



OPINION

Date of adoption: 6 June 2013

Case No. 04/09

D. P.

against

UNMIK

The Human Rights Advisory Panel sitting on 6 June 2013,
with the following members present:

Mr Marek NOWICKI, Presiding Member
Ms Christine CHINKIN
Ms Françoise Tulkens

Assisted by

Mr Andrey ANTONOV, Executive Officer

Having considered the aforementioned complaint, introduced pursuant to Section 1.2 of UNMIK Regulation No. 2006/12 of 23 March 2006 on the establishment of the Human Rights Advisory Panel,

Having deliberated, makes the following findings and recommendations:

I. PROCEEDINGS BEFORE THE PANEL

1. The complaint was introduced on 1 December 2008 and registered on 21 January 2009.
2. On 27 April 2009, the Panel communicated the case to the Special Representative of the Secretary-General (SRSG)¹ for UNMIK's comments on its admissibility.

¹ A list of abbreviations and acronyms contained in the text can be found in the attached Annex.

3. On 15 July 2009, UNMIK provided its response on the admissibility of the case. The response included a substantial amount of confidential information which, in UNMIK's estimation, could not be released to any third party, including the complainant.
4. On 4 August 2009, the Panel sent UNMIK's response to the complainant for comments, with the confidential sections omitted. On 21 November 2009, the Panel amended its Rules of Procedure to include Rule 39*bis*, which clarified the procedure for requesting and granting requests for confidentiality. On 25 November 2009, the Panel formally granted UNMIK's request for confidentiality with respect to certain information.
5. On 2 December 2009, the Panel re-communicated UNMIK's response to the complainant. On 30 December 2009, the complainant provided his response.
6. On 26 February 2010, the Panel forwarded the complainant's reply to UNMIK for information and for further comments. UNMIK has not availed itself of the opportunity to provide further comments.
7. On 6 August 2010, the Panel declared the complaint admissible.
8. On 13 August 2010, the Panel informed the SRSG of the decision and requested UNMIK's comments on the merits of the case. On 6 October 2010, the SRSG provided UNMIK's response.
9. On 13 October 2011, the UNMIK presented the Panel with the files related to the complaint. On 20 November 2012, UNMIK confirmed to the Panel that the disclosure of the files was complete.

II. THE FACTS

A. General background²

10. The events at issue took place in the territory of Kosovo after the establishment of the United Nations Interim Administration Mission in Kosovo (UNMIK), in June 1999.
11. The armed conflict during 1998 and 1999 between the Serbian forces on one side and the Kosovo Liberation Army (KLA) and other Kosovo Albanian armed groups on the other is well documented. Following the failure of international efforts to resolve the conflict, on 23 March 1999, the Secretary General of the North Atlantic Treaty Organisation (NATO) announced the commencement of air strikes against the Federal Republic of

² The references drawn upon by the Panel in setting out this general background include: OSCE, "As Seen, as Told", Vol. I (October 1998 – June 1999) and Vol. II (14 June – 31 October 1999); quarterly reports of the UN Secretary-General on the United Nations Interim Administration in Kosovo; UNMIK Police Annual Reports (2000, 2001); Humanitarian Law Centre, "Abductions and Disappearances of non-Albanians in Kosovo" (2001); Humanitarian Law Centre, "Kosovo Memory Book" (<http://www.kosovomemorybook.org>); UNMIK Office on Missing Persons and Forensics, "Activity Report 2002-2004"; European Court of Human Rights, *Behrami and Behrami v. France* and *Saramati v. France, Germany and Norway*, nos. 71412/01 and 78166/01, decision of 2 May 2007; International Commission on Missing Persons, "The Situation in Kosovo: a Stock Taking" (2010); data issued by the United Nations High Commissioner for Refugees, (available at www.unhcr.org) and by the International Committee of the Red Cross (available at <http://familylinks.icrc.org/kosovo/en>).

Yugoslavia (FRY). The air strikes began on 24 March 1999 and ended on 8 June 1999 when the FRY agreed to withdraw its forces from Kosovo. On 9 June 1999, the International Security Force (KFOR), the FRY and the Republic of Serbia signed a “Military Technical Agreement” by which they agreed on FRY withdrawal from Kosovo and the presence of an international security force following an appropriate UN Security Council resolution.

12. On 10 June 1999, the UN Security Council adopted Resolution 1244 (1999). Acting under Chapter VII of the UN Charter, the UN Security Council decided upon the deployment of international security and civil presences - KFOR and UNMIK respectively - in the territory of Kosovo. Pursuant to Security Council Resolution 1244 (1999), the UN was vested with full legislative and executive powers for the interim administration of Kosovo, including the administration of justice. KFOR was tasked with establishing “a secure environment in which refugees and displaced persons can return home in safety” and temporarily ensuring “public safety and order” until the international civil presence could take over responsibility for this task. UNMIK comprised four main components or pillars led by the United Nations (civil administration), United Nations High Commissioner for Refugees (humanitarian assistance, which was phased out in June 2000), the OSCE (institution building) and the EU (reconstruction and economic development). Each pillar was placed under the authority of the SRSG. UN Security Council Resolution 1244 (1999) mandated UNMIK to “promote and protect human rights” in Kosovo in accordance with internationally recognised human rights standards.
13. Estimates regarding the effect of the conflict on the displacement of the Kosovo Albanian population range from approximately 800,000 to 1.45 million. Following the adoption of Resolution 1244 (1999), the majority of Kosovo Albanians who had fled, or had been forcibly expelled from their houses by the Serbian forces during the conflict, returned to Kosovo.
14. Meanwhile, members of the non-Albanian community – mainly but not exclusively Serbs, Roma and Slavic Muslims – as well as Kosovo Albanians suspected of collaboration with the Serbian authorities, became the target of widespread attacks by Kosovo Albanian armed groups. Current estimates relating to the number of Kosovo Serbs displaced fall within the region of 200,000 to 210,000. Whereas most Kosovo Serbs and other non-Albanians fled to Serbia proper and the neighbouring countries, those remaining behind became victims of systematic killings, abductions, arbitrary detentions, sexual and gender based violence, beatings and harassment.
15. Although figures remain disputed, it is estimated that more than 15,000 deaths or disappearances occurred during and in the immediate aftermath of the Kosovo conflict (1998-2000). More than 3,000 ethnic Albanians, and about 800 Serbs, Roma and members of other minority communities went missing during this period. More than half of the missing persons had been located and their mortal remains identified by the end of 2010, while 1,766 are listed as still missing by the ICRC as of October 2012.
16. By December 2000, the deployment of UNMIK Police was almost complete with 4,400 personnel from 53 different countries, and UNMIK had assumed primacy in law enforcement responsibility in all regions of Kosovo except for Mitrovicë/Mitrovica. According to the 2000 Annual Report of UNMIK Police, 351 kidnappings, 675 murders

and 115 rapes had been reported to them in the period between June 1999 and December 2000.

