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The unofficial consolidated text of the Protection of Documents and Archives and Archival Institutions Act encompasses:

- Protection of Documents and Archives and Archival Institutions Act - ZVDAGA (Uradni list RS [Official Gazette of the Republic of Slovenia], No. 30/06 of 23 March 2006),  
Act Amending the Protection of Documents and Archives and Archival Institutions Act - ZVDAGA-A (Uradni list RS, no. 51/14 of 7 July 2014).

## **PROTECTION OF DOCUMENTS AND ARCHIVES AND ARCHIVAL INSTITUTIONS ACT**

### **(ZVDAGA) (Unofficial consolidated text No. 1)**

#### **I. INTRODUCTORY PROVISIONS**

##### **Article 1 (Subject of protection)**

This Act shall regulate the protection of documents and archives, the validity and evidentiary value of such materials, the protection of public and private archives as cultural monument, access to archives in archival institutions and the conditions for using archives, tasks of the archival public service, and supervision over the implementation of this Act and the regulations issued on the basis thereof.

##### **Article 2 (Definitions of terms)**

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

- "Documents" means all types and forms of records that were created or received in the work of legal or natural persons;
- "Documents in analogue form" (e.g. analogue audio/video records) means documents recorded and stored in analogue form on a machine-readable medium;
- "Documents in digital form" means documents in digital form recorded and stored on a machine-readable medium;
- "Documents in digital form for long-term preservation" means documents whose content has been recorded and stored in digital form on a machine-readable medium whereby both the digital form and the medium ensure efficient long-term preservation and consideration of technological progress as stipulated by this Act;
- "Documents in physical form" means documents on a physical medium (e.g. on paper, film, etc.) allowing the content to be reproduced without the use of IT communication or related technologies;
- "Documents in electronic form" means documents in digital or analogue form;
- "Original documents" means documents created or received in the originator's own work, or sent to third parties;
- "Archives" means documents that are of permanent significance for history, other sciences, or culture, or that are of permanent significance for the legal interest of legal and natural persons; archives are a cultural monument;
- "Public archives" means the archives of entities under public law;
- "Persons" means legal persons under public law, legal persons under private law, and natural persons;

- for the purposes of this act, "entities under public law" means national authorities, self-governing local communities and legal persons under public and private law, and natural persons bearing public authority, or public service contractors;
- "Private archives" means archives kept by legal persons under private law and natural persons that has the nature of archives, that have been defined as archives in compliance with this Act or by a decision of the National Archives;
- "Long-term preservation of material" means the preservation of material in a digital form for a longer period of time and refers to material whose retention period is longer than five years;
- "Preservation of material" means the preservation of original or captured documents fulfilling the requirements of this Act and ensuring the usability and authenticity of the content of the stored material;
- "Removal" means the physical transfer of archives from the Republic of Slovenia to another European Union Member State or European Economic Area Member State;
- "Export" means the physical transfer of archives from the Republic of Slovenia as a part of the European Union customs area to a third country that is not a European Union Member State or a European Economic Area Member State;
- "Medium" means a physical recording medium on which the content is recorded, depending on the type of format;
- "Internal rules" means the rules adopted by an entity as its internal legal act with reference to the implementation of the capture and long-term preservation of its documents and archives in digital form and the accompanying services, or by the provider of services regarding the implementation of capture and long-term preservation and the accompanying services, respectively;
- "Format" means those organisational and technological features of records that define the method in which the content has been recorded, stored and presented in the storage process;
- "provider of capture or storage services or accompanying services" means any person providing other persons such services against payment or free of charge;
- "Provider of hardware and software" means any person providing other persons, against payment or free of charge, hardware and software for the capture and/or storage of material in digital form, or accompanying services;
- "Competent archival institutions" means the Archives of the Republic of Slovenia (hereinafter: the national archives) as a body of state authority, and regional archival institutions as public institutions;
- "Accompanying services" means services related to selection, conversion, arrangement, destruction, ensuring secure premises, and other services, excluding storage and capture services;
- "Services for storing material in digital form" means services that are inseparably connected with the preservation of the content of material in digital form, whereas the equipment for such storage is not provided;
- "Services for capturing material" means services that comply with all the principles and conditions laid down by this act in the process of the conversion of the original documents into a new electronic form or microfilm;
- "Hardware and/or software" means any hardware and/or software that provides complete or partial capture or storage of material in digital form, or the provision of accompanying services;
- "Capture" means any import of metadata about the material or the material itself in a machine-readable form into a document management information system or into a storage information system;
- "Captured documents" means documents created by the conversion of original documents into a new electronic form or microfilm.

## **II. FUNDAMENTAL PRINCIPLES**

### **Article 3**

#### **(The principle of the preservation of documents and/or the usability of the content thereof)**

The preservation of documents means the preservation of the original documents or the usability of the content thereof. The preservation of captured material has an equal status as that of the preservation of original documents if the captured material has preserved all the effects of the original material (the usefulness of the content of material).

### **Article 4**

#### **(The durability principle)**

The preservation of documents shall ensure the durability of the documents and/or the durability of the reproduction of their content.

### **Article 5**

#### **(The integrity principle)**

The preservation of documents shall ensure the irreversibility and integrity of the documents and/or the reproduction of their content, the orderliness of the documents and/or their content and the verifiability of the provenance of documents.

### **Article 6**

#### **(The accessibility principle)**

During the entire preservation period documents and/or the reproduction of their content shall be protected against loss or destruction of integrity and shall be available to authorised users.

### **Article 7**

#### **(The principle of cultural monument protection)**

Archives are a cultural monument and shall be protected accordingly.

## **III. DOCUMENTS**

### **1. The capture of documents originally created in digital form**

#### **Article 8**

#### **(The capture of documents originally in digital form)**

The capture of documents that are in digital form shall be arranged in such a manner so as to ensure the effective capture of an individual item (the capture of meta-data, communication data and data necessary for intact display concerning content or form, etc.).

### **2. The capture of documents originally created in physical or electronic analogue form**

#### **Article 9**

#### **(The conversion of documents into digital form)**

The capture of documents that are originally in physical or electronic form, but not also in digital form, shall be arranged in such a manner so as to ensure reliable conversion.

### **Article 10**

#### **(Reliable conversion)**

Conversion shall be considered reliable if:

- in relation to the captured material it ensures the reproduction of all the essential components of the content of the original material, considering the nature and purpose of the individual units of the original material (the preservation of the integrity of the material);
- it preserves the usability of the content of the original material;
- it ensures material authenticity with the capture of the key content of the original material or with the strictly controlled and documented addition of content that confirms the same authenticity of the captured material as that of the original material;
- it contains an adequate degree of correctness and quality of conversion control, and if it remedies errors and/or deviations;
- the added content and all important notes and data regarding the conversion procedure and the original material are stored apart and clearly separate from the original content;
- an adequate quantity of documentation is kept proving that the methods and procedures ensure reliable conversion on a regular basis; and
- it fulfils the requirements additionally prescribed by the Government of the Republic of Slovenia.

### **3. Conversion of captured material into digital form for long-term preservation**

#### **Article 11 (Conversion into a form for long-term preservation)**

If the prescribed period for the storage of material is longer than 5 years, the captured material shall be converted from the usual digital form into a digital form for long-term preservation.

#### **Article 12 (Reliable conversion into a form for long-term preservation)**

Conversion into digital form for long-term preservation shall be considered reliable if it preserves the integrity and usability of the content of the captured material in the usual digital form. If the authenticity of the captured material can be proved by its content, which partially or completely loses value or is nullified in the course of time, the authenticity of the captured material in digital form for long-term preservation is ensured by means of strictly controlled addition of content (such as the re-signing of the content), thus confirming the authenticity of the captured material. Such content can be added on the level of individual units or on the level of the entire captured material.

### **4. The destruction of original documents**

#### **Article 13 (The destruction of converted original documents)**

In case original documents have been converted into documents in digital form or documents on microfilm fulfilling the same usability conditions as the original documents, and the provided preservation is in compliance with the provisions of this Act stipulating the preservation of documents in digital form or on microfilm, original documents may be destroyed unless provided otherwise by this Act or some other act.

#### **Article 13a (The disposal and destruction of original documents after the expiration of the retention periods)**

(1) Original documents whose prescribed retention periods have expired that no longer have any importance for the current operations of an entity under public law and which do not have the properties of archives in accordance with the written professional instructions of the competent archival institution referred to in Article 34 of this Act may be disposed of and destroyed. A competent archival institution shall be notified of the planned destruction when the archival institution so requires in accordance with the written professional instructions referred to in Article 34 of this Act.

(2) The disposal and destruction of original documents shall be within the competence of the commission for the elimination and destruction of the original documents of an entity under public law, which is to document the procedure by minutes based on a list of documents. The content of the minutes and list shall be detailed by a decree. Within thirty days of the creation of the minutes on the elimination and destruction and the notification of the competent archival institution, if the institution so requires in the written professional guidelines referred to in Article 34 of this Act, the material may be destroyed or submitted for industrial processing, unless provided otherwise by the competent archival institution.

#### **Article 14** **(The destruction of documents with a longer retention period)**

Original documents for which a retention period of more than five years has been prescribed that do not have the nature of archives, can be destroyed only if the material has been converted into digital form for long-term preservation or recorded on microfilm, unless provided otherwise by this Act or some other act.

