

Turdubek Akmatov v. the Kyrgyz Republic

*Communication to the
United Nations Human Rights Committee*

April 2011

Communication to the United Nations Human Rights Committee

In the case of

Turdubek AKMATOV

against

the Kyrgyz Republic

*submitted for consideration under the
First Optional Protocol to the
International Covenant on Civil and Political Rights*

to

The United Nations Human Rights Committee
c/o Petitions Team
Office of the High Commissioner for Human Rights
United Nations Office Geneva
8-14 avenue de la Paix
1211 Geneva 10
Switzerland

7 April 2011

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I. THE AUTHOR

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Profession: Retired (pensioner)
Date and place of birth: [REDACTED]; [REDACTED], [REDACTED] District, Osh Oblast, Kyrgyz Republic
Present address: [REDACTED], [REDACTED], [REDACTED] District, Osh Oblast, Kyrgyz Republic

II. THE VICTIM (DECEASED)

Name: Akmatov
First name(s): Turdubek
Nationality: Kyrgyz Republic
Date and place of birth: [REDACTED], [REDACTED], [REDACTED] District, Osh Oblast, Kyrgyz Republic
Relationship to the Author: Son (deceased)

III. LEGAL REPRESENTATIVE OF THE AUTHOR

1. This claim is submitted by the Open Society Justice Initiative and Mr. Nurdin Chydyev who are appointed as legal representatives of the Author. A letter of authority is attached to this communication.
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IV. THE STATE PARTY

3. This communication is submitted against the Kyrgyz Republic, which acceded to the International Covenant on Civil and Political Rights and its Optional Protocol on 7 October 1994.

V. SUMMARY OF THE CLAIM

Summary of Facts

4. On 3 May 2005 at approximately 09:00-09:30 in the morning, police officers summoned Mr. Turdabek Akmatov from his family home in [REDACTED] in [REDACTED] to the police station in [REDACTED]. Mr. Akmatov was then detained at the station without charge for approximately 10 hours. During that time, a group of six police officers tortured him while questioning him about an alleged theft, severely beating him with blows to his head and trunk.
5. The police released Mr. Akmatov at approximately 19:30 that evening, and he returned to his family home between 21:00 and 21:30. Family members described Mr. Akmatov upon his return home as silent, holding his chest, and barely able to walk. He told his family that six policemen led by someone called Zetigen had beaten and interrogated him. Shortly afterwards, while sitting on a tapchan (bench) at the family home, Mr. Akmatov let out a cry and fell to the ground, as blood poured from his mouth, ears, and nose. Later that evening he died. Subsequent medical examination of his body revealed that he died due to a brain hemorrhage which was caused by blows from blunt, hard objects. A group of medical experts later concluded that the injuries were inflicted several hours before his death, which is consistent with the time that he was in police custody.
6. An officer on duty at the police station during Mr. Akmatov's detention initially confirmed Mr. Akmatov's dying declaration that police had beaten him during the interrogation. The autopsy showed that Mr. Akmatov had suffered severe injuries to his head, chest and abdomen that likely resulted from the force of blunt, heavy objects. Multiple experts in forensic medicine confirmed these findings.
7. Despite this physical evidence and requests by Mr. Akmatov's family for an investigation, the police and prosecution failed to conduct a thorough and impartial criminal investigation. The police attended Mr. Akmatov's home on 4 May 2005, led by the officer who Mr. Akmatov claimed had led the beatings. They then delayed 21 days before opening an official investigation. The investigation was then repeatedly delayed and suspended, despite numerous complaints and petitions from Mr. Akmatov's father to the prosecution and investigative authorities. The investigation has failed to gather necessary evidence, and has neither explored the police denials of responsibility nor investigated any other explanation for Mr. Akmatov's injuries and death. As a result of numerous flaws in the official investigation, authorities have undertaken no serious effort to identify the persons responsible and Mr. Akmatov's family has not obtained compensation for the loss of their relative.

Violations of the ICCPR

8. The Kyrgyz Republic has violated the International Covenant on Civil and Political Rights ("ICCPR") in the following ways:
 - *A. Violation of the Right to Life.* The Kyrgyz Republic arbitrarily deprived Mr. Akmatov of his life by inflicting fatal injuries on him while he was in police custody. The State has failed to offer a plausible alternative explanation for Mr. Akmatov's injuries and death, and is therefore responsible for his death in violation of Article 6(1) of the ICCPR.
 - *B. Mr. Akmatov was tortured.* The treatment inflicted upon Mr. Akmatov by police officers while in custody on 3 May 2005 amounts to torture in violation of Article 7 of the ICCPR.

- *C. Lack of Safeguards.* The Kyrgyz Republic failed to take measures to protect Mr. Akmatov from torture and from the arbitrary deprivation of his life, in violation of Articles 6(1) and 7 of the ICCPR in conjunction with Article 2(3).
- *D. Failure to conduct an effective investigation.* The Kyrgyz Republic failed to conduct a prompt, impartial, thorough, and effective investigation into the torture and death of Mr. Akmatov, in violation of Articles 6(1) and 7 of the ICCPR in conjunction with Article 2(3).
- *E. Failure to provide redress.* The Kyrgyz Republic has failed to provide access to effective remedies including compensation and adequate reparation for the torture and death of Mr. Akmatov, in further violation of Articles 6(1) and 7 of the ICCPR in conjunction with Article 2(3).

Summary of Domestic Remedies Exhausted

9. Mr. Akmatov's family has exhausted the available and effective domestic remedies in relation to the torture and death of Mr. Akmatov. Between May 2005 and April 2008, the family made repeated requests in an attempt to secure an effective investigation and prosecution of those responsible, to no avail:
 - a) On 6 May 2005, Mr. S. Akmatov petitioned the [REDACTED] Multidistrict Prosecutor's Office and the Chief Executive of [REDACTED] District to investigate the death of his son.
 - b) On 5 July 2005, Mr. S. Akmatov petitioned K.S. Bakiev, President of the Kyrgyz Republic, regarding the failure of law enforcement authorities to prosecute and punish those responsible for his son's death.
 - c) On 4 August 2005, Mr. S. Akmatov sent a complaint to the Ministry of Internal Affairs requesting that steps be taken with respect to the six police officers who tortured his son: Zh. Turdakunov, B. Muminov, I. Seidaliev, S. Akhunov, Z. Amiraev, and N. Toktomusaev.
 - d) On 26 February 2007, Mr. Chydyev, a lawyer hired by Mr. Akmatov's family, asked the chief investigator to assist in conducting and documenting investigative activities to gather further testimony.
 - e) On 1 March 2007, Mr. Chydyev petitioned the chief investigator to question temporary duty officer M. Eraliev as an additional witness.
 - f) In April 2008, Mr. Chydyev filed a complaint to the Prosecutor General of the Kyrgyz Republic, requesting that the Prosecutor General bring criminal charges against Officers N. Toktomusaev and B. Muminov and transmit the case to court.
10. Despite these attempts, the investigation of the torture and death of Mr. Akmatov remains suspended without any perpetrator having been identified or charges brought. Mr. Chydyev also applied to the Osh City court and the Osh Regional Court to order that the case be sent to trial, but these requests were also rejected.

VI. STATEMENT OF FACTS

Background: Turdubek Akmatov

11. Mr. Turdubek Akmatov was born in 1972 in the village of [REDACTED], which is located in the Osh Region of the [REDACTED] District in the Kyrgyz Republic.

12. On 24 April 2005—a little more than a week before his detention, torture, and death—Mr. Akmatov was detained by five police officers and taken to the [REDACTED] police station. At the station, the police officers robbed him of 6200 soms and threatened him with “trouble” if he didn’t bring them another 500 soms.¹

Detention, Torture, and Death of Mr. Akmatov – 3 May 2005

Police Summon Mr. Akmatov from His Home

13. On 3 May 2005 at approximately 09:10, a man later identified as Inspector Nurgazy Toktomusaev arrived at the Akmatov home. Inspector Toktomusaev introduced himself to Mrs. Tamila Akmatova, Mr. Akmatov’s mother, as a friend and classmate of Mr. Akmatov, failing to mention that he was a policeman, and requested that she ask her son to come outside. When Mrs. Akmatova asked the Inspector for his name, he refused to tell her, and went to the corner of the house as if to hide.²
14. Mrs. Akmatova fetched her son, who came outside and greeted Inspector Toktomusaev. Mrs. Akmatova overheard the Inspector tell her son that he had been summoned to the police station. When she asked why he had been summoned, both her son and the Inspector said they did not know. The two men then left together. Mr. Akmatov left the house that morning without having eaten anything.³
15. At approximately 12:30 or 13:00 that afternoon, while Mr. Akmatov was detained at the police station, his father Mr. Suyunbai Akmatov returned to the family home from the livestock market. Mr. S. Akmatov found his wife, Mrs. Tamila Akmatova, at home, and his other son and grandson working in the fields. At this time, Tamila Akmatova informed her husband that their oldest son had departed for the police station with an unidentified man.⁴
16. At approximately 15:00, Mrs. Akmatova departed for Ilichevka to tend to her sister, leaving Mr. S. Akmatov alone at the house.⁵

Detention, Interrogation, and Torture of Mr. Akmatov

17. Mr. Akmatov was detained by the police from approximately 09:30 on 3 May 2005, and was not seen again by his family until approximately 21:00-21:30 that evening. During his time in police custody, Mr. Akmatov was brought to the [REDACTED] police station, where police personnel interrogated and tortured him by inflicting severe beatings.
18. The detention of Mr. Akmatov from approximately 09:30 is confirmed by the initial testimony of temporary duty officer Mirbek Eraliev. On 22 April 2007, Officer Eraliev gave a formal statement to investigators from the Prosecutor’s office in which he stated that he was on duty at the [REDACTED] police station on the morning of 3 May 2005, and

¹ Exhibit 1 - Statement of Suyunbai Akmatov to T.A. Akyshov, Head of the [REDACTED] Multidistrict Prosecutor’s Office, 11 May 2005; Exhibit 2 - Copy of Report on Questioning of Witness Suyunbai Akmatov, 27 May 2005.

² Exhibit 7 - Copy of Report on Questioning of Witness Tamila Akmatova, 2006. See also Exhibit 44 - Report on Reproduction of the Situation and Circumstances of the Incident, 18 July 2005; Exhibit 2 - Copy of Report on Questioning of Witness Suyunbai Akmatov, 27 May 2005 and Exhibit 12 - Copy of Report on Questioning of Witness Mirbek Torozhanovich Eraliev, 22 April 2007.

³ Exhibit 7 - Copy of Report on Questioning of Witness Tamila Akmatova, 2006.

⁴ Exhibit 44 - Report on Reproduction of the Situation and Circumstances of the Incident, 18 July 2005. See also Exhibit 7 - Copy of Report on Questioning of Witness Tamila Akmatova, 2006.

⁵ Exhibit 7 - Copy of Report on Questioning of Witness Tamila Akmatova, 2006.

that he witnessed the arrival of Inspector Toktomusaev and Mr. Akmatov at approximately 09:30 that morning.⁶

19. Officer Eraliev stated that the two men went into the criminal investigations office. Eraliev heard Mr. Akmatov cry, “That hurts!”, and entered the office. Eraliev stated that he saw Inspector Toktomusaev kicking Mr. Akmatov in the kidneys and ribs, and asked, “Why are you beating him?” Eraliev stated that he hit Toktomusaev in the chest, and told him to stop beating Mr. Akmatov.⁷
20. Officer Eraliev stated that he then left for the village of Kanuva, and that when he returned from Kanuva at approximately 15:00—almost six hours later—he found the office door locked from the inside. He pulled the door open and found Toktomusaev still inside with Mr. Akmatov, who was lying “beaten on the floor”. In Eraliev’s presence, Toktomusaev began beating Mr. Akmatov again with his hands and feet. Mr. Akmatov collapsed on the floor, but Toktomusaev continued kicking him in the kidneys. Eraliev asked, “Why are you beating him?” to which Toktomusaev replied that it was none of Eraliev’s business. Eraliev then asked, “Are you out of your mind?” Eraliev claims to have once again struck Toktomusaev in the chest and told Mr. Akmatov to leave, although Mr. Akmatov initially refused out of fear.⁸
21. Officer Eraliev sent Mr. Akmatov home at 19:30, approximately 10 hours after Mr. Akmatov had arrived at the station. According to Eraliev, Mr. Akmatov was complaining of pains in his ribs, chest, and stomach at the time of his departure, although Eraliev did not know if Mr. Akmatov had any bruises when he left.⁹
22. During subsequent questioning by the Prosecutor’s Office in Osh two months later, on 21 June 2007, Officer Eraliev would retract his original statement. In his new testimony, Eraliev claimed that he was not at the police station on 3 May 2005, and that he had not seen Inspector Toktomusaev beat Mr. Akmatov. When asked why he had changed his testimony, Eraliev stated that Mr. Akmatov’s mother, Mrs. Tamila Akmatova, had “scared” him by saying “You saw who killed my son, you know.” At the time that Eraliev made his initial statement, he was 27 years old, while Mrs. Akmatova was approximately 62 years old and infirm.¹⁰

Police Questioning of Mr. Akmatov’s Father at the Family Home

23. Between 17:00 and 18:00, while Mr. Akmatov was detained, a man whom Mr. S. Akmatov describes as lanky and of dark complexion arrived at the Akmatov home on a bicycle. This man was later identified as Inspector Toktomusaev, the same police officer who had arrived at the house earlier that day to summon Mr. Akmatov to the police station.¹¹
24. Inspector Toktomusaev informed Mr. S. Akmatov that Kochkonbai Nurmamatov, a local resident, had filed a complaint against his son, that his son was at the [REDACTED] Police Station giving a deposition, and that Officer B. Muminov, chief of criminal investigations, was questioning him. Mr. S. Akmatov asked, “If you took him away this morning at nine o’clock and now it’s already 18:00, can questioning really take that long?” Inspector

⁶ Exhibit 12 - Copy of Report on Questioning of Witness Mirbek Torozhanovich Eraliev, 22 April 2007. This is Officer Eraliev’s initial testimony, which he would later recant.

⁷ *Ibid.*

⁸ *Ibid.*

⁹ *Ibid.*

¹⁰ Exhibit 6 - Statement of Suyunbai Akmatov, 18 October 2010.

¹¹ *Ibid.*

Toktomusaev replied that he didn't know. Mr. S. Akmatov told Toktomusaev to send his son home right away.¹²

25. Inspector Toktomusaev departed, but returned within an hour. He again failed to identify himself to Mr. S. Akmatov. He told Mr. S. Akmatov that he was looking for two witnesses that lived nearby, Yrysmamat and Kylych, who were needed to give evidence in his son's case.¹³ Mr. S. Akmatov pointed to their houses. Inspector Toktomusaev then went to those houses but the men were not at home. He returned and Mr. S. Akmatov again told Toktomusaev to release his son right away.¹⁴
26. Inspector Toktomusaev gave contradictory reasons for his visits to Mr. S. Akmatov's house on the evening of 3 May 2005. In his initial confrontation with Mr. S. Akmatov, Toktomusaev agreed that he had asked where Rysmamat (Yrysmamat) and Kudash (Kylych) live.¹⁵ However, in a subsequent statement he denied having asked after these two individuals, claiming he did not know who they were.¹⁶

Mr. Akmatov's Return Home, Deterioration, and Death

27. Mr. Akmatov returned to his family home from the police station at around 21:30 on 3 May 2005, approximately twelve hours after he had left.¹⁷ Mr. Akmatov was silent when he entered the house. According to his father, he was unable to open the gate, was holding his chest, could barely move his legs, and lacked the strength to move across the doorstep. With the aid of his younger brother Chyngyz Suyunbai uulu and nephew Syrgak Akmatov, Mr. Akmatov went to his bedroom, where he sat on the bed and began reading the Koran.¹⁸
28. The two younger boys told Mr. S. Akmatov that his oldest son could not walk. Mr. S. Akmatov went to the bedroom, and asked his son what had happened and whether he had been drinking, noticing that his cheeks were red. Mr. Akmatov did not initially respond.¹⁹ According to Mr. Akmatov's younger brother Chyngyz:

“[F]ather went in and asked Turdubek what happened. He just shook his head silently. When papa asked whether he had been drinking again, he put down the Koran and said, ‘Kochkonbai made false accusations against me to the police, and then Zhetigen and six policemen beat me.’ ”²⁰

¹² Exhibit 6 - Statement of Suyunbai Akmatov, 18 October 2010.

¹³ Exhibit 4 - Report on a face-to-face confrontation, 24 September 2005.

¹⁴ *Ibid.* See also Exhibit 3 - Copy of Statement of S. Akmatov, 6 August 2005; Exhibit 2 - Copy of Report on Questioning of Witness Suyunbai Akmatov, 27 May 2005.

¹⁵ Exhibit 4 - Report on a face-to-face confrontation, 24 September 2005.

¹⁶ Exhibit 15 - Report on Questioning of Witness Nurgazy Toktomusaev, 29 January 2007.

¹⁷ Exhibit 4 - Report on a face-to-face confrontation, 24 September 2005. See also Exhibit 3 - Copy of Statement of S. Akmatov, 6 August 2005; Exhibit 2 - Copy of Report on Questioning of Witness Suyunbai Akmatov, 27 May 2005.

¹⁸ Exhibit 44 - Report on Reproduction of the Situation and Circumstances of the Incident, 18 July 2005; Exhibit 4 - Report on a face-to-face confrontation, 24 September 2005. See also Exhibit 10 - Report on Questioning of Chyngyz Suyunbai uulu, 17 July 2005; and Exhibit 8 - Report on Questioning of Witness Syrgak Akmatov, 17 July 2005.

¹⁹ According to Mr. S. Akmatov, his son had not been drinking for many years: he drank heavily until the spring of 2005, when he traveled to Bishkek and made 13,000 soms; he had not been drunk since returning in October, and read prayers five times a day.

²⁰ Exhibit 10 - Report on Questioning of Chyngyz Suyunbai uulu, 17 July 2005; see also Exhibit 11 - Report on Questioning of Witness Chyngyz Suyunbai uulu, 6 February 2006.

