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How to Get Rid of a Planned Economy The Case of the German Treuhandanstalt

The transition from socialism to capitalism in East Germany has proved to be a highly demanding task for politicians and businessmen as well as a challenge for the adaptive capacities of the political system. The *Treuhandanstalt* (the agency established as institutional trustee; hereafter referred to as the "THA" or the "Trust Agency") was at the center of this historical transformation process. In March 1990, it took over the entire national economy of East Germany. This quasi-nongovernmental organization was set up by government order of the next to last Council of Ministers of the German Democratic Republic (GDR). Six months later, on 3 October 1990, the socialist state no longer existed. Political unification with the liberal democratic Federal Republic of Germany (FRG) had been implemented by initially establishing five new constitutional states on the former territory of East Germany. These states joined the eleven former states of the Federal Republic and, simultaneously, the THA became a Federal Agency.

About halfway between the establishment of the THA and unification day, the economic integration of the former socialist system into the market economy of West Germany was begun. A monetary union was set up on 1 July 1990. The FRG's *Deutschmark* became the official currency of the still-existing GDR. In those days, the THA was said to be the world's largest industrial enterprise. It owned 45,000

permanent establishments, which were from the holdings of 8,000 industrial enterprises with 4 million employees. In the months ensuing, deconcentration measures increased the total number of firms to 13,000 legal corporations. By the end of 1993, only 1,000 were left. The others had been privatized, transferred to municipalities, or closed down. Aside from the remaining firms, a huge amount of property in land still waits to be privatized.

The German path from socialist economic planning to a market economy is certainly special when compared to transition policies encountered in the Czech Republic, Poland, Hungary, or Russia. By joining a highly industrialized Western European country, East Germany became a high-wage region with low industrial productivity. The monetary union exposed its industries to the global market. As a result, both politicians and managers had to learn how weak the productive base was compared to Western European standards. The GDR's national accounts and industrial statistics turned out to have been manipulated in order to misrepresent the country as a leading industrial economy. In fact, many, though not all, East German enterprises turned out to be worthless. The whole region threatened to become an industrial wasteland - unable to compete with the low-wage countries neighboring it to the East or with its high-tech neighbors in the West. In order to maintain competitive jobs and homogenize standards of living in united Germany, the former socialist economy had to be completely modernized. In the face of this daunting task, which was initially considered a national duty, very few investors proved willing to buy firms in the five new German states. And this was so despite the sales prices at which the THA offered firms that had previously enjoyed worldwide reputations for quality and reliability. German federal and state governments had to support the THA's privatization policy by providing loans, guarantees, subsidies, social overhead capital, and other incentives in their efforts to win over private investors. Altogether, more than 700 developmental programs were put into place to support the economic development of East Germany.

1. The Political Importance of the THA

The goal of establishing a market economy is given both a legal and an organizational foundation in the THA.¹ This provides it with far-reaching regulatory powers and controls. It has been called a "most powerful second national government" (Schmidt 1993: 32, 110), and a "superministry for the economic development of East Germany."² As a huge development agency, the THA has no predecessor, though there are some parallels to the Tennessee Valley Authority (TVA) which will be discussed below. The centrality of its position makes the THA the target of political pressure and antagonistic demands. Political parties, parliaments and governments, interest groups, businesses, municipalities, former property owners (*Alteigentümer*),³ the German Federal Republic's Antitrust Commission (*Bundeskartellamt*) and General Accounting Office (*Rechnungshof*), and other involved parties attempt to gain influence on the organization as a whole or on particular decisions. They also seek to exercise dispositionary and supervisory powers over the THA. The network of relationships between the THA and these actors that has emerged in this context reveals much about the political system of the Federal Republic and the way it functions.

The THA operated from the outset with great uncertainty. This arose from the diverse and contradictory character of its mission. It was further intensified by the problems it faced, which changed from day to day. This, above all, was the cause of the completely overburdened position of the THA, of the "completely exorbitant demands"⁴ made upon the agency. The THA was taken by surprise by economic developments that it was unable to influence. Especially important here were breakaway Eastern European markets and the global economic crisis in all of its repercussions for the sale of economically distressed companies. In the face

¹ Among the legal bases of the THA operations are the "Trusteeship Act" (Treuhandgesetz), the "Unification Treaty" (Einigungsvertrag), and the "Trust Agency borrowing act" (Treuhandanstalt Kreditaufnahmegesetz).

² In the words of the Alliance 90/Green Party delegate to the *Bundestag*, Schulz, spoken before that body.

³ Former owners of property from the period prior to or during the existence of the GDR who have filed claims for the restitution of that property. Hereafter referred to as "former property owners."

⁴ Birgit Breuel, President of the THA, quoted in H. Schmidt 1993: 108.

of growing problems, the means of response became ever-more limited. This was joined by the constraints of political negotiation and complicated problems of coordination involving state and federal governments, unions, and business associations. For this reason, it is almost impossible to separate objective problems from the institutional constraints on action arising from the complicated and time-consuming procedures of the governmental system. Since the government in office had aroused hopes of quick success, the danger existed that if, at the end, the sheer impossible was not accomplished, it and the country's political institutions would be blamed. In this regard, too, an important task fell to the THA: to draw the disappointment and anger upon itself that otherwise would have been directed at elected governments at the federal and state levels.⁵

Uncertainty also resulted from the information gap between the THA and THA enterprises. The latter felt they were subject to the arbitrary decisions of the central office and local branches of the THA. They, in turn, did not know exactly what was happening in the companies, which were still managed by the old cadre - often under the influence of prospective buyers from the West. The market value of these enterprises often had to be appraised by West-German consultants and auditors. They were sorely tempted to act in conjunction with managers and investors to deceive the THA. Even firms that were acquired for an appropriate price could then be dismantled by means of financial transactions and the selling off of equipment. The THA itself assumes about 1,000 cases of dubious contracts and fraudulent gain. This represents a relatively small share of the total of 50,000 contracts concluded within a three-year period, contracts involving not only price of purchase (total proceeds: DM 43 billion), but also job pledges (1.5 million positions), investment pledges (DM

⁵ This is the "lightning-rod function" (or scapegoat role) of the THA as an autonomous administrative agency, considered so important by many authors; see: R. Schmidt 1993: 125.

180 million), details on the fulfilment of contract, arrangements concerning ecological burdens from the GDR period (*Altlasten*), and the assumption of the outstanding debts of GDR firms. When the THA was set up, it was still assumed that the conversion of GDR combines into private companies involved nothing more than an act of bookkeeping, which could be managed by 150 attorneys and financial experts from the former finance ministry of the GDR in conjunction with West-German consultants.

2. Intermediate Between State and Federal Governments

Through the formation of formal and informal networks, an encompassing complex has evolved around the THA (a *trust-agency complex*), which has created numerous practical problems and raised an array of concomitant issues in political science. Of special interest were the problems that a centralized construct of institutionalized trusteeship created by a GDR government faced in making itself compatible with and adjusting to the federal structure and traditional relationships between State and interest groups (*Verbände*) in the Federal Republic. The THA has further complicated the "interlocking political nexus" of state and federal governments in Germany, and it has put to the test the "neocorporatist" integration of economic interest groups into the political process of the FRG.

Overlapping state and federal jurisdictions (in regional structural development policy, for example) have always been characteristic for the German federal state. This has placed powerful constraints on the political negotiating process, which has to reconcile governments from competing political parties (Lehmbruch 1978). The Federal Republic has been called a "semi-sovereign state" (Katzenstein 1987, .371f.) due to its complicated intertwinement of domestic powers - a hard-going political gearbox that has been lubricated by effective rules of compromise and patterns of consensual democracy. The latter have evolved during the postwar period and proved highly adaptive, considering the political conflicts and economic crises of the 1970s and 1980s. Whether it can also meet the challenge of the conversion of a socialist planned economy into a

market economy is, however, an open question, which, even in the fourth year following German unification, is still met with skepticism (Schmidt: 105ff, Hankel 1993: 179f., Lehbruch, 1991, 592f, Schmidt 1993, 448f.).

In the run-up to German unification - in the negotiation of the "unification treaty" (*Einigungsvertrag*), the "treaty on electrical power" (*Stromvertrag*), the "trusteeship act" (*Treuhandgesetz*), and the legislation on municipal property - the FRG's federal negotiating system was temporarily covered up in order to reach prompt decisions (Lehbruch 1991: 586). Only after the new states were established and it became urgent to provide them with resources, did the question arise as to the future shape of the federal structure in unified Germany. At issue here were both the political and fiscal status of the federal government vis-à-vis what were now 16 states (*Länder*) and the horizontal redistribution of revenues (fiscal adjustment) between the old and new states (Mäding 1992). The THA, directly subordinate to the federal government, played a decisive role here, since it was confronted with tasks that actually fell under the jurisdiction of the new states. This was particularly true at that time for the repercussions of THA activities on regional structural development policy. If the implications of the centralist intentions of the trusteeship act were considered in conjunction with the fiscal problems of the new states, the situation in 1990 initially justified fears of a major shift toward greater centralization in the relation of forces between federal and state governments (Seibel 1992, Mäding 1993, Lehbruch 1991, 592f., Schmidt, 453).