#### **Article 15** **(Exceptions)**

(1) The destruction of original documents in physical form that have the nature of archives is not permitted after conversion into digital form or recording on microfilm unless explicitly stated otherwise by the competent archival institution.

(2) The National Archives may define materials that shall never be destroyed, considering their cultural or historical value.

#### **Article 16** **(Registering the destruction of materials)**

(1) The destruction of materials referred to in the first sentence of the preceding article shall be performed by a commission consisting of at least three members and appointed by the head of the entity under public law. A representative of the competent archival institution shall also participate in the commission. The commission shall prepare minutes thereof and a list of materials.

(2) The minutes shall include the title and address of the entity under public law, the name of employee, the members of the commission referred to in the first paragraph hereof, the date of the destruction of the materials, and a list of the materials, as an annex.

(3) The list of materials to be destroyed shall include the title and address of the entity under public law, the content and date of the creation of the materials and/or data from the register of documents kept by the entity under public law.

### **5. The preparation of persons for the capture and storage of documents in digital form**

#### **Article 17** **(The preparation and organisation of capture and storage)**

(1) An entity under public law that captures or stores materials in digital form, a provider of services for the capture and/or storage or accompanying services, and persons who wish to enforce the validity and evidentiary value of their materials in accordance with the provisions

of Article 31 of this Act shall adhere to the following preparation and/or organisational phases of such capture and storage:

- preparation for capture and storage;
- preparation and adoption of internal rules for the capture and storage of material in digital form;
- monitoring of the implementation of internal rules and taking measures in cases of deviations, in accordance with the internal rules;
- amendments and updates of the internal rules due to changes in the regulations in force, technological progress, professional findings, or the detection of defects during internal supervision.

(2) The minister competent for archives shall specify the extent and implementation of the phases for the preparation and/or organisation of capture and storage by means of rules on uniform technological requirements.

### **Article 18 (Internal rules)**

(1) An entity under public law that captures or stores materials in digital form and a provider of services for the capture and storage and/or accompanying services shall adopt internal rules in accordance with this Act, rules on the uniform technological requirements referred to in the preceding Article, and other implementing regulations and professional rules, and act in accordance therewith.

(2) Other persons shall adopt internal rules at their own discretion and/or if this is required by another act. In the process, the provisions of the preceding Article shall apply *mutatis mutandis*.

### **Article 19 (Confirmation of internal rules)**

(1) Entities under public law that capture and preserve materials in digital form, except for state administration authorities, and providers of services for the capture and preservation of materials in digital form and providers of accompanying services related to the capture or preservation of materials in digital form that provide such services to entities under public law shall be obliged to submit their internal rules for confirmation to the National Archives. The National Archives shall verify their compliance with the requirements of this Act, the related implementing regulations and rules of the profession, and decide whether to confirm the internal rules submitted.

(2) Other persons may submit their internal rules for confirmation to the National Archives. The costs of verification of compliance shall be borne by the person who submitted his/her internal rules for confirmation to the National Archives.

(3) The National Archives shall, upon confirmation, also set a time limit by which persons who submitted internal rules for confirmation to the National Archives need to amend and/or supplement their internal rules and submit them for new confirmation.

### **Article 20 (The adoption of model internal rules)**

Any person may prepare internal rules under Article 18 of this Act by adopting the internal rules prepared in advance by other persons from the same field for their own use or for wider use (e.g. branch associations). In the event entire internal rules confirmed by the National Archives without any amendments or supplements have been adopted, it is considered that such internal rules adopted by that person shall have already been confirmed by the National Archives.

## **6. Monitoring of the implementation of internal rules**

### **Article 21**

#### **(Monitoring of the implementation of internal rules)**

(1) Persons with internal rules confirmed by the National Archives and state administration authorities shall monitor the implementation of internal rules.

(2) The monitoring referred to in the preceding paragraph shall have the form of internal verification, which needs to be documented accordingly. The adequacy of monitoring shall be supervised by the inspectorate responsible for archives.

(3) The Government of the Republic of Slovenia shall detail the required professional qualifications of internal assessors and determine the extent, manner, and recording of the implementation of the procedure referred to in the preceding paragraph.

### **Article 22**

#### **(Compulsory amendments of internal rules)**

(1) Persons with internal rules confirmed by the National Archives and state administration authorities shall draft and adopt or accept changes and amendments to the internal rules whenever deficiencies have been established during the monitoring of the implementation of the internal rules that do not represent a deviation from the internal rules but a deficiency concerning the rules themselves.

## **7. The preservation of documents**

### **Article 23**

#### **(The preservation of documents)**

(1) Documents shall be stored in adequate premises and equipment, under appropriate climatic conditions, protected against burglary, fire, water, biological, chemical, physical and other harmful effects and ensuring accessibility, which encompasses protection against loss and permanent accessibility during the entire retention period only for authorised users, and integrity, which encompasses the unchanged state, intactness, and orderliness of materials.

(2) The Government of the Republic of Slovenia shall specify the conditions for the preservation of documents.

### **Article 24**

#### **(Exceptions)**

The provision of the preceding Article does not apply in cases in which regulations prescribe more rigorous requirements for the preservation of documents.

## **8. The preservation of documents in digital form**

### **Article 25**

#### **(The preservation of documents in digital form)**

The preservation of documents in digital form means the preservation of original documents or the secure storage of captured documents in digital form.

### **Article 26**

#### **(The preservation of original documents in digital form)**

During the entire retention period, the secure storage of original documents in digital form shall ensure the following:

- the accessibility of original material, which means protection from loss and constant ensurance of access only to authorised users during the entire preservation period;

- usability, which means the reproduction capabilities and the adequacy of reproduction for use, during the entire preservation period;
- integrity, which encompasses an unchanged state and the intactness of the reproduced content, considering the content of the original material.

**Article 27**  
**(The storage of captured documents in digital form)**

During the entire retention period the secure storage of captured documents in digital form shall enable the reproduction of the content of original documents that fulfils the following conditions in the same measure as the original material would:

- accessibility, which means protection from loss and ensurance of constant access only for authorised users during the entire preservation period;
- usability, which means the reproduction capabilities and the adequacy of reproduction for use, during the entire preservation period;
- authenticity, which means the verifiability of the connectedness of the reproduced content with the content of the original material and/or the source of that material;
- integrity, which includes the unchanged state, intactness and orderliness of reproduced content, considering the content of the original material.

**9. Long-term preservation in digital form**

**Article 28**  
**(Long-term preservation in digital form)**

On a long-term basis, documents are to be stored in digital form and on a medium for long-term preservation that ensures long-term preservation of the content of documents.

**Article 29**  
**(Format)**

The format ensuring the preservation of the content of materials and all other conditions for storage in digital form for more than 5 years and allowing, after that period of time, conversion of the record into a new digital form that shall then fulfil the conditions for the secure preservation of materials, shall be considered to be a format referred to in the preceding Article.

**Article 30**  
**(Medium)**

An electronic medium ensuring all the conditions for the secure storage of material and enabling a large number of reproductions from the existing media to new media shall be considered to be a medium under Article 28.

**10. The validity and evidential value of documents in digital form**

**Article 31**  
**(Equality with original material on a statutory basis)**

According to the law, every item of securely stored material in digital form is considered to be equal to an individual item of original material if the capture and secure storage have been executed in accordance with this Act, its implementing regulations, and internal rules confirmed by the National Archives, unless explicitly provided otherwise by another act.

**Article 32**  
**(Deleted)**

**Article 33**

### **(The evaluation of equality with original material in concrete cases)**

(1) If a person storing material has not arranged the preservation thereof in accordance with internal rules, any item of the material stored in digital form shall be considered equal to an individual item of original material if it fulfils the requirements for secure preservation to the same degree as the item of original material.

(2) The preceding paragraph shall also apply:

- in the event of storage in accordance with internal rules confirmed by a supervisory body, for cases not regulated by the internal rules;

- in the event a person storing the material has available internal rules that have not been observed in the specific case of preservation.

## **IV. ARCHIVES**

### **1. Archives and the preservation thereof**

#### **Article 34**

##### **(Archives)**

(1) Archives of entities under public law shall be defined by the competent public archival institution by written professional instructions for the selection of archives from documents separately for each entity under public law.

(2) Prior to the issuance of professional instructions, all documents shall be treated as archives.

(3) Public archives shall be selected from documents by entities under public law and transferred to the competent public archival institutions.

(4) Documents held by other legal and natural persons having the nature of archives, shall become archives based on a decision issued by the National Archives or on the basis of transfer to the competent archival institution pursuant to the second indent of the first paragraph of Article 61 of this Act.

(5) Legal entities under private law and natural persons shall ensure the storage of private archives themselves, but they may also submit such archives to competent public archival institutions in the form of a deposit, bequest, or donation, or sell them pursuant to the second and third indents of the first paragraph of Article 61 of this Act.

#### **Article 35**

##### **(Decisions in indefinite cases)**

When it is not clear if the object concerned is to be treated as archives, a museum object, or material for a library, the minister responsible for archival institutions shall issue a decision.

#### **Article 36**

##### **(The preservation of archives)**

(1) Public archives irrespective of format or media, shall be acquired for preservation exclusively by competent archival institutions unless otherwise provided by this Act.

(2) Archives in physical form shall be permanently and professionally stored in adequate premises and equipment, under appropriate climatic conditions, and protected against burglary, fire, water, biological, chemical, physical, and other harmful effects (preservation).

