



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

20 March 2023

**Case Document No. 5**

**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

**RESPONSE FROM THE COMPLAINANT ORGANISATIONS  
TO THE GOVERNMENT' SUBMISSIONS ON THE MERITS**

**Registered at the Secretariat on 15 March 2023**

**EXECUTIVE SECRETARY OF THE EUROPEAN COMMITTEE OF SOCIAL RIGHTS**

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**COLLECTIVE COMPLAINT**

No. 206/2022

DCI, MEDEL, FEANTSA, CCOO and ATD FOURTH WORLD

v. Spain

Violations of Articles 11, 15, 16, 17, 20, 23, 27, 30, 31 and E of the Revised European  
Social Charter in relation to the power outage in Sectors 5 and 6 of the Cañada Real  
Galiana

**OBSERVATIONS TO THE STATE'S ALLEGATIONS ON THE MERITS**

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## I. PROCEDURAL CONTEXT

1. On 21 March 2022, DCI, MEDEL, FEANTSA, CCOO and ATD FOURTH WORLD<sup>1</sup> (the “**Complainants**”) submitted a collective complaint before this Committee against the Kingdom of Spain (the “**State**”) in relation to the power outage which has been occurring in Sectors 5 and 6 of the Cañada Real (Madrid) since October 2020 and continues at present (the “**Complaint**”).
2. On 27 October 2022, the Committee notified the Complainants its decision (i) to declare the complaint admissible; and (ii) require the State to implement immediate measures to avoid irreparable harm to the victims of the reported violations.
3. On 18 January 2023, the Committee communicated to the Complainants the information provided by the State in relation to the immediate measures required by the Committee and the State's allegations on the merits of the case (“**Submission of the Government**” or “**SG**”).
4. The Complainants have been invited to submit observations in response to the Submission of the Government by 15 March.
5. Accordingly, the Complainants submit the below observations within the period set by the Committee.

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<sup>1</sup> 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

## II. STATEMENT OF FACTS IN THE SUBMISSION OF THE GOVERNMENT

6. This chapter addresses the statement of facts contained in the Submission of the Government (the “**Government’s Statement of Facts**” or “**GSF**”), which, in brief, can be summarized as follows:

- (i) Access to electricity in Sector 5 has been restored and there are no further problems<sup>2</sup>.
- (ii) The overloading of the network due to excessive consumption motivates the activation of safety protections which prevent the access to electricity in Sector 6<sup>3</sup>.
- (iii) The measures taken by authorities to counteract the negative consequences of the power outage have been (and are) sufficient and adequate<sup>4</sup>.

7. The Government’s Statement of Facts contains no data on the impact of the power outage on the affected population and does not question the severe consequences evidenced in the Complaint.

8. By this response, the Complainants will put the Government’s Statement of Facts under scrutiny and will provide additional factual information relevant to the Complaint. For this purpose, we will follow the below structure:

- A. Preliminary remarks
- B. General information about Cañada Real and, in particular, Sectors 5 and 6 in particular (*Sections 1 to 5 of the Government’s Statement of Facts*).
- C. Relevant facts related to the electricity network and the power outage in Sectors 5 and 6 (*Section 6 of the Government’s Statement of Facts*).
- D. Measures taken by Public Authorities to prevent harm to the affected population (*Sections 7 and 8 of the Government’s Statement of Facts*).

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<sup>2</sup> GSF. § 58

<sup>3</sup> GSF. § 50 and 57

<sup>4</sup> GSF. Sections 7 and 8

- E. Conclusions on the Government's Statement of Facts.
- F. Additional document about the impact of the power outage: the SIRA report.

**A. Preliminary remarks**

- 9. The State, through the GSF, confirms some particularly important facts:
  - i. No attempt to restore electricity in Sector 6 has happened since 5 March 2022. The State has not required and does not plan to require the electricity supplier to restore the electricity in the affected sectors.
  - ii. Neither the public authorities nor the electricity supplier have implemented any action aimed at improving, even temporarily or partially, the electricity network since October 2020 (when the power outage started).
  - iii. None of the measures planned by any agent relevant to this matter includes any action on the electricity network, or on assessing viable technical options to restore access to electricity.
  - iv. The extremely negative impact of the power outage in the affected population and in their rights is not denied, neither challenged, by the State. This should lead to conclude that all the evidence submitted with the Complaint and summarized in Section III.B therein should be considered admitted by the State and proven by this Committee.
  - v. Rehousing plans will not be completed, at best, until 2030, which means that, considering that no action on the electricity network is foreseen, the State is acknowledging and accepting before the Committee that most of the affected population will continue living without electricity for at least 8 more years.

**B. General information about Cañada Real (Sections 1 to 5 of the GSF)**

- 10. Section 1 of the Government's Statement of Facts contains no relevant information additional to that provided by the Complainants in relation to the history and particularities of the Cañada Real.



11. Section 2 of the Government’s Statement of Facts is focused on the 2017 Cañada Real Galiana Regional Agreement (the “**Regional Agreement**”), already described in the Complaint. The Government highlights two elements of the Regional Agreement: (i) participation of the affected population in the drafting process; and (ii) the rehousing of residents of Sector 6 as one of its main objectives.

12. As regards the participation of Cañada Real residents, the fact that some NGOs were consulted throughout the process does not mean that the affected population agreed on the final content of the agreement, which was exclusively subscribed by the relevant regional authorities. Neither, and most importantly, does it mean that the Cañada Real inhabitants share the way public authorities are addressing its implementation, as was shown in the Complaint<sup>5</sup>.

13. In relation to the rehousing of residents of Sector 6 as one of the objectives of the Regional Agreement, it's worth mentioning that the Regional Agreement only contains a generic reference to the fact that such rehousing should take place considering the specific needs of the affected population<sup>6</sup>.

14. Remarkably, Section 2 of the GSF does not cover the most relevant information of the Regional Agreement related to the Complaint, which is:

- that informal connection to the electricity supply network was formally acknowledged by the regional authorities; and
- that the agreement sets forth commitments to improve the living conditions of the inhabitants of Sector 6 of Cañada Real, in particular, to improve the neighbourhood’s infrastructure, including the “*[r]ehabilitation of the electricity supply*”<sup>7</sup>. See paragraphs 51 to 53 of the Complaint.

15. Section 3 of the Government’s Statement of Facts provides some details on the current situation of Sectors 5 and 6. In this section, the State does not mention any particular problem associated to Sector 5 and explains again how rehousing projects affecting Sector 6, which are further explained in Section 5 of the

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<sup>5</sup> Section C of the Facts of the Complaint.

<sup>6</sup> Regional Pact (Annex 6 to the Complaint). Slide 2

<sup>7</sup> Annex III to the Regional Agreement

Government’s Statement of Facts, are the solution agreed by the relevant public authorities.

16. Both statements will be covered in Section C below. Nevertheless, it is worth mentioning that the State does provide any information on the particular demographical configuration of both sectors, which is of great relevance for the assessment of the Charter violations submitted to consideration. The report produced by SIRA attached as Annex 1 and explained in Section F below provides additional valuable information on this regard.

17. Section 4 of the Government’s Statement of Facts covers the urban planning context affecting Sectors 5 and 6, which, according to the State, would prevent the affected area from being regularised and, thus, would limit the authorities’ options to execute adequate means to guarantee regular and legal access to electricity.

18. The information provided by the State in this section is partial and the conclusions reached therein inaccurate.

19. For context, the following table summarises the urban planning situation of the six sectors of Cañada Real:

<b>SECTOR</b>	<b>Land classification</b>	<b>Land qualification</b>	<b>Electricity</b>	<b>Water</b>	<b>Garbage collection</b>
<b>Sector 1</b>	Undeveloped Protected Land	Not defined combined with residential	Yes, with contracts.	Yes, with contracts	Yes
<b>Sector 2</b>	Undeveloped Protected Land	Green areas and open spaces	Yes, without contracts.	Yes, with contracts	Yes
<b>Sector 3</b>	Undeveloped Protected Land	Green areas and open spaces	Yes, without contracts	Yes	Yes
<b>Sector 4</b>	Undeveloped Protected Land	Green areas and open spaces	Yes, without contracts	Yes	Yes

<b>Sector 5</b>	Undeveloped Protected Land	Green areas and open spaces	Until October 2020. No regular supply since then	Yes	Yes
<b>Sector 6</b>	Undeveloped Protected Land	Green areas and open spaces	Until October 2020. No supply since then	Yes	Yes

20. Despite the fact that all sectors in Cañada Real are equally classified from an urban planning standpoint, not all sectors are affected by the rehousing project. For example, electricity has been fully regularized in Sector 1.

21. As regards the location of Sector 6 within the Southeast Regional Park, the Cañada Real Galiana Law 2/2011 already allowed the authorities to determine the use to be given, with no restrictions whatsoever<sup>8</sup>.

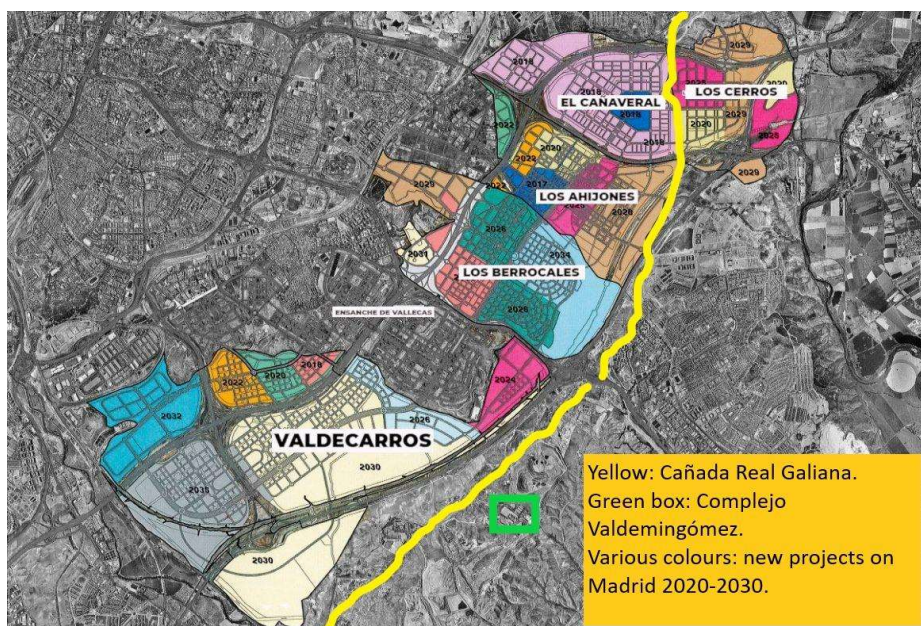
22. For reference, the Southeast Regional Park perimeter covers a surface area of 31,550 hectares, including 16 towns and municipalities and industrial centres. This means that the fact that sector 6 is partly within the Southeast Regional Park should not lead to conclude that electricity supply cannot be legalized, neither restored. If this were the case, the various urban centres would not have access to electricity either.

23. As regards the proximity of Sector 6 to the Valdemingómez waste treatment complex, it is worth mentioning that urban development projects are being executed in the area, such as the one projected in the Valdecarros neighbourhood, with 51,000 homes to be built in the next 10 years. Those houses will also be close to the Valdemingómez waste treatment complex and the authorities have not raised any objection in this respect.

24. The following map shows the new urban projects in different colours, as well as the location of Cañada Real Galiana and the Valdemingómez waste treatment complex:

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<sup>8</sup> Third additional provision. Law 2/2011, on Cañada Real Galiana



25. In any event, the information provided by the State does not preclude authorities from executing adequate measures to demand restoration of electricity in the affected area while rehousing initiatives are considered.

26. In Section 5 of the Government’s Statement of Facts, the State sets out in detail the multiple rehousing projects (planned and partially executed) that affect Sectors 5 and 6. This section is key to understand the State’s perspective on the problem arising out of the power outage.

27. The table below summarizes the impact of the rehousing projects extensively mentioned in the Government’s Statement of Facts (pages 14-16):

Instrument	Temporariness	Families to be rehoused	Sector	Budget
1.- Agreement between the Community of Madrid and Madrid City Council	2018-2019 (prior to power cut)	143	Sector 6 - unpaved area	18 million
2.- Agreement between the Community of Madrid and Madrid City Council	Signed in December 2021. Under implementation.	160	Sector 6 - between Incinerator and La Paloma Bridge	34 million

<b>3.- Agreement between the Community of Madrid and the City Council of Rivas</b>	Signed in June 2022. Under implementation.	15	Sectors 4 and 5	1.6 million
<b>4.- Subsidy from the Government of Spain for re-housing to the town councils of Madrid and Rivas-Vaciamadrid.</b>	Throughout 2022	Not defined	Sectors 4, 5 and 6	5 million

28. The first rehousing project took place before the power outage. People who were rehoused under such agreement are, consequently, not affected by the Complaint.

