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# Secrets and Files

## Access to Archives in Italy

### from WWII to the Present\*

#### INTRODUCTION: THE LEAST ACCESSIBLE ARCHIVES

**O**n November 25-26, 2010, while in Rio de Janeiro archivists, jurists and other scholars were discussing "Access to Archives and Human Rights," in Italy the newspapers *Corriere della Sera* and *La Repubblica*<sup>2</sup> published an appeal to open Italian intelligence archives, under headlines such as "Open the archives on slaughter cases! Thousands are signing. Enough with secrets!"<sup>3</sup>. The appeal had been promoted by the family members of the victims of different slaughter cases which occurred in Italy from the late 1960s through the early 1990s<sup>4</sup>.

Several such cases remain unpunished and many people suspect that the intelligence service archives could help shed light on them. In a few days, 50,000 people signed the appeal.

What triggered this surge of interest in intelligence archives was the decision, on November 16, 2010, by the Criminal Court of Brescia, to acquit for lack of sufficient evidence four neo-fascist activists indicted for slaughter (they were suspected of having placed a bomb in Brescia in 1974 that killed 8 people, during a trade union meeting). Also acquitted was a former Carabinieri<sup>5</sup> general, accused of having intentionally misled investigators, in order

to cover up the authors of this terrorist attack.

Over the years, five investigations and a total of eight trials regarding this terrorist act were carried out and much evidence was collected that indicates that the authors of the Brescia bombing belonged to a neofascist group, which had some complicity within the secret service. It was not possible, however, to prove beyond any reasonable doubt individual responsibilities. The same can be said about other terrorist attacks carried out between 1969 and 1974, which were part of the so-called "strategy of tension": "a series of bomb explosions and other outrages would sow panic and uncertainty, and create the preconditions for an authoritarian regime."<sup>6</sup> The search for truth was hampered by the fact that initially prosecutors were denied access to documents and information relevant to the investigations, on the grounds that they had state-secret status (after 1977, this was no longer legally possible, but obstacles to the investigation persisted, due to lack of cooperation by the intelligence services). The same happened with the investigations of three aborted coups d'état that took place in 1964, 1970 and 1974.<sup>7</sup>

In Italy, the law provides for four levels of classification<sup>8</sup>. Moreover, information whose disclosure may seriously damage the fundamental interests of the State can be covered by "state secret" status. Currently, only the Prime Minister has the authority to assign state-secret status<sup>9</sup>. If a piece of information is assigned state-secret status,

not even the judicial authority can have access to it; by contrast, the judiciary can have access to classified information. In 1977, the Constitutional Court ruled that some of the norms regulating state-secret status violated the Italian Constitution. Complying with the Constitutional Court ruling, a 1977 reform on intelligence dictated, among other things, that state-secret status might not be applied to information regarding "acts subverting the constitutional order" (art. 12, law 801/1977). That Parliament felt the need to state what it should be obvious (state secrets must protect the constitutional order, not its subversion) indicates to what extent secrecy had been misused.

It is fully reasonable for a democratic state to protect some pieces of information with secrecy, but secrecy must have a time limit, rules and procedures regarding secrecy must be transparent and in line with the Constitution, and there has to be an effective system of control over their enforcement<sup>10</sup>. Unchecked secrecy breeds illegality and Italian recent history presents much evidence of this. In the decades following WWII, the misuse of secrecy, together with the illegal handling of intelligence records (there were files that were illegally created or destroyed, or preserved, or hidden) was intertwined with some of the darkest pages of the history of the Republic<sup>11</sup>.

In 1959, the Italian intelligence service (SIFAR<sup>12</sup>), headed by Carabinieri General De Lorenzo started to collect information

on the public and private lives of politicians and other persons of influence. By the mid-1960s, the SIFAR had created 157,000 personal files. In 1971, a Parliamentary enquiry singled out 34,000 of them as deserving destruction. It turned out that such illegally created files had been instrumental in blackmailing and conditioning Italian political life. In the meantime, in 1964, General De Lorenzo (who had become Commander-in-chief of the Carabinieri) masterminded an attempted coup d'état. In 1974, complying with a unanimous vote in Parliament, the 34,000 files were destroyed, or supposedly were. In 1981, in fact, some documents allegedly coming from such files were discovered in Montevideo, in a villa belonging to Licio Gelli, the head of the secret (and thus illegal) Masonic lodge P2<sup>13</sup>. Adding insult to injury, it was not possible to prove beyond any reasonable doubt that such documents came from the SIFAR files (even if experts agreed on this point) because the files had been destroyed<sup>14</sup>. Personal files allegedly coming from the SIFAR "destroyed" 34,000 files were also found among the papers of a journalist (Mino Pecorelli) who had shady connections with intelligence circles and who was killed in 1979.<sup>15</sup> During a judicial investigation, it further emerged that the intelligence service had prepared detailed summaries of the 34,000 SIFAR files before they were destroyed.<sup>16</sup> In short, the destruction of the SIFAR files caused an irreparable damage to investigations and was not able to prevent their ongoing illegal use.

