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Committee on Economic, Social and Cultural Rights

Follow-up progress report on individual communications*

I. Introduction

1. The present report is a compilation of information received from States Parties and authors on measures taken to implement the Views and recommendations on individual communications submitted under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. The information has been processed in the framework of the follow-up procedure established under article 9 of the Optional Protocol and rule 21 of the rules of procedure under the Optional Protocol.

II. Communications

Hernández Cortés et al. v. Spain (E/C.12/72/D/26/2018)

Date of adoption of Views:	10 October 2022
Subject matter:	The authors of the communication received an eviction order because they were occupying a bank-owned property without legal title. An application for public housing filed by the authors with the Community of Madrid had previously been rejected on the grounds that persons who are occupying housing without legal title cannot submit a housing application under the legislation in force in that autonomous community. The eviction of the authors and their daughters, which was subsequently suspended, amounted, in their view, to a violation of article 11 (1) of the Covenant, as the judicial authorities ordered it without providing them with alternative housing and without taking account of their situation of need or the impact that the eviction would have on their rights. The authors also considered that the right to adequate housing might be violated if they were evicted without alternative housing.
Article violated:	Article 11 (1) of the Covenant

* Adopted by the Committee at its seventy-seventh session (10–28 February 2025).



1. Committee's recommendations in respect of the authors and their daughters

2. The State Party is under an obligation to provide effective reparation to the authors and their daughters, in particular:

(a) If they do not have adequate housing, to reassess their state of necessity and their level of priority on the waiting list, taking into account the length of time that their application for housing has been on file with the Community of Madrid, starting from the date on which they applied, with a view to allocating public housing to them or providing them with any other measure enabling them to live in adequate housing, in accordance with the criteria set out in the Views;

(b) To provide the authors and their daughters with financial compensation for the violations suffered; and

(c) To reimburse the authors for the legal costs reasonably incurred in submitting the communication, at both the domestic and international levels.

2. Committee's general recommendations

3. The State Party has the following obligations:

(a) To ensure that the normative framework allows persons in respect of whom an eviction order is issued and who might consequently be at risk of destitution or of violation of their Covenant rights, including persons who are occupying a dwelling without legal title, to challenge the decision before a judicial or other impartial and independent authority with the power to order the cessation of the violation and to provide an effective remedy so that such authorities can examine the proportionality of the measure in the light of the criteria for limiting the rights enshrined in the Covenant under the terms of article 4;

(b) To adopt the measures necessary to put an end to the practice of automatically excluding from lists of applicants for housing all persons who are occupying a dwelling without legal title because they are in a state of necessity, so that all persons have equal access to the social housing stock, removing any unreasonable condition that might exclude persons at risk of destitution;

(c) To take the necessary measures to ensure that evictions involving persons who do not have the means of obtaining alternative housing are carried out only following genuine consultation with the persons concerned¹ and once the State Party has taken all essential steps, to the maximum of its available resources, to ensure that evicted persons have alternative housing, especially in cases involving families, older persons, children and/or other persons in vulnerable situations;

(d) To develop and implement, in coordination with the autonomous communities, to the maximum of available resources, a comprehensive plan to guarantee the right to adequate housing for low-income persons, in keeping with the Committee's general comment No. 4 (1991).² This plan should provide for the necessary resources, indicators, time frames and evaluation criteria to guarantee these individuals' right to housing in a reasonable and measurable manner.

3. Submission from the State Party

4. By note verbale dated 14 December 2023, the State Party submitted its response to the Committee's recommendations.

5. Regarding the first recommendation in respect of the authors and their daughters, the State Party refers to a report received from the social services of Madrid City Council indicating that the family applied for housing from the Municipal Housing and Land Company of Madrid City Council in 2015 and was listed as a "second alternate" in 2020 but has not yet received housing. It reports that the family was not awarded housing in any of the housing lotteries held in 2023, nor has it been listed as a first alternate, and that it currently

¹ *Ben Djazia and Bellili v. Spain* (E/C.12/61/D/5/2015), para. 21 (c).

