

COMMENTS ON THE MUNICH AGREEMENT IN THE GERMAN PRESS

Otto Kimminich

Numerous comments on the Munich Agreement by prominent experts appeared in the German press in 1964 and 1965, particularly in the Frankfurter Allgemeine Zeitung (FAZ). Only a few of them referred to a partitioning of the Sudeten area between Germany and Czechoslovakia (for example, the letters to the editor by Professor Hall /FAZ of 13 January 1965/ and by Professor Schweitzer /FAZ of 19 January 1965/). In all the other comments, the territorial question was rightly relegated to the background, while the most varied aspects of the legal questions involved were discussed.

An astonishing number of authorities on international law and political law have dealt with the Munich Agreement in recent years. The most important comments were by: Prof. Fritz Münch (FAZ of 1 June 1964), Prof. Hubert Armbruster (Die Welt of 30 September 1964), Prof. Otto Bachof, Prof. Günter Dürig and Prof. Ernst Forsthoff (all FAZ of 17 November 1964), Prof. Friedrich Klein (FAZ of 3 February 1965) and Dr. Kurt Rabl (FAZ of 22 February 1965).

All of these scholars agree that the Munich Agreement was reached in a legally valid fashion. They are in almost as much unanimous agreement that the Munich Agreement could not be successfully used by the Federal German Government to make territorial claims against Czechoslovakia at a peace conference. As to the question of violation of the Munich Agreement by the German occupation of the residual Czechoslovak state in March 1939, opinions are divided. Some writers view this as a clear breach of the agreement, without, to be sure, drawing clear conclusions from this with respect to its present legal status. Others point out that the violation of an international agreement does not necessarily make it void *ab initio*, but merely gives the partner who remains faithful to the treaty the right to abrogate it. The view is also held that the German guarantee obligation could not have arisen in March 1939. Though it is unanimously believed that the occupation of the residual Czechoslovakia was in any case a violation of international law, there is the view that the question of the further validity of the Munich Agreement was not thereby answered, but requires a detailed study according to the rules of treaty law. Reference is made to the problems of the guarantee promise made also by the Western Allies, the abrogation,

the impact of the war, and the Potsdam Declaration on „Germany within the borders of 1937“. It is emphasized that the current relevance of the Munich Agreement is not to be found in territorial questions, but in other controversial legal questions, such as the citizenship of the Sudeten Germans.