

**ACT
REGARDING THE RECORDS OF THE STATE SECURITY
SERVICE
OF THE FORMER GERMAN DEMOCRATIC REPUBLIC
(STASI RECORDS ACT)
of 20 December 1991**

Federal Law Gazette I 1991, p. 2272, amended by the First Stasi Records Act Amendment of 22 February 1994 (Federal Law Gazette I, p. 334); the Second Stasi Records Act Amendment of 26 July 1994 (Federal Law Gazette I, p. 1748); Article 12 paragraph 22 of the Act of 14 September 1994 concerning the Reorganisation of the Postal and Telecommunications Administration (Post and Telecommunications Reorganisation Act) (Federal Law Gazette I, p. 2325); Third Stasi Records Act Amendment of 20 December 1996 (Federal Law Gazette I, p. 2026); Article 4 paragraph 2 of the Sixth Act concerning the Reform of Criminal Law (6th Criminal Law Reform Act) of 26 January 1998 (Federal Law Gazette I 1998, p. 164); Fourth Stasi Records Act Amendment of 19 December 1998 (Federal Law Gazette I, p. 3778); Article 4 paragraph 2 of the Act concerning the Amendment of Regulations on Parliamentary Bodies of 17 June 1999 (Federal Law Gazette I, p. 1334); Article 3 No. 3 of the Civil Service and Military Pensions Amendment Act of 20 December 2001 (Federal Law Gazette I, p. 3926); Article 6 of the Act of 26 June 2002 concerning the Adoption of the International Penal Code (Federal Law Gazette I, p. 2254), the Fifth Stasi Records Act Amendment of 2 September 2002 (Federal Law Gazette I, p. 3446), Article 4 of the Act concerning the Amendment of the Regulations on Weapons of 11 October 2002 (Federal Law Gazette I, p. 3970), the Sixth Stasi Records Act Amendment of 14 August 2003 (Federal Law Gazette I, p. 1654).

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PART ONE GENERAL PROVISIONS

Section 1

Purpose and Scope

(1) This Act regulates the custody, preparation, 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 which the State Security Service has stored regarding him, so that he can clarify what influence the state security service has had on his personal destiny;
2. protect the individual from impairment of his right to privacy being 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 of the Länder, of private individuals, or of other private bodies.

Section 2

Custody, 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 take custody of, provide for the safekeeping of, administer, and use the records of the State Security Service as directed by this Act.

(2) In order to perform his duties according to this Act, the Federal Commissioner is entitled to use the following information from the Central Inhabitants' Register of the former German Democratic Republic:

- surname, given name
- birth name, other names
- place of birth
- personal identification number
- last known address
- entry "deceased"

In order to perform their duties courts and criminal prosecution authorities shall be provided with this information at their request.

Section 3

Individual Rights

(1) Each individual shall have the right to enquire of the Federal Commissioner if the records contain personal data regarding 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.

Section 4

Admissibility of Use of Records of the State Security Service

by Public and Private Bodies

(1) Public and private bodies shall have access to the records or use them only as provided by this Act. If data subjects, third parties,

close 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 data subject 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 sections 20 to 25, and after its communication it proves to be incorrect regarding the person about whom it was requested, it shall be corrected vis-à-vis 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.

Section 5

Specific Prohibited Use

(1) It is inadmissible to use personal data to the detriment of data subjects 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 section 21, paragraph 1, sentences 1 and 2 if statements made by the data subjects 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.

Section 6

Definitions

(1) "Records of the State Security Service" means

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. records submitted to the State Security Service by the courts and public prosecutors.

(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 and private bodies, if these bodies were notlegally or de facto authorized to issue directives vis-à-vis 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 his records.

(3) "Data subjects" means 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 contacts with them or to monitor their behaviour with regard to benefits received.

(4) "Employees of the State Security Service" means full-time employees and unofficial informers.

