

Coalition of Civic Activists of Uzbekistan

ALTERNATIVE THEMATIC REPORT

**to the session of the 4th cycle of the Universal Periodic Review of the Republic of
Uzbekistan**

**Analysis of forced eviction process in Uzbekistan during the
period 2018-2023**

Tashkent, 2023

Introduction

A group of activists from Uzbekistan - Abdullayeva Olga, civil activist, member of Tashkent branch of NGO Ezgulik, Khasanova Madina, civil activist, member of Tashkent branch of NGO Ezgulik, administrator of "Blacklist of developers of Uzbekistan", Mirusmanov Dilmurod, civil activist, participant of CEE Bankwatch Network for Uzbekistan, Sharifullina Farida, civil activist, administrator of "Tashkent-CNOS" group and owner of the website on forced evictions www.housing-uz.info, Yakubjanov Sobir, civil activist, member of the Samarkand branch of the NGO Ezgulik, - prepared this alternative thematic report for the 4th cycle of the Universal Periodic Review of Uzbekistan in accordance with its international obligations and submitted it for further consideration at the 44th session of the UN Human Rights Council, where Uzbekistan will present its 4th country report.

This report has been prepared with the support of OHCHR to facilitate dialogue between the Human Rights Council and the delegation of Uzbekistan to inform the Council on the implementation of the Council's Concluding Recommendations in order to improve Uzbekistan's compliance with its obligations under international conventions.

NB : In compiling the report, the coalition was unable to provide sufficient statistical data for each cluster of the report as the authorities do not publish statistics in the public domain.

The "**Blacklist of Developers in Uzbekistan**" group operates on the social networking platform Telegram, with around one hundred activists collecting information on human rights abuses by developers. This open public channel is managed by Ms. Madina Khasanova: <https://t.me/+SskjRBYyLMAXYzBi>

CEE Bankwatch Network is a global network which operates in central and eastern Europe with headquarter in Prague, Czech Republic. Bankwatch was set up in 1995, and it focuses on monitoring the actions of different international financial institutions. Website: <https://bankwatch.org>

Ezgulik Society for Human Rights of Uzbekistan was registered with the Ministry of Justice of Uzbekistan in 2003. The mission of the NGO is to collect and disseminate information about cases of human rights violation in Uzbekistan and to facilitate legal education of citizens. NGO has 11 regional branches and 200 active members. Website: <https://hrs-uzgulik.uz>

The Tashkent SNOS activist group ([Ташкент - CHOC | Facebook](#)) was established in 2017 to inform residents on issues related to evictions, the implementation of the Constitution and other Uzbek laws, the implementation of international human rights conventions and the right to Adequate Housing, as well as to provide mutual assistance in defending their rights. The Tashkent SNOS group has 28,000 members and is run by Ms. Farida Sharifullina, a civil society activist. It also maintains a website at www.housing-uz.info

Abbreviations:

BfE - Bureau for the Enforcement of Court Decisions under the Office of the General Prosecutor of the Republic of Uzbekistan

CC - Civil Code of the Republic of Uzbekistan

CFE - H. Sulaymonova Centre of Forensic Expertise under the Ministry of Justice of the Republic of Uzbekistan

CPC - Civil Procedure Code of the Republic of Uzbekistan

DCM - Decree of the Cabinet of Ministers of the Republic of Uzbekistan

HC - Housing Code of the Republic of Uzbekistan

Hokim - city / district / province administrator

Hokimiyat - city / district / province administration

LC - Land Code of the Republic of Uzbekistan

MoJ - Ministry of Justice of the Republic of Uzbekistan

NLA – Normative Legal Act

OM - Oliy Majlis, Parliament of the Republic of Uzbekistan

RP SC - Decision of the Plenum of the Supreme Court of the Republic of Uzbekistan

RUz - Republic of Uzbekistan

UDC - Urban Planning Code of the Republic of Uzbekistan

Forced evictions violate the rights of Uzbekistani citizens (Article 11 of the CESCR)

1. During the reporting period (2018-2023), serious violations of the social and economic rights of citizens were observed in Uzbekistan due to forced evictions of citizens and deprivation of their rights to their own private property. This violates the obligations of Uzbekistan assumed during the signing of the World Declaration on Human Rights (articles 7, 8, 12, 17 and 25)¹ and of the International Covenant on Social, Economic and Cultural Rights (articles 10, 11 and 13)².

