

Elon Musk
Chief Executive Officer
Tesla Headquarters
1 Tesla Road
Austin, TX 78725

CC: Tesla's Executive Team and Board of Directors

January 6, 2023

RE: Tesla's business operations in Russia

Dear Mr. Musk,

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 Tesla'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 appreciate Tesla's commitment to "do the right thing," provide financial support for conscripted Ukrainian employees in the early days of the war,¹ and assemble Starlink equipment and Powerwalls for use in Ukraine.² We also acknowledge Tesla's stated commitment to human rights as formalised in the company's Human Rights Policy, which states:

Addressing human rights risks is an ongoing effort, involving engagement with our value chain for potential impacts, incorporating the input from external stakeholders as well as reviewing and updating our own policies where necessary. With this understanding, Tesla is committed to addressing any potential human rights issues both within our own operations and those of our value chain.

Moreover, in the Supply Chain Policies and the Tesla Responsible Materials Policy, the company requires suppliers to "use reasonable efforts to ensure that their parts and products supplied to Tesla

¹ Lora Kolodny, "Tesla will pay Ukrainian employees for up to 3 months if they are conscripted to fight," *CNBC*, March 9, 2022, <https://www.cnbc.com/2022/03/09/tesla-will-pay-ukrainian-employees-for-up-to-3-months-if-conscripted.html> (accessed December 1, 2022).

² Lora Kolodny, "Tesla has bought aluminium from Russian company Rusal since 2020, showing how war complicates supply chain," *CNBC*, March 14, 2022 <https://www.cnbc.com/2022/03/14/tesla-has-bought-aluminum-from-russian-supplier-rusal-since-2020.html> (accessed December 1, 2022).

do not contribute to armed conflict, human rights abuses, or environmental degradation, regardless of sourcing location."³ Additionally, Tesla declared its commitment to the "most relevant" United Nations Sustainable Development Goals and lists ethics, human rights, and responsible supply chain management and sourcing as key focus areas.⁴ The company's ongoing relationship with Russian aluminium giant Rusal, exposes a potential discrepancy between the company's stated policies and its actual business conduct.⁵

It has been ten 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 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.⁶ 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 stands in stark contrast with Tesla's promise to keep Ukrainian employees on payroll for at least three months should they be conscripted in order to defend their country.⁷

This mobilisation 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

³ Tesla, "Impact Report 2021," 2021, https://www.tesla.com/ns_videos/2021-tesla-impact-report.pdf (accessed November 30, 2022).

⁴ Ibid.

⁵ Lora Kolodny, "Tesla has bought aluminium from Russian company Rusal since 2020, showing how war complicates supply chain", *CNBC*, March 14, 2022, <https://www.cnbc.com/2022/03/14/tesla-has-bought-aluminum-from-russian-supplier-rusal-since-2020.html> (accessed December 1, 2022).

⁶ 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).

⁷ *CNBC*, "Tesla will pay Ukrainian employees for up to 3 months if they are conscripted to fight", March 09, 2022 <https://www.cnbc.com/2022/03/09/tesla-will-pay-ukrainian-employees-for-up-to-3-months-if-conscripted.html> (accessed November 30, 2022).

abuses abroad.⁸ Companies may be exposed to financially material risks through operational restrictions, such as limitations of future government contracts.⁹

In response to this unprovoked and unjustified war,¹⁰ many companies have left Russia. According to the Kyiv School of Economics Institute's #LeaveRussia [company tracker](#), Tesla continues its operations in Russia. Though Russia is a grey market for Tesla vehicles, the company's website indicates it remains committed to developing supercharges throughout the country.¹¹ More notably, in contrast to its Supply Chain Policy commitments, it has been reported that Tesla sources aluminium from Russia's leading producer, Rusal.¹² Rusal is partially owned by a sanctioned Russian oligarch and sells 90 percent of its mined quartzite and silicon to the Russian Federation and has several contracts with various Russian state-owned and sanctioned military, defence, and weapons companies, including Rostec and SC Novosibirsk Mechanical Plant Iskra.¹³ Rusal is not Tesla's primary aluminium supplier, and Tesla can likely find alternative sources of the metal to meet its supply chain needs. However, by continuing its relationship with the Rusal, Tesla risks enabling and indirectly financing Russia's violations of IHL and human rights law during the ongoing invasion and occupation of Ukraine and violating Tesla's human rights commitments and responsibilities.

As noted by the Moral Rating Agency, Tesla has the public profile, power, and ability to influence and make a positive and considerable impact.¹⁴ However, the company has failed to take advantage of this

⁸ 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).

⁹ 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).

¹⁰ 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."

¹¹ Tesla, "Tesla Superchargers in Russia," <https://www.tesla.com/findus/list/superchargers/russia> (accessed December 1, 2022).

¹² Lora Kolodny, "Tesla has bought aluminium from Russian company Rusal since 2020, showing how war complicates supply chain," *CNBC*, March 14, 2022, <https://www.cnn.com/2022/03/14/tesla-has-bought-aluminum-from-russian-supplier-rusal-since-2020.html> (accessed December 1, 2022).

¹³ Alla Hurska and Eurasia Daily Monitor, "Deripaska and his business empire: security risks for Ukraine," *Ukraine Weekly*, November 1, 2019, <https://www.ukrweekly.com/uwwp/deripaska-and-his-business-empire-security-risks-for-ukraine/> (accessed November 8, 2022).

¹⁴ Moral Rating Agency on Tesla, May 11, 2022, https://moralratingagency.org/?c_search=tesla#cards (accessed November 30, 2022).

opportunity, and meet its obligations and commitments. Hence, we seek to understand the status of Tesla's exposure to Russia and how Tesla 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.

In consideration of the above points and B4Ukraine's [Declaration](#), we request an urgent dialogue with Tesla'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 20th, 2023.

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

Sincerely,

The B4Ukraine Coalition