

## **Legal Recognition of RTFN**

### **Description:**

The State recognizes the right to adequate food if that right is explicitly enshrined in the state's legislation, i.e. the constitution, supreme law, framework legislation, ordinary legislation, statutes etc<sup>1</sup>, depending on the national legal order. Also, legal recognition of the right to food can take place via direct incorporation of the ICESCR into the national legal order.

### **Rationale:**

For a state, the recognition of the right to food and related rights is a fundamental first step in the realization of food security for all, in accordance with Art. 11 ICESCR. It reflects the state's commitment to comply with its human rights obligations concerning the right to food assumed internationally and is relevant for the justiciability of the right at the national level. The right to food should be recognized in a comprehensive manner, meaning that it should regard all categories of obligations derived from the right to food and all attributes of its legal content. This indicator is in line with Right to Food Guideline<sup>2</sup> No.7 (legal framework) and No.1 (democracy, good governance, human rights and the rule of law).<sup>3</sup>

### **Method of measurement:**

Yes or No, level of recognition (in the constitution, in a framework law, in statutory law, in ordinary law, in an administrative decree, in jurisprudence), scope of recognition (all obligations derived of the right or just some)

### **Data collection and source**

FAO<sup>4</sup>, National Administration, National Human Rights Institution

### **Disaggregation**

If possible, regional disaggregation according to sub-administrative units (state, province, departments etc.). It should also be highlighted whenever the primary implementation of the right to adequate food refers to a specific population group or groups. In some cases, as in the Colombian case, the right to food is recognized in the constitution for specific population groups only (e.g. children).

### **Periodicity**

Information is usually available as it the laws change or are adopted; data should be gathered or reviewed as changes occur.

### **Comments and limitations:**

In a traditional legal system the recognition of a right in the constitution is the more adequate form of recognition, given that the constitution is considered the supreme law of the land. In such case, all other laws, government programmes etc. must be in line with the constitutional provision. Also, the recognition of the right to adequate food in a framework or ordinary law can in practice be more adequate for its effective implementation and the recognition of its justiciability. Accordingly, when analysing the information gathered through the indicator the Committee should pay attention to the individual legal culture and system of the reporting state.

This measurement offers different degrees, which enables the refinement of the information according to three levels: (1) recognized in some way, (2) recognized, or (3) strongly recognized. In order to avoid potential ambiguities in the implementation of the indicator, the experts stressed that it would need to be specified which of the elements of the components correspond to which particular level. For

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<sup>1</sup> OHCHR: Quantitative Indicators for Monitoring the Implementation of Human Rights - A Conceptual and Methodological Framework, illustrative list of indicators, p.15.

<sup>2</sup> The Right to Food Guidelines originally named Right to Food Guidelines to support the progressive realization of the right to adequate food in the context of the national food security, adopted in November 2004 by the 127th session of the FAO council.

<sup>3</sup> The guidelines might also be referred to as Right to Food Guidelines.

<sup>4</sup> See: <http://www.fao.org/right-to-food-around-the-globe/en/>

example, does constitutional recognition suffice to attain level 3, or should the right to adequate food be recognized also in other sources of national law



