



# *The Human Rights Advisory Panel*

Building D, UNMIK HQ Prishtinë/Priština, Kosovo | E-mail: hrap-unmik@un.org | Tel: +381 (0)38 504-604, ext. 5182

## **OPINION**

**Date of adoption: 31 October 2013**

**Case No. 135/09**

**Milisav GOGIĆ**

**against**

**UNMIK**

The Human Rights Advisory Panel, sitting on 31 October 2013,  
with the following members present:

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

Assisted by

Mr Andrey Antonov, Executive Officer

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

Having deliberated, makes the following findings and recommendations:

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

1. The complaint was introduced on 8 April 2009 and registered on 30 April 2009.
2. On 9 December 2009, the Panel requested the complainant to submit additional information and repeated its request on 20 April 2011. No response was received from the complainant.

3. On 29 December 2011, the complaint was communicated to the Special Representative of the Secretary-General (SRSG)<sup>1</sup>, for UNMIK's comments on admissibility. On 13 February 2012, the Panel received UNMIK's response.
4. On 16 March 2012, the Panel declared the complaint partially admissible.
5. On 21 March 2012, the Panel forwarded its decision to the SRSG requesting UNMIK's comments on the merits of the complaint, as well as copies of all relevant investigative files and other documents relied upon by UNMIK in preparation of its response.
6. On 3 April 2013, the SRSG provided UNMIK's comments on the merits of the case together with the relevant documentation.
7. On 16 September 2013, the Panel requested UNMIK to confirm whether the disclosure of files concerning the case could be considered final.
8. On the same day, UNMIK provided its response.

## II. THE FACTS

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

9. The events at issue took place in the territory of Kosovo during the conflict and after the establishment of the United Nations Interim Administration Mission in Kosovo (UNMIK), in June 1999.
10. The armed conflict during 1998 and 1999 between the Serbian forces on one side and the Kosovo Liberation Army (KLA) and other Kosovo Albanian armed groups on the other is well documented. Following the failure of international efforts to resolve the conflict, on 23 March 1999, the Secretary General of the North Atlantic Treaty Organisation (NATO) announced the commencement of air strikes against the Federal Republic of Yugoslavia (FRY). The air strikes began on 24 March 1999 and ended on 8 June 1999 when the FRY agreed to withdraw its forces from Kosovo. On 9 June 1999, the International Security Force (KFOR), the FRY and the Republic of Serbia signed a "Military Technical Agreement" by which they agreed on FRY withdrawal from Kosovo and the presence of an international security force following an appropriate UN Security Council Resolution.
11. 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

---

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

<sup>2</sup> The references drawn upon by the Panel in setting out this general background include: OSCE, "As Seen, as Told", Vol. 1 (October 1998 – June 1999) and Vol. II (14 June – 31 October 1999); quarterly reports of the UN Secretary-General on the United Nations Interim Administration in Kosovo; UNMIK Police Annual Reports (2000, 2001); Humanitarian Law Centre, "Abductions and Disappearances of non-Albanians in Kosovo" (2001); Humanitarian Law Centre, "Kosovo Memory Book" (<http://www.kosovomemorybook.org>); UNMIK Office on Missing Persons and Forensics, Activity Report 2002-2004; European Court of Human Rights, *Behrami and Behrami v. France and Saramati v. France, Germany and Norway*, nos. 71412/01 and 78166/01, decision of 2 May 2007; International Commission on Missing Persons, "The Situation in Kosovo: a Stock Taking" (2010); data issued by the United Nations High Commissioner for Refugees, (available at [www.unhcr.org](http://www.unhcr.org)) and by the International Committee of the Red Cross (available at <http://familylinks.icrc.org/kosovo/en>).

international security and civil presences - KFOR and UNMIK respectively - in the territory of Kosovo. Pursuant to Security Council Resolution No. 1244 (1999), the UN was vested with full legislative and executive powers for the interim administration of Kosovo, including the administration of justice. KFOR was tasked with establishing “a secure environment in which refugees and displaced persons can return home in safety” and temporarily ensuring “public safety and order” until the international civil presence could take over responsibility for this task. UNMIK comprised four main components or pillars led by the United Nations (civil administration), United Nations High Commissioner for Refugees (humanitarian assistance, which was phased out in June 2000), the OSCE (institution building) and the EU (reconstruction and economic development). Each pillar was placed under the authority of the SRSG. UN Security Council Resolution 1244 (1999) mandated UNMIK to “promote and protect human rights” in Kosovo in accordance with internationally recognised human rights standards.

12. 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.
13. 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.
14. Although figures remain disputed, it is estimated that more than 15,000 deaths or disappearances occurred during and in the immediate aftermath of the Kosovo conflict (1998-2000). More than 3,000 ethnic Albanians, and about 800 Serbs, Roma and members of other minority communities went missing during this period. More than half of the missing persons had been located and their mortal remains identified by the end of 2010, while 1,766 are listed as still missing by the International Committee of the Red Cross (ICRC) as of October 2012.
15. 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.
16. By December 2000, the deployment of UNMIK Police was almost complete with 4,400 personnel from 53 different countries, and UNMIK had assumed primacy in law enforcement responsibility in all regions of Kosovo except for Mitrovicë/Mitrovica. According to the 2000 Annual Report of UNMIK Police, 351 kidnappings, 675 murders and 115 rapes had been reported to them in the period between June 1999 and December 2000.

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

## **B. Circumstances surrounding the abduction and killing of Mr Đoko Gogić**

21. The complainant is the son of Đoko Gogić. He states that on 20 July 1998 his father was abducted by KLA members from his house in Banja village, Suharekë/Suva Reka municipality. In October 2006, his mortal remains were returned to the complainant. As far

as he is aware, the mortal remains of his father were found in a mass grave at a place called “Volujak” in Klinë/Klina municipality, and were identified through DNA.

22. The complainant states that he reported his father’s abduction to the ICRC, the Serbian Red Cross and the Serbian Ministry of Internal Affairs (MUP). He alleges that he had never been contacted by anyone with regard to the investigation into his father’s abduction and eventual killing, except the contact related to the handover of the mortal remains.
23. The complainant attaches copies of the death certificate for his father. The first one is dated 25 September 2006 and is issued by the Medical Faculty of the Prishtinë/Priština University, displaced in Mitrovicë/Mitrovica, Kosovo. It states that the date of death, “according to the available information”, is established to be 25 July 1998 at “Volujak”, the cause of death is “murder”, but the direct cause is “unascertained”. The second one, dated 27 February 2007, issued by the municipality of Kragujevac, Serbia proper, repeats the above information regarding the date and place of death.
24. Đoko Gogić is listed as a missing person in an ICRC communication to UNMIK Police dated 12 October 2001 and in the database maintained by the UNMIK OMPF. His name also appears in the online database maintained by the ICMP<sup>3</sup>, which reads in relevant fields “Sufficient Reference Samples Collected” and “ICMP provided information on this missing person on 05-04-2006 to authorised institution. To obtain additional information, contact EULEX Kosovo Headquarters.”

### **C. The investigation**

#### *a) Disclosure of relevant files*

25. On 3 April 2013, UNMIK presented to the Panel the documents which were held previously by the OMPF, the UNMIK Police MPU and the WCIU. On 16 September 2013, UNMIK confirmed to the Panel that all files in UNMIK’s possession have been disclosed.
26. Concerning disclosure of information contained in the files, the Panel recalls that UNMIK has made available investigative files for the Panel’s review under a pledge of confidentiality. In this regard, the Panel must clarify that although its assessment of the present case stems from a thorough examination of the available documentation, only limited information contained therein is disclosed. Hence a synopsis of relevant investigative steps taken by investigative authorities is provided in the paragraphs to follow.

