



# INTERNATIONAL HOLOCAUST REMEMBRANCE ALLIANCE

30 November 2017

## **Final Report and Recommendations: Multi-Year Work Plan on Archival Access**

The Declaration of the Stockholm Forum on the Holocaust (2000) obligates the 31 member countries of the International Holocaust Remembrance Alliance (IHRA) to engage in work that will ensure the permanence of Holocaust commemoration, education, and research. Part of this duty, as outlined in the Declaration’s seventh clause, is for all members to “share a commitment to throw light on the still obscured shadows of the Holocaust” and to “take all necessary steps to facilitate the opening of archives in order to ensure that all documents bearing on the Holocaust are available to researchers.”

The aspirations and intent of this clause remain incomplete owing to innumerable privacy laws and other considerations across IHRA member countries, as well as in the many more countries beyond the Alliance. In response to this challenge, the IHRA initiated in 2012 a long-term Multi-Year Work Plan on Archival Access, which was led by a Steering Committee comprised of members from multiple IHRA Working Groups.

This final report builds off the work conducted by the Steering Committee over the course of this work plan, and offers eight recommendations to IHRA member country governments that will help ensure access to the record of the Holocaust.

### **Project Overview**

#### *International Survey*

Experts had long known of multiple barriers to accessing the full documentary and material record of the Holocaust, but a global view of the causes and types of restrictions remained largely unknown. To investigate this problem, the IHRA launched a multi-language, international survey in June 2013. Over ten months, the survey received promotion in scholarly, genealogical, and other research circles in the English-, French-, German-, and Russian-speaking worlds. At its conclusion, it yielded 547 responses. Of these, 261 indicated at least one serious challenge to individual researchers as they attempted to access archival materials relevant to the study of the Holocaust. As outlined in its report on the survey,<sup>1</sup> the Steering Committee concluded that such challenges

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<sup>1</sup> See Appendices 1 and 2: *Report on Survey Data: IHRA Multi-Year Work Plan on Archival Access, June 2014 Meeting* (24 April 2014) and *Addendum: Draft Report on Survey Data* (11 June 2014).

included:

- Legal obstacles, e.g., “Access ... denied because of an alleged necessity to protect data.”
- Physical obstacles, e.g., “Refused entry to the building”
- Prohibitive costs for reproduction and use, e.g., “Exorbitant costs for photocopies.”
- Insufficient cataloging/reference assistance, e.g., “There is only one single thematic inventory of the whole archive. The archivist was helpful and friendly but that cannot compensate for the fact that there is no catalog of their holdings.”
- Inadequate facilities for research and access, e.g., “Very small and noisy reading room, I could hear clerks playing computer games.”
- Poor condition of material, e.g., “‘Trophy’ materials not well handled or preserved; at risk of degradation or destruction.”

### *Research Consultation*

Following the acquisition of these data, the IHRA organized a consultation with external and internal experts. Held at the IHRA Permanent Office in Berlin in June 2014, this consultation included 14 participants, each of whom was a representative of a major archival-holding institution, a scholar in the field of Holocaust studies, or an expert on archival surveys of Holocaust sources. In addition to specializing on the Holocaust, the participants’ range of expertise covered a broad geographical area – from North America to Western Europe, and from Eastern Europe to North Africa and the Middle East.

The participants of this consultation concluded that the scale of challenges is significantly greater than that indicated by the IHRA survey. Trends of increasingly restricted access to Holocaust-related materials indicate that the greatest and most onerous restrictions at the time of the meeting were more common in Western European EU member countries. Thanks in part to the spirit of openness that accompanied the fall of communism, Eastern European countries have traditionally been more willing to grant access to such material. Yet, since joining the European Union and other international institutions, many began to restrict access to Holocaust-era collections, including some that had been already been declassified in the 1990s. Over the course of the past few years, and in conjunction with the rise of populist and far-right nationalist movements, the trend toward restricted access has only grown.