THA President Rohwedder (who was murdered by terrorists in April 1991) had anticipated this political development: he had signaled his willingness to the states to make concessions while at the same time exacting areas of autonomy from the federal government. This is also the context in which the plan arose of creating a permanent presence for the THA in Bonn. Established in April of 1991, the mission of this office was to represent the concerns of

the THA before parliament. In its first two years in Bonn, it responded to about 2,000 requests for information, mostly from members of parliament, and held more than 30 informational events.⁶ The Bonn office is, aside from the Congressional office of the Tennessee Valley Authority in Washington D.C., probably the only lobbying organization of a federal agency at the seat of government and parliament. It is, however, increasingly shifting into the passive role of a branch office that responds to the occasionally detailed informational desires of individual members of parliament.⁷

2.1 Institutions of Coordination

The position of the constitutional states vis-à-vis the THA is made particularly clear in the "Principles for the Cooperation of the Federal Government, New States, and Trust Agency in the Economic Upturn of East Germany" of 15 March 1991.⁸ There it is stated: "The radical change of systems in the new states makes unusual measures necessary in a concerted collaboration of federal government, new states, and Trust Agency" (First sentence of Paragraph 1). Furthermore, the role of the THA as "service-provider" for the states in the development of socially acceptable, regional economic structures is established (Second sentence of Paragraph 2). The THA agreed to provide the states with all relevant information in the case of shutdowns and layoffs: specifications of measures taken (demolition, recycling, and land conservation and rehabilitation); lists of those employees to be released according to age, qualifications, and so on; a list of potential contributions of equipment and facilities on the part of THA enterprises for the purpose of job-creation programs; and information on properties in land. All of this data would be conveyed to the relevant state department. In addition, the seats reserved for the new states on the THA Governing Board (*Verwaltungsrat*) were to be filled by the minister-presidents themselves; in this

⁶ THA-Büro Bonn, *Zwei Jahre "Büro Bonn der Treuhandanstalt."* Ms. of 28 April 1993.

⁷ Interview 930305.

⁸ *Grundsätze zur Zusammenarbeit von Bund, neuen Ländern und Treuhandanstalt für den Aufschwung Ost.* Treuhand Informationen Nr. 1, May 1991: 11; *Zeitschrift für Wirtschaftsrecht* 6 (1991): 13. Cf. also R\$. Schmidt, op.cit., pp. 31ff.

way, they were automatically kept informed of organizational developments, the general plan of action, and of qualitatively or quantitatively important decisions.

These "Principles" for the development of East Germany also cited, aside from the Governing Board, further organizational linkages between the THA and the new states: THA economic cabinets, advisory boards of the branch offices, and direct contacts between government and administrative offices and the enterprise sectors, responsible for privatization. The THA Economic Cabinets (*Treuhand Wirtschaftskabinette*) were constituted in April 1991 on the basis of Paragraph 8 of the "Principles" on the level of the state governments of all the new states. Participants include (taking the sixth session of the THA Cabinet of Saxony in Dresden on 30 May 1991 as an example): (a) on behalf of the THA: the department for the state of Saxony, representatives of the enterprise sectors affected by points on the agenda, and the THA branch offices in the state (Chemnitz, Leipzig, Dresden); and (b) on behalf of the state, several departments from the Saxon ministries of economics, finance, and agriculture, the director of the "office for the regulation of unsettled questions of property" (*Amt zur Regelung offener Vermögensfragen*; referred to hereafter as the "property authority" or "office"), the acting chairperson of the economics committee of the *Landtag*, and *Landtag* party representatives. The meetings' participants vary according to agenda and state.

The *Monthly Talks* (*Monatsgespräche*) between the state economic ministries and the representatives of the THA enterprise sectors (as well as the Industry Talks [*Branchengespräche*] and the Company-Reorganization Talks [*Sanierungsgespräche*]) are closely related to the Economic Cabinets. They convene either directly after the Economic Cabinet meetings or separately, with their own special list of participants. The Industry Talks usually follow a uniform pattern: (a) information about enterprises - their starting position and situation, and their appraisal by the

Supervisory Committee (*Leitungsausschuß*) of the THA; (b) the state of privatization, interested parties; (c) investment plans; (d) means of funding; and (e) further agreed-upon procedures.⁹ Consultations with *Landtag* representatives and committees from the new states were also a part of the Industry Talks. By means of this preliminary provision of information, the state divisions of the THA hoped to keep down the number of parliamentary requests for information that they were called upon to respond to.¹⁰ On the other hand, the state governments were informed first and on a regular basis of any business liquidations or layoffs in the framework of an "early-warning system" (which was also a product of the framework agreement made in the spring of 1991).

State-government aid for THA enterprises became an increasingly prominent part of the collaboration between the THA and the state governments. The latter attempted, usually by using funds of the EC set aside for regional economic aid and by means of diverse special programs, to prevent the further loss of jobs. Agreements with individual states show that the THA thoroughly approved of this kind of alleviation of its own responsibilities. Thus, in the "Breuel-Schommer agreement of 24 April 1992," the Saxon government pledges "to support regionally important business enterprises that it defines as such with its entire set of instruments, and especially with GA¹¹ funds and with guarantees...to promote the necessary public infrastructural measures and to makes its labor-market-policy instruments available for specific purposes."¹² In return, the THA intended to grant the state-government-

⁹ Cf. report on "Schwerpunktaufgaben der Länderabteilung Sachsen-Anhalt" of 17 January 1992 (THA-Archiv, SAN 5: 49).

¹⁰ On the treatment of requests for information: THA-Archiv, SAN 5: 40-44.

¹¹ GA funds consist of federal and state monies according to the provisions of the "Gemeinschaftsaufgabe regionale Wirtschaftsförderung". This program for industrial development originated from policies to homogenize living conditions in the West German Federal Republic.

¹² *Breuel-Schommer Agreement of April 24 1992* (named after the THA President, Birgit Breuel, and the Saxon Economics Minister, Kajo Schommer). Quoted in the letter from THA President Breuel to the Saxon Minister-President Biedenkopf of 27 April 1992 on "Cooperation Between the Trust Agency and the Free State of Saxony," THA-Archiv, SACH: 198-201.

supported business enterprises "the necessary entrepreneurial and financial room to maneuver," even if the approved plan "requires a modernization process of several years."¹³ The collaboration with the states produced various programs for the determining regionally important business enterprises and jointly promoting them. The Saxon ATLAS Project became the most well known; from May 1992 onwards, it provided the framework in which the Industry Talks between the THA and Saxony took place.

2.2 The THA as "Second Government of East Germany"

Former German Chancellor Helmut Schmidt called the THA a "very powerful second government for all six East German state governments" (Schmidt 1993: 32, 110). This underscores its importance for the new states. At the same time, it implies that it is an institution that largely bases its conduct on *political* considerations, and which, in close accord with the federal government, *manages* the economic conversion of East Germany. This conclusion is fully in keeping with the scholarly, journalistic, and political assessment of the role of the THA in the transformation process (Marissal 1993, Schuppert 1992: 190). The extent to which its activities, however, especially when they are classified according to department, should be assigned to the fields of economics, politics, or public administration, or to intermediary institutions is an open question. The agency was, in any case, conceived in the "trusteeship act" of 17 June 1990 (§§ 7-10) as a concentration of stock companies under the supervision of a Governing Board, and it was occasionally even called the "largest company in the world."¹⁴ Another open question is the degree of autonomy its actions have vis-à-vis the federal government, the state governments, the European Commission, and the major interest groups.

In legal terms, the THA is not a business enterprise, and, in factual terms, it is not a state agency.¹⁵ Its

¹³ *Ibid.*

¹⁴ For example, by former Federal Minister of Economics Jürgen Müllemann, who would have preferred to have had the THA subordinate to his own Ministry, rather than to that of Finance.

¹⁵ Its legal form as an agency of public law directly accountable to the Federal Government hardly permits any conclusions to be drawn about its actual role in the political system of the Federal Republic.

mission and the way it discharges this mission places it, instead, at the interface between state and economy.¹⁶ It functions as an "agency" of the State for developing the private economy. In this sense - and in its legal form - it calls to mind the *Kreditanstalt für Wiederaufbau* (Reconstruction Investment Bank), which emerged after World War II out of the administration of the Marshall-Plan funds. Each embodies a special fund of the federal government and is under the supervision of a governing board that consists largely of representatives of industry. The THA, of course, was conceived as a government agency. Its first 150 employees came from GDR ministries. Later, with the enactment of the trusteeship act of 17 June 1990, its entrepreneurial character became more prominent. At that time, no one had anticipated the political role that the "business enterprise" was gradually to assume. Its participation in labor-market policy reflects the extent of its political "entanglement." In this way, the THA's area of responsibilities approached that of the Federal Institute of Labor (*Bundesanstalt für Arbeit*). The latter is also an incorporated public-law institution under the supervision of the Federal Minister of Labor, but is at the same time a self-administered agency collaborating with the two sides of industry. The THA maintains close ties to both it and to the *Kreditanstalt*.

