



# The Human Rights Advisory Panel

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## OPINION

**Date of adoption: 13 November 2015**

**Cases nos: 58/09, 59/09, 60/09, 61/09, 62/09, 215/09 and 217/09**

**Žaklina MIŠLJEN, Plana FOLIĆ, Slađana FOLIĆ, Savo FOLIĆ, Slobodanka FOLIĆ,  
Vidna JEVRIĆ and Žarko FOLIĆ**

**against**

**UNMIK**

The Human Rights Advisory Panel, on 13 November 2015,  
with the following members present:

Marek Nowicki, Presiding Member  
Christine Chinkin  
Françoise Tulkens

Assisted by  
Andrey Antonov, Executive Officer

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

### **I. PROCEEDINGS BEFORE THE PANEL**

1. The complaints of Mrs Žaklina Mišljen (case no. 58/09), Mrs Plana Folić (case no. 59/09), Mrs Slađana Folić (case no. 60/09), Mr Savo Folić (case no. 61/09), Mrs Slobodanka Folić

(case no. 62/09) and Mr Žarko Folić (case no. 217/09) were introduced on 15 April 2009 and registered on 30 April 2009. The complaint of Mrs Vidna Jevrić (case no. 215/09) was introduced on 1 April 2009 and registered on 30 April 2009.

2. On 12 September 2009, the Panel decided to join cases nos 59/09, 60/09, 61/09 and 62/09 pursuant to Rule 20 of the Panel's Rules of Procedure.
3. On 24 October 2009, the Panel decided to join case no. 58/09 to the already joined cases nos 59/09, 60/09, 61/09 and 62/09 pursuant to Rule 20 of the Panel's Rules of Procedure.
4. On 23 December 2009, the Panel requested additional information from the complainants in cases nos 215/09 and 217/09. No response was received.
5. On 10 March 2010, the Panel requested additional information from the complainants in cases nos 58/09, 59/09, 60/09, 61/09 and 62/09. However, no response was received.
6. On 9 August 2010, the Panel decided to join cases nos 215/09 and 217/09 with the already joined cases nos 59/09, 60/09, 61/09 and 62/09 pursuant to Rule 20 of the Panel's Rules of Procedure.
7. On 6 October 2010, the Panel reiterated its request for additional information to the complainants in cases nos 59/09, 60/09, 61/09 62/09, 215/09 and 217/09. No response was received.
8. On 2 December 2011, the Panel communicated the cases to the Special Representative of the Secretary-General (SRSG)<sup>1</sup> for UNMIK's comments on the admissibility of the complaints.
9. On 7 December 2011, the Panel reiterated its request for further information to all complainants.
10. On 17 February 2012, the SRSG provided UNMIK's comments on the admissibility of the complaints.
11. On 1 March 2012, Mrs Plana Folić, the complainant in case no. 59/09, responded to the Panel, on behalf of herself and other complainants.
12. On 10 May 2012, the Panel declared the complaints admissible.
13. On 15 May 2012, the Panel forwarded its decision on admissibility to the SRSG, requesting UNMIK's comments on the merits of the complaints.
14. On 20 July 2015, the SRSG presented UNMIK's response in relation to the merits of the complaints, together with electronic copies of investigative files relevant to the case.

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

15. On 29 October 2015, the Panel requested UNMIK to confirm whether the disclosure of the investigative files concerning this joint case could be considered final.
16. On 4 November 2015, UNMIK provided its response.
17. On 5 November 2015, UNMIK provided the Panel with electronic copies of additional relevant investigative documents.

## II. THE FACTS

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

18. 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).
19. 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, 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.
20. 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

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

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.

21. 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.
22. 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.
23. 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 1,653 are listed as still missing by the International Committee of the Red Cross (ICRC) as of May 2015.
24. 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.
25. 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.
26. 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”.

27. 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 chaired by UNMIK was created for the recovery, identification and disposition of mortal remains. A specialised Bureau for Detainees and Missing Persons (BDMP), responsible for centralising information received by civilian officers, was established within the Office of the SRSG<sup>3</sup>.
28. On 5 November 2001, UNMIK signed the UNMIK-FRY Common Document reiterating, among other things, its commitment to solving the fate of missing persons from all communities, and recognizing that the exhumation and identification programme is only a 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. All information collected by the BDMP was transferred to the OMPF<sup>4</sup>. 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.
29. On 9 December 2008, UNMIK’s responsibility with regard to police and justice in Kosovo ended with 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. However, UNMIK retained some responsibility in the field of international cooperation in criminal matters.
30. On the same date, UNMIK and EULEX signed a Memorandum of Understanding 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,

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<sup>3</sup> See: Brasey V. *Dealing with the Past: The forensic-led approach to the missing persons issue in Kosovo* // *Politorbis* Nr. 50 – 3, 2010, p. 163.

<sup>4</sup> See: *Ibid.*, p. 165.

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.

### **B. Circumstances surrounding the abduction and disappearance of Mr Veljko Folić and Mr Miloš Jevrić**

31. Mrs Žaklina Mišljen is the daughter, Mrs Plana Folić is the wife, Mrs Sladana Folić is the daughter-in-law, Mr Savo Folić and Mr Žarko Folić are sons and Mrs Slobodanka Folić is the sister of Mr Veljko Folić. Mrs Vidna Jevrić is the wife of Mr Miloš Jevrić.
32. The complainants supplement each other in the description of the events related to the abduction and disappearance of Mr Veljko Folić and Mr Miloš Jevrić. They state that in June 1999 Mr Veljko Folić travelled from Belgrade to Pejë/Peć. In the morning of 19 June 1999, Mr Veljko Folić, along with Mr Miloš Jevrić, left the Monastery of the Patriarchate of Pejë/Peć, in Mr Miloš Jevrić's vehicle, and headed towards the house of the latter in Pejë/Peć. In front of the hotel "Metohija" in the centre of Pejë/Peć, the car was intercepted by KLA members, the two men were forced out of the vehicle, loaded into a truck and taken in an unknown direction. Since then, their whereabouts have remained unknown.
33. The relatives of Mr Veljko Folić inform the Panel that they had promptly reported the abduction to KFOR, UNMIK, the ICRC, the Yugoslav Red Cross and the Serbian Ministry of Internal Affairs. They also state that on an unspecified date they filed a criminal complaint with the International Public Prosecutor (IPP) of the District Public Prosecutor's Office (DPPO) of Pejë/Peć. However, they have not received any feed-back on the status of the investigation.
34. Mrs Vidna Jevrić reports that she immediately reported Mr Jevrić's abduction to the KFOR command in Pejë/Peć, the ICRC, the "Commission on Missing Persons" and the "Police". On an unspecified date, she also submitted a criminal complaint to the IPP of the DPPO Pejë/Peć. However, she is not aware of any action undertaken by relevant authorities with regard to her reports.
35. The ICRC tracing requests for Mr Veljko Folić and Mr Miloš Jevrić remain open<sup>5</sup>. The name of Mr Veljko Folić is included in the list of missing persons, which was forwarded by the ICRC to UNMIK on 12 October 2001, for whom the ICRC had collected ante-mortem data in Serbia proper, between 1 July and 20 September 2001. Both names also appear in the ICRC "List of Persons missing in relation to the events in Kosovo from January 1998", submitted by the ICRC to UNMIK Police on 29 January 2002 (entries nos 1008 and 1596) and in the missing persons' database compiled by the UNMIK OMPF<sup>6</sup>.

<sup>5</sup> See: ICRC Family Links online database [electronic source]: <http://familylinks.icrc.org/kosovo/en/pages/search-persons.aspx> (accessed on 9 November 2015).

<sup>6</sup> The OMPF database an electronic source not open to public. The Panel accessed it with regard to this case on 9

36. The entry in relation to Mr Veljko Folić and Mr Miloš Jevrić in the online database maintained by the ICMP<sup>7</sup> reads, in relevant fields: “Sufficient Reference Samples Collected” and “DNA Match not found.”

### C. The investigation

#### Disclosure of relevant files

37. In the present case, UNMIK presented to the Panel copies of the documents in relation to the actions undertaken by the UNMIK OMPF and UNMIK Police, which were located in Kosovo. On 4 November 2015, UNMIK confirmed to the Panel that all available investigative documents have been provided to it (see § 16 above). In addition, on 5 November 2015, UNMIK provided the Panel with more documents (see § 17 above).
38. With regard to the disclosure of the 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. Considering that some judicial proceedings and investigations into the events connected to this case may still be ongoing, the Panel clarifies that, although its assessment of the present case stems from a thorough examination of all available documentation, only a very brief synopsis of relevant investigative steps taken by investigative authorities is provided in the paragraphs to follow.

#### OMPF and MPU file

*Documents in relation to Mr Veljko Folić (MPU case no. 2002-000372 and 0422/INV/04)*

39. This part of the file contains an undated ICRC Victim Identification Form for Mr Veljko Folić, completed in handwriting, in Serbian, presenting data apparently collected by the ICRC in 2001 (see § 35 above). Besides his ante-mortem description, this document has the name and contact details of Mrs Slobodanka Folić and Mrs Plana Folić, in Serbia proper. Its field labelled “Other persons who disappear with the missing person” states: “disappeared with Miloš Jevrić”. Its field labelled “Identity papers” contains, among other documents, a reference to a “VEHICLE REGISTRATION DOCUMENTS BG-493-341 (IBIZA SEAT). His photograph and a few medical certificates are attached to this form.
40. The file further contains an MPU Case Continuation Report for the case no. 2002-000372, which has two entries reflecting the input of information into the MPU database, on 15 and 16 May 2002 respectively.
41. Also in the file is a one-page printout from an MPU database, generated on 20 May 2004, in relation to the case of Mr Veljko Folić. It is referenced to the case no. 2002-000372; its field

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November 2015.

<sup>7</sup> See: ICMP Missing Persons Inquiry online database [electronic source]: [http://www.icmp.org/fdmsweb/index.php?w=mp\\_details&l=en](http://www.icmp.org/fdmsweb/index.php?w=mp_details&l=en) (accessed on 9 November 2015).

labelled “Modus” states “MP [missing person] was kidnapped together with person named Milos Jevric”; it contains no additional information.

42. The file further contains an MPU Victim Identification Form, in English, generated from a database on 21 May 2004, cross-referenced to MPU case no. 2002-000372. It does not add further information to the above-mentioned ICRC Victim Identification Form.
43. The file contains another one-page printout from an MPU database, generated on 26 May 2004, in relation to Mr Veljko Folić’s case, referenced to the cases nos 0422/INV/04 and 2002-000372. Its field labelled “Request Summary” reads: “There is a lack of information in the file”; its field labelled “Invest. Notes” is blank.
44. The file also contains an MPU Ante Mortem Report in relation to both Mr Veljko Folić and Mr Miloš Jevrić; it was initiated on 20 May 2004 and completed on 27 May 2004. In relation to Mr Veljko Folić, the report contains his personal details, contact details of his wife, Mrs Plana Folić, and cross-references to MPU case nos 0422/INV/04 and 2002-000372. With regard to Mr Miloš Jevrić, the report contains his personal details, contact details of his daughter, Ms L.J., and cross-references to MPU case nos 0421/INV/04 and 2003-000113. In relation to both of them, this Report states in common the following (original text and emphasis preserved):

**“NATURE OF INFORMATION:**

Peje, on 19<sup>th</sup> June 1999, MPs went by car. They were stopped by KLA members. They were never seen again. No further information.

**FURTHER INVESTIGATION**

Thursday, 27/05/04:

The undersigned, together with [language assistant], contacted [J.L.] and FOLIC Plana. They confirmed the known, couldn’t give further informations, except the details from the vehicle MP1), which is also missing:

Opel Kadett B, 1998, red in colour  
 Plate: [...]  
 Chassis: [...]  
 Motor: [...]

No eyewitness existing. [Ante-mortem] Data collected.

**CONCLUSION**

[Ante-mortem] Data and Blood Samples are given for both MPs by relatives. Due to lack of information the case is pending.