28. As regards the second project, according to the report produced by the Madrid City Council<sup>9</sup>:

*“ For its part, in the territorial scope of this Convention, the deadline for submitting applications began on 10 January this year (2022) and will end on 10 January 2023. **To date, 124 applications have been submitted, 66 dwellings have been awarded and 38 have been delivered.**”* (emphasis added)

29. The third project relates exclusively to sectors 4 and 5. Sector 4 is not affected by the Complaint and the agreement as a whole only covers 15 families. The report issued by the Madrid City Council<sup>10</sup> does not specify the degree of implementation of this program.

30. Moreover, in relation to the financial support provided by the Central Administration to the City Council of Madrid and Rivas Vaciamadrid City Council<sup>11</sup> for rehousing projects, the relevant reports state:

*As part of this Plan, the Madrid Municipal Housing and Land Company (Empresa Municipal de la Vivienda y el Suelo de Madrid) has acquired 17 dwellings for the re-housing of 17 families identified based on social vulnerability criteria, by the Social Services of the Vicálvaro and Villa de Vallecas. Of the total, **11 families come from sector 6, 4 from sector 5 and 2 from sector 4.** The handover of the homes will take place over the next 2/3*

<sup>9</sup> Annex 4 to the GO on the merits.

<sup>10</sup> Annex 5 to the GO on the merits.

<sup>11</sup> Paragraph 30 GO on the merits.

*months, with the following dates scheduled for the 7th and 9th of December (emphasis added).*

*As part of this Plan, the Municipal Housing Company (EMV) has acquired **12 dwellings** for re-housing for the relocation of the families identified by social vulnerability criteria, by the municipal Social Services that intervene in Cañada Real. The homes will be handed over during the first quarter of 2023.*

31. No mention is made in the Rivas Vaciamadrid City Council report to which sector the families belong to.

32. Additionally, while it is true that the General State budget State contains a budget line of 8,375,000 euros for the Cañada Real Re-housing Plan, the fact is that it does not specify in any way how these plan will be deployed, its scope or its timeframe.

33. Finally, the State refers to a future extraordinary rehousing plan to be implemented in the next 8-10 years period (2022-2030), for which 330 million euros are to be allocated.

34. The State claims that such programme will affect up to 1.631 families. Nevertheless, it is still a plan and no subsequent agreement with the regional authorities has yet been subscribed, which means that no short-term rehousing actions will happen.

35. Up to now, since October 2020, the number of families rehoused from sectors 5 and 6 have been **65**, out of 824 families affected in sector 6 alone and a total of 1236 families between both sectors (5 and 6).

### **C. Access to electricity and power outage in Sectors 5 and 6 (Section 6 of the GSF)**

#### *C.1. Access to electricity in Sector 5*

36. Contrary to the statement of the State, there has not been full electricity supply in Sector 5 since 2020.

37. The situation concerning the access to electricity in Sector 5 since October 2020 can be summarized as follows<sup>12</sup>:

- Since 27 October 2020, the supply was completely interrupted for approximately four months, with the population enduring the Philomena storm, which had a great impact on the physical and emotional health of the entire neighbourhood.
- From mid-February until April 2021, precarious recovery began, alternating electricity consumption by dwellings. Nevertheless, between the beginning of December and the end of April 2022 the entire supply was again suspended.
- From April 2022, as the total consumption of households decreased due to rising temperatures, permanent supply was restored once again due to the agreement reached by the neighbours to reduce consumption patterns.
- From mid-November 2022, with the drop in temperatures, the supply started to suffer interruptions again. Between mid-November and until January 2023, neighbours found themselves without power one day for every 2-3 days.
- Since January 2023, the power supply has been on alternate days.<sup>13</sup>

38. The videos attached as Annexes 6, 7, 8 and 9 graphically supports how power access limitations in Sector 5 affect neighbours' daily life. As an example, we translate below one of the neighbours' statements contained in the videos:

*“And we continue walking through Cañada. **Older people live in that house. It's an old couple. They must be at least 80 years old. And these people, do you think they don't need to have the light on, to have a little stove on? Of course they need to be warm, because they are old people. And what happens here, in the Cañada, what happens to the elderly? Have they been forgotten? They have all been forgotten, the children, the elderly, us.***

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<sup>12</sup> See certificates issued by Asociación Tabadol, Asociación AMAL, Asociación de Vecinos del Sector 5 and Parroquia Santo Domingo de la Calzada de as Annex 2,3,4 and 5.

<sup>13</sup> Certificates annexed as Annexes 2 to 5

*All of them. And here they only say that we do have light*”(own translation and emphasis added). (Annex 6 Video 1)

C.2. *Access to electricity in Sector 6*

39. The State acknowledges that no single person in Sector 6 has had access to electricity in the last 2 years and a half (since October 2020).<sup>14</sup>

40. As a preliminary issue, the State refers to the illegal nature of the connections to the energy grid. Such condition has never been denied by the affected population, who have been constantly trying to legalize their situation, although no public authority has accepted this kind of solution<sup>15</sup>.

41. Moreover, those informal connections to the electricity supply network have occurred since the creation of the neighbourhood, more than 50 years ago. No explanation is provided on why those informal connections are now for the first time a matter of concern for the authorities and the electricity company.

42. These same irregular connections happen in sectors 2, 3, 4 and 5. Despite this, all other sectors continue to receive energy supply.

43. In fact, irregular connections were never an obstacle to solve incidents due to overloads in the past. To this point, we refer to Annex 9 to the Complaint, which contains a certificate issued by a former Commissioner of Cañada Real Galiana of the Madrid City Council, which states:

*“During my mandate it was known and notorious that the inhabitants of Cañada Real Galiana had been irregularly connected to the distribution network of Unión Fenosa Naturgy for many years.*

*During my term of office I had to manage supply interruptions due to frequent overloads and breakdowns. On every occasion, the public administrations (Madrid City Council and the Community of Madrid) contacted the company Unión Fenosa-Naturgy so that the incident could be*

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<sup>14</sup> Para. 50 GO on the Merits.

<sup>15</sup> Paragraph 127 of the Complaint.



*fixed, which was done almost immediately” (own translation and emphasis added).*

44. The State links the fact that the connections are informal with the fact that those connections pose a great safety risk to the population living in Sector 6. In order to evidence such safety risk, the State provides two reports which would prove that current connections are not safe.

45. Preliminarily, by its very nature, informal connections do not comply with all the safety requirements which are mandatory from a regulatory perspective.

46. Nevertheless, none of the reports attached to the SG explains how those safety concerns could be addressed and/or solved.

47. The State just validates the energy company’s version of facts and does not explore whether and how safety problems could be solved, as requested by the concerned population living in Sector 6.

48. The only effective measure to tackle the safety problems is to improve the current network, which indeed seems a feasible and direct solution to the root cause of the problem that would not undermine the rehousing initiatives extensively mentioned by the State.

49. In fact, the improvement of the electricity network was already envisaged in the Regional Agreement:

*“Another priority of the Regional Pact is to guarantee the citizens of Cañada Real **an adequate supply of electricity. To this end, a network rehabilitation plan is being implemented in three phases:** 1.- Data collection, which will provide information on the current technical situation of the installation (underway in June 2018). 2.- Drawing up a project to adapt the electrical distribution installation in sectors 1 and 2, which will be supervised by Unión Fenosa based on the data collected.3.- Material execution of the project” (own translation and emphasis added).*

50. Network rehabilitation is, according to the Spanish Ombudsman, the cornerstone of the solution to the current situation<sup>16</sup>:

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<sup>16</sup> Defensor del Pueblo. *Recuperación Urgente de Suministro Eléctrico*. Madrid. Defensor del Pueblo, Defensor del Pueblo. Available at: <https://www.defensordelpueblo.es/resoluciones/recuperacion-urgente-del-suministro-electrico-en-los-sectores-5-y-6-de-la-canada-real-galiana-2/> (Accessed: March 15, 2023).

**“8. The Regional Agreement constitutes a firm political commitment for the public administrations, which also includes legislative commitments, including the commitment to initiate any other legislative changes of legal rank and regional competence necessary to achieve the objectives set out in the Pact. The commitments made in the Regional Agreement expressly include the "rehabilitation of electricity supply" (Annex 3, point 1).**

**9. In the Ombudsman's opinion, this commitment can only be met by providing the means to ensure that, from the outset, the residents of the Cañada Real Galiana can contract a legal electricity supply. It is also necessary that this legal supply meets the safety conditions established by law, i.e. with the levels of quality referred to in Article 51 of Law 24/2013, of 26 December, on the Electricity Sector”**(own translation and emphasis added).

51. Further, the Spanish Ombudsman recommends to:

**“1. Immediately and urgently adopt, in coordination with the competent State authorities for security and civil protection, a solution to resolve the lack of electricity supply in sectors 5 and 6 of the Cañada Real Galiana, for example, by installing generators to supply the population, or any other system suitable for this purpose.**

**2. Establish a framework for coordinated action to regularise the electricity supply in sectors 5 and 6 of the Cañada Real Galiana, thus guaranteeing the right to an accessible and legal electricity supply for as long as these people remain in their homes”** (own translation and emphasis added).

52. It is worth mentioning that none of the recommendations issued by the Spanish Ombudsman have been followed by the concerned public authorities.

53. Despite the above, the State (in Section 6.3 of the GSF) elaborates on the allegedly technical issue that would be preventing Sector 6 from having any access to electricity.

54. It refers to a report issued by UFD-Naturgy, which has not been provided in these proceedings, in which the energy company would state that consumption in

Sectors 5 and 6 would be even 7 times higher than normal electricity consumption in any Spanish house.

55. The Complainants contend that the State should not be able to rely on this report or its content, given that a copy of it has not been disclosed to the Complainants.

56. The State links the alleged overconsumption to the use of electricity in some households to grow marijuana plants. The State, once again, seems to consider that unlawful practices occurring in some houses are a valid reason for the State to fail to fulfil its responsibility not to unduly affect the basic rights of the population of the Cañada Real who have no connection with those practices.<sup>17</sup>

57. Furthermore, the State focuses on explaining how the protection system works and concludes that:

*“the lack of electricity supply in sector 6 is not due to the conduct of the distribution company, nor is it the result of a specific decision taken by the distribution company to stop supplying electricity in that sector, but rather is due to a purely technical issue, such as the overloading of the grid due to excessive consumption in that sector.”*

58. The State continues by stating that, if population in Sector 6 would have a “normal” consumption, they could have access to energy. In fact, without showing any documentary evidence to support such conclusion, the Government points that Sector 6 could access to 18,20 GWh/year (paragraph 57).

59. The State itself contradicts such a conclusion just a few paragraphs later<sup>18</sup>, at least from 5 March, where the State acknowledges the following:

*“[...] since 5 March 2022 the company has stopped trying to reactivate the supply of electricity in Sector 6.”* (emphasis added)

60. There is no explanation on how this statement relates to the activation of the overload protection mechanisms (presumably because there is none, and, simply

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<sup>17</sup> See CJEU judgement, 16 July 2015 (paragraphs 83-87), in case [Chez RB](#) for a valuable interpretation from a discrimination perspective

<sup>18</sup> Paragraph 61

put, UFD-Naturgy has stopped providing electricity to the grid to which all dwellings in Sector 6 are connected).

61. The State accepts that the protection systems should be “tared” at 60 Amps or 80 Amps (Sector 5 and 6 respectively) and provides no technical explanation on why these are the correct limits or whether any different limits could be safely set and the electricity restored, neither does it address which works could be done in the network to avoid safety risks.

**D. Measures taken by the State (Sections 7 and 8 of the GSF)**

62. Section 7 of the Government’s Statement of Facts covers the actions that the State is taking to address the situation. For this purpose, the State refers to (i) a report published by the DG Energy of the Government of Madrid; (ii) some police operations aimed at dismantling marijuana plantations; and (iii) the rehousing projects already addressed above.

63. As regards the DG Energy report, it only portrays problems arising out of the irregularity of the connections to the electricity line. It does not offer any solution, and, in fact, it states that the DG Energy “*cannot proceed to rehabilitate or order the rehabilitation of electricity supply for those petitioners who do not meet the legal and regulatory requirements set out in the regulations.*”

64. Regarding the operations carried out by police forces to dismantle marijuana plantations, they seem to have been effective. Nevertheless, there is no explanation whatsoever on why these operations, which following the State’s version of facts would eliminate the overconsumption that has motivated the power outage, have not had any impact in restoration of energy in the affected area.

65. Finally, in relation to the rehousing projects and its consequences, they have already been analysed in the preceeding paragraphs.

66. In Section 8 of the Government’s Statement of Facts, the State lists some social measures implemented to minimize the impact of the lack of energy supply.

