EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX

10 March 2026

Case Document No. 1

***European Federation for Dignified Ageing and International Alliance for Care Workers' Rights* v. Vichtery**

Complaint No. 258/2026

COMPLAINT

Registered at the Secretariat on 5 January 2026

European Federation for Dignified Ageing

-Contact Person's Name-

-Address-

International Alliance for Care Workers' Rights

-Contact Person's Name-

-Address-

To: Executive Secretary of the European Committee of Social Rights

Department of the European Social Charter,

Directorate General of Human Rights and Rule of Law,

Council of Europe,

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F-67075 Strasbourg Cedex, France;

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Collective Complaint

including requests for Immediate Measures and Priority to Examination, for violations of Articles 11§1, 12§3, 13§1, 14§1, 23 and 24 in conjunction with Article E of the Revised European Social Charter, lodged by the European Federation for Dignified Ageing and the International Alliance for Care Workers' Rights against Vichtery, in relation to the systemic reforms to long-term care and social services under the Long-term Care Transformation and Digital Oversight Act, dated 15 December 2025.

Table of Contents

Part I: Subject Matter and Admissibility of the Complaint 4

1. Subject Matter of the Complaint 4

2. Admissibility 4

Part II: Merits-Grounds of the Complaint 5

1. Violation of Article 23 of the RESC 5

2. Violation of Article 11§1 of the RESC 12

3. Violation of Article 12§3 of the RESC 13

4. Violation of Article 13§1 of the RESC 14

5. Violation of Article 14§1 of the RESC 15

6. Violation of Article 23 in Conjunction with Article E of the RESC 16

7. Violation of Article 24 in Conjunction with Article E of the RESC 17

Part III: Immediate Measures and Priority to Examination 19

1. Urgency and Risk of Irreparable Harm 19

2. Immediate Measures Requested 20

3. Request for Priority Examination 21

Conclusion 21

Part I: Subject Matter and Admissibility of the Complaint

1. Subject Matter of the Complaint

The present complaint concerns the protection of the rights of older persons and care workers in Vichtery, in the context of systemic reforms to long-term care and social services under the Long-Term Care Transformation and Digital Oversight Act (hereinafter LTCTDOA). The complaint raises issues under multiple provisions of the Revised European Social Charter (hereinafter RESC or Charter), in particular Articles 11, 12, 13, 14, 23 and 24, as well as Article E on non-discrimination.

The broader context underscores the urgency and gravity of the situation. Demographic ageing in Europe places increasing pressure on national long-term care systems, as a growing elderly population requires more extensive and specialized care. These pressures have been exacerbated by the COVID-19 pandemic, which disproportionately affected older persons and revealed structural weaknesses in health and social care provision. The current cost-of-living crisis further heightens the vulnerability of older persons, reducing their access to essential services and social protection, as highlighted in the recently published report of the European Committee of Social Rights (hereinafter ECSR or Committee) on the social impact of rising living costs.[1]

It is evident that the state of Vichtery faces numerous challenges, and the complainants acknowledge that LTCTDOA reforms are intended as solutions offered by the government to mitigate the crisis. However, while such innovations can improve efficiency, they must not come at the expense of fundamental social rights or the dignity, privacy and safety of protected persons.

2. Admissibility

The State

Vichtery ratified the RESC on 30 March 2021 and accepted all its provisions, as well as the Additional Protocol providing for a System of Collective Complaints (hereinafter the Additional Protocol). It has also been a European Union member since 2016.

According to Article 4 of the Additional Protocol, the complaint shall relate to a provision of the Charter that the Contracting Party has accepted. The complaint alleges violations of Articles 11, 12, 13, 14, 23, 24 and Article E of the Charter.[2] Since Vichtery accepted all the paragraphs of the RESC, the complaint falls within the Committee's *ratione materiae* competence.

The complainant organisations

[1] Council of Europe-European Committee of Social Rights, *Social Rights and the Cost-of-Living Crisis: A review of States Parties' ad hoc reports*, Strasbourg, Council of Europe, 2025, https://rm.coe.int/prems-068925-gbr-2005-cost-of-living-crisis-web-final-layout/1680b678f0.

[2] Long-Term Care Reform, Digital Monitoring and the Protection of Older Persons in Vichtery, Part F, §3.

The European Federation for Dignified Ageing (EFDA) and the International Alliance for Care Workers' Rights (IACWR) are International NGOs having participatory status with the Council of Europe and, as such, appear on the list of organisations entitled to lodge a collective complaint[3] under Article 1 (b) of the Additional Protocol.

As per Article 3 of the Additional Protocol, International NGOs must demonstrate particular competence in the fields covered by the Charter. The ECSR has consistently adopted an approach requiring a genuine link between the organisation's statutory aims, activities and the rights invoked.[4] According to the practice of the Committee, organisations are competent where their objectives and expertise relate directly to the subject matter of the complaint.[5]

In the present case, EFDA works to protect the dignity, welfare and social rights of older persons, including long-term care standards and access to social and medical assistance. IACWR focuses on labour conditions, security and the protection of care workers' rights. The complaint concerns the protection of older persons, access to long-term care (hereinafter LTC), social and medical assistance and the employment conditions of care staff, matters that fall exclusively within the complainants' fields of expertise. Consequently, there is a clear and direct link between the complainants' mandate and the alleged violations, satisfying the requirement of particular competence under Article 3 of the Additional Protocol.

Part II: Merits-Grounds of the Complaint

1. Violation of Article 23 of the RESC

Vichtery has violated its obligations under Article 23 of the RESC. The State has failed to ensure the right of older people to effectively enjoy access to adequate services and facilities, appropriate housing, proper health care and sufficient safeguards in institutional care.

Article 23 of the RESC is the instrument that specifically focuses on the protection of the rights of older persons. The rights enshrined in this article establish a new progressive vision regarding what life for older people should be, what obligations States have and how the rights of older people should be protected.[6] The ECSR has held that Article 23 regulates the rights of the older persons outside the sphere of employment.[7] Therefore, it clearly defines the State's positive obligations to safeguard the well-being of older people beyond the sphere of employment.

