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**EUROPEAN COMMITTEE OF SOCIAL RIGHTS  
COMITÉ EUROPÉEN DES DROITS SOCIAUX**

**DECISION ON THE MERITS**

**Adoption: 11 September 2024**

**Notification: 25 October 2024**

**Publicity: 26 February 2025**

**Defence for Children International (DCI), European Federation of National Organisations working with the Homeless (FEANTSA), *Magistrats Européens pour la Démocratie et les Libertés* (MEDEL), *Confederación Sindical de Comisiones Obreras* (CCOO) and International Movement ATD Fourth World v. Spain**

Complaint No. 206/2022

The European Committee of Social Rights, committee of independent experts established under Article 25 of the European Social Charter ("the Committee"), during its 343<sup>rd</sup> session in the following composition:

Aoife NOLAN, President  
Eliane CHEMLA, Vice-President  
Tatiana PUIU, Vice-President  
Kristine DUPATE, General Rapporteur  
József HAJDÚ  
Karin Møhl LARSEN  
Yusuf BALCI  
Paul RIETJENS  
George THEODOSIS  
Mario VINKOVIC  
Miriam KULLMANN  
Alla FEDOROVA  
Grega STRBAN

Assisted by Henrik KRISTENSEN, Deputy Executive Secretary

Having deliberated on 21 March 2024, 15 May 2024, 2 July 2024 and 11 September 2024,

Based on the report presented by Aoife NOLAN,

Delivers the following decision, adopted on the latter date:

## **PROCEDURE**

1. The complaint submitted by Defence for Children International (DCI), European Federation of National Organisations working with the Homeless (FEANTSA), *Magistrats Européens pour la Démocratie et les Libertés* (MEDEL), *Confederación Sindical de Comisiones Obreras* (CCOO) and International Movement ATD Fourth World against Spain was registered on 2 March 2022.
2. The complainant organisations allege that power outages, which started in October 2020 and are still ongoing, affect parts of Cañada Real Galiana shantytown in Madrid, Spain, and have a serious negative impact on the lives of at least 4,500 inhabitants, including about 1,800 children, constituting a breach of several provisions of the European Social Charter ("the Charter"), namely Articles 11, 15, 16, 17, 20(a), 23, 27§1(a), 30 and 31 taken alone or in conjunction with Article E.
3. On 19 October 2022, the Committee declared the complaint admissible and decided that it was necessary to indicate to the Government immediate measures to be adopted.
4. Referring to Article 7§1 of the 1995 Protocol Providing for a System of Collective Complaints ("the Protocol"), the Committee asked the Government to submit written submissions on the merits of the complaint before 15 December 2022 .
5. Referring to Article 7§§1, 2 of the Protocol and in application of Article 32§§1, 2 of its Rules of Procedure ("the Rules"), the Committee invited the States Parties to the Protocol, the States having made a declaration in accordance with Article D§2 of the Charter, as well as the international organisations of employers or trade unions referred to in Article 27§2 of the 1961 Charter, if they so wished, to submit observations on the merits of the complaint before 15 December 2022.
6. The Government's submissions on the merits of the complaint as well as information on the implementation of immediate measures were registered on 15 December 2022.
7. In accordance with Rule 31§2 of the Rules, the complainant organisations were invited to submit a response to the Government's submissions by 15 March 2023.
8. The complainant organisations' response was registered on 15 March 2023.

9. The Spanish Ombudsman (*Defensor del Pueblo*) requested and was invited to submit observations by 31 March 2023. The latter were registered on 30 March 2023.
10. In accordance with Rule 31§3 of the Rules, the Government was invited to submit an additional reply to the complainant organisations' response by 10 May 2023.
11. On 3 May 2023, the Government requested an extension of the deadline for presenting its additional reply. The President of the Committee granted an extension until 10 June 2023.
12. The additional reply from the Government was registered on 10 June 2023.
13. On 27 March 2024, the Committee invited the parties to provide additional information by 10 May 2024. Information from the complainant organisations was registered on 10 May 2024. Information from the Government was registered on 10 May 2024.
14. Carmen SALCEDO BELTRÁN was recused from sitting in the deliberations of the complaint.

## **SUBMISSIONS OF THE PARTIES**

### **A – The complainant organisations**

15. The complainant organisations allege that power outages, which started in October 2020 and are still ongoing, affect parts of Cañada Real Galiana (hereinafter “Cañada Real”) shantytown in Madrid, Spain, and have a serious negative impact on the lives of at least 4,500 inhabitants, including about 1,800 children, constituting a breach of several provisions of the Charter, namely Articles 11, 15, 16, 17, 20(a), 23, 27§1(a), 30 and 31 read alone and in conjunction with Article E. More specifically, the complainant organisations allege the:

- violation of Article 11, and particularly §§1 and 3, read alone and in conjunction with Article E, because the power outages have had a clear negative impact on the health of the affected persons, including an increase in respiratory infections, cold-related dermatologic and circulatory diseases, difficulties in the use of essential medical devices, cases of carbon monoxide poisoning, burns, etc.
- violation of Article 15, read alone and in conjunction with Article E, as the lack of electricity prevents persons with disabilities from fully exercising their right to independence, social integration and participation in the life of the community;
- violation of Article 16 of the Charter, read alone and in conjunction with Article E, due to the State's failure to ensure the right to housing of an adequate standard for families living in affected sectors and to the State's failure to

guarantee the participation of family associations when formulating policies related to the neighbourhood;

- violation of Article 17§1(a) and (b) and Article 17§2, read alone and in conjunction with Article E, because without access to electricity, the full development of the personality of children and young persons is hindered and the resulting living conditions impact their access to education, fostering absenteeism and making it harder to study, revise or do homework;
- violation of Article 20(a) and Article 27§1(a), read alone and in conjunction with Article E, as the power outages have a disproportionate effect on the lives of women workers, including those with family responsibilities, inasmuch as they carry out most of the housework and unpaid work, which in turn makes it harder for them to enter, remain in or re-enter employment;
- violation of Article 23 because the State has failed to implement adequate measures designed to protect older persons affected by the power outages;
- violation of Article 30, read alone and in conjunction with Article E, because the State has failed to take measures within the framework of an overall and coordinated approach to promote the effective access of people living in Sectors 5 and 6 of Cañada Real to electricity and, thus, to enjoyment of basic human rights, failing to protect them against poverty and social exclusion;
- violation of Article 31, read alone and in conjunction with Article E, because the State has not adopted any effective measures to prevent the interruption of essential services, including supply of electricity.

## **B – The respondent Government**

16. The Government states that different measures have been taken to mitigate the adverse effects of the power outages. It further stresses that except for occasional situations of power supply interruption due to occasional overloads, the electricity supply in Sector 5 has been operating on a continuous and regular basis since February 2021. As regards Sector 6, the Government asserts that electricity cannot be restored due to the immediate activation of the overload protection mechanisms in case of high energy consumption, but several remedial measures have been taken and there is a plan for rehousing the families living in this Sector. On this basis, the Government asks the Committee to declare that neither the right to housing recognised in Article 31 of the Charter nor any of the other Charter rights invoked by the complainant organisations have been violated by Spain.

## **THIRD PARTY OBSERVATIONS – SPANISH OMBUDSMAN**

17. The Spanish Ombudsman (*Defensor del Pueblo*) in their observations explain that settlements along Cañada Real have been particularly extensive in Sectors 5 and 6. In respect of the signing of the Regional Pact for Cañada Real on 17 May 2017, a series of quantitative data are referred to (see §§41-43). The implementation of the

Regional Pact included the improvement of a series of services in Sectors 1 to 5, such as the adaptation of roads, the installation of a water supply network, the introduction of a bus line, the establishment of a postal service. For Sector 6, the chosen way has been to promote rehousing.

18. The Ombudsman states that residents in these areas have had access to electricity and water supply through irregular connections to supply points, and that this situation was known and tolerated by the competent authorities. In October 2020, the supply company decided to cut off the supply to Sector 6, a measure that was temporarily extended to Sector 5 from November 2020. Sector 5 partially recovered electricity between March and November 2021. According to the Ombudsman, the justification given by the company was that the irregular connections put the safety of the devices installed in the electrical infrastructures at risk. Subsequently, the company again justified the supply cut-off on safety grounds.

19. On 19 October 2020, the Ombudsman received the first complaint submitted on behalf of the residents of Cañada Real in relation to the general electricity supply cut. As a result of the residents' complaint and related proceedings, on 18 December 2020, the Ombudsman proceeded to make a set of recommendations, which were addressed to both the Government Delegation in Madrid and the Office of the Regional Councillor of Economy, Employment and Competitiveness. Among others, the Ombudsman called on authorities to: (i) immediately and urgently adopt, a solution to resolve the lack of electricity supply in Sectors 5 and 6 of Cañada Real, for example, through the installation of generators to supply electricity to the population or any other system that is well suited for that purpose; and (ii) establish a framework for coordinated action to regularise the electricity supply in Sectors 5 and 6 of Cañada Real, thus guaranteeing the right to an accessible and legal electricity supply for as long as these persons remain in their homes.

20. In response to the Ombudsman's recommendations, on 15 January 2021, the Government Delegation stated that its responsibilities were confined to the field of security and that their action was therefore limited to the sphere of law enforcement. On 18 February 2021, the Office of the Regional Councillor indicated to the Ombudsman that the provision of electricity supply was contingent upon the existence of a situation of legality. In this regard, it considered citing Article 160 of Law No. 9/2001, that an urban planning constraint prevents the distribution companies from providing electricity supply to the potential applicants. It also pointed out that the legislative development actions necessary for this regularisation should be carried out within the framework of the Regional Pact for Cañada Real, but such actions have not yet been adopted. Finally, it stressed that the undertaking of this regulatory work is not within the responsibilities attributed to the Regional Ministry.

21. The Ombudsman states that measures were not taken to address the above mentioned recommendations of 18 December 2020 (see §19). The Ombudsman further states that it opened a line of work with the Commissioner of the Government of the Community of Madrid for Cañada Real, a body created in 2015 to promote dialogue and coordination between the different authorities and entities involved in Cañada project. On 4 November 2021, the Ombudsman addressed two

recommendations to the Commissioner: (i) to promote the necessary actions, in the exercise of its coordinating powers, so that individual supply contracts can be signed for people living in Sectors 5 and 6 of Cañada Real ; and (ii) to promote as a matter of urgency, in the exercise of its coordinating powers, as many measures as may be necessary to provide emergency electricity supply to Sector 6. On 1 April 2022, the Commissioner submitted a report in which, in summary, rejected the recommendation relating to the formalisation of supply contract, on the grounds that the material and legal possibility of concluding these contracts exceeded his powers. Regarding the second recommendation, he indicated that, at the meeting held by the Executive Committee of the Regional Pact on 16 November 2021, a roadmap of 21 measures was established, ranging from the rehousing of families to the adoption of possible solutions to alleviate everyday problems. The Commissioner did however not provide further details on the practical scope of these measures.

22. On 22 November 2022, the Ombudsman addressed recommendations to the Office of the Regional Councillors for Health, Environment, Housing and Agriculture of the Community of Madrid; the Commissioner of the Community of Madrid for Cañada Real; and the city Councils of Madrid, Rivas-Vaciamadrid and Coslada. In all of their recommendations, the Ombudsman has insisted on the humanitarian nature of the actions to be carried out. They urged the authorities to facilitate access to the electricity supply for people residing in Sectors 5 and 6 of the Cañada Real, even providing it directly on a provisional basis, if necessary. The Ombudsman considered it crucial for the authorities to provide essential electricity supply to people and families to enable them to have light and heat themselves, as well as to be able to carry out basic activities. In this regard, the Ombudsman's view was that special attention should be paid to residents who are electro-dependent. Such emergency measures should be maintained for as long as the relocations do not take place or it is not possible to find a temporary solution.

23. The Ombudsman notes that in Sector 6 of Cañada Real Galiana the power outage has been permanent since 2020. In Sector 5, this situation has been intermittent. Electricity is available in the latter sector, due to irregular connections, but available to users on alternate days, through a self-management system implemented by the neighbours to prevent the activation of the safety devices of the corresponding substations due to overloading.

24. The Ombudsman considered that the existence of illegal marijuana plantations constitutes a criminal activity, which must be the object of an appropriate response through the legally established channels. The Ombudsman further stated that in no way is this activity the modus vivendi of the people living in Cañada Real Galiana - the vast majority of whom are the first and most seriously affected by its consequences in terms of insecurity - nor can it justify not adopting other measures to ensure that electricity supply is provided in a legal, safe and accessible manner. The Ombudsman was of the view that despite the time that has elapsed and the humanitarian emergency that the prolongation of this power shortage represents, the authorities and entities concerned have evaded their obligation to implement a plan that is adequate to the real needs and realistic in terms of resources and deadlines.

## RELEVANT DOMESTIC LAW AND PRACTICE

### *Law No. 2/2011 on Cañada Real Galiana*

25. In 2011, the Region of Madrid passed Law No. 2/2011 on Cañada Real published in the Official Gazette of the Region of Madrid No. 74 of 29 March 2011. The law provided for the declassification of the area as a livestock route (Article 2), attributed the ownership of the area to the Region of Madrid (Article 3), introduced the possibility for the Region of Madrid to cede part or the whole area to the municipalities affected (Article 4), and allowed for these municipalities to cede or sell parts of the area to the people already living in it (Article 5). Moreover, the law set forth a negotiation process between stakeholders aimed at giving a global solution to the social and urban problem, which included consultation through neighbours' associations (First Additional Provision).

### *Social Framework Agreement of 2014 and Regional Pact on Cañada Real of 2017*

26. On 30 April 2014, the Region of Madrid, Madrid City Council and Coslada Council signed the "Social Framework Agreement on Cañada Real", which set out public policy objectives on social and legal matters, as well as on issues related to security, urbanism and housing.

27. As a continuation of and replacement to the "Social Framework Agreement", on 17 May 2017 the State, the Region of Madrid, the city councils of Madrid, Coslada, and Rivas-Vaciamadrid signed the "Regional Pact for Cañada Real Galiana". The objectives of the Regional Pact included to "[e]laborate a strategy for the rehousing of the population that, for territorial, environmental, safety or health reasons, cannot continue living in their dwellings or substandard housing", as well as to "[a]dopt urgent measures to safeguard the integrity, health and integration of the most disadvantaged population" of Cañada Real from a human-rights approach. Moreover, Annex III to the Regional Pact set forth commitments to improve the living conditions of the inhabitants of Cañada Real. Amongst other commitments to improve the neighbourhood's infrastructure, it provides for the "[r]ehabilitation of the electricity supply".

### *Commissioner for Cañada Real*

28. In 2015, the Government of the Region of Madrid established the Commissioner for Cañada Real in order to coordinate the consultation process between the authorities and the affected population through their associations, as provided for in Law No. 2/2011 on Cañada Real. The Commissioner was created by Decree 243/2015 of the Region of Madrid, establishing the Commissioner of the Government of the Region of Madrid for Cañada Real, Official Gazette of the Region of Madrid No. 310 (30 December 2015). According to Article 1 of Decree 243/2015, the functions of the Commissioner consist in "communication with the different administrations and entities involved, as well as coordinating all the actions and the implementation of intervention plans in social, urban, housing and legal matters to be carried out in the area in order to normalise and reorganise it".

### *Creation of an Inter-ministerial Commission in 2021*

29. The Commission was founded on 28 September 2021 and is composed of the Ministry of Social Rights, the Ministry of Transport, Mobility and Urban Agenda, and the High Commissioner for Child Poverty. The team is coordinated by the Government Delegation in Madrid. The Inter-ministerial Commission focuses on re-housing as a solution to the conflict in Cañada Real.

