



# Security Council

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## Implementation of paragraph 4 of Security Council resolution 2107 (2013)

### Thirty-sixth report of the Secretary-General

#### I. Introduction

1. The present report, submitted pursuant to paragraph 4 of Security Council resolution 2107 (2013), covers developments pertaining to missing Kuwaiti and third-country nationals and missing Kuwaiti property, including the national archives, since my previous report, dated 16 September 2022 (S/2022/696).

#### II. Recent activities with regard to the repatriation and return of all Kuwaiti and third-country nationals or their remains

2. The United Nations Assistance Mission for Iraq (UNAMI) attended, in its observer capacity, the 122nd and 123rd sessions of the Technical Subcommittee of the Tripartite Commission held in Kuwait on 10 October 2022 and in Amman on 12 December, respectively, as well as the fifty-fourth meeting of the Tripartite Commission, held in Amman on 14 December. During the meetings, the members of the Tripartite Commission provided updates on their efforts to identify and explore potential burial sites of interest. These efforts continued to rely on witness testimony, satellite imagery and field missions.

3. Satellite and aerial imagery analysis remains an important tool for the identification of potential burial sites in Samawah (Tall al-Shaykhiyah and Faydat al-Azayir sites), Karbala' and Khamisiyah, as well as two sites in Kuwait, on the basis of coordinates provided by the United States of America and the United Kingdom of Great Britain and Northern Ireland. During the 123rd meeting of the Technical Subcommittee, the International Committee of the Red Cross (ICRC) provided updates on the status of satellite imagery requests for nine sites of interest previously submitted to a Technical Subcommittee member. ICRC informed meeting participants that the geographic scope and time frame of the original requests had been narrowed down, in order to assist the Technical Subcommittee member with processing the requests. ICRC added that it had received satellite imagery for two sites of interest located in Kuwait, noting that a newly recruited expert would soon conduct the imagery analysis. Feedback on satellite imagery requests for the remaining seven sites, including those in Samawah, Karbala' and Khamisiyah, is still pending. Kuwait reiterated the importance of exploring additional avenues that could help narrow



down the size of the sites of interest, including new technologies, reviews of archives and past reports, rather than relying solely on receiving satellite and aerial imagery.

4. Recalling the success of the excavation work in 2019 and 2020 in Samawah (Tall al-Shaykhiyah site), Iraq and Kuwait exchanged views during the 123rd meeting regarding the possibility of having an expert, provided by ICRC, re-examine available commercial satellite imagery of the Tall Al-Shaykhiyah site. Kuwait further proposed the re-examination of work previously undertaken on the Faydat al-Azayir site.

5. In addition to satellite imagery, members of the Tripartite Commission continued to emphasize the importance of sustained efforts to locate witnesses who might have relevant information regarding potential burial sites. Kuwait reiterated the importance of following up on witness information for the two potential burial sites in Samawah and urged Iraq to step up its efforts to discuss the matter with the Governor of Muthanna. During the 123rd session of the Technical Subcommittee, Kuwait also stressed the need for Iraq to remove any impediments that could delay the excavation process and potential recovery of human remains, including by preventing any improper conduct with regard to the handling and preservation of the burial sites. Iraq informed the Technical Subcommittee of a planned upcoming meeting between the Governor of Muthanna and the Office of the Prime Minister to discuss the matter.

6. The Ministry of Defence of Iraq continued efforts to locate witnesses who might have relevant information regarding the Khamisiyah site, in particular a witness who was reported to be in Sweden or in Jordan. Efforts by Iraq to locate this witness included liaison with the Embassies of Iraq in Sweden and Jordan, with the Iraqi security forces and with the Residency and Travel Directorate of the Ministry of the Interior, but without any results. Iraq asked for ICRC support to locate a person in Cairo who had previously had contact with the witness believed to be in Sweden or Jordan.

7. Regarding the naval base site in Kuwait, and pursuant to an earlier agreement between Iraq and Kuwait, the witness with possible information on this site accompanied the Iraqi delegation to Kuwait for the 122nd meeting of the Technical Subcommittee and visited the site on 9 October, together with the Kuwaiti delegation and ICRC. The site visit concluded that the potential burial site was located outside the naval base and not within its perimeter, as previously assessed. A report of the site visit, which included recommendations on the way forward, was shared with all Technical Subcommittee members following the visit. During the 123rd meeting, Kuwait stated that it would, through relevant Kuwaiti authorities, continue its search for aerial imagery, if available, that could help identify the precise location of the burial site.

8. In addition to the satellite imagery received by ICRC for the two sites located in Kuwait, ICRC continued to discuss, with the United States, the feasibility of researching the archives of the United States. With regard to the permission to search the archives of the United Kingdom, ICRC noted that it was awaiting feedback from the Ministry of Defence of the United Kingdom and had continued to follow up on the matter. ICRC also announced that on 8 December 2022, the United States had launched a call for war veteran witnesses. The call encouraged veterans possessing information about potential grave sites from the 1990–1991 Gulf War to contact the United States Government and/or ICRC.

