

JUDGMENT OF THE COURT
OF 14 MAY 1974¹

J. Nold, Kohlen- und Baustoffgroßhandlung
v Commission of the European Communities

Case 4/73

S u m m a r y

1. *Concentration between undertakings — Mining Companies — Fuels — Trading rules — Terms of business — Wholesalers — Right of access to direct supplies — Authorization*
(ECSC Treaty, Article 66)
2. *Community law — General principles of law — Fundamental rights of the person — Respect ensured by the Court — Constitutions of Member States — International treaties*
3. *Community law — General principles of law — Fundamental rights of the person — Respect in the Community legal order — Right of ownership — Freedom to engage in trade or profession — Limitations — Social function of certain rights — General interest of the Community — Intangible substance of rights*

1. The Commission has the right to authorize trading rules restricting the entitlement to direct supplies of fuels on the grounds of the need to rationalize distribution, provided that such rules are applied in a like manner to all the undertakings concerned.
2. Fundamental rights are an integral part of the general principles of law the observance of which the Court ensures. In safeguarding these rights the Court is bound to draw inspiration from the constitutional traditions common to the Member States and cannot uphold measures which are incompatible with the fundamental rights established and guaranteed by the Constitutions of these States.

Similarly, international treaties for the protection of human rights, on which the Member States have collaborated or of which they are signatories, can supply guidelines which should be followed within the framework of Community law.

3. If rights of ownership are protected by the constitutional laws of all the Member States and if similar guarantees are given in respect of their right freely to choose and practice their trade or profession, the rights thereby granted, far from constituting unfettered prerogatives, must be viewed in the light of the social function of the property and activities protected thereunder.
For this reason, rights of this nature are protected by law subject always

¹ — Language of the Case: German.

to restrictions laid down in accordance with the public interest. Within the Community legal order it likewise seems legitimate that these rights should, if necessary, be subject to certain limits justified by the overall objectives pursued by the Community, on condition that the

substance of these rights is left untouched. The above guarantees can in no respect be extended to protect mere commercial interests or opportunities, the uncertainties of which are part of the very essence of economic activity.

In Case 4/73

J. NOLD, KOHLEN- UND BAUSTOFFGROSSHANDLUNG, a limited partnership governed by German law, having its registered office in Darmstadt, represented by Manfred Lütkehaus, advocate of the Essen Bar, with an address for service in Luxembourg at the chambers of André Elvinger, 84 Grand-Rue

applicant,

v

COMMISSION OF THE EUROPEAN COMMUNITIES, represented by its Legal Adviser, Dieter Oldekop, acting as agent, with an address for service in Luxembourg at the offices of its Legal Adviser, Pierre Lamoureux, 4 boulevard Royal

defendant,

supported by

RUHRKOHLE AKTIENGESELLSCHAFT, a limited company having its registered office in Essen

and

RUHRKOHLE VERKAUFS-GESELLSCHAFT MBH, a private limited company having its registered office in Essen, represented by Otfried Lieberknecht, advocate of the Düsseldorf Bar, with an address for service in Luxembourg at the chambers of Alex Bonn, 22, côte d'Eich,

interveners

Application for annulment of the Decision of the Commission of 21 December 1972, authorizing new terms of business of Ruhrkohle AG,

THE COURT

composed of: R. Lecourt, President, A. M. Donner and M. Sørensen, Presidents of Chambers, P. Pescatore (Rapporteur), H. Kutscher, C. Ó Dálaigh and A. J. Mackenzie Stuart, Judges,

Advocate-General: A. Trabucchi

Registrar: A. Van Houtte

gives the following