

Archives in France: The New Legislation of 1979

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The main features of the organization of archives in France go back to the end of the eighteenth century. When, from 1789 to 1793, the revolutionary government suppressed virtually all the existing political, administrative, judicial and ecclesiastical systems of the ancient monarch, it became necessary to make arrangements for the archives of all the suppressed bodies and establishments. As early as 29 July 1789—in the very first weeks of the Revolution, fourteen days after Bastille Day, the newly-created *Assemblée nationale* organised its own records under the title of “Archives nationales”. Soon, papers of different provenance were gathered with the papers of the *Assemblée nationale*. Little by little, the repository created in July 1789 became a haven for enormous quantities of records deprived of their legitimate owners by the revolutionary laws, to an extent that a law of 7 Messidor Year II (25 June 1794) declared that “the *Archives nationales* are the central repository for the whole Republic”.¹

This, of course, was unrealistic in practice, but the theory was established for centralization in the organization of archives, and after that it was never officially repealed. Yet, while the *Archives nationales* functioned as a “central repository” for the records in Paris, nothing had been done for the records in the *départements* (the new word for “provinces”). This was the object of the law of 5 Brumaire Year V (26 October 1796) which concentrated the records, in each *département*, in the *chef-lieu* (capital) of the *département*: later, these were named *Archives départementales*.

Such is the historical basis of the organization of archives in France. Nevertheless, the evolution during the nineteenth century was far from satisfactory, and results fell far short of the anticipation of the revolutionary legislators. It soon became clear that the *Archives nationales* could not, or would not, deal with the *Archives départementales*, let alone with the archives left with the municipalities called *Archives communales*. Thus, although the principle of centralization was not officially repealed, the *Archives départementales* and *Archives nationales* came to fall under different authorities from 1799 on. Only in 1897—a century later—were they to be re-united under the same authority. On the other hand, no clear definition was ever given of the word “archives” used in the laws of 1789-1798, so that many documents were lost or

1 The earliest documents in the *Archives nationales* date from the 7th century A.D.

mislaid, whether intentionally or not, in the course of the nineteenth century. Transfers of records from the ministries to the *Archives nationales* were especially irregular, as no rule existed for operational retention; appraisal and selection were also largely a matter of personal initiative and decision. The *Archives départementales* and *Archives communales* were perhaps more fortunate because they were under the authority of the Minister of Interior, who issued a great number of regulations for their selection, arrangement, and description—some of which are still in force today. Another matter which was not at all clear in nineteenth century legislation was the condition of public access to archives. The law of 7 Messidor Year II seemed to proclaim the right of all citizens to inspect any document kept in the *Archives nationales*; but this was obviously not possible, as no protection was provided for the privacy of individuals or the secrecy of public administration. In fact, so many restrictions emerged in the course of the nineteenth century, that at least for the *Archives nationales* a totally arbitrary system ensued. In 1897 both the *Archives nationales* and the *Archives départementales* and *communales* were placed under the unique authority of the newly-created *Directeur des Archives de France* (now *Directeur général*), invested with the right to issue regulations for the whole country in the field of archive administration.

In addition to many circulars on matters of selection, arrangement and description of archives, the successive Directors of the Archives of France took steps to ensure a greater regularity of transfers from the ministries and central or local administrations. This was the object of the decree of 21 July 1936, which for the first time expressed the principles of (a) the obligation of transfer of out-of-date administrative documents to the *Archives nationales, départementales* or *communales*; (b) the illegality of destroying any administrative paper without the authorization of the Director of the Archives of France or his representative. However, the 1936 decree, important and useful as it was, was too timid and too vague to cope with the enormous archival problems of the post-war years after 1945. The rapid growth of archival material on the one hand, new technical and legal problems on the other, made it necessary not only to update the existing legislation, but to make a complete new law, in conformity with current administrative and academic conditions. This was the object of the law of 3 January 1979 and the decrees of 3 December 1979.

LEGAL DEFINITIONS

The law of 3 January 1979 (Law no. 79-18) provides a legal definition of the word "archives", definition which was until then lacking:

"Archives are the whole of documents, whatever their date, form and material appearance, either issued or received by any individual person or corporate body, and by any agency or organism, either public or private, in the course of their activity. The conservation of these documents is organized in the interest of the public, as well for the needs of administration and proof of rights of individual persons or corporate bodies, either public or private, as for the historical documentation of research" (article 1).

