

**OPINION**

**Date of adoption: 19 March 2015**

**Case No. 287/09**

**Nebojša GRUJIĆ**

**against**

**UNMIK**

The Human Rights Advisory Panel, on 19 March 2015,

with the following members taking part:

Marek Nowicki, Presiding Member

Christine Chinkin

Françoise Tulkens

Assisted by

Andrey Antonov, 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, including through electronic means, in accordance with Rule 13 § 2 of its Rules of Procedure, makes the following findings and recommendations:

1. **PROCEEDINGS BEFORE THE PANEL**
2. The complaint was introduced on 3 April 2009 and registered on 30 April 2009.
3. On 23 December 2009, 24 November 2010 and 20 April 2011, the Panel requested the complainant to provide additional information. No response was received from the complainant.
4. On 12 January 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 27 February 2012, the SRSG submitted UNMIK’s response.
5. On 10 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. On 6 August 2013, the SRSG provided UNMIK’s comments on the merits of the complaint, together with copies of the investigative files.
7. On 4 March 2015, the Panel requested UNMIK to confirm if the disclosure of files concerning the case could be considered final. On 17 March 2015, UNMIK provided its response.
8. **THE FACTS**
9. **General background[[2]](#footnote-2)**
10. 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).
11. The armed conflict during 1998 and 1999 between the Serbian forces on one side and the Kosovo Liberation Army (KLA) and other Kosovo Albanian armed groups on the other is well documented. Following the failure of international efforts to resolve the conflict, on 23 March 1999, the Secretary General of the North Atlantic Treaty Organisation (NATO) announced the commencement of air strikes against the Federal Republic of Yugoslavia (FRY). The air strikes began on 24 March 1999 and ended on 8 June 1999 when the FRY agreed to withdraw its forces from Kosovo. On 9 June 1999, the International Security Force (KFOR), the FRY and the Republic of Serbia signed a “Military Technical Agreement” by which they agreed on FRY withdrawal from Kosovo and the presence of an international security force following an appropriate UN Security Council Resolution.
12. On 10 June 1999, the UN Security Council adopted Resolution 1244 (1999). Acting under Chapter VII of the UN Charter, the UN Security Council decided upon the deployment of international security and civil presences - KFOR and UNMIK respectively - in the territory of Kosovo. Pursuant to Security Council Resolution 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.
13. Estimates regarding the effect of the conflict on the displacement of the Kosovo Albanian population range from approximately 800,000 to 1.45 million. Following the adoption of Resolution 1244 (1999), the majority of Kosovo Albanians who had fled, or had been forcibly expelled from their houses by the Serbian forces during the conflict, returned to Kosovo.
14. Meanwhile, members of the non-Albanian community – mainly but not exclusively Serbs, Roma and Slavic Muslims – as well as Kosovo Albanians suspected of collaboration with the Serbian authorities, became the target of widespread attacks by Kosovo Albanian armed groups. Current estimates relating to the number of Kosovo Serbs displaced fall within the region of 200,000 to 210,000. Whereas most Kosovo Serbs and other non-Albanians fled to Serbia proper and the neighbouring countries, those remaining behind became victims of systematic killings, abductions, arbitrary detentions, sexual and gender based violence, beatings and harassment.
15. Although figures remain disputed, it is estimated that more than 15,000 deaths or disappearances occurred during and in the immediate aftermath of the Kosovo conflict (1998-2000). More than 3,000 ethnic Albanians, and about 800 Serbs, Roma and members of other minority communities went missing during this period. More than half of the missing persons had been located and their mortal remains identified by the end of 2010, while 1,766 are listed as still missing by the International Committee of the Red Cross (ICRC) as of October 2012.
16. 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.
17. 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.
18. 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”.
19. 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. On 5 November 2001, UNMIK signed the UNMIK-FRY Common Document, which among other things reiterated the commitment of solving the fate of missing persons from all communities and recognised that the exhumation and identification programme is only part of the activities related to missing persons. 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.
20. 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.
21. 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 supposed to be handed over to EULEX.
22. **Circumstances surrounding the abduction and killing of Mr Branislav Grujić**
23. The complainant is the son of Mr Branislav Grujić.
24. The complainant states that on 18 June 1999, Mr Branislav Grujić was abducted from his vehicle by unnamed persons in Pejë/Peć as he was trying to locate his nephew Mr Milorad Grujić, who had also been disappeared[[3]](#footnote-3). He was never seen alive again.