17. Due to the collapse of the administration of justice in Kosovo, UNMIK established in June 1999 an Emergency Justice System. This was composed of a limited number of local judges and prosecutors and was operational until a regular justice system became operative in January 2000. In February 2000, UNMIK authorised the appointment of international judges and prosecutors, initially in the Mitrovicë/Mitrovica region and later across Kosovo, to strengthen the local justice system and to guarantee its impartiality. As of October 2002, the local justice system comprised 341 local and 24 international judges and prosecutors. In January 2003, the UN Secretary-General reporting to the Security Council on the implementation of Resolution 1244 (1999) defined the police and justice system in Kosovo at that moment as being “well-functioning” and “sustainable”.
18. In July 1999, the UN Secretary-General reported to the Security Council that UNMIK already considered the issue of missing persons as a particularly acute human rights concern in Kosovo. In November 1999, a Missing Persons Unit (MPU) was established within UNMIK Police, mandated to investigate with respect to either the possible location of missing persons and/or gravesites. The MPU, jointly with the Central Criminal Investigation Unit (CCIU) of UNMIK Police, and later a dedicated War Crimes Investigation Unit (WCIU), were responsible for the criminal aspects of missing persons cases in Kosovo. In May 2000, a Victim Recovery and Identification Commission (VRIC) chaired by UNMIK was created for the recovery, identification and disposition of mortal remains. As of June 2002, the newly established Office on Missing Persons and Forensics (OMPF) in the UNMIK Department of Justice (DOJ) became the sole authority mandated to determine the whereabouts of missing persons, identify their mortal remains and return them to the family of the missing. Starting from 2001, based on a Memorandum of Understanding (MoU) between UNMIK and the Sarajevo-based International Commission of Missing Persons (ICMP), supplemented by a further agreement in 2003, the identification of mortal remains was carried out by the ICMP through DNA testing.
19. On 9 December 2008, UNMIK’s responsibility with regard to police and justice in Kosovo ended with the European Union Rule of Law Mission in Kosovo (EULEX) assuming full operational control in the area of the rule of law, following the Statement made by the President of the United Nations Security Council on 26 November 2008 (S/PRST/2008/44), welcoming the continued engagement of the European Union in Kosovo.
20. On the same date, UNMIK and EULEX signed a MoU on the modalities, and the respective rights and obligations arising from the transfer from UNMIK to EULEX of cases and the related files which involved on-going investigations, prosecutions and other activities undertaken by UNMIK International Prosecutors. Shortly thereafter, similar agreements were signed with regard to the files handled by international judges and UNMIK Police. All agreements obliged EULEX to provide to UNMIK access to the documents related to the actions previously undertaken by UNMIK authorities. Between 9 December 2008 and 30 March 2009, all criminal case files held by the UNMIK DOJ and UNMIK Police were handed over to EULEX.

B. Circumstances surrounding the abduction and killing of Mrs P.P.

21. The complainant, the son of P.P., was residing in Prishtinë/Priština in June 1999. The complainant was residing in Serbia.
22. According to an eye-witness, on 28 June 1999, at around 16.00 hours, three armed men in KLA uniform abducted P.P. in front of her apartment in Prishtinë/Priština. According to the same witness, a Kosovo Serbian neighbour who attempted to intervene and help P.P. was also abducted. Both were initially held in another apartment in the same building.
23. The same witness states that with other Kosovo Serbian neighbours they managed to call a KFOR patrol to the scene. The patrol arrived in a relatively short time but had no interpreter. As none of the Serbian neighbours spoke English, they were not able to explain the situation to the soldiers. A Kosovo Albanian neighbour spoke to the patrol leader instead, and after that conversation the patrol left the scene without taking any action.
24. Shortly after the KFOR patrol departed, the two abducted persons were taken outside by the men in KLA uniform and put in a car. One gunshot was heard shortly thereafter and the car was then driven in an unknown direction. Another gunshot was heard immediately after the car left the scene. Neither victim has been seen alive since that time.
25. After being informed of the abduction, the complainant reported it to the Serbian governmental authorities, embassies of the states with a military presence in Kosovo, some NGOs, religious organisations, and the media. The complainant states that he contacted UNMIK and KFOR on numerous occasions from the time of abduction and to the date when he was informed that P.P.'s mortal remains had been located (see §§40-41 below).
26. In a letter dated 14 July 1999, the interim SRSG informed the Mayor of Niš, Serbia proper, that UNMIK and KFOR would do its best to determine the fate of P.P.

C. The Investigation

1) Disclosure of relevant files

27. On 13 October 2011, UNMIK provided the Panel with various documents, which were previously held by UNMIK Police CCIU and WCIU.
28. In a cover memo relating to the disclosure of investigative files to the Panel, UNMIK reiterated that the investigation was still ongoing, and that therefore the investigative material should remain confidential. In this regard, the Panel must clarify that although its assessment of the present case stems from a thorough examination of the available documentation, only limited information contained therein is disclosed. Hence a synopsis of relevant investigation steps taken by investigative authorities is provided in the paragraphs to follow.

2) UNMIK Police investigation (1999 – 2003)

29. On 18 August 1999, the Serbian Ministry of Internal Affairs (MUP) forwarded the complainant's case to KFOR. The latter forwarded the case to UNMIK on 16 September 1999, when it was registered by UNMIK Police.
30. At the beginning of 2000, UNMIK Police Regional Investigation Unit (RIU) in Mitrovica/Mitrovicë interviewed a complainant's relative. The RIU then forwarded the case to the RIU Prishtinë/Priština. It appears that in August 2001, the case was taken over by the Central Criminal Investigation Unit (CCIU) of UNMIK Police, which had been established in November 1999 in order to handle investigations of most serious crimes, including alleged war crimes, inter-ethnic murders and abductions.
31. A CCIU internal report dated 27 July 2000 states that on that date an UNMIK national staff member came to the CCIU and inquired about the progress of the investigation, allegedly on the request of the complainant. From that meeting, the CCIU learned that the complainant was ready to give a statement to the investigators and his contact details.
32. In a report dated 20 May 2001, a CCIU investigator states that the case was assigned to him in August 2000, and then reviewed and closed by another CCIU investigator. At the end of 2000 the investigator received the file back, with a note that P.P.'s body was located and identified. The file was then taken by the head of the CCIU Team 6 for assessment and returned to the writer only on 8 May 2001. The latter did not undertake any action on the file as he was ending his tour of duty with UNMIK. The file was to be given to the new Team 6 leader, for another assessment.
33. In a file-review report dated 26 June 2001, a CCIU investigator expressed his surprise of how little has been done in the case and listed the minimum set of actions to undertake.
34. On 21 August 2001, through the Coordination Center for Kosovo and Metohija of the Serbian Government, the complainant submitted a letter to UNMIK Police, inquiring about the status of the investigation. No reply to it is in the file.
35. The complainant was interviewed by UNMIK Police in October 2001. Two eye-witnesses were interviewed three times each, in 2001 - 2003; a witness named by an eye-witness was interviewed in March 2003, which is the last witness statement in the file.
36. In December 2001, UNMIK Police submitted a number of requests for information to various intelligence services, but with no positive results. In the same month, the UNMIK Police Weapon Authorisation Unit confirmed that the pistol which was in the victim's possession at the time of the abduction was not registered in their database.
37. On 31 May 2003, the CCIU sent a request to the Serbian MUP, for identification of potential witnesses, residing in Serbia proper; this request was reiterated on 11 June 2003. The file contains no reply. Later in the same year, the CCIU discontinued the investigation due to insufficient evidence. However, the complainant was informed about that decision only in the course of the Panel's examination of his complaint (see §§ 4-5 above).
38. It appears that the case was reviewed and subsequently, on 15 October 2008, the WCIU submitted a "case summary" to the DOJ. The WCIU proposed to handover the case to

