

Mandate of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

Ref.: AL UZB 1/2024
(Please use this reference in your reply)

7 February 2024

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, pursuant to Human Rights Council resolution 52/10.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning **«the alleged imminent eviction of Mr. Dilmurad Mirusmanov and his family of 15, including nine children and his elderly mother, and the demolition of his home, in the context of an urban renewal project in Tashkent affecting Mirobod Avenue.** This communication is sent in follow-up to earlier communications relating to urban renewal projects in Uzbekistan, including JUA UZB 3/2019, JAL UZB 2/2020, and AL UZB 3/2020, indicating that forced evictions without adequate consultation, compensation or provision of alternative housing close to the place of habitual residence appear not to be an isolated case.

I am concerned that according to the new information received, after an initial suspension of the planned eviction, a solution to the case that is fully compliant with international human rights law has not yet been found. I am writing this communication to your Excellency's Government with the intention to avoid potential violations of the right to adequate housing and of international human rights standards governing development-based evictions.

According to information received:

Mr. Dilmurad Mirusmanov is the owner of a 300 square meter house on Mirobod Avenue in the center of Tashkent, where he currently lives together with 14 members of his family, including nine children and his elderly mother. He and his family built the house in 2016 and have been living there since.

On 11 September 2017, by decision of the former Mayor of Tashkent, the private company Absolute Business Trade LLC was allocated a land plot of 6 hectares on Mirobod Avenue. The land was allocated for the construction of a multi-story residential building, under the condition to demolish buildings at the private company's own expense and to provide adequate compensation for the damage caused. The demolition was expected to affect a number of buildings on Mirobod Avenue, including Mr. Mirusmanov's house and the adjacent synagogue. The concerned residents and homeowners living in the area were not consulted before decisions were made about the planned urban renewal project and consequent evictions.

On 13 March 2021, the company offered to relocate Mr. Mirusmanov and his family to two separate 67 square meters apartments, located in a neighbourhood around 5 kilometers from their current house. Allegedly, the two apartments are located in an industrial area, on the site of a textile mill,

where the environmental conditions are poor and potentially hazardous for Mr. Mirusmanov's family's health, particularly the young children and elderly mother. The apartments are also far from the children's school.

In April 2021, the private company Absolute Business Trade LLC initiated a civil court lawsuit for the forced eviction of Mr. Mirusmanov and his family members from their house. On 6 August 2021, the Yakkasaray District Court upheld the claim of the developer and issued an order of eviction for Mr. Mirusmanov and his family. The Court based the decision on articles 27 and 71 of the Housing Code of the Republic of Uzbekistan, governing evictions from residential buildings of municipal, departmental housing stock and municipal housing stock, although Mr. Mirusmanov is the owner of the house. Moreover, based on paras 41 and 42 of Regulation 911, the Court concluded that the eviction was compliant with the law, given that the 2 apartments provided as compensation met the requirements established by law, as well as the obligation to pay additional compensation.

On 19 April 2022, based on the same arguments as above, the appeal instance of the Tashkent City Court dismissed the appeal filed by Mr. Mirusmanov and upheld the decision of the District Court regarding the eviction. The Court decided to grant a small increase in the compensation provided to Mr. Mirusmanov.

Mr. Mirsmanov subsequently filed a cassation appeal to the Supreme Court. On 29 July 2022, the Judicial Collegium for Civil Cases of the Supreme Court confirmed the City Court's decision, including an additional increase in compensation. However, the amount provided as compensation was allegedly not calculated correctly, as the market assessment of Mr. Mirusmanov's house did not take into account the second floor or the house, with an area of 107 square meters.

In May 2023, following Mr. Mirusmanov's request, an independent appraisal company presented an expert market assessment of the house. Absolute Business Trade LLC requested the Centre for Forensic Expertise (CFE), under the Ministry of Justice, to prepare a market assessment of the house. According to information received, the Court failed to comply with national provisions regarding the expertise required to estimate the market value of the house owned by Mr. Mirusmanov. Notably, the CFE prepared the market assessment without a visual inspection of the building, and exclusively based on an evaluation of cadastral documents, resulting in a significantly lower estimation of the market price.

In October 2023, Absolute Business Trade LLC agreed to pay the amount foreseen by the CFE estimation. On 2 November 2023, the Supreme Court ruled to evict Mr. Mirusmanov and his family into the two apartments and ordered Absolute Business Trade LLC to pay the compensation in cash.

The eviction was scheduled for 11 January 2024. However, Mr. Mirusmanov filed a lawsuit against the Bureau of Compulsory Execution, arguing that since his property rights over the house had not been terminated, the eviction lacked legality. Following a temporary suspension of the eviction, the Tashkent Interdistrict Administrative Court considered the case on 31 January 2024, and

ruled in favour of evicting Mr. Mirusmanov and his family from their house. The Bureau of Compulsory Execution is expected to schedule a new eviction date.