1. The complainant states that the abduction was reported to UNMIK, KFOR, the ICRC and to other relevant institutions.
2. On 12 July 1999, the ICRC opened a tracing request for Mr Branislav Grujić. Likewise, his name appears in the list of missing persons communicated by the ICRC to UNMIK Police on 10 September 2001, for which ante-mortem data had been collected. The name of Mr Branislav Grujić is included in the database compiled by the UNMIK OMPF[[4]](#footnote-4). The entry in relation to Mr Branislav Grujić in the online database maintained by the ICMP[[5]](#footnote-5) reads in relevant fields: “Sufficient Reference Samples Collected” and “ICMP has provided information on this person on 02-28-2005 to authorized institution. To obtain additional information, contact EULEX Kosovo Headquarters.”
3. On 1 April 2005, the UNMIK OMPF returned the mortal remains of Mr Branislav Grujić to his family members.

**C. The investigation**

*Disclosure of relevant files*

1. On 6 August 2013, UNMIK provided to the Panel documents which were held previously by the UNMIK OMPF, UNMIK Police and EULEX. On 17 March 2015, UNMIK confirmed to the Panel that all files in UNMIK’s possession have been disclosed.
2. 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.

*The OMPF Investigation with Regard to the Mortal Remains*

1. The OMPF file contains an ICTY document entitled “Autopsy Report” dated 3 August 2000 and affixed with the ICTY case number KX01/001B, which informs that the ICTY pathologist conducted an autopsy on unidentified human mortal remains on 28 July 2000. The Autopsy Report also states that “that the cause of death…was gunshot to the left side of the head.” The file also contains a Death Certificate that was issued by the ICTY on 6 September 2000, and it lists the date of death as being prior to 29 June 2000 and the cause of his death as being “[k]nown by the ICTY but not disclosed by the ICTY as a matter of policy”.
2. The first document in the MPU file is an undated Ante-Mortem Victim Identification Form, affixed with the MPU file no. 2002-000655. Besides containing the personal details and ante-mortem description of Mr Branislav Grujić, it provides the name, address and telephone numbers of the complainant and the complainant’s mother, Mrs M.G. in Serbia proper.
3. The MPU file contains an undated Case Continuation Report for Mr Branislav Grujić, affixed with the MPU file no. 2002-000655. The Report contains one input, dated 9 October 2002 which states “Input DB according to the statement of [Mr Branislav Grujić’s] son.”

1. The MPU file contains a document labelled “MPU Ante Mortem Report”, started on 26 May 2004 and completed on 28 October 2004, affixed with the MPU file no. 2002-000655 and cross-referenced with the WCIU file no. 0420/INV/04. The Report lists both Mr Branislav Grujić and Mr Milorad Grujić as missing persons, and it lists the complainant and Mrs M.G., his mother, as witnesses. Under the heading labelled “Nature of Information”, the Report states,

 “GRUJIC Branislav and his wife, [Mrs M.G.], went out to the city to look for GRUJIC Milorad. UCK soldiers stopped them and only GRUJIC Branislav was forced inside his car and to go to GRUJIC Milorad’s house. He was never seen again.

Peje, on 24th June 1999, GRUJIC Nebojsa saw GRUJIC Branislav’s vehicle, but with insignia on the trunk ‘UCK-NATO’. He informed Italian KFOR, but they didn’t react. Statement given by GRUJIC Nebojsa on 27th October 2002 and attached. From the eyewitnesses of the kidnappings… no statements were taken until now. AM-Data of both MP’s and Blood Samples are not taken.”

1. Under the heading labelled “Further Investigation”, the Report informs that on 4 October 2004, the relatives of Mr Branislav Grujić, including the complainant, gave blood samples and other ante-mortem data. The Report also informs that on 25 October 2004, an eyewitness to the abduction of Mr Milorad Grujić, Ms N.D., gave a statement to “Interpol Belgrade” and named one of his alleged KLA abductors.
2. The file also contains an OMPF document entitled “DNA Report”, dated 2 February 2005, which states that the ICMP had provided results of Mr Branislav Grujić’s identification through DNA matching. The file also contains an OMPF document entitled “Identification Certificate”, dated 3 March 2005, affixed with the MPU file no. 2002-000655 and cross-referenced with the ICTY case number KX01/001B, which informs that the mortal remains of Mr Branislav Grujić were located on 29 June 2000 in Gjakovë/Ðjakovica and states that his estimated date of death was “prior to 29 June 2000”. The file also contains another OMPF document entitled “Confirmation of Identity”, dated 3 March 2005, affixed with MPU file no. 2002-000655 and cross-referenced with the ICTY case number KX01/001B, which states that an OMPF pathologist compared the ante-mortem and post-mortem information and that the results confirmed Mr Branislav Grujić’s identity. The file also contains a Death Certificate that was issued by OMPF on 3 March 2005 and it lists Mr Branislav Grujić’s cause of death as “gunshot to the left side of the head”.
3. The MPU file contains an unnamed document, dated 1 April 2005, affixed with the MPU file no. 2202-000655 and cross-referenced with the case no. KX01-001B, which is signed by the complainant and confirms that he received the mortal remains of Mr Branislav Grujić.