Instances of questionable handling of intelligence records that were intertwined with the use of secrecy and with criminal acts also surfaced other times in recent decades, including in the 2000s. In February 2003, the imam Abu Omar was kidnapped in Milan by CIA agents, with the complicity of the Italian military intelligence (at that point called SISMI<sup>17</sup>); Abu Omar was later set free in Egypt after allegedly being interrogated and tortured. While investigating Abu Omar's kidnapping, prosecutors discovered in Rome, in a SISMI office, a few hundred files regarding prosecutors, judges, journalists and politicians. A SISMI official had been collecting information on dozens of Italian and international prosecutors and judges, labeled "militant magistrates" and considered to be close to Italian opposition parties. The SISMI head (Nicolò Pollari) and his deputy (Marco Mancini) were indicted, together with other SISMI officials, for both Abu Omar's kidnapping and for the illegal creation of files; during both trials they claimed that they could not defend themselves without violating state secrets and the Prime Minister confirmed that this was the case; the trials against them were thus suspended (they continued, however, of other defendants: twenty three CIA agents were convicted for the Abu Omar kidnapping in 2009 and, on appeal, in 2010<sup>18</sup>). The SISMI deputy was also indicted for allegedly collaborating with the head of TELECOM's security (TELECOM is Italy's leading telephone company) and other persons, in illegally tapping phone calls and creating thousands of

illegal personal files regarding politicians, businesspersons and other persons. Once again, his trial was suspended because of “state secrets”.<sup>19</sup>

The conflicts over secrets and files that took place in Italy over the past sixty years show how the handling of archives is not just a matter of archives. The more archives are politically sensitive, the more their handling can be seen as a symptom that reveals the state of health of a country’s democracy and the degree of rule-of-law abundance. In the next pages, this paper will first describe the vicissitudes of Fascist archives after WWII and then will discuss access laws (including a 2007 law on intelligence and state secret) both on the books and in practice. The story that will emerge is not linear. Since WWII, Italy has gone many steps forward in the way of access, but has also gone some steps backwards. The point is that the construction of democracy is a never-ending process that meets new challenges at every turn. Access to archives is part of this process.

## THE RESCUE OF FASCIST ARCHIVES

**O**n July 25, 1943, Mussolini was arrested and the king appointed Marshall Pietro Badoglio as Prime Minister. A few days later, a Royal Decree<sup>20</sup> suppressed the Fascist Party and, immediately afterwards, the head of the Archival Supervision Agency for the Region of Rome, Emilio Re<sup>21</sup>, wrote to the Directorate of Archives<sup>22</sup> asking for immediate action in order to avoid the destruction

of the Fascist archives. In the previous days, in different parts of Italy, the mob had stormed some Fascist headquarters, causing the destruction of archives<sup>23</sup>. The Superintendent Emilio Re thus suggested immediately transferring to the Archivio del Regno<sup>24</sup> the archives of the Fascist Party, of the Fascist Grand Council, of the Special Tribunal for the Defense of the State (the court created in 1926 to repress antifascists) and of other important Fascist institutions, together with the personal papers of the most prominent Fascist leaders<sup>25</sup>. Things unfortunately did not go as Emilio Re hoped.

On September 8, 1943, the Badoglio government signed an armistice with the Allies. The Germans, however, had in the meantime started pouring troops into Italy and – when the armistice was announced – German troops took control of most of the country; they liberated Mussolini and sponsored the creation of the Repubblica Sociale Italiana (RSI) in Central and Northern Italy (the South was under Allied control). The capital city of this puppet republic was Salò, a small town in Northern Italy.

In order to make this new Fascist state function, it was necessary to transfer the records of the Ministries and of the Fascist Party to the North<sup>26</sup>, something that was readily done. A German officer coordinated this huge transference of documents and personnel. On October 8<sup>th</sup>, 1943, personnel and papers of the Ministry of Popular Culture (the heart of the Fascist propagan-

da machine) moved North, and the other ministries followed suit soon after<sup>27</sup>. Therefore, in October 1943, from the railway station of Rome trains transporting records North left side by side with trains transporting further North, to Auschwitz, the Jews raided in the ghetto of Rome<sup>28</sup>, in a parallel display of bureaucratic efficiency.

At the end of the war, all of the records that had been transferred North had to be transferred back to Rome. Some, however, had in the meantime been destroyed accidentally or, more often, intentionally. Already in June 1944, the secretary of the Fascist Party (which under the RSI took the name of Fascist Republican Party) had instructed the local Party leaders that in case they had to flee, they had to take with them the most valuable and confidential records and had to burn to ashes everything else. At a national level, incidence of destructions were significant; nothing, for example, of the Fascist Grand Council archives survived; large parts of the Fascist Party Directorate (Direttorio nazionale) – including the most sensitive records – were reported missing as well<sup>29</sup>. Nonetheless, we still have about 2,500 bundles of Documents of the Fascist Party Directorate (1922-1943)<sup>30</sup>, preserved in the Archivio centrale dello Stato (ACS)<sup>31</sup>. Some of this documents reached the Archivio del Regno as early as 1947; but the bulk of the Fascist Party archives reached the recently created Archivio centrale dello Stato in 1961, after transiting through the Ministry of the Treasury, which had to settle all of the pending financial matters (it

should be considered that under Fascism, the Fascist Party was considered a public body)<sup>32</sup>.

