

## Open letter

To the President of the Kyrgyz Republic, Sadyr Japarov

20 March 2024

### Re: A call from civil society organisations to veto the draft law on “foreign representatives”

Dear President Japarov,

**We are writing to you on behalf of the undersigned civil society organisations from different countries to express support for Kyrgyzstan’s civil society and urge you to veto the amendments to the Law on Non-commercial Organisations, known as the law on “foreign representatives”, which parliament [adopted](#) on third reading on 14 March 2024. The proposed amendments fall seriously short of Kyrgyzstan’s international human rights obligations and risk delivering a devastating blow to its vibrant civil society. The amendments will impair civil society’s ability to carry out its important and legitimate work to the benefit of the people of Kyrgyzstan, and to promote public participation, transparency, accountability and good governance, thereby eroding democratic and human rights progress made by Kyrgyzstan with negative implications for its international reputation. Further, the proposed amendments will endanger international development and economic assistance programmes in the country, which will also undermine prospects for the achievement of sustainable development goals contrary to your government’s ambitious agenda in this area. Thus, we urge you to veto the amendments for the benefit of Kyrgyzstan and its people.**

Both national and international human rights experts have concluded that the draft law on “foreign representatives” clearly violates Kyrgyzstan’s international human rights obligations. For example, such conclusions were presented in a [joint communication](#) addressed to your government by three UN Special Rapporteurs, appointed by the UN Human Rights Council, of which Kyrgyzstan currently is a member. The three rapporteurs stated that “many provisions in the proposed law would be contrary to the international human rights obligations of the Kyrgyz Republic, including the right to the freedom of association, the right to freedom of opinion and expression, the right to non-discrimination and the right to privacy. If passed, this draft law could have a chilling effect on the operation of all associations in the Kyrgyz Republic, limiting their ability to advocate for human rights, provide social services, and contribute to the development of a robust and inclusive society.”

In an earlier [legal assessment](#) prepared at the request of Kyrgyzstan’s Ombudsperson, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) found that the proposed provisions lack legitimate justification and do not meet the requirements of international human rights law for acceptable restrictions on the right to freedom of association. ODIHR also stressed that the key concepts of “foreign representatives” and “political activities” used in the draft law are inconsistent with the principle of legal certainty and predictability and “would allow unfettered discretion on the part of the implementing authorities”. ODIHR further found that the proposed provisions are contrary to the principle of non-discrimination and risk stigmatising organisations carrying out legitimate work and triggering mistrust, fear and hostility against them.

The draft law on “foreign representatives” does not only violate your country’s international obligations but also contradicts provisions of the Constitution of the Kyrgyz Republic (including articles 36, 32, 24 and 29), which protect the right to freedom of association and other fundamental rights. In this way, the draft law challenges the legitimacy of the current Constitution, which was initiated by you and endorsed by citizens in a national referendum in 2021.

The proponents of the draft law on “foreign representatives” have argued that it is aimed at ensuring the transparency of civil society organisations (CSOs). However, while transparency is an important issue, it is not a legitimate reason under international human rights law for imposing invasive, discriminatory, and stigmatising restrictions on CSOs. On the contrary, transparency can be ensured in ways which do not contradict international law nor hamper the work of CSOs. Moreover, all non-commercial organisations in Kyrgyzstan, including those which receive foreign funding, are already subjected to extensive state control and regularly report about their activities and finances to different state bodies, which ensures transparency of their work. In particular, amendments to the Law on Non-commercial Organisations, adopted in 2021, oblige non-commercial organisations to annually provide detailed information on their sources of funding, use of funds and assets for publication on the Tax Service’s website. This information is thus already publicly accessible.

Rather than increasing the transparency of non-commercial organisations, the draft law risks undermining civil society’s crucial role in assisting public bodies with the provision of support to vulnerable groups of the population, and also in promoting public sector transparency and accountability. Watchdog organisations have already [warned](#) of a significant decline in government transparency in Kyrgyzstan, preventing the exposure of wrongdoing and increasing the risk of corruption. This impairs foreign investments as well as economic growth and well-being in the country.

