



Economic and Social Council

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Committee on Economic, Social and Cultural Rights

Views adopted by the Committee under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, concerning communication No. 148/2019* **

<i>Communication submitted by:</i>	Melvi Jahaira Quintero Colobón and Jenny Maritza Colobón Zambrano
<i>Alleged victims:</i>	The authors and A.T.Q.C., the first author's daughter
<i>State Party:</i>	Spain
<i>Date of communication:</i>	25 June 2019 (initial submission)
<i>Date of adoption of Views:</i>	14 February 2025
<i>Subject matter:</i>	Eviction of a family for non-payment of rent
<i>Procedural issue:</i>	Exhaustion of domestic remedies
<i>Substantive issue:</i>	Right to adequate housing
<i>Article of the Covenant:</i>	11 (1)
<i>Articles of the Optional Protocol:</i>	2 and 3

1.1 The authors of the communication are Melvi Jahaira Quintero Colobón (the first author), a national of Ecuador born on 12 January 1985, and her mother, Jenny Maritza Colobón Zambrano (the second author), a national of Spain born on 3 January 1960. They submit the communication on their own behalf and on behalf of the first author's minor daughter, A.T.Q.C., born in 2017. The authors claim that the State party violated their rights under article 11 (1) of the Covenant because they are subject to an eviction order in respect of the property that they live in with the first author's minor daughter and have no alternative housing. The Optional Protocol entered into force for the State party on 5 May 2013. The authors are not represented by counsel.

1.2 On 26 June 2019, the Committee, acting through its Working Group on Communications, registered the communication and, in accordance with article 5 of the Optional Protocol, requested the State party to take measures to avoid possible irreparable harm to the authors and the first author's minor daughter consisting of suspending their eviction from the dwelling they occupied while the communication was under consideration

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

** The following members of the Committee participated in the examination of the communication: Aslan Abashidze, Lazhari Bouzid, Asraf Ally Caunhye, Laura-Maria Crăciunean-Tatu, Charafat El Yedri Afailal, Peters Sunday Omologbe Emuze, Santiago Manuel Fiorio Vaesken, Ludovic Hennebel, Joo-Young Lee, Karla Vanessa Lemus de Vásquez, Seree Nonthasoot, Giuseppe Palmisano, Laura Elisa Pérez, Julieta Rossi, Preeti Saran and Michael Windfuhr.



by the Committee or, alternatively, granting them alternative accommodation on grounds of special need, within the framework of genuine and effective consultation with the authors.

1.3 On 18 January 2021, the Committee, acting through its Working Group on Communications, decided to reject the State party's request to lift interim measures, in accordance with rule 7 of the rules of procedure under the Optional Protocol.

A. Summary of the information and arguments submitted by the parties

Factual background¹

Before registration of the communication

2.1 The first author lived with her 2-year-old daughter, born in 2017, and her mother (the second author), who is recognized as having a level 2 degree of ongoing dependency because she suffers from fibromyalgia and has symptoms of depression and anxiety. The second author requires the constant support of her daughter, the first author.

2.2 In July 2017, the first author signed a rental contract for a property in Palma (Balearic Islands, Spain) that was owned by a company. The monthly rent established in the contract was €330. The duration of the contract was for one year, with no possibility of renewal. The contract also provided that the author was required to hand over the keys to the property if the owner took steps to sell it.

2.3 In February 2018, the property rented by the authors was acquired by a new owner. The new owner was unaware of the existence of the rental contract signed by the author, as it was not mentioned in the notarial deed of conveyance for the property. However, in October 2018, a deed of rectification was drawn up that referred to the rental contract, maintaining the monthly rent at €330.

