

# Privatization and Public Policy Volume II

*Edited by*

**Vincent Wright**

*Formerly Nuffield College  
University of Oxford, UK*

*and*

**Luisa Perrotti**

*Assistant Professor of Political Science  
INSEAD, France*

THE INTERNATIONAL LIBRARY OF COMPARATIVE PUBLIC POLICY

**An Elgar Reference Collection**

Cheltenham, UK • Northampton, MA, USA - 2000

# The International Library of Comparative Public Policy

*Series Editor:* B. Guy Peters

*Maurice Falk Professor of American Government  
and Chair, Department of Political Science,  
University of Pittsburgh, USA*

1. Industrial Policy  
*Wyn Grant*
2. Urban and Regional Policy  
*Jon Pierre*
3. Policy Evaluation: Linking Theory to Practice  
*Ray C. Rist*
4. Budgeting and the Management of Public Spending  
*Donald J. Savoie*
5. Science and Technology Policy  
*Sheila Jasanoff*
6. Economic Policy (Volumes I and II)  
*Paul F. Whiteley*
7. Health Policy  
*J.W. Björkman and C. Altenstetter*
8. Tax Policy  
*Sven Steinmo*
9. Criminal Justice Policy  
*Jodi Lane and Joan Petersilia*
10. Transport Policy  
*Kenneth J. Button and Roger Stough*
11. Environmental Policy (Volumes I and II)  
*Wolfgang Rüdig*
12. Education Policy  
*James Marshall and Michael Peters*
13. Privatization and Public Policy (Volumes I and II)  
*Vincent Wright and Luisa Perrotti*

Future titles will include:

Defence Policy

*Lawrence Freedman*

Income Maintenance

*Michael Hill*

Agricultural Policy

*Wyn P. Grant and J.T.S. Keeler*

Wherever possible, the articles in these volumes have been reproduced as originally published using facsimile reproduction, inclusive of footnotes and pagination to facilitate ease of reference.

For a list of all Edward Elgar published titles visit our site on the World Wide Web at  
<http://www.e-elgar.co.uk>

# Acknowledgements

---

The editors and publishers wish to thank the authors and the following publishers who have kindly given permission for the use of copyright material.

Ashgate Publishing Ltd for excerpts: Nicholas Buttle (1996), 'Privatization and Ethics', in Derek Braddon and Deborah Foster (eds), *Privatization: Social Science Themes and Perspectives*, Chapter 2, 17–39; Roland Czada (1996), 'The Treuhandanstalt and the Transition from Socialism to Capitalism', in Arthur Benz and Klaus H. Goetz (eds), *A New German Public Sector? Reform, Adaptation and Stability*, Chapter 5, 93–117.

Association of Arab-American University Graduates and the Copyright Clearance Center for article: Nazih N. Ayubi (1992), 'Political Correlates of Privatization Programs in the Middle East', *Arab Studies Quarterly*, **14** (2&3), Spring/Summer, 39–56.

Blackwell Publishers for excerpt: William L. Megginson, Robert C. Nash and Matthias van Randenborgh (1996), 'The Financial and Operating Performance of Newly Privatized Firms: An International Empirical Analysis', in Terry L. Anderson and Peter J. Hill (eds), *The Privatization Process, A Worldwide Perspective*, Chapter 8, 115–53.

Blackwell Publishers Ltd for article: Werner Baer (1994), 'Privatisation in Latin America', *World Economy*, **17** (4), July, 509–28.

Elsevier Science Ltd for article: Mary M. Shirley (1994), 'Privatization in Latin America: Lessons for Transitional Europe', *World Development*, **22** (9), September, 1313–23.

Frank Cass & Co. Ltd for article: Pita Ogaba Agbese (1992), 'Moral Economy and the Expansion of the Privatisation Constituency in Nigeria', *Journal of Commonwealth and Comparative Politics*, **30** (3), November, 335–57.

Council for Social and Economic Studies for article: Gawdat Bahgat (1993), 'Privatization and Democratization in the Arab World: Is There a Connection?', *Journal of Social, Political and Economic Studies*, **18** (4), Winter, 427–44.

Johns Hopkins University Press for articles: Harvey B. Feigenbaum and Jeffrey R. Henig (1994), 'The Political Underpinnings of Privatization: A Typology', *World Politics*, **46** (2), January, 185–208; Michael McFaul (1995), 'State Power, Institutional Change, and the Politics of Privatization in Russia', *World Politics*, **47** (2), January, 210–43.

## [2]

# The Treuhandanstalt and the Transition from Socialism to Capitalism

*Roland Czada*

The transition from socialism to capitalism in East Germany has proved to be a highly demanding task for politicians and businessmen and a major challenge to the adaptive capacities of the administrative system. The Treuhandanstalt, the Federal agency established as institutional trustee (Trust Agency, or THA), was at the centre of this historical transformation process. This quasi-non-governmental organization was set up by a government order of the penultimate Council of Ministers of the German Democratic Republic (GDR) and, on 1 March 1990, it took over the entire nationalized economy of East Germany. Thus it started to operate before the economic integration of the former socialist system into the West German market economy was set in motion and made irreversible with the Treaty on Monetary, Economic and Social Union of 18 May 1990.

At the time of its establishment, the THA was said to be the world's largest industrial enterprise. It owned approximately 45 000 permanent establishments, which belonged to some 8500 industrial enterprises with approximately 4 million employees. In the following months, demergers further increased the total number of enterprises to 13 000. Little more than four years later, by the end of 1994, only about a hundred of them were left in the THA's possession, the others having been privatized, transferred to local governments or closed down. At that time, apart from the remaining firms, vast land holdings, representing some 40 per cent of the former East German territory, also still awaited privatization (Sinn and Sinn, 1993: 123).

The German path from socialist economic planning to a market economy was very distinct when compared to the transition experiences in the Czech Republic, Poland, Hungary or Russia. By joining a highly industrialized

94 *A New German Public Sector?*

Western European country, East Germany became a high-wage region with low industrial productivity. Monetary union exposed its industries to the global market and, as a result, both politicians and managers were quickly forced to realize the weakness of the productive base. The GDR's national accounts and industrial statistics turned out to have been manipulated in order to portray the country as a leading industrial economy and it became clear that many, though not all, East German enterprises were practically worthless. The whole region threatened to become an industrial wasteland, unable to compete with the low-wage neighbouring countries to the east or with the highly productive and technologically advanced producers in the west. In order to maintain competitive jobs and harmonize standards of living in a united Germany, the former socialist economy had to be completely modernized. However, faced with this daunting task, very few private investors seemed willing to acquire firms in the five new German Länder, despite the low prices at which the THA offered firms, some of which had previously enjoyed a worldwide reputation for quality and reliability. German Federal and Länder governments therefore had to support the THA's privatization policy by providing loans, guarantees, subsidies, social overhead capital and other incentives in an effort to win over private investors. Altogether, more than 700 public programmes were put into place to support economic development in Eastern Germany.

