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RELATIONS OF THE ARCHIVES WITH THE CREATORS OF ARCHIVAL RECORDS

Abstract

Purpose: *The purpose of this study is to explore the critical relationship between archives and the creators of archival material. It aims to highlight the balance between the interests of material creators, archivists' responsibilities, and public rights in both public and private archival contexts.*

Method: *Through an examination of legal, ethical, and procedural frameworks governing archival transfers, this analysis contrasts the processes involved in handling public and private archival materials. Specific focus is placed on transparency, legal compliance, and negotiations around privacy and ownership.*

Results: *In public archival transfers, adherence to legal and ethical standards ensures transparency, preservation, and access, while safeguarding sensitive information. For private archival transfers, negotiations around privacy, ownership, and future use reveal more complex dynamics, often requiring restrictions imposed by creators to protect personal or proprietary interests.*

Findings: *The study finds that the management of archival material involves a delicate balance between maintaining accessibility for public benefit and protecting the rights and interests of creators. Legal and ethical transparency is essential in public archives, while private archives involve more complex negotiations that can impact future access and use, with creators often imposing restrictions based on personal concerns.*

Keywords: *State Archives, Archival Material, Protection, Public Records, Private Records*

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RELAZIONI DEGLI ARCHIVI CON I CREATORI DI DOCUMENTI ARCHIVISTICI

Abstract

Scopo: *Lo scopo di questo studio è esplorare la relazione critica tra gli archivi e i creatori di materiale archivistico. Mira a evidenziare l'equilibrio tra gli interessi dei creatori di materiale, le responsabilità degli archivisti e i diritti pubblici nei contesti archivistici pubblici e privati.*

Metodo: *Attraverso un esame dei quadri legali, etici e procedurali che regolano i trasferimenti archivistici, questa analisi mette a confronto i processi coinvolti nella gestione di materiali archivistici pubblici e privati. Particolare attenzione è posta sulla trasparenza, la conformità legale e le negoziazioni sulla privacy e la proprietà.*

Risultati: *Nei trasferimenti archivistici pubblici, l'aderenza agli standard legali ed etici garantisce trasparenza, conservazione e accesso, salvaguardando al contempo le informazioni sensibili. Per i trasferimenti di archivi privati, le negoziazioni sulla privacy, la proprietà e l'uso futuro rivelano dinamiche più complesse, che spesso richiedono restrizioni imposte dai creatori per proteggere interessi personali o proprietari.*

Risultati: *lo studio rileva che la gestione del materiale d'archivio comporta un delicato equilibrio tra il mantenimento dell'accessibilità per il beneficio pubblico e la protezione dei diritti e degli interessi dei creatori. La trasparenza legale ed etica è essenziale negli archivi pubblici, mentre gli archivi privati comportano negoziazioni più complesse che possono avere un impatto sull'accesso e l'uso futuri, con i creatori che spesso impongono restrizioni in base a preoccupazioni personali.*

Parole chiave: *Archivi di Stato, Materiale d'archivio, Protezione, Documenti pubblici, Documenti privati*

ODNOSI ARHIVA DO USTVARJALCEV ARHIVSKEGA GRADIVA

Izvleček

Namen: *Namen študije je raziskati kritičen odnos med arhivi in ustvarjalci arhivskega gradiva. Njegov namen je poudariti ravnovesje med interesi ustvarjalcev gradiva, odgovornostjo arhivistov in pravicami javnosti v javnih in zasebnih arhivskih kontekstih.*

Metoda: *S preučevanjem pravnih, etičnih in postopkovnih okvirov, ki urejajo arhivske prenose, ta analiza primerja procese, vključene v ravnanje z javnim in zasebnim arhivskim gradivom. Poseben poudarek je na preglednosti, zakonski skladnosti in pogajanjih o zasebnosti in lastništvu gradiva.*

