



JUDGMENT OF THE COURT

3 July 2026*

(Social security – Applicable legislation – Regulation (EC) No 883/2004 – Article 11 – Article 13(4) – Regulation (EC) No 987/2009 – Article 14(5b) – Concept of ‘marginal activities’)

In Case E-26/25,

REQUEST to the Court under Article 34 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice by the Princely Supreme Court (*Fürstlicher Oberster Gerichtshof*), in the case between

Sabine Mohr-Egger

and

**Liechtensteinische Alters- und Hinterlassenenversicherung,
Liechtensteinische Invalidenversicherung, and
Liechtensteinische Familienausgleichskasse,**

THE COURT,

composed of: Páll Hreinsson, President (Judge-Rapporteur), Bernd Hammermann and Michael Reiertsen, Judges,

Registrar: Ólafur Jóhannes Einarsson,

having considered the written observations submitted on behalf of:

- Sabine Mohr-Egger, lawyer, represented by herself;
- the Liechtenstein Government, represented by Dr Andrea Entner-Koch and Solveig Schurti, acting as Agents;

* Language of the request: German. Translations of national provisions are unofficial and based on those contained in the documents of the case.

- the EFTA Surveillance Authority ('ESA'), represented by Kyrre Isaksen, Johannes Kohler, Johanna Himmanen and Melpo-Menie Joséphidès, acting as Agents; and
- the European Commission ('the Commission'), represented by Marzena Brauhoff and Bernd-Roland Killmann, acting as Agents,

having heard the oral arguments of Sabine Mohr-Egger; the Liechtenstein Government, represented by Solveig Schurti; ESA, represented by Kyrre Isaksen; and the Commission, represented by Marzena Brauhoff, at the hearing on 21 April 2026,

gives the following

J U D G M E N T

I I N T R O D U C T I O N

- 1 This request for an advisory opinion concerns the interpretation of Articles 11 and 13 of Regulation (EC) No 883/2004 on the coordination of social security systems and of Article 14(5b) of Regulation (EC) No 987/2009, which lays down the detailed rules for implementing Regulation (EC) No 883/2004. Specifically, the request concerns the criteria for assessing whether an activity pursued in the EEA State of residence constitutes a 'marginal activity' and the determination of the applicable legislation for a person receiving an old-age pension in one EEA State while pursuing an activity as a self-employed person in another EEA State.
- 2 The request has been made in proceedings before the referring court between Ms Sabine Mohr-Egger and the competent Liechtenstein social security institutions concerning the determination of the social security legislation applicable to her.

II L E G A L B A C K G R O U N D

EEA law

- 3 Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ 2004 L 166, p. 1, as corrected by OJ 2004 L 200, p. 1, and OJ 2007 L 204, p. 30) ('Regulation 883/2004') was incorporated into the EEA Agreement by Decision of the EEA Joint Committee No 76/2011 of 1 July 2011 (OJ 2011 L 262, p. 33) and is referred to at point 1 of Annex VI (Social Security) to the EEA Agreement. Constitutional requirements were indicated by Iceland and Liechtenstein. Those requirements were fulfilled by 31 May 2012, and the decision entered into force on 1 June 2012.
- 4 Recital 1 of Regulation 883/2004 reads:

The rules for coordination of national social security systems fall within the framework of free movement of persons and should contribute towards improving their standard of living and conditions of employment.

5 Recital 17 of Regulation 883/2004 reads:

With a view to guaranteeing the equality of treatment of all persons occupied in the territory of a Member State as effectively as possible, it is appropriate to determine as the legislation applicable, as a general rule, that of the Member State in which the person concerned pursues his/her activity as an employed or self-employed person.

6 Recital 45 of Regulation 883/2004 reads:

Since the objective of the proposed action, namely the coordination measures to guarantee that the right to free movement of persons can be exercised effectively, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of that action, be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality as set out in that article, this Regulation does not go beyond what is necessary, in order to achieve that objective,

7 Article 1 of Regulation 883/2004, entitled ‘Definitions’, reads, in extract:

For the purposes of this Regulation:

(a) ‘activity as an employed person’ means any activity or equivalent situation treated as such for the purposes of the social security legislation of the Member State in which such activity or equivalent situation exists;

(b) ‘activity as a self-employed person’ means any activity or equivalent situation treated as such for the purposes of the social security legislation of the Member State in which such activity or equivalent situation exists;

...

(d) ‘civil servant’ means a person considered to be such or treated as such by the Member State to which the administration employing him/her is subject;

...

8 Article 11 of Regulation 883/2004, entitled ‘General rules’, reads, in extract:

1. Persons to whom this Regulation applies shall be subject to the legislation of a single Member State only. Such legislation shall be determined in accordance with this Title.

