

Annex D

Archives

Article 1

- (a) For the purposes of this Annex, “SFRY State archives” means all documents, of whatever date or kind and wherever located, which were produced or received by the SFRY (or by any previous constitutional structure of the Yugoslav State since 1 December 1918) in the exercise of its functions and which, on 30 June 1991, belonged to the SFRY in accordance with its internal law and were, pursuant to the federal law on the regulation of federal archives, preserved by it directly or under its control as archives for whatever purpose.
- (b) For the purposes of this Annex, “Republic or other archives” refers to the archives of any of the States in their former capacities as constituent Republics of the SFRY, or of their territorial or administrative units, and means all documents, of whatever date or kind and wherever located, which were produced or received by any of those Republics or territorial or administrative units in the exercise of their functions and which, on 30 June 1991, belonged to them in accordance with the applicable law and were, pursuant to the law on the regulation of archives of each of the Republics, preserved by them directly or under their control as archives for whatever purpose.
- (c) “Documents” in the preceding sub-paragraphs includes film, audio and video tapes and other recordings, as well as any form of computerised records, and includes documents which constitute cultural property.

Article 2

If Republic or other archives were displaced from the Republic to which they belonged, or if SFRY State archives were displaced from their proper location, they shall, subject to the provisions of this Annex and in accordance with international principles of provenance, be restored respectively to the Republic to which they belonged or their proper location as soon as possible by the State which currently has control of them.

Article 3

The part of the SFRY State archives (administrative, current and archival records) necessary for the normal administration of the territory of one or more of the States shall, in accordance with the principle of functional pertinence, pass to those States, irrespective of where those archives are actually located.

Article 4

- (a) The part of the SFRY State archives which constitutes a group which
 - (i) relates directly to the territory of one or more of the States, or
 - (ii) was produced or received in the territory of one or more of the States, or
 - (iii) consists of treaties of which the SFRY was the depository and which relates only to matters concerning the territory of, or to institutions having their headquarters in the territory of, one or more of the States,

shall pass to those states, irrespective of where those archives are actually located.

- (b) Pending the apportionment of SFRY State archives under this Article,

- (i) the original of the Treaty on Water Economy Problems between the SFRY and Greece signed in 1959 (Official Gazette of the SFRY No. 20 of 4 June 1960) and of the Treaty on the Preservation and Renewal of Frontier Signs on the Yugoslav-Greece Frontier for the Protection, Prevention and the Solution on Frontier Incidents (Official Gazette of the SFRY No. 20 of 26 February 1959) shall be transferred forthwith to the Republic of Macedonia.
- (ii) the original text or certified copies of the Treaty of Osimo and the Osimo Agreement of 1975, and any related agreements, archives and travaux préparatoires concerning their negotiation and implementation, shall be made available forthwith to Croatia and Slovenia in order to enable them, in full possession of the relevant material, to negotiate with Italy over the consequences of those treaties for their respective States.

Article 5

If pursuant to Articles 3 or 4 archives are to pass to more than one State, those States shall agree which of them will receive the original and enable the others to make copies.

Article 6

- (a) In relation to SFRY State archives other than those referred to in Articles 3 and 4, the States shall, by agreement to be reached within 6 months of the entry into force of this Agreement, determine their equitable distribution among themselves or their retention as common heritage of the States which shall have free and unhindered access to them. If no such agreement is reached, the archives shall become common heritage. In either event, each State may make copies of the archives in question on an equitable cost-sharing basis.
- (b) The agreement referred to in paragraph (a) shall take account of all relevant circumstances which include the observance as far as possible of the principle of respect for the integrity of groups of SFRY State archives so as to facilitate full access to and research in those groups of archives. Respect for the integrity of groups of archives is without prejudice to the question where any particular group of archives should be preserved. The Ministries or Departments responsible for archives in each of the States shall within 24 months of the date on which this Agreement enters into force identify, and circulate to each other, lists of groups of archives to which this principle should apply, and shall thereafter seek to agree on a single such list within a further period of 3 months. They shall also identify, and circulate to each other, within 24 months of the date on which this Agreement enters into force, lists of archives to which Articles 3 and 4 apply.

Article 7

Pending implementation of this Agreement there shall be immediate free and unhindered access by representatives of the interested States to SFRY State archives dated on or before 30 June 1991. This access also applies to Republic and other archives (other than current archives) now held in the States concerned.

Article 8

Republic or other archives are the property of the corresponding State and are not subject to the provisions of this Annex, other than Articles 1, 2 and 7.

Article 9

Private archives are not subject to the other provisions of this Article. Those which were taken from their owners after 1 December 1918 shall be returned to where they had been produced or to their owners, according to international principles of provenance, without any compensation or other conditions.

Article 10

Where SFRY bilateral treaties concerning the restitution of archives were in force on 30 June 1991 and those treaties have not yet been fully performed, the States with an interest in those archives are ready to assume the rights and obligations formerly held by the SFRY in relation to the performance of those treaties.

Article 11

- (a) The current possessor of the original of any archive which is to be transferred pursuant to this Annex may make copies thereof.
- (b) The cost of making copies pursuant to Articles 5 and 11(a) above shall be subject to further agreement between the States concerned.
- (c) The cost of transporting archives which pass pursuant to this Annex shall be borne by the recipient.
- (d) The current possessor of archives which are to be transported or which may be copied pursuant to this Annex shall assist in reducing the related costs as far as possible.
- (e) Any State making archives available for copying shall provide the best available document to copy and provide free and equal access to all States making copies.
- (f) The State in possession of original documents forming part of the SFRY State Archives shall provide access to them for purposes of obtaining a certified copy for use as evidence upon the request of the interested user, should the copy available in another State not be usable for his legitimate needs.

Article 12

Within 3 months of the date on which this Agreement enters into force, representatives of the Ministries or Departments responsible for archives in each of the States shall meet together to give effect to this Annex, and to take such immediate action as may be possible. Arrangements for that meeting, and for the initial general supervision of the implementation of this Annex, shall be made by the Standing Joint Committee established under Article 4 of this Agreement.