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Your Ref:

Our Ref: MJD.NMA.71567.2
/Roma

9 October 2009

Dear Mr Taksøe-Jensen

Re: Roma, Ashkali and Egyptian Claim for Compensation on Behalf of Roma Residents of Internally Displaced Person Camps in Mitrovica, Kosovo

We are instructed by the individuals named in the attached schedule to pursue a claim for compensation under General Assembly Resolution A/RES/52/247. This claim is in respect of damage the individuals have suffered to their health, as a result of lead poisoning. The claimants rely upon the overwhelming evidence in the public domain that demonstrates the responsibility of the United Nations both for their placement in camps that were foreseeably dangerous to their health and the subsequent failure to resettle them once consequences of exposure to lead became evident.

We have instructed Mr Geoffrey Robertson QC and Mr Richard Hermer QC of the Bar of England & Wales to assist in this matter.

A. Claimant Details

See attached schedule.

B. Background

1999

The facts giving rise to this claim should be well known to you but for ease of reference we set out a summary below.

As a result of the 1999 conflict between ethnic Albanians and Serbian forces, many Roma, Ashkali and Egyptian (RAE) families were displaced into Northern Mitrovica, from their homes in the Romani Mahalla, Southern Mitrovica. Those able fled elsewhere, the remainder became internally displaced persons (IDPs) within northern Mitrovica, occupying, amongst other buildings, a vacant school building in Zvecan. The Office of the United Nations High Commissioner for Refugees (UNHCR) organised temporary accommodation in the form of makeshift camps at Cesmin Lug (CL) and Zitkovac (Z). Other IDPs constructed makeshift camps within abandoned army barracks at Kablare (K) and Leposavic (L).

The camps were always intended to be temporary. Three of the camps, CL, Z and K, were constructed on land in the vicinity of the tailing dams of a lead smelter, within the Trepca mining complex. As a result, while living in the camps the IDPs were chronically exposed to lead through soil pollution, air (wind blowing the dust from the slag heaps into the camps) and contaminated water.

Mitrovica has an extensive, well documented, history of pollution. Numerous epidemiological studies exist, from as early as 1980, demonstrating high levels of lead within the blood of local children living close to the smelter. As a result, the risk of significant exposure to lead would have been impossible to ignore for those considering the location of the IDP camps.

2000

In 2000, the United Nations Mission in Kosovo (UNMIK) instructed Dr Andrej Andrejew and Sandra Molano to investigate the lead pollution across Mitrovica generally. Their report, *'First Phase of Public Health Project on Lead Pollution in Mitrovica Region'* recommended

'relocation of the Roma camp to a lower risk area and continuous education on how to reduce lead exposure'

in addition to medical treatment where needed, along with a series of environmental epidemiological studies. As a result of the report, the smelter at Trepca was closed, however the camps were not relocated. The RAE were not advised of the contents of the report.

2004

The World Health Organisation (WHO) conducted blood tests in April 2004 as a result of which they found extremely high lead levels throughout the camps. The

tests were followed by a report '*Risk Management Action Plan for Roma Camps, Cesmin Lug and Zitkovac, Mitrovica*', recommending closure, and relocation, of the camps. The report was presented to UNMIK in September 2004, alerting them to the urgent need to relocate the IDPs. Within, what we presume to be the Executive Summary of the report, WHO found

'mine waste tailing dams of former lead mining and smelting complexes as the primary source of lead exposure'.

They further note

'RAE living in three IDP camps...are heavily affected....most children have dangerously high levels of lead in their blood...the levels of lead in the blood of RAE children reported by WHO Kosovo office are among the highest in the literature....deaths from lead poisoning have not been officially confirmed yet although they are likely to have happened'

In addition, the International Committee of the Red Cross (ICRC) sent a letter to UNMIK in December 2004 demanding immediate evacuation of the camps.

2005

Instead of immediate relocation of the camps, UNMIK set up a task force comprising of, amongst others, ICRC, ACT, the Organisation for Security and Co-Operation in Europe (OSCE) and Kosovo Force (KFOR). Sustainable solutions were discussed and interim measures were put in place to minimize lead exposure, through increased hygiene and a better diet. WHO arranged for additional blood tests in 2005, the results of which were not provided to the RAE or made public.

2006

In 2006 UNMIK remodelled Osterode (O), previously KFOR Army barracks, in an attempt to move all IDPs to one camp. Although a stones throw from CL and the toxic slag heaps, O was deemed by UNMIK to be 'lead safe' and in order to incentivise them to move, the IDPs were promised better living conditions and a healthy diet which would assist in lowering their lead levels. The majority of the families from Z and K relocated to O. A vast majority of those living in CL refused to move, disbelieving O to be any safer, given its close proximity to CL and the slag heaps.

Additional blood tests were arranged by WHO during 2006, the results of which were not provided to the RAE or made public. Oral chelation treatment was commenced in O, in August 2006, for around 40 children.