#### *Royal Decree 1058/2021*

30. In terms of the Royal Decree 1058/2021 of 30 November 2021, the State Government issues a direct grant to the Councils of Madrid city and Rivas-Vaciamadrid for the development of re-housing programmes for families in a situation of extreme social vulnerability in Sectors 4, 5 and 6 of Cañada Real, Official Gazette No. 287 (1 December 2021) ;

The recital of the Royal Decree states inter alia: “[T]he lack of electricity, the main source of energy in [ Cañada Real], places [...] both the adults and, in particular, the children affected in a situation of extreme vulnerability and social risk”. “[C]hildren’s health is suffering the consequences of the lack of electricity at their homes, which, in addition to violating children’s right to adequate housing, has a strongly negative impact on their rights to food, education, and ultimately, to a life in dignity”. “[T]he exclusion and the absence of public services hang over the people and families living in this settlement, generating a situation of extreme precariousness [...] which contravenes Spain’s commitment to the fulfilment of the Sustainable Development Goals and the obligations arising from the several international treaties on the promotion and protection of human rights ratified by Spain.”

## **RELEVANT INTERNATIONAL MATERIAL**

### **A – United Nations**

#### **1. The International Covenant on Economic, Social and Cultural Rights and its Committee**

31. Article 11 of the Covenant recognises the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The United Nations Committee on Economic, Social and Cultural Rights has made the following observations concerning the right to adequate housing:

##### **General Comment No. 4: The right to adequate housing (article 11 (1) of the Covenant)**

" 1. Pursuant to article 11 (1) of the Covenant, States parties “recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions”. The human right to adequate housing, which is thus derived from the right to an adequate standard of living, is of central importance for the enjoyment of all economic, social and cultural rights. (...)

6. The right to adequate housing applies to everyone. (...) individuals and families have the right to adequate housing regardless of age, economic status, membership of particular groups or other entities, social condition or other factors of this nature. In particular, the enjoyment of this right must not, by virtue of Article 2(2) of the Covenant, be subject to any form of discrimination.

8. Thus the concept of adequacy is particularly significant in relation to the right to housing since it serves to underline a number of factors which must be taken into account in determining whether particular forms of shelter can be considered to constitute “adequate housing” for the purposes of the Covenant. (...)

b) The availability of services, materials, equipment and infrastructure. Adequate housing must include certain facilities essential to health, safety, comfort and nutrition. All beneficiaries of the right to adequate housing must have permanent access to natural and common resources: drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of preserving foodstuffs, a waste disposal and drainage system, and emergency services; (...)

d) Habitability. Suitable housing must be habitable, in the sense that it must offer adequate space and protection against cold, damp, heat, rain, wind or other health hazards, risks due to structural defects and vectors of disease. The physical safety of occupants must also be guaranteed. The Committee encourages States parties to comprehensively apply the *Health Principles of Housing* prepared by WHO which view housing as the environmental factor most frequently associated with conditions for disease in epidemiological analyses; i.e. inadequate and deficient housing and living conditions are invariably associated with higher mortality and morbidity rates;

e) Ease of access. Adequate housing must be accessible to those who are entitled to it. Disadvantaged groups must have full and permanent access to adequate housing resources. (...)

g) Respect for the cultural environment. Architecture, building materials and policies should allow for the appropriate expression of cultural identity and diversity in housing. (...)

## **2. The Committee on the Rights of the Child**

32. On 30 December 2020, in the context of an individual communication on the case of a 3-year-old girl with serious health problems living in Cañada Real, the Committee on the Rights of the Child (“CRC”) requested the State to adopt provisional measures to provide the girl with the necessary medical and social services, including adequate accommodation to meet her health needs, without separating her from her family. On 25 January 2023, the CRC took note that the girl’s family has been granted permanent social housing that meets her health needs and that she no longer faces any health risks associated with her housing situation. The Committee therefore decided to discontinue the consideration of communication No. 134/2020. (see Decision adopted by the CRC under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, concerning communication No. 134/2020; CRC/C/92/D/134/2020).

## **3. United Nations Special Rapporteurs**

33. A Joint Public Statement of 22 December 2020 “Spain: Power outages put children’s lives at risk in informal settlement” was issued by nine UN special rapporteurs, Mr. 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; Mr. Gerard Quinn, Special Rapporteur on the rights of

persons with disabilities; Ms. Koumbou Boly Barry, Special Rapporteur on the right to education; Ms. Hilal Elver, Special Rapporteur on the right to food; Ms. Tlaleng Mofokeng, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Mr. Felipe González Morales, Special rapporteur on the human rights of migrants; Mr. Fernand de Varennes, Special Rapporteur on minority issues; Mr. Olivier De Schutter, Special Rapporteur on extreme poverty and human rights; and Mr. Pedro Arrojo-Agudo, Special Rapporteur on the human rights to safe drinking water and sanitation.

34. In their statement, the Special Rapporteurs highlighted that a “two-month power outage in a vast informal settlement near Madrid was endangering the health of some 1,800 children, calling on the Government of Spain to immediately restore electricity as temperatures fall to freezing. The power outage started on 2 October 2020 and affected at least 4,500 people, particularly in Sectors 5 and 6 of Cañada Real Galiana. The statement also enounced that “Madrid is notoriously cold and now that temperatures are plunging, at least one baby had already been taken to hospital with symptoms of hypothermia,” (...). “Without electricity, there is no heat in homes and no hot water, meaning children cannot shower or wash properly. During the COVID-19 pandemic, when hygiene is more important than ever, this is especially troubling.” (...) “The lack of electricity not only violates these children's right to adequate housing, it is having a very serious effect on their rights to health, food, water, sanitation and education.” The Special Rapporteurs criticised the authorities who blamed the power outages on illegal marijuana plantations and implied that residents of the informal settlement are criminals, and they called on politicians “to stop stigmatising migrants, members of the Roma minority and anyone who lives in poverty”.

35. In 2020, in response to the COVID-19 pandemic, the UN Special Rapporteur on the right to housing affirmed that “having a functioning home is vital for health and survival, and requires at all times access to heating, electricity and Internet. Access must also be uninterrupted.”

## **B – European Union**

36. Directive (EU) 2019/944 of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU (recast)

### 28. Vulnerable customers

“(1). Member States shall take appropriate measures to protect customers and shall ensure, in particular, that there are adequate safeguards to protect vulnerable customers. In this context, each Member State shall define the concept of vulnerable customers which may refer to energy poverty and, inter alia, to the prohibition of disconnection of electricity to such customers in critical times. The concept of vulnerable customers may include income levels, the share of energy expenditure of disposable income, the energy efficiency of homes, critical dependence

on electrical equipment for health reasons, age or other criteria. Member States shall ensure that rights and obligations linked to vulnerable customers are applied. In particular, they shall take measures to protect customers in remote areas. They shall ensure high levels of consumer protection, particularly with respect to transparency regarding contractual terms and conditions, general information and dispute settlement mechanisms.”

**37. Commission Recommendation (EU) 2023/2407 of 20 October 2023 on energy poverty**

“22. Pursuant to Article 10(11) of Directive (EU) 2019/944 suppliers shall provide household customers with adequate information on alternative measures to disconnection sufficiently in advance of any planned disconnection. Vulnerable customers should be adequately protected from electricity disconnections and should not be put in a position that forces them to disconnect. In order to safeguard access to energy for the most vulnerable, Member States should be encouraged to act building on the good practices in such matter across the Union.

HEREBY RECOMMENDS THAT MEMBER STATES:

Section II — structural measures, affordability and access to energy

7. Put in place measures to prevent disconnections of consumers affected by energy poverty and vulnerable consumers, through targeted financial support schemes, and actions, in both the short and the long term, comprising among others payment plans and energy efficiency advice, alternative supply contracts or assistance from social services and civil society organisations. To further protect consumers and ensure continuity of supply, Member States should ensure a supplier of last resort.”

**38. The European Pillar of Social Rights, jointly proclaimed by the European Parliament, the Council and the Commission on 17 November 2017 include energy among the essential services which everyone is entitled to access. Support for access to such services must be available for those in need.**

Principle 20 Access to essential services

“Everyone has the right to access essential services of good quality, including water, sanitation, energy, transport, financial services and digital communications. Support for access to such services shall be available for those in need.”

**39. Council Recommendation (EU) 2021/1004 of 14 June 2021 establishing a European Child Guarantee**

Adequate housing

10. With a view to guaranteeing effective access to adequate housing for children in need, Member States are recommended to: (...)

(b) assess and revise, if necessary, national, regional and local housing policies and take action to ensure that the interests of families with children in need are duly taken into account, including addressing energy poverty and preventing the risk of homelessness; such assessment and

revision should also include social housing or housing assistance policies and housing benefits and further improve accessibility for children with disabilities;

## **C – Council of Europe**

### **1. Commissioner for Human Rights**

40. In her country report following the visit to Spain from 21 to 25 November 2022, the Commissioner for Human Rights noted that the lack of affordable housing resulted in significant challenges relating to the quality of housing. The Commissioner noted with particular concern the situation in the Cañada Real Galiana shantytown (Madrid), where some sections have suffered power outages since October 2020, affecting the lives of at least 4,500 inhabitants, including some 1,800 children. The country report also noted that this case has been the subject of the first collective complaint with respect to Spain before the European Committee of Social Rights. The Spanish authorities informed the Commissioner during her visit that the situation was complex, involving various actors, including the Autonomous Community of Madrid and the private energy company, and that discussions across involved Ministries were ongoing to find a comprehensive response to this pressing situation.

## **THE LAW**

### **PRELIMINARY CONSIDERATIONS**

#### *As to the facts*

41. The complaint refers to the ongoing power outages occurring in Sectors 5 and 6 of Cañada Real in Madrid, Spain, which began in October 2020 and are still ongoing. Cañada Real is a shantytown of unauthorised dwellings located at approximately 15 kilometres from the centre of Madrid. It is informally divided into six sectors and the complainant organisations refer specifically to the situation in Sectors 5 and 6, which, according to their information, taken together account for approximately 4,500 inhabitants, of whom around 1,800 are children. According to the complainant organisations, although all sectors in Cañada Real share an informal situation and informal connections to the electricity supply network, only Sectors 5 and 6 have been deprived of electricity. The Government argues that intensive marijuana plantations located in these sectors trigger safety devices installed by the electricity supplier UFD-Naturgy on the electric infrastructure and thus causing a permanent blackout in the network. According to the complainant organisations, the ongoing power outages have a serious impact on the lives of the persons living in Sectors 5 and 6 of Cañada Real.

42. The complainant organisations submit that although no official data have been published since 2017, it is likely that a slight increase in population has occurred over the last years in Sectors 5 and 6. In Sector 5, 68% of the population is of foreign origin, of which 57% is of North African origin. In Sector 6, 66% of the population is of Spanish

origin, of which 52% is Roma. The remaining 34% of the population in Sector 6 is of foreign origin, of which 25% is of North African origin.

43. The Government acknowledges that the situation of the informal settlement in Cañada Real poses a complex problem and states that the public authorities are working to address the issue. In 2017, the so-called "Cañada Real Galiana Regional Agreement" was signed between the Government of Spain, the Self-governing Community of Madrid, and the Town Councils of the three municipalities (Madrid, Coslada and Rivas Vaciamadrid). According to the Government, one of the main objectives is to draw up a strategy for the re-housing of residents who, for territorial, environmental, safety or health reasons, cannot remain in their dwellings or substandard housing. The Government states that in Sector 5, at the time of concluding the Agreement, there were 1601 people affected, of whom 601 were minors; in Sector 6, 2,953 people were affected, of whom 1,211 were minors. In the additional information provided on 10 May 2024, the Government refers to a report by the Commissioner for Cañada Real which estimates that there are around 350 families, i.e. 1,499 people affected by the lack of power supply in Sector 6. However, the Government states that, while in Sectors 1 to 5, the public authorities are considering the possibility of urban redevelopment, Sector 6 poses different challenges, mostly related to its proximity to the Valdemingómez waste treatment complex. For this reason, the decision was taken to progressively dismantle Sector 6, a process parallel to rehousing the inhabitants of this Sector, which is currently underway.

44. As regards the implementation of the rehousing projects, according to the Government, as of May 2024, a total of 267 families from Sector 6 have been rehoused. The complainant organisations, for their part, affirm that since October 2020 until May 2024, 109 families from sector 6 have been rehoused (for more detailed information, see §67 and §71).

45. As regards the power outages, the complainant organisations state that there are frequent cuts in Sector 5, where electricity is available only a few days a week, on alternate days, while in Sector 6 there has been no electricity at all since October 2020. The Government contests the claim that the power has not been restored in Sector 5. It asserts that since February 2021, energy supply in Sector 5 has been operating in a continuous and stable manner, with occasional and exceptional interruptions due to overload. The Government acknowledges that Sector 6 has been deprived of electricity on a permanent basis since October 2020, except for the northernmost part where approximately 500 people live, and states that this is due to the safety risks for people and dwellings in case of overload. The Government states that it has been conducting operations to dismantle illegal marijuana cultivation in Sector 6. The Government states that between October 2020 and March 2022, the distribution company made attempts to reactivate the electricity supply in the area twice a day, but the protection mechanisms were immediately activated, given the high energy demand. Since March 2022, the energy company has stopped trying to reactivate the electricity supply in Sector 6.

*As to the immediate measures indicated by the Committee*

46. In reply to the immediate measures indicated by the Committee, the Government submitted the following information.

47. As regards the immediate measure on ensuring access to electricity and heating to all persons concerned, the Government submits in its reply to the Committee on the implementation of immediate measures that there are substantial differences in access to power supply in Sectors 5 and 6. The Government contests that Sector 5 should be included in the immediate measure requested since with the exception of occasional interruptions of supply due to isolated overloads, power supply in Sector 5 has been operating on a continuous and stable basis since at least February 2021. It states that the power outages affect Sector 6 where overloads have been occurring on a continuous basis since October 2020. Moreover, the Government submits that the lack of power supply in Sector 6 is not due to the conduct or a specific decision of the distribution company UFD-Naturgy, but is caused by a purely technical problem of overloading of the network. The Government finally submits that the serious safety problem that would result from immediately ordering access to power supply through illegal hook-ups means that the immediate measure indicated by the Committee is not feasible in practice.

48. The Government further states that not all the inhabitants of Sector 6 lack access to alternative sources of energy. It notes that according to the report of the Commissioner for Cañada Real, the vast majority of residents in Cañada Real have been availing themselves of alternative means of energy such as solar panels, diesel generators or butane or wood-burning cookers. The same report states that in order to improve the access of the population in Sector 6 to electricity, since winter 2021, multiple free deliveries of diesel cards have been made to supply the residents' electricity generators, free butane bottles for cookers or firewood deliveries.

49. As regards the immediate measure on the need to offer appropriate alternative accommodation to the affected persons where it is not possible to safely ensure access to electricity and heating, in its reply to the Committee on the implementation of immediate measures, the Government submits that while in respect of Sectors 1 to 5 the public authorities are considering the possibility of urban redevelopment, a decision was taken in the Regional Agreement to dismantle Sector 6 and to implement adequate rehousing mechanisms. The Government provides information on the rehousing agreements of 11 May 2018, 7 December 2021 and 22 June 2022 signed between the Self-governing Community of Madrid and the competent city councils, and on the direct subsidies provided by the Spanish Government to the relevant City Councils. The Government has also included a budget item in the General State Budget 2023 for Cañada Real of €8,375.000 earmarked for rehousing.

50. The Government further submits that a general action protocol has been concluded between the Ministry of Transport, Mobility and Urban Agenda of the Spanish Government, the Ministry of the Environment, Housing and Agriculture of the Community of Madrid, the Government Delegation in Madrid and the City Councils of Madrid and Rivas Vaciamadrid in order to implement an extraordinary Rehousing Plan

in Cañada Real 2022-2030. This protocol foresees the joint investment of €330 million, over 8 years, for the rehousing of up to 1,631 families, starting with those residing in Sector 6.

