

Note from the Federal Republic of Germany to the Soviet Union on the situation in Berlin (5 January 1959)

Caption: On 5 January 1959, in a note sent to the Soviet leaders, the West German Government deplores the Soviet Union's proposals regarding a change in the status of Berlin and refutes the accusations made by the USSR against the Federal Republic of Germany.

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Note From the Federal Republic of Germany to the Soviet Union on the Situation in Berlin (5 January 1959)

The Government of the Federal Republic of Germany herewith acknowledges the receipt of the note of the Government of the Union of Soviet Socialist Republics dated 27 November 1958 and dealing with the status of the city of Berlin as well as with the Federal Government's note to the Government of the Union of Soviet Socialist Republics of 17 November 1958. Having duly examined the first-mentioned note, the Government of the Federal Republic of Germany has the honour to communicate the following to the Government of the Union of Soviet Socialist Republics.

I.

In its note the Government of the Soviet Union informed the Federal Government of its intention unilaterally to denounce the Four-Power status of Berlin. While the Federal Government, by virtue of the fact that it is the only freely elected Government of Germany, feels responsible for the fate of the entire German people, it nevertheless does not consider it its business to refute the unilateral action of the Government of the Soviet Union, since the Federal Government is not one of the signatories to the international agreements on which the Four-Power status of Berlin is based.

The Federal Government shares, however, the legal view of the Governments of France, the United Kingdom and the United States to the effect that a unilateral denunciation of the inter-allied agreements concerning Berlin by the Government of the Soviet Union is not admissible and that the information contained in the notes of the Government of the Soviet Union to the three Governments mentioned above can in no way deprive the other contracting parties of their rights or release the Soviet Union from its obligations. The Federal Government furthermore shares the view that the Soviet Government is not entitled to transfer to authorities of the so-called GDR, the powers held by it under occupation law and relating to the presence of Western armed forces in Berlin and to the freedom of access to that city.

The statement made by the Soviet Government that the situation of Berlin gives rise to "general apprehensions," can unfortunately not be contradicted at the present moment. In its assessment of the causes giving rise to these apprehensions, the Federal Government takes, however, an entirely different view from that of the Soviet Government which asserts in its note that the main reason for these apprehensions is that the Governments of France, the United Kingdom and the United States "by abusing the special rights granted under the allied agreements on Germany have isolated the western part of Berlin from the German Democratic Republic by turning West Berlin into a kind of State within a State." The Federal Government fails to understand these assertions. Everyone is able to see for himself at the zonal border near Helmstedt or Marienborn or at the sector border at the Brandenburg Gate or wherever else he likes that it is the police of the Socialist Unity Party regime which cordon off the territory controlled by it from the outside and thus isolate that territory and its population. It will be easy for the Soviet Government to obtain information from its military agencies confirming that so-called death-strips, electrically charged wires, guard towers manned by armed sentries, and similar shut-off devices in Germany are located exclusively east of the Iron Curtain and, in Berlin, solely in the eastern sector. Notwithstanding all the difficulties which these restrictions, tolerated or encouraged by the Soviet Government, on free movement throughout Germany have created for Berlin and its population, there has so far been no reason to entertain in regard to Berlin any apprehensions such as the Soviet Government now conjures up by mentioning the name of "Sarajevo." It is obvious what effect any mention of that name is bound to have: it is bound to create a war psychosis. Only if it is the intention of the Soviet Government to produce this effect can the mentioning of that name in such a context be understood. And only on this assumption can it be understood that the Soviet Government deems it opportune elsewhere in its note to enlarge on the consequences which a war with modern weapons would have in the territory of the Federal Republic.

Any "general apprehensions" that may exist with regard to Berlin are exclusively such as have been caused by these utterances made by the Soviet Government in connection with the announcement of the unilateral denunciation of the Four-Power status of that city. In view of the statements, mentioned above, of the Soviet note, the Federal Government confines itself to calling attention to the remark made by the Soviet

Government itself in its notes addressed to the three Western Powers on 27 November: “Methods of blackmail and reckless threats of force are least opportune in solving such a problem as the Berlin issue. Such methods will not help to settle a single question: they can only aggravate the situation to danger-point.”

