

**ACT
REGARDING THE RECORDS OF THE STATE SECURITY SERVICE
OF THE FORMER GERMAN DEMOCRATIC REPUBLIC
(STASI RECORDS ACT)**

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

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PART ONE

GENERAL PROVISIONS

Article 1

Purpose and Scope

(1) This Act regulates the registration, safekeeping, administration and use of the records of the Ministry for State Security of the former German Democratic Republic and its preceding and succeeding organizations (State Security Service) in order to

1. facilitate individual access to personal data pertaining to oneself which the State Security Service has stored so that the individual can clarify what influence the State Security Service has had on his personal destiny;
2. protect the individual from impairment of one's right to privacy caused by use of the personal data stored by the State Security Service;
3. ensure and promote the historical, political, and juridical reappraisal of the activities of the State Security Service;
4. provide public and private bodies with access to the information required to achieve the purposes stated in this Act.

(2) This Act shall be applicable to the records of the State Security Service which can be found in the possession of public bodies of the Federation or the federal states, of private individuals, or of other private bodies.

Article 2

Registration, Safekeeping and Administration of the Records of the State Security Service

(1) The Federal Commissioner for the Records of the State Security Service of the former German Democratic Republic shall register, provide for the safekeeping of, administer, and use the records of the State Security Service as directed by this Act.

(2) The Federal Commissioner can use the following information from the Central Inhabitant Register of the former German Democratic Republic for the fulfilment of his duties and responsibilities in accordance with this law:

1. family name, first name,
2. name at birth, miscellaneous names,
3. place of birth,
4. personal characteristics,
5. last address,
6. note “deceased”.

This information is to be conveyed upon request to the courts and law enforcement agencies for the fulfilment of their legal duties and responsibilities.

Article 3

Individual Rights

(1) Each individual shall have the right to enquire of the Federal Commissioner whether records exist which contain personal data about him. If this is the case, the individual shall have the right to obtain information, to inspect the records, and to be provided with records as directed by this Act.

(2) Each individual shall have the right to use the information and records which he has obtained from the Federal Commissioner as provided by general law.

(3) It shall not be admissible to impair the legitimate interests of other individuals by disclosing information, permitting inspection of records or providing records.

Article 4

Permissibility of Public and Private Bodies to Use Records of the State Security Service

(1) Public and private bodies shall have access to the records or use them only as provided by this Act. If persons concerned, third parties, near relatives of missing or deceased persons, employees or beneficiaries of the State Security

Service submit personal data of their own accord, this data may be used for the purpose for which it was submitted.

(2) If the Federal Commissioner establishes or is informed that personal data in the records is incorrect, or the person concerned disputes that the data is correct, a separate remark to this effect shall be made in the records.

(3) If personal data is communicated pursuant to a request according to Articles 20 to 25, and after its communication it proves to be incorrect regarding the person about whom it was requested, it shall be corrected toward the recipient, unless it is irrelevant to the case under consideration.

(4) The overriding legitimate interests of other persons may not be impaired by use of the records.

Article 5

Specific Prohibited Use

(1) It is inadmissible to use personal data to the detriment of persons concerned or third parties if it was collected about them in the course of deliberate, including secret, information-gathering or spying on these persons. This shall not be applicable to cases pursuant to Article 21, Paragraph 1, Sentences 1 and 2 if statements made by the persons concerned or third parties are proved to be partially or completely incorrect on the basis of this information.

(2) The use of records shall be inadmissible for a limited time period if the competent public prosecutor or the court declares to the Federal Commissioner that use of the records during this time period could affect the carrying out of criminal prosecution. This shall not apply if it would unreasonably impair individuals in obtaining their rights. In this case, use of the records shall occur in agreement with the public prosecutor or with the court.

Article 6

Definitions

(1) “Records of the State Security Service” refers to:

1. all information-recording media, irrespective of the form of storage, in particular
 - a) files, data files, documents, cards, plans, films, visual material, audio material, and other recordings;
 - b) machine-produced or handwritten copies and other duplicates of the above;
 - c) evaluation aids, particularly programs for automated data processing, to the extent that they came into the possession of or originated at the State Security Service or Department 1 of the Criminal Police Division of the Volkspolizei (People’s Police) or were given to them for their use;
2. court and public prosecutor files of the State Security Service.

(2) The following shall not be deemed part of the records:

1. written communications and their enclosures which the State Security Service sent to other public or private bodies, if these bodies were not legally or de facto authorized to issue directives to the State Security Service;
2. records which were returned or conveyed to other bodies for reasons of competence and in which no indication can be found that the State Security Service took measures or caused them to be taken;
3. records which were processed before 8 May, 1945 and in which no indications can be found that the State Security Service took any other action than to prepare them for storage in its own archives;
4. objects and records which were unlawfully taken or kept from data subjects or third parties by the State Security Service; if this regards written communication, it is admissible for the Federal Commissioner to make copies for the records.

(3) “Persons concerned” refers to persons about whom the State Security Service collected personal data by deliberate, including secret, information-gathering or spying. Sentence 1 shall not be applicable

1. to employees of the State Security Service if collecting information served only to make contact with and recruit employees for the State Security Service or to monitor the activities of employees of the State Security Service;
2. to beneficiaries, if collecting information only served to make contact with them or to monitor their behaviour with regard to benefits received.

(4) “Employees of the State Security Service” refers to official employees and unofficial collaborators.

1. “Official employees” refers to persons who had an official employment or service relationship with the State Security Service. The term can also refer to “Special Task Officers”.
2. “Unofficial collaborators” refers to persons who agreed to supply the State Security Service with information.

(5) The provisions regarding employees of the State Security Service shall be applicable *mutatis mutandis* to

1. persons who were legally or de facto authorized to issue directives to employees of the State Security Service with respect to their State Security Service-related activities;
2. unofficial collaborators of Department 1 of the Criminal Police Division of the Volkspolizei (People’s Police).

(6) “Beneficiaries” refers to persons who

1. were substantially assisted by the State Security Service, in particular by being provided with economic advantages;
2. were protected by the State Security Service or at its behest from prosecution for a criminal act;
3. with the knowledge, connivance or assistance of the State Security Service planned or committed criminal acts.

(7) “Third parties” refers to other persons about whom the State Security Service collected information.

(8) It shall be ascertained for each piece of information if the person involved was an employee of the State Security Service, a beneficiary, a person concerned or a third party. The determining factor for ascertaining the above shall be the purpose for which the information was documented in the records.

(9) “Use of the records” refers to transmission of records, communication of information from the records, as well as other processing and use of the information. If it is not otherwise directed in this provision, the Articles 2 and 3 of the Federal Data Protection Act shall be applicable, except that religious societies shall be deemed to be private bodies.

PART TWO REGISTRATION OF RECORDS

Article 7

Location of Records – Duty to Report

(1) All public bodies shall assist the Federal Commissioner in locating and registering the State Security Service records. If they are aware or become aware in the course of their duties that such records of the State Security Service or written or machine-produced copies or other duplicates of such records are in their possession, they shall report this fact to the Federal Commissioner without delay.

(2) The Federal Commissioner, in agreement with a public body, is entitled to inspect the registers, archives, and other information collections of this public body if there is sufficient indication that State Security Service records can be found therein.

(3) As soon as they become aware that they are in possession of State Security Service records or written or machine-produced copies or other duplicates of such records, private individuals and other private bodies are obliged to report this fact to the Federal Commissioner without delay.

Article 8

Obligation of Public Bodies to Relinquish Records

(1) At the request of the Federal Commissioner, each public body shall relinquish without delay State Security Service records, including written and machine-produced copies and other duplicates, which are in their possession.

