

Case 262/84

Vera Mia Beets-Proper

v

F. Van Lanschot Bankiers NV

(reference for a preliminary ruling
from the Hoge Raad der Nederlanden)

(Equality of treatment for men and women —
Conditions governing dismissal)

Summary

- 1. Social policy — Men and women workers — Access to employment and working conditions — Equal treatment — Directive No 76/207 — Article 5 (1) — Dismissal — Concept (Council Directive No 76/207, Art. 5 (1))*
 - 2. Social policy — Men and women workers — Access to employment and working conditions — Equal treatment — Exceptions with regard to social security matters — Exception with regard to pensionable age — Strict interpretation (Council Directive No 76/207, Art. 1 (2), and Council Directive No 79/7, Art. 7 (1)(a))*
 - 3. Social policy — Men and women workers — Access to employment and working conditions — Equal treatment — Compulsory termination of employment on attainment of pensionable age — Different pensionable age for men and women — Discrimination (Council Directive No 76/207, Art. 5 (1))*
1. The term 'dismissal' contained in Article 5 (1) of Directive No 76/207 must be given a wide meaning; an age limit for the compulsory dismissal of workers pursuant to an employer's general policy concerning retirement falls within the term 'dismissal' construed in that manner, even if the dismissal involves the grant of a retirement pension.

2. In view of the fundamental importance of the principle of equality of treatment for men and women, Article 1 (2) of Directive No 76/207 on the implementation of that principle as regards access to employment and working conditions, which excludes social security matters from the scope of the directive, must be interpreted strictly. It follows that the exception to the prohibition of discrimination on grounds of sex provided for in Article 7 (1)(a) of Directive No 79/7 on the progressive implementation of the principle of equal treatment in matters of social security applies only to the determination of pensionable age for the purposes of granting old-age and retirement pensions and the possible consequences thereof for other benefits.
3. Article 5 (1) of Directive No 76/207 must be interpreted as meaning that it does not allow the Member States the freedom to exempt from the application of the principle of equality of treatment an express or implied condition in a contract of employment concluded on the basis of a collective agreement, if that condition has the effect of terminating the contract of employment on the ground of the age attained by the employee and the relevant age is determined by the age — which is different for men and women — at which the employee becomes entitled to a retirement pension.

OPINION OF ADVOCATE GENERAL
SIR GORDON SLYNN
delivered on 18 September 1985

My Lords,

This case comes to the Court by way of a reference dated 2 November 1984 for a preliminary ruling under Article 177 of the EEC Treaty by the Hoge Raad (Supreme Court) of the Netherlands in an action pending before that court between Mrs Vera Mia Beets-Proper and F. Van Lanschot Bankiers NV.

On 12 May 1969 Mrs Beets-Proper took up employment with Vermeer & Co., a Dutch bank. In 1972 Vermeer & Co. amal-

gated with F. Van Lanschot Bankiers NV ('Van Lanschots'). Van Lanschots took on all the staff of Vermeer & Co. According to the reference the employment relationship between Mrs Beets-Proper and Van Lanschots is subject to the collective labour agreement for the banking sector of 1980 and 1981 and the rules of Van Lanschots' pension scheme. Article 1 of those rules defines the pensionable date ('de pensioendatum') as the first day of the month following the month in which male members of the scheme attain the age of 65 and female members the age of 60. Article