
XXXII

POLISH YEARBOOK
OF INTERNATIONAL LAW

2012

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COUNTRY & NAME OF ARCHIVE	INDEPENDENT ENTITY RESPONSIBLE (i.e., for control of archives, implementing search, or ordering disclosure)	GOVERNING LAW OR DECISION (legislation, decree, policy, court judgment)	GOVERNMENT ENTITY ORIGINATOR OF RECORDS, YEARS OF RECORDS & DOCUMENTS INCLUDED (i.e., quantity, type of documents)	ACCESS TO INFORMATION (i.e., open, closed, partially open – to investigators, victims, families, etc.)	IMPACT OF ARCHIVES (prosecutions, convictions, public consultations, etc.) & GENERAL NOTES
Argentina Archive of the Department of Intelligence of the Buenos Aires Police (DIPPBA) ^a	Commission of Memory of Buenos Aires Province.	Provincial legislation (1999; archival material discovered in 1998).	Intelligence Division of Buenos Aires Police (DIPPBA).	Publicly accessible since 2003.	The archival material made an important contribution to proof in significant cases such as Ercheolatz, Von Wernich, Hospital Posadas, Comisaria Quinta and CNU Mar del Plata.
Argentina General Provincial Archive of Santa Fe ^b			Santa Fe Police. Archival records of Santa Fe Police.		Recovery of documents from this archive has provided information on at least 19 cases of people who disappeared.
Brazil National Archives ^c	Reference Center for Political Struggles in Brazil / O Centro de Referência das Lutas Políticas no Brasil. Body reports to the House of the Presidency of the Republic.	Presidential Decree 5584 (2005) – regulates transfer of records to National Archives.	Security services during dictatorship (1964–1985). National Security Council, General Committee of Investigation and National Information Service, Brazilian Intelligence Agency.	“Memories Revealed” (Memórias Reveladas) website, launched in 2009, makes archives publicly accessible. Thirteen states and the Federal District of Brazil have contributed their public archives, which have been digitized and become part of the “Memories Revealed” portal. The records comprise approximately 200 million pages of documents of the period, plus books and audio-visual records.	The “Memories Revealed” initiative, implemented the federal policy aimed at rebuilding the national memory of the military dictatorship, further enabled compliance with the constitutional requirement of access to information.

Brazil ^d	Special Commission (Rio Grande do Sul).	Decree 39.680 (1989) – created commission to organize collection of records concerning the fight for democracy, and to denounce human rights violations. Decree 40.318 (2000) – declassified records of political police in Rio Grande do Sul.	Political police during dictatorship (1964–1985). Documents, books, files, periodical publications donated by private individuals or non-governmental organizations, audio-visual documents, published documents relating to bodies of the state administration and personal recorded testimonies.	Declassified and accessible.	
Bulgaria ^e	Committee for Disclosure of Documents and Announcement of Affiliation of Bulgarian Citizens to the State Security and Intelligence Services of the Bulgarian National Army (COMDOS).	Law for Access and Disclosure of Documents (2006).	State security and intelligence services of Bulgarian National Army (1944-1991).	Access available, through application, to researchers, investigators, and to citizens and close relatives for information concerning an individual. Access includes direct examination, copies, and disclosure of names of informants.	Committee prepares and receives documents of the State Security and intelligence services of the Bulgarian National Army, so that centralized archive mandated by the 2006 law could be established. Committee also determines and announces the affiliation of citizens to security and intelligence services.
Cambodia DC-Cam Archives ^f	Sleuk Rith Institute (A Permanent Documentation Center of Cambodia).	Cambodian Genocide Justice Act (US 1994) - established Office of Cambodian Genocide Investigations in US State Department. Yale University's Cambodian Genocide Program (a grantee of the Office) founded DC-Cam in 2005.	Cambodian political police during Khmer Rouge regime. World's largest archive on the Khmer Rouge period with over 155,000 pages of documents and 6,000 photographs.	DC-Cam formulated procedures for managing access to archives both before and during prospective trials of former Khmer Rouge leaders. They cover authorization for those seeking access to documents, photocopying, viewing originals and document custody, care and return. A set of regulations have also been developed for those wishing to view documents in a Public Information Room.	DC-Cam's objectives are to record and preserve the history of the Khmer Rouge regime for future generations and to compile and organize information that can serve as potential evidence in a legal accounting for the crimes of the Khmer Rouge. The DC-Cam Archives has resulted in the publication of many books, a national genocide education initiative, and support services for victims and survivors of the Khmer Rouge regime.

