



MINISTÉRIO DA JUSTIÇA
E SEGURANÇA PÚBLICA
Assessoria Especial Internacional

TRADUÇÃO DE LEGISLAÇÃO BRASILEIRA RELACIONADA À ÁREA DE JUSTIÇA E SEGURANÇA PÚBLICA PARA O INGLÊS E O ESPANHOL

Decreto nº 4.073 de 03 de janeiro de 2002.

Regulamenta a Lei no 8.159, de 8 de janeiro de 1991, que dispõe sobre a política nacional de arquivos públicos e privados.

VERSÃO EM INGLÊS



Projeto da Assessoria Especial Internacional

Como forma de divulgar o arcabouço legislativo brasileiro a autoridades estrangeiras e a Organismos Internacionais e, ainda, de aprimorar a cooperação internacional, em diversas áreas, a Assessoria Especial Internacional do Ministério da Justiça e Segurança Pública desenvolveu projeto para a compilação e tradução¹, para os idiomas inglês e espanhol, de parte das legislações brasileiras relacionadas às áreas de Justiça e Segurança Pública. A seleção das leis traduzidas ficou a cargo das áreas técnicas do Ministério, levando em consideração, igualmente, trabalhos já realizados por outros órgãos brasileiros, os quais serão disponibilizados como link externo no site da Assessoria Especial Internacional.



¹Traduções não juramentadas ou oficiais.

DECREE nº 4,073 OF JANUARY 3rd, 2002.

Regulates Law nº 8,159 of January 8th, 1991, which provides for the National Policy of Public and Private Archives.

The PRESIDENT OF BRAZIL, in the use of the powers conferred by article 84, head provision, item IV of the Constitution, and considering the provisions of Law nº 8,159 of January 8th, 1991,

DECREES:

CHAPTER I

NATIONAL COUNCIL ON ARCHIVES

Art. 1. The National Council on Archives (CONARQ in Portuguese), a collegiate body established within the National Archives, created by article 26 of Law nº 8,159 of January 8th, 1991, aims to define the national policy of public and private archives. [\(Article with wording established by Decree nº 10,148 of 12/2/2019\)](#)

Art. 2. The CONARQ shall:

I - establish guidelines for the functioning of the National Archives of Council (SINAR in Portuguese), aiming at the management, preservation, and access to archival records;

II - promote the inter-relationship of public and private archives for the exchange and systemic integration of archival activities;

III - propose to the Minister of State of Justice and Public Security normative acts necessary to improve and implement the national policy of public and private archives; [\(Item with wording established by Decree nº 10,148 of 12/2/2019\)](#)

IV - ensure compliance with constitutional and legal provisions that guide the operation and access to public archives;

V - stimulate programs for the management and preservation of public records of the federal, state, district, and municipal levels, produced or received by Public Authorities; [\(Item with wording established by Decree nº 10,148 of 12/2/2019\)](#)

VI - subsidize the preparation of national development plans, suggesting goals and priorities of the national policy of public and private archives;

VII - stimulate the implementation of archive systems in the Executive, Legislative, and Judicial branches of the Union, States, Federal District, and in the Executive and Legislative branches of the Municipalities;

VIII - stimulate the integration and modernization of public and private archives;

IX - identify private archives of public and social interest, pursuant to article 12 of Law nº 8,159 of 1991;

X - propose to the Minister of State of Justice and Public Security the declaration of public and social interest of private archives; [*\(Item with wording established by Decree nº 10,148 of 12/2/2019\)*](#)

XI - stimulate the technical training of human resources that develop archival activities in SINAR member institutions;

XII - recommend measures for the determination and reparation of acts harmful to the national policy of public and private archives;

XIII - prepare the national register of public and private archives, and develop census activities related to archives;

XIV - maintain, through the National Archives, exchange with other collegiates and institutions, whose purposes are related or complementary to their own, to provide and receive elements of information and judgment, combine efforts, and chain actions; [*\(Item with wording established by Decree nº 10,148 of 12/2/2019\)*](#)

XV - articulate with other public bodies formulating national policies in the areas of Education, Culture, Science, Technology, Information, and Informatics; [*\(Item with wording established by Decree nº 10,148 of 12/2/2019\)*](#)

XVI - propose the conclusion, through the National Archives, of agreements, partnerships, and terms of technical cooperation with public and private bodies and entities in matters of mutual interest; and [*\(Item added by Decree nº 10,148 of 12/2/2019\)*](#)