(3) Storage of archives in digital form is allowed only as the long-term preservation of captured material, in accordance with internal rules.

(4) The Government of the Republic of Slovenia shall specify the conditions for the preservation of archives.

#### **Article 37**

##### **(Reporting to the competent archival institution)**

Any person storing private archives in digital form, or public archives until the transfer of such to the competent archival institution, shall, when so required by the competent archival institution, provide information on the method and procedures of such storage. The report shall contain in particular the following data:

- data on the equipment and services used;
- data on the formats and media used;
- data on ensuring the permanent accessibility of the data;
- data on planned and executed conversions into another records format or copies made on another medium;
- data on measures for ensuring the integrity, authenticity and usability of the material;
- data on other important factors concerning the storage of material.

## **2. Public archives**

### **Article 38**

#### **(Public archives)**

(1) Public archives are the property of the Republic of Slovenia, except for the archives under the responsibility of the archival institutions of self-governing local communities that are the property of self-governing local communities.

(2) Public archives shall be selected from documents in accordance with written professional instructions by the competent archival institution and the additional written professional instructions of representatives of the competent archival institution during the selection process.

### **Article 39**

#### **(The duties of entities under public law)**

(1) Entities under public law must ensure the conservation, preservation, integrity and orderliness of documents received or created in the course of their work until archives are selected from such materials.

(2) Entities under public law must allow the competent archival institution to examine the documents, and provide the data required for keeping a register of archives, under the conditions stipulated in this Act.

(3) Entities under public law must cooperate with the competent archival institution in elaborating instructions for the selection of public archives from documents. They must also indicate which documents are of permanent significance for the legal interest of legal and natural persons.

(4) Entities under public law must select archives from the documents according to the instructions of the competent archival institution referred to in Article 34 of this Act and draw up a list of the selected material.

(5) Entities under public law must notify the competent archival institution of any changes in status and changes in the field of document management.

(6) Subsequent to the selection of archives, entities under public law must ensure the preservation of those documents for which the retention period has not yet expired.

(7) In order to perform the obligations referred to in the preceding paragraphs, entities under public law must ensure appropriate material, personnel, and financial conditions, and appoint a person to be responsible for carrying out those obligations.

(8) Employees of persons under public law who deal with documents, and employees of service providers who carry out the capture and storage of material in digital form and accompanying services must have at least secondary school qualifications and must have passed a qualification test given by the competent archival institution. Such a qualification test shall be valid in the entire territory of the Republic of Slovenia.

(9) The minister responsible for archival institutions shall lay down detailed conditions for the professional qualifications and the qualification test for those employees of entities under public law who deal with documents, and for workers of service providers who carry out

services involving the capture and storage of material in digital form and accompanying services.

(10) The register of those who have passed the qualification tests with regard to employees of entities under public law and employees of providers of services for the storage of material in digital form shall be kept by the competent archival institutions for the purpose of maintaining supervision over the professional qualifications of persons dealing with documents. The register shall include the name, date and place of birth of the employee, the title of the entity under public law where the employee is employed, and the date and result of the test. The register shall be kept permanently. The register referred to in the first paragraph of this Article concerning officials of security services shall be kept separately and marked with the classification level CONFIDENTIAL.

#### **Article 40** **(The transfer of archives to an archival institution)**

(1) Entities under public law must transfer public archives to an archival institution no later than 30 years after the creation thereof, including material:

- containing personal data in accordance with the regulations governing personal data protection;
- containing classified information in accordance with the regulations governing classified information;
- under special protection of confidentiality if so required by the law or the rules of national authorities or the authorities of a self-governing local community.

(2) Internet publications and copies of internal publications, official and business publications, leaflets, and promotional and similar materials published by an entity under public law may be considered to be public archives, which the entity under public law is obliged to submit within the period referred to in the preceding paragraph.

(3) When the material referred to in the first and second paragraphs of this Article is still being used by the creator and is of vital importance for its operation, the thirty year period for the transfer of public archives may in exception be extended for a maximum of ten years for certain materials referred to in the first and second paragraphs of this Article on the basis of a decision of an archival institution. The application of an entity under public law for the issuance of the mentioned decision must be accompanied by a list of archives in respect of which the entity is applying for an exceptional extension of the period mentioned.

(4) The entity under public law shall be bound to transfer to the competent archival institution the public archives in its original, arranged form described in a list, and as an integral and unified whole, as well as in a technically equipped form, according to the instructions of the competent archival institution.

(5) An entity under public law that transfers public archives to a competent archival institution shall be obliged to indicate any cases of restricted access and reasons in the minutes of the transfer and acquisition in accordance with Article 65 of this Act, and indicate in the list of transferred archives the periods of restricted access for the individual units of the material.

(6) If the competent archival institution establishes that the archives that should have been transferred in accordance with the provisions of the preceding paragraphs are being kept by other persons, the archival institution shall have the right to require that such persons transfer the archives to the archival institution. Such persons shall be obliged to transfer the archives within an appropriate time limit defined by the competent archival institution.

(7) Archives shall be selected from documents following the appraisal of the documents. The appraisal criteria are as follows:

- the needs of history, other sciences, and culture;
- needs as regards permanent legal validity for the purposes of achieving the rights of individuals;
- the significance of the content of archives;
- the specific nature of events and phenomena in a defined time period;

- the specific nature of a place or area;
- the significance of an entity under public law;
- the importance of the author;
- the importance of the material from the aspect of cultural diversity;
- the originality of the documents;
- the originality of the data and information;
- ensuring a representative selection;
- the internal and external features of the materials; and
- other criteria defined by the competent archival institution.

(8) Written professional instructions for the selection of archives from documents shall be adopted by the commission of the competent archival institution appointed by the head of the archival institution. The commission, consisting of at least three members, shall include representatives of the competent archival institution and a representative of the entity under public law for whom written instructions are to be adopted. The instructions shall be considered and amended accordingly upon any changes in the status and organisation of the entity under public law and upon any changes in the operation or document management.

(9) In the event of the transfer of material in digital form, the competent archival institution shall, no later than at the beginning of the selection of archives, issue additional professional and technical instructions, as a part of the written professional guidelines referred to in Article 34 of this Act prescribing the extent of, procedure for, and manner of transferring of archives, as well as the formats and media that apply thereto.

(10) The Government of the Republic of Slovenia shall specify the method and procedure for the selection of archives from documents as well as the procedure for the transfer of public archives to the archival institution.

#### **Article 41**

##### **(The termination of an entity under public law, changes in the status of an entity under public law, and the termination of a legal person under private law)**

(1) Public archives shall be selected in the event of any change in the status of an entity under public law; in the event of the termination of an entity without a known legal successor, public archives shall be transferred to the competent archival institution regardless of the thirty year period.

(2) The authority conducting the procedure for the termination and/or of the modification of the status of an entity under public law shall ensure the selection and transfer of public archives to the archival institution in compliance with the provisions of this Act, and on the basis of the compulsory written professional instructions of the competent archival institution on the selection of archives referred to in Article 34 of this Act.

(3) The authority referred to in the preceding paragraph shall ensure the further custody, orderliness and accessibility of documents whose retention period has not yet expired, until the expiry of the time limit.

(4) In the event of the termination of a legal entity under private law, the competent court conducting the termination proceedings shall decide on the storage of documents whose prescribed period of storage has not yet expired, and on the storage of archives in accordance with this Act.

#### **Article 42**

##### **(Alienation of archives)**

(1) An entity under public law may not transfer public archives to another person unless such possibility is defined by this Act. Any legal transaction concluded in contravention of this provision shall be null and void.

(2) The authorisation of the minister competent for archives shall be required for any export or transfer abroad of archives.

(3) The permanent export or transfer abroad of archives is prohibited, except in the case of the exchange of archives.

(4) The temporary export or transfer abroad of archives shall be allowed for a maximum period of one year after the date of crossing the state border, with the possibility of extension for no more than five years.

(5) The provisions of the Act regulating the export and transfer abroad of cultural heritage objects shall apply *mutatis mutandis* to the export and transfer abroad of archives.

### **3. Film archives**

#### **Article 43**

#### **(Film archives)**

(1) Film archives comprise an edited original pictorial and tone negative of a film made on film tape and a projection copy (print) of that film, as well as any film made on digital or analogue media produced by Slovenian or foreign producers and/or produced in co-production between Slovenian and foreign producers in the Republic of Slovenia and considered to be a Slovenian film.

(2) Any producer who has produced a film using public funds, must transfer the film archives to the National Archives immediately after the film has been produced.

(3) A Slovenian co-producer who has produced a film in cooperation with a foreign producer using public funds is obliged to transfer a projection copy (print) to the National Archives. Whenever a Slovenian producer represents a majority co-producer, he shall transfer the film archives to the National Archives immediately after the film has been produced.

(4) Once the film archives have been transferred to the National Archives, the Ministry of Culture, through the Film Fund of the Republic of Slovenia, shall provide funds intended for the production of an intermediate in case copies (prints) are needed for screening.

(5) Archives also include other audio-visual works considered to be Slovenian, according to the regulations in force.

(6) The Government of the Republic of Slovenia shall define the method of transferring film archives and audio-visual works.

### **4. Private archives**

#### **4. Private archives**

#### **Article 44**

#### **(Registering private archives)**

(1) Private archives are the property of natural persons and legal persons under private law.

