

Ten Years of German Unification

Col. Gen. Markus Wolf

ABSTRACT

The author discusses the fate of the Foreign Intelligence Department of the GDR, which he headed for over thirty years, and of its colleagues and agents since the reunification of Germany ten years ago. There was no transformation of this service after the implosion of socialism; instead, it was liquidated, and criminal prosecutions followed which continue to this day. The author describes how this is connected to the West German leadership goal of the "de-legitimization" of the GDR. The operations of the western services are described, as well as the actions of their collaborators, who agree to make available, for a price, their knowledge of sources, files, data and other evidence in order for criminal prosecutions to be launched; i.e. the "Rosewood" operation of the CIA, and the decoding of the data carrier "SIRA" and its significance are discussed. The author holds the view that the criminal prosecution of the colleagues and agents of his service violates the internationally recognized legal concept of "equality before the law". Of the approximately 150,000 political indictments initiated since the reunification, 7,099 were for espionage. The article also addresses other subjects, such as the inhumanly high prison sentences in the United States. The author feels that, after ten years, a political gesture should be made which would remove the last vestiges of the Cold War.

Ten Years Later

When German unification became a reality on October 3, 1990, I had already been retired for four years. My first book had been successfully published in 1989 in both German states and I was a writer full of plans. After the appearance of my book in early summer of 1989, at a time when the speedy disintegration of the German Democratic Republic (GDR) could not have been predicted, the West German chief federal prosecutor, Rebman, obtained an arrest warrant against me because of my position as the former director of the Foreign Intelligence Department (HV A) in the Ministry of State Security (Ministerium für Staatssicherheit -

hereafter, MfS) of the GDR. I was at that time the only highly decorated individual in the GDR and the only general of the Ministry to which this honor was afforded. Thus, my creative existence as a pensioner came to an end. The first seven years of German unification represented to me years of persecution, as well as years of constant concern about co-workers and agents for whom I was responsible during my time at the Ministry. Although the court decisions, convictions, and probations that the victors of the Cold War brought against me have now, ten years later, been suspended, the moral obligations toward the women and men who performed their duties on the front lines remain.

It is impossible to forget experiences which took place during the Cold War confrontations, and the efforts in the East and West to prevent a nuclear inferno. Now there are new experiences, meetings which earlier would have been inconceivable, with former opponents from "the other side." But concern for former "soldiers" who, unlike the agents of the West, are still subject to prosecution, remains a heavy burden for me. Encounters with other mostly retired colleagues from West and East, however, provide hope. Therefore, I have agreed with pleasure to summarise for "National Security and the Future" some thoughts about my former service and its fate after the German unification.

Disintegration of the German Democratic Republic

The last years of activity of the Foreign Intelligence Department (HV A) of the GDR were shaped by the contradictory developments in the Soviet Union under Gorbachev's leadership, and by the negative attitude of the Socialist Unity Party of Germany (SED) leaders towards *Perestroika* and *Glasnost* in the USSR. Some of the offices within the Ministry of National Security responsible for the observation of the internal processes in the GDR had difficulties objectively analysing the resulting phenomena, which invariably developed into political crises. These difficulties soon became obvious to the offices of the foreign intelligence service. However, these offices were focused on the possible consequences of Gorbachev's policies for the foreign policies of the GDR, e.g., disintegration of the bloc confrontation; reorientation with regard to the senseless, and for true socialism, economically suicidal arms race; and the vision of a new millennium free of nuclear weapons. Information coming from the HVA could therefore contribute to a better understanding of the western position in Moscow and Berlin, and provide information about opponents of the *détente*, armament control, and disarmament. Documentary information from NATO-sources, for example, contributed in 1987 to the formulation of a new military doctrine of the Warsaw Treaty. The attitude of many colleagues was hopeful, as they understood the politics of *détente*, but at the same time they were

also in despair over the rigid attitude of the SED leaders, which contradicted verbal assurances of friendship with the Soviet Union. The increasing internal resistance in the GDR against these rigid policies had serious consequences. In spite of efforts to support the expectations and tasks of the political leaders, MfS information on the country's internal situation reflected the internal crises more realistically than in earlier years.

