

Human Rights Review Panel

European Union Rule of Law Mission

Kosovo

Annual Report 2020

1 January to 31 December 2020

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Foreword

The Panel's activity in 2020

This is the eleventh Annual Report of the Human Rights Review Panel (hereinafter, "the Panel" or "HRRP"), which covers the period from 1 January 2020 to 31 December 2020.

This report has been prepared by the Panel and is presented to the Mission, to EU Member States and contributing third states, as well as to the general public with a view to disseminating information on the development of the case law and activities of the Panel.

During the reporting period, the Panel conducted four (4) sessions and adopted a total of seventeen (17) Decisions in thirteen (13) cases.

As has been the case generally, the year 2020 has been marked for the Panel by the consequences of Covid-19. International travel restrictions and social distancing measures inside Kosovo have compelled the Panel and, in particular, its Secretariat, to reorganize its work and methods. Three (3) of the Panel's four (4) sessions held in 2020 have thus taken place via video-link (4 June 2020, 20 October 2020, and 11 December 2020).

Remote sessions of the Panel were carefully prepared in order to ensure that online deliberations were as effective as possible. Despite the challenges, the Panel rendered seventeen (17) decisions over the period. This includes eight (8) decisions on the merit; seven (7) decisions on admissibility; and two (2) follow-up decisions.

Though several of the Panel's outreach activities had to be postponed due to the prevailing circumstances, the Panel did launch on International Human Rights Day (10 December 2020) the first in a series of short informational videos about its work.

The Secretariat has been particularly affected by the circumstances and must be commended for the efforts, resilience and resourcefulness shown during that difficult period of time.

The Panel's Caseload

In 2020, one (1) new complaint was registered. The Panel finalized two (2) cases, both of which it declared inadmissible.

As of 31 December 2020, the pending case-load stood at twenty-four (24) cases. Of these, thirteen (13) cases where a violation of the complainant's rights had been established remain open and subject to assessment of the implementation of the Panel's recommendations by the Head of Mission.

Of the twenty-four (24) pending cases, twenty (20) relate to cases of enforced disappearances during and after the 1998-1999 Kosovo conflict. All of these cases were originally communicated to the Head of Mission of EULEX in December 2017. No progress was made in these cases during 2018 in large part due to the reconfiguration of the Mission. Over the course of 2019 and 2020, responses from the Head of Mission have been submitted in nineteen (19) of these cases. At the end of 2020, that left only one (1) case of enforced disappearances still awaiting a first response from the Head of Mission. According to the Mission, there is information relating to this remaining case which requires prior approval from local authorities before it can be released to the Panel.

The cases of ‘missing persons’ (or enforced disappearance) date back to the 1998-1999 conflict or its immediate aftermath, a time when the Mission did not yet exist. Initially, these cases came under the responsibility of UNMIK before they came under the responsibility of the European Union Rule of Law Mission, EULEX Kosovo (hereinafter, “the Mission”) when the Mission was created in 2008. These cases are emblematic of the work of the Mission, but also of its failures. It is increasingly apparent from complaints that have come before the Panel that the Mission has failed in its efforts to bring justice and accountability for the surviving relatives of the missing. For a decade, the responsibility to investigate those cases was with the Mission. Although it faced great challenges and difficulties, it also failed to fulfill its human rights obligations in relation to those cases. Some of the shortcomings observed by the Panel were systemic. They show a lack of planning and of internal coordination, a lack of vision, a lack of a necessary policy in relation to cases involving allegations of grave human rights violations, a lack of adequate prioritization, and a general lack of focus. They also show a lack of understanding of the Mission’s human rights obligations, in particular in its operations.

The Mission also failed to fully address the flaws and shortcomings left over from the UNMIK Mission that had preceded it. This caused some of UNMIK’s failures to be *imported* into the Mission and perpetuated. As a result, only a small fraction of cases of ‘missing persons’ that were within the competence of the Mission, and which it was required as a matter of human rights law to investigate, were in fact investigated. The vast majority of those remained untouched.

Also concerning in that regard is the Mission’s failure to put in place a communication policy that would have enabled it to communicate with the relatives and surviving members of the families of the missing. The families were left to try to find information by themselves with the Mission being only rarely engaged or effective in assisting them.

As a result, two decades and two international missions later, the situation of the missing persons in Kosovo is still almost at the same point as it was in the immediate aftermath of the conflict as far as human rights and accountability are concerned. That is despite the best efforts and increasing body of decisions by the Panel on the subject.

Recommendations of the Panel in relation to the cases related to missing persons have been implemented only in part by the Mission. Two considerations are particularly problematic in that regard. The first is the Mission’s continued refusal to acknowledge the fact that it has violated the fundamental rights of the complainants despite the Panel having found so and despite the fact that this reality is unavoidable. This refusal appears to be motivated by the Mission’s concern that it could be held legally accountable if it were to recognize that fact. That concern is, in the view of the Panel, theoretical rather than real. Furthermore, even if real, it would be a great irony that the Mission would take steps to make itself unaccountable when its very mandate is to ensure accountability for others. The Panel will continue to issue follow-up decisions where the Mission has violated its human rights obligations with respect to investigating missing persons and in which the Mission has not implemented the Panel’s recommendations, such as the recommendation for the Mission to recognize its failures and responsibility.

The Mission’s new mandate and its impact on the work of the Panel

A new and revised mandate for EULEX Kosovo was adopted by Council Decision CFSP 2018/856 of 8 June 2018. It entered into force on 15 June 2018.

Under this new mandate, EULEX Kosovo conducts systemic, thematic and *ad hoc* monitoring of “selected cases and trials in the Kosovo justice system, including but not limited to handed-over

EULEX cases.” The selection of cases to be monitored is focused on cases prone to political interference, of sensitive inter-ethnic nature, with human rights concerns or to ensure the legacy of EULEX. Based on those monitoring activities, the Mission provides its assessments and findings to Kosovo institutions and keeps other relevant EU actors informed about these activities. It also maintains a small number of executive competencies in witness protection, criminal intelligence and the maintenance of public order as second responder to the Kosovo police.

The other principal concern of the Panel in the context of the ‘missing persons’ cases pertains precisely to the Mission’s new and latest mandate. That mandate is, at least to the Panel, not entirely clear in what it authorizes the Mission to do. It is apparent from the actions of the Mission that have come before the Panel – though not necessarily from its submissions to the Panel – that the Mission is able, when minded to do so, to do a great deal more than ‘observe’ and ‘monitor’ cases. In contrast, a much narrower interpretation of the mandate appears to prevail when the Mission is asked by the Panel to remedy violations of fundamental rights attributed to the Mission by the Panel. It is important in that context that the Mission should ensure, when interpreting the scope and nature of its mandate, that it does so in light of and having fully considered its continuing human rights obligations. As a result, the Panel has invited the Head of Mission to carefully review the scope of the Mission’s mandate in light of its continued and over-arching human rights obligations. This includes, in particular, the necessity to –

- a. Find ways to fully and effectively remedy the violations of rights attributed to the Mission;
- b. Find ways to ensure that ‘missing persons’ cases that were under its responsibility for a decade are now not abandoned, but that they are investigated.

It is the Panel’s strong opinion that the Mission should not, and should not be permitted, to now hide behind its new mandate and effectively ‘wash its hands’ of cases it culpably failed to deal with. Its legacy and reputation would greatly suffer if this were allowed to happen.

The Panel is therefore hopeful that the new year will bring new enthusiasm and renewed energy within the Mission to fulfill its human rights obligations and to find more effective ways to address past violations.

Guénaél Mettraux
Presiding Member
Human Rights Review Panel

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1. Regulatory Framework

The legal basis for the operation of the European Union Rule of Law Mission in Kosovo, EULEX Kosovo (hereinafter, “the Mission”), derives generally from the United Nations Security Council Resolution 1244(1999) of 10 June 1999, and is provided specifically by Decisions of the European Council of the European Union. These Council Decisions serve to implement the Common Security and Defence Policy (CSDP) of the European Union.

1.1. Council Decision CFSP 2018/856 of 8 June 2018

In its current mandate as amended by Council Decision CFSP 2018/856, the Mission monitors selected cases and trials in Kosovo’s criminal and civil justice institutions. This includes but is not limited to cases that were handed over to the competent Kosovo institutions. Furthermore, EULEX Kosovo retains a limited number of executive powers in relation to, inter alia, witness protection, criminal intelligence and the maintenance of public order, as second responder to the local authorities.

1.2. Council Joint Action 2008/124/CFSP of 4 February 2008 on the European Union Rule of Law Mission EULEX Kosovo

The Council Joint Action is the source of the authority and power of the EULEX Mission in Kosovo. It laid down the *mandate* of EULEX Kosovo and, *inter alia*, specified its responsibility to act in compliance with relevant human rights standards in Article 3 (i): “ensure that all its activities respect international standards concerning human rights and gender mainstreaming”.

1.3. Accountability Concept EULEX Kosovo – Human Rights Review Panel, General Secretariat of the Council, Brussels of 29 October 2009

The establishment of an independent, effective, transparent human rights accountability mechanism was considered early on in the Mission’s operation to be a fundamental requirement for EULEX Kosovo as a Rule of Law Mission vested with certain executive functions. These executive functions included various functions in policing and prosecution reserved for EULEX officials in relation to the maintenance of public order, criminal investigation and prosecution, particularly of war crimes and organised crime, and assistance in forensic anthropology. Such an external accountability mechanism was intended to complement and supplement the overall accountability of EULEX Kosovo as provided by the Third Party Liability Insurance Scheme and the EULEX Internal Disciplinary Mechanism.