² See also E/C.12/ESP/CO/6, para. 36.

remains listed as an applicant for public housing in the general category and the large family category and will participate in the upcoming lotteries. It adds that the application was accepted as coming from a vulnerable family occupying a dwelling. The State Party also refers to a report received from the Community of Madrid indicating that the authors' most recent application for public housing was submitted on 4 November 2022 and is currently in abeyance because the authors did not submit the required documentation necessary to complete their file.³ The State Party reports that there is no record of the authors' having submitted an application for housing to the Community of Madrid on grounds of particular necessity or social emergency and that therefore there is currently no procedure under way for awarding public housing to the authors.

6. With regard to the general recommendations, the State Party reports that the basic needs of the authors and their daughters are covered by means of social vouchers for electricity, heating and water services. The State Party indicates that Royal Decree-Law No. 20/2022 extended, until 31 December 2023, the prohibition on cutting off the supply of electricity, natural gas and water to consumers who are vulnerable or at risk of social exclusion. The same Royal Decree-Law limits the extent to which the rents stipulated in leases may be subsequently adjusted. The State Party adds that the Right to Housing Act (No. 12/2023) entered into force on 26 May 2023. One of the provisions amended by the Act is article 441 (5) of the Civil Procedure Act, which now requires: (a) that, in the decree authorizing the eviction claim, the person being evicted must be informed of the possibility of contacting the competent public authorities in the areas of housing, social assistance, evaluation and reporting of situations of social need, and immediate services for persons in situations of social exclusion or at risk thereof; and (b) that the court must communicate the existence of the claim to these same competent public authorities so that they can examine the person's situation of vulnerability and notify the court as soon as possible in the event that the affected household is in a situation of economic vulnerability.

7. The State Party concludes that the authors and their daughters can avail themselves of a stable regulatory framework that provides for numerous measures to meet the needs of the family and that the authorities have made all possible efforts, mobilizing all available resources. The State Party argues that the acceptance of the public housing application which the authors submitted to the Municipal Housing and Land Company shows that their application has been favourably assessed and that they have been given equal access to the public housing stock. The State Party also notes that it continues to work on the extension of collaboration protocols between the judicial authorities and the social services, promoting cooperation between all competent administrations. In conclusion, the State Party considers that it has implemented the Committee's recommendations and requests that the procedure for follow-up to the Views be closed.

4. Comments by the authors

8. On 20 May 2024, the authors submitted their comments on the State Party's observations.

9. Regarding the first recommendation, the authors state that they have not had access to alternative housing or facilities for accessing such housing. They report that they remain in the same bank-owned property in which they had been residing and from which they have not yet been evicted owing to the temporary suspension of evictions of persons in circumstances of vulnerability pursuant to Royal Decree-Law No. 11/2020.

10. The authors report that, in 2022, they sought to be included as applicants for public housing under the second general recommendation contained in the Committee's Views. When asked by the Social Housing Agency to provide proof that they were legally renting the housing in which they were living, the authors explained their situation and provided a copy of the Committee's Views, highlighting the second general recommendation. However, on 11 April 2023, the Community of Madrid issued a decision rejecting the authors' public

³ The State Party refers to Decree No. 52/2016 of 31 May 2016, issued by the Governing Council of the Community of Madrid, which provides for the creation of the social emergency housing stock and regulates the allocation of housing by the Social Housing Agency.

housing application for failure to provide such proof of legal rental. The authors point out that the decision made no mention of the Committee's Views that they had provided. On 11 May 2023, the authors filed an appeal, which the Social Housing Agency rejected by a decision dated 16 June 2023. In view of this rejection, the authors filed an administrative law appeal with the Superior Court of Justice of Madrid, which is still pending.

11. The authors claim that they have not received any redress and that their housing situation remains the same. Faced with the impossibility of regularizing their situation through either the market or the public system, the authors allege that the violation of their rights that was already confirmed in the Committee's Views is being repeated.

12. Regarding the first general recommendation, the authors argue that, although Royal Decree-Law No. 11/2020 allowed for the temporary suspension of certain eviction proceedings against persons occupying housing without legal title in very specific circumstances, this measure does not involve a review of the eviction in the light of the Covenant, nor is there any other procedure to that effect. The authors therefore consider that this general recommendation has been partially fulfilled or largely unfulfilled.

