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

1 February 2023

Case Document No. 4

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

**SUBMISSIONS OF THE GOVERNMENT
ON THE MERITS**

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 MERITS

**COLLECTIVE COMPLAINT
No. 206/2022**

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



On 27 October 2022 the Kingdom of Spain has been notified of the decision on the admissibility and immediate measures issued by the European Committee of Social Rights in present proceedings of 19 October 2022, 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 merits by 15 December 2022.

Accordingly, on behalf of the Kingdom of Spain and with regard to the Collective Complaint lodged, we hereby submit our observations on the merits of the complaint within the time-limit granted.

Insofar as the merits of the Complaint overlaps to a large extent with the debate on immediate measures requested by the complainant organisations and agreed by the Committee, it is unavoidable to reproduce in this submission on the merits some of the information and arguments already invoked in our observations on immediate measures submitted to the Committee.

The Kingdom of Spain expresses its willingness to cooperate as much as possible with the Committee so that it can learn about the reality of the situation in Sectors 5 and 6 of the *Cañada Real Galiana*. We therefore consider it appropriate for the Committee to see at first hand the situation in the *Cañada Real Galiana* and the actions carried out by the authorities there. Thus, the Committee's members are invited to travel to Madrid and visit Sectors 5 and 6 of the *Cañada Real Galiana*.

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I. FACTS

1. Regarding the *Cañada Real Galiana* irregular settlement

1.1 Reference to the historic and social context of *Cañada Real Galiana*

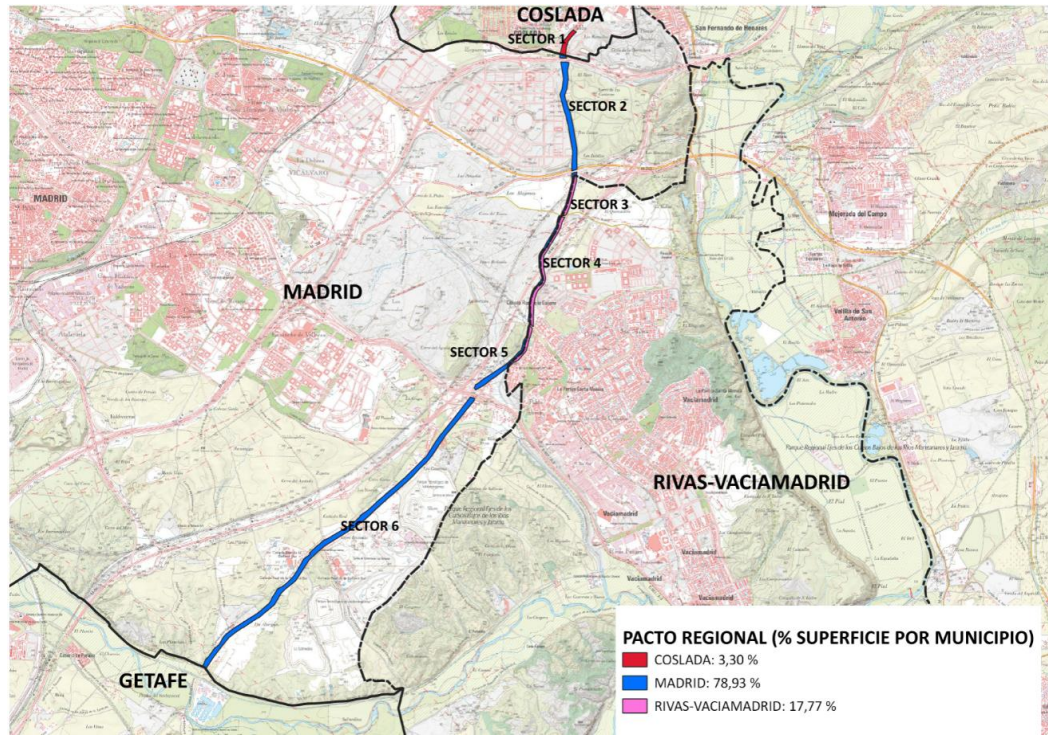
1. The so-called *Cañada Real Galiana* has been a cattle track used for the movement of livestock for centuries¹.
2. The route is approximately 400 km long, 93 km of which run through the territory of the Self-governing Community of Madrid.



¹ The Honourable Council of the Mesta [Honrado Concejo de la Mesta] was created by King Alfonso X the Wise in 1273. It is a grouping or guild that brings together the owners and shepherds of livestock in León and Castilla (of Merino sheep at first and later all livestock farmers) in a single national association. Among the functions of this organisation are the control of livestock traffic, the monitoring of compliance with the rules and the conservation of these routes. The Honourable Council of the Mesta existed under this name until the 19th century. In 1836 it was ordered to be abolished and replaced by the General Livestock Farmers' Association, which was left in charge of these roads. In the middle of the 20th century, the responsibility for the conservation and maintenance of these roads passed definitively to the Public Administration.



3. In a section of the road of approximately 14 km which runs through the municipalities of Coslada, Rivas-Vaciamadrid and Madrid, in its districts of Vicálvaro and Vallecas Villa, since the 1950s and 1960s it began to be the object of irregular settlements, with a proliferation of illegal constructions and development of different activities in the area
4. This phenomenon has been *in crescendo* over the years, and has given rise to the so-called "linear city", unplanned, outside urban planning legality and made up of very different types of buildings (from houses with swimming-pool, orchards and wells, to substandard housing and shantytowns).
5. The current irregular settlement, one of the largest in Europe, both in terms of size and population, is characterised by great socio-economic and socio-cultural diversity, with a predominance of situations of economic precariousness, shantytowns and substandard housing, constructions lacking certain basic services and adequate conditions.
6. The 14 km section of *Cañada Real Galiana*, where the shantytown is located, is divided into 6 Sectors.



The Complaint that gave rise to the present actions refers, as we shall see, to the situation arising from the power outage in two of these sectors – namely, Sectors 5 and 6; although, as explained hereinafter, contrary to what the complainants claim, in Sector 5 residents have access to electricity, which in general operates continuously.

1.2 The complexity of the problem arised regarding the *Cañada Real Galiana* irregular settlement.

7. Generally speaking and aside from the specific problem of the power outage in some sectors reported in the collective complaint at the origin of the present actions, the situation of the *Cañada Real Galiana* irregular settlement raises a complex problem from a social, economic, urban planning and legal point of view.



8. The search for a solution to the precarious, unhealthy and inadequate living conditions of the residents of such settlement, in conditions of economic and social vulnerability, is a major challenge for the public authorities, and for some years now it has been a priority for the competent authorities and public administrations to tackle the problems arising from this situation from different points of view, in order to articulate the different mechanisms necessary to put an end to such situation.
9. The Public Administrations involved in the solution of the problems derived from the existence of the irregular settlement correspond to the various levels of the territorial structure of the State (national², regional and municipal levels), which have been making an important effort, through different mechanisms, and have considered different means of coordination and cooperation to effectively tackle these problems.
10. An important step towards articulating the necessary tools in order to regulate the situation was the passing of Law 2/2011, of 15 March, of the *Cañada Real Galiana*.
11. It is also worth noting the creation of the role of the Commissioner of the Community of Madrid for the *Cañada Real Galiana*, by Decree 243/2015, of 29 December, whose functions are to provide dialogue between the different administrations and entities involved, and who has been carrying out an important activity of coordination and promotion of administrative cooperation.
12. In 2017, a key milestone in the evolution of the actions taken by public authorities with regard to the situation in the *Cañada Real* took place with the signing of the so-called “*Cañada Real Galiana Regional Agreement*”, a political commitment signed by the Administrations of the different territorial levels involved (State, Community of Madrid, and municipalities of Coslada,

² In the sphere of the General State Administration, it is worth highlighting the creation of an Interministerial Commission chaired by the Government Delegation in Madrid and with the participation of the Secretary of State for the 2030 Agenda of the Ministry of Social Affairs, the Secretary General for Housing and the Urban Agenda of MITMA or the Secretary of State for the MITECO.

Rivas-Vaciamadrid and Madrid), governed by different political parties, and which deserves special attention.

2. The 2017 Cañada Real Galiana Regional Agreement

13. The *Cañada Real Galiana* Regional Agreement, signed in 2017³ between the Government of Spain, the Self-governing Community of Madrid, and the Town Councils of the three municipalities (Madrid, Coslada and Rivas Vaciamadrid) through which the 14 km section extends, is the result of a broad consensus to promote a final solution to the problem raised by the existence of the *Cañada Real Galiana* irregular settlement.
14. The Regional Agreement set out a series of objectives, proposals and commitments aimed at establishing the most appropriate solution for the irregular settlement of *Cañada Real*, with the participation of all actors involved - including the Public Administrations responsible for the different areas of action affected, as well as "third Sector" entities and residents' associations.
15. The Regional Agreement included the objectives and strategic lines of action in the areas of social integration (acting in the community, education, employment and health contexts), urban planning and housing, and a permanent organisational structure was set up, creating different collegiate bodies that have been carrying out intense activity ever since.
16. There are a total of thirteen collegiate bodies:
1. Regional Agreement Executive Committee
 2. Regional Agreement Monitoring Committee
 3. Security Work Commission
 4. Urban Planning Working Committee
 5. Social Work Commission
 6. Assembly

³ The *Cañada Real Galiana* Regional Agreement has been provided by the complainants as Annex 6.

7. Security Board
8. Urban Planning Board
9. Social Board
10. Security and Technical-Urbanism Board
11. Legal Technical Rapporteur
12. Economic Technical Rapporteur
13. Legislative Rapporteur.

Noteworthy among these is the ***Cañada Real Galiana Assembly***, a body that channels the participation of all political forces represented in the different administrations, social organisations and residents, chaired by the Commissioner of the Community of Madrid for the *Cañada Real Galiana*. In turn, it is made up of Sectoral Boards (Social, Security and Technical-Urbanism Boards); the Executive Committee of the *Cañada Real Galiana*, a decision-making body made up of 6 members (one representative of each of the affected municipalities, 2 representatives of the Community of Madrid, one representative of the Government Delegation in the Community of Madrid, and being chaired by the Commissioner of the Community of Madrid); or the Monitoring Committee.

17. It should be noted that one of the main objectives of the Agreement is to draw up a **strategy for the rehousing of residents** who, for territorial, environmental, safety or health reasons, **cannot remain in their dwellings or substandard housing**.

3. The situation in Sectors 5 and 6

18. Within the six Sectors into which the 14 km of *Cañada Real Galiana* irregular settlement are divided, the two Sectors referred to in the collective complaint have the following characteristics:⁴

⁴ A fresh census of the Cañada Real is currently being drawn up.

