

Joaquin Duato
Chief Executive Officer
1 Johnson And Johnson Plaza
New Brunswick
New Jersey, US 08933

CC: Johnson & Johnson Executive Team and Board of Directors

January 4, 2023

RE: Johnson & Johnson's business operations in Russia

Dear Mr. Duato,

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. 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 Johnson & Johnson's (J&J) 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 J&J's Position on Human Rights (2022), which proclaims the company's commitment to "fundamental rights and dignity of all people" and is guided by "the principles set forth in the following international documents: Universal Declaration of Human Rights; International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; International Labour Organization (ILO) Declaration on Fundamental Principles and Rights at Work; Organization for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises; United Nations (UN) Guiding Principles on Business and Human Rights."¹ J&J is also a signatory of the UN Global Compact and claims to support its principles.² These commitments are supplemented by J&J's Credo, Global 2022 Modern Slavery Statement, Anti-Human Trafficking Policy, 2021 Health and Humanity Report, ESG Strategy, and numerous other company documents.³

It has been ten months since Russia invaded Ukraine and the devastating impacts continue to shock

¹ Johnson & Johnson, "Position on Human Rights," <https://www.jnj.com/about-jnj/policies-and-positions/our-position-on-human-rights> (accessed December 7, 2022).

² Ibid.

³ Johnson & Johnson, "ESG Policies and Positions," <https://www.jnj.com/about-jnj/policies-and-positions> (accessed December 7, 2022).

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 17,000 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](#), J&J has taken steps to withdraw from the Russian market. In March, the company announced that it was suspending all advertising, enrollment in clinical trials, supply of personal care products and any additional

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.”

investment in Russia.⁸ We appreciate these appropriate actions. However, while we commend J&J for taking steps to limit its operations in Russia and express concern for the people of Ukraine, by continuing to serve the Russian market the company is failing to uphold its human rights commitments and risks contributing to Russia's war of aggression.

According to our research, J&J continues to perform a leadership role in the Russian pharmaceutical market, maintaining a significant presence and operational footprint in the state. J&J is one of the top producers by sales volumes in the Russian pharmaceutical market.⁹ It generates 1 percent of its revenue from Russia, and pharmaceuticals account for half of the business in the country.¹⁰ The company has three regional offices and generates revenue of \$1078 million in the Russian Federation, and as such it is a significant taxpayer in the country.¹¹ Further, the company maintains a staff of 1675 people in Russia.

A new report by the Moral Rating Agency names J&J as the third most egregious offender on its "Dirty Dozen" list of companies failing to exit Russia or limit business operations, despite condemning the invasion of Ukraine.¹² The report notes that J&J is one of the Western companies with the heaviest involvement in Russia, indicating specifically the continued operation of the J&J Moscow Institute and the activity regarding pharmaceutical and medical devices.¹³

It is our understanding that J&J continues to provide medical devices and medicines to Russia, referring to humanitarian and health related reasons. While medicine is not proscribed under existing sanctions, the blanket argument by pharmaceutical companies that they are providing "essential goods" has attracted criticism.¹⁴ 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.¹⁵

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 J&J's human rights commitments. It remains to be seen how directly the company will be impacted by the partial

⁸ Johnson & Johnson, "Johnson & Johnson Statement on War in Ukraine," March 29, 2022, <https://www.inj.com/johnson-johnson-statement-on-war-in-ukraine> (accessed December 8, 2022).

⁹ DSM Group, "Russian Farmaceutical Market 2021," https://dsm.ru/docs/Annual_report_DSM_2021_EN.pdf (accessed December 8, 2022).

¹⁰ Reuters, "J&J to stop selling personal care products in Russia," March 29, 2022, <https://www.reuters.com/article/ukraine-crisis-johnson-johnson-idTRNIKCN2LQ162> (accessed December 10, 2022).

¹¹ Leave Russia, "Johnson & Johnson," <https://leave-russia.org/johnson-johnson> (accessed December 10, 2022).

¹² Louis Goss, "BP, Unilever, and HSBC have failed to properly exit Russia after Ukraine war, new report warns," January 2 2023, <https://www.cityam.com/bp-unilever-hsbc-have-failed-to-properly-exit-russia-new-report-warns/> (accessed January 3, 2023).

¹³ Moral Rating Agency, <https://moralratingagency.org/> (accessed January 4, 2023).

¹⁴ 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).

¹⁵ 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).

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 J&J's exposure to Russia and how the company 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.

We recognize a possible outcome of meaningful human rights due diligence could result in J&J maintaining the provision of essential goods or services that are vital for the health, safety, and wellbeing of the public. However, J&J has not provided sufficient and proper explanations of the criteria or process the company is using to make such a claim. We invite J&J to explain why the company's medicines are essential to the Russian market, why no alternative products are available or no other local actor(s) can supply the medicines, and how the company will mitigate its proximity to Russian human rights harms.

In consideration of the above points and B4Ukraine's [Declaration](#), we request an urgent dialogue with J&J'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 B4Ukraine at contact@b4ukraine.org to schedule a call. We kindly ask for your response by 5:00pm CET, January 18th, 2023.

Sincerely,

The B4Ukraine Coalition