

A THEORETICAL APPROACH OF THE LEGAL DIGITAL DEPOSIT

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Abstract : A legal deposit is represented by documentary heritage collections sent by editors of publications to a national library and maybe to other libraries of the system of national libraries to ensure the national, cultural and scientific document references for future generations. The principles of a legal deposit also apply to digital documents. The issues related to a legal digital deposit are defining the categories of documents subjected to such a preservation and conservation type, archiving strategies, document processing and making up a specific heritage flow. It is equally important to establish the proper legal framework necessary to achieve this specific type of activity.

Keywords: Legal Digital Deposit, digital document, digital archiving, documentary heritage, legislation

1. Introduction

A Legal Deposit (LD) is a legal stipulation according to which all categories of editors are compelled to send a certain amount of copies of publications to the National Library and possibly also to other libraries of a given country. The principle of Legal Deposit is established through an international convention and it is overtaken by the national legislation of each state aiming at ensuring the preservation, conservation and access to documentary heritage through libraries. National libraries have a heritage function and they fulfil the role of National Agency for the Legal Deposit of Publications.

The appearance of electronic documents and their publication online has determined the extension of the Legal Deposit towards the digital environment. If the principle of a Legal Deposit is to preserve, conserve and provide access to the documentary, cultural and scientific heritage of a nation, no matter the type of support, it should be applied for digital publications too, be digital publications accessible offline or online. The issue of digital document resources and of their archiving and the establishment of a legal digital deposit (LDD) is approached within a much broader context in Internet Resources and Information Practices [1] on which relies this study.

2. Features of the Legal Digital Deposit

The features of the digital environment and of digital documents generate major issues in the application of the Legal Digital Deposit: technical issues related to the control of editing and to the collection, processing, conservation, and accessing digital documents; copyright and copyright-related issues; long-term archiving of the digital content issues; national legal framework issues for the ensurance of the Legal digital deposit (including penalties).

Specific legislation. In many countries, the legal framework for the establishment of the legal digital deposit was designed as an extension of the legislation for the Legal Deposit for traditional publications, so that it includes the stipulations for the digital environment and for digital documents and that the national documentary heritage can be represented in a unitary form, no matter the support. In countries such as Holland or Switzerland, customs and good practices make possible the functioning of a Legal Deposit without a precise legal framework: it relies only on agreements between editors and national libraries and these practices extend over the legal digital deposit. However, in most countries, the efficiency of the legal deposit is ensured by a well-defined legal framework that regulates the relationship between editors and libraries and that supports the preservation and conservation of the documentary heritage. Above national levels, there are international regulations that support the legal digital support as well as UNESCO resolutions and reports [1]. The Conference of European National Libraries (CENL) and The Conference of Directors of National Libraries (CDNL) support the editing of guides, methodologies and regulations for the activities of legal digital deposits through specialised work groups.

What and how is deposited? The documents subjected to a Legal digital deposit represent a much wider and more diversified category than that of the documents on traditional support in Legal Deposits. Are considered digital or electronic the documents that need, in order to be produced, published and accessed, a proper information infrastructure. Such documents can contain text, sounds, images, and information applications. Are subjected to Legal Digital Deposits [2]:

Digital publications that correspond to printed publications (books, newspapers and magazines, brochures, posters, etc.);

Bibliographical, statistical, image, spatial, etc. databases;

Media, multi-media documents, interactive multi-media applications (e.g., electronic games);

Information programmes and expert systems.

In the case of similar printed publications, there are specific situations such as the existence and distribution of both printed and electronic variants: these variants can be identical or not; the digital variants can be distributed offline on CDs, CD-ROMs or DVDs; they can be published individually on websites; they can be available in collections or databases; they can be digital variants of documents and publications published previously and converted, through scanning and digital processing, into digital documents.

In the case of databases, the specific issue is their dynamics, i.e. the alteration, removal, or addition of digital content.

