

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



European  
Social  
Charter

Charte  
sociale  
européenne



21 May 2025

**Case Document No. 1**

**European Disability Forum (EDF) v. Spain**  
Complaint No. 246/2025

**COMPLAINT**

**Registered at the Secretariat on 6 May 2025**

**COLLECTIVE COMPLAINT**

**IN ACCORDANCE WITH THE ADDITIONAL PROTOCOL OF THE EUROPEAN  
SOCIAL CHARTER PROVIDING FOR A SYSTEM OF COLLECTIVE  
COMPLAINTS**

**EUROPEAN DISABILITY FORUM (“EDF”)**

**V.**

**KINGDOM OF SPAIN**

Submitted by the European Disability Forum

Addressed to the Secretary General of the European Committee of Social Rights

Department of the European Social Charter

Directorate General Human Rights and Rule of Law

Council of Europe F-67075 Strasbourg Cedex

E-mail address: [social.charter@coe.int](mailto:social.charter@coe.int)

DGI-ESC-Collective-Complaints@coe.int

## TABLE OF CONTENTS

I.	INTRODUCTION .....	3
II.	ADMISSIBILITY .....	4
A.	DEFENDANT STATE .....	4
B.	ARTICLES CONCERNED .....	4
C.	STATUS OF EDF AS AN INTERNATIONAL NON-GOVERNMENTAL ORGANISATION (INGO) ENTITLED TO SUBMIT COLLECTIVE COMPLAINTS .....	7
III.	DESCRIPTION OF THE COMPLAINT .....	8
IV.	RELEVANT FACTUAL AND LEGAL BACKGROUND .....	10
A.	GENERAL CONSIDERATIONS ON SPANISH HOUSING POLICY .....	10
B.	RELEVANT LEGISLATION .....	15
1.	Spanish Constitution.....	15
2.	International treaties .....	16
3.	Spanish implementing law .....	17
V.	ALLEGED BREACHES OF THE CHARTER.....	21
A.	VIOLATION OF ARTICLE 15, IN RELATION TO ARTICLES 16, 23, 30, 31 AND E OF THE CHARTER.....	22
B.	VIOLATION OF ARTICLE 16, IN RELATION TO ARTICLES 15, 23, 30, 31 AND E OF THE CHARTER.....	24
C.	VIOLATION OF ARTICLE 23, IN RELATION TO ARTICLES 15, 16, 30, 31 AND E OF THE CHARTER.....	26
D.	VIOLATION OF ARTICLE 30, IN RELATION TO ARTICLES 15, 16, 23, 31 AND E OF THE CHARTER.....	26
E.	VIOLATION OF ARTICLE 31, IN RELATION TO ARTICLES 15, 16, 23, 30 AND E OF THE CHARTER.....	28
F.	VIOLATION OF ARTICLE E, IN RELATION TO ARTICLES 15, 16, 23, 30 AND 31 OF THE CHARTER.....	30
VI.	PRAYER FOR RELIEF.....	32
VII.	SCHEDULE OF DOCUMENTS ANNEXED .....	34

## I. INTRODUCTION

1. The European Disability Forum (hereinafter “**EDF**”) respectfully submits this collective complaint in accordance with the Additional Protocol to the European Social Charter providing for a system of collective complaints.
2. EDF requests that the European Committee of Social Rights (hereinafter, the “**Committee**”) find that the legal framework, public policy, and administrative practice in force in the Kingdom of Spain (hereinafter “**Spain**” or “**Spanish state**”) concerning housing accessibility for persons with disabilities and elderly individuals are not in conformity with the obligations arising under the Revised European Social Charter (hereinafter, the “**Revised Charter**” or the “**Charter**”).
3. In particular, EDF submits that Spain has failed to apply, in a satisfactory and lawful manner, Articles 15, 16, 23, 30, 31 and E of the Revised Charter, by not adopting effective and coordinated legislative, administrative, and financial measures capable of ensuring the accessibility of housing –especially in the case of existing residential buildings, subject to the Horizontal Property Law– and by perpetuating a legal framework that results in indirect discrimination against persons with disabilities, elderly individuals, and those living in or at risk of poverty and social exclusion.
4. EDF therefore requests that the Committee declare this complaint admissible, find Spain in violation of the above-mentioned provisions of the Revised Charter, and recommend that it take the necessary steps, within a reasonable timeframe and to the maximum extent of available resources, to bring its housing and accessibility policy into full conformity with the Charter.

## II. ADMISSIBILITY

### A. DEFENDANT STATE

5. This complaint is directed against the Kingdom of Spain. In light of the territorial distribution of competences within the Spanish constitutional framework, housing policy falls under the shared jurisdiction of both the central State and the Autonomous Communities.<sup>1</sup> The Spanish State bears full responsibility under international law for ensuring compliance with the obligations set out in the Revised European Social Charter. As consistently affirmed by the Committee:<sup>2</sup>

*“even if under domestic law local or regional authorities (...) are responsible for exercising a particular function, states party to the Charter are still responsible, under their international obligations to ensure that such responsibilities are properly exercised. (...) ultimate responsibility for implementation of official policy lies with the (...) state.”*

6. On 17 May 2021, Spain completed the ratification of the Revised European Social Charter, as well as the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints. Spain has accepted all 98 Articles of the Revised Charter, including Articles 15, 16, 23, 30, 31, and E, which are specifically invoked in this complaint.

### B. ARTICLES CONCERNED

7. Article 15 – Right of persons with disabilities to independence, social integration and participation in the life of the community:

- 7.1. Article 15 of the Revised Charter reads as follows:

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

---

<sup>1</sup> In Spanish, “Comunidades Autónomas”.

<sup>2</sup> ERRC v. Greece, Complaint No. 15/2003, decision on the merits of 8 December 2004, §29.

(...)

*3 to promote their full social integration and participation in the life of the community in particular through measures, including technical aids, **aiming to overcome barriers to communication and mobility and enabling access to transport, housing, cultural activities and leisure.***”

-Emphasis added-

8. Article 16 – Right of the family to social, legal and economic protection:

8.1. Article 16 of the Revised Charter reads as follows:

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

9. Article 23 – Right of elderly persons to social protection:

9.1. Article 23 of the Revised Charter reads as follows:

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

(...)