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[3] Questions and answers: https://www.racse-anesc.org/en/moot-court-2026/.

[4] ECSR, *Quaker Council for European Affairs (QCEA) v. Greece*, Complaint No. 8/2000, decision on admissibility, 28 June 2000, §8; *International Federation of Human Rights Leagues (FIDH) v. France*, Complaint No. 14/2003, decision on admissibility, 16 May 2003, §5.

[5] ECSR, *World Organisation against Torture (OMCT) v. Greece*, Complaint No. 17/2003, decision on admissibility, 9 December 2003, §6.

[6] Benny Spanier and Israel Doron, The European Social Charter and the rights of older persons, in Israel Doron and Nena Georgantzi (eds), *Ageing, Ageism and the Law*, Cheltenham, UK: Edward Elgar Publishing, 2018, pp. 146-173, p. 150.

[7] ECSR, Conclusions 2009, Andorra (Article 23).

While examining Article 23, the ECSR analyses various categories as established by the wording in the Charter. These categories include the rights of older people in areas such as access to adequate services and facilities, housing, proper health care and institutional care.[8]

Services and Facilities

Pursuant to Article 23 of the RESC, older people are guaranteed the right to access services and facilities necessary. The ECSR emphasizes the services to be provided to older persons, as well as information provided to them in order to ensure enjoyment of this right. In order to assess whether states comply with their obligations under Article 23 of the RESC, the ECSR raises questions about which "*services are available, who the services providers are and what efforts are being made towards their implementation and modernization*".[9]

According to the facts, Vichtery has adopted the LTCDOA. One of the significant amendments introduced by the Act was the shift from universal public subsidization to a strict-means testing model based on income and family assets.[10] In this regard, the ECSR examines how many older persons are satisfied by such services.[11] Therefore, one of the key issues concerns the number of older persons who effectively benefit from services and facilities. This reform has led to a decrease in the number and affects the right services and facilities negatively. Even before the adoption of the LTCDOA, Vichtery faced significant challenges in meeting the needs of its ageing population. Many older people experienced unmet care needs and long waiting lists for residential care. The adoption of the Act has further worsened the situation, reducing access to services and failing to ensure protection of older persons' right to adequate facilities.

In accordance with the facts, families have reported that there was discriminatory treatment based on a geographical basis and that facilities were not available in different regions.[12] Despite the fact that the RESC does not require identical standards throughout the entire territory, a reasonable degree of uniformity should be maintained.[13] Therefore, the lack of services in some regions indicates a shortfall in the State's obligation to guarantee access to adequate facilities for all older persons regardless of the region.

Within the first year of the enforcement of the LTCDOA, according to data provided by municipalities, 41% of applications for subsidized residential care were rejected. Regarding Ukraine, the Committee has found a violation of Article 23 when the number of facilities had decreased.[14] Hence, there is violation in the case of Vichtery, since almost 50% of applications were rejected, which is an essential amount. In *The Central Association of Careers in Finland v. Finland*, the ECSR stated "*in terms of the international responsibility of states, the conduct*

[8] Benny Spanier and Israel Doron, op. cit., p. 155.
[9] Maria Paula Ribeiro de Faria and Luísa Andias Gonçalves, Article 23: The Right of Elderly Persons to Social Protection, in Catarina de Oliveira Carvalho, Catarina Santos Botelho, and Ana Teresa Ribeiro (eds), *The European Social Charter: A Commentary*, Vol. 4, Leiden: Brill/Nijhoff, 2025, pp. 55-90, p. 75.
[10] Long-Term Care Reform, Digital Monitoring and the Protection of Older Persons in Vichtery, Part B.
[11] ECSR, Conclusions XX-2, Denmark (Article 4 of the 1988 Additional Protocol).
[12] Long-Term Care Reform, Digital Monitoring and the Protection of Older Persons in Vichtery, Part B.
[13] Maria Paula Ribeiro de Faria and Luísa Andias Gonçalves, op. cit., p. 78.
[14] Ibid, p. 76.

of any state organs, including local authorities, is deemed to be an act of State".[15] Therefore, despite the fact that parties might delegate powers to local authorities, they have international obligations to fulfil.[16] The ECSR has ruled that the rights of older persons must be fulfilled regardless of whether the State exercises direct control or not.[17]

In a nutshell, Vichtery is internationally obligated to ensure that the rights of older people to adequate services and facilities are effectively fulfilled, regardless of any delegation of powers. Considering earlier evidence of unmet care needs, long waiting lists and unequal geographical access, it is clear that Vichtery has breached its obligations under Article 23 of the RESC.

Housing

In line with Article 23 of the RESC, adequate housing for older persons must be provided and be sufficient to meet their needs, taking into account the health condition of older persons.[18] The ECSR examines issues regarding housing which are considered among of the most complex areas in Europe.[19]

It is important that the State must pay attention to quality and condition of housing, as it directly affects the mental and physical health of older people. Therefore, the State must ensure an adequate standard. As arises from the factual circumstances concerning the evictions from Bluewood Garden, the Government offered a subsidy of €550 per person per month to rent a house outside the capital.[20] However, the monthly rental support provided by Vichtery did not meet the standards established by the ECSR, which generally asks States Parties whether there are any compensation mechanisms which enable elderly persons to rent housing.[21] Despite offering financial assistance for renting a house outside the capital, Vichtery has violated the right to housing, as the Committee has stated that housing which is granted to older people should be sufficient and adapted to their needs.[22] Vichtery's provision of financial assistance for renting a house does not satisfy its obligations under Article 23 of the RESC, because it has failed to ensure that housing for older persons is adequate and suited to their needs.

The ECSR has also stated that improving living conditions through relocation is not an appropriate measure at first hand, since it removes older persons from their natural habitat.[23] Therefore, removing older people and offering elderly housing outside their natural environment might create significant difficulties.

