

**MAROSZ, Magdalena, Protection of State Archival Materials Kept in Private Archives. *Atlanti*, Vol. 17, N. 1-2, Trieste 2007, pp. 203-207.**

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*The Archival Law which is in force now in Poland gives the state archives the right to supervise the archives of selected local government and state institutions. However, while private archives remain beyond this supervision, many institutions that as a result of the privatisation processes started in 1989 stopped being local government or state institutions and became private ones, still keep the files produced by their legal predecessors – the former state or local government institutions. Such a situation constitutes a serious problem for the state archives, which should not only supervise those files but also*

As a result of the changes to political life in Poland after 1989, state archives have incurred the added responsibility and complex task of co-operating with private companies in protection and preservation of documentation. Ownership of businesses and institutions has changed status through privatisation and this has resulted in what were once public and local government archives existing in private institutions. To better realise the significance and dimension of this issue, we should take into consideration the fact that - according to the Ministry of the Treasury - between 1 August 1990 and the end of May 2007 5,770 state companies have undergone the process of privatisation.

Due to archival law in force in Poland at present, the basic duties of state archives are: collecting, preserving, analysing, and providing access to archival materials<sup>1</sup>. For the state archives, the duty to collect archival materials involves also another responsibility, namely the shaping of an archival collection. The aim of shaping an archival collection is to preserve in the best possible way, documentation of historical value, which was created as a result of the activity of the makers of archival units. The shaping of an archival collection is done through supervision over expanding archival collection (that is the documentation remaining with its creators before handing over to the archives with historical collection) as well as selection of documentation on the basis of assessment of its value, which is of crucial importance for the shaping of any collection.

The duty to shape a collection is carried out by the state archives in association with national and local organisational units which fall under its supervision and which produce archival materials. These bodies produce documentation which is to be kept in perpetuity because of its historical value. It constitutes the state archival collection and therefore is the property of the Polish State. State archival collection and non-state archival collection (that is the archival materials of historical value which are not the state property) constitute together national archival collection.

A state archival collection consists of materials which have been (and still are) created as a result of the activity of various national and local institutions and bodies as well as political parties, government, society, trade, economic activity and the activity of other non-state organisations such as churches and denominational asso-

1. The Act of 14 July 1983 on National Archival Records and Archives (unified text: Journal of Law (*Dziennik Ustaw*) from 2006 nr. 97, items 672 and 673;

The Act of 2 March 2007, changing the Act on National Archival Records and Archives, and the Act "Work Code" (Journal of Law from 2007 nr. 64, item 426);

Regulation of 16 September 2002 issued by the Minister of Culture concerning the ways of dealing with documentation, the principles of its classification, qualifying, as well as the principles and procedures of the handing over of archival materials to the state archives (Journal of Law from 2002 nr. 167, item 1357);

Preliminary project of regulation by the Minister of Culture and National Heritage concerning the ways of dealing with documentation, the principles of its classification, qualifying, as well as the principles and procedures of the handing over of archival materials to the state archives (a proposal of a change in the already existing Regulation from 16 September 2002); Regulation by the Minister of Culture from 15 February 2005 concerning the conditions of keeping the personal and payroll documentation of the employers Journal of law from 2005, nr 32, item 284).

ciations with their political, social and economic aspects. Individual scholars, scientists, artists and other people who have contributed to the development of political, cultural and economic life are also represented in an archive along with families which had a historical influence over state affairs, political, economic and social, (together with their landed property, firms, etc.) These personal materials have become State property as the result of purchase, donation or in any other way.

Non-state archival collections consists of archival materials which are not the property of the state and which have been (and still are) created as a result of the activity of political parties, government, co-operative and other social organisations; churches and denominational associations and other non-state organisations. These items are their own property, as well as the files of individuals which are their property or the property of their heirs.

State archives, in accordance with the Archival Act<sup>2</sup>, should exercise supervision both over the archival materials created and kept in state and local government institutions and over the archival materials created in the institutions which used to be state or local government and which are now kept in private archives. Also the part of files which - because of its nature - does not constitute archival material but is only a documentation kept temporarily, is treated as the legacy of state or local government institutions, and as such also remains within the field of interest of state archives until the period of its keeping expires, which is stated by appropriate regulations<sup>3</sup>.

As a result of the privatisation of state and local government institutions or their transformation into partnerships, the new owners take over not only the property, but also the documents created by these institutions. Following the liquidation or bankruptcy of state or local government institutions, their files are often transferred to private firms keeping documentation professionally. According to existing legal regulations concerning the ways of dealing with the documentation of state and local government organisational units which stop their activity, their documentation may be kept either with their successors or by their founding organisation (in the case of state institutions this can be an appropriate minister or 'voivode' and in the case of local government institutions - a representative of local government authorities of an appropriate level). It is also allowed by law to deposit the files with a private firm which keeps documentation professionally. In Poland such activity is licensed and a firm which deals with file keeping has to possess the necessary permits issued by local authorities after consultation with the state archive from the area.