(2) The registration of documents in private property that are deemed to have the nature of archives shall be carried out by competent archival institutions. For the purpose of the implementation of this Act, competent archival institutions shall keep a register containing any personal and other data related to the registered documents needed for appropriate assessment or designation of the materials. The register should also state data on the owner or holder of the materials, namely, for a natural person his/her name, officially assigned identification code and address of permanent or temporary residence, and for a legal person or a person registered for professional activities, their title or name of the firm, registered office, business address, and officially assigned identification code (tax ID number, registration number, and similar). The data in the register shall be kept permanently.

(3) On the basis of the registration referred to in the preceding paragraph, the National Archives shall by a decision proclaim private documents that have the nature of archives. The decision shall contain data on the owner and content, the volume and time of creation of the private archives as well as the duties of the owner of the private archives.

(4) The National Archives shall keep a register of decisions issued and shall specify the mode of registering, and the archival institutions competent for individual fields of private archives.

**Article 45**  
**(The rights and duties of owners of private archives)**

Owners of private archives shall:

- have the right to free professional explanations and the advice of competent archival institutions concerning the protection, maintenance, selection, management, conservation and restoration of materials;
- be obliged to comply with the clarifications and advice referred to in the preceding indent;
- be obliged to keep the archives permanently, professionally correctly and in an integral form;
- be obliged to provide to the competent archival institution data on the archives required to implement this Act;
- be obliged to enable the competent archival institution to have on-the-spot access to the archives;
- be obliged to enable the use of their archives, with the right to determine the conditions of use in accordance with the law.

**Article 46**  
**(The preservation of private archives in the competent archival institution)**

Private archives received for storage by the competent archival institution on the proposal of the owner thereof shall remain private property and shall be treated in compliance with the provisions of an agreement on storage, concluded in writing, which may lay down special conditions concerning the custody of and access to the private archives.

**Article 47**  
**(The import, export and transfer abroad of private archives)**

- (1) The import of private archives of foreign origin is permitted in accordance with the international conventions and the applicable law of the exporter.
- (2) Private documents that are deemed to have the nature of archives may be exported or transferred from the country by the owner thereof only on the basis of approval granted by the minister responsible for archival institutions.
- (3) The Government of the Republic of Slovenia shall specify cases in which private documents are deemed to have the nature of archives.
- (4) The minister responsible for archival institutions may allow temporary or permanent export or transfer of private archives abroad on the owner's proposal and following the issuance of a preliminary expert opinion by the National Archives.
- (5) In the event of permanent export or transfer abroad, the owner of the private archives must allow such archives to be copied by the competent archival institution prior to export or transfer abroad.
- (6) The National Archives shall determine a list of private archives that shall be prohibited from permanent export or transfer abroad due to their exceptional significance for science and culture.

**Article 48**  
**(The sale of private archives)**

- 81) The Republic of Slovenia shall have a pre-emptive right in the event of the sale of private archives. The Republic of Slovenia may cede its pre-emptive right to a self-governing local community.
- (2) The owner of the private archives must first forward to the ministry responsible for archival institutions an offer to sell the archives.

(3) Taking into consideration the regulations governing this pre-emptive right, the ministry responsible for archival institutions shall decide on the offer on the basis of an expert opinion of the competent archival institution within two months following receipt of notification.

**Article 49**  
**(Threats to private archives)**

In the event it is established that private archives are in danger of being destroyed or damaged, the competent archival institution should be informed thereof.

**Article 50**  
**(State funds for the protection of private archives)**

The state shall ensure funds in its budget required for the promotion of the protection of private archives.

**Article 50a**  
**(Materials of political parties)**

(1) Documents having the nature of archives and belonging to political parties whose deputies have been elected to the National Assembly of the Republic of Slovenia shall be selected from the documents by the parties themselves in cooperation with the competent archival institution. Pursuant to this Act, such materials shall have the status of private archives.

(2) The political parties referred to in the preceding paragraph shall ensure the preservation of their archives in accordance with this Act, or transfer such free of charge to the competent archival institution, which shall then be obliged to accept them.

(3) In the event of the merger, dissolution or merger by absorption of a political party referred to in the first paragraph of this Article, the political party shall be obliged to submit its archives to its legal successor; in the event of its termination, it shall transfer the archives to the competent archival institution.

**Article 50b**  
**(Materials of persons under private law that in accordance with the law have acquired the status of entities operating in the public interest)**

(1) Persons under private law that in accordance with the law have acquired the status of entities operating in the public interest shall select the documents that have the nature of archives from their documents in the part that refers to operations in the public interest, which shall be carried out in cooperation with the competent archival institution. Pursuant to this Act, such materials shall have the status of private archives.

(2) The persons referred to in the preceding paragraph shall preserve their archives in accordance with this Act, or transfer it free of charge to the competent archival institution, which shall be obliged to accept them.

(3) In the event of a merger with another person or merger by absorption of the person referred to in the first paragraph of this Article, the person shall be obliged to submit its archives to its legal successor; in the event of the termination thereof, it shall transfer its archives to the competent archival institution.

(4) The detailed criteria for the evaluation of the persons referred to in the first paragraph of this Article shall be determined by the rules issued by the minister responsible for archives.

**Article 51**  
**(Archives of religious communities)**

The provisions of this Act governing the protection of private archives shall apply to the protection of archives of religious communities.

## **Article 52**

### **(Archives of the Roman Catholic Church)**

(1) Archives of the Roman Catholic Church are to be selected from the Church's documented material in accordance with its regulations provided that they have the nature of archives under this Act.

(2) The ministry responsible for archives, in agreement with the Slovenian Bishops' Conference, shall determine the specific conditions for performing archival activities and the agreed funds for the performance of archival activities by the Roman Catholic Church.

## **V. THE ARCHIVAL PUBLIC SERVICE**

### **1. Archival public service activities**

#### **Article 53**

##### **(Activities of archival institutions)**

(1) Within the framework of a public service, archival institutions shall perform the following activities:

- the appraisal of documents created by entities under public law, the preparation of written instructions for the selection of archives from documents, providing explanations regarding the duties of entities under public law in relation to documents and archives, professional supervision and training of the employees of entities under public law engaged in document management and the employees of service providers engaged in the capture and preservation of material in digital form and accompanying services;
- the preparation of additional written professional and technical instructions for entities under public law for the selection and transfer of archives in digital form referred to in Article 40 of this Act;
- registering and proclaiming the private archives of legal persons under private law and natural persons, and professional supervision thereof;
- cooperation with the owners of private archives, the provision of expert advice;
- the acquisition of public and private archives;
- the processing of public and private archives in archival institutions, elaborating archival lists, inventories, guides and other finding aids for using archives and their publication, and the publication of archival sources;
- the appraisal of public documents in archival institutions, the disposal of unnecessary documents and the selection of archives in archival institutions during the processing of archives' groups and collections;
- the maintenance and preservation of archives;
- keeping a register of public and private archives;
- registering archives in neighbouring countries and abroad that relate to Slovenia and Slovenians, the reproduction of such archives to supplement their own holdings, the creation of guides and other finding aids regarding archives;
- making archives available for use, issuing transcripts and/or copies of documents and certificates based on documents;
- fostering cultural values related to the archives;
- carrying out research in the field of archival science, history and other sciences related to archives;
- publishing activities.

(2) The archival public service also includes maintaining custody of archives, which that used to belong to former national, autonomous, self-governing, and other authorities and legal persons that were the responsibility of the competent archival institutions or their predecessors under the former regulations on archives.

(3) The Government of the Republic of Slovenia shall define the types and forms of the registers of archives as well as the bases for the professional processing and creation of finding aids for their use.

**2. (Providers of archival public services)**  
**Article 54**  
**(Public archival institutions and archival activities)**

(1) Archival public services shall be performed by the National Archives, regional archival institutions, and archival institutions of self-governing local communities.

(2) The archival institutions referred to in the preceding paragraph shall keep a register of entities under public law, political parties and entities under private law that have acquired the status of entities operating in the public interest, under this Act, in relation to whom the relevant competence has been established and whose archives shall be acquired, on the basis of data from the Business Register of Slovenia, in cooperation with the Agency of the Republic of Slovenia for Public Legal Records and Related Services and the ministry responsible for administration. The minister responsible for archival institutions shall decide on disputed cases.

(3) Civil servants performing tasks related to the protection of archives in archival institutions shall pass a proficiency examination in archival science no later than one year after entering into an employment relationship or after transferring to a post where a proficiency examination in archival science is a condition for employment. If a public servant fails a proficiency examination required in the employment contract, his/her employment relationship shall terminate the day after the expiry of the period determined in the contract of employment. The mentioned period may be extended on justified grounds, but not more than once and by no more than three months. The minister competent for archives shall issue rules detailing the implementation and conditions for passing the proficiency examination.

(4) A public servant who is transferred and fails to pass a proficiency examination within one year of transferring through his/her own fault shall be transferred to a post for which he/she fulfils the conditions. If no such post exists, the public servant shall be reassigned following the procedure determined for a transfer for business reasons.

(5) The duties of the National Archives shall be performed by the Archives of the Republic of Slovenia as an entity under the ministry responsible for archival institutions. The Archives of the Republic of Slovenia shall be responsible for the uniform implementation of archival public services.

