

Act No. III of 2003

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

The Parliament wishes to facilitate the familiarisation with the activities of the state security services of the past regime and with the information compensation of the victims. With a view to this, in order to guarantee the right of those concerned to the information self-determination and to enforce the constitutional right to getting acquainted with the data of public interest – in consideration of the constitutional interest linked up with the sovereignty and the guarantee of the constitutional order of the Republic of Hungary, as well as of the national security interests of the constitutional state – the Parliament passes the following Act:

Article 1: (1) The effect of the Act shall cover the documents and data which were produced at and belonged to the archival materials of, in connection with the operation of the Hungarian State organs performing state security activities between 21 December 1944 and 14 February 1990,

a) the Office Division III of the Ministry of the Interior, its territorial and local organs, as well as their predecessors (the Political Security Departments of the police headquarters in Budapest and the countryside of the Hungarian State Police and the operative groups of the Economic Security Departments, the State Security Department of the Hungarian State Police, the State Security Authority of the Ministry of the Interior, the State Security Authority, the organizational units of the Ministry of the Interior having performed state security tasks between 1953 and 1956, the Political Investigation Division of the Ministry of the Interior), the Reconnaissance Department of the Border Guards of the Ministry of the Interior, as well as the Military Political Department of the Ministry of Defence, the Military Political Office Group of the Ministry of Defence, the Military Intelligence Office Division of the Ministry of Defence, the Office Division IV of the Ministry of Defence, the Office Division 2 of the General Staff of the Hungarian People's Army, the Foreign Affairs Department of the Ministry of the Interior, the Department for International Relations of the Ministry of the Interior, the Security Department of the Ministry of the Interior, the Internal Security Department of the Ministry of the Interior, the State Security Operative Registration Department of the Ministry of the Interior or

b) the Personnel Division of the Ministry of the Interior in connection with the employees of the Office Division III of the Ministry of the Interior, as well as with its "secret" and "strictly secret" staff members,

c) and the committee controlling certain persons performing important, public confidence and public opinion forming positions.

(2) In the application of this Act:

1. *document and registration (hereinafter referred to jointly as document):* any document specified in item c) of Article 3 of the Act LXVI of 1995 (hereinafter referred to as the Archival Act) on the official documents, public archives and the protection of public archives materials;

2. *person concerned:* any natural person, whose personal data are included under any pretext in the documents controlled by the Historical Archives of the Hungarian State Security (hereinafter as the Archives);

3. *person under observation:* any natural person, on whom the organizations having produced the documents as specified under item a) of Article 1 gathered data purposefully, during an open or secret information collection process;

4. *professional employee:* any person, who was in professional service relationship with the organizations having produced the documents coming under the effect of this Act, including both the "secret" and "strictly secret" staff members;

5. *collaborator:* any person, who provided reports secretly, under coverage and cover-name to the organizations having produced the documents coming under the effect of this Act, or signed a declaration of being hired to this effect or enjoyed an advantage for this activity;

6. *operative contact person:* any person, who was kept in records as "voluntary contact" or "occasional contact" by the organizations having produced the documents coming under the effect of this Act;

7. *third party:* any other natural person not falling under the effect of items 3-6, on whom the organizations, having produced the documents falling under the effect of items a)-b) of paragraph (1) of Article 1, controlled data;

8. *relative*: the spouse, the common-law partner (if the marriage or the common-law partnership existed in the time of the production of the document and of the death of the person concerned as well), the direct-line relative, the adopted child, stepchild and foster child, the adoptive parent, step-parent and foster parent, sister and brother;

9. *scientific researcher*: any person, who possesses the research permit issued by the advisory board controlled by paragraphs (2)-(3) of Article 23 of the Archival Act;

10. *applicant*: the person concerned, the scientific researcher and any person getting to know the data under Article 5;

11. *anonymization*: a technical procedure excluding the recognition of the connection between the person and the data;

12. *national security interest*: the interest defined in item *a*) of Article 74 of the Act CXXV of 1995 on the National Security Services;

13. *public servant*: any person, who exercises public power or was designated for a position entailing the exercise of public power and who forms or formed the political public opinion pursuant to his task.

