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-

mitted by Argentina, Australia, Belgium, Canada (common law jurisdictions), Finland, France, Germany, Great Britain, Greece, Israel, Italy, Japan, the Netherlands, New Zealand, the province of Quebec, Sweden, Switzerland and the USA. Although the reporters were requested to answer a specific questionnaire, the reports rather vary in length and in detail. The questions referred to *forum non conveniens*, *lis alibi pendens*, foreign choice of jurisdiction clauses, arbitration agreements, and restraining foreign proceedings. However, according to the title of the questionnaire, the inquiry was restricted to 'civil and commercial matters'. The term, which might appear somewhat vague to a common lawyer, is defined in Art. 1 of the Brussels and Lugano Convention on Jurisdiction and the Enforcement of Judgements. It relates to an ordinary private law matter in contrast with a public law matter, an administrative law matter, matters involving questions of status or legal relationship, wills, succession, bankruptcy or social security.

The main part of the book comprises the General Report written by J.J. Fawcett (70 pages). It is an outstanding work on comparative law. For the most part, Fawcett follows the structure of the questionnaire. After some introductory comments on jurisdictional background, the author starts with a section on the subject of *forum non conveniens*. While staying on a more or less descriptive level, one might sense, reading between the lines, the author's predilection for the concept of *forum non conveniens*. This predilection becomes apparent in the following section on *lis pendens*. Having admitted several disadvantages of the *forum non conveniens* approach (pp. 30–31) Fawcett rather sharply criticizes the so-called first-seized approach as well as the recognition prognosis approach (pp. 34–35, 38–39). This could come as a surprise to civil lawyers who might object that, to a certain extent, Fawcett underestimates the advantages of these concepts. Civil lawyers might argue that the 'simplicity' (p. 34) and the 'obvious logic' (p. 38) of these approaches pave the way for certainty and predictability of the law. See, e.g., Christoph Dorsel, *Forum non conveniens* (1996) 176–178 and Peter Huber, *Die englische forum-non-conveniens-Doktrin und ihre Anwendung im Rahmen des Europäischen Gerichtsstands- und Vollstreckungsübereinkommens* (1994) 145.

The next two sections focus on foreign choice of jurisdiction agreements and arbitration agreements. Again, the civil lawyer might be surprised that even in these cases, the judge of a common law country has a certain power to exercise discretion. In the last section, Fawcett explains how states deal with the problems of forum shopping.

Apart from pure academic use, the General Report can be recommended to any lawyer in need of a general survey on international jurisdiction and its problems. However, the reader is advised to pay attention to the meaning of the terms 'to deny/to decline jurisdiction' and 'to stay/suspend/dismiss proceedings' (n. 1), which differ even among common law jurisdictions.

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Hague Conference on Private International Law. *Proceedings of the Seventeenth Session 10 to 29 May 1993*. I-1; I-2.

On 19 May 1993, the Hague Conference on Private International Law celebrated its centenary. In volume I, the reader is presented with an excellent survey of the work and achievements of the Conference. The volume is divided into two parts. The first part includes mainly the minutes of the Opening and the Closing Sessions, the text of the Final Act of the Seventeenth Session as well as preliminary documents for, and the conclusions of, the Special Commission of June 1992 on general matters and policy of the Conference. A special bibliography at the end of this part (78 pages!) might be of particular interest to the reader as it incorporates all the preceding bibliographies edited by the Conference, as well as new articles and works which have appeared up to 15 June 1995.