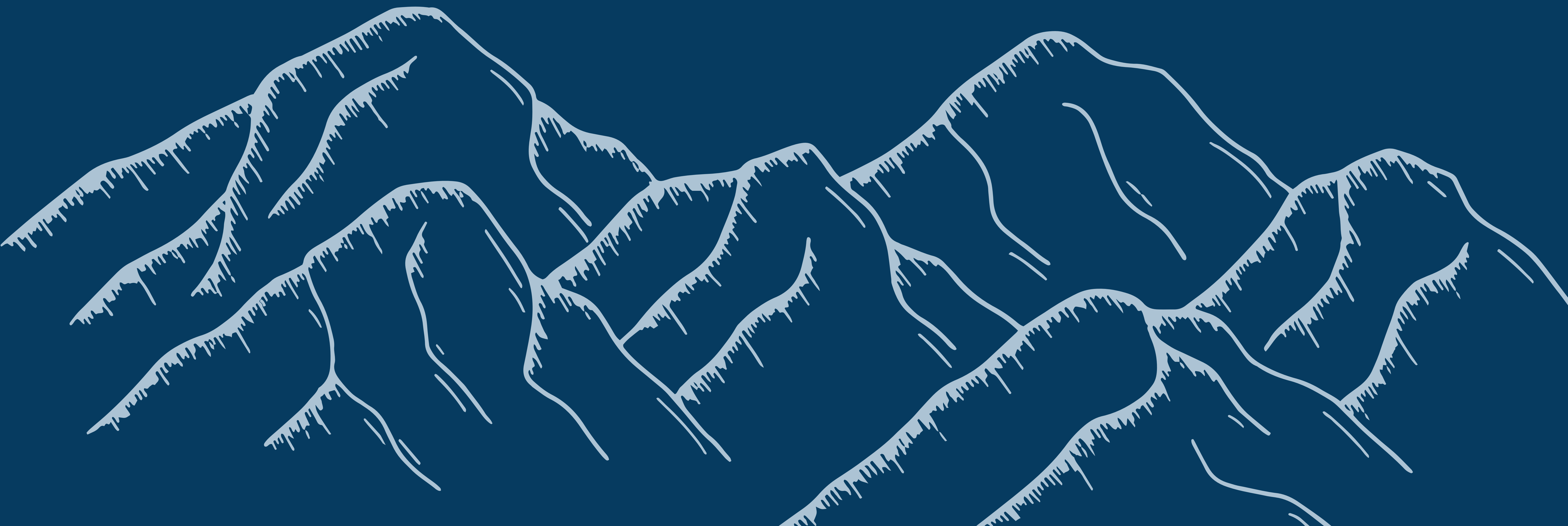


RESULTS OF

BIR DUINO- KYRGYZSTAN

ACTIVITIES TO PROTECT CIVIC SPACE IN
THE KYRGYZ REPUBLIC: 2024 WAS THE
MOST TRAGIC YEAR IN THE HISTORY OF
CIVIL SOCIETY



BIR DUINO

Introduction

“The Kyrgyz Parliament has implemented an analog of the Russian Law on Foreign Agents”

“An open and pluralistic space for civil society activities, in which freedom of opinion and expression, as well as freedom of assembly and association are guaranteed, is a condition for sustainable development and peace.

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BIR DUINO

Ignoring the international commitments made, as the protection and creation of a favorable environment for the citizens of the Kyrgyz Republic and a space for civil society activities, an environment that allows civil society to play a role in the political, economic and social life of society. In particular, such space enables individuals and groups to contribute to the shaping of policies that impact their lives, including through:

- access to information,
- participation in dialog,
- expressing disagreement and criticism, and joining with others to express their opinions.



BIR DUINO

Public Association “Bir Duino - Kyrgyzstan” together with international expert Kirill Koroteev prepared an expert assessment of the draft law “On Amendments to Certain Legislative Acts of the Kyrgyz Republic (to the Law of the KR ‘On Non-Profit Organizations’ and the Criminal Code of the KR”) and called it an analogue of the Russian Law “On Foreign Agents” and a target for the systemic destruction of civil society in Kyrgyzstan.



BIR DUINO

“Bill No. 6-7100/23 was introduced to the Jogorku Kenesh on May 19, 2023 by deputies N. A. Narmatova and others.

The bill provides, among other things, for the creation of a category of “non-profit organizations performing the functions of a foreign representative” and the establishment of specific duties for this category.

It is proposed that this category of non-profit organizations would include NGOs that receive funds or other property from foreign sources and participate in what the draft law defines as “political activity”.

“The Draft Law largely reproduces its 2013 predecessor, which was subject to a negative joint opinion of the Commission for Democracy through Law of the Council of Europe (Venice Commission) and the OSCE Office for Democratic Institutions and Human Rights (CDL-AD(2013)030, October 16, 2013).

Therefore, the conclusion of 2013 remains fully valid, but the development of international law in the sphere of regulation of non-profit organizations over the last 10 years requires additional comments in terms of compliance of the draft law with the international obligations of the Kyrgyz Republic.

BIR DUINO



In October 2022, the Human Rights Committee considered the Third Periodic Report of Kyrgyzstan on compliance with the International Covenant on Civil and Political Rights and in the Concluding Observations was “concerned that members of Parliament have on several occasions attempted to adopt a law on so-called foreign agents, under which the authorities are granted broad powers to intervene in the internal affairs of non-profit organizations branded as ‘foreign agents’ in connection with their receipt of foreign funding” (CCPR/C/KGZ/CO/3, 9 December 2022).

Quote:

“Changing the word ‘agents’ to the word ‘representatives’ cannot change the conclusions about non-compliance with the Covenant, since the basis for conclusions about the draft laws’ non-compliance with its provisions is not the name of the category of non-profit organizations, but the powers of state bodies in relation to them and the legal regime proposed for them”

BIR DUINO

The draft law, in a significant part of its definitions, reproduces verbatim the provisions of the Russian laws adopted in 2012 on “non-profit organizations performing the functions of a foreign agent” (again, with the word “agent” replaced by the word “representative”), in particular, on foreign funding, on “political activity” and exceptions thereto, on the reporting of such organizations, audit obligations and the powers of state bodies to inspect them (Federal Law No. 121-FZ of 20 July 2012).

2. The Russian law and the practice of its application have been repeatedly reviewed by the Human Rights Committee and other UN human rights bodies for compliance with the provisions of UN international human rights treaties, and each time a violation of the applicable treaties has been found (CERD/C/RUS/CO/25-26, June 1, 2023, paras. 18-19; CCPR/C/RUS/CO/8, December 1, 2022, paras. 34-35; CEDAW/C/RUS/CO/9, November 30, 2021, paras. 18-19; CCPR/C/RUS/CO/7, April 28, 2015, etc.).

BIR DUINO



On April 02, 2024, Kyrgyz President Sadyr Japarov signed into law the Law on Amendments to the Law of the Kyrgyz Republic “On Non-Profit Organizations,” also known as the Law on “Foreign Representatives,” after the country's parliament quickly and unanimously approved it on March 14, 2024, violating its own Rules of Procedure.

The law requires non-governmental organizations (NGOs), including media outlets and other non-profit organizations that engage in “political activities” and receive funding from abroad, to register as “foreign representatives” with stringent reporting and auditing requirements.

Failure to comply with these requirements could result in the suspension of the organization's activities for up to six months or its complete termination.

BIR DUINO

The bill was first introduced in 2014 but was rejected in 2016. However, Zhaparov's presidency has revived interest in the bill, despite massive opposition from civil society, human rights defenders (HRDs) and NCOs themselves.



Critics note that Kyrgyzstan's law on foreign representatives is very similar to the Russian law adopted in 2012. The latter, according to critics, has undergone several changes and is used by the Russian government to suppress NGOs, dissent, and silence the media.

June 10, 2024 Asian Forum on Human Rights and Development (FORUM-ASIA) was deeply concerned about how the new law could be used to suppress the fundamental rights and freedoms of the Kyrgyz people, including the right to peaceful assembly and association, freedom of the press, freedom of expression and the right to information, said Bir Duino partners.

BIR DUINO

VIOLATION OF THE CONSTITUTION

On May 16, 2024 the Public Association “Bir Duino - Kyrgyzstan” applied to the Constitutional Court of the Kyrgyz Republic with a petition to declare unconstitutional the new provisions introduced in the Law “On Non-Profit Organizations” dated April 2, 2024.

The organization draws the attention of the judicial body to the violation of human rights and restriction of freedoms guaranteed by the Constitution of the Kyrgyz Republic, as well as the norms of international treaties to which the Kyrgyz Republic has committed itself. First of all, the constitutional right to freedom of association and the realization of the right of citizens to participate in the management of the affairs of society and the state are ignored.

BIR DUINO

One of FIDH's key partners, together with Bir Duino and the Coalition for Equality urgently call on the Kyrgyz authorities to fully abide by their human rights obligations, and to respect and restore civic space in Kyrgyzstan, including by ensuring a fair and independent judicial review of the 'foreign representatives' law .

“To our regret, the panel of judges (consisting of three judges) of the Constitutional Court of the Kyrgyz Republic adopted a decision to refuse to accept the petition of the organization. We believe that this decision was unreasonable and illegal stated the lawyers of Bir Duino



RESOLUTION

Further, complaints to the Constitutional Court of the Kyrgyz Republic on behalf of Bir Duino KR were not satisfied by lawyer Timur Arykov . As of today, five NGOs have been registered in the register of the Ministry of Justice of the Kyrgyz Republic

“Despite a number of favorable changes in the new Tax Code and other attempts by the country to make the legal environment more CSO-friendly, on July 13, 2023, the European Parliament adopted a resolution on the human rights situation in Kyrgyzstan.

The resolution called on the Kyrgyz authorities to review and revoke a number of laws that are not in line with the country's international obligations.

Of particular concern were the law “On False Information”, as well as the draft laws “On Foreign Representatives”, “On Mass Media” and “On Protection of Children from Harmful Information”, or the so-called “Law on LGBTI Propaganda”.

