



The “European Network of Official Authorities in Charge of the Secret-Police Files”

a Reader
on their Legal Foundations,
Structures and Activities



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Hinweis/Note:
This brochure includes a CD (see the rear cover page inside); this CD documents the reappraisal laws of the states whose reappraisal institutions are amalgamated in the "European Network of Official Authorities in Charge of the Secret-Police Files".

Foreword

Dear Readers,

The year 1989, which is now two decades in the past, is deemed – even if all of the developments did not take place at the same time – as the year of liberation from communism in Europe. Since then, the former communist countries have undergone fundamental developments and many of them are now part of the European Union. Alongside the many other political, economic and societal challenges, all of these countries are also faced with the pressing question of how to properly deal with the past. One of the answers rests with making accessible what was left behind by the secret police – inasmuch as it has been rescued from destruction.

The “European Network of Official Authorities in Charge of Secret Police Files” was founded in Berlin in December of 2008. The institutions from seven Central and Eastern European countries working together in this Network are charged, in their respective countries, with making an important contribution to accounting for the communist dictatorships with the help of the secret police files provided to them.

The publication which you have before you, which was developed jointly by the participating institutions, is meant to provide a look at their work for the first time. The respective legal foundations, tasks, structures, access to files and focuses of the work will be compared.

The secret police were the most important instrument of domination and repression for the respective ruling parties in the European countries controlled by communists. The files rescued from destruction by these institutions form today – insofar as they are accessible – an indispensable source for the societal, economic and political coming to terms with the dictatorships, and especially their victims, who want to reconstruct their destiny and start a process of rehabilitation.

The secret police of the communist dictatorships were formed according to the Soviet model. They fulfilled their primary task, protecting the power of

the ruling parties, with no consideration for human rights. Even if large differences exist from country to country and from decade to decade – the goal was always to penetrate and control all areas of society. The secret police comprehensively monitored the population, intimidated them and created a climate of fear and powerlessness. The victims remain uncounted, even today. The communist secret police were similarly structured and worked closely together. The academic research into this collaboration is still in its beginning phases – not least of all because the files of the KGB are primarily closed.

Resistance and numerous uprisings that were beaten down bloodily accompanied the history of European communism from the beginning on. Innumerable people spent many years of their lives in camps and prisons. Many were sentenced to death or murdered without legal proceedings.

The files of the secret police, however, do not only bear witness to despotism and violence; instead, they also tell the story of opposition and resistance. The open archives serve to make a contribution that coming generations will learn to see the resistance against the communist regimes as a valuable part of the history of European freedom.

In addition, the files of the secret police allow the crimes of the communist era to be investigated more precisely than ever before. This is especially significant since the experiences of the decades of communist rule of the societies of Central and Eastern Europe have not yet become a self-evident part of the historical conception of Europe. The eastward expansion of the EU needs the “westward” expansion of memory; it needs the critical examination of communism in all of Europe. There are now hopeful approaches in the European Union.

A great deal has already been achieved in the seven countries represented in the Network in charge of coming to terms with the dictatorships, although the critical examination of the past is not infrequently hindered by distortion, by old insider relationships and their interests.

Special authorities have been established by the parliaments in all seven countries and have been provided with varying powers. The victims have been provided special access rights to the files. The access options for the media and scholars have been defined so that society can come to terms with them. Coming to terms with the past thus has a legal basis. As the data collected in the files was primarily obtained illegally, it was necessary to balance the rights of the individuals for their own protection against the rights of the public to information.

Laws regulating coming to terms with the past and the existence of these institutions demonstrates the political will to come to terms with the past.

But there are not only state authorities. In many countries, private initiatives, groups of victims and intellectuals have dedicated themselves to an extensive coming to terms with the past. Their independent contribution, in part inspired by personal histories, is as important as the work of the institutions. In other countries in Central and Eastern Europe who do not yet have a legal basis for coming to terms with the past, such groups apply themselves to uncovering the crimes of the secret police and opening their files. They are already informing themselves using files from private archives.

The seven institutions collaborating in the Network report in this publication on their legal framework, their organizational structure and their work. In doing so, they orient themselves towards

- Interested parties from civil society, academia and institutions in their countries,
- Agents for coming to terms with the past in other former communist countries,
- Institutions and initiatives in Western Europe who seek to inform themselves about work to come to terms with the past of communism in Europe.

The various paths toward development, structures and focuses of our institutions do not permit any schematic comparison. This is why there are interrelated presentations in this compendium arranged by country, which are, however, oriented along a main thread with seven focuses. These are:

1. The founding history
2. The legal mission and tasks
3. The legal form and structure of the institution
4. The scope and nature of the delivered files
5. Regulations for access to the files
6. Collaborations
7. Perspectives from the public and political debates

The responsibility for the contents of the individual texts rest with the respective institutions; the Federal Commissioner for the Records of the State Security Service of the former German Democratic Republic assumed responsibility for the compilation of the contributions, the editorial harmonization and the production.

The first year of the collaboration of the Network comes to a close with the publication of this reader – and with it the year in which the Federal Commissioner for the Records of the State Security Service of the former German Democratic Republic handled the management. I thank our partners for the excellent collaboration and am confident that our collaboration will bear more and more fruit in the future.

I wish you, the readers, interesting and enlightening reading.

M A R I A N N E B I R T H L E R

Federal Commissioner for the Records of the State Security Service of the former German Democratic Republic

The Committee on Disclosure of Documents and Announcing Affiliation of Bulgarian Citizens to the State Security and the Intelligence Services of the Bulgarian National Army

Bulgaria

1. Founding History

After a noisy public discussion and a long period of expert research, the Law for Access and Disclosure of the Documents and announcement of affiliation of Bulgarian citizens to the State Security and the intelligence services of the Bulgarian National Army was adopted by the 40th National Assembly on December 19, 2006. It is not a lustration law by nature. Its application has a moral meaning.

On April 5, 2007, after a name by name election, the Parliament approved the structure of a 9 person committee, which started putting the law into action. Mr. Evtim Kostadinov was elected chairman of the committee, Mr. Orhan Ismailov, deputy chairman of the committee, Mr. Rumen Borissov, secretary of the committee, and Mr. Apostol Dimitrov, Mr. Valeri Katzounov, Mr. Georgi Georgiev, Ms. Ekaterina Boncheva, Ms. Tatyana Kiryakova and Mr. Todor Trifonov were elected members of the committee.

Seventeen years after the changes, Bulgaria arrived at the agreement to collect the documents of the former secret services, to protect and preserve them as history, and to give citizens access to them.

Chronicle of the history:

1990

On January 5, a Decree of the Council of Ministers closed the State Security Sixth Directorate – the political police of the Secret Service (SS).

On August 23, the Seventh Grand National Assembly established a 7 person committee, presided over by the Bulgarian Socialist Party MP Georgi Tambuev, who had the difficult task of announcing the State Security collaborators in the parliament.

1991

The “Tambuev” committee’s activity ceased after a series of publications in the “Fax” newspaper leading to the announcement on April 23 of the names of 33 deputies who had been collaborating with the SS Sixth Directorate. The list was not an official document, but it raised a scandal and blocked the process of opening the former SS files.



Evtim Kostadinov, Chairman of the Committee

1992

Action was brought for the SS files to be destroyed. Reserve office General Atanas Semerdjiev and reserve General Nanka Serkedjieva were accused of destroying 144,235 files of the former SS. On December 13 that year, the retiring Prime Minister, Philip Dimitrov, issued Ordinance KB 215, which specified that each deputy would be able, upon payment of 100 BGN, to obtain a document from the Ministry of the Interior containing information stating whether they were collaborating with the former State Security (with the exception of the First Headquarters, foreign intelligence, and of the Sixth, political police).

1997

The 38th National Assembly adopted the first Access to the Former State Security and the General Staff Intelligence Directorate (GSID). The committee, established on the basis of this law and presided over by the then Minister of Interior, Bogomil Bonev, publicized in the National Assembly the names of the 23 politicians and civil servants who used to work for the former State Security. At that time, 14 of them were members of parliament. It was not a lustration law. However, decree No. 10 of the Constitutional Court prevents the announcement of the names of the people who were affiliated to the SS, of whom only registration documents have been preserved, i.e. the category of the so-called “indexed” ones.

2001

The 38th National Assembly amended and supplemented the Access to the Former State Security and the General Staff Intelligence Directorate Files Act. The documents of the former intelligence department of the Border troops are within its range. The “Bonev” Committee was replaced by two newly established committees. The first one was a 7 person permanent one, whose chairman was Georgi Ananiev. It was summoned at the request of the chairman of the first committee, and definitely determines a certain person’s affiliation to the former SS or the General Staff Intelligence Directorate. The second one, the “Andreev” Committee, came out with 10 reports altogether dealing with the announcement of affiliation. According to this law, the files remain in possession of the special services.

2002

On April 24, the 39th National Assembly passed the Classified Information Protection Act, which repealed Access to the Documents of the Former State Security Files Act and ceased the activity of the committee chaired by Metodi Andreev.



THE COMMITTEE

on Disclosure of Documents and Announcing Affiliation of Bulgarian Citizens to the State Security and the Intelligence Services of the Bulgarian National Army

2006

The 40th National Assembly adopted the Law for Access and Disclosure of the Documents and announcement of affiliation of Bulgarian citizens to the State Security and the intelligence services of the Bulgarian National Army.

2. Legal Mandate and Tasks

A. The exclusive competence of the committee

The Committee for disclosing the documents and announcing affiliation of Bulgarian citizens to the State Security and the intelligence services of the Bulgarian National Army is the only body that is in charge of carrying the law into effect, and is empowered to establish and announce the affiliation of Bulgarian citizens to the State Security bodies and the intelligence services of the Bulgarian National Army. Affiliation is determined through a committee’s resolution on the grounds of article 29 of the Law. The resolution is published on the web page and in the bulletin of the committee. Within the committee’s exclusive competence fall the actions dealing with disclosing, using and preserving these bodies’ documents, as well as making them accessible to people entitled to them by law. These powers refer only to documents of the State Security bodies and the intelligence services of the Bulgarian National Army during the period of September 9, 1944 to July 16, 1991. No other body or person is empowered to announce affiliation or make public any information

that determines affiliation. Whoever does that bears responsibility under article 273 of the Criminal Code. The research, publicistic and investigation activity is performed by order of the Access to Public Information Act. Such activity does not give the right to make public any information which determines a certain person's affiliation to the former security services, or make public the personal information of a third party whose name is mentioned in their documents.

B. The powers of the committee

1. Determining and announcing Bulgarian citizens' affiliation to the bodies of the former State Security and the intelligence services of the Bulgarian National Army until the entire archive of the former security services is adopted, will lead to action taken in accordance with article 16, paragraph 2 of the Law. At the committee's request, the bodies mentioned in article 1 are to submit written reports with contents as prescribed by law, all documents concerning the examined people, and any other materials that the committee might request. The reports are auxiliary in nature, as essentially it is solely within the committee's competence to decide whether a certain person was affiliated to the State Security bodies and the intelligence services of the Bulgarian National Army. The "submission" of documents is to be regarded as factual submission, whereupon the committee files them in its own archives and uses only the originals in its work.
2. Receipt, use and preservation of the documents in the Centralized Archives of the documents of the State Security and the intelligence services of the Bulgarian National Army are established by virtue of article 1, paragraph 3, of the law. By virtue of the law, the documents of the former security services belong to the committee, and the bodies mentioned in article 16 are to preserve them until their submission to the committee. Upon their receipt by the committee, they are added to the Centralized Archives, whose organization and maintenance fall under the powers of the committee.

Article 32 stipulates the possibility for the Committee not to disclose and publicly announce such documents, whose disclosure or public announcement

would do harm to the interests of the Republic of Bulgaria in the field of international relations, or would endanger a given person's life. Such documents are registered in a separate archival fund in the Centralized Archives, which is directly disposed of by the chairman of the committee.

C. Which people are subject to examination?

The determining of affiliation is compulsory for

1. people who were registered by the electoral commissions to participate in presidential and vice-presidential elections, National Assembly and European Parliament members elections and mayor and municipal councillors elections;
2. people who occupied public positions from November 10, 1989 until the law was put into effect;
3. people who occupied public positions or performed public activity by the day the law was put into effect; and
4. people who were indicated as debtors or were members of a managerial or supervisory body of an enterprise listed as a debtor in a bulletin on the strength of the Act on Information regarding Non-Performing Loans. The examination of these categories of people is not performed only up to the date when the law takes effect, but also for the future, in the case of registering to participate in elections, occupying public position, performing public activities, etc.

D. Who can request a determination of affiliation?

The procedure is regulated by article 27 of the Law, and legally defined as a preliminary examination. It is performed upon written request of

1. political parties, coalitions and organizations regarding their members;
2. bodies of the legislative, executive and the judicial power regarding the people who are to be elected or assigned to public positions; and
3. professional, trade union, public, religious, scientific and other civil organizations and associations regarding their members.

The request is signed by the person who represents the body or organization. A preliminary examination is not allowed without the written permission of

the person to be examined, which is to be attached to the request. In practice, such an examination is often requested for people who are not members of the party or organization, which is also prohibited. The result of the preliminary examination is given to the applicant, and, if affiliation is determined, to the examined person as well.

E. What kind of information is not to be published?

1. Information of the deceased is not to be published.
2. Information of people who have given written consent to inform or informed before they had turned 18 is not to be published.
3. People who were subject to preliminary examination by virtue of article 27 of the Law, are able to avoid the publication of the information of their affiliation to the State Security if they withdraw their candidatures for occupying public positions or performing public activities within three days after they are notified in writing about the examination results. This possibility can not be applied to people who were registered in the electoral commissions to take part in elections, and their affiliation will be announced despite the withdrawal of their candidatures.

F. Which people are not subject to examination?

Those who were born after July 16, 1973 are not subject to examination.

G. For whom is affiliation not to be determined?

For a person who occupied or still occupies the position of head of department or head of sector at the Military Information Office under the Minister of Defence, or head of department or head of section at the National Intelligence Service after July 16, 1991, affiliation is not to be determined. Affiliation is also not to be determined for foreign citizens who are outside the context of law.

H. How can affiliation be determined?

Affiliation is determined on the basis of documents that are found in the informational funds of the former State Security services. The legal definition

of "document" is "any written information, regardless of its material carrier, including the information in automated and complex informational systems and databases". These decrees are specific in nature as regards the procedure laws regulating the matter of written evidence. The documents that serve as grounds for determining affiliation are defined in article 25 of the Law:

1. for determining the activity of a regular employee – containing data on their personal personnel case, the regular schedules or the received wages list;
2. for determining the activity of a supernumerary employee – containing data on their personal case, the regular schedules or the received wages list; and
3. for determining the activity of a secret collaborator – with declaration for collaboration, written or signed in their own writing; agent's information in their own writing or signed by the collaborator, which were kept under operative report in the cases; documents of the regular or supernumerary employee who was in charge, as well as information on the person in the inquiry mechanisms (registration diaries and files), the razing of records or other carriers of information.

Even if a person's names and pseudonyms are included in the inquiry files or registration diaries of the corresponding services, this is revealed by the committee, and the latter has to note in its resolution that there is a lack of other evidence under article 25, item 3. This legal solution excludes the arguments whether the affiliation of such a person should be announced who lacks a declaration for collaboration that was written and signed in their own writing, the agent's information in his own writing etc. Even if the person had only been registered, they are to be announced under the conditions of article 25, item 3. Even if there is just one document under article 25, item 3, no matter whether it was created by the examined person, the committee is bound to announce their affiliation.

Such a legislative approach was approved due to the fact that the former services razed a large number of archival files, preserving only part of the documents or just the person's registration documents.

A different approach would serve the objectives of those who ordered the razing.

3. Legal Form and Structure of the Institution

The Committee on Disclosing of Documents and Announcing Affiliation of Bulgarian Citizens to the State Security and the Intelligence Services of the Bulgarian National Army is an independent state body which exercises the policy of the Republic of Bulgaria regarding disclosure, announcement and storage of the documents of the State Security and the intelligence services of the Bulgarian National Army. The Committee is a legal entity, a first degree depositor with budget credits, and has its head office in Sofia. It is a body with permanent activity, which is supported by the administration. The Committee shall submit activity reports to the National Assembly twice a year, not later than July 20 and not later than December 20, which shall be accepted by force of a decision. The budget of the committee is determined by the State Budget Act.

The Committee is a collegial body and consists of nine members, inclusive of chairman, vice-chairman and secretary, elected by the National Assembly for a period of five years upon a proposal of the parliamentary groups. The members of the Committee may be re-elected only once. When defining the composition of the Committee, none of the political parties and coalitions represented at the National Assembly shall have a majority. The National Assembly shall select the members of the Committee by name. The National Assembly shall appoint a chairman, a vice-chairman and a secretary from the composition of the Committee. The Chairman of the Committee shall represent it, manage it and organize its activities.

The sessions of the Committee shall be called by the Committee's chairman and on their initiative or by a written request of more than half of the Committee's members. The sessions of the Committee take place with a quorum of more than half of the Committee's members. Decisions shall be taken by a majority vote

of more than a half of all Committee's members in open voting.

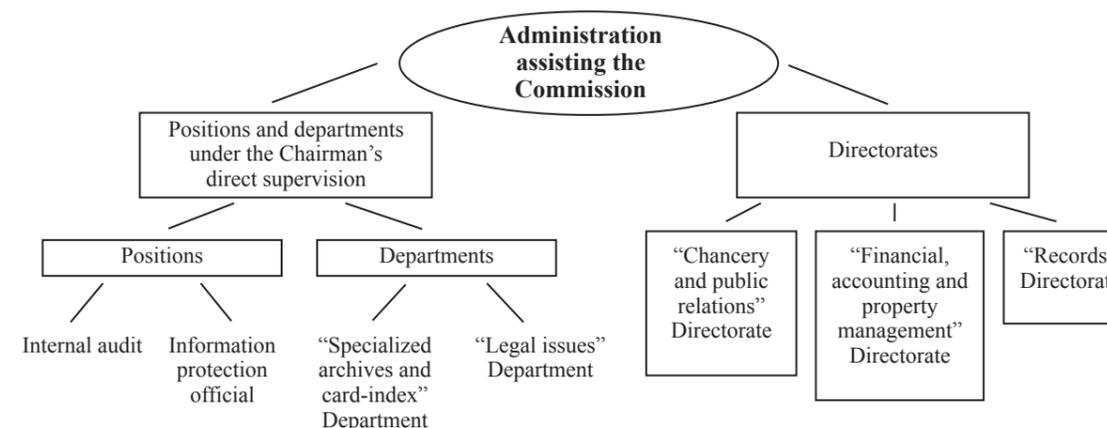
The total number of the administration is 103 employees. The administration includes offices which are under the direct command of the chairman, three directorates, a department of "Specialized archive and card-indexes" and a "Legal" department.

4. Action on Documents and Delivery Status

Since its election and within its powers, the Committee on Disclosure of Documents and Announcing Affiliation of Bulgarian Citizens to the State Security and the Intelligence Service of the Bulgarian National Army has been screening individuals who have occupied or currently occupy public office, or who have been engaged or are currently engaged in public activities. In every single case, it pronounces itself on the basis of direct knowledge of the original documents about the screened individuals. It carries out, if necessary, additional checks in the archive storage and holds hearings of secret service operatives.

The main priority of the work of the Committee on Disclosure of Documents and Announcing Affiliation of Bulgarian Citizens to the State Security and the Intelligence Services of the Bulgarian National Army is the establishment of centralised archives for the documents of the State Security and of the intelligence services of the Bulgarian National Army, which were created over the period September 9, 1944 to July 16, 1991. Since the start of its activity, the Committee has been continuously accepting documents from the bodies under article 16, paragraph 1 of the Disclosure of Documents and Announcing Affiliation of Bulgarian Citizens to the State Security and the Intelligence Services of the Bulgarian National Army Act with the purpose of making examinations, drawing up decisions and satisfying requests submitted by citizens, journalists, and researchers. The archive materials that have been submitted to the Committee are stored in archive depositories equipped to the highest modern standards in the building at 1 Vrabcha str. under special security control.

Structure of the Commission



Following a decision of the Council of Ministers, the Committee on Disclosure of Documents and Announcing Affiliation of Bulgarian Citizens to the State Security and the Intelligence Services of the Bulgarian National Army was equipped with 3 buildings as an archive depository. The buildings' fund is under reconstruction at present.

The collection, compilation and archival processing of the documents come in from the National Investigation Agency, the Military Counter-Intelligence Service and the database and the documents of the Archives State Agency. Documents come in on a daily basis from the archives of the Ministry of the Interior, the National Intelligence Agency and the Military Information Service of the Ministry of Defence. The committee recently started receiving archive documents also from the regional offices of the Ministry of the Interior, from the MoI operative, official and party archive, the remainder of the archive documents of the National Intelligence Agency, the MoD Military Information Service, the Ministry of Justice, the National Personal Protection Agency, the National Security State Agency and the Ministry of Foreign Affairs.

The archive materials in hard copy and electronically are in good physical condition. Preliminary estimates indicate that the hard copy materials are 20 km long. They are compiled and systemized in archive units which are bound, grouped in inventory lists, numbered and authenticated. There are older documents

as well as documents which have deteriorated as a result of more frequent use. This makes it imperative to undertake prompt measures for their restoration and conservation.

The accepted archive documents are systematized and processed in accordance with modern normative requirements, a scientific reference body is established and activities for the creation of an insurance fund for the documents are undertaken.

The collection, completion, systemization and preservation of the archive documents concerning the activity of the former secret service are fully focused on the aim of creating quick and effective access for all citizens, scholars and journalists to the archive materials kept in the centralized archive.

5. Access to the Secret Files

Article 1, paragraph 1 of the Act regulating the functions of the Bulgarian Committee reads that "...the Act regulates the procedures of access, declassification, use..." of the documents of the State Security and the intelligence services of the Bulgarian National Army. The legislator intentionally lays emphasis on the access to the files. The idea is not only to save these documents for history, but also to let the people who were either targeted by or involved with the secret services learn the hidden truth about themselves, which may have predestined their lives. The reading-

room of the committee has always stayed open to all who are interested in going through the old files.

In its work with the citizens, the committee strictly follows the law. Every person shall have the right to:

- have access to the information compiled about them, about their deceased spouse or relatives of direct descent up to second degree inclusive of access to the bodies under article 1;
- request an examination for themselves or for their deceased spouse or relatives of direct descent up to second degree inclusive for the purpose of determining affiliation to the bodies under article 1; and
- have access to the documents of the bodies concerning research, journalistic and investigative activity pursuant to the provisions of the Access to Public Information Act.

The right under paragraph 1 shall be exercised by submitting a written request to the Committee by the person or by a representative authorized by force of a power of attorney verified by a Public Notary.

The Committee shall answer in writing to the request within 30 days, and shall notify the person about the time and the place where the examination of the documents may take place.

The access shall include:

- direct examination of the documents;
- making copies of documents; and
- disclosure of the identity of the persons who have provided information for the case.

Where the content of the documents may significantly violate rights and legal interests of third parties whose names are mentioned in the documents and they or their lawful heirs have not expressly issued their written consent, copies without the data of the third parties shall be provided. In these cases, the person shall sign a declaration of non-disclosure of the circumstances of which he or she has become aware.

A person whose affiliation to the State Security or to the intelligence services of the Bulgarian National

Army has been determined shall have the right to familiarize themselves with the documents in their personal or work file. The person may appeal the Committee's decision regarding determination of affiliation pursuant to the provisions of the Administrative Procedure Code.

By force of the rulings of the Ordinance on the application of article 4 of the Political and Civil Vindication Act for Individuals Who Have Undergone Repressive Actions, the Committee issues certificates of suffered repression. The Ordinance determines the amount and the procedure of payment of one-time compensation for suffered material and non-material damage of persons who have undergone repression because of their background, political convictions or religious beliefs in the period from September 12, 1944 to November 10, 1989.

In the reading-room of the committee the visitors can read the requested documents in a pleasant environment and without any limitations. Many ask for copies of the files.

In the second year after the declassification of the files, we noticed a growing interest among researchers and publicists. Their interest is mostly channelled to the official archives of the secret services, to their activities and their internal structures, as well as to the mechanisms of recruiting and using the agents. The first publications based on materials from our archive have already appeared on the book market.

Foreign researchers have also requested access to our files. They are looking for documents related to certain events from the recent past which reverberated internationally, and are interested in the way these events were interpreted by the special services.

6. Collaborations

For the two years of its activity, The Committee on Disclosure of Documents and Announcing Affiliation of Bulgarian Citizens to the State Security and the Intelligence Service of the Bulgarian National Army has established a name for itself as a working

organization not only in our country, but also abroad. No doubt the invitation to join the "European Network of Official Authorities in Charge of Secret Police Files" was an act of acknowledgement for us. Together with the partner organizations from other six countries, we will contribute to the full enlightenment of the documents from the near historical past of countries from the former Eastern block.

On the occasion of the first year of its establishment, the Committee organised a conference with international participation under the motto: "One year Committee on Dossiers – public expectations, attitudes and issues". The event was visited by many participants, representatives of state institutions, political parties, NGOs, public figures and citizens. The discussion on the topic "Dossiers Act and the National Security" was considered particularly interesting. The guests from Germany, Poland, Slovakia and Slovenia shared their experience in the opening of the secret archives.

In connection with the second anniversary of the work of the committee, we organized a multinational conference "The Files of Secret services – a source of historical knowledge". There were reports on the theme not only by Bulgarian researchers and public figures, but also by our guests from Germany, Estonia, Poland, Romania and Slovakia.