13. The authors submit that the second general recommendation has been disregarded, as evidenced by the situation they continue to endure. In this regard, the authors point out that the provision of Decree No. 52/2016 of the Community of Madrid stating that applicants for public housing must meet the requirement of not occupying housing without sufficient entitlement to do so has not been repealed or amended. The authors argue that the third general recommendation has likewise remained unfulfilled, since evictions continue to occur for various reasons and the emergency housing stock, consisting essentially of public housing, has not been expanded to deal with cases of eviction without alternative housing, bearing in mind the State Party's level of resources.

14. Regarding the fourth general recommendation, although the authors note the adoption of the Right to Housing Act as a welcome development, they point out that there is no plan for ensuring measurable progress in providing low-income persons with access to decent and adequate housing. The authors maintain that State housing plans do not include compliance reviews or indicators and that their resources are used primarily to support the middle class, often leaving out those individuals who have long been unable to access the real estate market.

15. The authors request the Committee to invite the Ombudsman and the Civil Society Monitoring Group for Compliance with the Committee's Views to provide comments before it takes a decision. They also request the Committee to keep the follow-up procedure open and to ask the State Party for an updated plan for implementing the recommendations contained in the Views.

5. Committee's decision

16. The Committee notes that the authors report that they still do not have adequate housing and continue to occupy the same property. The Committee notes the State Party's assertion that the public housing application which the authors submitted to the Municipal Housing and Land Company was accepted but that the authors are still awaiting the allocation of housing and have not been deemed to meet any of the criteria for priority. The Committee also notes that the public housing application submitted to the Social Housing Agency of the Community of Madrid was rejected because the authors did not provide proof that they were legally renting their current housing, which is a requirement under Decree No. 52/2016 of the Community of Madrid regulating the allocation of housing by the Social Housing Agency. The Committee further notes the authors' claim that they have not received any redress and that the impossibility of regularizing their housing situation has contributed to their revictimization.

17. The Committee also notes that the State Party, as the duty bearer, has an obligation to proactively contact the authors to consult them on the most appropriate manner of implementing the Committee's recommendations in respect of them, which it has so far failed to do. The Committee notes that the State Party does not contest the fact that the authors and their daughters still do not have any adequate housing, that it did not engage in a new assessment of the authors' state of necessity and that it did not provide any compensation for the violations suffered or reimbursement of legal expenses. Therefore, the Committee

considers that satisfactory action has not yet been taken in relation to its recommendations in respect of the authors and their daughters. The Committee urges the State Party to contact the authors with a view to fully implementing the recommendations in respect of them contained in the Committee's Views within 60 days of the issuance of the present report.

18. With regard to its general recommendations, the Committee welcomes the entry into force of the Right to Housing Act and the subsequent amendments to the Civil Procedure Act to facilitate immediate services for persons at risk of social exclusion and to provide for notification of the court if the persons concerned are in a situation of vulnerability. It also notes the adoption of Royal Decree-Law No. 11/2020 providing for the temporary suspension of evictions of people in situations of economic and social vulnerability due to the coronavirus disease (COVID-19) crisis. The Committee further notes, however, the authors' claim that Royal Decree-Law No. 11/2020 does not involve the review of eviction orders in the light of the Covenant and that there is no procedure for such a review.

19. With regard to the second general recommendation, the Committee notes that the State Party does not refute the claim that the public housing application submitted by the authors to the Social Housing Agency of the Community of Madrid was not accepted because the authors were unable to prove that they were legally entitled to occupy the housing in which they reside. It notes that the State Party also does not refute the authors' claim that the requirement, set out in Decree No. 52/2016 of the Community of Madrid, that applicants for public housing must not be occupying housing without sufficient entitlement to do so has not been removed. The Committee notes that the State Party has not commented on any measures taken in relation to the Committee's third and fourth general recommendations.