Including the media in the Legal digital deposit causes the most serious issues. There are debates, among national library work groups and UNESCO and European experts on whether Radio and TV productions should be subjected to Legal Digital Deposits or not. The trend is that these information resources be included into the Legal digital deposit and that they should be approached within the same legal framework as the rest of digital documents; however, archiving, preservation, and the entire documentary flow should be done separately for audio-video resources.

3. Strategies for the Establishment of a Legal Digital Deposit

Because of the huge amount of information and digital resources in the networks and because of the heterogeneity of the processing standards and of the publication forms, they have developed several strategies for their collection and storage in the Legal Digital Deposit.

The *exhaustive approach* supposes the collection of all websites and online resources corresponding to a national area identified as a field. This selection is made without any selection form of criterion regarding their heritage value. This approach is rather a theoretical one since it is impossible to collect and archive everything that is published online. In addition, even if it were possible, because of the dynamics of the digital content, it would be impossible to collect all the resources or variants.

The *selective approach* supposes the collection and archiving of well-defined portions of the web space and online resources subordinated to clearly defined specific criteria. Such criteria could be a typology of the resources collected (e.g., mass media), a certain type of website (e.g., academic and research websites), or a certain time interval (e.g., national ones according to a certain field, but at well-defined time intervals, usually annually or biennially), or instantaneous, at time intervals).

The *topical approach* supposes the selection and collection of websites and online resources subordinated to a certain field of knowledge or precise topic (e.g., web digital content related to a

certain event such as a major athletic event, legislative elections, etc.); there is also the possibility of archiving and collecting on a certain topic subjected to a research project.

The *combined approach* is the most pragmatic of all since it tried to unite the advantages of the other types of approaches and to remove disadvantages.

4. The Heritage Flow of Establishing a Legal digital deposit

As mentioned above, the institutions responsible for the collection, processing, valorisation, conservation and archiving of the cultural and scientific documentary heritage of a country are national libraries; they manage the traditional documentary heritage and the digital one since they need to observe the principles of the Legal Deposit though it is about digital support.

The heritage flow starts with the *identification of the producers of digital content* qualifying for being included in the legal digital deposit. Are subjected to the legal digital deposit the cultural and scientific digital content published in any country but referring to a certain country. Websites and cultural and scientific resources published in a national area can be identified after the domain and extension name (.ro for Romanian sites). Collecting can be done based on legal regulations (that can be a completion of the law for Legal Deposit or a regulation specific to the Legal digital deposit alone) or with the agreement of the producers of digital content. The problem here is the collection of digital content referring to a nation but that is published abroad, where legal regulations have no effect whatsoever. In this case, a Legal Deposit can only mention digital content of interest and collect and archive digital content from the public domain and free access.

The best known producers and suppliers of cultural and scientific digital content are the same as in the traditional environment (editors, mass media, academies, research institutes, physical persons), plus the owners and administrators of digital archives, governmental institutions and public institutions as well as a much broader category of users (legal and physical persons). For a Legal digital deposit o function, we need to clearly identify all these producers and suppliers of digital content, to know the types of resources that can be supplied and to accept responsibilities in the preservation and archiving of the documentary heritage.

Collecting and archiving digital content is a mainly technical issue: it is done based on search engines. The sites are browsed at certain time intervals. They collect digital content (observing the principles of digital archiving) and they make up heritage digital deposits. Digital documents on CDs, CD-ROMs and DVDs are deposited in national libraries in the same way as traditional

publications. They are archived separately, but mentioned in the same database. The main issue here is the very high costs generated by the constitution and management of digital deposits.

It is important for a heritage flow that digital resources in the Legal digital deposit be also mentioned among the information and documenting instruments such as catalogues and bibliographies to allow the access to the national cultural and scientific heritage. *Processing through cataloguing, indexing and creating access points* is the activity through which digital content is expressed in bibliographical records and is included among specific reference instruments. Processing can be done automatically together with the collection of resources by the search engine (are assimilated the initial metadata of the resource archived) or semi-automatically when the human factor intervenes in the refinement of the processing to express as accurately as possible the requirements of the catalogue or bibliography – webography. The *national web bibliography or the national webography* is the final information product of the heritage flow together with the digital deposit proper. It is a series of the national bibliography and it contributes to the National Bibliographic Control, a component of the Universal Bibliographic Control; in other words, it contributes, together with other bibliographical series¹, to the recording and recording of the national and universal documentary heritage.