It is with astonishment that the Federal Government gathered from the Soviet note of 27 November that the Soviet Government pretends to believe that the western parts of Berlin are in a state of disruption and decline of economic activity — and this especially in comparison with the economic situation in the central German areas. It is surprising indeed that the Soviet Government should publicly uphold such a thesis which is contrary to the reports of innumerable tourists and other visitors to Berlin from all parts of the world, in particular of those who had an opportunity to see both the western and the eastern parts of that city. If Berlin has not, as a result of the partition artificially maintained by the Soviet Union, been separated from its natural outlets, its sources of raw materials, food, and fuel, and even for a time cut off all West German sources of supply, but instead had been able to enjoy the advantages of economic unity with the Federal Republic, the economic rehabilitation of the city would have proceeded more quickly and impressively than has been possible under the prevailing unnatural conditions. The Federal Government must in this connection also draw attention to the continual considerable financial subsidies which were necessary to keep Berlin’s economy functioning under these difficult conditions.

The Federal Government sees no possibility and no reason to make any comment on the activity asserted by the Soviet Government to be carried on by alleged “centres of espionage and diversion” in West Berlin. The Federal Government does not support any such activities. It is, moreover, of the opinion, as is the Senate of Berlin, that West Berlin is not a suitable place for organizations engaging in “espionage or diversive [sic] or subversive activities,” not to mention the forcible abduction of people, a method repeatedly practised on the Communist side.

The Federal Government is at one with the Soviet Government in regretting that no peace treaty has yet been concluded 13 years after the end of the war, that Berlin still has to live under an occupation statute, and that the part of Germany under the domination of the Socialist Unity Party continues to be separated from the other parts of Germany. In comparison, however, with the grave inconveniences caused by the absence of a peace treaty, the division of Germany and the anomalous situation in Berlin, the presence of armed forces of friendly States in Berlin is a fact which in view of the danger caused to Berlin by the aggressive attitude of the authorities of the so-called German Democratic Republic is welcomed by the inhabitants of Berlin as being necessary to protect them from attack. The armed forces of France, Britain, and the United States stationed in West Berlin have been regarded by the population for more than ten years now as a protective power guaranteeing their security and freedom. This was shown in an impressive manner as early as 1948-49 during the blockade.

On 7 December 1958, the people of West Berlin voted in free elections with an overwhelming majority for those parties which unmistakably prefer the present status based on occupation law to any other status maintaining the division of Germany. Altogether 93.1 per cent of the Berliners entitled to vote went to the polls; 1,584,436 persons, i.e., 98.1 per cent of the voters, cast their votes in favour of the democratic parties, while only 1.9 per cent (31,529 Berliners) voted for the Communist Socialist Unity Party. The people of that city themselves have thus unequivocally rejected the proposal for the creation of an allegedly “free” city made by the Soviet Government in its notes of 27 November. This unequivocal election result meets with the unqualified approval of the entire German people. The Federal Government notes that the Soviet Government, too, according to its note of 27 November, advocates the principle “that West Berlin should exist in the manner desired by its people.”

The Soviet proposal for the creation of a so-called “free city” of West Berlin is indeed unacceptable. It would deprive Berlin of any effective protection. Economically and in the field of transport, it would subject West Berlin to the arbitrary action of the regime controlling the so-called German Democratic Republic, a regime in which the Berliners have no confidence and which the Federal Government must refuse to recognize as a state and as a Government. Moreover, the establishment of a “free city” of West Berlin and the recognition, demanded in connection therewith but unacceptable in itself, of the so-called German Democratic Republic as a State would mean that the parts of Germany placed under a Four Power control in

1945 would be divided not only into two but into three separate States; the so-called “free city” would be the third German State. The German people, however, do not want to be partitioned out among three States. They would regard such a splitting up into States as a serious retrograde step. They are therefore firmly determined to preserve their national unity within a single State.