*Investigation with regard to perpetrator(s)*

1. This part of the investigative file contains an internal memorandum dated 7 October 2002, affixed with the file no. 299-02-PLO-BEL, from the UNMIK Police Belgrade Liaison Office to MPU in Prishtinë/Priština, which transcribes the statement that the complainant gave to the UNMIK Police Belgrade Liaison Office. The complainant reportedly states that although he was not present at the disappearance of his father, his mother Mrs M.G. had seen everything and she had told him what had occurred. The complainant further provided the name of a witness, Ms N.D., that was present at the kidnapping of his cousin Mr Milorad Grujić, and informed that the same KLA soldiers that had abducted his cousin also later abducted his father.
2. The investigative also contains a copy of a fax, dated 27 September 2004, affixed with the file no. ICT-INT-2052-09-04/VN, from an MPU investigator through the CCIU Interpol Liaison Office to Interpol Belgrade. In addition to providing the basic facts concerning the abductions of Mr Branislav Grujić and Mr Milorad Grujić, the memorandum attaches a list of questions for the witness Ms N.D. to answer. The memorandum also requests a police investigator in Montenegro to arrange an appointment with Ms N.D. in order to obtain her written statement.
3. The investigative file contains a printout of a fax from Interpol Belgrade to the CCIU, dated 25 October 2004, affixed with the file no. ICT-INT-2052-09-04/VN, informing that an investigator from the Montenegrin Interior Ministry had questioned Ms N.D. The printout provides the answers of Ms N.D., which include her naming of one of the kidnappers, Mr A.G. She also informs that some of those KLA soldiers that had kidnapped Mr Branislav Grujić and Mr Milorad Grujić, including Mr A.G., had kidnapped and tortured her husband Mr I.D., although one of the UCK soldiers later allowed him to escape. Concerning the other abductors, she states “I could recognise them if I saw them since I have known them for years as residents of Pec.”
4. The investigative file contains a document labelled “Investigator’s Diary” which contains more than 90 inputs with dates ranging from 25 February 2007 until 26 August 2007 that describe investigative activities undertaken by the WCIU investigator in the case 2005-00025. For example, the input for 11 April 2007 states that “the investigator will to try to take the statements of Mr I.D., Ms N.D. and Mrs M.G. and to show them a photo line-up with the photos of Mr A.G.” The input also states that the investigator will try to get further information from a couple others relevant persons. The input for 17 May 2007 states that “an [international prosecutor] will now be appointed to this case.” The input for 22 June 2007 states that UNMIK DoJ had forgot to appoint an international prosecutor, but that it would be done after a legal officer reviewed the file to ensure that there was a reasonable chance for prosecution. The input for 23 July 2007 states that “regarding the appointment of [an international prosecutor], [the legal officer]…requested that I continue to research the possible related cases to establish whether they can be incorporated with this case, then a prosecutor will be appointed.” The input for 25 August 2007 states that the UNMIK WCIU investigator went to Pejë/Peć and took photographs of the area near where Mr Branislav Grujić had last been seen and where Mr I.D. had allegedly been tortured. The photographs are included in the file.
5. The last document in the investigative file is labelled “Review of UNMIK WCIU Case Files”, dated 20 November 2008 and affixed with the WCIU file no. 2005-00025. Under the heading labelled “Estimated number of pages”, the document states “500”. Under the heading labelled “Number of Statements”, the document states “four”. Under the heading labelled “Names of All the Interviewees Who Has Given a Statement”, the document lists four names, including the complainant and Ms N.D. The document informs that the case was reported to the prosecutor on 26 October 2006. The document also lists two suspects, Mr A.G. and Mr E.Ç. Concerning the reliability of the witnesses, the document states, “[w]itnesses are cooperative but are all located in Serbia and Montenegro.” Under the heading labelled “UNMIK’s View on Next Actions to be Taken”, the document states, “interview the two witnesses in Montenegro and arrange a photo line up.” Under the heading labelled “Specific Problems of the Case”, the document states, “The location of the witnesses. Difficulties to get all approval for travelling to Montenegro.”
6. **THE COMPLAINT**
7. The complainant complains about UNMIK’s alleged failure to properly investigate the abduction and killing of Mr Branislav Grujić. 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).
8. **THE LAW**
9. **Alleged violation of the procedural obligation underArticle 2 of the ECHR**
	1. **The scope of the Panel’s review**
10. Before turning to the examination of the merits of the complaint, the Panel needs to clarify the scope of its review.
11. 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.
12. 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 § 41). 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 abduction and killing of Mr Branislav Grujić.
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 abduction and killing of Mr Branislav Grujić, 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 § 9 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 the 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, “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 when conducting investigations in 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.
