

27th January 2023

FORTUM'S RESPONSE TO THE B4UKRAINE COALITION AND BUSINESS & HUMAN RIGHTS RESOURCE CENTRE

Fortum has repeatedly and unequivocally condemned the brutal war started by Russia in Ukraine. In the current situation of Russia's attack on Ukraine, we are enhancing our due diligence to continuously monitor and analyze the situation and the conflict to understand the operating context. Fortum's commitment to respect human rights is expressed in Fortum's Codes of Conduct and Supplier Codes of Conduct. The UN Guiding Principles on Business and Human Rights are taken into account in our own operations and in supply chain management. Fortum is committed to identifying, mitigating and monitoring any human rights-related risks in its business operations and its sphere of influence.

In May 2022, we announced that we are pursuing a controlled exit from Russia with a divestment as the preferred option. We have been intensively working on the exit since, the completion is not fully under Fortum's control as any major transaction in the energy sector is subject to approvals by both the Russian Government Commission and the Russian President.

We are not aware that PAO Fortum would have been asked for cooperation of any kind related to the partial mobilization. Safety of local management and employees is our priority and we strive to ensure that.

Fortum has taken the following action:

- [As announced in early March 2022](#), Fortum has stopped all new investment projects in Russia and is not providing any new financing to its Russian subsidiaries. PAO Fortum has been segregated from the rest of Fortum's operations in the spring 2022 and operates independently.
- As announced on [12 May 2022, Fortum is preparing a controlled exit from the Russian market](#), with potential divestments of its Russian operations as the preferred path. We have been intensively working on the exit since, the completion is not fully under Fortum's control as any major transaction in the energy sector is subject to approvals by both the Russian Government Commission and the Russian President.
- As announced on 21 September 2022, Fortum agreed to fully divest Uniper to the German State. [The divestment was completed 21 December 2022.](#)
- Fortum has replaced Russian fuels in our other operating countries. We don't buy fossil fuels, pellets or biomass from Russia for our power plants.
- For our Loviisa nuclear power plant in Finland, we currently procure fuel from the Russian fuel company TVEL. The current contract is valid until the end of our current operating licenses, i.e. until 2027 and 2030. The power plant has plenty of fuel in storage, even for a couple of years. [On 3 March 2022, we announced the decision to apply for new operating licences for the Loviisa power plant](#) until 2050. A new tendering process for nuclear fuel will be initiated simultaneously. [On 22 November 2022, Fortum announced that we have signed an agreement with Westinghouse Electric](#)

[Company](#) for the design, licensing, and supply of a new fuel type for the Loviisa power plant. Taking the new fuel into use is a multi-year project requiring regulatory approvals.

- Fortum complies with all applicable laws and regulations, including sanctions. We conduct our sustainability and compliance assessment for our counterparties to prevent any linkages with sanctioned individuals or entities.
- Fortum has delivered material (e.g. three power units and two related automation units) to help Ukraine's energy infrastructure and energy supply. All support given by Finnish companies is channeled through the Finnish Ministry of Economy and Employment.
- In March 2022, Fortum donated EUR 200,000 to the Red Cross. The donation is directed to support humanitarian relief actions in Ukraine and for refugees in the neighboring countries. In addition Fortum is supporting Polish charities which help Ukrainian refugees with EUR approximately 80,000. Fortum's employees are encouraged to carry out two days of voluntary work annually during paid hours, and one of the voluntary work themes is to work for charities supporting refugees from Ukraine.

Markus Rauramo
Chief Executive Officer
Keilalahdentie 2–4,
02150 Espoo

CC: Fortum's Executive Team and Board of Directors

21/11/2022

RE: Fortum's business operations in Russia

Dear Mr. Rauramo,

We write to you as [B4Ukraine](#), a coalition of Ukrainian and international civil society organizations working to curtail the financial resources enabling the Russian invasion of Ukraine. In the spirit of respect for the fundamental rights of all people, the rules-based international order, and a prosperous global economy, we expect companies to demonstrate public support for the people, democracy, and territorial integrity of Ukraine, opposition to Russia's war of aggression, and alignment with the UN Guiding Principles on Business and Human Rights (UNGPs).

