



Kjell Inge Røkke
 Chairman of the Board
 and majority owner
 Aker ASA

Øyvind Eriksen
 Chairman of the Board
 Aker BP

Karl Johnny Hersvik
 Chief Executive Officer
 Aker BP

25 March 2022

Dear Mr. Røkke, Mr. Eriksen and Mr. Hersvik,

Many thanks for the occasion to discuss the acquisition by Aker BP of Lundin Energy's oil and gas assets with Mr. Hersvik and other Directors of your companies. We are writing to further clarify our concerns about potential liabilities arising from the announced merger between Aker BP and Lundin Energy. These liabilities arise from the credible allegations of contributions by Lundin Energy (previously Lundin Oil AB) to gross and systematic human rights violations, committed during the company's operations in what was then Sudan between 1997 and 2003.

Lundin Energy executives Ian Lundin and Alex Schneider were indicted on 11 November 2021 by the Swedish public prosecutor for complicity in international atrocity crimes. The prosecutor charges that Ian Lundin and Alexandre Schneider intentionally promoted ("främjade") military operations carried out by the Sudanese military forces and Government-allied militias in order to create the conditions for the company's oil operations, despite substantial reports demonstrating that Sudanese military forces and allied militias systematically perpetrated human rights abuses, including grave war crimes. The criminal charges are entirely due to the executives' roles within the company at the time.¹ The prosecutor has presented evidence that Lundin Energy regularly provided logistical and material support to abusive armed forces.

The criminal case in Sweden is based on an extensive investigation and the case file is publicly available.² There is also a rich body of contemporary reports about human rights violations by governmental and non-governmental organizations, academics, and experts.³ These reports, the Swedish indictment, and the evidence referenced therein, indicate that between 1997 and 2003, the Sudanese military forces and Government-allied militias targeted civilians, burned villages, forced children to participate in armed conflict, destroyed crops of local farmers, and forcibly displaced communities for the purpose of enabling Lundin Energy to operate. The crimes alleged in the indictment resulted in thousands of people being killed, raped, impoverished, traumatized, and displaced from their homes. Ample information about impacts on the population can be found in the Swedish prosecutor's case file and at www.unpaid-debt.org. Further details can be provided upon request.

1. The investigation file and all filings in the case are publicly accessible and can be requested from the Stockholm district court here: <https://www.domstol.se/stockholms-tingsratt/>.

2. Idem.

3. See <https://unpaiddebt.org/resources/documentation/>.

Lundin Energy's Norwegian assets are directly linked to the company's alleged criminal activities. According to Lundin Energy's third quarter financial report from 2003, the profit derived from the sales of its Sudan operations enabled the purchase of assets on the Norwegian Continental Shelf, which marked the start of Lundin Energy's operations in Norway.⁴ In the 11 November 2021 indictment, the Swedish prosecutor alleges that Lundin Energy's operations in Sudan should be viewed as a criminal activity and the profit from the 2003 sale of its Block 5A activities should be forfeited.⁵ The direct links between Lundin Energy's Norwegian assets and alleged war crimes are undeniable. They bring liabilities for their owner that do not disappear at the stroke of a pen.

Victims publicly claimed their right to remedy and reparation from Lundin Energy in 2016.⁶ However, they have not received a response to this day. The survivors of war crimes and other human rights violations that Lundin Energy allegedly enabled will continue to claim the rights to remedy and reparations from whomever can be held responsible for inheriting the legacy of Lundin Energy, including Aker BP and the members of its Board of Directors.

As this case stands now, our opinion is that Aker BP's acquisition defies the goal of Norway's National Action Plan on business and human rights, that "victims of grave and systematic human rights violations as a result of business activities have access to effective remedy."⁷ The Norwegian Government expects Norwegian enterprises to comply with the OECD Guidelines for Multinational Enterprises and the United Nations Guiding Principles on Business and Human Right. In our opinion, the terms of the acquisition do not comply with these standards for failure to conduct an adequate human rights due diligence, to meaningfully engage with stakeholders, to disclose information, and for facilitating ongoing unremediated impacts.

On 10 June 2021 the Norwegian Parliament adopted the Transparency Act. According to Section 4 b), enterprises shall, in accordance with the OECD Guidelines for Multinational Enterprises "identify and assess actual and potential adverse impacts on fundamental human rights and decent working conditions that the enterprise has either caused or contributed toward, or that are directly linked with the enterprise's operations, products or services via the supply chain or business partners". According to Section 4 c) enterprises shall cease, prevent or mitigate adverse impact based on the enterprise's prioritizations and assessments pursuant to (b). We consider that Aker BP's acquisition would be in breach of the Transparency Act. We furthermore claim that the acquisition contradicts Aker BP's own Human Rights Policy⁸, which acknowledges the right to remedy of victims of adverse human rights impacts.