- **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 minors⁵.

19. In contrast to the situation of Sectors 1 to 5 -in which the public authorities are considering the possibility of urban redevelopment and different studies and tasks have been carried out- Sector 6 presents exceptional circumstances that prevent this possibility from being considered. Circumstances that have led to the decision to dismantle it, given that it is a natural area of unique characteristics, its proximity to an important waste treatment complex, together with the lack of minimum living conditions of the existing buildings and dwellings in the area.

20. Particular emphasis should be placed on the idea that authorities of the various territorial levels –national, regional and municipal levels-, governed by political forces of different political parties, have agreed that Sector 6 of the *Cañada Real Galiana* 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).

As soon as the agreed solution was adopted, an orderly and progressive process of dismantling the dwellings and irregular constructions located in Sector 6 has begun, parallel to a process of relocation of the inhabitants of this sector, which we will describe below.

21. The solution offered by authorities, as has been noted, is the dismantling of Sector 6 and the parallel relocation of the residents - in order to provide them with the right to decent housing-, regardless of the personal aspirations of certain residents not to abandon their homes in Sector 6, due to the

⁵ With reference to the number of minors, taking into account the degree of execution of the rehousing process in Sector 6, there are 536 minors currently living there.

attachment or roots they feel towards the place where they live - despite the lack of amenities and the unhealthy and precarious conditions of most of the dwellings⁶.

4. The situation of Sector 6 of the *Cañada Real Galiana* from the point of view of the geographical location and urban planning.

22. The urban planning treatment of land development in the area where Sector 6 of the *Cañada Real Galiana* is located is affected by two factors:

- (i) Natural area of unique richness in which it is located;
- (ii) Proximity to the Valdemingómez waste treatment complex.

1. Location within a specially protected natural area.

Sector 6 of the *Cañada Real Galiana* is located within the so-called "South East Regional Park" [Parque Regional del Sureste] of the Self-governing Community of Madrid, a protected natural area home to environments and sites that constitute some of the richest and most interesting biogeographical entities in the region, with plant formations and populations of fauna of great diversity and richness of species, among which the avifauna associated with cliffs, fluvial groves and lagoons, or those other species that inhabit the unique gypsum and dry cereal steppes.

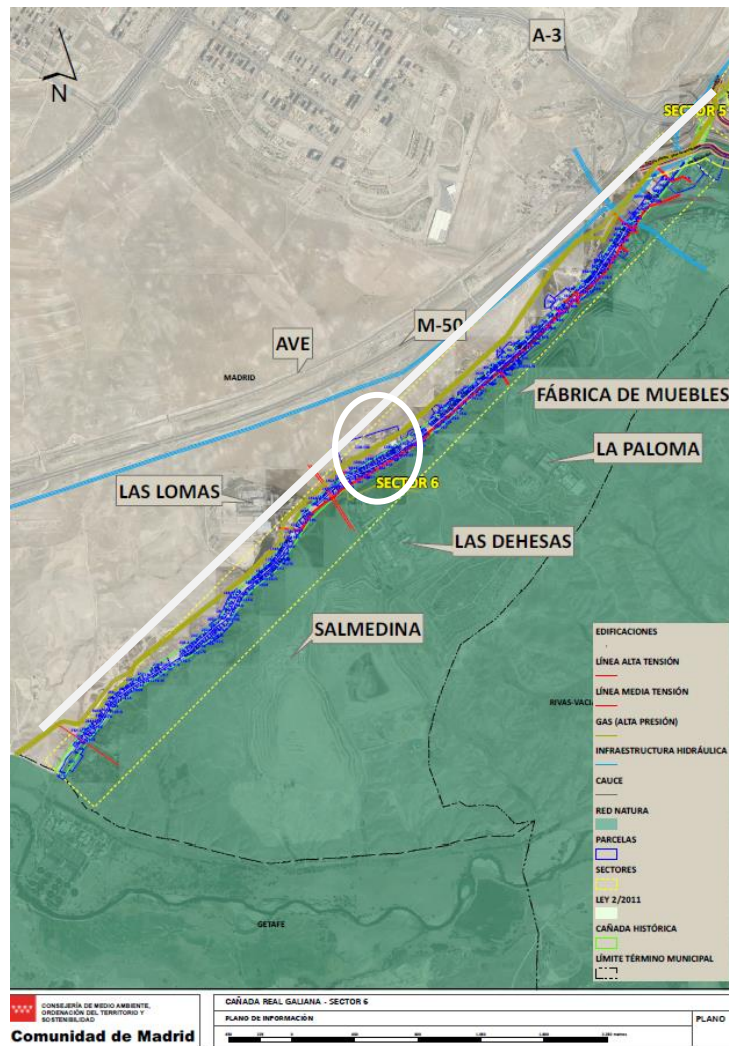
The following link shows the extension of the entire park, within the geographical area of the Community of Madrid:

⁶ It should be noted that some residents and organisations that carry out their activities in Sector 6 of *Cañada Real Galiana* oppose the decision taken by the public authorities for this sector, and publicly express their desire for Sector 6 to also be subject to urban planning and for the situation of the dwellings located there to be regularised.

For example, the president of the cultural association *TABADOL* has expressed on numerous occasions and through different media, since the implementation of the Sector 6 rehousing plan began, her opposition to the rehousing policy in this sector, defending her right to remain in the place "where she has grown up and wants to stay", considering that the public authorities "cannot decide for us".

https://idem.madrid.org/visor/?v=ambiental&&el=SIGI_MA_PR_SURESTE&ZONE=443182.7057045384,4461231.114932642,11

2. Proximity to the Valdemingómez waste treatment complex.



The map shows the four waste treatment plants located in Sector 6, called *La Paloma*, *Las Dehesas*, *Las Lomas* and *Salmedina*.

23. The urban classification of the land in Sector 6, in accordance with urban planning and taking into account its special characteristics, is that of “Undeveloped Land for ecological preservation” (NUP-2).

5. The process of dismantling and rehousing families living in Sector 6

24. As has been pointed out, those Public Administrations with competence over the *Cañada Real Galiana* are convinced that the solution adopted for Sector 6, that is, dismantling and rehousing families, is the appropriate way to tackle the problem.

25. In this regard, since 2018 efforts have been focused on the coordinated implementation of a process of rehousing those residents who are in a situation of exclusion, a process that is currently underway.

26. The most significant actions carried out or in process of being carried out in this regard are as follows:

- The **rehousing agreement** (already implemented) of **11 May 2018 between the Self-governing Community of Madrid and the Madrid City Council**, with a total investment of EUR 18 million.

This agreement involved **the rehousing of 143 families** from Sector 6, who are already living in their new homes.

- The **rehousing agreement** (in progress) of **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.
- Moreover, the rehousing agreement of 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***. [*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].

27. In these agreements, it has been adopted the rehousing scheme successfully implemented by the now extinct Social Integration and Rehousing Agency of Madrid [*Instituto Madrileño de Reajamiento e Integración Social*] (IRIS) and followed as a model in other European administrations.
28. Currently, the Social Housing Agency of the Community of Madrid, in collaboration with the City Councils, has taken on the implementation of rehousing programmes in which, housing being the axis of social integration, action is taken on three basic pillars: social promotion, education and employment.
29. These programmes are based on social intervention, both to assist families with rehousing and, once they have been rehoused, through guidance and social monitoring to facilitate their social integration. This social intervention is completed with the creation of housing units allocated to rehoused families, avoiding concentration in order to facilitate their integration into the neighbourhood.
30. Those agreements have recently been joined by **two public aids granted by the General State Administration** by the Royal Decree 1058/2021, of 30 november, to the Madrid City Council (**EUR 3 millions**) and Rivas-Vaciamadrid City Council (**EUR 2 millions**) in order to carry out rehousing programmes for families in a situation of extreme social vulnerability in Sectors 4, 5 and 6 of the *Cañada Real Galiana*.
31. 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 protocol of action** 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

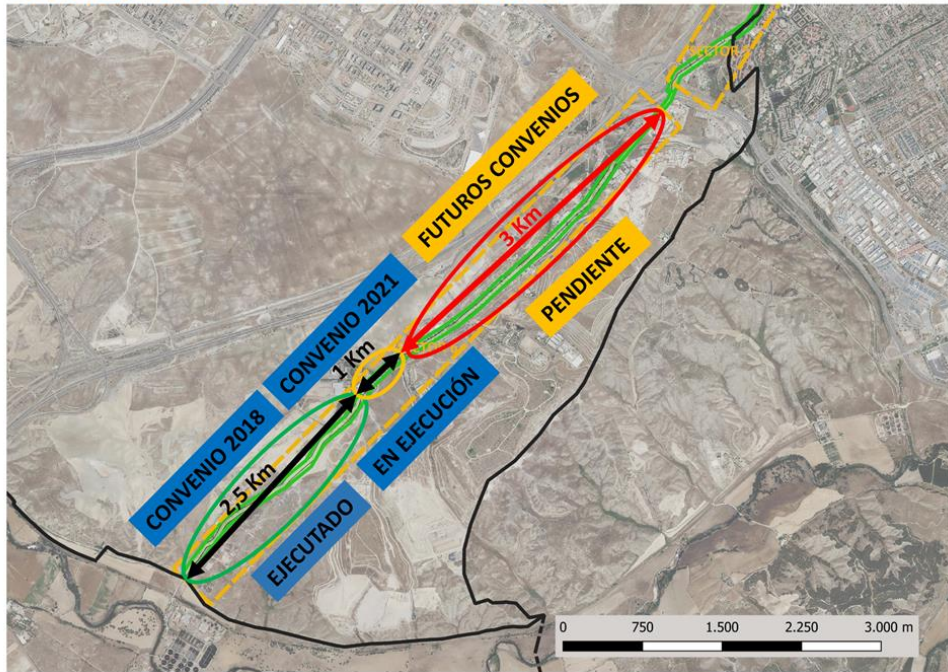


Delegation in Madrid and the City Councils of Madrid and Rivas Vaciamadrid **in order to implement an extraordinary 2022-2030 Rehousing Plan in the Cañada Real Galiana**. This measure, extraordinary and extremely important in our view, shows the commitment of the Kingdom of Spain and its public administration at the three levels (national, regional and municipal) to improving the living conditions of the residents of the *Cañada Real*. Such legal instrument, which will 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.**

32. **In addition, the Spanish Government has recently included an extraordinary budget line in the General State Budget for 2023 for the *Cañada Real* Rehousing of EUR 8,375,000. ANNEX 19, with details of the corresponding budget line, is attached**
33. Moreover, two reports are also attached as **ANNEX 4 and 5**, drawn up by the City Councils of Madrid and Rivas Vaciamadrid with regard to the rehousing programmes.