**The Political Importance of the THA**

The goal of establishing a market economy was given both a legal and an organizational foundation in the form of the THA. Its legal bases included the Trusteeship Act (*Treuhandgesetz*) of 17 June 1990, the Unification Treaty, the Property Act (*Vermögensgesetz*) and the Trust Agency Borrowing Act (*Treuhandanstalt Kreditaufnahmegesetz*), which provided it with far-reaching regulatory powers and controls. The former Federal Chancellor Helmut Schmidt called it a 'most powerful second national government' (H. Schmidt, 1993: 32, 110) and a Bundestag representative of the Alliance 90/Greens described it as a 'superministry for the economic development of East Germany'. As a huge development agency, the THA had no predecessor. Not surprisingly, the centrality of its position made it the target of intense political pressure and contradictory demands. Political parties, Federal and Länder parliaments and governments, local governments, interest groups, businesses, former property owners (the so-called *Alteigentümer*),<sup>1</sup> the Federal Antitrust Office (*Bundeskartellamt*) the Federal Audit Office (*Bundesrechnungshof*) and many other interested parties all attempted to gain influence over the organization as a whole or over particular decisions.

*The Treuhandanstalt and Transition* 95

In some cases they also sought to exercise supervisory powers over the THA and limit its discretionary scope. The network of relationships that emerged between the THA and these actors reveals much about the functioning of the political system of the Federal Republic.

From the outset, the THA operated under great uncertainty, which derived from the diverse and contradictory character of its mission and was accentuated by the constantly changing problems it faced. It was these factors which largely accounted for the extraordinary overburdening of the THA with what its last president, Birgit Breuel, described as 'completely exorbitant demands' (quoted in H. Schmidt, 1993: 108). Certainly, the THA was taken by surprise by economic developments which it could not influence. In this respect, the breakaway of Eastern European markets and the global economic crisis, with all their implications for the sale of problem-ridden East German companies, were of special importance. In the face of growing problems, the THA's means of response became increasingly limited. In addition, there were the constraints associated with the need for political negotiation and coordination involving Federal and Länder governments, trade unions and business associations. It is therefore very difficult to separate objective problems from those caused by institutional constraints that arose from the complicated and time-consuming procedural requirements imposed by the governmental system. Since the Federal government had raised high hopes of quick economic success in the new Länder, there was a very real danger that the blame for failure would be laid at the door of the political institutions. Thus an important additional task fell to the THA: to direct public disappointment and anger towards itself and away from the elected governments at the Federal and Länder levels. This was the 'lightning-rod function' or scapegoat role of the THA as an autonomous administrative agency which has been stressed by many commentators (R. Schmidt, 1991: 125).

Uncertainty also resulted from the information and communication gap between the THA and the individual enterprises it owned. Plant managers and staff often felt that they were subject to arbitrary decisions of the THA central office and its regional branches; the latter, in turn, frequently did not know what exactly was happening in the companies that still tended to be managed by the old cadres – often under the influence of prospective buyers from the West. The market value of the enterprises typically had to be assessed by West German economic consultants and auditors who might be tempted to act in collusion with plant managers and investors to mislead the THA. Thus the THA itself has estimated that there were about 1000 cases of dubious contracts and fraudulent gain. Of course this represents a relatively small share of the approximately 50 000 contracts concluded by the THA within a three-year period, which included not only the price of purchase

### 96 A New German Public Sector?

(with total proceeds of DM43bn), but also job pledges (1.5 million jobs), investment pledges (DM180bn), details on the execution of contracts, arrangements in respect of inherited ecological burdens (*Altlasten*) and provisions relating to outstanding debts of GDR firms. In this connection it is interesting to note that, when the THA was first set up, it was still assumed that the conversion of GDR enterprises into private companies would involve little more than an act of bookkeeping, which could be managed by 150 lawyers and financial experts from the former finance ministry of the GDR in cooperation with West German consultants.

### The THA between Länder and Federal Governments

Through the formation of formal and informal networks, an encompassing and complex system of interrelationships evolved around the THA. Of special interest were the problems that a centralized body of institutionalized trusteeship, created by the GDR government, faced in adjusting to the federal structure and the pattern of relationships between the state and interest groups that predominates in the Federal Republic. The THA further complicated the interlocking political nexus of Federal and Länder governments in Germany and put to the test the 'neo-corporatist' integration of economic interest groups into the Federal Republic's political processes.

Overlapping Federal and Länder jurisdictions have always been a characteristic of the German federal state, and they place powerful constraints on the political negotiating process (Lehmbruch, 1978; Scharpf, 1993: 35). The Federal Republic has been called a 'semi-sovereign state' (Katzenstein, 1987: 371f) because of its complex interlocking of domestic powers – an arduous political gearbox that has been lubricated by effective rules of compromise and consensus democracy. These rules have evolved during the postwar period and proved highly adaptive in the face of the political conflicts and economic crises of the 1970s and 1980s. Even by the mid-1990s, however, it is still an open question whether they can also meet the challenge of the conversion of a socialist planned economy into a market economy (H. Schmidt, 1993: 105ff; Hankel, 1993: 179f; Lehmbruch, 1991: 592f; M.G. Schmidt, 1993: 448f).

In the run-up to German unification – notably in the negotiations on the Unification Treaty, the Treaty on Electrical Power (*Stromvertrag*), the Trusteeship Act and the legislation concerning municipal property – the Federal Republic's intergovernmental negotiating system was temporarily bypassed in order to reach prompt decisions (Lehmbruch, 1991: 586). Only after the new Eastern Länder had been established and their resource needs could no longer be ignored, did the question arise as to the future shape of the

*The Treuhandanstalt and Transition* 97

intergovernmental system in unified Germany. At issue here were both the political and fiscal status of the Federal government vis-à-vis what were now 16 Länder and the horizontal redistribution of revenues (fiscal equalization) between the old and new Länder (Mäding, 1992). The THA, directly subordinate to the Federal government, played a decisive role in this respect, since it was confronted by tasks that fell under the jurisdiction of the new Länder, notably as far as implications of THA activities for regional structural development policy were concerned. In view of the centralist intentions of the Trusteeship Act and the fiscal problems of the new Länder, the situation in 1990 understandably gave rise to concerns about the possibility of greater centralization in intergovernmental relations (Seibel, 1992; Mäding, 1993; Lehbruch, 1991: 592f; M.G. Schmidt, 1993: 453).

THA President Rohwedder, who was murdered by terrorists in April 1991, had anticipated this political development, and signalled his willingness to the Länder to make concessions while, at the same time, he sought to stake out areas of autonomy vis-à-vis the Federal government. This is also the context for the creation of a permanent presence for the THA in Bonn. Established in April 1991, the chief of this office was to represent the interests of the THA before Parliament. Thus, during its first two years, the THA Bonn office responded to some 2000 requests for information, mostly from members of parliament, and held more than 30 events to provide information on the THA's activities.<sup>2</sup> The Bonn office thus occupied the curious position of a lobbying institution of a Federal agency at the seat of the Federal government and Parliament.

*Institutions of THA-Länder Coordination*

The constitutional position of the Länder vis-à-vis the THA was made particularly clear in the Principles for the Cooperation of the Federal Government, New Länder, and Trust Agency in the Economic Upturn of East Germany of 15 March 1991 (Principles) (*Grundsätze zur Zusammenarbeit von Bund, neuen Ländern und Treuhandanstalt für den Aufschwung Ost*, in: *Treuhand Informationen* No. 1, May 1991; see also R. Schmidt, 1991: 31ff). These principles stated, 'The radical change of systems in the new Länder requires unusual measures in a concerted collaboration of the Federal government, the new Länder and the Trust Agency.' Furthermore, the Principles established the role of the THA as a 'service-provider' in the development of regional economic structures in the new Länder. The THA agreed to provide the Länder with all relevant information concerning enterprise closures and redundancies, including what particular measures would be taken (demolition, recycling, and land conservation and rehabilitation); what their employment effects would be; what contribution THA enterprises would

98 *A New German Public Sector?*

make to job creation programmes; and what their land holding assets were. All of these data would be conveyed to the relevant Länder ministries. In addition, the seats reserved for the new Länder on the THA governing board (*Verwaltungsrat*) were to be filled by the Länder Minister–Presidents themselves; in this way, they would be kept informed of organizational developments, the general plan of action and all major decisions.