2.4 While the first author made some rental payments to the new owner, she ceased paying rent in August 2018 as she was in financial difficulty. The authors argue that this situation was caused by the decision of the social services to take away their food and rental assistance in August 2018, which resulted in their being unable to pay rent as they did not have sufficient income. According to their annual tax returns for 2018, the first author received €220.23² and the second author received €3,958.47.³

2.5 On 29 October 2018, the owner of the property filed a claim for eviction on grounds of non-payment of rent and supplementary amounts against the first author, claiming a total of €1,012.59 for non-payment of rent. In his claim, the owner stated that he required the property to be used as a permanent home for his son, and that he would bring an eviction action if the property was not vacated within the specified time periods.

2.6 On 8 November 2018, the first author filed an application for guaranteed social income. As part of this procedure, she had an appointment with social services on 21 November 2018 and received her first guaranteed social income payment on 31 May 2019.

2.7 On 13 December 2018, the Twenty-Fourth Court of First Instance of Palma admitted the claim against the first author and stated that the hearing would take place on 5 February 2019, if the first author opted to challenge the claim. In addition, it noted that the eviction would take place on 4 April 2019, if the legal requirements for this procedure were met.

2.8 On 14 February 2019, the Twenty-Fourth Court of First Instance of Palma issued a ruling instructing the author to return the property to its owner and to pay the rent and bills that were due, warning that, if she did not vacate the property voluntarily, she would be evicted. In the ruling, the Court noted that the author stated in her defence that she could not

¹ The background has been reconstructed on the basis of the individual communication and the information subsequently provided by the parties.

² This amount appears as "capital gains and losses derived from the transfer of assets" in the first author's income tax return.

³ This amount appears as "earned income" in the second author's income tax return.

afford to pay the amounts claimed and that, during the trial, the author expressed her full agreement with the complainant's claims.

2.9 On 26 March 2019, the Anti-Eviction Office of Palma City Council sent a vulnerability report to the Court, requesting the extension of the deadline by which the first author was required to vacate the property, taking into account the difficulty that the family was having in finding alternative housing that they could afford and the fact that the City Council had no available social housing. According to the same report, the first author received €268.79 per month in dependency benefits while the second author received €430.27 per month in income support.

2.10 On 2 April 2019, the Court issued a decision suspending the eviction scheduled for 4 April 2019 and establishing 16 May 2019 as the next eviction date in the event that the first author did not vacate the property on 4 May 2019.

2.11 On 3 April 2019, the first author wrote to Palma City Council to request the urgent processing of an application to the Municipal Housing Association for emergency housing in view of the imminence of the eviction date.

2.12 On 15 May 2019, the Anti-Eviction Office of Palma City Council submitted a vulnerability report to the Court in which it attested to the authors' vulnerability and requested the postponement of the eviction scheduled for 16 May 2019. The report stated that the second author had ceased to receive income support on 12 May 2019 and that, as a result, the family unit received only dependency benefits amounting to €268.79 per month. The report also stated that the first author had been granted guaranteed social income and that, as a result of this and the second author's income, the authors would be in a better position to gain access to housing. The report stated that the only alternative found by the first author was a room where she could stay with her family from 16 May 2019. However, she had been informed that this room was no longer available.

2.13 On 31 May 2019, the Court issued a decision establishing that the eviction should take place on 27 June 2019. This decision could be challenged by means of an application for judicial review that did not have a suspensive effect.

2.14 Once the eviction had been scheduled for 27 June 2019, Palma City Council sought temporary alternative housing for the authors. It proposed a shelter for the first author and her daughter and a residential home for the second author until they were able to find alternative housing. The authors did not accept this proposal although it was made clear to them that the City Council did not have a centre where they could all be together and that this solution would be temporary.

After registration of the communication

2.15 On 27 June 2019, the authors were evicted. The association Plataforma de Afectados por la Hipoteca organized a gathering at the time of the eviction with a view to stopping it. According to the author, however, several police vans blocked access to the building from the morning of the day in question and prevented the protest from taking place. The authors allowed the judicial commission to gain access to the property and left it "voluntarily", according to the record of the eviction proceedings. Staff from the Anti-Eviction Office and social welfare staff present at the time of the eviction again proposed the solution of a shelter for the first author and her daughter and a residential home for the second author to prevent them from ending up on the street. The authors rejected this proposal and stated that they would live in the home of the first author's sister.