Thus, the Accountability Concept laid down the *mandate* of the Panel to: *review complaints from any person, other than EULEX Kosovo personnel, claiming to be the victim of a violation of his or her human rights by EULEX Kosovo in the conduct of the executive mandate of EULEX Kosovo.*¹

However, pursuant to the Accountability Concept, the Panel did not have jurisdiction in respect of the Kosovo courts. The fact that at one time EULEX judges sat on the bench of a particular court does not modify the character of these courts as Kosovo courts.

The Panel adopted its own Rules of Procedure on 10 June 2010, the date from which it was authorized to receive complaints. It amended its rules on 21 November 2011, 15 January 2013, 15 January 2019 and again on 11 December 2019.

1.4. Applicable International Human Rights Instruments

In accordance with the provisions of the Accountability Concept, the Panel may consider complaints pertaining to alleged breaches of relevant human rights instruments, including these:

- The Universal Declaration of Human Rights (1948)
- The European Convention for the Protection of Human Rights and Fundamental Freedoms (the Convention, 1950)
- The Convention on the Elimination of All Forms of Racial Discrimination (CERD, 1965)
- The International Covenant on Civil and Political Rights (ICCPR, 1966)
- The International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966)
- The Convention on Elimination of All Forms of Discrimination Against Women (CEDAW, 1979)
- The Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment (CAT, 1984)
- The International Convention on the Rights of the Child (CRC, 1989)

In practice, the complaints filed to date have been primarily based upon the European Convention on Human Rights (“European Convention”) and its Protocols. A number of complaints have also made reference to the Universal Declaration of Human Rights, International Covenants and other human rights instruments. References were also made in a number of cases to the case-law of the Inter-American Court of Human Rights, the Geneva Conventions, and to the Rome Statute of the International Criminal Court.

1.5. Rules of Procedure

As a consequence of the entry into force on 15 June 2018 of Council Decision CFSP 2018/856, the mandate and composition of the Human Rights Review Panel was also changed. In order to reflect these changes, the Rules of Procedure needed to be amended.

On 15 January 2019, the Panel adopted its amended Rules of Procedure to account for the change in the Mission’s mandate and the need to recompose the Panel.

On 11 December 2019, the Panel adopted an amendment to Rule 43 of the Rules of Procedure, to allow both parties to a complaint to be able to submit a request for revision of findings of a decision of the Panel, in circumstances where new information had come to light that was not available at the time when the Panel rendered its initial decision.

¹ The Accountability Concept is part of the Operation Plan of EULEX. It is therefore deemed to be a restricted document and thus not accessible to the public. The Panel is therefore not at liberty to disclose its details.

The Rules of Procedure are available in the English, Albanian and Serbian languages on the website of the Panel at <https://hrrp.eu/reference-documents.php>.

1.6. Revised and expedited processing of cases

By letter of 18 September 2020, the Panel informed the Head of Mission of EULEX that, in light of the coronavirus pandemic and the measures adopted to mitigate its effects, delays have been caused in both the processing of complaints pending before the Panel, as well as in the communications between the Panel and complainants due.

Therefore, the Panel decided and informed the Mission that, in order to accelerate the processing of pending cases, starting from the end of the year, the Panel would generally deal with issues of admissibility and merit at the same time in a single decision.

2. Caseload and subject matter of complaints

2.1. Caseload and statistics

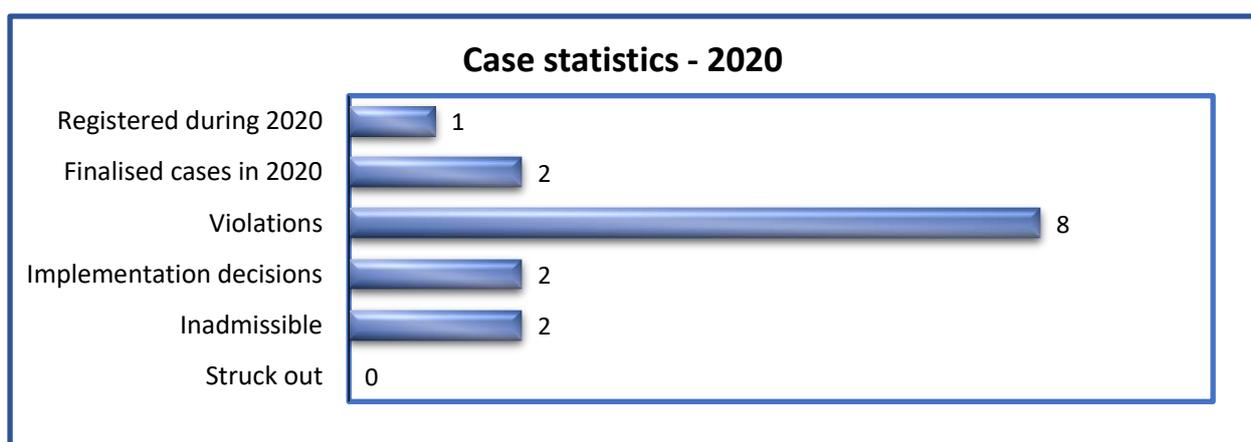
The Panel received one (1) new complaint in 2020.

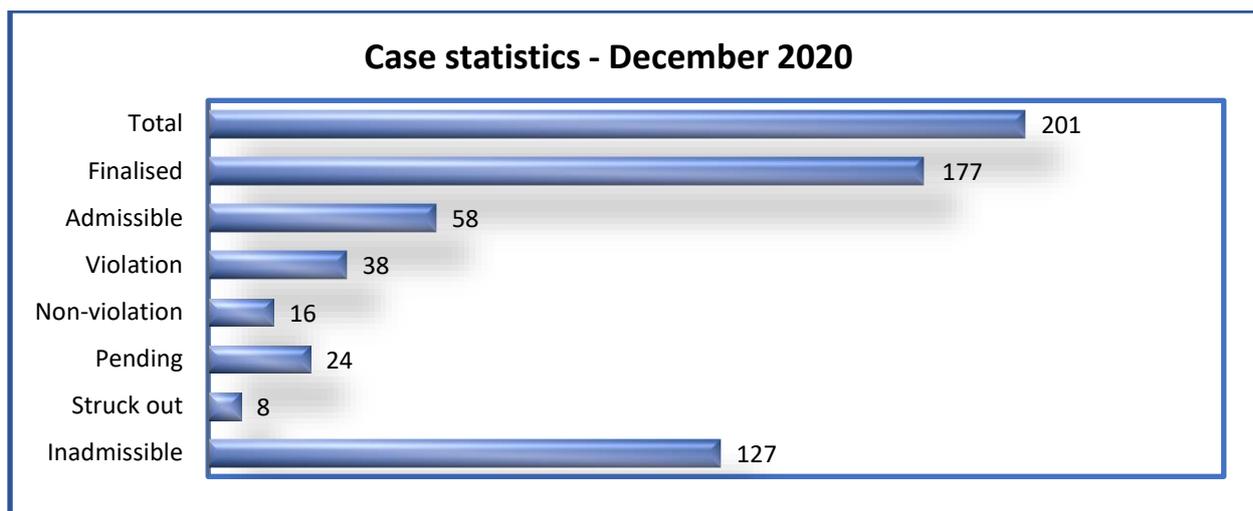
The Panel finalised two (2) cases and found that both of these cases were inadmissible.

The Panel declared five (5) cases to be admissible and found that the Mission had violated the human rights of complainants in eight (8) cases.

Follow-up decisions were adopted in two (2) cases, where the Panel continues to assess the implementation of its recommendations.

The pending caseload on 31 December 2019 stood at twenty-four (24) cases.





2.2. Subject matter of complaints

The complaints which were examined by the Panel in 2020 predominantly concerned cases of enforced disappearances, which took place either during or immediately after the 1998-1999 conflict in Kosovo. The complaints pertain in particular to alleged violations of the right to life under its procedural limb, and the right to freedom from torture, inhuman or degrading treatment as a result of the suffering caused by the disappearance and lack of an effective investigation, as guaranteed by Articles 2 and 3 of the European Convention.

One of the complaints examined during 2020 concerned the current mandate of the Mission as it relates to support for war crimes trials. The complaint pertained in particular to the manner in which the Mission had treated a witness in a war crimes trial, and the right to freedom from torture, inhuman or degrading treatment as a result of the suffering caused by that treatment, as guaranteed by Article 3 of the European Convention on Human Rights and Fundamental Freedoms.

2.3. Sessions of the Panel

During 2020, the Human Rights Review Panel held four sessions. Due to the travel restrictions and social distancing measures imposed from 15 March 2020, in mitigation of the coronavirus pandemic, three of the sessions were conducted via electronic means, as authorized by *Rule 13. Deliberations, Paragraph 3* of the Rules of Procedure.

- 44th Session: 12, 13 and 14 February 2020;
- 45th Session: 4 June 2020;
- 46st Session: 20 October 2020; and
- 47nd Session: 11 December 2020.

3. Jurisprudence

3.1. Introduction

The Panel continued with the development of its jurisprudence and issued a number of decisions on merits and on admissibility during the reporting period.

In so doing, the Panel relied extensively on the European Convention, and the jurisprudence of the European Court of Human Rights (ECtHR), but also drew lessons from other international instruments, and decisions and statements of relevant monitoring bodies. This includes the international human rights conventions of the United Nations and the relevant monitoring mechanisms, the Inter-American Convention of Human Rights (and associated case law), as well as the jurisprudence of the United Nations Human Rights Advisory Panel of UNMIK, its own case law, and the applicable law in Kosovo.

In addition, the Panel issued a number of decisions on follow-up to previous decisions on the merits. The Panel's ability to follow-up on its recommendations is an important element of its normative infrastructure insofar as it allows it to ensure that its recommendations are duly and fully considered by the Mission and that they are implemented to the greatest possible extent.

3.2. Decisions on Merit

The Panel rendered eight (8) decisions on merit in the course of 2020.