XVII - edit technical guidelines for the implementation of the national archives policy, through a resolution. [*\(Item added by Decree nº 10,148 of 12/2/2019\)*](#)

Art. 2-A. For the implementation of the national policy of public and private archives, within the scope of the Federal Government, the National Archives shall:

I - conclude agreements, partnerships, and terms of cooperation with public and private bodies and entities in matters of mutual interest;

II - propose normative acts to the Minister of State of Justice and Public Security regarding the improvement and implementation of the National Policy for Public and Private Archives;

III - provide subsidies for archiving public records in electronic, optical, or equivalent means, observing the legislation; and

IV - establish guidelines for the preservation and access to public records, regardless of their form or nature. [\(Article added by Decree nº 10,148 of 12/2/2019\)](#)

Art. 3. The following are Council members of CONARQ:

I - the Director-General of the National Archives, who shall preside over it;

II - two representatives of the Federal Executive Branch;

III - one representative of the Federal Judiciary Branch; [\(Item with wording established by Decree nº 10,148 of 12/2/2019\)](#)

IV - two representatives of the Federal Legislative Branch;

V - one representative of the state and district public archives; [\(Item with wording established by Decree nº 10,148 of 12/2/2019\)](#)

VI - one representative of the municipal public archives; [\(Item with wording established by Decree nº 10,148 of 12/2/2019\)](#)

VII - one representative of associations of archivists; and [\(Item with wording established by Decree nº 10,148 of 12/2/2019\)](#)

VIII - four representatives of educational and research institutions, organizations, or institutions operating in the area of information and communication technology, archive science, history, or information science. [\(Item with wording established by Decree nº 10,148 of 12/2/2019\)](#)

IX - [\(Repealed by Decree nº 10.148 of 12/2/2019\)](#)

X - [\(Repealed by Decree nº 10.148 of 12/2/2019\)](#)

Paragraph 1. Each member of CONARQ shall have an alternate, who shall replace him/her in his/her absences and impediments. [\(Paragraph with wording established by Decree nº 10,148 of 12/2/2019\)](#)

Paragraph 2. The members of CONARQ and their alternates shall be indicated: [\(Paragraph with wording established by Decree nº 10,148 of 12/2/2019\)](#)

I - in the case of item II of the head provision: [\(Item added by Decree nº 10,148 of 12/2/2019\)](#)

a) one by the Minister of State for Economy; and [\(Subitem added by Decree nº 10,148 of 12/2/2019\)](#)

b) one by the Chief Minister of State of the General Secretariat of the Presidency of Brazil; [\(Subitem added by Decree nº 10,148 of 12/2/2019\)](#)

II - in the case of item III of the head provision, by the President of the Federal Supreme Court; [\(Item added by Decree nº 10,148 of 12/2/2019\)](#)

III - in the case of item IV of the head provision: [\(Item added by Decree nº 10,148 of 12/2/2019\)](#)

a) one by the President of the Chamber of Deputies; and [\(Subitem added by Decree nº 10,148 of 12/2/2019\)](#)

b) one by the President of the Federal Senate; and [\(Subitem added by Decree nº 10,148 of 12/2/2019\)](#)

IV - in the cases of items V to VIII of the head provision, through public selection conducted in accordance with the provisions of an act of the Minister of State for Justice and Public Security. [\(Item added by Decree nº 10,148 of 12/2/2019\)](#)

Paragraph 3. The members of CONARQ and their alternates shall be appointed by the Minister of State for Justice and Public Security. [\(Paragraph with wording established by Decree nº 10,148 of 12/2/2019\)](#)

Paragraph 4. The members of the CONARQ referred to in items VII and VIII of head provision and their alternates shall have a term of two years. [\(Paragraph with wording established by Decree nº 10,148 of 12/2/2019\)](#)

Paragraph 5. The President of CONARQ, in his/her faults and impediments, shall be replaced by his/her legal substitute in the National Archives.

Art. 4. The National Archives shall give technical and administrative support to CONARQ.

Art. 5. The plenary, the superior deliberative body of CONARQ, shall meet, on an ordinary basis, at least once every four months and, extraordinarily, upon convocation of its President or at the request of two-thirds of its members.