This is a very important innovation, because it makes it clear that *any* document, as soon as it is issued or received "in the course of the activity" of a per-

son or a corporate body, is virtually an archival item, and that the administration of archives (either public or private) is a matter of public interest.

Under the same law, archives are legally either public or private. Public archives are those which result from the activity of the state (i.e. government and all central or local state agencies), local authorities, public establishments and enterprises (notably, nationalized enterprises), private bodies entrusted with a mission of public interest, and public notaries. This definition of public archives includes as well the records of the legislative assemblies (Parliament) as those of the judicial power (courts and tribunals of all levels). The law also states that no public magistrate or civil servant can appropriate any document defined as public archives, and that no document of public archives can be destroyed without the double authorization of the authority which has issued or received it and of the Archives' administration.

Public access to public archives is regulated by the law of 3 January 1979 in a very clear way. The general rule of access is the 30 year rule. For some documents, listed in the law of 17 July 1978 on "Freedom of access to administrative documentation", the right of access is immediate. For some others, enumerated in the law of 3 January 1979, the delay is longer (up to 150 years for documents containing personal informations of a medical nature), in order to preserve "the right of privacy, the security of the State or the national defence". For instance, access to birth registers is authorized only after 100 years; similarly, for census returns. In any case, special authorizations may be granted to bona-fide scholars, with permission of the Director-General of the Archives of France and under special conditions.

Private archives are also dealt with by the law of 3 January 1979. Of course they remain private property, but their sale and exportation is controlled. Private archives "which, for historical reasons, are of public interest", can be classified as *archives historiques*, either with or without the consent of their owner (the procedure of classification being of course more complicated in the latter case). Once classified, they are protected by the law and cannot be destroyed, or altered, or exported, without a special authorization of the Director-General of the Archives of France. The *Archives nationales*, *Archives départementales* and *Archives communales* also have a special right of preference for purchase when private archives, either classified or not, are sold by public auction. Finally, persons who inherit private archives of exceptional historical interest may give them to the state in payment of their heritage duties.

ADMINISTRATIVE ORGANIZATION

The law of 3 January 1979 does not go into the detail of the administrative organization of archives in France. This was the object of decree no. 79-1037 of 3 December 1979, designed for the enforcement of the law. All the attributions defined by the law of 3 January 1979 for the administration of public archives and the control of private archives are entrusted to the *Direction des Archives de France*, a government agency which is part of the Ministry of Culture and Environment (formerly Ministry of Cultural Affairs). However, two exceptions are to be noted: the Ministries of Foreign Affairs and National Defence

have their own autonomous archive administration, independent from the *Direction des Archives de France*. In other words, these two ministries have the responsibility to carry out themselves the law of 3 January 1979 in their own field. With the exception of Foreign Affairs and National Defence, therefore, all public archives come under the authority of the *Direction des Archives de France*, which is headed by a Director-General, with an administrative staff of about 50 persons. The actual control of the whole system is entrusted to three *Inspecteurs généraux*, whose responsibility it is to visit periodically all the repositories under the *Direction* and make accounts and observations thereon to the Minister. These repositories come under three legal categories:

(i) *Archives nationales* thus defined by the decree of 3 December 1979:

“all documents issued or received by the government agencies and central authorities of the State, since the origins of the French nation¹; all documents issued or received by any public agencies, establishments and bodies whose competence is or has been extended to the whole country; and any documents which are attributed or entrusted to the *Archives nationales*, either gratuitously or against payment.”

