

From: **Nestor, Peter** <[peter.nestor@novartis.com](mailto:peter.nestor@novartis.com)>  
Date: Wed, Jan 4, 2023 at 4:57 PM  
Subject: RE: Request for a meeting with Novartis regarding business operations in Russia  
To: Ellie Nichol <[enichol@b4ukraine.org](mailto:enichol@b4ukraine.org)>, Moosmayer, Klaus <[klaus.moosmayer@novartis.com](mailto:klaus.moosmayer@novartis.com)>  
Cc: Bennett Freeman <[bf@bfreemanassociates.com](mailto:bf@bfreemanassociates.com)>

Dear Eleanor –

Thanks for your letter.

Novartis condemns the war in Ukraine and has been providing humanitarian support, financial donations as well as considerable volumes of medicines to those people impacted by the war.

As a medicines company, to date we have delivered more than 1.3 million packs of antibiotics, painkillers, cardiovascular, and oncology treatments - which amounts to more than USD 33 million in medical aid, to maintain the supply to those who rely on these drugs in Ukraine and in the border areas where people are seeking refuge. This is in addition to an initial USD 3 million donation to charities supporting refugees and displaced people in Ukraine and bordering countries. Patient organizations (POs) face an unprecedented challenge to deliver their core support services and address pressing additional needs during the war in Ukraine. This includes services such as patient transfer to get treatment abroad, translations of medical reports and patient data and disseminating knowledge of hospitals prepared to admit patients etc. POs are rising to the challenge to ensure the health and safety of their constituents which Novartis is supporting with USD 1 million in aid.

On May 11, 2022, we submitted our response to a survey from the Business and Human Rights Resource Center (BHRRRC) regarding responses to the war, including ongoing operations in Russia. We were one of 24 companies (out of the 115 who responded) to receive “full response” credit from the BHRRRC. Our response from May 11 is still accurate. More details about our products are available on our website, but our overall medicines portfolio includes a range of pharmaceuticals that address cardiovascular, neurological, immunological, oncology, ophthalmology, antibiotics, and antiviral disease areas, among others. On October 5, 2022, we responded to a follow-up inquiry from the BHRRRC regarding the troop mobilization in Russia, which is also still accurate.

By way of background on our approach to human rights, in 2021 we adopted our first comprehensive [Human Rights Commitment Statement](#) (updated in December 2022). Access to medicine and the right to health are salient human rights for our company, as articulated in our commitment statement. Article 12 of the International Convention on Economic, Social, and Cultural Rights (ICESCR) ensures that everyone has the right to the highest attainable standard of mental and physical health. International Humanitarian Law requires access to medicine to be provided to civilians during times of conflict.

The current sanctions regimes against Russia, operating under these international standards, have excluded pharmaceutical products. However, the sanctions regimes do not permit the sale of products such as cosmetics, biocidal products, herbal medicines, or food supplements, which Novartis does not produce or sell. See European Commission, “FAQ on medicines and medical devices concerning sanctions adopted following Russia’s military aggression against Ukraine” (July 29, 2022), available at [https://finance.ec.europa.eu/publications/medecines-and-medical-devices\\_en](https://finance.ec.europa.eu/publications/medecines-and-medical-devices_en). Given the profile of Novartis’s medicine portfolio, and our commitment on access to medicine, restricting access to our products for civilian populations in this operating context would not be consistent with these obligations.

However, we have not continued “business as usual” in Russia. We have suspended capital investments, marketing, and promotional activities. We have suspended new clinical trials, including accepting new participants in ongoing clinical trials. Consistent with our obligations under the UN Guiding Principles on Business and Human Rights, we are actively monitoring the situation.

Sincere regards,

Klaus Moosmayer, Chief Ethics, Risk, and Compliance Officer

Peter Nestor, Global Head of Human Rights

**Peter Nestor**

Global Head of Human Rights

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Vasant Narasimhan  
Chief Executive Officer  
Forum 1, Novartis Campus  
CH-4056 Basel  
Switzerland

CC: Novartis' Executive Team and Board of Directors

December 13, 2022

RE: Novartis business operations in Russia

Dear Mr. Narasimhan,

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 public support for the people, democracy, and territorial integrity of Ukraine, opposition to Russia's war of aggression, alignment with the UN Guiding Principles on Business and Human Rights (UNGPs), and the international rules-based order.

We request an urgent dialogue regarding potential inconsistencies between Novartis AG's (Novartis) 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 Novartis's stated commitment to "conduct business in a manner that respects the rights and dignity of all people."<sup>1</sup> Novartis's Human Rights Statement establishes the company's "foundational commitment to the International Bill of Human Rights, ILO Core Labor Conventions, and the UN Guiding Principles on Business and Human Rights."<sup>2</sup> We also recognize that Novartis's human rights program is overseen by a member of the Executive Committee of Novartis and integrated into the Ethics & Compliance team.<sup>3</sup> Furthermore, Novartis has conducted several human rights impact assessments and regularly reports on its progress towards fulfilling these commitments.<sup>4</sup>

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<sup>1</sup> Novartis, "Human Rights Commitment Statement," 2021, [https://www.novartis.com/sites/novartis\\_com/files/novartis-human-rights-commitment-statement.pdf](https://www.novartis.com/sites/novartis_com/files/novartis-human-rights-commitment-statement.pdf) (accessed December 8, 2022).

