



SIXTH DECISION ON THE IMPLEMENTATION OF THE RECOMMENDATIONS OF THE HUMAN RIGHTS REVIEW PANEL

Date of adoption: 2 June 2026

Case no. 2011-20

X and 115 other complainants

Against

EULEX

The Human Rights Review Panel ("the Panel"), sitting on 2 June 2026 with the following members present:

Ms Marina MANCINI, Acting Presiding Member
Mr Petko PETKOV, Member

Assisted by
Ms Pia HOLM, Legal Officer

Having considered the aforementioned complaint, introduced pursuant to Council Joint Action 2008/124/CFSP of 4 February 2008, the EULEX Accountability Concept of 29 October 2009 on the establishment of the Human Rights Review Panel and the Rules of Procedure of the Panel as last amended on 2 June 2026,

Having deliberated, decides as follows:

I. GENERAL BACKGROUND TO THE CASE AND PANEL'S DECISION OF 22 APRIL 2015

1. This case is one that involves serious violations of human rights. By way of background, it pertains to the mistreatment and prolonged exposure to lead in an IDP camp and the associated violation of the fundamental rights of 115 complainants of Roma ethnicity, by acts and omissions attributable to various authorities.
2. Because of the limitations placed upon its jurisdiction, the Human Rights Review Panel was competent only to deal with violations of rights attributable to the EULEX Kosovo Mission ("the Mission") in the performance of its executive mandate.

3. By decision of 22 April 2015, the Panel determined that the Mission was responsible for violating the right of these individuals to an effective remedy as guaranteed, *inter alia*, by Article 13 of the European Convention on Human Rights. Particularly relevant to the Panel's findings was the Mission's failure to conduct an effective investigation into the circumstances in which the fundamental rights of the victims had been violated by other authorities.
4. The Panel accordingly made the following recommendations to the Head of Mission (HoM) under Rule 34 of its Rules of Procedure:

"The HoM should instruct competent EULEX officials to make enquiries with Kosovo authorities whether an investigation in this matter is ongoing and, if so, at what stage of the process the matter stands. The HoM should inform the Panel of the result of this enquiry.

Having received that information, the HoM should instruct EULEX Prosecutors to consider whether to take over the responsibility of this case pursuant to Article 7(A) of the Law No. 04/L-273 taking into account all relevant circumstances, as highlighted above, in particular the need for the Mission to guarantee the effective protection of the complainants' rights. The HoM should inform the Panel of the Prosecutor's decision in that regard."
5. The Panel also requested that the then HoM provide the Panel with the required information no later than 15 June 2015.
6. On 31 August 2015, the HoM informed the Panel of a number of measures taken with regard to the recommendations of the Panel. In particular, he wrote to the Acting Head of the EULEX Executive Division and the Acting Chief EULEX Prosecutor requesting that they consider the Panel's decision and assess whether it would be possible to apply Article 7A of the Law no. 04/L-273 on Jurisdiction and Competencies of EULEX Judges and Prosecutors as amended (Law on Jurisdiction) to the criminal case at issue and to assign it to a EULEX Prosecutor due to "extraordinary circumstances" within the meaning of this provision.
7. On 19 August 2015, they informed the HoM that, as required by Article 7A of the Law on Jurisdiction, the Chief State Prosecutor of Kosovo and the Chief EULEX Prosecutor had jointly assessed the case and had concluded that the "extraordinary circumstances" required by Article 7A had not been met and jurisdiction of the EULEX Prosecutors could not be triggered. However, the Acting Chief EULEX Prosecutor assured the HoM that, should such circumstances emerge in the future, the case and the applicability of Article 7A might be reconsidered.
8. Further, the Acting Chief EULEX Prosecutor submitted that in its decision on the merits of the present case the Panel had criticised EULEX for initiating the investigation one day after the so-called "cut-off date" of 14 April 2014. He argued that there had been no ruling to initiate the investigation, but the case remained in the preliminary investigative phase with a view to determine whether a criminal offence had been committed and, if so, who would be the suspect of that offence. The Acting Chief EULEX Prosecutor also submitted that the complainants' representative had not responded to the inquiries sent by the local prosecutor and

that the information provided by the complainants appeared to have very limited evidential value.