(3) It has to be stated separately in connection with each data that the person concerned shall be classified as a person under observation, a professional employee, a collaborator, an operative contact person or a third party. The legal status of the person concerned shall be stated in respect of the particular data by examining which purpose the data capture served for.

Article 2: (1) The previous security status of the data to be found in the documents falling under the effect of the Act shall cease to exist by virtue of this Act, except if the classification of the data is maintained by the person entitled thereto pursuant to paragraphs (2)-(3) under the Act LXV of 1995 on the State secrets and service secrets (hereinafter as the Secrecy Act).

(2) The security status of the data classified as a State secret from the sorts of data to be found in the documents falling under the effect of this Act, specified in the list of State secrets under the Annex to the Secrecy Act may be maintained, which

a) applies to a person, who was attached to the staff of the national security services at the period between 15 February 1990 and 26 May 2002 or in a part thereof, or secretly cooperated with them,

b) applies to an activity performed at the organs specified in Article 1, for which the person concerned would be threatened abroad with expulsion, ban on entry or a penal procedure,

c) applies to a person, of whom it can be thoroughly supposed for his activity performed at the organs specified in Article 1 that in case of revealing his identity a crime seriously violating or endangering life, health or the personal freedom would be committed against him or his relative for his said activity,

d) results in the disclosure of the personal identity of a collaborator or operative contact person, the recognition of whom would violate apparently or detectably the national security interests of the Republic of Hungary,

e) was produced during the proceedings of the judges controlling certain persons performing important, public confidence and public opinion forming positions, if as a result of the procedure its subject renounced or initiated his dismissal.

(3) Moreover, the State secret classification may be maintained under the Secrecy Act in respect of the data falling in the scope of State secrets, which

a) is regularly and indispensably necessary for the performance of the tasks laid down by law for the authority legally possessing it,

b) leads to the disclosure of the device or method of the secret information collection, the familiarization with which would violate overtly or detectably the national security interests of the Republic of Hungary,

c) in case of its becoming known to the public it would damage overtly or detectably the cipher system or ciphering activity of the Republic of Hungary,

d) its becoming known to the public would violate overtly or detectably the international commitment of the Republic of Hungary,

e) its becoming known to the public would violate overtly or detectably the relation between the Republic of Hungary and an other State, or would damage the enforcement of the foreign policy goals of the Republic of Hungary,

f) its becoming known to the public would violate overtly or detectably the interests of the Republic of Hungary contained in paragraph (3) of Article 6 of the Constitution, linked up with the enforcement of its responsibility for the Hungarians living beyond the frontier,

g) its becoming known to the public would damage overtly or detectably the implementation of the defence policy goals of the Republic of Hungary, the international relations or combat availability of the Hungarian Army,

h) its becoming known to the public would violate overtly or detectably the national economy interests of the Republic of Hungary.

Article 3: (1) A person under observation, a third party, a professional employee, an operative contact person and a collaborator may get to know and may make known the personal data included in a document managed in the Archives, which can be brought into connection exclusively with him.

(2) A person under observation may get to know the data necessary for identification of a collaborator, operative contact person and a professional employee who can be brought into connection with him.

(3) A person under observation and a third party may get to know, and with the consent of the third party or the person under observation, he may make known the data recording or describing the personal contacts established between the person under observation and the third party (e.g. data gathered on personal meetings, conversations).

Article 4: (1) A scientific researcher may get to know the data contained in the documents controlled in the Archives, within the limits laid down by paragraphs (2)-(3) and may use them in compliance with Article 32 of the Act LXIII of 1992 on the protection of personal data and the publicity of data of public interest.

(2) A scientific researcher may get to know the data about the state of health, the harmful habit and sexual life after thirty years following the year of death of the person concerned. If the year of death is not known, the time of protection shall be ninety years as counted from the birth of the person concerned, and if neither the birth nor the death time is known, it shall be sixty years after the production of the archival material.