67. The State claims that, during the two years and a half since the power outage, considerable financial efforts have been made to provide social coverage for the families of the Sectors 5 and 6 of the Cañada Real.

68. Those services include direct financial aid, the distribution of alternative energy sources (diesel, fuel oil, etc.) and the provision of a range of services to the population such as the provision of shelters in times of climate or health emergencies. We analyze them in detail below.

*Financial support to families*

69. This financial support does not seem to be connected with the electricity cuts. Complainants do not dispute its relevance and importance for the families living in Sectors 5 and 6, although the amount is clearly insufficient to cover any need related to the power cuts.

*Other resources and services*

70. The State indicates the existence of an agreement with the religious organisation "Cáritas Diocesana de Madrid", by means of which the organization would be funded with 300.000 € to be spent for distribution of firewood, butane bottles, cards to buy petrol for the generators and a weekly laundry service to some families in Sector 6.

71. This aid is valuable and the Complainants do not dispute the need for it. However, in view of the foregoing, they do not, on their own, neither when added to the other actions, represent a measure able to tackle the social emergency that has arisen from the power cut.

*Social emergency resources*

72. The State informs that, in the city of Madrid, there is an annual "Cold Campaign" aimed at the entire population in a situation of housing emergency, with a total of 462 places available in various shelters.

73. This project is aimed at the homeless population of Madrid. It does not target the population of Cañada Real, who do have a home and a roof, but suffer from a lack of electricity supply. Complainants are not aware that any family from any sector of Cañada Real has made use of the "Cold Campaign" shelters.

*Measures taken after the "Filomena" storm*

74. The State also mentions the special arrangements made by Madrid City Council during January 2021, following the "Filomena" storm that covered the city

with snow for three weeks (the biggest snowfall in the history of Madrid since 1971).

75. The facts of this Complaint relate to the continuing damage caused by the power cut that originated in October 2020 and continues to date, which means that this episode is not directly related to the subject matter of the complaint. Nevertheless, as regards the particular measures taken at that time:

Emergency shelter

76. Three shelters were indeed set up for the emergency accommodation of families in Sector 6. Nevertheless, it should be taken into consideration that, in January 2021, the Coronavirus pandemic was still very present and the population was not recommended to gather in closed places with people other than family members. Consequently, no families from Cañada Real opted for those shelters for reasons including the risk of Covid-19 infection.

Activation of an information convoy

77. The Complainants are unaware of the existence of this information convoy and we are unable to make current assessments. If it was set up at the time, it is certain that it does not exist currently.

Distribution of cookers, blankets, food and water

78. The Complainants acknowledge from the testimony of two families in Sector 6 that some distribution of these materials was made in the winter of 2020-21, but its extent and effectiveness are ignored.

Telephone number for families in Cañada Real

79. The Complainants acknowledge the existence of such a telephone, but point out that its service was limited to taking note of complaints from the population and providing information on available shelters or sending emergency devices in the face of the numerous falls, accidents, burns and poisonings that occurred in the winter of 2020-21.

80. Considering the above, it should be concluded that most of the measures mentioned by the State were deployed in the first winter without clear effect in view of the health damage reports provided in the Complaint.

81. Other measures are not directly related to the power cut but are part of the general public policy of social assistance for the city of Madrid. Others refer to actions that are practically unknown and for which no further information is provided.

#### **E. Conclusions**

82. The State has not denied not even challenged the extremely serious impact that the power outage had and is having in the affected population.

83. Notwithstanding the above, the State acknowledges in the GSF that no measure aimed at restoring electricity has been executed since October 2020. Moreover, the State clearly expresses that it has no intention to require any relevant agent (for example, UFD-Naturgy) to initiate any work in the electricity network aimed at recovering access to electricity in Sector 5 and Sector 6 households.

84. The State is also clear as regards the lack of measures towards legalization of the electricity access, as required by the affected population and by the Spanish Ombudsman.

85. Rehousing projects are the only significant measures mention in the GSF. The fact that just 67 families have benefited from these projects since 2020 and that the most impactful rehousing project is to be deployed in 8 years time is self-explanatory as regards the insufficiency and inadequateness of these projects to tackle the continuing violations of rights enshrined in the Charter which Sector 5 and Sector 6 population are suffering since October 2020.

86. The social measures allegedly aimed at alleviating the impact of the power outage are also clearly insufficient and inadequate to confront the humanitarian crisis created by the power cut.

87. In conclusion, the actions that have been taken and are envisaged to prevent violations of Articles 11 § 1, 16, 17 §§ 1 and 2, and 31 of the Charter, read alone and in conjunction with Article E, as will be covered in the following sections, do not meet the criteria set by this Committee.

#### **F. Relevant facts after the submission of the Complaint and the SIRA Report**

88. This section summarizes some important events that occurred after submission of the Complaint and are not mentioned in the GS:

- On 3<sup>rd</sup> March 2022, the Presidency of the Government of Spain sent a letter of reply to the Civic Platform of Cañada Real<sup>19</sup>, which indicated, inter alia, that the Government *"is sensitive to this dramatic situation and is committed to restoring the electricity supply as soon as possible, in order to improve the living conditions of all the families in Cañada Real Galiana"*. After detailing the measures adopted by the Government – which coincide with the ones in the GS - the letter goes on to say that *"it is painful, and we share your concern, that the electricity supply has not yet been restored, but the necessary steps are being taken, in coordination with the Public Administrations involved at regional and local level, so that specific actions can be taken in the near future to resolve the absence of this basic supply"*.
- The Ombudsman report dated 22<sup>nd</sup> November 2022<sup>20</sup> (the third since the power cut in October 2020) highlights the "passive role" of the Government Delegation in the Community of Madrid that, in the Ombudsman's opinion, is *"insufficient to resolve the serious humanitarian problem experienced by these people"*. The Ombudsman insists on the need to re-establish the electricity supply and to provide the means for the people living in the Cañada Real Galiana to contract it legally.
- Some parliamentary groups of the Assembly of Madrid (Socialist group, Unidas Podemos and Más Madrid) submitted a non-legislative proposal<sup>21</sup> urging the Government of the Community of Madrid to re-establish the electricity supply, to adopt measures that would allow the population to formalize contracts and to facilitate a participatory roundtable in which the

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<sup>19</sup> Annex 10.

<sup>20</sup> Defensor del Pueblo . *Cañada real Galiana. Madrid. Defensor del Pueblo, Defensor del Pueblo*. Available at: <https://www.defensordelpueblo.es/resoluciones/adopcion-de-medidas-para-asegurar-el-suministro-electrico-a-los-residentes-de-la-canada-real-galiana-2/> (Accessed: March 15, 2023).

<sup>21</sup> Proposición no de Ley (PNL 389/2022) available at the following link: <https://www.asambleamadrid.es/static/docs/registro-ep/RGEP24832-22.pdf>



neighbours of Cañada Real would be actively listened to. The motion was debated in the plenary session of the Assembly on 15 December and was rejected<sup>22</sup>.

- On 25 October 2022, some inhabitants of Sector 6 filed a complaint before the Madrid Criminal Courts against the Commissioner of the Cañada Real, due to the continuous harassment and pressure on the population to abandon their homes, as well as the environmental and health damage that they were suffering. Among these actions of harassment, 500 trucks a day dump earth and debris in the area, - an activity that was seriously affecting local residents, who also denounced that they were being isolated, cutting off roads and blocking their houses in what they saw as coercion to leave their homes.<sup>23</sup>.
- On the same issue, on 13 December 2022, the political groups Unidas Podemos and Más Madrid filed a claim with the Provincial Prosecutor's Office of Madrid against the Commissioner of the Community of Madrid for the Cañada Real Galiana, Markel Gorbea, and the company Amoexco (Association of Excavators and Builders of the Community of Madrid)<sup>24</sup>. In response to the claim, on 15 March 2023, the Prosecutor's Office of Madrid Province has decided to transfer the complaint to the Anti-Corruption Prosecutor's Office, given that there is enough evidence that Amaexco has

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<sup>22</sup> The Plenary of the Assembly of Madrid, in its ordinary session of 15 December 2022, rejected the Proposition No of Law PNL 389/2022 RGEP 24832. Available at the following link:

<https://www.asambleamadrid.es/static/docs/registro-sp/RGSP3677-22.pdf>

<sup>23</sup> Some news about the earthworks and demolitions and the complaints filed are collected here:

<https://theobjective.com/sociedad/2022-10-30/canada-real-escombros/>

[https://cadenaser.com/cmadrid/2022/12/13/unidas-podemos-y-mas-madrid-denuncian-posibles-](https://cadenaser.com/cmadrid/2022/12/13/unidas-podemos-y-mas-madrid-denuncian-posibles-delitos-contra-el-medio-ambiente-y-coacciones-inmobiliarias-en-la-canada-real-radio-madrid/)

[delitos-contra-el-medio-ambiente-y-coacciones-inmobiliarias-en-la-canada-real-radio-madrid/](https://mobile.twitter.com/Alicia_Torija_L/status/1599422663511769088)

[https://mobile.twitter.com/Alicia\\_Torija\\_L/status/1599422663511769088](https://mobile.twitter.com/Alicia_Torija_L/status/1599422663511769088)

[https://cadenaser.com/cmadrid/2022/12/04/la-comunidad-de-madrid-entierra-las-casas-de-los-](https://cadenaser.com/cmadrid/2022/12/04/la-comunidad-de-madrid-entierra-las-casas-de-los-vecinos-de-la-canada-real-os-ireis-por-las-buenas-o-por-las-malas-radio-madrid/)

[vecinos-de-la-canada-real-os-ireis-por-las-buenas-o-por-las-malas-radio-madrid/](https://cadenaser.com/cmadrid/2022/12/04/la-comunidad-de-madrid-entierra-las-casas-de-los-vecinos-de-la-canada-real-os-ireis-por-las-buenas-o-por-las-malas-radio-madrid/)

[https://www.eldiario.es/madrid/riadas-complican-vida-canada-real\\_1\\_9791143.html](https://www.eldiario.es/madrid/riadas-complican-vida-canada-real_1_9791143.html)

[https://www.publico.es/sociedad/anos-luz-derribos-soterramientos-casas-desmantelar-canada-](https://www.publico.es/sociedad/anos-luz-derribos-soterramientos-casas-desmantelar-canada-real.html)

[real.html](https://www.publico.es/sociedad/anos-luz-derribos-soterramientos-casas-desmantelar-canada-real.html)

<https://twitter.com/PalomoVictorM/status/1633757603007197185>

<sup>24</sup> For more information: [https://masmadrid.org/mas-madrid-y-unidas-podemos-denuncian-  
posibles-delitos-contra-el-medio-ambiente-y-coacciones-inmobiliarias-en-la-canada-real-galiana/  
https://cadenaser.com/cmadrid/2022/12/13/unidas-podemos-y-mas-madrid-denuncian-posibles-  
delitos-contra-el-medio-ambiente-y-coacciones-inmobiliarias-en-la-canada-real-radio-madrid/](https://masmadrid.org/mas-madrid-y-unidas-podemos-denuncian-posibles-delitos-contra-el-medio-ambiente-y-coacciones-inmobiliarias-en-la-canada-real-galiana/)

continued to dump earth without extending its contract, as well as demolishing houses without a public contract.<sup>25</sup>

- On 14<sup>th</sup> December, the Environmental Prosecutor's Office of Madrid urged the reopening of a case on the demolition of a house on 19 July 2022, which was conducted following the provision of false information by the relevant authorities. The Public Prosecutor appreciated serious indications of prevarication by the Regional Commissioner of the Cañada Real. On 10 February 2023, the judge summoned the Head of Urban Planning Discipline of the Madrid City Council to testify for this allegedly irregular demolition<sup>26</sup>.
- In its annual report for 2022<sup>27</sup>, the Spanish Ombudsman devotes a specific section to the lack of electricity supply in the Cañada Real in which it indicates that recommendations have been addressed to the Regional Ministries of Health and Environment, Housing and Agriculture of the Community of Madrid; the Commissioner of the Community of Madrid for Cañada Real; and to the town councils of Madrid, Rivas Vaciamadrid and Coslada.

The Ombudsman insists on the option to provide legal electricity supply and calls on the relevant authorities to play a proactive role make it possible.

### **Sir[a]<sup>28</sup> Report**

89. At the request of Complainants, SIRA has conducted a psychological and social assessment of the impacts of the deprivation of electricity supply on the affected population (the “**SIRA Report**”).

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<sup>25</sup> For more information: <https://www.publico.es/politica/fiscalia-anticorrupcion-investigara-contratos-comunidad-madrid-canada-real.html>

<sup>26</sup> More information about the event in the following link: [https://www.infolibre.es/politica/derribo-infravivienda-habitada-acaba-imputacion-jefe-disciplina-urbanistica-almeida\\_1\\_1445029.html](https://www.infolibre.es/politica/derribo-infravivienda-habitada-acaba-imputacion-jefe-disciplina-urbanistica-almeida_1_1445029.html)

<sup>27</sup> Defensor del Pueblo, *Informe anual 2022, Defensor del Pueblo*.