Rezultati: *Pri prenosu javnega arhivskega gradiva upoštevanje pravnih in etičnih standardov zagotavlja preglednost, hrambo in dostop, hkrati pa ščiti občutljive informacije. Za zasebne arhivske prenose, pogajanja o zasebnosti, lastništvu in prihodnji uporabi razkrivajo bolj zapleteno dinamiko, ki pogosto zahteva omejitve, zaželeno s strani ustvarjalcev za zaščito osebnih ali lastniških interesov.*

Ugotovitve: *Študija ugotavlja, da gre pri upravljanju arhivskega gradiva za občutljivo ravnotežje med ohranjanjem dostopnosti v javno korist ter varovanjem pravic in interesov ustvarjalcev. Pravna in etična preglednost je bistvenega pomena v javnih arhivih, medtem ko gre v zasebnih arhivih bolj za zapletena pogajanja, ki lahko vplivajo na prihodnji dostop in uporabo dokumentov, pri čemer ustvarjalci pogosto postavljajo omejitve na podlagi osebnih skrbi.*

Ključne besede: *državni arhivi, arhivsko gradivo, varstvo, javne evidence, zasebne evidence.*

Archival records are records with enduring value and significance for the Republic, science, culture, creators and other needs, notwithstanding whether they were recorded on paper (conventional) or on a specialized medium (unconventional).

The archival and documentary records, according to the Archival Records Act (2012 with further additions, Article 4), are preserved regardless of the time, place and manner of their origin, as well as of their ownership and state of registration. The care for preserving and maintaining the archival wealth is an imperative and priority for each society and every records creator. Particularly having in mind that the preservation of the archival records, which has special cultural and historic significance as public goods, is also governed by the regulations for preservation of cultural heritage.

One of the essential tasks of the State Archives of the Republic of North Macedonia, according to the Archival Records Act (2012 with further additions) is to receive and permanently maintain the public archival records and to provide conditions for its unhindered access by the public. The right of access is provided to all the legal and physical entities under the same conditions. Besides for the purpose of enabling the state bodies and public institutions functions, the access to the archival records is also provided for: scientific research, publications, educational needs, exhibitions and publishing, as well as for the purpose of granting and protecting the public freedom and rights (Archival Records Act (2012 with further additions, Article 42).

After the independence, but also in the previous period, several legislative and bylaw acts have been passed in the Republic of North Macedonia (Archival Records Act (1990), Archival Records Act (1995, 2008), Regulation on Office and Archival Practice (1996), Guideline on the Manner and Technique for Handling the Documentary Records and Archival Records in Office and Archival Practice (1997), aimed at regulating the office and archival practice. However, notwithstanding when these regulations have been passed, their aim has always been more or less the same: maximum preservation and maintenance of the documents created by the records creators, i.e. receiving the records in the archives of jurisdiction, and providing access of the received archival records, according to the regulations for their use, to all legal and physical entities who are entitled to their rights and obligations under different conditions.

TRANSFERRING THE PUBLIC ARCHIVAL RECORDS

With the passing of the Archival Records Act from 26.07.2012, the first division into creators of public and creators of private archival and documentary records was made in the Republic of Macedonia.

The public archival and documentary records are owned by the Republic of North Macedonia. They are created with the activities of the state bodies, institutions, public enterprises and services, public companies, units of local self-government and the city of Skopje, trade companies established by the state or with dominant state capital, legal and physical entities (records creators) who have been granted a public authorization by the Law.

The public archival and documentary records are inalienable. That is why private legal and physical entities are not allowed to collect, acquire, maintain and own public archival and documentary records (Archival Records Act, 2012 with further additions, Article 17).

The creators of public archival and documentary records have the rights and obligations to provide conditions for unhindered functioning of the office and archival practices. The records creator has the responsibility to store the selected, processed and registered archival records from every year since its establishment into archival boxes, which are divided according to organizational units, archival signs, types of acts, and chronology of creation. The records creator is responsible for preservation, safekeeping and protection of the selected archival records from any alienation, damage and destruction (Archival Records Act, 2012 with further additions) until their transfer to the Archives of jurisdiction, under the condition and within the terms determined by the law. That implies that the State Archives receives public archival records for permanent maintenance under its jurisdiction.

