambers, churches and religious societies, foundations and foundation funds, benevolent societies, and from records of selected natural persons and selected founders of private archives with the exception of their supreme bodies;
- d) select archival records outside of the appraisal process from among records offered to the Czech Republic as gifts or for purchase and from records found or records of owners who apply for such selection;
- e) release from the duty of confidentiality employees of (pursuant to Section 14, Article 1) or founders of (pursuant to Section 14, Article 2) archives, with the exception of employees stipulated by Section 44, letter e), employees of specialised or security archives established by ministries and other central government authorities, the Office of the Chamber of Deputies, the Office of the Senate, and the Office of the President of the Czech Republic, the Czech National Bank, security forces and intelligence services of the Czech Republic;
- f) decide on appeals against protocols on the completed appraisal process and protocols on selection of archival records outside of the appraisal process (Section 10, Article 3 and Section 12, Article 4) filed by agencies or owners of records used for selection of archival records,
- g) decide on appeals filed by agencies or holders of a record against the protocols on the completed appraisal process, and protocols on selection of archival records outside of the appraisal process of the Archives of Prague, the Archives of Brno, the Archives of Ostrava, the Archives of Pilsen, and the Archives of Ustí nad Labem, and shall supervise their protocols on the completed appraisal process and protocols on selection of archival records outside of the appraisal process;
- h) assess those protocols on completed appraisal process and on the selection of archival records outside of the appraisal process, which are carried by specialised archives of central administrative authorities not under the direct supervision of the National Archives;
- i) decide on placement of archival records at risk in the care of an archive;
- j) decide on appeals filed by researchers who were not permitted to look up information in archival records or to make excerpts and duplicates or copies of archival records in the analogue form or copies of archival records in the digital form entrusted in their care;
- k) decide on appeals filed by researchers who were not permitted to look up information in archival records or to make excerpts, duplicates or copies of archival records stored in specialised archives (with the exception of specialised or security archives established by ministries and other central government authorities, the Office of the Chamber of Deputies, the Office of the Senate, and the Office of the President of the Czech Republic, the Czech National Bank, security forces and intelligence services of the Czech Republic);

- l) decide on appeals filed by researchers who were not permitted to look up information in archival records or to make excerpts, duplicates or copies of archival records in the analogue form or copies of archival records in the digital form entrusted in the care of archives of territorial self-governing units and private archives where archival records are selected;
- m) impose sanctions under this Act for administrative offences on natural and legal persons not under the direct supervision of the National Archives;
- n) grant permissions, upon conditions stipulated herein, to access information in archival records entrusted in their care;
- o) maintain relevant registers of archival records under this Act;
- p) examine any Archival Cultural Relics registered in its registers that are not entrusted in the care of archives;
- q) meet assignments pertaining to the area of archives and arising from international agreements;
- r) express opinions on concessions under the special legal regulation²²⁾ and check construction, technological conditions and security measures adopted to secure premises designated for the performance of the record management for which the concession concerned is to be granted;
- s) exercise other powers stipulated herein or in any other related Act;

(2) In the field of caring for archival records regional state archives shall:

- a) care for those archival records taken over from agencies referred to in Article 1 (a) and (c); care for archival records of legal persons maintained in the Companies Register only should their agencies cease to exist without a legal successor; care for archival records in the digital form shall not include maintenance of the integrity of their contents and their legibility;
- b) accept, on behalf of the Czech Republic, offers for purchase, gifts and custody of archival records and enter into relevant agreements on behalf of the Czech Republic;
- c) provide owners of archival records with free professional, consultative and advisory services;
- d) perform tasks of regional and district scientific and research centres in the field of archives, auxiliary historical sciences and regional history, whilst cooperating with other archives, and develop contact with scientific, cultural, educational and other institutions in order to exchange expertise with a view to utilizing archival records in scientific research, culture, education, economy and homeland studies;

²²⁾ Act No. 455/1991 Coll. on Trade Licences (the Trade Licensing Act), as amended

- e) search in the archival records entrusted in their care for archival records necessary for the work of administrative authorities and other central administrative authorities, regional and local authorities, natural and legal persons; make excerpts and duplicates or copies or digital copies of such records;
- f) establish specialised libraries for the field of archives and performance of the record management and regional history;
- g) publish publications concerning archival science and performance of records management, history of administration, auxiliary historical sciences and history;
- h) examine the physical condition of Archival Cultural Relics and National Cultural Relics entrusted in their care;
- i) perform inventory of archival records when required by the Ministry;
- j) preserve and restore archival records;
- k) perform other professional archival tasks stipulated herein.

Other Administrative Authorities in the Field of Archiving and Record Management

Section 50

Competent ministries, other central public authorities, the Office of the Chamber of Deputies, the Office of the Senate, and the Office of the President of the Czech Republic, the Czech National Bank, security forces and intelligence services of the Czech Republic which have established specialised or security archives shall:

- a) supervise, via such archives, performance of the record management at units under their competence and at other established or founded organisational units and state organisations receiving contributions from the government budget or other legal entities, and shall supervise activities of their records centre;
- b) decide on appeals against protocols on the completed appraisal process and protocols on selection of archival records outside of the appraisal process (Section 10, Article 3 and Section 12, Article 3) filed by agencies or owners of records with specialised or security archives established by these authorities;
- c) decide on appeals filed by researchers who were not permitted to look up information in archival records or to make excerpts, duplicates or copies of archival records entrusted in the care of specialised archives or security archives established by these authorities;
- d) release from duty of confidentiality the employees (pursuant to Section 14, Article 1) assigned to specialised or security archives established by these authorities;
- e) meet other tasks pertaining to the record management stipulated herein.

Specialised Archives

Section 51

(1) Central public authorities, security forces, intelligence services of the Czech Republic, state organisations receiving contributions from the government budget, state enterprises, higher education institutions, the General Health Insurance Company of the Czech Republic, public research institutions, with the exception of those established by the Academy of Sciences of the Czech Republic, and legal entities established by virtue of law may establish specialised archives.

(2) Specialised archives shall care for archival records created by founders of such archives or by their legal ancestors, as well as archival records received as gifts or purchased.

(3) Specialised archives may operate as archives should they have been granted accreditation.

Section 52

Specialised archives shall:

- a) supervise, with the exception of the National Film Archives, the performance of the record management of their founders or central administrative authorities established by the founders concerned, and state organisation receiving contributions from the government budget; and shall supervise activities of records centre of their founders, if applicable;
- b) select archival records within the appraisal process from among records of those agencies whose performance of the record management they supervise;
- c) select archival records outside of the appraisal process from the pool of records offered to founders as gifts, for purchase or into custody, and records of owners who apply for such selection, and, with the exception of the National Film Archive, selection of archival records outside the appraisal process at founders pursuant to letter a);
- d) maintain relevant registers of archival records under this Act;
- e) search in the archival records entrusted in their care for archival records necessary for the work of administrative authorities and other central administrative authorities, regional and local authorities, natural and legal persons, and make excerpts and duplicates or copies of such records;
- f) grant permission, upon the conditions stipulated herein, for access to information in the archival records entrusted in their care;
- g) take care of archival records that have been taken over from agencies referred to in letters a) and c); unless they simultaneously acted as digital archives, care for archival records in the digital form shall not include maintenance of the integrity of their contents and their legibility.

- h) take care of archival records entrusted in their care as of the date of its accreditation, unless the Ministry decrees otherwise in its accreditation certificate;
- i) submit for assessment to the National Archives or the competent regional state archives, upon request, protocols on the completed appraisal process or protocols on selection made outside of the appraisal process;
- j) perform scientific, research-based, publishing and similar activities pertaining to the area of archival science, auxiliary historical sciences and scientific branches that relate to the content of stored archival fonds and collections;
- k) establish specialised libraries in the scope necessary for meeting technical and scientific tasks;
- l) examine the physical condition of Archival Cultural Relics and National Cultural Relics if they are not entrusted in their care;
- m) participate in drawing up nation-wide thematic lists of archival records as organised by the Ministry;
- n) perform inventory of archival records as ordered by the Ministry;
- o) perform other professional archival tasks assigned by founders;
- p) perform conservation and restoration of archival records.

Security Archives

Section 53

(1) The Ministry, the Ministry of Defence, the Ministry of Foreign Affairs, the National Security Authority, security forces and intelligence services of the Czech Republic may establish security archives.

(2) The Security Archives of Security Forces and intelligences services of the Czech Republic shall:

- a) select archival records within the appraisal process from among records of their founders; this provision shall also apply to records whose degree of confidentiality has not yet been cancelled;
- b) maintain, in the basic registers of the National Archival Heritage, all archival fonds and archival collections entrusted in their care; the data on archival records containing classified information shall be forwarded to the central registers of the National Archival Heritage;
- c) meet other tasks of specialised archives pursuant to Section 52 (i).

(3) Security archives, with the exception of archives referred to in Article 2 shall:

- a) select archival records within the appraisal process from among records of their founders; this provision shall also apply to records whose degree of confidentiality has not yet been cancelled;
- b) maintain, in basic registers of the National Archival Heritage all archival fonds and archival collections entrusted in their care; the data on archival records containing classified information shall be forwarded to the central registers of the National Archival Heritage;
- c) take due care of archival records taken over from the relevant founder;
- d) take inventory of archival records as ordered by the Ministry;
- e) perform other professional archival tasks assigned by their founders;

(4) Should the degree of confidentiality attached to archival records entrusted in the care of security archives be withdrawn, security archives concerned shall, with the exception of security archives established by security forces or the intelligence services of the Czech Republic, transfer entrust such archival records in the care of specialised archives of the same founder, if applicable, otherwise to the care of the National Archives. The security forces or intelligence services of the Czech Republic may deny access to information and/or the making of excerpts, duplicates or copies of archival records the degree of confidentiality of which has been cancelled but which contain information still important for the protection of the constitutional order, major economic interests, security and defence of the Czech Republic. The director of the relevant security forces or intelligence services of the Czech Republic shall decide on the appeal filed by the researcher who was denied permission to access information or to make excerpts, duplicates or copies of the archival records in question.

