

Report from Bonn by Rainer Apel

Debt management undermining democracy

The German government's hard line on debt repayment is killing vital municipal investments.

Another high-level meeting on Jan. 15 between representatives of the federal government, the five eastern state governments, and the eastern municipalities, on the delicate question of the municipalities pre-unification "old debt," ended inconclusively. Bonn's latest "concessions," to shoulder about half of the debt (and let the taxpayer pay it), were not accepted by the municipalities, nor did the municipalities acknowledge that "debt" in principle, which Bonn, insists upon prior to any agreement.

The resistance against Bonn's handling of the issue has been strengthened in recent weeks, despite half-hearted criticism which has amounted to support of Bonn, such as by the opposition Social Democratic Party (SPD). On Jan. 12, the SPD called for relief for the eastern municipalities from the DM 7.8 billion (\$4.9 billion) "old debt." The SPD did not recommend a moratorium, based on the fact that the "old debt" originated with the fraudulent bookkeeping methods of the pre-1990 East German regime (G.D.R.) and, therefore, is illegitimate according to western law, which became the law of Germany after unification in 1990. Instead, the SPD recommended the transfer of that "debt" to the national Compensation Fund, which was created in the spring of 1993 and is authorized to disburse DM 400 billion to compensate financial damages related to the adjustment eastern Germany has gone through since unification.

In other words, the SPD presented a variant of the same phony idea

which the federal government has pursued, namely, that the "debt" be acknowledged, and then paid through a set of special funds, all of which would have to be compensated in other ways. For example, the government's offer to shoulder half the "old debt," was on condition that federal financial assistance to the eastern states be cut over coming years.

The municipalities' refusal to acknowledge these debt claims has been strengthened by Prof. Karl Schachtschneider of the University of Nuremberg, an expert on public law. He has worked as a legal consultant to the successor farms of the G.D.R. collective-farm sector (another category of "debtors" inherited from the former regime), in their ongoing lawsuit in the Supreme Court to void claims on payments due on the "old debt" which have been filed by DG Bank, a "new creditor" that bought up the G.D.R. agricultural bank in 1990.

Schachtschneider says that the "old debt" is illegitimate because its acknowledgment would contradict the Constitution; the former East German regime's financial bookkeeping "perished" with the old regime in the process of reunification.

Under the headline "Perished Like the G.D.R.," the daily *Frankfurter Allgemeine Zeitung* reviewed Schachtschneider's opinion in an editorial on Jan. 10. The editorial supported his argument that the "old debt" is nothing but dictated credits of a socialist economy which obeyed principles other than those of a constitutional State. Under that regime, fi-

nancial transfers were decreed or denied, irrespective of whether the recipient (today's "old debtor") wanted these transfers or not. Therefore, "the fictitious and compulsory character of these credits is obvious," the daily wrote.

The daily emphasized that Bonn's insistence that these transfers be acknowledged as "old debt," violates the Constitution: Under western law, which was the basis for unification, the former G.D.R.'s socialist laws are irrelevant, because they never respected the essential principle of justice, as measured by the universality of human rights. Each law regulating eastern German affairs after unification on Oct. 3, 1990, has to be in full accord with the western Constitution, the foundation of the German democratic nation-state, Schachtschneider argues. Practices such as Bonn's handling of the "old debt" are, therefore, unconstitutional.

The charge that Bonn's argument is unconstitutional, is also raised by the eastern municipalities in a broader sense. They maintain that a system which almost completely dismantled the former State-sector industry of East Germany, and thereby reduced municipalities' tax revenues to at most 25% of their annual expenses, is a policy inimical to urban democracy. If the municipalities depend on financial transfers from outside institutions (private banks, the state and federal governments) for 75% of their budgets, it means they are no longer masters of their finances. Acknowledging the "old debt" in addition, would leave the municipalities ungovernable and turn them over to emergency administrators appointed by "creditors."

The next round of talks has been set for Jan. 19 in Bonn, and if the federal government takes the Constitution at all seriously, it must erase the "old debt" as illegitimate.