<p>Czech Republic Security Services Archive⁶</p>	<p>Institute for the Study of Totalitarian Regimes: controlled by Council, comprised of seven members elected and recalled by the Senate; archive is administrative office controlled by Institute. Security Services Archive must be managed by a specialized archivist of “<i>incorruptible</i>” character—defined to exclude military or intelligence personnel (Arts. 12(4), 19).</p>	<p>Act No. 181/2007 Coll. of 8 June 2007 on the Institute for the Study of Totalitarian Regimes and the Security Services Archive. Also Law No. 140 of 1996 (STB Files Access Act).</p>	<p>Ministries of Interior, Defense and Justice and dossiers of the former security services (including State Security Service, Intelligence Service, the General Staff of the People’s Army, Internal Protection of the Corrective Education Corps of Ministry of Justice (1938 – 1945 and 1948 – 1989).</p>	<p>Most archival material is accessible under Act on Archives (Act No. 499/2004 Coll.), and previously under Acts on Disclosure of Documents Created in the Course of State Security Service Activities (Act No. 140/1996 Coll., Act No. 107/2002 Coll.). Available to researchers in digital form, with some data less than 30 years old anonymized; undated after 30 years. Investigation files of former Public Security Service (<i>Věřejná bezpečnost – VB</i>) are located in archive collections of the Ministry of the Interior of the Czech Socialist Republic, and are accessed through communication with archives.</p>	<p>The mandate of the Institute includes securing, digitizing, and making accessible to the public information concerning human rights abuses of the past. The 2007 Czech law establishing the Institute begins: “Those who do not know their past are doomed to repeat it.” It calls for the investigation, remembrance and education of historic injustices to avoid their repetition. The Act recognizes “the state’s obligation to allow the public maximum possible access to the secret activities of the totalitarian and authoritative regimes security services, as an expression of its conviction that unlawful acts of any totalitarian or authoritative regime against citizens must not be protected by secrecy or forgotten.” (Preamble). In the 2007 law, the Institute replaced the Office for the Investigation and Documentation of the Crimes of Communism, established in 2005 and linked to the police, with a mandate to investigate and collect information and the authority to subpoena records.</p>
<p>Estonia National Archive^h</p>	<p>Administrative Office of National Archive (Haldusbüroo); reports to State Archive, which is part of National Archive.</p>	<p>Archives Act (2012).</p>	<p>Documents of state security services.</p>	<p>Access to National Archives unrestricted for victims, and access to others permissible with restrictions established by Public Information Act, Personal Data Protection Act, State Secrets and Classified Information of Foreign States Act or another act apply (sec. 10(1)).</p>	<p>The 2012 Act provides for “appraisal of records, acquisition and preservation of archival records, grant of access thereto, organization of use thereof, and liability for rendering records and archival records unusable and destruction thereof, establishment of the bases for records management of agencies and persons performing public duties and the bases for the activities of the National Archives and local government archives” (sec. 1(1)). Predecessor 1994 law governing former secret services archives prevented the destruction of records.</p>
<p>Germanyⁱ</p>	<p>Federal Commissioner Preserving the Records of the State Security Service of the former German Democratic Republic (BStU).</p>	<p>German Law on Stasi Records (1990).</p>	<p>Information obtained by the East German Stasi (preserved and collected).</p>	<p>Right of access for family members killed or subject to disappearance, as well as those affected and third parties (Arts. 14-15). More than 2.6 million people consulted archives since 1991.</p>	<p>Agency is a founding member organization of the Platform of European Memory and Conscience.</p>