29. Mr. S. Akmatov and Syrgak Akmatov also confirm that Mr. Akmatov informed his father that he was beaten by “six policemen, led by Zhetigen”.²¹ Mr. S. Akmatov noticed that his son was red and his mouth was caved in,²² and that his ears were blue and swollen.²³
30. The two boys Chyngyz and Syrgak helped Mr. Akmatov to a bench outside in the yard, holding him under the arms as he walked.²⁴ He sat on the bench holding his chest. Lights illuminated the yard, allowing Mr. S. Akmatov to see his son through the window. Approximately 15 to 20 minutes later, there was a loud cry, and Mr. S. Akmatov looked through the window to see his oldest son slowly falling onto his right side.²⁵
31. By the time Mr. S. Akmatov and the two boys rushed out to help Mr. Akmatov, he had already fallen to the ground and turned over on his back. Blood was gushing from his mouth, ears, and nose, “like water from a spring”, and his legs and arms were trembling. Mr. S. Akmatov was unable to lift him, but when he asked the two younger boys, they became afraid and backed away. They managed to move him onto some bedding, which he tumbled from twice. Eventually, the blood stopped flowing from his mouth.²⁶
32. Mr. S. Akmatov went to the neighboring house, where he tried to telephone the police and the Emergency Medical Service (EMS) four or five times, but neither responded. When he returned, his son was still twitching. Mr. S. Akmatov sent the two boys Chyngyz and Syrgak to his younger sister’s home to fetch his brother-in-law, Turdumamat Zholdoshaliev, and his younger brother Toktomamat.²⁷
33. The two boys accompanied their uncle Toktomamat to the EMS, and finding no one at the EMS went on to the police station. They found one officer on duty, Mr. I.A. Seidaliev. Officer Seidaliev said that Mr. Akmatov had been brought in earlier that day, and later released. When the boys asked for help, he answered that no policemen were available and that he could not leave the station.²⁸
34. While the two boys Chyngyz and Syrgak and their uncle went to the EMS and police station, Mr. S. Akmatov’s brother-in-law Turdumamat arrived at the Akmatov home. He and Mr. S. Akmatov attempted to aid and comfort Mr. Akmatov, but to no avail. Shortly

²¹ Exhibit 9 - Report on Questioning of Witness Syrgak Akmatov, 6 February 2006; Exhibit 8 - Report on Questioning of Syrgak Akmatov, 17 July 2005; Exhibit 3 - Copy of Statement of S. Akmatov, 6 August 2005; Exhibit 44 - Report on Reproduction of the Situation and Circumstances of the Incident, 18 July 2005. See also Exhibit 1 - Statement of S. Akmatov to T.A. Akyshov, Head of the [REDACTED] Multidistrict Prosecutor’s Office, 11 May 2005 (stating that six policemen beat him, without identifying Zhetigin).

²² Exhibit 1 - Statement of S. Akmatov to T.A. Akyshov, Head of the [REDACTED] Multidistrict Prosecutor’s Office, 11 May 2005.

²³ Exhibit 2 - Copy of Report on Questioning of Witness Suyunbai Akmatov, 27 May 2005.

²⁴ Exhibit 11 - Report on Questioning of Witness Chyngyz Suyunbai uulu, 6 February 2006. See also Exhibit 9 - Report on Questioning of Witness Syrgak Akmatov, 6 February 2006; Exhibit 10 - Report on Questioning of Chyngyz Suyunbai uulu, 17 July 2005; Exhibit 44 - Report on Reproduction of the Situation and Circumstances of the Incident, 18 July 2005.

²⁵ Exhibit 1 - Statement of S. Akmatov to T.A. Akyshov, Head of the [REDACTED] Multidistrict Prosecutor’s Office, 11 May 2005.

²⁶ Exhibit 44 - Report on Reproduction of the Situation and Circumstances of the Incident, 18 July 2005.

²⁷ Exhibit 2 - Copy of Report on Questioning of Witness Suyunbai Akmatov, 27 May 2005; Exhibit 10 - Report on Questioning of Chyngyz Suyunbai uulu, 17 July 2005; Exhibit 8 - Report on Questioning of Witness Syrgak Akmatov, 17 July 2005.

²⁸ Exhibit 9 - Report on Questioning of Witness Syrgak Akmatov, 6 February 2006. See also: Exhibit 10 - Report on Questioning of Chyngyz Suyunbai uulu, 17 July 2005; and Exhibit 8 - Report on Questioning of Witness Syrgak Akmatov, 17 July 2005.

after Turdurmamat arrived, as they sat together, Mr. Akmatov's body stopped twitching and he died in his father's arms.²⁹

Police Version of Events

35. The police gave a different account of events of 3 May 2005. Although the police witnesses contradict the evidence of the Akmatov family, including the details of his detention and beating which Mr. Akmatov relayed to them before his death, they are generally not supported by evidence from non-police sources, and some evidence which they refer to does not appear in the investigation record.
36. *Complaint against Mr. Akmatov.* According to Officer Bakhtiyar Muminov, at 09:10 on 3 May 2005 a local resident named Kochkonbai Nurmamatov alleged that Mr. Akmatov had come to his house three to four days before "intending to steal something."³⁰ Officer Muminov claims to have asked Nurmamatov to write a complaint about the theft, but he left saying "he was in a hurry, that his daughter-in-law Gulnara would write it".³¹ Muminov claims that Gulnara Duishenbieva arrived at the police station later that same day, but when he asked her to write a complaint, "she answered that she was in a hurry and left."³² Officer Seidaliev, on the other hand, claims that a woman complained that Mr. Akmatov had stolen some doors, but that although she was in a hurry "she signed a statement."³³ Other official documents such as the order requesting the third forensic medical review also claim that Mr. Akmatov was summoned to the police station "on the basis of a written complaint by Gulnar Duishenbieva".³⁴ No such statement has been produced.
37. According to the subsequent Report on the Official Investigation by the Ministry of Internal Affairs (see paras. 55 to 56, below), Officer Muminov "did not prepare a report on the oral complaint of K. Nurmamatov and did not take steps to log it in the event log, thereby grossly violating the requirements of para. 2.1 and 2.2 of appendix 1 to Kyrgyz Republic Ministry of Internal Affairs order No. 415-2001".³⁵
38. The Department of Internal Affairs Report stated that Muminov's actions amounted to "official misconduct and a gross violation of professional ethics ... as a result of which the murder of T. Akmatov, which occurred on May 4, 2005 and the theft of the personal property ... remain unsolved".³⁶
39. *Summons of Mr. Akmatov to Police Station.* Inspector Toktomusaev claims that Officer Muminov informed him of the complaint against Mr. Akmatov at about 14:00, and that between 14:00 and 15:00 they drove to the Akmatov home. Toktomusaev says that he went

²⁹ Exhibit 44 - Report on Reproduction of the Situation and Circumstances of the Incident, 18 July 2005.

³⁰ Exhibit 19 - Report on Questioning of Witness B. Muminov, 8 June 2005.

³¹ *Ibid.*

³² *Ibid.* According to Muminov, Gulnara Duishmbieva said that "her husband's older brother, Kochkonbai, asked her to look after his house, that every day she stopped at the house. Once a young man named Mamish inquired about lodging. "I agreed," she said, and when she brought him to the house, she saw Turdubek. "I asked," she said, "what he was doing there, to which he answered that Kochkonbai left him to look after the house. When I said that Kochkonbai left me, his sister-in-law, to look after the house, Turdubek fell silent and left. Three days before this someone had removed three doors from the house, and I told Kochkonbai about this."

³³ Exhibit 22 - Statement of Ikbol Seidaliev, 6 August 2005.

³⁴ Exhibit 29 - Order Scheduling a Forensic Medical Review Commission, 20 April 2006.

³⁵ Exhibit 46 - Report on the Official Investigation on the Complaint by S. Akmatov Concerning Police Personnel, Internal Security Service, Kyrgyz Republic Ministry of Internal Affairs, 10 August 2005.

³⁶ *Ibid.*

up to the house alone, retrieved Mr. Akmatov, and returned to the car where Muminov was waiting.³⁷ Toktomusaev claims that only Mrs. Akmatova was present when he arrived, despite the fact that Mr. S. Akmatov had returned home at around 12:30, and at around 15:00 Mrs. Akmatova left to visit her sister (see paras. 15 to 16, above). Toktomusaev claims that the three men then returned to the police station, arriving there between 15:30 and 16:00.³⁸ This account places Mr. Akmatov's arrival at the police station approximately six hours later than the time initially given by Eraliev and corroborated by the victim's family members.

40. Chief of Police Zhetigen Turdakunov claims he left the police station at 12:00 on May 3 with two other officers, and did not return to the police station until between 18:00 and 19:00.³⁹ During questioning in June 2005, Turdakunov stated that upon returning to the station, he found Officer B. Muminov "working on a special assignment on some unsolved crimes".⁴⁰ However, in a different statement dated August 2005, he said that he found only Officer Seidaliev at the station.⁴¹
41. *Questioning of the Victim's Father at the Family Home.* As set out above, Inspector Toktomusaev agrees that he spoke with Mr. S. Akmatov twice on the afternoon of 3 May; however, his statements contradict each other regarding what he said during those visits (see para. 26, above).

Detention, Interrogation, and Release of the Victim

42. As described in paragraphs 18 to 22 above, temporary duty Officer Mirbek Eraliev initially testified that Mr. Akmatov was in police custody from approximately 09:30 to 19:30 on 3 May 2005, and that Mr. Akmatov was tortured by the police during this time. Eraliev later retracted this testimony, citing fear of Mr. Akmatov's mother (see paragraph 22 above). Other police officers gave accounts of the detention, interrogation, and release of Mr. Akmatov that also conflict with Officer Eraliev's initial testimony and the statements of Mr. Akmatov's family.
43. According to Officer Muminov, Mr. Akmatov arrived at the police station at 15:00. Muminov interviewed him about the theft of the door frames. Muminov claims that Mr. Akmatov tried "to wiggle out" of questioning about the theft, and that he then permitted Mr. Akmatov to leave the station for approximately one hour to get food.⁴² This is contradicted by the autopsy results, which show that Mr. Akmatov had negligible food in his stomach.⁴³ According to Muminov, Mr. Akmatov returned to the station and at around 18:00 or 19:00 wrote a statement.⁴⁴ The State has not provided a copy of any statement by Mr. Akmatov to his family.

³⁷ Exhibit 15 - Report on Questioning of Witness Nurgazy Toktomusaev, 29 January 2007; Exhibit 14 - Statement of Nurgazy Toktomusaev, undated; and see Exhibit 19 - Report on Questioning of Witness B. Muminov, 8 June 2005.

³⁸ Exhibit 15 - Report on Questioning of Witness Nurgazy Toktomusaev, 29 January 2007; Exhibit 14 - Statement of Nurgazy Toktomusaev, undated; and see Exhibit 19 - Report on Questioning of Witness B. Muminov, 8 June 2005.

³⁹ Exhibit 17 - Statement of Zhetigen Turdakunov, 6 August 2005.

⁴⁰ Exhibit 18 - Statement of Zhetigen Turdakunov, undated; Exhibit 16 - Report on Questioning of Witness Zh. Turdakunov, 1 June 2005.

⁴¹ Exhibit 17 - Statement of Zhetigen Turdakunov, 6 August 2005.

⁴² Exhibit 19 - Report on Questioning of Witness B. Muminov, 8 June 2005.

⁴³ Exhibit 26 - Expert Conclusion No. 19, 4-25 May 2005.

⁴⁴ Exhibit 19 - Report on Questioning of Witness B. Muminov, 8 June 2005; Exhibit 21 - Statement of B.P. Muminov, undated.

44. Officer Muminov then allegedly showed Mr. Akmatov out of the police station, and “told him to behave, not argue with anyone, and not steal. [Mr. Akmatov] smiled, promised to go straight and, at about 19:00 left the police department.”⁴⁵ Officer Seidaliev claims that when Mr. Akmatov left the police station earlier that day, he was “hale and hearty, and he didn’t complain about anyone.”⁴⁶ Inspector Toktomusaev also claims to have seen Mr. Akmatov leaving the police station in a “good mood”, and alleges that Mr. Akmatov turned to Muminov and said that he “would straighten out ... his face and head were untouched, and he was not holding any part of his body.”⁴⁷
45. Officer Muminov claims that a witness named Gulzhan Bagysheva told him that she saw Mr. Akmatov at 20:30 on 3 May 2005, “between his father’s house and that of a neighbor named Makai.” Muminov claims that Bagysheva said she greeted Mr. Akmatov, and that “she saw that [he] was sober and had no signs of a beating.”⁴⁸ However, in her witness statement, Bagysheva states that she saw Mr. Akmatov “when the sun set down, and when people could be barely recognized in the evening twilight”. Moreover, Bagysheva never says in her statement that there were “no signs of a beating”, but rather that the “appearance of Turdubek was better” than when he is drunk:
- “When Turdubek was drunk, he asked half jokingly, half seriously to buy him vodka. But at that time [the night of his death], for some reason he just said hello, did not ask, perhaps, he was sober, and I just went on having greeted him.”⁴⁹
- Given that Mr. Akmatov’s wounds were not initially visible to his own family when he arrived home on the night of his death,⁵⁰ Bagysheva could not have accurately gauged whether Mr. Akmatov had been beaten just by nodding hello on a darkened street.
46. Based on Bagysheva’s alleged identification of Mr. Akmatov as healthy that evening, Officer Muminov asserts that Mr. Akmatov must have suffered his injuries after he got home.⁵¹ However, in the same statement Officer Muminov claims that a resident of [REDACTED] named Gulya told him: “That day my father-in-law told me that he gave [the Victim] a serious beating, but later he stopped talking about it.” There is no evidence that the police ever pursued this alleged lead of a person beating Mr. Akmatov on the night of his death.

The Investigation into Mr. Akmatov’s Death

47. Despite Mr. S. Akmatov’s request for an investigation, the police delayed opening an investigation for three weeks and then failed to properly investigate the torture and death of his son. The investigation was repeatedly suspended, and no serious efforts were ever made to ascertain the responsibility of the police officers who were identified by Mr. Akmatov as having beaten him. As a result, despite conclusive forensic evidence of the cause of death, no-one has been charged and the investigation remains suspended.

⁴⁵ Exhibit 19 - Report on Questioning of Witness B. Muminov, 8 June 2005.

⁴⁶ Exhibit 23 - Statement of Ikbal Akhmedalievich Seidaliev, undated.

⁴⁷ Exhibit 14 - Statement of Nurgazy Toktomusaev, undated.

⁴⁸ Exhibit 19 - Report on Questioning of Witness B. Muminov, 8 June 2005.

⁴⁹ Exhibit 24 - Report on Questioning of Witness Gulzhan Bagysheva, 18 June 2005.

⁵⁰ Exhibit 1 - Statement of S. Akmatov to T.A. Akyshov, Head of the [REDACTED] Multidistrict Prosecutor’s Office, 11 May 2005.

⁵¹ Exhibit 19 - Report on Questioning of Witness B. Muminov, 8 June 2005.

48. On the morning of 4 May 2005, Chief of Police Zhetigen Turdakunov, named by Mr. Akmatov in his dying words as responsible for the torture, visited the Akmatov home and spoke with Mr. S. Akmatov.⁵²
49. On the same day, the ██████ Multidistrict Prosecutor's Office ordered an autopsy,⁵³ which was performed that day. This autopsy revealed numerous bruises, lacerations and abrasions to the head, chest, and fingers. It also revealed serious injuries to the brain, lung, kidneys and spleen. It identified the cause of these injuries as "the force of blunt, hard objects."⁵⁴ (The detailed results of all medical examinations are set out below at paras. 85 to 99.)
50. On 6 May 2005, Mr. S. Akmatov, father of the Victim, petitioned the ██████ Multidistrict Prosecutor's Office and the Chief Executive of ██████ District to investigate the death of his son.⁵⁵
51. *Opening of Police Investigation.* On 25 May 2005 - 21 days after the death of Mr. Akmatov was reported - the Prosecutor's Office initiated a criminal case.⁵⁶
52. *First Complaint by the Family.* On 5 July 2005, Mr. S. Akmatov sent a petition to the President of the Kyrgyz Republic, complaining that the law enforcement authorities had failed to prosecute and punish those responsible for his son's death despite him having "brought this matter to all levels".⁵⁷
53. *Extension of the Investigation.* Kyrgyz law provides that murder investigations shall be completed within two months.⁵⁸ However, on 18 July 2005, the investigation period was extended an additional three months by the Osh Oblast Prosecutor's Office.⁵⁹
54. *Second Complaint by the Family.* On 4 August 2005, Mr. S. Akmatov sent a complaint to the Ministry of Internal Affairs of the Kyrgyz Republic requesting that steps be taken with respect to police personnel Zh. Turdakunov, B. Muminov, I. Seidaliev, S. Akhunov, Z. Amiraev, and N. Toktomusaev, the men he believes took part in the torture of his son.⁶⁰
55. *First Report by the Ministry of Internal Affairs.* On 10 August 2005, the Ministry of Internal Affairs issued a report responding to Mr. S. Akmatov's complaint. The report recommended that the investigation against the police personnel be closed, asserting that "Questioning of police personnel at the ██████ TPD established that the beating and infliction of bodily injury on T. Akmatov were impossible", without providing any further

⁵² Exhibit 18 - Statement of Zhetigen Turdakunov, undated.

⁵³ Exhibit 25 - Order to schedule a forensic medical examination, 4 May 2005.

⁵⁴ Exhibit 26 - Expert Conclusion No. 19, 4-25 May 2005. Expert Conclusion No. 19 also cited the results of forensic histology test No. 96 conducted on 10 May 2005 and a forensic chemical analysis No. 220/152-I conducted on 13 May 2005.

⁵⁵ Exhibit 40 - Petition by S. Akmatov to T.A. Akyshov, Head of the ██████ Multidistrict Prosecutor's Office, 6 May 2005; Exhibit 41 - Petition by S. Akmatov to Mamazhakyp uulu, Chief Executive of ██████ District, 6 May 2005.

⁵⁶ Exhibit 42 - Order on Initiation of a Criminal case, 25 May 2005.

⁵⁷ Exhibit 43 - Petition by S. Akmatov to K.S. Bakiev, President of the Kyrgyz Republic, 5 July 2005.

⁵⁸ Article 160 of the Criminal Procedure Code of the Kyrgyz Republic ("CPC") states that the "investigation on criminal cases of small gravity shall be conducted within one month, the term of investigation for all other crimes is two month from the moment of initiating criminal proceedings".

⁵⁹ Exhibit 45 - Decision on Extension of the Proceedings on Investigation of a Criminal Case, 18 July 2005.

⁶⁰ See Exhibit 46 - Report on the Official Investigation on the Complaint by S. Akmatov Concerning Police Personnel, Internal Security Service, Kyrgyz Republic Ministry of Internal Affairs, 10 August 2005.

reasoning or explanation. On that basis, it recommended that the investigation report be forwarded to the ██████ Prosecutor's Office for evaluation⁶¹

56. The report also concluded that Officer Muminov's failure to prepare a report on the oral complaint against Mr. Akmatov and to log the oral complaint in the station event log amounted to official misconduct and gross violations of professional ethics. The report found that Muminov's alleged ignorance of procedure may have been "a result of the lack of proper oversight of subordinates on the part of Station Chief Z. Turdakunov."⁶²
57. *Second Extension of Investigation.* On 22 August 2005 the Osh Oblast Prosecutor's Office extended the investigation period for an additional four months and ordered an additional forensic medical examination.⁶³ This examination was intended to identify the time and cause of the hemorrhaging of the brain and lungs; and also asked whether they could have been caused by Mr. Akmatov hitting his head when he fell from the bench.⁶⁴
58. *Medical Review.* On 23 September 2005, the supplemental conclusions of the forensic medical review confirmed the injuries identified in the first examination and that they were caused by the force of blunt, hard objects such as a fist or stuffed sock. However, it allowed the possibility that Mr. Akmatov could have received the injuries if he fell down stairs, and considered that exhumation of Mr. Akmatov's corpse would be required to clarify.⁶⁵
59. *First Suspension.* On 24 September 2005, one day after this medical report, the ██████ Prosecutor's Office suspended the investigation because it could not identify the persons responsible.⁶⁶
60. *Exhumation and Further Medical Reviews.* Despite the suspension, on 20 April 2006 the Osh Oblast Prosecutor's Office authorised the exhumation of the corpse of T. Akmatov⁶⁷ and scheduled a forensic medical review by a commission of experts.⁶⁸
61. On 12 August 2006, Mr. Akmatov's body was exhumed,⁶⁹ and a report on its condition⁷⁰ together with the prior medical evidence was reviewed by forensic medical experts in late 2006.⁷¹ The experts agreed that most of the injuries were caused by the force of blunt, hard objects; but again did not exclude the possibility that the brain hemorrhage was caused by a fall.
62. *Reinstatement of the Investigation.* On 27 December 2006, the Deputy Prosecutor General of the Kyrgyz Republic rescinded the order to suspend, extended the investigation period until 19 February 2007, and sent the case to the Osh Regional Prosecutor's Office.⁷²

⁶¹ Exhibit 46 - Report on the Official Investigation on the Complaint by S. Akmatov Concerning Police Personnel, Internal Security Service, Kyrgyz Republic Ministry of Internal Affairs, 10 August 2005.

