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Memorandum of the Vichterian Government on the long-term care pressures in Vichtery

European Federation for Dignified Ageing (EFDA) and International Alliance for Care Workers' Rights (IACWR) v. Vichtery

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Defence of the Vichterian Government

1. The facts

Vichtery has one of the fastest ageing populations in Europe. As a result, its long-term care (hereinafter LTC) system suffers from chronic labour shortages and difficult access to care. The Vichterian Government acknowledges the situation. In line with its obligations under the Revised European Social Charter (hereinafter RESC), Vichtery has extensively evaluated the scope of the problem[1]. Based on detailed empirical and qualitative data coming from official sources and social dialogue with civil society organisations and social workers, Vichtery has adopted the Long-Term Care Transformation and Digital Oversight Act (hereinafter LTC-Act) to tackle the financial and demographic pressures jeopardising the viability of its LTC-system. This reform aims to enhance access to care and the quality of services for the elderly in a sustainable and long-lasting manner, using for example new technologies, as seen in other European countries.

Vichtery seeks to ensure the social rights of the elderly in an innovative, progressive and problem-oriented way. Thereto, the LTC-Act combines long-term structural measures taking priority, and short-term measures addressing the immediate needs of the most vulnerable groups among the elderly population. It is evident that Vichtery fulfils its obligations under the RESC, thereby ensuring the progressive implementation of complex rights, a principle that has been endorsed by the European Committee of Social Rights (hereinafter the Committee).[2] Overall, Vichtery is confident that the LTC-Act will resolve the problems challenging its LTC-system.

2. The griefs

In December 2025, the European Federation for Dignified Ageing (EFDA) and the International Alliance for Care Workers' Rights (IACWR) (hereinafter the Complainants), filed a collective complaint under the RESC. They allege that Vichtery's LTC-Act is in breach of Articles 11, 12, 13, 14, 23, 24 RESC, separately as well as read in conjunction with Article E RESC.

[1] Conclusions 2009, Andorra.
[2] Decision on the merits: Validity Foundation – Mental Disability Advocacy Centre v. Czech Republic, Complaint No. 188/2019, §98.

3. Inadmissibility of the collective complaint against Vichtery

Vichtery's Government points out that the collective complaint fails to comply with several rules laid down in the 1995 Additional Protocol Providing for a System of Collective Complaints (hereinafter the Protocol) and, therefore, must be considered inadmissible.

Firstly, according to Article 4 of the Protocol, the complaint must indicate in what respect Vichtery has not ensured the satisfactory application of the allegedly violated provisions. According to the Committee's case law[3], the complaint must indicate clearly which provisions have not been complied with or have not been implemented correctly and must also provide evidence and relevant arguments in support of the claim. Vichtery's Government identifies problems with both requirements.

In respect to the first requirement, the Government observes that the complaint does not explain clearly why Vichtery's LTC-Act would violate certain Articles, like Article 14 and E RESC, nor does it specify in what way Vichtery's Government is failing to fulfil its obligations under those provisions. For example, the Complainants claim that the LTC-Act has produced discriminatory effects on i.a. migrant workers, which would fall under the scope of Article E RESC, without clearly explaining how the LTC-Act has caused this alleged discrimination. The Complainants' allegations are not only confusing, but overall general, vague and unsubstantiated, which shows a lack of proper investigation into the case. This makes it impossible for the Government to determine in what way and on which facts this alleged infringement is based on. This cannot be reconciled with the obligation under the Protocol to set out the grounds for the complaint in a detailed way.[4]

Furthermore, by failing to provide adequate and accurate complaints, Vichtery's right of defence is impaired and, in this way, the right to a fair trial is disproportionately affected. If no violation is found in this claim, it sets a dangerous precedent for the future.

For the other parts, the Complainants do not substantiate where their statistics and findings originate from, making it impossible for the Government to even investigate the credibility of these statistics and findings. For example: *'Workplace accidents increased by 46%, attributed to exhaustion, excessive hours, and inadequate safety measures. Many temporary workers reported being dismissed because of low algorithmic "performance scores," with no possibility*

[3] Decision on admissibility,15 October 2025, European Disability Forum (EDF) v. Spain, Complaint No. 246/2025, §7; Decision on admissibility, 4 December 2025, Union General de Trabajadoras y Trabajadores de Espana (UGT) v. Spain, Complaint No. 243/2024, §8.
[4] Decision on admissibility,15 October 2025, European Disability Forum (EDF) v. Spain, Complaint No. 246/2025, §7; Decision on admissibility, 4 December 2025, Union General de Trabajadoras y Trabajadores de Espana (UGT) v. Spain, Complaint No. 243/2024, §8.

to understand or challenge the evaluation process.' These statistics and findings are being included in the claim without reference to the source or research institution. Furthermore, it only provides a general statement without indicating whether this is a local or national problem. No broader context for this research is outlined, making it impossible for the Government to investigate this further, which is again problematic in view of Vichtery's right of defence.

As to the second requirement, the Complainants neglect to provide concrete evidence to substantiate parts of their claim.[5] Parts of the complaint are based on hearsay, public opinions and speculation, which leads to a vague, general[6] and unintelligible complaint.[7] This can be illustrated with the following quotations from the complaint: '*Critics argued that the eviction was motivated not by safety, but by the government's desire to advance a flagship technology initiative'* and '*Critics argued that these digital tools were being used as substitutes for adequate human staffing.'* Although criticism and public opinion can be constructive and instructive for a government, the Complainants do not concretise this criticism and do not substantiate their claim in any way. Because of this lack of evidence and of a clearly written claim, the Complainants neglect to comply with Article 4 of the Protocol[8] and the complaint is therefore not admissible.