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[15] ECSR, *Central Association of Carers v. Finland*, Complaint No. 70/2011, decision on the merits, 4 December 2012.
[16] ECSR, *International Federation of Human Rights (FIDH) v. Belgium*, Complaint No. 62/2010, decision on the merits, 21 March 2012, §54.
[17] Benny Spanier and Israel Doron, op. cit., p. 158.
[18] ECSR, Conclusions 2003, France (Article 23).
[19] Benny Spanier and Israel Doron, op. cit., p. 158.
[20] Long-Term Care Reform, Digital Monitoring and the Protection of Older Persons in Vichtery, Part E.
[21] ECSR, Conclusions 2017, Malta (Article 23).
[22] ECSR, Conclusions 2017, Finland.
[23] Benny Spanier and Israel Doron, op. cit., p. 158.

Based on the facts, the Government's decision, coordinated with the Ministry of Innovation and Digital Development, prioritized a technology project over the safety and well-being of older residents. Relocating older people from their familiar environment caused disruption to supportive community. Testimonies from relatives and caregivers highlight that older persons were left without proper care. Therefore, the State has failed to guarantee adequate and protective housing for older persons.

Finally, in accordance with the facts, renting a house outside the capital would remove vulnerable older people from 70 kilometres away from hospitals. The ECSR has emphasized that houses provided for older people should be located in areas close to necessary services, hospitals and public transports, absence of which might cause isolation leading to health issues.[24] Relocating vulnerable older persons outside the capital risks the emergence of isolation and health problems, therefore the State of Vichtery has failed to ensure adequate housing. To comply with Article 23, the State should have provided housing within or near the same community, ensuring accessibility to healthcare and well-being.

In conclusion, housing should be adapted to the specific needs necessary for older persons.[25] Therefore Vichtery has breached Article 23 of the RESC, since the State has not supplied housing or accommodation support which would satisfy important needs of older people.

Health Care

Pursuant to Article 23, the State is obliged to provide proper health care programs that are specifically aimed to guarantee the rights of older people. The ECSR stated in its Conclusions regarding Andorra,

> "*The Committee previously asked for information on specific health care services aimed at the elderly, mental health programs, palliative care services and special training for individuals caring for elderly persons. The Committee also asked to be kept informed of any measures aimed at improving the accessibility and quality of geriatric care and long-term care. […] Since the report does not address these issues, the Committee reiterates its question*".[26]

Therefore the Committee emphasizes issues such as special health programs for older people as well as training for individuals caring for elderly persons in long-term care facilities.

Inspections which were carried out in Vichtery revealed delayed medication administration, unattended falls and insufficient supervision.[27] In order to ensure the right to health of older people there should be properly trained staff which will guarantee healthcare. Therefore, the ECSR examines if there are special training programs involved in caring for older persons so as to ensure high quality of health care.[28]

[24] Maria Paula Ribeiro de Faria and Luísa Andias Gonçalves, op. cit., p. 83.
[25] Ibid, p. 82.
[26] ECSR, Conclusions 2013, Andorra, p. 3.
[27] Long-Term Care Reform, Digital Monitoring and the Protection of Older Persons in Vichtery, Part C.
[28] Maria Paula Ribeiro de Faria and Luísa Andias Gonçalves, op. cit., p. 85.

Workers, who were recruited from foreign agencies in Vichtery, often lacked essential trainings and were insufficiently trained in the fields of dementia care, lifting technique, nutrition and emergency procedures. The ECSR especially draws attention to programs addressing conditions such as dementia.[29] In that context, the ECSR has established that States must implement different programs for older persons with special needs and also provide specialized training system for all personnel involved in their care.

The lack of specialized training for healthcare staff in Vichtery, combined with low staff qualifications, led to numerous accidents and falls in healthcare facilities. This demonstrates that the right to adequate healthcare was not safeguarded. By neglecting to implement programs for older persons with special needs and to provide adequately trained caregivers, Vichtery has failed to guarantee the right to healthcare under Article 23 of the RESC.

Moreover, in a "*period of operational strain*", psychologists have recorded increased depression, cognitive decline and anxiety among residents in Victhery. With regard to Slovakia, the ECSR requested information on special programs concerning the psychological health of elderly people,[30] which confirms the importance of psychological care, and drew attention to the obligation of the State to ensure the right to psychological health. The State of Vichtery violated its positive obligations by failing to provide adequate mental health support to older people. At the same time, the State breached its negative obligations by allowing conditions that caused psychological harm.

In conclusion, Vichtery has failed to comply with Article 23 by failing to ensure provision of special training programs addressing conditions such as dementia and psychological problems, and to ensure proper staff training.

Institutional Care

The final part of Article 23 emphasizes the rights of older people living in institutions. The RESC guarantees rights which should be ensured in institutions: the right to appropriate care, services and living conditions, the right to privacy, the right to maintain personal contact with family members and relatives, the right to participate in decisions regarding conditions of living institutions and the right to lodge complaints concerning treatments.[31] The scope of Article 23 of the RESC encompasses the licensing and inspection of long-term care facilities. It is emphasized that all institutions must be licensed and should be inspected by an independent body.[32]

In accordance with the facts, one of the most important reforms introduced by the LTCDOA was the suspension of minimum staffing ratios, which was previously required by the Social Protection Code of Victhery, and the authorization for LTC facilities to subcontract up to 60% of their care staff through the private sector, including non-EU providers.[33] According to the

[29] Benny Spanier and Israel Doron, op. cit., p. 159.
[30] Maria Paula Ribeiro de Faria and Luísa Andias Gonçalves, op. cit., p. 83.
[31] Council of Europe Department of Social Rights, *Updated Digest of the Case Law of the European Committee of Social Rights*, Strasbourg: Council of Europe, 2022, p. 181.
[32] Maria Paula Ribeiro de Faria and Luísa Andias Gonçalves, op. cit., p. 86.
[33] Long-Term Care Reform, Digital Monitoring and the Protection of Older Persons in Vichtery, Part B.

ECSR, Article 23 encompasses the examination of staff qualification requirements, standards of training as well as regulation of physical restraints and sedatives.[34] Therefore, to guarantee appropriate care for older persons in institutions, one of the essential factors are the number of staff members and their qualification, as they exercise full supervision.

