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Legislative Provisions and Ethics- Proper Basis for Preservation of Archives (Do we need ethics when there are proper legislative provisions?)

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Preservation of archival documents belongs to the main tasks of all archives institutions. Proper legal provisions can provide an excellent basis for quality improvement also in the field of archives management and preservation. Their practical application in real life, however, will need a lot of effort, energy and financial support in order to meet all the requirements given by the law. However, even the best legislation without personal ethical attitude and involvement of those responsible for archives and their treatment on every level - can fail in its effect.

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La conservazione dei documenti d'archivio appartiene ai compiti principali di tutte le istituzioni archivistiche. Opportuni provvedimenti legislativi possono fornire un'eccellente base per un miglioramento qualitativo nella campo della gestione e della conservazione degli archivi. Per la loro applicazione pratica nella vita quotidiana, d'altronde, ci sarà bisogno di molto sforzo, energia e supporto finanziario allo scopo di ottemperare a tutte le richieste della legge. Comunque anche la miglior legislazione, senza il personale senso etico ed il coinvolgimento dei responsabili d'archivio e la loro cura a tutti i livelli, può avere effetti fallimentari.

Juren vestres mersès Senyors Archivers que seauran ab tota rectitud e fidelitat en mirar per la custòdia e bon ordre de dit Archiu e scriptures de aquell y tindran segret tot lo que faran y convindrà als drets de dita ciutat tenir secret.

(Do you honourable Archivists swear that you will proceed with all rectitude and fidelity in keeping custody of that Archive and its documents in good order and that you will keep secret all that you do and all that is in the interests of the rights of this city to be kept secret.)

Oath of the archivists of the city of Tortosa, 1579, Code of Ethics of Catalan Archivists

INTRODUCTION

Preservation, conservation and restoration of archives are processes and proceedings aiming in ensuring stability, longevity and lifetime of documents during their long-term storage in archives by their protection against damage or destruction, harmful effects of internal and external degradation factors, detrimental effects of environment as well as non-appropriate human activities. As these problems are very common for archives, libraries and museums, many activities in the field of preservation are carried out in very close cooperation between these institutions on a national and international level. Basic principles and conditions of preservation should be created by legislative measures on one hand and practical preservation activities - consisting of preventive activities and methods and conservation and restoration - on the other hand.

There is no doubt that a proper legislation is a necessity for everyday life and its functioning in human civilisation. The sphere of archives, archival science and practice is not any exception. This is the reason why most of civilised countries have established also the archival legislation.

In this connection I would like to mention at least three basic legislative documents concerning preservation of archives in the Slovak Republic. They are as follows: **Declaration of the National Council of the Slovak Republic on preservation of cultural heritage** from February 28, 2001; **the Act no. 395/2002 on Archives and Registries and on the Amendments of Certain Acts**, which

was adopted by the National Council of the Slovak Republic on 17 May 2002 and the **Regulation no. 628 of the Ministry of Interior of the Slovak Republic from 29 October 2002 by which some provisions of the Act on Archives and Registries are executed**¹. The reason for adopting new legislation was the fact that the previous Act on Archives from 1975 - despite its three revisions during the past years - could not ensure proper fulfilling of all tasks connected with archives and registries in new social and political conditions any more.

The main changes brought by the new legislation can be summarised as follows:

- The system of archives in the Slovak Republic is centralised, the right to establish and dissolve the archives is given to the state via the Ministry of the Interior of the Slovak Republic.
 - The previous structure of the state archives have been changed in such a way that previous seven state regional archives (under the competency of the Ministry of the Interior of the Slovak Republic) and 38 district archives (the competency of the local state district authorities) are unified into the system of state archives with regional territorial competence and previous district archives have become branches of regional archives; neither number of archives nor their competence have been changed²;
 - It gives the possibility to establish an archives not only to legal persons but also to a physical person (private archives) and provide them certain rights and obligations as well;
 - 30 years protection period for access to archival documents is abolished - especially this provision of the Act is highly appreciated by experts of the European Union and thus the Slovak Act belong to the most liberal laws in the Europe from this point of view;
 - registry administration is processed in its complexity and from the point of view of present real situation; the creator of registry can ask an appropriate company to take care of his registry administration as provided service;
 - the access rights and obligations to archival documents are dealt with in detail;
 - Export, import and return of archival documents is established as a special process in accordance with existing European standards;
- Protection and preservation of archives and registries
- belong to the main activities of all archives institutions, the tasks and activities in this field are also strongly stressed in the Act and the following Regulation as public interest.
 - The Act contains also a strong requirement for record and registry creators concerning use of appropriate permanent paper (ISO 9706) and inks to be used in formation of records which can potentially become archival documents and their protection.

