



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

13 September 2023

Case Document No. 7

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

**REPLY FROM THE GOVERNMENT TO THE COMPLAINANT
ORGANISATIONS' RESPONSE ON THE MERITS
(English translation)**

Registered at the Secretariat on 10 June 2023



MINISTERIO
DE JUSTICIA

ABOGACÍA GENERAL DEL ESTADO
DIRECCIÓN DEL SERVICIO JURÍDICO DEL ESTADO

SUBDIRECCIÓN GENERAL DE CONSTITUCIONAL Y
DERECHOS HUMANOS

TO THE EUROPEAN COMMITTEE OF SOCIAL RIGHTS

**THE SPANISH GOVERNMENT'S REPLY TO THE COMPLAINANT
ORGANISATION'S RESPONSE ON THE MERITS**

**COLLECTIVE COMPLAINT
No. 206/2022**

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



1. By letter of 27/03/2023 the Kingdom of Spain has been notified of the written observations submitted by the complainant organisations in present proceedings - DCI, MEDEL, FEANTSA, CCOO and ATD FOURTH WORLD – with regard to the observations made by the State on the merits of the complaint, inviting the Government of Spain, in accordance with Rule 31.3 of the Committee's Rules of Procedure, to reply to the said written observations.
2. Accordingly, on behalf of the Kingdom of Spain and within the time-limit granted - after an initial extension requested by this party - we hereby submit our reply to the observations submitted by the complainant organisations.

Furthermore, as announced to the Committee by letter of 23/05/2023, we will include some comments on the allegations made by the Ombudsman [*Defensor del Pueblo*], as a third party, in the present procedure.

3. In order to respond to the observations made by the complainants and to comment on the allegations made by the Ombudsman, whom the Government of Spain thanks for his intervention and the contributions made in the present proceedings, our submission will be organised in two parts.

In the first part we will refer, in parallel to the structure followed in the State's written observations on the merits of the complaint, to the situation in *Cañada Real*, and in particular in Sectors 5 and 6, explaining the origin of the power outages that occurred in October 2020 and which have led to the situation referred to in the complaint, the current situation of the dwellings in both Sectors in terms of energy supply, the prospects of a solution to the situation of lack of electricity in Sector 6 and the reaction of the authorities and Administrations to this situation, with reference to the different measures adopted to alleviate the effects of the lack of electricity.

We will largely refer to the explanations given in our written observations, providing precise explanations to specific issues raised by the complainants in their written observations, and detailing, clarifying and also updating, in certain cases, the information provided in our initial written observations on the merits.

In the second part we will refer to the specific violations of the Revised European Social Charter that are complained of, referring also, in substance, to the explanations given in our written observations on the merits, without prejudice to include further comments in the light of the reply given by the complainants in their written observations.

I. Observations related to the account of the facts

1.- On the irregular settlement of the Cañada Real Galiana

4. The complainant organisations do not comment on the description of the historical and social context of the *Cañada Real Galiana* made by the Government of Spain, and of the complexity of the problems raised by the settlement¹, a context that we consider important to take into account when assessing the situation that has given rise to the complaint.
5. Indeed, the complaint submitted to the Committee refers specifically to the situation arising from the lack of access to power supply in certain sections of *Cañada Real Galiana*, a situation that has occurred since October 2020 (the complainants state that the lack of access to electricity supply occurs in Sectors 5 and 6, although as we have been explaining, only in Sector 6 is there a lack of access to electricity supply through the distribution network).

However, knowledge of the historical and social context described, and confirmed - and complemented - by the Ombudsman in his third party observations, is fundamental for an adequate assessment of the specific problem that is being reported.

6. As already noted, for some years and **at present it is a priority for the competent authorities and public administrations to tackle the problems arising from this situation from different points of view - aggravated in Sector 6 due to power outages-**, in order to articulate the different mechanisms necessary to put an end to such situation.

¹ First point of the Facts Section of the observations on the merits.

7. As stated, the Public Administrations involved in the solution of the problems derived from the existence of the irregular settlement correspond to the various levels of the territorial structure of the State (national, regional and municipal levels), which have been making an important effort, through different mechanisms, and have considered different means of coordination and cooperation to effectively tackle these problems.
8. We refer, in order not to reiterate the explanations already given, to what was set out in the written observations, without prejudice to highlighting the importance of three milestones that show in particular the effort and progress that has been made by the public authorities to tackle the complex situation in the *Cañada Real Galiana*:
 - Law 2/2011, of 15 March, of the *Cañada Real Galiana*.

The Law decided that the approximately 14 km section of the *Cañada Real Galiana* within the Community of Madrid in which the settlement is located would lose its status as a cattle track, and consequently its status as a public property, and the corresponding land would be classified as property belonging to the Administration, with the resulting effects in terms of its legal regime -including the possibility of being sold or transferred, primarily to the corresponding local councils, or to third parties.

It was also decided to urge the Administrations with powers in the different areas of action affected by the existence and life of the illegal settlement, to reach an agreement to resolve all the common issues, giving in all cases the participation of those affected, duly represented by the accredited associations.

- The creation of the Madrid Regional Government's Commissioner concerning the *Cañada Real Galiana*.

The Decree 243/2015, of 29 December, of the Governing Council of the Community of Madrid, created the Commissioner of the Government of the Community of Madrid for the *Cañada Real Galiana*, with the aim of promoting dialogue and coordination between the different Administrations and entities involved in the *Cañada Real Galiana* project.

This body has been carrying out an extremely important activity in promoting the necessary measures to solve the different problems derived from the existence of the settlement in the *Cañada Real Galiana* and the living conditions there, coordinating the actions carried out by the different Administrations involved in the adoption of these measures in permanent contact with the residents and the associations representing their interests, and with the different authorities and competent administrative bodies at the different territorial levels².

- The *Cañada Real Galiana* Regional Agreement.

The *Cañada Real Galiana* Regional Agreement, to which we devoted a specific section of our observations (Point 2 of the factual account) - to which we refer - was a historic agreement, being an example of joint work between the various political forces and authorities.

As we explained in our observations, the Regional Agreement represents an essential milestone in the evolution of the response of the public authorities to the situation of the *Cañada Real*, as it represents a political commitment made by consensus by the administrations of the different territorial levels involved (State, Community of Madrid, and municipalities of Coslada, Rivas-Vaciamadrid and Madrid), governed by different political forces, and which, due to its special attention, which deserves special attention.

9. The Regional Agreement set out a series of objectives, proposals and commitments aimed at establishing the most appropriate solution for the irregular settlement of *Cañada Real*, with the participation of all actors involved - including the Public Administrations responsible for the different

² In addition to the Commissioner's participation in different collegiate bodies and working groups, created by the Regional Agreement or outside it, the Commissioner plays a very important role of interlocution between Public Administrations, including, in addition to the monthly meetings with the Commissioners of Madrid and Rivas Vaciamadrid (to ensure the coordination of actions between the regional and local levels), the promotion of the actions of the other Regional Government Departments and Bodies, for example: with Education, for the maintenance of school routes; with Economy and Finance, for the creation of an Employment Committee in *Cañada Real Galiana*; with Family, Youth and Social Policy, to facilitate the social inclusion of the population in this area, etc.

areas of action affected, as well as "third Sector" entities and residents' associations.

10. It is striking that in §§ 11 and 12 of the complainants' observations, they call into question the participation of the actors involved in the formulation of the Regional Agreement, stating that "*the fact that some NGOs were consulted throughout the process does not mean that the population accepted the final content of the agreement, which was exclusively signed by the relevant regional authorities*".

Both "third Sector" entities and neighbourhood associations were consulted in the elaboration of the Agreement and had the opportunity to present allegations³.

11. The Regional Agreement, as we explained in our observations, included the objectives and strategic lines of action in the areas of social integration (acting in the community, education, employment and health contexts), urban planning and housing, and a permanent organisational structure was set up, creating different collegiate bodies that have been carrying out intense activity since then, as shown in the following table.

12. In addition to these meetings of the collegiate bodies created by the Agreement, the team of the Commissioner of the Community of Madrid holds constant meetings (some on a monthly basis) with neighbourhood associations, organisations and residents of *Cañada Real*, in multiple informal forums, such as the Community Process Nucleus, Networks of Organisations, both in Sector 6 and Sectors 2 to 5, the Education Committee, the Gender Working Group, the Education Working Group, the Health Working Group, among others.

2.- The demographic structure of Sectors 5 and 6 of Cañada Real.

13. In the Spanish Government's observations we explained that, when the Regional Agreement was signed, Sector 5 was home to 412 families, 1,601 people of which 601 were minors; and Sector 6 was home to 824 families, 2,953 people of which 1,211 were minors.

³ Should the Committee deem it relevant, we offer to produce written submissions in support of this.

We also noted that the data would have changed since the Agreement was signed, especially in Sector 6, in particular as a result of the implementation of the relocation plan in this Sector, which is progressing at an intense pace - notably since October 2020, due to the conditions resulting from the lack of access to electricity supply in the Sector from that date onwards .

14. Thus, at present, the population in Sector 6 has been reduced by at least 249 families -almost 1,000 people-, that is, the number of families that have been rehoused in urban areas of the Community of Madrid as a result of the process of rehousing that is taking place in this Sector.

- On the alleged lack of information by national authorities on the demographic configuration of Sectors 5 and 6.

15. In § 16 of the complainant's observations they hold that the State does not provide information on the demographic configuration of the two Sectors, and refer to the information contained in their report (referred to as the "SIRA" report) on this matter.

16. This statement contradicts reality.

17. As has been pointed out, and it is sufficient to verify the content of our written observations -complemented with the updated information provided at this stage-, data is provided on the number of families, persons and minors residing in Sectors 5 and 6.

- On the "social study" of the population with detailed information on the residents living in *Cañada Real* and on the characteristics of their dwellings, under preparation.

18. The national authorities give great importance to the need for precise and accurate information on the demographic configuration of the population living in *Cañada Real Galiana*, as an instrument for planning and designing public policies to be developed with knowledge of the needs of the population.

19. For such reason, the Community of Madrid, as set forth in the Report of the Government Commissioner for the *Cañada Real Galiana* of 4/05/2023⁴, which we provide as Annex 1, conducted and prepared in 2016 a "social study" of the population of *Cañada Real*.
20. Due to the high mobility of the population, and the consequent fluctuations in the demographic configuration of the population, the Social Housing Agency has entered into a service contract for the updating of information on families residing in *Cañada Real Galiana*⁵, contract with an estimated value of EUR 198,462.17, which has been awarded to the company *AEBIA TECNOLOGÍA Y SERVICIOS S.L.*

A link to the Public Procurement Portal of the Community of Madrid, where the information corresponding to the tender in question appears, is available at:

[*Servicios de actualización de la información sobre familias que se ubican en la Cañada Real Galiana Sectores 1 a 6 \(comunidad.madrid\)*](#)

21. The "social study" being carried out by the company AEBIA - which we offer to provide the Committee with as soon as it is completed - is intended to provide precise, detailed and up-to-date information on the population (number of people/families) currently living in *Cañada Real*, with a high degree of detail: it is intended to draw up profiles of the population, by nationality, place of origin, gender, age, educational situation, employment situation, health situation or economic situation), and on the characteristics of the dwellings in which they live.
22. All of this with the aim of planning as accurately as possible the different public policies to be developed in the area, in particular the rehousing processes that allow families to improve their residential conditions, to know the needs of the families in order to establish the priority Sectors for

⁴ First Section of the Report: "With regard to demographic data in *Cañada Real Galiana*".

⁵ Contract for "Services for Updating Information on Families residing in the *Cañada Real Galiana* Sectors 1 to 6" (File: A/SER-026011/2022), concluded on 31/03/2023. The execution period for the works is 4 months.

intervention, and to know the characteristics of the dwellings in order to plan actions to improve the conditions of the buildings.

23. For your interest, as Annex 3 we provide the Technical Specifications for the contract tender, which details the actions that make up the work corresponding to the "social study".

3.- On the underlying reasons for "power outages" in Sectors 5 and 6 of Cañada Real Galiana in October 2020.