2. Uzbekistan violates the principles of adequate housing and openness in urban development as well as state obligations to refrain from forced evictions (outlined in articles 7, 20, 21, 22, 23, 24, 26, 32 General comment No. 26 (2022) on land and economic, social and cultural rights).³

3. The CESCR in its Concluding observations on the third periodic report of Uzbekistan (14 Feb.-4 Mar. 2022) regrets the reports about the expropriation of property, the demolition of houses and forced eviction in the light of urban development projects. It is also concerned about reports of non-compliance with the national legal framework on property deprivation. The Committee recommends the State party to adopt legal and policy measures to ensure that evictions are carried out only as a last resort, and in accordance with the law and in conformity with the provisions of the International Covenants on human rights.⁴

4. During the reporting period, civil society activists noted non-implementation of the points outlined in Uzbekistan's National Report submitted to the third cycle of the UPR⁵. Despite assertions that the constitutional and legislative framework for the protection of human rights and freedoms has been strengthened (chapter A.41. of A/HRC/WG.6/30/UZB/1), citizens' complaints to the High Judicial Council regarding the actions of judges are answered that the Council deals only with the ethical conduct of judges. In response to appeals to the People's Chambers and the Virtual Office of the President, citizens are told that they have not found any violations in the court decisions on evictions.

5. In this report, we will outline the non-compliance of governmental and judicial authorities with the provisions stated in A/HRC/WG.6/30/UZB/1, chapters D 25. (Prohibition of torture and cruel, inhuman or degrading treatment), D 51. (Administration of justice and fair trial).

New legislation concerning land seizures and evictions

6. Whether the Uzbek government will respect citizens' rights to private property more in the coming period is a difficult question. Citizens are particularly concerned about the forthcoming (at the time of writing) constitutional reform. The government has proposed two

¹ <https://www.un.org/sites/un2.un.org/files/2021/03/udhr.pdf>

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[https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_2200A\(XXI\)_economic.pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_2200A(XXI)_economic.pdf)

³ <https://www.hlrn.org.in/documents/G2300035.pdf>

⁴ E/C.12/UZB/CO/3

https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Download.aspx?symbolno=E/C.12/UZB/CO/3&Lang=En

⁵ A/HRC/WG.6/30/UZB/1 National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21* Uzbekistan

amendments, which relate directly to the right to adequate housing.

- Art. 27 on the right to privacy (!), introduces the provision "No deprivation of one's home except by court order".⁶ There is no such provision in the Constitution in force at the time of writing.
- Art. 53 of the current Constitution, which proclaims the inviolability of private property and its protection by the State, is supplemented by article 53¹: "No person shall be deprived of his property except by order of a court. Forcible alienation of property for public purposes may take place in exceptional cases and in accordance with the procedure prescribed by law, subject to prior and equivalent compensation"⁷. In the rule in force at the time of writing, it read as follows: "The owner may be deprived of it only in the cases and in the manner prescribed by Law"⁸.

7. The phrase "seizure of private property only through the courts" causes serious concerns and skepticism among citizens, because during the reporting period hundreds and hundreds of residents were deprived of their private property rights and evicted precisely through the courts which improperly applied irrelevant Law provisions.

8. On October 1, 2022, the Law "On the Procedure for Seizure of Land for Public Needs with Compensation" #781 of 29.06.2022 entered into force⁹. This law gives the role of initiator of land seizure at the regional level to Hokimiyats (Art. 5). Regional funds are established under Hokimiyats to compensate losses in connection with the seizure of real estate and land plots from owners. In this case, when preparing supporting materials, the initiator determines a preliminary amount of compensation with an estimate of the market value of demolished facilities (Art.13). These funds are then set aside by a supervisory board consisting mainly of the Municipal Council members and Hokimiyat staff (Art.15). And it is only then that the documents of the forthcoming project shall be put forward for discussion with the owners of dwellings to be demolished. So, the value of private property is determined without the owner of dwelling. However, the Law does not specify what happens if the owner of dwelling to be demolished does not agree with the provisional valuation of his property.

9. We monitored four processes that took place after publication of the new Law # 781. Two cases took place in the Administrative Court of Tashkent city when residents tried to overturn the decisions of Hokims issued in favor of the private companies for commercial construction with conditions that existing houses be demolished.

