

HEIDELBERG MATERIALS response to the RC:

Thank you for your letter and your concerns which we take very seriously.

Heidelberg Materials as a global company strongly condemns this war against the Ukrainian people. As you correctly noted, we fully support all sanctions on Russia and immediately stopped all investments almost one year ago. We operate a pure local business in Russia, on a limited scale and only for local needs. We ensure that our reduced activities in Russia are fully compliant with international and other laws as well as with international human rights standards.

Heidelberg Materials has intensively supported and continues to support Ukrainian refugees, especially in the neighboring countries of Poland, Hungary, Rumania, Bulgaria, and the Czech Republic, and as a global organization.

We continue to monitor the situation on a day-by-day basis.

Dominik von Achten
Chief Executive Officer
HeidelbergCement International AG
Baarerstattstrasse 3
CH-6340 Baar, Switzerland

CC: HeidelbergCement's Executive Team and Board

11/11/22

RE: HeidelbergCement's business operations in Russia

Dear Mr. Von Achten and HeidelbergCement's Leadership Team,

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 HeidelbergCement AG's (also referred to as HeidelbergMaterials but hereinafter referred to as HeidelbergCement) 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.

HeidelbergCement's Human Rights Position formalises the company's commitment to the principles of the internationally recognized standards of the Universal Declaration of Human Rights, the eight core labour standards of the International Labour Organization, the OECD Guidelines for Multinational Enterprises, and the UNGPs.¹ HeidelbergCement expects its "employees and business partners to comply with the key guidelines and recommendations."² To supplement its Human Rights Position, HeidelbergCement has also developed a Supplier Code of Conduct, which serves as the foundation for all contractual relationships, and a Code of Business Conduct.³

It has been more than eight 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 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

¹ HeidelbergMaterials, "Governance and Compliance," <https://www.heidelbergmaterials.com/en/governance-and-compliance> (accessed November 8, 2022).

² Ibid.

³ Ibid.

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 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 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 war many companies have left Russia.⁷ According to the Kyiv School of Economics Institute’s #LeaveRussia [company tracker](#), HeidelbergCement

⁴ Federal Law No. 31-FZ of February 26, 1997 "On mobilisation training and mobilisation in the Russian Federation" (as amended), <https://base.garant.ru/136945/> (accessed November 8, 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 8, 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 8, 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 8, 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 8, 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 8, 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 8, 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.”

announced in early March that it suspended all further investments in Russia.⁸ In a response to the Business and Human Rights Resource Centre’s questionnaire, HeidelbergCement further stated that it felt a “deep responsibility for [its] workforce in Russia” and would “monitor the situation on a day-by-day basis.”⁹ While we commend HeidelbergCement for taking some steps to limit its exposure to Russia, our research indicates the company still maintains significant exposure to Russia’s war of aggression against Ukraine.

According to HeidelbergCement’s website, the company owns and operates three cement plants and two cement terminals in Russia.¹⁰ Taken together, these cement plants have an annual production capacity of 4.6 million tonnes.¹¹ HeidelbergCement also operates an aggregates production (Quarry1) in the Tula region and conducts “national management activities, such as Finance, Sales, HR, Communication and Purchasing” at offices in Moscow and Podolsk.¹² HeidelbergCement reports its Russian operations represent 1 percent of its annual Group revenue.¹³ According to its Group report on payments made to governments, HeidelbergCement paid €70,542 as taxes on income, production, or profits, €298,649 for royalties, and €646 in licence fees to the Russian government for its Quarry1 project in 2021.¹⁴

These activities risk enabling and financing Russia’s violations of IHL and human rights law during the ongoing invasion and occupation of Ukraine and violating HeidelbergCement’s Human Rights Policy. Furthermore, it is clear that HeidelbergCement’s employees are currently at risk for conscription and the company is likely to be required to facilitate these government orders. However, the full impact of partial mobilisation on HeidelbergCement and the heightened legal, regulatory, operational, and financial risks associated with companies being required to provide direct support to the internationally sanctioned Russian military remains to be seen.

We seek to understand how HeidelbergCement 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.

⁸ *Global Cement News*, “HeidelbergCement freezes investments in Russian operations,” March 10, 2022, <https://www.globalcement.com/news/item/13813-heidelbergcement-freezes-investments-in-russian-operations> (accessed November 8, 2022).

⁹ Business and Human Rights Resource Centre, “HeidelbergCement response,” March 21, 2022, <https://www.business-humanrights.org/en/latest-news/heidelbergcement-response-4/> (accessed November 8, 2022).

¹⁰ HeidelbergMaterials, “Russia,” <https://www.heidelbergmaterials.com/en/russia#:~:text=Total%20annual%20production%20capacity%20of,production%20in%20the%20Tula%20region> (accessed November 8, 2022).

¹¹ Ibid.

¹² Ibid.

¹³ HeidelbergCement, “Group Report on Payments of HeidelbergCement AG for the financial year 2021,” May 16, 2022, https://www.heidelbergmaterials.com/sites/default/files/2022-05/Group%20Payment%20Report%202021_en_gl_web.pdf (accessed November 8, 2022).

¹⁴ Ibid.

With the above points in mind and in consideration of B4Ukraine's [Declaration](#), we request an urgent dialogue with HeidelbergCement'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@businessforukraine.info to schedule a call at your earliest convenience before the 25th November 2022.

Sincerely,

Eleanor Nichol
Executive Director
The B4Ukraine Coalition