

C.E.D.R.



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Commission I – Kommission I

**THE RIGHT TO ADEQUATE FOOD – SELECTED LEGAL ASPECTS
LE DROIT A UNE ALIMENTATION ADÉQUATE –
ASPECTS JURIDIQUES**

**DAS RECHT AUF ADÄQUATE ERNÄHRUNG –
AUSGEWÄHLTE RECHTLICHE ASPEKTE**

National Report – Rapport national – Landesbericht

Norway – la Norvège – Norwegen

The Right to Adequate Food – Selected Legal Aspects

1) National foundation of the right to food:

- a) *Is your country a state party to the International Covenant on Economic, Social and Cultural Rights (CESCR)?*

Norway is a state party to The CESCR. However, Norway has made a reservation to Article 8, paragraph 1(d): “to the effect that the current Norwegian practice of referring labour conflicts to the State Wages Board (a permanent tripartite arbitral commission in matters of wages) by Act of Parliament for the particular conflict, shall not be considered incompatible with the right to strike, this right being fully recognised in Norway.”

- b) *How does your country report to the UN on the right to food?*

Norway sends reports about the fulfilment of the covenant according to article 16 and 17 in the covenant. The reports are in writing, and in conformity with the Revised General Guidelines regarding the form and contents of the reports of State Parties (E/C.12/1991/1).

- c) *Does your country have a monistic or dualistic approach to international law?*

Norway has a dualistic approach to international law. Consequently, international law adopted by the Norwegian Government is not automatically made part of national law. The relevant provisions have to be transposed into national law.

- d) *Is the covenant implemented in national law?*

Human rights are guaranteed by Norwegian legislation and the budget resolution of the Storting.

- e) *How is CESCR implemented?*

i) Constitutional

The Constitution of Norway section 110 c) states that: “It is the responsibility of the authorities of the State to respect and ensure human rights. Specific provisions for the implementation of treaties hereof shall be determined by law.”

To respect and ensure human rights comprises an obligation for the authorities of the State. Firstly to avoid violation of human rights by the authorities themselves, and secondly to take positive measures to prevent violation of the human rights by others than the authorities.

The constitutional obligation does not specify which human rights should be protected. Consequently, it is reasonable to interpret the Constitution as covering all kinds of human rights, found in any convention to which Norway is a party.

ii) Judicial

The Human Rights Act of 21 May 1999 No 30, gives the International Covenants on Civil and Political Rights (CCPR) and on CESCR and the European Convention on Human Rights (ECHR) the status of Norwegian law. According to section 3 of the Act,

these conventions shall take precedence over other legislation in the event of a conflict.

The Act gives the ECHR, the CCPR and the CESCRC the force of Norwegian law, insofar as they are binding for Norway. The Act also states that in the case of conflict, the provisions of the conventions and protocols shall take precedence over any other legislative provisions.

The intention of the Act is:

- to give a formal basis for the application of the rules of the Conventions
- to increase the attention and knowledge of the rights of the Conventions
- to raise consciousness around human rights in general
- to contribute to the discovery of any discrepancies between Norwegian legislation and the human rights conventions

Human rights also have a more indirect influence. Norwegian lawyers will interpret Norwegian legislation as being in accordance with international law, based on the principle that Norwegian law is presumed to be in accordance with international law. Human rights must also be respected when drafting new legislation, and should therefore be taken into account in both the preliminary reports and the consultation process.

iii) Administrative

Norway's commitment to promoting human rights is reflected in Government policy. The most important document is Report no 21 to the Storting (1999-2000), *Focus on Human Dignity – A Plan of Action for Human Rights*. The main purpose of this Plan is to ascertain how the Norwegian authorities can contribute towards ensuring the best possible protection of human rights now and in the future. The consciousness about the rights in CESCRC is not present in the same degree as for the rights in CCPR, and the right to food is hardly mentioned. However, some the CESCRC has been given attention, both in the Plan of Action for Human Rights, and especially in the Report no 19 (1999-2000) to the Storting regarding Norwegian National Food and Agricultural Policy

The abovementioned Human Rights Act of 21 May 1999 No 30 was passed as a result of The Plan of Action for Human Rights, incorporating also the CESCRC. In addition the instructions for the preparation of legislation is amended in order to make it clear that all Bills shall be evaluated in relation to all relevant and overriding concerns, including human rights. Those engaged in the preparation shall evaluate and, when relevant, report on whether human rights conventions impose requirements that must be met by authorities in the respective fields.