(5) Security archives shall search in the archival records entrusted in their care for archival records necessary for the work of administrative authorities and other central administrative authorities, regional and local authorities, natural and legal persons, and shall make excerpts, duplicates or copies and digital copies of such records, and shall permit access to information in such archival records.

(6) Security archives may operate as archives should they have received accreditation.

Archives of Territorial Self-governing Units

Section 54

(1) Territorial self-governing units may establish archives of territorial self-governing units.

(2) Territorial self-governing units that established their own archives shall use these archives to provide professional archival services within the scope of competence of territorial self-governing units and shall perform other tasks pertaining to the areas of archives and

performance of the record management stipulated herein (Section 55, Article 1).

(3) Archives of a territorial self-governing unit may operate as archives upon accreditation.

Section 55

(1) Unless stipulated otherwise hereunder, archives of territorial self-governing units shall:

- a) supervise performance of the record management of the territorial self-governing unit which had established them or organisational units or state organisations receiving contributions from the government budget or other legal persons established by the territorial self-governing unit in question;
- b) permit, upon conditions stipulated herein, access to information in archival records entrusted in their care;
- c) maintain relevant registers concerning archival records under this Act;
- d) search in the archival records entrusted in their care for archival records necessary for the work of administrative authorities and other central administrative authorities, regional and local authorities, natural and legal persons and make excerpts, duplicates or copies and digital copies of such records;
- e) submit to the competent regional state archives proposals for discarding and proposals for selection of archival records;
- f) take due care of archival records created by agencies referred to in letter a); unless they simultaneously acted as digital archives as well as care for archival records in the digital form shall not include maintenance of the integrity of their contents and their legibility.
- g) examine the physical condition of Archival Cultural Relics and National Cultural Relics entrusted in their care;
- h) participate in drawing up nation-wide thematic lists of archival records as organised by the Ministry;
- i) perform conservation and restoration of archival records;
- j) perform inventory-taking of archival records as ordered by the Ministry;
- k) perform scientific, research, and/or publishing activities pertaining to archival science, auxiliary historical sciences, history of administration, regional history, history of towns and villages, historical homeland studies, and related fields of study;
- l) establish a specialised library in the scope necessary for meeting technical and scientific tasks;

m) meet other technical tasks in the field of archives and performance of archival records' management specified by the relevant founder.

(2) With regard to accreditation of the archives of a territorial self-governing unit, its founder shall be entitled to receive free professional assistance provided by the National Archives or the competent regional state archives.

Private Archives

Section 56

(1) Private archives may be established by a natural person or legal entity which has not established archives under the previous provisions hereof.

(2) Private archives may operate as archives upon accreditation.

(3) With regard to accreditation of private archives, their founder shall be entitled to receive free professional assistance provided by the National Archives or the competent regional state archives.

(4) The founder of private archives who has been granted accreditation shall be entitled to receive a one-off annual state contribution for operations of the private archives concerned. The implementing legal regulation shall specify the amount of such a contribution, taking into account possible costs for operations of the private archives, care for archival records in the possession of the founder or legal entities established by the founder and for protection of archival records.

(5) An application for a one-off annual state contribution for operations of private archives shall be filed for the first time by the founder within six months from the date on which accreditation of the private archives came into effect, but not later than on 30th November of the year when accreditation was granted. If the accreditation of the private archives comes into effect after 30th April of the calendar year the founder of the archives shall file the application for a one-off annual state contribution for operations of the private archives for the next year simultaneously with the application under the first sentence. In all following years the founder shall be obliged to file the application for this contribution by 30th April of the previous calendar year. The application shall be filed with the Ministry. Should the application not be filed within the specified time limit, the founder shall become ineligible for this contribution for the term of the given calendar year.

Section 57

Private archives shall:

- a) maintain relevant registers of archival records under this Act;
- b) permit, upon conditions stipulated herein, access to information in stored archival records entrusted in their care; as regards private archives established by a registered church or religious society which has been granted concession to exercise special

rights^{22a)}, permits to search for information shall be governed by this Act and by internal regulations of the registered church or religious society;

- c) submit proposals for assessing, selecting or discarding archival records to the National Archives or the competent regional state archives;
- d) care of archival records of founders and their ancestors if stipulated so by the relevant archives when selecting such archival records; unless they simultaneously acted as digital archives, care for archival records in the digital form shall not include maintenance of the integrity of their contents and their legibility.
- e) care of archival records of other legal and natural persons who have deposited those records in private archives under an agreement on custody, or provided them as gifts to the founder; unless they simultaneously acted as digital archives, care for archival records in the digital form shall not include maintenance of the integrity of their contents and their legibility.
- f) examine the physical condition of Archival Cultural Relics and National Cultural Relics entrusted in their care;
- g) participate in drawing up nation-wide thematic lists of archival records as organised by the Ministry;
- h) perform inventory of archival records as ordered by the Ministry.

Chapter 6

Accreditation of Archives and Obligations of Archives' Founders

Section 58

Accreditation of Archives

(1) An application for accreditation shall contain, apart from general principles pursuant to the Code of Administrative Procedure, the following:

- a) name and address of the archives,
- b) in case of a legal entity, the position of the archives in the organisational structure of the founder,
- c) purpose of the archives,
- d) copies of registering cards of the National Archival Heritage including all data on archival records that will be entrusted in the care of the archives,

^{22a)} Section 7 of Act No. 3/2002 Coll.

e) Record Management Rules of the founder, should it be the agency pursuant to Section 63, Article 1.

(2) An application for accreditation pursuant to Article 1 shall contain, among others, documents proving compliance with conditions required from archives pursuant to Section 61.

(3) The Ministry shall issue a decision on accreditation no later than 6 months after the date of application.

The Ministry refuses to grant the accreditation should:

- a) the archives fail to meet conditions pursuant to Section 61;
- b) the archives fail to maintain basic registers of the National Archival Heritage under this Act;
- c) it be deemed unnecessary, in the light of protection of archival records, created by activities of the agency pursuant to Section 51, Article 1, to establish such archives; should they be specialized ones, or
- d) archival records referred to in Article 1 (g) have been selected as archival records contrary to legal regulations.

(4) Accreditation shall remain effective for legal successors only in case of archives of territorial self-governing units should municipalities merge or should a municipality become a part of another municipality under special legal regulation²³⁾.

(5) Should a natural person who is the founder of the accredited private archives passes away, or a person upon whom accreditation was devolved under this passes away, the following persons may continue their operations until the relevant probate proceedings have been completed:

- a) heirs by intestacy if there are no testamentary heirs;
- b) testamentary heirs and a surviving spouse; this provision applies also if the spouse is not a heir but he/she is a co-owner of the property used for operations of the archives;
- c) a surviving spouse satisfying the condition pursuant to letter b) if heirs do not continue operation of the archives;
- d) an administrator of the property of the deceased if he/she was authorised to operate the archives by the authority responsible for probate proceedings.

Should the persons referred to in letters a) to c) intend to continue operating the archives they are obliged to notify the Ministry of their intention in writing within three months from the date of the founder's death. The administrator of the property of the deceased shall be obliged to notify the Ministry of this intention in writing within one month from the date on which

²³⁾ For example Section 24 of Act No. 128/2000 Coll., as amended, Section 11 (4) and Section 12 of Act No. 131/2000 Coll., as amended

he/she was appointed to perform tasks of the administrator. After the relevant probate proceedings are completed the persons referred to in letters a) to c) may continue operating the archives only if all conditions for operating archives are satisfied.

(6) The founder of archives shall be obliged to notify the Ministry, without undue delay, about all changes involving facts included in the application for accreditation of the archives, in particular any changes concerning the conditions pursuant to Section 61.

(7) The founder shall publish the Research Rules within three months from the date on which accreditation came into effect.

Section 59 Withdrawal of Accreditation

(1) Should the Ministry disclose that the founder of archives has failed to comply with conditions upon which accreditation had been granted, the Ministry shall request the founder to remedy such deficiencies and shall specify the time limit for this rectification. This time limit shall not exceed one year.

(2) Procedure pursuant to Article (1) shall not prejudice provisions of Section 27 (2) and Section 32 (3) to (4).

(3) Should the founder fail to satisfy obligations imposed pursuant to Article (1) within the prescribed time limit, the Ministry shall withdraw the accreditation.

(4) The Ministry may withdraw the accreditation should the founder of any archives repeatedly fail to fulfil obligations, other than those referred to as Article (1), imposed on the founder by the decision of an administrative authority responsible for the area of archives and execution for the record management under this Act.

(5) The Ministry shall withdraw the accreditation upon request of the founder of the archives. The accreditation shall be withdrawn no later than six months after the date of such request.

(6) Should the accreditation be withdrawn, the Ministry shall decide which archive to entrust the archival records to. The archival records may be entrusted in the care of the National archives or the regional state archives. Should the Ministry withdraw accreditation of private archives, care for archival records, shall be entrusted, based on a written agreement of founders, in the care of another archive, unless the founder of the archive accreditation of which had been withdrawn, decide to keep the archival records, in its care. Founder of the of the archive accreditation of which had been withdrawn shall inform the Ministry of the agreement above no later than 60 days after the decision of the withdrawal of accreditation had come to force. Should the Ministry not receive such notification in this period, it shall use provisions of the first and second sentence above accordingly. Costs incurred by the transport of the archival records, to the archive the care of which such archival records, have been entrusted in or in which they are to be newly stored, shall be borne by their owner.