the Serbian investigating authorities due to the fact that the witnesses were in Serbia proper.

39. On 17 October 2008, the WCIU requested the forensic laboratory of the Kosovo Police Service (KPS) to verify if the pistol which was in the victim's possession during the abduction was ever subsequently registered afterwards in Kosovo. On 22 October 2008, the KPS laboratory responded negatively.

3) *Investigation with regard to P.P., location, identification and handover of her mortal remains*

40. On 10 June 2000, a number of unidentified mortal remains were exhumed at the "Dragodan" cemetery in Prishtinë/Priština, apparently by the International Criminal Tribunal for former Yugoslavia (ICTY). An autopsy conducted on 18 July 2000 on one of the exhumed mortal remains, later identified as those of P.P., established that the death was caused by a single gunshot wound; a bullet was also found on the body, along with around 500 DM cash and golden jewellery.

41. On 15 November 2000 the OSCE Mission in Kosovo issued a death certificate for the body identified as P.P.'s. It states that the death was established as caused by a "gunshot wound to the chest and abdomen." On 8 August 2001, the UNMIK VRIC issued identification certificate and another death certificate for P.P.

42. On 15 August 2001, the mortal remains of P.P. were handed over to the complainant at the "Merdare" boundary crossing point between Kosovo and Serbia proper.

III. THE COMPLAINT

43. The complainant complains about UNMIK's alleged failure to properly investigate the abduction and killing of his mother. In this regard the Panel deems that he invokes a violation of the procedural limb of Article 2 of the European Convention on Human Rights (ECHR).

44. The complainant also complains about the mental pain and suffering allegedly caused to him by this situation. In this regard, the Panel deems that the complainant relies on Article 3 of the ECHR.

IV. THE LAW

A. Alleged violation of the procedural obligation under Article 2 of the ECHR

45. The Panel considers that the complainant invokes a violation of the procedural obligation stemming from the right to life, guaranteed by Article 2 of the European Convention on Human Rights (ECHR) in that UNMIK Police did not conduct an effective investigation into his mother's disappearance and killing.

1. The scope of the Panel's review

46. In determining whether it considers that there has been a violation of Article 2 (procedural limb) of the ECHR, the Panel is mindful of the existing case law, notably that of the European Court of Human Rights. However, the Panel is also aware that the complaints before it differ in some significant ways from those brought before that Court. First, the respondent is not a State but an interim international territorial administration mandated to exercise temporary responsibilities in Kosovo. No suspicion attaches to UNMIK with respect to the substantive obligations under Article 2 of the ECHR. Second, as in a limited number of cases before the European Court, those suspected of being responsible for the alleged killings and/or abductions are in all cases before the Panel non-state actors, mostly but not exclusively connected to the conflict. These are factors for the Panel to take into consideration as it assesses for the first time the procedural positive obligations of an intergovernmental organisation with respect to acts committed by third parties in a territory over which it has temporary legislative, executive and judicial control.
47. Before turning to the examination of the merits of the complaint, the Panel needs to clarify the scope of its review.
48. The Panel notes that with the adoption of the UNMIK Regulation No. 1999/1 on 25 July 1999 UNMIK undertook an obligation to observe internationally recognised human rights standards in exercising its functions. This undertaking was detailed in UNMIK Regulation No. 1999/24 of 12 December 1999, by which UNMIK assumed obligations under the following human rights instruments: the Universal Declaration of Human Rights, the European Convention on Human Rights and Protocols thereto, the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child.
49. The Panel also notes that Section 1.2 of UNMIK Regulation No. 2006/12 of 23 March 2006 on the Establishment of the Human Rights Advisory Panel provides that the Panel “shall examine complaints from any person or group of individuals claiming to be the victim of a violation by UNMIK of (their) human rights”. It follows that only acts or omissions attributable to UNMIK fall within the jurisdiction *ratione personae* of the Panel. In this respect, it should be noted, as stated above, that as of 9 December 2008, UNMIK no longer exercises executive authority over the Kosovo judiciary and law enforcement machinery. Therefore UNMIK bears no responsibility for any violation of human rights allegedly committed by those bodies. Insofar as the complainant complains about acts that occurred after that date, they fall outside the jurisdiction *ratione personae* of the Panel.
50. Likewise, the Panel emphasises that, as far as its jurisdiction *rationemateriae* is concerned, as follows from Section 1.2 of UNMIK Regulation No. 2006/12, it can only examine complaints relating to an alleged violation of human rights. This means that it can only review acts or omissions complained of for their compatibility with the international human rights instruments referred to above (see § 48). In the particular case of killings and disappearances in life-threatening circumstances, it is not the Panel’s role to replace the competent authorities in the investigation of the case. Its task is limited to

examining the effectiveness of the criminal investigation into such killings and disappearances, in the light of the procedural obligations flowing from Article 2 of the ECHR.

51. The Panel further notes that Section 2 of UNMIK Regulation No. 2006/12 provides that the Panel shall have jurisdiction over complaints relating to alleged violations of human rights “that had occurred not earlier than 23 April 2005 or arising from facts which occurred prior to this date where these facts give rise to a continuing violation of human rights”. It follows that events that took place before 23 April 2005 generally fall outside the jurisdiction *ratione temporis* of the Panel. However, to the extent that such events gave rise to a continuing situation, the Panel has jurisdiction to examine complaints relating to that situation (see European Court of Human Rights (ECtHR), Grand Chamber, *Varnava and Others v. Turkey*, nos. 16064/90 and others, judgment of 18 September 2009, §§ 147-149; ECtHR, *Cyprus v. Turkey* [GC] no. 25781/94, judgment of 10 May 2001, § 136, ECHR 2001-IV).

