



# Redistribution of surplus food: Examples of practices in the Member States

EU Platform on Food Losses and Food Waste  
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 **Saving Food Together**



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# Glossary

The terms and definitions included hereunder are sourced from the EU guidelines on food donation<sup>1</sup>, the scope of which encompasses the recovery and redistribution of food by food business operators which is provided, by the holder, free of charge.

## **Food redistribution**

Food redistribution is a process whereby surplus food that might otherwise be wasted is recovered, collected and provided to people, in particular to those in need.

## **Surplus food**

Consists of finished food products (including fresh meat, fruit and vegetables), partly formulated products or food ingredients that may arise at any stage of the food production and distribution chain for a variety of reasons.

## **Donor organisations**

Food Business Operators (FBOs) which may provide surplus food from each stage of the food supply chain, *i.e.* primary production, food processing and manufacturing, retail and other distribution, as well as the catering and hospitality sectors.

## **Receiver organisations**

Organisations that are involved in the redistribution of surplus food. These can be classified as either “front-line” or “back-line” organisations, with some fulfilling both functions.

## **Back-line organisations / Redistribution Organisations (RO) – also called "food banks" in some Member States**

Organisations that recover donated food from actors in the food supply chain, which they transport, store and redistribute to a network of affiliated and qualified charitable organisations, including charities, social restaurants, social enterprises, *etc.*

## **Front-line organisations / Charity Organisations (CO)**

Organisations that receive donated food from back-line organisations and/or directly from actors in the food supply chain. They, in turn, provide this food to their beneficiaries in various forms (*e.g.* food parcels, soup kitchens, meals served in social restaurants/cafés, *etc.*); some may also sell food products to people in need at a subsidised price.

## **Private donors**

Private persons who provide food on an *ad hoc* basis, at community or other charity events including gleaning initiatives.

## **Facilitator organisations**

Intermediary organisations that facilitate food redistribution by provision of services to enable contact between food donors and receivers and the matching of the supply of surplus food with potential demand.

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<sup>1</sup>Commission Notice, EU guidelines on food donation, OJ C 361, 25.10.2017, p.1, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C:2017:361:TOC>

# 1 Introduction

The purpose of this document "Redistribution of surplus food: examples of practices in the Member States", adopted by the EU Platform on Food Losses and Food Waste (FLW) on 6 May 2019, is to illustrate how Member States implement EU rules to facilitate food donation in practice.

The document follows the structure of the EU guidelines on food donation<sup>2</sup>, adopted in 2017, in order to facilitate information sharing according to specific areas of legislation (e.g. food hygiene, food information to consumers *etc.*). It addresses areas where EU legislation prevails (e.g. on food hygiene, labelling, VAT *etc.*) as well as those governed by national rules (e.g. liability, other taxation).

This document is descriptive in nature and is not intended to provide analyses or recommendations. The document was prepared from contributions received by members of the EU Platform on FLW who remain solely responsible for its content. It should be noted that national authorities are responsible for ensuring coherence of food donation practices with relevant EU rules.

The EU guidelines on food donation clarify the relevant provisions of EU legislation which apply when food products are made available by the holder, free of charge. However, the process of food redistribution, whereby surplus food that might otherwise be wasted is recovered, collected and provided to people, may not in all cases be free of charge. The primary objective of this document is to focus on Member States' practices in regard to food donation; however some members of the EU Platform on FLW have also provided information related to food redistribution.

Given that food redistribution practices are rapidly evolving, this document will be updated on a regular basis to reflect most recent practices, taking into account regulatory and policy developments in the Member States.

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<sup>2</sup> Commission Notice, EU guidelines on food donation, OJ C 361, 25.10.2017, p.1, <https://eur-lex.europa.eu/legal-content/EN/TEXT/?uri=OJ:C:2017:361:TOC>

## 2 Scope (Section 2 of the EU guidelines for food donation)

### 2.1.1 What is food redistribution? (Section 2.1)

Section 2.1 of the EU guidelines on food donation provides a definition for food redistribution and clarifies that the guidelines focus on clarifying the relevant provisions of EU legislation which apply when food products are made available by the holder, free of charge.

When contributing to the preparation of this document, members of the EU Platform on FLW have provided information on national waste (and food waste) prevention programmes and strategies addressing food donation. This section therefore outlines how Member States integrate food donation and more generally, food redistribution, in national efforts to prevent and reduce food waste. When available, information on the definition of food redistribution is included.

An overview of this information is provided in the table below, followed by a detailed explanation with respect to the situation in the different Member States.

Member State	Food donation included in a national food waste prevention strategy	Examples of food donation actions (Non-exhaustive list)
Austria	Yes	<ul style="list-style-type: none"> <li>• Incentives for companies to redistribute food</li> <li>• Clarification of legal aspects regarding liability</li> </ul>
Belgium	Yes	<ul style="list-style-type: none"> <li>• The Walloon Minister in charge of Environment supports initiatives to develop and improve the logistics of food donation in Wallonia<sup>3</sup>.</li> </ul>
Bulgaria	Yes	<ul style="list-style-type: none"> <li>• Voluntary agreements for food donation</li> </ul>
Croatia	Development of a national food waste prevention plan is in progress	<ul style="list-style-type: none"> <li>• The plan will include:               <ul style="list-style-type: none"> <li>- measures to improve the food donation system as a whole</li> <li>- IT system to improve communication between donors and charity organisations</li> <li>- a feasibility study to establish a Croatian food bank.</li> </ul> </li> </ul>
Cyprus	Yes	<ul style="list-style-type: none"> <li>• Donating surplus food to charities is mentioned in the indicative list of proposed actions of the national food waste prevention programme.</li> </ul>
Czech Republic	No	<ul style="list-style-type: none"> <li>• Food donation guidelines of the Czech Federation of Food Banks and the Confederation of Commerce and Tourism</li> </ul>

<sup>3</sup> Service Public de Wallonie, "Plan REGAL : Réduction du Gaspillage Alimentaire en Wallonie", <http://moinsdedechets.wallonie.be/fr/je-m-engage/gaspillage-alimentaire#17actions>

Denmark	Yes	<ul style="list-style-type: none"> <li>• Governmental funding to support and test new initiatives for food redistribution</li> </ul>
Estonia	Food waste prevention strategy is to be developed in 2020. Certain activities (surveys, studies, food donation rules) on national level have already been carried out.	<ul style="list-style-type: none"> <li>• General rules/information material for food business operators (FBOs) on food donation</li> <li>• Food donation guidelines (finalised in the first quarter in 2019)</li> <li>• FBOs' activities</li> </ul>
Finland	Yes	<ul style="list-style-type: none"> <li>• National roadmap to reduce food waste and support food donation as part of the food waste prevention strategy</li> </ul>
France	Yes	<ul style="list-style-type: none"> <li>• Law 2016-138 on fighting against food waste obliges all supermarkets and retailers with a surface larger than 400 square meters to donate their surplus food.</li> </ul>
Germany	Yes	<ul style="list-style-type: none"> <li>• Federal Ministry for Food and Agriculture cooperates with various partners, including German food banks.</li> </ul>
Greece	Yes	<ul style="list-style-type: none"> <li>• Municipalities and the competent bodies for solid waste management will undertake and coordinate actions to facilitate food donation at local level.</li> </ul>
Hungary	No	<ul style="list-style-type: none"> <li>• Food banking activities involving the largest food processors and retailers</li> </ul>
Ireland	Yes	<ul style="list-style-type: none"> <li>• Technological and logistical solutions (redistribution "hubs" managed by FoodCloud) have been developed to facilitate food donation in Ireland at national level.</li> <li>• Five of Ireland's largest retailers collectively support the donation of food for redistribution.</li> </ul>
Italy	Yes	<ul style="list-style-type: none"> <li>• Donation of unsold food products is one of the ten priorities of the national food waste prevention plan.</li> <li>• Law no. 166/2016 established the national consultative round table to support food waste prevention and food aid in order to discuss, amongst others, issues relevant for food recovery and redistribution.</li> </ul>
Latvia	No	<ul style="list-style-type: none"> <li>• Government has the competence to adopt rules to allow the donation of certain types of food past the "best before" date within a specific timeframe.</li> </ul>
Lithuania	Yes	<ul style="list-style-type: none"> <li>• Information material for FBOs on donating surplus food</li> </ul>
Luxembourg	Yes	<ul style="list-style-type: none"> <li>• Support is offered to organisations facilitating or collaborating for food donation.</li> </ul>

Netherlands	Yes	<ul style="list-style-type: none"> <li>• Cooperation between the Alliance for Sustainable Food and the Association of Dutch Food Banks</li> </ul>
Norway	Yes	<ul style="list-style-type: none"> <li>• The voluntary agreement to achieve 50% food waste reduction by 2030 between the Norwegian government and the Norwegian food industry singles out amongst others, food donation.</li> </ul>
Poland	Yes	<ul style="list-style-type: none"> <li>• Aim to establish new food banks to donate food for people in need</li> </ul>
Portugal	Yes	<ul style="list-style-type: none"> <li>• Voluntary agreements between the retail sector and civil society associations</li> <li>• Agreements of the Portuguese Federation of Food Banks with social institutions</li> <li>• Implementation of the actions included in the national strategy to combat food waste</li> </ul>
Romania	Yes	<ul style="list-style-type: none"> <li>• The amended “food waste” Law no. 217/2016 stipulates that FBOs may donate food to the receiver organisations and final consumers.</li> </ul>
Slovenia	Yes	<ul style="list-style-type: none"> <li>• School Meals Act: prepared meals, which were not served at schools, can be sent for free to other pupils or students, but also to humanitarian organisations registered in the register of humanitarian organisations.</li> </ul>
Spain	Yes	<ul style="list-style-type: none"> <li>• Four guides were developed to help actors to better manage food waste, which include information on how food surplus can be utilised for food redistribution.</li> </ul>
Sweden	Yes	<ul style="list-style-type: none"> <li>• National action plan for food loss and food waste reduction was issued in June 2018. The plan recognises the need for clear guidance on food donations, although donations are not yet part of the proposed 42 action points. The focus is primarily to prevent food waste at source, however if this is not possible, redistribution of surplus food for human consumption is preferred over other uses.</li> </ul>
United Kingdom	Yes	<ul style="list-style-type: none"> <li>• Courtauld Commitment (voluntary agreement bringing together organisations across the food system to make food and drink production and consumption more sustainable) includes strategies and tools to facilitate surplus food redistribution as part of food waste prevention.</li> <li>• A £15 million fund 2019/20 was announced in October 2018 to increase food redistribution.</li> <li>• Wales - The Welsh Government has funded redistribution organisations (ROs) through grants since 2011.</li> </ul>

### ➤ Austria

In 2011, the Federal Ministry of Agriculture and Forestry, Environment and Water Management published the first Federal Waste Prevention Programme. In the meantime, the programme was revised (in 2017) by the Federal Ministry for Sustainability and Tourism. Austria's Federal Waste Prevention Programme<sup>4</sup> describes the national approach to prevent food waste. It contains several measures addressing food redistribution, such as the development of incentives for companies to redistribute food or the clarification of legal aspects regarding liability during redistribution to social organisations. In 2017, the Federal Ministry of Agriculture and Forestry, Environment and Water Management signed a voluntary agreement (2017-2030) to prevent food waste in food companies, in collaboration with several Austrian food businesses and small retailers. Upon signing the agreement, food companies have to fulfil several obligations, such as:

- to cooperate with social institutions, redistribution organisations (ROs) or to use other forms of passing on or using food, whereby at least 80% of the total number of branches of that food company need to be involved in the cooperation activity;
- the topic "Reduction of food waste" must be integrated into the regular training of employees;
- companies with more than four business locations/branches have to record and report the amount of food that cannot be placed for purchase by the consumer, but is still fit for human consumption or can be used as animal feed. These amounts have to be subdivided into food that is passed on for human consumption, food that is passed on for animal feed and food waste for disposal;
- from a list of various measures, such as reduced-price delivery of goods with a tight or exceeded best-before date that are still edible; sale of bread from the previous day or reduced supply of fresh goods by the close of business *etc.*, at least five must be implemented.

The *Tafeln* (the umbrella organisation of the Austrian food banks) and food retailers founded the "Platform for food retail fostering food redistribution and preventing food waste", so that even more food suitable for human consumption can be saved in the retail sector.

Finally, several published studies give a state of play of food redistribution, estimations on food losses and donations and provide actors with practical solutions to reduce food waste<sup>5</sup> in Austria.

### ➤ Belgium

Since 2014 and 2015, the requirements for the renewal of supermarket environmental permits in the Brussels and Walloon regions impose them to offer their unsold food products to redistribution/charity organisations, before expiration of the "use by" and "best before" dates. In the Brussels region, the Ministerial Order came into effect in 2015<sup>6</sup>. In Wallonia, since 2014, supermarkets must first offer unsold products to at least one food redistribution charity before sending them towards other forms of treatment<sup>7</sup>. No further details are given on the size of supermarkets required to follow this rule.

### ➤ Bulgaria

The Bulgarian National Plan for Waste Management fosters voluntary agreements amongst the different actors of the food supply chain for food donation<sup>8</sup>.

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<sup>4</sup> Austria Federal Ministry of Agriculture Land and Forestry, Environment and Water Management BLFUW, "Bundesabfallwirtschaftsplan - Federal Waste Prevention Programme, 2011", revision by Federal Ministry for Sustainability and Tourism in 2017.

<sup>5</sup> Lebersorger Sandra, and Felicitas Schneider, "Aufkommen an Lebensmittelverderb im österreichischen Lebensmittelhandel", Universität für Bodenkultur Wien; ECR Austria, Vienna, 2014

<sup>6</sup> Brussels Legislation, "Ordonnance on environmental permits (Ordonnance relative aux permis d'environnement)", 1997, [http://www.ejustice.just.fgov.be/cgi\\_loi/change\\_lg.pl?language=fr&la=F&cn=1997060533&table\\_name=loi](http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=1997060533&table_name=loi)

<sup>7</sup> Walloon Government, "Proposition for a decree modifying the decree of the 11 March 1999 on environmental permits to promote the redistribution of food surplus to food aid associations", 2014, [http://nautilus.parlement-wallon.be/Archives/2013\\_2014/DECRET/641\\_5.pdf](http://nautilus.parlement-wallon.be/Archives/2013_2014/DECRET/641_5.pdf)

<sup>8</sup> Bulgaria Ministry of Environment, "Национален план за управление на отпадъците 2014-2020 - National Plan for Waste Management 2014-2020", 2014, <http://www5.moew.government.bg/wp>

### ➤ Croatia

Croatia is on the verge of implementing a four-year plan for food waste reduction and prevention. The plan is under development and will include a measure on food donation. Overall objectives of the plan include various measures and activities, such as improving the food donation system as a whole. The main measures for improving the food donation system are determined by areas of action and consist of the following activities: targeted legislative amendments; drafting guidelines for clarification of relevant national and EU provisions regarding food safety in the food donation system to facilitate compliance with the legislation regarding food safety and quality, hygiene, traceability, FIC regulation, distribution of responsibilities, tax regulations, *etc.* (the Guidelines should clarify roles and responsibilities of food business operators and offer examples of good practices); promotion of social responsibility in the food sector; creation of an IT system for food donation for a better coordination of all parties involved (the implementation of an IT system for food donations has already started in a pilot phase with a limited number of participants); conducting a feasibility study for the establishment of a Croatian food bank. Other food waste prevention measures include: encouraging food waste reduction; conducting campaigns to raise awareness and inform consumers; setting up an educational programme for pre-school and school aged children; concluding voluntary agreements on food waste reduction and food donation with the food sector, as well as other activities.

An award currently exists for the best donator of the year and this can be an advantageous form to motivate other entities to start redistributing food.

### ➤ Cyprus

Recommendations to donate food surplus to charities are specifically mentioned in the indicative list of proposed actions to prevent bio-waste, as laid down in the Waste Prevention Programme 2015-2021 that sets policy objectives for Cyprus in terms of integrated waste management measures; entailing legislative, informational and sensitisation measures, economic tools and incentives<sup>9</sup>.

### ➤ Czech Republic

The Czech Republic has not yet adopted a national food waste strategy.

Inspired by the French legislation that came into force in 2016, food retailers and supermarkets with a surface of at least 400m<sup>2</sup> must offer their food surplus to registered charities and food banks in the Czech Republic since January 2018. The receiving organisations are allowed to refuse the products, but the Czech Ministry of Agriculture offers partial financial support to help food banks deal with the additional product flow<sup>10</sup>.

The Czech Federation of Food Banks and the Confederation of Commerce and Tourism published guidelines that clarify aspects relevant for food donation and support implementation of the Act in practice<sup>11</sup>.

The Ministry of Agriculture supports food banks and charities distributing surplus food<sup>12</sup> through grants (financial support for investments and operations). It also organises seminars and activities to educate food banks about food safety issues related to food redistribution.

### ➤ Denmark

Denmark has implemented its own waste prevention strategy “Denmark without waste”, involving all actors of the food supply chain (government, businesses, *etc.*) and testing new initiatives for redistributing food<sup>13</sup>. The

<sup>9</sup> Cyprus Ministry of Agriculture, Environment Department, “Waste prevention programme 2015-2021”, 2015. [http://www.moa.gov.cy/moa/environment/environmentnew.nsf/page20\\_en/page20\\_en?OpenDocument&print](http://www.moa.gov.cy/moa/environment/environmentnew.nsf/page20_en/page20_en?OpenDocument&print)

<sup>10</sup> Czech Republic Government, “Act No. 180/2016 amending Act No. 110/1997 Coll. On Food and Tobacco Products and on Amendments to Certain Related Acts”, 2016, <https://www.zakonyprolidi.cz/cs/2016-180>

<sup>11</sup> Czech Federation of Food Banks, Confederation of Commerce and Tourism, “Zásady “povinného darování potravin” (Internal guidelines for food donation)”, 2017, <http://potravinovobanky.cz/ke-stazeni/>; EN version: [https://ec.europa.eu/food/sites/food/files/safety/docs/fw\\_lib\\_gfd\\_cze\\_zasady-darovani.pdf](https://ec.europa.eu/food/sites/food/files/safety/docs/fw_lib_gfd_cze_zasady-darovani.pdf).

<sup>12</sup> Czech Republic Ministry of Agriculture, “Food Waste”, <http://eaagri.cz/public/web/mze/potravin/aktualni-temata/plytvani-potravinami-1>,

<sup>13</sup> Denmark Environmental Protection Agency, “Denmark without waste”, 2013, <https://eng.mst.dk/air-noise-waste/waste/denmark-without-waste/>

government has also provided funding to create and test new opportunities for food redistribution in the entire food value chain.

Each year, the Danish Minister of Environment and Food holds an International World Food Summit - Better Food for More People. The Summit reinforces efforts to reach the United Nations Sustainable Development Goals, adopted by all United Nations Member States in 2015. The vision is to ensure a safe, healthy, and sustainable global food system for people and the planet. The Danish Minister for Environment and Food is hosting the Summit to connect with leaders who are ready to act. Leaders from politics, business, science and organisations gather to collectively identify new pathways towards a transformation of the food systems and commit to new actions.

In 2019, a Think Tank on prevention of food loss and food waste was established. The Think Tank reinforces efforts to secure collaboration across the entire food value chain, and it will ensure initiatives are founded on expert knowledge. Think Tank members will be representatives from national authorities, businesses, organisations, research, etc. Among other things, the Think Tank will operate a voluntary agreement on a joint food waste reduction target aligned with SDG 12.3 for the entire food value chain, from farm to fork.

#### ➤ Finland

Finland's National Plan for Waste Management includes building a roadmap to reduce food waste and promote food donation as an integral part of food waste reduction. The roadmap is expected to be completed by the end of 2019.