20. On the basis of all the information received, the Committee considers that insufficient measures have been taken to fully implement its recommendations in respect of the authors and their daughters. In particular, the Committee notes that the authors and their daughters continue to be excluded from access to public housing because, out of necessity, they are occupying housing without legal title, despite the Committee's general recommendation indicating that the State Party is under an obligation to adopt the measures necessary to put an end to the practice of automatically excluding from lists of applicants for housing all persons who are occupying a dwelling without legal title because they are in a state of necessity, so that all persons have equal access to the social housing stock, removing any unreasonable condition that might exclude persons at risk of destitution. With regard to its general recommendations, the Committee considers that some initial action has been taken but that further action to implement them in full and additional information on the measures taken are still needed. The Committee expressly refers to the content of all the general recommendations contained in paragraph 13 of its Views and urges the State Party to implement them in full as soon as possible. The Committee decides to continue the follow-up procedure for the present communication and invites the State Party to provide specific and complete information on the measures taken in relation to all of its recommendations. The Committee asks that the required information be sent within 90 days of the issuance of the present report and that the Committee be periodically informed when progress is made in respect of its recommendations. The Committee also decides to invite the Ombudsman and the Civil Society Monitoring Group for Compliance with the Committee's Views to submit, where applicable, relevant information on the implementation of general measures of redress. Lastly, the Committee decides to invite the State Party to a meeting to follow up on the Views.

Gómez-Limón Pardo v. Spain (E/C.12/67/D/52/2018)

Date of adoption of Views: 5 March 2020

Subject matter: The author of the communication received an eviction order because she was occupying a property without legal title. The author considers that the eviction order amounted to a violation of article 11 (1) of the Covenant, as the order did not take account of her socioeconomic situation or her lack of alternative housing suited to her situation.

Gómez-Limón Pardo v. Spain (E/C.12/67/D/52/2018)

Article violated:

Article 11 (1) of the Covenant

1. Committee's recommendations in respect of the author

21. The State Party is under an obligation to provide effective reparation to the author, in particular:

- (a) To undertake genuine consultation with the author to examine her needs in terms of suitable alternative housing and, if necessary, provide her with such housing;
- (b) To reimburse the author for the legal costs reasonably incurred in submitting the communication.

2. Committee's general recommendations

22. The State Party has the following obligations:

- (a) To ensure that the normative framework allows persons in respect of whom an eviction order is issued and who might consequently be at risk of destitution or of violation of their Covenant rights to challenge the decision before a judicial or other impartial and independent authority with the power to order the cessation of the violation and to provide an effective remedy so that such authorities can examine the proportionality of the measure in the light of the criteria for limiting the rights enshrined in the Covenant under the terms of article 4;
- (b) To establish a protocol for complying with requests for interim measures issued by the Committee and inform all relevant authorities of the need to respect such requests in order to ensure the integrity of the procedure.

3. Submission from the State Party

23. By note verbale dated 2 July 2021, the State Party submitted its response to the Committee's recommendations.

24. Regarding the first recommendation in respect of the author, the State Party recalls that the author's most recent application for public housing, under the procedure for situations of particular necessity, was submitted on 14 May 2018 and denied by a decision dated 24 October 2018. The State Party maintains that a review of the author's application revealed that 100 per cent of the full joint ownership of a dwelling, as shown by the contract of sale, was in the name of the author and her former husband, with the result that she failed to meet the requirement set forth in article 14 (1) (d) of Decree No. 52/2016 of the Community of Madrid.⁴ The State Party also notes that the author is registered with her municipality and has resided, since 25 February 2019, in housing provided by the association Plataforma de Afectados por la Hipoteca.

25. The State Party expresses disagreement with the second recommendation in respect of the author. The State Party considers that the acceptance of the author's public housing application for processing, following an examination of her particular circumstances and a procedure consistent with the legally enforceable requirements for ensuring the principle of equality among all applicants, is sufficient to comply, insofar as is reasonably possible, with the specific recommendations in the Committee's Views.

26. With regard to the general recommendations, the State Party refers to the series of housing measures adopted to mitigate the impact of the COVID-19 crisis. It highlights Royal Decree-Law No. 6/2020, which strengthens the protection of persons at risk of mortgage

⁴ Article 14 (1) (d) of Decree No. 52/2016 of 31 May 2016, issued by the Governing Council, which creates the social emergency housing stock and regulates the allocation of housing by the Social Housing Agency of the Community of Madrid, establishes as a requirement for access to publicly owned housing that neither the applicant nor any member of his or her family may hold full ownership or a real right of use or enjoyment of another dwelling anywhere in the national territory.

foreclosure by suspending evictions for non-payment of mortgages in the case of vulnerable debtors. Royal Decree-Law No. 8/2020 imposed a moratorium on mortgage debt owed in respect of primary residences for people having difficulties in meeting their payments as a result of the crisis. The State Party indicates that Royal Decree-Law No. 11/2020 was adopted to address cases in which people had difficulty paying the rent for their primary residence.

