

Case C-273/97

Angela Maria Sirdar

v

The Army Board and
Secretary of State for Defence

(Reference for a preliminary ruling
from the Industrial Tribunal, Bury St Edmunds)

(Equal treatment for men and women — Refusal to employ a woman as a chef in
the Royal Marines)

Opinion of Advocate General La Pergola delivered on 18 May 1999 I-7405
Judgment of the Court, 26 October 1999 I-7432

Summary of the Judgment

*Social policy — Men and women — Working conditions and access to employment —
Equal treatment — Derogation on grounds of public security — Subject to the rules of
Community law — Option available under Article 2(2) of Directive 76/207 — Scope —
Exclusion of women from the British Royal Marines — Permissible — Criteria
(Council Directive 76/207, Art. 2(2))*

Although it is for the Member States, which have to adopt appropriate measures to ensure their internal and external security, to take decisions on the organisation of their armed forces, it does not follow that such decisions must fall entirely outside the scope of Community law. To recognise that there is inherent in the Treaty a general exception covering all measures taken for reasons of public security, above and beyond the specific cases contemplated in certain provisions, might impair the binding nature of Community law and its uniform application. Decisions taken by Member States, concerning 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.

If, when adopting such measures, the competent national authorities exercise the option available under Article 2(2) of Directive 76/207, they enjoy a certain measure of discretion which, in the case of combat units such as the British Royal Marines, entitles them, without abusing the principle of proportionality, to come to the view that the specific conditions for deployment of such units — in particular the rule of interoperability to which they are subject — justify their composition remaining exclusively male. Accordingly, the exclusion of women from service in such special combat units may be justified under the above provision by reason of the nature of the activities in question and the context in which they are carried out.