The Plan of Action for Human Rights also makes it clear that human rights may play a role in areas of Norwegian public administration which are not associated with the promotion of human rights. For instance, the Government is seeking to integrate human rights considerations in the fisheries administration's day-to-day policy and work. Similarly, the Government will continue to develop a national food and agricultural policy that is in line with the International Covenant on Economic, Social and Cultural Rights.

This is underlined in the Report no 19 (1999-2000) to the Storting regarding Norwegian National Food and Agricultural Policy. The Report no 19 (1999-2000) refers to the CESCRC article 11, and states that food is a human right, and that Norway has a obvious duty to ensure food security for Norwegian citizens, keeping in mind the 3 levels of state obligations; respect, protect and fulfil. *General Comment nr 12* was enclosed as a non-printed annex. The report gives several examples showing a

human rights approach to the agricultural policy. It states that a priority area is a consumer oriented agricultural policy, and emphasizes the connection between production and marketing of food, on one side, and nutrition and health on the other side. Norwegian agriculture shall contribute to assure the consumers a stable and adequate food supply relating to quantity, quality, food safety, and a food production based on ethical and ecological sustainability. To secure the consumers healthy and safe food, the whole food chain shall be subject to quality and in-house control systems, regulations and inspections within the framework of international agreements and in compliance with the pre-cautionary principle. Since Norway is importing about 50 % of its food supply, several of these principles apply also to the imported food.

Also the budget bills (2001-2002) and (2002-2003) to the parliament refer to the CESCR. However, the budget bills for the two latest periods are not.

f) *Does your country consider the rights in CESCR just as equal as the civil and political rights?*

The official view is in line with the International Human Rights law, the CCPR and the CESCR make an indivisible union, and are considered equally important. Still, one has to admit that the rights in the ECHR and the CCPR are mainly focused on in the media and by human rights lawyers. This is also the case in the abovementioned Plan of Action for Human Rights

The Plan of Action for Human Rights, says the following:

“It is usually easier to determine whether civil and political rights are being observed than whether economic, social and cultural rights are being respected. This is partly due to the fact that civil and political rights are normally less based on discretion. As a rule, it is easier to ascertain whether the authorities of a country are subjecting prisoners to torture than it is to know whether the country in question has made sufficient effort to build up public health services. This is one of the reasons why there are several monitoring mechanisms, including the European Court of Human Rights and several UN treaty bodies, which deal with complaints by individuals about state violations of civil and political rights. Some economic, social and cultural rights are largely formulated as obligations to set objectives. Such obligations can generally be said to be worded rather vaguely. So far, therefore, mechanisms for dealing with complaints of violations of these rights are not as well developed as for civil and political rights. Nonetheless, some social, economic and cultural rights, such as the right to form and join trade unions and the right to non-discrimination, are rights that can easily be tried by courts of justice and court-like institutions.”

The Plan of Action for Human Rights mainly deals with the rights expressed in the CCPR, and therefore confirms that less attention is given to the rights in the CESCR. However, it should be the opposite, since the rights in the CESCR are more difficult to determine. Nevertheless, the state obligation is the same. My experience as a human rights coordinator in the Norwegian Ministry of Food and Agriculture is that most civil servants don't give the rights in the CESCR much consideration because it is “politics”, and therefore should be left to politicians.

g) *Does your country give education in the rights in CESCR in general, and the right to food in particular?*

The University of Oslo, Faculty of Law offers special courses in Human Rights. Both the lectures, and curriculum is mainly focused on the civil and political Human Rights.