In addition to the governing board, the Principles also specified some additional institutional linkages between the THA and the new Länder, including THA economic cabinets (*Treuhand Wirtschaftskabinette*), advisory boards for the branch offices and direct contacts between government and administrative offices, on the one hand, and the THA's enterprise divisions, charged with privatization, on the other. THA economic cabinets were constituted in April 1991 on the basis of paragraph 8 of the Principles in each of the new Länder. The sixth session of the THA cabinet in Saxony provides a typical example of the range of participants. They included, on behalf of the THA, the division for the State of Saxony, representatives of the enterprise divisions affected by particular items on the agenda and the THA regional branch offices. For the State of Saxony, participants included representatives of the ministries of economics, finance and agriculture, the director of the Office for the Regulation of Unresolved Property Questions (*Amt zur Regelung offener Vermögensfragen*, or Property Office), the chair of the economics committee of the Landtag and other members of the Land parliament.

The monthly talks (*Monatsgespräche*) between the Land economic ministries and the representatives of the THA enterprise divisions, as well as the sectoral talks (*Branchengespräche*) and the company reorganization talks (*Sanierungsgespräche*) were closely related to the economic cabinets. They convened either directly after economic cabinet meetings or separately, with their own list of participants. The sectoral talks usually followed a uniform pattern in that they provided information on, first, enterprises, their starting position and situation, and their appraisal by the Supervisory Committee (*Leitungsausschuß*) of the THA; second, the state of privatization and interested parties; third, investment plans; fourth, means of funding; and, finally, further procedures.<sup>3</sup> Consultations with Länder parliaments and committee members were also part of the sectoral talks. By means of this preliminary provision of information, the Land divisions of the THA hoped to minimize the number of necessary responses to parliamentary requests for information. Länder governments were informed first, and on a regular basis, of any business closures or staff redundancies in the framework of an 'early-warning system', which was a product of the framework Principles adopted in the spring of 1991.

Länder aid for THA enterprises became an increasingly prominent part of the collaboration between the THA and Länder governments. The latter

*The Treuhandanstalt and Transition* 99

attempted to prevent further job losses, especially by using funds of the traditional Federal-Länder joint task programme for the promotion of regional economic development and funds of the European Commission designated for regional economic aid and by means of a diverse range of special programmes. Agreements with individual Länder show that the THA thoroughly approved of such initiatives as a way of reducing its own responsibilities. Thus, in the Breuel-Schommer agreement of 24 April 1992, the Saxon government pledged 'to support regionally important business enterprises, which it defines as such, with its entire set of instruments, and especially with GA<sup>4</sup> funds and with guarantees ... to promote the necessary public infrastructure measures and to make its labour market policy instruments available for specific purposes'.<sup>5</sup> In return, the THA intended to grant the enterprises supported by the Land government 'the necessary entrepreneurial and financial room for manoeuvre', even if the approved plan 'requires a modernization process of several years'.<sup>6</sup> The collaboration with the Länder resulted in various programmes for the joint promotion of regionally important enterprises, of which the Saxon ATLAS Project became the best known.

*The THA as a 'Second East German Government'*

The extent to which the THA's activities should be assigned to the fields of economics, politics or public administration is debatable. According to the Trusteeship Act of 17 June 1990, the Agency was set up as a concentration of stock companies under the supervision of a governing board. Another open question concerns the degree of autonomy it enjoyed vis-à-vis the Federal government, the Länder governments, the European Commission and the major interest groups.

Even before unification the stock company model had been replaced. A few stock companies which owned almost the whole economy would have carried on the old socialist combine structure. This approach threatened to preserve the GDR as an economic entity. Another factor was that the stock companies would have come under the German codetermination act of 1976. It is true, the THA owned a great number of legal stock corporations which have been codetermined by union and workers representatives. However, these were not powerful groups of affiliated companies. In accordance with the Trusteeship Act a plan of July 1990 provided for only four huge stock companies covering the fields of heavy industry, the capital goods industry, the consumer goods industry and services with a portfolio of up to 2,500 subsidiaries each.

On 24 August 1990, immediately after taking office as president, Rohwedder outlined the key features of a completely different organizational structure. Instead of a few sectoral stock companies below the THA office, responsibilities became divided between the central office in Berlin

100 *A New German Public Sector?*

and 15 regional offices, with the former responsible for big firms and the latter for medium-sized and small ones. This was a violation of law and in September 1990 Rohwedder apologized in front of the GDR parliament using a traditional proverb: 'Real life comes before the letter of law'.<sup>7</sup>

In legal terms, the THA was not a business enterprise and, in factual terms, it was not a conventional state agency. Certainly, its legal form as an agency of public law directly accountable to the Federal government permitted no conclusions to be drawn about the actual role it played in the political system of the Federal Republic. Its mission and its way of operating placed it at the interface between state and economy. Speaking in legal terms, it could be defined 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, 1992: 186). It functioned as an agent of the state for developing the private economy. In this sense – and in its legal form – it was reminiscent of the Reconstruction Investment Bank (*Kreditanstalt für Wiederaufbau*), which emerged after the Second World War out of the administration of the Marshall Plan funds of the European Recovery Programme. Both were in control of a special fund of the Federal government and under the supervision of a governing board that consisted largely of representatives of industry. The THA, of course, was conceived as a government agency, but, with the coming into force of the Trusteeship Act, its entrepreneurial character became more prominent, although when the Act was passed no one anticipated the political role it was gradually to assume. The THA's growing engagement in labour market policy, in particular, reflects the extent of its political involvement.

Between 1991 and 1993, the THA progressively lost much of the autonomy and room for manoeuvre that it had initially enjoyed. This occurred in the context of the increasing diversity of its tasks, the growing need to coordinate its actions with the Länder, and tighter controls by the Federal Antitrust Office, the Federal Audit Office, the Bundestag and Federal ministries. In 1993, the division responsible for company liquidations alone estimated that 1000 man-days were spent on answering requests for information from ministries, the Federal Audit Office, and Federal and Länder parliaments (*Süddeutsche Zeitung*, 22 July 1993: 17). When, in 1993, THA directors, branch managers and divisional heads were surveyed on external restrictions in the exercise of THA tasks, 58.8 per cent reported an increase in external influences on the activity of the THA between 1991 and 1992, 31.5 per cent reported no change, and 9.7 per cent answered that external influences had decreased.

*The Supervisory Committee, the Ludewig Round and the Bundestag*

Leaving aside, for the moment, the requirement of official approval for certain financial and policy-shaping decisions and the informal understandings reached in daily contacts with the Bonn ministries, especially the Ministry of Finance, there were two key institutions linking the THA and the Federal government: the Supervisory Committee (*Leitungsausschuß*) of the THA and the so-called 'Ludewig Round', named after Johannes Ludewig, the head of division in the Federal Chancellery entrusted by the Chancellor to deal with questions regarding the development of East Germany.