The standards established by law in Vichtery violate these rights of residents, leading to workplace accidents which were increased by 46%. Inspections demonstrated that only one staff member was assigned for the night-shift and was responsible for 30 to 40 residents, which led to exhaustion of staff members and poor-quality safety measures. It is stated in the Council of Europe's factsheet on Article 23 of the RESC that, "*states parties are obliged to ensure well-regulated institutional care facilities that uphold these rights and prevent any form of abuse or neglect*".[35] Accordingly, by suspending minimum staffing ratios, permitting subcontracting without adequate safeguards and failing to ensure properly trained personnel, the State of Victhery did not maintain a well-regulated institutional care system as required under Article 23 of the RESC.

In order to ensure compliance with quality standards, the ECSR usually requests information on whether an independent monitoring and inspection system is guaranteed. The ECSR asked Ukraine whether facilities were licensed, were subject to regular inspections and whether there are established procedures allowing individuals to lodge complaints regarding the quality of the services.[36] Based on the ECSR's questions, it is clear that the quality of services must be subject to effective control, meaning established monitoring and inspection systems by an independent body, which involves determining whether rights are properly protected or not and ensuring that residents have the right to lodge complaints in this regard.

The monitoring system in LTC facilities in Vichtery worked in two ways, through internal decisions by directors and through AI-based surveillance. Directors of LTC facilities were granted absolute authority to impose restrictions, without external oversight or independent review, and residents did not have the right to lodge complaint. The control system of facilities was mostly internal and not independently reviewed.

It was reported that, between April and December 2025, one third of LTC facilities declared a "period of operational strain". During this time, family visits were limited to a single supervised 30-minute appointment every two weeks. This restriction has violated the rights of older persons to dignity, by isolating residents unnecessarily. In its 2017 Conclusions, the ECSR reminded Portugal that States are required to ensure the right to maintain personal contact with older persons.[37] Psychologists have reported that during those periods residents in Vichtery suffered from psychological problems, as there was no mechanism to control the director's authority. Therefore, the right of older people to maintain personal contact with family members was violated.

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[34] ECSR, Conclusions 2003, France (Article 23).

[35] Council of Europe Department of Social Rights, *Rights of older people: Article 23 of the Revised European Social Charter – Factsheet*, Strasbourg, Council of Europe, 2025, https://rm.coe.int/prems-013225-gbr-2005-factsheet-on-older-persons-a5-charter-a5-web-fin/488029ae10

[36] ECSR, Conclusions 2009, Ukraine; Conclusions 2013, Ukraine.

[37] Maria Paula Ribeiro de Faria and Luísa Andias Gonçalves, op. cit., p. 88.

Furthermore, facilities introduced mandatory AI-based monitoring systems, including behavioural-analysis systems that classified residents as "compliant", "at risk" or "non-cooperative"[38], as well algorithmic performance scoring systems to evaluate staff performance automatically.[39] These systems were applied to both residents and staff, and monitoring was entirely AI-based, lacking any form of oversight. The ECSR has stressed that states parties must have a system for monitoring the quality of services and a complaint procedure.[40] AI is newly introduced technology, and it carries a significant risk of errors. Moreover, the State of Vichtery did not ensure to provide a system to oversee decisions made by AI, which constitutes a violation of Article 23 of the RESC.

Pursuant to Article 23 of the RESC, States parties are obliged to ensure that older people in institutions enjoy the right to privacy among other rights. The ECSR has noted with respect to Malta that its report did not contain information regarding the privacy of older persons and how this right is safeguarded.[41] In the case of Vichtery, there is no national instrument defining data-protection requirements for mandatory AI monitoring systems and consent standards.[42] Mandatory AI surveillance in residential care facilities interferes with the residents' right to private life. The European Court of Human Rights (ECtHR) has stated in its case law that video surveillance might violate privacy even in institutional spaces if the State fails to ensure a proper legal basis and necessity for it.[43] The legislation adopted in Vichtery establishes blanket surveillance without sufficient legal safeguards, therefore it violates the rights of the residents.

Finally, by adopting the LTCDOA, the State violates Article 23 of the RESC, interpreted through the lens of Articles 6 and 9 of the EU General Data Protection Regulation (GDPR). Article 6 of the GDPR requires that personal data processing be based on a valid legal basis, such as consent or another legitimate ground. According to the facts, residents and their families reported that only general information was provided by institutions, and it did not amount to meaningful consent. However, consent should be clear and freely given. In institutions, monitoring is mandatory and residents cannot refuse surveillance without losing access to institutional care. Therefore individuals have no choice, this practice being in violation of Article 6 of the GDPR.

Article 9 of the GDPR, on the other hand, provides protection for special categories of personal data, such as health data and biometric data. Processing such data is generally prohibited unless strict conditions are met, such as explicit consent and strong legal safeguards. The monitoring system in institutions in Vichtery processes such data on a mandatory basis without establishing clear safeguards by national law or consent standards, leading to a violation of Article 9 of the GDPR.

[38] Long-Term Care Reform, Digital Monitoring and the Protection of Older Persons in Vichtery, Part D.
[39] Ibid, Part C.
[40] Karin Lukas, *The Revised European Social Charter: An Article-by-Article Commentary*, Cheltenham, UK; Northampton, MA: Edward Elgar Publishing, 2021, p. 284.
[41] ESCR, Conclusions 2017, Malta.
[42] Questions & Answers, UMCS-Lublin-Q1, https://www.racse-anesc.org/en/moot-court-2026/.
[43] ECtHR, *Antović and Mrkić v. Montenegro*, App. No. 70838/13, 28 November 2017.