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 cultures, 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, “[s]uch constraints inhibited the ability of an institution such as 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 situation.”
2. With regard to this particular case, in relation to locating the mortal remains of Mr Branislav Grujić, the first leg of the obligation related to the procedural element of Article 2 of the ECHR, the SRSG states that “[w]ithin the framework of the International Criminal Tribunal for former Yugoslavia (ICTY) centralized forensic operation, on 29 June 2000, a body was exhumed from an unmarked grave in the Municipality of Gjakovë/Ðakovica, and was made the object of a summary *post-mortem* examination at an unspecified date. The ICTY Autopsy Report, dated 3 August 2000, concluded that the identification of the body was not possible and indicated a gunshot to the head as the cause of death…A death certificate was issued on 6 September 2000 for the unknown person and the *post-mortem* data were transmitted to the UNMIK MPU Investigation/Exhumation Pillar…at an unspecified date. From the incomplete information made available to UNMIK it is not possible to establish the exact chain through which the relevant documents for this matter were transferred to the filing system of the UNMIK OMPF, on September 2004.”
3. The SRSG also notes that “[a] Confirmation of Identity Certificate issued by the OMPF on 3 March 2005 attests that UNMIK compared *ante-mortem* and *post-mortem* information, corroborating DNA-analysis results provided by the ICMP on 23 February 2005, and identifying the abovementioned mortal remains as those of Mr. Branislav Grujić. On this basis, an Identification Certificate and a Death Certificate were issued for Mr. Grujić, respectively by UNMIK MPU and by the UNMIK DOJ/OMPF, on 3 March 2005. A body check form was prepared on 4 March 2005, to authorise the release of the mortal remains, which could then be handed over by UNMIK OMPF to the Grujić family on 1 April 2005, following an OMPF family visit to Belgrade. The UNMIK OMPF missing person file was closed on the same date.”
4. With respect to the investigation aimed at identifying and bringing to justice those responsible for the abduction and killing of Mr Branislav Grujić, the SRSG submits that, “[the investigation] was pursued by a new UNMIK MPU investigator from 20 July 2004 onwards. The review of the case undertaken by the new investigator provides an overview of the investigative efforts made by UNMIK MPU and of the relevant information gathered in this connection, as articulated in the following paragraphs…only on 7 October 2002, i.e. more than three years after the incident, did the Complainant accept to give a witness statement to UNMIK Belgrade Police Liaison Officer. Although he did not witness the abduction of his father, he was able to provide a first-hand account of the chain of events of 18 June 1999 in Pejë/Peć, when both his cousin Milorad Grujić and his father Branislav Grujić were abducted sometime after 12 hrs, allegedly by KLA uniformed elements carrying firearms. Notably, the Complainant alleged that: Mr. Branislav Grujić was abducted from near the old Hospital, while he was driving his car trying to locate his nephew Milorad Grujić, allegedly abducted…On 24 June 1999, [the complainant] allegedly saw his father’s vehicle with a ‘UCK-NATO’ mark on the trunk and informed the Italian KFOR. Allegedly, there was no reaction from the Italian KFOR.”
5. The SRSG asserts that “[t]he MPU new investigator also referred to three alleged witnesses of the related abduction incidents, notably [the complainant, Mrs M.G. and Ms N.D.] (who was listed as an eye witness of the abduction of Mr. Miroslav Grujić only). On 28 July 2004, MPU followed up with [Mrs M.G.], the victim’s wife, who was unable, however, to provide new information and investigative leads on the disappearance of her husband. On 27 September 2004, the UNMIK CCIU/Interpol Liaison Office, Prishtinë/Priština, sent a Memorandum to Interpol Belgrade, in connection with the investigation on the (closely connected) disappearance of Mr. Miroslav Grujić, asking to secure a written statement from eye witness [Ms N.D.], in cooperation with Interpol Montenegro. The Memorandum explained that [Ms N.D.] was reluctant to provide any statement in any other way than through *viva voce* examination in her new place of residence, Podgorica.”
6. The SRSG also states that “on 25 October 2004, the UNMIK Police investigator received from Interpol Belgrade and Montenegro the transcript of the witness statement on the investigation given by [Ms N.D.].[Ms N.D.] stated that Mr. Milorad Grujić was abducted by five or six uniformed KLA elements, all from Pejë/Peć, one of whom she identified as [Mr A.G.]. On 28 October 2004, the MPU Investigator sent a Memorandum to UNMIK CCIU stating that the case was pending, due to the lack of information on the missing person’s whereabouts, and that further investigations were required on the person indicated by witness [Ms N.D.]. In February 2007, the case of Mr. Grujić was reviewed by a newly appointed MPU investigator. The investigator’s diary shows that the case was constantly investigated and reviewed throughout the whole period February 2007-August 2007, also within the broader investigation into related instances of disappearance and death in Pejë/Peć in June 1999…The investigator’s diary also shows that contacts were made by UNMIK Police with three other witnesses, i.e. the complainant, [Ms. N.D.] and her husband [Mr I.D.], to get new statements from each of them, as there was no concrete evidence to indict [Mr A.G.]. In May 2007, [Ms N.D.] confirmed that [Mr A.G.] was responsible for the disappearance of Mr Milorad Grujić. [Mr I.D.] was considered to be an important witness as he himself was allegedly abducted, tortured and then released by KLA, and more particularly by [Mr A.G.], in Pejë/Peć, at some unspecified date, presumably around the same time as Branislav Grujić. According to one entry in the diary, dated 6 June 2007, CPC and WCIU submitted ‘requests in relation to suspect [Mr A.G.]’.”
