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## The Founding of the Human Rights Centre in 1994\*

Eckart Klein

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### I. Founding Idea and Foundation

The specific suggestion to found an institute dedicated to scholarly research and teaching in the field of international human rights protection came from Rolv Ryssdal, President of the European Court of Human Rights in Strasbourg.<sup>1</sup> At an international colloquium on “Human Rights Protection in Europe” (June 3–5, 1992), with which the Law Faculty at the University of Potsdam, newly established after reunification, presented itself to the public<sup>2</sup>, Ryssdal suggested<sup>3</sup> that, precisely because of the recently overcome past in the so-called new

Länder, it made sense to deal more intensively with the topic of human rights, and Potsdam in particular was predestined to do so.<sup>4</sup> Ryssdal was able to refer to a recommendation of the Committee of Ministers of the Council of Europe of 1979, which called on the member states to promote the establishment of research institutions on the subject of human rights, particularly at universities.<sup>5</sup> While this proposal had already been taken up in other countries, there was at that time no corresponding university institution in Germany. The initiative was therefore positively received and attracted the attention of the Ministry of Justice of the Land of Brandenburg in particular, to which the Federal Ministry of Justice also made clear its interest in the establishment of such an institute in Potsdam.<sup>6</sup> The matter entered a new stage with the invitation to teach at the University of Potsdam in September 1992 and my move from the University of Mainz to the newly created Chair of Constitutional Law, International Law and European Law, as it now seemed possible that

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\* This contribution was first published in German: Eckart Klein, ‘Die Gründung des MenschenrechtsZentrums im Jahr 1994’ (2014) MRM 71–77. This translation was done by Dr. Lee Holt, Press and Public Relations Department of the University of Potsdam.

- 1 The Founding Committee of the Law Faculty of the University of Potsdam had already considered the idea of a more intensive consideration of the topic of human rights in very general terms and in this sense had proposed the Human Rights Conference mentioned above; I would like to thank Hon.-Prof. Dr. Bonk, former judge at the Federal Administrative Court (BVerwG), who played an important role in the Founding Committee, for his comments.
- 2 The colloquium was organized by Prof. Dr. Dr. h.c. Rolf Grawert, the founding dean of the Law Faculty, who was instrumental in shaping the first considerations for the establishment of a human rights centre and whom I would also like to thank warmly for his very helpful remarks.
- 3 According to the conference program, the topic of the lecture was “European Human Rights Protection in the Year 2000.”

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4 According to a letter from Prof. Dr. Rolf Grawert to the Brandenburg Ministry of Science, Research and Culture (Mr. Thomann) dated June 22, 1993 (copy available to the author), Ryssdal was supported at the conference by the Federal Minister of Justice, Mrs. Leutheusser-Schnarrenberger, and the Director of Human Rights at the Council of Europe, Dr. Leuprecht.

5 Council of Europe, Committee of Ministers, Recommendation No. R (79) 16 on the Promotion of Human Rights Research in the Member States of the Council of Europe, adopted on September 13, 1979.

6 Letter from MDgt Dr. Meyer-Ladewig (BMJ) to StS Dr. Faupel (Ministry of Justice Brandenburg) dated July 6, 1992 (copy available to the author). The letter states: “I believe that there are good reasons for considering Potsdam as the location for a human rights centre. European human rights protection plays an especially important role for countries in the former Eastern Bloc. Events on human rights issues involv-

the project would receive funding and staff. The establishment of a human rights centre in Potsdam was an essential condition for my acceptance of the appointment.<sup>7</sup> The project was therefore discussed in detail in the course of my negotiations at the levels of the ministry<sup>8</sup>, the university administration<sup>9</sup> and the faculty.<sup>10</sup> The Brandenburg ministries, however, were faced with a simultaneous initiative by the European University Viadrina in Frankfurt/Oder to establish a human rights institute there.<sup>11</sup> I therefore attached particular importance to the fact that the relevant bodies of the University of Potsdam supported the establishment of such an institute. Accordingly, at its meeting on February 17 and 18, 1993, the University's Founding Senate decided to establish an "Affiliated Institute for Human Rights and Minorities" based in Potsdam.<sup>12</sup> How-

