

**International Conference on The Comparative Studies of Transitional  
Justice**

**July 28, 2007 in Taipei, Taiwan**

**The Review  
of the assets of the communist party  
„*Sozialistische Einheitspartei Deutschlands – SED* - “  
(United Socialist Party of Germany)  
of the former German Democratic Republic (GDR)**

**by**

**Malte Fischer**

## Contents

- I. Object of the review
- II. Setting of task
  1. Provisions of Law
  2. Authorities in charge of reviewing the assets of the SED/PDS
- III. Handling of the assets of the SED/PDS by the authorities in charge
  1. Structure and function of the assets
    - a. Cash
    - b. Real estates
    - c. Enterprises
    - d. Assets in foreign countries
  2. Way of handling the assets of SED/PDS
    - a. Investigation of the assets
      - (1) Investigations within Germany
      - (2) Investigations in foreign countries
    - b. SED/PDS owned assets in trust
    - c. Use of the assets in trust
      - (1) Return of the assets to former owners
      - (2) Discharge from trust
    - d. Realization of the assets committed in trust
- IV. Result of the work of the Commission and the Trustee

## **The Review of the assets of the communist party „*Sozialistische Einheitspartei Deutschlands – SED* - “ (United Socialist Party of Germany) of the former German Democratic Republic (GDR)**

### **I. Object of the review**

During the reunion process among both German states combined with the democratization of the political activities in the former GDR the review of the assets of the political parties and mass organizations of the GDR was taken into consideration, because these organizations in particular the SED had accumulated an enormous amount of assets in its 45-year long dictatorial rule.

Object of the review were the assets of the SED and four other political parties as e.g. the „*Christlich Demokratische Union Deutschlands*“ (Christian Democratic Union of Germany) and „*Liberal Demokratische Partei Deutschlands*“ (Liberal Democratic Party of Germany) as well as that of the political mass organizations as e.g. the trade union organization of the GDR „*Freier Deutscher Gewerkschaftsbund*“ - FDGB – “ (Independent German Labor Union Association) or the „*Vereinigung der gegenseitigen Bauernhilfe*“ – VdgB – “ (United Mutual Assistance of the Farmers). These parties and organizations operated only due to the orders of the SED.

The SED was continuing its political operations in the united Germany under its new name „*Partei des Demokratischen Sozialismus - PDS* – “ (Party of Democratic Socialism), called as follows SED/PDS. It was suspected that the political activities of the SED/PDS due to its financial advantages received from its “deep pockets” of its accumulated assets would hamper the equal opportunities of the parties contesting politically. For that reason the handling of the assets of the SED/PDS is the subject of the following considerations.

### **II. Setting of task**

#### **1. Provisions of Law**

According to the provisions of the „*Parteiengesetz der DDR vom 21. Februar 1990, ergänzt am 31. Mai 1990*“ ( Law of the Political Parties of the GDR of February 21, 1990, amended on May 31,1990), modified by the provisions of the „*Vertrag zwischen der Bundesrepublik Deutschland und der Deutschen Demokratischen Republik über die Herstellung der Einheit Deutschlands – Einigungsvertrag - vom 31. August 1990*“ (Treaty among the Federal Republic

of Germany and the German Democratic Republic concerning the Establishment of the Unity of Germany – Treaty of Unity – of August 31, 1990] the assets of the SED/PDS and other parties and mass organizations, that existed or went onto the place of these assets, were committed in trust.

Object of the trust were assets the SED/PDS and the other organizations concerned held on October 7, 1989, a date set by law. Assets the SED/PDS acquired since 1991 by today were not object of the trust, because sequestering the assets of an active political party licensed by law would mean a ban of its political operations which was violating law.

The trust was established for the purpose to prevent the parties and organizations concerned from transferring the assets to third parties.

According to the provisions of the Reunion Treaty the assets concerned were handled as follows:

- The assets had to be returned to the former owners or their successors in title, if their claims of ownership were proved.
- If no former authorized owner was found, the assets had to be returned to the parties or organizations concerned in the case of its previous acquisition by them according to the principles of the German Constitution "*Grundgesetz*" (Basic Law).
- As far as the returns aforesaid were not possible, the assets in trust had to be used for the benefit of non-profit purposes, in particular the economical restructuring of the Federal States in the former territory of the GDR.

