J. van Bakel) v Commission of the European Communities (Agents: C. van der Hauwaert and R. Tricot): Application for annulment of Commission Decision C(2000) 485 final of 23 February 2000 determining in a particular case that an application for remission of import duties is inadmissible in a specified amount and that there is no justification for remission of import duties in a separate amount, the Court (Fifth Chamber), composed of: C.W.A. Timmermans, President of the Fourth Chamber, acting for the President of the Fifth Chamber, D. A. O. Edward, P. Jann, S. von Bahr (Rapporteur) and A. Rosas, Judges; P. Léger, Advocate General; M.-F. Contet, Principal Administrator, for the Registrar, has given a judgment on 13 March 2003, in which it:

1. *Annuls Commission Decision C(2000) 485 final of 23 February 2000 determining in a particular case that an application for remission of import duties is inadmissible in a specified amount and that there is no justification for remission of import duties in a separate amount in so far as it declares inadmissible the amount of NLG 15 679 301,49 of the application for remission of import duties submitted by Cargill BV and referred to the Commission of the European Communities on 22 April 1999 by the Kingdom of the Netherlands;*

2. *Dismisses the remainder of the action;*

3. *Orders the Kingdom of the Netherlands to pay the costs.*

(1) OJ C 211 of 22.7.2000.

JUDGMENT OF THE COURT

(Sixth Chamber)

of 20 March 2003

in Case C-187/00 (Reference for a preliminary ruling from the Arbeitsgericht Hamburg): Helga Kutz-Bauer v Freie und Hansestadt Hamburg (1)

(Social policy — Equal treatment for men and women — Scheme of part-time work for older employees — Directive 76/207/EEC — Indirect discrimination — Objective justification)

(2003/C 112/03)

(Language of the case: German)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case C-187/00: Reference to the Court under Article 234 EC by the Arbeitsgericht Hamburg (Germany) for a preliminary ruling in the proceedings pending before that court between Helga Kutz-Bauer and Freie und Hansestadt Hamburg, on the interpretation of Articles 2(1) and 5(1) of Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (OJ 1976 L 39, p. 40), the Court (Sixth Chamber), composed of: R. Schintgen, President of the Second Chamber, acting for the President of the Sixth Chamber, C. Gulmann, V. Skouris, F. Macken (Rapporteur) and J. N. Cunha Rodrigues, Judges; A. Tizzano, Advocate General; L. Hewlett, Principal Administrator, for the Registrar, has given a judgment on 20 March 2003, in which it has ruled:

1. *Articles 2(1) and 5(1) of Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions, must be interpreted as meaning that they preclude a provision of a collective agreement applicable to the public service which allows male and female employees to take advantage of a scheme of part-time work for older employees where under that provision the right to participate in the scheme of part-time work applies only until the date on which the person concerned first becomes eligible for a retirement pension at the full rate under the statutory old-age insurance scheme and where the class of persons eligible for such a pension at the age of 60 consists almost exclusively of women whereas the class of persons entitled to receive such a pension only from the age of 65 consists almost exclusively of men, unless that provision is justified by objective criteria unrelated to any discrimination on grounds of sex.*

2. *In the case of a breach of Directive 76/207 by legislative provisions or by provisions of collective agreements introducing discrimination contrary to that directive, the national courts are required to set aside that discrimination, using all the means at their disposal, and in particular by applying those provisions for the benefit of the class placed at a disadvantage, and are not required to request or await the setting aside of the provisions by the legislature, by collective negotiation or otherwise.*

(1) OJ C 211 of 22.7.2000.