Some sensitive and politically relevant archival fonds, such as the confidential series of Mussolini's Secretariat (Segreteria particolare del duce, Carteggio riservato) were initially seized by the Allies, who microfilmed them before turning them over to the Italian government. The Allies had created a Joint Allied Intelligence Agency, which collected and microfilmed the archives that they considered to be of especially high historical and political value. Some documents were lost in the process (or, at any rate, were not turned over to the Italian authorities)<sup>33</sup>. But this microfilming operation also had a most positive effect on access to Fascist archives. In fact, given that the microfilms were soon made available to scholars at the National Archives in Washington, the director of the Archivio centrale dello Stato was able to do the same with the original records, even if – according to Italian law – such records would have normally been excluded from access for 50 years. Something similar happened in Germany with the Nazi archives that were seized by the Allies, brought to the USA and microfilmed. After they were returned to Germany at the end of the 1950s, it would have made no sense to exclude them from access in Germany, given that they were accessible in Washington<sup>34</sup>.

The archives of the Fascist Party and of Mussolini's Secretary had been created by

bodies that no longer existed after WWII and this fact made their ready transfer to the ACS easier<sup>35</sup>. Rather different was the case of the archives of bodies that continued to operate under the Republic, such as the police. Under the Fascist regime, political repression was mostly a police job (the Fascist Voluntary National Militia for National Security<sup>36</sup> also contributed to repressive activity); the army played no role in it. In Italy, there have always been two main police corps: the Police and the Carabinieri. The Carabinieri do not transfer their archives to the State archives. They run their own, independent, historical archives, but as a matter of fact they made very little available to scholarly research. The police, on the other hand, always transferred their archives to the State Archives.

Under Fascism, the Directorate of Police (Direzione generale di pubblica sicurezza) of the Ministry of Interior – headed by the Chief of police – coordinated the work of the ordinary police, of the political police and of the OVRA, an intelligence service specifically devoted to spying on antifascists. Very little has survived of its archives, but OVRA reports can be found in other police files<sup>37</sup>. The Division of General and Confidential Affairs (Divisioni affari generali e riservati) was the reference authority on political matters for the ordinary police and centralized information on public order and “subversion”, on political parties and trade union activities, on the press, on associations, of foreigners in

Italy, and so on and so forth. It also ran the *Casellario politico centrale* (the central data bank on “subversives”). This Division had bulky archives that suffered surprisingly little damage during the war, despite having traveled back and forth between Rome and Northern Italy. They were transferred to the Archivio Centrale dello Stato in a period spanning from the late 1940s to the late 1960s, and were readily made available to scholars, within some limits that I will discuss later on.

The archives of the Division of Political Police (which were much smaller than those of the Division of General and Confidential Affairs) were organized in three series: subject files, personal files of persons who were under political police investigation, and the personnel files of the informers. The Archivio centrale dello Stato holds the first two series<sup>38</sup>, while the third series has disappeared. It was not destroyed during the war, but afterwards. The informers’ reports preserved in the files that survived do not allow the identification of the author’s identity (authors are identified by a number). Only the informers’ personnel files included full details on the informers’ identity and activity<sup>39</sup>. Such files were used in the immediate post-war to compile a list of informers that was published by the Government in 1946<sup>40</sup>; they were further used by a Committee charged with deciding on the complaints filed by many of the persons included in the list<sup>41</sup>. Afterwards, the informers’ personnel files disappeared; according to some historians, they had

already been partially pillaged, by former spies who did not want to be included in the list. We do not know who destroyed such files and when. One should consider that there were quite a few people who had an interest in making such files disappear and who were in a position to do so. For example, immediately after the war Guido Leto (who, under Fascism, had been the head of the Political Police Division) was entrusted by the Allies with the custody of the police archives<sup>42</sup>. It looks like leaving the fox in charge of the hen house. However, the destruction seems to have happened when Leto had already left this position<sup>43</sup>. Among possible suspects one should include several former OVRA officers who continued to serve in the police after Fascism, at top levels of authority. For instance, a former OVRA high officer became, after the war, the chief of police (*questore*) for the city of Rome<sup>44</sup>, while another one was, from 1948 through 1958, the head of the Division of Confidential Affairs of the Directorate of Police<sup>45</sup>. These were not isolated cases<sup>46</sup>.

Given this situation, it is not surprising that many former Resistance fighters were reluctant about the idea of transferring the archives of the National Liberation Committee (CLN)<sup>47</sup> to the State Archives. One should also consider, at this point, that until 1975 State Archives belonged to the Minister of Interior. In 1946, a conflict erupted between the State Archives – which wanted to be given custody of the CLN archives, on the ground that the CLN had

performed almost state functions in the liberated areas – and the most important regional branches of the CLN, which refused to comply. Former Resistance fighters – who were keenly aware of the importance of preserving their archives – in 1947 started creating independent Institutes for the History of the Resistance. Emilio Re (who in the meantime had been appointed Commissioner for State archives) promoted an amicable solution to the conflict. The State Archives agreed that the Institutes for the History of the Resistance keep the CLN archives, providing that they complied with scientific criteria set by the State Archives and carry out a survey of the archival sources they collected. The point, according to Re, was that the Institutes for the History of the Resistance were the only institutions which enjoyed the full trust of Resistance fighters and which were therefore able to avoid dispersion and destruction (in other words, it was better to have the archives in the Institutes for the History of the Resistance than in the individual homes of the partisans)<sup>48</sup>. Over time, the Institutes for the History of the Resistance (which are currently 66) developed a relationship of collaboration and mutual trust with the State Archives, testified to by many joint initiatives and by the participation of quite a few state archivists in their activities<sup>49</sup>.