**Memo to CCIU.”**



45. The last document in the file is a memorandum, dated 27 May 2004, from the MPU to the CCIU, cross-referenced to the cases nos 0421/INV/04 (Mr Miloš Jevrić) and 0422/INV/04 (Mr Veljko Folić), which reads (original text and emphasis preserved):

“... find attached investigation papers regarding the investigation of Missing Persons **JEVRIC Milos** and **FOLIC Veljko**, involved in a war crime as victims. Detailed information in the attached papers (above all the vehicle details)”

*Documents in relation to Mr Miloš Jevrić (MPU 2003-000113 and 0421/INV/04)*

46. This part of the file contains an undated ICRC Victim Identification Form for Mr Miloš Jevrić, cross-references to an MPU case no. 2003-000113, completed in handwriting, in Serbian, presenting data apparently collected by the ICRC in 2001 (see § 35 above). Besides his ante-mortem description, this document has the name and contact details of his daughter, Mrs L.S., in Serbia proper. Its field labelled “Other persons who disappear with the missing person” states: “Folić Veljko. Two of them left Pecka Patriarsija to check upon their houses in Pec. Their car was stopped by KLA; from that time nothing is known about them”. His photograph and a few medical certificates are attached to this form.
47. This form is followed by another Victim Identification Form, also completed in handwriting, in English, and reflecting the same information as the above ICRC form.
48. The file further contains an MPU Case Continuation Report for the case no. 2003-000113, with a single entry reflecting the input of information into the MPU database, on 1 May 2003.
49. Also in the file is a one-page printout from an MPU database, generated on 20 May 2004, in relation to the case of Mr Miloš Jevrić. It is referenced to the case no. 2003-000113; its field labelled “Modus” states “MP and person named Veljko Folic were going towards the Patriarchy of Pec in order to see their houses located in Pec. Their car was intercepted by KLA and since then they were not seen again”. The printout contains no additional information.
50. The file further contains an MPU Victim Identification Form, in English, generated from a database on 21 May 2004. It does not add any further information to the above-mentioned ICRC Victim Identification Form.
51. The file also contains another one-page printout from an MPU database, generated on 26 May 2004, cross-referenced to an MPU case no. 0421/INV/04. The field “Missing Person Details” contains the name of Miloš Jevrić and a reference to an MPU case no. 2003-000113. Its field labelled “Request Summary” reads “There is a lack of information in the file”. The field labelled “Invest. Notes” is blank.
52. The next documents in this part of the file are copies of the above-mentioned memorandum of 27 May 2004 and MPU Ante Mortem Report (see §§ 44 - 45).

53. Further in the file is another printout from an MPU database, generated on 30 May 2004. It reflects the same information as the one of 20 May 2004 (see § 49 above), except that its field labelled “Invest. Notes” in this document states “Initial information says that the a/m victim went missing on 19/06/1999 while travelling by car in Peje area accompanied by Veljko FOLIC (MPU file 2002-000372). Investigator contacted the family on 27/05/2004. There is no information of whereabouts. The family described the car MP was using as [vehicle details follow]. Ante Mortem data and blood samples collected.”

*Documents in relation to both victims (case no. 0445/INV/02)*

54. This part of the MPU file contains a document called Gravesite Assessment, dated 5 November 2002, cross-referenced to an MPU file no 0445/INV/02. It describes in detail the actions of UNMIK Police to locate the suspected place of an illegal mass grave in the Serbian cemetery in Bellopole/Belo Polje village, in the vicinity of Pejë/Peć, in the period from 5 November 2002 until 4 February 2003. This document states that UNMIK Police had 4 witnesses (including an anonymous one), who provided some details and points out an approximate location of a mass grave, where some Kosovo Albanians buried “dead bodies in K-FOR bags”. The witnesses further specified that (original grammar and emphasis preserved) “it is possible that Albanians, buried in 1999, six persons kidnapped at the end of June and named:

- **Milivoje DJURICIC**
- **Milos JEVRIC**
- **Radonja PETROVIC**
- **Branko GRUJIC**
- **Milorad GRUJIC**
- **One person named FOLIC (... did not remember the first name)”**

55. The field labelled “ICTY DATABASE CHECKING” of this document reads “A lot of sites have been processed by ICTY after the events in PEC. None were done in Belo Polje village. Apparently, the present location has never been checked before.”

56. The field labelled “MPU FILES DATABASE CHECKING” states that (original grammar and emphasis preserved):

- **DJURICIC Milivoje** is recorded under the number **2001-000246**
- **PETROVIC Radonja** is recorded under the number **2002-000475**

...

**JEVRIC Milos** is not recorded as missing person in the MPU database. However, a man named **FOLIC Veljko** has been kidnapped together with **JEVRIC** according to what is mentioned in the file of this last person.

- **FOLIC Veljko** is recorded under the number **2002-000372**

I found a MPU file about a missing person named **GRUJIC Branislav**. It seems that [he] was the uncle of **GRUJIC Milorad** (not recorded in the MPU database).

- **GRUJIC Branislav** is recorded under the number **2002-000675**

57. According to the document, the location that was identified and photographed by MPU was confirmed by eye-witnesses. The field "CONCLUSION" states that "there is a high probability that the location shown ... contain missing persons. However, this possible gravesite has to be assessed before exhumation." The file contains sketches, photographs and maps identifying the location.
58. The other document in this part of the file is a memorandum from the UNMIK Police liaison office in Belgrade to the MPU in Prishtinë/Priština, dated 4 February 2003. It has a summary of the information related to the above described possible mass grave, presented by an UNMIK Police officer who participated in that action, but who was subsequently assigned to the Belgrade office.
59. The file does not contain any documents related to any actual exhumation in that location.

#### **WCIU file (no. 2005-00141)**

60. This part of the file contains a part of the publication *Abductions and Disappearances of Non-Albanians in Kosovo 24 March 1999 – 31 December 2000* (pp. 124 - 125) by the Humanitarian Law Center (HLC), which reads, in the relevant part, as follows (original text and emphasis preserved):

**"Folić, Veljko** (M, 50), Montenegrin, from Djakovica, driver with the Lasta buscompany; **Jevrić, Miloš** (M, 59), Montenegrin, from Peć (26, 1. Maja St.), owner of auto repair shop in the same street – disappeared on 19 June 1999 in Peć.

In the evening of 18 June, Folić came to the Peć Patriarchate from where he planned to proceed to Djakovica to fetch his wife. At the Patriarchate, he met his brother-in-law and his close friend, Miloš Jevrić, with whom he discussed how to best reach Djakovica and get his wife out of the town. All the Serbs who had found refuge at the Patriarchate advised him not to go.

Between 10 and 11 a.m. on 19 June, Folić nonetheless left for Djakovica, traveling together with Jevrić in Jevrić's Opel Cadet with Belgrade license plates.

A friend of Jevrić related to the HLC that he met Jevrić in a café by the Bistrica River not far from Peć around noon that day. This witness did not mention Folić by name but said Jevrić was with several men he did not know. Two men and a woman came up to their table. The men introduced themselves as foreign reporters and the woman as their interpreter, and said they wished to buy a car. Jevrić told them he was an auto mechanic and could find them the kind of vehicle they needed. The witness left the café when they began to discuss a price.

Source: HLC, witness statement.”<sup>8</sup>

61. Further in the file is an undated document named *List of Kidnapped Serbs in Kosovo and Metohija*, with an UNMIK header and with writing “Central Criminal Investigation Unit War Crimes Division” on the front page. The text of the document includes the names of all Serbian victims of abductions in Kosovo, from 13 June until 23 November 1999, divided by municipality, town or village. The name of Mr Veljko Folić is in that list under no. 331 (misspelled as Rolić), Ms Miloš Jevrić’s name is under no. 348.
62. The file continues with a memorandum from UNMIK Police Central Information Center (CIC) to UNMIK Police Assistant Director of Investigations, dated 5 February 2001, titled “Alleged illegal detention center”. This document states that UNMIK Police CIC received from Serbian authorities “a list of approximately 120 illegal detention centers ... which was presented by the Serbian [authorities] over to the regional headquarters with the request to investigate the places and report back ... on weekly basis.” The detention centres in the list are “supposed to be led by members of the so-called KLA. The Serbian delegation at the meeting allege that in these detention centers Serbs are detained and even tortured.” The documents continues (original text preserved):

“As the list actually only bases on rumors from the Serbian delegation side and is not very detailed, the task for the regional headquarters was, especially due to the fact that their workload was immense, not really feasible but they tried their best and came back with several investigation results. But it got more and more obvious that without more details about these alleged detention centers, the RHQ’s couldn’t cope with this investigation any longer. In addition to the vague description of the locations, the Serbian representatives ... often denied that the correct places were investigated.

So ... UNMIK firmly requested more detailed information on the allegations. The Serbs were not very co-operative on those requests for a couple of months. Finally they agreed on supplying UNMIK with more details and more specific information.

They came up with more detailed information about 2 detention centers. Just to show our co-operation and that we are seriously interested in conducting professional investigation on this issue, a member of CIC started to investigate one of these places. But it remains a problem, who is going to be tasked with investigating this particular matter. It seems to be no doubt that this matter has to be one of the future priorities of the work of UNMIK police especially as this issue is already discussed on a political level as well as therefore a solution is urgently required.

To show how costly the serious investigations are, I attached two investigation examples (appendix 3 and 4) ... The case of the alleged detention center in Nasec ... is closed. In cooperation with KFOR the police officers even inspected the place from the inside and couldn’t find any evidence of an illegal detention center.

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<sup>8</sup> Electronic version of the same publication can be found at the HLC webpage [electronic source] - <http://www.hlc-rc.org/wp-content/uploads/2013/02/KO-Abductions-and-disappearances-of-non-Albanians-in-Kosovo-1.pdf>, see p. 181 (accessed on 19 August 2015).

In the other case, in which the initial investigations were conducted by an officer from CIC in co-operation with a KFOR soldier – the alleged detention center in Dujac – we are still in the beginning of the investigation. The owner of the property is suspected to be involved in organized crime. To complete this case a search of the whole property has to be planned and out of security reasons the support of KFOR is imperative...”

63. This memorandum further provides information on action undertaken by UNMIK Police and KFOR with regard to two alleged detention centres. The first one was inspected and nothing relevant was found. In the second, there was only an “initial investigations conducted by an officer from CIC in cooperation with a KFOR soldier [and they] are still in the beginning of the investigation. The owner of the property is suspected to be involved in organized crime. To complete this case a search of the whole property has to be planned and out of security reasons the support of KFOR is imperative.”
64. Attached to this memorandum is a translation of a list named “KLA Prisons on the Territory of AP KiM and in Republic Albania”. It names 106 suspected locations of KLA detention centres in Kosovo and 5 in Albania. The entry no. 1 in the part related to the suspected detention centres in Pejë/Peć reads (original grammar preserved) “Camp in village Bucane-Pec municipality, where was KLA headquarters. Among detain Serbs were Jevtic Milos, lawyer Djuricic Milivoje (later he was eliminate), commanders of SSP Pec Milo Misljen father in law [Mr Veljko Folić] and others.” This detention center was not one of the two mentioned above, which have been or were being investigated by UNMIK Police and KFOR. None of the other attachments referred to in the memorandum are found in the file.
65. The file further contains two undated criminal reports, filed by Mrs Plana Folić and Mrs Vidna Jevrić with the IPP at the Pejë/Peć DPPO, translated into English. Both reports describe almost identically the circumstances of the abduction and disappearance of Mr Veljko Folić and Mr Miloš Jevrić, on 19 June 1999, and complete contact details of the reporting parties; both are cross-referenced to a WCIU case no. 2005-00141.
66. Both criminal reports also contain the following text (original preserved):

“the only information obtained was from the monks of the Monastery of Peja Patriarchy who were, by accident, passing by Metohija Hotel accompanied by a KFOR unit and there they saw Milos Jevric’s car. Veljko used that car, too. They used that car together to leave the Patriarchy on the critical day. KLA members were in that car. The family of the kidnapped Both immediately alerted KFOR HQ in Peja but the International members did not take any serious action to set the kidnapped free. It is interesting to mention that the criminal act took place in front of the HQ of the International Forces who were located in Metohija Hotel.”