The THA has lost some of its autonomous room to maneuver, and this has had its effects on most of its staff. This occurred in the context of the increasing diversity of its tasks, the growing need to coordinate its actions with the states, and its subjection to tighter controls by the Antitrust Commission, General Accounting Office, *Bundestag*, and federal ministries. In 1993, just the "liquidations" directorate alone - which is responsible for shutdowns - estimated 1,000 man-days for answering informational requests from the ministries, General Accounting Office,

¹⁶ Speaking as a legal theorist, Schuppert defines the THA as an "organization in the area of overlap of two legal spheres," in which a mandate under public law and its discharge under private law coincide; Schuppert, *op. cit.*, p. 186.

and federal and state parliaments.¹⁷ When THA employees were surveyed on external restrictions in the exercise of THA tasks, 58.8% reported increasing external influences on the activity of the THA, 31.5% reported no change, and 9.7% cited a decrease.¹⁸

2.3 The Supervisory Committee, "Ludewig-Round," and the Bundestag

If one disregards for the moment the requirement of official approval for certain financially consequential and conceptional decisions and the informal understandings reached daily with the Bonn ministries (especially with the Ministry of Finance), there are two key institutional players in THA relations with the federal government: the Supervisory Committee (*Leitungsausschuß*) of the THA and the so-called Ludewig Round, named after the ministerial director in the Federal Chancellery entrusted by the Chancellor with questions of the development of East Germany: Johannes Ludewig.

The *Supervisory Committee* arose out the situation of currency conversion in the GDR. At that time, the first group of auditors was sent to Berlin by the Federal Ministry of Finance, in order to check on the use of funds.¹⁹ The start of the currency union on 1 July 1990 allowed 8,000 business enterprises to submit applications to the THA, citing the operating funds they required in deutsche marks, broken down according to wage payments, social insurance contributions, completion of orders, investments, etc. Since the THA was not yet become directly accountable to the Federal Government, these applications had to be examined more in terms of business-management criteria than any legal ones. Auditors and business consultants were commissioned to carry out this task. After

¹⁷ Ludwig Tränkner, Director of the THA "liquidations" directorate, in the *Süddeutsche Zeitung* of 22 July 1993, 17.

¹⁸ The data are based on a partial evaluation of a survey of all directors, branch managers, and department heads (*Abteilungsleiter*), and a random sample on the section-head level (*Referentenebene*; evaluation as of 18 June 1993, $N = 165$). They were questioned about external influences in 1992 as compared to 1991.

¹⁹ Interview 920610

unification took on national-legal force, they were to form the THA Supervisory Committee under the chairmanship of Horst Plaschna. The decision of the German federal government to approve only 41% of the applied-for operating funds in the first phase was based on their expert appraisal. It put an early damper on the situation, and many managers of GDR firms laid the blame at the door of the central office of the THA.²⁰ The Supervisory Committee - an autonomous advisory body of the Federal Ministry of Finance, active in the THA but not incorporated into it - has, from this time on, examined all entrepreneurial schemes submitted to the central office and issued recommendations on how they should be acted upon.

The creation of the "Ludewig Round" brought a high-ranking political coordinating body to life. It convened for the first time on 13 May 1991 and then in intervals of several weeks (and sometimes more frequently), usually in the Berlin branch office of the Federal Chancellery. Its intended mission was to attend to, and probably also to jointly monitor, the implementation of the resolutions on the development of East Germany passed in the first months of 1991. From the start of 1992 onwards, the meetings also served as preparation for talks by the Chancellor with the Minister-Presidents of the new states and the Governing Mayor of Berlin.

Participants in the Ludewig Round were the executive manager (*Generalbevollmächtigte*) of the THA, the heads of the State Chancelleries of the new states, and the Federal Chancellery - represented by Ministerial Director Johannes Ludewig and the director of its Berlin branch office. The primary issues discussed were: the financial requirements of the new states, current economic questions, initiatives in the development of East Germany, administrative assistance, trade with Eastern Europe, "Hermes" credit guarantees, job-creation programs, and questions currently at issue, such as the transfer of federal holdings in land

²⁰ *Ibid.*

to the states or the operations of the criminal prosecuting authorities at the THA.

The Ludewig Round was distinguished from other coordinating bodies in which the THA took part by its multilaterality, its high rank and binding character, and the frequency and regularity with which it convened in person. It linked the political control centers on a working level below that of the heads of governments and the THA executive (*Präsidium*). Unlike the Chancellor's Round on the development of East Germany in Bonn, which met informally and much less frequently, the political executives in the Ludewig Round coordinated their plans and interests in a small circle without the participation of societal interest groups. Unlike the bilateral relations between states, primarily general, politically explosive issues of the transformation of economic systems (which went beyond the scope of individual-state issues) were treated. In those cases where talks were held in coordination with the meetings of the Chancellor and the Minister-Presidents of the new states, results such as the ultimate criteria for awarding Hermes credit guarantees and a draft for the "property transformation act" (*Vermögensänderungsgesetz*) were achieved. In this way (as well as in direct contacts with the *Bundestag* and the individual federal ministries), the THA played an active role in the shaping of legislative initiatives.²¹

The parliamentary oversight of the THA was initially assigned to a subcommittee of the appropriations committee of the *Bundestag*. In comparison to federal and state governments, it played a minor part in the monitoring and regulation of the THA. This was due, on the one hand, to the fact that the normal regulatory mechanisms and conditions of approval that are granted the parliament

²¹ For example, the THA was the initiator of the contents of individual regulations of the following legislation: the "property allocation act" (*Vermögenszuordnungsgesetz*), and the "investment priority act" (*Investitionsvorranggesetz*) (Interview 930223b), as well as the initiator of the amended "jobs-development act" (*Arbeitsförderungsgesetz*) (Interviews 930224a, 930405a) and the "trust-agency borrowing act" (*Treuhandanstalt-Kreditaufnahmegesetz*) (Interview 930406).

under its appropriational powers are not applicable to the THA as an entity enjoying the legal status of an incorporated public-law institution.²² On the other hand, this resulted from the fact that a committee majority had assumed a rather affirmative position vis-à-vis the THA in the first half year following unification. This may be connected to the fact that *Bundestag* delegates of the group "Alliance 90/The Greens" severely criticized the THA very early on - in their parliamentary positions, requests for information, and motions for resolution - and, in June 1991, went as far as presenting a draft for a new trusteeship act. The Committee did not want to encourage in any way their demands for organizational reform, greater parliamentary controls, and the debt reduction and reorganization of THA companies, especially since - due to its weak legal position - it was dependent on the agreement of the THA.

The "trust-agency borrowing act" of 3 July 1992 set credit limits of DM 30 billion per fiscal year for the THA and made approval by the parliamentary appropriations committee mandatory for its full utilization in 1993 and 1994. The parliamentary control over new indebtedness still did not provide any preventive powers. Nevertheless, in response, the THA did expand its briefing of the Committee - even frequently inviting it to on-site inspections in Berlin or at industrial locations in the new states. Then, in February of 1993, a separate *Bundestag* committee on the Trust Agency was created, which now covered the entire scope of THA activities. It was regularly informed by the THA of its operations, contract supervision activities, company-reorganization plans, new approaches to privatization, and on the course of its expenditures. On 16 June 1993, the THA informed the THA committee that it sought to procure, on the capital market, DM 8 billion more than its established credit limit and to obtain - via the Federal Ministry of Finance - the approval of the

²² W. Spoerr, op.cit, p. 15.

appropriations committee. The amount had already been agreed upon in negotiations between the state and federal governments on the Federal Consolidation Program, the joint agreement (*Solidarpakt*) on the development of East Germany. It was intended, above all, to serve to secure and renew industrial centers. However, the appropriations committee of the *Bundestag* only approved DM 7 billion, and this prompted the THA to announce a curtailment of its participation in companies subsidized for purposes of job-maintenance (*Beschäftigungsgesellschaften*; hereafter referred to as "job-maintenance companies") in the metal and electrical industries. This announcement also had a collective-bargaining component to it: it was supposed to induce the metal-workers union to apply a collectively agreed upon hardship clause to THA enterprises.²³ The clause made a reduction of wages in economically distressed enterprises possible. The union refused to apply the clause in THA enterprises, since these firms were maintained by public funds anyway. In this situation, the appropriations-committee resolution was to be understood as a signal that THA firm managers, works committees, and unions were not able to prevent the application of the hardship clause at the expense of taxpayers, without having to bear the consequences themselves, namely, of shutdowns and unemployment. Here the interlocking of the parliamentary arena with the THA and interest-group politics became especially clear. The THA responded to the parliamentary limitation of its financial latitude by rescinding its job-maintenance measures. This again turned the "development of East Germany" into a problem for union policy. In 1993, collective-bargaining and employment policy became the politically most significant and explosive problem field facing the THA.