*to enable elderly persons to choose their life-style freely and to lead independent lives in their familiar surroundings for as long as they wish and are able, by means of:*

*a **provision of housing suited to their needs and their state of health or of adequate support for adapting their housing; (...).***”

-Emphasis added-

10. Article 30 – The right to protection against poverty and social exclusion:

10.1. Article 30 of the Revised Charter reads as follows:

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

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

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

11. Article 31 – Right to housing:

11.1. Article 31 of the Revised Charter reads as follows:

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

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

*2 to prevent and reduce homelessness with a view to its gradual elimination;*

*3 to make the price of housing accessible to those without adequate resources.”*

-Emphasis added-

12. Article E – Right to non-discrimination:

12.1. Article E of the Revised Charter reads as follows:

*The enjoyment of the rights set forth in this Charter shall be secured **without discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national extraction or social origin, health, association with a national minority, birth or other status.***

-Emphasis added-

**C. STATUS OF EDF AS AN INTERNATIONAL NON-GOVERNMENTAL ORGANISATION (INGO) ENTITLED TO SUBMIT COLLECTIVE COMPLAINTS**

13. The European Disability Forum (“EDF”) is an independent non-governmental organisation (“NGO”) that defends the interests of over 100 million persons with disabilities in Europe and that brings together representative organisations of persons with disabilities from across Europe.<sup>3</sup> As such, in compliance with the admissibility conditions stated by the Committee for lodging a complaint, EDF has particular competence in the field relating to the provisions of the Charter covered by the complaint and is representative of the persons with disabilities living in Europe and the national organizations that represent them. For this complaint procedure, EDF acts in defence of the rights of the persons with disabilities living in Spain.
  
14. Most of EDF’s members are national or regional umbrella organizations of service providers that support persons with disabilities, with a wide range of services, including housing, health, employment and social support. Such is the case of the Comité Español de Representantes de Personas con Discapacidad (“CERMI”),<sup>4</sup> the umbrella organisation of persons with disabilities in Spain that has brought the reported violation to attention of EDF and has been collaborating in the process of the complaint. CERMI is the Spanish platform for political engagement and action for persons with disabilities, made up of the main national organizations of persons with disabilities, several affiliated sectoral entities, and 19 regional platforms—one for each Autonomous Community. These platforms, in turn, bring together more than 8,000 associations and entities, collectively representing the 4.74 million people with disabilities in Spain, which accounts for 10% of the total population.
  
15. EDF has established regular channels of advocacy to European institutions including the European Parliament, the European Commission, and the Council of the European Union, in addition, of course, to the European Committee of Social Rights.

---

<sup>3</sup> More information at: <[www.edf-feeph.org](http://www.edf-feeph.org)>.

<sup>4</sup> In English “Spanish Committee of Representatives of Persons with Disabilities”), More information at: <[cermi.es](http://cermi.es)>.



16. EDF is one of the international non-governmental organisations (“INGOs”) entitled to submit collective complaint registered for a period of 4 years, from 1 January 2022 to 31 December 2025.
17. The complaint has been signed by [\*\*\*], [President] of [\*\*\*], who, according to the statutes of the organisation, is empowered to sign on its behalf.
18. For the purpose of the procedure, Spanish lawyers F. Javier Pérez Fernández and Inés Falquina Gómez, of collective law firm Regula Estudio Jurídico, S.L.P.,<sup>5</sup> are appointed by EDF as advisers as under Rule 25-2 of the Rules of Procedure of the Committee.

### III. DESCRIPTION OF THE COMPLAINT

19. This collective complaint addresses the general situation in Spain, where housing policy has made limited progress in recent decades regarding the adaptation and accessibility of housing for persons with disabilities and elderly individuals. Accessibility remains largely a private matter, dependent on decisions made by building owners, and the legal reforms introduced thus far have proven insufficient.
20. The absence of universal accessibility in residential buildings governed by the Horizontal Property Act constitutes one of the most pervasive forms of discrimination against persons with disabilities and elderly individuals within their immediate living environments.
21. Since its establishment, CERMI –the entity that brought this matter to the complainant's attention– has consistently advocated for policy reform and provided guidance to persons with disabilities and their families in navigating the process of reaching private agreements to adapt buildings and ensure universal accessibility.
22. Although the Spanish State and regional governments have enacted legal reforms to reduce the requirements for reaching such agreements, accessibility adaptations still

---

<sup>5</sup> Registered with the Ilustre Colegio de la Abogacía de Madrid (“Madrid Bar Association”), under No. 120.607 and 139.225, respectively.

depend on private consensus. As a result, in most cases, no meaningful accessibility measures are implemented.

23. The right to decent and adequate housing (Article 47), along with the promotion of policies aimed at ensuring full personal autonomy and the social inclusion of persons with disabilities in universally accessible environments (Article 49), are principles enshrined in the Spanish Constitution. While these are not directly enforceable rights – being included in the Third Chapter of the Constitution on Principles Governing Economic and Social Policy– by ratifying the European Social Charter, Spain has nonetheless undertaken a binding commitment to ensure their practical applicability. This is further supported by Article 96 of the Spanish Constitution, which establishes that “*validly concluded international treaties, once officially published in Spain, shall be part of the internal legal system*” and, therefore, are enforceable.
24. Despite the introduction of certain legal reforms and public subsidies, these measures remain limited in scope. Consequently, persons with disabilities and elderly individuals continue to face significant barriers in accessing their homes, particularly in older buildings that lack elevators, ramps, or lifting platforms. In the absence of a comprehensive and affordable public solution, individuals must rely on the goodwill of their fellow property owners—who often do not face mobility challenges and therefore lack sufficient incentives—to approve adaptations under the Horizontal Property Act. These individuals must also co-finance the necessary works, even though accessibility improvements are given less legal weight than general maintenance obligations, which are mandatory and not subject to agreement.
25. This complaint contends that the Spanish Government is in breach of its obligations under the Revised European Social Charter, particularly the right to housing (Article 31) for persons with disabilities, in conjunction with their right to independence, social integration, and participation in community life (Article 15), and the right of elderly persons to social protection (Article 23). Furthermore, the prevailing situation concerning housing and accessibility also infringes upon the right of the family to social, legal, and economic protection (Article 16), the right to protection against poverty and social exclusion (Article 30), and the right to non-discrimination (Article E).

#### IV. RELEVANT FACTUAL AND LEGAL BACKGROUND

##### A. GENERAL CONSIDERATIONS ON SPANISH HOUSING POLICY

26. As previously stated, housing and accessibility policy in Spain is a legally complex matter, falling under the shared competence of the central State and the Autonomous Communities. It is also one of the most common forms of discrimination against persons with disabilities and elderly persons in Spain.
27. Act No. 12/2023, of 24 May, on the Right to Housing,<sup>6</sup> sets out guiding principles in its Preamble to “*establish basic regulations for the rights and duties of citizens in relation to housing, as well as those associated with homeownership, applicable to the entire national territory*”<sup>7</sup> and to “*provide effective tools to ensure the functionality, safety, universal accessibility, and habitability of homes, thereby guaranteeing the dignity and health of the people who live in them.*”<sup>8</sup> Article 2 of the same Act identifies as an objective the promotion of “*universal accessibility in the housing stock, ensuring its effectiveness in new homes and adopting measures to address the emerging needs in the existing housing stock.*”<sup>9</sup>
28. In defining the content of the right to property in housing, Article 10 of the Act includes the “*execution of conservation, rehabilitation, **universal accessibility**, extension, or improvement works, in accordance with the conditions established by the competent*

---

<sup>6</sup> Ley 12/2023, de 24 de mayo, por el derecho a la vivienda. Available at: <https://www.boe.es/eli/es/l/2023/05/24/12/con>.