The injured party was totally unable to obtain a single detail if any action was undertaken towards locating the kidnapped persons and about the perpetrators of this terrorist act: no data was available about units or commanding officers in charge of upholding the law and order in Peja Municipality. Only the body in charge for the prosecution of those criminal acts could obtain those details, through official

channels... the information ... could be officially obtained by hearing the commanding officers that were in charge for the military units in the time this criminal act was committed.”

67. The next two documents are printouts from the WCIU database, in relation to the case no. 2005-00141, dated 13 July and 6 October 2007; the complainants Mrs Plana Folić and Mrs Vina Jevrić, as well as Ms L.J., are mentioned there as “reporting parties”. The fields labelled “Date In” and “Date Updated” of both forms state “30-08-2005”. No new information on the circumstances of the abduction and disappearance of the victims is included in those documents.
68. Further in the file is an Officer’s Report, dated 18 August 2007, cross-reference to the case no. 2005-00025. The officer writing this Report was leading the investigation in the WCIU case no. 2005-00025 (the “original case” as the WCIU called it), related to the abduction and subsequent disappearance of Mr Milorad Grujić (WCIU case no. 2005-00025) and Mr Branislav Grujić (registered under a separate WCIU case no. 2005-00155), in June 1999, in Pejë/Peć (see HRAP, *Grujić*, no. 287/09, opinion of 19 March 2015). The Report further refers to a WCIU case no. 2005-00046, related to the abduction, around the same time, in Pejë/Peć, and subsequent disappearance of Mr Milivoje Đuričić, Mr Jovan Savić and Mr R.P. (see HRAP, *Đuričić and Savić*, nos 104/09 and 159/09, opinion of 24 June 2015), the case of Mr Veljko Folić and Miloš Jevrić (WCIU no 2005-00141, the present case before the Panel), and a WCIU case no. 2005-00003, related to the abduction, around the same time, in Pejë/Peć, and subsequent disappearance of Mr P.L.
69. The WCIU investigator concluded (original grammar and emphasis preserved):
- “it would appear that cases **2005-00025** [*M.Grujić*], **2005-00155** [*B.Grujić*] and **2005-00046** [*Savić, Đuričić, R.P.*] are related, as the circumstances surrounding the abductions and perpetrators are very similar.
- In relation to the case number **2005-00003** [*P.L.*] the incident occurred around the same time as the above mentioned three but in different circumstances, however, the area in which the event occurred was under the command of the same commander for the Peje region, E.C. The full file for this case cannot be located, and the details available of the circumstances are very limited.
- Case number **2005-00141** [*Folić, Jevrić*, the present complaint] occurred on the same date as the first three, and in the same municipality, Peje, outside the Hotel Metohija, under the same UCK command structure, however, the location of the abductions are not in the same place, namely “old hospital, (Beopetrol station), and there is no mention of any eyewitness details or leads to be able to follow up the investigation process.”
70. The investigator planned a number of actions, which involved interviewing one survivor witness, and three additional photo identification parades with three eye-witnesses to the abductions of Mr Milorad Grujić, Mr Branislav Grujić and others.

71. The file continues with a WCIU Case Analysis Report on the case no. 2005-00141, dated 6 October 2007. It provides the known details in relation to the abduction of Mr Veljko Folić and Mr Miloš Jevrić, on 19 June 1999. The field “INVESTIGATOR RECOMMENDATION/OPINION” reads: “The case fits the criteria of a war crime. Therefore, this file should be passed to the Ante Mortem Unit for investigation into the fate of the missing person, and attempt to locate any witnesses and/or suspects.”
72. Further in the file is a WCIU document named “Case Roster”. It presents brief information in relation to the case no. 2005-00025 (abduction of Mr Milorad Grujić), including the names of two suspects, E.C. and A.G., names four witnesses, and a brief synopsis of the known details; it also links the WCIU case no. 2005-00025 to the WCIU cases nos 2005-00003, 2005-00046, 2005-00141 and 2005-00155. The document ends with the following information (original text preserved):
- “The request for an [IPP] to be assigned to the case has been received by the [DOJ] and the file was submitted for review the week beginning 1<sup>st</sup> October 2007.
- [An IPP] has been assigned to the case as of 13<sup>th</sup> November 2007. He has requested the following investigations:
- Interview the relevant witnesses, and conduct photo line ups with them
- Attempt to obtain the chain of command of UCK for the time period when the abductions took place in the area of Peje/Pec where the victims went missing
- Duty travel to Montenegro to take statement.”
73. There is no information in the rest of the investigative file as to the implementation of the requested actions.
74. The next document in this part of the file is document called “War Crimes UNIT ANTEMORTEM AND EXHUMATION SECTION Case Analysis Review Report”, dated 18 March 2008. It is cross-referenced to the MPU cases nos. 0445/INV/02 and an exhumation reference no. 2003-013 (the exhumation site code FWJ-01). The field labelled “Inv.Type” states “Antemortem-Postmortem”, the field labelled “Type of Event” states “Potential Gravesite”, the location is marked as “Belo Polje”. The field labelled “Total Missing Persons” reads (original text preserved):

	<u>MPU File No</u>	<u>First Name</u>	<u>Last Name</u>	<u>Ethnicity</u>
1.	2001-000246	Milivoje	DJURICIC	SERBIAN
2.	2003-000113	Milos	JEVRIC	SERBIAN
3.	2002-000475	R.	P.	SERBIAN
4.	2002-000675	Branislav	GRUJIC	SERBIAN

75. The field labelled “Suspects” is blank. The current status of the case is “Pending. Waiting for further information”. The form also states that an exhumation was conducted, on 17 April 2003, with negative results.
76. In the field labelled “Comments of Reviewing Officer” it is stated (original grammar preserved):
- “In February 2000, B.V. saw, together with 3 of her friends, how some people were digging inside the cemetery and burying bodies in KFOR body-bags. According to the priest responsible for the cemetery, 6 [missing persons] could be buried in that location. On the 17.04.2003, an exhumation took place, with negative results. There are 2 cases related: 0886/INV/04 [*Đuričić and R.P.*; see §§ 68 - 69 above] and 0421/INV/04.”
77. The “Suggested status of the case by reviewing officer” is: “Pending. Waiting for further information.” The field labelled “Priority of the Case” reads “Low”.
78. This document is followed by two printouts from an MPU database, both dated 18 March 2008. The first printout is in relation to the MPU cases no. 0421/INV/04 (Mr. Miloš Jevrić, cross-referenced to the case no. 2003-000113). The second one refers to the MPU case no. 0886/INV/04 (*Đuričić and R.P.*; see above). No new information is present in these documents.
79. Further in the file is another “War Crimes UNIT ANTEMORTEM AND EXHUMATION SECTION Case Analysis Review Report”, dated 10 July 2008. This Report is cross-referenced to the MPU cases nos 2002-000372 and 0422/INV/04, and a WCIU case no. 2005-00141, in relation to Mr Veljko Folić. The field labelled “Type of Event” states “Missing Person”, the ethnicity of Mr Veljko Folić is stated as “others”; the current status of the case is “Pending. Waiting for further information”. In the field “Comments of Reviewing Officer” it is stated that “The MP went missing along with Milos Jevric from Peja. The car in which they were travelling was taken away too. There is no further information. The case may be kept pending.” The “suggested status of the case by reviewing officer” is “Pending. Waiting for further information.” The field labelled “Priority of the Case” reads “Low”.
80. The last document in this part of the file is another, almost identical, “War Crimes UNIT ANTEMORTEM AND EXHUMATION SECTION Case Analysis Review Report”, also dated 10 July 2008. It is cross-referenced to the MPU cases nos. 2003-000113 and 0421/INV/04, and a WCIU case no. 2005-00141, in relation to Mr Miloš Jevrić. The rest of the information is the same as in the document above.

### III. THE COMPLAINTS

81. The complainants complain about UNMIK’s alleged failure to properly investigate the abduction and disappearance of Mr Veljko Folić and Miloš Jevrić. In this respect the Panel deems that the complainants invoke a violation of the procedural limb of Article 2 of the European Convention on Human Rights (ECHR).



82. The complainants also complain about the mental pain and suffering allegedly caused to themselves and their families by this situation. In this regard, they are deemed to rely on Article 3 of the ECHR.

#### IV. THE LAW

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

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

83. Before turning to the examination of the merits of the complaints, the Panel needs to clarify the scope of its review.
84. In determining whether it considers that there has been a violation of Article 2 (procedural limb) of the ECHR, the Panel is mindful of the existing case-law, notably that of the European Court of Human Rights. However, the Panel is also aware that the complaints before it differ in some significant ways from those brought before that Court. First, the respondent is not a State but an interim international territorial administration mandated to exercise temporary responsibilities in Kosovo. No suspicion attaches to UNMIK with respect to the substantive obligations under Article 2 of the ECHR. Second, as in a limited number of cases before the European Court, those suspected of being responsible for the alleged killings and/or abductions are in all cases before the Panel non-state actors, mostly but not exclusively connected to the conflict. These are factors for the Panel to take into consideration as it assesses for the first time the procedural positive obligations of an intergovernmental organisation with respect to acts committed by third parties in a territory over which it has temporary legislative, executive and judicial control.
85. The Panel notes that with the adoption of the UNMIK Regulation No. 1999/1 on 25 July 1999 UNMIK undertook an obligation to observe internationally recognised human rights standards in exercising its functions. This undertaking was detailed in UNMIK Regulation No. 1999/24 of 12 December 1999, by which UNMIK assumed obligations under the following human rights instruments: the Universal Declaration of Human Rights, the European Convention on Human Rights and Protocols thereto, the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child.
86. 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.

87. 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 § 85). 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.
88. 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).

## 2. The parties' submissions

89. The complainants in substance allege violations concerning the lack of an adequate criminal investigation into the abduction and disappearance of Mr Veljko Folić and Mr Miloš Jevrić. The complainants further allege that they were not properly informed as to whether an investigation was conducted and what the outcome was.
90. In his comments on the merits of this matter, the SRSG states at the outset that UNMIK has requested from EULEX copies of relevant files previously held by the UNMIK Police WCIU and/or by the OMPF that were transferred to EULEX after 2008. The SRSG further states that UNMIK "was obliged to handover all police files, without exception, to EULEX, pursuant to United Nations Security Council presidential statement of 26 November 2008 and agreements entered into with EULEX. Upon UNMIK's transfer of all police files to EULEX, UNMIK ceased to be the custodian of police records in Kosovo and could not, as a matter of principle, retain copies of classified and on-going police investigation files. UNMIK, having discharged its responsibility to hand over all police records to EULEX, may now seek permission to access such records for archiving purposes in accordance with conventional practice and agreements made with EULEX. EULEX, based on its own reasonable assessment, including any prevailing operational requirements, may, or may not, release, or release only in part, such investigation records. UNMIK therefore notes that a failure to transmit a complete investigation file to the HRAP cannot lead the HRAP to the

irrebuttable presumption that UNMIK failed to carry out a proper investigation or that files were not fully and accurately handed over by UNMIK to EULEX. For this reason, UNMIK reserves its right to make additional comments on the instant matter at any further stage, should additional pertinent files be made available to it”.

91. Further, the SRSB accepts that disappearance of Mr Veljko Folić and Mr Miloš Jevrić can be considered to have occurred in life-threatening circumstances. UNMIK does not dispute its responsibility to investigate the incidents, under Article 2 of the ECHR, procedural part. The SRSB, however, stresses that “the incident occurred few days after the adoption of UN Security Council resolution 1244 (1999) and the deployment of UNMIK and KFOR as an international presence in Kosovo, on 11 June 1999, when security situation in Kosovo was extremely tense, and there was high level of violence all over Kosovo, due to the ongoing armed conflict.”
92. The SRSB underlines 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.” Citing the UN Secretary-General’s report to the United Nations Security Council in July 1999, the SRSB describes the situation as follows:

“The general situation in Kosovo has been tense but is stabilizing. The KLA has rapidly moved back into all parts of Kosovo, in particular the south-west, and a large number of Kosovo Serbs have left their homes for Serbia. While the first wave of Kosovo Serb departures was prompted by security concerns rather than by actual threats, a second wave of departures resulted from an increasing number of incidents committed by Kosovo Albanians against Kosovo Serbs. In particular, high profile killings and abductions, as well as looting, arsons and forced expropriation of apartments, have prompted departures. This process has now slowed down, but such cities as Prizren and Pec are practically deserted by Kosovo Serbs, and the towns of Mitrovica and Orahovac are divided along ethnic lines.

