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Disconnections of energy as a violation of international human rights law

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#TurnOnTheLight



Manifesto **FOR A BAN**

on energy
disconnections
in Europe



FONDATION
Abbé Pierre



FONDATION
Abbé Pierre

COORDINATION

Sarah Coupechoux

European policy manager
Fondation Abbé Pierre

Avril 2023

CRÉATION

Genaro Studio

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Editorial

Putting an end to energy disconnections in Europe

CHRISTOPHE ROBERT



CHRISTOPHE ROBERT
Executive Officer
of the Fondation
Abbé Pierre

While the European Commission has just presented its proposal on the revision of the electricity market, many organizations are calling for a European ban on energy disconnections.

FEANTSA and the Fondation Abbé Pierre recently warned of the dramatic consequences of inflation and energy price increases on the budgets of the most vulnerable households. Some figures are alarming: in 2021, more than 35 million people will be living in fuel poverty and 72 million people will be below the poverty line. How many people will not be able to pay their energy bills in the coming months and years, and be left without energy?

For many European victims of energy cuts, it is no longer a question of choosing between eating or heating, but of living without energy: in the dark, for meals, for children's homework, without a refrigerator, without the possibility of recharging one's phone and computer. These disconnections have disastrous consequences on health, well-being, self-esteem, both professional and family life, and children's education.

Today, the decision to cut off is a unilateral, sometimes brutal sanction of energy suppliers, which affects households whose only fault is not to be able to cope with an energy crisis beyond their control. However, the measures taken by some energy suppliers who have decided to put an end to these cuts and replace them with power reductions, have shown their positive social impact. These measures have not provoked any obvious increase in arrears.

Many anti-poverty, climate, and consumer organizations, as well as trade unions and political parties, are calling at the national or European level for a ban on energy disconnections.

The revision of the electricity market is a unique opportunity to show that the European Union is committed to protecting consumers.

Energy is a basic necessity, and we must put an end to disconnections.



Right to Energy
Coalition



Disconnections of energy as a violation of international human rights law

MARLIES HESSELMAN



MARLIES HESSELMAN

is a Lecturer in Public International Law at the Faculty of Law of the University of Groningen.

This contribution is based on her finished PhD dissertation entitled "Human Rights and Access to Modern Energy Services" (2023a)

On 6 March 2020, the eve of the COVID-19 pandemic, the UN Committee on Economic, Social and Cultural Rights issued human rights recommendations to Belgium which expressed concern about the practice of 'cutting off gas and electricity for non-payment of bills'. It asked the Belgian government to 'take the measures necessary to ensure a minimum supply of energy', even when on a budget meter, and to expand access to social tariffs.¹ A couple of years earlier, it also noted that many social benefit recipients in Germany face energy poverty, and that annually, 328,000 German households were cut off from energy due to unpaid bills. Germany was recommended to take effective measures to 'ensure that all households are able to meet their basic electricity needs, thus avoiding power shutdowns for households that are unable to pay for their minimum needs'.²

UN human rights bodies have increasingly been qualifying energy supply disconnections as a violation of several human rights simultaneously, with differentiated impacts on different persons.³ No specific individual complaint on disconnections has (yet) been decided by any UN treaty body, but several UN monitoring bodies have been confronted with questions of energy supply disconnections in their supervisory work, including the UN Special Procedures of the Human Rights Council in terms of energy supply disruptions to two informal settlements in Serbia and Spain.⁴

On these occasions, bodies have noted how children's rights to education, play, social participation and healthy psycho-social development were negatively affected by the inability to study after dark, prepare homework, access (digital) educational content, or enjoy (safe) modes of play, relaxation or social interaction.⁵ The inability to bathe with warm water, wash clothes, keep good hygiene, and resulting lice infestations, led to feelings of shame, that affected attendance rates in schools.⁶ According to the UN Committee on

the Rights of the Child families' ability to maintain decent hygiene is a 'core requirement' for the right to health under Article 24 CRC.⁷ Additional 'core requirements' for the right to health include having an adequate home with 'non-dangerous cooking facilities, smoke-free environments, and absence of mould and other toxic substances'.⁸ There is evidence that the right to housing and health are closely related in a context of energy poverty, because the right to housing implies access to an adequate and functioning home with (permanent) access to 'certain facilities essential for health, security, comfort and nutrition'. That includes 'energy for lighting, heating and cooking'.⁹ The UN Special Rapporteurs noted that lighting and access to electricity is especially important for physical and mental health too: e.g. it reduces risks of preventable falling incidents amongst the elderly or those with mobility issues; ensures that medical (emergency) assistance can be provided, including during the night; or more generally, that the day is extended for chores, other activities and pass-times, well-lit and warm spaces have positive effects on mental health and wellbeing.¹⁰

UN bodies are also well aware that disconnected people may be compelled to improvise dangerous makeshift alternatives for (indoor) heating, lighting and cooking (e.g. fires, candles, butane stoves, unauthorized electrical connections), creating major health and safety risks due to indoor air pollution, burns and home fires.¹¹ In case of grossly inadequate and unsafe living situations, the 'right to life with dignity' comes in view too. According to the UN Human Rights Committee in General Comment No. 36 (2018) all States Parties to the International Covenant on Civil and Political Rights (ICCPR) have positive obligations to take necessary measures to ensure 'access to basic goods and services', including electricity, *without delay*.¹² UN Rapporteurs affirm that denying basic needs, or stripping the home of services that protect against the cold, especially in winter months, would 'constitute cruel

1 > CESCR, Concluding Observations on Belgium (26 March 2020) UN Doc. E/C.12/BEL/CO/5, paras. 42-43.

2 > CESCR, Concluding Observations on Germany (27 November 2018) UN Doc. E/C.12/DEU/CO/6, para. 56.

3 > See more generally: Marlies Hesselman, Human Rights and Access to Modern Energy Services (PhD Dissertation University of Groningen, forthcoming 2023a).

4 > E.g. OHCHR, Joint communication of UN Special Procedures to Serbia (16 November 2016) JUA SRB 3/2016; OHCHR, Joint communication of UN Special Procedures to Spain (18 December 2020) ESP 6/2020; OHCHR, Joint communication of UN Special Procedures to Nigeria (26 November 2013) NGA 5/2013. These cases are discussed in detail in Hesselman (2023a).

5 > E.g. OHCHR (2016) 3; OHCHR (2020) 2.

6 > Ibid; OHCHR (2020) 2-3.

7 > CRC, General Comment No. 15 on the Right to Health (17 April 2013) UN Doc. CRC/C/GC/15, para. 49.

8 > Ibid.

9 > CESCR, General Comment No. 4 on the Right to Adequate Housing (Art. 11(1) of the Covenant)

(13 December 1991) UN Doc. E/1992/23, paras. 7-8; OHCHR (2020) 4-5; Marlies Hesselman, Addressing the Health-Energy Poverty Nexus Through International Human Rights Law (2023b) Health and Human Rights Journal (forthcoming);

10 > E.g. Hesselman (2023c); OHCHR (2016) 3; OHCHR (2020) 3; Saska Petrova, 'Illuminating Austerity: Lighting Poverty as an Agent and Signifier of the Greek Crisis' (2017) 25(4) European and Regional Studies 360-372.

11 > OHCHR (2016) 3; OHCHR (2020) 2.HRC, Report of the UN Special Rapporteur on the Right to Adequate Housing: Indivisiibility of the Right to Life and Right to Housing (8 August 2016) A/71/310, para. 21.

12 > HRCtee, General Comment No. 36 on the Right to Life (30 October 2018) UN Doc. CCPR/C/GC/35, para. 26.

13 > OHCHR (2020) 5.

14 > *Idem.* 5-6.

15 > *Idem.* 6.

16 > OHCHR (2016) 2, 7-8.

17 > *Ibid.*

18 > See OHCHR (2013) 6; HRC Resolution 21/11, Guiding Principles on Extreme Poverty and Human Rights (18 October 2012) UN Doc. A/HRC/RES/21/11; CESCR (2003) para. 56.

19 > E.g. see e.g. HRC (2015) A/HRC/30/39, paras. 32-35, 87; HRC (2015) A/HRC/45/10, para. 41; HRC (2017) A/HRC/36/45, para. 7, 53, 89(g); or amongst many: OHCHR, Communications of the UN Special Rapporteur on the Right to Water Communication to Malawi (13 April 2022) OL MWI 1/2022, 1-3; to Mauritius (14 April 2022) OL MUS 1/2022, 1-3; to Lesotho (14 April 2022) OL LSO 1/2022, 1-3.

20 > CESCR, Statement by the Committee on Economic, Social and Cultural Rights: Public Debt, Austerity Measures and ICESCR (22 July 2016) UN Doc. E/C.12/2016/1, para. 4.

