



European network of legal experts in gender equality and non-discrimination

NEWS REPORT

Country:	Romania
Title:	NGOs complain against sex segregation by the Ministry of National Defence
Date:	21 April 2015
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<u>Context</u>	
Issue at stake:	Are determining occupational requirements for military professions legitimate and proportional justifications for sex-segregated recruitment, and for the significantly lower number of places for women than for men in the higher military education?
Ground of discrimination:	Sex
Source:	National Council for Combating Discrimination, Decision No. 568 of 8 October 2014
Field:	Employment (indirectly related); higher education in the military; sex segregation of recruitment.
Applicable law:	Law 202/2002 on equal opportunities between women and men (Gender Equality Law), Government Ordinance 137/2000 on the prevention and sanctioning of all forms of discrimination (Anti-discrimination Law)

Content

Case development: Seventeen non-governmental organisations that promote women's rights filed a collective complaint to the National Council for Combating Discrimination (NCCD). The NGOs complained against sex segregation and discrimination carried out by the Ministry of National Defence, which re-introduced a sex-segregated recruitment policy for the school year 2014-2015 in all higher education schools for the military. In the school period 2014-2015, the Ministry of National Defence offered significantly fewer places for women candidates than for men candidates (e.g. The Academy of Land Forces – Sibiu: 130 places for men and 37 places for women; The Academy of Marine Forces – Constanța: 26 places for men and 2 places for women).

The Ministry of National Defence argued that this measure is justified by determining occupational requirements for military professions that are physically extremely demanding. The Ministry also argued that such professions are unsuitable for the female anatomy; therefore women occupy non-combatant (administrative) positions in the military.

Decision of the equality body: The NCCD found that the very low numbers of places offered for women in comparison to men amounted to discrimination on the ground of sex in access to education. It found sex segregation in recruitment to be legitimate due to determining occupational requirements for military professions, but disproportionate because of the significant difference in numbers for the two sexes. Therefore, the NCCD

issued a written warning and recommended the Ministry of National Defence to respect the principle of non-discrimination and equal opportunities for women and men; and to make different allocations of places depending on the type of military force based on objective, real, determinant, legitimate, and proportional justifications.

Key points of analysis: This case is also relevant for the field of employment due to the fact that members of the military are only hired after they have completed higher military education. The evidence showing sex segregation in the recruitment for the higher military education does not automatically lead to a presumption of sex discrimination. In order to establish this presumption, one should provide additional circumstantial evidence. Determining occupational requirements must be supported by significant evidence subjected to strong scrutiny when it comes to differences between women and men. Symbolic sanctions such as warnings are not effective and proportionate remedies in the context of a discriminatory practice at the national level.