Available at: <https://www.defensordelpueblo.es/informe-anual/informe-anual-2022/> (Accessed: March 15, 2023).

<sup>28</sup> Sir[a] was created in 2011 and it has been dedicated for over 20 years to the promotion of Mental Health and the defense of Human Rights from a psychosocial approach.

90. To this end, the report assesses the individual, family, cultural, psychosocial and community consequences due to the power outage.

91. Through 120 surveys of the affected population and in-depth interviews carried out with residents, the concrete psychosocial impact that the reported situation has had on the population has been measured.

92. The report concludes that the power outage has had a decisive impact on basic living conditions, physical and mental health and dignity of the affected population, and has contributed to their isolation and precariousness<sup>29</sup>.

93. The report also states that these effects are particularly serious on women and children and have direct repercussions on family reconciliation and other areas of life, such as education, work and social life.

94. Finally, the SIRA Report states that, under the conceptual framework of the Torture Environment<sup>30</sup> the power outage in Cañada Real brings together a series of contextual elements, conditions and practices by institutions that have caused a severe physical and psychological suffering to its population.

**III. PRELIMINARY ISSUE: THE ONGOING POWER OUTAGE IN THE CAÑADA REAL AND THE SITUATION RESULTING FROM IT ARE ATTRIBUTABLE TO THE STATE**

95. In paragraph 85 of the GS, the State contends that “*the competent authorities ... are not directly or indirectly responsible for the situation of lack of access to electricity supply in Sector 6 of Cañada Real*”. In summary, the State contends that its responsibility is limited to any action or inaction in response to the social crisis caused by the power outage, but denies any liability for the power outage itself, which the State attributes to the electricity company, Naturgy UFD.

96. In response to this, the Complainants contend that the State is responsible for guaranteeing the rights arising from the Charter that fall within its jurisdiction,

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<sup>29</sup> Pages 32 to 45.

<sup>30</sup> A Torturing Environment or Torture Environment is a set of contextual elements, conditions and practices exercised by the State or with the acquiescence or connivance of representatives of the State that intentionally cause very severe physical and psychological suffering in order to undermine or break the will of individuals or communities (page 13 of the Report).

and therefore that the ongoing power outage in the Cañada Real (as well the situation arising from it) can be attributed to the State.

97. The Complainants refer to paragraphs 200-206 of the Complaint, and in particular to the following:

*“203. ... [I]t is essential to note that the State “is responsible for enforcing the rights embodied in the Charter within its jurisdiction” since it entered into force on 1 July 2021.*

*204. Against this background, the Committee has consistently held that it can assess compliance with the Charter “even if the State has not acted as an operator but has simply failed to put an end to the alleged violations in its capacity as regulator”. It has determined that States Parties to the Charter “[are] required to ensure compliance with [their] undertakings, irrespective of the legal status of the economic agents whose conduct is at issue”.*

98. The Complainants note that the involvement of a private company in the supply of electricity cannot excuse the State from its duty as a regulator to put an end to any violations of rights protected by the Charter that may arise as a result of the private company’s activities.

99. Particularly, the Complainants wish to bring to the Committee's attention the fact that the Spanish Law 24/2013 of 26 December, on the Electricity Sector, establishes that, inter alia, the following functions fall under the jurisdiction of the Central State: i) to determine, within the scope of its competence, the measures necessary to ensure the supply of electricity, ii) to inspect, within the scope of its competence, the parties that carry out activities aimed at the supply of electrical energy regulated by this law, as well as activities for the supply of electricity regulated in this Act, as well as their installations, under the terms of this Act and its implementing facilities, iii) to sanction, within the scope of its competence and in accordance with the provisions of this Act and its implementing regulations, any infringements committed (own translation).

100. The Complainants refer to the Committee's case law arising from *Marangopoulos Foundation for Human Rights (MFHR) v. Greece, Complaint No. 30/2005*. In this case, the Committee's Decision on the Merits stated the following:

*“192. Regarding the first point – whether the matters complained of can be imputed to the state – the Committee notes that the DEH, which until its partial privatisation in 2001 was solely answerable to the Greek state, has private law status. However, as a signatory to the Charter, Greece is required to ensure compliance with its undertakings, irrespective of the legal status of the economic agents whose conduct is at issue. Moreover, the DEH's activities are clearly subject to the general legislation on the environment and under Act 2773/1999 on the liberalisation of the Greek electricity market, the Greek Government is required to supervise those activities. Finally, the state still holds a majority of the DEH's shares (51.12% in 2005)”* (emphasis added).

101. This issue (i.e. third-party applicability or horizontal effect and positive obligations doctrines) has also been addressed by other international bodies.

102. In *Costello-Roberts vs. United Kingdom n° 13134/87*, the European Court of Human Rights (“ECtHR”) attributed to the United Kingdom the corporal punishment of a pupil by the headmaster of a private, non-subsidised school, and found that such punishment violated the rights in Articles 3 and 8 ECHR:

*“26. The ECtHR has consistently held that the responsibility of a State is engaged if a violation of one of the rights and freedoms defined in the Convention is the result of non-observance by that State of its obligation under Article 1 (art. 1) to secure those rights and freedoms in its domestic law to everyone within its jurisdiction (see, mutatis mutandis, the Young, James and Webster v. the United Kingdom judgment of 13 August 1981, Series A no. 44, p. 20, para. 49). (...)*

*27. ...*

*Thirdly, the Court agrees with the applicant that the State cannot absolve itself from responsibility by delegating its obligations to private bodies or*

*individuals (see, mutatis mutandis, the Van der Musselle v. Belgium judgment of 23 November 1983, Series A no. 70, pp. 14-15, paras. 28-30).*

*28. Accordingly, in the present case, which relates to the particular domain of school discipline, the treatment complained of although it was the act of a headmaster of an independent school, is none the less such as may engage the responsibility of the United Kingdom under the Convention if it proves to be incompatible with Article 3 or Article 8 or both (art. 3, art. 8) (emphasis added).”*

103. As pointed out in the Complaint, these remarks are also in line with the determinations of the Committee on the Rights of the Child (“CRC”) and the Committee on Economic, Social and Cultural Rights (“CESCR”). The Complainants paragraph refer to paragraphs 33 and 34 of the CRC’s General comment No. 16 (2013) on State obligations regarding the impact of the business sector on children’s rights:

*“33. Business enterprises and non-profit organizations can play a role in the provision and management of services such as clean water, sanitation, education, transport, health, alternative care, energy, security and detention facilities that are critical to the enjoyment of children’s rights. The Committee does not prescribe the form of delivery of such services but it is important to emphasize that States are not exempted from their obligations under the Convention when they outsource or privatize services that impact on the fulfillment of children’s rights.*

*34. States must adopt specific measures that take account of the involvement of the private sector in service delivery to ensure the rights enumerated in the Convention are not compromised. They have an obligation to set standards in conformity with the Convention and closely monitor them. Inadequate oversight, inspection and monitoring of these bodies can result in serious violations of children’s rights such as violence, exploitation and neglect. They must ensure that such provision does not threaten children’s access to services on the basis of discriminatory criteria, especially under the principle of protection from discrimination, and that, for all service sectors, children have access to an independent monitoring body, complaints mechanisms and,*

*where relevant, to judicial recourse that can provide them with effective remedies in case of violations. The Committee recommends that there should be a permanent monitoring mechanism or process aimed at ensuring that all non-State service providers have in place and apply policies, programmes and procedures which are in compliance with the Convention .”*

104. The Complainants further refer to CESCR’s General Comment No. 16, on the equal right of men and women to the enjoyment of all economic, social and cultural rights:

*“19. The obligation to protect requires States parties to (...) inter alia, the respect and adoption of constitutional and legislative provisions on the equal right of men and women to enjoy all human rights and the prohibition of discrimination of any kind; the adoption of legislation to eliminate discrimination and to prevent third parties from interfering directly or indirectly with the enjoyment of this right; the adoption of administrative measures and programmes, as well as the establishment of public institutions, agencies and programmes to protect women against discrimination.*

*20. States parties have an obligation to monitor and regulate the conduct of non-State actors to ensure that they do not violate the equal right of men and women to enjoy economic, social and cultural rights. This obligation applies, for example, in cases where public services have been partially or fully privatized”.*

10. In light of the foregoing, the Complainants submit that the issues complained of can be attributed to the State, at least (but not exclusively) as a regulator in relation to the inspection, monitoring, regulation and law enforcement of the ongoing power outage in the Cañada Real and the situation arising from it. Thus, the Complainants politely request the Committee to assess the State’s compliance with the Charter.

#### **IV. GOVERNMENT’S OBSERVATIONS ON THE MERITS**

105. This chapter addresses the Government's observations on the merits contained contained in the Submission of the Government (the "**Government's Observations on the Merits**" or "**GOM**").

**A. Violation of Article 31 § 1, read alone and in conjunction with Article E**

106. Paragraphs 74 to 88 of the Government's Observations on the Merits are devoted to defend that there is no violation of Article 31 § 1 of the Charter ("Article 31(1)").

107. The Committee has held that Article 31 imposes on the State positive obligations to guarantee this right.<sup>31</sup> It has further determined that Article 31 must be interpreted in light of the International Covenant on Economic, Social and Cultural Rights.<sup>32</sup>

108. For context, as mentioned in the Complaint<sup>33</sup>, in defining the notion of "*adequate housing*", the Committee has established that, inter alia, it means "*a dwelling which is safe from a sanitary and health point of view, i.e. that possesses all basic amenities, such as water, heating, waste disposal, sanitation facilities, electricity, etc. [...]*".<sup>34</sup>

109. The notion of adequate housing is not challenged by the State, that states "*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*"<sup>35</sup>.

110. However, despite noting that the lack of electricity affects Article 31(1), the State considers that its reaction has been adequate according to the standards of the Committee and, thus, no violation of Article 31(1) has occurred.

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<sup>31</sup> Inter alia, *European Roma Rights Center (ERRC) v. Bulgaria*, Complaint No. 31/2005, Decision on the merits of 18 October 2006, §35.

<sup>32</sup> *International Movement ATD Fourth World v. France*, Complaint No. 33/2006, Decision on the merits of 5 December 2007, § 70.

<sup>33</sup> Paragraphs 213 to 217 of the Collective Complaint.

<sup>34</sup> Conclusions 2003, France.

<sup>35</sup> Para. 81 of the GO on the Merits.



111. Those measures are explained in paragraph 86 of the Government's Observations on the Merits, which partially replicates the measures explained in the Government's Statement of Facts related to the rehousing programs and other palliative social measures.

112. The State does not refer to any Committee's precedent interpreting Article 31(1). No reference to the Committee's criteria followed as regards positive measures required when vulnerable groups of population are adopted with regards to housing and, in particular, Roma people, is either included in the GOM. Thus, in order to avoid repetition, we refer to Section V.C of the Complaint for any reference to the legal basis of this section.

*Assessment of the measures executed by the State*

113. The State refers to some measures that were not in place at the time of submission of the Complaint or that the Complainants were not aware of at the time of the Complaint. Those measures do not meet the criteria set by this Committee to consider them an "adequate and effective" response.

114. **First**, those measures do not address the cause of the humanitarian crisis currently occurring in Sectors 5 and 6 of the Cañada Real. They are not aimed at restoring supply of electricity, as recommended on several occasions by the Spanish Ombudsman. None of the measures are addressed to improve the electricity network and/or to allow the affected population to access legally to electricity.

115. As referred to in the preceding paragraphs, rehabilitation of the supply has not even been attempted. In fact, as evidenced in Annex nº 15 to the Complaint, a project for the dismantling of 4,175 metres of power lines in sectors 5 and 6 of Cañada Real and the removal of 84 support points on the line has been initiated. The State has not denied this fact and has not provided any information on whether they will accept UFD-Naturgy proposal.

116. Considering the partial and insufficient rehousing initiatives (see above), measures aimed at rehabilitating the supply of electricity are the only solutions which comply with the criteria set forth by this Committee requiring that efforts must be made to resolve these problems in the shortest possible time and to ensure that rights are restored as soon as possible.

117. As regards the use of alternative measures, as installation of temporary generators, it is worth noting that the State has used them on several occasions in in other context. For example, in 2007 the Spanish Government deployed fifteen generators in Barcelona that supplied electricity to 1,256 homes affected by a power failure. Similarly, in 2018, in response to a power cut that affected 38,000 inhabitants of the island of Menorca (Balearic Islands), the Government sent a total of 65 generators by ship.<sup>36</sup>

118. **Second**, the measures listed by the State are inadequate and insufficient as an alternative to the restoration of the electricity supply according to the Committee's criteria.