21 > *Ibid.* CESCR (2003) paras. 19, 42; CESCR, General Comment No. 3 on the Nature of States Parties' Obligations (Art. 2, Para. 1, of the Covenant) (14 December 1990) UN Doc. E/1991/23, paras. 9-11; OHCHR (2013) 5; CESCR, Views on Communication No. 5/2015, Mohamed Ben Djazia and Naouel Bellili v. Spain (20 June 2017) UN Doc. E/C.12/61/D/5/2015, para. 17.5-17.6; Aoife Nolan, Nicholas J Lusiani and Christian Courtis, 'Two Steps Forward, No Steps Back? Evolving Criteria on the Prohibition of Retrogression in Economic and Social Rights', in: Aoife Nolan (ed) Economic and Social Rights after the Global Financial Crisis (OUP 2014); see also HRC (2020) A/HRC/45/10, paras. 58-62.

and inhuman treatment and a violation of multiple human rights, including the right to life, housing, health and water and sanitation'.¹³

UN bodies have also noted several corresponding legal obligations and remedies. For example, the disruption of energy to the *Cañada Real Galiana* informal settlement near Madrid, affecting thousands of persons, including 1800 children, had to be urgently be remedied by restoring the electricity supply, including in view of the imminent arrival of winter. Spain was also asked to provide further information on measures taken, 'legislative and otherwise, to guarantee that families in a situation of economic vulnerability do not suffer power cuts'.¹⁴ Similarly, it was asked 'to guarantee effective access to basic services such as the supply of electricity' to children.¹⁵ In response to disconnections of a Roma community in Serbia, as a result of payment disputes, the Serbian government was also asked to take all 'necessary interim measures [...] to halt the alleged violations and prevent their reoccurrence'.¹⁶ Separately, Serbia was asked to inform supervisory bodies about measures to 'promptly address health-related impacts' for those 'particularly affected by the disconnection of electricity', such as 'children, older persons, pregnant women, persons with disabilities, and those with severe illnesses'.¹⁷

These statements fit well with the important human rights principle that *[n]o one should be denied access to essential services because of an inability to pay*, affirmed in the UN Guiding Principles on Human Rights and Extreme Poverty, adopted by the UN Human Rights Council in 2012; as well as the fact that any interferences with essential supplies motivated by a person's 'failure to pay', must take their 'capacity to pay' into account.¹⁸ Moreover, these statements are buttressed by the UN Rapporteur on the Right to Water as well, who recently often notes that a failure to prohibit water disconnections due to incapacity to pay constitutes a violation of rights. Especially, such disconnections may constitute forbidden 'deliberately retrogressive measures'.¹⁹ this means that once a certain level of human rights enjoyment has been progressively realized in society, States are not allowed to reverse or backtrack on it, unless certain strict criteria are met, and lower levels of protection are (temporarily) 'unavoidable'. According to current human rights practice, retrogressive measures can only be introduced after 'careful consideration of all possible alternatives' and in 'reference to the totality of rights provided for in the Covenant'. They should 'remain in place only insofar as they are necessary' and not result in direct or indirect discrimination; the rights of disadvantaged and marginalized

individuals and groups may not be disproportionately affected.²⁰ Moreover, States must always abide by their general human rights obligation to use 'maximum available resources', and always ensure the widest possible enjoyment of rights under the given circumstances, especially through targeted measures to vulnerable groups and persons, even in times of resource constraints.²¹ In addition, under no circumstances, shall any person ever be deprived of access to 'minimum essential levels' of basic services.²²

The threshold for imposing retrogressive measures is thus high, and requires States to consider a number of different criteria. According to the UN Special Rapporteur 'disconnection of water services' are a 'clear example of direct retrogression and a violation of human rights to water and sanitation'.²³ He considers that States under an immediate minimum legal obligation to 'enact national legislation, policies or regulatory frameworks' which provide for 'an outright prohibition on disconnections due to inability to pay'.²⁴ This is a very clear and unequivocal stance on States' obligations in relation to water supply disconnections. It has not yet been endorsed with the same vigour for energy disconnections, but it may well be that UN legal interpretative practice will develop further in this direction.

In this sense, UN human rights practice seems to be developing in the direction of the call in this Manifesto: a ban on disconnections for all those unable to pay for necessary services. In light of the serious impacts of energy supply disruptions on people's daily lives and human rights, the rights and obligations sketched above, as well as, experiences with novel comprehensive disconnection bans adopted during the COVID-19 crisis and energy price crisis,²⁵ it now seems the time to seriously investigate how comprehensive disconnection bans can be put in practice. In this sense, there is still limited comparative research on the design of good disconnections bans, both in Europe and globally.²⁶ This author argues that much may be gained from such types of analysis, in search of best practice.

22 > *Ibid.*

23 > HRC (2015) A/HRC/45/10, para. 57

24 > E.g. HRC (2015) A/HRC/30/39, paras. 32-35, 87 and HRC (2015) A/HRC/45/10, para. 41; HRC (2017) A/HRC/36/45, para. 7, 53, 89(g) and OHCHR (2013) 7.

25 > See www.covidenergymap.com, as discussed in Marlies Hesselman, Anaïs Varo, Rachel Guyet and Harriet Thomson, 'Energy Poverty in the COVID-Era: Mapping Global Responses in Light

of Momentum for the Right to Energy' (2021) 81 Energy Research and Social Sciences 102246; and www.bruegel.org/dataset/national-policies-shield-consumers-rising-energy-prices.

26 > The COVID Energy Map project includes over 120 examples disconnection bans adopted around the world, some of which very long-term and may function as a worthwhile entry point.

Justice and dignity!

Against energy cuts

MARIE TOUSSAINT



MARIE TOUSSAINT
Green MEP,
Vice-president of
the Intergroup on
Extreme Poverty and
Human Rights

Energy poverty: an invisible suffering

The issue of energy cuts is being raised today in a very particular context. The war in Ukraine, the recent explosion in energy prices, pushing up general inflation and also affecting basic necessities, have underlined the urgency of acting against energy cuts. The issue was, however, well underway even before this situation of extreme tension, but we know that energy poverty is usually an invisible suffering. The issues of poverty, misery and precariousness are disturbing, because they reveal the reality of an unjust world. Without the relentless and tireless action of associations and citizens' groups fighting against energy poverty, this subject would only cause indifference.

Thirty-four million Europeans were already reporting an inability to keep their homes at an adequate temperature in 2018, and 6.9% of the EU population said they could not afford to heat their homes sufficiently in 2019. The situation has obviously worsened with the explosion in energy prices, Vladimir Putin's war on Ukraine, and the voluntary or involuntary cutting off of Russian energy taps. Prices have risen by 118% in Italy, 122% in Austria and up to 167% in the Netherlands. We must act in the face of this emergency, but also and above all use this awareness as a lever to put an end, once and for all, to energy poverty and the social and health impacts and moral suffering that go with it.

Phasing out of fossil fuel to protect people

To do this, the first priority is to fight climate change and to get out of fossil fuels. Let us realise the madness of the model in which we are currently imprisoned. For the benefit of a few, our societies have been locked into fossil fuels, the price of which is now exploding. We cannot of course separate ourselves individually from these fossil fuels, and the structural, collective and public actions that must be taken will take years to come, if there is the political will to do so. Citizens cannot therefore be made the scapegoats, nor can they be held responsible.

The problem has a long history. Our dependence on fossil fuels was built on the bodies and hearts of workers sent to the bottom of the mines, on the trade union rights of those who lost their jobs when oil from the Middle East was opened up to the appetite of Western companies, on the lives of displaced and plundered populations, on the lungs, and now the bills, of those who live in housing and neighbourhoods that have been made unliveable.

The words 'climate justice' have a meaning. A historical meaning, which concerns the climate debt and the North-South imbalances in terms of greenhouse gas emissions; but a very current meaning too, since it obviously deals with the terrible injustices linked to the fossil fuel economy in each country, right to the heart of Europe.

An unfair system

The liberal system exacerbates these injustices. Worse, it feeds on them to fuel its engine. Let's take the simple example of the energy market. It is built on the system of marginal cost, i.e. all consumers make energy more and more expensive, and therefore the biggest consumers, those who could reduce their consumption (big industries, big farms, or the over-consumption of the richest...), put the burden and the price of energy on all citizens. A decrease in energy consumption is necessary to cope with rising prices, supply risks and climate challenge. Unfortunately, today in Europe, the basic needs of the most vulnerable households are most at risk.

This is a political issue that says a lot about how we want to live together: the prosperity of some cannot be built on the precariousness of others. This is true on a global scale. It is true in every country, in every city. We must choose energy sobriety and more solidarity, two concepts that are inseparable. Indeed, today the abundance of the few is at the expense of the quality of life of the many.

The development model imposed on us is based on the plundering, predation and destruction of nature on the one hand, and on the other hand on the exploitation, despoiling

and humiliation of millions of people who are plunged into such precariousness that their dignity is trampled underfoot and their physical and mental health deteriorated.

We must understand that respect for planetary boundaries and respect for basic human rights are the two compasses that must guide all public policies.

This is why those who tell you that we should today diversify and support the exploitation

and transport of fossil fuels such as gas are lying to you : we have all the necessary resources and infrastructures at the moment. Let's not listen to these sleep merchants. There is no other future than in just sobriety. However, for that to happen, the richest people, and above all the public authorities, will have to mobilise.

The need to fight for the right to energy for all

The second urgent need is to fight for the recognition of the right to energy, as we fought yesterday for the recognition of the right to water. Recognising the right to energy does not mean saying that it is an inexhaustible source! It means that everyone must be guaranteed the right to a minimum of energy, adapted to the energy consumption of their home rather than the 1000 watts announced by EDF, and which does not harm their health, or the possibility of a future on Earth, or the planet.

