EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

DECISION

Application no. 9564/24
Manuel GARCIA LOPEZ-AZCUTIA
against Spain

The European Court of Human Rights (Fifth Section), sitting on 5 February 2026 as a Committee composed of:

Diana Sârcu*, President*,
María Elósegui,
Sébastien Biancheri*, judges*,

and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 9564/24) against the Kingdom of Spain lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 17 March 2024 by a Spanish national, Mr Manuel García López-Azcutia, who was born in 1972 and lives in Murcia ("the applicant") and was represented by Mr J.M. Muñoz Ortín, a lawyer practising in Murcia;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns proceedings for the protection of fundamental rights in which the applicant complained of environmental nuisance caused by remaining mining waste from abandoned mining sites in the surroundings of his home. He complained that the lack of response of the authorities breached the right to life and the right to respect for his home under Articles 2 and 8 of the Convention.

2. The applicant and his son, born on 24 October 2004, lived in El Llano del Beal, a village situated in the mining district of Cartagena-La Unión (*distrito minero de Cartagena-la Unión*) in the region of Murcia. This area was used for the extraction of metals (mainly lead and silver) in different periods since before Roman times. In 1840 the mines were rediscovered and exploited in the nineteenth and twentieth century. The mining activity in the

district of Cartagena-La Unión ended in 1991 after the other mines had been progressively closed or abandoned in the late 1980s. There is remaining mining waste at some of the abandoned sites; and the natural landscape has completely changed on account of a high and irreversible degree of what the case documents characterise as 'anthropisation'.

3. In 2018 the Region of Murcia published an action plan for the environmental recovery of the area affected by historical mining. Referring to the most recent mining activity, it recalled that in only fifty years, from 1940 to 1990, the ore exploited in the area was equivalent to that exploited in the previous two millennia. The document analysed and evaluated the risks that derived from the remains of the historical mining activity in the region. It required the authorities to produce a detailed database of the situation and a task list of the measures needed, based on scientific evidence; to perform awareness-raising of local inhabitants; to put in place environmental recovery actions; and to prevent further pollution.

4. In regard to the mine dump "*balsa Yenny*", located next to the applicant's home in Llano del Beal, the action plan explained that the mining waste from this deposit had been transferred to a different location, *Corta Los Blancos I*, and that, although the company in charge of sealing the new location had postponed it, the sealing works would finish in 2018, after several injunctions and pecuniary fines had been imposed on it.

5. In 2019 the directorate general of public health in the region of Murcia carried out an individual study (*Proyecto Centinela*) to detect the presence of metals in blood samples of the neighbouring population. The tests revealed that the applicant's son had blood lead concentration of 4.85 µg/dl and 2.35 µg/dl in April 2019 and August 2019, respectively. For his part, the applicant's tests revealed that he had blood lead concentration of 2,35 µg/dl in August 2019.

6. In 2020 the applicant lodged a state responsibility action with the authorities of Murcia. He complained about a violation of fundamental rights and claimed compensation for the damage to their health. The authorities did not reply.

7. On 31 July 2020 the applicant started proceedings for the protection of fundamental rights before the Murcia High Court of Justice, challenging the lack of response of the authorities, where he raised the right to life and the right to respect for their home. He complained that the presence of lead in the different deposits of mining waste located near their home and his son's school was the origin of the lead levels in their blood and that, according to some experts, the mere presence of lead in blood, even below the World Health Organisation (WHO) reference levels (5 µg/dl), was likely to cause damage in children. He submitted the results of the tests from 2019 (see paragraph 5 above) and a study of the Cartagena University which showed high levels of mineral dust deposited in their residence. He argued that the administration had failed to prevent environmental and health damage by not

imposing the necessary restoration measures on the last owners of the mining site. The applicant sought compensation and alternatively, among other measures, the relocation of his dwelling or that the authorities adopt measures to prevent the unhealthy emissions.

8. On 8 February 2022 the Murcia High Court of Justice rejected the applicant's action. The judgment established that the mine dump "*balsa Yenny"* had been transferred to a different location in 2004; that although the mining deposit had been exposed to open air for 10 years, it had been finally sealed; that in 2017 the authorities had created a working group for the elaboration of an action plan for the environmental recovery of the land affected by historical mining (see paragraph 3 above); that the authorities had created an environmental paediatrics unit which had produced in 2018 an epidemiological study on lead concentration in blood of the affected inhabitants; that a committee of experts had been set up in 2019 to provide scientific advice on the selection, prioritisation and implementation of actions aimed at the recovery of sites and land affected by metal mining; and that the authorities had carried out ground adequacy studies and clean-up works at the schools where results had revealed the presence of heavy metals, including those of the applicant's son.

9. The High Court found that the authorities had acknowledged the environmental problem in the area and its impact on the health of the population. It concluded that, although the relocation of waste from that particular mine dump should have been done better, no specific risk to the population could be attributed to the inaction of the authorities.

