

## Hans Herbert von Arnim

### Academic Career and Professional Activities of a “Critical Analyst of the Party System”

Upon graduating from high school in 1958, Hans Herbert von Arnim was caught between the wish to study either classical philology or physics, but since he did not want to limit his professional choices too early, he decided to study law in Heidelberg. Having successfully completed his first state legal exam and taking up the mandatory legal traineeship in Mannheim, his idealistic notions of justice were harshly brought down to a more realistic level by two of his instructors at the courts of Mannheim.

During the then three-year period of legal traineeship Arnim took up economic studies and – with the support of a scholarship from the Volkswagen Foundation – obtained his diploma with a thesis on quasi-agreements among oligopolistic firms. After having completed his second state legal exam, he wrote his dissertation within eight months while acting as academic assistant for Professor Hermann Weitnauer, a specialist in Heidelberg on labour legislation. The topic of his thesis *The Forfeiture of Enterprise-based Pension Entitlements, 1970*<sup>1</sup> was at that point relevant for more than half of Germany’s employees, who lost any entitlements to a pension if they quitted their job or were fired before reaching the required age. As such this was a glaring injustice, which contemporary social policy could do nothing about since employers and unions had agreed – out of short-sighted self-interest - to maintain the status quo. Therefore it was a minor sensation, when in March 1972 the Federal Labour Court passed a landmark decision which confirmed Arnim’s conclusions and enforced the non-forfeiture of enterprise-based pension entitlements. This case proved not only that seemingly utopian ideas can become reality over night, but also that specialised research can influence practical decision-making.

By the middle of 1968 Arnim had become director of the Karl-Bräuer-Institute, the research organization of the *German Association of Taxpayers* in Wiesbaden. Here, a small and multi-disciplinary team worked on problem-oriented analysis and proposals for reform of public finances. Academic research was not understood as an end in its own right, but rather as a

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<sup>1</sup> Ref. no. II. Note that all titles mentioned here are translations of the German originals, for a full bibliography in German refer to <http://www.dhv-speyer.de/VONARNIM/Schriftenverzeichnis.htm>. For each title mentioned here a number referring to the German bibliography will be given in parenthesis, thus allowing the reader to check the original title.

methodological tool to improve financial and macro-economic policies. Arnim's activity during this period resulted in numerous publications, for example a 300 pages thick study on the reform of the tax system which argued for the abolishment of all tax privileges and a corresponding lowering of tax tariffs.<sup>2</sup> Thirty-five years later, this topic has lost none of its actuality. As before, politics is not able to assert itself against various lobbyists defending their tax privileges by all means. Working in Wiesbaden, where scientific jargon was despised, taught Arnim the lucid style of writing, which distinguishes his publications, and a healthy disrespect vis-à-vis political dignitaries. At the same time this period provided him with first-hand experience of how practical politics are being made.

A spectacular success was achieved when by decision of the German Constitutional Court on 5 November 1975 members of the parliament were forced to pay taxes on their remuneration. Arnim's publications and expert reports had paved the way for this decision.<sup>3</sup>

Thanks to a scholarship from the German Research Foundation (DFG) Arnim could take leave for one and a half years in order to dedicate his time to researching the topic 'Common Welfare and Group Interests: The Difficulty of Asserting General Interests in a Pluralistic Democracy' (ref. no. I.). The results of this work led to his Habilitation (postdoctoral lecture qualification) at the department of legal studies of the University of Regensburg in 1976, where he had found a congenial supervisor in Professor Hermann Soell. Questions concerning the common welfare and threats thereto continued to be of importance throughout Arnim's academic career.<sup>4</sup>

After holding a first professorship at the University of Marburg, Arnim has been teaching public law and constitutional law at the German University of Administrative Sciences Speyer since 1981. He declined the offer of a chair at the University of Osnabrück and in 1988

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<sup>2</sup> *The Road Towards a Modern Tax System*, 1971 (ref. no. XII.2.).