"Totalitarian Regimes and the Disclosure of the Records in Eastern Europe" was the topic of the public hearings which took place at the European Parliament in Brussels on September 18, 2008 and March 18, 2009. Bulgaria was represented by Evtim Kostadinov, Chairman of the Committee, and by Ekaterina Boncheva, a member of the Committee. Within the frame of the established partnerships, small delegations of Committee members and experts visited the archives in Poland, the Czech Republic, Romania and Germany.

The Committee members are permanent participants in conferences, seminars and discussions connected with the historic role and place of the archives of the former secret services.

7. Perspectives of the Institution in Light of the Public and Political Debate

The activity of the Committee on Disclosure of Documents and Announcing Affiliation of Bulgarian Citizens to the State Security and the Intelligence Services of the Bulgarian National Army is based on the principle of absolute openness. In accordance with its powers granted by law, the Committee carries out public activity.

In keeping with article 14 of the law, the committee issues a bulletin in which it publishes information about its activity and the decisions taken. This bulletin also includes the reports which the committee renders in front of the National Assembly. For the period discussed, the committee for the files has issued two bulletins and two brochures in which, using everyday popular language, it tells about the motivation of its members, about the work done, about the access of citizens to the archive files, and about the assessment of the society.

As provided by the law, the Committee is charged with carrying out research, publishing documents and holding seminars, conferences and exhibits of an informative and educational nature. In the second year of its existence and after having obtained its own premises and enriched its archive fund, the Committee proceeded to implement this obligation. We prepared the first collection of documents "The KGB and the Bulgarian State Security Service – Connections and Dependencies". We drafted a plan for the publication of other documents, mostly from the official archives of the secret services, which is our way of trying to be of maximum help to researchers.

The interest of journalists for the documents kept in the Committee's integrated archive is enormous. A TV channel has been broadcasting a 30-minute programme "Deeds According to the Documents" for almost a year. A large number of journalistic writings tell about the contents of the secret files of the former Bulgarian secret services. Several books written by historians and journalists have appeared on the history of the Bulgarian State Security Service.

Despite some negative reactions from people and circles affected by the law and its strict adherence by the committee, it has, as a whole, received public and media support. The growing interest is also evidenced by the huge number of visits to the Committee's Internet site, www.comdos.bg.

The Committee on Disclosure of Documents and Announcing Affiliation of Bulgarian Citizens to the State Security and the Intelligence Services of the Bulgarian National Army seeks evaluation for its work by studying public opinion. For its two years' activity, it asked the national centre for researching public opinion to make representative researches (March 2008, February 2009) into the attitude of the public society.

The comparative analysis between the two pieces of sociological research produced the sociologists' commentary that when an institution does it work well and mainly without being disturbed, it leads to a calm and pragmatic choice in the point of view of the citizens.

It is to be noted that while those reserved to the work of the Committee are slightly over 1/3 of the ones interviewed, their reservations are related mostly to the media interpretations of its decisions, rather than to its activities. In other words, this is a reaction to the mechanisms of announcing the information and to the consequences of its decisions, which can hardly be interpreted as the Committee's fault or responsibility. In the search of sensational hits, the media continue to warm up their audiences with incorrect presentations of facts, and to look for scandal in the inevitable clash between the announced names and the Committee.

Those are generally young, uneducated and poor. The lack of scandal in the Committee's activity does not draw their attention to it. Marginal social groups do not believe that the Committee is engaged in resolving vital issues and it has no way of winning over their attention. The topic it deals with is not part of their set of values which is strongly distorted by survival priorities.

All of the above signals a process of deepening of the gap between those interested in the work and the decisions of the Committee, and the groups who do not even conceal their ignorance about it. While appreciating the importance of the smooth functioning of the Committee and of avoiding conflict in the public presentation of its decisions, it should also be noted that the Committee succeeds in enhancing the interest in its work where it already exists, but at the same time it fails to focus the attention of those who show no interest in it.

The survey registers durable and explicit trends in the attitudes to the announcement of the affiliation of all public figures to the communist secret and intelligence services. Half of the Bulgarians demand a lasting solution to the problem. Sofia dwellers and the supporters of opposition parties hold a particularly explicit view on the matter. (Chart 1)

The survey registers a positive tendency of growth in the share of Bulgarians who believe that the individuals who were actively involved with the secret services of the past should not hold public office.

This is the view of 61% of Bulgarians, their share being 3% bigger now as compared to one year ago. This view is predominant among elite groups: educated people, Sofia dwellers, and actively employed generations of 30 to 60 years of age. (Chart 2)

In the public view, there are two clearly defined groups who have vested interest in the Committee's failure: certain government circles and former secret service agents who do not want to go public. One-fifth of the Bulgarians are of the opinion that the work of the Committee is hampered by the specific interests of some of the politicians in power.

According to 6% of the polled, former secret service agents hamper the work of the Committee on the disclosure of the classified files. The mistrust of the government remains unchanged as compared to the results of one year ago.

This survey registers a positive change in the Bulgarians' appreciation of the link between the disclosure

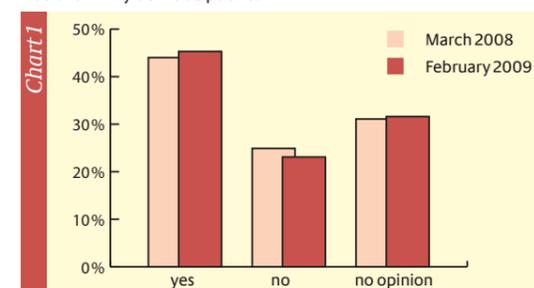
of the secret files and national security. (Chart 3) There is as much as a 5% decrease of the prejudiced against the Committee who believe that its work puts at risk the national security of the country. This is a direct result of the way in which the Committee has been carrying out its functions so far, and of the cohesion among its members.

According to 42% of the interviewed in the survey, the Committee needs to exert maximum effort to build an archive of the former secret services, which should go down in our national history as its important documentary contribution (Chart 4).

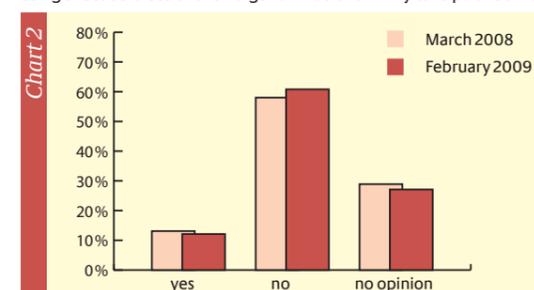
The share of the supporters of this view is much above the average in the elite groups of the actively employed, the well-to-do and the city dwellers. This means that there are conditions for popularizing and implementing this idea. Moreover, the support of the intellectuals indicates that there is an awareness of the importance of preserving historical memory for posterity and of transferring onto a solid factual basis the entire issue of the secret files as a part of our most recent history, which should not remain unknown or of disputable interpretation to the young generations of Bulgarians.

The survey indicates that it is difficult to involve the young people in this topic or have them show interest at a time when the Committee has not yet finished its job. They will only show interest in the future when presented with more balanced interpretations which will not provoke social tension and confrontation, and when the archive secures an important place in history for this issue. This will enable the new generations to develop their interest and their own unprejudiced views.

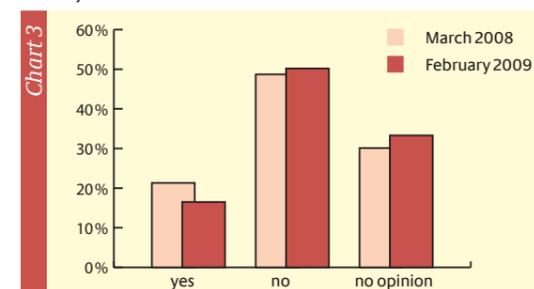
Should the information about affiliation of all public figures to the former State Security and the intelligences services of the Bulgarian National Army be made public?



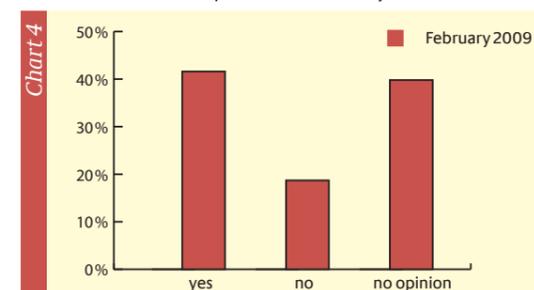
Should the persons affiliated to the former State Security and the intelligences services of the Bulgarian National Army take public office?



Does the disclosure of the secret files threaten in any way the national security?



Is the building of a consolidated archive of the documents of the former secret services important for our history?



Institute for the Study of Totalitarian Regimes and Security Services Archive

Czech Republic

1. Founding History

The **Institute for the Study of Totalitarian Regimes** (www.ustrcr.cz) and **Security Services Archive** (www.abscr.cz) are independent state bodies founded by Act No. 181/2007 Coll. They assumed work on February 1, 2008. Their guiding motto, set forth in the Act's preamble, states: "Those who do not know their past are condemned to repeat it."

Inspiration for the creation of an independent body dedicated to examining the recent totalitarian past came from already operational institutes in neighbouring countries. The creation of the Nation's Memory Institute in Slovakia in 2002 was a particularly poignant catalyst, as it increasingly resulted in historians and researchers being offered better access to security services documents in one part of the former Czechoslovakia than the other.

While differing perspectives about the need, remit and shape of such an institution abounded in the Czech Republic, there was general agreement that one of its key missions would be to remedy the public's, and especially schoolchildren's, acute ignorance of their recent turbulent history. The original resolution of the Czech Senate of June 21, 2006, considered a coming to terms with the communist regime as a duty, and called for the establishment of a "Nation's Memory Institute", containing an archive within it, that would be devoted to the examination of "the criminal and reprehensible organizations founded on the ideology of the Communist Party of Czechoslovakia, and which in their activities between 1948-

1990 oriented themselves towards the suppression of human rights and a democratic system."

Extensive debate and multiple readings resulted in a final law, dated June 8, 2007, creating a broader Institute for the Study of Totalitarian Regimes (and subservient Security Services Archive), required to examine not only the time of communist totalitarian power (1948-1989), but also preparations leading up to that seizure of power as well as the designated time of non-freedom (1938-1945).

A Chronology

Since late-1989, however, there have been a number of initiatives in the Czech Republic aimed at coming to terms with the totalitarian past. Highlights through to the present are as follows.

1989

November 29. The Federal Assembly abolishes Article 4 of the Constitution of the Czechoslovak Socialist Republic (ČSSR), which had established the leading role of the Communist Party.

1990

January 4. The ČSSR government presidium detaches National Security Corps (Sbor národní bezpečnosti – SNB) Directorate III, covering military counter-intelligence, from the control of the Federal Ministry of the Interior, and incorporates it into the Ministry of National Defence.

January 31 to February 16. Selected sections of the SNB

are dissolved under the orders of the Federal Ministry of the Interior and their staff are withdrawn from active service.

1991

September. Creation of the Department for the Documentation and Investigation of State Security Service (Státní bezpečnost – StB) activities at the Federal Ministry of the Interior, pursuant to that Ministry's Order No. 95/1991. The Department's director answers directly to the Interior Minister.

October. The Federal Assembly passes Act No. 451/1991 on conditions for holding certain positions in state bodies and organizations (the "big lustration law"). This and later acts (nos. 279/1992, 422/2000, 424/2000) establish the criteria for filling certain top state posts and excluding members and collaborators of the StB, People's Militia, military counter-intelligence and pre-November 1989 members of the Communist Party from occupying these positions.



1992

June 4. An unofficial and incomplete list of StB collaborators is released in Petr Cibulka's "Uncensored Newspaper."

October. The Federal Ministry of the Interior orders the creation of the Office for the Documentation and Investigation of StB activities, under the control of the Czech Police's investigation unit.

1993

January 1. Czechoslovakia splits peacefully into the Czech and Slovak republics. The Constitution of the Czech Republic takes force.

February 23. The Chief Prosecutor of the Czech Republic creates the Co-ordination Centre for the Documentation and Investigation of Violence against the Czech People from May 8, 1945, to December 31, 1989, in compliance with an agreement with the Ministry of the Interior. The Centre, governed by the Chief

Prosecutor's office, is tasked to help implement the law on judicial rehabilitation.

1995

January 1. The Ministry of the Interior, in its Order No. 83/1994 Coll., creates the Office for the Documentation and Investigation of the Crimes of Communism (ÚDV). The Centre for the Documentation of Illegal Acts Committed by the Communist Regime, which came into being in January, 1994, under the direction of the Chief Prosecutor's office, is incorporated into the ÚDV, now answerable to the Czech Police and with investigative authority.

1996

April 26. Parliament passes Act No. 140/1996 Coll., rendering some StB files accessible. This law opens up around 60,000 files from the former counter-intelligence service of the StB, although only to Czech citizens, and with sensitive material thoroughly blacked out.

1998

May 20. Parliament passes Act No. 148/1998 Coll. on secret information, under which most of the archival materials from the former Central Committee of the Communist Party Archive and the Archive of the Ministry of the Interior are declassified during the following year.

2002

March 8. Parliament amends its 1996 law with Act No. 107/2002 Coll., distinctly widening the range of accessible files and comprehensively changing the approach to StB documents. Public access is granted to at least part of the intelligence and military counter-intelligence files, and theoretically also to the files of the Surveillance, Intelligence Technology, and Passport and Visa directorates as well, with access rights extended to foreign citizens.

2004

June 30. Parliament passes Act No. 499/2004 Coll. on archival science and record services. Section 7 Paragraph 1 of the Act establishes that the review of archival materials is allowed only with respect to materials older than 30 years, unless stipulated otherwise.

2005

November 29. A group of 19 senators introduces a bill in the Senate calling for the creation of a Nation's Memory Institute.

2007

May 2. The Lower House passes the bill in the final third reading, in a comprehensively amended version.

August 1. Act No. 181/2007 Coll. on the Institute for the Study of Totalitarian Regimes, the Security Services Archive, and the amendments to some acts, enters into effect. Among the acts amended by this Act's passing is Act No. 499/2004 Coll. on archival science and record services, so that it specifically permits the review of archival materials originating before January 1, 1990, from the activities of state organs, the activities of security services, or social organizations and political parties consolidated in the National Front.

2008

February 1. The Institute for the Study of Totalitarian Regimes and the Security Services Archive become fully operational.

2. Legal Mandate and Tasks

Functions of the Institute for the Study of Totalitarian Regimes

Pursuant to Article 4 of Act No. 181/2007 Coll., the Institute:

- studies and impartially evaluates the time of non-freedom and the time of Communist totalitarian power; examines the anti-democratic and criminal activity of state bodies, especially its security services, and the criminal activity of the Communist Party of Czechoslovakia (KSČ), as well as other organizations based on its ideology;
- analyzes the causes and methods of liquidation of the democratic regime during the time of Communist totalitarian power; documents the participation of both local and foreign elements in support of the Communist regime as well as in resistance to it;

- secures and makes accessible to the public documents relating to the time of non-freedom and the time of Communist totalitarian power, particularly about the activity of the security services and means and forms of both persecution and resistance;
- converts acquired documents into electronic form without unnecessary delay;
- documents Nazi and Communist crimes;
- provides the public with the results of its activity, in particular by publishing information about the time of non-freedom and the time of Communist totalitarian power, and about the deeds and fates of individuals; publishes and disseminates publications, organizes exhibitions, seminars, professional conferences and discussions;
- co-operates with scientific, cultural, educational and other institutions for the purpose of exchanging information and experience relating to professional issues; and
- co-operates with foreign institutions and individuals of similar orientation.

The Institute's three main activities can be broken down in more detail.

Research, scholarly enquiry and documentation.

As per Act No. 181/2007 Coll., the Institute's section responsible for these areas carries out historical research on selected themes in Czechoslovak history from the time of non-freedom (1938-1945) and the time of Communist totalitarian power (1948-1989), including preparations for the seizure of power. It investigates and impartially evaluates both periods, analyzes the causes and methods of liquidation of the democratic regime, collects and makes available documents on the time of non-freedom and the time of Communist totalitarian power, and documents the participation of locals and foreigners both in support of the totalitarian regime and in resistance and opposition to it. Finally, it documents Nazi and Communist crimes and records testimonies of living witnesses.

Publication, exhibition and education. The Institute publishes monographs, anthologies and series of specialized documents and periodicals, including the quarterly *Paměť a dějiny* (Memory and History).

It further contributes to social discourse concerning totalitarian regimes through the organization of exhibitions, seminars, conferences, and film screenings and lecture cycles for both scholarly and lay audiences. The Institute also makes full use of its Web presence (in both Czech and English versions) in the presentation of specific themes, highlighting relevant documents and additional archival materials (especially photographs and audio-visual materials). Institute educational projects focus on professional co-operation with schools. Their objectives are two-fold: to enrich the supply of educational materials and teaching aids to facilitate the teaching of modern history, and to help teachers orient themselves in issues of contemporary history and its presentation to pupils and students. Direct co-operation with schools in the form of methodological teacher training, which acquaints teachers with innovative methods for the teaching of contemporary history and provides them with teaching material, is a key component. Concerning institutions of higher education, the Institute has partnered since 2008 with the semester study abroad program "Arts and Societies in Transition," run by the U.S.-based institution World Learning. Beyond this, Institute staff regularly lecture at a number of Prague and regional universities.

Conversion of documents into electronic form – digitization. The third primary focus of the Institute is the conversion of documents, original archival materials as well as microfiche copies, from the archival records of the Security Services Archive into electronic form and the construction of a digital archive. In co-operation with the Security Services Archive, the Institute has undertaken the digitization of the Archive's entire collection, a project unique by both Czech and European standards.

Functions of the Security Services Archive

Pursuant to Article 13 of Act No. 181/2007 Coll., the Archive:

- ensures access to and makes public documents and archival material concerning the security services;
- ensures access to documents and archival materials and provides needed assistance and

information to state bodies authorized to access security proceedings and to investigate according to the Act on the protection of classified information, to the Czech Republic's intelligence services in the fulfilment of their duties, and to investigative, prosecuting and adjudicating bodies for the purposes of criminal proceedings;

- facilitates the viewing of deposited archival materials based on the terms established by the Act on archival activity and record services and the Act on ensuring access to files of the ensuing activities of the State Security Service (StB);
- retrieves documents from the deposited archival material that are requested by state administrative bodies, territorial self-administration units and legal and natural persons, and makes copies and transcripts thereof; and
- makes decisions regarding archival administrative procedures and record services.

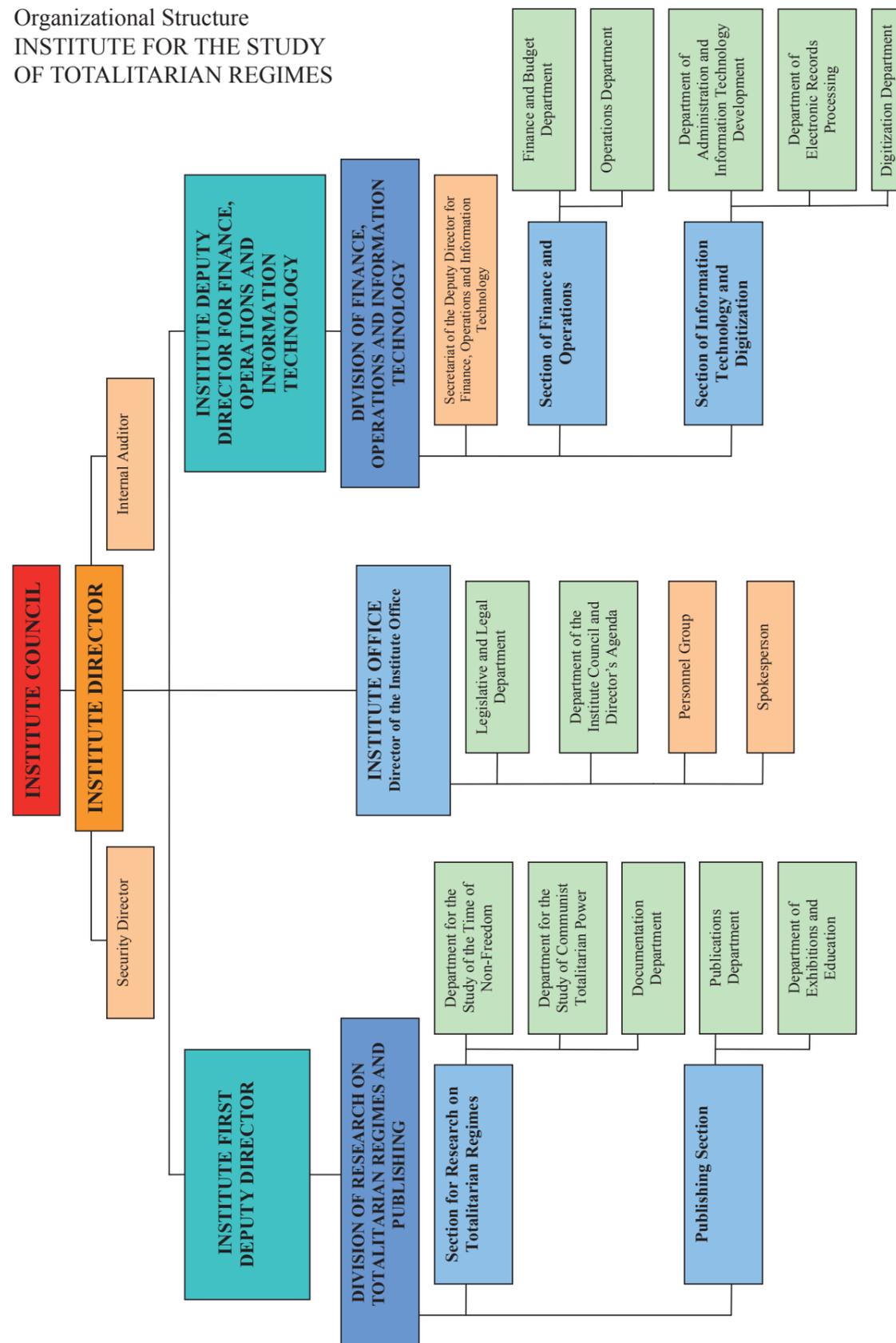


To these ends, the Security Services Archive engages in the following duties.

Preservation of archival materials, records and collections. The archival materials administered by the Security Services Archive are considered part of the national cultural heritage. Overall care of these archival materials belongs among the Archive's basic duties; this includes preventive protection, conservation and restoration of both paper materials and microfiche. The Archive ensures the conservation and restoration of archival materials in cooperation with the National Archive of the Czech Republic, and is currently building its own conservation workshop.

Making archives and documents accessible: Administrative Activity. The Archive responds to official and research requests, which it looks up in the original State Security Service (StB) database, as well as in databases that have been created by Archive staff. Research requests are further verified in the database of subject and surveillance files and in the inventories of archival collections. Most of the

Organizational Structure INSTITUTE FOR THE STUDY OF TOTALITARIAN REGIMES



official requests come from the National Security Office (Národní bezpečnostní úřad – NBÚ – concerning security investigations) and from the Security Section of the Ministry of the Interior (carrying out legally mandated vetting, or “lustration”).

Scholarly and Research Activity and Publishing.

Archive staff perform specialized and expert research in archival science, history, and related fields. The range of issues the archivists concern themselves with includes the general history of the time of non-freedom, the history of the administration of the perpetrators, the organization of Ministry of the Interior and State Security services, record services, etc. They create synthetic and analytic finding aids, inventories, inventory registers, catalogues, as well as guides to archival records or documentary histories. Archivists also co-operate on scholarly projects of the Institute and contribute to joint exhibitions featuring archival materials and documents. Archive and Institute staff further co-operate in the field of publishing, especially of the annual or biannual Security Services Archive Anthology, a specialized periodical featuring original scientific work on developments in history and archival science, the historical development of the security apparatus or state administration, the persecution of citizens, and additional topics related to the functioning of totalitarian regimes both at home and abroad. Further joint publishing efforts include scholarly studies of Archive staff, a guidebook to the Archive's collections, planned for future release, and importantly, the Archive's Web presence in both Czech and English languages.

Digitization. The digitization of the entire body of archival material administered by the Archive is mandated by Act No. 181/2007 Coll., and is carried out by a specially entrusted department of the Institute on the basis of an agreement between the two bodies. The Institute carries out the digitization of material selected by the Archive on the basis of its current demands. Staff in the digitization section daily convert thousands of pages of archival material into electronic form (approximately 30,000 pages/day). The Archive and Institute co-operate with other institutions on the digitization of archival materials; one case in point being co-operation with Czech Radio

on the digitization of magnetic radio tapes in the Archive's collection.

