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Kyrgyzstan

Uzbekistan in Pursuit of Refugees in Kyrgyzstan: A Follow-up Report

Introduction

The events in the eastern city of Andizhan of 12-13 May 2005, resulting in the killing of hundreds of people, led to many hundreds of people – women, men and children – fleeing Uzbekistan.¹ Most crossed the Uzbekistan border into Kyrgyzstan, seeking international protection. Many of those who fled to Kyrgyzstan were initially accommodated on 14 May in a makeshift refugee camp, set up by the Kyrgyzstan military, at Teshik Tosh, near the border. These refugees were subsequently moved to another camp at Besh-Kana on 4 June.

These events and the asylum-seekers' search for refuge are described in Amnesty International's report *Kyrgyzstan: Refugees in Need of a Safe Haven*, which was published on 30 June 2005.²

This report updates that account, and is based on information gathered from interviews and documents obtained by an Amnesty International delegate on a visit to Kyrgyzstan from 21 - 30 July 2005. Many of the people who spoke to Amnesty International were in hiding and so asked for their identities to be protected.

Amnesty International received disturbing reports that law enforcement authorities from Uzbekistan have continued to pursue refugees who fled Uzbekistan after 13 May on Kyrgyzstan territory, in some cases with the demonstrable co-operation of the authorities of Kyrgyzstan.

The report gives information on the different groups of people, who sought international protection inside the refugee camp, and which included:

- citizens of Kyrgyzstan, who were in Andizhan on 13 May, some of whom are being sought by the authorities in Uzbekistan as criminal suspects;
- citizens of Uzbekistan, sought for extradition to Uzbekistan as criminal suspects;
- other refugees.

¹ Amnesty International has called for an independent, international investigation into the Andizhan events: *Uzbekistan: Independent, international investigation needed into Andizhan events*, AI Index: EUR 62/0015/2005, 24 June 2005

² AI Index: EUR 58/008/2005, 30 June 2005 ,available in English on www.amnesty.org and in Russian on www.amnesty.ru

In particular, Amnesty International continues to be concerned about 15 asylum-seekers who remain in detention in Kyrgyzstan, pending the final determination of the refugee status of four of them.

The report also provides information on other refugees who fled Andizhan since 13 May and are now believed to be hiding in other parts of Kyrgyzstan. Amnesty International is concerned that these refugees are not being offered effective protection or access to asylum procedures.

Since 13 May 2005 the authorities of Uzbekistan have persistently sought the extradition of large numbers of the refugees, under the terms of the 1993 Minsk Convention on legal assistance in criminal cases.³ However, the 1994 Minsk Agreements of the Commonwealth of Independent States, ratified by Kyrgyzstan, in particular Article 2, commit the authorities to guarantee to citizens of all Commonwealth of Independent States and stateless persons found within their territories, civil, political, economic and cultural rights and liberties in accordance with generally recognized international norms on human rights without discrimination. Thus this agreement requires that Kyrgyzstan respect and uphold the prohibition, under customary international law and international treaties to which it is a party, of sending a person to a state where they would be at risk of serious human rights violations, including torture.⁴

Kyrgyzstan is a party to the 1951 Convention relating to the Status of Refugees, and is therefore under an obligation not to return anyone to a state where they have a well-founded fear of persecution on grounds of race, religious belief, citizenship, social group or political convictions.⁵

It is also party to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) and the International Covenant on Civil and Political Rights (ICCPR)⁶.

Article 3 of the Convention against Torture states that:

1. No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that s/he would be in danger of being subjected to torture.

³ Part IV, Section 1, Article 56(1) of the Minsk Convention states: "The Contracting Parties take on an obligation, according to conditions determined by the present Convention, to extradite to each other by request persons on their territories, for bringing to criminal responsibility or for executing a verdict".

⁴ Source text in Russian: http://www.cis.minsk.by/russian/cis_doc4.htm.

⁵ Article 1 A (2) of the 1951 Convention Relating to the Status of Refugees. Kyrgyzstan became a party to the Convention in 1996.

⁶ Kyrgyzstan ratified the UN Convention against Torture in 1997, and the ICCPR in 1995.