#### THE LAWS REGARDING ACCESS TO ARCHIVES

Access to archives of the Fascist regime started to be effective in the 1960s, after a new law on archives was approved in 1963 (d.p.r. 1409/1963). According to the

1963 archival law, documents preserved in the Italian State Archives, the historical archives of public bodies and private archives of special cultural value were freely accessible to the public with some exceptions: a) confidential files regarding internal or foreign policy became accessible after a period of 50 years; b) documents containing information affecting individual privacy became accessible after a period of 70 years; criminal court files became accessible after 70 years (archivists criticized this clause: given that criminal trials were public, it did not make much sense to exclude their proceedings from access for such a long time<sup>50</sup>).

The Minister of Interior could grant permission to consult documents excluded from access on the grounds of their politically confidential nature. Users had to file a motivated request and the Minister had to decide after hearing the Archives' High Council an advisory body composed for the most part of archivists, historians and other scholars. The authorization to access documents that were at least 30 years old was routinely granted, on the condition that archivists would remove from files the documents affecting personal privacy. This process worked quite smoothly at the Archivio Centrale dello Stato where, during the 1960s, it became possible to access archives up to the year 1939, and in the 1970s up to the late 1940s<sup>51</sup>. The situation in State Archives was more difficult because – especially in small towns – local authorities could have a vested interest in delaying access to Fascist archives. But

Italy, especially during Fascism, had a highly centralized State and a silver lining of centralization was that even information about minor local events went to the Directorate of Police or other central administrative bodies. As a consequence, in the Archivio centrale dello Stato it was possible to find a wealth of information even regarding local history. The ACS thus became a hub for research on the history of Fascism.

In 1975, the State archives left the Ministry of the Interior and were placed under the authority of the newly-created Minister of Cultural Heritage (Ministero per i beni culturali e ambientali). The Minister of Interior retained the authority to grant permits to access confidential documents, but the Archives' High Council was abolished, so the Minister of the Interior was no longer required to hear the opinion of the scholarly community. Quite often, it even neglected to hear the opinion of the Director of the State Archives in question<sup>52</sup>. Despite this framework less favorable to researchers, authorizations to access confidential documents that were at least 30 years old continued, in general, to be granted.

In 1996, the approval of the Privacy Act<sup>53</sup> marked a dramatic setback as far as access to archives was concerned. The law did not provide for exemptions for historical research and the Ministry of the Interior interpreted it in a restrictive way, placing major obstacles in the way of historical research. At this point, archivists and historians joined forces in a common battle to change

the law. The State archives organized a conference and invited both the Ministry of the Interior and the Data Protection Authority (DPA), to discuss how to reconcile protection of privacy and historical investigation. To make a long story short, in 1999 law n. 281 set new rules – which are still in force<sup>54</sup> – on the use of personal data for historical or scientific research. In the first place, law 281/1999 dictated that personal data can be preserved for historical purposes. The privacy Act had ruled that Public Administrations had to delete the personal data they had collected, once the activity for which they had been collected was concluded; if enforced, such a rule would have made historical research impossible for future generations, and, luckily, it was changed. The 1999 law also set new time limits for access to documents affecting personal privacy. Confidential documents regarding individuals became accessible after 70 years in the case of information about medical history, sexual life, family or intimate relationships, and after 40 years in the case of details of political opinions, religious beliefs, ethnic origins, etc. The exclusion from access of criminal court files for 70 years was repealed; only certain specific personal criminal records are now excluded from access for 40 years. Most importantly, the law created a new advisory committee, which included – besides representatives from the Ministry of the Interior – the Director of the ACS, a historian, a representative of the DPA and a representative of the Committee for the access to administrative records. So, once

again the scholarly community has a way to make its voice heard on matters of access.

Last but not least, the law dictated that the use of personal data for historical research is to be considered legal only if archivists and historians comply with a newly-created Code of Ethics<sup>55</sup>. Under the Code of Ethics, “Users may disclose personal data if the latter are relevant and necessary for the research and do not affect the individuals’ dignity and privacy.” The Code specifies that “In referring to a person’s health, users shall refrain from publicizing analytical data of exclusively clinical interest and describing the sex conduct relating to an identified or identifiable person.” Furthermore, the code dictates that “The private sphere of either public figures or persons who have discharged public functions shall have to be respected if the news or data are irrelevant with regard to their role or public life.” (art. 11). The Code of Ethics allowed for a dramatic improvement in access. By placing on researchers the responsibility for a fair and respectful use of personal data, it allowed Ministry of Interior officials and archivists to be much more generous in allowing access to documents containing personal data<sup>56</sup>.