51. In its reply to the Committee on the implementation of immediate measures, the Government also highlights a number of mitigating measures taken in respect of Sector 6, but the Committee notes that these predate the Committee's indication of immediate measures.

52. The Committee considers in view of the above information provided in the Government's reply that the immediate measures indicated were not implemented.

*As to the responsibility of UFD-Naturgy and the Government's obligations*

53. The Committee takes note of the Government's assertion that the power outages in Sector 6 are in no way due, directly or indirectly, to any action or omission on the part of the authorities or public administrations, the administration being totally unrelated to the origin of this situation. The Government refers to the fact that the electricity supply is the responsibility of the UFD-Naturgy, a wholly private company which is not owned or managed by any public administration.

54. The complainant organisations submit that the issues complained of can be attributed to the State, at least (but not exclusively) as a regulator in relation to the ongoing power outages in Cañada Real and the situation arising from them. According to the complainant organisations, the fact that the electricity is supplied by a private company, does not relieve the State of its ultimate responsibility for ensuring the effectiveness of the Charter rights invoked in the complaint.

55. In this respect, the Committee recalls that in its decision in *Marangopoulos Foundation for Human Rights (MFHR) v. Greece* concerning a range of alleged Charter violations resulting from the poorly regulated lignite mining industry, it emphasised that the State is responsible for enforcing the rights embodied in the Charter within its jurisdiction, even if the State has not acted as an operator but has simply failed to put an end to the alleged violations in its capacity as regulator (*Marangopoulos Foundation for Human Rights (MFHR) v. Greece*, Complaint No. 30/2005, decision on admissibility of 10 October 2005, §14). In the same case, the Committee held that "as a signatory to the Charter, [the State] is required to ensure compliance with its undertakings, irrespective of the legal status of the economic agents whose conduct is at issue" (*Marangopoulos Foundation for Human Rights (MFHR) v. Greece*, Complaint No. 30/2005, decision on the merits of 6 December 2006, §192).

56. Moreover, in the context of involvement of private sector agents in education, the Committee has held that, under the Charter, States Parties are required to regulate and supervise private sector involvement in education strictly, making sure that the right to education is not undermined (Statement of Interpretation on Article 17§2 -

Private sector involvement in education, Conclusions 2019). More generally, private sector involvement in relation to Charter rights-related services must not result in the enjoyment or achievement of Charter rights being undermined.

57. The Committee will examine the State's obligations in relation to the alleged violations, particularly in terms of its duty to regulate and supervise the conduct of third parties.

*As to the respective responsibilities of local, regional and national authorities*

58. The Committee further notes that relevant facts in the complaint are linked to local and regional competences in the Region of Madrid. In this regard, the Committee recalls having held that "even if under domestic law local or regional authorities [...] are responsible for exercising a particular function, states parties to the Charter are still responsible, under their international obligations to ensure that such responsibilities are properly exercised" (European Roma Rights Centre (ERRC) v. Greece, Complaint No. 15/2003, decision on the merits of 8 December 2004, §29). Thus, the ultimate responsibility for policy implementation, involving at a minimum oversight and regulation of local and regional action, lies with the State. As a Party to the Charter, the State must be able to show that local, regional, and central authorities have taken practical steps to ensure that decentralised action is effective (European Roma Rights Centre (ERRC) v. Italy, Complaint No. 27/2004, decision on the merits of 7 December 2005, §26).

*As to the provisions of the Charter at stake and the structure of the present decision*

59. The Committee notes that the complaint focuses on the impact that the power outages have had on the lives of the persons living in Sectors 5 and 6. The complaint presents the effects of the lack of electricity on the health of the residents and its deterioration. It also refers to the impact on children, with much higher rates of absenteeism and abandoning school, as well as negative impacts on women, older persons and persons with disabilities. The complaint further points out that the power outages have increased social exclusion and poverty and that residents affected live in substandard housing which is not adequate within the meaning of the Charter. On this basis, the complainant organisations allege a violation of several provisions of the Charter, namely Articles 11, 15, 16, 17, 20(a), 23, 27§1(a), 30 and 31.

60. With regard to the alleged violation of Articles 20(a) and 27§1(a) of the Charter, the Committee notes that the allegations of the complainant organisations essentially concern the difficult situation and increased housework experienced by women in the context of the power outages which may prevent them from entering, remaining and re-entering employment. The Committee recognises that the gendered burden of care and housework in practice creates a risk of women being particularly negatively affected by the power outages. However, the Committee considers that the complaint

does not provide sufficiently specific information to enable the Committee to assess the allegations in relation to discrimination on grounds of sex or family responsibilities under Articles 20(a) and 27§1(a) of the Charter.

61. The Committee, while noting the interrelatedness between the substantive Charter provisions invoked, will examine the allegations under each of the invoked Charter provisions, apart from Articles 20(a) and 27§1(a) as noted above.

*As to the alleged violation of Article E of the Charter*

62. The Committee notes that the complainant organisations allege that the situation raised in the complaint amounts to a violation of different provisions of the Charter read alone and in conjunction with Article E (with the exception of Article 23 whose violation is alleged only alone). The Committee notes that the families living in Sectors 5 and 6 of Cañada Real and affected by the power outages are in a particular situation of vulnerability. It further notes that a significant part of the population affected is of foreign origin or of Roma origin.

63. However, the Committee considers that the complaint does not provide sufficient information to enable the Committee to assess whether persons or groups of persons have been discriminated against in comparison to other persons or groups of persons. The Committee will therefore assess each of the Charter provisions invoked alone, without reference to Article E in this decision.

## **I. ALLEGED VIOLATION OF ARTICLE 31§1 OF THE CHARTER**

64. Article 31§1 of the Charter reads as follows:

### **Article 31 – The right to housing**

Part I: “Everyone has the right to housing.”

Part II: “With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed:

1. to promote access to housing of an adequate standard;

(...)”

## **A – Arguments of the parties**

### **1. The complainant organisations**

65. The complainant organisations allege that the deprivation of electricity occurring in Sectors 5 and 6 of Cañada Real, which started in October 2020, amounts to an inadequate housing situation and, hence, to a continuous violation of Article 31§1 of the Charter, read alone and in conjunction with Article E. They indicate that the deprivation of electricity affects approximately 4,500 people, of whom around 2,900 live in Sector 6, where there is a permanent, ongoing power outage, and around 1,600 live in Sector 5, where intermittent power cuts occur.

66. The complainant organisations refer to the case law of the Committee which has consistently held that: (i) Article 31 of the Charter imposes on States positive obligations to guarantee the right to housing; (ii) the notion of adequate housing encompasses all basic amenities, including electricity and heating, and (iii) the authorities must guard against the interruption of essential services such as water and electricity .

67. The complainant organisations submit that the State has not adopted any decisive and effective measure to remedy the inadequate housing situation arising from the deprivation of electricity supply in Sectors 5 and 6, even after repeated calls for action by the Spanish Ombudsman and nine UN Special Rapporteurs. They assert that the only measure taken by the State in response to the power outages has consisted of a €5 million direct grant in December 2021 to the Councils of Madrid city and Rivas-Vaciamadrid for the implementation of the Re-housing Programme for families in a situation of extreme social vulnerability in Sectors 4, 5 and 6 of Cañada Real. The complainant organisations consider this measure to be inadequate and insufficient as an alternative to the restoration of the electricity supply because: (i) such a re-housing process is lengthy and thus the 11-month period that Article 9(1) of the grant sets out for the execution of the €5-million re-housing programme does not seem realistic; and (ii) the funds are not allocated to the different sectors in a manner commensurate with the emergency situation existing in each of them. With regard to the rehousing process, the complainant organisations state that 109 families from Sector 6 have been relocated since October 2020 until May 2024, which represents 32% of the total planned rehousing actions (340 households) covered by the 2021 and 2023 relocation agreements.

68. The complainant organisations allege that the State's inaction has resulted in preventing the population in question from the enjoyment of a basic public service on the grounds of isolated illegal activities, which appears clearly disproportionate and infringes upon their basic fundamental rights. In the complainant organisations' view, this continuous violation is particularly aggravated considering that a substantial number of the inhabitants of Cañada Real belong to vulnerable groups such as Roma. The complainant organisations claim that the State itself has acknowledged that the deprivation of electricity has caused a "situation of extreme vulnerability and social risk" to the persons concerned by this complaint. They refer in this sense to the recital of the Royal Decree 1058/2021 of 30 November 2021 noting that "the lack of electricity [...] places [...] both the adults and, in particular, the children affected in a situation of extreme vulnerability and social risk" (see §30 above).

69. In their response to the Government's submissions on the merits, the complainant organisations contest the Government's argument that Sector 6 presents exceptional circumstances that prevent the possibility of urban redevelopment, such as its proximity to the Valdemingomez waste treatment complex and its location within a protected natural area. The complainant organisations refer to other urban development projects which are planned in the area in the next 10 years with houses being also close to the Valdemingomez waste treatment complex . They also state that the fact that Sector 6 is partly within the Southeast Regional Park should not lead to

conclude that electricity supply cannot be legalised nor restored, since the same park includes 16 towns and municipalities and industrial centres. The complainant organisations assert that the reasons invoked by the Government do not preclude the authorities from implementing adequate measures to restore electricity in the affected area while rehousing initiatives are being considered.

## **2. The respondent Government**

70. The Government maintains that, contrary to what has been stated by the complainant organisations, the electricity supply in Sector 5 of Cañada Real has been continuously operating since February 2021 at least (see § 45 of the present decision). With regard to Sector 6 of Cañada Real, the Government emphasises that the authorities of the various territorial levels governed by different political parties, have agreed that Sector 6 of Cañada Real must be dismantled, and that adequate relocation mechanisms must be implemented for the vulnerable population and families in a situation of severe exclusion living in this Sector, and this decision is set out in the Regional Agreement (page 32).

71. The Government presents the most significant actions carried out or being carried out with the aim of rehousing families living in Sector 6, such as: (i) the rehousing agreement of 11 May 2018 between the Self-governing Community of Madrid and the Madrid City Council which involved the rehousing of 143 families from Sector 6, who are already living in their new homes; (ii) the rehousing agreement of 7 December 2021 concluded between the Self-governing Community of Madrid and the Madrid City Council concerning the relocation of 160 families and its Addendum of 11 September 2023 which extended the rehousing area in sector 6 and the housing stock to up to 180 dwellings (iii) the rehousing agreement of 22 June 2022 between the Community of Madrid and the Rivas City Council concerning the relocation of 15 families; (iv) two public aids granted by the General State Administration by the Royal Decree 1058 of 30 November 2021, to the Madrid City Council (€ 3 million) and Rivas-Vaciamadrid City Council (€ 2 million) in order to carry out rehousing programmes for families in a situation of extreme social vulnerability in Sectors 4, 5 and 6 of Cañada Real; (v) an extraordinary budget line in the General State Budget for 2023 for Cañada Real Rehousing of € 8,375,000; and (vi) an extraordinary rehousing plan 2024-2034 which foresees a budget of € 330 million and establishes a period of ten years (2024-2034) to carry out all the necessary rehousing in the six sectors of Cañada Real, which will be developed through specific agreements. The Government states that according to the Commissioner for Cañada Real, it is expected that the first rehousing agreement resulting from this Protocol will be signed in 2025 and that it will cover all the families who cannot currently connect to the power supply network. In its report dated 6 May 2024, the Commissioner states that this would allow the process of dismantling and rehousing in Sector 6 to be completed by around 2027. In their response to the Committee's questions, the Government states that until 10 May 2024 a total of 267 families from Sector 6 have been rehoused and that the rehousing process in Sector 6 has covered some 3.7 km, more than half of the total length of this sector (6.6 km), which means that 132 plots have been affected, namely 55% of the total number of plots (235) in this sector.

72. The Government further describes the measures taken by the authorities to mitigate the consequences of the lack of power supply in the area concerned such as: measures based on the agreement between Madrid City Council and *Cáritas Diocesana* like distribution of firewood, butane bottles and cards for the purchase of petrol for generators as well as weekly laundry service; provision of 462 temporary accommodation places which can be used by families living in Sector 6 withing the Municipal Emergency Programme; specific measures taken during the weather emergency caused by the Filomena storm in January 2021 such as temporary accommodation, provision of cookers and blankets to families, distribution of food and water to those who were unable to move, and an emergency telephone number.

73. The Government states that the majority of the residents in Sector 6 have been providing themselves with alternative electricity resources such as self-installed solar panels, diesel generators, butane or catalytic cookers instead of the illegal connections that, until the end of 2021, were being used.

74. The Government agrees with the complainant organisations that the question at stake in the present complaint is whether the State's actions and omissions in relation to the situation resulting from the ongoing power outages in Cañada Real amount to a breach of the Charter. The Government also shares the view referred to by the complainant organisations that the right to housing of an adequate standard under Article 31§1 of the Charter encompasses the right to housing with access to some basic services, in particular electricity supply and heating, as held previously by the Committee. The Government thus accepts the interpretation of the Committee that dwellings lacking basic services such as access to electricity and heating cannot be considered as housing of an "adequate standard" within the meaning of Article 31§1 of the Charter.

75. However, the Government is of the view that Article 31 cannot be interpreted as imposing on States an obligation of "results", but rather establishes an "obligation of means", in particular, the obligation to take "suitable measures". In a situation where families are found to be living in houses lacking the minimum conditions of quality or suitability, the State cannot *per se* be held responsible for the violation of Article 31§1 of the Charter, but rather it must be assessed, within the particular context in which the facts occur, what actions have been taken by public authorities to prevent, remedy or alleviate the situation and whether the adopted measures are adequate or, otherwise, whether the failure of the public authorities to react to such a situation entails the State's responsibility for the violation of the right recognised in the Charter.

76. In response to the complainant organisations' assertion that the State had acknowledged the violation of Article 31 of the Charter (and thus of the other violations arising therefrom), the Government states that the lack of access to the electricity supply in Sector 6 of Cañada Real has been a reality since October 2020. However, the Government emphasises that acknowledging this reality - as stated in the explanatory memorandum to Royal Decree 1058/2021 - and the serious risks that

may arise from it, if measures are not adopted to alleviate or avoid them, does not mean that the State recognises that it is violating the rights enshrined in the Charter.

77. While the complainant organisations argue that only measures directly aimed at restoring electricity should be assessed, the Government reiterates the reasons why electricity has not been reestablished in Sector 6 and the technical difficulties that would be posed by the possible removal of what it terms the 'urban development obstacles' (such as the proximity to the Valdemingómez waste treatment centre and location in a natural area of unique characteristics) that currently prevent the legalisation of access to electricity for users of the dwellings and buildings in this Sector.

78. With regard to relocation of the vulnerable families still living in Sector 6, the Government states that the progress is very significant, despite the opposition of a small number of residents of Sector 6, who prefer to continue living there rather than being relocated to urban centres, and in this sense have refused to participate in the relocation process.

79. The Government finally states that the public authorities and administrations at the different territorial levels are acting in a coordinated manner to effectively achieve the ultimate objective, which is to dismantle Sector 6 and to rehouse the vulnerable families still living there. At the same time, those authorities are taking a number of measures to mitigate the negative consequences of the lack of access to the electricity supply network. The Government considers that, in view of the above, there is no reason to consider that the Spanish authorities have acted in breach of the right recognised in Article 31§1 of the Charter.

## **B – Assessment of the Committee**

80. The Committee recalls that according to its case law, housing of an adequate standard under Article 31§1 means a dwelling which is safe from the point of view of sanitation and health, i.e. it must possess all basic amenities, such as water, heating, waste disposal, sanitation facilities and electricity and must also be structurally secure, not overcrowded and with secure tenure supported by the law (see Conclusions 2003, Article 31§1, France; European Federation of National Organisations Working with the Homeless (FEANTSA) v. France, Complaint No. 39/2006, decision on the merits of 5 December 2007, §76; *Médecins du Monde – International* v. France, Complaint No. 67/2011, decision on the merits of 11 September 2012, §58).

