HUMAN RIGHTS REVIEW PANEL

CASE-LAW NOTE ON THE HUMAN RIGHTS LAW REGARDING (ENFORCED) DISAPPEARANCES

Contents

1. General considerations

Cases of enforced disappearance are emblematic of the work of the Human Rights Review Panel ("the Panel"). These cases reflect at once the criminalistic reality of the Kosovo conflict (1998-1999) and difficulties later associated with the investigation of these crimes. Immediately after the conflict, the UN mission ("UNMIK") took some initial steps to look into a number of incidents of unlawful killings and disappearances. Few if any of these cases was brought to a successful end during UNMIK's mandate.[1]

Following the transition to EU responsibility, files pertaining to some of these cases were transferred to European Union Rule of Law Mission in Kosovo, EULEX Kosovo ("EULEX"). Additional steps were undertaken by the EULEX investigators and prosecutors to try to resolve these cases, identify the whereabouts of the missing and establish the responsibility of perpetrators. Almost none of these efforts resulted in an effective investigation of these cases. In quite a few cases, EULEX failed to act and, in others, it failed to do enough to effectively protect the rights of the relatives of the dead and disappeared.

Several of these cases came before the Panel in the form of complaints filed by relatives of the dead and disappeared. A number of features are apparent from the sum of those cases. The first of these features pertains to the extreme difficulties associated with the investigation of war-related crimes in a post-conflict society. In some cases, suspected perpetrators might still have power and leverage. Historical narratives of heroic victories do not look kindly on allegations crimes and atrocities. Victims are sometimes too afraid, too far or too powerless to press for and obtain justice.

The second feature of these cases is the fact that they are of concern to all sides. Disappeared include Serbs, Kosovo Albanians, Roma and members of other communities. This is a category of crimes that did not in all cases discriminate on grounds of ethnicity or religion. It targeted those who had to disappear from particular

[1] HRAP Final Report, pages 12, 65 and 86. About half of the cases of the Human Rights Advisory Panel of the UNMIK (HRAP) concerned lack of investigation into the abductions, disappearances and/or killings. The HRAP found violations in 93% of the cases found admissible. HRAP Final Report, pages 63 and 66. The Panel opined that there had been a "*general systematic failure within UNMIK*" (HRAP Final Report, page 83).

communities where a new order was being set. This shared concern, in turn, offers a potential bridge between those communities. Were victims on all sides able to see each other as victims before seeing the Serb or the Kosovo-Albanian in them, they could join forces to press for justice for all.

The third feature of this category of cases is the evident reluctance of investigative authorities to look into them. UNMIK most carefully avoided these cases. EULEX did little better when it inherited this legacy from the United Nations. EULEX failed for the most part to treat these cases as investigative priorities.[2] It also invested little resources in trying to resolve these cases, many of them untouched, other half-investigated. Failure to act in such cases, the Panel underlined, may result in violations of human rights. In fact, the Panel has already found violations in quite a number of cases.

And there lay the fourth feature of these cases: the limitations of the powers of the Panel as a remedial mechanism. Whilst the Panel found, repeatedly, that EULEX had violated the rights of the disappeared or their relatives, its statutory basis only allowed the Panel to then make non-binding recommendations to the Head of Mission. Thus these recommendations were necessarily aspirational and intended to prop investigation of those cases forward. In that, the Panel failed. Cases remained for the most part dormant with little or no remedy for the violations committed. At the very least, however, the Panel provided a venue, out of the very few venues, where victims could seek some form of relief and remedy, however modest. This has also allowed EULEX, through the work of the Panel, to express disapproval and criticism of the manner in which these all important cases were treated not just by EULEX but by all authorities whose responsibility it was to investigate them.

The way in which EULEX conducted itself in relation to those cases will no doubt remain a dark feature of its legacy.

[2] See, e.g., *Sadiku-Syla against EULEX*, 2014-34, Decision on Admissibility, 29 September 2015, paras. 34- 39; *D.W., E.V., F.U., G.T., Zlata Veselinović, H.S., I.R. against EULEX*, 2014-11 to 2014-17, Decision on Admissibility, 30 September 2015, paras. 72-76; *L.O. against EULEX*, 2014-32, Decision and Findings, 11 November 2015, paras. 43- 47, and 59-65; *Sadiku-Syla against EULEX*, 2014-34, Decision and Findings, 19 October 2016, paras.47; *D.W., E.V., F.U., G.T., Zlata Veselinović, H.S., I.R. against EULEX*, 2014-11 to 2014-17, Decision and findings, 19 October 2016, paras. 58, 60, 62-65, 81-82.

2. "Disappearance" as a grave and ongoing violation of fundamental human rights

Acts of disappearance involve the forced and illegal deprivation of liberty outside of the framework of the law and, in many cases, extra-judicial killings. Such acts amount to and involve the severe violation of several of the most fundamental human rights guaranteed under human rights law, including the right to life, liberty and security of persons, the right not to be subjected to torture, freedom from arbitrary arrest or detention, and the right to a fair and public trial.[3] As the Panel noted in *Sadiku-Syla*,

> "Enforced disappearance is at once a serious crime and a violation of human rights. It involves a multi-faceted type of violation of fundamental human rights, "in particular the right to life, liberty and security of persons, the right not to be subjected to torture, freedom from arbitrary arrest or detention, and the right to a fair and public trial" (Resolution No. 828 (1984) of the Parliamentary Assembly of the Council of Europe, § 4). Enforced disappearance is therefore considered to be one of the most serious forms of human rights violations and has been described as an "affront to human dignity" and a "grave and abominable offense against the inherent dignity of the human being" (Inter-American Convention on Forced Disappearance of Persons, 1994, Preamble)."[4]

Over time, the prohibition of "disappearances" has come to be regarded as an independent, self-standing guarantee binding the States as a matter of universally-recognized fundamental rights.[5] Because of its seriousness, there is also a growing

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[3] See, generally, *Sadiku-Syla against EULEX*, 2014-34, Decision and Findings, 19 October 2016, para. 33.