Panel session of 12-14 February 2020

- **Case 2016-10 [Dragiša Kostić against EULEX](#)**. On 13 February 2020, the Panel determined that EULEX had failed to conduct an effective investigation into the disappearance of the complainant's close relative and had failed to keep the complainant informed of the course of the proceedings. As a result, the Panel determined that the Mission was responsible for a violation under the procedural limb of the complainant's right to life as guaranteed by Article 2 of the European Convention, and for a violation of the complainant's right to freedom from inhuman or degrading treatment, as guaranteed by Article 3 of the European Convention. The Panel made several recommendations to the Head of Mission, including to inquire with the authorities what steps are being taken to investigate this case, and to emphasise with authorities the importance of victim's rights to the truth and to be informed of the general course of the investigation.
- **Case 2016-12 [U.F. against EULEX](#)**. On 12 February 2020, the Panel determined that EULEX had failed to conduct an effective investigation into the disappearance of the complainant's close relative and had failed to keep the complainant informed about the course of proceedings. As a result, the Panel determined that the Mission was responsible for a violation under the procedural limb of the complainant's right to life as guaranteed by Article 2 of the European Convention, and for a violation of the complainant's right to freedom from inhuman or degrading treatment, as guaranteed by Article 3 of the European Convention. The Panel made several recommendations to the Head of Mission of EULEX, including to inquire with the authorities what steps are being taken to investigate this case, and to emphasise with the authorities the importance of victim's rights to the truth and to be informed of the general course of the investigation.
- **Case 2016-13 [Miomir Krivokapić against EULEX](#)**. On 12 February 2020, the Panel determined that EULEX had failed to conduct an effective investigation into the disappearance of the complainant's close relative and had failed to keep the complainant informed about the course of proceedings. As a result, the Panel determined that the Mission was responsible for a violation under the procedural limb of the complainant's right to life as guaranteed by Article 2 of the European Convention, and for a violation of the complainant's right to

freedom from inhuman or degrading treatment, as guaranteed by Article 3 of the European Convention. The Panel made several recommendations to the Head of Mission of EULEX, including to inquire with the authorities what steps are being taken to investigate this case, and to emphasise with the authorities the importance of victim's rights to the truth and to be informed of the general course of the investigation.

Panel Session of 4 June 2020

- **Case 2016-17 Milijana Avramović against EULEX.** On 4 June 2020, the Panel determined that EULEX had failed to conduct an effective investigation into the disappearance of the complainant's close relative and had failed to keep the complainant informed. As a result, the Panel determined that the Mission was responsible for a violation under the procedural limb of the complainant's right to life as guaranteed by Article 2 of the European Convention, and for a violation of the complainant's right to freedom from inhuman or degrading treatment, as guaranteed by Article 3 of the European Convention. The Panel also determined that the Mission was responsible for failing to provide the complainant with an effective remedy in violation of Article 13 of the Convention. The Panel made several recommendations to the Head of Mission of EULEX, including to inquire with the authorities what steps are being taken to investigate this case, and to emphasize with authorities the importance of victim's rights to the truth and to be informed of the general course of the investigation. The Panel also invited the Head of Mission to reach out to the complainant with a view to finding a remedy for the violation of her rights.

Panel session of 11 December 2020

- **Case 2016-11 Petar Brakus against EULEX.** On 11 December 2020, the Panel determined that EULEX had failed to conduct an effective investigation into the disappearance of the complainant's close relative and had failed to keep the complainant informed. As a result, the Panel determined that the Mission was responsible for a violation under the procedural limb of the complainant's right to life as guaranteed by Article 2 of the European Convention, and for a violation of the complainant's right to freedom from inhuman or degrading treatment, as guaranteed by Article 3 of the European Convention. The Panel also determined that the Mission was responsible for failing to provide the complainant with an effective remedy in violation of Article 13 of the Convention. The Panel made several recommendations to the Head of Mission of EULEX, including to inquire with the authorities what steps are being taken to investigate this case, and to emphasize with authorities the importance of victim's rights to the truth and to be informed of the general course of the investigation. The Panel also invited the Head of Mission to reach out to the complainant with a view to finding a remedy for the violation of his rights. The Mission's implementation of those recommendations is pending.
- **Case 2016-23 Q.J. against EULEX.** On 11 December 2020, the Panel determined that EULEX had failed to conduct an effective investigation into the disappearance of the complainant's close relative and had failed to keep the complainant informed. As a result, the Panel determined that the Mission was responsible for a violation under the procedural limb of the complainant's right to life as guaranteed by Article 2 of the European Convention, and for a violation of the complainant's right to freedom from inhuman or degrading treatment, as guaranteed by Article 3 of the European Convention. The Panel made several recommendations to the Head of Mission of EULEX, including to inquire with the authorities what steps are being taken to investigate this case, and to emphasize with authorities the importance of victim's rights to the truth and to be informed of the general course of the

investigation. The Panel also invited the Head of Mission to reach out to the complainant with a view to finding a remedy for the violation of her rights. The Mission's implementation of those recommendations is pending.

- **Case 2016-24 [Vesko Kandić against EULEX](#)**. On 11 December 2020, the Panel declared the complaints admissible and determined that EULEX had failed to conduct an effective investigation into the disappearance of the complainant's close relative and had failed to keep the complainant informed. As a result, the Panel determined that the Mission was responsible for a violation under the procedural limb of the complainant's right to life as guaranteed by Article 2 of the European Convention, and for a violation of the complainant's right to freedom from inhuman or degrading treatment, as guaranteed by Article 3 of the European Convention. The Panel made several recommendations to the Head of Mission of EULEX, including to inquire with the authorities what steps are being taken to investigate this case, and to emphasize with authorities the importance of victim's rights to the truth and to be informed of the general course of the investigation. The Panel also invited the Head of Mission to reach out to the complainant with a view to finding a remedy for the violation of his rights. The Mission's implementation of those recommendations is pending.
- **Case 2019-01 [G.T. against EULEX](#)**. On 11 December 2020, the Panel determined, by majority, that the Mission had failed to sufficiently assess the risks to the complainant when called to testify at a war crimes trial in Serbia, and did not take adequate actions to ensure the complainant's security and well-being. As a result, the Panel found that the Mission had contributed to a limited extent to the violation of the complainant's right to freedom from inhuman or degrading treatment, as guaranteed by Article 3 of the European Convention. The Panel determined that the Mission had not violated the complainant's right to private life as protected by Article 8 of the European Convention. The Panel made several recommendations to the Head of Mission of EULEX, including to acknowledge that its conduct had contributed to the violation of the rights of the complainant, as well as to inquire with the complainant and local authorities what measures should be taken to guarantee the safety and well-being of the complainant as result of the complainant's testimony in Serbia. The Mission's implementation of those recommendations is pending.

3.3. Decisions on Admissibility

The Panel rendered seven (7) decisions on admissibility in 2020.

Panel session of 12-14 February 2020

The Panel declared one (1) complaint inadmissible during this session.

- **Case 2016-18 [P.K. against EULEX](#)**. The complaint related to allegations against the Office on Missing Persons and Forensics of UNMIK. The Panel declared this complaint inadmissible because the events complained of were not attributable to EULEX in the conduct of its executive mandate, and therefore did not come within the scope of the Panel's jurisdiction.

The Panel declared one (1) complaint admissible during this session.

- **Case 2016-16 [Dobrivoje Vukmirović against EULEX](#)**. The complaint concerned the disappearance of a family member of the complainant and the investigation into this disappearance. The Panel declared the complaints admissible and invited the Parties to make submissions on the merits of the complaints.

Panel session of 4 June 2020

The Panel declared two (2) complaints admissible during this session.

- **Case 2016-23 [Q.J. against EULEX](#)**. On 4 June 2020, the Panel declared the complaints admissible and invited the Parties to make submissions on the merits of the complaints. The complaint concerned the disappearance of a family member of the complainant and the investigation into this disappearance.
- **Case 2019-01 [G.T. against EULEX](#)**. On 4 June 2020, the Panel declared the complaints admissible and invited the Parties to make submissions on the merits of the complaints. The complaint concerned the assistance of EULEX to the complainant to testify at a war crimes trial in Serbia, and subsequent threats to the complainant.

Panel session of 20 October 2020

The Panel declared one (1) complaint inadmissible during this session.

- **Case 2020-01 [Reihan Kaja against EULEX](#)**. The complaint concerned an application for employment with the Mission. On 20 October 2020, the Panel declared this complaint inadmissible because it fell outside the scope of the jurisdiction of the Panel.

Panel session of 11 December 2020

The Panel declared two (2) complaints admissible during this session.

- **Case 2016-22 [Radmila Šapić against EULEX](#)**. On 11 December 2020, the Panel declared the complaints admissible and invited the Parties to make submissions on the merit of the complaints. The complaint concerns the disappearance of a family member of the complainant and the investigation into this disappearance.
- **Case 2016-24 [Vesko Kandić against EULEX](#)**. (See above under Decisions on the merit).

3.4. Decisions on Requests for Revision

The Panel rendered one (1) decision on a request for revision during 2020.

Panel session of 4 June 2020

- **Case [2016-28 S.H. against EULEX](#)**. On 4 June 2020, the Panel rejected the request of the Head of Mission of EULEX for a revision of its findings based upon the amended Rule 43 of the Panel's Rules of Procedure. The Panel determined that the new fact presented by the Mission in support of its application for revision not meet the requirement of diligence under the amended Rule 43, and that when considered on its merits, it also did not materially affect the Panel's finding that EULEX had failed to keep the complainant informed of its investigation into the disappearance of his family member. As a result, the Panel confirmed its Decision and Findings of 11 September 2019 and reiterated its recommendations to the Head of Mission of EULEX, including to inquire with the authorities what steps are being taken to investigate this case, and to emphasize with

authorities the importance of victim's rights to the truth and to be informed of the general course of the investigation.

3.5. Decisions on Follow-up

The Panel issued two (2) decisions on follow-up during 2020.

