# Re-Reading Historic Articles in the ZaöRV: Anniversary Series

# Professor Frowein, German Reunification, and the Tension of Modern Law

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## I. Introduction

When the end came, it came suddenly.

Despite all the political and legal energy – not to mention human spirit – that had been devoted to preserving the dream of German unity over the decades of the Cold War, it nevertheless came as a shock when the East German government fumblingly opened the border for its citizens, precipitating the fall of the Berlin Wall on 9 November 1989.

Germany had been taken apart by war, and for decades its division had been enforced by ideology, law, and a wall. Now, suddenly, Germany would have to be put back together.

In the midst of that complex and delicate political and legal process, the *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht (Heidelberg Journal of International Law)* devoted part of its fifty-first volume to a series of essays responding to this consequential moment. They were

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crowned by a headlining essay from Professor Jochen Abr. Frowein, one of the Max Planck Institute's Directors, Professor of Law at the University of Heidelberg, and one of Germany's foremost scholars of public international law and comparative public law.[1] The other articles in the series treated discrete elements of Germany's still-unfolding reunification: state succession;[2] the relationship between reunification and Europe;[3] the military and security dimensions of these developments;[4] reunification's consequences for Berlin;[5] and transitional justice to be applied to East Germany's former spies.[6] But Frowein's masterful survey mapped the factual and legal terrain, and broadly charted reunification's juristic course. The essay's title was profound, both in its simplicity and scope: 'Germany Reunited'.

This is reflection on a single tesserae in the monumental mosaic of Frowein's career. Still, in light of his recent passing, I hope it might be added to the many comments, the many voices, that will rise in praise of the man and his life's work.

## II. A Witness to Reunification

In the spare and accessible style of an expert in total command of his discipline, and bearing the hallmarks of a seasoned practitioner, Frowein briefed the case for Germany's reunification. Nothing captures Frowein's resounding competence in the matter as well as this understated conclusion: 'The disappearance of a state in the centre of Europe by peaceful means and a free decision of the people concerned is a historic event. It also raises a number of difficult legal issues.'[7] Indeed it does. Frowein's contribution to the collection framed the law of Germany's reunification, offering an expert overview of reunification's complex historical and legal foundations.

Few were in a better position to understand this novel and fast-changing terrain. Decades earlier, Frowein's compact but compelling *Habilitations-*

1 Jochen Abr. Frowein, 'Germany Reunited', HJIL 51 (1991), 333-348.

2 Stefan Oeter, 'German Unification and State Succession', HJIL 51 (1991), 349-383.

3 Thomas Giegerich, 'The European Dimension of German Reunification: East Germany's Integration Into the European Communities', HJIL 51 (1991), 384-450.

4 Torsten Stein, 'External Security and Military Aspects of German Unification', HJIL 51 (1991), 451-469.

5 Günter E. Wilms, The Legal Status of Berlin After the Fall of the Wall and German Reunification, HJIL 51 (1991), 470-493.

6 Gunnar Schuster, Verfassungs- und völkerrechtliche Fragen der Bestrafung von DDR-Spionen nach der Wiedervereinigung Deutschlands, HJIL 51 (1991), 651-682.

7 Frowein, 'Germany Reunited' (n. 1), 345.

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*schrift* theorised the condition, and legal fate, of entities that fulfil the criteria for statehood but nevertheless remain unrecognised as states.[8] There were dramatic examples of this curious species in history, including the Confederate States of America (the secessionist south in America's civil war). But, when the book published in 1968, the burning issue for every German – and basically any state touched by the Cold War (which was all states) – would have been which international law status to attribute to the German Democratic Republic (GDR) (East Germany). The GDR was unquestionably a fully functioning state, with a defined territory, a permanent population, a government, and the proven capacity to engage in foreign relations.[9] Still, as the 1970s began, fewer than 20 countries in the world formally recognised its statehood, and they were confined to the *Ost Bloc* regimes under the gravitational authority of the Soviet Union. Most significantly, the West German *Bundesrepublik* (BRD) refused to regard its eastern sibling as a legitimate state. Under the BRD's 'Hallstein Doctrine', West Germany claimed exclusive representation of the German people and regarded East Germany only as the 'Soviet Occupation Zone'.[10] To unwind the conceptual and practical knot created by semi-states like the GDR, Frowein analysed the actual practice of States, including the condition and legal treatment of the member nations of the British Commonwealth[11] which would lay the legal groundwork for a normalising relations between the BRD and the GDR. This survey led Frowein to the conclusion that some unrecognised entities had nonetheless come to be treated as partial subjects of international law, or '*de facto* regimes'.[12] From the model of the relationship that existed between the United Kingdom (UK) and its former