2.16 On 1 July 2019, the authors registered as applicants for social housing with the Balearic Housing Institute.

2.17 On 9 July 2019, the first author filed a complaint with the Ombudsperson stating that, on 3 April 2019, she had informed the municipal social welfare services that her situation was urgent as she was imminently facing eviction but that she had not yet received a response, despite the fact that the eviction had taken place.

2.18 In November 2019, the Municipal Social Services Centre closed the authors' file owing to their failure to keep appointments.

2.19 In March 2020, the first author filed two complaints of abuse and harassment against her sister and her husband as they were pressuring the authors to leave their home.

Complaint

3. In their initial submission, the authors argue that their eviction would constitute a violation of article 11 of the Covenant, as they did not have adequate alternative housing. The authors argue that if their food and rental assistance had not been withdrawn, they would have been able to continue paying rent in accordance with the contract. They claim that the City Council has a protocol for allocating housing in cases of insolvency, in accordance with which the authorities are responsible for submitting applications for housing. In their case, however, the authorities never submitted such an application. While the social report issued by the Anti-Eviction Office states that the City Council does not have social housing, the authors claim that they have not received a response to their application for social housing submitted on 3 April 2019 and that the City Council did not process this application. They also claim that alternative housing in a shelter does not constitute adequate housing but would entail a temporary stay of a few months that would lead to another expulsion with no alternative and would also forcibly break up the family unit.

State party's observations on admissibility and the merits

4.1 On 30 December 2019, the State party submitted its observations on the admissibility and merits of the communication.

4.2 With regard to admissibility, the State party argues that the authors have not exhausted all available domestic remedies as they did not apply for public housing before submitting the individual communication to the Committee. The State party claims that the authors filed their application for inclusion in the public register of housing applicants of the Autonomous Community of the Balearic Islands on 1 July 2019, after they had become aware of the court proceedings, after a ruling had been issued, after different eviction dates had been set, and days after they had voluntarily vacated the property.

4.3 With regard to the merits, the State party stresses that the public authorities provide for the basic needs of the author and her children, to the extent of available resources.⁴ The State party therefore argues that the needs of the authors are being met by public funds, to the extent of the available resources.

4.4 The State party refers to the national regulations governing the right to housing and the measures taken in response to the economic crisis.⁵ The State party also refers to the parameters used to determine the degree of fulfilment of the State's obligations under article 11 of the Covenant.⁶

4.5 In the present case, the State party argues that the local authorities have made every effort to assist the author and the first author's daughter socially and in the search for adequate alternative housing. The social services of Palma City Council have been carrying out an exhaustive follow-up of the family's situation. The State party points out that, in addition to income support, the family receives dependency benefits in the amount of €268.79 per month. The State party adds that the authors vacated the property voluntarily and that their situation is of their own making, since they applied for public housing months after they had become aware of the judicial proceedings and therefore failed to exhaust all the available remedies offered by the various authorities to obtain alternative housing. In addition, the State party also points out that the authors rejected the housing proposal made by Palma City Council both before the eviction date and on the day that they voluntarily vacated the property. It states that the family has alternative housing as they currently reside in the home of the first author's sister and that the file relating to the follow-up of their case by the social services of Palma City Council was closed in November 2019 owing to their failure to keep the appointments set. According to the State party, all the above demonstrates that there has been

⁴ For further details, see *El Korrichi et al. v. Spain* (E/C.12/D/188/2020), para. 4.6.

⁵ *Ibid.*, para. 45.

⁶ *Ibid.*

no violation of the Covenant since the authors have alternative accommodation in the home of a member of their social circle.

Authors' comments on the State party's observations on admissibility and the merits

5.1 On 3 July 2020, the authors submitted their comments on the State party's observations on the admissibility and merits of the communication.

5.2 The authors point out that they did not vacate the house voluntarily but were forced to leave it, as shown by the eviction notice and the photographs provided, which show the police cordon and the gathering organized by Plataforma de Afectados por la Hipoteca to stop the eviction.

