

**OPINION**

**Date of adoption: 6 August 2014**

**Case No. 171/09**

**Nenad MLADENOVIĆ**

**against**

**UNMIK**

The Human Rights Advisory Panel, sitting on 6 August 2014,

with the following members present:

Marek Nowicki, Presiding Member

Christine Chinkin

Françoise Tulkens

Assisted by

Anna Maria Cesano, Acting Executive Officer

Having considered the aforementioned complaints, 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:

1. **PROCEEDINGS BEFORE THE PANEL**
2. The complaint was introduced on 22 April 2009 and registered on 30 April 2009.
3. On 23 December 2009 and 12 May 2010, the Panel requested further information from the complainant. No response was received.
4. On 2 February 2012, the complaint was communicated to the Special Representative of the Secretary-General (SRSG)[[1]](#footnote-1), for UNMIK’s comments on the admissibility of the complaint. On 1 March 2012, the SRSG submitted UNMIK’s response.
5. On 11 May 2012, the Panel declared the complaint admissible.
6. On 15 May 2012, the Panel forwarded its decision to the SRSG requesting UNMIK’s comments on the merits of the complaint as well as copies of the investigative files relevant to the case.
7. On 10 September 2013, the SRSG provided UNMIK’s comments on the merits of the complaint, together with the relevant documentation.
8. On 22 April 2014, the Panel requested UNMIK to confirm if the disclosure of files concerning the case could be considered final. On the same day, UNMIK provided its response.
9. **THE FACTS**
10. **General background[[2]](#footnote-2)**
11. The events at issue took place in the territory of Kosovo shortly after the establishment in June 1999 of the United Nations Interim Administration Mission in Kosovo (UNMIK).
12. 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 “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.
13. 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 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.
14. 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.
15. 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.
16. 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.
17. 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. By September 1999, approximately 1,100 international police officers had been deployed to UNMIK.
18. 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.
19. 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”.
20. 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 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.
21. 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.
22. On the same date, UNMIK and EULEX signed an agreement 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 supposed to be handed over to EULEX.
23. **Circumstances surrounding the killing of Mr Stojanče Mladenović and Mrs Zorica Mladenović**
24. The complainant is the son of Mr Stojanče Mladenović and Mrs Zorica Mladenović.
25. The complainant states that on 30 June 1999 his parents were killed in their house in Novosellë/Novo Selo village, Viti/Vitina Municipality, but that their bodies were not located at that time.
26. The complainant states that the killings were reported to UNMIK.
27. According to the response of the SRSG, the names of Mr Stojanče Mladenović and Mrs Zorica Mladenović were forwarded by the ICRC to UNMIK on 8 November 2001, as persons for whom the ICRC had collected ante-mortem data in Serbia proper, between 1 July and 20 September 2001. Likewise, the names of Mr Stojanče Mladenović and Mrs Zorica Mladenović are included in the database compiled by the UNMIK OMPF[[3]](#footnote-3). The entries in relation to Mr Stojanče Mladenović and Mrs Zorica Mladenović in the online database maintained by the ICMP[[4]](#footnote-4) gives 1 June 1999 as the reported date of disappearance and reads in other relevant fields: “Sufficient Reference Samples Collected” and “ICMP has provided information on this missing person on 29 August 2005 to authorized institution. To obtain additional information, contact EULEX Kosovo Headquarters.”

**C. The investigation**

1. *Disclosure of relevant files*
2. On 10 September 2013, UNMIK presented to the Panel documents which were held previously by the OMPF, the MPU and EULEX. On 22 April 2014, UNMIK confirmed to the Panel that all files in UNMIK’s possession have been disclosed.
3. Concerning disclosure of information contained in the files, the Panel recalls that UNMIK has made available investigative files for the Panel’s review under a pledge of confidentiality. 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 investigative steps taken by investigative authorities is provided in the paragraphs to follow.
4. *Location and handover of the victims’ mortal remains*

