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The objective of this article is to get a global view about the treatment of the Archives in Mass media, giving special attention to the controversy about the transfer of documents originating from the region of Cataluña, from the National Archive of the Spanish Civil War in Salamanca to the national Archive of Cataluña in Barcelona

The information on different aspects related to the world of the Archives, are common practice in mass media, mainly in those reporting about the cultural or scientific aspect; nevertheless, during the last years this controversy has caused in Spain thousands of pages in newspapers and many hours of programmes in the news on Television, Radio, etc. about the deepest aspects of the world of the archives.

This controversy has produced an upset in the informative treatment on the archives not only by multiplying the number of news about the Archives in general, but also by producing a qualitative change. Analyses of specialists, archivists, historians, lawyers, about the deepest aspects of archives have been set out for the public in general: Principle of Provenance, Integrity of fonds, International Council of Archives, Management of Archives, Unit of the Archive, etc.

AGUADO GONZALEZ, Francisco Javier, Gli archivi nei mass-media: la polemica circa l'Archivio Nazionale della Guerra Civile Spagnola a Salamanca. Atlanti, Vol. 16, N. 1-2, Trieste 2006, pp. 65-77.

L'obiettivo di questo articolo è una visione globale circa il trattamento degli archivi nei mass-media,

The Archives in Mass Media: The Controversy About The National Archive of The Spanish Civil War in Salamanca

Introduction

In the last pass years we have seen in Spain the appearing of a new protagonist on the covers and headlines of newspapers, news of Radio and Television, special TV programs, etc.: the Archives, although they have been involuntary protagonist. This popularity has been increased by a great and popular controversy about the transfer to the National Archive of Cataluña in Barcelona, of a great part of the documentation stored in the National Archive of the Spanish Civil War in Salamanca.

The Spanish citizens have been exhaustively informed, however for the less familiarized readers we will make in the next pages a brief description of this controversy.

However, and although we'll analyse with more detail this controversy - which has suggested me this investigation -, the objective of this article is to get a global view about the treatment of the Archives in Mass media. For this study we focused on the analysis of a Spanish newspaper of national circulation, the "ABC" newspaper, during the last fifteen years (1991- 2006).

Thanks to the existing Data Base with all the contents of the newspaper, it is much easier to analyse some quantitative data; for example, one of the first surprises appeared when we observed that between almost 6.000.000 of texts, the word "archive(s)" is used more than 23,000 times, "archivist(s)" 700, "archival Science" 400...

During these last 15 years, the Archives have been the main subject on 875 articles, and have occupied the front page of the newspaper in 24 occasions. Again we must emphasize that the mentioned controversy about the National Archive of the Spanish Civil War in Salamanca leads to a distortion of the data: of the 875 news about archives, almost a half (418) tells about this controversy, and between the 25 covers: 12 of them are also referred to the controversy, and the other half to other subjects: inaugurations of Archives, Organization, archival projects, exhibitions, etc.

I think it's necessary to remember that the analyzed information comes from a newspaper of National circulation and that there are many other news related to the archives in local editions, which are not referred in this article.

In the following graph we can observe the main subjects related to the archives that have been considered newsworthy; we have grouped them in 8 blocks ordered by the number of appearances:

Ranking of News related to the Archives (1991-1996)

SUBJECTS	number of News
1 Controversy National Archive of the Spanish Civil War	418
2 INFRASTRUCTURES	204
3 HISTORICAL SOURCE and DISCOVERIES	70
4 ACQUISITION OF ARCHIVES (Purchases, 51 Donations)	
5 CULTURAL EVENTS (exhibitions, congresses...)	44
6 ACCES to HISTORICAL ARCHIVES	36
7 ACCIDENTS (robberies, destruction, deteriorations)	26
8 OTHER CLAIMS between Institutions	26
Total	875

1. As we have already explained, the first place in the ranking is the conjunctural controversy about the destiny of the documents of the National Archive of the Spanish Civil War that we will analyse in the next pages.

2. In the articles about Infrastructures, we have grouped the news talking about to the dowry and archives organization: from references to dowry for the Archives in the budgets of the state, appointments of directors of Archives, to the works, regulations, patronages, budgets, facilities, digitalization, legislation, economic aids, etc.