Unexpectedly and quite inexplicably, in 2006 the government passed an amendment restricting access; it states that archives that are transferred to the State Archives before the standard schedule (which is 40 years after the files have been closed, d.lgs 42/2004, art. 41) become accessible only after the time for the standard transfer

has elapsed (d.lgs. 156/2006, art. 2). This norm is manifestly absurd (if one can be authorized to access a confidential document that is 30 years old, why should one have to wait for 40 years after the closure of file in order to access a non confidential document?) and seems to contradict the principle that the right to information can be legitimately limited only in order to protect other interests that are protected by the Constitution. This norm has been sharply criticized by the archival community.<sup>57</sup>

#### ACCESS TO ARCHIVES IN PRACTICE

**D**espite an overall good law that regulates access to archives, the effective possibility to access politically sensitive archives created after Fascism remains far from being satisfactory. Obstacles derive primarily from laws and practices regarding the transfer of documents to the State Archives and from the inadequacy of the law on access to current records.

The schedule for the transfer of records to the State archives (40 years) is exceedingly long (elsewhere in Europe the records are generally transferred to state archives when they are 30 or even 20 years old). Moreover, it frequently happens that State offices and other public administrations do not comply with such a schedule, especially in the case of confidential and politically sensitive records<sup>58</sup>.

In order to decide which records should be selected for permanent preservation and transferred to State Archives, and which

can instead be disposed of, each major state office has a supervisory committee made up of a representative of the local State Archive, a representative of the Ministry of the Interior and representatives of the office itself. However, archivists have few means to make State offices comply. So, delays in the transfer of documents occur and at times even the unlawful destruction of records.<sup>59</sup>

Documents that are not transferred to State Archives are by and large impossible to access for the general public. Since 1990, Italy has had a law that provides for access to documents held by the Public Administrations. Unlike most Freedom of Information Acts, however, the Italian law requires those soliciting information to have an interest to safeguard in legally relevant situations. An amendment approved in 2005 states that such an interest to safeguard in legally relevant situations must be "direct, positive and topical"; it further makes clear that one cannot file a petition to access documents "aimed at a general control of the Public Administration actions"<sup>60</sup> (which is generally what FOIAs are intended for). Therefore, only once they have been transferred to the historical archives, do state documents become open to public scrutiny.

The Military<sup>61</sup> (including the Carabinieri), the Ministry of Foreign Affairs, the Senate, the Chamber of Deputies, the President of the Republic and the Constitutional Court are exempted from State Archives supervision and do not transfer their archives to

State Archives. Such institutions run their own historical archives, which often suffer from delays in the transfer of documents<sup>62</sup>.

The intelligence services records are exempted from State Archives supervision, but – according to the 2007 law on intelligence services (law 124/2007)<sup>63</sup> – they are supposed to be ultimately transferred to the Archivio centrale dello Stato. So far, this has not happened. Law 124/2007 also introduced, for the first time, a time limit to state-secret status. Now, as a standard rule, classified information is supposed to automatically shift to a lower level of classification after 5 years and to be declassified after 10, or in some cases after 15 years. However, upon the Prime Minister's decision, the classification can be further extended; no time limits are set to such an extension. State-secret status is ordinarily supposed to last up to 15 years. The Prime Minister can further extend it for another 15 years. Once the state secret has expired, a document can still be classified (at that point, the judiciary would be able to access it, but not the general public). The law left to a further regulation the task of dictating rules on how and when the archives of the intelligence services should be transferred to the ACS. The ruling has been issued, but it has been classified.

## CONCLUSIONS

In December 2010, the President of the Parliamentary Committee that monitors the activities of the intelligence services, Massimo D'Alema, argued that keeping intelligence archives entirely

out of bounds for researchers has a damaging effect on the intelligence services' image. Currently, President D'Alema explained, the main sources available to historians about the activities of the Italian intelligence services come from judicial investigations regarding the crimes allegedly committed by some intelligence officers. As a consequence, historians who study the Italian intelligence end up with writing histories of criminal acts. Only when the archives will be opened, President D'Alema concluded, the good work done by the Italian intelligence services will be able to come to light<sup>64</sup>. D'Alema confident attitude about the positive effects that the opening of intelligence archives would have for the intelligence services themselves comes as a refreshing counterpoint to the prevailing attitude that conceives of secrecy as instrumental to protecting institutions, while conceives of access as a danger to them.

The Italian Republic has been able to wide open doors to archival research on Fascism within thirty years from the fall of the Fascist regime. In the 1990s, it has been able to find an innovative and effective solution in order to reconcile the protection of privacy with historical research. However, the Republic has not yet been able to open doors to archival research on the most politically-sensitive aspects of its own past. The Italian Republic, at this point, is sixty-five year old; in order to prove that it has come of age as a democracy, it has to meet this crucial challenge.