Companies such as supermarkets have made voluntary commitments to reduce food waste and food donation is one of the means to achieve this.

Authorities have encouraged and promoted safe food donation since 2013 through national food donation guidelines, which were updated in 2017<sup>14</sup>.

#### ➤ France

The National Pact against Food Waste (2013) defined the objective of halving food waste by 2025<sup>15</sup>. All actors of the food chain work together under the pact's umbrella towards identifying solutions for food waste prevention, including food donation.

In February 2016, the National Assembly adopted the Law on the "fight against food waste"<sup>16</sup>, which sets out a hierarchy for food waste prevention actions, prioritising redistribution of safe, edible food for human consumption. This Law obliges supermarkets that have a surface area of at least 400m<sup>2</sup> to sign a food donation agreement with authorised charitable organisations.

During the 2017 temporary General Assembly on Food ("Etats Généraux de l'Alimentation")<sup>17</sup>, two national working groups, on food insecurity and on sustainable consumption patterns, were conducted with stakeholders from the entire food supply chain<sup>18</sup>. Both working groups touched upon the topic of food redistribution. The General Assembly

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<sup>14</sup> Finish food safety authority (EVIRA), "Foodstuffs Donated to Food Aid", 2017, <https://www.diva-portal.org/smash/get/diva2:902211/ATTACHMENT02.pdf>

<sup>15</sup> EESC - Bio by Deloitte, "Comparative Study on EU Member States' legislation and practices on food donation", 2014, [https://www.eesc.europa.eu/resources/docs/executive-summary\\_comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation.pdf](https://www.eesc.europa.eu/resources/docs/executive-summary_comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation.pdf)

<sup>16</sup> France Gouvernement, "LOI n° 2016-138 du 11 février 2016 relative à la lutte contre le gaspillage alimentaire", JORF n°0036 du 12 février 2016, texte n°2, <https://www.legifrance.gouv.fr/eli/loi/2016/2/11/AGRX1531165L/jo/texte>

<sup>17</sup> French Ministry of Agriculture and Food, "#EGalim : présidence des ateliers des États généraux de l'alimentation", 2017, <http://agriculture.gouv.fr/egalim-presidence-des-ateliers-des-etats-generaux-de-l'alimentation>

<sup>18</sup> French Ministry of Agriculture and Food, "#Egalim - La restitution des ateliers nationaux", 2017, <http://agriculture.gouv.fr/egalim-la-restitution-des-ateliers-nationaux>

resulted in a law project, the Law on Food and Agriculture, which extends the Law on fighting against food waste to mass caterers and to the food manufacturing sector<sup>19</sup>.

In 2018, the draft law on Food and Agriculture was debated in both Parliament and the Senate. Articles 12 and 15 of the draft law will extend the Law on the “fight against food waste”: mass caterers and food manufacturers will also have to monitor their food waste quantities and donate their excess/unsold food products by setting up conventions with food charities. The law was voted in September 2018, and the associated ordinance should render the extension of the “fight against food waste” law mandatory by October 2019<sup>20</sup>.

#### ➤ **Germany**

The initiative of the Federal Ministry for Food and Agriculture *Too good for the bin!*, launched in spring 2012, informs citizens about food waste and possibilities for food waste reduction. In this regard, the Federal Ministry cooperates with various partners, including German food banks. When drawing up a strategy to reduce food waste, the Federal Ministry involves the Federal Government and the ministries at regional level responsible for the matter.

The Federal Ministry for Food and Agriculture published guidelines to clarify legal aspects in relation to food redistribution to social facilities<sup>21</sup>.

The regional project of Bavaria, *We save food* alliance, launched in 2016, put forward 17 proposals for "rescue operations" in the food supply chain and supports measures that promote food redistribution, such as a logistical support project to make food charities more aware of when goods are available for pick-up.

#### ➤ **Greece**

A National Waste Prevention Strategic Plan was defined in 2014 by the Ministry of Environment and Energy, with the contribution of other ministries<sup>22</sup>. As part of this plan, food waste prevention was identified as a priority area due to its impacts on the environment, on greenhouse gas emissions and on global food security. The Plan foresees that municipalities and the competent Bodies for Solid Waste Management (FODSA) will undertake and coordinate actions to facilitate food donation at the local level, while guidelines for NGOs and other bodies (food banks, social grocery stores) that deal with food redistribution will be developed.

#### ➤ **Ireland**

The Food Waste Charter for Ireland introduced in 2017 and managed by Ireland’s Environmental Protection Agency (EPA) in association with the Department of Communications, Climate Action & Environment aims to achieve a 50% reduction in food waste by 2030 and to provide a collective commitment for people, businesses and communities. As part of the Charter, the Retail Action Group brings together five of Ireland's largest retailers to work towards reducing food waste in the retail sector. This group has the ability to support the donation of food for redistribution collectively<sup>23 24</sup>.

The Irish EPA also provides guidance on the food use hierarchy, and information for businesses through its communications<sup>25</sup>.

<sup>19</sup> Assemblée Nationale, "Projet de loi pour l'équilibre des relations commerciales dans le secteur agricole et alimentaire et une alimentation saine, durable et accessible à tous (AGRX1736303L)", 2018, <http://www.assemblee-nationale.fr/15/projets/pl0627.asp>

<sup>20</sup> French Ministry of Agriculture and Food, "#Egalim – tout savoir sur la loi Agriculture et Alimentation", 2018, <https://agriculture.gouv.fr/egalim-tout-savoir-sur-la-loi-agriculture-et-alimentation>

<sup>21</sup> Federal Ministry for Food and Agriculture "Guidebook on donating food to social welfare organisations - Legal aspects", June 2018, <https://www.bmel.de/SharedDocs/Downloads/EN/Publications/Guidebook-donatingfood-welfareorganisations.html>

<sup>22</sup> Greek Ministry of Environment and Energy, "National Waste Prevention Strategic Plan", 2014, <http://www.ypeka.gr/LinkClick.aspx?fileticket=2Y2%2B%2BPSM4P0%3D&tabid=238&language=el-GR>

<sup>23</sup> Ireland EPA, "National Waste Prevention Programme (NWPP)", <http://www.epa.ie/waste/nwpp/> ; Ireland EPA, "Stop Food Waste", <https://stopfoodwaste.ie/>

<sup>24</sup> Ireland Department of Communications, Climate Action & Environment, "Major Irish Retailers Sign Up to Government's Food Waste Charter", 2018, <https://www.dccae.gov.ie/en-ie/news-and-media/press-releases/Pages/Major-Irish-Retailers-Sign-Up-to-Government%E2%80%99s-Food-Waste-Charter.aspx>

<sup>25</sup> Ireland EPA, "Food waste charter", 2017, <http://foodwastecharter.ie>

## ➤ Italy

In Italy, the National Food Waste Prevention Plan (PINPAS), published in 2014, foresees to measure food waste at source and to recover surplus food through donation to charities. PINPAS foresees ten priorities at the national level, including the donation of unsold food products and the introduction of incentive criteria in public collective food services contracts for whoever distributes surpluses free of charge.

In addition to PINPAS, the Law no. 166/2016 aims to reduce waste for each of the stages of production, transformation, distribution and administration of food products, pharmaceuticals and other products, through the realization of the following priority objectives:

- a) to promote the recovery and donation of food surpluses for purposes of social solidarity, prioritising their allocation for human use;
- b) to favor the recovery and the donation of pharmaceutical products and other products for purposes of social solidarity;
- c) to contribute to the limitation of negative impacts on the environment and natural resources through actions aimed at reducing waste generation and promoting reuse and recycling in order to extend the product life cycle;
- d) to contribute to the achievement of the general objectives established by the National Waste Prevention Program, adopted pursuant to article 180, paragraph 1-bis, of the decree legislative 3 April 2006, n. 152; and from the National Plan to prevent food waste provided by the same program, on 'the reduction of the quantity' of biodegradable waste sent to landfill;
- e) to contribute to research, information and awareness raising activities for consumers and institutions on subjects object of the present law, with particular reference to the younger generations.

This law encompasses the definition and description of surplus food and it defines a hierarchy for its use. The first priority is to prevent food surplus generation and the second priority is to recover food surplus to redistribute for human consumption<sup>26</sup>.

Further to this, the law established the National Consultative Round Table involving relevant public and private actors of the food supply chain to foster discussions on food recovery, amongst other topics. Within the National Round Table, the National Observatory collects and harmonises data on surpluses, recoveries and food waste.

At the local level, the Milan Food Policy Plan, running from 2015 to 2020, aims for a 50% reduction in food waste by 2030 with the help of local actors (stakeholders and shareholders). Within the Food Policy Plan, guidelines call for the recovery and redistribution of food losses, for a more rational use of packaging, *etc.* Food waste initiatives, such as a tax reduction on food donations, encourage food businesses to donate their surplus food<sup>27</sup>.

## ➤ Latvia

Food waste and food redistribution are two separate policy areas in Latvia. Food waste falls under the scope of the Ministry of Environmental Protection and Regional Development (VARAM), while the Ministry of Agriculture is responsible for overseeing food redistribution. There is no national strategy for food redistribution. Legislation forbids the sale and donation of food for human consumption past the “best before” date. The Rules No. 742 regulate the use and destruction of food products, including foodstuffs unfit for distribution<sup>28</sup>. In October 2018, amendments

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<sup>26</sup> Italian Government, “Law No.166/2016, Provisions regarding donation and distribution of food products and pharmaceuticals for social solidarity and for the decreasing of food waste”, 2016, <http://www.gazzettaufficiale.it/eli/id/2016/08/30/16G00179/sg>

<sup>27</sup> City of Milan, “Milan Urban Food Policy Pact”, <http://www.milanurbanfoodpolicypact.org/>

<sup>28</sup> Latvia Cabinet of Ministers, “Rules No. 742 on the Regulations on procedures for further use or destruction of food unfit for distribution (Izplatīšanai nederīgas pārtikas turpmākās izmantošanas vai iznīcināšanas kārtība)”, 2009, <https://likumi.lv/doc.php?id=194744>

to the Food Chain Supervision Act were adopted. The law gives the Cabinet of Ministers the authority to issue national regulations which will stipulate that certain food groups can be donated past their "best before" date, within a specific timeframe.

➤ **Lithuania**

The National Food and Veterinary Service (SFVS) regularly informs the public and FBOs on the topic of food waste reduction. In 2018, information material on donating surplus food was published for FBOs.

➤ **Luxembourg**

In 2018, the government agreed on a National plan for waste and resource management (PNGDR), laying out objectives to prevent food waste, and to achieve a 50% reduction of food waste by 2022. It sets the policy framework on food waste, including on food donation, for the coming years. In the plan, food donation is a key measure to reduce food waste and support is offered to organisations facilitating or collaborating for food donation. The plan stipulates that when food waste cannot be prevented, leftover food should be kept/stored in such a way that allows its redistribution<sup>29</sup>.

Finally, the Luxembourg Food Waste Taskforce coordinates national action on food waste between all governmental actors and other stakeholders. By clearly defining which Ministry is in charge of food safety, food waste and food redistribution, a more streamlined action will help to identify and to overcome legal and other barriers in the future (Luxembourg Ministry of Agriculture, Viticulture and Consumer Protection 2018)<sup>30</sup>.

➤ **Netherlands**

The taskforce *United against Waste* brings together knowledge bodies, the government and all actors of the food supply chain, and sets the reduction of food waste in the national agenda since its creation in 2017, guided by the food use hierarchy<sup>31</sup>. The primary goal of the national strategy is to prevent the generation of food waste. One way to achieve this is the donation of food surplus to food banks, which is explicitly mentioned in the national strategy.

One of the objectives of the Dutch coalition of 2017 is to facilitate food redistribution by providing more flexibility to FBOs including food banks, within the current regulatory framework: "*Where necessary and possible, supermarkets and food service receive more space to donate surpluses to food banks*" in order to overcome barriers<sup>32</sup>.

A few years before, the Association of Dutch Food Banks started working alongside the Alliance on Sustainable Food. Over time, they had a significant contribution in making FBOs aware of the possibility to donate their surplus food to food banks<sup>33</sup>. The Dutch Alliance on Sustainable Food – a cooperation of six branch organisations that cover the whole food chain – has also had a strong focus on reducing food waste and reusing secondary resources since 2013. The Dutch government – as founder of the predecessor of the Alliance – works together with the Alliance and its members and has, for instance, encouraged the cooperation between the Alliance and the Association of Dutch Food Banks.

➤ **Norway**

The Norwegian government and the Norwegian food industry have signed a voluntary agreement of 50% food waste reduction by 2030. The agreement includes paragraphs on contract partners' responsibilities, for both the

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<sup>29</sup> Luxembourg Ministry of Sustainable Development and Infrastructure, "Plan national de gestion des déchets et des ressources (PNGDR)", 1 June 2018, [https://environnement.public.lu/fr/offall-ressourcen/principes-gestion-dechets/Plan\\_national\\_de\\_gestion\\_des\\_dechets\\_PNGD.html](https://environnement.public.lu/fr/offall-ressourcen/principes-gestion-dechets/Plan_national_de_gestion_des_dechets_PNGD.html)

<sup>30</sup> *Idem*

<sup>31</sup> Taskforce Circular Economy in Food, "Agenda Samen Tegen Voedselverspilling", 2018, [http://samentegenvoedselverspilling.nl.transurl.nl/wp-content/uploads/2018/03/A113\\_Taskforce\\_FoodWaste\\_Agenda\\_v6\\_LR.pdf](http://samentegenvoedselverspilling.nl.transurl.nl/wp-content/uploads/2018/03/A113_Taskforce_FoodWaste_Agenda_v6_LR.pdf)

<sup>32</sup> The Netherlands Cabinet Formation Office, "Regeerakkoord Vertrouwen in de Toekomst", 10 October 2017, <https://www.kabinetformatie2017.nl/documenten/publicaties/2017/10/10/regeerakkoord-vertrouwen-in-de-toekomst>

<sup>33</sup> Samenwerkingsovereenkomst Alliantie Verduurzaming Voedsel en Voedselbanken Nederland 2014, Voedselbanken Netherlands, 2013

FBOs who "are to contribute towards donations of surplus food to charitable organisations/food centres", and the authorities who "are to facilitate food donations, in cooperation with the food industry."

➤ **Poland**

According to the Polish Law<sup>34</sup> on waste, the national waste management plan and the regional plans include food waste prevention programmes. The National Waste Management Plan 2022 currently in place<sup>35</sup>, as well as the plans in each region, foster food waste reduction and public awareness on food waste prevention and proper management of food waste. One of their goals is to establish new food banks to donate food for people in need.

➤ **Portugal**

The Portuguese Federation of Food Banks has agreements with charitable organisations for donations of surplus food.

Before the establishment of the national strategy, civil society associations have established several voluntary agreements with the retail sector to rescue surplus food for food donation. These actions were supported by the Food and Economic Safety Authority (ASAE), and in some cases by the local administration, providing information and training in hygiene and food security to these organisations.

The National Commission to fight food waste has established a voluntary agreement with the retail sector for the creation of specific points of sale of products at risk of waste, launched campaigns directed to the consumer in order to clarify date marking and has organized sessions of clarification to specific groups of economic operators (e.g. industry, restaurants and touristic operators).

That Commission established in 2018 the National Strategy and Action Plan to Combat Food Waste 2018-2021, developed with the objectives of *i*) diagnosis, evaluation and monitoring of food waste in Portugal; *ii*) identification of good practices; *iii*) systematisation of measurement indicators; *iv*) involvement of the civil society; *v*) development of an electronic platform for the interactive management of food products at risk of waste in order to boost food donation; *vi*) proposal of measures to reduce food waste. The Platform to facilitate food donation referred to under *v*) will be available in 2019.

Food waste is also integrated as one of the seven core actions in the Action Plan for the Circular Economy in Portugal.

The National Commission to fight food waste includes several departments of public administration (Environment, Economy, Education, Health, Food, etc.) coordinated by the Ministry of Agriculture and includes the participation of the Portuguese Federation of Food Banks.

➤ **Romania**

Food donation is described in the *Law no. 32/1994 on sponsorship*, the general law that defines sponsorship and donation. The National Waste Management Plan<sup>36</sup> (PNGD) was published on 5 January 2018 and contains information about food waste generation and management. The country is at its very beginnings of food donation on a large scale, although donations have been taking place locally through small charities linked to the Orthodox Church. Nonetheless, the Romanian Government published a first "food waste" Law in 2016 (Law no. 217/2016) that obliged retailers to donate food to charities. This law was amended by Law no.200/2018, which entered into force February 2019.

<sup>34</sup> Polish Government, "Waste Act of 14 December 2012", Journal of Laws of 2018, item 992, as amended)

<sup>35</sup> Polish Government, "Krajowy plan gospodarki odpadami 2022 przyjęty przez Radę Ministrów uchwałą nr 88 z dnia 1 lipca 2016 r.", <https://bjp.mos.gov.pl/strategie-plany-programy/krajowy-plan-gospodarki-odpadami/krajowy-plan-gospodarki-odpadami-2022/krajowy-plan-gospodarki-odpadami-2022-przyjety-przez-rade-ministrow-uchwala-nr-88-z-dnia-1-lipca-2016-r/>

<sup>36</sup> Government of Romania, "Hotărârea nr. 942/2017 privind aprobarea Planului național de gestionare a deșeurilor", January 2018, [http://www.mmediu.ro/app/webroot/uploads/files/2018-01-10\\_MO\\_11\\_bis.pdf](http://www.mmediu.ro/app/webroot/uploads/files/2018-01-10_MO_11_bis.pdf)

The amended law (*Legea no. 200/2018 pentru modificarea Legii nr.217/2016 privind diminuarea risipei alimentare*) recommends FBOs to take at least two actions to reduce food waste, before discarding surplus food. The amended law allows FBOs to choose which action to reduce food waste they prefer: awareness and information campaigns, price discounts or donation to humans. According to the amended law, the donors may take measures to prevent food waste. The donors may participate voluntarily as partners in the activities and campaigns proposed by the authorities and/ or may initiate their own informative actions in the spirit of this law.

The Government Decision stipulating the rules for applying the amended Law no. 217/2016, was adopted in January 2019. The main stipulated provisions are the following: measures on each stage of the food supply chain that may be taken by economic operators to prevent and reduce food waste according to the hierarchy of prevention; the list of food products which are forbidden for donation, including alcohol, and the list of perishable agro-food products which can be donated only to receiver organisations in order to be prepared and served to the final consumers; registration procedure for the receiving organisations at the Ministry of Agriculture and Rural Development (MARD), reporting rights and obligations for both donors and receivers.

### ➤ **Slovenia**

In 2016, the Slovenian government has adopted a waste management and waste prevention programme under the auspices of the Ministry of the Environment and Spatial Planning (MESP). As part of this program, food waste prevention was identified as a priority area due to its impacts on the environment and on greenhouse gas emissions. The program lays down a set of measures for the prevention and reduction of food waste. The long-term goal of these measures is to reduce the quantity of food waste in Slovenia, taking into account, where possible, all actors in the food chain.

A 2015 project<sup>37</sup> of the Ministry of Agriculture ensures that all institutions of the public sector have the potential to offer their food surplus to humanitarian organisations. The School Meal Act of 2013 stipulates that prepared meals that were not served at the scheduled time, may be offered by the school free of charge to other pupils or students, and also to humanitarian organisations that are registered in the register of humanitarian organisations.

However, it is the 2017 Act amending the Agriculture Act which is the key document regarding food donations, defining the act of donation and the actors involved in the process<sup>38</sup>.

Building on the nexus between sustainable transport, energy efficiency, renewable energies and sustainable, climate-protecting land use that strengthens biodiversity, the Integrated LIFE Project (LIFE IP CARE4CLIMATE) aims to establish an umbrella solution to tackle one of modern societies' most pertaining challenges in a smart, cost effective and impactful manner. Food waste management is a part of the CARE4CLIMATE LIFE project. This project started at the beginning of 2019 and will provide some key findings and associated recommendations for sustainable food waste management and national measures against climate change, sustainable food and agriculture priorities and it will also show conclusive change mitigation potential for sustainable food waste management in Slovenia.