(3) A scientific researcher may get to know the data concerning the racial origin, the national, nationality and ethnic status, the religious or other ideological persuasion – within the time of protection – in an anonymized form. The advisory board defined under paragraph (2) of Article 23 of the Archival Act authorizes the familiarization without anonymization if the purpose of the surveillance can be brought into relation with the racial origin, the national, nationality and ethnic status, and with the religious and other ideological persuasion and the scientific researcher proves that his familiarization with these data is indispensably necessary for his research started earlier, supported by publications issued in professional journals.

Article 5: (1) Anybody may get to know and may make known in anonymized form the documents controlled in the Archives.

(2) The data of the person concerned may be familiarized with after thirty years following the year of his death – within the limits of paragraphs (3)-(4) – without anonymization. If the year of death is not known, the time of protection shall be ninety years as counted from the birth of the person concerned, and if neither the birth nor the death time is known, it shall be sixty years after the production of the document.

(3) The data on the racial origin, the national, nationality and ethnic status, the religious or other ideological persuasion, the state of health, the harmful habit and the sexual live may not be familiarized with until sixty years after the death of the person concerned even in anonymized form. If the year of the death is not known, the time of protection shall be one hundred and twenty years as counted from the birth date of the person concerned, and if neither the birth nor the death time is known, it shall be ninety years after the production of the document.

(4) No anonymization shall be required for the documents,

a) which were recorded in connection with public performances at events open to the public or the audience,

b) which have already been made lawfully public,

c) which are necessary for the identification of the publicly acting professional employee, the publicly acting operative contact person and the publicly acting collaborator,

d) to the familiarization with which the person concerned agreed in writing.

(5) The data not anonymized may be made public by anyone.

(6) If the applicant wishes to get to know data necessary for the identification of the publicly acting collaborator, professional employee or operative contact person, the Archives shall request the public servant concerned to make a declaration whether he/she recognizes his/her capacity as a public servant. If in fifteen days after the receipt of the invitation the person concerned makes a declaration that he/she does not recognize his/her public servant's capacity, the Archives shall refuse the application for the familiarization with the data; otherwise it fulfils the request for familiarization. A legal remedy may be resorted to against the decision of the Archives under the provisions of Article 29 of the Archival Act, during which the Court takes up a position on the public servant's capacity of the person concerned. The judge of the Municipal Court of Budapest designated for this task shall proceed in the case. If the Court classifies the person concerned as a public servant, the Archives shall satisfy the application for familiarization.

Article 6: (1) A person under observation and a third party may prohibit in a written declaration the research of the data under Articles 4-5 for ninety years after the production of the data at most.

(2) After the death of a person under observation or of a third party the rights due to him under this Act may be exercised by the dependent of the deceased, except if the deceased prohibited it in writing or it is excluded by the law. The person who was authorised thereto in writing by the person under observation or the third party shall also have the right to get to know the documents.

(3) The person concerned may enforce his right to correction in respect of the data included in the documents, applying to him, by attaching the correct data containing note to the document with leaving the original data unchanged.

Article 7: (1) The official or employee of the authorities under the guidance of the Minister of Defence, of the Minister supervising the civil national security services and of the Minister of the Interior, as well as of authorities performing other public tasks may inspect in the matter falling to his/her scope of authority into the personal data contained in the documents deposited in the Archives in case if required for the performance of his/her task stipulated by law, after the prior approval by the National Security Committee of the Parliament or in cases necessitating specially prompt actions with his subsequent information.

(2) In case of the courts the prior approval as contained in paragraph (1) is not required.

Article 8: (1) It is the Archives that handles the documents falling under the effect of this Act with the exception of documents containing the data specified in paragraphs (2)-(3) of Article 2. The Archives shall be the legal successor of the Historical Office.

(2) The Archives shall be a publicly financed organization with independent, complete economic management authority, an independent heading within the budget section of the Parliament.

(3) The Archive

a) shall ensure the exercise of the right to the familiarization with their personal data for those concerned under the conditions provided for by this Act;

b) shall provide for the data supply to the organizations performing the fact-finding as determined in the law on the publicisation of the national security past of persons playing public life roles;

c) shall ensure the pursue of the research activity with the conditions laid down by this Act;

d) shall perform the tasks specified in the Archival Act.