10. Moreover, the High Court observed that the applicant's son blood test showed lead concentration below the WHO limit and that the applicant had not submitted any neurological or psychological studies on the possible impact of that level on his son's development. It concluded that it had not been proved that the applicant or his son's physical integrity had been significantly affected by the presence of metal in their blood.

11. The applicant lodged an appeal on points of law to the Supreme Court which was declared inadmissible on 2 March 2023 for failure to substantiate the interest in cassation of the case. He brought an *amparo* appeal within the Constitutional Court. On 7 November 2023 it was declared inadmissible for not having duly justified its constitutional significance.

THE COURT'S ASSESSMENT

12. The Court notes that the allegations contained in the application form, which was submitted by the applicant only, refer indistinctly to the applicant's own rights and to his son's rights. The Court further notes that the applicant's son did not bring the application to the Court himself or issued a power of attorney to the representative who submitted the application, although he had reached the age of majority before the application was

introduced to the Court. However, no elements in the case indicate that he was unable to submit an application or to appear himself as an applicant. The Court therefore concludes that the only applicant in the application is Mr García López-Azcutia.

13. The applicant complained under Articles 2 and 8 of the Convention that there was a causal link between the mining waste located near his home and the presence of lead in his blood which implied a risk for his life and health and that the authorities had not taken proper measures. In addition, he complained that the mining dust polluted his home, impacting his son's development and school results.

14. The Court recalls that in order for Article 2 to apply in the context of an activity which is, by its very nature, capable of putting an individual's life at risk, there has to be a "real and imminent" risk to life. The term "real" risk corresponds to the requirement of the existence of a serious, genuine and sufficiently ascertainable threat to life. On the other hand, the "imminence" of such a risk entails an element of physical proximity of the threat and its temporal proximity (see *Cannavacciuolo and Others v. Italy*, no. 51567/14, § 377, 30 January 2025).

15. In the present case, the Court observes that the only submissions concerning the applicant were the results of a test showing lead levels in blood (see paragraph 5 above). It further observes that there are no medical records or other *prima facie* evidence in the case file showing that the lead level measured, well below the WHO limit, could constitute a risk for his life or health. In addition, the domestic court had found that it had not been proved that the applicant's physical integrity had been significantly affected – a conclusion the Court has no reason to take issue with.

16. The Court concludes that the applicant failed to substantiate a serious, genuine and sufficiently ascertainable threat to his life so as to trigger the applicability of Article 2 of the Convention. It follows that this complaint is incompatible *ratione materiae* with the provisions of the Convention, within the meaning of Article 35 § 3 (a) of the Convention.

17. The Court further notes that the applicant's Article 8 complaint relates to an alleged nuisance arising from the presence of lead in his home and the surrounding area, coming from the historical mining sites located near his village. The applicant's main argument in this respect is that the metals present in the area are dangerous for health and that the authorities had not prevented their dissemination into his home.

18. The Court observes that the mining activity ceased in 1991, after more than one century of recent exploitation at different intervals (see paragraph 2 above). It observes however that the applicant's first complaint to the authorities was brought only in 2020 (see paragraph 6 above), apparently in the context of information being published on environmental recovery actions and screening of the population for metals in blood. It further finds that the issue in the present case was limited to the assessment of whether, following

the historical presence of lead and other metals in the area, the authorities had taken the necessary measures to secure environmental and health protection to the population after the closure of the mines.

19. In regard to the scope of the positive obligations of the State concerning the exposure of population to pollution, the Court recalls the relevant principles referred in *Cordella and Others v. Italy*, nos. 54414/13 and 54264/15, §§ 157-160, 24 January 2019.

20. The Court further reiterates that the States enjoy a certain margin of appreciation in taken reasonable and appropriate measures to secure the rights under Article 8 of the Convention (see *López Ostra v. Spain*, 9 December 1994, § 51, Series A no. 303-C). In the present case, it observes that the State had taken several measures aimed at addressing the potential risks of the historical mining district at issue. In particular, the authorities carried out medical tests in the population, sealed one of the mine dumps and cleaned up part of the affected land (see paragraphs 8 and 9 above). In addition, specific teams had been created, medical and administrative, to manage and monitor the risks imposed by the mining waste (see paragraph 9 above). Moreover, the Court observes that the applicant's lead levels – or those of his son, for that matter – were below the WHO standard limits and that the applicant failed to prove how these levels had affected his family individually (see paragraph 10 above).

21. In light of the above, the Court finds that, at least from 2018, when the action plan for the environmental recovery of the land affected by historical mining was published, the domestic authorities had taken adequate and relevant positive steps to evaluate and address the potential risks for the population of the historical mining district of Cartagena-La Unión, which included the protection of the applicant's home and health.

22. It follows that this complaint does not indicate any appearance of a violation of the applicant's rights under Article 8 of the Convention. This complaint is therefore manifestly ill-founded and must be declared inadmissible, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 5 March 2026.

Martina Keller Deputy Registrar	Diana Sârcu President