7. The SRSG notes that “[o]n 25 August 2007 the UNMIK investigators travelled to Pejë/Peć to inspect the premises of the old KLA checkpoint…where Kosovo Serbian victims were allegedly tortured and killed by KLA in June 1999.” He also notes that “[t]he WCU investigation into the disappearance of Mr. Branislav Grujić was reviewed again on 20 November 2008, jointly by UNMIK and EULEX, as a part of a broader file covering seven incidents that occurred in Pejë/Peć on the same day of 18 June 1999…The Review Note mentions [Ms N.D.] and Mr. Nebojša Grujić (the Complainant) as witnesses living in Serbia and having provided statements on the incidents, via Interpol. The Review Note further indicates two suspects for the seven alleged crimes, namely [Mr A.G.] and [Mr E.Ç], without any further speculation on their identity. It transpires from the Note that the investigation file contains no confidential information on any of the seven incidents, apart from the allegation that the suspects were former KLA members. The note also refers to specific problems encountered by UNMIK Police during the investigation, namely ‘the location of witnesses’ (Serbia, Montenegro) and ‘difficulties to get approval for travelling to Montenegro’. The next step envisaged by UNMIK and EULEX at that stage was making contact with the two mentioned witnesses for new interviews and arranging a photo line up.”
8. The SRSG argues that “substantial investigations into the disappearance and death of Mr. Branislav Grujić were conducted by UNMIK. It is evident that UNMIK complied with the obligation under Art. 2, ECHR, to determine through an appropriate investigation the fate and whereabouts of the missing person. Even though there was no information that could shed light to the possible whereabouts of the missing person, the available files provide evidence that UNMIK coordinated its investigative activities with the activities of other international actors in Kosovo, notably the ICTY…to successfully locate and identify the mortal remains. Police and forensic efforts in early 2000, i.e. a few months after UNMIK’s deployment in the region, lead to the discovery of what at a later stage would turn out to be Mr. Branislav Grujić’s mortal remains, at the end of a complex investigation. The full identification procedure was completed by OMPF in March 2005, then the death of Mr. Grujić was duly certified by UNMIK and the mortal remains were handed over to the Complainant and his family. It is submitted that the lapse of years between the time of reporting the incident to UNMIK and the actual identification and handover of the mortal remains must be assessed by the Panel against the broader context of UNMIK’s criminal investigations in post-conflict Kosovo, as outlined above, and in relation to the delay in the family providing *ante mortem* data only in June 2004.”
9. The SRSG also argues that “[t]he investigation files made available so far, on the other hand, are not conclusive with respect to the second part of the procedural requirement of Article 2, ECHR, i.e. the question whether UNMIK complied with its obligation to conduct an investigation capable of determining whether there was an unlawful disappearance and leading to the identification and punishment of those responsible for the disappearance and death of Mr. Branislav Grujić.” He notes that “UNMIK contacted the Complainant and other family members, pursuing an investigation into the disappearance of both Messrs. Branislav Grujić and Milorad Grujić, given the connection between the two episodes. A list of witnesses was established for both incidents. However, until October 2002 the complainant refrained from cooperating with the ongoing investigative efforts. More importantly, the close family members did not provide *ante mortem* samples until mid-2004, nor did they proactively offer to cooperate with UNMIK Police in any other way, despite the fact that they held information, however limited or secondhand in nature, on the identity of the perpetrators. UNMIK deployed all available cooperation efforts with Interpol, both in Belgrade and in Montenegro, for assistance with contacting and examining the available witnesses, as required by the investigation.”
10. The SRSG states that “[t]he investigation initiated in 2002 was reviewed and followed up by UNMIK Police in 2004, in 2007 and in 2008, each time following the appointment of new investigators for the case. Unfortunately, the information provided by all witnesses, including the Complainant, did not yield any further useful investigative leads, given the persistent unavailability of relevant information. No physical evidence on the alleged abduction and killing could be discovered, not even following the site visit to Pejë/Peć in 2007.”
11. The SRSG concludes that “[i]n view of the foregoing, it is submitted that UNMIK, in light of the evidence available to it, took all reasonable steps to investigate the alleged disappearance and killing of Mr. Branislav Grujić, in accordance with Article 2, ECHR. As there is the possibility that additional and conclusive information exists, beyond the documents mentioned above, UNMIK reserves its right to make further comments on the instant matter.”
	1. **The Panel’s assessment**
12. 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 abduction and killing of Mr Branislav Grujić.
13. *Submission of relevant files*