National laws and standards

Articles 27 and 71 of the Housing Code, that were repeatedly used by courts to rule in favour of the eviction, only define the eviction from land plots for public needs, while it appears that they would not cover demolition for private interests, such as the development of residential buildings by a private company.

In addition, according to the 15 August 2018 Presidential decree “On measures to implement the experiment to improve the investment climate in the city of Tashkent”, any decision of the city of Tashkent Mayor submitted to an investor should contain indications about how it complies with all necessary procedures and compensation required by resolution no. 97 of the Cabinet of Ministers of the Republic of Uzbekistan dated 29 May 2006.

The Ministry of Justice has also previously clarified that a decision on expropriation of property can only be adopted after open consultations with the owners and family members permanently residing in the concerned property and assessment of possible losses, and that any demolition of the expropriated property is allowed only after the owner has been paid the market price of the property and any possible losses associated with the eviction.

While I do not wish to prejudge the accuracy of these allegations, I am concerned that Mr. Mirusmanov and his family, including nine children and his elderly mother, are facing the imminent risk of forced eviction, without the consideration of alternatives to eviction in consultation with him and his family, and about the failure to provide with a durable alternative housing solution in compliance with international human rights standards, satisfying the criteria of adequacy, accessibility, affordability, habitability, security of tenure, cultural adequacy, suitability of location, and access to essential services, such as health and education, which are needed by the family. Furthermore, I am concerned whether Mr. Mirusmanov will be adequately compensated for the planned demolition of his home.

I further wish to express my serious concern that aspects of the urban regeneration projects planned and carried out in Tashkent, may lead to forced evictions and the violation of the right to adequate housing. I underscore that some urban regeneration projects in Tashkent have reportedly been carried out without prior consultation with the affected residents and alternatives to avoid these home demolition and evictions have not been seriously considered. Furthermore, I express concerns about the reported inadequacy of compensation and alternative housing offered in the city of Tashkent, and regret to note that available complaints mechanisms and legal remedies against the destructions and evictions appear to be ineffective, as residents’ claims and legal challenges submitted to the authorities have reportedly not resulted in any decisions to date. I would therefore like to call on your Excellency’s Government to urgently take all necessary steps to secure the right to adequate housing for Mr. Mirusmanov and his family.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please explain any measures that have been taken by State authorities to avoid the eviction and demolition of Mr. Mirusmanov's home.
3. Please indicate if adequate compensation for the loss of home and property has been provided for Mr. Mirusmanov and his family, and please explain whether the level of compensation is adequate both in comparison to the value of their home and for accessing similar well-located housing close to the area where he and his family are living. Please elaborate whether the compensation offered also covers the cost for relocation and potential refurbishing of a new home and for any non-material losses incurred.
4. Please indicate what procedures you have in place to ensure that Mr. Mirusmanov and his family are timely consulted on urban regeneration in Tashkent affecting them. Please explain whether affected residents can access legal aid, should they wish to challenge any eviction order.
5. Please indicate what administrative or judicial mechanisms are in place, both at national and municipal levels, to ensure access to remedies and accountability of various actors, including business enterprises, so that individuals and groups can claim their right to adequate housing.

I would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, I urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

I may publicly express my concerns in the near future as, in my view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. I also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that I have been in contact with your Excellency's

Government's to clarify the issue/s in question.

Please accept, Excellency, the assurances of my highest consideration.

Balakrishnan Rajagopal
Special Rapporteur on adequate housing as a component of the right to an adequate
standard of living, and on the right to non-discrimination in this context

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, I would like to draw your Excellency's Government's attention to the applicable international human rights norms and standards, as well as authoritative guidance on their interpretation.

I wish to recall your Excellency's Government's commitment to secure the right to an adequate standard of living and housing as defined in article 11 of the International Covenant on Economic, Social and Cultural Rights, which Uzbekistan has ratified on 28 September 1995. This article must be read in conjunction with article 2.2 of the Covenant, which provides for the exercise of any right under the Covenant without discrimination of any kind. I also would like to draw the attention of your Excellency's Government's to its obligations under articles 6 and 17 of the International Covenant on Civil and Political Rights (ICCPR), ratified in 1995, on the rights to life and to non-interference with privacy, family, home or correspondence.

