

# Humanitarian Cooperation Between Russia and Germany: Leading Historical Roots of Modern Problems of Legal Regulation

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**Abstract** This paper is devoted to the search for historical preconditions of leading modern problems of legal and social cooperation between Russia and Germany. The methodological basis of the research is the dialectical method of cognition of phenomena in interrelation and mutual conditionality using a set of general and private scientific methods of cognition of the surrounding reality, including the historical method; the method of actualization; formal-logical and other methods.

The paper recreates the history of humanitarian cooperation between the USSR and the GDR, shows the dynamics of its international legal regulation, reveals the problems of succession in the unification of East and West Germany, which in General affected the current state of legal cooperation between Russia and Germany. It is revealed that East Germany, following the example and under the influence of the USSR, clearly adhered to the Marxist ideology, the social and political life of the country was built on the Soviet model, which contributed to close cooperation between the two countries in various directions. In particular, the countries had a detailed legal framework for trade, social and legal cooperation. For its implementation, they identified the relevant Central competent authorities, which could communicate on their competence directly (trade missions, ministries of justice, etc.). Moreover, it reveals the problem of insufficient international legal regulation of cooperation between Russia and Germany on legal assistance at the present stage.

**Keywords:** *humanitarian cooperation, leading roots, legal regulation, Russia, Germany*

## 1 Introduction

An exceptionally long history of cooperation links Russia and Germany. Diplomatic relations between the countries were interrupted from 1917 to 1922, as well as during the WWII. According to its results, the territory of Nazi Germany was divided into occupation zones. In 1949, a socialist state – the German Democratic Republic (East Germany) - was established on the territory of the Soviet occupation zone, which existed for four decades. In the territories of the American, British and French occupation zones, the Federal Republic of Germany (West Germany) was formed. Before unification with Germany in 1990, the GDR was the main partner of the Soviet Union in all spheres of social and political life (military, trade, economic, scientific and technical). Within the framework of the Warsaw Pact and the mutual economic assistance Council, the GDR received significant financial and resource assistance from the USSR. It had, first, reputational value in the conditions of opposition of East and West Germany, two systems – socialist and capitalist. The USSR and the GDR, in addition to military Alliance, actively cooperated in the humanitarian sphere, had several bilateral agreements on cooperation on social security, education, international legal assistance in civil, family and criminal cases. However, in relations between Russia and Germany, these areas of bilateral cooperation do not have proper international legal regulation. In total, 41 years in the international arena there was a sovereign state-the German Democratic Republic (GDR). Today, the younger generation knows only one Germany-Germany, a strong social and economic state, a leader among European countries, a recognized authority in world politics.

However, older people undoubtedly remember the years when the world was divided into two rival and often openly hostile camps – the socialist and the capitalist. Remember the socialist state of East Germany (GDR) - a reliable partner of the USSR.

Relations between Russia and Germany have a long history. Even in the middle ages, the Muscovite state had active trade relations with the Holy Roman Empire, which was based on the German lands. Diplomatic relations between Russia and Germany lasted for more than four centuries, until they were interrupted in 1917 as a result of the October revolution.

On April 16, 1922, the RSFSR and the Weimar Republic signed the Treaty of Rapallo and diplomatic relations were restored in full.

By the end of the 1920s, the Soviet Union, in the Wake of the intensification of diplomatic relations, had concluded more than forty international treaties regulating various aspects of relations between States (peace, trade, navigation, etc.). These treaties have become the basis of inter-state humanitarian cooperation for many years. Relations between the USSR and Germany also actively developed. Their humanitarian cooperation was based on the Treaty of friendship and military neutrality of April 24, 1926, the agreement on inheritance of October 30, 1926, The agreement on settlement and General legal protection of October 30, 1926. The rise of the Nazis to power in Germany in 1933 led to a change of orientation in Soviet foreign policy. The main task of Soviet diplomacy was to create an anti-Hitler coalition. Humanitarian cooperation between the USSR and Germany was terminated.

Historians have comprehensively studied the pre-war period and the years of WW II. It is quite clear that it is not necessary to talk about humanitarian cooperation between the USSR and Germany at this historical stage. The situation changed radically in 1945.