2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

ICCPR Article 7 states: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

The principle of *non-refoulement*, which is the prohibition on forcibly returning anyone to a situation where the individual is at risk of torture or other serious human rights violations, is a norm of customary international law and is therefore binding on all states, and is also reflected in the above international instruments to which Kyrgyzstan is a State party.

On the basis of research conducted over many years, Amnesty International opposes the involuntary return of any of the asylum-seekers to Uzbekistan, because it believes they have a well-founded fear they will be tortured on return and some may even be sentenced to death. It continues to urge the Uzbekistani authorities to carry out a thorough, independent and international inquiry into the full circumstances of the events in Andizhan, so that the people responsible can be held to account.⁷

⁷ AI Index: EUR 62/015/2005, 24 June 2005

Citizens of Kyrgyzstan who sought protection

Among the many hundreds of people who crossed the border from Uzbekistan into Kyrgyzstan were numerous citizens of Kyrgyzstan, who had been in Andizhan on 13 May on professional or private business and fled the violence that broke out in the city centre. Those who asked for protection were also put in the camp at Teshik Tosh. No notification appears to have been sent to their families, although Kyrgyzstani state security officials (SNB) in their home towns were informed of their whereabouts. One family learned of their brothers' whereabouts from a TV programme eight days later, on 21 May.

Other families in Osh interviewed by Amnesty International said that after eight days without news of their relatives, they applied to the city SNB and discovered their relatives were in the Teshik Tosh camp. In the next few days they went to the camp to bring them home. The camp authorities did not release them into their care, however, but transferred them in late May directly to a temporary detention centre (IVS) at Kenesh, outside Osh, on an administrative charge, apparently of "petty hooliganism"⁸, for allegedly crossing the border into Uzbekistan illegally. They spent up to 15 days⁹ in detention in Kenesh before being released. During this period one of them said he sustained fractures to his skull and collarbone.

Amnesty International is concerned on a number of counts about the treatment of the Kyrgyzstani citizens who fled from the Andizhan events. No determination of their status and protection needs had taken place before they were moved out of the relative safety of the Teshik Tosh camp. A full census of the camp's inhabitants was completed only in early June and the Kyrgyzstani citizens who were moved out in late May were not included in it. There is no record of their arrival in search of protection, nor of their protection needs.¹⁰

The Osh-based Ombudsman's Representative for the Southern Region has attempted to follow their situation. He told Amnesty International that as many as 50 Kyrgyzstani men had asked for protection in Teshik Tosh, but were then transferred out of the camp and given

⁸ Article 364 of the Code of the Kyrgyzstan Republic on Administrative Responsibility, as amended in January 2005

⁹ Article 38 of the Code of the Kyrgyzstan Republic on Administrative Responsibility, as amended in January 2005

¹⁰ Displaced citizens of Kyrgyzstan can claim protection as Internally Displaced Persons (IDPs); however, in the first instance this would be protection of their government rather than international protection, as national authorities have the primary responsibility to provide protection to IDPs. If the main concern is about *refoulement*, then as citizens, they can claim the protection of their government's obligation not to send anyone to a situation of torture.

However, it is valid to expect the authorities in a camp for displaced persons, if they admitted the IDPs, to register their arrival; the standard would be for all IDPs to be registered individually, with due note being taken of particular needs of vulnerable persons. IDPs also have the right to receive humanitarian assistance, including international assistance.

administrative punishments with no prior determination of their protection needs.¹¹ The Ombudsman's Representative raised this issue with the Head of the Southern Region Department of the Kyrgyz Migration Service (KMS), responsible for administering the Besh-Kana refugee camp, at a meeting attended by Amnesty International's delegate on 26 July. The KMS Southern Region Department Head, Ms Nurilia Kimsanovna Yoldosheva, said she had no information of any such transfers. Amnesty International has details of seven men who were transferred in this way.

