



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

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Case Document No. 3

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

**INFORMATION BY THE GOVERNMENT ON THE
IMPLEMENTATION OF IMMEDIATE MEASURES**

Registered at the Secretariat on 15 December 2022



MINISTERIO
DE JUSTICIA

ABOGACÍA GENERAL DEL ESTADO
DIRECCIÓN DEL SERVICIO JURÍDICO DEL ESTADO

SUBDIRECCIÓN GENERAL DE CONSTITUCIONAL Y
DERECHOS HUMANOS

TO THE EUROPEAN COMMITTEE OF SOCIAL RIGHTS

OBSERVATIONS ON THE REQUEST FOR IMMEDIATE MEASURES

COLLECTIVE COMPLAINT

No. 206/2022

**DCI, MEDEL, FEANTSA, CCOO and ATD FOURTH WORLD
v. Spain**

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In a letter of 27 October 2022, the Kingdom of Spain has been notified of the decision on the admissibility of the Collective Complaint and immediate measures issued by the European Committee of Social Rights in present proceedings, indicating to the Spanish Government, in accordance with Article 7.1 of the Additional Protocol and Rule 31.1 of the Rules of the European Committee of Social Rights, the submission of written observations on the immediate measures by 15 December 2022.

Accordingly, on behalf of the Kingdom of Spain, we hereby submit our observations on the Committee's request for immediate measures within the time-limit granted.

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Preliminary remarks

The measures indicated by the Committee to the Spanish Government do *de facto* coincide with the consequences derived from an advanced estimate of the complaint, insofar as:

1.- The complainants requested –Section VI, §§ 444 to 464 of the Complaint– that the Committee indicates to the State the adoption, in a coordinated manner by competent authorities at national, regional and municipal levels, of *“all possible measures with a view to avoiding serious, irreparable injury to the life, physical and moral integrity of the population of Sectors 5 and 6 of the Cañada Real, in particular: – to ensure that all concerned persons have access to electricity and heating, in particular taking into account the needs of the vulnerable groups concerned (including children, persons with disabilities and elderly persons).”*

2.- On 19 October 2002, the Committee agreed to indicate to the Spanish Government the adoption of *“all possible measures with a view to avoiding serious, irreparable injury to the integrity of persons living in the Cañada Real Galiana shantytown who do not have adequate access to electricity and therefore are exposed to risks to life and physical and moral integrity, in particular:*

- to ensure that all affected persons have access to electricity and heating, in particular taking into account the needs of the vulnerable groups concerned (including children, persons with disabilities, persons with medical conditions, persons with foreign origin, older persons and Roma);

Having in mind the substantial coincidence between the immediate measures agreed by the Committee and the *petitum* of the collective complaint, part of the response in this letter to the request for immediate measures also coincides with the submission on the merits sent separately but simultaneously by the Government of Spain to the Committee.

I. Differences between Sector 5 and Sector 6 of the *Cañada Real Galiana* regarding access to power supply

The Committee's letter, which indicates to the Spanish Government the immediate measures to be adopted, the first of which is to ensure that all affected persons have access to electricity and heating, fails, however, to distinguish between the different sectors into which the *Cañada Real Galiana* shantytown is divided.

As already stated in our submission on the adoption of immediate measures, the *Cañada Real Galiana* is divided into 6 Sectors, but only Sectors 5 and 6 are the subject to the Complaint¹. It must therefore be inferred that the Committee's request is limited to sectors 5 and 6 which are the subject of the Complaint. However, there are substantial differences in access to power supply in Sectors 5 and 6, since in Sector 5 no situations have come to light that would reveal a problem of access to power supply.

According to the information provided by the Madrid Regional Government's Commissioner for the *Cañada Real Galiana*, for years the residents of the shantytown have been consuming illegally obtained electricity, generally through illegal connections or 'hook-ups' to the distribution network along the route. Such "hook-ups" are normally made by connecting a wire directly to the overhead wires of the medium-voltage electricity supply that runs along the public highway.

