for the statement of reasons for a claim of the essentials of which the applicant itself failed to provide any evidence whatsoever.

In the circumstances, I consider that the claims for damages also have no chance of success in this case.

4. *Procedural issues and the decision on the costs*

The legal position as it was when the applications were filed justifies this appraisal. I have already emphasized in other cases—and I come now to the applicant's application for the adoption of an interim measure which has not yet been settled—that the subsequent adoption of General Decision No 19/65 finally fixing the equalization of ferrous scrap (and also, in consequence, the High Authority's letter of 28 January 1966 which is based on that decision) is irrelevant to the appraisal of applications already commenced. The clear purpose of the letter in question was merely to notify the applicant of the final data of the equalization assessment decided on 31 December 1965 and to allow it to submit an administrative appeal on the ground of the modification of the criteria which had taken place. The other problems which have not been considered in substance in this case might be settled in the course of a new action, after the adoption of a formal decision which is reserved to the High Authority. But for the present it is impossible for procedural reasons to consider the new facts. Since this appraisal may be justified by the terms of the letter and the High Authority's well-known mode of procedure, I consider that there is no reason to take these measures into account in the decision on the costs. This also holds good for the settlement of the costs in the later procedural issue, as there were no objective grounds for doubting that the copy submitted by the High Authority conformed to the original.

Consequently, the costs must be borne by the applicant.

III — Conclusion

I am therefore of the opinion that:

The applications are admissible but unfounded. The applicant must bear the costs, including those of the procedural issue which has not yet been decided.

ORDER OF THE COURT
22 JUNE 1965[1]

In Case 9/65

ACCIAIERIE SAN MICHELE SPA, having its registered office in Turin, represented by its sole director, Adriano Vigna, assisted by Arturo Cottrau,

1 — Language of the Case: Italian.

Advocate of the Turin Bar and of the Corte di Cassazione, Rome, with an address for service in Luxembourg at the Chambers of Georges Margue,

applicant,

v

HIGH AUTHORITY OF THE EUROPEAN COAL AND STEEL COMMUNITY, represented by its Agent, Italo Telchini, assisted by Professor Ori Giacchi of the Milan Bar, with an address for service in Luxembourg at its offices, 2 Place de Metz,

defendant,

Facts

Whereas, by an application lodged at the Court Registry on 2 February 1965, the San Michele undertaking requested the Court to annul the individual decision adopted by the High Authority on 13 December 1964 and notified on 24 December 1964, under the terms of which the applicant company is obliged to pay the sum of 114 055 664 lire by way of contribution due for the equalization of imported ferrous scrap and scrap treated as such;

Whereas, by a statement lodged at the Court Registry on 28 April 1965, the applicant company claimed that the Court should:

'reject all the defendant's pleas to the contrary and, reserving its decision for the final judgment in Case 9/65, decide as follows:

1. To suspend judgment in Case 9/65 until a decision is obtained in the proceedings now pending before the Corte Costituzionale as to the constitutionality and validity of Law No 766 of 1952 rendering the ECSC Treaty enforceable in Italy and in particular the provisions of the second paragraph of Article 33, Article 41 and the last paragraph of Article 92 of the Treaty;
2. To prescribe a new period for the submission by the applicant of its reply in the event of the Corte Costituzionale della Repubblica Italiana dismissing as unfounded the question of constitutionality which was referred to it by order of the Tribunale di Torino of 19 December 1964;
3. In the event of the present application for the adoption of an interim measure being dismissed, to prescribe a new period for the submission by the applicant of its reply;

order the defendant to bear the costs;'

Whereas the applicant annexed to the said statement a copy of the order of the Tribunale di Torino, issued in the action pending before it between the applicant and the European Coal and Steel Community;

Whereas in a statement lodged at the Court Registry on 18 May 1965 the defendant contended that the Court should:

'dismiss the application to suspend proceedings made by the applicant and order the latter to bear the relevant costs';