There are many news referring to the great National Archives, for example the main landmarks around the new building for the Archive of Corona de Aragón, inaugurated in May 1993 in Barcelona, although not opened to the public until August 1994. More than 30 news are about the General Archive of Indias, most of them referring to the digitalization and computerization project. There are also many references to the General Archive of Simancas (11), and also a great number of news referring to municipal archives (micro-

con particolare riguardo alla polemica degli anni scorsi circa il trasferimento di alcuni documenti con origine geografica nella Catalogna, dall'archivio Nazionale della Guerra Civile Spagnola a Salamanca nell'archivio Nazionale di Catalogna a Barcellona.

Le informazioni relative al mondo degli archivi sono ormai prassi nei mass-media, principalmente in quelli che parlano del aspetto culturale o della funzione scientifica; tuttavia, durante gli anni scorsi questa polemica ha prodotto in Spagna migliaia di pagine in giornali, molte ore di trasmissione nei notiziari della Televisione e della Radio riguardo le funzioni più profonde del mondo degli archivi.

Questa polemica ha prodotto un cambiamento radicale nel trattamento dell'informazione sugli archivi, non soltanto moltiplicando il numero di notizie circa gli archivi in generale, ma producendo inoltre un cambiamento qualitativo. Le analisi degli esperti, degli archivisti, degli storici, degli avvocati, circa le funzioni più profonde degli archivi sono state esposte al più vasto pubblico: Principio di provenienza, Integrità dei Fondi Documentali, Consiglio internazionale degli Archivi, amministrazione degli archivi, unità dell'archivio, ecc.

AGUADO GONZALEZ, Francisco Javier, Arhivi v množici občil: polemika o vlogi nacionalnega arhiva v španski civilni vojni v Salamanci. Atlanti, Zv. 16, Št. 1-2, Trst 2006, str. 65-77.

Glavni namen članka je v nastajanju splošnega mnenja o tem, kakšno vlogo imajo arhivi v množici javnih občil. Gre za polemiko glede prenašanja dokumentov, ki izvirajo iz pokrajine Cataluña, in so bili preneseni iz nacionalnega arhiva španske civilne vojne v Salamenci v nacionalni arhiv Cataluña v Barceloni.

V javnosti (radio, televizija) se premelevajo različne informacije in mnenja so seveda zelo različna. Vse to obravnavanje daje občilom različne impulze, v bistvu pa je obravnavanje prineslo tudi kakovostne spremembe, saj so jih oblikovali arhivisti, različni znanstveniki, zgodovinarji in pravniki. Tako je stroka in javnost dobila rešitve o načelih izvora arhivskega gradiva, o integriteti fondov, seznanili so se z mednarodnim arhivskim svetom, o vodenju arhivov in arhivskih enotah, itd.

SUMMARY

In the last pass years we have seen in Spain the appearing of a new protagonist on the covers and headlines of newspapers, news of Radio and Television, special TV programs, etc.: the Archives, although they have been involuntary protagonist. This popularity has been increased by a great and popular controversy about the transfer to the National Archive of Cataluña in Barcelona, of a great part of the documentation stored in the National Archi-

ve of the Spanish Civil War in Salamanca. However, and although we'll analyse with more detail this controversy - which has suggested me this investigation -, the objective of this article is to get a global view about the treatment of the Archives in Mass media. For this study we focused on the analysis of a Spanish newspaper of national circulation, the "ABC" newspaper, during the last fifteen years (1991- 2006).

During these last 15 years, the Archives have been the main subject on 875 articles, and have occupied the front page of the newspaper in 24 occasions. Again we must emphasize that the mentioned controversy about the National Archive of the Spanish Civil War in Salamanca leads to a distortion of the data: of the 875 news about archives, almost a half (418) tells about this controversy, and between the 25 covers: 12 of them are also referred to the controversy, and the other half to other subjects: inaugurations of Archives, Organization, archival projects, exhibitions, etc.

In the ranking of news related to the archives we can observe the main subjects related to the archives that have been considered newsworthy; we have grouped them in 8 blocks ordered by the number of appearances: the first place in the ranking is the conjunctural controversy about the destiny of the documents of the National Archive of the Spanish Civil War; in the articles about Infrastructures, we have grouped the news talking about to the dowry and archives organization, etc.; in the third block we included those news relating to History, but in which the paper of the archives like depository of the historical tradition is emphasized; another great topic about archives among the more frequently mentioned is the one about the extraordinary acquisitions of new archives (archives or fragments), by donation or purchase, with more than 50 references; fifth of the great blocks in which we have grouped the news, refers to the Archives like place for Cultural Activities of different nature, different from the properly archival nature: Exhibitions, Conferences, Prizes, etc; here we have also included other 16 references to Congresses of Archives; another important group of news referred to the Access to the Archives (32) is outstanding, from articles of opinion to commentaries on the legislation, but in most of the cases they talk about the access to the archives related to personalities or controversial historical periods: the archives of the KGB, Nazism, communist Poland, Pinochet, etc; unfortunately, accidents are also a chapter related to the archives and we can find more than 20 articles referring to robberies, fires, destructions or deteriorations of archives; Finally I wish to emphasize the news related to other claims made by different Institutions as a result of the Controversy of the Documents of the National Archive of the Spanish Civil War in Salamanca.