The implosion of socialism in Eastern Europe and the Soviet Union in 1989/90 produced dramatic changes in all affected countries. The special situation of the GDR consisted in the fact that the ever present and influential "rich brother", the Federal Republic of Germany, was always ready to claim its "inheritance". One knows today (even I was late in recognising this) that the GDR was simply a marionette for Gorbachev in a poker game for power with the West, not a partner considered worthy of defending. Ruling circles in the Federal Republic of Germany (hereafter FRG) jumped at this historical opportunity, and consequently exploited it during the leadership of Chancellor Helmut Kohl. In the last year of the GDR's existence, the election campaign teams of the West German parties controlled the field, and the Western advisors of the last GDR government pushed in all areas toward a speedy unification. In regard to foreign policy, there was no resistance (excepting verbal) to the incorporation of the GDR into NATO, and, therefore, the realignment of the German federal armed forces and NATO onto the eastern boundaries of Germany. Instead of initiating a reasonable process for the establishment of a European peace declaration, the agreements in international law at the time (e.g., the so-called 2+4 treaty) were dictated by the "victors". The consequence for the GDR was that it was incorporated into the FRG by means of a crash course, which resulted in large losses for the majority of the GDR population: economic status, loss of cultural specificity's, social standing, and personal biographical characteristics, as well as the persecution of VIPs, political and social discrimination, and disenfranchisement of the GDR elites.

'Victors' manipulation of the intelligence services

In contrast to other eastern and central European countries and the USSR (later GUS states) there was no transformation of the GDR intelligence service, but, rather, its radical liquidation. In other countries, national interests required the preservation of the defence and reconnaissance organs, so they were transformed into agencies befitting the new political structures, which often meant that structures which were relatively ideology-free were taken over unchanged, including official and unofficial employees, continuation of certain operations, and continued use of

databases. Espionage, defence from terrorism, and personal protection were included in this process. West Germany's goal from the onset was to destroy all GDR state structures, including the intelligence service. This goal was given impetus by the anger and hatred felt by a substantial proportion of the East German population toward the MfS, a result of the failed national security policies of the SED and unjust repression executed by an oversized security apparatus. A literal "Stasi hysteria" exists to this day, carried forward from the former GDR. The plan to remodel the security organs into democratically-led reconnaissance and constitutional protection agencies proved to be an illusion; the alternative was the complete destruction of the entire MfS, including the Foreign Intelligence Service, which was subsequently realised. This was a logical consequence, considering the way in which the overall integration of the GDR into the FRG had occurred. There was no discussion about transferring highly qualified employees into the services of a united Germany nor interest in drafting a new constitution for the new country which had emerged after the unification. However, a draft of such a constitution had, in fact, been prepared, in agreement with the citizens rights organisation represented at the "Round Table".

But the West German "advisors" in the Ministry of the Interior of the last GDR government had only one interest: to appropriate as much "booty" as possible. This booty would include the names of possible traitors among the MfS workers, documents, databases, and information about sources, structures and modes of operation, material objects and technical equipment, and, above all, evidence which could be used to prosecute citizens of the FRG and employees of the MfS, based on MfS documents. Contrary to these efforts, the citizens movement and government of the GDR succeeded in early 1990 in reaching a decision to dissolve the HVA, but in an orderly fashion. A group of approximately 250 workers was empowered to systematically terminate the HVA activities and to destroy documents on HVA activities, excepting selected documents intended for a central archive. Despite this favourable decision benefiting GDR reconnaissance, intelligence services of the FRG and other NATO countries, especially the USA, succeeded in gaining important information about sources and activities of the HVA. In 1989-90, they exploited the "political climate" to launch substantial intelligence attacks against the MfS of the GDR. Immediately after the fall of the Berlin Wall (November 1989), long before the unification, employees of the BND (West German intelligence service), the Agency for the Protection of the Constitution, and the Secret Services of the United States and Great Britain made substantial attempts to establish contact with employees or agents of the MfS. Using threats, promises of immunity from punishment, and lucrative

financial bribes (up to one million dollars), efforts were made to pursue them to provide “voluntary” details concerning former intelligence sources. Often they claimed that these employees’ superiors or other co-workers of the former department had already co-operated and were now “driving a Mercedes”. Only a few, though some were, unfortunately, high-ranking officers, co-operated as traitors with these western agencies. They revealed many important sources and testified willingly in trials conducted by the prosecution. Particularly spectacular was the 1990 CIA operation “ROSEWOOD”, through which the CIA gained highly secret HVA files and microfilm reports. Media reports up to the present day have served to disinform and obscure the details of this operation. Some details from these documents were handed over three years later and, after years of tug-of-war - 10 years after the GDR ceased to exist - censored data about the various personal files collected by the HVA were given to the FRG authorities and other NATO partners. Due to superannuating, these data can only be used for prosecution in a few insignificant cases. But these HVA files still attract German media attention and are continually exploited to incite waves of espionage hysteria.