5.3 The authors reject the claim made in the State party's observations that their social services file was closed because they failed to attend appointments as it was closed on the day of their eviction. The authors allege that, to date, they have not been offered any alternative housing suited to their needs. They also allege that they are subjected to harassment in the room where they reside, which they have reported to the police, and that social services have not offered them any alternative that would enable them to leave this situation of violence.

B. Committee's consideration of admissibility

6.1 Before considering any claim contained in a communication, the Committee must decide, in accordance with rule 10 (2) of its rules of procedure under the Optional Protocol, whether the communication is admissible.

6.2 The Committee notes the State party's argument that the authors have not exhausted all available domestic remedies as they did not apply for public housing prior to the submission of the individual communication to the Committee, but only after the judicial eviction proceedings had ended and days after they had voluntarily vacated the property. The Committee also notes the position of the authors, who state that they applied for social housing on 3 April 2019, before the first scheduled eviction, but the City Council never processed their application, and the Anti-Eviction Office stated in one of its social reports that the Council had no social housing available.

6.3 The Committee notes that the alleged late application for public housing points to a lack of due diligence on the part of the authors.⁷ In this regard, the Committee recalls that States parties have a positive obligation under article 2 (1) of the Covenant to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of their available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant, by all appropriate means. In implementing this obligation, States parties may adopt a range of possible policy measures to implement the rights set forth in the Covenant, as provided for in article 8 (4) of the Optional Protocol. The Committee therefore recognizes that States parties may establish administrative channels to facilitate the protection of the right to housing, including by requiring individuals to take certain administrative steps to notify the authorities of their need for assistance in respect of their right to housing. These formalities should not impose an excessive or unnecessary burden on individuals and should not have a discriminatory effect.⁸ In the present case, the Committee notes that the social services of Palma City Council had been aware of the authors' situation of social vulnerability since late 2018 (see para. 2.6), before the first eviction date established by the Court. The Committee also notes that the social report issued by the Anti-Eviction Office of the City Council on 26 March 2019 stated that the Council did not have social housing available and could relocate the family only to a shelter (see para. 2.8). Furthermore, the Committee notes that,

⁷ Ibid., para. 6.3.

⁸ Ibid., para. 6.4; *Taghzouti Ezqouiher v. Spain* (E/C.12/69/D/56/2018), paras. 6.3 and 6.4; *Loor Chila et al. v. Spain* (E/C.12/70/D/102/2019), paras. 6.3 and 6.4; *Sariego Rodríguez and Dincă v. Spain* (E/C.12/70/D/92/2019), paras. 7.2 and 7.4; and *Martínez Cortés v. Spain* (E/C.12/73/D/214/2021), para. 6.3.

on 3 April 2019, prior to the first scheduled eviction date, the author made a written request to Palma City Council for the urgent processing of an application to the Palma Municipal Housing Association for emergency housing. The Committee also notes the authors' claims, which have not been refuted by the State party, that there has been no response to this application. The Committee notes that, prior to the eviction scheduled for 16 May 2019, the Anti-Evictions Office of Palma City Council informed the Court that the first author had made efforts to find alternative housing and that, by her own means, she had found a room in which to accommodate her family but that the offer had been unexpectedly withdrawn at the last minute. While the Committee notes that the authors applied to be included in the public register of housing applicants of the Balearic Housing Institute after they had been evicted, it nevertheless considers that the authors repeatedly informed the competent municipal authorities that they were in need of decent housing. The Committee further notes that the State party has failed to provide information explaining why the application for social housing submitted to the competent authorities of the Autonomous Community of the Balearic Islands could not be processed at the appropriate time by the municipal authorities, either when the authors contacted Palma City Council about this situation on 3 April 2019 or when they raised their situation with the Council's Anti-Eviction Office, which also stated that the Council did not have social housing available.