3. Legal Form and Structure of the Institution

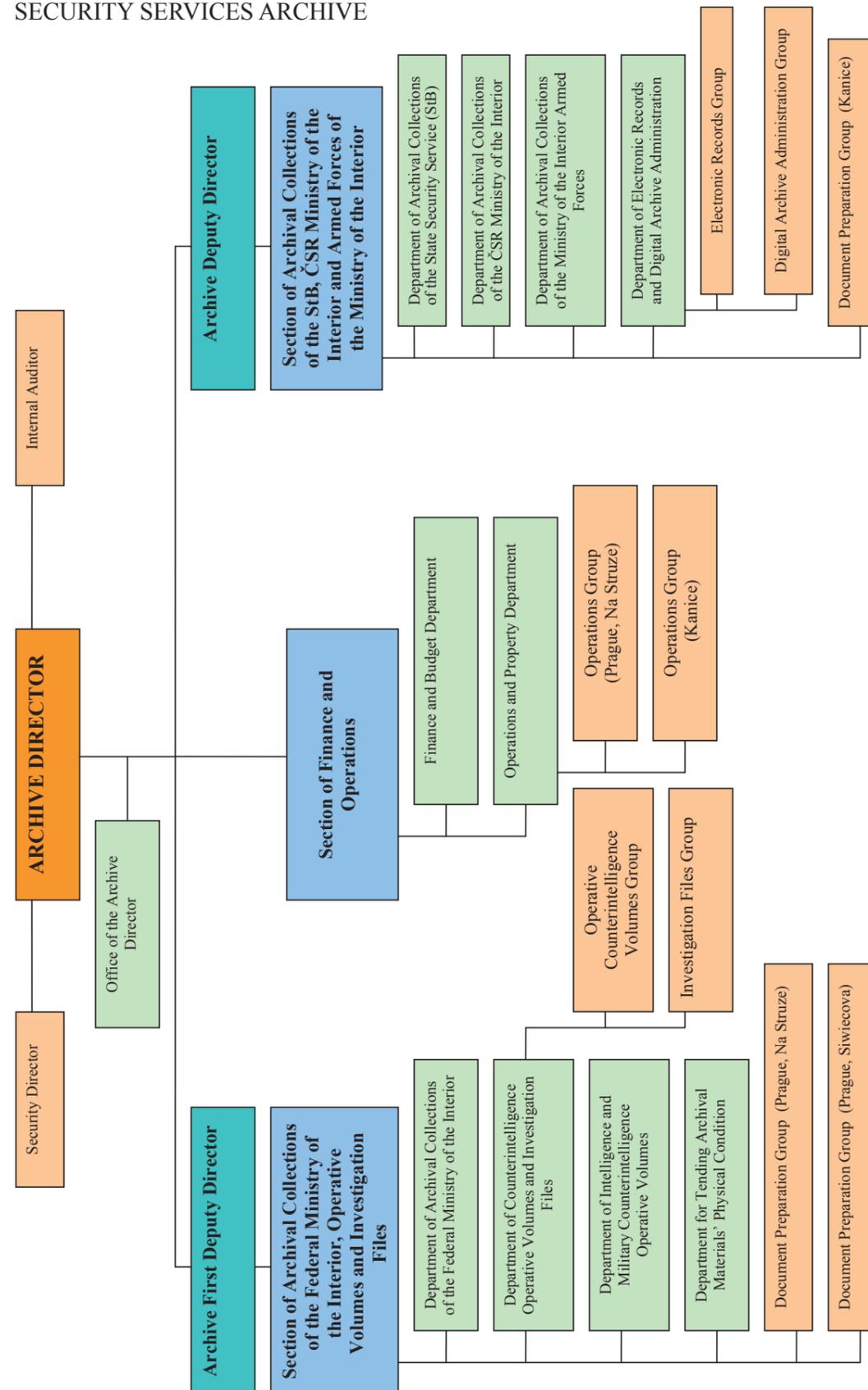
The **Institute for the Study of Totalitarian Regimes** has the status of an independent state body and its activities can only be altered by a change in the law. The highest authority of the Institute for the Study of Totalitarian Regimes is the Council of the Institute, which consists of seven members who are elected by the Senate of the Parliament of the Czech Republic. The Council of the Institute appoints and removes the Director of the Institute. Council members are nominated by the President of the Republic; the lower house of Parliament; and civic associations focused on history, archival science, research, education and human rights, as well as groupings representing former political prisoners or resistance and opponents of Communism and Nazism. The upper house, the Senate, votes to fill the Council from the list of nominees. The Council appoints the Institute's Director, who in turn names the Director of the Security Services Archive.



PhD Pavel Žáček, Director of the Institute

The **Security Services Archive** was created under the same law as the Institute for the Study of Totalitarian Regimes. The Archive is an administrative entity directly responsible to the Institute for the Study of Totalitarian Regimes. Responsibility for the Archive belongs to the Director, who is named by the Director of the Institute based on discussion with the Institute's Council.

Organizational Structure SECURITY SERVICES ARCHIVE



The Institute and Archive together employ 257 staff; of these, 138 work for the Archive and 119 for the Institute. The staff consists of historians, politologists, archivists, educators, and support staff who manage its technical, administrative and economic affairs. Co-operation between the Archive and Institute is extremely close, and is specifically defined by the provisions of Act No. 181/2007 Coll. Among the most important areas of co-operation are scholarly activity and publishing, and the digitization of archival materials.

The Institute's activity is funded by an independent section of the state budget, which is approved on an annual basis by the Parliament of the Czech Republic. For accounting purposes, the Archive falls under the Institute, and funding comes from the Institute's budget.

4. Delivery Status

Pursuant to Paragraph 14 of Act No. 181/2007 Coll., the **Security Services Archive** has taken over archival materials which until the Archive's creation had been held by the Ministries of the Interior, Justice, Defence (including Military Intelligence), the Security Information Service (Bezpečnostní informační služba – BIS), and the Office for Foreign Relations and Information. It administers over 18 kilometres of archival materials, stored in authorized depositories in four workplaces in Prague as well as in depositories in the Archive's workplace in Kanice, near Brno.

From the Ministry of the Interior of the Czech Republic

As of February 1, 2008, the Security Services Archive took over the administration of archival records and collections which until that time had been administered by the Department of the Security Services Archive of the Ministry of Interior. These are archival materials and documents from State and Public Security (Státní bezpečnost – StB and Veřejná bezpečnost – VB), divisions and organizational units of the Ministries of the Interior and National Security, Interior and Border Guards, the Armed Forces of the Ministry of the Interior, personnel and investigation files,

operative volumes and volumes on subjects of interest. They amount to 223 archival collections, or 16,389 linear metres of archival materials. Specifically, the volumes and files from the counter-intelligence and investigation sections of the StB, preserved in paper and microfiche format, amount to 265,425 volumes and files, including about 7,700 volumes from Directorate IV (Surveillance Directorate) of the National Security Corps (Sbor národní bezpečnosti – SNB) and 141,575 microfiche sheets. Electronic databases were also taken over. A further 785 linear metres of files and volumes from SNB Directorate I (the Main Foreign Intelligence Directorate) were handed over.

From the Ministry of Defence and Military Intelligence

The archival material hand-over process began at the end of January, 2008, pursuant to an agreement made between Military Intelligence and the Security Services Archive, at which time the hand-over of former Military Counter-intelligence (VKR) registers and archival registers began. Archival materials and documents, finding aids, agent and operative volumes, file materials of an administrative nature, and orders and instructions from the chiefs of the Main Directorate of Military Counterintelligence (VKR) are included. Papers from the Intelligence Service of the General Staff of the Czechoslovak People's Army and the organization of the Communist Party of Czechoslovakia within its units, as well as an additional 437 bags of unorganized material, were also handed over.

From the Ministry of Justice of the Czechoslovak Republic and the Prison Service

The defined process included the hand-over of archival materials, file collections and further records, personnel files and operative volumes of the Section of Interior Security of the Ministry of Justice in the amount of 97 linear metres.

The precise extent to which illegal shredding or destruction of documents from the provenance of the security services occurred at the end of 1989 and the beginning of 1990 is not confirmed, but current estimates suggest that approximately 30% of the documents was destroyed.

In 2008, the Security Services Archive created a Department for Tending Archival Materials' Physical Condition. The staff of this department is only now carrying out an overall investigation into the physical state of archival materials and documents in the Archive's possession. We can generally say that the physical state of archival materials and documents is not ideal; at least 10% will probably require conservation and restoration. The archives of the Communist repressive services until the year 1989 were concerned with shielding archival materials, as opposed to conserving and restoring them.

5. Access to the Files and Regulations for Dealing with the Files in Public

The laws on rendering archival materials of the security services of the communist totalitarian regime accessible are very liberal in the Czech Republic. Access to these materials is permitted for every natural majority-aged person with valid identification, whether citizen or foreigner. Furthermore, access is permitted not only for victims and their relatives, but to any other interested parties, including students, researchers, commentators or journalists, professional historians, etc. Finally, archival materials are accessible to their full extent, without blacking out or anonymization. It is understood that all who access the materials must respect the law on the protection of personal and sensitive information, and that these parties bear entire responsibility for any further treatment or use of the information obtained therein.

According to Act No. 499/2004 Coll. on archival science, passed in June, 2004, the review of archival materials deposited in archives of the Czech Republic, and the making of copies or extracts thereof, is permitted upon the submission of a written request by a natural person. In addition to this request, the person must provide a valid personal identification document (passport, official ID card, etc.). This law is generally binding with respect to the Institute and Archive. Section 7, Paragraph 1, of the law establishes that the review of archival materials is allowed only with respect to materials older than 30 years, unless stipulated otherwise. Thus, pursuant to the

stipulations in Act No. 181/2007 Coll. on the Institute and Archive, the statute does not apply to archival materials originating before January 1, 1990, from the activities of state organs, the activities of security services, or social organizations and political parties consolidated in the National Front. The law does not set any further limitation with regard to the access of individuals to archival materials.

Any researcher can study the materials maintained by the Security Services Archive, provided they respect the Archive's research rules. It is sufficient to request the appropriate archival material, either via the e-mail address badatelske.zadosti@abscr.cz or by sending a letter to the Archive's postal address. As soon as the archival material is located and prepared for the researcher's access, the said requester is informed and can visit one of the three research centres. Two public research rooms are maintained by the Archive in Prague, and one in Kanice, near Brno. The research rooms are publicly accessible spaces in which archival material is made available for study. Computers are also available for the study of electronic copies of archival materials. Microfiche sheets can be studied on microfiche readers. Researchers can use their own photo equipment to make copies of the material being studied, or can make photocopies, with fees assessed according to an established price list also available online.

6. Collaborations

Beyond co-operation within the framework of the European Network, the Institute for the Study of Totalitarian Regimes and the Security Services Archive are actively forging international partnerships through a series of bilateral agreements with European counterparts in Poland, Slovakia, Hungary, Romania, Ukraine, and most recently, with the Office of the Federal Commissioner for the Records of the State Security Service of the former GDR (BSTU) in Berlin. A further bilateral agreement with the non-governmental organization Memorial in the Russian Federation is underway. Expanding collaboration beyond the scope of Europe, co-operation agreements with the United States Holocaust Memorial Museum and the

Woodrow Wilson International Center for Scholars in Washington, DC, have also recently been signed.

Practical benefits of such co-operation include the prospect of easier access to archival documents from institutions in other countries and the possibility of study placements or internships abroad for researchers. The Institute is also seeking to share its know-how with other post-Communist countries, such as Albania, which are in the initial stages of creating bodies dealing with their authoritarian past. The Institute further co-operates with a series of museums, organizations and institutions, chiefly in Central and Eastern Europe, dedicated to shedding light on the recent totalitarian past. Co-operation at these different levels has helped the Institute stage a series of international conferences and seminars putting the spotlight on key moments or themes in the countries' shared history.

Europe-wide moves to break down the vestiges of the Cold War divide that still hover over the continent are being promoted by the Institute. In November, 2008, the Institute hosted a working group aimed at establishing the framework for a European platform of memory and conscience which would foster co-operation and a common approach to tackling Europe's totalitarian past. The Institute sought to build on this foundation during the Czech Presidency of the EU Council during the first half of 2009, co-organizing on March 18 the hearing "European Conscience and Crimes of Totalitarian Communism: 20 Years After" in the European Parliament. The hearing and the resulting Final Conclusions, signed by many participants, directly led to the adoption by the European Parliament on April 2 of the resolution "European conscience and totalitarianism," which among other things, expressly calls for the establishment of a Platform of European Memory and Conscience, as well as the proclamation of August 23 as a Europe-wide Day of Remembrance for the victims of all totalitarian and authoritarian regimes.

7. Perspectives of the Institution in Light of the Public and Political Debate

The interest of the public in the Institute for the Study of Totalitarian Regimes and the Security Services Archive over the course of 2008 and through to the present (as of the time of writing) continues to increase. In 2008, the figures were measured as follows: 1,526 interested parties visited the Archive's three research rooms for a total of 4,087 visits, and a total of 38,878 archival units were provided for review. These parties include staff of scholarly institutions, university students, educators, journalists, as well as private individuals, especially those persecuted by the communist regime and/or their relatives.

The process of approving the law on the founding of the Institute and Archive was not simple, both with respect to lawmakers and the general public. The accepted estimate is that approximately one-third of the Czech population believes that coming to terms with the past is necessary; one-third does not know; and one-third is against. We have observed in the Czech Republic that the younger generation, in particular, is beginning to recognize the relevance of institutions aiming to facilitate such a "coming-to-terms".

The initial sentence of the Institute's and Archive's founding law quotes from Santayana: "Those who do not know their past are condemned to repeat it." The two institutions thus function accordingly, bearing in mind the importance of transcending localized debates and coming to terms with the legacies of Communism and totalitarian regimes in Europe and on a global scale.

The Federal Commissioner for the Records of the State Security Service of the former German Democratic Republic

Germany

1. Founding History

The political foundation of the Ministry evaporated in the autumn of 1989, when hundreds of thousands of citizens of the German Democratic Republic (GDR) took to the streets and toppled the SED dictatorship in a peaceful revolution.

At the end of November/the beginning of December 1989, plumes of smoke over the offices of the Ministry for State Security signalled that its employees had begun the destruction of documents. Thereupon, citizens came and occupied the buildings. They wanted to secure the archives. They found immense mountains of paper and miles of shelving full of archive material in the offices. Simultaneously, the SED government tried to retain the structures of the Secret Service through reductions and renaming. However, at the round table, opposition groups were able to achieve the complete dissolution of the Ministry for State Security (MfS). On January 15, 1990, in order to implement the demand for the MfS's dissolution, determined citizens occupied the headquarters of the Ministry for State Security in Berlin.

The civil rights activists wanted to make the records of the Secret Police accessible for the purposes of rehabilitation, prosecutions, and reappraisal of the past. In the summer of 1990, following controversial discussions as to how to deal with the files illegally retained by the MfS, the delegates of the first freely elected People's Chamber voted unanimously to open the MfS records whilst observing people's right to privacy. In contrast, the unification contract

between the GDR and the Federal Republic initially stipulated that the files were to be kept in the Federal Archives. Thus, they would have been sealed away for many years and potentially been partially destroyed. Public protests and renewed occupation of the former MfS headquarters in September 1990, finally led to the incorporation within the unification contract between the Federal Republic of Germany and the GDR that the MfS records were to be opened to the public.



Marianne Birthler, Federal Commissioner

From October 3, 1990, till the passing of the Stasi Records Act (StUG), Joachim Gauck officiated over the Stasi records as a Special Commissioner of the Federal Government; his office gave out information for the purposes of reparations and rehabilitation, for the background-checking of delegates and employees of public administrations, as well as for the purposes of prosecuting crimes, based on provisional rules for the applicants.

With the passing of the StUG in 1991, the Federal Parliament created the legal framework for the further handling of the Stasi records. Now the path was clear for establishing the office of "Federal Commissioner for the Records of the Ministry for State Security of the former German Democratic Republic" (BStU). The act came into effect on December 29, 1991. With this act, a promise was honoured that had been made in the unification contract, namely to comprehensively take into account the foundation principles of the "act for the safeguarding and use of the person-based data of the former Ministry for State Security/Office for National Security" passed in the GDR Volkskammer on August 24, 1990.



Since 1990, all federal governments and federal parliaments have made clear that the reappraisal of the SED dictatorship is desired politically. The post was held by Joachim Gauck from 1990 to 2000. On September 29, 2000, Marianne Birthler was elected, by a large majority, to be Federal Commissioner; after five years she was re-elected.

The Stasi Records Act combines the political demands of the GDR opposition with the constitutional principles developed in the Federal Republic. This was the prerequisite for the success of an act that simultaneously guarantees the public's right to information and the individual's right to privacy.

2. Legal Remit and Tasks

Legal basis

The Stasi Records Act of December 29, 1991 forms the legal basis for the work of the Federal Commissioner. It has been altered several times in the interim, the last time being December 21, 2006. Its fundamental structure has remained unaltered since the beginning, however. It makes possible the personal,

historical, political, and judicial reappraisal of the activities of the State Security Service, as well as the power mechanisms of the former GDR, and thus supports the discussion surrounding the second German dictatorship of the 20th century.

The act takes into consideration various interests and legal rights which occasionally conflict with one another:

- the right of individuals to find out whether and how they were placed under surveillance;
- their right to be protected against abuse of the data concerning them, collated and retained by the MfS;
- the right of the public to be informed about the operations of the MfS using the Stasi records; and
- the right of the world at large to use the documents for the purposes of rehabilitation, prosecution, research, and education.

Tasks of the institution

The tasks and powers of the BStU are regulated in § 37 of the StUG. In accordance with this, the BStU compiles all the records of the State Security Service, evaluates, files, stores, and manages them according to the principles of archiving (cf. also Chapter 4). It answers queries and provides information, grants access to the records, and furnishes duplicates. It evaluates the activities of the State Security Service by examining its structure, methods, and manner of operating and then informing the public about its findings.

Individual reappraisal

The main task of the StUG is provide individuals with access to any records concerning their person so that they can trace how the State Security Service interfered in their lives (for more details, see Part 5). To that end, more than 2.6 million applications have been made so far by citizens to the BStU (this figure includes first and repeat applications, requests for code-name deciphering, and the furnishing of copies).

Judicial reparation, rehabilitation, and prosecution

The BStU provides support to those German authorities responsible for prosecution, rehabilitation and reparation. It also supports foreign prosecution

authorities in the context of judicial assistance. For people who were politically persecuted in the former GDR, the German legislative body has passed laws for judicial, administrative, and professional rehabilitation. Those authorities responsible for the corresponding proceedings can draw on records of the State Security Services in their decision-making. They enquire of the BStU as to whether the records contain evidence for politically motivated persecution, or for work-place discrimination, or if there is any documentation concerning prison sentences and damages to health. Checks are also carried for factual evidence that would make rehabilitation impossible (such as contravention of the fundamental principles of the constitution, or of human rights).

Checks on public servants

The checking of people to establish whether they were officially or unofficially employed by the GDR's State Security Service is an important part of the reappraisal of the SED dictatorship. There have been 1,700 million applications for checks so far.

The legally prescribed options for checks (e.g. for members of parliaments, for public officials and leading figures in corporations, associations, organisations, and political parties) originally had an end-of-2006 time-limit. However, with the 7th amendment to the StUG on December 21, 2006, the legislature extended the checking options for certain groups of people (e.g. incumbents of high-profile administrative positions, those holding political office at national, regional, and local level), and expanded the remit for checks in specific areas (e.g. in the field of sport). According to current law, checks in these areas are possible till the end of 2011.

Furthermore, the records can be used indefinitely for other purposes, e.g. for checking people in positions relevant to matters of reappraisal of the GDR past; for procedures concerning the granting or withdrawal of weapon permits; for ascertaining durations of employment; for matters concerning the bestowal of decorations, as well as security and reliability checks.

Research

The BStU has its own research centre, whose members of staff can access the State Security Service records more easily. This is necessary because, owing to data protection laws, there are special restrictions in place for the issuing of documents to external researchers. In the last 15 years, the scientists at the BStU have produced numerous publications, including a handbook consisting of more than 20 volumes, publications on unofficial collaborators (Helmut Müller-Enbergs, 1998 and 2001), and on official employees (Jens Gieseke, 2000). In the coming year, a compact lexicon for the Ministry for State Security will make the current state of research into the structure and workings of the MfS accessible to a wide audience. There have been important individual studies in addition to these publications, for example, into "Federal Citizens engaged in DDR Espionage" (Georg Herbstritt, 2007), and on the MfS's handling of records concerning National Socialist criminals (Henry Leide: National Socialist Criminals and State Security, 2007). The topic of opposition and resistance is also of great importance in the research done at the BStU; for this, see for example, Roger Engelmann/Ilko-Sascha Kowalczyk: The People's Uprising against the SED State. An Assessment of June 17, 1953, 2005.

Historical-political education

One of the institution's legally required tasks is to educate people about the GDR State Security's history, structure, methods, and manner of operation. The institute's headquarters and outposts hold hundreds of events annually, with readings, expert lectures, discussion symposiums, and film screenings. By these means citizens are given insight into the repressive instrument of the MfS on the basis of current research results.

The range of educational opportunities provided by the BStU is based on the Stasi records, i.e. on innumerable files, and sound and film material. There are, within these, not only countless examples of Stasi control and repression, but also of moral courage. Using these sources, the BStU has produced materials for school pupils, who are thus granted authentic access to Germany's very recent history.

The BStU also stages its own events for school pupils. These include seminars, projects extending over one or several days, workshops, and classroom visits. The education department of the BStU provides educationally orientated materials, such as excerpts from the archives with work sheets, handouts for teachers, information folders, and educational DVDs and sound files. Small theatre scenes ("Stasi pieces") are designed to stimulate creative involvement. Staff members at the BStU support the pupils in creating contributions for school competitions, or when writing special papers.

In training sessions, the institute's staff members inform teachers and trainee teachers about the MfS and about the importance of the Stasi records in terms of historical, legal, and also personal reappraisal. They introduce ways in which the subject can be handled in the classroom, or concrete examples can be developed in collaboration with the teachers.

Finally, exhibitions are also employed for the institute's educational activities. Permanent exhibitions inform the public about the Stasi in Berlin and several outposts. Further training for teachers is offered in conjunction with the BStU's touring exhibition, which is displayed in the old federal states and abroad. Regionally themed exhibitions are lent to schools free of charge; these, in turn, form the starting point for lectures or project days.

The BStU's regional outposts are responsible for a large part of the education work in the east-German states; for this purpose, they also utilise their archives and documentation centres. The headquarters' education department is responsible for the west-German states.

Scope of the tasks of the BStU

The BStU does not have a judicative function and does not conduct investigations either for the public prosecution services or for the police. Instead, it makes the records accessible in the context of the legally permitted forms of use. Decisions necessary following notification that someone was officially or unofficially employed by the State Security Service is

the responsibility of those authorities which made the enquiry.

The BStU manages the documents of the GDR's Ministry for State Security and the organisations that predated and which followed it; the BStU's evaluating activities are temporally based on the history of the GDR. The examination of the State Security Service's activities abroad is allowed in the context of the StUG and, in principal, is not subject to any particular legal restrictions.

3. Legal Form and Structure of the Authority

Legal form

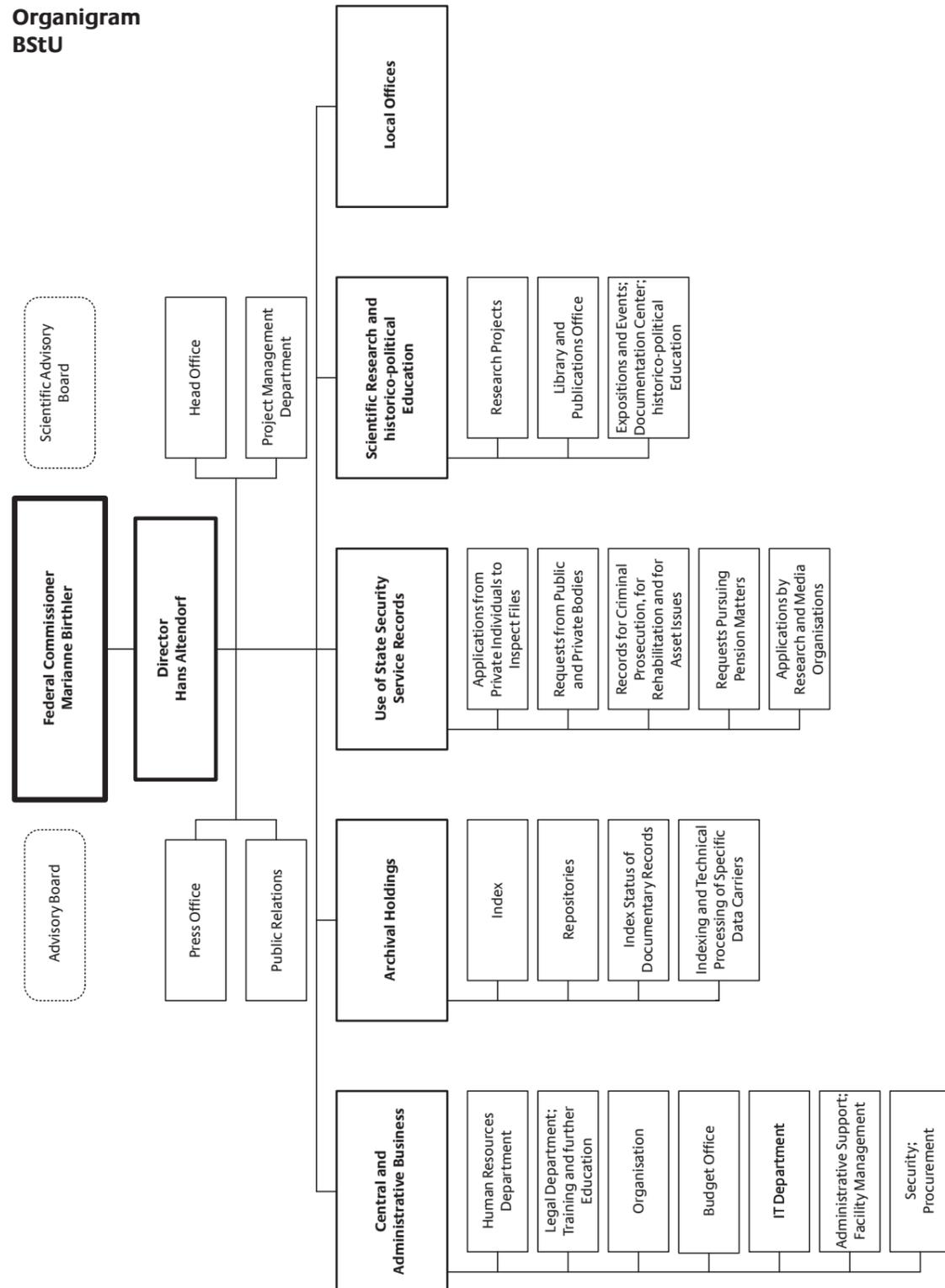
The BStU is a higher federal authority. It is part of the remit of the Federal Commissioner for Culture and Media (BKM).

