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The formation of Polish archival legislation on the eve of independence

The restitution of Polish statehood and the necessity of unifying Polish territories which were part of three different countries had to be also reflected in the organization of the archival sphere. The extremely important task, even essential in the perspective of regaining independence, was to create legal tools for the efficient and proper organization of the archival sphere, and to take control of the administration of the archives as well as their collections by Polish authorities¹. Admittedly, the Central Archives, an heir to the National General Archive (created by Frederic August, the king of Prussia and the prince of Warsaw, in 1808), was managed by Polish directors²; however, the management of other archives and archival material was in the hands of foreigners. It must be emphasized that Polish patriots showed concern about archival material from the beginning of the Great War. In September 1914 the Polish National Organization, headed by Józef Piłsudski, announced that the treasures of Polish culture exposed to destruction should be protected and preserved. In addition, Polish activists gathered in the Central Civic Committee (created in 1914) declared that it was necessary to establish, maintain and support libraries, research collections and museums. Soon after the Russians had left Warsaw in August 1915, the Committee attempted to take control of the abandoned Warsaw archives. However, this action did not find favour with the German occupation authorities³.

¹ There is an extensive literature on making archival law and forming Polish archival service. The most important publications on which the following article is based are included in bibliography.

² The last directors of the Central Archives of Historical Records of the Kingdom of Poland were Adolf Pawiński (1875–1896) and Teodor Wierzbowski (1897–1919). See T. Wierzbowski, *Projekt organizacji archiwów w Polsce*, „Przegląd Narodowy” 9 (1920), no. 2, p. 266; A. Rybarski, *Centralny zarząd archiwalny w odrodzonej Rzeczypospolitej Polskiej*, „Archeion” 1 (1927), pp. 2–3; A. Stebelski, *Archiwum Główne Akt Dawnych za dyrekcji Teodora Wierzbowskiego 1897–1919*, [in:] A. Stebelski (ed.), *Księga pamiątkowa 150-lecia Archiwum Głównego Akt Dawnych w Warszawie*, Warszawa 1958, pp. 93–97.

³ See A. Rybarski, op. cit., p. 3; M. Motas, *O przepisach archiwalnych w Polsce międzywojennej*, „Archeion” 48 (1968), p. 112; T. Mencil, *Dekret o archiwach i opiece nad archiwaliami z 7 lutego*

Another important initiative of the Polish academic communities of Krakow and Lviv was establishing the Polish War Archive in Vienna in 1915. The Committee was headed by the outstanding historian Władysław Semkowicz, a lecturer at the Jagiellonian University (UJ); and the board included, among others, Stefan Vrtel-Wierczyński, Jan Stanisław Bystron and Franciszek Smolka. This initiative was supported by the professors who were the members of the honorary presidium: Oswald Balzer, Kazimierz Kostanecki – the rector of UJ, Kazimierz Twardowski – the rector of the University of Lviv, Bolesław Ulanowski, Ludwik Finkiel and Józef Kallenbach. The major task the organizers had to undertake was to establish a national institution that would collect, arrange, describe and preserve historical material relating to the Polish cause and the participation of the Poles in the Great War⁴.

Meanwhile, the Germans, shortly after seizing Warsaw on 5 August 1915, established their own archival administration (Archivverwaltung bei dem Kaiserlich-Deutschen Generalgouvernement Warschau), which was attached to the government of the General Governor. This organ was headed by Dr Adolf Warschauer, who was an archivist in the State Archive in Poznań and then the director of the State Archive in Gdańsk. However, the Central Archives of Historical Records was excluded from German's archival management. The Archives was directly under German General Governor's authority. Municipal and private archives remained entirely independent of German archivists⁵.

The situation was worse in the part of the Kingdom occupied by Austria-Hungary. While the German administration after seizing control of archives took care of them, the Austrian administration abandoned the for-

1919 r. na tle ówczesnego ustawodawstwa archiwalnego w Europie, [in:] A. Tomczak (ed.), *Sześćdziesięciolecie polskich archiwów państwowych*, Warszawa 1981, p. 6; I. Mameczak-Gadkowska, *Archiwa i służba archiwalna na ziemiach polskich w czasie I wojny światowej*, [in:] J. Kiwerska (ed.), B. Koszel (ed.), *Między wielką polityką a narodowym partykularyzmem*, Poznań 2002, pp. 493–494; idem, *Archiwa państwowe II Rzeczypospolitej*, Poznań 2006, pp. 36–37.

⁴ Some information on this institution can be found [in:] *Polskie instytucje i towarzystwa naukowe powołane w okresie wojennym: Polskie Archiwum Wojenne*, „Nauka Polska” 2 (1919), pp. 584–585. For more see W. Semkowicz, *Polskie Archiwum Wojenne*, „Pion. Tygodnik Literacko-Społeczny” 3 (1935), no. 23 (88), p. 12; J. Semkowiczowa, *Polskie Archiwum Wojenne (dzieje instytucji)*, „Archeion” 45 (1966), pp. 63–64. Cf. M. Motas, *O przepisach archiwalnych...*, p. 113; A. Tomczak, *Zarys dziejów archiwów polskich*, Toruń 1982, ed. 2, p. 168; B. Ryszewski, H. Robótka, A. Tomczak, *Archiwistyka*, Warszawa 1989, p. 327; I. Mameczak-Gadkowska, *Archiwa i służba archiwalna...*, pp. 493–494; idem, *Archiwa państwowe...*, p. 37.

