

**Tashkent SNOS Activist Group  
Central Asia Network on the Right to Adequate Housing  
Democracy and Human Rights Institute  
Ms. Diyora Rafieva, Public Law & Security lawyer  
NGO Akbaskur  
Ms. Anastasia Gladilova, civil activist  
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**International Covenant on Economic, Social and Cultural Rights (CESCR)**

**ALTERNATIVE THEMATIC REPORT  
to the 71<sup>st</sup> session of the UN Committee on Economic, Social and Cultural  
Rights  
on Uzbekistan's implementation of CESCR (Articles 2, 3, 11 and 15 of the  
Covenant)**

**Tashkent, 2022**

## **ABBREVIATIONS:**

AQI – Air Quality Index

CAN on RAH - The Central Asian Network on the Right to Adequate Housing

CC – Civil Code of the Republic of Uzbekistan

CEB - Compulsory Enforcement Bureau under the General Prosecutor`s Office of the Republic of Uzbekistan

CM - Cabinet of Ministers of the Republic of Uzbekistan

CESCR - International Covenant on Economic, Social and Cultural Rights

CESCR Committee – The United Nations Committee on Economic, Social and Cultural Rights

General plan – General Plan of the city/town, Master Plan

DHRI -The Democracy and Human Rights Institute

HC - Housing Code of the Republic of Uzbekistan

Khokim – Mayor of the city or Governor of the province

LLC – Limited Liability Company

MoJ – Ministry of Justice of the Republic of Uzbekistan

NGO - Non-Governmental Non-Profit Organization

PwDs – People with disabilities

RAH – Right to Adequate Housing

RCM – Resolution of the Cabinet of Ministers of the Republic of Uzbekistan

RK - Republic of Karakalpakstan

RUz – Republic of Uzbekistan

SNIP – Construction norms and regulations of the Republic of Uzbekistan

UN – United Nations Organization

UN OHCHR - Office of the United Nations High Commissioner for Human Rights

UPC - Urban Planning Code of the Republic of Uzbekistan

## **Introduction**

The Tashkent SNOS Activist Group, the Central Asia Network on the Right to Adequate Housing (CAN on RAH), the Democracy and Human Rights Institute (DHRI), lawyers Ms. Diyora Rafieva and Ms. Dilfuza Kurolova, NGO Akbaskur and civil activist Ms. Anastasia Gladilova prepared this alternative thematic report on Uzbekistan's implementation and guarantee of the right to adequate housing in compliance with its international obligations by the CESCR, and submitted for further consideration during the 71<sup>st</sup> session of the CESCR Committee in February-March of 2022, where Uzbekistan undergoes its 6<sup>th</sup> country report.

This report was developed with support of the UN OHCHR aiming at facilitating the dialogue between the CESCR Committee and the Republic of Uzbekistan delegation to brief the CESCR Committee on the implementation of the CESCR Committee's Final Recommendations to improve Uzbekistan's compliance with its obligations under the CESCR.

**Tashkent SNOS activist group**<sup>1</sup> was established in 2017 as a Facebook group to inform residents of the districts under demolition pursuant to the Government decisions on eviction related issues, enforcement of the Constitution provisions and other laws of the RUz, as well as providing mutual assistance in protecting their rights. The Tashkent SNOS group is uniting 26,000 users and administered by Ms. Farida Sharifullina, civil activist and owner of the web site [www.housing-uz.info](http://www.housing-uz.info).

**The CAN on RAH**<sup>2</sup> is a platform integrating civil society efforts to protect the rights of citizens to housing and ensure a safe environment for all its members in four Central Asian countries (Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan).

**DHRI**<sup>3</sup> is an Uzbek NGO established in November 2004 with branches in four regions of Uzbekistan. The goal of the DHRI is to develop democratic principles in government and society, to promote the protection and culture of human rights, to promote the irreversible democratic principles in the management of activities of government bodies and other organizations. The organization is headed by Mrs. Sayyora Khodzhaeva, lawyer and includes prominent legal scholars of Uzbekistan.

**NGO "Akbaskur"** was established in 2019 by Mr. Murat Ubbiniyazov and other civil activists of the Republic of Karakalpakstan. NGO deals with the problems of private property rights, forced labor, the problems of persons with disabilities, women and children, as well as the elderly.<sup>4</sup>

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<sup>1</sup> Tashkent SNOS group Facebook link: <https://www.facebook.com/groups/328799110874813/about>

<sup>2</sup> The CAN on RAH link: <http://ichrptj.org/ru>

<sup>3</sup> The DHRI link on social media:

<https://www.facebook.com/%D0%98%D0%BD%D1%81%D1%82%D0%B8%D1%82%D1%83%>

<sup>4</sup> [www.facebook.com/profile.php?id=100040263174299](http://www.facebook.com/profile.php?id=100040263174299)

# I. FORCED EVICTIONS IN UZBEKISTAN - VIOLATIONS OF HUMAN RIGHTS TO NON-DISCRIMINATION AND LEGAL PROTECTION

## A. Uzbekistan violates property rights (Art 11 of CESC)

1. Forced evictions contribute to already existing inequality, discrimination, segregation, social conflicts and tensions, and enlarges the poverty gap among the most socially and economically vulnerable and marginalized groups, especially women, children, minorities and PwDs.

