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cause even more disintegration of the Union? What will be the chances of the Commission proposal of 17 November 1995 (OJ 1995 C 306/5)? This question needs to be answered by another publication, which could make use of the political and practical experiences with Schengen II!

The Annex contains valuable documentation (only in German), with the entire text of the Schengen II and Dublin agreements.

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Rausch, Rolf. *Die Kontrolle von Tatsachenfeststellungen und -würdigungen durch den Gerichtshof der Europäischen Gemeinschaften*. Berlin: Duncker & Humblot, 1994. Pp. 329. DM 92; ÖS 718; sFr 92.

The author starts off from the assumption that no order of administrative law may be effective without judicial control of administrative acts. The European Community's legal order, to a large degree, consists of administrative law. The author examines the extension of judicial control of administrative acts by the European Court of Justice, as regards the inquiry into the facts as well as into the legal appreciation of the facts in proceedings to review decisions of the European Commission addressed to individuals. This topic is of particular importance for a supranational organization held together by legal bonds.

The author combines an analysis of European law with extensive reference to German and French law. In so doing, he not only draws a comparison of highly developed systems in two Member States but, at the same time, goes back to the roots of European administrative law. Both paths hold the promise of highly valuable research.

The author presents a thorough and clear description of the two national systems. Sixty-five pages are dedicated to German law (pp. 30–94), fifty-eight pages to French law (pp. 95–152). While this

represents an enormous effort, there is no connection to European law. Readers, tempted by the main title of the book, wish to be informed about fact-finding in proceedings before the European Court of Justice. They will hardly be inclined to read through half a book in search of their field of interest. Even if they do, they will probably not remember each feature of national law when they get to Community law. It is true that when treating Community law, the author makes use of the insights previously gained in dealing with the national legal systems. He indicates where the item in question is treated in the relevant section on national law. But would it not have been better to refer to German and French law each time a problem may benefit from comparative analysis?

Among the fundamental conditions of judicial control in Community law, the author first mentions the restrictions on the control of legality of Community acts. As is the case in French law, standing in Community law is not an individual right as demanded by German law. An objective control represented a compensation to the lack of guarantee of judicial review in Community law. There is, however, no gap in Community law, for the European Court of Justice has incorporated such a guarantee into the European legal order, as the author himself concedes (p. 158). Contrary to German law, the extent of control in Community law was delimited by '*moyens*' (grounds of action), following the French example. The practical consequences, however, were minimal (p. 168).

The three orders of administrative law selected by the author exclude a control of the expediency of a Community measure. Rausch points out that the principle of proportionality blurs the limits of such a control (p. 169). The Court of Justice conceded, to a considerable extent, a higher expertise to other Community institutions, especially to the Commission. The author states a stricter control in Germany without evaluating this discrepancy (p. 171).

The European Court of Justice was empowered to inquire into the facts of a

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case independently of their presentation by the parties. The Court was even obliged to explore the facts since otherwise the control of the legality of Community acts would be incomplete (p. 181). However, the European Court of Justice usually refrained from an inquiry into the facts. According to the author, this shortcoming is balanced by negative consequences attached to an insufficient exposition of the facts by the parties (p. 184) and by the duty of the parties to cooperate with the Court (p. 186). Nevertheless, a more intensive inquiry is desirable. The self-restraint of the Court of Justice was mainly induced by the workload of its members. This aspect was one of the reasons why a Court of First Instance has been established, as the author relates (p. 194). The practice of this Court shows that greater efforts are feasible (cf. p. 197).

Burden of proof is rather concisely dealt with (pp. 198, 199). The control of the appreciation of the facts by the Community institutions is debatable because of the discretion granted to the political institutions. It is a good idea to begin with Article 33 of the ECSC Treaty because this provision explicitly contains an exemption from judicial control of a situation caused by the appreciation of economic facts and circumstances. This limitation was transposed to the EEC by the European Court of Justice (p. 237). Instruments of control were mainly evidence of a mistake (p. 263) and general principles of law, such as the principles of proportionality, equality, legitimate expectation and legal certainty (pp. 263–270). Because of the looseness of these instruments, rules on the form of an act and on the applicable decisional procedure were of particular interest (p. 270). Finally, the author reflects on the more rigorous control in competition law.

In general, this book contributes to a better understanding of the procedural measures applied by European courts. The author has thus produced a useful basis for an improvement of the judicial power in Community law. The work would have been of even greater value if the author

had amalgamated the comparative aspects with the actual legal situation in the Community.

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Craven, Matthew C.R. *The International Covenant on Economic, Social, and Cultural Rights*. New York: Oxford University Press, 1995. Pp. xxix, 406. Index. \$80.

Given that the two sets of human rights are, at least according to UN mythology, equally important, remarkably little sustained scholarly research has been devoted to economic, social and cultural rights. Craven's book, up to date as of mid-1994, is an exhaustively researched, carefully written and nuanced review of the seventeen years since the Covenant's entry into force and the first seven years of existence of the Committee on Economic, Social and Cultural Rights (ESCR Committee).

Ian Brownlie justifiably lauds the work in his 'Editor's Preface'. He is not correct, however, in saying that 'the whole extended family of Covenant-related topics is examined' (p. v). In fact, the author has followed the rather odd example of McGoldrick in his companion volume (both written as doctoral dissertations at Nottingham) on the Human Rights Committee, of dealing only with a selection of the rights recognized in the Covenant. Thus, it covers articles 2 and 3 (non-discrimination), 6 (work), 7 (conditions of work), 8 (trade unions), and 11 (an adequate standard of living). The reasons given for this limited focus (p. 2) are not wholly convincing and the lack of comprehensiveness of the coverage is a definite shortcoming.

Some 20 per cent of the book is devoted explicitly to the role and functioning of the ESCR Committee. Craven is generous in concluding that the Committee has 'in a relatively short period of time – transformed the supervision system beyond recognition', thereby achieving 'one