119. As regards, the partial resettlement programs, it has already been explained that only 65 out of 1.236 families living in Sectors 5 and 6 has been relocated. As regards the other approved relocation plans, they are not foreseen to be executed soon.

120. As per the future resettlement projects (explained above), those measures, if implemented, would (i) represent only a partial response, as they affect a number of people that does not currently cover a majority of the affected population<sup>37</sup>; and (ii) will not prevent a further violation of Article 31(1) in the short term (as it would be deployed in 8 years).

121. Furthermore, as is also stated in paragraph 86 of the GOM, it will be necessary to "*update the Social Study carried out by the Social Housing Agency in 2016 in order to be able to carry out an adequate strategy of action with more up-to-date information on the families living in the Cañada Real Galiana*". This will require at least an additional full year of work.

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<sup>36</sup> See news on State Public Television - RTVE "*La electricidad regresa a Menorca tras dos días de apagón por las lluvias*."

Available at: "<https://www.rtve.es/noticias/20181030/electricidad-regresa-menorca-tras-dos-dias-apagon/1829761.shtml>

See ABC news of 26-7-2007: "*The Army takes generators to the streets of Barcelona to restore normality*". [https://www.abc.es/espana/abci-ejercito-lleva-generadores-calles-barcelona-para-recuperar-normalidad-200707260300-164119085079\\_noticia.html](https://www.abc.es/espana/abci-ejercito-lleva-generadores-calles-barcelona-para-recuperar-normalidad-200707260300-164119085079_noticia.html)

<sup>37</sup> As explained in paragraph 31 of the GO on the Merits, this measure is aimed at the relocation of 1631 families throughout the Cañada Real.

*Interpretation of Article 31 in the light of other international treaties: future rehousing programme to be qualified as forced evictions incompatible with applicable standards*

122. As referred to in the Complaint, according to the Committee criteria, Article 31(1) must be interpreted in light of other international treaties, such as the European Convention on Human Rights or the International Covenant on Economic, Social and Cultural Rights.<sup>38</sup>

123. Considering the above, the rehousing plans proposed by the State should be qualified as programmes of forced evictions carried out without adequate justification and without proper consultation to the population, as requested in General Comment No. 7 of the Committee on Economic, Social and Cultural Rights.

124. The decision-making process on the fate of the inhabitants of Cañada Real and their housing should be carried out guaranteeing their participation, in accordance with, among other sources, Law 2/2011 on Cañada Real Galiana, the European Court of Human Rights (*Raji & Others v. Spain*) and the guidelines on forced evictions that derive from the International Covenant on Economic, Social and Cultural Rights.<sup>39</sup>

125. Then, since the large-scale, multi-year relocation project is planned without the participation of the affected population, it would also be incompatible with Article 31(1).

*Conclusion*

126. Contrary to the Committee's criteria, the authorities have not adopted any effective measure to “*guard against the interruption of essential services*” in the Cañada Real,<sup>40</sup> or against the segregation generated by the power outage.<sup>41</sup> On the

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<sup>38</sup>International Movement ATD Fourth World v. France, Complaint No. 33/2006, Decision on the merits of 5 December 2007, § 70

<sup>39</sup> *Guidelines for the Implementation of the Right to Adequate Housing* (no date) United Nations. United Nations. Available at: <https://documents-dds-ny.un.org/> (Accessed: March 15, 2023).

<sup>40</sup> *European Roma Rights Center (ERRC) v. Portugal*, Complaint No. 61/2010, Decision on the merits of 30 June 2011, §48.

<sup>41</sup> *European Roma Rights Center (ERRC) v. Portugal*, Complaint No. 61/2010, Decision on the merits of 30 June 2011, §48.

contrary, the State's inaction has resulted in preventing a whole population from the enjoyment of a basic public service on the grounds of isolated illegal activities, which appears clearly disproportionate and infringes upon their basic fundamental rights.

127. This continuous violation is particularly aggravated considering that a substantial number of the inhabitants of the Cañada Real belong to vulnerable groups of population – for example Roma –, which the Committee has deemed to require the adoption of positive measures.<sup>42</sup>

128. In light of the foregoing, the State's insufficient measures amount to a violation of Article 31. This without prejudice that any future measures may entail additional violations of Article 31, owing to lack of necessary guarantees.

*Article 31 in conjunction with Article E*

129. The State does not respond to this allegation. In a very vague and generic statement, the State states, at the end of the GOM, that it *"has put in place a wide range of means to protect these rights, which are accessible without discrimination; b), and in addition, these protection mechanisms have included measures aimed at addressing the specific needs of vulnerable groups or collectives among those residing in the Cañada Real"*.

130. However, the State does not provide any data or statistics on the impact of the lack of electricity supply in vulnerable groups. The Complaint included, for example, several documents that revealed a particular impact on children, the elderly and women as a result of the power cut. To the latest, the EIPE Report 2021 was clear as to the excessive burden of housework that fell on women whose homes were left without power.

131. The Complainants also provided a study carried out in December 2021 based on questionnaires completed by more than a hundred people in sectors 5 and 6, which pointed out the particular impact on children and adolescent.

132. All these data are confirmed by the SIRA Report attached as Annex 1.

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<sup>42</sup> *Centre on Housing Rights and Evictions (COHRE) v. Italy*, Complaint No. 58/2009, Decision on the merits of 25 June 2010, §§ 39-40.

133. Considering the above, it must be concluded that the State has violated Article E of the Charter, in conjunction with Article 31 § 1.

**B. Violation of Article 16, read alone and in conjunction with Article E**

134. Around 1,236 families are affected by the ongoing power outage. The State has confirmed the number of concerned families and acknowledged, as referred to in the Complaint<sup>43</sup>, that the notion of adequate housing in Articles 31 and 16 are identical.

135. Consequently, in terms of the right to adequate housing of the families, a remission is made to the response given in the previous section.

136. As the State has not provided any information on any additional measure taken to protect families' right to adequate housing, the Complainants submit that State's failure to remediate the power outage in the Cañada Real and the impact thereof in the families living in Sectors 5 and 6 amounts by itself, as contended in the Complaint, to a continuous violation of Article 16 of the Charter, read alone and in conjunction with Article E.

*State's failure to guarantee the participation of associations representing families*

137. Even if the State does not mention any particular measure implemented to protect rights of families to adequate housing, it provides some information about families participation in some legislative and policy drafting processes that, in the State's opinion, should lead to conclude that the requirements set by this Committee have been met.

138. The information provided by the State evidences that none of the legislative processes listed in the GOM are connected to the power outage, some are previous to October 2020 and others, related to the rehousing projects, just refer to the obligation of the public authorities to take into consideration the needs of the families living in Cañada Real, with no evidence of any process having taken place so far.

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<sup>43</sup> Paragraph 245 of the Complaint

139. In fact, it is proven that, since the power cuts, the affected families have created organisations such as the Tabadol Association, the Sector 5 Neighbourhood Association and the Civic Platform which are being very active in opposing to the current rehousing policy and passivity of the public authorities as regards the power outage.

140. These associations, however, have not been allowed by the competent authorities to participate in the search for solutions to the power cuts in the Cañada Real. Furthermore, the organisations representing the families are not included in the inter-ministerial working group promoted by the Ministry of Social Rights and Agenda 2030, created in November 2020.

141. The 2017 Regional Agreement foresees neighbourhood participation exclusively in the quarterly Assembly, whose composition includes one representative from each legally registered neighbourhood association. There is no provision for neighbourhood participation in the Executive Committee, nor in its working commissions. Nor is there room for residents' participation on the Regional Pact Monitoring Committee, in breach of the first additional provision of Law 2/ 2011 on the Cañada Real Galiana.

142. It is worth noting that, following the Committee's decision on immediate measures, the residents asked the Regional Commissioner to allow the associations and the "Plataforma Civica por la Luz" to participate in the meeting of the Monitoring Committee, given that one of the points included was the "actions in view of the admission of the collective complaint by the European Committee of Social Rights".

143. The Regional Commissioner refused to allow such participation, agreeing only to allow three neighbourhood representatives to attend the meeting "without voice or vote in the matters of the Commission", giving them the floor only during the question-and-answer session to formulate "a request or a question" as stated in the attached e-mails<sup>44</sup>.

144. The residents have neither been allowed to participate in the Interministerial Commission created ad hoc to deal with the power cuts in Cañada Real, with the

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<sup>44</sup> Annex 11.

State claiming that, as it is a meeting between ministries, it is not appropriate for representatives of the families of Cañada Real to attend.

### *Conclusion*

145. Contrary to what the State infers in its GOM, families are being prevented from presenting their proposals for a solution to the power cuts, from explaining the reality they are experiencing due to the lack of supply, and from expressing and explaining the physical and psychological damage they are suffering.

146. This lack of participation further aggravates their situation by confirming their feeling of abandonment, discrediting the institutions that should ensure the fulfilment of their rights, and provoking the re-victimisation of the population. Nor are they allowed to express their opinions, concerns and multiple doubts in the face of an imposed relocation process which, as we have seen, can lead to uprooting and dislocation, especially affecting older people and children and adolescents.

147. Meaningful participation means that families are provided the opportunity to express their views and be involved in processes of decision-making on policies, strategies and programs that affect them. This participation includes consultation, which has never been the case in the context of the ongoing power outage in Sectors 5 and 6 of the Cañada Real. The families of Cañada Real are not being listened to and their opinions are not being taken into consideration, thus denying them their right to participate.

148. Considering all of the above, the Complainants submit that it has been proven throughout this procedure that both the power outage in Sectors 5 and 6 of the Cañada Real and the State's failure to guarantee the participation of family associations amounts to a continuous violation of Article 16 of the Charter, read alone and in conjunction with Article E.

### **C. Violation of Article 17, read alone and in conjunction with Article E**

149. The Complainants submitted in the Complaint that the situation of all children and adolescents deprived from electricity supply in Sectors 5 and 6 of the Cañada Real amounts to a continuous violation of Article 17 § 1(a) and (b) and Article 17 § 2 of the Charter, read alone and in conjunction with Article E.

150. Government's Observations on the Merits only address violation of Article 17 § 2, read alone. As regards Article 17 § 1(a) and (b), the State just rejects any responsibility as, in its view, it is exclusively for UFD-Naturgy to take any action on this regard.

*Violation of Article 17 § 1(a) and (b): Right to Assistance and to Protection against Negligence and Violence*

151. We refer to Section II in what regards State's responsibility for guaranteeing the rights arising from the Charter.

152. We also refer to the Committee on the Rights of the Child criteria with regard to power supply and protection of children, according to which:

*“energy [...] [is] critical to the enjoyment of children's rights” ;*

*“States are not exempted from their obligations under the Convention when they outsource or privatize services that impact on the fulfilment of children's rights” ;*

*“States “should not [...] or enable other actors to obstruct the supply of electricity” .*

153. The Committee has consistently found that Article 17 is to be interpreted in light of the Convention on the Rights of the Child<sup>45</sup>. The Complainants submit that these considerations should be applied by the Committee to the interpretation of the Charter.

154. To this point, it should be noted that the lack of particular measures with respect to the children and adolescents living in Cañada Real Galiana, not only show passivity of the public administrations but is also a clear example of the lack of attention to the best interest of the child. We refer hereto to Section III. B of the Complaint, which includes references to very serious impact in the health and well-being of children as well as the corresponding sections of the SIRA Report.

155. Lack of assistance and protection measures is happening in a context in which the Spanish regulator has acknowledged the particular vulnerability to which

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<sup>45</sup> World Organisation against Torture (OMCT) v. Ireland, Complaint No. 18/2003, Decision on the merits of 7 December 2004, §61-63.



children are being exposed<sup>46</sup>. As mentioned in the Complaint, the Spanish Ombudsman and nine UN Special Rapporteurs have expressly confirmed violations of children's rights as a consequence of the power outage<sup>47</sup>. For reference:

*“The situation of minors is particularly serious and worrying. The high number of minors living in sector 6 (some 1,211, according to the data available to this institution) affected by the prolonged supply cuts, some of them very young, amplifies the seriousness of this problem, which must be regarded as humanitarian in nature. It is, in short, a problem that requires immediate action, aimed at guaranteeing the right to an accessible electricity supply.”*

156. It is alarming that the State considers the provision of firewood and petrol for the families of Cañada Real (Points 69 and 71 of the State's response on the Merits) to be a sufficient measure, while projects are created at state level in order to eliminate the use of these tools in dwellings due to the risks to life and health involved in their use.

157. Similarly, the Complaint placed special emphasis on the mental health of children and adolescents, who are overwhelmed by the serious risks to which they are exposed day after day and by the uncertainty regarding their future and that of their families, circumstances on which the State has not even pronounced itself.

158. Considering the above, we ask this Committee to uphold the Complainant's arguments set in Section V.F of the Complaint and, consequently, conclude that the State has failed to take adequate measures to prevent violations of Article 17 § 1 (a) and (b).