2. Deputy Justice Minister Akbar Tashkulov<sup>5</sup> informed about violations in 2016-2020:

**846** cases of demolition without warning;

**1,388** cases with non-compliance with the warning period;

**1,244** cases without prior assessment;

**430** demolitions without compensation.

In 2016-2019, 6,479 private properties were demolished for state and public needs, and the amount of unpaid compensation reaches 335.6bln soums (\$31.6mln). In 2020, 263 properties were demolished for a total compensation of 99.4bln soums (\$9.4mln)<sup>6</sup>.

In 2020-2021, only in Tashkent 30 owners have not been paid for damages caused in connection with the state seizure.<sup>7</sup>

3. Non-stop construction heavily supported by the state is an indication of ongoing development is a gross violation of Uzbek people's rights to cultural heritage (Art.15 of CESC) and healthy environment (art.11 of CESC). Demolition of monuments in the historical part of Tashkent erases inevitable evidence of the original way of life, habitat and culture of the Uzbek people.<sup>8</sup>

These are a few cases of the destruction of important cultural heritage sites:

✓ On August 2, 2007, Abdulkakhar Tukhtayev, the former khokim (mayor) of Tashkent city excluded about 300 various sites from the list of cultural heritage.<sup>9</sup> A number of buildings and constructions built in the 19th and early 20th centuries, parks,<sup>10</sup> squares and even the Tashkent Botanical Garden lost their protective status. Up to now, some of the buildings are already demolished, many squares and parks have been shrunk, lakes have been drained,<sup>11</sup> and the vacated territory is being developed by commercial facilities.

✓ In July 2017, the Tashkent city authorities suddenly, with no explanation, demolished the ***Institute of Energy and Automation***, built in 1915. After the demolition, the place was empty for three years.<sup>12</sup>

✓ In November 2019, the Tashkent city administration destroyed the so-called ***Military Town***: an ensemble of historic houses on Parkent Street, 2<sup>13</sup>.

<sup>5</sup> He was dismissed from the position and became the rector of the Tashkent state university of law (<https://uzdaily.uz/en/post/70149>)

<sup>6</sup> [Will the Government of Uzbekistan Continue the Practice of Forced Evictions? – Housing news \(housing-uz.info\)](#)

<sup>7</sup> ["Черные пятна" Ташкента - Новости Узбекистана сегодня: nuz.uz](#)

<sup>8</sup> [Ташкент теряет свой исторический город – Газета.uz \(gazeta.uz\)](#)

<sup>9</sup> [Что исключил из списка объектов культурного наследия бывший хоким Ташкента Абдукахар Тухтаев \(список\) \(asiaterra.info\)](#)

<sup>10</sup> [На месте Национального парка открылся Magic City – Газета.uz \(gazeta.uz\)](#)

<sup>11</sup> [Осушено еще одно озеро в Ташкенте. На этот раз - окончательно \(kun.uz\)](#)

<sup>12</sup> [Что построено на месте снесенного «Приюта Кауфмана»? \(asiaterra.info\)](#)

<sup>13</sup> [«Военный городок» по ул. Паркент-2, Ташкент — Housing news \(housing-uz.info\)](#)

✓ ***House No.45***<sup>14</sup> on Amir Temur str. and ***House No.7***<sup>15</sup> on Bobur str., Tashkent, both built in the early 20th century in the avangard style, should be destroyed due to the khokim's decision for a commercial project. The status of "*national heritage*" was granted to both buildings and became untouchable for demolitions only after court decision, following many social media publications based on experts conclusions and public campaigning.<sup>16</sup>

✓ ***Samarkand University Boulevard*** is a center of the historic part of Samarkand, where no major changes are allowed without prior approval of UNESCO.<sup>17</sup> Nevertheless, the city municipality planned to enlarge the campus of the university and take down 15 private houses. Four houses were demolished in spite of existing restrictions, and constructions works are undergoing. The *official document to enlarge the university* campus is still valid.

4. The rapid construction in recent years in Uzbekistan has created a lot of sand and dust rising into the air with any power of the wind.<sup>18</sup> In Tashkent, the Air Quality Index (AQI) is much lower than in the capitals of neighboring countries. In 2021, only a few days were "with good air quality,"<sup>19</sup> while the rest with poor or even dangerous AQI. Uzbek Ministry of Health informed about increased number of people complaining of breathing difficulties to the ambulance during the sand hazard at the end of 2021.<sup>20</sup>

5. **Infill development:** municipalities and developers find spacious yards between the apartment buildings and try to squeeze in a multi-story building. It is very convenient and beneficial: all infrastructures already exist, and there is no need to resettle anyone. However, the residents of such neighborhoods protest, since the construction itself and the finished building will violate their right to adequate housing, which includes the right to a healthy ecological environment. In addition, infill developments violate the relevant provisions of current Uzbek legislation.<sup>21</sup>

6. **No demolition statistics exist** at the state level due to following assumptions:

- ✓ Khokims' decisions regarding land allocation for construction aren't posted on municipality websites. So, no transparent and accountable tracking mechanisms;
- ✓ Khokims' decisions on land allocation do not include details on buildings to be demolished, and consists from only minimum information such as approximate land location and size. The developers and cadaster services identify buildings and flats to be demolished, as well as families that lose their housing, after the decisions are made. Any kind of information, including justification of decisions are absent disabling access to information;
- ✓ No state institutions are interested in publishing demolition data infringing right to information;
- ✓ Unfair demolition become publicly available case only after active fights for RAH of victims who publish information online and involve journalists.