⁵ See K. Kaczmarczyk, *Działalność niemieckiego zarządu archiwalnego w Warszawie w latach 1915–1918*, „Archiwum Komisji Historycznej Polskiej Akademii Umiejętności”, series 2, 1 (1923), pp. 114–117; A. Rybarski, op. cit., pp. 3–4; A. Stebelski, op. cit., pp. 93–97; M. Motas, *O przepisach archiwalnych...*, pp. 112; A. Tomczak, op. cit., pp. 168–169; B. Ryszewski, H. Robótka, A. Tomczak, op. cit., pp. 327–328; I. Mameczak-Gadkowska, *Archiwa i służba archiwalna...*, pp. 494–496; idem, *Archiwa państwowe...*, pp. 37–40.

mer pre-war registries of the Russian offices and institutions and did not care about the material held there. What is more, many of these collections were incautiously destroyed in action not controlled by anyone. A disgrace role was played by the Headquarters of Raw Materials created at the General Government in Lublin by the Austrians. According to the recommendations of this institution, the records were to be transferred to paper factories. This was done without any qualifications. Thus around 140 tons of documentation was destroyed. It was not until 1916 that the action of the Academy of Learning in Krakow, especially the efforts of professors Stanisław Krzyżanowski and Stanisław Tomkowicz, resulted in establishing the Archive Department at the National Civic Commissariat and appointing well-qualified conservators. It was their activity that put a halt to the process of the destruction of the archival material⁶.

Soon the situation changed. At the end of 1916, the German and Austro-Hungarian occupation authorities issued a decree establishing the Provisional Council of State attached to the office of German governor, an official body representing the Polish nation; the Council served as an advisory and consultative institution in Polish matters. The first meeting of the Council took place on 14 January 1917, and by April the Department of Political Affairs, which was headed by Wojciech Roztworowski, established the Archival Commission. This new unit was composed of Witold Kamieniecki, the deputy director of the Department of Political Affairs of the Council; Bohdan Chelmiecki, a representative of the Department of Justice; Marian Krzesimowski, a lawyer and a judge; and well-known historians and archivists: Ignacy Tadeusz Baranowski, Marcei Handelsman, who became the chairman of the commission, Wincenty Łopaciński – a secretary, Stefan Ehrenkreutz and Antoni Rybarski. In addition, the then director of the Central Archives Teodor Wierzbowski was invited to the commission, but he refused to take part in work of this organ. However, his decision did not prevent him from giving his opinions on the projects and work of the commission and the Department of State Archives. Until the dissolution of the Provisional Council of State on 25 August 1917, the Archival Commission held nine meetings

⁶ These issues are described by J. Seruga from his personal experiences (*Niszczenie archiwów w b. okupacji austriackiej b. Królestwa Polskiego w czasie wojny światowej*, "Drogi Polski" 1 (1922), from p. 196) He also presents a detailed list of damaged records. Cf. K. Kaczmarczyk, *Literatura archiwalna odrodzonej Polski (1918–1926)*, „Archeion” 3 (1928), pp. 127–128; M. Motas, *O przepisach archiwalnych...*, p. 113; A. Tomczak, op. cit., p. 169; B. Ryszewski, H. Robótka, A. Tomczak, op. cit., p. 328; I. Mameczak-Gadkowska, *Archiwa i służba archiwalna...*, p. 496; idem, *Archiwa państwowe...*, pp. 40–41. To gain information on the activity of so-called A Circle of Conservators, existing from 1888 onwards and including outstanding scholars such as Professor Stanisław Krzyżanowski, which became an advisory body in the issues connected with conservation in 1917, see J. Szyposz, *Działalność Grona Konserwatorów Galicji Zachodniej w zakresie zabezpieczania archiwaliów*, „Archeion” 64 (1976), pp. 59–80.

working on several particularly important and fundamental issues. Their members attempted to determine which archives existed on Poland's lands, to examine the condition of their collections and to prepare the process of regaining the registries removed from these archives and held outside Poland. Some measures were also taken to take control of the archives and archival material which were under German authority; the Commission made efforts to prevent the Germans from taking away archival material to their country and made attempts to save the collections held in provincial archives⁷.

The archival bill and regulations (later used by the Department of State Archives of the Regency Council) are undisputable achievements of the Commission. The work on the archival law began in the early period of the formation of Polish independence, in a time when the country was not fully free, the future was unknown, no one knew what would happen to Poland. It was a time when Polish archives located in the occupation zone were under German authority (Archivverwaltung), when the former Russian archival material, produced by Russian administration, was thoughtlessly destroyed in the Austrian zone; what is more, nothing was known about the future of the archives located on the Austrian and Prussian territories⁸.