1. "Full-time employees" means persons who had an official employment or service relationship to the State Security Service. The term can also refer to "Special Task Officers";
2. "Unofficial informers" means 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 informers of Department 1 of the Criminal Police Division of the Volkspolizei (People's Police).

(6) "Beneficiaries" means persons who

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

(7) "Third parties" means 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 data subject 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" means 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 sections 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 TAKING CUSTODY OF RECORDS

Section 7

Location of Records – Duty to Report

(1) All public bodies shall assist the Federal Commissioner in locating and taking custody of 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.

Section 8

Duties 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 sections 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, at his request, shall be provided with duplicates.

(3) The intelligence services of the Federation and the Länder shall relinquish records regarding data subjects in their entirety and without retaining any part of the records or duplicates thereof.

Section 9

Duties 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 section 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 him.

(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.

Section 10

Records of the German Socialist Unity Party and other organizations

(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) At his 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 section 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.

Section 11

Relinquishment and Return of 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. at their request or
2. if he becomes aware of the existence of such records in the course of his duties.

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

(2) The Federal Commissioner shall relinquish records of the Federation, the Länder, or their intelligence services with a classification of "Confidential" or higher to the Federal Minister of the Interior or the competent Land authority. The Federal Commissioner shall be entitled to make duplicates for his 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 authority responsible for national security.

(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 his 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 his records.

(5) If former full-time 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 his records.

(6) If former full-time 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 his records.

PART THREE USE OF THE STATE SECURITY SERVICE RECORDS

Chapter One Rights of Data Subjects, Third Parties, Employees of the State Security Service and Beneficiaries

Section 12

Procedural Provisions

(1) Requests for disclosure of information, for inspection of records or for obtaining records shall be filed in writing. The applicant shall be obliged to prove his identity by presenting a confirmation of it from the competent Land 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

1. either the data subjects, third parties, employees or beneficiaries themselves or
2. their attorney, if he is expressly so authorized, shall be entitled to obtain information, to inspect the records, and to be provided with 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 for him to be accompanied by a person enjoying 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 his doing so.

(2) The Federal Commissioner shall disclose 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, it shall be required to justify the need for urgency. 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 data subject 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 data subject, the records also contain information regarding other data subjects or third parties, inspection of original records shall be permitted only if

1. the other data subjects or third parties have given their consent;
2. separation of personal data regarding other data subjects or third parties is not possible or is possible only with unreasonable effort, and there is no reason to assume that the other data subjects or the third parties have an overriding legitimate interest in keeping them secret.

Furthermore, the right shall be granted to inspect duplicates in which personal information relating to data subjects or third parties has been depersonalized. Inspection of records shall take place in the principal office or in one of the branch offices.

(5) Duplicates of records shall be provided only after the personal data regarding other data subjects and third parties has been depersonalized.

(6) The right to inspect and be provided with records shall not apply to evaluation aids (section 6 paragraph 1 sentence 1 letter c). If the records cannot be found or can be found only with unreasonable 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.

Section 13

Data Subjects and Third Parties – Disclosure of Information, Inspection of Records and Providing Records

(1) At their request, data subjects shall be provided with information regarding their existing prepared records. In their request they shall supply particulars 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 data subject and their contents. Providing information can at first be limited to a communication that records exist and that the data subject may have the opportunity to inspect such records.

(3) At his request the data subject shall be given the opportunity to inspect the prepared records which regard him.

(4) The data subject shall on request be provided with duplicates of the records. Any personal data contained in these duplicates regarding other data subjects or third parties shall be depersonalized.

(5) Where existing prepared records on the data subject which the latter has inspected or of which he has obtained duplicates contain the code names of State Security Service employees who gathered or evaluated information on him or of officers who handled them, the data subject 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 data subject in writing, if the contents of such information was likely to be to the disadvantage of the data subject. The interest of employees and informers in keeping their names secret shall not rule out disclosure of their names.

(6) The first and second sentences of paragraph 5 above 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 data subject.

(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.