7. Evictions take place following the city municipality decision on land allocation to entrepreneurs to carry out various commercial projects, mainly construction of multi-store

<sup>14</sup> <https://themag.uz/post/opyat-45-snos-vo-bлаго-ili-razrushenie-istorii>

<sup>15</sup> <https://www.facebook.com/photo/?fbid=4660410927353497&set=gm.1192508837909808>

<sup>16</sup> <https://podrobno.uz/cat/obchestvo/zhiteli-doma-45-v-tas/>

<sup>17</sup> Samarkand is in the list of UNESCO Heritage: <https://whc.unesco.org/en/list/603>

<sup>18</sup> [Эксперты объяснили причины появления частых пыльных бурь в Узбекистане , Новости Узбекистана \(podrobno.uz\)](#)

<sup>19</sup> [Мониторинг: качество воздуха в Ташкенте ухудшается с каждым днем \(kun.uz\)](#)

<sup>20</sup> [Содержание пыли в воздухе Ташкента превысило норму в пять раз \(fergana.media\)](#)

<sup>21</sup> [Точечная застройка: Ташкентская Махалля Бог-Сарой борется с захватчиком дворовой территории — Housing news \(housing-uz.info\)](#)

apartments, hotels, shopping, entertainment and business centers. These decisions are made without consideration of the permanent residents in that land or existence of enterprises or other commercial facilities.

8. Khokims make these decisions without prior consultation or consent of residents/owners of private facilities. People are presented with a fate to leave their homes where they were born; or the house that they have chosen according to their preferences (near to work, school, relatives, ecological zones, etc.).
9. Developers pursue their profitmaking activities and are not interested in paying an adequate compensation for the house or moral damage. Developers for not agreeing terms constantly sue the owners of residential or non-residential facilities. Despite the legal prohibition of forced eviction,<sup>22</sup> judges rephrase some legal provisions and adjudicate *de facto* forced eviction. Judges refer to the law regulating demolition for public and state needs, while most demolitions are only for profit making, mainly in real-estate sector. **According to the law of the RUz, the exhaustive list of state and public needs does not cover such demolitions.**<sup>23</sup> Furthermore, judges use the clauses on the eviction from the municipal houses to justify the decision to evict people from their own private houses. Often, municipalities are co-claimants with developers on forced eviction cases against owners, including women and children that can be interpreted as if the state *de facto* in favor of the commercial firms against citizens, particularly, vulnerable population, and violate the principle of equality of arms. Usually, owners of demolished houses are not financially capable of paying a defense-lawyer; and Uzbek law does not entitle free state-guaranteed legal aid to vulnerable population in civil cases. In spite of urgency to adopt the **Law on Free Legal Aid** that includes mentioned provision, RUz has not adopted yet.

#### **B. The following Uzbek legislation regulating ownership rights are violated during the housing demolition:**

10. Article 53 of the RUz Constitution: *“Private property, along with other forms of ownership, shall be inviolable and protected by the State. The owner shall be deprived of his property only in case and manner stipulated in the law.”*<sup>24</sup>
11. The Civil Code : *“Ownership shall be inviolable and protected by law. The property inviolability shall imply any refraining from violation of property rights by any actor opposing the owner. The seizure of the owner’s property, as well as the restriction of his or her rights, shall be permitted only in the cases stipulated by legislation.”*<sup>25</sup>

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<sup>22</sup> Order President of the RUz About additional measures for unconditional provision of guaranteeing the right of property of citizens and businesses from August 3, 2019, No. P-5491, <https://lex.uz/docs/3845276>

<sup>23</sup> Decree No. UP-5495 of the President of the RUz on Measures for Cardinal Improvement of Investment Climate in the RUz of 01.08.2018 specifies the grounds for seizure of land for new construction and reconstruction:

*“3. Establish that seizure of land for state and public needs shall be allowed exclusively for the following purposes:*

- *Provide land for defence or state security needs, protected natural areas, free economic zones establishment and operation;*
- *Fulfil obligations arising from international agreements;*
- *Discover and develop mineral deposits;*
- *Construct (reconstruct) roads, railways, airports, etc;*
- *Impelment settlement master plans with regard to construction of facilities through the State budget of the RUz, ”.* <https://lex.uz/docs/3845276>.

<sup>24</sup> <https://constitution.uz/en>

<sup>25</sup> CC RUz, Article 166. Inviolability of property

12. Article 2 of the Law of the RUz on “Protection of Private Property and Guarantees of Owners’ Rights”: *“Private property shall be inviolable and protected by the state. The owner shall be deprived of his property only in case and manner stipulated in the law.”*<sup>26</sup>

13. The Law on “Property in the RUz” begins with the Preamble guaranteeing, *“Property in the RUz shall be inviolable. Everyone shall have the right to property. The RUz permits any form of property that contributes to the efficient functioning of the economy and the well-being of the people. The inviolability and equal conditions for the development of all forms of ownership shall be guaranteed by law. The RUz shall provide the owner with all the necessary conditions to ensure the preservation and increase of his property.”* Based on Article 1 of this Law, *“Ownership rights in the RUz shall be recognized and protected by law. The owner has the right to perform any act against his property that don’t contradict the law. He may use the property for any economic or other activity not prohibited by law. The RUz guarantees equal rights and legal protection of all forms of property.”*<sup>27</sup> Private property... shall be inviolable and protected by the state. The owner shall be deprived of his property only in case and manner stipulated in the law.<sup>28</sup> It is prohibited to restrict the growth of property or to forcibly seize it, except in cases provided for by Uzbek law. The RUz shall ensure that legal entities and individuals in the RUz and other States have equal conditions for the protection of the right to property.<sup>29</sup> The owner has the right to reclaim his property from the unlawful possession of others in accordance with the civil law of the RUz. The court executes protection of the right to property.<sup>30</sup>

