

JUDGMENT OF THE COURT
21 MARCH 1955¹

**Government of the Kingdom of the Netherlands
v High Authority of the European Coal and Steel Community**

Case 6/54

1. *Decisions of the High Authority — Reasons — Essential elements*

The High Authority is obliged to mention in the reasons for its decision the essential elements of the findings of fact on which the legal justification for the measure depends. On the other hand the Treaty does not require that it should state, and still less that it should refute, the opinions expressed in this regard by consultative bodies or by certain of their members

(Treaty, Article 15 and Article 33).²

2. *Applications for annulment — Procedural requirements*

The procedural requirements laid down by the Treaty for the adoption of decisions may be regarded as essential and consequently the question whether they have been observed must be examined by the Court. The affirmation that the requisite consultations were held cannot relieve the Court of the duty to carry out an examination with regard to the application of those requirements

(Treaty, Article 33).

3. *Pre-existing agreements — Transitional provisions*

The existence of agreements was provisionally authorized subject to certain conditions by Decision No 37/53 of 11 July 1953 adopted in application of Article 12 of the Convention and with the reservation that such agreements might subsequently be prohibited
(Convention on the Transitional Provisions, second paragraph of Article 12).

4. *Prices — Maximum prices*

(a) *Fixing*

The fixing of maximum prices laid down in accordance with Article 61 of the Treaty may be restricted to one part of the Common Market

(Treaty, subparagraph (a) of paragraph 1 of Article 61).

(b) *Undertakings in a dominant position on the market*

The existence of a situation which might justify the application of the provisions of Article 66 (7) does not in itself constitute an obstacle to the exercise by the High Authority of the powers assigned to it by subparagraph (a) of the first paragraph of Article 61

(Treaty, Article 61 and Article 66 (7)).

(c) *Necessity of fixing maximum prices*

In order to examine whether the fixing of maximum prices is necessary a distinction should be made between the finding of facts and economic circumstances on which the

¹ — Language of the Case: Dutch.

² — See para. 2, summary, judgment in Case 4/54.

decision is based and the conclusions drawn by the High Authority in its subsequent evaluation of the situation
(Treaty, Article 61).

5. Applications for annulment

(a) Examination of the evaluation of the situation based on the facts and economic circumstances — Conditions

A study of the market taking account of factors relating to the market structure and economic trends would constitute an evaluation within the meaning of the second sentence of the first paragraph of Article 33. The examination by the Court extends to the evaluation of the situation resulting from the economic facts and circumstances if the objection is supported by appropriate evidence. The mere assertion of a manifest failure to observe the Treaty is not sufficient to open the way to examination by the Court; on the other hand Article 33 does not require proof to be given in advance which would immediately entail the annulment of the decision

(Treaty, second sentence of the first paragraph of Article 33).

(b) Manifest failure to observe the Treaty — Concept

The term 'manifest' presupposes that a certain degree is reached in the failure to observe the legal provisions so that the failure to observe the Treaty appears to derive from an obvious error in the evaluation, having regard to the provisions of the Treaty, of the situation in respect of which the decision was taken. In the case of subparagraph (a) of the first paragraph of Article 61 the manifest failure to observe the Treaty can only result from the finding by the Court of the existence of an economic situation which, prima facie, reveals no necessity for the contested measure in the pursuit of the objectives set out in Article 3 of the Treaty, in particular paragraph (c).

(Treaty, second sentence of the first paragraph of Article 33).

6. Misuse of powers — Proof

Proof of the motives for the contested decision such as to establish misuse of powers may be evident either from the preparations, including the deliberations of the Consultative Committee and of the Council of Ministers, or else from the incompatibility of the contested decision with the avowed and evident aims of the decision

(Treaty, first paragraph of Article 33).

In the Case:

GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS with an address for service at the Netherlands Legation in Luxembourg, represented by J. H. M. Verzijl, Professor at the State University in Utrecht, G. M. Verrijn Stuart, Professor at the University of the City of Amsterdam, acting as Agents,

applicant,

v

THE HIGH AUTHORITY OF THE EUROPEAN COAL AND STEEL COMMUNITY, with an