(6) The tasks of regional archives organised as public institutions shall be carried out by: Zgodovinski arhiv Ljubljana/the Historical Archives of Ljubljana, Pokrajinski arhiv Maribor/the Maribor Regional Archives, Zgodovinski arhiv Celje/the Historical Archives of Celje, Zgodovinski arhiv na Ptuj/the Historical Archives of Ptuj, Pokrajinski arhiv Koper/the Koper Regional Archives, and Pokrajinski arhiv Nova Gorica/the Nova Gorica Regional Archives.

(7) In order to deal with professional issues in individual fields of work related to archives, the minister responsible for archives shall appoint inter-archival working groups for individual fields of archival activities. The minister shall appoint a coordinator responsible for the coordination of the work of inter-archival working groups. Inter-archival working groups shall operate in the framework of the National Archives. The work of inter-archival working groups shall be laid down by rules.

(8) The minister competent for archives shall appoint the Archive Council from amongst experts in the field of archive protection for professional counselling in the field of archival activity, and the Board of Directors of Public Archival Institution for professional and business coordination of the archival service. The Archival Council and the Board of Directors shall operate within the ministry competent for archives.

(9) The Government of the Republic of Slovenia shall detail the tasks, structure and competences of both authorities referred to in the eighth paragraph of this Article, and prescribe the methods for keeping the registers referred to in the second paragraph of this Article.

**Article 55**  
**(The National Archives and regional archival institutions)**

(1) The National Archives shall protect the public archives of state authorities, bearers of public authority, providers of public services provided by the state, the Bank of Slovenia, and state and public funds, agencies, and other legal persons established by the state and whose activities, as a general rule, cover the entire national territory.

(2) The National Archives shall protect film archives.

(3) Regional archival institutions shall protect public archives created in the area of each regional archival institution and belonging to state authorities, organisational units, bearers of public authority and providers of public services provided by the state that carry out an activity in the area of one or more self-governing local communities.

(4) Regional archival institutions shall also keep the archives of self-governing local communities unless the latter have established their own archival institution for the protection of their public archives.

(5) The Government of the Republic of Slovenia shall establish regional archival institutions as public institutions for performing archival activities in such a manner so as to cover the entire national territory.

#### **Article 56 (Registers)**

(1) The National Archives shall maintain a summary register of public archives in the state and a register of archives in neighbouring countries and abroad that relate to Slovenia and Slovenians, and shall maintain a register of public symbols, coats-of-arms, flags, seals, and rubber and other stamps at the state level.

(2) The registers referred to in the preceding paragraph shall be kept on a permanent basis.

#### **Article 57 (Archives of self-governing local communities)**

(1) The archival institutions of self-governing local communities shall protect the public archives of the authorities of self-governing local communities, bearers of public authority and providers of public services provided by the relevant self-governing local community, as well as of funds, agencies and other legal persons established by self-governing local communities.

(2) A self-governing local community may establish an archival institution for the protection of its public archives.

(3) Several self-governing local communities may establish a joint archival institution.

(4) The conditions for the establishment of an archival institution referred to in the second and third paragraphs of this Article shall be specified by the minister responsible for archival institutions in agreement with self-governing local communities with due consideration that the following are ensured:

- the necessary and appropriate premises and equipment;
- trained archival employees;
- funds for performing archival activities.

(5) The archival institution may begin operating once the minister responsible for archival institutions has established that the conditions referred to in the preceding paragraph have been met.

#### **Article 58 (A contract between a self-governing local community and a regional archival institution)**

Unless a self-governing local community has established its own archival institution, its public archives shall be kept by the regional archival institution operating on the territory of that self-governing local community, based on a contract signed by both sides.

## **Article 59**

### **(National information and communication infrastructure)**

(1) Competent archival institutions shall manage joint information and communication infrastructure for keeping registers, storage, use of archives in digital form, and overseeing the efficient integration of archival information systems and linkage with similar systems for the protection of cultural heritage in the Republic of Slovenia and the European Union.

(2) When deciding on access to archives referred to in Articles 65 and 68 of this Act, the competent archival institutions shall have the right to access data, to make extracts or transcriptions thereof, and to link the information system of the archival institutions with the central population register, the registry of births, deaths and marriages, and the business and court registers.

(3) In the event that the competent archival institution is unable to provide appropriate storage of archives, it can grant permission to authorities and other persons keeping archives to preserve the archives by means of their infrastructure even after the deadline for the transfer of their archives to the competent archival institution, until the moment when the competent archival institution is able to provide appropriate storage, but for no longer than five years.

## **Article 60**

### **(Finding aids)**

Each archival institution must, by the end of February of the current year, submit to the National Archives and to all other archival institutions in the state a list of all finding aids elaborated in the previous year that are available to users of the archives, and a copy of any aid made available for use.

## **Article 61**

### **(Acquisition of archives)**

(1) Archival institutions shall acquire archives:

- by acquisition of public archives on the basis of the law;
- by legal transactions, either with or without payment (e.g. by means of a purchase, gift, or will) in the event of private archives or in the event the competent archival institution has established that private documents have the nature of private archives;
- by acquiring private archives for storage.

(2) Special conditions concerning access to or the preservation of private archives may be stipulated by an agreement.

## **Article 62**

### **(Own protection of archives)**

(1) An entity under public law may, for justifiable professional and technical reasons, provide protection of its own archives subject to an authorisation issued by the minister responsible for archival institutions.

(2) The minister competent for archives may, following the proposal of an entity under public law and on the basis of a prior opinion of the competent archival institution and when the conditions referred to in the third paragraph of this Article have been met, issue a decision permitting an entity under public law to protect its own archives. The decision shall also specify the competent archival institution for the entity under public law referred to in this paragraph.

(3) The minister competent for archives shall issue the decision referred to in the preceding paragraph if the entity under public law fulfils the following conditions:

- it has premises and equipment suitable for storing archives under appropriate conditions as determined by this Act and its implementing regulations;
- it has personnel with appropriate professional qualifications as determined by regulations from the field of archival activities;
- it has its own financial resources available for such storage, which shall be proven by submitting a relevant statement;

- it has an adequately arranged office administration or document management system in accordance with the regulations in force.

Besides all the above-listed evidence, an application for a permit shall contain information on the archives that are the subject of protection referred to in the permit. The information shall refer to the categories of archives, the time period and the quantity of materials.

(4) In the event of non-compliance with the conditions listed in the preceding paragraph, the minister competent for archives shall issue a decision notifying the entity under public law of the non-compliance with the conditions and specify a time limit in which the conditions must be complied with. This period of time may not exceed two years. An administrative dispute may be initiated against the mentioned decision.

(5) If the entity under public law fails to comply with the conditions referred to in the preceding paragraph within the time limit referred to in the preceding paragraph, the minister shall issue a decision rejecting the application. In this case, the entity under public law must immediately initiate the transfer of the materials to the competent archival institution.

(6) Notwithstanding the volume of its own archives, the entity under public law referred to in the first paragraph of this Article shall employ at least one person who has an education acquired by completing a second cycle study programme, or a level of education that in accordance with the law corresponds to a second cycle education, and who has passed a proficiency examination in accordance with regulations in the field of archival activities and the protection of documents.

(7) In the event that an entity under public law no longer complies with the conditions referred to in the second paragraph of this Article, or it no longer wants to keep its own archives itself, the minister competent for archives shall issue a decision withdrawing the permit referred to in the third paragraph of this Article.

(8) An entity under public law referred to in the first paragraph of this Article shall be bound to submit to the competent archival institution its annual work programme and a report on its own protection of archives.

(9) Supervision of the implementation of such protection of archives shall be carried out by the competent archival institution.

(10) For the selection and transfer of archives to its own storage, an entity under public law referred to in the first paragraph of this Article shall be subject, *mutatis mutandis*, to the provisions of this Act governing the selection and transfer of public archives.

(11) An entity under public law referred to in the first paragraph of this Article shall be obliged to enable access to and use of the archives in its own storage in accordance with this Act.

### **3. Use of archives in archival institutions**

#### **Article 63**

##### **(Use of public archives)**

(1) Public archives in archival institutions and public archives in an entity's own custody shall be accessible for use by any person who has submitted a written request, or shall be available to everyone on-line. A request for use shall include the name or title of the person and his/her officially assigned identification code, the reason for using the archives and other data necessary to access the archives.

(2) Public archives may be given on loan for exhibition and similar purposes solely on the basis of an agreement in writing and provided that appropriate preservation of the archives is ensured.

(3) An archival institution may permit the publication of public archives reproductions for advertising, promotional and similar purposes unless this proves to be contrary to the character or significance of the archives.

(4) The archival institution shall keep a register of requests for use. The register of use shall include the following data: the person's name and/or title, address, officially assigned identification code, the date and purpose of the use and/or the legal interest referred to in Article 68 of this Act, reference data and other information.

(5) Prior to using of certain archives the user of the archives shall sign a declaration confirming that he/she:

- is acquainted with his/her obligations and restrictions regarding the use of data referred to in Article 65 of this Act of which he/she would learn in the event of access to the archives on the basis of Articles 66 and 68 of this Act;
- is acquainted with his/her obligations and restrictions regarding the use of data referred to in Article 65 of this Act which he/she could encounter when using the archives that were otherwise not designated as inaccessible by the transferor or that contain personal data;
- will protect the data obtained in this manner in accordance with this Act and the legislation in the fields of the protection of personal data, the protection of classified information, and tax and professional secrets, and
- is aware that abuse of the mentioned data shall be sanctioned under criminal law and other regulations, and that he/she shall take full material responsibility for abuse of the mentioned data.

