means of transport has been recognized as being in the interest of the service.
(b) Very strict conditions of form and substance must be imposed for declarations intended to establish the right entitlement to reimbursement at the rate per kilometre.

3. Ultimately, a decision with regard to the method of reimbursement of mission expenses comes under the general departments of the administration, and not the immediate superior of an official.

Reimbursement of travel expenses on the ordinary basis involves 'definite disadvantages' within the meaning of Article 17 (d) of the Staff Regulations, when it plainly cannot cover the expenses actually incurred by the party concerned, in using his own car.

In Case 11/63

ROBERT LEPAPE, an inspector with the High Authority of the ECSC, residing at 74 rue Leemans, Brussels, assisted by Jean Duvieusart of the Charleroi Bar, with an address for service in Luxembourg at the offices of Mr Jansen, huissier, 21 rue Aldringer,

applicant,

v

HIGH AUTHORITY OF THE EUROPEAN COAL AND STEEL COMMUNITY, represented by its Legal Adviser, Pierre Lamoureux, acting as Agent, assisted by Mr Cyr Cambier of the Cour d'Appel, Brussels, with an address for service in Luxembourg at its offices, 2 place de Metz,

defendant,

Application for the payment of removal expenses and mission expenses,

THE COURT (First Chamber)

composed of: A. Trabucchi, President, L. Delvaux and W. Strauß (Rapporteur), Judges,

Advocate-General: M. Lagrange
Registrar: A. Van Houtte

gives the following

JUDGMENT

Issues of fact and of law

I—Fact

The facts may be summarized as follows:

1. The applicant has been employed by the defendant since 1953. During the period with which the present application is concerned (1959 to 1962), he was a member of the inspection group, later named 'Inspection Directorate', and in this capacity he was charged with the checks involving undertakings coming under the jurisdiction of the ECSC. This required him to make frequent journeys for which he often used his own car. For some of these missions, or for parts of them, a difference arose between the parties in particular as to whether the travel expenses should be calculated on the basis of the rail fare (as the defendant considers) or at the rate of 3 Belgian francs per kilometre travelled by car (as the applicant thinks); reimbursement on that latter basis is hereinafter referred to as the 'rate per kilometre'.

2. In December 1960 at the latest, the applicant learned that the defendant intended to transfer him from Luxembourg to Brussels.
A decision to this effect was taken by the President of the High Authority on 27 February 1961, which was to take effect from 1 March 1961. However, the applicant was only given notice of this on 17 April 1961.

3. The applicant states that he moved from Luxembourg to Brussels on 22 April 1961.
In a note of 17 April 1961, he asked the administration of the defendant 'how many copies of the invoice for the removal of my furniture should be submitted'. By note of 18 May 1961, the administration replied, drawing the attention of the applicant 'to the provisions of Article 15 (a) (that is, of the former Staff Regulations of the ECSC), which stipulate that (removal expenses) shall not exceed the amount of an estimate approved in advance and for this purpose not less than two estimates shall be submitted to the Personnel Department'. On 15 June 1961, the applicant informed the defendant that he had requested written confirmation of the estimates which had been given to him in December 1960 by removal firms in Luxembourg and Brussels and that he would submit these documents as soon as possible. Later, the applicant sent the High Authority a receipt from Maison Lemort of Jemappes (Belgium), made out in the sum of 13800 Belgian francs and an offer from Maison Welter of Luxembourg, dated 30 May 1961. The defendant refused to reimburse the applicant for his removal expenses.

II—Conclusions of the parties

In his *application, the applicant* claims that the Court should:
'rule that the claim made in this application to the Court against the High Authority of the European Coal and Steel Community is admissible and consequently order the High Authority to pay the applicant the sums of 13800 Belgian francs, 4615 Belgian francs, 2918 Belgian francs, 2943 Belgian francs and 16009 Belgian francs together with interest from the date on which the claim was lodged and costs;'
The amounts of 13800 and 16009 Belgian francs relate respectively to the removal expenses and the expenses of missions undertaken between 1 March and 17 April 1961.
The other amounts relate to missions undertaken before or after those dates.

