

**Judgment of the Court (Third Chamber) of 4 June 2009
(reference for a preliminary ruling from the Sozialgericht
Nürnberg — Germany) — Athanasios Vatsouras (C-22/08),
Josif Koupatantze (C-23/08) v Arbeitsgemeinschaft (ARGE)
Nürnberg 900**

(Joined Cases C-22/08 and C-23/08) ⁽¹⁾

*(European citizenship — Free movement of persons —
Articles 12 EC and 39 EC — Directive 2004/38/EC —
Article 24(2) — Assessment of validity — Nationals of a
Member State — Professional activity in another Member
State — Level of remuneration and duration of the activity
— Retention of the status of ‘worker’ — Right to receive
benefits in favour of job-seekers)*

(2009/C 180/22)

Language of the case: German

Referring court

Sozialgericht Nürnberg

Parties to the main proceedings

Applicants: Athanasios Vatsouras (C-22/08), Josif Koupatantze
(C-23/08)

Defendant: Arbeitsgemeinschaft (ARGE) Nürnberg 900

Re:

Reference for a preliminary ruling — Sozialgericht Nürnberg —
Legality of Article 24(2) of Directive 2004/38 of the European
Parliament and of the Council of 29 April 2004 on the right of
citizens of the Union and their family members to move and
reside freely within the territory of the Member States amending
Regulation (EEC) No 1612/68 and repealing Directives
64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC,
75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and
93/96/EEC (OJ 2004 L 158, p.77) — Interpretation of Article
12 EC and Article 39 EC — Right to social assistance benefits
of a national of another Member State who is unemployed and
has previously been in minor employment in the Member State
concerned — National rules excluding nationals of other
Member States from receipt of social assistance where the
maximum period of residence referred to in Article 6 of
Directive 2004/38/EC has been exceeded and there is no
other right of residence.

Operative part of the judgment

1. With respect to the rights of nationals of Member States seeking
employment in another Member State, the consideration of the
first question has not disclosed any factor which might affect the
validity of Article 24(2) of Directive 2004/38/EC of the
European Parliament and of the Council of 29 April 2004 on
the right of citizens of the Union and their family members to
move and reside freely within the territory of the Member States
amending Regulation (EEC) No 1612/68 and repealing
Directives 64/221/EEC, 68/360/EEC, 72/194/EEC,

73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC,
90/365/EEC and 93/96/EEC;

2. Article 12 EC does not preclude national rules which exclude
nationals of Member States of the European Union from receipt
of the social assistance benefits granted to nationals of third coun-
tries.

⁽¹⁾ OJ C 107, 26.4.2008.

**Judgment of the Court (Second Chamber) of 11 June 2009
(Reference for a preliminary ruling from the
Verwaltungsgerichtshof (Austria)) — Agrana Zucker
GmbH v Bundesministerium für Land- und
Forstwirtschaft, Umwelt und Wasserwirtschaft**

(Case C-33/08) ⁽¹⁾

*(Sugar — Temporary scheme for the restructuring of the
sugar industry — Article 11 of Regulation (EC) No
320/2006 — Calculation of the temporary restructuring
amount — Inclusion of the part of the quota subject to a
preventive withdrawal — Principles of proportionality and
non-discrimination)*

(2009/C 180/23)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Applicant: Agrana Zucker GmbH

Defendant: Bundesministerium für Land- und Forstwirtschaft,
Umwelt und Wasserwirtschaft

Re:

Reference for a preliminary ruling — Verwaltungsgerichtshof —
Interpretation of Article 34 EC and, in particular, the principle
of non-discrimination and the principles of the protection of
legitimate expectations and proportionality — Interpretation
and validity of Article 11 of Council Regulation (EC) No
320/2006 of 20 February 2006 establishing a temporary
scheme for the restructuring of the sugar industry in the
Community and amending Regulation (EC) No 1290/2005 on
the financing of the common agricultural policy (OJ 2006 L 58,
p. 42) — Common organisation of the markets in the sugar
sector — Whether the part of the quota subject to preventive
withdrawal pursuant to Article 3 of Commission Regulation
(EC) No 493/2006 of 27 March 2006 laying down transitional
measures within the framework of the reform of the common
organisation of the markets in the sugar sector, and amending
Regulations (EC) No 1265/2001 and (EC) No 314/2002 (OJ
2006 L 89, p. 11) should be included in the calculation of
the temporary restructuring amount.