

Jeff Simmons  
Chief Executive Officer, Elanco,  
2500 Innovation Way/2710 Innovation Way  
Greenfield, IN, 46140  
United States

CC. Elanco's Executive Team and Board of Directors

January 13, 2023

### **Elanco operations in Russia**

Dear Mr. Simmons,

We write to you as [B4Ukraine](#), a coalition of Ukrainian and international civil society organisations working to curtail the financial resources enabling the Russian invasion of Ukraine. We expect companies to demonstrate opposition to Russia's war of aggression, public support for the people, democracy, and territorial integrity of Ukraine, and alignment with the UN Guiding Principles on Business and Human Rights (UNGPs). At stake is not only the sovereignty and territorial integrity of a democratic Ukraine, but also the continuity of the rules-based international order and the prosperity of the global economy.

We request an urgent dialogue regarding potential inconsistencies between Elanco's stated policies on Russian aggression and human rights more broadly and the company's ongoing business operations and relationships in Russia that may contribute to, or be linked with, human rights harms.

According to Elanco's statement on Business in Russia, the company rightly "condemns the aggression and war in Ukraine,, and states that it "has stopped any investment in Russia."<sup>1</sup> However, it is still continuing to conduct business with regards to "highly selected products most critical to protect the health of animals and ensure food security."<sup>2</sup> We would like to understand how this decision aligns with Elanco's values, and more particularly, with the Modern Slavery Act Statement 2021,<sup>3</sup> which emphasizes Elanco's adherence to the OECD guiding principles for human rights.<sup>4</sup>

It has been more than ten months since Russia invaded Ukraine and the devastating impacts continue to shock the world. Russia is committing war crimes and crimes against humanity through

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<sup>1</sup> Elanco, "Statement on Business in Russia," (18 March 2022), <https://www.elanco.com/en-us/news/business-in-russia> (accessed December 13, 2022).

<sup>2</sup> Ibid.

<sup>3</sup> Elanco UK, "Modern Slavery Act Statement 2021," [https://assets-eu-01.kc-usercontent.com/7d1fb288-b93d-015d-f61e-abc4dbdfe522/892b221e-6ca0-4f44-bbf3-cee3ad20e424/220601\\_Elanco%20UK%202021%20Modern%20Slavery%20Act%20Statement\\_FIN.pdf](https://assets-eu-01.kc-usercontent.com/7d1fb288-b93d-015d-f61e-abc4dbdfe522/892b221e-6ca0-4f44-bbf3-cee3ad20e424/220601_Elanco%20UK%202021%20Modern%20Slavery%20Act%20Statement_FIN.pdf) (accessed December 13, 2022), ESG Report (August 2022) p 83, <https://assets-us-01.kc-usercontent.com/58017606-861d-00e9-35db-aff39487cc42/ef455c22-1ce9-4264-9351-70d6300187b6/2021%20ESG%20Report%20and%20Appendix%208-25-22.pdf> (accessed December 13, 2022).

<sup>4</sup> OECD, "Guiding principles," <https://www.oecd.org/dac/results-development/docs/mfsdr-guiding-principles.pdf> (accessed December 13, 2022).

attacks on civilians and civilian infrastructure, including mass executions, the bombing of schools, hospitals, and apartment buildings, sexual violence, torture, and forcible transfer of civilians. Over 17,000 Ukrainians have been killed and injured and millions have been forced to flee their homes, creating one of the largest humanitarian disasters and refugee crises of modern times.

On September 21, President Vladimir Putin further escalated the war by announcing a “partial mobilisation” of the Russian population. The accompanying legislation ([Article 9 of Federal Law No. 31-FZ](#)) mandates all organisations, including the 1,610 international companies that are currently operating on a full or limited scale in Russia, to conduct military registration of the staff if at least one of the employees is eligible for military service.<sup>5</sup> They must also assist with delivering the military summons to their employees, ensure the delivery of equipment to assembly points or military units, and provide information, buildings, communications, land plots, transport, and other material means of support to the war effort.

This legislation entails new and significant legal risks for companies remaining in Russia, including potential civil and criminal liability under comprehensive sanctions regimes and recent international jurisprudence holding corporations and their officers responsible for human rights abuses abroad.<sup>6</sup> Companies may also be exposed to financially material risks through operational restrictions, such as limitations of future government contracts.<sup>7</sup>

In response to this unprovoked and unjustified war,<sup>8</sup> hundreds of companies have committed to leaving Russia. Yet, according to the respected Kyiv School of Economics Institute's [#LeaveRussia company tracker](#), Elanco has chosen to scale back, but not leave the country completely. Through the continuation of your operations and relationships in Russia, the company is at risk of enabling and financing Russia's violations of international law during the ongoing invasion and occupation of Ukraine.<sup>9</sup> We are particularly interested to know whether Elanco's subsidiary Elanco Rus is still conducting business in Russia?

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<sup>5</sup> Federal Law No. 31-FZ of February 26, 1997 "On mobilization training and mobilization in the Russian Federation" (as amended), <https://base.garant.ru/136945/> (accessed September 9, 2022).