²³ *Frankfurter Allgemeine Zeitung*, 3 July 1993, 12.

3. Interest Groups and Administrations in the Trust-Agency Complex

The privatization activities of the THA resemble a balancing act: it has to balance investment and employment goals, the assumption of previous debt, the participation in environmental clean-up projects, and the proceeds from privatization in such a way that the greatest possible consideration is given to the interests of the respective federal and state departments, trade associations, and unions. This is not possible in any ideal sense. Especially questions of job preservation and the promotion of investment ran up against clear and, in some cases, extremely vital conflicts of interest between unions and trade associations. In addition, for the representatives of industry, who hold the majority of seats on the THA Governing Board (Table 1), it is also relevant what kind of investment assistance the THA provides its potential competitors in the new states and what kind of industrial structure results from THA operations.

Table 1. Representation on the Treuhandanstalt's Governing Board (Verwaltungsrat) (in seats)

Industry	9
State Governements	6
Unions	4
Federal Government.	2

Source: THA-Organisationshandbuch, Rule Nr. 1.1.1.1

Representatives of industry were at times the most uncompromising opponents of an entrepreneurially active trusteeship policy. They criticized key marketing concepts of THA enterprises (such as the Leipzig Trade Fair "Made in Germany") and expressed their fear that government assistance in the East might jeopardize companies in the West, especially in the precarious economic situation of

1992 and 1993.²⁴ On the other hand, the states and unions occasionally advocated highly risky modernization strategies, primarily for reasons of regional and social policy.

Major privatization plans had to be approved by the Governing Board,²⁵ as did certain executive resolutions in such areas as organization, guidelines for privatization, financial dealings, and annual economic plans. Most resolutions are unanimously approved after preliminary clarification, though they are also subject to approval by the Minister of Finance and the European Commission.²⁶ Originally, the Governing Board was not supposed to be a vehicle for the representation of interests. The trusteeship act (§ 4) mentions neither representatives of interest groups nor the participation of the states; instead, it only cites economic expertise as an appointment criterion. Formal regulations calling for the representation of state governments are first found in the unification treaty, Article 25 (2), which establishes additional seats on the Governing Board. Union representation is solely to be attributed to the appointment practices of the Federal Government.

As part of the process of providing states, social groups, and local authorities with greater accessibility to the THA, advisory boards to the branch offices were also created in March 1991, as a result of a directive of the central office of the THA.²⁷ It served to "bring about accord with the political, economic, and societal forces of the region."²⁸ The composition of the advisory boards differed greatly from one branch office to the next. In Chemnitz, Cottbus, Dresden, Berlin, and Halle, industry was particularly strongly represented; in Frankfurt, Leipzig, and Rostock, the unions; in Erfurt and Frankfurt, the churches; in Gera, the municipalities; and in

²⁴ Interview 930127.

²⁵ According to the THA's rules of procedure (§ 15), Governing Board consent is obligatory if any two of the following criteria are met: if the total balance involved exceeds DM 100 million, turnover value exceeds DM 300 million, and/or the enterprise has more than 2,000 employees.

²⁶ Interview 930127.

²⁷ Organizational directive Nr. 8.

²⁸ *Ibid.*, 2.

Neubrandenburg, the citizen action groups (for an overview, see Table 2).

Table 2. Cumulative representation on the 15 branch office advisory boards of the *Treuhandanstalt* (in seats and percentages) (as of March 1991 [and as of June 1991 for Berlin])

Industry, chambers of commerce	45 (33%)
Counties, municipalities	28 (20%)
Unions	18 (13%)
State Governments	14 (10%)
Churches	14 (10%)
Agriculture	9 (7%)
Citizen Action Groups	9 (7%)
TOTAL	137 (100%)

Sources: THA-Office in Bonn, Appendix to the Report "Cooperation between states, the federal government and the THA" of 28 November 1991. Data on Berlin: Protocol of the constitutive meeting of the advisory board of the THA branch office in Berlin of 11 June 1991.

3.1 Labor Market and Industrial Relations

In the "Principles" for the development of East Germany, the establishment and financing of job-maintenance companies were made the exclusive responsibilities of state governments and the Federal Institute of Labor.²⁹ This created problems, since such companies: could usually only be accommodated in the buildings of THA enterprises, made claims to the establishment subsidies of these enterprises, and, in part, performed clean-up and reorganization operations for these enterprises. Another problematic aspect of this plan was that the THA, by implementing layoff plans, could trigger these measures at any time. The political conflict over job-maintenance companies - involving the federal government, THA, state governments, unions, and trade associations - intensified until the

²⁹ "Grundsätze Aufschwung Ost," Treuhand Informationen Nr. 1, May 1991: 11, paragraph 5.

middle of 1991, when the THA agreed to a compromise. Its basic features were adopted by the THA and representatives from the two sides of industry on 1 July 1991 in the building of the National Association of Employers' Federations (*Bundesverband der Arbeitgeberverbände*) in Cologne.³⁰ The compromise resulted in a formal framework agreement between the unions, employers' federations, and the THA, which was signed on 17 July 1991 and was to serve, primarily, as the basis of the "Companies for Job Development, Employment and Structural Development" (*Gesellschaften zur Arbeitsförderung, Beschäftigung und Strukturentwicklung*; hereafter referred to as "ABS companies").

From the very beginning, the THA would only take part in job-securing measures if they did not jeopardize its mandate to privatize its enterprises. For this reason, it insisted - in conjunction with the trade associations - on ending employment in THA enterprises and "establishing a new legal relationship of a special kind" in the job-maintenance companies.³¹ This reduced its responsibilities as employer. Moreover, the legal construct of these companies also made it easier to release employees. The THA declared its willingness, via its subsidiary enterprises, to finance the managers of ABS companies for up to 6 months (and in special cases for a year) and to provide consulting and management assistance. The same held for initial assistance with such administrative tasks as wage and salary accounting and social insurance. Finally, the THA had prefinanced numerous ABS companies, and this led them to make reimbursement claims in the millions on state governments. They, in turn, called for a stronger financial commitment on the part of the Federal Government or the Federal Institute of Labor.

A completely new perspective resulted from the insertion of Paragraph 249h into the jobs-development act. The new regulation, which came into being as a result of the efforts of the THA, made it possible for the Federal Institute of Labor to provide wage subsidies for a period of up to five years to those companies in the new states that contribute to environmental improvement, youth-welfare

³⁰ Declaration of 1 July 1991 following the "Discussion between the two sides of industry and the THA on 1 July 1991 in Cologne."

³¹ *Ibid.*

services or other social services. On this basis, the THA pledged, in an agreement with the Chemical Workers Union, to endow a "*Qualifizierungswerk Chemie*" (an accreditation program for chemical workers) with DM 75 million and to administer it "in close coordination with the Chemical Workers Union." This takes place in the following manner: On the one hand, the THA renders earmarked funds with which the companies taking part in the training program are equipped with materials. On the other hand, the social compensation plans (*Sozialpläne*) of the THA enterprises in the organizational sector of the Chemical Workers Union are to see to it that employees receive compensation in the form of wage payments after assignment to a company subsidized for purposes of reorganization (*Sanierungsgesellschaft*; hereafter referred to as a "reorganization company"). This company receives assistance from the employment authorities according to § 249h of the jobs-development act. In combination with the subsidies provided by the Federal Institute of Labor to every employee it assigns, the resulting gross income must not exceed or equal the collectively agreed upon wage in a company in the same branch of industry which does not receive assistance in accordance with § 249h.

The THA concluded a similar framework agreement with the Miners and Energy-Workers Union. Here, mine workers from the potash and lignite mines are to be retrained as landscape gardeners and employed in large-scale land rehabilitation programs. The two initiatives, accounting for as many as 40,000 positions, demonstrate the willingness of the THA to support job-creation programs if: they are primarily investment related, they facilitate the privatization of THA enterprises, and they do not prevent a return to normal conditions. Just for the second half of 1993, THA earmarked a total of DM 1.2 billion for measures in accordance with § 249h of the jobs-development act.