The Plan of Action for Human Rights, also contained a plan regarding education on human rights. This plan says that:

“the Government will seek to strengthen training in the field of human rights in public educational institutions at all levels, and will intensify research on human rights in Norway. (...) The Government will therefore implement measures to increase the expertise of the teaching staff at teacher training institutions and teachers in primary, lower secondary and upper secondary schools. Measures will also be carried out to enhance the knowledge of human rights of employees in the central government administration, the defence forces and the legal profession. The Government will take steps to ensure that instruction in human rights is included to a greater extent in continued education for various professional groups, and will evaluate the instruction in human rights that is provided at certain educational institutions.”

To follow up the plan of action, the National Centre for Educational Resources has conducted a survey which shows that the education on Human Rights differs from school to school. It seems that most focus is given on the Human Rights in the ECHR and the CCPR. The National Centre for Educational Resources has also established a website on human rights on the School Network. The website is primarily oriented towards use in schools, but is also accessible to the general public. The subjects in the website is: asylum, children, child labour, democracy, death penalty, refugees, women, slavery, torture, education. In addition a new optional course is offered on democracy and human rights in all areas of study in upper secondary education. However, not all schools make use of this opportunity.

h) *Are the rights in CDESCR in general, and the right to food in particular discussed in academic fora?*

The main impression is that the rights in the CDESCR is not given much attention in academic fora. Nordic Journal for Human Rights publishes some articles regarding CDESCR, but most articles are about the rights in the CCPR and the ECHR. The general opinion in the legal community is that the Rights in CDESCR are too “political” to be interesting from a legal point of view. However, there is a few exceptions:

The Norwegian Centre for Human Rights (NCHR) is an independent national human rights institution, a centre for national and international research on human rights, a centre which promotes rights-based development and a centre for human rights education. Several activities regarding the right to food can be mentioned:

- The programme *The Right to Food* is a part of wide-ranging international undertaking, *the International Project on the Right to Food in Development (IPRFD)*. This is a collaborative venture involving the NCHR, the Institute for Nutrition Research of the Faculty of Medicine at the University of Oslo, and researchers at Akershus University College.
- PHD dissertation: 1) *HIV/AIDS and the right to food: barriers to and prospects for the realisation of food as a human right for HIV/AIDS affected households and communities*; 2) *The Right to Food and the TRIPS Agreement*.

In addition there have been a few contributions regarding the CDESCR and the Right to food. Lex ferenda Community (rettspolitisk forening) had CDESCR as a topic on their annual seminar in 2002. The Right to Food was given special attention. In 2004 their periodical published an article regarding the right to food.

The periodical of the Norwegian Association of Lawyers, published an article regarding i.a. the rights in CDESCR being a part of Norwegian law.

i) *Are the rights in CDESCR in general, and the right to food in particular discussed in other fora?*

In general, the consciousness concerning the CESCR is low. The human rights is mainly connected to the rights in CCPR.

The Right to Food is the main topic in organisations as IPRFD (mentioned under point h above), and the Norwegian subdivision of FoodFirst Information and Action Network (FIAN). Also the Norwegian subdivision of Amnesty international are aware of the CESCR and the Right to Food.

2) CESCR article 11 (1) – the right to adequate food

Please, describe the national regulation relating to the following areas:

a) *Regulations relating to the state obligation to respect, protect and fulfil adequate food in the national legal system: (ref. GC par. 8-13)*

i) *The availability of food in a quantity and quality:*

(1) *sufficient to satisfy the dietary needs of individuals,*

What people choose to eat, should be funded on their free will, and not as legally binding rules. However, important prerequisites for choosing a nutritional balanced diet, are access and knowledge.

Rules relating to labelling is one way of facilitate knowledge as a prerequisite for choosing a nutritionally balanced diet. Most of the rules are based on the Act of 19 December 2003 no 124 relating to Food Production and Food Safety (the Food Act). One of the Food Act's main purposes is to protect human health, and section 10 imposes that labelling, presentation, and marketing shall be correct, give adequate information, and not be misleading. Section 10 also gives the legal base for further regulation.

