



EUROPEAN COURT OF HUMAN RIGHTS  
COUR EUROPÉENNE DES DROITS DE L'HOMME

## FIFTH SECTION

### DECISION

Application no. 23827/25  
ARANCEDIS S.L.  
against Spain

The European Court of Human Rights (Fifth Section), sitting on 9 July 2026 as a Committee composed of:

Andreas Zünd, *President*,

María Elósegui,

Mykola Gnatovskyy, *judges*,

and Martina Keller, *Deputy Section Registrar*,

Having regard to:

the application (no. 23827/25) against the Kingdom of Spain lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on 29 July 2025 by Arancedis S.L. (“the applicant company”), a private company founded in 1997 and incorporated under Spanish law, with its registered office in Aranjuez, which was represented by Mr E. Simon Acosta, a lawyer practising in Pamplona;

Having deliberated, decides as follows:

### SUBJECT MATTER OF THE CASE

1. The case concerns allegedly unfair judicial proceedings related to an action brought by the applicant company to challenge a fine imposed by the Spanish Tax Management Agency (“the tax authorities”). The applicant company relied on Article 6 § 1 of the Convention.

2. In 2015 the tax authorities discovered during an investigation that the applicant company had systematically failed to number invoices sequentially between 2011 and 2013 and had not included the tax rate applicable to invoices in 2013, in breach of domestic law. As a result, the tax authorities concluded that the applicant company had acted negligently and fined it 1,788,382.98 euros.

3. The applicant company appealed against that decision, but the Central Economic Administrative Court (TEAC) dismissed the appeal, whereupon the applicant company lodged a claim for judicial review of the administrative decision with the Administrative Chamber of the *Audiencia Nacional*, arguing that the penalty had been disproportionate and incorrectly calculated, the invoice numbers had been correct, and no guilt (*culpabilidad*), could be attributed to the company.

4. On 3 November 2023 the *Audiencia Nacional* dismissed the claim. Considering the case a matter of domestic law, it found that the applicant company had systematically departed from the law and the common practice in its sector for the correct identification of the invoices. In particular, it considered that the IT system used by the applicant company failed to comply with domestic regulations and, as a result, gaps in the invoice numbering were widespread; during 2013 the proper tax rate had not been applied (as admitted to by the applicant company); the applicant company had failed to either justify those shortcomings or to explain why it could not have put its invoice identification system in compliance with domestic law, despite the technical report submitted; and, in respect of the question of guilt, even a mere act of negligence was punishable.

5. The applicant company lodged an appeal on points of law with the Supreme Court. It argued that the *Audiencia Nacional*'s interpretation of the regulation regarding the calculation of the penalty had not been correct. It further alleged that the *Audiencia Nacional* had departed, without justification, from its judgment of 18 May 2022, by which the same court had granted an appeal of an unrelated company which had failed to use sequential numbering in the identification of its invoices in an allegedly identical case. In that case, the *Audiencia Nacional*, upon an explicit complaint by the complainant company, had taken into account, among other things, EU law and practice as regards sequential numbering and had noted that the complainant company had used the same IT system in different European countries without any legal problem and had submitted a technical report that had given a sufficient explanation for the deviations. The *Audiencia Nacional* had found, on the basis of the complainant company's submissions, that the complainant company had convincingly demonstrated that it had made a reasonable interpretation of the law and it could therefore be exonerated from any liability.

6. On 27 November 2024 the Supreme Court declared the appeal on points of law inadmissible for failure to substantiate its objective legal significance (*interés casacional objetivo*).

7. The applicant company lodged an *amparo* appeal with the Constitutional Court. Firstly, it argued that it had suffered discrimination because the *Audiencia Nacional* had allegedly treated two similar cases differently. Secondly, it alleged that the Supreme Court's inadmissibility decision had breached the applicant company's right to effective judicial

protection on account of lack of reasoning in the decision and it expressly stated that the Supreme Court's ruling had given rise to a separate breach of the right to a fair trial. It relied on the Constitutional Court's judgment no. 112/2019 of 3 October 2019 clarifying an exhaustion criterion and on a more recent judgment of 9 April 2024 (see paragraph 10 below), to argue that its *amparo* appeal was admissible.

8. On 7 April 2025 the Constitutional Court declared the *amparo* appeal inadmissible. The applicant company's argument referring to the Supreme Court's decision was declared inadmissible for failure to bring a prior action for annulment of the proceedings against it. The remainder of the *amparo* appeal was declared inadmissible for lack of constitutional significance.

9. The applicant company complained under Article 6 of the Convention that the *Audiencia Nacional* had departed without justification from its findings reached in the judgment delivered in 2022 and therefore had breached the applicant company's right to "equality before the law". It further complained under the same provision that the Constitutional Court, by declaring its *amparo* appeal inadmissible for not bringing a prior action for the annulment of proceedings (*incidente de nulidad*) in an unforeseeable manner and in deviation of its settled case-law, had breached its right to a fair trial.

