

## **Angela Maria Sirdar v. The Army Board, Case C-273/97 [1999] ECR I-7403**

### **1) Reference Details**

Jurisdiction: European Court of Justice (ECJ)

Date of Decision: 26 October 1999

Link to full case:

[http://eur-lex.europa.eu/smartapi/cgi/sga\\_doc?smartapi!celexplus!prod!CELEXnumdoc&lg=en&numdoc=69710273](http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!CELEXnumdoc&lg=en&numdoc=69710273)

### **2) Facts**

The Royal Marines had a policy of excluding women from service:

*"[O]n the ground that their presence is incompatible with the requirement of 'interoperability', that is to say, the need for every Marine, irrespective of his specialisation, to be capable of fighting in a commando unit."*

Mrs Sirdar had been a member of the army since 1983; in 1990 she became a chef, but was informed in February 1994 that she would be made redundant with effect in February 1995. Mrs Sirdar received a transfer offer to the Royal Marines in July 1994, subject to her successfully completing a commando-training course. However, the authorities later realised that Mrs Sirdar was a woman and retracted the transfer offer.

Mrs Sirdar was consequently made redundant and brought proceedings before an Industrial Tribunal, arguing that she had been discriminated against on the grounds of sex.

The Tribunal stayed proceedings and decided to ask for a preliminary ruling from the ECJ.

### **3) Law**

#### *National Law*

- Sex Discrimination Act 1975

#### *European Community Law*

- Council Directive 76/207/EEC (Equal Treatment Directive)

### **4) Legal questions asked**

1. Are policy decisions which a Member State takes during peace time and/or in preparation for war in relation to access to employment in, vocational training for, working conditions in, or the deployment of its armed forces where such policy decisions are taken for the purposes of combat effectiveness outside the scope of the EC Treaty and/or its subordinate legislation, in particular Council Directive 76/207/EEC?
2. Are the decisions which a Member State may take in preparation for war and during peace time with regard to the engagement, training and deployment of soldiers in marine commando units of its armed forces designed for close engagement with enemy forces in the event of war outside the scope of the EC

Treaty or its subordinate legislation where such decisions are taken for the purpose of ensuring combat effectiveness in such units?

3. Does Article 224 of the EC Treaty, on its proper construction, permit Member States to exclude from the ambit of Council Directive 76/207/EEC discrimination on grounds of sex in relation to access to employment, vocational training [and] working conditions, including the conditions governing dismissal, in the armed forces during peace time and/or in preparation for war for the purpose of ensuring combat effectiveness?

## **5) Decision**

The ECJ held:

1. Decisions taken by Member States in regard to access to employment, vocational training and working conditions in the armed forces for the purpose of ensuring combat effectiveness do not fall altogether outside the scope of Community law.
2. The exclusion of women from service in special combat units such as the Royal Marines may be justified under Article 2(2) 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, by reason of the nature of the activities in question and the context in which they are carried out.