The controversy about the National Archive of the Spanish Civil War in Sala-

film projects p. ej. El Escorial, Alcalá de Henares, Alcobendas, Arganda...) are included. However, the most frequent topic is the one referring to the different aspects related to the process of digitalization (more than 30 references) and diffusion of the Archives on Internet, (20 references).

There are 20 reports related to the Archives legislation, (access to the Archives data, protection of data, specially referred to medical archives (Hospitals, AIDS...), and lamentably, in this chapter we also found more than 20 references to complaints or claims about the archival services: schedules, closing of archives by lack of means, controversial appointments of directors, etc.

3. In the third block, mentioned as Historical Sources and Discoveries, we included those news relating to History, but in which the paper of the archives like depository of the historical tradition is emphasized, i. e. "State Archives prepare a study on Felipe II for 1998" (30/09/1994), "Satisfaction of the Doria Archive by the publication of Letters of Felipe II" (10/03/1998), "Part of the private Archive of Tarancón cardinal will be published" (19/9/1996), "the Vatican Archive of the Inquisition offers to Spain to share their treasure" (26/6/2004)...

4. Another great topic about archives among the more frequently mentioned is the one about the extraordinary acquisitions of new archives (archives or fragments), by donation or purchase, with more than 50 references: Archives of Manuel Azaña, Bach, Maria Cristina de Borbón, García Lorca, Jorge Guillén, Miguel Hernandez, House of Saboya, etc.

5. Fifth of the great blocks in which we have grouped the news, refers to the Archives like place for Cultural Activities of different nature, different from the properly archival nature: Exhibitions, Conferences, Prizes, etc. Here we have also included other 16 references to Congresses of Archives.

6. In the analysis of the headlines an important group of news referred to the Access to the Archives (32) is outstanding, from articles of opinion to commentaries on the legislation, but in most of the cases they talk about the access to the archives related to personalities or controversial historical periods: the archives of the KGB, Nazism, communist Poland, Pinochet, etc.

7. Unfortunately, accidents are also a chapter related to the archives and we can find more than 20 articles referring to robberies, fires, destructions or deteriorations of archives... i. e. floods in the Municipal Historical Archive of Alcalá de Henares (6/12/1995), robbery in the Municipal Archive of Potes (25/2/1997), or in the archive of Ciempozuelos (18/2/1992), recovery by the police of documents robbed in the Archive of Reino de Valencia (24/03/1995), documents destruction by fungi in several National Archives (29/10/1993), etc

8. Finally I wish to emphasize the news related to other claims made by different Institutions as a result of the Controversy of the Documents of the National Archive of the Spanish Civil War in Salamanca, that specially affect to the Archive of Corona de Aragón, in Barcelona, and to which other institutions demand documentation (Valencia Community, Baleares, or Aragón), i. e., the claim that the city council of Palos de la Frontera does of documents about the Discovery of America, which are conserved in the Archive of Indias in Sevilla and which are related to this municipality (31/12/2004).

The controversy about the National Archive of the Spanish Civil War in Salamanca: "The Salamanca Papers"

We have already commented as the controversy around the transfer of documents from the Archive of the Spanish Civil War has supposed an upset in the informative treatment about the archives, not only the number of news referred to the Archives in general has been multiplied, but there has also been a qualitative change. Thus, in the last two years we have found in the press different opinions about this transfer considered under the political point of view, many commentaries of specialists, archivists, historians, lawyers, thus stating archival criteria: principle of provenance, Integrity of archives, International Council of Archives, Unit of the Archive, etc.

Next we will make a summary of the History of the National Archive of the Spanish Civil War, and a brief chronology of the controversy, and then expose the main topics about the justification of the transfer, as well as the defects and consequences of this procedure. It is interesting to emphasize that all the exposed information come from the published reports in the newspapers, although has also been collated with the original sources.