<sup>3</sup> See *Parliamentarian Reform*, 1970 (ref. no. V.2.); 'Tax Exemption for Parliamentarians Is Unconstitutional', *Der Betrieb* 1972, p. 989 (ref. no. X. 6.); 'Untaxed Incomes of Parliamentarians Are Unconstitutional', *Frankfurter Allgemeine Zeitung*, 4 September 1972; *The Remuneration of Parliamentarians and the Constitution* 1975 (ref. no. V. 5.), as well as *Frankfurter Allgemeine Zeitung*, 31 October 1975, p. 1 and 5.

<sup>4</sup> See for example *Endangering and Securing the Common Welfare*, edited with Karl-Peter Sommermann, 2004 (ref. no. VII. 12.).

decided against taking up the offer of a chair for political theory and political science at the University of Göttingen. From 1993 to 1995 he was President of the German University of Administrative Sciences Speyer. His inaugural lecture ‘Does our Democracy Have a Future?’ was printed in the *Frankfurter Allgemeine Zeitung* on 27 November 1993 and broadcasted by the “Teleakademie” of the *Sueddeutsche Rundfunk* on 4 February 1994. Simultaneously from 1993 to 1994, Arnim was a judge at the Constitutional Court of the Federal State of Brandenburg.

Arnim’s research interests extend in a variety of directions. On the one hand, he studies the foundations of law and economics. This includes:

- 1 the textbook *National Political Economy*<sup>5</sup>
- 2 publications on credit-financed public expenditures<sup>6</sup>
- 3 publications on the consequences of currency devaluation, one of which<sup>7</sup> caused the federal minister of finances to respond<sup>8</sup>. It also prompted a further response from Klaus Vogel, the chairman of the *Vereinigung der deutschen Staatsrechtslehrer* (the association for the study of political theory and constitutional law within German legal studies).<sup>9</sup>
- 4 works on academic self-understanding and methodology<sup>10</sup>
- 5 research on the problems of controlling subsidies<sup>11</sup>
- 6 studies on basic issues of the controlling of public finances<sup>12</sup>

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<sup>5</sup> Originally published in 1974. 6th ed. 1998, 324 pp (ref. no. III. 1.).

<sup>6</sup> ‘Basic Problems of State Indebtedness’, *Bayerische Verwaltungsblätter* 1981, p. 514 (ref. no. X. 10), and, together with Dagmar Weinberg, *State Indebtedness in the Federal Republic of Germany*, 1986 (ref. no. X. 8).

<sup>7</sup> ‘The Exploited Saver of Monetary Value’, *Zeitschrift für Rechtspolitik* 1980, p. 201 (ref. no. X. 9.).

<sup>8</sup> Hans Matthöfer, ‘Problems of Indexing Monetary Claims’, *Zeitschrift für Rechtspolitik* 1980, p. 325.

<sup>9</sup> Klaus Vogel, ‘The Oppressed Saver and the Federal Minister of Finances’, *Zeitschrift für Rechtspolitik* 1981, p. 35.

<sup>10</sup> ‘On a Normative Political Science: An Attempt at Rehabilitation’, *Der Staat* 1987, p. 477 (ref. no. V. 16.), and ‘Is a ‘Science of the State’ (Political Theory) Possible?’, *Juristenzeitung* 1989, p. 157 (ref. no. VIII. 18.).

<sup>11</sup> ‘Subsidies’, *Finanzarchiv* 1986, p. 81 (ref. no. X. 18.).

<sup>12</sup> *The Publicity of Municipal Reports on Financial Controlling*, 1981 (ref. no. V 11.); *The Controlling of Public Finances under Change*, 1989 (ref. no. VII. 3.); ‘Fundamental Questions of Controlling Public Finances’, *Deutsches Verwaltungsblatt* 1983, p. 664 (ref. no. VIII. 8.) – with a reply from the president of the Federal Audit Court, Karl Wittrock: ‘On Basic Problems of Financial Controlling’, *Deutsches Verwaltungsblatt* 1983, p. 883.

- 7 a contribution on privatization<sup>13</sup>
- 8 publications on constraining the state<sup>14</sup>
- 9 research on electoral law<sup>15</sup>
- 10 comments on the constitutional principle of equality<sup>16</sup>
- 11 research on municipal statutes and their reform<sup>17</sup>
- 12 his lecture *Taxation and Property*<sup>18</sup> which led to the offer of a chair in Speyer
- 13 his *Political Theory of the Federal Republic of Germany* (1984),<sup>19</sup> the publication of which resulted in the offer of a chair in Goettingen
- 14 The monograph *Efficiency as a Legal Principle* (1988)<sup>20</sup> which is considered to be a standard work in this area.

