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JUDGMENT OF THE COURT (First Chamber)

21 March 2018 (\*)

(Reference for a preliminary ruling — Social security — Agreement between the European Community and the Swiss Confederation — Coordination of social security systems — Regulation (EC) No 883/2004 — Articles 7, 63 and 64 — Unemployment benefits — Unemployed person going to another Member State — Retention of entitlement to benefits — Duration)

In Case C-551/16,

REQUEST for a preliminary ruling under Article 267 TFEU from the Centrale Raad van Beroep (Higher Social Security and Civil Service Court, Netherlands), made by decision of 26 October 2016, received at the Court on 31 October 2016, in the proceedings

**J. Klein Schiphorst**

v

**Raad van bestuur van het Uitvoeringsinstituut werknemersverzekeringen,**

THE COURT (First Chamber),

composed of R. Silva de Lapuerta (Rapporteur), President of the Chamber, C.G. Fernlund, A. Arabadjiev, S. Rodin and E. Regan, Judges,

Advocate General: P. Mengozzi,

Registrar: M. Ferreira, Principal Administrator,

having regard to the written procedure and further to the hearing on 20 September 2017,

after considering the observations submitted on behalf of:

– the Raad van bestuur van het Uitvoeringsinstituut werknemersverzekeringen, by J. Hut, acting as Agent,

- the Netherlands Government, by M.L. Noort and M.K. Bulterman, acting as Agents,
- the Czech Government, by M. Smolek, J. Pavliš and J. Vláčil, acting as Agents,
- the Danish Government, by M. Wolff, C. Thorning and J. Nymann-Lindegren, acting as Agents,
- the Polish Government, by B. Majczyna, acting as Agent,
- the Swedish Government, by A. Falk, C. Meyer-Seitz, H. Shev, L. Swedenborg and F. Bergius, acting as Agents,
- the Norwegian Government, by K. Moen and D. Lund, acting as Agents,
- the European Commission, by M. van Beek and D. Martin, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 29 November 2017,

gives the following

## **Judgment**

1 This request for a preliminary ruling concerns the interpretation of Article 64(1)(c) of 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, and corrigendum OJ 2004 L 200, p. 1), as amended by Regulation (EU) No 465/2012 of the European Parliament and of the Council of 22 May 2012 (OJ 2012 L 149, p. 4) ('Regulation No 883/2004').

2 The request was brought in proceedings between Mr J. Klein Schiphorst and the Raad van bestuur van het Uitvoeringsinstituut werknemersverzekeringen (Management Board of the Employee Insurance Schemes Implementing Body, Netherlands), concerning the refusal of his request for an extension of the period of export of his unemployment benefits beyond three months.

## **Legal context**

### **EU law**

#### *The EC-Switzerland Agreement*

3 Article 8 of the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons, signed in Luxembourg on 21 June 1999 and approved on behalf of the European Community by Decision 2002/309/EC, Euratom of the Council and of the Commission as regards the Agreement on Scientific and Technological Cooperation of 4 April 2002 on the conclusion of seven Agreements with the Swiss Confederation (OJ 2002 L 114, p. 1) ('the EC-Switzerland Agreement'), provides:

'The Contracting Parties shall make provision, in accordance with Annex II, for the coordination of social security systems with the aim in particular of:

...

(b) determining the legislation applicable;

...

(d) paying benefits to persons residing in the territory of the Contracting Parties;

...’

4 Article 1 of Annex II to the EC-Switzerland Agreement, concerning the coordination of social security systems, as amended by Decision No 1/2012 of the Joint Committee established under the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons, of 31 March 2012 (OJ 2012 L 103, p. 51), provides as follows:

‘1. The contracting parties agree, with regard to the coordination of social security schemes, to apply among themselves the legal acts of the European Union to which reference is made in, and as amended by, section A of this Annex, or rules equivalent to such acts.

2. The term “Member State(s)” contained in the legal acts referred to in section A of this Annex shall be understood to include Switzerland in addition to the States covered by the relevant legal acts of the European Union.’

