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ARCHIVAL POLICY OF THE EUROPEAN COMMISSION - A Case Study

Izveček:

Arhivska politika Evropske komisije - Študija primera

Arhivska politika Evropske komisije bi lahko služila kot primer za boljše razumevanje politike Evropske unije na področju arhivov. V članku avtor podaja pregled iniciativ, ki jih je začela Komisija od začetka 90. let do danes, in se osredotoči na nedavni govor Margot Wallström, podpredsednice Evropske komisije, o »pravici državljanov, da vedo, in o času, ko je potrebno izboljšati odprtost, transparentnost in dostopnost«.

Ključne besede:

arhivska politika, Evropska komisija, arhivi.

Abstract:

Archival Policy of the European Commission - A Case Study

The archival policy of the European Commission could stand as a case study to better understand the European Union policy in the field of archives. The author gives an overview on the initiatives taken by the Commission from the early 1990s up to the present day and focuses on the most recent speech by Ms. Margot Wallström, Vice President of the European Commission, about "the citizens' right to know and the time to improve openness, transparency and access".

Key words:

archival policy, European Commission, archives.

1) ARCHIVAL POLICY AND INITIATIVES

The archival policy of the European Commission deals with both the internal policy and the initiatives the Commission takes for implementing cooperation and coordination in the field of archives between the Member States.

Internal policy puts in place the ad hoc legislation and the procedures to better manage and preserve the Commission's archives and documentation, in order to let users access them after the thirty years period of retention.

The cooperation and coordination initiatives aim to promote a common management of the archival heritage all through the Member States, also in cooperation with external institutions, i.e. the International Council on Archives. To this end, the Commission co-chairs and provides the secretariat to the European Archives Group, maintains close relationships with the DLM-Forum and the MoReq

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Governance Board and works together with inter-institutional working groups on archives of the European Union.

Since the early 1990s, an interest for the situation of archives in Europe gradually widened in the European Commission, also due to the events, which completely changed the political situation in Eastern and South Eastern Europe. After the adoption of its Conclusions of 17 June 1994 concerning a wider cooperation in the field of archives, the Council of Europe asked the Commission to organise a multidisciplinary forum dedicated to the problems of managing, storing, conserving and retrieving machine-readable data; this initiative had the participation of public administrations, national archival services, and representatives from the sectors of industry and research. The result was the establishment of the DLM-Forum (originally, “données lisibles par machine”; from 2002 “Document Lifecycle Management”). The DLM-Forum first met in 1996, taking place every three years; the first meeting was dedicated to electronic records and cooperation in Europe wide, the second (1999) to European citizens and electronic information (The memory of information society), the third (2002) to access and preservation of electronic information (best practices and solutions), the fourth (2005) to electronic records supporting e-government and digital archives, the fifth (2008) to information and records management in Europe (achievements and new directions).

In February 2005, in response to the “Resolution on archives in the Member States” adopted by the Council on 6 May 2003, the Commission submitted a “Report on Archives in the enlarged European Union” to the Council. After addressing the situation of public archives in the Member States and in the institutions of the European Union, the report suggested a probable evolution in the years to come; it also suggested ways for improving archives management and archival services for the European citizens, and gave suggestions for concrete actions in the field of cooperation between archives.

The report led to the adoption of the “Council recommendation on priority actions to increase cooperation in the field of archives in Europe”, adopted on 14 November 2005, in which a call was made for the creation of a European Archives Group to ensure cooperation between archival administrations in Europe. Established at the beginning of 2006, the European Archives Group comprises experts from all the Member States, and meets every semester (coinciding with the rotation of the European Presidency) to discuss the progress achieved in the field of archival cooperation and to provide guidance and orientations. In 2008 the European Archives Group adopted a Progress Report in which the progress achieved in the field of archives was shown, together with the proposal to reflect on the role of the national archival services in the rapidly evolving environment, and to examine the possibilities for better serve the society, particularly the public administrations. Therefore, the European Archives Group identifies five challenges for archival services in the future: archives and the European Directive for re-use of public sector information; the relationship between on-site and on-line access to archives, consequences for administration and society and the changing role of archives in digital record keeping; creation of a European expertise network and finally a plan for a centre of excellence for European archivists.

Another important initiative of the European Commission in the field of archives was the establishing of the Moreq project, a standard providing generic requirements for an electronic records management system, to be used for many purposes, such as designing or evaluating records management applications and also

to prepare records management training materials. It has become a guiding principle used by electronic records management system suppliers and developers. An update to the original specification, MoReq2, was developed in 2008 to introduce a so-called Chapter Zero that will allow EU member states to add their unique national requirements in order to take account of different languages, legislation, regulations and record keeping traditions. MoReq Governance Board (MGB) was established in 2008, to be responsible for the maintenance of the specification and oversee compliance testing and translations.

2) RIGHT TO ACCESS

The article 255 of the Treaty establishing the European Community, implemented through Regulation 1049/2001 of 30 May 2001 grants the right of access to European Parliament, Council and Commission documentation to all the citizens and legal persons of the European Union. The Commission has published in 2008 a "Report on the Results of the Public Consultation", available on the dedicated website "Review of the Rules on Access to Documents". The site guides in searching for the Commission documents, and a Guide explains how to exercise the right of access; links to the websites of other relevant European institutions (i.e. Parliament and Council) and to the single Members Countries' rules on access are present.

On 20 January 2009, at the Joint Meeting of the Civil Liberties Committee of the European Parliament and the Committees on EU Affairs of the Czech Senate and Chamber of Deputies, the Vice President of the European Commission Margot Wallström delivered a speech on "The Citizen's Right to Know - Time to Improve Openness, Transparency and Access". In her speech, after summarizing the developing of the situation on access to the documentation in the European Union and in the EU institutions, Ms. Wallström points out four major issues which have given rise to questions or criticism:

- 1) *the proposed definition of what is a document;*
- 2) *the balance between the right of access and the protection of personal data;*
- 3) *the right of Member States to oppose disclosure of documents they have sent to the institutions; and finally*
- 4) *some limitations to the right of access during limited periods of time.*

As per the definition of "document", Ms. Wallström proposes *two targeted clarifications*:

- 1) *a document drawn up by an institution becomes a document when it has been finished by its author and transmitted to its recipients or added to the relevant case file. That of course includes when a finished note or document is sent between officials in an institution;*
- 2) *data stored in electronic databases are documents insofar as they can be retrieved and extracted from the database using the normal search tools for the database; this responds to the technological reality of modern public administration.*

With regard to the balance between the right of access and the protection of personal data, Ms. Wallström proposes a *"two step approach"*: *the first step says that names, titles and functions of public office holders and interest representatives in*

relation with their professional activities shall as a general rule always be disclosed...The second step only concerns other cases, when disclosure of personal data could affect the interests of the person concerned. Then a closer check under the Data Protection Regulation would still be required. Talking about the right of Member States to oppose disclosure of documents, Ms. Wallström reminds how up to now Member States have sometimes given blank refusals. We already changed our practice in the Commission, and now we want it to be codified in law. We propose that if a Member State does not want us to hand out one of their documents, they will have to give clear reasons for it. Those reasons will always have to be in line with Regulation 1049. As per the last point (temporary limitations to the right of access during investigations), Ms. Wallström tells that the Commission's proposal clarifies that this kind of files are not accessible to the public only as long as the investigation is ongoing. In conclusion, Ms. Wallström strongly underlines how this is the overriding principle: the citizens' right to know - transparency, access and outreach. This is what the citizens expect, so that is what we should do.

And this is, in practice, the goal and the policy of the European Commission in the field of archives for the time to come.