#### *Violation of Article 17 § 2: Right to Education*

159. The lack of electricity supply has had a twofold direct negative effect on the rights of the concerned children to access education<sup>48</sup>. On the one hand, it has made

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<sup>46</sup> Preamble of Royal Decree 1058/2021, of 30 November, which regulates the direct granting of subsidies to the town councils of Madrid and Rivas-Vaciamadrid for the implementation of rehousing programmes for families in a situation of extreme social vulnerability in sectors four, five and six of the Cañada Real Galiana (BOE no. 287 of 1 December 2021).

<sup>47</sup> Paragraphs 151 to 158 of the Complaint

<sup>48</sup> Paragraphs 279 and 280 of the Complaint

it considerably harder to study, revise or do homework, as the concerned children and adolescents have been forced to use candles to read their books and write on their notebooks. On the other, the power outage has prevented them from accessing the internet at their homes and from being able to charge their tablets and computers, which are essential to undertake school homework and to access teaching content.<sup>49</sup>

160. Second, the lack of electricity has had a disproportionate effect on all the daily aspects that allow for the enjoyment of the right to education. As mentioned in the letters that 50 children and adolescents addressed to the Committee on the Rights of the Child, the power outage forces them to get dressed by candlelight, shower with cold water, and eat cold meals.<sup>50</sup> These have discouraged children and adolescents from attending school.<sup>51</sup>

161. Third and consequently, the lack of electricity has caused learning slow-downs, lower grades and early school leaving among the concerned children and adolescents, as stated by some of their teachers.<sup>52</sup> The Spanish Ombudsman noted “*an increase in absenteeism linked to children being ridiculed for their odour and lack of cleanliness*”.<sup>53</sup>

162. The scarce measures adopted by the public authorities, assessed below, in no way respond to the specific impact that the power outage is causing in the children’s right to education. In fact, it can be extracted from the GOM that the State ignores the evidence on the disproportionate effect in the daily lives of the affected children.

#### General education measures (paragraph 102)

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<sup>49</sup> Annex 8 of the Collective Complaint. Legal Clinic of the Master in Fundamental Rights of University Carlos III in Madrid, “Light for the Cañada. The impact of the power outage in the Cañada Real Galiana on the rights of children and adolescents” (2021), p. 72.

<sup>50</sup> *Ibid.*, p. 71.

<sup>51</sup> *Ibid.*, p. 73.

<sup>52</sup> *Ibid.*, p. 71.

<sup>53</sup> Spanish Ombudsman, “Urgent restoration of the electricity supply in Sectors 5 and 6 of the Cañada Real Galiana” (21 December 2020),

Available at: <https://www.defensordelpueblo.es/resoluciones/recuperacion-urgente-del-suministro-electrico-en-los-sectores-5-y-6-de-la-canada-real-galiana-2/>>

[in Spanish], § 3.

163. All measures listed in paragraph 102 of the GS refer to general educational services to which every child in the affected districts (including children living in Cañada Real, but not only for them) can access, these being: the existence of comprehensive education centres, the provision of additional teaching staff resources aimed at supporting pupils with language difficulties or educational disadvantages and the creation of a system of grants and aid for pupils in an unfavourable economic situation.

164. Those measures are unrelated to the power cuts, even to the particular necessities of children in Cañada Real and cannot be considered adequate measures to prevent violation of Article 17 (2).

165. To this point, it should be borne in mind that the right to education is aimed at allowing and favouring the development of each child's and adolescent's own personality, being conceived by the Committee on the Rights of the Child as the central objective of education, since it protects "*the innate human dignity of every child and his or her equal and inalienable rights*".

166. Education of children and adolescents should be aimed at promoting their autonomous growth, through which the full development of their own personality can be achieved, taking into consideration the existence of their unique capacities, interests and characteristics that influence their learning. The generalist measures referred to by the State are not sufficiently focused on guaranteeing the right to education of the children and adolescents of Cañada Real Galiana in accordance with such objective.

167. One paragraph later, the State includes a list of measures allegedly aimed exclusively at children living in Cañada Real. We briefly assess them below.

Instructions for schools to make it easier for them to charge their mobile devices and to stay at school after the end of the school day

168. On the one hand, these measures do not solve the problems faced by the children and adolescents of Cañada Real. On the other hand, they are mere instructions which do not specify the control that will be carried out to ensure compliance.

169. In addition, the fact that children and adolescents are allowed to charge their devices in school does not ensure that in their homes they can count on sufficient electricity supply to carry out their daily tasks, taking into account that, nowadays, any education project is constantly linked to the use of portable devices.

170. Likewise, staying in school after the regular schedule does not guarantee full availability for homework either. The conditions under which children will stay in the school during those extrahours are not regulated, neither the support and supervision applicable conditions.

171. The particular amount of time children can stay in school outside school hours is not set either. To this point, if the extraordinary period is extended during the afternoon, this means that the children arrive home at untimely hours, preventing them from enjoying leisure and family time and exposing them to situations of unnecessary fatigue. In contrast, if the period is short, this means that they will not be able to finish their homework, without being able to continue these tasks at home like other pupils.

172. As regards additional transport services available to make it easy for children to attend the school, the State alleges that free school transport has been provided, but it does not specify whether this is extended to this extraordinary timetable.

173. Furthermore, we must remember that this clearly extraordinary situation exposes the students of the neighbourhood to further inequality with respect to their classmates, feeding the prejudices and stigmas that already exist in relation to the children and adolescents of Cañada Real (a situation that was highlighted in the Complaint<sup>54</sup>).

174. With regard to the the other measures mentioned by the State, they are aimed at preventing school absenteeism, providing tools of general nature, but not adapted to the exceptional circumstances suffered by the children and adolescents of the Cañada Real.

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<sup>54</sup> Paragraph 291 of the Collective Complaint.

175. Finally, it should also be pointed out that children of Cañada Real have not been heard and their needs, concerns and wishes have not been considered in the decision making process and in the measures adopted by the public authorities.

176. In this respect, the Committee on the Rights of the Child indicates that, in order to guarantee the right to education, it is necessary to respect their right to be heard, this premise being "*indispensable for the creation of a social climate in the classroom that stimulates the cooperation and mutual support necessary for interactive child-centred learning*".<sup>55</sup>

177. To this point, States must provide genuine means of participation, so that "*children are recognised as active agents of their learning and education is conceived in a way that promotes and respects their rights and needs*".<sup>56</sup>

178. All these objectives are being completely ignored by the competent authorities.

#### *Violation of Article 17 in conjunction with Article E*

179. The Complaint provided information on how the affected population belongs to vulnerable groups of population, including children with disabilities, which are consequently affected by structural and intersectional discrimination contrary to Article E.<sup>57</sup>

180. It has also been evidenced (i) that a high percentage of the population is of foreign origin and Roma and that poverty and social exclusion is also prevalent in the Cañada Real; and (ii) how the discriminatory situation faced by the children and adolescents in the Cañada Real has been aggravated by the stigmatisation and

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<sup>55</sup> Committee on the Rights of the Child, General Comment No. 1: Article 29 (1): The aims of education, 2001 CRC/GC/2001/1, p. 2.

Available at [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fGC%2f2001%2f1&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fGC%2f2001%2f1&Lang=en)

<sup>56</sup> UNICEF/UNESCO, A Human Rights-Based Approach to Education for All. A framework for realizing children's right to education and rights in education, 2007, p. 8. Available at [https://www.observatoriodelainfancia.es/ficherosoia/documentos/2410\\_d\\_Educacion\\_para\\_todos\\_UNICEF.pdf](https://www.observatoriodelainfancia.es/ficherosoia/documentos/2410_d_Educacion_para_todos_UNICEF.pdf)

<sup>57</sup> Paragraphs 287 to 292 of the Collective Complaint.

institutional violence they have received from certain regional public authorities, such as the President of the Region of Madrid.

181. Considering the above and that the State makes no specific reference to the Complainants arguments on violation of Article 17 in conjunction with Article E, we refer to paragraphs 287 to 292 of the Complaint where it is submitted that, although the children and adolescents living in Sectors 5 and 6 of the Cañada Real have Article 17 recognised by law, they are prevented from the enjoyment of their rights contained therein due to the power outage, which amounts to discrimination prohibited by Article E.

### *Conclusion*

182. Arguments provided by the State are clearly insufficient to challenge the evidence contained in the Complaint as regards the particular impact that the power outage is having in the affected children and adolescents and the inappropriateness of the measures taken by the State to try to prevent such impact.

183. Consequently, the Complainants reaffirm their submission that:

- (i) the State, in relation to the power outage in the Cañada Real, has failed to (i) duly consider the best interests of the children and young persons concerned by the Complaint; and (ii) adopt all necessary measures to guarantee in practice their right to assistance, to protection against violence and neglect and to education; and
- (ii) therefore, the situation of all children and adolescents deprived from electricity supply in Sectors 5 and 6 of the Cañada Real amounts to a continuous violation of Article 17 § 1(a) and (b), Article 17 § 2 of the Charter, read alone and in conjunction with Article E.

### **D. Violation of Article 30, read alone and in conjunction with Article E**

184. Section B of the Complaint shows how the power outage has increased the situation of poverty and social exclusion of the affected population, with energy poverty being a determining factor in this situation.

185. Some measures were already analysed in the Complaint. Others, happening after submission of the Complaint, are listed in Section 5 of the SOM. We assess

below how those additional measures do not meet the criteria of sufficiency and appropriateness established by the Committee.

*Measures adopted by the State*

186. In the GOM, the State argues, in summary, that i) there are effective coordination mechanisms between public administrations to tackle the crisis, ii) the relocation measures are sufficient to alleviate the situation, iii) the Complainants do not demonstrate with data the increase in poverty and social exclusion due to the lack of supply, and iv) the public administrations have adopted social measures aimed at alleviating the effects of the lack of electricity supply.

187. In relation to the effectiveness of the coordination mechanisms between public administrations, in addition to what was expressed in the Complaint (paras. 301-303) and above, it is worth mentioning that (i) the Central Public Administration is not represented in any of them, even if some measures to be effective would require their involvement, and (ii) the commissions do not hold any kind of executive power.

188. With regard to relocation plans and the measures which were not in place when the Complaint was submitted, Complainants also refer to what has been said about the inadequacy and ineffectiveness of those measures in the relevant sections (Government's Statement of Facts and Government's Observations on art. 31).

189. As regards the increase in poverty and social exclusion as a result of the power cut, it is surprising that the State mentions the lack of specific data provided in the Complaint and, at the same time, refers to the sufficiency of the *social measures aimed at alleviating the effects of the lack of electricity supply for the inhabitants of the Cañada Real* (para. 117 of the Response) without providing any data.

190. Proven lack of access to electricity (not challenged by the State) should be considered enough evidence of an increase in poverty (at the very least in energy poverty) of the affected population.

191. Nevertheless, the SIRA Report provides even additional evidence and concludes that, beyond the difficult social situation that already existed in Cañada

Real before the events of October 2020, the power cut has had a concrete and measurable impact on the, among others, increase in poverty of the population<sup>58</sup>.

192. Likewise, in the GOM, the State provides generic details of a series of social measures adopted by the public administrations, which, in its view, are appropriate to alleviate the deepening situation of poverty and exclusion in Cañada Real caused by the power cuts.

193. The reported increase in social spending is not the result of the emergency of the power cut, but generic initiatives implemented throughout the State due to the various urgent necessities by the entire Spanish population. See below.

194. First, it is indicated that the money provided for social aid in the District of Vallecas (aid for the population of Sector 6) has increased from 72,280 euros in 2021 to 92,857 euros in 2022. Following the same logic, it is indicated that spending on social aid for the district of Vicálvaro (aid for the population of Sector 2 to 5) has increased from 79,942 euros in 2021 to 150,185.28 euros in 2022. Such an increase, even if valuable in any case, does not respond to the State's obligation to protect the population against the poverty resulting from the power cut, but rather is part of a moderate increase in social expenditure.

195. The State fails to provide concrete data on the suitability and real impact of these measures on improving protection. Furthermore, the budget item for Vicálvaro (sectors 2, 3, 4 and 5) does not identify the people affected by the power cut.

196. Second, the report issued by the Directorate General of Social Services of the Community of Madrid (Annex 14 to the GOC) focuses on the social and health emergency problems of Covid-19 and does not mention any specific programme or measure carried out by the public authorities, nor does it measure the impact that this funding has had on alleviating the situation in sectors 5 and 6 of Cañada Real.

197. Third, the mentioned "Plan Corresponsables" includes a line of funding for the Cañada Real territories and shantytowns. Nevertheless, this subsidy applies not only to the Cañada Real but also to other areas, including other shantytowns in the

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<sup>58</sup> Although the report makes an in-depth analysis of each impact, for the sake of brevity, only the summary table is shown here, for more information see pages 30 to 50 of the Report



Community of Madrid. Second, the amount of the subsidy is 144.155 euros. For an emergency situation such as that experienced by Cañada Real, this measure is highly insufficient and cannot be considered appropriate to meet the needs exacerbated by the power cut.

