

To:
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Dear Mr Nagi,

Subject: Vinci's failure to respect Global Compact commitments on human rights and the environment

We are contacting you with regard to Vinci and what we see as its failure to respect its commitments under the Global Compact in connection with the Moscow – St. Petersburg motorway project.

Specifically, Vinci has in our opinion not acted in line with its commitment to the following Global Compact Principles:

- 1) "*Businesses should support and respect the protection of internationally proclaimed human rights*",
- 2) "*Businesses should make sure they are not complicit in human rights abuses*," and
- 7) "*Businesses should support a precautionary approach to environmental challenges*."

We further outline our arguments below and ask you to take up this issue with the company according to the process outlined on the Integrity Measures section of the Global Compact website.¹

We are aware that Vinci has submitted annual reports on its activities within the scope of the Global Compact up until 2010 and where relevant these are mentioned below.

Background

Vinci is part of the NWCC consortium² which in July 2009 won a tender for the construction and operation of the first section (kilometres 15-58) – worth EUR 1.5 billion - of the Moscow – St. Petersburg motorway in Russia. The project has encountered determined opposition from local people in Khimki since 2007, when they discovered due to markings on the trees that the motorway route was due to cut through the nearby Khimki Forest Park.

The Khimki Forest Park is a protected natural area with rich wildlife including relic oak groves. It is a natural habitat for elks, boars and other animals and is part of the protective forest park belt around Moscow. It is the only wildlife area in this polluted and overpopulated region (only 5 km from the city boundary of Moscow), and has great importance for local inhabitants. According to Russian Federal laws, Forest Parks are not to be used

¹ <http://www.unglobalcompact.org/AboutTheGC/IntegrityMeasures/index.html>

² The other shareholders are N-Trans, owned by a Cyprus-based company, and the other is close friend of Prime Minister Putin, Arkadi Rotenberg

for anything other than recreation. However on 5th November 2009 Prime Minister Mr Vladimir Putin signed Ruling #1642-r converting 145 hectares of Khimki Forest lands from forest land into construction land, in contradiction with Russian legislation.

In July 2010 contractor Teplotekhnik began tree cutting in the forest, even though not all the relevant permits had been obtained. After a mass protest in defence of Khimki Forest in August 2010 in Moscow, Russian President Dmitry Medvedev ordered the suspension of all works in the forest, calling for new public and expert discussions. This reflected the extraordinary public support for the campaign to save the forest: According to a poll by the Levada Center in September 2010, 76 percent of Khimki residents are against the felling of Khimki Forest. Another poll in August 2010 showed that 67 percent of Muscovites oppose sacrificing the Khimki Forest near Moscow for the construction of the new road and revealed that only 19 percent support the project in its current form.

What has unfortunately marked this project out most of all, however, is the violence and harassment which has been dealt to the opponents of the current routing.³ This includes:

- The still unresolved November 2008 attack on Khimki journalist Mikhail Beketov, which resulted in the amputation of one of his legs and some of his fingers, and left him brain-damaged and bed-ridden.
- In July 2010 when the illegal forest cutting began, local activists established a camp in the woods to protect the forest. On 23 July 2010 they were attacked by men in masks bearing Nazi symbols on their clothes. The Director of Teplotekhnik Alexander Semchenko later confessed to reporters that he had hired these people to provoke the activists.
- In November 2010 Khimki Forest activist and head of the Khimki branch of the Pravoe Delo political party Konstantin Fetisov was brutally attacked. He is still unconscious in hospital.
- Just two nights later journalist Oleg Kashin who wrote several articles in the Kommersant newspaper on Khimki Forest was brutally beaten, too. The attack has widely been attributed to his articles on this issue.