Panel session of 11 December 2020

- **Case 2016-17 [Milijana Avramović against EULEX](#)**. On 11 December 2020, the Panel adopted a Follow-Up Decision on the implementation of the recommendations of the Human Rights Review Panel. In its Decision, the Panel noted that that the rights of the complainant in the present case are still being violated as the case of her missing relative remains un-investigated. The Panel considered that the steps thus far taken or proposed by the Mission in order to address the Panel's findings and recommendations do not provide an adequate or effective response to the violation of the rights of the complainant. The Panel invited the Mission to give careful consideration to what possibilities exist for the Mission to contribute to that adequate response in a meaningful and effective manner, and to inform the Panel of the result of those considerations and what measures the Mission proposes to adopt to achieve that goal. The Panel decided to keep the case open for possible further follow-up.
- **Case 2016-28 [S.H. against EULEX](#)**. On 11 December 2020, the Panel adopted a Follow-Up Decision on the implementation of the recommendations of the Human Rights Review Panel. In its Decision, the Panel noted that that the rights of the complainant in the present case are still being violated as the case of her missing relative remains un-investigated. The Panel considered that the steps thus far taken or proposed by the Mission in order to address the Panel's findings and recommendations do not provide an adequate or effective response to the violation of the rights of the complainant. The Panel invited the Mission to give careful consideration to what possibilities exist for the Mission to contribute to that adequate response in a meaningful and effective manner, and to inform the Panel of the result of those considerations and what measures the Mission proposes to adopt to achieve that goal. The Panel decided to keep the case open for possible further follow-up.

4. Other activities of the Panel

4.1. Meetings

On 12 February 2020, the Panel met with Mr Lars-Gunnar Wigemark, the newly appointed Head of Mission of EULEX Kosovo. The Panel introduced itself and its work to the new Head of Mission, and discussed modalities for communication and cooperation between the Panel and the Mission. Discussion also revolved around a number of pending human rights issues of concern emanating from the cases brought before the Panel.

4.2. Public Outreach Campaign 2020

The Accountability Concept Document of 29 October, 2009 stated, *inter alia*, at para E, that, "...EULEX Kosovo will ensure a proper dissemination of public information on the Panel and its work..."

The Civilian Operations Commander, in his instruction of 13 November 2009, stated, in relation to the Panel, that the Road Map for Civilian Planning Conduct Capability should include, "...preparation of a comprehensive PR campaign".

On 21 January 2020, the Head of the Secretariat of the Panel met with Mr Hilmi Jashari, Ombudsperson of the Republic of Kosovo. The Head of the Secretariat presented the revised mandate of the Panel and described its current cases. The Ombudsperson explained the situation of his Institution, and detailed some of its recent cases and activities.

On 24 February 2020, the Head of the Secretariat of the Panel met with Mr Milorad Trifunović, Serb Coordinator of the Missing Persons Resource Center. They discussed the status of the missing persons cases pending before the Human Rights Review Panel.

On 10 December 2020, on the occasion of International Human Rights Day, the Human Rights Review Panel published a short introductory video to present itself and its mandate. This video was published on the Panel's website, Facebook page and LinkedIn page, as well as on the website of the European Union Rule of Law Mission in Kosovo.

The video can be found at these locations:

- HRRP Website: <https://hrrp.eu/videos.php>
- EULEX Website: <http://www.eulex-kosovo.eu/?page=2,13,157>

4.3. Induction training

The Secretariat continued its participation in the EULEX induction training program for incoming EULEX staff members. The format consists of a presentation on the work of the Panel with time allocated for questions and answers. This process is useful to brief future staff members on the mandate of the Panel, to further underline the importance of human rights compliance for EULEX Kosovo and to raise the profile of the Panel with EULEX staff members in the EULEX Kosovo area of operations. This is an important element in the process of ensuring that staff of the Mission are made aware of their human rights obligations and are able to act in accordance therewith.

4.4. HRRP online

The Secretariat maintains the Panel website at: www.hrrp.eu. The site contains information on the mandate, procedure and operations of the Panel. It also contains regularly updated information on the decisions of the Panel as well as the list of pending and finalised cases.

The table of the jurisprudence of the Panel is readily accessible. It lists the Panel's growing case law by subject matter both on admissibility and substance of cases under consideration. This was created, inter alia, to provide ready and user-friendly access to the case law of the Panel for complainants, lawyers and the public at large: (<http://www.hrrp.eu/jurisprudence.php>).

The Panel has also produced a number of "Case-Law Notes" that summarise by topic some of the most important aspects of its jurisprudence (http://hrrp.eu/Case-Law_Notes.php).

The website also provides information on:

Applicable human rights standards: (<http://www.hrrp.eu/relevant-rights.php>);

Application forms and instructions for filing complaints: (<http://hrrp.eu/filing%20complaints.php>);

Moreover, the Panel has a profile on Facebook and LinkedIn: Human Rights Review Panel.

The above information is available in the English, Albanian and Serbian languages.

5. The Panel and the Secretariat

5.1. Members of the Panel

Under the Accountability Concept and the Panel's Rules of Procedure based on it, the Panel consists of four members; two external members and two EULEX members, of which one is a substitute for the other. Prior to the revision of the mandate in June 2018, the two EULEX members were EULEX staff members appointed to work as judges in the Kosovo judicial system. Following the revision of the mandate, the two EULEX members are staff members of the Monitoring Pillar of EULEX.

The composition and members of the Panel remained the same all through 2020.

5.1.1. Presiding Member

On 11 September 2019, Dr Mettraux was formally elected Presiding Member by the full Panel. He remained in that position all through 2020.

5.1.2. Members as of 31 December 2020

Prof Dr Guénaël Mettraux – External Member, Presiding Member

Dr Guénaël Mettraux has a *Licence en droit* from the University of Lausanne (Switzerland), an LLM in international law from University College London and a PhD from the London School of Economics and Political Science.

He is a Judge at the Kosovo Specialist Chambers. Dr Mettraux has been acting as Defense Counsel and consultant before international jurisdictions (ICJ, ICTY, ICC, STL and ECCC).

Dr Mettraux is Affiliate Professor of International Criminal Law Practice at Dickinson Law School, PennState University, Professor of law at Science Po Paris, Adjunct Professor at the National University of Ireland (Galway), and guest lecturer at the University of Fribourg (Switzerland).

He has published extensively in the field of international criminal law. His scholarly works include five books published by Oxford University Press. Dr Mettraux is a member of the Editorial Committee of the *Journal of International Criminal Justice* and the Board of Editors of the *International Criminal Law Review*.

Dr Mettraux has served as a member of the Human Rights Review Panel since 30 September 2012.

Ms Anna Bednarek – EULEX Member, appointed on 19 December 2018.

Ms. Bednarek was appointed as a Substitute Member of the EULEX Human Rights Review Panel (Panel) by the EULEX Head of Mission on 25 May 2011 and she was appointed as a Member of the

Panel by the EULEX Head of Mission on 12 July 2011. This appointment terminated in December 2011, but upon the appointment in September 2015, Ms. Bednarek became again member of the HHRP until 14 June 2018 when the revisions to the mandate of EULEX Kosovo took place. Following the revised mandate of EULEX Kosovo in June 2018, Ms. Bednarek was appointed as a member of the Panel by the EULEX Head of Mission on 19 December 2018.

Ms Bednarek was appointed as a Judge in the District Court of Warsaw in June 1998. During her career she worked as a Senior Expert in the Office of the Agent of the Polish Government at the European Commission and Court of Human Rights, Human Rights and National Minorities Division, Legal and Treaty Department of the Polish Ministry for Foreign Affairs, Warsaw, as well as Consul in the Polish Embassy, Rome, Italy.

Moreover, she was appointed by EULEX as: Judge at the Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency Related Matters where she has served since January 2009 and from September 2015 as Appeals Judge at the Kosovo Property Appeals Panel (KPA AP) at the Supreme Court of Kosovo. Currently, she holds a position of the Thematic Lead Monitor for the Kosovo Property Agency Appeals Panel of the Supreme Court of Kosovo.

Mr Petko Petkov – Substitute EULEX Member, appointed on 19 December 2018.

Mr. Petko Petkov graduated from the Sofia University as a Magister of Law. He was a junior judge at the Sofia District Court from 2005 until 2007 and since 2007 is a judge at the Criminal Division at the Sofia Regional court. During his career as a criminal judge he has worked on thousands of cases and it has been a core rule in his work to always adhere to the principles of ECHR and to the European Court of Human Rights case law.

From 2014 until the end of 2015 he was appointed as an expert for a Deputy Minister of Justice of the Republic of Bulgaria. During that period he was responsible for the representation of the country before the European Court of Human Rights and had to provide methodological guidance and control over the activity of the Directorate within the Ministry. Apart from his duties related to establishing the *modus operandi* of the procedural representation before ECtHR, he was directly involved in drafting the legislative amendments related to the Judiciary.

From 2012 until 2015 he was a guest lecturer in Criminal Law and Criminal Procedures at the National Training Institute for the Judiciary where he broadened and developed his knowledge at a more theoretical and academic level.

He joined EULEX KOSOVO in 2017 as an International Criminal Judge where he worked until the end of the Executive mandate of the Mission in 2018. Currently he is a Thematic Lead Monitor for Crimes under International Law in EULEX Kosovo.

Mr. Petkov was appointed as the Substitute Member of the Human Rights Review Panel by the Head of Mission EULEX Kosovo on 19 December 2018.

Ms. Anna Autio – External Member, appointed on 26 June 2019.

Anna Autio holds a BA Honours from the University of Oxford, an LL.B. Graduate Law from the University of Sydney, a *Certificat de droit transnational* from the University of Geneva, a Graduate Diploma of Legal Practice from the College of Law, Australia, and an MA from King's College London. She was admitted as a Lawyer of the Supreme Court of New South Wales, Australia, in 2007.