In its statement of defence, the defendant contends that the Court should:

'take note that the High Authority offers to pay in full and final settlement the sum of 12364 Belgian francs arising from the rectification of the accounts for missions undertaken by the applicant from 1 March to 17 April 1961;

declare that this payment shall be in settlement of all claims which the applicant has in this case;

reject the remaining conclusions of the applicant and dismiss his application as unfounded;

order the applicant to pay the costs.'

In his reply, the applicant modifies as follows the figures which appeared in his original conclusions:

— the sum of 4615 Belgian francs is amended to 4246 Belgian francs;

— the sum of 16009 Belgian francs is amended to 3645 Belgian francs;

— the sum of 2918 Belgian francs is amended to 2968 Belgian francs;

The sum of 3645 Belgian francs constitutes the difference between the sum of 16009 Belgian francs and 12364 Belgian francs given in the statement of defence.

With regard to 'the third head of his conclusions', relating to interest and the costs of the proceedings, the applicant requests the Court:

'to place this item on record as quantified at an amount of 100000 Belgian francs, subject to its increase, decrease or better definition in the course of the proceedings.'

In its rejoinder, the defendant contends that the Court should:

'take note that the High Authority offers to pay in full and final settlement the sum of 12364 Belgian francs, already specifically mentioned in its statement of defence, together with interest on that sum from the date on which the claim was lodged up to the date on which the statement of defence was served on the applicant, and declare that this payment shall be in settlement of all claims which the applicant has in this case;

reject the remaining conclusions of the applicant and dismiss his application as unfounded;

order that the greater part of the expenses incurred by the applicant before the High Authority served its statement of defence on him and all expenses incurred by him thereafter should be borne by the applicant.'

In his reply to the question put by the Court on 24 October 1963, *the applicant* declared that he wished to reduce the claim of 2943 Belgian francs to 2942 Belgian francs.

In reply to the written and oral questions put by the Court, *the applicant* declared that he wished to reduce his claims relating to mission expenses so that the dispute no longer turns on whether for the missions in question he should be reimbursed on the basis of the rail fare or of the rate per kilometre.

III — Submissions and arguments of the parties

The submissions and arguments of the parties may be summarized as follows:

1. *Removal expenses (claim for 13800 Belgian francs)*

The applicant states that Article 15 of the former Staff Regulations of the ECSC recognized the unconditional right of officials to be reimbursed in respect of such expenses. The checking procedure provided for by this Article (submission in advance of estimates from more than two removal firms) only constitutes a means of avoiding excessive claims. When the urgency of the removal, owing to the requirements of the service, renders it impossible for this procedure to be followed, the only consequence which arises is that the check must be effected by other means.

The applicant points out that, as is indeed admitted by the defendant, it was not until 17 April 1961 that he knew of the decision to transfer him; he

had therefore to move 'as quickly as possible'. In addition to the invoice by the removal firm which he had in fact employed, he presented the estimate of a second removal firm. Furthermore, the amount claimed is less than that normally quoted for removals over similar distances and involving like quantities of furniture.

The *defendant* interprets the said Article 15 to mean that the administration is not obliged to reimburse the removal expenses when the official does not observe the prescribed procedure. Even supposing, contrary to this argument, that in particular cases exceptions were admissible in favour of officials, this is not the case here; the applicant had had reason to think from December 1960 that he might be transferred and it was unnecessary to carry out his removal in such haste.

The estimate from Maison Welter submitted later is pointless, since the removal had already been carried out at that date. Contrary to what he stated in his note of 15 June 1961, the applicant did not supply any proof that he had already requested estimates prior to his removal.

2. *Mission expenses*

A—In general

The *applicant* claims that the provisions in force did not state expressly which authority should decide whether the conditions for reimbursement at the rate per kilometre were satisfied, nor how the decision should be taken. However he is plainly of the opinion that the decision should be taken by the head of the Inspection Directorate, in this case Mr Burgert.

When Mr Burgert inserted (as occurred in all the cases concerned in the present dispute) in travel orders the entry 'private car', that constituted a binding instruction to use a specific means of transport; the administration was thus bound to reimburse at the rate per kilometre. If this argument were not admitted, the said insertion would be devoid of meaning.