1. In **Sector 5** the overloads that triggered the activation of the protection mechanisms ceased to occur at the end of 2020-early 2021, apparently as a result of coordinated neighbourhood action to rationalise power consumption in this area. Consequently, both the Madrid Regional Government's Commissioner for the *Cañada Real Galiana* and the distribution company have informed that, with the exception of occasional interruptions of supply due to isolated

¹ - Sector 5. Located in the municipalities of Madrid (Vicálvaro) and Rivas Vaciamadrid, with a length of 1.6 km. It is home to 412 families, 1,601 people (at the date of signing the Agreement), of which 601 are minors.

- Sector 6. Located in the municipality of Madrid (Vallecas), with a length of 6.6 km. It is home to 824 families, 2,953 people (at the date of signing the Agreement) of which 1,211 are minors.

overloads, power supply in sector 5 has been operating on a continuous and stable basis since at least February 2021.

In this sense, the report issued by the Madrid Regional Government's Commissioner for the *Cañada Real Galiana* (Annex 1), states that Sector 5 does have electricity².

2. In **Sector 6** the power supply situation is very different, as overloads have been occurring in this area on a continuous basis since October 2020.

As reported by the Commissioner and the distribution company, from October 2020 until 5 March 2022, the company has been trying to reactivate the supply twice a day. Such attempts, however, have been unsuccessful, due to the fact that the high energy demand leads to the immediate activation of the protection mechanisms for overload cases.

According to the communications submitted by the company to the Madrid Investigative Court no. 10, since 5 March 2022 they have stopped trying to reactivate power supply in Sector 6.

To conclude: Sector 5 should be excluded from the immediate measure requested, in so far as, according to the information gathered by the Spanish Government, there are no current problems of access to power supply.

II. Inability to re-establish power supply in the Sector

The medium voltage power line that runs through the *Cañada Real Galiana* in Sectors 5 and 6 - identified as RSV703 - is owned by the private company *UFD Distribución Electricidad, S.A.* (hereinafter, "UFD"). This company is responsible for supplying and guaranteeing power to the customers who are entitled to it and who have formalised the corresponding supply contract (a total number of five in Sectors 5 and 6), being also obliged to maintain the facilities in a perfect

² Report on the admissibility of the collective complaint against Spain submitted by the European Committee of Social Rights, concerning the interruption of power supply in sectors 5 and 6 of the *Cañada Real Galiana*, page 4.

state of preservation - reporting any tampering, fraud or other anomalous situations detected.

We wish to remind the Committee of the need for this company to be invited to make the allegations it deems appropriate in the present procedure and to provide all the information requested for that purpose, since it is the main agent responsible for the supply of electricity in the affected Sectors and therefore directly affected by the adoption of the immediate measure to enable the power supply requested.

Serious safety problem

As stated in the report of 19 May 2022 on the situation of power supply in the *Cañada Real Galiana* issued by the Directorate-General of Industry, Energy and Mines under the authority of the Self-governing Community of Madrid³, the connections are "irregular, unregulated and dangerous", not complying "with regulatory safety requirements" and causing "serious and very serious risk situations for people, things or for the environment".

Moreover, the Report issued by the Madrid Regional Government's Commissioner for the *Cañada Real Galiana* of 18 January 2022⁴ explains that "the massive demand for electricity" in October 2020, "related to the growing of prohibited substances in Sectors 5 and 6", led to the activation of the automatic protection mechanisms of the general distribution line (Rivas 703), which are intended to protect people and facilities from overloads and overcurrents."