The *Archives nationales* have one central repository in Paris, (60, rue des Francs-Bourgeois, 75141 Paris—Cedex 03) with about 3,500,000 linear metres of shelving, and four secondary repositories: *Section Outre-Mer* in Paris (27 rue Oudinot, 75007 Paris) for the archives of the former *Ministère des Colonies*; *Dépôt des Archives d’Outre-Mer* et Aix-en-Provence (Les Fenouillères, 13090 Aix-en-Provence) for archives taken over from the former French colonies and/or overseas territories now independent; *Cité des Archives contemporaines* at Fontainebleau near Paris (Rue des Archives, 77305 Fontainebleau) for the reception and processing of records transferred from the ministries and central agencies of the state, a huge underground repository of more than 2,000,000 linear metres of shelving, planned to house 10,000,000 when it is completed; and *Dépôt central des Microfilms* at Saint-Gilles-du-Gard in Southern France (Domaine d’Espeyran, 30800 Saint-Gilles) for the conservation and technical treatment of the security “master copies” of microfilms belonging to the *Archives nationales* and to some *Archives départementales*. In order to ensure the co-ordination with the records management system of the ministries, 13 archivists of the *Archives nationales* are in permanent mission at the ministries themselves, where they prepare the records transfers to Fontainebleau. Altogether, the *Archives nationales* have a staff of about 350 persons. They are headed by the Director-General of the Archives of France (having no institutional director of their own), and divided into thirteen sections, each of which is headed by a *conservateur-en-chef*.

(ii) *Archives départementales*, thus defined:

all documents issued or received by local authorities, justice courts, establishments of any kind or nature, prior to the French Revolution, that have been nationalized by the revolutionary laws; all documents issued or received by the *départemental* assemblies,

agencies and public establishments since 1789; all documents issued or received by State agencies and public establishments functioning within the limits of the *départementale*; notarial records within the limits of the *département* (. . .); and any documents which are attributed or entrusted to the *Archives départementales*, either gratuitously or against payment.

There are 101 *Archives départementales*—one in each *département* including the three overseas *départements* of Guadeloupe, Martinique and Réunion. Each of them is headed by a *Directeur des Archives du département*, who is a graduate archivist. The directors of the *Archives départementales* are appointed by the Director General of the Archives of France and controlled by the Inspectors General.

As France is divided into 22 *régions* (each of them grouping from 2 to 6 *départements*), the directors of the *Archives départementales* who are heads of the *régions* have the title of *conservateur-en-chef* and have an authority on the other directors in their *région*. In each *département*, the director of archives is the representative of the Director General and is entrusted with the enforcement of the legislation on archives within the limit of his *département*. The staff in the *Archives départementales* is about one-half State personnel, appointed and paid by the *Direction des Archives de France*, and one-half *départementale* personnel, appointed and paid by the *département's* authorities. Altogether, the staff of the *Archives départementales* amounts to approximately 1,300 persons.

(iii) *Archives communales*, thus defined:

“all documents issued or received by the municipal assemblies, agencies and public establishments; and any documents which are attributed or entrusted to the *Archives communales*, either gratuitously or against payment”.

They are under the joint authority of the Director General of the Archives of France (represented by the Director of the *Archives départementales*) and the mayor of the municipality. Only a few big cities have really organized archive services, directed by a graduate archivist (about 15 cities: Marseilles, Lyons, Bordeaux, Toulouse, etc.)². Another 100 or 120 cities have archivists of “second category”, i.e. undergraduate; and the remaining 36,000 French municipalities unfortunately have only non-professional persons to administer their archives. A law of 1970 obliges the smaller municipalities (under a population of 2,000) to deposit their archives more than a hundred years old at the *Archives départementales*; however, this law is not easy to enforce, as some *départements* have more than 600 and even 800 municipalities, and their permanent control is a very heavy task for the Director of the *Archives départementales*.

RECORDS SELECTION AND DISPOSAL

For the first time, the law of 3 January and the decree of 3 December 1979 has made clear provisions for the control of “current” and “intermediate” rec-

2 The archives of Paris have a special statute, as they are both *départementale* and *communal*.

ords within the administrative agencies. However, no "records management" system, as promoted in the U.S. or Canadian sense, exists in France, for there exists no administrative tradition to make it possible. French administration has never had a registry system, and even the energetic efforts of the *organisation et méthodes* system during the 1960s notoriously failed to cut into the armour of administrative autonomy.

The decree of 3 December 1979 defines the "three ages" of documents and deals with responsibilities for their preservation:

Current records are those documents whose frequent use is necessary for the current activity of the agencies, establishments and bodies which have issued or received them. Their preservation is the responsibility of these agencies, establishments and bodies, under the control of the *Direction des Archives de France*.