Termination of the right to property in connection with the decision to seize the land on which the house or other structures or plantings belonging to the owner are located, or other decision of a State agency not directly aimed at seizing property from the owner shall be permitted only in cases and under the procedure established by the legislation of the RUz, with full compensation for the owner’s losses caused by the termination of ownership. In case of any disagreement of the owner, the decision terminating the ownership right cannot be implemented until the court has resolved the dispute. All issues relating to compensation of the owner for the losses incurred shall also be resolved. The State shall seize the owner’s property only as recovery of the obligations of the owner in cases and under the procedure provided for by Uzbekistan’s law, as well as by way of nationalization, requisition and confiscation. In the event of natural disasters, accidents, epidemics, epizootics or other emergencies, property in the interests of society may, by decision of the public authorities, be confiscated from the owner with payment of the value of the property (requisition) in accordance with the procedure and conditions established by the law of the RUz. In cases stipulated by the legislative acts of the RUz, property may be withdrawn from the owner by court decision. The property may be seized from the owner by court decision in cases stipulated in the legislation of the RUz.<sup>31</sup> If, as a result of the act issuance by the public administration or local government authority that doesn’t conform with the law, when the rights of the owner or other persons to own, use and dispose of the property belonging to them are violated, this act shall be declared null and void by court at the request of the owner or the person whose rights have been violated. Losses incurred by citizens, organizations or other persons as a result of the issuance of the said acts shall be compensated in full by means available to the relevant authority or administration.<sup>32</sup> The State bodies shall be liable for any damage caused by their unlawful interventions violating powers to possess, exercise, or dispose

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<sup>26</sup> <https://lex.uz/docs/2055683>

<sup>27</sup> The Law on Property in the RUz, Article 5. Forms of Property

<sup>28</sup> *Ibid*, Article 7. Private Property

<sup>29</sup> *Ibid*, Article 32. Guarantee the right to property

<sup>30</sup> *Ibid*, Article 33. Protection of the right to property

<sup>31</sup> *Ibid*, Article 34. Protection of the owner’s interests upon termination of his rights on grounds provided for by law

<sup>32</sup> *Ibid*, Article 35. Invalidity of acts violating the rights of owners

of their own property by the owner or persons referred to in paragraph 1 of this Article, as stipulated in Article 35 of this Law.<sup>33</sup> However, despite of being the final body to settle disputes, issues with independence of judiciary limits the protection mechanisms for victims.

14. Article 206 of the Housing Code<sup>34</sup> : “ *Termination of ownership in connection with the decision of the State authority not directly aimed at seizing the property from the owner, including the decision to seize the land where the owner’s house or other structures, buildings or plantings are located, shall be permitted only in cases and in accordance with the procedure established by law, may the owner of the property be granted the right of ownership of equal value and other losses incurred or be compensated in full for the loss caused by the ownership termination. The market value of the house, other buildings, structures or plantings located on the land to be seized, as well as the right to land, shall be determined by valuation organizations in accordance with the established procedure. However, the market value of the property seized and the rights to the land upon termination of private ownership shall be determined by the valuation organization immediately, prior to the seizure of the property or when the news of the impending seizure affected the market value of the property, and the right to the land. It shall not be permitted to demolish a house, other structures or plantings on the land to be seized without prior and full compensation of losses at market value. If the owner disagrees with the decision terminating his ownership right, it shall not be implemented until the court has resolved the dispute. When considering the dispute, all issues with regard to compensating the owner for any losses incurred shall also be resolved. However, in practice, these HC provisions aren’t respected. Forced evictions most often involve lower-middle-income areas targeted for demolition. They don’t have enough financial means to hire lawyers to defend their property rights, they don’t have ‘friends in power’ who could protect their interests against arbitrary government and local officials.*

Municipalities and developers are increasingly replacing the principle of equivalent value with the principle of equivalent significance when providing replacement for the demolished housing: they offer a dwelling of equal area, regardless of the number of family members living with the owner.”<sup>35</sup>

15. In many cases, requirements of Articles 37 and 38 of the Urban Planning Code are not followed during the constructions, and development projects are not based on General Plan (Masterplan). Any construction shall not commence if there is no approved General plan. Article 34 of the UPC<sup>36</sup> clearly “*prohibits to design and build any projects within settlements without General plan or other required urban planning documentation*”.
- §3<sup>37</sup> of the Regulations on the “Procedure for Compensation of Damages to Citizens and Legal Entities due to Seizure of Land for State or Public Needs” states : “*Decisions on the seizure of land and the demolition of residential, industrial and other buildings, structures and plantings shall be taken in accordance with the General plans, as well as detailed planning and development designs of cities’ and towns’ residential areas, as well as microdistricts. The unwarranted demolition of residential, industrial and other buildings, structures and plantings on the land to be seized shall not be permitted*”.<sup>38</sup>

<sup>33</sup> *Ibid*, Article 36. Responsibility of State bodies for interference in exercise his/her powers by the owner

<sup>34</sup> <https://lex.uz/docs/106134>

<sup>35</sup> Tashkent khokimiyat gives this meaning to the concept of ‘equivalent value’ (para. 15, Draft Resolution of the Cabinet of Ministers on Approval of the Procedure for Compensation of Losses to Citizens and Legal Entities in connection with the Seizure of Land for State and Public Needs in the city of Tashkent), <https://regulation.gov.uz/ru/document/677>