The first archival bill and projects of archival courses intended for future Polish archivists were prepared by Marcei Handelsman. He presented his work at the second meeting of the Commission on 20 June 1917. Discussions on the bill and its modifications were held at the subsequent meetings. The final version was passed on 26 July. 'The Regulations on the Archives in the Kingdom of Poland' were discussed at the next gatherings and were accepted at the last meeting on 23 August. The following experts were asked for an opinion on the work mentioned above: Eugeniusz Barwiński, the director of the State Archive in Lviv; Adam Chmiel, the director of the Central Archives of Historical Records in Krakow; Stanisław Kutrzeba, a law historian and a professor of UJ; Władysław Semkowicz, an associate professor of UJ, who

⁷ See A. Rybarski, op. cit., pp. 4–5; J. Seruga, op. cit., p.271; M. Motas, *O przepisach archiwalnych ...*, p. 113; idem, *Powstanie polskiej państwowej służby archiwalnej przed odzyskaniem niepodległości (1917–1919)*, „Archeion” 69 (1979), pp. 41–43; Z. Kolankowski, *O organizację archiwów polskich 1917–1919*, [in:] *Naród i państwo. Prace ofiarowane Henrykowi Jabłońskiemu w 60 rocznicę urodzin*, joint publication, Warszawa 1969, p. 170; T. Mencil, op. cit., p. 7; A. Tomczak, op. cit., pp. 169–170; I. Mamczak-Gadkowska, *Archiwa i służba archiwalna...*, pp. 497–498; idem, *Archiwa państwowe...*, pp. 41–42; R. Galuba, *Archiwa państwowe w latach 1918–2011*, Poznań 2012, p. 35.

⁸ T. Manteuffel in the first sentences of his article on the fifties anniversary of the existence of Polish archives wrote that the Day of 11 November 1918, when the officials of the Ministry of Religious Affairs and Public Education took control of Warsaw archives cannot be regarded as the beginning of the Polish archival service. He even believes that it was the end of the process which began two years before. (See T. Manteuffel, *Archiwa państwowe w minionym pięćdziesięcioleciu*, „Archeion” 50 (1968), p. 9).

also supervised the work of the Polish War Archive in Vienna; and Teodor Wierzbowski, the director of the Central Archives of Historical Records⁹.

The documentation of the work done by the Archival Commission as well as by the entire Department of State Archives was destroyed during the Second World War¹⁰, but the results of this work were preserved in the archival legacy of Teodor Wierzbowski, stored in the Research Library of the Polish Academy of Learning and the Polish Academy of Sciences in Krakow.¹¹

The first archival bill comprised 67 paragraphs included in 11 chapters, namely:

I. The purpose of archives– the chapter defining the tasks of archives

II. Archives Management – the bill stated that archival staff would report to the Minister of Education, who was to manage archives through the General Directorate headed by the General Director of Archives. In addition, an advisory subsidiary body (the Archival Council) was to be established¹².

III. Central archives – the bill of the Commission names four archives, namely the Archives of Historical Records, the Central Archives, the Archive of the Treasury, and the Archive of Education and Religions.

IV. Archival conservators– this chapter proposed appointing conservators, also provincial ones whose job would be to save archival material, to run provincial archives, and to control private archives. According to regulations introduced later, some of conservators' responsibilities were taken over by travelling archivists.

V. Provincial archives – the proposal of the Archival Commission provided for establishing such archives in seven important cities of the Kingdom, occupied by the Germans and Austrians, among others, in Lublin.

⁹ See A. Rybarski, op. cit., p. 5; Z. Kolankowski, op. cit., p. 170; T. Mencil, op. cit., p. 7; I. Mameczak-Gadkowska, *Archiwa i służba archiwalna...*, p. 498; idem, *Archiwa państwowe...*, p. 42.

¹⁰ See: K. Konarski (ed.), *Straty archiwów i bibliotek warszawskich w zakresie rękopiśmiennych źródeł historycznych*, Warszawa 1956, vol. 2: *Archiwa porozbiorowe i najnowsze*, p. 304. Cf. Z. Kolankowski, op. cit., pp. 169–170; M. Motas, *Powstanie polskiej...*, p. 39. M. Motas in his article describes in detail the records of the work on the archival legislation undertaken in the period between February 1917 and November 1918, the records which are stored in the Central Archives of Modern Records and which come from the fonds of the Provisional Council of State of the Kingdom of Poland and its Interim Commission, the Civil Cabinet of the Regency Council of the Kingdom of Poland, the Presidium of the Council of Ministers and the Ministry of Religious Affairs and Public Education (see *ibidem*, pp. 40–56).

¹¹ Z. Kolankowski discusses in detail the heritage of T. Wierzbowski (op. cit., from p. 170). See I. Mameczak-Gadkowska, *Archiwa państwowe...*, pp. 43–44.