The map below shows the area that has been already rehoused in Sector 6 and the area which is currently being rehoused.

SECTOR 6: CONVENIOS DE REALOJO



6. The situation of Sectors 5 and 6 of the *Cañada Real Galiana* with regard to the electricity supply.

6.1 The electricity distribution system in the *Cañada Real Galiana*.

34. The medium voltage power line that runs through the *Cañada Real Galiana* in sectors 5 and 6 - identified as RSV703 - is owned by the company *UFD Distribución Electricidad, S.A.* (hereinafter, "UFD"), a wholly private company: it is not owned by any Public Administration nor is there any kind of link or subordination between the company and the Administration, at any of its territorial levels.

35. This company is responsible for supplying electricity and guaranteeing its supply to the customers who are entitled to it and therefore have formalised the corresponding supply contract (a total of five in Sectors 5 and 6), and is also obliged to maintain its installations in a perfect state of repair - reporting any tampering, fraud or other anomalous situations detected.
36. Given the nature of this complaint and the immediate measure requested by the complainants organisations –namely, the provision of electricity in Sectors 5 and 6 of *Cañada Real*-, as already stated in our submission on immediate measures, the Spanish Government has requested information not only from the relevant authorities with competence on the matter, but also from the company UFD on the situation in Sectors 5 and 6 of *Cañada Real* in terms of electricity supply service.

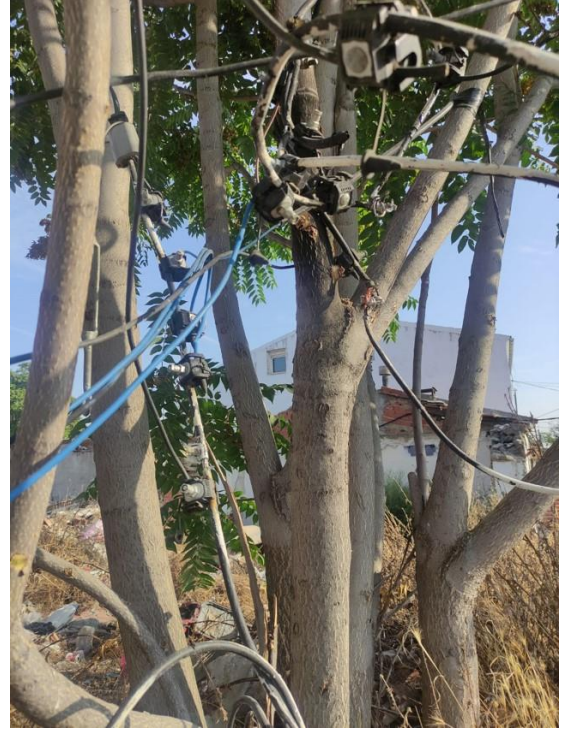
However, we hereby submit for the Committee's consideration the convenience that the company UFD, responsible for the supply of electricity in the affected sectors -and therefore directly affected by an eventual decision of the Committee on the provision of electricity in the area - to make the submissions it deems appropriate in the present procedure and to provide all the information requested for this purpose.

37. According to the information provided by the Madrid Regional Government's Commissioner concerning the *Cañada Real Galiana*, for years the residents of the shantytown have been consuming electricity obtained illegally, generally through illegal connections or "hook-ups" to the distribution network along the route⁷.

Such 'hook-ups' are reportedly usually made by connecting a wire directly to the overhead wires of the medium-voltage electricity supply that runs along the public road⁸.

⁷ Document nº 1 Report presented by the Government Commissioner for the *Cañada Real Galiana* of 18/01/2022, which we attached to our submission on immediate measures.

⁸ This wire, once connected to the distribution network, is taken to a 'clandestine' transformer, which is neither installed nor authorised by the distribution company. From the transformer, in turn, a series of low-voltage cables run to the interior of the dwellings, and the various appliances that consume electricity are then connected to the wires.



38. As we explained in our submission on immediate measures, the manipulation of the distribution network elements to make such illegal connections - in many cases in a precarious manner - and the obtaining of electricity in this way, raises **serious safety problems** apart from amounting to **a criminal offence** (namely, electricity fraud as defined in the Spanish Criminal Code⁹). and as a result the electricity distribution company has filed a number of complaints

The specific security problems we have mentioned are set out in more detail below.

6.2 Security problems arising from illegal connections

39. All experts agree on the risks of using illegal connections, through a supply network that has not been set up by a distribution and supply company, and which lacks the minimum technical requirements to operate properly.

40. As reflected in the Report on the electricity supply situation in *Cañada Real Galiana*, issued by the Directorate General for Decarbonisation and Energy Transition of the Community of Madrid on 19/05/2022¹⁰, the connections are "irregular, unregulated and dangerous", not complying "with regulatory safety requirements" and causing "situations of serious and very serious risk to people, things or the environment".

41. Moreover, the report issued by Applus Norcontrol, S.L.U. - an independent accredited control body - commissioned by UFD, dated 15 January 2021, on the assessment of the safety conditions and compliance with technical industrial safety regulations of the electrical installations in Cañada Real, sectors 5 and 6¹¹, concluded as follows:

1.

⁹ Article 255 of the Criminal Code.

¹⁰ Report attached as Document no. 2 to our submission on immediate measures.

¹¹ Report attached as Document no. 3 to our submission on immediate measures.

“8.1 FINDINGS

The main evidence that we have been able to prove in the detailed analysis of line RVS703 in Sectors 5 and 6 is as follows:

- The buildings in the vicinity of the line invade, even totally in many cases, the line's easement area, thus compromising the minimum safety distances.*
 - There are a multitude of technically deficient illegal connections directly on the RVS703 line, most of them in areas that are inaccessible because they are inside buildings.*
 - There are also a multitude of other voltage lines in the area, which are totally unregulated and in many cases represent obvious situations of serious safety risk.*
 - The situation of uncontrolled settlements in the area can and does vary constantly, and as far as the electricity supply is concerned, it can change practically from one day to the next, due to the ease with which connections are made.*

On the basis of this evidence and the requirements of the number of regulations and standards, we conclude that:

- The situation represents a serious safety risk.*
- Proper operation and maintenance of the line is impossible.”*

42. Not only the Administration with competence in the matter and a specialised control entity have exposed in written reports the serious safety problems involved in the access to electricity through illegal connections to the medium voltage grid. Particularly noteworthy is the opinion of the expert, appointed as a judicial expert in the framework of the criminal investigation proceedings being carried out before the Madrid Investigative Court no. 42 (Pre-trial Proceedings no. 2163/2020).

It should be recalled that in these proceedings - to which we referred in our observations on the adoption of immediate measures - brought by a cultural association operating in the Cañada Real Galiana against the distribution company UFD, the case was dismissed by the court. However, the dismissal

order was quashed by the Provincial Court of Madrid, which found that the report provided by the distribution company - issued by Applus Norcontrol - needed to be contrasted or verified by an impartial expert appointed by the court itself.

The court-appointed expert, at the request of the court, issued a report stating that:

- The distribution network feeding the dwellings and buildings in Sectors 5 and 6 has neither been carried out by specialised companies, nor has it been supervised by a technician or approved by Industry and is not properly serviced, concluding that there is an “obvious danger to the people using these installations or in the vicinity”.
- In Sector 6, in particular, the report states that the facilities are “absolutely chaotic”, “with connections to the medium-voltage line being made virtually on an individual basis, with dozens of connections starting from homes and spliced to the wiring of the line in its catenary”, the line's connections are fed to “small transformers which in turn distribute electricity to a few distribution lines”, and the wiring runs “along the street in a completely disorganized manner, hanging from poles or anchored to façades without respecting distances or any kind of safety.
- Moreover, regarding Sector 5, the report states that according to the explanations given by the “president of Sector 5”, except for the end of 2020, the supply is continuous, without hardly any complaints, except for the request to extend the consumption limits.

6.3 The power outages in October 2020

43. In the second half of 2020, the consumption of illegally obtained electricity in Sectors 5 and 6 increased substantially, rising by 40% on average in June, July and August compared to 2019, and in September 2020 consumption

increased by up to 70% compared to the same month of 2018, according to the information provided by the distribution company.

44. The reasons explaining such increase, according to various official reports¹² are mainly -or in addition to other factors- due to the growth of marijuana plantations and other prohibited substances in the area, whose facilities require a high consumption of electricity¹³.
45. Regardless of the specific reasons for the exponential increase in consumption and according to the information provided by the electricity distribution company, the reality is that the average consumption per dwelling in Sectors 5 and 6 in October 2020 was seven times higher than the average consumption of a dwelling in Spain.
46. As a consequence of overloads caused by consumption in Sectors 5 and 6, from October 2020 the protection mechanisms of the power lines started to act -automatically- interrupting the supply in case of overload in order to prevent damage to people, buildings and installations.
47. This situation meant that all the buildings and installations located in both Sectors, including the neighbours who until then had been receiving electricity on a stable basis - despite not having a legal title to do so, they obtained it through illegal and potentially hazardous connections - stopped receiving power when the protection mechanisms "triggered".

¹² In this regard, among others, the Report presented by the Government Commissioner for the *Cañada Real Galiana* of 18/01/2022 explains that "the dramatic demand for electricity" in October 2020, "related to the cultivation 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 installations from overloads and overcurrents".

¹³ https://www.elconfidencial.com/espana/madrid/2020-10-15/nuevo-golpe-narcotrafico-droga-canada-real-madrid-macrooperativo-marihuana-policia-nacional_2789956/
https://www.elplural.com/sociedad/cultivo-ilegal-marihuana-causante-corte-luz-canada-real_250792102
In March 2022: <https://elpais.com/espana/madrid/2022-03-28/desarticulada-en-la-canada-real-una-red-que-cultivaba-17500-plantas-de-marihuana-alrededor-de-la-casa-del-cabecilla.html>

Special reference to the installation and commissioning of "reclosers".

48. The UFD's Report of 30/12/2020, outlining the reasons for the power outage in Sectors 5 and 6 of *Cañada Real Galiana*, states the following:

"In the summer of 2020, consumption began to be considerably higher than usual. This increase in consumption led to automatic switch openings due to network overload, to the point, around the beginning of October, when the electricity supply could not be restored normally.

To avoid these continuous openings of the head-end switch since the summer of 2020, two recloser-switch disconnecter devices have subsequently been installed on each of the branches of the RV-703 line that go to Sector 5 and Sector 6, which act before the head-end switch, preventing tripping in the sub-station and possible faults that would cause power cuts in the municipality of Rivas, without dealing with the serious consequences this would have for the distribution network in the area.