The Federal Government has repeatedly explained to the Soviet Government that it cannot regard the proposal to form a German confederation — a proposal that ignores and would nullify the historical development — as a proposal designed to re-establish the unity of Germany as one State. On the contrary, this proposal seems to be intended to delay indefinitely a genuine reunification of Germany. The combination of the confederation proposal with the proposals to establish a free city of West Berlin, far from improving both proposals, lays them open to even more serious doubts. In the opinion of the Federal Government, the present unnatural situation of Berlin can only be normalized by restoring to Berlin its natural and historic role: to be the capital of a reunited German State. Any intermediate solution would be wrong and pernicious. In the past, too, the creation of so-called “free” or “internationalized” cities has only led to difficulties, tensions and international crises. The Federal Government is convinced that Berlin would only confirm this experience. The participation of the United Nations in an international guarantee for the independence of Berlin would make little difference in this matter. Up to now no Communist country has ever granted to political or military bodies of the United Nations the freedom of movement and action necessary for the accomplishment of their mission. As early as 1952, the Soviet Union rejected the proposal for a supervision of free all-German elections by organs of the United Nations and denied access to East Berlin and the Soviet-occupied zone to a United Nations Commission charged with carrying out preparatory investigations. The Federal Government would furthermore emphatically recall the futile efforts made by the United Nations to obtain access to Hungary at the end of 1956 and early in 1957 for a commission of inquiry set up by the United Nations or for their Secretary-General.

In its note of 27 November 1958, the Soviet Government has enlarged on the Potsdam Agreement of 2 August 1945. It is not a matter for the Federal Government to take a position regarding the interpretation or regarding the question of the continued legal validity of an agreement which was concluded and signed by third parties and in which it did not itself participate as a contracting party. The Federal Government is, however, of the opinion that the Berlin question does not give any cause whatsoever to enter into a legal dispute concerning the continued validity of the Potsdam Agreement since this Agreement obviously does not form the legal basis of Berlin’s Four-Power status. The Federal Government notes that the Soviet Government interprets the Potsdam Agreement to mean that the signatory Powers intended to regard Germany — and by this the Soviet Government in its note obviously means Germany also after the date when the occupation will have ceased — as an economic unit. Quite apart from the legal significance of the Potsdam Agreement the Federal Government, for its part, considers that the elimination of militarism and national socialism and the organization of national and State activities on a democratic and peaceful basis are the paramount and binding principles of the Federal Republic’s policy — whatever government may be in power. Since the establishment of the Federal Republic in 1949 these principles have been adhered to unswervingly. The Soviet Government is mistaken if it alleges the contrary. The Federal Government has explained this on several occasions. It will not tire of pointing out time and again to the Soviet Government the incorrectness of the latter’s allegations and considers it necessary to reiterate the following:

1. It is untrue that “aggressive militaristic forces” have been activated in the Federal Republic. Is it perhaps the intent of the Soviet Government to quote as proof for its allegation the “creation of a regular Army” in the Federal Republic? Does not a regular army also exist in the Soviet Union as in most other countries of the world? In view of the fighting strength of the armies of the Soviet Union and its allies it seems completely absurd for the Federal Government to be accused of aggressive militarism. The fighting strength of the Federal Forces, which compared with the armies of the Soviet Union and Eastern Bloc States is extremely small, serves no other purpose than to ward off attacks. To accuse the Federal Forces of aggressive intentions is merely stating the opposite of the true state of affairs.

2. It is not clear why the Soviet Government reproaches the Federal Republic for having joined NATO, a “closed military grouping of the Western Powers.” NATO is known to be a regional defence organization conforming to the principles of the United Nations Charter and founded under the impact of the Communist

coup d'état in Prague to ward off the moves made by Communist groups in the satellite States with the support of the Soviet Union. The events having brought about its creation suffice to demonstrate its defensive character. Every member of the Atlantic Defence Organization has a quite particular interest that none of them should, in pursuing their national political aims, take steps that might lead to a warlike conflict. Membership of this organization must therefore exercise a moderating influence. A member State cannot count on the assistance of its allies except if it has been the victim of aggression.

3. The Federal Government does not proclaim a “policy of strength,” as alleged in the Soviet note. In view of the striking difference between the armed forces of the Soviet Union and those of the Federal Republic, such an allegation can only be described as absurd. Furthermore, the Federal Government has solemnly renounced the use of force to achieve its political aims. Naturally, this does not mean that it also renounces the defence of its rights and its freedom.