- These are process of A.SH&J.M vs Hokimiat of Tashkent who allocated 10 ha in the center of Tashkent to the private company Steel Quality Business Ltd ¹⁰ and the process of N.J.& SH.A. vs Hokimiat of Tashkent who allocated 2,3 ha in the center of Tashkent to the private company Dream Construction Ltd ¹¹. In both cases, initiated in summer 2022, the court refused to satisfy the demands of the residents, although they argued the provisions of the legislation in force at the time the decisions were made by the Hokims, as well as the provisions of the new Law #781.
- Two other cases were initiated, also in summer 2022, in the Civil Court of Mirzo-Ulugbek district of Tashkent by the private developers asking to evict residents from

⁶ <https://storage.kun.uz/source/uploads/2022/Законопроект.pdf>

⁷ <https://storage.kun.uz/source/uploads/2022/Законопроект.pdf>

⁸ <https://lex.uz/docs/35869>

⁹ [ЗРУ-781-сон 29.06.2022. О процедурах изъятия земельных участков для общественных нужд с компенсацией \(lex.uz\)](#)

¹⁰ [Ниёзбек-йули : когда «парикмахеры» берутся за перестройку города — Housing news \(housing-uz.info\)](#)

¹¹ [Друзьям – всё, врагам — закон — Housing news \(housing-uz.info\)](#)

their own private houses: Steel Quality Business LTD vs A.Sh&J.M and Dream Construction Ltd vs Sh.A. In both cases, the court satisfied demands of the developers to evict the owners from their private houses in favor of the commercial interests of the private developers.

Why are Uzbek citizens so distrustful of these innovations?

10. The legislation in force during 2018-2023 concerning the right to private property and its protection by the State was actively violated by the governmental and judicial bodies of the RUz. Here are the provisions of the Uzbek Constitution and Laws, which the governmental and judicial bodies of the RUz violate with impunity:

- Art. 53 of the Constitution (as in force at the time of writing) states: «Private property shall be inviolable and protected by the State. The owner may be deprived of it only in the cases and according to the procedure stipulated by Law»¹². The same provision is enshrined in Art.166 of the Civil Code (CC)¹³, and in Art. 32 of the Law on Property in the RUz¹⁴.
- Art. 164 of CC states: «The right of ownership is the right of a person to possess, use and dispose of the property belonging to him at his discretion and in his interests ». ¹⁵
- Art. 11 of HC states: «Privately owned houses and flats may not be confiscated; the owner may not be deprived of ownership of the house or flat, except in the cases laid down by Law»¹⁶.
- The Law, in turn, states that "property may only be expropriated from the owner when the owner's obligations are enforced in the cases and according to the procedure provided for by Law, as well as through nationalization, requisitioning and confiscation" (Art. 199 of CC)¹⁷.

Courts ignore violations of the law by public authorities

11. We monitored court proceedings on forced evictions of citizens initiated by private development companies between 2018 and 2023. This monitoring shows that all the provisions of the Law listed above in paragraph 6-10 were null and void for the judges. Judges put the decisions of Hokims to allocate land plots to private firm above the Constitution and all laws. On the allocated areas there are legally registered residential and non-residential premises. The Hokims decisions ordered the private developers firms to demolish these dwellings and compensate the owners. Judges did not pay any attention to the fact that these decisions were made in blatant violation of the Law.

12. These violations are as follows:

13. Absence of resolutions of the Council of Municipal Deputies on the decisions of Hokims on allocation of land plots. Art. 10 of the Law "On local government authorities" in the

¹² <https://lex.uz/docs/35869> Constitution of RUz

¹³ <https://lex.uz/docs/111181> Civil Code of RUz Cr.166: «Property is inviolable and protected by Law. The inviolability of property consists in refraining from infringement of property rights by all entities opposed to the owner. The seizure of property from the owner, as well as the restriction of the owner's authority, is permitted only in the cases provided for by Law»

¹⁴ <https://lex.uz/docs/111455> Law "On Property in Uzbekistan", Art. 32 "The Republic of Uzbekistan guarantees the implementation of property rights and ensures the constitutional rights of the owner"

¹⁵ <https://lex.uz/docs/111181> Civil Code of RUz

¹⁶ <https://lex.uz/docs/106134> Housing Code of RUz

¹⁷ <https://lex.uz/docs/111181> Civil Code of RUz

edition till 07.06.2022, states that a Khokim has the right to grant land and to withdraw it with the subsequent approval of the relevant Council of People's Deputies¹⁸. There is no resolution of the Council of Deputies on any decision of any Hokim. But judges do not perceive this as a violation of the Law.