Secondly, according to Article 3 of the Protocol, the international non-governmental organisations and the national non-governmental organisations, referred to in Article 1.b and Article 2 respectively, may submit complaints only in respect of those matters regarding which they have been recognised as having particular competence. The Complainants are authorised to comment on matters related to dignified ageing and care workers' rights. Innovative digital services, algorithms, and AI-monitoring systems do not fall within the scope of their competence.

Consequently, the Government concludes that, according to the Protocol and the case law of the Committee, this collective complaint is clearly inadmissible.

[5] Finnish Society of Social Rights v. Finland, No. 172/2018, decision on the admissibility of 11 September 2019, §11.
[6] Finnish Society of Social Rights v. Finland, No. 172/2018, decision on the admissibility of 11 September 2019, §11.
[7] Finnish Society of Social Rights v. Finland, No. 172/2018, decision on the admissibility of 11 September 2019, §2.
[8] Unione sindacale di base (USB) v. Italy, Complaint No.170/2018, decision on admissibility, § 7.

4. Non-violation of articles of the Revised European Social Charter

4.1. Article 11 – The right to the protection of health *juncto* Article 12 – The right to social security

a. Scope of Articles 11 and 12 RESC

Article 11 RESC requires member States to ensure the effective exercise of everyone's right to the protection of health by taking appropriate measures designed i.a. to remove as much as possible the causes of ill-health. Therefore, States must provide an affordable and effective access to health care. In a broader perspective, Article 12 RESC obliges member States to maintain an effective social security system for a significant percentage of the population that meets minimum standards and improves progressively.

The Government recognises the rapid ageing of the Vichterian population as a significant threat to the sustainability of affordable and effective LTC. Challenges, including severe understaffing, unmet care needs, extensive waiting lists, etc. have placed considerable strain on the LTC-system. Accordingly, Vichtery has opted for an innovative, long-term solution through the implementation of the LTC-Act.

The Complainants argue that this Act is in breach of Articles 11 and 12 RESC by allegedly having caused unsafe staffing levels and shifting from a universal public subsidised model to a strict means-testing model.

b. Effectiveness of Vichtery's health care system

The LTC-system prior to 2025 was characterised by unmet care, delays in essential hygiene and mobility assistance, inadequate supervision at night, and insufficient medical oversight. The main causes of these obstacles were staff shortages, high turnover rates and work-overload. By implementing the LTC-Act, Vichtery tackles these challenges in a clear, comprehensive and coherent manner.

Firstly, to reduce the workload and to compensate for the LTC-system's limited human resources, Vichtery's Government implemented AI-based monitoring technologies in all LTC institutions. This includes sensors, wearables and video cameras in common areas. These innovations help care staff with detecting falls, monitoring the heart rate, noticing and preventing incidents, etc. As a result, care workers can act faster and more effectively, and spend their freed-up time on more essential tasks, such as being more occupied with their residents. Besides, the implementation of new and digital technologies has been advanced by

the 11th Paragraph of the EU Council Recommendation of 8 December 2022 on Access to Affordable, High-Quality Long-Term Care.

The Complainants criticise this use of AI as a substitute for adequate human staffing. However, they lose sight of the fact that Vichtery has placed this technology under human oversight, AI being intended to function as an assistant to, rather than a substitute of care workers. On the one hand, care staff review real-time alerts, verify false positives, and avoid escalating emergencies. On the other hand, nurses or supervisors check incident logs and risk scores, and may override AI classifications. By doing so, decisions are still taken professionally while the workload is drastically reduced.

Secondly, the temporary suspension of minimum staffing ratios, criticised by the Complainants, did not cause the pre-existing understaffing, nor the numerous vacancies for care workers. Statistics from 2024 demonstrate that there were more than forty-eight thousand open vacancies even though minimum staffing ratios were in place. These were evidently inadequate and were suspended on that account. The suspension only being temporary allows Vichtery to monitor the consequences over the next five years and adapt accordingly. Even assuming that staffing shortages were a persistent issue, it would not constitute a direct violation of Article 11 RESC.

Furthermore, as a means of addressing existing staffing shortages, the Government authorised LTC-facilities to subcontract up to 60% of their care staffing through private agencies. This measure addresses the labour shortages on both a short-term and a long-term basis. Migrant workers have long been recognised as essential to the European labour market, especially in understaffed LTC sectors.[9] Consequently, Vichtery's LTC-Act acknowledges their positive impact. Furthermore, the measure is open to (current and previous) informal carers,[10] and provides the possibility for their activation and their labour into the formal economy. As a result, the LTC workforce in Vichtery did not decrease with the suspension of minimum staffing ratios. Where one night-nurse was required for 30, 40 or 60 residents, depending on the specificity of care, there is now one night-nurse for 30 to 34 residents. By implementing new technologies and allowing more migrant workers in the system, Vichtery expects to stop a further increase of staffing shortages and to decrease the workload over a longer period, in accordance with the principle of progressive realisation.[11] Therefore, the claim that Vichtery caused unsafe staffing levels with the LTC-Act is manifestly unfounded.