8 Jochen Abr. Frowein, Das de facto-Regime im Völkerrecht: Eine Untersuchung zur Rechtsstellung 'nichtanerkannter Staaten' und ähnlicher Gebilde (Carl Heymanns 1968); see also for an appraisal of the monograph on the occasion of his 80th birthday, Georg Nolte, 'Faktizität und Subjektivität im Völkerrecht', HJIL 75 (2015), 715-732.

9 See Art. 1 Convention on Rights and Duties of States adopted by the Seventh International Conference of American States of 26 December 1933, LNTS 165 (19) (Montevideo Convention).

10 On the later named 'Hallstein Doctrine' see the Statement of then Chancellor Konrad Adenauer, BTP-2/101, 5644 <https://dserver.bundestag.de/btp/02/02101.pdf>, last access 17 February 2026; Helmut Steinberger, 'Völkerrechtliche Praxis der Bundesrepublik Deutschland im Jahre 1956', HJIL 18 (1957/58), 691-793 (728-730); Thomas D. Grant, 'Hallstein Revisited: Unilateral Enforcement of Regimes of Nonrecognition Since the Two Germanies', Stanford J. Int'l. L. 36 (2000), 221-251 (223-230); Damian P. Horigan, 'The Hallstein Doctrine: A Living Fossil of International Law', Korean Journal of International Law and Comparative Law 30 (2002), 93-112 (99-104).

11 Frowein, *De facto Regime im Völkerrecht* (n. 8), 114.

12 See also Jochen Abr. Frowein, 'De Facto Regime' in: Anne Peters and Rüdiger Wolfrum (eds) *MPEPIL* (online edn, Oxford University Press 2013), para. 2.

colonies in the Commonwealth, for example, Frowein developed the insight that, for the UK, these nations are independent, but not foreign countries. This insight became part of an influential, though not officially published expert report well-known in Bonn's (then, the capital of West Germany) political caste.[13]

From there, it was only a small additional step leading Frowein's comparative law insight to become the inspiration for Chancellor Willy Brandt's frequent insistence that the '*Bundesrepublik und DDR sind füreinander nicht Ausland*'[14] ('The Federal Republic and the GDR are not foreign realms for one another.')

This was not Frowein's only cameo in Brandt's *Ostpolitik*. He accompanied Brandt on the Chancellor's historic visit to Moscow and Warsaw in 1970.[15] Frowein was in the sombre, stunned crowd at the Memorial to the Warsaw Ghetto Uprising when Brandt fell to his knees, producing one of the Cold War's most iconic images.[16] Brandt later explained: 'In the abyss of German history and under the burden of the millions who were murdered, I did what men do when words fail us.'[17]

Frowein's mastery of the law and politics of Germany's division (and eventual reunification) was not just a matter of nostalgia for the Brandt-era. Frowein served a twenty-year term (1973-1993) as a member of the European Commission for Human Rights, the Council of Europe organ that helped pave the way for the eastward expansion of democracy in Europe by articulating human rights standards under the European Convention on Human Rights and, eventually, by facilitating the integration of the former *Ost Bloc* states into the Council of Europe system.

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13 Wolfgang Wagner, Peter Bender, Jochen Abr.Frowein, Dieter Haack, Wilhelm Kewenig and Eberhard Schulz, *Anerkennung der DDR – Die politische und rechtliche Problematik* (Forschungsinstitut der Deutschen Gesellschaft für Auswärtige Politik 1968), 8-16; see for his own account of this episode Jochen Abr. Frowein, 'Der Warschauer Vertrag von 1970 nach 50 Jahren', HJIL 82 (2022), 757-768 (758).

