

Peter Stahl
Chief Executive Officer
Hochland SE
Kemptener Str. 17
88178 Heimenkirch
Germany

October 16, 2023

RE: Hochland's business operations in Russia

Dear Mr. Stahl and Hochland 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 Hochland's obligations under international humanitarian and human rights law and the company's ongoing business operations and relationships in Russia that may contribute to, or be linked with, human rights harms.

We are writing to formally notify Hochland on the serious and increasing risks the company faces by continuing its operations in Russia that may amount to complicity in human rights abuses committed by Russia and to urge you to:

- Immediately cease operations and presence in Russia and completely exit the Russian market.
- Refrain from any future business, trade, or investment in Russia until Russia ends its war in Ukraine, territorial integrity of Ukraine is restored, and accountability imposed for war crimes and the destruction of Ukrainian infrastructure and property.
- Establish and implement comprehensive human rights due diligence measures for any responsible exit from or re-engagement with Russia.

It has been 19 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 27,000 Ukrainian civilians 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. In recognition of the severity of abuses, in March 2023 the International Criminal Court issued an arrest warrant for Vladimir Putin to answer war crimes charges.¹

¹ International Criminal Court, "Situation in Ukraine: ICC judges issue arrest warrants against Vladimir Vladimirovich Putin and Maria Alekseyevna Lvova-Belova," March 17, 2023, <https://www.icc->

Moreover, recent developments in Russia point to an expanding universe of financial, legal, and reputational risks facing those left behind.

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.² 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.

A new decree issued by President Vladimir Putin on March 3, 2023, enables the Russian government to suspend shareholders' rights and implement external management in companies that don't fulfil state defence contracts under conditions of martial law.³ By specifying the process of appointing Russian government representatives to manage businesses that fail to meet state orders, the latest Decree effectively creates a scenario of "partial nationalization."

With new legislation introducing partial mobilisation, nationalisation, and potentially martial law in Russia, it is highly likely that corporations will be unable to prevent or mitigate negative human rights impacts, an obligation imposed on companies by the United Nations Guiding Principles on Business and Human Rights. As such, continuing to conduct business in Russia entails significant legal risks for companies, 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.⁴ Companies face the rising risk of criminal liability for complicity in

[cpi.int/news/situation-ukraine-icc-judges-issue-arrest-warrants-against-vladimir-vladimirovich-putin-and](https://www.cpi.int/news/situation-ukraine-icc-judges-issue-arrest-warrants-against-vladimir-vladimirovich-putin-and) (accessed March 22, 2023).

² 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).

³ Decree of the President of the Russian Federation No. 139 dated March 3, 2023 "On Certain Issues of Carrying Out the Activities of Business Companies Participating in the Fulfilment of the State Defense Order", <http://publication.pravo.gov.ru/Document/View/0001202303030004> (accessed March 22, 2023).

⁴ 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).

international crimes, which can be prosecuted by domestic courts⁵ outside Russia under the doctrine of "universal jurisdiction."⁶

On 24 February 2023, The Financial Action Task Force (FATF) suspended Russia's membership as a result of the war, calling on all actors in the international financial system to exercise extreme caution in all dealings with Russia.⁷ In practice, the decision means that all international banks will scrutinise all Russian payments, making financial transactions more expensive, lengthy, with no guarantee that the transaction will occur at all.⁸ Although FATF has not yet blacklisted Russia, it highlighted the consensus among its 36 member countries that "the Russian federation's actions represent a gross violation of the commitment to international cooperation upon which FATF Members have agreed to implement and support the FATF Standards."⁹ Previous practice shows that noncooperative behaviour is one of the reasons for FATF blacklisting.

A recent report shows that Russia poses a "real threat to global financial integrity, as well as to national security more broadly."¹⁰ Additionally, the revelation by the Russian president confirming that the internationally recognized transnational criminal organization known as the "Wagner Group" is funded by the Russian government has brought to light a range of alarming risks related to money laundering, terrorist financing, and other financial crimes for businesses involved in or working with Russia.¹¹ It is now a distinct possibility that businesses continuing their operations and paying taxes in Russia may be providing financial support to the Wagner Group, a notorious paramilitary organization.

Companies may also be exposed to financially material risks through operational restrictions, such as limitations of future government contracts.¹²

Additionally, the Ukrainian government's [National Agency on Corruption Prevention](#) (NACP) is creating a list of "foreign companies that, despite the international recognition of Russia as the

⁵ For example, the French company Lafarge is charged for complicity in war crimes and crimes against humanity in Syria (will properly link later).