[9] COMMITTEE ON MIGRATION, REFUGEES AND DISPLACED PERSONS, "Immigration, one of the answers to Europe's demographic ageing", https://rm.coe.int/report-immigration-one-of-the-answers-to-europe-s-demographic-ageing/1680b1cd76.
[10] Council of Europe and Council of Europe Development Bank, Conference on Inclusive and Sustainable Care for Older Persons, 9 December 2025.
[11] HAMMONDS, R. (2021) "Protecting the right to health: through inclusive and resilient health care for all", Council of Europe Commissioner for Human Rights, https://www.coe.int/en/web/commissioner/publications, 22.

Additionally, both member States of the Council of Europe with large and small LTC workforces respectively reported limited access to care.[12] By focusing on the existence of minimum ratios, one risks losing sight of the essence of the problem, which is the provision of a qualitative health care system and adequate working conditions for care workers.[13]

Thirdly, the Complainants overlook the broad range of alternative forms of LTC available to the elderly who do not obtain immediate access to subsidised residential care. Vichtery stresses that the elderly can access non-residential support through Community Geriatric Care Centres providing basic medical care, physiotherapy and chronic disease management. These centres are designed to enable individuals to receive adequate care while remaining in their homes and communities and allowing them to preserve their autonomy and fostering social inclusion.

Besides, Mental Health Outpatient Units, whether they are hospital-based or licensed private services, provide psychotherapy and psychological support, while Day-Care and Social Support Centres provide daytime supervision, cognitive stimulation and nursing care. These institutions play a crucial role to prevent older people who are not yet in need of a high level of assistance from taking a turn for the worse.

Moreover, some patients who relied on LTC-facilities for medical care were admitted to hospitals in the aftermath of the LTC-Act. However, there have been no indications that the reported rise in hospital admissions was to the detriment of admitted older people. Hospitals have had no notable difficulties that would correlate with the deterioration of their quality of care.

Finally, Accredited Home-Care Services provide home-visits by nurses, psychotherapists and social workers that allow older persons to keep their independence and autonomy. This type of service has been characterised as being less expensive and more socially desirable for people with less urgent needs.[14] Moreover, the Government firmly rejects the outdated stereotype of helpless and dependent older people. In Denmark for example, older people are often treated in assisted living and cohousing, rather than institutional care. By promoting this independent living, more than four out of five people in need get assistance.[15] This trend of

[12] EUROFOUND (2020), Long-term care workforce: Employment and working conditions, Publications Office of the European Union, Luxembourg, 7.
[13] SHERMAN, R. (2023), "The Conundrum of Mandated Nurse Staffing Ratios", Nurse Leader, Volume 21, Issue 5, 507-509.
[14] LOPEZ VIVAS, L. (2025), "Financing the care gap: How MDBs can help transform care for older persons", CEB Discussion Paper No 3, Council of Europe Development Bank, Paris, France, December, 13.
[15] LOPEZ VIVAS, L. (2025), "Financing the care gap: How MDBs can help transform care for older persons", CEB Discussion Paper No 3, Council of Europe Development Bank, Paris, France, December, 14.

deinstitutionalisation is recommended by Eurofound and promotes both autonomy and independence.[16]

In light of the foregoing, any allegation of a violation of the effectiveness of health care as required under Article 11 is manifestly unfounded.

c. Affordability of health care in Vichtery

The ongoing demographic ageing transition combined with inflation pressures and an energy crisis jeopardised the viability of Vichtery's LTC-system. Vichtery needed to take measures tackling both the availability and affordability of LTC. For that reason, the LTC-Act replaced the universal public subsidisation with a strict means-testing model based on income. This is a legitimate and widespread social protection method applied also in other European States.[17] Moreover, it reflects the forward-looking approach of the LTC-Act, as a reform without costs that run too high and would not adequately address the system's current shortcomings in a sustainable way.[18]

The Complainants accuse Vichtery of having reduced financial access to health care. The Government acknowledges the fact that 41% of applications for subsidised residential care have been rejected under the LTC-Act, but ensures Vichtery still complies with its obligations under the RESC.

In the first place, it needs to be emphasised that the implementation of a strict means-testing model did not abolish the access to health care but only made it subject to certain conditions. The measure essentially impacts richer households which are less subject to poverty, while protecting poorer households which are more economically vulnerable. Besides, there are multiple forms of financial assistance available to absorb the burdensome costs. Therefore, the affordable access to health care is secured and Vichtery fully embraces its obligation under Article 11 RESC. Moreover, by maintaining the risk at a satisfactory level, Vichtery respects the requirements of Article 12 RESC.

Secondly, as the Committee has already stated, member States enjoy a wide margin of discretion for the organisation of their social security system.[19] The European Code of Social Security, as referred to by Article 12 RESC, only requires States to provide a social security

[16] EUROFOUND (2020), "Long-term care workforce: Employment and working conditions", Publications Office of the European Union, Luxembourg, 61.
[17] LLENA-NOZAL, A., BARSZCZEWSKI, J., RAUET-TEJEDA, J. (2025). "How do countries compare in their design of long-term care provision? A typology of long-term care systems", OECD Health Working Papers, No. 182, 35.
[18] COUNCIL OF EUROPE AND COUNCIL OF EUROPE DEVELOPMENT BANK, Conference on Inclusive and Sustainable Care for Older Persons, 9 December 2025.
[19] *Sindacato Autonomo Comitato Nazionale Pompieri* (CO .NA.PO) v. Italy, Complaints No. 214/2022 and No. 215/2022, decision on the merits of 10 September 2025, §103.

system which does not cause hardship.[20] Furthermore, the RESC allows member States to implement restrictions, on the sole condition that the effectiveness of the medical and social protection is left unharmed. Restrictions must pursue a legitimate aim and be proportionate to that aim. Vichtery meets these requirements: its strict means-testing model seeks to ensure the long-term sustainability of the system by allocating financial help according to individuals' financial capacity and prioritising support for poorer households. Therefore, the Government strictly complies with its obligations under Article 12 RESC.