(6) When using data from the archives, the user is also obliged to respect possible copyrights.

(7) The regulations comprehensively regulating the protection of the cultural heritage may regulate the use of public archives in digital form in a different manner, however, they should consider the specific nature of the use of archives as stipulated in this Act.

(8) The Government of the Republic of Slovenia shall specify the extent and method of publication of archives on the Internet.

(9) The minister responsible for archival institutions shall lay down detailed conditions and the method of keeping the register of the use of public archives as well as tariff rules.

#### **Article 64**

##### **(Processing of the register)**

(1) For the purpose of surveillance of the implementation of the provisions of this Act and statistical analyses, archival institutions shall keep a register of archive users as referred to in the fourth paragraph of the preceding article of this Act. Only the following personal data shall be processed in the register: name, number and type of identity document, address of permanent or temporary residence, date, and reason for using the archives. Based on written approval by the user, data on sex, nationality and education level may also be processed.

(2) The personal data from the register referred to in the preceding paragraph of this Article shall be kept by the archival institution on a permanent basis.

#### **Article 65**

##### **(Periods of restricted access to archives)**

(1) Public archives in public archival institutions containing confidential data pursuant to the act governing confidential data or tax secrets, the disclosure of which to an unauthorised person could have detrimental effects on national security, other persons or their legal interests, shall normally become available for use 40 years after their creation if designated as inaccessible by the transferor in accordance with Article 40 of this Act.

(2) Public archives in public archival institutions containing personal data referring to:

- health condition;
- sexual life;
- victims of criminal offences against sexual integrity, marriage, family and children;
- perpetrators of criminal and minor offences, except for criminal and minor offences against which proceedings were conducted on the grounds of opposing the former one-party regime;
- religious belief; and
- ethnic origin

shall become available for public use 75 years after the creation of the materials or 10 years after the death of the person to whom this data refers, if the date of death is known, unless otherwise provided by other regulations.

(3) The public archives in public archival institutions created before the constitution of the Assembly of the Republic of Slovenia on 17 May 1990 shall be available without restrictions, except for the restrictions referred to in the preceding paragraph.

(4) When determining access to public archives referred to in the first or second paragraphs of this Article, restricted access shall apply only to individual documents that contain data protected by restricted access periods, and not to broader units of material. When individual documents contain data protected by restricted access periods as well as data that may be accessed, an anonymised copy of the document shall be prepared, on which the data protected by a restricted access period are covered so that direct or indirect access is not enabled.

5. If a user does not agree with restricted access, he/she may submit an appeal, which shall be decided upon by the Archival Commission in an administrative procedure, and/or, in the cases referred to in the first paragraph of this Article, by the Government of the Republic of Slovenia in an administrative procedure.

(6) Until public archives have been transferred to the competent archival institution, the access and use of the archives, irrespective of the date of creation of the archives, shall be subject to regulations governing access to public information, the protection of classified information, the protection of personal data, business and tax secrets, and other regulations, except for the archives of entities under public law who provide for their own protection of archives pursuant to Article 62 of this Act.

## **Article 66**

### **(Exceptions concerning periods of restricted access)**

(1) Based on the opinion of the Archival Commission, the Government of the Republic of Slovenia may approve exceptional access to a scientific research organisation, researcher or journalist provided that the use of the public archives containing inaccessible data pursuant to the first paragraph of Article 65 of this Act or tax secrets is absolutely necessary for attaining the set scientific objective and provided that the public interest in disclosure outweighs the public interest in the inaccessibility of such data. If the archives to be decided on by the Government of the Republic of Slovenia also contain personal data referred to in the second paragraph of the preceding Article, the Government of the Republic of Slovenia shall decide on exceptional access to the entire archives on the basis of the prior opinion of the Archival Commission.

(2) The Archival Commission may issue an administrative decision approving the exceptional access of a scientific and research organisation, researcher or journalist to archives containing personal data referred to in the second paragraph of the preceding Article provided that such organisation, researcher or journalist demonstrates that an efficient assessment of the material or the implementation or purpose of the research cannot be achieved without processing the data referred to in the second paragraph of the preceding Article, or that this would involve disproportionate efforts or costs.

(3) The user referred to in the first and second paragraphs of this Article shall submit to the Archival Commission a presentation of the research, which must contain the following:

- the title of the research;
- the principal researcher (the legal person or the researcher as a natural person);
- those directly carrying out the research (full name, title, place of residence, relation to the principal researcher, and mentor, if any);
- the area of research (descriptive);
- the purpose or objective of the research; and
- professional substantiation of compliance with the conditions referred to in the first or second paragraphs of this Article.

(4) A user who has been granted exceptional access as referred to in the first and second paragraphs of this Article must not use the data for purposes other than research or disclose them to persons who are not carrying out research in accordance with the presentation; this

prohibition shall apply until the expiry of the restricted access periods under this Act. The user shall confirm this obligation in writing, prior to being given access to the data.

#### **Article 66a**

##### **(Exceptions concerning periods of restricted access)**

(1) The restricted access periods laid down in the first and second paragraphs of Article 65 of this Act may be exceptionally extended on the proposal of the entity under public law that transferred the public archives, but not for more than a period of 10 years. The entity under public law that proposed the extension should attach to its proposal a written description of the detrimental effects that could arise if the archives are made accessible to the public.

(2) The Government of the Republic of Slovenia shall decide on an exceptional extension of the periods of restricted access referred to in Article 65 of this Act based on the opinion of the Archival Commission.

#### **Article 67**

##### **(Archival Commission)**

(1) The Government of the Republic of Slovenia shall appoint the members of the Archival Commission from among experts in the field of state administration, history and archival science to perform the following tasks:

- delivering binding opinions in disputed cases regarding determination of the restricted access period for the archives referred to in Articles 66 and 66a of this Act;
- delivering opinions on the exceptional shortening or extension of a period of restricted access;
- deciding in the event of doubt concerning the access restrictions referred to in the fifth paragraph of Article 65 of this Act;
- deciding on exceptional access to public archives referred to in the second paragraph of Article 66 of this Act.

(2) The Government of the Republic of Slovenia shall determine the composition and manner of work of the Archival Commission.

#### **Article 68**

##### **(Access concerning official procedures)**

(1) Persons who are parties to a procedure or who prove their legal interest in the initiation of or participation in the procedure shall have the right to access the archives.

(2) Restricted access to public archives as referred to in Article 65 hereof does not apply to the use of individual documents and files in the event of procedures conducted by state authorities, authorities of self-governing local communities, bearers of public authority and other entities under public law.

(3) Access shall include reviewing, making extracts and transcripts, or copying of the archives and use of the acquired data in official procedures and/or other assertions of personal rights. When using the archives, persons who have been granted access to the archives are bound to protect the data referred to in the first and second paragraphs of Article 65 of this Act.

(4) If the archival institution establishes that the conditions referred to in the preceding paragraph are not fulfilled, access shall be denied by a decision.

(5) Original archives that might be damaged or destroyed due to use may be used in the form of a copy.

(6) Documents held in an archival institution, and which state authorities, authorities of self-governing local communities or bearers of public authority require for their work, or which are required by persons for the assertion of their rights, shall as a rule be submitted by the archival institution in the form of a certified copy considered to be an original.

(7) In exceptional cases, when use of the original is indispensable for resolving a certain matter, the original archives may be lent to a state authority for a definite period of time on

the basis of a written contract, whereby a security copy shall be made at the expense of the authority concerned.

**Article 69**  
**(Duties of users)**

(1) Users must handle the archives entrusted to them for use with due care and attention. In the event the archives enjoy intellectual property right protection, the user shall acquire adequate rights prior to the use thereof.

(2) In any publication or presentation of the archives, the archival institution shall be stated with its name or reference number and the archives' group or collection from which the relevant archives originate shall also be stated.

**Article 70**  
**(Use of private archives)**

The use of private archives in competent archival institutions shall be regulated by a legal act that applies to archival institutions in relation to the storage of private archives. The provisions relating to the use of public archives shall apply *mutatis mutandis* to issues concerning the use of private archives not regulated by the above-mentioned legal act.

**VI. PROVIDING INFRASTRUCTURE AND SERVICES**

**1. Hardware and software**

**Article 71**  
**(General conditions to be fulfilled by hardware and software)**

The Government of the Republic of Slovenia shall prescribe general conditions which must be fulfilled by:

- hardware and software for the capture of material in digital form (actual capture, conversion by capture, control of capture, registry of capture);
- hardware and software for the storage of material in digital form (the method of storage, ensuring material security against destruction, ensuring uninterrupted operation, ensuring access security, copying and/or conversion of the material, preservation of authenticity and integrity verifiability, registration of all events during storage and/or related to storage, etc.);
- hardware and software for accompanying services in relation to the storage of material in digital form (destruction, queries of material and analysing of material).

**2. Storage services**

**Article 72**  
**(General conditions of storage)**

(1) In protecting archives in digital form, providers of services for the capture and storage of documents in digital form and providers of accompanying services shall only use equipment and services certified by the National Archives in accordance with Article 85 of this Act.

(2) The Government of the Republic of Slovenia shall prescribe general conditions for the storage of material in digital form and special conditions for specific material from individual fields (such as public registers, pictorial material, spatial data, etc.).

**3. Accompanying services**  
**Article 73**  
**(Specification of accompanying services)**

The Government of the Republic of Slovenia shall specify accompanying services (e.g. capture of material, selection of material, destruction of material).

