

## Access to Archives in Slovak Archival Legislation

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With effect from January 1, 2003, the Slovak Republic has a new archival legislation - *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* (in the wording of later regulations).

This Act shall “regulate the organisation and competence of state administration authorities in the field of Archives and registries, organisation of Archives, rights and obligations of Archives founders, Archives, possessors of archives, access to archives, as well as the rights and obligations of registry creators”.

The Act brought a new system of archive in Slovak Republic:

### System of Archives

Public Archives and Private Archives shall form a system of Archives.

- Public Archives shall mean
- State Central Archives and State Archives with regional territorial competence,
- Archives of state authorities, state budgetary organisations and state contributory organisations<sup>1</sup>,
- Municipal Archives<sup>2</sup> and the Archives of self-government regions<sup>3</sup>,
- Archives of legal persons stipulated by law<sup>4</sup>,
- Archives of legal persons and Archives of physical persons that represent the public administration authorities<sup>5</sup>.

Private Archives shall mean the Archives of legal persons<sup>6</sup> or of physical persons

The act modifies several ways of access to archival documents kept in the archives:

- directly in the search room of the archives by studying of finding aids, archival documents or their reproductions,
- indirectly on the basis of written request for a search, extract and copy,
- via exhibitions and pedagogical activity.

1. Articles 21 to 23 of Act of the National Council of the Slovak Republic No. 303/1995 Coll. of Laws on budgetary rules, as amended.

2. Article 22 par. 1 of Act of the Slovak National Council No. 369/1990 Coll. on community organization as amended by Act of the Slovak National Council No. 295/1992 Coll. and Act No. 453/2001 Coll. of Laws.

3. Act No. 302/2001 Coll. of Laws on the self-government of higher territorial units (Act on self-government regions), as amended by Act No. 445/2001 Coll. of Laws

4. For example, Act No. 16/2004 Coll. on Slovak Television, as amended, Act No. 619/2003 Coll. on Slovak Radio, as amended.

5. For example, Article 48 par. 3 of Act No. 143/1998 Coll. of Laws on civil aviation (Civil Aviation Act) and on the amendment and supplement of certain acts, as amended by Act No. 37/2002 Coll. of Laws.

6. For example, Act No. 85/2005 Coll. on political parties and political movements, Act No. 83/1990 Coll. on the association of citizens, as amended, Commercial Code, Act No. 308/1991 Coll. on religious freedom of and on the position of church and religious societies, as amended.

## The access rights and obligations to archival documents are dealt with in detail:

- everybody shall be allowed to access the archival documents located in archives and the archival information system, if not otherwise stipulated by this act.

Access to archival documents shall be executed upon a written application.

In an application for access to archival documents in the form of its transcripts, abstracts, certificates or copies, an applicant shall specify:

- name and surname;
- birth number;
- address of permanent residency or address of temporary residency;
- type and number of identification card; the applicant proves his identity by identification card, travel document (passport), military identification card, sailor's book or a document permitting residence in the form of an identification card;
- information about the required archival document that he is aware of;
- purpose of use;
- name, surname and address of a physical person or the name, seat and identification number of a legal person, for needs of whom he asks for access to the archival documents;
- declaration stating whether he is the creator of the archival documents, his legal successor or the possessor of archival documents.

Archives shall enable access to archival documents by the execution of

- transcripts,
- abstracts,
- certificates,
- copies,
- as well as by the study and public exhibition of archival documents;

Archives shall execute a duplicate, abstract or certificate of an archival document and a copy of an archival document for the settlement of costs. On the execution of a duplicate, abstract, certificate or copy, the archives shall authenticate its conformity with the original archival document. A transcript, abstract, certificate or copy, authenticated by the archives, shall substitute the original of the archival document.

