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

THIRD SECTION

DECISION

Application no. 25112/21
OOO MEGA
against Bulgaria

The European Court of Human Rights (Third Section), sitting on 24 June 2025 as a Committee composed of:

Peeter Roosma*, President*,
Ioannis Ktistakis,
Canòlic Mingorance Cairat*, judges*,
and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the application (no. 25112/21) against the Republic of Bulgaria lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 5 May 2021 by OOO Mega, a Russian company ("the applicant company"), represented by Mr A. Georgiev, a lawyer practising in Svilengrad;

the decision to give notice of the application to the Bulgarian Government ("the Government"), represented by their Agent, Ms V. Tzaneva;

the parties' observations;

the request from the Government for the recusal of Diana Kovatcheva, the judge elected in respect of Bulgaria (Rule 28 § 4 of the Rules of Court);

the withdrawal of Judge Kovatcheva from sitting in the case (Rule 28 § 3);

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns the confiscation of a lorry belonging to the applicant company in the course of criminal proceedings brought against the two drivers of the lorry. The applicant company complained under Article 1 of Protocol No. 1, taken alone and together with Article 13 of the Convention, as well as under Article 6 § 1 of the Convention, that it had no opportunity under domestic law to challenge the confiscation of its property and that, in consequence, it had suffered an excessive individual burden.

2. On 28 June 2020 one of the applicant company's lorries was stopped for inspection at the Turkish-Bulgarian border. The Bulgarian customs authorities found and seized forbidden goods in the cargo bed of the lorry. The lorry and the trailer were retained as physical evidence pending criminal proceedings against the lorry drivers.

3. The two lorry drivers subsequently concluded a plea bargain agreement with the prosecutor. In accordance with Article 382 § 7 of the Code of Criminal Procedure, the Yambol Regional Court approved the plea bargain in a decision of 9 December 2020 and ordered the confiscation of the lorry. That decision was not subject to appeal and entered into force with immediate effect.

4. The Government submitted in their observations that on 26 April 2021 the two lorry drivers, relying on the judgment of the Court of Justice of the European Union of 14 January 2021 in Case C-393/19, *Okrazhna prokuratura – Haskovo and Apelativna prokuratura – Plovdiv*, EU:C:2021:8, requested the reopening of the criminal proceedings and annulment of the confiscation order. According to that judgment, national legislation which permits the confiscation of an instrumentality (the vehicle) used to commit an aggravated smuggling offence where that property belongs to a third party acting in good faith is contrary to European Union law.

5. The lorry drivers were represented in the reopened domestic proceedings by Mr A. Georgiev, the same lawyer who is acting on behalf of the applicant company before the Court.

6. On 2 August 2021 the Supreme Court of Cassation granted the request for reopening.

7. The lorry was returned to the applicant company, again represented by the same lawyer, Mr A. Georgiev, on 29 September 2021.

THE COURT'S ASSESSMENT

8. The Government argued, on the basis of the above-mentioned facts, that the applicant company had abused the right of individual application to the Court, as it had withheld important information from the Court. In the alternative, the Government argued that the applicant company had lost its victim status, that it had not exhausted the available domestic remedies, and that the confiscation had been lawful and proportionate.

9. The Court considers that it is not necessary to examine all the arguments raised by the Government because the application is, in any event, inadmissible for abuse of the right of application.

10. The Court reiterates that under Article 35 § 3 (a) of the Convention, an application may be rejected as an abuse of the right of individual application if, among other reasons, it was knowingly based on untrue facts. The submission of incomplete and thus misleading information may also amount to an abuse of the right of application, especially if the information

concerns the very core of the case and no sufficient explanation has been provided for the failure to disclose that information. The same applies if important new developments have occurred during the proceedings before the Court and where the applicant has failed to disclose that information to the Court, thereby preventing it from ruling on the case in full knowledge of the facts (see *Gross v. Switzerland* [GC], no. 67810/10, § 28, ECHR 2014).

11. The Court points out that, according to Rule 47 § 7 of the Rules of Court, applicants, acting in person or through their legal representatives, are required to keep the Court informed of all important circumstances relevant to the application. Moreover, the Court has repeatedly stated that the applicant is responsible for the conduct of his or her lawyer. All omissions on the part of an authorised representative are therefore, in principle, attributable to the applicant and may lead to the application being rejected as an abuse of the right of application (see *Taşdemir v. Türkiye* (dec.), no. 79549/16, § 41, 25 March 2025, and *Gross*, cited above, § 33).

12. Having regard to the principles established in the above-mentioned cases, the Court notes that the present application was lodged on 5 May 2021 and that several days earlier, on 26 April 2021, the lorry drivers requested the reopening of the criminal proceedings and the annulment of the confiscation order in respect of the applicant company's lorry. The applicant company failed to disclose in its initial application that those proceedings were pending at domestic level, despite the fact that the applicant company's representative was also representing the lorry drivers and would have been aware of these proceedings. The Court cannot accept the argument that it was not for the representative to submit that information to the Court. The mere fact that he was acting on behalf of different individuals with different interests does not absolve him of that duty.

13. Moreover, the applicant company did not subsequently inform the Court that the criminal proceedings had been reopened, that the confiscation order had been annulled and that the lorry had been returned to it on 29 September 2021. The Court again notes that the same lawyer represented the applicant company in the proceedings before the customs authorities in which the lorry was returned.

14. In the light of the foregoing, the Court finds that the applicant company's conduct – in failing to disclose the information in question to the Court – concerns the very core of the case, notably in relation to the examination of its victim status under Article 34 of the Convention. No adequate explanation has been provided for the failure to disclose that information.

15. Accordingly, the Government's objection that the applicant company's conduct constituted an abuse of the right of application must be

upheld and the application must be declared inadmissible 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 17 July 2025.

Olga Chernishova Deputy Registrar	Peeter Roosma President