#### *b) Search for the victim, location and handover of his mortal remains*

27. The file contains a copy of an undated, manually completed, Victim Identification Form with the ante-mortem data collected by the ICRC; the complainant’s name, his address and telephone number, are provided in this form. An MPU identification form copying the same information is dated 24 January 2005.

---

<sup>3</sup> The ICMP database is available at: [http://www.ic-mp.org/fdmsweb/index.php?w=mp\\_details&l=en](http://www.ic-mp.org/fdmsweb/index.php?w=mp_details&l=en) (accessed on 31 October 2013).

28. According to the documents in the OMPF file, a number of unidentified mortal remains had been exhumed on 11 November 2004 at “Volujak”. The OMPF carried out an autopsy on the mortal remains of one person on 3 December 2004 and an autopsy report was finalised on 25 January 2005; a DNA sample was also collected.
29. A printout of an MPU database search with regard to Đoko Gogić, generated on 26 November 2004, referring to a WCIU investigation no. 2002-00057, provides his brief ante-mortem description and a statement that “he was abducted on July 20, 1998, from the house, by unknown Albanian with a ICRC vehicle (jeep).” This case number suggests that the WCIU had opened an investigation into the complainant’s father’s abduction in 2002.
30. The MPU Ante-Mortem Investigation Report, dated 31 January 2005, indicates that the MPU opened a missing person file with respect to the disappearance of Đoko Gogić (no. 1148/INV/04) on 22 December 2004 and closed it on 31 January 2005. The report provides information on a telephone contact with the complainant, on an unknown date, when the complainant apparently stated to the MPU investigators that on 20 June 1998 “[u]nknown Albanians took [Đoko Gogić] to unknown direction by ICRC vehicle”. As a witness had told him, his father was taken to a KLA detention centre in Malishevë/Mališevo, where he was kept “with a group of Serbs from Orahovac.” However, “after Serbian Police entered in Malisevo, the have not received any information about MP [missing person].” The complainant named one well-known KLA commander and another person as suspects in the abduction, the name of that KLA commander appears in the field “suspect” of the MPU Ante-Mortem Investigation Report’s front page, which also states “none” in the fields “Witness Interviewed” and “Statement of witness”. At the end of this report, the investigator concludes: “There is no information leading to a possible MP [missing person]’s location. This case should remain open inactive within the [WCIU].”
31. On 8 August 2005, the ICMP issued a DNA report, confirming positive identification of the mortal remains as those belonging to Đoko Gogić.
32. The OMPF file contains an Identification Certificate and a Death Certificate, both issued by the OMPF on 27 September 2006, confirming that the complainant’s father had died prior to 11 November 2004, of an unknown cause.
33. A copy of an OMPF Family Visit form, apparently signed by the complainant, confirms that the mortal remains of Đoko Gogić were handed over to the complainant on 13 October 2006, at 12:00.

*c) Investigation with regard to perpetrator(s)*

34. In a memorandum addressed to the UNMIK Police’s Assistant Director of Investigations, dated 29 May 2002 and referring to a file no. MPU/BEL/129/02, with the subject “The K[...] Family” the Head of the MPU office in Belgrade states:

“... it seems to me that a lot of different organizations were or are involve in this case, and none of them took a leading role in the process. A lot of information is gathered but never reached UNMIK Police.

- ICRC received a lot of info from the US and from the family.
- D&MPB had “series of meetings with the families”.
- ICTY took statements.

None of these organizations forwarded information to MPU in the past.

...

At this point in time, again different people are “involved”, “in contact” or “liaising with”. Again I see the danger of decentralization of the information. As this is obvious a criminal case (kidnapping and illegal detention/murder), the case should be in centralized and investigated by police, in this case CCIU will follow-up by MPU for the MP [missing person] aspect.”

35. The file further contains a copy of the front page of an indictment filed before the Trial Chamber of the International Criminal Tribunal for the former Yugoslavia (ICTY) in the case no. IT-03-66-I, which was apparently faxed to the ICTY Outreach Office in Belgrade on 20 February 2003. No explanation as to how that indictment is relevant to this particular case is given.
36. A WCIU memorandum addressed to KFOR describes the WCIU investigation no. 2002-00031 as related to “abduction & murder of approximately 82 victims of Serb, Albanian and Roma ethnicity that occurred between 17 and 23 July 1998 in the areas of Malishevo, Orahovac, Opterusa and Retimlje and other surrounding villages.” According to the same document, some of the victims “were also kidnapped from their houses”, then “sent to a detention facility located in Malishevo/Malisevo MUP Police Station.”
37. An undated list contains the names of 42 victims from the investigation no. 2002-00031, although the complainant’s father is not one of them.
38. An investigator’s report, dated 6 June 2005, describes the WCIU’s attempts to locate any files from the year 1999, related to the “Volujak Cave”. Checks made in Pejë/Peć police station and Regional Police Headquarters and with the Carabinieri unit of Italian KFOR were negative. An investigative officer at Klinë/Klina police station vaguely recalled the file, but could not find any related documents.
39. By a memorandum dated 23 July 2005, the WCIU requested UNMIK Police liaison office to verify whether KFOR possessed in their archives any satellite pictures of “the possible detention centre that was Malishevo Police Station, the site at Volujak Cave and the well at Malishevo”, as it would “assist [...] greatly to go forward with our investigation and generate the possibility of bringing the perpetrators to justice.” However, no response to this request is found in the file.
40. In a memorandum, dated 30 March 2007, related to the case no. 2002-00031, a WCIU investigator asked for a duplicate of audio records of ten witness statements. Neither the complainant, nor any of his other family members is among those ten witnesses.
41. The part of the file related to the WCIU investigation contains an undated Case Index cross-referenced to the WCIU file number no. 2002-00031, which has Đoko Gogić as a victim and the offence identified as “Mass Murder”. The Table of Contents refers to the following documents: above-mentioned MPU Ante-Mortem Investigation Report (see § 30) in the tab “A”; Investigation report (tab “B”); Missing person report (tab “C”); Ante-mortem data (tab “D”); Witness statements (tab “E”); Forensic reports/list of evidence/chain of custody (tab “F”); Photographs of evidence/artefacts (tab “G”); Autopsy report (tab “H”); Photographs from autopsy (tab “I”); and Other documentation relating the case (tab “J”). None of the documents follow this case index in the order presented, although some of them are present

in the file. However, no witness statements relevant to the abduction of the complainant's father are found.

42. All those lists have the complainant's father's name on them, linked to another WCIU investigation (no. 2002-00031), but they are completely blank in all other fields. Another list named "Autopsy Report", also with Đoko Gogić's name and a reference to the WCIU case no. 2002-00031, has a single entry "Autopsy Report", dated 23 June 2005.
43. The rest of the file presented to the Panel contains a number of documents related to the WCIU investigation no. 2002-00031, including: initial incident report, witness statements, reports on the implementation of covert measures, personal details of suspects, site inspection reports. They reflect the police's actions to further the investigation into the abduction and killing of members of the K. and B. families, from Retimlje/Retimlje and Opatrović/Opatrović villages, Rahovec/Orahovac municipality, in July 1998. Most of the actions, including contacts and interviews with victims' family members and witnesses, were taken by the WCIU in 2005 and 2006. None of those documents have any direct relevance to the disappearance and death of the complainant's father.