The Federal Commissioner for the Records of the State Security Service of the former GDR heads the authority and, upon being put forward as a candidate by the Federal Government, is elected by the German Federal Parliament by more than half of the legal number of its members.

In accordance with the StUG, the Federal Commissioner is independent in the execution of his or her role and subject only to the law. He or she is not placed under supervisory control and is subject to the statutory supervision of the Federal Government. Professional supervision is conducted by the highest federal authority responsible for culture and media. The Federal Commissioner is not subject to directives. This form of regulation regarding matters of supervision is supposed to guarantee that the activities of the authority are not influenced by party or departmental interests.

The Federal Commissioner accounts to parliament every two years in the form of an activity report. The term of office for the Federal Commissioner is five years. A single re-election is permitted.

**Organigram
BStU**



Organisation

The Federal Commissioner is represented by the Director (since 2001, this has been Hans Altendorf); he or she is the senior official at the authority. The authority is currently organised into a headquarters and 12 outposts. The tasks are administered by four departments and staff divisions, which are directly subordinate to the institute's management.

The four departments of the headquarters bear the following descriptions:

- AR Archival holdings
- AU Use of records of the State Security Service
- BF Scientific research and historical-political education
- ZV Central and administrative tasks

Each department is subdivided into divisions, the outposts into subject areas. The outposts are the direct point of contact for the citizens of former east-German districts, and are responsible for the records of the MfS district administrations.

The staff divisions include the press department, the PR department, the management department, a project management department, as well as the special commissioners of the authority's management, such as commissioners for data protection, for the security of the IT, and for health and safety within the authority.

The outposts are located in the states of Brandenburg, Mecklenburg-Western Pomerania, Saxony, Saxony-Anhalt, and Thuringia, as well as in Berlin; this corresponds to the geographical area once under the control of the GDR.

Workforce

As of September 2009, the BStU employs about 1,700 people, of whom at least 1,000 are employed at the headquarters, and almost 700 at the regional outposts. These members of staff are mainly divided between the work areas: AR, with almost 500 people; AU, with almost 600 people; BF, with around 60 people (of which 12 are scientists); and ZV, with almost

550 people (of which 175 are employed with securing the facilities). The workforce reached a maximum of 3,300 staff members in the 90s; in the last three years it has decreased by around 12% owing to people leaving (because of retirement or changing to other public authorities); this process of reductions in the staffing levels will continue over the coming years.

Budget

The budget for 2009 is set at €90.3 mio:

for staff	€ 70.9 mio
for relevant administrative duties	€ 16.6 mio
for investments	€ 2.7 mio

4. Delivery Status

The total archival holdings (at the headquarters in Berlin and at the outposts of the authority) are structured as follows:

Paper documents

The BStU archives contain around **111 km** of paper documents, of which

- approx. 51 km are files archived by the State Security Service itself
- approx. 60 km are files which were found during the occupation of the MfS offices (including almost 12 km – approx. 39 mio. – MfS index cards), as well as
- approx. 47 km of writings stored on microfiche for purposes of preservation or further work.

Additionally, there are approx. 15,500 containers of torn-up paper documents.

Special data forms

- approx. 1.4 mio. photographic documents (photograph positives, negatives, slides)
 - 2,705 films and videos
 - approx. 31,000 sound files
 - 43 MfS data projects
- (as of September 2009)

Provenance of the records

Alongside the written documents produced by the service units of the MfS, the records of the MfS also

include files left to the State Security Service concerning courts and prosecution services. The MfS, for example, also archived documents from the general state prosecution service and the military prosecution services of the GDR. The records produced during investigations into National Socialist and war crimes have a volume of over 700 running metres, and are stored in a special depository outside of the deposits of the archive division.

Equally remarkable is the comprehensive repatriation of records which were removed from the office rooms and repositories of the State Security Service, especially during the upheaval of the 1989/1990 period. From 1990 – 2008/09, the institute acquired approx. 4,600 running metres of archive material. Depositors were public authorities, as well as private citizens. The handing-over of CDs from the USA with a volume of 300,000 sets of data (the “Rosenholz files”) were of special interest. These contain digital images taken from microfilms of index cards (real names and procedural indexes for espionage abroad (HVA)).

How complete are the total holdings?

The records from the archives of the State Security Service are, to a large extent, preserved. However, the State Security Service regularly destroyed sections of its archive holdings. In contrast, the records from the office rooms have often been decimated. The extent of the losses ranges from a few percent up to total loss. An accurate estimate of the losses is impossible, as one would need to know the original total volume, something which could never be established. The losses can be specified: they concerned individual victims, as well as procedures involving unofficial collaborators who were still “active” during the occupation of the offices, and camped out in the office rooms.

Documents were destroyed not only on the orders of the MfS’ leaders in the autumn of 1989, but also with the acquiescence of the Central Round Table following the occupation. Grave examples of losses following the occupation of the offices are documents relating to espionage abroad (HVA), as well as electronic data carriers of the MfS.



The records were secured immediately (by citizens’ committees, military prosecution services, and the State Archive Administration of the GDR) following the occupation of the offices (04.12.1989 – 15.01.1990), and brought together until they were placed under the authority of the Special Commissioner on October 3, 1990.

Indexing status

The archived deposits, as well as the microfiche records for safeguarding and further work, are indexed according to the person to whom they relate. The documents from the office rooms are over 81% indexed according to person or subject. The special data carriers are up to 55% indexed. The data carriers were selected and, as far as necessary, stored to typical standards.

Digitalising of old material, online accessibility

Digitalisation has so far been implemented in order to preserve material (endangered sound recordings, oft-used photographs) and to aid accessibility.

The uploading onto the internet of search tools could firstly be implemented on a larger scale only after the last StUG amendment of 2006. Information concerning the headquarters’ and the outposts’ records is available online. In addition to general information about the archives of the BStU, there are also finding aids, indexes, archive overviews, expert contributions on archive and filing studies, as well as selected archive material and notices concerning public tours through the MfS buildings.

5. Access to the Files and Rules for Dealing with the Files in Public

Access to the records of the State Security Service is regulated in the Stasi Records Act (StUG). There are three mutually independent access rights, which the StUG regulates in three respective sub-paragraphs:

- the rights of private individuals (§ 12 ff. StUG),
- the use of the documents by public and private institutions (§ 19 ff. StUG), and
- the use of the documents for the purposes of political and historical reappraisal, as well as for use by the press, broadcasting companies, and films (§ 32 ff. StUG).

Access is granted to private individuals, researchers and media representatives upon application. In the case of public or private institutions, it occurs on the grounds of a petition.

The rights of private individuals

Any person can submit an application to access the records of the MfS relating to their person. This right is not restricted to German citizens.

Private individuals make their application for access, information, or for the issuing of copies in writing, using a form. This form is also available via the homepage of the BStU. Applications can be submitted to the Federal Commissioner in Berlin as well as at all outposts. Within Germany, the confirmation of identity required for each application is most commonly drawn up by the respective registration authorities. However, any other officially certified copy of a valid form of identification is also sufficient. Special rules apply to the immediate relations of missing or deceased people.

If an applicant wishes to be represented by a legal advisor, he or she must be explicitly commissioned by the client to make the application for inspection of files. The legal advisor has no rights beyond those of the person they represent. The background to this access regulation is the StUG’s approach in terms of data protection to only allow individuals access to the information relating to their person. Nobody should

have their right to privacy impinged upon through the unauthorised accessing by others of data relating to them.

The applications are checked to see that they are complete and legally valid; if any errors are found, the applicant is asked to submit further information or records. Following this, searches are conducted in all archive holdings, including those of the outposts, irrespective of where the application was made. Once documents concerning the applicant are found, checks must be carried out as to whether the records also contain protected information concerning other people. To maintain the right to privacy, this information is made anonymous (blacked out). This anonymisation is carried out on copies. The names of official Stasi employees or informal collaborators are not made anonymous.

Shorter documents (fewer than 90 pages) are generally copied and sent to the applicant by post. For greater document volumes, the applicants are invited to the BStU office of their choice to study the documents.

Insofar as any cover names of unofficial collaborators are contained within the records, the applicants have a fundamental right to know the real names of these people. A special application must be submitted for the decryption of these cover names.

In contrast to German archive laws, the StUG differentiates between four categories of person: affected persons, third parties, employees, and beneficiaries (§ 6 StUG – terminology stipulations). The access rights to records vary according to which of these four categories the records relating to the applicant can be assigned. The assignment is conducted on the basis of the available archived document holdings. What is crucial here is the attitude of the State Security Service as it appears in the archived material (archival viewpoint).

Affected persons

Affected persons are those about whom the MfS collected information in a targeted manner. Affected persons do not have to give reasons for their interest

in accessing the archives, receiving information, or requesting copies. They have a legal right to access all of the available and indexed records relating to their person.

Third parties

The access rights of so-called third parties (people who do have their “own” files as affected persons, but on whom there is information contained in the files of other people) do not fundamentally differ from those of affected persons. They do however have to indicate the reasons for their interest, and provide information to help in the search for records. The amount of research work required must be in reasonable proportion to the reason given for the applicant’s interest in the information.

Employees of the State Security Service

Anyone who acted as an unofficial collaborator for or official employee of the State Security Service has only restricted access to the records, namely only to those personnel or cadre documents “conducted regarding their person”. They cannot access records they compiled concerning other people. Only in unique circumstances is such access granted, namely when a special legal interest for such knowledge is deemed to exist.

The regulations regarding employees also apply to people who had authority over employees of the State Security Service in relation to their activities, as well as for unofficial collaborators of the work area I of the GDR’s criminal investigation department. This authority was responsible for the detection and solving especially of what were classed as political crimes, and worked closely together with the State Security Service, sharing members of staff with it.

Immediate relations of missing or deceased people

Immediate relatives (spouses, children, grandchildren, parents, or siblings) of missing or deceased people have their own right of access to the Stasi records. This is an exception of the rule that each individual only has access to his or her own documents. Access is only permitted for the following reasons named in the act, which the applicant must present as plausible: the rehabilitation of missing or deceased

relatives; protection of individual rights, especially to disprove claims of collaboration with the State Security Service, as well as establishing the fate of missing or deceased people. The relation is to be allowed to exercise the wish to do something for the deceased which he or she is no longer able to do.

Further use of records by private individuals

Following their accessing the records, each applicant has the right to use the information he or she has received from the Federal Commissioner. He or she must, however, respect the boundaries defined by other laws outside of the StUG (especially civil law, press law, and criminal law).

Use of the records by public and private institutions

Public and private institutions can access the documents for the specific uses laid down in the act. On the whole, these include rehabilitation, reparations, and suspension of care services; clearing-up of the former GDR’s financial circumstances; checking of certain groups of people for unofficial or official collaboration with the MfS, security and reliability checks, prosecutions, and danger prevention.

Only the authority responsible for each respective task has the right to apply. Private institutions have to prove their eligibility in writing and by quoting the legal basis for their claim. The Federal Commissioner checks the authorities’ applications to ensure they are based on legitimate grounds, are part of the remit of the institutes, and also to what extent the use of Stasi records is necessary for the intended use indicated in the application.

As a rule, the institutes which apply gain access via a written notice from the BStU, which, where applicable, will contain evidence in the form of copies of records relating to the purpose or person named on the application. Institutions can only gain physical access to the documents on request if the written notice sent by BStU is insufficient. Information and document access is only granted for that information or those documents pertaining to the person named in the institution’s application. If the records contain

person-related information pertaining to affected persons or third parties, this information is made anonymous (blacked out).

The institutions decide for themselves whether to make an application to the BStU in the context of the valid application purposes; however, they are not duty-bound to do so (there is no “routine application”). Decisions necessary following the notification that someone was officially or unofficially employed by the State Security Service is also the sole responsibility of those institutions that made the enquiry.

In contrast to private individuals, who may use the copied documents sent to them in any lawful way they choose, and thus without any limitation of purpose, institutions may only use the information and documents given to them by the BStU for the purpose stated in their application; they may not pass it on or use it for any other purpose.

The use of the records for the purposes of political and historical reappraisal, as well for use by the press, broadcasting companies, and films

The BStU, as part of its legal remit, supports researchers and the media (press, broadcasting companies, and films), as well as centres for political education, in their work of historically and politically evaluating the activities of the State Security Service, the power mechanisms of the former GDR/the former Soviet occupied territory, and the National Socialist dictatorship (the latter insofar as the MfS records relate to this).

Researchers and media representatives have to automatically present their intended evaluation work in their applications. Furthermore, they must provide evidence of their intention to publish/broadcast their research results or media contributions. In 2009, 1500 applications, some of them very extensive, were made by researchers and the media as of September 30 (almost 100 more than in the whole of 2008).

If records are found relating to the requested topic, the applicants are given the opportunity to see the documents and then have copies made. The Federal Commissioner must, however, be very careful that

the overriding protectable interests of the people named in the records are not breached when granting access to the documents. Thus, for example, records concerning affected persons are fundamentally only made accessible in an anonymous form or with the express permission of the affected persons (an exception applies to affected persons who have been deceased for more than 30 years).

Furthermore, the researchers and media representatives are obliged to ensure that the overriding protectable interests of the people named are not breached through publication. The same conditions apply to the BStU’s own publications as do for external publications.

Media

The media plays an important role in the reappraisal of the former dictatorship. This especially applies to the discussion of relevant topics. It is not uncommon, however, that the names of former MfS collaborators are uncovered in the course of media research and are controversially discussed if they are public figures. The legal disputes which occasionally arise in such contexts occur mainly because, although the Stasi Records Act fundamentally allows the publication of these names as long as there are no potential opposing protectable interests, further consideration is needed in each individual case before proceeding with publication.

Figures of contemporary history, officials, and functionaries

For the use of information regarding figures of contemporary history, political functionaries or officials, access is specially regulated in the context of research and media applications. Related information may only be used as far as this relates to their role in contemporary history or to the execution of their functionary or official duties. Their overriding protectable interests thereby need to be respected. Furthermore, the StUG provides a notification procedure for this group of people. If records are to be used, the people thus affected need to be given sufficient notice beforehand and informed about the contents of the information so that they can raise objections if necessary.

Viewing non-anonymised material

The 7th amendment of the StUG expanded the access rights of external researchers. Academic researchers at universities and other research institutes can now access non-anonymised documents under certain conditions stipulated in the act.

Costs

The BStU imposes charges for certain administrative acts. The legal basis for this is in § 42 StUG. A scale of costs for the Stasi records regulates individual procedures and determines fees and expenses. It applies to individual applicants and to applications and petitions from private institutions.

Affected persons, third parties, and immediate relations remain unaffected by information or access costs. They must merely pay a small fee for the provision of any copies. The fundamental idea behind these regulations is to make access to the records possible for affected persons without any great financial hurdles, so that they can gain insight into the events of their lives.

6. Collaborations

In Germany, the BStU works together intensively with various civil initiatives, memorials, and the Federal Foundation for the Reappraisal of the SED Dictatorship, especially in the area of political-pedagogical evaluation. These strong collaborations improve the task of evaluating the SED dictatorship as a whole. Together with the Federal Foundation for the Evaluation of the SED Dictatorship, the BStU is to form a Historical Commission (for more details, see Part 7).

On an international level, the BStU has been involved for years in bilateral collaborations with partner institutions in Central and Eastern Europe. The institutions mutually advise one another and exchange information on archive-related questions and on information services. There are also joint research projects and conferences. The joint work with these partners has developed so reliably that, in 2008, the BStU took the initiative to found a “European

Network of Official Authorities in Charge of Secret Police Files”. This was officially founded on December 16, 2008, in Berlin, together with partner institutes from Poland, the Czech Republic, Slovakia, Hungary, Rumania, and Bulgaria.

The BStU also has many contacts with organisations and government agencies outside this network who in their own countries work on the evaluation of the activities of a dictatorship’s secret police. Geographical emphasis is here placed on the east-European area.

The BStU’s departments have intensive interactions with neighbouring institutions on the national level. Thus the archive department works closely together with the Federal Archives in several areas. These collaborations include, among other key areas: safekeeping of the original films of the MfS, use of the records relating to National Socialist and war crimes, and the presentation of MfS records on internet portals. Additionally, there are also collaborations with the state archives on the state level, and with central and regional reappraisal institutions.

Some noteworthy work among the many collaborations undertaken by the Education and Research Department includes a project with Jena University (Cultural Battles in the Provinces of the later GDR) and a joint project led by the Woodrow Wilson Center in Washington D.C., in which our network partners also participated: this project involves the electronic publication of records relating to the work and influence of the KGB, and which, owing to the archive situation in Russia, is not immediately accessible.

7. Perspectives of the Institute in the Light of Public and Political Debate**Public opinion**

While the Federal Parliament and the Federal Government support reappraisal on the GDR in general and the BStU as an authority in particular, opinion regarding the reappraisal of the GDR is much more varied in the public discourse. In the west-German

federal states, the interest in evaluation is definitely not as strong as in the east-German states. Interest increases when important cases of MfS intervention in the old Federal Republic of Germany are publicised. The BStU tries, especially through historical-political education to make the reappraisal of the activities of GDR secret police a pan-German topic.

Many citizens, and those of the former GDR particularly, continue to use the services of the BStU intensively; this can be seen in the number of applications for access to the archives, still currently running at up to 100,000 per annum. Nevertheless, the very subject itself of evaluating the activities of the secret police and the SED dictatorship is disputed in the east-German states, with opinions lying somewhere between two polar opposites.

Some people largely reject the evaluation of the GDR past: these consist of those who are stuck in the milieu of the old GDR power structure, and of those who, because of current material uncertainties and problems, romanticise conditions in the GDR.

Then there are criticisms from those who were persecuted in the GDR, or whose chances of career development were massively restricted. They complain that:

- there is not enough support for victims of the SED dictatorship;
- crimes by perpetrators of the MfS or the SED have not been sufficiently investigated; and
- because of their use of the west-German social security system, many former members of the GDR power structure are now materially well off, and better off than them.

Without discussing this criticism, one can see that the aforementioned circumstances are the result of decisions by the legislature in the unification contract or of court decisions. They have nothing to do with decisions made by the BStU; nonetheless, the BStU, the largest German institution for the reappraisal of the GDR past in Germany, is blamed for such and other circumstances which are perceived as unfair.

Politics

In June 2008, following controversial public discussions, the Federal Government continued in its conceptualisation of a memorial; the Federal Parliament voted for this agreement with a broad majority. As far as the Stasi Records Institute is concerned, the memorial concept represents a clear vote for the continuation of its existence. This applies to all of the fields of activity brought together by and integrated into the BStU: the archive, the information service, scientific research, and historical-political education.

In its entirety, the memorial concept represents an evaluation of the German memorial landscape; it creates planning security for the institutions involved. The BStU, as an important responsible organisation, together with the Federal Foundation for the Reappraisal of the SED Dictatorship and the Federal Centre for Political Education, will be a part of the future “Historical Network for Reappraisal of the Communist Dictatorship in Germany” and will help design the planned education concept.

Following the passing of the memorial concept, the question of the future development of the Stasi Records Institute has shifted from the level of media-shaped and, to some extent, interest-led demands to the realm of assessments orientated around expertise. According to the memorial concept resolved upon, the German Federal Parliament is to “instigate an independent expert committee to analyse the development of the tasks with which the BStU is legally charged and to make suggestions as to whether and in what form these can be met in the medium and long term.” In addition to the advantage of having the fields of activity (the archives, the information service, and the education and research department) under one roof, one key criterion here should be that access to the MfS records must not be limited.

Historical Archive of the Hungarian State Security

Hungary

1. History of Foundation

The foundation of the Archive was due to an Act of the Constitutional Court. In 1994, the Constitutional Court was examining the constitutionality of the law that had ordered the lustration of people in important public positions. They stated that Parliament acted against the Constitution by not providing for people's informational self-determination when they ordered their lustration. At the same time Parliament was obligated to make an end to this anti-constitutional situation by legislating people's right to become acquainted with all the personal data gathered and kept by State Security Organizations. Modifying the Law of Screening in 1997, Parliament set up the History Office, which was an archive despite its name. In 2003, as a by-product of the scandal following the publicity of the State Security past of the then Prime Minister, Parliament founded the Historical Archive of the Hungarian State Security by a new Act. The Historical Archive of the Hungarian State Security is the legal successor of the History Office.

2. Legal Commission and Tasks

The Historical Archive preserves and handles the documents of the former State Security Organizations dating from the period between December 21, 1944, and February 14, 1990 (December 21, 1944, was the day when the Temporary National Assembly had its session; on February 14, 1990, State Security Organizations ceased to exist with or without legal successors), and the documents of the former

Screening Committees. The Screening Committees were in operation between 1994 and 2005. The Act determines the tasks of the Historical Archive in § 8 (3) as follows.

The Archive

- ensures that the people concerned can exercise their rights to become acquainted with their personal data under conditions given by the Act;
- supplies data for the organizations identified by the law of making public the state security past of public figures;
- ensures research under the conditions stated by that law; and
- carries out tasks defined by the Archive Act.

The tasks mentioned under a) and c) are detailed in Part 5 of this text. b) means that we took part in screening. Screening in Hungary was carried out by a body of judges and the Archive (like other organizations) supplied them with data. Screening has been finished, but the Act makes it possible for anybody to ask for information concerning the possible state security past of any public personalities (See Part 5 for details.)

We explore our documents according to our tasks determined by the Archive Act and we also do research and publish our results.

Political education and information are not among our tasks given by law and no human resources are available for that. Still, we carry out such activities through our publications, conferences, the material

displayed on our homepage, and our exhibitions. We lend the material of these exhibitions to be displayed all over the country.



Rehabilitation of the victims is not one of the Archive's responsibilities. This problem was settled by the Acts of Annulations and Amendment. The Act of Annulations had already annulled the political sentences, and the Act of Amendment had given financial amendment well before the legal predecessor of the Archive was established. Amendment is still going on in one field: partakers in the 1956 Revolution may get a pension supplement. The Archive can give them the documents that prove that they are entitled to get that supplement in a significant number of cases. Victims who turn to our institute often need personal attention as well, which they get from the Archive if possible.

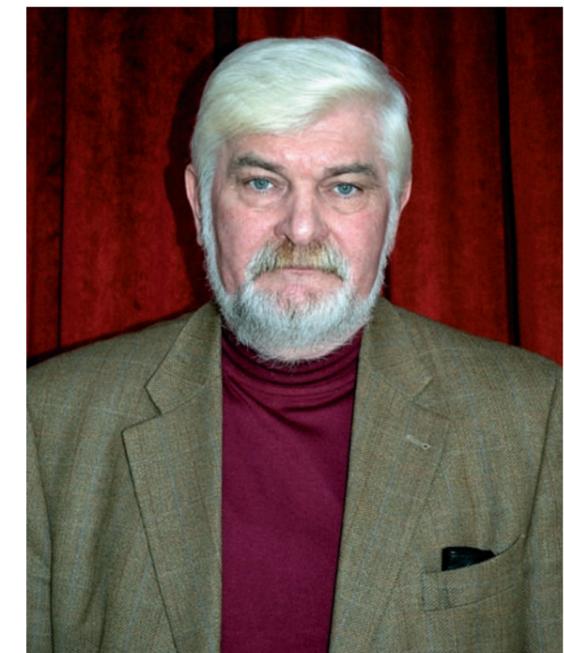
3. Legal Form and Structure of the Institute

The Historical Archive is a state-owned special archive. The responsible leader of the Archive is the Director-General. The Director-General and the Deputy are chosen by open competition and nominated for seven years by the President of Parliament. Before the nomination, the candidates are interviewed by the National Security Committee and the Cultural Committee. The rules of incompatibility are very strict. Nobody who has been a member of the Government, a State Secretary, an official or employee of a national organization of one of the political parties in the past ten years before the nomination can become Director-General or Deputy Director-General. The same regulation applies to those who were employed by the former State Security Organizations, received their reports or acted as an agent. Any person in this position can pursue an extra profession only in the fields of science, education or the arts.

The work of the Historical Archive is controlled by the President of Parliament. The Director-General has to report annually to the committees that interviewed him or her before his or her nomination. The circumstances under which the mandate of the leaders of the Archive ceases to exist are regulated by law. This rule practically ensures absolute independence for the institution. The Archive is a national institution with no regional organs. The number of employees is 99. The Archive is an independent, publicly financed institution. The budget is defined by Parliament in the annual budget law. According to experience so far, sources are continually available. No elections or government crisis have endangered continual work so far. The influence of the present economic crisis on the institute is yet to be seen.

