

# ICCPR Case Digest

CCPR/C/113/D/2054/2011

Communication  
No. 2054/2011

Submission: 11.03.11  
Adoption: 25.03.15

## Ernazarov v. Kyrgyzstan

Lack of effective investigation in a case of death in custody violates articles 6 and 7

### Substantive Issues

- Right to life
- Effective remedy;
- Torture and ill-treatment;
- Prompt and impartial investigation

### Relevant Articles

- Art. 2
- Art. 6
- Art. 7

### Violations

- Art. 2
- Art. 6
- Art. 7

### Author's complaint

The author's brother – Rakhmonberdi Ernazarov (deceased) – was arrested for committing forced sodomy against the father of his former girlfriend. Sixteen days later, the author's brother was found unconscious and bleeding abundantly in his 3 metres by 3 metres cell that he shared with six other inmates. He had cuts on his throat and his body showed several wounds and torture marks. The victim was taken by ambulance to the hospital where he succumbed to his injuries soon after his arrival.

The author claims that his brother suffered psychological and physical abuse by his cellmates because he was charged with a sexual offence. While they were aware of the ill-treatment, the authorities did not prevent it. A guard at the police station confirmed that the author's brother was exposed to inhuman treatment and that he was forced to inflict injuries upon himself. The State party neither provided compensation or adequate reparation.

The Ministry of Internal Affairs, the same authority that was holding the author's brother in custody, investigated the matter and concluded that it had been a suicide.

The author claims his brother's rights were violated under article 6 (1) and 7 read alone and in conjunction with article 2 (3) of the Covenant.

### Committee findings

The Committee notes that the State Party did not try to explain how the author's brother suffered injuries; they simply denied that the guards were aware of the abuse committed by the other inmates. The Committee recalls it is the State party's duty to ensure the safety of persons in places of custody (*Sirageva v. Uzbekistan*). In the absence of additional information, the Committee declares that the Kyrgyz authorities bare the responsibility of Mr. Ernazarov death and concludes a violation under the article 6 (1) of the Covenant. Since the State party did not produce any evidence refuting the allegations of ill-treatment, the Committee also concludes a breach of article 7 of the Covenant. Additionally, the Committee recalls its jurisprudence regarding ill-treatment complaints and allegations of violations of article 6 (1): they "must be investigated promptly, thoroughly and effectively through an independent and impartial body". In this case, the investigation apparently failed to seize crucial evidences, key witnesses were not interrogated and the family of the victim was not made aware of the progress on the case. In light of these

circumstances, the Committee states a violation under article 2 (3) read in conjunction with articles 6 (1) and 7 as the State Party denied a remedy to the author's brother family and failed to investigate his death "promptly and properly".

## Recommendations

The Human Rights Committee therefore decided:

- a. The remedy should include an impartial, effective and thorough investigation into the circumstances of the author's brother's death, prosecution of those responsible and full reparation, including appropriate compensation.
- b. The State party is also under an obligation to prevent similar violations in the future.

## Deadline to Submit the Report on the Implementation of the Recommendations

180 days from the adoption of the views: 21 September 2015.