# N O T A S

- \* I would like to thank Lucilla Garofalo, Linda Giuva and Annalisa Zanuttini for their generous help. Needless to say, I am the only one responsible for any mistakes or inaccuracies.
2. The *Corriere della Sera* and *La Repubblica* are Italy's most widely-circulated newspapers.
  3. <[http://www.corriere.it/politica/10\\_novembre\\_25/appello-piazza%20loggia\\_152f260e-f87b-11df-a985-00144f02aabc.shtml](http://www.corriere.it/politica/10_novembre_25/appello-piazza%20loggia_152f260e-f87b-11df-a985-00144f02aabc.shtml)> and <[http://www.repubblica.it/cronaca/2010/11/26/news/archivi\\_stragi\\_da\\_aprire-9516829/index.html?ref=search](http://www.repubblica.it/cronaca/2010/11/26/news/archivi_stragi_da_aprire-9516829/index.html?ref=search)> (accessed 6 Feb. 2011).
  4. Associations of victims of mass bombings in piazza Fontana (12 Dec. 1969, a bomb placed in a bank in Milan killed 16 and wounded 88), in Piazza della Loggia (28 May 1974, a bomb in Brescia killed 8 and wounded 102), in Bologna railway station (2 Aug. 1980, a bomb killed 85 and wounded more than 200), in Ustica (27 June 1980, a passenger-plane crash killed 81), in the *Rapido 904* (23 Dec. 1984, a bomb on the train 904 killed 17 and wounded 260) and in Via dei Georgofili (27 May 1993, a car bomb in Florence killed 5 and wounded 48). The last two crimes were carried out by Mafia killers; the responsibility for the Ustica plane crash has been never ascertained (several clues indicated that the plane might have been the unintended victim of Nato fighter plane which intended to strike a Libyan MIG), while the first three bombings were carried out by neofascist terrorists, allegedly with the complicity of intelligence officers. Giuseppe DE LUTIIS, *I servizi segreti in Italia. Dal Fascismo all'intelligence del XXI secolo*. Milano: Sperling & Kupfer, 2010.
  5. The Carabinieri are a police corps; they are part of the armed forces and police both the military and the civilian population.
  6. Paul GINSBORG, *A History of Contemporary Italy. Society and Politics, 1943-1988*, London: Penguin Books, 1990, p. 334.
  7. DE LUTIIS, Op.cit., pp. 331-346 and passim; Gianni Flamini, Claudio Nunziata, *Segreto di Stato: uso e abuso*. Roma: Editori riuniti, 2002. See also the roundtable on the petition to open up intelligence archives (in particular the comments by former prosecutor, currently MP, Felice Casson) *L'inchiesta: Segreto di Stato* a cura di Maurizio Torrealta, Rainews24, 27 novembre 2010, <<http://www.rainews24.rai.it/it/canale-tv.php?id=21256>> and <<http://www.rainews24.rai.it/it/canale-tv.php?id=21257>> (accessed 6 Feb. 2011).
  8. From the highest level to the lowest, they are: top secret, secret, confidential, restricted.
  9. Up to 1977, what it is now called "state secret" was called "political-military secret" and it was the Minister of Defence who decided on it.
  10. Massimo BRUTTI, "Disciplina degli archivi dei servizi e riforma del segreto di Stato." In *Segreti personali e segreti di Stato: privacy, archivi e ricerca storica*, a cura di Carlo SPAGNOLO, Fucecchio: European Press Academic Publishing, 2001, pp. 111-120. Linda GIUVA, "Archivi e diritti dei cittadini." In: *Il potere degli archivi. Usi del passato e difesa dei diritti nella società contemporanea*, Milano: Bruno Mondadori, 2007, pp. 182-83. DE LUTIIS, Op.cit., pp. 323, 332, 363-65.
  11. Italy became a Republic in 1946.
  12. Servizio Informazioni Forze Armate; up to 1977, Italy had only one intelligence service, run by the military.
  13. DE LUTIIS, Op.cit., p. 351. The Masonic lodge P2 included, among its 932 members, the heads of the Italian intelligence services, 3 Italian ministers, Silvio Berlusconi, several Carabinieri and Guardia di Finanza generals and many other persons of authority; it also included Argentineans such as Eduardo Massera (member of the military junta that seized power in 1976) and José López Rega (the notorious Minister of Social Welfare during the Peronist governments of 1973-76 and allegedly the instigator of the Alianza Anticomunista Argentina)..
  14. Massimo BRUTTI, op.cit.; Linda GIUVA, "Archivi e diritti" op. cit., p. 155.
  15. DE LUTIIS, Op.cit., p. 202.
  16. DE LUTIIS, Op.cit., p. 232.
  17. Servizio per le informazioni e la sicurezza militare (Military Information and Security Service).
  18. Rachel DONADIO, "Italy Convicts 23 Americans for C.I.A. Renditions." *The New York Times*, 5 November 2009; Amnesty International Public Statement: *Italy: Court Upholds Convictions in Abu Omar Kidnapping Case*, 17 Dec. 2010 (AI index: EUR 30/010/2010); "Pollari e Mancini non perseguibili; sentenza confermata in appello." *La Repubblica*, 15 Dec. 2010.

