
Kyrgyzstan: Reject repressive Russian-style draft law on non-profit organisations

12 June 2023

We, the undersigned human rights groups, call on the members of parliament in Kyrgyzstan to reject the dangerous and ill-conceived draft law on non-commercial organisations, which is currently under consideration in parliament. This draft law, which draws heavily on corresponding Russian legislation and is primarily aimed at stigmatising and restricting the activities of foreign-funded organisations, poses a direct and serious threat to Kyrgyzstan's vibrant civil society, in particular human rights defenders and their organisations. If adopted, the draft law risks reversing previous achievements with respect to civil society development in the country and eroding the crucial role played by nongovernmental groups in promoting human rights, assisting those in need and implementing other activities in support of the public good. We urge Kyrgyzstan's international partners to speak out against this repressive legislative initiative, making it clear that its adoption would be at odds with Kyrgyzstan's international human rights commitments and would negatively affect mutual cooperation and assistance programmes.

A set of amendments to existing legislation regulating non-commercial organisations was [officially submitted](#) to Kyrgyzstan's parliament by a group of 33 members of the law-making body on 19 May 2023. This legislative initiative is an updated version of a draft law first put forward by one of the parliamentary deputies in November 2022. Most of the proposed provisions are identical to those of the draft "foreign agents" law, which was [initiated](#) by members of Kyrgyzstan's parliament in 2013, but eventually voted down by the law-making body in 2016. This time, however, given the wide support for the re-initiated draft law in parliament, civil society representatives fear that there is a serious risk that it will be adopted, possibly even through an expedited procedure. The consideration of the draft law has already begun in parliament and it might be voted on already this month. The law will enter into force if passed by parliament in three readings and thereafter signed by the president.

While the current draft law does not use the term "foreign agents", it proposes introducing another stigmatising label for non-profit groups that receive financial assistance from foreign governments, international and foreign organisations, foreign citizens or other foreign sources. Should the draft law be passed, such groups would be required to register as "performing the function of a foreign representative" if they are considered to engage in "political activities", a term that is broadly defined as including activities to "influence decision-making of state bodies" with the aim of "changing public policies pursued by these

bodies”, as well as activities to “shape public opinion” for similar purposes. If a group fails to register, the Ministry of Justice could suspend its activities for up to six months without a court decision.

At the same time, the draft law introduces new burdensome reporting obligations for organisations registered as “foreign representatives” and allows the Ministry of Justice to conduct both planned and unplanned inspections of their activities, e.g., on the basis of unspecified information indicating that they have violated national legislation.

If adopted, the draft law would enable the authorities to arbitrarily discredit and obstruct the work of foreign-funded civil society organisations. Because of the vague and ambiguous language used, virtually any activities carried out by human rights organisations and other nongovernmental groups could be construed as “political activities”. For example, civil society initiatives to promote awareness on issues of public interest, advocate for improved protection of the rights of vulnerable groups of the population or demand action to address social or environmental problems could be deemed to fall within the scope of the law. As a result, hundreds of human rights organisations and other groups could be faced with the difficult choice of either having to register as “foreign representatives” or ceasing their operations to avoid the restrictions and reputational damage that this status would entail.

We are concerned that the draft law is based on the faulty premise that human rights and other nonprofit groups seeking to influence public decision-making and public opinion on issues of concern to them and their target communities are engaged in undesirable “political meddling”. In reality, such activities are a core function of civil society organisations. It is also disturbing that the draft law equates the receipt of foreign funding with representing foreign interests and treats foreign funding of non-profit organisations as a potential security threat for this reason. This is a serious misperception. Human rights and other nongovernmental organisations make independent decisions about their operations, irrespective of their sources of funding, and carry out activities based on the needs of their target communities.

The ability to seek and receive resources from both domestic and foreign sources is an integral and vital part of the right to freedom of association, [as emphasised](#) by the United Nations Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association. Currently most human rights and other nongovernmental groups in Kyrgyzstan depend on foreign funding due to the lack of national funding opportunities. All nonprofit organisations, including foreign-funded ones are already subjected to extensive state oversight and regularly report about their activities and finances to different state bodies. As pointed out by civil society representatives state bodies and commercial organisations are also large recipients of foreign assistance in Kyrgyzstan - a fact not considered problematic by decision-makers.

As the draft law is largely copied from the original 2012 Russian “foreign agents” law, law-makers should take note of developments in Russia in the past decade, which provide an alarming example of the devastating impact of this type of legislation. Since that law was first adopted, the Russian authorities have systematically used it to discredit, harass and silence nongovernmental groups as part of an ever-widening crackdown on civil society in which hundreds of human rights and other groups have been designated as “foreign agents” and dozens have been forced to close down. The Russian law has been gradually [expanded](#) to apply not only to nongovernmental organisations, but also to media, and individual human rights defenders, lawyers and journalists accused of carrying out “political activities” with foreign funding, thereby rendering it a tool for suppressing any public criticism of state policies and social problems.