The security problem in Kosovo is largely a result of the absence of law and order institutions and agencies. Many crimes and injustices cannot be properly pursued. Criminal gangs competing for control over scarce resources are already exploiting this void. While KFOR is currently responsible for maintaining public safety and civil law and order, its ability to do so is limited due to the fact that it is still in the process of building up its forces. The absence of a legitimate police force, both international and local, is deeply felt, and therefore will have to be addressed as a matter of priority.”

93. In the SRSB’s words, “the essential purpose of such investigation is to secure the effective implementation of the domestic laws which protect the right to life, as defined by UNMIK Regulation No. 1999/1 On the Authority of the Interim Administration in Kosovo of 25 July 1999 and subsequently, by UNMIK Regulation No. 1999/24 On the Law Applicable in Kosovo of 12 December 1999, as amended.”

94. 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. The SRSG states that the procedural element of Article 2 is essentially two-fold: (i) an obligation to determine through investigation the fate and/or whereabouts of the missing person; and (ii) 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.
95. The SRSG further observes that when determining applications under Article 2, procedural part, consideration must be given to not imposing an impossible or disproportionate burden on UNMIK. In this regard, the SRSG recalls the judgment of 15 February 2011 rendered by the European Court of Human Rights in the case *Palić v. Bosnia and Herzegovina*, stating at paragraph 70:
- “The Court takes into account the complex situation in Bosnia and Herzegovina, notably in the first ten years following the war. In such a post-conflict situation, what amounts to an impossible and/or disproportionate burden must be measured by the very particular facts and context. In this connection, the Court notes that more than 100,000 people were killed, almost 30,000 people went missing and more than two million people were displaced during the war in Bosnia and Herzegovina. Inevitably choices had to be made in terms of post-war priorities and resources. Furthermore, after a long and brutal war, Bosnia and Herzegovina underwent fundamental overhaul of its internal structure and political system. ... New institutions had to be created and the existing ones had to be restructured. Some reluctance on the part of the former warring parties to work with those new institutions could be expected in the post-war period, as evidenced in the present case. While it is difficult to pinpoint when exactly this process ended, the Court considers that the domestic legal system should have become capable of dealing effectively with disappearances and other serious violations of international humanitarian law by 2005, following comprehensive vetting of the appointment of police and judiciary and the establishment of the War Crimes Sections within the Court of Bosnia and Herzegovina. All this considered and since there has been no substantial period of inactivity post-2005 on the part of the domestic authorities in the present case, the Court concludes that, in the circumstances obtaining at the material time, the domestic criminal investigation can be considered to have been conducted with reasonable promptness and expedition.”
96. In the view of the SRSG, UNMIK faced a very similar situation in Kosovo from 1999 to 2008 as that in Bosnia and Herzegovina from 1995 to 2005.
97. The SRSG continues that “[i]n the Kosovo conflict thousands of people went missing. The OMPF estimated the number of missing at 5,602 in 2002. By August 2008, the OMPF reported that the total number of missing as amounting to 1,938.” Many of the persons who

went missing were abducted, killed, and buried in unmarked graves inside or outside Kosovo, which made it very difficult locating and recovering their mortal remains.

98. The SRSG states 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.
99. The SRSG continues in this regard that: “Even more serious than the shortfall of the forensic standards was the lack of attention paid to the humanitarian agenda of identifying bodies and restituting their remains [...]. In a focused effort to demonstrate that crimes were systematic and widespread, ICTY and its gratis teams autopsied as many bodies as possible with little or no identification work. ICTY reports that it exhumed 4019 bodies in 1999 and 2000, less than half of which were identified; furthermore, some of the unidentified bodies exhumed in 1999 by gratis teams were reburied in locations still unknown to 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”.
100. The SRSG states that locating and identifying the missing in the context described above is a very difficult and time-consuming task. He further states that the number of missing persons recovered and identified by OMPF is “testament to the vigour of its work between 2002 and 2008” and that “more bodies continued to be located in burial sites and more identifications and returns to family members are taking place, often based on information contained in OMPF files.” The SRSG continues that “the process for establishing a system capable of dealing effectively with disappearances and other serious violations of international humanitarian law has been an understandably incremental one” in Kosovo, as reflected in the *Palić* case referred to above. The SRSG further notes that this process was “reliant on a number of actors other than UNMIK, for example the [ICMP], the [ICRC] and local missing persons’ organisations.”
101. 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 KPS 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 in 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 a very challenging task for police managers to establish common practices for optimum results in a high-risk environment.”

102. The SRSG states that UNMIK Police WCIU included both international UNMIK Police and local KPS officers and focused on the criminal investigation of cases of missing persons. Their responsibility included locating illicit graves, identifying the perpetrators and collecting evidence relating to crimes. UNMIK international police officers working on cases of missing persons had to adjust to conducting investigations in a foreign territory and culture, with limited support from the still developing KPS.
103. He underlines that, after the conflict, all local institutions in Kosovo, including law-enforcement institutions and those responsible for locating the missing, were non-functional and had to be established from scratch. In addition, 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, all these constraints “inhibited the ability of an institution such as UNMIK Police” to conduct all investigations in a manner that may be demonstrated or at least expected in other States with more established institutions, which don’t have to deal with the surge in cases of such a nature associated with a post-conflict situation.
104. With regard to this particular case, the SRSG asserts that UNMIK became aware of the disappearance of Mr Veljko Folić and Mr Miloš Jevrić in May 2002 and May 2003 respectively. Although UNMIK Police contacted their relatives, they were not able to obtain any information that would help locate the disappeared persons. Furthermore, according to the SRSG, “investigation in an early stage of a crime plays a critical role in a successful investigation”. However, according to the SRSG, “[i]n case of Mr. Folić his disappearance was reported to UNMIK almost 3 years, after the incident; and in the case of Mr. Jevrić, his disappearance was reported to UNMIK almost 4 years, after the incident. Therefore, by elapsing such a long period of time from the time of the incident until the time of reporting it, witnesses and evidence would have been inaccessible.” The SRSG also points out that “based on the available documents, it may not be concluded beyond any reasonable doubt whether Messrs Folić and Jevrić are still alive or not.”
105. With respect to the investigation aimed at identifying and bringing to justice the perpetrators responsible for the disappearance of Mr Veljko Folić and Mr Miloš Jevrić, the SRSG asserts

that the “lack of information in the instant cases caused a real hurdle to the conduct of any investigation by UNMIK.” The investigation was only able to connect the disappearance of both victims, and subsequently join the cases, so “what UNMIK police investigated on whereabouts on one was also applicable to the other.”

106. According to the SRSG “it is evident that UNMIK Police did open and pursue an investigation into the whereabouts of Messrs. Folić and Jevrić; however, UNMIK has noted in the other missing persons cases that, without witnesses coming forward or physical evidence being discovered, police investigations inevitably stall because of a lack of evidence.”
107. As a particularly commendable effort of UNMIK Police, the SRSG describes the actions “in early 2003 [when] UNMIK Police found some leads of a gravesite near Pejč/Peć cemetery, where allegedly Messrs. Folić and Jevrić were buried there together with four other persons. According to the information provided on the Case Analysis Review Report of 18 March 2008, from Antemortem and Exhumation Section of the [WCIU], on 17 April 2003, an exhumation took place, but with negative results” (see §§ 74 - 77 above).
108. In light of all the above arguments, the SRSG concludes that “it is evident that UNMIK Police did conduct investigative efforts in accordance with the procedural requirements of Article 2, aimed at locating Messrs. Folić and Jevrić and bringing perpetrators to justice. Furthermore, nothing in the available documents indicates that UNMIK Police had any investigative leads through which it could concretely follow up and successfully arrest and prosecute the perpetrators.
109. Thus, in the SRSG’s view, there was no violation of the procedural requirements of Article 2 of the ECHR by UNMIK in relation to any of the complaints in the present case.
110. Finalising UNMIK’s submission, the SRSG stresses that there is a possibility “that additional and conclusive information exists, beyond the documents mentioned above [so] UNMIK reserves its right to make further comments on the matter.” However, no additional comments were received to date.

### **3. The Panel’s assessment**

111. The Panel considers that the complainants invoke a violation of the procedural obligation stemming from the right to life, guaranteed by Article 2 of the ECHR in that UNMIK authorities did not conduct an effective investigation into the abduction and disappearance of Mr Veljko Folić and Mr Miloš Jevrić.

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

112. At the Panel’s requests, the SRSG provided copies of the documents related to the investigation subject of the present complaints, which UNMIK was able to recover. While presenting these files to the Panel, the SRSG indicated that these files may be incomplete and added that UNMIK may make additional comments on the matter at a later stage (see §§ 90 and 110 above).

113. The Panel notes the SRSG's explanation in this respect that after the complete handover of the files to EULEX, the latter has the full operational jurisdiction over all further investigative actions in relation to the cases received from UNMIK, and that UNMIK now has to seek the permission of EULEX to access such records "for archiving purposes in accordance with conventional practice and agreements made with EULEX" and that it was up to EULEX, to release, not release, or release only in part, such investigation records (see § 90 above). However, the SRSG was not able to confirm whether any investigative documents were in fact withheld by EULEX, and, if yes, with respect to which particular part of the investigative file. The Panel notes in this respect that no further comments were received from UNMIK to date.
114. The Panel recalls that on 4 November 2015, UNMIK confirmed to the Panel that no more files have been located, thus the disclosure may be considered complete. However, on 5 November 2015, the Panel received additional investigative documents on the matter from UNMIK, complementing the previously released file (see § 37 above). The Panel expresses its concern as to the unexplained delay and lack of thoroughness in the release of the investigative files to it.
115. The Panel further 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 complaints. The Panel in this regard refers to the case-law of the European Court of Human Rights that inferences shall be drawn from the conduct of the respondent party during the proceedings, including from its failure "to submit information in their hands without a satisfactory explanation" (see ECtHR, *Çelikkilek v. Turkey*, no. 27693/95, judgment of 31 May 2005, § 56).
116. The Panel also notes that the proper maintenance of investigative files concerning crimes such as killings and disappearances, from the opening of the investigation to their handing over, is crucial to the continuation of such investigations and could thus raise *per se* issues under Article 2 (see Human Rights Advisory Panel [HRAP], *Bulatović*, no. 166/09, opinion of 13 November 2014, § 62).
117. As the Panel itself is not in the position to verify the completeness of the investigative files received, it will therefore assess the merits of the complaints on the basis of documents made available (in this sense, see ECtHR, *Tsechoyev v. Russia*, no. 39358/05, judgment of 15 March 2011, § 146).
- b) *General principles concerning the obligation to conduct an effective investigation under Article 2*
118. The Panel notes that the positive obligation to investigate disappearances is widely accepted in international human rights law since at least the case of the Inter-American Court of Human Rights *Velásquez-Rodríguez* (see Inter-American Court of Human Rights (IACtHR), *Velásquez-Rodríguez v. Honduras*, judgment of 29 July 1988, Series C No. 4). The positive



obligation has also been stated by the 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 Article 2(3) (right to an effective remedy) of the ICCPR (see HRC, General Comment No. 6, 30 April 1982, § 4; HRC, General Comment No. 31, 26 May 2004, §§ 8 and 18, CCPR/C/21/Rev.1/Add. 13; see also, among others, HRC, *Mohamed El Awani, v. Libyan Arab Jamahiriya*, communication no. 1295/2004, views of 11 July 2007, CCPR/C/90/D/1295/2004). The obligation to investigate disappearances and killings is also asserted in the UN Declaration on the Protection of all Persons from Enforced Disappearances (A/Res/47/133, 18 December 1992), and further detailed in UN guidelines such as the UN Manual on the Effective Prevention and Investigation of Extra-Legal Arbitrary and Summary Executions (1991) and the “Guidelines for the Conduct of United Nations Inquiries into Allegations of Massacres” (1995). The importance of the obligation is confirmed by the adoption of the International Convention for the Protection of All Persons from Enforced Disappearance in 2006, which entered into force on 23 December 2010.