Furthermore, the measure is inevitable in view of the long-term financial sustainability of the system. Not limiting the rise in public spending would ultimately lead to more drastic measures, which could imply a breach of the RESC.

Lastly, Vichtery intends to produce a dual benefit. By prioritising financial help for the most vulnerable, it may create an incentive for people to look at alternative forms of LTC, which would eventually lead to a decrease of admissions and consequently to a decrease of workload in the residential LTC-system.

Considering all the above, it is clear that Vichtery complies with its obligations under Article 11 *juncto* Article 12 RESC.

4.2. Article 13 – The right to social and medical assistance

a. Scope of Article 13 RESC

The Complainants only specify the breach of Article 13 RESC regarding the Bluewood Gardens incident. Therefore, the Government does not have sufficient opportunity to properly address and defend the situation.

b. Future proofing the LTC-system

Before the LTC-Act, Vichtery used a universal public subsidised LTC-system, which made it impossible to determine which people needed subsidies, resulting in enormous costs for the government and an undifferentiated approach towards people with different needs. To effectively relocate resources to people in need and to do this in a cost-efficient way, a new and improved access system for LTC was needed to ensure the long-term viability of the Vichterian health care system.

To grant access to LTC in a new and improved way, with particular attention for vulnerable groups, the Government sought out established practises of other member States that comply

[20] Art. 10-2 European Code of Social Security.

with the RESC.[21] After conducting thorough research and consulting stakeholders and other relevant partners, Vichtery has adopted a strict means-testing system, which is a widespread practice among other European States and is recognised by the Committee as a way to provide support whilst also respecting the RESC.[22]

By solely using the means of persons as an eligibility criterion, the new means-testing system provides an effective and fair manner to meet the individual needs of the most vulnerable elderly people in society, which is an important part of Vichtery's broader social and medical assistance policy and is consistent with the purpose of social and medical assistance.

The 41% rejection rate reflects the effectiveness of the new system, this percentage being very reasonable within the framework of a strict means-testing system and reflecting unjustified and incorrect requests in the past. It is therefore to be expected that the rejection rate will decrease over time as the number of incorrect and unjustified applications decreases.

Lastly, Article 13 RESC only includes the obligation to grant access to people in need of assistance based on their means. Switching from a universal to a targeted access system for LTC can by no means be considered as a violation of Article 13 RESC. States enjoy a broad margin of discretion when (re)designing their social and medical assistance schemes as long as they meet the standard mentioned above, which is the case in this instance.

Vichtery grants access to its LTC-system by using a stronger, more effective and more targeted filter, which meets the specified requirements, and which aligns with the common practices on the continent. Therefore, it must be concluded that Vichtery fully complies with its obligations regarding an eligibility system for LTC, under Article 13 RESC and that no violation can be established.

c. Solving an urgent temporary need

In relation to the urgent safety concerns in Bluewood Gardens, where action was needed to guarantee residents' human rights, Vichtery's Government reacted in line with its existing obligations.

In light of the right of housing as enshrined in Article 31 RESC, it was Vichtery’s duty to evacuate the residents living in the non-operational sections of Bluewood Gardens, because

[21] LLENA-NOZAL, A., BARSZCZEWSKI, J., RAUET-TEJEDA, J. (2025). “How do countries compare in their design of long-term care provision? A typology of long-term care systems”, OECD Health Working Papers, No. 182, 35.
[22] Conclusions 2021 - Latvia - Article 13-1; Conclusions XIII-4 - Ireland - Article 13-1; Conclusions XVI-1 - Malta - Article 13-1; Conclusions 2006 - France - Article 13-1.

there was no short-term solution for the threat to the health and safety of those residents. Their eviction was necessary, and the proper measures to guarantee residents' safety were taken.[23]

At the same time, the Government granted social and medical emergency assistance[24] to persons with a valid claim for shelter.[25] This assistance included access to emergency shelters equipped with basic amenities and designed to meet health, safety and hygiene standards, in order to ensure that the basic needs of the persons concerned were met. Alternatively, the Government offered a monthly subsidy of €550 per person for three years or relocation to low-cost housing outside the capital.

Contrary to what the Complainants suggest, without further substantiating their claim, these support measures were adopted to offer people a temporary, emergency social safety net. Although these measures are part of Vichtery's current policy, to grant vulnerable people the protection needed in an urgent situation, they are not part of the long-term vision for LTC. The Government has included other policy measures in the LTC-Act to specifically express its long-term vision regarding social and medical assistance. Therefore, it is of upmost importance to consider them separately, not as an integral part of the Government's LTC-vision.

The Government holds that the approach it took was to address a pressing need to, on the one hand, end an unsafe situation and, on the other hand, protect vulnerable people accordingly. The Government submits that no violations of the rights guaranteed under Article 13 have occurred.

4.3. Article 14 – The right to benefit from social welfare services

a. Scope of Article 14 RESC

Article 14 RESC includes an obligation for States to provide for a social welfare service system potentially applicable to the population as a whole.[26] This is not consistent with the facts of the case, which concerns social welfare facilities specifically for the elderly and therefore cannot, in fact, be accessible to the entire population.