⁶² *Ibid.*

⁶³ See Exhibit 36 - Order on the presence of an expert in a criminal case and receipt of his opinion, 15 June 2007.

⁶⁴ Exhibit 27 - Order to schedule a supplemental forensic medical examination, 5 September 2005.

⁶⁵ Exhibit 28 - Supplement to Conclusion No. 19 of 4 May 2005, 23 September 2005.

⁶⁶ Exhibit 47 - Decision on Suspension of the Criminal Case, 24 September 2005.

⁶⁷ Exhibit 30 - Order of Exhumation, 20 April 2006.

⁶⁸ Exhibit 29 - Order Scheduling a Forensic Medical Review Commission, 20 April 2006.

⁶⁹ Exhibit 31 - Report on Exhumation, 12 August 2006.

⁷⁰ Exhibit 32 - Expert Conclusion No. 1179, 13 August 2006.

⁷¹ Exhibit 33 - Expert Conclusion No. 102, undated.

⁷² See Exhibit 49 - Decision on Suspension of Investigation, 19 February 2007; Exhibit 36 - Order on the presence of an expert in a criminal case and receipt of his opinion, 15 June 2007.

63. *Second Suspension of the Investigation.* On 19 February 2007, when the investigation period expired, the head investigator of the Osh Oblast Prosecutor's Office suspended the case a second time.⁷³
64. *Further Petitions by the Family.* On 26 February 2007, Mr. Chydyev, the lawyer representing Mr. Akmatov's family, requested authorization for Mr. S. Akmatov to take a statement and for the prosecutor to document this investigative activity.⁷⁴ On 1 March 2007, Mr. Chydyev specifically petitioned the chief investigator to question temporary duty officer M. Eraliev as an additional witness.⁷⁵ Officer Eraliev was questioned by a member of the prosecutor's office on 22 April 2007, at which time he recounted having seen police officers torture Mr. Akmatov.⁷⁶
65. *Second Reinstatement of the Investigation.* As a result, on 16 May 2007 the Chief Prosecutor of the Kyrgyz Republic overturned the suspension of the criminal case and sent it back to the Osh Oblast Prosecutor's Office to organise the investigation.⁷⁷ The investigation was therefore extended until 23 June 2007.⁷⁸
66. On 21 June 2007, the prosecutor's office again questioned Officer Eraliev, who retracted his earlier statements.⁷⁹
67. *Third Suspension of the Investigation.* On 23 June 2007, when the latest extension of the investigation expired, the investigation was again suspended.
68. *Independent Medical Review.* On 15 June 2007, following a petition from the Akmatov family's lawyer,⁸⁰ the Osh Oblast Prosecutor's Office authorised an independent forensic expert M. Sh. Mukashev to travel to the incident site and review the conclusions of the earlier autopsy and forensic medical examinations.⁸¹ On 11 October 2007, Mukashev issued his report which found similar injuries to those recorded in earlier reports, as well as additional brain hemorrhaging, chest bruising and heart contusions which had been missed; and criticised some of the earlier conclusions. In particular, Mukashev excluded the possibility that Mr. Akmatov died as a result of falling from a standing or sitting position.⁸²
69. *Third Reinstatement of the Investigation.* On 28 February 2008, the Prosecutor General's office again overturned the suspension of the investigation on the basis of the contradictions identified by Mukashev.⁸³

⁷³ Exhibit 49 – Decision on Suspension of Investigation, 19 February 2007.

⁷⁴ Exhibit 48 - Petition by N.B. Chydyev, 28 February 2006.

⁷⁵ Exhibit 50 - Petition on questioning of an additional witness, from N.B. Chydyev to O. Jamshitov, 1 March 2007.

⁷⁶ Exhibit 12 - Copy of Report on Questioning of Witness Mirbek Torozhanovich Eraliev, 22 April 2007.

⁷⁷ Exhibit 51 – Decision on cancellation of the suspension of the investigation, 16 May 2007.

⁷⁸ Exhibit 36 - Order on the presence of an expert in a criminal case and receipt of his opinion, 15 June 2007.

⁷⁹ Exhibit 13 - Copy of Report on Questioning of Witness Mirbek Torozhanovich Eraliev, 21 June 2007.

⁸⁰ Exhibit 35 - Petition to call in a specialist, 8 June 2007. The NPO Association of the Human Rights Advocacy Center also sent a letter to the Kyrgyz State Medical Academy ("Medical Academy") requesting the authorization of M.S. Mukashev, head of the Forensic Medical Department, as an independent expert in the case. Exhibit 34 - Letter from Zh. Toroev, Director of the NPO Association of the Human Rights Advocacy Center, to D.A. Adanbekov, Rector of the Kyrgyz State Medical Academy, 24 May 2007.

⁸¹ Exhibit 36 - Order on the presence of an expert in a criminal case and receipt of his opinion, 15 June 2007; see also Exhibit 39 - Conclusion No. 44, Follow-up Commission Review Based on Criminal Case File, 19 March 2008.

⁸² Exhibit 37 - Opinion of Professor M. S. Mukashev, 11 October 2007.

⁸³ Exhibit 52 – Resolution on cancellation of the suspension of criminal proceedings, 28 February 2008.

70. *Group of Experts Medical Review.* On 12 March 2008, the Osh Oblast Prosecutor's Office ordered a fourth forensic medical review in light of contradictions between the conclusions of expert Mukashev and the opinions of the prior experts.⁸⁴ This review by a commission of senior experts was conducted on 19 March 2008. Their report confirmed the cause of death as a brain hemorrhage, cause by a blunt hard object several hours before death; and clarified that it could not have been caused by Mr. Akmatov falling.⁸⁵
71. *Third Complaint by the Family.* In April 2008, Mr. Chydyev filed a complaint to the Prosecutor General of the Kyrgyz Republic, requesting that the Prosecutor General bring criminal charges against Officers N. Toktomusaev and B. Muminov, take them in to custody, and remit the criminal case to court for consideration of the merits.⁸⁶ Following this complaint, the criminal case was again sent to the Osh Regional Prosecutor's Office, and then transferred to the Investigation Department of Internal Affairs Authority for Osh Region.⁸⁷
72. *Fourth Suspension of the Investigation.* On 30 August 2008, the Osh Oblast Prosecutor's Office again ordered that the criminal prosecution of the [REDACTED] police station personnel be discontinued, stating that "the complicity of [REDACTED] TPD police personnel B. Muminov and N. Toktomusaev, etc., in this crime has not been established." The Prosecutor's Office considered that contradictions between the conclusions of the official forensic medical examinations and those of the expert meant that "it is not possible to make a valid and legal ruling in the case."⁸⁸
73. *Fourth Reinstatement of the Investigation.* On 17 November 2008, the Prosecutor General again overturned the decision to terminate the criminal case. The criminal case was once again returned to the Osh Oblast Prosecutor for further investigation, with "instructions on specific investigative actions."⁸⁹
74. *Fifth Suspension of the Investigation.* On 12 January 2009, the local department of investigations suspended the investigation again.⁹⁰
75. *Fifth Reinstatement of the Investigation.* On 25 May 2009, the Chief Prosecutor of the Prosecutor General's office yet again overturned the suspension of the investigation and sent the case back to the Osh regional prosecutor's office for further investigations, extending the period by another one month.⁹¹
76. *Sixth Suspension of the Investigation.* On 8 July 2009, the local prosecution authorities again suspended the investigation, because the perpetrators still had not been identified.⁹²

Judicial Challenges.

77. *Judicial Challenge to City Court.* On 4 January 2011, Mr. Chydyev filed an application with the Osh City Court detailing the evidence of Mr. Akmatov's torture, the

⁸⁴ Exhibit 38 - Order Scheduling a Forensic Medical Review Commission, 12 March 2008.

⁸⁵ Exhibit 39 - Conclusion No. 44, Follow-up Commission Review Based on Criminal Case File, 19 March 2008.

⁸⁶ Exhibit 53 - Complaint by N.B. Chydyev to E. Satylbaldiev, undated.

⁸⁷ Exhibit 57 - Application to Osh City court, 4 January 2011.

⁸⁸ Exhibit 54 - Order to Discontinue Criminal Prosecution of Certain Individuals, 30 August 2008.

⁸⁹ Exhibit 55 - Letter from the Prosecutor General of the Republic of Kyrgyzstan to N.B. Chydyev, 17 November 2008.

⁹⁰ See Exhibit 57 - Application to Osh City court, 4 January 2011.

⁹¹ *Ibid.*

⁹² Exhibit 56 - Decision on Suspension of Proceedings on the Criminal Case, 8 July 2009.

inconsistencies in the police version of events, and the deficiencies in the investigation. Mr. Chydyev asked that the Court send the case to trial on its merits.⁹³

78. On 11 January 2011, the District Court rejected Mr. Chydyev's application.⁹⁴
79. *Appeal to District Court.* On 20 January 2011, Mr. Chydyev filed an appeal against the City Court's decision, and requested that the Regional Court overturn that decision and oblige the investigators to send the case to trial on the merits.⁹⁵
80. On 15 February 2011, the Regional Court rejected Mr. Chydyev's appeal.⁹⁶

Police Attempts to Silence Mr. S. Akmatov

81. During his efforts to obtain a proper investigation of the torture and death of his son, the police attempted to bribe and intimidate Mr. S. Akmatov to drop the case.
82. Mr. S. Akmatov states that Officer Alisherov Turgunbai of the [REDACTED] District Department of Internal Affairs offered him 50 thousand soms (approximately USD 1000) to stay silent about the case. When Mr. S. Akmatov refused, Officer Turgunbai offered him 100 thousand soms; and when Mr. S. Akmatov again refused, offered 150 thousand soms. Finally, Officer Turgunbai offered Mr. S. Akmatov 200 thousand soms (approximately USD 4000) with the words: "Take it if you want, but if you do not accept, everything will be as we wish all the same". Mr. S. Akmatov still refused, telling Turgunbai: "I will not exchange the death and tears of my loved ones for money".⁹⁷
83. On 29 June 2005, Mr. S. Akmatov met Chief of Police Zhetigen Turdakunov and questioned him about his son's case. Mr S. Akmatov states that Turdakunov attacked him, swearing and saying "Do what you want". Turdakunov then bent back the index finger on Mr. S. Akmatov's left hand, tearing two tendons on his finger.⁹⁸

Results of Forensic Medical Examinations

84. Repeated forensic examinations of Mr. Akmatov's body and reviews of their findings all recorded serious injuries: cuts, abrasions and bruises to the head, chest and fingers; and hemorrhaging of the brain, lung, kidney and spleen. The reports all agree that these injuries were caused by the force of blunt, hard objects. The later reports confirmed that the brain hemorrhage could not have been caused by Mr. Akmatov falling off a bench. A Commission of Experts concluded that the injuries were inflicted several hours before his death, which is consistent with the time that he was in police custody.

Initial Autopsy – 4 May 2005

85. The initial autopsy was performed on 4 May 2005, and is recorded in Expert Conclusion No. 19. The external examination found numerous injuries, including: bluish colorations on the chest; traces of blood clots in the right ear; traces of blood clots in the nasal passages; multiple point abrasions and scratches on the left scalp; graze wounds on the ears; a

⁹³ Exhibit 57 – Application to Osh City court, 4 January 2011.

⁹⁴ Exhibit 58 – Decision of Osh City Court, 11 January 2011.

⁹⁵ Exhibit 59 – Appeal to Osh Regional court, 20 January 2011.

⁹⁶ Exhibit 60 – Decision of Osh Regional Court, 15 February 2011.

⁹⁷ Exhibit 6 - Statement of Suyunbai Akmatov, 18 October 2010.

⁹⁸ Exhibit 43 - Petition by S. Akmatov to K.S. Bakiev, President of the Kyrgyz Republic, 5 July 2005.

triangular scalp laceration; wounds and hemorrhaging on the lips; bruising over the left ribs; and bruises on the fingers.⁹⁹

86. The internal examination revealed further injuries, namely: local hemorrhaging in the left occipital region of the brain; hemorrhaging in the left cerebellum hemisphere; blood-tinted mucous filling the trachea and bronchi; extensive hemorrhaging in the left lung; extensive hemorrhaging in the kidneys and spleen; and local hemorrhaging in the para-renal fat and liver. There was negligible food in his stomach. Histology tests confirmed these findings.¹⁰⁰
87. Expert Conclusion No. 19 concluded that the direct cause of Mr. Akmatov's death was hemorrhaging beneath the brain tunic and cerebellum tissues. In relation to the other injuries which it recorded, the report identified the likely causes as follows:
- the extensive hemorrhaging in the left lung, spleen, and kidneys as due to "the simultaneous force of blunt hard objects over a wide area";
 - the head abrasions and brain injuries as due to "the force of blunt hard objects shortly before death"; and
 - the injuries to the left ear, lips, and fingers as due to "the force of blunt hard objects shortly before death, such as a fist, stuffed sock, etc."¹⁰¹
88. Mr. S. Akmatov was present during the first autopsy, and states that the initial inspection also revealed a 10-cm mark on the victim's head, traces of a cut in his mouth, scratches on the arms, missing teeth, cracked lips, and blue welts around the heart and on the back.¹⁰² Furthermore:

"despite the fact that his jaw was broken, the investigator said only that there is a wound in the jaw ... The gap between the brain and the skull bone was filled with blood. The internal organs were blackened from the received severe blows. The lungs were blackened, fifth and sixth ribs were bent, and the seventh rib was broken. I think all of these wounds were received as a result of beatings."¹⁰³

Second Forensic Medical Examination – 23 September 2005

89. On 5 September 2005, the Prosecutor's Office ordered a supplemental medical examination.¹⁰⁴ The order posed a set of questions, including: "Is it possible that the hemorrhaging resulted from T. Akmatov's hitting his head against the trestle-bed?"¹⁰⁵
90. The review, reported in Supplemental Conclusion to Expert Report No. 19, confirmed the conclusions of the first examination, including that Mr. Akmatov died from hemorrhaging in the left hemisphere of the cerebellum as a result of closed craniocerebral trauma. It also confirmed the other injuries such as wounds to the lips and ears, abrasions to the fingers, extensive hemorrhaging of the lung. It agreed that the hemorrhaging in the brain and left lung "were caused by the force of blunt, hard objects, such as a fist, stuffed sock or other objects". However, the review added that "it is not ruled out that he could have received these injuries from falling down stairs", and called for an exhumation to reach an accurate

⁹⁹ Exhibit 26 - Expert Conclusion No. 19, 4-25 May 2005.

¹⁰⁰ *Ibid.*

¹⁰¹ *Ibid.*

¹⁰² Exhibit 1 - Statement of S. Akmatov to T.A. Akyshov, Head of the [REDACTED] Multidistrict Prosecutor's Office, 11 May 2005; Exhibit 2 - Copy of Report on Questioning of Witness Suyunbai Akmatov, 27 May 2005; Exhibit 5 - Report on Questioning of Witness Suyunbai Akmatov, 18 January 2006.

¹⁰³ Exhibit 5 - Report on Questioning of Witness Suyunbai Akmatov, 18 January 2006.

¹⁰⁴ Exhibit 27 - Order to schedule a supplemental forensic medical examination, 5 September 2005.

¹⁰⁵ Exhibit 28 - Supplement to Conclusion No. 19 of 4 May 2005, 23 September 2005.

conclusion. The review further noted that Mr. Akmatov may have had “a lucid period of up to two hours” following the brain injuries he received.¹⁰⁶

Exhumation and Third Forensic Medical Review

91. On 20 April 2006 the Osh Oblast Prosecutor’s Office ordered a third forensic medical review by experts from the National Forensic Medicine Review Office (NFMRO). The order asked a number of questions, including whether Mr. Akmatov could have died as a result of falling from the bench and hitting his head; and whether his brain hemorrhage would have prevented him from walking 1.5-2 kilometers.¹⁰⁷
92. In anticipation of this review, the Prosecutor’s Office ordered the exhumation of Mr. Akmatov’s body,¹⁰⁸ and the medical examiner reported on the state of the body on 2 October 2006.¹⁰⁹ This report, together with the prior medical evidence, was reviewed by the NFMRO officials, who presented their results in Expert Conclusion No. 102.¹¹⁰
93. This review found the likely cause of death to be hemorrhaging in the brain caused by “the action of blunt solid objects”. However, the review went on to say that, “a fall from a height of its own growth is not excluded”. The review found that external wounds to the trunk, face, and hands were also caused by the force of “blunt, solid objects”. The review further concluded that, as a result of Mr. Akmatov’s brain injuries, he “could not make any concerted action, in particular, undergo 1.5-2km.”¹¹¹

Independent Medical Review Requested by Family – 11 October 2007

94. On 15 June 2007, Mr. Akmatov’s family requested that an expert review the evidence; and in October 2007, Professor Sh. Mukashev inspected the incident site and gave his opinion on the previous forensic medical examinations (see para. 68, above). Professor Mukashev was then head of the Forensic Medicine Faculty of the Kyrgyz National Medical Academy and a top-level forensic medicine expert with more than 35 years professional experience.¹¹²
95. On 11 October 2007, Mukashev reported a number of discrepancies between the descriptions of injuries and the diagnosis in the previous forensic medical conclusions, such as the failure to establish the cause of bleeding from the right ear or to assess the impact of the injuries to the kidneys and lungs. He also criticised the failure to properly indicate certain injuries, including bruising at the level of the left ribs, which may have been associated with contusion and concussion of the heart.¹¹³ In particular, Mukashev criticised the earlier reports’ failure to detect visible hemorrhaging under the soft membrane of the brain and other visible localised damage to the brain, and noted that no signs of counter-impact damage in the brain were detected.¹¹⁴

¹⁰⁶ Exhibit 28 - Supplement to Conclusion No. 19 of 4 May 2005, 23 September 2005.

¹⁰⁷ Exhibit 29 - Order Scheduling a Forensic Medical Review Commission, 20 April 2006.

¹⁰⁸ Exhibit 30 - Order of Exhumation, 20 April 2006. The results of the exhumation were reported on 12 August 2006: Exhibit 31 - Report on Exhumation, 12 August 2006.

¹⁰⁹ Exhibit 32 - Expert Conclusion No. 1179, 13 August 2006.

¹¹⁰ Exhibit 33 - Expert Conclusion No. 102, undated.

¹¹¹ *Ibid.*

¹¹² Exhibit 36 - Order on the presence of an expert in a criminal case and receipt of his opinion, 15 June 2007; see also Exhibit 39 - Conclusion No. 44, Follow-up Commission Review Based on Criminal Case File, 19 March 2008.

¹¹³ Mukashev also criticised the failure to describe or assess an abrasion on the chin, despite its clear appearance in the photograph of Mr. Akmatov’s corpse.

¹¹⁴ Exhibit 37 - Opinion of Professor M. S. Mukashev, 11 October 2007.