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<sup>37</sup> Slovenian Ministry of Agriculture forestry and Food, "Project of MAFF from 2015 on food surplus capacities in the kitchens of public domain for charitable organisations" (internal document for the members of EU Platform on Food Losses and Food Waste)

<sup>38</sup> Slovenian Ministry of Agriculture, Forestry and Food, "Act Amending the Agriculture Act", Uradni List., 1 June. 2017, <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2017-01-1446?sop=2017-01-1446>

## ➤ Spain

Within the framework of the Waste Framework Directive, the Spanish State Programme on the Prevention of Waste includes food waste as a priority area to be addressed, indicating that public administrations must act to combat it and promote research, development and innovation in the area. In addition, the programme proposed support for companies to prevent food waste and to foster adherence to voluntary agreements with associations and social entities for good use of surplus food.

The Ministry of Agriculture, Food and Environment launched in 2013 its national strategy on food waste prevention called “More food, less waste” (*Más alimento, menos desperdicio*) which has been reedited for 2017-2020 (Spain Ministry of Agriculture, Food and Environment 2017). It indicates that the main objective is prevention of food waste and, when that is not possible, priority should be given to redistributing surplus food for human consumption.

The Directorate General for the Food Industry (MAPA) coordinates the “More Food, Less Waste” strategy. A Monitoring Committee has also been established, which includes all stakeholders across the food chain, consumer organisations, NGOs and COs, along with the General State Administration and regional and local authorities.

Within the development of the national strategy, four sector specific guides were developed for retailers, education centres, consumers and the hospitality sector, to help actors in outlining best practices and tools for food waste prevention. These four manuals<sup>39</sup> also include information on how food surplus can be a viable means for food redistribution.

Additionally, within the framework of the “More food, less waste” strategy, the creation of a national guide to facilitate the donation of food will be promoted. In the guide, barriers to food redistribution will be identified and clarified, like the roles and responsibilities of the stakeholders involved to give security to those operators who want to donate as a means of managing unsold food.

To highlight a regional initiative, the Catalan Waste Agency developed a Waste and Resource General Program for 2013-2020 aiming at halving the 2010's food wastage quantities in the retail, hospitality, restoration sectors and households by the end of 2020. This program, paired with actions from the local food bank *Banc dels Aliments*, which has been communicating to consumers on food redistribution since 2008, plays a role in food waste reduction and food redistribution<sup>40</sup>.

## ➤ Sweden

The action plan *More to do more* is part of the Swedish government's assignment to the authorities for reduced food loss and food waste. The assignment extends over three years from 2017 to 2019.

## ➤ United Kingdom

The Courtauld Commitment, a voluntary agreement initiated in 2005, sets ambitious yet achievable goals for the reduction of food and packaging waste within the UK grocery sector, and has been renewed three times since its initial launch. In January 2017, 40 signatories of Courtauld 2025 committed to doubling how much they redistribute to charities by 2020<sup>41</sup>.

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<sup>39</sup> Spanish Ministry of Agriculture, Food and Environment, “Spain – Practical guide to reduce food waste at education centres. Good use of food”, 2014; Spanish Ministry of Agriculture, Food and Environment, “Spain – Practical guide for the consumer: How to reduce food waste. Good use of food”, 2014; Spanish Ministry of Agriculture, Food and Environment, “Spain – Practical guide to reduce food waste in the retail sector. Good use of food”, 2015; Spanish Ministry of Agriculture, Fishing, Food and Environment, “Spain – Practical guide to reduce food waste in the hospitality sector. Good use of food”, 2016

<sup>40</sup> Catalan News, “Supermarkets and charities work together against food waste in Catalonia”, 29 November, 2014, <http://www.catalannews.com/society-science/item/supermarkets-and-charities-work-together-against-food-waste-in-catalonia>

<sup>41</sup> WRAP, “Courtauld Commitment 2025 signatories to double redistribution”, 2017, <http://www.wrap.org.uk/content/courtauld-commitment-2025-signatories-double-redistribution>

As part of the Courtauld Commitment, the Waste and Resources Action Programme (which operates as WRAP, a UK charity) established a redistribution working group with more than 25 representatives from a wide range of organisations involved in the redistribution of surplus food (food retailers, manufacturers, representatives from UK Governments *etc.*). The working group seeks to address the challenge of increasing the amounts of food surplus redistributed, through sharing best practices, identifying barriers and opportunities, overseeing the development of relevant new resources, research and approaches to monitoring progress<sup>42</sup>. Signatories to WRAP's Courtauld 2025 voluntary agreement have also agreed to a collective ambition to double the amount of surplus food redistributed by their businesses by 2020, against a 2015 baseline<sup>43</sup>.

Under the Food Waste Reduction Roadmap, most UK businesses have signed up to a more ambitious agreement than Courtauld. They committed to halve their food waste by 2030<sup>44</sup>.

A £15 million fund 2019/20 was announced in October 2018 to increase food redistribution and reduce food waste in England<sup>45</sup>. The new scheme will help make sure that good food goes to people who need it. This work comes on top of the £0.5 million fund launched in November 2017 where 8 projects across the country are being supported in making use of surplus food for those in need. These projects will begin to report their progress in 2019.

The Welsh government will be consulting in late 2019 on plans to halve food waste in Wales by 2025 as part of the consultation for the new waste strategy.

## 2.2.1 What is surplus food? (Section 2.2) – What can be donated

### ➤ Austria

The Guideline for food redistribution to social organisations<sup>46</sup> gives information on the food products acceptable for redistribution.

### ➤ Belgium

Comeos, Fevia, the Federation of Food Banks, social grocers, social restaurants and poverty organisations on the one hand and the federal government and the three regions on the other, have joined forces in an appeal to all companies to prevent food waste. The regional authorities have set up government policies to combat waste and the federal authorities ensure that their risk-based control policy does not unnecessarily hamper the anti-waste policies implemented by other stakeholders, while guaranteeing the same food chain security for everyone in order to protect consumers.

A guide was published in 2012<sup>47</sup> to encourage food producers and retailers to collaborate with food banks or charities. The document provides guidance on the type of food that can be donated and on the hygiene and safety conditions required for donated foodstuff to be safe for human consumption. Local food banks and organisational tips are listed to facilitate the food donation process for companies.

<sup>42</sup> WRAP, "Surplus Food Redistribution Working Group", <http://www.wrap.org.uk/content/surplus-food-redistribution-working-group-0>

<sup>43</sup> WRAP, "Surplus food redistribution: WRAP's work", <http://www.wrap.org.uk/content/surplus-food-redistribution-wrap's-work>

<sup>44</sup> Feedback Global, "Feedback Welcomes Major Step Forward For Business As Usual On Food Waste - Feedback", 2018, <https://feedbackglobal.org/feedback-welcomes-big-change-to-business-as-usual-on-food-waste/>

<sup>45</sup> Feedback global, "Gove Pledges £15M To Support Redistribution Of Food Surplus - Feedback", 2018, <https://feedbackglobal.org/gove-pledges-15m-to-support-redistribution-of-food-surplus/>

<sup>46</sup> Institute of Waste Management, University of Natural Resources and Life Sciences BOKU Vienna, "Guideline for food redistribution to social organisations – legal aspects", 2015, [https://www.bmgf.gv.at/cms/home/attachments/5/3/0/CH1176/CMS1325589150703/leitfaden\\_weitergabe\\_lebensmittel.pdf](https://www.bmgf.gv.at/cms/home/attachments/5/3/0/CH1176/CMS1325589150703/leitfaden_weitergabe_lebensmittel.pdf)

<sup>47</sup> FAFSC, "Excédents alimentaires. Faites don aux banques alimentaires ou à d'autres associations à finalité sociale", 2012, [http://www.afsca.be/publicationsthematiques/ documents/2012-12-12\\_Drieluik\\_VoedseloverschottenFr.pdf](http://www.afsca.be/publicationsthematiques/ documents/2012-12-12_Drieluik_VoedseloverschottenFr.pdf)

### ➤ Bulgaria

The Bulgarian Food Act<sup>48</sup> considers a list of food products eligible for donation, but the 2017 Ordinance of the Minister of Agriculture and Food on the List of Foods Eligible for Food Banking defines an exhaustive list to facilitate the implementation of the Food Law<sup>49</sup>.

### ➤ Croatia

In 2015, the Ministry of Agriculture adopted the Ordinance on conditions, criteria and modalities of donating food and feed (Official Gazette, No 119/15). According to the national rules, any type of food can be donated as long as it is safe for consumption. Food with errors in packaging, labelling, weighing, *etc.* or food close to its expiry date is eligible for donation provided it is safe for consumption. Moreover, food produced/prepared by mass catering entities can also be donated, except for food that was served to customers<sup>50</sup>.

### ➤ Denmark

The Danish Veterinary and Food Administration has published several guidelines which give information on food acceptable for redistribution. In general all foods fit for human consumption qualify for redistribution. However both the circumstances under which the redistribution takes place and the determination as to whether foods are fit for human consumption have proven complicated. For instance, the guidelines "How food business operators can avoid food loss *e.g.* in case of redistribution" clarifies the meaning of "fit for human consumption" and includes illustrative photos; additional guidance is provided on "How to avoid food loss at festivals".

National standards are widely used in Denmark by food businesses within almost all sectors. Sections on redistribution have been added to several of these standards.

### ➤ Finland

The national food donation guidelines<sup>51</sup> clarify concerns related to food donation procedures (and liability, see Section 4). In terms of its microbiological, chemical and physical quality, composition and other properties, food must be fit for human consumption and must not present any hazard to human health, and the labelling must not mislead the consumer. It is a prerequisite that FBOs take sufficient care in all their operations so as to ensure that the food, food premises and food storage, transport and handling conditions meet the requirements of legislation concerning foodstuffs. The purpose of food aid is not fulfilled if there are such defects in the safety or quality of the foods donated to food aid that the food aid operator cannot use those foods. The purpose of donating food to food aid is not that it should serve as a substitute for waste disposal.

### ➤ France

In France, several guidance documents<sup>52</sup> outline the types of food which can be donated. There are clear explanations in the Rhône-Alpes region guidance<sup>53</sup> about the types of products which can be donated in the guide targeting FBOs: all fresh, frozen or dry food items, except alcoholic beverages, can be donated provided they are in compliance with the date marking and date labelling requirements.

<sup>48</sup> Bulgarian Ministry of Agriculture and Food, "Закон за храните - Food Act", 1999, [http://www.babh.government.bg/userfiles/files/Zakoni/ZAKON\\_za\\_hranite.pdf](http://www.babh.government.bg/userfiles/files/Zakoni/ZAKON_za_hranite.pdf)

<sup>49</sup> Bulgarian Ministry of Agriculture and Food, "Заповед № РД 09-181/09.03.2017 на министъра на земеделието и храните относно списък на храните, обект на хранително банкиране/Ordinance of Minister of Agriculture and Food on the List of Foods Eligible for Food Banking", 2017, <http://www.babh.government.bg/userfiles/files/%20%E2%84%96%20%D0%A0%D0%94%2009-181%2009.03.2017.pdf>

<sup>50</sup> Croatian Ministry of Agriculture, "Ordinance on the Conditions, Criteria and Ways of Donating Food and Feed (Pravilnik o uvjetima, kriterijima i načinima doniranja hrane i hrane za životinje)", 2015, [http://narodne-novine.nn.hr/clanci/sluzbeni/2015\\_10\\_119\\_2257.html](http://narodne-novine.nn.hr/clanci/sluzbeni/2015_10_119_2257.html)

<sup>51</sup> Finnish food safety authority (EVIRA), "Foodstuffs Donated to Food Aid", 2017, <https://www.diva-portal.org/smash/get/diva2:902211/ATTACHMENT02.pdf>

<sup>52</sup> DRAAF Rhône-Alpes, "Food donation guidelines for the catering sector", 2015, <http://draaf.auvergne-rhone-alpes.agriculture.gouv.fr/Reutiliser-ses-excedents-et-ou-les>; DRAAF Rhône-Alpes, "Donating agricultural products", 2015, <http://draaf.auvergne-rhone-alpes.agriculture.gouv.fr/Guide-reglementaire-et-pratique>; DRAAF Rhône-Alpes, "Guidelines for food donation", 2015, [http://draaf.auvergne-rhone-alpes.agriculture.gouv.fr/IMG/pdf/Guide\\_dons\\_alimentaires\\_-\\_20-septembre-1\\_cle0124ef.pdf](http://draaf.auvergne-rhone-alpes.agriculture.gouv.fr/IMG/pdf/Guide_dons_alimentaires_-_20-septembre-1_cle0124ef.pdf); Ministry of Agriculture and City of Paris, "Food donation from catering sector - city of Paris", 2013, <http://draaf.auvergne-rhone-alpes.agriculture.gouv.fr/Traiteurs-un-guide-reglementaire>

<sup>53</sup> DRAAF Rhône-Alpes, "Guidelines for food donation", 2015, [http://draaf.auvergne-rhone-alpes.agriculture.gouv.fr/IMG/pdf/Guide\\_dons\\_alimentaires\\_-\\_20-septembre-1\\_cle0124ef.pdf](http://draaf.auvergne-rhone-alpes.agriculture.gouv.fr/IMG/pdf/Guide_dons_alimentaires_-_20-septembre-1_cle0124ef.pdf).

➤ **Germany**

Surplus food is defined in the “Guide for the transfer of food to Social Facilities”<sup>54</sup>, issued by the Ministry of Food and Agriculture in 2018. All product groups (e.g. fresh fruits and vegetables, canned food and frozen food) can be donated as long as these products are considered safe for human consumption<sup>55</sup>.

➤ **Italy**

Law No.166/2016 defines food surpluses as “*edible products, which have not been sold or have not been placed on the market because of different reasons*”. Donated surplus food can be processed and manufactured into other products. Article 5 of Law No.166/2016 specifies that “*donors must provide good operating practices to ensure the hygienic safety of donated foods. Donors have to make a selection of foods to be donated according to quality and hygiene requirements. Donors must keep the products that are donated separate and traceable*”<sup>56</sup>.

➤ **Ireland**

Food may be donated by food manufacturers, caterers, retailers and other types of food businesses once the food is in an acceptable condition and where a “use-by” date is declared, the food is within this date. Food which has gone beyond its “best before” date may be donated provided that it is in an acceptable condition and is handled safely<sup>57</sup>.

➤ **Lithuania**

The State Food and Veterinary Service (SFVS) issued a national guideline on food, providing lists of products that can or cannot be donated. Foods unfit for donation include products past their “use by” date, alcoholic beverages, homemade food products, seafood (clams, crustaceans), etc. Food products eligible for donation include prepacked food past their “best before” date (donated within a timeframe determined in the guideline), products that do not meet quality and/or marketing standards, products that have labelling errors, packaging damage or that were confiscated or collected from an accident site<sup>58</sup>.

➤ **Netherlands**

The Netherlands Food and Consumer Product Safety Authority (NVWA) issued a national guideline concerning the food safety of all food to be redistributed by charitable institutions and organisations (NVWA *Informatieblad 76*, 2015)<sup>59</sup>. In general, it is stated that unfit or unsafe food should not be accepted. A non-exhaustive list of foods is included that can be used as a guideline to examine whether or not foods past their “best before” dates can be accepted<sup>60</sup>.

In its handbook on food safety, the Association of Dutch Food Banks defines four categories of food banks with regard to their ability to maintain the cool chain and describes categories of products accepted for donation.

➤ **Portugal**

According to the guidance developed by the non-governmental organisation, DariAcordar, in cooperation with the Food and Economic Safety Authority (ASAE) and the National Authority for Food and Animal Health (DGAV), which provides information on the types of food and meals that can be donated, all cooked meals from the day can in principle be donated, but some products require particular attention (e.g. meals containing minced meat). The

<sup>54</sup> Federal Ministry for Food and Agriculture “Guidebook on donating food to social welfare organisations - Legal aspects”, June 2018, <https://www.bmel.de/SharedDocs/Downloads/EN/Publications/Guidebook-donatingfood-welfareorganisations.html>

<sup>55</sup> *idem*

<sup>56</sup> Italian Government, “Law No.166/2016 Provisions regarding donation and distribution of food products and pharmaceuticals for social solidarity and for the decreasing of food waste”, 2016, <http://www.gazzettaufficiale.it/eli/id/2016/08/30/16G00179/sg>

<sup>57</sup> Food Safety Authority Ireland, “Food donataion – Introduction”, 2017, [https://www.fsai.ie/food\\_businesses/donations/donations.html](https://www.fsai.ie/food_businesses/donations/donations.html)

<sup>58</sup> State Food and Veterinary Service, “Guideline for handling food for charity (Dėl Labdarai ir paramai skirto maisto tvarkymo aprašo patvirtinimo)”, 2016, <https://www.e-tar.lt/portal/lt/legalAct/d386c9e06b8411e69d8fa40f56962063>.

<sup>59</sup> Netherlands Food and Consumer Product Safety Authority, “Charities - Information Sheet 76”, December 2015, <https://www.nvwa.nl/documenten/consument/eten-drinken-roken/levensmiddelenketen/publicaties/charitatieve-instellingen-en-organisaties-informatieblad-76>

<sup>60</sup> Association of Dutch Food Banks, “Food Safety Guide”, 2016, <https://voedselbankennederland.nl/wp-content/uploads/2016/12/handboek-voedselveiligheid-voedselbanken-nederland.pdf>

document also provides information on date marking and on “best before” and “use by” dates, and their implications on the products that can be donated<sup>61</sup>.

Another document by DariAcordar, ASAE and the DGAV, details the procedures to be adopted by restaurants and catering services. It provides guidance for the selection of products that can be donated: for example, products that remained in the kitchen can be donated, while there are precautions to take if the items were displayed or in contact with the public (e.g. period of display). Foods that contain raw or uncooked ingredients or seafood cannot be donated<sup>62</sup>.

#### ➤ **Romania**

The law stipulates that food can be donated at any time within the 10 days before the minimum durability date is achieved. Government Decision no. 51/2019 for the approval of the Methodological Norms for the application of Law no. 217/2016 on the reduction of food waste, stipulates that the following are forbidden from donation: vegetable juices and unpasteurized fruit; pre-cut vegetables and fruits; germinated seeds; as well as alcohol. The following perishable agro-food products are allowed to be donated only to receiver organisations, such as social canteens or other public food serving entities, operating under the provisions of the social assistance law, in order to be prepared, without unjustified delay, into a finished product intended for the final consumer: fresh meat and organs from cows, pigs, goats, sheep, horses, poultry, wild or farmed venison; minced meat; prepared meat; raw milk and raw milk products; fresh fish and fishery products; eggs and raw egg products.

#### ➤ **Slovenia**

A risk assessment helps to determine whether food items are eligible for donation. Foodstuffs are divided into two groups. The first one is low-risk foods, for which there is no risk of growth of pathogenic micro-organisms (e.g. dry foods, unopened industrial canned foods, cut fresh fruits and vegetables, bakery products without perishable ingredients, etc.). The donation of food within this group implies that it is safe and comes from establishments registered within the Administration for Food Safety, Veterinary Sector and Plant Protection. The second group consists of food for which there is a risk of pathogenic microorganism growth: the high-risk food group (e.g. fresh meat, fresh fishery products, some milk products, soups, sauces, meat sauces, eggs, egg products, bakery products with perishable ingredient, sandwiches, etc.). It includes most ready-to-eat dishes. Food within this group must come from a registered establishment and must respect additional conditions to be donated:

- ensuring the appropriate temperature regime throughout the entire food chain (including transport);
- food / dishes must not be leftovers that were served to a consumer;
- the period of time from the preparation of this type of food until its delivery to the final consumer should not exceed 24 hours;
- the “use by” date in case of prepacked foods should not be expired.