This obviously means banning energy cuts, just as we fought against water cuts, and evictions for unpaid energy bills. Our society continues to exclude the most precarious by keeping them in unbearable situations. Survival is not living.

In France, every year, around 600,000 households are cut off or have their power limited after an unpaid gas bill (100,000) and, above all, electricity bills (500,000). We cannot accept that 20% of the population has difficulty each year in obtaining the energy necessary to cover its primary needs in France. Beyond the social and health consequences, we must act on the excess of energy consumption, and settle the issue of housing that emits a lot of CO2.

Political leaders can make different choices. In France, while the parliamentary majority (*Renaissance*) and the *Rassemblement National* seek to imprison families who have become unable to pay their bills, the Green mayor of Bègles, Clément Rossignol-Puech, has banned energy cuts. Europe must come and remind us of the obligation to respect fundamental human rights.

Taking into account climate change in the right to energy

If we speak today in France of a «winter truce», climate change is already challenging all our habits. In Greece, for example, bans on energy cuts are not only applied in winter, but also in summer, during heat waves. We have just received the mortality figures for the

“There is an urgent need to fight for the recognition of the right to energy, as we fought yesterday for the recognition of the right to water.”

heatwave of summer 2022. Heatwaves kill, as does the cold. Fighting against precariousness means saving lives.

Of course, the obvious thing to do is to renovate housing and the millions of “heat sinks” on French and European soil. It is an emergency for energy poverty and for the reduction of greenhouse gases. Climate activists such as those of *Dernière rénovation* in France understood it well. They are calling for the energy renovation of the homes of all households in a situation of energy poverty by 2030 and wish to make the global renovation of the French housing stock compulsory by 2040. Energy poverty is more prevalent in disadvantaged neighbourhoods: irrespective of the heatwave situation, in general 70% of households in «priority» neighbourhoods are too hot in summer, compared to 56% in France, as a whole, and 62% are too cold in winter, compared to 35% in France as a whole.

The need of a complete reform of our social and fiscal system

Finally, the crisis we are going through must lead us to revisit our social and fiscal model in depth. The best way to fight against energy poverty is to prevent poverty altogether. And if everyone had the means, in financial and material terms but also in terms of human resources, to 1/ have a roof over their heads, 2/ insulate it and heat it properly, and 3/ claim their rights, then the issue of energy poverty would be resolved.

If I say what may seem obvious, it is because inequalities are growing again in the world, in Europe and in France. Poverty figures are exploding again; and let's be clear, they were already far too high before the health crisis and the war in Ukraine. Why is this so? Because our economic, social and fiscal model is eminently unequal and unfair.

We must mobilise to finally and truly make the eradication of poverty a political objective. We must guarantee a minimum set of fundamental rights, including the right to energy, as well as the right to water, but also minimum wages and incomes, the right to housing, to health and to dignity. Finally, we must create a social Europe, guaranteeing what is known as the «sharing of value», i.e. an end to the monopolisation of the world's finances by the rentiers, and the sharing of wealth. We must make the natural commons as sacred as the social commons.

There are many ways to fight energy poverty. However, as a legislator and decision-maker myself, after having been a lawyer and activist,

I must stress that these complex solutions that we have to build to get rid of energy poverty and our dependence on fossil fuels cannot be imposed from above. We will not be able to tackle energy poverty effectively if the solutions are not built with the people who live in energy poverty. As is true of all the solutions we need to build to end poverty and exclusion.



The EU level perspective on a ban on disconnections

RIGHT TO ENERGY COALITION

27 > European Commission, a [Quality Framework for Services of General Interest in Europe](#), 2011.

28 > EAPN [Access to Essential Services Report](#), 2023.

29 > European Commission, [The European Pillar of Social Rights Action Plan](#)

30 > Eurofound, [Fifth round of the Living, working and COVID-19 e-survey: Living in a new era of uncertainty](#), 2022

31 > Eurostat, [Interaction of household income, consumption and wealth – statistics on main results](#)

32 > [www.empowered.eu/wp-content/uploads/2022/12/Summer-EP_short-intro_final.pdf](#)

33 > [www.empowered.eu/wp-content/uploads/2022/12/Energy-Poverty-Health-Factsheet_final.pdf](#)

33 > [www.empowered.eu/wp-content/uploads/2022/12/Energy-Poverty-Health-Factsheet_final.pdf](#)

The EU level perspective on a ban on disconnections /- FoEE

The European gas price crisis saw skyrocketing energy bills alongside unpayable bills for millions across the continent. But energy poverty did not begin with the recent surge in gas prices, or with the war in Ukraine; Over [50 million Europeans](#) already struggled to adequately light, heat or cool their homes. When faced with the prospect of a ‘winter of disconnections’, many Right to Energy Coalition members led calls to the EU and member states [to ban](#) them immediately.

Demands for a ban on disconnections did not spring only from this crisis. Researchers working on ENGAGER’s [COVID Energy Poverty Map](#) project highlighted that **disconnection bans and minimum energy service guarantees were rapidly rolled out across the globe in response to the pandemic**: As the cost of the EU’s energy price crisis response nears a trillion euros, almost rivalling the cost of the Covid-19 pandemic in just half the time frame, we need to ask why these policies were not made permanent and adopted comprehensively across the continent?

As we face a potential third winter of crisis, we can no longer tolerate a situation where millions are left without the basic energy they need to live safe and dignified lives.

Why bans on disconnections are needed / A social justice perspective / European Anti-Poverty Network

Energy is a basic human right and a *service of general interest with public service obligations*²⁷. It’s vital to ensure equal access to affordable quality basic services²⁸, regardless of the geographical location in the EU and the nature of the provider.

Access to electricity plays a fundamental role in poverty reduction and full participation in the society. In fact, electricity is of pivotal importance to access other essential services²⁹ such as education, healthcare and social protection benefits, as well as reducing digital poverty.

Therefore, discontinuity in energy provision and access is not an option for the EU population, particularly those who live on low incomes, in situations of vulnerability, and are at risk of energy poverty.

At present, millions of households have to choose between energy and other basic needs. In spring 2022, among households that were already in arrears with their utility bills, 74% were concerned that they will not be able to pay their bill in the next three months. In addition to this, the proportion of respondents with utility bill arrears was considerably higher for those who live in rented houses and social housing³⁰. Despite this, after the war in Ukraine, energy producers and providers (especially fossil fuel companies) multiplied their profits and continue to disconnect customers.

EAPN calls for binding measures aimed at reducing energy poverty and ensuring social justice in the energy transition and cost of living crisis:

- *An adequate minimum amount of electricity guaranteed at EU level, at an affordable cost*
- *A permanent ban on disconnections from the grid*

These two measures must be implemented on a permanent basis and in an integrated manner.

Any ban on disconnection of electricity cannot apply exclusively in times of emergency, because *access to energy is a human right, energy poverty is a structural problem, and people who are the least responsible for climate change are often those who pay the highest costs.*

If a customer declares inability to pay, there must be mandatory assistance from local social services (e.g. one stop shops) or municipal hubs which can manage the case and offer *ad hoc* support for direct income, district renewable energy, and legal protection, for example.

An integrated approach entails more tax justice across the EU, through a strong regulatory framework on progressive green taxes, revenue recycling and wholesale market interventions, together with mandatory companies' certification of insurance coverage for damage to the environment; these would prevent the socialisation of suppliers' costs and provide financial resources to facilitate access of the most vulnerable to renewables and energy efficiency as well as energy subsidies in response to unbearable energy prices. An EU-wide disconnection ban and minimum provision of electricity at any time would also correct the dangerous drift of current EU policies aiming to ensure better consumer empowerment and protection through the reduction of consumption for all consumers.

Whilst saving energy is essential to help energy storage and avoid environmental damage, **there should not be a one-size-fits all approach to reducing energy demand**. In fact, high-income consumers consume more in absolute terms, whilst low-income consumers or people at risk of energy poverty disconnect themselves from the grid and consume less to avoid paying unaffordable electricity bills, with significant impact on their mental and physical health. According to Eurostat data, a steep increase in consumption with available income is observed, which is particularly pronounced at the top of the distribution in most countries.

Lower income groups have to spend a considerably higher part of their income on goods and services than higher income groups, thereby preventing them from saving part of their income, or even dissaving as is the case for the first income quintile in almost all EU countries³¹. Consequently, there should be measures to reduce energy demand from high-income people whose overconsumption endangers access to energy for all.

Smart meters and sub meters are not adequate tools to enhance a socially fair demand response. These tools allow people to measure their consumption, but do not help individuals to foresee their bills, as there is no ex-ante price transparency from the utility provider and no direct link between the level of consumption and the amount saved on the final utility bill. Therefore, consumers, especially those who live in poorly insulated houses, can over consume even in the presence of sub-meter data.

EU citizens and consumers have little influence on the energy pricing and are overly exposed to volatility and poor protection - especially in times of suboptimal market conditions - a disconnection safeguard and a minimum provision of electricity is a precondition to a life in dignity and participation in society. Generally speaking, improving demand response requires equal access of consumers to information and the active involvement in the decision-making processes that impact on their consumption and bills. A purely market-based coordinated demand response would then provide a biased and distorted view of consumers' needs and resources.