We request an urgent dialogue regarding potential inconsistencies between Fortum Oyj's (Fortum) 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.

We acknowledge Fortum's stated commitment to human rights. According to the company's Sustainability Report (2021), "Fortum follows and respects internationally recognised human rights that are included in key human rights treaties," specifically including the "International Bill of Human Rights, the United Nations Convention on the Rights of the Child, and the core conventions of the International Labour Organisation (ILO)."¹ Fortum also states that the "[t]he UN Guiding Principles on Business and Human Rights are taken into account in [Fortum's] own operations and in supply chain management."² These commitments are supplemented by Fortum's Code of Conduct, Supplier Code of Conduct, and human rights impact assessments conducted as part of investment project planning.³

It has been almost nine months since Russia invaded Ukraine and the devastating impacts continue to shock the global conscience and shake the global economy. Russia is violating international humanitarian law (IHL), including war crimes and crimes against humanity, through attacks on

¹ Fortum, "Sustainability 2021," <https://www.fortum.com/files/fortum-sustainability-2021/download?attachment=> (accessed November 14, 2022).

² Ibid.

³ Fortum, "Human rights and supply chain," <https://www.fortum.com/sustainability/personnel-safety-and-society/human-rights-and-supply-chain> (accessed November 14, 2022).

civilians and civilian infrastructure (e.g., mass executions, sexual violence, torture, forcible transfer of civilians). More than 15,000 Ukrainians have been killed and injured and millions more have been forced to flee their homes, creating one of the largest humanitarian and refugee crises of modern times.

On September 21, President Vladimir Putin 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 more than 1,500 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.⁴ 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.⁵ Companies may be exposed to financially material risks through operational restrictions, such as limitations of future government contracts.⁶

In response to this unprovoked and unjustified war⁷ many companies have left Russia. According to the Kyiv School of Economics Institute's #LeaveRussia [company tracker](#), Fortum has taken steps to

⁴ 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 November 14, 2022).

⁵ International companies remaining in Russia are now at a greater risk of violating sanctions regimes as implementation of the legislation will likely involve transacting with sanctioned individuals or entities. Furthermore, new domestic civil and criminal cases against companies involved in violations of international law demonstrate the risk of significant liability for facilitating state-sponsored human rights abuses abroad (e.g., Lafarge case, Lundin case, Castel Group indictment, Nevsun holding, and Dassault Aviation, Thales, and MBDA France criminal complaint.) Victoria Riello and Larissa Furtwengler, “Corporate Criminal Liability for International Crimes: France and Sweden Are Poised To Take Historic Steps Forward,” *Just Security*, 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 November 14, 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 November 14, 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 November 14, 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 November 14, 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 November 14, 2022).

⁶ 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.jdsupra.com/legalnews/do-you-contract-with-state-governments-6537229/> (accessed November 14, 2022).

⁷ 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.”

withdraw from the Russian market. In March, Fortum announced that it was stopping all new investment projects, withholding new financing to its Russian subsidiaries, and reviewing its other areas of exposure to Russia. A few months later, Fortum announced that it would pursue “a controlled exit from the Russian market,” and “resume the divestment process for Uniper’s Russian subsidiary.”⁸ Though Fortum reached an agreement to divest Uniper to the German state in September 2022,⁹ our research indicates that Fortum is failing to expeditiously execute its other commitments and remains significantly exposed to the Russian market.

