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**Commission/Kommission I  
Food Sovereignty and Food Security:  
Concepts and Legal Framework**

**Rapport national pour/National report/Landesbericht  
Italie/Italy/Italia**

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## SUMMARY

The first part of this report briefly addresses three main concepts – ‘food sovereignty’, ‘food security’ and the ‘right to food’ – in the Italian legal context. The Italian Constitution and strategic and legal documents are taken into consideration, together with the most relevant case law. The main finding of the General Part of the report is disappointing from a human rights perspective, since to date only a few regional governments in Italy have formally recognised the right to food.

Concerning the Special Part of the Questionnaire, the report notes that in Italian law, there is no clear reference to the relationship between the ‘right to adequate food’ and the ‘governance of the tenure of land, fisheries and forests’. However, it lists legislative acts and initiatives that demonstrate the interest of governments and citizens in improving access to land and the management of agricultural land aimed at the general objective of food security.

The report also highlights those Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGTs) which could be relevant in Italy. Among these, the Guidelines on ‘Investments’ are addressed. The report concludes that a Commission recommendation on EU land governance based on the VGGTs would not be appropriate.

## A. General Part\*

### Food sovereignty, food security and the right to food in the Italian Constitution

This analysis briefly addresses three main concepts in the Italian legal context: ‘food sovereignty’, ‘food security’ and the ‘right to food’. These concepts have different definitions and historic origins at the international level. Nonetheless, they share some similarities in the way in which agricultural models and agri-food systems work in order to satisfy various essential material and non-material human needs. In fact, it is difficult to imagine the achievement of food sovereignty without food security and the right to adequate food.

The Italian Constitution does not provide a direct reference to food sovereignty, food security or the right to food. This is in contrast to other countries, particularly in Latin America (such as Bolivia and Ecuador), where clear-cut and direct references to the concepts of food sovereignty, access to food and the right to adequate, safe and culturally acceptable food have been introduced over time.

Although the right to food is not expressly and directly recognised by the Italian Constitution as such, it is indirectly protected through adherence to international treaties that recognise this right. Article 117 of the Constitution provides that the exercise of the legislative power must take Italy’s international obligations into account. In this regard, Italy has ratified the most important international treaties recognising the right to food, such as the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified in 1978; the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), ratified in 1985; and the Convention on the Rights of the Child (CRC), ratified in 1991.

In addition, according to scholarly analyses, the obligation to respect, protect and fulfil the right to adequate food can be found within the Italian Constitution in other legal foundations for the protection of human dignity, the promotion of work and to the regulation of land use. The right to food encapsulates the concept of dignity, since it was conceived as the right to feed oneself in dignity and not as the right to be fed. Article 2 of the Italian Constitution is pertinent here; it is deemed to guarantee everyone equal social dignity in his or her relationships with other social groups and in relations with public organisations.

The right to work is recognised in Article 4. Although it does not refer to the satisfaction of food needs. Article 4 would appear to imply the existence of the type of economic and social environment that will allow people to achieve food security by their own means. In addition, Article 36 provides that the worker

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\* While the article represents a joint effort, the General Part can be ascribed to Mariagrazia Alabrese, and the Special Part to Giuliana Strambi.

has the right to a sufficient salary to ensure a free and dignified existence for him or herself and his / her family, and Article 37 states that women's work is legally equivalent to men's.

With regard to rural land and its pivotal function in ensuring the right to food, Article 44 emphasises the importance of rational land use and its role in establishing fair social relations. Consequently, the governance of land must be shaped in light of this central aim by means of, amongst others, agrarian reforms, land reclamation and the promotion of small and medium property farms.

In 2015, a constitutional law proposal to change the Italian Constitution (see Ddl. Cost. A.C. 2613-A, available at <https://www.camera.it/leg17/126?pd1=2613>) introduced an explicit reference to 'sicurezza alimentare'. This is an ambiguous expression, since the Italian term *sicurezza* refers, in this case, both to food security and food safety. The relevant part of the proposal concerned the division of responsibilities between the Italian state and the regions. It included 'sicurezza alimentare' in the nation's responsibilities, together with social policies to be applied throughout the whole country. The law proposal was passed by Parliament, but it was rejected by the population in a referendum, since it provided for several major changes to the Italian legal system which citizens were not prepared to accept.