81. The Committee has repeatedly held that the right to housing encompasses housing of an adequate standard and access to essential services (International Federation for Human Rights (FIDH) v. Ireland, Complaint No. 110/2014, decision on the merits of 12 May 2017, §106 and §118). In this respect, the Committee takes into account General Comment No. 4 of the UN Committee on Economic, Social, and Cultural Rights which stresses that "an adequate house must contain certain facilities essential for health, security, comfort and nutrition. All beneficiaries of the right to adequate housing should have, among others, sustainable access to natural and common resources, safe drinking water, energy for cooking, heating and lighting,

sanitation and washing facilities, and means of food storage (...)” (International Federation for Human Rights (FIDH) v. Ireland, Complaint No. 110/2014, op. cit., §118).

82. Moreover, the rights recognised in the Charter must take a practical and effective, rather than purely theoretical, form (International Commission of Jurists v. Portugal, Complaint No. 1/1998, decision on the merits of 9 September 1999, §32). For the situation to be in conformity with the Charter, States Parties must: (a) adopt the necessary legal, financial and operational means of ensuring steady progress towards achieving the goals laid down by the Charter; (b) maintain meaningful statistics on needs, resources and results; (c) undertake regular reviews of the impact of the strategies adopted; (d) establish a timetable and not defer indefinitely the deadline for achieving the objectives of each stage; (e) pay close attention to the impact of the policies adopted on each of the categories of persons concerned, particularly the most vulnerable (International Movement ATD Fourth World v. France, Complaint No. 33/2006, decision on the merits of 5 December 2007, §§59-67).

83. According to the parties there has been no electricity in Sector 6 since October 2020, with the exception of the northernmost part of that Sector where, according to the Government, electricity is reportedly available. The Committee notes that according to the final report of the project “Diagnosis of the energy uses and needs of the population of Cañada Real Galiana” drawn up by a research team of University Carlos III of Madrid in August 2023 (hereinafter “report of University Carlos III of Madrid”), a small part of Sector 6, namely areas closest to the A-3 and the Parish of Santo Domingo de la Calzada, was never affected by these power outages as it receives its power through another alternative line.

84. The parties disagree, however, with regard to the situation in Sector 5. While the complainant organisations state that there are frequent power outages in Sector 5, with electricity only available irregularly ( i.e. a few days a week on alternate days), the Government asserts that since February 2021, the electricity supply in Sector 5 has been operating, with only occasional and exceptional moments of interruptions due to overload.

85. The Committee notes that according to the report of University Carlos III of Madrid there was a complete disconnection from the power grid of Sector 5 in November 2020 and for several months, with subsequent reconnection of the affected households to the system, on an irregular basis and under limited supply conditions, with a much lower energy consumption capacity than that existing prior to the supply cut.

86. The same report indicates that the population in Sector 5 self-organised the management of its local distribution network, decreasing the overall demand for electricity where possible and, when necessary, spreading the power supply between 3 or 4 sections, leaving one of them without supply, and rotating from one to another after a few hours, thus avoiding sector-wide blackouts by spreading the electricity load over time. According to the report, this has allowed the residents of Sector 5 to live

with intermittent access to electricity during periods of high demand (winter) and with virtually full access (although still under self-managed load conditions) during periods of medium and low demand.

87. The Committee further notes that according to certificates provided by civil society organisations active in Cañada Real (such as TABADOL, AMAL, “*Association de Vecinos Sector 5*”, “*Parroquia Santo Domingo de la Calzada*”), practically all homes in Sector 5 lack a stable and sufficient supply of electricity. The associations provide details on the approximate dates of shortage of electricity during the period October 2020 – spring 2024, noting interruptions or alternating days with light/without light especially in periods of cold temperatures. For example, it is stated by the associations that since 23 January 2023, when temperatures dropped significantly again, the frequency of use of electricity in Sector 5 has become one day with electricity/one day without electricity, alternating sections in the entire Sector 5. While in the early months of 2024 as the winter was not too harsh, it allowed the sequence to be 2-3 days with light, one day without light.

88. The Committee notes that according to the conclusions of the above-mentioned report by the University Carlos III of Madrid, the environmental conditions inside the monitored dwellings in the period between March 2021 and March 2023 reflect an overall picture of high vulnerability, with extreme situations of cold in winter. The same report identified temperatures in the most frequently used rooms below 10 °C in winter and above 40 °C in summer. The report also shows that 97% of the households interviewed (38 out of 39) reported not being able to maintain an adequate temperature at home.

89. Moreover, the Committee notes in the additional information submitted by the complainant organisations on 10 May 2024 that in the absence of electricity, the affected households in Sectors 5 and 6 had to purchase, within their financial means, alternative sources of energy such as solar panels, butane heaters/cookers, diesel generators, firewood stoves/cookers, batteries etc. The Committee notes that civil society organisations have reported more than five fires and explosions with more than four serious injuries and the death of a man in 2023 as a consequence of the fact that most of the solar panels were second - hand and installed by the residents themselves, without complying with safety requirements. Moreover, 25 intoxications due to the pollution generated by the petrol generators and two fires resulting from candles were reported during winter 2023/2024.

90. Recalling that housing of an adequate standard under Article 31§1 means a dwelling which is safe from the point of view of sanitation and health (see § 80 above), the Committee notes that self-installed alternative sources of energy adopted in response to the absence of electricity from the grid may pose risks to the safety and health of the persons concerned and to the air quality of dwellings. This raises significant concerns from the perspective of Article 31§1 of the Charter.

91. The Committee reiterates its already well-established case law that dwellings lacking basic services such as access to electricity and heating cannot be considered as housing of an “adequate standard” within the meaning of Article 31§1 of the Charter. It considers that energy is essential for heating, lighting, washing, cooking and refrigeration purposes. Ensuring stable, consistent and safe access to adequate energy in relation to shelter and housing is thus a key element of the obligations imposed by Article 31.

92. While noting that the parties agree that the question at stake is whether the State’s actions and omissions in relation to the consequences of the power outages amount to a breach of the Charter, the Committee will focus its assessment on the obligations of Spain under the Charter in relation to the situation resulting from the lack of electricity.

93. With regard to the measures taken by the authorities, the Committee notes that the complainant organisations argue that the State’s failure to take measures to remediate or put an end to the inadequate housing situation arising from the deprivation of electricity supply in Sectors 5 and 6 of Cañada Real amounts to a violation of the right to housing of an adequate standard under Article 31§1 of the Charter. It further notes the Government’s assertion that the solution agreed by the authorities was to rehouse the vulnerable population and families in a situation of severe exclusion living in Sector 6 since restoration of electricity is not feasible in this sector.

94. The Committee notes the measures carried out or in process of being carried out with the aim of rehousing families living in Sector 6 (described by the Government, see §71 above). It notes that according to the Government, 267 families from Sector 6 were rehoused from 2018 until 10 May 2024, while according to the complainant organisations only 109 families from Sector 6 were rehoused from October 2020 until 10 May 2024. On the basis of the information provided by the parties, the Committee notes that many families in Sector 6 have not yet been rehoused and it is not yet clear when all families/persons affected by the power outages will have been rehoused. The Protocol of Action 2024-2034 establishes a period of ten years for its implementation. The Commissioner for Cañada Real states that it is expected that the first rehousing agreement resulting from that Protocol will be signed in 2025 and that it will cover all the families who cannot currently connect to the power supply network. The Commissioner states that this would allow the process of dismantling and rehousing in Sector 6 to be completed by around 2027 (Report of the Commissioner for Cañada Real of 6 May 2024). The Committee notes that the prospective 2027 timeline is based on a potential rehousing agreement which has not yet been signed. The Committee considers that this timeline cannot therefore be regarded as sufficiently concrete to serve as a meaningful indicator of when the persons affected by the power outages in Sector 6 will have been rehoused.

95. The Committee recalls that Article 31 of the Charter imposes obligations on States Parties to guarantee the right to housing. In connection with means of ensuring steady progress towards achieving the goals laid down by the Charter, the Committee emphasises that the implementation of the Charter requires States Parties not merely to take legal action but also practical action to give full effect to the rights recognised

in the Charter (*International Association Autism-Europe v. France*, Complaint No. 13/2002, decision on the merits of 4 November 2003, §53). When the achievement of one of the rights in question is exceptionally complex and particularly expensive to resolve, a State Party must take measures that allows it to achieve the objectives of the Charter within a reasonable time, with measurable progress and to an extent consistent with the maximum use of available resources (*ibid*).

96. With regard to the timetable envisaged for rehousing, the Committee notes the Government's assertion that the rehousing process is ongoing and progress is very significant. However, the Committee notes that some of the actions planned have a timeline for implementation of 2034, which is up to 14 years from the beginning of the power outages (October 2020). Even if re-housing was to be completed by 2027 as the Commissioner states, this would mean a period of around seven years since the power outages started in October 2020. This would not satisfy Charter requirements in terms of Article 31§1. The Committee recalls that it is essential to set reasonable deadlines that take account not only of administrative constraints but also of the needs of groups concerned and that achievement of the goals that the authorities have set themselves cannot be deferred indefinitely (*International Movement ATD Fourth World v. France*, Complaint No. 33/2006, *op. cit.*, §§59-67).

97. The Committee notes that the urgency of taking measures to address the consequences of the power outages was stressed by the Spanish Ombudsman (see §§17-24 above), the nine UN Special Rapporteurs (see §§33-35 above) and the Commissioner for Human Rights of the Council of Europe (see §40 above). Given the significant impact that the power outages has on the lives and enjoyment of rights of persons concerned, the very long period of deprivation of electricity, and the failure on the part of the State to ensure access to adequate electricity for the persons concerned while the rehousing process is carried out, the Committee considers that the measures taken in connection to rehousing are, in the absence of other measures, insufficient in terms of ensuring enjoyment of the right to housing under Article 31§1 of the Charter.

98. The Committee also takes note of other measures taken by the authorities to mitigate the lack of power supply, such as: distribution of firewood, butane bottles and cards for the purchase of petrol for generators on the basis of the agreement signed between the Community of Madrid and Madrid Diocesan Caritas; provision of 462 temporary accommodation places which can be used by families living in Sector 6 within the Municipal Emergency Programme; specific measures taken during the weather emergency caused by the Filomena storm in January 2021. The Committee considers that these measures cannot remedy the lack of stable, consistent and safe access to adequate energy for all persons affected by the power outages, and thus the housing concerned cannot be considered to be of an adequate standard as required by Article 31§1 of the Charter.

99. For these reasons, the Committee holds that Spain has failed to take adequate measures to ensure that the people affected by the power outages living in Sectors 5

and 6 of Cañada Real enjoy their right to housing of an adequate standard, which amounts to a violation of Article 31§1 of the Charter.

## **II. ALLEGED VIOLATION OF ARTICLE 16 OF THE CHARTER**

100. Article 16 of the Charter reads as follows:

### **Article 16 – The right of the family to social, legal and economic protection**

Part I: “The family as a fundamental unit of society has the right to appropriate social, legal and economic protection to ensure its full development.”

Part II: “With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means.”

### **A – Arguments of the parties**

#### **1. The complainant organisations**

101. The complainant organisations allege that the State’s failure to guarantee adequate housing for families living in Sectors 5 and 6 of Cañada Real as well as its failure to provide for the participation of family associations in seeking to resolve the problem of the power outages amount to a continuous violation of Article 16 of the Charter, read alone and in conjunction with Article E. They indicate that among the persons concerned by the complaint there are 1,236 families, whose daily lives are affected by the ongoing power outage.

102. With regard to the first allegation, the complainant organisations argue that the Committee has determined that Article 16 encompasses the right of the family to adequate housing “in the context of securing the right of families to social, legal and economic protection”. They refer to their submissions on the alleged violation of the right to adequate housing under Article 31, emphasising that, according to the Committee’s case law, the notion of adequate housing in both provisions is identical.

103. With regard to the second allegation, the complainant organisations assert that the views of associations of families created in the context of the power outages in Sectors 5 and 6 (such as Tabadol Association, the Association of Neighbours of Sector 5, the Civic Platform for Light) are not being taken into account by the relevant authorities in the search for solutions for the power outages in Cañada Real. For instance, organisations representing families are not included in the interministerial working group promoted by the Ministry of Social Rights and Agenda 2030 created in November 2020.

104. In their response to the Government’s submissions on the merits, the complainant organisations state that the information provided by the State shows that

none of the processes related to Cañada Real listed by the Government are connected to the power outages, some of them predating October 2020. Other processes related to the rehousing projects just refer to the obligation of the public authorities to take into consideration the needs of the families living in Cañada Real, with no evidence of any process having taken place so far. The complainant organisations further state that the 2017 Regional Agreement foresees residents'/neighbours' participation exclusively in the quarterly Assembly, whose composition includes one representative from each legally registered residents'/neighbours' association. They state that, however, there is no provision for residents'/neighbours' participation in the Executive Committee, nor in its working commissions. The complainant organisations argue that there is no room for residents' participation in the Regional Pact Monitoring Committee, in breach of the first additional provision of Law No. 2/2011 on Cañada Real .

105. The complainant organisations further submit that the Regional Commissioner refused to allow the associations and the Civic Platform for Light to participate in the meeting of the Regional Pact Monitoring Committee, despite their express request to do so. They state that the Commissioner agreed only to allow three residents'/neighbours' representatives to attend the meeting "without voice or vote in the matters of the Commission", giving them the floor only during the question-and-answer session to formulate "a request or a question". Nor have the residents been allowed to participate in the ad hoc Interministerial Commission created to deal with the power outages in Cañada Real, with the State claiming that, as it is a meeting between ministries, it is not appropriate for representatives of the families of Cañada Real to attend.

106. The complainant organisations emphasise that meaningful participation for the purposes of Article 16 means that families are provided the opportunity to express their views and be involved in processes of decision-making on policies, strategies and programs that affect them. They assert that such participation includes consultation on issues related to the power outages and there has never been such participation in the context of the power outages in Sectors 5 and 6 of Cañada Real.

## **2. The respondent Government**

107. The Government agrees that the concept of adequate housing is identical under Article 31 and 16 of the Charter. Thus it refers to its submissions on Article 31 above.

108. Concerning specifically the alleged lack of participation of civil organisations in decision making and policies affecting Sectors 5 and 6, the Government notes that according to the case law of the Committee, Article 16 requires the views of families to be taken into account when adopting all the measures and policies affecting them. Moreover, the Government notes that measures to be adopted in the framework of housing policy must take into account the specific needs of families.

109. The Government states that within the framework of the Regional Agreement for Cañada Real, a number of collegiate coordination bodies were set up, in which the participation of political representatives, public administrations and social agents such as residents'/neighbours' associations and social entities is structured and ensured. A total of thirteen collegiate bodies were created and are still in operation at present, including the Assembly, which is designed as the body for the participation of public administrations, political groups, social entities and residents' associations. There is one representative from each legally registered residents' association, as well as one representative from each of the social entities that actively participate in the area and are duly registered. There are three sectoral boards – security, social and urban planning – as technical assistance and consultative bodies in the performance of the Assembly's functions. There is also a representative of each residents' association and a representative of the social entities, except in the social committee, which has a representative from each of the social entities that actively participate in the area and are duly registered.

110. The Government also indicates, with regard to the obligation to satisfy the specific needs of families when taking decisions affecting housing policy, that the rehousing measure takes into account a number of criteria in order to assign a house as a matter of priority, in view of the socio-economic circumstances of families. The social services are responsible for defining the most important risk factors and selecting the families with the highest vulnerability level, giving priority to those who are in a situation of extreme social vulnerability.