1. The OMPF file contains an ICTY Autopsy Report and an ICTY document labelled “Presumptive Identification Form”, affixed with the case number ZZ06/002BP, dated 11 July 2000 and 12 July 2000, respectively, in relation to unidentified mortal remains which were later discovered to be those of Mrs Zorica Mladenović. The documents state that the mortal remains were exhumed on 11 July 2000 from an unspecified place in the village of Baballoq/Babloć, Deçan/Dečani municipality and then brought to the Rahovec/Orahovac Mortuary for an autopsy conducted by the ICTY forensic team on 12 July 2000. According to the documents, the mortal remains were highly incomplete and showed no injuries; thus, the cause of death remained unascertained.
2. The OMPF file contains two MPU Ante-Mortem Victim Identification Forms, dated 8 November 2001, the first, for Mr Stojanče Mladenović, affixed with the file number 2001-001393 and the second, for Mrs Zorica Mladenović, affixed with the file number 2001-001389. Besides containing Mr Stojanče Mladenović and Mrs Zorica Mladenović’s personal details and ante-mortem descriptions, it provides the name, address and telephone number of Ms D.S., Mr Stojanče Mladenović’s sister. Both forms contain identical statements regarding possible burial site details for the victims: “[UNMIK] Police reportedly told them they are buried in the garden of own house.”
3. The OMPF file contains two MPU “Case Continuation Reports”, the first, for Mr Stojanče Mladenović, affixed with the file number 2001-001393 and the second, for Mrs Zorica Mladenović, affixed with the file number 2001-001389. Each Report has two inputs, which are listed as having taken place between 19 November and 22 November 2001.
4. The file also contains an ICTY Autopsy Report, affixed with the case number ZZ06/007BP, dated 9 December 2003, in relation to unidentified mortal remains which were later discovered to be those of Mr Stojanče Mladenović. The document states that the mortal remains were exhumed from an unknown grave site on 4 November 2003 and then brought to the Rahovec/Orahovac Mortuary for an autopsy conducted by an OMPF pathologist on 9 December 2003. According to the document, the mortal remains were highly incomplete and no traumatic *perimortem* injuries could be observed; thus, the cause of death remained unascertained.
5. The OMPF file contains an MPU “Gravesite Assessment” dated 25 April 2005, affixed with the file number 1146/INV/04 and cross-referenced with file number 2001-001393, which provides a summary of the MPU investigation to locate Mr Stojanče Mladenović and Mrs Zorica Mladenović’s mortal remains. Under the heading labelled “Further Information/Witness Statement”, the Assessment states that, “on 23 February 2005 one OMPF investigation team went to the Novo Selo village and obtained information from one witness under condition to remain anonymous. The [brother of the witness] showed to the OMPF personnel the possible burial site. The witness claimed that UCK members killed the [Mr Stojanče Mladenović], because he refused to surrender the weapons he possessed. The witness also said that [Mr Stojanče Mladenović] was buried close to the original surface behind the house and probably most of the bones are scattered by dogs and wild animals. The document also informs that on 19 May 2005[[5]](#footnote-5), the IPO (International Police Officer) made phone contact with Mr Stojanče Mladenović’s daughter S.G. and asked her whether the family had given blood samples for DNA analysis. S.G informed that her brother [the complainant] had been in contact with an institution and had agreed to cooperate with them.
6. Under a heading labelled “Witness Statement”, the document records that on 15 April 2005, in Novo Selo village, Viti/Vitina Municipality, the IP interviewed a confidential informant (C.I.) about the case. The summary of the C.I.’s statement informs that the C.I. was not sure who had killed Mr Stojanče Mladenović- KLA members or villagers from Novo Selo- as he/she was not an eyewitness to the killing. The C.I. stated that what he/she learned about the event was gleaned from conversations between villagers that he/she had overheard. The C.I. didn’t know the exact place where Mr Stojanče Mladenović was killed, but he/she knew it happened somewhere in the village. The C.I. stated that he/she had heard that Mr Stojanče Mladenović was killed because he refused to hand over one machine gun that he possessed. Concerning Mrs Zorica Mladenović, the C.I. did not know where Mrs Zorica Mladenović was living, but was sure that she was alive.
7. Under a heading labelled “Conclusion” the document notes, “[a]ccording to the statement of the witness, the MP was killed by UCK members or villagers from Novo Selo (during the war) because he refused to surrender one machine gun he possessed and his body is buried in the yard of his former house in Novo Selo village, Vitina municipality, grid-referenced EM 26873/94077, in an unidentified grave. Despite not being one eyewitness, the witness gave very sturdy information about what might have happened with the MP. Moreover, the hollow features, described by OMPF personnel, might be matched with a regular human grave. According to the MP’s daughter’s information, the MP’s son will give blood samples for a DNA comparison within a few days in Belgrade. For those reasons, one exhumation procedure is hereby recommended as the proper way to find out whether or not the MP is indeed buried in the indicated spot.”
8. Regarding Mr Stojanče Mladenović, the file also contains an OMPF document dated 1 September 2005, entitled “Confirmation of Identity” which states that the ICMP had provided results of matching bone and blood samples for Mr Stojanče Mladenović through DNA analyses. Additionally, the report states that an examination of Mr Stojanče Mladenović’s mortal remains was carried out by an OMPF pathologist who had compared the ante-mortem and post-mortem information and the results confirmed Mr Stojanče Mladenović’s identity. On the same date, 1 September 2005, the OMPF issued an Identification Certificate confirming that the mortal remains were those of Mr Stojanče Mladenović and on the same day, 1 September 2005, the OMPF issued a Death Certificate which lists his cause of death as “unascertained”.
9. Regarding Mrs Zorica Mladenović, the file also contains an OMPF document dated 5 September 2005, entitled “Confirmation of Identity” which states that the ICMP had provided results of matching bone and blood samples for Mrs Zorica Mladenović through DNA analyses. Additionally, the report states that an examination of Mrs Zorica Mladenović’s mortal remains was carried out by an OMPF pathologist who had compared the ante-mortem and post-mortem information and the results confirmed Mrs Zorica Mladenović’s identity. On 15 September 2005, the OMPF issued an Identification Certificate confirming that the mortal remains were those of Mrs Zorica Mladenović and on the same day, 15 September 2005, the OMPF issued a Death Certificate which lists her cause of death as “unascertained”.
10. On 21 September 2005, the mortal remains of both Mr Stojanče Mladenović and Mrs Zorica Mladenović were returned by UNMIK OMPF to their family members, and on the same day the OMPF closed both cases.
11. *Investigation with regard to perpetrator(s)*
12. The file provided by UNMIK contains two documents regarding the police investigation, the first was a WCIU document labelled “Ante Mortem Investigation Report, dated 18 February 2005 affixed with the file number 1146/INV/04 and cross-referenced with file numbers 2001-001389 and 2001-001393. Under the heading labelled “Nature of Information”, the document states “[s]pouses Stojence and Zorica MLADENOVIC are missing persons since 30/06/1999. There is no available information about the circumstances of her (sic.) disappearance. The case was reported to ICRC Belgrade… and MPU file was opened on 19/11/2001.” Under the heading “Further Investigation”, the document states “[w]e contacted by phone with MP’s daughter named [S.G.], but she didn’t give us any updated information. From Humanitarian Law Centre database we got the following information.

‘Mladenovic, Stojence (M,64); his wife Mladenovic, Zorica (65), Serbs from Novo Selo, Vitina Municipality- disappeared on 19 June 1999 on the road to Novo Selo. Friends of the couple recounted that the Mladenovics fled Kosovo to Serbia on 16 June 1999. Their daughter remained in the village and they returned for her on 19 June. They were last seen near Pozaranje (Pozharan) on the road to Novo Selo. Their daughter had in the meantime been transferred to Serbia by KFOR and does not know what happened to her parents.’

OMPF employees told us that they had received the information about the burial places of these spouses. It’s allegedly located at the garden of Mladenovic’s house in Novo Selo village. OMPF employees are going to check this place in the nearest future.” Under the heading labelled “Witness Interviewed” the document states “[n]one.” Under the heading labelled “Conclusion” the document states “[t]here is no information leading to a possible MP’s location. The case should remain open inactive within the WCU.”