14 See e. g. Verhandlungen des deutschen Bundestages, 6. Wahlperiode, 22. Sitzung vom 14. Januar 1970. Stenographische Berichte, Hrsg. Deutscher Bundestag und Bundesrat, 1970/1971, Bonn, 840-847.

15 See Susanne Kiewitz, 'Expertise im Hintergrund: Das Max-Planck-Institut für ausländisches öffentliches Recht und Völkerrecht feiert sein 100-jähriges Bestehen', (6 June 2024), <https://www.mpg.de/22025111/mpil-100jahrevoelkerrechtlicheberatung>, last access 17 February 2026; see for Frowein's account of his role in Brandt's foreign policy Frowein, 'Warschauer Vertrag' (n. 13).

16 See Alexander Behrens, *"Durfte Brandt knien?" – Der Kniefall und der deutsch-polnische Vertrag* (FES Online Akademie 2011), <https://library.fes.de/pdf-files/akademie/online/08329.pdf>, last access 17 February 2026.

17 Willy Brandt, *Erinnerungen* (Propyläen 1994), 214 (Miller translation).

Equipped with this background, few could more authoritatively and meaningfully summarise the legal and political status of the two Germanys prior to those miraculous moments in the fall of 1989. Frowein explained in his *ZaöRV* essay:

> 'The GDR, however, was not recognized by most Western states until 1972 when the Federal Republic started its "*neue Ostpolitik*." Although the Federal Republic of Germany has always claimed that she had not fully recognized the GDR, with the conclusion of the Treaty on the Basis of Relations of 1972 between the Federal Republic of Germany and the German Democratic Republic the two German states entered into normal state to state relations.'[18]

These were the German halves that would have to be forged into a single whole.

## III. The Doctrine of Reunification

Frowein then proceeded with a factual and legal summary of the 'process of reunification'. He introduced the constitutional bases for reunification under the West German Basic Law, including Articles 23 and 146.[19] He explained that the German-German treaty of 31 August 1990 (Unification Treaty) steered the process into the framework established by Article 23.[20] He concluded that this 'was the only realistic approach [consisting of] a formal accession of the GDR to the Federal Republic of Germany'.[21] Frowein also identified the central components of public international law relevant to the process of reunification. On one hand, this included the Treaty on the Final Settlement with Respect to Germany of 12 September 1990 (Two Plus Four Agreement), which finally resolved World War II in Europe by clearing away the role of the Allies in the still-occupied Germanys and at last granting the Germans full sovereignty.[22] On the other hand, it included East Germans' rights under the public international law principle of self-

18 Frowein, 'Germany Reunited' (n. 1), 335.

19 The pre-1990 version of Article 23 provided: 'This Basic Law shall initially apply in the territory of the Länder Baden-Württemberg, Bavaria, Bremen, Hamburg, Hesse, Lower Saxony, North Rhine-Westphalia, Rhineland-Palatinate, Saarland, and Schleswig-Holstein. It shall be put into force in other parts of Germany after their accession.' The pre-1990 version of Article 146 provided: 'This Basic Law shall cease to be in force on the day on which a constitution freely adopted by the German people takes effect.'

20 Frowein, 'Germany Reunited' (n. 1), 336.

21 Frowein, 'Germany Reunited' (n. 1), 336.

22 Treaty on the Final Settlement with Respect to Germany of the 12 September 1990, U. S.–U. K.–Fr.–U. S. S. R.–E. Ger.–F. R. G., ILM 29 (1990), 1186-1193. See Frowein, Germany Reunited' (n. 1), 338.

determination.[23] Frowein noted that the East Germans expressed this right through the country's first (and only) fully-free democratic elections that were held in the spring of 1990, a process that overwhelmingly credited parties favouring East Germany's rapid move towards reunification with West Germany.[24] Frowein concluded that this international law entitlement required the Allies to permit reunification, with or without the Two Plus Four Agreement.[25]

Frowein then turned his attention to two prominent legal issues implicated by Germany's reunification. He addressed the sensitive question of Germany's borders. Moreover, he addressed the fate of the Allies' rights and responsibilities with respect to Germany.