Victims will continue to make their claim that Lundin Energy has ongoing and unremediated impacts to address. The acquisition creates a direct link between Aker BP, the alleged crimes, and the charges against Lundin Energy. A rigorous human rights due diligence process and meaningful engagement with the relevant stakeholders – in this case the victims of war crimes that Lundin Energy allegedly enabled – should therefore be carried out. However, we note that public statements by Aker BP executives about the due diligence process do not mention human rights considerations or perspectives of victims of human rights violations.

4. See e.g., Lundin Petroleum, Q3 Report (2003), p. 2, https://www.lundin-energy.com/download/qr_3_2003_e/?wpmddl=5060&refresh=61e9f7d241ae51642723282/.

5. Swedish Prosecution Authority, Prosecution for complicity in grave war crimes in Sudan (Nov. 11, 2021), <https://www.aklagare.se/en/media/press-releases/2021/november/prosecution-for-complicity-in-grave-war-crimes-in-sudan/>.

6. See <https://unpaiddebt.org/remedy-claim/>.

7. Norwegian Ministry of Foreign Affairs, Business and Human Rights, Norway's National Action Plan for the implementation of the UN Guiding Principles p. 40, 2015, https://www.regjeringen.no/globalassets/departementene/ud/vedlegg/mr/business_hr_b.pdf

8. Aker BP's Human Rights Policy, accessed 16 January 2022.

The terms of Aker BP's acquisition risks contributing to Lundin Energy's continued attempts to avoid its responsibilities. The merger plan foresees a dramatic reduction of Lundin Energy's net asset value⁹. In the Indictment, the Swedish prosecutor requests that the court declare an amount of MSEK 1,391 forfeited from Lundin Energy and imposes a corporate fine of MSEK 3, a combined total of MUS\$ 150 in financial liabilities.¹⁰ After the acquisition, Lundin Energy will bear all costs and liabilities related to the indictment and its underlying circumstances. The company will make no provisions for the costs of the forfeiture or a remedy process.¹¹ Lundin Energy's fair share in damages due to human rights violations is estimated at MUS\$ 700 million.¹² Based on the available information, if found guilty, Lundin Energy will not have sufficient assets to fulfil its human rights obligations.

Under the agreed terms of the Lundin Energy acquisition, Aker BP will almost certainly facilitate the perpetuation of severe ongoing and unremediated human rights impacts, and leave victims of war crimes out in the cold.

It would be appropriate for Aker ASA and Aker BP to

- conduct an adequate human rights due diligence for the acquisition,
- express support for the right to remedy of victims of adverse impacts in South Sudan that can be directly linked to Lundin Energy's activities, and
- ensure that after the acquisition, Lundin Energy will retain and allocate sufficient financial means for the fulfilment of its human rights obligations.

We, the undersigned organizations, remain at your disposal should you need more information or wish to further discuss this important matter with us.

South Sudan Council of Churches

Assistance Mission for Africa (AMA)
(South Sudan)

Liech Victims Voices (South Sudan)

Presbyterian Church of South Sudan

Civil Society Coalition on Natural
Resources (South Sudan)

Transitional Justice Working Group (South
Sudan)

Act Church of Sweden

Amnesty International Norway

Amnesty International Sweden

Brot für die Welt / Bread for the World
(Germany)

Cafod (UK) & Trocaire (Ireland)

Christian Aid (UK)

Fellesrådet for Afrika (Norway)

Framtiden i våre hender (Norway)

Global Idé (Sweden)

Norwegian Helsinki Committee

Norwegian Church Aid

Norwegian People's Aid

PAX (The Netherlands)

Redd Barna / Save the Children Norway)

Rights for Peace (UK)

Støttegrupper for Sudan og Sør-Sudan
(Norway)

Strømme Foundation (Norway)

Swedwatch (Sweden)

Christian Council of Norway

The Church of Scotland

9. Lundin Energy, Year End Report (2021), https://www.lundin-energy.com/download/year-end-report-2021/?ind=1643650396637&filename=qr_4_2021_e.pdf&wpdmdl=39087.

10. Swedish Prosecution Authority, Idem.

11. Lundin Energy, Year End Report 2021, p. 14.

12. <https://unpaiddebt.org/calculating-the-debt/>.