Paragraph 1. CONARQ shall operate with the National Archives. [\(Paragraph with wording established by Decree nº 10,148 of 12/2/2019\)](#)

Paragraph 2. CONARQ meetings shall preferably be held by video-conferencing. [\(Paragraph with wording established by Decree nº 10,148 of 12/2/2019\)](#)

Art. 6. The meeting quorum of CONARQ is an absolute majority of the members and the approval quorum is a simple majority. [\(Head provision the article with wording established by Decree nº 10,148 of 12/2/2019\)](#)

Sole paragraph. In addition to the ordinary vote, the President of CONARQ shall have the casting vote in case of a tie. [\(Sole paragraph added by Decree nº 10,148 of 12/2/2019\)](#)

Art. 7. The CONARQ may establish technical advisory chambers to assist the Council to prepare studies and normative proposals and propose solutions to issues of the national policy of public and private archives and the functioning of the National Archives System. [\(Head provision of the article with wording established by Decree nº 10,148 of 12/2/2019\)](#)

Sole paragraph. [Repealed by Decree nº 10.148 of 12/2/2019](#)

Paragraph 1. The technical advisory chambers shall be composed in the form of an act of the CONARQ and their members may be advisers of the CONARQ or invited experts. [Paragraph added by Decree nº 10,148 of 12/2/2019](#)

Paragraph 2. The members of the technical advisory chambers shall be appointed by the President of CONARQ, *ad referendum* of the Council. [Paragraph added by Decree nº 10,148 of 12/2/2019](#)

Paragraph 3. The technical chambers of CONARQ: [Paragraph added by Decree nº 10,148 of 12/2/2019](#)

I - not have more than five members; [Item added by Decree nº 10,148 of 12/2/2019](#)

II - have a temporary character and duration not exceeding one year; and [Item added by Decree nº 10,148 of 12/2/2019](#)

III - be limited to five operating simultaneously. [Item added by Decree nº 10,148 of 12/2/2019](#)

Paragraph 4. The members of the technical chambers that are in the Federal District or Rio de Janeiro, depending on the location of the meeting, shall participate in person and the members that are in other Federative bodies shall participate in the meeting by video-conference. [Paragraph added by Decree nº 10,148 of 12/2/2019](#)

Art. 7-A. The Commission for Private Holdings Evaluation is instituted within the framework of CONARQ, of a permanent character, and shall:

I - receive proposals for declarations of public and social interest from private holdings and instruct the evaluation process;

II - invite experts to analyze the private holdings, when necessary;

III - issue a conclusive opinion on the public and social Interest of the private holdings for consideration by the CONARQ plenary; and

IV - subsidize the monitoring of the holdings declared as of public and social interest by the Federal Executive Branch.

Paragraph 1. The Commission for Private Holdings Evaluation shall have three to five members and their alternates, in accordance with the provisions of an act of CONARQ.

Paragraph 2. The members of the Commission for Private Holdings Evaluation and their alternates, including its president:

I - may be CONARQ advisors or invited experts; and

II - shall be appointed by the President of CONARQ, *ad referendum* of the Council.

Paragraph 3. The Commission for Private Holdings Evaluation shall meet on an ordinary basis whenever there is a request for analysis of private holdings and by convocation of its President and on an extraordinary basis by convocation of its President or request of its members.

Paragraph 4. The meeting quorum of the Commission for Private Holdings Evaluation is the absolute majority of the members and the approval quorum is by a simple majority.

Paragraph 5. In addition to the ordinary vote, the President of the Commission for Private Holdings Evaluation shall have the casting vote in case of a tie.

Paragraph 6. The Executive-Secretariat of the Commission for Private Holdings Evaluation shall be exercised by the National Archives.

Paragraph 7. The members of the Commission for Private Holdings Evaluation that are in the Federal District shall meet in person at the National Archives and the members that are in other federative entities shall participate in the meeting through video-conference.

Paragraph 8. Participation in the Commission for Private Holdings Evaluation shall be considered as a relevant, unpaid public service provision. [Article added by Decree nº 10,148 of 12/2/2019](#)

Art. 8. [Repealed by Decree nº 10,148 of 12/2/2019](#)

Art. 9. The approval of the internal regiment of CONARQ, upon its proposal, is the responsibility of the Minister of Justice

Art. 9-A. The President of CONARQ shall forward an annual report of the activities of CONARQ to the Minister of Justice and Public Security. [Article added by Decree nº 10,148 of 12/2/2019](#)

CHAPTER II

NATIONAL ARCHIVES OF COUNCIL

Art. 10. SINAR aims to implement the national policy of public and private archives, to manage, preserve, and access archival records.