2. The Parties’ submissions

52. The complainant in substance alleges violations concerning the lack of an adequate criminal investigation into the abduction and killing of his mother. The complainant also states that he was not informed as to whether an investigation was conducted and what the outcome was.
53. The SRSG argues that in considering whether UNMIK has satisfied its procedural obligations under Article 2 of the ECHR, the Panel must take into consideration the special circumstances appertaining in Kosovo at the time and which inhibited UNMIK’s ability to investigate crimes effectively. This was especially the case in the initial stage of its mission, which was the time of the disappearance and death of P.P. The SRSG highlights that UNMIK international police was slow to deploy and that by mid-September 1999, it had only around 1300 international police officers in all of Kosovo and that a full police structure, including a system of criminal investigation units throughout Kosovo, had not yet been established. This was also when the crime rate in Kosovo was at its highest; UNMIK Police were receiving hundreds of reports of disappearances and killings, which made it difficult to provide the necessary investigative efforts without the required manpower. Further, by July 1999, large numbers of the Kosovo Serbian population had left Kosovo, limiting the possibility of obtaining additional information from complainants, finding witnesses and recording their statements.
54. In addition, the SRSG asks the Panel to consider further factors related to the administration of the UN peacekeeping operations, which were external to UNMIK and beyond its control, but which had seriously affected its ability to conduct efficient investigations. UNMIK had no control over the recruitment or selection of international police officers sent by UN member states, police officers were subject to regular rotations, with assignments lasting from six months to two years and the UN had no standing police force.
55. The SRSG argues that in these circumstances the standards set by the ECHR for an effective investigation cannot be the same for UNMIK as for a State with a functioning, well-organized police apparatus in place, and with police officers it can recruit, select

and train. Therefore, taking into account the practical realities of police investigations, especially during the initial phase of the Mission, the lack of details as to the circumstances of the death of P.P., no further information, leads or witness statements, it is comprehensible that UNMIK could not have been **more** successful in any investigation into this particular case.

56. Particularly with regard to the promptness and thoroughness of the investigation, the SRSG notes the following:
- that the reason for the late registration of the case, i.e. 16 June 1999 (see § 29 above) and very limited action on it by UNMIK Police until the year 2001, when the case was handed over to the CCIU (see § 30 above) was due to certain internal problems of UNMIK Police in establishing different investigating units and departments;
 - that the CCIU had recorded statements from all identified witnesses, and that the delay in taking a statement from one of them was caused by the witness's behaviour;
 - that the attempts of the CCIU to locate 5 more potential Serbian witnesses (from May 2003) were unsuccessful due to the failure of the MUP to provide the required assistance, which eventually caused the case to be closed due to lack of evidence;
 - that UNMIK Police had undertaken all necessary steps to locate the suspect(s), including searches in the available databases (including those of the Kosovo Police Service and KFOR) and requests to foreign intelligence services, but with negative results;
 - that the "heavy involvement" of the MPU led to the location of the mortal remains of the victim on 18 July 2000;
 - that due to the nature of the investigation, the victim's family could only have been involved in the investigation "to a limited degree"; and
 - that the complainant should have been informed of the decision to close the investigation.

3. The Panel's Assessment

a) Submission of relevant files

57. The Panel notes that UNMIK presented the Panel with all relevant documents in relation to the case. In response to the latest request from the Panel, on 30 October 2011. On 20 November 2012, UNMIK stated that the disclosure of files concerning the case could be considered final (see § 9 above).
58. The Panel also notes that Section 15 of UNMIK Regulation No. 2006/12 states that the Panel may request the submission from UNMIK of any documents and that the SRSG shall cooperate with the Panel and provide the necessary assistance including, in particular, in the release of documents and information relevant to the complaint. The Panel in this regard refers to the case-law of the European Court of Human Rights that inferences shall be drawn from the conduct of the respondent party during the proceedings, including from its failure "to submit information in their hands without a satisfactory explanation" (see ECtHR, *Çelikkilek v. Turkey*, no. 27693/95, judgment of 31 May 2005, § 56).

59. The Panel likewise notes that the proper maintenance of investigative files concerning crimes such as killings and disappearances, from the opening of the investigation to their handing over, is crucial to the continuation of such investigations and could thus raise *per se* issues under Article 2.
60. The Panel itself is not in the position to verify the completeness of the investigative files received. The Panel will therefore assess the merits of the complaint on the basis of documents made available (in this sense, see ECtHR, *Tsechoyev v. Russia*, no. 39358/05, judgment of 15 March 2011, § 146).
- b) *General principles concerning the obligation to conduct an effective investigation under Article 2*
61. The Panel notes that the positive obligation to investigate disappearances is widely accepted in international human rights law since at least the case of the Inter-American Court of Human Rights (IACtHR) *Velásquez Rodríguez* (see IACtHR, *Velásquez Rodríguez v. Honduras*, judgment of 29 July 1988). The positive obligation has also been stated by the UN Human Rights Committee as stemming from Article 6 (right to life), Article 7 (prohibition of cruel and inhuman treatment) and Article 9 (right to liberty and security of person), read in conjunction with Articles 2 (3) (right to an effective remedy) of the International Covenant on Civil and Political Rights (CCPR) (see Human Rights Committee (HRC), General Comment No. 6, 30 April 1982, § 4; HRC, General Comment No. 31, 26 May 2004, §§ 8 and 18, CCPR/C/21/Rev.1/Add. 13; see also, among others, HRC, *Mohamed El Awani v. Libyan Arab Jamahiriya*, communication no. 1295/2004, views of 11 July 2007, CCPR/C/90/D/1295/2004). The obligation to investigate disappearances and killings is also asserted in the UN Declaration on the Protection of all Persons from Enforced Disappearances (A/Res/47/133, 18 December 1992), and further detailed in UN guidelines such as the UN Manual on the Effective Prevention and Investigation of Extra-Legal Arbitrary and Summary Executions (1991) and the “Guidelines for the Conduct of United Nations Inquiries into Allegations of Massacres” (1995). The importance of the obligation is confirmed by the adoption of the International Convention for the Protection of All Persons from Enforced Disappearance in 2006, which entered into force on 23 December 2010.
62. In order to address the complainant’s allegations, the Panel refers, in particular, to the well-established case law of the European Court on Human Rights on the procedural obligation under Article 2 of the ECHR. The Court has held that “[The] obligation to protect the right to life under Article 2, read in conjunction with the State’s general duty under Article 1 of the Convention to “secure to everyone within their jurisdiction the rights and freedoms defined in [the] Convention”, requires by implication that there should be some form of effective official investigation when individuals have been killed...” (see, *mutatis mutandis*, ECtHR, *McCann and Others v. the United Kingdom*, judgment of 27 September 1995, § 161, Series A no. 324; and ECtHR, *Kaya v. Turkey*, judgment of 19 February 1998, § 86, Reports 1998-I; see also ECtHR, *Jasinskis v. Latvia*, no. 45744/08, judgment of 21 December 2010, § 71). The duty to conduct such an investigation arises in all cases of killing and other suspicious death, whether the perpetrators were private persons or State agents or are unknown (see ECtHR, *Kolevi v. Bulgaria*, no. 1108/02, judgment of 5 November 2009, § 191).