**Article 74**

**(General conditions for service performance and special conditions for specific services)**

The Government of the Republic of Slovenia shall prescribe general conditions for service performance and special conditions for specific services concerning materials from individual fields.

**VII. SUPERVISION**

**1. Inspection of the implementation of this Act**

**Article 75**

**(Inspection)**

Inspection of the implementation of the provisions of this Act and the related implementing regulations referring to documents and archives and archival public services shall be carried out by the inspectorate responsible for the protection or archives.

**Article 76**

**(Inspector)**

(1) The person authorised to carry out inspections in accordance with this Act shall be an inspector in the field of archival activities who must, in addition to the other requirements referred to in the Act regulating inspection, comply with the following two special requirements:

- he/she must have passed a proficiency examination in archival science;
- he/she must have at least ten years of work experience in an archival institution.

(2) The authorised person must protect personal, secret and other confidential data, as stipulated by the law or other regulations and decisions by state authorities or the authorities of self-governing local communities, and should have been properly vetted from the security point of view.

**Article 77**

**(The powers of inspectors)**

In addition to the powers referred to in the regulations on inspection, an inspector shall have the following powers:

1. to inspect buildings, premises and equipment where documents and archives are kept in accordance with Article 36 of this Act;
2. to supervise the fulfilment of obligations relating to the protection of documents and archives belonging to entities under public law referred to in Article 39 of this Act and private archival services;
3. to require written explanatory notes and statements by responsible persons in relation to the subject of supervision;
4. to inspect and require access to documentation referring to the treatment of archives and documents.

**Article 78**

**(Special inspection measures)**

(1) In addition to the general measures, inspection includes special measures prescribed by this Act.

(2) If an inspector establishes that an entity under public law referred to in Article 40 hereof did not transfer public archives within the prescribed time limit, the transfer of such archives can be ordered by a decision stating a new time limit.

(3) If an inspector establishes the existence of a direct threat of damage, or some damage has already occurred to the documents or archives, a time limit for the elimination of such threat shall be ordered and/or measures for the elimination of the damage and/or its reduction shall be ordered.

(4) If an inspector establishes that for reasons of improper treatment or use or for reason of failure to act with due care in relation to the documents and archives of entities under public law there is a possible threat of material damage, such acts or use may be prohibited and special protection measures can be ordered.

(5) In the case referred to in the preceding paragraph, the inspector can issue a decision and temporarily deprive the entity of the archives or documents, which shall be temporarily stored by the competent archival institution.

(6) If the competent archival institution is unable to accept documents or archives in the cases referred to in the second and fifth paragraphs of this Article, the inspector shall grant permission to transfer such material for temporary storage to another public archival institution.

(7) If it has been established that private archives are in danger of being destroyed or damaged, the inspector may issue a decision defining the conditions for custody, conservation and/or restoration of the private archives or imposing the obligation to transfer the private archives to the competent archival institution for a definite period of time for as long as such danger exists.

### **Article 79** **(The execution of a decision or resolution)**

An appeal against the measures referred to in the preceding Article of this Act shall not delay execution of the decision or resolution.

## **2. Other types of supervision over archival public services**

### **Article 80** **(Supervision of the legality and use of public funds)**

The supervision of the legality of the work of archival institutions shall be exercised by the ministry responsible for archival institutions on the basis of this Act and the implementing regulations.

## **3. Supervision implemented by the National Archives**

### **Article 81** **(Confirmation of internal rules)**

The National Archives shall review submitted internal rules on request and shall issue a decision confirming or not confirming compliance with this Act, the related implementing regulations, uniform technological requirements and professional rules.

### **Article 82** **(The register of confirmed internal rules)**

(1) The National Archives shall keep a public web-based register of confirmed internal rules accessible free of charge, which contains the basic data on confirmed internal rules (the subject, the title of the internal rules, the validity of the rules, and the date and reference number of the confirmation decision).

(2) If the proposer of internal rules so requests, the National Archives shall publish the confirmed rules and mark those rules in the register of confirmed internal rules as confirmed internal rules, which may also be adopted by other persons.

### **Article 83** **(Registration of equipment and service providers)**

(1) No special permit is necessary for performing equipment supply activities or services in the field of the capture and storage of material in digital form.

(2) An equipment and service provider shall register its activity with the National Archives at least eight days before the start of the activity. On the basis of the application, the National

Archives shall verify its completeness and order the entry of the provider in the register of providers by an administrative decision.

(3) The National Archives shall supervise the activities of registered equipment and service providers as well as the implementation of the provisions of this Act and the related implementing regulations.

**Article 84**  
**(The register of equipment and service providers)**

(1) The National Archives shall keep a web-based register of equipment and service providers accessible to the public free of charge that contains basic data on equipment and service providers (the provider's company name and/or title, registered office, contact information, the services and/or equipment offered, and the date and reference number of the registration decision).

(2) The data from the register shall be kept permanently.

**Article 85**  
**(Certification of equipment and services)**

An equipment and service provider may acquire a certificate from the National Archives for equipment or services offered to third parties.

**Article 86**  
**(Certification)**

(1) The National Archives shall sign a certification contract with the provider defining the relations between the National Archives and the provider, in accordance with the general certification rules defined by the National Archives.

(2) In the process of certification, the National Archives shall verify the compliance of equipment and capture, storage, and accompanying services with this Act and regulations issued on the basis thereof, and, provided it establishes compliance, certify the equipment or services of the provider and enter it in the register of certified equipment and services.

(3) Hardware certificates shall be granted permanently, while certificates for software and capture, storage, and accompanying services shall be granted for one year with a possibility of extension.

(4) Only a provider of equipment and services entered in the register of certified equipment or services may use the title of provider of certified equipment and/or services during his/her operations and market activities.

**Article 87**  
**(Certification supervision)**

(1) The National Archives shall carry out supervision as the certification authority in accordance with the general conditions and contract referred to in the preceding Article. In relation to verification of the activities performed by certified equipment and service providers, the general conditions and contract referred to in the preceding Article shall grant the National Archives, in relation to the implementation of the existing regulations, uniform technological requirements and National Archive recommendations regarding certified equipment and services, the powers equivalent to inspection powers in the field of archival institutions or electronic commerce.

(2) In the event supervision reveals a failure to fulfil the regulations in force, the uniform technological requirements, and the recommendations of the supervisory body regarding certified equipment and services, or the provider has terminated its contract with the National Archives, the certification authority shall deregister the provider's equipment and services from the register of certified equipment and services.

**REGULATIONS, UNIFORM TECHNOLOGICAL REQUIREMENTS AND  
RECOMMENDATIONS FOR CERTIFIED PROVIDERS**

**Article 88**  
**(Regulations prescribed by the Government of the Republic of Slovenia)**

The Government of the Republic of Slovenia shall regulate the following in detail:

1. the conditions and method of reliable conversion into digital form for long-term preservation as referred to in Article 10 of this Act;
2. the compulsory content and method of adoption and implementation of internal rules by persons storing documents in digital form as referred to in Articles 18 to 22 of this Act;
3. the conditions and method of preserving documents and archives in physical form as referred to in Articles 23, 25 and 36 of this Act;
4. the conditions and method of storing documents in digital form as referred to in Articles 25 to 30 of this Act;
5. the criteria for the selection and transfer of public archives to an archival institution as referred to in Articles 40 and 43 of this Act;
6. the method of transferring film archives and audio-visual works as referred to in Article 43;
7. the basic elements of private archives treatment by the holders thereof as referred to in Articles 44 to 52 of this Act;
8. the types and forms of registers of archives and basic elements of processing and elaboration of finding aids for the use of archives, and the register of public symbols referred to in Articles 53 and 56 of this Act;
9. the method of keeping the register referred to in Article 54 of this Act;
10. the extent and method of publishing archives on the Internet referred to in Article 63 of this Act;
11. determination of the composition and method of work of the Archival Commission referred to in Article 67 of this Act;
12. the general conditions for the equipment and services referred to in Articles 71, 72 and 74 of this Act;
13. the content and method of keeping a register and the procedure for registering confirmed internal rules, the register of equipment and service providers and the register of certified equipment and services referred to in Articles 82, 84 and 85 of this Act;
14. other issues concerning this Act.

**Article 89**  
**(Regulations issued by the minister)**

The minister responsible for archival institutions shall prescribe the following:

1. detailed conditions for traineeships, proficiency examinations, the list of successfully passed proficiency examinations, and the acquisition of professional titles by employees of archival institutions;
2. criteria for professional qualifications and tests of the professional qualifications of employees working for entities under public law and dealing with documents;
3. detailed conditions regarding and the method of keeping the register of the use of archives and the fees for such use, and the conservation and restoration of archives;
4. conditions for the establishment of archival institutions by self-governing local communities.

**Article 90**  
**(Competences of the ministry)**

The ministry responsible for archival institutions shall:

- monitor and provide guidelines for the development of the archival public service and supervise such service;
- adopt programmes for the protection of archives implemented by regional archival institutions;
- issue decisions on professional titles in the field of archival activities.

**Article 91**  
**(Competences of the National Archives)**

(1) The National Archives shall prepare a programme for the protection of archives to be adopted by the minister responsible for archival institutions.

(2) The National Archives shall adopt the general conditions for certification referred to in Article 86 and the requirements concerning certified equipment and services, by means of which it recommends to all registered equipment and service providers and imposes on all certified equipment and service providers the obligation to reliably perform their activities.