The National Archive of the Spanish Civil War in Salamanca includes fundamentally the documents of the Delegation of the State for the Document Recovery, office in charge to selectively gather the documentation of different organisms and institutions in the diverse war fronts. These documents met in the Territorial Delegations of Document Recovery were sent to the Central Delegation of Salamanca, constituting one of the basic sources of information for the Special Court for the Repression of masonry and Communism created in 1940.

At first the Archive was divided in two sections, the special one (or Masonic) and the politic and social section. After passing through several situations of administrative dependency, it was assigned to the Ministry of Culture (National Historical Archive) when Royal Decree 276/1977 suppressed the Section of Documentary

manca: "The Salamanca Papers"

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After passing through several situations of administrative dependency, it was assigned to the Ministry of Culture (National Historical Archive). From then the Archive grew by receiving other disperse documentation related to the Spanish Civil War.

At the end seventies, just beginning the autonomous government of Cataluña, they made the first claim for the return of the documentation originating from Cataluña conserved in the Archive of the Civil War. In 1995, a new Government approved to return to Cataluña the papers deposited in the Archive of the Civil War in Salamanca, but few days later, the 17th of March, the city of Salamanca lived the greater demonstration on its history to express its outright rejection to this initiative of the minister, this rejection restrained the immediate delivery of the documentation and opened a period of continuous "committees, patronages, new committees, etc." for the study of the problem.

After several and intense years of controversy, in November of 2005, the Official Bulletin of the State published the law of Restitution to the Generalitat of Cataluña of the documents confiscated during the Spanish Civil War, and on 19th of January of 2006, 500 boxes of documentation left the Archive of the Civil War in Salamanca towards Barcelona. The transfer was made during the night, seven in the morning, and with the only witnesses of some journalists and a great number of policemen surrounding the building.

It seems paradoxical that those experts in favour to return to the Generalitat of Cataluña the "papers" of the National Archive of the Spanish Civil War in Salamanca and those who defend to maintain his integrity, in many cases they use the same arguments, and both are convinced to count with the support of the UNESCO and the International Institutions tradition, which we summarize: Convention of The Hague, Convention of UNESCO 1970 Convention of Unidroit Principles of the ICA (International Council of Archives) Report on the Archives of the Security Services of former repressive regimes, etc.

This controversy, about the destiny of an Archive, although related to a political fight - a Government who needs the support of a minority party of nationalistic character-, has supposed an upset in the informative treatment on the archives, not only for been multiplied the number of the news about the Archives in general, but also a qualitative change

has taken place. In addition to the diverse opinions about the transfer from the political point of view, the deepest analyses of specialists, archivists, historians, lawyers, have been also continuous, and they have arranged for the public in general an abundant information about the diverse archival aspects: Principle of Provenance, Integrity of fonds, International Council of Archives, Management of Archives, Unit of the Archive, etc.

Services of Presidency of Government. From then the Archive grew by receiving other disperse documentation related to the Spanish Civil War, like the Archive Bruno Alonso, the photographic archives of Robert Capa, Albert-Louis Deschamps, Kati Horna, Mayo brothers, the C3ndor Legion, Collections of posters, newspapers, and, even sources of oral history about the International Brigade of Abraham Lincoln and the Spanish Exile in Mexico, this way, a great General Archive of the Spanish Civil War was created, integrated in a Studies and Documentation Center for the Spanish Civil War.

Chronology of the Controversy

At the end seventies, just beginning the autonomous government of Catalu1a, they made the first claim for the return of the documentation originating from Catalu1a conserved in the Archive of the Civil War, and in 1983, the Ministry of Culture and the government of Catalu1a decided to microfilm the documents deposited in Salamanca.

In 1995, a new Government approved to return to Catalu1a the papers deposited in the Archive of the Civil War in Salamanca, but few days later, the 17th of March, the city of Salamanca lived the greater demonstration on its history to express its outright rejection to this initiative of the minister, this rejection restrained the immediate delivery of the documentation and opened a period of continuous “committees, patronages, new committees, etc.” for the study of the problem.

In January of 1996, the minister of Culture Carmen Alborch appoints the first commission to propose a solution to the contentious; in May of the same year, the Congress of Deputies appoints another commission of experts.

In February of 2001 the Patronage of the Archive of the Civil War of Salamanca creates a new experts commission with members proposed by the government of Catalu1a and the Central government, and in June of 2002 this commission presents not one but two antagonistic reports¹.