These devices also allow, on the one hand, overloads on some branches not to affect the supply of others and, on the other, remote action with multiple attempts to restore the supply on a daily basis, so that the response capacity is much faster and safer, avoiding the manual manoeuvre that had to be carried out with police escort."

49. Moreover, a letter submitted by the distribution company UFD to the Madrid Investigative Court no. 42, in the framework of the abovementioned court process, describes the function, characteristics and operation of the "reclosers" installed by the electricity company in November 2020 in Sectors 5 and 6. It is worthy highlighting the following information:

- The reclosers are activated in the event of an overload, when the number of installations connected to the grid at the same time demands a quantity of energy greater than that admitted for the line, or when a relevant failure occurs in any of the installations connected to the grid -for instance, in the event of a short-circuit caused by a coupling or by a conductor cable falling to the ground.

- The function of the reclosers is twofold: first, they act as a safety mechanism, causing the line's protections to operate and turning off power in the event of an unsafe situation; second, they act as a mechanism that allows continuity of supply, because when the protections are tripped, the recloser allows supply to be resumed once the cause that triggered the protection mechanism has been corrected, immediately and remotely, without the need to send a team to the field.

50. It is important to note that, contrary to what the complainant organisations seem to maintain, **the installation of the protection mechanisms described in November 2020 is not responsible for the lack of access to electricity supply in Sector 6 of the *Cañada Real Galiana***: the lack of electricity supply in Sector 6 is neither due to the performance of the distribution company nor to a specific decision taken by the distribution company to stop supplying electricity in that particular sector. It is the result of a purely technical issue, such as the overloading of the network due to excessive consumption.

Furthermore, according to the information provided by the Regional Government Commissioner and the distribution company, the latter has been trying to re-establish electricity in Sector 6 twice a day from October 2020 to March 2022, but this has not been possible due to the constant overload in the use of the electricity network.

51. Therefore, the lack of access to electricity supply is the result of an overexploitation of the grid in Sector 6, which has led to such a high and uncontrolled increase in consumption that the electricity company has been obliged to activate the protection mechanisms, the installation of which has obeyed strict safety reasons.

52. In other words, the high increase in electricity consumption in Sector 6 of the *Cañada Real Galiana* –which is always obtained through illegal connections and with no security guarantees- has determined the need, for strict safety reasons, to install protection mechanisms. These mechanisms do not prevent the flow of electricity on the line or restrict its capacity, but are limited to being triggered in the event of a situation of danger due to excess

consumption at a specific moment, and allow the immediate restoration of electricity. The example of Sector 5 is clear in this respect: quite frequently, the protection mechanisms are activated, but normally the power is restored almost immediately.

53. It should also be noted that the installation of reclosers has made it possible to have an independent flow of electricity in Sectors 5 and 6, so that an overload in one of the two sectors does not affect -as was the case in the past- the flow of electricity in the other sector.

54. Thus, according to the information provided by UFD:

“When the overloads began to occur in Sector 6, this element of the network was repeatedly manipulated by people outside UFD (several complaints have been filed in this regard).

These unauthorised manipulations disabled the equipment, causing the overloads to trip the protections of the sub-station's head circuit breaker, leaving the entire line and therefore both sectors without voltage.

After the installation of the reclosers -which are difficult to manipulat- at the entrance to both sectors, full independence is achieved between the two sectors.

In this way, if an overload or some other deficiency occurs on the line, only the sector in which such deficiency occurs is left without supply, without affecting the supply in the other sector.

Until then, the entire line that feeds the two sectors was without supply, because as there were no separate reclosers and the switch in Sector 6 was disabled by manipulation, the protections of the common sub-station that feeds the two sectors triggered.”

55. It is important to note that, according to the information provided by the company, the installation of **the reclosers does not affect the ability of the line to supply power to Sectors 5 and 6: if there are no overloads** - simultaneous connection of a set of installations that demand more power than the grid can supply at the same time- or other situations that affect the safety of the line, **the flow of electricity can circulate:**

- In Sector 5, the recloser is "tared" at 60 amps. This makes it possible to consume a total of 13.60 GWh per year, provided there are no interruptions of supply due to overload or any other reason.
- In Sector 6, the recloser is "tared" at 80 amps.

56. Concerning Sector 6, the actual consumption in 2021 was zero, because as a result of the continuous overloads produced on the line, the protection mechanisms have been continuously activated, and as the overload situation has not been corrected, the corresponding reconnection has not taken place.

57. If the continuous overloads did not occur, the consumption in Sector 6 would be of a total of 18.20 GWh per year, taking into account that, as has been indicated, the recloser corresponding to this sector is "tared" at 80 amperes, a limit up to which the inhabitants of Sector 6 could consume electricity – although obtained in an illegal manner .

6.4 Situation after the power outages occurred in October 2020

58. In Sector 5, the overloads that triggered the activation of the protection mechanisms ceased to occur at the end of 2020 and early 2021.

As a result, both the *Cañada Real Galiana* Commissioner of the Self-governing Community of Madrid and the distribution company –as well as the court-appointed expert in the framework of Pre-trial Proceedings followed before the Madrid Investigative Court no. 42– reported 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 at least**¹⁴.

¹⁴ The Report presented by the Government Commissioner for *Cañada Real Galiana* of 18/01/2022 explains that: "Since February 2021, the residents of Sector 5 began to coordinate in order to rationalise consumption, so that the existing transformer stations in this Sector come into operation alternately,

Indeed, according to consumption data provided by the company, **in 2021 the real consumption of illegal connections in Sector 5 was of 9.10 GWh per year.**

This means that the consumption data was rather similar to that of 2018 –an estimate consumption of 9.51GWh per year.

Therefore, it can be assumed that **in 2021 the level of power consumption obtained through the medium voltage line RSV703, mainly through illegal connections, remained at the same level as the consumption for 2018.**

59. However, **in Sector 6** the electricity situation is significantly different, **as overloads have been constantly occurring in that area since October 2020.**

60. 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 overload protection mechanisms.**

61. According to the information provided, since 5 March 2022 the company has stopped trying to reactivate the supply of electricity in Sector 6.

7. Public authorities' response to the power outages in Sector 6 in the Cañada Real Galiana.

depending on demand. This has ensured that, except for occasional drops, a stable supply of electricity is maintained in this sector”.

Thus, in the Report presented by the Commissioner of the Government of Madrid for the *Cañada Real Galiana* of 15 December 2022, which we provide as ANNEX 1, it is insisted that "Sector 5 does have a supply”.

62. From the foregoing, it is clear that "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.
63. In fact, upon learning of the situation of lack of electricity supply, the public authorities reacted immediately to find out the causes of this situation. When it was found that one of the reasons for the alarming increase in electricity consumption in Sector 6 was possibly the proliferation of marijuana plantations, the Government Delegation in Madrid immediately launched an "**emergency programme**" to dismantle the criminal networks responsible for these plantations, and investigate and prosecute the criminal acts involved.
64. Upon becoming aware of the situation, the Directorate General of Industry, Energy and Mines of the Self-governing Community of Madrid, by Agreement of the Director General of 11/12/2020, ordered the opening of a period of prior information to the company UFD in order to gather the relevant data on the situation of the electricity distribution network in Cañada Real, the existing supply problems and the actions carried out by the distribution company in the exercise of its functions, in order to verify whether the obligations established by the current regulations were being adequately fulfilled by the distribution company.

On 9/06/2021, the then Subdirector General for Energy and Mines submitted a report stating, among other aspects, the existence of numerous illegal connections and a progressive increase in the energy injected into the grid since May 2020 compared to the previous year. These connections -which in fact did not comply with the minimum regulatory safety requirements- caused serious and highly serious risks to people and property and to the environment. It was also found that some illegal dwellings were built in the electrical distribution installations, to the point of making them inaccessible and without respecting the legal easements, which entails security problems to safely carry out the mandatory maintenance work by the distribution company's personnel. It was found

that standards of quality and integrity of power supply to customers with contracts were not in line with regulations, as they were affected by the aforementioned circumstances that caused tripping due to overloads, as a result of instantaneous demands that exceeded the admissible levels established in the protections or due to actions taken by third parties.

Document no. 2 - Report on the power supply situation in *Cañada Real Galiana*, signed by the current Directorate-General for Decarbonisation and Ecological Transition dated 19/05/2022, was attached to our observations on the adoption of immediate measures. Such report, among other issues, explains the actions carried out to investigate the incident and the outcome of the report delivered to that effect at the relevant time.

65. Furthermore, since November 2020, intense public security activity has been deployed in order to detect and dismantle marijuana plantations in *Cañada Real Galiana*, in particular in Sectors 5 and 6, implementing an "emergency programme" by the Government Delegation in Madrid, in coordination with the national and the municipal police, respectively.

As a result of such "emergency programme", which is still underway at present, a number of specific operations have been carried out to detect and dismantle numerous constructions intended for indoor marijuana cultivation - generally with complex electrical installations fraudulently supplied, and with their own generators in case the connection to the distribution network is lost.

Thus, among the most recent operations, three of them carried out in March and April 2022 should be highlighted, in which several buildings and dwellings devoted -either partially or completely- to marijuana cultivation were detected. As a result, in the first operation 12 people were arrested and 973 plants were seized; in the second, 28 people were arrested and 11,305 plants were seized; and in the third operation, 3 people were arrested and 479 plants were seized.

Both preventive and investigative police actions in different areas, such as public safety, environmental protection and the fight against drug trafficking and organised crime, continue to be developed today.

66. In parallel, since power outages occurred, different specific measures have been taken on the part of the Administrations concerned with competences in social matters -mainly the Self-governing Community of Madrid and City Councils- to deal with the situation arising from the lack of power supply in Sector 6. We insist, contrary to what has been stated by the complainants organisations, the electricity supply in Sector 5 has been continuously operating.

Thus, the process of dismantling and rehousing of the residents in Sector 6 has been accelerated, a process to which, as mentioned above, the public authorities are convinced that they must devote their greatest efforts. We refer to section 5 of the present submission, which describes the evolution of the rehousing process agreed in 2017, and shows how in recent times efforts have been increasing, both financially and in terms of management, so that the total dismantling of Sector 6 becomes a reality at the earliest possible time, duly addressing the housing needs of the vulnerable families residing there.

Moreover, the competent public administrations have reacted to the situation resulting from the power outages by deploying a whole range of measures to alleviate the consequences of the lack of electricity supply for the residents living in this sector, measures that will be described below.

8. Measures taken by a public authorities to mitigate the consequences of the lack of power supply in the area concerned.

