

Address by Ole Due (25 September 1989)

Caption: Address delivered by Ole Due, President of the Court of Justice, on the occasion of the taking of the oath by the first Members of the Court of First Instance of the European Communities on 25 September 1989.

Source: Court of Justice of the European Communities. Synopsis of the work of the Court of Justice and the Court of First Instance of the European Communities in 1988 and 1989 and record of formal sittings in 1988 and 1989.

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Address by Mr Ole Due, President of the Court of Justice, on the occasion of the taking of the oath by the Members of the Court of First Instance

Your Excellencies,
Ladies and gentlemen,

It is with the greatest of pleasure that the Court of Justice welcomes all those who have accepted its invitation to take part in this historic ceremony.

The setting-up of the Court of First Instance is a long-awaited event. As long ago as the late 1970s, both the Court of Justice and the Commission saw the need for such a court, particularly for staff cases and competition cases, but it was not until the adoption of the Single European Act that the way was paved for this institutional innovation.

Why was there such a need?

You are all aware that the number of cases brought has been constantly increasing and that, notwithstanding the procedural reforms which it has been possible for the Court to achieve within the rules of the Treaties and the Statutes of the Court of Justice, the limits of its capacity have already been reached. The result has been a steady build-up in the number of cases awaiting judgment and a lengthening of the duration of proceedings to an extent which has become unacceptable, particularly so far as preliminary rulings are concerned.

The increase in the membership of the Court of Justice as a result of the accession of new Member States has not been sufficient to compensate for the growing work-load, as almost half the cases must be determined by the full Court.

The increasing work-load has also clearly brought out the fact that the Court of Justice has two rather different roles to play.

The Court of Justice is, first and foremost, a judicial body which decides questions of law. It must ensure that the law is observed in the interpretation and application of Community rules, and that those rules are interpreted and applied uniformly throughout the Communities.

In direct actions, however, the Court of Justice also decides questions of fact. Until the Court of First Instance was set up, it had, as a court of first and last instance, to find the facts.

Those two roles pose different problems with regard to working methods.

Gradually, as the Court of Justice has elaborated the general principles of Community law, most of its judgments have come to fall within a known legal framework. The parties in their pleadings and oral argument, the Advocate General in his Opinion and the Court in its deliberations can proceed from an increasingly broad and solid basis. The national courts, the counsel for the parties and the Court are increasingly speaking, as it were, the same language. The various procedural elements can thus be compressed in a considerable number of cases, thereby allowing for a more compact timetable.

Facts, however, must be established anew in each case, and the process of establishing them cannot be compressed. It is therefore increasingly difficult to find time in a compact timetable for cases which raise many complex problems of fact, and the parties in such cases sometimes have the impression that the Court does not devote enough time to establishing the facts.

Those were the considerations which formed the basis for the Court of Justice's proposals, first for a provision to be included in the Single Act, and then for a Council Decision establishing the Court of First Instance. It was with those considerations in mind that the Court of Justice proposed to give the Court of First Instance jurisdiction in the types of case which most frequently raised problems of fact and to limit

appeals against its decisions to questions of law.

The Court of Justice is very appreciative of the rapidity with which the other institutions have acted on those proposals. It is true that the Court of Justice would have liked the Court of First Instance to have wider jurisdiction, but we are confident that experience will show a future extension of its jurisdiction to be fully justified.

What is important is that we now have a two-tier judicial system which can remedy the problems and shortcomings of the old system and ensure that all cases will be treated in a manner worthy of a community of law. That is why this formal sitting marks a truly historic event for the Communities.

Mr Registrar, will you read the Council Decisions of 18 July 1989?

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Members of the Court of First Instance,

In most cases, a formal sitting of the Court of Justice is an occasion for mixed feelings. Usually, at such sittings, the Court must bid farewell to several of its members with whom we have not only worked as colleagues, but also formed bonds of friendship.

That is not the case today. On the contrary, we have not only the pleasure of welcoming 12 lawyers eminently qualified to lend their support to our shared institution, but also the pleasure of seeing again amongst you a good number of former colleagues whose departure in past years was deeply regretted.

Although the Council's decision gave the Court of First Instance a more limited jurisdiction than that proposed by the Court of Justice, your duties and responsibilities will be heavy ones. In the cases brought before you, you will in establishing the facts be acting as a court of first and last instance. That is an extremely difficult task in many cases, and an extremely important one in all. You will also, in important areas of Community law, be leading the way and covering new ground in your decisions.

You are all extremely well equipped to fulfil those tasks. We, as members of the Court of Justice, are convinced that you will succeed and that you will find, in doing so, the same satisfaction that we have ourselves felt.

I wish you every success in your important tasks, and now call upon you to make the declaration provided for in the Statutes.