



# *The Human Rights Advisory Panel*

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## **OPINION**

**Date of adoption: 31 July 2013**

**Cases Nos 43/09, 54/09, 114/09, 173/09 & 242/09**

**Five Complainants**

**against**

**UNMIK**

The Human Rights Advisory Panel, sitting on 31 July 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 complaints relating to case nos 43/09 and 54/09 were introduced on 27 March 2009 and registered on 17 April 2009. Case no. 114/09 was introduced on 10 April 2009 and registered on 30 April 2009. The complaint relating to case no. 173/09 was introduced on 17 April 2009 and registered on 30 April 2009. Finally, the complaint relating to case no. 242/09 was introduced on 30 April 2009 and registered on the same date.

2. On 28 May 2009, the Panel requested additional information from the complainant in relation to case no. 43/09. The Panel received the complainant's responses on 14 July and 15 September 2009.
3. On 12 June 2009, the Panel requested additional information from the complainant in case no. 54/09. The Panel received the complainant's response on 31 December 2009.
4. On 11 December 2009, the Panel requested further clarification from the complainant in relation to case no. 43/09. The Panel received the complainant's response on 19 January 2010.
5. On 23 December 2009, the Panel requested additional information from the complainant in relation to case no. 242/09. However, no response was received.
6. On 13 January 2010, the Panel requested additional information from the complainants in relation to cases nos 114/09 and 173/09. However, no response was received.
7. On 26 February 2010, the Panel communicated case no. 54/09 to the Special Representative of the Secretary-General (SRSG)<sup>1</sup> for UNMIK's comments on the admissibility of the case. On 8 April 2010, the SRSG provided UNMIK's response.
8. On 3 March 2010, the Panel communicated case no. 43/09 to the SRSG for UNMIK's comments on the admissibility of the case. On 9 April 2010, the SRSG provided UNMIK's response.
9. On 21 April 2010 and on 18 May 2010, the Panel forwarded UNMIK's comments on the admissibility of cases nos 54/09 and 43/09 to the respective complainants, inviting them to reply if they wished to do so. The Panel received the complainant's response in relation to case no. 43/09 on 7 September 2010.
10. On 9 September 2010, the Panel decided to join case no. 43/09 with cases nos 54/09, 114/09, 173/09 & 242/09, pursuant to Rule 20 of the Panel's Rules of Procedure.
11. On 27 September 2010, the Panel informed the complainant in case no. 54/09 of the decision to join the cases and reiterated its request for further information. On 29 September 2010, the Panel informed the other complainants of the decision to join the cases and reiterated its request for further information to the complainants in cases nos 114/09, 173/09, 242/09 respectively.
12. The Panel received the complainants' response in relation to case no. 173/09 and case no. 54/09 on 11 November and 8 December 2010 respectively.
13. On 2 March 2011, the Panel resent its request for further information to the complainant in case no. 173/09. The Panel received supplemental information from the complainant on 20 April 2011.

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

14. On 16 June 2011, the Panel communicated cases nos 114/09, 173/09 and 242/09 and re-communicated cases nos 43/09 and 54/09 to the SRSG following its decision to join the cases, as well as the receipt of additional information from the complainants in cases nos 54/09 and 173/09.
15. On 28 July 2011, the SRSG provided UNMIK's response.
16. On 26 November 2011, the Panel declared the complaints admissible.
17. On 29 November 2011, the Panel informed the SRSG of this decision and invited UNMIK's observations on the merits of the case and to submit the investigative files. On 12 December 2011, the SRSG provided UNMIK's response.
18. On 14 December 2011, UNMIK presented the Panel with the files related to the complaint.
19. On 11 June 2013, the Panel requested UNMIK to confirm whether the disclosure of files concerning the case could be considered final.
20. On 19 June 2013, UNMIK confirmed that all files in its possession have been disclosed to the Panel.

## II. THE FACTS

### A. General background<sup>2</sup>

21. The events at issue took place in the territory of Kosovo during the conflict and after the establishment of the United Nations Interim Administration Mission in Kosovo (UNMIK), in June 1999.
22. 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 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

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<sup>2</sup> The references drawn upon by the Panel in setting out this general background include: OSCE, "As Seen, as Told", Vol. 1 (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](http://www.unhcr.org)) and by the International Committee of the Red Cross (available at <http://familylinks.icrc.org/kosovo/en>).

“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.

23. 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 No. 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 Special Representative of the Secretary-General (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.
24. 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.
25. 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.
26. 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 International Committee of the Red Cross (ICRC) as of October 2012.
27. As of July 1999, as part of the efforts to restore law enforcement in Kosovo within the framework of the rule of law, the SRSG urged UN member States to support the deployment within the civilian component of UNMIK of 4,718 international police personnel. UNMIK Police were tasked with advising KFOR on policing matters until they themselves had sufficient numbers to take full responsibility for law enforcement

and to work towards the development of a Kosovo Police Service (KPS). By September 1999, approximately 1,100 international police officers had been deployed to UNMIK.

28. 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.
29. 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”.
30. 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.
31. 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.
32. 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 of the victims**