[4] *Ibid.*

[5] See, generally, *Sadiku-Syla against EULEX*, 2014-34, Decision and Findings, 19 October 2016, para. 34 Disappearance as a self-standing sort of human rights violation has been universally recognized: see, e.g., *United Nations Declaration on the Protection of all Persons from Enforced Disappearance (A/Res/47/133, 18 December 1992)*; "General Comments on the Declaration on the Protection of All Persons from Enforced Disappearance of 15 January 1996", in Report of the Working Group on Enforced or Involuntary Disappearances, UN Doc. E/CN. 4/1996/38; General Comment on Article 17 of the Declaration (E/CN.4/2001/68/18 December 2000); (Human Rights Committee) General Comment No. 6 (1982), in particular, § 4; (UN General Assembly) Resolution No. 33/173 of 20 December 1978; (UN General Assembly) 49/193 of 9 March 1995; Resolution No. 828 of 1984, paragraphs 2 and 4. (Parliamentary Assembly of the Council of Europe); Report of the Working Group on Enforced or Involuntary Disappearances, UN Doc.

acceptance that an act of disappearance may constitute a crime against humanity, under international law, as is expressly recognized for example by Article 7(1)(i) of the Statute of the International Criminal Court and in Article 13(i) of the Law on Specialist Chambers and Specialist Prosecutor's Office.[6]

As a matter of human rights law, the essence of that offence lays not just in the serious violation of the rights of the disappeared person (and close relatives); it is also connected to the authorities' reactions and attitudes to the situation when it has been brought to their attention.[7] A finding of rights violation in such a case is therefore not limited to cases where the authorities can be held responsible for the disappearance itself. It can also arise where the failure of those authorities to respond to the quest for information by the relatives or to the obstacles placed in their way, thus leaving them to bear the brunt of the efforts to uncover any facts, may be regarded as disclosing a flagrant, continuous and callous disregard of an obligation to account for the whereabouts and fate of a missing person.[8] It is worth noting here that all cases of disappearance coming before the HRRP pertained to situations of violations of the mission's procedural obligation to investigate those cases. None of the cases involved allegations that the Mission itself had contributed to the disappearance of the victims.

E/CN.4/1988/19; Views of 2 November 2005, Norma Yurich v Chile, Communication No. 1078/2002, para. 6.3. For judgments of the Inter-American Court of Human Rights, see e.g. Velásquez Rodríguez v. Honduras, judgment of 29 July 1988 (Ser. C) no. 4) (1988)); Godínez Cruz v. Honduras, judgment of 20 January 1989 (Ser. C) no. 5) (1989)); Cabellero-Delgado and Santana v. Colombia, judgment of 8 December 1995; and Osorio Rivera and Family v. Peru, Judgment of 26 November 2013, (Ser. C)no. 274) (2013). It is, of course, recognized and sanctioned by the European Court of Human Rights (ECtHR). See, e.g., *Varnava and Others v Turkey*, Application no. 16064/90 et al, Judgment of 18 September 2009; *Timurtas v Turkey*, Application no. 23531/94, Judgment of 13 June 2000; *Kurt v. Turkey*, 25 May 1998, *Reports of Judgments and Decisions* 1998-III; *Imakayeva v. Russia*, Application no. 7615/02, Judgment of 9 November 2006. International and regional conventions pertaining to enforced disappearance have also been adopted and have been broadly ratified (see, e.g., (2006) International Convention for the Protection of All Persons from Enforced Disappearance; (1994) Inter-American Convention on Forced Disappearance of Persons).

[6] *Sadiku-Syla against EULEX*, 2014-34, Decision and Findings, 19 October 2016, para. 34.

[7] *Sadiku-Syla against EULEX*, 2014-34, Decision and Findings, 19 October 2016, para. 34. See also ECtHR, *Varnava and Others v Turkey*, Application no. 16064/90 et al, Judgment of 18 September 2009, para. 200; *Orhan v. Turkey*, Application no. 25656/94, 18 June 2002, para. 358, and *Imakayeva v. Russia*, Application no. 7615/02, Judgment of 9 November 2006, para. 164.

[8] See *Orhan v. Turkey*, Application no. 25656/94, 18 June 2002, para. 358, and *Imakayeva*, Application no. 7615/02, Judgment of 9 November 2006, para 164.

The violations of rights involved in the commission of an act of disappearance are among the most important fundamental rights guaranteed by international human rights law. For example, in *D.W., E.V., F.U., G.T., Zlata Veselinović, H.S., I.R.* the Panel took notice of –

> "the HoM's acknowledgement of the importance of the rights guaranteed under Articles 2 and 3 of the Convention as are alleged to have been violated in this case ("EULEX is committed to ensuring that all of its activities respect international standards of human rights" and recognized "the fundamental character and importance of the rights protected under Articles 2 and 3 of the ECHR as well as the procedural obligations related to those rights")."[9] and further elaborated that "the rights involved in these cases are among the most important fundamental rights guaranteed by international human rights law. Some of them are absolute and suffer no exception (Article 15 (2) of the Convention…)" [10]

The commission of an act of disappearance therefore necessarily constitutes a serious infringement of guaranteed human rights. As such, it requires decisive and proportionate measures on the part of the State or concerned authorities to prevent, investigate and/or remedy the violation of rights arising from the commission of such an act.[11]

Victims of such acts are not limited to the disappeared, but may also include close relatives of disappeared persons, who suffer from the continuous anguish of not knowing the fate of their loved ones.[12]

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[9] *D.W., E.V., F.U., G.T., Zlata Veselinović, H.S., I.R. against EULEX*, 2014-11 to 2014-17, Decision on Admissibility, 30 September 2015, para. 84

[10] *D.W., E.V., F.U., G.T., Zlata Veselinović, H.S., I.R. against EULEX*, 2014-11 to 2014-17, Decision on Admissibility, 30 September 2015, para. 97; and its references also to *McCann and Others v. the United Kingdom* judgment of 27 September 1995, Series A no. 324, para. 147; *Ireland v. the United Kingdom* judgment of 18 January 1978, Series A no. 25, para. 163; *Sadiku-Syla against EULEX*, 2014-34, Decision on Admissibility, 29 September 2015, para. 46.

[11] See further below.

[12] *Sadiku-Syla against EULEX*, 2014-34, Decision and Findings, 19 October 2016, para. 35. See also, in the context of Article 3, ECtHR, *Kurt v. Turkey*, judgment of 25 May 1998, Reports of Judgments and Decisions 1998- III, paras. 130-34; *Khadzhialiyev and Others v. Russia*, Application no. 3013/04, judgment of 6 November 2008, paras. 120-121; *Timurtas v Turkey,* Application no. 23531/94,

This continuous uncertainty, doubt and apprehension on the part of the family of the disappeared also gives this category of rights violation one of its most significant definitional specificity, namely, the on-going nature of the violation of rights involved in a case of disappearance. [13] Violations of rights arising from an act of disappearance do not cease until that time when the authorities have satisfied their procedural obligations to diligently investigate the circumstances of the disappearance.[14] This means that, until that point, the authorities continue in principle to bear a responsibility to look into and remedy those violations.