In spite of this reports, the Patronage of the National Archive of the Spanish Civil War considers “correct the resolution to maintain the principle of unity of the Archive, determined by the purpose with which it was conceived and it was organized originally, in accordance with the political consequences derived from the Civil War”, so that, the Patronage reiterates the necessity to preserve the unity of the Archive, in correspondence with its origin and with the archival principles defended by UNESCO for similar cases, and they consider necessary to continue the consolidation and extension of the documentation conserved and other activities of the Archive.

1. ABC, 13/06/2002, p. 48.

In May of 2004, after a new change of government, the Congress of Deputies decides to reopen the negotiating process with the Government of Cataluña. The controversy is reopened and so the demonstrations against the transfer of the “papers”, although in December of the same year, a new Commission of Experts declares that the claims of Cataluña are “right and legitimate”², this declaration caused new demonstrations in Salamanca in favour of the unity of the Archive, with around 100.000 people in June of 2005³.

After several and intense years of controversy, in November of 2005, the Official Bulletin of the State⁴ published the law of Restitution to the Generalitat of Cataluña of the documents confiscated during the Spanish Civil War, and after different new appeals and accusations, the controversy of “the Papers of Salamanca” can be considered finished when the 19th of January of 2006, 500 boxes of documentation left the Archive of the Civil War in Salamanca towards Barcelona. The transfer was made during the night, seven in the morning, and with the only witnesses of some journalists and a great number of policemen (up to 15 vans with more than 100 agents of the National Police) surrounding the building. Some early riser people realizing what was happening shouted: “It is a robbery!”, “Thieves!”...⁵

When the papers stopped in Madrid - in the strongbox of the Ministry of Culture - in its way to Barcelona, a new appeal was interposed by the city council of Salamanca, paralysing again the process, but few days later, the 26 of January of 2006, the National Court decided⁶ to finish the preventive paralysis of the transfer of documents of the Archive of the Civil War from Salamanca to Cataluña that the Court adopted the 20th of January; few hours later the documents arrived at their new repository in the National Archive of Cataluña after a new nocturnal trip⁷.

Main Arguments

It seems paradoxical that those experts in favour to return to the Generalitat of Cataluña the “papers” of the National Archive of the Spanish Civil War in Salamanca and those who defend to maintain his integrity, in many cases they use the same arguments, and both are convinced to count with the support of the UNESCO and the International Institutions tradition, which we summarize in the next lines⁸:

Convention of The Hague⁹

The Intergovernmental Conference on the Protection of Cultural Property in the event or armed conflict approved in 1954¹⁰ is

2. ABC, 24/12/2004, p. 50.
3. ABC,12/06/2005 p. 1.
4. law 21/2005, published the 18th of November of 2005.
5. ABC,20/1/2006 p. 54.
6. the section Seventh of Contencioso-Administrativo of the National Court.
7. ABC, 1/2/2006, p. 55.
8. p. ej. Vid. Ana Belén Hernández in a doble page: ABC, 17/01/2005 pp. 48-49.
9. La Hague, May 14th 1954 <http://unesdoc.unesco.org/images/0008/000824/082464mb.pdf>.
10. Spain ratified the convention in 1960.

the first international agreement centered in the protection of the cultural patrimony and it was approved after the massive destruction of the cultural patrimony that took place in World War II.

During the Conference was approved a protocol that prohibits the export of cultural properties of an occupied territory and demands the return of this properties to the territory of the State where they were removed. Such property shall never be retained as war reparations¹¹.

In 1999 a second protocol was adopted in which besides to extend the protection talks about the conciliation procedures. The approved text defined the cultural property as “the movable or immovable property of great importance for the cultural heritage of every people¹²”, mentioning specifically the collections of archives and the buildings where they are deposited.

The Convention also fixes the channels for the conciliation procedure: “the protecting Powers shall lend their good offices in all cases where they may deem it useful in the interests of cultural property, particularly if there is disagreement between the Parties to the conflict as to the application or interpretation of the provisions of the present Convention or the Regulations for its execution.”¹³, and it even contemplates the mediation of UNESCO.

Convention of UNESCO 1970¹⁴

The Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Cultural Property, declare its regulation as “diplomacy instrument, but it does not establish any space for the private action”. It is recognized in the own regulation that the Convention is designed to assure the national patrimony, instead of protecting the historical information and cultural contained within the registries and, consequently, it has been criticized like too nationalistic. Nevertheless, “it considers that the museums, the libraries and the archives, like cultural institutions, must guard so that the constitution of their collections is based on principles morally recognized”, in its article 11, refers to the occupations of one State for other one.