67. To understand the scope of the measures adopted, it should be borne in mind that, as stated in the Report presented by the Government Commissioner for the Cañada Real Galiana of 15 December 2022, given the impossibility of living without a source of energy to provide light and heat, the majority of the residents in Sector 6 have been providing themselves with alternative electricity resources to the illegal connections that, until the end of 2021, were being used. Thus, residents have installed solar panels, diesel generators, butane or catalytic cookers.

68. On that basis, the Madrid City Council has signed an Agreement with *Cáritas Diocesana* of Madrid approving the award of a grant to such entity, endowed with EUR 300,000, to carry out actions to guarantee coverage of basic health, accommodation and food needs, to promote minimum lighting conditions and to contribute to the improvement of health conditions.

69. 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.

70. These and other measures have been detailed in our submission on the adoption of immediate measures, to which we refer, and are specified in the report of the Madrid City Council¹⁵.

71. Particular emphasis should be placed on the provision, in the Municipal Social Emergency Programme, through which the *Campaign Against the Cold* is articulated, of 462 temporary accommodation places, which can be used by families living in Sector 6 of the *Cañada Real Galiana*.

72. On the other hand, it is worth highlighting the adoption of specific measures by the internal authorities to deal with special social emergency situations for families living in areas affected by the lack of electricity supply.

As an example, the family of the Moroccan minor L.H.C., suffering from serious health problems affected by the lack of adequate accommodation - in particular, her treatment required an electricity-powered oxygen machine

¹⁵ Report presented by the Madrid City Council on mitigating measures for the lack of power supply. (ANNEX 3)

which had not been working properly since October 2020 - a case which the Complainants highlight, providing in Annex 18 of the Complaint a number of medical reports corresponding to the said minor. In that case, the Directorate General for Housing and Rehabilitation of the Community of Madrid urgently agreed by Resolution of 19/01/2021 to immediately allocate to the family unit comprising the minor, her parents and her two siblings, by extraordinary means of "social emergency", public housing for rent in the district of Carabanchel (Madrid), initially for a period of 6 months, to be extended for a further 6 months, and subsequently on a definitive basis - Resolution of 24/01/2022.

These Resolutions were provided as Document no. 6 in our submission on the adoption of immediate measures.

73. Finally, it is worth mentioning the specific measures taken by the Administrations when the Storm Filomena occurred in January 2021, referred to in the Collective Complaint.

As stated in the report of the Madrid City Council of 5 December 2022, the following actions were taken in response to this emergency situation:

- three accommodation and maintenance facilities were set up for the families of *Cañada Real*, one in the old Furniture Factory located in Sector 6, another in a sports centre in Villa de Vallecas, and a third in the Parish of Santo Domingo de la Calzada, located in the area of greatest exclusion in *Cañada Real*, aimed at the extremely vulnerable population..

It is worth pointing out that one single family used the accommodation facility set up in Sector 6, without any family requesting to be accommodated in the sports centre in Villa de Vallecas. 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.

- A daily convoy was activated to respond to families, formed by the Emergency Services of this City Council;

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

II. ON THE MERITS OF THE CASE: LACK OF VIOLATION OF THE RIGHTS ENSHRINED IN THE REVISED SOCIAL EUROPEAN CHARTER

1. Introduction

The rights claimed to have been violated by the complainant organisations stem from the alleged violation of the right to housing under Article 31 of the Revised European Social Charter. Thus, we will first examine such alleged violation of the right to housing, and then refer to the other rights alleged by the Complainants to have been violated.

2. Right to housing

74. The complainants first and foremost claim the violation of the right enshrined in Article 31.1 of the Revised European Social Charter, alone and in conjunction with Article E of the Charter.

As set out in that provision:

“Article 31 – The right to housing.

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;**
- 2. to prevent and reduce homelessness with a view to its gradual elimination;**
- 3. to make the price of housing accessible to those without adequate resources.”**

75. The complainant organisations claim that the State is responsible for the situation arising by the deprivation of access to power supply through the distribution network as well as the consequences resulting from such situation. They submit that assuming that a house without electricity and heating does not meet the conditions of "sufficient quality" required by Article 31(1) of the Charter, the State, which the Complainants hold responsible for this situation, should be found to be in breach of the Charter.

76. It is worth highlighting that the Complainants acknowledge that the supply of electricity to the *Cañada Real Galiana* corresponds to a private company – i.e. UFD-, as noted in §201 of the Complaint.

Nevertheless, the issue raised before the Committee does not refer to the eventual responsibility of such company for the “power outages”, but the question at stake are the State’s actions and omissions made by public authorities in relation to the situation resulting from such “power outages”.

“201. The Complainants note that the facts that give rise to the Complaint concern the involvement of a private person, i.e. UFD-Naturgy, which is the company supplying electricity to the Cañada Real.

202. Regardless of whether UFD-Naturgy’s actions comply with the company’s business and human rights commitments, the question at stake in the Complaint is whether the State’s actions and omissions in relation to the situation resulting from the ongoing power outage in the Cañada Real amount to a breach of the Charter”

77. In particular, the complainant organisations emphasise the fact that the situation of irregular access to power supply through illegal connections or

"hook-ups" to the distribution network has been long known and tolerated for many years by both public authorities and the energy supplier.

Thus, assuming this "acquiescence" of the authorities over the years to the system of power supply to homes and buildings in *Cañada Real*, they consider that the State's action in confirming the existence of the power outages that have occurred since the end of 2020 is inadequate.

78. In particular, the complainant organisations state that the actions taken by the State in response to such situation had merely consisted in a single measure, namely the issuance of EUR 5 million direct grant for the implementation of the rehousing programme (*"The single measure taken by the State in response to the power outage has consisted of the issuance 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 the families in a situation of extreme social vulnerability in Sector 4, 5 and 6 of the Cañada Real"*, § 228.)

This measure –a single one, as stated by the complainant organisations-, adopted by domestic authorities would be, in the complainants' view, inadequate and insufficient to address the problem arising from the lack of access to electricity (*"this policy fails to tackle the cause of the humanitarian crisis currently occurring in Sector 5 and 6 of the Cañada Real"*, §229).

79. In view of the alleged failure to adopt some measures to remedy or resolve the situation of lack of access to power supply, beyond the aforementioned contribution of EUR 5 million for the implementation of the rehousing programme, the complainant organisations argue that the inaction of the public authorities in a situation such the one experienced in Sectors 5 and 6 amounts to the violation of the right to housing of an adequate standard provided by Article 31.1 of the Revised European Social Charter. They conclude as follows:

"244. In the light of the foregoing, the Complainants submit that the State's failure to remediate the power outage in the Cañada Real and the impact thereof in the housing situation in Sectors 5 and 6 –especially considering that vulnerable population lives therein- amount to a

continuous violation of Article 31§1 of the Charter, read alone and in conjunction with Article E”.

80. It is worth highlighting that, all along their complaint, the complainant organisations insist on the idea that the Revised European Social Charter has been recognized by the State.

In particular, they find that evidence of such recognition is the Explanatory Memorandum of Royal Decree 1058/2021, of 30 November, which regulates a direct grant to Madrid City Council (EUR 3 million) and Rivas-Vaciamadrid Council (EUR 2 million) for the development of re-housing programmes for families in a situation of extreme social vulnerability in Sectors 4, 5 and 6 of the *Cañada Real Galiana*. Such text refers to the negative impact of the lack of electricity on the rights of adults and children, in particular in the latter case, in addition to referring in general to the situation of extreme precariousness experienced by the inhabitants of these sectors, and to the necessary attention by Spain to its commitments "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."

81. The Spanish Government agrees with the complainant organisations that the right to housing of an adequate standard under Article 31.1 of the Revised European Social Charter, as the Committee has previously stated, means the right to housing with access to some basic services, in particular electricity supply and heating.

In this regard, we share the assessment that dwellings lacking basic services such as access to electricity and heating cannot be considered as a housing of "adequate standard" within the meaning of Article 31.1 of the Charter.

82. Nevertheless, when assessing whether there is an action or omission by the State from which a violation of the rights recognized in Article 31.1 of the Charter is inferred, one must depart from the essential assumption, expressed by this Committee on several occasions when interpreting and applying such provision (i.e., *International Movement ATD Fourth World v.*

France, Complaint no. 33/2006, decision on the merits of 5/12/2007; or the *European Federation of National Organisations working with the Homeless (FEANTSA) v. France*, Complaint no. 39/2006, decision on the merits of the same date). Namely, 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”**”.

The foregoing means that, 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. Also, 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 recognized in the Revised European Social Charter.**

83. Concerning dwellings and facilities located in **Sector 6** of the *Cañada Real Galiana*, the lack of access to power supply through the grid, from the end of 2020, is a reality.

However, to note such reality - as stated in the explanatory memorandum to Royal Decree 1058/2021 - and the serious consequences that living without access to sources of light or heating can mean for a family, especially if there are minors or particularly vulnerable persons involved, and contrary to what the complainant organisations claim, does not *per se* imply the acceptance of a violation of the rights recognised in the Charter.

84. Faced with a reality such as the one described above, it is appropriate to examine the reaction of the authorities and public powers, and the actions that have been taken, if any, to resolve or to remedy the situation of the residents affected by the lack of electricity supply.

85. In the present case, the Spanish Government's view is that the result of this examination must lead to the conclusion that the competent authorities and public authorities -which, we insist, are not responsible, directly or indirectly, for the situation of lack of access to the electricity supply in Sector 6 of *Cañada Real*- are devoting their best efforts to resolve the situation by rehousing the affected families and thus alleviate the consequences for the vulnerable families living in Sector 6 of the *Cañada Real Galiana* until they are rehoused.

86. In order not to reiterate the detailed information provided both in the observations on the adoption of immediate measures requested by the Committee and in the factual accounts described in the present submission, we refer to the description of the various measures adopted by the public authorities, including, among others, the following actions taken in different areas:

- Speed up the rehousing process already underway for the residents of Sector 6, and allocate substantial additional budget lines for the implementation of this process.
- In particular, it should be noted that the Spanish Government has recently included a budget line in the General State Budget for the year 2023 of EUR 8,375,000 allocated to the *Cañada Real* Rehousing.
- It should also be pointed out that the General Action Protocol for the Extraordinary Rehousing Plan in the *Cañada Real Galiana* is in the process of being approved, with the participation of representatives of all the Public Administrations affected.

This protocol involves an extraordinary economic contribution to attend to the actions aimed at the social preparation and subsequent rehousing and integration of those families that meet the conditions required for access to housing; as well as the necessary updating of the *Social Study on the Cañada* conducted by the Social Housing Agency in 2016, in order to be able to carry

out an appropriate action strategy with more up-to-date information on the families living in the *Cañada Real Galiana*.