#### ➤ **Sweden**

Any food may be donated by food manufacturers, caterers, retailers and other types of food business operators provided that the food is in an acceptable condition and, where a “use by” date is declared, that the food is within this date. Food which has passed the “best before” date may be donated provided that it is in an acceptable condition and it is handled safely.

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<sup>61</sup> DariAcordar, “Frequently asked questions on food donation”, [https://ec.europa.eu/food/sites/food/files/safety/docs/fw\\_lib\\_portugal\\_faq-food-donation\\_en.pdf](https://ec.europa.eu/food/sites/food/files/safety/docs/fw_lib_portugal_faq-food-donation_en.pdf)

<sup>62</sup> DariAcordar, “Procedures to be adopted for restaurants/catering services/events”, [https://ec.europa.eu/food/sites/food/files/safety/docs/fw\\_lib\\_portugal\\_procedures-food-donation-hospitality-catering\\_en.pdf](https://ec.europa.eu/food/sites/food/files/safety/docs/fw_lib_portugal_procedures-food-donation-hospitality-catering_en.pdf)

### 2.3.1 Who are the actors? (Section 2.3)

The EU guidelines on food donation address and aim to clarify the specific responsibilities and obligations of food business operators (FBOs) in the redistribution of surplus food as laid down in EU food law, be they donors or receivers. Receiver organisations (redistribution organisations -ROs and charity organisations -COs) are considered as food business operators (FBOs).

#### ➤ **Austria**

A social organisation, which receives and redistributes food provided by businesses to other social organisations or directly to individuals, is considered as a FBO, independently of having received the food free of charge or not. Austria considers redistribution as a prolongation of the food supply chain.

#### ➤ **Belgium**

The Circular on food donation of the Federal Agency for the Safety of the Food Chain (FASFC) defines food banks as charities that collect foodstuffs for distribution to other charitable organisations and charities as non-for-profit organisations pursuing a humanitarian objective which supply foodstuffs to the underprivileged in the context of food aid and poverty alleviation. They have to register as FBOs, and comply with food hygiene and food safety legislations.

#### ➤ **Bulgaria**

The Food Act gives a definition of food bank activities, and sets the process for acquiring a license to operate as a food bank<sup>63</sup>. An ordinance facilitates the implementation of the Food Act as it lists the organisations eligible for food donation<sup>64</sup>.

#### ➤ **Croatia**

Article 3 of the Agriculture Act (Official Gazette No 118/18)<sup>65</sup> defines donors, COs and final recipients. A donor is a FBO referred to in Article 3 (3) of the Regulation (EC) No.178/2002<sup>66</sup>. A CO in the food redistribution chain is a non-profit natural or legal person charity, registered with the Ministry of Agriculture. They are FBOs (registered by the Ministry of Health), receiving food from donors and distributing it to the final recipients, people in need.

#### ➤ **Czech Republic**

A social organisation that receives and redistributes food is considered as a FBO (definition according to Regulation 178/2002), independently of having received the food free of charge or not. The organisation must be registered as a FBO and comply with food hygiene and safety legislation.

#### ➤ **Denmark**

A social organisation, which receives and redistributes food, is considered as a FBO, independently of having received the food free of charge or not.

#### ➤ **Finland**

The national food donations guidelines clarify food donation-related procedures (and liability, see Section 5) and concerns. All FBOs, such as farms, manufacturers, warehouses, retail stores, caterers and restaurants can donate foodstuffs to food aid. FBOs may donate food aid to consumers either directly or through COs. A FBO who donates

<sup>63</sup> Bulgarian Ministry of Agriculture and Food, "Закон за храните - Food Act", 1999, [http://www.babh.government.bg/userfiles/files/Zakoni/ZAKON\\_za\\_hranite.pdf](http://www.babh.government.bg/userfiles/files/Zakoni/ZAKON_za_hranite.pdf)

<sup>64</sup> Bulgarian Ministry of Labour and Social policy, "Ordinance of Ministry of Labour and Social Policy on the List of Groups of Persons in Need and Organisations that Provide Social Services that are Eligible for Food Donations by Food Banks", 2017, [https://www.mlsp.government.bg/ckfinder/userfiles/files/politiki/socialno%20podpomaganie/zapovedi/Zapoved%20RD01-206%2023\\_03\\_2017.pdf](https://www.mlsp.government.bg/ckfinder/userfiles/files/politiki/socialno%20podpomaganie/zapovedi/Zapoved%20RD01-206%2023_03_2017.pdf)

<sup>65</sup> Croatian Parliament, "Odluku o Proglašenju Zakona o Poljoprivredi / Decision on the Provision of Agricultural Law", December 2018, [https://narodne-novine.nn.hr/clanci/sluzbeni/full/2018\\_12\\_118\\_2343.html](https://narodne-novine.nn.hr/clanci/sluzbeni/full/2018_12_118_2343.html)

<sup>66</sup> European Parliament and Council, "Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety", OJ L 31, 1.2.2002, 2002, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32002R0178>

food to food aid must describe the donation activity in their own check plan, an auto-control system to identify, evaluate and control hazards.

➤ **France**

Food redistribution can be carried out at every step of the food chain, from the agricultural producer to retailers or caterers. Food charities are certified at national level to receive food donations and thus to deliver tax certificates that allow the donors to benefit from a tax break. Whereas most food donations are oriented towards food charities, the end consumer can now also play a role in the reduction of food waste thanks to new digital platforms that allow retailers and caterers to offer their surplus at a reduced price to anyone interested. Intermediate actors also facilitate transfer of food between donors and food charities.

➤ **Germany**

The “Guide for the Transfer of Food to Social Facilities” defines food COs as facilities that distribute food to socially deprived people (religious associations, established social organisations or private associations and individuals). Food COs and redistribution entities are viewed as FBOs; they have to commit to food safety requirements and must monitor and document the products they receive<sup>67</sup>.

➤ **Ireland**

Published guidelines define relevant actors in the food donation process: food banks, food businesses donating food, charities receiving food, redistribution centres<sup>68</sup>.

➤ **Italy**

Article 2 of Law No.166/2016 clarifies the definition of operators, which regularly distribute food, in line with the EU guidelines on food donation. It is possible to donate food not only to COs, but also to public agencies and private entities that have a non-profit or civic purpose<sup>69</sup>. Law no. 147/2013, the Stability Law<sup>70</sup>, confirms the special status of COs<sup>71</sup>, exceptionally providing legal protection from possible litigation arising from donated surplus food. While organisations engaging in food redistribution activities are FBOs, this law specifies that, with regards to liability, non-profit organisations carrying out free distribution of food products to those in need (O.N.L.U.S) have an equivalent status to that of final consumers<sup>72</sup>.

In addition to the definition laid down for donor organisations (FBOs) by Law No.166/2016, the Italian food donation guidelines give a general definition of the actors involved and of the food redistribution chain<sup>73</sup>.

➤ **Luxembourg**

Food ROs have to register as food business operators, and comply with food hygiene and food safety norms<sup>74</sup>.

➤ **Netherlands**

The guideline NVWA *Informatieblad 76*<sup>75</sup> defines a charity institution, like a food bank, as an institution that collects food to be redistributed directly to beneficiaries. The institution can also act as an assembly point from which the

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<sup>67</sup>Federal Ministry for Food and Agriculture “Guidebook on donating food to social welfare organisations - Legal aspects”, June 2018, <https://www.bmel.de/SharedDocs/Downloads/EN/Publications/Guidebook-donatingfood-welfareorganisations.html>

<sup>68</sup> Food Safety Authority of Ireland, “Food Donation – Introduction”, 2017, [https://www.fsai.ie/food\\_businesses/donations/donations.html](https://www.fsai.ie/food_businesses/donations/donations.html)

<sup>69</sup> Italian Government, “Law No.166/2016 Provisions regarding donation and distribution of food products and pharmaceuticals for social solidarity and for the decreasing of food waste”, 2016, <http://www.gazzettaufficiale.it/eli/id/2016/08/30/16G00179/sq>

<sup>70</sup> Italian Government, “Stability Law”, 2013, <http://www.gazzettaufficiale.it/eli/id/2013/12/27/13G00191/sq>; Stability law supports the economic policy for the next three years period. It includes several measures and for this specific case it includes references to food operators donating food,

<sup>71</sup> Italian Government, “Stability Law”, 2013, <http://www.gazzettaufficiale.it/eli/id/2013/12/27/13G00191/sq>

<sup>72</sup> Italian Government, “Law No.155/2003 “Good Samaritan Law” (Disciplina della distribuzione dei prodotti alimentari a fini di solidarietà sociale)”, 2003, <http://www.gazzettaufficiale.it/eli/id/2003/07/01/003G0174/sq>

<sup>73</sup> Caritas Italiana, Banco Alimentare, “Manual of good practices for charitable organisations”, 2015, [https://ec.europa.eu/food/sites/food/files/safety/docs/fw\\_library\\_guide-good-practice-english\\_2016.pdf](https://ec.europa.eu/food/sites/food/files/safety/docs/fw_library_guide-good-practice-english_2016.pdf)

<sup>74</sup> Organisme pour la Sécurité et la Qualité de la Chaîne Alimentaire, “Registration of food business operators (Enregistrement des établissements du secteur alimentaire)”, 2017, <https://guichet.public.lu/en/entreprises/commerce/securite-alimentaire/securite-alimentaire/notification.html>

<sup>75</sup> Netherlands Food and Consumer Product Safety Authority, “Charities - Information Sheet 76”, December 2015, <https://www.nvwa.nl/documenten/consument/eten-drinken-roken/levensmiddelenketen/publicaties/charitatieve-instellingen-en-organisaties-informatieblad-76>

food is distributed to distribution points. The same guidelines define charity organisations, like social restaurants or social enterprises, as non-profit humanitarian organisations that provide food to people in need.

➤ **Norway**

There is no official definition of food bank activities or license requirements to operate as a food bank. ROs and COs have to register as FBOs, and comply with food hygiene and food safety norms as well as food information requirements to consumers.

➤ **Romania**

The Annex of Law no. 200/2018 includes the donor, receiver and final consumer definitions. Both donors and receiver organisations have to be authorised by sanitary/veterinary authorities and comply with food hygiene and food safety norms<sup>76</sup>.

Economic operators (donor organisations) are agro-food operators which can donate foods from each stage of the food supply chain, namely: primary production, food processing and production, and other types of distribution, as well as the catering and hotel sectors, as defined in Regulation (EC) No. No 178/2002.

Recipient operators (beneficiary organisations) are agro-food sector operators carrying out registered / authorized veterinary and food safety activities that are responsible for complying with food hygiene legislation after taking over from donor operators, and are intended to supply only to end consumers<sup>77</sup>.

Final consumers are the last consumers of a food product that do not use the product as part of an operation or activity in the field of activity of a food business.

➤ **Slovenia**

The Agriculture Act<sup>78</sup> defines food donors, food distributors, charitable organisations in line with the Humanitarian Agencies Act, organisations for disabled persons in line with Disabled Persons Organisations Act, public institutions in the field of social and welfare services and beneficiaries for the purpose of food redistribution. Donors and distributors actors must meet the same requirements as FBOs in accordance with EU regulations, and the donated food must be in line with all the prescribed food safety requirements. Final consumers (beneficiaries) are defined as people requiring assistance, such as those benefiting from financial social assistance and care allowance, or disabled people.

➤ **Sweden**

All FBOs from farm to fork can donate foodstuffs.

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<sup>76</sup> Romanian Parliament, "Legea nr. 200/2018 pentru modificarea și completarea Legii nr. 217/2016 privind diminuarea risipei alimentare", 2018, <https://lege5.ro/Gratuit/qi4dsmzuggzq/legea-nr-200-2018-pentru-modificarea-si-completarea-legii-nr-217-2016-privind-diminuarea-risipei-alimentare>

<sup>77</sup> Romanian Parliament, "Legea nr. 200/2018 pentru modificarea și completarea Legii nr. 217/2016 privind diminuarea risipei alimentare", 2018, <https://lege5.ro/Gratuit/qi4dsmzuggzq/legea-nr-200-2018-pentru-modificarea-si-completarea-legii-nr-217-2016-privind-diminuarea-risipei-alimentare>

<sup>78</sup> Slovenian Ministry of Agriculture, Forestry and Food, "Act Amending the Agriculture Act", Uradni List., 1 June, 2017, <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2017-01-1446?sop=2017-01-1446>

## 3 Food redistribution: roles and obligations of actors (section 3)

### ➤ Austria

The provisions of food law apply to the transfer of food to social organisations. A social organisation which distributes food provided by businesses to other social organisations or directly to individuals is a FBO.

### ➤ Denmark

The Danish Order “Approval and Registration of Food Businesses *etc.*” covers the registration requirements of FBOs and the procedures when registering with the Danish Veterinary and Food Administration. The “Guideline on Approval and Registration of Food Businesses *etc.*” apply to the transfer of food between food businesses and social institutions or directly to end consumers. It also lays out the criteria to decide if a food business has activities of a certain continuity and a certain degree of organisation and thus covered by the Hygiene Regulation (No 852/2004) and by the requirement of registration as a FBO with the Competent Authority. In the guideline there is also a specific section on registration of food banks.

### ➤ Finland

The national food donations guidelines clarify food donation-related procedures and liability concerns. Every FBO is responsible for the safety of the foodstuffs they manufacture, sell or convey. In other words, it is a prerequisite for operation that the FBOs take sufficient care in all their operations so as to ensure that the food, food premises and food storage, transport and handling conditions meet the requirements of legislation concerning foodstuffs. This applies to charity organisations as well as the other stakeholders.

### ➤ France

A mutual agreement model for food donation between a retail company and a food aid association has been established as part of legislation on food donations and implementing decree of December 2016<sup>79</sup>. It also documents the transfer of ownership of goods between donors and receivers.

### ➤ Ireland

The Food Safety Authority of Ireland published Food Donation Guidelines which detail roles of supply chain actors: donor organisations<sup>80</sup>, front-line organisations / charity organisations (CO)<sup>81</sup>, back-line organisations / redistribution Organisations (RO)<sup>82</sup> – also called “food banks” in some Member States.

### ➤ Italy

Law no. 166/2016 provides that all actors, donors and charitable organisations shall abide by the General Food Law and information to consumers<sup>83</sup>. The following requirements apply to donors:

- having good operating practices to ensure the hygienic safety of donated foods;
- making a selection of foods to be donated according to quality and hygiene requirements;
- keeping the products to be donated separate from the rest;
- ensuring the traceability of all donated products.

<sup>79</sup> French Ministry of Agriculture, “Mutual agreement between retailers and registered food aid organisations, as defined in l'article L. 230-6 of the rural and seas fisheries code, for food donation”, 2016, <https://agriculture.gouv.fr/telecharger/82404?token=5151d6c18ab38879e8f598c17d2327cb>

<sup>80</sup> [https://www.fsai.ie/food\\_businesses/donations/business.html](https://www.fsai.ie/food_businesses/donations/business.html)

<sup>81</sup> [https://www.fsai.ie/food\\_businesses/donations/charities\\_receiving.html](https://www.fsai.ie/food_businesses/donations/charities_receiving.html)

<sup>82</sup> [https://www.fsai.ie/food\\_businesses/donations/food\\_banks.html](https://www.fsai.ie/food_businesses/donations/food_banks.html)

<sup>83</sup> Italian Government, “Law No.166/2016, Provisions regarding donation and distribution of food products and pharmaceuticals for social solidarity and for the decreasing of food waste”, 2016, <http://www.gazzettaufficiale.it/eli/id/2016/08/30/16G00179/sg>

### ➤ **Netherlands**

According to the manual on food safety of the Association of Dutch Food Banks<sup>84</sup>, each food bank has to be registered and assigned to one of the four categories differentiated according to food safety aspects:

- distribution at ambient temperatures for long shelf-life products (dry goods), chilled and frozen products in a closed cold and frozen chain;
- distribution at ambient temperature of long shelf-life products and chilled products in a closed cold chain (not frozen);
- distribution at ambient temperature of long shelf-life products and frozen products in a closed frozen cold chain;
- distribution at ambient temperature of long shelf-life products only.

### ➤ **Romania**

According to Law no. 200/2018, amending Law no. 217/2016 regarding food waste, public authorities with regulatory and control responsibilities in the agro-food sector are responsible for informing the final consumers about the date of minimum durability and food hygiene conditions. FBOs (both donors and receivers) have to comply with legal requirements regarding food safety and are responsible as well for provision of information to consumers on the label, as required by relevant EU rules.

The donors may participate voluntarily as partners in the activities and campaigns proposed by the authorities and/or may initiate their own information actions in the spirit of this law.

The FBOs (donors) shall provide annual regulatory reports to the regulatory authorities presenting plans to reduce food waste, together with the actions undertaken and the results obtained. Annual reports will be based on international reporting frameworks if they are not already included in the non-financial results reports of those operators.

### ➤ **Slovakia**

The 2017 amendment to the National Food law of Slovakia<sup>85</sup> determines the conditions for donation, amongst which that the donor cannot ask for payment in exchange for the donation.

### ➤ **Slovenia**

Donors and distributors of food must meet the same requirements as FBOs in accordance with relevant EU food safety provisions; they also have to be registered/approved in line with EU requirements.

### ➤ **Spain**

The current legislative proposal to amend Law 17/2011 on food security and nutrition<sup>86</sup>, to promote and facilitate food redistribution at national level includes a proposal to detail the responsibilities of involved actors within the food redistribution process. This proposal is currently under scrutiny by the Commission on Health, Consumption and Social Welfare (*Comisión de Sanidad, Consumo y Bienestar Social*)<sup>87</sup>.

<sup>84</sup> Association of Dutch Food Banks, "Food Safety Guide", 2016, <https://voedselbanknederland.nl/wp-content/uploads/2016/12/handboek-voedselveiligheid-voedselbanken-nederland.pdf>

<sup>85</sup> Slovak State Veterinary and Food Administration, "Amendment 376/2016 to the National Food law number 152/1995, effective since 1.1.2017", 2016, <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2016/376/>

<sup>86</sup> Ministry of the Presidency, Relations with the Courts and Equality, "Ley 17/2011, de 5 de julio, de seguridad alimentaria y nutrición., «BOE» núm. 160, de 6 de julio de 2011, páginas 71283 a 71319 (37 págs.)", 2011, <https://www.boe.es/buscar/doc.php?id=BOE-A-2011-11604>

<sup>87</sup> Spanish Congress, "Boletín Oficial De Las Cortes Generales, Congreso De Los Diputados, XII Legislatura, Serie B: Proposiciones De Ley. Diputados, C. d.", June 23, 2017, [http://www.congreso.es/portal/page/portal/Congreso/PopUpCGI?CMD=VERLST&BASE=pu12&FMT=PUWTXDTs.fmt&DOCS=1-1&DOCORDER=LIFO&QUERY=%28BOCG-12-B-136-1.CODI.%29#\(P%C3%A1gina1\)](http://www.congreso.es/portal/page/portal/Congreso/PopUpCGI?CMD=VERLST&BASE=pu12&FMT=PUWTXDTs.fmt&DOCS=1-1&DOCORDER=LIFO&QUERY=%28BOCG-12-B-136-1.CODI.%29#(P%C3%A1gina1))

The roles/responsibilities of each actor of the supply chain (in particular on their direct or indirect impact on food loss and waste) are detailed within the “More food, less waste” strategy (*Más alimento, menos desperdicio*)<sup>88</sup>.