There is disturbing evidence that some rank-and-file law enforcement officers in Kyrgyzstan have used the crisis, and the subsequent displacement of Kyrgyzstani citizens as a means of systematic extortion. Families of Kyrgyzstani citizens who had fled from Andizhan told Amnesty International that they paid large sums of money to regional SNB staff in Jalalabad, under the impression that they were 'buying out' their relatives from the Teshik Tosh camp, to take them home. The sums of money ranged from between 500 and 2,000 Kyrgyz SOM (between US\$12 and \$50), depending on the family's income.

Guards from the Ministry of Internal Affairs (MVD) at the Teshik Tosh camp reportedly also extorted money, watches, or mobile phones from relatives, before allowing them into the camp to see their loved ones. One family who spoke to Amnesty International said they were kept out of the camp until they had bought five litres of petrol for the guards' lorry.

Further money was reportedly extorted from relatives to free the men from administrative detention. The Kenesh detention centre is situated outside Osh city, and so relatives were asked to pay money to the Osh regional authorities to secure their release. They were then asked to pay money to the Osh city authorities to prevent their re-arrest. Family members told Amnesty International they were asked to pay 5,000 Kyrgyz SOM (\$125) to each authority. Relatives who could not afford to pay the full sum lived in fear that the men would be re-arrested. Additionally, Uzbekistan is said to be offering a \$1,000 reward for the capture of any of the Kyrgyzstani citizens on its "wanted list." The sum is also payable to members of the law enforcement agencies.

Amnesty International is concerned that the authorities of Kyrgyzstan failed to provide these citizens with protection, and there is evidence in some cases that they have fully assisted the government of Uzbekistan in pursuing them.

In June the Uzbekistan MVD published a list of suspected criminals it wanted to question in connection with the events in Andizhan, which was distributed to serving police officers of the Kyrgyzstan MVD. A copy is in Amnesty International's possession. Amongst other individuals, it contains the photographs, names and addresses of 37 citizens of

¹¹ These would include protection from *refoulement*, which is an obligation of their government towards them, and the right under international human rights law as citizens to be free from torture, arbitrary detention, procedural unfairness etc.

Kyrgyzstan. Amnesty International learned in July from a source in the Osh City Department of Internal Affairs that the Andizhan prosecutor's office had extended its warrant to a further five men, totalling 42 in all. To avoid being seized and forcibly transferred to Uzbekistan, Kyrgyzstani citizens on the "wanted list" went into hiding through June and most of July.

On 26 July the Prosecutor of Osh told the newspaper *Vecherny Bishkek* (Evening Bishkek) that no Kyrgyzstani citizens on the "wanted list" would be handed over to Uzbekistan and that any prosecutions of them arising from the events in Andizhan would take place in Kyrgyzstan¹². Some of the men's families received similar assurances in the following days from the Osh Hokim (mayor) and the SNB. Several of the Kyrgyzstani citizens released from the Teshik Tosh camp are known to have come out of hiding at the end of July.

While investigating another case on 13 June 2005, Southern Region Ombudsman staff found two Kyrgyzstani men imprisoned in the Kenesh detention centre outside Osh on an arrest warrant sanctioned by the Prosecutor of Andizhan in Uzbekistan. The two men were on the "wanted" list. One of the men showed signs of having been severely beaten. He said that after he had asked for a lawyer he had been taken down into the basement of the detention centre and beaten by Uzbekistani officials who said they were from the Ministry of National Security (MNB).

The Ombudsman's staff sent a demarche to the City Prosecutor, asking why Kyrgyzstani citizens on the territory of Kyrgyzstan were detained on the writ of a prosecutor in Uzbekistan, and the men were released two days later. A third Kyrgyzstani citizen detained on the authority of the Andizhan prosecutor, however, was subsequently also discovered in the detention centre at Kenesh.

The relatives of four young men from Kyrgyzstan who went missing after the Andizhan events on 13 May told Amnesty International that they had asked the local authorities in Osh for information about their whereabouts. Two days later a car with Uzbekistani number plates drove up to their house after dark and well-built men who presented no identification papers, or legal warrant, asked them questions about every member of the household. The family concluded they were being interviewed by the Uzbekistani MNB.

