ization may be granted only by the administration, over which the Court has no power of direction. The 'other . . . interim measures' referred to in the last paragraph of Article 39 of the ECSC Treaty can only be of a conservatory nature and do not give the Court the power to substitute itself for the administration or to take, even provisionally, administrative decisions in place of the executive.

2. There is no justification for granting a suspension of operation where the applicants fail to establish that the measures prescribed by the contested decision would cause them damage which could not be redressed if the decision were annulled at the hearing of the main action.

In Case 19/59 R

1. GEITLING, selling agency for Ruhr coal,
a limited liability company incorporated under German law, having its registered office in Essen,

2. MAUSEGATT, selling agency for Ruhr coal,
a limited liability company incorporated under German law, having its registered office in Essen,

3. PRÄSIDENT, selling agency for Ruhr coal,
a limited liability company incorporated under German law, having its registered office in Essen,

represented by their managers,

4. THE MINING COMPANIES OF THE RUHR BASIN,
grouped within the abovementioned sales agencies and represented by them,

applicants,

assisted by Werner von Simson, Advocate of the Oberlandesgericht Düsseldorf, with an address for service in Luxembourg-Bertrange at the chambers of the said Advocate,

v

High Authority of the European Coal and Steel Community, with an address for service in Luxembourg at its offices, 2 place de Metz,

defendant,

represented by its Legal Adviser, Erich Zimmermann, acting as Agent, assisted by Professor Konrad Duden and Heinz Rowedder, Advocates of the Landesgericht Mannheim,

Application for suspension of the operation of Article 11 and of the second sentence of Article 14 (2) of Decision No 17/59 of the High Authority of 18 February 1959 on the extension of the authorizations concerning the sales organizations of the Ruhr Basin, published in the Official Journal No 14 of 17 March 1959,

THE COURT

composed of: A. M. Donner, President, O. Reise, President of Chamber, L. Delvaux (Rapporteur), Ch. L. Hammes and N. Catalano, Judges,

Advocate-General: M. Lagrange
Registrar: B. Wielenga, official temporarily entrusted with the performance of the duties of the Registrar,

makes the following

## ORDER

By application lodged on 25 March 1959, the applicants requested suspension of the operation of Article 11 and of the second sentence of Article 14 (2) of Decision No 17/59 of the High Authority of 18 February 1959.

That application, based on Article 39 of the Treaty, was referred to the Court by decision of the President, pursuant to Article 33 of the Protocol on the Statute and to Article 85 of the Rules of Procedure of the Court of Justice.

*Article 11 of the decision*

The applicants request the Court to suspend the operation, not of all the provisions of Decision No 17/59 which relate to the supplying of first-hand wholesale coal merchants, but only of Article 11.

That article rejects the further claims formulated by the mining undertakings concerned with regard to regulation of trade.

Thus, to the extent to which the agreements entered into by the companies provide for more restrictive regulation of trade than that which is the subject of Articles 6 to 10 of the decision, the High Authority refuses the applicants the authorization provided for in Article 65 (2) of the Treaty.

Article 11 therefore constitutes a refusal of authorization.

Since the suspension of the operation of a decision of rejection is not equivalent to a grant of the authorization refused by the High Authority, in these circumstances the interim application is irrelevant.

In any event that authorization may be granted only by the administration, over which the Court has no power of direction.

The other interim measures referred to in the last paragraph of Article 39 can only be of a conservatory nature and do not give the Court the power to substitute itself for the administration or take, even provisionally, administrative decisions in place of the executive.

As regards Article 11 the application for suspension of operation must therefore be rejected.

*Second sentence of Article 14 (2) of the decision*

So far the applicants have not established, to the extent required by the law, that the inspections prescribed by the contested provision would cause them damage which could not be redressed if that provision were annulled at the hearing of the main action.

There is therefore no justification for the grant of a suspension of operation at present.

Furthermore, Article 14 of the decision does not appear to derogate from the powers laid down in Articles 47, 65 (3) and 86 of the Treaty; it will only be possible to establish the extent, and hence the legality, of the powers conferred on the inspectors in the light of the instructions to be laid down by the High Authority in that connexion.

Upon reading the pleadings;
Upon hearing the report of the Judge-Rapporteur;
Upon hearing the parties;
Upon hearing the opinion of the Advocate-General;
Having regard to Articles 39, 47, 65 and 86 of the Treaty, Article 33 of the Protocol on the Statute of the Court of Justice and Articles 13 and 85 of the Rules of Procedure;

THE COURT,

by way of interim decision, hereby orders:

**The application for the suspension of the operation of the provisions of Article 11 and of the second sentence of Article 14 (2) of Decision No 17/59 is dismissed.**

**The costs are reserved.**

Luxembourg, 12 May 1959.

B. Wielenga — Acting Registrar

A. M. Donner — President