



B4Ukraine

sent by email to contact@b4ukraine.org

13th March 2023

HEINEKEN N.V.

Stadhouderskade 79

1072 AE Amsterdam

T: +31 (0)20 5239 239

Dear B4Ukraine,

Thank you for your letter dated 24th February 2023. Mr Van den Brink has asked me to respond on behalf of HEINEKEN.

All of us at HEINEKEN continue to be shocked and saddened by the war in Ukraine. The strength and resilience of the Ukrainian people is remarkable, despite the continuing horrors that are happening in your country.

Please be in no doubt – HEINEKEN will keep its promise to leave Russia. HEINEKEN is committed to leaving Russia and we're doing everything we can to find a suitable new owner for our business while taking care of our local employees.

We've been in Russia for 20 years and we're the third largest brewer in the country. We have 7 breweries and around 1800 colleagues across the country. The Russian business accounts for around 2% of our global sales.

When the war started, we took quick action, stopping new investments into Russia, ending beer exports and stopping the production, sale and advertising of the Heineken® brand. We undertook a strategic review of the business and on 28th March, announced our decision to leave Russia and transfer the business to a new owner. We made it clear that we would financially ringfence the business – meaning no money would flow into Russia and no money would flow out. This meant we would not accept any royalties, fees or dividends. Our aim was to make sure that we would not profit from activities in Russia while we found a new owner. This remains the case.

We faced two major dilemmas at the start of the war and these continue today:

- **Protect the livelihoods and safety of local employees** - we wanted to leave as quickly as possible, but we also had a responsibility to look after our employees. People ask why not simply suspend or close the Russian operations? The truth is the business would've very quickly gone bankrupt, and as a result, employees would have lost their livelihoods. And because as everyone knows, it's hard to sell a loss-making business, we would've deprived them of a chance of future employment with a suitable new owner.

Bankruptcy could also have led to criminal prosecutions of our managers in the country. Two days after we announced the withdrawal of Brand Heineken®, we received letters from local authorities warning of prosecutions if this decision led to the suspension or closure of our Russian operations. This is because 'intentional bankruptcy' is a criminal offence in Russia. At the same time, legislation was going through the Russian Parliament to give the government authority to nationalise foreign companies that left or stopped operations. We assessed these risks as significant and still do.

- **Avoiding nationalisation** - If we couldn't find a suitable owner, would it be better for employees if the business was nationalised? Here we had two points of view. First, we don't think the Russian state or the people closest to it would have the best interests of our people at heart. Second, we were uncomfortable that the Russian state should benefit from forced appropriation of major business assets. So, we decided we should do everything possible to avoid nationalisation, while leaving as quickly as possible.

In navigating the complexity of this situation and the dilemmas it poses, we created three guiding principles for our decision-making, which are aligned to our company values:

1. **Care and safety of local employees** – we'll do our best to secure the future livelihoods of our almost 1,800 employees. In addition to finding a responsible party to buy the business, this also means keeping the business afloat until the sale to avoid bankruptcy, which is particularly challenging since the Russia business is now self-funding with no money flowing in from HEINEKEN Group.



2. **No financial gain** – we've financially ring-fenced the business – meaning no money is going into Russia and no money is going out. This means no royalties, no fees and no dividends are paid to the HEINEKEN Group from Russia. We don't profit from the ongoing operations and we won't profit from the transfer of ownership. We actually expect a loss of approximately €300 million.
3. **Keep our promise to leave Russia** – we're working hard to sell the business and aim to reach agreement with a new owner in the first half of 2023.

You raise questions regarding the launch of new products in Russia. We understand this was of concern to many people. We should've been clearer from the outset that the business in Russia would need to introduce new local products in order to avoid bankruptcy after brand Heineken® and two other large international brands were removed from the market at the start of the war. You can't sell a loss-making business and their aim was to keep the business afloat until the transfer of ownership is completed. The number of new products was reported as being 61 but the local team also removed many from the market meaning the net increase was 16. Sales volumes were broadly flat with half of the gap left by the withdrawal of brand Heineken® and other international brands filled with new products and the other half by existing products already in the Russian market.

Be assured that all royalty payments were stopped from March 2022 and the HEINEKEN Group therefore has no financial benefit from these sales in Russia.

We fully recognise that it's frustrating that the sale is not yet completed. We're also frustrated by how long the process is taking. It's challenging to close a transaction in Russia at the moment as rules continue to shift. All business transfers need multiple approvals by the local authorities. We can't control that timetable or process, but we're working hard to do what is in our control. We're not the only business struggling to exit – recent academic research shows that only 9% of businesses have left Russia. In the brewing sector, our competitors [ABInbev](#) and [Carlsberg](#) both recently reported that they have not yet been able to conclude a sale and leave the country.

We remain focused on announcing an agreement in the first half of 2023 followed by required Russian authority approvals. Meanwhile, we're taking concrete steps to decouple the business from the HEINEKEN Group in preparation for the transfer.

You can read more about [our position](#) and access a full range of [Q&As](#) on our company website.