Section 60

Termination of Accreditation

(1) Should the legal entity which had founded the archive terminate its activities, such accreditation shall cease to exist and shall not be passed on any legal successors.

(2) Should a natural person, who is the founder of the archives, pass away, accreditation shall extinguish unless Section 58 (4)-(5) apply.

(3) In case of termination of accreditation, provision of Section 59, Article 6 shall be used accordingly.

Section 60a

Authorisation to Store Archival Records in the Digital Form

(1) An application for authorisation to store archival records in the digital form may be filed solely by the founder of an accredited archive, with the exception of cases, where such application becomes a part of an application for accreditation pursuant to Section 58.

(2) An application for authorisation to store archival records in the digital form shall contain, apart from general provisions pursuant to the Code of Administrative Procedure, the following:

a) name and address of the archive's seat and addresses of premises which will host the storages of archival records in the digital form,

b) documents necessary to decide whether the respective archive meets conditions pursuant to Section 61, Articles 2 and 4,

c) description of the storage of archival records in the digital form,

d) a concept of long-term storage and protection of records designed to be transferred to the digital archive,

e) identification of the archival records in the digital form to be stored,

f) a list of metadata pertaining to the description of the archival records in the digital form, description and registration of archival collections and decryption of agencies,

g) draft operational rules of the respective digital archives,

h) a confirmation by the National archives of a successful test of a transfer of archival records in the digital form to the National archives.

(3) The Ministry shall request a binding position of the national archives to the elements of the application pursuant to Article 2, letters c) to h).

(4) The Ministry shall issue a decision on authorisation to store archival records in the digital form no later than one year after the file date of the application. Authorisation to store archival records in the digital form shall be denied should the National archives issue a negative position to any of the elements of the application pursuant to Article 2, letters c) to h).

(5) By law, founders of security archives receive authorisation to store archival records in the digital form upon accreditation; provision on withdrawal of authorisation to store archival records in the digital form shall not apply to them.

Section 60b

Withdrawal of Authorisation to Store Archival Records in the Digital Form

(1) Should the Ministry realize that the founder has failed to comply with conditions based on which the authorisation to store archival records in the digital form had been granted, it shall request the founder to remedy such deficiency and determine the time limit for this rectification. This time limit shall not exceed one year.

(2) Should the founder fail to meet its obligations pursuant to Article 1, the Ministry shall withdraw the authorisation to store archival records in the digital form.

(3) The authorisation to store archival records in the digital form shall be withdrawn, should the founder of the archive request so and no later than six months after the date of the withdrawal request.

(4) Should the authorisation to store archival records in the digital form be withdrawn, the archival records in the digital form shall be stored, based on a written agreement between the founder of the archive authorisation of which had been withdrawn and the founder of another digital archive, in that respective archive. The founder of the archives authorisation of which had been withdrawn shall inform the Ministry of the agreement above no later than 60 days after the decision of the withdrawal of authorisation to store archival records in the digital form had come to force. Should the Ministry not receive such notification in this period, it shall use decide to store the archival records in the digital form in the National archives.

(5) Competences of the archives, the authorisation of which to store archival records in the digital form had been withdrawn, with regards to the care for archival records,, which had been stored in the digital archives or the National archives shall not be prejudiced by such storage. The digital archives or the National archives shall maintain the integrity and legibility of such archival records.

Section 60c

Termination of authorisation to store archival records in the digital form

(1) The authorisation to store archival records in the digital form shall terminate upon withdrawal or termination of accreditation.

(2) The authorisation to store archival records in the digital form shall not pass onto the legal successor of the archive's founder.

Section 61

(1) The National Archives, the Archives of Security Forces, regional state archives, founders of other public archives and founders of private archives shall be obliged to fulfil construction and technological, spatial, security, economic, financial and personnel conditions for care for archival records and their protection.

(2) In order to satisfy construction and technological conditions pursuant to Article 1 the following shall be mandatory:

- a) the premises of archives shall not be located in areas at risk of floods and in protective zones of airport runways for taking off and landing of aircrafts;
- b) the premises of archives shall not be situated in dusty areas;
- c) repositories for archival records shall be secured against any damage due to natural forces or human activity, primarily penetration of water, steam, storm drains, sewage, dangerous chemical and biological substances, or physical phenomena and excessive dustiness which may cause damage or destroy the archival records;
- d) repositories for archival records shall be located above the level of underground water and shall have either natural ventilation or shall be equipped with air-conditioning to maintain specified temperature and relative humidity; repositories shall be equipped with devices for measuring specified values;
- e) repositories for archival records shall be equipped with magnetic registers and shall be protected from effects of electromagnetic field;
- f) archives, which are simultaneously digital archives, shall have at least two full size storages of archival records in the digital form which should be at least 50 kilometres apart and located in areas the geographic character of which excludes concurrent or subsequent impact due to natural forces or human activity which could damage or destroy archival records, or render a rescue operation necessary.

(3) In order to meet conditions for repositories pursuant to Article 1 the following requirements shall be met:

- a) The premises of any archives shall be divided into rooms with public access and rooms without public access whilst the routes of the two separated sections shall not intersect.
- b) Premises designed to receive and arrange the archival records, the repositories, the room for cleaning, disinfection, conservation, restoration and reprographic arrangement of archival records and the storing room for archival records booked for research, if applicable, shall at all times be located in the section without public access.
- c) A room for looking up information in archival records (hereinafter referred to as a “reading room”) shall be located in the section with public access.
- d) Storing of archival records in repositories shall be registered in the plan for storing of archival records and the plan shall be updated after any change in the storing of archival records.

(4) In order to meet conditions for repositories pursuant to Article 1 the following requirements shall be met:

- a) Archives' premises shall keep security logs containing measures to prevent access of unauthorised persons to storing and other rooms, theft of archival records and terrorist attacks; as regards specialised archives and security archives, measures for security of all premises shall be taken.
- b) Archives' premises shall keep fire logs, shall be furnished with electronic fire alerts and portable fire extinguishers; repositories shall be furnished with powder fire extinguishers.
- c) Mechanical and electronic security devices placed on windows and doors shall be on the exterior shell of the building up to the second floor above ground level, or to any higher floor where it would be possible to enter the building from horizontal elements of the building construction; such devices shall be placed inside the building at all points where rooms with public access border on rooms without public access.
- d) Repositories without public access shall be secured by protective mechanical or electronic alarm systems to prevent access of unauthorised persons and forced entry into the rooms.
- e) Keys to all entrances to repositories shall be placed with an authorised employee of the archives who shall be obliged to maintain registers on when they were taken and when returned. If the entrance to repositories is by electronic access, entry rights for individual employees of the archives shall be specified.
- f) Repositories storing National Cultural Relics shall be under 24-hour surveillance.

(5) In order to meet conditions for repositories pursuant to Article 1 the following requirements shall be met:

- a) Archives shall be equipped with devices for making copies of archival records and if archives have in its possession micrographic records it shall be equipped with viewers for microfilms.
- b) Repositories of archival records shall be furnished with shelves for placing archival records, and if necessary, with special storing appliances for placing maps, plans, technical recordation and large scale archival records, film and photographic archival records, audio and audio-visual archival records and digital archival records.
- c) Reading rooms shall be furnished with information technology allowing transmission.

(6) Satisfying financial conditions pursuant to Article 1 means to earmark mandatory minimal average annual expenditure in the budget of the founder for operations of the archives, calculated as a multiple of the amount of average costs for one linear meter of archival records and the total number of stored archival records calculated in linear meters.

(7) In order to meet personnel requirements pursuant to Article 1 the following requirements shall be met:

- a) Managing positions in the archives shall be filled by employees who are graduates of higher education institutions and graduated in the field of archival science or history or relevant similar fields of studies.
- b) At least one employee shall be responsible for managing 2,000 linear metres of archival records produced as hard copies of written materials.
- c) Sufficient number of employees shall work in the reading room so that one employee shall be responsible for ten researchers daily.

(8) Founders of archives shall be obliged to maintain registers of the data about repositories including construction and technological recordation and statistical calculations in compliance with the actual situation. Results of measuring temperature and relative humidity that show fluctuations of monitored data outside the permitted limits shall be stored for at least ten years.

(9) The loading capacity of floors in repositories, temperature and relative air humidity in repositories and the amount of average annual costs for one linear meter of archival records shall be laid down in the implementing legal regulation.

Section 62

Annual Reports on Activities of Archives

(1) The National Archives, the Archives of Security Services, regional state archives, security archives, specialised archives, with the exception of specialised archives established by state organisations receiving contributions from the government budget, state enterprises, higher education institutions and public research institutions, shall be obliged to make an annual report on their activities, submit such report, by the end of February of the given calendar year, to the Ministry, and publish it in a manner allowing for remote access. Within the same time limit, specialised archives established by state organisations receiving contributions from the government budget, state enterprises, higher education institutions and public research institutions as well as archives established by territorial self-governing units and private archives shall be obliged to draw up annual reports on their activities and publish it them a manner allowing for remote access.

(2) Annual reports on activities of archives shall contain the following:

- a) information on human resources of the archives;
- b) the total number of stored archival records;
- c) selection, archival arrangement and use of archival records;
- d) condition of archival records;
- e) conservation and restoration of archival records.