Convention of Unidroit¹⁵

The Convention of the Unidroit, (Institute for the Unification of the Private Right), of 1995, on the Stolen or Illegally Exported Cultural Objects, complements the UNESCO convention and provides to every individual or private institution the right and the resources to demand stolen objects in the Courts of the country where

11. Protocol I.3.

12. Capt. I. 1.

13. Art. 22.

14. http://portal.unesco.org/en/ev.php-URL_ID=13039&URL_DO=DO_TOPIC&URL_SECTION=201.html.

15. Convention on Stolen or Illegally Exported Cultural Objects, Rome, 24 June 1995: <http://www.unidroit.org/english/conventions/1995culturalproperty/1995culturalproperty-e.htm>.

the object is placed, meanwhile offers an uniform definition of the title of the property. In its Chapter III it allows to a State Part to ask for the return of the material that has been illegally exported, but it is applied only to reclamations of international relation.

Principles of the ICA (International Council of Archives)

In the context of the decomposition of the USSR and the Yugoslavia, Jean-Pierre Wallot, in the occasion of the International Colloquy on the document transfer, celebrated in 1996 in Roanne, published an article with the great principles concerning this question¹⁶. He thinks its necessary a “pragmatic, flexible and supported approach in the experience by the route of the negotiation between the affected parts”, since many conflicts are of a great complexity and need an international agreement.

The ICA considers in the first place the right of each nation to maintain its historical continuity. It emphasizes the inalienability and the dispensable character of the public archives, which means that in a transference of property of public documents, specially in cases of succession of States, it will not be possible to take part more than by a legislative act or similar value for the State that had created them.

Wallot considers that “the archives are not collection pieces and they work like a whole for the institution of origin”, so that, “it is necessary to respect the principle of provenance and integrity of fonds”. This doctrine excludes the dismemberment of archives or the acquisition by another archival institution of archives that do not belong to their jurisdiction. In case of shared inheritances by several successor States, the archives will have to remain completely in one of them, but in a context of recognition of the rights of access and reproduction of the other implied States. The notion of common patrimony developed by UNESCO acquires notoriety in this point.

Report on the Archives of the Security Services of former repressive regimes¹⁷

It is, without no doubt, the report that more directly confronts the problems of the Archive of the National Archive of the Spanish Civil War in Salamanca. This report, elaborated in 1995 by a Group of Experts established by UNESCO and the International Council of Archives, and directed by Antonio González Quintana (director of the Archive of Salamanca between 1986-1994), tries to provide archivists of the countries in the process of democratisation, with information on the range of problems they have to face. At the same time a catalogue of methods developed in various countries

16. Wallot, Jean-Pierre, Les grands principes internationaux concernant les migrations des archives, ARCHIVES, VOLUME 28, NUMÉRO 2, 1996-1997, (version remaniée d'une communication présentée au Colloque international sur la migration de l'écrit, Roanne, France, 1er et 2 octobre 1996.

17. The report was elaborated by a group of international experts, convened by the International Council on Archives and Unesco, for the study of the Archives of the Security Services of former repressive regimes; it was approved during the third meeting in the Salamanca University (11- 13 December 1995). Vid.: http://portal.unesco.org/ci/en/file_download.php/9d60f7a50593532c613c169f6ef62c85Archives+of+the+Security+Services+of+former+Repressive+Regimes.rtf.

which have been involved in a similar process would be provided.

The report remembers that in Spain there was discussion whether to destroy files in the police archives, which threw light on the political, trade union or ideological background of those considered disaffected by the Franco regime. As a result of an anecdotal event (the detention at Madrid airport of the communist deputy Enrique Curiel, because he was mentioned in police computer records as a clandestine activist), the Spanish Parliament debated a proposal to destroy these files. As a result, a decision was taken to annul the files on politico-social activities, which had been in existence since the days of the former regime, and held in the police registries, while at the same time to transfer all files of a political nature held in the police archives, to the National Historical Archive. The Minister of the Interior, who was responsible for the Police Central Archive, and the Minister of Culture, who was responsible for the National Historical Archive, both signing a prescriptive agreement, achieved this. In this way, an irreplaceable documentary collection for the study of opposition social movements during the 40 years of the Franco regime was preserved.