Ms. Autio has extensive experience working on international human rights law and human rights

programmes, particularly in conflict, post-conflict and transition settings. The themes of her human rights work include civil and political rights, rule of law and access to justice, and the rights of victims of armed conflict, women, children, Indigenous Peoples, minorities, and other vulnerable groups.

Ms. Autio has worked for the World Bank in Washington DC, leading its human rights trust fund and the creation of a new Human Rights and Development Trust Fund, and providing technical advice and training on human rights. She also worked for UNESCO in Morocco and Tunisia, heading the organization's Tunis office and its support to the Tunisian government, constitutional authorities, and civil society in the areas of freedom of expression, gender, and security sector reform, and coordinating a regional freedom of expression project in Egypt, Libya, Morocco, Syria, Tunisia, and Yemen. Ms Autio also worked as legal officer for UNEP in Geneva, and as an attorney focused on public international law and European Union law with international law firms in Brussels.

The Head of Mission of EULEX appointed Ms. Autio as Member of the Human Rights Review Panel on 26 June 2019.

5.2. The Secretariat

The Secretariat of the Panel consists of one Legal Officer and two Translator/Interpreters. The Secretariat is located in dedicated premises where its administration, records and archives are housed, independently of other EULEX Kosovo locations.

The Secretariat provides legal and administrative support, as well as language services to the Panel. The Secretariat also receives (potential) complainants, and ensures communications and correspondence between the Panel and complainants, and the Head of Mission, respectively. The Secretariat also facilitates outreach to all communities of Kosovo.

6. Operational and Administrative Matters

6.1. Budget

In 2020, the Panel was granted a budget, separate from that of the Mission. The Panel had requested a budget for outreach activities to cover a two-year period. However, due to matters related to the decision-making by the European Council as a result of the restrictions imposed to mitigate the effects of the coronavirus pandemic, the mandate of the Mission, and that of the Panel, was only extended for one year through a technical extension. As a consequence, the Panel's budgetary request was split in half.

The Panel has used this reduced budget to plan a number of promotional videos, of which one was produced and published during 2020 (see above under 4.2 Public Outreach Campaign 2020).

6.2. Human resources

The staffing of the Secretariat of the Panel remained stable throughout 2020.

7. Conclusions and recommendations

7.1. General considerations

The year 2021 is likely to be another challenging year for the Mission and for the Panel. Covid-19 will continue to hang over the Mission's and Panel's work. The Panel's existing caseload will continue to go down with most of the cases currently pending at the admissibility and merit stages hopefully dealt with by end of year.

As pointed out in this Report's Foreword, the Panel's work will only be effective if the Mission is able to work and respond promptly in a way consistent with its human rights obligations and so as to ensure that it is in a position to remedy the violations of rights committed at an earlier time in its existence.

The Panel also hopes that the Mission will find effective ways to make itself relevant and helpful to the efforts of others to investigate cases of missing persons. The Panel for its part will continue to deal with the cases that come before it on that subject and will relentlessly seek to provide a degree of accountability for what have been two sad, painful and disappointing decades for the surviving relatives of the disappeared.

The Panel is also intent on continuing work on its 'legacy' as a unique accountability mechanism for an inter-governmental post-conflict peace operation. To the extent that the implementation by the Mission of the Panel's recommendations has not been entirely satisfactory, also in 2020, the Panel will prepare, and launch at the conclusion of the Mission, a final report and related outreach and dissemination activities, which it hopes will build awareness of the lessons learned through the Panel's operation and help contribute to the discussion and decision-making on human rights accountability of similar international operations in the future.

7.2. Mission Mandate

The Mission's mandate has changed over time. Its executive mandate is significantly more limited following Council Decision (CFSP) 2018/856 of 8 June 2018, and many of the executive functions previously exercised by the Mission are now with the Kosovo authorities. Under the above Council Decision the amended Article 2 provides the following *Mission Statement*:

"EULEX Kosovo shall support selected Kosovo rule of law institutions on their path towards increased effectiveness, sustainability, multi-ethnicity and accountability, free from political interference and in full compliance with international human rights standards and best European practices — through monitoring activities and limited executive functions as set out in Articles 3 and 3a — with the aim of handing over remaining tasks to other long-term EU instruments and phasing out residual executive functions."

The Council Decision amends Article 3 to outline the following tasks for the Mission under its current mandate:

- (a) *monitor selected cases and trials in Kosovo's criminal and civil justice institutions, in close coordination with other EU actors, while respecting the independence of the judiciary, and facilitate contacts and monitor relevant meetings within regional*

- cooperation on cases concerning war crimes, corruption and serious and organised crime;*
- (b) provide operational support to the EU-facilitated Dialogue, as necessary;*
 - (c) monitor, mentor and advise the Kosovo Correctional Service;*
 - (d) retain certain limited executive responsibilities in the areas of forensic medicine and police, including security operations and a residual Witness Protection Programme and the responsibility to ensure the maintenance and promotion of public order and security including, as necessary, through reversing or annulling operational decisions taken by the competent Kosovo authorities;*
 - (e) ensure that all its activities respect international standards concerning human rights and gender mainstreaming; and*
 - (f) cooperate with relevant EU agencies, judicial and law enforcement authorities of Member States and third States in the execution of its mandate.*

There is ambiguity in the Mission's mandate, which is evident in, for example, the language above regarding the Mission's remaining limited executive responsibilities. The list of those responsibilities is not exhaustive (although it is clear that it would include the activities of the Forensic Institute). Terms such as "security operations" are not defined, which adds to the uncertainty given that the authority to carry out many types of security operations now resides with the Kosovo authorities.

Ambiguities associated with the Mission's current mandate raise a number of difficulties associated with the Mission's human rights obligations. First, those obligations are tied to the Mission's executive mandate insofar as they are reviewable by the Panel and for the violation of which the Mission can therefore be held accountable. Absent a clear understanding of the scope of that mandate, it is not entirely clear how far the Mission's human rights obligations still reach. Second, from the Panel's point of view, the Mission's new mandate has raised serious concerns regarding its ability to correct and remedy violations of rights committed by the Mission under its prior mandate.

The issue of the Mission's ambiguous mandate came up in a number of cases decided by the Panel in 2020. In the *enforced disappearance* cases in particular, the Mission argued that it could not implement the Panel's recommendations following a finding of human rights violations as its current mandate does not allow for it to do so (see 2016-17 [Milijana Avramović against EULEX](#), *Decision on the Implementation of the Panel's Recommendations*, 11 December 2020; 2016-28 [S.H. against EULEX](#), *Decision on the Implementation of the Panel's Recommendations*, 11 December 2020). For instance, in the follow-up decision in case 2016-28 [S.H. against EULEX](#), the Mission submitted that it could not implement several of the Panel's recommendation because it no longer had the mandate to do so, and that it was now for the local authorities to take any further steps in investigating the disappearance.

On the other hand, in case 2019-01 [G.T. against EULEX](#), the Mission argued that its actions with regard to a witness were limited to travel arrangements and were in any event outside of its Witness Protection Programme. The Panel found that the Mission had, on the facts, been responsible for the security of the witness in Kosovo, and that its actions fell under the executive mandate and that, in that context, it had violated that person's fundamental rights. It is worth noting that on the facts of the same case, the Mission operated outside of the boundaries of Kosovo, without a mandate authorising it to do so.

Therefore, it would appear that the Mission interprets its mandate both narrowly, and more liberally, in different circumstances.

In its submissions to the Panel, the Mission has declined to provide clarification on its residual executive functions. The ambiguity around the mandate - the mandate of a rule of law mission - is at odds with the rule of law principles of legal certainty and transparency.

The cases before the Panel would appear to point to the Mission shifting the responsibility to UNMIK, which preceded it on parts of the mandate, or to the local authorities following the reduction in the Mission's executive functions. This *passing the buck* is both enabled by, and further contributes to the ambiguity surrounding the mandate, though it in no way reduces the level of the Mission's human rights responsibility. From the perspective of international human rights law, it is highly problematic for an authority bearing human rights obligations to argue that it does not have the mandate to provide remedy for the human rights violations it has committed. It is equally problematic from the perspective of promoting the rule of law and ensuring confidence in international organisations in a post-conflict context.

The issue of the Mission's mandate is also linked to the question of resources. The Mission has argued in some of the Panel proceedings that it lacked the resources to carry out its functions, such as carrying out an effective investigation into the disappearance of a person when it had the executive mandate to do so (see 2016-10 [Dragiša Kostić against EULEX](#), Decision and Findings, 13 February 2020, para. 25; 2016-11 [Petar Brakus against EULEX](#), Decision and Findings, 11 December 2020, para.25; 2016-12 [U.F. against EULEX](#), Decision and Findings, 12 February 2020, para. 32; 2016-13 [Miomir Krivokapić against EULEX](#), Decision and Findings, 12 February 2020, para. 42; and 2016-24 [Vesko Kandić against EULEX](#), Admissibility Decision and Decision and Findings, 11 December 2020, para. 48). The Panel has stated on a number of occasions that, although it understands that scarce resources may have contributed to certain difficulties associated with the fulfillment of its human rights obligations, a lack of sufficient resources cannot justify the Mission disregarding its human rights obligations or violating the rights of those who come in contact with the Mission. Rather, it is incumbent upon the Mission to ensure it has the resources to carry out its mandate.

The cases that have come before the Panel show the importance of ensuring that an international mission has a mandate which is unambiguous on paper and in practice, and correctly interpreted, resourced, and implemented. Fundamentally also, the planning and implementation of the mandate needs to actively consider how the mission's human rights obligations are fulfilled in practice across its activities, and to ensure that an effective remedy be available and in fact provided in any cases of violations of those rights.