33. The first complainant is the father of Victim “A” (case no. 43/09). The second complainant is the mother of Victim “B” (case no. 54/09). The third complainant is the wife of Victim “C” (case no. 114/09). The fourth complainant is the wife of Victim “D” (case no. 173/09). The fifth complainant is the wife of Victim “E” (case no. 242/09).
34. All five victims were abducted on their way to work in the morning of 22 June 1998. The first and the third complainants state that Victim “A” (case no. 43/09) and Victim “C” (case no. 114/09) were abducted en route to the Bellaqevci/Belaćevac coal mine on 22 June 1998. According to the complainants, Victim “A” and Victim “C” left Raskovë/Raskovo village, Obiliq/Obilić Municipality, at about 06:40 in the same vehicle. They were allegedly stopped at a check-point set up by the KLA on the road beyond Caravodicë/Crkvena Vodica village, and then abducted and taken in an unknown direction.
35. The second and the fourth complainants state that Victim “B” (case no. 54/09) and Victim “D” (case no. 173/09), along with Mr F.G., were also kidnapped by the KLA on 22 June 1998 en route to the Bellaqevci/Belaćevac coal mine. According to the complainants, at about 07.00 Victim “B” and Victim “D” were travelling in the same vehicle with their colleagues Mr F.G., Mr S.S. and Mr F.S. They were subsequently stopped by 3 armed members of the KLA. According to the statement subsequently provided by Mr S.S., the KLA members ordered Mr S.S. and Mr F.S., both Kosovo Albanians, to get out of the vehicle. They were later released, while their Kosovo Serbian colleagues were taken in an unknown direction.
36. The fifth complainant states that her husband, Victim “E” (case no. 242/09), was an employee at the Electric Power Company “Elektroprivreda” located nearby the Bellaqevci/Belaćevac coal mine. Victim “E” was also kidnapped on 22 June 1998 while travelling from his home to work.
37. The complainants state that the abduction of their family members was reported to the Serbian Police and Ministry of Internal Affairs, the ICRC, the OSCE and, upon the arrival to Kosovo of KFOR and UNMIK.
38. The whereabouts of Victims “A”, “B”, “C”, “D” and “E” remain unknown to date.
39. The names of Victims “A”, “B”, “C”, “D” and “E” appear in the online database maintained by the ICMP<sup>3</sup>, in the database compiled by OMPF, and in relation to “B”,

<sup>3</sup> The ICMP database is available at: <http://www.ic->

“D” and “E” in the memorandum that included the list of missing persons sent by the ICRC to UNMIK, dated 12 October 2001.

### **C. The Investigation**

#### *Disclosure of relevant files*

40. In the present case, the Panel received from UNMIK investigation documents previously held by UNMIK OMPF and UNMIK Police (MPU and WCIU).
41. Concerning disclosure of information contained in the files, the Panel recalls the request for anonymity made by some of the complainants. 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.

#### *Documents Relating to the Abductions*

42. The Panel notes that many of the documents contained in the investigative files are common in all five cases. For the purposes of brevity and clarity the Panel will list first those documents in common and then highlight entries and documentation unique to the individual files.

#### *Documents in common in all the investigative files provided*

43. The files contain the Initial Report regarding Victim “E” dated 27 November 1999, indicating that the offence in question relates to “kidnapping/abduction”. In addition, this report references others believed to have disappeared, including Victims “A”, and “B” and “D”. The report concludes that “This investigator believes that this case could be solved by first checking into the KLA files and seeing what members were working the road block in the area of V.Belacevac on 22/8/1998”.
44. The files contain an Initial Report, dated 29 December 1999, from a relative of Victims “A”, “B” and “C”, reporting their abduction and identifying a possible suspect.
45. The files specify that between 13 January 2000 and 15 January 2000, the relatives of Victims “A”, “B” and “E” provided additional information to UNMIK Police regarding the events of 22 June 1998.
46. The files contain an interoffice memorandum dated 31 January 2000 which details UNMIK Police as having visited the relatives of Victims “A”, “B” and “C”. The document describes how the relatives had expressed frustration with the way the “U.N. is handling the case”. The document states that additional information was provided by the relatives that day of possible locations where Victims “A”, “B” and “C” were being kept and that on 29 January 2001 UNMIK investigators went to the locations described “but due to weather problems we had to turn back”.

47. The files specify that on 16 February 2000, a memorandum sent from MPU Prishtinë/Priština to the station commander at Leposaviq/Leposavić and Mitrovicë/Mitrovica lists all those who “disappeared/kidnapped in the morning of the 22<sup>nd</sup> June 1998 in Donji Grabovac”. Included in this list were the Victims “A”, “B”, “C”, “D” and “E”. On the same day, an additional memorandum sent from the MPU to the Chief of CCIU confirmed that “all of them were kidnapped on the same day, same place and same time so they are now put together in the same file”.
48. The files contain a case continuation report dated 26 September 2000, which notes that “all investigative leads had been conducted and no new avenues were open. Unless further information comes to light the case will not be actively investigated”.
49. The files contain a letter, dated 29 September 2001, that the father of Victim “A” wrote to Mr Bernard Kouchner, the-then SRSG, requesting his assistance regarding the abduction of Victim “A”, together with others whom he suspects were kidnapped. The writer highlights that since the abduction he has not received any news.
50. The files specify that on 20 March 2001, the UNMIK Police Mitrovicë/Mitrovica North Station Commander wrote to the MPU Prishtinë/Priština requesting information on any developments in the investigation of the group of missing persons, which he then lists as including Victims “A”, “B”, “C”, “D” and “E”, as “a brother of one of them comes to me on a regular basis, asking if there is any further update on the investigation”.
51. The files provide the analysis of the “Belaćevac case”, dated 30 June 2001. It highlights possible areas of interest for the investigation including: 1) that a previous bus had been stopped in the area of the possible abduction and that it might be possible to track down some witnesses to this event; 2) A possible witness had been identified and needed to be spoken to; 3) The name of a possible perpetrator had been identified who had been identified as a member of the KLA; 4) The tracing of four Kosovo Albanian mine workers who had promised that those who had been abducted would be released “on condition that FRY will not attack their village”; and 5) identification of a possible witness to the check point where the abductions took place.
52. The files contain a signed statement from Mr S.S. regarding the events of the abduction of victims “B” and “D”. He describes how Victim “D” had been driving a vehicle, that an armed group of KLA soldiers stopped the vehicle, searched it and then took Victims “B”, “D” and Mr F.G. in an unknown direction.
53. The file indicates that on 25 November 2004, an action request was made in relation to Victim “D”, as well as in relation to three other unrelated disappearance/abduction cases. In relation to Victim “D” the action request includes the following note “Please check if there is something to do here or in Belgrade and if not just do an ante-mortem investigation where it shows that we did at last try something”.