## **2. Authorities in charge of reviewing the assets of the SED/PDS**

Two organizations were in charge of reviewing the assets of the SED/PDS. The "*Treuhandanstalt*" – *THA* – " (Trust Institution), later on called "*Bundesanstalt für vereinigungsbedingte Sonderaufgaben* – *BvS* – " (Federal Institution of Special Tasks concerning the German Unity), called as follows "Trustee", was managing the assets committed in trust and realizing the assets in favour of non-profit purposes, in particular of the economical restructuring of the Federal States in the former territory of the GDR. The "*Unabhängige Kommission zur Überprüfung des Vermögens der Parteien und Massenorganisationen der DDR*" (Independent Commission for Reviewing the Assets of the Political Parties and Mass Organizations of the GDR), called as follows "Commission", dealt with the investigation of the relevant assets, reviewing the return of the assets to former owners and to the parties and organizations concerned provided the organizations concerned had acquired the assets by legitimate means. In

addition the Commission controlled the Trustee's handlings of the assets concerned.

### **III. Handling of the assets of the SED/PDS by the authorities in charge**

#### **1. Structure and function of the assets**

The structure of the assets of SED/PDS as it was found by the Commission at the beginning of the investigations can be described as follows:

##### **a. Cash**

The SED/PDS had a considerable amount of cash on its bank accounts. The Commission investigated cash in value of 1,5 billion € to the fixed date October 7, 1989 set by law.

A big part of the revenues of SED/PDS came from the contributions paid by its members. The gains by the contribution were very high, for the SED had an enormous number of members before 1989 (e.g. 1988 2 Mio. members).

The SED received in addition considerable contributions from the government. The amount of the contributions could be virtually defined by the SED itself, for the decision makers in the government were members of the SED executing its orders.

The SED/PDS received a big part of the gains from its profit-making enterprises.

The revenues were used for financing the expenses of SED/PDS for e.g. salaries, pensions, management of the assets, acquisitions of real estates and so on. Furthermore the revenues were put for the subsidization of the affiliated political parties and organizations as well as for the „*Deutsche Kommunistische Partei – DKP –*“ (German Communist Party) of West Germany and the communist brother parties abroad .

1989 to 1991 the SED/PDS transferred around 1 billion € in order to protect its properties due to a decision of the SED made at the end of 1989. Object of the money transfers were e.g. loans to devoted party comrades in order to give them the chance of establishing a business, allowances to organizations affiliated to SED/PDS or being close to them. A considerable amount of money was shifted to bank accounts of reliable party comrades in Austria, Hungary, Liechtenstein, Luxemburg and Switzerland. The receivers kept the concerned money as trustees for the SED/PDS.

Next to that the SED/PDS paid a considerable amount of money to the national budget as well as to pension schemes.

These drains of money, in particular by loans, donations, and allowances, could be compensated to a large extent by the assets obtained due to the investigations of the Commission.

#### **b. Real estates**

Due to the investigations of the Commission the SED/PDS used about 800 real estates directly for their offices, schools and guesthouses, furthermore for residential buildings, county houses (*"Datschen"*) and hunting lodges, that were provided for leading officials of the SED.

The real estates used for the party schools and guest houses were mainly confiscated during the land reform of 1945 to 1949 ordered by the Soviet occupation forces. It concerned a lot of castles and villas owned by private landlords. The real estates were located in most beautiful natural sceneries at sea and lake sides and in forest areas.

#### **c. Enterprises**

As a result of the findings of the Commission the SED/PDS had provided a monopoly in selected fields of business, in particular in the publishing and printing business in order to control the public opinion in the GDR. The enterprise *"Zentrag"*, owned by the SED/PDS, held all the big printing companies and newspaper publishing houses (e.g. the central newspaper of SED/PDS „*Neues Deutschland*“ and the leading newspapers in the provinces of the GDR).