1. The second investigative document in the file is an unnamed WCIU printout, dated 17 May 2007. This document states that the case should remain inactive as the mortal remains of Mr Stojanče Mladenović and Mrs Zorica Mladenović were identified by the OMPF.
2. The file also contains a copy of an entry in the Humanitarian Law Centre publication “Abductions and Disappearances of non-Albanians in Kosovo” from the Humanitarian Law Centre (HLC) database related to Mr Stojanče Mladenović and Mrs Zorica Mladenović, which is identical to the passage quoted above from the Ante Mortem Investigation Report (see § 36).
3. **THE COMPLAINT**
4. The complainant complains about UNMIK’s alleged failure to properly investigate the killing of Mr Stojanče Mladenović and Mrs Zorica Mladenović. In this regard, the Panel deems that the complainant invokes a violation of the procedural limb of Article 2 of the European Convention on Human Rights (ECHR).
5. **THE LAW**
6. **Alleged violation of the procedural obligation underArticle 2 of the ECHR** 
   1. **The scope of the Panel’s review**
7. Before turning to the examination of the merits of the complaint, the Panel needs to clarify the scope of its review.
8. In determining whether it considers that there has been a violation of Article 2 (procedural limb) 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.
9. 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](http://untreaty.un.org/English/TreatyEvent2001/pdf/07e.pdf), the Convention on the Rights of the Child.

1. 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 complainants complain about acts that occurred after that date, they fall outside the jurisdiction *ratione personae* of the Panel.
2. 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 § 42). 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.
3. 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 [GC], *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).
   1. **The Parties’ submissions**
4. The complainant in substance alleges a violation concerning the lack of an adequate criminal investigation into the killing of Mr Stojanče Mladenović and Mrs Zorica Mladenović.
5. In his comments on the merits of the complaint, the SRSG does not dispute that UNMIK had a responsibility to conduct an effective investigation into the killing of Mr Stojanče Mladenović and Mrs Zorica Mladenović**,** in line with its general obligation to secure the effective implementation of the domestic laws which protect the right to life, given to it by UN Security Council Resolution 1244 (1999) (see § 10 above) and further defined by UNMIK Regulation No. 1999/1 *On the Authority of the Interim Administration in Kosovo* and subsequently, UNMIK Regulation 1999/24 *On the Law Applicable in Kosovo,* and Article 2 of the ECHR.
6. In this regard, the SRSG stresses that this responsibility stems from the procedural obligation under Article 2 of the ECHR to conduct an effective investigation where death occurs in suspicious circumstances not imputable to State agents. He argues that, in general, when considering whether UNMIK has satisfied its procedural obligations under Article 2 of the ECHR, the Panel must take into consideration the special circumstances in Kosovo at the time.
7. The SRSG considers that such an obligation is two-fold, including an obligation to determine through investigation the fate and/or whereabouts of the dead person; and an obligation to conduct an investigation capable of determining whether the death was caused unlawfully and leading to the identification and punishment of those responsible for the disappearance and/or death of the missing person.
8. The SRSG adds that in June 1999, when they were killed, “the security situation in post-conflict Kosovo remained tense. KFOR was still in the process of reaching sufficient strength to maintain public safety and law and order and there were a number of serious criminal incidents targeting Kosovo-Serbs, including abductions and killings.”
9. The SRSG argues that in its case-law on Article 2, the European Court of Human Rights has stated that due consideration shall be given to the difficulties inherent to post-conflict situations and the problems limiting the ability of investigating authorities in investigating such cases. In this regard, the SRSG recalls the judgment of 15 February 2011 rendered by the European Court 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 […].”

1. In the view of the SRSG, in the aftermath of the Kosovo conflict, UNMIK was faced with a similar situation as the one in Bosnia. Many of those persons who were unaccounted for were abducted, killed and buried in unmarked graves inside or outside of Kosovo, which made very difficult locating and recovering their mortal remains.

1. The SRSG explains that in June 2002, UNMIK created the OMPF with the mandate to determine the fate of the missing; however its work was faced with many challenges at the beginning of the operations, due to the work previously done mostly by actors independent from UNMIK. In particular, the SRSG states that the collection of evidence of war crimes began with the arrival of NATO in 1999 with independent teams from several countries operating under the loose coordination of the ICTY. A lack of standard operating procedures or centralisation led to problems with the evidence gathered in this phase. In 2000, the ICTY launched a large, centralised forensic operation, based at the Rahovec/Orahovac mortuary, with standard operating procedures for all forensic teams except the British one, which operated independently out of Prishtinë/Priština. The SRSG states that, in the effort to demonstrate that crimes were systematic and widespread, the ICTY teams conducted autopsies on as many bodies as possible, carrying out little or no identification work; moreover, unidentified bodies exhumed in 1999 were reburied in locations still unknown to the OMPF. After the ICTY closed their operation in 2000, the UNMIK Police MPU continued small-scale investigations on missing persons “ex-officio, without any broader prosecutorial strategy”. As a consequence, a large amount of unstructured information was collected. The SRSG states that, taking into account the difficulties described above, the process “for establishing a system capable of dealing effectively with disappearances and other serious violations of international humanitarian law has been an incremental one in the Kosovo context, and this principle has been reflected in the abovementioned *Palić* case.” The SRSG concludes that the process was reliant upon a number of actors other than just UNMIK, for example the ICMP, the ICRC and local missing persons organisations.
2. The SRSG further argues that fundamental to conducting effective investigations is a professional, well-trained and well-resourced police force and that such a force did not exist in Kosovo in the aftermath of the conflict. In the policing vacuum following the end of the conflict, UNMIK had to build a new Kosovo Police Service from scratch, a long and challenging task which, according to the SRSG, is still in progress. The SRSG also states that UNMIK Police faced numerous challenges in exercising law enforcement functions gradually transferred to it by KFOR in 1999-2000. In this regard, he refers to the UNMIK Police Annual Report of 2000 describing the situation as follows:

“UNMIK Police had to deal with the aftermath of war, with dead bodies and the looted and burned houses. Ethnic violence flared through illegal evictions, forcible takeovers of properties, the burning of houses and physical violence against communities all over Kosovo. Tempers and tensions were running high amongst all ethnic groups, exacerbated by reports of missing and dead persons. It became imperative for UNMIK Police to establish order and to quickly construct a framework to register and investigate crimes.

All of this had to be done, with limited physical and human resources. Being the first executive mission in the history of the UN, the concept, planning and implementation was being developed on the ground. With 20 different contributory nationalities at the beginning, it was very challenging task for police managers to establish common practices for optimum results in a high-risk environment.”

