

Willi Liebherr
Chief Executive Officer
Rue Hans-Liebherr 7,
1630 Bulle/FR
Switzerland

CC: Liebherr's Executive Team and Board of Directors

December 1, 2022

RE: Liebherr's business operations in Russia

Dear Mr Liebherr,

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 Liebherr'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.

We acknowledge Liebherr's stated commitment to human rights. According to the company's Corporate Responsibility Policy (2022), the "Group is guided by the ten principles of the United Nations Global Compact on human rights, labor standards, the environment and anti-corruption, as well as the Sustainable Development Goals of the United Nations."¹ The Policy states that these principles apply to all companies worldwide.

Additionally, Liebherr's Core Values states that the company aims "at all times to fulfil our responsibility to society in general", with references to protection of humanity as well as integrity and "fair business methods".² Liebherr's Code of Conduct (2022) also lists human rights as a priority.³ The Supplier Code of Conduct reads: "Liebherr is guided by integrity, ethics, sustainability and lawful conduct. Liebherr expects the same conduct from its business partners," and commits to compliance

¹ Liebherr, "Corporate Responsibility Policy 2022," <https://www.liebherr.com/shared/media/corporate/documents/brochures/corporate-responsibility/corporate-responsibility-liebherr-english.pdf> (accessed November 24, 2022).

² Liebherr, "Core Values," <https://www.liebherr.com/en/sgp/about-liebherr/core-values/core-values.html#!/accordion-start-module=accordion-item-start-module-4> (accessed November 24, 2022).

³ Liebherr, "Code of Conduct 2022," https://www.liebherr.com/shared/media/corporate/documents/brochures/compliance/code-of-conduct/li_compliance-groupemployees_a4_en.pdf (accessed November 24, 2022).

with "all applicable export controls, sanctions, custom laws and regulations, including applicable trade restrictions, embargoes and other constraints on the import and export of goods, services and information."⁴

It has been 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 civilians and civilian infrastructure (e.g., mass executions, sexual violence, torture, forcible transfer of civilians, destruction of electricity, heat and water supply lines). 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.⁵ 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.⁶

⁴ Liebherr, "Supplier Code of Conduct,"

https://www.liebherr.com/shared/media/corporate/documents/brochures/liebherr-worldwide/germany/lps/li ebherr_supplier-code-of-conduct_en_.pdf (accessed November 24, 2022).

⁵ 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).

⁶ 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).

Companies may be exposed to financially material risks through operational restrictions, such as limitations of future government contracts.⁷

In response to this unprovoked and unjustified war⁸ many companies have left Russia. According to the Kyiv School of Economics Institute's #LeaveRussia [company tracker](#), Liebherr continues its operations in Russia. In its March 3 statement on the situation in Ukraine, the Liebherr Group declares its support to the sanctions imposed on Russia.⁹ More specifically, the company states:

[W]e are currently implementing these extensive sanction measures. This will have an impact on Liebherr's business in Russia. Since the situation is highly dynamic, it is too early to make concrete statements as to the extent of this impact. Therefore, we cannot conduct a final assessment at this point in time.

This statement was made in the days immediately following the start of the the full-scale Russian military invasion. The war is now in its ninth month. No further official updates have been made on the Liebherr Group's behalf and it remains active in Russia. According to the #LeaveRussia [company tracker](#), Liebherr is one of the top 100 largest companies in Russia based on revenue.¹⁰ These activities in Russia risk enabling and indirectly financing Russia's violations of IHL and human rights law during the ongoing invasion and occupation of Ukraine and violating Liebherr's human rights responsibilities.

There are also reports in Russian media that 37 employees of Liebherr's machine-building plant in Nizhny Novgorod were conscripted to the army after being sent for a medical examination.¹¹ If the reporting is accurate, this exposes Liebherr to 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 Liebherr's exposure to Russia and how Liebherr 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.

⁷ 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).

⁸ 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."

⁹ Liebherr, "On the current situation in Ukraine," March 03, 2022, <https://www.liebherr.com/en/int/latest-news/news-press-releases/detail/on-the-current-situation-in-ukraine.html> (accessed November 24, 2022).

¹⁰ KSE Institute, "Liebherr," <https://leave-russia.org/liebherr> (accessed November 24, 2022).

¹¹ Pavel Vasiliev, "Конвейер. Как заводы и другие крупные предприятия сотнями отправляют своих сотрудников в армию," *Mediazona*, September 28, 2022, <https://zona.media/article/2022/09/28/conveyor> (accessed November 27, 2022).

In consideration of the above points and B4Ukraine's [Declaration](#), we request an urgent dialogue with Liebherr'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 at your earliest convenience, preferably within the next two weeks.

Sincerely,

Eleanor Nichol
Executive Director
The B4Ukraine Coalition