27. The State Party also notes that Royal Decree No. 106/2018 on the State Housing Plan 2018–2021 specifies that the Plan is to be administered and executed through agreements with the autonomous communities, which were signed in July and August 2018. The State Party indicates that the Plan includes a new rental subsidy programme and replaces the programme of assistance to persons being evicted from their primary residence with a new programme of assistance to victims of gender-based violence, persons being evicted from their primary residence, homeless persons and other particularly vulnerable persons. The Plan also modifies the programme for the development of the rental housing stock. Order No. TMA/336/2020, issued by the Ministry of Transport, Mobility and Urban Planning, enables the autonomous communities to use the funds provided under the collaboration agreements for the execution of the State Housing Plan to grant rental subsidies of up to 900 euros per month for a maximum of six months. The subsidies may be awarded directly, meaning that the territorial administrations have discretion to define vulnerability criteria beyond those established by State regulations. The Order also made the rental subsidy compatible with other rental subsidies received by the tenant, provided that the total does not exceed 100 per cent of the rent, and extended the deadline for applying for these subsidies. The State Party maintains that it arranged for the Plan to be administered by the autonomous communities so that the subsidies would reach the persons concerned more quickly. Regarding the financial resources made available for the Plan, the State Party indicates that the autonomous communities were provided with 446 million euros to implement the subsidy programmes under the State Housing Plan 2018–2021.

28. The State Party indicates that the Ministry of Transport, Mobility and Urban Planning is promoting initiatives to increase the stock of social or affordable rental housing. The State Party also reports that it is working on a law concerning the right to housing.

29. The State Party considers that it has implemented the Committee's recommendations and requests the final closure of the procedure concerning the communication.

4. Committee's decision

30. On 14 October 2021, the State Party's follow-up comments were transmitted to the author through the secretariat, and she was given until 14 December 2021 to provide a response. On 21 July 2022, through the secretariat, a reminder was sent to the author indicating that, in the absence of a response from her, the Committee could consider that she had lost interest in following up on the recommendations contained in the Views and decide to discontinue its follow-up thereon.

31. The Committee notes the State Party's assertion that since 2019 the author has been living in housing provided by the association Plataforma de Afectados por la Hipoteca. The Committee also notes that the State Party adopted housing measures to mitigate the impact of the COVID-19 crisis, including Royal Decree-Laws No. 6/2020, No. 8/2020 and No. 11/2020 and Royal Decree No. 106/2018. The Royal Decree sets out the regulations of the State Housing Plan 2018–2021. The Committee notes the State Party's indication that the Plan includes a new rental subsidy programme and replaces the programme of assistance to persons being evicted from their primary residence with a new programme of assistance to victims of gender-based violence, persons being evicted from their primary residence, homeless persons and other particularly vulnerable persons.

32. Considering that only the State Party has provided follow-up information, the Committee will give due weight to this information. The Committee thus considers that the State Party has taken some satisfactory action in relation to the Committee's recommendations in respect of the author. However, the Committee notes that the State Party has not provided compensation to the author. In the light of the foregoing, and in the absence of comments from the author, the Committee decides to close the follow-up procedure in

respect of individual measures. Regarding general measures, the Committee decides to continue the follow-up procedure and to invite the State Party to a meeting.

