

SUMMARY

Case 89/16. Social security

May Article 13(3) of Regulation 883/2004, in conjunction with the right to social security benefits and social services enshrined in Article 34(1) and (2) of the Charter of Fundamental Rights of the European Union, in the circumstances of the dispute in the main proceedings, be interpreted without taking into account the clarifications in Article 14 of the implementing regulation 987/2009, and without any possibility of consequently applying the procedure mentioned in Article 16 of the abovementioned regulation, in such a way that the shortness of the working time or the low level of remuneration of employees has no effect on the choice of the national law applicable when a person is both employed and self-employed, in other words: the abovementioned Article 14 of the implementing Regulation does not apply to the interpretation of Article 13(3) of the basic Regulation?

If a negative answer is given to the first question, is it the case, if there is a conflict when two regulations are applied, that is to say: conflict between the basic regulation and the implementing regulation that the national court may assess the provisions thereof on the basis of their legislative force, or on the basis of their rank in the hierarchy of Union law?

May the interpretation of the provisions of the Basic Regulation adopted by the Administrative Commission under Article 72 of the Basic Regulation be considered a binding interpretation made by an EU institution, from which the national court may not depart, which at the same time precludes a reference for a preliminary ruling, or is that interpretation merely one of the permissible interpretations of EU law that the national court must take into account as one of the factors underlying its decision?

Creator: European Court of Justice (ECJ)

Verdict at: 2016-02-15

Case number: 89/16