➤ **Sweden**

Each FBO is responsible for ensuring the safety of the foodstuffs they manufacture, sell or distribute. In other words, it is a prerequisite for operation that the FBOs take sufficient care in all their operations so as to ensure that the food, food premises and food storage, transport and handling conditions meet the requirements of legislation concerning foodstuffs. This applies to charity organisations as well as the other stakeholders.

### 3.1 Activities of redistribution and charity organisations (Section 3.1)

➤ **Austria**

Activities of the Austrian food banks range from collection, sorting, storage, processing and distribution.

➤ **Belgium**

All operators active in the food chain in Belgium have to be registered with the Federal Agency for the Safety of the Food Chain (FASFC), either by means of a registration, an authorization or an approval. Food banks and COs which exclusively distribute foodstuffs with a shelf-life of at least three months at ambient temperature, must be registered at the FASFC. The other food banks need an authorization. Social grocery shops and social restaurants must be registered at the FASFC as retailers or restaurants respectively. No distinction is made between food retailers and restaurants, regardless of whether they distribute food to the underprivileged or not (FASFC 2018).

➤ **Croatia**

Currently, the activities of COs mainly consist of storing, preparing and distributing donated food for people in need in public kitchens, institutional kitchens in hospitals and institutions taking care of children, addicts and elderly people and in social stores. The Ministry of Health registers COs as FBOs in the category of entities who redistribute food to the people in need.

➤ **Denmark**

All FBOs active in the food chain in Denmark have to be registered with the Danish Veterinary and Food Administration either by means of a registration or an approval. Retail businesses with limited activities are exempt from the requirement of registration.

➤ **Finland**

The Finnish government clarified the national regulatory measures applicable to operators. As actors who regularly distribute highly perishable products as food aid, they are subject to food controls. The corresponding guidelines highlight the key legislative requirements set out in food legislation and describe how redistributing surplus food is subject to these requirements. An in-house control plan is required for food premises, and its implementation will help food aid distributors manage operational risks<sup>89</sup>.

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<sup>88</sup> Ministerio de Agricultura, Alimentación, y Medio Ambiente, “Barómetro del Clima de Confianza del Sector Agroalimentario”, 2015, [https://www.mapama.gob.es/es/alimentacion/temas/estrategia-mas-alimento-menos-desperdicio/e-3033informebarometro3t2015monograficop-i-m-d-v0\\_tcm30-421635.pdf](https://www.mapama.gob.es/es/alimentacion/temas/estrategia-mas-alimento-menos-desperdicio/e-3033informebarometro3t2015monograficop-i-m-d-v0_tcm30-421635.pdf)

<sup>89</sup> Finnish food safety authority (EVIRA), “Foodstuffs Donated to Food Aid”, 2017, <https://www.diva-portal.org/smash/get/diva2:902211/ATTACHMENT02.pdf>

➤ **Ireland**

The Food Safety Authority of Ireland published food donation guidelines and detailed specific guidance per supply chain actors: donor organisations<sup>90</sup>, front-line organisations / charity organisations (CO)<sup>91</sup> and back-line organisations / redistribution organisations (RO)<sup>92</sup> – also called "food banks" in some Member States.

➤ **Netherlands**

The Netherlands Food and Consumer Product Safety Authority (NVWA *Informatieblad 76*)<sup>93</sup> has defined two activities for redistribution:

- to collect and redistribute food to people in need, carried out by charity institutions like food banks;
- to provide people in need with food, carried out by charity organisations like social restaurants.

➤ **Slovenia**

Activities of distributors range from collecting, storing, transporting, distributing and mediating food surplus.

### 3.1.1 Sorting of surplus food for redistribution (Section 3.1.1)

The European Food Banks Federation indicates that, in practice, member organisations sort foods in view of their further distribution. In addition to the guidance provided in the EU guidelines regarding sorting of food for its further redistribution, some Member States' national authorities provide guidance to facilitate safe sorting of foods.

➤ **Denmark**

National guidelines support food businesses in preventing food waste. A series of photos accompanied by practical instructions provide advice to food businesses (e.g. supermarkets and restaurants) on how to assess whether food is fit for human consumption and therefore can be redistributed<sup>94</sup>.

➤ **France**

The implementing Decree of December 2016<sup>95</sup> details the minimum requirements for the application of a recovery agreement for unsold produce. It particularly specifies that retailers must normally donate products at least 48 hours before their "use by" date and only later if the charity is able to redistribute them. It also confirms that supermarkets were responsible for sorting products acceptable for redistribution and that food charities can refuse products that they will not be able to redistribute.

➤ **Germany**

As the ROs are legally handled in the same way as common FBOs, they have to comply with food law to the same extent. There is no special legislation on redistribution activities.

➤ **Italy**

Donors select food products that are to be donated according to quality and hygiene requirements<sup>96</sup>.

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<sup>90</sup> [https://www.fsai.ie/food\\_businesses/donations/business.html](https://www.fsai.ie/food_businesses/donations/business.html)

<sup>91</sup> [https://www.fsai.ie/food\\_businesses/donations/charities\\_receiving.html](https://www.fsai.ie/food_businesses/donations/charities_receiving.html)

<sup>92</sup> [https://www.fsai.ie/food\\_businesses/donations/food\\_banks.html](https://www.fsai.ie/food_businesses/donations/food_banks.html)

<sup>93</sup> Netherlands Food and Consumer Product Safety Authority, "Charities - Information Sheet 76", December 2015, <https://www.nvwa.nl/documenten/consument/eten-drinken-roken/levensmiddelenketen/publicaties/charitatieve-instellingen-en-organisaties-informatieblad-76>

<sup>94</sup> Danish Veterinary & Food Authority, "This way the company can avoid food waste, for example, by donation", 2017, <https://www.foedevarestyrelsen.dk/Selvbetjening/Guides/Sider/Saadan-kan-virksomheden-undgaa-madspild.aspx>

<sup>95</sup> French Government, "Décret n° 2016-1962 du 28 décembre 2016 relatif aux dons de denrées alimentaires entre un commerce de détail alimentaire et une association d'aide alimentaire habilitée en application de l'article L. 230-6 du code rural et de la pêche maritime", 2016, <https://www.legifrance.gouv.fr/eli/decret/2016/12/28/AGRG1634169D/fo/texte>

<sup>96</sup> Italian Government, "Law No.166/2016 Provisions regarding donation and distribution of food products and pharmaceuticals for social solidarity and for the decreasing of food waste." 2016, <http://www.gazzettaufficiale.it/eli/id/2016/08/30/16G00179/sg>

Products that can be donated: food, agricultural and agro-food products that, without prejudice to the maintenance of the hygiene and safety requirements of the product, are, by way of example and not exhaustive: unsold or not given due to lack of demand; withdrawn from sale because they do not comply with the company sales requirements; inventories of promotional activities; close to reaching the expiry date; inventories of tests for the placing on the market of new products; unsold due to damage caused by meteorological events; unsold due to errors in production planning; not suitable for marketing due to alterations in the secondary packaging which do not affect them suitable storage conditions.

Foods with labelling irregularities that are not related to information about the expiration date or substances or products that cause allergies and intolerances can also be donated.

The responsibility lies with the donor up to the transfer of food, after which Law 155 of 2003 is applied: the charitable organisations are equivalent, within the limits of the service provided, to final consumers, for the purpose of the correct state of conservation, transport, storage and use of the same.

➤ **Netherlands**

In guideline NVWA *Informatieblad 76*<sup>97</sup> it is stated that handling of surplus food, such as sorting and portioning, can only be done in a suitable, well equipped and clean area. Accordingly, the Association of Dutch Food Banks has stated in its manual on food safety that it is to be preferred that donors portion their food surplus in the desired portions. If portioning by the food bank is still needed, it is important to follow the category classification as described in the manual (appendix F)<sup>98</sup>.

➤ **Norway**

Food for redistribution must, as food for placing on the market, follow food legislation<sup>99</sup>. Food Banks Norway is developing guidelines according to this.

➤ **Slovenia**

Final sorting of surplus food is the exclusive role of distributors. For this task distributors have to have properly trained staff and premises.

➤ **Sweden**

Food for redistribution must, as food for placing on the market, follow the food legislation.

### 3.2.1 Traceability (Section 3.2)

➤ **Belgium**

FBOs must keep records on the flows of incoming and outgoing food products (nature of the product, identification, quantity, date of receipt and identification of the FBO) according to the Royal Decree on the self, mandatory notification and traceability<sup>100</sup>. This Decree, applicable to food donations, is more flexible than the General Food Law and alleviates the administrative burden of donations<sup>101</sup>.

<sup>97</sup> Netherlands Food and Consumer Product Safety Authority, "Charities - Information Sheet 76", December 2015, <https://www.nvwa.nl/documenten/consument/eten-drinken-roken/levensmiddelenketen/publicaties/charitatieve-instellingen-en-organisaties-informatieblad-76>

<sup>98</sup> Association of Dutch Food Banks, "Food Safety Guide", 2016, <https://voedselbankenederland.nl/wp-content/uploads/2016/12/handboek-voedselveiligheid-voedselbanken-nederland.pdf>

<sup>99</sup> Norwegian Government, "Act No. 124 of 2003 relative to food production and food safety (Food Act)", 2004, <https://www.ecolex.org/details/legislation/act-no-124-of-2003-relative-to-food-production-and-food-safety-food-act-lex-faoc066883/>

<sup>100</sup> Federal Agency for the Safety of the Food Chain, "A.M. du 22/03/2013 relatif aux assouplissements des modalités d'application de l'autocontrôle et de la traçabilité dans certains établissements dans la chaîne alimentaire", 2013, [http://www.afsca.be/professionnels/autocontrole/legislation/\\_documents/20130408\\_MB-BS\\_05-04-2013\\_000.pdf](http://www.afsca.be/professionnels/autocontrole/legislation/_documents/20130408_MB-BS_05-04-2013_000.pdf)

<sup>101</sup> KOMOSIE, [http://www.komosie.be/ko/home\\_10.aspx](http://www.komosie.be/ko/home_10.aspx)

In addition, the Federal Agency for the Safety of the Food Chain (FASFC) describes cases in which a more relaxed form of traceability can be applied without compromising food safety regulations. For donation happening at the end of the food chain and concerning fully identified/labelled foodstuffs intended for the consumer, products can be quickly withdrawn from the market or recalled if necessary.

For deliveries to food banks and COs, FBOs need to gather a list of all branches of the COs to which the outgoing products were delivered. Food banks and COs need to compile the list of establishments from which their products originate<sup>102</sup>. These relaxations regarding traceability for food banks and charities is included in Chapter II, art. 8, §2 and §3 of the Ministerial Decree of 22 March 2013 on the relaxation of measures for the implementation of self-checking and traceability in certain food chain establishments.

#### ➤ **Croatia**

According to the Ordinance on conditions, criteria and modalities of donating food and feed (Official Gazette, No 119/15)<sup>103</sup>, donors must keep clear records of the food they give to CO (name and register number of the CO or name of end recipient in case of direct donation), type and name of food, quantity and date of donation.

COs have to keep records of donors, type and name of food, quantity, date of donation, data on other COs and type and quantity of food; in case they distribute food to other COs, data of non-redistributed food that has been properly disposed of and data on the final recipient. It is forbidden to sell donated food (according to the Article 82 of the Agriculture Act (Official Gazette No 118/2018)<sup>104</sup>).

#### ➤ **Czech Republic**

The organisation distributing the donations is responsible for the “one step back, one step forward” strategy. It is always necessary to have the information about the donor and about the beneficiary connected with each product. It is not necessary to document it in case the food is donated to consumers by charity organisations, but this information should be traceable by the food operator / food bank.

#### ➤ **Denmark**

The Danish Veterinary and Food Administration has published a guideline *Vejledning om sporbarhed – fødevarer* on traceability of food and also concerning food donations. Denmark has the same documentation requirements for donation as for other supply of food between FBOs. Each operator must be able to trace food items “one step back and one step forward” according to Article 18 in the General Food Law. The FBO can organize this with help from a third party but they still have to be able to show all the documentation. When charity organisations donate to consumers, there is no obligation for documentation.

#### ➤ **Finland**

It is acknowledged that in the food aid sector, there are many different types of activities of which the common factor is the donation of food. The chains within the food aid sector can be long. Therefore, traceability has to be at a sufficient level in order to be able to ensure food safety. Every FBO is responsible for the safety of the foodstuffs they manufacture, sell or convey. A FBO who donates food to food aid must describe the donation activity in their own check plan.

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<sup>102</sup> Federal Agency for the Safety of the Food Chain, “Circular on the provisions applicable to food banks and charity associations (Circulaire relative aux dispositions applicables aux banques alimentaires et associations caritatives)”, 2017, <http://www.favv-afsca.be/denreesalimentaires/circulaires/#A1092228>

<sup>103</sup> Croatian Ministry of Agriculture, “Ordinance on the Conditions, Criteria and Ways of Donating Food and Feed (Pravilnik o uvjetima, kriterijima i načinima doniranja hrane i hrane za životinje)”, 2015, [http://narodne-novine.nn.hr/clanci/sluzbeni/2015\\_10\\_119\\_2257.html](http://narodne-novine.nn.hr/clanci/sluzbeni/2015_10_119_2257.html)

<sup>104</sup> Croatian Parliament, “Odluku o Proglašenju Zakona o Poljoprivredi / Decision on the Provision of Agricultural Law”, December 2018, [https://narodne-novine.nn.hr/clanci/sluzbeni/full/2018\\_12\\_118\\_2343.html](https://narodne-novine.nn.hr/clanci/sluzbeni/full/2018_12_118_2343.html)

➤ **France**

According to Regulation (EC) No 178/2002, traceability is mandatory for all operators of the food chain including food charities since 2005. To ensure the traceability of donations, donors must provide the COs with a document mentioning at least their name, the products' names and quantities.

➤ **Ireland**

The FSAI Food Donation Guidelines provide specific guidance on traceability requirements per supply chain actor<sup>105</sup>.

➤ **Italy**

Donors must keep the donated products traceable and separated from other products<sup>106</sup>.

➤ **Lithuania**

The State Food and Veterinary Service (SFVS) issued a national guideline on handling food in charity organisations. All donors must ensure that their traceability systems consider donations in case of product recalls<sup>107</sup>.

➤ **Luxembourg**

To ensure the traceability of donations, a document accompanying the donated food must carry the following information: product name, date of the donation and the name and address of the donor and receiving entity.

➤ **Netherlands**

The NVWA *Informatieblad 76* on charitable institutions and organisations contains general requirements concerning traceability. This factsheet indicates that for the case of food donation, a more relaxed form of traceability can be applied as long as it is in line with food safety regulations:

- the charity institution / organisation keeps a list of all received products and of their suppliers;
- if the charity institution / organisation is also a distribution centre, it keeps clear records of the products delivered and of their destination<sup>108</sup>.

➤ **Portugal**

In Portugal, the traceability of products is maintained at all times, especially regarding the place of origin and amounts of donated food, according to ASAE's technical note No 01/2014 on the Donations of Foodstuffs. The receiving agency must keep an up-to-date register of all accepted products<sup>109</sup>.

➤ **Romania**

The transfer of food to the receiving operators is made on the basis of a contract concluded for the purpose of the amended law. According to the provisions of the Government Decision no. 51/2019<sup>110</sup>, the transfer of food products from donors to receivers has to comply with the traceability rules stipulated by art. 18 of Regulation (EC) No. 178/2002.

➤ **Slovenia**

In relation to traceability all relevant requirements of the Regulation EC/178/2002 apply.

<sup>105</sup> Food Safety Authority Ireland, "Food donataion – Introduction", 2017, [https://www.fsai.ie/food\\_businesses/donations/donations.html](https://www.fsai.ie/food_businesses/donations/donations.html)

<sup>106</sup> Italian Government, "Law No. 166/2016 Provisions regarding donation and distribution of food products and pharmaceuticals for social solidarity and for the decreasing of food waste", 2016, <http://www.gazzettaufficiale.it/eli/id/2016/08/30/16G00179/sg>

<sup>107</sup> State Food and Veterinary Service, "Guideline for handling food for charity (Dél Labdarai ir paramai skirto maisto tvarkymo aprašo patvirtinimo)", 2016, <https://www.e-tar.lt/portal/lt/legalAct/d386c9e06b8411e69d8fa40f56962063>

<sup>108</sup> Netherlands Food and Consumer Product Safety Authority, "Charities - Information Sheet 76", December 2015, <https://www.nvwa.nl/documenten/consument/eten-drinken-roken/levensmiddelenketen/publicaties/charitatieve-instellingen-en-organisaties-informatieblad-76>

<sup>109</sup> Autoridade de Segurança Alimentar e Económica (ASAE), "Technical note No. 01/2014 – Donations of Foodstuffs", 2014, [https://ec.europa.eu/food/sites/food/files/safety/docs/fw\\_lib\\_portugal\\_technical\\_note-food-donation-asae.pdf](https://ec.europa.eu/food/sites/food/files/safety/docs/fw_lib_portugal_technical_note-food-donation-asae.pdf)

<sup>110</sup> Romanian Government, "Government Decision no. 51/2019", 2019, <http://www.monitoruloficial.ro/emonitornew/emonviewmof.php?fid=MS43ODYzMTQ1NDA4NzAyRSszMA==>

➤ **Spain**

In addition to the EU regulations on traceability indicated in the EU Guidelines on food donation, there are national regulations related to food traceability.

- Law 17/2011, of July 5, on Food Safety and Nutrition, guarantees the right to food security throughout the food chain as a fundamental aspect of public health. Article 9 refers to the obligations of economic operators, the responsibility is distributed throughout the food supply chain, where each operator assumes the responsibility in the stage in which it acts.
- Law 28/2015, of July 30, on Defense of Food Quality. Article 10 establishes the self-control system as the basis of the traceability verification process. It must be carried out by all the operators on each of the processes under their responsibility in order to comply with the applicable legislation.

Additionally, an extensive guidance document was created by the Spanish Agency for Food Safety and Nutrition “Guide for the application of traceability systems in agro-food businesses” (*Guía para la aplicación del sistema de trazabilidad en la empresa agroalimentaria*)<sup>111</sup> and traceability is also referenced in the food waste prevention guidelines published by MAPA for each sector of the supply chain (retail, education centers, consumers and hospitality services).

➤ **Sweden**

According to Article 18 of Regulation (EC) no 178/2002.

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<sup>111</sup> Spanish Ministry of Health and Social Policy, “Guía para la aplicación del sistema de trazabilidad en la empresa agroalimentaria”, 2009, [http://www.aecosan.mssi.gob.es/AECOSAN/docs/documentos/seguridad\\_alimentaria/gestion\\_riesgos/Trazabilidad1.pdf](http://www.aecosan.mssi.gob.es/AECOSAN/docs/documentos/seguridad_alimentaria/gestion_riesgos/Trazabilidad1.pdf)

## 4 Determination of primary responsibility and liability when food safety issues arise (Section 4)

### ➤ Austria

In Austria social organisations which redistribute food are considered as FBOs. When a charity organisation receives donated food, it takes over the responsibility for the safety and quality of the food distributed to final beneficiaries. This is in line with Regulation (EC) No 178/2002.

### ➤ Belgium

In Belgium, the donor is responsible for the food before the donation. Once a food aid organisation receives the product and signs the list of received items, the organisation becomes liable for it. The responsibility for food safety is split up between the actors.

### ➤ Croatia

Article 82 (3) of the Agriculture Act (Official Gazette, No 118/18)<sup>112</sup> prescribes that FBOs involved as actors in the food redistribution chain must ensure that food under their control (production, processing, storage, transport, distribution, preparation) complies with the prescribed requirements regarding food safety. In 2017 a comprehensive study on food donation in Croatia was arranged and one of the main findings of the study<sup>113</sup> showed that the liability for donated food is one of the most common obstacles in the food donation chain and that there is a need for further clarification regarding the responsibilities of actors in the food redistribution chain and food safety.