The “disclosures” about the supposedly recently decoded data carriers SIRA containing information collected by the HVA serve the same purpose. The use or, rather, the misuse of this information has thus far led only to the rehashing of well-known and already concluded criminal processes, which have now become the subject of political manipulation in Germany. Similar use is being made in some western European countries of the information in British Professor Chr. Andrews’ book about the ominous Mitrochin Report and the highest officials of the KGB, through further discrimination and open censure, and new waves of lies, slander, and distortions. A proper historical judgement of the security policies of the GDR under the influence of the Cold War and the development of German-German post-war history have thereby been blocked. The ruling circles in the FRG have brutally applied their politically motivated versions of history to the destruction of all GDR structures, including even discrimination and prosecution of its elites. In this regard, the former Minister of Justice (and former president of the foreign intelligence service) Dr. Klaus Kinkel stated on German Judge’s Day, September 23, 1991, that: *“I know very well that the courts alone cannot do all the work which needs to be done. But a substantial part of it must be done by them. There is no alternative. I am counting on German justice. We must succeed in de-legitimizing the SED regime, which has to the bitter end justified itself by its antifascist orientation, and its dedication to higher values and alleged absolute humanity. Meanwhile, under the guise of Marxist-Leninism, it built a state that was in every sense as horrific as fas-*

cist Germany, a state that was defeated and that, rightfully, should never be allowed to exist again."

Criminalization of former agents and colleagues

At the international negotiations, the representatives of the federal government had no apparent reaction to the warnings of the Soviet negotiating partners not to pursue legal prosecution of the "VIPS" in the GDR. The reunification treaty provided that all complaints against citizens of the FRG would be handled according to the law in the GDR, which was in effect at the time the alleged activity had occurred. In regard to any eventual prosecutions of GDR espionage, massive political and legal doubts were expressed in 1990 by several leading representatives of the federal government as well as respected academics; these activities were categorised as "offences conditional to the division" whose prosecution after unification was considered absurd. Dr. Schauble, at the time Minister of the Interior and head negotiator of the unification treaty stated: "I cannot imagine that in a reunified Germany, we put erstwhile agents of the other side in prison. What I also cannot imagine is that we put collaborators of the GDR in prison and don't do it the other way around. We are talking here about conditional offences that must be declared unprosecutable." Similar statements were made by the former federal president, Richard von Weizsacker: "In cases where there was...clear espionage, we must bear in mind that this was done both on this side and the other side and, therefore, they must be handled in a parallel manner."

Nonetheless, in 1990 and the years following, a strange constellation of political forces, members of the highest circles of the Socialist Party of Germany (SPD) parliamentarians, thwarted a legal regulation prohibiting the prosecution of spy activities for the GDR. Abusing the binding regulations of the reunification treaty concerning the application of GDR law, the federal German courts formulated adventurous reconstruction's – even in their highest judicial decisions – in order to enable massive prosecutions in the area of politics, military, judiciary and secret service of those presumed responsible in the GDR. Often, a simple judicial ruling nullified the international principles of a constitutional state, e.g., regulations on the superannuating of criminal offences.

Due only to widespread domestic and foreign protests, inquiries by the uneasy lower courts to the federal constitutional court resulted, in May 1995 (after almost all the processes against agents and collaborators of the GDR had been completed), in a decision by an outwardly close majority vote taken by this highest Federal German court. In principle, the Constitutional Court prohibited the further prosecution (with a few exceptions) of the head officials of the foreign intelligence services of the GDR, but gave

an unrestricted green light to the prosecution of sources of foreign reconnaissance among the citizens of the old FRG.