The politics of interest-groups and wage agreements represents a further field that provides clear evidence of the entanglement of the THA in issues of economic and

social order. From the very beginning, the THA had trouble preventing its enterprise managers from making concessions to their employees. Only a few months after unification it had to be recognized that - with the help of West German consultants - company agreements on layoff protection and social compensation plans had been agreed upon that provided for outlandish settlement sums in some cases: in one case, the full salary was to be guaranteed until pension age; in another, severance pay was set at DM 156,000 for every worker dismissed, both with the expectation that the THA would bear the costs (Hanau 1993).³² Only the first framework agreement, made on 13 April 1991 by the THA with the German Trade Union Federation (DGB) and the German Employees' Union (DAG), permitted the establishment of a uniform regulation of compensation in case of dismissal. It, however, only became possible after the Federal Ministry of Finance approved an endowment of DM 10 billion for social compensation plans. THA "Guidelines" on company wage and pay agreements and on the membership of THA enterprises in trade associations aimed to curtail the proliferation of company agreements. There it is stated that the Trust Agency is interested in having those of its enterprises organized in trade associations that are in the position of creating an effective social consensus with the unions....If the Trust Agency is reserved in its response to company wage and pay contracts and to follow-up collective bargaining contracts, and is above all restrictive in this regard, then it is primarily due to the existing preference for industry-wide collective-bargaining agreements.³³

Membership in a trade association was almost obligatory for a THA enterprise, especially since in some businesses - for example, in the steel and shipyard industries - the works committees (upon the insistence of the Metal- or Chemical-Workers Union) had had this membership contractually guaranteed. THA enterprises promoted the establishment of

³² *Frankfurter Allgemeine Zeitung*, 29 January 1991; Interviews 930322b, 9339224a. On the practice of compensation in the case of dismissal, cf. P. Hanau, *Soziale Regulierung der Treuhandtätigkeit*, in: W. Fischer, H. K. Schneider (eds.) *Treuhandanstalt - das Unmögliche wagen* (Berlin: Akademie Verlag) 1993, pp. 444-480.

³³ *Richtlinie für Betriebsvereinbarungen und Haustarifverträge*, vol. 1, September 1992: 1.

trade associations in the new states insofar as they - in contrast to some privatized companies - remitted their dues on time and otherwise did not lay claim to the right to any voice in associational matters. The THA also worked in harmony with the unions to see that foreign investors maintained the trade-association membership of privatized companies and abstained from concluding wage and pay agreements on the company level.³⁴

3.2 Municipalities, Former Property Owners, and the Priority of Investment

The THA executive always endeavored to present itself as the executive management of a company. That a *state* "enterprise" was involved here is made clear - not only by its array of relationships with external institutions and its balancing of political considerations - but by the fact that the legislator had conferred upon it certain sovereign functions. This applies in particular to its powers of restitution of municipal properties and establishment of the priority of investment. These are procedures that receive binding ratification by act of administration. They come within the scope of the "legal affairs" directorate in the executive sector (*Präsidentialbereich*) and of the department of "municipal properties/water regulation" in the enterprise sector, which is also responsible for the task of reprivatization.³⁵ Its function as a public authority creates a completely different structure of relations than would otherwise emerge from the executive policy-making departments and the enterprise sectors on their own.

The "legal affairs" directorate has its own sections for each of the new states (which are independent from the executive level) and a liaison office for contacts with the leading municipal associations. The head of the department on municipal property is delegated from the German congress of municipalities (*Deutscher Städtetag*) and maintains close contacts to it and to the congress of rural districts (*Landkreistage*), and to the town and municipality

³⁴ Interview 930127.

³⁵ The mandate for reprivatization at the THA falls to the Director of Enterprise Sector 2. This sector is also responsible for small and medium-sized business administration, branch office coordination, and the transportation-related enterprise group.

associations (*Städtebund, Gemeindebund*).³⁶ The directorate also maintains relations with the interior and justice departments of the state and federal governments, whose administrative regulations shape the activities of this division. This occurs, for example, via the "Info-Dienst Kommunal" (Municipal Information Service) put out by the Federal Ministry of the Interior, which serves as a guideline for the other public administrations in the new states as well.

The department on municipal property, moreover, is also integrated within a relational network with parliaments and administrations. Here, requests for information are frequently received from the THA Committee of the *Bundestag*, there are daily calls from various departments of the Federal Ministry of Finance, and one finds "continual requests for information and suggestions from election-district representatives and local political working groups of the parties on the federal and state levels."³⁷ Moreover, the directorate - together with other THA departments and the superior finance directorates (*Oberfinanzdirektionen*, which have local jurisdiction under the property allocation act) - was repeatedly represented at municipal conferences, which were held by the Federal Ministries of Finance and the Interior alternately for state councils and mayors from the new states. The directorate itself also holds its own municipal conferences on the administrative-county level (which dates back to GDR times), in order to report on the procedures and state of restitution. One focus of discussion at these conferences is on the conceptions underlying the municipal provision of basic social services in the new states. This interlinkage allows the THA to also take part in the development of the new states' public municipal and state administrations.

³⁶ Interview 930223c.

³⁷ Interview 930324.

Former property owners (*Alteigentümer*) and the representatives of their interests³⁸ as well as municipalities frequently turn to the THA department on "§ 3a of the property act." At issue, here, is the suspension of THA restraints on the disposal of landed properties and enterprises that former owners enter a claim for. The "property act," in its original version of 23 September 1990, turned out to be an impediment to investment. Accordingly, at the hearings on the "removal of impediments [to investment] act" (*Hemmnisbeseitigungsgesetz*), the THA called for the right to reject a reprivatization claim if the former owner is only interested in property holdings and is not willing or able to continue to run a business. As early as March of 1991, with the insertion of § 3a in the property act, the THA was empowered to establish the priority of investment. This transforms the claim to property return into a claim to compensation. Once investment-priority proceedings are begun, the restitution process of the responsible state-government office for the "regulation of unsettled questions of property" is discontinued.

In the conflict between the investment, employment, and development interests of the THA and the determination of restitution claims by the property authorities, administrative competition arose, a "kind of dog race,"³⁹ which was defused by means of joint working sessions between the THA and the property authorities. Nonetheless, there are property authorities that consider the "Trust Agency as their greatest enemy."⁴⁰ Others, some of which are located in the same buildings as THA branch offices, are more open in their response to the priority of investment, especially since, in the assignment of property

³⁸ Primarily this means the Association of Central Germans (*Bund der Mitteldeutschen*) and the Organization of Owners of Berlin-Wall Land Plots (*Organisation der Besitzer von Berliner Mauergrundstücken*); apart from that, there is also the German Industrial and Trade Association (*Deutsche Industrie- und Handelstag*) and further trade associations. (*Alteigentümer* are defined in note 3 above.)

³⁹ Interview 930223b.

⁴⁰ *Ibid.*

to former owners, they are dependent upon the preliminary labors of THA departments (usually of the branch "reprivatization" directorate).⁴¹ Despite precautionary measures (both legal and informal), restitution rulings not infrequently contravene the actions of the THA. It usually takes legal action against the ruling of a property office if it interferes with an existing privatization plan, especially if former owners attempt to stop important, large-scale projects, in order to receive greater compensation through civil-law proceedings than public-law regulations would award them.

The legal departments (and many directorates have established their own) primarily take up the private-law side of privatization activities. In contrast, the directorate for legal affairs functions on behalf of the THA as its legal staff and legal representative in court. It represented the agency, for example, in the Constitutional Court case on the validity and implementation of the treaty on electrical power. The directorate also participated in the out-of-court arbitration negotiations with the association of municipal enterprises.

In the directorate for legal affairs, part of the staff is also dedicated to "Special Assignments." This organizational unit of the THA is vested with the powers of an investigative department of a prosecuting attorney's office. It is staffed primarily by prosecuting attorneys and police detectives delegated by state and federal governments. In close cooperation with district attorneys and auditors, its four departments investigate cases of managerial abuse of trust, unlawful dismantling of enterprises, subsidy fraud, unification-related criminality, corruption, betrayal of entrepreneurial

⁴¹ According to the THA's plan of succession, the reprivatization tasks remaining after 1994 will be assigned exclusively to the property offices, and the monitoring of the conditions established in the investment-priority rulings will become the responsibility of a successor organization with a more limited scope.

secrecy, defamation, and environmental offenses.⁴² They are involved in the internal audit of the THA and accept information from THA employees and nonemployees. Prompt investigative work made it possible to secure 90% of the DM 3 billion at issue in the investigations of fraud made up until December 1992.

Conclusion: Policy-Making in Interwoven Decision-Making Structures

The politics of unification were oriented around the given features of the "German model" (Scharpf 1987), a model that had proven itself in West Germany. It is characterized by collective bargaining autonomy and cooperative interest-group politics, monetary stability, free trade, a consensus for industrial competitiveness, and welfare-state provisions like codetermination in industrie or social security schemes which are mostly linked to labour contracts. The transition of socialism to a market economy in East Germany proved to be a process of rapid and comprehensive institutional adjustment to the functional conditions and customary patterns of problem-solving found in West German Politics. This process of institutional transfer can be seen very clearly in the development of the THA from a central economic agency of transformation of the penultimate GDR Government into one part of the complex political system of the Federal Republic. Established as an intermediate institution between the federal government and the new states, it actually functions as a "third level" of cooperation in Germany's federal-state system. Not only on its Governing Board, but also on numerous of its coordinating committees, both federal and state governments found representation, and with them, representatives of industry and the unions. The political maneuvering room and the conditions of success of the THA took shape within this formation. Thus, early assumptions, according to which central-state power would be strengthened by its economic role in East Germany⁴³ have to be qualified: even though 85% of the economic pie are channeled through public

⁴² Interview with the head of the THA's "Special Assignments" section, Prosecuting Attorney Daniel Noa, on 23 February 1993.

