



# Security Council

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

### Thirty-eighth 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 11 May 2023 (S/2023/341).

#### 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 125th and 126th meetings of the Technical Subcommittee of the Tripartite Commission, which were held in Riyadh on 12 and 13 June 2023 and in Kuwait City on 6 August, respectively. On 15 June, UNAMI attended the fifty-fifth meeting of the Tripartite Commission in Riyadh. At those meetings, the members of the Tripartite Commission provided updates on their efforts to identify and explore potential burial sites of interest. Those efforts continue to rely on voluntary witness testimony and analysis of satellite and aerial imagery, as well as field missions.

3. During the reporting period, the International Committee of the Red Cross (ICRC) and the Ministry of Defence of Iraq continued their efforts to conduct joint analysis of available commercial satellite imagery and aerial imagery provided by the United States of America for the identification of potential burial sites in Samawah (Tall al-Shaykhiyah and Faydat al-Azayir), Karbala' and Khamisiyah. Iraq noted the need for additional aerial imagery of the three sites. Joint analysis was also conducted of available imagery of four sites in Kuwait based on coordinates provided by the United States and the United Kingdom of Great Britain and Northern Ireland. At the 125th meeting of the Technical Subcommittee, ICRC presented the results of the analysis of aerial imagery provided by the United States and of commercial satellite imagery of the three sites previously excavated at Tall al-Shaykhiyah in Samawah. ICRC also presented an analysis of potential soil discrepancies appearing in the imagery that could be related to a fourth presumed burial site in the Samawah area.

4. Regarding the sites in Kuwait, ICRC continued to hold discussions with the United States regarding the satellite and aerial imagery provided by the United States,



access to the United States archives and the possibility of expanding the call for witnesses among United States veterans. The United States committed to providing additional imagery and to continuing to explore the feasibility of giving ICRC access to its archives. The United Kingdom reiterated that, following a search of the archives of its Ministry of Defence, it had been concluded that all relevant documents had already been shared with the Tripartite Commission.

5. Kuwait continued to look for aerial imagery and analyse information that had recently been received from a witness with regard to the naval base in Kuwait. At the 125th meeting of the Technical Subcommittee, Kuwait stated that the burial site may no longer exist because of significant construction activity and changes to the landscape. As a result, any remains might have been inadvertently destroyed. Based on the recommendation of Kuwait, the members of the Technical Subcommittee agreed to keep the naval base on the agenda in view of the ongoing efforts to acquire additional aerial imagery.

6. In May, a delegation headed by the Ministry of Defence of Iraq met with the Governor of Muthanna to seek additional details regarding information that he had initially shared in 2019 about a potential burial site in Samawah (Tall al-Shaykhiyah). The meeting was attended by an indirect witness who is familiar with the main witness but who reportedly expressed their unwillingness to provide information and reveal their identity to the Technical Subcommittee. As recommended by the delegation, Iraq will continue to facilitate further contact between the indirect witness and the main witness and follow up with the Governor of Muthanna on information concerning the potential burial site. In addition, Kuwait requested that Iraq renew contact with and ensure the cooperation of a witness who had previously presented testimony regarding a presumed burial site in Samawah (Tall al-Shaykhiyah) at the 107th meeting of the Technical Subcommittee. With regard to the Karbala' site, Iraq will continue to search for persons who had previously worked with the main witness.

7. With regard to the Khamisiyah site, at the 125th meeting of the Technical Subcommittee meeting, Iraq noted that the witness who was previously reported to be in Sweden might be residing in Denmark. Iraq has asked the Danish authorities to assist with locating the witness. At the 126th meeting of the Technical Subcommittee, Iraq noted that it had asked a relative of the witness to encourage the witness to contact either ICRC or the Iraqi authorities. ICRC indicated that the witness had voluntarily made contact in July and had denied having any information about the burial site in Khamisiyah. It was agreed that ICRC and Iraq would remain in contact with the witness and the witness's relative, respectively. At the 125th meeting of the Technical Subcommittee, Iraq indicated that a new witness had provided information confirming the likely presence of burial sites in Khamisiyah. Kuwait reiterated that the Khamisiyah site is promising because it is likely to contain the remains of about 180 of the remaining missing Kuwaiti and third-country nationals.