### Food sovereignty, food security and the right to food in Italian strategic documents and legislation

In 2015, Italy hosted EXPO 2015, a universal exhibition called "Feeding the Planet, Energy for Life". This large event concerning food and nutrition triggered renewed reflections regarding food security and the related concepts and rights. One of the biggest outcomes of Expo 2015 was the Milan Charter. Although it is not strictly a Strategy issued by the Italian government, but a bottom-up document put together by scientists, scholars and civil society organizations, the former Italian Minister for Agricultural, Food and Forestry Policies acted as the President of the Board for drawing up the Milan Charter. The document formally recognised the right to food and urged governments to adopt regulations that guarantee the right to food and food sovereignty and make them effective.

The adoption of the Milan Charter catalyzed the process of drafting the Italian Law 166/2016 against food wastage, containing provisions on the donation and distribution of food and pharmaceutical products for social solidarity purposes. This law does not mention either the right to food, or food security. Its connection with the right to food is implicit and yet significant since it represents an important milestone in the fight against food wastage.

In addition, the National Strategy for Sustainable Development is worth mentioning. This was promoted by the Ministry of the Environment and adopted by the “Comitato Interministeriale per la Programmazione Economica (CIPE)”, which is a governmental body, on 22 December 2017 (the text of the Strategy is available at [https://www.minambiente.it/sites/default/files/archivio\\_immagini/Galletti/Comunicati/snsvs\\_ottobre2017.pdf](https://www.minambiente.it/sites/default/files/archivio_immagini/Galletti/Comunicati/snsvs_ottobre2017.pdf)).

Italy considers the implementation of Goal 2 of the 2030 Agenda as a high priority, however the Strategy makes few references to food security and to access to food, land, water and natural resources. Moreover there is no explicit reference to the right to food and to food sovereignty, which is somewhat surprising considering the content of the Milan Charter and the commitment showed by the Italian government in the drafting phase.

Several regional governments in Italy have included either basic references or the formal recognition of the right to food. Just to mention a few, in 2015 the regional government in Lombardy adopted a law entirely devoted to the recognition, protection and promotion of the right to food (see L.R. 06/11/2015, n. 34, «Legge di riconoscimento, tutela e promozione del diritto al cibo»). In 2015 the regional government in Abruzzo also introduced an article in its Statute (article 7bis) which formally recognizes the right to food and states that Abruzzo promotes the enjoyment of this right.

### Food sovereignty, food security, right to food in Italian legal practice

The three concepts at stake - food security, food sovereignty and the right to food - are not adequately treated by the Italian jurisprudence, neither by the higher Courts (Corte Costituzionale, Corte di Cassazione, Consiglio di Stato) or by the regular tribunals.

A recent judgement by the Italian Constitutional Court (17/10/2018 n. 41 available at <https://www.cortecostituzionale.it>) deserves a mention in this context. It addresses the prohibition for dangerous prisoners under a very restrictive regime (art. 41-bis, law n. 354 del 1975) of cooking their own food. The decision modifies the current regulations on the grounds that cooking represents small daily routines which are even more valuable as they constitute the last remaining actions of individual freedom. It should be underlined that the topic was not framed within the concept of choosing food, feeding oneself in dignity, accessing adequate food, which are all components of the right to food.

## **B. Special Part**

The “right to adequate food” and the “governance of tenure of land, fisheries and forests” in Italian legislation

The Italian legal framework does not contain any explicit reference to the relationship between the “right to adequate food” and the “governance of tenure of land, fisheries and forests”.

However, a legal proposal on “peasant agriculture” is currently being debated in Parliament and its first objective (Article 1) is “to promote the custody of the land as an original source of food for its inhabitants, preserving the values of traditional culture for the production and transformation of the primary good” (the original Italian text is: “*promuovere la custodia della terra quale fonte primaria di cibo per i suoi abitanti, preservando i valori delle culture tradizionali per la produzione e la trasformazione del bene primario*”). The proposal is the result of merging previous drafts on the same subject, of which one (n. 2935 of 2015) expressly referred to the VGGTs (<https://www.camera.it/leg17/126?tab=4&leg=17&idDocumento=2025&sede=&tipo=>).

In any case the issue of the access to farmland as a means of livelihood and that of food security are at the centre of the political agenda in Italy.

See, for instance, Article 3 of the Decree-Law No 91 of 21 June 2017 (which became, after being emended, Law No 123 of 3 August of 2017, entitled “Urgent provisions for economic growth in southern Italy”; Official Journal No 188 of 12 August 2017). It provides the allocation of public agricultural land which has been uncultivated for at least ten years to young people for nine years, on the basis of a specific development project. The measure aims to strengthen the employment and income opportunities of the under 40s as well as the subsequent 2019 budget law, which grants 50% of such land to families with three or more children for a period of not less of twenty years, for free (however the Ministerial decree has still not been adopted).