On 13 July the Governor of Osh Region, Mr Anvar Artykov, told international news agencies that he was unaware of any activity by Uzbekistani law enforcement officials on the territory of Kyrgyzstan. An unofficial report given to Amnesty International by a usually reliable source suggested that the Uzbekistani MNB were occupying premises at the time within the building of the Osh regional prosecutor's office.

¹² The 1993 Minsk Convention provides for this. Article 57 (1) (a) and (c) states that extradition may be refused if the person to be extradited is a citizen of the requested Contracting Party, or if they were already tried in the requested Contracting party for the same crime.

Uzbekistani refugees wanted as criminal suspects

The first census of Teshik Tosh refugee camp inhabitants completed by the KMS Southern Region Department at the start of June 2005 listed 477 people. Another 11 refugees were receiving treatment in the Suzak District Hospital.

When Amnesty International delegates witnessed the transfer of the camp inhabitants to a new location at Besh-Kana on 4 June, 462 refugees were involved, including eight of the former patients in Suzak hospital. Three others remained in hospital. On 30 June, when Amnesty International published its report *Kyrgyzstan: Refugees in Need of a Safe Haven*, there were 461 people in the refugee camp at Besh-Kana and none in hospital.

Amnesty International's first report described the Uzbekistani government's systematic efforts to secure the return of the refugees to Uzbekistan through informal and formal pressure. The informal pressure included threats and financial inducements to relatives at home in Andizhan to go and plead for their return¹³; organized excursions for relatives to the Besh-Kana camp in the presence of Uzbekistani MNB officers; and clandestine visits by Uzbekistani MNB officers to individual refugees in the camp. Using formal inter-governmental channels, Uzbekistan also issued warrants for refugees to appear as witnesses to crimes, or as suspects in criminal activities and, in "direct violation" of the terms of an agreement with the UNHCR¹⁴, negotiated four cases of forcible return of asylum-seekers directly with the SNB in Kyrgyzstan.

Figure 1 summarizes Uzbekistan's attempts to seek the forcible return of Uzbekistani citizens from the camp at Besh-Kana. They involved a total of 369 men - almost the entire male population of the camp.

| Date | Names | Location on 1 August |
|--|---|--|
| 9 June: formal extradition request from the general prosecutor of Uzbekistan | 12 alleged former detainees of Andizhan prison | Osh Investigation and Isolation Prison (SIZO) in Kyrgyzstan |
| 9 June : forcible return without a formal extradition request | Four refugees who had reportedly given 'frank' accounts of the Andizhan events to journalists | Two were in Andizhan prison in Uzbekistan. One was reportedly receiving intensive care in a hospital in Andizhan and there were unconfirmed reports that one may have died as a result of the treatment he received in prison. |

¹³ An independent source inside Andizhan says that families were each offered \$100 by the Uzbek MNB to bring their relatives back from the camp

¹⁴ Kyrgyzstan: *Forcible return of four Uzbeks violates government agreement*, UNHCR Briefing Notes, 10 June 2005

| | | |
|-------------------------------------|--|--|
| 16 June: formal extradition request | 131 refugees reportedly “identified as direct participants of terrorism [in Andizhan]” | 17 of them were detained in Osh SIZO. The others had not been moved from the camp. |
| 25 July | 222 refugees reportedly “Identified as witnesses to criminal acts in Andizhan” | None were transferred into custody from the camp. |

Figure 1.

Amnesty International strongly opposed the involuntary return of any of these refugees to Uzbekistan, because of the risks facing them on arrival. These include grave human rights violations and flagrant denial of justice, including cruel, inhuman and degrading treatment, incommunicado detention, torture and other ill-treatment, and unfair trials. Some of the men may also risk being sentenced to death and executed after an unfair trial.

The organization received the following information about the refugees from Uzbekistan, who were removed from the camp at the request of their government:

The four who were forcibly returned to Uzbekistan on 9 June

Dilshod Gadzhiev, Tavakkal Gadzhiev, Muhammad Kadirov and Abdubais (Gasani) Shakirov were initially reported to have been held incommunicado in Andizhan prison following their forcible return from Kyrgyzstan on 9 June.