To protect access to food sufficient to satisfy the dietary needs of individuals, several rules regarding compulsory labelling is stated in Regulation regarding labelling of foodstuff, and Regulation regarding declaration of nutrient content. These rules *facilitates* the consumer's ability to choose an adequate diet.

Further, section 9 in the Food Act gives the legal base to requirements on food content. In situations where the nutritional aspect is of vital importance, more detailed rules regarding labelling and also requirements relating to nutrient content are stated in the Regulation relating to breast-milk substitute and Regulation relating to food used for particular dietary needs. Also Regulation relating to so-called "energidrinks" focus on protecting a nutritional balanced diet.

To fulfil access to food sufficient to satisfy the dietary needs of individuals, rules can be found in Regulation regarding quality in the nursing service based on the act relating to health service in the local government, and the act relating to social service. It states that the local government, when conducting nurse service, shall establish procedures meeting the demand for sufficient and healthy nourishment.

(2) *free from adverse substances,*

The Food Act's purpose, to protect human health, is mainly focused on securing safe food. The act gives the legal base to implement Regulation 178/2002 laying down the general principles and requirements of food law (Food Law). Some Food Law principles and requirements are regulated directly in the Food Act.

Section 6 in the Food Act relates to the business operator's obligation to prevent hazards, inform, and take necessary action to reduce any risk for hazards. These obligations apply both to food business operators and operators dealing with agricultural inputs like feed, seed, fertilizers and pesticides.

The Food Act also gives the legal base for further regulations regarding requirements on hygienic standards relating to all aspects of food production, from primary production to placing on the market. In addition, the Food Act prohibits the marketing of unsafe food, and feed, and gives legal base to prohibit unsafe agricultural inputs other than feed.

Furthermore, the Food Act gives the legal means to the regulatory authority to impose protective measures to prevent unsafe food. Consequently, the authority have the legal base to make the necessary decisions towards the business operators if the requirements are violated. The regulatory authority is also given the legal means to take action itself, if the business operators are unable or unwilling.

(3) *acceptable within a given culture;*

An action plan for the inclusion of consumer participation in food and agricultural politics has been drawn up. The plan focuses on respect for consumer rights. As a part of the action plan, a Consumer Panel is established. The Panel will have a consultative function in relation to the development of the official food policy. One of the action plan's objective is also to secure diversity in the range of food products.

Labelling food is a significant source of information for the consumer's ability to choose a diet acceptable within a given culture, provided the necessary information is given on the label. Information relevant for the consumers is revealed by consumer surveys and reports from the consumers panel. A lot of producers have a voluntary labelling policy. In addition, in order to protect the right to food acceptable within a given culture, different requirements regarding labelling is based on the Food Act.

Public opinion in Norway is sceptical to genetic modified organisms (GMO) in foodstuff. The Food Act section 10 gives a legal base for regulations on labelling of food made of GMOs in order to secure the consumer's right to choose between GMO and non-GMO. Furthermore, a main issue is to ensure co-existence between GM and non-GM crops and to avoid the unintended presence of GMO's in GMO-free products. Regulation on this matter is therefore under development.

Another important label regime is the Regulation relating to production and labelling of ecological agricultural products. This regulation is prepared i.a. to meet the consumers demand for ecological products. The regulation set requirements for the production method. Agricultural product covered by the regulation can be marketed and labelled "ecological" only when the requirements for ecological production are fulfilled.

The Food Act, section 30, gives a legal base for Regulation on the Protection of Designations of Origin, Geographical Indications and Designations of Specific Traditional Character of Agricultural Foodstuffs, Fish and Fish Products. This regulation establishes a regime for the protection of the names of certain foodstuffs. One of the purposes of the regulation is to meet the consumer's interest in diversity, thus enabling the consumers to choose products origin or speciality, whether it is traditional, historical or geographical.