24. Throughout the complaint and the written observations, the complainants attribute⁶ to the electricity company UFD, responsible for the electricity supply in Sectors 5 and 6 of *Cañada Real Galiana* - which, as explained in our observations, and acknowledged by the complainants, is a private company with no links to the Administration - a voluntary and intentional action of "cutting off" the electricity supply in Sectors 5 and 6 of the *Cañada Real* in October 2020, and of maintaining this situation since then⁷. The complainants maintain that the State should be responsible for the consequences of this action.
25. This idea has also been relatively well received by the residents of *Cañada Real*, who have the subjective perception that their electricity has been "taken away", that the power outages have been directly caused by a decision of the electricity company, under the false pretext of protecting security, in order to coerce them and forcibly evict them from their homes.
26. Even the Ombudsman himself, in his third party submission, would seem to point to this idea by stating that, in October 2020, the electricity company took a specific decision to "cut off" the electricity supply in Sectors 5 and 6:

"In October 2020, the supply company decided to cut off the supply to Sector VI, a measure that was temporarily extended to Sector V from November 2020. Sector V partially recovered electricity between March

⁶ Without prejudice to the claim that the State, to which it attributes the alleged violations of the CSER, must be held responsible for the company's actions.

⁷ Thus, in §201 of the complaint, the complainants state that "the facts giving rise to the present complaint refer to the actions of a private person, UFD-Naturgy, which is the electricity supplier in Cañada Real."

and November 2021. The justification given by the company was that the irregular connections put the safety of the devices installed in the electrical infrastructures at risk. Subsequently, the company again justified the supply cut-off on safety grounds.”

27. However, this statement does not correspond to reality: the supply company did not decide to cut off the electricity supply in October 2020.

28. We believe that it is essential to clarify this issue, since in order for the Committee to assess the situation in Sector 6 of *Cañada Real* and the eventual responsibilities arising from it, it must know exactly the reasons for the origin of the situation.

29. In its written observations on the merits⁸, the Government of Spain provided the Committee with **a precise explanation of the circumstances under which, in October 2020, Sectors 5 and 6 of *Cañada Real Galiana* ceased to have electricity**, according to the information that has been gathered for this purpose.

30. In view of the statements made by the complainants in their observations, as well as those contained in the Ombudsman's allegations, concerning this explanation, we are forced to clarify some points.

- **On marijuana plantations as a possible source of increased electricity consumption in Sector 6.**

31. The Ombudsman's allegations appear to reproach the national authorities for referring to the existence and proliferation of illegal marijuana plantations as the main cause of the overloads that cause power outages in Sector 6 of *Cañada Real Galiana*. In this regard, it is stated that: “*In no way is this activity the modus vivendi of the people living in the Cañada Real Galiana*”.

32. The State shares the view that marijuana cultivation cannot be said to be the activity in which the residents of Sector 6 of *Cañada Real* are generally engaged.

⁸ Point 6.3 of Section I “Facts”, §§ 43 to 57.

33. Yet the reality is that, regardless of the fact that marijuana cultivation is not the "*modus vivendi*" of most people in Sector 6, the marijuana plantations have flourished and with it the consumption of electricity in Sector 6, given that the cultivation of this substance requires installations that demand a high consumption of electricity. As explained in the Report of the General Directorate of Municipal Police, which we provide as Annex 5, "*in the plots with these plantations there are high-powered electrical generators that provide energy autonomously and switch to electricity from the high-voltage line when they detect power*".
34. As further explained in the report, the recent proliferation of plantations is particularly difficult for the authorities to detect:
- "A few years ago there were numerous plantations in the area, some of them with thousands of plants, but nowadays micro plantations have become the norm, using forced ventilation systems, carbon filters that renew the air inside, wall coverings with anti-heat detection material, LED lights, etc., which make detection difficult for the Security Forces"*.
35. Neither the complainants - nor the Ombudsman – have directly disputed that in 2020 electricity consumption in Sectors 5 and 6 increased by 40% between June and August, reaching 70% in September compared to the same month of 2018. Nor has it been disputed that, as we explained, the average value of electricity consumption per dwelling in Sectors 5 and 6 of *Cañada Real* in October 2020 was seven times higher than the average consumption of a dwelling in Spain (§§ 43 and 45 of our written observations).
36. Otherwise, no explanation is offered, other than the increase in marijuana cultivation in the area in 2020.
37. Therefore, it does not seem reasonable to reproach the State for citing such a circumstance as the reason for this increase.
38. In any event, what is strictly speaking relevant when analysing the cause of the power putages in October 2020 is not so much whether the cause of the alarming increase in the demand for electricity in Sectors 5 and 6 of *Cañada Real* is related to the development of legal or illegal activities, but the fact

that, regardless of the reasons for this, the demand for electricity increased throughout 2020 to reach, as has been pointed out, an average consumption value per dwelling of more than 7 times the average consumption of a dwelling in Spain, a fact that is not disputed and which has been accredited.

- **On the protection mechanisms activation in the electricity supply network as a result of the high increase in electricity consumption in Sector 6.**

39. Assuming that electricity consumption in Sectors 5 and 6 of the *Cañada Real Galiana* increased notably in 2020, it can be understood that, as we explained in § 46 of the observations on the merits, as of October 2020 the protection mechanisms of the electricity lines, installed by the electricity company responsible for their maintenance, began to act, avoiding the overloads that the very high consumption could provoke and with it the serious risks that these caused for people, buildings and installations located in both Sectors.

40. It is true that, according to the complainants, for many years, residents of different Sectors of *Cañada Real Galiana*, including Sector 6, have had irregular access to the electricity grid through a system of illegal connections.

41. However, the Government of Spain is of the view that this cannot justify that residents have unlimited access to electricity without establishing the relevant safety mechanisms, when, precisely as a result of the high increases in consumption, it has been proven that this entails a serious danger to the safety of people, dwellings and buildings.

We refer here to the explanation in § 48 of our observations on the merits.

42. As stated in § 50 of our observations on the merits, we insist that **lack of access to electricity supply in Sector 6 does not respond to a deliberate decision on the part of the distribution company – nor to a decision by the relevant authorities - to stop supplying electricity in that particular Sector, as suggested by the complainant organisations and is perceived by some residents. The power outages are the result**

of uncontrolled and excessive consumption of electricity, which results in the triggering of protection mechanisms that had to be installed to prevent network overload.

43. **The courts have recently confirmed that the reasons for power outages in October 2020,** which in Sector 6 have persisted to date, **was not a voluntary decision by the distribution company to proceed with the "cut-off" - much less with the aim of coercing the residents of Sector 6 to leave their homes.** Rather, the installation of reclosers, as we pointed out in our observations, obeyed strict safety reasons and the protection of people and property, which were exposed to a high risk as a result of a precarious and unsafe system of illegal "chaotic" connections".

44. As stated in our observations⁹, in December 2020 the cultural association *Tabadol* –which operates in *Cañada Real Galiana*- filed a criminal complaint against the distribution company, UFD, for the commission of an offence of coercion, considering that the purpose of the "power outages" was to leave neighbours without electricity in order to expel them from their homes.

The existence of this criminal complaint is expressly referred to by the complainants in their complaint - §148 - and by the Ombudsman in his observations¹⁰.

45. As a consequence of the above, the Investigative Court no. 42 of Madrid initiated legal proceedings no. 2163/2020.

46. **All along these criminal proceedings,** aimed at clarifying the circumstances surrounding the power outages that occurred in 2020, and the installation and entry into operation of reclosers by the electricity supply

⁹ §§ 43 to 45 of the observations on immediate measures.

§42 and 48 to 57 of the observations on the merits.

¹⁰ In the "Relevant background" part of the observations submitted by the Ombudsman, Section II, the following is stated:

"In December 2020, a criminal complaint was filed against the company UFD-Naturgy as the residents of the affected sectors, considered that the ultimate aim of this measure was not to leave them without electricity, but to expel them from their homes. UFD-Naturgy again justified this measure on security grounds, and the competent judge requested that an independent expert produced a report."

company, **a number of measures of inquiry have been undertaken**, including, most notably, due to their singular importance for these purposes, **the request for a report from an independent expert formulated by the examining magistrate**^{11 12}. In the report, as we stated in § 42 of our written observations on the merits after an exhaustive examination of the situation, it is concluded that:

- The distribution network feeding the dwellings and buildings in Sectors 5 and 6 has neither been carried out by specialised companies, nor has it been supervised by a technician or approved by Industry and is not properly serviced, concluding that there is an “obvious danger to the people using these installations or in the icinity”.
- In Sector 6, in particular, the report states that the facilities are “absolutely chaotic”, “with connections to the medium-voltage line being made virtually on an individual basis, with dozens of connections

¹¹ As we explained in our previous written observations, on 13/01/2021 the court agreed to provisionally dismiss the case and consequently close the proceedings, on the understanding that power outages and the consequences derived from them were not attributable to the distribution company, as they were the result of the overloads produced by the illegal connections to the electricity grid carried out by the residents of the affected sectors. According to the *auto*, although the massive fraud in the electricity distribution network had been occurring for years, it was from the last few months of 2020 onwards that the overloads had occurred “due to illegal and uncontrolled connections and manipulation of the network, which has produced and continues to produce an overload that causes the protection mechanisms of the electricity lines to act automatically, interrupting the supply.”

The provisional dismissal *auto* was appealed.

The appeal was decided on 26/05/2021 by the Provincial Court of Madrid (Section 16), which partially upheld it with the aim that a certain report issued by the entity *UFD Distribución Eléctrica SA*, which had been taken into account by the examining court, should be contrasted or verified by an impartial expert appointed by the latter.

As a result, the examining court ordered the appointment of an independent judicial expert, not only for the purposes indicated by the Provincial Court (comparison of the information provided by UFD), but also ordered the extension of the judicial expert's work to other additional aspects. The result of the independent expert's work was set out in the expert report of 24/02/2022, ratified on 19/05/2022, and the additional report of 2/06/2022, ratified before the judge and the parties involved in proceedings on 9/09/2022..

¹² Such request was referred to by the complainants in § 148 of their observations: “*In December 2020, the Tabadol Cultural Association, made up of Maghrebiwomen living in Sector 6, filed a criminal complaint against the company UFDNaturgy and the Commissioner of the Region of Madrid for the Cañada Real on the grounds that the prolonged power outage intended to forcibly expel the inhabitants of the area. In the legal proceedings, UFD-Naturgy produced an expert a report in which the lack of electricity supply was justified on security grounds. At the time of writing, the investigating judge appointed an independent expert to produce a report on the causes of power outages. The report has not yet been produced.*”

starting from homes and spliced to the wiring of the line in its catenary", the line's connections are fed to "small transformers which in turn distribute electricity to a few distribution lines", and the wiring runs "along the street in a completely disorganized manner, hanging from poles or anchored to façades without respecting distances or any kind of safety.

- Moreover, regarding Sector 5, the report states that according to the explanations given by the "president of Sector 5", except for the end of 2020, the supply is continuous, without hardly any complaints, except for the request to extend the consumption limits.

47. Evaluating as a whole the different investigative actions carried out, *ex officio* and at the request of the Public Prosecutor's Office and the parties to the proceedings, the Investigative Court no. 42 of Madrid has agreed by an *auto* of 24/03/2023, to dismiss the proceedings, as the following has been accredited that:

- (i) The existing connections to the electricity network, mainly in Sector 6, are carried out in a "chaotic" manner, "without any kind of order, hanging from poles or anchored to façades, without respecting distances or any kind of safety", posing such a risk to property and persons that, according to the independent expert in the additional report, no supply should flow through them, and the immediate dismantling of the installation is necessary.
- (ii) The installation of the reclosers was agreed by UFD-Naturgy for the sole purpose of protecting the Rivas substation, from which the medium voltage line runs, and to protect the safety of persons and property using a dangerous and precarious system of connections existing in Sector 6 of *Cañada Real*.

48. The explanations contained in the *auto* of the Provincial Court of Madrid of 10/03/2023, confirming the decision of the Investigating Court to reject

certain evidence proposed by the prosecuting parties, are particularly clarifying in this regard. Some of these explanations are reproduced below:

“From the expert report ... very relevant conclusions can be drawn.

In Sector 6 the situation was and is chaotic, illegal connections are the absolute majority, there is a risk to the population itself, to the integrity of the electricity system, and all of this is due to illegal connections”.

