

UK authorities fulfilled duty to carry out effective investigation into the 2003 Iraq killings of six military policemen

The European Court of Human Rights has unanimously declared the application [Miller v. the United Kingdom](#) (application no. 32001/18) inadmissible in a decision which is final.

The case concerned the applicant's complaint under **Article 2 of the European Convention on Human Rights (right to life)** that the UK authorities had failed to carry out an effective investigation into the killing of his son, Corporal Simon Miller, and other members of the Royal Military Police (RMP) in Iraq in 2003.

The Court noted in particular that there had been several investigations into the deaths and a coroner's inquest, measures which had met the State's duty under Article 2 to carry out an effective investigation.

It did not consider that a refusal by the Attorney General in 2017, upheld in 2018, to authorise an application to the High Court to grant a fresh inquest had indicated that the State had failed to follow a reasonable line of enquiry or to take reasonable steps to ensure an effective and independent investigation.

Principal facts

The applicant, John George Miller, is a British national who was born in 1951 and lives in Washington, the United Kingdom.

His son, Corporal Simon Miller was serving in Iraq after the U.S.-led invasion of the country in 2003. Along with five other RMP members, he was killed after a crowd invaded a police station in Majar al-Kabir in Maysan Province, south east Iraq, on 24 June 2003. The RMP group had been working with the local police force as part of a mission to restore and maintain law and order.

Between July 2003 and February 2005 several Army investigations took place, including a Joint Commander's investigation, a Special Investigation Branch investigation and a Board of Inquiry probe. The Special Investigation Branch investigation resulted in a report to the Central Criminal Court in Baghdad in April 2004 and seven suspects were eventually charged, though none were convicted over the deaths.

A UK coroner's inquest held in March 2006 returned a narrative verdict of unlawful killing. The coroner found in particular that the RMP had had cordial relations with the local police and that there had apparently been no signs of potential trouble at the location. It noted also that the RMP men had not been supplied with iridium satellite telephones, despite earlier orders that all patrols should have them. The coroner found that the men had been killed by members of an Iraqi crowd at the police station.

In 2008 relatives of the families applied to the Strasbourg Court over a refusal by the Metropolitan Police to investigate whether military personnel had failed to protect the soldiers, but the application was rejected for failure to exhaust domestic remedies.

Requests by the applicant to the Minister of State for the Armed Forces for an independent inquiry were rejected in late 2010 and July 2012. An action for judicial review by the mother of one of the other RMP officers was rejected by the High Court, a decision that was upheld on appeal in July 2015. The Court of Appeal held in particular that the State's Article 2 effective investigation

obligation had been met by the Board of Inquiry and the coroner's inquest and that issues surrounding the failure to issue the men with iridium telephones had also been dealt with.

In 2013 the applicant's solicitor asked the Attorney General to authorise applications to the High Court for a fresh inquest into the deaths of four of the six men, relying on alleged new evidence about intelligence on possible violence in the area and on the timing and circumstances of the deaths. In June 2017 the Attorney General refused to authorise the application for a fresh inquest, a decision he upheld in January 2018.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 2 July 2018.

Relying on Article 2 (right to life), the applicant complained that the investigations into the deaths of the RMP men had failed to comply with the procedural duty under that provision to conduct an effective investigation capable of leading to the establishment of the facts.

The decision was given by a Committee of three judges, composed as follows:

Aleš **Pejchal** (the Czech Republic), *President*,
Tim **Eicke** (the United Kingdom),
Raffaele **Sabato** (Italy),

and also Renata **Degener**, *Deputy Registrar*.

Decision of the Court

Article 2

The applicant argued that the domestic investigations had been inadequate and that there were evidential leads which showed that key findings by the coroner had been flawed. He pointed in particular to potential fresh evidence which army personnel could provide and to the failure of the authorities to interview those people.

The Court reiterated its case-law on the requirement for an effective investigation under Article 2, noting that such a step was a distinct procedural obligation inherent in that provision. Even where a death had occurred in conditions of generalised violence, armed conflict or insurgency, all reasonable steps still had to be taken to ensure an effective and independent investigation.

The Court observed that there had been seven investigations or reports on the deaths of the military policemen. An inquest had also been held, returning a narrative verdict of unlawful killing, as well as judicial review proceedings to seek a declaration that there had been an insufficient investigation into the killings, in breach of Article 2. Those proceedings had been dismissed by the courts.

The Court's task was to examine whether the domestic authorities had submitted the events which had led to the deaths to the careful scrutiny required by Article 2.

It noted that the various British Army investigations had begun promptly. One of them in particular, the Board of Inquiry, had received evidence from 157 witnesses, including oral testimony from over 100 people. The applicant had not challenged the independence of those investigations.

There had also been an independent judge-led investigation in the form of inquest proceedings in 2006, which the Court had found previously could satisfy the procedural obligation of Article 2 and in which the coroner had also taken account of the results of earlier investigations.

Overall, the Court found that the investigations and the inquest had complied with the State's duty under the Convention for an effective investigation.

Nor did the Court consider that the Attorney General's refusal to grant an authorisation for a fresh inquest had shown a failure by the State to follow a reasonable line of enquiry or to take reasonable steps to ensure an effective and independent investigation.

In particular and with respect to the proposed new evidence pointed to by the applicant, the Ministry of Defence and the Attorney General had noted a lack of detail concerning the assertions of one officer, and a lack of consistency between another officer's assertions and the coroner's findings.

The Court observed that the nature and degree of scrutiny required under Article 2 depended on the circumstances of a particular case. The deaths of the military policemen had occurred more than 15 years ago, in a difficult security situation, and had been the subject of proceedings led by a coroner who had had access to all the available information.

The coroner had noted problems in determining the time of death and he had considered witness statements by Iraqis, despite the difficulties in obtaining such testimony. The coroner's findings had been well-reasoned and based on extensive evidence and the fact that the identity of the killers had not been determined did not mean that no effective investigation had taken place. Furthermore, the Iraqi authorities had pursued criminal proceedings over the deaths.

The Court noted that the obligation for an effective investigation was one of means rather than results. It found that none of the new evidence proposed by the applicant, which itself raised various problematic issues, or the criticisms of the original inquest, cast doubt on the adequacy of the State's investigations or the coroner's findings.

The State had thus carried out an effective investigation for the purposes of Article 2 and the application was inadmissible as being manifestly ill-founded.

The decision is available only in English.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.