It is worth stressing two aspects concerning the lack of power supply in Sector 6 since October 2020:

1. The protection mechanisms that provoke a power failure in the area are automatically activated. The lack of power supply in Sector 6, contrary to the complainants' complaint, is not due to the conduct of the distribution company, nor is it the result of a specific decision taken by the company to cease supplying electricity in that Sector, but is due to a purely

³ Attached as Annex 2 to our first written observations

⁴ Attached as Annex 1 to our first written observations

technical issue, such as the overloading of the network as a result of excessive consumption.

Furthermore, according to the information provided by the Government Commissioner and the distribution company, such company has been trying to re-establish electricity in Sector 6 twice a day on a daily basis, from October 2020 to March 2022, but the constant overload in the use of the network in this Sector has made it unfeasible.

2. In any case, it should be borne in mind that, even if these protection mechanisms were not activated, and with the exception of legal power supply contracts, residents of Sector 6 would be obtaining electricity - as in Sector 5 - through illegal mechanisms endangering the safety of people and property. It would therefore be appropriate to take all necessary measures to prevent the supply of energy based on illegal and precarious facilities and connections that would jeopardise that safety.

To conclude, the serious safety problem that would result from immediately ordering access to power supply through illegal hook-ups prevents the first immediate measure requested by the Committee from being feasible.

Nevertheless, it should be noted that this does not mean that all the inhabitants of Sector 6 lack any access to alternative sources of energy. As pointed out by the Commissioner for the *Cañada Real Galiana* in his report:

“...It is worth noting that, given the impossibility of living for more than 2 years without a source of energy to provide light and heat, the vast majority of residents in Cañada Real have been providing themselves with alternative means to the illegal connections to the electricity grid. For example, in many cases, solar panels, diesel generators or butane or wood-burning cookers. It is for this reason, and in order to alleviate the access of the population in sector 6 to electricity, that since last winter multiple free deliveries of diesel cards have been carried out to supply the residents' electricity generators, free butane bottles for cookers or firewood deliveries.”⁵

⁵ Report on the admissibility of the collective complaint against Spain submitted by the European Committee of Social Rights, concerning the interruption of power supply in sectors 5 and 6 of the *Cañada Real Galiana*, page 5.

III. The immediate alternative measure agreed by the Committee. Rehousing plan.

1. General issues

On 19 October 2022, the Committee indicated to the Spanish Government “to offer appropriate alternative accommodation to the affected persons where it is not possible, to safely ensure access to electricity and heating”. In view of the problems of immediate access to power supply in sector 6 of the *Cañada Real Galiana*, we will therefore focus on the measures that are being promoted to offer alternative housing to the current residents of this sector.

Concerning the permanence of the current residents in Sector 6, and in contrast to the completely different situation of Sectors 1 to 5 - in which the public authorities are considering the possibility of urban redevelopment – at present such possibility has been discarded in Sector 6, given the ecological and environmental urban development effects on the land located in such Sector, as well as its proximity to the Valdemingómez waste treatment complex.

In the Regional Agreement, already submitted to the Committee, a consensual decision was taken to dismantle Sector 6 and to implement adequate rehousing mechanisms for the vulnerable residents and families in a situation of severe exclusion living there. As a result, a progressive process of dismantling the irregular dwellings located in Sector 6 has begun, parallel to a process of rehousing the inhabitants of this Sector in particular, a process on which the various competent Administrations are focusing their efforts.

2. Specific measures taken for rehousing

Although this issue is further elaborated in our submission on the merits, we wish to clarify the exponential increase in resources to achieve the complex objective of rehousing those families residing in sector 6.

- a) Rehousing agreements signed between the Self-governing Community of Madrid and the competent City Councils

Three agreements have been signed⁶, the first of which has already been fully executed:

- The rehousing agreement (already implemented) dated 11 May 2018 between the Self-governing Community of Madrid and the Madrid City Council. This agreement involved the rehousing of **143 families** from sector 6, who are already living in their new homes, and a total investment of **EUR 18 million**.
- The rehousing agreement (in progress) dated 7 December 2021, between the Self-governing Community of Madrid and the Madrid City Council, for the rehousing of people living in Sector 6 between the Valdemingómez waste treatment complex and the Paloma bridge. The relocation of **160 families** and a public investment of **EUR 34 million** is foreseen.
- The rehousing agreement dated 22 June 2022 between the Community of Madrid and the Rivas City Council, which is currently being executed, will allow the relocation of **15 families** and has a budget of **EUR 1,666,666.67***.

b) Direct granting of subsidies provided by the Spanish Government to the relevant City Councils.