Therefore, given the scope of this article, invoking its violation is not compatible with the facts at hand.

b. Regarding accessibility, types and organisation of welfare services

[23] Decision on the merits: European Roma Rights Centre (ERRC) v. Belgium, Complaint No. 185/2019, §30.
[24] Conclusions XXII-2 - Luxembourg - Article 13-1.
[25] 2nd assessment of the follow-up (2017): European Federation of National Organisations Working with the Homeless (FEANTSA) v. the Netherlands, Complaint No. 86/2012; Conclusions XXII-2 - Luxembourg - Article 13-1.
[26] Conclusions 2009 - Observation interpétative - article 14-1.

The Government grants access based on an objective strict means-testing system (*infra*) solely based on income, to individualise care needs of elderly persons, as required under this provision.[27]

The policy regarding welfare services has been elaborated on a national level, to make sure the application is uniform to all LTC-institutions, with no distinction between public and private facilities. It is designed with the intention of constant interaction and dialogue with local authorities and private welfare providers.

Under Vichterian law, different kinds of welfare services are being provided for, to offer tailored assistance to those in need. These welfare services include residential care such as residence, community-based home support, and day-care services. In addition, Vichtery provides for non-residential care such as: Community Geriatric Care Centres, Mental-Health Outpatient Units, Day-Care and Social Support Centres and Accredited Home-Care Services.

It can only be concluded that by providing an extensive range of welfare and specialised services for the specific needs of elderly people, Vichtery's Government meets, and even surpasses the requirements under Article 14.

Furthermore, the quality of Vichtery's welfare services complies with modern standards.[28] This is discussed in greater detail under Articles 11, 12 and 23 RESC. The same findings apply in the case of Article 14, where the Government is convinced that the obligations are being met.

Any allegation of a violation of Article 14 is therefore manifestly unfounded.

4.4. Article 23 – The rights of elderly persons

a. Scope of Article 23 RESC

LTC-facilities have longer suffered from labour shortages, long waiting lists, as well as inadequate care provided to residents. Multiple measures of the LTC-Act target these problems in a comprehensive and coherent manner: the implementation of digital monitoring technologies; authorisation for facilities to subcontract up to 60% of staff through private agencies; suspension of minimum staffing ratios until 2030; using a strict means-testing analysis of applications for subsidised residential care; algorithmic performance scoring of workers; and the possibility to restrict family visits during periods of operational strain.

[27] Conclusions 2005 - Bulgaria - Article 14-1.
[28] Conclusions 2017 - Azerbaijan - Article 14-1.

The Complainants allege that these measures are a violation of, amongst others, Article 23. The Government maintains a consistent position, asserting that the allegations are unfounded, and Vichtery fully adheres to Article 23.

b. Effective and affordable care

The Complainants' allegations that the LTC-Act has led to unsafe staffing levels and reduced financial access to care, in violation of the RESC, have been discussed in detail under Articles 11 and 12. Consequently, the measures do not violate Article 23 either.

Firstly, the suspension of minimum staffing ratios is a short-term measure supporting the LTC-Act's overall long-term solutions. When minimum ratios were in force, LTC-facilities systematically reported inadequate night supervision and delays in essential care administration, making the minimum ratios inadequate to guarantee adequate care. Their suspension is complemented with highly effective digital monitoring systems and the possibility to subcontract workers. In light of these measures, quality remains assured through objective inspections of facilities, continued follow-through of reported data, and algorithmic analysis of worker performance to counter problematic delays.

Secondly, contrary to what the Complainants claim, the LTC-Act has not unreasonably restricted access to LTC. Replacing universal subsidisation with a strict means-testing model was essential to ensure the financial viability of Vichtery's LTC-system. In line with the Committee's earlier collective complaints, Vichtery was explicitly mindful of the impact of their measures on groups with heightened vulnerabilities when adopting the LTC-Act.[29] The Government thereby prioritises access for the poorest among Vichtery's elderly population. Moreover, the Government stresses the importance of Vichtery's non-residential LTC-options, which would remain underutilised amidst excessive dependence on LTC-institutions. Vichtery highly values deinstitutionalisation, which goes against over-reliance on institution-based care such as these LTC residential facilities.[30]

Thirdly, additional subsidies exist to further ensure that LTC remains accessible. On the one hand, an additional means-tested subsidy called the Elder Support Allowance can cover costs for low-income individuals. On the other hand, municipalities across Vichtery can further offer top-up grants. Local governments play an important role regarding LTC, as they are close to their citizens and thus have more accurate knowledge of their needs, allowing funds to be accurately distributed to the persons who would benefit the most.[31] Differences in grants reflect

[29] Decision on the merits: International Association Autism-Europe v. France, Collective Complaint No. 13/2002, §53.
[30] Decision on the merits: Validity Foundation – Mental Disability Advocacy Centre v. Czech Republic, Complaint No. 188/2019, §96; Conclusions 2021 - Malta - Article 23; Conclusions 2021 - Slovak Republic - Article 23.
[31] Council of Europe and Council of Europe Development Bank, Conference on Inclusive and Sustainable Care for Older Persons, 9 December 2025.

these different needs and are not in breach of the RESC. The RESC further does not require the same level of protection across the country, granted that the level of protection in the municipalities remains adequate.[32] This is clearly the case for Vichtery.

c. Mandatory digital monitoring and dignity

The Complainants argue that the mandatory digital monitoring systems are intrusive and incompatible with dignity. It has been noted that residents and family members have also complained about the lack of consent in order to be subject to digital monitoring. The Government holds that these complaints are legally unfounded, and stem from a misunderstanding of when data processing necessitates consent.

