

# **Disposing of the Stasi Legacy**

## *Germany's Experience With the Preservation and Disposal of the GDR Secret Police Files*

JOACHIM GAUCK

### **The Stasi Inheritance**

Over a period of forty years the Ministry for State Security, under orders from the East German Communist Party (SED), collected information about millions of people. Most of them were citizens of the German Democratic Republic (GDR), but a number were West Germans or other foreigners. Millions of people are registered in the MfS files; kilometers of file material form the Stasi bequest. At the end of the SED regime, the MfS payroll listed approximately 97,000 full-time employees.

The MfS was not simply an "ordinary" secret service: it intervened in the lives of countless numbers of people. The MfS influenced professional success or failure, systematically exploited human weaknesses, and stopped at nothing, not even at the use of the most intimate information. Neither medical confidentiality nor bank or post secrecy were sacred to the Stasi. It had its own departments of investigations and its own special prisons.

The peaceful revolution in the autumn of 1989 brought an end to the activities of this gigantic apparatus of surveillance. Citizens' committees occupied the local and regional MfS offices. Under bizarre conditions, sometimes involving "cloak and dagger" operations, the destruction of files and the further destruction of card files could be hindered.

The unsorted written material from the numerous MfS departments was provisionally secured in bags and bundles in the various district administrative offices, which by now were under the control of the citizens' committees.

Under constantly increasing pressure from citizens, GDR Minister-President Modrow appeared before the Volkskammer (the GDR parliament) on 12 January 1990 and announced the decision to dissolve without replacement the state security service of the GDR. In the period of time that followed, East German citizens'-rights activists and members of the GDR Volkskammer achieved special treatment for the Stasi records: affected individuals would have the possibility of finding out what information the MfS had collected about them. After German unification, the federal government appointed me (after I had already been appointed by the democratically elected Volkskammer) to the position of special commissioner

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for the Stasi Records. The then-existing legal status, however, permitted only a very limited use of the files.

On 29 December 1991 the Stasi Records Law came into effect; it had been passed with a great majority by the German Bundestag. Based on a law which had already been passed by the GDR Volkskammer, the Stasi Records Law regulates the use of the GDR secret-service material for the political, historical, and juridical reappraisal of Stasi activities. The federal president appointed me from then-special commissioner to the position of federal commissioner.

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### **The Federal Commissioner’s Responsibilities**

- 1) Give the individual citizen the possibility of access to the personal data stored concerning him, so that he can clarify what influence the state security service has had on his personal destiny.
- 2) Assist in the rehabilitation of affected individuals, in the clarification of cases involving missing persons or unexplained deaths, and in the protection of privacy. To these ends, employees of the federal commissioner search for corresponding files and make them available to the courts or to relatives of the missing or deceased persons. In cases in which persons have been unjustifiably accused of activities for the state security service, the federal commissioner issues a declaration if no records with such content can be found, in order to protect these persons from further accusations.
- 3) Investigate persons for possible past Stasi activities at the request of parliaments, public authorities, the churches, industry and commerce, and organizations. According to the Treaty of Unification, former Stasi employees are to be removed from position of great trust. The federal commissioner makes no personal decisions in such matters; he merely conveys the findings of his investigations without adding a value judgement.
- 4) Research into the structures, methods, and actions of the state security service for the purpose of the historical and political reappraisal. Former employees of the state security service must be deprived of the possibility of dominating others through their knowledge of personal data. History must be reappraised on the basis of solid sources, and not as has usually been the case—due to statutory limitations—only after thirty years have passed. The public, especially the coming generation, is to be informed through publications, information programs, and exhibitions about the fatal effects of the activities of the state security service.

- 5) Assistance with respect to criminal proceedings. All records which could serve to clarify a criminal act are to be made accessible to the investigative authorities. The Stasi's share of responsibility is to be uncovered, especially in cases involving fatal shootings at the border, terrorism, arms trade, and criminal acts in the commercial sector (for example, in connection with the activities of the GDR hard-currency procurator Schalck-Golodkowski).
- 6) Establishing archives. This means custody, safe-keeping, preparation, and administration of the records, as well as the return of records which were removed. In short, the expert processing of the records of the state security service as a basic prerequisite for carrying out the Stasi Records Law.