*Documents located in the file marked Victim “A”*

54. In relation to Victim “A”, the file contains two Victim Identification Forms dated 26 September 2001 and 6 December 2001, together with an Ante-Mortem Investigation Report dated 17 November 2004. One form recounts briefly the events in question and

that the case had been initially sent to CCIU War Crimes and that as of 4 October 2004 the case was still pending with the Unit and that no progress had been made so far.

55. The investigative file contains an undated document titled "Employees of the surface mine in Belačevac that were abducted by the Albanian extremists between 14<sup>th</sup> June and 22<sup>nd</sup> June 1998". The document includes the names of all the victims that are the subject of this complaint.
56. The file specifies that on 14 December 2001, UNMIK Police contacted the wife of Victim "D". The details of the reason for the call are not given in the report. However the document states that "She was reluctant to talk and expressed anger and disapproval to cooperate, bearing in mind that she already gave many statements and filed many forms, regarding the disappearance of her husband".

Documents located in the file marked Victim "C"

57. The file contains information dated 17 February 2000, from a relative of Victims 'A', "B", and "C", that references a meeting four Kosovo Albanian employees had with the director of the Bellaqevci/Belačevac coal mine, where it was stated that "all the prisoners would be released on the condition that the Serbian army will not attack their village which was under KLA control and 100% Albanian".
58. The file contains a memorandum dated 21 October 2001, from the Head of MPU to the Director of Operations, indicating that the file relating to the investigation of Victims "A", "B", "C", "D" and "E", together with one other case relating to the events of 22 June 1998, "was transferred to the chief of the CCIU for further investigation on 16-02-00. Additional information, with names of possible witnesses was sent to CCIU at 29-02-2000. A last contact with CCIU at 26-09-00 learned that no new investigative leads were found and the case is no longer actively investigated".
59. In relation to Victim "C", the file contains a Victim Identification Form dated 15 February 2002. The form recounts the events in relation to the abduction of Victims "A", "B" and "C".
60. The file contains an Ante-Mortem Investigation Report dated 17 November 2004, which relates to the investigation of Victim "D". It concludes that efforts were made to obtain ante-mortem details of Victim "E", but that UNMIK Police were unable to interview any of the witnesses.

Documents located in the file marked Victim "B"

61. In relation to Victim "B", the file contains a Victim Identification Form dated 26 September 2001.
62. The file contains three sets of criminal charges submitted by the relatives of Victims "A", "B" and Mr F.G.

63. The file contains an interoffice memorandum dated 27 February 2008, from UNMIK Chief of Investigations War Crimes Unit to the DOJ, Criminal Division requesting a review of the case.

Documents located in the file marked Victim "D"

64. In relation to Victim "D", the file contains an undated Victim Identification Form.

The file marked Victim "E"

65. No additional documentation relating to Victim "E" was located in this file.

### **III. THE COMPLAINTS**

66. The complainants complain about UNMIK's alleged failure to properly investigate the abductions of Victims "A", "B", "C", "D" and "E". In this regard, the Panel deemed that the complainants invoke a violation of the procedural limb of Article 2 of the European Convention on Human Rights (ECHR).

67. The Panel deems that the complainants also complain about the fear, mental pain and suffering caused to them by the situation surrounding the abductions. In this regard, the Panel considers that the complainant relies on Article 3 of the ECHR in its substantive part.

### **IV. THE LAW**

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

##### **1. The scope of the Panel's review**

68. Before turning to the examination of the merits of the complaint, the Panel needs to clarify the scope of its review.

69. In determining whether it considers that there has been a violation of Article 2 (procedural limb) and of Article 3 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 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.

70. 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.
71. 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.
72. Likewise, the Panel emphasises that, as far as its jurisdiction *ratione materiae* 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 § 70). 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.
73. 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 2011, § 136, ECHR 2001-IV).

## 2. The Parties' Submissions

74. The complainants in substance allege a violation concerning the lack of an adequate criminal investigation into the abductions of the victims in this case. The complainants also complain that they were not informed as to whether an investigation was conducted and what the outcome was.
75. In his comments on the merits of the complaint, the SRSG observes that when determining applications under Article 2 consideration must be given to not imposing an impossible or disproportionate burden on UNMIK. In this regard, the SRSG recalls the judgment of 15 February 2011 rendered by the European Court of Human Rights in the case *Palić v. Bosnia and Herzegovina*, stating at paragraph 70:
- “The Court takes into account the complex situation in Bosnia and Herzegovina, notably in the first ten years following the war. In such a post-conflict situation, what amounts to an impossible and/or disproportionate burden must be measured by the very particular facts and context. In this connection, the Court notes that more than 100,000 people were killed, almost 30,000 people went missing and more than two million people were displaced during the war in Bosnia and Herzegovina. Inevitably choices had to be made in terms of post-war priorities and resources.”
76. In this respect the SRSG cites the prevailing circumstances in Kosovo after 1999 and the challenges faced by UNMIK. He recounts the large number of missing persons encountered by the UNMIK OMPF after the conflict, “UNMIK Office of Missing Persons and Forensics estimated the number of missing as 5602 in 2002”. This, according to the SRSG, was compounded by the fact that 800,000 persons had been displaced and thousands killed. As a consequence, “establishing a system capable of dealing effectively with disappearances and other serious violations of international humanitarian law has been understandably an incremental one in the Kosovo context”.
77. The SRSG also highlights the need when conducting an effective investigation to have a professional police force, well trained and well resourced. He highlights that such a force did not exist in 1999 and consequently had to be established and developed. As a result he maintains that there was a complete policing vacuum in Kosovo after the conflict. The SRSG goes on to argue that this was compounded by the fact that the international police presence in Kosovo, consisting of 20 different contributory nationalities with different working practices, had to deal with a post conflict environment with limited local support.
78. Finally, in the context of Kosovo, the SRSG cites “the well documented [fact] that investigators were often faced with situations where individuals who may hold important information or knowledge on the whereabouts and fate of the missing often did not want to disclose information either through interviews with UNMIK Police or by coming forward voluntarily”. Any investigation would struggle to make progress under such circumstances. The SRSG concludes that these practical constraints inhibited UNMIK in conducting all investigations in a manner that would be expected of states with more established institutions.