(2) If the public body requires the records for the performance of its duties within the limitations of use pursuant to Articles 20 to 23 and 25, it shall be entitled to make duplicates for its records. Original records shall be kept only if they are indispensable for the performance of duties in an individual case. In such a case the Federal Commissioner shall, upon request, be provided with duplicates.

(3) The intelligence services of the Federation and the federal states shall relinquish records regarding persons concerned in their entirety and without retaining any part of the records or duplicates thereof.

Article 9

Obligation of Private Bodies to Relinquish Records

(1) At the request of the Federal Commissioner, every private individual and every other private body shall relinquish State Security Service records without delay if such records are not the personal property of the private individual or of the private body. Proof of ownership shall be incumbent upon the private individual or other private body. Personal ownership can be assumed to exist if the private individual or other private body personally compiled records as described in Article 10, Paragraph 4.

(2) If it is obligatory to relinquish records to the Federal Commissioner, then all copies and other duplicates shall also be relinquished to them.

(3) At the request of the Federal Commissioner, every private individual and every other private body shall relinquish records of the state security service which are their personal property to the Federal Commissioner, in order that written or machine-produced copies or other duplicates of these records can be made.

Article 10

Records of the German Socialist Unity Party and other Organizations and Mass Organizations as well as Other Documents in Connections with the State Security Service

(1) In order to perform his duties the Federal Commissioner shall be entitled to request information of the competent bodies regarding the nature, contents, and storage location of records of the German Socialist Unity Party (SED) and other related parties and mass organizations.

(2) The Federal Commissioner shall be entitled to request inspection of such records. He shall be assisted in locating such records.

(3) Upon request, the Federal Commissioner shall be provided with duplicates of records which are related to the activities of the State Security Service and which he requires to perform his duties. The duplicates shall become part of the records pursuant to Article 6, Paragraph 1.

(4) Paragraphs 1 to 3 shall be applicable mutatis mutandis to records which were recognizably established in cooperation between the State Security Service and other public or private bodies of the former German Democratic Republic, either at the behest of the former or in order to carry out its orders or directions.

Article 11

Returning and Relinquishing Records to other Authorities

(1) Records which belong to other authorities and contain no indications of measures taken or ordered by the State Security Service shall be returned to the competent bodies by the Federal Commissioner

1. upon request, or
2. if he becomes aware of the existence of such records in the course of their duties.

The Federal Commissioner shall be entitled to make duplicates for the records.

(2) The Federal Commissioner shall relinquish records of the Federation, the federal states, or their intelligence services with a classification of “Confidential” or higher to the Federal Minister of the Interior or the competent federal state authority. The Federal Commissioner shall be entitled to make duplicates for the records. Records of international or supranational organizations, and of foreign states, which are classified as “Confidential” or higher and which the Federal Republic of Germany is obligated by international treaty to protect from unauthorized access shall be relinquished to the Federal Minister of the Interior as the national security authority responsible for the protection of secrecy.

(3) Records relating to plant facilities, technical processes and site environmental contamination of enterprises wholly or partially subordinated to or affiliated with the State Security Service shall be relinquished upon request to the person or persons currently authorized to dispose of such records. The Federal Commissioner shall be entitled to make duplicates for the records.

(4) The Federal Commissioner shall relinquish records relating to properties and other objects, in particular ground plans and plans of plumbing and heating, electricity and telephone installations, to the person or persons currently authorized to dispose of such records. The Federal Commissioner shall be entitled to make duplicates for the records.

(5) If former official employees of the State Security Service are to be employed or to remain employed in public service, the necessary personnel records shall be relinquished to the competent body for personnel files. The Federal Commissioner shall be entitled to make duplicates for the records.

(6) If former official employees of the State Security Service receive pensions, the necessary personnel records shall be relinquished to the competent pension administration authority. The Federal Commissioner shall be entitled to make duplicates for the records.

PART THREE USE OF THE STATE SECURITY SERVICE RECORDS

Chapter One The Right of Persons Concerned, Third Parties, Employees and Beneficiaries of the State Security Service

Article 12 Procedural Provisions for Persons Concerned, Third Parties, Employees and Beneficiaries of the State Security Service

(1) Requests to receive information and inspect and obtain records shall be issued in writing. The applicant shall be obliged to prove his identity by presenting a confirmation of it from the competent federal state authority. If he is acting as an authorized representative, he shall be obliged to present a power of attorney. If the request is made by an authorized representative with power of attorney, then

1. either the persons concerned, third parties, employees or beneficiaries, or
2. their attorney, when expressly authorized to do so, shall be entitled to receive information and, inspect and obtain records.

If an applicant who has the right to inspect the records is dependent on the assistance of others to do so, it shall be permitted that he be accompanied by a person in his confidence. It shall be required to substantiate the necessity for such assistance. It shall be admissible for the Federal Commissioner to turn away the accompanying person if particular grounds justify doing so.

(2) The Federal Commissioner shall provide information in writing, unless circumstances warrant another form of disclosure. He shall exercise due discretion in this matter.

(3) If a request is to be handled with priority, the need for urgency must be justified. It can be assumed that the need for urgency is justified if the information is necessary for purposes of rehabilitation, compensation, to avert infringement of personal privacy or to exonerate the person concerned from the accusation of cooperation with the State Security Service.

(4) Either the original records or duplicates shall be inspected. If, in addition to the personal data regarding the person concerned, the records also contain information regarding other persons concerned or third parties, inspection of original records shall be permitted only if

1. the other persons concerned or third parties have given their consent and
2. the separation of personal data regarding other persons concerned or third parties is not possible or would entail unwarranted effort, and there is no reason to assume that the other persons concerned or the third parties would have an overriding legitimate interest in keeping them secret.

Furthermore, the right shall be granted to inspect duplicates in which personal information relating to persons concerned or third parties has been rendered anonymous. Inspection of records shall take place in the central office or in one of the branch offices.

(5) Duplicates of records shall be provided only after the personal data regarding other persons concerned and third parties has been rendered anonymous.

(6) The right to inspect and be provided with records shall not apply to evaluation aids (Article 6, Paragraph 1, Sentence 1, Letter c). If the records cannot be found or can be found only with unwarranted effort, the right to inspect and be provided with records shall extend to duplicates of file cards which are used in the evaluation of the records and in which personal data regarding the applicant is contained.

Article 13

The Right of Persons Concerned and Third Parties to the Receive Information and Inspect and Obtain Records

(1) At their request, persons concerned shall be provided with information regarding existing accessible records. In their request they shall supply data which make it possible to locate records. The purpose for which information is being requested need not be given.

(2) The information shall consist of a description of the existing prepared records regarding the person concerned and their contents. Providing information can at first be limited to a communication that records exist and that the person concerned may have the opportunity to inspect these records.

(3) Upon request the person concerned shall be given the opportunity to inspect the prepared records which regard them.

(4) The person concerned shall on request be provided with duplicates of the records. Any personal data contained in these duplicates regarding other persons concerned or third parties shall be rendered anonymous.

(5) When existing accessible records on the person concerned which the latter has inspected or obtained duplicates of contain the aliases of State Security Service employees who gathered or used information about him or of officers who handled them, the person concerned shall on request be given the names of such employees, along with any further particulars to be found in Stasi records which make it possible to positively identify these persons. The first Sentence shall also apply to other persons who informed on the person concerned in writing if the contents of such information could have been used to disadvantage the person concerned. The interest of employees and informers in keeping their names secret shall not rule out disclosure of their names.

(6) Paragraph 5, Sentences 1 and 2 shall not apply if the employee of the State Security Service or the informer had not yet reached the age of 18 at the time of the activities against the person concerned.