For the purpose of the remainder of the Mission, the Panel considers it important that the Mission should,

- (a) clarify the nature and scope of its mandate both as regards any remaining 'executive' function and the associated human rights obligations that are linked to it; and
- (b) ensure that it is at all times in a position to act in accordance with international human rights standards, including in respect of the need to remedy violations of rights established by the Panel.

7.3. Acknowledgment of violations of human rights by EULEX

As stated in previous reports, the Panel once again recommends that the Head of Mission should consider acknowledging violations of human rights which the Panel has found to be attributable to EULEX. Such a public acknowledgment by the Mission would be an essential part of its human rights obligations under Council Joint Action 2008/124/CFSP and would go some way towards remedying the violations identified by the Panel.

Based on the above, the Panel once again invites the Head of Mission, in consultation with relevant authorities, to consider seriously the importance and implications of acknowledging systematically the Mission's responsibilities in cases of human rights violations, and to consider a change of practice in this regard.

7.4. Reparation programme

The payment of compensation or reparation to complainants and concerned family members is a constant theme in the public domain in the event of human rights violations by EULEX Kosovo. The fact that the complaint is vindicated with a finding of a human rights violation might not represent a full or adequate remedy for the violations in question.

It is therefore recommended that where it is found to have committed human rights violations, the Mission should give serious consideration to the possibility of offering adequate reparation, including financial compensation where appropriate.

This suggestion has already been made by the Panel in its 2018 Annual Report and reiterated in its 2019 Annual Report. The Panel notes with regret that its suggestion remains unfulfilled.

In effect, the findings and recommendations of the Panel constitute the only form of relief in cases involving violations of human rights attributable to the Mission together with the Head of Mission's implementation of those recommendations. In cases of human rights violations of some gravity, such as cases of enforced disappearance (see next), such relief can be said to be entirely inadequate.

The Panel therefore invites the Head of Mission to carefully consider other ways in which the Mission could remedy the violation of the rights of those whom the Panel has said were affected by its conduct. It is critical that such a reflection should take place whilst the Mission is still active so that its closure cannot serve as a *fait accompli* that would signal to the victims that the violation of their rights will remain without remedy.

7.5. Enforced Disappearance Cases

Cases of enforced disappearance make up the majority of the Panel's pending cases. Each of these cases contains individual features that reflect the specific circumstances of the case. However, these cases also reflect systemic problems that have affected the Mission in the past.

In particular, these complaints suggest that the Mission failed to prioritise cases that should have received significant attention from the Mission given its mandate. The gravity of the acts, the consequences of these upon the rights of the disappeared and their surviving relatives as well as the societal relevance of these cases in a post-conflict context were all factors that demanded the Mission's attention and made the effective investigation of the cases paramount.

Unfortunately, many and perhaps most of these cases remained un-investigated or inadequately investigated. Surviving relatives were in many instances not contacted by the Mission or provided inadequate information as regards the status of the case, if one even existed.

Files pertaining to these cases were kept in various locations, not always shared between different organs of the Mission and were often closed before a proper investigation had been conducted. Coordination with other relevant international actors appears also to have been inadequate in some instances.

This is particularly regrettable in the case of a Mission established to promote the Rule of Law and committed to upholding human rights.

Unless they are properly addressed, these shortcomings are likely to stain the reputation and legacy of the Mission.

The Panel therefore calls upon the Head of Mission, the Mission itself, EU Member States and contributing third states, as well as other relevant stakeholders, to work together towards finding a solution to the continued violation of human rights in the enforced disappearances cases. These cases should not and cannot be allowed to remain un-investigated. They are important, not just for surviving relatives, but to Kosovo itself, which must face the past, however painful.

The Panel will remain fully committed for the remainder of its mandate to play its part in trying to find a solution to the current situation and to seek to address the violations of fundamental human rights that are associated with this ongoing situation.

7.6. End of Mission and human rights

In addition to the specific issues mentioned in this section, the Panel invites the Mission to reflect on the ways in which it could ensure that the remainder of its mandate is conducted in a manner consistent with its human rights obligations. It also invites the Mission to reflect on how it could help promote a culture of respect for the rule of law and human rights in Kosovo so that its legacy is perceived from that point of view as a positive one. The Panel remains committed to assist in such a process.

ANNEX 1 Statistics 2010 - 2020

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	Total
Registered cases in total	16	28	23	27	42	16	35	7	4	2	1	201
Finalized cases in total	6	30	10	20	28	27	19	25	6	4	2	177
Admissible	0	7	2	7	2	21	2	2	0	10	5	58
Inadmissible	6	22	10	13	21	12	9	23	6	3	2	127
Violation	0	2	0	7	2	4	9	2	0	4	8	38
No violation	0	5	0	0	1	10	0	0	0	0	0	16
Strike out	0	1	0	0	3	1	1	2	0	0	0	8

	As of 31 December 2020
Pending	24
Communicated to HoM	24

ANNEX 2 Table of Violations and Follow-Up Decisions – 31 December 2020

	Case	Admissibility	Findings	Follow up	Second	Third & More	Status
1	2010-01	8 APR 2011	8 APR 2011	23 NOV 2011			Closed
2	2010-07	8 JUN 2011	8 JUN 2011	23 NOV 2011			Closed
3	2011-07	5 OCT 2012	10 APR 2013	26 NOV 2013	26 AUG 2014		Closed
4	2011-20	5 OCT 2012	22 APR 2015	11 NOV 2015	10 JAN 2017	27 MAR 2019; 11 DEC 2019	Pending
5	2011-27	13 JUN 2017	5 DEC 2017	19 JUN 2019			Closed
6	2012-09 et al	10 APR 2013	20 JUN 2013	5 FEB 2014			Closed
7	2012-14	7 JUN 2013	4 FEB 2014	11 NOV 2014			Closed
8	2012-19 & 20	<i>see 2012-09</i>	30 SEP 2013	27 MAY 2014			Closed
9	2012-22	---	11 NOV 2015	29 FEB 2016			Closed
10	2013-03	1 JUL 2014	12 NOV 2014	11 NOV 2015			Closed
11	2013-21	11 JAN 2017	11 JAN 2017	13 JUN 2017			Closed
12	2014-11 et al	30 SEP 2015	19 OCT 2016	7 MAR 2017			Closed
13	2014-18	12 NOV 2015	12 NOV 2015	11 JAN 2017			Closed
14	2014-32	11 NOV 2015	11 NOV 2015	19 OCT 2016	7 MAR 2017		Closed
15	2014-34	29 SEP 2015	19 OCT 2016	7 MAR 2017			Closed
16	2014-37	19 OCT 2016	19 OCT 2016	10 JAN 2017			Closed
17	2016-09	19 JUN 2019	11 DEC 2019				Pending
18	2016-10	19 JUN 2019	13 FEB 2020				Pending
19	2016-11	11 SEP 2019	11 DEC 2020				Pending
20	2016-12	11 SEP 2019	12 FEB 2020				Pending
21	2016-13	11 SEP 2019	12 FEB 2020				Pending
22	2016-14	19 JUN 2019	11 DEC 2019				Pending
23	2016-17	11 DEC 2019	4 JUN 2020	11 DEC 2020			Pending
24	2016-23	4 JUN 2020	11 DEC 2020				Pending
25	2016-24	11 DEC 2020	11 DEC 2020				Pending
26	2016-28	28 MAR 2019	11 SEP 2019	11 DEC 2020			Pending
27	2017-02	27 MAR 2019	19 JUN 2019	11 DEC 2019			Pending
28	2019-01	4 JUN 2020	11 DEC 2020				Pending

ANNEX 3 Decisions of the Panel 2010-2020

Case	Complainant	Subject matter	Result
2010-01	Djeljalj Kazagić	Alleged failure to act by EULEX Prosecutor, property matter	Violation
2010-02	Sadik Thaqi	Alleged failure to act by EULEX Prosecutor, death in Dubrava Prison 04/09/2003	No violation
2010-03	Osman Mehmetaj	Alleged failure to act by EULEX Prosecutor, death in Dubrava Prison 04/09/2003	No violation
2010-04	Feti Demolli	Alleged failure to act by EULEX Prosecutor, death in Dubrava Prison 04/09/2003	No violation
2010-05	Mursel Hasani	Alleged failure to act by EULEX Prosecutor, death in Dubrava Prison 04/09/2003	No violation
2010-06	Latif Fanaj	Alleged failure to act by EULEX Prosecutor, death in Dubrava Prison 04/09/2003	No violation
2010-07	Blerim Rudi	Alleged failure of the Financial Intelligence Unit to comply with the order of the Independent Oversight Board to reinstate the complainant.	Violation
2010-08	Delimir Krstić	Alleged failure to act by EULEX police and prosecutor, property matter	Inadmissible
2010-09	Burim Ramadani	Alleged non-functioning of the court system, Kitchina-case	Inadmissible
2010-10	Horst Proetel	Unsuccessful candidature for a EULEX position	Inadmissible
2010-11	Laura Rudi	Private financial claim against a EULEX employee	Inadmissible
2010-12	Hunaida Pasuli	Unsuccessful candidature for a EULEX position	Inadmissible
2010-13	An EULEX-Employee	Internal EULEX dispute with regard to performance appraisal and personal relationship with supervisor	Inadmissible
2010-14	Lulzim Gashi	Unsuccessful candidature for a EULEX position	Inadmissible