2.- The Spanish Government, through the Ministry of Social Rights and Agenda 2030, made a contribution of EUR 5,000,000 in 2021, amount that is currently at the disposal of Madrid and Rivas-Vaciamadrid City Councils, respectively, affected by sectors 6 and 5⁷.

3.- The Government of Spain has just included the following budget item in the General State Budget for 2023: section 17 Ministry of Transport, Mobility and

**N of the T.*: This amount was erroneous in the Spanish version. It has been corrected in accordance with the amount expressed in the abovementioned agreement of 22 June 2022.

⁶ Report on the admissibility of the collective complaint against Spain submitted by the European Committee of Social Rights, concerning the interruption of power supply in sectors 5 and 6 of the *Cañada Real Galiana*, pages 7 and 8.

⁷ Royal Decree 1058/2021, of 30 November, which regulates a direct grant to Madrid City Council and Rivas-Vaciamadrid Council for the development of rehousing programmes for families in a situation of extreme social vulnerability in Sectors 4, 5 and 6 of the *Cañada Real*.

Urban Agenda; programme 261n: promotion, administration and aid for rehabilitation and access to housing budget for 2023; organic, economic explanation total 751 CAM Madrid. *Cañada Real* Rehousing: EUR 8,375,000 (attached is the document supporting this point).

c) Drafting of an Extraordinary Rehousing Plan in the *Cañada Real Galiana* 2022-2030

The Commissioner for the *Cañada Real-Galiana* of the Self-Governing Community of Madrid, in response to the present Complaint, reports as follows:

“Bearing in mind that the process of rehousing the families living in the Cañada Real requires the deployment of extraordinary resources by the public administrations in Madrid, a general action protocol has been recently 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 the Cañada Real Galiana 2022-2030. This measure, extraordinary and extremely important in our view, shows the commitment of the Kingdom of Spain and its public administration at the three levels (state, regional and local) to improving the living conditions of the residents of the Cañada Real.

*Such legal instrument, to be subsequently reflected in bilateral agreements, foresees **the joint investment of EUR 330 million, over 8 years, for the rehousing of up to 1,631 families, starting with those residing in sector 6.**”*

In addition, more detailed information on the current status of the Rehousing Plan and its development will be provided in our submission on the merits.

IV. Immediate social emergency measures taken

In view of the impossibility of restoring the power supply in sector 6 of the *Cañada Real*, and simultaneously with the implementation of the rehousing plan already underway, a number of immediate mitigating measures have been adopted in sector 6, and are described below.

In particular, we will highlight those that refer specifically to measures aimed at social emergency situations, including those that may arise from the lack of electricity. As already stated at the beginning of this document, in any case, this examination must be completed with the set of measures set out in the observations on the merits of the case.

a) Immediate social emergency measures taken by the Madrid City Council

The report drawn up by the Madrid City Council in November 2022, describing the social emergency measures, and focused on the winter 2022-23, is provided as Annex 3:

1. **Primary social care**

The Social Services Centres of the Districts of Villa de Vallecas and Vicálvaro rely on social workers and educators to know, identify and evaluate the needs of the population living in *Cañada*.

