
To:

President of the European Council, Charles Michel
EU High Representative for Foreign Affairs and Security Policy, Josep Borrell
EU Trade Commissioner, Valdis Dombrovskis
Members of the Working Party on Eastern Europe and Central Asia (COEST) of the EU Foreign Affairs Council
Permanent Representations of Member States to the EU
Foreign Ministries of EU Member States
Members of the European Parliament

Copy:

EU Special Representative for Central Asia, Terhi Hakala
Delegation of the EU to the Kyrgyz Republic

Brussels, 13 February 2024

Re: The need for reinforced, resolute EU action to support Kyrgyzstan's civil society as the draft law on "foreign representatives" is close to adoption

Dear EU Representatives, Institutions and Member States,

We are writing to you on behalf of a coalition of eight international human rights organisations regarding the unprecedented threats currently facing civil society in Kyrgyzstan. The Russia-inspired draft law on "foreign representatives", which is scheduled for second reading in parliament on 14 February 2024, would have potentially disastrous implications for the country's vibrant civil society, including human rights groups, independent media organisations and other non-profit organisations. As Kyrgyzstani decision-makers appear determined to go ahead with this flawed and dangerous legislative initiative, civil society in the country is counting on the international community to demonstrate determined support.

Given the EU's commitment to promoting human rights, the rule of law, and civil society development in Kyrgyzstan, its support is particularly important. Therefore, while welcoming the EU's active stance on the draft law on "foreign representatives" and the concerns it has voiced both [publicly](#) and non-publicly, we urge you to further step up action and take all possible measures to help prevent the final approval and enforcement of the draft law. In our view, the future of civil society in Kyrgyzstan is at stake as well as the

credibility of the EU's value-based partnership with the country, at a time of [deepening ties](#) between the EU and Central Asia. The adoption of this draft law is also likely to have repercussions on the situation of civil society in other Central Asia countries, rendering it a matter of regional significance.

The draft law on "foreign representatives", which was first [initiated](#) in November 2022 and largely draws on corresponding Russian legislation, has advanced in parliament despite strong criticism from civil society, international experts, and representatives of the international community. Passed by parliament at first reading on 25 October 2023, the draft law received approval by the parliament's Committee on Constitutional Legislation at a crucial hearing on 23 January 2024, paving the way for its final adoption by parliament. The draft law was scheduled to be considered by parliament on second reading on 7 February 2024. The reading was eventually postponed, and the draft law was [returned](#) to the committee for technical reasons. However, the second reading has now been rescheduled for 14 February 2024. If adopted by parliament on both second and third reading, the draft law will be sent to the president for signature.

The most recent version of the draft law, [published](#) on the parliamentary website ahead of the planned second reading, remains fundamentally repressive. Revisions made have failed to improve the draft law's restrictive nature. In accordance with the proposed wording, NGOs that receive any kind of support from foreign sources and engage in broadly defined political activities would have to register as "foreign representatives" – a highly stigmatising and discrediting label that implies that NGOs serve foreign interests and do not work to the benefit of their own target communities or country. Basic NGO activities, such as organising public debates, peaceful assemblies or other events; publishing appeals, legal opinions or comments on state policies; and conducting sociological research, opinion polls or public awareness-raising would be classified as political activities if they are construed as attempts to influence public decision-making, policies or opinion.

Those registered as "foreign representatives" would be included in a separate, public registry and would be required to use this negative label in any material that they produce and disseminate. Groups that fail to register would be liable to sanctions: the Ministry of Justice could suspend their activities for up to six months without court approval and, after that, ask a court to shut down the organisation.

Under the law, authorities would also be given broad powers to oversee the activities of NGOs, including by accessing their internal documents, attending any of their events, and conducting intrusive inspections to check their compliance with their own statutes and their use of funds and resources. In addition, the law would introduce new criminal code provisions under which NGO representatives could be sentenced to up to five years in prison if found guilty of conducting activities that cause significant harm to citizens' rights, society, or to the state, or that induce citizens to refuse to perform civic or official duties. These vaguely worded provisions, which violate the principle of legal certainty, could be used arbitrarily and selectively against representatives of NGOs that the authorities perceive as inconvenient, for example, because they expose corruption or misconduct of public officials, demand transparency of government spending, or encourage citizens to stand up against government initiatives that run counter to international human rights standards.

If finally approved, the new law would enter into force very rapidly: 10 days after its official publication, with the government having only one month to elaborate implementing procedures. These procedures could be developed without any public consultation.