Case	Complainant	Subject matter	Result
2010-15	Faton Sefa	Failure to get reinstated to previous employment (private sector), alleged failure to implement court rulings	Inadmissible
2010-16	Cyma Agovic	Transferred from EULEX - Failure of the EULEX judges to fairly examine the complainant's case	Inadmissible
2011-01	Family of Dede Gecaj	Request for investigation of the extradition decision of EULEX Courts in Kosovo in the case of the late Dede Gecaj	Inadmissible
2011-02	Chamalagai Krishna Bahadur	Alleged Failure to Act	Inadmissible
2011-03	Afrim Mustafa	Dispute with regard to closing down a private radio station and confiscation of radio equipment	Inadmissible
2011-04	Besim Berisha	Complaint about living conditions in Dubrava Prison	Strike out
2011-05	SH.P.K "Syri"	Alleged denial of the right to a fair hearing, freedom of expression and equality before the law, SCSC.	Inadmissible
2011-06	Milazim Blakqori	Alleged non-enforcement of a decision, failure to act by EULEX	Inadmissible
2011-07	Case W	Alleged violation of Article 6 Convention	Violation
2011-08	Anton Rruka	Alleged denial of the right to a fair hearing, freedom of expression and equality before the law, SCSC.	Inadmissible
2011-09	Mirkovic Bojan	Alleged unlawful dismissal from EULEX	Inadmissible
2011-10	Dejan Jovanović	Alleged undue delay in the proceedings before the SCSC.	Inadmissible
2011-11	Srecko Martinović	Alleged excessive use of force, inhumane treatment and denial of right to a fair trial	Inadmissible
2011-12	Novica Trajković	Alleged excessive use of force	Inadmissible
2011-13	S.M.	Alleged excessive use of force, denial of right to a fair trial and failure to respect the right to private life	Inadmissible
2011-14	Lindita Shabani	Alleged denial of the right to private and family life	Inadmissible

Case	Complainant	Subject matter	Result
2011-15	Samedin Smajli	Alleged denial of a fair trial and undue delay in proceedings	Inadmissible
2011-16	Avdyl Smajli	Alleged denial of a fair trial and undue delay in proceedings	Inadmissible
2011-17	Faik Azemi	Alleged denial of the right to a fair hearing	Inadmissible
2011-18	Mykereme Hoxha	Alleged failure to act by EULEX Prosecutor	Inadmissible
2011-19	Sefer Sharku	Alleged failure to respect a binding court-decision.	Inadmissible
2011-20	X and 115 other complainants	Alleged failure by EULEX to protect the health and life of persons living in the lead contaminated Roma camps.	Violation
2011-21	Ventor Maznikolli	Alleged undue delay by EULEX judges in scheduling a Supreme Court hearing.	Inadmissible
2011-22	Hysni Gashi	Alleged denial of a fair trial and alleged incompetence of EULEX judges.	Inadmissible
2011-23	Hashim Rexhepi	Alleged violations of the right to liberty and the right to a fair trial.	Inadmissible
2011-24	Predrag Lazić	Alleged failure to get a fair hearing in a reasonable time.	Inadmissible
2011-25	Shaip Gashi	Alleged deprivation of German disability pension.	Inadmissible
2011-26	Njazi Asllani	Alleged non-enforcement of a decision, failure to act by EULEX	Inadmissible
2011-28	Case Y	Alleged breach of the right to respect private and family life.	Inadmissible
2012-01	Qamil Hamiti	Alleged denial of the right to a fair hearing	Inadmissible
2012-02	Arben Zeka	Alleged failure to adjudicate property case	Inadmissible
2012-03	Rexhep Dobruna	Alleged denial of the right to a fair hearing.	Inadmissible
2012-04	Izet Maxhera	Property related dispute with EULEX in Mitrovica.	Inadmissible
2012-05	Fatmir Pajaziti	Alleged breach of right to liberty and right to a fair trial.	Inadmissible
2012-06	Case Z	Alleged violations of Articles 10 and 11 UDHR, Articles 5 and 6 Convention, Article 9 ICCPR and Article 6 CAT	Inadmissible

Case	Complainant	Subject matter	Result
2012-07	Case I	Alleged failure to act by EULEX Prosecutor and EULEX Police	Inadmissible
2012-08	Case U	Alleged violation of Article 6 of the European Convention on Human Rights (Convention)	Inadmissible
2012-09	Case A	Alleged violations of Articles 2, 3, 8, 9, 10 and 11 Convention	Violation
2012-10	Case B	Alleged violations of Articles 2, 3, 8, 9, 10 and 11 Convention	Violation
2012-11	Case C	Alleged violations of Articles 2, 3, 8, 9, 10 and 11 Convention	Violation
2012-12	Case D	Alleged violations of Articles 2, 3, 8, 9, 10 and 11 Convention	Violation
2012-13	Bejtush Gashi	Alleged violations of Article 6 Convention and Article 1 of Protocol 1 Convention	Inadmissible
2012-14	Valbone Zahiti	Alleged violation of Article 8 Convention	Violation
2012-15	Shefqet Emerllahu	Alleged violation of Article 6 Convention, failure to investigate	Inadmissible
2012-16	Kristian Kahrs	Alleged violation of Article 6 Convention, failure to act	Inadmissible
2012-17	Case E	Alleged violations of Articles 5 and 6 of Convention	Inadmissible
2012-18	Hamdi Sogojeva	Alleged violation of Article 1 of Protocol 1 of the Convention	Inadmissible
2012-19	Case H	Alleged confiscation of property	Violation
2012-20	Case G	Alleged violations of Articles 3, 10, 11 Convention and Article 1 of Protocol 1 Convention	Violation
2012-21	Mirko Krlić	Alleged violations of Article 9 Convention and Article 2 of Protocol 4 Convention	No violation
2012-22	Zoran Stanisić	Alleged violations of Articles 3, 6 and 8 Convention and Article 1 of Protocol 1 Convention	Violation
2012-23	Predrag Blagić	Alleged violations of Article 5 Convention and Article 2 of Protocol 4 Convention	Strike out
2013-01	Case I	Alleged violation of Article 6 Convention	Inadmissible
2013-02	Arsim Krasniqi	Alleged violation of Article 3 Convention	Inadmissible

Case	Complainant	Subject matter	Result
2013-03	Goran Becić	Alleged violations of Articles 13 and 14 Convention and Article 1 of Protocol 1 Convention	Violation
2013-04	J	Alleged violation of Article 6 Convention (access to justice).	Inadmissible
2013-05	Case K	Alleged violations of Article 3, 5, 13 and 14 Convention	No violation
2013-06	Case L	Alleged violations of Article 3, 5, 13 and 14 Convention	No violation
2013-07	Case M	Alleged violations of Article 3, 5, 13 and 14 Convention	No violation
2013-08	Case N	Alleged violations of Article 3, 5, 13 and 14 Convention	No violation
2013-09	Case O	Alleged violations of Article 3, 5, 13 and 14 Convention	No violation
2013-10	Case P	Alleged violations of Article 3, 5, 13 and 14 Convention	No violation
2013-11	Case Q	Alleged violations of Article 3, 5, 13 and 14 Convention	No violation
2013-12	Case R	Alleged violations of Article 3, 5, 13 and 14 Convention	No violation
2013-13	Case S	Alleged violations of Article 3, 5, 13 and 14 Convention	No violation
2013-14	Case T	Alleged violations of Article 3, 5, 13 and 14 Convention	No violation
2013-15	Gani Zeka	Alleged violations of Article 6 and Article 1 of Protocol No 1 of Convention	Inadmissible
2013-16	Almir Susaj	Alleged violation of Article 3 and 8 Convention	Inadmissible
2013-17	Ramadan Rahmani	Alleged violation of Article 1 Protocol 1 Convention	Inadmissible
2013-18	Jovanka, Dragan, Milan Vuković	Alleged violation of Article 1 Protocol 1 Convention	Inadmissible
2013-19	U	Alleged violation of Article 1 Protocol 1 Convention	Inadmissible
2013-20	Shaip Gashi	Alleged violations of Article 1 of Protocol 1 Convention	Inadmissible
2013-22	Gani Gashi	Alleged violation of Article 6 Convention	Inadmissible
2013-23	V	Alleged violations of Article 6 and Article 1 of Protocol 1 of Convention	Inadmissible
2013-24	Emin Maxhuni	Alleged violation of Article 1 of Protocol 1 of Convention	Inadmissible

Case	Complainant	Subject matter	Result
2013-25	Milorad Rajović	Alleged violation of Article 1 of Protocol 1 Convention	Inadmissible
2013-26	Selami Tarku	Alleged violation of Article 1 of Protocol 1 Convention	Inadmissible
2013-27	Shaban Kadriu	Alleged violations of Article 6 and Article 1 of Protocol No 1 Convention	Inadmissible
2014-01	Nexhat Qubreli	Alleged violations of Article 5 and Article 6 Convention	Inadmissible
2014-02	Milica Radunović	Alleged violation of Article 6 Convention	Inadmissible
2014-03	Case A.Z.	Alleged violation of Articles 3, 8 and 13 Convention	Strike out
2014-04	Tomë Krasniqi	Alleged violation of Article 1, 3, 6, 14 and 17 Convention, Article 1 of Protocol No 1 Convention	Inadmissible
2014-05	Mazlam Ibrahim	Alleged violations of Article 6 and Article 1 of Protocol 1 of Convention	Inadmissible
2014-06	Case B.Y.	Alleged violation of Article 6 Convention	Inadmissible
2014-07	Fitore Rastelica	Alleged violation of Article 6 Convention	Inadmissible
2014-08	C.X.	Alleged violation of Article 6 Convention	Inadmissible
2014-09	Rifat Kadribasic	Alleged violations of Article 6 and Article 1 of Protocol 1 of Convention	Inadmissible
2014-11	Case D.W.	Alleged violation of Articles 2 and 3 Convention	Admissible
2014-18	Fitim Maksutaj	Alleged violation of Article 6 Convention	Violation
2014-19	Fahri Rexhepi	Alleged violations of Article 6 and Article 1 of Protocol No 1 Convention	Inadmissible
2014-20	Mensur Fezaj	Alleged violation of Article 1 of Protocol No 1 Convention	Inadmissible
2014-21	Shefki Hyseni	Alleged violation of Article 5 Convention	Strike out
2014-22	Ismajl Krapic	Alleged violation of Article 6 Convention	Inadmissible
2014-23	Shaip Selmani	Alleged violation of Article 6 Convention	Inadmissible
2014-24	Case J.Q.	Alleged violation of Article 6 Convention	Inadmissible