96. Mukashev concluded that the various internal and external injuries were caused by hard, blunt objects with different impact areas, and in particular that the hemorrhaging on the lung indicates blunt trauma to the chest. He clarified that the brain injuries which he suffered could not have been caused by either a fall from his full height (given the lack of counter-impact injuries) or a fall of 38 cm from a sitting position to the ground; and could not have caused Mr. Akmatov to lose the ability to act, move or travel a certain distance.¹¹⁵ Thus, he would have been able to get himself home, as described in the evidence.

Final Review of Forensic Medical Evidence by Commission – 19 March 2008

97. On 12 March 2008, the Osh Oblast Prosecutor's Office ordered a review of all prior forensic medical evidence in order to resolve the contradictions between the earlier reports.¹¹⁶ This follow-up review was conducted by a commission of senior medical and forensic experts¹¹⁷ on 19 March 2008. The experts reviewed and recorded all prior reports, and reported their findings in Conclusion No. 44.¹¹⁸
98. The commission confirmed that local hemorrhaging in the brain was the cause of death, and clarified that this "resulted from a blow with a blunt, hard object with limited surface area several hours before death." Hemorrhaging in the left lung and injuries to other areas of the body may also have been caused by the force of blunt, hard objects (the commission described the bruising over the ribs as the result of a single traumatic blow with a blunt object), but could not alone have been a direct cause of death. However, hemorrhaging around the left kidney could have aggravated life-threatening conditions, namely acute kidney and pulmonary failure, which in turn could have greatly contributed to death. The commission made this assessment even without considering the damage to Mr. Akmatov's spleen, which the commission's report records as being "so shattered that it is impossible to construct a picture and evaluate it".¹¹⁹
99. Notably, the commission was clear that the injuries could not have been caused by the victim's fall from a sitting position on a bench 38 cm off the ground; and that even with these injuries, Mr. Akmatov "could certainly have taken independent purposeful actions over a fairly long period of time (from tens of minutes to several hours), specifically, he could have traveled 1.5-2 km, carried on a conversation, etc."¹²⁰ The commission also noted that it was impossible to determine the time of death after he sustained these injuries because, during the initial examination of the corpse, the procedures for formaldehyde fixation had not been followed.

Pattern of Torture and Impunity in the Kyrgyz Republic

¹¹⁵ Exhibit 37 - Opinion of Professor M. S. Mukashev, 11 October 2007.

¹¹⁶ Exhibit 38 - Order Scheduling a Forensic Medical Review Commission, 12 March 2008.

¹¹⁷ S. M. Krasikov, a top-level forensic medicine expert with more than 25 years professional experience; M. Sh. Mukashev, head of the Forensic Medicine Faculty of the Kyrgyz National Medical Academy and a top-level forensic medicine expert with more than 35 years professional experience; B. R. Janaliev, head of the National Morbid Anatomy Office of the Kyrgyz Republic Ministry of Health and professor of Forensic Medicine at the Kyrgyz National Medical Academy; Zh. T. Turganbaev, head of the Faculty of Pathomorphology at Kyrgyz-Russian Slavic University; and M. T. Monoshov, a level 1 medical examiner at the Autopsy Department of the National Forensic Medicine Office.

¹¹⁸ Exhibit 39 - Conclusion No. 44, Follow-up Commission Review Based on Criminal Case File, 19 March 2008.

¹¹⁹ *Ibid.*

¹²⁰ *Ibid.*

100. The violations set out above are consistent with a pattern in the Kyrgyz Republic of torture by the police during early periods of unregistered detention and a failure by the authorities to independently and effectively investigate cases of torture and deaths in custody.

Torture by Police During Unregistered Detention

101. Torture is widespread in Kyrgyzstan. In 2000, this Committee was “gravely concerned about instances of torture, inhuman treatment and abuse of power by law enforcement officials” in the Kyrgyz Republic.¹²¹ However, the problems continue.
102. In 2005, at the time of Mr. Akmatov’s torture and death, Human Rights Watch noted: “Continuing reports of police abuse in 2005, including torture of adult and children detainees, further undermined people’s confidence in the government’s promises of reform.”¹²² The U.S. Department of State similarly noted that:
- “The law prohibits [torture and other cruel, inhuman, or degrading treatment]; however, police and SNB forces employed them. At times police beat detainees and prisoners to extract confessions. ... In September the human rights ombudsman expressed concern over a number of incidents involving abuse of detainees, blaming the abuse on corruption and a low level of professionalism among jail and police officials.”¹²³
103. Recently, a group of leading anti-torture NGOs in Kyrgyzstan described “reports received since March 2007 from victims and their relatives of more than 200 cases of torture and cruel treatment, 92 per cent of them allegedly committed by the police” in their joint submission to the Human Rights Council during the Universal Periodic Review (“UPR”) of Kyrgyzstan. The submission stated that
- “police continue to torture and mistreat people in detention with impunity ... Police often fail to register suspects at the time of apprehension, keeping them in unregistered custody for hours or even days. During this unaccounted-for period of time, suspects can be held in unofficial detention settings, such as police vehicles or office rooms, without any access to the outside world ... Often the person is then tortured, resulting in a signed confession and/or serious health problems, sometimes even death.”¹²⁴
104. Amnesty International similarly noted in its UPR submission to the Human Rights Council that
- “torture and other ill-treatment remained widespread and is practiced with impunity. According to AI, beatings by law enforcement officers appear to continue to be routine. According to AI, human rights defenders have also reported deaths in custody as a result of torture.”¹²⁵

¹²¹ *Concluding observations of the Human Rights Committee, The Kyrgyz Republic*, U.N. Doc. CCPR/CO/69/KGZ, 24 July 2000, at para. 7

¹²² Human Rights Watch, *World Report 2006, Kyrgyzstan*, at page 377 (available at <http://www.hrw.org/legacy/wr2k6/wr2006.pdf>).

¹²³ Bureau of Democracy, Human Rights, and Labor, *Country Report on Human Rights Practices, Kyrgyz Republic, 2005*. (available at <http://www.state.gov/g/drl/rls/hrrpt/2005/61657.htm>).

¹²⁴ Golos Svobody (Bishkek), *Spravedlivost (Jalal-Abad) and Advocacy Center on Human Rights (Osh), Joint Submission to the UN Universal Periodic Review of Kyrgyzstan*, 8th Session, 3-14 May 2010, pp. 1-2. Summary prepared by OHCHR in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1, U.N. Doc. A/HRC/WG.6/8/KGZ/3, at para 16.

¹²⁵ *Ibid.*, at para 17.

105. In its 2010 World Report, Human Rights Watch calls attention to the fact that “[a]lthough Kyrgyzstan ratified the Optional Protocol to the Convention against Torture in 2008, torture and ill-treatment remain rampant.”¹²⁶

Consistent Failure to Investigate Torture by Police

106. Kyrgyz authorities also consistently fail to investigate allegations of torture. In 2000, this Committee noted the lack of independent investigation of such allegations, recommending that “[c]omplaints about torture and other abuses by officials should be investigated by independent bodies”.¹²⁷ No such steps have been taken.
107. In September 2005, four months after Mr. Akmatov’s torture and death, the UN Special Rapporteur on the independence of judges and lawyers, Leandro Despouy, visited Kyrgyzstan and expressed concern “about a general failure to ensure prompt, impartial and full investigations into allegations of torture and cruel, inhuman or degrading treatment or punishment, as well as a general failure to prosecute, where appropriate, the alleged perpetrators. In particular, prosecutors often appear unwilling to initiate criminal prosecutions in this regard, and the Special Rapporteur was not able to obtain information on any criminal prosecutions that have been brought for torture or ill-treatment.”¹²⁸ The Special Rapporteur concluded that “the various limitations on the independence of the judiciary ... mean that judges regularly conduct proceedings in favour of the prosecution,”¹²⁹ and “note[d] with concern that the provisions of the prosecutor’s office are set out in the chapter of the Constitution relating to the executive power.”¹³⁰
108. The Special Rapporteur reported that despite some efforts to improve the situation
- “a number of issues continue to have a negative impact on the independence of the judges and lawyers. As a result, the judiciary still does not operate as a fully independent institution capable of fulfilling its fundamental role of administering fair and independent justice and safeguarding and protecting human rights.” (at page 2)
- The Special Rapporteur identified length of tenure and procedures for appointment and dismissal as preventing the judiciary from operating independently, and also commented on widespread judicial corruption. In addition, he confirmed that prosecutor’s offices “play an extremely dominant role in the administration of justice” and that they “exercise supervisory powers and exert disproportionate influence over the pretrial and trial stages of judicial proceedings.”¹³¹
109. Despite several constitutional and other legislative amendments since the visit of the Special Rapporteur,¹³² the fundamental shortcomings of the Kyrgyz judicial system and impunity of perpetrators of torture remain. Many of his recommendations and concerns were echoed during the UPR. Kyrgyzstan received recommendations to “[s]trengthen its

¹²⁶ Human Rights Watch, *World Report 2010, Kyrgyzstan* (available at <http://www.hrw.org/en/node/87615>)

¹²⁷ *Concluding observations of the Human Rights Committee, The Kyrgyz Republic*, U.N. Doc. CCPR/CO/69/KGZ, 24 July 2000, at para. 7

¹²⁸ The Special Rapporteur on the independence of judges and lawyers, Leandro Despouy, *Mission to Kyrgyzstan*, 18-22 September and 1 October 2005, U.N. Doc. E/CN.4/2006/52/Add.3, at para. 29.

¹²⁹ *Ibid.*, at para. 51.

¹³⁰ *Ibid.*, at para. 49.

¹³¹ *Ibid.*, at page 2; see also para. 76.

¹³² Several Constitutional amendments were adopted in Kyrgyzstan since 2005 and the version adopted by referendum in June 2010 separates prosecutor’s office from the executive to the “Other state authorities.” This does not change the situation which Mr. Ernazarov’s family faced when attempting to obtain justice for his death in 2006; and in any event, these amendments have had little practical impact.

safeguards against torture, including through the improvement of conditions in prisons and detention facilities and the establishment of a complaint mechanism for victims of torture”;¹³³ to “ensure the prompt, impartial and comprehensive investigation of all complaints involving the torture of any person subjected to any form of arrest, detention or imprisonment”;¹³⁴ and to “[e]stablish constitutional reforms that will guarantee the separation of powers, the rule of law, the independence of the judiciary.”¹³⁵

110. The joint UPR submission of the leading anti-torture NGOs in Kyrgyzstan also “raised concerns about the lack of accountability for deaths in custody and recommended preventing and duly investigating all cases of death in custody in accordance with international standards”.¹³⁶ It observed that even if charges are brought in a case of torture, they “are generally brought not for torture, but for other crimes of less gravity, such as negligence”¹³⁷ although torture was only “a ‘minor crime’ under the law with punishment not corresponding to the gravity of the offence.”¹³⁸ This impacted on the ability of victims to obtain compensation, because “Kyrgyz law does not allow victims of torture to obtain redress from a civil court until a criminal court has convicted the perpetrators of torture [...and] since the criminalization of torture in 2003, no victim of torture had received monetary compensation.”¹³⁹
111. Amnesty International similarly recommended that the Kyrgyz Republic “ensure prompt, impartial and comprehensive investigations of all complaints of torture or cruel, inhuman or degrading treatment”,¹⁴⁰ specifically recommending that the government “establish a fully resourced independent agency to investigate all allegations of human rights violations by officers of all law enforcement agencies”.¹⁴¹ It also stated “that corruption in law enforcement and the judiciary was believed to significantly contribute to a climate of impunity.”¹⁴²

VII. ADMISSIBILITY

112. This communication satisfies the requirements for admissibility under Article 5 of the first Optional Protocol. The Akmatov family have made extensive efforts at the domestic level to obtain a proper investigation into his torture and death, and have therefore exhausted all available and effective domestic remedies.

Jurisdiction

113. The Kyrgyz Republic acceded to the ICCPR and the first Optional Protocol to the ICCPR on 7 October 1994. The violations of Articles 6(1), 7 and 2(3) of the ICCPR, which are the

¹³³ Report of the Working Group on Universal Periodic Review. Kyrgyzstan. 16 June 2010, U.N. Doc. A/HRC/15/2, at para 76.53.

¹³⁴ *Ibid*, at para. 76.54.

¹³⁵ *Ibid*, at para. 76.4.

¹³⁶ Summary prepared by OHCHR in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1, U.N. Doc. A/HRC/WG.6/8/KGZ/3, at para 27.

¹³⁷ *Ibid*, at para. 28.

¹³⁸ *Ibid*, at para. 16.

¹³⁹ *Ibid*, at para. 28.

¹⁴⁰ *Ibid*, at para. 17.

¹⁴¹ Amnesty International, Kyrgyzstan: Submission to the UN Universal Periodic Review: Eighth session of the UPR Working Group of the Human Rights Council, May 2010, AI Index: EUR 58/001/2009 (2 November 2009), at p. 6.

¹⁴² *Ibid*, at para. 26.

subject of this communication, commenced in May 2005. This communication therefore falls within the jurisdiction of the Committee.

No other international complaint

114. No complaint has been submitted to any other procedure of international investigation or settlement regarding the ill-treatment and death of Mr. Akmatov and the inadequacy of the subsequent investigation. This communication therefore satisfies the admissibility requirement in Article 5(2)(a) of the first Optional Protocol to the ICCPR.

Exhaustion of domestic remedies

115. As outlined above, Mr. Akmatov's family has made extensive efforts to obtain an effective investigation of his torture and death, through repeated requests to the prosecuting authorities and judicial appeals, satisfying the requirement for the exhaustion of domestic remedies in Article 5(2)(b) of the first Optional Protocol. Any further challenges to the failure to investigate would be unduly prolonged, and given the repeated obstruction by the investigators and lack of independence of the judiciary would not be effective. Any other domestic civil or disciplinary remedies are either unavailable or are ineffective given the nature of the violations.
116. An applicant is required to exhaust those domestic remedies which are available and effective.¹⁴³ The Committee has clarified that this refers "primarily to judicial remedies"¹⁴⁴ which must offer "a reasonable prospect of redress".¹⁴⁵ As the Committee has explained, "if the alleged offence is particularly serious, as in the case of violations of basic human rights, in particular the right to life, purely administrative and disciplinary remedies cannot be considered adequate and effective."¹⁴⁶

The Author has exhausted domestic remedies

117. Mr. S. Akmatov has exhausted all effective domestic remedies in relation to the torture and death of his son, Mr. Akmatov. He has made repeated requests that those responsible be punished; has identified the perpetrators; has proactively taken investigative steps and obtained evidence to support the investigation; and has challenged the ultimate failure to prosecute this case before the courts.
118. Although Mr. S. Akmatov requested that a criminal investigation be opened on 6 May 2005, the investigation in this case was not opened until 25 May 2005. The investigation then suffered from numerous deficiencies and repeated suspensions and delays (described in detail in paras. 47 to 83, above; and paras. 175 to 219, below).

¹⁴³ "exhaustion of domestic remedies can be required only to the extent that these remedies are effective and available" – UNHRC, Annual Report 1984, para. 584 (quoted in Moller and de Zayas, *United Nations Human Rights Committee Case Law 1977-2008* (Kehl am Rhein : N.P. Engel Verlag, 2009), p. 112)

¹⁴⁴ *R.T. v France*, UNHRC, Views of 30 March 1989, U.N. Doc. CCPR/C/35/D/262/1987, para. 7.4; *Vicente et al v. Colombia*, UNHRC, Views of 19 August 1997, U.N. Doc. CCPR/C/60/D/612/1995, para. 5.2; *Mariam Sankara et al. v. Burkina Faso*, UNHRC, Views of 28 March 2006, U.N. Doc. CCPR/C/60/D/1159/2003, para. 6.4.

¹⁴⁵ *Patiño v. Panama*, UNHRC, Views of 21 October 1994, U.N. Doc. CCPR/C/52/D/437/1990, para. 5.2; *Potter v. NZ*, UNHRC, Views of 28 July 1997, U.N. Doc. CCPR/C/60/D/632/95, para. 6.3. See also *Torres Ramirez v Uruguay*, UNHRC, Views of 8 April 1980, U.N. Doc. CCPR/C/10/D/4/1977, para. 5 (requiring that the state demonstrate "a reasonable prospect that such remedies would be effective").

¹⁴⁶ *Vicente et al v. Colombia*, UNHRC, Views of 19 August 1997, U.N. Doc. CCPR/C/60/D/612/1995, para. 5.2; *Coronel et al v. Colombia*, UNHRC, Views of 24 October 2002, U.N. Doc. CCPR/C/76/D/778/1997, para. 6.2.

119. Mr. S. Akmatov made substantial efforts to obtain a thorough and effective investigation, and has exhausted all domestic remedies in pursuit of this, but to no avail. In addition to his initial request for an investigation, from July 2005 to April 2008 Mr. S. Akmatov made three further requests that the torture and death of his son be fully investigated (see paras. 52, 54 and 71, above). These requests were addressed to the Prosecutor General of the Kyrgyz Republic, the Osh Division of the Ministry of Internal Affairs, and the President of the Kyrgyz Republic. In these requests he identified the police officers who were responsible for the torture and death of his son.
120. In addition, Mr. S. Akmatov identified additional evidence and measures which were required for a full investigation. These include identifying a witness who initially testified that he had seen police officers beating Mr. Akmatov at the police station on 3 May 2005, and arranging for an independent expert to review the site and the forensic medical evidence (see paras. 64 and 68, above).
121. Despite these efforts, the investigation was suspended for the fifth time on 8 July 2009. Following this latest suspension, Mr. S. Akmatov lodged a judicial challenge against the failure to prosecute this case, asking that the courts order the investigators to send the case to trial; and appealed the City Court's refusal to issue such an order (see paras. 77 to 80, above).
122. The investigation remains suspended at the date of filing this communication, over five years after the torture and death of Mr. Akmatov. Given that Mr. S. Askarov requested the initial opening of the investigation, made three requests for the proper conduct of that investigation, named the officers responsible, located additional evidence, and has challenged the final suspension of the investigation before the courts, he has exhausted all available domestic remedies.

Any further domestic remedies would be unduly prolonged and ineffective

123. Mr. S. Askarov should not be required to make any further requests to the domestic authorities or courts because to do so would result in domestic remedies being unreasonably prolonged, and there is no reason to believe that a new complaint would be any more effective than the previous ones.

Domestic remedies have been unduly prolonged

124. The process of seeking an effective criminal investigation into Mr. Akmatov's torture and death has become so delayed that it does not have to be exhausted any further. An individual is not required to exhaust domestic remedies which are unreasonably prolonged.¹⁴⁷ Whether the delays are unreasonable will depend on the complexity of the case.¹⁴⁸ This Committee has previously considered that "a delay of over three years for the adjudication of the case at first instance, discounting the availability of subsequent appeals, was 'unreasonably prolonged' within the meaning of article 5, paragraph 2(b), of the Optional Protocol."¹⁴⁹ The Committee against Torture has looked at whether there are new

¹⁴⁷ First Optional Protocol to the ICCPR, Article 5(2)(b): "This shall not be the rule where the application of those remedies is unreasonably prolonged."

¹⁴⁸ *Fillastre and Bizoarn v. Bolivia*, UNHRC, Views of 5 November 1991, U.N. Doc. CCPR/C/43/D/336/1988, para. 5.2.

