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ACCESS TO CURRENT RECORDS AND ARCHIVES, AS A TOOL OF DEMOCRACY, TRANSPARENCY AND OPENNESS OF THE GOVERNMENT ADMINISTRATION

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Referat o dostupnost aktivnog i arhivskog gradiva, kao sredstvo demokracije, transparentnosti i otvorenosti državne administracije, opisuje najbitnija obilježja dostupnosti službenih dokumenata i zapisa, donosi praktične mjere vezane uz dostupnost, te se bavi problemima autentičnosti i dostupnosti originala dokumenata.

Stupanj otvorenosti i mjera do koje su danas u Europi dokumenti ili zapisi, što ih čuvaju državni ili javni arhivi, dostupni javnosti, prilično varira. Koncept slobode govora i slobodnog pristupa vladinim dokumentima smatra se temeljnim pravom, kao što je navedeno u članku 19 Deklaracije o ljudskim pravima Ujedinjenih Naroda.

Uvjet za implementaciju prava na pristup je taj, da je koncept službenog dokumenta zakonski određen i reguliran. U nekim zemljama postoji razlika između aktivnog i arhivskog gradiva. Aktivan spis postaje arhivskim kada se preda arhivskoj ustanovi. U tom slučaju, pristup aktivnim spisima često je ograničen. Javni pristup je ograničen za spise određene starosti, pod pretpostavkom da su predani arhivskoj ustanovi. Pravo pristupa nije dio sustava za kontrolu vlade i dostavu činjenica za javnu debatu o tekućim pitanjima. Ono je namijenjeno povjesničarima i ostalim stručnjacima čiji je prvenstveni cilj potraga za znanjem o prošlosti.

U drugoj skupini država, građanima je obično odobreno zakonsko pravo pristupa ne samo gradivu pohranjenom u arhivskim ustanovama, već isto tako i pristup

tekućim zapisima/službenim dokumentima, koje vlasti još uvijek čuvaju. U tim se državama tvrdi da je pristup dio prirodne kontrole nad vladom i tvori prirodni put podržavanja i poticanja rasprava. U mnogim od tih zemalja ne postoji razlika između aktivnog i arhivskog dokumenta/zapisa. Može se reći da se trend danas u Europi razvija u tom smjeru.

Neograničena dostupnost službenih dokumenata nije niti moguća niti poželjna, a u svrhu zaštite vitalnih privatnih i službenih interesa, kao što su osobna privatnost, nacionalna obrana i sigurnost te kriminalistička istraga. Mora postojati zabrana za neke dokumente ili dijelove dokumenata, tijekom određenog vremenskog razdoblja. Vrlo je bitno da su ta pravila jasna i da svako ograničenje mora biti zakonski obrazloženo. Pravila moraju biti transparentna i o njima ured koji čuva dokumente ne smije imati diskrecijsko pravo. Mora postojati mogućnost sudske žalbe protiv odluke o uskrati dostupnosti. Uz zakone o čuvanju tajnosti, zakoni o zaštiti podataka također ograničuju dostupnost. Takva su pravila u većini slučajeva bezuvjetna i ne podliježu mogućnosti priziva.

Pitanje autorskog prava do sada nije bilo od akutnog interesa arhivskim ustanovama. U većini slučajeva dostupnost dokumenata je, sukladno nacionalnom zakonodavstvu, na mnogo načina bila izuzeta od obveza određenim autorskim pravom. No, digitalni svijet i internacionalizacija s obvezujućim nadnacionalnim konvencijama, promijenili su takvo stanje stvari. Privatno digitalno i analogno kopiranje više neće biti dopušteno, ukoliko vlasnik prava ne dobije "poštenu naknadu". Definitivno je sigurno da će autorska prava biti usklađena na međunarodnoj razini.

Pristajanje uz otvorenost i transparentnost mora biti povezano s javno dostupnim pravilima o dostupnosti dokumenata. Kad je riječ o dostupnosti unutar članica država Europske unije, nedavno izdana Zelena knjiga iznosi podatke da situacija, što se tiče pristupa javnom sektoru informiranja, to jest službenim dokumentima, nije tako jasna i razlikuje se od zemlje do zemlje.