63. The European Court has also stated that the procedural obligation to provide some form of effective official investigation exists also when an individual has gone missing in life-threatening circumstances and is not confined to cases where it is apparent that the disappearance was caused by an agent of the State (see ECtHR (Grand Chamber), *Varnava and Others v. Turkey*, cited in § 55 above, § 136).
64. The authorities must act of their own motion once the matter has come to their attention, and they cannot leave it to the initiative of the next-of-kin either to lodge a formal complaint or to take responsibility for the conduct of any investigative procedure (see ECtHR, *AhmetÖzkan and Others v. Turkey*, no. 21689/93, judgment of 6 April 2004, § 310, see also ECtHR, *Isayeva v. Russia*, no. 57950/00, judgment of 24 February 2005, § 210).
65. Setting out the standards of an effective investigation, the Court has stated that “beside being independent, accessible to the victim’s family, carried out with reasonable promptness and expedition, affording a sufficient element of public scrutiny of the investigation and its results, the investigation must also be effective in the sense that 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 (see ECtHR [GC], *Varnava and Others v. Turkey*, cited in § 51 above, at § 191; see also ECtHR, *Palić v. Bosnia and Herzegovina*, no. 4704/04, judgment of 15 February 2011, § 63). This is not an obligation of results but of means. The authorities must take whatever reasonable steps they can to secure the evidence concerning the incident, including, inter alia eye-witness testimony, forensic evidence and, where appropriate, an autopsy which provides a complete and accurate record of injury and an objective analysis of the clinical findings, including the cause of death. Any deficiency in the investigation which undermines its ability to establish the cause of death or the person or persons responsible will risk falling foul of this standard (see ECtHR, *AhmetÖzkan and Others v. Turkey*, cited above, at § 312; and *Isayeva v. Russia*, cited above, at § 212).
66. In particular, the investigation’s conclusion must be based on thorough, objective and impartial analysis of all relevant elements. Failing to follow an obvious line of enquiry undermines to a decisive extent the ability to establish the circumstances of the case and the identity of those responsible (see ECtHR, *Kolevi v. Bulgaria*, cited in § 62 above, at § 201). Nevertheless, the nature and degree of scrutiny which satisfy the minimum threshold of the investigation’s effectiveness depend on the circumstances of the particular case. They must be assessed on the basis of all relevant facts and with regard to the practical realities of the investigative work (see ECtHR, *Velcea and Mazărev. Romania*, no. 64301/01, judgment of 1 December 2009, § 105).
67. Specifically with regard to persons disappeared and later found dead, the Court has stated that the procedures of exhuming and identifying mortal remains do not exhaust the obligation under Article 2 of the ECHR. The Court holds that “the procedural obligation arising from a disappearance will generally remain as long as the whereabouts and fate of the person are unaccounted for, and it is thus of a continuing nature” (ECtHR, *Palić v. Bosnia and Herzegovina*, cited in § 65 above, at § 46; in the same sense ECtHR [GC], *Varnava and Others v. Turkey*, cited in § 51 above, at § 148, *Aslakhanova and Others v. Russia*, nos. 2944/06 and others, judgment of 18 December 2012, § 122). However, the Court also stresses that this procedural obligation “does not come to an end even on discovery of the body ... This only casts light on one aspect of the fate of the missing

person and the obligation to account for the disappearance and death, as well as to identify and prosecute any perpetrator of unlawful acts in that connection, will generally remain” (ECtHR, *Palić v. Bosnia and Herzegovina*, cited above, at § 46; in the same sense ECtHR [GC], *Varnava and Others v. Turkey*, cited in § 51 above, at § 145). While the location and the subsequent identification of the mortal remains of the victim may in themselves be significant achievements, the procedural obligation under Article 2 continues to exist (see ECtHR, *Palić v. Bosnia and Herzegovina*, cited above, at § 64).

68. On the requirement of public scrutiny, the Court has further stated that there must be a sufficient element of public scrutiny of the investigation or its results to secure accountability in practice as well as in theory. The degree of public scrutiny required may well vary from case to case. In all cases, however, the victim's next-of-kin must be involved in the procedure to the extent necessary to safeguard his or her legitimate interests (see ECtHR, *Ahmet Özkan and Others*, cited in § 64 above, at §§ 311-314; ECtHR, *Isayeva v. Russia*, cited in § 64 above, at §§ 211-214 and the cases cited therein; ECtHR [GC], *Al-Skeini and Others v. the United Kingdom*, judgment of 7 July 2011, no. 55721/07, § 167, ECHR 2011).

c) *Applicability of Article 2 to the Kosovo context*

69. The Panel is conscious that the abduction and killing of P.P. occurred in June 1999, shortly after the deployment of UNMIK in Kosovo in the immediate aftermath of the armed conflict, when crime, violence and insecurity were rife.
70. On his part, the SRSG does not contest that UNMIK had a duty to investigate the present case under ECHR Article 2. However, according to the SRSG, the unique circumstances pertaining to the Kosovo context and to UNMIK’s deployment in the first phase of its mission shall be taken into account when assessing whether this investigation is in compliance with Article 2 of the ECHR. In substance, the SRSG argues that it is not possible to apply to UNMIK the same standards applicable to a State in a normal situation.
71. The Panel considers that the SRSG’s arguments raise two main questions: first, whether the standards of Article 2 continue to apply in situation of conflict or generalised violence and, second, whether such standards shall be considered fully applicable to UNMIK, in particular during the first phase of its mission.
72. As regards the applicability of Article 2 to UNMIK, the Panel recalls that with the adoption of the UNMIK Regulation No. 1999/1 on 25 July 1999 UNMIK undertook an obligation to observe internationally recognised human rights standards in exercising its functions. This undertaking was detailed in UNMIK Regulation No. 1999/24 of 12 December 1999, by which UNMIK assumed obligations under certain international human rights instruments, including the ECHR. In this respect, the Panel has already found that it is true that UNMIK’s interim character and related difficulties must be duly taken into account with regard to a number of situations, but under no circumstances could these elements be taken as a justification for diminishing standards of respect for human rights, which were duly incorporated into UNMIK’s mandate (see Human Rights Advisory Panel (HRAP), *Milogorić and Others*, nos. 38/08, 58/08, 61/08, 63/08, 69/08, opinion of 24 March 2011, § 44; *Berisha and Others*, nos. 27/08 and others, opinion of