111. The Government refutes the assertion that consultation of families' associations in the context of the power outages has never taken place. It reiterates the information related to the creation and current validity of bodies in which residents'/neighbours' associations can participate, which, in the Government's view, do address the problems of the Cañada Real situation, in particular the power outages in Sector 6. The Government states that social entities and residents/neighbours or their associations are present in the Assembly, in the Technical Presentations and in the three Technical Boards, as well as in different working groups set up outside the Regional Agreement. It also asserts that there is a wide network of meeting and participation spaces, in many of which the electricity situation has been and continues to be dealt with, sometimes as the only item on the agenda.

## **B – Assessment of the Committee**

### *As to adequate housing for families*

112. The Committee recalls that it has previously held that the right to housing is of central importance to the family, and it enables the exercise of many other rights – both civil and political as well as economic, social and cultural. In order to comply with Article 16, States Parties must promote the provision of an adequate supply of housing for families, take the needs of families into account in housing policies and ensure that existing housing be of an adequate standard and include essential services (such as

heating and electricity). Adequate housing refers not only to a dwelling, which must not be sub-standard and must have essential amenities, but also to a dwelling of suitable size considering the composition of the family in residence (International Federation for Human Rights (FIDH) v. Ireland, Complaint No. 110/2014, op. cit., §§105-106).

113. The Committee points out that the notion of adequate housing is identical under Articles 16 and 31 of the Charter (Centre on Housing Rights and Evictions (COHRE) v. Italy, Complaint No. 58/2009, decision on the merits of 25 June 2010, §115; ERRC v. Bulgaria, Complaint No. 31/2005, decision on the merits of 18 October 2006, § 17 and ERRC v. France, Complaint No. 51/2008, decision on the merits of 19 October 2009, § 89).

114. The Committee refers to its assessment above on Article 31§1. It holds that the situation, on the basis of which a violation has been found under Article 31§1 in relation to adequate housing, also amounts to a violation of Article 16 of the Charter with regard to Spain's failure to take adequate measures to ensure housing of an adequate standard for families living in Sectors 5 and 6 of Cañada Real.

*As to the participation of civil organisations representing families*

115. The Committee has held that States Parties must take the needs of families into account in housing policies (European Roma Rights Centre (ERRC) v. Greece, Complaint No. 15/2003, decision on the merits of 8 December 2004, §24). The Committee recalls that in order to ensure that the views of families are taken into account in the formulation of family policy, civil organisations representing families should be consulted by the relevant authorities (Conclusions 2006, Statement of Interpretation on Article 16). The Committee thus considers that participation under Article 16 of the Charter requires that families and/or the associations representing them are provided with the opportunity to express their views and be involved in processes of decision-making on policies, strategies and measures that impact/affect them. Such participation must include genuine consultation with concerned families and/or their representatives so as to ensure them an opportunity to influence the development and implementation of the relevant policies and programmes.

116. The Committee notes that the parties agree that Article 16 of the Charter requires that the views of families should be taken into account when adopting all the measures and policies affecting them. The complainant organisations state that the views of associations of families are not being taken into account by the relevant authorities in the search for solutions for the power outages in Sectors 5 and 6 of Cañada Real. The Government argues that within the framework of the Regional Agreement for Cañada Real, the involvement of residents'/neighbours' associations and social entities is established and ensured within the collegiate coordination bodies such as the Assembly and its sectoral boards (apart from the social one).

117. The Committee notes that the allegation of the complainant organisations focuses on the lack of participation of associations of families in decision-making

processes with regard to the power outages and their consequences. The Committee regards the residents'/neighbours' associations as representative of families for the purposes of Article 16 in the context of the power outages and their consequences.

118. The Committee notes that the Law No. 2/2011 on Cañada Real sets out a collaboration and cooperation process in order to find solutions to the situation in Cañada Real, with the participation in the entire process of those affected duly represented by accredited associations. It further notes that the Commissioner for Cañada Real was established in 2015 to provide dialogue between the different administrations and entities involved, and to coordinate the consultation process between the authorities and the affected population through their associations, as provided for in Law No. 2/2011 on Cañada Real. Moreover, the Regional Agreement for Cañada Real of 2017 provides for the participation of residents'/neighbours' associations and social entities within the collegiate coordination bodies such as the Assembly (where there is one representative from each legally registered residents'/neighbours' association, as well as one representative from each of the social entities that actively participate in the area and are duly registered) and its sectoral boards (a representative of each residents' association and a representative of the social entities, except in the case of the social board).

119. The Committee notes that in the present case, despite the existence of various formal structures such as the involvement of residents' associations in the Assembly within the framework of the Regional Agreement for the Cañada Real, there is no evidence of such participation in practice.

120. On the basis of the information at its disposal, the Committee considers that the right of families concerned and their associations to be involved in decision-making on policies and measures that concern them, including with regard to the power outages in Sectors 5 and 6 of Cañada Real, is not effectively guaranteed.

121. The Committee therefore holds that there is a violation of Article 16 of the Charter in this respect.

### **III. ALLEGED VIOLATION OF ARTICLES 11§1 AND 11§3 OF THE CHARTER**

122. Articles 11§1 and 11§3 of the Charter read as follows:

#### **Article 11 – The right to protection of health**

Part I: "Everyone has the right to benefit from any measures enabling him to enjoy the highest possible standard of health attainable."

Part II: "With a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in cooperation with public or private organisations, to take appropriate measures designed inter alia:

1. to remove as far as possible the causes of ill-health;

(...)

3. to prevent as far as possible epidemic, endemic and other diseases, as well as accidents.”

## **A – Arguments of the parties**

### **1. The complainant organisations**

123. The complainant organisations allege that the power outages in Cañada Real have caused severe health problems for the persons concerned by the complaint. The complainant organisations provide detailed information on the main health conditions arising out of and/or affected by the electricity deprivation as evidenced/reported by the “Intervention Team on Excluded Population” (“EIPE”), a team of socio-sanitary public employees (i.e. doctors and nurses) who visit the area in an ambulance and assist the affected population. They refer to the EIPE Report of December 2021 which accounts for an increase in respiratory infections, cold-related dermatologic and circulatory diseases especially in children and young persons, difficulties in the use of essential medical devices, cases of carbon monoxide poisoning, burns, complications of health conditions for patients with diabetes mellitus, worsening of rheumatic conditions, complications in COVID-19 infections and a heightened risk of COVID-19 infection, domestic accidents, health problems in new-borns, anxiety and depression, comorbidity complications from exposure to cold resulting in five deaths, and the aggravation of the health problems identified in November 2020, particularly on children. The complainant organisations point out that the EIPE Report provides data and examples of cases attended by the medical unit which evidence the causal relationship between the lack of electricity and the increase and/or worsening of serious health problems. According to EIPE Report of December 2021, the need of care increased dramatically since October 2020, the unit attending to approximately 1,100-1,200 persons per month.

124. The complainant organisations stress that the EIPE Report of December 2021 concludes that the absence of energy gives rise to serious individual and collective health problems, especially for the most vulnerable people such as older persons, newborns and children, persons with disabilities, persons with chronic diseases. Medical reports which relate to cases identified during the first months after the power outages show the aggravation of physical and mental health problems of children, children with Down’s syndrome, persons with asthma and who need oxygen treatment. Moreover, the death of 74-year-old man was reported in the news as a death caused by the extreme cold in the circumstances of the power outages.

125. The complainant organisations further refer to the Survey conducted by Civic Platform in December 2021 which shows that 72.2% of the surveyed population indicated that their health had been or was being affected by the power outages; 91.3% of the surveyed persons of over 65 years of age declared that their health was affected as a result of the deprivation of electricity.

126. The complainant organisations argue that the dire living conditions experienced by the persons concerned of this complaint such as extreme cold living conditions in the winter amount to an “avoidable health risk” that the State could have acted upon. They claim that the State did not adopt any necessary measures to prevent or mitigate the effect of the power outages on the health of the persons concerned. In the complainant organisations’ view, inasmuch as the State does not take any steps to remedy the power outages – which clearly amounts to a cause of ill health –, it fails to guarantee the concerned persons’ right to the highest possible standard of health, in breach of Article 11§1 of the Charter.

127. The complainant organisations state that the ongoing violation of the right to health has been denounced by Spanish medical associations, as well as by the Spanish Ombudsman and the group of nine UN Special Rapporteurs.

128. The complainant organisations also allege that the State has failed to take necessary precautionary steps to prevent domestic accidents, to guarantee food safety and hygiene standards in Sectors 5 and 6 of Cañada Real and to protect the persons concerned by the complaint from the COVID-19 pandemic, in breach of Article 11§3 of the Charter. They refer to the examples of domestic accidents directly accounted for by the EIPE and the fact that the Survey of Civic Platform showed that 94% of the surveyed persons living in Sector 6 had experienced domestic accidents as a result of the power outages. Moreover, the power outages made it significantly harder for the concerned persons to refrigerate, preserve and prepare food, as well as to adhere to the State’s anti-COVID-19 protocols and recommendations.

129. In their response to the Government’s submissions on the merits, the complainant organisations argue that none of the measures referred to by the Government have been designed to or aimed at addressing the particular health risks posed by the lack of access to electricity. The complainant organisations also stress that no particular measure has been taken to avoid irreparable harm to the health of older persons, children and adolescents who are particularly exposed to long term effects.

## **2. The respondent Government**

130. The Government states that the inhabitants of Cañada Real, as all other Spanish citizens, enjoy universal and free healthcare. A number of resources have been deployed to guarantee this right, including hospital assistance. Regarding hospital assistance, in the Infanta Leonor University Hospital, the reference hospital in the area in question, the assistance of these users is provided under the same conditions as any other user of the Public Health Care System in the Community of Madrid.

131. Regarding primary care, the Government states that the EIPE team, made up of a family doctor, a nurse and a driver, based at the *Ensanche de Vallecas* health centre, travels to Cañada Real from Monday to Friday from 9 a.m. to 4 p.m. in an equipped van. This team carries out its main activity in Sector 6. For example, it carried

out a total of 12,488 consultations in 2021. This primary care is complemented by that provided at the *Ensanche de Vallecas* health centre, which carries out different campaigns according to the health diagnosis and needs of the population living in the area where it operates.

132. As to specific resources in the area of mental health, and within the framework of healthcare for drug addicts, the Government states that there is a mobile service that provides assistance on a daily basis, with its main intervention place being the Valdemingómez settlement located in Sector 6. It further indicates that some other public health programmes have also been developed, which are aimed at specific social groups such as the Roma community, such as the Action Plans in Health with the Roma Community 2016-2020 or the Public Health Mediation Service with the Roma Community in the Community of Madrid. The Government further provides examples of other social measures which aim, inter alia, at catering for the health needs of the residents of Cañada Real such as the Agreement with the *Barró* Association for social care and mediation covers, among other activities, social care for families through home visits.

## **B – Assessment of the Committee**

133. The Committee recalls that Article 11 of the Charter guarantees the right to protection of health which encompasses, inter alia, the right to the highest possible standard of health (§1), as well as the right to protection from epidemics and accidents (§3).

134. The Committee has held that Article 11 imposes positive and negative obligations upon States (Transgender Europe and ILGA Europe v. Czech Republic, Complaint No. 117/2014, decision on the merits of 15 May 2018, §79). In *FIDH v. France*, the Committee held that “human dignity is the fundamental value and indeed the core of positive European human rights law – whether under the European Social Charter or under the European Convention on Human Rights – and [that] health care is a prerequisite for the preservation of human dignity” (International Federation of Human Rights Leagues (FIDH) v. France, Complaint No. 14/2003, decision on the merits of 3 November 2004, §31).

### *Alleged violation of Article 11§1*

135. Under Article 11§1 of the Charter, States have an obligation to remove as far as possible the causes of ill health. The Committee has defined health in accordance with the WHO as “a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity” (Transgender Europe and ILGA Europe v. Czech Republic, Complaint No. 117/2014, op. cit., §71). Moreover, the Committee has held that States must respond appropriately to avoidable health risks; i.e. ones that can be controlled by human action (Conclusions XV-2 (2001), Denmark).

136. The Committee has also held that the absence of facilities such as water, electricity and heating has a serious knock-on effect on hygiene, sanitation and substantive physical and mental health care and treatment, including clinical or

preventative care (International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece, Complaint No. 173/2018, decision on admissibility and on immediate measures of 23 May 2019, §14).

137. Under Article 11§1 of the Charter, States Parties must ensure the best possible state of health for the population according to existing knowledge. Public health arrangements should ensure special measures to protect the health of mothers, children and older persons (Conclusions I (1969), Statement of Interpretation on Article 11).

138. The Committee recalls that the right to protection of health must be protected not merely theoretically, but also in practice (Statement of Interpretation on the right to protection of health in times of pandemic, 21 April 2020). Implementation of the Charter requires States Parties not only to take legal measures, but also practical action making available the resources and the operational procedures necessary to give full effect to the rights specified therein (*ibid*).

139. Turning to the present case, the Committee notes that in the context of the power outages which started in October 2020, the health of persons concerned by this complaint was severely impacted. It takes note of the information submitted by the complainants, which evidence the severe deterioration of the health condition of the affected population due to respiratory problems aggravated by the cold and the precarious heating systems in the home, as well as burns, difficulties in carrying out treatments that require electrical connection (such as nocturnal assisted breathing), difficulties in maintaining certain medicines in optimal conditions such as insulin for diabetics, difficulties in personal hygiene, difficulties in washing clothes, prolonged healing time for winter illnesses such as flu and colds, etc. The reports also provide evidence of comorbidity complications from exposure to cold which have led to at least five deaths and a number of carbon monoxide poisonings requiring emergency hospital care.

140. The Committee also notes the report by the Center of care for victims of abuse and torture (SIR[a] Report of 14 March 2023) which concludes that the power outages have had a decisive impact on basic living conditions, physical and mental health and dignity of the affected population.

141. The Committee further notes the conclusions and information contained in the EIPE Report of December 2021 on the health consequences of the power outages for the most vulnerable people living in the concerned sectors of Cañada Real, namely older persons, children, persons with disabilities and persons with chronic diseases. It notes in particular the deterioration of the physical and health conditions (identified as early as December 2020) of children, such as numerous pneumonias and bronchiolitis that have resulted in hospitalisation, constant anxiety for those whose homes are affected daily by damp or damage to the infrastructure and the repercussions this has had on children in their psychosocial development: nocturnal enuresis in older children, encopresis. On 30 December 2020, in the context of an individual communication on

the case of a 3-year-old girl with serious health problems living in Cañada Real, the Committee on the Rights of the Child requested the State to adopt provisional measures to provide the girl with the necessary medical and social services, including adequate accommodation to meet her health needs, without separating her from her family.

142. The Committee notes that the World Health Organisation guidelines establish 18C as a minimum comfort indoor temperature. The Committee notes that according to the report of University Carlos III of Madrid that examined the environmental conditions of comfort for a sample of houses in Sectors 5 and 6, 97% of the households interviewed reported not being able to maintain an adequate temperature at home. In some households, temperatures below 10 C in winter and above 40 C in summer were measured, as well as critical levels of indoor air humidity (ibid).

143. The Committee also takes note that several Spanish health associations have denounced the worsening of the health conditions of the population living in Sectors 5 and 6 of Cañada Real. In a statement published on 12 March 2021, the Working Group on Health Inequalities and International Health of the Spanish Society of Family and Community Medicine (“semFYC”), with the support of the Spanish Society of Public Health (“SESPAS”) stated that electricity supply is “a prerequisite for good health” and energy poverty “a social and public health problem widely ignored by the international community”. The Committee is also mindful of the fact that the Spanish Ombudsman and a group of nine UN Special Rapporteurs expressed their concern about the deterioration of health of people living in Cañada Real due to the prolonged deprivation of electricity.

144. The Committee considers that adequate energy is essential for the satisfaction of basic needs related to the enjoyment of the right to protection of health. The Committee recognises that the deprivation of electricity has caused increased health risks for particularly vulnerable persons in Cañada Real, including children, older persons and persons with disabilities. Medical reports and testimonies submitted by the complainants (such as EIPE Report of December 2021) demonstrate the deterioration of physical and mental health of these vulnerable categories due to the lack of electricity, sometimes with irreversible consequences or even death in the case of an older person.