4. It is absurd to accuse the Federal Government or the German people of “avidly looking towards the East,” or of considering the East as an “object of conquest and profit,” as alleged in the Soviet note. The renunciation of force, mentioned under 3 above, applies in particular to the question of the eastern areas of Germany. Moreover, the Federal Government — apart from its justified desire that a future peace treaty should bring about a just and reasonable settlement of the question of Germany’s eastern frontiers — has no political objectives in the East; it only desires to establish a relationship of good neighbourliness with the nations of eastern Europe. For this very reason, the fact of Soviet expansion towards the West, under way since 1945, which might also be described as the “Soviet westward pressure,” fills the whole German nation with deep anxiety about the future of its national existence and its political freedom.

5. It is not true that the Federal Government — as alleged in the Soviet note to the three Western Powers of 27 November — systematically fans the “cold war.” It is true, on the other hand, that the Federal Republic and its leading statesmen have quite recently been made the target of an obviously systematically directed hate campaign of insinuation and defamation, in which the semi-official Soviet press and even leading statesmen of the Eastern Bloc have taken a prominent part.

6. The language used by the Soviet Government in the same context mentioning the alleged “revengeful feelings” of the German people is wrong and misleading. There is no such feeling in Germany. The German people are just as deeply impressed by the terrible events and destruction of the last war as are, according to the terms of the Soviet note, the peoples of the Soviet Union. They deeply deplore the terrible disaster which has been inflicted on the world by dictators possessing unlimited power unrestrained by any democratic controls. The German people do not nurse any feelings of hatred or revenge towards the peoples of the Soviet Union and, in particular, towards the Russian people. They read, as in the past, the works of the great Russian writers with admiration and have a similar interest in the cultural and humanitarian achievements of the Soviet peoples in other fields. The German people would be happy if cultural exchanges and the cooperation between nations were not time and again rendered difficult, or impossible, by political quarrels.

7. The Federal Government takes this opportunity to repudiate most emphatically the assertion that the Federal Constitutional Court was “influenced” in its judgment against the Communist Party of Germany or acted “unlawfully.”

Unfortunately, it must be said that today there still seem to be countries where even Supreme Courts, instead of being guided by their conscience, obey authoritarian fiats and do not shrink from diverging blatantly from existing laws. The condemnation and execution of political opponents captured in violation of a promise of safe conduct was a sad event which only a few years ago shocked the whole world. As is known, nothing like that could happen in the Federal Republic of Germany. On the contrary, the Federal Republic is one of the democratic States which have learnt from bitter historical experiences of the recent past that even a free State under the rule of law has to safeguard itself against the abuse of its free, democratic order by subversive forces whose aim it is to overthrow that order. It was for this reason that the Federal Constitutional Court banned not only the Communist Party of Germany but also fascist or neo-fascist parties like the “Socialist Reich Party,” and forbade the re-establishment of substitute organizations. The Federal Republic of Germany has given itself a Constitution which is liberal and democratic and which aims at the

preservation of peace. It has pledged itself solemnly by treaty to observe the principles of the United Nations Charter in its foreign policy, and it has done so although it has so far been debarred from becoming a member of the United Nations owing to the division of Germany and the fact that a peace treaty has not yet been concluded. In formulating its actual policies it has strictly adhered to these principles of its Constitution and of the treaties it has concluded. It regrets to have to note, as many times before, that in the so-called GDR there can still be no question of a free, democratic, constitutional order. Although the leading functionaries of the regime there continue to reiterate their devotion to the requirements of the Potsdam Agreement, these declamations will never mislead anyone who knows the true state of affairs. In connection with the allegation made by the Soviet Government that the recent elections to the People's Chamber and the district diets were proof that the German population east of the Iron Curtain had the opportunity to express their wishes in a genuinely democratic manner, the following comment must be made: The procedure prescribed for these "elections" offered no possibility at all to the electorate to vote for any candidates other than those of the so-called "Nationale Front," selected by the Socialist Unity Party. Thus, all the electors who went to the polls had no choice but to vote for the single list and the candidates on it. In order, however, to give these proceedings of compulsion a democratic touch, the Socialist Unity Party leaders decided — evidently they had learned a few things from Hitler's methods — to "tone down" the 100 per cent. affirmative vote and be content with 99.5 per cent. In doing so, they did not even take the trouble to try to explain away the fact that this election procedure did not permit anybody — and therefore not even 0.5 per cent. of the electorate — to vote against the single list. In every truly democratic country people know what to think of such election results.

II.