In addition, according to the food Act, section 14, the regulatory authority may make public results of the authority inspections. The purpose is to regulate information regarding the food business operators, and how they fulfil the requirements relating to food production and marketing. A similar regime is in the food Act, section 27, which gives the legal base for the regulatory authority to make public relevant information relating to food. The authority has an

obligation to do so where the authority suspects a human health hazard relating to food. In other cases the information is optional, provided the publication is based on consumers considerations.

Rules can also be found in the abovementioned Regulation regarding quality in the nursing service (see point 2 a) i) (1) above). It states that the local government, when conducting nurse-service, also shall establish procedures meeting the demand for a reasonable freedom of choice regarding food.

ii) The accessibility of such food (economic and physical)

The main source of accessibility of adequate food is by means of employment income, or other economic sources. Consequently, the legal protection of the accessibility to food is to secure the inhabitants a reasonable income. In situations where employers becomes bankrupt, the Government is obliged to guarantee to cover claims to wages and other forms of remuneration that have become due in respect of work performed under employment relationship. This is stated in the Act relating to the state guarantee for wage claims in the event of bankruptcy etc. Employment income is indirectly protected in the Act relating to Working Protection and Working Environment, and the Act relating to Civil Servants. The acts gives both legal protection against arbitrary and capricious dismissal or discharge.

When a person is unable to work, the national security is a important income source. The National Insurance Act gives mandatory membership to everyone who is resident in Norway, or others who have a specific affiliation to Norway. In situations where normal employment is impossible, on certain conditions, the act gives right to social security like unemployment insurance, retirement pension, disablement/disability insurance etc.

Still, not everyone is covered by the National Insurance Act. For example, unemployment insurance is only given for a certain period. In those cases most people have right to some payment covering the necessary means to subsistence through Act relating to Social Services etc. The purpose is i.a. to promote financial and social security, to improve the living conditions of disadvantaged persons. Section 5-1, *Means of support*, states:

“Those unable to support themselves by working or exercising financial rights are entitled to financial support.” The support is limited. Section 5-2 states that “In special cases, and even if the conditions in sections 5-1 is not met, the social service can grant financial assistance to persons who need it in order to overcome or adjust to difficult circumstances”.

Availability (this is not a part of the questionnaire, but have relevance to the right to food)

In addition to climate and water, the soil itself is the most important and the most fundamental production factor within agriculture. To conserve and protect soil for future generations is therefore essential. Land conservation is of vital importance to the potential for national food provisions in all countries. The main motive for the protection of arable areas is to ensure the possibility of food production in the long term, under different conditions.

To protect the availability to food can be to develop national legislation to counteract activities that may erode ecological balance. Protection of arable land is included in Norwegian legislation. The Constitution states that arable land and other natural resources shall be maintained. In addition, Norway has a Land Act which also emphasizes that the land resources are managed properly with regard to the environment and, among other things, the soil as a factor for necessary production.

How to plan the use of land is of vital importance when it comes to taking care of productive land. The coordination of the different needs is effected by use of the Building and Planning Act. The act covers all fields, and the main part of land development in Norway is carried out according to this act.

iii) Are the abovementioned regulations connected to the right to food? (Regulation 178/2002 in the EU is not)

In the Proposition no. 100 (2002-2003) to the Odelsting regarding the Act on Food Safety and Food Production (the Food Act) the following about the right to food is stated:

“The term Food Security is closely connected to the Right to Food. Article 11 in the UN Covenant on Economic, Social and Cultural Rights states that every State party shall recognise the Right to Food as a Human Right. According to the Act relating to the strengthening of the status of human rights in Norwegian Law (the Human Rights Act). The Covenant has the force as Norwegian law.

“The basic content in the Right to Food, with the additional rights and obligations, is clarified in General Comment no. 12. This document states that the Right to Food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to food in a quantity and quality to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture.

“Several aspects of Food Security is of significance for Food regulation. Primarily Food Safety. Not all aspects of Food Security are suitable for legally binding regulation.”