⁶ For example, ongoing proceedings in the US and France against the French multinational Lafarge for complicity in human rights violations in Syria. The Paris Court of Appeal, "La Cour d'appel de Paris confirme la mise en état de la multinationale française Lafarge pour complicité de crimes contre l'humanité commis par l'Etat islamique," May 18, 2022, <https://www.doughtystreet.co.uk/sites/default/files/media/document/Press%20release%20french%20version.pdf> (accessed March 22, 2023); United States Attorney's Office, Eastern District of New York, "Lafarge Pleads Guilty to Conspiring to Provide Material Support to Foreign Terrorist Organizations," October 18, 2022, <https://www.justice.gov/usao-edny/pr/lafarge-pleads-guilty-conspiring-provide-material-support-foreign-terroris> (accessed March 22, 2023).

⁷ FATF, "FATF Statement on the Russian Federation," February 24, 2023, <https://www.fatf-gafi.org/en/publications/Fatfgeneral/fatf-statement-russian-federation.html> (accessed March 14, 2023).

⁸ Liudmyla Sliptsova, "Russia's membership in the FATF suspended. What does this mean and how ruinous is this for the aggressor's economy?," *Mind*, February 27, 2023, <https://mind.ua/en/publications/20253993-russias-membership-in-the-fatf-suspended-what-does-this-mean-and-how-ruinous-is-this-for-the-aggre> (accessed March 14, 2023).

⁹ FATF (n 7).

¹⁰ Themis, "Russia; Country Risk Report," June 2023, <https://themisservices.co.uk/country-risk-report-russia> (accessed June 26, 2023).

¹¹ Telegram, "Встреча Путина с военными и его заявления по поводу ЧВК "Вагнер," June 27, 2023, https://t.me/rian_ru/207202 (accessed July 3, 2023).

¹² 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).

aggressor state and the introduced sanctions restrictions, continue to cooperate with it.”¹³ These companies are recognised as international sponsors of war. The listed entities will be included into the World-Check database to protect the global financial sector from Russian sponsors of war. Since banks and insurance companies use World-check to assess risks, companies on the list will be limited in freely accessing personal and corporate finances. Likewise, companies named as sponsors of war may be excluded from future procurement opportunities in Ukraine’s reconstruction. So far there are 43 companies on the list, with NACP noting that the list consists of “international companies that provide the public and private sector with goods and services of critical purpose, as well as [those that] contribute to the Russian budget.”¹⁴

Companies that maintain business relationships with Russia risk being perceived as supporting Russia’s war effort. This could have a negative long-term impact on sales in other countries and attract investor scrutiny over adherence to ESG principles. The longer it takes for brands to extricate themselves from the situation, the more damaging it will be for their reputation.

In response to this unprovoked and unjustified war¹⁵ many other companies have already left Russia. According to the Kyiv School of Economics Institute’s #LeaveRussia [company tracker](#), Hochland has decided to pause some while continuing other operations in Russia. These activities in Russia risk enabling and financing Russia’s violations of international humanitarian and human rights law during the ongoing invasion and occupation of Ukraine.

Considering these risks and the company’s continued presence in Russia, we would like to pose the following questions to Hochland:

1. In April 2022, Hochland issued a statement condemning the war and announcing that the company has imposed an advertising and investment freeze in Russia.¹⁶ The statement further clarifies Hochland’s position by stating that the company is maintaining food production at its Russian sites because Hochland does not believe that the sanctions should “hit those responsible for this war hard, but not the people in Russia.”¹⁷
While we do not deny that some goods and foodstuffs are essential in preventing food shortage and undernutrition of the local population, in determining which products are essential, businesses should consider the nutritional needs of the affected population, focusing on nutrient dense foods, such as foods rich in proteins, vitamins, and minerals, including a mix of cereals (such as maize, wheat, rice, or millet), pulses (such as lentils, beans, chickpeas, or peas), oil, and fresh or processed fruits and vegetables. Businesses should also consider the availability of other sources of food, the availability of local substitutes, and the potential human rights risks and impacts associated with their operations. Furthermore, when determining the scope and

¹³ NACP, “International Sponsors of War,” <https://sanctions.nazk.gov.ua/en/boycott/> (accessed February 6, 2023).

¹⁴ NACP, “Companies from the NACP list of “International Sponsors of War” are now in the World-check database, used worldwide for reviewing counterparties,” September 7, 2022, <https://nazk.gov.ua/en/news/companies-from-the-nacp-list-of-international-sponsors-of-war-are-now-in-the-world-check-database-used-worldwide-for-reviewing-counterparties/?hilite=sponsor+of+war> (accessed February 6, 2023).

