

## Address by Hans Kutscher (25 October 1977)

**Caption:** Address given by Mr Hans Kutscher, President of the Court of Justice, on 25 October 1977 at the swearing-in of the first Members of the Court of Auditors. In his view, if the Court of Justice constitutes the 'legal conscience' of the Community, the Court of Auditors represents its 'financial conscience'; this expression has since become a leitmotif of the Court of Auditors.

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## Address by Mr Hans Kutscher, President of the Court of Justice on 25 October 1977, at the swearing-in of the first Members of the Court of Auditors

Members of the Court of Auditors,  
Your Excellencies,  
Ladies and Gentlemen,

For the first time the Court of Justice of the European Communities has the honour to receive the Members of the newly created Court of Auditors and to accept their declaration whereby they give a solemn undertaking that “both during and after their term of office, they will respect the obligations arising” from their duties. It is the first time that Members of the Court of Auditors have given such a solemn undertaking but nevertheless there can be said to exist an established tradition. The Members of the Commission too have to make a solemn declaration when they enter upon their duties and it is customary for them to do so before the Court of Justice and in the presence of the general public. Finally it is provided that before taking up their duties the Judges and Advocates General are to take an oath in open court affirming their readiness to perform their duties impartially and conscientiously.

Accordingly our work for the European Community is preceded by a solemn declaration which takes place under the eye of the general public. The purpose of such a proceeding does not lie in the need of the persons concerned to demonstrate their rank and their importance to the public at large. Discretion and modesty are not the least of the virtues required of us. The reason is also not that the formal declarations constitute an indispensable guarantee for the fulfilment of our obligations; it is self-evident that any person who is called upon to hold high office within the Community is determined to do and capable of doing justice to it. The real significance of these proceedings becomes evident if we visualize the basic attitude which the Treaties — the Constitution of the European Community — require in largely identical terms from the Members of the Commission, the Court of Justice and henceforth the Court of Auditors.

The Court of Auditors was established by the Treaty of 22 July 1975 which entered into force on 1 June 1977. In the terms of that Treaty “the Members of the Court of Auditors shall, in the general interest of the Community, be completely independent in the performance of their duties. In the performance of these duties, they shall neither seek nor take instructions from any Government or from any other body”. Not only each individual Member but the Court of Auditors itself must carry out its tasks in complete independence.

It may be said certainly that this independence is self-evident for the Members individually and the Court of Auditors itself which constitutes the “financial conscience” of the Community. Even without express provisions there can be no doubt that the Members of the Court of Justice, the “legal conscience” of the Community, may take no instructions from others and that finally the Commission, which is to ensure compliance with the Treaties, can only fulfil its duties if its members maintain their independence from instructions from the Member States. Nevertheless it is fortunate that such provisions exist. They make clear something which was in danger of being forgotten because of various setbacks in recent years, that is that the Community is of a supranational character and that above the Member States there exists a European Community which is authorized and called upon to act independently, which has its own sovereign powers in order to achieve the objectives set out in the Treaty and must thereby lay the foundation of an ever closer union among the peoples of Europe. Accordingly the Treaties refer to the “general interest of the Community” which we are bound to serve in the performance of our duties. It may be added that because of the autonomy (independence) of the Community it is no longer at the disposal of the States which created it.

The task of making this fact clear to the citizens of Europe is included in the duties which each of us must fulfil within the scope of our powers and opportunities. A ceremony such as that for which we are assembled here also, within prescribed limits, serves this objective. Unfortunately “Europe” and the “European Community” are abstract concepts for the citizens of our countries.

We must show them and convince them that the European Community is not the concern of a few bureaucrats but a living, important and indispensable part of our life in Europe.

The history of the origins of the Court of Auditors confirms this view. The Preamble to the Treaty of 22 July 1975 points out that the budget of the Communities is financed entirely from the Communities' own resources and that for that reason a strengthening of the budgetary powers of the Parliament is required. It is however further emphasized in the Preamble that for the same reason the implementation of the budget should be more closely supervised. To that end the Member States have substituted the Court of Auditors for the previous Audit Board and the auditors of the Coal and Steel Community. The scopes of this measure is clear from a few outward indications. The new rules were laid down as an amendment to the Community Treaties and required the ratification of all nine Member States — an unusual and unfortunately also protracted process — before their entry into their force. The Court of Auditors is mentioned in the fundamental provisions at the beginning of the Treaties and, like the Economic and Social Committee, included amongst the institutions of the Communities. Its tasks are described in greater detail, and, if I understand it correctly, are more extensive than those of its predecessors. For the first time the budgetary affairs of the Community are subject to continuous supervision. In the Treaty itself the status of the Members of the Court of Auditors is modelled on that of the Members of the Court of Justice. However before appointing them the Council must consult the Parliament.

Although in all these ways the new Court of Auditors is clearly distinguished from the bodies which have carried out the external supervision of the budget of the Community up to now, we must not be misled into undervaluing the work carried out by the Audit Board and the auditors of the Coal and Steel Community. It is certainly apt for the Court of Justice to examine and assess the activities of those bodies. One conclusion may be drawn however: by their objectivity, their conscientiousness and their keen perception those bodies won high esteem and general recognition. It appears that the foundation which they laid will be of inestimable value to the new Court of Auditors.

It is no secret that the activities of the bodies responsible for supervision of budgets are not always a source of joy for those involved. That is in the very nature of things. It may perhaps be of some consolation for those who have been or who will be entrusted with such duties if I assure them that their fate is shared by the Judges and Advocates General of the Court of Justice. I may say that we have always taken very seriously any criticisms made of us although on the whole, they have fortunately been few and have not been on matters of any gravity. The same will be true of our cooperation with the Court of Auditors. No administration — and this is equally true for the administration of the Court of Justice — is completely immune to the temptation to go beyond what is financially reasonable because of laudable zeal, too great attention to its own problems, thoughtlessness or perhaps conceit. The fact that there exists and must exist a body which calls us to order in such cases is not to be accepted reluctantly but to be welcomed with gratitude.

Our best wishes accompany you, Members of the Court of Auditors, in the fulfilment of your highly responsible task.