(3) Annual reports of security archives shall contain only the data on archival collections or archival fonds the degree of confidentiality had been cancelled and the data referred to in Article 2 (b) to (e).

TITLE III

RECORD MANAGEMENT

Section 63

(1) The record management shall be performed by:

- a) public agencies referred to in Section 1, Article (1), letters (a) to (e), (i), and (k) to (m);
- b) regions;
- c) the Capital City of Prague;
- d) municipalities with an authorised municipal authority and municipalities having a construction and/or vital registers office;
- e) city boroughs or city districts of administratively divided statutory cities and city districts of Prague which have been delegated at least partial competences of a municipality with an authorised municipal authority or competences of municipalities with construction and/or vital registers office;

(hereinafter referred to as “designated agencies”)

(2) Municipalities not referred to in Article 1 and public agencies referred to in Section 3, Article (1), letters (g) and (h) shall perform the record management in the scope of the provisions of Section 64, Section 65, Section 66, Section 67, Section 68 (1) to (3), Section 68a, and Section 69.

(3) Public agencies referred to in Section 3, Article (1), letters (a) to (d) and (i), (k), and (m), regions and the Capital City of Prague shall execute the record management in an electronic form maintained in electronic systems of records management; should the special nature of their competence require so, they may manage their records through paper copies or electronic records' management systems which meet requirements stipulated in Article (4). Public agencies referred to in Section 3, Art. (1), letters e), g), h), j) and l) and municipalities shall perform the record management in an electronic form maintained in electronic systems or use hard copies.

(4) Should public agencies referred to in Article 3, first sentence, the special nature of which allows them to perform the record management in an electronic form or in an electronic form in electronic records' management system, which is a part of the information system to maintain classified information³⁴⁾, such electronic records' management system

shall meet requirements given by the national electronic records' management systems' standard (hereinafter only the „national standard“), with the exception of those requirements, the use of which is excluded by the conditions necessary for the certification of the information system to maintain classified information³⁵⁾, or the use of which is excluded by the special nature of such agencies; electronic records' management system shall, however, facilitate compliance with obligations of agencies pursuant to Section 65, Article 5 as well as selection of archival records.

Section 64

Capturing, Marking, Registering and Distributing Records

(1) Designated agencies shall receive records. Records delivered in the digital form shall be received by the designated agencies at least in data formats determined as output data formats or document formats, which are an output or an authorised conversion of documents contained in the data message. Should the public agencies allow for capturing of records in the digital form in other data formats or should they allow for capturing of records in the digital form on portable technical data media, they shall display a list of such media on their official board and, should they have no official board, on their web page.

(2) Records delivered to or created by the agency shall be, on the day of capturing or creation, furnished with a unique identifier. Records containing a wrong data format or a computer programme which may cause damage to the computer technology of the designated agency as well as records not subject to registration listed by the designated agency in the record management rules shall not be furnished with any unique identifier. The unique identifier is a label assigned to a record to make sure it would not be exchanged for another one. Structure and details of generating and handling of unique identifiers shall be stipulated by bylaw.

(3) Records furnished with an unambiguous identifier shall be maintained in the register of records. An entry about the record in the register of records is linked to its unique identifier.

(4) There may be a name index as a separate functional part of the register of records to search, verify, and automated processing of data on senders' addresses and recipients of documents registered in the register of records.

(5) The name index shall keep data on senders and recipients of records registered in registers of records, in the following extent:

³⁴⁾ Section 34 of Act No. 412/2005 Coll.

Regulation No. 523/2005 Coll., on security of information and communication systems and other electronic device used to handle confidential information and on certification of electro-dampening chambers.

³⁵⁾ Section 46, Article 1, letter a) of Act No. 412/2005 Coll.

³³⁾ E.g. Section 46b of the Act No. 99/1963 Coll., as amended by Act No. 7/2009 Coll.

a) name or names, and surname of the natural person, name and surname, or an affix determining a legal entity or the type of business this person is engaged in or the type of business should the person not be registered in the companies' register, or a business entity or its name, should it concern an entrepreneur registered in the companies' register or a legal entity, and the mailing address pursuant to other legal regulation³³⁾,

b) the person's identification number, if assigned to the sender

c) data box identifier, should the sender have one.

(6) Should the file or the record contain the date of birth, or the birth registration number of the sender or the recipient, such data may be listed in the name index pursuant to Article 5.

(7) For the purposes of searching in the name index, designated agencies may use the date of birth or the birth registration number of either the sender or the recipient of the record should the source of such data be a file the part of which is the document to be sent to the recipient.

(8) Records registered pursuant to Article 3 shall be forwarded to the relevant organisational unit of the agency or to the person authorised to receive such records and the register thereof shall be made.

Section 64a

Treating Records Marked "NATO UNCLASSIFIED" or "LIMITE"

(1) Records provided by the North Atlantic Treaty Organisation or the European Union are, in the interest of national security, public security or protection of rights of third persons, protected by the aforementioned agencies as "NATO UNCLASSIFIED" or "LIMITE". The Czech Republic shall respect such markings on the basis of obligations arising for the Czech Republic from its membership in the North Atlantic Treaty Organisation or the European Union; such records may be provided to persons who need them for performance of their office, duties and responsibilities or other similar activities. Such records may be provided to a third person only upon previous consent of the agency and upon conditions specified by the agency.

(2) Records pursuant to Article 1 shall be treated adequately to prevent access of any unauthorised person.

(3) No public authority, legal person or natural person shall mark its records as "NATO UNCLASSIFIED" or "LIMITE".

Section 65

Processing and Signing Records

(1) When processing records, all records concerning the same issue shall be included in one file. Analogue records shall be physically put together; digital records shall be put together by means of metadata. An analogue record shall be linked to a digital record by means of references.

(2) File processing shall mean the drafting of a proposal, its approval, and further elaboration, signing and dispatching the file or any other similar form of taking decision on file processing.

(3) Should there be a record to be posted on the official notice board, its duplicate with the posting date attached will be posted. After it is removed from the official notice board it will be furnished with the date of its removal and shall be filed in the relevant file as evidence that it had been posted on the official notice board. The provisions of the first and second sentences shall not apply to publishing of records on the electronic notice board.

(4) Records of the designated agency shall be signed by its statutory body, or any other person authorised to act on behalf of the agency or the person authorised to do so by the statutory body.

(5) After the final decision has been taken, the file shall be closed. A file shall be deemed closed should all records belonging to the file be completed, checked and complemented with data pursuant to Section 66 (3) prior to their filing in the records centre and the transfer of the records in the digital form to the output data format and attachment of metadata in line with the national standard.

(6) Individual records must not be taken out from closed files. A closed file may be attached to another file unless its retention period has lapsed.

(7) The agency shall specify in its Record Management Rules the use of stamps bearing the state coat of arms, advanced electronic signature, accepted digital mark or qualified time stamp.

(8) Public agencies performing the record management in the electronic form in the electronic records' management system pursuant to Section 63, Article 4 may, in their records' management rules, guide the use of special technology which may, exclusively for the purposes of the respective agency, replace the advanced electronic signature, accepted digital mark or qualified time stamp; this special technology shall be advanced enough to allow for disclosure of any subsequent data modification in the record and for unambiguous identity check of the person who had attached such data. Provisions of Section 69a, Article 5 shall be used accordingly to the special technology.

Section 66

(1) Designated agencies shall issue their Record Management Rules.

(2) All Record Management Rules shall include a list of retention and disposition schedules. The list of retention and disposition schedules shall stipulate the types of records sorted into groups according to the respective issues furnished with file marks, disposition marks and retention periods. Designated agencies shall submit the retention and disposition schedules to the competent archives immediately after their issue or amendment. The

competent archives shall store such retention and disposition schedules.

(3) Designated agencies shall mark records with file marks, disposition marks and retention periods.

(4) The beginning of the retention period shall be marked by a triggering event, which is understood to be the time when the record has been arranged or the file concluded. Should the designated agency decide to determine a different triggering event, such information shall be noted in the retention and disposition schedules.

(5) The retention period shall not be longer than 100 years unless stipulated otherwise by law³⁶⁾.

(6) The structure and details of the retention and disposition schedules shall be stipulated by the implementing bylaw.

Section 67

Dispatching Records

Designated agencies shall send records as strictly private should these be records the delivery of which must be evidenced, or should this requirement be stipulated by special legal regulations²⁶⁾. A delivery notice confirming that the record had been delivered or that an envelope containing the record had been delivered, including the time and date of delivery, shall be, after has returned to the designated agencies, attached to the relevant document or inserted in the relevant file.

Section 68

Record Storing

(1) All processed files and other records of the designated agency shall be, during the retention period, stored in the registry. Records may be stored also in the records centre, if any. Records shall be deposited in line with the retention and disposition schedules, preferably immediately after arrangement, should the nature of the issue not require that the person, who processed the record, keeps the processed record for a longer period of time. Such fact shall be recorded in the register in line with Section 64 (3).

(2) General provisions stipulating the search for information in records used in proceedings before the administrative authority or court shall apply to the search for information in records stored in registries or in a records centre of an administrative authority or court. This provision shall not apply should the records had been publicly accessible before they were placed to the registry or the records centre. The search for information in records encompassing classified information, making their duplicates or copies or making excerpts from them shall be regulated by the special legal regulation.²⁾

³⁶⁾ E.g. appendix No. 3 to the Regulation No. 385/2006 Coll., on medical records, Section 90 of Act No. 301/2000 Coll., on registers of birth, death, and marriage, on names and surnames, as amended.