Vinci's failure to implement the Global Compact principles

First, it should be made clear that there is no evidence that Vinci's staff have been directly involved in any of the human rights abuses, nor in the choice of the route of the motorway. However the company has in our opinion not undertaken sufficient steps to prevent human rights abuses and unnecessary environmental destruction and has therefore made itself complicit in these abuses:

Principle One: "Businesses should support and respect the protection of internationally proclaimed human rights"

We have not been able to locate any Human Rights Policy on Vinci's website and its Sustainability Report for 2009 mentions human rights only once⁴. Therefore we have not assessed Vinci's internal procedures, however it appears that **the company did not undertake, or undertook a very poor quality assessment of the human rights impact of the Moscow – St. Petersburg motorway project km 15-58 before it signed the concession agreement.**

According to the Global Compact: *"Companies should take proactive steps to understand how existing and proposed activities may affect human rights. The scale of the review will depend on the industry, company size and national and local context and should be commensurate with the level of risk. Based on the information uncovered, companies should refine their plans to address and avoid potential negative human rights impacts on an ongoing basis."*

As mentioned above, the consortium in which Vinci participates won the tender for the project in July 2009. By

³ See Annex 1 for an extensive list of violence and harassment of local people opposing the motorway routing.

⁴ [http://www.vinci.com/vinci/developpement_durable.nsf/\(index\)/INTRO01/\\$file/vinci_radd_2009.pdf](http://www.vinci.com/vinci/developpement_durable.nsf/(index)/INTRO01/$file/vinci_radd_2009.pdf)

that time, local people campaigning for a change in the routing had already been subjected to violence, which should have been picked up in the due diligence undertaken:

- **May 2007** A car belonging to Mikhail Beketov, editor of local opposition newspaper Khimkinskaya Pravda, as well as an active participant of the Movement to Defend Khimki Forest, was set ablaze with flammable liquid. At approximately the same time Beketov's dog was killed by unknown persons, apparently as a warning. Mikhail had published articles criticizing Khimki Mayor Vladimir Strelchenko for various scandals, including the routing of the Moscow-St. Petersburg motorway within forest land with the clear intention of further commercial "development" of the land. In a TV interview, Mikhail Beketov publicly accused Khimki mayor Vladimir Strelchenko of involvement in these attacks. As a response, the Mayor started a campaign of intimidation against the journalist.
- **July 2008** An officially sanctioned environmental rally in Skhodnya (a district of Khimki) was broken up by a group of drunken hooligans led by two deputies of the Khimki Mayor – Mr. Piterimov and Mr. Danilovsky. As a result, the peaceful rally turned into a mass fight. Police refused to stop the hooliganism.
- **November 2008** Mikhail Beketov was found near his house in a coma, with serious injuries to the head (cranium and brain were partially destroyed) and numerous injuries to his legs and hands. The investigation of this crime yielded no result. In 2010, the investigation was suspended under the pretext of the 'complex nature' of the case. Only after further attacks against activists and journalist Oleg Kashin was the investigation resumed.

We believe that if Vinci had undertaken basic due diligence on human rights it would have been aware of these incidents and the possibility that further such attacks may take place. If Vinci did indeed undertake such an analysis, the measures planned were inadequate to prevent further human rights abuses from taking place and did not include a 'plan B' on what action to take in case of further abuses.

As far as we are aware, Vinci has never even made any public statement condemning the violence and harassment of local people or promoting better public consultation in the project. **On the contrary, attempts by local people to speak to Vinci about its involvement in the project have been repeatedly refused.** For example, on June 30, 2009 activists waited for two hours in front of Moscow office of Vinci, but company representatives refused to speak with them.⁵ The petition of forest defenders with a thousand signatures and the return address of the leader of the Movement to Defend Khimki Forest Mrs. Evgenia Chirikova was then left in the company's mailbox – but no answer has been given yet. Later, in April 2010, NWCC LLC began to carry out a kind of public opinion study on the project, but without any direct consultation. Some assessments on the project were made available to the public, and public opinion polls were reportedly carried out. NWCC's assessment was then analyzed by an independent expert board, and found clearly biased in favour of the current option of the motorway. The results of the analysis were then passed to NWCC – but without any response. NWCC LLC stopped all public activities immediately after it became clear that the international financial institutions would not take part in the project, and financial support for the construction was obtained from Russian sources. The results of its public opinion polls were never published.