Kyrgyzstan’s international partners have warned that the adoption of the law on “foreign representatives” would negatively affect development assistance programmes in the country. For example, in a [joint statement](#) issued on 14 March 2024, the Delegation of the EU to the Kyrgyz Republic and the Embassies of Canada, France, Germany, the United Kingdom, and the United States stated that the proposed provisions would “jeopardize our ability to provide assistance that improves the lives of the citizens and residents of the Kyrgyz Republic”. They stated that, if signed in its current form, the law “has the potential to hurt the most vulnerable who rely on the essential services – such as food, healthcare, and education – that non-profits and NGOs provide.” The UN Resident Coordinator in the Kyrgyz Republic [pointed out](#) that enacting the law would threaten civil society engagement in development initiatives and the achievement of UN Sustainable Development Goals (SDGs). Thus, the law contradicts the government’s [aim of being among the top 30 countries](#) in the realisation of SDGs by 2030.

The [World Bank](#) and the [European Bank for Reconstruction and Development](#) have also stressed the importance that they attach to CSO engagement for the success of their in-country operations, when commenting on NGO concerns about the draft law’s potential impact on the activities of international financial institutions in Kyrgyzstan.

As you know, as a beneficiary of the General Scheme of Preferences Plus (GSP+), the Kyrgyz Republic is required to effectively implement [international human rights conventions](#), including the International Covenant on Civil and Political Rights (ICCPR) in return for trade benefits afforded by the EU. Thus, the adoption and enforcement of the law on “foreign representatives” is likely to negatively affect these benefits. The European Commission’s recent GSP+ [monitoring report](#) on the Kyrgyz Republic highlighted shrinking space for civil society as a key area of concern and called for swift measures to reverse this negative trend in the light of the country’s ICCPR obligations. Moreover, in its [resolution](#) adopted in July 2023, the European Parliament called for a reassessment of Kyrgyzstan’s GSP+ benefits in view of recent developments, in particular draft legislation which runs counter to the country’s international human rights obligations.

We are aware that proponents of the draft law on “foreign representatives” have argued that it is similar to the US Foreign Agent Registration Act (FARA). However, FARA differs from the proposed legislation in Kyrgyzstan in crucial respects. In particular, FARA is not targeted at non-commercial

organisations which receive foreign funding. Instead, FARA **requires** persons who conduct certain activities “at the order” or “under the direction or control” of a foreign government or other foreign entity to register as an “agent of a foreign principal” and periodically file supplementary information about their activities in this capacity. The purpose of FARA is to **ensure** the public disclosure of such information rather than to subject those registered under it to ongoing, invasive state control.

**President Japarov, when you consider whether or not to sign the draft law on “foreign representatives”, you are deciding the fate of civil society in Kyrgyzstan. Will you opt for the path taken by authoritarian countries, where similar legislation has been used in campaigns to systematically dismantle independent civil society, with negative implications for the reputation, prosperity and well-being of these countries. Or for a more forward-looking, inclusive, and democratically oriented approach under which CSOs are treated as important, respected partners, who can work together with state bodies in addressing societal problems, and international partners retain their confidence in Kyrgyzstan’s commitment to sustainable development?**

**For the reasons outlined above, we urge you to refrain from signing the draft law on “foreign representatives” and ensure that any new legislation impacting non-commercial organisations reflects Kyrgyzstan's international human rights obligations and undergoes thorough and inclusive consultations with civil society, as well as national and international experts. When elaborating this type of legislation, it is crucial to take the opinions of CSOs directly affected by it into account.**

We thank you for your attention to the issues raised in this letter.

Sincerely,

**Signed by the following organisations (listed in the order of signature):**

International Partnership for Human Rights (IPHR), Belgium  
IDP Women Association Consent, Georgia  
Norwegian Helsinki Committee  
Hungarian Helsinki Committee, Hungary  
Legal Policy Research Centre, Kazakhstan  
Public Association “Dignity”, Kazakhstan  
Netherlands Helsinki Committee  
Civil Rights Defenders, Sweden  
Protection of Rights without Borders NGO, Armenia  
Swedish OSCE-network  
Helsinki Citizens' Assembly - Vanadzor, Armenia  
Center for Civil Liberties, Ukraine  
Public Verdict, Russia  
Turkmen Helsinki Foundation, Bulgaria  
Crude Accountability, USA  
Freedom Files, Poland  
Human Rights Center “Viasna”, Belarus  
Center for Participation and Development, Georgia  
Human Rights Defence Center Memorial, Russia  
Civic Assistance Committee, Russia  
Austrian Helsinki Association  
Bulgarian Helsinki Committee  
Human Rights Center (HRC), Georgia  
Macedonian Helsinki Committee

Sova Research Center, Russia

Promo LEX Association, Moldova

Helsinki Foundation for Human Rights, Poland

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FIDH (International Federation for Human Rights), 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

Amnesty International