



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

FIRST SECTION

CASE OF ANDRZEJ RUCIŃSKI v. POLAND

(Application no. 22716/12)

JUDGMENT *(Just satisfaction)*

Art 41 • Just satisfaction • Award for applicant's pecuniary damage sustained from violation of Art 1 P1 as a result of restrictions on his personal and business property for period of three years in the context of protracted tax proceedings • Claim for non-pecuniary damage dismissed

Prepared by the Registry. Does not bind the Court.

STRASBOURG

8 October 2026

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Andrzej Ruciński v. Poland,

The European Court of Human Rights (First Section), sitting as a Chamber composed of:

Ivana Jelić, *President*,

Erik Wennerström,

Frédéric Krenc,

Davor Derenčinović,

Alain Chablais,

Artūrs Kučs,

Anna Adamska-Gallant, *judges*,

and Ilse Freiwirth, *Section Registrar*,

Having deliberated in private on 1 September 2026,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case concerns a lack of compensation for disproportionate interference by the tax authorities with the applicant's business activity.

2. In a judgment delivered on 5 October 2023 (*Andrzej Ruciński v. Poland*, no. 22716/12, §§ 89-93, 5 October 2023, "the principal judgment"), the Court held there had been a violation of Article 1 of Protocol No. 1 to the Convention on account of the absence of any compensation for the pecuniary damage caused to the applicant's property by the decisions of the State authorities. The Court found that the restrictions imposed on the applicant's personal and business property constituted an individual and excessive burden on him, upsetting the "fair balance" which should be struck between the protection of the right of property and the requirements of the general interest (see the principal judgment, §§ 89-93).

3. Under Article 41 of the Convention the applicant sought just satisfaction in respect of pecuniary and non-pecuniary damage, as well as costs and expenses.

4. Since the question of the application of Article 41 of the Convention was not ready for decision, the Court reserved it and invited the Government and the applicant to submit, within three months from the date on which the judgment became final, their written observations on that issue and, in particular, to notify the Court of any agreement they might reach (*ibid.*, § 97, and point 3 of the operative provisions).

5. The parties did not reach an agreement on just satisfaction within the time allocated for that purpose. The applicant and the Government filed observations, which were transmitted to the other party for comment.

THE LAW

6. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

I. DAMAGE

A. Pecuniary damage

1. *The parties' submissions*

7. In his initial submissions, the applicant claimed 760,000 Polish zlotys (PLN – which he calculated as amounting to 183,132 euros (EUR) on the day he lodged his complaint with the Court) in respect of pecuniary damage. He explained that that amount was equivalent to the losses he had suffered while unable to operate his business owing to the impugned seizure measures, between 19 May 2003 and 1 June 2006. It was also in line with the award made by the first-instance court in civil proceedings.

8. In his observations submitted after the delivery of the principal judgment, the applicant sought a total amount of PLN 1,161,143 (approximately EUR 267,600). In his opinion, that sum represented the initial amount as claimed, adjusted to take account of inflation between June 2006 and February 2024.

9. The Government pointed to the decisions of the higher domestic courts which had found no legal grounds on which to award the applicant compensation from the State in respect of financial losses allegedly suffered by him. They stressed that the method of calculation relied upon by the applicant (and accepted by the Szczecin Regional Court in its decision of 27 April 2010) was hypothetical, based on flawed assumptions and disregarded business fluctuations. They also emphasised that the regulations in respect of tobacco products had changed on 1 May 2004 owing to Poland's accession to the European Union, and that those changes, which had directly affected the applicant's business, had not been taken into account by the first-instance court in its decision, which had ultimately been quashed. Lastly, the Government pointed out that the applicant's business had ceased trading as of 29 March 2017 (with reference to the relevant tax authority data).

2. *The Court's assessment*

10. Once a violation of a Convention provision has been found, the Court must ascertain if a direct causal link may be established between that violation and the damage alleged by the applicant. As regards claims for pecuniary losses, the Court's case-law establishes that there must be a clear causal connection between the damage claimed by the applicant and the violation of the Convention and that this may, when appropriate, include compensation in respect of loss of earnings (see, among other authorities, *Barberà, Messegué*

and *Jabardo v. Spain* (Article 50), 13 June 1994, §§ 16-20, Series A no. 285-C, and *Stretch v. the United Kingdom*, no. 44277/98, § 47, 24 June 2003). Proof of pecuniary damage, the amount claimed in respect thereof and the causal link between the damage and the violations found must, in principle, be adduced by the applicant (see *Dumitru v. Romania* (just satisfaction), no. 4710/04, § 11, 3 June 2014, and *Zhidov and Others v. Russia* (just satisfaction), nos. 54490/10 and 3 others, § 19, 17 March 2020).