9. From 29 November to 1 December, the Ministry of Defence of Iraq, in the presence of ICRC, conducted an assessment and excavation mission at the Mahawil site. The excavation mission focused on areas of interest based on witness testimony and was conducted following confirmation that the site had been cleared of war remnants. The excavation uncovered bone fragments, which were most likely

non-human according to a preliminary assessment. The Ministry of Defence of Iraq temporarily halted the excavation owing to the unavailability of experts from the Medico-Legal Directorate of the Ministry of Health of Iraq and the Mass Graves Directorate of the Martyrs Foundation to analyse the recovered fragments.

10. Iraq and Kuwait continued to explore options to elicit more specific details from two witnesses who had come forward saying they had information on potential burial sites in Mosul and Kuwait. No concrete outcomes have transpired to date.

11. During the 123rd meeting of the Technical Subcommittee, Iraq and Kuwait exchanged views on possible procedures for the identification and transfer of the genetic profiles of 15 human remains exhumed from the area of Hawli, Najaf Governorate, in April 2022. Kuwait noted that general guidelines on the transfer of human remains, including DNA profiles and bone samples, had already been adopted by the Tripartite Commission and that all its members had reiterated their commitment to respecting them. Iraq and Kuwait concluded that discussion on the procedures for the identification and transfer of the genetic profiles of the 15 human remains would continue between ICRC, the Ministry of Defence of Iraq and the Medico-Legal Directorate of Iraq.

12. Regarding the Muradiyah site in Diyala Governorate, ICRC shared with Technical Subcommittee members the final report of the joint ICRC-Ministry of Defence of Iraq survey of the site, conducted in July 2022. On 10 November, ICRC held a working group meeting with the Ministry of Defence of Iraq and provided feedback on the topographic map of the Muradiyah site. The Ministry of Defence subsequently submitted a request to the Iraqi State Commission on Surveys for a new topographic map of the area based on ICRC feedback.

13. During the reporting period, more persons responded to the call for witnesses launched by the Ministry of Defence of Iraq on 27 July 2022. In response to the broadcast, an individual approached the ICRC delegation in Baghdad, claiming to possess information on detained civilians and military personnel from the State of Kuwait during the 1990–1991 Gulf War. The individual provided his testimony on 1 November during a meeting with an ICRC representative in Baghdad and consented to sharing it, along with his personal and contact information, with members of the Tripartite Commission. Kuwait, after cross-checking the information, deemed that the witness testimony required additional follow-up with the witness himself and with another potential witness who had been identified in his statement. Following further information provided by Kuwait and discussed among Technical Subcommittee members, it was agreed to include the recent witness testimony in the discussion on the Karbala' and Samawah (Faydat al-Azayir) sites.

14. Another individual approached the Ministry of Defence of Iraq on 27 November and provided information on a potential burial site in Abu Ghurayb, Baghdad Governorate, which the witness claimed could contain approximately 10 to 12 remains of Kuwaiti citizens. It was agreed that ICRC would include these two witnesses in the confidential list of witnesses for further follow-up.

15. Iraq issued several more calls for witnesses during the reporting period. The Ministry of Defence of Iraq broadcast a call for witnesses on 15 November on its official Facebook page. The Ministry of Foreign Affairs of Iraq also issued calls for witnesses from 28 November to 30 November through its diplomatic and consular representations around the world. In an effort to encourage further witnesses to come forward, the Ministry of Defence approved the allocation of financial rewards to persons providing information on burial sites that could potentially contain the remains of missing persons. The Ministry of Defence also initiated a formal process for the formation of a committee comprising members of Iraq's security agencies. The committee, chaired by the Ministry of Defence, would be mandated to gather

information on potential mass grave sites through different sources. During the 123rd meeting of the Technical Subcommittee, Kuwait commended the initiatives as important steps in expediting the search for missing Kuwaiti citizens and third-country nationals.

16. With respect to the case of a missing national of Saudi Arabia, who is listed on the official request lists of both Kuwait and Saudi Arabia and is alleged to be alive in an Iraqi prison in Nasiriyah, ICRC continued consulting the registry of detainees transferred from Nasiriyah prison prior to 2017, but without result. The Ministry of Defence of Iraq dispatched a delegate to the Ministry of Justice to search for the name of the missing person in its registries, but without success. The case remains open as Saudi Arabia continues to search for more information about the missing person.

17. During the 123rd meeting of the Technical Subcommittee, the United Kingdom updated members regarding efforts to explore information reported by *The Sun* newspaper in July 2021 regarding an Iraqi national who had allegedly ordered the execution of 35 Kuwaitis in 1990. On 1 November, a British detective visited Kuwait to follow up on the information reported by newspaper, as part of a criminal investigation under way in the United Kingdom. Kuwait provided the required information to the enquiries put forward by the United Kingdom. Further updates will be provided to the members of the Technical Subcommittee as soon as they are available.