Public authorities should act as guarantors of the public interest and put an end to harmful conduct of energy suppliers and utility companies.

“In France, some measures have been taken by the Government to protect consumers. For instance, energy disconnections have been banned for people who cannot afford to pay their bills, when their energy provider is the biggest one and the most well-known, that is to say EDF (Electricity France). But other providers do not have the same policy, which is a big issue, because more and more people have got another provider. EDF is no longer the only provider as it was the case in the past since the electricity market has been privatised. And it means that EDF can change its policy any time. That is the reason why we would need to have a European guideline motivating European States to ban disconnections, whatever the provider is.

Jeanne Dietrich

ADVOCACY OFFICER ON HOUSING, ENERGY POVERTY AND BUILDING RENOVATION ISSUES, AT UNIOPSS AND MEMBER OF THE STRATEGIC COMMITTEE OF EAPN FRANCE

Not just a winter problem/ Empowered

Largely due to climate change, heat waves are becoming a new characteristic of European summers. In the EU, about one fifth of the population (or **over 100 million people**) **cannot afford to keep their homes comfortably cool in summertime**³². Heat waves and their accompanying extreme weather events – droughts, fires, storms – are disproportionately hitting the most vulnerable parts of the population. When heat waves occur, those with lower incomes, people of colour, unemployed, elderly, women, people with health issues and homeless people are on the frontlines, as they tend to live in the most inadequate homes (or none at all) – insulated poorly or not at all, not equipped with cooling system, cannot afford cooling and/or are bound to unbearably hot public transport for commuting.

With summertime energy poverty on the rise, policy- and decision-makers in the EU and especially in the South, South-East and Mediterranean region must urgently recognise the threats of summertime energy poverty.

While priority should be given to tackling structural causes of energy poverty, measures, such as a ban on disconnections must be put in place to tackle summertime energy poverty. **Many people are dependent on cooling devices (airconditioning, ventilators), which are powered by electricity, hence disconnections in summertime can also have enormous impacts on people's health and wellbeing.** Hence bans on disconnections should be introduced also in summertime, not only during the winter season.

Disconnections and health/ Empowered

A ban on disconnections helps guarantee the right to health because there is a secure and continuous access to the energy supply. Many people are energy dependent because of medicines or machines related to illnesses. Also the fear of disconnections, and disconnections themselves lead to impacts on not only physical but also mental health. Women are usually more affected by those kind of effects, as well as normally assume more care work related to members of the family that have chronic disease or are dependants³³, etc.

Electricity supply disconnections can be a direct cause of several health issues that can be lethal. Particular health risks related to electricity disconnections are diabetes

mellitus (inability to cook or keep fresh foods or store medicine in the fridge, resulting in a bad diet and poor medical treatment), palliative care and immobilized people treatments needing electricity to function (oxygen therapy, technical aids), or the use of Continuous Positive Airway Pressure (CPAP) devices in obstructive sleep apnea syndrome (OSAS) and heart disease³⁴.

Across europe, communities are already winning action on disconnections - ESF

Grassroots action is already securing action to ban disconnections. For example, the Law 24/2015 of the Catalan Parliament, a Citizens Legislative Initiative launched by the Alliance against Energy Poverty, the Platform of affected by mortgages and the DESC Observatory, approved unanimously in 2015. It includes an article to avoid energy poverty that represents a good example of the **"precautionary principle"** in action.

The precautionary principle makes it mandatory for supply companies of energy and water to **ask the social services of the corresponding City Council if the person who has stopped paying a bill is in a situation of vulnerability before disconnecting them.** If that is the case (the household or person who is in a vulnerable situation) supplies must be guaranteed and therefore the company cannot disconnect the family's energy or water supply.

The idea is to change existing legislative logic: **which is that if someone does not pay it is because they cannot do so, not because they do not want to.**

Law 24/2015 saw the signature of agreements between the government and supply companies for the negotiation, cancellation and/or shared payment of the debts accumulated, application of very notable discounts or adjustment of tariffs, contracted power, etc.

Disconnections and renovictions - Improving our homes without worsening our society / Ecodes

The right to energy and the right to housing are closely intertwined. Since both are prerequisites for adequate living conditions, both disconnections and evictions are infringing upon these adequate living conditions, and should be equally opposed.

The Renovation Wave, which promised 'making energy-performing and sustainable

buildings widely available' could lead to both disconnections and evictions if not designed properly. If the Renovation Wave doesn't fully introduce 'decarbonisation and integration of renewables' into all of our homes, those households who cannot afford the change and are therefore forced to keep their obsolete and fossil-fuel based systems will face increasing usage and maintenance costs. In conjunction with stagnant incomes, this will probably lead to energy under-consumption or disconnections, resulting both in worse living conditions for those who have already suffered the worst part of the last housing and energy crises.

Paradoxically, improving everyone's homes doesn't necessarily improve everyone's living conditions. District housing renovations that have been carried out without considering the possible injustices associated with climate change and low-carbon transitions have produced processes of renoviction or low-carbon gentrification. When landlords are encouraged or forced to renovate their properties, they can assume that the cost of the renovation should be covered, even if it is through instalment payments, by the tenants, as they will be the ones who will see their energy bills go down. This is not always true, as many households consume much less energy than necessary. By improving the energy efficiency of their homes, their bills don't improve, while their living conditions do, but at the cost of higher rents, which they cannot afford.

This logic is sometimes carried to financing mechanisms, making rent increases not the only issue that can lead tenants to evictions after renovation processes. Energy performance contracting schemes –in which energy efficiency improvements are paid for in relation to a level of energy efficiency improvement or other agreed energy performance criterion, such as financial savings–, tend to be calculated on the basis of theoretical calculations, instead of being based on the real savings achieved after the renovation. This approach falls into the same problems as mentioned before, or becomes not very profitable from a financing point of view, which discourages financing institutions from covering these sorts of projects. Financing can become either problematic or unachievable.

We indeed need to make our homes energy-efficient and decarbonized, but this should not come at the cost of depriving households of their right to adequate housing. **The energy transition cannot force disconnections or evictions on vulnerable households.**

Conclusion - FOEE

Together we have a myth **to challenge**: the current economic dogma says if people are not disconnected then people simply *won't pay*. Instead, it's clear people don't pay because they *can't pay*. We need to shift the conversation to how much energy a person needs to take part in our society and how we can guarantee that?

Our Coalition's demands are modest, we only want energy to not cost the earth - or not cost us the earth. Importantly, this means calling for *debts accrued from unpayable energy bills to be absorbed from industry profits, an end to the imposition of prepayment meters in the short-term alongside a longer term commitment to climate justice*. Any EU-wide, national or local ban on disconnections should be implemented alongside the rollout of long term solutions to raise energy efficiency via subsidised deep renovations programmes and access to renewable energy.

While European decision makers should seek to cap unnecessary energy consumption to lower our emissions and fossil fuel dependency overall, they must also raise the floor on social protections and redistribute energy according to basic need - not solely by ability to pay.

Everyone has minimum energy needs - and this needs to be defined in every country. Any ban(s) on disconnection should increase, not decrease social cohesion across the continent. If they are implemented piece-meal they risk creating further inequalities within the EU across regions and municipalities.

Next we must work together to define what implementation of a ban on disconnection would look like, whether across the EU or in each country - *acting on debts, and even decommodifying energy by ensuring a free minimum band for all*; **All of these actions must take us, step-by-step, towards a guaranteed right to clean, affordable energy for all.**

Energy poverty and impact of energy crisis on vulnerable households in Europe

RUTH OWEN,
CLOTILDE CLARK-FOULQUIER
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European Federation of
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Homelessness is not only about housing, but it is always also about housing. FEANTSA, the European federation of national organisations working with the homeless, works on affordable housing solutions, and in doing so has been working for the last years on renovations, adequate housing, and energy poverty.

Energy poverty at EU Level

There is still no agreed EU definition of energy poverty. In fact, most Member States do not have one. The Commission's recent proposal for a recast of the Energy Efficiency Directive includes a new provision defining energy poverty as "a household's lack of access to essential energy services that underpin a decent standard of living and health, including adequate warmth, cooling, lighting, and energy to power appliances..."

Latest trends related to energy poverty

Increasingly unaffordable energy, housing, and food mean that a growing proportion of European households are struggling to meet their basic needs.

The post-COVID economic recovery was already driving energy inflation when Russia invaded Ukraine. We're now in the midst of a full-blown cost of living crisis. Euro area annual inflation was at 9,2% in December 2022, largely driven by energy and food, in other words essentials.

Housing costs are not well captured by headline inflation indicators. However, we know that housing is another essential good and that housing costs have been spiralling out of control. Rents increased by 17.6 % in the EU in the past 10 years. The cost of buying a house

increased by 45%. Rising interest rates are driving housing costs even further up, with record-breaking increases occurring over the past year in many countries.