1. The SRSG states that UNMIK international police officers had to adjust to conducting investigations in a foreign territory and country, with limited support from the still developing Kosovo Police. He further states that these investigators were often faced with situations where individuals holding relevant knowledge on the whereabouts and fate of missing persons did not want to disclose this information. According to the SRSG, “such constraints inhibited the ability of […] UNMIK Police to conduct all investigations in a manner […] that may be demonstrated by, or at least expected from, other States with more established institutions not dealing with a post-conflict context.”
2. With regard to this particular case, in relation to the first leg of the obligation related to the procedural element of Article 2 of the ECHR, the SRSG describes the difficulty that UNMIK Police had due to being given inaccurate and misleading information. He notes that “[t]he Complainant submitted in his HRAP application that his parents, Mr Stojanče Mladenović and Mrs Zorica Mladenović, were killed in their house in Novosëlle/Novo Selo, in the Municipality of Viti/Vitina, on 30 June 1999. However, the communication from HRAP states that the victims *disappeared* from their house in Novosëlle/Novo Selo, in the Municipality of Viti/Vitina, on 30 June 1999, without clarifying what was the exact place of death of the victims. Furthermore, the UNMIK Police files and OMPF files provide a different picture of the disappearance and death of the victims.” For example, the SRSG notes that the ICRC Victim Identification Forms compiled for each victim on 8 November 2001, from information received from Ms D.S., the sister of Mr Stojanče Mladenović, state: “Police (UNMIK) reportedly told them [unspecified] they [Mr Stojanče Mladenović and Mrs Zorica Mladenović] are buried in garden of own house.” The SRSG argues that “the said identical statements are difficult to interpret, as nothing in the file received from EULEX indicates that on 8 November 2001, or prior to this date, UNMIK Police held information regarding the burial site of Mr. and Mrs. Mladenović… information on this matter was not brought to the knowledge of UNMIK Police investigators until February 2005.” The SRSG notes that a different account of the disappearance of Mr Stojanče Mladenović and Mrs Zorica Mladenović transpires from an undated witness statement collected by the HLC (quoted in § 36 above).
3. The SRSG notes that the WCU Ante Mortem Investigation Report dated 18 February 2005 (see § 36 above) informs that “OMPF employees told us [WCU investigators] that they had received the information about the burial of the [victims].” He also notes that the investigation included a visit by WCU investigators to the victims’ village on 15 April 2005 to take the witness statement of the C.I. “who, according to the report, was none of the witnesses heard by OMPF in February 2005.” Likewise, the SRSG highlights the actions of the WCU investigators on 16 May 2005 and 19 May 2005 who “emailed the ICMP to enquire about the collection of ante mortem information”, as well as the WCU investigator who, on 19 May 2005, contacted Ms S.G. to enquire whether she had given ante mortem information for DNA analysis. The SRSG notes that “part of the information initially provided to UNMIK from different sources was of very little help to develop police investigative leads into the whereabouts of the missing persons, or even misleading to a large extent.”
4. Further, the SRSG argues that “[t]he witness accounts held by UNMIK Police and by the HLC are hardly compatible. The date of the disappearance of Mr. Stojanče Mladenović and Mrs. Zorica Mladenović, as reported to UNMIK through the ICRC in Prishtinë/Priština, is 30 June 1999, which is at least 10 days later than the date, which was only reported to the HLC by unspecified sources, i.e. 19 June 1999. The lack of accurate information does not help the effectiveness of investigations into missing persons cases and adds to the difficulty…in connection with a post-conflict environment and with a highly tense security situation on the ground. Moreover the place of disappearance reported to UNMIK was the house of the victims in the village of Novosëlle/Novo Selo, but the information in possession of the HLC suggests otherwise. Most importantly, the poor and contradictory information provided to UNMIK through the ICRC in Prishtinë/Priština, suggesting either that Mrs. Zorica Mladenović was likewise killed and buried in her house courtyard or that she was living in Serbia still in 2005, turned out to be a red herring… None of the witnesses interviewed by both OMPF and WCU in 2005 provided any effective investigative leads…It transpires from the file transmitted by EULEX that the mortal remains of Mrs. Zorica Mladenović were exhumed on 11 July 2000 from an unspecified place in the village of Baballoq/Babloć, Deçan/Dečani Municipality… and then brought to the Rahovec/Orahovac Mortuary for an autopsy conducted by the ICTY forensic team, on 12 July 2000. As the mortal remains were highly incomplete and showed no injuries, the cause of death remained unascertained. In sum, the inaccurate information UNMIK could rely on would not contribute to the ICTY and UNMIK forensic experts’ efforts to identify Mrs. Mladenović’s mortal remains…in an already complicated investigative and forensic setting.”
5. The SRSG further notes that “[o]n the other hand, the mortal remains of Mr. Stojanče Mladenović were exhumed from an unknown grave site on 4 November 2003…and brought to the Rahovec/Orahovac Mortuary for an autopsy by the UNMIK OMPF, on 9 December 2003. As the said remains were highly incomplete and no traumatic *perimortem* injuries could be observed during the autopsy, the cause of death remained unascertained.” The SRSG notes that Confirmation of Identity Certificates, Identity Certificates and Death Certificates were issued by the OMPF for both Mr Stojanče Mladenović and Mrs Zorica Mladenović between 1 September 2005 and 15 September 2005. He also notes that “[o]n 21 September 2005, OMPF handed over the mortal remains of both victims to the Complainant, and both UNMIK Police investigative files were closed.”
6. The SRSG argues that “the lapse of years between the time of reporting the incident to UNMIK and the actual identification of the mortal remains of Mr. Stojanče Mladenović and Mrs. Zorica Mladenović must be assessed by the Panel against the broader context of UNMIK’s criminal investigations in post-conflict Kosovo…to which inaccurate and misleading information, as reported to UNMIK, must be added. Within this difficult framework, it appears that UNMIK complied with its obligation to determine through an appropriate investigation the fate and whereabouts of Mr. Stojanče Mladenović and Mrs. Zorica Mladenović.”
7. With respect to the investigation aimed at identifying and bringing to justice those responsible for the killing of Mr Stojanče Mladenović and Mrs Zorica Mladenović, the SRSG submits that “the investigation files made available so far, on the other hand, do not provide evidence…whether UNMIK complied with its obligation to conduct [such] an investigation. The investigation files …are not conclusive and reveal an overall dearth of information. They indicate that UNMIK complied with its obligation to open, in November 2001, an investigation into the disappearance of the two victims and that the investigation was pursued and reviewed until September 2005 by UNMIK Police. It is highly questionable whether the second-hand, vague and partly contradictory statements given by number of witnesses in February 2005 and April 2005 may have been of any assistance to UNMIK Police to develop leads for follow-up investigation.” He also argues that, “UNMIK has noted in other missing persons’ cases, without physical evidence being discovered, police investigations inevitably stall because of a lack of evidence. No witnesses with first-hand information on the disappearance ever came forward. The daughter of the missing persons, who was the only witness known to UNMIK Police since the beginning of the investigation, though not an eye-witness, was contacted twice by police investigators but never provided any relevant information on the incident, nor names of possible eye-witnesses that UNMIK could contact.”
8. The SRSG concludes that with regard to the complaint, “it is submitted that UNMIK, in light of the evidence submitted to it, took all reasonable steps to investigate the disappearance and possible killing of Mr. Stojanče Mladenović and Mrs. Zorica Mladenović, in accordance with the procedural requirements of Article 2, ECHR ...Therefore the Complaint should be rejected in its entirety.”
9. The SRSG also informed the Panel that in a view of a possibility that more information in relation to this case exists, he might make further comments on this matter. However, no further communication in this regard, other than confirmation of the full disclosure of the investigative files, has been received to date.
   1. **The Panel’s assessment**
10. 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 did not conduct an effective investigation into the killing of Mr Stojanče Mladenović and Mrs Zorica Mladenović.
11. *Submission of relevant files*