(7) Paragraphs 1 to 6 shall be applicable mutatis mutandis to third parties, on condition that the applicant supplies particulars which make it possible to locate the information. The information shall be provided only if the necessary effort is not disproportionate to the applicant's declared interest in obtaining information.

Article 14 (repealed)

Article 15

The Right of Near Relatives of Missing and Deceased Persons to Receive Information and Inspect and Obtain Records

(1) At their request, near relatives shall be provided with information

1. for the rehabilitation of a missing or deceased person;
2. to protect the right to privacy of a missing or deceased person, particularly to clarify accusations of cooperation with the State Security Service;
3. to clarify the fate of missing or deceased persons.

Near relatives in the sense of Paragraph 3 are to be granted information upon request, if and insofar as they can substantiate eligible interests in the sense of Article 1, Paragraph 1, Number 1 and no preponderant interests warranting protection are compromised. Persons requesting information pursuant to Sentence 1 or Sentence 2 shall substantiate the purpose for their request and provide proof of their relationship to missing or deceased person.

(2) Article 13, Paragraph 1, Sentence 2, and Paragraphs 2 to 6 shall be applicable *mutatis mutandis*.

(3) Near relatives are spouses, children, grandchildren, parents and siblings. Near relatives also include, with regard to biological parents, adopted children as well as the biological parents of adopted children when it cannot be excluded that the State Security Service had influence on the adoption or on the fate of the biological parents.

(4) Near relatives also include relatives up to the third degree, when it is plausible that no near relatives in the sense of Clause 3 are available.

(5) Paragraph 1 shall not be applicable if the missing or deceased persons have left another disposition or if their wishes to the contrary can be clearly inferred from other circumstances.

Article 16

The Right of Employees of the State Security Service to Receive Information and Inspect and Obtain Records

(1) Upon request, employees of the State Security Service shall be provided with information regarding the personal data contained in their personal records.

(2) The information can include a description of the nature and scope of their activities and of the group of persons who were the subjects of their reports, and also remarks about the frequency of their reports.

(3) Upon request, the employee shall be permitted to inspect his personal records. Article 12, Paragraph 4, Sentence 2, Number 2 shall not be applicable.

(4) Upon request, the employee can be provided with information regarding reports which he prepared and can be permitted to inspect such reports if he can substantiate a legitimate reason for doing so. This shall not be applicable if it is outweighed by the legitimate interests of persons concerned or of third parties in maintaining secrecy.

(5) Upon request, the employee shall be provided with duplicates of his personal records. Personal data in these records regarding persons concerned or third parties shall be rendered anonymous.

Article 17

The Right of Beneficiaries to Receive Information and Inspect and Obtain Records

(1) Article 16, Paragraphs 1, 3 and 5 shall be applicable *mutatis mutandis* to the right of beneficiaries to receive information and inspect and obtain records.

(2) The beneficiary shall supply particulars which make it possible to locate the records.

(3) Paragraph 1 shall not be applicable if the competent supreme federal authority or the competent federal state authority declares to the Federal Commissioner that disclosing information, permitting inspection of the records or providing records may not occur due to an overriding public interest.

Article 18

The Right to Receive Information and Inspect and Obtain Records in the Case of Court and Public Prosecutor Files of the State Security Service

With respect to files of courts and public prosecutors which are in the custody of the Federal Commissioner, the respective Orders of Legal Procedure shall be applicable instead of Article 12, Paragraphs 4 to 6 and Articles 13, 15 to 17 and 43.

Chapter Two

Use of State Security Records by Public and Private Bodies

Article 19

Access to Records by Public and Private Bodies, Procedural Provisions

(1) The Federal Commissioner issues communications to public and private bodies, allowing them access to documents and releases documents to them, in so far as their use is permissible in accordance with Articles 20 to 23, 25 and 26. In the case of Article 20 Paragraph 1, Number 6, Letters c to h, Number 7, Letters b to f and of Article 21 Paragraph 1, Number 6, Letters c to h, and Number 7, Letters b to f, communication, access to documents and release are omitted when there are no indications available that unofficial activity for the State Security Service or a foreign intelligence service was present after 31 December, 1975. Clause 2 does not apply when evidence emerges from the documents that an employee has committed a crime in connection with unofficial activity or has violated the basic principles of humanity or rule of law.

(2) It shall be admissible for the public body competent for the performance of the respective duty to direct its request to the Federal Commissioner. If a request is made for a private body, proof of entitlement shall be established in writing with reference to the legal basis for entitlement.

(3) The Federal Commissioner shall check if a request for disclosure of information, for inspection of records, or for obtaining records is related to an admissible purpose, if it lies within the remit of the recipient, and to what extent use of the records is necessary for the stated purpose. Regarding requests

from courts, public prosecutors, and police authorities, to the extent that they are acting as auxiliary bodies of the Federal Prosecutor, the Federal Commissioner shall check on admissibility only if due cause exists.

(4) The Federal Commissioner shall make declarations in writing, unless individual circumstances warrant another form of declaration. He shall exercise due discretion in this matter.

(5) If the request for a declaration is to be handled with priority, it shall be required to justify the need for urgency. It can be assumed that the need for urgency is justified,

1. if the information is necessary for purposes of rehabilitation, compensation, to avert infringement of personal privacy or to exonerate the person concerned from the accusation of cooperation with the State Security Service;
2. for the clarification, registration, and safekeeping of assets of the former German Democratic Republic and the former entities with headquarters within its territory, as well as the assets which were assigned to the Commercial Coordination sector;
3. for investigating persons in cases pursuant to Article 20, Paragraph 1, Numbers 6, 7, 11 and 12, and Article 21, Paragraph 1, Numbers 6 to 9;
4. for criminal prosecution and to avert harm in cases pursuant to Article 23, Paragraph 1, Sentence 1, Number 1, Letters a and b, and Number 2.

(6) It shall be permitted to inspect records if declarations are not sufficient. Article 12, Paragraph 4 shall be applicable *mutatis mutandis* except that the person whom the request regards shall be substituted for the applicant.

(7) The records shall be provided if the requesting body can substantiate that declarations and inspection are not sufficient or that inspection would involve unjustifiable effort. Original sources shall be provided only if they are indispensable, particularly as evidence. They shall be returned to the Federal Commissioner without delay as soon as they are no longer required as evidence. Article 12, Paragraph 4, Sentences 2 and 3 shall be applicable *mutatis mutandis* if the records also contain personal data regarding other persons concerned and third parties in addition to the personal data regarding the involved person.

(8) In cases pursuant to Article 20, Paragraph 1, Numbers 6, 7, 11 and 12, and Article 21, Paragraph 1, Numbers 6 to 9, communication, access to documents and release are omitted if

1. the information relates to activity while carrying out compulsory military service in the armed forces of the former German Democratic Republic or in another service, outside the State Security Service, corresponding to military service, in which no personal information was supplied and the activity was not continued after the completion of military service or
2. it can be established according to the contents of prepared records that, despite the existence of an agreement of cooperation, no information was supplied.

Article 3, Sentence 1 shall remain unaffected.

