

Delivered in open court in Luxembourg on 29 November 1956.

M. Pilotti

President

A. van Kleffens

Judge Rapporteur

A. Van Houtte

Registrar

OPINION OF MR ADVOCATE GENERAL LAGRANGE  
DELIVERED ON 25 OCTOBER 1956<sup>2</sup>

*Mr President,  
Members of the Court,*

In its judgment of 16 July 1956 the Court accepted that Decision No 22/55—which concerns the fixing of prices and is, in my opinion, the only one at issue in this case—was general in nature not only—as I had myself accepted—as regards the three collieries considered individually, but even as regards the Fédération des Charbonnages de Belgique, and it concluded logically therefrom that against that general decision the applicant may only plead misuse of powers affecting it.

The whole debate appears to me to have borne solely upon the question whether or not the contested decision was contrary to the terms of Article 26 (2) (a) of the Convention in that—and this was the only point which the discussion could and had to concern—it fixed prices below the level of estimated production costs at the end of the transitional period. That entire discussion was in the nature of a reply to the operative part of the Court's interim judgment, and the applicants maintained that the prices fixed by the contested decisions were lower than the estimated production costs and that the High Authority had

therefore infringed the provisions of Article 26 when it adopted that decision. We were told that four times and then a fifth time by Counsel for the applicant in his summing-up.

In those circumstances I do not see—and I say it quite frankly—I do not see the relevance of that discussion to the possibility of a misuse of powers affecting the applicants. It is of course conceivable that a thorough examination of that question from a purely factual and legal point of view might reveal certain factors which could demonstrate the existence of a misuse of powers or, at least, constitute *prima facie* evidence of it. Let me confess, however, that on that point the hearings which have taken place appear to me to have demonstrated, on the contrary, that the study of the estimated costs for 1958 was undertaken jointly by the parties with all requisite seriousness and even in mutual agreement, at least until October 1956. For myself, I do not see in the extremely serious and thorough but purely legal and technical discussion which has taken place the least indication of the existence of a misuse of powers by the High Authority affecting the applicants.

**For that reason I believe that I need not deal with all the questions which have been discussed in such depth today and I can only adhere to my earlier opinion.**