Prior to Russia’s invasion of Ukraine, Fortum maintained a significant presence in Russia. Together with its subsidiary, Uniper, Fortum employed 7,000 workers in Russia and its Russian operations accounted for roughly 20 percent of the Fortum Group’s total operating profit.¹⁰ Excluding Uniper’s Russian subsidiaries, Fortum employs 2,700 workers in Russia and owns seven power plants in the country, three solar plants, and one wind farm. At its Loviisa nuclear power plants, Fortum continues to source uranium fuel from a division of Rosatom,¹¹ a Russian state-owned company that also manages Russia’s nuclear weapons arsenal and is “overseeing the occupied Ukrainian Zaporizhzhia nuclear power station.”¹² Fortum states that regulatory requirements make it extremely difficult to change suppliers and the company will likely keep sourcing from Rosatom until the licences for the plants expire in 2027 and 2030.¹³

According to its interim report covering January to September 2022, Fortum recorded €23 million worth of heat sales and €2 million in power sales to Russia.¹⁴ These sales are likely incurring significant corporate, production, employment, and property taxes. In 2021, Fortum paid €150 million in taxes to the Russian government.¹⁵ Fortum also owns a 29 percent stake in TGC-PAO Russia,¹⁶ which is “the third largest territorial generating company in Russia” and according to its 2021 annual report, the company holds interests in six Russian joint ventures and seven Russian subsidiaries.¹⁷

⁸ Fortum, “Summary of Fortum’s response to the war in Ukraine,” March 30, 2022, <https://www.fortum.com/summary-of-fortums-responses-to-the-war-in-ukraine> (accessed November 15, 2022).

⁹ Fortum, “About us,” <https://www.fortum.com/about-us/our-company/fortum-and-uniper> (accessed November 15, 2022).

¹⁰ Fortum, “Fortum Group in Russia,” <https://www.fortum.com/about-us/our-company/fortum-worldwide/country-fact-sheets/fortum-russia> (accessed November 15, 2022).

¹¹ *Manufacturing.Net*, “Siemens opens high-voltage product manufacturing plant in Russia,” July 1, 2011, <https://finance.yahoo.com/news/finnish-energy-company-fortum-still-104800112.html> (accessed November 15, 2022).

¹² GreenPeace European Unit, “Nuclear exception leaves gaping hole in EU Russia sanctions as uranium ship reaches France,” Greenpeace, September 28, 2022, <https://www.greenpeace.org/eu-unit/issues/climate-energy/46397/nuclear-exception-leaves-gaping-hole-in-eu-sanctions-as-uranium-ship-reaches-france/> (accessed November 15, 2022).

¹³ Fortum, “Fortum Interim Report: January - September 2022,” <https://www.fortum.com/files/fortum-january-september-2022-interim-report/download?attachment> (accessed November 15, 2022).

¹⁴ Ibid.

¹⁵ Fortum, “Tax Footprint 2021,” <https://www.fortum.com/files/fortum-tax-footprint-2021/download> (accessed November 15, 2022).

¹⁶ Fortum, “Fortum Interim Report: January - September 2022,” <https://www.fortum.com/files/fortum-january-september-2022-interim-report/download?attachment> (accessed November 15, 2022).

¹⁷ EMIS, “TGC-1 PAO (Russia),” https://www.emis.com/php/company-profile/RU/TGC-1_PAO_%D0%A2%D0%93%D0%9A-1_%D0%9F%D0%90%D0%9E_en_2343857.html (accessed November 15, 2022); Fortum, “Financials 2021,”

These activities in Russia risk enabling and financing Russia's violations of IHL and human rights law during the ongoing invasion and occupation of Ukraine and violating Fortum's human rights commitments. It remains to be seen how directly Fortum 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 the status of Fortum's exposure to Russia and how Fortum has conducted and continues to conduct heightened human rights due diligence, per its stated policy and the UNGPs concerning due diligence in conflict-affected areas, 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.

In consideration of the above points and B4Ukraine's [Declaration](#), we request an urgent dialogue with Fortum's relevant senior management and staff to discuss the company's ongoing activities and relationships in Russia, associated risks to the people of Ukraine and the company, and potential steps to prevent/mitigate these risks. Please contact Eleanor Nichol at enichol@b4ukraine.org to schedule a call. We kindly ask for your response by 5:00pm CET, 6th December 2022.

Sincerely,

Eleanor Nichol
Executive Director
The B4Ukraine Coalition