

Bundesgericht
Tribunal fédéral
Tribunale federale
Tribunal federal



CH-1000 Lausanne 14
File number. 211.1/03_2025

Lausanne, 30 January 2025

Press Release of the Swiss Federal Supreme Court

Judgment of 21 January 2025 ([7B_60/2022](#))

Withdrawal of private claimant status – appeal by Hermitage Capital Management Ltd dismissed

The Swiss Federal Supreme Court dismisses the appeal lodged by Hermitage Capital Management Ltd regarding the withdrawal of its status as private claimant in a money laundering case that was closed by the Office of the Attorney General of Switzerland in 2021. The Swiss Federal Criminal Court did not violate federal law in considering that the company was not itself directly affected by the alleged offences.

In 2011, following a criminal complaint from Hermitage Capital Management Ltd, the Office of the Attorney General of Switzerland (OAG) opened a criminal investigation against unknown persons on suspicion of money laundering. Hermitage Capital Management Ltd was granted private claimant status in these proceedings. By order dated 21 July 2021, the OAG closed the case and lifted certain seizures on assets that had been confiscated as part of the proceedings. It also withdrew the company's status as private claimant. Ruling on an appeal by Hermitage Capital Management Ltd, the Lower Appeals Chamber of the Swiss Federal Criminal Court confirmed the withdrawal of the company's status as private claimant in a decision issued on 23 November 2022.

The Swiss Federal Supreme Court now rejects the company's appeal against this decision. Private claimant status can be granted to any person whose rights have been directly violated by an offence. The offence of laundering (article 305^{bis} of the Swiss Criminal Code) requires that the laundered assets originate from a crime. In this respect,

case law specifies that it is not necessary to know the details of the crime or strictly prove it. However, a certain causal link must be established.

According to the contested decision of the Swiss Federal Criminal Court, the offences reported by Hermitage Capital Management Ltd were related to predicate offences committed in Russia. On the one hand, the lower court held that the appellant had failed to demonstrate, or at least make likely, that the assets allegedly laundered in Switzerland directly originated from the offences it was alleging. Secondly, it considered that the appellant had not been directly and personally violated by the predicate offences related to the money laundering activities. The withdrawal of the appellant's status as private claimant can already be confirmed on the basis of this second reasoning. Contrary to the appellant's claims, there is no clear indication that it suffered any direct harm from the alleged offences. Insofar as these offences are said to have been committed to the detriment of three other companies, it is not apparent to what extent the possible harm to these companies could have directly violated the interests of the appellant itself. Consequently, the lower court cannot be criticized for having violated federal law by confirming the withdrawal of the appellant's status as private claimant.

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NB: The press release is intended as an information to the public and the media. The terminology used may differ from the wording of the judgment. For legal purposes, only the wording used in the written decision is binding.

The decision will be available on 30 January 2025 at 13:00 on www.bger.ch : *Rechtsprechung* > *Rechtsprechung (gratis)* / *Weitere Urteile ab 2000* > entering [7B_60/2022](#).