BIR DUINO

In addition, the law “On Amendments to the Law of the Kyrgyz Republic ‘On Non-Profit Organizations’ (Law on Foreign Representatives), signed by President Japarov on April 2, 2024, establishes new onerous requirements for NGOs” ICNL experts note in the legal analysis.



CIVICUS: “This research focuses on the protection of freedom of expression, association and peaceful assembly in Kyrgyzstan from January to April 2024. It has been prepared by the International Partnership for Human Rights (IPHR) in cooperation with CIVICUS Monitoring.

During the reporting period, the situation of civic space in Kyrgyzstan continued to deteriorate. As a result, in March 2024, it entered the CIVICUS Monitoring Watch List, which includes countries experiencing a rapid decline in civil liberties. Earlier, in December 2023, CIVICUS Monitoring downgraded Kyrgyzstan's civic space rating from 'hampered' to 'suppressed', placing it in the same category as Kazakhstan”.

BIR DUINO



From local to global levels of advocacy:

UN Secretary-General António Guterres meeting with NGO representatives:

- 01 On July 2, 2024, during his visit to Kyrgyzstan UN Secretary-General António Guterres met with representatives of civil society.
- 02 During the meetings with high-level officials, the Secretary-General noted that the KR's tenure in the UN Human Rights Council current imposes a special responsibility to respect all human rights
- 03 The visit of the UN Secretary General came at a time when the trial of arrested journalists continues in Kyrgyzstan and issues related to human rights are on the agenda. The meeting raised a number of issues related to human rights in Kyrgyzstan that are of concern to civil society.

04 One of the meeting participants, lawyer Akmat Alagushev, raised the issue of activists and journalists being detained for voicing their opinions.

“We talked for only a few minutes. We said that criminal cases related to freedom of speech have been opened, that journalists are in custody. Four of the 11 journalists are still in custody. Oljobay Shakir has been sentenced to five years in prison. Concerns about freedom of speech are back on the agenda after recent court proceedings.

BIR DUINO

OSCE Human Dimension Meeting in Warsaw 2024:

On October 7, 2024, a side event on “Civic Space in Central Asia: Strategic Opportunities for Achieving Justice in the OSCE Region” organized by the public association Bir Duino Kyrgyzstan in partnership with the International Federation for Human Rights (FIDH), the Civic Solidarity Platform, the Kazakhstan Human Rights Bureau, the Coalition for Human Rights in Development, and Equality Now, took place in Warsaw, Poland, on the international platform of the OSCE ODIHR Annual Human Dimension Meeting.



CIVIC SOLIDARITY PLATFORM

All experts and the Civic Solidarity Platform, following the OSCE Human Dimension Conference in Warsaw, express support for the initiatives of both Malta and Finland for 2025.

“We can support Ukraine and other countries in the neighboring regions through various OSCE institutions and instruments. That is why strengthening the operational capacity of the Organization is of great importance to us,” said Finnish Foreign Minister Elina Valtonen.

“The Chairmanship will extend its good offices whenever and wherever they are needed, and we look forward to co-operating and seeking opportunities with all participating States seeking to enhance their co-operation with the OSCE,” the Minister added.

Finland will emphasize issues such as cyber security, media freedom and literacy, support for human rights defenders and climate security, which are integral to resilient societies.

BIR DUINO

“Throughout the year, Finland will focus on gender equality and inclusion.

This includes strengthening engagement with civil society, especially youth and people with disabilities. In the politico-military sphere, Finland will also chair the Forum for Security Co-operation during the last trimester of 2025.

Over the years, the shrinking space for civil society in the OSCE region has remained our main concern.

Despite repeated calls by civil society organizations, including in the outcome documents of all previous OSCE parallel conferences, for OSCE bodies and participating States to take decisive action to protect civil society space and reverse the crackdown on independent NGOs and civic activists, legislation and practices that restrict the right to freedom of association continue to be actively developed and implemented by governments in the OSCE region.

BIR DUINO



The worst repressive practices aimed at limiting independent civic participation and shutting down critical voices are being replicated by undemocratic regimes in an increasing number of participating States.

The war against civil society is expanding, aimed at the complete destruction of independent civil society. This attack is an important part of the global backlash against democracy, human rights and the rule of law.

NGOs and activists are under particular attack because they are key actors in defending these cornerstones of comprehensive security, advancing the Helsinki principles, and building instruments for citizen participation in decision-making processes.

BIR DUINO



Autocratic regimes try to get rid of independent civil society precisely because civilian control threatens their rule by exposing the destruction of democratic institutions, the denial of basic human rights, abuse of power and corruption.

In 2024, Georgia and Kyrgyzstan passed foreign agents legislation replicating the Russian repressive model. Several other states are discussing the introduction of similar legislation, such as Turkey.

BIR DUINO

NGOs and activists face serious pressure in Russia, Belarus, most Central Asian countries, Azerbaijan and Turkey, where the authorities use various legal and extra-legal instruments to harass,” notes the Declaration of the Civic Solidarity Platform adopted in Malta before the OSCE Ministerial Conference.



BIR DUINO

OSCE/ODIHR has alerted both the Parliament and the KR authorities:

As part of its mandate to assist OSCE participating States in implementing OSCE commitments, ODIHR, at the request of these States, analyzes draft laws and existing laws to assess their compliance with international human rights standards and OSCE commitments and provides concrete recommendations for improvement:

With regard to the Draft Amendments on Foreign Representatives, given its similarities to the Draft Law reviewed by ODIHR and the Venice Commission in 2013, ODIHR unequivocally echoes the concerns expressed by the OSCE Parliamentary Assembly and the Venice Commission.

Consequently, in light of the analysis set out in more detail below, the Early Interim Opinion concludes that the Draft Law and the Draft Amendments on Foreign Representatives are incompatible with international human rights standards and OSCE human dimension commitments and should not be pursued further.

BIR DUINO

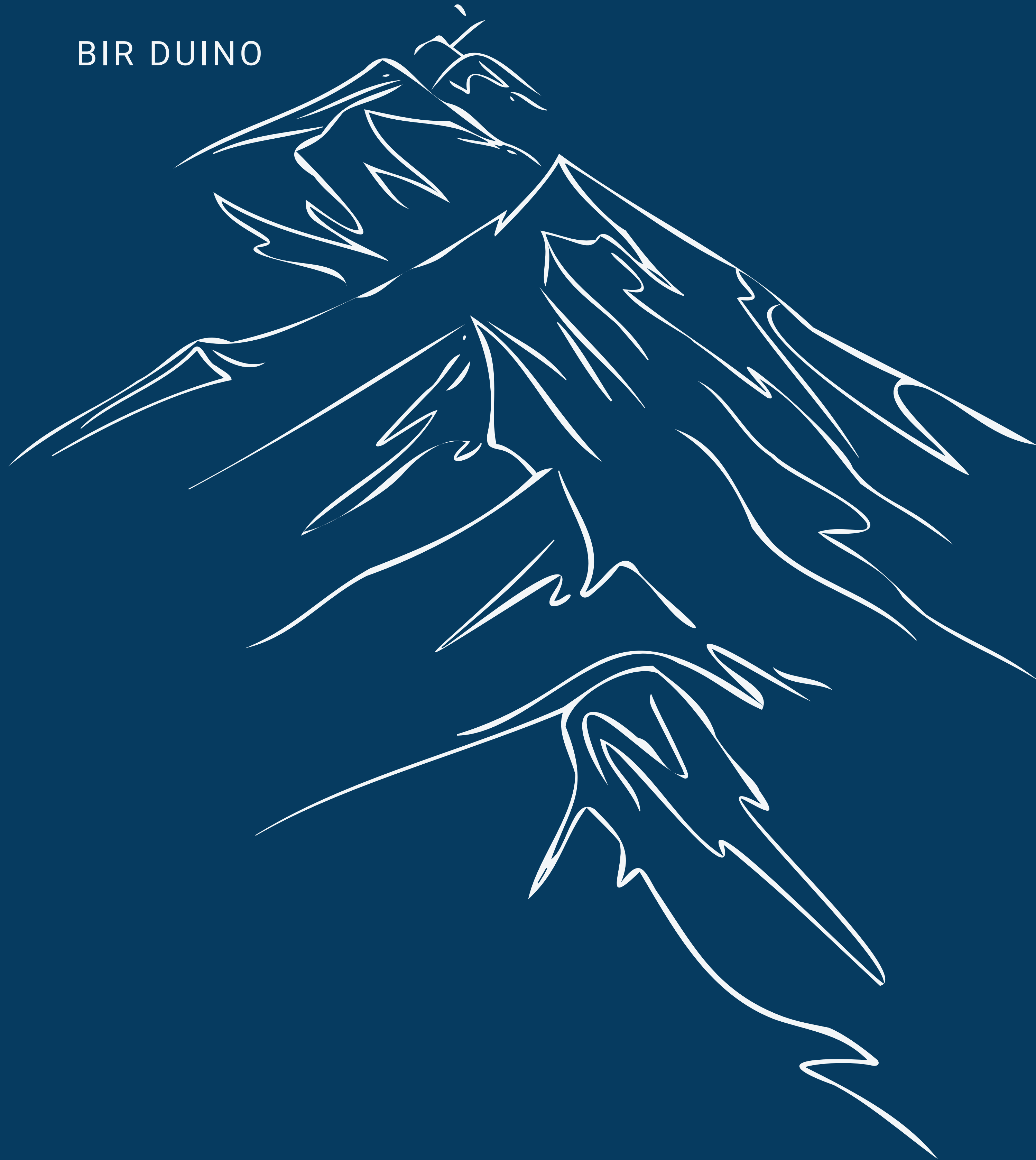
Given the serious flaws inherent in the two sets of amendments, comprehensive, substantive and fundamental changes amounting to a complete redrafting would be required to bring them in line with human rights principles.

ODIHR therefore encourages the initiators of the proposed amendments to withdraw them completely and not to continue with the adoption process and to conduct further consultations with stakeholders with a view to improving the legal framework for the realization of the right to freedom of association in the Kyrgyz Republic.