6.4 In the light of the above, the Committee considers that the authors have exercised due diligence in seeking assistance from the administrative authorities to find alternative housing, and that, therefore, article 3 of the Optional Protocol does not constitute an obstacle to the admissibility of the present communication.⁹

6.5 The Committee notes that the communication meets the other admissibility requirements under articles 2 and 3 of the Optional Protocol and, accordingly, declares the communication admissible and proceeds to its consideration on the merits.

C. Committee's consideration of the merits

Legal issues

7.1 The Committee has considered the present communication, taking into account all the information provided to it, in accordance with the provisions of article 8 of the Optional Protocol.

7.2 In the light of the relevant facts and the parties' submissions, the Committee considers that the question that the communication raises and that it must resolve is the following: whether the State party has taken all reasonable steps, to the maximum of its available resources, to ensure the realization of the authors' right to adequate housing, enshrined in article 11 (1) of the Covenant. To this end, the Committee will first examine whether or not the decision to evict, and the eviction of, the authors and the first author's minor daughter respected the guarantees required under the Covenant. Secondly, the Committee will determine whether the State party complied with its duty to provide persons in vulnerable situations with alternative housing or, failing that, whether it took other measures to the maximum of its available resources.

7.3 In order to answer this question, the Committee will first refer to the standards relating to protection against forced evictions in the context of the right to adequate housing, as consolidated in its Views in the case of *El Korrichi et al. v. Spain*,¹⁰ including the requirement for an eviction to respect the principles of legality, necessity and proportionality, and the duty of the judge to weigh up the relevant rights in reviewing any eviction decision. In *El Korrichi et al. v. Spain*, the Committee also sets out a number of procedural safeguards that should be respected in eviction procedures, including the provision of an opportunity for genuine consultation on alternative accommodation with affected persons and, if a lack of resources means that there are no viable alternatives, requiring the administrative authorities to present

⁹ *Muñoz García v. Spain* (E/C.12/71/D/39/2018), para. 6.4; *Taghzouti Ezqouihel v. Spain*, paras. 6.3 and 6.4; *Sariego Rodríguez and Dincă v. Spain*, para. 7.4; and *Loor Chila v. Spain*, para. 6.4.

¹⁰ *El Korrichi et al. v. Spain*, para. 8.1–8.10.

the available options with a view to ensuring that the eviction will not leave anyone homeless.¹¹

Consideration of proportionality and the weighing of rights in the eviction of the authors and the first author's daughter, the best interests of the child and disproportionate impacts

7.4 The Committee will proceed to determine whether the authorities considered the proportionality of the objective of the eviction to its consequences for the persons evicted, including weighing the benefits of the measure – in this case, protecting the right to property of the owner of the dwelling – against its possible consequences for the rights of the evicted persons¹² in the specific circumstances of the case.

7.5 The Committee refers to its Views in the case of *El Korrichi et al. v. Spain*, in which it set out a series of circumstances that must be assessed when analysing the proportionality of an eviction, including: (a) the availability of adequate alternative housing; (b) the personal circumstances of the occupants and their dependants and how these circumstances may lead to one or several situations of vulnerability; (c) the cooperation of the occupants with the authorities in seeking suitable solutions; and (d) the distinction between properties belonging to individuals who need them as a home or source of income and properties belonging to banks, financial institutions or other entities.¹³

7.6 In the present case, the Committee notes that, although the author expressed her agreement with the complainant's claims, she informed the court about her situation and her inability to pay the amounts claimed (see para. 2.8). The Committee notes that the eviction order contained in the ruling of 14 February 2019 was issued without any analysis of the impact of the eviction on the authors and the first author's minor daughter, in the light of the family's extreme vulnerability and the lack of alternative housing, as reflected in the reports of the Anti-Eviction Office made available to the competent judicial authorities, and without any consideration of the presence of an infant in the home at the time of the events. In the light of the specific circumstances of the present case, the Committee considers that proper consideration of the proportionality of the eviction would have taken into account the authors' socioeconomic vulnerability; the best interests of the first author's minor daughter; the particular effects of the eviction on the first author as an unemployed woman head of household with responsibility for a minor daughter and an older adult mother with a recognized degree of dependency and without the wherewithal for adequate housing or other viable alternatives; the benefits of the measure at the time, in this case, the protection of the right to property of the person owning the property; the author's applications for social housing; the lack of availability of social housing from the relevant administrative authorities and the existence of alternative means of resolving the problem.