On the other hand, Arnim tackles sensitive issues, which scholars of constitutional law/ political theory and political scientists have often shied away from by tacit agreement. In addition to the above mentioned publications on the remuneration of parliamentarians there are, for example:

- 1 *Patronage by Political Parties*, (1980).<sup>21</sup> This topic had not been dealt with

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<sup>13</sup> 'Legal Questions in the Privatization of Municipal Economic Enterprises', in: Ehmann/Hefermehl/Laufs (eds.) *Festgabe für Hermann Weitnauer zum 70. Geburtstag*, 1980, p. 163 (ref. no. IX. 3.), and *Legal Questions of Privatization Processes*, 1995 (ref. no. V. 27).

<sup>14</sup> 'The Constitutional Limits of Public Expenditures from the Perspective of Constitutional Law', *Deutsches Verwaltungsblatt* 1985, p. 1286 (ref. no. VIII. 13.).

<sup>15</sup> 'Do We Elect Our Representatives Directly?', *Juristenzeitung* 2002, p. 578 (ref. no. X. 41.); 'The Delineation of Electoral Districts in Hessen is Unconstitutional', *Deutsches Verwaltungsblatt* 2003, p. 553 (ref. no. X. 46.); 'Election Without Selection', *Zeitschrift für Rechtspolitik* 2004, p. 115 (ref. no. X. 52).

<sup>16</sup> 'The Strict and the Formal Principle of Equality', *Die Öffentliche Verwaltung* 1984, p. 85 (ref. no. X. 13.).

<sup>17</sup> 'Municipal Self-government and Democracy', *Archiv des öffentlichen Rechts* 1988, p. 1 (ref. no. X. 21.); 'Possibilities for Direct Democracy at the Municipal Level', *Die Öffentliche Verwaltung* 1990, p. 85 (ref. no. VIII. 20.); 'The Political Process of Accomplishing the Reform of the Municipal Order in the Nineties', *Die Öffentliche Verwaltung* 2002, p. 585 (ref. no. X. 42.). The first article analyses the principles of municipal democracy, the second demonstrates the superiority of the municipal constitution of Baden-Württemberg and the third article analyses the triumphal march of this model into other federal states, which have adopted it, showing how the reforms were put in place by means of referenda or even plebiscite.

<sup>18</sup> Published by the *Vereinigung der deutschen Staatsrechtslehrer* in 1981 (ref. no. VIII. 2.).

<sup>19</sup> Ref. no. III. 2.

<sup>20</sup> Ref. no. V. 20.

<sup>21</sup> Ref. no. V. 9.

academically since the work of Theodor Eschenburg four decades earlier. The study was reprinted in academic journals several times.

- 2 *The Financing of Political Parties*, (1982),<sup>22</sup> which for the first time documented the immense increase in the state's financing of party factions.
- 3 'Constitutional Questions Regarding Party Financing', *Juristische Arbeitsblätter* 1985, p. 121 and 207<sup>23</sup>
- 4 *State Financing of Political Factions Without Control?* (1987)<sup>24</sup>
- 5 *The Party, the MP, and the Money* (1990, 2<sup>nd</sup>. ed. 1996)<sup>25</sup>
- 6 'The Remuneration of Politicians', *Zeitschrift für Rechtspolitik* 2003, p. 235<sup>26</sup>
- 7 *The EU-regulation on Party Financing* (with Martin Schurig, 2004)<sup>27</sup>
- 8 'Parliamentarians' Additional Incomes at the National Level: The Legal Situation Following the Decision of the Federal Constitutional Court on 4 July 2007', *Die Öffentliche Verwaltung* 2007, p. 897;<sup>28</sup> 'Additional Incomes of Parliamentarians at the Level of the Laender', *Neue Zeitschrift für Verwaltungsrecht* 2007, p. 1246.<sup>29</sup>

All these cases have in common the underlying problem that the parliament is making decisions "in its own interest", a term which was used by Arnim when analysing political financing and which has been adopted by the Federal Constitutional Court.