(repealed)

Section 15

The Right of Close Relatives of Missing and Deceased Persons to the Disclosure of Information, and the Inspection and Delivery of Records

(1) At their request close 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.

Persons requesting information shall substantiate the purpose for their request and provide proof of their relationship to the missing or deceased person.

(2) Section 13 paragraph 1 sentence 2 and paragraphs 2 to 6 shall be applicable mutatis mutandis.

(3) Close relatives are spouses, children, grandchildren, parents, and siblings.

(4) Paragraph 1 shall not be applicable if the missing or deceased person has left another disposition or if his wishes to the contrary can be clearly inferred from other circumstances.

Section 16

Rights of Employees of the State Security Service – Disclosure of Information, Inspection of Records and Providing Records

(1) At their 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) At his request the employee shall be permitted to inspect his personal records. Section 12 paragraph 4 sentence 2 number 2 shall not be applicable.

(4) At his 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 data subjects or of third parties in maintaining secrecy.

(5) At his request the employee shall be provided with duplicates of his personal records. Personal data in these records regarding data subjects or third parties shall be depersonalized.

Section 17

Rights of Beneficiaries

(1) Section 16 paragraphs 1, 3 and 5 shall be applicable mutatis mutandis to the rights of beneficiaries to obtain information, to inspect the records, and to be provided with duplicates of 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 Land 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.

Section 18

Right to Information – Files Submitted to the State Security Service by Courts and Public Prosecutors

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 section 12 paragraphs 4 to 6 and sections 13, 15 to 17, and 43.

Chapter Two

Use of Records by Public and Private Bodies

Section 19

Procedural Provisions

Public and Private Bodies – Access to Records

(1) The Federal Commissioner shall make declarations to public and private bodies, permit them to inspect records, and provide them with records, to the extent that their use is admissible pursuant to sections 20 to 23, 25 and 26. Pursuant to sections 20 and 21, respectively paragraph 1 number 6, letters d to f, and number 7, letters b to f, so disclosure, opportunity for inspection, or release of records shall occur if there are no indications of unofficial activity for the State Security Service or a foreign intelligence service after 31 Dezember 1975. Sentence 2 shall not apply to persons who are applying for official office, for a position, for authorization to practice a profession or for employment pursuant to sections 20 and 21, respectively paragraph 1 number 6 letters a to c or number 7 letter a. Sentence 2 shall also not apply if the records indicate that an employee in connection with his unofficial activity committed a crime or an offence against humanitarian principles of the 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 data subject from the accusation of cooperation with the State Security Service;
2. for the clarification, taking custody of, 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 section 20 paragraph 1 numbers 6 and 7 and section 21 paragraph 1 numbers 6 and 7;
4. for criminal prosecution and to avert harm in cases pursuant to section 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. Section 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. Section 12 paragraph 4 sentences 2 and 3 shall be applicable mutatis mutandis if the records also contain personal data regarding other data subjects and third parties in addition to the personal data regarding the involved person.

(8) Pursuant to sections 20 and 21 respectively paragraph 1 numbers 6 and 7, no disclosure, opportunity for inspection or release of records shall occur 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.

Paragraph 3 sentence 1 shall remain unaffected.

Section 20

Use of Records Containing no Personal Data – Public and Private Bodies

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

1. rehabilitaion of data subjects and missing and deceased persons, compensation, payments pursuant to the Prisoners' Act;
2. protection of privacy;
3. clarification of the fate of missing persons and of unexplained deaths;
4. cessation or suspension of pension payments pursuant to the Pension Benefits Act or reduction or disallowance or cessation of payments in other cases for which the Pension Benefits Act is applicable;
5. clarification, taking custody, 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. investigations regarding the following persons and in accordance with the applicable provisions in order to establish if they were employed as full-time employees or as unofficial informers of the State Security Service, unless the person being investigated was not at least 18 years old at the time in which the activities occurred:
 - a) members of the Federal Government or of a Land government as well as other public-law officials
 - b) representatives and members of municipal representative bodies
 - c) members of the Advisory Committee pursuant to section 39