8. In May, the Ministry of Defence of Iraq and ICRC met with the witness of the Mahawil site to present the results of the recent excavation there. It was agreed to continue excavation in area 1 and to deprioritize area 2 because of the high level of weapon contamination at the latter and the lack of additional information needed to determine where the burial site is located. Iraq and ICRC will explore the possibility of utilizing remote sensing methodologies to help narrow down the site of interest in area 2.

9. In May, Kuwait requested that it be given records in the electropherogram with data points format for the 22 genetic profiles that it had received in April 2023 of the human remains recovered by Iraq in April 2022 from the area of Hawli, Najaf Governorate. As confirmed by ICRC at the 125th meeting of the Technical Subcommittee, producing records in that format is a standard practice in forensic

genetic analysis and is part of forensic standard operating procedures for the identification of missing persons. Having such records would allow forensic experts to analyse the data required to produce consensus DNA profiles. At the 126th meeting of the Technical Subcommittee, Iraq agreed to share the profiles in the requested format without further delay. In addition, the members of the Technical Subcommittee agreed that a technical consultation, supported by ICRC, would be held before the forthcoming meeting of the Technical Subcommittee in order to address the technical reservations of Iraq that have delayed the transfer of genetic profiles to Kuwait.

10. Iraq shared with ICRC a topographic map of the Muradiyah site in Diyala Governorate, in order to jointly determine the way forward with regard to that site.

11. Regarding the case of a missing Saudi national alleged to be held in Nasiriyah prison in Iraq, ICRC established through archival research that his name appeared in a list that had been submitted by Iraq at the forty-second meeting of the Technical Subcommittee in 2003. The list included the names of 302 persons whose fate remains unknown, after they had been allegedly arrested in Kuwait in 1990 and 1991 and transferred to Basra and other locations in Iraq. A search by ICRC of the Nasiriyah prison registry yielded no results. Saudi Arabia is considering a proposal by Iraq to facilitate a visit by a witness to Nasiriyah prison.

12. Kuwait conducted an invasive survey in the Jahrah' area based on information provided by United Kingdom authorities in relation to an article that appeared in *The Sun*, a United Kingdom newspaper, about an Iraqi national who had allegedly ordered the execution of 35 Kuwaitis in 1990. Kuwait indicated that although the excavation had yielded no results, the information provided by the United Kingdom remains relevant. The United Kingdom shared the report regarding the survey with the Metropolitan Police Service of London, which is conducting an investigation into the case. Iraq, Kuwait and the United Kingdom will continue to cooperate on this matter.

13. In July, the Ministry of Defence of Iraq and ICRC conducted a joint field visit to the Salman Pak site (the cemetery). Following the field visit, ICRC recommended that the Ministry consider conducting a topographic mapping of the cemetery and seek further information from the local authorities and witnesses in an effort to identify unmarked graves.

14. In July, a delegation headed by the Ministry conducted a visit to a presumed burial site in Tuwithah after Kuwait provided information that Kuwaiti individuals had been buried there. The visit did not yield results. Kuwait will seek further information from witnesses and propose that they contact ICRC.

15. At the 126th meeting of the Technical Subcommittee, Kuwait indicated that it had successfully adopted and put into use new technologies for the validation and assessment of DNA extraction and profiling that would enhance the DNA identification process of recovered human remains.

16. On 17 August, Kuwait announced the identification of one missing person whose remains had been found some years ago. The identification was made possible by the recently adopted new technologies. Following the identification of this person, the number of missing Kuwaiti and third-country nationals now stands at 308.

17. In May, a call for witnesses was published on the official website of the Ministry of Defence of Iraq based on a text that been agreed upon with Kuwait. In implementation of some of the recommendations made by the ministerial security committee, Iraq intends to launch a call for witnesses through the Iraqi media network. Iraq reiterated its commitment to provide immunity from prosecution to any person who can provide information on burial sites.

18. In line with the road map for the implementation of the review project recommendations, and as part of the development of a guidance note on the usage of new technologies, ICRC, in consultation with UNAMI, will assess the ground-penetrating radar equipment available at the Ministry of Defence of Iraq and provide recommendations accordingly.

19. On 15 June, the Tripartite Commission, at its fifty-fifth session, renewed the mandate of the Technical Subcommittee and the observer role of UNAMI.