Article 20

Use by Public and Private Bodies of Records not Containing Personal Data

(1) If records contain no personal data regarding persons concerned or third parties, they may be used as necessary by public and private bodies for the following purposes:

1. rehabilitation of persons concerned and missing and deceased persons, compensation, payments pursuant to the Act regarding prisoners;
2. protection of privacy;
3. clarification of the fate of missing persons and of unexplained deaths;
4. cessation or suspension of pension payments according to the Pension Benefits Act or reduction or disallowance or cessation of payments pursuant to the Pension Benefits Act;
5. clarification, registration, and safekeeping of assets of the former German Democratic Republic and the former entities within its territory, as well as the assets which were assigned to the Commercial Coordination sector;

6. examination of the following persons in accordance with the requirements of the applicable provisions, and with their knowledge, to determine whether they were employed officially or unofficially for the State Security Service, in so far as this did not involve activities for the State Security Service before the age of 18:
- a) members of the Federal Government or of a provincial government as well as miscellaneous persons in an official-legal relationship;
 - b) representatives, members of local representative bodies, local elected officials as well as honorary mayors and according representative for a community part;
 - c) public officials who can be moved into temporary retirement at any time, and employees in corresponding functions;
 - d) employees of public bodies at service posts assessed with pay grade A 9, pay grade E 9 or a higher pay grade or pay category, that without prejudice to the cases stated in Number 7 hold a leading position, as well as the members of representative and supervising bodies appointed by the public sector in institutions in which the absolute majority of shares or the absolute majority of public votes are in the public sector; moreover, all employees in public service can be investigated if facts justify the suspicion of official or unofficial activities for the Ministry of State Security of the former German Democratic Republic,
 - e) professional judges and honorary judges;
 - f) soldiers at service posts assessed with pay grade A 13 or higher that hold a leading position, as well as staff officers who are employed on service posts with outside influence in the integrated area (domestic or foreign), in the attaché service or with miscellaneous agencies abroad;
 - g) members of the presidium and of the executive committee as well as executives of the German Olympic Federation, its central associations and of the Olympic subsidiaries, representatives of the German sport in international bodies as well as trainers and responsible organizers of members of the German national teams;

h) persons who in the cases of Letters a to g apply for the office, the function or the position.

The determination can also refer to the activity for a foreign intelligence service;

7. examination of the following persons in accordance with the applicable provisions, and with their knowledge, to determine whether they were employed officially or unofficially for the State Security Service, in as far as this did not involve activities for the State Security Service prior to age 18:
 - a) members of the advisory board in accordance with Article 39 and of the scientific advisory board in accordance with Article 39a;
 - b) the Federal Commissioner and their employees;
 - c) the Country Commissioners in accordance with Article 38 and their employees;
 - d) other employees of public positions who deal with the processing of claims in accordance with the German Criminal, Administrative and Professional Rehabilitation Act;
 - e) employees and honorary employees as well as members of the bodies of those other institutions who deal primarily with the analysis of the activity of the State Security Service or of the power mechanisms of the former German Democratic Republic or of the former Soviet occupation zone;
 - f) persons who apply in the aforementioned cases for the office, the function or the position.

The determination can also refer to the activity for a foreign intelligence service;

8. procedures pursuant to granting or denying permission to carry weapons pursuant to the Weapons Act, the Federal Hunting Act, the Explosives Act, the War Weapons Control Act, if indications regarding the personal reliability of the former State Security Service employee can be found in the records;
9. recognition of periods of employment, payment and transfer of pensions of

former employees of the State Security Service;

10. matters of order;
11. security inspections of persons with their knowledge in accordance with security assessment laws of the national government and federal states to determine whether they were employed officially or unofficially for the State Security Service, in so far as this did not involve activities for the State Security Service before the age of 18; the determination can also refer to the activity for a foreign intelligence service;
12. inspections of the reliability of persons with their knowledge in accordance with Article 7 of the Air Safety Act and Article 12b Paragraph 2, Number 3 of the Atomic Energy Act as well as Article 5 Paragraph 1, Number 6, Article 7 Paragraph 3, Number 3 of the Atomic Reliability Assessment Ordinance, to determine whether they were employed officially or unofficially for the State Security Service, in so far as this did not involve activities for the State Security Service before the age of 18: the determination can also refer to the activity for a foreign intelligence service;

(2) Article 26 shall remain unaffected.

(3) Use for the purposes named in clause 1, Number 6 is forbidden after 31 December, 2030. Documents for information and communications which have accumulated in connection with earlier examinations at the requesting places are to be offered to the Federal Archive or to the responsible national archive or local archive or, with members of the German Parliament, the archive of the German Parliament.

Article 21

Use by Public and Private Bodies of Records Containing Personal Data of Persons Concerned and Third Parties

(1) If records contain personal data regarding persons concerned or third parties, they may be used as necessary by public and private bodies for the following purposes:

1. rehabilitation of persons concerned and missing and deceased persons, compensation, payments pursuant to the Act regarding prisoners;
2. protection of privacy;

3. clarification of the fate of missing persons and of unexplained deaths;
4. cessation or suspension of pension payments according to the Pension Benefits Act or reduction or disallowance or cessation of payments pursuant to the Pension Benefits Act;
5. clarification, registration, and safekeeping of assets of the former German Democratic Republic and the former entities within its territory, as well as the assets which were assigned to the Commercial Coordination sector;
6. examination of the following persons in accordance with the applicable provisions, and with their knowledge, to determine whether they were employed officially or unofficially for the State Security Service, in as far as the determination cannot be made with the documents named in Article 20 and it did not involve activities for the State Security Service prior to age 18:
 - a) members of the Federal Government or of a provincial government as well as miscellaneous persons in an official-legal relationship;
 - b) representatives, members of local representative bodies, local elected officials as well as honorary mayors and according representative for a community part;
 - c) public officials who can be moved into temporary retirement at any time, and employees in corresponding functions;
 - d) employees of public bodies at service posts assessed with pay grade A 9, pay grade E 9 or a higher pay grade or pay category, that without prejudice to the cases stated in Number 7 hold a leading position, as well as the members of representative and supervising bodies appointed by the public sector in institutions in which the absolute majority of shares or the absolute majority of public votes are in the public sector; moreover, all employees in public service can be investigated if facts justify the suspicion of official or unofficial activities for the Ministry of State Security of the former German Democratic Republic,
 - e) professional judges and honorary judges;
 - f) soldiers at service posts assessed with pay grade A 13 or higher that hold a leading position, as well as staff officers who are employed on service posts with outside influence in the integrated area (domestic or foreign), in the attaché service or with miscellaneous agencies

abroad;

- g) members of the presidium and of the executive committee as well as executives of the German Olympic Federation, its central associations and of the Olympic subsidiaries, representatives of the German sport in international bodies as well as trainers and responsible organizers of members of the German national teams;
- h) persons who in the cases of Letters a to g apply for the office, the function or the position.

the determination can also refer to the activity for a foreign intelligence service;

7. examination of the following persons in accordance with the applicable provisions, and with their knowledge, to determine whether they were employed officially or unofficially for the State Security Service, in so far as the determination cannot be made with the documents named in Article 20 and it does not involve activities for the State Security Service before the age of 18:
 - a) members of the advisory board in accordance with Article 39 and of the scientific advisory board in accordance with Article 39a;
 - b) the Federal Commissioner and employees of the Federal Commissioner's office;
 - c) the National Commissioners in accordance with Article 38 and their employees;
 - d) other employees of public positions who deal with the processing of claims in accordance with the German Criminal, Administrative and Professional Rehabilitation Act;
 - e) employees and honorary employees as well as members of the bodies of those other institutions who deal primarily with the analysis of the activity of the State Security Service or of the power mechanisms of the former German Democratic Republic or of the former Soviet occupation zone;
 - f) persons who apply in the aforementioned cases for the office, the function or the position.

the determination can also refer to the activity for a foreign intelligence service;

8. security inspections of persons with their knowledge in accordance with the requirements of the applicable provisions, and with their knowledge, to determine whether they were employed officially or unofficially for the State Security Service, in so far as this did not involve activities for the State Security Service before the age of 18: the determination can also refer to the activity for a foreign intelligence service;
9. inspections of the reliability of persons with their knowledge in accordance with Article 7 of the Air Safety Act and Article 12b Paragraph 2, Number 3 of the Atomic Energy Act as well as Article 5 Paragraph 1, Number 6, Article 7 Paragraph 3, Number 3 of the Atomic Reliability Assessment Ordinance, to determine whether they were employed officially or unofficially for the State Security Service, in so far as this did not involve activities for the State Security Service before the age of 18: the determination can also refer to the activity for a foreign intelligence service;

(2) The special use prohibition in accordance with Article 5 Paragraph 1 remains inviolate.