This cost-of-living crisis is hitting lowest-income groups disproportionately, as they spend a higher share of their total income on housing, heating, transport, and food, and were already limiting their consumption to the minimum necessary (their demand is therefore less price elastic). For example, in Ireland, 29% of the population is now in energy poverty, compared to 13% in 2015. Why does it matter? Because low-income households were already struggling as a result of the post-pandemic economic situation, and they will be impacted even more with additional pressure on their constrained expenditures. It is fair to say the social situation is worsening. On top of that, the public safety nets deployed through Europe rely on very high public expenditure, but how long will this last.

Energy poverty was already a significant and growing problem before the current inflation crisis. In 2020:

- 35 million EU citizens, 8% of the total population, were unable to keep their homes adequately warm. For the population AROP, it was 17.8%.
- 14.8% of EU households had leaks, damp, or rot in their home. For the population AROP, it was 22.8%.
- 6% of EU households were facing arrears on utilities

Energy poverty is an issue in all member states. However, it affects more households in Southern, Central and Eastern Europe more than in Northern and Western Europe. In Bulgaria and Lithuania, more than 30% households cannot keep their home adequately warm; in Austria and Finland it is less than 2%.

35 > www.rtl.be/info/belgique/faits-divers/deux-femmes-ont-perdu-la-vie-a-anvers-a-la-suite-d-une-intoxication-au-monxyde-de-carbone-1408279.aspx

36 > www.energie-mediateur.fr/
<https-www-energie-mediateur-fr-wp-content-uploads-2022-03-cp-intervention-pour-impayes-2021-pdf/>

37 > See the mapping of energy efficiency measures in this map: www.covidenergymap.com/

“Further protection from disconnection would be a first step in the right direction.”

Impact of energy poverty

Energy poverty jeopardises people’s health and safety. In Belgium a mother and daughter tragically died from Carbon Monoxide poisoning in Antwerp in October 2022 whilst trying to heat their home with a BBQ.³⁵ But beyond the story, research demonstrates that energy poverty causes increased mortality and morbidity, as well as poorer general health, and mental health, psychological stress, affects personal and social inclusion, self-esteem, family life, work, and education.

In the homes of people suffering energy poverty, it is too cold or damp, which makes the home unhealthy. In addition, they lose their dignity and are unwilling to invite people into their homes. Unpaid bills and the fear of disconnection place a great deal of stress on household members, especially women, who are often responsible for managing the household budget and paying bills. In

households where electricity was disconnected or where households have to be extra careful with energy consumption, children can no longer do their homework in the evening as it gets dark. A power cut means that families can no longer keep their food fresh and cook for their relatives or wash their clothes at home, charge their phones and get information. Reconnection to service is often a stressful bureaucratic process, with the pressure of having to repay arrears and also pay the reconnection fee. Increased stress levels can reduce work and school performance. In this context, measures to ban disconnections can play a vital role in protecting vulnerable people from the worst effects of energy poverty.

We do not have figures on disconnections at European level, but some countries have some data. This is the case for example of France with 255,000 cuts or Germany with 235,000 cuts in 2021. According to the National Energy Ombudsman, the 255,000 energy cuts for unpaid bills, represents an increase of 17% compared to 2019.³⁶

In response to COVID19 and to the current cost of living crisis, several countries introduced or strengthened disconnection bans.³⁷ This shows that it can be done. Furthermore, such measures are fast, cheap for government and clearly protective. There is scope to build on these experiences to guarantee a basic right to energy in Europe. There are several building blocks at EU level that could be used to strengthen protection from disconnections.

The Electricity Markets and Gas Directives already require Member States to ensure there are adequate safeguards to protect vulnerable customers and allows a ban on disconnection to vulnerable consumers in critical times. However, the definition of vulnerable customers is left to the Member States. It can refer to energy poverty and the prohibition of disconnection in critical times. In many countries, the protection is quite limited – for example because it is seasonal; or relies on a narrow definition of vulnerable customers based on age, health, or medical conditions.

The European Pillar of Social Rights, which is supposed to underpin the EU’s social dimension, includes Pillar 20 “Access to essential services” including water, sanitation, energy, transport, financial services, and digital communications.

The Revised Drinking Water Directive could serve as a model for guaranteeing minimum energy services. It includes an obligation for Member States to take all measures necessary to ensure access to drinking water for vulnerable and marginalised groups.

The concept of energy poverty has been developing at EU level for several years. The Green Deal has now put it firmly onto the agenda. Legislative proposals including the Energy Performance in Buildings Directive (EPBD), the Energy Efficiency Directive, and the proposal for an extension of the Emissions Trading Scheme (ETS), accompanied by a Social Climate Fund (SCF), have important implications for energy poverty. The Energy Council met yet again to discuss emergency regulation of gas prices. Back in October 2020, the Commission produced a Recommendation on Energy Poverty.

However, despite the increased attention paid to the issue, it remains very unclear whether the overall fit-for-55 package will do enough to protect vulnerable households in the transition to net zero. FEANTSA is particularly concerned by the following policies currently under negotiation at EU level;

- The Emission Trading Scheme's extension to households is a socially regressive measure that will drive more people into energy poverty.
- The proposed Social Climate Fund is too modest for its ambitions.
- Mandatory Energy Performance Standards for buildings could help improve living conditions in worst-performing buildings but only if sufficient funding is available, alongside protective social measures that guarantee affordability and targeted outreach for hard-to-reach groups. Without these in place, the Energy Performance in Buildings Directive could make housing less affordable and accessible to vulnerable households.

If we look forward, it seems likely that energy prices will stay elevated and even keep rising to reach the goals of the Paris agreement and the Green Deal. This necessitates a redoubling of efforts to address energy poverty, including more ambition on immediate support as well as longer term investment. Further protection from disconnection would be a first step in the right direction. It couldn't come at a more important time for the social credibility of the EU project.

At both EU and national level, we urgently need more coherent measures to address energy poverty in the short term and in the long term. We need to better balance transition and protection.



Energy is a human right and should be treated as such!

MEHMET BULUT AND SILVIA PASTORELLI



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Access to enough clean and modern energy to meet one's basic needs is essential for human well-being, and should be treated as a fundamental right. Despite this, there were **775 million people** without access to electricity in the world in 2022, located mostly in Africa and Asia. Whilst more pronounced in developing contexts, energy poverty is not a problem limited to the global south, it affects millions of people in Europe and has been greatly exacerbated by the energy crisis.

According to the European Poverty Research Network, more than **80 million Europeans** are struggling to pay their energy bills on time and keep their homes adequately warm and free of damp and mould. In one of the richest regions in the world, millions of people are being pushed into energy poverty by skyrocketing energy prices, either through being disconnected from energy services or having to choose between heating and eating. Meanwhile, fossil fuel companies are collecting obscene profits. In spring 2022, shortly after the full-scale Russian invasion of Ukraine, a **Eurofound survey** revealed that 16% of people in the EU reported being in arrears of their utility bills, with numbers as high as 50% in Greece.

People that are already disadvantaged are more susceptible to energy poverty. In the same survey, 45% of Europeans reported having difficulties to make ends meet and

expressed worries that they will not be able to pay their utility bills in the next three months. In Czechia, if you make the minimum wage, you would have to work 65 days to cover your annual energy bills, **the highest number in the European Union**, and in Greece and Estonia 54 days.

Left in the dark

Recognising that Europeans are suffering from energy poverty is not enough. As the energy crisis grows into a humanitarian crisis, there is no comprehensive data on how many people in Europe are cut off from energy services and left in the dark and cold. In order to understand the real extent of the problem, we need to collect detailed data on current disconnections and develop policies that are up to the task of addressing energy poverty effectively, in each country and at the EU level. Before the Covid-19 pandemic, voluntarily reported **disconnection rates due to non-payment of energy bills** reached as high as 4% of household customers of electricity in Italy, followed by Greece with just under 4%, while around 2.5% of household customers in the two countries received gas disconnection notices the same year.

The legal process - the minimum duration and the number of warnings required - for disconnection in case of non-payment **varies greatly between EU countries**. For electricity, 10 working days after the first warning are enough to disconnect an electricity customer in Poland, whereas in Latvia it could be as little as 5 working days for gas. Several European countries also do not have a set minimum amount for disconnection, meaning that households can be served a disconnection notice even for extremely low amounts of energy use. In most cases, those who are disconnected have to pay a fee for being disconnected from the network which can be over **130 Euros or equivalent**. This inhumane practice charges people a fee, to abandon them in darkness or cold and there is often the added cost of a reconnection fee to restore their energy supply.

“People need more than a winter truce.”

Energy poverty kills

Not being able to pay your bills also has severe health impacts. More people die in winter, primarily due to energy poverty, with several deaths directly linked to energy disconnections. According to the World Health Organization, indoor cold kills **58,000 people** in the EU each year. Causes include life threatening conditions like **hypothermia**, or a dependence on electronic devices **to survive** (i.e. oxygen machines), or **by fire** or **carbon monoxide poisoning**. In Spain, **more people are dying of energy poverty than road accidents**. There is also a strong association between energy poverty and worsening health status, as well as **higher use of health services and medications**, which put a strain on both energy poor households' finances and on healthcare systems. European countries have some of the world's highest rates of "**excess winter mortality**": 29.4% in Malta, 28% in Portugal, 23.6% in Cyprus, 20.6% in Spain, 19.7% in Ireland and 18.6% in the UK. Specific to disconnections, it has been reported that recent disconnections due to non-payment have led to the **hospitalisations** of clinically vulnerable people, which not only threaten the lives of these individuals, but also put a strain on the public healthcare systems.

