V — Proposed decision

In view of the fact that there is no necessity to examine the question of the identity of the scrap or that of the applicants' claims to a set-off, I therefore arrive at the following opinion:

The actions are admissible and well founded.

(a) The contested decisions do not give a sufficient statement of the reasons on which they are based.

(b) The recovery of the equalization payment is unlawful,

1. Because the scrap in question qualified for equalization for so long as the Netherlands export certificates were not annulled;

2. Because the payment decisions cannot be revoked, in view of the balance of the interests of the participants and of the fact that the wrongful acts and omissions which have occurred fall in their entirety within the responsibility of the equalization scheme.

3. Because the applicant undertakings were not enriched through being relieved of any obligation.

The contested decisions of the High Authority must therefore be annulled and the High Authority must be ordered to pay the costs.

ORDER OF THE COURT
18 MAY 1960[1]

In Joined Cases

4/59, MANNESMANN AG, Düsseldorf,
5/59, RUHRSTAHL AG, Witten,
6/59, GUSSTAHLWERK GELSENKIRCHEN, Gelsenkirchen,
7/59, GUSSTAHLWERK WITTEN AG, Witten,
8/59, NIEDERRHEINISCHE HÜTTE AG, Duisburg,
9/59, BOCHUMER VEREIN FÜR GUSSTAHLFABRIKATION AG, Bochum,
10/59, STAHLWERKE BOCHUM AG, Bochum,
11/59, AUGUST THYSSEN-HÜTTE AG, Duisburg-Hamborn,

1 — Language of the Case: German.

12/59, HÜTTENWERK OBERHAUSEN AG, Oberhausen,
13/59, PHOENIX-RHEINROHR AG, Düsseldorf,

assisted by Werner von Simson, Advocate of the Oberlandesgericht Düsseldorf,

v

HIGH AUTHORITY OF THE EUROPEAN COAL AND STEEL COMMUNITY, represented by its Legal Adviser, Frans van Houten, acting as Agent, assisted by Wolfgang Schneider, Advocate of Frankfurt am Main,

THE COURT

composed of: A. M. Donner, President, L. Delvaux, President of Chamber, O. Riese, Ch. L. Hammes (Rapporteur) and N. Catalano, Judges,

Advocate-General: K. Roemer
Registrar: A. Van Houtte

makes the following

ORDER

Facts

On 4 April 1960 the Court gave judgment in Joined Cases 4 to 13/59.

On 14 April 1960, the High Authority of the European Coal and Steel Community, the defendant in the main action, submitted an application for the rectification of that judgment under Article 57 of the Rules of Procedure of 4 March 1953.

The applicant maintains therein that the grounds of the judgment contain two obvious inaccuracies, which involve amendments to the wording. It is necessary, first, in the first paragraph of heading II (2) of the grounds of judgment, concerning the merits of the High Authority's claims, to replace the words 'by the Joint Bureau' by the words 'by the Fund'; secondly, in the following paragraph, under the heading (a), to strike out the description 'organ of the High Authority' applied to the Joint Bureau.

The defendants, the applicants in the main action, raise no objection to the first part of the application, the merits of which they acknowledge, but contend that the Court should dismiss the second part and order the High Authority to pay the costs of the action.

Grounds

Article 57 of the rules of Procedure of 4 March 1953 provides that:

'Without prejudice to the provisions governing the interpretation of judgments, the Court may, of its own motion or on application by a party, within fifteen days, rectify clerical mistakes, errors in calculation, and similar obvious inaccuracies.'

These provisions can be applied to the first part of the application; indeed, it was stated in the judgment that the equalization amounts were paid by the Joint Bureau only as the result of an obvious material mistake, whereas it is evident, and moreover not disputed by the parties, that the sums were paid by the Fund.

The judgment must therefore be rectified in that particular.

The second part of the application rests on the idea that the expression 'organ' incorrectly reproduces the Court's thinking on the relations between the High Authority and the Joint Bureau. Apparently, the applicant has reached this conclusion because it interprets the word 'organ' as meaning that the Joint Bureau is in all respects an organ of the High Authority, as much in its organization as in its powers.
On this point, the application constitutes in actual fact an attempt to obtain an interpretation of the grounds of the judgment. Such an interpretation would go far beyond the conditions laid down in Article 57 of the Rules of Procedure of 4 March 1953.

This part of the application is therefore inadmissible.

Having regard to the foregoing considerations;
Upon reading the pleadings;
Upon hearing the report of the Judge-Rapporteur;
Upon hearing the opinion of the Advocate-General;
Having regard to Articles 57 and 60 of the Rules of Procedure of the Court of 4 March 1953;

THE COURT,

hereby:

1. **Rectifies the judgment given on 4 April 1960 in Joined Cases 4 to 13/59 in that in the first paragraph of heading II (2) of the grounds of judgment, where it is stated, ' . . . whether there are any grounds on which the applicants can be treated as liable for amounts wrongly paid by the Joint Bureau in respect of equalization', the words 'by the Joint Bureau' shall be replaced by words 'by the Fund'.**

2. **The original of this order shall be annexed to the original of the rectified judgment; note of it shall be made in the margin of the original.**

Luxembourg, 18 May 1960.

A. Van Houtte
Registrar

A. M. Donner
President