198. Fourth, as regards the Report of the Directorate-General for Integration (Annex 15 to the SG), the following statement is self-explanatory:

*“Having received the request for information on the aforementioned matter, the Directorate General for Integration reports that at present **there is no record of the existence of any specific resource or service** depending on this unit in the area of Cañada Real Galiana.”*

199. This express recognition is combined with a series of data on programmes developed by NGOs for socio-labour integration that are deployed throughout the Cañada Real Galiana. These programmes are long-standing, have been running for many years and are not aimed at addressing the problems and needs connected with the absence of access to electricity.

200. Fifth, Annex 16 to the SG shows the numbers of RMI recipients in Cañada Real in 2022. Specifically, the data are 11 people in Coslada (sector 1), 277 in Vicálvaro (sectors 2, 3, 4 and 5), and 452 people in Villa de Vallecas (sector 6). In total 740 people.

	Sector	People	Total amount year 2022	Amount per person year 2022
Coslada	1	11	5.099,00 €	463,55 €
Vicálvaro	2, 3, 4 y 5	277	122.490,00 €	442,20 €
Villa de Vallecas	6	452	198.844,00 €	439,92 €

201. The amount of the reported economic support is less than €500 per year (€36-38 per month) per person. Moreover, this aid is a general social income accessible to the whole population living in Madrid.

*Violation of Article 30 in conjunction with Article E*

202. The State has not proven the adoption of any measure that could be considered specific to alleviate the situation of poverty and exclusion of the most vulnerable people living in Sectors 5 and 6.

203. The Complaint drew attention to the constant stigmatisation of the population of Cañada Real historically and even more so after the power cut, when the conflict was brought to the attention of public opinion. The irresponsible declarations of certain authorities have not been rectified; no work has been done to prevent the effective exclusion of the population affected by the power cut from society as a whole.

204. Likewise, the Complaint provided evidence of poverty and its burden on children and adolescents, who come to deny their belonging to the Cañada Real in public settings. Article 30 includes the obligation of the State to promote the participation of excluded sectors and to encourage the fight against negative stereotypes that may be forged about them in the media and society in general.

*Conclusion*

205. In light of the foregoing, the Complainants submit that it is proven that the lack of electricity supply has generated energy poverty in the Cañada Real that it's deepening the poverty and social exclusion conditions of the population.

206. In face of that, the State has failed to prove the adoption of measures within a coordinated approach to promote access to electricity, thus generating the deterioration of living conditions and the aggravation of the situation of poverty and exclusion.

207. The State has neither proved that the social measures adopted to alleviate the situation in which the population of Cañada Real lives have been effective in promoting their protection from poverty. The SIRA Report proves exactly the opposite.

208. Accordingly, it should be concluded that the situation of the inhabitants of Sectors 5 and 6 of the Cañada Real amounts to a continuous violation of Article 30 of the Charter, read alone and in conjunction with Article E.

#### **E. Violation of Article 23**

209. The Complainants submitted in the Complaint that the State failed to take adequate measures to protect the elderly from the consequences of the power outage (i.e. lack of measures related to housing and insufficient health care) and did not allocate adequate resources for this purpose, as mandated by Article 23.

210. Article 23 overlaps with other provisions of the Charter protecting elderly persons as members of the general population, such as Articles 11 and 30.<sup>59</sup>

211. Once again, the State does not challenge the particularly serious impact that the power outage has in the older population of Cañada Real (at least 4% of the population).

212. As regards measures taken to tackle the specific damage caused to the elderly (among others, serious health problems and increased risk of injuries), the State refers to the general measures explained in the sections covering Articles 11

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<sup>59</sup> Paragraph 356 of the Complaint

and 30. We recall that a death of a 74-year-old male resident of Sector 6 has reportedly been linked to the extreme cold resulting from electricity deprivation.<sup>60</sup>

213. In relation to the adequate resources needed to implement any measure aimed at enabling elderly persons to remain full members of society, the State just refers 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 persons*".

214. The State does not provide any further information about execution of such subsidy, and refers to the report of the General Director of Social Services of the Community of Madrid, which only contains the below sentence:

*"The following programmes shall be subsidised:(...) h) Support programmes for the elderly"*.

215. Such information is clearly insufficient to understand the scope and reach of the cited subsidy and, thus, cannot be considered as regards fulfilment of the obligation to allocate adequate resources.

216. Considering the above, the assessment conducted in relation to insufficient quantity and quality of resources contained in Sections IV.A and IV.F is fully applicable, as no additional and/or targeted measure has been taken to protect this particularly vulnerable group.

217. Consequently, the State is in breach of its obligations under Article 23, as it has failed to implement adequate measures designed to protect the elderly affected by the power outage, in particular, by (i) not allocating sufficient resources to enable them to lead a decent life; and (ii) not implementing adequate measures aimed at counteracting the effects of the power cut in the housing conditions of the elderly and to guarantee appropriate health care to prevent worsening of their health.

218. As a result of this continuous violation, the elderly are being denied their right to social protection, to be considered "*full members of society for as long as possible*", to have enough resources to lead a dignified life, to have housing adapted

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<sup>60</sup> Paragraph 84 of the Complaint

to their state of health and needs, and to receive the health care and services required by their condition.

**F. Violation of Article 11, §§ 1 and 3, read alone and in conjunction with Article E**

*Violation of Article 11 §§ 1*

219. The State does not question the impact on the affected population’s health evidenced in the Complaint (Section B), which included deaths, serious injuries, and health conditions exclusively caused by the lack of electricity.

220. Article 11 § 1 requires States “*to remove as far as possible the causes of ill health*”. Indeed, the Committee has defined health in accordance with the WHO as “*a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity*”.<sup>61</sup>

221. In addition, the Committee has consistently held that States “must respond appropriately to *avoidable health risks*; i.e. ones that can be controlled by human action”<sup>62</sup> and has also acknowledged that “living conditions” can be “a clear aggravator and [...] the root cause” of illness.<sup>63</sup>

*Assessment of the measures taken by the State*

222. None of the measures listed in Section 6 of the Government’s Observations on the Merits have been designed to or aimed at addressing the particular health risks posed by the lack of access to electricity. All of them were already operational before the social and health crisis emerged due to the power cut in October 2020, and none of them have been allocated additional resources to tackle the increasing number of health problems caused by the lack of access to electricity.

223. All of them are general measures and/or services which are accessible to the general population or to Cañada Real residents, but which are not aimed at (i) preventing “avoidable risks” to happen, and (ii) providing specific and reinforced

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<sup>61</sup> *Transgender Europe and ILGA Europe v. Czech Republic*, Complaint No. 117/2014, Decision on the merits of 15 May 2018, §71.

<sup>62</sup> Conclusions XV-2 (2001), Denmark (emphasis added).

<sup>63</sup> *International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece*, Complaint No. 173/2018, Decision on admissibility and on immediate measures of 23 May 2019, § 14.

health services to minimize the impact of the lack of energy in the affected households.

224. Within this context, we assess hereinbelow the measures mentioned by the State, fully deriving from the report attached as Annex 17 to the Government's Observations of the Complaint:

i. *Access to health assistance in Hospital Infanta Leonor*: general access to health services, as any other citizen, by Sector 5 and Sector 6 population. This has never been questioned by the Complainants and is irrelevant to the matter of concern.

ii. *Access to primary health care*:

EIPE: the State only refers to the number of patients who have received the service, but does not refer to the reports produced by this unit. We refer to the 2021 EIPE Report (Annex 18 to the Complaint), which identifies a causal relationship between the ongoing power outage and an increase in respiratory infections, cold-related dermatologic and circulatory diseases, difficulties in the use of essential medical devices, cases of carbon monoxide poisoning, burns, complications in patients with diabetes mellitus, rheumatic conditions, complications in COVID-19 infections and a heightened risk of COVID-19 infection, domestic accidents, health problems in new-borns, anxiety and depression, comorbidity complications from exposure to cold resulting in five deaths, and the chronification of the health problems identified in November 2020.

Ensanche de Vallecas health centre: access to general health care services has never been denied by the Complainants. No particular measures have been taken in consideration of the aggravated factors to which the population is exposed and, thus, this reference is irrelevant.

iii. *Mental health and drug-addiction services*: again, general measures unrelated and not adapted to the particular impact arising out of the power outage. These services existed before the power cuts and have not been additionally resourced to provide the necessary assistance to the population affected by the power cuts.

The SIRA report provides a clearer picture of how current health services are insufficient.

It is worth mentioning that the report listing these measures (Annex 17 to the GOC) frame these services within a plan to be deployed between 2016 and 2020, just before the power outage started. The irrelevance of these measures in relation to the subject of the Complaint is hardly debatable.

- iv. *Public health programs aimed at vulnerable groups*: the same rationale applies to these programs which account for informative sessions clearly irrelevant from an article 11(1) perspective.
- v. *Social services rendered by the Madrid City Council*: finally, Section 7 of the Government's Observations on the Merits refers to social services provided to Cañada Real population: those services neither have any connection to the power outage and refers to information about waste management, rats, etc. It is obvious that these are unrelated to the case at hand.

225. The last paragraph of the report issued by the Regional Department of Health Care and Public Health is self-explanatory as regards the scope of the measures deployed by the health services:

*“In short, and in view of the information provided, these citizens have the same hospital health resources available to them as any other resident in this administrative area, with the right to public health insurance, even if, as mentioned above, they do not have the necessary documents required for their care. their care.”* (emphasis added)

#### *Violation of Article 11 § 3*

226. The State does not tackle violation of Article 11 § 3. None of the measures referred to in Section 7 relates to initiatives taken during the COVID-19 pandemic.

227. Thus, based on the arguments exposed in Section I of the Complaint, it should be concluded that the State also failed to take measures to prevent domestic accidents and to guarantee food safety and hygiene standards in Sectors 5 and 6 of the Cañada Real, and to protect the persons concerned by the Complaint from the COVID-19 pandemic. These failures also amount to a violation of Article 11 § 3.

*Violation of Article 11 § 1 and 3 in connection with Article E*

228. No particular observation is either made as regards violation of Article 11 in connection with Article E. Consequently, we refer to the corresponding section of the Complaint (paragraphs 395 to 397).

*Conclusion*

229. The State does not question the veracity of the information contained in the health reports attached to the Complaint<sup>64</sup>, which account for the severe deterioration in the health of the affected population due to respiratory problems aggravated by the cold and the precarious heating systems in the home, as well as burns, difficulties in carrying out treatments that require electrical connection (such as nocturnal assisted breathing), difficulties in maintaining certain medicines in optimal conditions such as insulin for diabetics (which must be kept under constant refrigeration), difficulties in personal hygiene, difficulties in washing clothes, prolonged healing time for winter illnesses such as flu and colds, etc.

230. None of the measures referred to in Section 7 of the Government's Observations on the Merits have been designed or implemented to prevent and or minimize impact on health caused by the lack of access to energy.

231. The elderly, children and adolescents are particularly exposed to long term effects and no particular measure has been taken to avoid irreparable harm to their health. Respiratory diseases (bronchitis or pneumonia) in childhood or during pregnancy are particularly important, as having a weaker immune system considerably increases the risk of suffering from lung problems in adulthood, according to the World Health Organisation (WHO). However, no effort has been made to design a specific policy in this regard, failing to comply with the obligation to attend specifically to groups with the greatest risk and effective impact on health.

232. The living conditions which the persons concerned by the Complaint have experienced and currently experience, especially in winter, amount to an "avoidable health risk" which the State did not act upon.

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<sup>64</sup> Annex 17 and 18 of the Collective Complaint.



233. The State, which was in a position to prevent or mitigate the effect of the power outage on the health of the persons concerned, did not adopt any necessary measures on this regard. Therefore, in so far as the State does not take any steps to remediate the power outage – which clearly amounts to a cause of ill health –, it fails to guarantee the concerned persons’ right to the highest possible standard of health, breaching Article 11 § 1 read alone and in conjunction with Article E.

234. Additionally, the instances of domestic accidents as a result of the power outage as well as the failure to take measures which would have allowed concerned persons to refrigerate, preserve and prepare food, as well as to adhere to the State’s anti-COVID-19 protocols and recommendations, should also amount to a violation of Article 11 § 3, read alone and in conjunction with Article E.

**G. Violation of Article 15, read alone and in conjunction with Article E**

235. The continued violation of Article 15 of the Charter proved in the Complaint cannot be denied on the basis of the arguments put forward in the Government’s Observations on the Merits, based on the alleged adoption of a set of measures which, in its opinion, would have alleviated, repaired and prevented the repetition of those violations of rights in the future.