79. As regards specifically the case at issue, the SRSG states that UNMIK Police were hampered by the fact that the event occurred almost one year prior to the deployment of UNMIK and that it was difficult to obtain ante-mortem data regarding the missing persons, “partly due to non-cooperation on the side of the family members of the missing persons, or due to the fact that family members were not contactable”.
80. The SRSG also states that, based on the information available, it is not possible to comment appropriately on the extent of investigative activities undertaken. It appears, however, from the documents available that UNMIK Police did make investigative efforts in accordance with the procedural requirements of Article 2 of the ECHR to determine the fate and whereabouts of Victims “A”, “B”, “C”, “D” and “E”. However, due to the lack of cooperation by the victims’ families, minimal information and leads available, no concrete results could be achieved.

### **3. The Panel’s Assessment**

#### *a) Submission of relevant files*

81. The SRSG observes that all available files regarding the investigation have been presented to the Panel.
82. The Panel 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 it with 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 practice 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 cooperate in the establishment of facts (see ECtHR, *Çelikkilek v. Turkey*, no. 27693/9, judgment of 31 May 2005, § 56).
83. The Panel also 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. The Panel also notes that UNMIK has not provided any explanation as to why the documentation may be incomplete, nor with respect to which parts.
84. 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*

85. First, the Panel considers that the limited content of the investigative files, in particular in the light of the SRSG’s argument that, for this reason, it is not possible to ascertain whether there was a failure by UNMIK to conduct an effective investigation into the case of Victims “A”, “B”, “C”, “D” and “E”, raises issues of the burden of proof. In this

regard, the Panel refers to the approach of the European Court on Human Rights as well as of the United Nations Human Rights Committee (HRC) on the matter. The general rule is that it is for the party who asserts a proposition of fact to prove it, but that this is not a rigid rule.

86. Following this general rule, at the admissibility stage an applicant must present facts, which are supportive of the allegations of the State's responsibility, that is, to establish a *prima facie* case against the authorities (see, *mutatis mutandis*, ECtHR, *Artico v. Italy*, no. 6694/74, judgment of 13 May 1980, §§ 29-30, Series A no. 37; ECtHR, *Toğcu v. Turkey*, no. 27601/95, judgment of 31 May 2005, § 95). However, the European Court further holds that "... where the events in issue lie wholly, or in large part, within the exclusive knowledge of the authorities ... The burden of proof may then be regarded as resting on the authorities to provide a satisfactory and convincing explanation" (see ECtHR [GC], *Varnava and Others v Turkey*, cited above in § 73, at §§ 183-184).
87. The European Court also states that "... it is for the Government either to argue conclusively why the documents in question cannot serve to corroborate the allegations made by the applicants, or to provide a satisfactory and convincing explanation of how the events in question occurred, failing which an issue under Article 2 and/or Article 3 of the Convention will arise" (see ECtHR, *Akkum and Others v. Turkey*, no. 21894/93, judgment of 24 June 2005, § 211, ECHR 2005-II (extracts)). The Court adds that "... [i]f they [the authorities] then fail to disclose crucial documents to enable the Court to establish the facts or otherwise provide a satisfactory and convincing explanation, strong inferences may be drawn" (see ECtHR, *Varnava and Others v Turkey* [GC], cited above in § 73, at § 184; see also, HRC, *Benaniza v Algeria*, Views of 26 July 2010, § 9.4, CCPR/C/99/D/1588/2007; HRC, *Bashasha v. Libyan Arab Jamahiriya*, Views of 20 October 2010, § 7.2, CCPR/C/100/D/1776/2008).
88. The Panel understands that the international jurisprudence has developed in a context where the Government in question may be involved in the substantive allegations, which is not the case with UNMIK. The Panel nevertheless considers that since the documentation was under the exclusive control of UNMIK authorities, at least until the handover to EULEX, the principle that "strong inferences" may be drawn from lack of documentation is applicable.
89. Second, 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 *Velásquez-Rodríguez* (see Inter-American Court of Human Rights (IACtHR), *Velásquez-Rodríguez v. Honduras*, judgment of 29 July 1988, Series C No. 4). The positive obligation has also been stated by the United Nations Human Rights Committee (HRC) 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 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.

90. 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 of the Convention, read in conjunction with the State’s general duty under Article 1 of the Convention to “secure to everyone within [its] 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, § 105, 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).
91. 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 [GC], *Varnava and Others v. Turkey*, cited in § 73 above, at § 136).
92. 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, *Ahmet Özkan 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).
93. 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 § 73 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, *Ahmet Özkan and Others v. Turkey*, cited above, at § 312; and *Isayeva v. Russia*, cited above, at § 212).

94. 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 § 90 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).
95. 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 § 93 above, at § 46; in the same sense ECtHR [GC], *Varnava and Others v. Turkey*, cited in § 73 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 § 73 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).
96. 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 § 92 above, at §§ 311-314; ECtHR, *Isayeva v. Russia*, cited in § 92 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*

97. The Panel is conscious of the fact that Victims "A", "B", "C", "D" and "E" were abducted during the Kosovo conflict, in June 1998, approximately one year before UNMIK's deployment in Kosovo. The case was investigated by UNMIK in the

aftermath of the armed conflict, when crime, violence and insecurity were rife. Investigators were also hampered by the lack of any contemporaneous investigation.

