

Germany 1793 essay



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On October 3, 1990, the states of the German Democratic Republic (East Germany) shed their last ties to their Soviet created structure and joined the Federal Republic of Germany (West Germany). The 23rd article of West Germany's 1949 constitution, the Basic Law, had been drafted specifically to allow for such an arrival from the East. But as the 1980s drew to a close, few Germans on either side of the border expected it to be used in their lifetime. Yet, in less than a year the beginning of an upsurge of popular protest came together against the communist regime in East Germany and the formal unification of Germany on West German terms.

At a simple level, the constitution may be seen as a representation of the traditional German desire for clarity and order, applied to the rights and duties of the individual. It can also be described as a way of ensuring that the events of the 1930s, particularly the rise of facism and dictatorship, will never recur.

As a result of historical roots in West Germany and past abuses by central government, Germany is a federation. The powers of the states cannot be reduced. Each of the federal states and Berlin has its own constitution, a democratically elected Parliament, a government, administrative agencies and independant courts. However, states are binding to the federal constitution, the federal constitution is binding upon the states and the federal parliament is responsible for major legislation and policy. The state parliaments main responsibility is in two major policy areas: education, and law and order. Administration of federal legislation is mainly the responsibility of the states, allowing for greater consideration of local needs and issues. This system of government ia also intended to bring government

closer to the people. In many cases, state powers are delegated further to local authorities.

A further area of responsibility for the states arises from the parliamentary structure. The legislative body is the Bundestag, but the Bundesrat (an upper house representing)the states must approve most legislation.

Each state has between three and five votes in the Bundesrat, depending on the size of its population. Members of the Bundesrat are appointed by the state governments for their duration within the state government. Since state elections are held continually during the term of federal parliament, the members of the upper house may alter during the life of a federal government. The approval of the Bundesrat is required for certain types of legislation, particularly the budget and those affecting the states. Differences are usually overcome by a joint committee from the two houses.

The lower house, or the Bundestag, consists of a minimum of 656 deputies. The Bundestag has a speaker, or president, usually elected from among the largest parliamentary group. It has three main tasks: to act as the legislative body, to elect the federal chancellor, and to control government activity. Any changes to the Basic Law requires a two-thirds majority in both houses of parliament. Thus the opposition parties can prevent amendments to the constitution through their representation in either the Bundestag or Bundesrat.

The electoral system, finalized in 1956, is designed to both provide a government representing the wishes of the people and proportional representation. Candidates are elected by a majority vote in 328

constituencies of roughly equal size. Each state is allocated a quota of MPs for each party, derived from the second, or party vote. The difference between these numbers and the numbers of directly elected representatives is then made up from party lists. A party can win more seats on the directly elected segment of the vote than the number given by the party list results, in which event the size of the lower house is enlarged. This provision was used in 1990, with the addition of six seats.

To prevent fragmentation, a party must secure either three direct mandates or 5% of the total vote to be represented in parliament. This results in a barrier to the development of new parties, which must fulfill the 5% criteria without the help of representation in parliament. Also, when the practice of vacancies exist in parliament the positions are filled from the party list of the previous election rather than by a by-election, hampering new or small party formation. In the 1990 elections the small, and largely new, East German parties were allowed, for on time only, to form umbrella groups, side-stepping this constraint.

However, state elections occur almost always once a year allowing parties to try and gain representation in a state parliament, often by concentrating their efforts.

The lower house is elected for a fixed term of four years and early elections may only be called in specific circumstances. The chancellor (head of government) is elected by the Bundestag on the proposal of the federal president. In practice each of the main parties announces its chancellor candidate before the election, making the task of the president somewhat of

a formality. Once elected, the chancellor nominates his or her cabinet for presidential approval, but is still personally responsible to parliament.

Individual ministers cannot initiate a vote of no-confidence. A government can only be voted out if the opposition can establish a majority for what is known as a constructive vote of no confidence. In other words, the opposition must be able to provide a working majority in favour of a new government. This occurred in late 1982, when the small Free Democrat Party changed its following from the ruling Social Democrats to the Christian Democrats, enabling the Christian Democrats to form a coalition.