On 27 June the UN Assistant High Commissioner for Refugees, Kamel Morjane, stated that no international entities had been allowed access to the four.

In late July a well-informed source inside Andizhan told Amnesty International that, following alleged torture, Tavakkal Gadzhiev had been transferred from prison to intensive care in an Andizhan hospital. There were also unconfirmed reports that one of the four men may have died as a result of his treatment in prison, a claim the Uzbekistani general prosecutor’s office dismissed as “fabrication” in a press statement on 24 August.

On 12 August UNHCR spokeswoman Jennifer Pagonis said during a press conference that neither UNHCR nor any other organization or individual, had had access to the men since they were forcibly returned to Uzbekistan. The Uzbekistani authorities had refuted claims that the four men were refugees and told UNHCR in a letter, received in the week of 8 August, that the four men were “self-reported criminals” who had returned voluntarily and were now being held in a detention facility in Tashkent. UNHCR, had however, not been able to visit or talk to the men and as a result said that they remained extremely concerned about their well-being.

The 29 who were moved into custody in Osh SIZO on 9 and 16 June¹⁵

The Ministry of Justice of Kyrgyzstan has been responsible for access to these detainees, and has given it on a regular basis to UNHCR and the KMS. The conditions of the men in detention were described by a UNHCR official as being similar to those of other detainees in Osh SIZO: “no better and no worse”.

At the end of July the process of determining the possible refugee status of the 29 men was continuing, despite Uzbekistan’s outstanding requests to extradite them. Amnesty International was told that the KMS was carrying out the determination procedure, monitored by UNHCR which had the right to review all status determination decisions before they became public. Where the KMS and UNHCR failed to agree, it had been decided that the case would go to judicial appeal. Until this avenue had been exhausted the authorities in Kyrgyzstan undertook not to extradite any of the 29¹⁶.

On 26 July Amnesty International asked the Head of the KMS Southern Region Department about the procedures being used in the determination process. She said that each detainee had access to an independent lawyer and a professional independent interpreter, appointed by UNHCR. In case of judicial appeals, Kyrgyzstani judges had received intensive training in international refugee law the previous week. UNHCR confirmed that they had appointed independent lawyers from Bishkek to act for the 29 men, on a turn-about basis with UNHCR staff. However, independent professional interpretation had not been made available to the applicants - interpretation between Russian and Uzbek being provided on an ad hoc basis by the Head of the Southern Migration Service herself. Amnesty International is concerned that this might have compromised the fairness of the refugee status determination procedures. The organization is also concerned that one week of training may not be sufficient for judges to be fully conversant with international refugee law in order to guarantee an effective right to appeal for the asylum-seekers.

¹⁵ **They were the 12 transferred on an extradition request from 9 June** - 1. Shomsiddin Atamatov; 2. Musazhon Mirzaboev; 3. Odil Maskhadaliev ; 4. Tursun Nazarov; 5. Ortikboi Akbarov ; 6. Burkhoniddin Nudritdinov; 7. Farrukh Rashidov; 8. Nushonzhon Nechmatov; 9. Bakhtiar Mukhtarov; 10. Abdurakhmon Bodirov; 11. Abdushukur Alimov ; 12 Yakub Toshboev: **and the 17 taken into custody on the extradition request of 16 June** – 1. Zhakhongirbek Usmanov; 2. Rasulzhon Pirmatov; 3. Khasanzhon Elikaev; 4. Nyrilla Maksudov; 5 Maripzhon Mirzaev; 6. Inomzhon Pirmatov; 7. Nazimzhon Bakiev; 8. Zakhidzhan Mirzaev; 9. Kozimzhon Rakhmonov; 10. Ergash Ibrakhimov; 11. Akhmadullo Shakirov; 12. Saidaamirkhon Shokirov; 13. Khusan Salimakhunov; 14. Makhammad-Ali Kaimov; 15. Odilzhon Rakhimov; 16. Zhakhongir Maksudov; 17. Mamirzhon Mamadzhanov.