(3) Use for the purposes named in clause 1, Number 6 is forbidden after 31 December, 2030. Documents for information and communications which have accumulated in connection with earlier examinations at the requesting places are to be offered to the Federal Archive or to the responsible national archive or local archive or, with members of the German Parliament, the archive of the German Parliament.

Article 22

Use of Records – Parliamentary Investigative Committees

(1) The right of parliamentary investigative committees to gather evidence, pursuant to Article 44, Paragraphs 1 and 2 of the Basic Law, shall extend to the records of the State Security Service.

(2) Paragraph 1 shall be applicable *mutatis mutandis* to the parliamentary investigative committees of the federal states.

Article 23

Use of Records for Criminal Prosecution and to Avert Harm

(1) If records contain personal data regarding persons concerned or third parties, they may be used as necessary

1. for
 - a) the prosecution of criminal acts committed in connection with the regime of the former German Democratic Republic, particularly criminal acts committed in connection with the activities of the State Security Service, other security, prosecuting and penal authorities, as well as courts;
 - b) crimes in the cases of Articles 211, 212, 239a, 239b, 306 to 306c, 307 to 309, 313, 314 and 316c of the criminal code as well as of felonies in accordance with
 - aa) Article 6 of the International Criminal Code,
 - bb) Articles 51, 52 Paragraph 1, Numbers 1, 2, Letters c and d, as well as Paragraphs 5 and 6 of the Firearms Act,
 - cc) Article 19, Paragraphs 1 to 3, Article 20, Paragraph 1 and 2, in connection with Article 21, and Article 22a, Paragraphs 1 to 3 of the Act for the Control of Military Arms,
 - dd) Article 29, Paragraph 3, clause 2, Number 1, Article 29a, Paragraph 1, Number 2, as well as Article 30 Paragraph 1, Numbers 1 and 2 of the Narcotics Law,
 - ee) Article 30, Paragraph 1, Number 4 of the Narcotic Law, in as far as the offender has acted professionally or as member of a gang;
 - c) criminal acts committed in connection with the National Socialist regime;
 - d) criminal acts pursuant to Article 44 of this Act.
2. to avert an immediate substantial threat to public safety, in particular to prevent imminent perpetration of criminal acts.

Article 5, Paragraph 1 shall not be applicable. Specific prohibited use pursuant to the provisions of the Rules of Criminal Procedure shall remain unaffected.

(2) Other records may be used if necessary for the prosecution of criminal acts, inclusive of providing legal counsel in criminal cases, or to avert a substantial threat to public safety, particularly threatened criminal acts.

Article 24

Use of Court and Public Prosecutor Files of the State Security Service

(1) With respect to the use of files from courts and public prosecutors in the custody of the Federal Commissioner, the respective legal procedures shall be applicable instead of Articles 19 to 21, 23, 25 to 30 and 43. Article 5, Paragraph 1 shall not be applicable if it is a matter regarding criminal acts pursuant to Article 23, Paragraph 1, Number 1.

(2) The Federal Commissioner shall submit on request records pursuant to Paragraph 1, Sentence 1, to courts, public prosecutors and police authorities, if these are acting as auxiliary bodies of the public prosecutor. The records shall be returned without delay as soon as they are no longer required for the stated purpose.

Article 25

Use of Records by Intelligence Services

(1) If the records contain personal data regarding persons concerned or third parties, they may not be used by or for an intelligence service. Exceptions are records which contain personal data regarding

1. employees of the intelligence services of the Federation, the federal states or their allies, if it is necessary to use the records to avert harm to these employees or to the intelligence services;
2. employees of other intelligence services if use of the records is necessary for counterespionage.

(2) Records, if they contain no personal data regarding persons concerned or third parties, may be used by or for the intelligence services of the Federation and the federal states within the framework of their duties as well as by or for intelligence services of allies if they contain information regarding

1. espionage or counterintelligence;
2. violent extremism or terrorism

as defined by the Federal Constitutional Protection Act.

(3) In cases pursuant to Paragraph 1, Sentence 2, Article 5, Paragraph 1 shall remain unaffected.

(4) In cases pursuant to Paragraph 1, Sentence 2 and to Paragraph 2, the Federal Minister of the Interior shall be empowered to order the Federal Commissioner to relinquish records without retaining any part or duplicates thereof, if leaving such records in the custody of the Federal Commissioner would be detrimental to the Federation or a state. Such an order shall require the consent of the Parliamentary Control Panel pursuant to the Act governing the Parliamentary Control of Intelligence Activities by the Federation.

(5) In addition, records pursuant to Article 26 may be used by or for intelligence services within the framework of their legal duties.

Article 26

Use of Service Regulations and Organizational Plans and Further Documents

(1) Guidelines, service regulations, organizational plans and personnel plans of the State Security Service, if they contain no personal data regarding persons concerned or third parties, may also be used for other purposes. The same shall be applicable to plans and drawings of property and other objects of the State Security Service, in particular to ground plans and plans of plumbing and heating, electricity and telephone installations.

(2) Documents that were not specifically created for private individuals, may also be used for other purposes provided they do not predominantly contain personal information worthy of protection.

Article 27

Unsolicited Reports to Public Bodies

(1) If in the course of duties pursuant to Article 37, the Federal Commissioner establishes that one of the following persons has been an official employee or unofficial collaborator of the State Security Service:

1. persons who administer an office or carry out a function in accordance with Article 20 Paragraph 1, Number 6, Letters a or b;
2. persons who administer an office in accordance with Article 20 Paragraph 1, Number 7, Letter a;
3. to 7. (repealed)
8. persons who, because of their activities, may use records pursuant to Article 20, Paragraph 1, Number 4, or Article 21, Paragraph 1, Number 4;

they shall report this to the competent body.

(2) If the Federal Commissioner establishes in the course of his duties according to Article 37 that there are indications in the records for

1. a criminal act in connection with activities of the State Security Service;
2. one of the criminal acts pursuant to Article 23, Paragraph 1, Number 1, Letter b;
3. a substantial impairment of public safety;
4. the existence of assets pursuant to Article 20, Paragraph 1, Number 5 and Article 21, Paragraph 1, Number 5;

he shall report this to the competent body.

(3) If the Federal Commissioner establishes in the course of the duties pursuant to Article 37 that there is information in the records regarding intelligence, counterintelligence, violent extremism, or terrorism pursuant to the Federal Constitutional Protection Act, he shall report this of his own accord to the Federal Minister of the Interior.

(4) Reports pursuant to Paragraphs 1 to 3 shall only be admissible if they may also be made pursuant to a request.

Article 28 (repealed)

Article 29 Limitations of Use

(1) In accordance with Articles 19 to 23, 25 and 27 individual-related information conveyed may only be processed and used for the purposes for which it has been conveyed. It may be used for other purposes only if the requirements pursuant to Articles 20 to 23 and 25 have been met.

(2) Consent of the Federal Commissioner shall be required if, pursuant to Paragraph 1, Sentence 2, personal data regarding persons concerned or third parties is to be processed or used for another purpose.

(3) Paragraphs 1 and 2 shall be applicable mutatis mutandis for personal data in the records which, pursuant to Article 8, Paragraph 2, remain with public bodies.

