

## A Brief History of Romanian Archive Access since 1989

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### DESCRIPTION OF THE SITUATION PRE-1989

The archives found within the present-day boundaries of Romania were organized according to modern principles in the first half of the nineteenth century, producing the State Archives established in 1831 in Wallachia and 1832 in Moldova. In the period that followed, specialized archives were established for various state institutions, some of which were allowed to keep material without turning it over to the State Archives. Through the nineteenth century and the first part of the twentieth, archives were governed by regulations from 1869 and 1872, and by the law of 1925. The State Archives fell under the Ministry of Justice, Religion, and Public Instruction from 1862 until 1952, when it came under the jurisdiction of the Ministry of Administration and the Interior. After the Second World War, Romanian archive legislation was modeled on the Soviet example. All of this had important implications for document access in the decades that followed.

Following the Soviet model, a mania for secrecy enveloped the entire Romanian institutional system. The Communist regime encouraged a “siege mentality,” and this had extremely important consequences for public life, and for the rest of society, as well. We should clarify that from the middle of the 1950s until 1991, the State Archives were led exclusively by officers, specifically generals, of the Ministry of Internal Affairs, a fact which, without doubt, shaped the institution’s ethos, including, perhaps especially, its attitudes toward document access.

“Protecting state secrets” was made the official doctrine of the Romanian Socialist Republic (the country’s new name after 1965) through decree 430/1969, which became Law 29/1969, and through Law 23/17 December

1971. The more important law, for its content, duration, and effects, was the latter. Decree 472/20 December 1971 Regarding National Archive Holdings re-affirmed the party-state’s watchful control over the archives, more precisely its quasi-monopoly. Access to and use of documents was strictly regulated. Ordinance 00545/1974 created the Special Archives, which were held in secret. The documents in this collection referred to topics considered “sensitive.”

In the years of “triumphal Socialism/Communism,” several special archives were established in Romania: the archive of State Security, the archives of the Romanian Communist Party (which had a special place, of course, for the Archives of the Central Committee), the Archive of the History of the Party, etc. After 30 August 1948 (the date of its creation), the Securitate [Romanian Secret Police] established its own archive, which held not only documents from its own (of course, repressive) activity, but also “an important volume of documents from the archives of the former bourgeoisie, including those of the organs of the Ministry of the Interior.”

While scholars did still have access to the State Archives —beyond the broad restrictions of the legislation already mentioned, and the none-too-hospitable atmosphere for academic activity— access to certain other archives, such as that of the Armed Forces or [(it goes without saying)] you could cut that] the Securitate, was impossible. Despite all this, documents from the latter institution were used to discredit those people considered undesirable, either within the country (opponents, dissidents) or outside it (the Romanian exile community).

At present, there are several major archives in Romania, from state institutions to

various organizations, businesses or private individuals: 1. The National Archives of Romania, with branches across the entire country; 2. The Archives of the National Council for the Study of the Securitate Archives; 3. The Romanian Military Archives; 4. The Diplomatic Archives; 5. The Archives of the Secret Services. Likewise, there are many institutional archives which, by law, must turn their materials over to the National Archive, but for various reasons (lack of cataloging or storage space, etc.) have yet to do so.

#### STATE ARCHIVES/NATIONAL ARCHIVES

After the fall of the Communist regime in December 1989, the State Archives experienced a period of examination and reassessment. Many obstacles stood in the way of change and greater openness, including politics (we should not forget that the leaders of the new Romania were in large part former members of the nomenklatura and had held important posts in the Party and State), as well as the nature of the institution (the conservatism of the professional corps playing an important role). The archives remained part of the Ministry of Internal Affairs, even though reorganization was discussed, including the possibility of moving it to another ministry. For a good period of time, the restrictions on document access were more or less identical to those of the old regime. For example, at the end of 1991, those in charge of the Archives believed various categories of documents needed “special protection.” These included documents regarding borders and border conflicts that could cast Romania in a bad light, extremist movements and propaganda, irredentist propaganda, the status of enemy goods confiscated by the Romanian state, the Jewish problem (confiscated goods, deportations, massacres—what today we call the Ro-

manian portion of the Holocaust), lists of former members of the Legionnaire Movement (Romanian Fascism), Romanian colonization of territories incorporated after 1913/1918, mineral resources, military maps, the archive of the Romanian Communist Party, etc. There were many similarities between the restrictions in place during the National-Communist period and post-Communism. But there were some differences, which also must be contextualized. For example, some categories of documents from the former Special Archive regarding: the transit or stationing of German, Hungarian, or Soviet troops on Romanian territory, the situation of Romanian refugees in territories lost by the Romanian state during the Second World War, records of foreigners, school records from territories ceded in 1940, etc.