- d) persons who are employed or who are to continue being employed in Federal or Land service, including municipalities and associations of municipalities, supranational and international organizations, of which the Federal Republic of Germany is a member, as well as persons employed or who are to continue being employed by the churches or by members of the House of Parliament and Parliamentary Parties
- e) persons who are to continue practicing the profession of notary public or attorney
- f) – members of the managing board, managing directors, executives, or managers in concerns of a legal entity
– persons who have been chosen by law, statute, or social contract to represent the majority, managing directors, executives, or managers in concerns of a majority-ruled organization, employees of the successor organizations of the "Sondervermögen Deutsche Bundespost" (Special Assets of the German Federal Post)
- g) security clearance checks of persons,
 - who are entrusted with, have access to, or could acquire access to facts, objects, or knowledge which must be kept secret in the public interest
 - are employed or are to be employed in security-sensitive areas of installations of vital importance or of importance to defence.

The clearance check can also be pursuant to employment for a foreign intelligence service;

7. investigations regarding the following persons, with their consent, to establish if they were full-time employees or unofficial informers of the State Security Service, unless the person being investigated was not at least 18 years old at the time in which the activities occurred:
 - a) political party executives down to district level
 - b) persons who serve as jury members
 - c) persons who hold honorary church offices
 - d) persons who fill national or Land-level executive positions in associations

- e) members of workers' councils
- f) persons who
 - in the above cases
 - in cases pursuant to number 6 letters a to fare applying for public office, for a position, for a professional licence or for employment.

The investigation can also be pursuant to employment for a foreign intelligence service; if indications exist which warrant suspicion of activities for the State Security Service or for a foreign intelligence service, it is sufficient to inform the person being investigated in lieu of obtaining his consent;

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 regarding decorations.

(2) Section 26 shall remain unaffected.

(3) The use for the purposes stated in paragraph 1 numbers 6 and 7 be inadmissible after a statutory period of 15 years. This statutory period shall begin on the day this Act comes into effect. After the expiration of this statutory period, it shall no longer be admissible to charge a person with activities for the State Security Service, nor to evaluate to his detriment the fact that such activities occurred. The exceptions pursuant to section 52 paragraph 1 of the Federal Central Registry Act shall be applicable mutatis mutandis. The rights of other persons in connection with the activities of the employee, legal consequences of these activities and the decisions of courts or public administration authorities issued in relation to these activities shall remain unaffected.

Section 21

Use of Records Containing Personal Data – Public and Private Bodies

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

1. rehabilitation of data subjects 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, taking custody, 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. investigations regarding the following persons and in accordance with the applicable provisions in order to establish if they were employed as full-time employees or as unofficial informers of the State Security Service, unless the person being investigated was not at least 18 years old at the time in which the activities occurred:
 - a) members of the Federal Government or of a Land government as well as other public-law officials
 - b) representatives and members of municipal representative bodies
 - c) members of the Advisory Committee pursuant to section 39
 - d) persons who are employed or who are to continue being employed in Federal or Land service, including municipalities and associations of municipalities, supranational and international organizations, of which the Federal Republic of Germany is a member, as well as persons employed or who are to continue to be employed by the churches or by Members of the House of Parliament and Parliamentary Parties
 - e) persons who are to continue practicing the profession of notary public or attorney

- f) – members of the managing board, managing directors, executives, or managers in concerns of a legal entity
 - persons who have been chosen by law, statute, or social contract to represent the majority, managing directors, executives, or managers in concerns of a majority-ruled organization, employees of the successor organizations of the "Sondervermögen Deutsche Bundespost" (Special Assets of the German Federal Post).
- g) security clearance checks of persons
 - who are entrusted with, have access to, or could acquire access to facts, objects, or knowledge which must be kept secret in the public interest
 - are employed or are to be employed in security-sensitive areas of installations of vital importance or of importance to defence.