¹² French solutions were introduced here (cf. T. Manteuffel, *Archiwa francuskie*, [in:] *Pamiętnik IV Zjazdu Historyków Polskich w Poznaniu 1925*, vol.1, section 6b, Lwów 1925, p. 2; idem, *Organizacja archiwów francuskich*, "Archeion" 2 (1927), p. 97), although according to A. Rybarski (op. cit., pp. 6–7) political reasons were decisive here, as the Ministry of Education began its activities as early as 1 October 1917. It was believed that it would be easier to seize control of archives from the German and Austrian authorities if archives were under the authority of the Minister of Religious Affairs and Public Education. Cf. vol. Mencil, op. cit., p. 9; I. Mameczak-Gadkowska, *Archiwa i służba archiwalna...*, p. 500; idem, *Archiwa państwowe...*, p. 46.

VI. Municipal archives – apart from provincial archives, the bill proposed including the city archives (also Lublin) in the archival network; these archives would be controlled by provincial conservators. In addition, archives from smaller towns were to be included in provincial archives.

VII. Public archives – this chapter is devoted to the archives of various public institutions storing mortgage, registry office and judicial records. These archives were also to be controlled by conservators.

VIII. Church archives – not only the archives of the Catholic Church were discussed here but also the ones of Evangelical unions and Jewish communities.

XI. and X. referred to the staff of archives – their structure, remuneration, education and the methods of verifying their qualifications. The norms included here regulated and defined the career ladder.

XII. General provisions – were devoted to employees' responsibilities

Another proposed document – the regulations – was divided into four parts elaborating on the particular points of the Bill. 137 paragraphs discussed in detail the law relating to the Archival Council, relations between archives and offices of various levels and other public and research institutions. The regulations also focused on the issues connected with making archival material available for research and official purposes. They also specified the scope and methods of receiving records from the archives of the local authorities, especially in the context of constantly operating registries continually producing new records (the issue of open fonds). Finally, the regulations elaborated on archivists' responsibilities and tasks by specifying, for example, weekly working time (30 hours), the rules for making copies of records, authenticating them and charging fees for this service, as well as the rules for working in archival reading rooms¹³.

It is worth noting that the director of the Central Archives Teodor Wierzbowski, who had been asked for an opinion – as mentioned above – on the proposed law prepared by the Archival Commission, was very critical of the suggested solutions. Admittedly, his doubts and remarks seemed to be understandable in some cases (e.g. in the case of archival conservators and their influence on religious and private archives or the overly elaborated proposal of the structure of the archival network); however, disavowing the achievements of the Commission, he negated its status. In his later text on the project of the organization of archives, he wrote that it had been 'a silent commission', that 'the bill was premature and completely misguided', that 'it was prepared by people who were not experts and who misunderstood the

¹³ See. A. Rybarski, op. cit., pp. 4–5; Z. Kolankowski, op. cit., pp. 171–173; I. Mameczak-Gadkowska, *Archiwa i służba archiwalna...*, pp. 498–499; idem, *Archiwa państwowe...*, p. 44.

tasks and responsibilities of the archive staff and who had never managed any archives'¹⁴.

Finally, the proposed archival law prepared by the Archival Commission, attached to the Provisional State Council, was submitted (after the State Council ceased to exist) to the new body of the state authorities, the Regency Council, established by the Germans and Austrians in September 1917. However, the work on archival legislation was resumed only at the beginning of 1918. Before that, in accordance with the proposals prepared in 1917, the control of the archival sphere was taken by the Minister of Religious Affairs and Public Education. This solution was included in Article 26 of 'The Decree of the Regency Council on the Temporary Organization of the Supreme Authorities in the Kingdom of Poland', which was passed on 3 January 1918¹⁵. On this basis, Minister Antoni Ponikowski established a department for archival affairs in the ministry and appointed Stefan Ehrenkreutz as its director. In February 1918 the department was changed into the Department of State Archives, and it functioned under this name until 1939 and later after the Second World War, until the decree of 29 March 1951. Antoni Rybarski wrote that he was the person who made the first entry in the Department correspondence registry on 10 April 1918, and that fact, according to him, was the proof of constituting an independent archival body, attached to the Ministry of Religious Affairs and Public Education. This institution was never part of any department; it was always under minister's authority¹⁶.

These facts contributed to resuming the work on archival issues. The employees of the Department focused, above all, on taking control of the archives which were supervised by the Germans and Austrians in the Kingdom of Poland. In addition, they concentrated on intensifying the work on the archival legislation.

The first steps to gain control of archives were taken relatively quickly. The action was initiated at the governmental level in February 1918. In March, according to the minute of the meeting of the Council of Ministerial Directors, there was the discussion on gaining control of the archives which were under German and Austrian authority. The archives were to be managed by the Ministry of Religious Affairs and Public Education, and, to be more precise, by the Department of State Archives. The proposal included in

¹⁴ T. Wierzbowski, op. cit., p. 261; cf. Z. Kolankowski, op. cit., p. 173; I. Mameczak-Gadkowska, *Archiwa i służba archiwalna...*, p. 499; idem, *Archiwa państwowe...*, pp. 44–45.