The institution of a Supervisory Committee can be traced back to the time of currency conversion in the GDR. At that time, a first group of auditors was sent to Berlin by the Federal Ministry of Finance to check on the use of funds. The start of currency union on 1 July 1990 allowed 8000 industrial enterprises to submit applications to the THA, specifying the operating funds they required in Deutschmarks, broken down according to wage payments, social insurance contributions, completion of orders, investments and so on. Since the THA was not, at the time, directly accountable to the Federal government, these applications had to be examined primarily in terms of business management criteria rather than legal prerequisites. Auditors and business consultants were commissioned to carry out this assessment exercise. After unification, they provided the core of the THA Supervisory Committee under the chairmanship of Horst Plaschna. The decision of the Federal government to approve only 41 per cent of the requested operating funds in the first phase was based on their expert appraisal. This constituted an early disappointment, and many managers of GDR firms laid the blame at the door of the central office of the THA. From this time on, the Supervisory Committee – as an autonomous advisory body to the Federal Ministry of Finance which was active in the THA but not incorporated into it – examined all entrepreneurial schemes submitted to the central office and issued recommendations on how they should be acted upon.

The prime function of the Ludewig Round was to act as a high-ranking political coordinating body. It convened for the first time on 13 May 1991 and then at intervals of several weeks (and sometimes more frequently), usually in the Berlin branch office of the Federal Chancellery. Its mission was to attend to, and also to monitor, the implementation of the resolutions on the development of East Germany passed in the first months of 1991. From the beginning of 1992, the meetings also served to prepare the talks of the Federal Chancellor with the Minister–Presidents of the new Länder and the governing mayor of Berlin. The participants in the Ludewig Round included the THA executive manager (*Generalbevollmächtigter*), the heads of the Minister–Presidents' offices of the new Länder, and the Federal

102 *A New German Public Sector?*

Chancellery, represented by Johannes Ludewig and the director of the Chancellery's Berlin office. The chief issues discussed included the financial requirements of the new Länder, current economic questions, initiatives for the development of East Germany, administrative assistance, trade with Eastern Europe, Federal export credit guarantees ('Hermes' credits), job-creation programmes and other controversial questions, such as the transfer of Federal land holdings to the Länder or the operations of the criminal prosecuting authorities at the THA.

The Ludewig Round was set apart 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 met. It linked the political control centres at 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. In those instances where talks were held in coordination with the meetings of the Chancellor and the Minister-Presidents of the new Länder, important decisions were often agreed, concerning, for example, the criteria for the award of Hermes credit guarantees and a draft of the Property Transformation Act (*Vermögensänderungsgesetz*). In this way, as well as through direct contacts with the Bundestag and the individual Federal ministries, the THA played an active role in shaping legislative initiatives. Thus the THA initiated, for example, a number of regulations of the Property Allocation Act (*Vermögenszuordnungsgesetz*), the Investment Priority Act (*Investitionsvorranggesetz*), the amended Jobs Development Act (*Arbeitsförderungsgesetz*) and the Trust Agency Borrowing Act (*Treuhandanstalt-Kreditaufnahmegesetz*).

Parliamentary oversight of the THA was initially assigned to a subcommittee of the budget committee of the Bundestag. In comparison to Federal and Länder governments, this committee played a minor part in the monitoring and regulation of the THA. Partly this was because the normal regulatory mechanisms and conditions of approval that are granted to Parliament under its budgetary powers were not fully applicable to the THA as an entity enjoying the legal status of an incorporated public law institution (Spoerr, 1991: 15). Partly the committee's lack of impact reflected the prevailing affirmative attitude vis-à-vis the THA on the part of the majority of its members. This may, in part, have been a reaction to the early severe criticism of the THA by the Alliance 90/Greens, which, in June 1991, went as far as presenting a draft for a new Trusteeship Act. The committee did not want to be seen to encourage in any way their demands for organizational reform, greater parliamentary controls, debt reduction and reorganization of

THA companies, especially since what influence the committee possessed was largely dependent on the agreement of the THA. The Trust Agency Borrowing Act of 3 July 1992 set a credit ceiling of DM30bn per fiscal year for the THA, and required approval by the Bundestag budgetary committee for this facility to be fully used in 1993 and 1994. In response, the THA expanded its briefings of the committee, frequently inviting the committee members to on-site inspections in Berlin or at industrial locations in the new Länder.

It was only in February 1993 that a separate Bundestag committee to deal with the Trust Agency was created, which covered the entire scope of THA activities. This committee was regularly informed by the THA of its operations, contract supervision activities, company reorganization plans, new approaches to privatization and THA expenditure. On 16 June 1993, the THA informed the THA committee that it wanted to raise DM8bn more on the capital market than its established credit limit and sought – through the Federal Ministry of Finance – the approval of the budget committee. This amount had already been agreed upon in negotiations between the Länder and Federal governments on the Federal Consolidation Programme, that is the Solidarity Pact on the development of East Germany. The money was intended, above all, to secure and renew industrial centres.

However, the budget committee of the Bundestag only approved DM7bn, a decision which prompted the THA to announce that it intended to curtail its participation in companies subsidized for purposes of job maintenance (*Beschäftigungsgesellschaften* or job maintenance companies) in the metal and electrical industries. This announcement also had a collective bargaining component to it. It was designed to induce the metal workers' union to extend the application of the so-called 'hardship clause' to THA enterprises (*Frankfurter Allgemeine Zeitung*, 3 July 1993: 12), which allowed for the reduction of wages in enterprises that suffered acute economic difficulties. The union had previously refused the use of this clause in the case of THA enterprises, since THA firms were maintained by public funds. In this situation, the budget committee's resolution was to be understood as a signal that THA firm managers, works councils and the trade unions would not be allowed to prevent the application of the hardship clause at the expense of taxpayers, without having to bear the consequences in terms of factory closures 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 discretion by threatening to cut back its job maintenance measures. This decision immediately raised a problem for trade union policy. In 1993, collective bargaining and employment policy became the politically most significant and explosive problems facing the THA.

104 *A New German Public Sector?***Interest Groups and Public Administration in the Trust Agency Complex**

The privatization activities of the THA resembled a balancing act, in that it had to balance investment and employment objectives, the assumption of inherited debt, participation in environmental clean-up projects and privatization receipts in such a way that the greatest possible consideration was given to the interests of the respective Federal and Länder ministries, business associations and trade unions. Of course no ideal solutions existed, particularly when the aims of job preservation and the promotion of investment became embroiled in conflicts of interest between trade unions and business associations. In addition, the representatives of industry, who held the majority of seats on the THA governing board (Table 5.1), were also concerned about the level of investment assistance the THA gave their potential competitors in the new Länder and the industrial structure which would emerge as a result of the THA privatization approach.

**Table 5.1 Representation on the Treuhandanstalt's governing board (*Verwaltungsrat*) (number of seats)**

Industry	9
Länder governments	6
Trade unions	4
Federal government	2

Source: *THA Organisationshandbuch*, rule no. 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. On the other hand, the new Länder and the trade unions occasionally advocated highly risky modernization strategies, primarily for reasons of regional and social policy.

All major privatization plans had to be approved by the governing board,<sup>8</sup> as did certain executive decisions in such areas as organization, privatization guidelines, financial dealings and annual economic plans. Most resolutions tended to be unanimously approved after preliminary clarification, though they were also subject to approval by the Federal minister of finance and the

*The Treuhandanstalt and Transition* 105

European Commission. Originally, the governing board was not supposed to be a vehicle for the representation of interests. The Trusteeship Act mentioned neither representatives of interest groups nor the participation of the Länder; instead, economic expertise was laid down as the sole appointment criterion. Formal regulations calling for the representation of Länder governments were first found in Article 25 (2) of the Unification Treaty, which established additional seats on the governing board. By contrast, trade union representation was solely at the discretion of the Federal government.