### ➤ Czech Republic

The internal guidelines for food donation propose a model for a mutual agreement contract, which can be used between donors and food banks. This agreement offers an alternative to the creation of complicated contracts between donors and receivers<sup>114</sup>.

The donor is always responsible for the quality of donated food. At the moment when a food bank accepts the donation, it is responsible for the quality, except for any issues connected with production. If there is any issue with the quality afterwards, the NGO/food bank is responsible for informing the receiving organisations/beneficiaries.

### ➤ Denmark

Any food business is responsible for the food safety of the food placed on the market, no matter the charge for the food.

### ➤ Finland

The Finish Food Safety Authority (EVIRA) published food redistribution guidelines that clearly state how the responsibility moves along the donation process. The EVIRA guidelines provide information on implementing the 85/374/EEC Directive on product liability, together with the EU Hygiene Package.

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<sup>112</sup> Croatian Parliament, "Odluku o Proglašenju Zakona o Poljoprivredi / Decision on the Provision of Agricultural Law", December 2018, [https://narodne-novine.nn.hr/clanci/sluzbeni/full/2018\\_12\\_118\\_2343.html](https://narodne-novine.nn.hr/clanci/sluzbeni/full/2018_12_118_2343.html)

<sup>113</sup> Ministry of Agriculture, "Report of the Ministry of Agriculture about Results of Research on Donation of Food in the Republic Croatia", 2017, [https://poljoprivreda.gov.hr/UserDocsImages/dokumenti/hrana/doniranje\\_hrane/lzvjescje\\_o\\_doniranju\\_hrane\\_u\\_RH\\_-\\_listopad\\_2017.pdf](https://poljoprivreda.gov.hr/UserDocsImages/dokumenti/hrana/doniranje_hrane/lzvjescje_o_doniranju_hrane_u_RH_-_listopad_2017.pdf)

<sup>114</sup> Czech Federation of Food Banks, Confederation of Commerce and Tourism, "Zásady "povinného darování potravin" (Internal guidelines for food donation)", 2017, <http://potravinovobanky.cz/ke-stazeni/>

### ➤ France

Food donors and food charities subscribe to liability insurance covering the damage that might occur within their sector of activity during storage, transport, distribution, *etc.* of donated food. One of the objectives of the National Pact against Food Waste (2013) is to look into legislation related to responsibility and liability of food donors<sup>115</sup>.

According to the application of Article L. 230-6 of the rural and maritime fisheries code, a mutual agreement model for food donation between a retail company and a food aid association is available to document the transfer of ownership of goods between donors and receivers. It also lays out the respective roles and responsibilities of actors in ensuring safety, traceability and consumer information throughout the food redistribution chain<sup>116</sup>.

### ➤ Germany

The German Civil Code (BGB) and Product Liability Act govern any claims made about personal or property damage due to a product defect. Producers and retailers are liable for any damage caused by food. When producers or retailers cannot be identified, the food redistributor carries the responsibility. However, the German law on inheritance and gift tax, applies when surplus food is donated free of charge, complicating liability issues.

For donations, producers must present a proof of exoneration, guaranteeing the safety of the product. If retailers do not communicate about a product placed on the market (including food donation) past the “best before” date, they can be liable for intent negligence. If they purposely omit information, they can be liable for material defect. The German Food Bank is in an equivalent situation with regard to its users, and the German Civil Code applies in that case<sup>117</sup>.

### ➤ Greece

According to Regulation 178/2002, it is a shared responsibility between the different actors of the food chain. No specific provisions are in place for food donation.

The non-profit organisation Boroume, which organises the redistribution of surplus food for charity throughout Greece, wrote a draft Memorandum of Understanding on liability issues. The Memorandum of Understanding is not required by the law. Both the donor and receiver must sign a transmission slip to provide evidence for food safety at the time of the donation.

### ➤ Hungary

The Law on food chain and its official control grants the primary responsibility for food safety to FBOs at all stages of the food chain, in line with the requirements of Regulation 178/2002/EC. The liability is however shared between actors along the food supply chain<sup>118</sup>.

### ➤ Ireland

In Ireland, donors are responsible for food safety up to the point of donation, after which charities become responsible. Each charity partner is responsible for food safety within its own organisation. Likewise, product liability lies with the food donor until the point of collection by the community organisation/food bank. Once accepted, the liability lies with the charity or food bank until the product is passed on to the end user or the customer<sup>119</sup>.

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<sup>115</sup> French Ministry of Agriculture, “Guillaume Garot présente le Pacte national de lutte contre le gaspillage alimentaire”, 2013, <http://alimentation.gouv.fr/pacte-national-lutte-antigasillage>

<sup>116</sup> French Ministry of Agriculture, “Mutual agreement between retailers and registered food aid organisations, as defined in l'article L. 230-6 of the rural and seas fisheries code, for food donation”, 2016, <https://agriculture.gouv.fr/telecharger/82404?token=5151d6c18ab38879e8f598c17d2327cb>; French government, “Rural Sea and Fisheries Code (Code rural et de la pêche maritime) Article L230-6”, 2010, <https://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006071367&idArticle=LEGIARTI000022523158&dateTexte=&categorieLien=cid>

<sup>117</sup> German Government, “German Civil Code”, [https://www.gesetze-im-internet.de/englisch\\_bgb/englisch\\_bgb.html#p1898](https://www.gesetze-im-internet.de/englisch_bgb/englisch_bgb.html#p1898)

<sup>118</sup> Hungarian Parliament, “Law on the Food Chain and its official control”, 2008, <http://net.jogtar.hu/jogszabaly?docid=A0800046.TV>

<sup>119</sup> Food Safety Authority Ireland, “Food donataion – Introduction”, 2017, [https://www.fsai.ie/food\\_businesses/donations/donations.html](https://www.fsai.ie/food_businesses/donations/donations.html)

## ➤ Italy

In Italy, the so-called "Good Samaritan Law" exceptionally provides legal protection from possible litigation arising from donated surplus food. While organisations engaging in food redistribution activities are FBOs, this law specifies that, with regards to liability, non-profit organisations carrying out free distribution of food products to those in need (O.N.L.U.S) have an equivalent status to that of final consumers<sup>120</sup>.

Food donors are therefore only liable towards the recipients of the food (*i.e.* O.N.L.U.S. ROs or charities, as defined in Law no. 460) which are considered as final consumers, and relieved of their liability with regards to the final beneficiaries, with the exception of claims based on gross negligence. Therefore, ordinary product liability rules as set by Directive 85/374/EEC and by national tort law do not apply to donated food<sup>121</sup>.

The Stability Law (Law no. 147)<sup>122</sup> confirms once again the special status of COs and sets out essential safety requirements for food donation. In compliance with the Hygiene Package, ROs and charities are recognised as FBOs, which must meet all required standards of preservation, transport, storage and use of food, as well as obligations relating to traceability and recall (as specified by the General Food Law).

This legal construct is further explained in the guide to good practice for redistribution of food by charitable organisations developed by Caritas Italiana and Fondazione Banco Alimentare Onlus and validated by the Italian Ministry for Health, under Article 8 of Regulation (EC) No 852/2004 on the hygiene of foodstuffs<sup>123</sup>.

Article 13 of Law No 166 incorporates the Good Samaritan Law and applies the provisions to a wider range of beneficiaries: public entities and private entities with civic and social objectives that promote and carry out activities of general interest, including the entities referred to in Article 10 of Legislative Decree no. 460 (O.N.L.U.S Legislative Decree).

## ➤ Lithuania

In Lithuania, the liability can be defined in a written agreement between retail companies and food aid associations in certain cases<sup>124</sup>.

## ➤ Luxembourg

The liability is shared during the food redistribution process: supermarkets are liable until the food is picked up, and the food ROs become responsible for it afterwards. There are no official mutual agreement models for liability, though a guidance document mentions there should be<sup>125</sup>.

## ➤ Portugal

The liability for donated items lies with the receiving entity according to the guidance documents elaborated by DariAcordar, the Food and Economic Safety Authority (ASAE) and the National Authority for Food and Animal Health (DGAV). After the donation, the donor is free from any responsibility<sup>126</sup>, except in cases where food safety

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<sup>120</sup> Italian Government, "Law No.155/2003 "Good Samaritan Law" (Disciplina della distribuzione dei prodotti alimentari a fini di solidarietà sociale)", 2003, <http://www.gazzettaufficiale.it/eli/id/2003/07/01/003G0174/sq>

<sup>121</sup> Italian Government, "Reorganization of the tax discipline of non-commercial entities and non-profit organisations of social utility", 1997, <http://www.parlamento.it/parlam/leggi/deleghe/97460dl.htm>

<sup>122</sup> Italian Government, "Stability Law", 2013, <http://www.gazzettaufficiale.it/eli/id/2013/12/27/13G00191/sq>; Stability law supports the economic policy for the next three years period. It includes several measures and for this specific case it includes references to food operators donating food.

<sup>123</sup> Caritas Italiana, Banco Alimentare, "Manual of good practices for charitable organisations", 2015, [https://ec.europa.eu/food/sites/food/files/safety/docs/fw\\_library\\_guide-good-practice-english\\_2016.pdf](https://ec.europa.eu/food/sites/food/files/safety/docs/fw_library_guide-good-practice-english_2016.pdf)

<sup>124</sup> State Food and Veterinary Service, "Guideline for handling food for charity (Dėl Labdarai ir paramai skirto maisto tvarkymo aprašo patvirtinimo)", 2016, <https://www.e-tar.lt/portal/lt/legalAct/d386c9e06b8411e69d8fa40f56962063>

<sup>125</sup> Organisme pour la Sécurité et la Qualité de la Chaîne Alimentaire, "Registration of food business operators (Enregistrement des établissements du secteur alimentaire)", 2017, <https://quichet.public.lu/en/entreprises/commerce/securete-alimentaire/securete-alimentaire/notification.html>

<sup>126</sup> DariAcordar, "Frequently asked questions on food donation", [https://ec.europa.eu/food/sites/food/files/safety/docs/fw\\_lib\\_portugal\\_faq-food-donation\\_en.pdf](https://ec.europa.eu/food/sites/food/files/safety/docs/fw_lib_portugal_faq-food-donation_en.pdf)

concerns arising are linked to the production process or earlier step in the food supply chain, and their own system cannot provide evidence on the safety of the donated food.

By setting up a network of relationships and communication between existing bodies, donors and recipients, the Zero Waste Movement aims to overcome the common misinterpretations and lack of knowledge of the General Food Law in terms of liability and responsibility, by developing guidelines and best practices.

More recently, in the framework of the National Strategy to Combat Food Waste, guidelines for food donation to NGOs were published<sup>127</sup> by DGAV in collaboration with ASAE, addressing handling, conservation, transport issues for food donation and the responsibilities of the actors concerned in relation to food safety and liability.

#### ➤ **Netherlands**

In accordance with applicable legislation, an FBO is liable for product quality and safety until the end of the product's expiration date. The food bank, however, assumes product liability related to quality and safety in the case of products redistributed after the "best before" date<sup>128</sup>.

This principle is included in the Food Safety Handbook of the Association of Dutch Food Banks, the *Voedselbanken Nederland*. According to this handbook, the food bank's board is responsible for food safety, from the moment of receipt until the product is redistributed to the client. The board appoints a member who is ultimately responsible for food safety and coordination for daily activities. The Association of Dutch Food Banks has specific insurance to cover possible reputation damage of donors<sup>129</sup>.

#### ➤ **Romania**

The transfer of the food is made on the basis of a contract. Recipient operators (beneficiary organisations) are responsible for complying with food hygiene legislation after taking over food from donor operators.

#### ➤ **Slovakia**

Up until the moment the charity collects donated food, the donor organisation is liable for food safety, and passes on the responsibility to the charitable organisation thereafter.

#### ➤ **Slovenia**

In Slovenia, charitable organisations (distributors) are legally considered as FBOs. They have to fulfil all relevant food safety requirements. When a charitable organisation receives donated food, it takes over all the responsibility for the safety and quality of the food redistributed to final beneficiaries. However, food prior to donation must also comply with all relevant food safety requirements. Liability for this lies with the donors.

#### ➤ **Spain**

A proposal to amend Law 17/2011 on food security and nutrition<sup>130</sup> is currently in debate in Parliament to promote and facilitate the donation of food. In this proposal, special attention is given to reducing the liability of donor companies, and to aspects such as the clarification of the responsibilities of the donors and recipients in ensuring food safety. The proposal is currently being studied by the Commission on Health, Consumption and Social Welfare (*Comisión de Sanidad, Consumo y Bienestar Social*)<sup>131</sup>.

<sup>127</sup> Portuguese National Authority for Animal Health, "Combating Food Waste - Frequently Asked Questions", 2018, [http://www.cncda.gov.pt/images/DocumentosLegislacao/Desp\\_alimentar\\_FAQS-CNCDA.PDF](http://www.cncda.gov.pt/images/DocumentosLegislacao/Desp_alimentar_FAQS-CNCDA.PDF)

<sup>128</sup> Netherlands Food and Consumer Product Safety Authority, "Charities - Information Sheet 76", December 2015, <https://www.nvwa.nl/documenten/consument/eten-drinken-roken/levensmiddelenketen/publicaties/charitatieve-instellingen-en-organisaties-informatieblad-76>

<sup>129</sup> Association of Dutch Food Banks, "Food Safety Guide", 2016, <https://voedselbankennederland.nl/wp-content/uploads/2016/12/handboek-voedselveiligheid-voedselbanken-nederland.pdf>

<sup>130</sup> Ministry of the Presidency, Relations with the Courts and Equality, "Ley 17/2011, de 5 de julio, de seguridad alimentaria y nutrición.", «BOE» núm. 160, de 6 de julio de 2011, páginas 71283 a 71319 (37 págs.), 2011, <https://www.boe.es/buscar/doc.php?id=BOE-A-2011-11604>

<sup>131</sup> Spanish Congress, "Boletín Oficial De Las Cortes Generales, Congreso De Los Diputados, Xii Legislatura, Serie B: Proposiciones De Ley, Diputados, C. d., June 23, 2017,

➤ **Sweden**

Donors are responsible for food safety up to the point of donation, after which charities become responsible. Each charity partner is responsible for food safety within its own organisation. Likewise, product liability lies with the food donor until the point of collection by the community organisation/food bank. Once accepted, the liability lies with the charity or food bank until the product is passed on to the end user or the customer.

➤ **United Kingdom**

The Framework for Effective Redistribution Partnerships ('the Redistribution Framework')<sup>132</sup> was established by WRAP to help industry increase redistribution of surplus food includes legal liability documentation about the point at which the donated food transfers between partners<sup>133</sup>. Food charities and redistribution actors have written Hazard Analysis and Critical Control Points (HACCP) policies as well, defining liability within their frameworks.

One of the main ROs of the country, FareShare, has defined contracts with its charity partners, with agreements for liability insurance.

The issues of responsibility and liability are also covered in the best practice labelling guidance on food date labelling and storage produced by Defra/FSA/WRAP<sup>134</sup>.

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[http://www.congreso.es/portal/page/portal/Congreso/PopUpCGI?CMD=VERLST&BASE=pu12&FMT=PUWTXDTS.fmt&DOCS=1-1&DOCORDER=LIFO&QUERY=%28BOCG-12-B-136-1.CODI.%29#\(P%C3%A1gina1\)](http://www.congreso.es/portal/page/portal/Congreso/PopUpCGI?CMD=VERLST&BASE=pu12&FMT=PUWTXDTS.fmt&DOCS=1-1&DOCORDER=LIFO&QUERY=%28BOCG-12-B-136-1.CODI.%29#(P%C3%A1gina1))

<sup>132</sup> WRAP, "Framework for Effective Redistribution Partnerships", <http://www.wrap.org.uk/content/framework-effective-redistribution-partnerships>

<sup>133</sup> WRAP, "Framework for Effective Redistribution Partnerships (Figure 5 - Redistribution Partnership Arrangement)", 2016, [http://www.wrap.org.uk/sites/files/wrap/Redistribution%20Framework%20Version%201.0\\_0.pdf](http://www.wrap.org.uk/sites/files/wrap/Redistribution%20Framework%20Version%201.0_0.pdf)

<sup>134</sup> WRAP, "Food date labelling and storage advice ", November 2017, <http://www.wrap.org.uk/food-date-labelling>

## 5 Hygiene regulations and redistribution of surplus food (Section 5)

### 5.1.1 General hygiene requirements applicable to all food donation activities (Section 5.1)

Several Member States have created detailed guidance documents on food safety and hygiene, which include general hygiene requirements, and provide more details on the redistribution of surplus food from the manufacturing, hospitality, catering, retail and food service sectors, freezing requirements, and information requirements for prepacked foods.

#### ➤ Austria

The *Lebensmittelsicherheits - und Verbraucherschutzgesetz* (Food Safety and Consumer Protection Act) defines the rules which apply to food redistribution organisations regarding the handling of food in line with the General Food Law (Federal Law Gazette I No 13/2006)<sup>135</sup>.

Several guidelines with regard to food hygiene have been developed in the frame of the *Codex Alimentarius Austriacus*<sup>136</sup>.

#### ➤ Bulgaria

Food banks must comply with all food safety and hygiene requirements applicable to food producers and food retailers. All of their owned or rented vehicles, sites and equipment must be in line with food hygiene requirements, determined by a normative act<sup>137</sup>.

An ordinance of the Minister of Agriculture and Food and of the Ministry of Health, in line with the EU Hygiene Package, defines strict sanitary standards at all levels of the food chain, and is applicable to food banks to avoid any food safety incident and related food waste<sup>138</sup>.

#### ➤ Croatia

Article 3 (3) of the Ordinance on conditions, criteria and modalities of donating food and feed (Official Gazette, No 119/15)<sup>139</sup> states that donor and CO participating in the food redistribution chain shall be responsible for food safety in stages under their control (in accordance with Regulation (EC) No. 178/2002) and comply with the general hygiene requirements laid down in Regulation (EC) No. 852/2004. The Ministry of Agriculture is planning to prepare a guideline with clear explanations on hygiene requirements and responsibility of actors in the food redistribution chain to avoid any possible uncertainty.

<sup>135</sup> Austrian Federal Government, "Lebensmittelsicherheits- und Verbraucherschutzgesetz (Austrian Food Safety and Consumer Protection Act)", 2019, <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20004546>

<sup>136</sup> Federal Ministry of Labor, Social Affairs, Health and Consumer Protection, "Das Österreichische Lebensmittelbuch", [https://www.verbrauchergesundheits.gv.at/lebensmittel/buch/oe\\_lm\\_buch.html](https://www.verbrauchergesundheits.gv.at/lebensmittel/buch/oe_lm_buch.html); Federal Ministry of Labor, Social Affairs, Health and Consumer Protection, "Hygiene-Leitlinie für Großküchen, Küchen des Gesundheitswesens und vergleichbare Einrichtungen der Gemeinschaftsverpflegung", 2017, [https://www.verbrauchergesundheits.gv.at/lebensmittel/buch/hygieneleitlinien/Kuechenhygiene\\_1.pdf?6tn4zz](https://www.verbrauchergesundheits.gv.at/lebensmittel/buch/hygieneleitlinien/Kuechenhygiene_1.pdf?6tn4zz); Federal Ministry of Labor, Social Affairs, Health and Consumer Protection, "Leitlinie Hygiene für Caterer", 2018, [https://www.verbrauchergesundheits.gv.at/lebensmittel/buch/hygieneleitlinien/LL\\_Hygiene\\_fuer\\_Caterer.pdf?6tdxj7](https://www.verbrauchergesundheits.gv.at/lebensmittel/buch/hygieneleitlinien/LL_Hygiene_fuer_Caterer.pdf?6tdxj7)

<sup>137</sup> Bulgarian Ministry of Agriculture and Food, "Закон за храните - Food Act", 1999, [http://www.babh.government.bg/userfiles/files/Zakoni/ZAKON\\_za\\_hranite.pdf](http://www.babh.government.bg/userfiles/files/Zakoni/ZAKON_za_hranite.pdf)

<sup>138</sup> Bulgarian Ministry of Health and Ministry of Agriculture and Food, "Наредба №1 от 26.01.2016 на министерството на здравеопазването и министерството на земеделието и храните за хигиената на храните/ Ordinance N1/26.01.2016 of Ministry of Health and Ministry of Agriculture and Food on Food Hygiene", 2016, [http://www.babh.government.bg/userfiles/files/KH/Doc/Naredba%201\\_2016.pdf](http://www.babh.government.bg/userfiles/files/KH/Doc/Naredba%201_2016.pdf)

<sup>139</sup> Minister of Agriculture, "Pravilnik o uvjetima, kriterijima i načinima doniranja hrane i hrane za životinje / Regulations On Conditions, Criteria and Donation of Food and Food for Animals", [https://narodne-novine.nn.hr/clanci/sluzbeni/2015\\_10\\_119\\_2257.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2015_10_119_2257.html)

### ➤ Cyprus

In Cyprus, the 1996 Food Law prohibits<sup>140</sup>:

- The sale, production for sale and import for sale of food unfit for consumption;
- The production, preservation, packaging, transportation or storage of any food destined to be sold under unsanitary conditions.