Today, Germany and the Russian Federation are United by many bilateral agreements on cooperation in various fields. At the same time, there are still no bilateral agreements on legal assistance in civil, family and criminal cases, social security, recognition and equivalence of diplomas between Russia and Germany. The provision of international legal assistance in civil and family matters between countries is carried out in accordance with the provisions of the universal conventions adopted by the Hague conference on private international law, in criminal cases - the European Convention on mutual legal assistance in criminal cases, which, of course, cannot reflect all the historical features and nuances of bilateral interstate cooperation.

In this paper, we show that the main reason for this is the lack of succession to the international obligations of the GDR in the unification of East and West Germany. Germany has not accepted the international obligations of the GDR. As a result, to date, there are no bilateral agreements between Russia and Germany on legal assistance in civil, family and criminal cases, on cooperation in the social sphere, on mutual recognition of educational documents. Germany did not become a legal successor to the GDR's international legal obligations, including the provision of legal assistance in civil, family and criminal cases.

## **2. Education of the GDR**

The vector of development of legal regulation of interstate relations changed dramatically in 1945, when a new world order was formed in the international arena under the auspices of the UN. It is based on the universally recognized principles and norms of international law enshrined in the UN Charter as new standards of international relations.

The USSR became one of the leading world powers. His priority in foreign policy was cooperation with foreign countries of different political systems. In this historical period, the basis of cooperation were bilateral treaties of friendship, cooperation and mutual assistance, consular conventions, trade treaties. Such treaties, in particular, were concluded during 1945-1947 with the countries of "people's democracy" Yugoslavia, Poland, Romania, Czechoslovakia, etc. (in the following years they formed the backbone of the socialist camp), as well as with a number of capitalist States, including former allies of Nazi Germany.

At the end of World War II, Germany and the GDR did not yet exist. The territory of Germany was divided into occupation zones. Each occupying power received a part of the capital Berlin.

Wettig writes about the aims of the partition of Germany: "What was to happen to the Soviet occupied part of Germany? According to Stalin's intentions, the conquered countries were not to embark on the path of establishing the dictatorship of the proletariat". Instead, it was about building a "new type of democracy" that was to be completely different from democracy in the West (Wettig 2012).

The Soviet occupation zone included five German lands: Saxony, Thuringia, Mecklenburg, Brandenburg, Saxony-Anhalt. In 1949, on the territory of the Soviet occupation zone, the military administration established local authorities, courts, democratic parties and trade unions. The constitutions of these lands were adopted. The political unification of the five German lands was formalized by the adoption of the Constitution of the German Democratic Republic on May 30, 1949. From that moment on the map of Europe appeared a new socialist state, which began to be called East Germany.

Diplomatic relations between the USSR and the GDR were officially established on October 15, 1949, when the countries exchanged diplomatic missions and trade missions. On this occasion, the statement of the government of the USSR stated: "the Soviet Union establishes with the German Democratic Republic the same relations as with other sovereign States. The German Democratic Republic will be free to decide at its own discretion its internal and external Affairs, including relations with West Germany".

## **3. "In the image and likeness"**

Ziegler in his publication "Leben in der DDR" (2019) writes that the state seized most of the private property and nationalized the economy. Private property (primarily shops and businesses, apartment buildings) passed into state

ownership. At first it was only large enterprises, but with the coming to power of Honecker in 1972, small enterprises were also nationalized (Ziegler 2019).

The leading role in the life of the GDR belonged to the Marxist-Leninist party-the Socialist United party of Germany (SED). It was created by analogy with the CPSU, which led to the socialist orientation in all social transformations of the new state (Grigorieva 2017). SED approved five-year development plans, pursued a course to build socialism.

German researchers of the history of Eastern Germany is celebrating in force in state-building the principle of socialism, total control of the ruling party SED in all spheres of public life (Wolfrum 2009); prosecuting those who did not take the course of the party (Ringelsiep 2019). "Instead of solving various problems and carrying out much-needed reforms, the SED suppressed any contradictions. This could not remain without consequences" (Hoffmann et al. 2018). The black page in the history of their country, the authors call the suppression of the outbreak of June 17, 1953. anti-Communist popular revolt, which covered more than 700 settlements of the GDR. Officially, the revolt was called a fascist coup and brutally suppressed by Soviet tanks. Victims were from both the rebels and the authorities (Buchholz 2018).

East Germans were strongly impressed by the events of the Prague spring, which, as noted in the literature, put an end "simultaneously to the hopes of the people of the entire Eastern bloc for the reforms of the Communist dictatorships" (Grünbaum et al. 2019).