5 Section A of that annex makes reference, inter alia, to Regulation No 883/2004.

*Regulation No 883/2004*

6 Recitals 3, 4, 32 and 45 of Regulation No 883/2004 provide:

‘(3) Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community [(OJ English Special Edition 1971(II), p. 416)] has been amended and updated on numerous occasions in order to take into account not only developments at Community level, including judgments of the Court of Justice, but also changes in legislation at national level. Such factors have played their part in making the Community coordination rules complex and lengthy. Replacing, while modernising and simplifying, these rules is therefore essential to achieve the aim of the free movement of persons.

(4) It is necessary to respect the special characteristics of national social security legislation and to draw up only a system of coordination.

...

(32) In order to foster mobility of workers, it is particularly appropriate to facilitate the search for employment in the various Member States; it is therefore necessary to ensure closer and more effective coordination between the unemployment insurance schemes and the employment services of all the Member States.

...

(45) 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 2(1) of Regulation No 883/2004 states:

‘This Regulation shall apply to nationals of a Member State, stateless persons and refugees residing in a Member State who are or have been subject to the legislation of one or more Member States, as well as to the members of their families and to their survivors.’

8 According to Article 3(1) of that regulation:

‘This Regulation shall apply to all legislation concerning the following branches of social security:

...

(h) unemployment benefits;

...’

9 Article 7 of that regulation, entitled ‘Waiving of residence rules’, provides:

‘Unless otherwise provided for by this Regulation, cash benefits payable under the legislation of one or more Member States or under this Regulation shall not be subject to any reduction, amendment, suspension, withdrawal or confiscation on account of the fact that the beneficiary or the members of his/her family reside in a Member State other than that in which the institution responsible for providing benefits is situated.’

10 Article 63 of that regulation, entitled ‘Special provisions for the waiving of residence rules’, states:

‘For the purpose of this Chapter, Article 7 shall apply only in the cases provided for by Articles 64, 65 and 65a and within the limits prescribed therein.’

11 Article 64 of Regulation No 883/2004, entitled ‘Unemployed persons going to another Member State’ provides:

‘1. A wholly unemployed person who satisfies the conditions of the legislation of the competent Member State for entitlement to benefits, and who goes to another Member State in order to seek work there, shall retain his/her entitlement to unemployment benefits in cash under the following conditions and within the following limits:

...

(c) entitlement to benefits shall be retained for a period of three months from the date when the unemployed person ceased to be available to the employment services of the Member State which he/she left, provided that the total duration for which the benefits are provided does not exceed the total duration of the period of his/her entitlement to benefits under the legislation of that Member

State; the competent services or institutions may extend the period of three months up to a maximum of six months;

...

2. If the person concerned returns to the competent Member State on or before the expiry of the period during which he/she is entitled to benefits under paragraph 1(c), he/she shall continue to be entitled to benefits under the legislation of that Member State. He/she shall lose all entitlement to benefits under the legislation of the competent Member State if he/she does not return there on or before the expiry of the said period, unless the provisions of that legislation are more favourable. In exceptional cases the competent services or institutions may allow the person concerned to return at a later date without loss of his/her entitlement.

...'

### **Netherlands law**

12 Article 3:4 of the Algemene wet bestuursrecht (General Administrative Law) provides:

'1. The administrative body shall consider the interests directly involved in the decision, unless a restriction exists arising from a statutory provision or from the nature of the power to be exercised.

2. The adverse consequences of a decision for one of more of the parties concerned may not be disproportionate in relation to the objectives to be served by the decision.'

13 Under Article 19(1)(e) of the Werkloosheidswet (Law on unemployment, 'the WW'), a worker who lives or resides outside the Netherlands other than for holidays is not entitled to benefits.

14 Under Article 19(9) and (10) of the WW:

'9. Notwithstanding paragraph one, subparagraph e, the entitlement to benefits continues to exist in respect of a worker who resides outside the Netherlands other than for holidays if, during such residence, he participates in activities which are conducive to his integration into the work as referred to in Chapters VI and XA, provided that:

(a) those activities do not last longer than six months;

(b) those activities, as evidenced by a statement of intent, offer a realistic prospect of subsequent employment for at least six months; and

(c) those activities take place in a Member State of the European Union, in another State which is party to the Agreement on the European Economic Area or in Switzerland.

10. For the purpose of that Article, 'statement of intent' means the following: a signed statement in which the signatory indicates his intention of employing a worker who participates in activities that are conducive to his integration into the work as referred to in Chapters VI and XA, at the conclusion of such activities.'