Grounds

Whereas in Case 9/65, pending before the Court, on the application of the San Michele undertaking against the decision of the High Authority of 13 November 1964, the said undertaking applied for the adoption of an interim measure suspending judgment until a decision has been given by the Corte Costituzionale Italiana, which has been requested to give a ruling on whether various provisions of the Treaty establishing the European Coal and Steel Community are unconstitutional;

Whereas the file indicates that it is appropriate that a ruling be given immediately, on the sole basis of the parties' statements, as to whether the said application is well founded;

Whereas after a fine was imposed upon the San Michele undertaking by the High Authority on 18 December 1962, as a result of a judgment of the Court of Justice of 14 December 1962, for failure to submit electricity invoices required for the equalization calculation, the said undertaking objected to the implementation of that decision and brought the matter before the Tribunale di Torino, on the ground that the introduction into the Italian legal system by an ordinary law of certain provisions of the Treaty meant that they could not be pleaded against the San Michele undertaking;

Whereas the said Tribunale, doubting the 'privileged status' of the law arising from the Treaty and the constitutionality of the institutions and legal procedures of the Community, declared by order of 19 December 1964 that the objection of unconstitutionality in question was 'not clearly unfounded' and brought the question of the validity of Articles 33, 41 and 92 of the ECSC Treaty before the Corte Constituzionale;

Whereas, in support of its application based on those factors for the adoption of the above-mentioned interim measure, the applicant thus alleged that the judgment to be given by the Corte Constituzionale carried 'absolute' authority and that 'any court having jurisdiction over Italian citizens' was obliged to suspend judgment;

Whereas, however, the Court of Justice, as the institution entrusted with ensuring that in the interpretation and application of the Treaty the law is observed, can only take into consideration the instrument of ratification, which itself was deposited on behalf of Italy on 22 July 1952 and which, together with the other instruments of ratification, brought the Treaty into force;

Whereas it is clear from the instruments of ratification, whereby the Member States bound themselves in an identical manner, that all States have adhered to the Treaty on the same conditions, definitively and without any reservations other than those set out in the supplementary protocols, and that therefore any claim by a national of a Member State questioning such adherence would be contrary to the system of Community law;

Whereas such a claim is all the more inadmissible in that, in this case, any decision to suspend judgment would be tantamount to reducing the Community to a cipher by regarding the instrument of ratification either as only partially accepting the Treaty, or as the means of according to it different legal consequences, varying with the Member State concerned, or as the means whereby some nationals might evade its rules;

Whereas the participation of the Italian Republic in the common institutions and in the rights and obligations arising from the Treaty in fact preclude its nationals from avoiding the complete and uniform application of the said Treaty and from thus obtaining different treatment from that of other nationals in the Community;

Whereas, therefore, there must be dismissed as contrary to Community policy any application the purpose of which is to establish discrimination of this nature which no law of ratification could introduce into a treaty prohibiting such discrimination;

Whereas the application for the adoption of an interim measure must therefore be dismissed;

Costs

Whereas under the terms of Article 69 (2) of the Rules of Procedure the unsuccessful party shall be ordered to pay the costs;

On those grounds,

Having regard to the Treaty establishing the European Coal and Steel Community;
Having regard to Articles 69 and 91 of the Rules of Procedure, especially paragraph (3) of the latter Article;
Upon hearing the report of the Judge-Rapporteur;
Upon hearing the opinion of the Advocate-General;

THE COURT

composed of: Ch. L. Hammes, President, A. M. Donner and R. Lecourt (Rapporteur), Presidents of Chambers, L. Delvaux, A. Trabucchi, W. Strauß and R. Monaco, Judges,

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

Ruling on the basis of the parties' statements, having regard to the urgency of the case,

hereby orders:

1. **The application made on 24 April 1965 by the San Michele company for the adoption of an interim measure suspending judgment in Case 9/65 is dismissed;**

2. **A new period shall be granted to the applicant for the submission of its reply;**

3. **The applicant shall bear the costs of the present application.**

Luxembourg, 22 June 1965.

A. Van Houtte
Registrar

Ch. L. Hammes
President