ever, Prof. Grawert correctly pointed out in his letter of June 22, 1993, that the decision presupposed that third parties, e.g. an association or a limited liability company, had to be available to operate such an institution, which was not the case.<sup>13</sup> The Law Faculty at Potsdam held a position that was more clearly in favor of the establishment of a human rights centre as a university institute.<sup>14</sup> The matter nevertheless remained open because of the continuing ambitions of Viadrina University. I well remember a sudden call from the dean at the time, Professor Loschelder, in late November or early December 1993, in which he told me: "Herr Klein, things are getting hot!" He was referring to the request of the Ministry of Science, Research and Culture to submit a founding concept for an institution to be established within the shortest possible time; a corresponding request was also addressed to Viadrina.<sup>15</sup> Apparently a decision was to be made now about the institute's location. On December 3, 1993, I presented the Ministry of Science and Justice with a seven-page paper entitled, "Concept for a Human Rights Centre," in which we stated:

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ing the Eastern countries would be meritorious. [...] Potsdam could [...] fulfill a certain bridging function." The Federal Foreign Office was also open to such a project. In a letter to the founding rector of the European University Viadrina, Prof. Dr. Knut Ipsen, and the founding dean of the Law Faculty at the University of Potsdam, Prof. Dr. Rolf Grawert, dated October 16, 1992, StS Dr. Faupel took up the BMJ's suggestion and asked the two addressees of the letter for suggestions regarding the plan to establish a human rights institute in the Land Brandenburg (!).

- 7 See my letters to the Ministry of Science, Research and Culture (Land Brandenburg) of November 5, 1993, and February 24, 1994.
- 8 Minister of Science (Land Brandenburg) Dr. h. c. Hinrich Enderlein (1990–1994), as well as Mr. Krüger and Mr. Brandt.
- 9 Prof. Dr. Rolf Mitzner, founding rector of the University of Potsdam (1991–1995), and registrar Jens Prüß (1991–1994).
- 10 Founding dean Prof. Dr. Rolf Grawert (1991–1993); dean Prof. Dr. Wolfgang Loschelder (1993–1994).
- 11 In a note in the file "Arguments for the founding of the Human Rights Institute in Frankfurt (O)" by Prof. Dr. Alexander v. Brünneck, an argument for locating the institute at the Viadrina University is presented on the grounds that, in Frankfurt an der Oder, "the chances for fruitful contacts between scientists from conventional Western democracies and scientists from Central and Eastern Europe are greatest."
- 12 Resolution GS 26/24 dated February 18, 1993 (12:0:0).

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13 Grawert (footnote 4), 3. See page 1 for the reference to the decision by the Founding Senate.

14 The unanimous decision of the Faculty Council (12th session) of April 21, 1993, states: "The Faculty Council strongly supports the establishment of a 'Central Institute for Human Rights in Germany' as a university institute in Potsdam. The Faculty Council attaches special importance to such a human rights institute for the scholarly profile of the faculty, the university and the state of Brandenburg".

15 Rector Wolfgang Loschelder (1995–2006) referred to the difficulties associated with the settlement of the Human Rights Centre in Potsdam when, in his welcoming address to the colloquium "The European Court of Human Rights – Organisation and Procedure – Reports and Proceedings," which was organized by the Human Rights Centre and the General Secretariat of the Council of Europe in Potsdam on September 19–20, 1997: "I vividly remember the months in which we both [Loschelder, Klein] fought bitterly against fierce competition from other universities to bring the Human Rights Centre to Potsdam." See also Rector Loschelder's welcoming address in Eckart Klein (ed.), *The Duty to Protect and to Ensure Human Rights, Colloquium Potsdam, July 1–3, 1999, MRZ Vol. 8* (Berlin Verlag 2000), 15, 16.