Finally, it is apparent from the case law of the Panel (and of the decisions of the HRAP) that acts of disappearance need not be attributed to a state or state organ as such. Instead, both Panels have considered that acts attributed to a military organisation (albeit one with a stated political agenda) could just as well constitute acts of enforced disappearance.

3. A duty under general human rights law to investigate cases of disappearance

1. Recognition of general duty under human rights law to investigate cases of disappearance

The effective investigation by the competent authorities of this category of cases is essential to guaranteeing the disappeared and their relatives' access to justice.[15] In addition, as pointed out by the Panel, -

> **"**the thorough and effective investigation of this category of cases is central to building a sense of accountability and care for the rule of law in any post-conflict society. The responsibility to deal with these cases belongs to society as a whole and not just to those most directly affected by them. On that basis,

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Judgment of 13 June 2000, para. 95; see also Resolution No. 828 of 1984, paragraph 3 (Parliamentary Assembly of the Council of Europe).

[13] *D.W., E.V., F.U., G.T., Zlata Veselinović, H.S., I.R. against EULEX,* 2014-11 to 2014-17, Decision on Admissibility, 30 September 2015, para. 78; *Sadiku-Syla against EULEX*, 2014-34, Decision on Admissibility, 29 September 2015, para. 42

[14] See, generally, *Sadiku-Syla against EULEX*, 2014-34, Decision and Findings, 19 October 2016, para. 36.

[15] ECtHR: *Nachova and Others v Bulgaria*, Application nos. 43577/98 and 43579/98, judgment of 6 July 2005, para. 110; *Hugh Jordan v. the United Kingdom*, Application no. 24746/94, judgment 4 May 2001, para. 105

> the Panel considers that it is in the interests of justice that it should consider the complaint as regard its admissibility."

In all cases of rights violation, the response expected of the authorities must be commensurate with the gravity of the alleged violation and the importance of the protected rights.[16] In the case of disappearances, in the normal course of events, this would involve an obligation on the part of competent authorities to diligently, promptly and thoroughly investigate such cases with a view to establishing the fate of the disappeared and to prosecute, try and punish those found to be responsible.[17] These investigative obligations result from internationally-recognised obligations binding on States as well as other organisations bound to respect internationally-recognised standards of human rights. Such an obligation is particularly relevant to a rule of law mission, such as EULEX Kosovo:

> "The Mission's *obligation* to investigate these cases arises not from these provisions which set out EULEX Prosecutors' jurisdictional competence over these cases, but from Articles 2-3 of the European Convention, which mandates the Mission to guarantee the effectiveness of these rights in the context of its executive function" [18] and further, "In that sense, the jurisdictional competence ("possibility") that these provision provide are sufficient for the purpose of establishing the Panel's competence over this case."[19]

The investigation must, in turn, be aimed at and be capable of clarifying the whereabouts and fate of the disappeared and, as the case may be, identify those

[16] *Sadiku-Syla against EULEX*, 2014-34, Decision and Findings, 19 October 2016, para. 36.
[17] *ibid,* See also, e.g., *Nydia Erika Bautista de Arellana v. Colombia*, Communication No. 563/1993, Views of the Human Rights Committee, 27 October 1995 para. 8.6.
[18] See, e.g., *D.W., E.V., F.U., G.T., Zlata Veselinović, H.S., I.R. against EULEX*, 2014-11 to 2014-17, Decision on Admissibility, 30 September 2015, para. 88 and its references also to *McCann and Others v. the United Kingdom*, judgment of 27 September 1995, Series A no. 324, para. 161; *Assenov and Others v. Bulgaria*, judgment of 28 October 1998, Reports of Judgments and Decisions 1998-VIII, para. 102;).
[19] Sadiku-Syla against EULEX, 2014-34, Decision on Admissibility, 29 September 2015, para. 58

responsible for such act.[20] That is to say, the investigative actions must be commensurate to and consistent with their ultimate purpose.

A further aspect of the process of evaluation of the adequacy of an investigation is its impact on the right to the truth.[21] As pointed out by the Panel, -

> "A reasoned explanation from the authorities is also consistent with the right of victims to be treated with dignity and with their right to the truth."[22]

The ECtHR has further established in that regard that the right to truth is not limited only to the victims:

> "Furthermore, where allegations of serious human rights violations are involved in the investigation, the right to the truth regarding the relevant circumstances of the case does not belong solely to the victim of the crime and his or her family but also to other victims of similar violations and the general public, who have the right to know what has happened." [23]

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[20] *Sadiku-Syla against EULEX*, 2014-34, Decision and Findings, 19 October 2016, para. 36. See also *Varnava and Others v Turkey*, Application no. 16064/90 et al, judgment of 18 September 2009, para. 191; *Oğur v. Turkey* [GC], Application no. 21594/93, judgment of 20 May 1999, para. 88,; *Hugh Jordan v. the United Kingdom*, Application no. 24746/94, Judgment 4 May 2001, paras. 105-09; and *Douglas-Williams v. the United Kingdom* , Application no. 56413/00, Decision of 8 January 2002.

[21] *El-Masri v The Former Yugoslav Republic of Macedonia,* Application no. 39630/09, judgment of 12 December 2012, para.191;

[22] *Desanka and Zoran Stanisić against EULEX*, 2012-22, 11 November 2015, para. 67; see also, ECtHR *El-Masri v The Former Yugoslav Republic of Macedonia,* Application no. 39630/09, judgment of 12 December 2012, para.193; for judgments of the Inter-American Court of Human Rights, see e.g. *Velásquez Rodríguez v. Honduras*, judgment of 29 July 1988, para. 181; *Heliodoro Portugal v. Panama*, judgment of 12 August 2008, para. 244; *Anzualdo Castro v. Peru,* judgment of 22 September 2009, paras. 116-118

[23] *Al-Nashiri v Poland*, Application no. 28761/11, judgment of 24 July 2014, para.495; *Husayn (Abu Zubaydah)* v Poland, Application no. 7511/13, judgment of 24 July 2014, para.489; see also, El-Masri v The Former Yugoslav Republic of Macedonia, Application no. 39630/09, judgment of 12 December 2012, para.191; for judgments of the Inter-American Court of Human Rights, see e.g. Anzualdo Castro v. Peru, judgment of 22 September 2009, paras. 119

2. Tenor of the obligation to investigate

General considerations – Contextual approach to the duty of the authorities to investigate

The tenor of the general obligation to investigate instances of disappearance cannot be considered in the abstract. It must take into consideration the context in which it is to be implemented. In particular, specific investigative challenges and difficulties are likely to arise in a post-conflict context.[24] Such a situation might indeed complicate the search for or protection of witnesses or the performance of certain forensic tasks.[25] The fact that an investigation or prosecution is taking place in a post-conflict situation cannot, however, explain any kind of investigative shortcoming unless they are demonstrably linked to particular difficulties associated with this situation.

