stitutional framework, which had to be adjusted over time according to the development of the idea itself. A major strand of research in political science currently analyses the socio-economic conditions of public participation and the various forms of informal participation. Without taking, just to give one example which is particularly relevant for the EU context, the role and influence of interest groups in the decision-making process into account, any study of democratic legitimacy seems shaky. In the same conceptual vein lies Kluth's neglect of the deliberative element of the democratic process. But public deliberation is impossible if important information is not, or only with great difficulty, accessible for the broader public. Transparency is therefore an important precondition for democracy. How then can one write about democratic legitimacy without mentioning transparency? Another aspect that would have been important to consider, even on the basis of Kluth's own criteria, is the question of democratic legitimacy in the context of the implementation of Community legislation, an issue which has been discussed in the legal literature under the heading 'Comitology' for decades now. Taking all this into account, one may wonder whether there is really no democratic deficit.

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Book Notices

Aughterson, E.P. *Extradition: Australian Law and Procedure*. Sydney: The Law Book Company Limited, 1995. Pp. l, 288. Index. $155 hardback; $75 paper.

In an era when international and municipal law are increasingly being seen as convergent, this book deftly negotiates the interrelationship between the practice and instruments of international law and those of Australian law. The book's structure is conventional yet functional, moving from history and sources; through treaties and legislation, related procedures of asylum and deportation; on to extradition offences, grounds for denial and procedure. It concludes with chapters focused exclusively on Australian issues. The political offences exception is treated in some depth, with an alternative approach proposed, based on the ever-popular principle of proportionality. The international market for the book may be a little obscure, although as a comparative study it would be extremely useful to the international lawyer. From the latter perspective, a minor weakness is the over-inclusion of judgment quotations, rather than case citations, to support propositions of Australian law. There is a careful and confident examination of extradition law, which shows the author's extensive knowledge of the subject. Mention is even made of recent archaeological surveys indicating the existence of extradition arrangements dating back as far as the Assyrians.

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Ukrow, Jörg. *Richterliche Rechtsfortbildung durch den EuGH*. Baden-Baden: Nomos Verlagsgesellschaft, 1995. Pp. 392. DM 118.

Bashing the European Court of Justice (ECJ) has become fashionable within the community of Euro-Phobes. It is perceived as one of the main centres of evil in the Community, like an unleashed beast which behaves in its decisions like a quasi-legislator, exceeding its competencies and violating the Member States' sovereignty. In his thorough study, Jörg Ukrow analyses and comments on the development of European Community Law by the ECJ from a perspective which both acknowledges its importance for the formation of the Community's legal order, and in particular the judicial protection of the individual, and at the same time emphasizes the necessity to keep judicial activity within the boundaries implicitly drawn by the EC Treaty and its underlying principles. Only sticking to the latter can ensure the legitimacy of the Court in the

long run, as Ukrow correctly states. Whether his conclusion, that the Court's famous *Francovich* decision should be seen as a judicial *faux pas*, is then the right one, may be up for discussion.

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Hrbek, Rudolf (ed.). *Das Subsidiaritätsprinzip in der Europäischen Union – Bedeutung und Wirkung für ausgewählte Politikbereiche.* Baden-Baden: Nomos Verlagsgesellschaft, 1995. Pp. 158. DM 44.

Among the ever growing list of publications on the principle of subsidiarity in the European Community, this volume – containing the papers of a 1994 symposium in Tübingen, Germany – stands out for its refreshingly clear language. The basic conclusion of almost all the contributions, which seek to examine subsidiarity from different institutional and issue area-perspectives, is that subsidiarity as a legal principle cannot meet the expectations of its promoters, in particular the German government. The reasons given are basically twofold. For one, instead of increasing the citizens' trust in the Community, subsidiarity opens yet another field for political turf battles, especially among the Member States and between the Member States and the Commission. Not surprisingly, of course, since the invention of subsidiarity was always a sort of fig-leaf to chastely cover the various deficits of the Community, above all its lack of transparency and public participation as well as the absence of a clear division of competencies between the Community and the Member States. Secondly, as the four sectoral studies of the volume – antitrust law, research and technology policy, company law and environmental policy – point out, subsidiarity as a legal principle does not have much effect on the policy outcomes. The legal structure of the Community has always been vested with norms and principles intended to ensure an adequate distribution of functions between the Community and the Member States – the principle of attributive competencies, but also norms that require a certain kind of adequacy for the Community to act in a policy area. An example of the latter is Article 7a EU Treaty, which permits in respect of the common market only measures that are necessary for completion of the market. If such provisions should not have managed to duly limit the Community's range of action, it is because of their vagueness and the absence of clear criteria. Merely adding yet another opaque concept seems then not very promising, particularly if one looks at the situation in Germany.

An interesting way of rescuing at least part of the subsidiarity concept, albeit as a form of policy-making, is presented by Adrienne Heritier in her article on subsidiarity in the context of environmental policy. She describes subsidiarity as a strategy of policy implementation that replaces a hierarchical implementing system, where the Community sets one uniform standard equally binding for all the Member States, with a system that would permit the setting of different regulatory standards for different countries – by means of individual negotiations between the Commission and the Member States – according to the specific capacities of each country. The legitimacy of the process would be based on increased transparency and thus the possibility of better control by the public.

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Fawcett, J.J. (ed.). *Declining Jurisdiction in Private International Law.* New York: Oxford University Press, 1995. Pp. lxi, 431. Index. $98.

This book consists of a General Report and eighteen National Reports on 'Rules for Declining to Exercise Jurisdiction in Civil and Commercial Matters: *Forum Non Conveniens*, *Lis Pendens*, and Other Rules'. The reports were written for the XIVth Congress of the International Academy of Comparative Law, held in August 1994. National Reports were sub-