The clearance check can also be regarding employment by a foreign intelligence service;

7. investigations regarding the following persons, with their consent, to establish if they were full-time employees or unofficial informers of the State Security Service, unless the person being investigated was not at least 18 years old at the time in which the activities occurred:
 - a) political party executives down to district level
 - b) persons who serve as jury members
 - c) persons who hold honorary church offices
 - d) persons who fill national or Land-level executive positions in associations
 - e) members of workers' concils
 - f) persons who
 - in the above case or
 - in cases described under number 6, letters a to f, are applying for an office, position, professional licence or employment.

Such investigation may also be carried out with regard to activities on behalf of a foreign intelligence service. If evidence is

discovered suggesting possible activity for the State Security Service or for a foreign intelligence service, it is sufficient to inform the subject of the investigation in lieu of obtaining his consent.

(2) The specific prohibited use pursuant to section 5 paragraph 1 shall remain unaffected.

(3) The use for the purposes stated in paragraph 1 numbers 6 and 7 shall be inadmissible after a statutory period of 15 years. This statutory period shall begin on the day this Act comes into effect. After the expiration of this statutory period, it shall no longer be admissible to charge a person with activities für the State Security Service, nor to evaluate to his detriment the fact that such activities occurred. The exceptions pursuant to section 52 paragraph 1 of the Federal Central Registry Act shall be applicable mutatis mutandis. The rights of other persons in connection with the activities of the decisions of courts or public administration authorities issued in relation to these activities shall remain unaffected.

Section 22

Use of the Redords for the Purposes of Parliamentary Investigative Committees

(1) The right of parliamentary investigative committees to gather evidence, pursuant to section 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 Länder.

Section 23

The Use of Records for Criminal Prosecution and to Avert Harm

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

1. for the prosecution of

- a) 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 cases pursuant to sections 211, 212, 220a, 239 a, 306 to 306 c, 307 to 309, 313, 314 and 316c of the Penal Code, as well as criminal acts pursuant to
 - aa) sections 51, 52 paragraphs 1 number 1, 2 letters c and d and paragraphs 5 and 6 of the Weapons Act,
 - bb) section 19 paragraphs 1 to 3, section 20 paragraphs 1 and 2, each also in connection with section 21, and section 22a paragraphs 1 to 3, of the War Weapons Control Act ,
 - cc) section 29 paragraph 3 numbers 1 and 4 as well as section 30 paragraph 1 numbers 1 and 2 of the Narcotics Act,
 - dd) section 30 paragraph 1 number 4 of the Narcotics Act, insofar as the perpetrator commits such acts in return for profit or as a member of a gang,
- c) criminal acts committed in connection with the National Socialist regime,
- d) criminal acts pursuant to section 44 of this Act,

2. to avert an immediate substantial threat to public safety, in particular to prevent imminent perpetration of criminal acts.

Section 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.

Section 24

Use of Files Submitted to the State Security Service by Courts and Public Prosecutors

(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 sections 19 to 21, 23, 25 to 30 and 43. Section 5 paragraph 1 shall not be applicable if it is a matter regarding criminal acts pursuant to section 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.

Section 25

Use of the Records by Intelligence Services

(1) If the records contain personal data regarding data subjects 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 Länder 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 data subjects or third parties, may be used by or for the intelligence services of the Federation and the Länder within the framework of their duties as well as by or for intelligence services of allies if they contain information regarding

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

as defined by the Federal Constitutional Protection Act.

(3) In cases pursuant to paragraph 1 sentence 2, section 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 Land. 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 section 26 may be used by or for intelligence services within the framework of their legal duties.

Section 26

Use of Service Regulations and Organizational Plans

Guidelines, service regulations, organizational plans and personnel plans of the State Security Service, if they contain no personal data regarding data subjects 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.