1. At the Panel’s request, on 10 September 2013, the SRSG provided copies of the documents related to this investigation, which UNMIK was able to recover. The SRSG also noted that there is a possibility more information, not contained in the presented documents, exists, but provided no further details. On 22 April 2014. UNMIK confirmed to the Panel that no more files have been located, thus the disclosure may be considered complete (see § 7 above).
2. 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 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, *Çelikbilek v. Turkey*, no. 27693/95, judgment of 31 May 2005*,* § 56).
3. Furthermore, the Panel notes that the proper maintenance of investigative files concerning crimes such as killings and disappearances, from the opening of the investigations to their handing over, is crucial to the continuation of such investigations and failure to do so could thus raise *per se* issues under Article 2.
4. The Panel has no reason to doubt that UNMIK undertook all efforts in order to obtain the relevant investigative files. However, the Panel notes that UNMIK has not provided any explanation as to why the documentation may be incomplete, nor with respect to which parts.
5. 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 of15 March 2011, § 146).
6. *General principles concerning the obligation to conduct an effective investigation under Article 2*
7. The Panel notes that the positive obligation to investigate has 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 ICCPR (see United Nations 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 (UN Document 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.
8. In order to address the complainant’s allegations, the Panel refers to the well-established case-law of the European Court of 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 [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, § 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).
9. 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 § 45 above, at § 136).
10. 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).
11. Setting out the standards of an effective investigation, the Court has stated that “besides being independent, accessible to the victim’s family, carried out with reasonable promptness and expedition and affording a sufficient element of public scrutiny of the investigation or its results, the investigation must also be effective in the sense that it is capable of leading to a determination of whether the death was caused unlawfully and if so, to the identification and punishment of those responsible” (see ECtHR [GC], *Varnava and Others v.* Turkey, cited in § 45 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 ECtHR, *Isayeva v. Russia*, cited above, at § 212).
12. 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 § 71, 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 Mazăre* *v. Romania*, no. 64301/01, judgment of 1 December 2009, § 105).
13. A requirement of promptness and reasonable expedition is implicit in this context. Even where there may be obstacles or difficulties which prevent progress in an investigation in a particular situation, a prompt response by the authorities is vital in maintaining public confidence in their adherence to the rule of law and in preventing any appearance of collusion in or tolerance of unlawful acts (see ECtHR, *Paul and Audrey Edwards* *v. the United Kingdom*, no. 46477/99, judgment of 14 March 2002, § 72, ECHR 2002‑II).
14. 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 § 74 above, § 46; in the same sense ECtHR [GC], *Varnava and Others v. Turkey*, cited in § 45 above, § 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, § 46; in the same sense ECtHR [GC], *Varnava and Others v. Turkey*, cited above, § 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, § 64).
15. 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 *Ahmet Özkan and Others v. Turkey*, cited in § 73 above, at §§ 311‑314; *Isayeva v. Russia*, cited in § 73 above, §§ 211-214 and the cases cited therein).” ECtHR [GC], *Al-Skeini and Others v. United Kingdom*, no. 55721/07, judgment of 7 July 2011, § 167, ECHR 2011).
16. The Court has also underlined the great importance of an effective investigation in establishing the truth of what transpired thereby satisfying the right to truth not only for the families of victims, but also for other victims of similar crimes, as well as the general public, who have the right to know what occurred (ECtHR [GC], *El-Masri v. The Former Yugoslav Republic of Macedonia*, no. 39630/09, judgment of 13 December 2012, § 191; ECtHR, *Al Nashiri v. Poland*, no. 28761/11, judgment of 24 July 2014, §§ 495-496). United Nations bodies also recognise the importance of the right to truth. In the words of the United Nations Secretary-General, “the right to truth implies knowing the full and complete truth about the violations and the events that transpired, their specific circumstances and who participated in them. In the case of missing persons … it also implies the right to know the fate and whereabouts of the victim” (see Report of the UN Secretary-General, Missing Persons, UN Document A/67/267, 8 August 2012, § 5; see also HRC,  *Schedko and Bondarenko v. Belarus*, Communication no. 886/1999, views of 3 April 2003, § 10.2, CCPR/C/77/D/886/1999; HRC, *Mariam, Philippe, Auguste and Thomas Sankara v. Burkina Faso*, Communication no. 1159/2003, views of 8 March 2006, § 10.2, CCPR/C/86/D/1159/2003; UN Human Rights Council, Resolutions 9/11 and 12/12: Right to the Truth, 24 September 2008 and 12 October 2009; Preamble and Article 24 (2) of the Convention for the Protection of All People from Enforced Disappearance, cited in § 106 above; see also Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Mr Ben Emmerson, *Framework Principles for securing the accountability of public officials for gross and systematic human rights violations committed in the context of State counter-terrorist initiatives*, UN Document A/HRC/22/52, 1 March 2013, § 23-26).
17. *Applicability of Article 2 to the Kosovo context*
18. The Panel is conscious that Mr Stojanče Mladenović and Mrs Zorica Mladenović were killed shortly after the deployment of UNMIK in Kosovo in the aftermath of the armed conflict, when crime, violence and insecurity were rife.
19. 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.
20. The Panel considers that this raises 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.
21. 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 and others, 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).
22. Concerning the applicability of Article 2 to situations of conflict or generalised violence, the Panel recalls that the European Court of 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 § 74 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 § 78 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 § 73 above, at §§ 85-90, 309-320 and 326-330; *Isayeva v. Russia*, cited in § 73 above, at §§ 180 and 210; ECtHR, *Kanlibaş v. Turkey*, no. 32444/96, judgment of 8 December 2005, §§ 39-51).
23. The Court has acknowledged that “where the death to be investigated under Article 2 occurs 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 § 71 above, at §§ 86‑92; ECtHR, *Ergi v Turkey,* cited above, at §§ 82-85; ECtHR [GC], *Tanrıkulu 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).
24. 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 § 69 above, at § 1; HRC, *Abubakar Amirov and Aïzan Amirova v. Russi*a*n Federation*, communication no. 1447/2006, views of 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).
25. 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 § 16 above).
26. 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.
27. Lastly, 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 policingg 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 § 74 above, at § 70; *Brecknell v. The United Kingdom,* no. 32457/04, judgment of 27 November 2007, § 62).
28. *Compliance with Article 2 in the present case*