The transfer of conventional public archival records from the records creator to the State Archives is performed by a commission and a minute. The records are transferred in their original, complete, selected and processed condition, with an accompanying registry and description of the records placed in archival boxes, after the condition of the archival records and the pertaining registry had been inspected, in the manner and terms determined in an agreement between the

records creator and the State Archives (Archival Records Act, 2012 with further additions, Article 26).

The term for transferring the public conventional and unconventional archival records cannot exceed 20 years since their creation (Archival Records Act, 2012 with further additions, Article 29).

The accompanying minute of the transferred archival records shall contain the following elements (Regulation on Office and Archival Practice, 2014):

- name of records creator;
- border years of the archival records;
- date and place of submitting;
- summary of the archival records;
- quantity of archival records (archival boxes and books);
- physical condition of the archival records;
- terms, manner and conditions for using the archival records; and
- comment on the completeness of the handed archival records (Guideline on the Manner and Technique for Handling the Documentary Material and Archival Material in Office and Archival Practice, 2014, Article 32).

In the process of transfer of archival records, it is not unusual to receive records only for some of the organizational units during a certain period, which in our opinion damages the completeness of the documentation and the continuity of the creator's activities.

When several organizational units or the complete records are received, the first box shall always contain the acts with the first archival sign (for example, the 01 - Establishment, organization and development, shall begin with 0101 - acts on establishment, registration, changes of the statute, organization, integration, transformation, etc.), followed by the next archival sign, notwithstanding the number of boxes needed depending on the quantity of archival records at the disposal of the records creators, according to types of acts from all the organizational units.

Each of the archival boxes is accompanied by a card with a short description of the documents, with the following elements:

- Name and seat of records creator

- Contents (name) of documents in box;
- Border years of documents; and
- Box No.

The card is inserted in the appropriate slot of the corresponding archival box.

In addition to the archival boxes, the archival records can also be enumerated in books (registries, logbooks, registration books, registries), which are designed and filled out according to appropriate forms.

The contents of the archival records enumerated in archival boxes and the public archival records is available for use 20 years after its creation. It can be made available for use before the expiration of the 20 years term since its creation if it is intended for the public, or at the creator's discretion (Archival Records Act, 2012 with further additions, Article 43).

The archival records can be transferred outside the determined terms if the archival records creator has suspended its activities. In that case, the records in their original, complete, selected, processed and registered condition are transferred to the creator who assumes its rights and obligations. If the creator has no legal successor, it shall transfer the public archival and documentary records (with unexpired term for maintenance) to the State Archives in their selected, processed and registered condition (Archival Records Act, 2012 with further additions, Article 26).

TRANSFER OF PRIVATE ARCHIVAL RECORDS

The private archival and documentary records are those records created in the work of the private legal and physical entities, which perform activity, provide service or are independent professionals, are owned by the private, legal and physical entities which perform the activity, provide the service or are the independent professional. The creators of private archival and documentary records are responsible for permanent maintenance of the archival records (Archival Records Act, 2012 with further additions, Article 32).

The records creator can donate, sell and store the private archival records to a third party. The State Archives has priority to acquire the private archival records. If the records creator intends to transfer the archival records, it must offer the records to

the State Archives first, and the offer shall state the conditions and price of the sell. The State Archives shall acquire the private archival records in a sell, purchase and for maintenance, if it determines that they are of interest for the Republic.

The use of the private archival records stored in the State Archives is regulated by the provisions for use of public archival records, if not otherwise foreseen by the legislation or other regulations, or by the Agreement on Transfer of Archival Records to the State Archives. In the case when the creator of private archival records has ceased its activities, it shall transfer the records to its legal successor, and when there is no successor, it shall transfer it to the State Archives within 15 days.

The employees of the records creators and the State Archives are not allowed to collect public archival and documentary records for themselves or others (Archival Records Act, 2012 with further additions, Article 29).