Archive legislation has been left wanting for a long time. A new archive law was put in place several years after the fall of the Communist regime. Law 16/1996 officially adopted a new name for the institution: The National Archives of Romania. This law was supposed to be followed by a modernization of the laws regarding the archives. In some respects this did happen. Still, because too much room for interpretation was left to those at the institutions holding the archives, access to documents continued to be severely restricted. Various pretexts were invoked, the most common connected to “state security” or problems of administration (poor condition of the holdings, uncataloged holdings, and so on).

To overcome these impediments, some researchers, Romanians and foreigners, accepted the system of privileged access to documents and even turned it to their advantage. This practice had negative effects, not only from a moral point of view, but also from a

practical one. Networks based on friendship or mutual interest (institutional, material, etc.) gravely affected the accumulation of knowledge about Romania, the public's ability to discuss ideas of interest, and so on.

The rules governing reading rooms continued to be restrictive. Foreign citizens encountered great obstacles in accessing documents, in both Communist Romania and the first fifteen years after 1989. There was an obvious difference in the treatment of Romanian and foreign researchers. The latter's requests were received by the regional branches of the National Archives, then sent to Bucharest, where they were judged according to already restrictive guidelines and approved or rejected. In every case, the responses took a long time to arrive, and often the respective person's time in Romania ran out without producing anything. Until a few years ago, in order to reduce access to documents for foreign researchers as well as Romanians, the research topics were controlled. From the moment in which a reader announced his topic, he received nothing but documents related to it, understood very strictly.

The military attitude, the caste mentality of most Archive employees, the belief that they are masters of the documents and not administrators in the public benefit, characterize the institution's relationship with the public. In fact, the idea that the archives are a "public good" was not even used in public in Romania until a few years ago.

In the year 2000, as part of preparations for entry into NATO and the European Union, Romania put its laws in accord with those two supranational entities. Access to information of public interest was one of the most important areas of change. *Law 182/2002 Regarding the Protection of Classified Information* stipulates that "the right to have access to information

of public interest is guaranteed by law" (art. 2). Important for our subject is the fact that it is expressly specified: "Information, data, or documents related to fundamental scientific research cannot be classified as state secret if they do not have a justifiable connection to national security" (art. 24, line 2). On the other hand, *Law 677-2001 for the Protection of People Regarding the Processing of Personal Data and Its Free Circulation*, in spite of the declarations of transparency and certain specifications (especially art. 5, let. g), became, through unilateral interpretation and willful misconstrual, a true "weapon" on the hands of those frightened by free and non-discriminatory access to archives. Thus, legislation that intended to be in harmony with the western world and principles of human rights was interpreted so as to restrict document access.

The National Archives today are organized according to the administrative organization of Romania: there are 5 offices that administer the documents created by the central institutions of the state, as well as those obtained through donations or acquisitions from private persons; 41 county services or offices; and a municipal service of Bucharest. In all, the National Archives hold in the entire country almost 37,000 deposits and collections, totalling approximately 320,000 linear meters of documents, from the eighteenth century to 1989. This also explains, in part, why the National Archives continue to be the most important point of attraction for researchers who study the history of Romania.

#### **FROM THE ARCHIVE OF THE FORMER POLITICAL POLICE FORCE TO THE ARCHIVE OF THE NATIONAL COUNCIL FOR THE STUDY OF THE SECURITATE ARCHIVES**

As was to be expected, after the fall of the

Communist regime, the attention of the Romanian public, including a good number of contemporary historians, turned toward the archives of the former Securitate. In 1990, limited access was possible to the documents of the former Securitate, housed mostly by the Romanian Information Service (the principal successor structure to the Securitate), arguments on this topic being a constant presence in Romanian society.