<sup>7</sup> Own translation. In Spanish: “*Establecer una regulación básica de los derechos y deberes de los ciudadanos en relación con la vivienda, así como de los asociados a la propiedad de vivienda, aplicable a todo el territorio nacional.*”

<sup>8</sup> Own translation. In Spanish: “*Dotar de instrumentos efectivos para asegurar la funcionalidad, la seguridad, la accesibilidad universal y la habitabilidad de las viviendas, garantizando así la dignidad y la salud de las personas que las habitan.*”

<sup>9</sup> Own translation. In Spanish: “*Impulsar la accesibilidad universal en el parque de vivienda, asegurando su efectividad en las nuevas viviendas y adoptando medidas para solventar las necesidades sobrevenidas en el parque de vivienda preexistente.*”

*authority and, where applicable, the enabling title for such actions, **when legally required**,*<sup>10</sup> as part of the obligations of homeowners.

29. The present complaint focuses primarily on older residential buildings, since legislation already mandates that all new constructions must include features guaranteeing universal accessibility for all residents. However, the implementation of accessibility measures in existing buildings remains a private matter, dependent on the collective will of property owners. Rather than mandating such construction work or fully subsidizing it, the Spanish government relies on the procedures set out in Act No. 49/1960, on Horizontal Property (“**Horizontal Property Act**”),<sup>11</sup> which require private agreement for the adoption of necessary measures.
30. Article 10 of the Horizontal Property Act imposes certain obligations on homeowners’ associations. Specifically, paragraph b provides that:

*“The works and actions necessary to ensure reasonable adjustments in terms of universal accessibility and, in any case, those required at the request of the owners in whose homes or premises live, work, or provide voluntary services to persons with disabilities or individuals over seventy years of age, with the aim of ensuring appropriate use of common elements according to their needs, as well as the installation of ramps, elevators, or other mechanical and electronic devices that assist with orientation or communication with the outside, **provided that the annual cost passed on to them, once public subsidies or grants have been deducted, does not exceed twelve ordinary monthly common expenses.** The mandatory nature of these works will not be waived by the fact that the rest of the cost, beyond the mentioned monthly amounts, is covered by those who requested them*

*It will also be mandatory to carry out these works when the public subsidies that the community may have access to cover 75% of their cost.”*<sup>12</sup>

---

<sup>10</sup> Emphasis added.

<sup>11</sup> Ley 49/1960, de 21 de julio, sobre propiedad horizontal. Available at: <https://www.boe.es/eli/es/l/1960/07/21/49/con>.

<sup>12</sup> Own translation. In Spanish: “*Las obras y actuaciones que resulten necesarias para garantizar los ajustes razonables en materia de accesibilidad universal y, en todo caso, las requeridas a instancia de los propietarios en*

-Emphasis added-

31. As this provision indicates, the obligation to carry out accessibility works is limited by an annual cost threshold: twelve times the ordinary monthly community fees, net of any applicable subsidies. Where the estimated cost exceeds this threshold –frequently the case for works such as elevator installation– the decision must be submitted to a vote under Article 17.2 of the same law, requiring a majority of owners representing a majority of ownership shares.
32. Over the years, advocacy efforts have focused on two primary fronts: (i) increasing the amount and availability of public subsidies, and (ii) lowering the thresholds for reaching the required majorities to approve accessibility works.
33. Since 2019, such works have also become mandatory when 75% of the cost is covered by public subsidies. However, only approximately 10% of communities that undertake these improvements receive any form of subsidy –a significant gap that indicates these funds are not effectively reaching those in need–. As a result, many homeowners’ associations fail to carry out accessibility upgrades, as they remain subject to private discretion and are not financially feasible for most.
34. Although the current Spanish government is working on a reform of the General Act on the Rights of Persons with Disabilities and their Social Inclusion,<sup>13</sup> CERMI –having reviewed a draft of the proposed text– has verified that the two core issues identified in

---

*cuya vivienda o local vivan, trabajen o presten servicios voluntarios, personas con discapacidad, o mayores de setenta años, con el objeto de asegurarles un uso adecuado a sus necesidades de los elementos comunes, así como la instalación de rampas, ascensores u otros dispositivos mecánicos y electrónicos que favorezcan la orientación o su comunicación con el exterior, siempre que el importe repercutido anualmente de las mismas, una vez descontadas las subvenciones o ayudas públicas, no exceda de doce mensualidades ordinarias de gastos comunes. No eliminará el carácter obligatorio de estas obras el hecho de que el resto de su coste, más allá de las citadas mensualidades, sea asumido por quienes las hayan requerido.*

*También será obligatorio realizar estas obras cuando las ayudas públicas a las que la comunidad pueda tener acceso alcancen el 75% del importe de las mismas.”*

<sup>13</sup> Real Decreto Legislativo 1/2013, de 29 de noviembre, por el que se aprueba el Texto Refundido de la Ley General de derechos de las personas con discapacidad y de su inclusión social. Available at: <https://www.boe.es/eli/es/rdlg/2013/11/29/1/con>.

this complaint remain unresolved. The voting mechanism under the Horizontal Property Act remains unchanged, and the availability of subsidies continues to depend on the annual General State Budget and the budgets of the respective Autonomous Communities.

35. CERMI has an exemplary amount of consultations made throughout the years of situations that, although diverse, share the same foundation: when leaving these decisions to private will, either the lack of sufficient funds or, even, the lack of empathy of the neighbours, can effectively condemn persons with disabilities and elderly persons to not being able to leave their house.
36. Additionally, the technical complexity of the issue, the challenges involved in the required works, and the need to propose a private initiative at a homeowners' association meeting—including secured financing, comparable budget estimates, and information on available public and private funding mechanisms, among other relevant considerations—can further hinder access to the very mechanisms needed to implement adaptations. This may also lead to a passive attitude among both the affected individuals and the rest of the community.
37. In response to the growing demand for information and advice, CERMI has published a practical guide on accessibility works within homeowners' associations. Over the years, the organization has also issued opinion pieces and actively engaged in legislative advocacy at both state and regional levels. A 2021 study conducted in the Autonomous Community of Valencia revealed that 69% of persons with mobility issues required assistance to leave their homes, and over 15,000 individuals (5%) never left their homes at all. Nationally, the same study estimated that over 1.8 million people in Spain live with mobility impairments that require assistance to exit their homes, including around 100,000 who never leave due to a lack of accessible infrastructure.
38. According to the Consejo General de Colegios de Administradores de Fincas (“CGCAFE”, in English “General Council of Associations and Property Administrators of Spain”), approximately 75% of residential buildings in the country need to improve accessibility.

