

Report from Bonn by Rainer Apel

A ruinous debt-collecting mania

Germans are paying a high price for the government's rejection of a moratorium on "old debt."

The German government has been successful, in the five years after reunification, in suppressing any open revolt against paying the so-called "inherited old debt" of the former East German State. But that may change.

Bonn has come under heavy pressure to change its view that this "debt," which is based on doubtful, if not fraudulent calculations in the former East German regime's bookkeeping, is real. Bonn insists that the "debt" be paid—irrespective of the fact that those firms, municipalities, and farms in the East that are to pay, have no money. The government had been able to avoid any fundamental decision on this delicate issue until the end of 1994, because service on the "old debt" was frozen until January 1995. Bonn kept telling the "debtors" that cutting their budgets would make them "lean" enough to pay in the future. Many have tried this medicine, indeed, with disastrous results.

But on Jan. 1, 1995, the entire "debt" of eastern Germany was formally assigned to the federal budget, and the government reserved 20% of the FY 1996 budget for debt service. This has led to a warning by the Federal Accounting Office, that such a high debt service—which will increase further after 1996—will undermine the budgetary sovereignty of the State. But the government is turning a deaf ear to this criticism, and rigidly insists that the "due" payments by the eastern "debtors" be collected.

However, the government and the banks that are collaborating to collect the "old debt," suffered their first de-

feat: On Sept. 21, the Magdeburg district court ruled that the post-1990 banking formula for collection of the "old" agricultural sector debt of East Germany was "illegitimate."

The court found that the original documents on the formation of the GGB, the bank that bundled all claims on the old agricultural sector "debt" of East Germany, in September 1990, were never signed by the respective authorities of the State Bank and Finance Ministry of the East German State, and this State was legally still intact before reunification on Oct. 3, 1990. The deal that created the GGB and then sold it to the West German DG Bank, with all its claims on the "old debt," was therefore illegal. This means that claims which the DG Bank has on DM 3 billion (about \$1.8 billion) of interest that has accumulated on the original principal of DM 4 billion that was on the books in September 1990, are null and void.

The court did not rule on the legitimacy of the principal as such, but its ruling on the GGB opens the door to an investigation of the legitimacy of the entire "old debt." The push for an investigation, which Bonn has always tried to prevent, is being fueled by two developments: first, the refusal by the 1,400 eastern municipalities to recognize any of the "old debt" that has, since 1990, accumulated to DM 7.8 billion; second, a clause in the reunification treaty declares the government financially responsible for all payments that originate with unification but cannot be paid by the original "debtors."

Before January 1995, the Berlin Treuhand agency (responsible for the disposition of the East German State-owned firms), was in charge of these financial guarantees. The Treuhand obligations were taken over in January by Bonn, so that the DG Bank and other "creditors" can now demand that if eastern "debtors" fail to pay, the government has to step in. Estimates are that in the farm sector alone, DM 4 billion of "debt" is immediately due, and another DM 1.4 billion will become due by the end of this year.

Should Bonn pay the DG Bank, it would set a precedent for all "debt" categories (industry, municipal, housing, etc.) that cannot be paid by the original eastern "debtors." Bonn would be put into a precarious situation, with debt service absorbing even more than the 20% of the budget so allocated in FY 1996.

Temporary restraining orders to stop Bonn from assuming these obligations can be expected—from the Federal Accounting Office, the parliamentary opposition, or taxpayers' lobbies. The DG Bank case would be taken before the Supreme Court, which, like the Magdeburg district court, could declare all payments null and void as long as the legitimacy of the original "old debt" and what has become of it in the last five years, remains unclear; or, it could rule that the entire "old debt" is illegitimate.

Ironically, the government itself might wish for such a Supreme Court ruling, if the DG Bank sued to force Bonn to compensate it.

The government may prompt such action on the municipal front, if it sticks to its plans to use court orders to collect the "old debt" due this October. The eastern municipalities are committed to then take the issue before the Supreme Court, which they are confident will back their cause against Bonn.