⁴³ W. Seibel, op.cit. p. 194.

budgets there,⁴⁴ the central state is only one of the many institutions that decides how the funds earmarked for the development of a market economy are to be used.

How then has THA's intermediary position in the negotiatory arenas of federalism and of interest-group politics affected its success? It is a question not easily answered, since here objective restrictions on action have to be distinguished from institutional ones. Otherwise, if the impossible is not accomplished, one could end up blaming the political institutions. It has to be assumed that many of the problems of the THA simply result from the diversity and contradictory character of its responsibilities. Conflicts between different substantive goals and economic constraints that ran counter to the success of the policy of transformation existed independently of the institutional configuration of the agents of this transformation. For the most part, developments in Germany's international economic relations were the underlying factors here: for example, breakaway Eastern European markets and the global economic crisis with all of its repercussions on income, employment, and government budgets. As problems, time constraints, and the pressure to succeed grew, the room for response shrank. Accordingly, the correct question has to read: Is its "condition, overburdened in any case, really worsened by the array of institutions that continually officially meddle in the affairs of the Trust Agency,"⁴⁵ or did not its network of external relations actually provide the THA with a means of coping with the excessive burdens of its responsibilities?

First of all, the interlocking of decision makers in the transformation process lessened the legitimation problems of the THA. And this was in fact the effect it aimed at with its strategy of cooptation. The opening to politics and interest groups is another example of a feature it shares with the Tennessee Valley Authority (TVA). This quickly established, large-scale governmental development agency had also coopted its critics by a strategy of

⁴⁴ Ludwig Erhard Foundation, *Wirtschaftliche und soziale Ausgestaltung der deutschen Einheit*. (Bonn: xxx) 1993, p. 56.

⁴⁵ As Helmut Schmidt, the former chancellor of the Federal Republic (1974-1982), claims, see H. Schmidt *op. cit.* p. 108

inclusion and defused political conflicts in this way.⁴⁶ In the case of the THA, the cooptation of outside actors also contributed to a better coordination of goals. Without it, friction between actors would have led to enormous losses and these actors would have impeded each other actions. The "trust-agency complex" is a classic example of how an encompassing network of coordination and control arises out of the confrontation of mutually dependent political and interest-group actors. Ultimately, it was the THA itself that linked much of this network of transformational policy-making together. Its legal status and the strategy of cooptation it consistently pursued allowed it to gain the commitments of powerful actors and, at the same time, to create common areas of action. Where it entered into exchange relationships with its political and interest-group environment - whether on the basis of the "Principles" for the economic recovery of East Germany, numerous framework agreements with unions, internal guidelines, or in the many, in part self-created coordinating committees - it banked on the common interest of all participants in the success of economic reorganization and called for support for its line of action, though not without a willingness to compromise where an impasse would otherwise have resulted.

There was a constant danger of one-sided priority setting and an escalation of political conflict inherent to the precarious dual role of the THA, as employer and as agent of structural, employment, and social policy. Practically the only choice left the THA was to meet this challenge in the spirit of compromise. Otherwise, it would have been destroyed in the clash of forces between the federal state, individual states, trade associations, and unions and under the critical eye of a watchful public. A process of mutual

⁴⁶ The German Trust Agency behaved in this instance in a way that can be generally observed to hold, in situations of external pressure or turbulences, for relatively independent agencies entangled in politics. For the conditions and detailed mechanisms of such strategies of cooptation see: Ph. Selznick, *TVA and the Grassroots. A Study in the Sociology of Formal Organization.* (Berkeley: xxx) 1949. R. Czada, *Muddling through a nuclear political emergency. Multilevel crisis management after radioactive fallout* *Industrial Crisis Quarterly*;

accomodation, which from the outside might look like helpless "muddling through," was the only promising solution in a confusing situation that presented a constant threat to the existence of the organization.

The THA's flexible adjustment to problems has been interpreted as a result of organizational learning.⁴⁷ Learning as an ability to recognize and correct mistakes presupposes, however, that the problematic situation to which one applies what has been learned remains constant or at least roughly the same.⁴⁸ If the problematic situation and the solutions to it are constantly changing though, as in the case of the THA,⁴⁹ the only thing left is the attempt to create learning constructs by means of situational analyses, conclusions by analogy, and outside consultation and then to incorporate them in the development of farther-reaching plans: the rationalist variation of problem management. A second possibility would be to adhere to solutions that had worked in the past, even though the problems one faces constantly change: a variation often found in formerly successful organizations that now suffer from bureaucratic rigidity. Neither of these two approaches has much relevance at all to the actions and development of the THA as a new institution operating in turbulent environments of extreme uncertainty. Instead, its most important strategy variation consisted in adjusting to changing preference structures in a wider field of actors while maintaining its own interests as far as possible. To do this, it accepted the need to neglect any comprehensive analysis of the problem, the success of which - given the complexity and dynamism of events - must have seemed doubtful anyway. Since the actors were affected to differing degrees by each change, the network of

⁴⁷ W. Seibel, Lernen unter Unsicherheit. Hypothesen zur Entwicklung der Treuhandanstalt und der Staat-Wirtschaft-Beziehungen in den neuen Bundesländern, in: W. Seibel, A. Benz, H. Mäding, Heinrich (eds.), Verwaltungsreform und Verwaltungspolitik im Prozeß der deutschen Einigung. (Baden-Baden; Nomos) 1993, p. 359-370 (367).

⁴⁸ G. H. Bower, E. R. Hilgard, Theories of Learning (Englewood Cliffs: xxx) 1981 (5th edition), p. 11;

⁴⁹ The THA had to constantly respond to rapidly changing problematic situations: breakaway Eastern European markets, a global economic crisis, uncertainties in collective bargaining policies, and so on.

unification politics was even better at bringing out the structure of problems than a centralized coordinating authority would have been. This is especially true since the prerequisites of such an approach - the promotion of articulateness, a high degree of interactive density within the trust-agency complex, and a wide participation of interests - had improved constantly.

The THA's pragmatic "muddling through"⁵⁰ turned out to be an appropriate response to the dynamic development of problems. It was not initially planned, but an expectable consequence of the interlocking nature of institutions in the German system of government. Even in situations with simpler problems, it would have been difficult to attain a greater degree of control in this system. Nonetheless, programmatic coherence and calculable procedures remain the aim of all rational attempts at problem-solving, especially in the internal realm of major organizations. However, the THA as "business enterprise" stood opposed to the "objectification of its mostly formless procedures"⁵¹ called for by all sides. The network of political relations, situations beset by complex problems, and the need for flexibility in dealing with investors were not the only reasons for the lack of procedural guidance. It was also due to the idea that a standardized implementation of one's tasks presupposes a well-thought-out concept, and perhaps even a plan - something that the THA did not want in any circumstances.⁵²

The mission of the THA was subject to a special basic condition that stood in the way of any rationally calculated and routinized mode of problem management. Almost all participants shared the notion that the path from the plan to the market was itself not plannable. This served as the basis for the stance taken by the THA, and

⁵⁰ Ch. E. Lindblom, *The Science of "Muddling Through"*, in: *Public Administration Review* 13 (1959), pp. 79-88

⁵¹ H. Schmidt, *op.cit* p. 109.

⁵² "Management by chaos" as a principle of action was referred to in several interviews and basically viewed in a positive light.

with it, by the German government in office, which totally banked on the self-healing powers of the market. A framework of organizational-policy and administrative measures was thought to suffice, to get the second German "economic miracle" underway. Thus, it must have been all the more painful when in 1991 they were forced to acknowledge that both the market and public administration, including the THA, were overwhelmed by this task, and this despite a maximum deployment of funds.

Where governance through markets or hierarchies do not yet function or cannot guarantee satisfactory solutions to specific problems, the only thing that remains is the principle of political compromise to be found in informal social networks and interlocked decision-making structures.⁵³ Actually, in the face of a severe economic and political crisis - when it was evident that most of its firms were not saleable - the "Trust Agency" lessened its strict market approach and learned to take advantage of semi-bureaucratic, informal procedures. As a consequence its organisational boundaries became rather blurred. Its privatization approach changed towards "quick and dirty". The THA did not really sell its firms any more. On the contrary: during the "sale", it ran deeply in debt because it bought concepts of private investors and subsidized their rescue operations to the extend of negative net contract prices. Transfers of title did not go by the highest bid but by the better concept. The THA acted as a developmental agency.