14. Absence of public discussion of town planning projects required by articles 20 and 21 of General comment No. 26 (2022)¹⁹. The requirement of public discussion already existed in the Uzbek legislation in the reporting period 2018-2023 , in the Land Code (Art.37)²⁰, in the Urban Development Code (Art. 6, 10)²¹.

15. At the time of issuance of the majority of decisions, the allocation of land plots was regulated by DCM No. 54 of 25.02.2013. According to the Art.12 of Annex 1 to this resolution, when the authorities received applications for allocation of land plots already occupied by buildings, the rights to which are registered for other individuals and legal entities, the authorities should refuse these applications ²².

16. Nevertheless, these very provisions were violated by the State bodies themselves, represented by Hokimiyats, as well as by judicial bodies and prosecutors, who, as they say, "did not find" any violations of the Law. And this argument of the residents in the courts is of no importance for the judges, and they rejected all arguments of the residents referring to the above mentioned Laws.

17. Lack of publication: According to the Law "On Normative Legal Acts", the decision of the Hokim is the NLA in the rank of a by-law. According to its art. 38: "Normative legal acts shall be published in official editions. No one can be convicted, punished, deprived of property or any rights on the basis of a Law that is not officially published". According to its Art.39, the official sources of publication of decisions of local state authorities are the "National database of legislation" (www.lex.uz), as well as official editions of local state authorities²³. However, the Hokims' decisions to allocate plots of land to private development firms, which involve the demolition of hundreds of houses and the relocation of thousands of residents, are not published anywhere. Residents receive only blind photocopies of decisions on a single A4 sheet without notarized copies. The lack of publication of decisions of Hokims on such an important topic and affecting the interests of tens of thousands of citizens does not allow citizens to respond to such decisions in time and defend their rights in court. Also, the lack of publications does not allow for analysis and statistics of forced evictions.

¹⁸ <https://lex.uz/docs/112168?ONDATE=18.09.1993%2000#120953> Law "On local governmental authorities"

¹⁹ https://www.ohchr.org/en/special-procedures/sr-housing/human-right-adequate-housing?fbclid=IwAR292Tz5_LVSD_XTzeqnu0gxXtrNGy4XnPg_P7aS7vsTnN3IxxvurBNKsz0g

²⁰ [30.04.1998. Земельный кодекс Республики Узбекистан \(lex.uz\)](http://30.04.1998.Земельный_кодекс_Республики_Узбекистан_(lex.uz))

²¹ [22.02.2021. Градостроительный кодекс Республики Узбекистан \(lex.uz\)](http://22.02.2021.Градостроительный_кодекс_Республики_Узбекистан_(lex.uz)) Art. 6 of the UDC obliges the Hokimiyats to provide conditions for participation of citizens, public associations in discussion and decision-making on urban planning. The UDC protects the rights of citizens to a favorable urban living environment, as well as to openness and transparency of urban planning activities. According to Art. 10 of UDC, "Citizens have the right to reliable, complete and timely information about the state of living environment, its proposed changes, master plans of settlements, construction and reconstruction of housing and civil engineering facilities, improvement of territories, laying of engineering and transport communications and other information about town planning activities"..

²² <https://lex.uz/docs/2138919> , (act expired on 01.07.2018)

²³ [ЗРУ-682-сон 20.04.2021. О нормативно-правовых актах \(lex.uz\)](http://ЗРУ-682-сон_20.04.2021._О_нормативно-правовых_актах_(lex.uz))

Coercion to deal by the courts

18. In court proceedings on forced eviction, the Uzbek courts behave like realtors, trying to determine the market (!) value of the private dwelling to be seized.

19. In violation of the current legislation, the courts entrust the Center of Forensic Expertise under the Ministry of Justice (CFE) to determine the market value of immovable property of citizens. In July 2022, the deputy of the Legislative Chamber of the OM Rasul Kusherbayev sent a parliamentary inquiry to the Chairman of the Supreme Court on this matter²⁴. He points out that when appointing an appraisal of real estate, it should be guided by the Law "On Appraisal Activities", which defines an appraiser as "a private person who has a qualification certificate of appraiser issued by the authorized body in the prescribed manner". The law also requires that the appraiser be a member of one of the professional associations of appraisal organizations²⁵. "CFE is a structure of the MoJ and is not a member of any professional association of appraisers," writes lawmaker R. Kusherbayev. The chairman of the Supreme Court didn't respond to this inquiry. And CFE argued its involvement in the assessment of real estate of citizens by the fact that it is a legal, not a natural person, and therefore, they say, is not required to have a license for valuation activities²⁶.