Neophodno je definirati što je dokument u digitalnom svijetu, s bazama podataka, gdje je raspoloživost određena raspoloživim softverom i hardverom, i nije lako opisati što je dokument koji će biti i kratkoročno i dugoročno dostupan. Švedski model s pojmom "potencijalnog zapisa" zakonski je definiran i stoga imperativ. Pojam predlaže da svi zapisi i njihove funkcionalnosti moraju biti na raspolaganju javnosti na isti način, kao što su izvorno bili na raspolaganju vladinim tijelima. U digitalnom arhivskom svijetu dokumenti moraju biti inventarizirani od samog početka, inače ćete sigurno izgubiti važne karakteristike teksta i konteksta.

Izlučivanje se ne bi smjelo izvršiti na račun prava javnog pristupa ili zahtjeva istraživača. Isto tako mora se imati na umu da arhivi/dokumenti čine nezamjenjiv dio kulturnog naslijeđa. U digitalnom svijetu pitanje što se izlučuje, naprimjer kod baze podataka, postaje predmetom diskusije. Puno radikalniji stav je već duže pri-

hvaćen u Švedskoj, gdje je odlučeno da će javnost imati istu mogućnost dostupnosti kao i ured stvaratelja. To znači da tijekom životnog ciklusa, dokumenti/baze podataka trebaju sačuvati istu razinu dostupnosti – jednaki potencijal – kao i na početku, pa i nakon predaje pod arhivsku upravu.

Pitanje je da li javnost i istraživači trebaju i traže original, kopiju, usmenu informaciju ili kompilaciju, te da li imaju pravo pristupa orginalnom dokumentu da bi mogli osigurati autentičnost i korektnost informacije. Ne postoji zajednička praksa u Europi o ovom pitanju kad je riječ o dokumentima na papiru. Kad se radi o digitalnim dokumentima i bazama podataka, situacija je možda čak i zbrkanija i puno je teže odrediti autentičnost.

Arhivska profesija može i mora odigrati važnu ulogu u poslu vezanom uz dostupnost. Mi isto tako imamo obvezu i odgovornost jamčiti da je kulturno naslijeđe sačuvano za buduće korisnike na način da je dostupno u svom izvornom obliku. Imamo teoriju, načelo provenijencije, koje je upravo ono što je potrebno u informatiziranom društvu. Moramo prilagoditi našu metodu kako bi se ona uklopila u informacijski sustav. Postoji ne samo rastuća potreba, već i neophodnost za uspostavom normi koje su potrebne za rukovanje elektroničkim dokumentima i bazama podataka i jedno od najhitnijih pitanja, možda politički najbitnijih, je dostupnost dokumenata, što se smatra jednim od temelja demokracije, otvorenosti i transparentnosti vlade.

Sažetak izradila Živana Heđbeli

1 General

The degree of openness and to what extent documents or records kept by Governments or Public Archives are available to the public varies a great deal in Europe today. It must be emphasised that different legal traditions and the history of each nation makes it difficult to compare or to pass judgement over various legal and archival systems.

The concept of freedom of speech and free access to Government documents derives its origin from the age of enlightenment and can be seen as fundamental rights. It has since then been the cause for many debates and much literature.

In article 19 in the United Nations Declaration of human rights from 1948 it is said that:

"Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and import information and ideas through any media and regardless of frontiers."

The link between the right of freedom to speak and free access to documents is not recognised everywhere. For some people, it is evident that the right of freedom and expression can not be exercised without the right of public access. The reason

for this is that it is considered that a meaningful debate can only take place if the involved persons have access to relevant information. Some will even argue that a real democracy presupposes that the public has the means to get information and thus is well-informed. In some countries this linkage is not accepted and it is felt that this fundamental right of expression can be exercised without public access to official documents.

Openness and transparency in the public sector can take various forms. In the last decade, public access to public records or official documents has become more and more important.

