

## Private Archives – Private Companies – Privatised Sectors. Problems of Saving Archival Documents

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*In Austria we have state archives, national archives, communal archives and also private archives. There are different ways of access to these private archives and the degree of arrangement and description is various. Some private companies has employed own archivists. What the Austrian archivists are used to do with the large number of companies without archives will be described in this paper. The problem with former national and now privatised or partly privatised companies is partly solved by law. The paper will give a view of the legal situation and of the experiences with records of such companies.*

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*In Austria vi sono archivi statali, nazionali, comunali ed anche archivi privati. Vi sono diverse tipologie di accesso a questi archivi privati ed il grado di sistemazione e di descrizione è vario. Alcune compagnie private hanno assunto propri archivisti. Ciò che gli archivisti austriaci sono soliti fare con il grande numero di compagnie private di archivi verrà descritto in questo articolo. Il problema con le compagnie un tempo nazionali ed ora privatizzate in tutto o in parte è parzialmente risolto per via legislativa. L'articolo darà una panoramica della situazione legislativa e delle esperienze con i documenti di tali compagnie.*

### The history of protection of archival material

According to Heinrich Otto Meissner private archives consist of documents which have its origin in the activities of a juristic person or any other person concerning private rights. These are mainly records from associations, donations, bodies and personal partnerships.

In a classical sense private archives were family archives particularly archives of the aristocracy. The private-law character of these private archives is controversial because very often records with both private and official administration contents can be found in these archives of aristocracy. Because of this public contents protection of archival material came into existence in the 19<sup>th</sup> century.

In 1873 legislation of protection of monuments became also valid for records and the Council of Archives, found in 1894, became responsible for the protection of archival material. This task was later taken over by the Department of Archives which was re-established in 1947 after World War II. In 1954 it became a separate department within the Office of the Federal Chancellor and its head is the General Director of the State Archives of Austria. His responsibility is the protection of endangered archival material in respect of the legislation of protection of monuments.

In 1923 this law was enacted as federal law and its last amendment was made in 1999. It regulates the protection of monuments if they are of public interest and of historical, artistic or cultural importance. Monuments and also archival material are defined as mobile or static objects created by mankind. The State Archives of Austria are responsible for the archival records whereas the Federal Office of Protection of Monuments is concerned with the protection of monuments. In article 25 of this law there is an exact definition of the terms “documents” and “archival material”.

The State Archives of Austria put endangered archival material under protection by order until the public interest of this material is evident and confirmed by a final decision. This form of protection is only valid for archival material of companies with a special political or economic importance due to the number and types of em-

ployees, the company activities or the public involvement. Therefore article 25a of the law of protection of monuments includes also records of companies with public participation, companies of a certain size or companies with prominent political or economic position. These regulations are relatively open. The General Director of the State Archives of Austria and his elected staff are able to declare the degree of public interest concerning such private archival material of companies.

Archival material cannot be sold abroad if it is temporarily protected. Thus the destruction and scattering of archival material can be prohibited. In article 31 of the law of protection of monuments it is said that the material can be confiscated and stored by force if danger is ahead. If this material of cultural importance is in a bad condition it can be confiscated by customs officials so that it cannot be illegally exported. Permission for export of archival material, for example for exhibitions, is given by the State Archives of Austria. Also included in this law are the measurements of maintenance of archival material as well as the omission of maintenance. The punishment regulations are stated in article 37 and include fines up to 360 day rates. If the violation is committed intentionally fines up to 50.000 Euro can be imposed.

The law of protection of monuments is the legal basis for the protection of private archives. The problem is how to get the information about the existence of private archival material, about its condition and its completeness because private archives are usually not open to public. Therefore archivists, historical associations or similar organisations contacted owners of private archives to get an overview about those records and to make descriptions of their contents. Thus the records can be made public and the preservation is guaranteed.

In Styria the National Archives of Styria are responsible for such private archives as well as persons with a special function as "archival protectors" who looked for private archives throughout the country and looked after their preservation with the help of the National Archives of Styria. Since the abolition of the "archival protectors" the "Historische Landeskommission für Steiermark" took over some of these tasks. When the preservation of private archival material was made with a certain sense of responsibility it had the advantage that the people with access to the private archives had full knowledge of all the archival material stored there. In some cases owners of private archives are afraid that the National Archives take their records if they are informed about it. One has to know that each archive has to follow economical principles; the number of staff and the capacity of the storage rooms are limited. So if the archival material is safely and well stored in a private archive the transfer to a public archive is not necessary.