### **III. THE COMPLAINT**

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

### **IV. THE LAW**

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

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

45. Before turning to the examination of the merits of the complaint, the Panel needs to clarify the scope of its review.
46. In determining whether it considers that there has been a violation of Article 2 (procedural limb), the Panel is mindful of the existing case-law, notably that of the European Court of Human Rights. However, the Panel is also aware that the complaints before it differ in some significant ways from those brought before that Court. First, the respondent is not a State but an interim international territorial administration mandated to exercise temporary responsibilities in Kosovo. No suspicion attaches to UNMIK with respect to the substantive obligations under Article 2 of the ECHR. Second, as in a limited number of cases before the European Court, those suspected of being responsible for the alleged killings and/or abductions are in all cases before the Panel non-state actors, mostly but not exclusively connected to the conflict. These are factors for the Panel to take into consideration as it assesses the procedural positive obligations of an intergovernmental organisation with respect to acts committed by third parties in a territory over which it has temporary legislative, executive and judicial control.



47. 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.
48. 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.
49. 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 § 47). 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.
50. 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**

51. The complainant in substance alleges a violation concerning the lack of an adequate criminal investigation into the abduction and death of his father. The complainant also alleges that he was never informed as to whether such an investigation was conducted at all, and what the outcome was.

52. In his comments on the merits of the complaint, the SRSG does not dispute that starting from 11 June 1999, UNMIK undertook a responsibility to conduct an effective investigation into the disappearance and killing of Đoko Gogić, in line with its general obligation to secure the effective implementation of the domestic laws which protect the right to life, given to it by UN Security Council Resolution 1244 (1999) (see § 11 above), and further defined by UNMIK Regulation No. 1999/1 *On the Authority of the Interim Administration in Kosovo* and subsequently, UNMIK Regulation 1999/24 *On the Law Applicable in Kosovo*, and Article 2 of the ECHR.
53. In this regard, the SRSG stresses that this responsibility “stems from the procedural obligation under Article 2 of the ECHR to conduct an effective investigation where death occurs in suspicious circumstances not imputable to State agents”. He further argues that, in general, when considering whether UNMIK has satisfied its procedural obligations under Article 2 of the ECHR, the Panel must take into consideration the special circumstances in Kosovo at the time.
54. The SRSG accepts that Đoko Gogić had disappeared in life-threatening circumstances. The SRSG adds that in June 1998, when he was abducted, “the security situation in Kosovo was extremely tense, and there was a high level of violence all over Kosovo”.
55. He considers that such an obligation is two-fold, including “an obligation to determine through investigation the fate and/or whereabouts of the missing person; and an obligation to conduct an investigation capable of determining whether the death was caused unlawfully and leading to the identification and punishment of those responsible for the disappearance and/or death of the missing person.”
56. The SRSG argues that in its case-law on Article 2, the European Court of Human Rights has stated that due consideration shall be given to the difficulties inherent to post-conflict situations, and the problems limiting the ability of investigating authorities in investigating such cases. In this regard, the SRSG recalls the judgment of 15 February 2011 rendered by the European Court in the case *Palić v. Bosnia and Herzegovina* stating at paragraph 70:
- “The Court takes into account the complex situation in Bosnia and Herzegovina, notably in the first ten years following the war. In such a post-conflict situation, what amounts to an impossible and/or disproportionate burden must be measured by the very particular facts and context. In this connection, the Court notes that more than 100,000 people were killed, almost 30,000 people went missing and more than two million people were displaced during the war in Bosnia and Herzegovina. Inevitably choices had to be made in terms of post-war priorities and resources [...]”
57. In the view of the SRSG, in the aftermath of the Kosovo conflict, UNMIK was faced with a very similar situation, where thousands of people were displaced or went missing. Many of the persons who went missing were abducted, killed, and buried in unmarked graves inside or outside Kosovo, which made very difficult locating and recovering their mortal remains.
58. The SRSG explains that in June 2002, UNMIK created the OMPF with the mandate to determine the fate of the missing; however its work was faced with many challenges at the beginning of the operations, due to the work previously done mostly by actors independent from UNMIK. In particular, the SRSG states that the collection of evidence of war crimes

began with the arrival of NATO in 1999 with independent teams from several countries operating under the loose coordination of the ICTY. A lack of standard operating procedures or centralisation led to problems with the evidence gathered in this phase. In 2000, the ICTY launched a large, centralised forensic operation, based at the Rahovec/Orahovac mortuary, with standard operating procedures for all forensic teams except the British one, which operated independently out of Prishtinë/Priština. The SRSG states that, in the effort to demonstrate that crimes were systematic and widespread, the ICTY teams conducted autopsies on as many bodies as possible, carrying out little or no identification work; moreover, unidentified bodies exhumed in 1999 were reburied in locations still unknown to the OMPF. After the ICTY closed their operation in 2000, the UNMIK Police MPU continued small-scale investigations on missing persons “ex-officio, without any broader prosecutorial strategy”. As a consequence, a large amount of unstructured information was collected. The SRSG states that, taking into account the difficulties described above, “the process of dealing effectively with disappearances and other serious violations of international humanitarian law has been understandably incremental” in Kosovo. The SRSG concludes that the work of the OMPF contributed greatly to determining the whereabouts and fate of the missing from the Kosovo conflict; however it was not possible to locate all the missing within the timeframe and resources available at that time.

59. The SRSG further argues that fundamental to conducting effective investigations is a professional, well-trained and well-resourced police force and that such a force did not exist in Kosovo in the aftermath of the conflict. In the policing vacuum following the end of the conflict, UNMIK had to build a new Kosovo Police Service from scratch, a long and challenging task which, according to the SRSG, is still in progress. The SRSG also states that UNMIK Police faced numerous challenges in exercising law enforcement functions gradually transferred to it by KFOR in 1999-2000. In this regard, he refers to the UNMIK Police Annual Report of 2000 describing the situation as follows:

“UNMIK Police had to deal in the aftermath of war with dead bodies and looted and burnt 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 to establish order and to quickly construct a framework to register and investigate crimes.

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

60. The SRSG states that UNMIK international police officers had to adjust to conducting investigations in a foreign territory and country, with limited support from the still developing Kosovo Police. He further states that these investigators were often faced with situations where individuals holding relevant knowledge on the whereabouts and fate of missing persons did not want to disclose this information. According to the SRSG, all these constraints inhibited the ability of the UNMIK Police to conduct investigations according to the standards that may be expected from States with more established institutions and are not faced with the high number of cases of this nature associated with a post-conflict situation.