On May 15, 2024 during participation in the annual meeting of the European Bank for Reconstruction and Development with representatives of civil society organizations Bir Duino Kyrgyzstan team made official appeals to the President of the EBRD and the Board of Directors of Development Banks in connection with the adoption of the repressive Law on Foreign Representatives and the consequences of the impact of this law on the EBRD supported projects in Kyrgyzstan.



BIR DUINO



CONTACT THE EBRD

The special importance of the appeals was emphasized in the proposed action plans taking into account the new strategy of the European Union in the conditions of narrowing the space for civil society. Both appeals were addressed to the EBRD President Odile Renaud-Basso and Olena Koval, EBRD Director of Private Sector Partnerships and Civil Society Engagement, where they were emphasized in the proposed action plans, taking into account the new EU strategy of narrowing the space for civil society.

The Bir Duino team emphasized to EBRD management the importance of mainstreaming the recommendations into EBRD policies, taking into account the needs and requirements of key beneficiaries and local communities, in order to promote a multi-stakeholder and inclusive dialogue with the EBRD's expertise and institutional support.

BIR DUINO

Open appeal to the European Bank for Reconstruction and Development (EBRD), Asian Development Bank (ADB) and the World Bank (WB):

Subject of the letter: Urgent appeal to take measures against the repressive law of Kyrgyzstan on “foreign representatives”

We, the Public Association “Bir Duino-Kyrgyzstan”, appeal to the EBRD, ADB and WB to urge you to take action against the law on “foreign representatives”.

Despite criticism and protests, the noted law, modeled on Russia's repressive “foreign agents” law, was approved in third reading and eventually signed by Kyrgyz President Sadyr Japarov on April 2, 2024.

BIR DUINO

The adopted law violates Kyrgyzstan's international human rights obligations regarding the right to freedom of association, freedom of expression and related human rights, in particular the International Covenant on Civil and Political Rights (ICCPR), to which the Kyrgyz Republic is a party.

In 2023, the European Union (EU) adopted a resolution calling on the Kyrgyz government to revise the repressive law on foreign representatives, which is not in line with Kyrgyzstan's international obligations.

Representatives of the UN, the Organization for Security and Cooperation in Europe (OSCE), the U.S. State Department, civil society, activists, and many other stakeholders have repeatedly called on the Kyrgyz government to repeal the repressive law.



“FOREIGN REPRESENTATIVES”

The discriminatory law requires all public organizations that receive foreign funding and engage in “political activities” to register as “foreign representatives.”

Under this law, authorities can suspend a non-governmental organization for up to six months without a court order or forcibly revoke its registration if it fails to register as a foreign representative.

It also imposes onerous reporting, monitoring and unannounced inspections by state authorities on NGOs, adding onerous obligations.

In addition, government officials would be allowed to demand internal documents from NGOs and would also be able to send government representatives to interfere in the internal activities of NGOs.

BIR DUINO

Giving government bodies broad powers to monitor and influence the activities of NGOs is contrary to international human rights standards.

Unscheduled inspections could also lead to intimidation and harassment of organizations critical of the government.

The adopted law on foreign representatives will inevitably create a climate of intimidation by preventing activists, human rights defenders and civil society organizations from speaking out openly for fear of retaliation.

It also has implications for civil society in other countries, making it an issue of regional importance. Georgia, another country in which the EBRD invests, has followed a similar practice of suppressing dissent by introducing and promoting a draft law on “foreign agents”.

A repressive law will directly impede the implementation of EBRD, ADB and WB financed projects in Kyrgyzstan as it severely limits meaningful participation and involvement of civil society organizations.

INCREASED RISKS

Independent monitoring by civil society is critical to ensure that projects comply with environmental and social safeguards, human rights standards and transparency requirements.

Restricting civil society's ability to openly express concerns increases the likelihood of negative impacts on local communities and the environment. The EBRD, ADB and WB have a responsibility to use their investments to comply with their environmental, social and governance policies.

We appreciate the strong commitment of the EBRD, ADB and WB to the principles of Article 1 of the UN Guiding Principles on Business and Human Rights and the EBRD's commitment to dialog with civil society, including the recent engagement of the EBRD Vice President during his recent visit to Kyrgyzstan with civil society representatives.

BIR DUINO

We also appreciate the EBRD's recognition of the issues raised in the letter submitted by Bir Duino and other organizations regarding this repressive law and the commitment of the EBRD, ADB and WB to monitor the situation and the government's attitude towards NGOs.

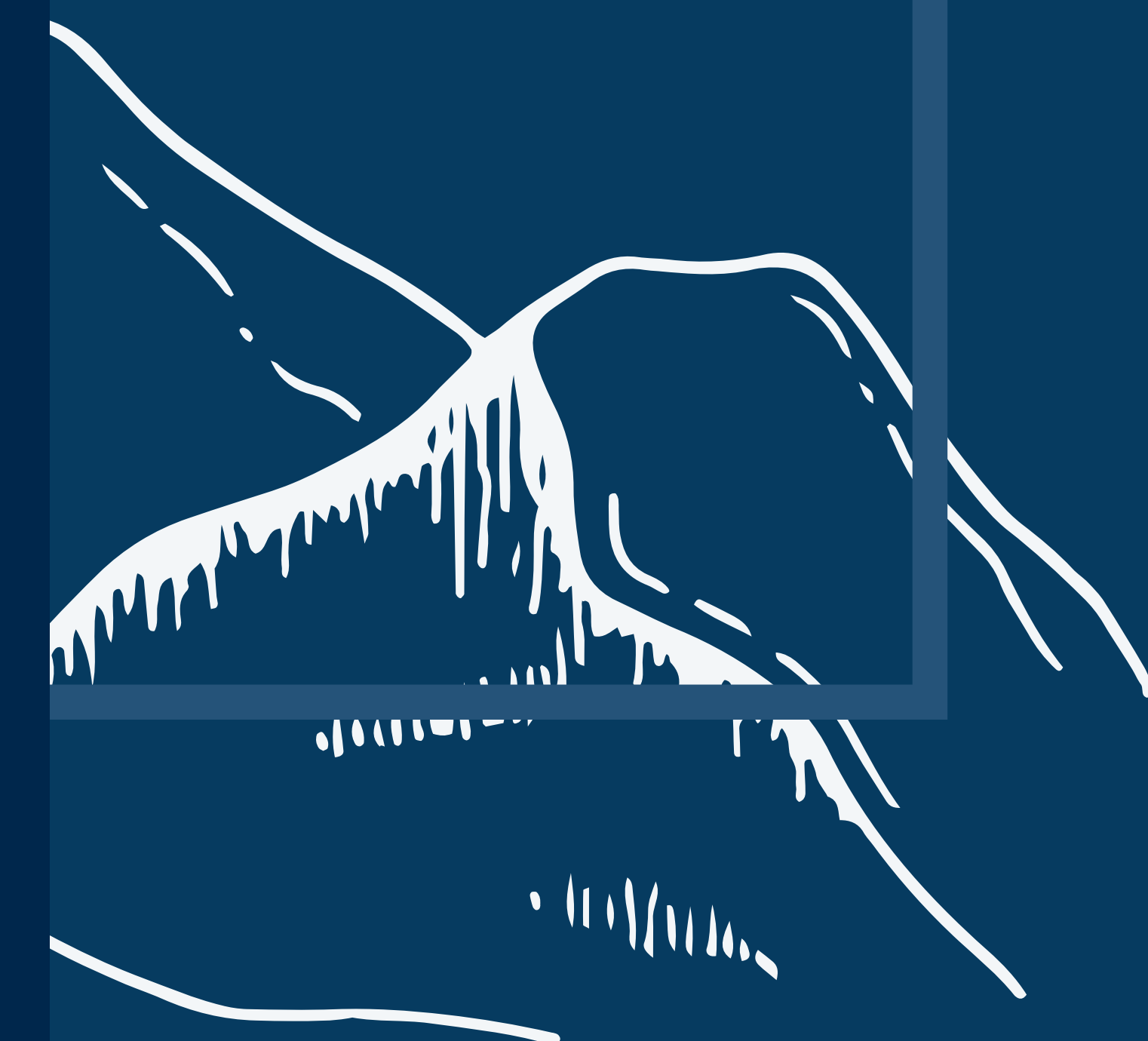
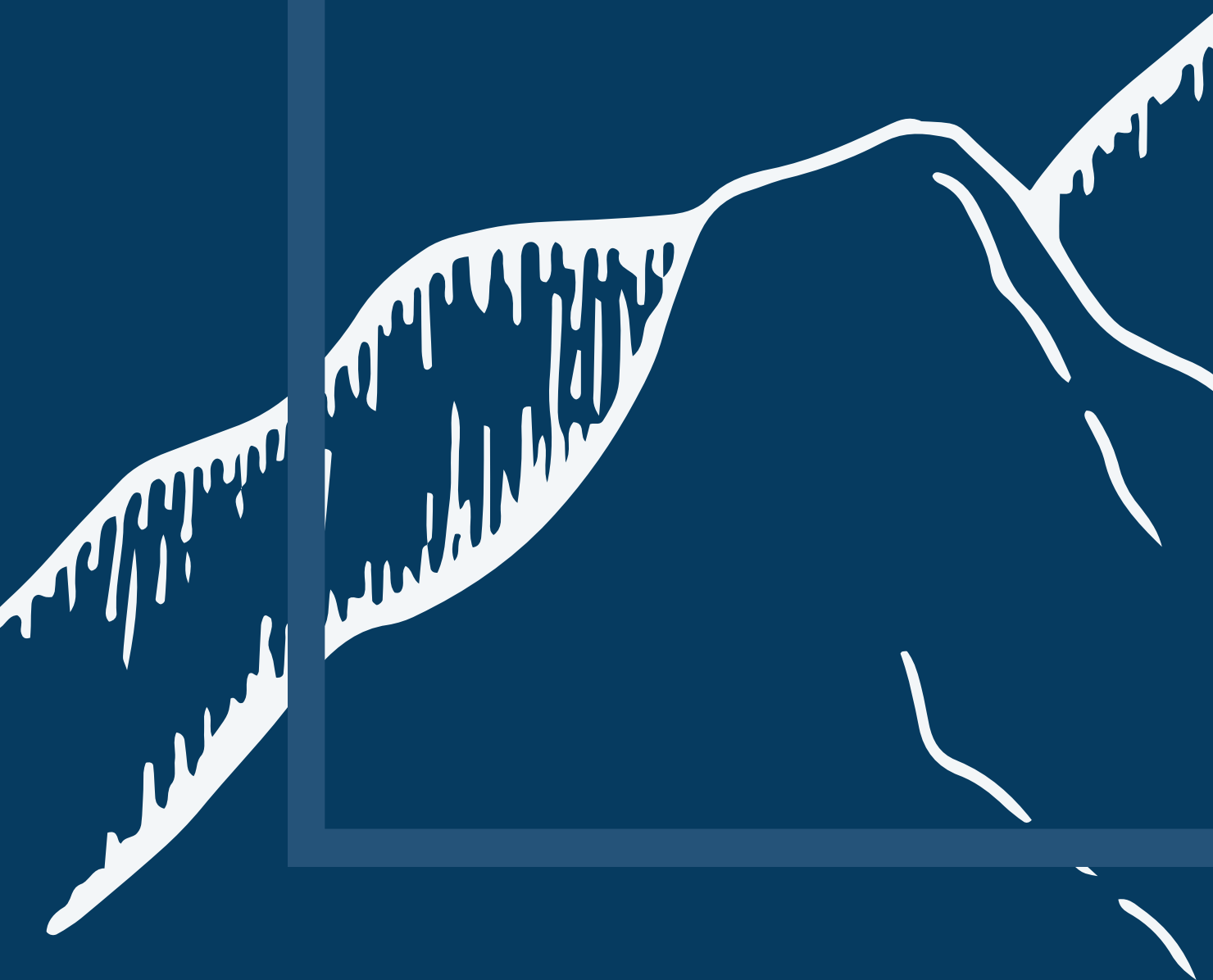
Given the significant portfolio of EBRD, ADB and WB investments and projects in Kyrgyzstan, amounting to €970 million across 242 projects, it is imperative that the Bank takes a strong and decisive position against this repressive “foreign representative” law, including by:

- Call on the Kyrgyz Government to repeal this undemocratic legislation that suppresses civil society voices and public accountability.
- Suspend all new funding to public institutions in Kyrgyzstan until the law is repealed, as it increases the risk that projects will not meet required performance standards due to limited opportunities for meaningful stakeholder engagement and monitoring.
- Help protect the freedom of expression of communities and human rights defenders from reprisals, as in the case of the Kumtor gold mine. The EBRD, ADB and the WB should ensure robust grievance and redress mechanisms for violations of the rights of affected communities.

BIR DUINO

RAISE CONCERNS ABOUT SHRINKING CIVIC SPACE WITH THE KYRGYZ GOVERNMENT TO ENSURE THAT SPACE FOR CIVIL SOCIETY AND INDEPENDENT MEDIA REMAINS OPEN IN THE KYRGYZ REPUBLIC IN LINE WITH RECOMMENDATIONS OF INTERNATIONAL HUMAN RIGHTS ORGANIZATIONS.

In developing the next EBRD, ADB and WB country strategy for Kyrgyzstan, civil society should be actively consulted to ensure that EBRD, ADB and WB projects and policies are consistent with democratic principles and human rights standards.



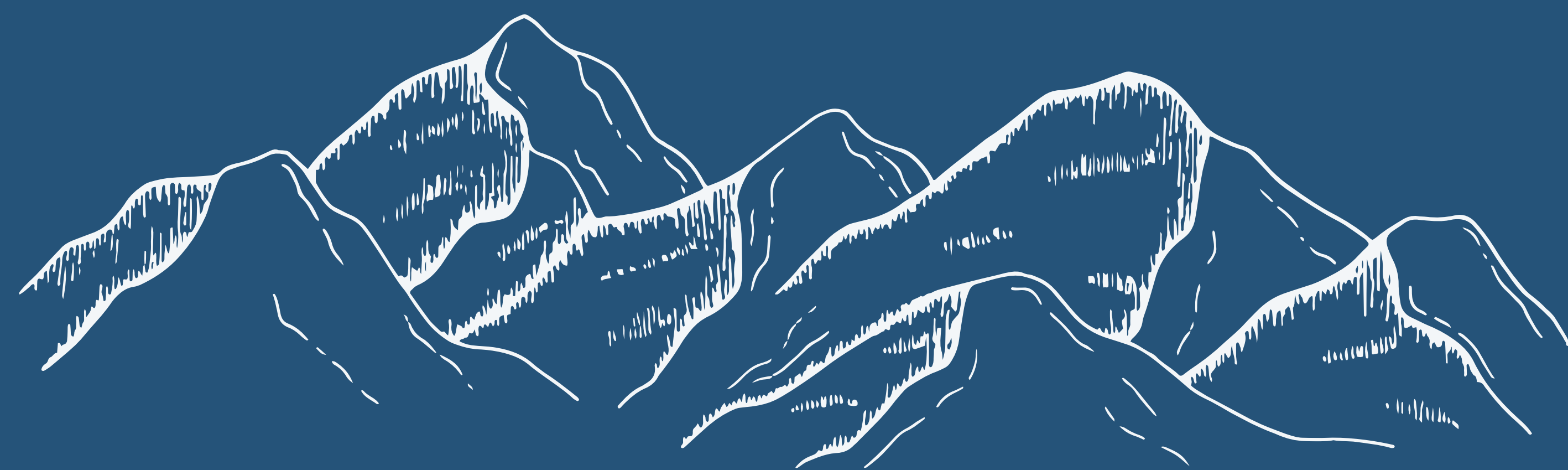
BIR DUINO

On September 22, 2024 together with partners from CA countries Bir Duino together with prepared and sent an official address to the Chancellor of Germany Olaf Scholz:



- “During your visit to Kazakhstan and Uzbekistan from September 15 to 17, 2024, you took part in a summit in the C5+1 format with the leaders of Central Asia: Kazakhstan, Uzbekistan, Kyrgyzstan, Tajikistan and Turkmenistan, and signed a number of bilateral agreements concerning, economic cooperation and energy. One of the most important documents signed was the migration agreement with Uzbekistan.
- We welcome Germany's establishment of close bilateral relations, but note the exclusion of civil society experts in the decision-making process and the development of a format for preventing risks, conflicts and disasters in a radically changing civil space. We have closely followed your visit and are impressed by the agreements reached on the economic and political level.

BIR DUINO



We support your initiatives to find key strategies to address the situation in Ukraine after the Russian invasion, as well as to find basic security strategies emanating from Afghanistan.

We, representatives of civil society, are concerned about the following issues that you, Mr. Scholz, could include in your agenda for further negotiations with Central Asian presidents:

BIR DUINO



1. Compliance by our governments with their international obligations, including the Paris Principles and the Business and Human Rights Guiding Principles;
2. Compliance by our governments with key “non-refoulement” principles;
3. In Kazakhstan, publish a full list of those killed in the January 2022 Kantar tragedy. Promote effective reform of the judicial system with equal participation of civil society representatives, promote the adoption of the Bill to protect the rights of human rights defenders;

4. In Uzbekistan, the status of the Office of the High Commissioner for Refugees should be restored;

5. In Kyrgyzstan, raise the issue of repealing the laws on non-governmental organizations and mass media;

6. In Tajikistan, the position on the release of political prisoners and the provision of conditions for access to justice for all persecuted;

7. In Turkmenistan, raise the situation of women's rights in negotiations.



BIR DUINO

On the International Day of Peace, on the eve of the OSCE ODIHR Warsaw Conference and the UN Future Summit, we women leaders of Central Asia speak about the opportunity for world leaders to make globally important decisions on prosperity and protection of human rights for the sake of a common future and equal inclusive partnership with civil society, including UN Security Council Resolution 1325 on Gender, Women, Peace and Security.

Dear Mr. Scholz! As one of the leaders of a leading European power, you have a real influence on the development of the EU Strategy for Central Asia and we ask you to emphasize in this important document the inclusion of inclusive, gender-sensitive tools to influence the protection and expansion of civil space.

Over the past year, more than 700 meetings and consultations were held between human rights defenders and lawyers on a range of the most significant issues in the protection of human rights and freedoms to discuss the obstacles faced by activists.

BIR DUINO

DECLARATION +25

The result of these discussions was the adoption of the +25 Declaration on June 19, 2024, which promotes international law and calls for action by governments, international and regional organizations to engage in collaborative dialogue through multilateral and inclusive partnerships.

We, the participants of the Central Asia Women's Expert Forum, note the massive regression in the field of human rights, especially of girls and women, due to the shrinking civil space in our region.

We believe that “the reasons for the setback of democracy are the failure to adequately address the most serious problems of society, including economic inequality, which leads to regression in the field of human rights in our countries, as confirmed by the V-Dem Institute's Democracy Report 2023 and CIVICUS' 2023.

BIR DUINO

The importance of civil society is to promote strong links between local communities and decision makers and leaders to effectively achieve the Sustainable Development Goals in the field of human rights by applying new strategies, including localization principles.

We call on you, as the leader of Germany, to join our efforts to highlight and address the most pressing issues for building a strong civil society, promoting democracy and respect for human rights in Central Asia, and we want you to become our great Friend.

Sincerely, participants of the Regional Expert Forum of Central Asian countries



BIR DUINO

On November 26-27, 2024, in Almaty, Kazakhstan, the Bir Duino team, together with leaders of Central Asian civil society organizations, based on the results of the Regional Expert Seminar of Civil Society Organization Representatives, prepared a joint address expressing deep concern about the alarming deterioration of the human rights situation[1] and the importance of respecting gender inclusiveness[2] in labor rights[3] and the shrinking civic space[4] in the context of adaptation to global climate crises in Central Asia[5].

The report by ADC Memorial and Bir Duino-Kyrgyzstan was created in anticipation of the UN Universal Periodic Review, which Kyrgyzstan will face in 2025. Human rights defenders draw attention to Kyrgyzstan's insufficient state efforts to protect its citizens abroad and to create conditions for employment at home.