The topics listed above were also taken up by the media and almost inevitably led to sharp public disputes with parties and parliaments, earning Arnim the unwelcome attribute of a "party critic". He even had to fend off morally dubious propositions, such as offers of research contracts from the chairmen of the relevant committee of the Bundestag. Eventually, the German Federal Court of Auditors was – on request of the Committee on Internal Affairs of the Bundestag – sent to Speyer, where Arnim had recently been appointed president of the university. The daily newspaper *Hamburger Morgenpost* commented: "The Empire Strikes

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<sup>22</sup> Ref. no. V. 12.

<sup>23</sup> Ref. no. X. 15.

<sup>24</sup> Ref. no. V. 18.

<sup>25</sup> Ref. no. IV. 2.

<sup>26</sup> Ref. no. X. 49.

<sup>27</sup> Ref. no. V. 32.

<sup>28</sup> Ref. no. X. 65.

<sup>29</sup> Ref. no. X. 66.

Back”, but the Auditors could not find any irregularities and instead suggested an increase of research personnel at the research institute.

Unlike some of his co-politicians, the chairman of the Bundestag’s Social Democrat faction, Hans-Jochen Vogel, came to a positive evaluation of Arnim’s activities. He stressed in public that Arnim’s contributions to the topic of political financing were beneficial, because they did not consist of vague overall generalizations, but rather specified concrete events and persons.

In 1992 Arnim was appointed to the Federal President’s *Special Commission on the Financing of Political Parties*. The then Federal President, Richard von Weizsäcker, had himself just published a book critical of the political parties. The commission was entrusted the task of analysing the possible consequences of the Federal Constitutional Court’s landmark decision of 9 April 1992 on the financing of political parties, the path for which had been paved by Arnim’s works according to general opinion.<sup>30</sup> Arnim declined the offer of a remuneration of 30,000 Deutschmarks for participation in the commission, because he considered it incorrect to accept money for such prestigious work.

In a similar vein, von Arnim’s publicly repeated criticisms about the lack of legally defined offences of corrupt behaviour by parliamentarians can be considered to have influenced the Bundestag in favour of introducing article 108e into the criminal code.<sup>31</sup>

Arnim’s book on double pensions and financial benefits for politicians<sup>32</sup> caused the prime ministers of Bavaria and North-Rhine-Westphalia, Edmund Stoiber and Wolfgang Clement, for whom exceptionally large privileges had been documented, to appoint a commission with fifteen members –among them Arnim - under the chairmanship of the consultant Roland Berger. However, this commission turned out to be a fig-leaf commission, with only a few independent members lending an appearance of integrity. In its final report, data were manipulated and ludicrous proposals made, which Arnim finally succeeded in publicly

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<sup>30</sup> ‘Alone Against the Money-grubbing Faction’, *Stern*, 17 April 1992.

<sup>31</sup> See, for example, his *The Party, the MP and Money*, 1st ed. P.193 ff. (ref. no. IV. 2.) and *Juristenzeitung* 1990, p.1014 (ref. no. X. 23.).

<sup>32</sup> *Serving Many Masters*, 1998 (ref. no. IV. 8.).

rebutting.<sup>33</sup> Rolf von Hohenhau (earlier: Rolf Kartmann, the president of the *Bavarian Association of Taxpayers* and also a prominent politician of the Christian Social Union), belonged to the affirmative members of the commission and followed the principle “cooperation instead of confrontation” with respect to the policies of his state. When the president of the *Central Association of Taxpayers*, Karl-Heinz Däken, who himself drew a high salary from three different sections of the association, sided with Hohenhau, Arnim broke off his relationship with the leadership of the *Taxpayers’ Association*.

Arnim is also active in a third field which concerns concrete cases of self-serving of parliamentarians, which are dressed up as laws. His meticulous analyses, well placed in the media to attract public attention, have a considerable impact on political practice. In Hessen, Arnim deciphered a recently passed law on parliamentarians’ remuneration on the basis of 130 pages of comment on the relevant article of the German Basic Law.<sup>34</sup> This analysis was first passed on to national media, such as the weekly newsmagazine *Der Spiegel* and the *heute journal* of the ZDF – Germany’s national public television broadcaster. Later, Arnim presented his analysis at a press conference in Wiesbaden, which finally stirred up the regional journalists, who – up until then – had been taken in by the informational campaign of the Legislature’s Presiding Officers and had reported on the passing of this specific law without further independent investigation. The ensuing public storm of protest forced Hessen’s parliament’s president, Jochen Lengemann, and vice president, Dr. Lang, to resign from their positions only three weeks after the publication. All this led parliament to repeal the law on MPs’ remuneration.