The ability of a government to resign in order to call early elections is also restricted to certain circumstances. When the new government of the Christian Democrats and Free Democrats formed after the events of 1982 they decided early elections would be appropriate. However, this decision was forced to be brought up before the constitutional court, and only because it was the parties only tactic was it allowed.

Although the federal president performs some of the usual formal functions of a head of state, including signing treaties and following the procedures for appointing the chancellor, the role is basically ceremonial. All presidential orders require the counter-signature of the chancellor or relevant minister. This obligation is concerned with the alleviating a number of the problems which arose under Germany's constitution of 1919 which gave the president too much power and not enough to the parliament. The president is elected for a five-year term by the full Bundestag and an equal number of delegates from state parliaments. In the past the election has usually been a formality. Richard von Weizsacker, formerly Christian Democrat mayor of West Berlin, <https://assignbuster.com/germany-1793-essay/>

was elected president in 1984 and re-elected in 1989. His second, and final, term comes to an end in May 1994. Although usually a former politician, the president is expected to stand above party politics.

In the summer of 1989 the German Bundestag passed the so-called Stage one Postal Reform which came into effect on January 1, 1990. The reforms included a division between jurisdictional and regulatory functions and entrepreneurial functions. The reform also resulted in associated business sectors making up telecommunications, postal services and postal banking. The aim of these reforms was to allow for more competition, hoping this would lead to more innovation and development in the telecommunication sector. The reforms represented to many in Europe a tremendous liberalization of the German telecommunications market. Under the new structure, the Telekom branch of Deutsche Bundespost (DBT) was granted a network monopoly. All other sectors of the telecommunications market, including mobile and satellite communications, which both legally belong to the monopoly were liberalized. Gradually, licences were sold to private enterprises in these small and limiting areas of the monopoly. Within the framework of its economic capabilities, Telekom is legally bound to provide both the infrastructure and the infrastructure services.

As the new Telecommunication structure was being implemented the unification of Germany began, delaying the objectives of the postal reform. Many Ministers used the successful expansion of Telekom as a means of recognition, while postponing a rapid separation of the political and entrepreneurial functions. At the beginning of 1990 Telekom had only just started changing from a public administration to an undertaking based on

entrepreneurial based organization. Telekom's actions during and immediately following unification were still largely focused on the objectives and procedures of the old Germany. Therefore, there has been no real debate between Telekom and the Federal Minister of Posts and Telecommunications (BMPT) on what guidelines Telekom should follow when investing in the new federal states of the East. Telekom must decide whether it should follow its original political standpoint or its new entrepreneurial approach, or whether the two even differ. Such a judgement is not only desirable, but necessary to determine where the responsibilities of Telekom lie.

In principle, the regulatory political and organizational structure set up valid in the Western German telecommunications sector was also binding in the new federal states of the East on October 3, 1990. This was decided even though the conditions were very different in the former GDR due to the poor state of development of telecommunications. The rapid installation of a basic infrastructure was the priority in the East, while the emphasis in the West was promoting network and service innovations. Nevertheless the BMPT did little after unification to change the regulatory political framework in this sector regarding the circumstances existing in Eastern Germany. The monopoly on terminal equipment which had been abandoned in the middle of 1990 in Western Germany was maintained in Eastern Germany until the end of 1991. The ban on private agencies offering satellite communication services was eased in mid-1990. At first, certain conditions were attached to issuing these special permits, but they were lifted in March 1991. These exceptions to the voice telephone service monopoly are limited until 1997,

and have not had any major influence on accelerating the expansion of the telecommunication service offered. Only a few private satellite service firms have offered appropriate services as a result. In connection with the rapid improvements in the possibilities for East-West communication, considerations of cost and quality control have created the major obstacle to a larger range of services offered by private investors.