Article 30 Notification

(1) If individual-related information on a person concerned is conveyed by the Federal Commissioner in accordance with Articles 21 and 27 Paragraph 1, the person concerned is to be notified of the nature of the information conveyed and of the recipients.

(2) Notification shall not be compulsory if the person concerned has been otherwise informed of the communication or if notification would require unjustifiable effort.

(3) Notification shall not occur during a particular time period if the competent supreme Federal or federal state authority declares to the Federal Commissioner that notification of the communication would be detrimental to the Federation or a state.

Article 31

Judicial Review of Decisions of the Federal Commissioner at the Request of Authorities

(1) If the Federal Commissioner refuses to honour the request of an authority for a declaration or for inspection or submission of records, the District Administrative Court shall, at the request of this authority, hold a hearing to decide on the legality of the refusal. The decision shall not be contestable. There shall be no pre-trial hearing. The District Administrative Court of the district in which the Federal Commissioner has their headquarters shall have jurisdiction.

(2) It shall be admissible for the presiding judge to deny or limit inspection of the files or parts thereof, as well as to limit the preparation or distribution of excerpts or duplicates, if this is warranted by the particular circumstances. This decision and the decision of the District Administrative Court regarding the obligatory submission of documents pursuant to Article 99, Paragraph 2 of the Administrative Court Regulations shall not be contestable. Furthermore, the participants shall maintain secrecy regarding the facts which have become known to them through inspection of the files.

Chapter Three

Use of Records for Political and Historical Reappraisal and by Press and Broadcasting Media

Article 32

Use of Documents for Political and Historical Analysis

(1) Upon request, the Federal Commissioner provides the following documents for research for the purpose of political and historical analysis of the activity of the State Security Service, or of the power mechanisms of the former German Democratic Republic, or of the former Soviet occupation zone as well as for purposes of the political education:

1. records not containing personal data;
2. duplicates of records in which personal data have been rendered anonymous, unless these personal data are obvious;

3. records containing personal data regarding
 - employees of the State Security Service, unless they were under 18 years old at the time in which their activities for the State Security Service occurred, or
 - beneficiaries of the State Security Service;
4. records containing personal data regarding personages of contemporary history, holders of political functions or a public office, as long as the data concerned refer to their role in contemporary history or the exercise of their functions or office;
5. records containing other personal data if the persons concerned have given their written consent specifying the name of the applicant specifying the name of the applicant, the project and the persons who will carry it out;
6. documents with individual-related information on deceased persons whose deaths date back 30 years; this retention period can be reduced to ten years if the use for a scientific research project or required to obtain justified interests and preponderant interests worth being protected are not impaired; if the year of death cannot be determined or can only be determined with unwarranted expense, the retention period ends 110 years after birth; the Numbers 1 to 5 remain inviolate;
7. In addition, documents with individual-related information, in as far as
 - a) this is required for the execution of scientific research work at universities and other research institutions and at the state commissioners' offices for the Records of the State Security Service of the former German Democratic Republic;
 - b) use of anonymous information for this purpose is not possible or the anonymity is connected with a disproportionate expense and
 - c) the recipient of the information is a public official or has been formally bound in accordance with the Law on the Commitment of Persons to Secrecy.

Documents with individual-related information in accordance with clause 1, Numbers 3, 4 and 7 may only be provided, as far as no preponderant interests worthy of protection of the persons named there are compromised through

their use. It is important to consider whether the ascertainment of information is based on a violation of human rights.

(2) Records which, pursuant to Article 37, Paragraph 1, Number 3, Letters b to d are subject to special storage, may be used only with the consent of the Federal Minister of the Interior.

(3) Personal data shall not be published unless

1. they are obvious;
2. they concern
 - employees of the State Security Service, unless they were under 18 years old at the time in which their activities for the State Security Service occurred, or
 - beneficiaries of the State Security Service;
3. They concern personages of contemporary history, holders of political functions or a public office, as long as the data concerned refer to their role in contemporary history or the exercise of their functions or office, or
4. The persons whose personal data are to be published have given their consent;
5. When it involves information on deceased persons whose deaths date back 30 years; this retention period can be reduced to ten years if the use for a scientific research project or required to obtain justified interests and preponderant interests worthy of protection are not impaired; if the year of death cannot be determined or can only be determined with unwarranted expense, the retention period ends 110 years after birth; Numbers 1 to 4 remain inviolate.

No preponderant interests worthy of protection of the persons named may be compromised by the publication of the individual-related information named in clause 1, Numbers 2 and 3. It is important to consider whether the ascertainment of information is based on a violation of human rights. Individual-related information in accordance with clause 1, Number 5 may only be published if no preponderant interests worthy of defence of other persons are compromised by the publication.

(4) Paragraphs 1 and 3 shall apply *mutatis mutandis* to purposes of political and historical reappraisal of the National Socialist past.

Article 32a

Notification

(1) Where records are to be made available in accordance with Article 32, Paragraph 1, Sentence 1, Number 4, the persons concerned shall be informed about this and about the content of the data in good time so that objections against such access can be made. The Federal Commissioner shall take these objections into account when weighing the interests according to Article 32, Paragraph 1 above. If no agreement is reached, the records shall not be made available until two weeks after notification of the result of the weighing of interests.

(2) No such notification is necessary if the interests of the person concerned that warrant protection are not expected to be impaired, if notification is impossible, or if it is possible only with disproportionate effort.

Article 33

Procedure

(1) Inspection of records for purposes of research or political education shall be permitted in the central office or in one of the branch offices of the Federal Commissioner.

(2) The inspection may be limited to duplicates if this is warranted by the importance or state of preservation of the records.

(3) In as far as inspection of documents is permitted, duplicates of the documents can be issued upon request; this does not apply in the case of Article 32 Paragraph 1, clause 1, Number 7.

(4) It shall be inadmissible to use duplicates which have been provided pursuant to Paragraph 3 for other purposes or to pass them on to other bodies.

(5) It shall be inadmissible to inspect unprocessed archival material.

Article 34

Use of Records by Press, Broadcasting Media and Film

(1) Articles 32 to 33 shall be applicable mutatis mutandis to the use of records by the press, film, or broadcasting media or by their auxiliary enterprises or their journalistic-editorial personnel.

(2) If the publication of personal data by broadcasting corporations under Federal law leads to the issue of counter-statements by the person concerned, such counter-statements shall be added to and preserved with the stored data. The personal data may only be republished together with the counter-statement.

PART FOUR

FEDERAL COMMISSIONER FOR THE RECORDS OF THE STATE SECURITY SERVICE

Article 35

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

(1) The Federal Commissioner for the Records of the State Security Service of the former German Democratic Republic is a Federal authority in the area of the supreme Federal authority responsible for culture and media. They have a central office in Berlin, and can have branches in Berlin, Brandenburg, Mecklenburg-West Pomerania, Saxony, Saxony-Anhalt and Thuringia.

(2) On a proposal from the Federal Government, the Bundestag shall elect the Federal Commissioner for the Records of the State Security Service of the Former German Democratic Republic. The Federal Commissioner must be at least 35 years old at the time of their election. The person elected shall use the name of the authority as their title of office. He shall be appointed by the Federal President.

(3) The Federal Commissioner takes the following oath before the Director of the supreme Federal authority responsible for culture and media:

“I swear to do everything in my power to further the well-being of the German people, to protect it from harm and to defend the Basic Law and the laws of the Federation, to perform my duties conscientiously and to exercise justice in all my dealings, so help me God.”

The reference to God may be omitted from the oath.

(4) The term of office of the Federal Commissioner shall be five years. It may be renewed once.