Among other services, these Centres provide economic support to families through the granting of family cards and other aid aimed at covering the basic food, health and cleanliness needs of the beneficiary individuals and families. Throughout the years 2021 and 2022, the following aid has been managed and will continue to be applied over the next few years:

VILLA DE VALLECAS				
	2021		2022	
Concept	No. of grants	Amount	No. of grants	Amount
Family cards	53	EUR 71,130.00	41	EUR 84,700.00
Other financial support	3	EUR 1,150.00	7	EUR 8,157.78
Total	56	EUR 72,280.00	78	EUR 92,857.78

VICALVARO				
Concept	2021		2022	
	No. of grants	Amount	No. of grants	Amount
Family cards	51	EUR 68,150.00	75	EUR 138,615.00
Other financial support	23	EUR 11,972.52	28	EUR 11,570.28
Total	56	EUR 79,942.52	103	EUR 150,185.28

2. Specific resources and services.

The agreement signed with *Cáritas Diocesana* of Madrid has launched a programme to finance the adoption of measures to alleviate social emergencies that may arise from the power supply problems in *Cañada Real*. The objective of this project, endowed with EUR 300,000, is to guarantee coverage of basic health, accommodation and food needs, to promote minimum lighting conditions that allow young people and minors to continue their studies and to contribute to the improvement of health conditions by providing the necessary resources (firewood, butane bottles, petrol and laundry).

The total direct recipients for the different specific objectives of the project will be approximately 300 families in sector 6, which will improve conditions for some 1075 people, 440 of whom will be minors.

In execution of this Agreement, the following actions have been carried out to date:

- Distribution of 120,000 kg of firewood to some 200 families.
- Delivery of 3,067 butane bottles to 400 families. It is planned to reach 6,617 by 31 December 2022.
- Distribution of 200 cards for the purchase of petrol for generators (50 euros per week with a maximum of EUR 600).
- Weekly laundry service. There are currently 102 registered families.

This programme will continue to run throughout 2023.

3. **Social emergency resources.** Social intervention in both individual and collective emergency situations is carried out through the SAMUR Social Service, available to the residents of the municipality of Madrid and accordingly also to the residents of *Cañada Real*.

In the operation of the service, a distinction is made between individual and family emergencies and those collective emergencies, deploying certain resources depending on the circumstances that affect each situation.

Within the framework of the Municipal Social Emergency Programme, the Municipal Campaign *Against the Cold* is a specific action with the following equipment for the winter 2022-2023:

	Accommodation places
Pinar de San José Cold Weather Emergency Shelter Unit	150
Villa de Vallecas Overnight Accommodation Facility	142
Accommodation in hostels	120
Special Emergency Weather Emergency Facility	50
Total	462

Beforehand, it is worth mentioning the actions carried out in *Cañada Real* during the weather emergency caused by the Filomena storm in January 2021:

a) Two accommodation and maintenance facilities were set up for the families of *Cañada Real*, one in the old Furniture Factory [*Fábrica de Muebles*], in sector 6, and the other in the *Cerro Almodóvar* Sports Centre, in Villa de Vallecas. There was also a third facility in the Parish of Santo Domingo de la Calzada, located in the area of greatest exclusion in *Cañada Real*, addressed to a group of people in an extremely vulnerable situation.

b) A daily convoy was activated to respond to families, formed by the Emergency Services of this City Council, also coordinated with the Social Services of the district. This convoy began to act on the afternoon of Friday, 8

October, approaching families to inform them of the situation and the mechanisms in place.

c) The families were provided with cookers and blankets, and food and water were distributed to those who were unable to move.

d) An emergency telephone number was set up for the families of Cañada Real to contact an emergency room where there was a team on duty, consisting of all the professionals involved in the emergency: firefighters, *Samur* Civil Protection, *Samur* Social and Municipal Police.

This emergency planning made it possible to attend to approximately 1,200 interventions in the population of the Cañada Real.