If it is true that governments cannot plan but only support the way a market economy, then the German Federal Republic was better designed to face the risks involved in the transformation of socialist economic systems than a unitary state. Its political institutions are geared to

⁵³ For an institutional-economic account of this state of affairs, see W. G. Ouchi, Markets, Bureaucracies, and Clans, in: *Administrative Science Quarterly* 25 (1980), pp. 129-141; W. W. Powell, Neither Market nor Hierarchy: network forms of organisation, in: *Research in Organizational Behavior* 12 (1990), pp. 295-336. On its political-science aspects, see F.W. Scharpf, op.cit. pp. 25ff.

negotiations and the balancing of political interests.⁵⁴ They are not hierarchically structured, but are instead oriented toward the constant, mutual readjustment of their parts. The THA of the GDR government represented a "faulty construct" (Helmut Schmidt) for this system, which first had to labor to free itself from its set "planning targets," in order to find its place within the negotiatory democracy of the Federal Republic. After having succeeded at this task, it was time to consider ending its institutional life. Remaining tasks will either be assumed by successor organizations still to be created or assigned to federal departments and state governments from January 1st 1995 on. However, there are strong voices within the public agency to split and privatize itself. The controlling of contracts, future privatizations of public lands, the handling of several nuclear power plants and many other remaining tasks would then be done by private companies under the surveillance of a regulatory body stemming from the THA's core organisation. Thus the Trust Agency could well support future administrative reforms in Germany leading both to american-like independent regulatory agencies and to further privatizations within the public service sector.

Bibliography

- Aldrich, Howard E. und Herkner, Diane: Boundary spanning roles and organization structure. *Academy of Management Review* 2 (1977), S. 217-239.
- Allison, Graham T.: *Essence of Decision*, Boston 1971.

⁵⁴ cf. R. Czada, M. G. Schmidt (eds.), *Verhandlungsdemokratie, Interessenvermittlung, Regierbarkeit* (Opladen: Westdeutscher Verlag) 1993

- Benz, Arthur: "Reformbedarf und Reformchancen des kooperativen Föderalismus nach der Vereinigung Deutschlands", in: Seibel, Wolfgang, Benz, Arthur, Mäding, Heinrich (eds.), *Verwaltungsreform und Verwaltungspolitik im Prozeß der deutschen Einigung*. (Baden-Baden: Nomos) 1993; pp. 474-773.
- Benz, Arthur: *Föderalismus als dynamisches System*. Opladen 1985.
- Benz, Arthur: Reformbedarf und Reformchancen des kooperativen Föderalismus nach der Vereinigung Deutschlands. In: *Seibel, Wolfgang, Benz, Arthur, Mäding, Heinrich* (Hrsg.), *Verwaltungsreform und Verwaltungspolitik im Prozeß der deutschen Einigung*. Baden-Baden 1993, S. 454-473.
- Bower, Gordon H., Hilgard, Ernest R.: *Theories of Learning*. Englewood Cliffs 1981 (5. Aufl.).
- Burns, Thomas und G.M. Stalker: *The Management of Innovation*. London 1961
- Mäding, Heinrich: Die föderativen Finanzbeziehungen im Prozeß der deutschen Einigung - Erfahrungen und Perspektiven., in: Hartwich, Hans-Hermann, Wewer, Göttrick (eds.): *Ökonomische und fiskalische Bestimmungsfaktoren des Regierens*, (Opladen: Leske & Budrich) 1992, S. 183-214.
- Cohen Michael D., March, James G., Olsen, Johan: A Garbage Can Model of Organizational Choice. In: *Administrative Science Quarterly* 17 (1972), 1-20
- Cohen Michael D., March, James G., Olsen, Johan: A Garbage Can Model of Organizational Choice. In: *Administrative Science Quarterly* 17 (1972), 1-20
- Czada, Roland: Das scheue Reh und die Kröte. Investition und Beschäftigung im Kalkül der Treuhandanstalt. In: Bosch, Gerhard, Bernd *Reissert* und Hubert Heinelt (Hrsg.): *Arbeitsmarktpolitik nach der Vereinigung*, Berlin 1993 (im Erscheinen).
- Eichener, Volker, Kleinfeld, Ralf, Pollak, Detlev, Schmidt, Josef, Schubert, Klaus, Voelzkow, Helmut (Hrsg.) *Organisierte Interessen in Ostdeutschland*. Marburg 1992.
- Eichener, Volker, Kleinfeld, Ralf, Pollak, Detlev, Schmidt, Josef, Schubert, Klaus, Voelzkow, Helmut (Hrsg.) *Organisierte Interessen in Ostdeutschland*. Marburg 1992.
- Fiol, Marlene und Lyles, Marjore: Organizational Learning. In: *Academy of Management Review* 10 (1985), S. 803-813
- Fiol, Marlene und Lyles, Marjore: Organizational Learning. In: *Academy of Management Review* 10 (1985), S. 803-813

- G. Schuppert, Die Treuhandanstalt - Zum Leben einer Organisation im Überschneidungsbereich zweier Rechtskreise, in: Staatswissenschaften und Staatspraxis 3 (1992), p. 186-210. (190);
- Hanau, Peter: Sozialverträgliche Gestaltung bei der Umstrukturierung und Auflösung von Unternehmen. In: Hommelhoff, Peter (Hrsg.), Treuhandunternehmen im Umbruch. Recht und Rechtswirklichkeit beim Übergang in die Marktwirtschaft. Köln 1991, S. 101-120.
- Hanau, Peter: Sozialverträgliche Gestaltung bei der Umstrukturierung und Auflösung von Unternehmen. In: Hommelhoff, Peter (Hrsg.), Treuhandunternehmen im Umbruch. Recht und Rechtswirklichkeit beim Übergang in die Marktwirtschaft. Köln 1991, S. 101-120.
- Hankel, Wilhelm: Die sieben Todsünden der Vereinigung. Berlin 1993.
- Hankel, Wilhelm: Die sieben Todsünden der Vereinigung. Berlin 1993.
- Hesse, Jens, Renzsch, Wolfgang : Zehn Thesen zur Entwicklung und Lage des deutschen Föderalismus. Staatswissenschaften und Staatspraxis 4 (1990), S. 262-578.
- Hesse, Jens, Renzsch, Wolfgang : Zehn Thesen zur Entwicklung und Lage des deutschen Föderalismus. Staatswissenschaften und Staatspraxis 4 (1990), S. 262-578.
- Hommelhoff, Peter (Hrsg.), Treuhandunternehmen im Umbruch. Recht und Rechtswirklichkeit beim Übergang in die Marktwirtschaft. Köln 1991.
- Hommelhoff, Peter (Hrsg.), Treuhandunternehmen im Umbruch. Recht und Rechtswirklichkeit beim Übergang in die Marktwirtschaft. Köln 1991.
- J. Marissal, Der politische Handlungsrahmen der Treuhandanstalt, (Bern, Frankfurt/Main: Lang) 1993.
- J. Priewe, R. Hickel, Der Preis der Einheit. (Frankfurt/M:) 1991.
- Katzenstein, Peter 1987: Politics and Policy in West Germany. The Growth of a Semisovereign State. Philadelphia: Temple Press.
- Katzenstein, Peter: Politics and Policy in West Germany. The Growth of a Semisovereign State. Philadelphia 1987.
- Kern, Horst und Charles F. Sabel: Zwischen Baum und Borke - Zur Unsicherheit der Treuhand, was sie als nächstes sagen sollte, in: Sofi-Mitteilungen 1/ 1992, S. 61-78.

- Kern, Horst und Charles F. Sabel: Zwischen Baum und Borke - Zur Unsicherheit der Treuhand, was sie als nächstes sagen sollte, in: Sofi-Mitteilungen 1/ 1992, S. 61-78.
- Kleinfeld, Ralf: Zwischen Rundem Tisch und Konzertierter Aktion. Korporatistische Formen der Interessenvermittlung in den neuen Bundesländern. In: Eichener, Volker et. al. op. cit., S. 73-134.
- Kleinfeld, Ralf: Zwischen Rundem Tisch und Konzertierter Aktion. Korporatistische Formen der Interessenvermittlung in den neuen Bundesländern. In: Eichener, Volker et. al. op. cit., S. 73-134.
- Kotter, John P.: Managing external dependence. Academy of Management Review 4 (1979), 87-92.
- Kotter, John P.: Managing external dependence. Academy of Management Review 4 (1979), 87-92.
- Krumbein, Wolfgang: Situativer Korporatismus. In: Eichener, Volker et. al. op. cit., S. 211-224.
- Krumbein, Wolfgang: Situativer Korporatismus. In: Eichener, Volker et. al. op. cit., S. 211-224.
- Lawrence, Paul. R. und Lorsch, Jay W.: Organization and Environment: Managing Differentiation and Integration. Homewood, IL. 1967
- Lawrence, Paul. R. und Lorsch, Jay W.: Organization and Environment: Managing Differentiation and Integration. Homewood, IL. 1967
- Lehmbruch, Gerhard 1978: Party and federation in Germany: A developmental dilemma, in: Government and Opposition 13, p. 151-177
- Lehmbruch, Gerhard 1991: Die Deutsche Vereinigung. Strukturen und Strategien, Politische Vierteljahresschrift 32, p. 585-604
- Lehmbruch, Gerhard: Die deutsche Vereinigung. Strukturen und Strategien. In: Politische Vierteljahresschrift 32 (1991), S. 585-604
- Lindblom, Charles E.: The Science of "Muddling Through". In: Public Administration Review 13 (1959), S. 79-88; deutsch: Inkrementalismus: Die Lehre vom "Sich-Durchwursteln". In: Narr, Wolf-Dieter, Offe, Claus (Hrsg.), Wohlfahrtsstaat und Massenloyalität, Köln 1975. S. 161-177.