<sup>36</sup> <https://lex.uz/ru/docs/5307955>

<sup>37</sup> Annex to the Resolution No. 97 of the CM on Approval of the Procedure for Compensation of Losses to Citizens and Legal Entities in connection with the Seizure of Land for State and Public Needs dated May 29, 2006, <https://www.lex.uz/acts/1004599>

<sup>38</sup> [https://favorit-legal.uz/novosti/article\\_post/kogda-dom-popal-pod-snos-ili-kak-zashchitit-svoe-imushchestvo-po-zakonu](https://favorit-legal.uz/novosti/article_post/kogda-dom-popal-pod-snos-ili-kak-zashchitit-svoe-imushchestvo-po-zakonu)



### C. New regulation legitimizes forced evictions

16. A new RCM "On Additional Measures to Guarantee Property Rights of Individuals and Legal Entities and to Improve the Procedure for Seizure of Land Plots and Compensation in Connection with Seizure" No.911 from November 16, 2019 and amended on September 21, 2021 became effective in Uzbekistan on January 1, 2020. This RCM cancels the RCM No. 97 of 2006 and introduces additional reasons for withdrawal of land plots and constructions located on them ("investment projects aimed at development and improvement of the architectural appearance of the area").

The new RCM introduces a new procedure for seizure of land plots, demolition of constructions and compensation to owners. Now, initiators of land seizure, after all approvals with municipalities, councils of the local representatives and other state structures, must hold preliminary discussions of their projects with property owners and obtain their prior notarized consent. The new RCM also obliges the publication of municipality's decisions on seizure of land plots on its websites and in the media.

At the same time, the RCM No.911 worsened the situation of people subjected to demolition through abolition the social norm (16 m<sup>2</sup> per each registered person, 23 m<sup>2</sup> per PwDs) that was considered during compensation calculation.

Moreover, RCM No.911 introduces the possibility of compulsory seizure through court proceeding. According to para 47, *"In the presence of written consent of at least 75% of the owners, but lack of consent of the remaining part of the owners, the initiator has the right to apply to the court with a claim for forced withdrawal of real estate at a price determined in the prescribed manner. The amount, terms and type of compensation to owners who have not given the appropriate consent shall be determined by a court"*.<sup>39</sup> This paragraph of the RCM No.911 directly contradicts international treaties ratified by the RUZ and reflected in its Constitution and other legislative acts mentioned above (items 10-15).

17. International treaties reflected in housing regulation in Uzbekistan are the following: (i) The Universal Declaration of Human Rights (UDHR) ; (ii) International Covenant "On Civil and Political Rights" (ICCPR); (iii) International Covenant "On economic, social and cultural rights" (ICESCR).

These international instruments set following standards on RAH, along with others: (i) everyone has the right to a decent standard of living, including housing (Article 25 of the UDHR); (ii) inviolability of the home; (iii) Freedom of movement and choice of residence (Article 12 of the ICCPR).

18. The constitutional guarantee on the inviolability of the home is enshrined in Article 27 of the RUz Constitution, and Article 11 on the right to ownership of housing of the Housing Code of RUz guarantees the inadmissibility of arbitrary deprivation.

Article 15 of Chapter III of the Constitution clearly states the unconditional supremacy of the Constitution and laws of the RUz.

Article 16 underlines that none of the provisions of the Constitution can be interpreted to the detriment of the rights and interests of Uzbek citizens.

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<sup>39</sup> Ibid  
<https://www.gazeta.uz/ru/2018/07/25/demolition/>

19. Despite of constitutional guarantees, laws are still misinterpreted and misused. Thus, the DHRI appealed to the Ombudsperson of Uzbekistan on the constitutionality of para 47 of the RCM No.911, who in turn appealed to the Constitutional Court of the RUz on the same matter. In response to Ombudsperson F. Eshmatova's inquiry regarding the constitutionality of this norm, on July 2, 2021, the Constitutional Court of RUz issued a decision in which it recognized that "*the concept of "appeal to court with a claim on compulsory redemption", used in para47 of the RCM No.911, is not defined in the legislation of RUz. "The initiator is entitled to apply to the court not with such a claim, but with a possible request to determine in court the amount, types and term of compensation to the owner."* Nevertheless, Constitutional Court of RUz considered that "*when the consent of the owner to seizure of his property is not achieved, the amount, types and terms of compensation are determined based on Article 197 of the CC, which is not contradicting the Article 53 of the Constitution*".<sup>40</sup>

But, according to the different provisions of the CC, the owner's property shall be seized only as recovery of the obligations of the owner in cases and under the procedure provided for by law, as well as by way of nationalization, requisition and confiscation. If a person owns property that cannot be owned by him by law, the ownership of such property shall be extinguished by the courts, and the value of the property seized shall be reimbursed.<sup>41</sup>