While some states pursue proactive means to ease the task of identifying and using Holocaust-related materials, the consultation identified a number of negative trends that not only prevent

researchers from a thorough review of the history and contemporary significance of the Holocaust, but that also create a “culture of fear,” in which researchers are cowed into silence on the scale, scope, and significance of the problem. This situation is made all the worse by declined state support for the maintenance and staffing of archival institutions; by the high costs often assessed on researchers and archival sharing institutions for the copying and use of materials; and by policies that restrict access and use due to copyright restrictions or because of a researcher’s citizenship and profession.<sup>1</sup>

### *General Data Protection Regulation*

At the time of the June 2014 consultation, the European Parliament was planning for the passage of its General Data Protection Regulation (GDPR), which emerged out of European Council (EC) discussions that focused on the utility of Directive 95/46/EC of the European Parliament and of the Council (24 October 1995).

Forwarded first in 2012, the GDPR sought to create an EU-wide regulation for the protection of personal data, particularly those data available through electronic communications. Among some experts, there was concern that GDPR might unintentionally limit access to archival documents, particularly those with information on private individuals, out of a desire to ensure a so-called “Right to be Forgotten.”<sup>2</sup>

While IHRA supports decisions to pass regulations that meet the requirements of an increasingly global and rapidly changing digital landscape, it was concerned by the broad scope of the regulation. Consequently, IHRA engaged in dialogue with the European Parliament to amend the then-draft regulation such that it would include language providing an exception for access to records related to the Holocaust, genocide, crimes against humanity, and war crimes. Owing to IHRA’s intervention, the final form of the GDPR (regulation EU 2016/679 of 27 April 2016) reads in recital 158:<sup>3</sup>

*Where personal data are processed for archiving purposes, this Regulation should also apply to that processing, bearing in mind that this Regulation should not apply to deceased persons. Public authorities or public or private bodies that hold records of public interest should be services which, pursuant to Union or Member State law, have a legal obligation to acquire, preserve, appraise, arrange, describe, communicate, promote, disseminate, and provide access to records of enduring value for general public interest. Member States should also be authorised to provide that personal data may be further processed for archiving*

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<sup>1</sup> See Appendix 3: *IHRA Briefing Paper on the Proposed General Data Protection Regulation*.

<sup>2</sup> See Appendix 3: *IHRA Briefing Paper on the Proposed General Data Protection Regulation*.

<sup>3</sup> See Appendix 4: *IHRA, Brussels Supports Reference to Holocaust in GDPR* (16 December 2015).

*purposes, for example with a view to providing specific information related to the political behavior under former totalitarian state regimes, genocide, crimes against humanity, in particular the Holocaust, or war crimes.*

### *Country Reports on Archival Access*

Coinciding with discussions at the European Parliament, IHRA member countries agreed to provide the Steering Committee reports on those regulations that affect archival access in their home countries, as well as lists of relevant collections that remain inaccessible for a variety of administrative reasons. Of the 31 IHRA countries, 21 submitted reports.<sup>1</sup> The quality of these reports varied significantly. One country delivered a brief verbal statement at a plenary meeting, while another submitted an email statement that there were no restrictions to access. Some countries submitted lists of record collections but did not provide reviews of relevant regulations. Others still provided detailed overviews of access regulations but did not list specific record collections. A few reports were excellent and might serve as models for a future reporting mechanism within the IHRA.<sup>2</sup> The variations in reporting styles complicated the task of comparing and assessing the state of access in various countries, as did the failure of 10 IHRA member countries to submit any such information.<sup>3</sup>

### *Expert Review*

Responding to these gaps in information, the Steering Committee consulted with a group of external experts in the fields of history and archival sciences. These experts reviewed all existing materials from the Multi-Year Work Plan, e.g., the 2014 survey report, country submissions, and materials pertaining to the GDPR. Then they submitted their perspectives on the content created through the Work Plan, assessed the accuracy of each country report, and recommended best practice guidelines and future courses of study. Finally, they noted certain discrepancies between country reports and on-the-ground experiences in the archives of certain IHRA member countries.