“The Human Rights Centre (MRZ) is intended to provide a permanent focus on human rights that has not been available in Germany to date. It is true that all law faculties today have chairs focusing on international law, whereby the protection of human rights is inevitably part of the teaching and research mandate. Political scientists have also discovered the field of human rights. Of course, the Max Planck Institute for Foreign and Public Law and International Law in Heidelberg also pays considerable attention to the issue of human rights and their protection, not least because some of its directors were or are members of Strasbourg’s human rights organizations. The breadth of the remit of all these institutions, however, does not allow the desired concentration on the stocktaking and development perspectives of human rights, as is necessary and has long existed in other states with institutes specifically dedicated to this task. A German Human Rights Centre therefore not only fits well into this landscape, but also accentuates the friendliness of the Federal Republic of Germany towards international law in this area in particular, the international classification of which Article 1.2 of the Basic Law especially emphasizes: ‘The German people therefore acknowledge inviolable and inalienable human rights as the basis of every community, of peace and of justice in the world.’ Article 2 (3) of the Constitution of Brandenburg expressly confirms this commitment.”

According to the “Concept,” the Human Rights Centre’s work should proceed along three lines of approach:

“(1) from the perspective of *international law*, in which human rights play a revolutionary role;

(2) from the point of view of *European Community law*, in which the fundamental rights applicable there form a constitutional layer common to the Member States;

(3) from the point of view of *state law*, which is given a new dimension by the international human rights obligations themselves and from which conclusions can be drawn.”

Apparently, the concept as presented was persuasive. On December 6, 1993, the Minister of Science, Dr. Enderlein, informed the

deans of the Law Faculties in Potsdam and Frankfurt/Oder of his decision to locate the “Centre for Human Rights” in Potsdam. According to a letter addressed to me by the Ministry of Science on May 11, 1994, there were two main reasons for this:

“on the one hand, ideas and projects were developed in connection with the conference on ‘Human Rights Protection in Europe,’ initiated and chaired by Professor Dr. Grawert at the University of Potsdam in June 1992, which was already planned with this idea in mind; on the other hand, you have at your disposal a nationally and internationally excellently trained expert who works intensively in this field and has the corresponding connections.”

The idea of cooperation with interested colleagues from Viadrina remained open for the time being. However, I soon received signals indicating that there was no longer any interest in institutionalized cooperation after the decision to locate the institute in Potsdam had been made.<sup>16</sup> Thus the Human Rights Centre<sup>17</sup> could officially start its work on July 1, 1994.<sup>18</sup>

16 My letter of May 18, 1994, to Minister of Science Dr. Enderlein, 2.

17 I do not fully remember how we finally arrived at the name „Menschenrechtszentrum“ (Human Rights Centre). In the extensive correspondence of all of the people involved, very different terms appear. I myself mostly used the term human rights centre, also in the “concept” I presented. In a letter to the Ministry of Science on September 8, 1994, I suggested the official designation “Human Rights Centre of the University of Potsdam.” I did not take up the suggestion made by the Ministry to rename it the “Institute for Human Rights.” What was decisive for me was that most of these kinds of institutions abroad are called “Human Rights Centres” or are translated into English. So we stayed with the proposal, “Menschenrechtszentrum.”