As part of the process of providing Länder, social groups and local authorities with better access to the THA, advisory boards to the regional branch offices were created in March 1991 on the basis of a directive of the THA central office. According to the directive, the aim was to 'bring about accord with the political, economic and societal forces of the region'. The composition of the advisory boards differed greatly from one regional branch office to the other. In Chemnitz, Cottbus, Dresden, Berlin and Halle, industry was particularly strongly represented; in Frankfurt/Oder, Leipzig and Rostock, the trade unions; in Erfurt and Frankfurt/Oder, the churches; in Gera, the municipalities; and in Neubrandenburg, citizen action groups played a major role (see Table 5.2).

**Table 5.2 Representation on the 15 regional branch office advisory boards of the THA (in number of seats and percentages), as of March 1991 (June 1991 for Berlin)**

Industry, chambers of commerce	45 (33%)
Local governments	28 (20%)
Trade unions	18 (13%)
Länder governments	14 (10%)
Churches	14 (10%)
Agriculture	9 (7%)
Citizen action groups	9 (7%)
<b>Total</b>	<b>137 (100%)</b>

*Sources:* THA-Office in Bonn, Appendix to the Report, 'Co-operation between Länder, 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.

106 *A New German Public Sector?**Labour Market and Industrial Relations*

In the Principles for the development of East Germany, mentioned above, the establishment and funding of job maintenance companies were made the exclusive responsibility of Länder governments and the Federal Labour Office.<sup>9</sup> This created problems, since such companies could usually only be accommodated in the buildings of THA enterprises, make claims on the established subsidies of these enterprises and, in part, perform clean-up and reorganization operations on their behalf. Also, by implementing redundancy plans, the THA could trigger job maintenance measures at any time. The political conflict over job maintenance companies – involving the Federal government, the THA, Länder governments, trade unions and business associations – intensified until the 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. The compromise resulted in a formal framework agreement between the trade unions, employers' federations and the THA, which was signed on 17 July 1991 and was to serve as the basis for the creation of Companies for Job Development, Employment and Structural Development (*Gesellschaften zur Arbeitsförderung, Beschäftigung und Strukturentwicklung*, or ABS companies).

From the very beginning, the THA would only take part in job-securing measures if they did not jeopardize its privatization mandate. For this reason, the THA insisted, in agreement with the business associations, on ending job maintenance employment in THA enterprises and on 'establishing a new legal relationship of a special kind' in ABS companies, which would reduce its responsibilities as an employer. Moreover, the legal construct of these companies would also make it easier to release employees. The THA declared its willingness to pay the managers of ABS companies for up to six months (and in special cases for up to a year) and to provide consulting and management assistance. The same held true for initial administrative tasks such as wage and salary accounting or social insurance payments. Finally, the THA had prefinanced numerous ABS companies, which resulted in reimbursement claims against the Länder governments. The latter, in turn, called for a stronger financial commitment on the part of the Federal government and the Federal Labour Office.

A completely new perspective opened up with 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 Labour Office to provide wage subsidies for a period of up to five years to those companies in the new Länder that contributed to environmental improvement, youth welfare services or other social services. On this basis, the

THA pledged, in an agreement with the Chemical Workers' Union, to endow an accreditation programme for chemical workers (*Qualifizierungswerk Chemie*) with DM75mill. and to administer it in close cooperation with the Chemical Workers' Union. Thus the THA made available earmarked funds to equip the companies taking part in the retraining programme with materials. The social compensation plans (*Sozialpläne*) of THA companies in the chemicals sector were to ensure that employees received compensation in the form of wage payments after being assigned to a company subsidized for purposes of reorganization (*Sanierungsgesellschaft*, or reorganization company). These reorganization companies received assistance from the employment authorities according to paragraph 249h of the Jobs Development Act.

The THA concluded a similar framework agreement with the Miners' and Energy Workers' Union. Here mine workers from the potash and lignite mines were to be retrained as landscape gardeners and employed in large-scale land rehabilitation programmes. The two initiatives, covering as many as 40 000 jobs, demonstrated the willingness of the THA to support job creation programmes if they were primarily investment-related, facilitated the privatization of THA enterprises and did not prevent a return to normal conditions. In the second half of 1993 alone, the THA earmarked a total of DM1.2bn for measures in accordance with paragraph 249h of the Jobs Development Act.

The politics of interest groups and wage agreements represents a further area that provides clear evidence of the close involvement of the THA in labour market and social policy issues. From the very beginning, the THA had trouble preventing its plant managers from making concessions to their employees. Only a few months after unification, it became clear that, with the help of West German consultants, many company agreements on redundancy protection and social compensation plans had been agreed upon which, in some cases, provided for extraordinary settlement sums. In one instance, the full salary was to be guaranteed until retirement age, while, in another, severance pay was set at DM156 000 for every worker to be made redundant. In both cases, the THA was expected to bear the full costs (Hanau, 1993; *Frankfurter Allgemeine Zeitung*, 29 January 1991). Only the first framework agreement, concluded on 13 April 1991 by the THA with the Federation of German Trade Unions (*Deutscher Gewerkschaftsbund*) and the German Union for Employees (*Deutsche Angestellten-Gewerkschaft*) provided for consistent provisions regarding redundancy. However, this agreement only became possible after the Federal Ministry of Finance had approved an endowment of DM10bn to fund social compensation plans.

THA guidelines on company wage and pay agreements and on the membership of THA enterprises in employers associations aimed to prevent the

### 108 A New German Public Sector?

proliferation of company agreements.<sup>10</sup> According to the guidelines, its enterprises should join employers associations which were able to create an effective social consensus with the trade unions. Clearly, the THA preferred industry-wide collective bargaining agreements to company wage and pay contracts. Membership of an employers association was thus almost obligatory for THA enterprises, especially since in some businesses – for example, in the steel and shipyard industries – the works councils had such membership contractually guaranteed. Moreover, THA enterprises promoted the establishment of employers associations in the new Länder in so far as they paid their dues on time, in contrast to some privatized companies, but did not demand a strong voice in association matters. The THA also worked with the trade unions to try to ensure that foreign investors would maintain the employers association membership of privatized companies and did not enter into wage and pay agreements at the company level.

#### *Municipalities, Former Property Owners and the Priority of Investment*

The THA executive always endeavoured to present itself as its companies' executive management. That a public enterprise was involved was obvious, not only from the THA's array of relationships with external institutions and the impact of political considerations, but also from the public powers which had been bestowed on the THA. This applied, in particular, to its legal powers concerning the restitution of municipal properties and the property rights of former private owners, where priority was accorded to investment rather than restitution. In both cases, legally binding administrative acts were carried out by the THA, in particular its legal affairs division in the executive sector (*Präsidentialbereich*) and the division for municipal properties and water regulation.

The directorate for municipal property had its own sections for each of the new Länder which were independent from the executive level, and there was also a liaison office for contacts with the main local government associations. The head of the division for municipal property was delegated from the German Association of Cities (*Deutscher Städtetag*) and maintained close contacts with this organization and with the cities and also with the Association of Counties (*Deutscher Landkreistag*) and the Association of Towns and Municipalities (*Deutscher Städte- und Gemeindebund*). Moreover, the municipal property division maintained close links with the Federal and Länder interior and justice ministries whose administrative regulations largely shaped its activities.