Naser et al. v. Spain (E/C.12/71/D/127/2019)

Date of adoption of Views: 28 February 2022

Subject matter: The author of the communication, her twin nieces Mariam Ennasiri and Fatima Zohra Ennasiri and the minor A.N. (the son of a friend of the author) were evicted from a dwelling in which they had been living without legal title, as the lease had been terminated when the property had been foreclosed upon. The author requested a stay of eviction numerous times before the eviction finally took place. In addition, the author submitted many applications for assistance to the social services, including applications for social housing. After the eviction, the State Party offered the author two possibilities for alternative housing, which the author rejected. The author's nieces returned to the same dwelling from which they had been evicted, occupying it without legal title, while the author and the minor in her care have had no fixed abode. The author considered that her eviction from the dwelling she had been occupying amounted to a violation of her right and the right of the children in her care to adequate housing, in violation of article 11 of the Covenant, as they were evicted without regard to the fact that they had no alternative housing or to the consequences of the eviction order.

Article violated: Article 11 (1) of the Covenant

1. Committee's recommendations in respect of the author and her family

33. The State Party is under an obligation to provide effective reparation to the author and her family, in particular:

- (a) To undertake genuine consultation with the author to examine her family's needs in terms of suitable alternative housing and, if necessary, provide her with such housing;
- (b) To reimburse the author for the legal costs reasonably incurred in submitting the communication.

2. Committee's general recommendations

34. The State Party has the following obligations:

- (a) To ensure that the normative framework allows persons in respect of whom an eviction order is issued and who might consequently be at risk of destitution or of violation of their Covenant rights to challenge the decision before a judicial or other impartial and independent authority with the power to order the cessation of the violation and to provide an effective remedy so that such authorities can examine the proportionality of the measure in the light of the criteria for limiting the rights enshrined in the Covenant under the terms of article 4;
- (b) To take the necessary measures to ensure that evictions involving persons who do not have the means of obtaining alternative housing are carried out only following genuine consultation with the persons concerned and once the State Party has taken all essential steps, to the maximum of its available resources, to ensure that evicted persons have alternative housing, especially in cases involving families, older persons, children and/or other persons in vulnerable situations;

(c) To develop and implement, in coordination with the autonomous communities, to the maximum of available resources, a comprehensive plan to guarantee the right to adequate housing for low-income persons, in keeping with general comment No. 4 (1991).⁵ This plan should provide for the necessary resources, indicators, time frames and evaluation criteria to guarantee these individuals' right to housing in a reasonable and measurable manner.

3. Submission from the State Party

35. By note verbale dated 21 December 2023, the State Party submitted its response to the Committee's recommendations.

36. Regarding the first recommendation in respect of the author, the State Party reports that the author's family was not awarded housing after she submitted a public housing application to the Municipal Housing and Land Company of Madrid City Council. It states that the author is not expected to receive such housing in the near future, owing to the large number of applications and the limited availability of public housing in the municipality.

37. The State Party also reports that in September 2021 the author submitted a public housing application to the Community of Madrid on the grounds of particular necessity. The application was accepted and remained valid for one year.

38. With regard to the general recommendations, the State Party reports that the basic needs of the author and the children in her care are covered by means of social vouchers for electricity, heating and water services. The State Party indicates that Royal Decree-Law No. 20/2022 extended, until 31 December 2023, the prohibition on cutting off the supply of electricity, natural gas and water to consumers who are vulnerable or at risk of social exclusion. The same Royal Decree-Law limits the extent to which the rents stipulated in leases may be subsequently adjusted. The State Party adds that the Right to Housing Act (No. 12/2023) entered into force on 26 May 2023 (see para. 6 above).

39. The State Party concludes that the author and her family can avail themselves of a stable regulatory framework that provides for numerous measures to meet their needs and that the authorities have made all possible efforts, mobilizing all available resources. The State Party argues that, although the author has not been allocated public housing, her application was processed at the municipal level and there is a possibility that she may be awarded housing in the next housing lottery. According to the State Party, this shows that the author has been given equal access to the public housing stock. In conclusion, the State Party considers that it has implemented the Committee's recommendations and requests that the procedure for follow-up to the Views be closed.