Archiving long term is the last stage of the heritage flow for digital resources and it should be done in accordance with all preservation, conservation, and archiving standards for digital content. We need to take into account the preservation of the technological context, the ensurance of technical access and, from the perspective of copyrights, the back up and management of specific risks.

Establishing a Legal digital deposit and web archives is rather new and we cannot speak of universally accepted standards. We can rather speak of initiatives and good practices of national libraries [3]. At general level, as principles, attributions, activities, and procedures, a legal digital deposit is somehow similar to and different in organisation at national level from the perspective of the implementation of specific legislation and technical solutions. The most representative initiatives and good practices are in Austria, Japan, Singapore, Denmark, Finland, Australia,

¹The documents edited in a country and subjected to the Legal Deposit are also recorded in the collections of the national libraries and are processed and published under the form of national bibliography. In Romania, publications are divided into categories, depending on the type of publication and each category is subjected to a series of the Romanian national bibliography. The series are:

- Books, albums, maps (since 1952, twice a month);
- Serial publications (since 1992, annually);
- Music notes. Discs. Cassettes (since 1968, every three months);
- Doctoral theses (since 1995, annually);
- Romanica (since 1990, annually);
- Articles from periodicals. Culture (since 2000, monthly).

Great Britain, France, and Norway. These are countries that could afford IT investments to support such an approach and that have established a clear legal framework for Legal Digital Deposits.

5. Web Archiving and the Legal Digital Deposit

Web archiving and the Legal Digital Deposit, though aiming at preserving and conserving digital content, are not identical activities. They differ in objectives, technical solutions, modality and depth of mentioning content, institutional responsibilities and legal framework. Web archiving aims at archiving the digital content of a site medium- and long-term, no matter the type of site and field. A Legal digital deposit aims at archiving websites and digital resources representing the national cultural and scientific heritage long term and, in some resources, even perennial. Web archiving can be a responsibility of institutional structures that manage the site or it can be done with specialised firms and involves technical solutions adequate for archiving solutions. A Legal digital deposit has a national heritage function and it is achieved by national libraries or in cooperation with them, according to a legal framework. Together with the technical archiving solution, it also needs specific operations of cataloguing, indexing and development of reference instruments (webographies).

Exhaustivity in archiving web resources is a utopia. There are limits in archiving the entire digital content published on the Internet. If, short- and medium-term we can speak of archived digital resources close to what is really published, long-term the amount of digital resources archived is increasingly smaller and based on the selectivity of the resources depending on scientific or heritage criteria. The limits of archiving can be technical and generated by the investment level, by the preservation of the technological context, by the web that makes impossible the collection of all data on the web, by the complexity of the sites, by the difficulties in the processing of the archived digital content, by the preservation and conservation proper, by the risk management in long-term preservation, by access and copyrights, by human resources.

The complexity of archiving, the resources involved, the objective limits make web archiving and Legal digital deposit be seen as activities necessary yet strictly specialised, with specific standards, with a proper legal framework and institutional and national responsibility.

6. Conclusions

The extraordinary dynamics of the digital environment from the perspective of technologies involved and specific information and documentary resources makes legal digital deposits a difficult task with multiple specific issues and aspects. We need to establish a correlation between the traditional legal deposit specific to printed documents and the legal digital deposit

and develop a unitary legal framework. We also need to assimilate good practices at international level and adapt the best solutions regarding the collection of digital documents, their processing, the development of webographies and the proper methods of digital archiving and preservation. The resources involved – technological, financial, and informational – can be key factors in the support or limitation of a national project for the development of a Legal Digital Deposit.

7. References

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