98. On his part, the SRSG does not contest that UNMIK had a duty to investigate the present case under Article 2 of the ECHR. 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.
99. 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.
100. 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 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).
101. 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 § 93 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 § 96 above, at § 164; see also ECtHR, *Güleç 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 § 92 above, at §§ 85-90, 309-320 and 326-330; *Isayeva v. Russia*, cited in § 92 above, at §§ 180 and 210; ECtHR, *Kanlibaş v. Turkey*, no. 32444/96, judgment of 8 December 2005, §§ 39-51).
102. 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 § 90 above, at §§ 86-92; ECtHR, *Ergi v. Turkey*, cited above, at §§ 82-85; ECtHR [GC], *Tanrikulu 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).

103. 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 in § 89 above, at § 1; HRC, *Abubakar Amirov and Aïzan Amirova v. Russian Federation*, 22 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 ICCPR 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).
104. 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 § 29 above).
105. In response to the SRSG’s objection that Article 2 must be interpreted in a way which does not impose an impossible or disproportionate burden on the authorities, either in the context of policing activities or that of priorities and resources, the Panel takes into account that the European Court has established that what amounts to an impossible

and/or disproportionate burden must be measured by the very particular facts and contexts (see ECtHR, *Palić v. Bosnia and Herzegovina*, cited in § 93 above, *Brecknell v. The United Kingdom*, no. 32457/04, 27 November 2007, § 70).

106. 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*

107. Turning to the circumstances of the present case, the Panel notes the first criminal complaint filed with regard to the abductions took place in November 1999 (see § 42 above). The Panel considers that from this date UNMIK was informed of the abductions and that from January 2000, at the latest, UNMIK Police were fully aware of the circumstances of the various criminal complaints (see § 44 above).

108. In this regard, the Panel first addresses the issue of the burden of proof. At the admissibility stage, the Panel was satisfied that the complainants' allegations were not groundless, thus it accepted the existence of a *prima facie* case: that all the victims disappeared in life threatening circumstances and that UNMIK had become aware of their abduction at the latest on 29 September 1999 (see § 44 above).

109. Accordingly, applying the principles discussed above (see §§ 85-87 above), the Panel considers that the burden of proof has shifted to the respondent, so that it is for UNMIK to present the Panel with evidence of an adequate investigation as a defence against the allegations put forward by the complainant and accepted by the Panel as admissible. UNMIK has not discharged its obligation in this regard, as it has neither presented a complete investigative file, nor has it in a "satisfactory and convincing" way explained its failure to do so. Accordingly, the Panel will draw inferences from this situation.

110. The Panel notes that according to the 2000 Annual Report of UNMIK Police, at least from mid-September 1999 the whole system of criminal investigation in Prishtinë/Priština region was under the full control of UNMIK. Therefore, it was UNMIK's responsibility to ensure, first, that the investigation is conducted expeditiously and efficiently; second, that all relevant investigative material is properly handed over to the authority taking over responsibility for investigation (EULEX, see § 31 above); and third, that the investigative files could be traced and retrieved, should a need arise at any later stage.

111. The Panel infers from the limited content of the investigative files that one of the following situations occurred: no investigation was carried out; UNMIK deliberately opted not to present the files to the Panel, despite its obligation to cooperate with the Panel and to provide it with the necessary assistance, including the release of documents relevant to the complaints under Section 15 of UNMIK Regulation No. 2006/12 (cited in § 73 above); the files were not properly handed over to EULEX; or UNMIK failed to retrieve the files from the current custodian.
112. The Panel has already noted above that it has no reason to doubt UNMIK's good faith in seeking to provide the investigative files for the Panel's review. However, the Panel considers that whichever of these potential explanations is applicable, it indicates a failure, which is directly attributable to UNMIK, either when it was exercising its executive functions, or in its current capacity.
113. The Panel notes that there were obvious shortcomings in the conduct of the investigation into these abductions from its inception. However, in light of the considerations developed above concerning its limited temporal jurisdiction (see § 73), the Panel recalls that it is competent *ratione temporis* to evaluate the compliance of the investigation with Article 2 of the ECHR only for the period after 23 April 2005, while taking into consideration the state of the case at that date (ECtHR, *Palić v. Bosnia and Herzegovina*, cited in § 93 above, at § 70). The period under review ends on 9 December 2008, with EULEX taking over responsibility in the area of administration of justice (see § 31 above).
114. The Panel notes that from the moment UNMIK became aware of the matter until 23 April 2005, the only actions undertaken relate to obtaining ante-mortem data with regard to the victims. Indeed, what is absent in such an investigation involving a possible pattern of abductions is any evidence to suggest a systematic investigation into the case. Although the relatives were visited, there is no evidence that any other action was undertaken with respect to clarifying the circumstances surrounding their abductions. Indeed, the relatives of the victims had expressed frustration with the handling of the case (see § 46 above).
115. The Panel also notes that, from the registration of the case in 1999 until the end of the period under review, no action whatsoever aimed at identification of those responsible for the abductions undertaken by UNMIK Police is documented in the file. No formal statements were ever taken from the complainants or any follow up interviews or activities recorded relating to possible witnesses to the abduction such as from Mr. S.S. No efforts were made to search for evidence (for example site identification and inspection) or to follow obvious lines of enquiry (for example identifying the KLA check-points in the area of Caravodicë/Crkvena Vodica village).
116. Coming to the period within its jurisdiction, starting from 23 April 2005, the Panel notes that the delays in commencing and completing the investigation fall largely within the period of the Panel's temporal jurisdiction. After that critical date the failure to conduct the necessary investigative actions persisted, thus, in accordance with the continuing obligation to investigate (see § 95 above), bringing the assessment of the whole investigation within the period of the Panel's jurisdiction.