This situation is further worsened by the dire state of the majority of buildings in the EU: around **75%** of them are energy inefficient. In 2019, over 30 million Europeans were not able to keep their homes adequately warm - almost **7%** of the total EU population. These difficult conditions have been exacerbated by the energy crisis and a massive increase in the cost of living. Additionally, **14.8% of Europeans** live in leaky, damp houses, whose conditions are made even worse by lack of proper heating, cooling, and ventilation. According to the **World Health Organization**, the health impacts of such inadequate housing can directly affect people's health from cardiovascular diseases to asthma. Inadequate housing in the EU27 and the UK is estimated to cost **€194 billion in healthcare costs**, in which energy poverty plays an important role. Having unconditional access to enough energy to meet people's basic needs and to decent, well insulated housing would not only push down energy costs, but also eliminate many of the health risks associated with energy poverty.

Universal basic energy

Greenpeace believes that everyone should have access to affordable clean energy coming from renewable energy resources. Being able to meet basic needs like heating and cooking should not be considered a

“Access to energy shouldn't be a battle in the first place.”

luxury. Governments have a duty to guarantee access in a way that is fair and equitable for people, without being harmful to nature and the climate. We call for systemic changes that will reduce overall energy demand and slash waste, like massive home energy performance improvement programmes to benefit the most disadvantaged people who often live in the worst performing buildings and are trapped in a vicious circle of poverty. This needs to be coupled with an energy system transformation: the EU must be 100% renewable by 2040.

In December 2022, the European Commission, together with a group of energy suppliers and regulators, **encouraged** EU governments to implement measures that would ease the burden of the energy crisis, including protection for the most vulnerable people against disconnections. Recognising this problem is an essential first step towards its solution, but it's not enough. People across Europe need more than a commitment to a winter truce: access to clean, affordable energy should not be a battle in the first place.

Disconnections are needless cruelty. Countries which continue to allow them are making a political choice to let vulnerable people bear the brunt of decades of bad energy policy. The EU and national governments should ban energy disconnections due to non-payment, and introduce measures to provide Europeans with universal access to basic energy, and healthy energy efficient homes.

A minimum electricity service for all, guaranteed at all times of the year

HÉLÈNE DENIS



HÉLÈNE DENISE
Fondation Abbé Pierre,
France

Created in 1987, the Fondation Abbé Pierre works to ensure that all people experiencing difficulties have access to decent housing and a dignified life. True to the spirit of its founder, it fights against all forms of injustice and discrimination in housing, both in France and abroad.

At a time when energy inflation is expected to persist, electricity is more than ever a basic necessity

However, hundreds of thousands of people living in precarious situations with unpaid bills are deprived of it every year, in what appears to be a cruel social punishment. In 2021, according to the Energy Mediator, the number of unpaid energy bills in France increased by 17% in one year, resulting in nearly 255,000 electricity disconnections in households that could no longer pay their bills. Another 530,000 households were also subject to a power reduction by their energy suppliers for the same reasons, which is the first step before the final cut-off. Furthermore, the situation seems to be worsening, as in 2022, 27% of French people (compared to 18% in 2020) reported having difficulty paying some gas or electricity bills.

The deprivation of electricity has tangible effects on the health, safety, and livelihoods of households. A study conducted by the Fondation Abbé Pierre revealed that, in addition to being particularly vulnerable to winter illnesses, people exposed to energy poverty experience more frequent chronic respiratory, osteoarticular, neurological, and depressive health problems, all other things being equal. Being deprived of heat and electricity can also lead to fire hazards from the use of candles, lamps, or kerosene heating, as well as social exclusion, which has dramatic effects on mental health, self-esteem, family and professional life, and education.

Protections that remain insufficient to address this aggravated form of energy poverty

To address this aggravated form of energy poverty, social tariffs for gas and electricity were replaced in 2018 by a scheme to help cover expenses: the energy voucher ("chèque énergie"). In 2022, the voucher with an average amount of 150 euros per year was sent directly to over 5.8 million households. Unfortunately, beyond the fact that the amount is insufficient to alleviate high bills, the measure does not provide effective protection for every household experiencing energy poverty. Since the voucher is based on resources rather than the percentage of income spent on energy, not all beneficiaries of the voucher are necessarily in fuel poverty, and not all people in fuel poverty are eligible for it.

To protect households from disconnections during the year, a winter truce has been implemented (Loi Brottes, 2013) from November 1st of each year to March 31st of the following year. During this period, electricity, heat, and gas suppliers are not permitted to interrupt the service supply to main residences. However, electricity providers may reduce the power delivered (to 2,000 Watts), except for households receiving the energy voucher, who benefit from additional protections in this regard. Power reduction and disconnection are allowed by law the rest of the year, regardless of the income of the households in arrears. However, unlike water, where disconnections and flow reductions have been prohibited in main residences all year round since 2013, the legal existence of a «public electricity service» has no practical effect on its distribution.

To abolish electricity disconnections for all, replacing them with power reductions

This is why the Fondation Abbé Pierre is proposing the implementation of a Minimum Service of Electricity. Electricity suppliers would no longer be entitled to interrupt the supply of electricity to the main dwelling, regardless of the time of year. This minimum access to electricity would benefit all households, regardless of their income level. Indeed, a measure restricted only to low-income households or those receiving the energy voucher would not provide protection for all people experiencing energy poverty and could lead to difficulties in identifying the affected households by energy suppliers.

“Energy disconnections due to a person’s inability to pay threaten their human right to energy and should be prohibited at EU level, favouring instead mechanisms centred on targeted support to those at risk of being cut off. Alternative measures such as prepayment meters or power limiters are not adequate solutions: they stigmatise people in need, worsen their difficult situation and do not ultimately solve the core issue at stake.”

This minimum access would replace energy disconnections outside of the winter truce and would be a last resort for consumers who have not paid their bills while they take the necessary steps to regularize their situation. Initially, this minimum access would be set at 1,000 incompressible Watts (1kVa), a power level that would allow for the most basic needs - running a light bulb, recharging a phone, and storing food in the refrigerator - without being considered a desirable comfort level over time. In winter, the winter truce prohibiting power reductions below 2 kVa - and completely for households receiving the energy voucher - would be maintained, to allow the use of heating appliances during the coldest period of the year.

It is worth noting that this measure is now technically feasible with no technician required thanks to the widespread deployment of smart meters, which already cover 80% of French households and allow for remote flow control.

EDF announced in November 2021 that they would no longer request the disconnection of electricity for their residential customers. This measure, which became effective on April 1, 2022, applies in all cases unless physically or technically infeasible and to all of its customers, who represent nearly 70% of the market share. On the strength of this first victory, the Fondation Abbé Pierre is now asking to enshrine in law the “right of access to energy for all households”, so that all consumers, regardless of their electricity providers, benefit from this protection.

Disconnections in the Brussels-Capital Region: Targeted social support over prepayment meters and power limiters

JUAN CARLOS BENITO SANCHEZ



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Coordinator at Centre d'Appui SocialEnergie, Fédération des services sociaux (FdSS), Belgium³⁸

Energy disconnections due to a person's inability to pay threaten their human right to energy and should be prohibited at EU level, favouring instead mechanisms centred on targeted support to those at risk of being cut off. Alternative measures such as prepayment meters or power limiters are not adequate solutions: they stigmatise people in need, worsen their difficult situation and do not ultimately solve the core issue at stake.

Energy (and water) disconnections due to a person's inability to pay are incompatible with international and European human rights law.³⁹ They are inhuman and needlessly punitive and they should be rejected as a purported solution to issues related to the affordability of energy services. Any viable solutions to the difficulties experienced by people in need should come from targeted state support and social services' involvement, rather than technical solutions like prepayment meters or power limiters that are not fit for purpose. In this article, we set out our experience within the Brussels-Capital region and explain the various mechanisms seeking to prevent disconnections there.

Protection against disconnections in the Brussels-Capital Region

It should be noted as a preliminary point that regulations surrounding social protection with regard to the access to energy and water, and therefore policies around disconnections, are a regional competence in Belgium. This means that each one of the three Belgian regions (the Brussels-Capital Region, Wallonia and Flanders)

has very different approaches and procedures in place to address this subject-matter.

Energy disconnections are allowed in the Brussels-Capital Region, but they are subject to a restrictive and protective regulation whose three main pillars are judicial authorisation, the "winter truce" and the so-called "protected client status":

– **Judicial authorisation.** Disconnections due to a residential customer's inability to pay must be authorised by a judge, who verifies that the strict procedure set out by law has been followed by the supplier and the distribution system operator (DSO) and that the disconnection is not abusive. This procedure includes various forms of notification to the household, as well as a notification to the public social services centre (*centre public d'action social*, CPAS).

Despite this protective regulation, we still encounter numerous cases where households are cut off without their being informed, often because they have not received the required notifications and have not had the opportunity of being present at the judicial hearing where the disconnection has been authorised. Moreover, a disconnection can still take place without judicial authorisation if no energy supply contract is active for a given supply point (end-of-contract procedure).