20. However, in conducting its appraisal, CFE takes into account only the cost method (the amount of materials used for construction and their depreciation), but does not take into account the market value of the home and of the land plot. Although all the laws relating to buyout of real estate require compensation for the seized property at the market price. CFE applied a certain "average market price", which is not provided by the Law. Although Art.206-2 of CC states directly that "market value of withdrawn property shall be determined by appraisal organization as of the moment immediately preceding the withdrawal of the property or when the information about impending withdrawal influenced the market value of property and the right for land plot"²⁷.

21. CFE completely ignores the location of the property, which is a major factor in determining the market value of a home. For example, in the case of D. M., CFE determined the value of his house at \$300 per square meter, although the developer himself expects to sell apartments and premises in his multistory building, which he is going to build on this plot, from \$2,000 to \$4,000 per square meter. In the cases of O.A. and M.Kh., CFE equated value of their dwellings to the dwellings of the approximately same size, but in more remote areas of the city.

22. Courts unconditionally accept the CFE's "assessment" in order to rule on deprivation of private property rights and eviction of the owner. It turns out that the courts are forcing citizens to make a forced transaction, which contradicts art. 354 of CC, which states: "Citizens and legal entities are free to conclude the contract; and art. 102 of CC "For the conclusion of the contract the expression of the agreed will of the parties is necessary"²⁸.

Lack of access to defense at trial (art.7&8 UDHR)

²⁴ https://t.me/deputat_kusherbayev/393

²⁵ <https://lex.uz/docs/24701>

²⁶ [Депутат ўз хатосини тан олсада, қонунни нотўғри талқин қилишдан нима манфаат? - \(sudex.uz\)](https://sudex.uz)

²⁷ [21.12.1995. Гражданский кодекс Республики Узбекистан \(часть первая\) \(lex.uz\)](https://lex.uz/docs/111181)

²⁸ <https://lex.uz/docs/111181> Civil Code

23. Although the CESCRC has recommended that Uzbekistan ensure that low-cost legal assistance is available and accessible to victims of demolitions²⁹, legal assistance from lawyers remains very expensive for most evicted residents, as demolitions and evictions primarily affect low-income families. In addition, few lawyers take on eviction cases, as they are known to be losing, given the judges' favoring of developers and Hokimiyats.

24. Therefore, the owners of demolished real estate often resort to the services of the voluntary representatives. According to item 7 of part 2 of art.67 of the CPC, voluntary representatives may be persons admitted by the court, on the basis of a notarized power of attorney³⁰. According to the RP SC "On application by the courts of the civil procedural legislation on representation" № 05 of 14.05.2010, §2, the representative in court is a natural person who performs procedural actions on behalf and in the interests of the principal within the granted authority, as well as helping him to exercise rights³¹.

25. However, in all monitored cases, the courts did not allow voluntary representatives, to whom the evicted owners issued a notarized power of attorney, to participate in the process. The courts referred to the fact that the opposing party - namely the developer - opposed such representation at a pretext that only lawyers and relatives could serve as voluntary representatives. However, Art. 70 of CPC clearly stipulates who cannot be admitted as voluntary representatives: they are minors, incapacitated persons, judges and prosecutors involved in the process or their relatives³². Thus, the courts leave the evictees unprotected and only because of the developer's disagreement.

26. All courts do not grant homeowners' requests for audio and video recordings because the developer's side is opposed. Thus, the evicted residents are left without evidence that the courts consider cases unilaterally, making decisions in favor of the developers. Residents cannot then file complaints about the behavior of judges with the Supreme Judicial Council

Violation of the Rights of the Child (art.10&13 CESCRC)

27. In court proceedings, developers and judges do not take into account the interests of children when evictions are carried out, and children are not heard or even they are expelled from the courtroom. Often, when evicted one is offered accommodation which is 6-7 km away from the present. This means that children will not be able to go to their own school, will not be able to maintain contacts with their friends and teachers. It causes irreparable damage to the child's psyche.

