

Legal standards for addressing energy poverty under the right to housing: Towards a new right to energy?

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Energy poverty is a major concern in the European Union (EU). Even before the COVID-19 pandemic, the energy price crisis, and the war in Ukraine, millions of households in Europe were struggling to afford or access basic energy services for their daily needs, facing unhealthy damp or mould, or unable to invest in greater energy efficiency.¹

Since 2018, the EU has been strengthening its stance on energy poverty on several fronts, including through several new legislative initiatives.² For example, according to Regulation 2018/1999 (EU) on Governance of the Energy Union and Climate Action and Electricity Directive 2019/944, all EU Member States are now legally obliged to: (a) draft up a national definition of energy poverty; (b) develop a set of criteria to measure its incidence, and; (c) take policy action as necessary.³ The European Energy Poverty Observatory proposes that energy poverty should be viewed as a multi-dimensional problem, signifying people's inability to access or afford essential energy services due to "*low income, high expenditure on energy and/or poor energy efficiency of homes*", as well as various (intersecting) personal, geographical, climatological, structural and other factors.⁴ EU policymakers and Member States recognize that energy poverty negatively affects many aspects of life. They consider for example that:

"Energy services are fundamental to safeguarding the well-being of the Union citizens'. Adequate warmth, cooling and lighting, and energy to power appliances are essential services to guarantee a decent standard of living and citizens' health. [It also] enables Union citizens to fulfil their potential and enhances social inclusion".⁵

1.*This contribution is based on the authors finishes PhD dissertation entitled "Human Rights and Access to Energy Services". For further practical insights into the concept and meaning of the right to energy, also see: Marlies Hesselman, Sergio Tirado-Herrero, Marilyn Smith and Marine Cornelis (eds) *Moving Forward on the Right to Energy in the EU: Engagement Toolkit* (ENGAGER COST Action: November 2022) www.engager-energy.net/wp-content/uploads/2022/02/ENGAGER_Right-to-Energy-Toolkit_FINAL.pdf.

E.g. see Commission Recommendation (EU) 2020/1563 of 14 October 2020 on energy poverty, OJ L 357/35.

2. See e.g. Marlies Hesselman, *Governing Energy Poverty in the European Union: A Comparative Analysis of International and Regional Human Rights Law* (European Journal of Comparative Law and Governance, forthcoming 2023a).

3. EU Governance Regulation 2018/1999, Article 3; EU Electricity Directive 2019/944, Article 29; Commission Recommendation (EU) 2020/1563 of 14 October 2020 on energy poverty, OJ L 357/35 (1-2); Commission Staff Working Document, *EU Guidance on Energy Poverty: Accompanying the Document Commission Recommendation on Energy Poverty of 14 October 2020*, SWD(2020) 960 final, 7; Communication from the Commission, "Tackling Rising Energy Prices: A Toolbox for Action and Support" (13 October 2021) COM(2021) 660 final.

4. Johannes Thema and Floris Vondung, "EPOV Indicator Dashboard: Methodology Guidebook" (Wuppertal Institut für Klima, Umwelt, Energie GmbH: 2020); Ana Stojilovska et al, *Energy Poverty and Emerging Debates: Beyond the Traditional Triangle of Energy Poverty Drivers* (2022) 169 *Energy Policy* 113181.

5. EU Electricity Directive 2019/944, recital 59.

Tackling energy poverty effectively can therefore increase people’s living standards, improve their physical and mental health, comfort and well-being and social inclusion (as well as reduce exposure to indoor and outdoor air pollution, e.g. by replacing heating sources that are not fit for purpose). All of this also means that health burdens and costs may be lowered.⁶

Alongside growing recognition of the importance of tackling energy poverty, EU legislative initiatives have increasingly begun to refer to “*fundamental rights*” as the legal basis or framework for action.⁷ The EU Electricity Directive, for example, states that it must be interpreted and implemented in line with the EU Charter on Fundamental Rights, whilst recent proposals for revising the Energy Efficiency and Energy Performance of Buildings directives, explicitly refer to and build on the right to housing assistance in Article 34 of the Charter, so as to ensure a decent existence for all those who lack sufficient resources. These proposals also expressly refer to the EU Pillar of Social Rights of 2017, including a right to housing assistance in Principle 19, and the right to essential services of good quality, including access to energy, in Principle 20.⁸ Nevertheless, it is still poorly understood how modern international, regional and national human rights law specifically applies to the many manifestations and drivers of energy poverty across Europe, and what forms of action are required.⁹

Amongst the different human rights that may underpin access to modern energy services as a human right – e.g. the right to life with dignity, an adequate standard of living or health – the “*right to adequate housing*” stands out as a key right.¹⁰ This contribution briefly explains some of the key standards that have been derived from the international right to housing specifically, and their relevance to energy poverty alleviation in Europe specifically.