2. For the purposes of this Title, persons receiving cash benefits because or as a consequence of their activity as an employed or self-employed person shall be considered to be pursuing the said activity. This shall not apply to invalidity, old-age or survivors' pensions or to pensions in respect of accidents at work or occupational diseases or to sickness benefits in cash covering treatment for an unlimited period.

3. Subject to Articles 12 to 16:

(a) a person pursuing an activity as an employed or self-employed person in a Member State shall be subject to the legislation of that Member State;

(b) a civil servant shall be subject to the legislation of the Member State to which the administration employing him/her is subject;

...

(e) any other person to whom subparagraphs (a) to (d) do not apply shall be subject to the legislation of the Member State of residence, without prejudice to other provisions of this Regulation guaranteeing him/her benefits under the legislation of one or more other Member States.

...

9 Article 13 of Regulation 883/2004, entitled 'Pursuit of activities in two or more Member States', reads, in extract:

1. A person who normally pursues an activity as an employed person in two or more Member States shall be subject:

(a) to the legislation of the Member State of residence if he/she pursues a substantial part of his/her activity in that Member State; or

(b) if he/she does not pursue a substantial part of his/her activity in the Member State of residence:

(i) to the legislation of the Member State in which the registered office or place of business of the undertaking or employer is situated if he/she is employed by one undertaking or employer; or

(ii) to the legislation of the Member State in which the registered office or place of business of the undertakings or employers is situated if he/she is

employed by two or more undertakings or employers which have their registered office or place of business in only one Member State; or

...

2. A person who normally pursues an activity as a self-employed person in two or more Member States shall be subject to:

(a) the legislation of the Member State of residence if he/she pursues a substantial part of his/her activity in that Member State; or

(b) the legislation of the Member State in which the centre of interest of his/her activities is situated, if he/she does not reside in one of the Member States in which he/she pursues a substantial part of his/her activity.

...

4. A person who is employed as a civil servant by one Member State and who pursues an activity as an employed person and/or as a self-employed person in one or more other Member States shall be subject to the legislation of the Member State to which the administration employing him/her is subject.

5. Persons referred to in paragraphs 1 to 4 shall be treated, for the purposes of the legislation determined in accordance with these provisions, as though they were pursuing all their activities as employed or self-employed persons and were receiving all their income in the Member State concerned.

10 Article 87(8) of Regulation 883/2004 reads:

If, as a result of this Regulation, a person is subject to the legislation of a Member State other than that determined in accordance with Title II of Regulation (EEC) No 1408/71, that legislation shall continue to apply while the relevant situation remains unchanged and in any case for no longer than 10 years from the date of application of this Regulation unless the person concerned requests that he/she be subject to the legislation applicable under this Regulation. The request shall be submitted within 3 months after the date of application of this Regulation to the competent institution of the Member State whose legislation is applicable under this Regulation if the person concerned is to be subject to the legislation of that Member State as of the date of application of this Regulation. If the request is made after the time limit indicated, the change of applicable legislation shall take place on the first day of the following month.

11 Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems (OJ 2009 L 284, p. 1) ('Regulation 987/2009') was incorporated into the EEA Agreement by Decision of the

EEA Joint Committee No 76/2011 of 1 July 2011 (OJ 2011 L 262, p. 33) and is referred to at point 2 of Annex VI (Social Security) to the EEA Agreement. Constitutional requirements were indicated by Iceland and Liechtenstein. Those requirements were fulfilled by 31 May 2012, and the decision entered into force on 1 June 2012.

- 12 Article 14(5) of Regulation 987/2009, entitled ‘Details relating to Articles 12 and 13 of the basic Regulation’, read, at the entry into force:

5. For the purposes of the application of Article 13(1) of the basic Regulation a person who ‘normally pursues an activity as an employed person in two or more Member States’ shall refer, in particular, to a person who:

(a) while maintaining an activity in one Member State, simultaneously exercises a separate activity in one or more other Member States, irrespective of the duration or nature of that separate activity;

(b) continuously pursues alternating activities, with the exception of marginal activities, in two or more Member States, irrespective of the frequency or regularity of the alternation.

- 13 Regulation (EU) No 465/2012 of the European Parliament and of the Council of 22 May 2012 amending Regulation (EC) No 883/2004 on the coordination of social security systems and Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004 (OJ 2012 L 149, p. 4) (‘Regulation 465/2012’) was incorporated into the EEA Agreement by Decision of the EEA Joint Committee No 14/2013 of 1 February 2013 (OJ 2013 L 144, p. 19). That decision entered into force on 2 February 2013.

- 14 Article 2(2) of Regulation 465/2012 reads, in extract:

(2) Article 14 is amended as follows:

(a) paragraph 5 is replaced by the following:

‘5. For the purposes of the application of Article 13(1) of the basic Regulation, a person who “normally pursues an activity as an employed person in two or more Member States” shall refer to a person who simultaneously, or in alternation, for the same undertaking or employer or for various undertakings or employers, exercises one or more separate activities in two or more Member States.’;

(b) the following paragraphs are inserted:

‘5a. For the purposes of the application of Title II of the basic Regulation, “registered office or place of business” shall refer to the registered office or place of business where the essential decisions of the undertaking are adopted and where the functions of its central administration are carried out.