145. The Committee considers that the measures referred to by the Government, such as the checks provided by the primary care EIPE team, do not adequately address the particular health risks and impacts posed by the lack of access to electricity in Sectors 5 and 6 of Canada Real. Given the alarming health risks and impacts faced by the right-holders concerned, particularly by children, older persons and persons with disabilities, the Committee holds that Spain has failed to take appropriate measures to remove as far as possible the causes of ill health created by the power outages, which amounts to a violation of Article 11§1 of the Charter.

*Alleged violation of Article 11§3*

146. The Committee recalls that Article 11§3 imposes on States an obligation to adopt appropriate measures designed to, inter alia, prevent epidemics and domestic accidents (Conclusions 2005, Moldova).

147. In the present case, the Committee takes note of the examples of domestic accidents accounted for by the EIPE (EIPE Report of December 2021) and the Survey of Civic Platform showed that 94% of the surveyed persons living in Sector 6 had experienced domestic accidents as a result of the power outages (Survey conducted by Civic Platform for Light in December 2021).

148. The Committee notes that in the absence of electricity for heating or cooking, affected households had to use alternative sources of energy such as butane gas heaters, firewood stoves/cookers, candles etc. Such alternative and often improvised sources pose a significant risk to the health of inhabitants and increase the risk of domestic accidents. According to the EIPE Report of December 2021 there were approximately 80-90 carbon monoxide poisonings over a period of 4 months that year, of which more than 20 cases required emergency hospital care; as well as an increase in the incidence of burns in children and adults. The Committee further notes in the additional information provided by the complainant organisations on 10 May 2024 that civil society organisations have reported fires and explosions resulting in serious injuries, as well as intoxications due to pollution generated by petrol generators (see § 89 of this decision).

149. Considering the above, the Committee holds that Spain has failed to take appropriate measures to prevent domestic accidents, in breach of Article 11§3 of the Charter.

150. The Committee further notes that in the context of power outages, it is more difficult for the concerned persons to refrigerate, preserve and prepare food which poses food safety and hygiene risks.

151. With regard to COVID-19, the Committee has stated that States Parties must be particularly mindful of the impact that their choices will have for groups with heightened vulnerabilities as well as for other persons affected, including especially their families on whom falls the heaviest burden in the event of institutional shortcomings (*International Association Autism-Europe v. France*, Complaint No. 13/2002, op. cit., §53). It also held that healthcare in a pandemic must be effective and affordable to everyone, and that groups at particularly high risk, such as persons living in poverty, older persons, and persons with disabilities must be adequately protected by the healthcare measures put in place (*Statement of Interpretation on the right to protection of health in times of pandemic*, 21 April 2020). The Committee notes that according to the EIPE Report of December 2021, the number of cases of COVID-19 in Cañada Real and their complications increased, and isolation measures became more

difficult due to overcrowding around the only [non electric] source of heat in the home, increasing thus the risk of infection among people.

152. In the light of the above, the Committee finds that Spain has failed to take appropriate measures to prevent domestic accidents. It also holds that Spain has failed to take appropriate measures to guarantee food safety and hygiene standards and to protect the persons concerned from epidemics and other diseases in violation of Article 11§3 of the Charter.

#### **IV. ALLEGED VIOLATION OF ARTICLE 17 OF THE CHARTER**

153. Article 17 of the Charter reads as follows:

##### **The right of children and young persons to social, legal and economic protection**

Part I: Children and young persons have the right to appropriate social, legal and economic protection.

Part II: With a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake, either directly or in co-operation with public and private organisations, to take all appropriate and necessary measures designed:

1. a) to ensure that children and young persons, taking account of the rights and duties of their parents, have the care, the assistance, the education and the training they need, in particular by providing for the establishment or maintenance of institutions and services sufficient and adequate for this purpose;
- b) to protect children and young persons against negligence, violence or exploitation;

2 to provide to children and young persons a free primary and secondary education as well as to encourage regular attendance at schools.

#### **A – Arguments of the parties**

##### **1. The complainant organisations**

154. The complainant organisations allege that the situation of all children and adolescents deprived of electricity supply in Sectors 5 and 6 of Cañada Real amounts to a continuous violation of Article 17§§1 and 2 of the Charter, read alone and in conjunction with Article E. They submit that the State has already acknowledged the existence of such violations by means of a unilateral act, namely the Royal Decree 1058/2021, the recital of which states that: “[C]hildren’s health is suffering the consequences of the lack of electricity at their homes, which, in addition to violating children’s right to adequate housing, has a strongly negative impact on their rights to food, education, and ultimately, to a life in dignity”.

155. Firstly, the complainant organisations submit that the lack of power supply in Sectors 5 and 6 of Cañada Real amounts to a violation of the right to adequate housing contained in Article 31§1 of the Charter. The complainant organisations submit that this violation should give rise to a violation of the right to assistance enshrined in Article 17§1(a) on the same ground. Without electricity supply, children and young persons cannot “grow up in an environment which encourages the full development of their personality and of their physical and mental capacities”, as required by Article 17 of the Charter. Contrary to what Article 17§1 establishes, the State has not cooperated with UFD-Naturgy to take all appropriate and necessary measures to provide for “the establishment or maintenance” of the electricity supply, which has to be read as a “service” in the terms of Article 17§1. They allege that the State has failed to undertake the measures required to ensure that children and young persons living in Sectors 5 and 6 of Cañada Real have the care and the assistance they need.

156. Secondly, the complainant organisations submit that the power outages expose the children and adolescents concerned by the complaint to negligent treatment and mental violence, and therefore amounts to a violation of Article 17 § 1(b) of the Charter. The complainant organisations submit that the State’s failure to restore the supply of electricity in Sectors 5 and 6 of Cañada Real amounts to a failure to provide the concerned children and adolescents with their basic necessities and, in turn, amounts to continuous negligent treatment prohibited by Article 17§1(b) of the Charter. The complainant organisations refer to the letters that 50 children, aged between 5 to 17 years old, addressed on 15 November 2020 to the Committee on the Rights of the Child, copying the competent Spanish authorities. In these letters, they expressed feeling sad and socially excluded due to the lack of electricity, as well as fearing being laughed at, falling ill or having their houses burned down because of the use of candles. The complaint places special emphasis on the mental health of children and adolescents, who are overwhelmed by the serious risks to which they are exposed day after day and by the uncertainty regarding their future and that of their families.

157. Thirdly, the complainant organisations submit that the impact of the power outages on the education of children and adolescents living in Sectors 5 and 6 of Cañada Real amounts to a continuous violation of Article 17§2 of the Charter. The lack of electricity supply has had a twofold direct negative effect on the rights of the concerned children to access education. On the one hand, it has made it considerably harder to study, revise or do homework, as the concerned children and adolescents have been forced to use candles to read their books and write on their notebooks. On the other hand, the power outages have prevented them from accessing the internet at their homes and from being able to charge their tablets and computers, which are essential to do school homework and to access teaching content.

158. Moreover, the complainant organisations argue that the lack of electricity has had a disproportionate effect on the enjoyment of the right to education. As mentioned in the letters that 50 children and adolescents addressed to the Committee on the Rights of the Child, the power outages have forced them to get dressed by candlelight, shower with cold water, and eat cold meals. This has discouraged children and

adolescents from attending school. The complainant organisations further submit that, consequently, the lack of electricity has caused learning slowdowns, lower grades and early school leaving among the concerned children and adolescents, as stated by some of their teachers. The complainant organisations refer to the report by the Spanish Ombudsman of 21 December 2020 who noted “an increase in absenteeism linked to children being ridiculed for their odour and lack of cleanliness”. The Spanish Ombudsman has also held that electricity supply is “essential” for the “material conditions” around the right to education to be met. Particularly in wintertime, it found that if students cannot do “their homework after sunset [...] the[ir] right to education is violated”. According to the results of a Survey carried out by the Civic Platform in 2021, 80,9% of the children and adolescents surveyed reported that the power outages had interfered in their education.

159. In conclusion, the complainant organisations allege that the State has not adopted the necessary measures to put an end to the power outages, to provide the concerned children and adolescents with the material conditions necessary for the enjoyment of their right to education, and to prevent absenteeism in Cañada Real. They claim that the State has failed to guarantee that the children and young persons concerned can access the internet or have adequate lighting to do their homework, especially since they belong to vulnerable groups of population.

160. The complainant organisations state that the general education measures referred to in the Government’s submissions are unrelated to the power outages and are not sufficiently focused on guaranteeing the right to education of the children and adolescents living in Cañada Real. The complainant organisations further argue that the measures allegedly aimed exclusively at children living in Cañada Real consist in mere instructions for schools (to facilitate the charging of mobile devices and to allow children to remain at school after the end of the school day so that they can carry out their school work) and do not specify what controls will be carried out to ensure compliance. As regards the additional transport service, they state that it is not clear whether this is extended to the extraordinary timetable for children affected by the power outages.

## **2. The respondent Government**

161. In relation to the alleged violation of Articles 17§1(a) and 17§1(b) of the Charter, the Government refers to the fact that the power outages are neither attributable to the State, nor persist in Sector 5, whereas the competent public authorities have taken the appropriate measures to alleviate the consequences of the power outages in Sector 6.

162. With regard to the alleged violation of Article 17§2 of the Charter, the Government submits that specific support and monitoring measures have been adopted for students living in Cañada Real. For example, in the case of pupils affected by the power outages, instructions have been issued to facilitate the charging of mobile devices at the centres and to allow them to remain at the centres after the end of the school day so that they can carry out their school work; other measures have been

taken to encourage the integration, retention and promotion of pupils from Sectors 5 and 6 of Cañada Real in the education system, which have ensured that most of the students are enrolled in mainstream education with the collaboration of the Social Services; the specific application of non-ordinary or extraordinary resources such as teachers for educational compensation; educational attention outside school hours; the provision of computer and multimedia equipment; access to free textbooks, free school transport and canteens. The Government states that all the above measures are carried out to guarantee schooling, prevent absenteeism and school dropout, and facilitate the development and personal autonomy of students.

163. The Government refers in particular that more than 1,200 school transport places are organised in 29 school transport routes exclusively for students from Cañada Real to guarantee transport to any of the schools in the districts of Villa de Vallecas and Vicálvaro and in the municipality of Rivas from Infant Education – from the age of 3 – to Baccalaureate. In addition, more than 60 pupils from Cañada Real are taken to centres for students with motor impairments, with adapted vehicles, hearing impairments or special education centres.

164. The Government also presents general measures and actions carried out by the social services of Madrid City Council as of November 2022 with respect to the protection of minors, such as the Framework Programme for the Prevention and Control of School Absenteeism and the participation of the Government Delegation in Madrid to the Board of Education promoted by the Regional Administration.

## **B – Assessment of the Committee**

165. The Committee notes that the main allegations of the complainant organisations in relation to Article 17 concern an alleged failure to ensure needed care and assistance for children (under Article 17§1) and the alleged failure to guarantee the right to education (under Article 17§2) in the context of the power outages.

### *Alleged violation of Article 17§1 of the Charter*

166. The Committee recalls that Article 17 of the Charter imposes a positive obligation on States to adopt the measures necessary to ensure that children can effectively exercise their right to grow up in an environment favourable to the development of their personality and their physical and mental capacities (European Roma Rights Centre (ERRC) and Mental Disability Advocacy Centre (MDAC) v. Czech Republic, Complaint No. 157/2017, decision on the merits of 17 June 2020, §134). States Parties having accepted Article 17 must take all appropriate and necessary measures to ensure that children and young persons, taking account of the rights and duties of their parents, have the care, the assistance, the education and the training they need (ibid).

167. The Committee notes that the children and young persons concerned by this complaint are particularly impacted by the power outages due to being at a key point in terms of their physical, mental, moral, social, cultural, spiritual and personality development. The power outages have a severe effect on their everyday living

conditions. For example, children have had to eat cold meals and take cold showers, while their clothes may not be washed properly. Educational and leisure activities have also been very significantly impacted.

168. The Committee takes note that the group of nine UN Special Rapporteurs found that “the lack of electricity not only violates these children's right to adequate housing, it is having a very serious effect on their rights to health, food, water, sanitation and education”. It also notes that, in November 2020, 50 children concerned by the power outages aged between 5 to 17 years old addressed letters to the Committee on the Rights of the Child, describing the challenges they faced as a result of the difficult situation caused by the lack of electricity.

169. The Committee refers to its assessment above in relation to Articles 31, 16 and 11 where it concluded that the situation of the population living in Sectors 5 and 6 of Cañada Real, including children, amounts to a violation of the respective provisions of the Charter. For the same reasons, the Committee considers that the power outages prevent the children concerned by this complaint to develop in an adequate living environment which would be conducive to the full development of their personality and of their physical and mental capacities as required in terms of Article 17.

170. In view of the above, the Committee holds that Spain has failed to take all appropriate and necessary measures in order to ensure the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities. In particular, this results from a failure on the part of the State to ensure that children and young persons living in Sectors 5 and 6 of Cañada Real have the care and assistance they need, in violation of Article 17§1 of the Charter.

#### *Alleged violation of Article 17§2 of the Charter*

171. The Committee recalls that Article 17 of the Charter is interpreted in light of the UN Convention on the Rights of the Child. It imposes a positive obligation on States to adopt the necessary measures to ensure that children can effectively exercise their right to grow up in an environment favourable to the development of their personality and their physical and mental abilities (ERRC and MDAC v. Czech Republic, Complaint No. 157/2017, op. cit., §134). States having accepted this provision must take all appropriate and necessary measures to ensure that children and young persons, taking account of the rights and duties of their parents, have the care, the assistance, the education and the training they need.

172. The Committee recalls that access to education is crucial for every child's life and development (International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece, Complaint No. 173/2018, decision on the merits of 26 January 2021, §201). The Committee has held that measures must be taken to encourage school attendance and to actively reduce the number of children

dropping out or not completing compulsory education and reduce the rate of absenteeism (Conclusions 2003, Bulgaria).

173. The Committee has also held that equal access to education must be ensured for all children. In this respect particular attention should be paid to vulnerable groups such as children from minorities, children seeking asylum, refugee children, children in hospital, children in care, pregnant teenagers, teenage mothers, children deprived of their liberty, etc. (*Mental Disability Advocacy Center (MDAC) v. Bulgaria*, Complaint No. 41/2007, decision on the merits of 3 June 2008, §34, citing Conclusions 2003, Bulgaria). Where necessary, special measures should be taken to ensure equal access to education for these children (*ibid*).

174. The Committee notes that in its General Comment No. 25 on children's rights in relation to the digital environment, the Committee on the Rights of the Child (CRC) stressed that States parties should ensure that there is proper infrastructure in place to enable access for all children to the basic utilities necessary for distance learning, including access to devices, electricity, connectivity, educational materials and professional support (§102).

175. With regard to the situation of children living in Cañada Real, the Committee notes that on 22 December 2020, a group of nine UN Special Rapporteurs found that "the lack of electricity not only violates these children's right to adequate housing, it is having a very serious effect on their rights to health, food, water, sanitation and education". They further found that "[C]hildren have no light to do their homework, and cannot use the Internet for classes that have moved online during the pandemic. In addition, NGOs that provide essential educational support to students outside of school hours cannot operate because they have no heating or electricity".

176. The Committee also notes that in their 2020 Report, the Spanish Ombudsman pointed out the risk to the right to education posed by the lack of electricity. "School-age children see their fundamental right to education violated by not having electricity to do their homework after sunset and not being able to clean themselves properly (during the visit to the area, an increase in school absenteeism was reported, linked to children being teased for their smell and lack of cleanliness)".