### Original of an archival document

Archives shall only submit an original of an archival document for its study in exceptional cases, whilst it shall always submit a copy of an archival document, if

- it concerns an archival document created before 1526;
- it contains information with restricted access;
- any damage or possibility of damage could occur upon its study;

*ves and personal data which may be included in them, the access to archives in the Slovak Republic – as well as in other European countries – is regulated by the Act no. 395/2002 on Archives and Registries and on the Amendments of Certain Acts. The paper informs in details about the approach to this problems in some Slovak archival legislation and practical aspects in Slovak state archives*

**HANUS, Jozef - PÉKOVÁ, Monika - PAVLÍKOVÁ, Lenka, L'accesso agli archivi nella legislazione archivistica slovacca. Atlanti, Vol. 20, Trieste 2010, pp. .**

*L'accesso agli archivi è uno dei diritti fondamentali, nel senso del libero accesso alle informazioni di carattere pubblico. Tuttavia, dato il carattere specifico degli archivi e dei dati personali che possono esservi contenuti, nella Repubblica Slovacca - così come in altri paesi europei - l'accesso agli archivi è regolamentato dalla Legge 395/2002 sugli Archivi e Registri. L'articolo dettaglia l'approccio al problema in alcune leggi slovacche e gli aspetti pratici negli archivi di stato slovacchi.*

**HANUS, Jozef - PÉKOVÁ, Monika - PAVLÍKOVÁ, Lenka, Dostop do arhivov v slovaški arhivski zakonodaji. Atlanti, Zv. 20, Trst 2010, str. .**

*Dostop javnosti do arhivskega gradiva zagotovo pomeni temeljno pravico v smislu prostega dostopa do informacij. Zaradi specifičnosti nekaterih gradiv in zaupnih podatkov, ki bi se lahko nabajali v njih, dostop do njih na Slovaškem, pa tudi v drugih evropskih državah, urejajo Zakon o arhivih in ustrezni amandmaji. Avtor v svojem prispevku podrobno opisuje pristop do teh težav v slovaški arhivski zakonodaji in praktične vidike v slovaških državnih arhivih.*

### SUMMARY

*Access to archives for public is one of the basic rights in the sense of free access to public information. However, because of specific character of archives and personal data which may be included in them, the access to archives in the Slovak Republic – as well as in other European countries – is regulated by the Act no. 395/2002 on Archives and Registries and on the Amendments of Certain Acts. The paper informs in details about the approach to this problems in some Slovak archival legislation and practical aspects in Slovak state archives. Selected articles illustrate the main goals, changes and the scope of their application and stipulate also in detail conditions for access to archives. Apart from other things, the new adopted legal provisions provide an excellent basis for quality improvement also in this field. Their practical application in real life, however, will need a lot of effort, energy and financial support especially in improving on-line access firstly to information about archives and then to digital copies of selected archival documents by means of new IT via Internet.*

## Exhibitions

Archives shall only allow access to archival documents in the form of public exhibition in exceptional cases, upon a contract and the settlement of the cost incurred in the execution of copies of archival documents and their transport. The exhibitor shall be obliged to insure the archive documents.

On the other hand there exist also some access restrictions to archives.

### **Archives shall restrict access to archival documents if:**

upon their use, the safety of the state, its defence, foreign, political, economic or financial interests could be endangered or if it results from international treaties by which the Slovak Republic is bound, or from obligations resulting from its membership in international organisations;

- upon their use, the rights or legally protected interests of living persons could be endangered;
- upon their use, damage or the possibility of damage to them could occur;
- it is specified in the conditions under which these were placed in the archives;
- the applicant seriously breached the research rules of the archives.

### **Access to archival documents cannot be restricted to:**

- the creator, legal successor or possessor of archival documents;
- state authorities, municipalities, self-government regions, other legal persons and physical persons in conjunction with their activity pursuant to special regulations;
- an applicant, to whom the data contained in an archival document, refers

### **The appeal against a decision on the restriction of access to archival documents:**

An applicant may lodge an appeal against a decision on the restriction of access to archival documents. If the decision on the restriction of access to archive documents refers to archival documents placed in archives kept by:

- a legal person established or founded by a state authority, this state authority shall decide in respect of this appeal; if it does not represent an authority of state administration, the Ministry shall decide in respect of the appeal;
- other legal persons or physical persons, the Ministry shall decide about the appeal;
- a municipality, a self-government region or a court shall decide about the legal remedy against the decision;

There exists also a possibility to give a special permission for access to archival documents.

Special permission for access to archival documents

- a creator of archival documents, his legal successor or the possessor of archival documents, shall be allowed to grant a special permission for access to archival documents, which are not otherwise accessible;
- if it is not possible to identify the creator of archival documents, his legal successor or the possessor of archival documents, the archives grant the special permission;

The special permission shall be granted to:

- archival documents or
- physical person

The special permission shall clearly state who grants it, to whom and to which archival documents it refers. If the special permission is not granted by archives, it shall contain the verified signature of the physical person that grants it.