<sup>2</sup> Novartis, "Human Rights Commitment Statement," 2021, [https://www.novartis.com/sites/novartis\\_com/files/novartis-human-rights-commitment-statement.pdf](https://www.novartis.com/sites/novartis_com/files/novartis-human-rights-commitment-statement.pdf) (accessed December 8, 2022).

<sup>3</sup> Novartis, "Human Rights," <https://www.novartis.com/esg/ethics-risk-and-compliance/human-rights> (accessed December 8, 2022).

<sup>4</sup> Novartis, "Upholding our commitment to human rights," <https://www.reporting.novartis.com/2021/novartis-in-society/our-performance/build-trust-with-society/holdi>

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 by committing war crimes and crimes against humanity through attacks on civilians (e.g., mass executions, sexual violence, torture, forcible transfer of civilians) and civilian infrastructure. 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.

As the company is aware, on September 21, Russian 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.<sup>5</sup> 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.<sup>6</sup> Companies may be exposed to financially material risks through operational restrictions, such as limitations of future government contracts.<sup>7</sup>

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[ng-ourselves-to-high-ethical-standards/upholding-our-commitment-to-human-rights.html](#) (accessed December 8, 2022).

<sup>5</sup> 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 18, 2022).

<sup>6</sup> 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 December 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 December 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 December 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 18, 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 December 8, 2022).

<sup>7</sup> 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 December 8, 2022).

In response to this unprovoked and unjustified war<sup>8</sup> many companies have left Russia. According to the Kyiv School of Economics Institute's (KSE) #LeaveRussia [company tracker](#), Novartis has limited its operations in Russia as a direct response to the invasion of Ukraine. On March 4, 2022, Novartis formally condemned the war in Ukraine, committed to humanitarian efforts, suspended investments in Russia, and stopped all commercial marketing activities.<sup>9</sup> A few weeks later, Novartis further announced that it was pausing new clinical trials and the enrollment of new study participants in existing trials.<sup>10</sup> We appreciate these appropriate actions.

However, the company stated it will “remain committed to provid[ing] access to our medicine in Russia.”<sup>11</sup> In response to questions posed by the Business & Human Rights Resource Centre regarding the impact of the “partial mobilisation” decree on the company’s operations in Russia, Novartis recently stated that “the safety and security of our people” is “our number one objective” and “our immediate priority.”<sup>12</sup> While we commend Novartis for taking steps to limit its operations in Russia and express concern for the people of Ukraine, by continuing to serve the Russian market Novartis is failing to uphold its human rights commitments and risks contributing to Russia’s war of aggression.

Novartis continues to perform a leadership role in the Russian pharmaceutical market, maintaining a significant presence and operational footprint in the state. According to the KSE company tracker, in 2021, Novartis maintained a staff of more than 2,000 employees in Russia and earned \$642 million in revenue.<sup>13</sup> Given the company’s commitment to continue operations in Russia and its ongoing search for new employees,<sup>14</sup> we believe Novartis actions are inconsistent with its statements.

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 Novartis’ human rights commitments. It remains to be seen how directly Novartis 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 Novartis’s exposure to Russia and how Novartis 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

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<sup>8</sup> 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.”

<sup>9</sup> Novartis, “Novartis condemns the war in Ukraine and commits to supporting humanitarian efforts,” March 4, 2022, <https://www.novartis.com/news/novartis-condemns-war-ukraine-and-commits-supporting-humanitarian-efforts> (accessed December 8, 2022).

<sup>10</sup> Novartis, “Novartis condemns the war in Ukraine - update March 22,” March 22, 2022, <https://www.novartis.com/news/novartis-condemns-war-ukraine-update-march-22> (accessed December 8, 2022).

<sup>11</sup> Ibid.

<sup>12</sup> Business & Human Rights Resource Centre, “Novartis response,” October 5, 2022 <https://www.business-humanrights.org/en/latest-news/novartis-response-2/> (accessed December 8, 2022).

<sup>13</sup> KSE Institute, “Novartis,” <https://leave-russia.org/novartis> (accessed December 8, 2022).

<sup>14</sup> Headhunter, “Novartis,” [https://hh.ru/search/vacancy?text=Novartis&from=suggest\\_post&area=1](https://hh.ru/search/vacancy?text=Novartis&from=suggest_post&area=1) (accessed December 8, 2022).

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 Novartis maintaining the provision of essential goods or services that are vital for the health, safety, and wellbeing of the public. However, Novartis has not provided sufficient and proper explanations of the criteria or process the company is using to make such a claim. We invite Novartis 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 Novartis'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](mailto:enichol@b4ukraine.org) to schedule a call. We kindly ask for your response by 5:00pm CET, 4th January 2023.

Sincerely,

Eleanor Nichol  
Executive Director  
The B4Ukraine Coalition