(4) The operation of the Archives shall be supervised by the Chairman of the Parliament.

(5) The Archives shall be headed by the Director General. The Director General and his Deputy after hearing the opinion of the Director General shall be appointed by the Chairman of the Parliament for seven years. The selection of the candidates shall take place by way of open competition. The candidates may be appointed if they have been heard previously by the National Security Committee, as well as the Cultural and Press Committee of the Parliament.

(6) The appointment of the Director General of the Archives and his Deputy shall be terminated if

a) his term of assignment expires,

b) he resigns,

c) he dies,

d) he is relieved by the Chairman of the Parliament,

e) the Chairman of the Parliament states incompatibility against him.

(7) Dismissal shall be applied if the Director General (Deputy Director General)

a) has become unworthy of his post,

b) cannot perform his job tasks continuously beyond 90 days for health reasons.

(8) The Director General (Deputy Director General) shall be deemed as unworthy of his post if the Court has found him guilty by a legally binding judgement in committing an intentional crime or if he fails to accomplish his tasks for any reason attributable to him.

Article 9: (1) The Director General (Deputy Director General) of the Archives may not be the person who was a member of the Government, Under-secretary, an office-holder or employee of the countrywide organization of a party in the ten years preceding the time of appointment. Neither may the Director General (Deputy Director General) of the Archives be any person who was employed by the Office Division III of the Ministry of the Interior or by its predecessors or received their reports or was a collaborator or operative contact person who had maintained contact with the said agencies.

(2) The Director General (Deputy Director General) of the Archives may not accept any assignments other than a legal relationship of assignment under scientific, educational, artistic, copyright and patent protection, moreover aimed at literary advising, copy editing activities, may not pursue any salary-earning profession, may not be a lead official of an economic association or member of a supervisory board.

(3) The emergence of the reason of incompatibility shall be notified without any delay to the Chairman of the Parliament. The reason of incompatibility shall be terminated within 30 days after the appointment or the emergence thereof.

(4) The Director General shall report annually to the committees of the Parliament set forth in paragraph (5) of Article 8.

(5) The Director General shall exercise the data classifying authority power provided by the Secrecy Act in respect of the systems and measures destined for the protection of data managed by the Archives, falling to the sphere of State secrets and service secrets.

(6) The rules applicable to the public administrative under-secretaries shall be applied to the Director General of the Archives with the divergences stipulated by this Act and the rules applicable to the deputy under-secretaries shall apply to the Deputy Director General *mutatis mutandis*. With the exception of the appointment and the dismissal, the other employer's rights in respect of the Director General shall be exercised by the Secretary General of the Parliament.

(7) The staff members of the Archives shall be governed in other matters by the provisions of the Act XXIII of 1992 on the Legal Relationship of Civil Servants governing the public service relationship of the civil servants of the central administrative authorities.

Article 10: (1) The operation of the Archives - unless otherwise provided for by this Act - shall be governed by the provisions of the Secrecy Act. Article 28 of the Secrecy Act shall not be applicable to the procedure of the Archives.

(2) The Archives makes the data recognizable in an anonymized form under this Act accessible to the applicant so that it hands over the duplicate copy of the document containing the data and renders the data unrecognizable to the applicant illegible on it. Every duplicate copy made of the documents shall be provided to the person under observation with special promptness and free of charge.

(3) The Archives shall provide for the compliance with the secrecy rules in respect of data classified under the Secrecy Act.

(4) The Archives shall provide for the registration and management under unified aspects of the documents received and produced.

(5) The effect of the data protection contract concluded under paragraph (3) 24/A of the Archival Act shall cover the documents managed in the Archives if this is explicitly provided for by the contract - with the exact enumeration of the documents.

Article 11: (1) The Act shall enter into force - with the exception contained in paragraph (2) - on the eighth day after its promulgation.

(2) Paragraphs (1)-(4) and (6)-(8) of Article 8, Article 9, as well as paragraph (3)-(4) of Article 13 of the Act shall enter into force on the 1st April 2003.