### **The Authority's Structure and Work**

The principal office with four main departments is located in Berlin. Fourteen branch offices are located in the Länder Berlin, Brandenburg, Mecklenburg-West Pomerania, Saxonia, Saxonia-Anhalt, and Thüringen.

Whereas the Treaty of Unification provided for only very limited use of the Stasi records in the time period between October 1990 and December 1991, the Stasi Records Law of 29 December 1991 assigns extensive responsibilities to the employees of the federal commissioner. This called for and still calls for enormous efforts to be undertaken. By March 1993, more than 600,000 citizens had filed applications to inspect records, and approximately 1,250,000 applications for investigations had been filed. This means that by that point in time, the federal commissioner had already received a total of more than 1,850,000 requests.

The pressure generated by the understandable expectations of the citizens combines with the difficulty of setting up an entirely new federal authority and concurrently carrying out its assigned tasks. By March 1993, approximately 150,000 requests to inspect files had been petitioned and about 350,000 investigations had been completed. In addition, approximately seventy percent of the MfS records, which were largely unsorted, have since been organized according to archive principles. The laborious process of rebuilding functioning archives continues. In cases in which files were destroyed, a time-consuming search, for example, in copies of reports filed by unofficial informers in other records, has been necessary. Often the records are stored at completely different sites.

Even with the 3,406 employees who are planned for work in the main office and in the fourteen branch offices, the responsibilities of the Authority can only be carried out under great difficulty and in many years of constant effort. The MfS had nearly thirty times as many employees and was active for forty years. In the interests of all involved persons, the process of hiring and training employees, who are responsible for the extraordinarily differentiated communication of information, requires a great deal of time. Since a small mistake can have serious consequences, it is necessary to use

extreme care when analyzing the secret service files.

It is a known fact that the MfS could snoop around in anyone's private life. Each file must therefore be checked before it is released for reading to see if the legitimate interests of third parties could possibly be affected. No one may find out about his neighbor's extramarital affair by reading the Stasi files. The legal names or code names of full-time employees and unofficial informers are not covered by such protection.

Each document must first be carefully read by employees of the Authority, and, after it has been copied, it must be depersonalized. This means that names of third parties must be blackened out for their protection. This energy-consuming process makes long waiting periods inevitable. For this reason, the possibility of inspecting records should be granted first of all to older persons, persons who were imprisoned for political motives, and other persons who were severely harmed by the regime, for example, persons who were forcibly expatriated or forced to abandon their homes in border areas.

Detailed information about the organization and mode of operation of the Authority is contained in the Stasi Records Law. It can be obtained free of charge from the main office or any of the branch offices of the federal commissioner.\*\*

### **The Rights of Citizens**

If a German citizen wishes to file a request for information, for the possibility of inspecting records, or for obtaining copies of records of the state security service of the former German Democratic Republic, he requires a special application form. This can be obtained at any of the offices of the federal commissioner. The law also requires that the citizen present confirmation of identity from the registration authorities, to prevent unauthorized persons from inspecting other people's records—provided that personal records of the interested citizen actually exist.

In addition to the possibility of inspecting records and obtaining copies thereof, it is possible in clear-cut cases to request the deciphering of the code names of MfS employees. The only costs which affected individuals incur are for copies which they may request after inspecting their records (5 pfennings per DIN A4 copy).

In addition to the above uses, the Stasi records are also available to historians and journalists. Paragraphs 32 to 34 of the Stasi Records Law regulate the specific use of the records.

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\*\* An official English translation of the law may be acquired from the Moscow Nongovernmental Consulting Center (MNCC), in care of the International Freedom Foundation, 200 G Street NE, Washington, D.C. 20002. Tel: (202) 546-5788. Fax: (202) 546-5488. Enclose \$10 for shipping and handling.