In June 1991 the BMPT also extended the licence of Mannesmann Mobilfunk, the second cellular mobile radio operator chosen for Western Germany in December 1989, to cover the whole of Germany. At the same time it ordered that Mannesmann was to provide access to the D2 network for 90% of the population and 75% of the area in the new states in the East by the end of 1994. The two mobile telephone networks in the 900 MHz band, D2 and D1, which were in the process of being developed just after the political turning point, were well suited to providing a considerable expansion in the services offered in Eastern Germany.

With respect to the problems encountered by the federal government in financing German unification, a special contribution to the federal treasury of approximately DM 3 billion was imposed on Telekom. The BMPT was able to save Telekom and its customers from a greater financial burden that had originally been planned. In reality, however, this special contribution imposes an additional financial burden on Telekom and makes the telecommunication services it offers in Germany more expensive.

After the fall of the Berlin Wall and of the Communist regime at the turn of 1989-90, it was not clear if the developments would end in a rapid

unification of the two Germanies. Only months before the summer of 1990, when Germany was to be officially united, a many decisions were taken in East and West Germany that greatly affected the German telecommunication sector. Immediately following the political turning point, as early as the beginning of 1990, joint committees were set up between the BMPT and the GDR ministry responsible, and between DBT Telekom in the West and Deutsche Post Telekom in the East. The main purpose of the committees was to ensure the rapid development of the telecommunications infrastructure in the GDR and guide a compatible merger of the two organizations' regulatory bodies. By March of 1990 (long before German unification had been decided) the two business enterprises had completed the Telekom 2000 program to develop infrastructure in the GDR, allowing Deutsche Post Telekom to start on the expansion of infrastructure in the GDR with the financial support from DBT Telekom.

During the period of the political turning point the forces supporting German unification gained the upper hand at an early stage within the post and telecommunication sector of the GDR. They stematically reorganized structures inside the GDR telecommunication sector with this in mind. They anticipated Western German restructuring by seperating the GDR Post Ministry from Deutsche Post and by splitting up the business underytaking into three divisions. These same forces also prevented different regulatory political structures from developing during these hectic months. It is a fact that foreign network operators are known to have made offers to the GDR Minister of Posts during this time, and for a short period the minister actually did consider licensing a further (third) digital cellular mobile radio network

operator in the GDR. However, it was decided that ensuring optimum conditions for the smooth union of telecommunications branches in East and West was their priority. Their strategy was to achieve this by creating regulatory political by creating regulatory political and organizational structures which were as uniform as possible. For this reason the sectoral structures of the Western German telecommunication sector were adopted in the new states of the East with practically no modification. In this respect, developments in the telecommunication sector following the political turning point do not differ from developments in other branches of society, such as the sciences, the health service and others.

It is debated whether the structures introduced by the postal reform were really suited to the rapid developments in telecommunications in Eastern Germany, or whether it might not have been better to choose a regulatory political structure that better matched the situation they faced. With a few exceptions, no such discussions were ever undertaken. Because of the unexpected speed with which of German unification took place, and the enormous public pressure for immediate noticeable improvements in the industry, it was common to spend hours of unsuccessful attempts to dial numbers in East-West communication. Frequencies would have been available in the 1800 MHz band. However, this idea was not pursued any further. Presumably the lack of any standardization of DCS 1800 at this time and respect for the financial stability of DBT Telekom, which had just launched a DM 60 billion expansion program for the new federal states in the East, played a major role in this respect. The new federal states continued to play a role with the later licensing of a private E1 network operator on the

basis of DCS1800 in the spring of 1993, insofar as E-Plus has undertaken to start developing its network in the East.

Also in the autumn and winter of 1990, the Monopolkommission (Monopolies Commission) entered the debate, issuing a statement backed by a report advocating a competitive market, or at least strengthening the competitive elements, in the process of developing infrastructure in the East. None of these ideas were followed up, all mainly because of the belief that no real dramatic change in developments could be expected from such a major change in regulatory policy.