9. Despite the above, the local prosecutor assigned to the case sent the criminal report to the Special Prosecution Office of Kosovo to assess whether it fell within its competence. The reply was negative. According to the Deputy Chief Prosecutor of the Special Prosecution Office, there was no indication of organised crime involvement in the case and thus it fell outside its jurisdiction. Consequently, the case remained with the Kosovo prosecuting authorities.
10. The Acting Chief EULEX Prosecutor gave assurances that the EULEX Prosecutor previously assigned to the case would be available to the local prosecutor in their mentoring and advising capacity.
11. On 13 September 2015, the complainants submitted their reply to the information provided by the HoM. They disagreed with the HoM's submission that the case was outside the jurisdiction of EULEX. They also maintained that, contrary to the HoM's assertions, their representative had not been contacted by EULEX.
12. Subsequently, the Panel rendered five (5) follow-up decisions in relation to this case.

II. FIRST FOLLOW-UP DECISION

13. In the follow-up decision of 11 November 2015, the Panel noted the steps taken by the HoM to implement the Panel's recommendations, as outlined in his letter of 31 August 2015.
14. The Panel was satisfied that the HoM had implemented its recommendation to enquire with the local authorities whether the investigation was ongoing. In this context, it was noted that the case was first brought to the attention of the Kosovo prosecution authorities in November 2013, almost two years earlier. It was further noted that the HoM did not provide any information as to whether any evidence had been taken during the investigation or whether any witnesses had been questioned by the Kosovo prosecuting authorities. The HoM also failed to provide information as to the possible timeframe within which the case might be concluded. Nor was it established that victims were meaningfully involved in the ongoing investigation. It was therefore not shown to the Panel's satisfaction that there was real progress in the investigation. In those circumstances, the right of the complainants to an effective remedy, pursuant to Article 13 of the European Convention on Human Rights, was still regarded as adversely affected by the absence of a demonstrable effort to promptly and effectively investigate the case.
15. Furthermore, the Panel noted that the Chief State Prosecutor of Kosovo and the Chief EULEX Prosecutor had decided not to assign the case to an EULEX Prosecutor. The Panel considered that the effectiveness of the investigation would have been greatly improved if it had drawn on EULEX expertise and resources.
16. Accordingly, the Panel considered that the steps taken to date by EULEX were not sufficient to ensure that the complainants' fundamental right to an effective

remedy was effectively protected. Therefore, it invited the Mission to continue liaising with the competent Kosovo authorities to follow up on the progress of the investigation. The Panel further invited the HoM to provide information on how the notion of "extraordinary circumstances", within the meaning of Article 7A, is interpreted in practice as a deciding criterion for cases being taken over by the EULEX prosecuting authorities.

17. The Panel declared that the HoM had implemented its recommendations *in part only*, and that the complainants' right to an effective remedy remained adversely affected in the absence of a demonstrably effective investigation into the case. The HoM was invited to update the Panel on the progress of the investigation by 28 February 2016.
18. The HoM replied to the Panel on 2 March 2016. With regard to the interpretation of the notion of "extraordinary circumstances" within the meaning of Article 7A as a deciding criterion for cases being taken over by the EULEX prosecuting authorities, the HoM responded that the application of Article 7A required a joint decision by the Chief State Prosecutor of Kosovo and the Chief EULEX Prosecutor, thus each case was assessed jointly.
19. The HoM stated that the procedure for assessing the existence of such circumstances was agreed by the Chief State Prosecutor of Kosovo and the Acting Chief EULEX Prosecutor in October 2014. Specifically, the following criteria would apply in any such assessment:
 - Whether the expertise and experience of EULEX prosecutors would ensure the proper investigation and prosecution of the case;
 - Whether there is a grounded suspicion of attempts to influence the investigation or prosecution;
 - Whether the case under investigation or prosecution touched upon the interests of EU Member States or the involvement of any EULEX staff member in Kosovo.
20. The HoM said that should one or more of these criteria be satisfied, the Chief and Deputy Chief Prosecutor of the Special Prosecution Office of Kosovo, or the Chief Prosecutor of the Basic Prosecution Office, Mitrovica, together with the EULEX Prosecutor, would jointly file a motivated proposal to the Chief State Prosecutor of Kosovo and the Chief EULEX Prosecutor in order to assign the case to an EULEX Prosecutor, either exclusively or jointly, in a mixed team, depending on the circumstances of the case.
21. Since EULEX prosecutors were involved in the case at an early stage, none of the criteria outlined above was considered to have been met. The case did not present any features that would require the special prosecutorial expertise of EULEX prosecutors; there were no indications of an attempt to influence the investigation; the local prosecutors demonstrated a willingness and an ability to work on the case. Accordingly, initially, a mixed team was created. Furthermore, the case did not appear to touch upon the interests of the EU Member States, nor was there any involvement of an EULEX staff member in the case.