The *defendant* is of the opinion that it has correctly applied the provisions in force. It states that pursuant to the former version of the Staff Regulations the reimbursement, on the basis of the rail fare, of the travel expenses between the place of employment and the centre of the region visited was obligatory. Following the amendment of the Staff Regulations, made by decision of the Committee of Chairmen of the ECSC on 21 November 1960, that provision was revoked and approval of the reimbursement at the rate per kilometre was made subject to certain specific conditions. In no case was the necessary approval granted.

The mere entry 'private car' appearing on the travel order does not give any right to reimbursement on the basis of the rate per kilometre. It is a simple authorization intended to establish that the journey will not be delayed because of the use of the car.

The defendant points out that, as indeed the applicant admits, Mr Burgert by no means found in *all* instances of dispute in favour of reimbursement in accordance with the rate per kilometre; on several occasions he either made no mention of this or indicated that the rail fare should be applied.

B — Data of various journeys

The documents relating to the missions in question (travel orders, accounts, correspondence between the parties, etc.) have been entered on the file.

Furthermore, the defendant has submitted a statement showing the details of each of these missions, and in particular the amounts, on the one hand paid or tendered by the defendant, and on the other claimed by the applicant. The applicant has not disputed the accuracy of the figures in the said statement.

(a) Missions undertaken between 1 July 1959 and 31 December 1960 (claim for 4615 Belgian francs, reduced in the reply to 4246 Belgian francs).

In his application, the *applicant* fixed the difference between the amount to which he was entitled and the amount which had in fact been paid to him at 4615 Belgian francs.
The *defendant* replied at the outset that, on the basis of the applicant's method of calculation, the figure of 4625 Belgian francs was obtained. However, if the applicant's argument was well-founded, he was only entitled to the sum of 4266 Belgian francs (4625 less 359) since in his calculations he did not take into account a reimbursement of 359 Belgian francs effected under account number 1696D.
In his reply, the *applicant* disputes the information relating to the 359 Belgian francs, at the same time reducing his claim to 4246 Belgian francs, stating that henceforth he would not dispute journeys of less than 50 miles whose distance was challenged.

(b) Missions undertaken between the end of December 1960 and the end of January 1961 (claim for 2918 Belgian francs, increased in the reply to 2968 Belgian francs)

The missions (four return journeys between Luxembourg and Brussels) were undertaken at a time when strikes made it impossible to use the railway.
The parties are agreed that the figure of 2918 Belgian francs, quoted in the application, is based on an error of calculation and should read 2968.
The *applicant* considers that in this case the grant of the rate per kilometre is justified by the very fact that it was necessary to use a private car.
The *defendant* objects that there is no causal connexion between the strikes and the means of transport used; in fact, the applicant used his car for most of the missions which he undertook. Nevertheless, it is of no importance, having regard to the provisions in force, whether the use of the car was voluntary or whether it was used for reasons other than personal wishes.
Moreover, reimbursement at the rate per kilometre would only give an amount of 2920 Belgian francs, since the calculations must be based on distances stated on official road maps.

(c) Missions undertaken between 1 March and 17 April 1961 (claim for 16009 Belgian francs, reduced in the reply to 3645 Belgian francs)

The claim for 16009 Belgian francs is accounted for in particular by the fact that before the application was made the defendant had considered that, as the transfer of the applicant to Brussels had taken effect on 1 March 1961, Brussels and not Luxembourg should be considered as the point of departure for the missions in question. The applicant, on the other hand, claimed that he had only been notified of the decision to transfer him on 17 April 1961.
By its offer in its statement of defence to pay the applicant 12364 Belgian francs, the defendant has concurred on this point with the argument of the applicant. It observes however that with regard to mission 7276L, undertaken after 17 April, only the single journey from Luxembourg to Brussels, and not the 'return' from Brussels to Luxembourg should be reimbursed, since the applicant had at that time been notified of the fact that Brussels was his new place of employment.

(d) Missions undertaken after 17 April 1961 (claim for 2943 Belgian francs, reduced to 2942 Belgian francs)

The parties are agreed that the amount claimed is subdivided as follows:
— 1425 Belgian francs relating to accounts 1848L and 1421L;
— 1517 Belgian francs relating to a

mission undertaken from 2 to 6 April 1962.

The amendment of 2943 to 2942 takes into account an error of calculation.

IV—Procedure

The procedure followed the normal course.

Upon hearing the report of the Judge-Rapporteur and the opinion of the Advocate-General, the Court (First Chamber) decided not to make any preparatory inquiry.