A competent reviewing authority will therefore be expected to evaluate in each case whether a particular investigative step that was normally open would have been rendered impossible or impractical by reasons associated with post-conflict circumstances independent of those conducting the investigation.[26] The Panel has noted the following:

> "Those difficulties should not, however, serve to camouflage or explain investigative shortcomings that are not in any meaningful manner connected to this particular sort of challenges. The Panel will, therefore, evaluate in each case whether a particular investigative step that was normally open would

[24] *L.O. against EULEX*, 2014-32, Decision and Findings, 11 November 2015, para. 44, and its references also to *Palić v. Bosnia and Herzegovina*, Application no. 4704/04, judgment of 15 February 2011, para. 70; UN Human Rights Advisory Panel (HRAP) decision in cases nos. 248/09, 250/09 and 251/09, 25 April 2013, paras 44 and 66. ; *D.W., E.V., F.U., G.T., Zlata Veselinović, H.S., I.R. against EULEX*, 2014-11 to 2014-17, Decision on Admissibility, 30 September 2015, para. 73; *Sadiku-Syla against EULEX*, 2014-34, Decision on Admissibility, 29 September 2015, para. 36;

[25] *Sadiku-Syla against EULEX*, 2014-34, Decision and Findings, 19 October 2016, para. 31 and its reference to HRAP opinion in cases nos 248/09, 250/09 and 251/09, 25 April 2013 para 67, and its opinion in cases nos 168/09, 169/09 and 312/09; 6 June 2013, para. 77. See also *D.W., E.V., F.U., G.T., Zlata Veselinović, H.S., and I.R. against EULEX*, 2014-11 to 2014-17, Decision and Findings, 19 October 2016, para. 57.

[26] See, again, *Sadiku-Syla against EULEX*, 2014-34, Decision and Findings, 19 October 2016, para. 31 and paras. 38 *et seq*. See also ECtHR *Palić v. Bosnia and Herzegovina*, Application no. 4704/04, 15 February 2011, para. 70; HRAP decision in cases nos 248/09, 250/09 and 251/09, 25 April 2013, para 44 and 67 et seq.).

have been rendered impractical by reasons associated with post-conflict circumstances independent of those conducting the investigation."[27]

Investigative diligence, independence and effectiveness

In light of the seriousness and gravity of violations involved, general human rights law requires that investigation into disappearances will be conducted with the necessary level of diligence. Whilst no investigative authorities may be expected to resolve all cases brought before it, they are expected, in every case, to act with such diligence, promptness and effectiveness as reflect the gravity of the matter being investigated.[28]

Diligence in this context also means that the authorities have to organise themselves in a way that ensures the effective protection of rights.[29] The Panel has thus established the following standard:

> "The HoM also argued that the EULEX Prosecutors never became competent to investigate these cases where the case file did not formally reach them. The Panel cannot accept these submissions for at least two reasons. The first is that it is the responsibility of the Mission to ensure that it organises itself in such a way as to guarantee the effective protection of human rights in the

[27] *L.O. against EULEX*, 2014-32, Decision and Findings, 11 November 2015, para. 44

[28] *Sadiku-Syla against EULEX*, 2014-34, Decision and Findings, 19 October 2016, para. 37. See also ECtHR: *Varnava and Others, Application no. 16064/90 et al, judgment of 18 September 2009,* para.191, ; *Palić v. Bosnia and Herzegovina*, Application no. 4704/04, judgment of 15 February 2011, para. 63.

[29] For an illustration, see, e.g., *Becić against EULEX*, 2013-03, Decision and Findings, 12 November 2014, para. 60 ("The failure of EULEX at the time to put in place a reliable system of recording and registering complaints involving allegations of violations of rights resulted in the case of the complainant remaining dormant for a period of approximately two years and nine months. During that period, EULEX was therefore not diligently discharging its mandate in relation to that complaint. The fact that the Kosovo authorities were also competent in relation to this matter does not discharge EULEX of its own obligations to act at all times in a manner that is consistent with minimum standards of human rights."). See also *Sadiku-Syla against EULEX*, 2014-34, Decision on Admissibility, 29 September 2015, para. 60 ("Two other arguments must be considered. The first is that EULEX Prosecutors never formally became competent to investigate this matter as the case file did not formally reach them on time. The Panel cannot accept these submissions for at least two reasons. The first is that it is the responsibility of the Mission to ensure that it organises itself in such a way as to guarantee the effective protection of human rights in the exercise of its executive mandate.")

> exercise of its executive mandate. The Panel has already noted in earlier cases that a mission such as EULEX is expected to organise its records and the transfer thereof in such a way that it is able to guarantee in all circumstances the effective protection of the rights of those concerned by those files (*Becić against EULEX*, 2013-03, 12 November 2014, §§ 58–60). The second reason is that the effective protection of these rights cannot depend on the particular arrangement put in place by UNMIK and EULEX in regard to the transfer of case file. The Mission was duly informed by the complainants of the existence of such cases. From the point of view of human rights law, the Mission's responsibility to investigate these cases did not and could not depend on the formal submission of a case "live" case file by UNMIK. It was the Mission's own responsibility to effectively review and investigate these cases when they were brought to its attention."[30]

The standard of diligence in this context requires the investigation to be conducted independently,[31] to be accessible to the victim's family,[32] carried out with reasonable expeditiousness and affording a sufficient element of public scrutiny of the investigation or its results[33]. The investigation must also be effective in the sense that it is capable of leading to a determination of whether the death was caused unlawfully and if so, to the identification and punishment of those responsible.[34]

In the normal course of events, the effective performance of this investigative responsibility will also involve contacting and taking of statements from potential

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[30] D.W., E.V., F.U., G.T., Zlata Veselinović, H.S., I.R. against EULEX, 2014-11 to 2014-17, Decision on Admissibility, 30 September 2015, para. 89

[31] In particular, this requires independence of political influence and other considerations not relevant to the effective investigation of a case. See, for example, *Nachova and Others v Bulgaria,* Application nos 43577/98 and 43579/98, judgment of 6 July 2005, para. 112; *Hugh Jordan v. the United Kingdom*, Application no. 24746/94, judgment of 4 May 2001, para. 106

[32] See below.