The report was presented on 27 November 2024 in Almaty at the Regional Expert Seminar of representatives of public organizations of Central Asia to prepare key recommendations for the upcoming OSCE Ministerial Conference in Malta .

BIR DUINO

The legislation of Belarus, Russia, Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan provides for a wide range of grounds for blocking pages on the Internet; extremism and terrorism are only a part of them. In addition, during periods of mass protests in Belarus, Kazakhstan, Tajikistan, and Uzbekistan, shutdowns - shutting down Internet connections in large areas - have been used.

The events of recent years in Russia and Belarus have led to particularly massive blocking of independent Internet resources, in particular, on the basis of decisions recognizing them as extremist, as well as for dissemination of inaccurate or discrediting information about the authorities or the army. In Russia, Meta's Facebook and Instagram activities were recognized as extremist and access to them was subsequently restricted.



REPRESSION AND CLIMATE

As a result, repression by authorities, lack of access to resources and justice, undermine the peaceful and successful development of economies[6] and citizens' trust in country authorities in the face of new risks and disasters, including environmental disasters that are on the rise due to predatory business and corruption[7]. Climate change can pose threats to the sustainability of democratic institutions and regional stability[8].

This is reflected in the 2007 OSCE Madrid Document where the OSCE emphasizes its role in addressing these issues within the security framework under Chapter VIII of the UN Charter, offering a complementary contribution to combat climate challenges. Also the UN Framework Convention on Climate Change (UNFCCC), the Reports of the UN Special Rapporteur on Human Rights and the Environment, the Cancun Agreement (2010) and the OSCE Handbook on Human Rights and the Environment emphasize the link between climate crises and human rights[9].

REGRESSION

We believe that the causes of the decline of democracy in our region are the failure of our states to adequately address the most serious societal challenges[10] in adapting to global climate crises[11], including economic inequalities, resulting in a regression of human rights in our countries[12].

The systemic impunity of officials has led to increased violence, war crimes and aggression by Russia in Ukraine[13], as well as the spread of religious radicalism and the influence of the Taliban in Central Asia[14], resulting in a growing distrust of international institutions, the OSCE and the UN.



DISCRIMINATION

The main documents aimed at eliminating discrimination against women in all spheres of life on gender inclusion and equality are the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the 2030 Agenda for Sustainable Development on Gender Equality and the Empowerment of Women and Girls.

Strategic goals and measures to achieve gender equality are reflected in the Beijing Platform for Action (1995). UN Security Council Resolution 1325 (2000) on women, peace and security recognizes the importance of women's participation in peace and security processes, the Istanbul Convention (2011) is an important instrument to prevent and combat violence against women and domestic violence.

Recommendations for authorities:

It is important to ensure the realization of freedom of association and civic space[15] for transparency and accountable governance to develop multi-stakeholder dialogue between civil society and authorities[16];

Promote coherence and consistency in the response to the shrinking civic space in CA countries. We call for a unified and principled response to uphold democratic values and protect civil society[17];

Utilize the status and capacity of International Financial Institutions (IFIs) to protect civic space.

To this end, we recommend that OSCE Member States[18] use their influence to include development banks and IFIs[19] in projects to implement provisions on the protection of civic space and ensure the active involvement of local CSOs in the planning, implementation and evaluation of funded projects, with particular attention to localizing IFI projects at the local level, taking into account the needs and requirements of local communities living in risk and disaster contexts;

BIR DUINO



Establish a clear legislative framework of regulations, including the adoption and updating of laws, integration of international standards (CEDAW, Istanbul Convention, OSCE) into national legislation[20];

Promote the adoption of comprehensive anti-discrimination laws in CA countries, including all possible grounds of discrimination, including gender, and demand their enforcement. Special attention should be paid to legislation against all forms of gender-based violence and ensuring inevitability of punishment for such crimes.

Recommendations for OSCE Partners:

Strengthen the OSCE field offices in the countries of the CA region and the roles of the Ombudsman Institute and other national human rights mechanisms and bring them in line with the requirements of the Paris Principles and the OSCE's three baskets;

Call on the CA countries to respect freedom of association for trade unions and, in accordance with ILO Convention 87, to exercise their right to form trade union organizations without prior authorization;

Call for the eradication of violence and harassment at work in accordance with ILO Convention 190 and enshrine the right of everyone to a world of work free from violence and harassment, including gender-based violence and harassment;

Expand networks of crisis centers to support survivors and vulnerable groups, safe havens for victims of violence, and strengthen protection of the rights of women and girls with disabilities;

BIR DUINO

Ensure public monitoring to educate and involve women in educational programs on gender-based violence and non-discrimination in schools and universities and ensure women's right to participate in public affairs, including by introducing gender quotas (50%) in all branches of government.

Establish an inter-state platform for monitoring the implementation of commitments by Central Asian states, including representatives of civil society, international organizations and national ombudsmen, with regular publication of reports and analysis of progress, joining joint efforts to combat systemic impunity[21].



Recommendations for development donors:

Create the necessary conditions for localization of international development donors' projects and develop a unified strategy of aid conditionality, establishing clear criteria and conducting regular assessments of transparency, accountability and compliance of Central Asian governments with international human rights obligations[22] as a precondition for promoting the UN Guiding Principles on Business and Human Rights;

Develop and implement training programs for women and girls to strengthen leadership, political participation skills, and advocacy for their rights, with a focus on localizing UN Security Council Resolution 1325. Programs should be available in national languages and be regionally specific.

BIR DUINO



Introduce mandatory environmental and social due diligence for all projects of international financial institutions (IFIs) implemented in the region, with the inclusion of local communities in the evaluation process[24]. Special attention should be paid to projects affecting human rights and natural resources.

Prepare a comprehensive plan to respond to different types of violence, including:

- Establishment of specialized medical, legal and psychological support centers for victims.
- Opening 24-hour hotlines for victims.
- Formation of mobile rapid response teams for cases of violence, especially in remote regions.

PROGRAMS AND MEETINGS

Establish special programs for the integration of persons with disabilities, including mandatory quotas for their participation in public, educational and professional spheres. Introduce mechanisms to protect the rights of children and adults with disabilities within the framework of national strategies in the format of international obligations.

Organize regular meetings (at least twice a year) between representatives of the OSCE, UN, EU and Central Asian countries to discuss progress in the implementation of recommendations, based on the analysis of problems in the implementation of human dimension commitments and to facilitate the exchange of best practices among the countries of the OSCE region.

Expert opinions and research reports show the tragic impact of anti-constitutional laws on the work and security of human rights defenders, highlighting the tragic situation of women human rights defenders in Kyrgyzstan.

WPS Index: Kyrgyzstan is the most dangerous country for women in Central Asia
https://kaktus.media/doc/448011_indeks_wps_kyrgyzstan_samaia_opasnaia_strana_dlia_jenshin_v_centralnoy_azii.html

Kyrgyzstan does not fulfill its international obligations:

“Undoubtedly, the case of Azimjan Askarov remains a painful issue for Kyrgyzstan. I am in contact with human rights organizations and representatives of Askarov's family. I have repeatedly said that the facts of Askarov's case do not correspond to the accusation that he was somehow involved in any murders. It is simply impossible to believe it, there is not a single fact in his case that says so. He's a victim of these bloody events. And it's a great misfortune, he paid the ultimate price, and we didn't have time to save him. But I am sure that in time historians and investigators will restore justice and the true picture of the circumstances of his accusation. I personally, of course, want this not to remain a dark stain on the reputation of our state,” Baisalov replied.

https://kaktus.media/doc/505775_godovshina_smerti_azimjana_askarova_aktivisty_napominaut_o_mejdynarodnyh_obiazatelstvah.html

BIR DUINO

As a result of the National Dialogue with local community leaders of Issyk-Kul region, government agencies and business community held on October 31, 2024 in Bishkek, Barskoon village activist Byubyukan Ormonova informed about her experience of participation in the UN international platform in Bangkok to promote the UN Guiding Principles “Business and Human Rights”. Ms. Ormonova spoke about the work being done to protect and promote the rights of local communities, from local to global, that have been affected by the impact of cyanide and the Kumtor gold mine, as well as about her meeting with UN Special Rapporteur on the Right to Development Surya Deva.



BIR DUINO

The trip was organized by Bir Duino Kyrgyzstan in partnership with the international association Forum-Asia. Byubyukan Ormonova, 75, lives in the village of Kichi-Zhargylchak, Zhety-Oguz district, Issyk-Kul region, and is an active defender of the rights of villagers who suffered in the 1998 environmental tragedy in Barskoon.

Two years ago, together with other like-minded people, they created the public organization “Akyikat guldory”, which now includes 20 people. The participants promote the rights of villagers and develop social entrepreneurship. Byubyukan Ormonova encourages people to be united for human rights activities.



BIR DUINO

On October 7, 2024, in Warsaw, Poland on the international platform of the OSCE ODIHR Annual Human Dimension Meeting[2], a web event on “Civic Space in Central Asia: Strategic Opportunities for Achieving Justice in the OSCE Region”, organized by the public association ‘Bir Duino Kyrgyzstan’ in partnership with the International Federation for Human Rights (FIDH), ‘Civic Solidarity Platform’, ‘Kazakhstan Human Rights Bureau’, ‘Coalition for Human Rights in Development’ and ‘Equality Now’ on the basis of the Helsinki principles and promotion of horizontal leadership.



Key conclusions and recommendations of the experts:

Through all possible diplomatic mechanisms, promote that the national legislation of the Kyrgyz Republic is consistent with the Constitution and international principles of human rights and freedoms, within which Kyrgyzstan is obliged to respect the fundamental rights of citizens.

The countries of Central Asia should be perceived as part of a broader concept of European security and cooperation. Central Asia is the only landlocked region in the world. Therefore, prospects for economic development are highly dependent on geopolitical factors such as the policies of China and Russia, as well as on the political and security situation in countries such as Afghanistan;

THREE BASKETS

The three “baskets” of the Helsinki Accords on the eve of the 50th anniversary of their adoption, namely security, economic development, environment and the human dimension (development of democracy, rule of law and respect for human rights) should be considered as a whole, since, for example, respect for human rights and security depend on each other.