40. By note verbale dated 11 January 2024, the State Party submitted further information from the Community of Madrid. It notes that the author has submitted a total of 17 public housing applications, of which 8 were accepted, while the rest either were closed for failure to provide all the required documentation or were denied. The State Party indicates that the author's most recent housing application on grounds of particular necessity, submitted on 12 December 2023, is still pending. It maintains that, in order for her application to be accepted, the author had to prove her entitlement to occupy the housing in which she resides. For this reason, on 21 December 2023, the author was requested to provide the following: updated collective certificate of residence, document attesting to her legal guardianship of A.N., current certificate of proceedings relating to the status of the eviction process and documentation proving entitlement to occupy the housing in which the family resides. The State Party maintains that the author informed the Community of Madrid that her family lives in a dwelling in Madrid in respect of which they are still under eviction proceedings, without knowing the date of eviction. As at 21 December 2023, the Community of Madrid did not have the necessary documentation to confirm the veracity of this information, which is why the author was requested to provide the aforementioned documentation.

⁵ See also [E/C.12/ESP/CO/6](#), para. 36.

4. Comments by the author

41. On 27 May 2024, the author submitted her comments on the State Party's observations.

42. The author reports that she had to return to the same dwelling from which she was evicted, where she currently lives with A.N., Fatima Zohra Ennassiri and Mariam Ennassiri, as well as Mohamed Ennassiri, the latter's son, born on 18 July 2021. Upon reoccupying the dwelling from which they had been evicted, the Ennasiri sisters were reported by the financial institution that owned the property and were convicted of the minor offence of unlawful occupation and ordered to be evicted from the dwelling. Their appeal was dismissed by the Provincial Court and 22 September 2023 was set as the date of eviction from the property. Following an application for a stay of eviction filed by the Ennasiri sisters, the eviction scheduled for 22 September was suspended and no new eviction order has been issued to date. The author alleges that the failure to provide public housing as an alternative has forced her family into this situation, generating serious consequences in terms of instability and complete uncertainty.

43. Regarding the inadmissibility of her public housing applications, the author notes that Decree No. 52/2016 of the Community of Madrid, which regulates the allocation of housing by the Social Housing Agency, does not provide for the allocation of emergency housing in cases of imminent eviction not resulting from a reduction in the applicant's income. The author alleges that this discriminatory treatment excludes a significant proportion of applicants who are in situations of chronic precariousness. In her case, she does not meet the requirements of article 18 of the Decree, since her situation has remained stable, albeit characterized by extreme vulnerability and an income level that prevents her from accessing alternative housing on the private market. The author alleges that, for this reason, she has suffered indirect discrimination with respect to the requirements for applying for public housing on grounds of social emergency.

44. With regard to the coverage of basic needs, the author argues that none of the measures cited by the State Party are related to her housing situation or would allow her to enjoy the right to housing, since it is necessary to have a home in order to receive such services. The author highlights that public housing has been awarded to only 1.88 per cent of applicants to the Social Housing Agency and 2.5 per cent of applicants to the Municipal Housing and Land Company of Madrid City Council. This shows that these resources are not adequate for vulnerable families at risk of homelessness and without alternative housing.

45. The author also claims that, in addition to being excluded from the social emergency procedure, she is also excluded from the public housing application procedure of the Social Housing Agency because she is unable to provide proof that she is legally renting the dwelling in which she resides. The author argues that this requirement amounts to a discriminatory practice and should not be an exclusionary requirement for applying for public housing, since, for many people, access to public housing is their only housing alternative.

46. The author requests the Committee to invite the Ombudsman and the Civil Society Monitoring Group for Compliance with the Committee's Views to provide comments before it takes a decision. The author requests the Committee to express an opinion on the institutions' failure to provide alternative housing following the forced eviction of her family.

5. Committee's decision

47. The Committee notes the author's claim that, after being evicted, she had to return to the same dwelling in Madrid, which she continues to occupy together with A.N., Fatima Zohra Ennassiri and Mariam Ennassiri, as well as the latter's minor son. The Committee also notes the State Party's observation that the dwelling is still the object of eviction proceedings and that the date of eviction has not yet been determined. Furthermore, the Committee observes that the State Party acknowledges that the author's family has not been allocated public housing and is not expected to receive such housing in the near future owing to the shortage of available public housing in the municipality. The Committee further notes the State Party's indication that the author's most recent application for housing on grounds of particular necessity is still pending, but that its admissibility is conditional upon the fulfilment of requirements relating to proof of legal entitlement to occupy the dwelling in which the author currently resides.

