

Ten Years in Prison for Working For a Non-profit: Proposed Kyrgyzstani “Foreign Representatives” Bill Encourages Persecution and Intimidation

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The Kyrgyzstani Parliament moves to adopt a law on “foreign representatives”. This bill targets non-profit organisations, and poses a serious threat to democracy and human rights in Kyrgyzstan. TGEU is concerned about the safety, health, and rights of LGBTI human rights defenders. We call on all stakeholders to take a clear public stance against this law draft and support LGBTI organisations and activists at risk.

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Introduction

On 25 October 2023, the Kyrgyzstani Parliament **approved the first reading of the draft law on “foreign representatives”¹** without debate. The bill will become law if it is approved in two more parliamentary readings and signed by the president. These readings can be one to two months apart. The draft law would label non-profits that

¹http://kenesh.kg/ru/draftlaw/634426/show?fbclid=PAAaZK8dz79rpfaCbjQbw1YcS-6y-fn2WD54wN2M_m1tLx7Rt63abALAWC5KM

receive funding from abroad and carry out political activities as “foreign representatives”. “Political activity” is defined as actions aiming to influence state decisions, to change state policies, or to form public opinion for these purposes.

Submitted under the leadership of MP Nadira Narmatova, the draft law imposes new burdensome requirements on all non-profits.

- It requires organisations that receive foreign funding to undergo humiliating special registration as “foreign representatives”.
 - The Ministry of Justice will have the right to interfere in their internal affairs.
- It introduces a new concept into the Criminal Code: “establishing a non-profit organisation that infringes on the personality and rights of citizens” (article 200-1). For “infringement on the personality and rights of citizens”, an unclear description is given as “activities related to violence against citizens ... or to inducing citizens to refuse to fulfil civil duties or to commit other unlawful acts”.

This is punishable by:

- a fine of 50,000 - 100,000 soms (approximately 500 - 1,000 EUR) or up to five years in prison.
- “active participation in the activities of such an organisation or its propaganda” would be **punishable by up to 10 years in prison**. This is approximately the same number of years you can get for murder in Kyrgyzstan.

The draft law is not a stand-alone initiative. It was presented alongside other legal proposals on “mass media” and “protecting children from harmful information” that have the potential to severely restrict freedoms and rights in Kyrgyzstan.

Background

While Kyrgyzstan has an active civil society, the state recently took several harmful steps against human rights, freedoms, and democracy. This includes a new law banning the so-called “propaganda of non-traditional sexual relations².” Only three months have passed since its adoption. We’ve already seen a marked decrease in the visibility of LGBTI issues online. The current initiative to adopt the “foreign representatives” law

²<https://tgeu.org/wp-content/uploads/2023/09/Kyrgyzstan-Anti-LGBTI-%E2%80%98Propaganda-Law-Full-Statement-Advocacy-Materials--EN.pdf>

is not the first. A similar bill was proposed in 2013. It was rejected by the parliament³ after its third reading in 2016.

Non-profits and informal groups play a key role in Kyrgyzstan. According to a [2006 survey](#), almost every second active organisation (43%) in Kyrgyzstan focused on social issues as one of its main areas of activity. These include poverty alleviation, social protection, and assistance to socially vulnerable groups. Non-profit organisations work toward a society that takes responsibility for change and holds the government accountable. It's clear that in Kyrgyzstan, non-profits provide social services and assistance to marginalised communities, work to protect the natural environment, defend human rights, and monitor state obligations. Since the state does not support organisations financially, they turn to foreign funding sources to provide services to people.

Analysis: complications presented by the “foreign representatives” bill

A comprehensive analysis of the draft law⁴ by the International Centre for Not-for-Profit Law suggests that it contradicts basic democratic principles that ensure human rights. Several provisions of the draft law also contradict current Kyrgyz legislation, as well as the International Covenant on Civil and Political Rights, which Kyrgyzstan ratified in 1994. In particular, the bill infringes on freedom of association, speech, and democracy.

The draft law broadly borrows provisions from the Russian law on “foreign agents”. The Russian law, adopted in 2012, has been used to stigmatise, discredit, and harass non-governmental organisations⁵ in Russia. This legislation has since then been expanded to target media outlets, individual human rights defenders, lawyers, and journalists. It has become a powerful tool for suppressing both public criticism of the state and all independent organising.