The law specifies the conditions for inspections, criminal and administrative penalties. Furthermore, producers of food of plant origin must ensure that all food products comply with the rules laid down in the Law of 2017 on the hygiene of food of plant origin throughout the production, processing and supply phases<sup>141</sup>. The law equally applies to food donations.

### ➤ Czech Republic

At national level, the Decree No. 137/2004 Coll. on hygienic requirements for catering services and on principles of personal and operational hygiene in epidemiologically important activities also applies to food donation. This Decree regulates the requirements for companies operating with cooked food, the conditions for distributing cooked food, the labelling of semi-finished meals, convenience foods, confectionery and cooked meals and finally the storage and serving of food at cool temperatures<sup>142</sup>.

In the Czech Republic, it is not prohibited to provide and distribute food after the “best before” date according to Act 110/1997. These products must be visibly marked and separated from food that is not past the “best before” date.

### ➤ Denmark

The Danish food safety legislation<sup>143</sup> defines specific hygiene rules (e.g. temperature control requirements). An associated, comprehensive and detailed guideline, addressed to all food businesses including actors which engage in food donation/redistribution, clarifies and exemplifies hygiene requirements laid down in both EU food legislation and in Danish food legislation.

### ➤ Estonia

The Food Act of 1999<sup>144</sup>, lastly amended in 2017, transposes EU laws for food safety. It defines *inter alia* the hygiene and safety conditions and traceability for all food, including redistributed food. The registration of FBOs is required, including food charities who distribute food stored at ambient temperatures. For FBOs, including food charities, who distribute food stored at temperatures different from the room temperature, the approval according to Food Act is required. Self-check plans are compulsory for all FBOs to check their compliance to the food safety and hygiene requirements. A guide to donating food is under development by the Veterinary and Food Board.

### ➤ Finland

The Finnish Food Safety Authority’s guide on donating foodstuffs gives information on the hygiene requirements for donated food. Charity organisations’ donating highly perishable foods or preparing meals must register to the municipal food control authorities. The transport of food must not compromise its hygienic quality<sup>145</sup>.

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<sup>140</sup> Cyprus Government, “Cyprus Food law (control and sale)”, 54 (I) / 1996, 1996, [http://www.cylaw.org/nomoi/enop/non-ind/1996\\_1\\_54/full.html](http://www.cylaw.org/nomoi/enop/non-ind/1996_1_54/full.html)

<sup>141</sup> Cyprus Government, “Law of 2017 on the hygiene of food of plant origin at the stage of primary production”, 2017, [http://www.mof.gov.cy/mof/gpo/gpo.nsf/All/918CF4426D96AEC1C22581090038DAD0/\\$file/4598%2021%204%202017%20PARARTHMA%201o%20MEROS%201.pdf](http://www.mof.gov.cy/mof/gpo/gpo.nsf/All/918CF4426D96AEC1C22581090038DAD0/$file/4598%2021%204%202017%20PARARTHMA%201o%20MEROS%201.pdf)

<sup>142</sup> Czech Republic Ministry of Health, “Decree No. 137/2004 Coll., on hygienic requirements for catering services and on principles of personal and operational hygiene in epidemiologically important activities”, 2004, <http://www.epi.sk/zzcr/2004-137>

<sup>143</sup> EESC - Bio by Deloitte, “Comparative Study on EU Member States’ legislation and practices on food donation”, 2014, [https://www.eesc.europa.eu/resources/docs/executive-summary\\_comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation.pdf](https://www.eesc.europa.eu/resources/docs/executive-summary_comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation.pdf)

<sup>144</sup> Parliament of Estonia, “Food Act”, 1999, <https://www.riigiteataja.ee/en/eli/ee/Riigikoogu/act/516112017001/consolide>

<sup>145</sup> Finnish food safety authority (EVIRA), “Foodstuffs Donated to Food Aid”, 2017, <https://www.diva-portal.org/smash/get/diva2:902211/ATTACHMENT02.pdf>

The Finnish Food Safety Authority's guidelines complement the Finnish Food Act which itself determines food safety, food hygiene and traceability requirements. The Finnish law is enforced together with EU law, and, hence, strictly implemented. Checks and controls are in place at both local and regional levels for all food safety and information to consumer matters<sup>146</sup>.

In its regulations on food hygiene, the Ministry of Agriculture defines storage temperature restrictions. While the storage temperature restrictions published by the Finnish Food Safety Authority (EVIRA)'s guidelines are more user-friendly than those in the regulatory framework, they both go hand-in-hand<sup>147</sup>.

➤ **France**

Many measures are applicable to food hygiene during transport in France, relevant for food redistribution. The Decree issued on 20/07/1998 establishes the technical and hygienic conditions for the transport of food and the Decree of the 07/01/2008 defines the sanitary and technical standards for vehicles transporting food (with specific requirements for each food category)<sup>148</sup>.

In 2011, the French Federation of Food Banks elaborated, together with other NGOs, a Guide to Good Hygiene Practices in the distribution of foods by COs, validated by the French National Food Safety Agency and national competent authorities. It includes practical guidance to help operators carry out their activities, such as decision criteria to select food suitable for redistribution. The guide goes over the legislative and logistical aspects of food donation, clarifying the sanitary and food safety regulations proper to each sector of the food supply chain<sup>149</sup>.

In 2017, the Ministry of Agriculture issued a note on food safety and hygiene practices for food donation. This note, targeted towards food donors and food aid organisations, provides guidance on the legislative and regulatory context in terms of food safety for donations, and lists the categories of food that can be donated<sup>150</sup>.

➤ **Germany**

General hygiene requirements for the manufacture, treatment and supply of food were issued in 2016 in the National Food Hygiene Ordinance (LMHV) in the version promulgated on 21 June 2016 (Federal Law Gazette I, p. 1469)<sup>151</sup>.

The LMHV addresses specific food hygiene issues and the transposition and implementation of EU food hygiene legislation. Local and regional health and food safety inspectorates monitor the adherence to the regulation<sup>152</sup>.

➤ **Greece**

In Greece, FBOs which donate food must comply with the EU Hygiene Package requirements. The EFET (Hellenic Food Authority) has issued national hygiene guidance documents for many sectors of food businesses, though none targeting only food donation has been developed yet.

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<sup>146</sup> FinishGovernment, "The Food Act", 2006, <https://www.finlex.fi/fi/laki/ajantasa/2006/20060023>; Katajajuuri, Juha-Matti, Sanna Hietala, Inkeri Riipi, and Anna-Liisa Välimaa, "Food waste reduction by developing legislation", 2018, <http://tietokavttoon.fi/documents/1927382/2116852/9-2018-Food+waste+reduction+by+developing+legislation/713f019b-8b05-43c6-bfbd-5423706fadde?version=1.0>

<sup>147</sup> Finnish Ministry of Agriculture and Forestry, "Decree on food hygiene of notified food establishments", 2011, <https://www.finlex.fi/fi/laki/alkup/2011/20111367>

<sup>148</sup> EESC - Bio by Deloitte, "Comparative Study on EU Member States' legislation and practices on food donation", 2014, [https://www.eesc.europa.eu/resources/docs/executive-summary\\_comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation.pdf](https://www.eesc.europa.eu/resources/docs/executive-summary_comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation.pdf)

<sup>149</sup> Fédération Française des Banque Alimentaires, "Guide des bonnes pratiques d'hygiène de la distribution de produits alimentaires par les organismes caritatifs", 2011, [http://www.ba38.banquealimentaire.org/sites/ba38/files/gph\\_20115943\\_0001\\_p000\\_1\\_texte.pdf](http://www.ba38.banquealimentaire.org/sites/ba38/files/gph_20115943_0001_p000_1_texte.pdf)

<sup>150</sup> French Ministry of Agriculture, "Note DGAL/SDSSA/2017-551 on Food hygiene and food safety of food donations", 2017, <https://info.agriculture.gouv.fr/gedei/site/bo-agri/instruction-2017-551>

<sup>151</sup> German Parliament, "Bekanntmachung der Neufassung der Lebensmittelhygiene - Verordnung", 2016, [https://www.bgbl.de/xaver/bgbl/start.xav?start=%2F%2F\\*%5B%40attr\\_id%3D%27bqbl216s0043.pdf%27%5D#\\_bgbl\\_%2F%2F\\*%5B%40attr\\_id%3D%27bqbl116s1469.pdf%27%5D\\_1540817677280](https://www.bgbl.de/xaver/bgbl/start.xav?start=%2F%2F*%5B%40attr_id%3D%27bqbl216s0043.pdf%27%5D#_bgbl_%2F%2F*%5B%40attr_id%3D%27bqbl116s1469.pdf%27%5D_1540817677280)

<sup>152</sup> Federal Ministry of Justice, "Regulation on hygiene requirements in the manufacture, treatment and placing on the market of food", 2007, [http://www.gesetze-im-internet.de/lmhv\\_2007/](http://www.gesetze-im-internet.de/lmhv_2007/)

➤ **Hungary**

The Hungarian Food Book (*Codex Alimentarius Hungaricus*) contains detailed and recommended guidelines on food quality, food labelling and food safety requirements for certain categories of food.

Hungary also has a series of Good Hygiene Practices (GHP) documents as set in Regulation 852/2004, targeting FBOs. No special GHP document has been created for food charities yet, but the existing guidelines cover a broad area of the food sector (catering, hospitality, egg products, packaging *etc.*)<sup>153</sup>.

➤ **Ireland**

Food banks, food donors and charities are all responsible for the implementation of the Hygiene Package within their own organisations<sup>154</sup>.

➤ **Italy**

Donors must have good operating practices to ensure the hygienic safety of donated foods<sup>155</sup>.

Caritas Italiana and the Fondazione Banco Alimentare O.N.L.U.S. published a Manual of Good Practices for Charitable Organisations validated by the Italian Ministry of Health. The manual provides examples of correct hygiene practices to help charitable organisations recover, collect, store and distribute food<sup>156</sup>.

➤ **Luxembourg**

The Food Regulation 852/2004 is entirely applicable as it is, and national regulations define penalties in case of non-compliance to the requirements.

The Agency for Safety and Quality of the Food Supply Chain published checklists on food hygiene, to translate food hygiene rules in easy-to-use checklists for food operators. These checklists are also used during controls<sup>157</sup>.

➤ **Netherlands**

In the Netherlands, the Association of Dutch Food Banks elaborated a Food Safety Handbook based on the Dutch Food Retail Association (CBL) Hygiene Code 2011, the Hygiene Code for Poultry and the NVWA Factsheet 76<sup>158</sup>. It is applicable to all food banks affiliated with the Association. The handbook covers all aspects of food redistribution and includes advice from the NVWA. In order to ensure the safe handling of donated food, the Association of Dutch Food Banks set up a certification scheme for food banks and regional distribution centres, with the help of an inspection bureau<sup>159</sup>.

➤ **Norway**

Food banks and charity organisations must comply with all food safety and hygiene requirements applicable to food producers and food retailers, as well as food information requirements to consumers.

As there is no national legislation for food donation, Food Banks Norway is working on the development of information material for charities and supermarkets interested in redistributing surplus food.

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<sup>153</sup> Elelmiszerlánc, "Good Hygiene Practice Guides", <http://elelmiszerlanc.kormany.hu/fo-higieniai-gyakorlat-utmutatok>

<sup>154</sup> Food Safety Authority Ireland, "Food donation – Introduction", 2017, [https://www.fsai.ie/food\\_businesses/donations/donations.html](https://www.fsai.ie/food_businesses/donations/donations.html)

<sup>155</sup> Italian Government, "Law No. 166/2016 Provisions regarding donation and distribution of food products and pharmaceuticals for social solidarity and for the decreasing of food waste", 2016, <http://www.gazzettaufficiale.it/eli/id/2016/08/30/16G00179/sg>

<sup>156</sup> Caritas Italiana, Banco Alimentare, "Manual of good practices for charitable organisations", 2015, [https://ec.europa.eu/food/sites/food/files/safety/docs/fw\\_library\\_guide-good-practice-english\\_2016.pdf](https://ec.europa.eu/food/sites/food/files/safety/docs/fw_library_guide-good-practice-english_2016.pdf)

<sup>157</sup> Organisme pour la Sécurité et la Qualité de la Chaîne Alimentaire, "Food safety checklists (Check-listes en matière d'hygiène alimentaire)", 2017, <http://www.securite-alimentaire.public.lu/professionnel/enregistrement/index.html>

<sup>158</sup> Netherlands Food and Consumer Product Safety Authority, "Charities - Information Sheet 76", December 2015, <https://www.nvwa.nl/documenten/consument/eten-drinken-roken/levensmiddelenketen/publicaties/charitatieve-instellingen-en-organisaties-informatieblad-76>

<sup>159</sup> Association of Dutch Food Banks, "Food Safety Guide", 2016, <https://voedselbankennederland.nl/wp-content/uploads/2016/12/handboek-voedselveiligheid-voedselbanken-nederland.pdf>

### ➤ Poland

In Poland all FBOs including food banks and other charities are obliged to fulfil the requirements set in the EU Hygiene Package (especially basic Regulation 853/2004). Redistribution organisations are obliged to ensure the safety of the food they receive, *i.e.* its receipt, storage and distribution in accordance with the requirements of food law. The food cannot be marketed after its date mark (“use by”, “best before” date). Food banks and food charity organisations are obliged to be registered or approved. The national law defines penalties in case of non-compliance of hygiene regime *e.g.* Act on Food Safety and Nutrition (2006).

### ➤ Portugal

The guidance documents elaborated by DariAcordar in collaboration with the Food and Economic Safety Authority (ASAE) and the National Authority for Food Health (DGAV) provide guidance on the appropriate hygiene procedures to follow during the storage, transport and distribution of donated food. For example, there are precise temperature requirements for the different stages of the redistribution process (transport, storage, *etc.*) depending on the food category<sup>160</sup>.

In the framework of the National Strategy to Combat Food Waste, guidelines for food donation to NGO's were published in 2018<sup>161</sup> by DGAV in collaboration with ASAE, addressing several issues including general hygiene requirements and responsibilities of donor and receivers in the donation process.

### ➤ Romania

The Law on food waste (*Legea nr. 200/2018 pentru modificarea Legii nr.217/2016 privind diminuarea risipei alimentare*) requires food donors and receivers to comply with the hygiene regulation and all hygiene rules related to donation<sup>162</sup>.

### ➤ Slovenia

The Administration for Food Safety, Veterinary Sector and Plant Protection (AFSVSPP) has defined all possible activities for charitable organisations and other distributors with the adoption of the Guidelines for good hygiene practice for FBOs, who voluntarily collect, store, transport, distribute or redistribute food<sup>163</sup>. The guidelines were prepared by the Veterinary Faculty. The guidelines define general and specific requirements regarding donation and redistribution of food, risk assessment, handling of food, temperature regimes, *etc.*

In each FBO involved in food redistribution, there is at least a single person who is held responsible for all legal aspects relative to food donation. This person is aware of hygienic rules that concern the handling of food and of the health requirements necessary for employees who handle or come in contact with the food. The AFSVSPP regularly verifies if volunteers and employees in such entities are properly trained.

Before that, the Agriculture Act laid down the safety principles and hygiene codes for food of non-animal origin in accordance with EU Regulations<sup>164</sup>.

Well aware of the difficulties humanitarian organisations encounter to follow strict hygiene requirements, the Ministry of Agriculture organised workshops for these organisations, to provide guidance on how to ensure food safety with

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<sup>160</sup> DariAcordar, “Frequently asked questions on food donation”, [https://ec.europa.eu/food/sites/food/files/safety/docs/fw\\_lib\\_portugal\\_faq-food-donation\\_en.pdf](https://ec.europa.eu/food/sites/food/files/safety/docs/fw_lib_portugal_faq-food-donation_en.pdf); DariAcordar, “Procedures for food donated by large establishments”, [https://ec.europa.eu/food/sites/food/files/safety/docs/fw\\_lib\\_portugal\\_procedures-food-donation-large-establishment\\_en.pdf](https://ec.europa.eu/food/sites/food/files/safety/docs/fw_lib_portugal_procedures-food-donation-large-establishment_en.pdf); DariAcordar, “Procedures to be adopted for restaurants/catering services/events”, [https://ec.europa.eu/food/sites/food/files/safety/docs/fw\\_lib\\_portugal\\_procedures-food-donation-hospitality-catering\\_en.pdf](https://ec.europa.eu/food/sites/food/files/safety/docs/fw_lib_portugal_procedures-food-donation-hospitality-catering_en.pdf)

<sup>161</sup> Portuguese National Authority for Animal Health, “Combating Food Waste - Frequently Asked Questions”, 2018, [http://www.cncda.gov.pt/images/Documentos/Legislacao/Desp\\_alimentar\\_FAQS-CNCDA.PDF](http://www.cncda.gov.pt/images/Documentos/Legislacao/Desp_alimentar_FAQS-CNCDA.PDF)

<sup>162</sup> Romanian Parliament, “Legea nr. 200/2018 pentru modificarea și completarea Legii nr. 217/2016 privind diminuarea risipei alimentare”, 2018, <https://lege5.ro/Gratuit/qj4dsmzugqzq/legea-nr-200-2018-pentru-modificarea-si-completarea-legii-nr-217-2016-privind-diminuarea-risipei-alimentare>

<sup>163</sup> Slovenian Ministry of Agriculture and University of Ljubljana, “Guidelines for the handling of food by charity organisations”, 2017

<sup>164</sup> Slovenian Ministry of Agriculture, Forestry and Food, “Agriculture Act”, 2008, <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2008-01-1978?sop=2008-01-1978>

minimum costs. The Veterinary Faculty also developed guidelines for good hygiene practices in the management of donated foods<sup>165</sup>.

➤ **Slovakia**

Once the food is recovered, COs must register all of their distribution points and require safety checks, performed by the regional public healthcare agency<sup>166</sup>.

➤ **Spain**

On the national level, the Royal Decree 640/2006 regulates certain conditions of application of the community provisions on hygiene, production and marketing of food products<sup>167</sup>. Additionally, the Royal Decree 1945/1983 of 22 of June defines measures to protect consumer health in regards to agro-food production for processing, distribution, supply and sale of food<sup>168</sup>. Details regarding relevant sanctions are outlined within this decree.

The Ministry of Health, Consumption and Social Welfare is currently working on a legislative amendment to facilitate food donation and reduce food waste in retail establishments by changing procedures related to food delivery and food freezing.