117. The only actions undertaken by UNMIK in this period relate to gathering ante-mortem data and the formal review of the case file in 2008. There is no evidence that any further action was undertaken with respect to identifying the perpetrators and bringing them to justice.
118. The apparent lack of any adequate reaction from UNMIK Police may have suggested to perpetrators that the authorities were either not able, or not willing to investigate such criminal acts. Such an attitude of the authorities towards the gravest crimes in any society, and especially in post-conflict circumstances, inevitably creates a culture of impunity among the criminals and can only lead to a worsening of the situation. The problems which UNMIK had encountered at the beginning of its mission, which were discussed above, do not justify such inaction, either at the outset or subsequently.
119. The Panel therefore 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 § 93 above), as required by Article 2.
120. As concerns the requirement of public scrutiny, the Panel recalls that Article 2 also requires a victim's next-of-kin to be involved in the investigation to the extent necessary to safeguard his or her legitimate interests. In this regard, the complainants indicate that they received no feedback whatsoever from UNMIK with respect to the investigation concerning the abductions of victims "A", "B", "C", "D", and "E". As the Panel has already noted, no statement appears to have been ever taken from the complainants and no information was given to them concerning the status of the investigation. The Panel, therefore considers that the investigation was not accessible to the complainants families as required by Article 2.
121. In light of the deficiencies and shortcomings as described above, the Panel concludes that UNMIK failed to carry out an adequate and effective investigation into the abduction of the five victims "A", "B", "C", "D", and "E". There has been accordingly a violation of Article 2 of the ECHR.

## **B. Alleged violation of Article 3 of the ECHR**

122. The Panel considers that the complainants invoke, in substance, a violation of the right to be free from inhumane or degrading treatment, guaranteed by Article 3 of the ECHR, with regard to the situation surrounding the abduction of the five victims "A", "B", "C", "D", and "E".

### **1. The scope of the Panel's review**

123. The Panel will consider the allegations under Article 3 of the ECHR, applying the same scope of review as was set out with regard to Article 2 (see §§ 68-73 above).
124. The Panel recalls that the European Court of Human Rights has found on many occasions that a situation of enforced disappearance gives rise to a violation of Article 3 in respect of close relatives of the victim. It emphasises that, concerning Article 3, "the

essence of such a violation does not so much lie in the fact of the ‘disappearance’ of the family member but rather concerns the authorities’ reactions and attitudes to the situation when it is brought to their attention” (see, e.g., ECtHR [GC], *Çakici v. Turkey*, no. 23657/94, judgment of 8 July 1999, § 98, *ECHR*, 1999-IV; ECtHR [GC], *Cyprus v. Turkey*, no. 25781/94, judgment of 10 May 2001, § 156, *ECHR*, 2001-IV; ECtHR, *Orhan v. Turkey*, no. 25656/94, judgment of 18 June 2002, § 358; ECtHR, *Palić v. Bosnia and Herzegovina*, cited in § 93 above, at § 74; ECtHR, *Alpatu Israilova v. Russia*, no. 15438/05, judgment of 14 March 2013, § 69; see also HRAP, *Zdravković*, no. 46/08, decision of 17 April 2009, § 41). “It is especially in respect of the latter that a relative may claim directly to be a victim of the authorities’ conduct” (see, among others, ECtHR, *Ergi and Others v. Turkey*, no. 23016/04, judgment of 31 July 2012, § 94).

125. Lastly, where mental suffering caused by the authorities’ reactions to the disappearance is at stake, the alleged violation is contrary to the substantive element of Article 3 of the ECHR, not its procedural element, as is the case with regard to Article 2 (ECtHR, *Gelayevy v. Russia*, no. 20216/07, judgment of 15 July 2010, §§ 147-148).

## **2. The Parties’ submissions**

126. The complainants are deemed to allege that the lack of information and certainty surrounding the abductions of the victims, particularly because of UNMIK’s failure to properly investigate them, caused mental suffering to the complainants.

127. The SRSG, rejects this allegation, stressing that there were neither assertions made by the complainants of any bad faith on the part of UNMIK personnel involved with the matter, nor evidence of any disregard for the seriousness of the matter, or the emotions of the complainants and their family emanating from the abductions of the victims.

128. The SRSG adds that the understandable and apparent mental anguish and suffering of the complainants cannot be attributed to UNMIK, but rather results from the abduction of the victims. The SRSG concludes that the complainant’s suffering lacks a character distinct from the emotional distress which may be regarded as inevitably caused to the relatives of a victim of a serious human rights violation.

## **3 The Panel’s assessment**

### *a) General principles concerning the obligation under Article 3*

129. Like Article 2, Article 3 of the ECHR enshrines one of the most fundamental values in democratic societies (ECtHR, *Talat Tepe v. Turkey*, no. 31247/96, 21 December 2004, § 47; ECtHR [GC], *Ilaşcu and Others v. Moldova and Russia*, no. 48787/99, judgment of 8 July 2004, *ECHR*, 2004-VII, § 424). As confirmed by the absolute nature conferred on it by Article 15 § 2 of the ECHR, the prohibition of torture and inhuman and degrading treatment still applies even in most difficult circumstances.

130. Setting out the general principles applicable to situations where violations of the obligation under Article 3 of the ECHR are alleged, the Panel notes that the phenomenon of disappearance constitutes a complex form of human rights violation that

must be understood and confronted in an integral fashion (see IACtHR, *Velasquez Rodriguez v. Honduras*, cited in § 89 above, at § 150).