<p>Guatemala</p> <p>Guatemala National Police Historical Archive / Archivo Histórico de la Policía Nacional (AHPN)</p>	<p>General Archive of Central America / Archivo General de Centroamérica (AGCA), under Ministry of Culture (2009-).</p> <p>Previously (2005-09): Human Rights Ombuds (Procurador de Derechos Humanos, PDH), constitutionally mandated to investigate rights violations.</p>	<p>Civil Court order authorized PDH to inspect files and documents in 2005 after appeal to secure access for human rights investigation in connection with archive following its accidental discovery.</p>	<p>National Police (1882-1996) (no longer in operation).</p> <p>80 million pages of administrative police documents, including identification cards, vehicle license plates, photographs, police kidnappings, murders and assassinations; arranged by location, offices and document type.</p>	<p>Public in its entirety, digitized and accessible online: https://ahpn.lib.utexas.edu (ten million scanned pages).</p> <p>To facilitate public access, the archive “needed to be removed from the political sphere, because even if the project was directed by the Human Rights [Ombudsman], the responsibility for the documents in the first instance lay with the body which inherited the role of the National Police, i.e., the National Civil Police, and which imposed many constraints and difficulties on its use.”^{9k}</p>	<p>According to the archive’s website, the collection “represents the largest single repository of documents ever made available to human rights investigators.” Government and police long denied the existence of the archives, especially during 1990s truth commission investigations.</p> <p>The AHPN has become a “central actor and catalyst in prosecutions of war-time cases of human rights violations and in facilitating Guatemala’s historical memory.” The Public Ministry, Human Rights Ombudsman’s Office, and human rights organizations rely on it. It has been used in at least 124 judicial searches for disappeared persons, 1260 investigations relating to possible human rights violations, and support for 166 specific cases. The AHPN provides documents and professional grief counseling to friends and relatives of disappeared.</p>
<p>Hungary</p> <p>Historical Archives of Hungarian State Security / Allambiztonsági Szolgálatok Történelmi Levéltára (ABTL)¹</p>	<p>ABTL is “publicly financed organization with independent, complete economic management authority and an independent heading within the budget section of the Parliament” (Art. 8(2)).</p>	<p>Law No. III of 2003 (the Disclosure Act) (on the Disclosure of the Secret Service Activities of the Communist Regime and on the Establishment of the Historical Archives of the Hungarian State Security).</p>	<p>State security actors (1944-1990).</p>	<p>Personal data can be accessed by a “person under observation, a third party, a professional employee, an operative contact person and a collaborator [or their relatives]” can access personal data (Art. 3(1)).</p> <p>Researchers can access with protection of personal data (Arts. 3(2)-(3), 4(1))</p> <p>The public, including non-citizens, can access anonymized documents (Art. 5(1)).</p>	<p>In 2011, Hungarian government proposed legislation to allow victims of spying by former secret police and Ministry of the Interior to remove and/or destroy personally related files. This proposed law raised concerns about the potential loss of irreplaceable archival documents on the history of communist Hungary and its state security agencies. Due to vocal opposition, this never became law.</p>
<p>Latvia</p> <p>National Archives of Latvia^m</p>	<p>1994 law.</p>	<p>State Security Council. Archives.</p>	<p>Accessible.</p>	<p>Law promulgated specifically to conserve and allow access to collections of former State Security Council, with aim of making available the names of those who collaborated with the KGB.</p>	