For the purposes of Article 13(1) of the basic Regulation, an employed flight crew or cabin crew member normally pursuing air passenger or freight services in two or more Member States shall be subject to the legislation of the Member State where the home base, as defined in Annex III to Council Regulation (EEC) No 3922/91 of 16 December 1991 on the harmonization of technical requirements and administrative procedures in the field of civil aviation ..., is located.

5b. Marginal activities shall be disregarded for the purposes of determining the applicable legislation under Article 13 of the basic Regulation. Article 16 of the implementing Regulation shall apply to all cases under this Article.

...

National law

Liechtenstein law

- 15 Article 34 of the Act of 14 December 1952 on Old-Age and Survivors' Insurance (*Gesetz über die Alters- und Hinterlassenenversicherung*), entitled 'Compulsorily insured persons', reads, in extract:

1. Insured in accordance with this Act are:

...

(b) the natural persons who pursue an economic activity in Liechtenstein;

...

2. Not insured are:

...

(b) persons affiliated to a foreign public old-age and survivors' insurance if inclusion in the insurance would entail an unreasonable dual burden for them. Upon a reasoned request, these shall be exempted from the compulsory insurance by the fund;

Austrian law

- 16 Section 1 of the Act of 31 May 1967 on Sickness and Accident Insurance for Public Servants (*Beamten-Kranken- und Unfallversicherungsgesetz*), entitled 'Scope of the insurance' and 'Compulsory insurance in the sickness and accident insurance', reads, in extract:

1. Unless an exemption exists under section 2 or 3, insured in the sickness and accident insurance are:

...

10.

...

b) The mayors and other members of municipal councils as well as local leaders (local representatives) provided that they are not members of the municipal council as well as district leaders and district councillors;

...

III FACTS AND PROCEDURE

- 17 Ms Mohr-Egger is an Austrian national. She was registered as a lawyer with the Vorarlberg Bar Association from 2002. In 2003, she was admitted as an established lawyer in Liechtenstein and was subsequently entered into the register of Liechtenstein lawyers in 2012. During the relevant period, she pursued her activity as a self-employed lawyer in both Austria and Liechtenstein, with the major part of her professional income generated in Liechtenstein.
- 18 Until the change in circumstances referred to below, Ms Mohr-Egger was treated as remaining subject to the social security legislation of Austria pursuant to the transitional provision laid down in Article 87(8) of Regulation 883/2004.
- 19 During the relevant period, Ms Mohr-Egger also had earnings in Austria as a member of the town council of Hohenems. According to the referring court, that political activity corresponds, under Austrian law, to that of a civil servant and thus an employed person. The referring court notes that the income derived from that activity amounted to less than 0.5 percent of Ms Mohr-Egger's income from her self-employed activity.
- 20 With effect from 30 November 2021, Ms Mohr-Egger renounced the pursuit of the profession of lawyer in Austria. She continued, however, to pursue her activity as a self-employed lawyer in Liechtenstein. Furthermore, since 1 March 2022, she has been in receipt of an old-age pension in Austria.
- 21 On the basis of her professional income in Liechtenstein, Ms Mohr-Egger was considered by the competent Liechtenstein social security institutions to be subject to compulsory social insurance under the Liechtenstein Act of 14 December 1952 on Old-Age and Survivors' Insurance. Those institutions are governed by public law and are responsible for the administration of statutory benefits and the collection of mandatory contributions.