48. The Committee notes that the State Party, as the duty bearer, has an obligation to take proactive measures to guarantee the right to adequate housing of persons under its jurisdiction. However, the Committee notes the author's claim that she has not been provided with adequate alternative housing following her eviction, which has created a situation of serious instability and uncertainty for her family. Furthermore, the Committee notes the author's claim that the eligibility criteria for accessing social housing on an emergency basis, as established in Decree No. 52/2016 of the Community of Madrid, systematically exclude a significant number of applicants facing chronic precariousness in their housing situation. According to the author, she is part of this excluded group and these requirements constitute a form of indirect discrimination. Furthermore, the Committee notes the author's claim that these measures do not adequately address the housing emergency in which her family finds itself. The Committee also notes the author's statement that she is excluded from the public housing application procedure of the Social Housing Agency owing to her inability to prove legal entitlement to occupy her current dwelling.

49. The Committee notes with interest the information provided by the State Party regarding the adoption of measures such as the prohibition on cutting off basic services to vulnerable consumers, the public coverage of basic needs through social vouchers for electricity, water and gas, and the entry into force of the Right to Housing Act (No. 12/2023). The Committee nonetheless observes that these provisions do not resolve the situation of persons who, like the author, are excluded from the social housing system because they are occupying a dwelling.

50. The Committee considers that the State Party has not implemented its specific recommendation to undertake genuine consultation with the author to examine her needs in terms of suitable alternative housing and, if necessary, provide her with such housing. Although procedures have been ongoing, the State Party has not shown that it has made concrete, reasonable and effective efforts to ensure that the author and her family are provided with adequate housing. Therefore, the Committee considers that satisfactory action has not yet been taken in relation to its recommendations in respect of the author and the children in her care. The Committee urges the State Party to contact the author with a view to fully implementing the recommendations with regard to her and her family contained in the Committee's Views within 60 days of the issuance of the present report. The Committee recalls that the right to genuine consultation involves the conduct of effective and timely dialogues with the affected persons in order to devise a solution adapted to their particular needs and circumstances. In the present case, there is no evidence that a process meeting these standards has taken place – with the result that the situation of vulnerability of the author and the children in her care has been perpetuated – or that measures have been adopted to provide adequate alternative housing, which, as the circumstances show, was necessary to guarantee the rights of the author and her family.

51. With regard to the recommendation to reimburse the author for the legal costs reasonably incurred in submitting the communication, the Committee notes that no information has been received from the State Party indicating compliance with this obligation. This represents an omission in the recommended full reparation.

52. With regard to the general recommendations, the Committee considers that the expansion of measures such as those described in paragraph 44 is a positive initial step towards compliance with the general recommendation to develop a comprehensive plan to guarantee the right to adequate housing. It nonetheless notes that these measures are not sufficient in themselves, as they lack specificity and clear mechanisms for addressing the urgent housing needs of vulnerable persons such as the author and the children in her care. The Committee recalls that this recommendation is aimed at the implementation of a comprehensive framework for guaranteeing equitable access to adequate housing in a measurable manner, with priority given to persons in vulnerable situations, and urges the State Party to accelerate efforts in this regard.

53. On the basis of all the information received, the Committee concludes that the State Party has not yet taken satisfactory action in relation to the Committee's recommendations in respect of the author and the children in her care. In particular, the author still has not been provided with adequate alternative housing after eviction and continues to be excluded from social emergency procedures for failure to meet the requirement of legal entitlement to

occupancy. With regard to its general recommendations, the Committee considers that some initial action has been taken but that further action and additional information on the measures taken are still needed. The Committee expressly refers to the content of all the general recommendations contained in paragraph 14 of its Views and urges the State Party to implement them in full as soon as possible. The Committee decides to continue the follow-up procedure for the present communication and invites the State Party to provide specific and complete information on the measures taken in relation to all of its recommendations. The Committee asks that the required information be sent within 90 days of the issuance of the present report and that the Committee be periodically informed when progress is made in respect of its recommendations. The Committee also decides to invite the Ombudsman and the Civil Society Monitoring Group for Compliance with the Committee's Views to submit, where applicable, relevant information on the implementation of general measures of redress. Lastly, the Committee decides to invite the State Party to a meeting to follow up on the Views.
