



Office of the State Comptroller
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Organizational Issues

Classified Information – Securing it in Archives and Preventing Its Publication

Abstract



Classified Information – Securing it in Archives and Preventing its Publication

Background

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Every country has information that it must keep from being exposed to its citizens and to others, mainly hostile agents, who are liable to exploit such information for the purpose of harming, inter alia, national security and foreign relations. Various laws define such information inter alia, as “confidential information” or “classified information.” Most of the classified information in the State of Israel is held by entities within the Defense Establishment and, when no further use is needed of it - it is stored in the National Archive of Israel, in its branches and sometimes even in public archives. This classified archival information is disclosed to the public after time has passed, as part of the public’s right to know and pursuant to the Archives Law, 1955.

Key figures

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archives are considered branches of the National Archive of Israel: seven were defined by law and four were recognized by the State Archivist.

22

public archives exist in Israel and hundreds of private archives

About 2.45 million

Number of classified files in the National Archive of Israel as of November 2019, 300,000 of which remain classified and were not disclosed to the public, despite the expiration of their restriction period

About 981,000

Number of classified files stored in the IDF Archive as of January 2019 which have not yet been disclosed to the public even though their restriction period has expired.



About 10,000

Number of classified files which are disclosed to the public annually, after their restriction period has expired.







About 7,100

Number of classified files disclosed to the public on average each year by the IDF Archive between 2000 and 2016

Audit actions

-  From July 2018 to March 2019, the Office of the State Comptroller conducted an audit regarding the storing of classified materials in all of the archives, and the exposure of classified information to unauthorized parties during the writing and publication of books by incumbent and former elected officials and civil servants. The audit was conducted, inter alia, in the National Archive of Israel and its branches and in additional archives; in the Ministry of Justice; in the Mossad; in the Israel Security Agency; in the IDF and in the Ministry of Defense.
-  The subcommittee of the Knesset State Control Committee decided not to submit to the Knesset and not to publish parts of this report for national security reasons, pursuant to section 17 of the State Comptroller Law, 1958 [Consolidated Version]. The classification of these parts does not prevent the understanding of the fundamental issues raised in this audit.

Key findings

-  **Disclosure of archival materials** – 300,000 classified files in the National Archive of Israel and 981,000 classified files in the IDF Archive were not disclosed to the public, despite the expiration of their restriction period, without requesting permission from the relevant ministerial committee.
-  **Classified materials in archives “constituting part of the National Archive of Israel”** – even though classified materials are stored in such archives, their security has not been regulated and it is unclear whether the Regulation of Security in Public Bodies Law, 1998 applies to these archives.
-  **Classified materials in public and private archives** – classified materials are stored in these archives, even though the security of these archives is not regulated by law. Consequently, there is a risk of exposure of classified information.
-  **Double examination of materials in the National Archive to prevent leaks of classified information** – the examination is performed by both the Publication Department of the National Archive and by the Censorship. This double examination is inefficient and could cause a waste of public resources.
-  **State Archivist’s supervision over public archives** – for years, directors of public archives have not been submitting annual reports to the State Archivists, as stipulated in the Public Archives Regulations.
-  **Disclosures of classified information during the process of writing books** – during the production of books being authored by incumbent and former elected officials and civil servants, people involved in the publishing process are exposed to classified information, even though they have no security clearance to view it.



Action undertaken by the Director of Security of the Defense Establishment in regard to archives– the Office of the State Comptroller commends the action undertaken by the Director of Security of the Defense Establishment (MALMAB) to prevent leaks of classified information stored in various archives, particularly in public and private archives. However, the law has not delegated MALMAB the authority to do so, and its activity is therefore contingent upon the State Archivist's authorization and the consent of archive's directors.

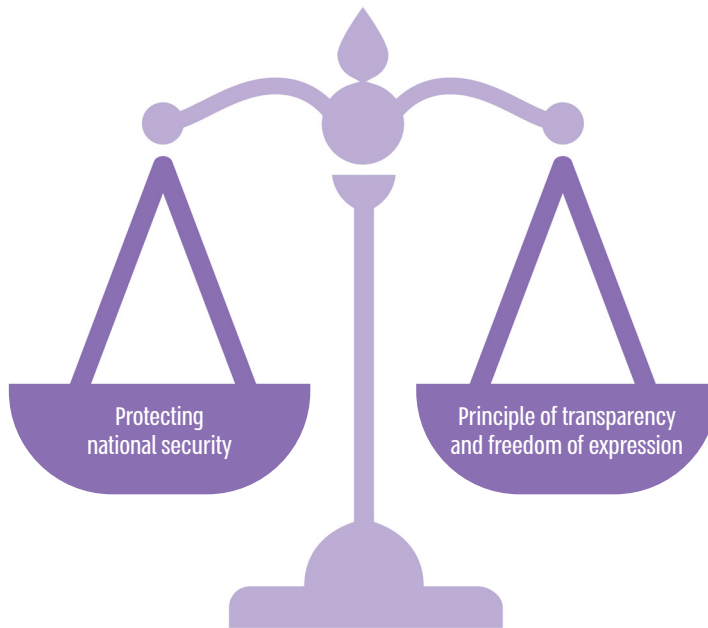
Uploading of digital records and making them accessible to the public on the National Archive's website – the Office of the State Comptroller commends this activity. However, the ability to upload classified digital archival materials is limited.

Team of “ghostwriters” in the Ministry of Justice – the Office of the State Comptroller commends the formation of a team of “ghostwriters” in the Ministry of Justice to prevent the possibility of classified information being disclosed to people involved in the publishing of books authored by incumbent and former elected officials and civil servants. Its work is underway.

Key recommendations

- 💡 The State Archivist, in collaboration with the IDF Archive, the Ministry of Justice, the Prime Minister's Office and the Cabinet Secretariat should act to find a solution for the difficulties in convening the interministerial committee for granting permission to peruse classified archival material, as mandated by the Archives Law.
- 💡 The State Archivist should refer to the Attorney-General the question of whether the Regulation of Security in Public Bodies Law applies to archives “constituting part of the National State Archive.” Alternatively, he should consider how to properly regulate the issue of securing classified materials in these archives.
- 💡 The Israel Security Agency should lead joint work, in collaboration with the Ministry of Public Security, the State Archivist, MALMAB and the Attorney-General, on the issue of classified materials being stored in public and private archives, and decide upon the mode of action to resolve this issue. Until such mode of action is formulated, the Israel National Security Council, in collaboration with other relevant authorities, should continue taking action to advance the delegation of responsibility for handling all classified materials in public and private archives.
- 💡 The State Archivist, in collaboration with the Military Censor and the director of the IDF Archive, should refer to the Attorney-General the dispute over the Military Censor's authority to examine classified archival materials.
- 💡 The Attorney-General should ensure that the team of “ghostwriters” completes its work, and the Ministry of Justice, after examining the team's recommendations, should formulate preventive and enforceable solutions in this regard.

The dilemma between making information accessible to the public and the risk of disclosure of classified information



Summary

In a democratic state, balance must be maintained between the principle of transparency and freedom of expression on the one hand, and safeguarding national security and preventing exposure of classified information on the other hand. Classified materials are being stored in National Archive of Israel and in public and private archives. Classified information is also in the possession of incumbent and former elected officials and civil servants who wish to publish books. The right of the public to peruse archival material and the right of persons to publish books are basic rights, but these rights must be exercised in a manner which allows for the safeguarding of classified information. The audit found gaps in the regulation of the security rules relating to these issues, which pose a risk of leaks of classified information.