2008

The management of CL, O and L was handed over to the Kosovo Government (Ministry Of Communities and Returns) who appointed the Kosovo Agency for Advocacy and Development (KAAD) to replace the previous NGO, Norwegian Church Aid.

A complaint was filed with the Human Rights Advisory Panel (HRAP) on behalf of around 140 families from C, O and L. In June 2009 HRAP ruled the majority of complaints as *'admissible for investigation'*. The complaints included, the right to life, failure to investigate deaths, prohibition of inhuman and degrading treatment, right to respect for private and family life, right to a fair trial, right to an effective remedy, right to adequate housing, health and standard of living, prohibition against discrimination, prohibition of discrimination against women and violation of the rights of children.

2009

WHO visited the camps in January 2009 and publically called for the closure of O and CL. They issued a press release in September 2009 calling for

'the immediate and urgent need to evacuate all the Roma Ashkali and Egyptians Internally Displaced People from Osterode and Cesmin Lug camps to a lead safe environment'.

They make reference to a promise made, concerning relocation of the camps

'The majority of the RAE from the three camps were relocated to nearby Osterode in 2006. Two of these camps were completely closed and one remained partially open. WHO was promised that all these populations would be relocated within six months, but the majority are currently still there'.

With regard to Chelation treatment, WHO say

'WHO recommended chelation treatment as an emergency intervention under the promise that relocation would occur within six months. As WHO has constantly stated the ONLY effective treatment under these circumstances is the removal of the affected population from the exposure, this means urgent evacuation'.

A report was issued by Human Rights Watch (HRW) in June 2009 entitled 'Kosovo: Poisoned by Lead, A Health and Human Rights Crisis in Mitrovica's Roma Camps' within which recommendations are made, to, amongst others, The Special Representative of the Secretary General (SRSG) and UNMIK. They recommend the SRSG to

'pay reparations to Roma families for the damage to their health during the decade of exposure to dangerous levels of lead in the camps'.

They recommend UNMIK to

'relocate immediately the residents of Cesmin Lug and Osterode camps....close and seal Cesmin Lug and Osterode camps...urgently organise medical treatment for lead contamination'.

Despite the history as set out above, a significant number of RAE remain in the camps today.

C. The Legal Claim

UNMIK were established under UN Security Council resolution 1244 which, in addition to granting administrative powers, created a duty to protect human rights. In addition, Article 1.3 of regulation 1999/24 sets out a long list of international human rights standards to be observed by local authorities and international authorities within Kosovo which includes amongst others, the European Convention on Human Rights (ECHR) and the Convention on the Rights of the Child. Notwithstanding that UNMIK are not party to such treaties, resolution 1244 demonstrates their willingness to respect such treaties.

Despite this, the inhabitants of the camps have been left, for a decade, to live on an area of land severely contaminated by lead.

Under the General Assembly Resolution A/RES/52/247 (Third-party liability), the RAE are entitled to compensation in respect of the damage they have suffered over the last 10 years. For the avoidance of doubt, in light of the recent public disclosure of the full extent of the impact of exposure to lead and the on-going nature of the injuries caused, there can be no question but that these claims have been timeously presented.

D. Quantum

Relocation is critical. The camp inhabitants have spent over a decade living in poverty and despair, in makeshift temporary camps, contaminated by lead. It is unfortunately the case that many children have already suffered irreversible damage. All inhabitants need to be urgently relocated prior to receiving treatment.

i. Relocation

Our clients seek immediate relocation to safe housing. They seek either the provision of such housing or damages to enable them to obtain the same.

ii. Medical Treatment / Rehabilitation expenses

We are currently in the process of quantifying the particular medical needs of each of our clients and will provide you with particulars in due course.

iii. Medical Care

The children that have suffered irreversible neurological damage require additional daily care, over and above normal childcare. We are in the process of obtaining further evidence on these matters.

iv. Other financial losses

We are in the process of fully quantifying the losses of each individual client.

E. Proposed Timetable

We are aware that over the past few years you have been presented with other claims arising out of this incident. We are also aware that little, if anything, has been done to progress such claims. In light of the on-going acute dangers to which children and adults are being exposed, a failure to properly address and determine these claims would be intolerable.

We appreciate that the United Nations system for compensation, under which these claims fall, is still in its infancy. It provides an opportunity for the United Nations to set international standards in accountability and to exemplify best practice. Our firm has unparalleled international experience in progressing compensation claims from all over the world, including a settlement last month on

behalf of 30,000 residents of the Ivory Coast, against Trafigura. We would be quite content to work closely with you to seek to agree protocols for the investigation, valuation and resolution of these claims.

We propose that the following immediate steps are taken:

- (1) You acknowledge receipt of this letter within 21 days;
- (2) You agree to meet with us in the course of the next 56 days to discuss the claims and to seek to agree protocols for their investigation, valuation and resolution.

Yours faithfully

Leigh Day & Co

Cc The Secretary General, His Excellency Ban Ki-moon

Cc The Special Representative of the Secretary-General, Mr Lamberto Zannier