At the end of the first post-Communist decade, public interest in the archives of the Communist regime's former political police motivated the creation of an agency for their administration, following the German model (the "Gauck Commission"). *Law 187/1999 on Access to Personal Files and the Dismantling of the Securitate as Political Police Force* created the National Council for the Study of the Securitate Archives (*Consiliul Național pentru Studierea Arhivelor Securității* (CNSAS)). The law's prologue specifies: "Communist control, instated in Romania beginning 6 March 1945, exercised, especially through the organs of state security as a political police force, constant terror over the citizens of the country, curtailing their fundamental rights and liberties. This "justifies" the right to personal files and the dismantling of the Securitate as a political police force." One very important activity of the CNSAS was the review, upon request, of those who held or were candidates for (by election or appointment) various public positions, from the President of Romania to members of parliament, the Government, or even those leading regional administrative structures; church leaders and clerics of various religions could be reviewed, as could the leadership of foundations, associations, and chapters active in the territory of Romania (art. 2, let. a-z). Persons who held public positions were obligated by law to declare wheth-

er they had collaborated with the Securitate or not. Admissions of this fact had no legal consequence, while false declarations were considered infractions and punished according to law. The CNSAS Board analyzed evidence regarding the collaboration of officials or of people named by those given the right to do so under the law, and it could publish judgments of collaboration with the former political police.

One article (19) mentions scientific research on primary sources: "For the purpose of establishing historical truth, the Council Board makes available, to Council-accredited researchers, documents and complete information regarding the structures, methods, and activities of security agencies."

The creation of the CNSAS produced results, and not only in the area of researchers' access to documents from the Communist period. In 2000, the so-called "*dosariadă*" took place, which involved great public uproar over the new access to documents produced by the former Communist regime. Politicians, journalists, historians, state institutions became involved. Many former Securitate officers and informants (some holding important public positions) were judged as having collaborated. Some of these people challenged the decisions in court. Even beyond this, one person, a former officer of the Communist espionage service, now a leader of a political party and a member of parliament, challenged the legal basis of the CNSAS in the Romanian Constitutional Court. Paradoxically or not, he won his case, and Law 187/1999 was found unconstitutional on 8 February 2008. This occurred after the institution had already been at work for 9 years.

Having been pushed outside the constitutional framework, CNSAS was recreated through emergency ordinance 24/2008, re-

garding access to personal files and the dismantling of the Securitate, and approved with modifications and amendments by Law 293/2008. Even if the phrase “political police force” was removed from the title and content, the law allowed an institution to function, one with an important role to play in clarifying a key period of Romanian history. There were other provisions slightly different from the earlier form of the law, but these did not necessarily constitute steps backward. Historical research was given greater scope than in the earlier law.

The National Council for the Study of the Securitate Archives at this moment houses, in Bucharest, over 24,000 linear meters of documents. This archive is essential for understanding the history of Romania from 1940 to 1989, and not only for the history of repression. It is one of the most asked-for archives, for those who research recent history or would like to read their own files.

#### **MILITARY ARCHIVES**

Very important documents for understanding Romanian history, especially the twentieth century, are held in the Romanian Military Archives, meaning the History Service of the Army, headquartered in Bucharest, and the Center for the Study and Maintenance of the Military Historical Archives, in Pitești. Military historians, in particular, have used these official documents for writing military history. Civilian historians have complained recently about their difficulty in accessing documents regarding the involvement of the Romanian army in Eastern front operations, in particular in the Holocaust in Eastern Romania and Romanian administered Transnistria, but also its interactions with the Communist regime. The Romanian Military Archives contain approximately 7000 holdings and collec-

tions, in total roughly 91,000 linear meters of documents.

#### **DIPLOMATIC ARCHIVES**

These archives preserve documents created by the Ministry of External Affairs, in all over 8000 linear meters of documents. Interest here in these documents is very high, because they represent valuable sources for the study of the history of Romania in the nineteenth and twentieth centuries, and not only for the country’s international relations.

