

EXECUTIVE SUMMARY OF THE COLLECTIVE COMPLAINT FILED BY THE PLATAFORMA CÍVICA WITH THE SUPPORT OF 5 MAJOR ORGANISATIONS BEFORE THE COUNCIL OF EUROPE REGARDING THE VIOLATION OF HUMAN RIGHTS IN CAÑADA REAL AS A RESULT OF THE DEPRIVATION OF ELECTRICITY SUPPLY SINCE OCTOBER 2020.

1. 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), the Confederación Sindical de Comisiones Obreras (CCOO) and the International Movement ATD Fourth World (hereinafter "the Claimants"), supported by the organisations and advisors listed in Appendix I, submit this collective complaint (hereinafter "the Complaint") against the Kingdom of Spain (hereinafter "Spain" or "the State") to the European Committee of Social Rights (hereinafter "the Committee") in accordance with the Additional Protocol to the European Social Charter which establishes a system of collective complaints (hereinafter "the Protocol"). 1

Facts

2. The Complaint concerns the continuous power cuts occurring in Sectors 5 and 6 of the shanty town of Cañada Real Galiana (hereinafter, "Cañada Real") in Madrid, Spain, which began in October 2020 and continue until today.

3. Cañada Real is an irregular, linear neighbourhood of unauthorised construction located about 15 kilometres from the centre of Madrid. It is a culturally diverse and stable area that has been forming since the 1960s and has been tolerated by the authorities. It is informally divided into six sectors, and sectors 5 and 6 are the ones affected by the Complaint and have approximately 4,500 inhabitants, of which about 1,800 are children.

4. The special character of Cañada Real has been recognised by the authorities through laws and policies that set the framework for the improvement of conditions in the neighbourhood and for a process of negotiation between stakeholders aimed at resolving the problems there.

5. The power cut that is the subject of the Complaint began in October 2020, affecting Sectors 5 and 6 of the Cañada Real. Although all sectors of the Cañada Real share a situation of informality and informal connections to the electricity grid, only Sectors 5 and 6 have been deprived of electricity. UFD-Naturgy - the electricity supplier - argued that the intensive marijuana plantations activated the safety devices installed in the electricity infrastructure and thus caused a permanent power cut in the grid. However, this explanation seems highly unsatisfactory and cannot constitute a lawful reason to permanently deprive people of electricity who have no connection to the alleged illicit practices. The security concerns recently claimed by the company also appear to be an inconsistent reason to justify permanently depriving the affected population of electricity. Since the electricity cut-off began, the State has not taken any steps to restore electricity or to provide those affected with alternative sources of electricity.

6. The continued power cut has a serious impact on the lives of the people affected by the Complaint. Such a prolonged period without access to electricity has led to serious medical conditions and the worsening of pre-existing health problems, such as respiratory infections, carbon monoxide poisoning, burns, rheumatic conditions, domestic accidents, health problems in newborns, comorbidity complications from exposure to cold, and anxiety and depression. Children and adolescents affected by the Complaint have been disproportionately affected by electricity deprivation, with their

education massively affected. Women and girls living in Sectors 5 and 6 of Cañada Real, who traditionally carry out unpaid care and household work, and who have been significantly hindered by the power cut, have found themselves in a more vulnerable situation. Elderly people, people with disabilities, and people belonging to vulnerable population groups - such as the Roma population - referred to in the Complaint have also been disproportionately affected by the lack of electricity. In short, the power cut and the subsequent cases of stigmatisation and institutional violence have deepened the situation of social exclusion and poverty that already existed in Cañada Real.

Admissibility

7. The Claimants declare that the Claim meets the admissibility criteria set out in the Protocol and the Rules of Procedure of the Committee (hereinafter "the Rules").¹

8. They maintain that they have *locus standi* before the Committee. They are entitled to bring complaints before the Committee under Article 1(b) and (c) of the Protocol and they are organisations with "special competence" in the subject matter of the complaint, in accordance with Article 3 of the Protocol. The persons with the competence to represent the claimants are the signatories of the complaint, in accordance with Article 23(2) of the Rules of Procedure.