There has also been an exponential increase in consumption in Sector 6, which is not justified by the increase in population, which has been slight, but by the illegal connections. Some of these illegal connections are also used to supply illegal marijuana plantations, which require a large amount of electricity

The expert was also very clear in stating that there were up to 50 flashover, with interruption of supply, in 2020 and that part of them were due to overloading of the network and others were short circuits caused voluntarily, to facilitate the cutting off of supply and the installation of illegal connections, as an illegal connection cannot be made with the current on....

The expert was clear and forceful in pointing out that the purpose of the reclosers installed by the accused entity was clearly to limit consumption and thus avoid overloads in the network that were affecting the substation head-end ...

There were dramatic, unjustified, illegal increases in consumption, continuous supply disruptions, either due to overloading or short circuits caused to allow new illegal connections. In view of this, the supply company decided to install some reclosers that limit consumption, which function as "fuses" to protect the electrical substation, given the serious danger that this represents.”

49. It is striking that the complainants, despite having referred in the written complaint to the preliminary proceedings before the Investigative Court no. 42 of Madrid, even making specific reference to the court order to appoint an independent judicial expert agreed upon in the context of said proceedings, nevertheless omit any reference to the result of the judicial expert's actions and his conclusions, as well as to the subsequent development of the criminal proceedings (up to the time of submission of the written observations on 15/03/2023). The complainants' lack of honesty towards the Committee in keeping silent on this point, and in not informing the

Committee of such relevant actions in this collective procedure as the court proceedings relating to the clarification of the causes of the power outages, in particular the actions carried out in the course of the court proceedings by an independent judicial expert appointed by the judicial authority itself, should be highlighted at this point.

- **Neither the Ombudsman, nor even the complainants themselves, deny the existence of the serious security problems posed by the residents of Sector 6 obtaining electricity as they have been doing until October 2020**

50. The complainants themselves seem to share the view that there are indeed serious problems of security of access to electricity in Sector 6, given the increase in consumption demand in the plots of land in this Sector that began in 2020.

51. They do not state this explicitly, but neither do they deny it, and limit themselves to the fact that "illegal connections have been in place since the creation of the neighbourhood, more than 50 years ago" (§41 of the claimants' observations), and that other Sectors of *Cañada Real Galiana* - Sectors 2, 3, 4 and 5¹³ - have "the same illegal connections", despite which "all the other Sectors receive energy".

52. Therefore, the complainants do not deny the existence of the serious safety problems that, especially since 2020, access to the electricity supply by the residents of Sector 6 entails, nor do they actually question the criteria of the different technical reports that refer to these problems, refuting that access to the electricity supply, tolerated for years, nowadays and given the level of consumption in Sector 6 entails a serious danger.

53. It is therefore striking that the authorities and the electricity company are expected to continue to "tolerate" access through the system of illegal hook-ups that has so far allowed the residents of Sector 6 to obtain electricity from the grid.

¹³ We highlight the fact that on this point the complainants expressly acknowledge that Sector 5 receives electricity supply, as do Sectors 2, 3 and 4, and unlike Sector 6 of *Cañada Real Galiana*.

54. We consider it essential for the European Committee of Social Rights to ascertain that the power outages were not due to a decision or action on the part of the electricity supply company, or indeed on the part of the national authorities.

If, after the explanations given by the State, the Committee has doubts about the origin and cause of the power outages, we insist on the proposal that the Committee contact the electricity company, so that it can provide all the information and explanations that the Committee considers appropriate to clarify the situation, as well as the necessary documentation of the investigation proceedings carried out before the Investigative Court no. 42 of Madrid - information that is also known to the complainants.

4.- On the situation of Sector 5 following power outages occurred in October 2020.

55. The power outages in October 2020 that affected Sectors 5 and 6 jointly - as there were no technical devices at that time to allow automatic switch openings due to network overload to affect only one of the two Sectors – no longer occurred from the end of 2020 and the beginning of 2021.

It should be noted at this point that the electricity company installed certain devices that allowed overloads in one branch (for example, the one corresponding to Sector 6) to prevent them from affecting the supply of another branch (corresponding to Sector 5), as well as allowing remote action in the event of supply cuts with multiple attempts to restore the supply on a daily basis, making the response capacity much quicker¹⁴.

56. As a result, both the *Cañada Real Galiana* Commissioner of the Self-governing Community of Madrid and the distribution company report - and this is also confirmed by the judicial expert appointed in the framework of the preliminary proceedings before Investigative Court no. 42 of Madrid - that **except for occasional situations of supply interruption due to**

¹⁴ This is explained in the Report referred to in § 48 of our observations on the merits.

occasional overloads, the electricity supply in Sector 5 has been operating continuously and consistently since at least February 2021¹⁵.

57. This fact can be confirmed by consulting the actual consumption data for Sector 5 of *Cañada Real*.

58. As we indicated in our substantive observations, according to the consumption data provided by the company, **the real consumption of the illegal connections in Sector 5 in 2021 was 9.10 GWh per year in 2021.**

This represents a very similar consumption figure to that of 2018 - estimated consumption of 9.51GWh per year.

59. It can therefore be stated that **the level of electricity consumption obtained through the RSV703 medium-voltage line, essentially through illegal connections, in 2021 has remained at the same level as the consumption for the year 2018.**

- **Importance of the Committee's precise knowledge of the situation in Sector 5 in the face of ambiguities, inaccuracies and contradictions on the part of the complainant entities in their written complaints and observations**

60. The Government of Spain considers it appropriate for the Committee to note the ambiguities, inaccuracies and even internal contradictions in their own submissions, on the part of the complainants when suggesting - or directly raising - the same factual situation in Sector 5 with respect to Sector 6, considering that the problems raised in the two Sectors are identical and extending the full range of allegations and claims of violation by the State of

¹⁵ The Report presented by the Government Commissioner for *Cañada Real Galiana* of 18/01/2022 explains that: "*Since February 2021, the residents of Sector 5 began to coordinate in order to rationalise consumption, so that the existing transformer stations in this Sector come into operation alternately, depending on demand. This has ensured that, except for occasional drops, a stable supply of electricity is maintained in this sector.*"

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

the provisions of the Revised European Social Charter that are invoked as being violated, both to the residents of Sector 5 and to those of Sector 6.

61. In the complaint, when describing the situation and making the claims, denouncing the infringement by the Spanish State of various provisions of the Revised European Social Charter, the complainants, in fact, extend all the allegations without distinction to both Sector 5 and Sector 6. Thus:

- In § 5, when initially describing the situation, it is openly stated that "Sectors 5 and 6 have since then [since the October 2020 power outages] been deprived of electricity", stating also that "since the power outage began, the State has not taken any steps to restore electricity."
- In § 16, in summarising the subject-matter of the claim, they refer generally to the "permanent power outage" in Sectors 5 and 6: "*The Complainants submit that, as a result of the ongoing power outage occurring in Sectors 5 and 6 of the Cañada Real, the State is engaged in a continuous violation of*" [all the provisions alleged to have been violated by the State are listed below].
- In § 17 there is a permanent lack of access to electricity and heating in both Sector 5 and Sector 6 ("*ongoing lack of electricity and heating in the Sectors 5 and 6 of the Cañada Real*").
- In § 20 when describing the context, reference is made to the power cut that has been happening in Sectors 5 and 6 of *Cañada Real* since October 2020 ("*The facts of the Complaint relate to the power outage which has been occurring in Sectors 5 and 6 of the Cañada Real since October 2020 and continues at present*").
- The Committee's jurisdiction *ratione temporis* is based specifically on the "serious deterioration of Sectors 5 and 6 as a result of the continuing lack of electricity", which, it is stated, "began in October 2020 and continues to affect the persons concerned by the complaint in a harmful manner to this day" (§ 178: "*The facts which give rise to the Complaint relate to the serious situation in the Sectors 5 and 6 of the Cañada Real as a result of the ongoing electricity outage. The outage, which commenced in October 2020, continues to adversely affect the persons concerned by the*

Complaint to this date”). This rationale is completed in §182 by stating that despite the fact that the power outages started before the entry into force of the Revised European Social Charter in Spain, the facts described - thus the described situation of lack of access to electricity in Sectors 5 and 6 - are still occurring: “... *although the power outage in the Sectors 5 and 6 of the Cañada Real started prior to 1 July 2021, the facts upon which the Complaint relies have been occurring since the State was bound by the Charter and the Protocol, and they are still occurring at present*”.

62. Generally speaking, **throughout the complaint, the complainant entities make constant reference to the situation of lack of electricity, referring to Sectors 5 and 6, without any distinction whatsoever, extending the full range of arguments they put forward, in relation to the violations reported, to the population residing in the two Sectors.** In addition to the above-mentioned references, by way of example, we cite the references to the lack of electricity supply ("lack of electricity supply"), to the deprivation of access to electricity for the population ("deprivation of electricity"), to the situation resulting from the lack of electricity, referred to indistinctly in Sectors 5 and 6 in §§ 23, 31, 67, 71, 74. **Moreover, when analysing the impact of the "lack of electricity" on the population, and its consequences on the population, no distinction is made between the population of Sector 5 and the population of Sector 6.**
63. It should be noted that in the 466 paragraphs that comprise the claim, only one brief clarification is made incidentally at § 69 with regard to Sector 5, explaining that since October 2020, "electricity has not returned to Sector 6", and Sector 5 "has electricity", although only "a few days a week, with frequent outages lasting several days", without providing any further information (which, from the outset, directly contradicts the rest of the document, which repeatedly states *ad nauseam* that neither Sector 5 or 6 has electricity, equating the situation of the population in both Sectors and making no distinction). Despite this "precision", the complainant entities continue to affirm throughout the letter that both Sectors are equally deprived of electricity.
64. In its written observations on the merits, the Spanish Government highlighted the lack of veracity in the statement - we insisted, constantly

throughout the complaint - that since 2020 neither of the two Sectors, 5 and 6, have access to electricity supply, and we offered real, concrete data on the functioning of access to electricity supply (which continues to take place illegally) in Sector 5, and on the consumption data for 2021, which show consumption of the same intensity as before the power outages occurred in 2020.

65. This showed that the approach of the complaint, as far as Sector 5 was concerned, was based on a scenario that did not correspond in any way to reality.
66. The lack of conformity with reality in the claim, which is total as far as Sector 5 is concerned, is probably the result of **the complainants' lack of knowledge of the real situation in *Cañada Real Galiana***, a consequence of the distance - at least geographically - from the place of the facts, and with the living conditions in Sectors 5 and 6.
67. In the observations submitted - after having taken knowledge of the explanations given by the State -, the complainants have pointed out (which, although not reflected in their submission, is obviously of essential relevance to the complaint) that in Sector 5 there is no "full" access to electricity (§ 36), as opposed to what was stated in the complaint, which stated the ongoing lack of access to electricity in both Sector 5 and Sector 6 since October 2020.
68. Such statement is indeed inaccurate.
69. In Sector 5, since at least February 2021, the electricity network has been operating regularly, and residents have been accessing it, as they did before the power outages in October 2020, through a system of illegal connections. There are only occasional power outages as a result of specific overloads, which occur mainly in periods when there is a higher demand for electricity, such as in the months when temperatures are lower, but in any case they generally result in the immediate restoration of electricity.
70. We deny the assertion- made in § 37 of the complainants' observations, in which they refer, first, to a period of total absence of light that started in October 2020 and lasted four months - which is also inaccurate, but in any

event is previous to the entry into force in Spain of the Revised European Social Charter, so we do not consider it appropriate to dwell on this period; second, the period after February 2021, at which time it is claimed that the electricity would have been "precariously restored" for a few months, presumably followed by a period of "suspension" of electricity in winter 2021, and then "permanently restored" once again for a few months; that in winter 2022, it began to suffer interruptions in supply that would last one day in every two or three; and finally, from January 2023, it is claimed that access to electricity supply occurs "on alternate days".