Principle Two: "Businesses should make sure they are not complicit in human rights abuses"

The Global Compact names three kinds of complicity in human rights abuses: *Direct complicity*; *Beneficial Complicity* and *Silent Complicity*. In our opinion Vinci is in this cases *Beneficially Complicit* and *Silently Complicit*.

Vinci is *beneficially complicit* because it stands to make profit from the motorway project. It may be argued that it does not matter to Vinci what route the motorway takes and therefore it does not have an interest in the particular contested routing. However, it is clear that the delays of some months that would be caused by developing a new routing would prevent Vinci from implementing the project in the timescale it planned and therefore from profiting at the time it expected. Therefore it is clearly in Vinci's interest that protests and new

⁵ <http://www.ecmo.ru/news/p44/n-664/>, <http://www.ecmo.ru/news/p44/n-665/>

public hearings are discouraged in order to implement the project as soon as possible. Indeed, in **September 2010 when President Medvedev suspended works in the forest pending new public hearings⁶, the Chairman of the French Chamber of Commerce in Russia, Emmanuel Quidet, intervened and appealed to Medvedev to resume building of the road as soon as possible**, presumably at the request of Vinci.⁷

Thus Mr Quidet sent a clear signal to the Russian authorities that delays would cost Vinci money and were not acceptable. **Implicitly, in our opinion this also sent a message to the Russian authorities that Vinci was counting on them to quell any protest or public debate**, and in spite of the violence and harassment that had already been dealt out to local activists by September⁸, which Vinci must have known about, neither Vinci nor the French Chamber of Commerce stipulated the need to avoid human rights abuses.

The above also explains why we believe that Vinci is *silently complicit* in human rights abuses. Even if Vinci for some reason did not know about human rights abuses associated with the project when it signed the concession contract, the abuses have intensified since July 2010 (see Annex 1) and the company is aware of the situation. This was confirmed in the only statement that we are aware of Vinci making on the topic: Louis-Roch Burgard, CEO of Vinci Concessions was reported by Reuters on 18.09.2010 as making the following comments when interviewed by reporters at the Sochi Investment Forum:

"We have no indication from the state that they are about to change the alignment," Louis-Roch Burgard, CEO of Vinci Concessions told reporters on the sidelines of Sochi Investment Forum. He said he did not know when Vinci could resume work.

"We do not know, the state has taken extra time to think about the project," he said. "It is a thirty-year contract of more than \$1 billion. The fact that it (the delay) could take one month or six weeks does not change anything."

Medvedev's order could give more time to different interest groups to express their opinion and examine alternatives. Medvedev's consultative body Public Chamber held hearings on the project last Thursday.

"We are dealing with tens of projects in France, Europe and throughout the world and sometimes some projects face opposition. It is not the source of concern for us, otherwise we should be changing business," Burgard said.

The toll road will also provide better access to Moscow's Sheremetyevo international airport. Traffic jams along the highway leading to the airport have become routine in recent years.

Burgard said that in his view the route through the forest, which is owned by the state, was "the right one," but if the government chose other options the firm would have to look at them.⁹

These statements, if correctly reported, show that the company has not criticised the human rights abuses associated with the project. On the contrary, it has declared that it is not a source of concern.

Company staff have also, as pointed out above, refused to speak with the local activists on several occasions.

The Global Compact makes several suggestions on how a company can avoid being complicit in human rights abuses. Here we look at Vinci's implementation of the most relevant suggestions for this case:

6 It must be noted that these cannot be regarded as public hearings as most members of the public were prevented from speaking at the events, including even a representative of Greenpeace, and no mechanism was implemented to ensure that public and expert opinions were taken into account.