29. Turning to the particulars of this case, the Panel notes that the investigative file reflects that UNMIK became aware of Mr Stojanče Mladenović and Mrs Zorica Mladenović’s killing no later than 8 November 2001 (see § 26 above) when the UNMIK Police opened an investigation into the matter.
30. The purpose of this investigation was to discover the truth about the circumstances of Mr Stojanče Mladenović and Mrs Zorica Mladenović’s killing and to identify the perpetrators. To fulfil these purposes, those conducting the investigation were required to seek, collect and preserve evidentiary material; to identify possible witnesses and to obtain their statements; to identify the perpetrator(s) and bring them before a competent court established by law.
31. The Panel recalls that in order to be effective, the investigative actions must be conducted promptly and expeditiously, with the authorities taking all reasonable steps and following obvious lines of enquiry to secure the evidence concerning the incident, including, *inter alia* eye-witness testimony, forensic evidence etc. The investigation must also ensure a sufficient element of public scrutiny and be reasonably accessible to the victim’s family. The investigation’s conclusion must be based on thorough, objective and impartial analysis of all relevant elements. In addition, the investigation should be periodically reviewed, in order to ensure that all available information is considered. As the obligation to investigate is not an obligation of results but of means, in assessing the investigation’s effectiveness, the circumstances of the particular case and the practical realities of the investigative work must be taken into consideration (see §§ 74 - 75 above).
32. The Panel notes that there were obvious shortcomings in the conduct of the investigation from its commencement. However, in light of the considerations developed above concerning its limited temporal jurisdiction (see § 45 above), 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 (see ECtHR, *Palić v. Bosnia and Herzegovina,* cited in § 74 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 § 18 above).
33. The Panel notes in this regard that according to the 2000 Annual Report of UNMIK Police, the complete executive policing powers in the Pejë/Peć region, including criminal investigations, were under the full control of UNMIK Police from June 2000 (check). 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 the investigation (EULEX); and *third*, that the investigative files could be traced and retrieved, should a need for that arise at any later stage.
34. Having noted the SRSG’s assertion that the file submitted to the Panel may be incomplete, and his failure to provide further explanation in relation to this (see § 62 above), the Panel assumes that UNMIK cannot guarantee whether the file presented to the Panel is complete or not. In case it is not complete, it would indicate that one of the following situations may have occurred: no proper investigation was carried out; the file was not accurately and fully handed over to EULEX; or UNMIK failed to retrieve the complete file from the current custodian. The Panel has already noted above that it has no reason to doubt UNMIK’s good faith in seeking to provide the complete investigative file for its review (see § 68 above). However, the Panel considers that whichever of these potential explanations is applicable, it would indicate a failure directly attributable to UNMIK, either when it was exercising its executive functions, or in its current capacity.
35. With regard to the first part of the procedural obligation, that is locating the mortal remains of Mr Stojanče Mladenović and Mrs Zorica Mladenović, the Panel concludes from the file that regarding Mrs Zorica Mladenović, her mortal remains were exhumed on 11 July 2000 from an unspecified place in the village of Baballoq/Babloć, Deçan/Dečani Municipality and then brought to the Rahovec/Orahovac Mortuary for an autopsy conducted by the ICTY forensic team, on 12 July 2000. Regarding Mr Stojanče Mladenović, his mortal remains were exhumed from an unknown grave site on 4 November 2003 and brought to the Rahovec/Orahovac Mortuary for an autopsy conducted by the UNMIK OMPF, on 9 December 2003.
36. The Panel notes that the SRSG argues that UNMIK fulfilled the requirements with regard to the first part of the procedural obligation. He states that “UNMIK complied with its obligation to determine through an appropriate investigation the fate and whereabouts of Mr. Stojanče Mladenović and Mrs. Zorica Mladenović”. Although it took many years to achieve, the SRSG argues that “the lapse of years between the time of reporting the incident to UNMIK and the actual identification of the mortal remains of Mr. Stojanče Mladenović and Mrs. Zorica Mladenović must be assessed by the Panel against the broader context of UNMIK’s criminal investigations in post-conflict Kosovo…to which inaccurate and misleading information, as reported to UNMIK, must be added.”
37. The Panel notes with regret the SRSG’s comment that in the effort to demonstrate that crimes were systematic and widespread, the ICTY impeded identification of the dead in some instances (see § 53 above). Nevertheless, the Panel notes in September 2005, UNMIK did identify the mortal remains of Mr Stojanče Mladenović and Mrs Zorica Mladenović, as well as return the mortal remains of Mr Stojanče Mladenović and Mrs Zorica Mladenović to their family. Although this must be considered in itself an achievement, the Panel recalls that the procedural obligation under Article 2 did not come to an end with the discovery, identification and subsequent hand-over of Mr Stojanče Mladenović and Mrs Zorica Mladenović’s mortal remains, especially as they showed signs of a violent death. Now the Panel will turn to the investigation carried out by UNMIK Police with the aim of identifying the perpetrator(s) and bringing them to justice, that is, the second element of the procedural obligation under Article 2 of the ECHR.
38. The Panel is mindful that in any investigation of a killing, the initial stage is of the utmost importance, and it serves two main purposes: to identify the direction of the investigation and ensure preservation and collection of evidence for future possible court proceedings (see the Panel’s position on a similar matter expressed in the case *X*., nos. 326/09 and others, opinion of 6 June 2013, § 81).
39. In this respect, the Panel notes that, as established above, UNMIK became aware of the killing of Mr Stojanče Mladenović and Mrs Zorica Mladenović by 8 November 2001 at the latest, as the investigation into the matter had been opened by the MPU by then (see § 26 above). However, no immediate action was taken by UNMIK Police, except for probably making an initial assessment of the information and registering the case.
40. The Panel notes that by 8 November 2001 UNMIK Police possessed a considerable amount of information, including Ms D.S.’s (the complainant’s aunt) name, address and telephone number, her full description of her brother and sister-in-law’s killing, as well as information about a possible burial site (see § 27 above). There is no evidence in the file that UNMIK Police took a formal witness statement from Ms D.S., nor evidence that UNMIK Police searched the home where the killings allegedly took place or canvassed the area near the complainant’s home to locate any other persons that may have had useful information. These were obvious lines of enquiry for which there is no evidence that the UNMIK Police attempted to follow.