7.7 The Committee also recalls the obligation for eviction decisions to take into account the best interests of the child.¹⁴

7.8 Accordingly, the Committee notes that, although the eviction was suspended on one occasion, on the basis of the reports issued by the social services attesting to the family's social and economic vulnerability, it does not appear from the ruling of the Twenty-Fourth Court of First Instance of Palma that the best interests of the first author's daughter were taken into account when the eviction was ordered. In this regard, there is no evidence that the court in question undertook a specific analysis of how an eviction could affect the first author's daughter or what the best decision would be, considering that, pursuant to article 10 (3) of the Covenant, special measures of protection and assistance should be taken on her behalf.

7.9 The Committee notes that the Court also failed to take into account the authors' particular situation – in that the first author is a mother and head of household with responsibility for a young child and for a mother with a recognized degree of dependency on

¹¹ Ibid., para. 8.6.

¹² *López Albán et al. v. Spain* (E/C.12/66/D/37/2018), para. 11.5.

¹³ *El Korrichi et al. v. Spain*, para. 10.2; *El Mourabit Ouazizizi et al. v. Spain* (E/C.12/72/D/133/2019).

¹⁴ Committee on the Rights of the Child, general comment No. 21 (2017) on children in street situations, para. 50.

a precarious economic footing – and the disproportionate impact that the eviction would have on her, given the discrimination which women may face, the lack of equal opportunities for access to adequate housing and employment, and the share, larger than that of men, of the caregiving burden that they bear.¹⁵ The Committee notes that the Court also failed to consider the disproportionate impact that the eviction would have on the second author, owing to her situation of severe dependency involving symptoms of depression and anxiety.

Consultation with the authors, the right to be heard, best interests of the child

7.10 In order to assess the authors' situation, the Court should have made arrangements for genuine and effective consultation with them and should have requested the administrative authorities to provide information on any social housing available and on their socioeconomic situation. The Committee notes that the authors filed two requests for a stay of the eviction order before the competent judicial authorities, alleging a situation of particular vulnerability, providing a copy of the social services report and drawing attention to the presence of an 18-month old child in the home. However, despite the various requests for a stay of eviction and the appeals filed by the author, the Committee considers that there has been no evidence that any genuine and effective judicial consultation took place with a view to studying alternatives to eviction.

Duty of States to provide alternative housing to persons in need or to take all measures to the maximum of available resources

7.11 The Committee also recalls the standards relating to the duty of States to provide alternative housing to persons in need or to take all measures to the maximum of available resources. It also recalls that all alternative housing must be adequate, including with regard to security of tenure. Nevertheless, States parties may demonstrate that, despite having made every effort to the maximum of their available resources, it has not been possible to provide permanent alternative housing to an evicted person in need of alternative housing, in which case use may be made of temporary emergency housing that does not meet all the requirements of adequate alternative housing. However, States parties must endeavour to ensure that the temporary accommodation protects the human dignity of the persons evicted, meets all safety and security requirements and does not become a permanent solution but is a step towards obtaining adequate housing. The right of members of a family not to be separated¹⁶ and to enjoy a reasonable level of privacy¹⁷ must also be taken into account.