Section 27

Unsolicited Reports to Public Bodies

(1) If in the course of his duties pursuant to section 37 the Federal Commissioner establishes that one of the following persons has been a full-time employee or unofficial informer of the State Security Service:

1. persons who hold a public-law office or a position pursuant to section 20 paragraph 1 number 6 letters a to c;
2. a civil servant who can be given leave of absence or an employee in a corresponding position;
3. a civil servant or employee who is the managing director of an authority;
4. an elected or honorary public official;
5. a judge or public prosecutor;
6. an attorney or notary public;
7. a person employed by a church;
8. a person who, because of his activities, may use records pursuant to section 20 paragraph 1 number 4 or section 21 paragraph 1 number 4,

he shall report this to the competent body.

(2) If the Federal Commissioner establishes in the course of his duties 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 section 23 paragraph 1 number 1;
3. a substantial impairment of public safety;
4. the existence of assets pursuant to section 20 paragraph 1 number 5 and section 21 paragraph 1 number 5,

he shall report this to the competent body.

(3) If the Federal Commissioner establishes in the course of his duties pursuant to section 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.

Section 28

Unsolicited Reports to Private Bodies

(1) If the Federal Commissioner establishes in the course of his duties pursuant to section 37 that

1. political party executives down to the district level;
2. persons who fill national or Land-level executive positions in associations;
3. members of the managing board, managing directors, executives, or managers in concerns of a legal entity;
4. persons who have been chosen by law, statute, or social contract to represent the majority, managing directors, executives or managers in concerns of a majority-ruled organization

have been full-time employees or unofficial informers of the State Security Service, he shall report this to the competent body.

(2) Reports pursuant to paragraph 1 shall only be admissible if they may also be made pursuant to a request.

Section 29

Limitations of Use

(1) Pursuant to sections 19 to 23 and 25, and to sections 27 and 28, personal data which has been communicated may be processed or used only for the purpose for which it has been communicated. It may be used for other purposes only if the requirements pursuant to sections 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 data subjects 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 section 8 paragraph 2, remain with public bodies.

Section 30

Notification

(1) If the Federal Commissioner communicates personal data regarding a data subject pursuant to sections 21, 27 paragraph 1 and section 28, the data subject shall be notified regarding the type of information provided and the recipient.

(2) Notification shall not be compulsory if the data subject 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 Land authority declares to the Federal Commissioner that notification of the communication would be detrimental to the Federation or a Land.

Section 31

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

(1) If the Federal Commissioner refuses to honor 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 his 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 section 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 the State Security Service Records for Political and Historical Reappraisal and for Press and Broadcasting Purposes

Section 32

Use of the Records for Reappraisal of the Activities of the State Security Service

(1) For research related to the political and historical reappraisal of the activities of the State Security Service and for the purposes of political education, the Federal Commissioner shall make the following records available:

1. records not containing personal data;
2. duplicates of records in which personal data have been depersonalized, unless these personal data are obvious;
3. records containing personal data regarding
 - employees of the State Security Service, unless they were not at least 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, the project and the persons who will carry it out.

Records containing personal data pursuant to the 1st sentence, Nos. 3 and 4 above, shall only be made available if overriding interests of the persons involved that warrant protection are not impaired. When weighing the interests of the persons involved, particular consideration shall be given to the question of whether collection of the data was based on a manifest violation of human rights.

(2) Records which, pursuant to section 37 paragraph 1 No. 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 not at least 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.

Publication of personal data according to the first sentence, Nos. 2 and 3 above, shall not impair overriding interests of the persons concerned that warrant protection. When weighing the interests of the persons involved, particular consideration shall be given to the question of whether collection of the data was based on a manifest violation of human rights.

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

Section 32a

(1) Where records are to be made available in accordance with Section 32 paragraph 1, 1st sentence, No. 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 Section 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 interests of the person concerned that warrant protection are not expected to be impaired, if notification is impossible, or if it were possible only with disproportionate effort.