And civil societies in the region should be involved in discussions on the fulfillment of commitments under all three baskets, as equal actors with governments;

Central Asia faces a growing rift between the norms of inclusive government and the power of elites, leading to an erosion of democracy. Repressive Russian-influenced legislation limits the role of civil society. Human rights are jeopardized by restrictive laws and the excessive influence of security forces.

RESTRICTION OF FREEDOMS

Basic freedoms such as freedom of speech, association and assembly are restricted and critics are persecuted. The civil rights situation in Kyrgyzstan is deteriorating, and reforms in Kazakhstan and Uzbekistan are accompanied by constant repression.

In Turkmenistan and Tajikistan, authoritarianism is deepening. Gender equality is violated and minority rights are threatened. Respect for basic human rights and rule of law standards should be a condition for substantial economic and political gains.

It is necessary to prioritize gender equality, support organizations fighting inequality, allocate resources for policy change, and create a network of experts on regional development and human rights;

CLIMATE CHANGE

Climate change in Central Asia is leading to significant environmental and social challenges, including shrinking glaciers, diminishing water resources, and security threats from “uranium tailings”.

These changes affect agriculture, migration and people's livelihoods. Regional cooperation and government efforts are critical but require more rapid implementation.

In addition, addressing climate change is linked to human rights, gender equality and civic participation, but in Central Asia it faces constraints such as censorship and repression.

Economic investment must therefore contribute to sustainable modernization. It is also necessary to ensure unhindered access to environmental information and allocate the necessary resources to ensure environmental security;

LAW ON FOREIGN AGENTS

Foreign agent laws or versions of them adopted in Central Asian countries pose a particular threat to civil society organizations defending the rights of minorities and vulnerable groups.

Unlike large organizations such as the media, which can protect themselves through relocation or other methods, activist groups and NGOs often find themselves defenseless against such repressive legislation;

Engaging in joint work with development banks shows that there are alternative ways to influence autocratic regimes and improve the situation of citizens' rights and freedoms in the Central Asian region.

BIR DUINO

On November 08, 2024 in Montenegro, Bir Duino made a presentation at the Europe-Central Asia Regional Platform for Disaster Risk Reduction. Multi-hazard early warning systems can enable communities to act on localization to mitigate the impact of extreme events, i.e. to take early action.

Although early warning and early action are aimed at reducing the impact of extreme events, local communities living in risk and disaster-prone environments in Kyrgyzstan, where 92 uranium tailings dams are located and such as Maili Suu, which is included in the top 10 most radioactive places in the world, especially the most vulnerable, are still not covered by holistic, inclusive and effective early warning systems.

VULNERABLE GROUPS

There are many reasons why the most vulnerable populations are not receiving the early warnings they need. The ability of local governments to engage directly and proactively with the population is often limited by funding, resources and, in some cases, trust. In some cases, early warning signals do not reach the most vulnerable groups; in others,

people receive warnings but do not understand them, do not trust them, do not know what action they should take, or are unable to take the action they know they need. In addition, marginalized groups, including women, children, people living in poverty, people with disabilities, older persons, migrants, marginalized language speakers, LGBTQ+

and other marginalized people, tend to be excluded from decision-making processes on issues such as disaster risk management and response, which means that early warning systems and early action plans often do not take these groups into account in their design and implementation.

BIR DUINO

In line with the Sendai Framework for Disaster Risk Reduction 2015-2030 On the shared responsibility of governments and relevant stakeholders, this session explored the roles of state and non-state actors in the early warning system chain, as well as the benefits of using and including different actors in separate and interconnected parts of these systems,

thus effectively applying the research methodology of Bir Duino and the Global Association of NGOs for Disaster Risk Reduction GNDR “A View from the Frontline.” and a bottom-up approach to reduce the gaps between local communities and decision makers.



TROLLEYBUSES

Together with partners from the public movement “Bishkek Smog” team Bir Duino on August 28, 2024 in the news agency “Akipress” spoke at a press conference on the dismantling of trolleybus lines in Bishkek and the decision of the mayor's office to transfer 100 trolleybuses to Osh city.

At a press conference, activists from among Bishkek residents reported that they are suing the municipal enterprise Bishkek Trolleybus Department (MT BTU) for “illegal dismantling of trolleybus infrastructure”.

The activists reminded that the existing trolleybuses are still being paid for with a \$23.5 million loan from the EBRD. To date, only 7-8 years have passed out of a possible 20 years of service life. Participants of the press conference said that at the moment an administrative complaint against MT “BTU” is being considered in the pre-trial order.

“According to the procedure established by law, a draft decree of the BGK is initially approved, on the basis of which a decree is issued,” they stated.

- The dismantling works started before the end of the public hearings and the final decision of the BGK are a gross violation of this order, so the residents want to stop the dismantling of the network through the court, which may turn into the liquidation of the entire trolleybus infrastructure”.



INFORMATION ON ADMINISTRATIVE AND JUDICIAL LITIGATION WITHIN THE FRAMEWORK OF ADOPTED AMENDMENTS AND ADDITIONS TO THE LAW “ON NCOS” (“ON FOREIGN REPRESENTATIVES”).

May 16, 2024 “Bir Duino Kyrgyzstan” NGO petitioned the Constitutional Court of the Kyrgyz Republic to declare unconstitutional the new provisions introduced in the Law “On Non-Profit Organizations” dated April 2, 2024. The organization draws the attention of the judicial body to the violation of human rights and restriction of freedoms guaranteed by the

Constitution of the Kyrgyz Republic, as well as the norms of international treaties to which the Kyrgyz Republic has committed itself. First of all, the constitutional right to freedom of association and the realization by citizens of their right to participate in the management of public and state affairs are ignored.

Petitions

To our regret, the panel of judges (consisting of three judges) of the Constitutional Court of the Kyrgyz Republic adopted a decision to refuse to accept the petition of the organization. We believe that this decision was unjustified and illegal.

Thus, when adopting the definition challenged by us, the panel of judges out of the mentioned exhaustive list of grounds refers to paragraph 1 of part 3 of Article 30 of the Law “On the Constitutional Court of the Kyrgyz Republic”, which refers to the form and content of the appeal.

We note that the requirements for the form and content of the appeal are defined in Article 27 of the Law. However, in the contested ruling, the panel of judges did not indicate the violation and non-compliance with the requirements of Article 27 of the Law.

THE PETITION WAS REJECTED

The absence of an indication of violation of these requirements confirms their compliance when we submitted our application to the Constitutional Court of the Kyrgyz Republic. And the reference of the panel of judges to paragraph 1, part 3, Article 30 of the Law has no legal justification as to why the form and content of our petition does not meet the requirements of the Law.

At the same time, there are no other legal arguments, on the basis of which the panel of judges would have the authority to refuse to accept our application for proceedings, in the contested ruling. According to Article 49, paragraph 10 of the Law, an act (ruling) of the Constitutional Court must be reasoned and motivated.

In this regard, on August 6, 2024, the organization filed a complaint against the above definition of the panel of judges of the Constitutional Court of the Kyrgyz Republic. To our regret, the Constitutional Court (consisting of 9 judges), having missed the deadline for consideration of the complaint in 20 days (according to the Rules of Procedure of the Constitutional Court of the Kyrgyz Republic - the deadline is 30 days), on September 26, by its decision finally refused to accept our petition on the issue of unconstitutionality of the new provisions of the Law "On NGOs".

THE TRIAL TOOK PLACE WITHOUT US

At the same time, the session of the Constitutional Court on our complaint was held without our participation and we had no opportunity to present our arguments before the judges (9 judges).

We consider this to be a gross disregard of the principles of transparency, publicity and openness of the judicial system of Kyrgyzstan and the principle of adversarial and equal rights of the parties in constitutional proceedings.

The Constitutional Court, according to its ruling, ignored the need and obligation to verify our compliance with the form and content of our petition for compliance with Article 27 of the Constitutional Law “On the Constitutional Court of the Kyrgyz Republic”.

And, having exceeded its authority Under this procedure, began to evaluate our legal arguments (with references to the Constitution of the Kyrgyz Republic). That is, without resolving the procedural issue regarding the acceptance of the petition to its proceedings, began to consider the appeal on the merits and decide whether the new provisions of the Law “On NGOs” comply with the Constitution of the Kyrgyz Republic or not.

THE COURT VIOLATED THE CONSTITUTION

We quote the final conclusion in the decision of the Constitutional Court of the Kyrgyz Republic: “Thus, the panel of judges correctly concluded that granting status to certain entities due to any peculiarities, including the source of funding for their activities, does not in itself entail a violation of constitutional principles, rights and freedoms of citizens.

Nor does the establishment of additional obligations due to the same peculiarities a priori indicate arbitrariness on the part of the state towards these subjects”.

These written conclusions of the court confirm that it exceeded its authority in resolving procedural issues.

We believe that the Constitutional Court of the Kyrgyz Republic violated and failed to observe the guarantees established by the Constitution of the Kyrgyz Republic, first of all, part 1 of Article 61:

“Everyone is guaranteed judicial protection of his rights and freedoms provided by the Constitution, laws, international treaties to which the Kyrgyz Republic is a party, universally recognized principles and norms of international law”.

NPO REGISTER

Also, as is known, on May 16, 2024, the Ministry of Justice of the Kyrgyz Republic (hereinafter - the Ministry of Justice) approved the Regulations on the Procedure for Maintaining the Register of Non-Profit Organizations Performing the Functions of a Foreign Representative and Conducting an Audit of Their Activities (hereinafter - the Regulations) in accordance with the Law of the Kyrgyz Republic "On Non-Profit Organizations" (hereinafter - the Law on NGOs).

The Regulation established the procedure for including non-profit organizations (NGOs) in the Register of NGOs-Foreign Representatives (NGO-FRRs), requirements for mandatory financial audits and the procedure for conducting state inspections of NPO-FRRs, and other requirements.