- Lindblom, Charles E.: The Science of "Muddling Through".
In: Public Administration Review 13 (1959), S. 79-88;
deutsch: Inkrementalismus: Die Lehre vom "Sich-Durchwursteln". In: Narr, Wolf-Dieter, Offe, Claus (Hrsg.), Wohlfahrtsstaat und Massenloyalität, Köln 1975. S. 161-177.
- Mäding, Heinrich: Die föderativen Finanzbeziehungen im Prozeß der deutschen Einigung - Erfahrungen und Perspektiven. In: Hartwich, Hans-Hermann, Wewer, Göttrick (Hrsg.): Ökonomische und fiskalische Bestimmungsfaktoren des Regierens. Opladen 1992, S. 183-214.
- Marissal, Matthias J.: Der politische Handlungsrahmen der Treuhandanstalt, Bern, Frankfurt/Main 1993.
- Olsen, Johan P.: Political Science and Organization Theory. Parallel Agendas but Mutual Disregard, in: Czada, Roland M., Windhoff-Héritier, Adrienne (Hrsg.), Political Choice. Institutions, Rules and the Limits of Rationality, Frankfurt/M, New York 1993, S. 87-120.
- Olsen, Johan P.: Political Science and Organization Theory. Parallel Agendas but Mutual Disregard, in: Czada, Roland M., Windhoff-Héritier, Adrienne (Hrsg.), Political Choice. Institutions, Rules and the Limits of Rationality, Frankfurt/M, New York 1993, S. 87-120.
- Ouchi, William G.: Markets, Bureaucracies, and Clans. In: Administrative Science Quarterly 25 (1980), S. 129-141.
- Ouchi, William G.: Markets, Bureaucracies, and Clans. In: Administrative Science Quarterly 25 (1980), S. 129-141.
- Pilz, Frank, Ortwein, Heike: Das vereinte Deutschland. Wirtschaftliche, soziale und finanzielle Folgeprobleme und die Konsequenzen für die Politik. Stuttgart, Jena 1992.
- Pilz, Frank, Ortwein, Heike: Das vereinte Deutschland. Wirtschaftliche, soziale und finanzielle Folgeprobleme und die Konsequenzen für die Politik. Stuttgart, Jena 1992.
- Powell, Walter, W., Neither Market nor Hierarchy: network forms of organisation. In: Research in Organizational Behavior 12 (1990), S. 295-336.
- Powell, Walter, W., Neither Market nor Hierarchy: network forms of organisation. In: Research in Organizational Behavior 12 (1990), S. 295-336.
- Priewe, Jan, Hickel, Rudolf: Der Preis der Einheit. Frankfurt/M 1991.

- Rosenthal, Uriel, Pijnenburg Bert (Hrsg.): Crisis Management and Decision Making, Dordrecht, London 1991.
- Rosenthal, Uriel, Pijnenburg Bert (Hrsg.): Crisis Management and Decision Making, Dordrecht, London 1991.
- Scharpf, Fritz W., Reissert, Bernd, Schnabel, Werner: Politikverflechtung. Theorie und Empirie des kooperativen Föderalismus in der Bundesrepublik. Meisenheim/Glan, 1976.
- Scharpf, Fritz W., Reissert, Bernd, Schnabel, Werner: Politikverflechtung. Theorie und Empirie des kooperativen Föderalismus in der Bundesrepublik. Meisenheim/Glan, 1976: Athenäum.
- Scharpf, Fritz W.: Komplexität als Schranke der politischen Planung. In: Politische Vierteljahresschrift 13 Sonderheft 4, 1972), S. 168-192.
- Scharpf, Fritz W.: Komplexität als Schranke der politischen Planung. In: Politische Vierteljahresschrift 13 Sonderheft 4, 1972), S. 168-192.
- Scharpf, Fritz W.: Versuch über Demokratie im verhandelnden Staat, in: Czada, Roland, Schmidt, Manfred G. (Hrsg.), Verhandlungsdemokratie, Interessenvermittlung, Regierbarkeit, Opladen 1993, S. 25-50.
- Schmidt, Helmut: Handeln für Deutschland. Wege aus der Krise, Berlin 1993.
- Schmidt, Helmut: Handeln für Deutschland. Wege aus der Krise, Berlin 1993: Rohwolt.
- Schmidt, M.G., Regieren in der Bundesrepublik Deutschland (Opladen: Leske & Budrich) 1992. Lehbruch and Czada, *Sozialstaatspostulat...*
- Schmidt, Manfred G. 1993: Die politische Verarbeitung der deutschen Vereinigung im Bund-Länder-Verhältnis, in: *Seibel, Wolfgang, Benz, Arthur, Mäding, Heinrich (eds.), Verwaltungsreform und Verwaltungspolitik im Prozeß der deutschen Einigung.* (Baden-Baden: Nomos), 448-453. (448f)..
- Schmidt, Manfred G.: Die politische Verarbeitung der deutschen Vereinigung im Bund-Länder-Verhältnis. In: *Seibel, Wolfgang, Benz, Arthur, Mäding, Heinrich (Hrsg.), Verwaltungsreform und Verwaltungspolitik im Prozeß der deutschen Einigung.* Baden-Baden 1993, S. 448-453.
- Schmidt, Manfred G.: Regieren in der Bundesrepublik Deutschland. Opladen 1992.

- Schmidt, Reiner, 1991: Aufgaben und Struktur der Treuhandanstalt im Wandel der Wirtschaftslage, in: Hommelhoff, Peter (Hrsg.), Treuhandunternehmen im Umbruch. Recht und Rechtswirklichkeit beim Übergang in die Marktwirtschaft. Köln, S. 17-38.
- Schmidt, Reiner, 1991: Aufgaben und Struktur der Treuhandanstalt im Wandel der Wirtschaftslage, in: Hommelhoff, Peter (Hrsg.), Treuhandunternehmen im Umbruch. Recht und Rechtswirklichkeit beim Übergang in die Marktwirtschaft. Köln, S. 17-38.
- Schuppert, Gunnar Folke: Die Treuhandanstalt - Zum Leben einer Organisation im Überschneidungsbereich zweier Rechtskreise. In: Staatswissenschaften und Staatspraxis 3 (1992), S. 186-210.
- Seibel, Wolfgang: Lernen unter Unsicherheit. Hypothesen zur Entwicklung der Treuhandanstalt und der Staat-Wirtschaft-Beziehungen in den neuen Bundesländern. In: ders., Benz, Arthur, Mäding, Heinrich (Hrsg.), Verwaltungsreform und Verwaltungspolitik im Prozeß der deutschen Einigung. Baden-Baden 1993, S. 359-370.
- Seibel, Wolfgang: Lernen unter Unsicherheit. Hypothesen zur Entwicklung der Treuhandanstalt und der Staat-Wirtschaft-Beziehungen in den neuen Bundesländern. In: ders., Benz, Arthur, Mäding, Heinrich (Hrsg.), Verwaltungsreform und Verwaltungspolitik im Prozeß der deutschen Einigung. Baden-Baden 1993, S. 359-370.
- Seibel, Wolfgang: Necessary Illusions: The Transformation of Governance Structures in the New Germany. In: The Tocqueville Review 13 (1992), S. 177-197
- Seibel, Wolfgang: Necessary Illusions: The Transformation of Governance Structures in the New Germany. In: The Tocqueville Review 13 (1992), S. 177-197
- Selznick, Philip: TVA and the Grassroots. A Study in the Sociology of Formal Organization. Berkeley 1949.
- Selznick, Philip: TVA and the Grassroots. A Study in the Sociology of Formal Organization. Berkeley 1949.
- Shonfield, Andrew., Modern Capitalism. The Changing Balance of Public and Private Power, London 1965 (deutsch: Geplanter Kapitalismus, Köln 1969.
- Shonfield, Andrew., Modern Capitalism. The Changing Balance of Public and Private Power, London 1965 (deutsch: Geplanter Kapitalismus, Köln 1969.
- Spoerr, Wolfgang, Treuhandanstalt und Treuhandunternehmen zwischen Verfassungs-, Verwaltungs- und Gesellschaftsrecht, Köln 1993.