11. A precise calculation of the sums necessary to make complete reparation (*restitutio in integrum*) in respect of pecuniary losses suffered by applicants may be prevented by the inherently uncertain character of the damage flowing from a violation. An award may still be made notwithstanding the large number of imponderables involved in the assessment of future losses, though the greater the lapse of time involved, the more uncertain the link becomes between the breach and the damage. The question to be decided in such cases is the level of just satisfaction, in respect of both past and future pecuniary losses, which it is necessary to award each applicant, the matter to be determined by the Court at its discretion, having regard to what is equitable (see *Kurić and Others v. Slovenia* (just satisfaction) [GC], no. 26828/06, § 82, ECHR 2014). Moreover, where the case concerns the running of a business, any loss of profit is difficult to quantify owing to the risks inherent in business and a degree of uncertainty as to the use and the profitability of the assets acquired (see *Nikolay Kostadinov v. Bulgaria* (just satisfaction), no. 21743/15, § 28, 2 April 2024).

12. Turning to the present case, the Court notes that it concerns a violation of the peaceful enjoyment of possessions where the interference with the applicant's possessions was a control of use rather than a deprivation of possessions (see the principal judgment, §§ 67 and 85, and *Könyv-Tár Kft and Others v. Hungary* (just satisfaction), no. 21623/13, § 25, 5 October 2021). The principal judgment concluded that the limitations on the applicant's right to use his possessions had been disproportionate, even if the legitimate aim pursued and the margin of appreciation afforded to States by the second paragraph of Article 1 of Protocol No. 1 allowed such limitations in principle (see the principal judgment, §§ 88 and 92). Therefore, the case-law on compensation for control of use of property in the "public interest" is applicable (see *Könyv-Tár Kft and Others*, cited above, § 27, with further references).

13. The only evaluation of the applicant's pecuniary losses was prepared by a court-appointed expert in 2010 in the course of the proceedings at the Szczecin Regional Court (see the principal judgment, § 24). Despite the quashing of the regional court's judgment by the appellate court, the finding of fact made by the regional court indicated that the applicant had suffered pecuniary damage as a result of the actions by State authorities (*ibid.*, § 90). At the same time, the Court notes the Government's counter arguments to the effect that that evaluation had been based on a large degree of probability,

without taking into account important fluctuations of business and, in particular, new regulations in place after 1 May 2004 which directly affected the tobacco trade (see paragraph 9 above, and compare *Könyv-Tár Kft and Others*, cited above, §§ 31 and 33). Lastly, the Court notes that an award for pecuniary damage under Article 41 of the Convention is intended to put the applicant, as far as possible, in the position he would have been in had the breach not occurred, which implies that the award could be increased by a percentage reflecting national economic conditions, such as levels of inflation and rates of interest, in order to compensate for loss of value of the award over time, as claimed by the applicant (see paragraph 8 above; see also *Amato Gauci v. Malta*, no. 47045/06, § 78, 15 September 2009).

14. Having regard to the parties' submissions and the above-mentioned considerations, the Court, exercising its discretion to determine what is equitable in such circumstances, awards the applicant EUR 80,000 under this head.

B. Non-pecuniary damage

1. The parties' submissions

15. In his initial submissions, the applicant, in the event that the Court did not make any award in respect of pecuniary damage, claimed EUR 100,000 in respect of non-pecuniary damage for the suffering caused by "difficulties in his professional and private life". He did not reiterate the claim for non-pecuniary damage in his submissions after the principal judgment.

16. The Government considered that the finding of a violation should be regarded as constituting sufficient just satisfaction.

2. The Court's assessment

17. In view of the parties' positions and the award made under the head of pecuniary damage, the Court does not find that a separate award should be made in respect of non-pecuniary damages.

II. COSTS AND EXPENSES

18. In his initial submissions the applicant sought reimbursement of costs and expenses in the amount of PLN 56,000 for costs incurred during the domestic proceedings, including the award of costs of PLN 26,205 made against him (see the principal judgment, § 34) and, additionally, reimbursement of the costs of his legal representation before the Court in the amount of PLN 7,380. In his subsequent submissions, the applicant only claimed the PLN 56,000 in respect of the costs incurred before the domestic courts.

19. The Government contended that the amounts claimed under this head were not directly linked to the violation found, and that no relevant documents had been submitted.

20. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court awards the applicant EUR 6,190 for the costs awarded against him in the domestic proceedings and EUR 1,745 for the costs of his legal representation before the Court. The remaining claims for costs and expenses are either unrelated to the violations found or unsubstantiated, and should be dismissed.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Holds*

- (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
 - (i) EUR 80,000 (eighty thousand euros) in respect of pecuniary damage;
 - (ii) EUR 7,935 (seven thousand nine hundred and thirty-five euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
- (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

2. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 8 October 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Ilse Freiwirth
Registrar

Ivana Jelić
President