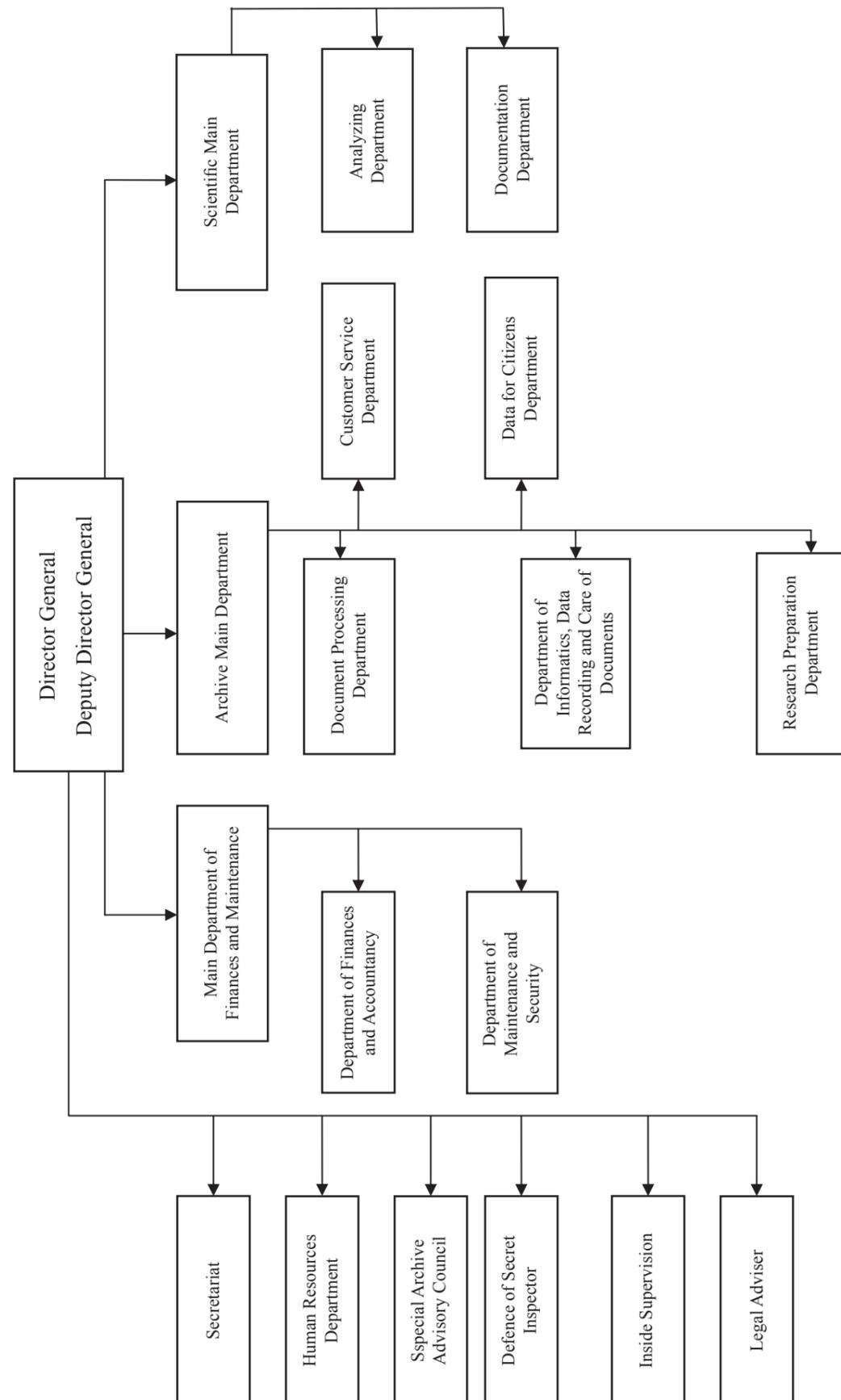
The Historical Archive is an independent title within the Budget of Parliament. The main data concerning the financial year of 2009 according to the approved budget is as follows:

Statement of Costs	708.5 Mio Ft
Statement of Income	5.0 Mio Ft
Statement of Supply	703.5 Mio Ft



PhD György Gyarmati, Director-General of the Archive

Structure of the Historical Archive 2009



4. Situation of Documented Heritage

The collection area of the Historical Archive was defined by (1) 1§ Act III of 2003. According to the Act, the Archive's collection comprises the documents of the former (State Security) Department III of the Ministry of Home Affairs and their legal predecessors, documents referring to the employees, secret employees and top secret employees of the Main Division, and the documents of Screening Committees, which control some prominent personalities who hold important offices or offices of public confidence and posts that form public opinion.

The collection of the Historical Office (founded in 1997) and the Historical Archive (since 2003) is legally defined as sets of documents which came into being through State Security Organizations that existed in different eras and worked separately from each other concerning structure and document handling. After taking over, exploring and basically sorting the material, it was possible to create a homogenous archive system into which the documents of the State Security Organizations between 1944 and 1990 could be arranged. The main sections of this newly formed archive system, with a detailed classification of the documents, can be found in the section, "Division and File Inventory". These are divided into sections.

Section 1

Documents of State Security (State Defence) Organizations and their operations:

(1942) 1945-1990 (1997)¹ – volume: 546.22 linear metres

This section includes the separately maintained functional documents of organizational unity formed by the former State Security Organizations. There are independent series within this section containing the documents of the Central State Security Organizations that worked in different periods, of the State Security Organizations within different police stations, and organizational units with similar tasks inside the Ministry and Defence and the Hungarian People's Army.

¹ The numbers in brackets signify those years of which there are some documents in the archive, but only sporadically. In this case, for example, most of the files are from the period 1945-1990, but some are dated from 1942, some, however, cover even the year 1997.

Section 2

State security documents that do not belong to any organizational entity:

(2000) – volume: 729.71 linear metres

In this section there are sets of documents created and treated by several different State Security Organizations and organization entities or documents specially treated in certain respects.

The main sets of documents in this section are the former so-called "Closed Archives", which contain, first of all, the documents of the show trials; different operative and network files; documents referring to internment and deportation; informational reports for the Ministry of Home Affairs; and documents about staff, finance and employment.

Section 3

Network, operative and investigation files:

(1912) 1945-1990 (1993) – volume: 2424.47 linear metres

This section contains the majority of the documents of the Archive, files about investigation, operation, work, enlisting, about flat investigation and information. Beside the files that were handled by the central operative files, a separate series of files contain documents of the former Main Division III/I (Intelligence Service).

Section 4

Collections:

(1910) 1945-1990 (2003) – volume: 72.80 linear metres

This section comprises different background materials used by the former State Security Organizations; a collection of decrees in connection with State Security; documents concerning different extreme right-wing organizations; a collection of items handed over to the Archive for safe custody; and contemporary State Security training films.

Section 5

Documents after the year 1990:

1994-2005 – volume: 45.21 linear metres

In this section there are documents of the so-called “Screening Committees”, which controlled some prominent personalities who held or hold important offices or offices of public confidence and posts that form the public opinion.

The majority of the documents in the Archive are mainly the documents of the Main Division III/III (the so-called counter interior reaction group) that were kept in the legal predecessor the Historical Office after it was founded in 1997. With effect from February 1, 2000, contemporary regulations obliged the National Security Organizations to hand over to the Archive all the documents that had ceased to be of interest to them in respect of management. It was then that the collection was expanded with the documents of Main Divisions III/I (Intelligence Service), III/II (Counter Intelligence Service), III/IV (Counter Military Service), those of III/V (special employees) and other internal documents relating to State Security.

The documents that are still classified as secret and are still kept in the National Security Services must be checked every three years by the secret owners. If these documents cease to be classified secret, they will also be transferred to the Historical Archive.

The Historical Archive is continuously receiving and processing the documents that can still be found with other organizations and, after necessary archive processes and according to legal regulations, the Institute wants to make them available for scientists or the citizens concerned.

At the end of 2008, the quantity of documents kept in the Historical Archive was 3818.41 linear metres. More than two thirds of this is documents classified in different types of files. The rest is made up of functional documents of the former State Security Organizations and the collections, background documents and contemporary registers created and used by those organizations.

The Archive maintains mainly paper-based records, but we also have large quantities of contemporary security microfilm copies of investigation and operation files and Daily Operation Information Reports.

Processing the different (investigation, operation, work and enlisting) files that make up the majority of documents kept in the Historical Archive consists of three steps:

- in order to serve citizens and researchers more effectively, we put the personal data of the people the files are about into our database;
- we digitalize page by page the most often used files that are in bad physical condition. We keep the contents on the central database, making preparatory work inside the Institute easier and thus saving the original documents; and
- during the thematic exploration of these files all the information that may help us find the given document later, description of context, data concerning when and how the documents came to being, are recorded on our central database.

Within the legal frames, our researchers have access to the central database of the Historical Archive and other electronic research aids both in the Researchers’ Room of the Archive and on the Internet.

5. Regulations Concerning Access to the Files and Legal Restrictions

1. You can have access to the documents kept in the Archive if you are:

- a. the person in the files or a close relative after the person’s death,
- b. a scientific researcher,
- c. anybody, or
- d. another state institution.

The law makes a difference whether the person in the files is

- the person observed,
- an employee,
- a network person,
- an operative link, or
- a third person.

The person observed is a person who was the target of State Security activity, i.e. the victim.

An employee is somebody who was employed by State Security Organizations as a member of either the secret or the public staff.

A network person is an informer who, according to the document, meets at least one of these specifications: they sent secret reports under a cover name, signed a declaration of enlisting, their activity acquired advantages.

An operative link is a person who helped the work of State Security Organizations occasionally in a special case; or a person who gave continual information as a volunteer without signing a declaration of enlisting.

A third person is anybody who does not fall into any of the above mentioned categories.

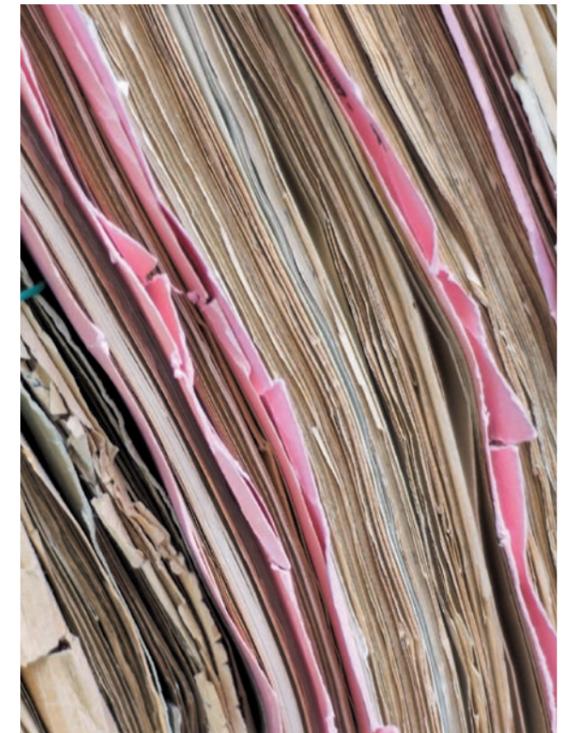
2. Access to the Files

The documents contain the names and posts of lots of people of *executive power* (e.g. detectives, policemen, judges, attorneys, party secretaries, KISZ /communist youth organization secretaries). These names are not kept anonymous as their names and positions are public data if not data of public interest.

The person observed can have access to the most data. They can read the documents kept about them and the documents necessary to identify the network person, operative link and employees who were in connection with their person.

A third person can find out about the data kept about them. After the death of the person observed or a third person these rights are the close relatives’ legal due. A close relative is a relative in direct line, a sibling, a spouse or life partner if the marriage or the partnership existed both at the time when the document was made and at the time of the person’s death.

An employee, a network person and an operative link can have access only to the data that is in connection



with his person. Thus an employee is not entitled to see what they asked the victim during questioning, or whom and how they enlisted. Similarly, a network person cannot look at a report they made, as that is not their own data but the ‘fruit’ of their activity. Relatives of these people do not inherit the right to access. This rule has already caused conflicts. Namely, it must be separately decided in each case to which category the person involved belongs. A person may have been an employee in one period of their life and a person observed in another. It is more frequent for somebody to have been a person observed and an informer at the same time by the criteria of law. After the person’s death their relatives will get the documents that prove that they was a victim and then it may be read in a scientific publication that the person was an informer. (Regulations concerning researchers will be discussed later).

The people affected can get a free copy of all the documents they are entitled to see. In these copies we have to make anonymous all the data they were not entitled to see.

Anybody can have access to and publish the documents that do not contain personal data. According to the main rule, personal data can only be made public after the time of protection expires. The time of protection is 30 years after the person's death; if the date of death is unknown, 90 years after the date of birth; if this is also unknown, 60 years after the date of the document. In the case of some especially sensitive personal data the time of protection is lengthened to 60, 90, or 120 years. This data concerns race, nationality, minority, or ethnic status, religion or other ideology, state of health, obsessions and sexual life. Written permission of the person affected can make exceptions from this main rule.

Within the above mentioned frames, anybody who turns to our Institute can not only look at one particular document but they can carry out scientific research as well. Research is free, but the copies of the documents must be paid for. Data that has been legally made public or that is in connection with public personalities are exceptions: anybody can have access to it.

Special rules refer to *public personalities*. No difference is made whether the person is a public personality now or used to be one. Anybody who has or used to have executive power, has been nominated for such position or has the task of forming the political public opinion is included. Anybody can turn to the Historical Archive to ask for data concerning the possible State Security past of such people; to find out whether the documents show the legal criteria of their being an employee, a network person or an operative link. In such cases, the Historical Archive has to ask the person affected whether they admit their being a public personality. This question must be put whether there are any documents about the person's State Security past or not. (Otherwise the question asked would mean a judgement). If the person admits to their being a public personality, the Archive will answer the enquiry. If the person does not admit it, we have to deny the answer. The person who came up with the request may go to court and then it is the court's decision whether the person affected is a public personality or not. The Archive will give or deny the answer according to the sentence.



Scientific Research

Researchers can have access to the widest range of documents. They can see any documents, with the exception of some special data, even within the time of protection. A scientific researcher is a person with a research licence from a board of trustees (with members delegated by scientific institutions). Conditions under which such a licence can be obtained and the frames of the licence are defined in the Act of Archives and the Act that founded the Historical Archive. In this respect, the citizens of the European Union and the states involved in the European Economic Agreement have the same rights as those of the Hungarian citizens. A detailed research plan, a list of publications and a so-called Statement of Support must be attached to the request for a Research Licence. A Statement of Support is issued by a research institute on the basis of the detailed research plan. If the Licence of Research is denied the researcher may go to court.

Citizens of other States can get a Licence of Research if the Committee of European Communities has stated that the given State will secure the proper protection of personal data. In such a case, a Statement of Support can only be issued by the respective institute of the Hungarian Academy of Sciences.

The scientific researcher must give a statement that they will keep the rules of data protection while handling or publishing the data. This is necessary because, in order to understand and learn the past, a scientific researcher can have access to a lot more data than can be made public. The Law of Data Protection contains the rules of making data public. According to this law, the institute or the person who carries out scientific research can only make personal data public if the person affected has given their consent or it is crucial from the point of view of showing the results of researching historical events.

The restrictions are as follows: before the time of protection expires (which is 30-90-60 years for researchers), researchers can have access to data concerning race, nationality, minority, or ethnic status, religion or other ideology only with permission from the Board of Trustees. Data concerning state of health, obsessions and sexual life can be subject to research only after the time of protection expires. The person observed or a third person may forbid the research of their personal data for no longer than 90 years after the date of the documents. Employees, network people and operative links have no such rights. All the other data is a free subject of research.

Courts may indirectly ask the Archive for data if it is needed for their tasks.

Other State Institutes can only have access to the documents kept in the Historical Archive if they have the approval of the National Security Committee of Parliament in advance, or in urgent cases they must inform the Committee after the event.

Access to the documents is free for everybody, but copies of the documents must be paid for by researchers, scientific researchers included.

6. Co-operation

The Historical Archive regularly co-operates with organizations and institutions in Hungary and abroad. This co-operation is as follows.

1. The main aim of *co-operation* with Hungarian archives is to search for documents concerning State Defence and State Security that are kept in other institutions in order to record them on a modern data carrier and to make them easily accessible for scientific researchers. An outstanding step in this endeavour was the *digitalization of the trial of Imre Nagy, Prime Minister of the 1956 Hungarian Revolution and War of Independence, and his companions*. We carried out this task together with the Hungarian National Archive and the Interview Collection of the National Széchényi Library. The material was introduced in June, 2008.

To preserve valuable documents that are still classified secret and kept by the National Security Services although they are within the jurisdiction of the Historical Archive we have signed Agreements of Cooperation with the National Security Services.

To make data supply from documents that refer to former employees of the Ministry of Home Affairs easier, we signed an agreement with the Ministry of Home Affairs in 2005 (and another one in 2007, with its legal successor, the Ministry of Justice and Security). The agreement was sanctioned by the National Security Committee of Parliament.

2. In July, 2004, the leaders of the similar institutes in Germany, Poland, the Czech Republic, Slovakia and Hungary wrote a letter to Romano Prodi, then President of the European Committee. In this letter they called his attention to the problems of handling and processing former State Security documents.

On April 11, 2005, based on the international contract between the Government of the Hungarian Republic and the Government of the United States of America, an agreement was signed between the Holocaust



Museum of the United States of America and the Historical Archive. Thus a program started that has been going on up to the present day. In this program the American party can use the documents kept in our Institute to process, digitalize and hand back the data which is about the 1938-1945 persecution and the limitation of rights concerning Hungarian Jews, or others because of belonging to an ethnical or religious minority or certain political groups.

In November, 2005, we signed an Agreement of Co-operation with the Slovakian Institute of National Memory in Bratislava. The aim of this agreement was to co-ordinate research in both countries and to uncover documents about our countries in both institutes.

In November, 2008, an Agreement of Co-operation was signed in Budapest between The Institute to Research Totalitarian Regimes, which is based in Prague, The Prague Archive of State Security and the Historical Archive. The agreement comprises common scientific programmes, organising scientific conferences and meetings, editing common

publications and sharing experience gained while processing archive material.

On December 16, 2008, the representatives of the archives in Germany, Bulgaria, Poland, Romania, Slovakia, the Czech Republic and Hungary that keep documents concerning secret police signed an agreement in Berlin. According to the declaration of intent the *European Network of Institutes Handling Secret Police Documents* will mean tight co-operation among the states that signed the agreement. Thus they can present a united front in questions concerning the publicity of documents, the freedom of research and while disclosing the sins of the previous regime and the activity of secret services. According to the agreement the seven institutes are in regular touch through a co-ordination group and the presidium, which is changed every year, organizes conferences at regular intervals.

3. We arranged an international conference entitled: "Reaction to the 1956 Revolution in the Countries of the Soviet Bloc". Our partner in organising the

conference was the *Documentation and Research Institute of the History of the 1956 Hungarian Revolution* – this event was part of our co-operation. The conference was opened on September 22, 2006, by Dr. Katalin Szili, President of Parliament.

On October 3 and 4, 2007, we celebrated the tenth anniversary of the foundation of the Historical Archive. To commemorate the event we organised an international work conference under the title: "Recent Past Dragged along – Experience while Exploring Secret Service Documents". The conference was opened by Dr. Katalin Szili, President of Parliament. Representatives of similar institutes in Germany, the Czech Republic, Poland, Romania and Slovakia also took part in the conference and they delivered lectures about their own experiences.

In October, 2008, we organised an international conference in Pécs with lecturers representing our fellow institutes abroad. The topic of the conference was: "Those Who Watch and Those Who Are Being Watched – How useful secret agents documents are from the point of view of social history", and the co-organising institutes were *The Pécs Committee of the Hungarian Academy of Sciences and The Historical Institute of the Faculty of Arts of the University in Pécs*.

To sum up, we can state that during the ten years of its existence, the Historical Archive has formed a wide range of relationships with institutes and researchers that deal with keeping and handling former State Security documents both in Hungary and abroad. The above mentioned facts, which are far from being complete, show that our institute plays an important role in Hungarian scientific public life and we have regular business contacts with similar institutes in neighbouring countries.

The Institute of National Remembrance Commission for the Prosecution of Crimes against the Polish Nation

Poland

1. The Establishment of the Institute of National Remembrance

The Institute of National Remembrance – Commission for the Prosecution of Crimes against the Polish Nation (IPN) was established by the Polish Parliament by virtue of the act of December 18, 1998. Its actual activity began in the middle of 2000, the moment the first President of the IPN had been chosen by the Sejm. This post was taken by Leon Kieres, a Professor of Law, who held this post till December, 2005. From December, 2005, the President of the IPN has been Janusz Kurtyka, a Professor of History.



PhD Janusz Kurtyka, President of the Institute

The resolution on the establishment of the IPN, made by the coalition of parties, stemming from the Solidarity movement (which took over the power from the post communist coalition) and having the majority in the Polish Parliament, was connected with an attempt to solve the problem of documents left after the Communist State Security Bodies dissolved in

1990. This concerned the establishment of an institution which was apolitical and independent of the government. The institution would take control over the archives of the Communist political police which were controlled by the Secret Service. It would also make the documents available to parties who were objects of invigilation. Earlier, citizens could not acquaint themselves with their own “files”. The documents collected were to be used in order to check the past of people who held public positions. The control concerned their co-operation in the past with Communist Security Service. However, a separate office was responsible for the vetting procedures. It was called the Public Interest Spokesman’s Office and was created in 1997.

2. Goals and Remit of the Institute of National Remembrance

The Institute of National Remembrance is a special institution having the functions of state and justice administration, of an archive, a scientific institute, an education centre and (since 2007) of a body which conducts vetting proceedings.

The Institute of National Remembrance includes the following four substantial departments which are responsible for its main actions.

The Office for the Preservation and Dissemination of the Archival Records (Biuro Udostępniania i Archiwizacji Dokumentów) collects, keeps, secures, elaborates on, records and makes documents

available. These are the documents of the State Security Service (Security Police, Civic Militia, civilian intelligence and counterintelligence, military intelligence and counterintelligence, among others) created between July 22, 1944, and July 31, 1990, and also the documents of the Security Service of the German Third Reich and the Union of Soviet Socialist Republics, which emerged after September 1, 1939.



The Public Education Office (Biuro Edukacji Publicznej) conducts activity in the following three fields: scientific research, education and publishing. Within the scientific activity there are many research and documentary projects concerning the history of Poland between 1939 and 1989; various seminars and conferences are organised. The goal of the education activity is to popularise knowledge and to develop historical awareness of the society thanks to, among others, exhibitions, lectures, public debates, Internet portals and also training for teachers and students. The IPN has so far published more than 350 books, including collections of documents, monographs, proceedings of scientific conferences, biographical dictionaries, photographic albums and educational materials. The IPN also issues three scientific periodicals and a popular scientific monthly publication designed for a wider audience.

The Chief Commission for the Prosecution of Crimes against the Polish Nation (Główna Komisja Ścigania Zbrodni przeciwko Narodowi Polskiemu) is an investigating department of the IPN and simultaneously is a specialised part of the public prosecutor’s office of the Republic of Poland. It conducts penal proceedings concerning the Nazi and Communist crimes, and other crimes which are classified as war crimes and crimes against humanity committed on Polish citizens and on people of Polish nationality who were citizens of other countries, between September 1, 1939, and July 31, 1990. Prosecutors of the Chief Commission conduct investigations and bring

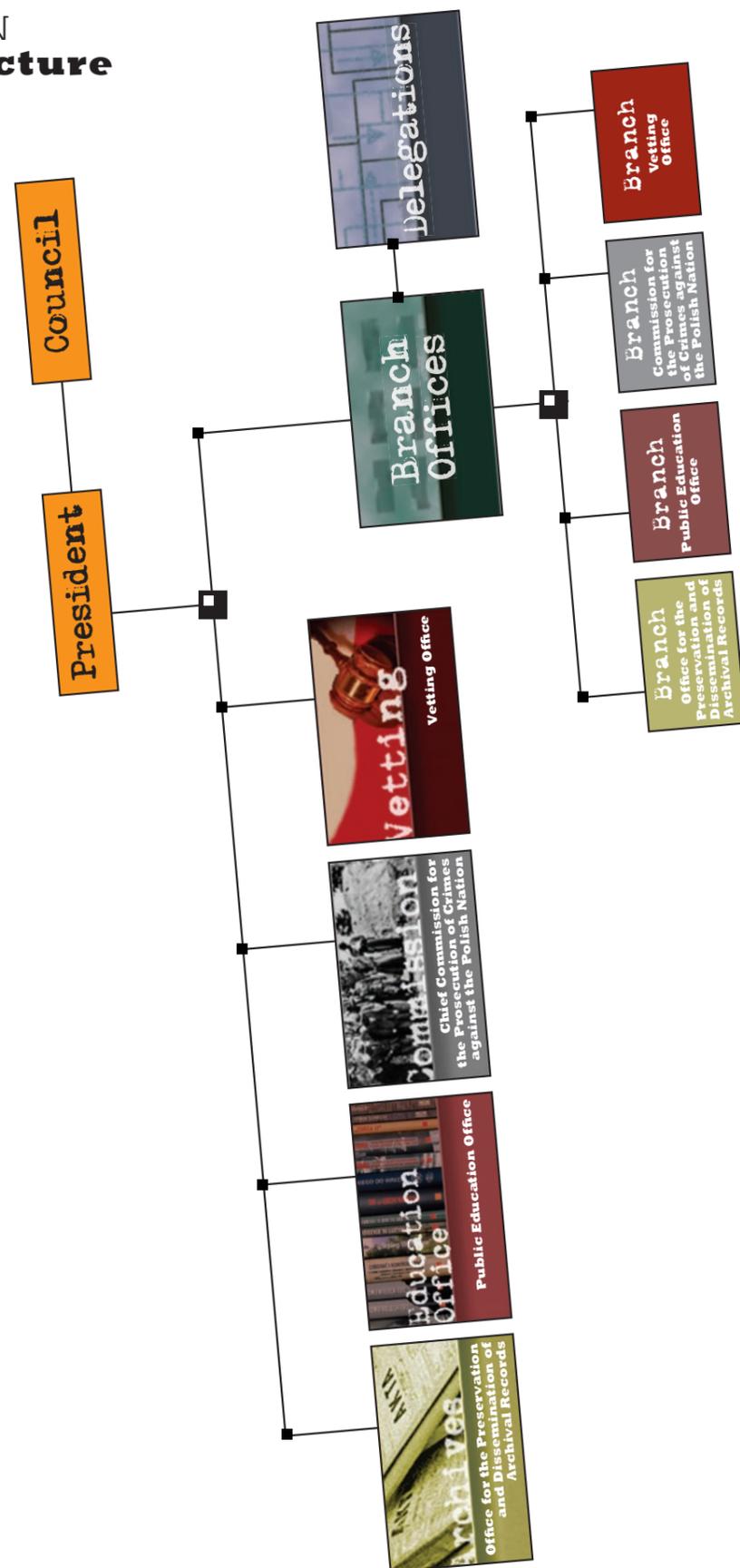
ills of indictment to courts. 371 people were indicted in the period between 2000 and the end of 2008. The Chief Commission continues the activity of the Chief Commission for the Investigation of German Crimes in Poland (Główna Komisja Badania Zbrodni Niemieckich w Polsce) which (under various names) existed since 1945 and was incorporated to the IPN when the latter was being created.