¹⁴⁹ *Ibid.*

facts which national authorities needed to consider, when deciding whether an applicant is required to file a new application.¹⁵⁰

125. When the local prosecution authorities suspended the investigation for the fifth time, over four years had passed since the death of Mr. Akmatov. By the time that the domestic court rejected Mr. Chydyev's request that it order the investigators to send the matter to trial and Mr. S. Akmatov filed this communication with the Committee, over five and a half years have passed. These five and half years have passed without any person even being *charged*, let alone the case being *adjudicated*. The delays in this case were due to the initial delay in commencing the investigation, the repeated suspensions, and the fixation on the possibility that Mr. Akmatov may have died as a result of falling from the bench and hitting his head – an explanation which never addressed the other evidence of torture; and which has been dispelled for good by the final medical review. This case is not so complex as to warrant such delays. To require the Author to continue to bring further administrative or judicial applications in these circumstances would be unreasonably prolonged.

A further challenge would not result in an effective remedy

126. The constant delay and refusal by the authorities to investigate who was responsible for the injuries inflicted on Mr. Akmatov and his death demonstrates that a new complaint would not be an effective remedy. As noted above, an individual is only required to exhaust those domestic remedies which are effective, i.e. which offer a reasonable prospect of redress.
127. There is no reason to believe that a new complaint or investigation would be any more effective than the previous ones. For the reasons outlined in paragraphs 175 to 219 below, the investigation into the torture and death of Mr. Akmatov was not independent or effective. The Prosecutor General of the Kyrgyz Republic has already overturned the decision by the local prosecution authorities to suspend or terminate the criminal case on four occasions. Nevertheless, the local prosecutors have defied each order of reinstatement by failing to take effective investigatory action and again suspending the case. The police denials are taken at face value, yet no alternative theories of responsibility were explored. Based on such a flawed investigation, any new order to investigate would be fundamentally tainted and would have no chance of success. In addition, there is no realistic prospect of obtaining such an order from the courts, in light of the Special Rapporteur's observations that the prosecutors have substantial influence over the courts, and they are unwilling to investigate and prosecute abuses in custody (see paras. 101 to 111, above).

Other remedies are ineffective or unavailable in this case

128. Mr. S. Akmatov is not required to pursue other remedies such as civil or disciplinary proceedings. Given the gravity of the violations involved in the torture of Mr. Akmatov in police custody and his subsequent death, nothing less than a criminal investigation and prosecution would constitute an effective remedy. Administrative, disciplinary or purely civil measures cannot be considered adequate or effective for serious violations such as torture and violation of the right to life.
129. By terminating the criminal case against the police officers without bringing any charges,¹⁵¹ the state has prevented Mr. Akmatov's family from pursuing any civil remedies. Civil claims against state officials for responsibility for the torture and death of Mr. Akmatov can only be brought in the context of a criminal prosecution (see para. 110 above). Such

¹⁵⁰ *P.M.P.K v Sweden*, UNCAT, Decision of 20 November 1995, U.N. Doc. CAT/C/15/D/30/1995, paras. 4-5.

¹⁵¹ Exhibit 54 - Order to Discontinue Criminal Prosecution of Certain Individuals, 30 August 2008.

remedies are therefore not available in this case; and even if they were they could not be considered an adequate or effective remedy for torture resulting in the death of the victim.

VIII. VIOLATIONS OF THE ICCPR

130. The Kyrgyz Republic violated the ICCPR in the following ways:

- *A. Violation of the Right to Life.* The Kyrgyz Republic arbitrarily deprived Mr. Akmatov of his life by inflicting fatal injuries on him while he was in police custody. The State has failed to offer a plausible alternative explanation for Mr. Akmatov's injuries and death, and is therefore responsible for his death in violation of Article 6(1) of the ICCPR.
- *B. Mr. Akmatov was tortured.* The treatment inflicted upon Mr. Akmatov by police officers while in custody on 3 May 2005 amounts to torture in violation of Article 7 of the ICCPR.
- *C. Lack of Safeguards.* The Kyrgyz Republic failed to take measures to protect Mr. Akmatov from torture and from the arbitrary deprivation of his life, in violation of Articles 6(1) and 7 of the ICCPR in conjunction with Article 2(3).
- *D. Failure to conduct an effective investigation.* The Kyrgyz Republic failed to conduct a prompt, impartial, thorough, and effective investigation into the torture and death of Mr. Akmatov, in violation of Articles 6(1) and 7 of the ICCPR in conjunction with Article 2(3).
- *E. Failure to provide redress.* The Kyrgyz Republic has failed to provide access to effective remedies including compensation and adequate reparation for the torture and death of Mr. Akmatov, in further violation of Articles 6(1) and 7 of the ICCPR in conjunction with Article 2(3).

A. Violation of the Right to Life: Article 6(1)

131. Police officers arbitrarily deprived Mr. Akmatov of his life by inflicting fatal injuries on him while he was in police custody. Mr. Akmatov was healthy when he entered police custody, and the next time that he was seen by his family he was fatally injured. Mr. Akmatov told his father that the police had beaten him. The Kyrgyz Republic agrees that Mr. Akmatov was in police custody for substantial portions of 3 May 2005, but has failed to provide any evidence or explanation for Mr. Akmatov's injuries and death. The Kyrgyz Republic is thus responsible for the death of Mr. Akmatov, in violation of Article 6(1) of the Covenant.
132. Article 6(1) of the ICCPR states: "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life." The Committee has consistently found the right to life to be the "supreme right", which it has stressed "should not be interpreted narrowly."¹⁵² The Committee has described the duty to refrain from arbitrary deprivation of life as "of paramount importance", calling on State

¹⁵² UNHRC, *General Comment 6: The Right to Life (Art. 6)*, 1982, at para. 1.

parties to “take measures not only to prevent and punish deprivation of life by criminal acts, but also to prevent arbitrary killing by their own security forces.”¹⁵³

133. The Kyrgyz Republic has the burden of providing a satisfactory explanation, supported by evidence, for the injuries and death of Mr. Akmatov, given that he entered their custody in good health, and returned to his home mortally wounded shortly after his release. The Committee has acknowledged that in certain circumstances, such as where an individual dies in custody, applicants face evidentiary difficulties in proving the precise cause and circumstances of death. In such cases, a violation of Article 6(1) will generally be found unless an effective and timely investigation shows otherwise, as “the burden of proof ... cannot rest alone on the author of the communication, especially considering that the author and the State party do not always have equal access to the evidence and ... frequently the State party alone has access to relevant information.”¹⁵⁴ The Committee has held that:

“in cases where the author has submitted to the Committee allegations supported by substantial witness testimony ... and where further clarification of the case depends on information exclusively in the hands of the State party, the Committee may consider such allegations as substantiated in the absence of *satisfactory evidence and explanations* to the contrary submitted by the State party.”¹⁵⁵

134. This principle was developed in a case where the victim had died as a result of torture inflicted by State officials while in custody. Although the State denied responsibility, the Committee found that the allegations were supported by substantive evidence and the State had failed to provide evidence or an explanation in response, and therefore “[t]here are serious reasons to believe that the ultimate violation of article 6 has been perpetrated by the Uruguayan authorities”.¹⁵⁶ The Committee also recently ruled that “a death in any type of custody should be regarded as *prima facie* a summary or arbitrary execution”, unless that presumption can be rebutted by a “thorough, prompt and impartial investigation”.¹⁵⁷
135. The European Court of Human Rights has similarly held that, “[w]here the events in issue lie wholly, or in large part, within the exclusive knowledge of the authorities, as in the case of persons within their control while in custody ... the burden of proof may be regarded as resting on the authorities to provide a satisfactory and convincing explanation.”¹⁵⁸ Thus where an individual enters police custody in good health but is later found dead, “it is incumbent on the State to provide a plausible explanation of the events leading to his death, failing which the authorities must be held responsible under Article 2 of the Convention.”¹⁵⁹ This principle is not limited to situations in which the victim is found dead in detention. The Inter-American Court of Human Rights has also shifted the burden of proof to the state when a person is known to have been detained by the police, and is later found with evidence that he had been tortured. In such cases, where the state fails to

¹⁵³ UNHRC, *General Comment 31, The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, 2004, para. 3.

¹⁵⁴ *Bleier v. Uruguay*, UNHRC, Views of 29 March 1982, U.N. Doc. Supp. No. 40 (A/37/40) at 130 (Communication No. R.7/30), para. 13.3; *Mukong v. Cameroon*, UNHRC, Views of 21 July 1994, U.N. Doc. CCPR/C/51/D/458/1991, para. 9.2.

¹⁵⁵ *Bleier v. Uruguay*, para. 13.3 (emphasis added)

¹⁵⁶ *Ibid.*, para. 14, 13.3, 11.2.

¹⁵⁷ *Eshonov v Uzbekistan*, UNHRC, Views of 22 July 2010, U.N. Doc. CCPR/C/9/D/1225/2003, para. 9.2.

¹⁵⁸ *Velikova v. Bulgaria*, ECtHR, Judgment of 18 May 2000, at para. 70 (emphasis added).

¹⁵⁹ *Ibid.*

provide a reasonable explanation for the injuries that were present when the body was found, it has been held responsible for the victim's torture and death.¹⁶⁰

136. In this case, Mr. Akmatov's family has provided sufficient and consistent evidence that Mr. Akmatov was beaten in police custody and died as a result. This evidence is consistent with the medical evidence and the original testimony of Officer Eraliev. The Kyrgyz Republic has not substantiated any alternative explanation for Mr. Akmatov's death. To the contrary, the evidence of the police officers contains internal inconsistencies, is not supported by any external evidence, and is contradicted by the medical evidence.

Evidence that Mr. Akmatov was tortured by police

137. Both Mr. Akmatov's mother and father testified that Mr. Akmatov was summoned to the police station at around 09:00-09:30 on 3 May 2005. Although the police claim that Mr. Akmatov was not detained until around 15:00, they agree that only his mother was present at the house when they came for Mr. Akmatov. Yet Mr. Akmatov's father returned from the market to his home at around 12:30 that day; and his mother left to visit her sister around 15:00 (see paras. 13 to 16, and 39, above).
138. Three different members of Mr. Akmatov's family – his father, younger brother, and nephew – have each provided multiple, consistent and corroborative statements regarding Mr. Akmatov's condition upon his return home at around 21:00-21:30 that evening. They have all also testified that they heard Mr. Akmatov tell his father that he had been beaten by six police officers at the police station, including by Chief of Police Zhetigen Turdakunov (see paras. 27 to 31, above). Mr. Akmatov made this statement shortly before he fell to the ground with blood gushing from his mouth and subsequently died. The declaration of a person shortly before their death should be considered and given substantial weight. In such circumstances, courts have found a powerful pressure to tell the truth¹⁶¹ and no incentive to lie: "every motive to falsehood is silenced, and the mind is induced by the most powerful considerations to speak the truth: a situation so solemn and so awful is considered by the law as creating an obligation equal to that which is imposed by a positive oath administered in a court of justice"¹⁶²
139. The consistent evidence of Mr. Akmatov's family is corroborated by the initial statement of temporary duty Officer Mirbek Eraliev. Officer Eraliev stated that on the morning of 3 May 2005, he saw Toktomusaev kicking Mr. Akmatov in the kidneys and ribs; and that when he returned to the police station in the afternoon Mr. Akmatov was lying "beaten on the floor" in a locked room with Toktomusaev, and that Toktomusaev again beat Mr. Akmatov (see paras. 18 to 21, above).
140. Officer Eraliev subsequently retracted this testimony, claiming that

¹⁶⁰ In a case where an autopsy revealed evidence of severe torture, the Inter-American Court emphasised "that ... before he was captured by the military, he was in normal physical conditions, in view of which the State should reasonably explain what happened to him." *Juan Humberto Sánchez v. Honduras*, I-ACtHR Judgment of 7 June 2003, at para. 100.

¹⁶¹ *Advisory Committee Notes for the US Federal Rules of Evidence* (Fed. R. Evid. 804(b)(2), 1974): "it can scarcely be doubted that powerful psychological pressures are present."

¹⁶² P.J. Richardson (ed), *Archbold, Criminal Pleading Evidence and Practice*, (London: Sweet & Maxwell Ltd., 2005) Section 11-24 (citing *Rex v. Woodcock*, 1 Leach 500, 502, 168 Eng.Rep. 352, 353 (K.B. 1789)). For modern application see *U.S. v. Freddie Taylor*, 59 Fed. Appx. 960, 963 (9th Cir. 2003); *People v. Smith*, 214 Cal. App. 3d 904, 911 (Cal. App. 2d Dist. 1989) ("the rationale remains viable; and courts continue to rely upon it").

“Suyunbai Akmatov’s wife [Mrs. Tamila Akmatova] said to me, ‘You saw who killed my son, you know’ so I got scared and I gave a deposition ... I was scared by what Tamila Akmatova said and I wrote the report” (see para. 22, above).

Eraliev does not explain how this comment from an infirm, 62 year old grandmother was sufficient to scare him into implicating a police inspector in a fatal beating.

141. Furthermore, Eraliev’s original statement contains details which are consistent with other evidence. His statement that Mr. Akmatov arrived at the police station at 09:30 on 3 May 2005 is corroborated by the statements of Mr. Akmatov’s mother and father. His statement that he sent Mr. Akmatov home at 19:30, at which time Mr. Akmatov was complaining of pains in his ribs, chest, and stomach, is consistent with Mr. Akmatov having arrived home at 21:30 (as other family members testified).

Medical evidence that torture by police caused the fatal injuries

142. The medical evidence further corroborates that Mr. Akmatov was severely beaten, that the beatings caused fatal injuries that resulted in his death, and that they occurred a time when he was in police detention.
143. All of the medical reviews and reports identify abrasions and bruising to the ribs, and hemorrhaging of the left lung, kidneys, and spleen, caused “with blunt force objects, such as fists or stuffed socks” (see paras. 87, 90, 96 and 98, above). This is consistent with Officer Eraliev’s initial testimony that he saw Inspector Toktomusaev “kicking [Mr.] Akmatov in the kidneys and ribs”, and later “beating [Mr. Akmatov] again with his hands and feet”.¹⁶³
144. The medical evidence further demonstrates that the injuries to Mr. Akmatov’s head – abrasions to his scalp, ears and lips; as well as the brain hemorrhage which caused his death – were also the result of the beating. The initial cause of death was identified as brain hemorrhaging caused by “the force of blunt, hard objects” (see paras. 87 and 90, also paras. 93 and 98 to 99, above). The final expert panel, which was commissioned by the state to resolve earlier inconsistencies, reported that the injuries which caused Mr. Akmatov’s death “could not have been caused by the victim’s fall”. It concluded that death was caused by brain hemorrhage and traumatic swelling which “resulted from a blow with a blunt, hard object with limited surface area several hours before death”. The conclusion that the blow occurred “several hours before death” is consistent with the beating having taken place when Mr. Akmatov was in the police station.
145. The medical evidence also indicates that, despite his injuries, Mr. Akmatov “could certainly have taken independent purposeful actions over a fairly long period of time (from tens of minutes to several hours), specifically, he could have traveled 1.5-2 km, carried on a conversation, etc.” (see para. 99, above).¹⁶⁴ This is consistent with the evidence that he departed the police station at approximately 19:30 and arrived home at between 21:00 and 21:30, at which time he recounted his experience of torture in custody to his family.

Failure by police to explain injuries and death

146. The Kyrgyz Republic has failed to provide a plausible alternative or sufficient evidence to contradict the evidence that Mr. Akmatov was tortured and inflicted with fatal injuries. The police have merely denied involvement and made a series of speculative claims as to how

¹⁶³ Exhibit 12 - Copy of Report on Questioning of Witness Mirbek Torozhanovich Eraliev, 22 April 2007.

¹⁶⁴ In this regard, the final expert panel review agreed with the same conclusion reached by the independent expert Mukashev - Exhibit 37 - Opinion of Professor M. S. Mukashev, 11 October 2007.

he may have been injured and died. The police denials are undermined by contradictions and the absence of material evidence to support their account.

147. Both Inspector Tokomusaev and Chief of Police Zhetigen Turdakunov gave statements in which they contradict themselves on details of what they did or said on 3 May 2005 (see paras. 26, 40 and 41, above). Officers Muminov and Seidaliev also give contradictory accounts of whether Gulnara Duishenbieva made any written statement accusing Mr. Akmatov of theft (see para. 36, above).
148. There is a striking lack of objective evidence supporting the police version of events. The detention of Mr. Akmatov was never registered; and the statement which Officer Muminov claims he took from Mr. Akmatov has never been produced. The only non-witness evidence relating to a detail in the police account contradicts the police version of events. Officer Muminov claims that Mr. Akmatov left the police station that afternoon, got some food, and returned at about 18:00. However, the autopsy report states that there was no food in Mr. Akmatov's stomach (see paras. 43 and 86, above).
149. The absence of objective evidence to support the police version of events is largely because they never investigated any of their possible theories of how Mr. Akmatov may have died. In his 8 June 2005 statement, Officer Muminov asserts that Mr. Akmatov must have been beaten once he returned home; and in the same paragraph also states that he was told that the father in law of another resident, Gulya, claimed that "he gave Turdebek [Mr. Akmatov] a serious beating, but later he stopped talking about it."¹⁶⁵ The police do not appear to have taken a statement from either Gulya or her father in law, or to have taken any other steps to investigate either of these theories. It is implausible that a citizen would be badly beaten, would die of his injuries, that a police officer would be told that someone bragged of "a serious[ly] beating" the victim, but the police would not take a statement or investigate – especially given the state's obligation to investigate violations of the right to life.¹⁶⁶
150. Later, a prosecutor suggested that Mr. Akmatov's death may have been caused by him falling off the bench at his home and hitting his head.¹⁶⁷ However, this was rejected by the medical reviews; and in any event it would not have explained (and should not have stopped an investigation into) the other injuries which Mr. Akmatov had suffered.
151. The evidence from Mr. Akmatov's family, the police investigation, and the state's medical experts agree that on 3 May 2005 Mr. Akmatov entered police custody in good health; that at around 21:30 that evening he returned to his home badly beaten; that the injuries he suffered resulted from the force of blunt, hard objects; and that shortly afterwards returning home Mr. Akmatov died as a result of his injuries. Witness testimony strongly indicates that these beatings were administered by police personnel while Mr. Akmatov was in custody. The Kyrgyz Republic has not provided any plausible alternative explanation or evidence for how Mr. Akmatov received these injuries on the day that he was detained and interrogated. The Kyrgyz Republic is therefore responsible for the arbitrary killing of Mr. Akmatov, in violation of Article 6(1) of the ICCPR.

B. Mr. Akmatov was Tortured: Article 7

¹⁶⁵ Exhibit 19 - Report on Questioning of Witness B. Muminov, 8 June 2005.

¹⁶⁶ UNHRC, *General Comment 31, The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, 2004, paras. 15 and 18.

¹⁶⁷ Exhibit 27 - Order to schedule a supplemental forensic medical examination, 5 September 2005.