Openness and transparency can mean that meetings are open to the public or that the minutes from the meetings are open. Another way is to ensure that the citizens are guaranteed access to official documents. A third way is that the authorities can publish a lot of information about their activities on for example their web-pages. This solution shall not be mixed with access to documents, as in that case the applicant himself chooses the original documents which he wants to see. The publishing of information on web-pages or by other means, which the agency chooses, does as a rule not contain information critical to the agency. No method can thus replace another method but can of course be used in combination. All methods have their advantages and disadvantages.

I am going to discuss public access to official documents as this is the method most discussed lately and by many considered to be the best way to increase openness at and inspire confidence towards the public administration and can thereby be seen as a tool in enhancing democracy.

These rights of freedom of expression and public access to documents have nevertheless been implemented with more or less willingness, with more or less readiness to accept public control of Government activities. Many countries have during the last decades introduced Freedom of Information legislation. The rules differ from country to country. The efficiency of meeting these rights can be hampered in many ways, by deficient willingness, indistinct rules, uncooperative bureaucracy etc., but also by new legal complications as well as the need to protect legitimate interests such as to protect the privacy of the citizen and the Government and to protect the owners of copyright. Another important factor is the rapid computerisation of the public administration.

Privatisation of public functions can mean that agencies cease to exist and the functions are in the future carried out by private bodies. One consequence can be that right of access to documents will cease to exist, as this right generally does not apply to private companies. Documents at private companies are usually not considered to be under the Freedom of Information Act legislation, although there can be exceptions.

As the debate about public access is going on and as it has become a very important issue within the European Union, the differences in cultural and philosophical background, present-day attitudes and trends are becoming acute. There is a marked difference between the culture of open government in some member states and the more closed culture in other member states. The implementation of the articles about access in the Amsterdam treaty, that is access to documents within the EU institutions, and also the discussions in the Green Paper on Public Sector Information: A key resource for Europe, that is to documents within the member states, are important factors and can be seen as main steps in this process.

2 Access to official documents

2.1 Official document

A condition for the implementation of the right of access must be that the concept of an official document is defined and regulated in legislation. Access to documents is looked upon differently from country to country. Thus, the legal solutions differ. It can on a general level be argued that two systems can be distinguished. In some countries there is a difference between records and archives. Records become archives when transferred to archival institutions. In these cases, access to current records is often restricted. Public access is limited to archives of a certain age, provided they are delivered to an archival institution. Access rights are not a part of a system of controlling the Government and supplying the facts to the public debate on contemporary issues. It is meant to supply historians and other professionals with primary sources in their search for knowledge of the past. In this system, you usually will have an archives act governing access to these archival records.

In the other group of states, citizens are usually granted a legal right of access not just into the archives already transferred to archival institutions but also access to current records/official documents, still kept by the authorities. In these states, it is claimed that this access is a part of the natural control of the Government and constitute a natural way of feeding and stimulating the debate. The public can take part in the debate with more insight and many misunderstandings will be avoided or rectified. The confidence of the public towards a good Government administration will be greater if there is openness and transparency. In many of these countries, there is no difference between archives and records/documents. It can be said that the trend today in Europe is developing in this direction.

Regardless of what legal system is used in a country, the issue of what constitutes a document has become more difficult and important. Before the introduction of computers, documents were generally information on paper, which an agency created themselves, such as minutes, copies of outgoing letters, and incoming informa-

tion, such as letters, reports. These were usually signed so it was relatively easy to decide what were the original documents. It was also easy to separate them from printed material which belonged to the libraries.

Today in the computerised era, this matter has become increasingly difficult. In order to avoid arbitrary decisions and to have a predictability of the rights, it is necessary to have some definition of what constitutes a document. I am not going to enter deeply into this issue but will mention that this matter was the theme of the Second Stockholm Conference in 1996 which had the title The Concept of Record (published in 1998). In the papers presented and from the following discussions, you could see the different interpretations and opinions. No consensus was reached and the participants agreed that there is a need for a more common understanding of archival terminology. As was evident during these discussions, it is difficult to discuss archival issues, when different archival concepts may be identified by the same term.

I will conclude the matter of definition by asking if there is a need to have the same definition for documents at the public administration and for documents transferred to and kept by archival institutions. If there is no need to have the same definition, what are the differences and what legal and other consequences will follow from this attitude?