22. The HoM also stated that the case had been, and continued to be, in the preliminary phase of the investigative process to determine whether a criminal offence had been committed and, if so, which offence it might be and who the suspect(s) might be. The representative of the complainants did not respond to the recent inquiries sent to them by the local prosecutor and the information provided by the complainants thus far appeared to have limited evidential value.
23. Regarding the current status of the case, the HoM stated that the EULEX prosecutor met with the new local prosecutor assigned to the case after the suspension of the one initially tasked with it on suspicion of misconduct in office, to discuss the steps that had been taken. The local prosecutor regretted that he was unable to undertake any investigative steps, as he claimed to be overloaded with the investigation of more urgent cases in which the defendants were in detention on remand. However, he informed the EULEX prosecutor of his intention to consult the State Prosecution Office for guidance on the case and said that he would proceed thereafter based on the outcome of his consultation with the State Prosecution Office.
24. The local prosecutor also stated that the criminal offence most likely to arise in the case was "Causing General Danger", which was punishable under Article 365 of the Kosovo Criminal Code (Law no. 04/L-082). In that event, the statutory limitation period prescribed in Article 106 of the Kosovo Criminal Code would apply, and there was thus a high likelihood that this offence had by now become statute-barred. This meant, in effect, that the criminal report would have to be dismissed.
25. The HoM stated that the Chief EULEX Prosecutor had provided his assurance that the EULEX prosecutor previously assigned to the case could, in any event, be made available to the local prosecutor in a mentoring and advising capacity, outside of the executive function of EULEX Kosovo. In addition, a detailed petition by any party could be addressed at any time to the Chief State Prosecutor as well as to the Chief EULEX Prosecutor if it was considered that the circumstances had changed so that the conditions set out in Article 7A of the Law on Jurisdiction would be met. The HoM also said that the Chief EULEX Prosecutor had transmitted the Panel's decision and the Chief EULEX Prosecutor's own analysis of the case to the Chief State Prosecutor of Kosovo for his consideration.
26. On 12 July 2016, the Secretariat of the Panel wrote to the HoM to inform him that the Panel was about to examine the case further with a view to issuing a second follow-up decision. In that regard, the Panel sought to know from the HoM whether any additional information was available, particularly whether there had been progress in the investigative proceedings. The Panel also asked the HoM whether the EULEX Prosecutor had been involved in a mentoring and monitoring capacity. The Panel requested a response from the HoM by 19 August 2016.
27. The HoM replied on 17 August 2016, indicating that the case now fell under the exclusive competence of the local prosecutor in the Basic Prosecution Office of Mitrovica and that the EULEX prosecutors were not in fact involved in any formal mentoring and monitoring activity. However, the HoM stated that the team leader of the EULEX prosecutors in Mitrovica had met with the newly assigned local prosecutor on 2 February 2016 (see above, paragraph 23) and again on 3 August

2016 to determine whether any further progress had been made in the investigation.

28. At the meeting on 3 August 2016, the local prosecutor stated that he had taken no investigative steps since the meeting on 2 February 2016. However, he indicated that he had reviewed the case and concluded that it could proceed in two possible directions. Firstly, the case could be tried under the charge of "Causing General Danger"; and secondly, it could be tried under the charge of "Organised Crime", which would mean that the case would fall under the exclusive competence of the Chief State Prosecutor. He seemed to favour the first option, which would lead to the closure of the case based on the statutory time limit prescribed in Article 106 of the Kosovo Criminal Code.
29. The EULEX Prosecutor scheduled a follow-up meeting with the local prosecutor for 10 August 2016, but this meeting was later cancelled by the latter on the basis that he had more urgent tasks to attend to.
30. The HoM stated in conclusion that, due to the lack of progress in the case and the absence of genuine engagement by the local prosecutor, the Chief EULEX Prosecutor had requested the EULEX Advisory Unit on Justice Matters to monitor the case on a formal basis on 10 August 2016.