¹⁵ See. Dziennik Praw Państwa Polskiego 1918, no. 1, item 1; also [in:] „Monitor Polski” R. 1, 7 February 1918, no 2, p. 1.

¹⁶ See. A. Rybarski, op. cit., p. 6; T. Manteuffel, *Archiwa państwowe...*, p. 9; Z. Kolankowski, op. cit., p. 174; M. Motas, *Powstanie polskiej...*, p. 46; T. Mencil, op. cit., pp. 8–9; A. Tomczak, op. cit., p. 172; I. Mameczak-Gadkowska, *Archiwa i służba archiwalna...*, pp. 499–500; idem, *Archiwa państwowe...*, pp. 45–46; R. Galuba, op. cit., p. 36.

the passed resolution was put forward to the occupation authorities. The negotiations on this matter were not completed until the occupation authorities were overthrown. The main reason for the prolonged talks was the position of the Germans, who claimed the right to take the Prussian records. Finally, on behalf of the Polish side, Stefan Ehrenreutz, the head of the Department of State Archives; Antoni Rybarski, an employee of the department; and Kazimierz Konarski, the then General Secretary of the Ministry of Religious Affairs and Public Education took over Warsaw archives by signing the takeover protocol on 11 November 1918. Adolf Warschauer signed this document on behalf of the German side¹⁷.

In the Austro-Hungarian region, it was much easier to take control of the records. By April 1918 military officials agreed to return the records, and the General Governorate in Lublin agreed to return the archival material to the Department of State Archives in June 1918. The technical talks regarding the actual transfer continued until the occupation authorities in Lublin renounced authority in favour of the Regency Council in October 1918, which resolved the problem¹⁸.

As for the work on introducing the archival legislation, the Department also took some action in this case. And this task was easier as it was possible to refer to the bill and the proposals of the regulations prepared by the Archival Commission of the Provisional Council of State in the previous year. Due to the fact that the documentation of the Department of State Archives did not survive, it is not entirely certain to what extent this organ changed the proposed legislation and how they worked on the material of Marcel Handelsman's commission. In May 1918 the Ministry of Religious Affairs and Public Education presented the bill. The letter on this matter, submitted at the meeting of the then Council of Ministers, was signed by Antoni Poniowski, the minister of the Ministry of Religious Affairs and Public Education, and Stefan Ehrenkreutz, the head of the Department of the State Archives. It is known that there were more discussions on the bill and that they were postponed three times. Finally, the Council of Ministers examined the proposal of the archival legislation on 2 July 1918¹⁹.

Compared with the bill presented by Handelsman's commission, the work submitted at the meeting of the Council of Ministers of Jan Steczkow-

¹⁷ See A. Rybarski, op. cit., pp. 7–9; T. Manteuffel, *Archiwa państwowe...*, p. 10; T. Mencil, op. cit., p. 14; I. Mameczak-Gadkowska, *Archiwa i służba archiwalna...*, pp. 502–503; idem, *Archiwa państwowe...*, pp. 53–55.

¹⁸ See J. Seruga, op. cit., pp. 272–273; A. Rybarski, op. cit., pp. 9–10. Cf. T. Manteuffel, *Archiwa państwowe...*, p. 10; T. Mencil, op. cit., p. 16; I. Mameczak-Gadkowska, *Archiwa i służba archiwalna...*, pp. 502–503; idem, *Archiwa państwowe...*, pp. 52–53.

¹⁹ See A. Rybarski, op. cit., p. 7; Z. Kolankowski, op. cit., pp. 174–175; T. Mencil, op. cit., p. 10; I. Mameczak-Gadkowska, *Archiwa i służba archiwalna...*, p. 500; idem, *Archiwa państwowe...*, pp. 46–47.

ski's government by the Department of State Archives is closer to the final version approved by the Regency Council on 31 July. The bill comprised 50 paragraphs divided into eight chapters entitled:

- I. The Department of State Archives
- II. The Archival Council
 - A. The responsibilities of the Archival Council
 - B. The organization of the Archival Council
 - C. The Activity of the Archival Council
- III. Travelling archivists and correspondents of the Department of State Archives
- IV. Qualification Commission
- V. State archives:
 - A. The management of State Archives
 - B. The organization and the scope of activity of State Archives
 - C. The Staff of State Archives
- VI. Technical and scientific care of archives and archival collections which belong to public, municipal, district institutions etc.
- VII. Saving archival collections from destruction and providing private persons with technical and scientific assistance.
- VIII. Regaining archival collections which are the property of the Polish state

The proposition mentioned above was the basis for further work. Some changes and modifications were introduced even at the meeting on 2 July. Some paragraphs were completely deleted, others were substantially or slightly modified. Some paragraphs were changed and regrouped so that the final version could be more lucid and concise. As for the further measures, it was decided that the archival regulations were to be approved by the Regency Council and released by this body in the form of a decree²⁰.