20. On 3 May and 16 August, the Deputy Special Representative for Political Affairs and Electoral Assistance of UNAMI met with the Undersecretary for Multilateral and Legal Affairs of the Ministry of Foreign Affairs of Iraq. The discussion focused on developments related to the issue of missing Kuwaitis and third-country nationals and Kuwaiti property, including the national archives.

21. On 16 May, the Deputy Special Representative met with the Governor of Muthanna in Baghdad and discussed the progress made in the identification of potential burial sites in Samawah. The Deputy Special Representative stressed the importance of cooperation in order to locate new witnesses with relevant information that might lead to a positive outcome.

22. On 23 May and 14 August, the Deputy Special Representative met with the Director of the Human Rights Directorate of the Legal Department of the Ministry of Defence of Iraq. They reviewed the ongoing discussion with the Governor of Muthanna and discussed ways to support the cooperation of Iraq with Kuwait, including in relation to the transfer of genetic profiles.

23. On 15 June, the Deputy Special Representative travelled to Riyadh to attend the fifty-fifth meeting of the Tripartite Commission. During his visit, the Deputy Special Representative briefed the Director General of the Department of Arab Affairs of the Ministry of Foreign Affairs of Saudi Arabia regarding, inter alia, the work of the tripartite mechanism and the role of UNAMI.

24. On 3 July and 2 August, the Deputy Special Representative met with the Ambassador of Kuwait to Iraq to discuss pending cases, specifically the potential burial site in Muthanna Governorate and the work of UNAMI. The Ambassador indicated that the Minister for Foreign Affairs of Kuwait, during his official visit to Iraq on 30 July, had underlined the importance of the issue of missing Kuwaitis and third-country nationals and Kuwaiti property, including the national archives.

25. On 6 August, the Deputy Special Representative travelled to Kuwait and participated in the 126th meeting of the Technical Subcommittee. On 7 August, he met separately with the Deputy Minister for Foreign Affairs and the Assistant Minister for Foreign Affairs for Prisoners of War and Missing Persons Affairs of Kuwait. The discussions focused on ways to overcome obstacles and enhance the work of the tripartite mechanism, including the transfer by Iraq of DNA profiles and the retrieval of missing Kuwaiti property.

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

26. On 8 August, UNAMI received a note verbale from the Ministry of Foreign Affairs of Iraq stating that the Government of Iraq was in the process of handing over additional books and other material to Kuwait, and that the Ministry had continued coordinating with all relevant Iraqi authorities to ensure that the handover would be completed as soon as possible.

## IV. Observations

27. The identification of one additional missing person is an encouraging step towards making further progress with regard to this important humanitarian file. I extend my deepest condolences to the family of the missing person. I commend the members of the tripartite mechanism, under the leadership of ICRC, for their persistent efforts to search for, identify and return additional remains of missing Kuwaitis and third-country nationals. These efforts are continuing to yield results and should be sustained with the same vigour until all missing persons have been accounted for.

28. The new identification was made possible thanks to the adoption by the Government of Kuwait of innovative technology that enhances the DNA identification process of human remains. The proposed transfer of the genetic profiles of human remains to Kuwait is an important step towards improving the probability of further identifications. I look forward to the prompt and unimpeded transfer of genetic profiles to Kuwait, so that the families of missing persons can be informed as soon as possible of any DNA matches.

29. The commitment of the Government of Iraq, specifically the Ministries of Defence and Foreign Affairs, in pursuing witness testimony and other information to identify potential burial sites is commendable. I am encouraged by the efforts made in the search for potential burial sites, including in Samawah and Khamisiyah, and look forward to early results in this endeavour.

30. The search for potential burial sites containing the remains of missing Kuwaiti and third-country nationals is greatly assisted by the provision of satellite and aerial imagery and other information by members of the Tripartite Commission. I encourage the members to continue with the same constructive approach. The able leadership of ICRC and its assistance to all parties continues to be essential for making progress with regard to this important humanitarian file.

31. I look forward to the official handover to Kuwait of items of missing property retrieved by Iraq. I reiterate my call upon the Government of Iraq to continue its efforts to locate remaining missing Kuwaiti property, including the national archives.

32. My Special Representative for Iraq, my Deputy Special Representative for Political Affairs and Electoral Assistance and UNAMI staff will continue to support the efforts of the Governments of Iraq and Kuwait, the Tripartite Commission and other partners to make progress in this important mandate.