<sup>6</sup> The new legislation creates significant risk of international companies violating sanctions regimes as providing direct services and goods to Russian actors involved in executing the invasion will likely involve transacting with sanctioned individuals or entities. Furthermore, several domestic civil and criminal cases against companies involved in violations of international law, including supporting governmental war crimes and crimes against humanity, demonstrate the risk of significant liability for facilitating state-sponsored human rights abuses abroad (e.g. Lafarge case, Lundin case, Castel Group indictment, Amesys Indictment, Newsun holding, and Dassault Aviation, Thales, and MBDA France criminal complaint.) See, France 24, “French court upholds Syria ‘complicity in crimes against humanity’ charge against Lafarge,” May 18, 2022, <https://www.france24.com/en/live-news/20220518-paris-court-upholds-charges-of-complicity-in-crimes-against-humanity-linked-to-lafarge-e-s-cement-plant-in-syria> (accessed September 26, 2022); Victoria Riello and Larissa Furtwengler, “Corporate Criminal Liability for International Crimes: France and Sweden Are Poised To Take Historic Steps Forward,” September 6, 2021, <https://www.justsecurity.org/78097/corporate-criminal-liability-for-human-rights-violations-france-and-sweden-are-poised-to-take-historic-steps-forward/> (accessed September 26, 2022); The Sentry, “Breaking: France Opens War Crimes Inquiry Focused on Iconic Food and Beverage Conglomerate,” July 1, 2022, <https://thesentry.org/2022/07/01/7216/breaking-france-opens-war-crimes-inquiry-focused-iconic-food-beverage-conglomerate/> (accessed September 26, 2022); Rfi “French technology firm charged over Libya cyber-spying,” July 2, 2022, <https://www.rfi.fr/en/business-and-tech/20210701-french-tech-firm-charged-over-libya-cyber-spying> (accessed September 26, 2022); Preston Lim, “Canadian Supreme Court Allows Corporate Liability for International Law Violations,” Lawfare, March 12, 2022, <https://www.lawfareblog.com/canadian-supreme-court-allows-corporate-liability-international-law-violations> (accessed September 26, 2022); Sherpa, “Aiding and abetting war crimes in Yemen: Criminal complaint submitted against French arms companies,” June 2, 2022, <https://www.asso-sherpa.org/aiding-and-abetting-war-crimes-in-yemen-criminal-complaint-submitted-against-french-arms-companies> (accessed September 26, 2022).

<sup>7</sup> Venable LLP, “Do You Contract with State Governments? If So, Beware of Emerging State Sanctions' Obligations Related to Russia and Belarus,” JD Supra, June 3, 2022, <https://www.idsupra.com/legalnews/do-you-contract-with-state-governments-6537229/> (accessed September 26, 2022).

<sup>8</sup> The UN General Assembly condemned Russia's “aggression against Ukraine” and demanded that Moscow “unconditionally withdraw all of its military forces from the territory of Ukraine within its internationally recognized borders.”

<sup>9</sup> The UN Working Group on Transnational Corporations, Business, human rights and conflict-affected regions states: “Businesses are not neutral actors; their presence is not without impact. Even if business does not take a side in the conflict, the impact of their operations will necessarily influence conflict dynamics.”

We understand that Elanco scaled back its business in Russia to providing only critical products to ensure food security and the health of animals. While medicine is not proscribed under existing sanctions, the blanket argument by pharmaceutical companies that they are providing “essential goods” has attracted criticism.<sup>10</sup> Professor Jeffrey Sonnenfeld of Yale University challenges these explanations by pharmaceutical companies by stating that the reasons are “misguided at best, cynical in the medium case, and outright deplorably misleading and deceptive.” Sonnenfeld goes on to state:

Russians are put in a tragic position of unearned suffering. If we continue to make life palatable for them, then we are continuing to support the regime [...] These drug companies will be seen as complicit with the most vicious operation on the planet. Instead of protecting life, they are going to be seen as destroying life. The goal here is to show that Putin is not in control of all sectors of the economy.<sup>11</sup>

The continuation of activities in Russia risks enabling and financing Russia’s violations of IHL and human rights law during the ongoing invasion and occupation of Ukraine and violating Elanco’s human rights commitments. It remains to be seen how directly the company will be impacted by the partial mobilisation and the heightened legal, regulatory, operational, and financial risks associated with companies being required to provide direct support to the internationally sanctioned Russian military.

We seek to understand how Elanco has conducted and continues to conduct heightened Human Rights Due Diligence and how the findings of such a process has resulted in these continued business activities and relationships. As noted by the UNGPs:

...the more severe the abuse, the more quickly the enterprise will need to see change before it takes a decision on whether it should end the relationship. In any case, for as long as the abuse continues and the enterprise remains in the relationship, it should be able to demonstrate its own ongoing efforts to mitigate the impact and be prepared to accept any consequences – reputational, financial or legal – of the continuing connection.

With the above points in mind and in consideration of B4Ukraine’s [Declaration](#), we request an urgent dialogue with Elanco’s relevant senior management and staff to discuss the company’s ongoing operations and relationships in Russia, associated risks to the people of Ukraine and the company, and potential steps to prevent/mitigate these risks. Please contact B4Ukraine at [contact@b4ukraine.org](mailto:contact@b4ukraine.org) to schedule a call. We kindly ask for your response by 5:00pm CET, 27th January 2023.

Please do not hesitate to get in touch if you require any further information.

Sincerely,

The B4Ukraine Coalition

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<sup>10</sup> B4Ukraine, “Companies claim they stay in Russia to provide essential goods to locals. But is that really true?” <https://b4ukraine.org/actions/companies-claim-they-stay-in-russia> (accessed December 10, 2022).

<sup>11</sup> Sarah Varney, “Which Companies Aren’t Exiting Russia? Big Pharma,” March 10, 2022, <https://khn.org/news/article/big-pharma-reaction-russia-ukraine-war/> (accessed December 10, 2022).