The case of Hessen’s legislative salaries was followed by a scandal about remunerations and pension benefits in Hamburg. There, the parliament’s president and the party’s floor leaders attempted to create enormous sources of remuneration for themselves after only a short period in office. Arnim presented four analyses in various press conferences, which were published by national newspapers in full length.<sup>35</sup> Though Arnim at first received a public ‘thrashing’ by

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<sup>33</sup> See *Politics, Power, Money*, 2002 (ref. no. IV. 10.).

<sup>34</sup> Second comment on § 48 German Basic Law in the standard reference work *Bonn Comment*, 1980 (ref. no. VI.).

<sup>35</sup> *Die Zeit* on 12 September 1991; *Frankfurter Allgemeine Zeitung* on 28 September 1991 and

the parliament's presidency, the senate was later forced – due to heavy media pressure – to block the law with their veto. In the meantime, Arnim had demonstrated that the law on parliamentary remuneration had been formulated in accordance with a similar law for the senate, which had been passed four years earlier with barely any public discussion and which had massively increased the financial provisions for senators. The new law therefore seemed to be based on a special informal agreement between the leadership of the parliament and the senate. After this fact had come to light, and after the group leader of the Social Democrat Party in Bonn, Hans-Jochen Vogel, who had received the relevant documentation from Arnim, had called to order his party members in Hamburg, the new law on delegates' provisions could no longer be sustained and even the increase in senators' provisions had to be annulled retroactively. In order to bring light into past entanglements, a commission of inquiry was formed and another commission was appointed to develop criteria for adequate remuneration in the future. Since Arnim had not refrained from naming individuals, the president of Hamburg's parliament lodged an action for injunction with the Court of the Federal State of Hamburg but was defeated. In the end, a Sunday newspaper - in an exaggeration typical for the media - celebrated Arnim as “the man who turns off the tap on politicians' funds”<sup>36</sup> and a weekly magazine called him a “one-man judicial instance”, which had unhinged more laws than anybody else except for the Constitutional Court.<sup>37</sup> Even in the British press a hymn of praise was published.<sup>38</sup>

This public praise did not resound everywhere positively within professional circles: according to Hans Heinrich Rupp, a scholar specialized in political theory, Arnim is “a hero”. Other colleagues, however, showed great displeasure. The political scientist, Klaus von Beyme wrote an intemperate statement for the *Frankfurter Rundschau*. Professors closely associated with political parties reacted especially sourly at the work of the ‘party critic’. The political scientist, Uwe Thaysen let himself be carried away to the degree that he induced his post-graduate disciple Patrick Horst, who had earlier brilliantly reviewed Arnim's book “On

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*Frankfurter Rundschau* on 22 and 27 September 1991.

<sup>36</sup> *Bild am Sonntag* on 15 December 1991, p. 3.

<sup>37</sup> *Die Zeit* on 3 January 1992, p. 2.

<sup>38</sup> *Daily Mail* on 12 December 1991: “You need Hans”.



the Beautiful Outer Appearance of Democracy” in the North German broadcasting program<sup>39</sup> to rewrite this review into a scathing critique for the journal *Zeitschrift für Parlamentsfragen*, for which the person in charge was incidentally Thaysen.<sup>40</sup>

As a follow-up Arnim undertook an investigation into the laws on ministers in all federal states.<sup>41</sup> In the Saarland, the serving of one’s own interests had been especially blatant. After only a single day in office, members of the government could claim an old-age pension of 75% of their active salary. The national German news magazine *Der Spiegel* converted Arnim’s analysis into a cover story showing Oskar Lafontaine in the robe and wig of Ludwig XIV on the issue’s front cover. Lafontaine opposed the press coverage by all means, speaking of “journalism of pigs” and even enacting a new constricting law for the press (which was revoked later on). In the end, however, he had no other choice but to defuse the law on ministers. Many other federal states had to revoke excessive pension entitlements for ministers as well.