Taken as a whole, the external reviewers advised that IHRA:

- Ask member countries to submit uniform reports on the state of access in each country;
- Pay greater attention to certain restrictions, e.g., insufficient cataloguing;

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<sup>1</sup> The countries that submitted reports were Austria, Canada, the Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Latvia, the Netherlands, Norway, Poland, Romania, Serbia, Slovakia, Sweden, Switzerland, the UK, and the USA.

<sup>2</sup> See, for example, the reports provided by the Netherlands and Norway.

<sup>3</sup> See Appendix 5: *Compilation of IHRA Member State Country Reports* (1 October 2017).

- recommend that member countries expand efforts to provide finding aids for all relevant materials through regular engagement with the European Holocaust Research Infrastructure and other major Holocaust archival organizations;
- Engage in regular tripartite discussions with European archives and national data protection commissioners;
- Advise on or develop methodologies to address a lack of general knowledge about archives among researchers;
- Work with archives to ensure understanding of the broad range of materials that are relevant to Holocaust research (as outlined in the Work Plan’s [Working Definition of Holocaust-Related Materials](#));
- Develop best/good practice recommendations that conform to the standards set by the international archival community, specifically the International Council on Archives’ (ICA) *Principles of Access to Archives*, the ICA *Basic Principles on the Role of Archivists and Records Managers in Support of Human Rights*, and the United Nations High Commissioner on Human Rights’ *Rule-of-Law Tool: Archives*;
- Encourage archives to allow for the photographing of records by researchers, thus lowering research costs; and
- Work with governmental archival institutions to establish a final point beyond which they will release Holocaust-related records, irrespective of any personal identifying information or national security classifications.

Although each reviewer operated independently of the others, their recommendations to the IHRA often overlapped in several significant arenas. These included the need for regular engagement with archival steering bodies (including the ICA, state archival authorities, and data protection commissioners); for a robust and regular reporting mechanism on the state of access to collections in member state archives; and for pressure on states to set a terminal date at which they will open all remaining restricted records.

## Final Recommendations

After five years of research, discussion, and assessment, the IHRA Steering Committee on Archival Access recommends that the IHRA plenary consider the following recommendations:

- Member country governments should ensure that *regulations* pertaining to access conform to IHRA’s mission, i.e., make exceptions for access to those materials that relate to the Holocaust, crimes against humanity, war crimes, and genocide. At the very least, IHRA

member countries that are EU countries should synchronize national regulations with the EU GDPR exception for records relating to the Holocaust.

- Member country governments should provide adequate *funding and support* to archives to ensure better conditions for access to and preservation of archival materials, and should also *minimize costs* for use of these collections by researchers, museums, and Holocaust memorials.
- IHRA should establish *regular communication* with the International Council on Archives, the International Federation of Libraries, national archival institutions, data protection commissioners, the European Holocaust Research Infrastructure, and similar organizations to discuss and improve access to Holocaust-related materials.
- IHRA should develop a robust, regular, and verifiable *reporting mechanism* on the state of archival access in IHRA member countries. To this end, it should develop a standard reporting form within the framework of IHRA country reports.
- IHRA should establish a *permanent archival access body* within the organization, comprised of no more than two members of each Working Group and two Heads of Delegation (or their respective deputies).
- IHRA educational and scholarly projects should introduce archival *awareness initiatives* into their work, including but not limited to the development of FAQs pertaining to archival access in IHRA member countries.
- IHRA should maintain detailed awareness on the state of access in *countries beyond the Alliance*, especially those where there are significantly large collections of material.
- IHRA should work with states to ensure full and open access to the historical record of the Holocaust in government-run and governmentally funded archives and libraries by 8 May 2020, in recognition of the 75<sup>th</sup> anniversary of the cessation of hostilities of the Second World War in Europe.

#### IHRA Steering Committee on Archival Access

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