By collecting, evaluating, and storing personal data through monitoring systems, such as fall-detection sensors or video supervision, LTC-facilities engage in data processing. Here, the Government would like to refer to the 2019 Recommendation of the Committee of Ministers on the protection of health-related data. The Recommendation sets out guidelines regarding such data processing, so that fundamental rights remain protected.[33] The data that the digital systems monitor is, without a question, health and health-related data, with the purpose of providing medical and hygiene care for residents.

The following principles of the Recommendation are relevant. Principle 5 sets out the possible legitimate bases of health-related data processing, where processing is only lawful if the data controller can rely on at least one of said bases. Prior consent of the data subject is only one of these bases, and is not an overarching principle for legitimate data processing.[34] Another basis is necessity, with multiple possible goals thereto. These include, amongst others, necessity for preventive medical purposes, for the administration of care or treatment, or for the management of health services by health or social welfare sectors.[35] The data processed under the LTC-Act digital systems clearly comply with this principle.

For other purposes of the digital systems' data processing, the general information provided to residents and their family members is sufficient. Principle 8 determines that in cases of sharing health-related data by professionals for purposes of providing and administering health care, the data subject must be informed beforehand.[36] This was complied with. Additionally, the staff categories with access to the data are limited to those necessary to

[32] Decision on the merits: The Central Association of Carers in Finland v. Finland, Collective Complaint No. 70/2011, §57-58.
[33] CM/Rec(2019)2 - Recommendation of the Committee of Ministers to member States on the protection of health-related data, 27 March 2019.
[34] CM/Rec(2019)2 - Appendix to the Recommendation of the Committee of Ministers to member States on the protection of health-related data, 27 March 2019, 5, b.
[35] CM/Rec(2019)2 - Appendix to the Recommendation of the Committee of Ministers to member States on the protection of health-related data, 27 March 2019, 5, a.
[36] CM/Rec(2019)2 - Appendix to the Recommendation of the Committee of Ministers to member States on the protection of health-related data, 27 March 2019, 8.1.

administer care and to keep the digital systems operational: namely care staff, nurses, and facility management.

Lastly, the LTC-Act complies with Principle 10 as well, which determines that data should not be stored for longer than is necessary to achieve its purposes.[37] The Act determines that facilities may only store processed data for a limited period, corresponding to the time required to administer care and monitor the evolving health of the residents.

Beyond the Recommendation, the Government notes that it has been widely acknowledged that challenges posed by ageing demographics require innovative solutions, including via digitalisation.[38] The type of digital monitoring as implemented by the LTC-Act is in line with the technological innovations of other member States that have been praised by the Council of Europe. Methods such as fall-detection sensors, heart rate measurements, digital alerts to carers and processing residents' behavioural patterns to detect risky deviations can all be found in recognised measures by Latvia, the United Kingdom, Poland and Spain.[39]

Lastly, the Government reminds that a lack of *a priori* received consent does not prejudice the residents' other rights regarding data processing and privacy. These include the right of access, the right to rectify and the right to object.[40] As a member of the European Union, Vichtery also observes these rights and principles via the General Data Protection Regulation (GDPR).

d. Restrictions on family visits

The Complainants argue that restrictions on family visits allowed by the LTC-Act are disproportionate. The Act allows LTC directors to temporarily restrict or suspend family visits during periods of operational strain. Between April and December 2025, 35% of facilities have unfortunately declared at least one of such periods, leading to suspended visits.

The Government would firstly like to note that these periods of operational strain, aggravated by the labour shortage, were already present before the adoption of the LTC-Act. The Act's possibility to suspend family visits during these periods follows from a balancing of interests: physical health and medical care on the one hand, and mental health on the other.

[37] CM/Rec(2019)2 - Appendix to the Recommendation of the Committee of Ministers to member States on the protection of health-related data, 27 March 2019, 10.
[38] Ageing communities – ensuring access to quality social care for older persons, Resolution 504, 2024, 3, d; Ageing communities – ensuring access to quality social care for older persons, Report CG(2024)47-17, 16 October 2024.
[39] Ageing communities – ensuring access to quality social care for older persons, Report CG(2024)47-17, 16 October 2024, 25-26.
[40] CM/Rec(2019)2 - Appendix to the Recommendation of the Committee of Ministers to member States on the protection of health-related data, 27 March 2019, 12.

The Committee has determined the conditions under which a restrictive measure complies with the principle of proportionality. The analysis here must be made between, on the one hand, the legitimate goals pursued by the restrictive measure, and on the other hand, its negative consequences for the enjoyment of social rights.[41]

Firstly, the measures must be appropriate for reaching the pursued legitimate goal. In the case at hand, the LTC-Act addresses the ongoing labour shortage, and in anticipation of the effects of the new act on the long term, Vichtery has still put forward the need to provide adequate care as a key priority. During periods of operational strain, labour shortages pose a clear risk to the quality of care. As such, the possibility to suspend visits during periods of strain is appropriate to reach the goal of constantly providing adequate care: staff can fully spend their time on residents' wellbeing without any administrative constraints or extra variables that would need their attention. The measure allows facilities to guarantee the physical and medical safety, even the lives, of their residents. The Government thoroughly considered the competing interests at stake and subsequently decided in favour of adequate medical care, in accordance with its broad margin of appreciation as part of Article 23.[42]

Secondly, the measure in question may not go beyond what is necessary to reach the goal. The LTC-Act explicitly determines that visits can be restricted or suspended; it does not implement a definitive ban. Furthermore, the measure is limited to periods of operational strain only, which is an important limitation to the ban put forward in the LTC-Act. Data also shows that in practice only a minor 35% of facilities have suspended visits for a limited period of time when confronted with operational strain. In line with the rules laid down in the LTC-Act, facilities only invoke the measure when absolutely necessary.