The municipal property division was also integrated within a wider relational network with Parliament and other parts of public administration. Requests for information were frequently received from the THA Commit-

*The Treuhandanstalt and Transition* 109

tee of the Bundestag, there were daily calls from the Federal Ministry of Finance and frequent requests for information from local, regional, Länder and Federal politicians. In addition, the division, together with other THA divisions and the regional finance directorates (*Oberfinanzdirektionen*), which had local jurisdiction under the Property Allocation Act, was repeatedly represented at local government conferences, which were held by the Federal Ministries of Finance and the Interior. Finally, the municipal property division itself also organized its own local government conferences at the district level in order to report on the procedures and state of property restitution. These conferences focused on the west-east transfer of institutional know-how and problem-solving approaches related to the local provision of basic social services in the new Länder. These multiple links allowed the THA to take part in the development of the new Länder's local and state administrations.

Former property owners (*Alteigentümer*), their interest representatives<sup>11</sup> and local governments frequently turned to the THA in connection with Article 3a of the Property Act. At issue here was the suspension of THA restraints on the disposal of landed holdings and enterprises on which former owners had entered a claim. The Property Act, in its original version of 23 September 1990, turned out to be an impediment to investment. Accordingly, at the hearings to prepare a Federal Act on the Removal of Impediments to Investment (*Hemmnisbeseitigungsgesetz*), the THA called for the right to reject reprivatization claims in cases where former owners were only interested in property holdings and not willing, or able, to continue to run a business. As early as March 1991, with the insertion of Article 3a in the Property Act, the THA was empowered to establish the priority of investment over restitution. This provision transformed the claim to the return of property into a claim for compensation. Once the THA instigated investment priority proceedings, the restitution process by the responsible Land government Office for the Regulation of Unresolved Property Questions was legally discontinued.

In the conflict between the investment, employment and development interests of the THA and decisions on restitution claims by the property authorities, administrative competition arose which was supposed to be defused by means of joint working sessions between the THA and the property authorities. Nonetheless, in the eyes of several property authorities, the THA was their greatest enemy. Others were more open in their response to the priority of investment, especially since, in the assigning of property to former owners, they were dependent upon the previous work of the THA, notably the reprivatization division. Despite precautions, both legal and informal, restitution rulings sometimes conflicted with decisions by the THA, and the THA usually took legal action against decisions of property

### 110 *A New German Public Sector?*

offices if they conflicted with THA privatization plans. This was especially the case if former owners attempted to stop important, large-scale projects in an attempt to increase the amount of compensation they would receive.

Amongst the public powers of the THA, mention should also be made of the Special Assignments unit of the THA, which was vested with the powers of an investigative department of a public prosecutor's office. It was staffed primarily by prosecuting attorneys and police detectives delegated by Federal and Länder governments. In close cooperation with district attorneys and auditors, its four departments investigated cases of managerial abuse of trust, the unlawful dismantling of enterprises, subsidy fraud, unification-related criminality, corruption, breach of entrepreneurial secrecy, defamation and environmental offences. They were also involved in the internal audit of the THA. Prompt investigative work made it possible to secure some 90 per cent of the total of DM3bn at issue in the investigations of fraud up to December 1992.

### **Conclusion: Privatization in Interwoven Decision Making Structures**

The major goal of the THA was to create efficient property rights through what might be called 'negotiated privatization'. Neither auctions nor direct sales in favour of former socialist managers played any significant role in the East German road from socialism to capitalism. Even restitution to former property owners was conditional on the THA's assessment of their entrepreneurial abilities. Thus, from July 1992 onwards, the THA could authoritatively allocate property rights to competent investors if former owners were not willing to invest or not able to present appropriate business plans. This power was based on the Investment Priority Act.

In one sense, the THA did not really sell its firms; rather, it bought business plans and investments. Many THA firms achieved only negative contract prices and, in five years, the Agency ran up enormous debts, amounting to DM270bn (including DM70bn in old debts, which had been converted into Deutschmarks through monetary union). Since 1 January 1995, these debts have had to be met by the Federal budget, together with other unification costs, amounting to some DM450bn. Thus the German taxpayer will have to finance interest and capital repayments of about DM40bn per annum for an estimated 30 years.

With only minor exceptions, unification policies tried to preserve the system of government, public administration and political economy of West Germany by transferring it to the new eastern Länder. This has turned out a risky but promising endeavour. As far as the political economy is concerned,

the 'German model' (Scharpf, 1987) had proved itself in West Germany. It is characterized by collective bargaining autonomy and cooperative interest group politics, monetary stability, free trade, a consensus on industrial competitiveness, and welfare state provisions, including codetermination in industry or social security schemes which are mostly linked to labour contracts. The transition from socialism to a market economy in East Germany was 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 evolution of the THA from a central economic agency of transformation created by the GDR government into part of the complex political system of the Federal Republic. As an intermediate institution between the Federal government and the new Länder, it functioned as a third level of cooperation in Germany's intergovernmental system. Thus both Federal and Länder governments were represented on its governing board and numerous coordinating committees, as were representatives of industry and the trade unions. The THA's scope for manoeuvre and the conditions of success were shaped by this relational network. Early assessments of the THA, which assumed that it would strengthen central state power because of its dominant economic role in East Germany (Seibel, 1992: 194), therefore need to be qualified. How did the THA's intermediary position in the bargaining arenas of federalism and of interest group politics affect its success? This question is not easily answered, as technical restrictions need to be distinguished from institutional ones. Undoubtedly, many of the THA's problems simply resulted from the diversity and contradictory character of its responsibilities. Conflicts between different substantive goals and economic constraints that hampered the policy transformation existed independently of the institutional configuration of the agents of transformation. As problems, time constraints and the pressure to succeed grew, the THA's room for manoeuvre shrank. Accordingly, the correct question to ask is whether, in the words of former Chancellor Helmut Schmidt, its 'condition, which was overburdened in any case, really worsened by the large number of bodies interfering with the agency', or whether, on the contrary, the THA's network of external relations helped it to cope with its excessive responsibilities.

In answering this question, it should first be noted that the interlocking of decision makers in the transformation process lessened the legitimation problems of the THA. This was, in fact, the effect the THA aimed for with its strategy of cooption and the opening to political and interest groups. Of course, this strategy raised the danger of capture by pressure groups, and many critics complained of the privileged position of business interests within the THA. However, the cooption of all relevant actors contributed to

112 *A New German Public Sector?*

checks and balances between political, economic and trade union interests and to the better coordination of objectives.

The Trust Agency complex is a classic example of the way 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 transformation policy making together. Its legal status and the strategy of cooption it consistently pursued allowed it to gain the commitment of powerful actors and, at the same time, helped to create common areas of action. Where it entered into relationships – whether on the basis of the Principles for the economic recovery of East Germany, framework agreements with unions, internal guidelines, or through the many coordinating committees – the THA relied on the common interest of all participants in the success of economic reorganization and tried to garner the widest possible support for its line of action.

