Statute for a European cooperative society

1991/0388(CNS) - 23/04/2003

The committee adopted the report by Evelyne GEBHARDT (PES, D) tabling one amendment to the proposal with the aim of ensuring that its legal basis was such as to make it subject to codecision procedure and not consultation procedure. It cited the case-law of the Court of Justice, which stated that Article 308 of the EC Treaty (which was here being proposed by the Council) could be used as the legal basis for a measure only where no other provision of the Treaty gives the Community institutions the necessary power to adopt the measure in question. The committee argued that the proposal should in fact be based on Article 95 (formerly Article 100a, on which the proposal was originally based), which provides for the approximation of Member States' laws and administrative provisions with a view to the establishment and functioning of the internal market. It maintained that Article 95 was a "lex specialis" in relation to Article 308 and constituted the correct legal basis for a regulation that was essentially aimed at harmonising Member States' laws, and hence reducing legal obstacles to the operation of the internal market, rather than creating new "supranational" law.