### **The dispute in the main proceedings and the questions referred for a preliminary ruling**

15 When he was living in the Netherlands and had been receiving, since 2 May 2011, unemployment benefits under the WW, Mr Klein Schiphorst, a Dutch national, informed the Management Board of the Employee Insurance Agency in the Netherlands ('the Uvw') on 19 July 2012 that he intended to go to Switzerland in order to look for work there and asked, for that purpose, to retain his entitlement to unemployment benefits.

16 By decision of 8 August 2012, the Uvw granted Mr Klein Schiphorst's request for the period from 1 September 2012 to 30 November 2012.

17 By email of 19 November 2012, Mr Klein Schiphorst asked the Uvw, pursuant to Regulation No 883/2004, for the period of export of his unemployment benefits to be extended beyond three months.

18 By decisions of 21 November 2012 and of 16 January 2013, the Uvw refused that request and rejected the appeal against that refusal. In the latter decision, the Uvw explained that it did not make use of the power made available to the competent services or institutions under Article 64(1)(c) of Regulation No 883/2004 to extend up to a maximum of six months the export period of unemployment benefits.

19 By judgment of 2 October 2013, the rechtbank Amsterdam (District Court of Amsterdam, Netherlands) allowed the appeal brought by Mr Klein Schiphorst against the Uvw's decision of 16 January 2013, on the ground that the latter had not provided an adequate statement of reasons for not making use of such a power.

20 By decision of 15 November 2013, the Uvw once again declared the appeal lodged by Mr Klein Schiphorst against the decision of 21 November 2012 unfounded. Considering that the chances of finding work were generally greater in the Netherlands than in other countries, the Uvw submitted that it made it a principle not to extend the export of unemployment benefits beyond the period of three months, in accordance with the instructions of the Minister van Sociale zaken en Werkgelegenheid (Minister for Social Affairs and Employment, Netherlands). In this context, the Uvw considered that Mr Klein Schiphorst's efforts to find work in Switzerland and the circumstances referred to by him gave no reason to consider that it was unreasonable, in the present case, to abide by such a principle.

21 By judgment of 4 June 2014, the rechtbank Amsterdam (District Court of Amsterdam) dismissed the appeal brought by Mr Klein Schiphorst against the decision of 15 November 2013. The rechtbank Amsterdam considered, taking into account the discretionary nature of the power under Article 64(1)(c) of Regulation No 883/2004, that the Uvw was free to make use of that power in accordance with the rules of national law.

22 Mr Klein Schiphorst filed an appeal against that judgment before the Centrale Raad van Beroep (Higher Social Security and Civil Service Court, Netherlands).

23 Against this background, the referring court has doubts as to the compatibility with EU law of the decision of the Uvw, by which it refused to make use, to the benefit of Mr Klein Schiphorst, of the power conferred on the competent services and institutions by the second limb of Article 64(1)(c) of Regulation No 883/2004 to extend the duration of export of unemployment benefits beyond three months.

24 In particular, the referring court is uncertain, first, whether the Member States are permitted not to make use of that power in any circumstances. In the event of a negative answer, the referring

court considers that it would then be necessary to establish whether, having regard to the objective and scope of Regulation No 883/2004, to the prohibition of imposing a residence requirement or to the free movement of EU citizens and workers, Member States may, in principle, refuse to exercise that power and confine themselves to actually making use of it only in particular circumstances. Lastly, in the case of another negative answer, the referring court wonders how the Member States should make use of that power.

25 In these circumstances, the Centrale Raad van Beroep (Higher Social Security and Civil Service Court) decided to stay the proceedings and refer the following questions to the Court for a preliminary ruling:

‘(1) May the power conferred by Article 64(1)(c) of Regulation No 883/2004, having regard to Article 63 and Article 7 of [the same regulation], the objective and scope of [that r]egulation and the free movement of persons and workers, be exercised by refusing, as a matter of principle, to grant any application unless, in the view of the Uvw, given the particular circumstances of the case, for example, where there is a concrete and demonstrable prospect of work, it would be unreasonable to refuse the extension of the export?’

(2) If not, how should Member States apply the power conferred by Article 64(1)(c) of Regulation No 883/2004?’