The human right to adequate housing and (the right to) modern energy services access

The human right to adequate housing has been recognized as a legal human right in several international and regional human rights law treaties, to which *all* European States have committed themselves, including the International Covenant on Economic, Social and Cultural Rights (ICESCR)¹¹ the Convention on the Rights of the Child (1989)¹² and the Convention on the Elimination of All Forms of Discrimination Against Women (1979).¹³ The most important formulation of the right to housing can be found in Article 11 of the ICESCR, which states that all persons have the “*right*

6. Commission Recommendation (EU) 2020/1563 of 14 October 2020 on energy poverty, OJ L 357/35.

7. See e.g. Hesselman (2023a).

8. European Commission, “*Proposal for a Directive of the European Parliament and of the Council on energy efficiency (recast)*” (14 July 2021) COM(2021) 558 final, e.g. recital (95); European Commission, “*Proposal for a Directive of the European Parliament and of the Council on the energy performance of buildings*” (recast) (15 December 2021) COM/2021/802 final.

9. E.g. Marlies Hesselman, *Human Rights and Access to Energy Services* (PhD Dissertation, Faculty of Law University of Groningen, publication forthcoming 2023b); Panos Merkouris, “*Is Cutting People’s Electricity Off “Cut Off” from the Ratione Materiae Jurisdiction of the CJEU and the ECtHR?*” in: Hesselman, Hallo de Wolf, Toebes (eds), *Socio-Economic Human Rights in Essential Public Services Provision* (Routledge 2017); Stephen Tully, “*The Contribution of Human Rights to Universal Energy Access*” (2006) 4 *Northwestern Journal of International Human Rights* 518; Adrian Bradbrook, Judith Gardam and Monique Cormier, “*A Human Dimension to the Energy Debate: Access to Modern Energy Services*” (2008) 26 *Journal of Natural Energy & Resources Law* 526.

10. Hesselman (2023b).

11. U.N. Doc. A/6316, *International Covenant on Economic, Social, and Cultural Rights*, G.A. Res. 2200A (XXI), (1966).

12. UN Doc. CRC/C/GC/10 [1989].

13. UN Doc. CEDAW/C/TUN/3-4 [2000].

to an adequate standard of living”, including adequate access to food, housing and clothing. Over time, additional sub-entitlements have been read into this provision, including the rights to water and sanitation, as well as, more recently, access to affordable energy services.

Both the right to an adequate standard of living and right to housing can be seen as “*umbrella rights*”: they are closely intertwined with important legal entitlements related to other human rights, including rights to several essential services, or healthy living environments.¹⁴ International human rights law bodies have consistently held since the early 1990s, that the right to adequate housing should not be interpreted “*narrowly*”. It does not merely entail having “*a roof over one’s head*”; it implies the “*right to live somewhere in security, peace and dignity*”, with opportunities for full and free development of human life.¹⁵ The content of the right to housing has expanded over time through developments in legal jurisprudence and theory. It is still expanding in response to new issues and challenges, such as energy poverty, climate change, just transition as well as other modern threats to human rights.

For instance, in 2020, the UN Special Rapporteur on the Right to Housing noted that the COVID-19 pandemic “*starkly illustrated the fact that having a functioning home – with running water, electricity, heat and Internet – is a matter of survival and therefore a key aspect of the right to adequate housing*”. He noted that whilst “*some of these elements were already well recognized in human rights law*” earlier, other aspects came to the fore during lockdowns, isolation periods, and home-schooling and working.¹⁶ In 2022, the UN Special Rapporteur on the Right to Housing additionally noted that in light of the climate crisis and imperative needs for just transition, the right to housing should be interpreted to include another core element: “*sustainability*”.¹⁷ To ensure that the right to adequate housing is interpreted in line with the right to a clean, healthy and sustainable environment, public policies must take holistic and long-term views, including on energy efficiency, renovations, and energy poverty alleviation, and pursue a “*just transition towards rights-compliant, climate-resilient and carbon-neutral housing for all*”.¹⁸