But, in general, what is the value of the archives of the repression? "...In conclusion, documents accumulated by the organs of repression are important for the memory of the people, and serve as an irreplaceable testimony. But the most important argument in favour of the preservation of the archives of repression by new democratic states lies in the importance which such documentary sources have for people affected by the former regime, whether as direct or indirect victims. Documents of the repressive period are essential to the exercise of individual rights: amnesty, indemnity, pensions, and general civil rights (inheritance, property...) in the new political situation"¹⁸.

In the art. 4.3 the report refers to the Principle of provenance: The atypical character of documents of intelligence services, when compared to other repressive institutions such as tribunals, prisons, hospitals etc., has already been underlined. They frequently include confiscated documents relating to persons, civil institutions or politicians which have been integrated with material from other sources, such as newspapers, agents reports, etc., in one file. When the documents of intelligence services are transferred to the general archives of a new democratic State, the provenance to respect is that of the intelligence agency¹⁹.

The report continues with the Principle of **Integrity of fonds**: "In addition to provenance, the integrity of the fonds must be respected. If the legislation provides for the restitution of the personal belongings of individuals, this right may be in contradiction to the principle of the integrity of fonds. If individuals reclaim their files on a large scale, this could endanger the survival of the fonds, threatening part of the national heritage.

18. Ibidem.

19. Ibidem.

The **balance between these principles** seems difficult, but the report suggest some **recommendations**: “A compromise solution could be to make a distinction between purely personal documents, which should be returned to their owners or their heirs, and documents referring to the activities of individuals in their public or political role, which should remain permanently in the archives. The right to financial compensation for the owners of these documents or their heirs, provided that they do not intend to deposit such documents in other archives, must be recognised. At the same time, it could be recommended that if individuals to whom goods are restored later opt for their transfer to third parties, the State should maintain a right to assess such goods.”

Besides other archival recommendations: description, administration... the report concludes with the necessity of urgently undertaking measures to guarantee the preservation of documents as well as their legitimate use, and finish with an overview of the archives or former repressive regimes in the new Democracies.

Consequences of the controversy about the National Archive of the Spanish Civil War in Salamanca:

With the transfer of the fonds to Barcelona, an specific problem has been settled, but the decision has left opened new controversies and questions without solving, and other consequences of serious importance for the General Archives of the State and for the Spanish archival policy, which are also been analyze by the press²⁰, p.ej:

It has been the first time in Spain that has been done transference of fonds from a National Archive (National Owned) directly managed by the Ministry of Culture, to an archive of Regional Community Government.

The precedent opens the possibility of transferring the management of the great general archives in a very divided form, according just to the geographic origin of the fonds.

Absolute disintegration of original documents of the General Archive of the Civil War.

Total absence of conservation guarantees, on the part of the individuals to which the confiscated documents were returned.

But the immediate consequence in addition of the exit from the Archive of 2500 document boxes, has been the **disorganization of the works of the Archive** of the Spanish Civil War of Salamanca:

20. ABC, 11/01/2006, pp.52-53.

Paralysation of the work of searches of antecedents for the victims of the repression who ask for certificates, in the affected fonds, because the works of identification of the origins of documents confiscated in Barcelona and Lérida.

The paralysation of the programs and works of microfilming and digitalization in course in the archive as well as the suppression of the services of attention to the investigators and other users, when having to confront, in three months (art. 3.3), the reproduction of the content of 2000 boxes, a million documents approximately.

The law do not clarify the criteria of performance of a mixed commission of technicians who will make the identification works, nor it is said what to do in case of discrepancy (inventories does not exists).

Opening of similar processes with other regional governments and the foreseeable exit of the Archive of Salamanca of 8000 boxes (about four million documents).

Irregularities in the restitution process:

There is no doubt that it has been a process full of irregularities, and scarce clarity, at least in front of the public opinion, and that is has been done with the rejection of some of the most important professional associations of archivists.

The first defect to emphasize is the **exceptional nature in the procedures** of government, as it is reflected in the continuous changes of commissions of experts, or the marginalization of the main ordinary organs of government of the archives; p. ej. The Patronage of the Archive was not consulted because the Patronage had chosen a Commission of Experts and they referred to its opinion, which however was not considered; something similar happened with the Superior Board for Archives, the generic consultative organism, who was not consulted, but however was established an specific one for this subject.