7 For more details, see: http://www.lemonde.fr/idees/article/2010/10/06/destruction-de-la-foret-russe-a-quoi-jouent-les-francais_1421251_3232.html. A copy of the official answer of French Government to French Senator Dominique Voynet can be found at http://www.facebook.com/note.php?note_id=10150092497676485&comments&ref=mf

8 See Annex 1

9 Gleb Bryanski, Reuters: Vinci says undeterred by environmentalists, 18 September 2010
<http://www.reuters.com/article/2010/09/18/us-vinci-russia-idUSTRE68H1AM20100918>

Q: Has the company made a human rights assessment of the situation in countries where it does, or intends to do, business so as to identify the risk of involvement in human rights abuses and the company's potential impact on the situation?

A: Unknown. If it has, it has not succeeded in lessening the abuses.

Q: Has the company established a monitoring system to ensure that its human rights policies are being implemented?

A: We have not been able to find a company human rights policy on its website, and its 2009 Sustainable Development report mentions human rights only once¹⁰.

Q: Does the company actively engage in open dialogue with stakeholder groups, including civil society organizations?

A: No. See above for details on how the company has repeatedly refused to enter dialogue with local activists.

Q: Does the company have an explicit policy to ensure that its security arrangements do not contribute to human rights violations? This applies whether it provides its own security, contracts it to others or in the case where security is supplied by the State.

A: Unknown. If it has, it is not effective. In this case the security arrangements are provided by the state and by the contractor, Teplotekhnik, and as explained in Annex 1 these include a mixture of police officers and unidentified individuals.

Actions that may be particularly helpful in avoiding complicity include:

...respect international guidelines and standards for the use of force (e.g. the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the UN Code of Conduct for Law Enforcement Officials);

We have not been able to find any information on Vinci's website about this.

...if financial or material support is provided to security forces, establish clear safeguards to ensure that these are not then used to violate human rights and make clear in any agreements with security forces that the business will not condone any violation of international human rights laws;

It is not clear whether Vinci provides financial or material support to security forces.

...privately and publicly condemn systematic and continuous human rights abuses;

Vinci has not publicly condemned the human rights abuses and if it has done so privately, it has been ineffective.

...continually consult within and outside the company with relevant stakeholders during both pre-investment and post-investment stages;

See above for details on how the company has repeatedly refused to enter dialogue with local activists.

...raise awareness within the company of known human rights issues within the company's sphere of influence;

It is not known whether Vinci has done this.

...identify those functions within the firm that are most at risk of becoming linked to human rights abuses, possibly even at the pre-investment/project exploration and planning stage, and where there might be opportunities to advance human rights;

It is not known whether Vinci has done this.

...conduct a human rights impact assessment consisting of an analysis of the functions of a proposed investment and the possible human rights impacts (intended and unintended) they may have on the

10 [http://www.vinci.com/vinci/developpement_durable.nsf/\(index\)/INTRO01/\\$file/vinci_radd_2009.pdf](http://www.vinci.com/vinci/developpement_durable.nsf/(index)/INTRO01/$file/vinci_radd_2009.pdf)

community or region;

It is not known whether Vinci has done this. If it has, it has not succeeded in lessening the abuses.

Principle Seven: “Businesses should support a precautionary approach to environmental challenges.”

Although Vinci was not responsible for choosing the routing for the motorway originally, we believe that it has failed to support a precautionary approach to environmental challenges in two main ways:

1) When assessing whether to get involved in the project in the first place, Vinci did not pay adequate attention to the issues around the routing. **As the proposed routing had been opposed by local people since 2007, Vinci should have picked this up during its due diligence and developed an appropriate strategy to ensure that a solution acceptable to all parties was found.** In this, and its further refusal to engage with local activists, it has failed to follow the Global Compact's suggestion to “*Establish two-way communication with stakeholders, in a pro-active, early stage and transparent manner, to ensure effective communication of information about uncertainties and potential risks and to deal with related enquiries and complaints. Use mechanisms such as multi-stakeholder meetings, workshop discussions, focus groups, public polls combined with use of website and printed media.*” We believe that this lack of application of the precautionary principle reflected Vinci's underestimation of the determination of the local people to save their forest. Ultimately such failure to properly mitigate risks instead of ignoring them may cost the company dear.