• Case of O.A³³: O.A. lives in her own house, three grandchildren live with her. Children attend to a public school and a music school both nearby, and attend sports classes. O.A.'s family is evicted by a private developer who wants to build several high-rise apartment buildings for commercial sale. At the same time, the developer offers a house which is 7 km

²⁹ CESCRC Concluding observations on the third periodic report of Uzbekistan

<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4sIQ6QSmIBEDzFEovLCuW3bIC8tkbJsstoVw34Dgj3n8JdUizZMXc0Czi48yLN5PUitxD9xXV8lgaE1cokKn37BvqRvrrLR4SyZ76awJ%2BGR%2BkkGnsY06Te21a%2BsM8iN>

³⁰ [22.01.2018. Гражданский процессуальный кодекс Республики Узбекистан \(lex.uz\)](#) Civil Procedural Code of RUz

³¹ [05-сон 14.05.2010. О применении судами норм гражданского процессуального законодательства о представительстве \(lex.uz\)](#) Resolution of the Plenum of the Supreme Court of RUz

³² [22.01.2018. Гражданский процессуальный кодекс Республики Узбекистан \(lex.uz\)](#) Civil Procedural Code of RUz

³³ [Принудительные выселения через Верховный суд РУз : дело Мадины Хасановой и дело Ольги Абдуллаевой — Housing news \(housing-uz.info\)](#)

away from the present. All requests from O.A. to provide her an apartment with an appropriate area in the current place are refused by the developer, as it is a very expensive district.

- Case of D.M.³⁴: 15 people, including 9 children (both boys and girls) live and are registered in the big house of D.M. of 300 sq. m area. These are essentially four families of D.M. , her mother and two sisters with their children. All children attend to the public school nearby, and families do not want to change schools. The developer evicts these families in order to construct commercial elite housing. All four families asked to be given apartments in the neighbor building built by the same developer, but he refused because of the high cost. Even in case of eviction from the municipal housing for public needs, the evicted people shall obtain another equivalent well-equipped housing unit of an area not lower than the social norm (16 sq meters /person) , according to the art. 27 of the HC³⁵. Therefore, D.M.'s family should have received an apartment with a total area of 240 sq. m., however, they are given two flats with a total area of 135 sq. m.³⁶

Application of irrelevant provisions of the Law

28. Since current law does not provide for the forced seizure of private property and forced eviction of the owner at the request of a private commercial company, the judges, under the guise of "analogy of law", equate private house with municipal property and the commercial interests of private companies with public needs of the State. Judges refer to the law regulating demolition for public needs, while most demolitions and evictions are carried out only for profit of the private companies in the real estate and commercial sector. According to Uzbek law, the exhaustive list of public needs does not cover private commercial real estate³⁷.

29. According to para. 2 of RP SC «On judicial practice in housing disputes» #22 of 14.09.2001, the courts have to resolve housing disputes related to eviction on the grounds specified in articles 71-74,79 and 85 of HC and arising in connection only with the withdrawal of land for state or public needs³⁸. Articles 71-74, 79 and 85 of HC apply only to

³⁴ [Насколько честны наши судьи в делах принудительного выселения: взгляд со стороны — Housing news \(housing-uz.info\).](#)

³⁵ [24.12.1998. Жилищный кодекс Республики Узбекистан \(lex.uz\)](#)

³⁶ [Human.uz | Mirabad Avenue нега фуқарони норози қилмоқда](#)

³⁷ DCM No. 97 dated 29.05.2006. On Approval of the Regulation on the Procedure for Compensation of Losses to Citizens and Legal Entities in Connection with the Seizure of Land Plots for State and Public Needs <https://lex.uz/docs/1004599#1046065>

Art. 31 Decisions on the withdrawal of a land plot and the demolition of residential, industrial and other structures, structures and plantings (hereinafter referred to as "objects") shall be adopted exclusively for the following purposes:

- provision of land for the needs of defense and state security, protected natural territories, creation and functioning of free economic zones;
- fulfillment of obligations ensuing from international treaties;
- discovery and development of mineral deposits;
- construction (reconstruction) of highways and railroads, airports, airfields, air navigation facilities and aviation centers, railway transport facilities, bridges, subways, tunnels, facilities of power systems and power lines, communication lines, space facilities, trunk pipelines, engineering and communication networks;
- execution of master plans of settlements in terms of construction of facilities at the expense of the State budget of the Republic of Uzbekistan, as well as in other cases expressly provided by the laws and decisions of the President of the Republic of Uzbekistan.

³⁸ <https://lex.uz/docs/1452369>

the municipal and departmental housing fund, which does not include privately owned housing³⁹.