<p>Lithuania Lithuanian Special Archivesⁿ</p>	<p>Genocide and Resistance Research Centre of Lithuania.</p>	<p>Decree 452 (1996). Decree 579 (2007).</p>	<p>Former State Security and Intelligence Services, including Lithuanian division of KGB, and archives of the Ministry of Interior of the former Soviet Socialist Republic of Lithuania and Lithuanian Communist Party (1939-1990).</p>	<p>Decree permits access; those not permitted by decree can access documents only with written permission from the Centre (Sec. 7-8); courts, prosecution offices, state security department and other pre-trial institutions can access in accordance with functions.</p>	<p>The Centre investigates all manifestations of genocide and crimes against humanity, the persecution during the Soviet and Nazi occupations, and the armed and peaceful resistance to the occupations. 1996 Decree approved regulation of storage, management, research and use of archival collections of former State Security and Intelligence Services, including conditions governing conservation, access, registers of consultation and replacement of documents consulted (brief maximum loan periods); and explicitly stated motive that collections be used to establish those responsible for genocide and full restoration of civil rights.</p>
<p>Mexico National Archives^o</p>	<p>National Archives.</p>	<p>Governmental order (Diario Oficial de la Federación) of 18 June 2002.</p>	<p>Former Federal Security Department and General Department for Political and Social Investigation; had domestic intelligence and monitoring functions; implicated in “dirty war.”</p>	<p>Publicly accessible pursuant to order.</p>	<p>Transition of documents to National Archives from Centre for Investigation and National Security (CISEN).</p>
<p>Paraguay “Archivos de Terror”^p</p>	<p>Center of Documentation and Archives for the Defense of Human Rights, housed within Asunción Supreme Court.</p>	<p>Archives found in 1992 by human rights activist and judge in a police station in a suburb of Asunción, and later other police stations. Cooperation agreement of Supreme Court of Paraguay, the Catholic University of Asunción and the National Security Archive to preserve and make files public.</p>	<p>Paraguayan Technical Police, under Stroessner dictatorship (1954-89). 300,000 documents listed 50,000 murdered, 30,000 disappeared and 400,000 imprisoned; e.g., interrogation transcripts and recordings, photos, records of regional extrajudicial transfers (Operation Condor).</p>	<p>The database is indexed in Spanish and available for public consultation. To provide maximum access to the holdings that carry multinational interest, the Supreme Court included online 246 document images relating to Operation Condor. Selection was made with the criteria of maximum accessibility, technical limitations of publishing digital documents online and respect for privacy.</p>	<p>Prosecutors and judges have marshaled the archives to bring charges against former military officers, including former dictator Augusto Pinochet. “Archivos de Terror” recount final moments of thousands of extra-judicially kidnapped, detained, tortured and killed persons in the Southern Cone of Latin America. They also detail Operation Condor, effort of security forces in six countries to crush left-wing dissent.</p>

