

The legal order of electronic records management

We are in a period of transition from a paper-based administration to an electronic format one. We are undergoing a digital revolution that has an impact not only on the media and formats but also, and in a relevant way, on new models of process and management, demanding other skills and competencies of the staff performing more complex technical tasks. Interdisciplinarity in learning is becoming more and more necessary for the resolution of the challenges of our time. The legislative framework should also be adapted to regulating a new management model and validating electronic documents. Without paper or other traditional media, the evidence of society and administrations would not have been recorded, and now, without electricity, there is no digital document.

Information and Communication Technologies (ICTs) have changed public administration and its incorporation is often referred to as a modernization of the administration, affecting the organizational culture. The production and receipt of information requires the use of technology that administrations will channel through services in order to satisfy their community of citizens, who demand fewer restrictions on access to information. Legal provisions and jurisprudence should be adapted to democratic societies, where evidence of administrative and governance acts must be effectively available. To do this, ICTs are required in information, records and data management in order to meet the needs of citizens demanding more transparency in governance. Archivists must not only know the new regulatory framework, but must also be involved in legislative work, which will have an impact on information planning and management. Archivists are aware of the new risks involved in managing electronic documents,

so legal norms and good practice standards help channel solutions so as to minimize those risks in such important aspects as digital preservation, document authenticity and integrity, interoperability, description, retrieval of information, data protection, reuse of information, transparency, responsibilities or open government.

As stated by A. Dikopoulou and A. Mihiotis (2012) “the document is defined as the statement of intent of any person or corporate entity, public or private, that has been registered, signed and issued in accordance with administrative and legislative procedures established under the jurisdiction of the corporate person or entity.” The legal aspects exist from the very generation of the documents. Local governments, closer to citizens, must give signs of transparency and accessibility to encourage dialogue between rulers and governed, through an administration closer and faster in its responsiveness. It is a two-way dialogue that increases citizens’ confidence in their governments.

Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market (called eIDAS) is an incentive for the services of our administrations to be reliable to citizens and archival and information services of public administrations must be among them.

In order to have a “qualified trust service”, service providers must be audited to confirm that they provide the correct services. While the regulation states that auditors should be external to the organization, internal inspections and audits of records have been provided for by the Spanish legislation as a means of assessing the service provided and the way our archival institutions work.

In this issue of *Tabula* we find analyses of some of the broad aspects provided for by standards, highlighting their importance in the archival work, in the efficiency of administrations and, ultimately, in a reliable democratic government. Enriqueta Sesmero points out some weaknesses in the current legislative framework, and highlights that electronic records management misses the advantages offered by ICTs to preserve information in a distributed manner. Vicent Giménez analyses where European and Spanish legislations regulate metadata, especially in reuse, interoperability and description. Liudmila Varlamova addresses the discussion of terminology in the records management by reviewing ISO and IEC standards, good practice standards where she warns that the terminology system is not well harmonized. Francisca Ramón delves into the analysis of business records in the legislative framework for the protection of trade secrets and personal information. José Luis Domínguez emphasizes administrative interoperability in the implementation of electronic administration, where special attention should be devoted to ensuring the security of personal information, result of a process of digitization and datification of our society. Diego Robledo analyses the legislative framework being developed in Argentina based on five axes, the Digital

Government, Administrative Modernization, Open Government, Human Resources and the Digital Country, and points out how Blockchain technology can be an effective alternative for the evidential validity of digital documents. Finally, in the Varia section, Francisco Javier Fito studies how the creation in 1937 of the Historical Department in the International Brigades was important for the creation of a documentation service that supported the war commissionerhip.

References

- DIKOPOULOU, A.; MIHIOTIS, A. (2012), "The contribution of records management to good governance", *The TQM Journal*, vol. 24 no 2, pp.123-141. <<https://doi.org/10.1108/17542731211215071>> [Accessed: Nov 18, 2019].
- EUROPEAN UNION (2014). Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC. OJ, L 257, 28.8.2014, p. 73-114 <<http://data.europa.eu/eli/reg/2014/910/oj>> [Accessed: Nov 18, 2019].

Vicent Giménez-Chornet
Luis Hernández Olivera