- 22 On 22 February 2023, the Liechtenstein social security institutions registered Ms Mohr-Egger as a person pursuing a self-employed activity with effect from 1 December 2021 and, on the same day, issued provisional decisions requiring her to pay contributions as a self-employed person for December 2021 and the years 2022 and 2023, together with administrative costs.
- 23 By decision of 21 October 2024, the Liechtenstein social security institutions dismissed Ms Mohr-Egger’s appeal against those provisional decisions. They considered that, due to the change in circumstances on 30 November 2021, the transitional provision in Article 87(8) of Regulation 883/2004 no longer applied. In the absence of an agreement between Liechtenstein and Austria under Article 16(1) of Regulation 883/2004, they concluded that Ms Mohr-Egger was under an obligation to pay social security contributions in Liechtenstein in accordance with Articles 11 and 13 of that regulation.
- 24 Ms Mohr-Egger challenged that decision before the Princely Court of Appeal, which dismissed the action by judgment of 10 July 2025. That court held that Ms Mohr-Egger’s activity as an employed person in Austria was to be characterised as a marginal activity within the meaning of Article 14(5b) of Regulation 987/2009 and was therefore to be disregarded for the purposes of determining the applicable legislation.
- 25 Ms Mohr-Egger subsequently brought an appeal on a point of law before the Princely Supreme Court, seeking, in essence, to have the contested decision amended so that Liechtenstein social security legislation is not applied to her and the provisional decisions of 22 February 2023 concerning December 2021 and the years 2022 and 2023 are set aside.
- 26 Against this background, the Princely Supreme Court decided to stay the proceedings and, by letter dated 7 November 2025, registered at the Court on 18 November 2025, referred the following questions to the Court for an advisory opinion:
 1. *Must Article 14(5b) of Regulation (EC) No 987/2009 as amended by Regulation (EU) No 465/2012, according to which marginal activities shall be disregarded for the purposes of determining the applicable legislation under Article 13 of Regulation (EC) No 883/2004 (the basic Regulation), be interpreted as meaning that already the fact that the income from a political activity pursued in the State of residence, which according to national legislation corresponds to that of a civil servant and thus an employed person, amounts to less than 0.5% of the income that the corresponding insured person receives from an activity as a self-employed person in another Member State suffices in this connection to speak of a marginal activity or must further criteria be taken into consideration, for example, the duration of the activity as an employed person, on the one hand, and the self-employed activity, on the other, the importance of the activity as an employed person, pursued wholly independently of the activity as a self-employed person, for the political community of the State of residence as well as the place of performance of the activity as an employed person, the actual pursuit*

thereof or the manner of performance prescribed as a result of the appointment to a political function or are further additional criteria to be taken into consideration, and if so, which?

2. *In the event that it is not sufficiently clarified through the answer to the first question whether the relevant activity as an employed person must be qualified as marginal, the question is asked whether, having regard to recitals 1, 5, 10, 12, 15 and 17 in conjunction with Article 13(4) and (5) of Regulation (EC) No 883/2004, Article 34(1)(b) and (2)(b) of the Act of 14 December 1952 on Old-Age and Survivors Insurance (AHVG) must be interpreted as meaning that the insured person who receives an old-age pension in the Member State of residence as a result of her activity as a self-employed person previously pursued in that State must be subject nonetheless to compulsory social insurance in the Member State in which the activity as a self-employed person is still pursued.*

27 Reference is made to the written observations published on the Court's website for a fuller account of the arguments and proposed answers submitted to the Court. Arguments of the parties are mentioned or discussed hereinafter only insofar as is necessary for the reasoning of the Court.

IV ANSWER OF THE COURT

Preliminary remarks

- 28 By its first question, the referring court asks, in essence, whether Article 14(5b) of Regulation 987/2009, as inserted by Regulation 465/2012, must be interpreted as meaning that an activity pursued in the State of residence which generates income amounting to less than 0.5 percent of the income from the self-employed activity of the person concerned (and, in any event, a negligible fraction of the overall remuneration/income from the occupational activities pursued) automatically constitutes a marginal activity for the purposes of Article 13 of Regulation 883/2004, or whether additional qualitative criteria, such as the duration, nature, or significance of that activity, must also be taken into account.
- 29 As regards the second question, it is apparent from the request that the referring court is asking, in essence, whether the recipient of an old-age pension in one EEA State may be required to contribute to compulsory social security insurance in another EEA State in which that person still pursues an economic activity. The Court finds it appropriate to examine the questions together.
- 30 As a starting point, the Court recalls that the provisions of Title II of Regulation 883/2004, entitled 'Determination of the legislation applicable', of which Article 13 of that regulation forms part, constitute a complete and uniform system of conflict-of-law rules which are intended not only to prevent the simultaneous application of a number of national legislative systems and the complication which might ensue, but also to

ensure that the persons covered by that regulation are not left without social security cover because there is no legislation which is applicable to them (see, to that effect, the judgment of 24 January 2023 in *Maitz*, E-5/22, paragraph 35 and case-law cited; and compare the judgment of 4 September 2025 in *Hakamp*, C-203/24, EU:C:2025:662, paragraph 37 and case-law cited).