¹⁶ In accordance with Article 9 of the Republic of Kyrgyzstan Law on Refugees of March 2002 and Article 52 of the Directive on Working with Refugees in the Republic of Kyrgyzstan, adopted by the Kyrgyzstani government on 4 April 2003.

Neither independent legal representation, nor professional independent interpretation had been made available to the men in the Besh-Kana camp before they had been transferred to Osh SIZO as criminal suspects.

On 29 July, 14 of the 29 Uzbekistani detainees were among the refugees whom UNHCR airlifted out of Kyrgyzstan to Romania. Fifteen remained in the prison. Of these the KMS had determined that 11 were refugees and UNHCR submitted these individuals to third countries for resettlement.¹⁷

The status of the other four men remains disputed: UNHCR have recognized one of the four as a refugee and they are in the process of determining the refugee status of the other three men, whom the refugee agency considers asylum-seekers. The four men are: Yakub Toshboevich Toshboev, who was transferred from the camp on 9 June; and Rasulzhon Raimzhanovich Pirmatov, Odilzhon Mashrabzhanovich Rakhimov, and Zhakhongir Yuldashevich Maksudov, who were transferred to the prison on 16 June.

The Uzbekistani authorities have cited one of them in connection with a narcotics offence and three in connection with the violent death of the city prosecutor in Andizhan on 13 May. The KMS contested UNHCR's decision to recognize one as a refugee and initially excluded three of the men from seeking asylum. Lawyers acting on behalf of the four men started to challenge these decisions by the KMS through the courts at the beginning of August. On 18 August the Bishkek Inter-district court overruled the KMS and upheld the four men's appeals. Judge Jyrgalbek Nurunbetov was quoted in the press as explaining that his decision did not grant the men refugee status, but gave them the right to re-apply for asylum with the KMS. The KMS was granted four weeks to appeal against the court's decisions.

Other refugees airlifted to safety on 29 July

On 25 July the Head of the Osh-based KMS Southern Region Department told an Amnesty International delegate that the last determination of refugee status was being completed in the camp that day. According to her each camp member had had access to independent professional legal advice and interpretation. Unfortunately it was not possible to verify this account with the refugees themselves, because the camp was quarantined from 20 July - 10 August, allegedly in connection with four cases of dysentery. Another four people had been moved to the Suzak hospital on other grounds.

On 27 July at 7.00am an Amnesty International delegate witnessed the first of six chartered aeroplanes landing at Jalalabad airport and at 9.00am saw three busloads of male refugees being driven under a high security escort from Besh-Kana to Jalalabad airport. Others followed during the day, and included the eight people who had been in Suzak hospital. From Jalalabad they were flown to the Kyrgyzstan capital, Bishkek. After their departure 123

¹⁷ On 12 August UNHCR confirmed that 11 of the 15 had been accepted for resettlement by the Netherlands, Finland and Sweden. However, they remained in Osh SIZO as of 1 September.

refugees were reported to be left in the camp, including all the women and children – some 90 in all. They were flown out of Jalalabad to join the others in Bishkek on 28 July.

On 29 July 439 refugees were airlifted to Romania and settled at an EU Centre outside Timasoara. It was reported that they would be re-settled in other countries within the next six months. At the last minute in Bishkek, one refugee decided not to leave.

On 26 August the Uzbekistan general prosecutor's office issued a press statement accusing UNHCR of protecting "criminals and terrorists", alleging that among those refugees flown to Romania were terrorists who had resorted to force and that the airlift was against the Refugee Convention.

Refugees who fled from Andizhan by other routes since 13 May and are now believed to be hiding in Kyrgyzstan

In its first report Amnesty International registered its concern at the lack of access to asylum procedures for people who may have crossed the Uzbekistan border into Kyrgyzstan in search of international protection in other places and at other times since 13-14 May. Even in major population centres like the cities of Osh, Jalalabad and Bishkek, little or no information is readily accessible to them to explain the rights of an asylum-seeker, or how to lodge an asylum claim. Those arriving in smaller places face even greater difficulty in exercising their rights.