State archives collect information about the present location of documentation only of those state and local government organisational units which had been supervised by a given state archive before they stopped their activity. They do not possess knowledge about the liquidated or transformed state or local government organisational units unless their successors or the institutions which keep their files apply to an archive for weeding of their documentation (that is rendering for destruction of a part of the documentation whose time of preservation - according to the regulations - has expi-

*take them over to their own archival collection. The supervision and takeover is taking place not always in agreement with those private institutions, but often in conflict with them.*

**MAROSZ, Magdalena, Protezione del materiale degli archivi di stato conservato da archivi privati. Atlanti, Vol. 17, N. 1-2, Trieste 2007, pp. 203-207.**

*La legge archivistica in vigore attualmente in Polonia concede agli archivi di stato il diritto alla supervisione sugli archivi di selezionate amministrazioni locali ed istituzioni statali. Ciò nonostante, mentre gli archivi privati rimangono sotto tale supervisione, molte istituzioni che come risultato del processo di privatizzazione iniziato nel 1989 hanno cessato la loro funzione pubblica per divenire private conservano tuttora documenti prodotti dai loro predecessori legali - le precedenti istituzioni statali o di enti locali. Tale situazione costituisce un serio problema per gli archivi statali, che non dovrebbero solamente avere la supervisione su tali documenti ma dovrebbero anche trasferirli ai loro propri depositi. La supervisione ed il trasferimento avviene non sempre in accordo con quelle istituzioni privatizzate, ma spesso in conflitto con esse.*

**MAROSZ, Magdalena, Zaščita državnih zbirk v zasebnih arhivih. Atlanti, Zv. 17, Št. 1-2, Trst 2007, str. 203-207.**

*Arhivski zakon, ki je na Poljskem sedaj v veljavi, daje državnim arhivom pravico nadziranja v arhivih na lokalni ravni v vladnih in državnih institucijah. Čeprav so zasebni arhivi izvzeti iz nadzora, so mnoge institucije, ki so po procesu privatizacije v letu 1989 nehale biti vladne ali državne, postale zasebne in še imajo v lasti dokumentacijo, ki so jo proizvedli še v času, ko so bili še pod državno ali lokalno upravo. Ta dvojnost dokumentacije predstavlja resen problem za državne arhive, ki ne morejo nadzorovati to gradivo in ga gotovo ne morejo vzeti v arhivske zbirke. Tako pomeni nadzor na gradivom in jemanje gradiva največkrat nasprotje, ki ga je težko razreševati.*

2. The Act of 14 July 1983 on National Archival Records and Archives (unified text: Journal of Law (*Dziennik Ustaw*) from 2006 nr. 97, items 672 and 673.

3. Regulation of 16 September 2002 issued by the Minister of Culture concerning the ways of dealing with documentation, the principles of its classification, qualifying, as well as the principles and procedures of the handing over of archival materials to the state archives (Journal of Law from 2002 nr. 167, item 1357).

red). It is a legal obligation of the Marshal's Office of a given voivodeship and the Head Office of the State Archives to collect information concerning the documentation kept in private firms dealing with file keeping professionally.

The principles and procedures of dealing with the documentation of liquidated state and local government organisational units were elaborated in the Section of Supervision over the Expanding Archival Collection of the State Archive in Krakow and accepted as law in 2003 by the Malopolska Voivodeship Office in Krakow and since 2006, by the Malopolska Marshal Office, Krakow City Administration Office and Kuratorium of Education in Krakow. As a result of the application of these procedures the following mode of assessment of documentation of these units is being applied:

- A leading, founding or supervising institution, while liquidating a given unit or acquiring knowledge about it, obliges the unit to obtain from the State Archive in Krakow information about the qualification of its documentation (that is the information whether the documentation that this unit produced was archival material - regardless of its former status in the light of the Archival Act);

- The State Archive in Krakow carries out a comprehensive appraisal of the documentation (that is assigns it to an appropriate archival category, thus establishing a period over which it should be kept) and expresses this assessment;

- Assessment by the Archive determines whether to implement liquidation or another process and is binding for this unit.

In the area under the supervision of the State Archive in Krakow there remains just one local government organisational unit which was privatised but has not given for appraisal the archival material it produced before its privatisation.