- 31 As is apparent from recitals 1 and 45 of Regulation 883/2004, the aim of that regulation is to coordinate the national social security systems of the EEA States in order to guarantee that the right to the free movement of persons can be exercised effectively and, thereby, to contribute towards improving the standard of living and conditions of employment of persons who move within the EEA, while modernising and simplifying the rules contained in Regulation (EEC) No 1408/71 (see, to that effect, the judgment of 18 April 2024 in *A (Minimum benefit)*, E-3/23, paragraph 53 and case-law cited; and compare the judgment in *Hakamp*, C-203/24, cited above, paragraph 38 and case-law cited).
- 32 That objective is implemented by Article 11(1) of Regulation 883/2004, which provides that persons to whom that regulation applies are to be subject, in matters of social security, to the legislation of a single EEA State only, which is to be determined in accordance with Title II of that regulation (see, to that effect, the judgment in *Maitz*, E-5/22, cited above, paragraph 39 and case-law cited; and compare the judgment in *Hakamp*, C-203/24, cited above, paragraph 39).
- 33 To that end, Article 11(3)(a) of that regulation sets out the general rule that a person who pursues an activity as an employed person in the territory of an EEA State is subject to the legislation of that EEA State (see, to that effect, the judgment in *Maitz*, E-5/22, cited above, paragraph 40 and case-law cited; and compare the judgment in *Hakamp*, C-203/24, cited above, paragraph 40 and case-law cited).
- 34 That general rule is, however, set out ‘subject to Articles 12 to 16’ of Regulation 883/2004, since, in certain specific situations, the unrestricted application of that principle might in fact create, rather than prevent, administrative complications for workers as well as for employers and social security authorities, which could impede the freedom of movement of the persons covered by that regulation (compare the judgment in *Hakamp*, C-203/24, cited above, paragraph 41 and case-law cited).
- 35 One of those specific situations is that covered by Article 13(4) of Regulation 883/2004, according to which a person who is employed as a civil servant by one EEA State and who pursues an activity as an employed person and/or as a self-employed person in one or more other EEA States shall be subject to the legislation of the EEA State to which the administration employing him or her is subject.
- 36 Against that background, the Court notes that, in the case before the referring court, the activity pursued by Ms Mohr-Egger during the relevant period consisted, inter alia, of serving as a member of the town council of Hohenems in Austria. It must therefore be determined whether such an activity falls within the concept of employment as a civil

servant, and whether that classification affects the Court’s analysis of the questions referred.

Whether activity as a civil servant or as a person treated as such is covered by Article 14(5b) of Regulation 987/2009

- 37 Article 1(d) of Regulation 883/2004 defines a ‘civil servant’ as ‘a person considered to be such or treated as such by the EEA State to which the administration employing him/her is subject’. It follows from that definition that, for the purposes of the conflict-of-law rules in Title II, the classification of a person as a civil servant or a person treated as such is a matter solely for the national law of the EEA State to which the employing administration is subject (compare the judgment of 9 December 2010 in *Baesen*, C-296/09, EU:C:2010:755, paragraph 28).
- 38 As noted in the request, under Austrian law, members of a town council are subject to compulsory insurance under the Public Servants’ Sickness and Accident Insurance Act, which constitutes a special scheme for civil servants. It is thus apparent that such persons are treated as civil servants as a matter of Austrian law and are therefore to be considered as civil servants or persons treated as such for the purposes of Regulation 883/2004.
- 39 In that context, it must be observed that the special position of civil servants is expressly reflected in the system of coordination established by Regulation 883/2004. In particular, Article 13(4) of that regulation provides that a person who is employed as a civil servant by one EEA State and who pursues an activity as an employed or self-employed person in one or more other EEA States is to be subject to the legislation of the EEA State to which the administration employing him or her is subject.
- 40 Article 14(5b) of Regulation 987/2009 as inserted by Regulation 465/2012, however, delimits the scope of Article 13 of Regulation 883/2004 by providing that marginal activities are to be disregarded for the purposes of determining the applicable legislation. The first step in the assessment is therefore to determine whether that provision applies to civil servants.
- 41 The Court recalls that the interpretation of a provision of EEA law must take into account not only the wording of that provision but also its context and the objective pursued by the legislation in question, while the origins of the provision may also provide information relevant to its interpretation. Moreover, where a provision of EEA law is open to several interpretations, preference must be given to the interpretation which ensures that the provision retains its effectiveness (see the judgment of 19 February 2026 in *Saga Subsea*, E-6/25, paragraph 55 and case-law cited, and compare the judgment of 16 July 2020 in *AFMB and Others*, C-610/18, EU:C:2020:565, paragraphs 49 and 50 and case-law cited).
- 42 A literal interpretation of Article 14(5b) of Regulation 987/2009, in particular the wording ‘for the purposes of determining the applicable legislation under Article 13 of the basic Regulation’, together with the term ‘marginal activities’ without any

qualification as to the content of those activities, indicates that marginal activities must generally be disregarded when applying Article 13 of Regulation 883/2004, including paragraph 4 thereof. Accordingly, the logic of the coordination system established by those provisions requires that the marginal nature of an activity be assessed before determining its classification. Only where the activity is found not to be marginal, should one proceed to classify it and apply the conflict rules set out in Article 13 of Regulation 883/2004.