#### **ARCHIVES OF THE SECRET SERVICES**

This includes, in particular, the archives of the Romanian Information Service, the Foreign Intelligence Service, the Information Service of the Army, and the General Department of Information and Internal Protection of the Ministry of Administration and the Interior. According to Law 16/1996, this archive creates and keeps its own documents. The restrictions are explicit, like the public’s frustrations, keeping in mind the fact that the quantities of documents produced by these services is not public knowledge, as they function under a special set of laws. Since 2000, many of these services have turned over to the CNSAS documents created by the former Securitate, doubtless making important steps in this direction, but the work is still far from complete.

#### **PUBLIC DEBATES SINCE 1989 AND THEIR IMPLICATIONS FOR ARCHIVE ACCESS**

On the international level, the free circulation of information has become a principle various organizations have worked for: UNESCO, for example, and the International Council of Archives, etc. After 1989, Eastern and Central Europe have experienced what is often known as the “Archive Revolution.” This has involved, first of all, making the archives

open, and giving access to as many documents as possible to an ever growing public, be they researchers (professional or amateur) or citizens interested in re-establishing rights. All of this was obtained only as a result of public debate, with political and institutional implications.

The years 1990-2000 were marked by similar controversies in Romania, too, with regard to access to archives in general, but understandably (as the country had suffered under a Communist regime for almost half a century) to the archives of the former Securitate in particular, and the archives of the Romanian Communist Party, etc. The mass media devoted ample space to the release of documents, especially the most sensational. There were debates, symposia, studies and volumes of documents were published, there were exhibitions, and so on.

Institutional changes followed a more gentle tempo in the Romanian archives. For example, it is perhaps not unhelpful to remember that the last director general with a military rank (of general) left the State Archive in 1991, but the last deputy director general of the same stature left in 2006, a fact which explains a lot about the difficulties of institutional change in post-Communist Romania.

The restrictions on access to archives, especially those dealing with recent history, were so numerous that there were protests in the post-Communist period from researchers, both Romanians and foreigners.

In 2006, the President of the country created the Presidential Commission for the Analysis of the Communist Dictatorship in Romania, which published its *Final Report* in the same year. In his speech to Parliament on 18 December 2006, the President stated: "I support the modification and amendment of the body of laws regarding access to archives

connected to the Communist period. Seventeen years after the Revolution of December 1989, the time has certainly arrived for transparency and access to the archives of Communism. The obstacles encountered by members and experts of the Commission must be cleared, urgently and without hesitation. The National Archive Law must be changed immediately, with regard to the terms of access to archives of historical interest. Negligence toward fulfilling the obligation to modify the Archive Law demonstrates a lack of political will to give indiscriminate access to archives of interest for those researching the Communist regime. A democratic Romania is one in which access to history, and thus to archives, is free and unlimited."

Beginning in 2007, there have been major changes for document access in the National Archives. The fundamental points have been reform, democratization, and transparency. The germane laws (especially art. 20 and 22, as well as appendix 6 of Law 16/1996 of the National Archives) have no longer been interpreted restrictively, with prejudice toward the public, but rather in its favour.

*Recommendation 13/2000 of the Committee of Ministers of European Council Member Countries Regarding European Policy in the Area of Access to Archives* has played an important role in establishing free access to documents. Since 2007, this recommendation has been repeatedly cited as an argument for policies of institutional openness. This is needed because legislation, as well as important parts (at least, numerically speaking) of the professional corps, not to mention politicians, interested circles, etc., have constituted as many impediments to document access, especially to those regarding recent history, but also to others. The Romanian National Archives translated and published, in 2007, Recommendation

13/2000, ensuring adequate distribution of the document and promotion of its contents.

Because access had long been limited by various claims (sometimes justified, other times not)--that the archive in question had not inventoried its holdings and collections, that the conditions of preservation were precarious, that the files were unbound--some major changes have been made. Holdings that were inventoried but not approved for study were made available to researchers, important and long solicited holdings were processed and given to study or are in process. In all, hundreds and hundreds of holdings have been made available in recent years. To improve the functioning of the archives, records were checked, and where necessary, updated.