2.2 Limitations to access

It must be understood from the beginning that an unlimited access to official documents is not possible or wished for. It is well understood that in order to protect vital private and public interests, such as privacy of the individual, national defence and security, crime detection, you must have restrictions for some documents or parts of documents during a certain time limit. Hence the rights of free access, where they exist, must be restricted in legislation, either by rules given in the Freedom of Act or in special legislation. It is necessary to obtain a balance between these legitimate, but sometimes conflicting, interests of free access and openness on one side and the need for protection of the interests mentioned above.

It is important that these rules are clear and that each denial should be motivated in a law. They must be transparent and not subject to the discretion of the agency keeping the documents. It must be possible to appeal at a court against a decision to deny access.

It must also be kept in mind that documents, which for some reason are considered not to be accessible, generally are available after the expiration of in legislation given time limits, which can vary, but usually no more than 70 years. In some cases these time limits have coincided with the point of time, when the documents are transferred to archival institutions. Today with rapid changing structures in the public administration and the increasing computerisation, it has become common for ar-

chival institutions to accept transfers of documents still considered to be classified. This task to keep and decide about access is becoming more difficult and is very sensitive. It also demands legal skill at the archival institution to manage classified material, which is necessary if the confidence of the public shall be kept.

2.3 Privacy

In addition to secrecy law rules, data protection rules will also restrict access. Such rules are to a greater extent unconditional and not subject to appeal procedures. The applicant is, however, entitled to get access to information about himself, unless exceptions are given in law, for example for the sake of preventing and detecting crime. The fact is that the private individual is given some rights concerning the use and access and also given a right to know what kind of information a controller has got, that is the keeper of personal data. The most recent and most important legislation is the Directive issued 1995 by the European Union on the protection of individuals with regard to the processing of personal data and on the free movement of such data. The Council of Europe has before issued conventions and recommendations in the same area. That this Directive will come in conflict with the freedom of information legislation is evident. Just now, it is too early to say something specific about how the Directive will be implemented in the EU member states, which should have taken place at the latest in October 1998, and how the Court of Justice of the Union will give its verdicts on the implementation. I can mention that just now only six of the fifteen member states have implemented the Directive into national legislation.

2.4 Copyright

The copyright issue has so far not been of acute interest for archival institutions. In many cases, the access to documents has been in many ways exempted from copyright obligations according to national legislation. Copyright is aimed to protect the results of an author, artist or other creator's intellectual labour and skill. This work can be a book, a picture, a photograph, a picture on a video tape, or even a letter. It is important to distinguish between the physical ownership and the intellectual copyright, that is a letter can be given to and owned by an archival institution but the rights of making it available can belong to the originator.

But the digital world and the internationalisation with binding supranational conventions have changed this state of things. New technology, which is not limited by national boundaries, challenges traditional applications in three ways, the ease of transmitting, ability to modify and the necessity and easiness to copy and migrate. Copyright owners has reacted very promptly to this new technology and it is a fact that this is becoming a very important issue, where a lot of money is at stake. That is why the Berne Convention from 1886 is not sufficient any longer and new legislati-

ve steps are taken. The most important are the World Intellectual property Organisation Copyright Treaty from 1996 and the work going on within the European Union in adopting a Directive on Copyright and related matters. It has been said that these, the Treaty and Draft Directive, show traces of an intense and so far successful lobbying from the part of various rightholder's associations. Previous misgivings have turned to be justified. The balance between rightholder and user has shifted to the benefit of rightholders.

The perhaps most striking matter is related to private digital and analogue copying. This will no longer be permitted unless rightholders receive "fair compensation". It has also been suggested that agencies or archival institutions can not make documents available which are protected by copyright. In one – according to my view more extreme but perhaps true -interpretation all incoming letters and similar works to agencies, created by private individuals or organisations, can be protected by copyright and are hence not available without permission from the owner of the copyright.

What is right or wrong or what will be the outcome and what will be the consequences regarding the archival sector, is difficult to predict. That copyright rules will be harmonised on an international level is definite. It is predictable that the solutions will be based on the conditions in the digital world rather than in the predigital one and also that the legal exceptions for Libraries and Archives, that we have had up to now in national legislation, will be diminished and replaced by some kind of contractual or licensing solutions. The influence from the information industry, dominated by large American companies, will shift the balance in favour of the rightholder.