61. Referring to the particulars of the complaint of Mr Milisav Gogić, the SRSG, first, stresses that until June 1999 it was the responsibility of the MUP to investigate the disappearance of Đoko Gogić. At that time MUP investigators “were able to assess contemporaneous evidence and follow up on any leads.” He adds that “where an investigation is commenced promptly after the occurrence of an event, there is a greater likelihood of identifying witnesses. Notwithstanding this, the police of the FRY did not complete an investigation. Furthermore, the more time passes from an incident, the harder it is to investigate a case. By the passing time, evidence is lost, access to witnesses becomes harder, witnesses forget details, etc. These factors are valid in respect of the instant matter.”
62. Second, with regard to establishing the fate of Đoko Gogić, the SRSG explains that upon receiving the information about the disappearance the complainant’s father, the UNMIK MPU opened a file, no. 2002-000570. Additionally, “due to a mass murder around the same time and same area where Mr. Gogić was disappeared, another file as 2002-00031 was opened as a mass murder case.”
63. The SRSG further states that the ante-mortem data (see § 27 above) was collected through the MPU Office in Belgrade. He adds that, despite the above-described difficulties, the mortal remains of Đoko Gogić were discovered on 11 November 2004, examined, identified and finally returned to his family, in October 2005. Therefore, in the SRSG’s opinion, the investigation as to the fate of the complainant’s father was conducted within a reasonable time.
64. Third, with respect to the investigation aimed at identifying and bringing to justice those responsible for the abduction and killing of the victim, the SRSG asserts that “the lack of information [...] posed a real hurdle to the conduct of any investigation by UNMIK” and that “[t]he lack of witnesses or suspects impeded the identification of possible perpetrators to be brought to justice.”
65. The SRSG further details that UNMIK Police “initially did open and pursue an investigations into the whereabouts of Mr. Gogić”, in particular the MPU interviewed the complainant, who alleged that a high-ranking KLA commander was responsible for the disappearance and killing of his father (here, the SRSG apparently refers to the MPU report of 31 January 2005, mentioned in § 30 above). That KLA commander “was arrested and tried by the [ICTY] on the basis of command responsibility for ‘imprisonment, torture, inhumane acts, murder ... and cruel treatment’ of other individuals”; during the trial (ICTY case no. IT-03-66), “the prosecutor called 30 witnesses and exhibited 260 pieces of evidence.” In this respect the SRSG notes that UNMIK Police “assisted ICTY with investigations in Kosovo as requested by ICTY to locate the witnesses and evidence.”
66. The SRSG also suggests that the OMPF investigated the disappearance and killing of Đoko Gogić and many other individuals, in relation to a mass murder case no. 2002-00031, and that the available documents prove that UNMIK Police actively investigated the case, particularly between 2 June 2005 and 31 March 2006, when “every few days there was an Officer Report in the file.” As an indication of particularly outstanding actions, the SRSG refers to “a request for satellite pictures of 23 July 2005 (see § 39 above), interviews with several potential witnesses, and the interception of the telephone calls [...] by two suspects named [S.C.] and [J.H.]” To further support his position, the SRSG refers to other documents in the investigative file (see § 43 above).

67. The SRSG concludes that “it is evident that UNMIK Police did conduct investigative efforts in accordance with the procedural requirements of Article 2 of ECHR, aiming at bringing the perpetrators to justice”. However, in a view of a possibility that “additional and conclusive information exists”, the SRSG reserves his right to make further comments on this matter.
68. No further communication in this regard, besides the confirmation of the full disclosure of the investigative files, has been received by the Panel to date.
69. For these reasons, according to the SRSG, there has not been a violation of Article 2 of the ECHR in respect of the allegations contained in the present complaint. The complaint should, therefore, be “rejected in its entirety”.

### **3. The Panel’s assessment**

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

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

71. As noted above, UNMIK provided to the Panel all files previously held by the OMPF, UNMIK Police MPU and WCIU, which it was able to obtain to date and confirmed that there are no additional documents to be disclosed (see § 25). Although there is a possibility that more documents related to this case exist (see §§ 67-68 above), UNMIK has not provided any explanation as to which parts of the documentation may be incomplete.
72. The Panel notes that Section 15 of UNMIK Regulation No. 2006/12 states that the Panel may request the submission from UNMIK of any documents and that the SRSG shall cooperate with the Panel and provide the necessary assistance including, in particular, in the release of documents and information relevant to the complaint. The Panel in this regard refers to the case-law of the European Court of Human Rights that inferences shall be drawn from the conduct of the respondent party during the proceedings, including from its failure “to submit information in their hands without a satisfactory explanation” (see ECtHR, *Çelikkilek v. Turkey*, no. 27693/95, judgment of 31 May 2005, § 56).
73. The Panel also notes that the proper maintenance of investigative files concerning crimes such as killings and disappearances, from the opening of investigations to their handing over, is crucial to the continuation of such investigations and failure to do so could thus raise *per se* issues under Article 2.
74. The Panel itself is not in the position to verify the completeness of the investigative files received. The Panel will therefore assess the merits of the complaint on the basis of documents made available (in this sense, see ECtHR, *Tsechoyev v. Russia*, no. 39358/05, judgment of 15 March 2011, § 146; compare the approach taken by the Human Rights Advisory Panel [HRAP] in case *Tomanović and Others*, nos. 248/09 and others, opinion of 25 April 2013, § 52).

b) *General principles concerning the obligation to conduct an effective investigation under Article 2*

75. The complainant states that UNMIK failed to conduct an effective investigation into the abduction and killing of his father.
76. The Panel notes that the positive obligation to investigate disappearances is widely accepted in international human rights law since at least the case of the Inter-American Court of Human Rights *Velásquez-Rodríguez* (see Inter-American Court of Human Rights [IACtHR], *Velásquez-Rodríguez v. Honduras*, judgment of 29 July 1988, Series C No. 4). The positive obligation has also been stated by the United Nations Human Rights Committee (HRC) as stemming from Article 6 (right to life), Article 7 (prohibition of cruel and inhuman treatment) and Article 9 (right to liberty and security of person), read in conjunction with Articles 2 (3) (right to an effective remedy) of the ICCPR (see United Nations Human Rights Committee (HRC), General Comment No. 6, 30 April 1982, § 4; HRC, General Comment No. 31, 26 May 2004, §§ 8 and 18, CCPR/C/21/Rev.1/Add. 13; see also, among others, HRC, *Mohamed El Awani, v. Libyan Arab Jamahiriya*, communication no. 1295/2004, views of 11 July 2007, CCPR/C/90/D/1295/2004). The obligation to investigate disappearances and killings is also asserted in the UN Declaration on the Protection of all Persons from Enforced Disappearances (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.
77. In order to address the complainant’s allegations, the Panel refers to the well-established case-law of the European Court on Human Rights on the procedural obligation under Article 2 of the ECHR. The Court has held that “[The] obligation to protect the right to life under Article 2, read in conjunction with the State’s general duty under Article 1 of the Convention to “secure to everyone within [its] jurisdiction the rights and freedoms defined in [the] Convention”, requires by implication that there should be some form of effective official investigation when individuals have been killed (see, mutatis mutandis, ECtHR, *McCann and Others v. the United Kingdom*, judgment of 27 September 1995, § 161, Series A no. 324; and ECtHR, *Kaya v. Turkey*, judgment of 19 February 1998, § 86, Reports 1998-I; see also ECtHR, *Jasinskis v. Latvia*, no. 45744/08, judgment of 21 December 2010, § 71). The duty to conduct such an investigation arises in all cases of killing and other suspicious death, whether the perpetrators were private persons or State agents or are unknown (see ECtHR, *Kolevi v. Bulgaria*, no. 1108/02, judgment of 5 November 2009, § 191).
78. 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 § 50 above, at § 136).
79. 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).