30. In the reasoning of their decision, the judges cite Art. 206 of the CC, which merely allows for the termination of ownership rights in connection with the decision of a state body in the cases and in the manner prescribed by law⁴⁰. But this article can be applied only in case of the public needs, but not in case of the commercial interests of the private companies. On May 31, 2022 the Constitutional Court of the RUz considered the case of Madina Khasanova and ruled that the provision of Art.206 of CC on expropriation of private property did not comply with the Constitution⁴¹. However, this had no effect on the judges who had ruled on the basis of that article. Cases of people caught up in forced evictions under this article have not been reviewed.

31. Also, the judges apply, by «analogy of Law», the art. 71 of HC⁴² and the art. 27 of LC⁴³, which provide for eviction from municipal housing (not private) or seizure of a land plot only for state needs (not for commercial interests of the private companies).

32. In O.A.'s case, the judge of the Mirabad district Court on Civil Cases made a decision on forced eviction according only to his own inner conviction, without relying on any law⁴⁴.

Recovery of court costs

33. The RP SC "On the Practice of Recovery of Court Expenses in Civil Cases" clarifies that the state duty is paid BEFORE the submission of the claim to the court. In cases where the applicant's claims are of a property nature, the amount of the state duty is determined based on the price of the claim (in cases of seizure of housing, which is private property, the duty is equal to 4% of the market value of housing)⁴⁵.

34. In accordance with of Art.8 item 32 of this Act and of Art.15 of the Law "On Protection of Private Property and Guarantees of Owners' Rights" owner shall be exempt from state duty when applying to the court for a decision of state and other bodies, the actions (inaction) of their officials in violation of their rights and legitimate interests related to the realization of private property rights⁴⁶. In spite of this, the courts BEFORE accepting developers' claims do not charge them the proper fee, but award it AFTER the process, and often to homeowners, as it was in the cases of D.M. and O.A. We consider it as an instrument of pressure on the homeowners in order to discourage them from fighting for their rights.

Forced eviction procedure shall be recognized as torture (art.5 of UCHR)

35. Since the procedure for forced eviction is not described in any way by the Law, nothing limits it. You can be evicted in any weather, at any time, even at night, as happened in the

³⁹ <https://lex.uz/docs/106134> Housing Code of RUz

⁴⁰ [21.12.1995. Гражданский кодекс Республики Узбекистан \(часть первая\) \(lex.uz\)](#) Civil Code of RUz

⁴¹ [КОНСТИТУЦИОННЫЙ СУД МАЖЛИСИ БЎЛИБ ЎТДИ \(konstsud.uz\)](http://konstsud.uz)

⁴² <https://lex.uz/docs/106134> Housing Code of RUz

⁴³ [30.04.1998. Земельный кодекс Республики Узбекистан \(lex.uz\)](#)

⁴⁴ [МИРАБАДСКИЙ СУД ТАШКЕНТА ВЫСЕЛЯЕТ СЕМЬЮ БЕЗ ССЫЛОК НА ЗАКОНОДАТЕЛЬСТВО — Housing news \(housing-uz.info\)](#)

⁴⁵ [14-сон 24.11.2009. О практике взыскания судебных расходов по гражданским делам \(lex.uz\)](#)

⁴⁶ [ЗРУ-336-сон 24.09.2012. О защите частной собственности и гарантиях прав собственников \(lex.uz\)](#)

Mirabad district of Tashkent⁴⁷. It is possible to evict pregnant women (case O.A., whose pregnant daughter was going to be merry in November 2020⁴⁸), the sick people (case V.A. from Ferghana, who died from heart disease during procedure of forced eviction⁴⁹), people in a heat of passion (case D.R.. from Samarkand, who attempted to set fire to BfE employees while evicting from her own house on behalf of a developer. She was found guilty of resisting a representative of the authorities and sentenced to 1.7 years of restraint⁵⁰).

36. The eviction procedure itself is very cruel: it provides for a large accumulation of representatives of law enforcement agencies, breaking down gates or doors, breaking out windows, taking out all the things of the owners, even in their absence (cases M.Kh and Z.M. from Oltintepa street, Tashkent, both were evicted in their absence).