71. Actually, as explained in our written observations - on the merits and on the immediate measures - **since February 2021 there have been no interruptions in access to the electricity supply in Sector 5, except on specific occasions when the supply is immediately restored.** In fact, the electricity supply in Sector 5 of *Cañada Real* has been operating regularly on a permanent basis, with no interruptions in supply that are not punctual and immediately restored (within a few minutes).
72. Therefore, **the impact on the residents of Sector 5 of the existence of the reclosers**, which limit the flow of electricity that can be accessed at any given time by causing occasional line jumps, which are immediately restored, **is completely different from the impact on Sector 6, where there has been no electricity flow in the network since October 2020.**
73. Even if the fact that there are no overloads in the network in Sector 5 (or that they do not occur with the level of severity that occurs in Sector 6, which has led to a total power outage), is due to the fact that, as stated by the Ombudsman in the light of the statements of the neighbours, have organised themselves to distribute the use of electricity among themselves in a rational manner, in an attempt to avoid concentrating their consumption at certain times of the day and thus avoiding overloads in the supply, we consider that, in so far as there has been no decrease in overall consumption in Sector 5, it cannot be said that the impact of the self-imposed limitations to avoid overloads has a significant impact on their living conditions - we recall that **the consumption figures are practically identical to those before 2020.**
74. We would ask the Committee, in a crucial aspect such as this, to determine the scope of the object of the complaint - specifically, whether it should

include the entire population in Sectors 5 and 6 of *Cañada Real*, or only the population in Sector 6 - by contacting the company supplying electricity in Sector 5 in order to verify such information.

75. Finally, it should be noted that the Ombudsman in his third party allegations acknowledges that the lack of electricity, as a situation that has been permanent since 2020, only occurs in Sector 6.

As for Sector 5, the Ombudsman notes that access to electricity is indeed provided through irregular connections, stating that "the last time" he visited the area (the exact date is not given), the residents had access "on alternate days", which conflicts with the data provided by the electricity company, without specifying the sources of such information, or whether it could have been verified by objective data.

5.- On the situation in Sector 6 following power outages in October 2020.

76. **In Sector 6**, the electricity supply situation is very different from the situation in the rest of *Cañada Real*, and in particular Sector 5, **as overloads have been occurring continuously in this area since October 2020.**

77. According to information obtained through the Commissioner of the Community of Madrid, as we stated in our written observations on the merits, since October 2020 and until 5 March 2022, the supply company had been trying to reactivate the supply twice a day.

These attempts, however, were unsuccessful, due to the fact that the high energy demand determined the **immediate activation of the protection mechanisms in case of overload.**

After more than a year of unsuccessfully trying to re-establish the supply twice a day, and the judicial authority having also established the danger of the illegal connections in Sector 6, according to the information provided the company has reportedly stopped trying to reactivate the electricity supply in Sector 6.

78. The complainants argue (§ 58 of their observations) that the State incurs in a contradiction by stating, firstly, that the population of Sector 6 would have access to electricity supply if its consumption were to remain at "normal" terms - instead of increasing drastically in 2020 – and, secondly, that since 5 March 2022 the company stopped trying to reactivate the electricity flow.

However, there is no such contradiction, but rather an incorrect understanding of the explanations given by this party.

As we have explained in detail, the fact that the supply was no longer reactivated occurred after the company had spent more than a year trying to re-establish it on a daily basis, twice a day, and therefore after verifying that consumption habits had not changed throughout this time, This made access to the supply impossible - which would be technically possible if, as we said, consumption levels were to fall back to pre-2020 levels, given that the supply capacity in Sector 6 is 18.20 GWh/year, being "tared" at 80 amps.

79. In view of the lack of electricity in Sector 6, which has been going on since October 2020, **the residents have provided themselves with energy and heat sources as an alternative to obtaining electricity from the grid.**

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

81. It is striking that **the complainant organisations make no mention of this fact, which is of unquestionable importance when determining the scope and impact on the population of the lack of access to the electricity supply through the electricity grid.**

Indeed, it can be seen that in their written submissions they describe a situation of absolute lack of electricity and energy for all of the residents

affected by the power outages, a situation that is far from being true - especially the reality on the date on which the complainants' observations were submitted.

82. Once again, in our view this omission can only be due to a lack of knowledge of the situation on the part of entities that are based outside Spain and therefore far from the place of conflict, which could justify such important omissions as those indicated.
83. The reality is that anyone familiar with the situation in Sector 6 of *Cañada Real Galiana* is aware of the existence in the houses and buildings of solar panels, generators and other mechanisms that allow electricity and heat sources to be obtained outside of the electricity supply through the grid.
84. This may imply the assumption of additional expenses on the part of families in a situation of economic vulnerability, so there may be difficulties in providing themselves with these mechanisms. However, without prejudice to the better or worse economic possibilities of each family, the majority have been effectively provided with them in a progressive manner since October, when power outages occurred, and as the real difficulty of reverting the situation to the system as electricity was obtained before October 2020 has been assumed.
85. Moreover, this fact is even corroborated by the report provided by the complainant organisations (the "SIRA report"), which recognises the existence of a high percentage of residents in Sector 6 who have alternative sources of energy - a percentage that the State in any case considers to be higher than that indicated in the report -, and by the Ombudsman, who stated in his allegations as a third party that "those residents who can afford it to are resorting to palliative solutions, such as the installation of solar panels."
86. Despite the above, the complainant organisations make no reference to this fact, which in our view is particularly important to establish the consequences and real impact on the population of the lack of access to the electricity supply through the electricity grid.

Thus, neither in complaint nor in the observations is there any reference to this fact: in both written pleadings the complainants describe a situation of **complete lack of access to electricity** for the residents of Sector 6¹⁶, and the serious consequences of not having electricity in their homes when establishing the extent of the violations that are being reported.

87. In the specific case of solar panels, in the image below it is showed that many houses have been fitted with them. The attached images are aerial photographs corresponding to Sector 6 - in particular, the area near the mosque, obtained from Google maps.



¹⁶ We have observed that they extend this description to Sector 5 as well, although we focus our discussion on Sector 6.



6. On the response and actions taken by public authorities to the lack of electricity in Sector 6 of Cañada Real Galiana

88. In our written observations we explained that, in view of the situation of lack of electricity supply in Sector 6 of the *Cañada Real* - a situation which, we insist, is not due, either directly or indirectly, to any action on the part of the internal authorities or public powers - the governments of the different territorial levels affected (municipal, local and national levels) and the different Public Administrations have deployed a series of actions in different ways:

- (i) Actions addressed to ascertaining the reasons for the lack of supply (§ 64 of written observations);
- (ii) Actions addressed to dismantle the criminal networks responsible for marijuana plantations and other prohibited substances operating in *Cañada Real*, highlighting the “emergency plan” launched by the Government Delegation in Madrid (§§63 and 65 of written observations).

The intense police activity organised to dismantle the criminal networks responsible for the marijuana plantations - which generally have complex electrical installations powered by their own generators, although they are connected to the distribution network so that as soon as there is electricity in the network they are supplied by it¹⁷- has continued.

The information on the same with the Report of the National Police Headquarters referring to the activity in *Cañada Real Galiana* in February-April 2023 is hereby updated, which we provide as Annex 4.

- (iii) Actions aimed at accelerating the process of dismantling Sector 6 with the parallel relocation of the vulnerable population residing in this Sector, a line of action to which the authorities are giving the highest

¹⁷ Report from the General Directorate of Local Police, which we provide as Annex 5, stating that: "On the plots of land with these plantations, there are high-powered electric generators that provide energy autonomously and switch to the electricity from the high-voltage line when electricity is detected."

priority, as they are aware of the need to concentrate their greatest efforts on it.

Due to its importance, we dedicate a specific section of the present observations to this aspect, as we also did in the observations, in which we will respond to the comments made by the complainants in this regard.

- (iv) Actions aimed at alleviating the consequences of the lack of electricity supply in the affected area, deploying measures in different areas of action and in particular with different population groups that, as a result of the living conditions in Sector 6 of *Cañada Real Galiana*, have special needs.

7. On the proposal to set up a transitional system such as the one proposed by the Ombudsman to enable access to a legal electricity supply for neighbours lacking it, removing the currently existing urban obstacles.

89. The Ombudsman, in view of the situation of lack of access to electricity supply for some of the residents of *Cañada Real* - a situation that at no point does he state or suggest that it is due to the actions of the national authorities -, endeavours to seek a way, protected by the current legislation, to allow these residents access to electricity supply, on a provisional basis until such time as the residents are relocated and the process of dismantling Sector 6 is completed.

It is argued that this is because living conditions in which there is a lack of electricity supply in the home and consequently sources of household lighting, heat (in cold weather), food preservation, the functioning of medical devices, etc., are not in accordance with human dignity.

90. In particular, the Ombudsman points to the adoption of a transitional solution which, having analysed the urban development situation in Sectors 5 and 6, he considers to be feasible from the point of view of the legality in force. This would involve classifying the buildings as "out of urban development planning" - a figure he describes briefly in his third party submission - which, in his view, would allow the provisional contracting of the electricity supply

service through the granting of a specific licence, based on a responsible declaration which would act as an "authorising title". This would provide a regular way of contracting the electricity supply. This would make it possible, given the pace of implementation of the relocation plans, to overcome the humanitarian emergency situation in which, it is claimed, the residents without access to electricity supply find themselves.

91. The proposal by the Ombudsman to set up an electricity supply system through duly authorised legal connections to the grid has been studied by the Licensing and Urban Planning Services of the General Directorate of Building of the Madrid City Council (Administration responsible for urban planning).
92. The Report issued by the General Coordinator of Urban Development of the Madrid City Council is attached as Annex 7.
93. In accordance with the study carried out, the City Council has confirmed that there is a way to achieve the purpose stated by the Ombudsman, which is none other than to set up a system to allow the residents of *Cañada Real* who do not have access to electricity supply to legally connect to the distribution network.
94. As detailed in the report, that possibility is the declaration of a prescribed infringement for the accreditation of the out-of-order status of the buildings in *Cañada Real*. The report provides detailed information on this figure, which would be applicable to buildings more than four years old, and its legal regime, and on the necessary procedures for obtaining the necessary certification, assuming the commitment to provide the affected residents with all the necessary town planning information - "*This Town Council will provide the residents of the Cañada Real with all the necessary town planning information*", and specifying this commitment: "*It will provide the standard forms that can be used, access to the necessary documentation, the consultation and obtaining of said documentation and aerial photographs in the town planning viewer of the Town Hall or other cartographic databases in order to accredit the age of the constructions and it will provide the personalised guidance required to carry out these procedures.*"

Once the aforementioned certification had been obtained, according to the City Council, the residents could obtain a licence, or a declaration of responsibility, where appropriate, which would allow them to provisionally contract the supply, having to provide the corresponding technical documentation to describe the electrical installation inside the dwelling, accrediting the safety conditions of the same to support the installation.

95. The City Council's report – Sixth Section - states that the actions described could remove the "urban planning" obstacle that currently prevents the dwellings and buildings affected by the lack of electricity supply from having access to a legal electricity contract. However, attention is drawn to the fact that **it is not only necessary to lift the formal urban planning burden to obtain a licence to enable a legal electricity supply**, but also that **the buildings must have the appropriate technical conditions** so that the installers authorised by the Industry and Energy Administration can guarantee that the electricity supply can be carried out safely. In this respect, the report states that **there are serious doubts as to whether the buildings and dwellings in Sectors 5 and 6 of Cañada Real can meet the necessary safety conditions for this purpose**. In particular, it should be noted that the dwellings and buildings in this area form a disorderly arrangement of substandard dwellings, most of which are of very precarious construction, and prefabricated huts for living in, and that the electricity supply has been obtained from them by means of illegal connections made by means of a chaotic and precarious arrangement of criss-crossed cables, in overhead lines of deficient and irregular execution, carried out without authorisation or technical supervision. In short, not only have the constructions and dwellings been built without complying with the requirements of urban planning law, but the buildings have also been constructed without any supervision whatsoever, and without respecting the minimum technical and construction safety standards, which raises doubts as to whether many of these buildings can meet the technical safety conditions to allow the installation of the supply.

96. In any case, the City Council shows its firm disposition to carry out the procedures that allow for the urban regularisation of the constructions and dwellings through the route described in the report, providing the neighbours with the necessary information so that they can submit the application and processing of the petitions for the declaration of expiry of the action to re-

establish urban legality, and any other information and documentation and guidance necessary to obtain the urban planning authorisations, when legally viable (not for dwellings and constructions that are less than four years old).