119. In order to address the complainants’ allegations, the Panel refers, in particular, 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 of the Convention, read in conjunction with the State’s general duty under Article 1 of the Convention to “secure to everyone within [its] jurisdiction the rights and freedoms defined in [the] Convention”, requires by implication that there should be some form of effective official investigation when individuals have been killed (see, *mutatis mutandis*, ECtHR, *McCann and Others v. the United Kingdom*, judgment of 27 September 1995, § 161, Series A no. 324; and ECtHR, *Kaya v. Turkey*, judgment of 19 February 1998, § 105, *Reports of Judgments and Decisions* 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).
120. 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 § 88 above, at § 136; ECtHR [GC], *Mocanu and Others v. Romania*, nos 10865/09, 45886/07 and 32431/08, judgment of 17 September 2014, § 317).
121. 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).

122. 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, affording a sufficient element of public scrutiny of the investigation and its results, the investigation must also be effective in the sense that is capable of leading to a determination of whether the death was caused unlawfully and if so, to the identification and punishment of those responsible (see ECtHR [GC], *Varnava and Others v. Turkey*, cited in § 102 above, at § 191; see also ECtHR, *Palić v. Bosnia and Herzegovina*, no. 4704/04, judgment of 15 February 2011, § 63). This is not an obligation of results but of means. The authorities must take whatever reasonable steps they can to secure the evidence concerning the incident, including, inter alia eye-witness testimony, forensic evidence and, where appropriate, an autopsy which provides a complete and accurate record of injury and an objective analysis of the clinical findings, including the cause of death. Any deficiency in the investigation which undermines its ability to establish the cause of death or the person or persons responsible will risk falling foul of this standard (see ECtHR, *Ahmet Özkan and Others v. Turkey*, cited above, at § 312; and *Isayeva v. Russia*, cited above, at § 212).
123. At the same time, the Court considers that not every investigation should necessarily be successful nor come to a conclusion which coincides with the claimant's account of events; however, it should in principle be capable of leading to the establishment of the facts of the case and, if the allegations prove to be true, to the identification and, possibly, the punishment of those responsible (see ECtHR, *Mahmut Kaya v. Turkey*, no. 22535/93, judgment of 28 March 2000, § 124, ECHR 2000-III; see also ECtHR, *Paul and Audrey Edwards v. the United Kingdom*, no. 46477/99, judgment of 14 March 2002, § 71, ECHR 2002-II).
124. 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 investigation's ability to establish the circumstances of the case and the identity of those responsible (see ECtHR, *Kolevi v. Bulgaria*, cited in § 119 above, at § 201). Nevertheless, the nature and degree of scrutiny which satisfy the minimum threshold of the investigation's effectiveness depend on the circumstances of the particular case. They must be assessed on the basis of all relevant facts and with regard to the practical realities of the investigation 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 § 120 above, at § 322).
125. 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*, cited above, § 72; ECtHR [GC], *Mocanu and Others v. Romania*, cited in § 120 above, at § 323). Furthermore, in the Court's view, the State's obligation under Article

2 of the Convention will not be satisfied if the protection afforded by domestic law exists only in theory: above all, it must also operate effectively in practice and that requires a prompt examination of the case without unnecessary delays (see ECtHR [GC], *Šilih v. Slovenia*, no. 71463/01, judgment of 9 April 2009, § 195; ECtHR, *Byrzykowski v. Poland*, no. 11562/05, judgment of 27 June 2006, §§ 86 and 94 - 118).

126. Specifically with regard to persons disappeared and later found dead, which is not the situation in the present case, 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 § 136 above, at § 46; in the same sense ECtHR [GC], *Varnava and Others v. Turkey*, cited in § 102 above, at § 148, *Aslakhanova and Others v. Russia*, nos 2944/06 and others, judgment of 18 December 2012, § 122). However, the Court also stresses that this procedural obligation “does not come to an end even on discovery of the body .... This only casts light on one aspect of the fate of the missing person and the obligation to account for the disappearance and death, as well as to identify and prosecute any perpetrator of unlawful acts in that connection, will generally remain” (ECtHR, *Palić v. Bosnia and Herzegovina*, cited above, at § 46; in the same sense ECtHR [GC], *Varnava and Others v. Turkey*, cited in § 102 above, at § 145). While the location and the subsequent identification of the mortal remains of the victim may in themselves be significant achievements, the procedural obligation under Article 2 continues to exist (see ECtHR, *Palić v. Bosnia and Herzegovina*, cited in § 122 above, at § 64).
127. On the requirement of public scrutiny, the Court has further stated that there must be a sufficient element of public scrutiny of the investigation or its results to secure accountability in practice as well as in theory. The degree of public scrutiny required may well vary from case to case. In all cases, however, the victim's next-of-kin must be involved in the procedure to the extent necessary to safeguard his or her legitimate interests (see ECtHR, *Ahmet Özkan and Others*, cited in § 121 above, at §§ 311-314; ECtHR, *Isayeva v. Russia*, cited in § 121 above, at §§ 211-214 and the cases cited therein; ECtHR [GC], *Al-Skeini and Others v. the United Kingdom*, judgment of 7 July 2011, no. 55721/07, § 167, ECHR 2011; ECtHR [GC], *Mocanu and Others v. Romania*, cited in § 120 above, at § 324).
128. 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*, cited in § 123 above, at § 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” (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).

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

129. The Panel is conscious of the fact that the abduction and disappearance of Mr Veljko Folić and Mr Miloš Jevrić, took place shortly after the deployment of UNMIK in Kosovo, when crime, violence and insecurity were rife.
130. On his part, the SRSG does not contest that UNMIK had a duty to investigate the present case under ECHR Article 2 (see § 91 above). 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.
131. The Panel considers that the SRSG's arguments raise two main questions: first, whether the standards of Article 2 continue to apply in situation of conflict or generalised violence and, secondly, whether such standards shall be considered fully applicable to UNMIK.
132. 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).
133. 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 § 122 above, and ECtHR, *Jularić v. Croatia*, no. 20106/06, judgment of 20 January 2011). The Court has further held 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 § 127 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 § 121 above, at §§ 85-90, 309-320 and 326-330; *Isayeva v. Russia*, cited in § 121 above, at §§ 180 and 210; ECtHR, *Kanlibaş v. Turkey*, no. 32444/96, judgment of 8 December 2005, §§ 39-51).

134. The Court has acknowledged that “where the death [and disappearances] to be investigated under Article 2 occur in circumstances of generalised violence, armed conflict or insurgency, obstacles may be placed in the way of investigators and concrete constraints may compel the use of less effective measures of investigation or may cause an investigation to be delayed” (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 § 119 above, at §§ 86-92; ECtHR, *Ergi v. Turkey*, cited above, at §§ 82-85; ECtHR [GC], *Tanrikulu v. Turkey*, no. 23763/94, judgment of 8 July 1999, §§ 101-110, ECHR 1999-IV; ECtHR, *Khashiyev and Akayeva v. Russia*, nos 57942/00 and 57945/00, judgment of 24 February 2005, §§ 156-166; ECtHR, *Isayeva v. Russia*, cited in § 121 above, at §§ 215-224; ECtHR, *Musayev and Others v. Russia*, nos 57941/00 and others, judgment of 26 July 2007, §§ 158-165).
135. 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 § 118 above, at § 1; HRC, *Abubakar Amirov and Aizan Amirova v. Russian 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).
136. 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, 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 § 26 above).

137. 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 § 122 above, at § 70; *Brecknell v. The United Kingdom*, no. 32457/04, judgment of 27 November 2007, § 62).
138. However, the Panel considers that, in the context of most serious crimes committed against civilian populations, Article 2 requires that the authorities take all investigative efforts in order to establish the facts and bring perpetrators to justice. Such cases shall be given the highest priority.
139. 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 therefore determines 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.
140. 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; 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 § 126 above, at § 123). The Panel also records systemic failures such as a deficient system of setting investigative priorities and lack of proper handover between the investigators and/or investigative units. 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.

d) *Compliance with Article 2 in the present case*

141. Turning to the circumstances of the present case, the Panel recalls that the victims in this case were abducted on 19 June 1999, shortly after the deployment of UNMIK in Kosovo, and subsequently disappeared. The Panel also recalls the complainants' submission that the abduction of their relatives was immediately reported to KFOR, UNMIK and other authorities. The names of both victims are included in a number of lists of missing persons and the tracing requests for both remain open. Furthermore, the name of Mr Veljko Folić as a disappeared person was given to UNMIK Police, in October 2001, by the ICRC (see §§ 35 - 36 above); there was clear information that he disappeared together with Mr Miloš Jevrić (see § 39 above). Thus, contrary to the SRSG's assertion, the Panel considers that UNMIK became aware of their disappearance in 2001.
142. At the same time, the Panel also notes that individual investigations with regard to the disappeared victims were initiated by MPU with regard to Mr Veljko Folić as early as May 2002 (see § 40 above) and May 2004 (see § 43 above), while in relation to Mr Miloš Jevrić – in May 2003 (see § 48 above) and 2004 (see § 51 above). An exhumation attempt in 2003 (case no 0445/INV/02, see §§ 54 - 57 and 74 - 77 above) further links these two cases, and a number of others, together.
143. At least since July 2005, WCIU also conducted a joint investigation of abduction and disappearance of Mr Veljko Folić and Mr Miloš Jevrić, in a case no. 2005-00141 (see §§ 65 - 67, 71 above) and apparently had further joined it into another case, no. 2005-00025 (see §§ 68 – 70 and 72 above). Thus, the Panel will also not separate these cases from each other and will consider them as one investigation (see HRAP, *Mirić and others*, nos 68/09 and others, opinion of 10 September 2015, § 160).
144. The Panel further notes that, according to the 2000 Annual Report of UNMIK Police, by June 2000, the complete executive policing powers in the field of law enforcement in Pejë/Peć region, including the system of criminal investigation, were transferred from KFOR to UNMIK Police. Thus, it was for UNMIK Police to investigate their abduction and disappearance; this obligation is not challenged by the SRSG (see § 91 above).
145. The purpose of this investigation was to discover the truth about the circumstances of the abduction and disappearance of Mr Veljko Folić and Mr Miloš Jevrić, to establish their fate, to find the perpetrators and bring them before a competent court established by law. To fulfil

these purposes, those conducting the investigation were required to seek, collect and preserve all necessary evidence leading to identification of the perpetrator(s).

146. 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 §§ 122 - 123 above).
147. 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.
148. Having noted the SRSG's assertion that the file submitted to the Panel may be incomplete and the lack of a comprehensive explanation in relation to this (see §§ 112 - 113 above), the Panel is concerned 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.
149. 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. The Panel further considers this to be particularly indicative of a possible general failure to comply with the obligation to ensure the proper handover and tracking of the investigative material.
150. The Panel also notes that there were obvious shortcomings in the conduct of the investigation into the abduction and disappearance of Mr Veljko Folić and Mr Miloš Jevrić from its inception. However, in light of the considerations developed above concerning its limited temporal jurisdiction (see § 88 above), 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 § 122 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 § 29 above).