Intermediate records are those documents which are no longer used as current records, and yet cannot, because of their administrative value, be selected and disposed of. Their conservation is ensured either in special repositories, named *dépôts de préarchivage*, administered or controlled by the *Direction des Archives de France*, or on the premises of the agencies, establishments and bodies which have issued or received them, or in archive repositories under the supervision of *Direction des Archives de France*.

Definitive archives are those documents which have undergone selection and which are to be preserved forever. Their conservation is ensured in archive repositories under the supervisor of the *Direction des Archives de France*.

For each ministry, agency, establishment or body, a records schedule is issued under the joint authority of the agency itself and of the *Direction des Archives de France*, defining for each kind of documents the duration of its "current" and intermediate records" period, and giving instructions for their selection after the end of the "current" and "intermediate" period. The actual work of selection is the responsibility of the archivists of the *Direction des Archives de France* but, for some categories of documents, permanent authorizations of destruction are issued under the joint authority of the concerned agency and of the *Direction*. Documents selected by archivists for disposal are listed with approvals from the agency from which they come; no destruction is authorized without such a visa. Similarly, when an agency proposes the destruction of useless documents, the list must be given a visa by a representative of the *Direction des Archives de France*. This representative always has a right to refuse the authorization but in such cases the documents are automatically taken in charge by the *Direction*. In order to ensure a satisfactory functioning of the system, the thirteen permanent mission archivists of the *Archives nationales* regularly inspect the "current records" repositories in the ministries, central state agencies and establishments. The Directors of *Archives départementales* act the same way with the *départemental* agencies and establishments, and the *communal* archivists with the *communal* offices.

THE FRENCH ARCHIVAL PROFESSION

Unlike most other countries, the professional training of archivists in France is not the responsibility of universities, but of a special “school” or institute, the *École nationale des Chartes* founded in 1821.

Students are admitted to the *Ecole des Chartes* after a high level entrance examination (latin, medieval and modern history, historical geography, foreign languages, etc.), which comes after about two or three years of preparation following the *baccalauréat* (end of secondary studies). Once admitted, they remain four years in the *École des Chartes*, where they receive a training in palaeography, diplomatics, philology, legal history, archaeology, archive and library administration, and so on. They write a thesis—as for a doctoral degree—and receive a diploma of *archiviste-paléographe*, which is the French equivalent for graduate archivist. All archivists in the *Archives nationales* and *Archives départementales*, and also the “first category” archivists of the *Archives communales*, must possess the diploma of *archiviste-paléographe*. No one can be appointed as archivist in these establishments without this diploma. There are altogether about 250 *archivistes-paléographes* under the *Direction des Archives de France*, not including those of the *Archives communales* and of the Ministries of Foreign Affairs and National Defence. However, there is a kind of under-graduate archivist—the *documentalistes*. These are more specialized in modern archives and records management. They are recruited by special examination and can be either *licenciés* in history or in law, or graduates in information sciences at a university. There is also, at Mulhouse in Alsace, a special university training for second-category archivists of *Archives communales*. Technical careers such as those of microfilmmers, restaurators, book-binders, etc., are recruited by special examinations.

CONCLUSION

This brief account of the French archives administration is, of course, very superficial. It does not describe all the activities of the *Direction des Archives de France* and of its various subordinate services. Moreover, these activities are well known and may be traced through the publication of its finding aids (about 20 to 30 volumes published each year).

Unfortunately, while the law of 1979 has at last given a sound legal basis to the responsibilities of the *Direction des Archives de France* as to the preservation and use of archives, the financial means to enforce these responsibilities have not followed. Many fields of activity remain more or less dormant for lack of personnel. Many initiatives remain at the state of projects for lack of funds. We have hopes nonetheless that the promise of the 1979 statutes will be realised.

Résumé

La loi sur les archives de janvier 1979, ainsi que certains règlements passés plus tard dans l'année, sont vus comme une étape majeure dans la définition du rôle de la gestion des archives en France. L'Inspecteur général des Archives nationales françaises décrit les aspects significatifs de la législation et l'organisation des archives.