37. The decision of the district court on deprivation of the right of ownership and forced eviction, provided that the owner appeals against this decision by filing an appeal, is suspended in the appellate instance (Art.398 of CPC). The ruling of the court of appeal comes into force from the date of its issuance (Art. 399 of CPC)⁵¹. However, homeowners who disagree with the forced eviction decision are trying to use all legal remedies and file cassation complaints with the Supreme Court. And now they have to petition the Supreme Court to instruct the district judge, who issued the eviction order, to suspend his decision. The application procedure is quite humiliating for the owner, because he is forced to literally beg the deputy chairperson of the Supreme Court for his “highest permission”. Court employees are not always quicker than BfE employees. And it turns out that the citizen has not yet exhausted all legal instruments of protection, and bailiffs are already evicting the owner. This happened with Mavjuda Mamatkassymova, who was evicted at the moment when her case was accepted for consideration by the Supreme Court, but she did not have time to receive a suspension. 10 days after such a violation of her rights, Mavjuda died suddenly.⁵²

39. Homeowners, who are being evicted by a developer, experience a strong psychological and physical impact from the very beginning of the “relocation agreements” process. Developers act by the "worm in the apple" method: they agree on resettlement with some owners on the demolition area, and immediately begin to demolish the purchased dwellings and to build future multi-storey ones. By doing so, the developers condemn residents who disagree with the demolition, or residents who are in litigation, to live in the dangerous conditions of large-scale construction⁵³. They live in conditions of constant vibration and noise from the almost round-the-clock operation of construction equipment.⁵⁴ They breathe dust, dangerous objects from the construction site fall on them⁵⁵. Developers break fences, roofs of the residents houses, cut off their water, electricity and gas supply lines⁵⁶. By doing so, developers are forcing residents to agree to leave their homes on the terms of the

⁴⁷ [Ташкент - ЧОС \(facebook.com\)](https://www.facebook.com/)

⁴⁸ [«Заказное» правосудие поощряет незаконный отъем собственности в Узбекистане \(asiaterra.info\)](http://asiaterra.info/)

⁴⁹ [«Нас выдавили». В Фергане людей выселяют из центра – Новости Узбекистана – Газета.uz \(gazeta.uz\)](http://gazeta.uz/)

⁵⁰ [Суд вынес приговор Дилором Розиковой – Новости Узбекистана – Газета.uz \(gazeta.uz\)](http://gazeta.uz/)

⁵¹ [22.01.2018. Гражданский процессуальный кодекс Республики Узбекистан \(lex.uz\), 22.01.2018. Civil procedure code of the Republic of Uzbekistan \(lex.uz\)](http://lex.uz/)

⁵² <http://www.asiaterra.info/news/zhenshchina-kotoruyu-nezakonno-vyselili-iz-sobstvennogo-doma-skonchalas>

⁵³ [Sadyk Azimov street by night - YouTube](https://www.youtube.com/watch?v=...)

⁵⁴ [BB-stroy - night work - June 2020 - YouTube](https://www.youtube.com/watch?v=...)

⁵⁵ [Дом Ольги Абдуллаевой - YouTube](https://www.youtube.com/watch?v=...)

⁵⁶ [Осбудсман вступилась за жителей Ташкента, которым застройщик перерезал подачу газа и света — Housing news \(housing-uz.info\)](http://housing-uz.info/)

developer.

40. The judicial process itself is also a strong psychological torture, because the residents are aware of the injustice and all the violations of the law described in this report.

Recommandations :

- 1) Eliminate all inconsistencies and ambiguities in the legislation regarding the allocation and withdrawal of land plots;
- 2) When making decisions on the seizure of private property and forced eviction, apply the norms of the law that directly describe the procedure, and do not resort to "an analogy of law."
- 3) Recognize the application of the irrelevant law provisions by judges, the misuse of the protocol of actions for public needs applying it for commercial construction, as a criminally punishable act
- 4) Ensure the availability and accessibility of low-cost legal assistance for residents affected by the demolition, as well as the participation of their voluntary representatives
- 5) Take into account the opinion of the children in the courts during processes for forced evictions
- 6) Do not charge homeowners a court fee for a property claim filed by an evictor;
- 7) Adopt a provision in the relevant legislation on legal proceedings, according to which, in case of forced eviction, the enforcement of the decision occurs only after the owner has exhausted all legal remedies;
- 8) Recognize forced eviction as torture and include in the legislation administrative and criminal penalties for forced evictions;
- 9) Request monitoring of enforced eviction decisions, where the claim is filed by the developers, in order to analyze the situation
- 10) Prohibit forced evictions, in principle, especially for families with minor children.