Another outstanding defect is the uncertainty and the lack of definition and laps reflected in the restitution law:

- The reality of the private organizations without actual successor is not contemplated: political parties, trades unions or other disappeared cultural or recreational organizations; not being clear what to do with its documents.

- It is not contemplated the obligation to be accessible to the public in the same conditions that at the present time for the documents that are returned (perhaps with the exception of the strictly

personal and intimate documents).

- Absence of dispositions that prevent the export of returned cultural properties.

- Absence of guarantees for the exercise of the special right for the State in the possible sale of documents once given back.

- The application to other regional communities of the principles regulated for Cataluña is deferred in the time.

- There is not a definition of a procedure for the recognition of the properties and the document claim or, in another case, remission to a regulation that defines such procedure.

Antonio GONZÁLEZ QUINTANA, Archivist, ex-director of the Archive of Salamanca and member of the Commission of Experts that advised to the Government on the claim of the Generalitat of Cataluña makes an analysis of the restitution law, and concludes that the law does not give solution to the main suggested challenges, exposing with more detail the mentioned deficiencies²¹:

- It does not solve the problem of the restitution or compensation to the victims of the confiscation, against which, in addition, it discriminates of unjustifiable form, causing that the number of beneficiaries will be, foreseeable, very reduced.

- In addition, separating from the international recommendations on the archives of the information services of the repressive regimes (UNESCO), the application of this law will make difficult the management of the certifications on damages suffered by the victims of the repression, when leaving without value the police archives of control, authentic key for the location of documents.

- This law does not includes the creation of the administrative offices that will take care of the claims of recognition of the properties nor of its restitution, and that traditionally its established in any legislation dedicated to the repair of damages caused to the victims of abuses against the human rights.

- Only partially can be considered a law of restitution (it is, mainly, a law of redistribution of documental fonds of statal ownership), although of solely bilateral reach between the Spanish Government and the Generalitat of Cataluña. Because the only thing, which this law regulates, clearly is the delivery to the Generalitat of Cataluña not only of documents confiscated to the former Generalitat and to the Parliament of Cataluña but also of all other documents of private character confiscated to Catalan organizations or provincial or local delegations of organizations of national scope, been in Cataluña.

- Many documents are from doubtful allegiance to the archives confiscated to the Catalan institution (case, for example, of those

21. ABC, 13/1/2006 pp. 47-48.

of the Central Committee of Antifascist Military services).

- In addition, the Law establishes that in the future it will be transferred to the Generalitat all the documents confiscated to every legal or physical people from Cataluña, or delegations from other organizations been in Cataluña, have or not demanded the documentation; being elevated in representative of this persons or Institutions the Generalitat of Cataluña, to which these fonds would be given, existing or not original owners or heirs. The Generalitat would establish then the procedure so that the legitimate proprietors of documents or their heirs will demand the restitution from the Catalan Government. The State, this way, would make carelessness of its historical responsibilities when subrogating itself to the Generalitat in all the rights and obligations of the State, derived from the ownership of these documents (art. 3.1).

- "If it is absolutely respectable and right to legislate on the restitution of goods confiscated by political reasons and with the arms in the hand, what is not acceptable is to make a policy of distribution of archival competences between the State and Cataluña, using like justification (somebody could even consider that it has been a decoy) the rights of the victims of the Franco Regime to end up constructing an archive of the civil war in Cataluña to the service of the ideology of the Catalan nationalism."²².

Conclusion

Although the information on diverse aspects related to the world of the Archives, is habitual in mass media, mainly those that talk about the cultural or scientific aspect, in the last passed years has taken place in Spain a peculiar phenomenon, that has caused thousands of pages in newspapers, many hours of dedication in the news of Television, Radio, Debates, etc. about the deepest aspects of the world of the archives. This phenomenon has been motivated by the controversy around the transfer of documents from the National Archive of the Spanish Civil War in Salamanca, to the national Archive of Cataluña, in Barcelona.

This controversy, about the destiny of an Archive, although related to a political fight - a Government who needs the support of a minority party of nationalistic character-, has supposed an upset in the informative treatment on the archives, not only for been multiplied the number of the news about the Archives in general, but a qualitative change has also taken place. In addition to the diverse opinions about the transfer from the political point of view, the deepest analyses of specialists, archivists, historians, lawyers, have been also continuous, and they have arranged for the public in general an abundant information about the diverse archival aspects: Principle of Provenance, Integrity of fonds, International Council of Archives, Management of Archives, Unit of the Archive, etc.

22. Ibidem.