The basic framework and normative content for the human right to housing stems from the authoritative interpretation of Article 11 ICESCR by the UN Committee on Economic, Social and Cultural Rights in CESCR General Comment No. 4 on the Right to Housing (1991). This document noted that the “*adequacy*” of housing in any given context will depend on several factors, amongst which the *availability, affordability and habitability* of adequate housing. These standards apply always, even if, based on certain local, personal, cultural, climatological or ecological needs, the implementation of these standards may look differently.¹⁹

Importantly, all three normative elements are important for understanding how the right to housing is relevant to energy poverty too. First of all, the concept of “*availability*” of housing may

14. E.g. Jessie M Hohmann, Housing as a Right, in Katharine Young and Malcolm Langford, Oxford Handbook on Economic, Social and Cultural Rights (Oxford University Press: 2022).

15. CESCR, General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant) (13 December 1991) UN Doc. E/1992/23, para. 7.

16. HRC, Report of the Special Rapporteur on the Right to Adequate Housing: COVID-19 and the Right to Housing (27 July 2020) UN Doc. A/75/148, para. 20.

17. HRC, “Report of the Special Rapporteur on the Right to Adequate Housing: Towards a Just Transformation: Climate Crisis and the Right to Housing” (23 December 2022) UN Doc. A/HRC/52/28, paras. 5, 63. For further reflection on the element of sustainability, e.g. Hesselman (2023b), chapter 3.

18. *Idem.* paras. 71, et 73-74.

19. CESCR (1991) para. 8.

not only refer to availability of adequate housing in sufficient quantity for all, but also more specifically, to the the “*availability of services, materials, facilities and infrastructures*” that are necessary to enjoy the right to adequate housing.²⁰ According to UN and European legal practice, “*an adequate house must possess certain facilities essential for health, security, comfort and nutrition*”, including specifically “*energy for cooking, heating and lighting*”.²¹ Further essential household energy services would include those necessary for access to (digital) information, communication and education (e.g. through internet, phone, TV, radio); use of essential health equipment or assistive devices; food storage; or personal and domestic hygiene (e.g. energy for water boiling).²²

In short, an adequate house thus comes with certain basic expectations in terms of basic amenities. Respecting, protecting or fulfilling the human right to adequate housing means that States have to take certain positive measures, in line with their maximum available resources, and must design laws and policies in such a way that adequate housing is best guaranteed for all by the State and by third parties. A concrete measure that would arise from the right to housing, is that States must ensure that disconnections of energy supply due to sheer inability to pay for basic services, are prohibited – or otherwise avoided, e.g. by ensuring that essential energy services are always affordable to all.²³ The ICESCR Committee has noted on this point that it has been concerned about “*the practice of cutting off gas and electricity for non-payment of bills*” and the high numbers of people living in energy poverty in Germany and Belgium, especially among those with low income and receiving social benefits. It has recommended their governments “*adopt effective measures to ensure that all households are able to meet their basic electricity needs*”, including by taking measures to ensure “*minimum supply of energy, even when a meter is installed*” and “*avoid power shutdowns for households that are unable to pay for their minimum needs*”.²⁴ States have also been asked to expand access to social tariffs, and devote more financial resources to support schemes.²⁵

More generally, General Comment No. 4 has clarified that the requirement of “*affordability*” of adequate housing implies that all housing-related costs – including e.g. rent, service costs, utilities or taxes – are “*commensurate with income levels*”.²⁶ Personal or household expenditure on housing-related costs may not threaten or compromise “*the attainment and satisfaction of other basic needs*”.²⁷ These are important rights-based principles for the affordability of housing costs generally. UN bodies clarified too that States are obliged to regulate and subsidize costs for those with insufficient means to enjoy adequate housing, including through targeted pro-poor measures.²⁸ Such obligations extend to retrofitting and energy efficiency measures. According to UN human rights supervisory bodies, energy efficiency must be widely available, affordable and ac-

20. CESCR (1991) para. 8(b).

21. CESCR (1991) para. 8(b); European Committee of Social Rights, Complaint No. 110/2014: *International Federation for Human Rights (FIDH) v Ireland*, (Decision on Merits of 12 May 2017) paras. 106, 109.

22. *Ibid.*; see also more generally Hesselman (2023b).