#### D. CASES for period of 2018-2021<sup>42</sup> (The list is not exhaustive)

##### *Cases with a tragic outcome*

1. ***M.M.***<sup>43</sup> and her family members, Tashkent (evictor LLC BB-STROY). The Courts of first and second instances upheld the forced eviction to the premises selected by the developer. Despite the fact that her case was pending before the Supreme Court, the bailiffs came to evict her in a very rude manner: they broke down the doors and windows, cut the radiators and began pulling things out to take them to an apartment chosen by the developer. No inventory was made. The case happened in March 2021 during cold weather. A week after the eviction, M.M.'s chronic illnesses sharply worsened her health condition and she died in the emergency clinic.
2. ***D.R.***, Samarkand (evictor LLC "Silk Voyage"). The evictor planned to demolish 4 multi-apartment residential blocks (59 flats) for commercial purposes. The destruction of the common property was initiated when people were still inhabiting the building. Some resisting homeowners were **harassed and repressed by administrative and even criminal sanctions** allegedly for "insulting". The Supreme Court upheld the eviction R. sisters and their four underage children. During the evictions, D.R. resisted the process by throwing a burning towel and starting to spill the fuel around and on herself. She was **arrested and remained in detention** for five months. The court sentenced her for 2 years of travel restrictions.
3. A 33-year old man in ***Taylak*** village burned himself in front of the officials who came for demolition of his house.<sup>44</sup> The man later **died in hospital**. His mother who tried to stop the fire was hospitalised with 40% of body burns.

<sup>40</sup> <https://lex.uz/docs/5496805?fbclid=IwAR3rqCfAcidiGRgyLmluOCQB2qraBTie7sPv7QSS4nFy6IURB1fly7-ltdyc>

<sup>41</sup> *Ibid*, Article 199. Seizure the owner's property

<sup>42</sup> Information about many cases in Uzbekistan were accessed through the Facebook group ТашКЕНТ-СНОС (Tashkent-DEMOLITIONS) <https://web.facebook.com/groups/328799110874813>

<sup>43</sup> <https://web.facebook.com/groups/328799110874813/user/100004361193115>

<sup>44</sup> <https://anhor.uz/society/v-samarkande-samosozhzheneq-pogib-v-znak-protesta-protiv-snosa-doma/>

4. **V.A.**, Fergana, Gidroliz, **died from stress** in the process connected to eviction.<sup>45</sup>
5. **Andijan**. The bailiffs came to confiscate the house that was under pledge. The 31-year old owner burnt himself during this visit and later died in hospital.<sup>46</sup>
6. **Karakalpakstan**. In September 2017, a 29-year old teacher attempt to burn himself and jumped off the roof when the bailiffs came to demolish the premises with the bulldozer.<sup>47</sup> He was hospitalized.
7. **Namangan**. A 35-year old mother of two burn herself in front of the bailiffs who came to evict the family.<sup>48</sup> She died in hospital. The property being confiscated was purchased according to law but not registered (allegedly due to some technical errors).
8. **Navoi**. A women came to the municipality and threatened to burn herself because the day earlier her house was demolished by the court order.<sup>49</sup> The house was constructed without proper documentation.
9. **Qarshi**. The woman pours petrol over and attempts to burn herself in front of the prosecutor's office when the officials refused to take her appeal regarding the demolition of her home. Her father seized her actions and was hospitalised.<sup>50</sup>

### *Massive evictions by the State bodies in favour of commercial needs*

10. **Chimgan** village, near Tashkent. In the beginning of 2020, the villagers were notified about eviction. The bulldozers demolished fences and barriers of peoples premises with threats to take away their homes if they will resist.<sup>51</sup> Owners do possess the documentation confirming their property rights.<sup>52</sup> In June-July the prosecutor's office filed suits against 24 households to **invalidate their ownership documentation** claiming that 20-30 years ago they were based on a fraud signature of the authority. However, this claim is not confirmed and was not investigated.
11. **79 households were torn down** on 29-30 September night in Sebzor area of Almazar district, Tashkent with participation of the Prime Minister Abdulla Aripov, city major, police and other officials (2018).<sup>53</sup> The land had to be freed of people's houses and given for construction of embassies of India and Tajikistan. The residents<sup>54</sup> claim that no official notifications were made. Residents had few Saturday evening hours to move.<sup>55</sup> The bulldozers started the demolitions with people and their stuff still in the dwellings. Only in the beginning of 2020 people started to move to a new permanent location – a 12 story multi-apartment building. Worth mentioning, that no any construction or whatsoever had been conducted up until today at the location where people were evicted in one night.
12. **Multi-apartment house No.78 on Anhor waterfront**. The Tashkent municipality started to demolish the flats with families still inhabiting the property.

<sup>45</sup> [Смерть на руинах Гидролизного городка в Фергане. Де-юре человек умер от... | Интересный контент в группе Fergana.Media \(ok.ru\)](#)

<sup>46</sup> <https://rus.ozodlik.org/a/30397949.html>

<sup>47</sup> <https://rus.ozodlik.org/a/28760626.html>

<sup>48</sup> <http://www.asiaterra.info/news/mat-dvoikh-detej-v-uzbekskom-namangane-podozhgla-sebya-na-glazakh-sotrudnikov-gosudarstvennykh-organov-popytavshikhsya-vyselit-ee-iz-doma>

<sup>49</sup> [https://rus.ozodlik.org/a/30642399.html?fbclid=IwAR0iiKYgB39G7UqeZMDFGTo4GWay3yuChkeZSwThIE\\_bF7cq3nypLMZSYDs](https://rus.ozodlik.org/a/30642399.html?fbclid=IwAR0iiKYgB39G7UqeZMDFGTo4GWay3yuChkeZSwThIE_bF7cq3nypLMZSYDs)

<sup>50</sup> <https://rus.ozodlik.org/a/30444039.html>

<sup>51</sup> <https://anhor.uz/stroitelystvo-v-uzbekistane/malenykie-lyudi-na-bolshoy-doroge-u-zhiteley-chimkana-nezakonno-otobrali-zemli/> (26 June), (29 June) and <https://anhor.uz/stroitelystvo-v-uzbekistane/sud-postanovil-snesti-doma-zhiteley-poselka-chimgan/> (4 July)