A final survey by the federal prosecutor's office showed that since 1990, 7,099 cases had been initiated for espionage on behalf of the GDR, of which 4,171 were citizens of the former GDR and 2,928 citizens of the former FRG. According to the data, only 82 complaints against GDR citizens had been finally filed, resulting in 23 convictions and 22 prison sentences (which were partially suspended). These numbers indicate the insubstantiality of the complaints, but neglect to address the torment of those affected and their families during these processes, which lasted for years. 388 complaints were filed against citizens of the former Federal Republic of Germany and 252 sentences were passed. Of those, 51 received sentences longer than two years. In many cases (since 1994 nine), sentences of 9-12 years were given for "treason".

More than 700 cases were partially suspended in lieu of monetary fines up to 100,000 German marks. The prosecuting authorities of the Federal Republic of Germany point to the large number of suspensions of processes due to lack of proof or minimal responsibility; that is, to the relatively high proportion of suspended sentences, in order to prove their "humanitarian stance" toward the prosecution of espionage for the GDR. They are silent, however, about the burdens which resulted for the accused, their family members, and the witnesses who were exposed to police and prosecutorial investigations, and about the social and financial burdens which arose due to court and attorney costs.

The criminal prosecution for intelligence activities on behalf of the GDR is classified with a general group of prosecutions of so-called government and reunification crimes, for which a special prosecutor as well as a special police apparatus was formed. Through these special government agencies, more than 100,000 people were processed. The central processing authorities introduced approximately 23,000 such cases and in each of the new federal states, the number of preliminary proceedings was about 20,000 to 30,000; that is, an overall figure for the GDR of at least 150,000 preliminary proceedings. The treatment of MfS employees and agents of the MfS was a significant chapter in the process of incorporation of the GDR the FRG.

The reunification treaty of August 31, 1990 (Document 1, Chapter XIX, Paragraph III, Number 5) contains a regulation for special terminations of employment of individuals in public service. In addition to charges of violating basic human principles and constitutional law, a further and more important justification for special terminations of employees was if "they had been active in respect to the former MfS". If so, "the termination of employment is not unreasonable." Demands for a case by case exami-

nation were consistently ignored and *a priori* every activity for the MfS was used as grounds for termination. This led to thousands of terminations, all the way from employees in transportation services, city sanitation, and landlords, to porters in schools and museums and janitorial workers in health care institutions. A large number of highly qualified colleagues in these subordinate positions of the MfS were terminated, true to the motto of the changing GDR: "Put Stasi to work" (Editor note: *Stasi*, State Security Services).

Specific forms of isolation and discrimination toward former agents of the Ministry of State Security occurred as a result of the activities of the "Federal Office in Charge of the Documents of the State Security Service of the former GDR" (an agency which was called the Gauck-office, after its director, Hans-Joachim Gauck, a former pastor in Rostock). This agency acted as a tool of war in order to continue the cold war by abusing the files and reservoirs of the Ministry of State Security. The subordination of this agency to the Federal Ministry of the Interior is undemocratic, and violates the will of the last Peoples' Chamber of the GDR, which intended, after motions for the establishment of such an agency were passed, that it be subservient to an organ controlled by Parliament. Meanwhile, this agency grew to over 3,000 employees and a yearly budget of approximately 250 million marks. A particularly critical evaluation must be given to the dubious "professional activities" of the Gauck office, due to its politically motivated "pre-arrangement" of the available documents and the corresponding "judgements" on these materials. These evaluations and judgements were utilised as political instruments within the context of the already cited "de-legitimisation" of the GDR, and affected leading personalities of the left wing parties in Germany, e.g., the fraction chairman of the Party of Democratic Socialism, Dr. Gregor Gysi.

The unrestrained access enjoyed by the wealthy media institutions and some representatives of the former civilian movements to the "Gauck - Office" documents permitted the targeted abuse of selected materials for political purposes. This serves to continually inflame public opinion and leads - as in many other cases - to a reversal of the burden of proof for those affected; after their public defamation, they are then expected to prove their innocence.