We hope this answers some of your questions and reassures you of our commitment to leave Russia.

Yours faithfully,

A handwritten signature in black ink, appearing to read "R. Pirmez", written over a horizontal line.

Roland Pirmez

President, Africa, Middle East & Eastern Europe Region

Dolf van den Brink
Chief Executive Officer
Heineken N.V.
Tweede Weteringplantsoen 21C
Amsterdam, 1017
North Holland
Netherlands

RE: Heineken N.V.'s business operations in Russia

February 24, 2023

Dear Mr. van den Brink,

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 Heineken N.V.'s (Heineken's) stated policies on human rights and the company's ongoing business operations and relationships in Russia that may contribute to, or be linked with, human rights harms.

We acknowledge that Heineken has policies in place to guide the company toward ethical behaviour. According to Heineken's Human Rights Policy, the company "[does] business with respect for people's fundamental dignity and their human rights."¹ According to the company:

"Our policy is aligned with the following international standards: The Universal Declaration of Human Rights; The Declaration on Fundamental Principles and Rights at Work of the International Labour Organization (ILO); The Guidelines for Multinational Enterprises of the Organisation for Economic Cooperation and Development (OECD); The United Nations (UN) Guiding Principles on Business and Human Rights."²

Heineken's commitment to human rights is further expressed in its Code of Business Conduct:

"We are committed to our communities and strive to consistently improve the impact we make on the planet. This means that we respect human rights, and treat the people and

¹ Heineken, "Human Rights Policy," September 1, 2018, <https://www.theheinekencompany.com/sites/theheinekencompany/files/our-company/how-we-run-our-business/code-conduct/HEINEKEN-Human-Rights-Policy-Effective-as-per-1-September-2018.pdf> (accessed February 24, 2023).

² Ibid.

places around us with the greatest degree of care. We adhere to the laws and regulations of each of our local markets.”³

The company further reiterates this position in its Supplier Code.⁴

It has been one year 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, and forcible transfer of civilians). More than 18,000 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 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

³ Heineken, “Code of Business Conduct,” <https://www.theheinekencompany.com/our-company/how-we-run-our-business/code-conduct> (accessed February 24, 2023).

⁴ Heineken, “Supplier Code,” <https://www.theheinekencompany.com/sites/theheinekencompany/files/Suppliers/Heineken-NV-2019-Supplier-Code.pdf> (accessed February 24, 2023).

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 January 2, 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,” 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 January 2, 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 January 2, 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 January 2, 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 January 2, 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 January 2, 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 (KSE) #LeaveRussia [company tracker](#), Heineken is scaling back its Russian operations.⁹ On March 28, 2022, Heineken announced its decision to leave the Russian market. Prior to this, Heineken stated that it would stop new investments and exports to Russia, end the production, sale and advertising of the Heineken brand, and announced that it will not accept any net financial benefits or profit from the business in Russia.¹⁰ Following this, Heineken pledged to leave Russia, saying:

“We have concluded that HEINEKEN’s ownership of the business in Russia is no longer sustainable nor viable in the current environment. As a result, we have decided to leave Russia. We aim for an orderly transfer of our business to a new owner in full compliance with international and local laws.”¹¹

Prior to the invasion, Heineken had significant operations in Russia. The company employs 1,800 people in Russia and says it is the third-biggest brewer in the country, where it makes the Zhigulevskoe and Oxota brands for the local market.¹² Its Russian business accounts for 2% of total sales.¹³ In August, Heineken stated in its Financial Report that it plans to reach an agreement to sell its Russian assets valued at a total of 475 million euros in the second half of 2022.¹⁴ Despite Heineken’s statements claiming that it will leave Russia by the end of 2022, the company still has a significant presence in the country.¹⁵

According to a report by *Follow the Money*, the Russian branch of the company “launched 61 new products in 2022 ‘in record time’, accounting for 72 million litres of additional sales in beer and soft drinks.”¹⁶ The report further states that, even though Heineken stopped producing Heineken beer in Russia, due to the growth of the Amstel brand, the company managed to fill the gap. The report, which sourced its information from Heineken’s Russian subsidiary’s website, continues:

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 January 2, 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 KSE, Leave Russia, “Heineken,” <https://leave-russia.org/heineken> (accessed February 24, 2023).

¹⁰ Heineken, “Heineken N.V. announces decision to leave Russia,” March 28, 2022, <https://www.theheinekencompany.com/newsroom/heineken-nv-announces-decision-to-leave-russia/> (accessed February 24, 2023).

¹¹ Ibid.

¹² AFP, “Heineken, Carlsberg and Universal Music Join Russia Exodus,” *The Moscow Times*, March 10, 2022, <https://www.themoscowtimes.com/2022/03/10/heineken-carlsberg-and-universal-music-join-russia-exodus-a-76852> (accessed February 24, 2023).

¹³ Toby Sterling and Jacob Gronholt-pedersen, “Beer giants Heineken and Carlsberg join exodus from Russia,” *Reuters*, March 28, 2022, <https://www.reuters.com/business/heineken-exit-its-russian-operations-2022-03-28/> (accessed February 24, 2023).