Both national and international human rights experts and bodies have concluded that the draft law flies in the face of Kyrgyzstan's international human rights obligations. In a [joint letter](#) sent to Kyrgyzstan's government in October 2023, three UN Special Rapporteurs stated that the draft law unduly impedes the right of NGOs to seek, receive and use funding for their work, which is an integral part of the freedom of association and essential to their existence and operations. The experts also criticised the fact that the draft law grants authorities excessively wide and unjustified powers to control, monitor, interfere with and suspend the activities of NGOs. A spokesperson of the High Commissioner for Human Rights [pointed out](#) that the new criminal offence introduced by the draft law is "ill-defined, broad and open to subjective interpretation" and "may result in the selective prosecution of legitimate human rights advocacy".

In [comments](#) published on 7 February 2024, the Director of the OSCE Office for Democratic Institutions and Human Rights (ODIHR) and the OSCE Representative on Freedom of the Media warned that the draft law would have "an overwhelmingly negative impact on civil society, human rights defenders, and the media" in Kyrgyzstan and introduce "nearly total government control over the right to free expression of civil society and media actors". In an earlier [opinion](#) prepared at the request of Kyrgyzstan's Ombudsperson, ODIHR found that the proposed provisions are incompatible with the right to freedom of association, amongst others, because they grant authorities "unfettered discretion" to apply the "foreign representative" label and could be used to stigmatise, intimidate and harass organisations carrying out legitimate work. The opinion also referred to [case law](#) from the European Court of Human Rights deeming "foreign agent" style legislation inconsistent with the right to freedom of association.

While the initiators of the draft law on "foreign representatives" have claimed that it is aimed at ensuring the transparency of NGOs, this is not a legitimate reason under international human rights law for imposing excessive restrictions on them. It is also clear that this is not the draft law's true objective. Under existing legislation, all NGOs, including foreign-funded ones, are already subjected to extensive state oversight and regularly report about their activities and finances to different state bodies. Amendments to the Law on Non-commercial Organisations adopted in 2021 oblige NGOs to annually provide detailed information on their sources of funding, use of funds and assets for publication on the Tax Service website. This information is thus already publicly accessible.

Instead, the draft law on "foreign representatives" appears to have been designed primarily as a tool of pressure against groups that scrutinise, criticise and advocate for improvements in state policies and legislation, to the detriment of the entire civil society sector. Proponents of the law have carried out organised smear campaigns against human rights defenders, independent journalists and other civil society representatives, portraying them as threats to national security and accusing them of propagating values that allegedly are "alien" to national traditions and mentality. Government officials, including President Sadyr Japarov have also disparagingly [referred to](#) foreign-funded NGOs as "grant eaters" and accused them of sharing "unreliable" information about the situation in the country with donors.

However, by pursuing the draft law on "foreign representatives", the authorities are doing a disservice to citizens. Rather than increasing the transparency of NGOs, the draft law will undermine civil society's

crucial role not only in assisting public bodies with the provision of support to vulnerable groups of the population, but also in promoting public sector transparency and accountability. Watchdogs have already [warned](#) of a significant decline in government transparency in Kyrgyzstan, preventing the exposure of wrongdoing and increasing the risk of corruption. This negatively affects investments, including foreign investments as well as economic growth and well-being in the country.

The draft law fits into a [broader, alarming pattern](#) in which the Kyrgyzstani authorities have stepped-up efforts to suppress free speech, access to information and civic engagement, including through other restrictive legislative initiatives targeted at NGOs and media, [raids and pressure](#) against independent media outlets, as well as arbitrary arrests and criminal prosecution of outspoken journalists, bloggers and activists. Last week's court decision to [shut down](#) the independent Kloop media organisation, the ongoing criminal [investigation](#) against the 24.kg news site whose office has been sealed, and the recent [arrest](#) of 11 current and former staff of Temirov Live - known for its exposure of high-level corruption - are of particular concern. A draft media law, also under consideration in parliament, would [significantly expand](#) government control over the media and make it difficult for independent outlets to operate in the country.

In this context, the draft law on "foreign representatives" has caused widespread anxiety among civil society groups in Kyrgyzstan, who are left pondering what the future holds should the law enter into force – which could occur as early as this spring. Hundreds, if not thousands of groups that receive any kind of foreign funding and engage in legitimate and important activities aimed at promoting public dialogue around and improvements in national legislation, policies and protection mechanisms will have to decide whether to register as "foreign representatives" and be subjected to stigmatising and excessive state control, refuse to do so and risk suspension and eventual liquidation, or pre-emptively close down their operations.