1. At the Panel’s request, on 6 August 2013, the SRSG provided copies of the documents related to this investigation, which UNMIK was able to recover. On 17 March 2015, UNMIK confirmed to the Panel that no more files have been located, thus the disclosure may be considered complete (see § 6 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 (see HRAP, *Bulatović*, no. 166/09, opinion of 13 November 2014, § 62).
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*

1. 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 Panel also notes that the positive obligation to investigate has been stated by the 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.
2. 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).
3. 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 § 44 above, at § 136,ECtHR [GC], *Mocanu and Others v. Romania*, nos 10865/09, 45886/07 and 32431/08, judgment of 17 September 2014, § 317).
4. 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, ECtHR [GC], *Mocanu and Others v. Romania*, cited above, § 321).
5. 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 § 44 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).
6. 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). At the same time, the authorities must always make a serious attempt to find out what happened and should not rely on hasty or ill-founded conclusions to close their investigation (see ECtHR [GC], *El-Masri v. “The former Yugoslav Republic of Macedonia”*, no. 39630/09, judgment of 13 December 2012, § 183; ECtHR [GC], *Mocanu and Others v. Romania*, cited in § 72 above, at § 322).
7. 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, ECtHR [GC], *Mocanu and Others v. Romania*, cited in § 72 above, at § 323).
8. 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 § 44 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 probable killing, 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).
9. 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 v. Turkey*, cited in § 73 above, at §§ 311‑314; ECtHR, *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, ECtHR [GC], *Mocanu and Others v. Romania*, cited in § 72 above, at § 324).
10. 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, *El-Masri v. “the former Yugoslav Republic of Macedonia”*, cited in § 75 above, § 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).
11. *Applicability of Article 2 to the Kosovo context*
12. The Panel is conscious that Mr Branislav Grujić was abducted and subsequently killed shortly after the deployment of UNMIK in Kosovo, when crime, violence and insecurity were rife.
13. 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.
14. 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.
15. 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).
16. 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;ECtHR, *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).
17. 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).
18. 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 § 70 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).
19. 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 § 15 above).
20. 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.
21. 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 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 § 74 above, at § 70; ECtHR, *Brecknell v. The United Kingdom,* no. 32457/04, judgment of 27 November 2007, § 62).
22. The Panel puts on record that it has already analysed the effectiveness under Article 2 of numerous investigations conducted by UNMIK with respect to killings, abductions and disappearances related to the conflict in Kosovo. The Panel has identified common shortcomings in these investigations such as delays in the registration of the cases and lengthy periods of inactivity from the outset and in the period within the Panel’s jurisdiction; failure to take basic investigative steps and follow obvious lines of enquiry; lack of coordination among different units of UNMIK Police; lack of regular and meaningful reviews of cases; lack of prosecutorial oversight and failure to provide family members with minimum necessary information on the status of the investigation (compare with ECtHR, *Aslakhanova and Others v. Russia*, cited in § 77 above, § 123). The Panel also records systemic failures such as a deficient system of setting investigative priorities and lack of proper handover. In the great majority of these cases the Panel has found that the investigations were not effective in the meaning of Article 2 and that UNMIK’s failures, which persisted throughout the period of the Panel’s jurisdiction, could not be justified in the light of difficulties encountered by UNMIK at the beginning of its mission.
23. *Compliance with Article 2 in the present case*
24. Turning to the particulars of this case, the Panel notes that the investigative file reflects that UNMIK became aware of Mr Branislav Grujić’s abduction and killing on 10 September 2001, when UNMIK Police received his name as a missing person in the list communicated to it by the ICRC (see § 22 above).
25. The purpose of this investigation was to discover the truth about the circumstances of Mr Branislav Grujić’s abduction and killing and to identify the perpetrators and bring them to justice. 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.
26. 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).