[33] *I against EULEX*, 2013-01, decision of 27 November 2013, para. 15

[34] See ECtHR: *Varnava and Others v Turkey*, Application no. 16064/90 et al, judgment of 18 September 2009, para. 191; *Oğur v. Turkey* [GC], Application no. 21594/93, judgment of 20 May 1999, para. 88; *Hugh Jordan v. the United Kingdom*, Application no. 24746/94, judgment of 4 May 2001, paras. 105-09; and *Douglas-Williams v. the United Kingdom* (dec.), Application no. 56413/00, judgment of 8 January 2002.

witnesses, reasonable forensic examinations and pursuing credible lines of investigation.[35] The Panel has pointed out the following in that regard:

> "From the information made available, the Panel notes that there is no indication that witness statements were taken by the EULEX Prosecutors or that any credible forensic investigation was conducted by the Mission. Nor does the Panel have any indication of the lines of investigation that were pursued in this case or what efforts were made to identify suspects. No information was provided to the Panel to suggest that the EULEX Prosecutors had contacted potential sources of information (as, for instance, the British Government). Nor were statements apparently taken from the complainant, her daughter or any other close relative who might have had information of value to the investigation. There was apparently only one direct verbal contact between the complainant and the Mission, which also appears to have reacted only when prompted to do so by the complainant. Such a record is not such as to guarantee the procedural protection guaranteed by Article 2 and 3 of the Convention. It may also be said to have negatively affected the complainant's enjoyment of her rights under Article 8 and 13 of the Convention."

In all cases, the authorities must have taken demonstrably effective steps that are capable of resolving the matter and identifying the suspects. The mere availability of resources or the formal undertaking to use those will generally be insufficient to meet the authorities' obligations.[36]

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[35] *L.O. against EULEX*, 2014-32, Decision and Findings, 11 November 2015, para. 60

[36] See, for an illustration, *L.O. against EULEX*, 2014-32, Decision and Findings, 11 November 2015, para. 71 ("Whilst the involvement of the SITF may ultimately assist the complainant's search for answers and justice, the Panel is of the view that, up to the present point, the involvement of the SITF has not demonstrably contributed to securing effective protection for her rights. Absent clearer and more detailed information about the SITF's actions and contribution to investigating this case, the Panel must draw the necessary inference that the complainant's rights have been and continue to be violated. This is true, in particular, of her (procedural) rights under Articles 2 and 3 of the Convention as well as her rights to have access to a remedy and to the full enjoyment of her family rights (Article 13 and 8 of the Convention, respectively).")

Investigative promptness

The Panel has underlined that the prompt handling of such cases by the authorities is vital to the maintenance of public confidence in their adherence to the rule of law and in preventing any appearance of collusion in, or tolerance of unlawful acts.[37] The requirement of promptness applies to all aspects of the investigative process - its initiation, its conduct and finalisation.[38]

Investigation as an obligation of means and requirement of adequate resources

The obligation to investigate attached to allegations of enforced disappearance is an "obligation of means", not an "obligation of result".[39] In all cases, however, investigative steps taken by the authorities must be commensurate to the gravity of the alleged violations. In particular, the investigative authorities are expected to invest resources commensurate with the necessity and possibility of resolving the case.[40] The Panel has said as follows in this regard:

> "In every case, in particular a case of this seriousness, the investigative authorities are expected … to invest resources commensurate with the necessity and possibility of resolving the case. Whilst no investigative authorities may be expected to resolve all cases brought before it, it is expected to act with such diligence, promptness and effectiveness as reflect the gravity of the matter being investigated … The Panel notes that investigative steps must be commensurate in nature with the gravity of the alleged violation … In this case, the alleged violation could not be any more

[37] *Sadiku-Syla against EULEX*, 2014-34, Decision and Findings, 19 October 2016, para. 36. See also HRAP decision in cases nos. 248/09, 250/09 and 251/09, 25 April 2013, para. 80*; and ECtHR, Timurtas v Turkey*, Application no. 23531/94, Judgment of 13 June 2000, para. 89.

[38] *L.O. against EULEX*, 2014-32, Decision and Findings, 11 November 2015, para. 46 ("In every case, in particular a case of this seriousness, the investigative authorities are expected to act with reasonable promptness and expeditiousness [...].").

[39] *Hugh Jordan v. the United Kingdom*, Application no. 24746/94, Judgment 4 May 2001, para. 107; *Douglas-Williams v. the United Kingdom*, Application no. 56413/00, Decision of 8 January 2002, para. 233

[40] *Sadiku-Syla against EULEX*, 2014-34, Decision and Findings, 19 October 2016, para. 37; *L.O. against EULEX*, 2014-32, Decision and Findings, 11 November 2015, para. 46). See also *Sadiku-Syla against EULEX*, case No. 2014-34, Decision on Admissibility, 29 September 2015, para. 38; *D.W., E.V., F.U., G.T., Zlata Veselinović, H.S., I.R. against EULEX*, Case No. 2014-11 to 2014-17, Decision on Admissibility, 30 September 2015, para. 75.

serious. One could therefore have expected the Mission to involve significant resources (in personnel, time and resources) into this case. The Panel has not received any indication that this was the case and draws the necessary inferences from the absence of such information."[41]

3. Involvement of victims

An effective investigation in this sort of cases will also require of the authorities that they keep victims generally informed of the process of the investigation.[42]

The duty of competent authorities to investigate such cases cannot depend on a victim having formally complained or seized the authorities.[43] The obligation of the authorities to do so exist as a matter of general international law and is triggered as soon they become aware of information putting them on notice of the existence of such a situation.[44] The Panel has stated the following in that respect:

> "The Panel notes, finally, that EULEX's competence and responsibility to investigate crimes falling within its mandate is not conditioned by the actions of an injured party. In a case such as the present one, EULEX is responsible to act *proprio motu* with a view to ensuring that the disappearance is being diligently, promptly and effectively investigated. Accordingly, a rejection of the complainant's requests for information in no way affected the Mission's

[41] *L.O. against EULEX*, 2014-32, Decision and Findings, 11 November 2015, paras. 46 and 59, and their reference to ECtHR: *Varnava and Others v. Turkey*, Application no. 16064/90 et al, judgment of 18 September 2009, para. 191*; Palić v. Bosnia and Herzegovina*, Application no. 4704/04, judgment of 15 February 2011, para.63.