2. Violation of Article 11§1 of the RESC

Article 11§1 recognises the right to protection of health in its physical and psychological aspects and requires States to organise health-related services with a view to preventing foreseeable harm. In this regard, Article 11 enshrines positive and negative obligations.[44] Public health systems should provide for specific measures aimed at protecting the health of vulnerable groups.[45] Furthermore, the right to protection of health encompasses non-discriminatory access to health care for all. It therefore requires that health services be accessible, effective and affordable, while ensuring enhanced protection for particularly vulnerable groups at risk, including older people.[46]

In *European Roma Rights Centre (ERRC) v. Bulgaria*, the Committee emphasized that language should not constitute a barrier to access to adequate medical services.[47] Additionally, the number of healthcare professionals and the availability of equipment must be sufficient. Hospital conditions, including those in psychiatric institutions, must be appropriate and respect human dignity.[48]

According to the facts presented, the suspension of minimum staffing ratios until 2030 constitutes a failure to remove avoidable causes of ill-health within the meaning of Article 11§1. As mentioned, inspections conducted in late 2025 in Victhery revealed night shifts with a single care worker for 30 to 34 residents, resulting in unattended falls, delayed medication administration and insufficient supervision of residents with cognitive impairment. These are recorded outcomes that a State with functioning regulatory oversight would have prevented. Vichtery has deliberately removed the legal minimum that previously mitigated them, in direct contravention of its positive obligation under Article 11§1.

Additionally, the authorisation of 60% subcontracting, including through non-EU providers, generated a care workforce that structurally lacked the training required to deliver safe care: dementia protocols, safe lifting techniques, nutritional management and emergency procedures. Workplace accidents rose by 46%. Agency workers who cannot communicate adequately with residents and who are untrained in the specific vulnerabilities of the elderly population they serve, constitute a structural cause of preventable harm that the State has not only failed to remove but has affirmatively created by legislative choice.

The Bluewood Gardens eviction represents a violation of Vichtery's negative obligation. Approximately sixty frail elderly persons, many chronically ill, were removed from their place of residence by emergency services on the stated ground of safety concerns. The leaked internal memo reveals that the true motivation was to protect a digital innovation project. As mentioned, older persons were transferred to overcrowded temporary shelters and offered either a €550

[44] ECSR, *Transgender Europe and ILGA Europe v. Czech Republic*, Complaint No. 117/2015, decision on the merits, 15 May 2018, §79.
[45] ECSR, Conclusions I (1969), Statement of Interpretation on Article 11.
[46] ECSR, *International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece*, Complaint No. 173/2018, decision on the merits, 26 January 2021, §218.
[47] ECSR, *European Roma Rights Centre (ERRC) v. Bulgaria*, Complaint No. 151/2017, decision on the merits, 5 December 2018, §80.
[48] ECSR, Conclusions 2005, Statement of Interpretation on Article 11; Conclusions 2005, Romania.

monthly subsidy or relocation 70 kilometres from medical services. Displacing vulnerable persons with chronic conditions from accessible medical care for reasons unrelated to their health is a direct State interference with the right to health. The State's negative obligation under Article 11 requires it to refrain from taking actions that harm health. In this case, it took such an action deliberately, in full knowledge of the residents' vulnerability.

3. Violation of Article 12§3 of the RESC

Article 12§3 requires States to endeavour progressively to raise their social security systems to a higher level. Moreover, such measures must not lead to the reduction of the social security system to a mere basic social assistance program.[49] Consolidation measures that fail to respect these limits constitute regressive actions and cannot be regarded as consistent with the principles established under Article 12§3.[50] A partially restrictive change in the social security system does not automatically constitute a violation of Article 12§3.[51] It must instead be evaluated under Article G of the Revised Charter.[52] The assessment is carried out on the basis of the following criteria:[53] the nature of the changes, the reasons given for the changes, the extent of the changes introduced, the necessity of the reform,[54] the existence of measures of social assistance for those who find themselves in a situation of need as a result of the changes made and the results obtained by such changes.

In the present case, the replacement of universal public subsidisation with strict means-testing based on income and family assets fundamentally changes the nature of the LTC social security structure. A system that rejects 41% of all applications in its first year of operation on financial rather than care-need grounds, fails to cover a significant percentage of the elderly population against the risk of requiring LTC.

Additionally, moving from a system where risks are shared collectively to one based on means-testing of family assets constitutes a regressive action. Instead of the long-term care risk being shared fairly across society, it becomes an individual responsibility and only a last-resort form of support. The resulting hospital admissions of elderly patients whose primary problem was the absence of LTC placement confirm that the system is failing in practice.

Applying the abovementioned test arising from the ECSR's Conclusions XVI-1 (2002) the following considerations are due:

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[49] ECSR, *Finnish Society of Social Rights v. Finland*, Complaint No. 88/2012, decision on the merits, 9 September 2014, §85.

[50] ECSR, *General Federation of employees of the national electric power corporation (GENOP-DEI) / Confederation of Greek Civil Servants Trade Unions (ADEDY) v. Greece*, Complaint No. 66/2011, decision on the merits, 23 May 2012, §47.

[51] ECSR, *Federation of employed pensioners of Greece (IKA –ETAM) v. Greece*, Complaint No. 76/2012 decision on the merits, 7 December 2012, §70.

[52] Ibid, §72.

[53] ECSR, Conclusions XVI-1 (2002), Statement of Interpretation on Article 12§1, 12§2, 12§3.

[54] ECSR, *Panhellenic Federation of pensioners of the public electricity corporation (POS-DEI) v. Greece*, Complaint No. 79/2012, decision on the merits, 7 December 2012, §67, citing General Introduction to Conclusions XIV-1, p. 11.

a) the character of the change is the elimination of universal subsidisation and its replacement by a residual means-tested system;

b) the extent of exclusion is important, with 41% of applicants rejected in the first year, disproportionately affecting women over 75;

c) the justifications advanced by the State of Vichtery – fiscal pressure and demographic ageing – do not justify the specific measure chosen, as less restrictive alternatives were neither considered nor exhausted;

d) the necessity of the reform has not been demonstrated;

e) no compensatory social assistance mechanism was introduced for those excluded from the new means-tested system; and

f) the results of the reform are negative across all measurable indicators:

i) Hospital admissions of elderly patients without LTC placement have increased, waiting lists have lengthened to between 24 and 38 months and care needs among older persons living alone remain systematically unmet.

ii) Furthermore, the cumulative impact of the means-testing reform together with the suspension of staffing ratios and the authorisation of unrestricted subcontracting constitutes a systemic regression that amounts to a violation of Article 12§3.