The Vetting Office (Biuro Lustracyjne) researches the accordance with the truth of declarations of people who held public positions determined by the law or of people who competed for these positions. The declarations concern people’s co-operation with the State Security Service and their work for these bodies between July 22, 1944, and July 31, 1990. In case of any doubts concerning the authenticity of the vetting declaration, the case is brought to the common court of law which, in the case of a lie, can deprive the vetted person of their public function. Vetting procedure runs according to the rules of penal proceedings, and the prosecutor of the Vetting Office fulfils the function of a public prosecutor. Information on the content of State Security Bodies’ records concerning people who hold the most important public functions are also published on the Internet. What is more, the Vetting Office publishes catalogues on the Internet with data concerning the officers of the State Security Service, people who held managerial posts in the Communist state, in the Communist Party and in its ally parties. The data also concerns people (with their consent) who were invigilated and under surveillance of the State Security Service. The IPN obtained its vetting functions in March, 2007, and this was also when the Vetting Office was established. Its activity is regulated both by the Act on the IPN, and the Act on the Disclosure of Information on Documents of State Security Agencies from the Years 1944-1990 and the Content of such Documents of October 18, 2006.

3. Legal Status and Organisational Structure of the Institute of National Remembrance

With respect to the legal status, the Institute of National Remembrance – Commission for the

IPN structure



Prosecution of Crimes against the Polish Nation is a chief state administrative body. The Institute of National Remembrance is managed by the President who is independent from other State authority bodies. The President of the IPN is chosen for a five years period by the Sejm with the majority of 3/5 of votes with the Senate's consent. The President gives both houses of Parliament information on the activity of the IPN annually.

The Council, which is the consultative-control body of the Institute of National Remembrance, is composed of eleven members appointed by the Sejm, the Senate and the President of the Republic of Poland for seven years. The main function of the Council is to conduct an open competition for the post of the IPN President. The winner of the competition is presented to the Parliament for approval. The IPN Council also takes the stand in the most important issues concerning the activity of the Institute.

The territorial structure of the Institute of National Remembrance is composed of the Headquarters in Warsaw and of eleven Branch Offices based in the largest Polish cities. There are also Delegations subordinate to the Branch Offices in seven smaller centres. The organisational structure of the IPN Branch Offices is divided into four substantial departments: archival, scientific-educational, investigating and vetting.

The President of the IPN appoints the directors of the Headquarter Offices, directors of Branch Offices and heads of the IPN Delegations. Exceptionally, the directors of the Chief Commission for the Prosecution of Crimes against the Polish Nation and the Vetting Office are appointed by the Prime Minister on application put forward by the Prosecutor General in agreement with the President of the IPN. The Director of the Chief Commission is also one of the deputies of the Prosecutor General.

The Institute of National Remembrance, as a state office whose existence and activity is regulated by the act of Parliament, is financed from the national budget. The IPN budget amounted to 209 million zlotys for the year 2009 (about 50 million Euro). At

the end of 2008, the Institute employed 2,145 people (including 139 prosecutors), 40.7% of whom worked in the archival department, 12.4% in the public education department, 10.2% in the vetting department, 8.5% in the investigating department, and the others worked in administrative and technical services.

4. Archival Resources of the Institute of National Remembrance

The archival holdings of the Institute of National Remembrance includes a total of 87,220 running metres of records. The IPN Archives are the biggest archives in Poland (to compare: the overall stock of the common archives subordinate to the Ministry of Culture and National Heritage includes 263,133 running metres of records). 35% of the records (30,336 running metres) are held in the Central Archives in Warsaw and the remaining part in the Offices and Delegations of the IPN.

The IPN Archives gather documents created between 1944 and 1990 by the State Communist Security Bodies (the Ministry of Public Security and Ministry of Interior, including the foreign intelligence and counterintelligence, the Civic Militia, military intelligence and counterintelligence, among others; see article 5 of the Act on the IPN) and also prosecutor, court and prison records concerning the people victimised due to political causes. At the moment of the IPN's establishment, the archive of the former Main Commission for the Investigation of German/Nazi Crimes in Poland was included in the archival stock of the IPN. The donations and collections of private people, albeit small, are valuable parts of the IPN Archives. They are a precious supplement of the gathered collections. There are also records on deposit in the IPN Archives concerning the participation of Polish Armed Forces in the Warsaw Pact. These records were transferred there from the General Staff of the Polish Armed Forces on the basis of the decision of the Minister of National Defence.

The process of completing the IPN Archives lasted mainly between 2001 and 2005. It has, however, not ended. Records were taken from several dozen



institutions: civil and military Secret Service, ministries (mainly Ministry of Interior and Administration and the Ministry of Justice), Police and Border Guard Offices, courts, prosecutor offices and other archives. It is common knowledge that between 1989 and 1990, the operational records of the Security Bodies were intensively destroyed, this concerned mainly the files of secret collaborators of the Security Service and documents of the Military Internal Service (Wojskowa Służba Wewnętrzna), however there is no data that would allow the competent determination of the scale of damage.

There are documents preserved on all possible carriers in the IPN Archives. Apart from the most often used paper records, there are microfilms and microfiches (over 400,000 pages), photographs (over 3.5 million), films (over 1,000), audio tapes (several hundred), and also digital carriers. One of the biggest uniform groups of records is the passport records of citizens (44,000 running metres) and various kinds of card files (10,000 running metres).

The biggest threat to the life of the collected archives is the acidification of paper, which causes higher

fragility of documents and photographs. In 2007, the digitalisation of the card files began, and in 2008, the digitalisation of record materials, microfiches and microfilms. So far, film and digital materials have been fully maintained and digitalised. Digitalisation is mainly a way of preserving the documents. Current regulations do not foresee the publication of documents on-line on the Internet.

5. Rules of Making the Documents Available

Access to documents of the State Security Bodies collected in the IPN Archives is allowed in a few modes, depending on the applicant and on the kind of documents.

1. Each person may gain an insight into the documents that concern them. They can also include in them their own supplements, corrections and explanations. Some restrictions apply to former employees and collaborators of the State Security Bodies, and in this mode, documents “created by the applicant or with his participation within the

framework of activities conducted in relation to his work and service on the State Security Bodies or in relation to activities conducted as a secret informant or helper in the operational acquisition of information” are not made available. In case of the death of the interested person, their entitlements are transferred to their relatives (see articles 30–35b of the Act on the IPN).

2. Each person may gain an insight into the personal documents of employees or officers of the State Security Bodies. The former employees and officers of the State Security Bodies may receive copies of personal documents concerning them (see article 35c of the Act on the IPN).
3. Each person may gain an insight into documents of the State Security Bodies concerning people who held public functions, determined by the act, at present and in the past, since 1989 (their list includes posts starting from the President of the Republic of Poland, and ending with village mayors, mayors and city mayors), but also people who held managerial posts in the authorities of the Communist State, in the Communist party and in its ally parties (see articles 22–28 of the Vetting Act).
4. Documents are made available in order to conduct scientific research and for journalistic purposes (the condition is an authorisation from the publisher or the editorial office). The Act on the IPN does not foresee any restrictions in making the documents available for these purposes (see article 36 of the Act on the IPN).
5. Documents may be made available for State bodies in order to realise tasks determined by the law (see article 36 of the Act on the IPN). Institutions which use the documents in this mode are, among others, the following: the Office for the Veterans and Repressed Persons (Urząd ds. Kombatantów i Osób Represjonowanych), the Council for the Protection of the Memory of Struggle and Martyrdom (Rada Ochrony Pamięci Walk i Męczeństwa), state protection services, courts and prosecutor offices, and the Pension Office of the Ministry of

Interior and Administration (Zakład Emerytalno-Rentowy Ministerstwa Spraw Wewnętrznych i Administracji). The Institute of National Remembrance makes available not only the integral documents, but it also discloses other information from the documents, i.e. by providing certificates or expert opinions based on the documents, for example, for the purposes of official proceedings concerning the granting of a veteran status or a persecuted person status. In these cases the role of the IPN is only auxiliary.

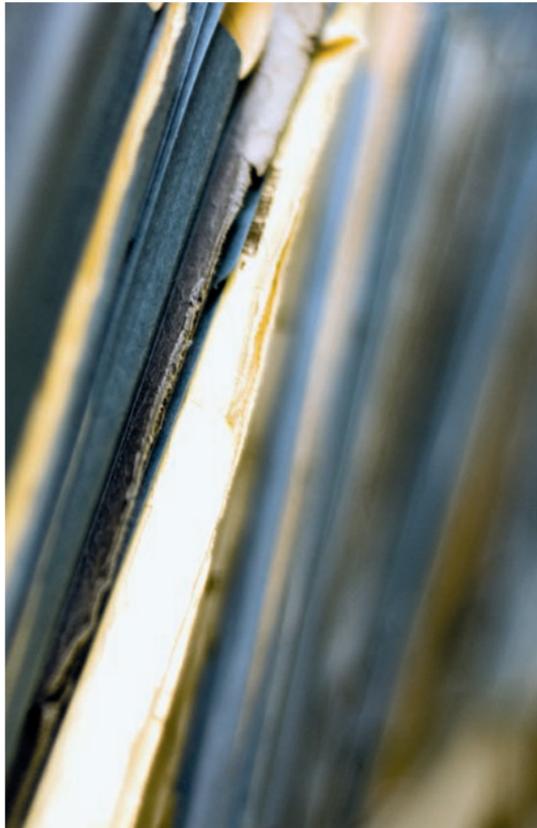
6. Furthermore, each person can go into the records of the vetting case which ended with a valid ruling and records of vetting proceedings are also deposited in the IPN Archives (see article 18 of the Vetting Act).

Regulations do not foresee any differences in access to documents of Polish citizens and foreigners. Making the documents available is free of charge with the exception of payments for Xerox copies ordered for scientific and journalistic purposes.

Restrictions in access to some of the documents may exist in relation to reservations made by people who are concerned by the documents and in relation to the protection of state secrets.

In the documents made available to people mentioned in these documents, the personal data of third persons are rendered anonymous. The procedure concerning making the documents available consists of several stages and, later on, the applicant may have access to documents which have not been rendered anonymous (see articles 30 and 33 of the Act on the IPN). Documents disclosed for scientific or journalistic purposes are not rendered anonymous.

A person who gained insight into the documents concerning them and a person who at the same time was not a former officer or collaborator of the State Security Bodies can demand that their personal data should not be available for scientific and journalistic purposes for the period of 50 years and, in the case of delicate data, in perpetuity. Data (except for delicate data) can, however, be made available if they refer to



the public activity of this person (see article 37 of the Act on the IPN).

Heads of the Internal Security Agency (Agencja Bezpieczeństwa Wewnętrznego), the Foreign Intelligence Agency (Agencja Wywiadu) and the Minister of National Defence may order that for some determined period, particular documents should not be made available at all to other institutions and people due to the safety of the state. Such a stipulation requires the approval of the President of the IPN (see article 39 of the Act on the IPN).

6. Co-operation with Other Entities

The Institute of National Remembrance co-operates widely with scientific institutions, civic organisations (including veteran organisations) and partner institutions at home and abroad. Close relationships are

also maintained with the media, both the press and electronic media. The IPN also has working contacts with other archives and state institutions.

Scientific co-operation also includes the organisation of conferences, undertaking of common research projects and common publishing projects. Numerous educational and popularising projects are undertaken in co-operation with partner institutions.

The IPN has concluded agreements with many Polish universities and foreign institutions including the German Federal Commissioner for Records of the State Security Service of the former German Democratic Republic (Urząd Pełnomocnika Federalnego ds. Dokumentów Służby Bezpieczeństwa byłej NRD, Germany), the Nation's Memory Institute (Instytut Pamięci Narodu, Slovakia), the Institute for the Study of Totalitarian Regimes (Instytut Badania Reżimów Totalitarnych, the Czech Republic), The National Council for the Study of the Securitate Archives (CNSAS, Romania), The Institute for the Investigation of Communist Crimes (IICCR, Romania), the Security Service of Ukraine (Służba Bezpieczeństwa Ukrainy) and the Institute Yad Vashem (Israel).

There are several hundred institutions with which the IPN co-operates on a smaller or larger scale in many different areas.

7. Prospects for the Institute of National Remembrance in the Light of Public Debate

Public debate on the Institute of National Remembrance began officially at the moment when the Institute was established (though it started even before the IPN was formally created), and still continues with more or less intensity. The debate concerns every area of IPN activity: the scope and the manner in which documents are made available, directions of scientific research and its educational message, policy on communist crimes prosecution, and the manner in which vetting proceedings are carried out. In Poland, the most controversial is the issue concerning the disclosure of identities of secret collaborators

of communist State Security Bodies. Apart from disputes arising from genuine differences in views on whether and how secret collaborators should be exposed and treated, there are also many myths and misunderstandings in that area. In colloquial speech the term “vetting” (*lustracja*), and some media often make it sound far more negative by writing about “the wild vetting” (*dzika lustracja*), refers to all cases in which the identities of secret collaborators of the State Security Service are disclosed, regardless whether in the process of making the documents available to invigilated persons (who are fully entitled to learn the names of the informants), scientists or journalists, or as the result of “vetting” *sensu stricto* regulated by the relevant provisions of law.

Since 2000, the Institute of National Remembrance has been, for different reasons, both praised and criticised by all political forces (the post communist party maintains a consistently negative stance on the IPN). The Act on the IPN has also already been amended several times. Despite that, it seems that the Institute of National Remembrance has become a permanent element of public life in Poland. Even though the announcements of further changes in the functioning of the Institute are constantly appearing in public debate (though there have been no specific projects so far), it seems unlikely that in the close future the IPN will be dissolved or its tasks significantly modified.

The National Council for the Study of the Securitate Archives

Romania

1. Founding History

The National Council for the Study of the Securitate Archives (*Consiliul Național pentru Studierea Arhivelor Securității* – CNSAS) is the official authority in Romania in charge of the administration of the archives of the former communist secret police, the Securitate. CNSAS was established in 2000, after prolonged and heated debates that involved the political, as well as the civil society in post-communist Romania.

From among the six countries that experienced a regime change during the revolutionary year 1989 – that is, Poland, Hungary, East Germany, Czechoslovakia, Bulgaria and Romania – only Romania was subject to a bloody exit from communism. In this respect, one should be reminded that over 1,104 people were killed and 3,321 wounded in the December 1989 revolution, of whom 944 were killed and 2,214 wounded after December 22, 1989. However, in spite of the blood that was spilled during the 1989 revolution, Romania's democratic transition proved to be tortuous and painful. The issue of unmasking the human rights abuses perpetrated by the Securitate and opening its archives to the general public emerged immediately after the 1989 regime change. During the first post-communist decade, civil society initiatives proved to be the most radical in this respect. Thus, the first attempt at introducing lustration in Romania originated in Timișoara, the city that sparked the 1989 revolution and opened the way towards a regime change in Romania. On March 11, 1990 in Timișoara, the "Proclamation of Timișoara" was issued, whose Article 8 requested the banning

of all former nomenklatura members, party activists, and officers of the former secret police from running in the next three elections. Article 8 of the "Proclamation of Timișoara" practically initiated the debate over lustration in post-communist Romania.

The "Proclamation of Timișoara" inaugurated a period of mobilization by civil society groups and organizations towards accelerating the pace of democratic transformation in post-1989 Romania. These actions culminated in the occupation of the centre of Bucharest on April 22, 1990. The area occupied by the demonstrators was declared the first "area free of neo-communism" and the round-the-clock protest, which lasted for almost two months, has been known since as the University Square phenomenon. The participants delivered anti-communist speeches every afternoon from the balcony of the University of Bucharest. Among the most important requests of the University Square demonstrators was the introduction of lustration, a principle formulated, as shown above, on March 11 in Timișoara. Time and again, the protesters requested the application of Article 8 of the "Proclamation of Timișoara." The University Square phenomenon was brutally suppressed by the authorities between June 13 and 15, 1990, and thus ended sadly in violence and bloodshed.

Former political prisoners played a paramount role in pushing for a complex solution comprising *retribution*, *disqualification* and *restitution* in dealing with the crimes and abuses of the defunct communist regime. The former political prisoners organized themselves from the very days of the 1989 revolution

into an association of the survivors of the Romanian Gulag. The Association of the Former Political Prisoners in Romania (*Asociația Foștilor Deținuți Politici din România* – AFDPR) worked in close association with political parties and other civil society organizations. Besides defending the rights of the members of the association, it had a very active role in establishing memorials for the victims of the communist terror associated with all major places on the map of the Romanian Gulag. Thus, AFDPR's scope since its establishment has been to deal with the communist past both legally and morally. From a legal point of view, AFDPR's greatest victory was the passing of the Law 187/1999, or the "Law regarding the access to the personal file and the disclosure of the Securitate as political police", by the Romanian Parliament in December 1999, after years of protracted debates. Known since as the "Ticu Law," after its main proponent, former senator of the National Peasant Party and president of AFDPR, Constantin Ticu Dumitrescu, Law 187/1999 was voted in only after years of debate.



Law 187/1999 granted the Romanian citizens, as well as the foreign nationals that were citizens of Romania after 1945, the right to access their Securitate files. Law 187/1999 created for the first time a legal framework for the study of the Securitate archives by any citizen interested in assessing "the political police activities of the former secret police in order to offer to society as correct as possible a picture of the communist period." A totally new institution, placed under the authority of the Romanian Parliament, was established in order to ensure the implementation of Law 187/1999: the National Council for the Study of the Securitate Archives (*Consiliul Național pentru Studierea Arhivelor Securității* – CNSAS), which was destined to take over the files of the former secret police from the agencies that took care of them after the 1989 regime change.

2. Legal Mandate and Mission

From its establishment, the major objectives of the CNSAS have always been:

- 1) to ensure the free access of individuals to their personal files produced by the former Securitate during the period March 1945 to December 1989;
- 2) to disclose the former agents and informal collaborators, as well as to expose the repressive actions of the former communist secret police in accordance with the rule-of-law principles, and thus enabling lustration; and
- 3) to develop research and educational activities aiming at disseminating accurate historical information about the repressive actions of the Securitate and their consequences on Romanian society.

Under Law 187/1999, the Board of the CNSAS (the Collegium) was empowered to check holders of, and candidates for, public offices and assess whether they were involved in the activities of "the Securitate as political police." The concept of "political police" (*poliție politică*) was defined by Law 187/1999 in order to apply lustration, understood as conditioning the access to public offices on certificates of morality based on the archives of the former communist secret police. The principle that has stayed as the basis of Law 187/1999 is that of *individual responsibility* and not that of collective guilt based on a simple association of an individual with the former Securitate. Thus, the Romanian law focuses on individual deeds and "proof beyond any reasonable doubt" concerning the infringement of fundamental rights and liberties.

During the period 2000 to 2005, CNSAS was confronted with major problems related to the transfer of the archives of the former Securitate to its archive. The Securitate files were transferred to CNSAS only selectively and in small numbers during the period 2000 to 2005. After the general elections of 2004, things changed tremendously. In mid-December 2005, the Romanian Intelligence Service (*Serviciul Român de Informații* – SRI) donated over 1 million files to the CNSAS. On the initiative of the current President of Romania, Traian Băsescu, elected in 2004, over the period April to August 2006, four decisions

of Romania's Supreme Council of National Defense (*Consiliul Suprem de Apărare a Țării* – CSAT) made possible the transfer to the CNSAS archive of approximately 1,555,900 files, comprising some 1,894,000 volumes. As a result, the activity of the CNSAS has gained momentum. For instance, according to the CNSAS Annual Activity Report 2006, during the year 2006 only, the Collegium of the CNSAS unmasked 270 informal collaborators of the Securitate, which represented more than the number of informers unmasked by the Collegium during the entire period 2000 to 2005.

Evolution of legal framework (December 1999 – March 2008)

Law 187/1999 defined for the very first time the concepts of *Collaborator* and respectively *Agent* of the former Securitate. The mandate of the institution was to establish if the people subject to the vetting procedure belonged to one of the aforementioned categories. A person is qualified as an *agent* or *collaborator* of the former Securitate if they infringed on the fundamental rights and liberties of others and such acts can be proved on the basis of “proof beyond any reasonable doubt” found in the Securitate files. The act of infringement on the fundamental rights and liberties of others was defined in the body of the Law 187/1999 as “political police” (*poliție politică*).

After the passing of Law 187/1999, two Governmental Emergency Ordinances were issued in order to enable the CNSAS to fulfil its mission: (1) Governmental Emergency Ordinance (*Ordonanța de Urgență a Guvernului României* – OUG) No. 149 of November 10, 2005, concerning the extension of the activity of the CNSAS, published in *Monitorul Oficial al României* (Official Bulletin of Romania), No. 1008, November 14, 2005, pp. 7-8; and (2) Governmental Emergency Ordinance (*Ordonanța de Urgență a Guvernului României* – OUG) No. 16 of February 22, 2006, regarding the amendments to Law 187/1999, published in *Monitorul Oficial al României* (Official Bulletin of Romania), No. 182, February 27, 2006, pp. 1-8.

The Emergency Ordinance No. 149 of November 10, 2005, regarding the extension of the CNSAS activity,

and the Emergency Ordinance No. 16 of February 22, 2006, regarding the amendments to Law 187/1999 introduced a series of legal regulations that modified the definitions of the terms *collaborator*, *agent*, and *political police*. Through the said Emergency Ordinances, the right to access the personal file has been extended to relatives up to the fourth grade of the file owner; the right to access their Securitate files has been granted to EU and NATO citizens; and the sphere of verifications has been enlarged in the case of Securitate agents and collaborators.

Decision No. 51/2008 of the Constitutional Court of Romania

On January 31, 2008, the Romanian Constitutional Court (*Curtea Constituțională a României* – CCR) issued a decision, Decision No. 51 of January 31, 2008, by which it declared Law 187/1999 as unconstitutional.

Current legal framework

The decision of the Romanian Constitutional Court regarding the unconstitutionality of Law 187/1999 posed difficult questions concerning the future of the CNSAS. In order to ensure the continuation of the activity of the CNSAS, the government, headed at the time by Prime Minister Călin Popescu Țăriceanu, issued an emergency ordinance that created the legal basis for the functioning of the institution: Governmental Emergency Ordinance (*Ordonanța de Urgență a Guvernului României* – OUG) No. 24 of March 5, 2008, concerning the access to the personal file and disclosure of the Securitate, published in *Monitorul Oficial al României* (Official Bulletin of Romania), No. 182 of March 10, 2008, pp. 2-10. The said Emergency Ordinance was completed and modified by Law 293 of November 14, 2008, voted in by the Romanian Parliament and published in *Monitorul Oficial al României* (Official Bulletin of Romania), No. 800 of November 28, 2008, pp. 1-4. Although the new legal framework led to changes in the activity of the institution, it did not change its mission and rationale.

As long as it operated under Law 187/1999, that is, up to the year 2008, the CNSAS had the ability to issue decisions regarding the status of agent or collaborator

of the *Securitate* for the people subjected to the vetting procedure. These decisions were taken by the vote of the eleven members of the CNSAS Collegium, based on the evidence found in the Securitate files and the applicable law (Law 187/1999). The procedure involved a hearing of the respective person and presentation of the proofs found in the Securitate files prior to the vote of the Collegium. The person had the right to contest the decision made by the Collegium; in such a situation the person had the right to a new hearing followed by a new vote by the Collegium. The decision made by the Collegium was communicated in written form to the person concerned. Individuals had the right to appeal against the decisions of the Collegium of the CNSAS and bring the case in front of a Court of Appeal. The Court of Appeal subjected the case to a secret trial in the presence of three judges, their decision being final and irrevocable. In the case that the decision of the Court of Appeal confirmed the status of agent or collaborator of the Securitate, the CNSAS had to make sure that the full name of the person was published in the Official Bulletin of Romania, Part III.

The new legislative framework, i.e. Law 293 of November 14, 2008, led to a modification of the legal status of the CNSAS. Thus, the Collegium of the CNSAS is no longer entitled to issue decisions that assess the status of a Securitate agent or collaborator for the people subjected to the vetting procedure. Currently, the CNSAS gathers, through a complex procedure of corroborating, the evidence found in the files of the Securitate in the case of the individuals subjected to the vetting procedure. When the documentation is complete, the Collegium of the CNSAS assesses the evidence under the applicable law (Law 293/2008) and decides whether the case is to be brought in front of the Administrative Section of the Bucharest Court of Appeal, which decides upon the respective person's status as an agent or collaborator of the former Securitate. For its part, the CNSAS has to ensure the publication in the Official Bulletin of Romania, Part III, of the final decisions of the Court.

The complex procedure of gathering evidence from the files of the former Securitate is carried out by

the Investigation Department. This department is in charge of identifying, assessing, and corroborating documents and information in order to establish the real identity of the collaborators and the specific activities and tasks undertaken by the Securitate agents. The Securitate collaborators are mentioned in the documents under their code names and, consequently, the identification of their real name is achieved through a series of specific investigation processes that imply connections between various files. The Securitate agents appear with their real names in the files, except for those who worked for the foreign intelligence structures of the Securitate. In their cases, in order to assess their status as Securitate officers, the Investigation Department of the CNSAS has to work closely with the present day intelligence services which possess data regarding their identity and career, and identify documents produced and signed by them.