**VIII. PENALTY PROVISIONS**

**Article 92**

(1) Legal persons, sole proprietors or self-employed persons shall be fined from EUR 2,000 to EUR 5,000 for the following offences:

1. not caring for documents in the manner prescribed (Article 39);
2. not enabling the competent archive to inspect the condition of materials (Article 39);
3. not cooperating with the competent archival institution in elaborating instructions for the selection of public archives from documents (Article 39);
4. failing to ensure appropriate material, personnel and financial conditions necessary to perform the obligations referred to in Article 39 of this Act, and failing to appoint a person responsible for carrying out such obligations (Article 39);
5. not passing the qualification test for work with documents at the competent archival institution in accordance with Article 39 of this Act (Article 39);
6. not transferring complete public archives to the competent archival institution within the time limit stipulated by law (Article 40), or not transferring such archives to its own storage within the time limit stipulated by law (Article 62);
7. not arranging the transferred public archives in the prescribed manner (Article 40);
8. excluding certain documents that have the nature of archives at any point prior to the transfer of public archives to the competent archival institution, contrary to the existing regulations and professional guidelines of the competent archival institution (Article 40);
9. not marking public archives in the prescribed manner and not indicating the restricted access periods in the minutes of the transfer (Article 40).

(2) The responsible person of the legal person, sole proprietor, self-employed person, state authority or self-governing local community shall be fined from EUR 500 to 2,000 for an offence referred to in the preceding paragraph.

(3) An individual shall be fined from EUR 500 to EUR 1,200 for an offence referred to in the first paragraph of this Article.

**Article 92a**

(1) Persons referred to in the first paragraph of Article 18 of this Act shall be fined from EUR 2,000 to EUR 5,000 for the offences of:

1. failing to record the destruction of materials (Article 13a);
2. not adopting internal rules, or not complying with his/her internal rules in the capture and storage of documents or archives, or not complying with the prescribed uniform technological requirements (Article 18);
3. not using hardware and software for the protection of archives in accordance with the general conditions referred to in Article 71 of this Act, or not using the certified equipment or services referred to in Article 72 of this Act.

(2) Responsible persons referred to in the first paragraph of Article 18 of this Act shall be fined from EUR 500 to EUR 2,000 for an offence referred to in the preceding paragraph.

### **Article 93**

(1) A legal person effecting a status modification or the termination of an entity under public law shall be fined from EUR 2,000 to EUR 5,000 for the offences of:

1. in the event of the termination of an entity under public law without a known legal successor, not transferring public archives to the archival institution prior to termination (Article 41);
2. not ensuring the selection and transfer of public archives to the archival institution in compliance with the provisions of this Act and on the basis of the compulsory instructions of the competent archival institution (Article 41).

(2) The responsible person of the legal person, state authority or self-governing local community shall be fined from EUR 500 to 2,000 for an offence referred to in the preceding paragraph.

(3) An individual shall be fined from EUR 500 to EUR 1,200 for an offence referred to in the first paragraph of this Article.

### **Article 94**

(1) An archival institution shall be fined from EUR 2,000 to EUR 5,000 for the following offences:

1. temporarily exporting or transferring abroad public archives without the authorisation of the minister competent for archival institutions (Article 42);
2. allowing unauthorised use of public archives (Article 63);
3. allowing such use of private archives that does not comply with the agreed conditions for use (Article 46);
4. not taking into consideration the determined restricted access periods when using archives (Article 65).

(2) The responsible person of the archival institution shall be fined from EUR 500 to EUR 2,000 for an offence referred to in the preceding paragraph.

### **Article 95**

(1) Any legal person, sole proprietor or self-employed person shall be fined from EUR 2,000 to EUR 5,000 for the offences of:

1. failing to execute the prescribed protection measures (Article 36);
2. failing to fulfil legal obligations relating to the treatment of private archives (Article 45);
3. importing private archives of foreign origin without complying with international conventions and the existing legislation of the exporting county (Article 47);
4. exporting or transferring abroad private documents that are deemed to have the nature of archives without the opinion of the minister competent for archival institutions (Article 47);
5. exporting or transferring abroad private archives without the authorisation of the minister competent for archival institutions (Article 47);
6. not informing the ministry in the prescribed manner of his/her intention to sell private archives (Article 48).

(2) The responsible person of the legal person, sole proprietor, self-employed person, state authority or self-governing local community shall be fined from EUR 500 to 2,000 for an offence referred to in the preceding paragraph.

(3) An individual shall be fined from EUR 500 to EUR 1,200 for an offence referred to in the first paragraph of this Article.

### **Article 96**

(1) A legal person, sole proprietor or self-employed person shall be fined from EUR 2,000 to EUR 5,000 for an offence relating to his/her performance of an independent activity if he/she fails to transfer film archives to the National Archives.

(2) The responsible person of the legal person, sole proprietor, self-employed person, state authority or self-governing local community shall be fined from EUR 500 to 2,000 for an offence referred to in the preceding paragraph.

(3) An individual shall be fined from EUR 500 to EUR 1,200 for an offence referred to in the first paragraph of this Article.

#### **Article 97**

(1) Legal persons, sole proprietors or self-employed persons shall be fined from EUR 2,000 to EUR 5,000 for the following offences:

1. using public archives for unauthorised purposes (Articles 63 and 68);
2. publishing reproductions of public archives without the authorisation of the archival institution (Article 63);
3. misusing the confidential archives referred to in Article 65 of this Act;
4. misusing data from archives to which he/she has been granted exceptional access, or using such data for purposes other than research (Article 66);
5. not handling the archives with due care and attention (Article 69);
6. falsely stating that internal rules were confirmed by the National Archives (Article 81);
7. acting as an equipment and service provider without having registered its activity (Article 83);
8. falsely stating that he/she is a provider of certified services or equipment (Article 86).

(2) The responsible person of a legal person, sole proprietor, self-employed person, state authority or self-governing local community shall be fined from EUR 500 to 2,000 for an offence referred to in the first paragraph.

(3) An individual shall be fined from EUR 500 to EUR 1,200 for an offence referred to in the first paragraph of this Article.

**The Protection of Documents and Archives and Archival Institutions Act - ZVDAGA  
(Uradni list RS, No. 30/06) contains the following transitional and final provisions:**

#### **"X. TRANSITIONAL AND FINAL PROVISIONS**

##### **Article 98**

##### **(Expiration of regulations)**

(1) On the day of the entry into force of this Act, the Archives and Archival Institutions Act shall cease to be in force (*Uradni list RS*, Nos. 20/97 and 32/97 – corr.).

(2) The implementing regulations issued on the basis of the previous Act shall remain in force until the adoption of new regulations in accordance with this Act.

##### **Article 99**

##### **(The time limit for issuing implementing regulations)**

The Government of the Republic of Slovenia and the minister competent for archives shall issue implementing regulations in accordance with this Act within six months of the entry into force of this Act.

##### **Article 100**

##### **(Time limit for adjustment)**

(1) Any person keeping documents is obliged to adjust his/her treatment of the documents with the provisions of this Act within one year of the entry into force of the implementing regulations referred to in Article 88 hereof. Within the same time limit, such persons are also bound, in the event he/she keeps documents in digital form, to ensure conversion into digital form for long-term preservation.

(2) All hardware and software providers, providers of preservation and the accompanying services who have performed their activities before the entry into force of this Act are obliged to adjust their activities with the provisions of this Act and to undergo registration in accordance with Article 83 of this Act within one year of the entry into force of the implementing regulations referred to in Article 88 of this Act.

**Article 101**  
**(Harmonisation of periods of restricted access)**

With reference to the use of archives, archival institutions shall be bound to harmonise periods of restricted access to archives with Article 65 of this Act upon the entry into force of this Act.

**Article 102**  
**(The provision and publication of data)**

(1) Entities under public law shall provide personal and other data on individuals who were deprived of their life in the period from 1 September 1939 to 31 December 1953 to users in the public sector who require such data for scientific research and historical purposes.

(2) The personal and other data referred to in the preceding paragraph may be published for the purposes referred to in the preceding paragraph.

(3) The following data may be published: name, name of father and mother, date and place of birth, date and place of death, residence, nationality, membership in a political party or society, participation in military units, ethnic origin, sex, education and employment.

**Article 103**  
**(Entry into force)**

This Act shall enter into force on the fifteenth day following its publication in *Uradni list Republike Slovenije*."

**The Act Amending the Protection of Documents and Archives and Archival Institutions Act - ZVDAGA-A (Uradni list RS, No. 51/14) contains the following transitional and final provision:**

**"TRANSITIONAL AND FINAL PROVISION**

**Article 40**

**(Time limit for issuing implementing regulations and adjustments)**

(1) The Government of the Republic of Slovenia shall harmonise the implementing regulations with the provisions of Articles 13a, 21, 40, 53, 54 and 88 of the Act and the implementing regulations governing the administrative operations of state authorities within six months of the entry into force of this Act.

(2) The minister competent for archives shall harmonise the implementing regulations with the provisions of Articles 17, 39, 50b and 54 of this Act within six months of the entry into force of this Act.

(3) Persons bound by this Act shall harmonise their internal rules with this Act within six months of the entry into force of the implementing regulations referred to in the preceding paragraph.

**Article 41**

This Act shall enter into force on the fifteenth day following its publication in *Uradni list Republike Slovenije*."