80. Setting out the standards of an effective investigation, the Court has stated that “beside being independent, accessible to the victim’s family, carried out with reasonable promptness and expedition, affording a sufficient element of public scrutiny of the investigation and its results, the investigation must also be effective in the sense that is capable of leading to a determination of whether the death was caused unlawfully and if so, to the identification and punishment of those responsible (see ECtHR [GC], *Varnava and Others v. Turkey*, cited in in § 50 above, at § 191; see also ECtHR, *Palić v. Bosnia and Herzegovina*, no. 4704/04, judgment of 15 February 2011, § 63). This is not an obligation of results but of means. The authorities must take whatever reasonable steps they can to secure the evidence concerning the incident, including, inter alia eye-witness testimony, forensic evidence and, where appropriate, an autopsy which provides a complete and accurate record of injury and an objective analysis of the clinical findings, including the cause of death. Any deficiency in the investigation which undermines its ability to establish the cause of death or the person or persons responsible will risk falling foul of this standard (see ECtHR, *Ahmet Özkan and Others v. Turkey*, cited above, at § 312, and ECtHR, *Isayeva v. Russia*, cited above, at § 212).
81. In particular, the investigation’s conclusion must be based on thorough, objective and impartial analysis of all relevant elements. Failing to follow an obvious line of enquiry undermines to a decisive extent the ability to establish the circumstances of the case and the identity of those responsible (see ECtHR, *Kolevi v. Bulgaria*, cited in § 77, at § 201). Nevertheless, the nature and degree of scrutiny which satisfy the minimum threshold of the investigation’s effectiveness depend on the circumstances of the particular case. They must be assessed on the basis of all relevant facts and with regard to the practical realities of the investigative work (see ECtHR, *Velcea and Mazăre v. Romania*, no. 64301/01, judgment of 1 December 2009, § 105).
82. Specifically with regard to persons disappeared and later found dead, the Court has stated that the procedures of exhuming and identifying mortal remains do not exhaust the obligation under Article 2 of the ECHR. The Court holds that “the procedural obligation arising from a disappearance will generally remain as long as the whereabouts and fate of the person are unaccounted for, and it is thus of a continuing nature” (ECtHR, *Palić v. Bosnia and Herzegovina*, cited in § 80 above, at § 46; in the same sense ECtHR [GC], *Varnava and Others v. Turkey*, cited in § 50 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 in § 80 above; in the same sense ECtHR [GC], *Varnava and Others v. Turkey*, cited in § 50 above, at § 145). While the location and the subsequent identification of the mortal remains of the victim may in themselves be significant achievements, the procedural obligation under Article 2 continues to exist (see ECtHR, *Palić v. Bosnia and Herzegovina*, cited above).
83. On the requirement of public scrutiny, the Court has further stated that there must be a sufficient element of public scrutiny of the investigation or its results to secure accountability in practice as well as in theory. The degree of public scrutiny required may well vary from

case to case. In all cases, however, the victim's next-of-kin must be involved in the procedure to the extent necessary to safeguard his or her legitimate interests (see *Ahmet Özkan and Others v. Turkey*, cited in § 79 above, at §§ 311-314; *Isayeva v. Russia*, cited in § 79 above, §§ 211-214 and the cases cited therein).” ECtHR [GC], *Al-Skeini and Others v. United Kingdom*, no. 55721/07, judgment of 7 July 2011, § 167, ECHR 2011).

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

84. The Panel is conscious of the fact that the abduction and killing of Đoko Gogić occurred during the Kosovo conflict, in July 1998, approximately one year before UNMIK’s deployment in Kosovo. The case was investigated by UNMIK in the aftermath of the armed conflict, when crime, violence and insecurity were rife (see § 10 above).
85. On his part, the SRSG does not contest that UNMIK had a duty to investigate the present case under ECHR Article 2. However, according to the SRSG, the unique circumstances pertaining to the Kosovo context and to UNMIK’s 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.
86. The Panel considers that this argument of the SRSG raises two main questions: first, whether the standards of Article 2 continue to apply in situation of conflict or generalised violence and, second, whether such standards shall be considered fully applicable to UNMIK.
87. 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).
88. Concerning the applicability of Article 2 to situations of conflict or generalised violence, the Panel recalls that the European Court on Human Rights has established the applicability of Article 2 to post-conflict situations, including in countries of the former Yugoslavia (see, among other examples, ECtHR, *Palić v. Bosnia and Herzegovina*, cited in § 80 above, and ECtHR, *Jularić v. Croatia*, no. 20106/06, judgment of 20 January 2011). The Court has further held that that the procedural obligation under Article 2 continues to apply in “difficult security conditions, including in a context of armed conflict” (see ECtHR [GC], *Al-Skeini and Others v. the United Kingdom*, cited in § 83 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 § 79 above, at §§ 85-90, 309-320 and 326-330; *Isayeva v. Russia*, cited in § 79



above, at §§ 180 and 210; ECtHR, *Kanlibaş v. Turkey*, no. 32444/96, judgment of 8 December 2005, §§ 39-51).

89. The Court has acknowledged that “where the death [and disappearances] to be investigated under Article 2 occur in circumstances of generalised violence, armed conflict or insurgency, obstacles may be placed in the way of investigators and concrete constraints may compel the use of less effective measures of investigation or may cause an investigation to be delayed” (see ECtHR [GC], *Al-Skeini and Others v. the United Kingdom*, cited above, at §164; ECtHR, *Bazorkina v. Russia*, no. 69481/01, judgment of 27 July 2006, § 121). Nonetheless, the Court has held that “the obligation under Article 2 to safeguard life entails that, even in difficult security conditions, all reasonable steps must be taken to ensure that an effective, independent investigation is conducted into alleged breaches of the right to life (see, amongst many other examples, ECtHR, *Kaya v. Turkey*, cited in § 77 above, at §§ 86-92; ECtHR, *Ergi v Turkey*, cited above, at §§ 82-85; ECtHR [GC], *Tanrıkulu v. Turkey*, no. 23763/94, judgment of 8 July 1999, §§ 101-110, ECHR 1999-IV; ECtHR, *Hashiyev and Akayeva v. Russia*, nos. 57942/00 and 57945/00, judgment of 24 February 2005, §§ 156-166; ECtHR, *Isayeva v. Russia*, cited above, at §§ 215-224; ECtHR, *Musayev and Others v. Russia*, nos. 57941/00 and others, judgment of 26 July 2007, §§ 158-165).
90. 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 § 59 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).
91. The Panel appreciates the difficulties encountered by UNMIK during the first phase of its deployment. The Panel notes that the appropriate importance attached to the issue of missing persons in Kosovo meant that UNMIK had to take into account both the humanitarian and criminal dimensions of the situation. In particular, the Panel considers that the importance attached to the criminal investigations and the difficulties in Kosovo that limited the abilities of investigating authorities to conduct such investigations, as described by the SRSG, made it crucial that UNMIK establish from the outset an environment conducive to the performance of meaningful investigations. This would involve putting in place a system that would include such elements as the allocation of overall responsibility for the supervision and monitoring of progress in investigations, provision for the regular review of the status of investigations, and a process for the proper handover of cases between different officers or units of UNMIK Police. Such a system should also take account of the protection needs of victims and witnesses (see, *mutatis mutandis*, ECtHR, *R.R. and Others v. Hungary*, no. 19400/11, judgment of 4 December 2012, §§ 28-32), as well as to consider the special vulnerability of displaced persons in post-conflict situations (see ECtHR [GC], *Sargsyan v. Azerbaijan*, no. 40167/06, decision of 14 December 2011, § 145; and ECtHR [GC], *Chiragov and Others v. Armenia*, no. 13216/05, decision of 14 December 2011, § 146). While understanding that the deployment and the organisation of the police and justice apparatus occurred gradually, the Panel deems that this process was completed in 2003 when the police and justice system in Kosovo was described as being “well-functioning” and “sustainable” by the UN Secretary-General (see § 17 above).