¹⁴ Oleksiy Pavlysh, “Heineken plans to sell its Russian business by the end of the year,” *Economic Truth*, August 1, 2022, <https://www.epravda.com.ua/news/2022/08/1/689868/> (accessed February 24, 2023).

¹⁵ KSE (n 9).

¹⁶ Olivier van Beemen, “Heineken reneges on its promise and invests in Russia,” *FTM*, February 23, 2023, <https://www.ftm.eu/articles/heineken-reneges-on-its-promise-and-invests-in-russia?share=R%2F3SSTyk2YLfOfRkGQCp47S4AtSXzi1mXSyApq5%2FF6pvykTYvOgXbe9A3NkcmYk%3D> (accessed February 24, 2023).

“Heineken launched three new subbrands in the Russian market: Amstel Fresh, Amstel Extra and Amstel Natur Wild Berries. ‘We managed to grow the brand almost twice as compared to last year, which was reflected in the market share, which in October amounted to 2%!’¹⁷

The company also produced Black Sheep, a stout beer as a replacement to Guinness, that is now sold in 900 outlets, and expanded its range to non-alcoholic beverages launching several lines at once in the fall – Royal Cola, Tony Lemony, Botanic Secret and the updated Solar Power, with announcements of further expansion.¹⁸ Heineken also continued to pay taxes in the country. The exact amount is not disclosed, but in 2019 the company paid almost 400 million euros. The developments have some Heineken employees saying: “[It] is hypocritical. Heineken is cynically benefiting from the fact that big international brands have pulled out of Russia... This absolutely contradicts the official story about divesting our Russian subsidiary.”¹⁹

While Heineken denied the claims and called the article misleading, the company did “backtrack on its earlier commitment to stop investing in Russia.”²⁰ Heineken’s Russian subsidiary is still wholly owned by Heineken N.V., which means that the parent company exercises control over the subsidiary and that the profits of the subsidiary count towards the parent company’s profits:

“Based on its most recent annual report (2022), Heineken Russia is still a wholly owned subsidiary. The current director in Russia, Greek Georgios Polymenakos, reports to Roland Pirmez, Heineken’s director of the Eastern Europe region. And according to a Heineken manager, approval from headquarters is required for any major innovation, especially for the introduction of a new product.”²¹

We understand that Heineken has been trying to sell its Russian business, but that the process has been complex.²² Heineken reported that it expects an impairment and other non-cash exceptional charges of approximately EUR 0.4 billion in total, and names the safety of its employees and potential nationalisation as reasons for its continued operations.²³ However, today is the one year anniversary of Russia’s full-scale invasion of Ukraine and there are no more grey areas. Companies that have pledged to leave Russia and are still continuing their activities in the country have few excuses left.

The Ukrainian National Agency on Corruption Prevention (NACP) is creating a list of “foreign companies that, despite the international recognition of Russia as the aggressor state and the introduced sanctions restrictions, continue to cooperate with it.”²⁴ These companies are recognised as international sponsors of war. So far there are 15 companies on the list, but the NACP notes that it

¹⁷ Olivier van Beemen (n 16).

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Olivier van Beemen, “Heineken is bawling, but the fact remains: it invested in cola and stout beer in Russia,” *FTM*, February 23, 2023, <https://www.ftm.eu/articles/heineken-2?share=lydjt06MTh7rv2Wwz5EVFcz2w9UuK2QnQZUn%2FQwUOuEhK7s4sAnlaAnxzyEqTCQ%3D> (accessed February 24, 2023).

²¹ Ibid.

²² Maria Gonçalves, “Heineken says Russia exit will take longer than expected,” *The Grocer*, February 16, 2023, <https://www.thegrocer.co.uk/suppliers/heineken-says-russia-exit-will-take-longer-than-expected/676382.article> (accessed February 24, 2023).

²³ Heineken. “HEINEKEN will keep its promise to leave Russia,” February 23, 2023, <https://www.theheinekencompany.com/newsroom/heineken-will-keep-its-promise-to-leave-russia/> (accessed February 24, 2023).

²⁴ NACP, “International Sponsors of War,” <https://sanctions.nazk.gov.ua/en/boycott/> (accessed February 6, 2023).

will be expanded with “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.”²⁵

Due to these apparent inconsistencies, we are requesting a clarification from Heineken on whether it intends to follow through on its commitments and leave the Russian market. 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 Heineken’s Human Rights policies and the company’s commitment to abiding by the UNGPs. It remains to be seen how directly Heineken 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 how Heineken has conducted and continues to conduct heightened human rights due diligence 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.

In consideration of the above points and B4Ukraine’s Declaration,²⁶ we request an urgent dialogue with Heineken’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, March 10th, 2023.

Please do not hesitate to get in touch if you require any further information.

Sincerely,

The B4Ukraine Coalition

²⁵ 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).

²⁶ B4Ukraine, “About,” <https://businessforukraine.info/about> (accessed January 2, 2022).