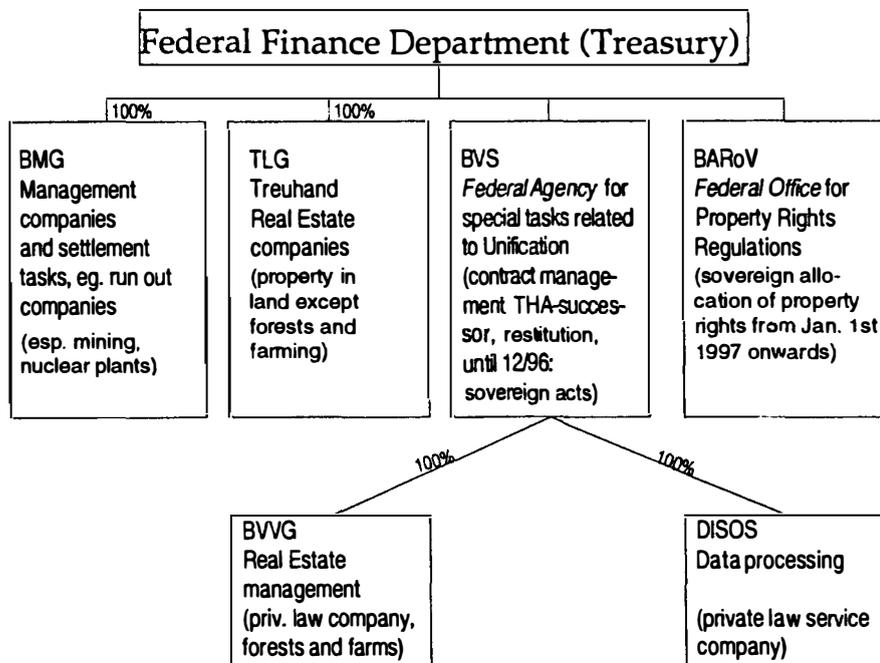
There was a constant danger of conflict inherent in the precarious dual role of the THA as an employer and agent of transformation, on the one hand, and a key player in labour market and social policy, on the other. The only realistic option open to the THA was to meet this challenge in the spirit of compromise, as it would otherwise have quickly been destroyed in the clash of forces between the Federation, individual Länder, business associations and the trade unions. A process of mutual accommodation, which from the outside might have looked like helpless ‘muddling through’ (see Lindblom, 1959), was the only promising solution in the confusing situation that posed a constant threat to the very existence of the organization. Such ‘muddling through’ can be understood as a logical consequence of the interlocking nature of the institutions of the German system of government. Even in a situation characterized by far simpler problems, it would have been difficult to attain a greater degree of control in this differentiated 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. Such coherence and reliability, however, proved unattainable. This was in part the result of the network of political relations in which the THA had to operate, the complexity of the problems it faced and the need for flexibility in dealing with investors. Perhaps more importantly, almost all participants in the transformation process shared the notion that the path from the plan to the market could not itself be planned, and that there were, accordingly, limits to a rationally calculated and routinized mode of problem management.

Where governance through markets or hierarchies does not yet function, or cannot guarantee satisfactory solutions to specific problems, the principle of political compromise to be found in informal social networks and inter-

*The Treuhandanstalt and Transition* 113

locked decision making structures can be invoked. 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 moderated its strict market approach and learned to take advantage of semi-bureaucratic, informal procedures, and its organizational boundaries became blurred. The THA did not really sell its firms any more, but bought concepts of private investors and subsidized their rescue operations to the extent of negative net contract prices. Thus the THA came to act as a development agency.

If it is true that governments cannot plan, but only support, the way a market economy functions, then the 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 negotiations and the balancing of political interests (Czada and Schmidt, 1993). They are not hierarchically structured, but are oriented towards the constant mutual readjustment of their parts. The THA of the GDR government represented a



**Figure 5.1** THA successor organizations

114 *A New German Public Sector?*

'faulty construct' (Helmut Schmidt) for this system, which first had to free itself from its set 'planning targets' in order to find its place within the bargaining democracy of the Federal Republic. When it had succeeded in this task, it was time to consider ending its institutional life.

By 1 January 1995, the THA itself was transformed and organizationally restructured into a new political body called the Federal Agency for Special Tasks Related to Unification (*Bundesanstalt für vereinigungsbedingte Sonderaufgaben* – BVS) and several smaller administrative units (Figure 5.1). The control of contracts, future privatizations of public lands, the handling of several closed-down nuclear power plants and many other tasks will remain for a longer period.

The Treuhandanstalt did not break up the ordinary framework of German administrative law. The unique and sovereign nature of its tasks, however, made it an autonomous though not independent body of political decision making and administration. Its operations were not so much determined by law or by governmental order nor by parliamentary oversight as one should assume in view of its legal foundations and vital political importance. So far, the Treuhandanstalt could possibly serve as a model for a project-oriented public administration operating in informal, network-like structures which go beyond the public-private boundary. Although informal policy making has been ubiquitous due to overlapping political responsibilities for a long time, the infiltration of a private sector culture into government is weakly developed in Germany compared to other industrialized countries. In this respect, the THA has to be considered as an exception. This is also indicated by the fact that it lost some of its flexibility because of growing demands for coordination and a process of bureaucratization imposed by the Federal Audit Office, Federal ministries and the European Commission. To conclude, the Treuhandanstalt revealed considerable adaptive capacities of the German political and administrative system. Yet for the same reason it did not significantly change the operating principles of this system.

### Notes

- 1 These are former owners of property in the territory of the former GDR who filed claims for the restitution of their erstwhile property.
- 2 See THA-Büro Bonn, 'Zwei Jahre "Büro Bonn der Treuhandanstalt"', Ms, 29 April 1993.
- 3 See 'Schwerpunktaufgaben der Länderabteilung Sachsen-Anhalt', 17 January 1992, THA-Archiv, SAN 5: 49.
- 4 GA funds consist of Federal and Länder monies allocated to the Joint Task Regional Economic Development (Article 91 a of the Basic Law).
- 5 The Breuel-Schommer Agreement of 24 April 1992 (named after the THA president, Birgit Breuel, and the Saxon economics minister, Kajo Schommer), quoted in the letter

*The Treuhandanstalt and Transition* 115

from THA President Breuel to Saxon Minister-President Kurt Biedenkopf, 27 April 1992, on 'Cooperation Between the Trust Agency and the Free State of Saxony', THA-Archiv, SACH: 198-201.

- 6 Ibid.
- 7 Volkskammer der Deutschen Demokratischen Republik, 10th legislative period, 35th session, 13 September 1990, shorthand report, page 1680.
- 8 According to the THA's rules of procedure (paragraph 15), governing board consent was obligatory if any two of the following criteria applied: the total balance involved exceeded DM100mill., turnover value exceeded DM300mill., or the enterprise had more than 2000 employees.
- 9 *Grundsätze Aufschwung Ost*, Treuhand Informationen no. 1, May 1991: 11, paragraph 5.
- 10 See *Richtlinie für Betriebsvereinbarungen und Haustarifverträge*, vol. 1, September 1992: 1.
- 11 They included the Association of Central Germans (*Bund der Mitteldeutschen*), mainly refugees from the former GDR living in West Germany and the Organization of Owners of Berlin Wall Land Plots (*Organisation der Besitzer von Berliner Mauergrundstücken*). In addition, the Diet of German Industry and Commerce (*Deutscher Industrie- und Handelstag*) and other business associations also played a limited role.

