**Parties to the main proceedings**

*Applicant:* X

*Defendant:* Ministerraad

**Operative part of the judgment**

1. *Freedom of establishment must be interpreted as not precluding tax legislation of a Member State, such as that at issue in the main proceedings, under which both a non-resident company conducting an economic activity in that Member State through a permanent establishment and a resident company, including the resident subsidiary of a non-resident company, are subject to a tax such as the 'fairness tax' when they distribute dividends which, as a result of the use of certain tax advantages provided for by the national tax system, are not included in their final taxable profits, provided that the method of determining the taxable amount of that tax does not in fact lead to that non-resident company being treated in a less advantageous manner than a resident company, which is for the referring court to ascertain.*

2. *Article 5 of Council Directive 2011/96/EU of 30 November 2011 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States must be interpreted as not precluding tax legislation of a Member State, such as that at issue in the main proceedings, providing for a tax such as the 'fairness tax', to which non-resident companies conducting an economic activity in that Member State through a permanent establishment and resident companies, including the resident subsidiary of a non-resident company, are subject when they distribute dividends which, as a result of the use of certain tax advantages provided for by the national tax system, are not included in their final taxable profits.*

3. *Article 4(1)(a) of Directive 2011/96, read in conjunction with Article 4(3) thereof, must be interpreted as precluding national tax legislation, such as that at issue in the main proceedings, in so far as that legislation, in a situation where profits received by a parent company from its subsidiary are distributed by the parent company after the year in which they were received, has the consequence of subjecting those profits to taxation exceeding the 5 % ceiling provided for in that provision.*

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([1]) OJ C 146, 4.5.2015.

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**Judgment of the Court (Grand Chamber) of 10 May 2017 (request for a preliminary ruling from the Centrale Raad van Beroep — Netherlands) — H.C. Chavez-Vilchez and Others v Raad van bestuur van de Sociale verzekeringsbank and Others**

**(Case C-133/15)** ([1])

***(Reference for a preliminary ruling — Union citizenship — Article 20 TFEU — Access to social assistance and child benefit conditional on right of residence in a Member State — Third-country national responsible for the primary day-to-day care of her minor child, a national of that Member State — Obligation on the third-country national to establish that the other parent, a national of that Member State, is not capable of caring for the child — Refusal of residence possibly obliging the child to leave the territory of the Member State, or the territory of the European Union)***

(2017/C 239/05)

*Language of the case: Dutch*

**Referring court**

Centrale Raad van Beroep

**Parties to the main proceedings**

*Applicants:* H.C. Chavez-Vilchez, P. Pinas, U. Nikolic, X.V. Garcia Perez, J. Uwituze, I.O. Enowassam, A.E. Guerrero Chavez, Y. R. L. Wip

*Defendants:* Raad van bestuur van de Sociale verzekeringsbank, College van burgemeester en wethouders van de gemeente Arnhem, College van burgemeester en wethouders van de gemeente 's-Gravenhage, College van burgemeester en wethouders van de gemeente 's-Hertogenbosch, College van burgemeester en wethouders van de gemeente Amsterdam, College van burgemeester en wethouders van de gemeente Rijswijk, College van burgemeester en wethouders van de gemeente Rotterdam

**Operative part of the judgment**

1. *Article 20 TFEU must be interpreted as meaning that for the purposes of assessing whether a child who is a citizen of the European Union would be compelled to leave the territory of the European Union as a whole and thereby deprived of the genuine enjoyment of the substance of the rights conferred on him by that article if the child's third-country national parent were refused a right of residence in the Member State concerned, the fact that the other parent, who is a Union citizen, is actually able and willing to assume sole responsibility for the primary day-to-day care of the child is a relevant factor, but it is not in itself a sufficient ground for a conclusion that there is not, between the third-country national parent and the child, such a relationship of dependency that the child would indeed be so compelled were there to be such a refusal of a right of residence. Such an assessment must take into account, in the best interests of the child concerned, all the specific circumstances, including the age of the child, the child's physical and emotional development, the extent of his emotional ties both to the Union citizen parent and to the third-country national parent, and the risks which separation from the latter might entail for the child's equilibrium.*

2. *Article 20 TFEU must be interpreted as not precluding a Member State from providing that the right of residence in its territory of a third-country national, who is a parent of a minor child that is a national of that Member State and who is responsible for the primary day-to-day care of that child, is subject to the requirement that the third-country national must provide evidence to prove that a refusal of a right of residence to the third-country national parent would deprive the child of the genuine enjoyment of the substance of the rights pertaining to the child's status as a Union citizen, by obliging the child to leave the territory of the European Union, as a whole. It is however for the competent authorities of the Member State concerned to undertake, on the basis of the evidence provided by the third-country national, the necessary enquiries in order to be able to assess, in the light of all the specific circumstances, whether a refusal would have such consequences.*

([1]) OJ C 178, 1.6.2015.

**Judgment of the Court (Fifth Chamber) of 11 May 2017 — Yoshida Metal Industry Co. Ltd v European Union Intellectual Property Office (EUIPO), Pi-Design AG, Bodum France SAS, Bodum Logistics A/S**

**(Case C-421/15 P)** ([1])

***(Appeal — EU trade mark — Registration of signs consisting of a surface with black dots — Declaration of invalidity — Regulation (EC) No 40/94 — Article 7(1)(e)(ii) — Article 51(3))***

(2017/C 239/06)

*Language of the case: English*

**Parties**

*Appellant:* Yoshida Metal Industry Co. Ltd (represented by: J. Cohen, Solicitor, T. St Quintin, Barrister, and G. Hobbs QC)

*Other parties to the proceedings:* European Union Intellectual Property Office (represented by: A. Folliard-Monguiral, D. Gaja and J. Crespo Carrillo, acting as Agents), Pi-Design AG (Triengen, Switzerland), Bodum France SAS (Neuilly sur Seine, France), Bodum Logistics A/S (Billund, Denmark) (represented by: H. Pernez, avocate, and R. Löhr, Rechtsanwalt)