III. SECOND FOLLOW-UP DECISION

31. In the second follow-up decision of 10 January 2017, the Panel noted the further steps taken by the HoM to implement the Panel's recommendations. However, it considered that these steps were not sufficient "to ensure that the right of the complainants to an effective remedy is being effectively protected". Having examined the latest information provided by the HoM, the Panel made the following findings and recommendations:

Declares that the HoM has not been able to further implement the recommendations of the Panel thus far, as contained in its original Decision and Findings of the Panel on 22 April 2015.

Declares that the right of the complainants to an effective remedy continues to be adversely affected by the absence of a demonstrable effective investigation in the case.

Invites the Mission, through the HoM, to seek regular updates from the Kosovo authorities on the progress of the investigation, in particular, the status of the formal monitoring of the case by the EULEX Prosecutor.

Invites the Mission to continue its liaising with the competent Kosovo authorities with a view to following up on the progress of this case.

Invites the HoM to update the Panel of the progress of the said investigation by 28 February 2017".

32. In response to the above, by letter of 29 May 2017, the HoM informed the Panel that, contrary to earlier indications, the case had not been closed but was being investigated by the Basic Prosecution Office in Mitrovica (Vushtrri/Vučitrn).
33. On 15 December 2017, the Panel wrote again to the HoM to inquire about new developments in the case.
34. The HoM responded by letter of 30 March 2018, indicating that the Mission had had several meetings with relevant police and prosecutorial authorities "to seek updates on the progress of the investigation". The HoM also clarified that the investigation of the case had been monitored by the Advisory Unit on Justice Matters in the Strengthening Division since August 2016. The HoM specified that the case remained active, but was in the preliminary investigative phase and continued to be monitored by the Advisory Unit on Justice Matters.
35. By letter of 12 April 2018, the Panel acknowledged receipt of the HoM's latest letter and invited her to supplement her response with information on any further progress in the case.
36. The HoM responded by letter of 22 May 2018 in which she indicated that "there has been no further substantial progress since [the] letter of 30 March 2018". Whilst pointing to a number of meetings that had taken place in relation to this case, the HoM stated that the situation "has not changed" since her last update and that a ruling on the initiation of investigation had yet to be rendered. The HoM also emphasised her view that "it is the responsibility of Kosovo institutions to conduct an effective investigation". Finally, the HoM committed to continuing to monitor developments in the case within the Mission's means and capabilities.
37. By letter of 17 January 2019, the Panel sent another request for updates on the case. In particular, the HoM was asked to provide indications regarding the following:
 - Whether the Mission was aware of any development in this case since the last update;
 - Whether the Mission had taken any additional steps or measures in the implementation of the Panel's recommendations since that time;
 - Whether, to the Mission's knowledge, any steps had been taken by local authorities to further the investigation of this case and, in particular, whether the case was still active or had been closed;
 - Whether the Decisions of the Panel in relation to this case had been communicated to the local authorities together with the file of the case;
 - Whether any follow-up – in the form of monitoring or otherwise – by the Mission is being conducted or planned in relation to that case.
38. On 20 February 2019, the HoM responded to the Panel's enquiries. The HoM indicated that the Case Monitoring Unit had contacted the competent prosecutor at the Mitrovica Basic Prosecution's Office and had been informed that the case

was still at the preliminary stage of investigation. The HoM also noted the change in the nature of the Mission's mandate and stated that the Mission would continue to monitor the case periodically. The HoM highlighted that, under the current mandate, the Mission was not empowered to advise local institutions on individual cases and was not in a position to ensure that victims enjoy the right to an effective remedy. It was also indicated that the Kosovo Chief State Prosecutor had been informed of the Panel's decision and the HRAP's decision in relation to the case.

39. On 22 February 2019, the HoM's letter was provided to the complainants' representative for information, so as to afford the complainants an opportunity to make any submissions in response to it. On the same day, the complainants' representative acknowledged receipt of the letter, confirmed that she remained the victims' representative and would provide any further submissions no later than 15 March 2019.
40. On 3 March 2019, the representative of the complainants wrote to the Panel and responded to the HoM's submissions. She stated that the HoM's response was "nothing new" and consisted of suggesting that a) the responsibility was not that of the Mission and b) refusing to acknowledge or abide by the Panel's decisions. She also questioned the veracity and credibility of the claim that the matter was being investigated by the Kosovo authorities. She also invited the Panel to consider ordering compensation for each family.