23. See e.g. Hesselman (2023b).

24. CESCR “Concluding Observations on Belgium” (26 March 2020) E/C.12/BEL/CO/5, paras. 42-43, <https://www.ohchr.org/fr/documents/concluding-observations/ec12belco5-committee-economic-social-and-cultural-rights>; CESCR, Concluding Observations on Germany (27 November 2018) E/C.12/DEU/CO/6, paras. 56-57, <https://digitallibrary.un.org/record/1653881?ln=fr>.

25. *Ibid.*

26. CESCR (1991) para. 8(c).

27. CESCR (1991) para. 8(c); see also OHCHR 2013.

28. E.g. see: HRC, “Report of the Special Rapporteur on Adequate Housing: Mission to Serbia and Kosovo” (26 February 2016) UN Doc. A/HRC/31/54/Add.2., para. 100; HRC (2022) A/HRC/52/28, paras. 42, 56, 74; HRC, Report of the UN Special Rapporteur on Extreme Poverty and Human Rights: Just Transition (7 October 2020) UN Doc. A/75/181/Rev.1, para. 26, 29-35.

cessible to all, including low-income households. Energy efficiency programmes have to be designed in such a manner that they “do not undermine affordability”, or affect people’s security of tenure (e.g. through creeping “climate gentrification”). Instead, energy efficiency programmes must “proactively address energy poverty”.²⁹ New proposals for amendments of EU energy efficiency directives also ensure that “public funding available at national and Union level should be strategically invested into energy efficiency improvement measures, in particular for the benefit of vulnerable customers, people affected by energy poverty and those living in social housing”.³⁰ Yet, it will be important to monitor how such objectives are effectively and equitably implemented in practice. In this sense, it is encouraging to see that EU proposals for new legislation also refer to the fact that:

*“Member States should empower and protect all people equally, irrespective of their sex, gender, age, disability, race or ethnic origin, sexual orientation, religion or belief, and ensure that those most affected or put at greater risk of being affected by energy poverty, or most exposed to the adverse impacts of energy poverty, are adequately protected. In addition, Member States should ensure that energy efficiency measures do not exacerbate any existing inequalities, notably with respect to energy poverty.”*³¹

The element of “habitability” is also a key housing-related concept relevant to energy poverty alleviation. It stipulates that an adequate house must protect inhabitants “from cold, damp, heat, rain, wind or other threats to health”, as well as from “structural hazards and disease vectors”, and ensure physical safety otherwise.³² As explained by Sunderland (in the next chapter), improving energy efficiency and comfort of homes is a very important part of energy poverty alleviation and energy transition. This applies both to heating and thermal comfort in the form of adequate warmth, but also to “summer energy poverty” and a lack of access to cooling services. This is increasingly flagged in energy poverty literature and human rights law practice too.³³ For example, UN Rapporteurs on the Right to Housing and Extreme Poverty have expressed concern that poor households in Spain may be struggling with unacceptable “heating-or-eating” dilemmas in the winter, and (unaffordable) space cooling needs in summer.³⁴ They fear that energy poverty can lead to “dramatic” consequences in summertime, especially as global warming and heat stress intensify: “poor families without access to electricity or air conditioning” may be increasingly at risk of suffering heat-related illnesses and even death.³⁵ In this instance, the Spanish government was recommended to expand access to the national “social bonus” system – which currently already subsidizes energy bills for certain groups – and to ensure that energy supplies are not cut off to vulnerable households.³⁶

29. *Ibid.*

30. COM/2021/558 final, 59.

31. *Ibid.*

32. HRC, Report of the Special Rapporteur on the Right to Adequate Housing: Security of Tenure (14 March 2006) UN Doc. E/CN.4/2006/41, Annex with Principles, 55.

33. Harriet Thomson et al, Energy Poverty and Indoor Cooling: An Overlooked Issue in Europe (2019) 196 *Energy and Buildings* 21–29; Marlies Hesselman, Addressing the Energy-Poverty Health Nexus Through International Human Rights Law, *Health and Human Rights Journal* (forthcoming June 2023).

34. HRC, Report of the UN Special Rapporteur on Extreme Poverty and Human Rights: Mission to Spain (2020) A/HRC/44/40/ADD.2, para. 9, 40.

35. *Idem*, para. 50.

36. *Idem*, para. 40.