Many [international](#) and [national](#) organisations oppose the Kyrgyzstani draft law. In particular, they object to

³ <https://ihahr.org/news/kyrgyzstan-parlament-otklonil-zakonoproekt-ob-npo-inostrannyh-agentah>

⁴ <https://www.icnl.org/wp-content/uploads/Analysis-of-the-KR-Draft-Law-on-Foreign-Representatives-Rus.pdf>

⁵ <https://zona.media/article/2022/05/27/vesna>

- the similarities to Russian legislation,
- aims to stigmatise and restrict the activities of organisations,
- the direct and severe threat to Kyrgyzstan's active civil society, particularly human rights defenders and organisations.

The European Parliament adopted a resolution⁶ calling on Kyrgyz authorities to withdraw several draft laws⁷ submitted to the Kyrgyz parliament, including the draft law on “foreign representatives”. This resolution notes that if the laws pass, they will hurt freedom of expression in the country.

Potential impact human rights organisations

TGEU and local activists predict that the bill’s vague and broad terms will allow to harass human rights organisations and censor public debate. The bill will likely be used to discredit the work of non-profits. As much of the bill will fuel stigma, it could even erase organisations past achievements. If the bill is passed, TGEU sees it as an attack on democracy and transparency. This will negatively impact society as a whole and pave the way to authoritarianism.

Potential impact on LGBTI people

Just as in Russia⁸, the bill will likely cause many non-profit organisations to close in Kyrgyzstan. LGBTI organisations and groups will be among the first affected. They are already targeted under the anti-LGBTI so-called “propaganda” law. However, LGBTI organisations are even more vulnerable in Kyrgyzstan because they cannot trust courts and political leaders. LGBTI activists in particular are at risk of excessive criminal penalties of five or ten years.

⁶ https://www.europarl.europa.eu/doceo/document/TA-9-2023-0290_EN.pdf

⁷ 13 July 2023 The European Parliament published a resolution condemning the suppression of media and freedom of expression in Kyrgyzstan. The European Parliament called for a review of the draft laws on 'foreign representatives', 'mass media' and 'protecting children from harmful information'.

The 'foreign representatives' bill had passed its first reading.

The 'mass media' bill was initiated by the Presidential Administration, copied from a similar Russian law. The 'mass media' bill gives "unreasonably broad opportunities to regulate and interfere in media activities", according to the Kyrgyz legal clinic Adilet [analysis](#). Activists fear that media outlets undesirable to the government could be shut down and anti-corruption investigations could be banned. Read more about the relationship between the two laws and their impact [here](#), [here](#) and [here](#).

The bill on 'protecting children from harmful information' was signed into law and came into force in August 2023. Among other things, the law prohibits denial of family values, propaganda of non-traditional sexual relations and disrespect for parents or relatives.

⁸ <https://www.rferl.org/a/kyrgyzstan-cpi-foreign-agent-law-media-rights/32654553.html>

If these organisations close, thousands of people will be left without support. Marginalised groups will feel the greatest impact. In particular, trans and LGBTI people would lose access to essential information, support, services, referrals, and spaces to meet peers. Non-profits provide safe access to services for trans people targeted by cultural, physical, and sexual violence. They also provide the community with learning opportunities.

All of these services are now under threat. Consequently, LGBTI people's wellbeing and safety are now also under threat. This will lead to:

- more cases of physical and mental violence against people based on their real or perceived sexual orientation, gender identity, gender expression, and sex characteristics (SOGIESC)
- less opportunities to get help
- more cases of blackmail by law enforcement officials
- less access to qualitative information for parents of LGBTI children, teachers, psychologists and other health experts
- weakened LGBTI and feminist movements in the country.

In the long-term, this law will severely impact civil society's ability to hold the state accountable. Kyrgyzstan's image at the international level will also significantly deteriorate. This is already taking place, with more countries concerned about the state of democracy, which will lead to less external assistance and partnership.

TGEU expresses great **concern about the ongoing changes in Kyrgyzstan**, especially in regard to the draft law on "foreign representatives." TGEU expresses solidarity and support for Kyrgyz trans and LGBTI initiatives.

Recommendations

We call on actors and stakeholders to use their power and resources and express their position against the adoption of the draft law on "foreign representatives":

- Contact Kyrgyzstani parliamentarians and **urge them to vote against the draft law;**
- Contact Kyrgyzstani parliamentarians, including through your representatives, offices and branches, to **remove any mention of criminal penalties from the bill;**

- Focus on expanding human rights and freedoms in public and private investor programmes;
- Provide financial and moral support to LGBTI organisations in Kyrgyzstan;
- Offer to support LGBTI organisations in changing how they operate;
- Provide multi-entry visa, relocation support, and mental health services for LGBTI human rights defenders.

If you have any questions or would like to discuss and coordinate your response, please contact Daniyar Orsekov at daniyar@tgeu.org.