Case	Complainant	Subject matter	Result
2014-25	Nuha Beka	Employment Dispute	Inadmissible
2014-28	Selatin Fazliu	Alleged violation of Article 1 of Protocol No 1 Convention	Inadmissible
2014-26	Ajet Kaçiu	Alleged violation of Article 1 of Protocol No 1 Convention	Inadmissible
2014-27	Qerim Begolli	Alleged violation of Article 1 of Protocol No 1 Convention	Inadmissible
2014-29	Shemsi Musa	Alleged violation of Article 1 of Protocol No 1 Convention	Inadmissible
2014-30	Abdilj Sabani	Alleged violation of Article 1 of Protocol No 1 Convention	Inadmissible
2014-31	Case K.P.	Alleged violation of Article 6 Convention	Inadmissible
2014-32	L.O.	Alleged violation of Articles 2 and 3 Convention	Violation
2014-33	Arben Krasniqi	Alleged violation of Articles 5 and 6 Convention	Inadmissible
2014-34	Rejhane Sadiku Syla	Alleged violation of Articles 2 and 3 Convention	Admissible
2014-36	Case Z.A.	Alleged violation of Article 1 of Protocol No 1 Convention	Inadmissible
2014-38	Slavica Mikic	Alleged violation of Article 13 Convention	Inadmissible
2014-39	Musli Hyseni	Alleged violation of Article 5 Convention	Strike out
2014-40	Avni Hajdari	Alleged violation of Article 6 Convention	Strike out
2014-41	Liridona Mustafa Sadiku	Alleged violation of Articles 2 and 3 Convention	Inadmissible
2014-42	Bujar Zherka	Alleged violations of Article 6 and Article 1 of Protocol No 1 Convention	Inadmissible
2015-01	Milos Jokic	Alleged violations of Article 5, 6, 8, 9, 10 and 12 of Convention	Inadmissible
2015-03	Dekart Shkolli	Alleged violation of Article 8 Convention	Inadmissible
2015-07	Dobrivoje Radovanovic	Alleged violation of Article 6, and Article 1, Protocol No.1 Convention	Inadmissible

Case	Complainant	Subject matter	Result
2015-08	Afrim Berisha	Alleged violation of Article 1 of Protocol No 1 Convention	Inadmissible
2015-09	Driton Hajdari	Alleged violation of Article 6, and Article 1, Protocol No.1 Convention	Inadmissible
2015-10	Shaban Sylja	Alleged violation of Article 6 Convention	Inadmissible
2015-13	Case W.D.	Alleged violation of Articles 6 and 8 Convention	Inadmissible
2016-03	Afrim Islami	Alleged violation of Article 6, and Article 1, Protocol No.1 Convention	Inadmissible
2015-04	Nazmi Maloku	Alleged violation of Article 6 ECHR	Inadmissible
2014-10	Nikole Sokoli	Alleged violation of Articles 2, 3 and 13 ECHR	Inadmissible
2016-04	Valon Jashari	Alleged violation of Articles 3, 6 and 8 ECHR	Inadmissible
2016-02	V.E.	Alleged violation of Article 6 ECHR	Inadmissible
2016-01	Skender Jashari	Alleged violation of Article 6 ECHR	Inadmissible
2015-15	Đorđe Šmigić	Alleged violation of Articles 2, 3, 8 and Article 2 of Protocol no. 4 ECHR	Inadmissible
2015-12	U	Alleged violation of Articles 6, 13 and 14 of ECHR	Inadmissible
2015-11	Zvonimir Jovanović	Alleged violation of Article 6, and Article 1, Protocol No.1 ECHR	Inadmissible
2015-06	X.C.	Alleged violation of Article 6 ECHR	Inadmissible
2015-05	Teresa Peters	Alleged violation of Article 6 ECHR	Inadmissible
2014-35	M.N.	Alleged violation of Article 6 ECHR	Inadmissible
2015-14	Miodrag Konić	Alleged violation of Articles 2, 3, 8 and Article 2 of Protocol no. 4 of ECHR	Strike out
2015-16	Vuleta Voštić	Alleged violation of Articles 2, 3, 8 and Article 2 of Protocol no. 4 of ECHR	Strike out

Case	Complainant	Subject matter	Result
2015-02	Ramadan Hamza	Alleged violation of Article 1 of Protocol No 1 ECHR	Inadmissible
2017-03	Alfred Bobaj	Alleged violation of Article 6 of ECHR	Inadmissible
2016-36	Namon Statovci	Alleged violation of Article 1 of Protocol no. 1 and Article 9 and 11 of ECHR	Inadmissible
2016-33	Agron Bytyci	Alleged violation of Article 6 ECHR	Inadmissible
2016-27	Afrim Islami	Alleged violation of Article 6 ECHR	Inadmissible
2016-26	T.G.	Alleged violation of Article 8 ECHR	Inadmissible
2016-25	Hilmi Krasniqi	Alleged violation of Article 6 ECHR	Inadmissible
2016-08	Hamdi Hasani	Alleged violation of Article 8, and Article 1, Protocol No.1 ECHR	Inadmissible
2016-07	Mentor Qela	Alleged violation of Article 3, 6 and 17 of ECHR	Inadmissible
2016-06 /2017-04	Shpresim Uka	Alleged violation of Article 6 ECHR	Inadmissible
2016-05	Axhemi Zyhdi	Alleged violation of Article 6, Article 13, and Article 1 of Protocol 1 ECHR	Inadmissible
2013-21	Thomas Rusche	Alleged violations of Article 6 and Article 1 of Protocol No 1 ECHR	Violation
2011-27	F. and Others	Alleged failure to protect a witness, the right to life	Violation
2016-34	R.I. against EULEX	Alleged violation of Article 1 of Protocol No. 1 ECHR	Inadmissible
2016-35	Ndërmarrja Hoteliere Turistike Iliria Deçan against EULEX	Alleged violation of Article 6 ECHR	Inadmissible
2017-01	A.Z. against EULEX	Alleged violation of Articles 3, 6, 9 and 14 ECHR	Inadmissible
2017-05	Hysni Gash against EULEX	Alleged violation of Article 6 ECHR	Inadmissible
2017-06	Feriz Gashi against EULEX	Alleged violation of Article 6 ECHR	Inadmissible
2017-07	C.X against EULEX	Alleged violation of Article 6 ECHR	Inadmissible

Case	Complainant	Subject matter	Result
2011-20	X. and 115 Others against EULEX	Alleged failure by EULEX to protect the health and life of persons living in the lead contaminated Roma camps.	Third and Fourth Follow-up
2011-27	F. and Others against EULEX	Alleged violation of Article 2 ECHR	Follow-up
2018-02	D.W. against EULEX	Alleged violation of Article 2 ECHR	Inadmissible
2018-04	Afrim Islami against EULEX	Alleged violation of Article 6 ECHR	Inadmissible
2018-03	E.V. against EULEX	Alleged violation of Article 1 Protocol No 1 ECHR	Inadmissible
2017-02	Zufe Miladinović against EULEX	Alleged violation of Articles 2 and 3 ECHR	Admissible, Violation and Follow-up
2016-28	S.H. against EULEX	Alleged violation of Articles 2 and 3 ECHR	Admissible and Violation
2016-09	Milorad Trifunović against EULEX	Alleged violation of Articles 2 and 3 ECHR	Admissible and Violation
2016-14	Milan Ađančić against EULEX	Alleged violation of Articles 2 and 3 ECHR	Admissible and Violation
2016-10	Dragiša Kostić against EULEX	Alleged violation of Articles 2 and 3 ECHR	Admissible
2016-11	Anđelija Brakus against EULEX	Alleged violation of Articles 2 and 3 ECHR	Admissible
2016-12	U.F. against EULEX	Alleged violation of Articles 2 and 3 ECHR	Admissible
2016-13	Miomir Krivokapić against EULEX	Alleged violation of Articles 2 and 3 ECHR	Admissible
2016-15	Dragan Janačković against EULEX	Alleged violation of Articles 2 and 3 ECHR	Admissible
2016-17	Milijana Avramović against EULEX	Alleged violation of Articles 2 and 3 ECHR	Admissible
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2016-10	Dragiša Kostić against EULEX	Alleged violation of Articles 2 and 3 ECHR	Violation
2016-11	Petar Brakus against EULEX	Alleged violation of Articles 2 and 3 ECHR	Violation

Case	Complainant	Subject matter	Result
2016-12	U.F. against EULEX	Alleged violation of Articles 2 and 3 ECHR	Violation
2016-13	Miomir Krivokapić against EULEX	Alleged violation of Articles 2 and 3 ECHR	Violation
2016-16	Dobrivoje Vukmirović against EULEX	Alleged violation of Articles 2 and 3 ECHR	Admissible
2016-17	Milijana Avramović against EULEX	Alleged violation of Articles 2 and 3 ECHR	Violation and Follow-up
2016-18	P.K. against EULEX	Alleged violation of Articles 2 and 3 ECHR	Inadmissible
2016-22	Radmila Sapić against EULEX	Alleged violation of Articles 2 and 3 ECHR	Admissible
2016-23	Q.J. against EULEX	Alleged violation of Articles 2 and 3 ECHR	Admissible and Violation
2016-24	Vesko Kandić against EULEX	Alleged violation of Articles 2 and 3 ECHR	Admissible and Violation
2016-28	S.H. against EULEX	Alleged violation of Articles 2 and 3 ECHR	Revision rejected and Follow-up
2019-01	G.T. against EULEX	Alleged violation of Article 3	Admissible and Violation
2020-01	Reihan Kaja against EULEX	Alleged violation of Articles 9 and 14	Inadmissible