IV. THIRD FOLLOW-UP DECISION

41. On 27 March 2019, the Panel rendered its third follow-up decision. In that decision, it found that the complainants had yet to be granted an adequate remedy and reparation for the violation of their rights.
42. The Panel further noted that the local authorities were properly seized of the case and were investigating it, as well as the Mission's commitment to regularly monitoring their course of action in relation to the investigation. The Panel underlined the need for the Mission to impress upon the local authorities that this case had to be investigated fully and effectively, as it pertained to the most serious human rights violations.
43. Finally, in response to the representative of the complainants' submissions, the Panel noted that it does not have the authority under its statutory instrument to order that financial compensation be paid to a complainant (Annual Report 2016 of the HRRP, pages 2 and 48-50; *Zahiti against EULEX*, 2012-14, 11 November 2014, in particular, para. 16).
44. On 12 September 2019, the Panel again wrote to the HoM to obtain additional information on the implementation of the Panel's recommendations and the efforts to remedy the violations identified by the Panel in this case.
45. On 31 October 2019, the Mission responded to the Panel and provided information regarding its enquiry. Some of that information was provided to the Panel confidentially. However, given the relevance of that information, the Panel

invited the Mission to consider sharing it with the relevant EU authorities to address the issues mentioned therein.

46. With regard to the Panel's question about whether the Mission was aware of any developments in the investigation of the case, the Mission indicated that the case remained active

"but regrettably no concrete steps have been undertaken since the EULEX letter to the Panel of 20 February 2019. No ruling on initiation of an investigation has been issued".

47. Regarding the Panel's question about the steps or measures adopted by the Mission to implement its recommendations since 20 February 2019, the Mission indicated that it had delivered a copy of the "Third Decision on the Implementation of the Recommendations of the Human Rights Review Panel" of 27 March 2019 and other HRRP decisions pertaining to this case to the prosecutor in charge of the case. On that occasion, the Mission also inquired with the prosecutor whether any developments had occurred since February 2019 and was informed that no additional action had been undertaken.

IV. FOURTH FOLLOW-UP DECISION

48. On 11 December 2019, the Panel rendered its fourth follow-up decision. In that Decision, the Panel noted that the complainants had not yet been granted an adequate remedy and reparation for the violation of their rights and made the following recommendations:

"Invites the Mission to continue performing its mandate to the fullest with a view to ensuring that the complainants' rights are fully respected and guaranteed and to provide a copy of the present decision to the competent local authorities;

Invites the Mission to consider sharing the substance of the confidential information with relevant EU authorities;

Invites the Mission to share copies of the present Decision with relevant organs within the Mission and with relevant interlocutors outside of it;

Invites the Mission to conduct a full review of the means available to the Mission to remedy the violation of the complainants' rights in an effective manner and to report to the Panel on the measures which it proposes to adopt to do so;

Invites the Mission to inform and involve the complainants, as appropriate, in conducting such a review;

Invites the Mission to consider approaching Member States through the European External Action Service regarding the possibility of reparation or compensation for the violation of the complainants' rights attributed to the Mission by the Panel".

49. On 18 December 2019, the Panel communicated its decision to the HoM and requested the Mission to provide a response to the inquiries by 16 March 2020.

50. On 20 August 2021, the Panel again wrote to the Mission, requesting information on the implementation of the recommendations of the fourth follow-up decision at their earliest convenience.
51. The HoM responded with a letter dated 20 December 2021, informing the Panel that, following the last decision, the Mission had made further inquiries with the relevant prosecution authorities and that there had been no progress in the investigation, which remained open. Furthermore, the HoM requested that the Panel close the examination of the case.
52. On 22 December 2021, the HoM's letter was provided to the complainants' representative for information, so as to afford the complainants an opportunity to make any submissions in response to it.
53. On the following day, the complainants' representative responded that the effective remedy had not yet been achieved. She suggested that the Mission could have contacted the Minister of Justice and the Minister of Communities and Returns regarding the case. She further suggested that the newly established Truth and Reconciliation Commission could be informed. Instead, in her view, the Mission did not respond basically to any of the Panel's inquiries.
54. By letter dated 18 January 2022, the Panel provided the HoM with a copy of the complainants' letter. The HoM did not provide further submissions.