131. The Panel observes that the obligation under Article 3 of the ECHR differs from the procedural obligation on the authorities under Article 2. Whereas the latter requires the authorities to take specific legal action capable of leading to identification and punishment of those responsible, the former is more general and humanitarian and relates to their reaction to the plight of the relatives of those who have disappeared or died.
132. The HRC has also recognised disappearances as a serious violation of human rights. In its decision of 21 July 1983, in the case *Quinteros v. Uruguay*, it stated that disappearances constitute serious violations of the rights of the disappeared person's relatives, who suffer from deep anguish which persists for as long as the uncertainty concerning the fate of their loved one continues, often for many years (see HRC, *Quinteros v. Uruguay*, Communication No. 107/1981, U.N. Doc. CCPR/C/OP/2 at 138 (1990), § 14). Moreover, in its decision of 15 July 1994 in the case *Mojica v. Dominican Republic*, the HRC has deemed that “the disappearance of persons is inseparably linked to treatment that amounts to a violation of article 7 [of the Covenant]”, also prohibiting torture, inhumane or degrading treatment and punishment (see HRC, *Mojica v. Dominican Republic*, Communication No. 449/1991, U.N. Doc. CCPR/C/51/D/449/1991 (1994), § 5.7).
133. With respect to the question whether a member of the family of a disappeared person can be considered the victim of a treatment contrary to Article 3 of the ECHR, the Panel refers to the case law of the European Court of Human Rights and to its own case law. The European Court accepts that this may be the case, depending on the existence of “special factors which give the suffering of the [family member] a dimension and character distinct from the emotional distress which may be regarded as inevitably caused to relatives of a victim of a serious human rights violation”. The Court further holds that “relevant elements will include the proximity of the family tie, the particular circumstances of the relationship, the extent to which the family member witnessed the events in question, the involvement of the family member in the attempts to obtain information about the disappeared person and the way in which the authorities responded to those enquiries” (see ECtHR, *Baysayeva and Others v. Russia*, nos. 15441/05 and 20731/04, judgment of 28 May 2009, § 159; ECtHR, *Ergi and Others v. Turkey*, cited in § 124 above, at § 94).
134. The Panel takes note that, when assessing the emotional suffering of the victims, the European Court also considers the following circumstances: the length of the disappearance itself and of the period with no information on the fate of the missing person and on the investigation undertaken by the authorities; the delay in initiation of criminal investigation into the disappearance; the absence of any “meaningful” action by the authorities, despite the fact that the complainants approached them to report the disappearance of their relative and to share with them the information they had; lack of any plausible explanation or information as to the fate of their missing relatives despite personal or written inquiries with official bodies (see, among others, ECtHR, *Ergi and Others v. Turkey*, cited in § 124 above, at § 96; ECtHR, *Osmanoğlu v. Turkey*, no. 48804/99, judgment of 24 January 2008, § 97). Another factor leading to a finding of

violation of Article 3 of the ECHR is the continuous nature of the psychological suffering of relatives of a victim of a disappearance (ECtHR, *Salakhov and Islyamova v. Ukraine*, no. 28005/08, judgment of 14 March 2013, § 201).

135. The HRC has also considered the issue and recognised family members of disappeared or missing persons as victims of a violation of Article 7 of the Covenant: parents (*Boucherf v. Algeria*, Communication No. 1196/2003, views of 30 March 2006, § 9.7, CCPR/C/86/D/1196/2003), children (*Zarzi v. Algeria*, Communication No. 1780/2008, views of 22 March 2011, § 7.6, CCPR/C/101/D/1780/2008), siblings (*El Abani v. Libyan Arab Jamahiriya*, Communication No. 1640/2007, views of 26 July 2010, § 7.5, CCPR/C/99/D/1640/2007), spouses (*Bousroual v. Algeria*, Communication No. 992/2001, views of 30 March 2006, § 9.8, CCPR/C/86/D/992/2001), aunts and uncles (*Benaziza v. Algeria*, Views of 26 July 2010, § 10, CCPR/C/99/D/1588/2007), grandchildren (*ibid.*) and even cousins (*Bashasha v. Libyan Arab Jamahiriya*, Views of 20 October 2010, § 7.5, CCPR/C/100/D/1776/2008). It justifies this broad understanding of victim status by the suffering and distress that is caused to family members by the disappearance of an individual, which is often exacerbated by the authorities' insufficient efforts to investigate the disappearance in order to establish the fate of the victim and to bring perpetrators to justice (*Aboussedra v. Libyan Arab Jamahiriya*, Communication No. 1751/2008, views of 25 October 2010, § 7.5, CCPR/C/100/D/1751/2008). In the *Amirov v. Russian Federation* the Committee observed that “[w]ithout wishing to spell out all the circumstances of indirect victimisation, the Committee considers that the failure of a State party responsibly to discharge its obligations to investigate and clarify the circumstances of the harm suffered by the direct victim will be usually be a factor. Additional factors may be necessary. In the present case, the Committee notes the horrific conditions in which the author came to find his wife's mutilated remains (...), followed by the dilatory, sporadic measures undertaken to investigate the circumstances that have lead to the above findings of violations of articles 6 and 7, read together with article 2, paragraph 3. The Committee considers that, taken together, the circumstances require the Committee to conclude that the author's own rights under article 7 have also been violated” (*Amirov v. Russian Federation* Communication, cited in § 103 above, at § 11.7).
136. The Panel also takes into account that the European Court of Human Rights has determined that its analysis of the authorities' reaction is “not confined to any specific manifestation of the authorities' attitudes, isolated incidents or procedural acts; on the contrary, the Court gives a global and continuous assessment of the way in which the authorities of the respondent State responded to the applicants' enquiries” (see ECtHR, *Janowiec and Others v. Russia*, nos. 55508/07 and 29520/09, judgment of 16 April 2012, § 152).
137. In this respect, it is the position of the European Court that findings under the procedural limb of Article 2 would also be of direct relevance in considering the existence of a violation of Article 3 (see ECtHR, *Basayeva and Others v. Russia*, nos. 15441/05 and 20731/04, judgment of 28 May 2009, § 109; ECtHR, *Gelayevy v. Russia*, no. 20216/07, cited in § 125 above, at § 147).
138. The Panel observes that the European Court has already found violations of Article 3 of the ECHR in relation to disappearances in which the State itself was found to be

responsible for the abduction (see ECtHR, *Luluyev and Others v. Russia*, no. 69480/01, judgment of 9 November 2006, §§ 117-118; ECtHR, *Kukayev v. Russia*, no. 29361/02, judgment of 15 November 2007, §§ 107-110). However, in contrast, in the case under the Panel's consideration, in no way is UNMIK implicated in the actual disappearance and UNMIK cannot be held responsible for the applicant's mental distress caused by the commission of the crime itself.