Hence, the Long-Term Care Transformation and Digital Oversight Act (LTCDOA) reform has a negative impact overall, as it constitutes a regression of the social security system and violates Article 12§3 of the RESC.

4. Violation of Article 13§1 of the RESC

Article 13§1 guarantees that any person without adequate resources and unable to secure such resources by their own efforts shall receive adequate assistance and, in case of sickness, the care necessitated by their condition. States Parties are not simply free to provide assistance at their discretion; they are subject to a legal obligation that may be enforced by the courts.[55] Therefore, Article 13§1 establishes a right to benefits based primarily on individual need, granting assistance to any person solely because they are in a situation of need.[56]

Under the facts of the case, the new means-testing criteria have produced a 41% rejection rate for subsidised residential care in the first year. Article 13§1 benefits must be granted to any person solely on the basis of their need; eligibility cannot be made conditional on family assets beyond those of the individual applicant. The right to social assistance arises when a person is unable to secure sufficient resources through their own efforts or from other sources, particularly through benefits provided by the social security system.[57] When family solidarity

[55] ECSR, Conclusions I (1969), Statement of Interpretation on Article 13.
[56] ECSR, Conclusions 2013, Bosnia and Herzegovina; *European Roma Rights Centre (ERRC) v. Bulgaria*, Complaint No. 48/2008, decision on the merits of 18 February 2009, §38.
[57] ECSR, *Finnish Society of Social Rights v. Finland*, Complaint No. 88/2012, decision on the merits, 9 September 2014, §111.

exists only as an undefined moral principle, it cannot be treated as an alternative source of income for individuals without resources, as it does not offer a clear or reliable basis of support for those in need.[58]

Conditioning LTC access on the total assets of the applicant's family, exceeds what Article 13§1 permits as an eligibility criterion. Those rejected under the new system are those unable to self-finance placement, without adequate family resources and manifestly in need, who represent precisely the population the provision exists to protect. Their hospital admissions confirm that they are unable to meet basic needs in an adequate manner without public support.

The approximately sixty elderly residents of Bluewood Gardens are persons without adequate resources, unable to secure their needs by their own efforts, receiving no formal LTC benefit, on waiting lists exceeding 30 months and with no alternative accommodation available. These individuals are fully within the personal scope of Article 13§1.

The State's response was to evict them by emergency services, transfer them to overcrowded temporary shelters and offer a monthly subsidy of €550 or relocation 70 kilometres from medical services. Neither option constitutes adequate assistance within the meaning of Article 13§1. The Charter provision requires that assistance makes it possible to live a decent life and cover basic needs, and that medical assistance includes primary and specialised outpatient care not limited to emergency situations. A subsidy of €550 per month does not enable chronically ill elderly persons to secure adequate LTC. Relocation far from medical services prevents rather than provides access to the care necessitated by their condition. Consequently, Vichtery violated Article 13§1 of the RESC.

5. Violation of Article 14§1 of the RESC

Article 14§1 requires States to establish a network of social services, including counselling, home help, residential care and social emergency care, which contribute to the welfare and development of individuals and groups, using methods of social work.[59] This right constitutes an individual entitlement and must be accompanied by an effective right of appeal.[60] It must, in principle, be accessible to the entire population; in particular, elderly persons are expressly identified as among those most likely to require such services.[61]

Accordingly, in light of the factual circumstances of the present case, specific groups in need of assistance, particularly those requiring social services such as residential care, are unable to access the appropriate services. On the contrary, 41% of applicants who are in fact elderly (over 75) women fail to meet the eligibility criteria under the new legislation and are therefore denied the assistance necessary to secure their welfare and protection.[62]

[58] ECSR, Conclusions 2009, France.
[59] ECSR, Conclusions 2005, Bulgaria.
[60] ECSR, *FIDH v. Belgium*, Complaint No. 75/2011, decision on the merits, 18 March 2013, §108.
[61] ECSR, Conclusions 2009, Statement of Interpretation on Article 14 §1.
[62] Long-Term Care Reform, Digital Monitoring and the Protection of Older Persons in Vichtery, Part C, §1.

Moreover, according to the interpretation of Article 14, social services must be accessible to everyone, which excludes the existence of geographic disparities in access. However, such disparities are likewise evident from the facts of the case.[63]

6. Violation of Article 23 in Conjunction with Article E of the RESC

In addition to the allegations above, it is particularly pertinent to consider discrimination on the basis of sex, explicitly listed in Article E of the RESC, as well as age, which, although not expressly mentioned, is implicitly encompassed within the scope of Article E, especially when read in conjunction with Article 23 of the RESC, which specifically guarantees the rights of older persons.

Article E of the RESC establishes the prohibition of discrimination in the enjoyment of all rights guaranteed by the Charter.[64] This provision is modelled after Article 14 of the European Convention on Human Rights, reflecting their complementary nature. Although Article E enumerates classical grounds of discrimination, its wording makes clear that the list is not exhaustive, and discrimination is prohibited on any relevant ground.[65]

According to the case facts, the LTCTDOA introduced stricter means-testing. Consequently, a large proportion of elderly applicants, especially women over 75 living alone, were denied subsidized residential care, forcing many into hospitals due to lack of long-term care,[66] which constitutes indirect discrimination based on age and sex.

The ECSR clearly indicates that "*legislation should prohibit both direct and indirect discrimination*."[67] In the present case, indirect discrimination may be identified as unjustified unequal treatment resulting from seemingly neutral legislation,[68] where the legislature has failed to take adequate measures to ensure that the rights and collective benefits ostensibly available to all are, in practice, genuinely accessible to everyone. In other words, indirect discrimination exists when the government does not "*take due and positive account of all relevant differences or by failing to take adequate steps to ensure that the rights and collective advantages that are open to all are genuinely accessible by and to all*."[69]

The facts clearly show that a group of persons disproportionately affected by the operation of the law, is defined by two distinguishing characteristics: 1) sex (women) and 2) age (over 75), indicating a case of indirect discrimination that cannot be justified by any legitimate aim. Accordingly, it is the State's obligation to prevent or, where necessary, remedy the discriminatory effects of the new regulation, a duty it has to date failed to fulfil. Therefore, Vichtery violated Article 23 in conjunction with Article E of the RESC.