This is probably one of very few acts, if any, where the rights in CESCRR is mentioned in the Proposition. In Norway, the Proposition is an important source for interpretation of the Act. None of the abovementioned acts are related to the right to food.

In the Proposition to the Human Rights Act the intention is that further regulation regarding the Right to Food shall be given in other acts. According to this, we might say that the abovementioned act's purpose also is to fulfil the Right to Food within the relevant aspect of the right to food.

In the Plan of Action for Human Rights, the Government is obliged to assess the effect on Human Rights when new regulation is proposed.

b) Regulations relating to the individuals right to adequate food in the national legal system:

i) Does your country consider the right to food as a justifiable right?

As pointed out above (see point 1 c), the individual as such may not claim that his or her human rights are violated, by referring solely to the Conventions. It is through the incorporation into Norwegian law that the rights of the Conventions may have direct application for the individuals.

Many of the rights of the CESCRR are vague and imprecise, and are directed towards the Member State itself, as they put obligations on the States to follow up the rights through legislation and in the administration. This may be an obstacle for direct application for individuals.

In the Proposition to the Human Rights Act the question regarding the suitability of the incorporation of CESCRR into Norwegian law was discussed. The Ministry of Justice concluded:

“During the consultative round arguments against the incorporation of the CESCRR was pointed out. The arguments against it were related mainly to the vagueness of the Covenant, and that most of the articles were mainly suitable

as objects clauses. An incorporation would therefore disturb the balance of power between the political elected authority and the judiciary authority.

“The Ministry would like to point out that despite the vagueness, the Covenant also contains articles which are directly applicable and may give legal base for individual rights. (...) Moreover, vagueness is common in Norwegian legislation. (...).

“The Ministry presumes that incorporation of the Human Rights Conventions into Norwegian Law neither should or will have any significant impact on the balance of power between the political elected authority and the judiciary authority. However, the Ministry believes that the judiciary authority will be less willing to set aside decisions made by the political elected authorities in cases where the legislation is extensive and vague with reference to the covenant.”

The Ministry also emphasized that within International Human Rights law, the CCPR and the CESCR make an indivisible union, and are considered equally important. One of the bodies entitled to hearing (the Norwegian Centre for Human Rights – NCHR) also pointed out that incorporation of the CESCR into Norwegian Law, has shown to be a suitable method to develop the rights on the long view.

ii) Is the right to food immediately applicable or is there any law in order to put this right into practice?

After the incorporation of the Conventions into Norwegian law, which was done through the aforementioned Human Rights Act, it could be believed that the individual would be able to apply the rights of the conventions directly. Still, it is not that simple. In the proposition to the Human Rights Act, it is written that where the Conventions provide for national adaptations, the incorporation of the Conventions should not limit the possibilities of such adaptations.

The rights in the CESCR largely provide the opportunity for national legislators to provide for national adaptations. The Convention may therefore, despite the fact that it is incorporated into the Human Rights Act, not be applied directly by individuals. There are a few exceptions:

- Firstly, one may always claim before the court that there has been an unacceptable differentiation as regards the protection of economic, social and cultural rights. These provisions are so clear and precise that the right may be applied directly by the individual (self-executive).
- Secondly, the principles found in the Norwegian Supreme Court decision called “Fusadommen”, may make direct application possible also in other circumstances. The decision concerned a provision in the Social Services Act, but the provision was of the same kind as the rights found in the CESCR, and the state therefore had the opportunity to specify the content of the right. Nevertheless, the Court stated that the right in question had a minimum level, which cannot be violated by the state. This principle is likely to be in relation to other provisions found in the CESCR.

iii) Does your country have any enforcement mechanisms relating to the right to food?

The Regulations mentioned above (see point 2 a) do not give any rights to individuals, but impose duties on food business operators. Consequently, the regulatory authority has legal means to enforce the regulation towards the food business operators. Individuals may of course, claim before the court that their right to food is violated, but as it is pointed out above (see point 2 b ii), it may be difficult.