97. Apart from the willingness shown by the City Council to carry out the actions described in the technical report that is provided in relation to the urban regularisation route that is proposed - that has not yet been duly assessed and contrasted by other authorities -, we consider it important to place special emphasis on the factual difficulties presented by the possible urban regularisation referred to in the Town Council's report, which are also corroborated by the independent expert report requested by the Investigative Court nº 42 of Madrid to which we have already made reference, namely that:

- the distribution network feeding the houses and buildings in Sectors 5 and 6 has not been carried out by specialised companies, has not been supervised by a technician, has not been approved by Industry and is not properly maintained, concluding that there is an “obvious danger to the people who use these installations or are in the vicinity of them”
- In the specific case of Sector 6, it indicates that the installations are "totally chaotic", with connections to the medium-voltage line being made practically on an individual basis, with dozens of connections starting from homes and spliced to the wiring of the line in its catenary", the line connections are fed to "small transformers which in turn distribute electricity to a few distribution lines", and the wiring runs "along the street without any order, hanging from poles or anchored to façades without respecting distances or any kind of safety.”

8. On the decision to dismantle Sector 6 and the implementation of the relocation plan for its neighbours.

98. This party has been emphasising, both in our written observations on the merits and in the written observations on the adoption of immediate measures, that the public authorities have decided to dismantle Sector 6 of *Cañada Real Galiana* as well as the parallel rehousing of those families in a situation of vulnerability living there, accelerating and strengthening, by the allocation of greater resources, the process of re-housing the residents of Sector 6, which has been given highest priority given the lack of electricity in the area.

99. In this regard, the authorities are concentrating their efforts on the coordinated and effective implementation of a process of re-housing of the population living there who are in a situation of exclusion.

➤ **Regarding the situation of Sector 6 of *Cañada Real* from the point of view of its urban development effects**

100. In §§ 23 and 24 of our written observations we explained that the urban development treatment of the land planning in Sector 6 of *Cañada Real* is affected by a series of specific factors, such as the specially protected nature of the natural space in which it is located, or the proximity to the waste treatment complex of Valdemingómez.

101. The complainants question in their observations that the proximity of the Valdemingómez waste treatment complex¹⁸ could be an obstacle to the urban development of Sector 6, alleging the existence of an important urban development project - "Valdecarros"-, close to the area, which includes the

¹⁸ Since 1978, the Valdemingomez Technology Park, which adjoins Sector 6 of *Cañada Real*, has concentrated all of Madrid's urban waste treatment facilities, which handle the more than four thousand tonnes of waste generated daily in the city.

Its essential objective is to process the waste in order to make the most of everything that can be recovered from it and to deposit the non-recoverable waste safely in a landfill.

To meet this objective, its centres have a wide range of facilities with different functions. These centres are *Las Lomas*, *La Paloma*, *Las Dehesas*, and *La Galiana*, the Biomethanisation complex, as well as the Visitor Centre and five educational facilities.

construction of 51,000 dwellings, marked on the map included with their submission.

102. This allegation is contradictory to what the complainant organisations stated in the complaint, since they highlighted the danger of living in an area that they themselves describe as having **intense "toxic emissions from the waste treatment plant"**, which they say is located "in the area of influence [of Sector 6] of one of the plants that emits record emissions of methane gas in Europe", also providing a reference to an article in the specialised press supporting this information¹⁹.
103. In any event, an examination of the map provided by the complainants is sufficient to show that their argument is unfounded. The urban development project referred to by the complainants is significantly further away from the waste treatment plant than Sector 6. Specifically, it is located at a distance, in a straight line, of almost 4 km from the Valdemingómez waste treatment plant (3.91 km, to be exact, according to the information provided by "Googlemaps").
104. Furthermore, regarding the explanations given in the State's observations on the natural value of the site in which Sector 6 is located²⁰, **the claimants do not dispute that, as we indicated, it is a natural area of unique richness, with special protection from an environmental point of view**²¹.

¹⁹ § 85 of the complaint: "It should be noted that health problems caused by the power cut can be intensified by the toxic emissions from the waste treatment plant (RDF) at the Valdemingómez Technology Park, which is located in the area of influence and is one of the plants that emits record emissions of methane gas in Europe".

²⁰ The most Eastern area of Sector 6 lies within the boundaries of various Protected Natural Areas. In particular, the entire eastern area is located within the Regional Park around the axes of the lower courses of the rivers Jarama and Manzanares. Also in the eastern area is the Special Area of Conservation of the Vegas, Cuestas and Páramos del Sureste de Madrid.

²¹ The following was stated:

"Location within a specially protected natural area.

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

In § 21 they limit themselves to state that: “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”. In fact, **the Law did not in any way establish guidelines for the use of the land and its restrictions**. On the contrary, when disaffecting the land and classifying it as land belonging to the Administration, and considering the possibility of its sale or transfer, the Law expressly indicated that: “*The use and destination of the land transferred in accordance with Article 3. 2 of this Law must in all cases conform to the rules and plans approved by the local councils in the exercise of their urban development powers, without the alienation in any case implying the legalisation of the constructions or activities carried out on them.*”

105. We would like to point out that the authorities signing the Regional Agreement for the *Cañada Real Galiana*, which devotes Section Five to defining the “*Lines of action in urban planning and housing*”, as discussed in another section of the present observations, - in which the commitment to dismantle Sector 6 (as opposed to Sectors 1 to 5) was set out - reached this conclusion after having carried out a detailed study of the eventual urban planning effects affecting the entire area of the *Cañada Real Galiana*.

This study, carried out in 2016 through the Directorate General for Urban Planning of the Community of Madrid, reached the conclusion that 95% of the surface area of the land comprising Sector 6 is conditioned by urbanistic affectations that prevent it from being suitable for residential use.

106. In particular, beyond the aforementioned restrictions derived from the proximity to the waste treatment complex (Valdemingómez Technology Park: Las Lomas, La Paloma, Las Dehesas, La Galiana, Biomethanisation complex, Visitor Centre, educational facilities), and the location within a

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

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

protected natural space, it was noted at that time that this Sector is subject to impacts derived from the presence of road infrastructures (A-3 motorway and access road to Valdemingómez), electricity lines (LAT-9 and LAT-10), hydrocarbon transport infrastructures (gas pipelines), as well as an area representing 9.40% of its surface affected by noise.

➤ Regarding the evolution of the dismantling and relocation plan for families living in Sector 6

107. In our previous submissions, we described the most significant actions carried out or being carried out in this regard, information that is now updated and furnished to the Committee, based on the information gathered through the reports provided as Annex 1 and Annex 2:

- The **rehousing agreement dated 11 May 2018 between the Self-governing Community of Madrid and the Madrid City Council**, which involved the rehousing of 130 families of the southern section of Sector 6 (2.7 km length between the end of the municipality of Madrid with Getafe and the Valdemingómez waste treatment plant), with a total investment of EUR 18 million.
 - **143 families** from the southern section of Sector 6 have been effectively rehoused.
 - **11 families** rejected the housing allocated in the rehousing process.
- The **rehousing agreement between the Self-governing Community of Madrid and the Madrid City Council**, for the rehousing of 160 families living the 1 km section of Sector 6 between the Valdemingómez waste treatment complex and the Paloma bridge, with a foreseen investment of EUR 34 million.
 - **94 families** have been rehoused.
 - **1 family** has rejected the housing allocated in the rehousing process.

Given that, once the relocation process for this area has been completed, there is still some funds available, an addendum to the agreement is in process of being approved in order to extend the application of the relocation process articulated by the agreement to the next territorial section of Sector 6.

- **Public aids granted by the General State Administration** by the Royal Decree 1058/2021, of 30 november, to the Madrid City Council (**EUR 3 millions**) and Rivas-Vaciamadrid City Council (**EUR 2 millions**) in order to carry out rehousing programmes for families in a situation of extreme social vulnerability in Sectors 4, 5 and 6 of the *Cañada Real Galiana*.

Under the grant awarded to the Madrid City Council, which has been allocated to the rehousing of family units in response to their situation of greater vulnerability (due to insufficient income, isolation, housing conditions or the existence of situations of disability or dependency, among other factors), 11 families from Sector 6 have been rehoused.

- **General protocol of action** concluded between the Ministry of Transport, Mobility and Urban Agenda of the Spanish Government, the Ministry of the Environment, Housing and Agriculture of the Community of Madrid, the Government Delegation in Madrid and the City Councils of Madrid and Rivas Vaciamadrid **in order to implement an extraordinary 2022-2030 Rehousing Plan in the *Cañada Real Galiana***. Such agreement foresees the joint investment of EUR 330 million, over 8 years, for the rehousing of up to 1,631 families living in the *Cañada Real*, with preference for those residing in Sector 6. As explained above, the relocation process in Sector 6 has been underway since 2018 and through this investment the pace of implementation can be increased..
- Extraordinary budget line included in the General State Budget for 2023 of an amount of EUR 8,375,000 for the *Cañada Real* Rehousing Plan.

108. The following map of Sector 6 shows the area where the relocation work is progressing and the area where the relocation plan has yet to be implemented:



109. As can be seen from the information provided by the Government Commissioner for the *Cañada Real Galiana* and the Madrid City Council, to date the relocation actions corresponding to the 2.7 km section located further south in Sector 6, and the following 1 km section, have been carried out.

110. In addition to these rehousing actions, other actions have been carried out in Sector 6, not based on the criterion of the location of the dwelling in one of these two sections, but on the greater vulnerability of the families.

111. **A total of 249 families - 951 people, including 421 minors - have been rehoused in Sector 6 under the actions described above.**

112. In addition, the regulations contemplate an extraordinary way for the urgent rehousing of families in emergency situations, which has been used in 2021 for the allocation of a dwelling to a family comprising 5 people (3 minors) living in Sector 6, in view of the family's situation of extreme vulnerability.

113. In their allegations, the complainants state that the relocation process "at the earliest" will be completed in 2030, which means that the affected population will continue to live without electricity for at least 8 more years.

114. We do not know on what basis the complainants support this assertion, which does not correspond to the projections made by the Administration.
115. At present, the pace of implementation of the dismantling of Sector 6 is advancing in an active and progressive manner, as has been pointed out, and this pace is increasing as the Administrations in charge of implementing the resettlement plan gain experience.

➤ **Social action to accompany the re-housing process**

116. It is worth highlighting the social actions carried out by the authorities, in parallel to the re-housing processes, to support, guide and advise the families involved in this process, before and after the allocation of the new housing, in order to favour the adaptation to the latter and the adequate integration of the families in their new environment.
117. As explained in the Madrid City Council Report, with teams made up of social workers and educators, work is carried out to accompany families in the process of rehousing, through the following actions²²:
- (i) Previous phase to the signing of the rental contract and handover of the dwelling, in which issues related to the following are covered:
- Awareness of the new situation of change of community environment.
 - Support for the family in recognising and working on feelings of uncertainty in the face of change.
 - Guidance on how to organise the family finances for the expenses that will arise from the change of home.
 - Providing support and follow-up in relation to the necessary documentation and formalities for the signing of the contract (deposit, supplies, ...).
 - Support in the training and coaching of instrumental skills related to the management of water, electricity, heating, food preparation and conservation systems. These activities may take place before and after the handover of the home and will be aimed at training in the handling and proper use of different devices and systems present in the home,

such as the boiler, heating system, light switchboard, electrical appliances, etc.

ii) This phase covers the period from the signing of the rental contract to the moment after the entry into the dwelling. Within this phase, two periods can be distinguished:

a. Signing of the social rental contract and handover of the home. This includes accompanying the family on the day of the signing of the social rental contract and the subsequent entry into the home, with the aim of:

- i. Reducing anxiety and uncertainty before the signing by being accompanied by a professional already known to the family unit.
- ii. Clarify those aspects of the social housing rental contract that may be more difficult for the family to understand,
- iii. Provide guidance on the procedures to be carried out after the signing, if applicable, with regard to supplies or deposit.
- iv. Accompanying at the time of entry into the home and, if appropriate, in the presentation of the family in the community of neighbours.
- v. Guidance and support in the collection of incidents regarding the home and their subsequent communication to the responsible institution.

b. Period after moving into the new home. During this period, which lasts as long as necessary, not exceeding three months, guidance and accompaniment will be provided to the family unit in relation to:

- i. i. Procedures for change of census registration and transfer of educational and health centres.
- ii. Getting to know the new environment and its resources and infrastructures.
- iii. Support in transfer procedures, where appropriate, of Municipal Social Services files, establishing the programme as a bridge of coordination and connection between the centre of origin and the destination centre, supporting the link with new professionals of reference in the district.