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[63] Ibid, Part A, §3.
[64] Karin Lukas, op. cit., p. 340.
[65] Karin Lukas, op. cit., p 341-342.
[66] Ibid.
[67] Ibid, p. 342.
[68] Ibid, p. 343.
[69] ECSR, *Associazione sindacale 'La Voce dei Giusti' v. Italy,* Complaint No. 105/2014, decision on the merits, 14 October 2016.

7. Violation of Article 24 in Conjunction with Article E of the RESC

Article 24 of the RESC, inspired by Article 8 of International Labour Organization Convention No. 158, provides: (a) protection for employees against unjustified or unfair dismissal; and (b) the right of employees to seek adequate compensation where termination of the employment relationship has been carried out unfairly.[70]

According to the facts of the case, under the LTCTDOA, many of the "temporary" care workers were dismissed based on low algorithmic "performance scores" without any possibility to understand or appeal the decision.[71]

The RESC provides a wide margin of appreciation for States Parties to regulate labour rights and protective guarantees of the persons concerned under labour law. The RESC does not prohibit the exclusion of specific cases from the protection of labour rights, for example if workers engaged under a contract of employment for a specified period of time or a specified task or workers engaged on a casual basis for a short period.[72]

The rationale behind these exceptions is based on practicality and the mutual understanding of the parties. The parties acknowledge that the employment relationship is intended to last for a fixed term or is created to perform temporary work. Such work exists only for a limited period or for a specific purpose, for example, temporarily replacing another employee.

The central idea is that the parties may agree to conclude a fixed-term contract for a specific period. This does not necessarily mean that the work itself is temporary in nature. In other cases, the nature of the work or other essential circumstances indicate that the work is temporary. In such situations, the duration of the employment relationship is limited by the character of the work itself.[73]

Notwithstanding the fact that care workers are described as temporary, none of the given factual circumstances indicate that the reason for dismissal was the temporary nature of the work performed or the expiration of the employment contract. On the contrary, according to the case facts, inspections conducted in late 2025 revealed that facilities operated under chronic understaffing, excessive workloads, inadequate training and unsafe conditions, placing care workers in an objectively unreasonable environment that compromised both resident care and employee safety.[74] Therefore, the work performed by the relevant persons was not of temporary nature. In reality, the necessity for additional employees existed. Eventually, workers were dismissed based on low performance scores,[75] which are intermediate (subjective-objective) grounds for dismissal and do not fall under the exceptions from protections provided by the

[70] Bruno Mestre, Article 24: The Right to Protection in Cases of Termination of Employment, in Catarina de Oliveira Carvalho, Catarina Santos Botelho and Ana Teresa Ribeiro (eds), *The European Social Charter: A Commentary*, Vol. 4, Leiden: Brill/Nijhoff, 2025, pp. 91-108, p. 93.
[71] Long-Term Care Reform, Digital Monitoring and the Protection of Older Persons in Vichtery, Part C.
[72] Bruno Mestre, op. cit., p. 91-92.
[73] Ibid, p. 93-94.
[74] Long-Term Care Reform, Digital Monitoring and the Protection of Older Persons in Vichtery, Part C.
[75] Ibid.

RESC, but still can be considered a legitimate ground for dismissal if certain conditions are met.[76]

The State of Vichtery argues that the reasoning behind dismissals is low performance scores, which are by nature subjective-objective reasons for dismissal based on conduct of the employee or, in other words, inaptitude to perform work as required.[77] Low performance score stands out as a vague and uncertain formulation as it is, but it must be assumed that unsatisfactory (low) performance is connected to a breach of contractual obligations related to quality of performance or unsatisfactory or wrongful behaviour.

The rights to effective remedies and to appeal are included within the guarantees under Article 24 of the RESC, obliging employers to justify dismissals with legitimate reasons. Without this obligation it would be impossible to understand the decision that was made and subsequently appeal and request remedies through an impartial body. According to the facts of the case, dismissed employees did not understand the reasoning behind dismissal and, furthermore, they did not have opportunity to appeal the evaluation process.[78]

According to the Committee,

> "*Compensation systems are considered to comply with the Charter when they meet the following conditions: provide for reimbursement of financial losses incurred between the date of dismissal and the decision of the appeal body; provide for the possibility of reinstatement of the worker; and/or provide for compensation of a high enough level to dissuade the employer and make good the damage suffered by the victim*."[79]

Nonetheless, such possibilities should be prevented by effective legislation. Otherwise, the employees' right of access to justice may be infringed. Employees have the right to challenge their dismissal and seek remedies. However, this right becomes ineffective when the termination decision lacks proper reasoning.

The problem also arises when employees are not given adequate information about the assessment process that led to the decision. In such circumstances, employees are deprived of a real opportunity to litigate. They cannot properly develop relevant evidence or present it before a court. As a result, their ability to obtain adequate remedies is significantly undermined.

It should further be taken into consideration that the ECSR relies on international legal instruments, including relevant European Union legislation, for the purpose of interpreting certain issues under the Charter. And considering the fact that Vichtery is part of the EU, it is pertinent to make another reference to the GDPR, particularly Article 22. This provision provides that the data subject has the right not to be subject to a decision based solely on automated processing, including automated evaluation systems, concerning him or her.[80] Such

[76] Bruno Mestre, op. cit., p. 97.
[77] Ibid, p. 98.
[78] Long-Term Care Reform, Digital Monitoring and the Protection of Older Persons in Vichtery, Part C.
[79] ECSR, *Finnish Society of Social Rights v. Finland*, Complaint No. 106/2014, decision on admissibility and the merits, 8 September 2016, §45; *Confederazione Generale Italianna del Lavoro (CGIL) v. Italy*, Complaint No. 158/2017, decision on the merits, 11 September 2019, §87.
[80] Asymina Aza, Scores as Decisions? Article 22 GDPR and the Judgment of the CJEU in SCHUFA Holding (Scoring) in the Labour Context, *Industrial Law Journal*, Volume 53, Issue 4, 2024, pp. 840-858.

automated decision-making, without meaningful human oversight, is likewise present in the case at hand.