At the same time, some German authors on the wave of nostalgia for the socialist past note positive aspects: free housing, compatibility of profession and upbringing of children, quality of education (Mählert 2017; Grashoff 2019; Oster 2019; or Schröter 2018).

#### **4. Humanitarian cooperation of the USSR and the GDR**

Relations between the USSR and the GDR from the very beginning were built on the ideas of socialist internationalism, friendship and cooperation. The countries have concluded a number of bilateral treaties, establishing partnerships in a variety of areas. For the GDR, the priority was economic cooperation and trade relations with the USSR, as it was forced to build foreign economic relations almost from scratch in the conditions of the blockade by the Western powers.

Thus, based on the agreement on trade turnover and payments between the USSR and the GDR of April 12, 1950, various types of raw materials for the branches of the German economy were supplied from the USSR. The Agreement noted: "Guided by the desire to promote the economic development of both countries and to create closer and stronger friendly relations between the two peoples by the expansion and deepening of mutual trade relations, the parties agreed on a significant increase in trade turnover in 1950, which will increase by more than 35 % compared to the turnover in 1949".

In May 1950, the countries signed the Protocol on Soviet joint stock companies in Germany, according to which 23 of the largest enterprises of Soviet joint stock companies were transferred to the ownership of the GDR Government. As an example, here are some provisions of the Protocol on activities in the GDR of the Soviet state joint stock company "Wismut". Thus, the Soviet side donated to the government of the GDR all the real estate created during the period of activity of the branch of the joint-stock company (office and industrial buildings, structures, houses, etc.). The Soviet Union also undertook to provide an improved supply of food and industrial goods to the workers of the "Wismut" society, to pay them increased wages, to expand the network of the "Wismut" society's property (including hospitals, sanatoriums, rest houses, leisure institutions) intended for the needs of the bismuth society's workers in Germany. For its part, the GDR undertook to provide land for the construction of these facilities.

In the following years, the USSR and the GDR concluded a number of agreements on the supply of certain types of goods, mainly produced in the Soviet Union agricultural machinery, equipment for industry, food, loans.

Cooperation between the USSR and the GDR in the framework of bilateral economic agreements paved the way for the opening of the Soviet trade mission in Berlin in 1953. The legal status of the Trade representation was fixed by the Treaty on trade and navigation between the USSR and the GDR of September 27, 1957. Thus, article 13 of the Treaty established that "each of the Contracting Parties may have in the capital of the other Contracting Party its commercial Representation, the legal position of which will be determined by the provisions of the Annex to this Treaty, which constitutes an integral part thereof".

Accordingly, in the USSR was opened trade representation of the GDR. The trade missions of the GDR and the USSR were entrusted with the following functions: development of trade relations between both States; representation of the interests of their state in the field of foreign trade; regulation and implementation of foreign trade operations on behalf of their government.

The Treaty also defined the issues of jurisdiction over foreign trade transactions of the USSR and the GDR. Disputes on foreign trade transactions concluded or guaranteed by a Trade representative office were considered in the courts of this state, unless otherwise provided by the arbitration agreement. It is characteristic that the

Contract did not allow the issuance of court decisions on the procedural support of such claims, and enforcement of court decisions that entered into force was possible only in respect of goods and debt claims of the trade Mission.

The scale of cooperation with the GDR necessitated the establishment in 1955 of trade Mission offices in Leipzig, Magdeburg and Rostock.

A significant contractual basis for cooperation between the USSR and the GDR was extremely important against the background of the growing militarization of Germany under the influence of the Western powers and its high economic growth.

By the early 1960s, the economic lag between East Germany and West Germany had become apparent. The economy of the GDR was built on the Soviet scheme (industrialization, collective and state farms, planning, low wages). In turn, the German economy was characterized by market mechanisms (freedom of competition with simultaneous freedom of business and private entrepreneurship) and social guidelines (high standard of living). This difference in the structure of society led to the mass flight of East Germans to West Berlin. Construction in 1961 The Berlin wall should have prevented this.

In the post-war years, the protection of hereditary and marital rights of citizens of the USSR and the GDR became particularly relevant. The reasons for this were the processes of non-refoulement of thousands of prisoners of war and persons forcibly deported during the war to work in Germany, the presence on the territory of the Soviet Union captured German soldiers and officers, active economic and cultural integration of the countries of people's democracy at the beginning of dividing the world into two warring camps. The process of population movement from the USSR to the GDR and back necessitated the settlement of mutual obligations for social and legal cooperation.