41. With respect to the SRSG’s statement that “UNMIK complied with its obligation to open, in November 2001, an investigation into the disappearance of the two victims and that the investigation was pursued and reviewed until September 2005 by UNMIK Police.”, the Panel disagrees. There has been no evidence provided in the file showing that UNMIK Police carried out any investigative activity whatsoever between 8 November 2001, when the MPU received the initial information and 18 February 2005, when UNMIK Police started contacting witnesses. Similarly, although the SRSG notes that the “daughter of the missing persons, who was the only witness known to UNMIK Police since the beginning of the investigation…was contacted twice by police investigators” the first contact was made only in February 2005 (see § 57 above). The file shows that on 23 February 2005 and 15 April 2005, UNMIK Police interviewed three different informants that chose to remain anonymous; however, there is no evidence that these statements were recorded in the file. There is no evidence provided in the file as to why these interviews were not conducted sooner.
42. The Panel likewise recalls the SRSG’s argument that “without physical evidence being discovered, police investigations inevitably stall because of a lack of evidence. No witnesses with first-hand information on the disappearance ever came forward (see § 61 above). In this regard, the Panel must note that almost any investigation at its initial stage lacks a significant amount of information. Finding the necessary information to fill those gaps is the main goal of any investigative activity. Therefore, a lack of information should not be used as an argument to defend inaction by the investigative authorities. The file, as made available to the Panel, does not show any such activity. Thus, it appears that, instead of actively searching for information and leads, UNMIK Police simply waited for further information to appear by itself. In this situation it may have led to the loss of potential evidence (see e.g. HRAP, *P.S*., no. 48/09, opinion of 31 October 2013, § 107).
43. Concerning the SRSG’s argument that UNMIK Police had been given inaccurate and misleading information (see § 60 above), the Panel considers that it is precisely the function of investigative authorities to clarify the circumstances of a crime and to pursue further their investigations.
44. In the Panel’s view, it is because of the lack of reliable information at the initial stage that this case was closed, without any investigative action by the MPU (see § 35 above). The Panel recalls in this regard its position in relation to the categorisation of cases into “active” and “inactive”, that any “categorisation of an investigation should take place only after the minimum possible investigative actions have been undertaken and obtainable information has been collected and analysed” (see e.g. HRAP, *B.A*., no. 52/09, opinion of 14 February 2013, § 82). In this case, such prioritisation should not have been made at the earliest stages, before the complainant and the witnesses had been interviewed about the circumstances of the killing, and all obtainable evidence had been collected.
45. The Panel notes in this context that if not worked upon, developed, corroborated by other evidence and put in a proper form, any information by itself, however good it might be in relation to a crime under investigation, does not solve it. In order to be accepted in court, information must become evidence, which can only happen through investigative actions undertaken in compliance with the applicable rules of criminal procedure. In this case, the Police appear to have never undertaken any action in this direction (see e.g. HRAP, *Todorovski*, case no. 81/09, opinion of 31 October 2013, § 116).
46. Coming to the period within its jurisdiction, starting from 23 April 2005, the Panel notes that after that critical date the failure to conduct the necessary investigative actions, including those at the initial stage, persisted. Accordingly, inadequacies existing up until that date were not addressed. Thus, in accordance with the continuing obligation to investigate (see § 77 above), the assessment of the whole investigation is brought within the period of the Panel’s jurisdiction.
47. In addition, the Panel considers that as those responsible for the crime had not been identified, UNMIK Police was obliged to use the means at their disposal to regularly review the progress of the investigation to ensure that nothing had been overlooked and that any new evidence had been considered, as well as to inform the relatives regarding the progress of this investigation.
48. The Panel understands from the file that the only investigative activity that took place in this period was the MPU’s phone conversation with the complainant’s sister Ms S.G. on 19 May 2005 concerning whether the family had given blood samples for DNA analysis (see § 30 above). According to the file, Ms S.G. informed the MPU that her brother, the complainant, was cooperating about this; however, there is no evidence presented in the file that any further investigative activity was contemplated or accomplished subsequent to this conversation, including the MPU interviewing the complainant about the case.
49. Likewise, the Panel understands from the file that the investigation was reviewed once by the WCIU, on 17 May 2007, with the completion of an unnamed document. There is no evidence from this review that any further investigative activity was contemplated or accomplished. Under the heading labelled “Investigator Notes”, the document informs that the reviewing officer suggested that the status of the case remain inactive, and the apparent reason given for this was that the OMPF had identified the mortal remains of Mr Stojanče Mladenović and Mrs Zorica Mladenović (see § 37 above).
50. In the Panel’s opinion, there was no adequate and thorough review of this case. Instead, the case review appears to have been undertaken as a mere formality, as police failed to identify obvious gaps in the investigative process and failed to act upon available information, thus carrying over the mistakes made by previous investigator(s).
51. The apparent lack of any immediate reaction from UNMIK Police, and of any adequate action at later stages, may have suggested to the 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 that UNMIK had encountered at the beginning of its mission, which were discussed above, do not justify such inaction, either at the outset or subsequently.
52. The Panel is also aware that the duty to investigate is not breached merely because the investigation does not produce a satisfactory result. Nevertheless, such an investigation must be undertaken in a serious manner and not be a mere formality. The Panel considers that, having regard to all the circumstances of the particular case, not all reasonable steps were taken by UNMIK towards identifying the perpetrators and bringing them to justice. 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 § 74 above), as required by Article 2 of the ECHR.
53. As concerns the requirement of public scrutiny, the Panel recalls that Article 2 also requires the victims’ next-of-kin to be involved in the investigation to the extent necessary to safeguard his or her legitimate interests.
54. As was shown above, the investigative file indicates only limited attempts made by UNMIK Police to contact the next-of-kin of Mr Stojanče Mladenović and Mrs Zorica Mladenović. The only contacts with the complainant’s family were made by the MPU, when it collected ante-mortem information from the complainant’s aunt Ms D.S. on 8 November 2001, and when its officers had a telephone conversation with the complainant’s sister concerning whether the family had given blood samples for DNA analysis on 19 May 2005. In this regard, the Panel has already noted that the investigative file shows that there has been no contact whatsoever between UNMIK and the complainant with respect to the investigation (see § 108 above). The Panel therefore considers that the investigation was not open to any public scrutiny, as required by Article 2 of the ECHR.
55. In light of the deficiencies and shortcomings described above, the Panel concludes that UNMIK failed to carry out an effective investigation into the killing of Mr Stojanče Mladenović and Mrs Zorica Mladenović. There has accordingly been a violation of Article 2, procedural limb, of the ECHR.