V. FIFTH FOLLOW-UP DECISION

55. On 18 August 2022, the Panel issued its fifth follow-up decision. It found that the complainants had not yet been granted access to an effective remedy and adequate relief for the violation of their rights.
56. The Panel was concerned not only that the case was still not being investigated by the local authorities, but also that the Mission had failed to consider any of the recommendations set out in the fourth follow-up decision.
57. The Panel reiterated that the Mission's obligation to remedy the wrong caused by its violation of human rights obligations, under international human rights law, persisted and that the Mission could not use the fact that its mandate had changed, given that the violation had been found, as a pretext for failing to provide a remedy. The Panel accepted that the investigation now rests with local authorities, over whom it has no competence to assess the compatibility of their conduct with relevant human rights standards. Nevertheless, it stressed that a continued failure to secure some form of investigation and remedy for the complainants would necessarily involve the continued violation of their rights by the Mission.
58. The Panel was also alarmed that the HoM completely ignored its invitation to the Mission to conduct a full review of the available means to remedy the violation, to share the substance of the case with the relevant EU authorities, and to further approach the European External Action Service to consider the possibility of providing a remedy.

59. In light of the above, the Panel decided to keep the case open, reiterated the recommendations set out in the fourth follow-up decision in their entirety and invited the Mission to provide an update on their implementation by 15 November 2022.

VI. SUBSEQUENT FOLLOW-UP

60. On 4 November 2022, the Mission proposed to provide an oral presentation in lieu of written submissions. However, the oral presentation was not delivered due to the lack of an available quorum of the Panel.

61. On 14 August 2023, the Panel wrote to the Mission, reiterating the invitation to provide an update on the implementation of the recommendations set out in the fourth follow-up decision and reiterated in their entirety in the fifth follow-up decision by 2 October 2023.

62. The HoM responded with a letter dated 14 November 2023. He stated that on 7 February 2023, his predecessor visited the Chief Prosecutor of the Mitrovica Basic Prosecution Office to obtain an update on the investigation into the case and was informed that the case remained active, but that there had been no progress. The HoM underlined:

“The matter accordingly remains with the Kosovo authorities and there is nothing further that EULEX can do, as it can neither interfere with independent prosecutorial decisions or actions nor undertake these actions on behalf of the Kosovo authorities”.

63. With regard to the recommendation to consider sharing the substance of the confidential information with relevant EU authorities, the HoM indicated that a letter regarding that information would have been sent to the Civilian Operations Commander.

64. As for the recommendation to share copies of the fourth and fifth follow-up decisions with relevant organs within the Mission and with relevant interlocutors outside the Mission, the HoM stated only that all the Panel's decisions are disseminated to relevant units within the Mission.

65. Regarding the recommended full review of the means available to the Mission to remedy the violation of the complainants' rights and the recommended involvement of the complainants in such review, the HoM declared:

“The Mission has no means to remedy the violation identified by the Panel; it has exercised its mandate to the fullest over a number of years and there is no additional information that can be provided and no point in involving the complainants”.

66. As for the recommendation to consider approaching Member States through the European External Action Service regarding the possibility of reparation or

compensation for the Mission's violation of the complainants' rights, the HoM stated that the Mission cannot approach Member States on this matter.

67. On 6 January 2026, the Panel again wrote to the Mission, enquiring whether the Mission had made any further efforts to implement the recommendations contained in the fifth follow-up decision.
68. The HoM responded with a letter dated 12 February 2026. He declared that
- “in order to implement the Panel's recommendations on the case to the extent possible, over many years EULEX diligently and consistently performed its mandate to the fullest. ... EULEX considers that there are no further steps it can take in relation to the present case”.
69. The Panel takes note of the above-mentioned declaration and concludes that no further efforts to implement its recommendations can reasonably be expected from the Mission.

FOR THESE REASONS, THE PANEL

DECLARES that the Head of Mission has only partially implemented the Panel's recommendations;

DECIDES to close the examination of the case.



Marina MANCINI,
Acting Presiding Member



Petko PETKOV,
Member