

## Case C-132/90 P

### Georg Schwedler v European Parliament

(Officials — Tax abatement — Dependent child)

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#### Summary of the Judgment

- Officials — Remuneration — Taxation — Abatement for dependent child — Conditions of availability — Actual maintenance of the child by the official — Concept — Children for whom the army makes full provision during their military service — Excluded*  
(Staff Regulations, Annex VII, Art. 2(2); Regulation No 260/68 of the Council, Art. 3(4), second subparagraph)
  - Officials — Remuneration — Family allowances — Dependent child allowance — Relationship with tax abatement for a dependent child*  
(Staff Regulations, Annex VII, Art. 2(2); Regulation No 260/68 of the Council, Art. 3(4), second subparagraph)
1. The social objective pursued by the tax abatement for dependent children of Community officials requires account to be taken, in the application thereof, only of expenses justified by an existing and established need connected with the existence of a child and the actual maintenance of the child.

Whilst it is not impossible for a child to be considered to be actually maintained within the meaning of Article 2(2) of Annex VII to the Staff Regulations by a number of different persons or organizations at the same time and, in such a case, to be regarded as being simultaneously dependent on them, where the obligation to support the costs of maintaining a child no longer falls on the official concerned but falls entirely on another subject of law, the tax abatement becomes devoid of purpose.

Consequently, where the maintenance of young people doing military service is provided for entirely by the army, they

cannot, for the duration of their military service, be regarded as dependent on the officials concerned or give rise to entitlement to a tax abatement.

2. Whilst it is true that there is no exact parallel between the dependent-child allowance and the tax abatement granted for the same reasons, the fact nevertheless remains that, pursuing as they do the same social objective and reflecting the same concern, the provisions relating to the dependent-child allowance may be taken into account to corroborate the interpretation of the provisions relating to tax abatements for dependent children.

## REPORT FOR THE HEARING in Case C-132/90 P\*

### I — Facts and procedure before the Court of First Instance

According to the judgment of the Court of First Instance of 8 March 1990 in Case T-41/89 *Georg Schwedler v European Parliament* [1990] ECR II-79,

dependent child allowance and reimbursement of travel expenses for his son Christoph, who was deemed to be a dependent child. From 1 September 1987, and for the duration of his son's military service, the European Parliament stopped the benefits he received on account of his son's dependence on him on the ground that his son was doing his military service in the German army.

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1. Until 1 September 1987 Georg Schwedler, in the service of the European Parliament, received the tax abatement, the

2. On 6 November 1987 Mr Schwedler submitted a request to the Director-General

\* Language of the case: French.