Thirdly, the measure may only be applied for the purpose for which it was intended. This is evidenced by both the low percentage of facilities that have invoked the ban and the clear lack of any evidence that point to the contrary.

Fourthly, the measure must maintain a level of protection which is adequate. The measure aims for staff to remain fully available to residents, so that their quality of care remains adequate. It ensures the protection of their health and safety. Furthermore, other measures implemented by the LTC-Act enhance their protection, e.g. via digital monitoring.

In light of the above, Vichtery has demonstrated that Article 23 is not violated.

[41] Greek General Confederation of Labour (GSEE) v. Greece, Complaint No. 111/2014, decision on the merits of 23 March 2017, §87.
[42] Greek General Confederation of Labour (GSEE) v. Greece, Complaint No. 111/2014, decision on the merits of 23 March 2017, §85.

4.5. Article 24 – The right to protection in case of dismissal

a. Scope of Article 24 RESC

The Complainants allege that the dismissal of workers based on their performances and algorithmic analysis thereof in the LTC-Act violates Article 24. The Act introduced algorithmic performance scoring of LTC-facilities employees, meaning that automatic assessments conducted under the digital system are linked to bonuses and contract renewal deals.

b. Algorithmic performance assessment

Article 24 contains three elements. Under the first element, i.e. the right not to be dismissed without valid reasons, only two valid grounds for dismissal of workers exist: reasons connected to the capacity or conduct of the worker, and economic reasons.[43] Dismissals under the new system introduced by the LTC-Act are strictly related to workers' capacity or conduct, as they refer to algorithmic assessments of the workers' performance, thus complying with the Article's requirements. The system assesses, for example, the response time of care staff after receiving real-time alerts from residents, including problematic delays when essential care is needed.

Contrary to what the Complainants claim, the algorithmic assessments serve as an initial reference point for evaluating employees' performances, and do not automatically dismiss them. There is always human oversight and intervention involved. When receiving real-time alerts, employees additionally have the possibility to review and assess them, overrule false positives, or add comments, which can further be checked by their supervisors. This way, the system incorporates dialogue between employees and employers with a strong opportunity of initiative for the employees. Finally, in cases of poor performance, both parties can refer back to automatic assessments and logged comments on alerts. Thus, employees are involved from the very beginning in a process that centralises objective data on their capacity and conduct.

The second and third elements under Article 24 are respectively a right to receive adequate compensation and a right to appeal to an impartial body when the employment contract is terminated without valid reason. The LTC-Act does not preclude the rights that employees derive from Vichterian labour law. All laws providing protection against wrongful dismissal and the right to appeal to the national courts remain applicable, as they do to workers in other sectors. Employees have the full possibility to rely on the applicable labour law provisions to challenge their dismissal, its underlying reasoning, or any other problematic instance of the

[43] Conclusions 2012, Statement of Interpretation on Article 24.

evaluation process. As these rights are already derived from labour law, it is unnecessary to restate them in the new LTC-Act.

Consequently, Vichtery fully complies with its obligations under Article 24 RESC.

4.6. Article E – Non-discrimination

a. Scope of Article E RESC

Article E of the RESC is an article which *'does not constitute an autonomous right which could in itself provide independent grounds for a complaint.'*[44] Therefore, Article E needs to be read in conjunction with the Articles 11, 12, 13, 14, 23, and 24 RESC.

b. Means-testing as a legitimate and non-discriminatory criterion

The Government strongly contests the allegation that the measure gives rise to discrimination. It must be emphasised that the applicable legal framework establishes uniform criteria for all applicants, solely based on the means of a person. The services under the LTC-Act focus to grant aid to elderly persons in need, and this requirement applies equally to all applicants nationwide. As such, it does not constitute a breach of the equality principle but rather gives effect to it by recognising and responding to relevant economic differences, in line with the obligations under the RESC.

Access to the LTC-system is granted based on the means of an individual, in a proportionate way, to determine whether someone is eligible. In this way, the LTC-system is able to serve its fundamental purpose, ensuring that assistance is granted to elder people in need. Furthermore, Article 13 recognises a person's income as the only fair criterion for determining access to assistance. The Government is therefore acting entirely in line with the RESC.

The principle of equality underlying Article E requires that similar cases be treated alike, and that unlike cases may be treated differently, provided that such differential treatment is objectively justified.[45] It is evident that individuals with a significant difference in resources find themselves in unequal situations. It is therefore objectively justifiable that this difference should be used as a distinguishing criterion.

The decision of Vichtery's Government to switch from a universal subsidised system to a strict means-testing system only reflects the change in national needs. It is neither discriminatory nor exclusionary, as under the new system elderly persons who need care will continue to

[44] Decision on the merits: International Association Autism-Europe v. France, Collective Complaint No. 13/2002, §51.
[45] Association internationale Autisme-Europe (AIAE) v. France, Complaint No. 13/2000, decision on the merits of 4 November 2003, §52.

receive assistance. Only those who are not in financial need will no longer be allocated resources under the revised LTC-system. Such individuals, however, are not left without options, as alternative forms of care, including private care, remain available to them. Therefore, this measure is not only non-discriminatory, it also distinguishes between people in need and those who are not in need in a proportionate manner.