151. The Panel now turns to the assessment of this particular investigation against the first part of the procedural obligation under Article 2 of the ECHR, which is establishing the fate of the victims.
152. The Panel is mindful that in any investigation, and particularly in an investigation of a disappearance in life-threatening circumstances, 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; HRAP, *Ibraj*, case nos 14/09 et al, opinion of 6 August 2014, § 142).
153. As already noted above, in 2002 and 2003, UNMIK Police opened individual investigations with regard to both victims; in addition, a joint investigation was opened by the MPU and WCIU, in 2004. The file also shows that the necessary ante-mortem information for Mr Veljko Folić and Mr Miloš Jevrić, and sufficient samples for DNA identification, were collected by the ICRC, (see §§ 39 and 46 above). In this respect, the Panel considers that the collection of the DNA samples is of itself an essential action that secures the necessary material for any future comparative examination and possible identification of located mortal remains (see HRAP, *Pejčinović*, no. 89/09, opinion of 13 March 2014, § 161).
154. The Panel also notes the unsuccessful attempt by the MPU to locate the mortal remains of Mr Veljko Folić and Mr Miloš Jevrić, in 2003, and the lack of any progress towards establishing their fate. In the view of all that, the Panel determines that as UNMIK was not able to locate the whereabouts of Mr Veljko Folić and Mr Miloš Jevrić or positively identify their mortal remains, UNMIK did not discharge its responsibility to establish their fates under the first part of the procedural obligation of Article 2 of the ECHR.
155. Therefore, the Panel will now turn to the investigation carried out by UNMIK Police with the aim of identification of perpetrators and bringing them to justice, that is the other element of the procedural obligation under Article 2 of the ECHR in relation to the victims in this case.
156. The Panel notes that, like in other cases of disappearances that took place during the summer of 1999, there were serious reasons to believe from the outset that Mr Veljko Folić and Mr Miloš Jevrić had been taken away by the KLA. In particular, at least from February 2001, UNMIK Police was in possession of a list of suspected illegal detention centres operated by the KLA, in which "Serbs [were] detained and even tortured", and that both Mr Veljko Folić and Mr Miloš Jevrić were mentioned in that list, as those apparently detained by the KLA in one such illegal detention centre in Pejč/Peć area (see §§ 62 - 64 above). However, no immediate action by UNMIK authorities, except for probably making an initial assessment of the information, is reflected in the investigative file; it has no indication of any efforts to identify and inspect that location.
157. Nevertheless, the Panel notes that the file reflects some joint efforts of UNMIK Police and KFOR to search two of the named suspected KLA detention centres (see § 62 above). The inspection of the first brought negative results, while for the second only initial intelligence

gathering was undertaken, but the file does not show how this preliminary information was realised into any further action. Although the intelligence indicated that the owner of that place was probably involved in organised crime, which would normally provide additional reasons to act swiftly, the file reflects no subsequent action in this respect. Furthermore, the Panel is concerned that the cooperation by UNMIK Police with Serbian authorities was “[j]ust to show ... co-operation and that [UNMIK Police were] seriously interested in conducting professional investigation on this issue” (see § 62 above).

158. The Panel notes that in 2001, upon receipt of the ICRC Victim Identification Forms, UNMIK Police was in possession of information about the abduction and disappearance of Mr Veljko Folić, as well as of that of Mr Miloš Jevrić, as the ICRC Victim Identification Forms in relation to both clearly cross-reference to each other. Likewise, the names and contact details of Mrs Slobodanka Folić and Mrs Plana Folić in Serbia proper (see §§ 39 and 46 above), as well as the identification details of the vehicles in which they had travelled (which also disappeared), were included.
159. The Panel may accept that, due to the difficult situation on the ground at the beginning of its mission, UNMIK Police was only able to properly analyse all received information about the abduction and disappearance of Mr Veljko Folić and Mr Miloš Jevrić some time later. This may explain the fact that the investigations into the abduction of Mr Veljko Folić was opened only in May 2002. However, the Panel finds no explanation to the fact that the investigation with regard to Mr Miloš Jevrić was in fact opened a year later, in May 2003. The Panel notes with concern the SRSB’s inaccurate dismissal of this delay as a failure to report until that date. Likewise, no explanation is found as to the fact why the relatives of both victims were only contacted by UNMIK Police in May 2004 (see § 44 above).
160. As UNMIK Police received information of a potential gravesite located in the vicinity of Pejė/Peć, in 2002, it contacted and apparently interviewed a number of witnesses. As a result of that work, a place was identified, where bodies of Mr Veljko Folić and Mr Miloš Jevrić, Mr Milivoje Đurić, Mr Branko Grujić, Mr Milorad Grujić and R.P. could have been illegally buried by unknown people, in 1999 (see §§ 54 - 57 above). After an apparent unsuccessful exhumation attempt, in 2003, which is very poorly reflected in the file (case no 0445/INV/02, see § 74 above), the work on these investigations appears to have completely stalled, although there were named witnesses and suspects (E.C. and A.G) in these connected cases (see § 72 above).
161. The Panel notes that no other basic investigative steps were undertaken by UNMIK Police. In particular, the file contains no record of a police visit to the scene where the victims were allegedly abducted (hotel “Metohija”) to try to better understand the circumstances of the alleged abduction; no statements of complainants and witnesses were recorded, and no attempt to locate the missing vehicle of Mr Veljko Folić seems to have been undertaken. Another obvious line of inquiry would have been to establish the command structures of the KLA units operating in the area of Pejė/Peć at that time and to question former commanders of those units. Such action could at least have led to the identification of the places where the victims and the other men abducted in similar circumstances around the same time had been detained and questioned. Likewise, it was possible to request Italian KFOR, which was

operating from that hotel, to provide their records in relation to the any possible information and action with respect to this incident, received or undertaken in June 1999 or thereafter (see HRAP, *Pejčinović*, no. 89/09, opinion of 13 March 2014, § 176).

162. The Panel agrees with the SRSG's comment that the "investigation in an early stage of a crime plays a critical role in a successful investigation" (see § 104 above). However, the Panel considers that in the situation of the present case the delay in opening the investigation by UNMIK Police and the subsequent loss of potential evidence, cannot be attributed to the complainants.
163. Coming to the period within its jurisdiction, starting from 23 April 2005, the Panel notes that after that critical date the serious shortcomings of the initial stage of the individual and joint investigations persisted. Accordingly, inadequacies existing up until that date were not addressed. Thus, in accordance with the continuous obligation to investigate (see § 126 above), the assessment of the whole investigation is brought within the period of the Panel's jurisdiction.
164. The Panel recalls that by July 2005, at least two criminal reports have been filed by the relatives of Mr Veljko Folić and Mr Miloš Jevrić with the IPP of the Pejë/Peć DPPO, and that the UNMIK DOJ was clearly in receipt of those reports (see §§ 65 - 66 above). Both reports described the circumstances of their abduction, as apparently given by some monks from the Patriarchate of Pejë/Peć, who saw the car both victims travelled in on the day of abduction. It further appears from the file that these reports were forwarded to the WCIU, which based on them, on 30 August 2005, opened an investigation with regard to both victims (case no. 2005-00141, see § 67 above). However, the Panel notes that the file does not reflect any substantive action of UNMIK Police after the receipt of the reports and registering of the case no. 2005-00141.
165. In August 2007, a WCIU investigator assigned to lead the investigation in the case no. 2005-00025 (*Grujić*), conducted an analysis of the available case material and was able to link the abductions of Mr Milorad Grujić, Mr Branislav Grujić, Mr Milivoje Đuričić, Mr Jovan Savić and Mr R.P. with the abduction of Mr Veljko Folić and Mr Miloš Jevrić (see § 68 above). The Panel notes that all these cases had previously been linked together during an MPU investigation into a suspected mass grave (case no. 0445/INV/02, see § 54 above). The investigator also indicated the name of the KLA commander, E.C., who was in charge of the Pejë/Peć area at that time. At the end of that report, the investigator proposed a number of actions in furtherance of this investigation (see § 70 above), but no actions implementing those are reflected in the file.
166. The Panel also notes with respect to this report, that the WCIU investigator had wrongly stated there with respect to the case no. 2005-00141 that there was "no mention of any eyewitness details or leads to ... follow up" (see § 69 above), while the criminal reports submitted by Mrs Plana Folić and Mrs Vidna Jevrić clearly mention some monks from the Pejë/Peć Patriarchate as witnesses (see § 66 above).

167. Furthermore, the file shows that on 1 October 2007 a request to have this case assigned to an IPP was filed with the UNMIK DOJ, and that on 13 November 2007 it was in fact assigned to an IPP. Although the IPP also asked the WCIU to conduct similar actions (see § 72 above), the file shows no further substantive investigative activity on any of the cases.
168. As the perpetrators 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 their relatives regarding the progress of this investigation.
169. The Panel recalls that, as mentioned above, the MPU cases in relation to Mr Veljko Folić (MPU case no. 2002-000372 and 0422/INV/04) Mr Miloš Jevrić (MPU 2003-000113 and 0421/INV/04) were reviewed once, in May 2004. Another review was undertaken by the MPU, in March 2008, with regard to the exhumation in Pejë/Peć, which had taken place in 2003 (MPU case no 0445/INV/02, see §§ 74 - 76 above), but was also followed by no action.
170. The joint WCIU investigation in relation to both victims (case no. 2005-00141) was reviewed separately in October 2007 (see § 71 above), and apparently twice more, during the review of the WCIU case no. 2005-00025 (*Grujić*, see § 164 - 165 above), in August and November 2007. Although the investigation into the abduction and disappearance of Mr Veljko Folić and Mr Miloš Jevrić obviously lacked action and collected evidence, no further investigative action is recorded in the file. Thus, in the Panel's view, the review of this investigative file was not adequate.
171. The Panel recalls the SRSG's arguments that "without witnesses coming forward or physical evidence being discovered, police investigations inevitably stall because of a lack of evidence" (see § 106 above). In this regard, the Panel notes, *first*, that information is crucial to any investigation and, *second*, that any investigation at its initial stage lacks at least some information. Finding the necessary information and evidence 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. In this case, however, it appears that, instead of actively searching for evidence and leads, UNMIK authorities only 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; *Stevanović*, no. 289/09, opinion of 14 December 2014, § 111; *Jelić*, no. 288/09, opinion of 13 May 2015, § 106).
172. Thus, in the Panel's view, the UNMIK investigative authorities failed to undertake all reasonable steps to follow obvious lines of enquiry and secure the evidence related to the victims' abduction and disappearance.
173. The Panel is conscious of the fact that not all crimes can be solved and not all investigations lead to identification and successful prosecution of the perpetrator[s]. In this respect, the Panel has already referred above to the position of the European Court with regard to the nature of the procedural obligation under Article 2, which is "not an obligation of results but

of means.” The Court clearly states that no violation of Article 2 exists if the authorities take all reasonable steps they can to secure the evidence concerning an incident and the investigation’s conclusion is based on thorough, objective and impartial analysis of all relevant elements (see §§ 122 - 123 above), even when no perpetrators are convicted (see e.g. ECtHR case *Palić*, cited in § 122 above, at § 65 or ECtHR [GC], *Giuliani and Gaggio v. Italy*, no 23458/02, judgment of 24 March 2011, §§ 301 and 326).

174. 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. Having regard to all the circumstances of this particular case, the Panel considers that not all adequate 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 § 122 above), as required by Article 2 of the ECHR.
175. In the SRSG’s own words (see § 101 above), it was imperative for UNMIK Police to establish order and to quickly construct a framework to register and investigate crimes. The Panel agrees with the SRSG. However, despite the variety of information available to UNMIK authorities in this case, no reasonable investigation was conducted. To the Panel this indicates that this obligation is not fulfilled simply by the establishment of an adequate framework, but only when the framework becomes a properly coordinated system capable of carrying out an adequate and effective investigation in accordance with Article 2 of the ECHR (see e.g. HRAP, *Stojković*, no. 87/09, opinion of 14 December 2013, § 164). In this particular case, the prolonged failure of UNMIK Police MPU and WCIU to link the cases (until 2005) speaks for itself.
176. The Panel has already concluded that no substantive effort was made by UNMIK investigative authorities to investigate in a systematic and coordinated manner the disappearance of large number of persons in villages Mushtisht/Mušutište and Dojnicë Dojnice, in Prizren region, in June 1999, which appeared to the Panel to have been operations of ethnic cleansing (see HRAP, *Mitić and others*, nos 63/09 and others, opinion of 14 March 2014, § 172; and *Mirić and others*, nos 68/09 and others, opinion of 14 March 2014, § 204). In those cases the Panel noted that “no effort was made by UNMIK Police to follow an obvious line of enquiry leading to the KLA group controlling [the area], which in the statements of the witnesses had been implicated in crimes against the civilian inhabitants of the area (*ibid.*).
177. The Panel considers that the situation is similar in this case, involving abductions of a number of Kosovo Serbian civilians occurring in similar circumstances around the same place in Pejë/Peć, in June 1999, when KFOR was establishing its presence in the area, and it was *de-facto* controlled by the KLA (see also HRAP, *Pejčinović*, cited in § 153 above; *Grujić*, no. 287/09, cited in § 68 above; *Duričić and Savić*, cited in § 68 above). In this respect, the Panel also notes that no effort was made by UNMIK Police to follow an obvious line of enquiry leading to a KLA commander of the group controlling Pejë/Peć (E.C.) and implicated by witnesses, in relation to a number of similar abductions (see also, in relation

with a mass abduction and disappearance in July 1998, HRAP, *Kostić and others*, 111/09 and others, opinion of 23 October 2015). The Panel also finds in the case before it that no substantive effort was likewise made by UNMIK investigative authorities to investigate the abduction of Mr Veljko Folić and Mr Miloš Jevrić in a systematic and coordinated manner. This failure continued during the period under review as, by that time, no system seems to have been put in place by the UNMIK Police to establish effective coordination among its different units.