On the other hand, Spain has also been critiqued by the same rapporteurs for practices of cutting off essential energy supplies to households living in informal settlements, including households with children, in the middle of the winter. On that occasion, UN bodies noted that the right to housing requires “*permanent access [...] to heating and lighting, sanitary and toilet facilities, and food storage*”;³⁷ efforts to dissuade people “*from staying in informal settlements or camps by denying them [...] basic needs*” would amount to “*cruel and inhuman treatment*” and constitutes “*a violation of multiple human rights, including the right to life, housing, health and water and sanitation*”.³⁸ More specifically, “*stripping the home of one of the essential services that allows inhabitants to protect themselves from the cold*” during the months with the lowest temperatures violates human rights standards.³⁹ This time, the Spanish government was asked to “*take the necessary measures to urgently restore the electricity supply to affected families*”, including in view of the imminent arrival of winter,⁴⁰ and to explain in more detail which measures it has taken, “*legislative and otherwise, to guarantee that families in a situation of economic vulnerability do not suffer power cuts*”.⁴¹ The statements of these international bodies are not binding, and these bodies lack direct enforcement powers at the international or national level. However, from a perspective of legal interpretation and the normative development of the legal content of human rights, these statements are very relevant. States are under a legal obligation to implement human rights treaties in good faith, and in many cases, national courts are equipped to apply rights nationally, in a binding manner.

More generally, the habitability requirement means that States must develop, through consultation and participation of affected groups, a rights-based housing strategy that includes setting and implementing “*minimum quality standards for heating, insulation and electric systems in (rental) homes*”, as well as other relevant standards that may be relevant to establishing what constitute adequate housing conditions.⁴² The World Health Organisation has developed several guidance documents in this regard, e.g. in terms of indoor air quality and practices of solid-fuel heating or cooking; prevention of damp and mould; or healthy indoor temperatures. The human right to housing requires States to take “*positive steps and measures*”, both locally and nationally, to ensure that the national housing stock is monitored, maintained and upgraded.⁴⁵

Need for recognition of a separate right to energy (services)?

The aforementioned developments lead to the question, whether it may be time to recognize the “*right to energy (services)*” also as a more “*self-standing*” right under Article 11 ICESCR, under the right to an adequate standard of living, or as flowing from the right to housing. A key benefit of formulating a more “*autonomous*” right, is that it would allow for the development of a more distinct set of rights and obligations in the sphere of energy access and energy poverty.

37. OHCHR, Joint communication of UN Special Procedures to Spain (18 December 2020) ESP 6/2020, 4.

38. *Idem* 5.

39. *Ibid.*

40. *Ibid.*

41. *Idem* 6.

42. CESCR, “Concluding Observations on New Zealand” (1 May 2018) UN Doc. E/C.12/NZL/CO/4, para. 40(d); HRC, “Report of the Special Rapporteur on Adequate Housing: Mission to Serbia and Kosovo” (26 February 2016) UN Doc. A/HRC/31/54/Add.2., para. 100.

43. HRC (2016) UN Doc. A/HRC/31/54/Add.2, para. 28; CESCR (1991) 12-14.

Such a development fits in with calls for legal recognition of a “*right to affordable and clean energy*” in EU law by European civil society (e.g. through the Right to Energy Coalition), as well as Principle 20 of the EU Pillar of Social Rights. UN Special Procedures have also noted that given the relevance of electricity to “*the right to an adequate standard of living, the right to housing, and the right to health*”, international legal standards that have previously been developed for the right to water as an essential service, could be relevant to the regulation and implementation of energy as a human right too. These standards would include sufficient quantity, quality, safety, regularity, affordability and accessibility of energy services.⁴⁴

In short, a separate right to energy would allow for the identification of more concrete positive and negative obligations, and relevant human rights standards, for access to affordable, reliable and good quality energy services access. Specifically, it would allow for the formulation of similar standards as applying to the right to water, amongst which are the so-called “AAAQ” standards of availability, (economic, physical, non-discriminatory and information) accessibility, (cultural, life-cycle or gender-based) acceptability, and quality (e.g. technical, scientific, capacity).⁴⁵ In addition, it may allow for more attention to sustainability aspects of access to energy (services) as a human right, e.g. in terms of standards for energy efficiency, renewable energy access, the cleanliness and safety of fuels used, or lack of harm to health etc. At present, legal obligations in relation to human rights and renewable energy access for households are not well-developed,⁴⁶ although there is increasing recognition that human rights protection in the age of climate change, just transition, and energy poverty alleviation entails the “*expansion of access to electricity produced in an environmentally friendly manner and other green sources of energy where households still depend on fossil forms of energy for heating, cooking and other needs*”.⁴⁷ There are still several dimensions of the “*right to energy*” that may have to be fleshed out further, including with inputs from those who are affected by it. Yet, standards developed under several existing rights will provide a firm basis for developing such a right in the future.⁴⁸