(5) The Federal Commissioner shall, as directed by this Act, have public law official status with respect to the Federation. He shall be independent in the performance of their duties and subject to the law only. He shall be subject to the legal supervision of the Federal Government. The supreme Federal authority responsible for culture and media directs the supervision.

Article 36

Legal Status of the Federal Commissioner

(1) The mandate of the Federal Commissioner for the Records of the State Security Service shall commence on delivery of the certificate of appointment. It shall end

1. on expiration of their term of office;
2. on their discharge.

The Federal President shall discharge the Federal Commissioner at the latter's request, or on a proposal by the Federal Government, when there are grounds which, in the case of an established judge, justify dismissal from office. In the event of termination of office, the Federal Commissioner shall receive a document signed by the Federal President. Discharge shall be effective on delivery of this document. At the request of the supreme Federal authority responsible for culture and media, the Federal Commissioner is obligated to carry out the business up to the nomination of their successor.

(2) The Federal Commissioner shall not hold any other paid office or pursue any gainful activity or occupation in addition to their official duties and shall not belong to the management, supervisory board or board of directors of a

profit-making enterprise nor to a government or legislative body of the Federation or a state. He shall not give extrajudicial expert opinions against payment.

(3) The Federal Commissioner must notify the supreme Federal authority responsible for culture and media of gifts that they receive with reference to their office. The supreme Federal authority responsible for culture and media decides on the use of gifts.

(4) The Federal Commissioner shall be obliged, even after termination of office, to maintain secrecy concerning matters of which knowledge was gained by reason of the duties. This shall not apply to communications made in the normal course of official business or regarding facts which are common knowledge or are not sufficiently important to warrant confidential treatment. The Federal Commissioner may, even if no longer in office, neither testify in or out of court nor issue statements on such matters without permission of the supreme Federal authority responsible for culture and media. This provision shall not, however, affect the duty by law to report criminal offences and to take action to uphold the free and democratic fundamental order whenever it is jeopardized.

(5) Permission to give testimony as a witness shall be refused only when such testimony would be to the detriment of the Federation or a state or seriously jeopardize or impede the performance of public duties. Permission to deliver an opinion may be refused where it would prejudice official interest. Article 28 of the Act on the Federal Constitutional Court, as published on 12 December, 1985 (Federal Law Gazette I, p. 2229) shall remain unaffected.

(6) From the beginning of the calendar month in office is entered until the end of the calendar month in which office is left or, if Paragraph 1, 6th Sentence, applies, until the end of the month in which activities cease, the Federal Commissioner shall receive remuneration equivalent to that of a Federal civil servant in pay grade B 9. The Federal Act on Travel Expenses and the Federal Act on Removal Expenses shall apply *mutatis mutandis*. In other respects, Article 12 as well as Articles 13 to 20 and 21a, Paragraph 5 of the Federal Ministers Act shall apply, except that the term of office is five years instead of the four-year term of office provided for in Article 15, Paragraph 1 of the Federal Ministers Act and that the pay grade is B 9 instead of B 11 as provided for in Article 21a, Paragraph 5 of the Federal Ministers Act. Notwithstanding the third Sentence

above in conjunction with Articles 15 to 17 and 21a, Paragraph 5 of the Federal Ministers Act, the Federal Commissioner's pension shall be calculated counting the term in office towards the pensionable period of service, on the basis of the Civil Service Pensions Act if this is more favorable and if the Federal Commissioner, immediately prior to election, has served as a civil servant or judge at least in the position which is customarily the last one required before reaching pay grade B 9.

Article 37

Duties and Authority of the Federal Commissioner

(1) The Federal commissioner shall, as directed by this Act, have the following duties and authority:

1. to register the records of the State Security Service;
2. to be responsible for the evaluation, organization, preparation, storage, and administration of the records according to accepted principles for maintaining archives;
3. to administer the records in the central archives in the central office and in the regional archives in the branch offices. The following records shall be stored separately:
 - a) court or public prosecutor files of the State Security Service;
 - b) duplicates pursuant to Article 11, Paragraph 2, Sentence 2;
 - c) records regarding employees of intelligence services of the Federation, the federal states, or their allies;
 - d) records
 - regarding employees of other intelligence services;
 - containing technical or other specialized instructions or descriptions regarding deployment of means and methods in the areas of intelligence, counterintelligence, or terrorism,if the Federal Minister of the Interior declares in an individual case that knowledge of the record contents would impair public safety or would otherwise be detrimental to the Federation or a state;

for the separate storage according to Letters b to d above, the regulations regarding the handling of classified information of the classification “Confidential” or higher shall be applicable;

4. to disclose information and make statements regarding the records, permit inspection of the records, and provide records;
5. analysis of the activity of the State Security Service through instruction of the public on structure, methods and mode of operation of the State Security Service; Article 32 Paragraph 3 applies for the publication of individual-related information; the publication can also take place through an electronic information and communication system,
6. support of research and of political education in the historical and political analysis of the activity of the State Security Service by granting access to documents and the issue of duplicates of documents, as well as support of institutions and memorials on the analysis of the history of the former German Democratic Republic, or of the former Soviet occupation zone with the documentation of the activity of the State Security Service;
7. to inform and advise individuals, other private bodies, and public bodies. It shall also be admissible for the branch offices to give information and advice;
8. to establish and maintain documentation and exposition centres.

(2) The Federal Commissioner shall be certain to apply uniform principles in the performing of duties.

(3) At the request of the Bundestag, otherwise at least every two years, and for the first time on 1 July, 1993, the Federal Commissioner shall submit an activity report. Beginning with the second regular activity report, a report shall be submitted as to what extent and within which period of time the records for the performance of duties will foreseeable no longer be required. When so requested by the Bundestag or the Federal Government, the Federal Commissioner shall draw up opinions and reports. The Federal Commissioner can consult the Bundestag at any time. In matters related to a legislative body, reports shall be submitted directly to this body.

Article 37a

Employment of Employees of the State Security Service

An employment of employees of the State Security Service at the Federal Commissioner for the Records of the State Security Service of the former German Democratic Republic is prohibited subject to Sentence 2. Former employees of the State Security Service, who are employed at the Federal Commissioner at the time of entry into force of this provision, are to be transferred to an equivalent job within the Federal Administration according to their skills and with consideration to social concerns if this deemed acceptable in the individual case; This shall not be applicable in case persons employed at the Federal Commissioner have concealed occupation for the State Security Service upon questioning. In the evaluation of the reasonableness, the interest of the employee in an equivalent working situation as well as personal and family circumstances must be particularly taken into consideration.

Article 38

State Commissioner – Relationship to the Federal Commissioner

(1) To support the Federal Commissioner in the performance of duties as directed by Article 37 of this Act, the office of State Commissioner for the Records of the State Security of the Former German Democratic Republic can be established in the federal states of Berlin, Brandenburg, Mecklenburg-Western Pomerania, Saxony, Saxony-Anhalt and Thuringia. Particulars with respect to this office shall conform *mutatis mutandis* to the laws of the federal states.

(2) The Federal Commissioner shall give the State Commissioner the opportunity to comment on particulars specific to the respective state which may arise during the use of the records pursuant to Article 3 of this Act.

(3) Federal state law can provide that the State Commissioner shall advise individuals involved in obtaining their rights pursuant to Articles 13 to 17 of this Act. This activity can also include psychosocial counselling after the completion of procedures pursuant to Article 12 of this Act

Article 39

Advisory Board

(1) An advisory board to the Federal Commissioner shall be formed. This board shall consist of

1. nine members to be named by the federal states of Berlin, Brandenburg, Mecklenburg-Western Pomerania, Saxony, Saxony-Anhalt and Thuringia and
2. eight members to be named by the German Bundestag.