- iv) *Can individuals bring any of the following cases to the court when:*
- (1) *the food is insufficient to satisfy the dietary needs of individuals (ref. Lawsuit in Am. Against McDonalds for not warning against their unhealthy food)*

Regulation regarding labelling and declaration of nutrient content is directed towards the food business operators, and doesn't give any rights to the individuals. However, the Act relating to Product Liability may give legal base for individuals to bring such a case to the court. The Act states that "*The producer is obliged to pay compensation for damage which his product causes because it does not offer the safety which a user or the public could reasonably expect.*". One has to note that the defendant will not be the state, but the food producer operator. Also, the claimant can only claim compensation of economic damage.

Regulation regarding quality in the nursing service (see point 2 a i 1) states that the local government, when conducting nurse-service, shall establish procedures meeting the demand for sufficient and healthy nourishment. The regulation is also in this case directed to the institution. It gives no rights to individuals.

- (2) *the food is not free from adverse substances (product liability)*

The regulations regarding this area (see point 2 a i 2) don't give any rights to the individuals. The Act relating to Product Liability may also on this matter give legal base for individuals to bring to court a case where regulation relating to food safety is violated. The same limitation applies in this case.

In cases where the regulatory Authority has an obligation to make public relevant information relating to food (see point 2 a i 3) as stated in the food Act, section 27 the individuals may bring a claim for compensation for any damage caused by violating the duty in section 27. Such a claim will be based on common law.

- (3) *the food is not acceptable within a given culture (e.g. not labelling content like pork, GMO etc.)*

The regulations regarding this area (see point 2 a i 3) don't give any rights to the individuals. The Act relating to Product Liability may also on this matter give legal base for individuals to bring to court a case where regulation relating to food safety is violated. The same limitation applies in this case.

- (4) *there is no means to get access to adequate food (physical or economic) (ref. Lawsuit in India)*

The National Insurance Act, and the Act relating to Social Services are means to ensure the economic access to food (see point 2 a ii). Both Acts have remedies for individuals to appeal decisions made by the relevant Authority to the administrative appeal Body. If the individual is not successful in his/hers action, it is possible to bring the case to court.

As mentioned above (see point 2 b 2), the principles found in the Norwegian Supreme Court decision called "Fusadommen" may make direct application on the bases on the Right to food incorporated in the Human Rights Act possible also in other circumstances.

- v) *Have there been any lawsuits concerning any of the abovementioned cases?*

No lawsuit is registered in Lovdata (a private foundation whose purpose is to establish and operate legal information).

- vi) *Have the results been connected to the right to food cf. CESCR art. 11?*

No.

3) CESC article 11 (2): The right to be free from hunger

a) *Emergency preparedness:*

i) *How is the legal basis for emergency preparedness concerning the right to be free from hunger?*

The Food Act (see point 2 a) i) (1) above) gives the legal basis for regulating the whole food chain, and the means for enforcement. Thus, the act contributes to securing and maintaining a sustainable food production. The Food Act regulates *existing* food production and has no means for increasing the food production. In case of a situation with lack of food (which may be an unthinkable situation in Norway, but must still be taken into consideration), the Food Act has neither the means to secure further access to food, nor the means to initiate a rationing system. However, a subsidy scheme for stockpiling is given to the farmers.

In extraordinary emergency situations, the Act of 14 December 1956 No 7 on supply and preparedness measures gives a legal basis for the Norwegian Government to adopt the necessary decisions in order to secure and distribute supplies of all kind of goods. Furthermore, the Act gives a legal basis to strengthen and utilize the national production- and transport capacity.

ii) *Is it any other anchorage for this right? (Administrative practice, action plans, policy documents etc.)*

According to Report No 39 (2003-2004), securing long-term food provisions is one of the most vital elements of the Norwegian Food Policy. In Report No 19 (1999-2000) to the Storting on the Norwegian National Food and Agricultural Policy, this policy is specified as follows: "*Food security for all citizens now and in the future is a vital goal for the Government. To achieve this goal, it is important to provide for a vigorous agriculture system, a predictable and stable trade scheme, and a scheme for securing safe food*" (see also point 1 e) iii above). The report states that the Ministry of Agriculture and Food is obliged to have a long-term policy for safeguarding national food security, covering the plans for civil preparedness. This includes maintaining a national food production and to conserve and protect soil for future generations.