Art. 11. CONARQ is the central body of SINAR.

Art. 12. SINAR is composed of:

I - the National Archives;

II - the archives of the Federal Executive Branch;

III - the archives of the Federal Legislative Branch;

IV - the archives of the Federal Judicial Branch;

V - the State archives of the Executive, Legislative, and Judicial Branches;

VI - the archives of the Executive, Legislative, and Judicial Branches of the Federal District;

VII - the Municipal archives of the Executive, and Legislative Branches.

Paragraph 1. The archives referred to in items II to VII, when systemically organized, become part of SINAR through its central bodies.

Paragraph 2. Individuals and legal entities of private law, holders of archives, may integrate SINAR by agreement or adjustment with the central body.

Art. 13. The members of SINAR shall:

I - promote the management, preservation, and access to information and records in its sphere of jurisdiction, in accordance with the guidelines and standards emanating from the central body;

II - disseminate, in its area of activity, the guidelines and standards established by the central body, ensuring compliance;

III - implement the rationalization of archival activities to ensure the integrity of the records life cycle;

IV - ensure custody and access to records of standing value;

V - submit suggestions to CONARQ for the improvement of SINAR;

VI - provide information regarding its activities to CONARQ;

VII - present subsidies to CONARQ for the elaboration of legal provisions necessary for the improvement and implementation of the national policy of public and private archives;

VIII - promote the integration and modernization of archives in its sphere of activity;

IX - propose to CONARQ private archives that may be considered of public and social interest;

X - communicate to CONARQ acts harmful to the national archival heritage for the appropriate measures;

XI - collaborate in the preparation of the national register of public and private archives and in the development of census activities related to archives;

XII - enable the participation of experts from public and private bodies and entities in the technical chambers and the Commission for Private Holdings Evaluation; and (Item with wording established by Decree nº 10,148 of 12/2/2019)

XIII - improve and recycle the technicians of the archive area, ensuring constant updating.

Art. 14. The members of SINAR shall follow the guidelines and standards emanating from CONARQ, without prejudice to their subordination and administrative binding.

CHAPTER III

PUBLIC RECORDS

Art. 15. The following records sets are public archives:

I - those produced and received by Federal, State, Federal District, and Municipal public bodies and entities, as a result of their administrative, legislative, and judicial functions;

II - those produced and received by public agents, in the exercise of their office or function or arising therefrom;

III - those produced and received by public companies and government-controlled private companies;

IV - produced and received by social organizations, defined as such by Law nº 9,637 of May 15th, 1998, and by the autonomous Social Service Association of Social Pioneers, established by Law nº 8,246 of October 22nd, 1991.

Sole paragraph. The subject of the entities referred to in item IV regarding archival standards of CONARQ shall be contained in the management contracts with the Public Authority.

Art. 16. The individuals and legal entities mentioned in article 15 shall properly preserve the records produced and received in the exercise of public activities.

Art. 17. Public records of standing value, which are part of the archival collections acquis of companies in the process of privatization, partial or total, shall be transferred to public archival institutions, within their sphere of jurisdiction.

Paragraph 1. The transfer acquis referred to in this article shall constitute a specific notice clause in the privatization processes.

Paragraph 2. For the purpose of the provisions of this article, before completing the privatization process, the companies shall provide, in accordance with the archival standards emanating from CONARQ, the identification, classification, and evaluation of the archive holdings.

Paragraph 3. The records of standing value may be under the custody of the companies mentioned in paragraph 2, provided they are necessary for the performance of their activities, as provided for in instruction issued by CONARQ.

Paragraph 4. The records referred to in the head provision are inalienable and are not subject to acquisitive prescription, pursuant to article 10 of Law nº 8,159 of 1991.

Paragraph 5. The use and transfer of public records of permanent value that are part of the archive holdings of public companies and government-controlled private companies already privatized shall obey the instructions of CONARQ on the matter.

CHAPTER IV

RECORDS MANAGEMENT OF THE FEDERAL PUBLIC ADMINISTRATION

Section I

Standing Commissions for Records Evaluation

Art. 18. [*Repealed by Decree nº 10,148 of 12/2/2019*](#)

Section II

Entry of Public Archival Records into the National Archives

Art. 19. Public archival records of federal scope, when transferred to the National Archives, must be evaluated, organized, sanitized, and packaged, and accompanied by a descriptive instrument that allows their identification and control.

Sole paragraph. The technical activities referred to in the head provision, which precedes the transfer of records, shall be implemented and financed by the bodies and entities that generated the archives.