Because of the concealed nature of the problem, it is difficult to gauge the number of people it involves. Reports from individuals who have provided refugees with hiding space, however, as well as from human rights activists, news agencies, ombudsman offices, UNHCR and Amnesty International's firsthand interviews, suggest that the problem is growing and now concern both the southern border area and the north of Kyrgyzstan. Some refugees are also believed by local human rights groups currently to be concealed among summer seasonal labourers and tourists to Kyrgyzstan.

On 18 May Amnesty International reported that 15 Uzbekistani citizens had been refused entry to Kyrgyzstan and returned to Uzbekistan, where they were handed over to Uzbekistani MNB officers. The organization has not been able to establish since then if they were subsequently released or detained. On 25 May officials of the Kyrgyz Border Guards reported they had returned another 86 refugees to Uzbekistan, allegedly on grounds of overcrowding and poor sanitation at the first camp. In June, Amnesty International representatives interviewed Uzbekistani nationals who had tried to join the first camp but were now in hiding after having been turned away by Kyrgyzstani MVD officials. On 13 July the Russian News Agency *Interfax* quoted the Jalalabad-based human rights organization "Justice" as saying that as many as 1,000 refugees from Andizhan could be hiding in Kyrgyzstan. Human rights groups questioned by Amnesty International in Osh towards the end of July agreed with this order of magnitude. The Ombudsman's Southern Region representative reported that he knew of cases in the capital, Bishkek.

According to the information that is so far available to Amnesty International, the ‘hidden’ refugees include people who were wounded in Andizhan on 13 May; people who had otherwise participated in the demonstrations or witnessed them; people who had been pressured in Andizhan because family members were unaccounted for since the 13 May events; people who had reported on the events to the media or human rights groups; people with a history of imprisonment on religious grounds, who were being harassed by association after 13 May; and people with relatives in Kyrgyzstan.

All of those interviewed by Amnesty International had been afraid to approach authorities in Kyrgyzstan for fear of being detained and returned to Uzbekistan, where they anticipated they would be tortured or otherwise ill-treated. Some said they had experienced violence and threats from Uzbekistani law enforcement officers before they fled. Most were hiding in Kyrgyzstan without any proper registration. This made them vulnerable to random police checks and also meant that without registration they were unable to settle their residence problems and could not access adequate housing and healthcare.

Effective opportunities for asylum-seekers to legalize their presence in Kyrgyzstan do not exist at present. Until July they were formally entitled to register an asylum claim at the KMS Department in Osh and at the Osh office of UNHCR. Claims had to be registered at both organizations jointly and several applicants told Amnesty International that they had been bounced between offices without succeeding in registering a claim. Since July UNHCR in Osh has registered asylum claims independently, without requiring the applicant also to register their details with the KMS, which has solved the technical problem for applicants, but which UNHCR does not consider to be “effective protection”.

On 3 August UNHCR stated that they had registered the asylum applications of three refugees who had been in hiding in Kyrgyzstan since they fled Andizhan. On 23 August, the KMS announced that another three refugees had applied for asylum. They had also been hiding in Kyrgyzstan.

Given the political dynamics of the situation, the question of ensuring the security of the Uzbekistani refugees in Kyrgyzstan remains a high priority and needs to be addressed. UNHCR officials in Osh told Amnesty International that the protection they could offer to the refugees extended only as far as registering claims for asylum and arranging for limited medical assistance. The authorities in Kyrgyzstan are effectively not in a position to provide refugees physical protection from the Uzbekistani government forces they were fleeing, including protection from forcible return to Uzbekistan. This was also the widely-held belief of refugees in hiding with whom Amnesty International spoke. A number of specific cases bore out these fears.

In late June Bakhodir Sadikov, a refugee from Uzbekistan, hiding in Osh region, went to register his asylum claim at the UNHCR office with another refugee from Andizhan and four local human rights activists. He left the office by 10.00am. His photograph is on the list

of criminal suspects wanted by the authorities in Uzbekistan and distributed to police in Kyrgyzstan and on his way from the office he was detained by Shakir Izrunov, the Head of No 9 Division of the Osh City Department of Internal Affairs, for having no registration papers. Two days later he was known to be in a transit prison with another Uzbekistani refugee, Hadir Ulmas, who had been hiding in Osh. Local human rights groups believe that both men are now back in Uzbekistan.