Section 33

Procedure

(1) Inspection of records for purposes of research or political education shall be permitted in the principal 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) If inspection of records is permitted, it shall be admissible to provide duplicates of records on request.

(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 unprepared records.

Section 34

Use of Records by Press, Broadcasting, and Film

(1) Section 32 and 33 shall be applicable mutatis mutandis to the use of records by the press, film, or broadcasting sectors 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 data subject, such counter-statements shall be added to and preserved with the stored data. The personal data may only be re-published together with the counter-statement.

PART FOUR

FEDERAL COMMISSIONER FOR THE RECORDS OF THE STATE SECURITY SERVICE

Section 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 is a higher federal authority under the hierarchical supervision of the Federal Minister of the Interior. The principal office thereof is located in Berlin, and there are branch offices located in the Länder of 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 his election. The person elected shall use the name of the authority as his title of office. He shall be appointed by the Federal President.

(3) The Federal Commissioner shall swear the following oath in the presence of the Federal Minister of the Interior:

"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 his duties and subject to the law only. He shall be subject to the legal supervision of the Federal Government. He shall be subject to the hierarchical supervision of the Federal Minister of the Interior.

Section 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 his term of office;
2. on his 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. If the Federal Minister of the Interior so requests, the Federal Commissioner shall be obliged to continue in office until a successor has been appointed.

(2) The Federal Commissioner shall not hold any other paid office or pursue any gainful activity or occupation in addition to his 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 Land. He shall not give extrajudicial expert opinions against payment.

(3) The Federal Commissioner shall inform the Federal Minister of the Interior of any gifts that he receives in the performance of his duties. The Federal Minister of the Interior shall decide how such gifts shall be used.

(4) The Federal Commissioner shall be obliged, even after termination of office, to maintain secrecy concerning matters of which he has gained knowledge by reason of his 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 not, even after leaving office, make any pronouncements or statements either in or out of court regarding such matters without the consent of the Federal Minister of the Interior. This provision shall not, however, affect his 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 Land or seriously jeopardize or impede the performance of public duties. Permission to deliver an opinion may be refused where it would prejudice official interest. Section 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 which he enters office until the end of the calendar month in which he leaves office or, if paragraph 1, sixth sentence, applies, until the end of the month in which his 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, sections 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 two-year term of office provided for in section 15 paragraph 1 of the Federal Ministers Act and that the pay grade is B 9 instead of B 11 as provided for in section 21a paragraph 5 of the Federal Ministers Act. Notwithstanding the third sentence above in conjunction with sections 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 before his election, has served as a civil servant or judge at least in the position which is customarily the last required before reaching pay grade B 9.

Section 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. he shall take custody of the records of the State Security Service;
2. he shall be responsible for the evaluation, organization, preparation, storage, and administration of the records according to accepted principles for maintaining archives;

3. he shall administer the records in the central archives in the principal office and in the regional archives in the branch offices. The following records shall be stored separately:
 - a) files of courts or of the public prosecutor which were submitted to the State Security Service
 - b) duplicates pursuant to section 11 paragraph 2 sentence 2
 - c) records regarding employees of intelligence services of the Federation, the Länder, 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 Land;

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. he shall disclose information and make statements regarding the records, permit inspection of the records, and provide records;
5. he shall reappraise the activities of the State Security Service, informing the public about the structure, methods, and consequences of the activities of the State Security Service. Section 32 paragraph 3 shall apply to the publication of personal data;
6. he shall promote research and political education during the historical and political reappraisal of the activities of the State Security Service by permitting examination of the records and releasing duplicates of the records;
7. he shall 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. he shall establish and maintain documentation and exposition centers.

(2) The Federal Commissioner shall ensure that he will apply uniform principles in performing his duties.

(3) At the request of the Bundestag, otherwise at least every two years, and for the first time on 1 Juli 1993, the Federal Commissioner shall submit an activity report. Beginning with the second regular activity report, he shall report to what extent and within which period of time he will foreseeably no longer require the records for the performance of his duties. 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, he shall report directly to this body.