To make this process easier, large amounts of information have been posted on the websites of the Archives (lists of holdings and collections for each building in the country, inventories in electronic format, etc.). A new rule made it possible to order and consult triple the number of files per day (from 5 to 15);

it is now possible for researchers to request both bound and unbound files. Requests from foreign researchers no longer follow the troublesome system of the past. Romanian citizens and foreigners alike benefit from perfectly equal treatment, their access to documents being expressly stated in law. If, some years ago, it was impossible to imagine access to the Romanian National Archives with modern technology, today researchers may enter with their own laptops and may make copies with their own digital cameras, the costs being minimal. All this has represented a substantial benefit to researchers.

The following describes the evolution of access to reading rooms in Romanian National Archives in the two decades of post-Communism (Table 1):

Steps toward total archive access have included the completion of an Archive Law project, by a group of specialists from the National Archives in consultation with both other public archives and historians and experts from the Ministry of Culture. The new proj-

Table 1

Year	Number of researchers	Visits	Archival units (AU) and library units (LU) consulted	Copies (xerox and photographs)
1978	3,180	23,424	133,286	
1990	1,714	7,554		
1991	3,693	11,889	50,329 AU + 796 rolls + 13,442 LU	1,161
1992	2,835	12,684	49,887 AU + 723 rolls + 3,822 LU	744
1996	7,710		156,363 AU + 1,294 rolls + 48,200	10,236
2000	5,623		67,078 AU + 872 rolls + 7,792 LU	134,537
2001	5,889		74,225 AU + 863 rolls + 7,880 LU	247,093
2002	5,851		75,507 AU + 1,442 rolls + 10,373 LU	331,391
2003	5,366		71,987 AU + 2,268 rolls + 10,295 LU	470,399
2004	5,724		70,432 AU + 1,716 rolls + 8,477 LU	552,451
2006	7,807		103,170 AU + rolls + LU	approx. 220,000
2007	8,366		100,770 AU + rolls + LU	350,000
2008	11,100	32,500	over 139,000	over 745,000
2009	9,155	34,263	141,905 AU + 2,098 rolls + 11,068 LU	940,893
2010	12,619	35,500	151,476 AU + 2,009 rolls + 9,757 u.b.	1,254,007

ect defines archives as a *public good*, which for Romania is something new. Regarding access, the law prescribes shorter terms (25 years from the documents' creation), and making historical documents available for study (including those created by the Romanian Communist Party between 1921 and 1989 and by Communist state institutions between 1945 and 1989). There are, of course, criticisms of these prescriptions from various corners, in particular from those who are directly interested in limiting access to documents from recent history. Unfortunately, even though the Archive Law project is finalized and has been discussed in public for almost four years, the political and legislative situation has not favoured its passage by Parliament. Additionally, complicated procedures and inter-institutional competition explain, in part, the delays in the Archive Law's adoption. It is not, of course, the only problem Romania has to face in this moment, but it is certain that legislative omissions are an obstacle to the good administration of our archival patrimony. As yet, hopes that we may see the law adopted are not just legitimate, but based on fact.

Despite all the efforts in recent years to normalize Archive access, the mania for secrecy of the Communist years and the first post-Communist decade is still widespread. Even in these years, some quarters of the administrative or political system, unhappy with the opening of particular archives, have applied various kinds of pressure if not to close the archives, especially those for recent history, then at least to restrict access to them.

Romanian citizens have the right to memory, and this right includes access to archives. Romanian Communists (and many who followed them after 1989) tried to control the past, a past which produced most inhabitants of the country, for better or worse. Some have

argued that "it is not good" to know what was, but more to the point, some people prefer it not be known that they were part of the nomenklatura, that they benefited from all the advantages of participation in the totalitarian system, that they served the regime, that they continue to violate common morality and/or especially the law, even those laws in place before 1989. And then, rather than taking responsibility for the recent past, the post-Communist elites have preferred to control it, through destroying documents or blocking access to entire archives for years. Still, the past cannot be controlled forever within a society which—even if only in its most conscientious and civic-minded part—has had a small taste of the fruit of freedom and wants to know more about what happened in the more recent or distant past.

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