In 1995 the Bundestag aimed at immensely increasing the remuneration of its members by coupling it with the salary of federal judges. This was not possible without a change to the constitution since the Federal Constitutional Court had declared such a coupling to be a breach of the principles of democracy and rule of law. The parliament’s leadership spoke of a mere ‘adjustment’ of remunerations. The president of the Bundestag, Rita Süßmuth, Christian Democratic Union (CDU), and her vice president, Hans-Ulrich Klose, Social Democratic Party (SPD), referred to an alleged lagging behind of remunerations in comparison to the general development of incomes, but neglected to mention that members’ remuneration had been doubled in the year 1977 and - taking this into account – was far ahead of the general development of incomes. Arnim deciphered the well-camouflaged content of the legal proposal and presented his results in a number of press conferences, resulting in angry reactions of the Bundestag presidency via the media. *Der Spiegel* only took notice of the topic’s explosive nature when its chief editor, Rudolf Augstein, to whom the materials had

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<sup>39</sup> 9 July 2000, 4th Program.

<sup>40</sup> *Zeitschrift für Parlamentsfragen* 2000, p. 494.

<sup>41</sup> *The Financial Privileges of Ministers in Germany*, 1992 (ref. no. V. 24.).

been leaked, wrote a harsh comment around which the editorial staff compiled a cover story.<sup>42</sup> The issue was too late – it appeared only three days before the final reading of the law in the Bundestag – to have much impact. At least, though, the Bundesrat postponed its impending scheduled session for a couple of weeks. This left Arnim time to publish his text: *We Are the State! The Political Class out of Control? The New Law on Ministerial Remuneration (1995)*<sup>43</sup> and to send it to the prime ministers. Some of them such as Gerhard Schröder (Lower Saxony) and Heide Simonis (Schleswig-Holstein) spontaneously agreed with its criticism.

When the leadership of the Bundestag tried to create the impression that Arnim stood alone with his criticism among constitutional lawyers and scholars of political theory, 86 of them reacted with an open letter to the Bundesrat demanding that it should not give its consent to the proposal, a recommendation which the Bundesrat in effect followed with a great majority.<sup>44</sup> Thus, the Bundestag's attempt had failed. A change in the constitution pushed through by the Bundestag to further its own interests and only in order to circumvent a decision of the Constitutional Court, was felt to be simply improper conduct by many. The "Society for German Language" declared "the adjustment of remunerations" to be the "faux-pas-word of the year 1995".

Arnim is not afraid to exemplify improper regulations pointing to specific individual cases and naming the involved persons. The member of the Bundestag, Cornelia Yzer, intended to keep her mandate (together with ample old-age and transitional provisions for an earlier activity as a parliamentary state secretary) although she had just become chief executive officer of a pharmaceutical lobbying association and would therefore serve two masters. An article in the news magazine *stern* forced her to resign from the mandate.<sup>45</sup>

A case similar to the one in 1995 in Berlin occurred some years later on the European level: The European Parliament decided around 2003/4 to peg the remuneration of its members to the salaries of judges at the European Court of Justice. A skilful actuarial analysis made by

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<sup>42</sup> *Der Spiegel*, 19 September 1995.

<sup>43</sup> Ref. no. IV. 6.

<sup>44</sup> See *The New Law on Delegates: Content, Procedure, Criticism and the Deception of the Public*, 2nd ed., 1997 (ref. no. V. 28.).

<sup>45</sup> See 'Set For Life at the Age of 35', *Stern*, 6 February 1997, p. 21f.