Art. 20. After appointing the executor, liquidators, or administrators of collections for defunct bodies and entities, the Ministry of Economy shall request the Minister of State for Justice and Public Security the technical assistance of the National Archives for the necessary guidance for the preservation and disposal of the accumulated documentary heritage, in accordance with the provisions of paragraph 2 of article 7 of Law nº 8,159, of 1991. [*Article with wording established by Decree nº 10,148 of 12/2/2019*](#)

Art. 21. The Minister of State for Justice and Public Security, upon a proposal from the National Archives, shall issue instructions on the procedures to be observed by the bodies and entities of the Federal Government, for the execution of the measures contained in this Section. [*Article with wording established by Decree nº 10,148 of 12/2/2019*](#)

CHAPTER V

DECLARATION OF PUBLIC AND SOCIAL INTEREST OF PRIVATE ARCHIVES

Art. 22. Private archives of individuals or legal entities containing records relevant to national history, culture, and development may be declared of public and social interest by an act of the Minister of State for Justice and Public Security. [“Head provision” of the article with wording established by Decree nº 10,148 of 12/2/2019](#)

Paragraph 1. The declaration of public and social interest referred to in this article does not imply the transfer of the respective *acquis* to custody in a public archival institution, nor does it exclude the responsibility by its holders for the custody and preservation of the holdings.

Paragraph 2. The following are automatically considered private records of public and social interest:

I - private archives and records overturned by Public Authority;

II - presidential archives, according to article 3 of Law nº 8,394 of December 30th, 1991;

III - civil records of archives of religious entities produced prior to the validity of Law nº 3,071 of January 1st, 1916, in accordance with article 16 of Law nº 8,159 of 1991.

Art. 23. The Commission for Private Holdings Evaluation, on its own initiative or by provocation, shall forward a request concerning the declaration of public and social interest of private archives, accompanied by an opinion, for deliberation by the National Council on Archives. [“Head provision” of the article with wording established by Decree nº 10,148 of 12/2/2019](#)

Paragraph 1. The opinion shall be instructed with technical evaluation of the Commission for Private Holdings Evaluation referred to in article 7-A. [Paragraph with wording established by Decree nº 10,148 of 12/2/2019](#)

Paragraph 2. An appeal is possible for the decision of CONARQ to the Minister of State for Justice and Public Security, in the manner provided for in Law nº 9,784 of January 29th, 1999. [Paragraph with wording established by Decree nº 10,148 of 12/2/2019](#)

Paragraph 3. [Repealed by Decree nº 10,148 of 12/2/2019](#)

Art. 24. The owner or holder of a private archive declared of public and social interest must notify CONARQ in advance of the transfer of the place of custody of the archive or any of its records, within the national territory.

Art. 25. The disposal of private archives declared of public and social interest must be preceded by notification to the Union, holder of the right of preference, so that it expresses, within a maximum period of sixty days, interest in the acquisition, in the form of the sole paragraph of article 13 of Law nº 8,159 of 1991.

Art. 26. The owners or holders of private archives declared of public and social interest must keep the collections preserved in their custody. Whoever disfigures or destroys records of standing value are subject to criminal, civil, and administrative liability, in the form of the legislation in force.

Art. 27. The owners or holders of private archives declared of public and social interest may enter into agreements or adjustments with CONARQ or other institutions, aiming at supporting the development of activities related to the organization, preservation, and dissemination of the holdings.

Art. 28. The accidental loss, total or partial, of private archives declared of public and social interest or of any of their records must be communicated to CONARQ by their owners or holders.

CHAPTER VI

FINAL AND TRANSITIONAL PROVISIONS

Art. 29. This decree also applies to electronic records, in accordance with the law.

Art. 30. The Minister of State for Justice and Public Security may edit rules complementary to the execution of the provisions of this Decree. [Article with wording established by Decree nº 10,148 of 12/2/2019](#)

Art. 31. [Repealed by Decree nº 10.148 of 12/2/2019](#)

Art. 32. This decree comes into force on the date of its publication.

Art. 33. Decrees nº 1,173 of June 29th, 1994; 1,461 of April 25th, 1995; 2,182 of March 20th, 1997; and 2,942 of January 18th, 1999 are repealed.

Brasilia, January 3rd, 2002; 181st of the Independence and 114th of the Republic.

FERNANDO HENRIQUE CARDOSO

Silvano Gianni