

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(76) 635 final.

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SETTING UP OF THE COURT OF AUDITORS

(Communication from the Commission to the Council)

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JUSTIFICATION

This communication to the Council examines the decisions which must be taken before the Court of Auditors is set up. It is a question of determining its seat, its locale, the remunerations of its members, its first budgetary resources and of its assimilation to an institution in the Financial Regulation and in the Staff Regulations.

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COMMUNICATION FROM THE COMMISSION TO THE COUNCIL

Subject : Setting up of the Court of Auditors

I. At the Council meeting on the 1st and 2nd December 1975 at Rome, "the Heads of Government agreed to undertake to reach a rapid conclusion on the procedures for ratifying the Treaty instituting a European Court of Auditors, signed the 22 July 1975 last at Brussels, in order to allow the Court of Auditors to take up its duties during 1976".

Having regard to the ratification procedures in some Member States (see the annexed note from the Council secretariat on this subject) this time span cannot be adhered to. The Treaty of 22 July 1975 will not be able to enter into force ^{CNTAL} some later date which, on an optimistic outlook, could be within the first few months of 1977.

The Commission regrets this delay. It considers that everything should be done to expedite the progress of the ratification procedures. Similarly, it recalls that certain decisions must be taken by the Community institutions or effected by common agreement among the governments of the Member States to ensure that the Court of Auditors can effectively discharge its functions. These decisions concern :

- seat (locale) (1) of the Court of Auditors;
- the financial arrangements for its Members;
- the first budgetary resources.

II. 1. Seat of the Court of Auditors

The Treaty of ^{the} 22 July 1975 does not specify a seat for the Court of Auditors. The seat must therefore be determined by common agreement of the governments of the Member States.

The decision concerning the seat should take into account the following considerations :

- a) The Court of Auditors will succeed the Audit Board which is located at Brussels and the Commissioner of Audit of CECA located at Luxembourg.

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(1) Hereinafter the term "seat" is used in the sense of meaning the locale.

The Court of Auditors has not however been created to constitute a simple extension (under a more prestigious name) of the existing control bodies. It has been conceived in an innovatory spirit to bring about a qualitative change from the current situation.

- b) The controls of the Court of Auditors will be executed in connexion with the activities of Community institutions especially those up the Commission; they should, however, also extend, and to a greater degree than hitherto to the Member States,
- c) In the terms of article 10 of the decision of the Representatives of the Governments of the Member States relating to the provisional setting up of certain services of the Communities, "the Governments of the Member States are ready to place or to transfer to Luxembourg other community bodies or services particularly in the financial sector insofar as their ability to function properly is not impeded.

These considerations when taken together, especially if they are placed in the larger political context, would seem to argue for Luxembourg being chosen.

2. Financial arrangements for members of the Court of Auditors

In the terms of the Treaty of the 22 July 1975, "the Council acting by qualified majority shall determine the conditions of employment especially with regard to salaries, allowances and pensions of the president and of members of the Court of Auditors. It shall determine equally, acting by the same majority, all of the allowances taking the place of remuneration".

In determining the financial arrangements of the Court of Auditors, the Council may wish to take into account the following considerations :

- a) The remuneration must be such to allow the selection of first class people.
- b) Since the Court of Auditors has a rank higher than that of the Audit Board, it would be normal that the remuneration of its members was likewise higher than that of the members of the Audit Board.

- c) The Treaty of the 22 July 1975 lays down the personal position of the members of the Court of Auditors on the model of that of the judges of the Court of Justice.

3. First budgetary resources of the Court of Auditors

The Court of Auditors will need of budgetary resources from the moment it is set up. The appropriations at the disposal of the Audit Board will not be sufficient. Such will be particularly the case if the Court of Auditors comes into operation during the first half of 1977. In fact on that assumption the mandate of the members of the Council Board will not come to an end immediately (art. 28 of the Treaty of the 22 July 1975).

For practical reasons the first budgetary resources of the Court of Auditors must be approved without its prior intervention.

The Commission considers that the first "budget" of the Court of Auditors must have regard to a basic principle : the budget must invoid anticipating the effective organisation of the Court of Auditors. The first "budget" must therefore be an incomplete budget, a budget which puts no more financial means at the disposal of its members than use needed to start work. The additional means, which would permit the definitive organisation, must come from budgets (if necessary, supplementary ones) proposed by the Court of Auditors itself.

The first budgetary resources of the Court of Auditors could usefully come from a global, provisional amount which the budgetary authorities would introduce in a special section of the communities budget (for the reasons, see the following justifications).

4. Adaptation of the Financial Regulation and of the Staff Regulations

At the time of the signature of the Treaty of the 22 July 1975, it was noted in the minutes of the Council that the Commission will introduced as soon as possible two proposals to amend respectively the relevant dispositions of the Financial Regulation, the Staff Regulations of officials and the Conditions of Employment of other servants, in order to assimilate explicitly the Court of Auditors to an institution for the purposes of applying that legislation.

The proposal to amend the Financial Regulation was introduced in June 1976 (doc. R/1389/76 (fin 346)). It will be recalled that this proposal provides in particular that the Council Board should draw up a forecast of expenditure and that the budget should allocate a special section to it on the same footing as for the European Parliament, the Council, the Commission and the Court of Justice.

The proposal for amending the Staff Regulations will be submitted before the end of 1976.

III. CONCLUSIONS

Before the Treaty of the 22 July 1975 comes into force

- the governments of the Member States must determine by mutual agreement the seat (provisional locale) of the Court of Auditors,
- the Council must determine the financial arrangements for the members of the Court of Auditors,
- the budgetary authorities will determine the first financial resources of the Court of Auditors.

The Commission will, before the end of 1976, propose amendments to the Staff Regulations so as to assimilate the Court of Auditors to an institution.