²⁶⁾ For example Act No. 99/1963 Coll., the Code of Civil Procedure, as amended; Act No. 141/1961 Coll., as amended, the Code of Administrative Procedure; Act No. 120/2001 Coll., as amended.

(3) Should a designated agency cease to exist, its registry or records' centre shall be taken over by its legal successor, founder, or the entity to which the competence of the ceased designated agency will be devolved. Should there be more than one legal successor and should they fail to come to an agreement, the competent administrative authority responsible for the field of archives and performance of the record management and supervising appraisal process shall decide, who will take the registry or the records centre over. Prior to the date of termination of existence, the designated agency shall inform the competent archives on measures implemented in relation to the above termination of existence in relation to the records centre or administrative archives.

(4) The facility where the registry or the records centre is located shall satisfy the following conditions:

- a) record repositories must be safe from flooding;
- b) the building shall have fire recordation and shall be equipped with portable fire extinguishers; powder fire extinguishers shall be placed in the repositories;
- c) record repositories shall be secured against any damage due to natural forces or human activity, primarily penetration of water, steam, storm drains, sewage, dangerous chemical and biological substances, or physical phenomena and excessive dustiness which may cause damage or destroy the records;
- d) record repositories shall be equipped with shelves for storing records;
- e) record repositories shall be secured to prevent access of unauthorised persons.

Section 68a

Separation of Files

(1) Should a designated agency cease to exist, its files will be separated. Prior to the commencement of the file separation, the agency terminating its existence shall draft a file separation plan, containing, among others, a file separation timetable, and submit such plan to the competent archives.

(2) Prior to the termination of the designated agency, the file separation shall be prepared and performed by the agency in liquidation. It shall be completed by the legal successor of the designated agency. Should there be no such successor, it shall be completed by the founder or a liquidator.

(3) Closed and stored files the retention period of which has lapsed shall be included in the appraisal process.

(4) Closed and stored files the retention period of which has not yet lapsed shall be placed in the registry or the records centre of the designated agency which is a legal successor of the ceased designated agency, founder, or a new designated agency replacing the designated one in liquidation. Should there be more legal successors and should they fail to reach consensus, the decision on the placement in a registry or a records centre shall be made by the relevant

administrative entity responsible for archives and record keeping which oversees the appraisal process. The files and records transferred shall be registered in a record transfer protocol.

(5) The designated agency in the process of liquidation shall transfer its unclosed files and records not yet stored to the designated agency that will be responsible for arrangement of such files. The designated agency in the process of liquidation shall register the files and records transferred in a record transfer protocol. The designated agency which is a legal successor of the ceased designated agency shall receive and register files and records listed in the protocol pursuant to Section 64.

(6) Designated agencies shall specify the procedure for separation of files in their Record Management Rules.

(7) Provisions of Articles (1) to (6) shall apply accordingly for cessation of organisational units of the designated agencies, for changes in competences of the designated agencies or their organisational units as well as for the purposes of changes in the ownership or holder of the record.

Section 69

(1) Ministries and other central government authorities shall establish records centres. Following the establishment of the record centre they shall inform the Ministry thereof.

(2) Designated agencies other than those referred to in Article 1 may establish their records centre only upon approval of the Ministry.

(3) A records centre, with the exception of records centres established by founders listed in Section 50 and Section 51 (1), shall:

- a) supervise the record management carried out by units within the scope of competence of their founder;
- b) take over records from ceased agencies in the capacity of their founders and meet tasks of such agencies in selecting archival records;
- c) take over records from the registry with retention periods shorter than five years, register and care for them and permit access to information in them including the making of excerpts, duplicates and copies;
- d) prepare selection of archival records within the appraisal process;

(4) Designated agencies which have established their records centre shall specify in their Record Management Rules the time for which records are to be stored in the registry. After the expiration of this time limit, records retention period of which exceeds the limit for storing shall be transferred to the relevant records centre.

Section 69a

Special Provisions on Digital Records

(1) Conversion of an analogue record into a digital record and vice versa and the change of the data format of a digital record shall be performed by a designated agency in compliance with the procedure guaranteeing credibility of the origin of the record, integrity of its content and legibility of the record, and the security of the conversion process or the change of the data format.

(2) Adding of data created during preparation of the record for keeping pursuant to Section 3 (4) or during conversion or change of the data format of the record pursuant to Article 1 and which are necessary for the maintenance of the record, its conversion or change of the data format, shall not be deemed a failure to provide for the integrity of the record contents.

(3) Before a digital record is converted into an analogue record or before any change of the data format of the digital record, the designated agency shall verify the validity of the advanced electronic signature, accepted digital mark or qualified time stamp should the digital record be furnished with them, and the validity of qualified certificates they are based on. The designated agency shall register the data on the result of such verification and the date of the conversion of the digital record to the analogue record or the date of the change of the data format of the digital record, and shall maintain such registers along with the record created before the conversion or the change of the data format.

(4) The designated agency shall furnish the digital record created by the conversion of an analogue record or by the change of the data form of the digital record with a clause containing information on transfer or modification of the data format, signed with an advanced electronic signature of the person responsible for the conversion of the analogue record or for the change of the digital format or furnished with an advanced digital mark of the designated agency and furnished with a qualified time stamp. Data concerning conversion of an analogue record or the change of the digital format shall be stipulated by a bylaw.

(5) Unless proven otherwise, a digital record shall be deemed genuine if signed by an advanced electronic signature or furnished with an advanced digital mark of the person who was at the time of signature or marking authorised to do so and, subsequently, if, in the period of validity of an advanced electronic signature and the underlying electronic certificate or an advanced digital mark accompanied by a qualified system certificate, furnished with a qualified time stamp. This provision shall apply equally to records created by agencies that are not recognized as designated agencies.

Section 70

(1) The implementing legal regulation shall lay down all details about performance of records management, namely:

- a) record capturing;
- b) record marking and registration;
- c) keeping of name indexes and the use of data contained herein;

- d) distribution of records;
- e) record circulation;
- f) record processing;
- g) creating records;
- h) record signing and the use of stamps;
- i) dispatching records;
- j) record storing;
- k) details of keeping and structure of the retention and disposition schedules;
- l) discarding records;
- m) output data formats of digital records;
- n) separation of files,
- o) structure of data contained in the report on the verification of the advanced electronic signature, advanced electronic mark, or qualified time stamp;
- p) data concerning conversion or change of the record data format contained in the clause pursuant to Section 69a, Article 4.

(2) The national standard, published by the Ministry in its Journal as well as on-line, shall lay down requirements for electronic records' management systems, namely:

- a) record capturing;
- b) record marking and registration;
- c) searching, retrieval and presentation records;
- d) record storing;
- e) discarding records and selecting archival records;
- f) recording a life cycle of an electronic system of records management;
- g) retention and disposition schedule;
- h) an audit trail;
- i) administrative functions;

j) metadata

(3) The Ministry shall publish, in its Journal as well as on-line, a sample of digital archives' operational rules.

TITLE IV

INSPECTION IN ARCHIVING AND RECORD MANAGEMENT

Section 71

(1) Inspection of compliance with duties performed in the field of archiving and performance of the record management shall be carried out by:

- a) the Ministry, which shall inspect all designated agencies and archives, with the exception of the intelligence services of the Czech Republic and their archives, in particular the following:
 - 1. the National Archives;
 - 2. the Archives of Security Forces;
 - 3. regional state archives;
 - 4. armed forces;
 - 5. security forces;
 - 6. specialised archives and security archives established by ministries, other central public authorities, the Office of the Chamber of Deputies, the Office of the Senate, the Office of the President of the Czech Republic, the Czech National Bank, or security forces;

- b) the National Archives, which shall inspect the following:
 - 1. public authorities having nation-wide competences and public organisations receiving contributions from the government budget established by the above public authorities and archives established by them, with the exception of public authorities and specialised archives listed in letter a);
 - 2. public organisations receiving contributions from the government budget established by virtue of law and at specialised archives established by such organisations;
 - 3. scientific and research institutions established by the Academy of Sciences of the Czech Republic or other public authorities having nation-wide competences ;
 - 4. legal entities established by virtue of law and having nation-wide competence and specialised archives established by such legal entities;
 - 5. private archives if they were established by an entity pursuant to Section 46 (1) and their founders;

6. cultural and/or scientific institutions if they hold in their care archival records maintained in the secondary registers of the National Cultural Heritage by the National Archives;
 7. owners and holders of archival records stored outside the archives which maintain them in the basic registers of the National Cultural Heritage;
 8. private agencies as regards the obligation stipulated in Section 3 (2);
- c) regional state archives according to their scope of competence, which shall inspect the following:
1. public authorities with the scope of competence limited by the territory of a region, district or municipality and public organisations receiving contributions from the government budget and archives established by them;
 2. public enterprises and specialised archives established by them;
 3. territorial self-governing units and archives established by them; organisational units, organisations receiving contributions from the government budget and other legal entities established or founded by territorial self-governing units and other legal entities where territorial self-governing units perform the function of the establishing subject;
 4. higher education institutions and specialised archives established by them;
 5. schools and specialised archives established by them;
 6. health insurance companies;
 7. public research institutes with the exception of research institutions established by the Academy of Sciences of the Czech Republic or other public authorities having nationwide competences;
 8. legal entities established by virtue of law and having territorial competences limited by the territory of a region, district or municipality and specialised archives established by them;
 9. cultural and/or scientific institutions if they care for archival records which are maintained in the secondary registers of the National Cultural Heritage by the relevant regional state archives;
 10. private archives, with the exception of those inspected by the National Archives, and their founders;
 11. owners and holders of archival records stored outside the archives which are registered in the basic registers by the relevant regional state archives;
 12. private agencies as regards the obligation stipulated in Section 3 (2);

d) the Archives of Security Forces kept by the Office for Studies of Totalitarian Regimes.