Under the current applicable law, the CNSAS has the following main objectives.

- To ensure the right of individuals to access their personal file devised by the Securitate, which consists of: the study of the original file; the issuing of copies of the documents comprised in the file and other notes that refer to their person.
- To ensure the right of access to information of public interest by Romanian citizens who live in the country or abroad, the media, political parties, nongovernmental organizations, and public institutions and authorities, concerning the status of a Securitate collaborator or agent of officials seeking or holding public office. In order to assure the access to information of public interest, CNSAS put at one's disposal, on request, the information regarding the status of Securitate employee or collaborator of the candidates who run for public offices: president, general, local and the European Parliament.
- To conduct ex-officio verification of the people who run for, or have been elected or nominated to, public offices, such as President of Romania, Prime Minister, member of the cabinet, member

of the Romanian Parliament or the European Parliament, member of central and local administration, etc. Those who run, or have been elected or nominated to one of these public offices, apart from those who by December 22, 1989, were under 16 years of age, are requested to fill out an official form regarding their association or non-association with the Securitate structures as agents or collaborators. In accordance with the legal provisions, CNSAS has verified 52,546 people since its establishment.

- To communicate upon the request of the entitled person, the identity of the Securitate employees and collaborators who contributed with information to the completion of the respective person's files. The names of 495 people who were part of the Securitate structures or collaborated with them have been published so far in the Official Bulletin of Romania, Part III.
- To develop educational programs and activities; organize conferences, seminars and lectures, as well as exhibitions and screening of documentaries on the communist dictatorship in Romania and the role of the Securitate in supporting it; publish, primarily with the CNSAS Publishing House (*Editura CNSAS*), but also with other relevant publishing houses in Romania, the results of the scientific research it carries out in monographs, edited volumes of studies and collections of documents, as well as in the CNSAS periodical (*Caietele CNSAS*).
- To put at the disposal of Romanian and foreign accredited researchers documents and information relevant to their research topics.
- To ensure the continuation of the process of transfer of relevant archival documents produced by the former Securitate to the CNSAS archive, in accordance with applicable law, from holders of such documents, such as the Romanian Intelligence Service (*Serviciul Român de Informații – SRI*), the Foreign Intelligence Service of Romania (*Serviciul de Informații Externe – SIE*), the Ministry of Justice, the Ministry of National Defense, the

Ministry of Administration and Internal Affairs, the Romanian National Archives, etc.

Legal compensation and rehabilitation of the victims of the communist regime

CNSAS contributes to the process of legal compensation and rehabilitation of the victims of the communist dictatorship in Romania. In this respect, the CNSAS makes available to the Commission of Assessing the Status of Fighter in the Anticommunist Resistance of the Ministry of Justice certified copies of the documents regarding those people who have been convicted for political reasons, those against whom abusive administrative measures were disposed, or those who participated in forceful or violent actions against the communist regime. This procedure leads to the official awarding of the title of *Fighter in the Anticommunist Resistance*; also, based on archival documents, the people who fought against the communist dictatorship are entitled to the decoration *The Commemorative Cross of the Anticommunist Resistance*.

Research and reconstruction of the past, remembrance of the victims

The Collegium of the CNSAS actively supports the research carried out by its own researchers, as well as by external researchers, both from Romania and abroad. Up to the present, the Collegium has accredited over 1,000 external researchers who have worked on scientific articles, studies, monographs, collections of documents, as well as on their BA, MA and PhD dissertations. Moreover, the Collegium places a strong emphasis on the research activities carried out by the specialized department of the CNSAS.

The Department of Research, Exhibitions & Publications was established with the purpose of developing scientific research on the communist dictatorship in Romania and the pivotal role played by the Securitate in ensuring its survival over the period March 1945 to December 1989. The department disseminates its findings through monographs, edited volumes of studies, collections of documents, publication of relevant memoirs, diaries and witness accounts, and

organizes conferences, seminars and lectures. The main scope of these scholarly activities is the in-depth analysis of the repressive policy of the communist regime in Romania and the major manifestations of dissent and overt opposition to the regime. Furthermore, the Department places a strong emphasis on the commemoration of the victims of the communist regime and their remembrance.

At the same time, a Section of Educational Programs has been developed within the department in order to disseminate the results of the research carried out within the CNSAS and contribute to the democratic consolidation in Romania via educational projects aimed at the younger generations and teachers of history. Democracy can also be taught by exposing the human rights abuses of non-democratic regimes, as well as by remembering the courage and dedication of the freedom fighters. In this respect, the CNSAS archive contains a large number of documents related to resistance to communism, and thus a main concern of the institution is to make public the heroic deeds by individuals who opposed dictatorship.

In order to fulfil its mission, the CNSAS also engages in joint educational projects aimed at the general public. Thus, in 2008, CNSAS initiated a partnership with the Historic Research Society, an association of Bucharest history teachers, aiming at developing teaching and research on the recent past. Another dimension of CNSAS strategy directed towards the advancement of communist studies in Romania in the larger European context is to engage in projects financed from European funds.

In this respect, the CNSAS is currently developing a project entitled *Learning History through Past Experiences: Ordinary Citizens under the Surveillance of the Securitate during the 1970s and 1980s*, which is financed by the European Commission. The project involves the production of a documentary movie that bears the title *Under the Surveillance of the Securitate*, which focuses on the actions of the Securitate directed against ordinary citizens during the 1970s and 1980s. Also, a reader will be devised as part of the project and a series of domestic and international workshops will be organized.

The organization of exhibitions in partnership with Romanian and foreign institutions represents another priority for the CNSAS in order to raise the public awareness with regard to the repressive actions of the communist regime against innocent civilians. Exhibitions are usually organized as travelling exhibitions. Up to now, such exhibitions have been presented in a number of Romanian cities, such as Bucharest, Iași, Făgăraș, Arad, Timișoara, Giurgiu, Brașov, Sighetul Marmăției and Constanța. The exhibition *The Un-open Society*, for example, realized in partnership with the Romanian Cultural Institute (*Institutul Cultural Român – ICR*), was presented at the Central European University (CEU) in Budapest (December 5-15, 2007) and in the city of Szeged (February 21-26, 2008) and was well received by the general public in Hungary. The exhibition was based on more than 300 documents translated into English which contained important information regarding the repressive actions of the Securitate.

In 2007 and 2008, CNSAS co-organized the exhibition *Between the Lines*, dedicated to the Romanians who demonstrated their support for the Hungarian Revolution of 1956. It is worth mentioning that from among those who manifested their support for the 1956 Hungarian Revolution, 24 were sentenced to death and executed. One of the objectives of this exhibition was to stir up a public debate regarding the necessity of drafting a law for the cancellation of the political sentences of the communist era.

A significant corpus of scholarly works published by CNSAS researchers and employees already exists: monographs, dictionaries, edited volumes of studies, collections of documents, witness accounts and diaries (further information on the numerous works published by the CNSAS can be found on the official website of the institution). In addition, one can find on the website of the CNSAS and download free of charge, relevant official documents of the Romanian Communist Party, such as the Program of the Romanian Communist Party (1974); Declaration of April (1964); Theses of July (1971), etc. Furthermore, the CNSAS publishes a biannual professional journal, *Caietele CNSAS*, which can be accessed free of charge on the CNSAS website; once an issue is

published, the previous one is uploaded on the CNSAS website.

3. Legal Form and Structure of the Institution

Structure of the CNSAS

The CNSAS is an autonomous public authority, placed under the control of the Romanian Parliament, which administers the archives of the former communist secret police in Romania, the Securitate. The CNSAS presents activity reports annually or by parliamentary request, which are subsequently posted on its website (www.cnsas.ro). The institution is organized at a national level and is fully financed from the state's budget. Since the founding of the CNSAS, the allocated budget has been periodically revised and witnessed a constant growth in line with the development of the institution and its multiple tasks. In the last four years, the amount of the budget has been between 3 and 4 mio. €. except for the year 2007, when an extraordinary sum for capital (the building of the CNSAS) was invested.



PhD Ladislau-Antoniou Csendes, President of the Collegium

The CNSAS headquarters is located in Bucharest and the institution does not have any local subsidiaries. In terms of structure, the CNSAS comprises the following Departments: Archive (a current archive located in the main building in downtown Bucharest and a general archive located outside Bucharest);

Investigation; Research, Exhibitions & Publications; Communication; Legal; Information Management; Economic Management; and Human Resources. The number of CNSAS employees amounts to some 257 people. The CNSAS employees are mainly young people who have no connections whatsoever to the structures of the former Securitate. In terms of education, the CNSAS employees are university graduates – Legal Studies, History, Political Science, Sociology, Psychology, Public Relations, Archival Studies, etc. – many of them holding MA or PhD degrees.

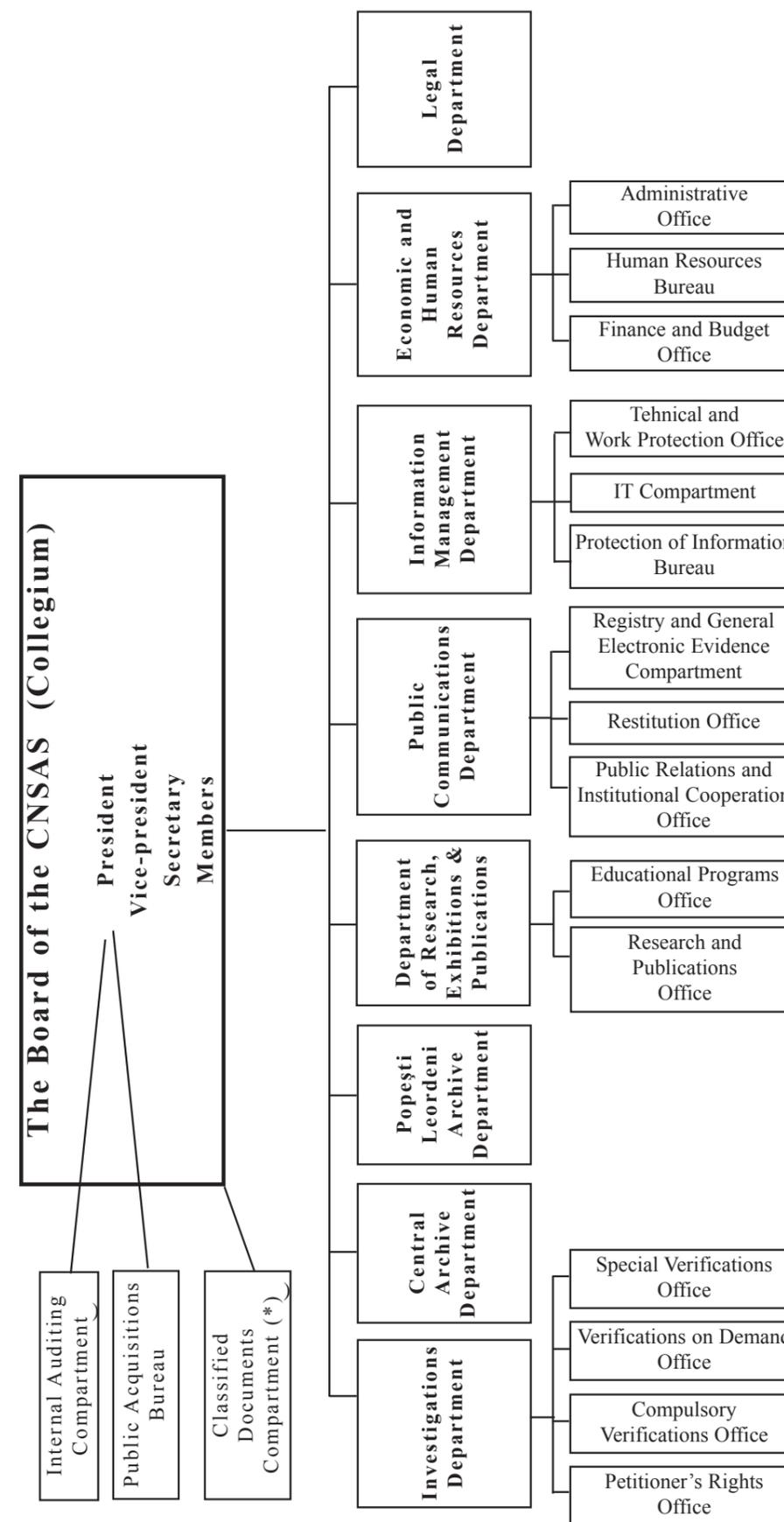
The activity of the CNSAS is conducted by a Board (the Collegium) composed of eleven members, nominated by the Romanian Parliament for a 6-year mandate, as follows: nine members are nominated by the parliamentary groups according to the political configuration of the Parliament, and two members, representing civil society, are nominated by the President of Romania and the Prime Minister, based on consultations with civil society organizations. The members of the Collegium cannot be members of political parties throughout their mandate. Former employees or collaborators of the Securitate, as well as people who have been involved in criminal acts, are prohibited from working for the CNSAS.

4. Delivery Status

CNSAS is one of the major archive holders in present day Romania. Its holdings contain classic paper files, microfiches, audio and video materials, as well as microfilms. The main corpus of documents consists of over 1,800,000 files (2,300,000 volumes) produced by the former Securitate, which are organized as follows:

- 1) surveillance files that pertain to the people who were under the surveillance of the Securitate;
- 2) collaborators' files that pertain to the people registered as collaborators of the Securitate;
- 3) documentary files regarding specific problems, e.g. "bourgeois" political parties, religion, art and culture; press and censorship; or listeners to foreign radio stations;
- 4) files transferred from the Foreign Intelligence Service of Romania (SIE) which are usually

The National Council for the Study of Securitate Archives (CNSAS)



*) Subordinated to the Head of the Security Structure of CNSAS

- microfilms of documents regarding operations the Securitate carried out abroad;
- 5) files pertaining to the correspondence fund, which are generally internal administrative documents of the Securitate; and
 - 6) manuscripts, i.e. original manuscripts confiscated by the Securitate.

The documents from the CNSAS archive have been transferred from the institutions that took them into custody immediately after 1989, of which the most important are: the Romanian Intelligence Service (*Serviciul Român de Informații – SRI*), the Foreign Intelligence Service of Romania (*Serviciul de Informații Externe – SIE*), the Ministry of Justice, the Ministry of National Defence, and the Ministry of Administration and Internal Affairs. The process of appraisal and transfer of the documents produced by the Securitate was a protracted and difficult process that spanned over a long period of time from 2000 to 2009, and it is still going on.

In terms of the structure of the CNSAS archive, 70% of the holdings consist of written documents in typed and handwritten form; 25% consists of microfilms; and 5% consists of audio and video materials. Recently, i.e. in 2008, the Romanian Intelligence Service (SRI) transferred a corpus of audio and video material recorded by the former Securitate to the CNSAS archive as follows: 505 audio cassettes, 26 video cassettes, 21 film reels and 57 magnetic recorder tapes. The importance of the microfilms should be emphasised once again. A significant number of files were copied on microfilm. Therefore, there is still a chance of recuperating paper files that were not preserved in the Securitate archive due to their existence on microfilm. According to a CNSAS internal evaluation, in approximately 50% of the cases, a copy of a paper file was kept on microfilm.

Intentional or accidental destruction of Securitate files also occurred during the 1989 revolution in Romania. An extreme situation in this respect occurred in the city of Sibiu, where the archive of the Sibiu Securitate branch was burned down during the 1989 revolution. Another incident was reported in early 1990, when Securitate documents partially destroyed by

fire were discovered in the village of Berevoiești. Parts of these documents were recovered, then scanned, and are presently kept in the CNSAS archive.

The documents in the CNSAS archive are generally legible, though minor problems exist in the case of those documents kept in improper conditions or those which are of some 50 years old. The documents transferred from the Foreign Intelligence Service (SIE) are on microfilms and 60% are legible. Beginning in 2006, CNSAS initiated the process of digitizing its archive, which has become a priority of the institution. This process aims at putting the paper files into digital form, thus making the processing of documents easier and faster, and at the same time contributing to the conservation of the paper documents. This process, which is well under way, will be continued at a more rapid pace in the near future.

5. Access to the Files and Legal Conditions for Dealing with the Files in Public

The access to an individual's personal file, as well as to documents and information that refer to the respective person, is permitted to any Romanian or foreign citizen who has held Romanian citizenship after 1945, and to any EU or NATO national, and implies the direct study of the file and the issuing of related copies. A person, subject of a file from which it results that they have been under the surveillance of the Securitate, has the right, upon request, to find out the identity of the Securitate employees and collaborators who have contributed with information to the completion of the respective file. Beneficiaries of these rights are the surviving spouse and the relatives, up to the fourth grade, of the deceased person or their legal heirs.

The CNSAS issues copies of the documents produced by the former Securitate on the name of the respective person regardless of its nature or technical support when requested by the entitled person. Copies of documents that might affect the privacy of third parties are released only after the respective information has been blacked out by the CNSAS specialized personnel.

Romanian and foreign researchers have access to the CNSAS archive on the condition of their prior accreditation by the Collegium of the CNSAS. After being accredited, a researcher is entitled to obtain copies of archival documents on condition that the right to privacy of the people mentioned in the respective file is observed. Non-compliance with these legal provisions can attract civil, criminal, administrative or disciplinary responsibility, for the CNSAS employees as well as for those who have had direct contact with the documents.

6. Collaboration and Partnerships

The CNSAS has been always open to collaboration, partnership and development of joint projects, as long as these are aimed at reconstructing and coming to terms with a traumatic recent past, and do not propagate extremist ideas, attitudes or behaviour. A special emphasis is put on projects and programs aimed at democratic education. The CNSAS has, together with correspondent institutions from abroad, public institutions, cultural and non-governmental organizations, museums, universities, research institutes from Romania and abroad, developed a series of events, such as signing partnerships, protocols of collaboration, joint research projects, symposiums, conferences, lectures, exhibitions, etc.

7. Perspectives of the Institution in Light of the Public and Political Debate

The CNSAS has, since its establishment, always been in the midst of a general societal debate concerning the opening and administration of the Securitate files. Romanian society has had high expectations from the part of the post-1989 authorities with regard to the opening of the Securitate files and the disclosure of the former agents and collaborators of the secret police. Such expectations could not be met overnight due to the complexity of the task and the many administrative and legal issues that had to be properly solved. Over the period 2000 to 2005, the transfer of the Securitate files to the CNSAS was carried out at a rather slow pace. It was only after 2005

that the political society in Romania decided to meet the expectations of civil society. As a consequence, from late-2005 onwards, the transfer of Securitate files to the CNSAS archive has been accelerated.

It may be argued that it was from early-2006 onwards that the institution was truly able to work towards completing its mission of opening the Securitate files to the public; facilitating the access of individuals to their files; following its mission of vetting holders of public office in accordance to the applicable law; and promoting research and engaging in educational projects. At this moment, one can safely argue that the CNSAS is working fully in accordance with the expectations of civil society and is able to fulfil its multiple tasks.

However, one should not neglect the highly sensitive materials handled by the CNSAS, as well as the profound implications which the activity of the institution has upon Romanian society in general. The Securitate had an enormous impact on the lives of the population of Romania under communist rule and a significant number of people were associated with the communist secret police as agents or collaborators. Thus, one can infer that the public disclosure of the names of the former agents and collaborators in post-communism affected in many cases the public image of those who concealed their past association with the communist secret police. As a consequence, the CNSAS has been subjected to constant pressure and vicious attacks in the media especially from those whose present day positions would be affected by their disclosure as former Securitate agents or collaborators.

At the same time, one has to stress once again that strong support for the CNSAS comes from both that part of the political society which advocates full integration into the European Union and reconciliation with the past, as well as from the civil society which has always struggled for the opening of the Securitate files, the disclosure of former agents and collaborators, democratic education, and remembrance of the victims of the Romanian Gulag.

Nation's Memory Institute

Slovakia

1. Founding History

The Unit for Documentation of Crimes of Communism, set up under the auspices of the Ministry of Justice of the Slovak Republic in 2000 by the then Minister Ján Čarnogurský, was the predecessor of the Slovak Nation's Memory Institute (ÚPN). The unit had, however, very few powers to exercise, and so its main responsibilities included consultant services on the indemnification procedure, and initiation of review for so-called residual punishments, i.e. cases still pending after the closing of rehabilitation



PhD Ivan A. Petranský, Chair of the Board of Directors

proceedings. The Unit also successfully edited the publication by Pavel Žáček entitled "StB na Slovensku za „normalizace. Agonie komunistické moci ve svodkach tajne policie" (*"The State Security Service in Slovakia during Normalization. The Agony of Communist Power in Secret Police Reports"*).

Act no. 553/2002 Coll. establishing the Nation's Memory Institute was, as such, first passed by the National Council of the Slovak Republic in 2002. Even though President Rudolf Schuster exercised his right and vetoed the bill, the Parliament overruled the President's veto and the bill was definitely passed. The founding of the ÚPN was, practically, sponsored by the Ministry of Justice. Even Ing. Ján Langoš, the first Chair of the Institute's Board of Directors, was, prior to his appointment, engaged as Advisor to the Minister, Daniel Lipšic. The Act itself draws upon the Polish and German models.

The ÚPN took up its activities in 2003, based at the Ministry of Justice of the Slovak Republic. The same ministry assured the Institute on obtaining new premises situated at the Námestie SNP square. The plan was to have the ÚPN housed at the premises the Institute would own. Before the Ministry had arranged for vacation of the building concerned, the Institute carried out its functions at two leased premises. Finally, at the turn of the years 2005/2006, the ÚPN moved in the promised building, yet the relationship to the property was first declared as a borrowing. Then, at the turn of the years 2006/2007, the Ministry of Justice terminated the borrowing contract. Since 2008, the Institute's office has again been

located at a borrowed premises, this time at the Ministry of Post and Telecommunications of the Slovak Republic. The place of the Nation's Memory Institute Archive is acquired under a commercial lease.

Throughout its history, the Nation's Memory Institute has twice faced the circumstances that its dissolution was on the table. First-time speculations emerged in the late 2006. After Ján Langoš's tragic death, the Parliament became deadlocked about the nominee for the Chair of the Institute's Board of Directors. The second, more serious attempt to dissolve ÚPN was made in 2008, when a group of Deputies submitted a bill to dissolve the ÚPN to the Parliament. The bill was, however, withdrawn in a short time.



Ing. Ján Langoš, the first Chair of the ÚPN Board of Directors, died in 2006 in a car accident. For the following several months the Institute was run by Dr. Ján Ondriaš, PhD, the newly elected Deputy Chair of the Board of Directors. It took some time for the Deputies of the National Council of the Slovak Republic to agree on the next person to hold the office of the Chair of the Board of Directors. That period of time did not end before February, 2007, when Dr. Ivan A. Petranský, PhD, was called to the position.

2. Legal Mandate and Tasks

The responsibilities of the Nation's Memory Institute refer to the facts specified in Section 8/1 of the Nation's Memory Act. The State has set about 10 main tasks for the ÚPN to fulfil:

- 1) to perform complete and unbiased evaluations of the period marked with oppression, primarily, to analyze the following: causes and means of loss of freedom, manifestations of fascist and communist

regimes and their ideologies, and involvement of the native and foreign people in such manifestations;

- 2) to disclose documents on persecution to the persecuted individuals;
- 3) to publicize information on the persecutors and their activities;
- 4) to give rise to the prosecution of crimes and criminal acts pursuant to Section 1, in liaison with the General Prosecutor's Office of the Slovak Republic;
- 5) to provide relevant information to public authorities;
- 6) to systematically accumulate and expertly process all types of information, records and documents relating to the period of oppression;
- 7) to work together with institutions of similar mission operating either inside or outside the Slovak Republic, especially archives, museums, libraries, personal observers of the resistance movement, survivors of the concentration and labour camps, and to provide them with information and research options, render methodical counsel and promote their activities;
- 8) to provide the public with the results of the Institute's activities, primarily, to disclose information and other documents related to the period of oppression between 1939 and 1989 concerning individual actions and life stories, release and disseminate publications, organize exhibitions, seminars, conferences, and discussion forums;
- 9) to promote ideas of freedom and the defence of democracy against such regimes as Nazism and communism; and
- 10) to decide on the granting status of anti-communist resistance participants.

Significantly, the documents concerning activities of the State security agencies, which are now possessed by the ÚPN, are by law regarded important for the preservation of the nation's memory in Slovakia, and are, accordingly, declared the national cultural heritage.

It follows from the above mentioned tasks that the Institute also plays a certain historical and ethical role since it is perceived as a relevant establishment

in the view of the totalitarian past of this country. No Screening Act is in operation in Slovakia, and neither does any other legally codified facility exist to prevent former officers or co-opted workers of security agencies from holding almost any kind of public office. Political parties are in a position to freely nominate former officers or co-optees of the communist security agencies to most of the public offices. Nevertheless, the ÚPN's operation has virtually been instrumental in raising public awareness so that disclosure of the said past usually comes along with political embarrassment, and pressure of public opinion seeking and resulting in the resignation of the person concerned. Having the officers or co-optees of the former security agencies acting in some domains of life in Slovakia is regarded as a security risk, which is, consequently, considered when it comes to satisfying the requirements as to security audits.

Last but not least, the ÚPN's authority also covers a right to grant the official status of anti-communist resistance participant and anti-communist resistance veteran to the citizens who took an active part in the opposition movement against the totalitarian regime between 1944 and 1989. By the end of 2008, the ÚPN granted such status to 206 citizens. These people are granted privileges as military veterans.