### **Consideration of the questions referred**

#### **Preliminary observations**

26 The questions referred for a preliminary ruling concern the interpretation of Regulation No 883/2004, particularly Article 64 of that regulation, which governs the conditions on which a wholly unemployed person who satisfies the conditions of the legislation of the competent Member State for entitlement to unemployment benefits and who goes to another Member State in order to seek work there retains his entitlement to unemployment benefits in cash.

27 In the present case, it is clear from the order for reference that the dispute in the main proceedings concerns the retention of an entitlement to receive unemployment benefits by a Dutch national who went, not to another Member State but to a third country, namely the Swiss Confederation, in order to seek work there.

28 Under Article 8 of the EC-Switzerland Agreement, the contracting parties are to make provision, in accordance with Annex II to the agreement, for the coordination of social security systems with the aim in particular of determining the legislation applicable and paying benefits to persons residing in the territory of the contracting parties. Section A(1) of Annex II to the EC-Switzerland Agreement provides for the application, between the parties, of Regulation No 883/2004. Thus, and since, according to Article 1(2) of that annex, ‘the term “Member State(s)” contained in the legal acts referred to in section A of this Annex shall be understood to include Switzerland in addition to the States covered by the relevant legal acts of the European Union’, the provisions of that regulation also cover the Swiss Confederation.

29 In those circumstances, the situation of the appellant in the main proceedings, a Dutch national, subject to Netherlands legislation with regard to unemployment benefits, who has gone to Switzerland to seek work there, falls within the scope of Regulation No 883/2004.

#### **The first question**

30 By its first question, the referring court asks, in essence, whether Article 64(1)(c) of Regulation No 883/2004 must be interpreted as precluding a national measure, such as that at issue in the main proceedings, which requires the competent institution to refuse, as a matter of principle, any request to extend the unemployment benefit export period beyond three months, provided the institution does not consider that refusing that request would lead to an unreasonable result.

31 In that regard, it should be noted that, according to recitals 4 and 45 of Regulation No 883/2004, the purpose of that regulation is to coordinate Member States' social security systems in order to guarantee that the right to free movement of persons can be exercised effectively. That regulation modernised and simplified the rules contained in Regulation No 1408/71, while retaining the same objective as the latter.

32 As is clear from Article 64(1) of Regulation No 883/2004, a wholly unemployed person who satisfies the conditions of the legislation of the competent Member State for entitlement to benefits, and who goes to another Member State in order to seek work there, is to retain his entitlement to unemployment benefits in cash under the conditions and within the limits listed in that provision.

33 In particular, the first limb of Article 64(1)(c) of that regulation provides that entitlement to benefits 'shall be' retained for a period of three months from the date when the unemployed person ceased to be available to the employment services of the Member State which he left, provided that the total duration for which the benefits are provided does not exceed the total duration of the period of his entitlement to benefits under the legislation of that Member State. The second limb of Article 64(1)(c) of the same regulation states, however, that the competent services or institutions 'may' extend the period of three months up to a maximum of six months.

34 According to the settled case-law of the Court, in interpreting a provision of EU law, it is necessary to consider not only the wording of that provision, but also its context and the objectives pursued by the rules of which it is part (judgment of 8 November 2016, *Ognyanov*, C-554/14, EU:C:2016:835, paragraph 31).

35 Regarding the wording of the first limb of Article 64(1)(c) of Regulation No 883/2004, it is clear from that wording that the entitlement to unemployment benefits is guaranteed for a period of three months for a wholly unemployed person who goes to another Member State in order to seek work there. In that regard, the Court has previously ruled, in relation to Article 69 of Regulation No 1408/71, the predecessor provision to Article 64 of Regulation No 883/2004, that the first of those provisions enabled an unemployed worker to be exempt for a specific period, for the purpose of seeking employment in another Member State, from the obligation imposed by the various national laws to make himself available to the employment services of the competent State, without thereby losing his entitlement to unemployment benefits as against that State (judgments of 19 June 1980, *Testa and Others*, 41/79, 121/79 and 796/79, EU:C:1980:163, paragraph 4 and of 21 February 2002, *Rydergård*, C-215/00, EU:C:2002:111, paragraph 17).