(3) In thirty days after the entry into force of the Act the Chairman of the Parliament shall announce a competition for performing the post of the Director General of the Archives and shall also provide for the evaluation of the tender within ninety days after the entry into force of the Act.

(4) In fifteen days after the appointment of the Director General of the Archives the Chairman of the Parliament shall announce a competition for performing the post of the Deputy Director General of the Archives and shall also provide for the evaluation of the tender within ninety days after the announcement.

(5) Any natural person and legal person, as well as any organization not having the status of a corporate body shall hand over the documents unlawfully found in his possession, falling within the competence of the Archives – including both their duplicates and copies – to the Historical Office within thirty days after the entry into force of the Act.

(6) He who possesses unlawfully any document falling within the competence of the Archives and hands it over or forwards it incognito to the Historical Office within thirty days after the entry into force of the Act shall be released from the legal consequences of the unauthorized data management and the abuse of special personal data, as well as of the State secret violation. The documents unlawfully possessed, falling within the competence of this Act may not be used as evidences before any authority or court.

(7) The Archives shall hand over any document, for the custody of which it is not authorized by this Act, to its original owner or its legal successor, and to the competent archival office in case of official documents, within six months after the entry into force of the Act.

(8) The familiarization with a document managed by the Archives, classified under the Secrecy Act shall require the permit specified in item 7 of paragraph (1) of Article 2 of the Secrecy Act.

(9) The documents falling under the effect of the Act may be selected for destruction as from the date of the entry into force of the Act exclusively in compliance with the rules of the Archival Act, in the Archives.

Article 12: (1) Within ninety days after the entry into force of the Act a Committee shall be established, a member of which shall be appointed each by the Government, President of the Hungarian Academy of Sciences and the President of the Hungarian Historical Association. The members of the committee shall be appointed by the Chairman of the Parliament – after their "C" type national security control. The committee shall supervise the handover to the Archives of the documents falling under the effect of this Act. The rules of procedure of the committee shall be approved by the Minister of the National Cultural Heritage in agreement with the Minister

controlling the civil national security services. The members of the committee may inspect without restriction into the documents falling under the effect of this Act at the document management organizations – with the exception of the documents included in a separate list specified in paragraph (5). The committee shall establish a report of the handover of the documents, which shall be forwarded to the Chairman of the Parliament within three months after the expiration of the deadline stated in paragraph (8). The assignment of the members of the committee shall be terminated within 30 days after the establishment of the report.

(2) The revisional procedure regulated in Article 10 of the Secrecy Act shall be conducted after the entry into force of the Act in respect of the documents set forth in items *a)-b)* of paragraph (1) of Article 1 – in consideration of the provisions of this Act, as well as of the Secrecy Act.

(3) The sets of documents which contain data the security status of which was terminated or maintained by the data classifying authority shall remain further on, too in the management of the organization managing the set of documents. As regards the part of the document set which contains data, the security status of which was terminated by the data classifying authority, the document set managing organization shall make a copy thereof shall hand it over to the Archives.

(4) The list of documents the security status of which was maintained by the data classifying authority shall be handed over to the Archives. The list may not contain any State secrets. If the Archives does not find it justified to maintain the security status of any document included in the list, it may apply to the Municipal Court of Budapest in order to enforce the termination of the security status. The lawfulness of the maintenance of the security status shall be proved by the data classifying authority. The Court shall decide on the case in a civil, amicable proceeding within thirty days. The judge of the Municipal Court of Budapest designated for this task in the matter shall proceed – after the "C" type national security control. The parties and their representatives may not be present at the hearing of each other. The observation of the regulations concerning the protection of State secrets shall be ensured at every phase of the procedure. No appeal shall be resorted to against the decision of the Municipal Court of Budapest. The Court decision may not contain any State secret.

(5) The Director General of the National Security Service shall draw up a separate list of the documents of outstanding importance from the viewpoint of the protection of the national security interest from among the documents containing data specified in paragraphs (2)-(3) of Article 2 during the revisional procedure, which shall be approved by the judge of the Supreme Court designated for this task – after the "C" type national security control. The documents included in the separate list established under this paragraph shall not be indicated in the list of documents set forth in paragraph (4).