92. 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 § 80 above, § 70; *Brecknell v. The United Kingdom*, no. 32457/04, judgment of 27 November 2007, § 62).
93. The Panel further notes that its task is not to review relevant practices or alleged obstacles to the conduct of effective investigations *in abstracto*, but only in relation to their specific application to the particular circumstances of a situation subject of a complaint before it (see, ECtHR, *Brogan and Others v. the United Kingdom*, judgment of 29 November 1988, § 53, Series A no. 145-B). The Panel thus agrees with the SRSG that the nature and degree of scrutiny to determine whether the effectiveness of the investigation satisfies the minimum threshold depends on the circumstances of the particular case. For these reasons, the Panel considers that it will establish with regard to each case if all reasonable steps were taken to conduct an effective investigation as prescribed by Article 2, having regard to the realities of the investigative work in Kosovo.
- d) *Compliance with Article 2 in the present case*
94. Turning to the particulars of this case, the Panel notes the complainant's statement that his father's disappearance was promptly reported to the ICRC, the Serbian Red Cross and the MUP (see § 22 above). Lacking specific documentation in this regard, the Panel considers that UNMIK became aware of Đoko Gogić's disappearance at the latest in October 2001 (see § 24 above). The Panel notes that by the end of 2002 the WCIU had opened an investigation in this regard (see § 29 above).
95. The purpose of this investigation was to discover the truth about the events leading to the abduction of Đoko Gogić, to locate him or his mortal remains and to identify the potential perpetrator(s) and bring them before a competent court established by law.
96. The Panel recalls that in order to be effective, the investigation 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 a 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 §§ 80-81 above).
97. However, in light of the considerations developed above concerning its limited temporal jurisdiction (see § 50), the Panel recalls that it is competent *ratione temporis* to evaluate the compliance of the investigation with Article 2 of the ECHR only for the period after 23 April 2005, while taking into consideration the state of the case at that date (ECtHR, *Palić v. Bosnia and Herzegovina*, cited in § 80 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 § 19 above).

98. The Panel notes in this regard that according to the 2000 Annual Report of UNMIK Police, the complete executive policing powers, including criminal investigations, were under full control of UNMIK Police in Prizren region from 27 October 1999, and in Pejë/Peć region by June 2000. Therefore, it was UNMIK's responsibility to ensure, *first*, that the investigation is conducted expeditiously and efficiently; *second*, that all relevant investigative material is properly handed over to the authority taking over responsibility for investigation (EULEX, see § 19 above); and *third*, that the investigative files could be traced and retrieved, should a need arise at any later stage.
99. The Panel infers from the absence of a complete investigative file that one of the following situations occurred: no investigation was carried out; the file was not properly handed over to EULEX; or UNMIK failed to retrieve the file from the current custodian. The Panel has already noted above that it has no reason to doubt UNMIK's good faith in seeking to provide the investigative file for the Panel's review. However, the Panel considers that whichever of these potential explanations is applicable, it indicates a failure, which is directly attributable to UNMIK, either when it was exercising its executive functions, or in its current capacity.
100. With regard to the first part of the procedural obligation, that is establishing the fate of the missing person, the Panel notes that the OMPF exhumed the mortal remains of Đoko Gogić in November 2004 and autopsied them in December 2004. It is assumed that DNA samples were collected at that time and subsequently dispatched to the ICMP for identification. Thereafter, on 8 August 2005, the ICMP issued a report on the positive DNA match between the presented sample and the samples collected from Đoko Gogić's family members. Regrettably, it took another year for OMPF to return to the complainant the mortal remains of his father.
101. The Panel is aware that the processes of exhuming and identifying mortal remains in the context of post-conflict Kosovo was particularly time-consuming, as a considerable number of cases concerning missing persons were being handled simultaneously by UNMIK during this period. For such procedures, and in particular for the DNA-based identification adopted in Kosovo as of 2003, UNMIK had to rely on the technical cooperation of external institutions, primarily the ICMP. For this reason, the Panel does not consider such a delay to be unreasonable. The Panel also believes that, given the circumstances of the case, the delay in the identification cannot be considered to have further prejudiced the investigation and its ability to bring the perpetrators to justice (see approach adopted by the Panel in the case *Zdravković*, no. 46/08, opinion of 25 February 2013, §§ 123-124).
102. Thus, the Panel considers that first element of the procedural obligation under Article 2 has been fulfilled by UNMIK. However, while acknowledging that the finding, identification and the return of Đoko Gogić's mortal remains to his family was an important achievement, it did not conclude the procedural obligation (see § 82 above).
103. The Panel now turns to the investigation carried out by UNMIK Police with the aim of identifying the perpetrators and bringing them to justice, that is the second element of the procedural obligation under Article 2 of the ECHR.

104. As regards the requirements of promptness and expedition, the Panel is mindful that in any investigation, and particularly in an investigation of an abduction in life-threatening circumstances and a subsequent killing, the initial stage is of utmost importance. It serves two main purposes: to identify the direction of the investigation and to ensure preservation and collection of evidence for future possible court proceedings (see the Panel's position on a similar issue expressed in the case *X.*, nos. 326/09 and others, § 81).
105. The Panel agrees with the SRSG that from the moment of the abduction until UNMIK's arrival in Kosovo in June 1999, it was the responsibility of the MUP to investigate the matter. The Panel considers it is also probable that, when leaving Kosovo, the Serbian authorities may have taken with them the investigative material relating to the period of the armed conflict. In such a situation, from the moment UNMIK was informed about the disappearance of the complainant's father in obviously life-threatening circumstances, the first action would be requesting the relevant Serbian authorities to return the investigative files and evidence, which may have been in their possession. Nonetheless, no confirmation of any action in this regard appears to have been undertaken by UNMIK. Therefore, the Panel will proceed by examining the actions of UNMIK Police and other relevant authorities during their conduct of the investigation into Đoko Gogić's abduction.
106. In this respect, the Panel notes that there were obvious shortcomings in the conduct of the investigation from its inception by the UNMIK Police. From the registration of the case until at least December 2004 (see § 30 above) no action whatsoever undertaken by the UNMIK Police and aimed at establishing the whereabouts of the complainant's father or identifying those responsible for his disappearance, is registered in the file. No statement was ever taken from the complainant; no attempts were made to locate the victim's house (the alleged scene of abduction) or conduct a crime scene examination, or other efforts to search for evidence, such as questioning of the neighbours or following other obvious lines of enquiry (i.e. KLA commanders in the area) were made. During 2002, the only action by UNMIK Police was the receipt of ante-mortem information concerning Đoko Gogić, which had been gathered by the ICRC, and apparently subsequently opening of an investigation.
107. The Panel also notes the SRSG's assertion that there might have been an investigation into the same matter conducted by the ICTY (see § 65 above), thus somewhat justifying the prolonged period of UNMIK Police's inaction with regard to this investigation. The Panel agrees that the ICTY at that time had, and still has, the supreme jurisdiction to investigate the crimes associated with the armed conflict in Kosovo in 1998 – 1999. However, the SRSG did not present any document which could support his assertion that this case was taken over by the ICTY.
108. The Panel itself finds no obvious links between this complaint and the ICTY case no. IT-03-66. The latter is related to alleged KLA crimes in Llapushnik/Lapušnik, Glogovc/Glogovac municipality, Prishtinë/Priština region, while the victim's village is in Suharekë/Suva Reka municipality, Prizren region, and the mass grave where his mortal remains were found in Klinë/Klina municipality, Pejë/Peć region. This "geographical" discrepancy was evident from the time of the filing of the initial indictment in the case no. IT-03-66, on 24 January 2003. In any case, it would have become absolutely clear by 30 November 2005, when an ICTY Trial Chamber delivered its verdict, acquitting two out of three accused. On 27 April 2007, these ICTY procedures were closed with the judgment of the ICTY Appeal Chamber, mostly confirming the verdict of 2005. In case there are links between these two investigations, which do not obviously follow from the case file, UNMIK

should have clearly explained those links to the Panel. To the contrary, UNMIK presented no better explanation than a vague assertion of the possibility that such a connection exists.