152. The treatment inflicted upon Mr. Akmatov by police officers during his time in custody on 3 May 2005 amounts to torture contrary to Article 7 of the ICCPR.
153. The prohibition of torture and cruel and inhuman treatment is absolute. This Committee has made it clear that “article 7 allows of no limitation”.¹⁶⁸ There is no list of acts which do and do not constitute torture or inhuman treatment; rather, the assessment “depends on all the circumstances of the case, such as the duration and manner of the treatment, [and] its physical or mental effects”.¹⁶⁹ As part of this assessment, repeated beatings in custody have been found to constitute torture or cruel and inhuman treatment under Article 7, especially where the victim is denied medical care for their injuries.¹⁷⁰
154. The police officers inflicted severe physical and mental pain and suffering by delivering heavy blows to Mr. Akmatov’s head and trunk. These beatings caused hemorrhaging of his brain, extensive hemorrhaging of his left lung and kidneys, and shattered his spleen. He was bleeding from one ear and had suffered bruises or abrasions to his ears, mouth, scalp, chest and fingers. The severity and impact of the injuries inflicted upon Mr. Akmatov are detailed in the medical evidence and witness statements of Mr. Akmatov’s father, brother and nephew, set out above (see paras. 27 to 31 and 85 to 99, above).
155. These injuries were inflicted in police custody, while purportedly being questioned regarding the theft of door frames, and they caused Mr. Akmatov’s death just hours after his release. The severity and nature of the mistreatment of Mr. Akmatov by the police constitute torture under Article 7 of the ICCPR. The torture of Mr. Askarov is, moreover, consistent with a widespread pattern of abuse and torture of persons in police custody in the Kyrgyz Republic (see paras. 101 to 105, above). The arguments with regard to the reverse burden of proof at paragraphs 133 to 135 above are re-iterated with regard to the allegation of torture.
156. The Kyrgyz Republic is therefore responsible for a violation of Article 7 as a result of the torture of Mr. Akmatov while in the custody of the police.

C. Failure to Adopt Safeguards: Articles 6(1) and 7 with Article 2(3)

157. A number of administrative and procedural failings allowed the torture and death of Mr. Akmatov to occur. The Kyrgyz Republic failed to provide adequate safeguards to protect Mr. Akmatov’s life and to protect him from torture, in violation of Article 6(1) and 7 of the ICCPR in conjunction with Article 2(3). Specifically, it failed to: prevent unregistered detention; provide access to a lawyer; and allow a medical examination.
158. The right to life includes the positive duty on the State to provide safeguards to protect life, as well as the obligation not to arbitrarily deprive a person of their life.¹⁷¹ The Committee has recognised the positive obligation to take adequate measures to protect the right to life

¹⁶⁸ UNHRC, *General Comment 20, Article 7 concerning prohibition of torture and cruel treatment or punishment*, 1992, paras. 3, 5.

¹⁶⁹ *Vuolanne v Finland*, UNHRC, Views of 7 April 1989, U.N. Doc. CCPR/C/35/D/265/1987, para. 9.2. See also UNHRC, *General Comment 20, Article 7 concerning prohibition of torture and cruel treatment or punishment*, 1992, para. 4 – “the distinctions depend on the nature, purpose and severity of the treatment.”

¹⁷⁰ *Bailey v. Jamaica*, UNHRC Views of 31 March 1993, U.N. Doc. CCPR/C/47/D/334/1988, para. 9.2 – 9.3; *Linton v. Jamaica*, HRC, Views of 22 October 1992, U.N. Doc. CCPR/C/46/D/255/1987, para. 8.5.

¹⁷¹ UNHRC, *General Comment 31, The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, 2004, at para. 8.

in a number of its decisions,¹⁷² and has “reminded [States] of the interrelationship between the positive obligations imposed under article 2 and the need to provide effective remedies in the event of breach under article 2, paragraph 3”.¹⁷³

159. The positive obligation to protect life applies in particular to persons who are in state custody: “it is incumbent on States to ensure the right of life of detainees ... the State party by arresting and detaining individuals takes the responsibility to care for their life.”¹⁷⁴ The Committee has recognised that prisoners are “particularly vulnerable”,¹⁷⁵ imposing a special responsibility on the State to take adequate and appropriate measures to protect them.¹⁷⁶ Where a state fails to take “adequate measures” to protect prisoners, they may be responsible for a violation of Article 6(1).¹⁷⁷ These safeguards include the right to have detention registered and notified to a third party; the right to access a lawyer; and the provision of an independent medical examination.¹⁷⁸ The Committee also stressed that States have a duty to train relevant personnel, such as police officers and prison guards, to minimise the chance of violation.¹⁷⁹

Failure to Register Detention

160. The Kyrgyz Republic did not register the detention of Mr. Akmatov or properly notify his family. This allowed the police to deny that they held Mr. Akmatov for the first six hours of his detention, and facilitated his torture.
161. The Committee has stated that the protection of detained persons requires that “their names and places of detention, as well as for the names of persons responsible for their detention, to be kept in registers readily available and accessible to those concerned, including relatives and friends”, and that “the time and place of all interrogations should be recorded, together with the names of all those present and this information should also be available for purposes of judicial or administrative proceedings.”¹⁸⁰
162. The UN Standard Minimum Rules also recommend that all police custody sites should record “in respect of each prisoner received: (a) Information concerning his identity; (b) The reasons for his commitment and the authority therefore; (c) The day and hour of his admission and release” in a designated register. Furthermore, places of detention should not

¹⁷² See e.g. *Dermit Barbato v. Uruguay*, UNHRC, Views of 21 October 1982, U.N. Doc. CCPR/C/17/D/84/1981, at para 9.2.

¹⁷³ UNHRC, *General Comment 31, The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, 2004, para. 8.

¹⁷⁴ *Lantsova v Russia*, UNHRC, Views of 15 April 2002, U.N. Doc. CCPR/C/74/D/763/1997, para. 9.2; see also *Titiahonjo v Cameroon*, UNHRC, Views of 13 November 2007, U.N. Doc. CCPR/C/91/D/1186/2003, para. 6.2.

¹⁷⁵ UNHRC, *General Comment 21, Right to Humane Treatment and Respect for Human Dignity*, 1992, para. 3.

¹⁷⁶ *Dermit Barbato v. Uruguay*, UNHRC, Views of 21 October 1982, U.N. Doc. CCPR/C/17/D/84/1981, at para. 9.2. *Bleier v. Uruguay*, UNHRC, Views of 29 March 1982, U.N. Doc. CCPR/C/15/D/30/1978, at para. 11.2 & 13.3.

¹⁷⁷ *Dermit Barbato v. Uruguay*, UNHRC, Views of 21 October 1982, U.N. Doc. CCPR/C/17/D/84/1981, at para 9.2.

¹⁷⁸ UNHRC, *General Comment 20, Article 7 concerning prohibition of torture and cruel treatment or punishment*, 1992, at para. 11.

¹⁷⁹ *Ibid.*, at para. 10.

¹⁸⁰ *Ibid.*, at para. 11.

receive people into custody “without a valid commitment order of which the details shall have been previously entered in the register.”¹⁸¹

163. The police failed to register Mr. Akmatov’s detention or promptly notify his family and lawyer of the nature of his detention. Indeed, the manner with which the police took Mr. Akmatov into custody was deliberately evasive.
164. The initial detention of Mr. Akmatov, purportedly for questioning, was not registered. The police have not produced any record of detention. The failure of the police to promptly register Mr. Akmatov’s detention (and to have an established registration system) allowed them to deny that they held him for the first six hours of his detention: to claim that he was only detained from around 15:30; instead of from between 9:00 and 9:30.
165. The failure to register Mr. Akmatov’s detention for questioning is consistent with the pattern of unregistered detention which NGOs have reported in Kyrgyzstan (see para. 103, above). It is also consistent with the “lack of proper oversight of subordinates on the part of Station Chief Z. Turdakunov”¹⁸² that was identified during the internal inquiries into the incident.
166. The police also failed to formally notify Mr. Akmatov’s family, or a lawyer, of his detention.¹⁸³ When Inspector Toktomusaev arrived at the Akmatov home to summon Mr. Akmatov on 3 May 2005, he introduced himself to Mrs. Tamila Akmatova only as a friend and classmate, and refused to reveal his name or why Mr. Akmatov had been summoned to the police station (see para. 13, above). Inspector Toktomusaev again failed to properly identify himself to Mr. S. Akmatov when he returned to the Akmatov home later that day. Although the Inspector eventually told Mr. S. Akmatov that a complaint had been filed against his son, who was being questioned at the police station, when Mr. S. Akmatov asked why it was taking so long if it was just a questioning, the Inspector replied that he didn’t know (see paras. 23 to 25, above).

Failure to Provide Access to a Lawyer

167. Mr. Akmatov was not provided with access to a lawyer while in custody, which also allowed his torture to take place.
168. Detention without access to a lawyer violates human rights law.¹⁸⁴ This Committee has explicitly stated that “[t]he protection of the detainee also requires that prompt and regular access be given to doctors and lawyers”.¹⁸⁵ The U.N. Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment sets out detainees’ rights to consult and communicate with a lawyer without delay or censorship and in full confidentiality.¹⁸⁶ The UN Special Rapporteur on Torture has stressed that a detainee’s access to a lawyer must be prompt and that the lawyer should be independent from the

¹⁸¹ UN Standard Minimum Rules for the Treatment of Prisoners, Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977, at Rule 7 (“UN Standard Minimum Rules”).

¹⁸² Exhibit 46 - Report on the Official Investigation on the Complaint by S. Akmatov Concerning Police Personnel, Internal Security Service, Kyrgyz Republic Ministry of Internal Affairs, 10 August 2005.

¹⁸³ Exhibit 6 - Statement of Suyunbai Akmatov, 18 October 2010.

¹⁸⁴ ICCPR Art. 14(3)(b); *Wight v. Madagascar*, UNHRC, Views of 1 April 1985, U.N. Doc. CCPR/C/OP/2 at para. 17.

¹⁸⁵ UNHRC, *General Comment 20, Article 7 concerning prohibition of torture and cruel treatment or punishment*, 1992, at para. 11.

¹⁸⁶ Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, G.A. Res. 43/173, U.N. Doc. A/RES/43/173(annex), 9 December 1988.

state.¹⁸⁷ The UN Committee against Torture has found that this is an important safeguard against torture.¹⁸⁸

169. Mr. S. Akmatov states that his son was not provided with a lawyer while he was in the custody of the police;¹⁸⁹ and none of the police officer's accounts of the detention and questioning make any mention of providing Mr. Akmatov with access to a lawyer or informing him of his legal rights, despite the fact that he was being questioned regarding his involvement in a suspected crime. The absence of a lawyer allowed the police to question Mr. Akmatov unchecked, and to torture him in the process.

Failure to Provide Access to a Doctor

170. Mr. Akmatov was not allowed to see a doctor or any other medical personnel while he was detained. This allowed his torture to take place, and for his injuries to reach the stage where he died from them a few hours after being released. It also allowed the police to claim that he left the police station in good health.
171. This Committee stated that “[t]he protection of the detainee ... requires that prompt and regular access be given to doctors.”¹⁹⁰ The UN Committee against Torture has also outlined the guarantees to protect persons deprived of their liberty from torture include the right to “independent medical assistance.”¹⁹¹
172. The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment requires that “a proper medical examination shall be offered to a detained or imprisoned person as promptly as possible after his admission to the place of detention or imprisonment, and thereafter medical care and treatment shall be provided wherever necessary.”¹⁹² The UN Special Rapporteur on Torture has stated that “at the time of arrest, a person should undergo a medical inspection, and medical inspections should be repeated regularly and should be compulsory upon transfer to another place of detention.”¹⁹³ The mandatory medical examination of detainees upon admission to and prior to exit from police custody helps to ensure that any change in the detainees' physical health during their time in custody is recorded, thereby deterring authorities from mistreating them.
173. Mr. Akmatov was detained from approximately 09:00 until 19:30 on 3 May 2005. At no point during this time was he allowed to see a doctor or any medically-trained personnel. The injuries that he received during his time in detention were severe enough that he was barely able to walk or speak when he arrived home, and died shortly thereafter, as blood gushed from his mouth, ears, and nose.
174. The failure to have any system for independent medical examinations of detainees allowed police to torture Mr. Akmatov. If Mr. Akmatov had access to a doctor during his detention, the doctor could have identified the injuries that were being inflicted on Mr. Akmatov. Given the seriousness of those injuries, prompt medical examination and intervention may have been able to prevent the injuries from reaching a life-threatening point. Had Mr.

¹⁸⁷ UN Special Rapporteur on Torture, *Report on the question of torture submitted in accordance with Commission resolution 2002/38*, U.N. Doc. E/CN.4/2003/68, 17 December 2002, para. 26.

¹⁸⁸ UNCAT, *G.K. v. Switzerland*, U.N. Doc. CAT/C/30/D/219/2002, 12 May 2003, at para. 6.3.

¹⁸⁹ Exhibit 6 - Statement of Suyunbai Akmatov, 18 October 2010 .

¹⁹⁰ UNHRC, *General Comment 20, Article 7 concerning prohibition of torture and cruel treatment or punishment*, 1992, at para. 11.

¹⁹¹ UN Committee against Torture, *General Comment 2*, U.N. Doc. CAT/C/GC/2, 2008, para. 13.

¹⁹² Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, at principle 24.

¹⁹³ Report of the Special Rapporteur on Torture, see note 187 above, at para. 26(g).

Akmatov been given a mandatory examination by a doctor at the end his time in custody, this would have recorded any injuries and would have prevented the police from claiming that he left in good health in order to avoid accountability for their actions.

D. Failure to Conduct an Effective Investigation: Articles 6(1) and 7 with Article 2(3)

175. The Kyrgyz Republic failed to conduct an independent, impartial, thorough, timely, and effective investigation into Mr. Akmatov's torture and death, in further violation of Articles 6(1) and 7 in conjunction with Article 2(3) of the ICCPR.
176. The Human Rights Committee has stated that Article 2(3) obliges State parties to "ensure that individuals ... have accessible and effective remedies to vindicate [ICCPR rights]"¹⁹⁴. This obligation to provide an effective remedy for violations of the rights in the ICCPR "is central to the efficacy of article 2, paragraph 3"¹⁹⁵, and the Committee has emphasised that "a failure by a State Party to investigate allegations of violations could in and of itself give rise to a separate breach of the [ICCPR]."¹⁹⁶ The Committee has been particularly explicit in its requirement for investigation of torture and cruel and inhuman treatment under Article 7, stating that complaints of torture "must be investigated promptly and impartially by competent authorities so as to make the remedy effective."¹⁹⁷ Similarly, in the case of deaths arising out of the detention or custody of a person, the failure to conduct a proper investigation can constitute a separate violation of Article 6(1) of the ICCPR.¹⁹⁸
177. Here, the Kyrgyz Republic failed to conduct a satisfactory investigation into the torture and death of Mr. Akmatov for the following reasons:
- *Lack of Independence and Impartiality.* The investigation was not conducted in an independent and impartial manner.
 - *Undue Delay.* The investigation was not started, conducted or completed promptly.
 - *Inadequacy.* The investigation failed to undertake a number of essential steps.
 - *Lack of Transparency.* The investigation was conducted in private and no final report was published.
 - *No Finding of Responsibility.* The investigation did not lead to any prosecutions, but only to some mild and unrelated administrative sanctions.

1. Lack of Independence and Impartiality

178. The investigation was not independent because the initial stages of the inquiry were led by the very police officer who Mr. Akmatov named as responsible for his torture; and the remainder of the investigation was largely conducted by the Ministry of Internal Affairs, whose officials tortured Mr. Akmatov and caused his death. The investigation was not impartial because the internal investigation limited itself to examining the recording of the

¹⁹⁴ UNHRC, *General Comment 31, Nature of the General Legal Obligation Imposed on State Parties to the Covenant*, 2004, para. 15.

¹⁹⁵ *Ibid.*, at para. 16.

¹⁹⁶ *Ibid.*, at para. 15.

¹⁹⁷ UNHRC, *General Comment 20, Article 7 concerning prohibition of torture and cruel treatment or punishment*, 1992, para. 14.

¹⁹⁸ *Telitsina v Russian Federation*, UNHRC, Views of 29 March 2004, U.N. Doc. CCPR/C/80/D/888/1999, at para. 7.6.

complaint *against* Mr. Akmatov, and even the criminal investigation never inquired how Mr. Akmatov sustained the bulk of his injuries.

179. Investigations of torture and resulting deaths must be both independent and impartial. The right to an effective remedy under Article 2(3) includes “the general obligation to investigate allegations of violations ... thoroughly and effectively through independent and impartial bodies.”¹⁹⁹ This requirement is clearly defined in the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“the Istanbul Principles”), which provide that “States shall ensure that complaints and reports of torture or ill-treatment are promptly and effectively investigated.”²⁰⁰ The same principles apply to investigations of deaths resulting from abuse by the police, under the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (“the Minnesota Principles”).²⁰¹
180. Independence requires that the authorities charged with investigating deaths in custody must be practically independent. The Istanbul Principles require that the investigators “shall be independent of the suspected perpetrators and the agency they serve”.²⁰² In particular, this Committee has stated that complaints of torture against the police should not be investigated by or under the authority of the police.²⁰³ The ECtHR has similarly held that
- “the persons responsible for the inquiries and those conducting the investigation should be independent of anyone implicated in the events This means not only that there should be no hierarchical or institutional connection but also that the investigators should be independent in practice.”²⁰⁴
- The Court has also found that a non-impartial investigation is not cured by having independent oversight in circumstances where the actual investigation was conducted by police officers indirectly connected with the operation under investigation.²⁰⁵
181. The Minnesota Principles indicate that where “established investigative procedures are inadequate because of lack of expertise or impartiality, because of the importance of the matter or because of the apparent existence of a pattern of abuse, and in cases where there

¹⁹⁹ UNHRC, *General Comment 31*, para. 15.

²⁰⁰ Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, para. 2 (“Istanbul Principles”). These principles have been endorsed by the UN General Assembly (Resolution 55/89) and the UN Commission on Human Rights (Resolution 2000/43). The principles are set out in Annex I to the Istanbul Protocol: United Nations Office of the High Commissioner for Human Rights, *Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, U.N. Professional Training Series No. 8/Rev.1, at para. 214 (2004) (“Istanbul Protocol”).

²⁰¹ Economic and Social Council Resolution 1989/65, 24 May 1989, para. 9 & 11.

²⁰² Istanbul Principles, at para. 2.

²⁰³ UNHRC, Concluding Observations on Hong Kong (1996), U.N. Doc. CCPR/C/79/Add. 57, para. 11; Concluding Observations on Kenya, (2005) U.N. Doc. CCPR/CO/83/KEN, para. 18; Concluding Observations on Slovenia, (2005) U.N. Doc. CCPR/CO/84/SVN, para. 9; Concluding Observations on Zambia, U.N. Doc. CCPR/C/79/Add. 62 (1996) at para. 12. The UN Special Rapporteur on Torture and the Committee against Torture made similar observations: see e.g. *Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment – Mission to Kazakhstan*, U.N. Doc. A/HRC/13/39/Add.3, para. 49; UNCAT, Concluding Observations on Hungary (2007), U.N. Doc. CAT/C/HUN/CO/4, para. 16(a).

²⁰⁴ *Bati and Others v. Turkey*, ECtHR, Judgment of 3 September 2005, at para. 135.