18 The certificate of appointment was presented to me on June 30, 1994.



## II. Structure, Placement, Facilities

### 1. Structure and Organization

The Human Rights Centre (MRZ) was initially founded as one of the numerous interdisciplinary centres with which the University of Potsdam wanted to set various current priorities to be dealt with within a certain time frame. However, unlike the eleven other interdisciplinary centres, the MRZ has “from the outset not been a temporary foundation.”<sup>19</sup> This fact was connected on the one hand with the link between the management of the MRZ and my appointment to Potsdam, but on the other hand with the task assigned to the MRZ, which can only be dealt with meaningfully by means of a standing order. It was therefore wise to draw the necessary conclusions from this and to establish the MRZ as a “central scholarly institution” beginning in late 2001.<sup>20</sup> At the same time, however, the possibility was also created to decisively strengthen the interdisciplinary approach, which the MRZ had previously only been able to realize through conference topics in which representatives of other disciplines were also interested (political scientists, philosophers, historians). In 2001, the name was retained in the merger with the „Interdisziplinäres Zentrum für Gerechtigkeitsforschung“ (Interdisciplinary Centre for Justice Research), which was also founded in 1994 and was previously run by Prof. Dr. phil. Leo Montada (University of Trier). This merger not only led to the desired strengthening of the MRZ’s human and financial re-

sources, but also opened up the possibility of placing the management of the centre on a broader interdisciplinary basis. Prof. Dr. phil. Christoph Menke, holder of the Chair of Ethics (Faculty of Philosophy) at the University of Potsdam, became co-director of the Centre in November 2001. According to Article 4 para 1 of the statutes, the MRZ is “managed by two persons (executive committee) who are holders of professorships with a special focus on human rights. The executive committee must include a representative from the law.”

### 2. From Heinestrasse to August-Bebel-Strasse

Still during this period (October 2001), parts of the south wing (ground floor) of the main University building at August-Bebel-Strasse 89 (Griebnitzsee Campus) housing the Law Faculty and the Faculty of Economics and Social Sciences were occupied by the faculties’ library. The MRZ was initially located in the basement of a private residence not far from the Law Faculty, at Heinrich-Heine-Strasse 1. The University had rented the rooms and furnished them<sup>21</sup> so that work could begin there informally in June 1994.<sup>22</sup> The quite idyllic location certainly had its less beautiful downsides. Certain rooms were difficult to heat, but above all it quickly became apparent that the space available was (no longer) generous enough to accommodate the Centre’s rapidly expanding operations. The growing human rights library, but in particular the growth in staff associated with the merger with the Centre for Justice Research, made the move to the rooms formerly occupied by the University Library unavoidable. The MRZ is still headquartered there.

19 According to the Final Report of the Commission for the Evaluation of the Human Rights Centre at the University of Potsdam (June 1999), 10.

20 Article 1 of the MRZ statutes dated November 22, 2001, University of Potsdam – Official Announcements. Rechts- und Verwaltungsvorschriften, no. 8 of 28. December 2001, 170. See also the welcoming address by Rector Loschelder in *MenschenRechtsZentrum der Universität Potsdam* (ed.), *10 Jahre Menschenrechtszentrum 1994–2004, Festakt am 2. Juni 2004* (Universitätsverlag Potsdam 2004) 11, 13f. Regarding the definition of a scientific institution, Article 72 of the Brandenburg Higher Education Act (Law and Ordinance Gazette (GVBl.) I p. 318, last amended 2010 (GVBl. I no. 35 p. 1)).

21 Of course, blinds and lamps were still missing as well as the necessary technical equipment (e.g. a fax machine), which took some time to procure.

22 In the winter semester 1993/94 and the summer semester 1994, I had already taken over the duties of the chair in Potsdam in addition to my continuing teaching activities in Mainz.