3 Practical measures

Commitments to openness and transparency must be linked with publicly available rules about access to documents. This has become evident for example within the European Union institutions where the Edinburgh Declaration from 1993 and the Code of Conduct was followed by the treaty of Amsterdam 1997 (article 255), which reads as follows:

> "1. Any citizen of the Union, and any natural or legal person residing or having its registered office in a member state, shall have a right of access to European Parliament, Council and Commission documents, subject to the principles and conditions to be defined in accordance with paragraphs 2 and 3
>
> 2. General principles and limits on grounds of public or private interest governing this right of access to documents shall be determined by the Council, acting

in accordance with the procedure referred to in article 251 within two years of the entry into force of the treaty of Amsterdam

3. Each institution referred to above shall elaborate in its Rules of Procedure specific provisions regarding access to its documents."

It must be seen as a major step forward that it is so clearly stated that citizens have a right of access to documents. The European Ombudsman, Jacob Soderman, has played an important role in this area and has launched several important initiatives. He has used decisions of the Court of Justice, where it is said that Community institutions and bodies have a legal obligation to take appropriate measures to act in conformity with the interests of good administration. Good administration means that all Community institutions and bodies shall take into account the Union's commitment to transparency and openness. This requires not only that documents shall be made publicly available to the maximum extent but that a refusal of access should be justified by reference to rules laid down in advance. In absence of rules, it is difficult to be sure that different requests for access to documents are dealt with consistently, fairly and without discrimination.

It can also be argued that an efficient administration has nothing to hide. It has not been shown that an adoption of rules concerning public access would be impractical or unduly burdensome.

It is to be expected that principles and limits governing the right of access mentioned in article 255 in the Amsterdam treaty will be elaborated soon and adopted.

Regarding access within the member states of the European Union, the Green Paper on Public sector information, newly published, has stated that concerning access to public sector information, that is official documents, the situation is not so clear and differs from country to country. This situation is mainly due to different national legislation on the ways information/documents can be accessed and exploited and to the various practices which hamper the availability of data. The Green Paper means that the European industry and companies are at a serious competitive disadvantage compared to the American counterparts regarding the ready availability of public information. The US Government has since the introduction of the Freedom of Information Act in 1966 pursued a very active policy of both access to and commercial exploitation of public sector information, which has greatly stimulated the development of the US information industry. In this Green paper there is an interesting annex on Current situation in Member States regarding legislation and policy on access to public sector information. It is too early to make prognosis about what will happen in this area but it is possible that – when information flows in enormous masses quickly between the countries – this is the beginning of a harmonisation of access rules in Europe. One reflection can be made. The Green Paper and the discus-

sions round it up to now have not involved the practical or professional issues, which archivists of today are so familiar with.

These above mentioned principles and limits governing the right of access mentioned in article 255 in the Amsterdam treaty should not only contain rules about what kind access restrictions there should be due to privacy, state security and so on or time limits in making the documents available but also contain rules about registries, inventories; appraisal, authenticity etc. Otherwise it will, according to my firm belief, be difficult to achieve a real transparency and openness, manifested in access to documents.

First it is necessary to define what is a document in the digital world. From the discussions, mentioned above from the Stockholm conference 1996, it is evident that this is not an easy matter. In the paper world, the incoming papers and at the agency created papers are usually considered to be documents or records. They also constituted a part of the archive (archival holding). In the digital world with databases, the availability is determined by available software and hardware, it is not so easy to describe what is a document, which should be accessible both in the short run as well as in he long run. The Swedish model with the concept of "potential records" is legally defined and therefore imperative. This concept suggests that all records and their funcionalities must be made available to the public in the same way as they were originally made available to Government authorities. Not to maintain these "potential records" in all their potentialities would in effect censor the information and mean that the destruction of information in the documents have taken place. It can be argued that this approach can be possible in the short term when in active use but it is not possible to maintain in the long run. One critical point is when this information is transferred to the archival institutions. With paper records we put them on the shelves but how to deal with these kinds of data? I have no real good or general answer. I will only state that this matter of deciding the level of access to electronic records/databases must be dealt with as the concept of what is a document is decisive regarding access to digital documents. Is the text, context and structure in a database changed when it is transferred to an archival institution and if so how? The solution must be according to law as well as acceptable and practical. It must also be consistent and durable, which means that it must be supported by a theory. It can be questioned if there can be different solutions.