23 February 2011, § 25; *Lalić and Others*, nos. 09/08 and others, opinion of 9 June 2012, § 22).

73. Concerning the applicability of Article 2 to situations of conflict or generalised violence, the Panel recalls that the European Court on Human Rights has established the applicability of Article 2 to post-conflict situations, including in countries of the former Yugoslavia (see, among other examples, ECtHR, *Palić v. Bosnia and Herzegovina*, cited in § 65 above, and ECtHR, *Jularić v. Croatia*, no. 20106/06, judgment of 20 January 2011). The Court has further held that that the procedural obligation under Article 2 continues to apply in “difficult security conditions, including in a context of armed conflict” (see ECtHR [GC], *Al-Skeini and Others v. the United Kingdom*, cited in § 68 above, at § 164; see also ECtHR, *Gülleç v. Turkey*, judgment of 27 July 1998, § 81, Reports 1998-IV; ECtHR, *Ergi v. Turkey*, judgment of 28 July 1998, §§ 79 and 82, Reports 1998-IV; ECtHR, *Ahmet Özkan and Others v. Turkey*, cited in § 64 above, at §§ 85-90, 309-320 and 326-330; *Isayeva v. Russia*, cited in § 64 above, at §§ 180 and 210; ECtHR, *Kanlibaş v. Turkey*, no. 32444/96, judgment of 8 December 2005, §§ 39-51).
74. The Court has acknowledged that “where the death [and disappearances] to be investigated under Article 2 occur in circumstances of generalised violence, armed conflict or insurgency, obstacles may be placed in the way of investigators and concrete constraints may compel the use of less effective measures of investigation or may cause an investigation to be delayed” (see, ECtHR [GC], *Al-Skeini and Others v. the United Kingdom*, cited above, at §164; ECtHR, *Bazorkina v. Russia*, no. 69481/01, judgment of 27 July 2006, § 121). Nonetheless, the Court has held that “the obligation under Article 2 to safeguard life entails that, even in difficult security conditions, all reasonable steps must be taken to ensure that an effective, independent investigation is conducted into alleged breaches of the right to life (see, amongst many other examples, ECtHR, *Kaya v. Turkey*, cited in § 62 above, at §§ 86-92; ECtHR, *Ergi v. Turkey*, cited above, at §§ 82-85; ECtHR [GC], *Tanrıku v. Turkey*, no. 23763/94, judgment of 8 July 1999, §§ 101-110, ECHR 1999-IV; ECtHR, *Khashiyev and Akayeva v. Russia*, nos. 57942/00 and 57945/00, judgment of 24 February 2005, §§ 156-166; ECtHR, *Isayeva v. Russia*, cited above, at §§ 215-224; ECtHR, *Musayev and Others v. Russia*, nos. 57941/00 and others, judgment of 26 July 2007, §§ 158-165).
75. Similarly, the HRC has held that the right to life, including its procedural guarantees, shall be considered as the supreme right from which no derogation is permitted even in time of public emergency which threatens the life of the nation (see, HRC, General Comment No. 6, cited § 77 above, § 1; HRC, *Abubakar Amirov and Aïzan Amirova v. Russian Federation*, communication no. 1447/2006, views of 2 April 2009, § 11.2, CCPR/C/95/D/1447/2006). Further, the HRC has stated the applicability of Article 2 (3), 6 and 7 of the CCPR with specific reference to UNMIK’s obligation to conduct proper investigations on disappearances and abductions in Kosovo (see HRC, Concluding Observations of the Human Rights Committee: Kosovo (Serbia), 14 August 2006, §§ 12-13, CCPR/C/UNK/CO/1).
76. The Panel appreciates the difficulties encountered by UNMIK during the first phase of its deployment. The Panel notes that the appropriate importance attached to the issue of missing persons in Kosovo meant that UNMIK had to take into account both the humanitarian and criminal dimensions of the situation. In particular, the Panel considers that the importance attached to the criminal investigations and the difficulties in Kosovo

that limited the abilities of investigating authorities to conduct such investigations, as described by the SRSG, made it crucial that UNMIK establish from the outset an environment conducive to the performance of meaningful investigations. This would involve putting in place a system that would include such elements as the allocation of overall responsibility for the supervision and monitoring of progress in investigations, provision for the regular review of the status of investigations, and a process for the proper handover of cases between different officers or units of UNMIK Police. Such a system should also take account of the protection needs of victims and witnesses (see, *mutatis mutandis*, ECtHR, *R.R. and Others v. Hungary*, no. 19400/11, judgment of 4 December 2012, §§ 28-32), as well as to consider the special vulnerability of displaced persons in post-conflict situations (see ECtHR [GC], *Sargsyan v. Azerbaijan*, no. 40167/06, decision of 14 December 2011, § 145; and ECtHR [GC], *Chiragov and Others v. Armenia*, no. 13216/05, decision of 14 December 2011, § 146). While understanding that the deployment and the organisation of the police and justice apparatus occurred gradually, the Panel deems that this process was completed in 2003 when the police and justice system in Kosovo was described as being “well-functioning” and “sustainable” by the UN Secretary-General (see § 18 above).

77. The Panel further notes that its task is not to review relevant practices or alleged obstacles to the conduct of effective investigations *in abstracto*, but only in relation to their specific application to the particular circumstances of a situation subject of a complaint before it (see, ECtHR, *Brogan and Others v. the United Kingdom*, judgment of 29 November 1988, § 53, Series A no. 145-B). The Panel thus agrees with the SRSG that the nature and degree of scrutiny to determine whether the effectiveness of the investigation satisfies the minimum threshold depends on the circumstances of the particular case. For these reasons, the Panel considers that it will establish with regard to each case if all reasonable steps were taken to conduct an effective investigation as prescribed by Article 2, having regard to the realities of the investigative work in Kosovo.

d) Compliance with the requirements of Article 2 in the present case

78. Turning to the circumstances of the present case, the Panel notes that the documents made available to the Panel show that a number of actions to investigate P.P.’s abduction and killing had been carried out by UNMIK Police. The Panel will assess whether the investigation was effective according to the standards set by Article 2 of the ECHR. Having regard to the circumstances of the case as well as to the allegations made by the complainant, the Panel finds it relevant ask whether the investigation responded to the requirements of promptness and expedition, whether the investigation was adequate and obvious lines of enquiry were followed and, finally, whether the investigation was sufficiently accessible to the victim’s family and to the public (see the approach of the ECtHR in the case *Aslakhanova and others v. Russia*, cited in § 67 above, at § 121).

79. As regards the requirements of promptness, expedition and the adequacy of the steps taken the Panel recalls that the case of P.P.’s disappearance was first registered by UNMIK Police on 16 September 1999, more than two months of the the date of abduction and the time when UNMIK was initially informed of the case (see § 26 above) and around a month after Serbian authorities officially referred the matter to UNMIK (see § 29 above). The file shows no police action whatsoever in the immediate aftermath

of the incident, despite the fact that the first few days after the abduction are the most important.