A few paragraphs of the Soviet note of 27 November deal with the resolution adopted unanimously by the German Bundestag on 2 July 1958 proposing the setting-up of a Four-Power Group, and with the note of the Federal Government of 17 November 1958 making detailed proposals for the definition of the subject to be discussed within that Group. The Federal Government assumes that the few sentences dealing with its note of 17 November are not intended as a final answer to that note. It regrets that the Soviet Government regards the view held by the Federal Government with regard the tasks of that Group, as "unrealistic." The Federal Government believes that its view is in harmony both with political realities and the existing legal situation. The legal situation of Germany, as it has developed since 1945, leaves no doubt that the Four Powers which in 1945 assumed the supreme authority in Germany bear a responsibility in regard to the problems, which are under discussion, of reunification and of a peace treaty with Germany, a responsibility which makes it necessary for them to enter first into negotiations with each other in order to reach agreement. This responsibility was repeatedly acknowledged by the Soviet Government, too, most recently in the Geneva Directive issued by the Four Heads of Government on 23 July 1955. The Federal Government has taken into account this legal situation. This fact finds expression, *inter alia*, in the Convention of 23 October 1954 on Relations between the Federal Republic of Germany and the Three Powers, which states in Article 2: "In view of the international situation which has so far prevented the reunification of Germany and the conclusion of a peace settlement, the Three Powers retain the rights and the responsibilities ... relating to Berlin and to Germany as a whole, including the reunification of Germany and a peace settlement." The Soviet Union, too, has taken this legal situation into account, as, by decision of its Council of Ministers of 20 September 1955, it entrusted its ambassador in East Berlin with the task to "maintain appropriate relations with the United States, United Kingdom and French representatives with regard to issues which relate to Germany as a whole and which result from Four Power decisions."

In its note of 18 October 1955 to the three Western Powers, the Soviet Government explicitly referred to the fact that it had taken into consideration its obligations under existing international arrangements with regard to Germany as a whole. As is known, these arrangements with regard to "Germany as a whole" relate to the problems of reunification and of a peace treaty. As regards the question of reunification, the Federal Government regrets to have to state that the Soviet Government continues to adhere to its well-known confederation proposal which prevents for an indefinite period of time the genuine reunification of Germany in a single State. The opinion of the Federal Government on the question of the conclusion of a peace treaty and the preparation necessary for such a treaty has been dealt with in the Federal Republic's note of 17 November 1958 to the Government of the Soviet Union. The Soviet Government, in its note of

27 November 1958, refers to the provision of the Potsdam Government [*agreement?*] envisaging “a peaceful settlement for Germany.” The Soviet Government does not quote, however, the exact text of that provision, which states that such peaceful settlement should be accepted by the Government of Germany, after a Government has been constituted which is suitable for this purpose.

The acceptance of a peace treaty cannot, however, merely consist in signing the treaty instrument if the treaty is to be anything more than a simple dictatorial fiat. On the assumption of the same readiness on the part of the Government of the Soviet Union, the Federal Government explicitly states that it is ready to renounce any negative restriction of the subjects for negotiation in the Group proposed by it in its note of 17 November. The Federal Government therefore proposed in its note of 17 November 1958, in accordance with the suggestion of the Bundestag, the formation of a Four-Power Group to deal with the question of reunification and with the questions connected with the preparation of a German peace treaty.

The Federal Government reiterates its opinion that the Berlin question can only be solved within the larger context of the German problem as a whole. It points out that the Governments of France, Britain, and the United States have time and again declared their readiness to make the German question as a whole, together with the concomitant problems of security and disarmament, the subject of discussions and negotiations. All these questions are inseparably interrelated. The communiqué of the Atlantic Council of 16 December 1958 reaffirmed this readiness, which is warmly welcomed by the Federal Government.

The Federal Government is convinced that a settlement of the said questions can only be achieved by open and unconditional discussion which must not be prejudiced by demands equivalent to ultimata or by the unilateral denunciation of binding agreements. Having regard to the serious responsibility resting on it as on all the Governments concerned, the Federal Government is for its part prepared to contribute its share to a solution of these problems and thus help secure that peace so greatly hoped for by all nations. That this aspiration has the unanimous approval of the entire German people is proved by both the letter and the spirit of the Bundestag resolution of 2 July 1958 which was transmitted to the Government of the Soviet Union.