27. 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. 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.
28. With regard to the first part of the procedural obligation, that is locating the mortal remains of Mr Branislav Grujić, the Panel notes that the SRSG argues that UNMIK fulfilled the requirements of Article 2 of the ECHR in that UNMIK OMPF undertook actions that resulted in the identification of the mortal remains of Mr Branislav Grujić (see §§ 54-55 above).
29. The Panel agrees that UNMIK undertook actions that resulted in the identification of the mortal remains of Mr Branislav Grujić and notes that on 1 April 2005, UNMIK returned his mortal remains to the 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 handover of Mr Branislav Grujić’s mortal remains.
30. The Panel also notes the SRSG’s argument that “the lapse of years between the time of reporting the incident to UNMIK and the actual identification and handover of the mortal remains must be assessed… in relation to the delay in the family providing *ante mortem* data only in June 2004” (see § 60 above.) The Panel notes that the MPU had the contact details of the complainant and his mother Mrs M.G., in Serbia proper from 9 October 2002 (see § 28 above). In this respect, the Panel recalls the general need to take into account the special vulnerability of displaced persons in post-conflict situations (see § 87 above). Thus, in the Panel’s view, it was for UNMIK to reach out to them, and not for them to come back to Kosovo, from where they had left for security reasons, to try to find out what had happened to their relatives or to aid in the investigation (See HRAP, *Buljević,* no. 146/09, opinion of 13 December 2013, § 100).
31. 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.
32. 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).
33. In this respect, the Panel notes that, as established above, UNMIK became aware of the abduction of Mr Branislav Grujić on 10 September 2001, when UNMIK Police received his name as a missing person in the list communicated by the ICRC (see § 22 above). However, the Panel notes that there is no evidence provided in the file that any investigative activities were undertaken at that time, except for registering the case. The Panel notes that in October 2002 UNMIK Police possessed some information about the abduction and disappearance of Mr Branislav Grujić as well as the name, address and telephone number of the complainant and his mother Mrs M.G. as well as another possible witness Ms N.D. (see § 33 above). However, there is no indication in the file that the MPU contacted, or made an effort to contact them at this time, nor that UNMIK Police ever searched for Mr Branislav Grujić’s vehicle (where he was allegedly abducted from) or canvassed the area near Mr Milorad Grujić’s home to locate any other persons that may have had useful information. These were obvious lines of enquiry, which were apparently not pursued.
34. The Panel notes that the investigative file shows that the first real investigative activities occurred after 20 July 2004, more than one year and a half after MPU registered the case, when, according to the SRSG, the investigation “was pursued by a new UNMIK MPU investigator” (see § 56 above). The SRSG notes that “[o]n 28 July 2004, MPU followed up with [Mrs M.G.], the victim’s wife, who was unable, however, to provide new information and investigative leads on the disappearance of her husband. On 27 September 2004, the UNMIK CCIU/Interpol Liaison Office, Prishtinë/Priština, sent a Memorandum to Interpol Belgrade…asking to secure a written statement from eye witness [Ms N.D.], in cooperation with Interpol Montenegro” (see § 57 above). The investigative file shows that on 25 October 2004, the UNMIK Police investigator received the transcript of the witness statement on the investigation given by Ms N.D., which included her naming of one of the kidnappers, Mr A.G. and providing the name of a surviving witness, Mr I.D. (see § 35 above). However, the Panel notes that the investigative file provides no indication that the WCIU investigators attempted to take a witness statement from Mr I.D. at that time or further interview Ms N.D. or the suspect Mr A.G., all of whom may have been able to shed light on the circumstances surrounding Mr Branislav Grujić’s abduction and killing.
35. 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.
36. 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.
37. The Panel notes that the investigative file shows that more investigative activities were carried out by UNMIK Police between 25 February 2007 and 26 August 2007, including the investigators making plans to take statements from Mr I.D., Ms N.D. and Mrs M.G. and to show them a photo line-up with the photos of Mr A.G. Additionally, the investigative file shows that on 25 August 2007, the UNMIK WCIU investigator went to Pejë/Peć and took photographs of the area near where Mr Branislav Grujić had last been seen and where Mr I.D. had allegedly been tortured (see § 36 above). The SRSG argues that these steps showed that “UNMIK took all reasonable steps to investigate the alleged disappearance and killing of Mr. Branislav Grujić, in accordance with Article 2, ECHR” (see § 63 above). The Panel disagrees, as it was not reasonable that UNMIK investigators waited until August 2007, eight years after Mr Branislav Grujić’s abduction, to go to photograph the crime scene and search for evidence. Similarly, the Panel notes that although the UNMIK investigators made plans in April 2007 to try to take the statements of Mr I.D., Ms N.D. and Mrs M.G. and to show them a photo line-up with the photos of Mr A.G., in fact these investigative steps were still not taken as of the case review of 20 November 2008 (see § 37 above). The Panel is concerned that according to the case review, the “location of the witnesses” in Montenegro proved to be an insurmountable obstacle to obtaining these witness statements (see § 37 above).