The Two Plus Four Agreement was meant to categorically settle Germany's borders. Article 1 explains that the territory of United Germany will be the territory of the former West Germany and former East Germany, including Berlin. Then, Article 1 insists that Germany's external borders 'shall be the borders of the Federal Republic of Germany and the German Democratic Republic and shall be definitive from the date on which the present treaty comes into force'.[26] But, at least in formal legal terms, Frowein saw as much uncertainty and ambiguity here as he did clear resolution. For example, he questioned whether Article 1 could, in doctrinal terms, forever freeze Germany's borders. After all, Article 7 of the Two Plus Four Agreement granted reunified Germany its full sovereignty, a competence the country might one day use to negotiate new border treaties with its neighbours.[27] Pushing deeper, Frowein raised questions about the legal integrity of the territorial *status quo* in 1990, especially with respect to Poland's acquisition of pre-war Germany's eastern realms. To the degree that the borders recognised by the Two Plus Four Agreement were a product of the Potsdam Agreement, Frowein wondered about that framework's legality, which may have involved territorial transfers achieved by force, a development that itself flouts international law.[28] Nor was Frowein satisfied that Germany had

23 See Arts 1(2), 55 UN-Charter; Art. 1 International Covenant on Civil and Political Rights; Art. 1 International Covenant on Economic, Social and Cultural Rights; Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in Accordance with the Charter of the United Nations, UNGA Res 2625 of 24 October 1970, A/RES/2625(XXV).

24 Frowein, 'Germany Reunited' (n. 1), 338.

25 Frowein, 'Germany Reunited' (n. 1), 338.

26 Art. 1 Treaty on the Final Settlement with Respect to Germany (n. 22).

27 Treaty on the Final Settlement with Respect to Germany (n. 22). Frowein, 'Germany Reunited' (n. 1), 339 f.

28 Berlin (Potsdam) Conference: Protocol of the Proceedings, 1 August 1945, 3 Bevans 1207. Frowein, 'Germany Reunited' (n. 1), 340.

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incontestably transferred its former, eastern territories in its 1990 treaty with Poland.[29] At best, Frowein found the explanations for the territorial settlement achieved as part of reunification to be 'legally doubtful'.[30] At worst, he found them to be invalid.[31]

The doubts that emerge from Frowein's impressive, formal legal analysis of the borders issue should not be read as an endorsement of the persistent and troubling nationalist impulses that agitate for a restoration of Germany's lost territories or for the return of German expellees to those regions.[32] That is because, despite the concerns he identified, Frowein nevertheless explicitly credited the territorial settlement achieved upon reunification. Even if the doubtful legality of the Potsdam Agreement made the 1990 treaty resolution of the borders the fruit of a poisonous tree,[33] Frowein recognised a number of practical realities that cemented those arrangements. He noted the hardening of these borders that occurred with the post-war recognition of the reconstituted *Ost Bloc* states, including the German Democratic Republic.[34] Reservations about the territorial issue further receded, as a social fact, when the Soviet Union endorsed the Oder-Neisse border between East Germany and Poland.[35] The process continued with the Federal Republic of Germany's recognition of East Germany in 1972.[36] Frowein integrated these political realities in his analysis of the legal situation, insisting that the 1990 border settlement involved a 'recognition of an annexation brought about by im-

29 Treaty Between the Federal Republic of Germany and the Republic of Poland on the Confirmation of the Frontier Between Them of 14 November 1990, 1708 UNTS 467. Frowein, 'Germany Reunited' (n. 1), 341 f.