[42] *L.O. against EULEX*, 2014-32, Decision and Findings, 11 November 2015, para. 61 ("The Panel notes, furthermore, that the Mission's response to the complainant's efforts appear to have been far from adequate. Her many efforts resulted only in her receiving the bare minimum amount of information and only when she pressed for answers. Little that is apparent to the Panel was done to keep her involved in or abreast of the process."). See also below.

[43] See, generally, *Sadiku-Syla against EULEX*, 2014-34, Decision and Findings, 19 October 2016, para. 41; *L.O. against EULEX*, 2014-32, Decision and Findings, 11 November 2015, para. 63. See also, *Sadiku-Syla against EULEX*, 2014-34, 29 September 2015, para. 46.

[44] *Sadiku-Syla against EULEX*, 2014-34, Decision on Admissibility, 29 September 2015, para. 46 ("the competence of EULEX Prosecutors to investigate alleged violations of these rights is independent of any complaint filed by the victims or their relatives so that there was a legally-grounded expectation that they would look into this case regardless of the complainant's actions."); *D.W., E.V., F.U., G.T., Zlata Veselinović, H.S., I.R. against EULEX*, 2014-11 to 2014-17, Decision on Admissibility, 30 September 2015, para. 97

proprio motu obligations to guarantee the effectiveness of the complainant's fundamental rights…"[45]

In cases of this category, close relatives of the disappeared are generally regarded as competent to bring a claim of human rights violation to the authorities.[46] In other words, they are treated as "victims" for the purpose of filing a complaint involving violation of their and/or their relative's rights. As such, they are entitled to be treated with respect and, in particular, to be kept adequately informed and in a timely manner of the course of the investigation into the disappearance of their relative. The Panel has said the following in that regard:

"72.The HoM has rightly referred to the importance and need to guarantee a sufficient level of confidentiality to protect the integrity of ongoing investigative efforts. Confidentiality is warranted and particularly justified in a case such as the present one where the protection of witnesses and informants is paramount. In such a case, the Panel does not suggest that victims are entitled as a matter of right to the full or unrestricted disclosure of the entire investigative file nor to an exhaustive debriefing of the case.

73. The Panel notes, however, that as a matter of human rights law, victims of serious human rights violations, their close relatives as well as, to a lesser extent, the general public are entitled in principle to being sufficiently apprised of the tenor of an investigation … This is intended to ensure both that the

[45] *L.O. against EULEX*, 2014-32, Decision and Findings, 11 November 2015, para. 63, and its references to ECtHR: *Ahmet Özkan and Others v. Turkey*, Application no. 21689/93, judgment of 6 April 2004, para. 310; *Isayeva v. Russia*, Application no. 57950/00, judgment of 24 February 2005, para. 210

[46] *L.O. against EULEX*, 2014-32, Decision and Findings, 11 November 2015, para. 56 ("Furthermore, the Panel notes that the HoM does not dispute that the complainant as close relative of the disappeared is competent and has standing before the Panel to seek a remedy for what she regards as the violation of her rights."); *Sadiku-Syla against EULEX*, 2014-34, Decision and Findings, 19 October 2016, para. 35 ("Victims of such acts are not limited to the disappeared, but may also include close relatives of disappeared persons, who suffer from the continuous anguish of not knowing the fate of their loved ones (see, in the context of Article 3, ECHR, *Kurt v. Turkey*, judgment of 25 May 1998, Reports of Judgments and Decisions 1998- III, §§ 130-34; *Khadzhialiyev and Others v. Russia*, no. 3013/04, §§ 120-121, 6 November 2008, see also Resolution No. 828 (1984), cited above, § 2). It is essential for the authorities to be mindful of the emotional distress by the involvement of those relatives in such investigative processes, (see ECHR, *Orhan v. Turkey*, no. 25656/94, § 358, 18 June 2002). When assessing the responsibility of the authorities in regard to such cases, the particular vulnerability of this category of victims must therefore necessarily be taken into account.").

authorities act in all cases with the necessary diligence and care and with a view to ensure that the rights of victims are being duly accounted for. Whilst the line is one that is difficult to draw in the abstract, the information provided to those most directly concerned by the investigation must be such as to enable them to satisfy themselves that the matter is being duly and properly looked into and that all relevant and reasonable efforts are being made to establish the fate of their relative and identify those responsible for it.

74. Based on the available information, the Panel has come to the view that the Mission has failed to provide enough information to the complainant regarding this investigation and to do so in a manner and with the timeliness necessary and appropriate to the case. The Mission has not provided reasons justifying, for instance, that relatives could not have been regularly informed of advances in the investigation or why they could not be told, in general terms, what efforts were being made and how far the matter had progressed. Nor has the Mission explained its lack of activity in this matter nor its inability or failure to provide more information to the complainant. The Panel reiterates the importance that an investigative body is expected to act with a degree of activity in informing victim or close relatives of the victim and to show the necessary amount of care in dealing with the emotional distress that victims are likely to encounter when communicating with them. The conduct of the Mission in the present case falls short of that standard." [47]

The involvement of victims is intended to ensure both that the authorities act in all cases with the necessary diligence and care and with a view to ensure that the rights of victims are being duly accounted for.[48] In general, the information provided to those most directly concerned by the investigation must be such as to enable them to satisfy themselves that the matter is being duly and properly looked into and that all relevant and reasonable efforts are being made to establish the fate of their relative

[47] *L.O. against EULEX*, 2014-32, Decision and Findings, 11 November 2015, paras. 72-74, and its references to ECtHR: *Ahmet Özkan and Others v. Turkey*, Application no. 21689/93, judgment of 6 April 2004, paras. 311-314; *Isayeva v. Russia*, Application nos. 57947/00 et al., judgment of 24 February 2005, paras. 211-214*; Al-Skeini and Others v. United Kingdom*, Application no. 55721/07, judgment of 7 July 2011,para. 167

[48] *L.O. against EULEX*, 2014-32, Decision and Findings, 11 November 2015, para. 73.

and identify those responsible for it.[49] At the very least, victims should be told, in general terms, what efforts were being made and how far the matter had progressed.[50]

Such an obligation requires responsiveness on the part of the authorities.[51] It also requires that, when communicating with victims, the authorities should be mindful of the gravity of the issues and of the emotional distress which victim might experience in such cases. The Panel has drawn attention to the following:

> "The Panel must also underline the importance that investigative authorities should attach to the manner in which they communicate with victims of rights violations or their close relatives. In that regard, the suggestion by the EULEX Prosecutor that the complainant could not be represented in this matter and tone in which this was communicated to the complainant is particularly unfortunate. The communication in question not only reflected a lack of tact. It was also incorrect from the legal point of view. … The Panel reiterates the importance that an investigative body is expected to act with a degree of activity in informing victim or close relatives of the victim and to show the necessary amount of care in dealing with the emotional distress that victims are likely to encounter when communicating with them." [52]

4. Investigative obligation of EULEX Kosovo as a rule of law mission

Through its decisions, the Panel has made it clear that these general obligations are applicable in principle to the mission in the context of its executive mandate. The Panel has acknowledged that the mission is not a State and that its ability to

[49] *L.O. against EULEX*, 2014-32, Decision and Findings, 11 November 2015, para. 73.
[50] *L.O. against EULEX*, 2014-32, Decision and Findings, 11 November 2015, para. 74.
[51] See, e.g., *L.O. against EULEX*, 2014-32, Decision and Findings, 11 November 2015, para. 61 ("The Panel notes, furthermore, that the Mission's response to the complainant's efforts appear to have been far from adequate. Her many efforts resulted only in her receiving the bare minimum amount of information and only when she pressed for answers. Little that is apparent to the Panel was done to keep her involved in or abreast of the process.").
[52] *L.O. against EULEX*, 2014-32, Decision and Findings, 11 November 2015, paras. 62 and 74

investigate this category of cases should account for the specific features of the mission. More precisely, it has noted the following:

> "EULEX mission is not a State and that its ability to guarantee the effective protection of human rights cannot be compared in all relevant respects to what may be expected of a State … Expectations placed upon EULEX's ability to investigate and resolve complex criminal matters should therefore be realistic and not place upon the mission a disproportionate burden that its mandate and resources is not able to meet ..."[53]

However, the Panel has made it clear that the mission bears the same general duty of diligence, promptness and effectiveness in relation to the investigation of such cases:

> "Whilst no investigative authorities may be expected to resolve all cases brought before it, it is expected to act with such diligence, promptness and effectiveness as reflect the gravity of the matter being investigated … A strict commitment and attachment to those standards is particularly important for a rule of law mission that is intended to serve as example of society's commitment to ending impunity and building into it a sense of accountability for serious violation of rights. Any standard short of this would risk creating a sense of acquiescence with impunity and disregard for victims' search for justice and accountability…"[54]

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[53] *L.O. against EULEX*, 2014-32, Decision and Findings, 11 November 2015, paras. 43 and 45, and its references to: Panel's decision in *A,B,C,D against EULEX,*2012-09 to 2012-12, 20 June 2013, para 50*; K to T against EULEX*, 2013-05 to 2013-14, 21 April 2015, para. 53; compare also HRAP decision in cases nos 248/09, 250/09 and 251/09, 25 April 2013,para. 35; HRAP decision in cases nos 248/09, 250/09 and 251/09, quoted above, paras70-71 See also *Sadiku-Syla against EULEX*, 2014-34, Decision on Admissibility, 29 September 2015, paras. 35-37; *D.W., E.V., F.U., G.T., Zlata Veselinović, H.S., I.R. against EULEX*, 2014-11 to 2014-17, Decision on Admissibility, 30 September 2015, paras. 72-74.

[54] See, e.g., *L.O. against EULEX*, 2014-32, Decision and Findings, 11 November 2015, para. 46 and its references to ECtHR: *Varnava and Others v. Turkey*, Application no. 16064/90 et al, judgment of 18 September 2009, para. 191; *Palić v. Bosnia and Herzegovina*, Application no. 4704/04, judgment of 15 February 2011, para 63); HRAP decision in cases nos 248/09, 250/09 and 251/09, 25 April 2013, para. 80)."); *Sadiku-Syla against EULEX*, 2014-34, Decision and Findings, 19 October 2016, para. 37.

Investigating cases of disappearance, the Panel underlined, should in fact constitute an operational priority for a rule of law mission.[55]

5. Remedies

Remedies recommended by the Panel to the Head of Mission have been directed at some of the most important features of this category of cases. In all such cases, the Panel has recommended that the HoM should make a declaration acknowledging that the circumstances of the case amounted to a breach of the complainant's rights attributable to the acts [and /or omissions] of the mission.[56] For reasons associated with the Mission's concern at resulting civil law suits, these recommendations have been systematically ignored by the Mission.

The Panel has also made a number of recommendations directed at guaranteeing the adequate involvement of victims in the investigation of such cases. In particular, the Panel has recommended that the HoM should instruct all organs of the Mission who are in contact with victims in cases of forced disappearances to ensure that in all communications they act with the necessary amount of expeditiousness, diligence and care to account for the emotional distress of their interlocutor(s).[57] In that context, the Panel has recommended the following:

> "The HoM should impress upon the competent officials of the SITF the importance and necessity to inform victims of the general aspects of their investigation so as to make them aware of their efforts and commitment to obtaining justice on their behalf."[58]

Furthermore, whilst acknowledging the challenges and difficulties which result from the reduction of the resources of the Mission due to reconfiguration, the Panel has

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[55] *L.O. against EULEX*, case No. 2014-32, Decision and Findings, 11 November 2015, para. 47 ("In the present context, there can be little argument that investigating the fate of the disappeared – regardless of religion or ethnicity – must be and must remain an operational priority for EULEX as a Rule of Law Mission for which it must be provided with adequate resources."); *D.W., E.V., F.U., G.T., Zlata Veselinović, H.S., I.R. against EULEX*, 2014-11 to 2014-17, 30 September 2015, para. 76.

[56] *L.O. against EULEX*, 2014-32, Decision and Findings, 11 November 2015, Disposition; *Sadiku-Syla against EULEX*, 2014-34, Decision and Findings, 19 October 2016, Disposition

[57] Ibid.

[58] *L.O against EULEX*, 2014-32, Decision and Findings, 11 November 2015, Disposition;

invited the HoM to ensure that investigative bodies within the Mission have at their disposal all the necessary resources and support to accomplish their mission effectively and in a manner consistent with the effective protection of the human rights of all those involved and insisted that such cases should remain an "investigative priority" of the mission.[59]

[59] Ibid.