177. The Committee notes that according to the results of a Survey carried out by the Civic Platform in 2021, 80,9% of the children and adolescents surveyed – namely 277 children living in Sectors 6 and 5 of Cañada Real – reported that the power outages had interfered in their education. The same survey shows the increase in rates of children abandoning school and repeating grades. Another report of 17 December 2021 drawn by teachers at Las Lagunas High School in Rivas-Vaciamadrid where 98 students from Cañada Real are enrolled, presents in detail the problems faced by the children in school, and concludes that "the lack of electricity supply in most of their homes is seriously affecting their academic performance and emotional well-being". The Committee notes that teachers have denounced the educational impact of the lack

of electricity to the authorities on several occasions as well as parents associations and children themselves wrote to the CRC and the Spanish authorities .

178. The Committee notes that the power outages prevent the children and young persons concerned by this complaint from being able to develop in an adequate living environment, which in turn affects their health and education. The Committee notes that, with regard to education, the ability of the children concerned to follow classes in school (and online) and study at home (especially after nightfall) is being impacted. Evidence show a decrease in their academic performance, an increase in absenteeism and even school dropouts. Children's educational needs also suffer as there is little time available for education if basic survival needs, such as fuel gathering/charging batteries, have to be attended to. The lack of electricity also affects children when classes are in-person in school, as they cannot heat water to take a shower, heat breakfast or charge their devices.

179. The Committee emphasises the importance of access to electricity in the field of education. In the process of education, electricity is needed if children are to complete numerous educational tasks. Electricity is needed for adequate lighting for study, to enable use of computers and tablets, as well to ensure access to the internet. Where a lack of electricity results in children experiencing low or high temperatures, this negatively impacts their ability to study and learn. Moreover, electricity is needed in order to attend virtual classes whenever necessary, as it was the case during the COVID-19 pandemic. The Committee considers that ensuring stable, consistent and safe access to adequate energy in relation to education is thus a key element of the obligations imposed by Article 17§2 of the Charter.

180. The Committee considers that the measures taken by the State in respect of the children and young persons affected by the power outages cannot be deemed sufficient in order to guarantee the effective exercise of the right to education. It notes that the other, general measures mentioned by the State are aimed at preventing school absenteeism, and providing actions of a general nature for education. They are not however adequate to address the specific circumstances experienced by the children and young persons living in Cañada Real.

181. In view of the above, the Committee holds that in the context of the power outages, Spain has failed to take appropriate measures to guarantee the right of the children and young persons concerned to education in violation of Article 17§2 of the Charter.

## **V. ALLEGED VIOLATION OF ARTICLE 30 OF THE CHARTER**

182. Article 30 of the Charter reads as follows:

### **Article 30: The right to protection against poverty and social exclusion**

“Part I: Everyone has the right to protection against poverty and social exclusion.”

“Part II: With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, the Parties undertake:

a. to take measures within the framework of an overall and co-ordinated approach to promote the effective access of persons who live or risk living in a situation of social exclusion or poverty, as well as their families, to, in particular, employment, housing, training, education, culture and social and medical assistance;

b. to review these measures with a view to their adaptation if necessary.”

## **A – Arguments of the parties**

### **1. The complainant organisations**

183. The complainant organisations allege that the State has failed to take measures within the framework of an overall and coordinated approach to promote the effective access of people living in Sectors 5 and 6 of Cañada Real to electricity thereby failing to protect them against poverty and social exclusion. They argue that the power outages have significantly worsened the situation of poverty and social exclusion in which the population of Sectors 5 and 6 of Cañada Real lives. It has added so-called energy poverty to the existing situation, severely affecting enjoyment of other basic rights.

184. The complainant organisations claim that the measures taken by the authorities since October 2020, when the power outages began, namely the creation of the Inter-ministerial Commission in September 2021 and the Re-housing Programme in December 2021, are inadequate and insufficient as an alternative to the restoration of the electricity supply. The complainant organisations stress that in order to comply with Article 30 of the Charter, the resources allocated should be adequate in their quality and quantity to the nature and extent of poverty and social exclusion experienced. As regards quantity, the complainant organisations argue that the amount is clearly insufficient for any appropriate re-housing. In Sector 6, for example, the current €1,750,000 grant allocation to this sector would allow for a public expense of €2,123.7 per family. They argue that the quality component is also unsatisfactory, as re-housing is a lengthy process which is not suitable to address the emergency situation existed in the affected sectors. They state that only 125 families have been rehoused since the Regional Pact, with a rehousing project which entered into force in 2017.

185. The complainant organisations underline that energy poverty directly affects the dignity of people who cannot carry out basic activities such as eating properly (cooking or keeping food in optimal conditions), heating, studying, being able to clean clothes or to apply medical treatments correctly. They state that one year and four months after the power outage, nothing has changed and that energy poverty rates remain the same as back in October 2020 (when the power outages occurred) which demonstrate that the measures taken by the State have not been effective in tackling the problems created by the power outages.

186. The complainant organisations also refer to the fact that the Committee has held that protection against poverty and social exclusion governed by Article 30 is closely

linked to the enjoyment of the rights set forth in other provisions of the Charter, such as those guaranteed by Articles 31, 16, 15, 17, 20 and 23.

187. With regard to the social exclusion dimension of Article 30, the complainant organisations state that the process of social inclusion initiated with the adoption of the Law No. 2/2011 and further measures envisaged in the Regional Pact, has registered a setback and even collapsed due to the deprivation of electricity supply. The complainant organisations indicate that the public authorities have not even collected statistical information on the current situation of those affected, which in their view is essential to assess the damages suffered by the affected population. They maintain that the authorities have not implemented any measure aimed at facilitating access to energy supply contracts in Cañada Real, which recognised as a permanent settlement over 50 years ago. They state that this amounts to a denial of the status of full citizens of the persons concerned by the complaint, deepening their social exclusion.

188. Moreover, the complainant organisations allege that the increasing stigmatisation caused by the public statements of some public authorities contributes to keep Cañada Real population out of society. This has been particularly referred to both by the Rapporteur on Extreme Poverty and the Spanish Ombudsman. They claim that the cases of children hiding to their school colleagues that they live in Cañada Real are a clear example of how the current situation is deepening social exclusion of children affected by the power outages.

189. With regard to the Government's reference to the lack of specific data in the complaint, the complainant organisations argue that proven lack of access to electricity (not challenged by the State) should be considered enough evidence of an increase in poverty (at the very least in energy poverty) of the affected population. Moreover, the complainant organisations refer to the SIR[a] Report of 14 March 2023 which concludes that, beyond the difficult social situation that already existed in Cañada Real before the events of October 2020, the power outages have had a concrete and measurable impact on the increase on the poverty of the population.

190. In their response to the Government submissions on the merits, the complainants contest that the social measures presented by the authorities are aimed to address the situation of poverty and exclusion in Cañada Real caused by the power outages. They argue that the reported increase in social spending is not the result of or aimed at the emergency of the power outages, but rather amount to generic initiatives implemented throughout the country due to the various urgent needs of the Spanish population as a whole.

## **2. The respondent Government**

191. The Government firstly contests the statement of the complainant organisations that only two measures were taken by the public administrations – namely the creation of Inter-ministerial Commission in September 2021 and the Rehousing Plan. As regards the first measure, the Government refers to the information provided under

Article 16, in particular that the Regional Agreement for Cañada Real Galiana created thirteen collegiate bodies, with representation from all public administrations and civil society. In response to the alleged lack of adequate and sufficient resources foreseen in the Rehousing Plan raised by the complainant organisations, the Government points out that the mobilisation of financial resources by the public administrations has not only consisted of a direct subsidy of €5,000,000, and refers to its submission where it has described the other financial resources in detail (see §71 above).

192. With regard to the claim that the poverty and social exclusion of the inhabitants of Cañada Real has increased in the context of the power outages and of the State's failure to adopt sufficient measures in this respect, the Government argues that the complaint does not provide statistical data that would allow an assessment and appreciation of an increase in poverty and exclusion due to the specific reason of the lack of electricity supply, and therefore an increase since October 2020. The Government states that without prejudice to the fact that the State does not deny the existing situation of vulnerability and social exclusion in which the inhabitants of Cañada Real may find themselves, this situation dates back prior to October 2020.

193. The Government describes the social measures adopted by the various public administrations with the aim at alleviating the effects of the lack of electricity supply to the inhabitants of Cañada Real such as: the receipt by the residents of Sectors 5 and 6 of the minimum insertion income and the minimum living income.

## **B – Assessment of the Committee**

194. The Committee recalls that living in a situation of poverty and social exclusion violates the dignity of human beings (Conclusions 2003, Statement of interpretation on Article 30, see e.g. Conclusions 2003, France).

195. The Committee further recalls that with a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, Article 30 requires States Parties to adopt an overall and coordinated approach, which shall consist of an analytical framework (Conclusions 2003, Statement of interpretation on Article 30, Conclusions 2003, France), a set of priorities and corresponding measures to prevent and remove obstacles to access to social rights, in particular employment, housing, training, education, culture and social and medical assistance (Conclusions 2013, Statement of interpretation on Article 30).

196. The Committee has held that adequate resources must be made available for the implementation of the measures taken in the context of the overall and coordinated approach under Article 30 (Statement on Covid-19 and social rights adopted on 24 March 2021). The measures should be adequate in their quality and quantity to the nature and extent of poverty and social exclusion in the country concerned (Conclusions 2003, Statement of interpretation on Article 30, Conclusions 2003, France). As long as poverty and social exclusion persist, the measures should also

represent an increase in the resources deployed to realise social rights (Conclusions 2003, Statement of interpretation on Article 30, Conclusions 2003, France).

197. In relation to collection of data, the Committee has held that States' failure to collect reliable data and statistics in respect of groups generally acknowledged to be socially excluded or disadvantaged prevents an "overall and co-ordinated approach" to the social protection of these persons and constitutes an obstacle to the development of targeted policies concerning them (International Federation of Human Rights (FIDH) v. Belgium, Complaint No. 75/2011, decision of 18 March 2013, §§ 193, 197).

198. In particular, the Committee has interpreted the scope of Article 30 as relating both to protection against poverty and to protection against social exclusion, in an autonomous manner or in combination with other related provisions of the Charter (Conclusions 2013, Statement of interpretation on Article 30). Concerning social exclusion, States have a positive obligation to encourage citizen participation in order to overcome obstacles deriving from the lack of representation of minorities in the general culture, media or the different levels of government, so that these groups perceive that there are real incentives or opportunities for engagement to counter the lack of representation (Conclusions 2013, Statement of interpretation on Article 30 citing Centre on Housing Rights and Evictions (COHRE) v. Italy, Complaint No. 58/2009, *op. cit.*, §107).

199. Moreover, the Committee has emphasized the very close link between the effectiveness of the right recognized by Article 30 of the Charter and the enjoyment of the rights recognised by other provisions, such as the right to protection of health (Article 11), the right of persons with disabilities (Article 15), the social, legal and economic protection of the family (Article 16) and of children and young persons (Article 17), the rights of older persons (Article 23) or the right to housing (Article 31) (Conclusions 2013, Statement of interpretation on Article 30).

200. In the present case, the Committee notes that according to the complainant organisations, the power outages have worsened the situation of social exclusion and poverty which already existed in Cañada Real where the majority of the population fall below the poverty line. Sector 6 of Cañada Real is the most populated of all sectors, having also the most precarious economic situation. The Committee notes that 75 persons in Sector 5 and 299 persons in Sector 6 benefited from minimum integration income (RMI) in 2017. In 2022, a total of 766 residents were recipients of the minimum insertion income in Cañada Real as a whole, 59% of these in Sector 6. It also notes that the SIR[a] Report of 14 March 2023 concludes that, beyond the difficult social situation that already existed in Cañada Real before the events of October 2020, the power outages had had a concrete and measurable impact on, among others, the increase in poverty of the population. The Committee notes that the Government acknowledged in its submissions the existing situation of vulnerability and social exclusion in which the inhabitants of Cañada Real found themselves, prior to October 2020.

201. The Committee notes the complainant organisations' argument that the power outages have added "energy poverty" to the existing predicament, severely affecting

the enjoyment of other basic rights. It notes that the lack of energy directly affects basic aspects of life such as eating properly (cooking or keeping food in optimal conditions), heating, studying, washing or being able to clean clothes, physical hygiene and to apply medical treatments correctly.

202. The Committee notes that energy poverty can be understood as a situation where a household cannot meet its domestic energy needs. The Committee notes further that the EU Energy Poverty Advisory Hub (EPAH, previously Energy Poverty Observatory) points out that “adequate warmth, cooling, lighting, and energy to power appliances are essential services needed to guarantee energy-efficient homes and a decent standard of living, thermal comfort, and citizens' health”. Energy poor households are lacking in these essential energy services. Moreover, as such, households with higher energy needs, which include families with children, persons with disabilities and older persons, are also more susceptible to energy poverty and to its effects (Commission Recommendation (EU) 2023/2407 of 20 October 2023 on energy poverty).

203. Turning to the case at hand, the Committee notes from the report of University Carlos III of Madrid that prior to October 2020, the 39 households surveyed in sectors 5 and 6 relied on electricity to meet most of their domestic energy service needs. Eighty-five per cent had electric heating as a primary or secondary system (more than half of the households surveyed opted for electric oil radiators).

204. The Committee further notes that the problems of access to electricity supply and the associated energy vulnerability of the population of Sectors 5 and 6 of Cañada Real do not therefore represent a classic situation of energy poverty characterised by the classic parameters and indicators for measuring energy poverty, defined in the National Strategy against Energy Poverty based on the identification established by the EU's Energy Poverty Observatory (EPOV, subsequently Energy Poverty Advisory Hub). This is because the situation in Cañada Real concerns a lack of access to electricity and the unreliable and precarious nature of the supply service. The report of the University Carlos III Madrid states that this case of collective disconnection is unique in the EU due to its characteristics and magnitude, and represents an extreme case of collective energy poverty.

205. The Committee considers that stable, consistent and safe access to adequate energy is both a prerequisite for and a key element of the enjoyment of Charter rights such as: the right to housing, the right to protection of health, the right to education, the right of the family to social, legal and economic protection, the rights of older persons, persons with disabilities, and the rights of children and young people to social, legal and economic protection. To be “adequate” for the purposes of Charter rights, energy must satisfy a number of conditions, including affordability, cleanness and sustainability. The Committee thus considers that a situation where people experience intermittent access to energy or no access to energy at all over a prolonged period of

time render the persons concerned energy poor. Energy poverty adds to and exacerbates the precarious and vulnerable conditions in which much/a large part of the population of Sectors 5 and 6 of Cañada Real find themselves, who live in poverty and in poor housing conditions.

206. With regard to social exclusion, the Committee notes that the Spanish Ombudsman and the Special Rapporteur on extreme poverty and human rights have raised concerns about the stigmatisation and discriminatory messages against the inhabitants of Cañada Real. On 9 January 2021, the UN Special Rapporteur stated that “the discriminatory message of equating all residents of Cañada Real with criminals, whether by the media or by government sources, must end”. In its 2020 Annual Report, the Spanish Ombudsman found that stigmatisation and discriminatory statements worsened the situation in Cañada Real. After a visit in February 2020 (and hence even before the power outages began), the UN Special Rapporteur on extreme poverty and human rights, stated that he was “shocked at the extent to which the relevant governments appear to have abandoned the people living” in Cañada Real. He added that in Cañada Real he had “met people living without a clinic, employment center, school, or even legal electricity, on an unpaved road, directly adjacent to incinerators, in an area deemed hazardous to human health”.

207. The Committee further notes the testimonies of children who kept secret from their classmates the fact that they live in Cañada Real or they did not go to school for fear of being teased for their smell and lack of cleanliness. It also notes that the complainant organisations provide examples of public statements where people living in Cañada Real have been associated with criminality and drug dealing.