30 Frowein, 'Germany Reunited' (n. 1), 342.

31 Frowein, 'Germany Reunited' (n. 1), 342.

32 See Peter Polak Springer, Recovered Territory: A German-Polish Conflict Over Land and Culture, 1919-1989 (Springer 2015); Vejas Gabriel Liulevicius, The German Myth of the East: 1800 to the Present (Oxford University Press 2011); Shigeki Sato, 'Territorial Disputes and National Identity in Post-War Germany: The Oder-Neisse Line in Public Discourse', European Journal of Cultural and Political Sociology 1 (2014), 158-179.

33 The 'fruit of the poisonous tree' doctrine was established by the U.S. Supreme Court, which held in *Nardone v. United States* that evidence indirectly acquired following an earlier violation of the Fourth Amendment of the U.S. Constitution may not be used by the prosecution at trial as an extension of the exclusionary rule. See *Nardone v. United States*, 308 U.S. 338 (1939); *Wong Sun v. United States*, 371 U.S. 471 (1963). See also Thomas K. Clancy, *The Fourth Amendment Its History an Interpretation* (Carolina Academic Press 2008), 609-646.

34 Frowein, 'Germany Reunited' (n. 1), 342.

35 I Frowein, 'Germany Reunited' (n. 1), 342. See Art. 1Treaty between the Union of Soviet Socialist Republics and the Polish Republic concerning the State Frontier of 16 August 1945, 10 UNTS 193.

36 Treaty on the Basis of Relations between the Federal Republic of Germany and the German Democratic Republic of 21 December 1972, 1067 UNTS 3.

mediate post-war developments' and concluding that the *status quo* should be accepted in law because it had become 'the basis for the post-war order in Europe'.[37]

Frowein also highlighted some formalistic uncertainty relating to the fate of the Allies' rights and responsibilities following the Two Plus Four Agreement. The very clear text of Article 7 of the Agreement terminated the Allies' rights and responsibilities 'relating to Germany as a whole' and asserted united Germany's 'full sovereignty over its internal and external affairs'.[38] But Frowein wondered whether any of the Allies might have been able to retrain – or reclaim – some authority over Germany despite that agreement. He dismissed that possibility with the conclusion that, regardless of these treaty developments, the Germans had conclusively and comprehensively shrugged off the occupiers' authority through their assertion of their right to self-determination.[39] For Frowein this had a legal, but also a practical, dimension. The Allies' authority in the Germanys, he explained, was 'always conditioned by the [fact of an] absence of a resolution of the German question'.[40] He quoted West German Federal President Richard von Weizsäcker's (reported) practical insight: 'The German question is open as long as the Brandenburg Gate is closed.'[41] Alongside the positivistic legal explanation for the Allies' withdrawal from Germany, Frowein was equally satisfied that the Allies' interests in Germany had been resolved by the *fact* that the Brandenburg Gate had, at last, opened in 1989.

## IV. Between Facts and Norms: The Tension of Modern Law

I draw attention to Frowein's dexterous negotiation of facts *and* norms in his analysis of German reunification because this is the hallmark of the most impactful international law scholarship. Few might understand Frowein and the celebrated critical international law scholar Martti Koskenniemi to be allied in the discipline. But they share a background and scholarly practice that couples academic research with extensive practical experience in international law. As noted earlier, Frowein was a Human Rights Commissioner and a frequent, high-level expert adviser to the German and other European governments. Koskenniemi served for nearly twenty years in the Finnish

37 Frowein, 'Germany Reunited' (n. 1), 342.

38 Treaty on the Final Settlement with Respect to Germany (n. 22); Frowein, 'Germany Reunited' (n. 1), 343 f.

39 Frowein, 'Germany Reunited' (n. 1), 344.

40 Frowein, 'Germany Reunited' (n. 1), 345.

41 Frowein, 'Germany Reunited' (n. 1), 345.

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Diplomatic Services, ultimately as the Director of the International Law Division. He was Finland's counsel before the International Court of Justice in the *Passage through the Great Belt Case (Finland v. Denmark)*.[42] It is this experienced-based and practically-conscious scholarship that distinguishes their work, including Frowein's impressive essay on German reunification.