TRANSFER OF ARCHIVAL RECORDS ON OTHER BASES (RESEARCH, EXCHANGE, BANKRUPTCY)

Besides from the public and private records creators, the Archives also receives archival records through research and exchange. The Archives can enrich some of the archival funds and collections through research in the state and abroad (Archival Records Act, 2012 with further additions, Article 39).

The researcher who was funded by the budget of the Republic of Macedonia shall be obliged to transfer the researched and recorded archives within 30 days to the State Archives with a report which also includes the copy of the order of the recorded archives (Archival Records Act, 2012 with further additions, Article 40).

The State Archives, with an approval of the Government of RNM, can also exchange and surrender the archival records with/to corresponding institutions and organization in the country and abroad (Archival Records Act, 2012 with further additions, Article 41).

Regarding the transfer of documentation (archival records) and documentary records with prolonged terms of use mostly from the business activities of organizations in bankruptcy and insolvency, with the passing of the Archival Records Act from 2012 the future transfer becomes debatable, because Article 69 of the transitional and final provisions of the same Act clearly states:

On the date of entering into force, this law shall annul the Archival Records Act (90, 95 and 2008) and the wording: “The archival records in its original, complete, and arranged state with a registry and description, as well as the documentary records with prolonged terms of use: payrolls, EVT-2 cards, M-4 forms and registration and deregistration forms of employees, to be transferred in the State Archives of RM” from article 200, paragraph 5, item 2 from the Insolvency Act (2006 with further additions).

The passing of the Archival Records Act does not provide an opportunity to solve this burning problem, and does not offer an appropriate solution. The State Archives was unburdened by the parties, but failed to answer what will happen with this documentation.

TRANSFER OF ARCHIVAL RECORDS WITH PROLONGED TERMS OF USE

The transferred archival records consist of documents which, depending on their contents, have prolonged terms of use (these types of documents are listed in Article 43 and Article 44 of the Archival Records Act, 2012) of 50 years, 70 years and 100 years since their creation, i.e. 20 years after the death of the individual or 100 years after their birth.

The archival records with prolonged terms of use can be made available for use for official and other purposes before the expiration of the determined term, which shall be decided by the Government of RNM at a request of the records creators, under conditions which guarantee protection of the public interest, protection of private interests, i.e. the rights and interests of third parties.

In the minute for receiving these archival records to the State Archives, the documents with prolonged terms of use are enumerated. The list of documents with prolonged terms of use is an integral part of the minute.

This list contains:

- ordinal number of the documents in the registry (description and inventory), i.e. the complete signature of the documents;
- article of the Archival Records Act determining the criteria for prolonged terms of use of the archival records, which are the basis for proposing the prolonged term of use; and

- date when the documents become available for use.

When the archival records with prolonged terms of use are transferred, the State Archives shall evaluate these documents and, with an approval of the records creator, shall reduce or reject the terms. If the terms are reduced or rejected, the records creator shall state them again.

If the State Archives during the transfer has determined that some of the documents lack prolonged terms of use, it shall notify the records creator who shall specify and state the prolonged terms of use.

The denomination of documents with prolonged terms of use is made on a paper envelope of the documents, which has an applied and filled out stamp with the sign - "prolonged term of use" (PTU) in its right-hand corner.

This stamp (PTU) shall contain the following elements:

- PTU abbreviation in the upper line
- article of the Archival Records Act used as basis for determining the prolonged term of use of the document
- date when the document or the item shall become available for use
- signature of the officer responsible for its labeling.

The labeling of the document with prolonged terms of use of the records creators shall be performed during the preparation of the document, the selection of the archival from the documentary records, at the registration of the archival records, when the PTU abbreviation and the date and year when the document becomes available for use and the archival records is handed to the State Archives is entered in the description and inventory in the remark field.

The documents with prolonged terms of use are labeled by applying and filling out the stamp PTU - Annex No. 2 from the Guideline. This stamp contains the PTU abbreviation and the date when the document shall become available for use (Guideline for the manner of marking the documents with prolonged terms of use, 2013).