In a mountain village north of Jalalabad three unnamed Uzbekistani refugees from Andizhan hid with a family for one week in June. Amnesty International spoke to the family members, who hid them, in July. They said that at 4.00am one morning a white four-wheel-drive Niva car and a small van, both with Osh number plates, had arrived at their door. Well-built men got out, and without presenting any identification papers or legal warrant, began to question the owners of the house, threatening to send the man to Tashkent, the capital of Uzbekistan. His wife feared he would be arrested and told the men where their guests were hiding. The men arrested the refugees and drove them away. The villagers who spoke to Amnesty International believed the men were from the Uzbekistani MNB. In early July they had demonstrated outside the local SNB office, to protest its failure to protect them from Uzbekistani state security forces.

The situation of refugees from Andizhan hiding in Kyrgyzstan requires a long-term solution on the part of the government of Kyrgyzstan. Since the refugee crisis arose in early May, Kyrgyzstan has given several mixed signals about its responsibilities under refugee law. Amnesty International welcomes its decision to honour these obligations in the airlifting of 439 refugees to safety in Romania. Amnesty International urges the government in Kyrgyzstan, with the help of the international community, to ensure that all persons are able to enjoy effective access to their right to seek and to enjoy asylum from persecution, including through being granted access to fair and satisfactory asylum determination procedures in accordance with international standards, and that no one is subject to forcible return to a situation where they would be at risk of torture or other serious human rights violations.

Recommendations:

Amnesty International is calling on the authorities of Uzbekistan:

- to allow the Office of the UN Human Rights Commissioner and the International Committee of the Red Cross immediate access to the men who were transferred from Besh-Kana to Andizhan prison on 9 June;
- To allow UNHCR immediate, unfettered access to the men, in line with their mandate responsibility, in order to monitor their well-being in accordance with international standards;
- to set up an independent international inquiry to investigate the contested allegations arising from the events in Andizhan on 13 May, and to bring those responsible for human rights abuses to account in fair trial proceedings.

Amnesty International is calling on the authorities of Kyrgyzstan:

- to protect citizens of Kyrgyzstan from arbitrary arrest in Kyrgyzstan by foreign law enforcement officers, in line with Article 2 (3b), and Article 9 (1) (3) and (4) of the ICCPR. To ensure review by a judicial agency of all administrative or criminal detentions within 48 hours;
- to ensure that criminal charges against any citizens of Kyrgyzstan arising from the events in Andizhan be prosecuted and tried by authorities in Kyrgyzstan as provided for in Article 57 of the 1993 Minsk Convention;
- to ensure that no one, including Kyrgyzstani citizens and Uzbekistani refugees and asylum-seekers, is extradited or forcibly returned to Uzbekistan, where they are at risk of torture and other serious human rights violations as required by Kyrgyzstan's obligations under international human rights and refugee law;
- to regularize the position of all asylum-seekers and refugees currently hiding in Kyrgyzstan. With the help of the international community, to take immediate steps to implement provisions of the 202 Law on Refugees (Articles 16 and 17), and the 2003 Government Regulations on Working with Refugees in Kyrgyzstan (Article 6-46) – particularly with regard to provision of information; processing of claims; access to services; confidentiality of asylum information and protection from the pursuing state authorities;
- to ensure that all refugees have access to an adequate standard of living, including healthcare and adequate housing. To investigate the possibility of introducing UNHCR refugee certificates as a means of accessing social services, currently dependent on municipal registration. To consider the possibility of introducing limited 'safe housing' for refugees arriving from Andizhan since the closure of the camp in Besh-Kana.

Amnesty International is calling on UNHCR:

- to increase its presence in Kyrgyzstan, with a view to addressing the problem of ‘hidden’ refugees, including through providing documentation to these refugees and intervening with the authorities to ensure that no refugee is subject to *refoulement*;
- to consider increasing its Uzbek and Kyrgyz-language materials for refugees and asylum-seekers, and to develop more partnerships with local NGOs.