Both scholars reject the blinkered, formalistic engagement with positive law that too often passes as an understanding of what international law is and how it works. Explaining his resistance to that tradition, Koskenniemi argued that a culture of formalism is a strategic choice and should not become a naïve belief in law's autonomy.[43] The most convincing international law work, Koskenniemi explained, requires a balancing of positivist analysis and realism. 'On the one moment you have to really be a formalist', he said, 'and on the other moment you have to be really culturally embedded in [the law's social reality], to be able to deal with something'.[44] Koskenniemi insisted:

> 'The contrast between instrumentalism and formalism is quite fundamental when seeking to answer the question "what is international law for?" From the instrumental perspective, international law exists to realize the objectives of some dominant part of [international society]; from the formalist perspective it provides a platform to evaluate the behaviour of those in a dominant position. The instrumental perspective highlights the role of law as social-engineering; formalism views it as an interpretive scheme.'[45]

Frowein already demonstrated his understanding of this insight in his *Habilitation* project, in which he forged from the *fact* of semi-statehood and the practice of states an international law *norm* that would account for these *de facto* regimes. He applied his grasp of this 'old tension in modern law' to a continuing assessment of the process of reunification.[46] A year after publishing his *ZaöRV* essay, Frowein published a companion article in the *American Journal of International Law* in order 'to bring before American and other international lawyers the basic facts and issues pertaining to that important event'.[47] The AJIL article tracks the topics and analysis presented in the

42 See ICJ, *Passage through the Great Belt Case* (Finland v. Denmark), order of 10 September 1992, ICJ Reports 1992, 348.

43 See Martti Koskenniemi, *From Apology to Utopia: The Structure of International Legal Argument* (2nd edn, Cambridge University Press 2005), 500-508.

44 Martti Koskenniemi, 'Interview On International Law and the Rise of the Far-Right', Opinio Iuris, 10 December 2018.

45 Martti Koskenniemi, 'What is International Law For?' in: Malcolm Evans (ed.), *International Law* (6th edn, Oxford University Press 2024), 29-52 (40).

46 Koskenniemi, 'Interview' (n. 44).

47 Jochen Abr. Frowein, 'The Reunification of Germany', AJIL 86 (1992), 152-163.

Heidelberg essay. Again, Frowein unproblematically conceded the explanatory and normative limits of the positive law, noting that the border issue raised uncertain legal consequences that were largely resolved by the political act of states' recognition and, eventually, West Germany's acceptance of those conditions in 1972.[48] Frowein portrayed the 1990 treaties as Germany's acknowledgement of these long-settled facts, and not as the formal legal impetus that consecrated reunified Germany's borders.[49]

Responding to the dynamic legal features of reunification, the second article additionally covers issues Frowein did not address in the *ZaöRV* essay, including the legal consequences of reunification for state succession, the European Communities, North Atlantic Treaty Organization (NATO), German nationality, and any claims against Germany for reparations.

## V. Conclusion

As with many other issues in international law and comparative constitutional law, Frowein's work on German reunification became the definitive scholarly commentary concerning one of history's most dramatic and complex cases of international state succession.[50] The *ZaöRV* essay is now canonical, having been cited in a wide range of articles, books, and general surveys of public international law. This record of impact encompasses several distinct subjects of international law, such as the principle of self-determination,[51]