The rehousing process would include the acquisition of housing, compensation, social support and other necessary and directly related expenses. Its cost and distribution among the intervening administrations will be established in the regulatory development of such protocol, with an initial estimate of EUR 330 million at a rate of EUR 110 million for each of the three levels of administration involved, and proportional to the number of families rehoused in each municipality.

Attached as **ANNEX 13** is a report from the Subdelegation of the Government explaining all the actions carried out

- Adoption of many different types of measures to alleviate the negative effects of the situation of lack of electricity through the grid in the case of residents in Sector 6, until such time as they are relocated;
- Offering provisional temporary housing solutions for specific dates during the *Cold Weather Campaign*, which can be used by families who have not been provided with alternative solutions to the electricity supply through the grid, such as sources of light and heat.

It is striking that the Collective Complaint only refers to the application of an allocation of EUR 5 million for the implementation of the rehousing process, when all the measures mentioned are public and well-known to all the residents of Sector 6.

87. In addition to the aforementioned measures, specific actions and measures have been adopted in certain areas -such as education and health- to address the specific problems that may arise from the lack of electricity supply in homes. We will deal with them in the following sections when assessing the specific violations denounced, complementary to the violation

of the right to housing which, as we have pointed out, is the main violation denounced by the complainant organisations, and the others stemming from it.

88. The various 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 undertaking a number of measures to avoid the negative consequences of the lack of access to the electricity supply network.

In view of the above, we believe that there is no reason to consider that the Spanish authorities and public authorities have acted contrary to the right recognised in Article 31.1 of the Revised European Social Charter.

3. The right of the family to social, legal and economic protection (Article 16)

89. The Collective Complaint mainly raises the following grounds on which the actions taken by Spain are not in conformity with the Charter:

- The lack of electricity affects the right to housing of an adequate standard and, accordingly, this affects the right to the protection of family life.
- The lack of participation of civil organizations in decision-making and policies affecting the neighborhood of Sectors 5 and 6.

90. The concept of adequate housing is identical under Article 31 and 16¹⁶. Concerning the right to housing of an adequate standard, we refer to the provisions under Article 31.

91. The Committee notes that Article 16 requires the views of families to be taken into account when adopting all the measures and policies affecting

¹⁶ Centre on Housing Rights and Evictions (COHRE) v. Italy, Complaint No. 58/2009, Decision on the merits of 25 June 2010.

them. In turn, measures to be adopted in the framework of housing policy must take into account the specific needs of families

92. As stated from the outset, within the framework of the *Regional Agreement for the Cañada Real Galiana*, a number of collegiate coordination bodies were set up, in which the participation of political representatives, public administrations and social agents such as neighbourhood associations and social entities is structured and ensured. A total of thirteen collegiate bodies were created and are still in operation today.
93. The Assembly is designed as the body for the participation of the 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.
94. 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 of each of the social entities that actively participate in the area and are duly registered
95. The Agreement of the Monitoring Commission for the Regional Agreement for the *Cañada Real Galiana* dated 28 June 2017, adopting the rules for the organisation and functioning of the Assembly and the Executive Committee of the *Cañada Real Galiana* is hereto attached as **ANNEX 20**.
96. Apart from the representation of the social entities in the abovementioned bodies, in order to make the right to participation and transparency effective, there are several "relationship areas" that meet periodically (monthly). These are, among others, the "Nucleus" or the entities and communities networks in Sectors 2 to 5 and Sector 6.
97. With regard to the obligation to satisfy the specific needs of families in the framework of the decisions affecting the housing policy, 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.

98. The Action Plans to develop a programme on rehousing and social inclusion for families in a situation of special vulnerability in Sectors 4, 5 and 6 drawn up by the Madrid City Council and Rivas-Vaciamadrid Council (ANNEXES 6 and 7) clearly state that the uniqueness of these rehousing programmes lies in the fact that they focus on the extreme vulnerability of the families living in the Cañada Real. The social services are in charge of 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.

These situations of severe vulnerability shall be assessed jointly in view of the following circumstances:

- Family units whose limited financial income seriously hinders the coverage of their basic needs and access to housing on the free market.
- Family units in a situation of isolation due to the absence of a social and family support network that aggravates the situation of social exclusion.
- Family units in which some of their members have a recognised disability and/or dependency, as well as serious accredited health situations that are especially aggravated by the living conditions of the dwelling.
- Single-parent families with dependent minors.
- Women victims of domestic abuse.
- Family units involved in their process of social integration and who are undergoing a process of social support in their Social Services Centre of reference.
- Other unforeseen circumstances assessed by Municipal Social Services that aggravate the abovementioned risks factors.

The needs and hardship that rehoused families may experience are also taken into account during the rehousing process and afterwards, once they are settled in their new home.

99. The families living in the *Cañada Real* who are included in the rehousing programme are incorporated to a programme carried out by social workers and/or educators aimed at guaranteeing the support and guidance that will make it possible for these families to adapt to their new home and become properly integrated into their new environment.

This support programme is fully explained in the abovementioned Action Plans to develop a rehousing and social inclusion programme for families in a situation of special vulnerability living in Sectors 4, 5 and 6, drawn up by the Madrid City Council and the Rivas-vaciamadrid Council.

4. The right of children and young persons to social, legal and economic protection (Article 17 ESCharter)

100. The arguments made in section F of the Complaint (page 69 et seq.), in particular with regard to the violation of the right that children and young persons have the care they need (Article 17.1.a of the Charter) and the right to protection against negligence and violence (Article 17.1. b of the Charter) are answered by what has been explained above, by explaining how 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.
101. With regard to the right to education, the complainant organisations argue that the situation resulting from the power outages has led to a violation of the right to education of the children living in the *Cañada Real*, since: “*The State has failed to guarantee that the children and young persons concerned can access to the internet or have adequate lighting to do their homework, especially since they belong to vulnerable groups of population.*”

102. However, as indicated in the report presented by the Government Commissioner for the *Cañada Real Galiana* of 15 December 2022, the right to education of minors is covered by the following general mechanisms:

- The placement of minors in public or publicly funded (subsidised) centres for the care of students from the first cycle of nursery education to higher vocational training, depending on their place of residence, both in Madrid and in Rivas Vaciamadrid.

In particular, the Report presented by the Directorate General for Subsidised Education, Scholarships and Study Aids, which we provide as ANNEX 8, describes the efforts to guarantee schooling in the area and avoid late schooling; notably, the agreements with the Montemadrid Foundation's "Alfredo López" and "Javier García Pita" nursery schools, which collaborate with the Regional Ministry of Education to care for children in nursery education in *Cañada Real*, who have dropped out of school in a situation of social emergency.

- The existence of additional resources of support teaching staff, in particular for pupils who do not know the language, who have joined the education system late, who are behind in the curriculum and who are at a socio-educational disadvantage.
- A system of scholarships and grants from the Community of Madrid, with the aim of guaranteeing equal opportunities for students, especially those who are financially disadvantaged.

103. In addition, specific support and monitoring measures have been adopted for students living in *Cañada Real*.

104. Moreover, as specified in the Report presented by the Directorate General for Pre-school, Primary and Special Education (**ANNEX 9**) and that of the Directorate General for Secondary, Vocational Training and Special Regime Education (**ANNEX 10**):

- a) In particular, **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;

b) Other measures have been taken to encourage the integration, retention and promotion of pupils from sectors 5 and 6 of *Cañada Real Galiana* in the education system, which have ensured that most of the students are enrolled in mainstream education with the collaboration of the Social Services.

c) Those measures are also complemented with other resources so that the pupils of *Cañada Real Galiana* can follow a normalised schooling.

All of this includes 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. All of this to guarantee schooling, prevent absenteeism and school dropout, and facilitate the development and personal autonomy of students.

105. Likewise, the reports drawn up by the territorial area directorates of Madrid Capital (**ANNEX 11**) and Madrid - East (**ANNEX 12**) in which the children and adolescents of the Cañada attend school, both in the compulsory (primary and secondary) and non-compulsory (infant and baccalaureate) schooling stages, highlight the specialised monitoring of the schoolchildren living in the Cañada and the multiple resources used for their adequate schooling (educational compensation teachers, office equipment, school routes, etc.). In particular, **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. Information is also provided on students attending special education centres at different educational stages.

106. In addition, the work carried out in these matters by the social services of the City Council should also be taken into account, and which also serve the purpose of the comprehensive protection of minors.

Attached is a report from Madrid City Council (**ANNEX 2**), updated as of November 2022, explaining the actions taken in social matters. In particular, regarding the protection of minors, we can highlight the measures included in the social and educational section in section II.A of the report:

- **The Project to support social intervention with families in Sector VI of Cañada Real (Vallecas District) and the Social Intervention Project in Cañada Real (Vicálvaro)**, which includes socio-educational activities with minors (support and reinforcement at school, leisure and free time activities).
- **The Agreement with *Asociación Barró* for Social Care and Mediation**, through which, among other tasks, educational reinforcement and healthy leisure activities are carried out with children and adolescents in Sector 6.
- **Social Education Service**. Its aim is to support families by advising them on the upbringing and education of their children, as well as on social, educational, health, cultural and leisure rights and resources. This support also includes actions aimed at improving family coexistence and reducing difficulties and relational problems, integration or social isolation in order to promote the development and personal and social well-being of all members of the family unit. It is aimed at children under 18 and their families. They carry out individual and family actions, ideally at home, interviews and accompaniment to resources that favour personal development.
- **ASPA Programme (Socio-educational and Pre-employment Support for Adolescents)**. The aim of this programme is to carry out a number of different actions aimed at compensating personal, family and social deficits present in adolescents and young people who are at risk or in a situation of social conflict. Five lines of action are carried out: (1) socio-educational support, (2) personal autonomy and transition to adult life, (3) support for adolescent parents, (4) prevention of violence and (5) pre-employment support.
- **Child Care Centres in the Districts of Villa de Vallecas and Vicálvaro**. These are second level social services that provide psychosocial care and social education to children and adolescents and their families; they are part of the municipal network for the protection of

minors in Madrid. They contribute to the assessment and intervention of situations of serious risk of lack of protection and presumed neglect of minors residing in the municipality. They provide interdisciplinary psychological, social and educational care.

- **Framework Programme for the Prevention and Control of School Absenteeism.** This is carried out within the framework of the collaboration agreement between Madrid City Council and the Community of Madrid for the prevention and control of school absenteeism. The aim of this programme is to guarantee the regular attendance of students at educational centres in the stages of compulsory schooling (6-16 years), as well as with a preventive character, in the second cycle of Childhood Education in publicly funded centres (3-6 years).
- Participation in the **Board of Education**, promoted by the Regional Administration and in which the Government Delegation in Madrid participates, with the aim of finding out about the school reality of children and adolescents in *Cañada Real*.

