

# **THE CHOICE OF THE LEGAL BASIS**

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"It may be added that where an institution's power is based on two provisions of the Treaty, it is bound to adopt the relevant measures on the basis of the two relevant provisions."

C-165/87, Commission v Council, European Court Reports 1988, p. 5545



**DISCUSS:**  
**IS THE RECOURSE TO  
A DUAL LEGAL BASIS  
ALWAYS POSSIBLE?**

## THE CHOICE OF THE LEGAL BASIS

"IT MUST BE OBSERVED THAT IN THE CONTEXT OF THE ORGANIZATION OF THE POWERS OF THE COMMUNITY THE CHOICE OF THE LEGAL BASIS FOR A MEASURE MAY NOT DEPEND SIMPLY ON AN INSTITUTION' S CONVICTION AS TO THE OBJECTIVE PURSUED BUT MUST BE BASED ON OBJECTIVE FACTORS WHICH ARE AMENABLE TO JUDICIAL REVIEW."

C-45/86, Commission v Council, European Court Reports 1987, p. 1493

"Those factors include in particular the aim and content of the measure."

C-300/89, Commission v Council, European Court Reports 1991, p. I-2867