80. The case was formally closed at the end of 2003, but was later reactivated and appears to remain pending until now. The Panel notes that on 23 April 2005, the start date of the Panel's jurisdiction, the investigation into P.P.'s disappearance was either dormant or proceeding at a slow pace, and that the last confirmed investigative actions were carried out in June 2003.
81. The file shows that in August 2000, at the latest, UNMIK Police were in possession of the complainant's contact details and were informed of his wish to make a statement. Where there is so little information about the incident, an investigator should have immediately explored this valuable source. However, the complainant's first statement, which is also the first statement in the whole case, was taken only in August 2001. In the absence of any explanation, the Panel considers this an unreasonable delay in the proceedings.
82. The key eye-witness was interviewed three times (once in December 2001 and twice in February 2003); another important witness was interviewed three times as well (in October 2001, January 2002 and February 2003). The questions put to the witnesses were similar, which makes their evidential value questionable. In addition, one of the witnesses changed certain details of the statement in the later statements.
83. UNMIK Police was informed that an eye-witness saw one of the suspected perpetrators in 2001 and had been provided with sufficient details to lead to his identification. However, UNMIK Police did not act on this information and limited itself to the formal searches in the existing databases, all of which brought negative results.
84. An eye-witness also named another person, who could have been a collaborator to the abduction or at least another witness. This person was well-known to the witness who knew where this person lived. Thus there appears to be little possibility of mistaken identification, and no problem in locating this additional witness. However, the file reflects no attempts by UNMIK police to find and interview this person.
85. The Panel takes due note of the fact that the identification of P.P.'s mortal remains occurred soon after the exhumation of her body in June 2000, despite the fact that procedures for exhuming and identifying mortal remains in the context of post-conflict Kosovo were particularly time-consuming.
86. At the same time, the Panel notes that the finding and identification of the victim's mortal remains presented UNMIK Police with the results of the post-mortem examination, which clearly showed traces of a violent death. This information, taken together with the presence of valuable items on the mortal remains, would lead any reasonable person to a conclusion that her killing was not an ordinary murder, but a crime with different motives. Although it is probable that such a conclusion was in fact a reason for the investigative actions which took place in 2001 - 2003, valuable time had already been lost.
87. The Panel deems that there have been significant omissions throughout the investigation, especially at its initial stage, in 1999. Therefore, the Panel considers that, having regard to all the circumstances of the particular case, not all reasonable steps to identify the

perpetrators and to bring them to justice were taken by UNMIK. In this sense the Panel considers that the investigation was not adequate and did not comply with the requirements of promptness, expedition and effectiveness (see § 65 above), as required by Article 2 of the ECHR.

88. As concerns the requirement of public scrutiny, the Panel recalls that Article 2 also requires the victim's next-of-kin to be involved in the investigation to the extent necessary to safeguard his or her legitimate interests. The Panel also recalls that on the matter, the European Court has held that "this aspect of the procedural obligation does not require applicants to have access to police files, or copies of all documents during an ongoing enquiry, or for them to be consulted or informed at every step (see ECtHR, *McKerr v. the United Kingdom*, § 121; and *Green v. the United Kingdom*, no. 28079/04, (dec.) 19 May 2005; *Hackett v. the United Kingdom*, cited above; *Brecknell v. the United Kingdom*, judgment of 27 November 2007, § 77).
89. The complainant claims that he was not adequately informed of the steps taken by the investigators. The SRSG likewise admits that the complainant should have been properly informed of the progress of the investigation, and especially of a decision to suspend it in 2003. The Panel therefore considers that the investigation was not accessible to the complainant's family as required by Article 2.
90. The Panel concludes that in the present case there has been a violation of Article 2 of the ECHR under its procedural limb.

B. Alleged Violation of Article 3 of the ECHR

91. The complainant alleges that the lack of information and certainty surrounding the abduction and killing of his mother, particularly because of UNMIK's failure to properly investigate her disappearance, caused mental suffering to himself.
92. The SRSG does not make further submissions with specific reference to the alleged violation of Article 3 of the ECHR.
93. In its decision of 9 September 2010, the Panel declared the complaint admissible. Nevertheless, the Panel has to reassess the admissibility of this part of the complaint, in light of subsequent developments in the Panel's case law concerning the admissibility of complaints under Article 3 of the ECHR.
94. In particular, the Panel notes that according to the case law of the European Court of Human Rights a member of the family of a disappeared person can under certain conditions be considered the victim of treatment by the authorities contrary to Article 3 of the ECHR, which prohibits inhuman treatment. Where the disappeared person is later found dead, the applicability of Article 3 is in principle limited to the distinct period during which the member of the family sustained the uncertainty, anguish and distress appertaining to the specific phenomenon of disappearances (see, *e.g.*, ECtHR, *Luluyev and Others v. Russia*, no. 69480/01, judgment of 9 November 2006, §§ 114-115, ECHR, 2006-XIII; see also ECtHR, *Gongadze v. Ukraine*, no. 34056/02, judgment of 8 November 2005, § 185, ECHR, 2005-XI).

95. In the present case, the relevant period lasted until 15 August 2001, when the mortal remains of P.P. were handed over to the complainant (see § 42 above).
96. The Panel has already recalled that, according to Section 2 of UNMIK Regulation No. 2006/12, it has jurisdiction only over “complaints relating to alleged violations of human rights that had occurred not earlier than 23 April 2005 or arising from facts which occurred prior to this date where these facts give rise to a continuing violation of human rights”.
97. The Panel has no doubts as to the profound suffering caused to the complainant by the abduction and killing of his mother. Nevertheless, the Panel must conclude that this part of the complaints lies outside its jurisdiction *ratione temporis* (see HRAP, *Patrnogić*, no. 252/09, decision of 16 December 2011, §§ 16-20, and HRAP, *S.C.*, no. 02/09, opinion of 8 December 2012, §§ 103-109) and for this reason shall be declared inadmissible.