**V. CONCLUDING COMMENTS AND RECOMMENDATIONS**

1. In light of the Panel’s findings in this case, the Panel is of the opinion that some form of reparation is necessary.
2. 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 victims and their next-of-kin, in particular the right to have the truth of the matter determined.
3. 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.
4. 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 § 18), UNMIK’s responsibility with regard to the administration of justice in Kosovo ended on 9 December 2008. 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.
5. 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 means available to it *vis-à-vis* the competent authorities in Kosovo, 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 killing of Mr Stojanče Mladenović and Mrs Zorica Mladenović 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 killing of Mr Stojanče Mladenović and Mrs Zorica Mladenović and make a public apology to the complainant and his 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.

**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. **RECOMMENDS THAT UNMIK:**
3. **URGES THE COMPETENT AUTHORITIES IN KOSOVO TO TAKE ALL POSSIBLE STEPS IN ORDER TO ENSURE THAT THE CRIMINAL INVESTIGATION INTO THE KILLING OF MR STOJANČE MLADENOVIĆ AND MRS ZORICA MLADENOVIĆ IS CONTINUED IN COMPLIANCE WITH ARTICLE 2 OF THE ECHR AND THAT THE PERPETRATORS ARE BROUGHT TO JUSTICE;**
4. **PUBLICLY ACKNOWLEDGES RESPONSIBILITY FOR ITS FAILURE TO CONDUCT AN EFFECTIVE INVESTIGATION INTO THE KILLING OF MR STOJANČE MLADENOVIĆ AND MRS ZORICA MLADENOVIĆ AND MAKES A PUBLIC APOLOGY TO THE COMPLAINANT;**
5. **TAKES APPROPRIATE STEPS TOWARDS PAYMENT OF ADEQUATE COMPENSATION FOR MORAL DAMAGE IN RELATION TO THE FINDING OF VIOLATIONS OF ARTICLE 2 OF THE ECHR TO THE COMPLAINANT;**
6. **TAKES APPROPRIATE STEPS TOWARDS THE REALISATION OF A FULL AND COMPREHENSIVE REPARATION PROGRAMME;**
7. **TAKES APPROPRIATE STEPS AT THE UNITED NATIONS AS A GUARANTEE OF NON REPETITION;**
8. **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.**

Anna Maria Cesano Marek Nowicki

Acting Executive Officer Presiding Member

*Annex*

**ABBREVIATIONS AND ACRONYMS**

**CCIU** - Central Criminal Investigation Unit

**CCPR –** International Covenant on Civil and Political Rights

**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

**FYROM** - Former Yugoslav Republic of Macedonia

**HRAP** - Human Rights Advisory Panel

**HRC** - United Nation Human Rights Committee

**HQ** - Headquarters

**IACtHR** – Inter-American Court of Human Rights

**ICMP** - International Commission of Missing Persons

**ICRC** - International Committee of the Red Cross

**ICTY** - International Criminal Tribunal for former Yugoslavia

**IPO –** International Police Officer

**KFOR** - International Security Force (commonly known as Kosovo Force)

**KLA** - Kosovo Liberation Army

**MPU** - Missing Persons Unit

**NATO** - North Atlantic Treaty Organization

**OMPF** - Office on Missing Persons and Forensics

**OSCE** - Organization for Security and Cooperation in Europe

**RIU** - Regional Investigation Unit

**SIU –** Special Investigations Unit of the UNMIK Security

**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

1. A list of abbreviations and acronyms contained in the text can be found in the attached Annex. [↑](#footnote-ref-1)
2. 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” (htpp://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.unhchr.org](http://www.unhchr.org)) and by the International Committee of the Red Cross (available at <http://familylinks.icrc.org/kosovo/en>). [↑](#footnote-ref-2)
3. The OMPF database is not open to public. The Panel accessed it with regard to this case on 3 August 2014. [↑](#footnote-ref-3)
4. The ICMP database is available at: <http://www.ic-mp.org/fdmsweb/index.php?w=mp_details&l=en> (accessed on 3 August 2014). [↑](#footnote-ref-4)
5. I can’t explain why this date 19 May 2005, is later than the alleged date of the document 25 April 2005, except that one of them must be a mistake. [↑](#footnote-ref-5)