39. Survey data shows that 43% of individuals with mobility impairments report going several days without leaving their homes, with the inaccessibility of their buildings being a major contributing factor. Notably, 33% stated that if their building were better adapted to their needs, they would leave more frequently. This figure rises sharply to 66% among the 18% of respondents living in buildings without elevators.
40. Some Spanish media outlets have consistently reported on the serious difficulties faced by people with disabilities. For example, among many others, El País published a story titled “When Leaving Home Is an Odyssey: Trapped by a Lack of Accessibility”<sup>14</sup>; Cinco Días published a report titled “More than a third of households in Spain are located in buildings that are barely or not at all accesible”<sup>15</sup>; 20 Minutos published a story titled “Antonio's Prison: Five Years at Home Due to a Disability — “The building entrance needs to be adapted, and my neighbors say I should pay for it myself.””<sup>16</sup>; La Vanguardia published an interview “Laura López Demarbre: “One hundred thousand people live confined every day due to a lack of accessibility in their homes. ””<sup>17</sup>; Cadena Ser published an interview titled “Tomi Sánchez's Fight for Accessibility in His Building: “I Haven't Been Outside Since New Year's Eve””<sup>18</sup>.
41. It is evident that the full enjoyment of the right to housing (Article 31), as well as the right of persons with disabilities to independence, social integration, and participation in community life (Article 15), and the right of elderly persons to social protection (Article 23), all depend on the ability to lead autonomous lives, which in turn requires accessible living environments.

---

<sup>14</sup> Available at: <https://elpais.com/economia/negocios/2024-01-27/cuando-salir-de-casa-es-una-odisea-atrapados-por-falta-de-accesibilidad.html>. In Spanish: “*Cuando salir de casa es una odisea: atrapados por falta de accesibilidad*”.

<sup>15</sup> Available at: <https://cincodias.elpais.com/companias/2024-05-29/mas-de-un-tercio-de-los-hogares-en-espana-se-encuentra-en-edificios-poco-o-nada-accesibles.html>. In Spanish: “*Más de un tercio de los hogares en España se encuentra en edificios poco o nada accesibles*”.

<sup>16</sup> Available at: <https://www.20minutos.es/noticia/5201315/0/carcel-antonio-cinco-anos-casa-por-una-discapacidad-hay-que-adaptar-portal-mis-vecinos-dicen-que-me-pague-yo/>. In Spanish: “*La cárcel de Antonio, cinco años en casa por una discapacidad: “Hay que adaptar el portal y mis vecinos dicen que me lo pague yo”*”.

<sup>17</sup> Available at: <https://www.lavanguardia.com/seguros/hogar/20200731/482588107325/discapacidad-dependencia-mutua-de-propietarios-vivienda.html>. In Spanish: “*Laura López Demarbre: “Cien mil personas viven confinadas cada día sin accesibilidad en su casa”*”.

<sup>18</sup> Available at: <https://cadenaser.com/euskadi/2025/02/17/la-lucha-de-tomi-sanchez-por-la-accesibilidad-en-su-edificio-llevo-desde-nochevieja-sin-salir-radio-bilbao/>. In Spanish: “*La lucha de Tomi Sánchez por la accesibilidad en su edificio: “Llevo desde Nochevieja sin salir”*”.

42. Whether due to insufficient public funding or the structural limitations of an aging housing stock and population, current Spanish legislation and policy remain inadequate to resolve the issue. Despite recent legislative developments, such as the new housing law, no concrete measures have been introduced beyond a general strategic plan to support territorial administrations. No substantive progress has been made in ensuring effective accessibility in existing housing.

## **B. RELEVANT LEGISLATION**

### **1. Spanish Constitution**

43. Article 9.2 of the Spanish Constitution <sup>19</sup> establishes that “*it is the responsibility of the public authorities to promote conditions ensuring that freedom and equality of individuals and of the groups to which they belong are real and effective, to remove the obstacles preventing or hindering their full enjoyment, and to facilitate the participation of all citizens in political, economic, cultural and social life.*”<sup>20</sup>
44. Under the Spanish constitutional framework, only the rights and freedoms enshrined in Chapter II of Part I are directly binding on all public authorities. Article 14 is among those provisions, and it establishes that all Spaniards are equal before the law and may not be discriminated against on grounds such as birth, race, sex, religion, opinion, or any other personal or social condition or circumstance –including disability–. While Article 10 enshrines the dignity of the person as a foundational principle, it is primarily enforceable through subsequent legislative development. Moreover, Article 10 mandates that all legislation concerning fundamental rights must be interpreted in accordance with the Universal Declaration of Human Rights and international treaties ratified by Spain.

---

<sup>19</sup> Constitución Española. Available at: <[https://www.boe.es/eli/es/c/1978/12/27/\(1\)/con](https://www.boe.es/eli/es/c/1978/12/27/(1)/con)>.

<sup>20</sup> Own translation. In Spanish: “*Corresponde a los poderes públicos promover las condiciones para que la libertad y la igualdad del individuo y de los grupos en que se integra sean reales y efectivas; remover los obstáculos que impidan o dificulten su plenitud y facilitar la participación de todos los ciudadanos en la vida política, económica, cultural y social.*”



45. As previously mentioned, Chapter III of the Constitution includes key social and economic rights –such as the right to decent and adequate housing (Article 47) and the right of persons with disabilities to fully exercise their fundamental rights under conditions of real and effective equality (Article 49)–. However, these rights are not directly justiciable and require legal development to become enforceable. Their content and scope, therefore, depend on the applicable legislative framework and the duties imposed on public authorities therein.
46. It is also important to consider the distribution of competences under Articles 148 and 149 of the Constitution, which determine the areas in which the Autonomous Communities (i.e., the regional governments) may assume authority and those in which the State retains exclusive competence. While the State holds exclusive power to regulate the basic conditions ensuring the equality of all Spaniards in the exercise of their rights –thereby including the development of fundamental rights– general legislation may confer certain implementation powers to the Autonomous Communities. Housing policy falls within this shared competence framework.

## 2. International treaties

47. As previously noted, by signing and ratifying the Revised European Social Charter, the Kingdom of Spain has undertaken the obligation to guarantee the effective enjoyment of the rights enshrined therein. Article 96.1 of the Spanish Constitution provides that “*validly concluded international treaties, once officially published in Spain, shall form part of the domestic legal system,*”<sup>21</sup> and are thus binding and enforceable within the national legal order.
48. Spain has also ratified other key international human rights instruments, including the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the European Convention on Human Rights, the Convention on the Rights of Persons with Disabilities, and the Charter of Fundamental Rights of the European Union. Each of these instruments imposes binding obligations on Spain to

---

<sup>21</sup> Own translation. In Spanish: “*Los tratados internacionales válidamente celebrados, una vez publicados oficialmente en España, formarán parte del ordenamiento interno.*”

safeguard the rights of persons with disabilities and to ensure access to adequate housing.

49. Especially, the Convention on the Rights of Persons with Disabilities establishes on article 5 the right to equality and non-discrimination of persons with disabilities, as well as the right to universal access in article 9, which requires the State to eliminate all kinds of barriers, including access to housing.