However, on 24 October 1963, it submitted certain questions to the parties to which they replied in writing.

The hearing took place in open court on 7 November 1963.

The Advocate-General presented his opinion at the hearing on 5 December 1963.

Grounds of judgment

I — Removal expenses

1. Under the terms of the first, second and third sentences of Article 15 (a) of the former Staff Regulations of the ECSC of 1 July 1956, in the version adopted by the Committee of Chairmen on 21 November 1960, 'The expenses incurred in respect of removal of furniture and personal effects . . . shall be reimbursed . . . to officials. Such reimbursement shall not exceed the amount of an estimate approved in advance. Not less than two estimates shall be submitted to the appropriate department of the institution'.

It is agreed that the applicant did not submit an estimate in advance, so that it was not possible to give the approval provided for in the provision quoted above.

Consequently the dispute raises the question whether in such cases the official concerned simply loses his rights.

2. The literal interpretation of the provision quoted above does not give any definite answer. Its first sentence appears to accord an official an unconditional right. On the other hand the second sentence appears to exclude that right in cases where the official does not submit the estimates in advance. Therefore the interpretation must be based on the meaning and aim of that provision.

Article 15 rests on the general principle that the employer is bound to reimburse officials for all expenses which they have incurred in the interest of the service, but may, in return, require from officials proof that the expenses were in fact necessary and were in fact incurred.

According to this principle, the applicant is only entitled to reimbursement of removal expenses if the evidence submitted subsequently makes it possible for the High Authority to ascertain, in accordance with the principles of good accounting, whether the removal which the official claims to have undertaken has in fact taken place, what services the carrier has performed quantitatively and qualitatively (volume of material to be removed, etc.) and whether the price required seems reasonable having regard to those services.

3. By letter of 16 June 1961, the applicant declared to the administration of the High Authority, 'I have requested written confirmation of the quotations submitted to me in December 1960 by carriers in Luxembourg and Brussels. As you will see, I have in the end taken the lowest estimate. These documents will be sent to you as soon as I receive them'.

However, the applicant subsequently produced only the following documents:

— an invoice submitted by a Belgian carrier, receipted on 22 April 1961, relating to an estimate which the applicant has not produced; the amount of this invoice is shown in summary form and it does not list the essential details, such as, for example, the amount of furniture, the distance covered, etc.;

— a letter from a carrier established in the city of Luxembourg, containing an 'estimate' of 2595 + 1460 + 13240 Belgian francs; this letter is dated 30 May 1961, although, according to information supplied by the applicant himself, the removal had already taken place on 22 April 1961.

Clearly, these documents did not make it possible for the High Authority to arrive at the findings which, in accordance with the general principles set forth above, constitute a condition precedent to any reimbursement of removal expenses.

Consequently, the applicant's claim must be dismissed.

II — Mission expenses

1. *General observations*

(a) In his written reply to the questions put by the Court, as well as in his statements at the hearing, the applicant declared that he concurred in

restricting the dispute to the question whether the mission expenses incurred for certain journeys on mission, or for parts of journeys on mission, must be reimbursed on the basis of the rail fare, or in accordance with the rate of 3 Belgian francs per kilometre covered by private motor car ('rate per kilometre').

There are therefore grounds for presuming that the applicant has forgone the pursuit of his application as regards the differences on other points.

(b) In the opinion of the applicant, the statement 'own car' inserted in his travel orders is sufficient by itself to entitle him to the rate per kilometre.

At the period in dispute the reimbursement of mission expenses was governed under the Staff Regulations by various provisions adopted successively, in particular by Articles 17 (d) and 13 (d) of the original version of the Staff Regulations of the ECSC of 1 July 1956, Article 17 (d), already referred to, in the version adopted by the Committee of Chairmen on 21 November 1960 and Article 12 (1) to (4), of Annex VII to the Staff Regulations of officials of the ECSC presently in force.

All these provisions state, literally or in substance, that an official 'may be authorized to use his own car on a given mission provided that the duration of the mission is not thereby increased' and that reimbursement of travel expenses shall in that case be calculated in principle in accordance with the rail fare and only in exceptional cases on another basis.

Therefore a clear distinction must be made between authorization to use a private car and the payment of an allowance at a rate per kilometre.