On May 24, 1960 the USSR and the GDR signed an Agreement on cooperation in the field of social security. Under this Treaty, Soviet citizens permanently residing in the GDR and GDR citizens permanently residing in the USSR were fully equated with national citizens in matters of labour rights and social security. All pensions (for old age, loss of breadwinner, etc.) and benefits (for temporary disability, pregnancy and childbirth, for the birth of a child, maintenance and upbringing of children, etc.) were subject to payment. For this purpose, work experience, including preferential, was fully counted. A pensioner who moved to another country was granted a pension and benefits in accordance with the legislation of the country of new residence. The Treaty also provided for the provision of medical care to resettled citizens in the same amount as to their own citizens.

For the execution of this Agreement, the cooperation of the social security bodies of the USSR and the GDR was established, which could communicate directly with each other. The provision of legal assistance on social security for citizens was free of charge.

The high degree of protection of social rights of citizens of both States is also characterized by the lack of legalization of official documents necessary for the calculation of pensions and benefits, which were issued by both countries.

Humanitarian cooperation between the USSR and the GDR was continued in the following years. The Treaty on friendship, cooperation and mutual assistance of October 7, 1975 was dedicated to the expansion and strengthening of mutually beneficial bilateral economic, scientific and technical cooperation. the Countries pledged to "develop broad ties" in the field of science and culture, education, literature and art, press, radio, film and television, health, environmental protection, tourism, sports, that is, in a variety of humanitarian areas. In addition, the countries agreed in the Treaty a number of provisions on military cooperation and mutual assistance in the event of an attack on one of the countries. In General, this Agreement can be described as a framework that enshrines the intention of cooperation. The Treaty did not contain details and procedures for cooperation in one direction or another, which, of course, suggested the need to develop narrowly sectoral bilateral treaties.

On November 28, 1957, the USSR and the GDR signed an Agreement on legal assistance in civil, family and criminal cases. On 19 September 1979 it entered into a new similar Agreement.

It should be noted that the expansion within the socialist camp of foreign trade, scientific, technical, cultural and personal ties made it possible to cooperate on legal issues in the absence of direct reference to it in the bilateral Treaty, due to the existing friendly relations between these countries.

However, fixing the nuances of cooperation of the USSR in the 1950s and 1960s concluded dozens of bilateral agreements on legal assistance in civil, family and criminal cases with countries of different political orientation. Many of these treaties are still in force.

The Soviet-German treaties on legal assistance in civil, family and criminal cases of 1957 and 1979 were elaborated in detail in terms of legal technique:

- the goals and procedure of such cooperation were defined;
- the amount of legal assistance mutually provided by States, which was limited, in fact, only by the norms of existing national legislation;
- the form and content of the order for legal assistance, the procedure for its execution and the exhaustive grounds for refusal to perform;
- the inviolability of the participants of the process summoned to another state was guaranteed;

- issues of personal status of individuals and legal entities; form of transactions; compensation of harm; personal and property legal relations of spouses; legal relations of parents and children; issues of inheritance proceedings; problems of recognition and execution of court decisions; extradition of criminals; issues of criminal prosecution, etc.

The Ministry of justice of the USSR and the Ministry of justice of the GDR adopted a set of instructions, information letters and other local acts that regulated the procedures for the implementation of bilateral treaties and agreements on legal assistance in civil, family and criminal cases.

It should be noted that the Soviet Union cooperated with Germany on international legal assistance based on the Hague Convention on civil procedure dated by March 1, 1954.

## 5. Accession of the GDR to Germany

It is a common knowledge that various options for the unification of East and West Germany have been discussed since the 1950s (Haas 1958). On August 31, 1990 in Berlin, German interior Minister Wolfgang Schaueble and parliamentary state Secretary to the Prime Minister of the GDR Gunther Krause signed a Treaty establishing German unity between the Federal Republic of Germany and the German Democratic Republic. The unification Treaty provided for reunification based on the mechanism of accession of the GDR to Germany according to article 23 of the Constitution of the latter. "The peaceful overcoming of the second dictatorship of Germany in the autumn of 1989" is called by researchers the restoration of German unity (Eppelmann et al. 2003).

The unification Treaty provided for the operation of the legal norms of Germany in the annexed territory. GDR legislation has lost its legal force. At the same time, the GDR's international legal obligations, including those enshrined in the bilateral treaties with the USSR studied above, also lost their force.