V. CONCLUDING COMMENTS AND RECOMMENDATIONS

98. In light of the Panel’s findings in this case, the Panel is of the opinion that some form of reparation is necessary.
99. The Panel notes that enforced disappearances and arbitrary killings constitute serious violations of human rights which the competent authorities are under an obligation to investigate and to bring perpetrators to justice under all circumstances. The Panel also notes that pursuant to United Nations Security Council Resolution 1244 (1999) UNMIK from 1999 to 2008 had the primary responsibility to effectively investigate and prosecute the abduction and killing of P.P., and that its failure to do so constitutes a further serious violation of the human rights of the victims and their next-of-kin, in particular the right to have the truth of the matter determined.
100. The Panel notes the SRSG’s own concerns that the inadequate resources, especially at the outset of UNMIK’s mission, made compliance with UNMIK’s human rights obligations difficult to achieve.
101. It would normally be for UNMIK to take the appropriate measures in order to put an end to the violation noted and to redress as far as possible the effects thereof. However, as the Panel noted above (see § 19), UNMIK’s responsibility with regard to the administration of justice in Kosovo ended on 9 December 2008, with EULEX assuming full operational control in the area of rule of law. UNMIK therefore is no longer in a position to take measures that will have a direct impact on the investigations that are still pending before EULEX or local authorities. Likewise, following the declaration of independence by the Kosovo Provisional Institutions of Self-Government on 17 February 2008 and subsequently, the entry into force of the Kosovo Constitution on 15 June 2008, UNMIK ceased to perform executive functions in Kosovo, this fact limiting its ability to provide full and effective reparation of the violation committed, as required by established principles of international human rights law.
102. The Panel considers that this factual situation does not relieve UNMIK from its obligation to redress as far as possible the effects of the violations for which it is responsible.

With respect to the complainant and the case the Panel considers appropriate that UNMIK:

- In line with the case law of the European Court of Human Rights on situations of limited State jurisdiction (see ECtHR[GC], *Ilaşcu and Others v. Moldova and Russia*, no. 48787/99, judgment of 8 July 2004, *ECHR*, 2004-VII, § 333; ECtHR, *Al-Saadoon and Mufdhi v. United Kingdom*, no. 61498/08, judgment of 2 March 2010, § 171; ECtHR[GC], *Catan and Others v. Moldova and Russia*, nos. 43370/04, 8252/05 and 18454/06, judgment of 19 October 2012, § 109), must endeavour, with all the diplomatic means available to it *vis-à-vis* EULEX and the Kosovo authorities, to obtain assurances that the investigations concerning the case at issue will be continued in compliance with the requirements of an effective investigation as envisaged by Article 2, that the circumstances surrounding the abduction and killing of P.P. will be established and that perpetrators will be brought to justice; the complainant and/or other next-of-kin shall be informed of such proceedings and relevant documents shall be disclosed to them, as necessary;
- Publicly acknowledges, within a reasonable time, responsibility with respect to UNMIK's failure to adequately investigate the disappearance and killing of P.P. and makes a public apology to the complainant and her family in this regard;
- Takes appropriate steps towards payment of adequate compensation to the complainant for the moral damage suffered due to UNMIK's failure to conduct an effective investigation as stated above.

The Panel also considers appropriate that UNMIK:

- In line with the UN General Assembly Resolution on “Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law” (A/Res/60/147, 21 March 2006), takes appropriate steps, through other UN affiliated entities operating in Kosovo, local bodies and non-governmental organisations, for the realisation of a full and comprehensive reparation programme, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition, for the victims from all communities of serious violations of human rights which occurred during and in the aftermath of the Kosovo conflict;
- Takes appropriate steps before competent bodies of the United Nations, including the UN Secretary-General, towards the allocation of adequate human and financial resources to ensure that international human rights standards are upheld at all times by the United Nations, including when performing administrative and executive functions over a territory, and to make provision for effective and independent monitoring.

FOR THESE REASONS,

The Panel, unanimously,

1. **FINDS THAT THERE HAS BEEN A VIOLATION OF THE PROCEDURAL OBLIGATION UNDER ARTICLE 2 OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS;**
2. **FINDS THAT THE COMPLAINT UNDER ARTICLE 3 IS INADMISSIBLE;**
3. **RECOMMENDS THAT UNMIK:**
 - a. **URGES EULEX AND OTHER COMPETENT AUTHORITIES IN KOSOVO TO TAKE ALL POSSIBLE STEPS IN ORDER TO ENSURE THAT THE CRIMINAL INVESTIGATION INTO THE ABDUCTION AND KILLING OF THE COMPLAINANT'S MOTHER IS CONTINUED IN COMPLIANCE WITH ARTICLE 2 OF THE ECHR AND THAT THE PERPETRATORS ARE BROUGHT TO JUSTICE;**
 - b. **PUBLICLY ACKNOWLEDGES RESPONSIBILITY FOR ITS FAILURE TO CONDUCT AN EFFECTIVE INVESTIGATION INTO ABDUCTION AND KILLING OF THE COMPLAINANT'S MOTHER AND MAKES A PUBLIC APOLOGY TO THE COMPLAINANT AND HIS FAMILY;**
 - c. **TAKES APPROPRIATE STEPS TOWARDS PAYMENT OF ADEQUATE COMPENSATION TO THE COMPLAINANT FOR MORAL DAMAGE;**
 - d. **TAKES APPROPRIATE STEPS TOWARDS THE REALISATION OF A FULL AND COMPREHENSIVE REPARATION PROGRAMME;**
 - e. **TAKES APPROPRIATE STEPS AT THE UNITED NATIONS AS A GUARANTEE OF NON REPETITION;**
 - f. **TAKES IMMEDIATE AND EFFECTIVE MEASURES TO IMPLEMENT THE RECOMMENDATIONS OF THE PANEL AND TO INFORM THE COMPLAINANT AND THE PANEL ABOUT FURTHER DEVELOPMENTS IN THIS CASE.**

Andrey ANTONOV
Executive Officer

Marek NOWICKI
Presiding Member

ABBREVIATIONS AND ACRONYMS

CCIU - Central Criminal Investigation Unit
DOJ - Department of Justice
DPPO - District Public Prosecutor's Office
ECHR - European Convention on Human Rights
ECtHR - European Court of Human Rights
EU - European Union
EULEX - European Union Rule of Law Mission in Kosovo
FRY - Federal Republic of Yugoslavia
HRAP - Human Rights Advisory Panel
HRC - United Nation Human Rights Committee
IACtHR - Inter-American Court of Human Rights
ICCPR - International Covenant on Civil and Political Rights
ICMP - International Commission of Missing Persons
ICRC - International Committee of the Red Cross
ICTY - International Criminal Tribunal for former Yugoslavia
KFOR - International Security Force (commonly known as Kosovo Force)
KLA - Kosovo Liberation Army
KPS - Kosovo Police Service
MoU - Memorandum of Understanding
MPU - Missing Persons Unit
MUP - Serbian Ministry of Internal Affairs (Serbian: *Министарствоунутрашнихпослова*)
NATO - North Atlantic Treaty Organization
OMPF - Office on Missing Persons and Forensics
OSCE - Organization for Security and Cooperation in Europe
RIU - Regional Investigation Unit
SRS - Special Representative of the Secretary-General
UN - United Nations
UNHCR - United Nations High Commissioner for Refugees
UNMIK - United Nations Interim Administration Mission in Kosovo
VRIC - Victim Recovery and Identification Commission
WCIU - War Crimes Investigation Unit