19. Walter GALBIATI, "Governo, segreto di Stato sui dossier illegali di Telecom." *La Repubblica*, 6 Jan 2010.
20. Regio decreto legge 2 agosto 1943, n. 704.
21. Emilio Re was the head of the Archival Supervision Agency for the Lazio, Marche and Umbria regions.. Archival Supervision Agencies exercise jurisdiction over the records of public bodies and private archives of special cultural value.
22. At the time it was called "Ufficio centrale Archivi di Stato."
23. Francesco Albanese, "Un percorso fra le carte dell'Archivio centrale dello Stato: la Repubblica sociale italiana." *Rassegna degli Archivi di Stato*, 8 (1998), n. 2-3, p. 297.
24. The Archivio del Regno (Kingdom's Archives) was created in 1875; it shared, however, the same building with the Archivio di Stato di Roma and was almost considered a section of this institute. In 1953, the Archivio del Regno was transformed into the Archivio centrale dello Stato (l. 340/1953); in 1960, it moved to its present-day location.
25. The letter by Emilio Re to the Ufficio centrale Archivi di Stato, Rome, 12 August 1943, was reprinted in Elvira GENCARELLI, *Gli archivi italiani durante la seconda guerra mondiale*. Roma: Ufficio centrale beni archivistici, 1979, pp. 35-37.
26. The ministries were not concentrated in Salò, but were scattered in different locations, within a vast area stretching from Milan to Venice.
27. Between November 1943 and February 1944, the Directorate of Police transferred to the North more than four thousand big wooden boxes of documents, including all of the post-1934 files regarding anti-fascism. Hundreds of thousands of personal files were also transferred, including the *Casellario politico centrale* (the central data bank on "subversives") and the files of the persons sentenced to internal exile (*the confinati politici*). Guido MELIS, *Storia dell'amministrazione italiana, 1861-1993*. Bologna: Il Mulino, 1996, pp. 383-402. F. ALBANESE, op.cit., p. 296, note 7. Giovanna TOSATTI, "L'anagrafe dei sovversivi italiani: origini e storia del Casellario politico centrale." *Le Carte e la storia*, 3 (1997), 2: pp. 133-150.
28. The raid took place on October 16, 1943 and two days later the Roman Jews were deported to Auschwitz.
29. F. ALBANESE, op.cit.; Linda GIUVA, "Storia di carte attraverso le carte. Le vicende degli archivi del Partito nazionale fascista conservati negli Archivi di Stato italiani." *Italia contemporanea*, 2006, n. 243, pp. 227-241.
30. Only a handful of bundles of the Fascist Republican Party have survived. *Guida generale degli Archivi di Stato italiani*, Roma: Ministero per i beni culturali e ambientali, Ufficio centrale per i beni archivistici, 1981, p. 239.
31. The Central State Archives (ACS), formerly Archivio del Regno, hold the archives of the central administrative organs of the Italian state subsequent to national unification and many other archival fonds.
32. L. GIUVA, "Storia di carte" op. cit., p. 233.
33. *Guida generale*, op. cit., p. 231.
34. Lutz KLINKHAMMER, "Carte, occultamento delle stragi naziste e 'verità ufficiale'. Annotazioni sul lavoro dello storico." *Archivi e cultura*, 38 n.s. (2005): p. 113.
35. This was also the case, for example, of the archives of the Directorate for Demography and Race (the Ministry of the Interior office in charge of the persecution of the Jews). Many of them were destroyed. The bulk of what survived was transferred to the ACS in 1949. The remaining part had a more troubled history: bits and pieces were found in the Ministry of Interior in the following decades; 2800 files were randomly found in 1993 in the facilities of a forwarder in Merano (close to the Austrian border). Lucilla GAROFALO, Introduction to the inventory of *Ministero dell'Interno, Direzione generale Demografia e razza, Affari diversi (1938-1945)* (unpublished).
36. The ACS preserves only 109 bundles (1926-43) of the MVSN archives; the rest was lost.
37. *Guida generale*, op. cit., p. 150
38. ACS, Min. Int., DGPS, Divisione polizia politica (Fascicoli per materia and Fascicoli personali intestati alle persone controllate) , bb. 2.064 e regg. 172, (1927-1945).
39. A register of informers, which recorded their identity, survived and is preserved by the Archivio centrale dello Stato. It is disputed whether it is reliable and has been long excluded from access.