The Regulation no. 628/2002 of the Ministry of Interior of the Slovak Republic by which some provisions of the Act on Archives and Registries are executed in its second part "Protection / preservation of archival documents and registry records" specifies in details the subject and types of preservation, protection as well as rooms

HANUS, Jozef, Zakonodajne odločbe in etika - primerna osnova za zaščito arhivskih dokumentov (Ali potrebujemo etiko, ko gre za lastne zakonodajne ukrepe?). Atlanti, Zv. 16, Št. 1-2, Trst 2006, str. 185-190.

Zaščita in varovanje arhivskih dokumentov spada v temeljne naloge arhivskih ustanov. Arhivi predpisujejo zakonodajo, ki zagotavlja odlično osnovo za kakovostne izboljšave na področju upravljanja in varovanja arhivske dokumentacije. Vse to praktično predstavlja, da je za to potrebno zagotoviti nenehnen strokovni napor in zavzetost, prav tako pa tudi finančne vire, da se zadosti zakonodajnim zahtevam. Res pa je, da tudi najboljša zakonodaja ne more nadomestiti osebne zavzetosti arhivskih delavcev za etično dobro, saj se pri raziskavah in delu srečujejo z zapletenimi situacijami, kjer se kdaj tudi lahko zgodi, da kdaj vsi cilji niso doseženi.

SUMMARY

Preservation of archival documents belongs to the main tasks of all archives institutions. Proper legal provisions can provide an excellent basis for quality improvement also in the field of archives management and preservation. Their practical application in real life, however, will need a lot of effort, energy and financial support in order to meet all the requirements given by the law. Legislative provisions and ethical rules - like Code of Ethics - provide different qualitative issues in different fields of human life and civilisation including archives. However, it is known that even the best legislation without personal ethical attitude and involvement of those responsible for archives and their treatment on every level - can failure in its effect.

1. <http://www.civil.gov.sk/snarchiv/>
2. KARTOUS, P.: Nový zákon o archívoch a registratúrach v Slovenskej republike. Slovenská archivistika, XXXVIII, 2003, 2, pp. 6-12.

and storage space of archives and different precautions connected with them;

- One of the most important articles within the Regulation is Article 24 defining the most important external and internal degradation factors (physical, chemical, microbiological) which may cause deterioration of physical conditions of archival documents and deals with protection against them.

- Exhibitions are powerful tool for communication with a large public and enable to attract people by displaying selected attractive archival documents. They should be educational and enjoyable. Exhibiting works of art or artefacts, especially the unique, the rare, and the wonderful, is an important part of the educational mission of many institutions. It is also an effective way of attracting the attention and support of the public. Although exhibition can complicate or even compromise preservation efforts, it is nearly impossible to avoid exhibiting original documents. Therefore it is inevitable to take and apply some measures and precautions to minimise risk or their damage - especially by the influence of light and humidity - in the process of exhibition.

- Conservation and restoration treatment of archival documents are inevitable part of their active preservation which are provided by specialised workplaces. Archival documents cannot be treated by conservation and restoration processes outside the network of state archives system. The Regulation contains the basic rules also for this field of work³.

It can be stated that the new adopted legislative provisions provide very good basis for execution of all activities in preservation of archives.

Speaking about legislation - in all languages there are well-known expressions - “the letter of the law” and “the spirit of the law”. Despite legal provisions can be very clear and unambiguous it seems that in most fields of human activities we need even something more. Do we really need it? And if yes – what is it, can it be defined somehow and why we need it? Why most of the professional organizations or societies of various kinds adopt also other rule of different type - which has usually the common and uniform basis and principle - and usually is even called by the same name - Code of ethics?

Ethics (Greek *ethika*, from *ethos*, “character,” “custom”), principles or standards of human conduct, sometimes called morals (Latin *mores*, “customs”), and, by extension, the study of such principles, sometimes called moral philosophy. Ethics, as a branch of philosophy, is considered a normative science, because it is concerned with norms of human conduct, as distinguished from the formal sciences, such as mathematics and logic, and the empirical sciences, such as chemistry and physics. The empirical social sciences, however, including psychology, impinge to some extent on the concerns of ethics in that they study social behaviour. For example, the social sciences frequently attempt to determine the relation of particular ethical principles to social behaviour and to investigate the cultural

³ HANUS, J.: Preservation of Archives in the New Slovak Archival Legislation. Proceedings of the International conference “Technical and field related problems of traditional and electronic archiving”, Radenci, Slovenija, March 31–April 1, 2004. Pokrajinski arhiv Maribor, pp. 191-209.

conditions that contribute to the formation of such principles. Ethics thus can be summarised as:

- the philosophical study of moral values and rules,
- motivation based on ideas of right and wrong,
- the principles of right and wrong that are accepted by an individual or a social group,
- a system of principles governing morality and acceptable conduct.