Arnim demonstrated that the proposed salary and remuneration index would have severe financial implications. MPs would be eligible for a payment of over 9,000 Euros per month<sup>46</sup> in addition to the excessive expenses allowances they had granted themselves by circumventing the European Commission as well as the European Council.<sup>47</sup> According to comparative calculations which the European Parliament had - with good reason - failed to undertake, implementing this plan would have granted MPs coming, for example, from Poland or from Hungary, a salary several times over that of their state presidents. Furthermore, Arnim calculated that German members of the European Parliament would – contrary to members’ assertions that the plan meant no increase in remuneration for the German members of the European Parliament – receive up to 2000 Euros per month more (according to their family status). In addition, their already very comfortable provisions for retirement pensions would be considerably higher. When the European Parliament finally asked for the concurrence of the European Council, consisting of the governments of all member states, Arnim sent his analysis to the Federal Chancellors of Germany and Austria and an English language version to the remaining governments. Chancellor Schröder was reminded in a personal letter of his veto in the Bundesrat some years earlier and was asked to prevent the Statute on Members of the European Parliament as well. One week later Arnim informed *Der Spiegel* and the *Bild* newspaper, which publicized the planned statute with great ado. A public outcry was the consequence. Shortly afterwards the German Chancellor declared that he would not give his consent for the statute in the European Council. Austria, Sweden and France followed suit and thus the parliament’s attempt had - for the time being – fallen through.

Two prominent German members of the European Parliament, apparently trusting in the unaccountability seemingly granted by European parliamentary law, verbally abused Arnim and the *Bild* and declared their calculation to be a fabrication. The Springer publishing house reacted by filing an action for injunction against Martin Schulz (SPD) and Klaus-Heiner Lehne (CDU) which was completely successful. The parliamentarians had overstretched the

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<sup>46</sup> See 9053 *Euro Salary for Members of the European Parliament? An Analysis of the Statute for Members of the European Parliament*, FÖV Discussion Paper No. 7, 2004 (ref. no. V. 31.).

<sup>47</sup> ‘The Uncontrolled Growth of Remunerations in the European Parliament’, *Neue Juristische Wochenschrift* 2004, p.1422 (ref. no. X. 51.).

limits so far that even their “indemnity” could not help them anymore. The decision of the regional court of Hamburg, which interpreted this out-dated privilege of parliamentarians restrictively, is a milestone of jurisdiction on parliamentary affairs.

For a long time, political science used to trivialize or even completely overlook the misuse of political party power, although it should be the primary discipline concerned with such phenomena. Stefan Immerfall, a younger political scientist, already wrote in 1992 that “patronage and party cronyism are not among the favoured topics in political science”. Therefore, he said, it was no coincidence, that Hans Herbert von Arnim, the figure which has earned great merit by uncovering and preventing the ruses and dodges political parties make use of in order to gain access to public moneys, is a jurist and an economist. According to him, research on parties within political science has not been able – due to the absence of a critical research culture– to save political parties from the impending ballooning of their financial deficits. Another younger political scientist, Göttrik Wewer, has as well found fault with the opportunistic behaviour of established researchers on political parties. According to him, political science has remained curiously silent when breaches of the constitution and the law by politicians and political parties, in the process of procuring financial benefits and other “pathologies of politics”, have come to light.

Arnim has established networks with numerous journalists, who seek his advice and prompt him to make statements, give interviews or write articles in various media on a daily basis.

Another field in which Arnim shines is in the production of works meant for a popular readership although their subject matter is of a more specialised nature than most works of a popularising nature. His works find audiences much broader than just professional circles. Starting with *The State as Booty* (1993)<sup>48</sup> and *State Without Servants* (1993)<sup>49</sup> and continuing with *A Full Stomach Does Not Like to Govern* (1997)<sup>50</sup>, *The System* (2001)<sup>51</sup> and *The Europe-*

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<sup>48</sup> Ref. no. IV. 3.

<sup>49</sup> Ref. no. IV. 4.

<sup>50</sup> Ref. no. IV. 7.

<sup>51</sup> Ref. no. IV. 11.

*Complot* (2006)<sup>52</sup> Arnim has so far written ten books, most of which have become bestsellers. These books treat topics such as democracy and the constitutional state, citizens' rights and public transparency, federalism and direct democracy, as well as a political class which has lost touch with the people and makes barely controllable decisions over the heads of the people. The common denominator of these themes is the gap between norm and reality. In his treatment, Arnim does not confine himself to analysis and criticism of the current situation, but develops concrete proposals for reform.

Arnim often lectures among colleagues in professional circles as well as to interested citizens and publishes these lectures in professional journals.<sup>53</sup> Many passages from his work have been incorporated into schoolbooks.