139. The Panel is mindful that in the absence of a finding of State responsibility for the disappearance, the European Court has ruled that it is not persuaded that the authorities' conduct, albeit negligent to the extent that it has breached Article 2 in its procedural aspect, could have in itself caused the applicant mental distress in excess of the minimum level of severity, which is necessary in order to consider treatment as falling within the scope of Article 3 (see, among others, ECtHR, *Tovsultanova v. Russia*, no. 26974/06, judgment of 17 June 2010, § 104; ECtHR, *Shafiyeva v. Russia*, no. 49379/09, judgment of 3 May 2012, § 103).

140. Taking note of that position, the Panel considers that in this situation it may draw strong inferences from the available established facts relevant to the complaint before it.

*b) Applicability of Article 3 to the Kosovo context*

141. With regard to the applicability of the above standards to the Kosovo context, the Panel first refers to its view on the same issue with regard to Article 2, developed above (see §§97-106).

142. The Panel reiterates that a normally functioning law enforcement system should take into account the protection needs of victims and witnesses, as well as to consider the special vulnerability of displaced persons in post-conflict situations. The Panel has already considered the fact that by 2003 the police and justice system in Kosovo was described by the UN Secretary-General as being "well-functioning" and "sustainable" (see § 29 above).

143. The Panel again notes that it will not review relevant practices or alleged obstacles to the conduct of effective investigations *in abstracto*, but only in relation to their specific application to the complaint before it, considering the particular circumstances of the case.

144. For these reasons, the Panel considers that it has to establish with regard to each case whether the attitude and reactions of UNMIK authorities to the disappearance itself and to the complainants' quest for information with regard to the fate of their relatives and the criminal investigation, would amount to a violation of the obligation under Article 3, having regard to the realities in Kosovo at the relevant time.

*c) Compliance with Article 3 in the present case*

145. Against this background, the Panel discerns a number of factors in the present case which, taken together, raise the question of violation of Article 3 of the ECHR.

146. The Panel notes the proximity of the family ties between the complainants and the victims, as the complainants are the parents and wives of the respective victims. Accordingly, the Panel has no doubt that the complainants have indeed suffered serious emotional distress since June 1998, when the abductions of the victims took place.
147. The Panel reiterates that from the standpoint of Article 3 it may examine UNMIK's reactions and attitudes toward the complainants in their entirety. Despite the fact that the cases had been registered with UNMIK, little if any contact seems to have taken place with regard to the complainants with respect to these criminal investigations. Indeed this frustration is evidenced by the fact that on one occasion when UNMIK Police do visit the house of the relatives of Victims "A", "B" and "C", they are met with hostility over the way their case was being dealt with (see § 46 above). The Panel notes that the complainants have never been officially invited by either the UNMIK Police or prosecutors to give formal statements and that the complainants were never informed of the progress of the investigation.
148. Drawing inferences from UNMIK's failure to submit the complete investigative files (see §§, 81 - 84 above) or to provide another plausible explanation for the lack of investigative actions with regard to the abduction of the victims, the Panel considers that this situation, which continued into the period of the Panel's temporal jurisdiction, caused grave uncertainty about the fate of the five victims "A", "B", "C", "D" and "E" and the status of the investigation.
149. In view of the above, the Panel concludes that the complainants suffered severe distress and anguish for a prolonged and continuing period of time on account of the way the authorities of UNMIK have handled the criminal investigation and as a result of the complainants' inability to find out what happened to the victims. In this respect, it is obvious that, in any situation, the complainants still have to live in uncertainty about their fate, which must be unbearable.
150. For the aforementioned reasons, the Panel concludes that, by its behaviour, UNMIK contributed to the five complainants' distress and mental suffering in violation of Article 3 of the ECHR.

## **V. CONCLUDING COMMENTS AND RECOMMENDATIONS**

151. In light of the Panel's findings in this case, the Panel is of the opinion that some form of reparation is necessary.
152. The Panel notes that enforced disappearances and arbitrary executions constitute serious violations of human rights which, shall be investigated and prosecuted under any circumstances. The Panel also notes that UNMIK as the territorial administration of Kosovo from 1999 to 2008 had the primary responsibility to effectively investigate and prosecute those responsible for killings, abductions or disappearances in life threatening circumstances. Its failure to do so constitutes a further serious violation of the rights of the victim and their next-of-kin, in particular the right to have the truth of the matter determined.

153. 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.
154. 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 § 31), 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.
155. 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 complaint 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, cited in § 129 above, at § 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 abductions of victims "A", "B", "C", "D" and "E", will be established and that perpetrators will be brought to justice; the complainants 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 abductions of Victims "A", "B", "C", "D" and "E", as well as the distress and mental suffering incurred, and makes a public apology to the complainants in this regard;
- Takes appropriate steps towards payment of adequate compensation to the complainants 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 THERE HAS BEEN VIOLATION OF THE ARTICLE 3 OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS;**

**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 ABDUCTIONS OF VICTIMS “A”, “B”, “C”, “D” AND “E”, 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 THE ABDUCTIONS OF VICTIMS “A”, “B”, “C”, “D” AND “E”, AS WELL AS FOR DISTRESS AND**

**MENTAL SUFFERING INCURRED, AND MAKES A PUBLIC APOLOGY TO THE COMPLAINANTS;**

- c. TAKES APPROPRIATE STEPS TOWARDS PAYMENT OF ADEQUATE COMPENSATION TO THE COMPLAINANTS 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 Nations 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
- KFOR** - International Security Force (commonly known as Kosovo Force)
- KLA** - Kosovo Liberation Army
- MoU** - Memorandum of Understanding
- MPU** - Missing Persons Unit
- MUP** - Serbian Ministry of Internal Affairs (Serbian: *Министарство унутрашних послова*)
- NATO** - North Atlantic Treaty Organization
- OMPF** - Office on Missing Persons and Forensics
- OSCE** - Organization for Security and Cooperation in Europe
- RIU** - Regional Investigation Unit
- SRSG** - 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