Development of private investment in the new federal states of Eastern Germany could best be described as hesitant. Companies were largely skeptical of the industry structure. Because of Telekoms merger with Deutsche Post and its ownership of existing buildings and land it was only minimally affected by the problems of ownership to private companies and administrative procedures.

The primary objective of all development was to improve the telecommunications infrastructure as soon as possible. Telecommunications was seen as playing a leading role in the process of economic recovery and its significance for the growing together of East and West. There was not enough time for additional basic experimentation, either on the political or on the technological level.

Another important political objective behind the process of unification, was the intention of creating a uniform standard of living in the East and West. The importance of this objective and of its implications within the political

process has an enormous influence on overall economic developments in Eastern Germany and the telecommunication sector. In view of the huge excess demand for telephone connections and telecommunication services, there were economic arguments in favor of a sharp increase in tariffs above those in the West. However, such a policy could never have been implemented at the political level. Telephone tariffs in the East were brought in line with those in the West as soon as was technically possible, regardless of the different conditions in Eastern and Western Germany. Uniform charges were considered politically to be more important than an economically efficient distribution of the short supply of telephone connections. Like in many other economic sectors, goals of economic efficiency have lost out to of just distribution when fixing telephone tariffs in the new states in the East.

As a public service, the West German telecommunications system is run by the federal counties. The legal basis of this state monopoly is found in Article 87 of West German basic law, which states that the West German PTT has to be conducted by a direct federal administration with its lower level of administrative offices. The right of legislation on postal and telecommunication matters falls exclusively on the federal county, according to Article 73 of the basic law.

The federal minister for postal and telecommunication services is the head of the West German PTT. According to Article 65 of West German basic law the federal minister for postal and telecommunication services, shall conduct the affairs of the West German PTT autonomously and on his own responsibility. Telecommunication policy formation as well as the management of

administration is the responsibility of the federal minister for postal and telecommunication services,. However, his power is is restricted and controlled by the Postal Administration Council (Para 1, Art 1 of the postal administration law). The members include the West German Bundestag, the West German Bundesrat and representatives of the different areas of the economy as well as seven members of the West German PTT trade union, the Deutsche Postgewerkschaft (DPG), and experts from the fields of broadcasting and finance (Para 5, Art 2). All 24 members of the Postal Administration Council are appointed by their national councils or by the minister for postal and telecommunication services (expert from the field of broadcasting) and the minister for finance (expert from the field of finance). According to Para 12 of the postal administration law, the council decides on the budget of the West German PTT. Further executive rights extend to conditions on the use of postal and telecommunication systems, including pricing (ara 12, Art 4), decisions on the field of activities (Para 12, Art 5), as well as changes in the technical telecommunication infrastructure (Para 12, Art 6). As an important control body, the Postal Administration Council has to approve all regulations proposed by the federal minister for postal and telecommunication services. However, the minister for postal and telecommunication services has the power to annul decisions of the postal administration council (Para 13, Art 1, 2).

Despite this kind of veto right, the federal government as well as the Bundestag have no direct control over the West German policies of telecommunication. Yet the West German PTT is obliged to respect the principles of the politics of West Germany, according to Para 2, Art 1 of the

postal administration law. However, the principles defined by the federal government are so vague that they cannot properly act as a stern basis for engaging in telecommunication policies. The influence of the Bundestag is even weaker since the budget of the West German PTT forms a special fund (Para 3, Art 1 of the postal administration law), over which the West German PTT exercises its own budgetary rights. The influence of parliament is only by the participation of members of parliament in the postal administration council as well as in political positions in the federal postal and telecommunication administration.

The result is that West German telecommunication policy is designed and implemented around the postal administration council and the postal administration. In spite of occasional accusations of opportunism aimed at the postal administration council, it's believable that the post administration has adjusted itself to the potential compromises in the council. This can be backed up by the strong clashes in the council, and by that overruling the postal administration council too often would likely lead to harmful campaigns against the council.