When it has been established what constitutes a document/record, this document/record must be catalogued in some kind of inventory in order to supply adequate search tools. It is otherwise impossible for a user to know what kind of information that exists. In the paper world documents were usually contained in volumes which were accounted for in the inventory, generally in a structured form in series, subgroups, groups and archives (the creator). In the digital world it is even more im-

portant to create inventories as soon as possible in order to determine the context. The theoretical discussions during the last decades have much more than before emphasised the need for establishing the context and not only account for the text. If this is not decided from the beginning, it is literally impossible to do it afterwards. According to my opinion, one of the most outstanding advantages with archival inventories is just its quality of showing both text and context as well as the structure. Regarding accessibility, this quality of describing the whole archive – that is all documents regardless of age, media and storage-place in a structured way (text and context) – makes archival inventories outstanding and this quality will soon be recognised. In a digital archival world the documents must be inventoried from the beginning, otherwise you will certainly loose important features of the text and context. Also; the public must have some means to have an overall description over the documents kept by an agency, both in the long run and short run. You can only try to imagine how searching tools can and will look like in the future. Of course, inventories must be computerised and their look and the methods of producing them can be developed but the main characteristics will be the same. Here, I believe that the archival profession can contribute decisively to make inventories in different forms, papers as well as databases accessible in the short and long run. Of course, these demands will be difficult to fulfil but nevertheless it will be necessary to face and produce solutions to these difficulties.

Appraisal or destruction of documents is important regarding access. The simple truth is that once a document is destroyed, it is lost for ever. Destruction should not be executed on the expense of the right to public access or the requirements of researchers. It must also be kept in mind that archives/documents constitute an irreplacable part of the cultural heritage. Where secrecy rules can delay the access to documents for some time, destruction will do it forever. The same is true about copyright rules, even if time limits etc. in these cases can be debated. Furthermore, in the digital world, a question of what constitutes destruction in for example a database have become a matter of discussion. A more radical attitude has since long been adopted in Sweden, where it has been decided that the public shall have the same access possibilities as the creating agency. This means that during the life time, the document/database should preserve the same access level – the same potentiality – as from the beginning, even after transfer to the archival authority. Anything else would mean a restriction of the access possibilities, for which there is no support in the Freedom of Press Act, which in no way treats documents/databases transferred to archival authorities differently. At the First Stockholm Conference on Archival Theory and the Principle of Provenance in 1993, this question was an important subject for the debate in several of the papers.

The appraisal issue has become much more of immediate importance because of the Data Protection rules, the last one being the EU Directive on the Protection of individuals with the regard to the processing of personal data and on the free movement of such data from 1995. The theme in these are that personal data should be used exclusively for the purpose for which they are collected/created and then destroyed. The idea of all personal data being destroyed after having been used for its primary purpose, usually a couple of years, is preposterous for archivists. Nevertheless, this way of thinking is a reality and must be dealt with. It is necessary to obtain exceptions so that important personal data can be kept, transferred to archival institutions and then made accessible to researchers under certain conditions. This kind of information can be classified much longer than is needed for carrying out the obligations such as taxation – where in Sweden the information can be classified for 20 years but is needed by the taxation agency for about six to eight years, thus in principle never accessible because the documents will be destroyed before the classification period has elapsed. Evidently, it is much better to have the documents kept and classified for a certain period than destroyed totally referring to data protection of individuals.