### **3. Spanish implementing law**

50. The primary domestic legislation developing these constitutional and international commitments includes:

- Royal Legislative Decree No. 1/2013, of 29 November, approving the consolidated text of the General Act on the Rights of Persons with Disabilities and their Social Inclusion;<sup>22</sup>
- Royal Legislative Decree No. 7/2015, of 30 October, approving the consolidated text of the Land and Urban Rehabilitation Act;<sup>23</sup>
- Act No. 12/2023, of 24 May, on the Right to Housing,<sup>24</sup>; and
- Act No. 49/1960, on Horizontal Property.<sup>25</sup>

51. Royal Legislative Decree No. 1/2013 outlines the guarantees for persons with disabilities to receive equal treatment and enjoy their rights on an equal footing with

---

<sup>22</sup> Real Decreto Legislativo 1/2013, de 29 de noviembre, por el que se aprueba el Texto Refundido de la Ley General de derechos de las personas con discapacidad y de su inclusión social. Available at: <https://www.boe.es/eli/es/rdlg/2013/11/29/1/con>.

<sup>23</sup> Real Decreto Legislativo 7/2015, de 30 de octubre, por el que se aprueba el texto refundido de la Ley de Suelo y Rehabilitación Urbana. Available at: <https://www.boe.es/eli/es/rdlg/2015/10/30/7/con>.

<sup>24</sup> Ley 12/2023, de 24 de mayo, por el derecho a la vivienda. Available at: <https://www.boe.es/eli/es/l/2023/05/24/12/con>.

<sup>25</sup> Ley 49/1960, de 21 de julio, sobre propiedad horizontal. Available at: <https://www.boe.es/eli/es/l/1960/07/21/49/con>.

others. It promotes personal autonomy, universal accessibility, access to employment, community inclusion, and independent living, and mandates the elimination of all forms of discrimination. Among the law's guiding principles is "*universal accessibility*," which encompasses both physical access to public spaces and broader equality of opportunity. Article 5 affirms that all measures aimed at ensuring equality, non-discrimination, and accessibility apply to urban spaces, infrastructure, and buildings.

52. Article 23 of the same decree defines basic accessibility and non-discrimination conditions, including: "*accessibility requirements for buildings and environments, instruments, equipment, and technologies, as well as goods and products used in the sector or area. In particular, the removal of barriers to facilities and the adaptation of equipment and instruments, as well as appropriate signage on them.*"<sup>26</sup> Additionally, Article 26 requires that "*the technical standards for construction will include provisions regarding the minimum conditions that buildings of any type must meet to allow accessibility for persons with disabilities,*"<sup>27</sup> and that any project failing to meet these standards shall be denied the necessary permits.
53. These provisions create a directly enforceable regime for new buildings, with non-compliance punishable before Spanish courts.
54. However, as discussed previously, the regulatory regime for older residential buildings is significantly more complex and ultimately hinges on the will of private property owners. In this regard, the Spanish government has consistently failed to guarantee the rights of persons with disabilities and individuals with mobility impairments to access their homes.

---

<sup>26</sup> Own translation. In Spanish: "*Exigencias de accesibilidad de los edificios y entornos, de los instrumentos, equipos y tecnologías, y de los bienes y productos utilizados en el sector o área. En particular, la supresión de barreras a las instalaciones y la adaptación de equipos e instrumentos, así como la apropiada señalización en los mismos.*"

<sup>27</sup> Own translation. In Spanish: "*Las normas técnicas sobre edificación incluirán previsiones relativas a las condiciones mínimas que deberán reunir los edificios de cualquier tipo para permitir la accesibilidad de las personas con discapacidad.*"

55. Royal Legislative Decree No. 7/2015 governs the Building Evaluation Report, which serves as a mechanism to assess the condition and accessibility of residential buildings. In theory, Autonomous Communities must ensure periodic evaluations of compliance with technical standards, including accessibility. In practice, however, this mechanism has proven insufficient, as decisions on necessary works may still be subject to rejection by homeowners' associations on cost grounds.
56. As previously analysed, the most recent relevant legislation –Act No. 12/2023 on the Right to Housing– fails to introduce concrete measures to address these long-standing issues. Its only mechanisms are the State Plans for housing rehabilitation, urban and rural renewal, which provide strategic frameworks for accessibility improvements but lack binding force or effective enforcement mechanisms.
57. Moreover, due to political disagreements and differing priorities, several Autonomous Communities have refused to implement key provisions of the law. Consequently, despite its aspirational language, the law's practical impact has thus far been limited.
58. As outlined above, the primary legal obstacle to ensuring universal accessibility in existing buildings is found in Horizontal Property Act.
59. In older residential buildings, the adoption of accessibility measures continues to depend on private agreement among co-owners. Rather than mandating such improvements or covering their full cost, the Spanish government continues to rely on the procedures laid out in the Horizontal Property Act.
60. Article 10 of the Horizontal Property Act establishes a partial obligation for homeowners' associations. Specifically, paragraph b provides that:

*“The works and actions necessary to ensure **reasonable adjustments in terms of universal accessibility** and, in any case, those required at the request of the owners in whose homes or premises live, work, or provide voluntary services to persons with disabilities or individuals over seventy years of age, with the aim of ensuring appropriate use of common elements according to their needs, as well as the installation of ramps, elevators, or other mechanical and electronic devices that assist with orientation or communication with the outside, **provided that the annual cost passed on to them, once public subsidies or grants have been deducted, does not exceed twelve ordinary monthly common expenses.** The mandatory nature of these works will not be*

*waived by the fact that the rest of the cost, beyond the mentioned monthly amounts, is covered by those who requested them*

***It will also be mandatory to carry out these works when the public subsidies that the community may have access to cover 75% of their cost.”***

-Emphasis added-

61. This provision introduces a dual mechanism under which accessibility works become compulsory only in limited circumstances—when their cost does not exceed a set threshold or when subsidies cover the majority of expenses. In all other cases, improvements such as elevator installation require approval through the general voting procedure set out in Article 17.2, which requires a double majority of owners and ownership shares.
62. To trigger this mechanism, the works must be requested by an owner whose household includes or serves a person with a disability or someone over the age of seventy, and the works must relate to the appropriate use of common elements according to their specific needs.
63. As underscored above, the obligation to carry out such works is limited to those that fall within the financial threshold of twelve ordinary monthly community expenses. These are the only mandatory works not subject to agreement and potentially enforceable by public authorities. For more costly works,—such as elevator installations— approval must be obtained through a vote, often resulting in rejection by the homeowners’ association.
64. Finally, in determining whether the legal threshold is met, reference must be made to the annual operating budget of the community of owners, focusing on foreseeable and recurring expenses. Additionally, the requesting party may provide information about available public subsidies, which the homeowners’ association is then required to apply for. This creates a case-by-case situation that often perpetuates inequality and de facto discrimination against persons with disabilities and elderly individuals living in older residential buildings.