b) *International obligations:*

i) *How is the right to food effected on your country's foreign policy?*

(1) *Trade?*

To keep a predictable and stable trade scheme is part of the national food and agricultural policy (see above). Another important element is to ensure improved market access for agricultural products from the developing countries. Both the international framework and national policies are important to this extent. In order to ensure that the least developed countries gets their share of the growing world trade, Norway has granted duty free market access for all products from these countries.

(2) *Development aid?*

The developing countries often meet (technical?) barriers to trade when exporting their products to the industrialised countries. The least developed countries, in particular, often lack knowledge of the requirements set up by the industrialised countries, especially in the field of food production. These countries may also lack the competence and infrastructure to be able to meet these requirements. The Norwegian Government therefore see a great need for technical assistance to the developing countries, in order to enable these countries to make the most of their export potential. This is especially applicable with regard to sanitary and phytosanitary requirements, for instance requirements related to hygiene and laboratory systems. The Norwegian Government sees it as important to be of assistance in this field.

(3) Other international aspects?

Since the eighties, the right to food has been a topic on the international agenda. During the World Food Summit in 1996 (WFS 96), food was underlined as a human right and was linked to the notion of food security, which covered both safe food and access to food. With food security as a basis, the WFS 96 adopted a Declaration and a Plan of Action. One of the goals in World Food Summit Plan of Action was to focus in particular on the national implementation of the right to food. The idea of a Code of Conduct on the right to food arose. Before the World Food Summit 5 years later (WFS+5), several countries, including Norway, promoted the idea of including a reference to a code of conduct in the declaration from the coming meeting.

In 2002, both the German and Norwegian Governments hosted international seminars on the national implementation of the right to food. Both seminars were arenas for collecting support for the idea of a code of conduct.

In WFS+5, the proposal of a code of conduct was one of the most controversial proposals. The meeting finally adopted a declaration, which included a request to the FAO Council to establish an intergovernmental working group (IGWG). This working group should develop a set of voluntary guidelines to support national implementation of the right to food. The Norwegian Government has taken an active part in this work.

4) Other aspects

- a) *Is the right to adequate food important for and how does it affect the conditions for*
 - i) *the farmers*
 - ii) *the processing industry*
 - iii) *the distributive trade?*
- b) *How is the right to food effecting on the area administration?*

Answer to both a) and b):

As mentioned in point 1 e) iii above Report no 19 (1999-2000) to the Storting on the Norwegian National Food and Agricultural Policy makes reference to the CESCR article 11, which states that food is a human right, and that Norway has a obvious duty to ensure food security for Norwegian citizens, keeping in mind the 3 levels of state obligations; respect, protect and fulfil. This should be normative for the policy in all aspects of food production. However, the further details shows that the right to food is not given the proper attention. Some of the aspects of the right to food are present, for example food safety. Those aspects are not necessarily related to the right to food, as they are deemed important not only as a part of the human rights.

The conditions for the farmers, the processing industry and the distributive trade are also based on many other considerations. The Norwegian policies towards industry and maintaining settlements and cultivated landscapes in rural areas also have a considerable impact on the food production industry

- c) *Are the farmers themselves responsible for food safety and security in any way according to national law?*

According to the abovementioned Food Act (see point 2 a) i 1) the farmers are responsible for food safety within their domain.

Section 16 and 17 in the Food Act prohibits the marketing of unsafe food, and feed, and gives the legal base to prohibit unsafe agricultural inputs other than feed. In addition, section 6 relates to the business operator's obligation to prevent hazards, inform, and take necessary action to reduce any risk for hazards. (see point 2 a) i 2). These statutes establish that the farmers have a responsibility for food safety.