

Case C-4/73 Nold [1974]

Facts: The Commission authorised the merger of most of the mining companies of the Ruhr into a single company, laying down new minimum quantities for dealers to directly purchase from the producer which Nold, a German limited partnership, did not meet. Nold applied for annulment of the Commission's decision, claiming it was discriminatory as it forced them to deal through an intermediary while other dealers would continue to purchase directly from the producer.

Held: The criteria imposed by the Commission, established by an administrative act of general application, cannot be considered discriminatory and were sufficiently well-reasoned (justified on the technical conditions and on the economic difficulties created by the recession in coal production), and the applicant was not treated differently from other undertakings which also failed to meet the requirements laid down under the new rules. The applicant asserts that the Decision violates a right akin to a proprietary right and its right to the free pursuit of business activity, as it jeopardizes its profitability and the free development of its business activity.

Fundamental rights form an integral part of the general principles of law, the observance of which it ensures. In safeguarding these rights, the Court is bound to draw inspiration from constitutional traditions common to the Member States, and it cannot uphold measures incompatible with fundamental rights protected by their Constitutions. 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. However, these rights are protected by law subject to limitations laid down in accordance with the public interest, and must be viewed in the light of the social function of the property and activities protected. Within the Community legal order, it also seems legitimate that these rights should 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. Guarantees accorded to a particular undertaking cannot be extended to protect mere commercial interests or opportunities, whose uncertainties are part of the very essence of economic activity. The disadvantages claimed by the applicant are the result of economic change and not of the contested Decision.