– **The winter truce.** No disconnections of residential customers are allowed between 1 October and 31 March. The household will instead be supplied by the DSO (acting as a social supplier) at the social tariff rate until 31 March.⁴⁰ After this date, they will be given the opportunity to conclude a new contract and/or to apply for other financial and non-financial aid mechanisms.

The downside of this winter truce is the

³⁸ ▶ Special thanks to my colleagues Véronique van der Plancke and Marie Hanse for their precious input and to social actors in the Brussels-Capital Region whose tireless work over the years led to a region-wide ban on water disconnections due to a person's inability to pay.

³⁹ ▶ See Marlies Hesselman's contribution to this volume. See also Hesselman, Varo, Guyet, Thomson, "Energy Poverty in the COVID-Era: Mapping Global Responses to the Pandemic in Light of Momentum on the Universal Right to Energy", *Energy Research and Social Sciences* 18 (2021) ([Open access](#)). With regard to EU law, the European Economic and Social Committee considered in 2013 that energy is "an essential common good, so that everyone can lead a decent life" and proposed that a "universal right of access to energy" be enshrined in the EU Treaties (Opinion on "For coordinated European measures to prevent and combat energy poverty, 2013/C 341/05). Article 28 of Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal

market for electricity and amending Directive 2012/27/EU (recast) states that "Member States shall take appropriate measures to protect customers and shall ensure, in particular, that there are adequate safeguards to protect vulnerable customers. In this context, each Member State shall define the concept of vulnerable customers which may refer to energy poverty and, inter alia, to the prohibition of disconnection of electricity to such customers in critical times."

40 > The social tariff rate is fixed by the Belgian federal regulator. At the time of writing (January 2023), the social tariff for electricity represents about half of the average commercial rate, while the social tariff for gas equals 20% of the average commercial rate.

41 > The Federation of Social Services (FdSS) is a member of RWADE. The podcast series is available here: www.rwade.be/ressources/?090dceb-category=podcast

wave of disconnections that takes place every year from April onwards, especially when households have not fully understood that they must take action to avoid a disconnection. Moreover, disconnections are still allowed the rest of the year, including during the summer, when recent heatwaves have shown the importance of being able to cool the home.

– **The protected client status.** This status allows for a household to be supplied by the DSO (acting as a social supplier) at the social tariff rate while it reimburses its outstanding debt with a commercial supplier. Disconnection is not allowed as long as the household benefits from this status. The protected client status lasts for 5 years, but it can terminate earlier if the debt is fully reimbursed, if the reimbursement plan is not complied with or if the other conditions are no longer met. These conditions are, in a nutshell: to be declared vulnerable following an enquiry of the public social services centre or to participate in a debt management or restructuring procedure or to have income below a certain threshold (in practice 70% of the population satisfy this last criteria).

Despite this protective measure, the rate of non-take-up is extremely high: according to the regional energy regulator, there are slightly over 3,000 protected clients for electricity and slightly over 2,000 protected clients for gas in the Brussels-Capital Region, which has a population of over 1.2 million.

The false solutions: prepayment meters and power limiters

Prepayment meters and power-limiting devices are not used in the Brussels-Capital Region. Prepayment meters were never authorised, unlike in the other two Belgian regions, as they are regarded as punitive devices leading to self-disconnections and structural underconsumption when compared to actual household needs. The devastating effects of prepayment meters for households in Wallonia have been recently documented in a series of podcasts created by the Walloon Network for Sustainable Access to Energy (*Réseau wallon pour l'accès durable à l'énergie*, RWADE).⁴¹

Power-limiting devices could be installed in the Brussels-Capital Region until April 2022. These limiters could be placed by the DSO as part of the disconnection procedure launched by a supplier if certain conditions were met. They limited power to the household to 2,300 watts, although the public social services centre could demand, after conducting a social enquiry, that this limit go up to 4,600 watts.

Power limiters were punitive devices, that did not allow to use multiple household appliances at the same time and that required significant changes to daily routines. For example, these limiters would not allow any appliances to be plugged in at the same time as a fridge, a TV and a cooking plate. Moreover, they did not reduce consumption: the household would still consume the same amount of electricity and it would develop strategies to bypass the power limiter, notably by using appliances subsequently rather than simultaneously. This meant in turn that no additional disposable income was available for households to try to limit their indebtedness, defeating the intended purpose of these devices and needlessly compounding the suffering experienced by people in this situation.

A legal reform in early 2022 thus prohibited the installation of any new power limiters and compelled the DSO to remove all power limiters that were already installed in the region. This is now replaced by an obligation for the DSO to contact the household to explain the consequences of non-payment and the social protection measures that exist (including the protected client status). The DSO must also communicate the contact information of the public social services centre and other associations that can help the household to conclude a new supply contract.

Towards a ban on disconnections

A parallel can be drawn with the right to water: Since 1 January 2022, water disconnections due to a person's inability to pay are prohibited in the Brussels-Capital Region. The alternative to disconnections proposed by the legislator was the creation of a taskforce led by the public social services centre in collaboration with local actors to support households who cannot afford their water bills. This taskforce should take a targeted approach to each household and make sure that they benefit from the existing social protection measures while addressing any outstanding issues.

In summary, disconnections due to a person's inability to pay should be forbidden, as demanded by international and European human rights law. Neither prepayment meters nor power-limiting devices are valid solutions to prevent this. Alternatives to disconnection should be focused on targeted support to those at risk of being cut off, reinforcing social services to allow them to provide a personalised approach and help households in need without stigmatising them or worsening their predicament. It is time for the EU to take a stance and ban disconnections once and for all.

The case of ban on disconnections in **Catalonia**: The law 24/2015

**THE ALLIANCE
AGAINST
ENERGY
POVERTY**

Law 24/2015 of the Catalan Parliament was a Citizens Legislative Initiative (ILP) launched by the Alliance against Energy Poverty (APE), the Platform of Affected by Mortgages (PAH), and the Observatory of Economic, Social and Cultural Rights (ODESC). This proposal achieved 3 times the mandatory signatures for its discussion at the Catalan Parliament, around 150.000. Then the initiative passed and as Law, approved unanimously by all political parties in July 2015, after an important task of advocacy by the ILP commission, formed by the 3 promotor organisations.

The base: a precautionary principle that gives obligations to private utility companies

The Law includes an article to avoid energy poverty that represents a good example of what we would call the "precautionary principle". This principle leads to an effective ban of disconnections in the way that follows:

The precautionary principle makes it mandatory for supply companies of energy and water to ask the social services of the corresponding City Council if the person who has stopped paying a bill is in a situation of vulnerability before disconnecting them. If that is the case (the household or person is vulnerable) supplies must be guaranteed. As a result, the company cannot disconnect the family's energy or water supply, but it doesn't stop them from generating debt as they still can't pay.

The idea is to change the logic that existed until current days in the legislation, which is that if someone does not pay it is because they cannot do so, not because they do not want to. The main goal is taking the precaution of first

checking if the person is in a vulnerable situation and if so guaranteeing the right to energy and the human right to water.

Agreements with suppliers: a tool to cancel accumulated debts and insuring all household's access to energy

Law 24/2015 previews the signature of agreements between the government and utility companies for the negotiation, cancellation and/or shared payment of the debts accumulated, application of very notable discounts or adjustment of tariffs, contracted power, etc.

In order to overcome the debt of those families who have been protected from the disconnection, the agreements have stated that both the utility companies and the public administration will cover the cancellation of these debts. The distribution of the funds among utility companies / public administration has been a minimum of 50% and up to 100% assumed by the utility company, depending on the year, and the administration covering the rest. The solidarity fund has not yet been fully constituted, so in the last few years both parties have been bargaining year to year for the amount of debt each one should assume. Until now, the funds cover the 100% of the debt accumulated of unpaid bills from families under the protection of the law (fulfilling an income criteria that can be extended by other social criteria).

The guarantee of adjusted contract conditions and universal access for all

These agreements also make it mandatory for the utility company to adjust the conditions of the consumers, pass them to the regulated market and offer the social bonus (discount) of electricity, revise if the contracted power can be lowered and delete any extra services

added to the contract conditions. This has significantly lowered the final amounts of the bills, and adjusted the contracts to user's real needs and not commercial or profit logics.

In addition, those agreements also consider installing social meters to really achieve universal and secure access for all. This is an exceptional method that allows those families without a rental contract or any other legal title to live in their homes (squatters) to actually install meters, as long as they're considered vulnerable by Social Services. On the one hand, it ensures the right to energy supply no matter the families legal status on their housing, but it also avoids any risk on the family or the building neighbours, caused by an irregular connection.

Municipalities and Social Services role

As it has been pointed out, all of those measures apply for vulnerable households, or as the term of the law says it: family units in situation of housing exclusion. Thus, the participation and evaluation of the personal and economic situation of the families by the Social Services is a must for the disconnection banning and others to be effective, because in the end it requires a specific report issued by the latter indicating if the family fulfils all the requirements in the law to benefit from it (which is income and social criteria).