In addition to creating a stigmatising regime for controlling foreign-funded organisations, the draft law now under consideration in Kyrgyzstan also provides for excessive, unjustified and discriminatory restrictions

on the operation of all non-profit organisations. In particular, the draft law grants the Ministry of Justice broad powers to oversee and interfere in the activities of non-profit groups by requesting access to their internal documents, sending representatives to attend their internal events and assessing whether they comply with their own statutes. The Ministry would be able to issue written warnings to non-profit organisations, ordering them to rectify alleged violations and to de-register branches of foreign non-profit organisations, which are deemed to have failed to provide required information in a timely manner or to have acted contrary to stated objectives.

The draft law also foresees criminal liability for establishing, leading and participating in a non-commercial organisation whose activities are considered to “harm the health of citizens” or to “impel citizens to refuse to fulfil civic obligations or to commit other unlawful acts.” The penalties for these vaguely worded offences would include large fines or imprisonment for up to ten years – an even stiffer penalty than the one foreseen in the article of the Russian Criminal Code on which these provisions are based.

The draft law falls seriously short of Kyrgyzstan’s international human rights obligations, in particular the International Covenant on Civil and Political Rights (ICCPR), article 22 of which protects the right to freedom of association. Several independent legal analyses of the draft law carried out by civil society organisations such as the [International Center for Not-for-Profit Law \(ICNL\)](#), [Adilet Legal Clinic](#) and [Bir Duino Human Rights Movement](#) have highlighted the inconsistency of the draft law with applicable human rights standards. In an interim [opinion](#) published in December 2022, the Office for Democratic Institutions and Human Rights (ODIHR) of the Organisation for Security and Cooperation in Europe (OSCE) concluded that the provisions of the draft law (which at that time had been submitted for public discussion by one member of parliament) do not comply with the right to freedom of association. In particular, ODIHR stressed that the definition of “foreign representatives” set out in the draft law does not meet requirements of legal certainty and foreseeability and would allow unfettered discretion on the part of the implementing authorities. ODIHR also warned that the law could potentially not only stigmatise but also trigger mistrust, fear and hostility against civil society organisations.

When reviewing Kyrgyzstan’s compliance with the ICCPR in October 2022, the UN Human Rights Committee [criticised](#) the earlier attempts of members of parliament to adopt “foreign agents” style legislation and called on the authorities to ensure that legislation governing nongovernmental groups “does not lead in practice to undue control over or interference in the activities of NGOs”. As a state party to the ICCPR, Kyrgyzstan is obliged to comply with the covenant and implement the recommendations of the Human Rights Committee. In addition, Kyrgyzstan is [required](#) to effectively implement its commitments under the ICCPR as a beneficiary of the Generalised Scheme of Preferences Plus (GSP+), under which it enjoys generous trade preferences with the EU.

The draft law further contradicts [pledges](#) made by the government of Kyrgyzstan prior to its election as a member of the UN Human Rights Council for the period 2023-2025. As part of its membership bid, the government specifically undertook to enhance the capacity of civil society in the country.

Our concerns about the draft law initiated by members of parliament are reinforced by the fact that it comes in the context of a [worsening climate](#) for free speech and civic engagement in Kyrgyzstan. Recent months have seen several other legislative initiatives aimed at restricting the exercise of fundamental freedoms and stepping up control over civil society, including [another draft law](#) on non-commercial organisations elaborated by the presidential administration in autumn 2022. Following widespread criticism, that draft law is now being revised by a working group including both government and civil

society representatives but we fear that it could also still result in excessive restrictions on the right to freedom of association.

Against this background, we call on the authorities of Kyrgyzstan to ensure that any legislative initiatives affecting human rights and other non-profit organisations fully correspond to international standards and are elaborated in close consultation with civil society representatives and international experts. The draft law on non-commercial organisations registered in parliament on 19 May 2023 has no place in a country aspiring to be part of the democratic community and must be scrapped in its current format. We welcome the fact that several members of parliament who were among the initiators of the draft law have now **withdrawn their support for it and urge others to follow suit. The European Union, its member states, the European Free Trade Association (EFTA) countries and other international partners of Kyrgyzstan should use all available avenues to voice concerns about the flawed draft law and to insist that the authorities of the country allow human rights defenders and their organisations, as well as other nongovernmental groups to carry out their legitimate and important work without undue interference or harassment.**

The appeal is signed by:

International Partnership for Human Rights (IPHR)

Norwegian Helsinki Committee

Helsinki Foundation for Human Rights

Front Line Defenders

Freedom Now

Human Rights Watch

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