109. Even if the ICTY did conduct an investigation into this matter, it should be assumed that it was completely discontinued by 2007. From that moment, following the above-mentioned responsibility for maintenance of the complete investigative file (see § 73), UNMIK was required to make all efforts in order to retrieve all documents and evidence collected to that date by the ICTY. However, as with the situation of a possible investigation by the MUP, the Panel was not presented with any proof of such efforts.
110. The Panel understands that in a situation of a massive influx of reports related to serious crimes, where there is limited police investigative capacity on the ground, prioritisation is one of the ways of maintaining an appropriate level of efficiency, whereby only the most serious cases with obvious leads are addressed. In this respect, the Panel considers the pre-eminence of the right to life in international instruments on the protection of human rights (see, for instance, ECtHR [GC], *Streletz, Kessler and Krenz v. Germany*, nos 34044/96, 35532/97 and 44801/98, judgment of 22 March 2001, § 85, ECHR 2001-II). In any event, any such prioritisation of an investigation should take place only after the minimum possible investigative actions have been undertaken and obtainable information has been collected and analysed, which, as shown above, was not the case in this investigation (see e.g. HRAP B.A, no. 52/09, opinion of 14 February 2013, § 82).
111. If any such prioritisation was made because of the ICTY engagement in the process, the Panel should have been presented, first, with a confirmation of such involvement, and, second, with a record of efforts undertaken by UNMIK to retrieve any evidence, which may have been collected by the ICTY. In the present situation, it appears from the file that neither UNMIK nor the ICTY did anything meaningful to shed light on the abduction and killing of Đoko Gogić, in the most critical period of the investigation, in 1999 – 2004.
112. The Panel considers that such an apparent lack of any adequate reaction from UNMIK Police may have suggested to perpetrators that the authorities were either not able, or not willing to investigate such criminal acts. Such an attitude of the authorities towards the gravest crimes in any society, and especially in post-conflict circumstances, inevitably creates a culture of impunity among the criminals and can only lead to a worsening of the situation. The problems which UNMIK had encountered at the beginning of its mission, which were discussed above, do not justify such inaction, either at the outset or subsequently.
113. Moreover, the Panel recalls the SRSG's own statement that a criminal investigation commenced promptly after the occurrence of an event has much greater chances of identifying witnesses, and that "the more time passes from an incident, the harder it is to investigate a case, [as] by the passing time, evidence is lost, access to witnesses becomes harder, witnesses forget details" (see § 61 above). As this investigation was not commenced promptly, it is the Panel's view that it did not fulfill the requirements of promptness and expeditiousness.
114. Assessing this investigation against the need to take reasonable investigative steps and to follow the obvious lines of enquiry to secure the evidence, the Panel recalls that the first obvious line of inquiry, after being informed of this incident, was to request the MUP to

transfer the relevant investigative files. However, as already shown above, the Panel is not convinced that any action in this direction was ever undertaken.

115. The Panel further notes that the investigative file shows no attempts by UNMIK Police to locate the alleged crime scene and examine it, at least formally, to better understand the circumstances of the crime under investigation, which is a basic step in cases with little evidence. The Panel also takes into account that in order to be adequate, the investigation into such grave crimes, should have also included at least an interview with the complainant and a witness known to him, identifying and interviewing individuals residing at or located in the area of the alleged crime, especially those who were present in the village at the time of the alleged abduction, and who thus may have witnessed something (“canvassing” the area), and persons who knew the victim, as they might have knowledge of possible motives.
116. The Panel considers that a properly maintained investigative file should have included records of interviews of the complainant and all potential witnesses to the crime. In all cases, such interviews should take place as soon as possible and should be recorded and retained in the case file<sup>4</sup>. With respect to this investigation, the Panel observes that only a summary of a telephone contact with the complainant is present in the MPU report of 31 January 2005 (see § 30 above), but no signed record of this, or any other any other interview is present in the file. It is obvious that if this case was ever to reach a court, this kind of document would not be accepted as evidence. Likewise, no effort was made to identify and interview the eye-witness to the detention of Đoko Gogić by the KLA, who was apparently known to the complainant.
117. Coming to the period within its jurisdiction, starting from 23 April 2005, the Panel notes that basic investigative steps, as described above (§§ 106 and 115), had not yet been carried out. After that critical date the failure to conduct the necessary investigative actions persisted, thus, in accordance with the continuing obligation to investigate (see § 82 above), bringing the assessment of the whole investigation within the period of the Panel’s jurisdiction.
118. The Panel recalls in this respect the SRSG’s assertion that UNMIK Police actively investigated the case between 2 June 2005 and 31 March 2006, when “every few days there was an Officer Report in the file”. As an indicator of an outstanding investigative effort, the SRSG refers to a request for satellite pictures of 23 July 2005 and a few other documents (see § 66 above). Having reviewed those documents, the Panel finds them of very little relevance to the investigation into the abduction and killing of Đoko Gogić, other than the fact that they all are a part of the case no. 2002-00031. Neither his nor the complainant’s name, nor the name of his village, are mentioned. The satellite photographs of the area would have been very helpful in the immediate aftermath of the abduction, but not seven years after it, and three years after the initiation of the investigation.
119. The Panel also recalls the SRSG’s general argument that “the lack of information [...] posed a real hurdle to the conduct of any investigation by UNMIK” and that “[t]he lack of witnesses or suspects impeded the identification of possible perpetrators to be brought to justice.” Fully supporting this statement, the Panel must note that almost any investigation at its initial stage lacks a significant amount of information. Finding the necessary information

---

<sup>4</sup> See: United Nations Manual On The Effective Prevention And Investigation Of Extra-Legal, Arbitrary And Summary Executions, adopted on 24 May 1989 by the Economic and Social Council, Resolution 1989/65.

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. As was shown, instead of actively searching for information and leads, UNMIK Police simply waited for further information to appear by itself. It somewhat worked in this case, as the victim's mortal remains were discovered in a mass grave, as this is why, in the Panel's view, some further action, which might be arguably associated with this case, appears in the file at later stages.