## RELEVANT DOMESTIC LAW AND PRACTICE

10. Relevant domestic law concerning procedural requirements for lodging an *amparo* appeal, are summarised in *Olivares Zúñiga v. Spain* (no. 11/18, §§ 14-15, 15 December 2022). By judgment no. 112/2019 of 3 October 2019, the Constitutional Court clarified and amended its doctrine concerning the need to bring an action for the annulment of proceedings before seeking constitutional protection in cases where: (i) the alleged infringement of fundamental rights originated not from the most recent judicial decision, but from the one which immediately preceded it and (ii) such infringement was not subject to judicial scrutiny because the appeal lodged against the judicial decision deemed to infringe fundamental rights had been dismissed on procedural grounds not attributable to an appellant's lack of diligence on the part of the party (point II.3 of the judgment). The Constitutional Court concluded that in such cases it was not necessary to bring an action for the annulment of proceedings in order to satisfy the requirement to exhaust judicial remedies before lodging an *amparo* appeal (for point 3 of the judgment, see *Olivares Zúñiga*, cited above, § 18). By judgments no. 61/2024 of 9 April 2024 and no. 79/2025 of 24 March 2025 (referred to by the applicant company at the domestic level and in its submissions to the Court respectively) the Constitutional Court reiterated that approach.

## THE COURT’S ASSESSMENT

11. The Court notes that the applicant company stated in its application form that it was not requesting the Court to rule on the infringement of the right to equality, since it was not the Court’s role to resolve disputes concerning the interpretation of domestic law. Nevertheless, as it also expressly mentioned in the section concerning the statement of alleged violations of the Convention that its right to equality before the law had been infringed, the Court considers that this issue must also be examined.

12. Tax matters such as the ones that are now before the Court form part of the hard core of public-authority prerogatives, with the public nature of the relationship between the taxpayer and the community remaining predominant, despite the pecuniary effects which tax disputes necessarily produce for the taxpayer. It follows that Article 6 § 1 of the Convention is not applicable under its civil limb (see, most recently, *Vegotex International S.A. v. Belgium* ([GC], no. 49812/09, § 66, 3 November 2022). As to the criminal limb of Article 6, the Court does not find it necessary to examine in detail the legal framework and nature of the penalty in the present case since, assuming that Article 6 applies (see, *mutatis mutandis*, *Melgarejo Martinez de Abellanos v. Spain*, no. 11200/19, § 25, 14 December 2021), the applicant company’s complaints are inadmissible for the reasons set out below.

### **A. Complaint concerning conflicting domestic judgments in allegedly similar cases**

13. As regards the complaint that the *Audiencia Nacional* delivered conflicting decisions in two similar cases, including the applicant company’s, the possibility of conflicting court decisions is an inherent trait of any judicial system and cannot, in itself, be considered contrary to the Convention (see *Nejdet Şahin and Perihan Şahin v. Turkey* [GC], no. 13279/05, § 51, 20 October 2011). In particular, giving two disputes different treatment cannot be considered to give rise to conflicting case-law when this is justified by a difference in the factual situations at issue (see *Hayati Çelebi and others v. Turkey*, no. 582/05, § 52, 9 February 2016). On the contrary, divergent decisions by domestic courts in cases based on identical facts may run counter to the principle of legal certainty and may even amount to a denial of justice (see *Melgarejo Martinez de Abellanos*, cited above, §§ 30 and 34, and, *mutatis mutandis*, *Latorre Atance v. Spain*, no. 33818/22, § 55, 18 December 2025). The Court has to establish, notably, whether “profound and long-standing differences” existed in the case-law of a higher court (see *Borg v. Malta*, no. 37537/13, § 108, 12 January 2016, and, *mutatis mutandis*, *Stanković and Trajković v. Serbia*, nos. 37194/08 and 37260/08, § 40, 22 December 2015, with further references).

14. In the present case, the Court observes that neither the facts nor the complaints in the applicant company's case and the case decided by the *Audiencia Nacional* in 2022 were identical. The applicant company's case additionally concerned the failure to state the tax rate on the invoices during 2013. The dispute related to the failure to use sequential numbering in the identification of invoices was examined by the domestic court, taking into consideration, in particular, the nature and extent of the gaps, the IT system used, the explanations to justify the deviations and the technical report that each company had submitted. In addition, in the 2022 judgment, the domestic court specifically addressed the explicit complaint by the complainant company as to the possible inconsistencies between domestic law and EU regulations on the matter, while in the present case the applicant company did not raise such issue before the *Audiencia Nacional*, nor did it provide a convincing explanation for its use of the specific invoice numbering system or its inability to bring it into conformity with domestic law.