The work of the Department of Archives was not delayed. The changes proposed by the Council of Ministers were quickly introduced at the meeting of 2 July. The Department presented the revised decree 'The Organization of State Archives and Preservation of Archival Material' in the letter of 6 July 1918, signed by Stefan Ehrenkreutz and Antoni Rybarski, an officer of the aforementioned Department. By 14 July the proposal was sent to the Civil Cabinet of the Regency Council²¹.

Finally, 31 July 1918, the original text of the archival regulations was signed by the members of the Regency Council: Archbishop Aleksander Kakowski, Duke Zdzisław Lubomirski and Count Józef Ostrowski, and counter-signed – on behalf of the President of the Council of Ministers – by Stanisław

²⁰ See Z. Kolankowski, *op. cit.*, pp. 175–176; I. Mamczak-Gadkowska, *Archiwa państwowe...*, p. 47.

²¹ See Z. Kolankowski, *op. cit.*, p. 177; I. Mamczak-Gadkowska, *Archiwa państwowe...*, p. 47.

Dzierzbicki, the minister of the Agriculture and Crown Property as well as Vice-President of the Council of Ministers. The text, however, was passed as a rescript, not a decree. It was not clear to Antoni Rybarski, a co-writer and participant of this procedure, why the Council decided to name these regulations a rescript, not a decree, especially that the latter term functioned when the work was discussed at the Ministry of Religious Affairs and Public Education and when it was submitted for the approval of the Council of Ministers.²² Perhaps the reason for such 'downgrading' was the fact that the Polish side continued talks with the German and Austro-Hungarian administration about taking control of the administration of the archives and Russian registries by the Regency Council. However, Ksawery Prauss, the minister at the Ministry of Religious Affairs and Public Education in Jędrzej Moraczewski's government, sent the Prime Minister the letter, dated 20 December 1918, in which he wrote that "the regulations included in the rescript mentioned above, as being of a general nature, are in fact not a rescript but a decree, and they were called a rescript only by mistake".²³ Apart from the issue of the name of the act, it must be admitted that the rescript was, without doubt, the culmination of the work of Polish historians, archivists and officials on archival regulations, the work which had been ongoing since the beginning of 1917. This act entitled 'The Rescript of the Regency Council on Organization of State Archives and Protection of Archival Material' was formally announced in 'Monitor Polski' (Official Gazette of the Republic of Poland) on 7 August 1918 in the official section²⁴.

The main opponent of the changes included in the Rescript was Teodor Wierzbowski, the director of the Central Archives. As soon as the Rescript was published in 'Monitor', he sent letters to Prelate Zygmunt Chelmski, the secretary of the Regency Council and Minister Stanisław Dzierzbicki. In general, the concept of organizing the archival structure represented by T. Wierzbickiego was completely different from the one included in the Rescript. He pointed out that the main shortcoming of the newly enacted archival law was the fact that archival sphere was subordinate to the Minister of Religious Affairs and Public Education instead of being under the direct control of the President of the Council of Ministers, which would be a better solution. He drew attention to the overly complicated structure of the archive staff and the network of archives. Wierzbicki particularly disagreed with diminishing the role of the Central Archives, which, according to his

²² See A. Rybarski, op. cit., p. 7; Cf. Z. Kolankowski, op. cit., p.177; I. Mamczak-Gadkowska, *Archiwa i służba archiwalna...*, pp. 500–501; idem, *Archiwa państwowe...*, pp. 47–48.

²³ Z. Kolankowskim, op. cit., p. 179.

²⁴ See „Monitor Polski” R. 1, 7 sierpnia 1918, no 116. Cf. Pierwsze akty prawne o organizacji polskich archiwów państwowych i opiece nad archiwaliami z 31 lipca 1918 r. i 7 lutego 1919 r. (Ed. M. Motas), „Archeion” 50 (1968), pp. 27–40; S. Sierpowski, D. Matelski, *Dzieje archiwistyki polskiej. Wybór źródeł*, Poznań 1988, pp. 9–20.

concept, should be the National Central Archives, and therefore ought not to be subordinate to any ministry. The background to this tension was probably the conflict between Wierzbicki and his former subordinate, Stefan Ehrenkreutz. The dispute revolved around jurisdiction and personal issues. Eventually, the conflict ended with disciplinary proceedings and Teodor Wierzbowski's dismissal from the office of the director of the Central Archives of Historical Records in June 1919²⁵.