Bir Duino submitted a number of clarifying inquiries on the Regulation, but did not receive clear and comprehensive answers to them. In this regard, and in connection with the detected contradictions to higher normative legal acts, exceeding the authority of the Ministry of Justice when adopting it, we filed an administrative complaint with the requirement to recognize it as illegal and cancel its action (to recognize it as null and void).

BIR DUINO

On September 02, 2024, the MoJ rejected our complaint and considered its Regulation to be lawful.

However, as we anticipated, a few days after that, the Regulation was still repealed. This was due to the fact that already a higher authority, i.e. the Cabinet of Ministers of the Kyrgyz Republic on August 27, 2024 issued the Resolution No. 518 dated August 27, 2024 (hereinafter - the Resolution), which approved the Regulation on the Procedure for Maintaining the Register of Non-Profit Organizations Performing the Functions of a Foreign Representative and Conducting an Audit of Their Activities (hereinafter - the Regulation) in accordance with the Law of the Kyrgyz Republic "On Non-Profit Organizations" (hereinafter - the Law on NGOs).

BIR DUINO

To date, we, having studied the Resolution, come to the conclusion that the following normative legal acts were violated and not complied with when the Cabinet of Ministers issued it:

Constitution of the Kyrgyz Republic;

OSCE ODIHR Guidelines on Freedom of Association;

The Law “On Normative Legal Acts of the Kyrgyz Republic”;

Law “On Non-Profit Organizations”.

BIR DUINO

The first Regulation approved by the Resolution of the Cabinet of Ministers established new norms of law (legal norms). And its provisions do not meet the definition of paragraph 9 of Article 2 of the Law “On Normative Legal Acts of the Kyrgyz Republic” - are generally binding rules of behavior, designed for an indefinite number of persons and repeated application.

It should be noted that the new legal norms go beyond the Law on NCOs. Namely:

Paragraph 8 of the Regulations provides for the requirement to provide information not provided for by the Law on NCOs, namely:

- legal address;
- bank account details;
- tax identification number (INN) of the founder(s) and director;
- information on employees (surname and initials of employees);

Paragraph 2 of paragraph 31 of the Regulation requires NPO-IPs to notify the MOJ of the hiring or dismissal of employees within 7 calendar days.

BIR DUINO

Second, the Ministry of Justice did not comply with the requirements of Article 22 of the Law “On Normative Legal Acts of the Kyrgyz Republic”, according to which “draft normative legal acts directly affecting the interests of citizens and legal entities [...] are subject to public discussion”.



Also, the OSCE ODIHR Guidelines on Freedom of Association (hereinafter - the Guidelines) also indicate the need to consult with associations during the preparation and application of normative legal acts that affect the interests of associations (paras. 32, 106).

However, the Cabinet of Ministers did not publish the draft for public discussion on the Single Portal (<http://www.koomtalkuu.gov.kg>).

At the same time, no discussions or consultations with representatives of NGOs and civil society were held. This is a violation of the rule-making process.

BIR DUINO

The third Regulation approved by the Resolution expanded the list of authorized state bodies to conduct inspections of NCOs - IEs. The Law on NCOs (Article 17-1) gives the only authorized state body (in this case, the Ministry of Justice of the Kyrgyz Republic) the right to “conduct inspections of compliance of NCO activities, including expenditures of funds and use of other property, with the goals stipulated in its constituent documents. However, in the Regulation, the Cabinet of Ministers expanded the list of bodies authorized to conduct inspections of NGO-IPs. In accordance with paragraph 37 of the Regulation, inspections may also be conducted by:

- tax authorities - on issues of compliance with the requirements of financial transparency and tax legislation;
- Ministry of Culture, Information, Sports and Youth Policy of the Kyrgyz Republic - on issues of labeling of materials produced or distributed by NGO;
- Procuratorial authorities - on issues related to participation of NGOs in political activities, as well as verification of compliance with statutory goals and other legal requirements;
- other state bodies whose scope of activities and competence relate to the core activities of NPOs - on issues of compliance of their activities with the statutory objectives.

BIR DUINO



Fourth, part 3 of Article 23 of the Constitution of the Kyrgyz Republic prohibits the “adoption of subordinate normative legal acts that restrict human and civil rights and freedoms”.

According to part 2 of Article 6 of the Law “On Normative Legal Acts”, a normative legal act must not contradict a normative legal act that has a higher legal force in comparison with it.

Also according to paragraph 109 of the Guidelines, “any legal and other restrictions imposed on NGOs must be based on the constitution or be provided for by another law”.

Thus, the new additional onerous requirements for NGO-IPs, which do not exist in the Law on NGOs, pursuant to which the by-law was adopted, violates the specified norms of the Constitution of the Kyrgyz Republic and the Law “On Normative Legal Acts”, as well as international standards of the right to association.

There are no clear mechanisms for protecting NPOs

Fifth, the Regulation (paragraph 36) authorizes inspections of NGOs on the basis of statements by state bodies, local self-government bodies or the media, even verbal ones, about alleged violations of the NGO Law on NGOs or inconsistency of NGO activities with its statutory goals.

At the same time, it lacks clear mechanisms to protect NGOs from unreasonable or arbitrary allegations. It does not provide for preliminary verification of the reliability of the information received prior to direct inspection of an NGO-IP, which may open the door to abuse by both the authorities and other stakeholders.

The Regulation also lacks clear and specific procedures regarding the NGO-IP verification process. These include the duration, timing and frequency of inspections, as well as the ways and criteria by which the authorities will monitor and assess NGOs' involvement in political activities and other matters provided for in the Regulation.

The absence of these important norms and procedures creates legal uncertainty and could jeopardize the right of NGO-IPs to an objective and fair assessment of their activities.

The Cabinet of Ministers has exceeded its powers

This ignores paragraph 22 of the Guidelines, according to which “...legal provisions relating to associations should be well drafted. They should be clear, precise and indisputable. In addition, in order to ensure that the content of the law is supported by all stakeholders, the process of adopting such provisions should be open, accessible to all and participatory”.

Based on the circumstances, we find that the Cabinet of Ministers, by issuing the appealed Resolution, which approved the Regulation, exceeded its authority and also in violation of paragraph 6 of Article 2 of the Law “On Regulatory Legal Acts of the Kyrgyz Republic” went beyond its competence. This is unacceptable for the supreme body of executive power, whose function is to ensure the implementation of the Constitution, laws of the Kyrgyz Republic and international treaties that have entered into force, to implement measures to ensure legality, rights and freedoms of citizens.

Reaction of the Ombudsman Institute

In connection with the above violations of the legislation, including international obligations, the Public Association “Bir Duino Kyrgyzstan” filed a petition to the Administrative Court of Bishkek to invalidate the above Resolution.

On October 28 at 11:00 a.m. a preparatory hearing was held, which was attended by: representatives of the plaintiff, the defendant (Cabinet of Ministers of the Kyrgyz Republic), third parties (prosecutor's office) and the Ombudsman Institute (Akyikatchy).

To our regret, the representative of the Ombudsman Institute (Akyikatchy) expressed her refusal to further participate in the consideration of the case. Although in our opinion this institution, whose function is parliamentary control over the observance of human rights and freedoms in Kyrgyzstan, should be interested in challenging normative legal acts that prevent the free exercise of the rights of citizens and every right, primarily the right to association, as well as the realization by citizens of the right to participate in the management of the affairs of society and the state.

BIR DUINO



The court also obliged the defendant party (the Cabinet of Ministers of the Kyrgyz Republic) to submit the entire package of documents concerning the challenged Resolution. Also, the plaintiff's representative requested to request through the court (for subsequent sessions) the opinion of the prosecutor's office regarding the case under consideration, in accordance with Part 3 of Article 42 of the Administrative Procedure Code of the Kyrgyz Republic.

On November 20, 2024, the court granted the plaintiff's motion to attach to the case file the Opinion of the Venice Commission of the Commission of the Council of Europe - European Commission through Law of October 14, 2024, Strasbourg CDL - AD (2024) 033. Translation from English into Russian was carried out at the initiative of the plaintiff by a certified professional translator.

Unfortunately, the representatives of the defendants did not appear at the regular court session on December 9.

The next hearing is scheduled for January 14, 2025 at 14:00 hours at the following address: Administrative Court of Bishkek, 64 Ibraimova St..

BIR DUINO

“Public Association: Bir Duino Kyrgyzstan” judicial bodies of Kyrgyzstan do not consider it necessary to defend freedom of speech and self-expression from the encroachments of censorship

On October 4, 2023 “Public Association: Bir Duino Kyrgyzstan” appealed to the Constitutional Court of the Kyrgyz Republic and the Administrative Court of Bishkek in connection with the existence of norms in certain legal acts that allow censorship in Kyrgyzstan.

At the same time, these norms violate human rights and restrict human freedoms guaranteed by the Constitution of the Kyrgyz Republic, as well as the norms of international treaties to which the Kyrgyz Republic has committed itself.



BIR DUINO

Upon reviewing the Law “On State Support for Cinematography of the Kyrgyz Republic”, the organization found that Article 5, paragraph 2 of the Law states: “Censorship of audiovisual works is not allowed, except in cases provided for in Article 6 of this Law.

Thus, censorship is prohibited, but a reservation is made that there are exceptional cases with reference to Article 6 of the same law, paragraph 2 of which defines the normative legal act that establishes the procedure for implementing this very censorship: “Regulations on the procedure for categorizing audiovisual works as pornographic and other prohibited types of creative activity results shall be approved by the Government of the Kyrgyz Republic.

According to paragraph 4 of the Regulation approved by the KR Government Resolution: “Audiovisual works proposed for distribution in the territory of the Kyrgyz Republic are obligatorily submitted to the Republican State Film and Video Film Fund ‘Kyrgyz Film Fund’ (hereinafter - Kyrgyz Film Fund) by cinematographic organizations and film distributors for obtaining a state distribution certificate”.

Thus, the Regulation obliges citizens to undergo a special examination and to obtain a state certificate, i.e. “official permission” to show a film. That is, it establishes direct censorship of audiovisual works.