²² Since 1 August 2022, the Madrid City Council has provided assistance to more than 40 families rehoused in dwellings provided by the Municipal Housing Company, through this accompaniment service.

- iv. Guidance to the family for necessary changes of domiciliation with administrative, banking, health, etc. entities.
- v. Supporting good communication and linking the family with the services of the administration responsible for monitoring the occupants of their homes.

In order to achieve these objectives, a Family Work Plan is drawn up in accordance with the needs and circumstances of each of the family units to be rehoused.

118. The Social Housing Agency of the Community of Madrid, for its part, has been providing this accompaniment service for the rehousing of families since the process began (2018).

This Agency (the former *IVIMA/IRIS*) is a national benchmark in the implementation of this type of actions.

119. In view of the above, it can be seen that **the important efforts being made to make effective the process of relocation of Sector 6 of the *Cañada Real Galiana* are fruitful, and that the process is being carried out in an active manner - taking into account the number of difficulties involved in the whole process -, with a notable increase in the effort since October 2020 in view of the special urgency of the situation derived from the lack of electricity supply²³.**

120. The firm decision of the national authorities to dismantle Sector 6 and the parallel process of re-housing the neighbours who live in this Sector and are

²³ The main difficulties encountered are as follows:

- Families who do not request to be rehoused, and who prefer to continue living in *Cañada Real*. This situation, although a minority, does not seem to be compatible with the alleged situation of human rights violations alleged by the claimants, or the alleged social vulnerability in which they find themselves living in this environment.
- Families who refuse rehousing, either because they are in the situation described above, or because they ask for money in exchange for their removal from *Cañada Real*.
- Certain organisations, associations and social agents contribute to this, sometimes discouraging families from participating in the re-housing process, and even spreading hoaxes about it, in response to a political position contrary to what has been agreed in the Regional Agreement or even to their own particular interests.

in a situation of vulnerability in their submission to the Committee is not questioned by the Spanish Ombudsman in his submission to the Committee. This institution, however, draws attention to the need to urgently address, until the relocation process is completed, the need for access to a standardised electricity supply in Sector 6, and proposes a specific, provisional solution - to which we will refer below - to overcome the obstacles arising from the urban planning regulations that prevent the legalisation of the electricity supply in the area. But, we insist, it is not questioned - neither by the Ombudsman, nor by any other authority - that the decision to dismantle Sector 6 is in accordance with constitutional values and rights, or with the rights recognised in the Revised European Social Charter, in particular article 31, which enshrines the right to housing.

121. Indeed, the rehousing of families in a situation of vulnerability who currently live in Sector 6, in housing in urbanised areas with public protection systems, is the most suitable option for guaranteeing the right to decent and adequate housing for the residents of Sector 6.
122. As a result of the re-housing process, the families that met the requirements for re-housing have improved their social situation, leaving behind life in a nucleus of substandard housing in a situation of social exclusion and integrating into urban areas of the Community of Madrid, with legal access to all supplies and to public and private services, under the same conditions as the rest of the citizens of the Community of Madrid.
123. To illustrate the above, various images of Sector 6 where the rehousing process has been completed are showed below. Process that ends with the demolition of the shacks or substandard housing, the removal and classification of waste for transport to treatment plants, the decontamination of the land, and its reforestation.

Despite all this, the relocation process is proving to be successful. It is progressing at a good pace, with growing social support, both from the residents and from most of the social organisations present in the area.

Before:



After (space reforested with 8,000 trees):



9. Regarding participation of inhabitants of the Cañada Real in the decision-making process.

124. In point 3 of Section I "Facts" of the State's observations, we mentioned that when it came to defining the objectives, proposals and commitments of the authorities set out in the 2017 Regional Agreement for the *Cañada Real*, all the agents involved were considered, including the Public Administrations with powers in the different areas of action affected (corresponding to the three levels of the territorial structure of the State: national, autonomous and local), as well as "third Sector" entities and residents' associations.

125. The Regional Agreement for the *Cañada Real*, for its part, contemplates the participation of local residents in the implementation of the different lines of action envisaged in the Agreement as one of its bases, which is considered a guiding principle:

"PARTICIPATION: None of the goals set can be achieved without the participation of all the agents involved. Self-governing Community of Madrid, City Councils, Parliamentary Groups, Third Sector Entities and Neighbourhood Associations, we must all collaborate if we are to achieve the expected success."

126. Furthermore, throughout the text of the Regional Agreement, it is clear that there is a continuous call for the participation of the different agents in the achievement of its objectives, and the creation of a permanent structure, made up of different collegiate bodies, with the presence of representatives of the different political forces, social entities and neighbourhood associations.

127. The constitution of this structure is not merely a provision in the Agreement, but rather the different bodies envisaged have actually been constituted and have been meeting periodically. The following table shows the meeting held by the different bodies of the Agreement since its constitution until April 2023:

COLLEGIATE BODIES - MEETINGS HELD SINCE THE INCEPTION OF THE REGIONAL AGREEMENT	
Monitoring Committee for the Agreement	31
Legislative Rapporteur	15
Executive Board	15
Social Work Committee	16
Security Working Committee	16
Urban Development Working Committee	13
Technical Presentations	15
<i>Cañada Real</i> Assembly	17
Social Technical Panel	13
Security Technical Panel	9
Technical Urban Planning Panel	8
Animal Welfare and Protection Panel	15
TOTAL	183

128. Of these bodies, **the social entities and residents or their associations are present in the Assembly**, which is the highest body representing political forces, Administrations, social entities and residents, in the Technical Committees and in the three Technical Panels.

129. In these bodies, in which social entities and neighbourhood groups have a voice, and which meet periodically, have been addressing issues arising from the problem of the lack of light in Sector 6.

130. In addition to the Agreement, other technical spaces for meeting and participation have subsequently been created, among them: the Animal Protection and Welfare Committee, the Education Committee, the Nucleus, the Network of Entities from Sectors 2 to 5, the Network of Entities from Sector 6, or technical working groups to promote the *Cañada Real* Social Strategy in different areas such as Health or Gender²⁴.

131. With the exception of the Animal Protection and Welfare Panel, NGOs and Neighbourhood Associations participate in all the other bodies mentioned above. And in all these meeting and participation spaces, the

²⁴ Report of the Government Commissioner for the *Cañada Real Galiana* of 4/05/2023, point 5

electricity situation has been and continues to be dealt with, sometimes as the only item on the agenda..

132. In particular, the networks of organisations are working groups in which all the social entities with a presence in the corresponding Sector, as well as the public administrations, are included. These networks seek to guarantee the coordination of the different actions and interventions in the various Sectors of the *Cañada Real*. Residents can participate in these spaces whenever they so request.
133. In addition to the participation of NGOs and neighbourhood associations in the above-mentioned bodies, they formulate requests for information and complaints, which are answered and taken into account by the competent authorities in each case.
134. In short, the participation of NGOs and neighbourhood associations in the issues affecting the neighbours of *Cañada Real Galiana* is clear, and in particular those referring to the problems arising from the lack of electricity supply in Sector 6, which has been occurring since October 2020.
135. It is particularly noteworthy that the **Spanish Ombudsman**, who does not question the adequate participation of the affected neighbours or NGOs in the design of strategies and decision-making on issues related to the *Cañada Real* settlement, when in his recommendations he calls for the participation of those affected, does so by proposing such **participation through the *Cañada Real Galiana* Assembly**, which shows that this is the most suitable body to channel the representation of the neighbours affected in such matters..

This is relevant, since the complainants claim that they are "only" allowed to participate through the Assembly, when, in addition to this not being true, it turns out that the Assembly is precisely the most suitable body to materialise the participation of the neighbours.

136. The complainants' allegation (§§ 12, 124 and 125, 137 to 148) about the lack of participation of the neighbours concerned in matters that affect them is therefore wholly unsubstantiated: on the contrary, the Spanish



Government considers that the efforts made by the authorities to involve the neighbours, through the organisations representing their interests, are inspiring.

137. In fact, the complainants seem to base this alleged lack of participation of the residents in matters relating to living conditions in Sector 6, in particular following the power outages, on a **mere discrepancy** that has recently arisen over the presence of certain neighbourhood organisations at a meeting of a specific body, the Agreement Monitoring Committee. The representatives of certain associations requested to attend the meeting of this body convened for 13/12/2023, of which - unlike many other bodies operating in *Cañada Real Galiana* - the neighbourhood associations do not form part.

As evidenced by the communications between the *Cañada Real Galiana* Commissioner and the representative of one of these associations, provided by the complainants with their written objections, the Commissioner allowed the petitioners to attend the meeting, follow the discussions, and ask questions at the end of the session, despite the fact that their participation in this working body was not foreseen.

This was indeed the case, and the representatives of the associations were allowed to express their opinions on the matters discussed, particularly in relation to the power outages in Sector 6 (as can be seen, the agenda of the meeting included specific points related to this issue). Precisely in the e-mail sent by the Commissioner to the representative of the neighbourhood association *Plataforma Cívica Luz Ya en Cañada Real*, he expressed his interest in meeting with this organisation, insisting on its advisability and suggesting to set a date for it, something that the Commissioner himself had been urging for more than a year.

II. Observations relating to the alleged breaches of the RESCharter alleged by the complainants and attributed to the State

1.- Introductory clarification

138. The Government of Spain wishes to reiterate the statements made in §§ 80 to 83 of the observations on the merits, in which we replied to the complainants' assertion that the State had allegedly acknowledged the violation of Article 31 of the Revised European Social Charter (and thus of the other violations arising therefrom).

In their written observations, they again insist on the false assumption that the State "has recognised" the alleged violations in the preamble of Royal Decree 1098/2021, of 30 November, by stating that the lack of electricity in Sector 6 of *Cañada Real* creates a situation of extreme vulnerability and social risk for the affected population, in particular minors.

139. As we have already stated in our observations on the merits - we refer to §§ 80 to 83 -, the lack of access to the electricity supply through the network of the dwellings and buildings in Sector 6 of *Cañada Real Galiana* has been a reality since October 2020.

However, acknowledging this reality and the serious risks that may arise from it if measures are not adopted to alleviate or avoid them, does not mean that the State recognises that it is violating the rights enshrined in the Revised European Social Charter that have been denounced.

140. On the contrary, we consider that the Committee should not declare the responsibility of the State in the face of the alleged violations, given that in this case the public authorities are carrying out important and varied actions to put an end to the situation or to remedy and alleviate the consequences for the residents of Sector 6.

2.- Regarding the alleged violation on the right to a housing of an adequate standard

141. As explained in our written observations on the merits, according to the Committee's doctrine, when assessing whether there is an action or omission by the State from which a violation of the rights recognized in Article 31.1 of the Charter is inferred, **Article 31 “cannot be interpreted as imposing on states an obligation of “results”, but rather establishes an “obligation of means”, in particular, the obligation to take “suitable measures”.**
142. The foregoing means that, in a situation where families are found to be living in houses lacking the minimum conditions of quality or suitability, **the State cannot *per se* be held responsible for the violation of Article 31.1 of the Charter, but rather it must be assessed, within the particular context in which the facts occur, what actions have been taken by public authorities to prevent, remedy or alleviate the situation and whether the adopted measures are adequate or, otherwise, whether the failure of the public authorities to react to such a situation entails the State’s responsibility for the violation of the right recognized in the Revised European Social Charter.**
143. As part of this examination, we consider that the Committee should evaluate the different actions taken by the public authorities in response to the situation of power outages in Sector 6 of *Cañada Real*, which have been occurring since October 2020, in order to determine whether adequate measures are being taken to solve the problem or to mitigate its effects.
144. In the present case, the Spanish Government’s view is that the result of this examination must lead to the conclusion that the relevant public authorities -which, we insist, are not responsible, directly or indirectly, for the situation of lack of access to the electricity supply in Sector 6 of *Cañada Real*- are devoting their best efforts to resolve the situation by rehousing the affected families and thus alleviate the consequences for the vulnerable families living in Sector 6 of the *Cañada Real Galiana* until they are rehoused.

145. The measures adopted by public authorities, described in detail in the various observations that the State has sent to date to the Committee, include, among others, a number of actions taken in different areas:

- Speeding up the rehousing process already underway for the residents of Sector 6, and allocating substantial additional budget lines for the implementation of this process.
- Implementing many different types of measures to alleviate the negative effects of the situation of lack of electricity through the grid in the case of residents in Sector 6, until such time as they are relocated.
- Offering provisional temporary housing solutions for specific dates during the *Cold Weather Campaign*, which can be used by families who have not been provided with alternative solutions to the electricity supply through the grid, such as sources of light and heat.