9. The date of entry into force in Spain of both the Revised European Social Charter (hereinafter "the Charter")³ and the Protocol is 1 July 2021. The Claimants affirm that the Complaint falls within the temporal competence of the Committee, as it covers facts amounting to a continuing situation which originated before 1 July 2021, which has been occurring since 1 July 2021, and which is currently occurring.

10. The claimants also affirm that they meet the admissibility requirements set out in Article 4 of the Protocol, as the grounds of the complaint relate to provisions of the Charter accepted by the State and the scope of the State's breaches is exhaustively addressed in Chapter V.

11. The claimants also meet the formal admissibility criteria, as the complaint is addressed to the Executive Secretary of the Committee, acting on behalf of the Secretary General of the Council of Europe (Article 23(1) in conjunction with Article 5 of the Protocol), and is submitted in writing in English, one of the official languages of the Council of Europe (Article 4 of the Protocol and Article 24(1)).

Merits and alleged breaches

12. The Claimants submit three allegations as preliminary issues relating to the merits of the Complaint.

¹ Adopted by the Committee at the 201st meeting on 29 March 2004 and revised at the 207th meeting on 12 May 2005, at the 234th meeting on 20 February 2009, at the 250th meeting on 10 May 2011, at the 251st meeting on 28 June 2011, at the 266th meeting on 12 September 2013, at the 268th meeting on 6 December 2013, at the 273rd meeting on 9 September 2014, at the 286th meeting on 6 July 2016, at the 297th meeting on 26 January 2018, at the 308th meeting on 10 September 2019 and at the 320th meeting on 19 May 2021.

13. First, they affirm that the Charter is applicable to all persons affected by the Complaint, given the seriousness of the fundamental rights at stake. The Claimants point out that the Complaint concerns a heterogeneous group of persons and maintain that this cannot constitute an obstacle to the examination of the alleged violations, especially when these relate to the protection of their most basic Charter rights.

14. Secondly, considering that the Complaint concerns a private person - namely UFD - Naturgy, the company that supplies electricity to Cañada Real - the Claimants declare that the issues they complain about can be attributed to the State, at least in its capacity as regulator.

15. Third, the Claimants maintain that the State, by a unilateral act of its executive power, has acknowledged the violation of Articles 11 § 1, 16, 17 §§ 1 and 2, and 31 of the Charter, read alone and in conjunction with Article E, in relation to the children affected by the complaint.

16. The Claimants affirm that, as a result of the ongoing power cuts in Sectors 5 and 6 of Cañada Real, the State is continuously violating Articles 31 and E (right to adequate housing), 16 and E (right of the family to adequate housing and obligation to ensure the participation of family associations), 17 and E (children's right to assistance, protection from neglect and violence, and education), 30 and E (right to protection against poverty and social exclusion), 23 (right of elderly people to social protection), 11 & E (right to the highest attainable standard of health), 15 & E (right of persons with disabilities to independence, social integration and participation in the life of the community), and 20, 27 & E (right to equality of opportunity and treatment in employment and occupation without discrimination on grounds of sex, and right of workers with family responsibilities to equality of opportunity and treatment).

Request for immediate action

17. The claimants affirm that the Committee is presented with an exceptional and tangible situation in which those affected are at risk of suffering serious irreparable harm. This risk stems from the continuing lack of electricity and heating in Sectors 5 and 6 of Cañada Real. This poses a serious risk to the lives as well as mental and bodily integrity of the people affected by the Complaint, including about 1,800 children. If the requested measures are not carried out, the Claimants state that the persons affected will continue to face living conditions that violate their human dignity.

18. In light of the above, in accordance with Article 36, paragraphs 1 and 2, the Claimants respectfully request that the Committee urgently direct the State to adopt the immediate measures detailed in Chapter VI, section B.

Request for priority consideration

19. Finally, the claimants kindly request that the Committee, in accordance with Article 26, give priority to the examination of this complaint because of the seriousness of the situation to which it relates.