Whilst the above-mentioned authorization only establishes that there is no objection to an official's using his own car, the grant of a rate per kilometre presupposes on the other hand that the use of that means of transport must be recognized as being in the interest of the service.

Moreover, as happened in this case, the travel orders are in practice frequently issued by the immediate superior of the official entrusted with a mission, so that ultimately the decision with regard to the reimbursement of mission expenses comes under the general departments of the administration, a practice necessary to avoid discrimination in favour of or to the detriment of certain officials or of certain groups of officials.

In accordance with the foregoing, it must be admitted, as a general rule, that the statements on travel orders, indicating 'private car' as a means of

transport, without establishing that the use of this means is in the interest of the service, may only be interpreted as a mere authorization.

Consequently the applicant's argument is unfounded, but a check must be made with regard to each mission which has given rise to dispute as to whether the conditions in fact and in law for granting a rate per kilometre have been satisfied.

2. *Examination of the different missions*

The examination of these missions will be based on the detailed information appearing in a statement of the missions in question, which is dealt with in point (a) of the reply of the High Authority of 31 October 1963 to the written questions of the Court and which the applicant has not disputed (see below: 'statement').

According to this statement, the missions which must be examined are those appearing under Nos 1, 5 to 16, 18 and 19, and another mission carried out from 2 to 6 or 7 April 1962.

On the other hand, the missions mentioned under Nos 2, 3 and 4 should not be taken into consideration as they no longer form part of the subject matter of the dispute for the reasons set out under 1 (a) above.

The same obtains for mission No 17, for which the sum claimed by the applicant and that tendered or paid by the High Authority agree.

A — Missions relating to numbers 1 and 5 to 9 of the statement (claim for 4615 Belgian francs, reduced to 4246 Belgian francs in the reply)

(a) These missions must be examined in accordance with Articles 17 (d) and 13 (d) of the former Staff Regulations of the ECSC, in its original version. The latter provision lays down in particular: 'If the calculations cannot be effected on that basis, a special decision of the appointing authority shall fix the means of reimbursement'.

The 'opinion' of the administrative committee of the High Authority of 3 May 1957, approved by the President of the High Authority, may be considered as such a special decision.

That 'opinion' which governs the reimbursement of mission expenses for officials in the inspection group (later named 'Inspection Directorate'), states in particular:

'The Administration is of the opinion that the nature of these missions in fact generally requires considerable travel about a central point in the same industrial region, for which the use of a car would prove most useful. It considers however that the use of the official's own car, for the outward and return journey to the principal centre at which the mission is to be performed, is not, in the majority of cases, in the direct interest of the service.'

It provides furthermore that journeys between the place of employment and the centre at which the mission is to be performed shall be reimbursed on the basis of the rail fare, whereas in the case of other journeys it is provided that hired cars or private cars shall be used ('with prior authorization').

In this last case, the rate of reimbursement to the official is 3 Belgian francs for each kilometre actually covered.

Finally, the opinion lays down that, 'It is particularly stressed that . . . the use of a private car involving payment at the rate of 3 Belgian francs per kilometre must be expressly authorized'.

(b) It is true that these provisions do not show clearly whether the granting of a rate per kilometre should be excluded *ipso jure* when the travel order does not provide for any outward and return journey in the neighbourhood of the 'mission centre', but only for journeys between the place of employment and one or more large towns with good rail connexions. However such provisions must certainly be interpreted as authorizing the reimbursement at the rate per kilometre, in such cases, only in special situations and on the basis of detailed evidence.

That interpretation also arises from the fact that the Staff Regulations, which only provide by way of exception for reimbursement on any basis other than that of the rail fare, take precedence over the said 'opinion'.

The missions appearing in the statement under Nos 1, 7, 8 and 9 involve exclusively travel between the place of employment (Luxembourg) and Brussels.

From the documents submitted the Court cannot find sufficient evidence of the fact that the use of a private car was 'in the direct interest of the service'.

On the contrary, the immediate superior of the applicant, Mr Burgert, stated, in certain of the cases mentioned, that reimbursement on the basis of the rail fare was equitable.

The fact that, in other cases, he specified in travel orders 'private car, 3 Belgian francs per kilometre', or approved statements of this kind, cannot be admitted as sufficient evidence.