(2) The Ministry shall inspect the security archives only and exclusively based on their annual reports.

Section 72

(1) Inspections shall be carried out by inspectors of archives. Inspectors of archives from among staff of the Ministry, the National Archives, the Archives of Security Forces or regional state archives are authorised to perform inspections by the director of the relevant department or archives.

(2) An inspector of archives shall be entitled to, on the basis of a completed inspection, adopt a decision to:

- a) prohibit activities which could cause damage to damage or destroy records or archival records; or
- b) impose relevant measures to remove and remedy deficiencies disclosed.

(3) The decision of the inspector of archives may be appealed. The appeal shall not have a suspending effect. The appeal shall be treated and decided upon by the person who authorised the relevant inspection.

(4) Inspectors of Archives shall prove their authorisation by means of a certificate issued by the person who had authorised the inspection.

(5) Inspection pursuant to Articles (1) to (3) shall not apply to security archives.

TITLE V

ADMINISTRATIVE OFFENCES

Section 73

Minor Offences

(1) A natural person commits a minor offence should he/she:

- a) cause damage to or destroy an archival record,;
- b) fail to return a borrowed archival record; or
- c) export an archival record without approval pursuant to Section 29 (1).

(2) Natural persons such as employees of an administrative authority responsible for the field of archives and performance of records management, employees of archives or employees of the founder of archives commit a minor offence should they violate the duty of confidentiality pursuant to Section 14.

(3) A natural person as an owner of an archival record, archival collection or archival fonds or any comprehensive part thereof about which the proceedings on declaration to become a Cultural Archival Relic has been commenced, commits a minor offence should he/she, in violation of provisions of Section 21 (5), fail to report an intended change in storage or intended transfer or passage of title.

(4) A natural person as an owner or a holder of an archival record commits a minor offence should he/she:

- a. fail to take care of the archival records pursuant to Section 25 (1) (a);
- b. fail, in violation of provisions of Section 25, Art. 1, letter (c), to report transfer of title to the certain archival record or conclusion of an agreement on custody;
- c. fail, in violation of provisions of Section 29 (3), to import an undamaged archival record back to the Czech Republic;
- d. fail, in violation of provisions of Section 30 (1) to make, at his/her own expense, a security copy of an archival record declared to be a Cultural Archival Relic or a National Cultural Relic; or
- e. fail to ensure conservation or restoration of a damaged or endangered Cultural Archival Relic or a National Cultural Relic pursuant to Section 30 (5).

(5) A natural person as an owner or a holder of an analogue archival record stored outside of archives and maintained in the basic registers of the National Archival Heritage by the competent archives according to its scope of competence commits a minor offence should he/she fail to provide to archives the data pursuant to Section 25 (2).

(6) A natural person as an owner of an archival record commits a minor offence should he or she fail to offer archival records for preference purchase pursuant to Section 28 (1) and (2).

(7) A minor offence may be sanctioned by a fine of up to:

- a) CZK 400,000 in case of a minor offence under Article 1, letter b) or Article 4, letter d);
- b) CZK 100,000 in case of a minor offence under Article 1, letter a) or c); should the archival record which was destroyed, damaged, exported without the approval or not imported back to the Czech Republic be:
 1. subject to proceedings on declaration to become an Archival Cultural Relic or a National Cultural Relic, a fine up to CZK 200,000 may be imposed;
 2. an Archival Cultural Relic, a fine up to CZK 500,000 may be imposed;
 3. a National Cultural Relic, a fine up to CZK 1,000,000 may be imposed;

- c) CZK 50,000 in case of a minor offence under Articles (2) or (3) or Article 4 (a) or (e) or Article (6);
- d) CZK 5,000 in the case of a minor offence under Article (4) (b) or Article 5.

Section 74

Administrative Offences Committed by Legal Entities and Natural Persons – Entrepreneurs

(1) A legal entity or a natural person – an entrepreneur - commits an administrative offence should it:

- a) cause damage or destroy an archival record or a document;
- b) fail to return the borrowed archival record; or
- b) export and archival record without an approval pursuant to Section 29 (1).

(2) A legal entity or a natural person-entrepreneur as an owner of an archival record, archival collection, archival fonds or a comprehensive part thereof about which the proceedings on declaration to become a Cultural Archival Relic have been commenced, commits a minor offence should it, contrary to Section 21 (5), fail to report an intended change in their storage or intended transfer or passage of a title.

(3) A legal entity as an owner or a holder of an archival record commits an administrative offence should it:

- a) fail to care for an archival record pursuant to Section 25 (1) (a);
- b) contrary to the provisions of Section 25, Art. 1, letter b) fail to report the transfer of title to an archival record or an agreement to entrust an archival record in custody;
- c) contrary to the provisions of Section 29 (3) fail to import an undamaged archival record back to the Czech Republic;
- d) contrary to the provisions of Section 30 (1) fail to make, at the expense of the said legal entity, a security copy of an archival record declared to be a Cultural Archival Relic a National Cultural Relic; or
- e) fail to provide for conservation or restoration of a damaged or endangered Cultural Archival Relic a National Cultural Relic pursuant to Section 30 (5).

(4) A legal entity or a natural person-entrepreneur as an owner or a holder of an analogue archival record stored outside of any archives and maintained in the basic registers of the National Archival Heritage by the competent archives according to its scope of competence, commits an administrative offence should it fail to provide to the archives the data pursuant to Section 25 (2).

(5) A legal entity or a natural person-entrepreneur as an owner of an archival record commits an administrative offence should it fail to offer archival records for preference purchase pursuant to Section 28 (1) and (2).

(6) A public agency or a legal entity or a natural person-entrepreneur as a private agency commits an administrative offence should it fail to, contrary to Section 3, store the record or should it fail to allow for selection of an archival record.

(7) A legal person or an entrepreneur as private agencies or as legal successors of a public or private agency shall commit an administrative offence by, in violation with Section 3, Article 3, failing to store an archival record or not allowing for selection of an archival record, should it concern records, to which the original agency, which the legal person or the entrepreneur are successors of, had the obligation to store or allow for selection of.

(8) A designated agency commits an administrative offence should it:

- a) contrary to Section 63, fail to perform records management;
- b) contrary to Section 66 (1), fail to issue their Record Management Rules or list of retention and disposition schedules, or ,contrary to Section 66 (2), fail to mark records in accordance with their Record Management Rules and list of retention and disposition schedules by file reference mark, disposition mark or retention period; or
- c) fail to respect conditions for storing records pursuant to Section 68;
- d) contrary to Section 68, Article 1, fail to store records in line with the retention and disposition schedules.

(9) Agencies or their legal successors commit an administrative offence should they fail to perform the appraisal process or fail to allow supervision over the appraisal process and selection of archival records within an appraisal process.

(10) An administrative offence may be sanctioned by a fine of up to:

- a) CZK 400,000 in case of an administrative offence under Article 1, letter b) or Article 3, letter d);
- b) CZK 200,000 in case of an administrative offence Article 1, letter a) and Articles 6, 7, 8 and 9;
- c) CZK 100,000 in case of an administrative offence under Article (1) or (3) (c); should an archival record which was destroyed, damaged, exported without the approval or not imported back to the Czech Republic be:
 - 1. subject to proceedings on declaration to become an Archival Cultural Relict or a National Cultural Relic, a fine up to CZK 200,000 may be imposed;
 - 2. an Archival Cultural Relic, a fine up to CZK 500,000 may be imposed;
 - 3. a National Cultural Relic, a fine up to CZK 1,000,000 may be imposed.
- d) CZK 50,000 in case of an administrative offence under Articles (2) or (3) (a) or (e) or Article (5);
- e) CZK 5,000 in case of an administrative offence under Article (3) (b) or Article 4.

Common Provisions on Administrative Offences

(1) A legal entity shall not be liable for an administrative offence should it be able to prove its best efforts to prevent violation of any law.

(2) When determining the amount of a fine to be imposed on a legal entity, the seriousness of the administrative offence shall be taken into account, in particular the *modus operandi*, circumstances, and consequences.

(3) Liability for an administrative offence shall be withdrawn should the administrative authority fail to commence the administrative proceedings within two years from the date on which it had learned about the offence, and at the latest ten years from the date on which the administrative offence had been committed.

(4) Administrative offences under this Act shall be treated at first instance by the National Archives, the Archives of Security Forces or regional state archives within the scope of competences stipulated herein.

(5) Liability for acts resulting from physical persons' business activities or directly related to such activities is stipulated by provisions of the Act on liability and sanctions of legal persons.

Section 76

Repealed

TITLE VI

COMMON, TRANSITIONAL AND FINAL PROVISIONS

Common Provisions

Section 77

(1) The Code of Administrative Procedure shall not apply to the decisions adopted pursuant to Section 14 (1), Section 38 (1) and Section 40 (2).

(2) The provisions on registers of property under the Act on Accounting shall not apply to registers of archival records.

Section 78

(1) Archives shall be obliged to meet assignments specified by administrators of personal data under the special legal regulation.¹⁷

(2) In cases not regulated by this Act, processing of personal data for the purpose of archiving, including conditions for information search in archival records, making excerpts, duplicates and copies shall be governed by the special legal regulation.¹⁷

(3) Archives shall not be obliged to verify whether the data contained in archival records entrusted in their care are precise or true.

