



SURVEY ON MILITARY AND INTELLIGENCE ARCHIVES IN EUROPEAN COUNTRIES

(Please, if you need more space for comments, add supplementary sheets)

Country.....Switzerland

Name of institution.....Swiss Federal Archives (SFA)

Parent institutionFederal Department of Home Affairs

(Is your institution part of the Ministry of Culture or of another Ministry, or is under the authority of the Prime Minister, etc.?)

1) Do the following bodies transfer their archives to the National Archives or do they run their own independent historical archives (or neither)? (for Intelligence Agencies, please add as many entries as you need)

	They transfer their archives to the NA	They run their own independent historical archives	They do not make their archives available to researchers
Army, Navy, Air Force	x		
Ministry of Defence	x		
<u>Intelligence Agencies:</u>	X		



Comments: The Federal Act on Archiving (Archiving Act - AA) applies to all government activities including explicitly not only the ministry of defence but also the army and (civil and military) intelligence services (Art. 1 AA). The Federal Intelligence Service delivers all records to the SFA (Art. 7a Federal Act on the Federal Civil Intelligence Service). This is the result of an ongoing review of the existing laws applicable to the Federal Intelligence Service. A new Federal Act on the Federal Intelligence Service combining the provisions on the Civil Intelligence Service and the Intelligence Service is under consultation in parliament. This act will replace the Act mentioned above but will include the same provision that all records need to be delivered to the SFA. Until 1.11.2014, the Intelligence Service archived records stemming from direct correspondence with foreign intelligence services and security forces locally (Art. 46 Ordinance on the Information systems of the Federal Intelligence Service, in force since 1.11.2014 suspended former Art. 28 Ordinance of the Federal Intelligence Service).

2) In case such bodies run their own independent historical archives, are they staffed with professional archivists? (for Intelligence Agencies, please add as many entries as you need)

	YES	NO
Army, Navy, Air Force		
Ministry of Defence		
<u>Intelligence agencies:</u>		

Comments:.....
.....
.....

3) In case intelligence and/or military archives are transferred to the National archives, are such archives transferred only after declassification or do the National Archives receive and preserve classified information (top secret, secret, etc.)?

	YES	NO
Archives including classified records are transferred only after declassification	x	
The National Archives receive and preserve classified information	x	



Comments: Currently, the SFA receives classified information. But there are different views on what this means for the classification. In the view of the SFA and according to Art. 17 Ordinance on the of 4 July 2007 Protection of Federal Information (Information Protection Ordinance, IPO) the Archiving Act is also applicable to classified documents. In application of the Archiving Act, the documents are treated based on periods of retention as stated in the law and not based on their classification. Such retention periods can be extended on request of the delivering body, if there is an overriding and legitimate public or private interest (see Art. 12 AA). The Swiss Federal Intelligence service however is of the opinion that the classification should remain in force. This will be clarified in the ongoing review of the laws applicable to the Swiss Federal Intelligence Service. A new Federal Act will be enacted in addition to the existing Ordinance. Based on the new Act, which is currently under consultation in parliament, the Intelligence Service is under a duty to de-classify documents as soon as possible (Art. 12 Draft Information Protection Act) and the Archiving Act will be amended to the end that classified documents need to be de-classified before delivery to the SFA (New Art. 6 Section 2 AA).

4) After how many years are the archives the following bodies supposed to be transferred to the National Archives or other archival institution?

	Number of years	The rule is actually enforced (YES / NO)
Army, Navy, Air Force	2- 25 years	
Ministry of Defence	2- 25 years	
<u>Intelligence agencies</u>	2- 25 years	

Comments: The current law demands a transfer as soon as the records are no longer constantly required (Art. 6 AA). Intelligence Services must review their classified documents at least every 5 years and always when delivering records to the SFA (Art. 14 Information Protection Ordinance, IPO). Since 1.11.2014 Intelligence Service deliver all records to the SFA (see above question 1). Once the new Act on Information Protection (see above) is in force the Intelligence Service is under a duty to de-classify documents as soon as possible (Art. 12 Draft Information Protection Act) and the Archiving Act will be amended to the end that classified documents need to be de-classified before delivery to the SFA (New Art. 6 Section 2 AA).