Having regard to the foregoing, the claims of the applicant relating to these missions are unfounded.

(c) The missions listed under Nos 5 and 6 of the statement related to an outward and return journey between the place of employment (Luxembourg) and Brussels and, moreover, outward and return journeys between Brussels and The Hague and journeys within the industrial regions of which Brussels is the centre.

The dispute relates exclusively to the outward and return journeys between Brussels and The Hague, as the High Authority has reimbursed the other journeys at the rate per kilometre.

It is necessary, however, to consider whether the claims of the applicant are founded, because it would be illogical, for a given mission, to reimburse one part of the expenses in accordance with the rail fare and another on the basis of the rate per kilometre.

Such is not the case. However, the question whether the sums reimbursed cover the expenses normally occasioned by the use of a private car, within the limits objectively established by the relevant provisions, can only be asked with regard to the use of this means of transport within the limits authorized as corresponding to the interest of the service.

The journey between Brussels and The Hague was rightly not covered by reimbursement on the basis of the rate per kilometre, by reason of the fact that the interest of the service would have been equally well satisfied by the use on that journey of a less expensive means of transport, such as rail.

If the applicant preferred always to use his private car for reasons of his own convenience, he was free to do so.

He ought however to have taken into account, in his estimate of the expenses, the fact that the total of the reimbursement of the travel expenses resulted from the application of two different systems of calculation, in accordance with the authorization received.

Consequently, the applicant's claim with regard to these missions is also unfounded.

Having regard to the foregoing, the claim relating to the payment of the sum of 4246 Belgian francs must be dismissed, without the necessity of calculating the sum to which this amount would be reduced on the basis of the applicant's declaration set out at 1 (a) above.

B — Missions relating to Nos 10 to 13 of the statement (claim for 2918 Belgian francs, increased to 2968 Belgian francs in the reply)

(a) The High Authority states that, from its point of view, the applicant can only claim the amount of 2920 Belgian francs, since the distances covered must be calculated in accordance with official road maps.

According to the applicant's declaration set out at 1 (a) above, such questions are excluded from the dispute.

Consequently, it must be assumed that the applicant has reduced the sum claimed to 2920 Belgian francs.

(b) There are at issue four double journeys between Luxembourg and Brussels for which the applicant was obliged to use his private car because of the strike on the Belgian railways.

The High Authority states in particular that the use of a private car has no causal connexion with the strike, since the applicant habitually undertook most of his journeys on mission by car.

That objection disregards the fact that in the present case a causal connexion existed between the strike and the *necessity* of using the private car.

On other additional grounds, the argument of the High Authority must be dismissed.

In this case the obligation to reimburse must be examined, on the basis of the Staff Regulations, in accordance with the last sentence of Article 17 (d) of the former Staff Regulations of the ECSC in the version adopted by the Committee of Chairmen on 21 November 1960.

That provision stipulates: 'In the case of an official travelling regularly on mission in special circumstances, however, the appointing authority may decide to grant that official an allowance per kilometre covered instead of reimbursement of rail fares, if the use of public transport and reimbursement of travel expenses on the normal basis involve definite disadvantages'.

As the High Authority indirectly admits in the said 'opinion' of 3 May 1957, the members of the Inspection Directorate had to 'travel regularly on mission in special circumstances'.

In this case, it was impossible to use the railway. Nor did the High Authority claim that the interest of the service required the use of an aeroplane instead of private cars.

The reimbursement of the rail fare only, that is to say, 578 Belgian francs for a journey of 440 kilometres, being 1.31 Belgian francs per kilometre covered, gives rise to 'definite disadvantages', since that sum plainly could not cover the expenses which the applicant had in fact incurred. All expenses directly or indirectly incurred by the possession and use of a motor car, including depreciation, must be considered as travel expenses.

It is true that the said Article 17 (d) only provides that the immediate superior 'may' in such cases order reimbursement on the basis of the rate per kilometre.

At first sight, it may appear doubtful whether the 'opinion' of 3 May 1957 is to be considered *a priori* as such a provision, since it only refers to missions which also require the use of cars in the neighbourhood of a mission centre.

However the introduction to the 'opinion' gives grounds for the conclusion that it is based on the principle that the amount to be reimbursed must not be less than the expenses actually incurred.