## V. ALLEGED BREACHES OF THE CHARTER

65. The complainant considers that the current Spanish legal and policy framework undermines the effectiveness of the rights and principles enshrined in the Revised European Social Charter. For this reason, the systematic violation of the social rights protected by the Charter must be addressed and brought to the attention of the Committee through the present collective complaint.
66. As a fundamental principle, the Committee has affirmed that the signatory State is ultimately responsible for ensuring the effective enjoyment of the rights set forth in the Charter, including in cases where such violations result from the State's failure to act. Additionally, the regulation capable of providing a solution falls under State jurisdiction.
67. This responsibility entails that the State must adopt a practical and effective approach, rather than a merely theoretical one –such as the inclusion of general guiding principles and objectives in various applicable laws that, in practice, lack enforceability or concrete effect–:<sup>28</sup>

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

68. In line with this, the Committee has reiterated that:<sup>29</sup>

*“for the situation to be in conformity with the Charter, States Parties must:*

---

<sup>28</sup> [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §§59-67

<sup>29</sup> [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, *op.cit.*, §§59-67.

*(a) adopt the necessary legal, financial and operational means of ensuring steady progress towards achieving the goals laid down by the Charter;*

*(b) maintain meaningful statistics on needs, resources and results;*

*(c) undertake regular reviews of the impact of the strategies adopted;*

*(d) establish a timetable and not defer indefinitely the deadline for achieving the objectives of each stage;*

*(e) pay close attention to the impact of the policies adopted on each of the categories of persons concerned, particularly the most vulnerable”.*

69. Any attempt to claim, or disclaim, that non-compliance is attributable to other competent administrations, particularly in areas of shared territorial responsibility, must be dismissed. As the Committee has clearly stated:<sup>30</sup>

*“even if under domestic law local or regional authorities (...) are responsible for exercising a particular function, states party to the Charter are still responsible, under their international obligations to ensure that such responsibilities are properly exercised. (...) ultimate responsibility for implementation of official policy lies with the (...) state”.*

70. Articles 15, 16, 23, 30, 31, and E of the Charter are of particular relevance in the present case. It appears especially evident that these provisions have been violated by the Spanish legislature for the reasons that will be outlined in the following sections.

**A. VIOLATION OF ARTICLE 15, IN RELATION TO ARTICLES 16, 23, 30, 31 AND E OF THE CHARTER**

71. The violation of Article 15 arises from the failure to ensure social inclusion through equal access to housing, regardless of disability. This right entails full integration and participation in community life, which necessarily requires the removal of mobility barriers and the facilitation of access to housing. Access to housing, as confirmed by the 2019 study conducted by FMP and COCEMFE, is also a prerequisite for access to

---

<sup>30</sup> [European Roma Rights Centre \(ERRC\) v. Greece](#), Complaint No. 15/2003, decision on the merits of 8 December 2004, §29.

transport, cultural activities, and leisure –areas that are significantly compromised when individuals require external assistance to leave their homes–.

72. This broad interpretation has been consistently upheld by the Committee:<sup>31</sup>

*“The underlying vision of Article 15 is one of equal citizenship for persons with disabilities and, fittingly therefore, the primary rights are those of “independence, social integration and participation in the life of the community”. Article 15 applies to all persons with disabilities regardless of the nature and origin of their disability and irrespective of their age.”*

73. This includes, in the Committee’s view:<sup>32</sup>

*“that barriers to communication and mobility be removed in order to enable access to transport, housing, cultural activities and leisure. Such measures, including technical aids, must not be pursued in isolation and should be programmed to complement each other, on a clear legislative basis.”*

74. The Committee has also repeatedly recognized that economic and social conditions, such as poverty and social exclusion, are key factors in shaping public policy and must be taken into account:<sup>33</sup>

*“The Committee has considered in its conclusions on Article 15§3 that the prevalence of poverty amongst persons with disabilities in a State Party, whether defined or measured in either monetary or multidimensional terms, is an important indicator of the effectiveness of State efforts to ensure the right of persons with disabilities to enjoy independence, social integration and participation in the life of the community. The Committee considers that the obligations of States under Article 15§3 is strongly linked to measures directed towards the amelioration and eradication of poverty amongst persons with disabilities. Therefore, the Committee takes poverty levels experienced by persons with disabilities into account when considering the State’s obligations under Article 15§3 of the Charter.”*

---

<sup>31</sup> [International Association Autism Europe v. France](#), Complaint No. 13/2002, decision on the merits of 4 November 2003, §48

<sup>32</sup> [Conclusions 2008, Statement of Interpretation on Article 15§3; Conclusions 2005, Norway.](#)

<sup>33</sup> [Conclusions 2020](#), Statement of Interpretation on Article 15§1, Andorra.



75. Economic disparity constitutes a further layer of vulnerability for persons with disabilities and mobility limitations, and must be accounted for in the design and implementation of housing policy. As the Committee has recalled.<sup>34</sup>

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

76. In the Spanish context, the economic factor is particularly relevant and exacerbates the existing structural problem. Requiring private agreement for costly accessibility works creates an unequal situation between wealthier homeowners’ communities and those with fewer resources. Moreover, individual owners with higher income or assets may be in a position to cover any shortfall and thereby activate the mandatory nature of the works. In this regard, article 10.1.b) of the Horizontal Property Act provides that “[t]he mandatory nature of these works will not be removed by the fact that the remaining cost, beyond the mentioned monthly amounts, is covered by those who requested them”.
77. By failing to establish a definitive, publicly guaranteed solution, the Spanish Kingdom has effectively delegated a matter of social interest to private hands. This has resulted in a legal mechanism that indirectly discriminates against families with fewer economic resources. Those who can afford to subsidise the works enjoy better access to their fundamental rights than those who cannot, thereby compounding the economic disparities that already undermine the full realization of the rights of persons with disabilities.

**B. VIOLATION OF ARTICLE 16, IN RELATION TO ARTICLES 15, 23, 30, 31 AND E OF THE CHARTER**

78. The violation of Article 16 in this case relates to the failure to protect individuals in vulnerable situations, as applied to housing policy. The free development of the

---

<sup>34</sup> [Conclusions 2003](#), Statement of Interpretation on Article 15§3, Italy.

personality –an essential aim of human life– can only be fully realised under basic living conditions, including access to adequate housing.<sup>35</sup>

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

79. The Committee has repeatedly affirmed that the concept of adequate housing under Article 16 is identical to that under Article 31 of the Charter.<sup>36</sup> The connection between both provisions is fundamental and inseparable. This was explicitly stated in the Committee’s recent decision concerning the situation in *Cañada Real*.<sup>37</sup>

*“The situation, on the basis of which a violation has been found under Article 31§1 in relation to adequate housing, also amounts to a violation of Article 16 of the Charter with regard to Spain’s failure to take adequate measures to ensure housing of an adequate standard for families living in Sectors 5 and 6 of Cañada Real.”*

80. The ability to form, maintain, and protect a family presupposes the possibility of free and autonomous access to a residence and, by extension, to the outside world. A person can only fully develop their personality, including forming and caring for a family, if they are able to freely enter and exit their home without physical or structural barriers.