38. No meaningful action was taken by the UNMIK Police in the period within the Panel’s temporal jurisdiction, apart from the abovementioned visit by the UNMIK WCIU investigator on 25 August 2007 to Pejë/Peć to take photographs of the area near where Mr Branislav Grujić had last been seen. The apparent lack of any adequate 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 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.
39. Likewise, although the file indicates that the case was reported to the prosecutor on 26 October 2006 (see § 37 above), there is no evidence in the file of any proactive activity by the prosecutor in this investigation. In fact, the Panel notes that the according to the Investigator’s Diary, in 2007, the investigative officer tried on at least three occasions to have an international prosecutor be appointed, but this apparently never occurred (see § 36 above). As the Panel has mentioned previously, a proper prosecutorial review of the investigative file might have resulted in additional recommendations, so that the case would not have remained nearly inactive for years to come (see HRAP, *Stojković*, no. 87/09, opinion of 14 December 2013, § 160). Thus, in the Panel’s view, the review of the investigative files was far from being adequate.
40. 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 § 76 above), as required by Article 2 of the ECHR.
41. 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.
42. The investigative file shows that the only contacts between UNMIK investigators and Mr Branislav Grujić’s family members were the initial contacts made by the MPU for ante-mortem information from the complainant and his mother, Mrs M.G., in 2002 and other family members in 2004 (see § 27 above), when OMPF returned the mortal remains of Mr Branislav Grujić to the complainant in April 2005 (see § 23 above). The WCIU also contacted the complainant by phone in 2007 when the WCIU contacted the complainant by phone in an effort to plan to come to Montenegro to interview him (see § 58 above). No further contact is documented in the file, including actually coming to Montenegro to to try to take the statements of the complainant and Mrs M.G. (see § 104 above) or informing the complainant and his family about the status of the investigation. The Panel therefore considers that the investigation was not open to any public scrutiny, as required by Article 2 of the ECHR.
43. In light of the shortcomings and deficiencies in the investigation described above, the Panel considers that the case of Mr Branislav Grujić, as well as other cases of killings, abductions and disappearances previously examined, well exemplify a pattern of perfunctory and unproductive investigations conducted by the UNMIK Police into killings and disappearances in Kosovo (see § 90 above; compare with HRC, *Abubakar Amirov and Aïzan Amirova v. Russian Federation*, cited in § 86 above, at § 11.4, and ECtHR, *Aslakhanova and Others v. Russia*, cited in § 77 above § 123; see also HRAP, *Bulatović*, cited in § 67 above, at §§ 85 and 101).
44. Therefore, the Panel concludes that UNMIK failed to carry out an effective investigation into the abduction and killing of Mr Branislav Grujić. 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 § 17), 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 unilateral 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 abduction and killing of Mr Branislav Grujić 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, including through media, within a reasonable time, responsibility with respect to UNMIK’s failure to adequately investigate the abduction and killing of Mr Branislav Grujić 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 ABDUCTION AND KILLING OF MR BRANISLAV GRUJIĆ IS CONTINUED IN COMPLIANCE WITH ARTICLE 2 OF THE ECHR AND THAT THE PERPETRATORS ARE BROUGHT TO JUSTICE;**
4. **PUBLICLY ACKNOWLEDGES, INCLUDING THROUGH MEDIA, RESPONSIBILITY FOR ITS FAILURE TO CONDUCT AN EFFECTIVE INVESTIGATION INTO THE ABDUCTION AND KILLING OF MR BRANISLAV GRUJIĆ 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.**

Andrey Antonov Marek Nowicki

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

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

**KLA** - Kosovo Liberation Army

**MoU -** Memorandum of Understanding

**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 complainant did not complain to the Panel about the abduction and disappearance of his cousin Mr Milorad Grujić but he did inform the UNMIK Police. UNMIK Police investigated both missing persons in the same investigation, MPU file no. 2002-000655. [↑](#footnote-ref-3)
4. The OMPF database is not open to public. The Panel accessed it with regard to this case on 10 March 2015. [↑](#footnote-ref-4)
5. The ICMP database is available at: <http://www.ic-mp.org/fdmsweb/index.php?w=mp_details&l=en> (accessed on 10 March 2015). [↑](#footnote-ref-5)