The 'opinion' should thus be interpreted in the light of that principle.

Apart from the rail fare, the provisions applicable in this case only provided, as the basis of reimbursement for cases involving the use of a private car, the rate of 3 Belgian francs for each kilometre covered by car.

It emerges from these factors that the applicant's claim relating to the payment of 2920 Belgian francs is well founded.

Moreover, the High Authority owes the applicant interest at the rate of 4.5% from the date on which the application was made up to the date of payment.

C — Journeys on mission relating to nos 14, 15, and 16 of the statement (claim for 16009 Belgian francs, reduced to 3645 Bfrs in the reply)

(a) In its statement of defence, the High Authority recognized the original

claim of the applicant for reimbursement of 12364 Belgian francs to be well founded.

Consequently, the applicant reduced the sum in dispute to the difference between 16009 and 12364 Belgian francs, that is, 3645 Belgian francs.

With regard to the interest due on the sum of 12364 Belgian francs, the High Authority has stated that it is prepared to pay it only until the date on which the statement of defence was served on the applicant.

In accordance with the general principles of law, however, this period must run until the sum due has in fact been paid.

(b) With regard to the journey appearing in the statement under No 16, the dispute between the parties turns in addition on the question whether the cost of the 'return journey' from Brussels to Luxembourg should be reimbursed, despite the fact that the applicant had in the meantime been informed of his transfer to Brussels.

According to the declaration of the applicant reproduced at 1 (a) above, however, it may be concluded that this point is no longer in dispute before the Court.

(c) All the journeys on mission in question relate to travel between Luxembourg and Brussels and between Brussels and different industrial regions.

The High Authority has paid only for these latter journeys on the basis of the rate per kilometre.

These journeys must be examined in accordance with Article 17 (d) of the former Staff Regulations of the ECSC and in particular the last sentence, quoted at B above, together with the 'opinion' of the administrative committee of the High Authority of 20 February 1961, approved by the President of the High Authority.

That 'opinion':

— fixes the rate per kilometre at 3 Belgian francs;

— provides 'that this type of arrangement may be used only in connexion with journeys which have been found at the responsibility of the Director of the Inspection Directorate to be impossible to carry out under satis-

factory conditions by means of public transport (reasons must be stated on the travel order) and in connexion with which it is found that reimbursement of expenses on the normal basis would be clearly insufficient (subsequent check on the basis of a detailed reasoned statement of the distance covered)'.

(d) Consequently, one of the conditions for reimbursement at the rate per kilometre was the finding that reimbursement in accordance with the rail fare clearly covered only a part of the actual mission expenses.

That finding had to be made by the general department of the administration in order to avoid discrimination between the officials of the High Authority.

For the reasons stated at A (c) above, the condition in question was not satisfied by reason of the fact alone that the amount reimbursed for each kilometre covered was less than 3 Belgian francs.

With regard to the journeys on mission appearing in the statement under Nos 14 and 16, a comparison between the total number of kilometres covered and the total amount actually reimbursed does not, in the opinion of the Court of Justice and in the absence of more detailed information, give grounds for declaring that the reimbursement was 'clearly insufficient'.

Therefore the applicant's claim on this point is unfounded.

(e) In accordance with the above-mentioned provisions, another condition for reimbursement at the rate per kilometre was that the immediate superior of the servant concerned certifies with reasons on the travel order the need, for reasons of service, to use a private car.

With regard to the entry appearing in No 15 of the statement, the travel order bears the following remark, 'Mr Lepape must use his car on the basis of 3 Belgian francs per kilometre to retain full freedom to visit collieries to be selected'.

That remark is only covered by the signature of the applicant alone, since the signature of the immediate superior, Mr Burgert, is placed above the wording of the travel order.

In the opinion of the Court, this manner of completing the travel order does not fulfil the requirements laid down in the said 'opinion'.

In fact, in order to avoid all abuse, very strict conditions of form and substance must be imposed for declarations intended to establish the right to reimbursement at the rate per kilometre — an arrangement which the Regulations expressly describe as an exception.

For this reason, the applicant's claim on this point is unfounded.

Having regard to the foregoing, the claim relating to the payment of a sum of 3645 Belgian francs must be dismissed.