BIR DUINO

It should be clarified that in accordance with paragraph 4 of Article 3 of the Law “On State Support for Cinematography of the Kyrgyz Republic” under the distribution of a film is understood the distribution of the film in any form and by any means. The list of events at which films may be distributed (shown) is not exhaustive.

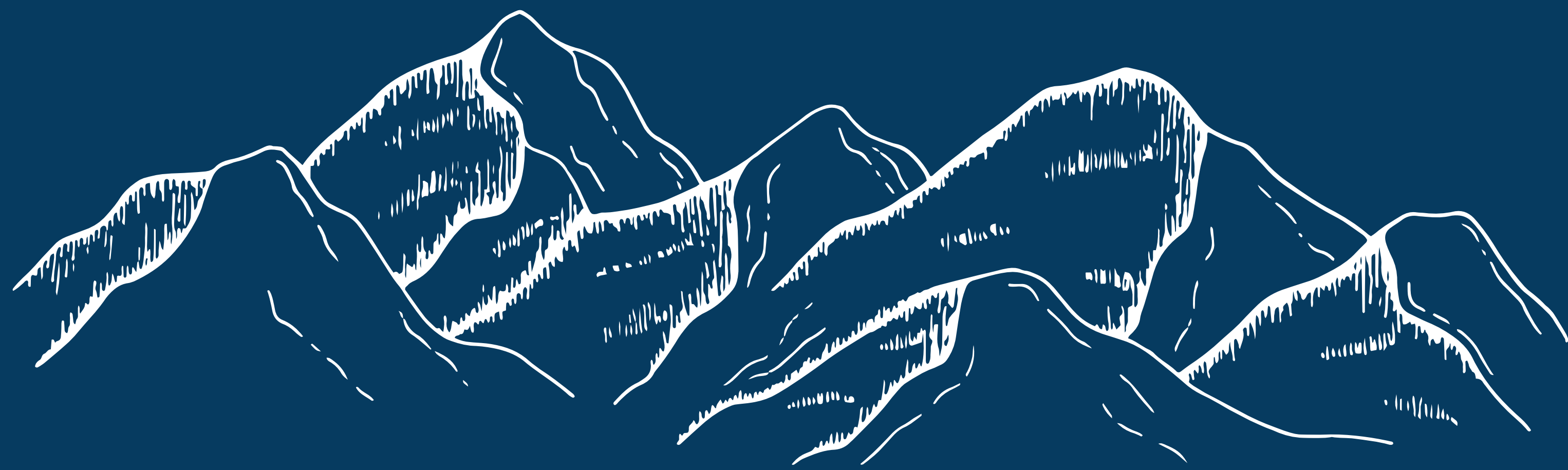
And it may include both public festivals, seminars, various actions, and private family celebrations, such as weddings, anniversaries, birthdays, and many others. At the same time, audiovisual works at these events can be produced, filmed, edited either independently or by order. Thus, these procedures impose restrictions on the organizers of film screenings (individuals and legal entities) to freely express, disseminate in any way their thoughts, opinions and beliefs.



BIR DUINO

Unjustified and unreasonable requirements of the above-mentioned legal acts, first of all, contradict part 2 of Article 10 of the Constitution of the Kyrgyz Republic, according to which censorship is not allowed in the Kyrgyz Republic.

In this regard, “Public Association: Bir Duino Kyrgyzstan”, in accordance with the jurisdiction, appealed to the following instances:



1. Constitutional Court of the Kyrgyz Republic - on the recognition of the norm of the Law “On State Support of Cinematography of the Kyrgyz Republic”, which allows censorship, as unconstitutional and contrary to the Constitution of the Kyrgyz Republic:

Party - Respondent - Jogorku Kenesh KR, third parties - Plenipotentiary Representative of the President and Cabinet of Ministers in the Constitutional Court of KR, Ministry of Justice of KR, Ministry of Culture, Information, Sports and Youth Policy of KR;

On January 17, the Constitutional Court of the Kyrgyz Republic, having listened to the positions and opinions of the parties, made a decision, according to which the court finds no contradictions of the law norms to the Constitution of the Kyrgyz Republic. And in its opinion, censorship in one form or another and to a permissible extent should take place in Kyrgyzstan, ostensibly to ensure security and protection of the rights of citizens, society and the state.

BIR DUINO

2. Bishkek Administrative Court - on invalidation of the Resolution of the KR Government "On Approval of the Regulations on the Procedure for classifying audiovisual works as pornographic and other prohibited types of results of creative activity" No. 551 dated October 14, 2016, which establishes the procedure for censorship:

- Respondent - Cabinet of Ministers of the KR, third parties - Ombudsman (Akyikatchy) of the KR, General Prosecutor's Office of the KR;

Respondent - the Cabinet of Ministers of the Kyrgyz Republic, third parties - the Ombudsman (Akyikatchy) of the Kyrgyz Republic, the Prosecutor General's Office of the Kyrgyz Republic;

In the case of consideration of our appeal to the judicial authorities in an administrative manner, we note with regret that in this case all three instances - the first, appellate (Bishkek City Court) and cassation (supervisory - Supreme Court of the Kyrgyz Republic) - simply refused to consider our application on the merits.

The reason was that we allegedly missed the deadline for filing an application with the court (3 months from the moment we became aware of the violation of our rights and freedoms).

Which is absurd, since we only learned about the existence of a government regulation defining the procedure for carrying out censorship in the spring of 2023. There are thousands of legal acts in Kyrgyzstan, and we are not obligated and simply cannot know about them all.

BIR DUINO



According to the judicial authorities, we should have applied to the court in 2016, when this government regulation was approved and published. Guided by Articles 4, 5, 15, 16, 27, 29, 173, 174 of the Administrative Procedural Code of the Kyrgyz Republic, we request: to invalidate the Resolution of the Cabinet of Ministers of the Kyrgyz Republic dated August 27, 2024 № 518 “On measures to implement the Law of the Kyrgyz Republic ‘On non-profit organizations’.

On April 5, 2024, at a briefing for journalists in Geneva, Jeremy Lawrence, spokesperson for the UN High Commissioner for Human Rights, said, “We call on the authorities to repeal the new law and ensure that all future laws fully respect international law and human rights standards.”

“We also call on the authorities to consult constructively with all relevant stakeholders, including civil society organizations and human rights defenders, on this matter,” the expert stressed.

BIR DUINO

Kyrgyzstan has been added to the Watchlist in connection with the promotion of the draft law on “foreign agents ‘Kyrgyzstan is currently rated as a ‘repressed” country by the CIVICUS Monitor. There are a total of 50 countries in the world with this rating.

This rating is usually given to countries where the authorities severely restrict civil space by introducing a set of legal and practical measures that prevent the full enjoyment of fundamental rights. CIVICUS monitors the situation on implementation of the law by leading human rights organizations at the Global level.

Since 2007, every year in December, Bir Duino, together with partners from around the world, organizes the International Human Rights Documentary Film Festival, which has become a unique, broad and inclusive platform for discussing the human rights situation both in the Central Asian region and in risk and disaster zones around the world..



Conclusion:

Challenges such as lack of social protection in the informal economy, inadequate food security, inequality and violation of the rights of discriminated communities can be addressed through socio-economic transformation based on sustainable development and protection of life and planet rather than economic gain: a real opportunity for a transformative alternative to the challenges of the multipolar world we live in in line with the 2030 Agenda and the UN Sustainable Development Goals.

Upcoming UPR Country Reports and CEDAW in 2025 provide positive expectations for the citizens of the Kyrgyz Republic to restore constitutional, fundamental rights and freedoms of citizens and return the KR authorities to the high principles of human rights, democracy and development, support and ensure civic space in Kyrgyzstan.

BIR DUINO

Kyrgyzstan, as a member of the UN Human Rights Council, will open new inclusive UN Resolutions adopted in 2024 on the development of social justice and sustainable development.

This unique chance to return to the values of human rights and freedoms will lay down a new inspiring roadmap for the government, business and civil society of the Kyrgyz Republic for equal social partnership and promotion of social justice in the format of the commitments made under the SDGs.

Report on Advancing Horizontal, Inclusive Leadership to Advance the Rights of Girls and Women with WLP will be prepared separately.



BIR DUINO

Our experience

A report on combating torture and protecting the rights of victims will be prepared following a mission to the Bir Duino-Osh office in February 2025 with key recommendations from leading experts.

For several years, the Osh office of the BDC has been the only organization in the south of the country to provide qualified legal assistance on a pro bono basis.

Our lawyers take on the most complex and time-consuming cases involving torture and ill-treatment. More than 200 citizens seek help annually on torture issues alone. After 14 years, some cases from the events of 2010, also involving torture, are still ongoing.
<https://birduino.kg/pressaru/borba-s-pyitkami-chto-sdelano,-kakie-rezultaty>

The Bir Duino 2025-2027 Strategic Plan with Solidarity's partner networks "People Changing the World" is available at this link:
<https://birduino.kg/pressaru/prodvizhenie-prav-i-svobod-cheloveka-v-formate-deklaraczii-oon-po-pravam-cheloveka-i-czelej-ustojchivogo-razvitiya-oon>

BIR DUINO

If you have any questions, please contact the Bir Duino team:

Murat Karypov, m.karypov@gmail.com,

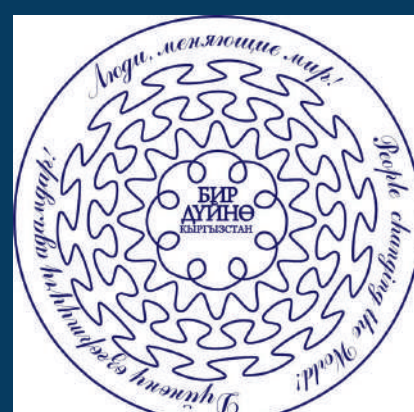
www.birduino.kg, +996 (772) 163-229, +996555422222

lawyer Timur Arykov Email: birduinokyrgyzstan@gmail.com,

Tolekan Ismailova birduinotia@gmail.com,

international expert Kirill Koroteev Email: kirill.koroteev@gmail.com

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