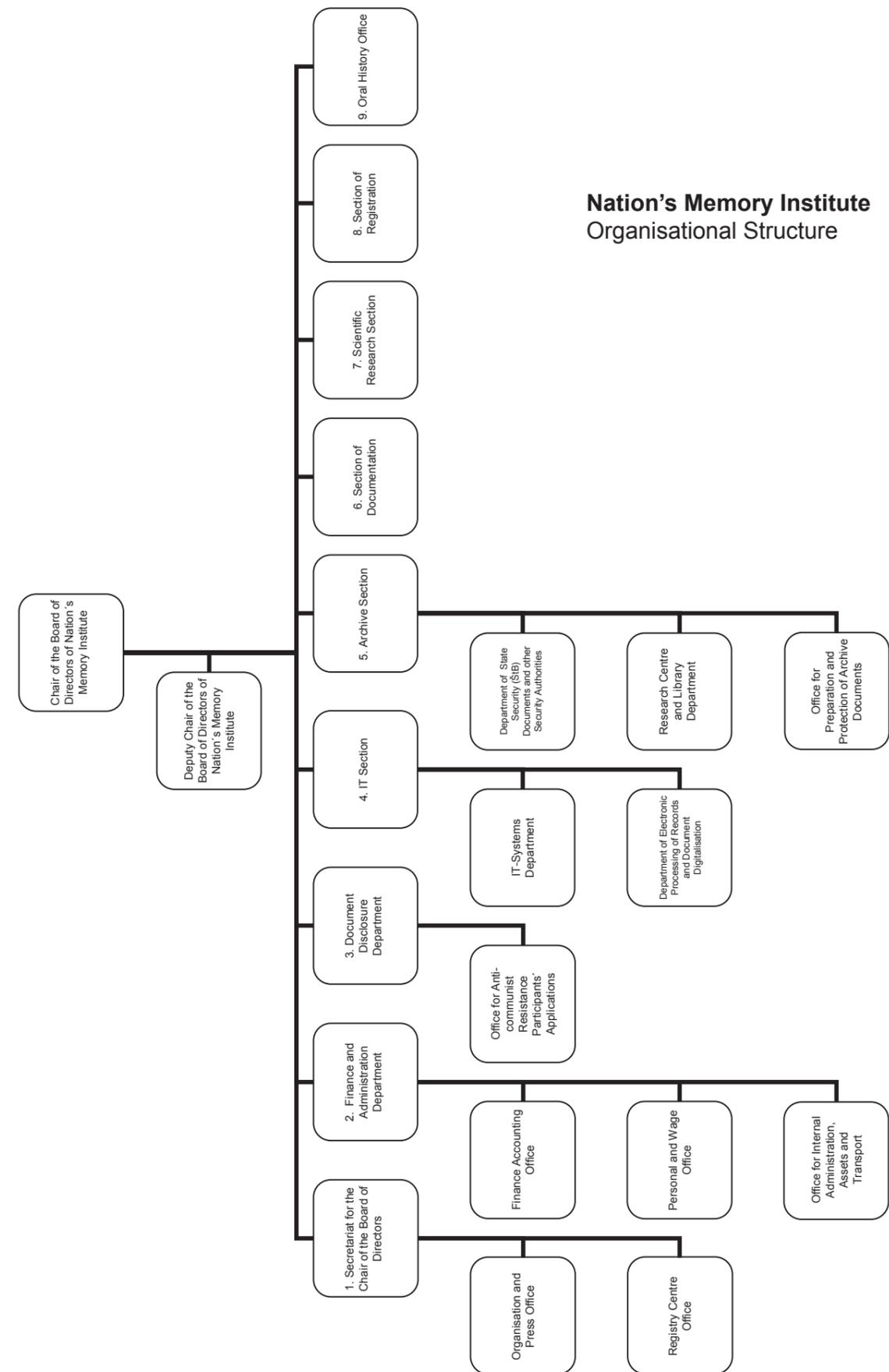
3. Legal Form and Structure of the Institution

The Nation's Memory Institute is an independent public establishment. The Institute reports to no government department, but falls under charges of the Committee of the National Council of the Slovak Republic for Human Rights, Nationalities and Positions of Women.

The bodies of the Nation's Memory Institute are as follows: Board of Directors, Supervisory Board, and Committee. The job of the Board of Directors is to appoint and control the Committee and supervise its activities, approve the Institute's wage policies, code of rules and amendments to the code of rules, rules of procedure in place for the Committee and the Board of Directors, deal with annual financial statements

and submit the statement of finance to the Government for consideration. The Institute's Board of Directors has nine members. Their term of office lasts six years. The Chair of the Board of Directors, who is elected by the National Council of the Slovak Republic, also acts as an authorised representative of the Institute. The other four members of the Board of Directors are elected by the National Council. The Government and President of the Slovak Republic appoint two members each. Members of the Board of Directors may only be removed by the body which has appointed them, only if convicted upon a final judgment of a criminal act, or on failure to exercise their powers for more than six months. The Board of Directors elects its Deputy Chair from among the members of the Board. The Committee ensures the course of the Institute's activities according to the provisions of the Nation's Memory Act and instructions given by the Board of Directors. The Committee has seven members and its Chair serves as a Deputy Chair to the Board of Directors. Other committee members have employment contracts with the ÚPN. The Supervisory Board serves as the ÚPN's supreme auditing body. The Board supervises the Institute's activities and management. There are three members on the Supervisory Board: two are elected by the National Council of the Slovak Republic, and one is appointed by the Minister of Justice.

The ÚPN's organisational structure fully suits the main tasks fulfilled by the institution. The Institute is divided into organisational units called sections, departments and offices. The primary role of the **Archive Section** is to register, collect, disclose, publicize, manage and use the documents of the former security agencies. The **IT Section** carries out the electronic processing of files. After their processing the files are tailored to accommodate the needs of the data applicants. This customization is performed by the **Document Disclosure Department**, and is governed by the Act on Protection of Personal Data. The **Section of Documentation** carries out the examination, processing and evaluation of documents and the related activities of the State security forces between 1939 and 1989 in terms of criminal law, especially in respect to the accomplishment of elements of crimes against humanity, and other indictable crimes which





are incompatible with the fundamental principles of a democratic state respecting the rule of law. In liaison with the General Prosecutor's Office of the Slovak Republic, the department is engaged in drawing up and filing motions for criminal prosecution of the said offences. The **Section of Registration** is involved in processing and analysing data and registered records generated by the security agencies between 1939 and 1989. Another important responsibility of this section is to compile and organise registration using the data contained in the materials which the Institute took over from the State Security Service and other security forces. Discharge of this task also requires replenishing records with the personal data or details of events which were found in other information resources, such as judicial records stored in the Record Offices. The responsibility of the **Scientific Research Section** is to conduct systematic basic historical and scientific research into the period of oppression, mainly in respect of the activities carried out by the state agencies and operations performed by the security and repressive authorities. The work of this section is even concerned with a broader

historical context, both national and international. The section is also engaged in the organization of scientific conferences, seminars, training sessions and exhibitions, and in the preparation and implementation of the Institute's edition schedule. Furthermore, it is also a job of this section to communicate with partner scientific institutions, universities and other higher education establishments, make presentations of the processed information, give lectures and hold vocational training on the subjects covered by the Institute. This section is in charge of publishing a journal known as *Pamät' národa* (Nation's Memory). The section's employees have authored multiple publications released by the ÚPN. The Institute also includes the **Oral History Office** which is in charge of recording the opinion evidence on the period of oppression. In addition, the personnel of the Oral History Office participate in the production of documentaries. The ÚPN also has a **Finance Department** and a **Secretariat for the Chair of the Board of Directors**. The Nation's Memory Institute is based in Bratislava, has approximately 80 employees, and its annual budget is about 1.6 million Euros.

4. Delivery Status

At its founding, the ÚPN had some challenges to face in respect of material delimitation. A large part of documents belonging to the former State Security Service was held by the Slovak Information Service (SIS). This resulted from the Government decision made briefly after the split of the Czecho-Slovak federation in 1993. The Slovak Information Service at first refused to surrender the documents to the Institute, claiming to have the documents included in their information funds as a permanent part of the SIS intelligence service. The taking over of the documents only commenced after some complex discussions which ended up in the signature of the Agreement of mutual cooperation on transfer of the State security resources from the Slovak Information Service and disclosure of the included information for SIS purposes. Proper delivery of documents from the SIS was launched in 2003. Later, the Institute also received documents from other government agencies, such as the Ministry of Defence of the Slovak

Republic and the Ministry of Interior of the Slovak Republic.

The delivery mainly concerned data files of the former regional units of the State Security Service in Slovakia, including the registered records and the records of no proper disposition and delivery status. The Ministry of Defence of the Slovak Republic delivered to the ÚPN several funds of the Military Counterintelligence Directorate units. The Institute also obtained several funds from the Ministry of Interior of the Slovak Republic (a source of files produced by the Border Guard services.) The Nation's Memory Institute disposes of probably 1,800 metres of documents. We keep 638 archival funds and collections. The approximate number of files which the State Security kept on individuals is 64,200. In addition, we also possess about 3,000 personal files and assumedly 80,000 microfiches.

The ÚPN archive comprises many kinds of archival materials: paper documents, apparently, prevail. We also dispose of a good deal of documents scanned to the microfiche format. The archive also stores microfilms, film material, and, last but not least, disused electronic databases.

At the same time (in 2004), the Nation's Memory Institute drew attention to the unprofessional procedure of document delimitation after the split of Czecho-Slovakia in 1993. The Czech Republic still holds, in the archive of the Ministry of Interior of the Czech Republic (currently the Archive of Security Forces), funds which should, either in full or in part, depending of the subject matter contained, fall under the administration of the Slovak institutions. These documents include information on the citizens of the Slovak Republic, or activities of unitary public authorities active in the area of the Slovak Republic. Unfortunately, negotiations on the delivery of the original documents in question and some copies of originals have remained pending.

The Nation's Memory Institute Archive has also obtained the king-sized library of the Marxism and Leninism Institute in Bratislava, and other compelling collections coming from various private resources.

Unfortunately, some of the material the Institute has received throughout its life was initially in poor condition, either biologically or mechanically damaged, mostly due to improper storage. The Institute's staff removed these defects, and now the storage of all archival documents meets high standards.

Shortly after founding the Nation's Memory Institute, transcription of documents to digital format was launched. This is one of the very important duties which the Institute undertakes to perform. The members of staff allocated to carry out this specific job usually process some 250,000 pages a year. The scanned forms of documents are at present mainly used to execute the document disclosure pursuant to Sections 17 and 18 of Act No. 553/2002 Coll., and, in second place, to serve the purposes of the Institute's departments. The whole of the archival stock is planned to be digitalised, in successive steps, and the electronic copies will remain available for other purposes. It is advisable to mention that the ÚPN has no plans for any broadcast internet publishing of the said documents. The Institute only publicizes some selected documents, normally following the topicality of the subject matter involved. On the other hand, great attention is paid to publishing registers and records. The Nation's Memory Institute has published a list of Jewish businesses put into liquidation and Aryanization, and a list of the Hlinka Guard commanders. In respect of the Communist regime, the ÚPN has disclosed a list of officials of the communist party, a list of officers of the State Security Service, registration records of the State Security Service and the Military Counterintelligence, a list of archival books, a list of intelligence facility files, a list of people deported to gulags, and others.

5. Access to the Files and Legal Conditions for Dealing with the Files in Public

The key areas of responsibility of the Nation's Memory Institute include providing the general public with access to the documents of the former security services. The very submission of documents is carried out in two ways.

1. Disclosure of documents under Sections 17 and 18 of Nation's Memory Act

Disclosure of documents under Sections 17 and 18 used to be among the most important activities carried out by the Institute at the early stage of its existence. The ÚPN daily received hundreds of requests from citizens interested in learning which of their personal data the State Security Service had recorded, who was the agent involved in their case and other information. Under the referred to organisational sections, the Institute provides the applicants (mostly victims and/or affected parties) with access to a copy of their records (if any), and to a copy of the records of the respective agent and that of the personnel officer, if available (Section 17). The Institute also supplies copies of the records of people registered as collaborators to any applicants (Section 18). This provision of law has largely been applied by the press. This is how the Institute still discharges its disclosure function, even though the interest in disclosure is continually on the decline (e.g. in 2008 the Institute received 405 requests in total, while before the end of 2004 the number was 6,216). If interested, the applicant may take a copy of the file processed pursuant to the personal data protection policies. The charge is € 0.06 (formerly SKK 2) per page. The Institute has, in addition, researched all previous requests, and in the case of any new findings the applicants are notified in writing accordingly.

The Nation's Memory Institute basically disposes of three types of files. **Persecuted Person Files** refer to all files except for those kept on secret co-opted workers, agents, clandestine collaboration candidates, residents, informers, owners of borrowed residential units, owners of conspiratorial residential units and confidants. The above files are only disclosed to the person kept on the particular file or to the next of kin, and to any other person having written consent to this effect, pursuant to the Slovak legislation. A **Secret Co-optee File** means a file kept on the following: a co-opted worker, agent, resident, informer, owner of a borrowed residential unit, and owner of a conspiratorial residential unit. This type of file may be disclosed to the person kept on the particular file, as well as to the person with an entry on the

respective co-optee made in their own file. This type of file may also be made available to any other person if so requested. The only exception to this effect is the confidant file, which is only made accessible to the person kept on the particular file and to the person with an entry on the respective confidant made in their own file. In that case, the entire file is not disclosed, but only the information which the confidant has furnished in respect of the person concerned. Like the secret co-optee files, the **File on an Officer of the National Security Forces in the State Security Unit** will be disclosed to a person with a respective entry made in their own file, plus to any other person requesting disclosure. Disclosure is by definition governed by the Slovak law concerning the protection of personal data. The modifying of a document is instructed by the opinion which the ÚPN shall obtain from the Office for Personal Data Protection. Making data illegible obviously applies to third persons: on data processing the name of that person remains clear, but the personal details, such as date and place of birth, place of residence, nationality, health status, family status, sex life, religion, criminal activity not related to the case concerned, and others are deleted from the electronic media. Moreover, some solicited files kept on co-optees also have some data blackened: this applies to the names of third persons and the information concerning the co-optee's privacy. A similar procedure is followed when it comes to the disclosure of the background-check files kept on police officers.

2. Presentation of documents in the ÚPN Archive

Access to the documents is also provided at the archive research room. The researchers may study documents in place, yet there are some measures set to this study: the studying of personal files of the intelligence service, and the counterintelligence type of files of the following classes: S (signal file), PO (person under security screening), and NO (enemy person), or any of the predecessor versions in question as well as foreign intelligence (1st Directorate of the Ministry of Interior) files on a person, is subject to the consent of the Chair of the Board of Directors. As with other public archives, access is barred to the unprocessed



stock. Upon completion of a legal analysis, the ÚPN management decided in 2007 to liberalise the access to the archival documents, and proceeded to disclose documents at the ÚPN's archive research premises pursuant to the general law on archives (Act No. 295/2002 Coll.). The decision enabled more comprehensive use of documents by the public, including the files of the former security services, but also the proper files of the State Security Service. In addition, pursuant to the laws in force, the ÚPN makes it possible for all competent governmental agencies to access the Institute's documents. The officials of public bodies may use the Institute's research room to study the documents or, where appropriate, they are provided with a separate room.

The study of documents is free of charge. However, the researchers, or applicants for document disclosure, are required to pay for the photocopies of documents. The charge is € 0.06 (formerly SKK 2) per page. The researchers may use their own digital camera while working at the ÚPN archive; this way of obtaining photocopies of documents is free of charge.

6. External Co-operation

Since its formation, the Nation's Memory Institute has co-operated with various organisations and associations both inside and outside Slovakia. Some of this co-operation arises from the obligations falling under the Institute's competence under the Nation's Memory Act or other laws. First and foremost, the Nation's Memory Institute is, pursuant to Section 8 of Act No. 553/2002 Coll., obliged to disclose information and documents pertinent to the activities carried out by the security forces in order to discharge their functions defined by law. Whereas the former co-opted workers of the communist secret service are, pursuant to the laws in force, considered to pose a security risk to the State and its allied obligations, the Institute mainly collaborates with the institutions dealing with the state secret. These include the National Security Office, Slovak Information Service, Military Defence Service, and Ministry of Interior of the Slovak Republic. Before the end of 2008, the ÚPN staff had to take care of more than 4,000 of such requests.



Another pool of co-operation between the ÚPN and government agencies refers to joint projects of the ÚPN and the General Prosecutor's Office of the Slovak Republic. The Institute's staff have several times initiated criminal proceedings against perpetrators for criminal acts committed during the communist regime.

We attach special importance to the co-operation with schools, foundations, and citizens' organisations. The ÚPN enjoys long term co-operation with several universities and secondary schools all around Slovakia. The Institute's members of staff share their knowledge of the security repressive apparatus and the rule of non-democratic regimes in the area of Slovakia in the 20th century with the students.

It is also important to forge links with partner scientific institutions. The ÚPN has held several conferences in liaison with universities and scientific institutes. This type of co-operation has also been developed with our colleagues from outside Slovakia,

particularly from the Czech Republic, Poland and Hungary. We have signed agreements on co-operation not only with our partner organisations in the Czech Republic, Hungary, and Poland, but also with the United States Holocaust Memorial Museum.

Historico-political education in Slovakia

Educational activities rank among the ÚPN's priorities and are also expected to be carried out by the Nation's Memory Act (553/2002 Coll.). The act imposes the following duties, inter alia, upon the Institute: to perform complete and unbiased evaluation of the period of oppression, mainly to analyze the causes and manner of loss of freedom, fascist and communist ideology and to provide the public with the results of its activity, in particular to publish and declassify information and documents on the period of oppression 1939 to 1989, and on the acts and destiny of individuals, publish and disseminate publications, organize exhibitions, workshops, conferences, discussion forums and, last but not least, to promote the ideas of freedom and defence of democracy, etc.

In order to achieve the above objectives, the ÚPN considers it is important to forge links and work together with secondary schools and universities. Our professionals travel all around Slovakia and make presentations on such topics which the ÚPN considers to be important. To this end, the Nation's Memory Institute formerly enjoyed co-operation with the Konrad Adenauer Stiftung, and now works jointly with the Standing Conference of the Civil Institute (*Stála konferencia občianskeho inštitútu*). The list of presentations is available on the ÚPN's web site (www.upn.gov.sk), and the schools may choose the topics and dates of presentations in place. The Institute's members of staff made 36 presentations in 2007, a year later it was 43 presentations, and by June, 2009, the number had reached 60 hours of lecturing. Our personnel also deliver methodology training to the secondary school teachers concerning the history of the period marked by oppression (1939–1989).

Furthermore, the Institute has recently launched two educational projects. One is called "*Nenápadní hrdinovia*" (Discreet Heroes), and is mainly targeted at

secondary schools. Its aim is to encourage students to search their neighbourhoods and find victims of the communist regime, such as a former prisoner of conscience, and prepare a story of their life. The students' efforts may result in other outputs as well as text studies, for example, making a film. All forms are much welcomed and depend only on the student's imagination. Needless to say, the best pieces will win awards.

Another project of a similar nature is called "*Po stopách slobody*" (Tracks of Freedom). The purpose of the project is to challenge university students to think about the period of oppression (1939–1989). Participation of students of all specialisations is welcomed, since historians may do research, artists make sculptures, pictures or screenplays, journalists carry on conversations, write up reports, etc.

Educational work pursued by the Nation's Memory Institute also includes publishing as an activity of importance. The ÚPN publishes its quarterly journal known as *Pamäť národa* (Nation's Memory). The journal delivers well-founded scientific studies on various partial topics. In addition, the Institute has already released about 30 publications. All works published are distributed to university libraries in Slovakia.

Another important part of the Institute's educational activity is the organisation of scientific conferences and exhibitions. In conclusion, it is advisable to mention discussion nights held by the Nation's Memory Institute once a month. 15 of such events have taken place so far and have dealt with a variety of miscellaneous questions, such as the war against Poland in 1939, preparation of the Slovak National Uprising, the Katyn massacre, the organisation of the pro-regime clergy commonly known as Pacem in Terris, and a discussion about Gustáv Husák, the last communist president of Czechoslovakia.

7. Perspectives of the Institution in Light of the Public and Political Debate

Even though the Nation's Memory Institute was founded in 2002 under the administration of the centre-right coalition, this institution clearly aspires to be an organisation of national, non-party and apolitical nature. The general public have for a long time shown their positive interest in the information and findings presented by the Institute. There is also an all-society debate going on to weigh the meaning of this institution, authenticity of the State Security Service's documents stored at the ÚPN's Archive, sufficiency of protection against the misuse of these documents, a need for and degree of reconciliation with the totalitarian past. This discussion, occasionally turning into quite a heavy debate, is also echoed on the political scope. This is mainly connected with the fact that several of the politicians employed in the present political life have been confronted with disclosure of their former collaboration with the State Security Service. These matters also affect relations between political parties and the ÚPN. Several political parties do show their disfavour in the Institute's activities, which comes through speculations about the uselessness of this type of institution and channels to eliminate its authority, or even dissolve the Institute. Nevertheless, no cardinal steps have been taken so far to disable the ÚPN. Accordingly, the Institute's activities will likely remain unchanged in the years to come.

Foundation paper “European Network of Official Authorities in Charge of the Secret-Police Files”

I. Initial situation

1. After the fall of the Communist dictatorships in the former German Democratic Republic, Poland, Romania, Slovakia, Hungary, the Czech Republic and Bulgaria, state-operated agencies were founded, which are responsible for the legacy of the former secret-police agencies and other repressive bodies of these dictatorships, and which should ensure the general public's access to these documents.
2. The major targets of these institutions are in particular:
 - to facilitate individual access to files and data containing personal information of those persons formerly suffering from repression by the secret police.
 - to ensure a comprehensive educational and historical analysis of the working principles of communist secret police bodies based on scientific findings,
 - to ensure that the files are handled and made available in keeping with the principles of the rule of law.
3. The formation of these official authorities and the history of the opening of the files took a different course in our countries: some have already been in existence since the early 1990s, others have been established in recent years. The guiding principle of the work of all these agencies is the will of the respective parliaments to make their own laws pertaining to the legacy of the Communist secret-police, which do justice to their own special circumstances and ensure the handling and making available of the files under the rule of law. In this context, it should be emphasised that all these institutions are independent and not part of the general state-owned archive-management bodies.
4. In the past several years an active bilateral and multilateral co-operation, between our institutions, has developed on various levels. Other state-operated and non-state-operated institutions and organisations (such as, for example, institutions

which carry out historical research) are frequently involved in this co-operation.

II. Foundation of a European Network of Official Authorities in Charge of the Secret-Police Files

We, the representatives of these institutions, have recognised the necessity to reinforce our co-operation and express our common purpose in a European Network. In this process, we follow up on the initiative expressed in the Resolutions 1096 (1996) and 1481 (2006) of the Parliamentary Assembly of the Council of Europe (among others), which emphasise the importance of the prosecution of crimes committed by Communist regimes, to inform the public of these crimes and to open the secret-police archives maintained by these dictatorships. As state-operated institutions with the legally codified mandate to enable access to these files, we in the European Union seek to state clearly our common position on these issues. We seek to be a forum for the mutual exchange and transfer of information: this applies to the archives, the legal regulations, the historico-political education and public-relations, and research. With the establishment of this European network, we would like to make clear that these issues do not encompass merely a national context. They involve coming to terms with the past in a European, an international context. We wish to stress the importance of opening the files and access to these files, which is regulated in accordance with the rule of law and also the importance of independent research and wide spread information about the secret police of dictatorships and its representatives. Our common aim is to support each other in the fulfilment of these tasks. We wish to guarantee the full independence of archival research. Any kind of political instrumentalisation must be prevented. We wish to advocate this together publicly.

In this process, we acknowledge that the nations concerned follow – notwithstanding the common basis of their aims – a different approach, as e.g. in their internal structure, in regulating the legal and factual access to the files, in the assignment of jurisdiction for the investigation of crimes committed by dictatorial



Foundation of the Network, Berlin, December 2008

regimes and the lustration and vetting in politics and administration.

In the context of a multi-faceted landscape of state-operated and non-state-operated agencies, institutions and initiatives involving research institutes, foundations, memorial sites, museums and victims' groups – our European Network serves to promote the common aim of enhancing efforts on the academic, social and political levels to come to terms with the past. It will do so with regard to the different experiences with repression which the countries involved have had. Particular importance should be attached to independent academic research and the historico-political education of, in particular, the European youth. The purpose of this network is to involve other agencies/institutions and initiatives in its work – and to find suitable forms of involvement.

We are convinced that access to the secret-police files is an important aspect of the transformation

processes taking place after the fall of dictatorships worldwide. Therefore, the network aims to define minimum requirements for access to the secret-police files kept by dictatorships.

In order to inform the public, the network will first create comparative surveys of access to the files, the legal principles governing this access, and the structure of the responsible institutions, as well as of the utilisation of their services. The network will focus on the subjects-specific, independent fulfilment of tasks in order to eliminate the possibility of any kind of political instrumentalisation.

III. Working methods of the network

1. Annual conferences

The network will conduct an annual conference at which the management bodies of the institutions involved discuss important issues associated with

their functions and the overall process of coming to terms with the past in their countries. In this process it is intended that the pan-European dimension of these issues plays a particularly significant role.

The country which serves as Chair of the network on a rotating basis should serve as the host of the conference in that particular year.

This annual conference is accompanied by public events which are to serve to increase public awareness of issues related to this review process. In this context, it would be desirable to involve additional agencies/institutions and initiatives which are involved in this process of coming to terms with the past.

The proceedings of the annual conference will then be documented and published in an appropriate way.

2. Co-ordination group

The network will establish a co-ordination group consisting of representatives from the institutions involved,

- will ensure constant and direct communication,
- will prepare the annual conference together with the host authority,
- will develop a system for collection, providing and updating basic information on the authorities involved.

3. Central organisation

The institution which is to host the next annual conference, will chair the network for a one-year term leading up to that conference.

Berlin, 16.12.2008

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