---

<sup>35</sup> [International Federation for Human Rights \(FIDH\) v. Ireland](#), Complaint No. 110/2014, decision on the merits of 12 May 2017, §§105-106

<sup>36</sup> [Centre on Housing Rights and Evictions \(COHRE\) v. Italy](#), Complaint No. 58/2009, decision on the merits of 25 June 2010, §115; [European Roma Rights Centre \(ERRC\) v. Bulgaria](#), Complaint No. 31/2005, decision on the merits of 18 October 2006, § 17; and [European Roma Rights Centre \(ERRC\) v. France](#), Complaint No. 51/2008, decision on the merits of 19 October 2009, §89

<sup>37</sup> [Defence for Children International \(DCI\), European Federation of National Organisations working with the Homeless \(FEANTSA\), Magistrats Européens pour la Démocratie et les Libertés \(MEDEL\), Confederación Sindical de Comisiones Obreras \(CCOO\) and International Movement ATD Fourth World v. Spain](#), Complaint No. 206/2022, decision on the merits of 11 September 2024, §114.

**C. VIOLATION OF ARTICLE 23, IN RELATION TO ARTICLES 15, 16, 30, 31 AND E OF THE CHARTER**

81. In previous cases, the Committee has recalled that Article 23 overlaps with other provisions of the Charter protecting elderly individuals as part of the general population, such as Article 11 (right to protection of health), Article 30 (right to protection against poverty and social exclusion), and Article 31 (right to housing).<sup>38</sup> In the present case, Article 23 also intersects with the rights of persons with disabilities, as the most significant barriers faced by elderly individuals are often physical and directly related to mobility limitations.
82. Under Article 23 of the Charter, the States Parties undertake “*to adopt or encourage, either directly or in co-operation with public or private organisations, appropriate measures designed in particular to enable elderly persons to remain full members of society for as long as possible*”.<sup>39</sup> The expression “*full members*” implies that elderly individuals must not be excluded from society due to their age and, in particular, must be guaranteed the right to participate in various spheres of social life, whether they are active or retired, institutionalised or living independently. In this regard, the ability to leave one’s home without requiring external assistance is essential to social integration and personal independence.

**D. VIOLATION OF ARTICLE 30, IN RELATION TO ARTICLES 15, 16, 23, 31 AND E OF THE CHARTER**

83. Article 30 enshrines the right to protection against poverty and social exclusion. This right includes the obligation to adopt measures “*within the framework of an overall and co-ordinated approach to promote the effective access of persons who live or risk living in a situation of social exclusion or poverty, as well as their families*”, particularly in

---

<sup>38</sup> [Defence for Children International \(DCI\), European Federation of National Organisations working with the Homeless \(FEANTSA\), Magistrats Européens pour la Démocratie et les Libertés \(MEDEL\), Confederación Sindical de Comisiones Obreras \(CCOO\) and International Movement ATD Fourth World v. Spain](#), Complaint No. 206/2022, *op. cit.*, §80-99.

<sup>39</sup> [International Federation of Associations of the Elderly \(FIAPA\) v. France](#), Complaint No. 162/2018, decision on the merits of 25 May 2019, §66.

the areas of employment, housing, training, education, culture, and social and medical assistance.

84. Access to adequate means is essential for leading a dignified and fulfilling life, and for the ability to develop freely within society. Even when other limiting factors are present, access to basic resources can reduce the risk of exclusion. As the Committee has previously stated “*living in a situation of poverty and **social exclusion** violates the dignity of human beings*”.<sup>40</sup> The scope of Article 30 encompasses both protection against poverty and protection against social exclusion, either independently or in combination with other related provisions of the Charter.<sup>41</sup>
85. The Committee further recalls that, in order to ensure the effective exercise of the right to protection against poverty and social exclusion, Article 30 requires States Parties to adopt an overall and coordinated approach. This approach must include an analytical framework,<sup>42</sup> a set of priorities and corresponding measures to prevent and remove obstacles to access to social rights, in particular employment, housing, training, education, culture and social and medical assistance.<sup>43</sup>
86. It is essential that, to fully realise the effective application of fundamental rights, States “*recognise, at national level, an individual universal and enforceable right to the satisfaction of basic material needs (as a minimum: food, clothing, shelter and basic medical care) for persons in situations of extreme hardship*”.<sup>44</sup>
87. In analysing Article 30, it is crucial to adopt an inclusive interpretation that acknowledges its connection with other rights protected by the Charter.<sup>45</sup>

---

<sup>40</sup> Conclusions 2003, Statement of interpretation on Article 30, see e.g. [Conclusions 2003, France](#). Emphasis added.

<sup>41</sup> [Conclusions 2013, Statement of interpretation on Article 30](#).

<sup>42</sup> Conclusions 2003, Statement of interpretation on Article 30, [Conclusions 2003, France](#).

<sup>43</sup> [Conclusions 2013, Statement of interpretation on Article 30](#).

<sup>44</sup> Committee of Ministers to member states on the Right to the Satisfaction of Basic Material Needs of Persons in Situations of Extreme Hardship, Recommendation No. R (2000) 3, decision of 19 January 2000.

<sup>45</sup> [Conclusions 2013, Statement of interpretation on Article 30](#).

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

88. Finally, the State must adopt a practical and active approach, particularly within the framework of a social and economic rule of law. It is not sufficient to merely invoke the existence of rights; rather, concrete measures must be taken to ensure their accessibility.<sup>46</sup>

*“Concerning social exclusion, States have a positive obligation to encourage citizen participation in order to overcome obstacles deriving from the lack of representation of minorities in the general culture, media or the different levels of government, so that these groups perceive that there are real incentives or opportunities for engagement to counter the lack of representation.”*

89. The Committee has affirmed that adequate resources must be made available for the implementation of the measures undertaken within the coordinated approach required by Article 30.<sup>47</sup> These measures must be proportionate in both quality and quantity to the nature and extent of poverty and social exclusion in the country concerned. As long as poverty and exclusion persist, the resources allocated must be progressively increased to effectively realise social rights.<sup>48</sup>

#### **E. VIOLATION OF ARTICLE 31, IN RELATION TO ARTICLES 15, 16, 23, 30 AND E OF THE CHARTER**

90. The main violation committed by the Spanish Government –particularly in relation to the rights of persons with disabilities and elderly individuals– concerns the lack of effective access to adequate housing.

---

<sup>46</sup> [Conclusions 2013, Statement of interpretation on Article 30](#), citing [Centre on Housing Rights and Evictions \(COHRE\) v. Italy](#), Complaint No. 58/2009, decision on the merits of 25 June 2010, §107.

<sup>47</sup> [Statement on Covid-19 and social rights adopted on 24 March 2021](#).

<sup>48</sup> Conclusions 2003, Statement of interpretation on Article 30, [Conclusions 2003, France](#).