Returning to the Rescript, its significance is even more evident when one looks at the content of the later Decree of 7 February 1919 (with the same title) signed, in a completely independent Poland, by the Chief of State Józef Piłsudski, the President of Ministers Ignacy Paderewski and the Minister of Religious Affairs and Public Education Józef Łukasiewicz.²⁶ It is perfectly understandable that the Rescript of the Regency Council, being a legal act approved by a state organ established by the will and with the consent of the partitioners, had to be replaced with the document issued by independent Polish authorities. However, the Department of State Archives did not work on the concept of the archival law from August 1918 to January 1919. When these two documents are compared, it transpires that they are, de facto, identical. The changes introduced in the Decree were merely cosmetic. The references to the partitioners were removed from three places, that is, in Articles 3, 22 and 44. In the last one, the order of the listed Warsaw archives was slightly altered and the State Archive in Lviv was added. Furthermore, the Decree included a new regulation which enabled the Minister of Religious Affairs and Public Education to issue the directives on extending the provisions of the decree to national archives in Lviv and Krakow²⁷.

The aforementioned letter of Minister Prauss of 20 December 1918 initiated the procedure of passing the archival rescript in the form of a decree. The ministerial motion was accepted at the government's meeting on 30 December 1918. Even in January 1919, there were those who considered issuing archival regulations in the form of a government order, and thus they prepared the bill and the documents for the Journal of Polish Law and the Minister of Religious Affairs and Public Education. However, the Department of State Archives did not agree to this form of the act, about which Bronisław Dembowski, the undersecretary of state in the Ministry of Religious Affairs and Public Education, informed the Council of Ministers in the letter. Finally,

²⁵ T. Wierzbowski presented his concept of the system of archives, with a special role of the Central Archives of Historical Records, in the article published in (op. cit., from p. 267). To gain information on the conflict between Wierzbowski and Ehrenkreutz see A. Steblewski, op. cit., pp. 97–98. Cf. Z. Kolankowski, op. cit., pp. 179, 181; T. Mencil, op. cit., pp. 14–16, 1718; I. Mamczak-Gadkowska, *Archiwa państwowe...*, pp. 49–50.

²⁶ See *Dziennik Praw Państwa Polskiego* 1919, no 14, item 182; Cf. *Pierwsze akty prawne...*, op. cit., pp. 27–40; S. Sierpowski, D. Matelski, op. cit., pp. 31–40.

²⁷ See: T. Mencil, op. cit., p. 18.

the demand for issuing the archival law as a decree was accepted at the meeting of the government on 31 January. Thus on 7 February 1919, on the eve of independence, the document which regulated the archival sphere in the interwar period was signed. This law was legally binding until 1951²⁸.

The decree included 46 articles in 10 chapters:

Chapter I. entitled the Department of State Archives (Articles 1–2) stated the subordination of archives to the Minister of Religious Affairs and Public Education and specified the responsibilities of the Department.

Chapter II. entitled State Archives (Articles 3–11). The following Articles defined the issue of Department's management of state archives and elaborated on the tasks and responsibilities of archives.

Chapter III. with the title Technical and scientific care of the archives and archival material which belong to public, municipal and district institutions etc. Articles 12–14 focused on the issue of the archive staff supervision for the archives belonging to public, municipal and district institutions which are not included in the network of state archives.

Chapter IV. under the title Saving archival material from destruction and providing technical and scientific assistance for private persons (Articles 15–20) allowed the Department to prepare the bills concerning the protection of archival material. In addition, this part of the document enabled the Department to gather information on those archival treasures which were not taken care of and to include them in the collections of state archives. The regulations also allowed assistance for private persons and institutions if they possessed archival collections.

Chapter V. referred to Regaining archival collections which belonged to the Polish state (Articles 21–23) by imposing such an obligation on the Department of State Archives.

Chapter VI. entitled The staff of state archives defined personnel issues. Archives were to be run by directors (Article 24). Staff should include archivists, assistants and trainees (Article 25). In addition, clerical personnel could be employed in archives, as well as low-level employees (for keeping things in order) such as messengers and caretakers (Article 26). Article 27 specified that archival staff were to be appointed by the Minister of Religious Affairs and Public Education apart from low-level personnel appointed by the head of the department of archives upon request of the director of an archive.

Chapter VII. under the title Travelling archivists and correspondents of the Department of State Archives in Articles 28 and 29 focused on the em-

²⁸ See Z. Kolankowski, op. cit., pp. 180–181; M. Motas, O przepisach archiwalnych..., pp. 115–116; Pierwsze akty prawne..., pp. 31–40; T. Mencil, op. cit., pp. 17–20; I. Mamczak-Gadkowska, *Archiwa i służba archiwalna* ..., p. 502; idem, *Archiwa państwowe*..., pp. 50–51, 56–64; R. Galuba, op. cit., pp. 38–50.

ployees who were to go on their rounds to control and supervise archival material, on behalf of the Department.

Chapter VIII. Only in Article 30 stated that the qualifications of those who applied for various positions were to be defined by the Qualification Commission.

Chapter IX. entitled the Archival Council created an advisory body of the Department of State Archives. The chapter consisted of three parts. The first one (Article 31) presented the tasks of the Council, the second one (Articles 32–36) defined the structure of the Council and its composition. The third part (Articles 37–43) discussed in detail the activity of the Archival Council, the procedures it followed, the establishment of a commission, the activities undertaken by the Council members and their salaries.