18. Ahead of the 123rd session of the Technical Subcommittee, consultations were held among the Technical Subcommittee members on 11 December, to discuss the draft road map for the implementation of the review project recommendations, as agreed during the 122nd meeting of the Technical Subcommittee. The final draft was shared by ICRC with all Technical Subcommittee members prior to the 123rd meeting. It was agreed that ICRC would include an annex to the draft road map with a detailed overview of expected outputs and milestones for each recommendation.

19. On 14 December, during its fifty-fourth session, the Tripartite Commission renewed the mandate of the Technical Subcommittee and the official observer role of UNAMI. Technical Subcommittee members expressed appreciation for the Mission's observer role. The Tripartite Commission collectively adopted the road map prepared by ICRC on the basis of the review project recommendations. The importance of continued collaboration to achieve positive results was highlighted by all members.

20. On 7 September, the Deputy Special Representative for Political Affairs and Electoral Assistance of UNAMI met with the Director of the Human Rights Directorate in the Legal Department of the Ministry of Defence of Iraq, Thaeer Saad Abdullah. They discussed progress made on the file pertaining to missing Kuwaiti and third-country nationals, notably through increased field missions and witness testimonies. The Deputy Special Representative expressed the full support of UNAMI for further advancing progress on this important file.

21. On 11 October, the Deputy Special Representative travelled to Kuwait and met with the Assistant Minister for International Organizations, Abdulaziz Saud Al-Jarallah, and the Ambassador Extraordinary and Plenipotentiary for Kuwaiti Prisoners and Missing Persons, Rabe'a al-Adsani. Discussions were focused on developments related to the missing Kuwaiti and third-country nationals and property files. The Deputy Special Representative also visited the General Department of Criminal Evidence at the Ministry of the Interior of Kuwait, together with all members of the Technical Subcommittee, as part of a visit organized by Kuwait on the margins of the 122nd meeting of the Technical Subcommittee. During that visit, the Deputy Special Representative commended the diligent efforts and technical expertise of the identification work carried out by the Department's teams.

22. On 7 December, the Deputy Special Representative met the Undersecretary of the Ministry of Foreign Affairs of Iraq for Administrative, Technical and Legal Affairs, Omer Ahmed Kerim Berzinji, with whom he discussed the Kuwaiti missing persons and property file. The Undersecretary reiterated his Government's commitment to making further progress on this important humanitarian file.

23. Between 7 and 11 November, UNAMI successfully completed the advanced training on the use of ground-penetrating radar, in Brindisi, Italy, of six staff from the Ministry of Defence of Iraq. The training was carried out in partnership with geospatial expert trainers from the United Nations Logistics Base in Brindisi. UNAMI briefed the Technical Subcommittee at its 123rd meeting on the outcome of the training and provided recommendations. As a result of the briefing, the Technical Subcommittee members agreed to the proposal by Kuwait to include training, capacity development and the transfer of knowledge as a permanent agenda item of Technical Subcommittee meetings.

### **III. Recent activities with regard to the return of Kuwaiti property**

24. During his meeting with the Deputy Special Representative, the Undersecretary for Administrative, Technical and Legal Affairs of the Ministry of Foreign Affairs of Iraq noted that, following the handover of 738 boxes and other property in July 2022, representatives of all relevant Iraqi ministries and institutions had been instructed to expand their search for missing Kuwaiti property. He reiterated his Government's commitment to identifying modalities that could further facilitate the search for the missing Kuwaiti national archives.

### **IV. Observations**

25. The continued perseverance and focus of all members of the tripartite mechanism, under the auspices of ICRC, has been maintaining the momentum on this important humanitarian file. I commend the sustained exploratory work conducted by the Ministry of Defence of Iraq, through increased field missions, in the search for missing Kuwaiti and third-country nationals. I hope that these efforts will soon yield further positive results and lead to the identification of new potential burial sites.

26. Witness information and satellite imagery remain central components of this process. I welcome the steps taken by the Government of Iraq to encourage more witnesses to come forward, in particular the expanded call for witnesses and allocation of financial rewards for witness testimony relevant to the search for missing persons. I also commend the dedicated efforts of Kuwait in following up on new witness information.

27. The continuous cooperation of the members of the Tripartite Commission with ICRC regarding the provision of satellite imagery is vital to efforts for the identification of new potential burial sites. The receipt of satellite imagery and planned analyses for the two sites of interest in Kuwait will hopefully generate relevant information soon.

28. I also welcome the productive consultations that took place for the establishment of a clear road map for the implementation of the review project recommendations. I trust that this new road map will help further reinvigorate the search for missing persons.

29. I reiterate my call upon the Government of Iraq to continue its efforts to locate remaining missing property, in particular to step up its search for missing documents from the Kuwaiti national archives.

30. My Special Representative for Iraq, my Deputy Special Representative for Political Affairs and Electoral Assistance, and UNAMI staff remain fully committed to supporting the efforts of the Governments of Iraq and Kuwait, the Tripartite Commission and other partners to promote and facilitate efforts in support of this important mandate.

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