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STEERING COMMITTEE FOR HUMAN RIGHTS IN THE FIELDS OF BIOMEDICINE AND HEALTH (CDBIO)

**Recent developments as regards complaints
of the European Committee of Social Rights (ECSR)
related to health and biomedicine**

Document prepared by the Secretariat
based on the terms of the official documents published by the ECSR

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relevant Rights European Social Charter:

Article 11 – The right to protection of health

With a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in cooperation with public or private organisations, to take appropriate measures designed inter alia:

1. to remove as far as possible the causes of ill-health;
2. to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health;
3. to prevent as far as possible epidemic, endemic and other diseases, as well as accidents.

Article 13 – The right to social and medical assistance

With a view to ensuring the effective exercise of the right to social and medical assistance, the Parties undertake:

1. to ensure that any person who is without adequate resources and who is unable to secure such resources either by his own efforts or from other sources, in particular by benefits under a social security scheme, be granted adequate assistance, and, in case of sickness, the care necessitated by his condition;
2. to ensure that persons receiving such assistance shall not, for that reason, suffer from a diminution of their political or social rights;
3. to provide that everyone may receive by appropriate public or private services such advice and personal help as may be required to prevent, to remove, or to alleviate personal or family want;
4. to apply the provisions referred to in paragraphs 1, 2 and 3 of this article on an equal footing with their nationals to nationals of other Parties lawfully within their territories, in accordance with their obligations under the European Convention on Social and Medical Assistance, signed at Paris on 11 December 1953.

Decisions on the merits

Decisions involving article 11

Article 11 – The right to protection of health

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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

(Application No.206/2022)

Adoption: 11 September 2024

Publicity: 25 February 2025

In a landmark [decision](#) on Complaint No. 206/2022 submitted by DCI, FEANTSA, MEDEL, CCOO and ATD Fourth World v. Spain, published today, the [European Committee of Social Rights \(ECSR\)](#) held that a situation where people experience intermittent access to energy or no access to energy at all over a prolonged period of time render the persons energy poor, thereby violating the [European Social Charter](#).

In a groundbreaking development the, ECSR looked closely at the relationship between human rights and access to energy. The decision makes clear that "stable, consistent and secure access to adequate energy" is a prerequisite for, and a key element of, enjoyment of the rights to housing, health, education, and protection against poverty and social exclusion under the European Social Charter. To be "adequate" for the purposes of the Charter, energy must be affordable, clean and sustainable.

Background

The complaint was filed in 2022 by Defence for Children International (DCI), the 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.

The complainant organisations alleged that power outages, which started in October 2020 and are still ongoing, affect parts of Cañada Real Galiana shantytown, having a serious negative impact on the lives of at least 4,500 inhabitants, including about 1,800 children. The complaint asserted that the situation constitutes a breach of several provisions of the Charter.

The ECSR adopted its decision on the merits on 11 September 2024.

In its decision on the merits, the Committee concluded :

- unanimously that there is a violation of Article 31§1 of the Charter with regard to Spain's failure to take adequate measures to ensure housing of an adequate standard for the persons concerned;
- unanimously that there is 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 the families concerned;
- by 10 votes to 3 that there is a violation of Article 16 of the Charter with regard to the participation of civil organisations representing families in decision-making and processes related to the power outages;
- unanimously that there is a violation of **Article 11§1 of the Charter** with regard to the Spain's failure to take appropriate measures to remove as far as possible the causes of ill health created by the power outages;
- unanimously that there is a violation of **Article 11§3 of the Charter** with regard to the Spain's failure to take appropriate measures to protect the persons concerned against domestic accidents, epidemic, endemic and other diseases, and to guarantee food safety and hygiene standards;
- unanimously that there is a violation of Article 17§1 of the Charter with regard to Spain's failure to take appropriate measures to ensure that the children and young persons concerned have the care and assistance they need;
- unanimously that there is a violation of Article 17§2 of the Charter due to Spain's failure to take appropriate measures to guarantee the right of the children and young persons concerned to education;
- unanimously that there is a violation of Article 30 of the Charter with regard to the Spain's failure to take adequate measures to protect the persons concerned against poverty and social exclusion;
- unanimously that there is a violation of Article 23 of the Charter with regard to Spain's failure to take appropriate measures to protect older persons from the effects of the power outages;
- unanimously that there is a violation of Article 15§3 of the Charter with regard to Spain's failure to take appropriate measures to protect persons with disabilities against the consequences of the power outages and to ensure to such persons the

effective exercise of the right to independence, social integration and participation in the life of the community.