Furthermore, the principle of non-regression is one of the main principles of the Charter according to which, where a higher standard of protection of a right guaranteed by the Charter exists under domestic legislation, replacing that standard with a lower one even if the latter does not fall below the minimum requirements of the Charter is impermissible. The Charter prohibits regression in the legal system of rights protection where such regression results in a deterioration of the position of the individuals concerned.[81]

According to the facts, significant proportion of the care workers that were dismissed were foreigners (migrants). The pattern of violations of their labour rights, particularly where such violations appear to be carried out deliberately against a group distinguished by a specific characteristic, in this case nationality, constitutes an indication of discrimination.

National extraction is one of the classical signs of discrimination that is listed within Article E of the RESC. The facts indicate that foreign (migrant) workers faced discriminatory treatment, being disproportionately terminated based on opaque algorithmic performance scores without meaningful opportunity to understand, contest or defend against the decisions.[82]

As mentioned above in relation to the discrimination on grounds of sex and age in conjunction to Article 23, the Committee stresses that both direct and indirect discrimination must be prohibited. Algorithmic evaluation process and dismissals based on the latter as a legislative initiative stands as the source of indirect discrimination, because the group of persons affected is mostly migrant workers, while seemingly neutral law in reality targets these specific groups.

Part III: Immediate Measures and Priority to Examination

EFDA and IACWR (the complainants) respectfully request that the Committee indicates immediate measures to the Government of Vichtery, pursuant to Rule 36 of the Committee's Rules. Additionally, Rule 36§2 requires to indicate the reasons of immediate measures, the possible consequences if they are not granted and the measures requested.

1. Urgency and Risk of Irreparable Harm

Vichtery is among the most rapidly ageing countries in Europe.[83] The LTCTDOA has generated irreversible deterioration across four distinct areas:

Staffing collapse and physical danger to residents

[81] Opinion of the European Economic and Social Committee on the Social Progress Protocol (exploratory opinion at the request of the Spanish Presidency), (2023/C 293/09), para 4.4.
[82] Long-Term Care Reform, Digital Monitoring and the Protection of Older Persons in Vichtery, Part C.
[83] Ibid, Part I, §1.

Minimum staffing ratios have been suspended until 2030. Inspections in late 2025 found night shifts of one care worker per 30–34 residents, delayed medication administration, unattended falls and inadequate supervision of persons with cognitive impairment that are conditions directly threatening life and physical integrity, contrary to Article 11 of the RESC.

Denial of access to essential care

Forty-one per cent of applications for subsidised residential care were rejected under the new means-testing criteria and hospitals report rising admissions of elderly patients whose primary issue is absence of LTC placement, raising serious concerns under Articles 13 and 14 of the RESC.

The Bluewood Gardens eviction

Approximately 60 elderly persons, many over 75, some chronically ill, all on waiting lists exceeding 30 months, were unexpectedly evicted and transferred to overcrowded temporary shelters. The Government's own leaked internal memorandum indicates the true motivation was the advancement of a Digital Care Innovation Centre project. This constitutes a breach of Article 23 of the RESC, combined with documented increases in depression, cognitive decline, and anxiety attributable to isolation, which require the deployment of immediate measures.

Algorithmic dismissals and AI surveillance

Care workers are dismissed on the basis of non-transparent algorithmic scoring with no possibility to understand or challenge the process, a situation that is incompatible with Article 24 of the RESC. Mandatory AI-based surveillance, including facial recognition and behavioural classification of residents, is deployed without meaningful consent, constituting a grave violation of Article 23 of the RESC.

2. Immediate Measures Requested

Consequently, to prevent further irreparable harm, the complainants respectfully request that the Committee indicates to Vichtery the following immediate measures:

a) Suspend enforcement of the LTCTDOA provisions suspending minimum staffing ratios.

b) Provide adequate, dignified and geographically appropriate emergency accommodation to the persons evicted from Bluewood Gardens, in proximity to necessary medical services.

c) Introduce a temporary prohibition on algorithmic dismissals of care workers until a transparent and contestable review mechanism is established.

d) Suspend mandatory AI surveillance measures pending adoption of consent and data protection safeguards consistent with human dignity and Article 23.

All requirements of Rule 36 are satisfied. The risk of irreparable injury is documented, ongoing and will intensify in the absence of prompt intervention.

3. Request for Priority Examination

Finally, the complainants kindly request that the Committee, pursuant to Rule 26, gives priority to the examination of this complaint on account of the gravity of the situation it concerns.

Conclusion

The facts of the case demonstrate that the reforms adopted by Vichtery have significantly weakened the protection of both older persons and care workers. The restrictive means-testing system, the suspension of staffing safeguards and the reliance on opaque algorithmic processes have reduced access to essential care services and undermined labour protections. These measures have also raised serious concerns regarding transparency and the protection of privacy, both in employment decisions and in the treatment of older persons within care institutions. In practice, the reforms have disproportionately affected particularly vulnerable groups, including older persons, women and migrant workers.

Accordingly, the complainant organisations respectfully submit that Vichtery has failed to comply with its obligations under Articles 11§1, 12§3, 13§1, 14§1, 23 and 24 of the RESC, taken alone and in conjunction with Article E. On these grounds, the complainants respectfully ask the Committee:

a) to declare the complaint admissible;

b) to indicate the immediate measures requested;

c) to give the complaint priority examination; and

d) to declare that Vichtery is in violation of Articles 11§1, 12§3, 13§1, 14§1, 23 and 24 in conjunction with Article E of the RESC, in relation to the systemic reforms to long-term care and social services under the LTCTDOA.

Vichtery, 15 December 2025

On behalf of

European Federation for Dignified Ageing & International Alliance for Care Workers' Rights

-Signature- *-Signature-*

-Name- *-Name-*