The members of the advisory board are appointed by the supreme Federal authority responsible for culture and media for the length of five years.

(2) The Federal Commissioner shall inform the advisory board about all fundamental and otherwise important matters and shall discuss them with the committee. The advisory board shall advise the Federal Commissioner, in particular regarding the following matters:

1. registering all of the records of the State Security Service and evaluating these records as directed by Article 10 of this Act;
2. designating archive standards to be observed in the evaluation, organization, preparation, storage, and administration of the records;
3. establishing uniform standards for permitting inspection of records and providing records;
4. establishing evaluation criteria in cases pursuant to Article 20, Paragraph 1, Numbers 6 and 7, and Article 21, Paragraph 1, Numbers 6 and 7 of this Act;
5. establishing standards of priority pursuant to individual requests to inspect records and to requests from public and private bodies;
6. establishing the duties of the branch offices pursuant to their advisory functions;
7. planning programs for the reappraisal of the activities of the State Security Service and informing the public thereof;
8. supporting research and political education.

In addition, the advisory board shall advise in the preparation of the activity report required pursuant to Article 37, Paragraph 3, Sentence 1 of this Act.

(3) The advisory board shall establish its own rules of procedure which will require the approval of the Federation.

(4) Members of the advisory board shall be obliged to maintain secrecy regarding not publicly known individual-related information and other confidential facts which become known to them in the course of their duties, unless such facts are public knowledge. Their obligation to maintain secrecy shall continue after their term of office has ended.

(5) The advisory board can turn to the German Parliament at any time in important matters.

Article 39a

Scientific Advisory Board

(1) A scientific advisory board that consists of nine members is formed for the consultation of the Federal Commissioner on the scientific analysis of the activity of the State Security Service as well as on the conception of its research work. The scientific advisory board accompanies the scientific research work and publication activity of the Federal Commissioner and promotes and supports the collaboration and information exchange of the Federal Commissioner with other scientific institutions.

(2) The German Parliament names nine persons who are distinguished by special knowledge in the area of research on the former German Democratic Republic, on dictatorships, on Communism, on comparative contemporary history or on structure, methods and mode of operation of secret services. The supreme Federal authority responsible for culture and media appoints the members for the length of five years. A non-recurring reappointment is admissible.

(3) Members of the scientific advisory board are sworn to secrecy at their appointment concerning the individual-related information which becomes known to them in their activity, in as far as it is not apparent. The obligation of secrecy exists even after the termination of their membership in the scientific advisory board.

Article 40

Measures to Safeguard Records

(1) The Federal Commissioner shall take the organizational and technical measures necessary for their authority to safeguard the records against unauthorized access.

(2) It shall be particularly ensured that

1. the employees of the Federal Commissioner have access only to the records and data processing systems directly related to their duties. Each case of access to the records and the reason for access shall be documented;
2. no one shall establish unauthorized systems for locating data in the archives; no one shall enter, document, modify, or erase any stored data without authorization;
3. the documents or information from the documents conveyed, the time, and to whom conveyed is documented for a minimum of ten years after conclusion of the processing. After the expiration of the retention period, the documents developed from the documentation are to be offered to the Federal Archive according to Article 1 Number 8, Article 5 Paragraph 1 and Article 6 Paragraph 2 Number 1 of the Federal Archive Act;
4. it shall be possible to check and establish which personal data has been entered into data processing systems by whom and at what time;
5. buildings in which the records of the State Security Service are stored shall be protected against unauthorized entry;
6. unauthorized persons shall not have access either to the records or to the data processing systems in which the records are stored;
7. unauthorized persons shall not have the possibility to read, copy, modify, or remove records;
8. records and data carriers shall be protected during transport against unauthorized reading, copying, modification, erasure, or destruction;
9. the internal organization of the authority shall be arranged in such a way that it meets the specific requirements of data protection.

Article 41

Automated Retrieval Procedures, Commissioned Data Processing

(1) The Federal Commissioner may only automate individual-related information from documents of the State Security Service in so far as this is required for the fulfilment of their duties and responsibilities. Article 20 of the Federal Data Protection Act is to be applied to information that is automated.

(2) The establishment of automated retrieval procedure for the purpose of conveyance is prohibited. Article 37 Paragraph 1, Number 5 remains inviolate.

(3) The processing of information from the documents by proxy is only permissible when the processing by the Federal Commissioner is not possible with their own means or only possible with disproportionate expense and the contractor has been selected taking into special consideration the suitability for exposure to this information. The contractor may process the information exclusively corresponding to the instructions of the Federal Commissioner.

PART FIVE

FINAL PROVISIONS

Article 42

Costs

(1) Costs (fees and expenses) shall be charged for official actions pursuant to Articles 13 and 15 to 17, against private bodies pursuant to Article 19 in connection with Articles 20, 21, and 26 as well as Articles 32 and 34. Costs shall also be charged in cases of retraction or revocation of an official action, denial or withdrawal of a request for official action, as well as in cases of rejection or withdrawal of a protest. No costs shall be charged to persons concerned, third parties, and near relatives of missing or deceased persons for information provided or for the opportunity to examine the records.

(2) The member of the Federal Government responsible for culture and media is authorized to determine the rates and facts of the case subject to charges by statutory regulation without the consent of the Council. The refunding of expenditures can be settled by way of derogation from the provisions of the Administrative Costs Act in the legal decree.

Article 43

Precedence of this Act

The regulations of this law override provisions on the admissibility of the conveyance of individual-related information in other laws. The Federal Data Protection Act does not apply with the exception of the provisions on data protection control, in as far as nothing else is provided in Article 6 Paragraph 9 and Article 41 Paragraph 1, clause 2 of this law.

Article 44

Criminal Offences

Anyone who publicly communicates personal data regarding persons concerned or third parties from the original records protected by this Act or from duplicates thereof, shall be punished by imprisonment of up to three years or by a fine. This shall not be applicable if the person concerned or third party has given their consent.

Article 45

Administrative Offences

(1) An administrative offence shall be deemed to have been committed by anyone who, either intentionally or through negligence,

1. contrary to Article 7, Paragraph 3 of this Act does not report possession of records within the proper time;
2. contrary to Article 9, Paragraph 1, Sentence 1 and Paragraph 2, does not relinquish records or copies or other duplicates of records to the Federal Commissioner or does not relinquish them within the proper time;
3. contrary to Article 9, Paragraph 3 does not permit the Federal Commissioner to use records which are their personal property.

(2) The misdemeanour can be sanctioned with a fine of up to two hundred fifty thousand euros.

(3) The administrative agency in the sense of Article 36 Paragraph 1, Number 1 of the law on misdemeanours is the Federal Commissioner.

Article 46

Exemption from Punishment

Anyone who has gained possession of records of the State Security Service by unlawful means shall not be punished if he fulfils his obligation to report possession of records pursuant to Article 7, Paragraph 3 within a time period of three months after this Act comes into effect.

Article 46a

Limitation of Civil Rights

Postal and Telecommunications Secrecy (Article 10 of the Basic Law) shall be limited in accordance with this Act.

Article 47

Repeal of Provisions, Transition of Office

(1) The regulations in annex I, chapter II, subject area B, clause II, Number 2, Letter b of the Treaty of Unification of 31 August, 1990 (Federal Law Gazette II pp. 885, 912) shall be repealed.

(2) The legal status of the holder of office who was appointed pursuant to Paragraph 1 of the abovementioned regulations and who was in office at the time of the passage of this Act shall be based on this Act. The temporary provisions regarding remuneration and benefits, pursuant to the Treaty of Unification, shall apply correspondingly.

Article 48

(Entry into Force)

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