- 43 This literal interpretation finds support in the provision's context and purpose. As noted above, Title II of Regulation 883/2004 contains a mandatory and objective system of conflict-of-law rules, which is intended to ensure that persons pursuing activities in two or more EEA States are subject to the legislation of a single EEA State only. In so doing, Article 13 of Regulation 883/2004 contributes to that objective by laying down rules which derogate from the general rule of the State of employment precisely in order to avoid the complications which might otherwise arise from the pursuit of activities in two or more EEA States (compare the judgments of 13 September 2017 in *X*, C-570/15, EU:C:2017:674, paragraphs 16 and 17, and in *Hakamp*, C-203/24, cited above, paragraphs 44 and 45 and case-law cited).
- 44 As follows from recital 17 of Regulation 883/2004, it is with a view to guaranteeing the equality of treatment of all persons occupied in the territory of an EEA State as effectively as possible that it is considered appropriate to determine as the legislation applicable, as a general rule, that of the EEA State in which the person concerned pursues his or her activity as an employed or self-employed person. Any exception to that provision should therefore in principle be interpreted narrowly (see, to that effect, the judgment in *Maitz*, E-5/22, cited above, paragraph 40 and case-law cited; and compare the judgment of 6 September 2018 in *Alpenrind*, C-527/16, EU:C:2018:669, paragraph 98; and the judgment of 20 May 2021 in *Format*, C-879/19, EU:C:2021:409, paragraph 33 and case-law cited).
- 45 As regards the origins of Article 14(5b) of Regulation 987/2009, it is apparent from the explanatory memorandum of the European Commission in COM(2010) 794 final, pp. 8 to 9, that Regulation 465/2012 simplified Article 14(5) of Regulation 987/2009 by deleting the distinction between 'simultaneous' or 'alternating' activities with a twofold objective. First, it sought to clarify that marginal and ancillary activities which are insignificant in terms of time and economic returns are not to be taken into account for the determination of the applicable legislation under Title II of Regulation 883/2004, thereby enhancing legal certainty for persons who pursue an effective and genuine activity in one EEA State and in parallel only a marginal activity in another. Second, it aimed to avoid possible misuse of the provisions on applicable legislation by preventing activities of negligible economic significance from influencing the determination of the applicable legislation.
- 46 To accept that a person who pursues only a marginal activity as a civil servant in the territory of the EEA State of residence may be subject to the legislation of that State pursuant to Article 13(4) of Regulation 883/2004 would not only be to disregard the derogating nature of the connecting factors laid down in Articles 12 to 14 of Regulation

883/2004, including those relating to the EEA State of residence, but also to create uncertainty in the application of the conflict-of-law rules laid down in Title II of that regulation, to the detriment of the simplicity which those rules are intended to establish as regards the application of connecting factors based on the objective situation in which the worker concerned finds himself or herself (compare the judgments in *X*, C-570/15, cited above, paragraph 28, and in *Hakamp*, C-203/24, cited above, paragraph 51).

- 47 Therefore, the qualification of an activity as that of a civil servant or of a person treated as such cannot, in itself, exclude the possibility that such an activity could be qualified as a marginal activity within the meaning of Article 14(5b) of Regulation 987/2009.
- 48 It follows that where the activity performed by a person as a civil servant in an EEA State is marginal, that activity must be disregarded for the purposes of determining the applicable legislation. Accordingly, as noted by the Commission at the hearing, the person would thus be treated, in effect, as if he or she worked in only one EEA State, namely the one in which his or her principal activity is pursued (compare, to that effect, the judgment in *X*, C-570/15, cited above, paragraph 29).
- 49 Accordingly, pursuant to Article 13(4) of Regulation 883/2004, a person in the situation of Ms Mohr-Egger would in principle be subject to Austrian social security legislation, unless the activity pursued in Austria must be disregarded as marginal for the purposes of determining the applicable legislation under Article 13, in accordance with Article 14(5b) of Regulation 987/2009.

The criteria to define an activity as marginal

- 50 Neither Regulation 883/2004 nor Regulation 987/2009 defines the concept of ‘marginal activities’ or specifies the criteria for assessing whether a particular activity is marginal.
- 51 Article 14(5b) of Regulation 987/2009 does not contain any reference to the law of the EEA States for the purpose of determining its meaning and scope. It is settled case-law that, in such circumstances, following from the need for uniform application, such terms must be regarded as containing autonomous concepts of EEA law which must be interpreted in a uniform manner in that regulation throughout the EEA. Their scope cannot therefore be determined by reference either to concepts known to the laws of the EEA States or to classifications made at the national level (see, to that effect, the judgment of 23 May 2024 in *Gylfason and Others*, Joined Cases E-13/22 and E-1/23, paragraph 108 and case-law cited).
- 52 As regards, first, the terms used, account must be taken of their usual meaning in everyday language, in the absence of any definition laid down in the relevant legal act (see, to that effect, the judgment of 7 May 2025 in *TC and AA*, Joined Cases E-1/24 and E-7/24, paragraph 63; and compare the judgment in *AFMB and Others*, C-610/18, cited above, paragraph 52 and case-law cited).
- 53 In accordance with that usual meaning, the term ‘marginal’ means something which is small, minor or of limited importance. However, the wording of Article 14(5b) of

Regulation 987/2009 does not specify any numerical threshold and does not identify the criteria by reference to which marginality is to be assessed.