6. List of relevant judgments and decisions

i. HRRP cases

- *Becić against EULEX,* 2013 – 03, Decision and findings, 12 November 2014 (http://www.hrrp.eu/docs/decisions/Decision%20and%20findings%202013-03%20pdf.pdf)

- *D.W., E.V., F.U., G.T., Zlata Veselinović, H.S., I.R. against EULEX*, 2014-11 to 2014-17, Decision on Admissibility, 30 September 2015 (http://hrrp.eu/docs/decisions/Admissibility%20decision%202014-11%20to%202014-17%20pdf.pdf)

- *D.W., E.V., F.U., G.T., Zlata Veselinović, H.S., I.R. against EULEX*, 2014-11 to 2014-17, Decision and findings, 19 October 2016 (http://www.hrrp.eu/docs/decisions/Decision%20and%20Findings%202014-11%20to%202014-17.pdf)

- *L.O. against EULEX*, 2014-32, Decision and Findings, 11 November 2015 (http://hrrp.eu/docs/decisions/Decision%20and%20findings%202014-32%20pdf.pdf)

- *Sadiku-Syla against EULEX*, 2014-34, Decision on Admissibility, 29 September 2015 (http://hrrp.eu/docs/decisions/Admissibility%20decision%202014-34%20pdf.pdf)

- *Sadiku-Syla against EULEX*, 2014-34, Decision and Findings, 19 October 2016 (http://www.hrrp.eu/docs/decisions/Decision%20and%20Findings%202014-34.pdf)

ii. HRAP cases

- *Decision in cases nos. 248/09, 250/09 and 251/09,* 25 April 2013, (can be accessed via http://www.unmikonline.org/hrap/Eng/Pages/Case-status.aspx)

- *Decision in cases nos.* 168/09, 169/09 and 312/09; 6 June 2013, (can be accessed via http://www.unmikonline.org/hrap/Eng/Pages/Case-status.aspx)

iii. Cases from other jurisdictions cited

- *Ahmet Özkan and Others v. Turkey*, Application no. 21689/93, judgment of 6 April 2004, ECtHR (http://hudoc.echr.coe.int/eng#{"itemid":["001-61696"]})
- *Al-Nashiri v Poland*, Application no. 28761/11, judgment of 24 July 2014, ECtHR (http://hudoc.echr.coe.int/eng#{"itemid":["001-146044"]})
- Al-Skeini and Others v. United Kingdom, no.55721/07, 7 July 2011, ECtHR (http://hudoc.echr.coe.int/eng#{"itemid":["001-105606"]})
- *Assenov and Others v. Bulgaria*, judgment of 28 October 1998, Reports of Judgments and Decisions 1998-VIII, ECtHR (http://hudoc.echr.coe.int/eng#{"itemid":["001-58261"]})
- *Douglas-Williams v. the United Kingdom*, Application no. 56413/00, Decision of 8 January 2002, ECtHR (http://hudoc.echr.coe.int/eng#{"itemid":["001-22135"]})
- *El-Masri v The Former Yugoslav Republic of Macedonia,* Application no. 39630/09, judgment of 12 December 2012, ECtHR (http://hudoc.echr.coe.int/eng#{"itemid":["001-115621"]})
- *Hugh Jordan v. the United Kingdom*, Application no. 24746/94, judgment 4 May 2001, ECtHR. (http://hudoc.echr.coe.int/eng#{"itemid":["001-59450"]})
- Imakayeva v. Russia, Application no. 7615/02, Judgment of 9 November 2006, ECtHR (http://hudoc.echr.coe.int/eng#{"itemid":["001-77932"]})
- *Husayn (Abu Zubaydah)* v Poland, Application no. 7511/13, judgment of 24 July 2014, ECtHR (http://hudoc.echr.coe.int/eng#{"itemid":["001-146047"]})
- *Ireland v. the United Kingdom*, Application no 5310/71, judgment of 18 January 1978, ECtHR(http://hudoc.echr.coe.int/eng#{"itemid":["001-57506"]})
- *Isayeva v. Russia*, Application no. 57950/00,judgment of 24 February 2005, ECtHR (http://hudoc.echr.coe.int/eng#{"itemid":["001-68381"]})

- *Khadzhialiyev and Others v. Russia*, Application no. 3013/04, judgment of 6 November 2008, ECtHR (http://hudoc.echr.coe.int/eng#{"itemid":["001-89348"]})
- *Kurt v. Turkey, 25 May 1998, Reports of Judgments and Decisions 1998 III, ECtHR (http://hudoc.echr.coe.int/eng#{"itemid":["001-58198"]})*
- *McCann and Others v. the United Kingdom,* Application no. 18984/91, judgment of 27 September 1995, ECtHR, (http://hudoc.echr.coe.int/eng#{"itemid":["001-57943"]})
- *Nachova and Others v Bulgaria*, Application nos. 43577/98 and 43579/98, judgment of 6 July 2005, ECtHR (http://hudoc.echr.coe.int/eng#{"itemid":["001-69630"]})
- *Orhan v. Turkey*, Application no. 25656/94, judgment of 18 June 2002, ECtHR (http://hudoc.echr.coe.int/eng#{"itemid":["001-60509"]})
- *Oğur v. Turkey* [GC], Application no. 21594/93, judgment of 20 May 1999, ECtHR (http://hudoc.echr.coe.int/eng#{"itemid":["001-58251"]})
- *Palić v. Bosnia and Herzegovina*, no. 4704/04, judgment of 15 February 2011, ECtHR (http://hudoc.echr.coe.int/eng#{"itemid":["001-103526"]})
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- Velásquez Rodríguez v. Honduras, judgment of 29 July 1988 (Ser. C) no. 4) (1988)), Inter-American Court of Human Rights (http://www.corteidh.or.cr/docs/casos/articulos/seriec_04_ing.pdf)

iv. List of other documents cited or referred

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- Inter-American Convention on Forced Disappearance of Persons(1994)
- The Human Rights Advisory Panel History and Legacy, Kosovo 2007-2016, Final Report [HRAP Final Report]
- *Nydia Erika Bautista de Arellana v. Colombia*, Communication No. 563/1993, Views of the Human Rights Committee, 27 October 1995
- *United Nations Declaration on the Protection of all Persons from Enforced Disappearance (A/Res/47/133, 18 December 1992)*;
- "General Comments on the Declaration on the Protection of All Persons from Enforced Disappearance of 15 January 1996", in Report of the Working Group on Enforced or Involuntary Disappearances, UN Doc. E/CN. 4/1996/38;
- UN Working Group on Enforced or Involuntary Disappearance, General Comment on Article 17 of the Declaration (E/CN.4/2001/68/18 December 2000);
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- UN Human Rights Committee, Decision of 2 November 2005, Communication No. 1078/2002, Norma Yurich v Chile