36 As for the second limb of Article 64(1)(c) of Regulation No 883/2004, it states that the competent services or institutions 'may' extend the period of three months up to a maximum of six months.

37 In this respect, as the Netherlands, Danish, Swedish and Norwegian Governments state in their written observations, it is clear from the use of the word 'may' that that provision does not require the competent institutions to extend up to a maximum of six months the period during which unemployment benefits, received by a wholly unemployed person who goes to another Member State in order to seek work there, are retained.



38 In addition, as all of the intervening parties stated during the hearing, the *travaux préparatoires* that led to the adoption of that provision highlight, as the Advocate General noted in point 34 of his Opinion, the fact that the Commission's initial proposal to make the six-month export period compulsory failed to win the endorsement of the Council of the European Union, the Member States having, subsequently, eventually agreed on the form of words which makes up the second limb of Article 64(1)(c) of Regulation No 883/2004.

39 Regarding the context of which Article 64(1)(c) of Regulation No 883/2004 forms part, it is important to note, first, that unemployment benefits are provided by the competent institution according to the legislation it applies and at its own expense, in accordance with Article 64(1)(d) of that regulation.

40 Second, it follows from Article 64(2) of that regulation that, if the person concerned does not return to the competent Member State on or before the expiry of the period during which he is entitled to benefits under Article 64(1)(c) of that regulation, namely three months or, where relevant, if that period is extended by the competent institutions, up to a maximum of six months, he loses all entitlement to benefits under the legislation of the competent Member State, although those institutions may, in exceptional cases, allow the person concerned to return at a later date without losing entitlement.

41 As the Advocate General noted in point 55 of his Opinion, that provision allows, *inter alia*, the competent institutions to extend, in 'exceptional circumstances', the period of three months during which the person concerned is entitled to benefits, in order to prevent the loss of all entitlements to benefits, in the event of his late return following the expiry of that period, from giving rise to disproportionate results. Such a possibility confirms that the unemployment benefit export period may be limited to three months, the competent institutions not being required by the second limb of Article 64(1)(c) to extend it up to a maximum of six months.

42 That finding is corroborated by the fact that Regulation No 883/2004 does not fix the conditions on which a wholly unemployed person who goes to another Member State in order to seek work there may benefit from an extension of that period beyond three months.

43 As regards the aim pursued by Regulation No 883/2004, as was noted in paragraph 31 above, that regulation seeks to coordinate the social security systems in place in the Member States in order to guarantee that free movement can be exercised effectively.

44 In that regard, it must be noted that that regulation does not set up a common scheme of social security, but allows different national social security schemes to exist, and its sole objective is to ensure the coordination of those schemes in order to guarantee that free movement of persons can be exercised effectively. That regulation thus allows different schemes to continue to exist, creating different claims on different institutions against which the claimant possesses direct rights by virtue either of national law alone or of national law supplemented, where necessary, by EU law (see, to that effect, judgments of 19 September 2013, *Brey*, C-140/12, EU:C:2013:565, paragraph 43, and of 14 June 2016, *Commission v United Kingdom*, C-308/14, EU:C:2016:436, paragraph 67).

45 Moreover, it must be noted that, under Regulation No 1408/71 the Court had already ruled that the right to retain unemployment benefits for a period of three months helps to ensure the free movement of workers (see, to that effect, judgment of 19 June 1980, *Testa and Others*, 41/79, 121/79 and 796/79, EU:C:1980:163, paragraph 14). Such a conclusion applies equally to Regulation No 883/2004 since, in addition to guaranteeing the export of unemployment benefits for a period of three months, it also allows that period to be extended up to a maximum of six months.

46 It follows that Article 64(1)(c) of Regulation No 883/2004 guarantees export of unemployment benefits for three months only; however it allows that period to be extended up to a maximum of six months under national law.

47 Such an interpretation is not called into question by the principle of waiving of residence clauses as set out in Article 7 of Regulation No 883/2004, to which the national court makes reference by the wording of its question.

48 Indeed, it is clear from that article, in particular the words ‘unless otherwise provided for by [Regulation No 883/2004]’, that that regulation contains special provisions derogating from the principle of waiving of residence rules. Such is the case with Article 63 of that regulation, entitled ‘special provisions for the waiving of residence rules’, which provides, with regard to the situation of a wholly unemployed person who satisfies the conditions of the legislation of the competent Member State for entitlement to benefits and who goes to another Member State, that the waiving of residence rules applies only in the cases provided for by Article 64 of that regulation and within the limits prescribed therein.