Section 78a

Provisions of Section 26, Article 1 and 2, Section 27, Article 1 and 2, and Sections 29 and 32 shall not apply to activities performed pursuant to this Act with archival records in the digital form.

Section 78b

Rights and obligations entrusted hereby to the founders of archives shall be, in case of archives in the form of a legal entity, the National archives, state regional archives, and Archives of the security forces, performed by these respective archives.

Transitional Provisions

Section 79

Archives of the Municipality of Prague and Archives of the municipalities of Brno, Ostrava, Pilsen, and Ústí nad Labem

(1) The Archives of the Municipality of Prague, the Archives of Brno, the Archives of Ostrava, the Archives of Pilsen, and the Archives of Ústí nad Labem which perform activities in line with current legal regulations shall be deemed to be accredited archives of territorial self-governing units under this Act as of the date of effect of this Act.

(2) In addition to competences referred to in Sections 54 and 55, the Archives of the Municipality of Prague, the Archives of Brno, the Archives of Ostrava, the Archives of Pilsen, and the Archives of Ústí nad Labem shall:

- a) select archival records at agencies where they supervise records' management performed by such agencies;
- b) care of archival records of historical ancestors of local and regional authorities and organisations of their cities, and of other archival records stored in their archives as of the date of effect of this Act;
- c) meet tasks assigned in the field of archives and performance of the record management stipulated herein in the scope of competences delegated to authorities of these cities and in the scope of competences performed in relation to agencies under supervision of authorities of these cities;

- d) on the basis of an agreement²⁹⁾ take care of archival records of central administrative authorities and other public administration authorities and their legal ancestors, the competences of which relate or related only to the territory of the city and which are stored with them on the date when this Act comes into effect;
- e) select archival records outside an appraisal process from among records offered to the capital city of Prague and cities of Brno, Ostrava, Pilsen and Ústí nad Labem as gifts, or records of owners who request it so;
- f) upon request, submit protocols on a completed appraisal process and on the completed selection of archival records outside of the appraisal process to be assessed by the competent regional state archives.

(3) Competences specified for the Archives of the Municipality of Prague, the Archives of Brno, the Archives of Ostrava, the Archives of Pilsen, and the Archives of Ústí nad Labem pursuant to Article (2) shall be deemed to be delegated competences.

Section 80

(1) The Moravian Provincial Archives in Brno and the Provincial Archives in Opava shall also take care of archival records of former state and self-governing authorities and organisations for the Land of Moravia, Silesia and Moravia-Silesia.

(2) The National Film Archives³⁰⁾ and the Central Archives of Surveying, Mapping and Land Register³¹⁾ which perform activities under currently valid legal regulations shall be deemed to be accredited specialised archives under this Act as of the date of effect of this Act.

(3) The archives of special importance of intelligence services of the Czech Republic that perform activities under currently valid legal regulations, shall be deemed to be security archives under this Act as of the date of effect of this Act.

(4) The Archives of the Office of the President of the Czech Republic, the Archives of the Prague Castle, the Archives of the Chamber of Deputies, the Archives of the Senate, the Military Historical Archives, the Archives of the National Museum, the Archives of the National Technical Museum, the Literary Archives of the Museum of Czech Literature, the Archives of the Academy of Sciences of the Czech Republic, the Archives of the National Gallery in Prague, the Institute of History of Charles University - the Archives of Charles University, the Archives of Masaryk University in Brno, the Archives of Czech Technical University in Prague, the Archives of Czech Television, the Archives of Czech Radio Broadcasting, and the Archives of Brno Technical University which perform activities under currently valid legal regulations shall be deemed to be accredited specialised archives under this Act as of the date of effect of this Act.

²⁹⁾ Section 27 of Act No. 219/2000 Coll., as amended
Section 659 and the following of the Civil Code

³⁰⁾ Section 6 of Act 273/1993 Coll. on some conditions of production, distribution and archiving of audio-visual works and on the amendment and supplement to some other acts and some other legal regulations, as amended

³¹⁾ Section 3a (f) of Act No. 359/1992 Coll. on surveying, mapping and land registering authorities, as amended

(5) Founders of current archives of special importance and founders of organisations receiving contributions from the government budget the part of which are archives of special importance, with the exception of archives referred to in Articles (2) to (4), shall be obliged within six months from the date of effect of this Act to file an application with the Ministry for accreditation to become specialised archives private archives, and shall notify the Ministry on establishment of security archives or a records centre. Before granting of the accreditation, but not later than within three years from the date of effect of this Act, those archives that have applied for accreditation shall be deemed to be specialised archives or private archives under this Act. If a founder does not apply for accreditation within the stipulated time limit or if accreditation is not granted to such archives within the stipulated time limit, or if a founder does not notify the Ministry on establishment of security archives or a records centre, the Ministry shall decide on depositing archival records in the National Archives or the competent regional state archives.

Section 81

Archives which perform activities in keeping with the current law and which are deemed to be accredited specialised archives under this Act as of the date effect of this Act shall be obliged, within ten years from the date of effect of this Act, to prove to the Ministry that they satisfy the conditions referred to in Section 61.

Section 82

(1) Archival records stored in archives before the date of effect of this Act shall continue to be stored in such archives unless stipulated otherwise herein. Exceptions are permitted with regard to merging of archival sets stored in different archives. Upon request of the founder, the Ministry shall decide on such exceptions.

(2) Archival records registered before the date of the effect of this Act in registers in the Czech Republic as part of the Single Archival Fond shall become archival records of the National Archival Heritage as of the date of effect of this Act.

(3) Archival records that were recognised as Cultural Relics before the date of effect of this Act shall become archival cultural relics under this Act, as of the date of effect of this Act.

(4) Archival records not older than thirty years, which were made accessible before the date of effect of this Act under the special legal regulations³²⁾, shall be subject to rules of accessibility of archival records valid before the date of effect of this Act.

Section 83

(1) Archives active in keeping with the current law the Research Rules of which do not comply with the provisions of this Act shall be obliged, within six months from the date of effect of this Act, to amend their Research Rules so that they comply with this Act.

³²⁾ For example Act No. 140/1996 Coll., as amended

(2) Designated agencies, Record Management Rules and the list of retention and disposition schedules of which do not comply with the provisions of this Act shall be obliged, within six months from the date of effect of this Act, to amend their Record Management Rules and the list of retention and disposition schedules so that they comply with this Act.

(3) Archival records taken from registers of births, deaths and marriages or from documents pertaining to the issue of nationality of the Czech Republic or elections of members of administrative self-governing authorities, the Parliament of the CR, the Senate and the European Parliament shall always belong to the care of the National Archives or the competent regional state archives.

Section 84

Administrative proceedings commenced before the date of effect of this Act shall be accomplished and fines shall be imposed under the current law.

Section 85

Final Provisions

(1) As of the date of effect of this Act the name of Central State Archives shall be changed to the National Archives.

(2) The Scientific Archival Council act as the advisory body of the Minister of the Interior for professional and scientific issues concerning archives and performance of record management. Further details on organisation and activities of the Scientific Archival Council shall be stipulated in its statutes and Rules of Procedure, to be issued by the Minister of the Interior.

Section 86

The Ministry shall issue the Decree on implementing the provisions of Section 9 (2), Section 15 (1), Section 19, Section 24 (3), Section 31 (2), Section 36, Section 40 (7), Section 56 (4), Section 61 (9), Section 64 (2), Section 66 (6), Section 69a (4) and Section 70 (1).

Section 87

Repealing Provisions

The following legal provisions are hereby repealed:

1. Act No. 97/1974 Coll. on the Archives.
2. Decree No. 101/1974 Coll. on the recognition of archival records as cultural relics and on the increased protection of archival records as cultural and National Cultural Relics.

3. Decree No. 102/1974 laying down details on transfers of title to archival records.
4. Decree No. 117/1974 Coll. laying down the criteria for assessing written records as archival records and details of the appraisal process.
5. Decree No.118/1974 Coll. on business archives.
6. Decree No. 225/1988 Coll. on state archives and archives of national committees.

PARTS TWO TO FOURTEEN

Section 88 to Section 102

The provisions of these Sections have amended other acts.

PART FIFTEEN

ENTRY INTO EFFECT

Section 103

This Act shall enter into effect on January 1, 2005.

Records documenting activities of registered companies, cooperatives, with the exception of housing societies, and notaries, the aforementioned entities shall, in line and under conditions stipulated hereby, store and allow for selection of archival records from:

I. Records documenting activities of registered companies and cooperatives, with the exception of housing societies

1. Records of incorporation, changes of status, and termination of business activities

- a) incorporation records;
- b) statutes, articles of association, rules of procedure, organisational rules and schemes;
- c) records on changes of status of physical persons;
- d) records on termination of business;

2. Management records

- a) protocols and minutes from statutory body and a supervisory board meetings, supervisory board reports, minutes of general meetings together with their annexes, minutes of management meetings;
- b) annual reports;
- c) audit reports.

3. Asset documenting records

- a) Non-routine inventory taking due to acquisition, division or termination of business or registered companies and cooperatives, with the exception of housing societies ;
- b) agreements on transfers of title to real estate and deeds certifying passage of title to real estate;
- c) records on entries and certification of trademarks;

4. Financial records

- a) financial statements;

5. Business related matter

- a) business plans; development studies;
- b) annual and longer-term production programmes, analyses with comments;
- c) product related matter (final drawings, fliers, catalogues, sample drawings);
- d) awards.