2) As noted above, in August 2010 President Medvedev halted tree-cutting works in the forest, pending new public hearings and discussions with experts. In September 2010 Mr Emmanuel Quidet of the French Chamber of Commerce in Russia intervened – presumably at the request of Vinci - and appealed to Medvedev to resume building of the road as soon as possible. While it was never clear whether Medvedev's intervention was a genuine attempt to find a solution acceptable to all parties or rather to allow the situation to cool down and then continue as planned, let us assume that it was undertaken with the intention of genuinely re-examining all options. Following President Medvedev's announcement two reviews were commenced: one by the government and one by a group of independent experts. The results of the government review were announced in December 2010, and those of the independent experts in January 2011. Vinci did not wait for either before urging the government to continue with the original routing, even though the independent experts found that there were multiple alternatives preferable to the chosen variant (see Annex 2) **In this context, the intervention by the French Chamber of Commerce on Vinci's behalf not only failed to reflect the precautionary principle but in fact aimed to reverse President Medvedev's attempt to implement the precautionary principle.**

In Vinci's 2010 report to the Global Compact the company states that it has undertaken, among others, the following activities:

“En 2010, en complément des directives du Directeurs Général, VINCI s’est doté d’une charte éthique et bons comportements qui s’articule autour de trois parties: nos convictions, nos engagements et nos règles. Cette charte est à destination des managers du Groupe et traite des comportements en terme environnementaux sociaux et économiques..

En 2010, VINCI a initié un travail de réflexion sur l’indexation de la part variable des rémunérations sur des critères extra-financiers dont notamment les droits de l’Homme.”

“En 2010, VINCI a réactualisé sa cartographie du risque social, principalement sur les points suivants : l’indice de perception de la corruption établi par l’ONG Transparency International ; le travail des enfants, à partir des indicateurs de l’Unesco ; le respect des droits de l’homme, à partir d’indicateurs comme le respect de la liberté d’expression, le droit d’association, d’éducation et de religion.”

Vinci's “our convictions” and “our engagements” are included in its Sustainable Development report for 2009: [http://www.vinci.com/vinci/developpement_durable.nsf/\(index\)/INTRO01/\\$file/vinci_radd_2009.pdf](http://www.vinci.com/vinci/developpement_durable.nsf/(index)/INTRO01/$file/vinci_radd_2009.pdf)

The document mentions human rights only once and does not state how the company will ensure that it is not

complicity in human rights abuses. Concerning the environment, there are several commitments, however the company does not commit to refrain from intervening with relevant authorities during environmental review processes.

Conclusion

Taking into account the above, we ask the Global Compact Office to acknowledge receipt of this letter and to request from Vinci the following:

- a response to the allegations
- updates on the actions taken to rectify the issues in question

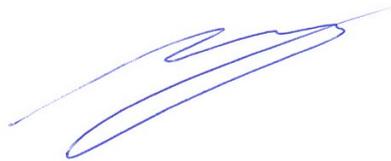
We also ask the Global Compact Office to consider applying further discretionary steps to resolve the matter.

We expect from Vinci:

- Considering that it is too late to prevent human rights abuses connected with the project, to withdraw from the Moscow – St. Petersburg motorway km 15-58 project and to express its concern to the Russian authorities regarding the human rights abuses that have taken place.
- To implement comprehensive stakeholder engagement practices
- To publish and implement a human rights policy which will outline how it intends to ensure that it is not complicit in human rights abuses.
- To strengthen its due diligence system on environmental and human rights issues and address issues thoroughly as they arise.
- To commit to refrain from putting pressure on national authorities during environmental review processes
- To develop a policy or strengthen its policy on the use of security forces and human rights

We thank you for your time and look forward to seeing what action you now take.

Yours sincerely,



Mr Mikhail Matveev
Movement to Defend Khimki Forest (EcoOborona), secretary



Ms Pippa Gallop
Research Co-ordinator, CEE Bankwatch Network

Annex 1: Chronicles of violence

Annex 2: Summary of the results of the independent experts' review of the routing