- 54 In that regard, it is settled case-law that in order to determine whether a person should be considered employed in two or more EEA States for the purposes of Article 13 of Regulation 883/2004 regard must be had, in particular, to the duration of periods of activity and to the nature of the employment as defined in the contractual documents, as well as to the actual work performed, where appropriate (compare the judgment in *X*, C-570/15, cited above, paragraph 21 and case-law cited).
- 55 In light of the context and purpose of Article 14(5b) of Regulation 987/2009 to prevent the conflict-of-law rules in Title II of Regulation 883/2004 from being circumvented through reliance on activities which are insignificant in terms of time or economic returns, the duration of an activity cannot, in itself, be regarded as the sole decisive element for the purposes of assessing whether that activity is marginal. Account must also be taken of other relevant circumstances, including the nature of the activity and the conditions in which it is performed, in order to determine its real economic and professional significance (compare, to that effect, the opinion of Advocate General Szpunar of 8 March 2017 in *X*, C-570/15, EU:C:2017:82, point 35, and the judgment in *X*, C-570/15, cited above, paragraph 21 and case-law cited).
- 56 Such an interpretation is confirmed by the Practical Guide on the applicable legislation in the European Union (EU), the European Economic Area (EEA) and in Switzerland, prepared and agreed by the Administrative Commission for the Coordination of Social Security Systems and published in December 2013 ('the Practical Guide'); while a document which, by its nature, has no binding legal force, it serves as a useful tool for the interpretation of Regulations 883/2004 and 987/2009 (see the judgment of 14 December 2021 in *ISTM*, E-1/21, paragraph 25, and compare the judgment in *Hakamp*, C-203/24, cited above, paragraph 52).
- 57 Part II, Section 2, of the Practical Guide suggests that, as an indicator, activities accounting for less than 5 percent of a worker's regular working time and/or less than 5 percent of his or her overall remuneration should be regarded as marginal activities. The Practical Guide describes marginal activities as activities that may be permanent yet are insignificant in terms of time and economic return. It also indicates that the nature of the activities, for example, where they are of a supporting nature, lack independence, are performed from home or are carried out in the service of the main activity, may be relevant.
- 58 In practical terms, this means that where an activity accounts for only a very small proportion of both the person's working time and the income derived from their occupational activities, such as 5 percent, that activity will generally be regarded as marginal, unless the overall assessment of the objective circumstances indicates otherwise.
- 59 The indicative nature of such numerical thresholds is illustrated by the fact that the Court of Justice of the European Union has previously found that activities amounting

to approximately 6.5 percent of working time are insufficient to lead to the application of the rules on employment in two or more EEA States set out in Article 14(2) of Regulation (EEC) No 1408/71, effectively disregarding those activities in the determination of the applicable legislation under Title II thereof (compare the judgment in *X*, C-570/15, cited above, paragraphs 24 and 25).

- 60 In the context of such an assessment as to whether an activity is marginal, the predominant criteria will be the proportion of working time invested and the proportion of income received in relation to this activity. If the application of these criteria does not lead to a clear result as regards the marginality of the activity, other criteria, as set out in the Practical Guide, have to be examined.
- 61 In the present case, on the basis of the information in the request, it appears that the proportion of income that the appellant in the main proceedings, Ms Mohr-Egger, receives from her activity in Austria is so small, amounting to 0.5 percent of her income generated during the relevant period from her self-employed activity, that it gives rise to a strong presumption that the activity in question is insignificant in economic returns and therefore marginal in nature.
- 62 The Court notes that, although the referring court did not state in its request the amount of time devoted to the activity in question, Ms Mohr-Egger asserted in her written observations that the activity as a member of the town council took up on average one out of five working days per week. On this basis, the activity in question does not appear insignificant in terms of working time invested.
- 63 In that regard, it should be noted that, depending on the nature of the activity concerned, the remuneration received may not reflect the total amount of time devoted to it, in particular where activities of a public or representative nature are remunerated on a flat-rate basis. In the event of a discrepancy between the time asserted to have been devoted to an activity and the remuneration received for it, the assessment of marginality must be based on the objective situation of the person concerned. Where such remuneration represents only a very small fraction, i.e. less than 0.5 percent of the person's overall remuneration, there is a strong presumption that the activity appears to be marginal for the purposes of Article 14(5b) of Regulation 987/2009 even though the time devoted to it is not insignificant. However, it is for the referring court to establish the facts necessary to assess those elements as part of the overall assessment required.
- 64 On the basis of the foregoing, the reply to the first question referred must be that Article 14(5b) of Regulation 987/2009 must be interpreted as meaning that an activity pursued in the State of residence which generates income amounting to less than 0.5 percent of the person's overall remuneration gives rise to a strong presumption that the activity constitutes a marginal activity for the purposes of determining the applicable legislation under Article 13 of Regulation 883/2004.