²⁰⁵ *Kelly and Others v. the United Kingdom*, ECtHR Judgment of 4 May 2001, at para. 95 & 114. See also *Mikheyev v. Russia*, ECtHR Judgment of 26 January 2006, at para. 110 (citing *Güleç v. Turkey*, ECtHR Judgment of 27 July 1998, paras. 80-82).

are complaints from the family of the victim about these inadequacies or other substantial reasons, Governments shall pursue investigations through an independent commission of inquiry or similar procedure.”²⁰⁶

182. An impartial investigation must be directed at uncovering the facts regarding what happened to the victim. Such an investigation cannot “rely on hasty ... conclusions to close their investigation or as the basis of their decision.”²⁰⁷
183. In this case, the investigation was compromised by lack of independence and impartiality from the outset. On 4 May 2005, the morning after Mr. Akmatov’s death, Chief of Police Zhetigen Turdakunov arrived at the Akmatov home with five investigators to inspect the incident site. Any initial steps were thus commenced under the direction of the very officer who Mr. Akmatov had identified the night before as leading his torture. With the exception of the request for an autopsy, this group of officers remained the only police or investigators involved in this incident for the first three weeks, until a criminal case was opened by the ██████ Multidistrict Prosecutor’s Office on 25 May 2005.
184. Even after 25 May 2005, the investigation was not independent in practice. The initial report was prepared by the ██████ District Internal Affairs Department in the Ministry of Internal Affairs.²⁰⁸ Mr. Akmatov’s death was thus being investigated by a unit from the same district within the same Ministry as the officers who were under investigation. The result is a report which does not question or investigate the substantive allegations of torture or the death of Mr. Akmatov, but instead addresses only the failure of the police to properly record the initial complaint lodged against Mr. Akmatov which was the alleged basis for his detention. Such a process cannot be considered an independent or impartial investigation.
185. The bulk of the criminal investigation was also carried out by the police. The police in this case demonstrated that they were not concerned that the investigation would critically examine their actions or hold them to account: Chief of Police Zhetigen Turdakunov responded to inquires about the case by saying “Do what you want” and attacking Mr. Akmatov’s father; and another police officer told Mr. S. Akmatov that “everything will be as we wish all the same” regardless of whether he dropped the case or not (see paras. 82 to 83, above).
186. Although a public prosecutor was assigned to the criminal investigation, this is not sufficient to secure its independence. The prosecutor in practice relies upon the evidence gathered and reports generated by the police. The fact that an investigation is overseen by a nominally independent official or body is not sufficient unless the supervision is genuinely independent.²⁰⁹ In Kyrgyzstan, prosecutors lack independence in practice when it comes to investigations of the police for torture and other abuses. Around the time of Mr. Akmatov’s death, the UN Special Rapporteur found that there had been no prosecutions for torture or ill treatment in Kyrgyzstan, observing that “[i]n particular, prosecutors often appear unwilling to initiate criminal prosecutions in this regard” (see para.107, above).

²⁰⁶ Minnesota Principles, at para. 11; see also Istanbul Principles, at para. 5.

²⁰⁷ *Corsacov v. Moldova*, ECtHR, Judgment of 4 April 2006, at para. 69.

²⁰⁸ Exhibit 46 - Report on the Official Investigation on the Complaint by S. Akmatov Concerning Police Personnel, Internal Security Service, Kyrgyz Republic Ministry of Internal Affairs, 10 August 2005.

²⁰⁹ *Jordan v UK*, ECtHR Judgment of 4 May 2001, in particular at paras. 123-124; see also *Ergi v. Turkey*, ECtHR Judgment of 28 July 1998, at paras. 83-84; *Kelly and others v UK*, ECtHR Judgment of 4 May 2001, paras. 95 and 114.

187. To compound matters, although the Kyrgyz Republic's judicial system is theoretically an independent branch of the government, it is actually under the influence of the prosecutor, as the Special Rapporteur further confirmed (see paras. 106 to 108 above). This investigation therefore could not have been independent in practice. The lack of independence in this case is consistent with reports from the Human Rights Committee and submissions to the UN Universal Periodic Review, which criticised the lack of independent investigations of torture complaints in the Kyrgyz Republic and recommended establishing an independent agency for such investigations (see paras. 100 to 111, above).
188. In addition to lacking independence, the investigation into the torture and death of Mr. Akmatov was not impartial. As set out above, the initial report by the Department of Internal Affairs did not examine the torture of Mr. Akmatov at all, but only the recording of the complaint against him (see para. 184, above).
189. The statements of the police were not impartially investigated but were taken at face value. No effort was made to corroborate the stories with objective evidence, and the contradictions within the stories and with evidence such as the lack of food in Mr. Akmatov's stomach (see paras. 147 to 149, above) were never questioned. The treatment of Officer Eraliev's statements also shows that the investigation was not impartial: he initially gave an incriminatory statement which was corroborated by the independent statements of multiple members of the Akmatov family; then purported to withdraw this because he claimed that the words of a 62 year old grandmother had "scared" him into lying about police officers beating a man to death; yet this withdrawal was also taken at face value.
190. The subsequent investigations also avoided investigating the torture of Mr. Akmatov. For months, the primary focus was whether the fatal brain hemorrhage might have occurred when Mr. Akmatov collapsed and fell off the bench where he was sitting, instead of being directly caused by the beating. However, even if that had been a possibility, it would not explain the multiple additional injuries which Mr. Akmatov had suffered: the bruises, abrasions, and damage to his lungs, kidneys and spleen (see paras. 146 to 151, above). The investigation never examined how these injuries were inflicted, whether by the police officers or the other speculative leads suggested by Officer Muminov. This was not an impartial investigation aimed at uncovering the facts, but rather one directed to deflect attention from the true course of events.

2. Undue Delay

191. The investigation was not effective because it was neither commenced promptly nor conducted expeditiously. Key steps were delayed, and the investigation was repeatedly suspended.
192. Any investigation must be both commenced promptly and then conducted with expedition. The Committee has stated that that "[c]omplaints [of ill-treatment] must be investigated promptly and impartially by competent authorities so as to make the remedy effective."²¹⁰ In particular, in relation to ill-treatment of detainees the Committee has reiterated that "the State party is under an obligation to investigate, as expeditiously and thoroughly as possible, incidents of alleged ill-treatment of inmates."²¹¹

²¹⁰ UNHRC, *General Comment 20, Article 7 concerning prohibition of torture and cruel treatment or punishment*, 1992, at para.14.

²¹¹ *Stephens v. Jamaica*, UNHRC, Views of 18 October 1995, U.N. Doc. CCPR/C/55/D/373/1989, at para. 9.2; *Spence v. Jamaica*, UNHRC, Views of 20 October 1994, U.N. Doc. CCPR/C/57/D/599/1994, at para.

193. The Committee against Torture has confirmed that promptness relates not only to the time within which an investigation is commenced, but also to the expediency with which an investigation is conducted. A delay of three weeks to launch an investigation into an allegation of torture,²¹² together with unexplained gaps in the investigation of between one and three months was found to be an unacceptable delay.²¹³ In 2008 the Committee against Torture also noted with regard to Kazakhstan that “the lengthy period for preliminary examination of torture complaints, which can last up to two months, may prevent timely documentation of evidence.”²¹⁴
194. Judgments of the ECtHR also provide guidance on the need for prompt investigation,²¹⁵ and consider as relevant the start of the investigation,²¹⁶ delays in taking statements,²¹⁷ and the length of time taken during initial investigations.²¹⁸ That Court has explained that an investigation should be undertaken promptly to recover and preserve evidence, including medical evidence and witness statements (when memories are fresh), related to the alleged torture to aid in any potential prosecution of those responsible.²¹⁹
195. In this case, numerous delays and interruptions tainted the investigation. The death of Mr. Akmatov was reported to law enforcement authorities immediately, and the investigative group arrived at the Akmatov home on 4 May 2005, the morning after his death. Mr. S. Akmatov also petitioned the Prosecutor’s Office and the Chief Executive of █████ District to investigate the death of his son two days later, on 6 May 2005. Nevertheless, the Prosecutor’s Office did not initiate the criminal case until 25 May 2005 – 21 days after the initial investigation and autopsy.
196. As a result of the delay in commencing the investigation, the police officers alleged to be responsible for the torture were not interviewed until June 2005, over a month after the torture and death of Mr. Akmatov. This delay provided the officers with the opportunity to construct mutual alibis, or to tamper with evidence.
197. Even once commenced, the investigation was not conducted expeditiously. Article 160 of the Kyrgyz Code of Criminal Procedure requires that investigations for crimes such as murder be concluded with two months. In this case, that period was extended twice: on 23 July 2005 for 3 months; and on 22 August 2005 for a further 4 months. After the second extension, the investigation was suspended and reinstated four times, before being suspended for a fifth time in July 2009. By that time, over four years had passed since the torture and death of Mr. Akmatov. As a result of that last suspension, over five and a half years have now passed and the investigation remains suspended. Such an investigation cannot be considered prompt.

9; see also UNHRC, *General Comment 20, Article 7 concerning prohibition of torture and cruel treatment or punishment*, at para. 14.

²¹² Fifteen days before the complaint was taken up by a judge and another four days before an inquiry was launched.

²¹³ *Encarnación Blanco Abad v. Spain*, UNCAT, Views of 14 May 1998, U.N. Doc. CAT/C/20/D/59/1996, at para. 8.7.

²¹⁴ UNCAT, *Concluding Observations on Kazakhstan*, U.N. Doc. CAT/C/KAZ/CO/2, 12 December 2008, at para. 24.

²¹⁵ *Bati and Others v. Turkey*, ECtHR Judgment of 3 September 2005, at para. 136; *Aksoy v. Turkey*, ECtHR, Judgment of 18 December 1996, at para. 98.

²¹⁶ *Çiçek v. Turkey*, ECtHR Judgment of 27 February 2001, at para. 149; *Tekin v. Turkey*, ECtHR Judgment of 9 June 1998, at para. 67; *Labita v. Italy*, ECtHR Judgment of 6 April 2000, at para. 133.

²¹⁷ *Assenov & Others v. Bulgaria*, ECtHR Judgment of 28 October 1998, at para. 103.

²¹⁸ *Labita v. Italy*, ECtHR Judgment of 6 April 2000, at para. 133-136.

²¹⁹ See e.g. *Assenov & Others v. Bulgaria*, ECtHR Judgment of 28 October 1998.

3. Inadequate Investigation

198. The State Party failed to undertake a number of steps that were essential for any investigation to be effective. It did not gather forensic evidence in the early stages; it failed to examine evidence which the police refer to, or to corroborate their testimony; and deficiencies in original medical examination meant that investigators were unable to assess how long before his death Mr. Akmatov sustained his injuries.
199. The Human Rights Committee has explained that “the State party has a duty to investigate *thoroughly* alleged violations of human rights, particularly enforced disappearances *and violations of the right to life*.”²²⁰ It has also repeatedly held that States Parties must investigate alleged ill-treatment of detainees as thoroughly as possible.²²¹ This means that the authorities must make a serious attempt to learn what happened: investigations must be thorough in seeking to ascertain the material facts,²²² “should not rely on hasty or ill-founded conclusions to close their investigation or as the basis of their decisions,” and must take all reasonable steps to secure the evidence concerning the incident.²²³
200. The Minnesota Principles state that the purpose of the investigation should be to “determine the cause, manner and time of death, the person responsible, and any pattern or practice that may have brought about the death”.²²⁴ The Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (Minnesota Protocol) elaborates on the standards for an effective investigation of a death in custody. The objectives of an effective investigation include “to recover and preserve evidentiary material related to the death”, “to identify possible witnesses and obtain statements”, to determine the manner of death “as well as any pattern or practice which may have brought about the death”. The procedures required to meet these objectives include (i) full processing of the potential crime scene, including photographing the scene, examination of any blood, examining fingerprints, and recording the identity of those present; (ii) identifying and locating the weapon used; (iii) interviewing family members of the victim, and others who observed the victim and scene in the weeks preceding the death; and (iv) conduct of an independent and thorough autopsy.
201. The ECtHR has also identified a number of steps that state authorities should take in order for an investigation to be effective, emphasising that the authorities must take the initiative to investigate all the circumstances of the abuse or death.²²⁵ One step it has considered in detail is the need for a medical examination that fully examines the injuries on a victim’s body; and when a death is at issue, an effective investigation requires an autopsy “which

²²⁰ *Vicente et al v. Colombia*, UNHRC, Views of 19 August 1997, U.N. Doc. CCPR/C/60/D/612/1995, at para. 8.8 (emphasis added). See also *Arhuacos v. Colombia*, UNHRC, Views of 19 August 1997, U.N. Doc. CCPR/C/60/D/612/1995, at para. 8.8; and *Bautista v. Colombia*, UNHRC, Views of 13 November 1995, U.N. Doc. CCPR/C/55/D/563/1993, at para. 8.6.

²²¹ *Stephens v. Jamaica*, UNHRC, Views of 18 October 1995, U.N. Doc. CCPR/C/55/D/373/1989, at para. 9.2; *Irvine Reynolds v. Jamaica*, UNHRC, Views of 3 April 1997, U.N. Doc. CCPR/C/59/D/587/1994, at para. 12.

²²² *Ristic v. Yugoslavia*, UNCAT, Views of 11 May 2001, U.N. Doc. CAT/C/26/D/113/1998, at para. 9.6.

²²³ *Corsacov v. Moldova*, ECtHR, Judgment of 4 April 2006, at para. 69 (citing *Tanrikulu v. Turkey* [GC], ECtHR, Grand Chamber Judgment of 8 July 1999, paras. 104ff and *Gül v. Turkey*, ECtHR, Judgment of 14 December 2000, para. 89).

²²⁴ Minnesota Principles, at para. 9.

²²⁵ *Salman v. Turkey*, ECtHR, Judgment of 27 June 2000, at para. 106 (in the context of a right to life investigation); *Tanrikulu v. Turkey* [GC], ECtHR, Grand Chamber Judgment of 8 July 1999, at para. 109; *Gül v. Turkey*, ECtHR, Judgment of 2002, at para. 89.

provides a complete and accurate record of the possible signs of ill-treatment and injury and an objective analysis of clinical findings, including the cause of death.”²²⁶

202. In this case, the authorities failed to conduct a number of investigative steps which were required for an effective investigation of Mr. Akmatov’s torture and death.
203. *No forensic examinations.* The police made numerous failures during the initial inspection on 4 May 2005, which compromised the effectiveness of the investigation. Article 157 of the CPC obliges the investigator to immediately take all steps necessary to secure the crime scene, preserve traces of the crime, and bring to light factual data which might be used in evidence. None of this was done in this case, so critical evidence was lost and the investigation has not been effective. No forensic examination was conducted of Mr. Akmatov’s clothing at his house, when the police officers inspected the site on 4 May 2005, and no examination was conducted of the police station where Mr. Akmatov was beaten. Although the official criminal investigation was not opened for three weeks, it was clear from the autopsy report on 4 May 2005 that Mr. Akmatov had been badly beaten and died as a result of the infliction of severe violence. As a result of these failures, evidence such as clothing fibers or traces of blood, which could have indicated where Mr. Akmatov was beaten and by whom, was never recovered.
204. *Inadequate medical examinations.* Medical expert Mukashev reported numerous contradictions and failures to evaluate injuries in the previous forensic medical conclusions, including the cause of bleeding from his ear, visible damage to the brain, the impact of the damage to the lungs and kidneys, and the bruised ribs (see para. 95, above). The inadequate conduct and recording of the initial autopsy required the exhumation of the body, but by this stage it was in a state of decay. Critically, the proper procedures for formaldehyde fixation had not been followed during the original histological examination, which meant that it was impossible for the final forensic review to determine how long before his death Mr. Akmatov sustained his injuries (see para. 99, above) – a piece of information which could have confirmed with more accuracy the time at which he was beaten.
205. *Failure to corroborate police testimony.* As noted above (see para. 147 to 150 and 189, above), the investigation did not critically examine or attempt to corroborate the testimony of the police officers, for example by seeking independent confirmation of their movements on 3 May 2005, seeking evidence of whether Mr. Akmatov did go into town to get food that afternoon; or questioning Gulnara on whether she did see Mr. Akmatov in the police station that afternoon and if so his condition.
206. *Failure to seek statement from “Gulya”.* One particular piece of information which should have been pursued and corroborated is Officer Muminov’s claim that a resident called Gulya told him that her father in law said he had given Mr. Akmatov a serious beating (see para. 149, above). If this was true, then this was a critical lead which should have been pursued. If it was not true, then this would cast serious doubt on Officer Muminov’s credibility. Yet despite the importance of this allegation in either case, it was ignored.
207. *Failure to request or examine detention log.* The investigation never examined the detention log at the police station for the day of 3 May 2005, to determine whether Mr. Akmatov’s arrival and release was registered. If it had been registered, this could have corroborated that Mr. Akmatov was detained there for 10 hours, from approximately 09:30.
208. *Failure to request or examine alleged statement of Mr. Akmatov.* Officer Muminov claims that Mr. Akmatov wrote a statement shortly before leaving the police station (see para. 43,

²²⁶ *Gül v. Turkey*, ECtHR, Judgment of 2002, at para. 89; *Salman v. Turkey*, ECtHR, Judgment of 27 June 2000, at para. 105.

above), and this claim is repeated in other investigation documents.²²⁷ Yet the alleged statement of Mr. Akmatov has not been produced, examined or analysed. This statement, if it exists, might provide evidence of the approximate time that Mr. Akmatov was released and his ability to write a statement at that time. Yet if the statement does not exist, then it casts serious doubt on the police version of events.

209. *Retraction of statement by Officer Eraliev.* The investigation did not critically examine Officer Eraliev's retraction of his statement. Despite the fact that his original statement was corroborated by other evidence, and he claims to have been intimidated by a 62 year old, infirm grandmother. However, despite the questions that this raises, the investigation took Officer Eraliev's explanation that "there has been no pressure from the police. I was scared by what Tamila Akmatova said and I wrote that report"²²⁸ at face value (see paras. 22 and 139 to 141, above).

4. Lack of Transparency

210. The investigation into the alleged torture and killing of Mr. Akmatov has not been conducted with the degree of transparency that is required under international law.
211. For an investigation to be "effective", international law requires both that the process of the investigation be public and that its results be published. The Istanbul Principles require that "[t]he methods used to carry out such investigations shall meet the highest professional standards and the findings shall be made public."²²⁹ The Committee against Torture has recommended the establishment of a centralised public register of both complaints of torture and ill-treatment and of the results of investigations, to ensure openness and impartiality.²³⁰ It also requires that "every allegation of torture [is] thoroughly investigated and the results made public."²³¹ The ECtHR has recognised a similar requirement of public involvement inherent in the obligation to carry out effective investigations, and that the authorities must both grant the family access to the investigation materials as well as its outcome,²³² and publish the findings publically.²³³
212. Both the Istanbul and Minnesota Principles recommend that investigations should be carried out by an "independent commission of inquiry or similar procedure".²³⁴ There should be "wide notice of the establishment of a commission and the subject of the inquiry"

²²⁷ Exhibit 19 - Report on Questioning of Witness B. Muminov, 8 June 2005; Exhibit 21 - Statement of B.P. Muminov, undated.

²²⁸ Exhibit 13 - Copy of Report on Questioning of Witness Mirbek Torozhanovich Eraliev, 21 June 2007.

²²⁹ Istanbul Principles, at Article 5.

²³⁰ Concluding Observations of the Committee against Torture, U.N. Doc A/56/44, 2001, para. 97(e). The CPT also considers that public authorities should "register all representations which could constitute a complaint." (European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, *The CPT standards: "Substantive" sections of the CPT's General Reports*, p. 88. Available at: <http://www.cpt.coe.int/en/documents/eng-standards.pdf>).

²³¹ Committee against Torture, Summary Record of the 245th Meeting, U.N. Doc. CAT/C/SR.245, 11 June 1996, para. 37; see also Nowak and McArthur, *The United Nations Convention against Torture: A Commentary* (Oxford: Oxford University Press, 2008) at 437.