The trade mission of the USSR in the GDR and the Bureau of Soviet foreign trade associations in the Western sectors of Berlin were liquidated. Then the offices of the trade Mission in Leipzig, Magdeburg and Rostock were liquidated. Based on the former trade Mission in Berlin, a branch of the trade Mission of the USSR in Germany was established, whose activities were extended to the whole of Berlin. In early 1992, the trade mission of the USSR in Germany was renamed the trade mission of the Russian Federation in Germany with its seat in Cologne.

In 1999, Germany unilaterally denounced the 1958 Agreement on General issues of trade and navigation between the USSR and Germany (the agreement remained in force until December 2000).

On October 3, 1990, the Russian foreign Ministry informed about the termination of The Treaty between the USSR and the GDR on legal assistance in civil, family and criminal cases of 1979 and the Treaty between the USSR and the GDR on cooperation in the field of social security of 1960.

## 6. Conclusions

Today in Germany, the history of the country's life, including the events, achievements and shortcomings of the socialist period, is actively studied. Research is conducted at the Institute of historical Sciences at the Humboldt University of Berlin, which is one of the most solid historical and scientific sites of the country. In modern Germany, the study of the history of the country and any field of knowledge is considered necessary, because it helps to gain spiritual independence, to cover "a wide panorama of how different people and cultures can be".

In modern Russia, a lot of historical and legal studies are also conducted, which allow us to identify the historical roots of many modern problems of relations between States, the role of their leaders in regulating these problems.

This paper partly fills a gap in the history of Soviet-German cooperation in the legal and social spheres, reveals the problems of succession of international legal obligations of the GDR upon accession to the Federal Republic of Germany. In turn, this allows us to understand the reasons for the lack of a bilateral contractual framework for legal assistance between Russia and Germany.

Humanitarian cooperation between the USSR and the GDR was carried out based on bilateral treaties. The dynamics of the contractual base of the USSR and the GDR on trade and social cooperation, international legal assistance in civil, family and criminal cases is shown. The treaties of the USSR and the GDR clearly testify to the friendly, partnership and mutually beneficial relations between the two States, based on the ideas of socialism and Marxism. The agreements were carefully worked out in technical and legal terms; they regulated in detail the widest range of issues of trade, social and legal cooperation; we determined the legal status of the competent authorities authorized to implement such interstate cooperation in practice.

The multifaceted cooperation of the countries was because social life and planned economy in the GDR were built on the Soviet ideological model, which was planted in the countries of the "socialist camp". In East Germany, for example, the *Zeitschrift für Geschichtswissenschaft* (currently published) was published monthly. It is noted that its purpose was to educate East Germans in the spirit of Marxist-Leninist ideas, leaving no room

for deviations from the relevant party line of the SED. The content of the journal was permeated by the global Sovietization of public life in the country in General and science (Wolfrum 2001).

As a result of the accession of the GDR to Germany in 1990, bilateral international agreements on cooperation with the USSR ceased to operate. Germany has not accepted the international obligations of the GDR. As a result, many humanitarian spheres of relations between Russia and Germany, including educational, social and legal, do not have proper international legal regulation. This situation does not contribute to the effective protection of the rights and legitimate interests of citizens of both States.

Today, Germany and Russia have signed many bilateral agreements in various areas of cooperation. However, the Treaty on legal assistance in civil, family and criminal cases between the countries has not yet been concluded. Legal cooperation is carried out within the framework of multilateral conventions adopted by the Hague conference on private international law, including: the Convention on civil procedure of 1 March 1954, the Convention abolishing the requirement for the legalization of foreign official documents of 5 October 1961, the Convention on the service abroad of judicial and extrajudicial documents in civil or commercial cases of 15 November 1965, as well as on the basis of the European Convention on mutual legal assistance in criminal matters of 20 April 1959. and the Convention on the recognition and enforcement of foreign arbitral awards of June 10, 1958. Social cooperation (pensions, benefits, etc.), cooperation in the educational sphere (recognition and equivalence of educational documents, etc.) of Russia and Germany also do not have proper international legal regulation.

These circumstances significantly complicate humanitarian cooperation between Russia and Germany, complicate the protection of the rights of citizens of both countries. In the current situation, we can only hope that the modern leaders of Russia and Germany will be able to find solutions to these problems within the framework of a political dialogue.

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