SEVERAL FINAL CONCLUSIONS ABOUT THE TRANSFER OF ARCHIVAL RECORDS

During the several decades long archival practice in the Republic of Macedonia, several legislative and bylaw acts have been passed with the aim of improving

the relationship of the individuals and the institutions in the preservation, maintenance, transfer and use of archival records.

One of the competences of the State Archives of RNM, in compliance with Article 36 of the Archival Records Act, is to receive public archival records for maintenance, acquisition of private archival records by donations, purchase and maintenance if it evaluates that they are significant for the Republic, and it also acquires archival records that are of interest for the Republic and kept abroad.

For the realization of some of the Archives competences regarding the activities outside the archives, i.e. the transfer of public and private archival records and many other obligations arising from the legislative and bylaw acts, which are applicable in the office and archival practice, the competence falls to the employees of the Sector for Inspection Supervision, expert supervision and help of the records creators (State Archives of the Republic of North Macedonia, 2020).

The applicable regulations should be a compulsory for all the records creators, but also for the Archives. It is their duty to correctly apply the normative acts in all segments of the office and archival practice.

It is necessary to jointly (the records creators and the archives) eliminate any inconsequence in practicing of the regulations which have certain influence on the failure to transfer the archival records within the terms determined by the Archival Records Act.

One of the reasons for the lack of intensity in receiving the archival records might be the lack of appropriate space. The insufficient space presents a great obstacle for the Archives in the execution of their legal obligation to receive the arranged and registered archival records not older than 20 years. The inappropriate storage conditions at the records creators, and the untimely transfer of the archival records by the records creators to the competent archives have an adverse influence on the preservation and use of the archival records.

Off course, the transfer of documentary records with prolonged terms of maintenance from the employment relations has its share and influence.

During the past period most of the depositories in the buildings of the State Archives have been filled. Notwithstanding, it is a fact that an extensive documentation has been received, and made available for use to all the users, legal and physical entities.

The respect of the legislative and bylaw acts which regulate this important segment in the work of the records creators of the public and documentary records, but also of the private legal and physical entities which perform activity, provide services or are independent professionals is a basis for lawful and controlled management of the documents, and is a precondition for impartial and objective informing of the public regarding the functioning of the society as a whole.

The records creators and the State Archives should be jointly invested, in compliance with the applicable regulations, in the transfer of the archival records without any illusion that everything that should have been transferred to the records creators has been received by the Archives, because we should have in mind that the Archives are the place, the premises and the building, i.e. the depository where the archival wealth of significance for any people and state is kept.

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Summary

The relationship between the State Archives of North Macedonia and the creators of archival records, both public and private, plays a vital role in the preservation of the nation's documentary heritage. These interactions ensure that records, whether generated by public institutions or private individuals, are systematically transferred, preserved, and made accessible for future generations. This collaborative approach allows the archives to safeguard materials of historical, cultural, and administrative importance, which are crucial for understanding the nation's past and informing its future.

The transfer of public records is a structured process, governed by a legal framework that mandates the preservation of documents produced by government bodies and public institutions. These records are essential not only for documenting the functioning of the state but also for providing transparency and accountability. The process of transferring public records begins once they are no longer needed for day-to-day operations. At this point, public institutions are required to organize, catalog, and prepare the records for transfer to the State Archives. This system ensures that critical government records are preserved in a systematic manner and are available for research, legal purposes, or public interest.

On the other hand, private archival records, such as those generated by individuals, families, businesses, or organizations are not subject to the same mandatory transfer laws. Nevertheless, the State Archives encourages the voluntary transfer of private records, recognizing their historical, cultural, and societal value. Private archival materials offer unique perspectives and personal accounts of historical events, societal changes, and cultural developments, complementing the official government records. The transfer of these materials is typically handled through donation or deposit agreements, where private individuals or entities entrust their records to the archives while often retaining certain rights over their use. Before accepting private records, the State Archives carefully evaluates their historical significance and relevance to ensure that they contribute meaningfully to the national collection. The collaboration between the creators of archival records and the State Archives ensures that North Macedonia's documentary heritage is protected, accessible, and valuable for research, education, and public knowledge.

Typology: 1.04 Professional Article