Archival documents, for access to which special permission was granted, shall become constantly accessible to any applicant.

Upon the granting of a special permission to a physical person, the archival documents shall not become accessible to another physical person. The person that granted the special permission to a physical person shall be obliged to enable access to any other physical person, to whom it grants it under equal conditions.

(7) The creator of archival documents, the legal successor, possessor of archival documents or archives, may condition the granting of a special permission, by the signature of an applicant's declaration stating that he shall not disclose information gained that could damage public interest or private interest.

## The access to archival fonds and archival collections

The archival heritage of the Slovak Republic is created by archival fonds, archival collections and archival documents registered in the territory of the Slovak Republic. All Archives shall keep a register of archives that were acquired. The State Central Archives or State Archives with regional territorial competence shall keep a register of archives belonging to a possessor that did not establish Archives. State Archives with a regional territorial competence shall keep a register of all archives occurring in their territorial district. The Ministry shall keep a central register of all archives occurring in the territory of the Slovak Republic (the "central register"). The register of archives kept by State Central Archives, State Archives with regional territorial competence, as well as the central register shall, all together, form the archival heritage register.

The access to information about archival documents is provided via the archival information system which is defined as a complex of information about archival documents recorded in the archival heritage register, about their storage, content and access to them and consists of the Archival Heritage Register and finding aids instruments (guides, inventories, catalogues and registers). All finding aids in paper form are available at the Department of Archives and respective archives provide finding aids referred to their archival fonds and collections.

Nowadays the State Archives use a new version of electronic archival information system (WinAFONDY). Its aim is to create the central database of the register of archival fonds and collections kept in the network of state archives as well as the register of archival fonds stored in all others types of archives. The database also contains data about state of preservation and physical state of archival documents, information on state of their processing and access to them, their creators and predecessors, available finding aids and also information about range and quantities of archival fonds. The application is built as a central Internet browser solution which will make accessible these data to public via Internet. Currently, the filling of database and correction of all existing data is in the progress. The access for all State Archives is available in the meantime from computer network of Ministry of Interior of the Slovak Republic and for other archives via password protected Internet connection.

### The access to finding aids

The archival heritage of the Slovak Republic kept in state archives comprises 27,000 archival fonds and archival collections with a total range of 185,000 current metres.

As already mentioned, Department of Archives, Ministry of Interior of the Slovak Republic keeps the central register of finding aids. From the total amount of 4000 units of finding aids about 80% of them are in analogue / paper form and only 20 % in digital form. The reason is obvious - the finding aids until ninetieth years of the 20th century were made by typewriters, rotary printing and later on via the personal computers. From the year 2007 the finding aids are produced also in electronic form by means of application Bach - Inventories. These finding aids (275 inventories accessible in electronic form) are immediately provided on Internet (<http://vademecum.vsnet.sk/sk/vade/>). As we are aware of current trends and needs to provide information about archival fonds and collections through Internet the priority of Slovak archives in this field is conversion of all finding aids from analogue / paper into electronic form. In cooperation with the Slovak National Library in Martin the paper finding aids are digitalized and should be soon provided on respective website of Slovak archives.

### The access to archival documents created before 1526

According to the above mentioned Slovak Act on Archives "the Archives shall only submit an original of an archival document for its study in exceptional cases, whilst it shall always submit a copy of an archival document, if it concerns an archival document created before 1526"<sup>7</sup>. This was one of the main reasons why the Slovak National Archives participates in project ICARus. Its aim is to digitize all medieval charters in the archives and to make them available in electronic form for public.

### Conclusion

New Slovak legislative provisions - the Act no. 395/2002 on Archives and Registries and on the Amendments of Certain Acts adopted 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

7. Article 12 of Act no. 395/2002 on Archives and Registries and on the Amendments of Certain Acts

- with the effect from January 1, 2003, replaced the old Act from 1975.

Selected articles illustrate the main goals, changes and the scope of their application and stipulate also in detail conditions for access to archives. Apart from other things, the new adopted legal provisions provide an excellent basis for quality improvement also in this field. Their practical application in real life, however, will need a lot of effort, energy and financial support especially in improving on-line access firstly to information about archives and then to digital copies of selected archival documents by means of new IT via Internet. 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.