### 3. *Facilities*

The aforementioned "Concept of the Human Rights Centre" presented in December 1993 provided, in addition to the director (holder of the Chair of Constitutional, International and European Law) for the start-up phase, "at least five positions (BAT II) for academic staff" and "at least two student assistants (19 hours each per week)" as well as "two full-time typists with foreign language skills (English/French and Eastern European languages)." This admittedly far-reaching idea could not be realized. The first annual report submitted by the MRZ in 1994 notes that, in addition to the director's position, the MRZ has a full scientific staff position (Assessor Norman Weiß), a scientific assistant/half position (Patrick von Braunmühl), a student assistant/half position (Dirk Engel) and a secretary/half position (Nadica Markovica). Despite the fact that staffing levels remained far below our expectations, the MRZ was not only able to take up the work thanks to the unusually great commitment and enthusiasm of the participants; it was also able to draw attention to itself with its initial findings. Professor Dr. Norman Weiß deserves special mentions; as in the early days, he continues today to stimulate and enrich the activities of the MRZ, while also serving as a decisive pillar of the Centre through his "institutional memory" and his knowledge of internal affairs. The modest staffing level was doubled by the merger with the Justice Centre, but the number of positions was increased again and again by third-party funds, by the MRZ's participation in legal clerkships, and by interns.

The financial resources, independent of personnel costs, initially (1994) amounted to DM 20,000 for office equipment and supplies, travel expenses, and DM 40,000 for books and journals. Fortunately this amount, which was far too small for the establishment of a special library, was improved in 1994 by a financial donation of DM 10,000 from the Federal Ministry of Justice. Later it was also possible to raise third-party funds for this purpose. Particularly helpful in this regard was support from the Robert Bosch Foundation from 1997 to 1999 in the amount

of DM 96,500. The MRZ, whose directors were instrumental in procuring these funds, was also able to make a substantial contribution to the approximately € 650,000 in book funds allocated by the Carl Friedrich von Siemens Stiftung to the University of Potsdam for the Faculties of Law, Economics and Social Sciences and Philosophy between 2002 and 2004. The 1994 Annual Report notes that the library held 318 volumes and ten journal subscriptions at the end of the year. By late 1995, holdings had grown to 700 volumes and twelve journals. Today, the MRZ has over 12,000 volumes and 25 journal subscriptions, constituting a significant specialized library that attracts scholars from around the world.

### III. Early Projects

Notwithstanding all the organizational and procurement work which was inevitably in the foreground during the first phase of development, the first annual report could already declare that, in addition to establishing contacts with the Austrian Institute for Human Rights in Salzburg and the Council of Europe, an international conference on "The Institution of a Commissioner of Human Rights and Minorities and the Prevention of Human Rights Violations" had taken place in Potsdam on December 14 and 15, 1994. The establishment of a UN High Commissioner for Human Rights (1993), a Commissioner of the Council of the Baltic Sea States for Democratic Institutions and Human Rights, including the Rights of Persons Belonging to Minorities (1994), and a CSCE High Commissioner for National Minorities (1992) revived a protective institution whose intellectual basis, centred as it was upon the prevention of human rights violations and response to them as quickly as possible, was the theme of the conference.<sup>23</sup> At the same time, the expert knowledge of the conference participants was consulted to talk about the further work of the MRZ. The author recalls with a great deal of gratitude

23 The speakers were Dr. Dr. Alfred de Zayas (Geneva), Niels Mikkelsen (Copenhagen) and Anders Rönquist (The Hague).

the suggestions and encouragement that were particularly important in a difficult initial phase.<sup>24</sup> The results of the conference have been published in a partly extended form in Volume 1 of the series published by the MRZ, which was first supervised by the Berlin publishing house Arno Spitz<sup>25</sup>, and then from Volume 16 (2002) forward by the successor, the Berliner Wissenschafts-Verlag (BWV), which continued to publish the series until volume 44 (2017). Since then, two more volumes have been published by Nomos Verlagsgesellschaft (Baden-Baden) so far.<sup>26</sup> Less than a year later, a colloquium on “Silent Diplomacy or Publicity” was held in a much larger circle, bringing together representatives of the Federal Foreign Office, non-governmental organizations and academia.<sup>27</sup> Since then, at least one major event has been held every year, partly in conjunction with other institutions.<sup>28</sup> All of these colloquia could not have taken place without the financial and partly organizational sup-

port of public and private institutions. The author would like to thank the Federal Foreign Office and the Federal Ministry of Justice, the VW Foundation, the German Marshall Fund of the United States of America, and above all the Margarete Markus Charity, whose funds secured the unproblematic financing of the MRZ’s conference activities for several years, from 2001 to 2010.<sup>29</sup>