7.12 In the present case, the Committee notes that the only alternative housing option offered to the authors consisted of temporary places in a shelter for the first author and her daughter and in a residential home for the second author, which would have entailed the separation of the family unit and therefore could not be considered an option that could satisfy the authors' right to adequate housing. The Committee also considers that the alternative housing offered to the authors would not have been adequate either, mainly because it was only a temporary alternative. It considers that, although the Anti-Eviction Office of Palma City Council informed the authors that this housing solution would be temporary, in that it would end when they found alternative housing, it did not provide them with guarantees that this would not become a permanent solution, since: (a) the Anti-Eviction Office of Palma City Council stated that the Council did not have social housing available (see para. 2.9); (b) they were not offered assistance in applying for, or obtaining access to, social housing managed by other municipalities within the Autonomous Community or by the Balearic Housing Institute; and (c) it is clear from the reports of the Anti-Eviction Office that it would be up to the authors to search for adequate alternative housing but without their being informed of the assistance that was, or would be, provided to them in seeking alternative private-sector housing that they could afford on their limited income in the municipality of Palma or in other municipalities.

7.13 The Committee also recalls that States parties must demonstrate that, despite not having been able to directly provide alternative housing to evicted persons, they have taken

¹⁵ *Vázquez Guerreiro et al. v. Spain* (E/C.12/74/D/70/2018), para. 12.3.

¹⁶ *López Albán et al. v. Spain*, paras. 9.1–9.4.

¹⁷ *El Goumari et al. v. Spain* (E/C.12/69/D/85/2018), para. 9.4.

measures, to the maximum of their available resources, to provide social assistance to such persons in order to promote their social reintegration and facilitate their access to adequate housing. In this regard, the Committee notes the financial assistance received by the authors, including the income support of €430.27 per month that ended on 12 May 2019, the dependency benefit of €268.79 per month, and the guaranteed social income of €594.50 per month, which they received from May 2019 onward. However, while acknowledging the importance of the social assistance measures taken to support the authors as people in socially vulnerable situations, the Committee considers that the State party has not provided information demonstrating how this assistance constituted measures to the maximum of its available resources to, *inter alia*, facilitate the authors' access to adequate housing.

7.14 In the light of the above, the Committee considers that the State party has not demonstrated that it has made every possible effort, using all available resources, to realize, as a matter of urgency, the right to housing of the authors and the first author's daughter, who were in a situation of dire vulnerability.

Interim measures and eviction of the authors

8.1 On 26 June 2019, the Working Group on Communications, acting on behalf of the Committee, requested the State party to suspend the eviction of the authors and the first author's daughter while the communication was being considered or, alternatively, to grant them adequate housing as part of a genuine and effective consultation with the authors.

8.2 The Committee notes that, according to its jurisprudence,¹⁸ the adoption of interim measures pursuant to article 5 of the Optional Protocol is vital to the Committee's fulfilment of the responsibility entrusted to it under the Optional Protocol,¹⁹ as the reason for the existence of interim measures is, *inter alia*, to preserve the integrity of the process, thereby ensuring the effectiveness of the mechanism for protecting Covenant rights when there is a risk of irreparable harm.²⁰ It also recalls that, as established in its guidelines on interim measures, any State that does not respect the interim measures requested by the Committee is in breach of its obligation to respect in good faith the individual communications procedure established in the Optional Protocol, since failure to respect the interim measures makes it difficult for any future Views to reverse the harm caused to the victims.²¹

8.3 The Committee notes that, on 27 June 2019, the authors and the first author's daughter were evicted despite the Committee's request for the State party to adopt interim measures and without their having been granted adequate alternative housing following genuine consultation with them.

8.4 As the State party did not explain why the interim measures could not be taken, the Committee is of the view that the State party violated, in the circumstances, article 5 of the Optional Protocol.

D. Conclusions

9.1 On the basis of all the information provided and in the particular circumstances of the case, the Committee finds that the eviction of the authors and the first author's daughter without a proper assessment of proportionality by the judicial authorities, including consideration of the disproportionate impact that the eviction could have on the author, her mother (the second author) and her daughter and the principle of the best interests of the child, and without a guarantee, as part of the procedure, of adequate consultation, together with the lack of alternative housing and the State party's failure to provide evidence that it had taken all appropriate measures to the maximum of its resources, constitutes a violation of the right

¹⁸ *S.S.R. v. Spain* (E/C.12/66/D/51/2018), paras. 7.6 and 7.7.