5) As far as selection and transfer of archives is concern, do military bodies and intelligence services have to follow guidelines issued by the National Archives or by the Directorate General of Archives?



	YES	NO
Army, Navy, Air Force	x	
Ministry of Defence	x	
Intelligence agencies	x	

Comments: The Archiving Act is applicable and requests the delivery of records that are no longer constantly required (Art. 6 AA). However, the SFA has no power of access only the power of inspection (Art. 5 AA). It can verify that the delivering entity delivers records in accordance with the legal requirements for archiving but it cannot control which records are offered. The assessment of the archival value of delivered records is based on the co-decision of the record creator and the archives (Art. 7 AA).

6) Do archivists from the National Archives participate in the decisions regarding the selection and transfer of military archives and of the archives of the intelligence agencies?

	YES	NO
Army, Navy, Air Force	x	
Ministry of Defence	x	
Intelligence agencies	x	

Comments: see above question 5.

7) According to the ICA Principles of Access to Archives, art. 9, "Archivists have access to all closed archives and perform necessary archival work on them". Is this principle enforced in your country, as far as military archives and the archives of intelligence agencies are concerned?

	YES	NO
Army, Navy, Air Force		
Ministry of Defence		
Intelligence agencies		

Comments: There are no closed archives in Switzerland. With respect to all delivering offices, the SFA has a right of inspection but no right of access (Art. 5 AA).



8) Are there archivists from the National Archives who have security clearances (i.e. who can access classified information)?

YES	x
NO	

Comments: all our staff is security cleared.

9) As far as the management of records and archives are concerned, do military corps and intelligence agencies have to follow guidelines and directives issued by the National Archives or by the Directorate General of Archives?

	YES	NO
Army, Navy, Air Force	(x)	
Ministry of Defence	x	
Intelligence agencies	x	

Comments: Regarding Army, Navy and Air Force in principle yes. The Swiss Army has a militia system, a specialized two persons Unit for the Civil Protection of the Federal Military Library is in charge of delivering records to the SFA. This service has faced some difficulties due to frequent staff changes leading to gaps in knowledge management. In some instances documents due for delivery to the SFA have been discovered and archived with a delay because of a very narrow application of the rule that only documents that are not frequently used anymore have to be delivered to the SFA.

10) Does your national legislation provide for automatic declassification of classified national security information after a given number of years?

YES	
NO	x

Comments:

11) In case you answered YES to question no. 10, after how many years?

12) Does your national legislation provide for automatic declassification of classified information regarding national defence (for example, information on weapons of mass destruction) after a given number of years? In case, after how many years?



YES	
NO	x

Comments:

13) In case you answered YES to question no. 12, after how many years?

14) Does your national legislation provide for automatic declassification of classified information originating from a foreign government (or from a foreign intelligence agency, foreign police authority, etc.) after a given number of years? Or is such kind of information declassified only after consulting with the originating country?

	YES	NO
Classified information originating from a foreign government is declassified only with the agreement of the foreign government		x
Classified information originating from a foreign government is automatically declassified after a given number of years, like other classified information		x

Comments:.....
.....
.....

15) Does your national legislation provide for special rules regarding the declassification of classified information originating from the NATO?

YES	
NO	x

Comments:.....
.....
.....

16) Are information originating from the NATO declassified after a given number of years or are decisions regarding the declassification of NATO documents left to NATO itself?

	YES	NO
--	-----	----



Information originating from the NATO are declassified after a given number of years		x
Decisions regarding the declassification of NATO documents are left to NATO itself		x

Comments:.....
.....
.....