After the Federal Constitutional Court prohibited criminal prosecution of the head officials of the news service of the GDR for espionage, the Federal Courts were forced to suspend the six-year prison sentence they had already imposed on me in 1993. The seven months long first process conducted against me in Dusseldorf was a complete sham, since it was initiated at a time when other courts had suspended similar trials and when the con-

stitutional courts were investigating their legitimacy. Certain of my defence motions were rejected. So that the criminal prosecution would not have to be abandoned after the forced suspension of the sentence, the case was sent back to the same court wherein the first unconstitutional judgement had been passed. The second trial, which lasted until May of 1997, was a true farce. This time, charges were filed for "deprivation of freedom" in three of the cases which dated back to the 1950s, in order to reach a completely absurd verdict based on GDR laws, by which the valid superannuating could be ignored. These cases were on such slippery ground that even a high official of the Operations Directorate of the Central Intelligence Agency reacted in a letter to me, and I used his quote in my final summation: "The 'kidnapping' charge, as presented by the authorities, is laughable – any of us who were engaged in espionage during the Cold War could be charged with the same ridiculous accusation." The sentence which was brought after the five-month long trial was two years probation, which meant a bitter defeat for the accusers. I could forget this sentence and the years that were robbed from me and my family were it not for the criminal prosecutions and violations of the constitutional principle of "equality before the law" which continue to this day, and for whose discontinuation I argued in my final summary and still argue.

The FRG officials have enthusiastically rehabilitated - claiming unjust political harassment - and provided generous compensations to properly and constitutionally sentenced spies, agents, "handlers", and terrorists - including criminals - who were charged during the 40-year existence of the GDR. The Constitution of the FRG (Article 3, "equality before the law") which is a recognised norm of international law, has thereby been violated in the most profound manner. Criminal prosecutions which are to be found in every sovereign state are now subject to political evaluations (espionage for the West is good and to be valued; espionage for the East is bad and to be punished).

Political gesture needed to remove vestiges of Cold War

Ten years after German state unification, the criminal prosecution of agents of GDR foreign intelligence continues, and there are still instances of social degradation in the area of pensions, chronic unemployment, and clear material penalties. However, this does not apply only to Germany. In the USA and other NATO states, people accused of having had contacts with GDR foreign intelligence are being persecuted. Many of the prime agents of my service are serving inhumanely high sentences in the USA. One example is the Turkish citizen Hussein Yildirim, who was sentenced to life imprisonment without the possibility of parole. He has

already served eleven years for an act which countless American agents committed in our state. These American agents of the Cold War are all free. In another case involving a very high sentence, the American secret services illegally kidnapped in 1991 a former member of the US Army, James Carney, who was then living in Germany, returned him to the USA, and sentenced him to a more than thirty-year term of imprisonment. This was a true case of kidnapping, in contrast to the cases attributed to me!

During my time at the head of the service, we were successful in every case in freeing arrested officers and agents through exchange operations. The large number of Western agents arrested in the GDR made this possible. It was in part a very complicated "ring action" in which attorneys, above all from the GDR, FRG and the USA, were involved. We are now deprived of this possibility and, therefore, the only opportunity to rid myself of this moral burden is to appeal to the American colleagues, – we are still bound by mutual respect and with some, even a new friendship has developed – to the American public, and the American President, to close this not yet concluded chapter of the Cold War. The President of the USA would lose nothing by pardoning the 72-year-old Turkish citizen, Yildirim; in fact, he would benefit by making this humanitarian gesture.

The thousands of men and women who have experienced massive violations of basic principles of democracy and constitutionality due to the way they, as former employees of the ministry or agents, have been handled in the FRG, will not easily overcome these violations. This state of affairs also contributes to the ongoing lack of German "inner unity" which the political public deplors.

The former leaders of the Foreign Intelligence Department of the GDR, as well as the former head of the Military Reconnaissance of the National People's Army of the GDR, therefore took the opportunity, on the occasion of the tenth anniversary of German reunification, to send a letter to the German Federal President, Johannes Rau, and once more call attention to the necessity to implement the "equality before the law" regulations of our Constitution in reference to the colleagues and sources of the foreign intelligence services of the GDR. The letter summed up with the following:

"In view of the historical roots of the rivalry between the two Germans, as well as the cessation of the East West confrontation, could not a political gesture be made which would put an end to the criminal prosecutions and social isolation in order to promote a spirit of reconciliation?"

"We ask you, Honorable Mr. President, to use your high offices in the realisation of this gesture."

Such an act by the Federal Republic of Germany could be an incentive for other countries, particularly the USA, to remove the vestiges of the Cold War dating from the time of the bloc confrontation. It would serve at the same time to inhibit the continuation of the Cold War in other forms, so that a more tolerant relationship between the states and peoples can be effected in the future.