Contrary to many lawyers who have to make a living from their profession, Arnim can afford to take on briefs for representing clients only in such cases, where he is convinced that injustice has been done to the client and that the case can be won.<sup>54</sup>

Another area of interest comprises questions of structure and reform in the public arena, which are dealt with at the *Convention on Democracy* taking place every year at the German University of Administrative Sciences in Speyer under the direction of Arnim. The results of these conventions are also published.<sup>55</sup> In the year 2007 the convention's topic was 'Deficiencies in State and Administration' and for the next convention on 23 and 24 October 2008 the topic will be 'Integrity of Public Officials'.

Arnim, born on 16 November 1939, is in retirement since 2005. Although his request to postpone retirement, which would have been possible according to the legislation on civil servants, was emphatically supported by the president of the university, it was rejected by the

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<sup>52</sup> Ref. no. IV. 15.

<sup>53</sup> Most recently for example: 'Political Parties in Crisis', *Die Öffentliche Verwaltung* 2007, p. 221 (ref. no. X. 62.) and 'Where is Europe Drifting to?', *Neue Juristische Wochenschrift* 2007, p. 2531 (ref. no. X. 63.).

<sup>54</sup> See for example the decision of the Federal Constitutional Court on 26 October 2004, BVerfGE 111, 382, by which a newly introduced a clause disadvantaging small parties in the law on political parties was annulled.

<sup>55</sup> For example *Adequate Institutions as a Precondition for "Good" and Participatory Politics?*, 1999 (ref. no. VII. 6.); *Direct Democracy*, 2000 (ref. no. VII. 7.); *Corruption and the Fight Against Corruption*, 2007 (ref. no. VII. 13.).

responsible bureau of the prime minister of Rhineland-Palatinate with the argument, that in general no exceptions were made from the regular age of retirement. However, an inquiry of the Green Party in Rhineland-Palatinate's parliament showed that many other requests for prolongation had already been granted. That Arnim "had repeatedly caught politicians and parties in the act of securing themselves financial advantages with a self-service mentality, has earned him the public's sympathy", but also "the resentment of the political class" (wrote the *Frankfurter Allgemeine Zeitung* on 7 May 1999 in the preamble of its questionnaire).

It seems that the resentment against Arnim grows to the same extent that his level of publicity increases. *Die Zeit* considered him to be among the twelve best known professors in Germany on the basis of the so-called media citation index; the magazine *Cicero* (April 2006 and May 2007) reckons him to be – according to a no less amusing ranking – among the best known intellectuals of Germany. The newspaper *Bild* lists him as one of "the most important Palatinatians". This, by the way, was already known to the *Playboy* (9/1992) when this magazine compiled the "men who move something in Germany".

Arnim continues to work assiduously in a voluntary capacity at the German University of Administrative Sciences Speyer, where he conducts seminars for off-the-job education, and at the German Research Institute for Public Administration, where he is a member of the managing board and the chairman of one of its research sections dedicated to research on "Modernising State and Public Administration". Among his newest research topics are corruption and the fight against it, a topic on which he has published several books.<sup>56</sup>

An intensive occupation with the European Union makes it clear that a European public - also a European academic public - cannot be reached when publishing in German language alone. Accordingly, Arnim has recently started to publish increasingly in English and Spanish as well. For example:

- 1 'Political Finance: Checks and Abuses – Current Problems and New Developments', *European Journal of Law Reform* 2003, p. 557<sup>57</sup>

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<sup>56</sup> See for example *Corruption. Networks in Politics, Public Office, and Business*, 2003 (ref. no. VII. 11.).

<sup>57</sup> Ref. no. X. 58.

- 2 *The European Party Financing Regulation, 2004* (together with Martin Schurig)<sup>58</sup>
- 3 'Fraudulent and Unacceptable? The Uncontrolled Growth in Allowances in the European Parliament', *European Law Review* 2004, p. 698<sup>59</sup>
- 4 'Fraudulento e inacceptable? El crecimiento incontrolado de las dietas en el Parlamento Europeo', in: *Anuario Iberoamericano de Justicia Constitucional*, vol 9, 2005, p. 529.<sup>60</sup>

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<sup>58</sup> Ref. no. IV. 14.

<sup>59</sup> Ref. no. X. 53.

<sup>60</sup> Ref. no. X. 57.