The relevance of receiving an old-age pension in another EEA State

- 65 By its second question, the referring court asks whether, having regard to recitals 1, 5, 10, 12, 15 and 17 in conjunction with Article 13(4) and (5) of Regulation 883/2004, Article 34(1)(b) and (2)(b) of the Liechtenstein Act of 14 December 1952 on Old-Age and Survivors' Insurance must be interpreted as meaning that an insured person who receives an old-age pension in his or her EEA State of residence as a result of his or her activity as a self-employed person previously pursued in that State must nonetheless be subject to compulsory social insurance in the EEA State in which the activity as a self-employed person is still pursued.
- 66 Where, as follows from the answer to the first question, an activity pursued in the State of residence must, for the purposes of Article 13 of Regulation 883/2004, be disregarded as marginal in accordance with Article 14(5b) of Regulation 987/2009, the person concerned can no longer be regarded as pursuing activities in two or more EEA States within the meaning of Article 13 of Regulation 883/2004. In such circumstances, the determination of the applicable legislation falls to be made on the basis of the general rules laid down in Article 11 of Regulation 883/2004, in particular Article 11(3)(a).
- 67 Article 11(3)(a) of Regulation 883/2004 lays down the general rule that a person pursuing an activity as an employed or self-employed person in an EEA State is, in principle, subject to the legislation of the EEA State in which that activity is pursued. As follows from recital 17 thereof, it is with a view to guaranteeing the equality of treatment of all persons occupied in the territory of an EEA State as effectively as possible that it is considered appropriate to determine as the legislation applicable, as a general rule, that of the EEA State in which the person concerned pursues his or her activity as an employed or self-employed person (see the judgment in *Maitz*, E-5/22, cited above, paragraph 40 and case-law cited).
- 68 To that end, it is settled case-law that the continued existence of an employment relationship is, in principle, necessary for the purposes of applying the legislation of the EEA State of employment (compare the judgment of 13 October 2022 in *Raad van bestuur van de Sociale verzekeringsbank*, C-713/20, EU:C:2022:782, paragraph 49 and case-law cited).
- 69 In line with that general rule, the existence of an employment relationship becomes irrelevant only in the exceptional case referred to in the first sentence of Article 11(2) of Regulation 883/2004, according to which persons receiving cash benefits because or as a consequence of their activity as an employed or self-employed person are considered to be pursuing that activity. The second sentence of Article 11(2) of Regulation 883/2004, however, excludes the taking into account, for the purpose of determining the applicable legislation under Title II, of the fact that the person concerned receives an old-age pension as a consequence of previous activity in another EEA State (compare the opinion of Advocate General Pitruzzella of 17 March 2022 in *Raad van bestuur van de Sociale verzekeringsbank*, C-713/20, EU:C:2022:197, point 63; and the judgment in *Raad van bestuur van de Sociale verzekeringsbank*, C-713/20, cited above, paragraph 41).

- 70 In such circumstances, the mere fact that a person already receives a pension from one EEA State does not exclude the possibility that the same person is subject to the legislation of another EEA State in which he or she continues to pursue an activity as an employed or self-employed person. That EEA State may, in accordance with its national law, require the person concerned to pay contributions to its social security schemes, including those relating to old-age pensions.
- 71 On the basis of the foregoing, the reply to the second question referred must be that Article 11 of Regulation 883/2004 must be interpreted as not preventing an EEA State in which a person continues to pursue a self-employed activity from subjecting that person to compulsory social insurance, regardless of the fact that the person receives an old-age pension in his or her EEA State of residence as a result of activity as a self-employed person previously pursued in that State.

V COSTS

- 72 Since these proceedings are a step in the proceedings pending before the national court, any decision on costs for the parties to those proceedings is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds,

THE COURT

in answer to the questions referred to it by the Princely Supreme Court hereby gives the following Advisory Opinion:

- 1. Article 14(5b) of Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems, as inserted by Regulation (EU) No 465/2012 of the European Parliament and of the Council of 22 May 2012, must be interpreted as meaning that an activity pursued in the State of residence which generates income amounting to less than 0.5 percent of the person's overall remuneration gives rise to a strong presumption that the activity constitutes a marginal activity for the purposes of determining the applicable legislation under Article 13 of Regulation (EC) No 883/2004.**
- 2. Article 11 of Regulation (EC) No 883/2004, as amended by Regulation (EU) No 465/2012, must be interpreted as not preventing an EEA State in which a person continues to pursue a self-employed activity from subjecting that person to compulsory social insurance, regardless of the fact that the person receives an old-age pension in his or her EEA State of residence as a result of activity as a self-employed person previously pursued in that State.**

Páll Hreinsson

Bernd Hammermann

Michael Reiertsen

Delivered in open court in Luxembourg on 3 July 2026.

Ólafur Jóhannes Einarsson
Registrar

Páll Hreinsson
President