146. In their collective complaint, the complainants only refer to the allocation of EUR 5 million for the implementation of the rehousing process, when all the measures mentioned are public and well-known to all the residents of Sector 6, failing to make any reference to the remaining measures, all of which are public and known to any resident of Sector 6 and anyone with direct contact with the situation in that Sector; yet another example of the complainant organisations' lack of knowledge of the reality of Sector 6.

147. After the State's presentation of the different and varied measures in different areas that have been adopted by the different Administrations with concurrent powers in the areas affected by the lack of electricity in *Cañada Real*, in their written observations the complainants reply to some of these measures, the existence of which is not denied (although they did so in the initial complaint), in order to minimise their value, or else they try to make the Committee disregard these actions because those measures have not been adopted specifically after the power outages, although such actions undoubtedly provide specific help to the residents affected by the power outages in order to improve their situation.

148. In particular, the complainants specifically refer to two aspects (§§ 113 to 133):

- Firstly, they argue that only measures directly aimed at restoring electricity should be assessed.
- Secondly, on the basis of incorrect data (in terms both of the number of people who have been relocated to date, and of the time it is expected to complete the relocation process), they assert the inadequacy of the relocation solution, which is the one being carried out by the public authorities.

149. On the first point, we should refer to what has already been stated in this and previous submissions on the reasons why electricity has not been re-established in Sector 6 of *Cañada Real* (unlike in Sector 5, where it has been operating continuously since February 2021), and the technical difficulties that would be posed by the possible removal, on a provisional basis and until the process of dismantling Sector 6 is completed, of the urban development obstacles that currently prevent the legalisation of access to electricity for users of the dwellings and buildings in this Sector.

150. Regarding the second point, it is striking that the complainant organisations insist that the main option for resolving the problem of the families living without access to electricity supply in *Cañada Real* is to re-establish the electricity supply, instead of supporting the solution that has been opted for, and which is being carried out effectively in Sector 6, of re-housing families in urban housing, with all the services that come with the right to decent housing, putting an end to the situation of social exclusion that comes with living in a shantytown such as Sector 6 of *Cañada Real*.

151. Additionally, we refer to the explanations given in the present observations, and in previous submissions, on the way in which the objective of dismantling Sector 6 and the relocation of the vulnerable families still living there is being implemented, a process in which progress is being very significant, as we have described above. This is despite the opposition of a small number of residents of Sector 6, who prefer to continue

living there rather than being relocated to urban centres, and in this sense have refused to participate in the relocation process.

152. With regard to the measures, numerous and of different types, adopted by public authorities to alleviate the negative effects of the situation of lack of electricity through the network in the case of the residents in Sector 6, until such time as they are moved to dwellings that meet the optimum conditions of habitability, we also refer to the description of these measures in our previous observations.

An updated report issued by Madrid City Council in April 2023, on the different social measures and actions taken, it attached herewith as Annex 9.

153. Finally, we must insist on the offer of provisional temporary housing solutions for specific periods during the Cold Weather Campaign, which are available to vulnerable families residing in Sector 6 of *Cañada Real*, and in particular those families that have not been provided with alternative solutions to the electricity supply through the network, such as sources of light and heat, as is evident from the Report of the Madrid City Council provided with the State's written observations on the merits.

Neither the families residing in Sector 6, nor those residing in Sector 5, are making use of this resource available to them²⁵, not even for specific periods or seasons when temperatures are particularly low.

3.- On further violations alleged in the complaint

154. Without prejudice to the clarifications that we will make below on certain aspects, in view of the comments made by the complainants in their observations and the updated information provided to us by the competent authorities, we essentially refer to the explanations given by the State in the observations on the merits of the complaint, with regard to the allegation of violation of Article 16 (right of the family to social, legal and economic

²⁵ Despite the fact that the complainant organisations seem to deny this by maintaining that they are resources aimed at the "homeless" population, which denotes their lack of knowledge or interest in finding out about the possibility of accessing this type of accommodation.

protection) -§ 89 to 99 of the written observations-, Article 17 (right of children and young persons to social, legal and economic protection) -§ 100 to 106-, Article 30.1 (right to protection against poverty) -§§ 107 to 123-, Article 23 (right of elderly persons to social protection) -§§ 124 to 126-, Article 11.1 (right to protection of health) -§§ 127 to 133-, right to protection of persons with disabilities -§ 134 to 137-, Articles 20 and 27 (right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex, and the right of workers with family responsibilities to equal opportunities and equal treatment -§ 138 to 141-, and Article E of the Revised European Social Charter.

➤ Particular remarks on the right of the family to social, legal and economic protection.

155. The complainant organisations reiterate in their written observations that the State has not indicated any particular measures to protect the families' right to adequate housing.

156. At this point it should be noted at the outset that, as has been maintained, the definitive solution adopted, which is undoubtedly the most suitable for the protection of the alleged violated right, is the relocation measure.

It is worth recalling the lack of minimum conditions of safety and health of many of the dwellings in which these families live, many of them being shantytowns that are not properly equipped with essential services²⁶.

157. Re-housing as a definitive measure, when starting from a situation such as the present one with substandard housing that is not equipped with the essential comforts, contributes to satisfying the right to adequate housing of any family.

158. Furthermore, as has been reported in the previous observations on the merits and in the present document, in order to develop the rehousing plans, different criteria are taken into consideration for the selection of those family

²⁶ The "SIRA report" provided by the complainants lists some of the conditions of these dwellings, such as lack of drinking water or unpaved areas.

units that present greater vulnerability rates and, therefore, present greater urgency in their rehousing.

159. There have also been re-housings for exceptional reasons of extreme vulnerability, as indicated in the **Report on the re-housing actions of the Madrid City Council in the *Cañada Real Galiana***.
160. While progress is being made in the relocation process, the provision of specific family care services in Sectors 5 and 6 should be emphasised.
161. Attached as Annex 8 is a report from the General Technical Secretariat of the Regional Ministry of the Environment, Housing and Agriculture of the Community of Madrid informing on the actions carried out by the Regional Ministry of Family, Youth and Social Policy.
162. Attached as Annex 9 is a **Report issued by the Madrid City Council on social actions**, dated April 2023, setting out a number of social care resources, within its sphere of competence, aimed at the population of the *Cañada Real*.

Among them, we can highlight the **Social Services Centres in the Districts of Villa de Vallecas and Vicálvaro with specific care programmes for families in these Sectors; a Children's Day Centre located in Sector 6; and a Social Education Service**. The latter service aims to support families by advising them on the upbringing and education of their children, as well as on social, educational, health, cultural and leisure rights and resources. This support also includes actions aimed at improving family coexistence and reducing difficulties and relational problems, integration or social isolation in order to promote the development and personal and social well-being of all members of the family unit, and It is aimed at children under 18 and their families. They carry out individual and family actions, preferably at home, interviews and accompaniment to resources that favour personal development.

163. In 2022, the Social Education Service in *Cañada Real* assisted 84 families, 31 from the district of Villa de Vallecas and 53 from the district of Vicálvaro. A total of 349 people have been assisted: 141 from the district of Villa de Vallecas and 208 from the district of Vicálvaro.

164. In April 2023, date of the signature of the Report, there was a total of 65 families registered in the Service, 23 of which belong to the district of Villa de Vallecas and 42 families to the district of Vicálvaro. A total of 267 people are being assisted (103 people from the district of Villa de Vallecas, 57 women and 46 men) and 164 from the district of Vicálvaro, 90 women and 74 men.
165. At the community level, the Social Education Service of the Villa de Vallecas district attends the monthly meeting of the Network of Entities that intervene in Sector 6, which favours coordination with the different services that work there. In the district of Vicálvaro, the Social Education Service participates in the Entities Coordinating Committee of Sectors 3,4 and 5.
166. In turn, the District of Vallecas has a project to support social intervention with families in Sector 6 of *Cañada Real*, whose purpose is to offer a service to families in a situation of social and residential exclusion and spatial segregation through informative actions and support and accompaniment in carrying out administrative procedures as well as socio-educational actions. It is provided through the entity *Aebia Tecnología y Servicios, S.L.*, with a total cost of EUR 321,845.28 from 1 January 2021 to 31 December 2023.

The main data on the actions carried out through this project are as follows:

- Individual/family intervention: A total of 324 people have been assisted, of which 95 are men and 229 are women.
- 2535 interviews have been carried out, of which 601 men and 1934 women.
- 114 home visits.
- Delivery of masks to prevent the spread of Covid-19, with 5,850 masks distributed.
- Workshops on Spanish, on parenting for young mothers, and on procedures and formalities.
- Socio-educational activities with minors:
 - Participation of 6 boys and 7 girls in school support activities and leisure and free time activities.
 - Summer schools from 28 June to 15 July, in which a total of 53 children, 28 girls and 25 boys, took part.

- Activities during the Christmas holidays and non-teaching days and leisure excursions to *Parque Europa* and the Madrid Zoo, with 39 children, 18 boys and 21 girls.

167. The Committee includes, as part of the right of the family to legal protection, the provision of mediation services aimed at preventing the aggravation of possible family conflicts.

In this regard, it should be noted that within the framework of the **Agreement with the Barró Association**, three mediators carry out street intervention and visits to families in Sector 6 to collect demands, attend to special needs, emergency situations, health, advice on rehousing, offer information, etc., especially to those families who are not in intervention with other entities, or facilitate the approach of resources to them, among others. It is reported that a total of 30 families in Sector 6 have been assisted under this service.

The amount of the Agreement for the year 2023 has been increased by EUR 50,081.45, up to a total of EUR 176,411.46.

168. Finally, the complainants reiterate the violation of this precept given that Public Administrations have categorically prevented families from presenting their proposals for a solution to the lack of electricity supply and from expressing the physical and psychological harm they are suffering (point 145).

The alleged lack of participation is attributed to the lack of the possibility of participating in certain collegiate bodies that deal with the problem of the lack of electricity supply, even going so far as to state that *“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”* (point 147).

169. Nevertheless, as has already been pointed out, it is not true that the families have not been consulted, through their representatives, and that they have not taken part in meetings with representatives of the competent public administrations.

170. We must reiterate the creation and current validity of **bodies in which neighbourhood associations can participate, which do address the problems of the *Cañada Real* situation, in particular the power outages in Sector 6**. Social entities and neighbours or their associations are present in the Assembly, in the Technical Presentations and in the three Technical Boards, as well as in different working groups set up outside the Regional Agreement, and there is a wide network of meeting and participation spaces, in many of which the electricity situation has been and continues to be dealt with, sometimes as the only item on the agenda.
171. It is noteworthy that the "SIRA Report" (page 20) indicates that some of the neighbourhood organisations decided to leave the Regional Plan fora on their own initiative in 2019²⁷.
- Particular remarks on the right to protection of health.
172. The complainants argue that in their observations the State has not questioned the impact on the health of the population affected by the power outages - i.e. Sector 6 of *Cañada Real*.
173. In this connection it should be noted, first of all, that both in the observations on the merits and in the present observations, the State has insisted, with further details on it, that the majority of residents in Sector 6 have been providing themselves with alternative electricity resources to the illegal connections that, until the end of 2021, were being used. Thus, residents have installed solar panels, diesel generators, butane or catalytic cookers. In addition, the administrations have set up support systems for the supply of diesel fuel for generators, cookers and firewood.
174. It is clear that, having been provided with these alternative energy and heat generation mechanisms, the health impact of the lack of access to electricity supply is not as described in the complaint - which probably reflects to a greater extent the situation in the immediate aftermath of the

²⁷ "On 13 February 2019, the dismantling of Sector II and the consolidation of Sector II of *Cañada Real* (31) was announced. The neighbourhood organisations denounce that the solution is not "agreed with the neighbours", but that "it has already been previously agreed by the administrations". "Our just requests are repeatedly ignored". As a consequence, the Neighbourhood Associations of Sectors II, III, IV and V of the *Cañada Real Galiana*, the Neighbourhood Association of the *Cañada Real de Merinas* and the Neighbourhood Association Alshorok decided to leave the fora of the Regional Plan of the *Cañada Real Galiana* (32)."

power outages in October 2020 - and reiterated in the written submission, and which shows, in our view, a situation that does not correspond to the reality of a complete lack of electricity in households.