¹⁹ *Subakaran R. Thirugnanasampanthar v. Australia* (CAT/C/61/D/614/2014), para. 6.1.

²⁰ See, *mutatis mutandis*, European Court of Human Rights (Grand Chamber), *Mamatkulov and Askarov v. Turkey* (applications No. 46827/99 and No. 46951/99), judgment of 4 February 2005, para. 128; and *Subakaran R. Thirugnanasampanthar v. Australia*, para. 6.1.

²¹ See <https://www.ohchr.org/es/treaty-bodies/cescr/inquiry-procedure>.

to adequate housing of the authors and the first author's daughter, within the terms of the Covenant.

9.2 The Committee, acting under article 9 (1) of the Optional Protocol, is of the view that the State party has incurred international responsibility for violating the rights of the authors and the first author's daughter under article 11 (1) of the Covenant, read separately and in conjunction with articles 3 and 10 (3) of the Optional Protocol. The Committee also finds that the State party violated article 5 of the Optional Protocol. Consequently, the State party is under an obligation to take the necessary measures to comply with the provisions of the present Views.

10. The State party is under an obligation to provide the authors and the first author's daughter with an effective remedy, in particular by: (a) reassessing, if they are not currently in adequate housing, their state of necessity with a view to providing them with public housing or taking another measure that would enable them to live in adequate housing, bearing in mind the criteria set out in the present Views; (b) awarding the authors financial compensation for the violations suffered; and (c) reimbursing the authors for the legal costs reasonably incurred in submitting the present communication, at both the domestic and international levels.

11. The Committee recalls that, in conformity with the State party's international obligations, the State party should take all steps necessary to guarantee the non-repetition of similar violations in the future. In this regard, the State party is obliged to ensure that its legislation and the application of that legislation are in conformity with the international standards established in the Covenant. In particular, the State party should:

(a) Ensure that its 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; and to consider, where appropriate, the best interests of the child and the disproportionate impact of evictions on women, especially women who are heads of households with minor children or those who provide care to family members in a situation of dependency and on a precarious economic footing;

(b) Take the necessary measures to ensure that evictions affecting persons who lack the wherewithal to obtain alternative housing take place only within the framework of proceedings involving genuine and effective consultation with the persons concerned in which all available alternative housing (whether belonging to the State or made available by the relevant State agencies, including those consulted during judicial proceedings) is assessed and only after the State has taken all essential steps, to the maximum of its available resources, to ensure that evicted persons can gain access to alternative housing, especially in cases involving families, households headed by single parents – women in particular – older persons, children and/or other persons in vulnerable situations. If the group to be evicted includes children, the proceedings must guarantee their right to be heard;

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

(d) Take the necessary measures to solve the problems caused by the absence of a connection between court decisions, adopted in proceedings of any kind, that can result in an evicted person's being left without adequate accommodation and the efforts made by social service providers;

(e) Develop and implement, in coordination with the Autonomous Communities and to the maximum of its available resources, a comprehensive plan to guarantee the right to adequate housing for low-income persons, in keeping with general comment No. 4 (1991). This plan should provide for the necessary resources, measures, time frames and evaluation

criteria to guarantee these individuals' right to housing in a reasonable, timely and measurable manner;

(f) Establish a protocol for complying with requests for interim measures made by the Committee and inform all relevant authorities of the need to grant such requests in order to ensure the integrity of the procedure;

(g) Establish follow-up mechanisms to assess the effectiveness of reparation measures and guarantee the non-repetition of similar situations.

12. In accordance with article 9 (2) of the Optional Protocol and rule 21 (1) of the rules of procedure under the Optional Protocol, the State party is requested to submit to the Committee, within a period of six months, a written response, including information on measures taken in follow-up to the Views and recommendations of the Committee. The State party is also requested to publish the Views of the Committee and to distribute them widely, in an accessible format, so that they reach all sectors of the population.