²³² *Chitayev and Chitayev v. Russia*, ECtHR Judgment of 18 January 2007, paras. 165-166; see also *Hugh Jordan v. the United Kingdom*, ECtHR Judgment of 4 May 2001, para. 109 (investigation into a shooting death by a police officer failed to involve "a sufficient element of public scrutiny"); *Finucane v. the United Kingdom*, ECtHR Judgment of 1 July 2003, paras. 61, 71, 82-83.

²³³ *McKerr v. United Kingdom*, ECtHR Judgment of 4 May 2001, para. 141.

²³⁴ Istanbul Principles, Article 5(a); Minnesota Principles, Article 11.

so as to allow witnesses to come forward, and that investigation hearings “should be conducted in public, unless in-camera proceedings are necessary to protect the safety of a witness.”²³⁵ The Istanbul Principles requires that the inquiry should issue a written report within a reasonable time that includes “the scope of the inquiry, procedures and methods used to evaluate evidence as well as conclusions and recommendations based on findings of fact and on applicable law. Upon completion, the report shall be made public.”²³⁶

213. The investigation of the torture and death of Mr. Akmatov has been conducted largely in secret. The nature of the investigation has not been publicised, and no public report has been issued which adequately addresses the allegations that he was torture by the police causing his death.
214. The report of the internal investigation does not meet the required standard for public scrutiny. The only detailed analysis relates to the recording of the original complaint against Mr. Akmatov, which was the purported basis for his detention. It then summarily concludes that “Questioning of police personnel at the [REDACTED] TPD established that the beating and infliction of bodily injury on T. Akmatov were impossible”,²³⁷ without proving any evidence or reasoning.
215. The criminal investigation also has not resulted in any meaningful public scrutiny of these events. The order to discontinue the criminal investigation of the police officers on 30 August 2008 does not even mention that Mr. Akmatov and his family had directly alleged that they were responsible for beating him on 3 May 2005. It simple states that he was questioned, returned home, and died, and then discusses certain aspects of the medical evidence. The order concludes that “it is not possible to make a valid and legal ruling on the case”, however the “criminal prosecution of [REDACTED] TPD police personnel B. Muminov, N. Toktomusaev, etc., in this crime be discontinued them for lack of a crime in their actions.”²³⁸ This failure to publicly recognise the allegations of torture and to publish a full report on the investigation into them renders the investigation ineffective, and also deprives Mr. Akmatov’s family of the right to know the results of the investigation into his torture and death.²³⁹

5. No Finding of Responsibility

216. The purported investigation into the torture and death of Mr. Akmatov has been so hindered by the acts and omissions of the police and prosecutorial authorities that it has not been capable of bringing to justice those responsible.
217. This Committee has explained that “[a]s with the failure to investigate, failure ‘to bring to justice perpetrators of such violations could in and of itself give rise to a separate breach of the Covenant”, and that this is an obligation which applies in particular to violations of

²³⁵ Istanbul Protocol, Articles 113 and 114.

²³⁶ Istanbul Principles, Article 5(b).

²³⁷ Exhibit 46 - Report on the Official Investigation on the Complaint by S. Akmatov Concerning Police Personnel, Internal Security Service, Kyrgyz Republic Ministry of Internal Affairs, 10 August 2005.

²³⁸ Exhibit 54 - Order to Discontinue Criminal Prosecution of Certain Individuals, 30 August 2008.

²³⁹ This Committee has found that for an investigation to be deemed “effective” it must include some degree of family involvement, which requires at a minimum that family members of the victim must be informed of the outcome of the investigation into the alleged abuses by the state: *El Hassy v. Libyan Arab Jamahiriya*, UNHRC, Views of 24 October 2007, U.N. Doc. CCPR/C/91/D/1422/2005, para. 8.

Articles 6 and 7.²⁴⁰ The Committee against Torture has confirmed that investigations should seek to ascertain the facts and identify the perpetrators.²⁴¹

218. The ECtHR has held that, to satisfy the investigative requirement of the prohibition on torture, an investigation should be capable of leading to the identification and punishment of those responsible and that it “must not be unjustifiably hindered by the acts or omissions of the authorities”.²⁴² The Inter-American Court has also found that the State is under a legal duty “to use the means at its disposal to carry out a serious investigation of violations committed within its jurisdiction, to identify those responsible, to impose the appropriate punishment and to ensure the victims adequate compensation.”²⁴³ This duty “requires punishment not only of material authors, but also of the intellectual authors of those acts.”²⁴⁴
219. In this case, the investigation failed to ascertain and attribute criminal responsibility for Mr. Akmatov’s torture and death, and was not capable of doing so. Due to its many deficiencies, the criminal investigation did not lead to any charges or trial. This failure occurred despite Mr. Akmatov identifying the perpetrators prior to his death, and his father’s repeated requests that these persons be prosecuted. The police and prosecutors have made no serious attempt to identify the persons who tortured Mr. Akmatov and inflicted the injuries which caused his death, whether by critically examining the evidence of the police officers or investigating the responsibility of any third parties. As a result, the investigation remains suspended with no suspects. Given the delays, deficiencies and bias described above (see paras. 178 to 209, above), this was an investigation which from the outset was never capable or intended to identify the perpetrators or bring them to justice.

E. Failure to Provide Redress: Articles 6(1) and 7 with Article 2(3)

220. International law requires access to legal remedies for torture and deaths in custody, including compensation. However, the law in the Kyrgyz Republic effectively prohibits Mr. Akmatov’s family from bringing civil proceedings for compensation, and no other remedies are possible given the failed investigation.
221. Article 2(3) ICCPR has been interpreted by this Committee as placing an obligation on States to use their resources not only to investigate and punish violators, but also to compensate victims of human rights violations.²⁴⁵ This Committee has stated that “States may not deprive individuals of the right to an effective remedy, including compensation.”²⁴⁶ It has explained that the nature of the remedy – whether judicial, administrative or other – should be in accordance with the rights violated and the

²⁴⁰ UNHRC, *General Comment 31, The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, 2004, para. 18; see also UNHRC, *General Comment 20, Article 7 concerning prohibition of torture and cruel treatment or punishment*, 1992, para. 15.

²⁴¹ *Encarnación Blanco Abad v. Spain*, UNCAT, Views of 14 May 1998, U.N. Doc. CAT/C/20/D/59/1996, para. 8.8; *Dzemajl v Yugoslavia*, UNCAT, Views of 21 November 2002, U.N. Doc. CAT/C/29/D/161/2000, para. 9.4.

²⁴² *Aksoy v. Turkey*, ECtHR, Judgment of 18 December 1996, at para. 95.

²⁴³ *Velásquez-Rodríguez v. Honduras*, IACtHR, Judgment of 29 July 1988, at para. 187.

²⁴⁴ *Corumbiara Massacre v. Brazil*, IACommHR, Case 11.566, Report No. 32/04, at para. 256.

²⁴⁵ UNHRC, *General Comment 31, The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, 2004, para. 16.

²⁴⁶ UNHRC, *General Comment 20, Article 7 concerning prohibition of torture and cruel treatment or punishment*, 1992, para. 15.

effectiveness of that remedy in granting appropriate relief for the violation.²⁴⁷ “[i]f the alleged offence is particularly serious, as in the case of violations of basic human rights ... purely administrative and disciplinary remedies cannot be considered adequate and effective.”²⁴⁸ The Committee against Torture has also stated that the State must establish a system to provide compensation where its agents are implicated in torture, regardless of whether those agents have been identified and thus held responsible.²⁴⁹

222. As part of the general right of access to a court, the ECtHR has found that the duty to provide effective remedies to victims of ill-treatment includes compensation.²⁵⁰ Similarly, the Inter-American Court has established that for remedies to be effective, they must be suitable to address the legal right that has been infringed.²⁵¹ Following this reasoning, the Inter-American Commission on Human Rights explained that torture and other similar grave crimes such as forced disappearance and summary execution are of such gravity that they require specific measures.²⁵²
223. In Kyrgyzstan, a civil claim can only succeed against state agents if there has been a conviction. As the Joint UPR Submission of a group of leading anti-torture NGOs in Kyrgyzstan noted, “Kyrgyz law does not allow victims of torture to obtain redress from a civil court until a criminal court has convicted the perpetrators of torture [...] since the criminalization of torture in 2003, no victim of torture had received monetary compensation”²⁵³ (see para. 110, above).
224. Mr. Akmatov’s family has made strenuous efforts to have the torture of Mr. Akmatov in police custody and his subsequent death properly investigated and brought before the courts. Despite all those efforts there has been no real attempt to investigate the criminal liability of those who mistreated him and are responsible for this death. Instead, there has been a consistent denial and assertion that the police did nothing wrong. In these circumstances, a civil claim is impossible, and Mr. Akmatov’s family have been denied redress.

IX. REMEDIES

225. The Author respectfully requests the Committee to:
- a) make a finding that the Kyrgyz Republic is responsible for the torture and arbitrary killing of Mr. Turdubek Akmatov, and that the State has also violated it’s obligations to

²⁴⁷ UNHRC, Concluding Observations on Finland, U.N. Doc. CCPR/C/79/Add.91, 4 August 1998, para. 10.

²⁴⁸ *Vicente et al v. Colombia*, UNHRC, Views of 19 August 1997, U.N. Doc. CCPR/C/60/D/612/1995, at para. 5.2; *de Arellana v Colombia*, UNHRC, Views of 27 October 1995, U.N. Doc. CCPR/C/55/D/563/1993, at para. 8.2.

²⁴⁹ UNCAT, Summary Record of the 109th meeting, U.N. Doc. CAT/C/SR.109, paras. 22 and 27; UNCAT, Report of the Committee against Torture, 1992, U.N. Doc. A/47/44, para. 337; *Guridi v. Spain*, UNCAT, Decision of 24 May 2005, U.N. Doc. CAT/C/34/D/212/2002, at para. 6.8.

²⁵⁰ *Aksoy v. Turkey*, ECtHR, Judgment of 18 December 1996, at para. 90; *Assenov & Others v. Bulgaria*, ECtHR Judgment of 28 October 1998, at para 102.

²⁵¹ *Velasquez Rodriguez v Honduras*, IACtHR, Judgment of 29 July 1988, at para. 64.

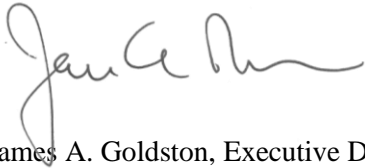
²⁵² *Catalán Lincoleo v. Chile*, IACommHR, Report No. 61/01 of 16 April 2001, at para. 36. Available at: <http://www.cidh.org/annualrep/2000eng/ChapterIII/Merits/Chile11.771.htm>.

²⁵³ Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1, U.N. Doc. A/HRC/WG.6/8/KGZ/3, at para. 28.

establish safeguards against torture and arbitrary killings, to investigation such torture and killings, and to provide an effective remedy.

- b) urge the Kyrgyz Republic to create an independent commission of inquiry to investigate the circumstances of the torture and death of Mr. Akmatov, with the power to initiate a criminal prosecution of those found to be the material and intellectual authors of his death.
- c) urge the Kyrgyz Republic to pay just compensation to the family for the torture and unlawful death of Turdubek Akmatov
- d) urge the Kyrgyz Republic to introduce safeguards to prevent similar violations from happening in the future, including the creation of an independent mechanism entrusted to investigate torture allegations in full accordance with international norms and domestic legislation; to ensure registration of all detainees from the moment of detention and proper monitoring of the detention facilities; and to ensure prompt notification of family members and allow visits by family members and lawyers to those in police detention.

7 April 2011



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X. LIST OF SUPPORTING DOCUMENTS

Statements of Family

- Exhibit 1 Statement of Suyunbai Akmatov to T.A. Akyshov, Head of the [REDACTED] Multidistrict Prosecutor's Office, 11 May 2005 (English, Russian and Kyrgyz)
- Exhibit 2 Copy of Report on Questioning of Witness Suyunbai Akmatov, 27 May 2005 (English, Russian and Kyrgyz)
- Exhibit 3 Copy of Statement of S. Akmatov, 6 August 2005 (English, Russian and Kyrgyz)
- Exhibit 4 Report on a face-to-face confrontation between Suyunbai Akmatov and Nurgazy Tokotmusaev, 24 September 2005 (English, Russian and Kyrgyz)
- Exhibit 5 Report on Questioning of Witness Suyunbai Akmatov, 18 January 2006 (English, Russian)
- Exhibit 6 Statement of Suyunbai Akmatov, 18 October 2010 (English, Russian)
- Exhibit 7 Copy of Report on Questioning of Witness Tamila Akmatova, 2006 (English, Russian and Kyrgyz)
- Exhibit 8 Report on Questioning of Witness Syrgak Akmatov, 17 July 2005 (English, Russian and Kyrgyz)
- Exhibit 9 Report on Questioning of Witness Syrgak Akmatov, 6 February 2006 (English, Russian and Kyrgyz)
- Exhibit 10 Report on Questioning of Chyngyz Suyunbai uulu, 17 July 2005 (English, Russian and Kyrgyz)
- Exhibit 11 Report on Questioning of Witness Chyngyz Suyunbai uulu, 6 February 2006 (English, Russian and Kyrgyz)

Statements of the police

- Exhibit 12 Copy of Report on Questioning of Witness Mirbek Torozhanovich Eraliev, 22 April 2007 (English, Russian and Kyrgyz)
- Exhibit 13 Copy of Report on Questioning of Witness Mirbek Torozhanovich Eraliev, 21 June 2007 (English, Russian and Kyrgyz)
- Exhibit 14 Statement of Nurgazy Toktomusaev, undated (English, Russian and Kyrgyz)
- Exhibit 15 Report on Questioning of Witness Nurgazy Toktomusaev, 29 January 2007 (English, Russian and Kyrgyz)
- Exhibit 16 Report on Questioning of Witness Zh. Turdakunov, 1 June 2005 (English, Russian and Kyrgyz)
- Exhibit 17 Statement of Zhetigen Turdakunov, 6 August 2005 (English, Russian and Kyrgyz)
- Exhibit 18 Statement of Zhetigen Turdakunov, undated (English, Russian and Kyrgyz)
- Exhibit 19 Report on Questioning of Witness B. Muminov, 8 June 2005 (English, Russian and Kyrgyz)

- Exhibit 20 Statement of Bakhtiyar Muminov, undated (English, Russian and Kyrgyz)
- Exhibit 21 Statement of B.P. Muminov, undated (English, Russian and Kyrgyz)
- Exhibit 22 Statement of Ikbol Seidaliev, 6 August 2005 (English, Russian and Kyrgyz)
- Exhibit 23 Statement of Ikbal Akhmadalievich Seidaliev, undated (English, Russian and Kyrgyz)
- Exhibit 24 Report on Questioning of Witness Gulzhan Bagysheva, 18 June 2005 (English, Russian)

Medical Documents

- Exhibit 25 Order to schedule a forensic medical examination, 4 May 2005 (English, Russian and Kyrgyz)
- Exhibit 26 Expert Conclusion No. 19, 4-25 May 2005 (English, Russian)
- Exhibit 27 Order to schedule a supplemental forensic medical examination, 5 September 2005 (English, Russian, Kyrgyz)
- Exhibit 28 Supplement to Conclusion No. 19 of 4 May 2005, 23 September 2005 (English, Russian)
- Exhibit 29 Order Scheduling a Forensic Medical Review Commission, 20 April 2006 (English, Russian)
- Exhibit 30 Order of Exhumation, 20 April 2006 (English, Russian and Kyrgyz)
- Exhibit 31 Report on Exhumation, 12 August 2006 (English, Russian and Kyrgyz)
- Exhibit 32 Expert Conclusion No. 1179, 13 August 2006 (English, Russian)
- Exhibit 33 Expert Conclusion No. 102, undated (English, Russian)
- Exhibit 34 Letter from Zh. Toroev, Director of the NPO Association of the Human Rights Advocacy Center, to D.A. Adanbekov, Rector of the Kyrgyz State Medical Academy, 24 May 2007 (English, Russian)
- Exhibit 35 Petition to call in a specialist, 8 June 2007 (English, Russian)
- Exhibit 36 Order on the presence of an expert in a criminal case and receipt of his opinion, 15 June 2007 (English, Russian and Kyrgyz)
- Exhibit 37 Opinion of Professor M. S. Mukashev, 11 October 2007 (English, Russian)
- Exhibit 38 Order Scheduling a Forensic Medical Review Commission, 12 March 2008 (English, Russian)
- Exhibit 39 Conclusion No. 44, Follow-up Commission Review Based on Criminal Case File, 19 March 2008 (English, Russian)

Investigation Documents

- Exhibit 40 Petition by S. Akmatov to T.A. Akyshov, Head of the [REDACTED] Multidistrict Prosecutor's Office, 6 May 2005 (English, Russian and Kyrgyz)
- Exhibit 41 Petition by S. Akmatov to Mamazhakyp uulu, Chief Executive of [REDACTED] District, 6 May 2005 (English, Russian and Kyrgyz)

- Exhibit 42 Order on Initiation of a Criminal case, 25 May 2005 (English, Russian and Kyrgyz)
- Exhibit 43 Petition by S. Akmatov to K.S. Bakiev, President of the Kyrgyz Republic, 5 July 2005 (English, Russian and Kyrgyz)
- Exhibit 44 Report on Reproduction of the Situation and Circumstances of the Incident, 18 July 2005 (English, Russian and Kyrgyz)
- Exhibit 45 Decision on extension of the Proceedings on Investigation of a Criminal Case, 18 July 2005 (English, Kyrgyz)
- Exhibit 46 Report on the Official Investigation on the Complaint by S. Akmatov Concerning Police Personnel, Internal Security Service, Kyrgyz Republic Ministry of Internal Affairs, 10 August 2005 (English, Russian)
- Exhibit 47 Decision on Suspension of the Criminal Case, 24 September 2005 (English, Kyrgyz)
- Exhibit 48 Petition by N.B. Chydyev, 28 February 2006 (English, Russian and Kyrgyz)
- Exhibit 49 Decision on Suspension of Investigation, 19 February 2007 (English, Kyrgyz)
- Exhibit 50 Petition on questioning of an additional witness, from N.B. Chydyev to O. Jamshitov, 1 March 2007 (English, Russian)
- Exhibit 51 Decision on cancellation of the suspension of the investigation, 16 May 2007 (English, Russian)
- Exhibit 52 Resolution on cancellation of the suspension of criminal proceedings, 28 February 2008 (English, Russian)
- Exhibit 53 Complaint by N.B. Chydyev to E. Satylbaldiev, undated (English, Russian)
- Exhibit 54 Order to Discontinue Criminal Prosecution of Certain Individuals, 30 August 2008 (English, Russian)
- Exhibit 55 Letter from the Prosecutor General of the Republic of Kyrgyzstan to N.B. Chydyev, 17 November 2008 (English, Russian)
- Exhibit 56 Decision on Suspension of Proceedings on the Criminal Case, 8 July 2009 (English, Kyrgyz)

Judicial Challenges

- Exhibit 57 Application to Osh City court, 4 January 2011 (English, Russian)
- Exhibit 58 Decision of Osh City court, 11 January 2011 (English, Kyrgyz)
- Exhibit 59 Appeal to Osh Regional court, 20 January 2011 (English, Russian)
- Exhibit 60 Decision of Osh Regional Court, 15 February 2011 (English, Russian)