178. The Panel, again, stresses that such inaction indicates certain reluctance on the part of UNMIK Police to pursue the investigations when there were indications of ethnically motivated violence pointing towards persons associated with the KLA (see HRAP, *Janković*, no. 249/09, opinion of 16 October 2014, § 108; HRAP, *Nikolić et al*, nos 72/09 et al, opinion of 14 December 2014, § 203, HRAP, *Mirić and others*, cited in § 176 above, at § 207).
179. The apparent lack of an immediate and cohesive reaction from UNMIK may have suggested to perpetrators that the authorities were either not able, or not willing to investigate such criminal acts. Such an attitude of the authorities towards the gravest crimes in any society, and especially in post-conflict circumstances, inevitably creates a culture of impunity among the criminals and can only lead to a worsening of the situation. The problems which UNMIK had encountered at the beginning of its mission, which were discussed above, do not justify such inaction, either at the outset or subsequently. Certainly, in the Panel's view, such inaction did not help UNMIK to defuse the "[t]empers and tensions ... running high amongst all ethnic groups, exacerbated by reports of missing and dead persons", mentioned by the SRSB (see § 101 above).
180. Finally, in relation to the procedural requirement of public scrutiny, the Panel recalls that Article 2 also entails that the victim's next-of-kin be involved in the investigation to the extent necessary to safeguard his or her legitimate interests.
181. However, the file indicates only one contact, by telephone, by the MPU with Mrs J.L. and Mrs Plana Folić, that took place in March 2004 (see § 44 above). Although UNMIK was clearly aware of their whereabouts, as well as of those of Mrs L.S., Mr Miloš Jevrić's daughter, their statements have never been recorded. Furthermore, in their criminal reports to IPPs, the complainants Mrs Plana Folić and Mrs Vidna Jevrić expressed their dissatisfaction with the accessibility of the investigations to the families (see § 66 above).
182. Therefore, the Panel concludes that UNMIK failed to ensure that the complainants and their families were involved in the investigative process to the extent necessary to safeguard their legitimate interests. Thus, the Panel considers that the investigation was not open to any public scrutiny, as required by Article 2 of the ECHR (see, *a contrario*, ECtHR [GC], *Mustafa Tunç and Fecire Tunç v. Turkey*, no. 24014/05, judgment of 14 April 2015, §§ 210 - 216).
183. In light of the shortcomings and deficiencies in the investigation described above, the Panel considers that the case of Mr Veljko Folić and Mr Miloš Jevrić, 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 § 140 above; compare with HRC, *Abubakar Amirov and Aïzan Amirova v. Russian Federation*, cited in § 135 above, at § 11.4, and ECtHR, *Aslakhanova and Others v. Russia*, cited in § 126 above § 123; HRAP, *Bulatović*, no 275/09, opinion of 22 April 2015 §§ 85 and 101).

184. Therefore, the Panel concludes that UNMIK failed to carry out an effective investigation into abduction and disappearance of Mr Veljko Folić and Mr Miloš Jevrić. There has accordingly been a violation of Article 2, procedural limb, of the ECHR.

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

185. The Panel considers that the complainants also invoke a violation of their right to be free from inhumane or degrading treatment arising out of the abduction and disappearance of Mr Veljko Folić and Mr Miloš Jevrić, as guaranteed by Article 3 of the ECHR. In this regard, they are deemed to rely on Article 3 of the ECHR.

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

186. The Panel will consider the allegations under Article 3 of the ECHR, applying the same scope of review as was set out with regard to Article 2 (see §§ 85 - 88 above).

187. The Panel recalls that the European Court of Human Rights has found on many occasions that a situation of enforced disappearance gives rise to a violation of Article 3 in respect of close relatives of the victim. It emphasises that, concerning Article 3, “the essence of such a violation does not so much lie in the fact of the ‘disappearance’ of the family member but rather concerns the authorities’ reactions and attitudes to the situation when it is brought to their attention” (see, e.g., ECtHR [GC], *Çakici v. Turkey*, no. 23657/94, judgment of 8 July 1999, § 98, *ECHR*, 1999-IV; ECtHR [GC], *Cyprus v. Turkey*, no. 25781/94, judgment of 10 May 2001, § 156, *ECHR*, 2001-IV; ECtHR, *Orhan v. Turkey*, no. 25656/94, judgment of 18 June 2002, § 358; ECtHR, *Bazorkina v. Russia*, cited in § 134 above, at § 139; ECtHR, *Palić v. Bosnia and Herzegovina*, cited in § 122 above, at § 74; ECtHR, *Alpatu Israilova v. Russia*, no. 15438/05, judgment of 14 March 2013, § 69; see also HRAP, *Zdravković*, no. 46/08, decision of 17 April 2009, § 41). “It is especially in respect of the latter that a relative may claim directly to be a victim of the authorities’ conduct” (see, among others, ECtHR, *Er and Others v. Turkey*, no. 23016/04, judgment of 31 July 2012, § 94).

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

### **2. The Parties’ submissions**

189. The complainants allege that the lack of information and certainty surrounding the abduction and disappearance of Mr Veljko Folić and Miloš Jevrić, particularly because of UNMIK's failure to properly investigate it, caused mental suffering to themselves and their families.
190. Commenting on this part of the complaint, the SRSB accepts that situations of relatives of disappeared and missing persons "may disclose inhumane and degrading treatment contrary to Article 3, ECHR", which lies in the authorities' reactions and attitudes to the situation when it was brought to their attention.
191. The SRSB stresses that the complainants do not allege "any bad faith on the part of UNMIK personnel involved with the matter, nor of any attitude by UNMIK that would have evidenced any disregard for the seriousness of the matter or the emotions of the complainants and of their families in relations with the disappearance of [their relatives]." The SRSB also points out that none of the complainants had witnessed the disappearances, nor were they in close proximity to the location at the time it occurred.
192. In this context, the SRSB stresses that "the understandable and apparent mental anguish and suffering of the Complainants based on the disappearance and death of their respective relatives cannot be attributed to UNMIK, but is rather a result of the inherent suffering caused by the disappearance and death of close family members." Furthermore, as the suffering of Žaklina Mišljen, Mrs Plana Folić, Mrs Slađana Folić, Mr Savo Folić, Mrs Slobodanka Folić, Mr Žarko Folić and Mrs Vidna Jevrić and their families was not "distinct from the emotional distress which may be regarded as inevitably caused to relatives of a victim of a serious human rights violation."
193. Therefore, in the SRSB's view, UNMIK cannot be held responsible for a violation of Article 3 of the ECHR in this case.

### 3. The Panel's assessment

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

194. Like Article 2, Article 3 of the ECHR enshrines one of the most fundamental values in democratic societies (ECtHR, *Talat Tepe v. Turkey*, no. 31247/96, 21 December 2004, § 47; ECtHR [GC], *Ilaşcu and Others v. Moldova and Russia*, no. 48787/99, judgment of 8 July 2004, *ECHR*, 2004-VII, § 424). As confirmed by the absolute nature conferred on it by Article 15 § 2 of the ECHR, the prohibition of torture and inhuman and degrading treatment still applies even in most difficult circumstances.
195. Setting out the general principles applicable to situations where violations of the obligation under Article 3 of the ECHR are alleged, the Panel notes that the phenomenon of disappearance constitutes a complex form of human rights violation that must be understood and confronted in an integral fashion (see IACtHR, *Velásquez-Rodríguez v. Honduras*, cited in § 118 above, at § 150).



196. The Panel observes that the obligation under Article 3 of the ECHR differs from the procedural obligation on the authorities under Article 2. Whereas the latter requires the authorities to take specific legal action capable of leading to identification and punishment of those responsible, the former is more general and humanitarian and relates to their reaction to the plight of the relatives of those who have disappeared or died.
197. The HRC has also recognised disappearances as a serious violation of human rights. In its decision of 21 July 1983, in the case *Quinteros v. Uruguay*, it stated that disappearances constitute serious violations of the rights of the disappeared person's relatives, who suffer from deep anguish which persists for as long as the uncertainty concerning the fate of their loved one continues, often for many years (see HRC, Communication No. 107/1981, U.N. Doc. CCPR/C/OP/2 at 138 (1990), § 14). Moreover, in its decision of 15 July 1994 in the case *Mojica v. Dominican Republic*, the HRC has deemed that "the disappearance of persons is inseparably linked to treatment that amounts to a violation of article 7 [of the Covenant]", also prohibiting torture, inhumane or degrading treatment and punishment (see HRC, Communication No. 449/1991, U.N. Doc. CCPR/C/51/D/449/1991 (1994), § 5.7).
198. With respect to the question whether a member of the family of a disappeared person can be considered the victim of a treatment contrary to Article 3 of the ECHR, the Panel refers to the case law of the European Court of Human Rights and to its own case law. The European Court accepts that this may be the case, depending on the existence of "special factors which give the suffering of the [family member] a dimension and character distinct from the emotional distress which may be regarded as inevitably caused to relatives of a victim of a serious human rights violation". The Court further holds that "relevant elements will include the proximity of the family tie, the particular circumstances of the relationship, the extent to which the family member witnessed the events in question, the involvement of the family member in the attempts to obtain information about the disappeared person and the way in which the authorities responded to those enquiries" (see ECtHR, *Basayeva and Others v. Russia*, nos. 15441/05 and 20731/04, judgment of 28 May 2009, § 159; ECtHR, *Er and Others v. Turkey*, cited in § 187 above, at § 94).
199. The Panel takes note that, when assessing the emotional suffering of the victims, the European Court also considers the following circumstances: the length of the disappearance itself and of the period with no information on the fate of the missing person and on the investigation undertaken by the authorities; the delay in initiation of criminal investigation into the disappearance; the absence of any "meaningful" action by the authorities, despite the fact that the complainants approached them to report the disappearance of their relative and to share with them the information they had; lack of any plausible explanation or information as to the fate of their missing relatives despite personal or written inquiries with official bodies (see, among others, ECtHR, *Er and Others v. Turkey*, cited above, § 96; ECtHR, *Osmanoğlu v. Turkey*, no. 48804/99, judgment of 24 January 2008, § 97). Another factor leading to a finding of violation of Article 3 of the ECHR is the continuous nature of the psychological suffering of relatives of a victim of a disappearance (ECtHR, *Salakhov and Islyamova v. Ukraine*, no. 28005/08, judgment of 14 March 2013, § 201).