15. In any event, while referring to the specific 2022 judgment, the applicant company did not submit – and there is nothing in the material in the case file to otherwise suggest – that the alleged divergence went against well-established case-law on which the applicant company could have reasonably relied to expect a specific outcome of its appeal, and from which the domestic court might have deviated without justification (see *Melgarejo Martinez de Abellanosa*, cited above, § 35). Nor was it demonstrated that there existed “profound and long-standing differences” in the case-law of the domestic courts (*ibid.*, § 36).

16. It follows that this complaint is manifestly ill-founded and must be dismissed pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

## **B. Complaint concerning the refusal of access to a court in the *amparo* appeal proceedings**

17. General principles concerning the right of access to a court are summarised in *Arrozpide Sarasola and Others v. Spain* (nos. 65101/16 and 2 others, §§ 98-100, 23 October 2018, with further references including, as regards the foreseeability criteria, *Zubac v. Croatia* [GC], no. 40160/12, §§ 87-88, 5 April 2018).

18. The Court notes at the outset that, contrary to the applicant company's assertions in the application form, the Constitutional Court declared the *amparo* appeal inadmissible for failure to bring a prior action for annulment only in so far as the complaint about the Supreme Court's inadmissibility decision was concerned, while the other grounds for appeal were declared inadmissible for lack of constitutional significance.

19. As regards the part of the complaint which was indeed dismissed on the ground of the applicant company's failure to exhaust available remedies, the Court examined the requirement of a prior action for annulment before

the lodging of an *amparo* appeal with the Spanish Constitutional Court in *Olivares Zúñiga v. Spain* (no. 11/18, §§ 28-36, 15 December 2022) and, most recently, in *Sarmiento Álvarez v. Spain* ((dec.) [Committee], no. 6472/25, § 18, 5 February 2026, albeit in the context of labour proceedings). The Court attached particular importance to whether the procedure to be followed for an action for annulment could be regarded as foreseeable, at the relevant time, from the litigant's point of view (see *Olivares Zúñiga*, cited above, § 31).

20. In particular, the Court has already noted that in Ruling no. 112/2019 of 3 October 2019, the Spanish Constitutional Court had changed its approach, considering its previous approach tainted with arbitrariness. In that ruling, the Constitutional Court had found that bringing an action for annulment was not necessary for the exhaustion of judicial remedies before lodging an *amparo* appeal when applicants had asserted their constitutional rights at every level of jurisdiction (see *Olivares Zúñiga*, cited above, §§ 18 and 34). On the contrary, it was necessary to bring an action for annulment before lodging an *amparo* appeal when the final decision itself had given rise to an independent infringement of a fundamental right (see *Sarmiento Álvarez*, cited above, § 18).

21. In the present case, the Constitutional Court found that the applicant company had failed to exhaust domestic remedies in respect of its complaint about the Supreme Court's decision to declare its appeal inadmissible (see paragraph 8 above). In its *amparo* appeal, the applicant company had expressly argued that the insufficiency of the reasoning in the Supreme Court's decision had amounted to a separate violation of its right to a fair trial (see paragraph 7 above). By contrast to *Olivares Zúñiga* (cited above, §§ 32-33), the alleged violation of fundamental rights in the present case therefore arose from the final judicial decision itself, rather than from any previous one.

22. In the light of the foregoing, the Court does not see a reason to disagree with the Constitutional Court's finding that the applicant company was required to bring an action for annulment only in relation to its complaint about the Supreme Court's inadmissibility decision (see *Sarmiento Álvarez*, cited above, § 19). Furthermore, it was not demonstrated that the requirement to bring such action was unforeseeable. The applicant company's argument to that effect is confined to the alleged misapplication by the Constitutional Court of its own doctrine as set out in the judgment of 3 October 2019. However, contrary to the applicant company's interpretation, the Constitutional Court's findings of 3 October 2019 were not applicable to the complaint at hand. Indeed, in the present case, the judicial authorities did not have an opportunity to decide on the complaint lodged in the *amparo* appeal regarding the breach of the fundamental right. Moreover, as noted above, the Constitutional Court did not refer to the need to bring an action for annulment in respect of the applicant company's remaining grounds for the *amparo* appeal concerning the *Audiencia Nacional*'s judgment. The Court further

notes that the events of the case unfolded six years after the Constitutional Court had issued Ruling no. 112/2019 and that the applicant company was aware of its scope and content, as it quoted that case, as well as a more recent judgment of 9 April 2024 (see paragraph 10 above), in its *amparo* appeal (see paragraph 7 above). In these circumstances, the burden of adverse consequences of a procedural error – that is, the failure to bring an action for annulment in respect of the complaint about the Supreme Court’s inadmissibility decision – is therefore placed on the applicant company (see *Zubac*, cited above, §§ 90 and 121).

23. It follows that this part of the application is also manifestly ill-founded and must be dismissed pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

*Declares* the application inadmissible.

Done in English and notified in writing on 3 September 2026.

Martina Keller  
Registrar

Andreas Zünd  
President