*Assessment of the measures taken by the State*

236. Those measures are considered sufficiently proven by presenting two reports, one from the Directorate General for Social Affairs and the other from the Directorate General for the Care of Persons with Disabilities.

237. The first of the two reports refers to three agreements of the City Councils of Madrid and Rivas Vaciamadrid on granting emergency aid to families in a situation of vulnerability due to the impact of COVID.

238. The State intends to justify its due action to alleviate the effects of the power cuts on people with disabilities living in Sectors 5 and 6 by referring to measures that in no way relate to the specific situation of this particular group of people.

239. This disconnection becomes evident if we consider the purpose and the group of recipients of the aids to alleviate the effects of the pandemic on families in vulnerable situations, which for the period 2022/23 are specifically intended to

respond to basic needs (related, among others, to the purchase of food, hygiene and cleaning products, footwear and clothing) that cannot be met by those who lack resources, as well as to promote labour market integration.

240. Thus, unless the Community of Madrid had demonstrated (and it has not done so) that, for example, these basic needs to be supported included the restoration of electricity and gas supplies permanently or, where appropriate, the immediate re-housing of families with one or more members with disabilities, it is not possible to see how these agreements could be a suitable channel for compliance with the requirements imposed by Article 15.

241. The second focuses on the existence and functioning of the Community of Madrid's network of occupational centres, day centres, residences and community housing for the free care of adults with disabilities and the public network of social care for people with severe and long-lasting mental illness.

242. The Report notes that it focuses on *"the granting of economic benefits and/or benefits in kind in the area of housing and energy poverty, its purpose being 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 to households in a situation of energy poverty"*.

243. This Programme would only allow the restoration of electricity to those who can prove that the power cut is due to the non-payment of bills when, as stated in the Complaint, the competent authorities and the supply company have so far argued that the power cuts in the Cañada Real Galiana are due to overloads resulting from illegal connections.

244. It is, therefore, incomprehensible that by defending this as the cause of the power cuts, the State now attempts to contend having fulfilled its international commitments based on an aid programme that focuses on energy poverty.

245. More importantly, this Programme does not provide for any particular measure specifically focused on people with disabilities.

246. With regard to programmes of social interest charged to the general budgets of the Community of Madrid, the State mentions the existence of a set of funding programmes which, under the heading "Population of Cañada Real territories and

shantytown settlements”, are aimed at protecting particularly vulnerable groups in the territories of Cañada Real and other settlements to promote their welfare and their integration into the labour market and society.

247. These programmes are aimed at covering basic necessities in a wide variety of matters and are not particularly designed to benefit people with disabilities.

248. In this regard, it should be noted that, according to Order 1468/2022 of 24 June, of the Regional Ministry of Family, Youth and Social Policy (approving the regulatory bases for the granting of subsidies for the implementation of programmes of general interest considered to be of social welfare, charged to the public budgets of the Community of Madrid, at a rate of 0, 7 per 100 per cent of the yield from personal and corporate income tax and the “Corresponsables Plan”, within the scope of the Region) the beneficiary entities are "*the entities defined in Article 2 of Law 43/2015, of 9 October, on the Third Sector for Social Action, as well as the Spanish Red Cross that propose projects to be implemented within the territorial scope of the Region of Madrid*".

249. It is hard to understand how the compliance with the State’s international obligations in this area can be considered justified by merely referring to a line of subsidies to support the activities of private non-profit organisations whose priorities for action include, among many others, the development and integration of people with disabilities.

250. The State has not provided information on the actual announcement of the subsidies, their award and their specific use. Actually, the section on Subsidies for the implementation of programmes of general interest to serve purposes of social interest corresponding to 2022 of the electronic headquarters of the Community of Madrid only provides information on the call for and award of subsidies of other lines, not including Line G (Social insertion in certain areas), Subline 6 (Population of Cañada Real territories and shantytown settlements). Therefore, we are unaware of the actions actually undertaken in applying these subsidies.

251. Finally, the Report of the Directorate General for the Care of Persons with Disabilities (Annex 18) does not provide sufficient justification for the conformity

with the Charter of the actions of the competent Spanish entities concerning persons with disabilities residing in Sectors 5 and 6 of the Cañada Real Galiana.

252. The Report merely addresses the existence of a network of care centres in the Community of Madrid for persons with disabilities and briefly describes their operating dynamics and the procedures for accessing their various services, including primary care for minors.

253. The existence of this network, at least in theory, is an interesting measure to favour the social integration and personal development of people with disabilities. However, in the case of the people belonging to this group who have been affected by the supply cuts in the Cañada Real Galiana, the possibility of accessing this type of centre or even receiving assistance in their own homes in no way manages to mitigate the effects of the lack of electricity on the full enjoyment of their rights under conditions of equality.

### *Conclusion*

254. Persons with disabilities have been particularly affected by the lack of electricity supply in the Cañada Real. Due to the continuous power cuts in Sectors 5 and 6, persons with disabilities have been victims of severe rights violations. They have also seen their capacity for personal development and social integration severely impaired.

255. The lack of electricity supply and deplorable housing conditions add difficulties to their initial disadvantages for full social inclusion and the full enjoyment of their rights on equal terms. The situation is further aggravated if, as is the case, the reason for their disability is compounded by their socio-economic situation, their status as minors and, where applicable, their belonging to the Roma ethnic group. The confluence of all these factors makes these people subject to multiple vulnerabilities, which, as noted in the collective complaint, leads to intersectional discrimination.

256. It has been proven that the State has not considered the specific needs of the vulnerable groups affected by the electricity cuts in the Cañada Real as it should have.

257. Compliance with the obligations arising from Article 15 § 3 would require the State to consider the specific effects of power cuts on people with disabilities.

258. Effective compliance with Article 15 of the Charter required the immediate restoration of the electricity supply and the guarantee of its normal functioning or, when necessary, the provision of a rapid housing alternative for those affected and their families that would avoid the pernicious effects that the lack of electricity has on their lives, health, development and social integration.

259. Therefore, it should be concluded that the State is engaged in a continuous violation of Article 15, read alone and in conjunction with Article E, as it has failed to implement adequate measures designed to protect people with disabilities affected by the power cut, in particular, by not placing the adequate resources and taking the needed actions aimed at ensuring that the lack of electricity does not add barriers to their already difficult integration and independence.

#### **H. Violation of Articles 20 and 27, read alone and in conjunction with Article E**

260. The Complainants consider that the State's failure to adopt measures to restore the electricity supply in Sectors 5 and 6 of the Cañada Real has a harmful effect on women workers who live there, as they disproportionately assume "*obligations in relation to dependent children and also other members of the immediate family who need care and support*"<sup>65</sup>. Consequently, the Complainants submit that the State is engaged in a continuous violation of Articles 20(a) and 27 § 1(a).

261. The State tries to challenge the Complainants submission by arguing that it has put in place a set of measures for the protection of families in need.

262. The State indicates that those general measures (benefits from the social security system, minimum living income, non-contributory pensions or minimum insertion income, socio-labour insertion programmes, social services for groups at risk of exclusion) apply to the families of Cañada Real, as well as to women

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<sup>65</sup> Conclusions 2005, Estonia.

(whether they are workers or not) with family responsibilities, and, thus, should be considered relevant for the purposes of Articles 20(a) and 27 § 1(a).

263. Within those measures, a list of actions adopted by the Madrid City Council, in collaboration with Caritas (see the relevant reference in the comments to the GSF) and the Barró Association for the families in sector 6, excluding sector 5, are mentioned: aid for food, hygiene and cleanliness of the beneficiary persons and families; distribution of firewood, butane bottles, cards for the purchase of petrol and weekly laundry service.

264. As extensively explained hereinabove and in the Complaint, these actions do not satisfy the Committee's criteria on appropriateness of the measures required to the State to avoid violation of Articles 20(a) and 27 § 1(a).

265. Likewise, the SOM mentions a programme to support the reconciliation of family and work provided by the Red Cross in the Children's Day Centre located in sector 6. However, it does not indicate whether this service was already being provided prior to the power cut, and what specific actions have been taken to ensure that women and people with family and household care responsibilities see the increase in tasks and the difficulty of these tasks minimised since the power cut.

266. Therefore, for the women and girls who live in Sectors 5 and 6 of Cañada Real, - on whom most of the unpaid care and household tasks and work fall-, this situation has become a burden that deepens inequality and places them in an increased vulnerable situation.

267. As indicated in the Complaint, the deprivation of electricity has made daily domestic tasks and the assumption of family responsibilities much more difficult, which has a disproportionate impact on the lives and physical, mental and emotional health of women, forcing them to permanently denounce the institutional gender-based violence they suffer, with the re-victimisation that this implies. The SIRA Report provides reinforced evidence of these effects.

268. In addition, as explained in the document titled "*A Citizen CIS of Cañada Real*"<sup>66</sup>, "*several mothers explain that they are suffering episodes of anxiety due to not being able to heat the house sufficiently or not being able to wash their children's clothes, who go to school with dirty clothes*".

269. This is not only affecting women in the domestic sphere but is also having a serious impact on their right to work, accentuating gender inequality in the labour and professional sphere (difficulties in finding a job and in reconciling work and family life, greater exposure to temporary employment and dismissal).

270. It is also worth remembering that not only do the houses lack electricity, but there is no street lighting either, and, therefore, the streets are dark, so that social activity in the neighbourhood is reduced, and the danger of falls and accidents increases, as well as the feeling of insecurity, which in the case of women and girls makes them perceive a greater risk of suffering sexual violence (18.3% as indicated in Sira Report).

271. Women have been at the forefront of the demands for the return of the electricity supply. This undoubtedly has a significant personal cost, but also in terms of work and work-life balance, due to the time required, as well as the demoralising and re-victimising effects suffered due to the lack of action by those who should guarantee these rights.

272. Additionally, nothing is said about concrete measures to prevent inequality and discrimination against women and people with family responsibilities in sector 5, but on the contrary, the State denies the lack of supply in this sector, which as has been explained in the preceding sections, does not correspond to reality.

273. The State SOM does not mention any measures taken by the central administration. In this respect, neither the Ministry of Labour nor the Ministry of Equality have taken any further action, despite (i) the fact that employment data for the neighbourhood show that the economic activity rate for men is 85%, while for women it is 39%, (ii) the competences that correspond to both departments,

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<sup>66</sup> *UN CIS Ciudadano de Cañada real. Un CIS ciudadano de Cañada Real*. Available at: <https://www.plataformaluz.com/un-cis-ciudadano-de-canada-real> (Accessed: March 15, 2023).

including the development of cooperation policies with the administrations of the autonomous communities and local entities, and (iii) the fact that the Ministry of Equality is responsible for "*participating, together with the corresponding bodies of the Ministry of Labour and Social Economy, in the promotion of policies aimed at guaranteeing equal treatment and opportunities between women and men in employment and occupation, and at reducing labour discrimination and female unemployment*"<sup>67</sup>.

274. The power cut is having a multiplying effect on the poverty and extreme poverty in which a large part of the population of Cañada Real lives and in particular, this is having a greater impact on women.

*Violation of Articles 20 and 27 in conjunction with Article E*

275. We refer hereto to paragraphs 437 to 441 of the Complaint.

276. As the State has not replied to the corresponding observations, we therefore submit that the situation faced by women living in Sector 5 and 6 amounts to intersectional discrimination contrary to Article E of the Charter, read in conjunction with Article 20 and 27.

*Conclusion*

277. It has been sufficiently proven that the power outage has a disproportionate effect in the lives of women workers, including those with family responsibilities, inasmuch as they carry out most of the housework and unpaid work.

278. The measures indicated by the State do not take into account this impact and deepen the gap generated in the affected area. The State's failure to remediate the effects of the power outage in the women workers in the Cañada Real, including those with family responsibilities, further disregards that they belong to vulnerable groups of population, amounting to intersectional discrimination and prolonging the situation of inequality and discrimination suffered.

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<sup>67</sup> Royal Decree 455/2020, of 10 March, which develops the basic organic structure of the Ministry of Equality. (no date) *Ir a la página de inicio*. Available at: [https://www.boe.es/diario\\_boe/txt.php?id=BOE-A-2020-3515](https://www.boe.es/diario_boe/txt.php?id=BOE-A-2020-3515) (Accessed: March 15, 2023).



279. In light of the foregoing the Complainants submit that the State is engaged in a continuous violation of Articles 20 and 27 of the Charter, read alone and in conjunction with Article E.

#### **V. SUBMISSION**

In light of the foregoing, the Complainants respectfully request the Committee to declare that the State has violated Articles 11, 15, 16, 17, 20, 23, 27, 30, 31 and E of Charter in relation to the ongoing power outage in Sectors 5 and 6 of the Cañada Real.

Signed on behalf of ATD Fourth World, CCOO, DCI, Feantsa and Medel