D — Journeys on mission relating to Nos 18 and 19 of the statement; journey on mission from 2 to 6 (or 7) April 1962 (claim for 2943 Belgian francs, reduced to 2942 Belgian francs)

These journeys must be examined in accordance with the same provision as the journeys on mission discussed at C above.

With regard to the journey on mission of 2 to 6 (or 7) April 1962, however, the relevant provision is the third paragraph of Article 12 (4) in conjunction with Article 12 (1) of Annex VII to the present Staff Regulations of the ECSC of 1 January 1962.

All the journeys in question were undertaken with Brussels, the applicant's new place of employment, as the point of departure.

The destinations were Antwerp, Rotterdam, Luxembourg and Liège, together with the industrial region in the neighbourhood of Liège.

The immediate superior of the applicant entered on the travel orders for the first two journeys: 'Mr Lepape is authorized to use his private car and is entitled to a kilometre allowance of 3 Belgian francs per kilometre'.

The travel order provided for the third journey on mission contains only the entry initialled by the immediate superior 'own car, 3 Belgian francs per kilometre'.

Contrary to the 'opinion' of 20 February 1961, these entries do not establish the need to use a private car.

In this instance that defect is the more serious, since there are very good rail connexions between the various stations on the journey in question.

In this respect an exception could be made at most for the journeys within the industrial region around Liège.

However, it appears with regard to this from the documents submitted that they cover only a small part of the total journeys made.

Consequently the claim should be dismissed without examination, without the necessity of calculating the sum to which it would be reduced on the basis of the declaration by the applicant set out at 1 (a) above.

III — Costs

Under Article 70 of the Rules of Procedure, in disputes between the Community and its officials, the institution concerned shall bear its own costs.

The applicant has succeeded in only a small part of his claim.

Account must be taken, however, of the fact that he has been obliged to make an application in order to obtain recognition of his rights.

Consequently, although his claims have been recognized to a much lesser degree than that sought, in accordance with the first subparagraph of Article 69 (3) of the Rules of Procedure, the High Authority should bear half of the expenses incurred by the applicant who should himself bear the other half.

On those grounds,

Upon reading the pleadings;
Upon hearing the report of the Judge-Rapporteur;
Upon hearing the parties;
Upon hearing the opinion of the Advocate-General;
Having regard to the Treaty establishing the European Coal and Steel Community;
Having regard to the Protocol on the Statute of the Court of Justice of the European Coal and Steel Community, especially Article 32;
Having regard to the Staff Regulations of the European Coal and Steel Community of 1 July 1956, especially:
— Articles 13 (d) and 17 (d) in the original version;
— Articles 15 (a) and 17 (d) in the version emerging from the decisions of the Committee of Chairmen of 21 November 1960, which entered into force on 1 December 1960;
Having regard to the Staff Regulations of officials of the European Coal and Steel Community of 1 January 1962, especially Annex VII, Article 12 (1) and (4);

Having regard to the Rules of Procedure of the Court of Justice of the European Communities, especially Articles 69 and 70;
Having regard to the opinions of the administrative committee of the High Authority of 3 May 1957 and 20 February 1961, approved by the President of the High Authority and relating to the reimbursement of travel expenses of the officials of the inspection group or of the Inspection Directorate;

THE COURT (First Chamber)

hereby:

1. (a) **Takes note of the High Authority's offer to pay to the applicant, in full and final settlement, the sum of 12364 Belgian francs, which, according to the information provided by the High Authority, results from the amendments to the accounts of the mission expenses for the journeys on mission undertaken by the applicant between 1 March and 17 April 1961;**

   (b) **Orders the High Authority to pay to the applicant, on the amount mentioned in subparagraph (a) above, interest at the rate of 4.5% from the date on which the application was made up to the date on which the sum due is actually paid;**

2. **Orders the High Authority to pay to the applicant the sum of 2920 Belgian francs together with interest at 4.5% from the date on which the application was made up to the date of payment;**

3. **Dismisses the remaining conclusions of the application as unfounded;**

4. **Orders the High Authority to bear its own costs and one half of the costs incurred by the applicant who shall bear the other half of his own costs.**

Trabucchi Delvaux Strauß

Delivered in open court in Luxembourg on 19 March 1964.

H. J. Eversen
Assistant Registrar
For the Registrar

A. Trabucchi
President of the First Chamber