Furthermore the SED hold some book publishing houses (e.g. *"Aufwärts-Verlag"*) and an advertising company. In this way SED/PDS controlled the printing and publishing business in the GDR.

In addition the SED hold many enterprises which were shaped for controlling the contacts between GDR and western countries, for example an enterprise which provided for presents from western countries and an enterprise which was busy in translating foreign languages.

#### **d. Assets in foreign countries**

Abroad the SED/PDS had numerous profit-making enterprises e.g. in Switzerland, Hungary, Austria, Liechtenstein and Luxembourg. The SED/PDS kept the existence of the companies secret. There was no control by the planning authorities of the state. The SED/PDS used these enterprises e.g. for transfers of

financial supports to the communist parties and organizations in foreign countries.

Furthermore a network of profit-making enterprises was active abroad. They were held by the holding „*Kommerzielle Koordinierung – KoKo –*“ (Commercial Coordination) jointly controlled by the „*Ministerium für Staatssicherheit – MfS –*“ (Ministry for the Security of State) and the „*Zentralkomitee der SED*“ (Central Committee of the SED). Their job was e.g. buying goods, which could not be delivered to communist countries due to embargo rules of western countries, to arrange transfers of foreign currencies the SED/PDS and the MfS urgently needed for its operations in foreign countries, e.g. for the transfers of the salaries paid to their spies operating in foreign countries.

## **2. Way of handling the assets of SED/PDS**

The Commission and the Trustee proceeded the reviewing and arranging the assets as follows:

### **a. Investigation of the assets**

At the beginning there was the investigation of the assets of SED/PDS carried out by the Commission. For there was no support by the SED/PDS the Commission had to investigate the assets arduously on its own within Germany and abroad.

The Commission needed for its investigations references to hidden assets by informants. In order to support the investigations the Federal Government had promised a reward to those who informed the Commission about hidden assets of the SED/PDS and the organizations concerned.

#### **(1) Investigation within Germany**

The Commission investigated the assets of the SED/PDS mainly within Germany, especially in the territory of the former GDR. In the first line there was the investigation of the real properties of the SED/PDS. Task forces of the secretary's office of the Commission travelled through the former territory of the GDR for the purpose of investigating the ownership structures of the real properties in the land registries. They searched for hidden country houses („*Datschen*“) and hunting retreats of the leading functionaries of SED/PDS according to the hints of informants.

Further the Commission investigated entities and enterprises of the SED/PDS e.g. by researching in the commercial registers. The job of the Commission was supported by auditors.

## (2) Investigation in foreign countries

Objects of the investigations abroad were money transfers of the SED/PDS or its corresponding enterprises passed through foreign banks to SED/PDS-owned enterprises or its secret trustees living abroad. A considerable amount of money had been funnelled through selected banks in Austria, Hungary and Switzerland especially in the years 1989 to 1991. Receivers of the transfers in the most cases remained unknown.

In order to trace these money transfers the Commission with the support of international auditors investigated especially in Hungarian and Austrian banks. The Commission was supported by the foreign governments and the banks concerned. So the Hungarian National Bank and a foreign trade bank were examined in Hungary due to an agreement of the governments of Hungary and Germany.

The SED enterprise "*Novum Handelsgesellschaft*" [Novum Trading Company], Hungarian, Swiss and Austrian banks, in particular the "*Centrale Wechsel- und Creditbank*" in Vienna, a former subsidiary of the Hungarian National Bank, played a central role in shifting the money of the SED/PDS.

The extensive money transfers of the "*Novum Handelsgesellschaft*" are object of legal proceedings not finished yet in Switzerland.

On initiative of the Commission supported by the German government the Swiss government ("*Bundesrat*") is going to make the banks in Switzerland investigating the assets of the SED/PDS and other organizations affiliated. Results are to be expected in the second half of the year.

### **b. SED/PDS owned assets in trust**

In a second step the Commission checked if the SED/PDS was the owner of the assets. A lot of assets couldn't be affiliated to the SED/PDS due to the public ownership ("*Eigentum des Volkes*"). SED/PDS used these assets by means of a GDR-specific legal usufructural right similar to the ownership ("*Rechtsträgerschaft*"). These assets were discharged from trust and handed over to the authorities managing the state owned properties.