(6) If the data classifying authority does not confirm the security status, maintained under paragraph (2) of Article 28 of the Secrecy Act, of the document emerged before 1970 within one hundred and eighty days after the entry into force of the Act, the security status of the document shall be terminated and the document shall be handed over to the Archives within thirty days.

(7) If the data classifying authority does not confirm the security status, maintained under paragraph (2) of Article 28 of the Secrecy Act, of the document emerged between 1970 and 1979 within one year after the entry into force of the Act, the security status of the document shall be terminated and it shall be handed over to the Archives within thirty days.

(8) If the data classifying authority does not confirm the security status of the document emerged in 1980 or after 1980 within two years after the entry into force of the Act, the security status of the document shall be terminated and it shall be handed over to the Archives within thirty days.

(9) The data classifying authority shall review under paragraph (1) of Article 10 of the Secrecy Act the documents containing the data specified in paragraphs (2)-(3) of Article 2, the security status of which he maintained during the revision determined in paragraph (2). If as a result of the revision, the data classifying authority terminates the security status, the document shall be handed over to the Archives within thirty days.

(10) The documents set forth in item *c)* of paragraph (1) of Article 1 shall be handed over to the Archives within thirty days after the appointment of the Director General of the Archives.

Article 13: (1) The Articles 1/A, 25/A-25/I of the Act XXIII of 1994 on the control of certain persons performing important, as well as public confidence and public opinion forming positions and on the Historical Office, Articles 3 and 14 of the Act LXVII of 1996 on the amendment to the Act XXIII of 1994 on the control of certain persons performing important positions, as well as the Act XLVII of 2001 on the amendment to the Act XXIII of 1994 on the control of certain persons performing important, as well as public confidence and public opinion forming positions and on the Historical Office and on the law amendments related thereto shall cease to have effect on 31 March 2003.

(2) The Government shall receive an authorization to take the measures required for the implementation of the Act and to provide in this framework for the creation of the regulatory, organizational, budgetary and other conditions

necessary for the disclosure of the antecedents of the document control and document protection, as well as for the unification of the documents in respect of those falling under the effect of the Act.

(3) Paragraphs (1)-(4) of Article 19 of the Archival Act shall be superseded by the following provisions:

"(1) Specialized State archives are the Military History Archives, the Archives of the Central Statistical Office and the Water Conservancy Archives, the Historical Archives of the Hungarian State Security, as well as the archives of institutions performing higher educational, scientific, cultural or health services sustained by the State.

(2) Scope of competence of the specialized archives – with the exception of the Historical Archives of the Hungarian State Security - shall cover the archivalia of the following organizations, moreover the archival materials produced during the operation of the legal predecessors of these -

a) in case of the Military History Archives the Ministry of Defence and the Military General Staff, as well as the military organizations under the direct supervision or guidance of the former – with the exception of the military national security services,

b) in case of the Archives of the Central Statistical Office the Central Statistical Office and the organizations belonging under its direct supervision,

c) in case of the Water Conservancy Archives the water conservancy organizations under the supervision of the Ministry of Transport and Water Conservancy,

d) in case of the archives of higher educational, scientific, cultural or health services providing institutions the maintaining organization.

(3) The competence of the Historical Archives of the Hungarian State Security shall cover the documents specified in paragraph (1) of Article 1 of the 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.

(4) The special rules for the operation of the Historical Archives of the Hungarian State Security, as well as its tasks beyond those stipulated in this Act are laid down by the Act referred to in paragraph (3)."

(4) Paragraph (2) of Article 23 of the Archival Act shall be supplemented with the following sentence:

"The advisory board authorizes the scientific research in the Historical Archives of the Hungarian State Security."

(5) The subtitle before clause 151 of the State Secrets List and clause 151 in the Annex to the Secrecy Act shall be superseded by the following provision:

"Historical Archives of the Hungarian State Security"

151. data of the systems and measures serving for the protection of data falling into the scope of State secrets and service secrets managed by the Historical Archives of the Hungarian State Security.

The longest validity time for the security status of a State secret: 90 years."