The Russian Federation, where a law on "foreign agents" was first adopted in 2012 and the scope of the law has been repeatedly extended, provides a harrowing example of the crippling impact of this type of legislation on civil society. The Russian authorities have systematically used the "foreign agent" legislation to discredit, harass and silence NGOs, with hundreds of groups and activists working on human rights, the environment, election monitoring, anti-corruption and other important issues [having been designated](#) "foreign agents" as part of an ever-widening crackdown, which has [resulted in the destruction](#) of the country's civil society.

Therefore, at this critical juncture, when the draft law on "foreign representatives" is close to final approval, we appeal to EU officials, institutions and member states to stand up for Kyrgyzstan's civil society and take all possible measures to prevent Kyrgyzstan from following the same tragic path as Russia. We urge you to remind Kyrgyzstan's government that human rights issues are [matters of direct and legitimate international concern](#) and to use available means of leverage to reinforce your message on the draft law on "foreign representatives", as well as the wider campaign against independent civil society and media actors in Kyrgyzstan (as described above). In particular, we urge you to consider the following steps:

- **Suspending Kyrgyzstan's trade preferences under the EU's Generalised Scheme of Preferences Plus (GSP+), which allows it to pay zero custom duties on most products exported to the EU in return for the ratification and effective implementation of [27](#)**

international human rights conventions. The European Commission's recent [GSP+ monitoring report](#) on Kyrgyzstan highlighted shrinking space for civil society as a key area of concern and called for measures to reverse this negative trend in the light of the country's obligations under the International Covenant on Civil and Political Rights (ICCPR). However, the EU should not stop here but clearly convey to Kyrgyzstan's government that a failure to prevent further damage to civil society space, in particular through the adoption and implementation of the draft law on "foreign representatives" could result in the re-assessment and suspension of the country's GSP+ benefits. As the draft law falls far short of ICCPR standards (including articles 22, 21, 19, 25 and 26, which protect the freedoms of association, assembly and expression, the right to take part in public affairs and the right to non-discrimination), such a move would be both appropriate and justified and would demonstrate to Kyrgyzstan's government that non-compliance with its GSP+ obligations comes at a price, in accordance with the recommendations made in the European Parliament [resolution](#) on Kyrgyzstan adopted in July 2023.

- **Postponing the signing and ratification of the EU-Kyrgyzstan Enhanced Partnership and Cooperation Agreement (EPCA), which would replace the Partnership and Cooperation Agreement currently in place and significantly deepen political and economic ties between the two sides.** Initialled in 2019, the EPCA is [expected to be signed soon](#), after which it could be provisionally applied even before final ratification. Given the EPCA's strong emphasis on shared values, democracy, the rule of law, and human rights, moving ahead with the signing and eventual ratification of this agreement at a time when a repressive draft NGO law is being pushed through and a widening crackdown on the country's civil society is looming would send a completely misleading signal to Kyrgyzstan's government.
- **Taking other concrete measures to demonstrate that "business as usual" cannot continue if the draft law on "foreign representatives" is pushed through, and the current campaign against independent civil society and media continues.** Such measures could include putting a hold on planned joint events and initiatives with the government, freezing financial allocations committed to supporting government programmes, and suspending the issuance of Schengen visas to decision-makers who have been involved in elaborating and supporting the draft law, as previously [called for](#) by local civil society representatives. While acknowledging that EU cooperation with Kyrgyzstan is multi-faceted and serves different purposes, we believe that it is crucial that the EU ensures that human rights issues are put at the centre of all its engagement with the government and that the EU makes it clear that pursuing initiatives such as the law on "foreign representatives" is at odds with its fundamental values and the priorities for its partnership with Kyrgyzstan and will have real, negative consequences for mutual relations. As you know, the EU's [Central Asia Strategy](#) sets out that the EU will promote human rights, with a particular focus on ensuring freedom of association and "an enabling legal and political environment for civil society" as a key condition for sustainable development in Kyrgyzstan and the other countries of the region.

We thank you for your attention to the points outlined in this letter.

Sincerely,

International Partnership for Human Rights (IPHR, Belgium)

Norwegian Helsinki Committee

Civil Rights Defenders (Sweden)

People in Need (Czech Republic)

Helsinki Foundation for Human Rights (Poland)

Front Line Defenders (Ireland)

International Federation for Human Rights (FIDH), within the framework of the Observatory for the Protection of Human Rights Defenders

World Organisation Against Torture (OMCT), within the framework of the Observatory for the Protection of Human Rights Defenders