In the years that followed, the activities of the Human Rights Centre developed in the direction marked out by the “Concept.” Perhaps an even stronger emphasis than initially planned was placed on research and teaching in the field of global human rights protection, which had to do with my election to the Human Rights Committee of the United Nations (1995–2002), which initially opened up unforeseen experiences, contacts and opportunities. Essentially, however, the concept of covering the topic of human rights from a threefold perspective – national, regional, global – was retained in order to arrive at an overall view without blurring the normative levels.<sup>30</sup>

24 In particular, the author would like to thank Prof. Dr. Dr. h. c. Rudolf Bernhardt (Heidelberg/Strasbourg), MDgt Dr. Jens Meyer-Ladewig (BMJ, Bonn) and Prof. Dr. Herbert Petzold (Strasbourg), for all of their support over the years.

25 Arno Spitz, who died in 2014 at an advanced age, was an old-school publisher. The decisive discussion took place during a dinner in a small restaurant in Potsdam-Babelsberg near the MRZ, probably in late 1994/early 1995. We quickly came to an agreement, but it was late. Unfortunately Spitz had parked his car in a courtyard, which was then locked, so he had to take the S-Bahn back to Berlin and come back to Potsdam the next morning to pick up his car. He is also among those people who are owed an especial thanks from the MRZ.

26 On this series and additional MRZ publications, see Norman Weiß, ‘Forschung am Menschen-RechtsZentrum der Universität Potsdam – Versuch einer Bilanz’ (2014) MRM, 78–81.

27 Eckart Klein (ed.), *Stille Diplomatie oder Publizität? Überlegungen zum effektiven Schutz der Menschenrechte – Wechselseitige Erwartungen an Wissenschaft und Menschenrechtsorganisationen*, MRZ Vol. 2 (Berlin Verlag 1996).

28 See, for example, the colloquium “The European Court of Human Rights” organized with the General Secretariat of the Council of Europe in Potsdam in 1997, which dealt with implementation problems of the 11th Protocol to the ECHR (footnote 15); the symposium on “Immigra-

tion Control and Human Rights – Immigration Control and Human Rights” (Heidelberg 1999), which was organized jointly with the Research Centre for Immigration & Asylum Law at the University of Constance (Prof. Dr. Kay Hailbronner) and held in Potsdam in 1998; and the Conference on Human Dignity organized with the Minerva Center for Human Rights (Hebrew University and Tel Aviv University) in Jerusalem in 1999; see David Kretzmer/Eckart Klein (eds.), *The Concept of Human Dignity in Human Rights Discourse* (The Hague/London/New York 2002).

29 We are grateful to Honorary Professor Dr. Wolf-Rüdiger Bub, who opened up access to the Margarete Markus Charity in 2000.

30 See Eckart Klein, ‘Die Grundrechtsgesamtlage’ in Michael Sachs and Helmut Siekmann (eds.), *Der grundrechtsgeprägte Verfassungsstaat: Festschrift für Klaus Stern zum 80. Geburtstag* (Duncker & Humblot 2012) 389 ff.

#### IV. Conclusion

Looking back, my memories are dominated by gratitude for the various forms of support we received during the development of the MRZ and the pursuit of its mandate. When, just five years after the foundation of the MRZ in 1999, the Commission for the Evaluation of the Human Rights Centre, appointed by the Rector of the University of Potsdam, had found that

“[The MRZ], in its field of work, constitutes a nearly unique set of research and teaching activities in Germany, and therefore represents an essential element in establishing the profile of the University of Potsdam”<sup>31</sup>

then this could only be achieved through the efforts and commitment of many people and institutions. All signs indicate that this foundation will continue to assure future success.

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31 Final Report (footnote 19), p. 24.