<sup>52</sup> <https://anhor.uz/society/22406-2/>

<sup>53</sup> <https://www.gazeta.uz/ru/2018/09/30/sebzor/>

<sup>54</sup> <https://fergana.media/articles/108300/>

<sup>55</sup> <https://www.fergananews.com/news/33041>

- Some people left their houses with “guarantee letters” to provide a property in the future. No court hearing were held.<sup>56</sup> This place is also empty, nothing constructed.
13. **Fergana.** On 2 January 2019 the residents of Gidroliz settlement comprising of ten buildings with 120 privately and legally owned flats were announced that their premises will be demolished (allegedly for a foreign investment to construct a hotel).<sup>57</sup> On 8 January, the officials came and initiated a gradual and forced eviction of people. The destructions were carried out flat by flat. No monetary compensation, no consultations were carried out and no court decisions held. Residents could not get a hold of a Mayor’s decision to appeal for its invalidation in court. The police and national security officers carried out visits in the late evenings and demanded eviction putting great psychological pressure. The deputy mayor insulted and yelled at people. People were evicted to a particular location selected by the municipality from the city center to the suburb with no infrastructure.<sup>58</sup> In January 2020 the information about constructing a hotel on the evicted area was denied. The location was still empty and expecting a new investor to build residential quarters.<sup>59</sup>
  14. **Khoresm.** On July 26, 2019, thousands of protestors, whose houses were demolished, blocked the major road to demand a place to live.<sup>60</sup> The homes of 400 families were destroyed and they were living in temporary tents for months.<sup>61</sup> The government payed out only 8-50% from the amount of the promised compensation prior to protests.<sup>62</sup> The Prime Minister flew to the location and the government promised to make a full payment in two weeks.
  15. **Navoi.** The court evicted six families from six homes following the appeal of the municipality and LLC The Alfa Grand Buildings. The second instance court upheld the decision.
  16. **Surkhandarya.** On 14 February 2020, people confronted the police to resist the eviction and demolition of their property allegedly build illegally in the field. The video shows that the police uses force against people, even the elderly.<sup>63</sup>

### *Evictions by the Court*

17. **Samarkand:** V.T.’s family with four underage children. The evictor is municipality who decided to enlarge the road. The municipality started to make payments and demolish houses with the homeowners it had a deal with. The demolitions were suspended leaving V.T. without a deal and with the property damaged by the municipality workers. Subsequently, the municipality files a suit to forcefully evict the family with a little compensation. The court rendered a decision in favour of the municipality. The parties reached an agreement before the case went to the second instance, because V.T. was “too tired to continue.”
18. **Tashkent:** Z.M.<sup>64</sup>, a 85-year old woman. When evictor LLC BB-STROY sued to evict her, she won in the first and second instances of the court. But, the Supreme court annulled decisions of the first and second instance and stated to forcefully evict her, by providing a compensation it deems appropriate. In the owner’s absence the

<sup>56</sup> <https://anhor.uz/vzglyad-iznutri/uroki-snosa-doma-78/>

<sup>57</sup> <https://www.gazeta.uz/ru/2019/01/22/fergana/>

<sup>58</sup> <https://anhor.uz/society/prokuratura-vzyala-pod-kontroly-situaciyu-so-snosom-domov-fergane/>

<sup>59</sup> <http://fergana.news/news/113979/>

<sup>60</sup> <https://rus.ozodlik.org/a/30078847.html>

<sup>61</sup> <https://kun.uz/ru/30921771>

<sup>62</sup> <https://www.gazeta.uz/ru/2019/07/27/urganch/>

<sup>63</sup> <https://upl.uz/incidents/14393-news.html>

<sup>64</sup> <https://web.facebook.com/groups/328799110874813/user/100001977888313>

bailiffs intruded the property and evicted Z.M.'s belongings. No notification on eviction was received by the homeowner.

19. **Tashkent: M.Kh.**<sup>65</sup> (evictor LLC BB-STROY)- ongoing. As for today two court instances refused the evictor's claim to forcibly evict the resident. The Supreme Court has sent the case to again to the first instance court to establish the value of the property. Last autumn, the Civil Court of the city of Tashkent ordered to deplace M.Kh. to the flat choosen by the evictor. Currently, the case is viewed by the Supreme Court.
20. **Tashkent: D.M.**<sup>66</sup> and his family (evictor LLC Golden House). There were only two court sessions following wich a judge rendered a decission to evict the family. The first day D.M. did not deliver his position because he was introduced to the claim right at the session and did not have a legal defence. He could not participate at the second (final) session because his entire family and he had Covid-19. D.M. presented the medical certificates to the court secretary. The proceedings were held nevertheless without the family being evicted. This case is reviewed by the second instance where the Appeals Board did not grant D.M.'s application to be represented by his proxy.
21. **Tashkent: O.A.**<sup>67</sup> and her family (evictor LLC Training Project"). September 2020, when her case was pending before the Supreme Court, the bailiffs came to evict O.A.'s family in great concentration of the force services, they broke down the doors and began pulling things out. Only protests of the neighbours and intervention of the district mayor could stop eviction. Due to intervencion of the Ombudswoman and the MJ, eviction was postponed and the case was sent back to the court of first instance by the Supreme Court. Nonetheless, this year, the courts of two instances upheld eviction of O.A.'s family to the house choosen by developers. If this is upheld, the family will have to move from the center of the capital to a more remote area, to a smaller house with some additional monitary compensation. Currently, a homeowner tries to appeal the case in the Supreme Court again. The proceedings are going on for 3 years.
22. **Nukus.** By the decision of the Nukus inter-district court of June 17, 2016, the family of **J.A.** was forcibly evicted because his private house should be demolished, without providing other housing. The Supreme Court of the RK on August 02, 2016 rejected the appeal of J.A. As a result, the family of J.A.'s family has been living in unbearable inhumane conditions for six years. All this time, J.A. has appealed to all kinds of government agencies, trying to protect his right to private property. But invariably, he received answers from officials that forced eviction of his family was legal.