At a local level, urban gardens (“orti urbani”) represent interesting examples of the governance of tenure land with implications for the right to adequate food. Local authorities collaborate with citizens to identify the location and the sustainable management of farmland (e.g. <https://www.comune.pisa.it/it/ufficio-scheda/8599/II-Progetto-Orti-Urbani.html>), although these are often voluntary initiatives by groups of citizens aimed at using abandoned urban areas and consuming local products obtained in a sustainable manner.

Urban Food Planning has also recently become a subject of urban policy at a local level in Italy and represents another example of the major role of local authorities and the cooperation with stakeholders and citizens in the governance of local agri-food system. The first example was the “Piano del cibo” in Pisa

(2010), but also there is the Food Policy of Milan, which was implemented after the Milan Urban Food Policy Pact (signed in 2015, during the Expo) ([https://web.comune.milano.it/wps/portal/ist/st/food\\_policy\\_milano/la\\_food\\_policy\\_di\\_milano](https://web.comune.milano.it/wps/portal/ist/st/food_policy_milano/la_food_policy_di_milano)). These examples highlight how the focus on local food, human health and sustainable agriculture has merged with social issues such as the access to food and social equity.

Finally, the recent Law No 168/2017 on collective properties (Official Journal No 278 of 28 November 2017) states that “The Republic protects and enhances the public good”, because they are, inter alia, “fundamental elements of the life and development of local communities” and “source of renewable resources to be exploited and used for the benefit of those local communities entitled” (Article 2.1: “*La Repubblica tutela e valorizza I beni di collettivo godimento, in quanto a) elementi fondamentali per la vita e lo sviluppo delle collettività locali; ... f) fonte di risorse rinnovabili da valorizzare ed utilizzare a beneficio delle collettività locali degli aventi diritto*”).

### The importance of the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGTs) in Italy

Many of the VGGTs have already been implemented in Italy, however the Government should avoid making the mistake of considering VGGTs as being exclusively relevant for developing Countries. In particular, the Italian Government should monitor land concentration and speculation, especially by foreign investments, in order to adopt, where appropriate, measures that limit the negative effects for smallfarmers and family farmers.

*In this regard, Guideline 12 “Investments” is pertinent.*

Smallholder producers, and small farmers in general, are a significant part of the Italian agricultural sector and their contribution to food security, poverty eradication and environmental resilience is very important. For this reason, investments in land should be evaluated by focusing on the social and economic effects on smallholders/smallfarmers.

*Guideline 13 “Land consolidation and other readjustment approaches”.*

Considering that the Italian agricultural sector is still characterized by the high average age of farmers and fragmentation and that agricultural land abandonment is increasing especially in mountainous and inland areas (see the National Strategy on Inner Areas 2014-2020: [https://enrd.ec.europa.eu/sites/enrd/files/tg\\_smart-villages\\_case-study\\_it.pdf](https://enrd.ec.europa.eu/sites/enrd/files/tg_smart-villages_case-study_it.pdf)), these guidelines could be relevant for land consolidation policies.

Moreover, the “Principles of implementation” concerning “*Equity and justice*” and “*Consultation and participation*” (stated at points 3 and 6 of the VGGTs, and *Guideline 4.10 on the facilitation of the participatory process of tenure governance*), should also be implemented in decision-making by improving the existing rules especially on access to farmland by migrants and refugees.

### VGGTs and food sovereignty

In Italy there is a lively debate on food sovereignty, involving the possible amendment of the Constitution to expressly refer to this concept. If VGGTs move explicitly in the direction of food sovereignty, they could influence the Italian food policy decisions, particularly at a local level. However they do not necessarily affect the Italian land policy, which is strongly influenced, on the one hand, by objectives and resources of the Common Agricultural Policy (CAP) and, on the other, by the necessity to sell public assets given the current budget problems.

### On the initiative of the European Parliament represented in Point 28 of EP 2017 suggesting Commission recommendations on EU land governance based on the VGGTs

Considering that land ownership and land tenure are national competencies, a Commission recommendation on EU land governance based on VGGTs would not be appropriate. It would be preferable for the future CAP and Common Fisheries Policy (CFP), as well as other EU policies and actions on the sectors potentially affected by the VGGTs (e.g. energy), to be involved in the implementation of the VGGTs, after an evaluation on a case-by-case basis.