



# InterPARES 2 Project

International Research on Permanent Authentic Records in Electronic Systems

## Policy Cross-domain

### Archival Legislation in France

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#### France

The following legislation was consulted:

- Ordinance 2004-178 (National Patrimony)
- Law 78-753 (Access to Information)
- Law 2000-230 (Evidence Law and Electronic Signatures)
- Decree 2001-272 (Electronic Signatures)
- Order of 25 March 2002 (National Archives' Services)
- Order of 25 March 2002 (Direction of the National Archives)

The most important law is the first, which is the National Archives' enabling legislation.

#### **Definition of Record (As defined in Ordinance 2004-178)<sup>1</sup>**

*Archives*: Collection of documents, because of their age, their form and their material support, made or received by a physical or moral person, whether private or public, in the course of their normal activities. (L.211-1)

*Public Archives*: are documents that result from the activities of the French Government, the Territorial Governments, and Public Institutions; documents that result from legal institutions that conduct business for the public or in the service of the public; and the minutes and documents of public and ministerial officials. (L 211-4)

*Private Archives*: are defined as per article (L.211-1) and fall outside the definition of *public archives*. (L211-5)

*Historical Archives*: means private records that have been determined to be of public interest. The records become the property of the state and the previous owner is paid indemnity. (L212-15 to 28)

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<sup>1</sup> <http://www.legifrance.gouv.fr/WAspad/VisuNav?cidNav=687851&indiceNav=1&tableNav=JORF&ligneDebNav=1>.

### **Assignment of Responsibility**

The National Archives preserves state records. Provincial archives preserve their own records. Communal archives (i.e., 2000 or fewer inhabitants) can preserve their own records. See **governance** for more information concerning assignment of responsibility. Within the National Archives, the Department of Technological Innovation and Standardisation is charged with the preservation of electronic records (Order of March 25, 2002).

### **Governance**

The National Archives falls under the Ministry of Culture and Communication. The preservation of public archives is determined by decrees of the state. These decrees will outline in what circumstances a public body will preserve its own records and not forward them to the archives. In such a case, the decree will outline how the archives and public body will cooperate to preserve the records. (L. 212-2).

### **Scope**

The French Archives preserves both public and private records. Private records can be labelled as ‘historical archives.’ In this case, they come under the control of the state.

### **Life Cycle**

When public records have outlived their current usefulness for their generating agency, the records will be subject to appraisal (tri). Appraisal will determine whether the records will be preserved or destroyed. The decision will be based on whether the records have any administrative or historical value. Public records are scheduled. (L. 212-3) Except in specific conditions, records belonging to a ministry or public body must be turned over to the archives when the ministry or body ceases to exist. (L.212-5)

### **Standards**

The National Archives website makes reference to ISO 15489. Also, the National Archives website does have a guide for dealing with electronic records. This guide is very basic and is meant to be the first in a series of guides. However, no standards are mentioned in any of the legislation. The Decree 2001-272 and Law 2000-230 on Electronic Signatures stipulates some baseline requirements. These requirements, however, are rather general and only make reference to the importance of choosing a system that maintains the record’s integrity.

### **2004-178 (2004-02-20) Code du Patrimoine**

Archives constitute article L. 212-10 and L. 212-33 for provincial archives.

Archives depot are in L. 212-11 to L. 212-14.

Pre-emption by the state are in L. 212-34 to L. 212-36.

Book Two deals with archives.

Archives are a major concern of the national patrimony from a historical, artistic, and archaeological point of view, and are thus considered national treasures. (L111-1)

National treasures can only be exported outside French territory with permission. Reasons for export include exhibitions and preservation.

Items deemed to be a national treasure can be expropriated by the state. Compensation is based on fair market value.

## **Book 2: Archives**

*Archives*: Collection of documents, because of their age, their form and their material support, made or received by a physical or moral person, whether private or public, in the course of their normal activities. (L.211-1)

Archives are organised for business and legal needs, as well as for historical research. (L.211-2)

*Public Archives*: means documents created by the state, provincial governments, or public agencies; document the activities of these organisations; and include the minutes and papers of public officers and ministers. (L.211-4)

*Private Archives*: are defined as per article (L.211-1) and fall outside the definition of *public archives*. (L211-5)

Provincial governments look after their own records. (L. 212-6)

Private archives that are deemed to be of historical interest to the public can be classed as 'historical archives.' (L212-15) The state council determines whether private records are classed as 'historical archives.'

The state may reproduce records they believe are of national historical significance.

The state may pre-empt the destruction or sale of records. An individual wishing to sell private records must inform the state at least 15 days prior to the sale. (L212-30 to 34)