The development of the telecommunication infrastructure within this political and institutional framework became more and more criticized in the 1970s. Finally it caused the demand for reform within the institutional and political framework. The origins of the criticism came from the rapid technological developments of the 1960s and 1970s. Spectacular developments in the realms of microelectronics and transmission technology as well as the continuing digitalization made merging telecommunication and data-

processing possible. This resulted in new quantitative and qualitative demands on the telecommunication infrastructure.

According to critics, the West German PTT, by not allowing competition, had not been in a position to complete these demands. This criticism, mainly forwarded by the Liberal Democratic Party, was mostly concerned with the international competitiveness of West Germany. Further demands for the opening of markets were created by those countries which have already deregulated their telecommunication systems, for example the UK, USA, and Japan.

Germany has eight main political parties: Christian Democratic Union (CDU), Christian Social Union (CSU), Free Democrat Party (FDP), Social Democrat Party (SDP), The Greens, The Party of Democratic Socialism (PDS), The Republicans, and the Deutsche Volksunion.

Christian Democratic Union

The CDU, combining Catholics and Protestants, has been the most important single party in the development of post-war Germany. Its foreign policy was forged by Konrad Adenauer and is based on the Atlantic alliance. Although it also accepted the opening to the east initiated in the late 1960s and early 1970s by Willy Brandt and it is currently concerned with stability in post-communist Eastern Europe. Its leader, Helmut Kohl, has been chancellor since 1982 and still exercises a powerful personal control over the party. The CDU's domestic policy is based on the concept of the social market as developed by Ludwig Erhard in the 1950s.

Christian Social Union

The CSU is a sister party of the CDU. It is Catholic and operates only in Bavaria where it is not challenged by the CDU. Under the leadership of the late Franz Josef Strauss, it was more openly assertive in the pursuance of German interests than the CDU. Its present leader is the finance minister, Theo Waigel. However, Edmund Stoiber, the prime minister of Bavaria, as a more aggressive politician in the tradition of Franz Josef Strauss, is equally important.

Free Democrat Party

The free democrats are basically a liberal party in the European rather than the American sense; they believe in limiting government interference in all walks of life, including both questions like divorce and abortion, and the economy. On the latter they are generally to the right of the CDU. However, the FDP's most dominant personality in the second half of the 1970s, and until his resignation in 1992, was Hans-Dietrich Genscher, who made his name as foreign minister. The present leader, Klaus Kinkel, is also foreign minister.

Social Democrat Party

Once Marxist (though always democratic), the Social Democrats established a programme of pragmatic reform known as the Bad Godesberg program at the end of the 1950s. This paved the way for Helmut Schmidt, two of Germany's most influential post-war politicians. The difference between their economic philosophy and the Christian Democrats' social market is not

fundamental. At present, however, the SPD believes the CDU has failed to face up to the need to pay for unification, and advocates higher taxes, especially on the better off. The SPD's foreign policy has always emphasized openings to the east, but not at the expense of the Atlantic alliance or the EU. There is a strong pacifist element which currently opposes any German military activity outside Germany, including participation in UN peacekeeping operations; however, it should be said that there are pacifists in all major parties.

The Greens

The Greens had a major influence on German policies of all major parties during the 1980s, having surmounted the 5% threshold needed to be represented in parliament in the 1983 elections. However, in December 1990 they just failed to meet this threshold in western Germany, partly because of an internal division between realists and purists. They are represented in the Bundestag because in eastern Germany, where a separate threshold was provided, they won more than 5% in alliance with Bündnis 90, a group of protest parties from the former East Germany. They also participate in governing coalitions in some state parliaments.

The Party of Democratic Socialism

This is the former SED or ruling party of East Germany. Under a moderate leader, Gregor Gysi, who was never closely associated with the Honecker regime, it has attracted the support of some of those who have lost their jobs or homes as a result of unification.

The Republicans and Deutsche Volkunion

The Republicans and Deutsche Volkunion represent nationalist forces on the far right of German politics. They have played on the immigration issue.