

COMMISSION DECISION No 715/78/ECSC**of 6 April 1978****concerning limitation periods in proceedings and the enforcement of sanctions
under the Treaty establishing the European Coal and Steel Community**

THE COMMISSION OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the European
Coal and Steel Community, and in particular Articles
2 to 5 and 95 (1) thereof,

Having regard to the opinion of the Consultative
Committee,

Having regard to the unanimous assent of the
Council ⁽¹⁾,

Whereas, under Articles 47, 54, 58, 59, 64, 65, 66 and
68 of the Treaty, the Commission has the power to
impose fines and periodic penalty payments on under-
takings or natural or legal persons who infringe obliga-
tions incumbent upon them with regard to informa-
tion and investigations, investments, production,
prices, cartels and concentrations or wages;

Whereas comparable powers are conferred upon the
Commission by recommendations and decisions
made under Article 95 (1) and (2) for the purpose of
regulating cases not provided for in the Treaty;

Whereas neither the abovementioned Articles of the
Treaty nor the implementing measures taken pursuant
to those Articles provide for any limitation period;

Whereas, in order to attain, pursuant to Article 5, the
objectives of the Community set out in Articles 2, 3
and 4 of the Treaty and in the interests of legal
certainty, it is necessary that the principle of limita-
tion be introduced and that implementing rules be
laid down; whereas, for the matter to be covered fully,
it is necessary that provision for limitation be made
not only as regards the power to impose fines but also
as regards the power to enforce decisions which
impose fines or periodic penalty payments; whereas
such provisions should specify the length of the limita-
tion periods, the date on which time starts to run and
the events which have the effect of interrupting or
suspending the limitation period; whereas in this
respect the interests of the parties, on the one hand,
and administrative requirements, on the other, should
be taken into account;

Whereas these rules must apply to all the provisions
relating to fines and periodic penalty payments laid
down in the Treaty and in implementing measures

taken thereunder; whereas they must also apply to the
relevant provisions of future implementing measures,

HAS ADOPTED THIS DECISION:

*Article 1***Limitation periods in proceedings**

1. The power of the Commission to impose fines
for infringements of the provisions of the Treaty or of
provisions made for its implementation shall be
subject to a limitation period:

- (a) of three years in the case of infringements of provi-
sions concerning applications or communications
of the parties, requests for information, or the
carrying out of investigations;
- (b) of five years in the case of all other infringements.

2. Time shall begin to run upon the day on which
the infringement is committed. However, in the case
of continuing or repeated infringements, time shall
begin to run on the day on which the infringement
ceases.

*Article 2***Interruption of the limitation period in proceed-
ings**

1. Any action taken by the Commission for the
purpose of the preliminary investigation or proceed-
ings in respect of an infringement shall interrupt the
limitation period in proceedings. The limitation
period shall be interrupted with effect from the date
on which the action is notified to at least one party
which has participated in the infringement.

Actions which interrupt the running of the period
shall include in particular the following:

- (a) written requests for information by the Commis-
sion or Commission decisions requiring the
requested information;
- (b) written authorizations to carry out investigations
issued to their officials by the Commission or a
Commission decision ordering an investigation;
- (c) the commencement of proceedings by the
Commission;

⁽¹⁾ OJ No C 316, 31. 12. 1977, p. 3.

(d) notification by the Commission of a letter giving the party concerned the opportunity to submit its comments, pursuant to Article 36 of the Treaty.

2. The interruption of the limitation period shall apply for all parties which have participated in the infringement.

3. Each interruption shall start time running afresh. However, the limitation period shall expire at the latest on the day on which a period equal to twice the limitation period has elapsed without the Commission having imposed a fine or a penalty; that period shall be extended by the time during which limitation is suspended pursuant to Article 3.

Article 3

Suspension of the limitation period in proceedings

The limitation period in proceedings shall be suspended for as long as the decision of the Commission is the subject of proceedings pending before the Court of Justice of the European Communities.

Article 4

Limitation period for the enforcement of sanctions

1. The power of the Commission to enforce decisions imposing fines or periodic payments for infringements of the provisions of the Treaty or of provisions made for its implementation shall be subject to a limitation period of five years.

2. Time shall begin to run on the day on which the decision becomes final.

Article 5

Interruption of the limitation period for the enforcement of sanctions

1. The limitation period for the enforcement of sanctions shall be interrupted:

- (a) by notification of a decision varying the original amount of the fine or periodic penalty payments or refusing an application for variation;
- (b) by any action of the Commission, or of a Member State at the request of the Commission, for the purpose of enforcing payments of a fine or periodic penalty payment.

2. Each interruption shall start time running afresh.

Article 6

Suspension of the limitation period for the enforcement of sanctions

The limitation period for the enforcement of sanctions shall be suspended for so long as:

- (a) time to pay is allowed; or
- (b) enforcement of payment is suspended pursuant to a decision of the Court of Justice of the European Communities.

Article 7

Application to transitional cases

This Decision shall also apply in respect of infringements committed before it enters into force.

Article 8

Entry into force

This Decision shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

This Decision shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 6 April 1978.

For the Commission

Raymond VOUEL

Member of the Commission