

Press and Information Division

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Judgment of the Court of Justice in Case C-186/01

*Alexander Dory v Federal Republic of Germany*

**COMMUNITY LAW DOES NOT PRECLUDE THE OBLIGATION OF  
MILITARY SERVICE BEING IMPOSED ONLY ON MEN**

*The delay which may be suffered in a career is an inevitable consequence of the choice made by the State concerning military organisation and does not mean that that choice falls within the scope of Community law*

In Germany, military service is compulsory only for men. Mr Dory, who is at an age at which he is liable to perform military service, requested the competent authority (Kreiswehrrersatzamt) to be exempted from service. In his view, the German law on military service (Wehrpflichtgesetz) is contrary to Community law. Relying on the case-law of the Court of Justice,<sup>1</sup> he considers that there are no longer any objective reasons to justify women being exempted from the obligation of military service. It is inconsistent that women, who have won the right under that case-law to perform service under arms, can be exempt from the obligation of military service.

The Kreiswehrrersatzamt rejected Mr Dory's request for exemption, and he thereupon brought proceedings before the Verwaltungsgericht (Administrative Court) Stuttgart. That court asked the Court of Justice whether the fact that, in Germany military service is compulsory for men only, is contrary to Community law. The German court observed in particular that compulsory military service entails a delay in access of men to employment and to vocational training.

The Court of Justice points out, first, that measures taken by the Member States concerning the organisation of their armed forces are not excluded in their entirety

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1 Judgment of 11 January 2000 in Case C-285/98 *Kreil* (see Press Release No 01/2000) on [www.curia.eu.int](http://www.curia.eu.int).

from the application of Community law solely because they are taken in the interests of public security or national defence. Thus the Court previously held <sup>2</sup>that Directive 76/207 <sup>3</sup> was applicable to access to posts in the armed forces, and that it was for the Court to ascertain whether measures taken by the national authorities, in the exercise of their acknowledged discretion, in fact pursued the aim of guaranteeing public security, and whether they were appropriate and necessary to achieve that aim.

However, the Court considers that **Community law does not govern the Member States' choices of military organisation** for the defence of their territory or of their essential interests.

Germany's decision to ensure its defence in part by compulsory **military** service is the expression of such a **choice of military organisation to which Community law is not applicable**. That choice, enshrined in the German constitution (Grundgesetz), consists in imposing on men an obligation to serve the interests of territorial security, **even if this may entail a delay in the access of young people to the labour market and in their careers**.

Finally, the Court considers that **the adverse consequences for access to employment cannot compel the Member State either to extend the obligation of military service to women**, thus imposing on them the same disadvantages with regard to access to employment, **or to abolish compulsory military service**. That would encroach on the powers of the Member States.

*Unofficial document for media use, not binding on the Court of Justice*

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*For the full text of the judgment, please consult our Internet page [www.curia.eu.int](http://www.curia.eu.int)*

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*Pictures of the delivery of the judgment are available on "Europe by Satellite"  
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2 Judgments of 26 October 1999 in Case C-273/97 *Sirdar* (see Press Release No 83/1999) and of 11 January 2000 in Case C-285/98 *Kreil* (see Press Release No 01/2000).

3 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.