From archivists point of view the most important ethical rule should be the INTERNATIONAL COUNCIL ON ARCHIVES CODE OF ETHICS which was adopted by the General Assembly in its XIIIth session in Beijing (China) on 6 September 1996⁴. This code is intended to provide an ethical framework for guidance of members of the profession, and not to provide specific solutions to particular problems. Archivists should promote the preservation and use of the world's documentary heritage, through working co-operatively with the members of their own and other professions; they should seek to enhance cooperation and avoid conflict with their professional colleagues and to resolve difficulties by encouraging adherence to archival standards and ethics. The term archivists as used in this code is intended to encompass all those concerned with the control, care, custody, preservation and administration of archives.

International Council On Archives - Section for Records Management and Archival Professional Associations at their Annual Delegates Meeting, Monday 23 August 2004, Vienna, Austria stated that since the Code of Ethics was adopted in 1996, SPA has gathered 24 translations. These now appear on the ICA website.

One of the first rules dealing with preservation of cultural heritage „The Athens Charter for the Restoration of Historic Monuments” was adopted at the First International Congress of Architects and Technicians of Historic Monuments in Athens 1931⁵. Despite it concerns different subjects than archives, preservation principles can be considered to be very general and many of them can be applied also nowadays.

The following seven main resolutions were made and called “Carta del Restauero”:

1. International organizations for Restoration on operational and advisory levels are to be established.
2. Proposed Restoration projects are to be subjected to knowledgeable criticism to prevent mistakes which will cause loss of character and historical values to the structures.
3. Problems of preservation of historic sites are to be solved by legislation at national level for all countries.
4. Excavated sites which are not subject to immediate restoration should be reburied for protection.
5. Modern techniques and materials may be used in restoration work.

4. <http://www.ica.org/biblio/Ethics-EN.pdf>.

5. http://www.icomos.org/athens_charter.html.

6. Historical sites are to be given strict custodial protection.
7. Attention should be given to the protection of areas surrounding historic sites.

The CODE OF ETHICS of the American Institute for Conservation of Historic and Artistic Works⁶ is focused more also on conservation of archives. The primary goal of conservation professionals, individuals with extensive training and special expertise, is the preservation of cultural property. Cultural property consists of individual objects, structures, or aggregate collections. It is material which has significance that may be artistic, historical, scientific, religious, or social, and it is an invaluable and irreplaceable legacy that must be preserved for future generations. In striving to achieve this goal, conservation professionals assume certain obligations to the cultural property, to its owners and custodians, to the conservation profession, and to society as a whole. At least some points - which are similar in some other codices as well, e.g.⁷ - are presented as follows:

I. The conservation professional shall strive to attain the highest possible standards in all aspects of conservation, including, but not limited to, preventive conservation, examination, documentation, treatment, research, and education.

II. All actions of the conservation professional must be governed by an informed respect for the cultural property, its unique character and significance, and the people or person who created it.

...

V. While circumstances may limit the resources allocated to a particular situation, the quality of work that the conservation professional performs shall not be compromised.

VI. The conservation professional must strive to select methods and materials that, to the best of current knowledge, do not adversely affect cultural property or its future examination, scientific investigation, treatment, or function.

VII. The conservation professional shall document examination, scientific investigation, and treatment by creating permanent records and reports.

...

IX. The conservation professional shall act with honesty and respect in all professional relationships, seek to ensure the rights and opportunities of all individuals in the profession, and recognize the specialized knowledge of others.

...

XII. The conservation professional shall practice in a manner that minimizes personal risks and hazards to co-workers, the public, and the environment.

XIII. Each conservation professional has an obligation to promote understanding of and adherence to this Code of Ethics.

However, some contradictory issues can arise in some discussion concerning e.g. reversible methods in conservation treatment, especially in mass deacidification processes. It is known that high acidity is one the most serious causes of acidic paper degradation. The only solution for elimination of this internal degradation factor caused by acidic rosin sizing with using of alum (potassium-aluminium sulphate) is neutralization of acidity and creation of so called alkaline reserve in treated papers which in practise does not allow

6. <http://aic.stanford.edu/pubs/ethics.html>.

7. CODE OF ETHICS of the Canadian Association for Conservation of Cultural Property and of the Canadian Association of Professional Conservators, <http://www.cac-accr.ca/ecode.pdf>

irreversibility of treatment process. This and some other similar issues should be considered very carefully and sensitively and openly discussed among the experts from the field.

CONCLUSION

Legislative provisions and ethical rules - like Code of Ethics - provide different qualitative issues in different fields of human life and civilisation including archives. Both are necessity and provide the proper basis for successful archives management, use and preservation. It is known that even the best legislation without personal ethical attitude and involvement of those responsible for archives and their treatment on every level - can failure in its effect. Finally in general a man has to come to the basic conclusion that each human activity in every sphere is based on his deliberate decision to make a selection between the good and badness, right and wrong. Of course, we can very often witness the behaviour and activities motivated by best intentions which can result not in the same effect as original intention not because of the actor himself but by the influence of objective and real conditions and circumstances.