Section 38

Land Commissioner – Relationship to the Federal Commissioner

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

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

(3) The laws of each Land can provide that the Land Commissioner shall advise individuals involved in obtaining their rights pursuant to sections 13 to 17 of this Act. This activity can also include psychosocial counseling after the completion of procedures pursuant to section 12 of this Act.

Section 39

Advisory Committee

(1) An Advisory Committee to the Federal Commissioner shall be formed. This committee shall consist of

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

The members of the Advisory Committee shall be appointed by the Federal Minister of the Interior for a term of office of five years.

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

1. taking complete custody of the records of the State Security Service and evaluating these records as directed by section 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 section 20 paragraph 1 numbers 6 and 7 and section 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 für 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 Committee shall advise in the preparation of the activity report required pursuant to section 37 paragraph 3 sentence 1 of this Act.

(3) The Federal Commissioner shall chair the meetings of the Advisory Committee.

(4) The Advisory Committee shall establish its own rules of procedure, which shall require the approval of the Federation.

(5) Members of the Advisory Committee shall be obliged to maintain secrecy regarding 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.

Section 40

Measures to Safeguard Records

(1) The Federal Commissioner shall take the organizational and technical measures necessary for his 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. it shall be documented which records or data from records have been communicated or transmitted to whom and at what time;
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.

Section 41

Automated Retrieval Procedures Commissioned Data Processing

(1) The Federal Commissioner may store personal data in data files, modify or otherwise use personal data from the records only as aids for performing his duties. The files shall contain only the information necessary for the location of records and the accompanying identification of persons. Section 20 of the Federal Data Protection Act shall be applicable to these data files.

(2) The establishment of automated procedures for communication of information shall be inadmissible.

(3) Commissioned data processing of the records shall be admissible only if it is impossible or possible only with unreasonable effort for the Federal Commissioner to perform the data processing. Furthermore it shall be admissible only if the agent is carefully selected, with particular regard to his suitability for handling this data. The agent may process the data only pursuant to the express directives of the Federal Commissioner.

PART FIVE

FINAL PROVISIONS

Section 42

Costs

(1) Costs (fees and expenses) shall be charged for official actions pursuant to sections 13 and 15 to 17 and vis-à-vis private bodies pursuant to sections 20, 21, 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 data subjects, third parties, and close relatives of missing or deceased persons for information provided or for the opportunity to examine the records.

(2) The Federal Minister of the Interior shall be empowered to establish by decree what fees shall be charged for which official actions.

Section 43

Precedence of this Act

The regulations of this Act shall take precedence over provisions of other acts regarding the admissibility of communicating personal data. The Federal Data Protection Act shall not be applicable, with the exception of the provisions regarding data protection control, unless otherwise established in section 6 paragraph 9 and section 41 paragraph 1 sentence 3 of this Act.

Section 44

Criminal Offences

Anyone who publicly communicates personal data regarding data subjects 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 data subject or third party has given his consent.

Section 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 section 7 paragraph 3 of this Act does not report possession of records within the proper time;
2. contrary to section 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 section 9 paragraph 3 does not permit the Federal Commissioner to use records which are his personal property.

(2) Administrative offences shall be punishable by a fine of up to five hundred thousand Deutschmarks.

Section 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 fulfills his obligation to report possession of records pursuant to section 7 paragraph 3 within a time period of three months after this Act comes into effect.

Section 46a

Limitation of Civil Rights

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

Section 47

Repeal of Provisions Transition of Office

(1) The regulations in annex I chapter II subject area B section II number 2 letter b of the Treaty of Unification of 31 August 1990 (Federal Law Gazette II pp. 885, 921) 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.

Section 48

Effect

(1) This Act shall come into effect on the day after its announcement.

(2) Section 35 Paragraph 2 sentence 1 shall first be applicable to the appointment of the new Federal Commissioner of this higher Federal Authority after the expiration of the term of office of the present holder of office.