120. The Panel is aware that the duty to investigate is not breached merely because the investigation does not produce a satisfactory result. Nevertheless, such an investigation must be undertaken in a serious manner and not be a mere formality. The Panel must therefore conclude that with respect to the reasonable investigative steps and pursuing these lines of enquiry, serious deficiencies existed with respect to the effectiveness of the investigation.
121. The Panel will now assess the investigation into the abduction of the complainant's father against the requirement of a periodical review the investigation. In this respect, the Panel again recalls that the first proper report containing an overview of the evidence in this case, an analysis and a recommendation is dated 31 January 2005 (see above). However, although the complainant apparently informed the investigator of a witness and a suspect, the investigator recommended that the case remain "open inactive", instead of recommending at least identifying, locating and interviewing the witness.
122. The Panel further notes that this investigation was originally opened by the WCIU under the no. 2002-00057 (see § 29 above), and was later classified as "inactive" pending new information (see § 30 above). The case was apparently reviewed after January 2005, and joined with another, bigger, WCIU investigation, case no. 2002-00031. The latter was related to the alleged abduction and killing by the KLA of a number of people that occurred between 17 and 23 July 1998, in Malishevë/Mališevo and Rahovec/Orahovac areas. The Panel also recalls the SRSG's own argument that the investigation into the disappearance and killing of Đoko Gogić and many other individuals, was jointly conducted under the mass murder investigation no. 2002-00031 (see § 66 above).
123. In the view of the fact that Mr Đoko Gogić's mortal remains were identified in August 2005, the Panel considers that the investigation into his abduction, and the investigations into the disappearance of other victims, whose mortal remains were found in the same mass grave, were joined by UNMIK Police into one case, no. 2002-00031. However, further documents in the file made available to the Panel, do not show any connection between the investigative actions conducted in 2005 and later, and the case of the complainant's father.
124. This decision by UNMIK Police to join the investigations into one case of itself seems reasonable to the Panel. Nevertheless, as mentioned above (§ 120), the necessary investigative actions were still not conducted in relation to Mr Đoko Gogić's abduction and death, even after they were joined. Moreover, no documents in the joined case seem to be related to the case of the complainant's father. Thus, in the Panel's view, if during the investigation of the case no. 2002-00031 no facts were unearthed to support its common nature with the case of Mr Đoko Gogić, the latter should have been disjoined and continued separately. In any case, one single review of the case, in 2005, is not sufficient.
125. As concerns the requirement of public scrutiny, the Panel recalls that Article 2 also requires that in all cases the victim's next-of-kin must be involved in the investigation to the extent

necessary to safeguard his or her legitimate interests (see ECtHR [GC], *Tahsin Acar v. Turkey*, no. 26307/95, judgment of 8 April 2004, § 226, ECHR 2004-III; ECtHR, *Taniş v. Turkey*, no. 65899/01, judgment of 2 August 2005, § 204, ECHR 2005-VIII).

126. The Panel notes from the investigative file that the first recorded contact between the MPU investigators and the complainant apparently took place only in December 2004 or January 2005, which is around six years after the abduction of his father (see § 30 above). No formal written statement of Mr Milisav Gogić was recorded. The second, and the last, time when he met UNMIK authorities was in October 2006, when he received the mortal remains of his father.
127. Although it may be assumed that the complainant was to some extent apprised of the progress of the investigation when he spoke with the MPU investigator, somewhat belatedly in the Panel's opinion, it is absolutely not adequate to have only one such contact during an investigation lasting more than a decade under UNMIK's control. In addition, the fact that the complainant himself does not seem to remember that contact suggests to the Panel that no new information, besides what was already known to the complainant by that time, was probably provided to him on that occasion. This should particularly be assessed in light of the fact that by the end of 2002 UNMIK Police had all the necessary details to proceed with meaningful investigation (see § 94 above), but did not do so for at least another three years.
128. The Panel therefore considers that the investigation was not accessible to the complainant, contrary to the requirements of Article 2.
129. In light of the deficiencies and shortcomings described above, the Panel concludes that UNMIK failed to carry out an adequate and effective investigation into the abduction and killing of Đoko Gogić. There has been accordingly a violation of Article 2 of the ECHR under its procedural limb.

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

130. In light of the Panel's findings in this case, the Panel is of the opinion that some form of reparation is necessary.
131. The Panel notes that enforced disappearances and arbitrary executions constitute serious violations of human rights which, shall be investigated and prosecuted under any circumstances. The Panel also notes that UNMIK as the territorial administration of Kosovo from 1999 to 2008 had the primary responsibility to effectively investigate and prosecute those responsible for killings, abductions or disappearances in life threatening circumstances. Its failure to do so constitutes a further serious violation of the rights of the victims and their next-of-kin, in particular the right to have the truth of the matter determined.
132. 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.
133. It would normally be for UNMIK to take the appropriate measures in order to put an end to the violation noted and to redress as far as possible the effects thereof. However, as the



Panel noted above (see § 19), UNMIK's responsibility with regard to the administration of justice in Kosovo ended on 9 December 2008, with EULEX assuming full operational control in the area of rule of law. UNMIK therefore is no longer in a position to take measures that will have a direct impact on the investigations that are still pending before EULEX or local authorities. Likewise, following the declaration of independence by the Kosovo Provisional Institutions of Self-Government on 17 February 2008 and subsequently, the entry into force of the Kosovo Constitution on 15 June 2008, UNMIK ceased to perform executive functions in Kosovo, this fact limiting its ability to provide full and effective reparation of the violation committed, as required by established principles of international human rights law.

134. The Panel considers that this factual situation does not relieve UNMIK from its obligation to redress as far as possible the effects of the violations for which it is responsible.

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

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

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

- In line with the UN General Assembly Resolution on "Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law" (A/Res/60/147, 21 March 2006), takes appropriate steps, through other UN affiliated entities operating in Kosovo, local bodies and non-governmental organisations, for the realisation of a full and comprehensive reparation programme, including restitution compensation, rehabilitation, satisfaction and guarantees of non-repetition, for the victims from all communities of serious violations of human rights which occurred during and in the aftermath of the Kosovo conflict;

- Takes appropriate steps before competent bodies of the United Nations, including the UN Secretary-General, towards the allocation of adequate human and financial resources to ensure that international human rights standards are upheld at all times by the United Nations, including when performing administrative and executive functions over a territory, and to make provision for effective and independent monitoring;

**FOR THESE REASONS,**

The Panel, unanimously,

**1. FINDS THAT THERE HAS BEEN A VIOLATION OF THE PROCEDURAL OBLIGATION UNDER ARTICLE 2 OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS;**

**2. RECOMMENDS THAT UNMIK:**

- a. URGES EULEX AND OTHER COMPETENT AUTHORITIES IN KOSOVO TO TAKE ALL POSSIBLE STEPS IN ORDER TO ENSURE THAT THE CRIMINAL INVESTIGATION INTO THE ABDUCTION AND KILLING OF ĐOKO GOGIĆ IS CONTINUED IN COMPLIANCE WITH ARTICLE 2 OF THE ECHR AND THAT THE PERPETRATORS ARE BROUGHT TO JUSTICE;**
- b. PUBLICLY ACKNOWLEDGES RESPONSIBILITY FOR ITS FAILURE TO CONDUCT AN EFFECTIVE INVESTIGATION INTO THE ABDUCTION KILLING OF THE COMPLAINANT'S FATHER AND MAKES A PUBLIC APOLOGY TO THE COMPLAINANT;**
- c. TAKES APPROPRIATE STEPS TOWARDS PAYMENT OF ADEQUATE COMPENSATION OF THE COMPLAINANT FOR MORAL DAMAGE;**
- d. TAKES APPROPRIATE STEPS TOWARDS THE REALISATION OF A FULL AND COMPREHENSIVE REPARATION PROGRAMME;**
- e. TAKES APPROPRIATE STEPS AT THE UNITED NATIONS AS A GUARANTEE OF NON-REPETITION;**
- f. TAKES IMMEDIATE AND EFFECTIVE MEASURES TO IMPLEMENT THE RECOMMENDATIONS OF THE PANEL AND TO INFORM THE COMPLAINANT AND THE PANEL ABOUT FURTHER DEVELOPMENTS IN THIS CASE.**

Andrey Antonov  
Executive Officer

Marek NOWICKI  
Presiding Member

## ABBREVIATIONS AND ACRONYMS

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