49 As the Danish, Swedish and Norwegian Governments submitted during the hearing, it is clear from a combined reading of Articles 7 and 63 as well as Article 64(1)(c) of Regulation No 883/2004 that the exportability of unemployment benefits of a wholly unemployed person who goes to another Member State in order to seek work there is guaranteed, first, during a period of three months under the first limb of Article 64(1)(c) of that regulation and, second, where applicable, during the subsequent period up to a maximum of six months if the person concerned has been granted an extension of the period of three months under the national legislation of the Member State concerned.

50 In addition, as the Advocate General noted, in essence, in points 80 and 81 of his Opinion, the disparities between the regimes and measures applied by the Member States that have taken up the option provided for in the second limb of Article 64(1)(c) of Regulation No 883/2004 cannot be regarded as restrictions of the free movement of workers; since Article 48 TFEU provides for the coordination, not the harmonisation, of the legislation of the Member States, substantive and procedural differences between the social security systems of individual Member States and, hence, in the rights of persons insured under those schemes, are unaffected by that provision (see, to that effect, judgements of 16 July 2009, *von Chamier-Glisczinski*, C-208/07, EU:C:2009:455, paragraph 84, and of 11 April 2013, *Jeltes and Others*, C-443/11, EU:C:2013:224, paragraph 43).

51 As regards the criteria on the basis of which the competent institution may extend the unemployment benefit export period up to a maximum of six months, it must be noted that, when, as in the present case, the Member State concerned has exercised the power provided for in the second limb of Article 64(1)(c) of Regulation No 883/2004, it is for that Member State, failing any criteria laid down in that regulation, to adopt, in accordance with EU law, national measures regulating the competent institution’s discretion, in particular by specifying the conditions on which extension of the unemployment benefit export period beyond three months and up to a maximum of six months is or is not to be granted to an unemployed person who goes to another Member State in order to seek work there.

52 In the present case it is clear from the documents submitted to the Court, and from the clarifications provided by the Netherlands Government during the hearing, that the Kingdom of the Netherlands initially declined to exercise the power offered by the second limb of Article 64(1)(c) of Regulation No 883/2004, in accordance with a direction issued by the Minister for Social Affairs and Employment in January 2011. However, subsequently, after the *Rechtbank Amsterdam* (District

Court of Amsterdam), by judgment of 2 October 2013 delivered in the main proceedings, considered that reasons had to be given for refusal of a request to extend the export of unemployment benefits beyond three months, the Uvw decided, albeit without departing from the principle that a request of that nature is not to be granted, that in the light of the particular circumstances of the case, in particular the existence of a concrete and demonstrable prospect of employment, the granting of such a request can be justified. In particular, as is clear from the information contained in the order for reference, the Uvw considers that such circumstances are established when the person concerned is involved in a process likely to lead to actual employment and that requires his stay in the host Member State to be extended, or when the person concerned has submitted a declaration of intent from an employer offering him a genuine prospect of employment in that Member State.

53 In such circumstances, as the Advocate General noted in point 78 of his Opinion, a Member State remains within the limits permitted by EU law in adopting measures under which an extension of the unemployment benefit export period up to a maximum of six months may be granted only when certain conditions are satisfied.

54 In the light of all the foregoing, the answer to the first question is that Article 64(1)(c) of Regulation No 883/2004 must be interpreted as not precluding a national measure, such as that at issue in the main proceedings, that requires the competent institution to refuse, as a matter of principle, any request to extend the unemployment benefit export period beyond three months, provided the institution does not consider that refusing that request would lead to an unreasonable result.

### **The second question**

55 In the light of the answer to the first question, there is no need to answer the second question.

### **Costs**

56 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs 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 (First Chamber) hereby rules:

**Article 64(1)(c) of Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems must be interpreted as not precluding a national measure, such as that at issue in the main proceedings, that requires the competent institution to refuse, as a matter of principle, any request to extend the unemployment benefit export period beyond three months, provided the institution does not consider that refusing that request would lead to an unreasonable result.**

[Signatures]

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\* Language of the case: Dutch.