However, due to the amount of extra work it implies for the social workers and the incredible need of detail and specific knowledge, APE has recommended the creation of specific offices for energy poverty, energy advisory points, or energy rights offices, way more appropriate to approach the matter.

On the one hand, because they mean a considerable rise of the work volume: each worker will need to evaluate the specific document the household provides in order to evaluate their vulnerability. Afterwards they will have to create a specific report that gives credit for it in front of the utility companies and get in touch with them to alert of this situation or, in many cases, to ask them to re-install the connection. It all does not allow the workers to develop any other tasks, since it already is an overloaded department. In the end, this dynamic has visibilised the amount of contracts and families that had been treated poorly by utility offices or shops, and that social workers were doing the job of customer service that utility companies should do much better. The idea of the law is not that social workers become mere dispatchers of the vulnerability reports or even worse, managers and

“The idea is to change the logic that existed until current days in the legislation, which is that if someone does not pay it is because they cannot do so, not because they do not want to.”

direct guarantors of the accompaniment of the law by utility companies. Rather the government and administrations must make sure that utility companies are answering to their obligations and reinforcing their job on attending vulnerable families, so that social workers can actually act as such. Also the adjustment of contract conditions and tariffs that the agreements ask utilities to assume, helps to rebalance the inequality of responsibilities that often has left the administration and particularly SS even more overloaded. This condition, thought, has not yet been fully applied by utility companies and many families have contract conditions that do not correspond with family needs, rights and capacities.

On the other hand, dealing with these situations asks for a very specific and profound knowledge of the energy poverty mechanisms, as it results in the analysis and improvement of energy bills, the appliance of any disconnection law or method, the negotiation of terms between the companies and the families, the surveillance of their compliance, etc. This is a level of formation not often found in average social workers, and would require an entire social services formation. On the contrary, creating specific departments in charge of energy poverty allows to have a reduced number of workers specialised that is at the same time way more efficient, for it is dedicated to this matter exclusively.

Access to information and data: key for a right to energy that includes participation and transparency

The access to information and data is also key for the well functioning of this law and any ban of disconnections mechanism. In Spain the data of disconnections for economic reasons are not public information and only the private utility companies control this information. Now with the law and the participation of the administration on the process (the mandatory information and question to SS before disconnecting anybody), has given the public sphere the data it needs to better guarantee the right to energy and dimension the seriousness of the problem. APE has demanded the publication of this data,

and also in the meantime has gathered information from almost 100 municipalities representing the majority of the population at catalan level: since 2015 more than 200.000 disconnections have been stopped.

Also the information regarding the cancellation of debts is under discussion, with the detail of the agreements and the solidarity fund, in order for families to receive a clear message on their situation and case, so that when debt is cancelled they now they can start from scratch, and for example be able to pay present and future bills, instead of having to overcome the past debt and also the current bills. Lack of information or confusing letters and official communications have been sent to families with unintelligible messages. APE has stressed the importance for this data to be clear and available at all times.

“The precautionary principle makes it mandatory for supply companies of energy and water to ask the social services of the corresponding City Council if the person who has stopped paying a bill is in a situation of vulnerability before disconnecting them.”



Energy for all! Ban on disconnections and household debt management in the Hungary

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42 > Netjogtár (2023). [Government Decree 273/2007 \(X. 19.\) on the implementation of certain provisions of Act LXXXVI of 2007 on Electricity.](#)

43 > Habitat for Humanity Hungary (Habitat) (2022) Provision of data on housing issues. Data provided by the Hungarian Energy and Utilities Regulatory Agency (MEKH) according to the request of Habitat.

44 > Tirado-Herrero, S. (2022). [Precariousness in the access to electricity through prepayment meters in Hungary \(PREPAY\).](#)

45 > Tirado-Herrero, S. (2022). [Precariousness in the access to electricity through prepayment meters in Hungary \(PREPAY\).](#)

The current energy crisis has brought the issue of secure access to affordable energy into sharp focus in Hungary as in the rest of Europe – the present contribution aims to provide some insights on the measures in place to prevent disconnections and manage household utility debts. Hungary is one of the few EU countries where prepaid utility meters have been available for over a decade. While the use of prepaid meters has been met with widespread criticism across much of Western Europe, the Hungarian case provides some nuance. We believe that a ban on disconnections can be compatible with the provision of prepaid meters with strict social safeguards, such as a free minimum credit.

Current measures in Hungary

As a universal temporary measure, each year utility providers announce a moratorium on winter disconnections – despite having no legal obligation to do so – for the harshest winter weeks, from late December to early January, coinciding with the holiday season.

In Hungary, pursuant to Article 28 of Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019, households can register as ‘protected consumers’ provided they are recipients of certain social benefits (such as care allowance, old age pension, municipal allowance for housing costs). The protected consumer status allows for **installment payment** or **deferred payment** on utility bills (albeit once every calendar year), as well as for the installation of **prepaid meters** free of charge by their energy provider should they accumulate arrears over 60 days.⁴² In 2021 over 130 thousand prepaid electricity meters and over 12 thousand prepaid gas meters were in use, while altogether there are just over 30

thousand protected consumers registered with energy utility providers (cca. 22 thousand for electricity and 9 thousand for gas).⁴³

Whilst the opinion of energy poverty experts tends to be divided over the use of prepaid meters for energy poor households, our position is that with **adequate social safeguarding measures**, prepaid meters can provide a sense of security and stable access to energy in the Hungarian context. This is underlined by successful field-based programmes carried out by civil society organisations working in segregated Roma communities (an exemplary practice by **Bagázs** detailed below), as well as by a recent study encompassing interviews with energy poor households and advocacy organisations, where prepaid meters were often cited as a ‘safe way to regain control and manage precariousness’.⁴⁴

Field-based good practices and previous campaigns Bagázs’s debt management programme in segregated Roma communities

In 2015 the centrally subsidised debt management allowance and associated **debt management services were scrapped in Hungary, leaving it up for municipalities to find the budget for them. It is in this context that the debt management programme of Bagázs, an association working with the communities of segregated Roma settlements** in the villages of Bag and Dány near Budapest needs to be situated. The communities of the two settlements were living in poverty and deteriorated housing conditions, unable to cover basic expenses due to their low income levels, leading to high levels of indebtedness. At the outset of the programme in Bag, electricity and other utility services

were disconnected in many households due to outstanding debts – reconnection was out of reach for most of them, as it required the repayment of the entire debt with added penalties, along with the additional administrative burden of case management. Illegal reconnections were often the only alternative to gain access to electricity – resulting in life-threatening situations and also carrying the risk of penalties or even imprisonment. Bagázs’s debt management programme targeted indebted households that had no legal connection to the electricity grid but had regular income from work. The association renegotiated debts with the utility provider – the amount of debt was reduced and was to be paid in smaller installments. **The installation of prepaid meters** offered a safe and legal connection to the electricity grid and helped households prevent accumulating further debt. The programme also included regular debt management group meetings where households could share energy saving techniques. An energy community was also set up to help facilitate energy savings through behavioral changes and low-cost techniques.

Previous advocacy campaigns

Shortly after the outbreak of the Covid-19 in 2020, Habitat for Humanity Hungary led a campaign with significant media outreach to support users of prepaid meters, focusing on the ban on disconnections, introduced as a temporary measure because of the pandemic, which did not take into account the users of prepaid meters. This was the case despite households with prepaid meters are often vulnerable groups – either as protected

consumers (see above) and/or tenants of municipal social housing, where prepaid meters are often installed by default. Habitat demanded a **guaranteed monthly top-up for prepaid meter users** to ensure that they are not disconnected from the network and can cover their basic energy needs. The campaign advocated for the introduction of an **energy coupon** (of the equivalent of cca. 35 EUR) to all households to help out with utility bills amidst the economic difficulties brought about by the pandemic and to prevent accumulating arrears after the lifting of the moratorium – this way also preventing disconnection of the users of prepaid meters (who also had additional difficulties in reaching the top-up points). Such energy coupons have already been implemented in Hungary with a scheme targeting pensioners in 2018–19. As such, issuing energy coupons could be relatively easily implemented based on that precedent, with the technical and administrative requirements already in place. Habitat had a transferable coupon in mind, whereby wealthier households could choose to transfer the sum to those in need. These experiences could feed into further advocacy efforts for the eventual national implementation of a ban on disconnections.

Habitat for Humanity Hungary’s positions in relation to arrears and disconnections

- To counter the potential negative ramifications of the use of prepaid meters (households underconsuming, self-rationing and implementing temporary self-disconnections), further support mechanisms are urgently needed. A **free minimum credit**; an allowance to cover basic needs to be made available on prepaid meters to ensure constant access to energy services.
- **Expansion** of the available support mechanisms and social services associated with the **protected consumer status** to provide increased access and benefits for energy poor households.
- A wide-reaching socially targeted reform of the current energy pricing system (the introduction of **carefully calibrated price bands**, where the lowest band would be free or at a vastly reduced price to ensure basic energy related needs.
- A government-financed **normative housing allowance** as well as a normative **debt management service** based on the local/municipal social care system should be introduced without delay.

“Habitat demanded a guaranteed monthly top-up for prepaid meter users to ensure that they are not disconnected from the network and can cover their basic energy needs.”

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