<p>Poland Archives of Institute of National Remembrance (IPN)⁴</p>	<p>Institute of National Remembrance. President of Institute independent of state authorities (Art. 9).</p>	<p>Act on the Institute of National Remembrance (1998). Act on the Disclosure of Information on Documents of State Security in the years 1944 – 1990 (2006).</p>	<p>Documents created and collected by organs of state security (Securitate, 1944–1989), and security services of Third Reich and USSR (Art. 1(1)). Records regarding Communist, Nazi and other crimes and repression.</p>	<p>Under 1998 law, Securitate archives accessible to all citizens under law. Previously, only historians and journalists had access to files. 2006 law opened communist-era secret police files, including information on current diplomats, ministers and parliamentarians.</p>	<p>Institute is mandated to investigate Communist and Nazi crimes, war crimes and crimes against humanity and peace. Goals of the Institute are carried out by the Commission for the Prosecution of Crimes against the Polish Nation (created in 1998); Office for Preservation and Dissemination of Archival Records; Public Education Office; and Veriting Office. Opening of the archives was contentious, with fears of disappearance of files, and infiltration with former Securitate.</p>	
<p>Romania Securitate Archives⁵</p>	<p>National Council for the Study of the Securitate Archives. Also Institute for National Remembrance.</p>	<p>Law No. 187 of 1999 (the Access to Personal Files Law).</p>	<p>Securitate, the Communist secret service.</p>	<p>Files accessible to all Romanian citizens, NATO or EU citizens with Securitate files, and close relatives.</p>	<p>The National Council administers the archive and develops educational programs and exhibitions with the aim of preserving the memories of victims of the communist regime. Institute for National Remembrance manages files and allows some access.</p>	
<p>Russia Central Archives of the Federal Security Service (the TsA FSB Rosii), in the Central Archive of the Ministry of the Interior⁶</p>	<p>Centre for Archival Information and for the Rehabilitation of the Victims of Political Repression (est. 1992).</p>	<p>Law on the Rehabilitation of Victims of Political Repression (1991).</p>	<p>KGB, the former Soviet intelligence entity, and Ministry of Internal Affairs (1955–1991). Institutional records, statistical materials, dossiers on former officials, criminal files, records of operational activities; central reference card file contains 25 million cards of arrested and/or incarcerated.</p>	<p>General acceptance of the right of victims to consult the files concerning them; otherwise, access left to discretion of those responsible for particular archives and documents awaiting declassification.⁷</p>	<p>Purpose of the Centre is to “organize and implement the rehabilitation of repressed individuals, and to furnish information about victims of repression to institutions, organizations, and individuals.”</p>	

<p>Slovakia Nation's Memory Institute Archive^a</p>	<p>Nation's Memory Institute (Ústav pamäti národa – UPN).</p>	<p>Act No. 553/2002 Coll. (on Disclosure of Documents Regarding the Activity of State Security Authorities from 1939 to 1989 and on founding the Nation's Memory Institute).</p>	<p>State security authorities (1939-1989). Nearly 12.5 million pages of documents, including 62,000 agency and investigative files; 70,961 microfiches (equivalent to approximately 2 million pages); 466 films.</p>	<p>Disclosure section tasked with disclosing documents about persecutions, carried out by the Nazi or Communist security agencies, to persecuted individuals, with help of electronic screening, original and archival registers.</p>	<p>Other tasks of the Institute: publicizing information on perpetrators and their activities; prompting criminal prosecution of crimes and criminal offences; providing relevant information to public authorities; and systematically accumulating all types of information, records and documents pertaining to the period of oppression; working with similar institutions (archives, museums, libraries, survivors of the resistance, survivors of concentration and labor camps); presenting public with results of its activities.</p>
<p>Spain National Historical Archive, Salamanca^v</p>	<p>Minister of Culture.</p>	<p>Agreement signed by Minister of Interior (oversight of Central Police Archive) and Minister of Culture (oversight of National Historical Archive), transferred files in political police archive.</p>	<p>Central Police. All files from the political archive of the Central Police.</p>	<p>Accessible to researchers and citizens.</p>	<p>“An invaluable collection of documents for the study of social opposition movements to the Franco regime for a period of more than forty years has been preserved.”^w The general functions of the Archive are to preserve and protect the documentary historical heritage that it already safeguards and the documents that ought to continue to be deposited; describe the information content of the documents; make the document collections accessible to both researchers and citizens; and promote cultural dissemination of documents.</p>
<p>Ukraine^x</p>	<p>State Archives Department of the Security Service of Ukraine (DA SBU).</p>	<p>Laws on information, national archives and state secrets (Regulation 206 of 1 April 1994).</p>	<p>State security authorities in the former Ukrainian Soviet Socialist Republic and modern-day Ukrainian security authorities. Over 930,000 documents.</p>	<p>Guaranteed access to tribunals, prosecutors and victims and their families. Documents held by DA SBU have a “special-use” requirement under the Law of Ukraine “On State Secrets.”</p>	

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- x Global Security – State Archives Department of the Security Service of Ukraine, at <http://www.globalsecurity.org/intell/world/ukraine/archives.htm>. UNESCO/ICA 2009 Report, p. 84.