The assets reviewed remained in trust, which was carried out by the Trustee.

### **c. Use of the assets in trust**

The use of the reviewed assets in trust was determined by the Trustee in accordance with the Commission in a further step.

#### **(1) Return of the assets to former owners**

At first there was the decision to return the assets in trust to former authorized persons or their successors provided they had claimed for the return of the assets they had owned before. This was assigned to the „*Bundesamt zur Regelung offener Vermögensfragen – BARoV –*“ (Federal Office for the Settlement of undetermined Problems about Properties). The BARoV carried out the return provided the Commission had agreed to that.

In the case of authorization of the restitution the assets concerned were discharged from trust and returned to the claimants.

A lot of assets of the SED/PDS were returned to Jewish claimants, for the return of Jewish properties being confiscated by the NS-authorities did not happen in the GDR, different from the way the Federal Republic of Germany (FRG) was handling this matter. There the restitution of Jewish properties started shortly after 1946 and was finished around 1970.

#### **(2) Discharge from trust**

The Commission found in a further step that the SED/PDS had acquired its assets improperly conflicting the material principles of the German constitution „*Grundgesetz*“ (Basic Law). In this case its assets could not be returned to the SED/PDS.

The Commission drew up criteria by which an acquisition was conflicting the material principles of the German constitution. Due to these criteria assets were not returned to the SED/PDS, when it had acquired the assets by means of confiscations, taking advantages of its position of power or compulsion or fraud.

An important criterion was also the kind of the origin of the financial means by which the acquisitions of assets were financed. If the SED/PDS had acquired assets by using funds that were gained by means of unfair machinations conflicting the principles of the German Constitution, the acquired assets were not returned to the SED/PDS.

The Commission classified the funds the SED/PDS gained from allowances of the state conflicting the principles of the German Constitution either. The Constitution excludes the control of the political parties by the state, which could

be intensified by its financial subventions.

The SED/PDS sued the decisions of the Commission. The court procedures running for this purpose had been closed following a settlement among the SED/PDS, the Commission and the Trustee in 1995. Due to that the assets of the SED/PDS with the exception of four real estates remained in trust of the Trustee.

#### **d. Realization of the assets committed in trust**

In accordance with the Commission the Trustee used the remained assets hold in trust for the benefit of non-profit purposes, in particular the economical restructuring in the new Federal States due to the provisions of the Treaty of Unity among the two German states.

The initial provisions of use of the assets committed in trust were modified by further legal rules later in such a way that certain amounts had to be used for the restoration of historical valuable buildings as well as for the repayment of the debts of the new Federal States.

According to those legal provisions the biggest part of the assets was used for the settlement of the old debts of the new Federal States.

Further on the assets were used for the promotion of business in the new Federal States, e.g. for the capitalization of smaller and middle enterprises, the technology transfer in the product development and renewal, for the recruitment of foreign investors for projects and for the promotion of local tourism in the new Federal States.

The assets were used further for cultural purposes as for example for the restoration of historical buildings. Last not least a lot of works of art were put from collections of the SED/PDS into the art galleries and museums in the new Federal States.

#### **IV. Result of the work of the Commission and the Trustee**

The result of the joint activities of the Commission and the Trustee was the realization of the assets of the parties and mass organizations of the GDR worth 1,6045 billion €. The assets of the SED/PDS shared a value of 1,2 billion €, which underlines the SED/PDS's former financial position of power.

Realized assets worth 917 Million € remained for the use to the Federal States after subtracting from the assets committed in trust worth 1,6045 billion € the costs for managing the trust (239,8 million €), the necessary accrued liabilities for risks (119,5 million €) and the assets discharged of trust (worth 328,2 million

€).

From that amount about 376 million € were spent for the settlement of the old debts of the new Federal States as well as for the restoration of landmark buildings, further 311 million € for the promotion of the economy in the new Federal States. 155 million € were used for cultural purposes, furthermore 75 million € for a foundation.