## Archival law and private archival material

During the last years many important Austrian national companies were privatised, such as the VÖEST. In article 2 of the Natio-

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*V Avstriji poznamo državne arhive, nacionalne arhive, občinske arhive in tudi zasebne arhive. Imamo tudi več načinov dostopa do zasebnih arhivov, prav tako pa je tudi več različnih vrst popisovanja, obenem pa so tudi različne stopnje zasnovane zasebnih arhivov. Ta različnost se odraža tudi zaradi tega, ker so podjetja in ustanove zaposlovale svoje arhivarje. Kaj je avstrijskim arhivistom še posebej naloženo, ko se spoprijemljejo z gradivom vedno večjega števila podjetij in institucij, sem prikazala v tem prispevku. Zakon deloma rešuje prejšnja nacionalna podjetja, ki so povsem ali deloma postala zasebna, zato v tej razpravi podajam pregled nad gradivom, ki ga določa zakon na eni strani in izkušnje z delom na gradivo v teh podjetjih in institucijah.*

### SUMMARY

*In the 19th century archives and official departments began to think about the protection of archival material. 1894 the archival council was installed. One of the most important tasks of this council was the question of archival protection. The head of the archival council, later on called archival department was the general director of the State Archives of Austria. He is still responsible for this matter. In 1923 the legislation for protection of monuments was erased, including in §§ 24 and 25 protection of archival material, the law was renewed in 1999. If private documents are of public interest they are under protection and cannot be sold or destroyed. But legislation for protection of monuments does not regulate the access to private archives and the State Archives do not have any complete lists about all private archives which exist in Austria. The second part deals with archival legislation and private archives or privatized sectors. On the one side public archives take over private archives on the other side they give advices to private archive holders how to keep the records, to keep them in optimized climate conditions and they help them to assess the records.*

nal Archival Law (1999) it is declared that the archival material of companies with 50 percent participation of the state or with financial or other economical measurements of the state belongs to the state so that the access to this archival material is still guaranteed. The records of donations and funds are also property of state if the state has provided the financial means. Furthermore donations, funds and institutions that are administrated by state officials have to offer their records to the State Archives of Austria. In addition to these regulations the “Bundesarchivgutverordnung” from 2002 regulates the labelling, offering and storage of state records and lists in its amendment archival material which is considered as archival material from its origin. Records of international organisations and the European Union belong also to that group. Article 8 refers to records about or concerning people of public interest. All the material concerning affairs of restitution collected by the Historical Commission is also considered as state records and has to be transferred to the State Archives.

Even the federal archival legislation obliges companies which a 50 percent participation of the federal state to transfer their archival material to the national archives. The Viennese Archival Law regulates in article 5 the acquisition and preservation of other documents of public or scientific interest which need not to be offered.

The National Archives of Carinthia were separated from the federal administration and have become an institution under public law. But they have the same functions as the other National Archives. The federal archival law of Carinthia was enacted in 1997. Its contents concerning private archival with public interest are similar to the other archival legislation in Austria. The only difference is that the records of churches and religious communities are expelled from acquisition. If private records are offered to the National Archives of Carinthia a contract between the owner and the archive concerning the acquisition and the selection of the documents has to be made. The archive has to guarantee that the use of this archival material follows the regulations of using public records. Article 14 regulates the use of private documents with special features of access.

## Archives and their consulting services

All these legal regulations concerning private archival material are only effective if private owners of archival material are informed about them and if they are made aware of the preservation of these documents. Private owners of archival material usually don't have any knowledge at all about those legal regulations. This is also true for departmentalized institutions which are only closely connected to public offices. Even so there exists an obligation to offer archival material a lot of documents have been destroyed due to the lack of knowledge about these regulations. Therefore archives have to react, they have to get into contact with these institutions or owners and they have to give them consulting services and support so that archival material can be preserved. This consultation can consist of an assessment of the material, technical questions such as the installation of storerooms and preservation measurements. In case of que-

stions concerning storage and preservation of documents a contact person from the public archive should be nominated and give its support so that the preservation and storage of cultural heritage can be guaranteed.

The National Archives of Styria organize workshops for producers of all kinds of records to inform them about suitable preservation measurements of important archival material. The seminars have two functions, they establish contacts to private archive owners and help to preserve cultural heritage. In addition to that the workshops are also very useful for the archives; they can acquire documents without being damaged by micro organisms.

## Private archives and privatised sectors and the use of their records

When public sectors are privatised archival material often is transferred to public archives and from that moment on a new phase in the storage room starts. For example the records of the “Donaudampfschiffahrtsgesellschaft” were taken over by the State Archives of Austria. According to the archival law the archive is in contact with this company to guarantee the access to the new records in the future.

The legislation of protection of monuments regulates the preservation of private material but it does not make any decisions about the access to the records. Only the owner of a private archive can give his permission of access to the researcher. He can also demand that the access to the material is limited or prohibited. Many private companies in Austria have established private archives. Some of them even have their own archivists, especially big companies or old aristocratic families such as prince Schwarzenberg in Murau or prince Esterházy in Forchtenstein and also Swarovski in Tirol or Siemens in Vienna. Those archivists often work in the field of marketing and public relation, archival preservation is only a subordinate task. The owners of private archives are often against the opening of their archives to the public because they consider these documents as private property. Research work in private archives is combined with a lot of expenses such as infrastructure and personal costs. The opening hours of private archives are determined by the owners. There is often no fixed timetable; access is only possible after special request. The degree of arrangement and description of private archives differ and sometimes this is on a low level. Often anniversaries help to improve this condition.

In the draft of the Bundesarchivgesetz the private archives should be listed in the archive register. But this has not been put into practice yet. Therefore no register of private archives exists in Austria, something that should be improved.