5. The right to protection against poverty (Article 30.1)

107. Article 30 requires States to adopt measures to ensure the right to protection against poverty and social exclusion, within the framework of an overall and co-ordinated analytical approach, as well as a set of priorities and relevant measures in order to prevent and remove obstacles to access to social rights, in particular, employment, housing, training, education, culture and social and medical assistance.

108. Thus, within the framework of this provision, account is taken of measures adopted which relate to other rights under the Charter and which are also alleged in this Complaint. However, a finding by the Committee that a measure or practice does not conform to a substantive right does not automatically entail a violation of Article 30¹⁷.

¹⁷ European Committee For Home-based Priority Action for the Child and the Family (eurocef) V. France, Complaint No. 114/2015 (183-184)

109. The Complaint refers to only two measures taken by the public administrations: the creation of an Interministerial Committee composed of the Ministry of Social Affairs and Agenda 2030, the Ministry of Transport, Mobility and Urban Agenda and the High Commissioner for the fight against Child Poverty and the Housing Plan.
110. Regarding the first of them, it is argued that the Interministerial Committee is the only coordination mechanism created by the public administrations and that, prior to its creation -in September 2021- no other formal coordination mechanism existed between administrations and interested parties.
111. This statement is not true. As has been detailed under Article 16, the *Regional Agreement for the Cañada Real Galiana* created thirteen collegiate bodies, with representation from all public administrations and civil society.
112. The Complaint raises, once again, the lack of adequate and sufficient resources foreseen in the Rehousing Plan, which consequently affects the effectiveness of the plan itself. It identifies as a measure adopted the direct subsidy of EUR 5,000,000 granted by the Spanish Government through the Ministry of Social Rights and Agenda 2030 to the City Councils of Madrid and Rivas Vacia-Madrid.
113. As has been explained throughout the present submission, the mobilisation of financial resources by the public administrations has not only consisted of the direct subsidy granted to these two municipalities.
114. The Collective Complaint alleges that as a consequence of the above, and therefore of the failure to adopt sufficient measures, the situation of poverty and social exclusion of the inhabitants of the *Cañada Real* has increased.
115. Without prejudice to the fact that the State does not deny the existing situation of vulnerability and social exclusion in which the inhabitants of the *Cañada Real* may find themselves, this is prior to October 2020. This is also stated in the Collective Complaint (“342. *Indeed, the lack of electricity has only deepened the spatial and social segregation already existing in the Cañada Real in a manner contrary to the Charter.*”.)

116. However, the Complaint does not provide statistical data that would allow us to assess and appreciate an increase in poverty and exclusion due to the specific reason of the lack of electricity supply, and therefore an increase since October 2020.
117. Without prejudice to the foregoing, **the various public administrations have adopted social measures aimed at alleviating the effects of the lack of electricity supply to the inhabitants of the Cañada Real.**
118. **We refer to the report of the Madrid City Council provided as Annex 2,** which explains the actions taken in social matters. We can highlight the following data:
- In the District of Vallecas (Sector 6) the number of social histories currently open has increased (in 2021 there were a total of 799, now 832). The aid offered is grouped into two categories: family cards and other aid.
 - The funds allocated to social assistance has increased compared to 2021, when the amount allocated was EUR 72,280. In 2022, the amount was EUR 92,857.78.
 - In the District of Vicálvaro (Sector 2 to 5) the amount earmarked for social aid has also increased compared to 2021, when the amount allocated was EUR 79,942.52. In 2022, the amount was EUR 150,185.28.
119. Attached as **ANNEX 14** is a report from the Directorate General for Social Services of the Family, Youth and Social Policy Department of the Community of Madrid explaining the measures adopted for social care and assistance in individual, family and collective emergency situations. There is a collaboration agreement for the development of primary social care and other programmes by the municipal social services for 2022. Among the primary social care actions taken, the "Social Emergency Programme" includes the granting of economic and/or in-kind benefits in the area of housing and energy poverty, the purpose of which is precisely the granting

of specific aid for the payment of rents and current expenses derived from the maintenance and upkeep of housing, and for the payment of electricity and gas bills for households in a situation of energy poverty.

120. Subsidies have been called for the implementation of social programmes of general interest, charged to the general budgets of the Community of Madrid, to 0.7% of the yield of personal income tax and corporate income tax and to the Corresponsables Plan, within the scope of the Self-governing Community of Madrid. This year, within the *Programme G. Social insertion in certain areas, the Sub-programme 6 Population of Cañada Real territories and shantytown settlements*, which includes programmes aimed at the protection of particularly vulnerable groups in the *Cañada Real* territories and other shantytown settlements for the promotion of their personal and social wellbeing, as well as their labour and social insertion, has been included.

121. Concerning the Madrid City Council, an Agreement has been signed for the granting of emergency aid to families in vulnerable situations due to the impact of the COVID 2022-2021 addressed to the Madrid City Council, and 100% financed within the framework of the REACT-EU resources for the Community of Madrid's European Social Fund (ESF) operational programme (OP), signed in April by the responsible of the Regional Department for Family, Youth and Social Policy.

The purpose of this agreement is precisely the financing of social emergency financial aid and temporary financial aid aimed at personal integration, as part of the functions carried out by the municipal social services centres within the framework of Primary Social Care.

122. With regard to the Rivas-Vaciamadrid Council, an Agreement has been signed for the granting of emergency aid to families in vulnerable situations due to the impact of COVID 2022-2021, the purpose of which is identical to the previous agreement signed with the Madrid City Council. It also has a collaboration agreement for the development of primary social care and other programmes by the social services of the local entities for 2022, which replaces the previous agreement for 2021.

123. Attached as **ANNEX 15** is a report from the Directorate General for Integration of the Regional Department of Family, Youth and Social Policy of the Community of Madrid which details both the number of recipients of the minimum insertion income and the economic investment for 2022. Statistical data on the number of recipients in 2022 is attached as **ANNEX 16**.

The Report presented by the Directorate General for Integration also sets out the funding granted to different social entities for the development of socio-labour insertion projects in the *Cañada Real* in the period 2020-2022.

An example of this is the ICARO project being developed by the *El Fanal* Association. The aim of this project is to offer comprehensive training to all residents of *Cañada Real Galiana* who are recipients of the minimum insertion income in order to promote labour market insertion in the area. The beneficiaries are mainly men and women of Roma population as well as of Moroccan origin, which is the majority in the *Cañada*.

6. The right of elderly persons to social protection (Article 23)

124. The collective complaint highlights the special impact that the lack of electricity supply has on this specific group of persons, which prevents and/or hinders their right to be full members of society, as well as the lack of sufficient resources to protect their right to health and their right to adequate housing.

125. Without prejudice to the fact that the measures explained throughout this document are also applicable to the elderly, we can highlight, as a specific example, that 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 the *Cañada Real*. There is a specific programme aimed at supporting elderly persons¹⁸.

¹⁸ Report presented by the Directorate General for Social Services of the Community of Madrid.

126. With regard to the claims on the lack of adequate resources for health protection, we refer to what is explained hereunder in the framework of Article 11.1 of the Charter.

7. The right to protection of health (Article 11.1 ESCharter).

127. With regard to the alleged violation of the right to protection of health of the inhabitants of the Cañada Real due to the consequences of the power outages, in addition to what has already been stated earlier in the present observations, the following should be added:

128. As stated in the Report presented by the Commissioner of the Government of the Community of Madrid, and developed in the Report presented by the responsible for the Regional Department of Health Care and Public Health (**ANNEX 17**), the inhabitants of Cañada Real Galiana enjoy, like the rest of the Spanish citizens, universal and free health care.

129. A number of resources have been deployed to guarantee this right, including 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.

130. As regards Hospital Assistance, the reference hospital in the area in question, namely the Infanta Leonor University Hospital, notes that 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: there is an intervention team for the excluded population (EIKE, by its Spanish acronym), made up of a family doctor, a nurse and a driver, based at the *Ensanche de Vallecas* health centre, which travels to the *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, carrying out a total of 12,488 consultations in 2021 (latest data).

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 in which it operates.

132. As specific resources, in the area of mental health, and within the framework of health care for drug addicts, there is a mobile service that provides assistance on a daily basis, with its main intervention scenario being the Valdemingómez settlement located in Sector 6. Some other programmes have also been developed from the public health area aimed at specific social groups such as the Roma community, for instance, 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.
133. Moreover, account should be taken of the work done in these areas by the Social Services of the Madrid City Council, which also serves the purpose of health protection, accessibility and effectiveness of such protection. The report of the Madrid City Council, to which we have referred earlier in the present observations, in particular in the area of health protection, highlights the following:
- Harm Reduction Centre. This is a service that offers psychosocial care through the provision of basic services (food, hygiene, wardrobe...), treatment support, harm reduction and personal and relational support to people with active addictions and with significant biopsychosocial deterioration living in Sector 6. It is provided through the *Fundación Salud y Comunidad* [Health and Community Foundation] at an annual cost of EUR 265,334. In 2021, a total of 25,951 admissions/attendances were made at the centre.
 - Training for intervention in the presence of vectors: rats, bedbugs, fleas, etc.
 - Waste cleaning service:

The social measures listed in section III.A. of the report include specific measures which also aim, among other purposes, to protect the health needs of the residents of *Cañada Real*. For example:

- The Agreement with the *Barró* Association for social care and mediation covers, among other activities, social care for families through home visits: three female mediators -a Moroccan, a Romanian and a Spaniard from the Roma community- will carry out street intervention and home visits to families in Sector 6, severely excluded and disconnected, to collect demands, attend to special needs, emergency situations, health, advice on rehousing or provide information, among others, in particular to those families who are not in contact with other entities, or assist them in accessing resources, etc.
- Social Education Service. Its objective is to support families by advising them on the upbringing and education of their children, as well as on rights and social resources, including health care.

8. The right to protection of persons with disabilities

134. According to the complainant organisations, the lack of access to power supply has particularly affected persons with disabilities living in *Cañada Real Galiana*.
135. In response to this, it should be recalled that all the authorities concerned have not only adopted the appropriate measures to protect the rights and needs of the residents of the *Cañada Real*, including specific measures to alleviate the consequences of the lack of power supply, but have also mobilised -and are still doing so- significant resources and other measures to meet the needs of the most vulnerable groups, including persons with disabilities.
136. The Report presented by the Government Commissioner of the Autonomous Community of Madrid¹⁹ states how, in particular, the Directorate General for the Care of Persons with Disabilities, attached as **ANNEX 18** hereto, reports on **specialised social care for the elderly or persons with disabilities**, in order to offer them the most appropriate resources for their personal and family circumstances, and requires, as established by the National System

¹⁹ Report presented by the Madrid Regional Government's Commissioner for *Cañada Real Galiana*, pages. 11-14

for Autonomy and Care for Dependency, a prior assessment process of these circumstances. 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, instead of through the call centre, and the assessment teams visit the area.