Only one family with a minor used the facility at the Furniture Factory. The Parish centre was fully occupied, albeit with a very specific profile of persons with some kind of addiction, in which there were no minors involved. The Cerro Almodóvar sports centre was not requested by any family.

b) Other measures targeted at social emergency situations

It should also be added that, as described in the Commissioner's Report, concerning the field of specialised social care it is worth noting **the call for subsidies for 2022 for the implementation of programmes of general interest** considered to be of social interest, financially supported by the budget of the Self-governing Community of Madrid, the 0.7% of the income from personal income tax and the Co-Responsibility Plan [Plan de Corresponsables]. **In that year, one of the lines of aid included a specific sub-line for financing projects aimed at the "residents of Cañada Real territories and shantytown settlements or environments"**, consisting of social emergency programmes to cover basic necessities, as well as basic resources and housing improvement programmes; programmes aimed at children to prevent absenteeism and dropping out of school, and improve the quality of children's lives; programmes for young people and adults with educational needs or labour insertion needs; programmes for people with addictions; support for the

elderly or programmes aimed at the social inclusion of people with disabilities, among others⁸.

V. Further additional measures

In addition to the mitigating measures for vulnerable groups, and in order to give due publicity to the Committee's decision on the admissibility of the complaint and the adoption of immediate measures, the Government of Spain has proceeded to forward its letter of 19 October 2022 to the various competent courts currently hearing cases related to the *Cañada Real Galiana*.

In particular, this decision has been communicated to the:

- Madrid Investigative Court no. 42, before which pre-trial proceedings no. 2163/2020 are being processed.
- Madrid Investigative Court no. 10, before which pre-trial proceedings no. 2093/2020 are being processed.

In view of the foregoing, the following REMARKS are conveyed by the Government of Spain to the Committee, together with the relevant documentation attached:

First: With regard to the individual measure of access to electricity, and in accordance with the reports provided, it is impossible from a technical point of view to provide electricity to the dwellings that do not have either the legal permits or the necessary infrastructure in sector 6 of the *Cañada Real-Galiana*, without seriously endangering the integrity and lives of the residents of these dwellings.

Second: Since the primary measure of access to electricity in sector 6 is not feasible, and in relation to the individual subsidiary measure of alternative accommodation, a rehousing plan is being implemented, giving priority to the

⁸ Report on the admissibility of the collective complaint against Spain submitted by the European Committee of Social Rights, concerning the interruption of power supply in sectors 5 and 6 of the *Cañada Real Galiana*, pages 12 and 13.



residents in a situation of vulnerability and families in a situation of severe exclusion living in this sector.

Third: In order to accelerate the said Rehousing Plan, a specific additional budget of EUR 5,000,000 has been allocated, amount that is currently at the disposal of Madrid and Rivas-Vaciamadrid City Councils, respectively, affected by sectors 6 and 5.

Likewise, the Spanish Government has recently included a specific budget line in the General State Budget for 2023 for the *Cañada Real* Rehousing of EUR 8,375,000.

An amount of EUR 330 million will shortly be committed by the three competent administrations (the State, the Madrid Self-governing Community and the Madrid City Council). The Committee will be fully informed of the conclusion of this agreement as soon as it becomes effective.

Fourth: With immediate effect and simultaneously with the rehousing plan, a number of specific actions are planned for the winter 2022-203, with special attention to vulnerable groups.

Madrid for Strasbourg, 15 December 2022

THE AGENT OF SPAIN

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Alfonso Brezmes Martínez de Villareal

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TO THE EUROPEAN COMMITTEE OF SOCIAL RIGHTS



Annexes

Annex 1. - Report on the admissibility of the collective complaint against Spain submitted by the European Committee of Social Rights, concerning the interruption of power supply in sectors 5 and 6 of the *Cañada Real Galiana*.

Annex 2. - Royal Decree 1058/2021, of 30 November, which regulates a direct grant to the City Councils of Madrid and Rivas-Vaciamadrid.

Annex 3.- Report presented by the Madrid City Council on mitigating measures.

Annex 4.- Report presented by the Government Representation in Madrid.