Chapter X. was the final chapter entitled Transitional provisions (Articles 44–46). State archives included in the archival network were listed here²⁹. The Decree listed national archives in Krakow and Lviv, giving the Minister of Religious Affairs and Public Education the opportunity to take them over and create other local archives.

Today the Decree on archives and protection of archival material is regarded as the modern act when assessed from the perspective of those times, not differing much from archival legislation in other European countries, although adapted to the reality of the country which, after more than a century of captivity, regained independence. This act referred to French legal solutions, but it also included concepts formulated by Polish archivists and officials. Despite the fact that the decree was not perfect and was provisional, it formed the basis on which archival staff and archives could work³⁰.

Summing up, before independent Poland was reborn, after 123 years of captivity, the patriotic environments, aware of the significance of archival material for studying the history of Poland and for efficient state administration, made an effort to take control of Polish archives and began work on norms which could regulate archival sphere at the highest level. The culmination of these efforts was 'The Decree on the Organization of State Archives and Preservation of Archival Material' of 7 February 1919. Apart from the issue whether the solutions adopted in the enacted legislation were correct or not, not mentioning the shortcomings of these regulations evident even for their contemporaries (the omission of some important issues or internal contradictions), it is necessary to note the significance of this legislation. Un-

²⁹ These were the Central Archives of Historical Records, the Archive of the Ministry of Religious Affairs and Public Education, the Military Archive, the Treasury Archive, local archives in Lublin, Piotrków and Plock, and the Sate Archive in Lviv (not listed in the Rescript).

³⁰ The review of the Decree see Z. Kolankowski, op. cit., p. 82; T. Mencil, op. cit., pp. 35–36; B. Ryszewski *Polskie ustawy archiwalne i wynikające z nich problemy*, [in:] *Pomorze – Polska – Europa. Studia i materiały do dziejów XIX i XX wieku*, Toruń 1995, pp. 285–288; M. Mameczak-Gadkowska, *Archiwa państwowe...*, pp. 61–64; R. Galuba, op. cit., pp. 37–52.

doubtedly, preparing and enacting the norms regulating the archival issues laid the foundation, on the eve of Poland's independence, for creating the network of Polish historical archives and allowed the organization of the archival service in the Second Republic of Poland.

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Summary

The formation of Polish archival legislation on the eve of independence

Key words: polish archival legislation, archival regulations, polish archives, archival law, Provisional Council of State and Archival Commission, Ministry of Religious Affairs and Public Education and Department of State Archives.

Summing up, before independent Poland was reborn, after 123 years of captivity, the patriotic environments, aware of the significance of archival material for studying the history of Poland and for efficient state administration, made an effort to take control of Polish archives and began work on norms which could regulate archival sphere at the highest level. The culmination of these efforts was ‘The Decree on the Organization of State Archives and Preservation of Archival Material’ of 7 February 1919. Apart from the issue whether the solutions adopted in the enacted legislation were correct or not, not mentioning the shortcomings of these regulations evident even for their contemporaries (the omission of some important issues or internal contradictions), it is necessary to note the significance of this legislation. Undoubtedly, preparing and enacting the norms regulating the archival issues laid the foundation, on the eve of Poland’s independence, for creating the network of Polish historical archives and allowed the organization of the archival service in the Second Republic of Poland.

Streszczenie

Formowanie się polskiego ustawodawstwa archiwalnego w przeddzień niepodległości

Słowa kluczowe: polskie prawo archiwalne, przepisy archiwalne, polskie archiwa, prawo archiwalne, Tymczasowa Rada Stanu i Komisja Archiwalna, Ministerstwo Spraw Religijnych i Oświecenia Publicznego oraz Departament Archiwów Państwowych.

Jeszcze przed odzyskaniem niepodległości polskie środowiska narodowe, świadome znaczenia archiwaliów dla poznania przeszłości państwa i narodu oraz znające wartość materiałów archiwalnych dla sprawnego administrowania państwem, dążyły do przejęcia w zarząd archiwów. Jednocześnie już na początku 1917, w ramach powołanej przez okupacyjne władze niemiecko-austriackie Tymczasowej Rady Stanu, działającej przy boku niemieckiego gubernatora jako instytucja doradcza i opiniodawcza w sprawach polskich prowadzono prace nad opracowaniem normatywu, który na poziomie najwyższym uregulowałby kwestie archiwalne. Finalnym uwieńczeniem tych starań był wydany już w wolnej Polsce Dekret o organizacji archiwów państwowych i opiece nad archiwiami z 7 lutego 1919 r. Pomijając kwestię słuszności rozwiązań zastosowanych w tym normatywie i widoczne już dla współczesnych mankamenty tych przepisów, trzeba zauważyć znaczenie tego prawodawstwa. Bez wątplenia opracowanie i uchwalenie norm regulujących problematykę archiwalną, pozwoliło u progu odzyskanej polskiej niepodległości dać podwaliny pod budowę sieci polskich archiwów historycznych oraz umożliwiło organizację służby archiwalnej w II Rzeczypospolitej.