### ***Disrespect of the PwDs` rights to housing***

According to the HC, PWDs have right to at least 23 m<sup>2</sup> of housing, and according to Art.22 of the Uzbek Law "On the Rights of PwDs," they have the right to receive social housing.

23. **Nukus.** G.N., PWD, lives in apartment of 18 m<sup>2</sup>, together with her elderly mother and younger brother. Therefore, since 2017, G.N. has repeatedly appealed to the city authorities to provide her with social housing. However, all her attempts to obtain social housing in the manner prescribed by law did not bring the expected result.

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<sup>65</sup> <https://web.facebook.com/groups/328799110874813/user/100002031903715>

<sup>66</sup> <https://web.facebook.com/groups/328799110874813/search/?q=dilmurad%20mirusmanov>

<sup>67</sup> <https://web.facebook.com/groups/328799110874813/user/100047618448116>

24. **Nukus.** I.G., PWD, lives with her minor daughter in her cousin's apartment. For a long time she has also repeatedly appealed to the authorities to provide her with a room in the dormitory for people in need. No results.

***Violation of the housing rights of the Sardoba victims (1.05.2020).***

On May 1, 2020, Sardoba Reservoir Dam burst, causing the Sirdaryo River to flood downstream communities and villages. Widespread flooding damaged and destroyed homes, and disrupted the livelihoods of 60,450 people in 22 communities within the Sardoba, Akaltyn, and Mirzaabad districts.<sup>68</sup> 2,570 houses were destroyed.

The procedure for distributing housing to residents in three damaged districts has been violated, resulting in 147 houses being unreasonably allocated to inappropriate citizens. Meanwhile, 99 citizens who were legally entitled to housing did not receive housing from the state<sup>69</sup>.

There were some cases where the compensation was disproportionate to the damage.

- ✓ **Governor** of Sardoba province told the residents of Dustlik mahalla that he would demolish their surviving houses in order to build a factory on this territory, relocating people who have farms (cattle and vegetable gardens) to apartment buildings.
- ✓ **I.M.O.**, a mother of five children, lost her house with a total area of 1400 sq.m., and received a three-room flat of 45 sq.m.
- ✓ **B.Sh. Kh.** received a flat of 45 sq. m. instead of her house with 132 sq. m. registered in the State Cadaster.
- ✓ **B.B.N.** received only money for repairs instead of 113 sq.m. of living space registered with the State Cadaster.

17 similar cases are publicly known, where affected citizens were given with houses either with inadequate number of residential meters or not at all.

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<sup>68</sup> [Helping Communities Displaced by the Sardoba Reservoir Flood in Uzbekistan | Program Update | Uzbekistan | U.S. Agency for International Development \(usaid.gov\)](#)

<sup>69</sup> [«Независимая комиссия»: Почти 100 семей, реально пострадавшие от наводнения в Сардобе, не получили жилье от государства \(ozodlik.org\)](#)

## E. RECOMMENDATIONS:

1. Oblige the state to comply with international standards and obligations to protect the rights of homeowners and their families and exclude the possibility of land acquisition and demolition of premises strictly by law. Cancel the para 47 of the RCM No 911 to avoid misinterpretation and misuse of the law and regulations.

2. Recommend to the Oliy Majlis of the Republic of Uzbekistan (Parliament) to amend Article 27 (part 1) of the HC to read as follows: *«In the event of demolition of residential houses (flats) owned by citizens ... owners at their choice and by agreement between the parties shall be provided with equivalent suitable residential premises in ownership with the area that at least complies with the social norms for the housing area, considering the number of family members, as well as tenants permanently residing in these houses (flats)»*.

3. Recommend to the Oliy Majlis of the Republic of Uzbekistan (Parliament) to adopt **the Law on Free Legal Aid**, ensuring free legal aid (as well as defense-lawyer appointed by the state) to vulnerable groups, including single women with children, low-income families, PwDs in the civil case, including in cases on demolitions, seizure of the land and other related disputes.

4. Oblige the state to exclude the procedure when the demolition of residential premises in connection with the seizure of land is carried out without the consent of the owner of the premises.

5. Oblige the state to exclude the procedure for demolishing preschool and school educational institutions for commercial purposes, ensuring the improvement of children's access to educational institutions by increasing budgetary allocations for the construction of new kindergartens and schools.

6. Oblige local authorities to post demolition decisions with reference to the General Plan on their website.

7. Oblige statistical agencies to publish data on demolitions in connection with state seizures of land, but not limited to it.

8. Ensure the independence of the judiciary through the election of judges by the population and the possibility of their recall in the event of court decisions that violate the rights of citizens to a fair trial in accordance with international standards.

9. Oblige state authorities to compensate victims for material damage caused by the Sardoba dam burst in 2020.