## References

- Benz, A. (1985) *Föderalismus als dynamisches System*, Opladen: Westdeutscher Verlag.
- Benz, A. (1993) 'Reformbedarf und Reformchancen des kooperativen Föderalismus nach der Vereinigung Deutschlands', in W. Seibel, A. Benz and H. Mäding (eds), *Verwaltungsreform und Verwaltungspolitik im Prozeß der deutschen Einigung*, Baden-Baden: Nomos Verlagsgesellschaft, 454-73.
- Czada, R. (1993) 'Das scheue Reh und die Kröte. Investition und Beschäftigung im Kalkül der Treuhandanstalt', in G. Bosch, B. Reissert and H. Heinelt (eds), *Arbeitsmarktpolitik nach der Vereinigung*, Berlin: Sigma, 214-33.
- Czada, R. and M.G. Schmidt (eds) (1993) *Verhandlungsdemokratie, Interessenvermittlung, Regierbarkeit: Festschrift für Gerhard Lehmanbruch*, Opladen: Westdeutscher Verlag.
- Eichener, V., R. Kleinfeld, D. Pollak, J. Schmid, K. Schubert and H. Voelzkow (eds) (1992) *Organisierte Interessen in Ostdeutschland*, Marburg: Metropolis.
- Hanau, P. (1991) 'Sozialverträgliche Gestaltung bei der Umstrukturierung und Auflösung von Unternehmen', in P. Hommelhoff (ed.), *Treuhandunternehmen im Umbruch. Recht und Rechtswirklichkeit beim Übergang in die Marktwirtschaft*, Cologne: Kommunikationsforum, 101-20.
- Hanau, P. (1993) 'Soziale Regulierung der Treuhandtätigkeit', in W. Fischer and H.K. Schneider (eds), *Treuhandanstalt - das Unmögliche wagen*, Berlin: Akademie Verlag, 444-80.
- Hankel, W. (1993) *Die sieben Todsünden der Vereinigung*, Berlin: Siedler.

## 116 A New German Public Sector?

- Hesse, J. and W. Renzsch (1990) 'Zehn Thesen zur Entwicklung und Lage des deutschen Föderalismus', *Staatswissenschaften und Staatspraxis*, **4**, 262–78.
- Hommelhoff, P. (ed.) (1991) *Treuhandunternehmen im Umbruch. Recht und Rechtswirklichkeit beim Übergang in die Marktwirtschaft*, Cologne: Kommunikationsforum.
- Katzenstein, P. (1987) *Politics and Policy in West Germany. The Growth of a Semi-Sovereign State*, Philadelphia: Temple University Press.
- Kern, H. and C.F. Sabel (1992) 'Zwischen Baum und Borke – Zur Unsicherheit der Treuhand, was sie als nächstes sagen sollte', *Sofi-Mitteilungen*, **1**, 61–78.
- Lehmbruch, G. (1978) 'Party and Federation in Germany: A Developmental Dilemma', *Government and Opposition*, **13**, 151–77.
- Lehmbruch, G. (1991) 'Die deutsche Vereinigung. Strukturen und Strategien', *Politische Vierteljahresschrift*, **32**, 585–604.
- Lindblom, C.E. (1959) 'The Science of "Muddling Through"', *Public Administration Review*, **13**, 79–88.
- Ludwig Erhard Stiftung (1993) *Wirtschaftliche und soziale Ausgestaltung der deutschen Einheit*, Bonn.
- Mäding, H. (1992) 'Die föderativen Finanzbeziehungen im Prozeß der deutschen Einigung – Erfahrungen und Perspektiven', in H.-H. Hartwich and G. Wewer (eds), *Finanz- und wirtschaftspolitische Bestimmungsfaktoren des Regierens im Bundesstaat – unter besonderer Berücksichtigung des deutschen Vereinigungsprozesses*, Opladen: Leske & Budrich, 183–214.
- Olsen, J.P. (1993) 'Political Science and Organization Theory. Parallel Agendas but Mutual Disregard', in R.M. Czada and A. Windhoff-Héritier (eds), *Political Choice: Institutions, Rules and the Limits of Rationality*, Frankfurt a. M.: Campus, 87–120.
- Ouchi, W.G. (1980) 'Markets, Bureaucracies, and Clans', *Administrative Science Quarterly*, **25**, 129–41.
- Pilz, F. and H. Ortwein (1992) *Das vereinte Deutschland. Wirtschaftliche, soziale und finanzielle Folgeprobleme und die Konsequenzen für die Politik*, Stuttgart: Enke.
- Powell, W. (1990) 'Neither Market nor Hierarchy: Network Forms of Organisation', *Research in Organizational Behavior*, **12**, 295–336.
- Priewe, J. and R. Hickel (1991) *Der Preis der Einheit*, Frankfurt a. M.: Fischer.
- Rosenthal, U. and B. Pijnenburg (eds) (1991) *Crisis Management and Decision Making*, Dordrecht: Kluwer.
- Scharpf, F.W. (1972) 'Komplexität als Schranke der politischen Planung', *Politische Vierteljahresschrift*, Sonderheft 4, 168–92.
- Scharpf, F.W. (1987) *Sozialdemokratische Krisenpolitik in Europa*, Frankfurt a. M.: Campus.
- Scharpf, F.W. (1993) 'Versuch über Demokratie im verhandelnden Staat', in R. Czada and M.G. Schmidt (eds), *Verhandlungsdemokratie, Interessenvermittlung, Regierbarkeit*, Opladen: Westdeutscher Verlag, 25–50.
- Scharpf, F.W., B. Reissert and W. Schnabel (1976) *Politikverflechtung. Theorie und Empirie des kooperativen Föderalismus in der Bundesrepublik*, Kronberg/Ts.: Scriptor.

*The Treuhandanstalt and Transition* 117

- Schmidt, H. (1993) *Handeln für Deutschland. Wege aus der Krise*, Berlin: Rowohlt.
- Schmidt, M.G. (1992) *Regieren in der Bundesrepublik Deutschland*, Opladen: Westdeutscher Verlag.
- Schmidt, M.G. (1993) 'Die politische Verarbeitung der deutschen Vereinigung im Bund-Länder-Verhältnis', in W. Seibel, A. Benz and H. Mäding (eds), *Verwaltungsreform und Verwaltungspolitik im Prozeß der deutschen Einigung*, Baden-Baden: Nomos Verlagsgesellschaft, 448–53.
- Schmidt, R. (1991) 'Aufgaben und Struktur der Treuhandanstalt im Wandel der Wirtschaftslage', in P. Hommelhoff (ed.), *Treuhandunternehmen im Umbruch. Recht und Rechtswirklichkeit beim Übergang in die Marktwirtschaft*, Cologne: Kommunikationsforum, 17–38.
- Schuppert, G.F. (1992) 'Die Treuhandanstalt – Zum Leben einer Organisation im Überschneidungsbereich zweier Rechtskreise', *Staatswissenschaften und Staatspraxis*, 3, 186–210.
- Seibel, W. (1992) 'Necessary Illusions: The Transformation of Governance Structures in the New Germany', *The Tocqueville Review*, 13, 177–97.
- Seibel, W. (1993) 'Lernen unter Unsicherheit. Hypothesen zur Entwicklung der Treuhandanstalt und der Staat-Wirtschaft-Beziehungen in den neuen Bundesländern', in W. Seibel, A. Benz and H. Mäding (eds), *Verwaltungsreform und Verwaltungspolitik im Prozeß der deutschen Einigung*, Baden-Baden: Nomos Verlagsgesellschaft, 359–70.
- Sinn, G. and H.-W. Sinn (1993) *Kaltstart. Volkswirtschaftliche Aspekte der deutschen Vereinigung*, Tübingen: Mohr.
- Spoerr, W. (1991) *Treuhandanstalt und Treuhandunternehmen zwischen Verfassungs-, Verwaltungs- und Gesellschaftsrecht*, Cologne: Kommunikationsforum.