48 Frowein, 'Reunification' (n. 47), 155.

49 Frowein, 'Reunification' (n. 47), 157.

50 See Dirk Ehlers, The German Unification: Background and Prospects, Loy. L. A. Int' l Comp. L. Rev. 15 (1992), 771-811 (773, n. 11); Albrecht Randelzhofer, 'German Unification: Constitutional and International Implications', Mich. J. Int'l L. 13 (1991), 122-143 (123, n. 6); Ineta Ziemele, 'Is the Distinction Between State Continuity and State Succession Reality or Fiction – The Russian Federation, the Federal Republic of Yugoslavia, and Germany', Baltic Yearbook of International Law 1 (2001), 191-222 (209, n. 72); Malcom N. Shaw, 'State Succession Revisited', FYBIL 5 (1994), 34-98 (55, n. 64); Yitzhak Teutsch & Johanna Brigitta Reischer, 'Following Up on the Final Settlement: Germany's Post-Unification Treaties with Poland, the Soviet Union, and the Russian Federation – A Bibliographic Guide', IJIL 21 (1993), 132-153 (149); John O'Brien, *International Law* (Routledge 2001), 607 n. 78; Malcom N. Shaw, *International Law* (9th edn, Cambridge University Press 2021), 842 n. 58 (Continuity and Succession); Konrad G. Bühler, *State Succession and Membership in International Organizations* (Kluwer Law International 2021), 328; Brigitte Stern, 'La succession d'états', RdC 262 (1996), 9-437 (203, nos 318, 329); Jeremy Hill & Michael Wood, 'Law, Diplomacy and German Unification' in: Margaret McGuiness and David Steward (eds), *Research Handbook on Law and Diplomacy* (Edward Elgar 2022), 23-40 (36, n. 71).

51 See Sam Blay, 'Self-Determination: A Reassessment in the Post-Communist Era', Den. J. Int'l L. & Pol'y, 22 (1994), 275-315 (305, n. 66).

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German constitutional law,[52] German territorial issues,[53] questions of statehood and territorial settlement,[54] fisheries issues,[55] and the United Nations (UN) Charter regime.[56] The wide-ranging and continuing reliance on Frowein's work on German reunification justifies its recognition as part of the journal's series marking the Max Planck Institute's 100th anniversary. So does the recent, very regrettable passing of this most impressive figure. This contribution is only a modest glimpse into the qualities of Frowein's broader discipline-defining contributions. Still, in his essay on reunification we see the hallmarks of his career. The text is impressively expert, usefully accessible, and sagely conscious of the way public international law may – or may not – align with geopolitical reality.

Frowein concluded the *AJIL* article looking far-off into Germany's post-reunification future. 'Historians', he explained,

> 'may tell us one day that the process leading to German reunification was brought about by two main factors, the complete integration of the Federal Republic of Germany into Western European institutions, begun by Chancellor Konrad Adenauer, and the opening toward the East, brought about by the so-called Neue Ostpolitik under Chancellor Willy Brandt from 1969 to 1972. Neither of these political moves can be ignored when one analyzes the development of reunification.'

Scholars cannot ignore Frowein's definitive assessment of the political and legal processes of Germany's reunification. And now that he has left us, it must be said that neither can we ignore the sweeping, and hugely impactful career of one of Germany's giants in international and comparative law.

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52 See Matthias Herdegen, 'Unjust Laws, Human Rights, and the German Constitution: Germany's Recent Confrontation with the Past', Colum. J. Transnat'l L. 32 (1995), 591-606 (593, n. 3); Christoph J. Partsch, 'Constitutions and Revolutions: The Impact of Unification and the Constitutions of the Five New German States on the Amendment of the Constitution of the Federal Republic of German', Den. J. Int'l L. & Pol'y 21 (1992), 1-28 (6, n. 41); Jessica Heslop and Joel Roberto, 'Property Rights in Unified Germany: A Constitutional, Comparative, and International Legal Analysis', B. U. Int'l L. J. 11 (1993), 243-298 (248, n. 17).

53 Daniel-Erasmus Kahn, *Die Deutschen Staatsgrenzen: Rechtshistorische Grundlagen*, (Mohr Siebeck 2004), 371 and 706 n. XX (2004).

54 Peter Malanczuk, *Akehurst's Modern Introduction to International Law* (7th edn, Routledge 1997), 161, 167.

55 Malgosia A. Fitzmaurice, 'New Developments in the Legal Regime of Baltic Sea Fisheries', FYBIL 2 (1991), 1-37 (33, n. 69).

56 Irène Couzigou, 'Article 107' in: Bruno Simma, Daniel-Erasmus Khan, Georg Nolte and Andreas Paulus, *The Charter of the United Nations*, (4th edn, Oxford University Press 2024), 2835-2852 (2849, nos 99 f.).