137. **The recognition of dependency status allows access** to 52,000 places in homes for the elderly; more than 14,400 places in specialised social care centres for adults with disabilities; more than 6,850 places in the network of care for people with severe mental disorders, and the 41 early care centres that provide specialised care for children with developmental disorders and impairments. Specialised social care for children and adults with disabilities is also free of charge in the Self-governing Community of Madrid.

In addition to the general system of care for people with disabilities, other specific measures have been adopted to support people with disabilities living in *Cañada Real*. For instance, the call for grants for 2022 for the implementation of social programmes of general interest, financed from the budget of the Community of Madrid, 0.7% of the income from personal income tax and the Joint Responsibility Plan [Plan Corresponsables]. This year, among the aid programmes, a specific sub-programme for financing projects addressed to the “population of the *Cañada Real* territories and other shantytown settlements” has been included, with specific programmes aimed at the inclusion of people with disabilities, promotion of their personal independence and support for labour insertion²⁰.

9. The right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex, and the right of workers with family

²⁰ Report presented by the Directorate General for Social Services of the Community of Madrid.

**responsibilities to equal opportunities and equal treatment
(Articles 20 and 27 ESCharter)**

138. The authors of the Complaint allege that the lack of access to electricity supply has particularly affected working women, who are the ones who usually assume family responsibilities.

139. In this regard, we must once again bring up the set of measures that have been set out throughout the present observations and which seek both to protect any families in need, including families residing in the *Cañada Real*. Such measures also have the effect of protecting the situation of working and non-working women who also have family duties.

140. Without claiming to be exhaustive, the following mechanisms have already been developed above:

1. The system of economic benefits articulated by the social security system such as the "minimum living income" or the "non-contributory social disability and old age pensions"; as well as the data of the "minimum insertion income"²¹.
2. Socio-occupational insertion projects developed in areas including *Cañada Real*, which are detailed in the Report presented by the Directorate General for Integration²², which include specific programmes for socio-occupational insertion with the population in a situation of vulnerability, including gender approaches.

And the specific measures adopted by Madrid City Council to protect families affected by the lack of electricity in Sector 6. These include: (a) primary social care measures, which include family cards and other aid aimed at covering the basic food and hygiene needs of beneficiary individuals and families; (b) specific resources and services through the signing of an agreement with the Madrid Diocesan Caritas organisation, which include actions such as the distribution of firewood, butane bottles,

²¹Together with the data from the Report presented by the Madrid Regional Government's Commissioner dated 15 December 2022. Pages 11-14

²² Report presented by the Directorate General for Integration of the Community of Madrid.

petrol cards and a weekly laundry service; (c) and social emergency resources.

141. Moreover, the work of the City Council's social services in these matters should be taken into account, which also serve to promote effective equality for groups at risk of exclusion. Attached is a report from Madrid City Council (**ANNEX 3**) updated as of November 2022 explaining the actions in social matters. In particular, regarding the protection of minors, we can point out the social and educational measures included in section II A of this report, namely:

- The activity of the **Social Services Centres of the Districts of Villa de Vallecas and Vicálvaro**. They constitute the basic unit or facility where Primary Social Care services are provided (information and guidance on Social Services and other social protection systems; social counselling; social support and monitoring; attention to situations of social unprotection; management of social services and aid; community social work. The report details, for each district, the aid managed in terms of family cards and economic aid to cover the basic food and hygiene needs of the recipients and families.
- The abovementioned **Agreement with the Barró Association for social care** and mediation through mediators in Cañada Real and other urban clusters in the city of Madrid, aimed mainly at the population living in Cañada Real, specifically in Sector 6, District Villa de Vallecas, to promote the rights of its inhabitants, access to resources and equal opportunities in education, health, social, cultural, housing, transport, employment or social services due to the situation of social exclusion and multiple difficulties that families face on a daily basis in this area. Activities such as social care for families are organised through home visits (street intervention and visits to the families in Sector 6, who are severely excluded and disconnected, to collect demands, attend to special needs, emergency situations, health, advice on rehousing or provide information, in particular to those families who are not in contact with other entities, or assist them in accessing resources, etc.). Actions in the field of Equality and against gender violence through the Municipal Network of Equality Spaces by means of workshops and training

activities. Once a month, through the María Moliner Equality Space, a lawyer travels to Cañada to provide legal advice.

- **Social Education Service.** Its aim is to support families by advising them on the upbringing and education of their children, as well as on social, educational, health, cultural and leisure rights and resources. This support also includes actions aimed at improving family coexistence and reducing difficulties and relational problems, integration or social isolation in order to promote the development and personal and social well-being of all members of the family unit. It is aimed at children under 18 and their families. They carry out individual and family actions, preferably at home, interviews and accompaniment to resources that favour personal development

- **Children's Day Centre located in Sector 6 of Cañada Real.** It is organised through a Collaboration Agreement signed with the Red Cross. The total amount foreseen for this Day Centre is EUR 188,600.27, of which EUR 123,164.79 corresponds to funding from the City Council and the remaining EUR 65,435.48 corresponds to the Red Cross' own funds. The aim of this socio-educational programme is to support the **reconciliation of family and work life**, as well as to avoid the risk factors that the prolonged absence of parents and guardians can cause for children, while also encouraging the development of social skills, the acquisition of values, rules, limits and mutual respect.

10. Claims on the violation of Article E of the Charter.

142. Finally, it should be noted that the Complainants, in invoking the alleged violation of the rights recognised in the Charter, also consider that there has been a violation of Article E. They essentially rely on general considerations that the consequences of the lack of electricity supply have disproportionate effects on certain vulnerable groups.

143. On the one hand, these allegations in relation to Article E do not provide specific data on persons or groups of persons who have actually been

treated in a discriminatory manner by the Spanish authorities in relation to other groups in the same situation, either directly or indirectly²³.

144. On the other hand, in addressing each of the rights invoked, it has been specified how: (a) the Spanish authorities have put in place a wide range of means to protect these rights, which can be accessed without any discrimination; and furthermore (b), these protection mechanisms have included measures aimed at addressing the specific needs of vulnerable groups or collectives among the residents in the Cañada Real.
145. Therefore, it must be concluded that there has been no violation of Article E in relation to the enjoyment of the rights recognised in the Charter.

III. FINDINGS

- The problem of lack of access to electricity supply through the grid is exclusively focused on Sector 6 of *Cañada Real Galiana*.
- From a technical point of view, is unfeasible to provide electricity to the dwellings in Sector 6, which have neither the necessary legal permits nor the necessary infrastructure, without endangering the safety and lives of their inhabitants.
- The Action Plan taken by the Spanish public administrations to resolve the situation of these illegal settlements, in particular concerning Sector 6, which currently has no access to electricity, does not involve the replacement of the electricity supply, but rather the effective implementation of the Rehousing Plan in alternative housing with the conditions of health and provision of services necessary for access to quality housing, as provided for in the Revised Social Charter.

²³ For example, in Collective Complaint no. 110/2014 International Federation for Human Rights (FIDH) v. Ireland, the Committee rejected allegations of a violation of Article E in conjunction with Article 16 for failure to provide evidence clearly demonstrating such direct or indirect discrimination in the public decisions taken.



The competent Spanish authorities and public administrations are working actively and in a coordinated manner on the implementation of the aforementioned Rehousing Plan, currently still in the execution phase, with a significant increase in funds and budget allocations to be applied for this purpose.

- At the same time, the Spanish public administrations concerned have undertaken a series of social actions in order to mitigate the impact on the human rights of the inhabitants of Sector 6 due to the situation resulting from the lack of electricity.

Accordingly, the following is respectfully REQUESTED from the Committee:

1. To deem the Kingdom of Spain's observations on the merits of the collective complaint to have been submitted, together with all the documentation and information forwarded by the competent public authorities.
2. To declare that neither the right to housing recognised in Article 31 of the Revised European Social Charter nor any of the remaining rights additionally cited by the Complainants have been violated by Spain.
3. Furthermore, the Kingdom of Spain holds that, for the Committee to be able to give a well-founded opinion, it must be fully aware of the situation complained of. Thus, the Committee's members are invited to travel to Madrid, so that they can have the opportunity to visit Sectors 5 and 6 of the *Cañada Real Galiana* on the ground.

Madrid for Strasbourg, 15 December 2022

The Agent of Spain

The Co-Agent of Spain

Alfonso Brezmes Martínez de Villareal

Heide-Elena Nicolás Martínez

TO THE EUROPEAN COMMITTEE OF SOCIAL RIGHTS

Annexes

Annex 1. Report presented by the Madrid Regional Government's Commissioner for the *Cañada Real Galiana*.

Annex 2. Report presented by the Madrid City Council on social actions taken.

Annex 3. Report presented by the Madrid City Council on mitigating measures for the lack of power supply.

Annex 4. Report presented by the Madrid City Council on rehousing actions taken.

Annex 5. Report presented by the Rivas Vaciamadrid Council on rehousing actions taken.

Annex 6. Action Plan drawn up by the Madrid City Council for developing a rehousing and social inclusion programme.

Annex 7. Action Plan drawn up by the Rivas Vaciamadrid Council for developing a rehousing and social inclusion programme

Annex 8. Report presented by the Directorate General for Subsidised Education, Scholarships and Study Aids

Annex 9. Report presented by the Directorate General for Pre-school, Primary and Special Education.

Annex 10. Report presented by the Directorate General for Secondary, Vocational Training and Special Regime Education

Annex 11. Report presented by the Directorate General for the Territorial Area of Madrid Capital - Education

Annex 12. Report presented by the Directorate General for the Territorial Area of East of Madrid - Education

Annex 13 - Report presented by the Sub-delegation of the Government on the actions carried out by the Government Delegation in Madrid in relation to the *Cañada Real*



Annex 14. Report presented by the Directorate General for Social Services of the Self-governing Community of Madrid

Annex 15. Report presented by the Directorate General for Integration of the Self-governing Community of Madrid

Annex 16. Report on the number of recipients of the minimum insertion income for the year 2022

Annex 17. Report presented by the responsible of the Madrid Regional Department of Health Care and Public Health

Annex 18. Report presented by the Directorate General for the Care of Persons with Disabilities

Annex 19. General State Budget 2023. Housing - Rehousing Cañada Real

Annex 20. Rules of organisation and functioning of the Assembly and Executive Committee. Regional Agreement for the *Cañada Real*.