175. We refer to the explanations given in our written observations describing the different resources available to the residents of Sector 6 of *Cañada Real* in relation to health care.

176. We also provide an updated report issued by the General Technical Secretariat of the Department of the Environment, Housing and Agriculture of the Community of Madrid, which devotes Section C to the "Actions of the Department of Health regarding health care for the residents of *Cañada Real Galiana*" as Annex 8; and the Report presented by the responsible of the Madrid Regional Department of Health Care and Public Health, which provides detailed information in this area, including information on the activity of the Excluded Population Intervention Team (EIPE, by its Spanish acronym), which provided health care on the ground to Sector 6 of *Cañada Real*, attached as Annex 14.

177. It is striking that the complainants do not accept that the different measures and resources that make up the health care system from which the families of Sector 6 of *Cañada Real* benefit are sufficient, and maintain that they cannot be taken into account when assessing the actions of the domestic authorities to remedy or alleviate the situation arising from the lack of access to electricity, for the sole reason that "it has not been specifically designed to address the particular health risks of the lack of access to electricity".

➤ Particular remarks on the right to education

178. The complainants insist in their observations that the national authorities have violated the right to education of the children living in *Cañada Real* affected by the power outages, as a consequence of the failure to adopt the necessary measures to meet the special needs of the children attending school due to the lack of electricity in their homes, which, according to the complaint, prevents the children from accessing the internet or having sufficient lighting in their homes to allow them to do their homework.

179. In this regard, it should be stressed that the fact that the vast majority of the residents in Sector 6 of the *Cañada Real* have been progressively provided with greater alternative means of electricity to the illegal connections to the electricity grid means that the impact of the power outages on the education of the children of the families in Sector 6 is to a large extent alleviated. This is reflected, precisely, in the data that we provide in the information attached to the observations on the merits, and in the report that we now provide as Annex 8 - Section (B) - on school attendance, class attendance, degree of integration, behaviour, linguistic and mathematical competence, academic results and other relevant information, which compares the situation today with the situation in previous years. From this information, it can be rationally concluded that the situation described in the complaint about the impact of power outages on the children attending school in Sector 6 has been mitigated.
180. To this end, the measures adopted, specifically for the population affected by the power outages, to provide students with electricity for their mobile devices, or to extend the opening of schools to allow them to do their homework once the school day is over, are undoubtedly relevant; as are, in general, the different measures implemented by the competent administrations to favour the integration, permanence and promotion of students from Sectors 5 and 6 of *Cañada Real* in the educational system.
181. The complainant organisations incur in certain contradictions regarding this area. By way of example, it should be noted that in the complaint they omitted any reference to the various measures and resources deployed by the competent authorities to promote the educational integration of pupils from *Cañada Real*, and in particular to the specific measures to alleviate the consequences of the lack of electricity in Sector 6, stating categorically that this situation, for example, prevented students from doing their homework. However, when they learned from the State's written observations that specific measures were being taken, such as extending the opening hours of schools to allow students affected by the power outages to do their homework, they went on to question this measure on the grounds that if students have to stay longer at school - to do their homework - then they have less free time available to them. As we have said, this is a clear

contradiction when they are first arguing that the lack of electricity prevents them from doing their homework.

➤ Particular remarks on the right to protection against poverty.

182. In relation to the Committee's interpretation of this right, we refer to what is stated in the observations on the merits.
183. The complainants reiterate the lack of specific measures aimed at the inhabitants of these Sectors due to the lack of electricity supply.
184. At this point, it is necessary to draw attention to two specific aspects that are repeated throughout their submission: the absence of specific measures aimed at the inhabitants of these Sectors due to the lack of electricity supply, and the feeling of total abandonment of their inhabitants.
185. In their observations, the complainants expressly state in relation to the increase in the amount of social benefits in the District of Vallecas that "such an increase, even if valuable in any case, does not respond to the state obligation to protect the population against the poverty resulting from the power cut, but rather is part of a moderate increase in social expenditure" (point 194).
186. Indeed, public authorities have taken measures, and have carried out and continue to carry out social care actions in Sectors 5 and 6, even with an increase in financial resources in recent years.
- The complaint about the absence of specific measures when the existence of other measures is acknowledged is contradictory to the claim of a situation of total neglect that the complainant organisations intend to show to the Committee.
187. It is also important to point out that the inhabitants of *Cañada Real* have access to services and benefits under the same conditions as the rest of the population. And many of these measures, while not primarily designed to alleviate the lack of electricity supply, do address situations arising from it:
188. **The Report of the General Technical Secretariat of the Regional Ministry of the Environment, Housing and Agriculture of the Community of Madrid, referred to above, reports on the actions carried**

out by the Regional Ministry of Family, Youth and Social Policy. It is worth highlighting the services deployed through primary social care and specialised social care.

189. Attached is a **report on the interventions carried out by Samur Social in Cañada Real since 2021 issued by the Directorate General for Social Services and Social Emergencies**, in which information is given on the different centres that provide services in social emergency situations.
190. With regard to the emergency social service interventions, in the years 2021 to 2023 *SAMUR Social* has carried out 16 interventions with family units/persons belonging to Sector 6. The 16 interventions have responded to different demands (emergency residential coverage, coverage of basic needs, social care at the request of other emergency services in the event of evictions, fires, etc.) in two cases the intervention carried out has responded to a situation linked to the lack of electricity supply.
191. As stated in our observations on the merits (point 123), residents of Sectors 5 and 6 have the right to receive a number of economic benefits, such as the minimum insertion income and the minimum living income.
192. The minimum living income is a non-contributory economic benefit that forms part of the protective action of the Spanish Social Security system. Attached as **Document No. X is a Report on Minimum Vital Income from the Government Delegation in the Community of Madrid**, with data on the number of recipients as of January 2023 in the *Cañada Real*, with a breakdown of the number in each of its districts.
- Finally, a **report from the Sub-delegation of the Government on information on the requirements for access to unemployment benefits**, both contributory and non-contributory, to which the inhabitants of *Cañada Real* are also entitled, is provided.
193. The report of the General Technical Secretariat, Department of the Environment, Housing and Agriculture of the Community of Madrid shows that in reference to the year 2022, a total of 766 residents (cumulative 2022) are recipients of the minimum insertion income in *Cañada Real*, 59% of these in Sector 6 (Villa de Vallecas).

This benefit is supplemented by the social integration programmes in which the recipients of this benefit take part. These programmes consist of social and labour insertion projects with a gender focus, improvement of skills, labour insertion itineraries and training courses. They are developed by the Red Cross, Barró Association, El Fanal Association and *Asociación Educadores Las Alamedillas*. Between 2020 and 2022, they have had 711 participants. The budget allocated to these projects in this period amounted to EUR 535,965.

194. Finally, according to the Committee's interpretation, the right to protection against poverty implies, in particular, a coordinated approach between the competent public authorities for the adoption of any measure involving protection from different points of view (economic, social, educational, etc.) of citizens. It is therefore necessary to reiterate the importance of coordination between the respective public administrations.

➤ Particular remarks on the right of elderly persons to social protection

195. The complainants reiterate that the elderly are being deprived of their right to social protection, not because of a lack of protective measures, but because of a lack of specific measures against the lack of electricity supply (point 218).

196. The measures adopted by the institutions take into account the personal, economic and social circumstances of the persons to whom they are addressed.

197. The Regional Ministry of Family, Youth and Social Policy deploys multiple programmes and services aimed at specialised social care for the most vulnerable groups, including elderly people.

198. The Madrid City Council, through SAMUR social, has the programme "*Samur Social del Mayor*", which, among other services, provides emergency places in residences (public and private) for elderly people who cannot remain in their homes due to the social emergency situation in which they find themselves. Without prejudice to the availability of the other

resources offered by *SAMUR Social*, which are set out in the report referred to above on interventions carried out in the *Cañada Real* since 2021.

➤ **Particular remarks on the right of persons with disabilities to autonomy, social integration and participation in the life of the community.**

199. The complainant organisations admit and value the assistance provided by the network of occupational centres, day centres, residences and community housing aimed at caring for adults with disabilities, as reported in our observations on the merits.

200. However, without giving reasons, they claim that these services "*in no way manage to mitigate the effects of the lack of electricity on the full enjoyment of their rights under equal conditions*" (§ 253).

201. As a complement to the description of the measures adopted, a team of assessors who visit the *Cañada Real* in order to assess the situation of dependency.

Since December 2021, 23 files have been processed. There are 7 residents with the home help service; 13 residents with the telecare service; 44 residents in Sector 5 and 15 residents in Sector 6 with the recognition of economic benefits for care in the family environment (family members or relatives who care for the dependent person).

It is worth highlighting the existence of these aids at home, which avoids having to travel and helps residents to get around more easily in their own environment.

202. Furthermore, the Madrid Agency for the Support of Adults with Disabilities, a body attached to the regional ministry responsible for social services, assumes the guardianship of adults with a court ruling of total incapacitation.

This agency provides social accompaniment and support in the exercise of their legal capacity to 3 people living in *Cañada Real*, with disabilities associated with mental health problems and consumption of toxic substances.

All of them go daily to a referral centre where their health, basic and economic needs are monitored²⁸.

➤ **Particular remarks on the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex, and the right of workers with family responsibilities to equal opportunities and equal treatment (Articles 20 and 27 RESCharter)**

203. The report of the General Technical Secretariat of the Regional Ministry of the Environment, Housing and Agriculture explains specific measures for the care of women, which we explain below:

- The Directorate General for Equality develops actions specifically aimed at women and protection against situations of gender violence. **This Directorate General forms part of the *Cañada Social Work Commission* and carries out orientation and information activities aimed at women living in the *Cañada*, the last one held on 16 March 2023**, with the aim of informing about the resources of the Network of Care for Women Victims of Gender Violence.
- In addition, projects are carried out for the social and labour insertion of people at risk of social exclusion, as mentioned above. These projects are developed by the Red Cross, Barró Association, El Fanal Association and *Asociación Educadores Las Alamedillas*. Between 2020 and 2022, they have had 711 participants, with a budget allocated to these projects in this period of EUR 535,965.

➤ **Particular remarks on the right to non-discrimination protection**

204. The Committee has repeatedly indicated that either the lack of appropriate measures to take account of existing differences, or the failure to treat individuals differently when situations are indeed different, may be discriminatory.

²⁸ Which is detailed in the Report signed by the General Technical Secretariat of the Department of the Environment, Housing and Agriculture of the Community of Madrid attached.

205. The public authorities have in no way, either by action or omission, acted in such a fashion that directly or indirectly discriminates against the inhabitants of Sectors 5 and 6.
206. The main measure envisaged to solve the problems arising from the lack of access to electricity supply in Sector 6, which is the rehousing of the residents in optimal housing, takes into account the personal and socio-economic circumstances of both families and individuals.
207. Furthermore, it should be emphasised that families living in *Cañada Real* have access to the different public services and benefits on an equal footing with the rest of the population, although this aspect has not been emphasised by the complainant organisations.
208. A number of exceptional means have been foreseen to deal with possible situations of social emergency that may arise in these Sectors (such as rehousing due to social emergency situations, signing of agreements with associations, increase of economic resources, reinforcement of social, educational and health services).

III. Findings

Following the presentation of these observations, in response to the observations made by the complainants, the State reiterates the conclusions that we summarised at the end of our observations on the merits.

Accordingly, the following is respectfully REQUESTED from the Committee:

1. To deem the Kingdom of Spain's observations to have been submitted.
2. To declare that neither the right to housing recognised in Article 31 of the Revised European Social Charter nor any of the remaining rights additionally cited by the Complainants have been violated by Spain.



3. The Kingdom of Spain renews the invitation made to the Committee's members to travel to Madrid so that they can have the opportunity to visit Sectors 5 and 6 of the *Cañada Real Galiana* on the ground, as well as the actions taken by public authorities.

Madrid for Strasbourg, 10 June 2023

The Agent of Spain

The Co-Agent of Spain

Alfonso Brezmes Martínez de Villareal

Heide-Elena Nicolás Martínez

TO THE EUROPEAN COMMITTEE OF SOCIAL RIGHTS