Should the Committee consider that this eligibility criterion constitutes a violation of Article E, it is difficult to see how assistance systems in general could operate without falling foul of that provision. Assistance systems are, by their very nature, designed to identify persons who lack sufficient resources and to provide assistance to them on that basis. If the use of resource-based criteria were to be regarded as discriminatory, this would run counter to the very logic and purpose of assistance.

Lastly, as previously mentioned, it is well established that States enjoy a wide margin of appreciation to give effect to RESC rights as long as their actions remain reasonable, proportionate, and in pursuit of a legitimate aim.[46] The measures adopted remain well within the margin of appreciation afforded to States, reflecting a balanced effort to safeguard social rights while ensuring the sustainability of the LTC-system and the effective allocation of care resources to those most in need.

Therefore, the measures adopted were lawful, pursued a legitimate aim, and were proportionate to that aim. The Government has therefore acted within its margin of appreciation and in full compliance with its obligations under the RESC. Accordingly, no violation of Article E can be established.

4.7. Article G – Restrictions

a. Scope of Article G RESC

The Government has argued that there is no violation of Articles 11, 12, 13, 14, 23 and 24 RESC regarding the suspension of minimum staffing ratios, reduced financial access and digital monitoring systems. It has argued as well that the measure allowing for restrictions of family visits is legitimate and necessary in a democratic society. The Government holds that the same goes for the rest of the measures, and that these are in line with Article G as well.

The measures which are subject to this procedure must fulfil the following conditions to comply with Article G: they must be prescribed by a law; pursue a legitimate purpose; and be

[46] Decision on the merits: European Roma and Travellers Forum (ERTF) v. France, Collective Complaint No. 64/2011, §95; Decision on the merits: European Federation of National Organisations working with the Homeless (FEANTSA) v. Belgium, Complaint No. 203/2021, §143; Decision on the merits : Fédération SUD Santé Sociaux v. France, Complaint No. 226/2023, §104.

necessary in a democratic society.[47] The measures enacted in question comply with all these conditions.

b. Legitimacy of LTC-Act

Firstly, the measures are prescribed by the LTC-Act, a law of general applicability. They thus comply with the requirements of legality, accessibility and foreseeability as envisaged under Article G.

Secondly, the LTC-Act pursues legitimate purposes. The aim of the LTC-Act is the social protection of Vichtery's elderly population in institutional LTC-facilities. It aims to enhance and ensure adequate care, as well as to address the existing long waiting lists and critical labour shortages.

Thirdly, they must be necessary in a democratic society for pursuing the purpose. The financial viability of the LTC sector, existing waiting lists, labour shortage and inadequacies in given care are all critical and systematic issues. The LTC-Act addresses these issues in a comprehensive and sustainable manner. The Government based the Act on both quantitative data as reports made by social actors close to older people. Existing protective measures, such as minimum staffing ratios, were insufficient to prevent shortcoming in the sector. Where these were suspended, new and innovative measures came to replace them to always ensure an adequate minimum level of care, through e.g. digital monitoring and additional subsidies or housing support. Structural shortcomings need structural solutions; as such, the Government stresses that modest reforms would not appropriately address the present circumstances and would instead in the long term lead to a total collapse of the LTC sector, both financially and substantially within facilities.

In light of the above, the Government holds that there have been no violations of the rights enshrined in the RESC, considering as well the permitted limitations under Article G.

[47] Greek General Confederation of Labour (GSEE) v. Greece, Complaint No. 111/2014, decision on the merits of 23 March 2017, §38.

5. Conclusion

The Vichterian Government submits the following conclusions:

1. The Government considers that,

The complaint regarding the LTC-Act is inadmissible.

The complaint fails to demonstrate how the LTC-Act violates the RESC and remains unsubstantiated. The allegations in question are general, vague, derived from public opinion and speculation, and do not rest on any concrete or credible evidence. In the absence of clear and detailed argumentation, Vichtery's right of defence and right to a fair trial are violated.

Furthermore, the complainant non-governmental organisations lack the required competence to submit a complaint regarding digital services and AI-monitoring systems.

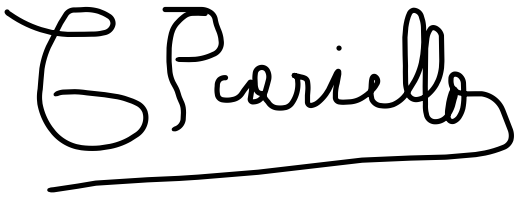
2. Furthermore,

Vichtery's LTC-Act fully complies with the RESC, especially with Articles 11, 12, 13, 14, 23, 24 and E of the RESC. Any restrictions on these provisions are also in line with Article G of the RESC.

In light of demographic challenges, Government action was essential to ensure elderly persons' rights. The measures taken under the LTC-Act are innovative, forward-looking and sustainable in the long term, without compromising on people's immediate needs or abandoning Vichtery's most vulnerable groups. To achieve these goals, the Government has acted in accordance with the principles of legitimacy, proportionality, necessity and non-discrimination.

In the light of the foregoing, the Government insists that the complaint is declared inadmissible or, in the alternative, manifestly unfounded in relation to all of the questions raised by the Complainants.

Vichtery, 9 March 2026



Ms Cara Pascariello
Vichtery's Minister of Foreign Affairs