91. The Committee recalls that “*adequate housing*” refers to a dwelling which is structurally secure, safe from a sanitary and health point of view and not overcrowded, with secure tenure supported by the law.<sup>49</sup> This definition, according to the Committee’s interpretation, must be applied not only to new constructions, but also progressively to the existing housing stock, to rental housing, and to owner-occupied dwellings. In this regard, public authorities have a positive obligation to ensure that housing meets adequacy standards through a variety of mechanisms, including: maintaining an inventory of the housing stock, issuing injunctions against non-compliant owners, enforcing urban development regulations, and imposing maintenance obligations.
92. The Committee has consistently held that the right to housing encompasses not only housing of an adequate standard, but also access to essential related services.<sup>50</sup>
93. To summarise the specific violation in this context, reference must be made to previous arguments concerning the fundamental right to human dignity and the free development of the personality, recognised by all fundamental rights charters and the Spanish Constitution. Although the task of ensuring access to adequate housing is inherently complex and subject to numerous factors, the States Parties are nonetheless obligated to adopt effective measures that enable equal opportunities. Complexity, however, cannot serve as justification for inaction. As the Committee has affirmed:<sup>51</sup>

*[G]iven that the achievement of the rights provided for by Article 31§1 is exceptionally complex and particularly expensive to resolve, States Parties must take measures that allow it to achieve the objectives of the Charter within a reasonable time, with measurable progress and to an extent consistent with the maximum use of available resources. States Parties must be particularly mindful of the impact that their choices will have for groups with heightened vulnerabilities as well as for other persons affected.*

---

<sup>49</sup> [Conclusions 2003, France](#).

<sup>50</sup> [International Federation for Human Rights \(FIDH\) v. Ireland](#), Complaint No. 110/2014, decision on the merits of 12 May 2017, §106 and §118.

<sup>51</sup> [European Roma and Travellers Forum \(ERTF\) v. France](#), Complaint No. 64/2011, decision on the merits of 24 January 2012, §96.

94. In this regard, the Committee has explicitly set out how States must act to meet their obligations under Article 31 in particularly challenging situations. Measures must be taken:<sup>52</sup>
- 94.1. within a reasonable time;
  - 94.2. with measurable progress;
  - 94.3. and to an extent consistent with the maximum use of available resources.
95. Furthermore, the Committee has made clear that a purely market-oriented approach to ensuring housing quality fails to adequately protect tenants' rights. Instead, governments must actively engage with the challenges faced by those living in inadequate housing.<sup>53</sup> This approach aligns with the principle enshrined in the Spanish Constitution, whereby the social function of private property shapes its content and limits, in accordance with the law, and must be subordinated to public utility or social interest, subject to appropriate compensation as provided by law.
96. After decades of advocating for effective and universal access to residential buildings, CERMI –and, by extension, EDF– considers that Spain has failed to deliver a solution within a reasonable timeframe and with measurable progress. By prioritising private property interests and enabling them to act as a veto power, the State has undermined the rights of persons with disabilities and individuals with mobility impairments to achieve universal access to their own homes.

**F. VIOLATION OF ARTICLE E, IN RELATION TO ARTICLES 15, 16, 23, 30 AND 31 OF THE CHARTER**

97. The Committee recalls that discrimination is defined as a difference in treatment between persons in comparable situations where it does not pursue a legitimate aim, is

---

<sup>52</sup> [International Commission of Jurists \(ICJ\) and European Council for Refugees and Exiles \(ECRE\) v. Greece](#), complaint No. 173/2018, decision on the merits of 26 January 2021.

<sup>53</sup> [European Federation of National Organisations working with the Homeless \(FEANTSA\) v. Belgium](#), Complaint No. 203/2021, decision on the merits of 17 October 2024.

not based on objective and reasonable grounds or is not proportionate to the aim pursued.<sup>54</sup>

98. As previously set out, the discriminatory element in this case arises from the different treatment afforded to individuals and families based on disability, mobility limitations, and socioeconomic status. The current legal framework places persons with disabilities and mobility impairments in a distinctly disadvantaged position compared to those without such limitations. At the same time, individuals and communities with greater access to financial resources are better positioned to secure the enjoyment of their rights. In this way, wealth becomes a decisive factor, resulting in indirect discrimination against those with fewer means or those living in poverty and social exclusion.
99. The Committee has consistently held that Article E of the Charter prohibits not only direct discrimination but also all forms of indirect discrimination that may arise by failing to take due and positive account of all relevant differences or by failing to take adequate steps to ensure that the rights and collective advantages that are open to all are genuinely accessible by and to all.<sup>55</sup>
100. Accordingly, it must be concluded that the Spanish Government has violated Article E, in conjunction with Articles 15, 16, 23, 30 and 31 of the Revised Charter. By failing to provide a structural and effective solution to the problem of universal accessibility in private residential buildings, the State has perpetuated a situation of indirect discrimination against persons with disabilities, elderly individuals, and those living in poverty or at risk of social exclusion.

---

<sup>54</sup> *Syndicat national des Professions du tourisme v. France*, Complaint No. 6/1999, decision on the merits of 10 October 2000, §25.

<sup>55</sup> *Associazione sindacale "La Voce dei Giusti" v. Italy*, Complaint No. 105/2014, decision on the merits of 18 October 2016, §63.



## VI. PRAYER FOR RELIEF

101. In light of the foregoing, the European Disability Forum respectfully requests that the European Committee of Social Rights:

101.1. ***Decide the complaint admissible*** under the provisions of the Additional Protocol to the European Social Charter providing for a system of collective complaints;

101.2. ***Find that the Kingdom of Spain has not applied Articles 15, 16, 23, 30, 31, and/or E in a satisfactory manner*** of the Revised European Social Charter (the “**Charter**”), due to its failure to adopt adequate and effective measures to ensure accessibility to housing for persons with disabilities and elderly individuals, thereby depriving them of the full and equal enjoyment of their rights under the Charter; and consequently

101.3. ***Recommend that the Kingdom of Spain***, in addition to any other action that this Committee deems appropriate:

- *Conduct* a comprehensive review of its legal and policy framework governing housing accessibility, with a view to identifying and eliminating structural and systemic barriers that prevent persons with disabilities and elderly persons from exercising their rights under the Charter on an equal basis with others;
- *Adopt*, within a reasonable timeframe, established by the Committee, and with due regard to the maximum use of available resources, appropriate legislative, administrative, and financial measures to ensure the effective accessibility of housing, including the adaptation of existing residential buildings, in a manner that is practical, enforceable, affordable, and non-discriminatory; and, lastly,
- *Take positive action* to prevent and remedy the indirect discrimination arising from the current framework, particularly where it disproportionately affects individuals in vulnerable situations, including

persons with disabilities, elderly individuals, and those living in or at risk of poverty and social exclusion.

102. Signed on behalf of the European Disability Forum:



---

Yannis Vardakastanis

President

European Disability Forum

## VII. SCHEDULE OF DOCUMENTS ANNEXED

Annex No.	Description
1	“Informative Guide: Accessibility Works and Actions in Homeowners’ Communities. Legal Regime” by CERMI, 2019.
2	“Universal Accessibility in Residential Buildings: Legal Obligations of Public Authorities” Informative Guide by CERMI, 2017.
3	Document including different testimonies on the most common consultations received by CERMI, called “Consultas y problemas más comunes que se os plantean relacionados con los problemas de accesibilidad”.
4	
5	
6	
7	
8	
9	
10	