40. The list of 622 informers was published in the supplement to the *Gazzetta ufficiale della Repubblica italiana*, 12 July 1946, n. 145.
41. Presidenza del Consiglio dei Ministri, Commissione per l'esame dei ricorsi dei confidenti dell'OVRA (1946-49); its archives are preserved in the ACS.
42. Paola CARUCCI, "I servizi di sicurezza civili prima della legge del 1977." *Studi storici*, 39 (1998), 44: pp. 1035, 1038.
43. Lucilla Garofalo (the ACS archivist currently in charge of police archives) personal communication, November 2010.
44. In 1946, former OVRA officer Ciro Verdiani was appointed *questore* of Rome. He was replaced a few months later by another former OVRA officer, Saverio Polito, who remained in charge until 1953.
45. The former OVRA officer was Gesualdo Barletta. Giovanna TOSATTI "Viminale, la rivincita della continuità. Il ministero dell'Interno tra il 1943 e il 1948." *Ventesimo secolo*, 2 (2003), 4: pp. 121-143. Ead., *Storia del Ministero dell'interno: dall'Unità alla regionalizzazione*. Bologna: Il Mulino, 2009.
46. Claudio PAVONE, "La continuità dello Stato. Istituzioni e uomini." In *Alle origini della repubblica. Scritti su fascismo, antifascismo e continuità dello stato*, Torino, Bollati Boringhieri, 1995, pp. 70-160.
47. The Comitato di Liberazione Nazionale (CLN) was a committee composed of the antifascist parties (Italian Communist Party, Italian Socialist Party, Action Party, Christian Democracy, Italian Liberal Party, Labour Democratic Party) that coordinated the Resistance struggle. After the Liberation of Rome, in June 1944, the president of the CLN became Prime Minister of the government of liberated Italy.
48. Elisabetta ARIOTI, "Le origini del sistema archivistico degli Istituti della Resistenza". *Storia e Memoria*, XI (2002), n. 1: pp.107-124.
49. A recent product of such cooperation has been: Claudio PAVONE (a cura di) *Storia d'Italia nel secolo ventesimo. Strumenti e fonti*, 3 vols., Roma: Ministero per i beni e le attività culturali, Dipartimento per i beni archivistici e librari, Direzione generale per gli archivi, 2006 <<http://www.archivi.beniculturali.it/DGA-free/saggi.html>>.
50. Piero D'ANGIOLINI, "A proposito di una recente sentenza della Corte costituzionale sulla pubblicità dei processi penali." *Rassegna degli Archivi di Stato*, XXV (1965), pp. 211-226.
51. Paola CARUCCI, "La consultabilità dei documenti.." In Claudio PAVONE (a cura di) *Storia d'Italia...* cit., vol. III: *Le fonti documentarie*, pp. 26-27.
52. CARUCCI, "La consultabilità" op. cit., p. 30.
53. Law n. 675/1996; this law has been replaced by the Data Protection Code (Legislative Decree n. 196/2003).
54. The l. 281/1999 was later fused into the Legislative Decree no. 42/2004 "Code of Cultural Heritage and Environment."
55. Code of conduct and professional practice regarding the processing of personal data for historical purposes; for an English translation see: <http://www.garanteprivacy.it/garante/doc.jsp?ID=1665291> (accessed February 2011).
56. La storia e la privacy: dal dibattito alla pubblicazione del codice deontologico: atti del Seminario di Roma, 30 novembre 1999, e testi normativi. Roma: Min. per i beni e le attività culturali, Direzione generale per gli archivi, 2001.
57. P. CARUCCI, "La ricerca storica e le fonti contemporanee. Mancati versamenti, dispersione e distruzioni." *Archivi e cultura*, XXXVIIins (2005), pp. 47-72.
58. P. CARUCCI, "La ricerca storica," op. cit.
59. P. CARUCCI, "La ricerca storica," op. cit.
60. Law 241/1990 on administrative proceedings and the right of access to administrative documents, arts. 22 and 24, as amended by l. 15/2005, art. 15.
61. Military archives are preserved by three special institutions, respectively for the Army, Navy and Air Force archives (the Ufficio storico dello Stato Maggiore dell'Esercito, the Ufficio storico dello Stato Maggiore della Marina, and the Ufficio storico dello Stato Maggiore dell'Aeronautica). However, the Ministry of Defence administrative records follow the same rules as the records of other

ministries: decisions over disposals are taken by supervisory committees and the archives that are selected for permanent preservation are transferred to State Archives.

62. P. CARUCCI, "La ricerca storica," op. cit.

63. Law N. 124 of 3 August 2007 "Intelligence System for the Security of the Republic and new Provisions governing Secrecy". An English translation of the law is available on the Italian intelligence agencies website <[http://www.sicurezzanazionale.gov.it/web.nsf/pagine/en\\_legge\\_124\\_2007](http://www.sicurezzanazionale.gov.it/web.nsf/pagine/en_legge_124_2007)>.

64. M. D'Alema made these comments during a hearing of the Society for the Study of Modern Italian History (SISSCO) before the Committee for the Security of the Republic (COPASIR); the Parliament does not publish reports of hearings before the COPASIR, but a report by the SISSCO president, Andrea Graziosi, circulated in the SISSCO mailing list (4 December 2020).

## R E S U M M O

As dificuldades de acesso aos arquivos em prejuízo da verdade e das investigações. Os níveis de classificação de sigilo na Itália. A manipulação suspeita de documentos e a utilização do sigilo para atos criminosos. O Estado democrático e a proteção de informações por meio do sigilo e com limite de tempo. O Estado de direito, a construção da democracia e o acesso aos arquivos. O resgate dos arquivos fascistas na Itália. As leis sobre o acesso aos arquivos. O uso de dados pessoais. A transferência de arquivos da administração e o acesso a pesquisadores.

*Palavras-chave: acesso aos arquivos; classificação de sigilo; proteção de dados pessoais; fascismo e arquivos.*

# A B S T R A C T

The difficulties of access to files at the expense of truth and investigations. The levels of secrecy in Italy. Suspicious manipulation of documents and use of confidentiality for criminal acts. The democratic State and the protection of information through secrecy and time limitation. The State of law, the building of democracy and access to archives. The rescue of the files from the fascist period in Italy. The laws on access to files. The use of personal data. The transfer of governmental archives and the access by researchers.

*Keywords: access to files; classification of secrecy; protection of personal data; archives and fascism.*

# R E S U M É N

Las dificultades de acceso a los archivos con perjuicio a la verdad y a las investigaciones. Los niveles de clasificación de sigilo en Italia. Manipulación sospecha de documentos y el uso del sigilo en actos criminosos. El Estado democrático y la protección de la información por medio del sigilo y con limitación de tiempo. El Estado de derecho, fortalecimiento de la democracia y el acceso a los archivos. El rescate de los archivos en la Italia fascista. Las leyes sobre el acceso a los archivos. El uso de datos personales. Transferencia de archivos gubernamentales y el acceso de los investigadores.

*Palabras clave: acceso a los archivos; niveles de confidencialidad; protección de datos personales; archivos y fascismo.*