200. The HRC has also considered the issue and recognised family members of disappeared or missing persons as victims of a violation of Article 7 of the Covenant: parents (*Boucherf v. Algeria*, Communication No. 1196/2003, views of 30 March 2006, § 9.7, CCPR/C/86/D/1196/2003), children (*Zarzi v. Algeria*, Communication No. 1780/2008, views of 22 March 2011, § 7.6, CCPR/C/101/D/1780/2008), siblings (*El Abani v. Libyan Arab Jamahiriya*, Communication No. 1640/2007, views of 26 July 2010, § 7.5, CCPR/C/99/D/1640/2007), spouses (*Bousroual v. Algeria*, Communication No. 992/2001, views of 30 March 2006, § 9.8, CCPR/C/86/D/992/2001), aunts and uncles (*Benaniza v. Algeria*, views of 26 July 2010, § 9.4, CCPR/C/99/D/1588/2007; *Bashasha v. Libyan Arab Jamahiriya*, views of 20 October 2010, § 7.2, CCPR/C/100/D/1776/2008). It justifies this broad understanding of victim status by the suffering and distress that is caused to family members by the disappearance of an individual, which is often exacerbated by the authorities' insufficient efforts to investigate the disappearance in order to establish the fate of the victim and to bring perpetrators to justice (*Aboussedra v. Libyan Arab Jamahiriya*, Communication No. 1751/2008, views of 25 October 2010, § 7.5, CCPR/C/100/D/1751/2008). In the case *Amirov v. Russian Federation* the Committee observed that "[w]ithout wishing to spell out all the circumstances of indirect victimisation, the Committee considers that the failure of a State party responsibly to discharge its obligations to investigate and clarify the circumstances of the harm suffered by the direct victim will be usually be a factor. Additional factors may be necessary. In the present case, the Committee notes the horrific conditions in which the author came to find his wife's mutilated remains (...), followed by the dilatory, sporadic measures undertaken to investigate the circumstances that have led to the above findings of violations of articles 6 and 7, read together with article 2, paragraph 3. The Committee considers that, taken together, the circumstances require the Committee to conclude that the author's own rights under article 7 have also been violated" (HRC, *Amirov*, cited in § 135 above, at § 11.7).
201. The Panel also takes into account that according to the European Court, the analysis of the authorities' reaction should not be confined to any specific manifestation of the authorities' attitudes, isolated incidents or procedural acts; on the contrary, in the Court's view, an assessment of the way in which the authorities of the respondent State reacted to the applicants' enquiries should be global and continuous (see ECtHR, *Açiş v. Turkey*, no. 7050/05, judgment of 1 February 2011, § 45).
202. In this respect, it is the position of the European Court that findings under the procedural limb of Article 2 would also be of direct relevance in considering the existence of a violation of Article 3 (see ECtHR, *Basayeva and Others v. Russia*, cited in § 198 above, at § 109; ECtHR, *Gelayevy v. Russia*, cited in § 188 above, at § 147; ECtHR, *Bazorkina v. Russia*, cited in § 134 above, at § 140).
203. The Panel observes that the European Court has already found violations of Article 3 of the ECHR in relation to disappearances in which the State itself was found to be responsible for the abduction (see ECtHR, *Luluyev and Others v. Russia*, no. 69480/01, judgment of 9 November 2006, §§ 117 - 118; ECtHR, *Kukayev v. Russia*, no. 29361/02, judgment of 15 November 2007, §§ 107 - 110). However, in contrast, in the case under the Panel's consideration, in no way is UNMIK implicated in the actual disappearance and UNMIK

cannot be held responsible for the applicants' mental distress caused by the commission of the crime itself.

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

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

205. With regard to the applicability of the above standards to the Kosovo context, the Panel first refers to its view on the same issue with regard to Article 2, developed above (see §§ 129 - 139 above).

206. The Panel reiterates that a normally functioning law enforcement system should take into account the protection needs of victims and witnesses, as well as to consider the special vulnerability of displaced persons in post-conflict situations. The Panel has already considered the fact that by 2003 the police and justice system in Kosovo was described by the UN Secretary-General as being "well-functioning" and "sustainable" (see § 26 above).

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

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

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

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

210. The Panel notes the proximity of the family ties between the complainants and their missing relatives, as Mrs Žaklina Mišljen is the daughter, Mrs Plana Folić is the wife, Mrs Slađana Folić is the daughter-in-law, Mr Savo Folić and Mr Žarko Folić are sons and Mrs Slobodanka Folić is the sister of Mr Veljko Folić. Mrs Vidna Jevrić is the wife of Mr Miloš Jevrić.

211. The Panel recalls the failure established above in relation to the procedural obligation under Article 2. In this respect, the Panel reiterates that from the standpoint of Article 3 it may examine UNMIK's reactions and attitudes to the complainants in their entirety.
212. The complainants claim that they have never been contacted by any UNMIK authority in relation to the investigation into their relatives' abduction and disappearance. Indeed, the file has no documents suggesting that such contact(s) ever took place, which is also not disputed by the SRSG. Furthermore, as mentioned above, in their complaint to the IPP at the Pejë/Peć DPPO, the complainants, as well as the others who reported the same crimes, expressed their dissatisfaction with the complete absence of information from UNMIK about any investigation in this regard. The complainants even proposed a course of action to the IPP to collect evidence (see § 66 above).
213. As mentioned above, the UNMIK authorities only contacted one of the complainants, Mrs Plana Folić, and another family member, Mrs J.L., in March 2004, but their statements were never recorded (see § 181 above). The Panel recalls its finding above, in relation to Article 2 of the ECHR, that UNMIK authorities failed to ensure that all the complainants in this case and their families, were involved in the investigative process to the extent necessary to safeguard their legitimate interests (see § 182).
214. The Panel considers that this situation, which continued into the period of the Panel's temporal jurisdiction, caused grave uncertainty to the complainants and their family about the fate of their close relatives and the status of the investigation.
215. In view of the above, the Panel concludes that the complainants and their families have suffered severe distress and anguish for a prolonged period of time, a big part of which falls within the Panel's temporal jurisdiction, on account of the way the authorities of UNMIK have dealt with the case and as a result of their inability to find out what happened to Mr Veljko Folić and Mr Miloš Jevrić. Thus, in the Panel's view, it is obvious that the pain, which was inflicted on the complainants and their families, who had to live in uncertainty about the fate of their close relatives, must have been unbearable.
216. For the aforementioned reasons, the Panel concludes that, by its behaviour, UNMIK contributed to the distress and mental suffering of the complainants and their families, in violation of Article 3 of the ECHR.

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

217. In light of the Panel's findings in this case, the Panel is of the opinion that some form of reparation is necessary.
218. The Panel notes that enforced disappearances, torture and inhumane and degrading treatment 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 and/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.

219. 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.

220. 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 § 29 above), 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.

221. 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 complainants 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*, cited in § 194 above, at § 333; ECtHR, *Al-Saadoon and Mufdhi v. United Kingdom*, no. 61498/08, judgment of 2 March 2010, § 171; ECtHR [GC], *Catan and Others v. Moldova and Russia*, nos. 43370/04, 8252/05 and 18454/06, judgment of 19 October 2012, § 109), must endeavour, with all the means available to it *vis-à-vis* 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 abduction and disappearance of Mr Veljko Folić and Mr Miloš Jevrić, will be established and that the possible perpetrators will be brought to justice. The complainants and/or other next-of-kin shall be informed of such proceedings and relevant documents shall be disclosed to them, as necessary;

- Publicly acknowledges, including through media, within a reasonable time, responsibility with respect to UNMIK's failure to adequately investigate the above mentioned cases, as well as the distress and mental suffering subsequently incurred, and makes a public apology to the complainants and their families in this regard;

- Takes appropriate steps towards payment of adequate compensation to the complainants for the moral damage suffered due to UNMIK's failure to conduct an effective

investigation as well as for distress and mental suffering incurred by them as a consequence of UNMIK's behaviour.

**The Panel also considers appropriate that UNMIK:**

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

**FOR THESE REASONS,**

The Panel, unanimously,

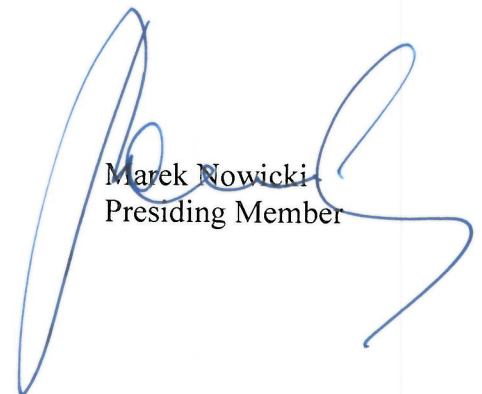
- 1. FINDS THAT THERE HAS BEEN A VIOLATION OF THE PROCEDURAL OBLIGATION UNDER ARTICLE 2 OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS;**
- 2. FINDS THAT THERE HAS BEEN A VIOLATION OF THE SUBSTANTIVE OBLIGATION UNDER ARTICLE 3 OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS;**
- 3. RECOMMENDS THAT UNMIK:**
  - a. URGES THE COMPETENT AUTHORITIES IN KOSOVO TO TAKE ALL POSSIBLE STEPS IN ORDER TO ENSURE THAT THE CRIMINAL INVESTIGATION INTO THE ABDUCTION AND DISAPPEARANCE OF MR VELJKO FOLIĆ AND MR MILOŠ JEVRIĆ, IS CONTINUED IN COMPLIANCE WITH ARTICLE 2 OF THE ECHR AND THAT THE PERPETRATORS ARE BROUGHT TO JUSTICE;**
  - b. PUBLICLY ACKNOWLEDGES, INCLUDING THROUGH MEDIA RESPONSIBILITY FOR ITS FAILURE TO CONDUCT AN EFFECTIVE**

**INVESTIGATION INTO THE ABOVE MENTIONED CASES, AS WELL AS FOR DISTRESS AND MENTAL SUFFERING INCURRED, AND MAKES A PUBLIC APOLOGY TO THE COMPLAINANTS AND THEIR FAMILIES;**

- c. TAKES APPROPRIATE STEPS TOWARDS PAYMENT OF ADEQUATE COMPENSATION TO THE COMPLAINANTS FOR MORAL DAMAGE IN RELATION TO THE FINDING OF VIOLATIONS OF ARTICLE 2 AND ARTICLE 3 OF THE ECHR.**
- d. TAKES APPROPRIATE STEPS TOWARDS THE REALISATION OF A FULL AND COMPREHENSIVE REPARATION PROGRAMME;**
- e. TAKES APPROPRIATE STEPS AT THE UNITED NATIONS AS A GUARANTEE OF NON REPETITION;**
- f. TAKES IMMEDIATE AND EFFECTIVE MEASURES TO IMPLEMENT THE RECOMMENDATIONS OF THE PANEL AND TO INFORM THE COMPLAINANTS AND THE PANEL ABOUT FURTHER DEVELOPMENTS IN THIS CASE.**



Andrey Antonov  
Executive Officer



Marek Nowicki  
Presiding Member

## ABBREVIATIONS AND ACRONYMS

<b>BDMP</b>	Bureau for Detainees and Missing Persons
<b>CCPR</b>	International Covenant on Civil and Political Rights
<b>CIC</b>	UNMIK Police Central Information Center
<b>DOJ</b>	Department of Justice
<b>DPPO</b>	District Public Prosecutor's Office
<b>ECHR</b>	European Convention on Human Rights
<b>ECtHR</b>	European Court of Human Rights
<b>EU</b>	European Union
<b>EULEX</b>	European Union Rule of Law Mission in Kosovo
<b>FRY</b>	Federal Republic of Yugoslavia
<b>HLC</b>	Humanitarian Law Centre
<b>HRAP</b>	Human Rights Advisory Panel
<b>HRC</b>	United Nation Human Rights Committee
<b>IACtHR</b>	Inter-American Court of Human Rights
<b>ICMP</b>	International Commission of Missing Persons
<b>ICRC</b>	International Committee of the Red Cross
<b>ICTY</b>	International Criminal Tribunal for former Yugoslavia
<b>IPP</b>	International Public Prosecutor
<b>KFOR</b>	International Security Force (commonly known as Kosovo Force)
<b>KLA</b>	Kosovo Liberation Army (Albanian: <i>Ushtria Çlirimtare e Kosovës, UÇK</i> )
<b>MP</b>	Missing Person
<b>MPU</b>	Missing Persons Unit
<b>NATO</b>	North Atlantic Treaty Organization
<b>OMPF</b>	Office on Missing Persons and Forensics
<b>OSCE</b>	Organization for Security and Cooperation in Europe
<b>SRSG</b>	Special Representative of the Secretary-General
<b>UN</b>	United Nations
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>UNMIK</b>	United Nations Interim Administration Mission in Kosovo
<b>WCIU</b>	War Crimes Investigation Unit