Conclusions

A human rights perspective is relevant to law and policy-making in the sphere of energy poverty, energy transition and climate action. Internationally accepted legal human rights comprise rights and obligations that must be respected, protected and fulfilled.⁴⁹ In addition, such rights and obligations are owed to each and every human person, especially those most marginalized or struggling. Human rights standards must be part of EU and national law-making efforts at the in-

44. See OHCHR (2013); CESCR (2017); see further, Marlies Hesselman, The Right to Energy, in Binder et al (eds) Edward Elgar Encyclopedia on Human Rights (Edward Elgar 2022); Hesselman (2023a).

45. Hesselman (2023a); see also Marlies Hesselman, Brigit Toebe and Antenor Hallo de Wolf, International Guideposts for Essential Public Services Provision, ; in Hesselman, Toebe and Hallo de Wolf (eds), *Socio-Economic Human Rights in Essential Public Services Provision* (Routledge 2017).

46. See e.g. Hesselman (2023a); e.g. Margaretha Wewerinke, A Human Rights Approach to Energy: Realizing the Rights of Billions Within Ecological Limits (2022) 31 *Review of European, Comparative and International Environmental Law* 16–25.

47. HRC (2022) para. 70(a); See also further discussion on the sustainability requirement, Hesselman (2023a).

48. See e.g. Hesselman (2022); Tully (2006); Lars Löfquist, “Is There a Universal Human Right to Electricity?” (2020) 24 *International Journal of Human Rights* 711–723; Giovanni Frigo et al, Energy and the Good Life: Capabilities as the Foundation of the Right to Access Energy Services (2021) 22 *Journal of Human Capabilities and Development* 218–248; Gordon Walker, “The Right to Energy: Meaning, Specification and the Politics of Definition” (2015) 378 *L’Europe En Formation* 26–38.

49. Hesselman (2023).

tersections of energy services access, climate action and adequate housing, for example through the EU Better Regulation Agenda.⁵⁰ National governments must implement these rights in and through their domestic legal and policy systems as well.

When human rights protection is lacking, those affected may seek to use international human rights treaties, or national laws and constitutions, to articulate their experiences of energy poverty as violations of human rights. Human rights provide both a legal and conceptual tool to challenge and address existing (structural) inequalities, and to demand better realization, oversight and accountability of those needs recognized as human rights.

So far, not many court cases have tested the many ways in which international human rights law might be leveraged to achieve better access to energy services, or to improve habitability in the context of energy poverty, or to achieve prohibitions of disconnections.⁵¹ At the national level, some evidence of litigation on energy poverty exists, especially in response to disconnections. Such litigation has been yielding significant normative and practical successes, but more insights into these developments are necessary. So far, litigation has resulted in the legal recognition of energy as a human right by national courts, and led to important practical interventions, and changes in legislation.⁵² European civil society organisations have a major role to play in putting the right to energy on the agenda of policy-makers, courts and other human rights bodies; they can also play a major role in seeking enforcement of human rights. The legal basis for this may be the right to housing, but also in a range of other housing-related rights, e.g. in the area of basic services access or a dignified life.

50. See *idem*; Marlies Hesselman, Human Rights and EU Climate Law, in: Woerdman et al (eds) *EU Essential Climate Law* (Edward Elgar 2021); EU Fundamental Rights Agency, *Handbook on Applying the Charter of Fundamental Rights of the European Union in Law and Policymaking at National Level* (FRA: 2018); European Commission, Better Regulation Guidelines (3 November 2021) SWD(2021) 305 final, 5, 35-36; European Commission, Better Regulation Toolbox (3 November 2021) Tool #29 on Fundamental Rights.

51. See for discussion e.g. Hesselman (2022).

52. *Ibid*, and more recently rights-based litigation in the Israel High Court recent led to a major expansions of the number of households protected against disconnections, as well as endorsement of the right to energy in court proceedings: <https://www.english.acri.org.il/post/historic-achievement-380-000-households-will-be-protected-from-power-cuts>.