Forced evictions are prima facie incompatible with the requirements of the Covenant. As clarified by the Committee on Economic, Social and Cultural Rights, in its General Comment No. 7, forced evictions are a gross violation of the right to adequate housing and may also result in violations of other human rights, such as the right to life, the right to security of the person, the right to non-interference with privacy, family and home and the right to the peaceful enjoyment of possessions. Paragraph 15 of the same General Comment provides that if an eviction is to take place, procedural protections are essential, including, among others, genuine consultation, adequate and reasonable notice, alternative accommodation made available in a reasonable time, and provision of legal remedies and legal aid. Under no circumstances, evictions should result in homelessness, and the State party must take all appropriate measures to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available to affected individuals, where they are unable to provide for themselves.

I also wish to refer your Excellency's Government to the United Nations Basic Principles and Guidelines on Development-based Evictions and Displacement (A/HRC/4/18, Annex 1) which specify that evictions can only take place in "exceptional circumstances", that they must be authorized by law, and ensure full and fair compensation and rehabilitation. The Guidelines indicates that States should take specific preventive measures to avoid and/or eliminate underlying causes of forced evictions, such as speculation in land and real estate. Urban or rural planning and development processes should involve all those likely to be affected and should include the following elements: (a) appropriate notice to all potentially affected persons that eviction is being considered and that there will be public hearings on the proposed plans and alternatives; (b) effective dissemination by the authorities of relevant information in advance, including land records and proposed comprehensive resettlement plans specifically addressing efforts to protect vulnerable groups; (c) a reasonable time period for public review of, comment on, and/or objection to the proposed plan; (d) opportunities and efforts to facilitate the provision of legal, technical and other advice to affected persons about their rights and options; and (e) holding of public hearing(s) that provide(s) affected persons and their advocates with opportunities to challenge the eviction decision and/or to present alternative

proposals and to articulate their demands and development priorities.

The Guidelines further state that States should explore all possible alternatives to evictions. All potentially affected groups and persons have the right to relevant information, full consultation and participation throughout the entire process, and to propose alternatives that authorities should duly consider. In the event that agreement cannot be reached on a proposed alternative among concerned parties, an independent body having constitutional authority, such as a court of law, tribunal or ombudsperson should mediate, arbitrate or adjudicate as appropriate. Moreover, the Guidelines state that States must give priority to exploring strategies that minimize displacement. Comprehensive and holistic impact assessments should be carried out prior to the initiation of any project that could result in development-based eviction and displacement, with a view to securing fully the human rights of all potentially affected persons, groups and communities, including their protection against forced evictions. “Eviction-impact” assessment should also include exploration of alternatives and strategies for minimizing harm.

As spelt out in the United Nations Basic Principles and Guidelines on Development-based Evictions and Displacement, when eviction is unavoidable, and necessary for the promotion of the general welfare, the State must provide or ensure fair and just compensation for any losses of personal, real or other property or goods, including rights or interests in property. Cash compensation should under no circumstances replace real compensation in the form of land and common property resources. Where land has been taken, the evicted should be compensated with land commensurate in quality, size and value, or better. The Guidelines also state that any settlement agreement must satisfy the criteria of adequacy, accessibility, affordability, habitability, security of tenure, cultural adequacy, suitability of location, and access to essential services such as health and education.

Furthermore, the Guidelines specify that, at a minimum, regardless of the circumstances and without discrimination, competent authorities shall ensure that evicted persons or groups, especially those who are unable to provide for themselves, have safe and secure access to: (a) essential food, potable water and sanitation; (b) basic shelter and housing; (c) appropriate clothing; (d) essential medical services; (e) livelihood sources; (f) fodder for livestock and access to common property resources previously depended upon; and (g) education for children and childcare facilities. States should also ensure that members of the same extended family or community are not separated as a result of evictions. Alternative housing should be situated as close as possible to the original place of residence and source of livelihood of those evicted. The time and financial cost required for travel to and from the place of work or to access essential services should not place excessive demands upon the budgets of low-income households.

In addition, I would like to refer your Excellency's Government to the Guidelines for the Implementation of the Right to Adequate Housing (A/HRC/43/43), notably guidelines No. 6 on forced evictions and No. 12 on ensuring the regulation of businesses in a manner consistent with States' obligations and address the financialization of housing elaborated by the former Special Rapporteur on the right to adequate housing. With regard to the regulation of business, I wish to underscore in particular that States may need to ensure, for example, not only that developers do not displace residents from affordable housing, but also that they produce needed affordable housing, and that some of the profits from housing or other economic

activities are redirected to ensure the availability of adequate housing for low-income households (A/HRC/43/43, paragraph 68).

I would also like to draw your attention to the report of the former Special Rapporteur on the right to housing relating to the right to housing and access to justice (A/HRC/40/61). The report stresses that individuals must have access to justice and have their right to housing claims adjudicated by relevant judicial or quasi-judicial bodies, including those claims related to forced evictions and demolitions.