4 Authenticity – access to originals

Here the question can be put as bluntly as – access to what? What do the public or researcher has the right to access? Can he be satisfied with a copy or oral information or a compilation? Has he or she the right to access the original document to be able to establish the authenticity and the correctness of the information. As I understand it, there is no common praxis in Europe regarding this concerning paper documents. Regarding digital documents or databases, the situation is perhaps even more confusing and it is also much more difficult to establish the authenticity. This can be done with electronic signatures or seals but it is a demanding and somehow new task to preserve these in the long run with copying and migrating. Within the European Union, the need for co-ordinated regulations on the Community level regarding electronic signatures has been recognised and a proposal on a common framework for electronic signatures is ready. Nevertheless, the user must know what status the information has, which he is furnished with: is it a copy or not? The archival profession has a long experience in working with these kind of problems which the society is faced with in a world, quickly using and adapting to the new tools furnished by the fast developing technology.

5 Conclusion

The trend in Europe is today without doubt towards increased openness as has been shown above. A lot of statements have been made and articles of various kinds

of legislations, treaties and so on have been drawn up as a consequence. What is needed now is to draw up rules and principles about access to documents in order to obtain openness in the practical situation. Such general rules should contain definitions/descriptions of what is a document even in the digital world, what secrecy rules exist, rules on data protection rights of appeal when access has been refused, time limits regarding furnishing documents etc. Furthermore, there must be rules about search tools such as diaries and inventories, about appraisal and destruction, authenticity etc. These rules must be available and transparent. In absence of such rules, it is difficult if not impossible to be sure that different requests for access to documents are dealt with consistently, fairly and without discrimination. In absence of searching tools such as diaries and inventories, establishing text and context as well as structure from the beginning of the lifecycle and eventual changes in structure afterwards, it is difficult if not impossible to know what kind of information that exist. Appraisal decisions must also be available, as destruction is the most efficient mean to prevent access.

With the increasing awareness of the public and of its representatives as journalists of their rights and the growing use of documents, there is no way back. In the United Kingdom, for example, there is today a clear commitment to a Freedom of Information Act and a draft Freedom of information bill is expected during 1999. With the growing use of networks, it will be difficult to uphold in Europe different rules of access to the same documents. The current situation in the states of Europe regarding legislation and public access to documents differs a lot today. Today the national borders tend to lose a lot of their importance as we already have free trade, commerce and free movement of persons over the borders. The Data Directive is one step to facilitate the movement of personal data. The green paper can be seen as another step to achieve the same levels of access in all member states.

The archival profession can and must play an important role in the work regarding access. We also have a responsibility and even an obligation to guarantee that the cultural heritage is preserved for further use and in such a way that it is accessible in its original form. We must not be too humble as we can contribute with much knowledge. We have a theory, the principle of provenance, which is according to my belief exactly what is needed in the information society. We must of course adapt our methods to fit the new information systems as for example methods of cataloguing paper documents from the 1890's will not be appropriate in cataloguing databases from the 1990-ties and less so in the future. I believe that there is not only a growing need but a necessity for establishing norms for handling the electronic documents and databases and one of the most urgent issues and perhaps the politically most urgent is access to documents, which is considered to be one of the foundations in a democratic, open and transparent government.

C. Gränström, Access to current records and archives, as a tool of democracy, transparency and openness of the government administration, Arh. vjesn., god. 42 (1999), str. 79–92

Summary

ACCESS TO CURRENT RECORDS AND ARCHIVES, AS A TOOL OF DEMOCRACY, TRANSPARENCY, AND OPENNESS OF THE GOVERNMENT ADMINISTRATION

The paper will try to describe the most essential features regarding access to official documents/records. The first matter is to establish that there is a trend towards increased openness in Europe today. The reasons for this are evident; to obtain and keep the confidence of the public.

The first thing, which is necessary to perform, is to define what constitutes an official document. This has become even more important in the digital society. Then it is established that even in an open society there can not be unlimited access. The reasons for this limitation are described. Furthermore, there must be established routines and rules about access.

What kind of impact privacy and copyright legislation can have on access to personal and other data are described. It is emphasised that these factors have become much more important regarding electronic documents.

Then the paper turns into the fact that there is a growing need for establishing practical measures for ensuring that the right of access is guaranteed by elaborated rules and provisions. Archival routines, such as cataloguing or inventorying, appraisal, are important in this aspect but nevertheless neglected. Also the complex and difficult matter about authenticity in the digital world is discussed.

Some conclusions about the future and the implications for the archival profession are brought forward.