The majority of firms, despite privatisation still keeping archival materials of the status of state archival collection, have already transferred materials to the collection of the State Archive in Krakow. However, during the transfer, it was often not checked whether the materials were complete. Thus, since 2004, a project of a complex inspection of all organisational units, regarded by the State Archive in Krakow as producing archival materials, which have been privatised, transformed or which have been put into the state of liquidation or bankruptcy has been in operation. As these activities are being carried out now, we do not possess yet a full and up-to-date knowledge about the quantity of the documentation in those organisational units. However, the realisation of the project has been impeded due to regulations issued by the Head Office of the State Archives concerning the register of supervised units and control activities. According to these regulations in an annual inspection plan there should be 1/3 of the currently supervised units, while the units which have been privatised are not actually supervised.

The conclusions which can be drawn from the inspection so far confirm that:

- in the privatised units there are archival materials from the previous period of existence as state units and these materials which were handed over by organisational units to the archive of the unit after it has accounted for the majority of archival materials to the

State Archive in Krakow;

- the clearing out procedure, including qualification of the documentation, has sometimes been conducted incorrectly and has not taken into account the whole of the documentation and all its types (e.g. technical documentation is often overlooked).

- successors to state organisational units are interested in keeping either a large part or a majority of archival materials because of their use in their current activity.

- if the Archive stops its supervision over a unit, the results are often a lowering of the status of the archive of a given firm as well as a worsening of the storage conditions in which it functions; the staff delegated to keep the archive are often not fully qualified for that task;

- worsening of the storage conditions of the archives in those firms is worrying because it is still necessary to keep personnel and payroll documentation. Personnel files should undergo archival analysis after 50 years and a part may be taken over by the state archive. There is a plausible concern that this may not happen because the state archive does not possess legal instruments for further control of the conditions of keeping and registration of documentation remaining after the state units have become private firms. What is more, these firms undergo transformations, their heads and owners change. This is why the work on establishing the principles of supervision over such firms within the existing legal instruments is being continued, the list of such firms is being made and letters reminding about the necessity of proper care over the files is being sent to those firms;

- there are no instruments to execute the recommendations made after archival inspection in these units. Some positive effects are brought about only as a result of harassing these units by letters, survey reports, controls, inspections or sometimes even “threatening” them with legal action. If the other party is willing to co-operate, professional support on the part of the Archive employees is enough to develop appropriate ways and procedures of care over the archival materials kept in those units.

- If the Archive stops its supervision over a unit the results are often a “forgetting” by private firms about the necessity to obtain consent from the Archive for weeding non-archival documentation remaining after state organisational units.

Employees of the State Archive in Krakow use their contacts with privatised state or local government units to encourage them to transfer their archival materials to the Krakow archive.

When the files which fall within the state archival collection are kept in the archives of private institutions and are necessary in their current activity, the state archive may give its consent - under specified conditions aiming at an appropriate protection of the archival materials - for the further keeping of those files in those institutions.

Archival controls carried out between 1998 and 2007<sup>4</sup> in the area under the supervision of the State Archive in Krakow have establish the following quantities of files kept in private archives and remaining after the privatisation of state or local government organisational units. These are only estimated numbers as the recommendations issued after the control by the State Archive in Krakow is

4. Data according to the statistics made by the Section of Supervision over the Expanding Collection of the State Archive in Krakow.

still being realised: qualification of documentation (especially technical), and archival materials are being transferred to the Archive and non-archival documentation is undergoing weeding.

	A category (archival materials kept in perpetuity in the archives with historical collection)	B category (non-archival documentation, files kept over a specified period of time and subject to appraisal after that period)	Unidentified (because of the lack of being properly created they cannot be classified)
<b>files</b>	871.85 <sup>5</sup>	12365.20	2103.90
<b>technical</b>	10.00	25.00	5794.50
<b>TOGETHER</b>	<b>881.85</b>	<b>12390.20</b>	<b>7898.40</b>

Unfortunately, the reason why private institutions which have been transformed from state or local government institutions are against the transmission of their archival materials to the state archives is often the fact that they are not willing to undertake appropriate clearing out, appraisal and registry works which are to prepare the files for transfer. The authorities in those institutions feel that the procedure of preparation of files for their transfer to the Archive is too expensive and time-consuming. Generally, they do not possess the staff properly qualified for such tasks and are often against employing people whose duty would be to do such work. It even happens that archival materials are hidden from the Archive.

Archives perceive a dangerous phenomenon: the privatised organisational units regard the documentation inherited after the former state firms as the property of their new owners. They claim that they have obtained the rights for the documentation as a result of the sale of a given firm. This concerns mainly the technical documentation of buildings, facilities and technological processes. In such situations talks about the appropriate sorting out and registration of files and, consequently, their transfer to a state archive, are most difficult and often require on the part of an archivist diplomatic abilities.

5. In running metres.