¹⁵ 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.”

¹⁶ Hochland, “Information about Hochland activities in Russia,” April 6, 2022, <https://www.hochland-group.com/en/news/pm-information-about-hochland-activities-in-russia.htm#:~:text=The%20Hochland%20Group%20operates%20three,been%20with%20us%20for%20decades> (accessed October 14, 2023).

¹⁷ Ibid.

meaning of essential goods, it is crucial to apply a contextual, conflict-sensitive approach. In the context of the war in Ukraine and ongoing operations in Russia, the concept of essentiality should prioritise items such as life-saving medicines that are not manufactured in Russia, while excluding goods such as food and hygiene items that are readily available locally. The continued production, distribution, and import of goods that are available/easily substituted locally and non-essential, in a way that their absence would not be life-threatening to the local population, indirectly perpetuates the conflict by sustaining the resources that enable Russian aggression.

-Can Hochland provide its definition and list of services or goods it considers essential or “basic” in light of the particular circumstances of this conflict?

-Can Hochland provide a list of services or goods that it stopped distributing or producing since the outbreak of the war because they are not considered essential or “basic”?

-Has Hochland considered whether its services or goods can be replaced with local substitutes?

-Which stakeholders has Hochland engaged with in determining its policies and the decision to stay in the market?

- Has Hochland considered all the circumstances and complexities of the Russo-Ukrainian war, including numerous human rights violations and war crimes committed in Ukraine, as well as the fact that Russia is an aggressor state, in determining to continue providing its goods and services within Russia?

2. In a time when many international companies are exiting Russia so as not to be complicit with the aggressor’s war crimes in Ukraine or contribute to the financing of the war, Hochland’s revenue in Russia seems to be growing.

We understand that Hochland’s business may be in compliance with sanctions. However, while compliance with sanctions is essential and obligatory, it should not be confused with fulfilling a company’s obligation under the international standards for business and human rights.

Observing and respecting the sanctions regime is complementary, but distinct, from observing and respecting responsibilities as outlined in the internationally endorsed and accepted UNGPs.

-How is Hochland ensuring its compliance with the UNGPs, the OECD guidance, and other internationally recognised standards on business and human rights, as well as the LkSG?

-Does Hochland recognise that it is operating in an aggressor state and that the UNDP requires companies in this case, in addition to respecting human rights and international humanitarian law, at a minimum, to assess, and avoid or mitigate its connection to the war efforts of the aggressor country to ensure that they do not exacerbate the situation?

3. As a reminder, Bonduelle and Auchan have recently faced significant backlash because their goods were sent to Russian troops in Ukraine, some with notes wishing "a speedy victory."¹⁸ Both companies deny these allegations.

-How has Hochland practised due diligence in preventing the direct supply of its products to the Russian military?

-Does Hochland have policies, mechanisms, and tools in place to carry out enhanced due diligence of supply chains, intermediaries, customers, and end-users to prevent the supply of goods to the Russian army?

¹⁸ Euromaidan Press, “Bonduelle accused of gifting 10,000 food kits to Russian troops; French office denies,” January 3, 2023, <https://euromaidanpress.com/2023/01/03/french-bonduelle-gifts-10000-food-kits-to-russian-troops-wishes-them-victory/> (accessed May 4, 2023); Business and Human Rights Resource Centre, “New evidence reveals Auchan was fully aware of destination of its goods supplied to Russian army,” March 3, 2023, <https://www.business-humanrights.org/en/latest-news/russia-auchan-allegedly-supports-soldiers-fighting-in-ukraine-despite-french-management-denials-recent-investigation-reveals-more-proofs/> (accessed May 4, 2023).

-If so, how were they utilised for defining business connections that involve the Russian government, its agencies, and state-controlled or sanctioned organisations?

4. We understand and agree that Hochland has obligations towards its 1,600 employees in Russia. These obligations are laid out under the UNGPs and in the wider international human rights legal and regulatory framework.

-Can Hochland clarify how it is working to minimise the risks and impacts to its employees?

-How has the company applied heightened human rights due diligence to its operations in Russia considering the new Russian legislation requiring businesses to help conduct military registration, deliver the summons to its employees, and provide resources where required?

-Has Hochland received any such requests, and if so, how has the company responded to them?

-What is Hochland doing to safeguard its employees from mobilisation?

-Have any of your employees been mobilised and, if so, what was Hochland's role in the process?