208. With regard to the measures taken by the Government, the Committee firstly notes that the Government argues that the complaint does not provide statistical data that would allow to assess and appreciate an increase in poverty and exclusion due to the specific reason of the lack of electricity supply. The Committee recalls that under Article 30 of the Charter, it is the Government’s obligation to collect such data. It recalls that the States’ failure to collect reliable data and statistics in respect of groups generally acknowledged to be socially excluded or disadvantaged constitutes an obstacle to the development of targeted policies concerning them (see §197 above).

209. Secondly, with regard to the adequacy of the measures taken, the Committee notes that the Government refers mainly to the measures and funds allocated in the context of the re-housing projects which the Committee has already examined in the context of Article 31 of the Charter above. The Government refers also to general measures of social assistance and social aid, as well as specific measures taken in the context of COVID-19. The Committee notes also the measures taken within the agreement signed between the Community of Madrid and the Madrid Diocesan Caritas with a budget of €300,000 which seems to be the only specific measure taken to alleviate the effects of the power outages in the sectors concerned of Cañada Real.

210. The Committee recalls that the measures taken to combat poverty should be adequate in their quality and quantity to the nature and extent of poverty and social exclusion in the country concerned (Conclusions 2003, Statement of interpretation on Article 30, see e.g. Conclusions 2003, France) (see §196 above). Particular attention should be given to the effectiveness of the policies, measures and actions undertaken (Conclusions 2003, France).

211. The Committee notes the long timeframe before the persons concerned will have been rehoused – that is, an estimated 14 years after the power outages began (see in this sense the assessment of the Committee on Article 31 above). The Committee considers that while the rehousing process is ongoing the measures taken by the Government to protect the persons affected by the power outages against poverty and social exclusion are not sufficient. The measures referred to by the Government (such as the minimum insertion income and the minimum living income) appear to be part of general social policy measures aimed at supporting persons who find themselves in a similar economic situation to that of the population in Cañada Real – such as beneficiaries of social assistance and family cards. While the Committee welcomes the measures taken in the context of the agreement signed with Caritas, it considers that they are not sufficient to effectively mitigate the social and economic consequences of the power outages. Moreover, the measures do not seem to be part of an overall and coordinated approach aimed at protecting the inhabitants of Cañada Real against poverty and social exclusion.

212. Thirdly, the Committee stresses the very close link between the effectiveness of the right recognised by Article 30 of the Charter and the enjoyment of the rights recognized by other provisions of the Charter, such as the right to housing (Article 31), the right to protection of health (Article 11), the social, legal and economic protection of the family (Article 16) and of children and young persons (Article 17) (Conclusions 2013, Statement of interpretation on Article 30). The Committee refers to its assessment in respect of these provisions in the present decision. It notes that in the case at hand there is a direct relation between the effective enjoyment of the said rights and the right guaranteed by Article 30. Persons lacking adequate housing, proper health and effective education – as is the case for the right-holders concerned in this complaint - may find themselves at risk of poverty and social exclusion.

213. For all these reasons, the Committee holds that Spain has failed to take adequate measures to protect the persons concerned by this complaint against poverty and social exclusion in violation of Article 30 of the Charter.

## **VI. ALLEGED VIOLATION OF ARTICLE 23 OF THE CHARTER**

214. Article 23 of the Charter reads as follows:

### **Article 23 – The right of elderly persons to social protection**

Part I: “Every elderly person has the right to social protection.”

Part II: “With a view to ensuring the effective exercise of the right of elderly persons to social protection, the Parties undertake to adopt or encourage, either directly or in co-operation with public or private organisations, appropriate measures designed in particular:

- to enable elderly persons to remain full members of society for as long as possible, by means of:
  - a. adequate resources enabling them to lead a decent life and play an active part in public, social and cultural life;
  - b. provision of information about services and facilities available for elderly persons and their opportunities to make use of them;
- to enable elderly persons to choose their life-style freely and to lead independent lives in their familiar surroundings for as long as they wish and are able, by means of:
  - a. provision of housing suited to their needs and their state of health or of adequate support for adapting their housing;
  - b. the health care and the services necessitated by their state;
- to guarantee elderly persons living in institutions appropriate support, while respecting their privacy, and participation in decisions concerning living conditions in the institution.”

## **A – Arguments of the parties**

### **1. The complainant organisations**

215. The complainant organisations allege that the power outages in Cañada Real are having a devastating impact on older persons, particularly on their health. They allege that the State has failed to take adequate measures to protect older persons from the consequences of the power outages.

216. The complainant organisations allege that no allocation of adequate resources needed to implement any measure aimed at enabling older persons to remain full members of society has been adopted. They refer to their submissions in respect of Articles 11 and 30 of the Charter, stating that the argument based on insufficient quantity and quality of the resources is fully applicable when it comes to older persons too, as no additional measure has been taken to protect this particularly vulnerable group.

217. They further refer to the obligation of States to implement measures related to “housing suited to the needs of older persons and their state of health” and allege that no particular measure has been taken with the aim of improving housing conditions of the older persons concerned by the complaint since October 2020.

### **2. The respondent Government**

218. The Government explains that the measures presented in its submission on the merits of this complaint are also applicable to older persons. It further refers to a specific programme for supporting older persons within the General Budget of the

Community of Madrid, subsidies have been convened to finance programmes aimed at social insertion, attending to particularly vulnerable groups in Cañada Real.

219. The Government refers to its submissions on Article 11§1 with regard to the claim on the lack of adequate resources for health protection. The Government finally provides information on general measures taken in respect of older persons in Spain.

## **B – Assessment of the Committee**

220. The Committee notes that the allegations of the complainant organisations concern in particular the impact that the power outages are having on the health and housing situation of older persons as well as their social protection.

221. The Committee recalls that Article 23 overlaps with other provisions of the Charter which protect older persons as members of the general population, such as Article 11 (right to protection of health), Article 30 (right to protection against poverty and social exclusion) and Article 31 (housing). Article 23 requires States Parties to make focused and planned provision in accordance with the specific needs of older persons.

222. In view of the above, the Committee refers to its assessment above on Articles 31, 11 and 30 of the Charter where it found violations of these rights in respect of people living in Sector 5 and 6 of Cañada Real, including older persons. With regard to the subsidies for financing programmes aimed at social inclusion of older persons referred to by the Government, the adequacy of such measures has not been established by the Government due to an absence of information on their implementation. Moreover, the information provided by the Government refers to the general measures taken in respect of older persons in Spain and not to measures taken specifically to address the situation of the older persons concerned by this complaint.

223. The Committee holds that the situation, on the basis of which a violation has been found under Articles 31, 11 and 30 of the Charter, also amounts to a violation of Article 23 due to Spain's failure to take appropriate measures to protect older persons from the effects of the power outages in respect of their health, housing situation and social protection.

## **VII. ALLEGED VIOLATION OF ARTICLE 15 OF THE CHARTER**

224. Article 15 of the Charter reads as follows:

### **Article 15 – The right of persons with disabilities to independence, social integration and participation in the life of the community**

Part I: "Disabled persons have the right to independence, social integration and participation in the life of the community."

Part II: “With a view to ensuring to persons with disabilities, irrespective of age and the nature and origin of their disabilities, the effective exercise of the right to independence, social integration and participation in the life of the community, the Parties undertake, in particular:

1. to take the necessary measures to provide persons with disabilities with guidance, education and vocational training in the framework of general schemes wherever possible or, where this is not possible, through specialised bodies, public or private;
2. to promote their access to employment through all measures tending to encourage employers to hire and keep in employment persons with disabilities in the ordinary working environment and to adjust the working conditions to the needs of the disabled or, where this is not possible by reason of the disability, by arranging for or creating sheltered employment according to the level of disability. In certain cases, such measures may require recourse to specialised placement and support services;
3. to promote their full social integration and participation in the life of the community in particular through measures, including technical aids, aiming to overcome barriers to communication and mobility and enabling access to transport, housing, cultural activities and leisure.”

## **A – Arguments of the parties**

### **1. The complainant organisations**

225. The complainant organisations state that a number of persons with disabilities live in Sectors 5 and 6 of Cañada Real. Among them, there are one child and one woman with Down’s syndrome, two children diagnosed with Autism Spectrum Disorder and a family in which all but one of its members are deaf. They also refer to a child with a severe chronic respiratory illness who can only be treated with nocturnal oxygen therapy – which requires an electric device. They argue that persons with severe, chronic respiratory diseases which can be assimilated to a disability pursuant to Article 1(2) of the Convention on the Rights of Persons with Disabilities are also amongst the persons concerned by the complaint.

226. The complainant organisations refer to Article 15§3 of the Charter, which requires States Parties to implement measures to promote full social integration and participation of persons with disabilities in the life of the community. These measures must ensure access to housing, understood as housing adapted to their needs.

227. The complainant organisations submit that in the case of children with autism, the lack of light significantly worsens their disorder as any element of instability alters their behaviour. With regard to deaf persons, who can only communicate by sign language, the lack of light means that they cannot see their interlocutors accurately, affecting very severely their capacity to communicate and have a normal life in their day-to-day tasks and interactions, especially at night. As regards persons with disabilities with severe respiratory diseases, the lack of electricity supply is particularly dangerous because their defences against the complications caused by the cold are reduced to a greater extent, and they do not have the necessary support to face the new conditions.

228. The complainant organisations take the view that the information contained in the Report of the Directorate General for the Care of Persons with Disabilities submitted by the Government merely describes the existence and functions of a network of care centres in the Community of Madrid for persons with disabilities. The complainant organisations maintain that in the case of the people belonging to this group who have been affected by the power outages in Cañada Real, the possibility of accessing this type of centre or even receiving assistance in their own homes in no way manages to mitigate the effects of the lack of electricity on the full enjoyment of their rights under conditions of equality.

229. The complainant organisations further refer to the Committee's case law on Article 15§1 of the Charter, where it has found that "securing a right to education for children and others with disabilities plays an important role in advancing their citizenship rights" and guaranteeing their fundamental rights (European Action of the Disabled (AEH) v. France, Complaint No. 81/2012, decision on the merits of 11 September 2013, §75). They allege that children with disabilities affected by the power outages are being "doubly impacted" in their right to education, particularly important not just from a pure formative perspective, but as an essential tool for integration and inclusion.

230. The complainant organisations allege that the State has violated Article 15 of the Charter as it has failed to implement adequate measures designed to protect persons with disabilities affected by the power outages, in particular, by not placing the adequate resources and taking the needed actions aimed at ensuring that the lack of electricity does not add barriers to their already difficult integration and independence. They accordingly allege that the lack of electricity supply at home prevents persons with disabilities from the full exercise of their right to independence, social integration and participation in the life of the community.

## **2. The respondent Government**

231. The Government provides information on the general system of care for persons with disabilities. The Government indicates that, in order to facilitate the assessment of dependent people (the elderly and persons with disabilities) as soon as possible in order to guide them to the most appropriate social resources (day centre, occupational centre, residence, home care), the technicians from the Directorate General for Care for the Elderly and Dependency of the Community of Madrid inform and guide the residents of Cañada Real personally and the assessment teams visit the area.

232. The Government presents further information on the measures carried out in respect of persons with disabilities such as the visits by a team of assessors to Cañada Real in order to assess their situation. It illustrates that since December 2021 [until September 2023], 23 files have been processed. The Government states that there are 7 residents with the home help service; 13 residents with the telecare service; 44 residents in Sector 5 and 15 residents in Sector 6 with the recognition of economic

benefits for care in the family environment (family members or relatives who care for the dependent person). Furthermore, it states that the Madrid Agency for the Support of Adults with Disabilities provides social accompaniment and support in the exercise of their legal capacity to 3 persons with disabilities associated with mental health problems and consumption of toxic substances living in Cañada Real. All of them go daily to a referral centre where their health, basic and economic needs are monitored.

## **B – Assessment of the Committee**

### *Alleged violation of Article 15§1 of the Charter*

233. With regard to the allegation concerning the right to education in respect of persons with disabilities (Article 15§1 of the Charter), the Committee refers to its assessment above on Article 17§2 of the Charter where it held that the situation amounted to a violation of Article 17§2 because the State has failed to take appropriate measures to guarantee the right of the children affected by the power outages (including children with disabilities) to education. No separate issues arise under Article 15§1 of the Charter.

### *Alleged violation of Article 15§3 of the Charter*

234. The Committee recalls that the right of persons with disabilities to social integration provided for by Article 15§3 implies that barriers to communication and mobility be removed in order to enable access to transport, housing, cultural activities and leisure. Such measures, including technical aids, must not be pursued in isolation and should be programmed to complement each other, on a clear legislative basis (Conclusions 2008, Statement of Interpretation on Article 15§3; Conclusions 2005, Norway).

235. It also recalls that, with regard to housing, the needs of persons with disabilities must be taken into account in housing policies, including the construction of an adequate supply of suitable, public, social or private, housing (Conclusions 2003, Italy). Further, financial assistance should be provided for the adaptation of existing housing (Conclusions 2003, Italy).

236. The Committee considers that the lack of electricity has particularly affected persons with disabilities living in Cañada Real. The deprivation of electricity has caused increased risks to health for particularly vulnerable persons – such as persons with disabilities (under Article 11 of the Charter above) and that all persons concerned by the complaint, including those with disabilities, do not enjoy their right to an adequate housing (under Article 31 of the Charter above).

237. The Committee recognises that a lack of stable, consistent and safe access to adequate energy may create barriers to the effective exercise of the right to independence, social integration and participation of persons with disabilities in the life of the community in the absence of tailored measures to prevent that. The Committee takes note that the measures taken by the Government concern the general system of care for persons

with disabilities and persons in a situation of dependency, including persons with disabilities living in Cañada Real. They do not however address the specific effects of power outages on persons with disabilities living in Cañada Real.

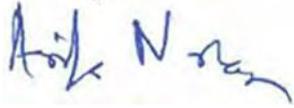
238. The Committee therefore holds that Spain has failed to take appropriate measures to protect persons with disabilities against the consequences of the power outages and to ensure to such persons the effective exercise of the right to independence, social integration and participation in the life of the community, in violation of Article 15§3 of the Charter.

## CONCLUSION

For these reasons, the Committee concludes:

- unanimously that there is a violation of Article 31§1 of the Charter with regard to the State's failure to take adequate measures to ensure housing of an adequate standard for the persons concerned;
- unanimously that there is a violation of Article 16 of the Charter with regard to the State's failure to take adequate measures to ensure housing of an adequate standard for the families concerned;
- by 10 votes to 3 that there is a violation of Article 16 of the Charter with regard to the participation of civil organisations representing families in decision-making and processes related to the power outages;
- unanimously that there is a violation of Article 11§1 of the Charter with regard to the State's failure to take appropriate measures to remove as far as possible the causes of ill health created by the power outages;
- unanimously that there is a violation of Article 11§3 of the Charter with regard to the State's failure to take appropriate measures to protect the persons concerned against domestic accidents, epidemic, endemic and other diseases, and to guarantee food safety and hygiene standards;
- unanimously that there is a violation of Article 17§1 of the Charter with regard to the State's failure to take appropriate measures to ensure that the children and young persons concerned have the care and assistance they need;
- unanimously that there is a violation of Article 17§2 of the Charter due to the State's failure to take appropriate measures to guarantee the right of the children and young persons concerned to education;
- unanimously that there a violation of Article 30 of the Charter with regard to the State's failure to take adequate measures to protect the persons concerned against poverty and social exclusion;
- unanimously that there is a violation of Article 23 of the Charter with regard to the State's failure to take appropriate measures to protect older persons from the effects of the power outages;

- unanimously that there is a violation of Article 15§3 of the Charter with regard to the State's failure to take appropriate measures to protect persons with disabilities against the consequences of the power outages and to ensure to such persons the effective exercise of the right to independence, social integration and participation in the life of the community.



Aoife NOLAN  
President and Rapporteur



Henrik KRISTENSEN  
Deputy Executive Secretary