II. Records documenting activities of public notaries

1. Notaries' own documents:
notarial records.

2. Notarial logs, registers, and other registration tools in compliance with the Office Rules of the Notarial Chamber of the CR

- a) list of testimonies,
- b) list of records on inheritance trusts,
- c) a registry containing applications for:
 - 1. notarial services under Section 2 of the Rules of the Notary Proceedings (with the exception of legitimisation and testifying on correctness of photocopies of documents – vidimation under Sections 73 and 74 of the Rules of the Notary Proceedings),
 - 2. legal advice provided by a notary as a part of other notarial services under Section 3, Article 1 of the Rules of the Notary Proceedings,
- 3. other notarial services under Section 3, Articles 2 and 3 of the Rules of the Notary Proceedings, should they not be entered in another register kept by the respective notary.
- d) register of inheritance files, submitted to the notary by the competent court for inheritance settlement and performance of services in the inheritance procedure
- e) notary escrow log,
- f) protest log.

Records to be submitted, according to their content, for selection to become archival records

1. Minutes from meetings of bodies of legislative, government and executive authorities and authorities of territorial self-governing units at all levels
2. Deeds of foundation, statutes, rules of organisation and other records on an organisational structure, management, governance, leadership, controls, activities and results of
 - a) bodies of legislative, government and executive authorities and authorities of territorial self-governing units at all levels;
 - b) judicial bodies at all levels and of all types, notary offices, public prosecutor's offices and their predecessors;
 - c) state organisations receiving contributions from the government budget and organisations receiving contributions from municipalities and regions, economic, budget-funded and other state organisations managed or administered by state authorities or national committees and predecessors of such organisations;
 - d) commercial organisations established or controlled by central authorities or other authorities of state administration subordinate to central authorities, authorities of territorial self-governing units and their ancestors;
 - e) cooperative organisations, their facilities and their ancestors;
 - f) all parts and facilities of armed forces and security forces;
 - g) political parties, political movements, civil associations, trade unions and organisations of employers.
3. International contractual records at presidential, government and ministerial levels
4. Geodetic and cartographic records, records of land registers
5. Recordation of important constructions and buildings
6. Chronicles
7. Vital registers of births, marriages, deaths, registered partners, soldiers, students, members of chambers and civil associations, collections of vital registers deeds, records on acquisition and loss of nationality
8. Annual budgets, closing accounts, annual financial statements

9. Historical census sheets
10. Court judgements for political offences, for crimes against humanity, for restricting human rights and freedoms, for grave crimes against life, health and property of citizens
11. Personal files of important personalities of political, economic, scientific, technological, cultural, religious, church and sports life
12. Manuscripts of significant literary works
13. Journals of incoming and outgoing mail and records related registers, elenchus, sheets summarising basic information on companies and their products, global sheets and other types of registering tools of records management
14. Privatisation projects
15. Rehabilitation files
16. Class registers, catalogues, catalogue sheets, protocols on final examinations, protocols on school-leaving examinations issued by basic and secondary schools, and protocols on state final examinations at higher school institutions
17. Records created by security forces during the communist totalitarian regime
18. Original negatives, duplication copies and duplication negatives of movies, recordary films and cartoons
19. Records encompassing fundamental information on
 - a) standard of life of inhabitants in given historical political and economic conditions;
 - b) strategies, policies and plans of economic development including important accounting and statistical statements and overviews;
 - c) currency policy;
 - d) property owned and changes in property, confiscations and property restitutions;
 - e) legal regulation of international relations;
 - f) creation of legal regulations including proposals never implemented
 - g) national borders, territorial division of the state, borders of administrative districts, state symbols and symbols of territorial self-governing units, local names and their changes, on merging and splitting of municipalities;
 - h) the situation within and development of the health care system, social welfare and assistance in poverty, and on the level of dwelling;

- i) the situation within and development of science and technology;
- j) the situation within and development of the education system, culture and arts, physical training and sports;
- k) the situation within and development of transport and communications;
- l) territorial and spatial planning;
- m) substantial or significant changes and measures taken in the protection of the environment;
- n) geological and soil exploration;
- o) technological development of patents for significant inventions;
- p) cultural monuments and their maintenance, reconstruction and protection;
- q) lives and works of foremost personalities;
- r) election results and results of referenda;
- s) membership in international organisations.

Internal organisational units of regional state archives are as follows:

a)

Regional State Archives in Prague

- State District Archives Benešov,
- State District Archives Beroun,
- State District Archives Kladno,
- State District Archives Kolín,
- State District Archives Kutná Hora,
- State District Archives Nymburk with headquarters in Lysá nad Labem,
- State District Archives Mělník,
- State District Archives Mladá Boleslav,
- State District Archives Praha-východ with headquarters in Přemyšlení,
- State District Archives Praha-západ with headquarters in Prague,
- State District Archives Příbram,
- State District Archives Rakovník,

b)

Regional State Archives in Třeboň

- State District Archives České Budějovice,
- State District Archives Český Krumlov,
- State District Archives Jindřichův Hradec,
- State District Archives Písek,
- State District Archives Prachatice,
- State District Archives Strakonice,
- State District Archives Tábor,

c)

Regional State Archives in Pilsen

- State District Archives Domažlice with headquarters in Horšovský Týn,
- State District Archives Cheb,
- State District Archives Karlovy Vary,
- State District Archives Klatovy,
- State District Archives Plzeň-jih with headquarters in Blovice,
- State District Archives Plzeň-sever with headquarters in Plasy,
- State District Archives Rokycany,
- State District Archives Sokolov with headquarters in Jindřichovice,
- State District Archives Tachov,

d)

Regional State Archives in Litoměřice

- 1.State District Archives Česká Lípa,
- 2.State District Archives Děčín,
- 3.State District Archives Chomutov with headquarters in Kadaň,
- 4.State District Archives Jablonec nad Nisou,
- 5.State District Archives Liberec,
- 6.State District Archives Litoměřice with headquarters Lovosice,

- 7.State District Archives Louny,
- 8.State District Archives Most,
- 9.State District Archives Semily,
10. State District Archives Teplice,

e)

Regional State Archives in Zámorsk

- 1.State District Archives Hradec Králové,
- 2.State District Archives Chrudim,
- 3.State District Archives Jičín,
- 4.State District Archives Náchod,
- 5.State District Archives Pardubice,
- 6.State District Archives Rychnov nad Kněžnou,
- 7.State District Archives Svitavy with headquarters in Litomyšl,
- 8.State District Archives Trutnov,
- 9.State District Archives Ústí nad Orlicí,

f)

Moravian Provincial Archives in Brno

- 1.State District Archives Blansko,
- 2.State District Archives Brno-venkov with headquarters in Rajhrad,
- 3.State District Archives Břeclav with headquarters in Mikulov,
- 4.State District Archives Havlíčkův Brod,
- 5.State District Archives Hodonín,
- 6.State District Archives Jihlava,
- 7.State District Archives Kroměříž,
- 8.State District Archives Pelhřimov,
- 9.State District Archives Třebíč,
10. State District Archives Uherské Hradiště,
11. State District Archives Vsetín,
12. State District Archives Vyškov with headquarters in Slavkov u Brna,
13. State District Archives Zlín,
14. State District Archives Znojmo,
15. State District Archives Žďár nad Sázavou,

g)

Provincial Archives in Opava

- 1.State District Archives Bruntál,
- 2.State District Archives Frýdek-Místek,
- 3.State District Archives Jeseník,
- 4.State District Archives Karviná,
- 5.State District Archives Nový Jičín,
- 6.State District Archives Olomouc,
- 7.State District Archives Opava,
- 8.State District Archives Prostějov,
- 9.State District Archives Přerov,
10. State District Archives Šumperk.

1. Act No. 413/2005 Coll. on the amendment to some other acts in relation to the adoption of the Act on the protection of classified information and on security eligibility came into effect on January 1, 2006.
2. Act No. 444/2005 Coll. amending Act No. 531/1990 Coll. on territorial financial authorities, as amended, and some other acts came into effect on January 1, 2006.
3. Act No. 112/2006 Coll. amending some acts in relation to the adoption of the act on cost of living and subsistence minimum and the act on the assistance in poverty came into effect on January 1, 2007.
4. Act No. 181/2007 Coll. on the Institute for Studies of Totalitarian Regimes and on the Archives of Security Forces and on the amendment to some other acts came into effect on the first day of the calendar month following the date of its publication (August 1, 2007).
5. Act No. 296/2007 Coll., amending Act No. 182/2006 Coll. on insolvency and methods of its solutions (the Act on Insolvency), as amended and some acts in relation to its adoption came into effect on January 1, 2008.
6. Act No. 32/2008 Coll. amending Act No. 412/2005 Coll. on the protection of classified information and on security eligibility, as amended, Act No. 499/2004 on archives and performance of the record management and on the amendment to some other acts, as amended, Act No. 106/1999 Coll. on free access to information, as amended came into effect on the first day of the calendar month following the date of its publication (March 1, 2008).
7. Act No. 190/2009 Coll. amending Act No. 499/2004 on archives and performance of the record management and on the amendment to some other acts, as amended came into effect on July 1, 2008.
8. Act No. 227/2009 Coll., amending selected acts in relation to the adoption of the act on basic registers, entered into effect on July 1, 2010.
9. Act No. 424/2010 Coll. amending Act No. 111/2009 on basic registers, as amended by Act No. 100/2010 Coll., and other related acts, entered into effect on the day of its announcement (December 30, 2010)
10. Act No. 167/2012 Coll., amending Act No. 499/2004 on archives and performance of the record management and on the amendment to some other acts, as amended, Act No. 227/2000 Coll., on electronic signature and on the amendment to some other acts, as amended, and other related acts, came into effect on July 1, 2012.

Prime Minister:

Ing. Fischer, CSc.