5. The safety of employees is and should be a considerable point of concern and obligations for companies. But in light of the specific context of the illegal war on Ukraine, there are other options for the safeguarding of employees that can and have been used by other international companies in Russia. Many companies have offered relocation packages, or contractual clauses which condition the continued employment and safety of employees remaining in Russia. For example, if Hochland had decided to sell its Russian business it could have included contractual clauses to ensure the continued safety of its employees, as previously exemplified by the actions of the French Publicis Groupe who employed 1,200 people in the country.

-Has Hochland considered any of these or other options before deciding to continue operations in Russia?

- How does Hochland reconcile its expressed concern over its Russian employees in light of the Russian legislation which obliges companies to delivery military summons with active (71) job vacancies the company is advertising in Russia?¹⁹

6. We understand that Hochland also expressed that leaving the Russian market "will have no impact on the course of hostilities or Putin's decisions."²⁰ Hochland's CEO also highlighted concerns over benefiting Russia by saying "As a last resort, we would have to sell the factories to Russian oligarchs - for pennies. Well, who will benefit from this?"²¹ Likewise, as seen from recent examples of Danone and Carlsberg, there is a risk of asset expropriation for western companies operating in Russia. However, the various financial, operational, reputational, and legal risks of operating in Russia outweigh these issues. We would also like to point out that the loss of access to innovative technologies, specialised management practices, and intellectual property that remains in the possession of Hochland, could severely hinder the performance and innovation capabilities of the business' legal successor, meaning that it would not benefit the Russian economy in the long run. In the event of asset seizures, affected companies can consider writing off their assets and pursuing international legal remedy.

-Has Hochland considered pursuing arbitration or any other legal remedy in the event of asset seizure before deciding to stay in Russia? Has the company considered minimising

¹⁹ Hochland Russia, <https://hh.ru/employer/4920?hhtmFrom=vacancy> (accessed October 14, 2023).

²⁰ Katrin Terpitz, "Hochland remains in Russia: "Who will benefit if we have to sell the business to the oligarchs?,"" *inosmi*, April 29, 2022, <https://inosmi.ru/20220429/inofirmy-254012641.htm> (accessed October 11, 2023).

²¹ *Ibid.*

the benefit to Russia, and completely distancing itself from the aggressor state in order to avoid a plethora of legal, reputational, financial, or operational risks? Has the company juxtaposed these views to the benefits of Hochland's ongoing operations to Russia, such as tax contributions and normalisation effects?

7. In contrast to many companies exiting the Russian market or minimising their Russian operations, Hochland increased its revenue in 2022 to \$536mn, compared to \$424mn in 2021, making the company one of the top German companies with the greatest increase in sales in Russia. Considering its significant position in the Russian economy, Hochland is a significant taxpayer in Russia. This could make the company indirectly involved in financing Russian aggression since corporate taxes are estimated to make up a significant proportion of Russia's GDP.
 - How much tax has Hochland paid in Russia in 2022 and 2023?**
 - How does Hochland comment on its significant contributions to the Russian state coffers and potential contributing to the financing of the aggression against Ukraine?**

8. Hochland has a wide portfolio of a globally recognised brands. By choosing to continue operating in Russia, the company inadvertently grants the regime a sense of legitimacy and approval. By leveraging the power and reputation of its name, Hochland indirectly expresses support for the regime's actions, which could be interpreted as condoning the war. The continued presence of Hochland's products in the Russian market creates a perceived association between the company and the Russian government, which may not align with the values of its customers.
 - How is Hochland ensuring that it does not align itself and the names of its brands with the war and the Putin regime?**

9. Other companies have faced legal, administrative, and ethical challenges and still committed to, and exited, Russia. Hochland has decided to stay in the country, even after over one year since the start of the war, over 100,000 reported war crimes, over 27,000 Ukrainian civilians killed or injured, and with the head of the Russian state indicted by the International Criminal Court for alleged war crimes, namely the abduction of Ukrainian children.
 - Considering these developments and the rising number of reported human rights abuses and war crimes, has Hochland considered fully exiting Russia so as not to be even indirectly or remotely associated with these crimes?**

We request an urgent dialogue with Hochland's relevant senior management and staff to discuss the company's ongoing activities and relationships in Russia and associated risks to the people of Ukraine and the company. Please contact the B4Ukraine Coalition at contact@b4ukraine.org to schedule a call. We kindly ask for your response by 5:00pm CET, October 30th, 2023.

Sincerely,

The B4Ukraine Coalition