

Comments and proposals of amendments on the ICA draft *Principles of Access to Archives*, which emerged from the Modena Workshop organized by the Italian Directorate General of Archives, together with the State Archives of Modena and the Archival Supervision Agency for the Region Emilia Romagna (26 January 2012)

The ten *Principles* received full and unanimous approval by the participants in the Modena Workshop. Both panelists and members of the public underlined how the *Principles* can become a fundamental reference point for archivists all over the world. The *Principles* are evidence of ICA commitment to making archives an instrument for democracy, accountability and the rule of law. We fully share this commitment. Panelists equally underlined how the *Principles* can become a most useful tool to help improving access even in long-established democracies such as Italy. Much of the Modena Workshop was indeed devoted to discuss the predicament of access to archives in Italy. There is no doubt in our minds that – once approved – the *Principles* will give strength to our efforts to improve access in our country.

During the Workshop, some proposals for amendments concerning the comments to the *Principles*, the introduction or the appendixes emerged:

- a) Several participants in the Modena Workshop expressed the need to see a definition of “archivist” (possibly in the *Introduction* to the *Principles*) and argued that the archivists who “participate in the decision-making process on access” should be adequately qualified. This means that they should have a sufficient background in law, archival science and history. They should in fact know pertinent legislation but should also be able to understand the reasons of researchers. The comments to the Principle no. 10 do in fact state that “Archivists know the archives, the access restrictions, the needs and requirements of the stakeholders and what information is already in the public domain on the subject to which the records relate”. We suggest adding the following sentence (or something similar): “Institutions holding archives make sure to charge archivists endowed with adequate professional training with the task of participating in the decision making progress regarding access.”
- b) Some panelists objected to the *Introduction*’s opening sentence “The fundamental purpose of archives is use” and argued that “preservation for future generations” should also be included as one of the fundamental purposes of archives.
- c) In several cases, archives are not accessible not because of legal restrictions but because they have not been arranged and described. In some cases this is inevitable, but archivists should make every effort to limit this kind of exclusion from access as much as possible. This point is somehow already addressed in the commentary to the principle 2, when it says: “Archivists share draft descriptions of archives with users if final versions are lacking.” Several participants in the Modena Workshop believed that this point should be more openly stated, possibly in the comments to the principle no. 8. The Working Group might consider adding the following sentence (or something similar): “Access to archival fonds cannot be indefinitely postponed on the ground that the fonds lack of proper arrangement and finding aids.”, or, alternatively: “Archivists minimize the time when archival fonds are removed from access due to lack of arrangement and finding aids.”
- d) Doubts were raised over the opportunity to have “Technical guidelines”, “Sample access policies” and other appendixes attached to the *Principles*. By getting into details regarding

the enforcement of the *Principles*, such documents inevitably enter into a domain that is regulated by national laws. ICA standards normally do not have guidelines attached to them. Standards are in fact supposed to be self-explanatory. Such a line of action could be followed for the *Principles* as well. At the same time, the Workshop acknowledged that the “Technical guidelines” and the “Sample access policy” include many suggestions that could be of great help for archival institutions that operate in a situation of normative void as far as access is concerned. We would thus suggest publishing such documents separated from the *Principles*, as a distinct publication. In this way, it would become evident that only the *Principles* have the strength and the authority of a standard, while the “Technical guidelines” and the “Sample access policies” have only the standing of possible options.

- e) Regarding the content of the “Technical guidelines”, there was unanimous, strong disagreement over the point H34 which suggests, as an alternative option to physical restriction, “requiring users to (...) submit a draft manuscript for approval before publication.” This suggestion could be badly misinterpreted and misused. We understand that – in the intention of the drafters – this suggestion was intended to maximize openness in access practices. But the risk that such suggestion is interpreted as an “ok” for censorship is too high to be acceptable.
- f) The “Sample access policy” give as *General Restriction* no.1.: “Materials containing information, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy of a living person.” Panelists in the Modena Workshop argued that very often it is difficult for archivists to know whether a person mentioned in a document is living or not. Often times a document affecting privacy concerns more than one person. In short, in our experience linking access to the laps of a certain number of years rather than to the death of the person(s) affected proved a practical solution, not detrimental to users. Both systems have their advantages and disadvantages. So, the Working group might consider suggesting both systems in the “Sample access policy”.
- g) Italy reconciled the protection of personal privacy with historical research by means of a *Code of conduct and professional practice regarding the processing of personal data for historical purposes*. The Italian laws dictates certain restrictions for personal data (40 years for data concerning political affiliations, religious or philosophical beliefs, racial or ethnic origins, and certain judicial data; the term is 70 years if the information is such as to reveal state of health, sexual experiences or private family relationships). Moreover, the use of personal data is considered legitimate only if users respect a *Code of conduct*. Users sign a statement where they commit themselves to respect such a *Code of conduct*. In the Italian experience, the introduction of the *Code of conduct* allowed for considerable more openness in access to documents containing personal data. We thus suggest to the Working group to consider the use of a Code of conduct for archive users, as one of the options to suggest in the “Sample access policies”. We enclose an English translation of the Italian *Code of conduct and professional practice regarding the processing of personal data for historical purposes*. Please, do not hesitate to contact us should you need any clarification in this regard.