On the regional level, the Catalan Food Safety Agency (*Agència Catalana de Seguretat Alimentària*), issued a guide to good hygiene practices for food waste reduction in restaurants and retail trade in 2013.

➤ **Sweden**

Food banks and charity organisations must comply with all food safety and hygiene requirements applicable to food producers and food retailers, as well as food information requirements to consumers.

➤ **United Kingdom**

WRAP, Defra and the Food Standards Agency published guidance documents for food businesses (including those involved in the provision and receipt of food surplus for redistribution) on food date labelling and storage advice, to ensure food is safe to eat, reduce consumer food waste and remove barriers to redistribution. To complement the main guidance document, the Guidance on date labelling and storage advice<sup>169</sup>, specific resources were developed in conjunction with those involved in redistribution – which consist of a short summary, the Best practice and food safety for redistribution – Summary<sup>170</sup> and a checklist, the Best practice and food safety for redistribution – Checklist<sup>171</sup>.

Apart from these national guidelines, the full EU Hygiene Package is applied in the United Kingdom, for which there is no national transposition.

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<sup>165</sup> Slovenian Ministry of Agriculture and University of Ljubljana, "Guidelines for the handling of food by charity organisations", 2017

<sup>166</sup> Slovak State Veterinary and Food Administration, "Amendment 376/2016 to the National Food law number 152/1995, effective since 1.1.2017", 2016, <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2016/376/>

<sup>167</sup>

Higiene	General	De	Los	Productos	Alimenticios,	2015,
<a href="http://www.aecosan.msssi.gob.es/AECOSAN/web/seguridad_alimentaria/ampliacion/higiene_general.htm">http://www.aecosan.msssi.gob.es/AECOSAN/web/seguridad_alimentaria/ampliacion/higiene_general.htm</a>						

<sup>168</sup> Spanish Government, "Real Decreto 1945/1983, de 22 de junio, por el que se regula las infracciones y sanciones en materia de defensa del consumidor y de la producción agroalimentaria, Estado, Boletín Oficial del" 1983, <https://www.boe.es/buscar/doc.php?id=BOE-A-1983-19755>

<sup>169</sup> WRAP, Defra and Food Standards Agency, "Labelling guidance – Best practice on food date labelling and storage advice", 2017, <http://www.wrap.org.uk/sites/files/wrap/labelling-guidance.pdf>

<sup>170</sup> WRAP, Defra and Food Standards Agency, "Redistribution summary - Food labelling and safety", 2017, [http://www.wrap.org.uk/sites/files/wrap/redistribution-summary\\_0.pdf](http://www.wrap.org.uk/sites/files/wrap/redistribution-summary_0.pdf)

<sup>171</sup> WRAP, Defra and Food Standards Agency, "Redistribution Checklist - Date labels storage advice and freezing for food safety", 2017, [www.wrap.org.uk/sites/files/wrap/redistribution-checklist\\_0.pdf](http://www.wrap.org.uk/sites/files/wrap/redistribution-checklist_0.pdf)

## 5.2.1 Specific hygiene requirements applicable to redistribution of food of animal origin (Section 5.2)

### ➤ Austria

In Austria several guidelines on food hygiene have been developed in the frame of the *Codex Alimentarius Austriacus* such as the “Guideline on good hygiene practice and the application of the principles of HACCP in retail establishments” which also covers food of animal origin<sup>172</sup>.

### ➤ Czech Republic

All FBOs that operate with products that contain any animal origin parts have to be registered at the Veterinary Control Agency. All food banks are registered for storage and distribution of animal origin food.

### ➤ Cyprus

Foods of animal origin that are to be used for food donation, shall originate only from establishments approved<sup>173</sup> according to Regulation (EC) No 853/2004, either they are donated directly by the approved establishment, or from a mass catering establishment that could have used the food as part of another food it has prepared.

This provision relates to establishments that specifically produce foods of which the primary ingredient is meat, milk, eggs, fish, and/or other products of animal origin. These are mainly milk, cheese and other dairy products, meat and meat products, meat preparations as defined by Regulation (EC) No 853/2004, cured meat, fish and fisheries products, and basically all food categories the production of which requires the approval of the establishment that produces them, in accordance to the clauses of Regulation (EC) No 853/2004. This provision does not relate to restaurants and other mass catering establishments, but these establishments shall only accept such food from approved establishments, in order to prepare them into dishes or other food (e.g. ham and cheese for sandwiches, frozen breaded fish for a fish & chips dish, etc.).

### ➤ Denmark

The Danish food safety legislation<sup>174</sup> defines specific hygiene rules applicable to food of animal origin in the Danish order on food hygiene<sup>175</sup>. An associated comprehensive and detailed guideline<sup>176</sup>, addressed to all food businesses including actors which engage in food donation/redistribution, clarifies and exemplifies hygiene requirements for food of animal origin laid down in both EU food legislation and in Danish food legislation.

### ➤ France

The Decree of 21/12/2009 on health rules applicable to retail, storage and transportation of animal products and foodstuffs bans the export of animal-origin products and animal by-products to all countries for incineration or landfill, and to non-OECD countries for use in biogas or compost<sup>177</sup>. The decree defines the requirements for the temperature, storage and transportation of animal-origin food products. A memorandum, detailing the implementation measures of the previous decree, was adopted in 2011<sup>178</sup>.

<sup>172</sup> Federal Ministry of Labor, Social Affairs, Health and Consumer Protection, "Leitlinie für eine gute Hygienepraxis und die Anwendung der Grundsätze des HACCP in Einzelhandelsunternehmen", 2015, <https://www.verbrauchergesundheits.at/lebensmittel/buch/hygieneleitlinien/Einzelhandelsunternehmen.pdf?6tn43h>

<sup>173</sup> Cyprus Government, "Law on hygiene for the production of food of animal origin, their placing on the market and related matters", 2003, [http://www.cylaw.org/nomoi/enop/non-ind/2003\\_1\\_150/full.html](http://www.cylaw.org/nomoi/enop/non-ind/2003_1_150/full.html)

<sup>174</sup> EESC - Bio by Deloitte, "Comparative Study on EU Member States' legislation and practices on food donation", 2014, [https://www.eesc.europa.eu/resources/docs/executive-summary\\_comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation.pdf](https://www.eesc.europa.eu/resources/docs/executive-summary_comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation.pdf)

<sup>175</sup> Danish government, "Order nr. 1354 on Food Hygiene of 29 November 2017", 2017 <https://www.retsinformation.dk/Forms/r0710.aspx?id=195051>

<sup>176</sup> Denmark Veterinary & Food Authority, "Guidance nr. 9236 on Food Hygiene of 29 April 2014", 2014, [https://www.foedevarestyrelsen.dk/SiteCollectionDocuments/Foder-%20og%20foedevaresikkerhed/Vejledninger/Vejledning\\_nr\\_%209236\\_af\\_29\\_april\\_2014\\_om\\_foedevarehygiejne.pdf](https://www.foedevarestyrelsen.dk/SiteCollectionDocuments/Foder-%20og%20foedevaresikkerhed/Vejledninger/Vejledning_nr_%209236_af_29_april_2014_om_foedevarehygiejne.pdf)

<sup>177</sup> French Government, "Arrêté du 21 décembre 2009 relatif aux règles sanitaires applicables aux activités de commerce de détail, d'entreposage et de transport de produits d'origine animale et denrées alimentaires en contenant", 2009, <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000021573483>

<sup>178</sup> French Ministry of Agriculture, "Note de service DGAL/SDSSA/N2011-8117", 2011, <https://info.agriculture.gouv.fr/gedei/site/bo-agri/instruction-N2011-8117/telechargement>

Another memorandum published in 2018 defines the requirements for the health and safety accreditation of establishments handling animal-origin foodstuffs and passing them on to other establishments. This text also lists the necessary conditions for potential certificate exemption<sup>179</sup>.

➤ **Germany**

Reference is made to the Animal Food Hygiene Ordinance in the new law version promulgated on 18 April 2018 (Federal Law Gazette I, p. 480)<sup>180</sup>. The German Regulation on hygiene requirements for the manufacture, treatment and placing on the market of certain food of animal origin defines foodstuff of animal origin, and lists the requirements for the supply, production and treatment of such food of in retail<sup>181</sup>. These requirements also apply to food redistribution.

➤ **Netherlands**

Perishable food products such as food of animal origin have to be stored at the prescribed temperature. These products should be added to the food packages at the latest possible moment, so just before the food package is handed over to the receiver (NVWA *Informatieblad 76*)<sup>182</sup>.

➤ **Poland**

In Poland all FBOs are obliged to fulfil the requirements set in the EU Hygiene Package (especially Regulation 852/2004, Regulation 853/2004 or Regulation 178/2002). It applies also to food banks and charity organisations. Perishable food products such as food of animal origin have to be properly stored and transported in appropriate conditions. Foods of animal origin cannot be marketed after the date indicated on the label (“use by”, “best before” date). The national law defines penalties in case of non-compliance of specific rules, e.g. Act on Food of Animal Origin (2005) and implementing acts.

➤ **Slovenia**

The Veterinary Compliance Criteria Act of 2005 defined safety principles and hygiene codes for food of animal origin in accordance with EC Regulations<sup>183</sup>.

### 5.3.1 Hygiene requirements applicable to redistribution of surplus food from the hospitality, catering and food service sectors (Section 5.3)

➤ **Austria**

Guidelines with regard to food hygiene have been developed in the frame of the *Codex Alimentarius Austriacus*<sup>184</sup>.

➤ **Croatia**

Mass catering entities can donate food with the exception of products that have been already served to the consumers<sup>185</sup>.

<sup>179</sup> French Ministry of Agriculture, “Note de service DGAL/SDSSA/2018-141”, 2018, <https://info.agriculture.gouv.fr/gedei/site/bo-agri/instruction-2018-141>

<sup>180</sup> German Parliament, “Bekanntmachung der Neufassung der Tierische Lebensmittel – Hygieneverordnung”, 2018, [https://www.bgbl.de/xaver/bgbl/start.xav?startbk=Bundesanzeiger\\_BGBI&start=//\[@attr\\_id=%27bgbl118s1116.pdf%27\]#\\_bgbl\\_%2F%2F%5B%40attr\\_id%3D%27bgbl118s0480.pdf%27%5D\\_1540815321702](https://www.bgbl.de/xaver/bgbl/start.xav?startbk=Bundesanzeiger_BGBI&start=//[@attr_id=%27bgbl118s1116.pdf%27]#_bgbl_%2F%2F%5B%40attr_id%3D%27bgbl118s0480.pdf%27%5D_1540815321702)

<sup>181</sup> German Government, “Regulation on hygiene requirements for the manufacture, treatment and placing on the market of certain foodstuffs of animal origin (Animal Food Hygiene Regulation - Animal LMHV)”, 2007, <http://www.gesetze-im-internet.de/tier-lmhv/BJNR182800007.html>

<sup>182</sup> Netherlands Food and Consumer Product Safety Authority, “Charities - Information Sheet 76”, December 2015, <https://www.nvwa.nl/documenten/consument/eten-drinken-roken/levensmiddelenketen/publicaties/charitatieve-instellingen-en-organisaties-informatieblad-76>

<sup>183</sup> Slovenia Ministry of Agriculture, Forestry and Food, “Veterinary Compliance Criteria Act.”, 2005, <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina?urlurid=20054018>.

<sup>184</sup> Federal Ministry of Labor, Social Affairs, Health and Consumer Protection, “Hygiene-Leitlinie für Großküchen, Küchen des Gesundheitswesens und vergleichbare Einrichtungen der Gemeinschaftsverpflegung”, 2017, [https://www.verbrauchergesundheits.gv.at/lebensmittel/buch/hygieneleitlinien/Kuechenhygiene\\_1.pdf?6tn4zz](https://www.verbrauchergesundheits.gv.at/lebensmittel/buch/hygieneleitlinien/Kuechenhygiene_1.pdf?6tn4zz); Federal Ministry of Labor, Social Affairs, Health and Consumer Protection, “Leitlinie Hygiene für Caterer”, 2018, [https://www.verbrauchergesundheits.gv.at/lebensmittel/buch/hygieneleitlinien/LL\\_Hygiene\\_fuer\\_Caterer.pdf?6tdxj7](https://www.verbrauchergesundheits.gv.at/lebensmittel/buch/hygieneleitlinien/LL_Hygiene_fuer_Caterer.pdf?6tdxj7)

<sup>185</sup> Croatian Ministry of Agriculture, “Ordinance on the Conditions, Criteria and Ways of Donating Food and Feed (Pravilnik o uvjetima, kriterijima i načinima doniranja hrane i hrane za životinje)”, 2015, [http://narodne-novine.nn.hr/clanci/sluzbeni/2015\\_10\\_119\\_2257.html](http://narodne-novine.nn.hr/clanci/sluzbeni/2015_10_119_2257.html)

### ➤ Cyprus

The Ministry of Health elaborated a series of guides to ensure the implementation of food hygiene requirements and provisions for the following entities and/or during the following stages of the redistribution process:

- mass catering services and confectionery;
- bakeries, entities involved in the distribution and supply of bread and bakery products;
- establishments of storage and distribution of chilled or frozen food;
- food retailers;
- water bottling companies;
- school canteens;
- food vendors at farmers' markets;
- production, distribution and supply of soft drinks and juices;
- withdrawal and traceability of food<sup>186</sup>.

These guides have been prepared with reference to the usual distribution of foods within the market. Although they could be partly useful as regards the activities of food donation/food redistribution, they do not integrate any text specifically addressed to these activities and should not be considered as guides that adequately cover the unique aspects related to these activities.

### ➤ Czech Republic

Czech hygiene guidelines are very strict, therefore donations from this sector are very rare.

### ➤ Denmark

The Danish Veterinary and Food Administration (DVFA) has published national guidelines to support restaurants, canteens *etc.* with practical instructions on preventing food waste without compromising food safety<sup>187</sup>.

DVFA has also developed guidelines specifically targeting surplus food from (music) festivals. Surplus food from festivals can be donated provided the food was properly stored and was not on display. It can be processed in retail or wholesale establishments before being served for people in need<sup>188</sup>.

### ➤ Finland

In its guidelines on Foodstuffs Donated to Food Aid, the National Food Safety Agency provides specific guidance regarding the cooling of meals: “*An operator who offers self-service food to the customers must ensure that the food is served for not more than four hours.*” Food cannot be served more than once but it can be donated while hot or donated to staff/to food aid organisations on the same day after cooling down (to 6 degrees in 4 hours). Requirements for donated food include a correct sensory state and the storage of the food on a serving station at a temperature of at least 60 degrees<sup>189</sup>.

### ➤ France

A decree published in 1997 lays down the hygienic conditions applicable in social catering establishments, and gives guidance on the categories of food that can be recovered and redistributed<sup>190</sup>.

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<sup>186</sup> Cyprus Ministry of Health, “Hygiene Guides”, [https://www.moh.gov.cy/moh/mphs/phs.nsf/DMLGuides\\_gr/DMLGuides\\_gr?opendocument](https://www.moh.gov.cy/moh/mphs/phs.nsf/DMLGuides_gr/DMLGuides_gr?opendocument)

<sup>187</sup> Danish Veterinary and Food Administration, “How can companies avoid food waste”, 2017, <https://www.foedevarestyrelsen.dk/Selvbetjening/Guides/Sider/Saadan-kan-virksomheden-undgaa-madspild.aspx>

<sup>188</sup> Danish Veterinary and Food Administration, “How to avoid food waste at festivals”, 2017, <https://www.foedevarestyrelsen.dk/Selvbetjening/Guides/Sider/Saadan-undgaar-du-madspild-pa-festivaler.aspx>

<sup>189</sup> Finnish food safety authority (EVIRA), “Foodstuffs Donated to Food Aid”, 2017, <https://www.diva-portal.org/smash/get/diva2:902211/ATTACHMENT02.pdf>

<sup>190</sup> French Government, “Arrêté fixant les conditions d'hygiène applicables dans les établissements de restauration collective à caractère social”, 1997, <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT00000750248>

Two sets of guidelines on surplus food donation in the context of restaurants, catering and food services were published by the Rhône-Alpes region (DRAAF), and are used at national level<sup>191</sup>. Another guideline document for FBOs was written in 2015<sup>192</sup>. The city of Paris in collaboration with the Ministry of Agriculture elaborated best practices for Parisian caterers<sup>193</sup>.

#### ➤ **Germany**

The German Environment Agency published Guidelines on the prevention of food waste in the catering sector in 2016. Containing a wide range of information on food waste prevention, the guide touches upon hygiene regulations for the catering sector, and also provides tips for food redistribution. It encourages the donation of surplus food as long as it complies with the appropriate hygiene measures<sup>194</sup>.

#### ➤ **Hungary**

A regulation on producing and marketing products and on the food safety conditions in the catering and hospitality sectors was issued in 2011. It contains rules on food storage, food hygiene, labelling and freezing<sup>195</sup>. The Ministry of Human Resources also issued a regulation on nutrition and health regulations for public catering<sup>196</sup>. Neither regulation specifically addresses food redistribution. However, given that food redistribution falls within the scope of catering and hospitality, they are applicable.

#### ➤ **Portugal**

The non-governmental organisation, DariAcordar, developed in cooperation with the Food and Economic Safety Authority (ASAE) and the National Authority for Food and Animal Health (DGAV) a set of procedures concerning the hygiene conditions for the transport and storage of products, to be adopted for restaurants and catering services as well as for "large establishments" (retailers) in Portugal<sup>197</sup>.

#### ➤ **Slovakia**

The COs must notify the District Public Health Authority about food control before preparing meals from donated foods.

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<sup>191</sup> DRAAF Rhône-Alpes, "Donner aux associations d'aide alimentaire, Guide pratique et réglementaire : Produits agricoles", 2013, [http://draaf.auvergne-rhone-alpes.agriculture.gouv.fr/IMG/pdf/Guide\\_des\\_dons\\_de\\_produits\\_agricoles\\_cle42dd63.pdf](http://draaf.auvergne-rhone-alpes.agriculture.gouv.fr/IMG/pdf/Guide_des_dons_de_produits_agricoles_cle42dd63.pdf); DRAAF Rhône-Alpes, "Mass catering – How to donate to food aid organisations", 2013, [http://draaf.auvergne-rhone-alpes.agriculture.gouv.fr/IMG/pdf/Guide\\_dons\\_restaurant\\_sept2013\\_cle091e14.pdf](http://draaf.auvergne-rhone-alpes.agriculture.gouv.fr/IMG/pdf/Guide_dons_restaurant_sept2013_cle091e14.pdf)

<sup>192</sup> DRAAF Rhône-Alpes, "Guidelines for food donation", 2015, [http://draaf.auvergne-rhone-alpes.agriculture.gouv.fr/IMG/pdf/Guide\\_dons\\_alimentaires\\_-\\_20-septembre-1\\_cle0124ef.pdf](http://draaf.auvergne-rhone-alpes.agriculture.gouv.fr/IMG/pdf/Guide_dons_alimentaires_-_20-septembre-1_cle0124ef.pdf)

<sup>193</sup> Paris Mayor's Office, "The involvement of Parisian caterers in the Pact against Food Waste", 2015, [http://draaf.auvergne-rhone-alpes.agriculture.gouv.fr/IMG/pdf/traiteurs\\_cle82f92a.pdf](http://draaf.auvergne-rhone-alpes.agriculture.gouv.fr/IMG/pdf/traiteurs_cle82f92a.pdf)

<sup>194</sup> German Environment Agency, "Guidelines on the Prevention of food waste in the Catering Sector", 2016, [https://www.umweltbundesamt.de/sites/default/files/medien/376/publikationen/prevention\\_of\\_food\\_waste\\_in\\_the\\_catering\\_sector\\_bf.pdf](https://www.umweltbundesamt.de/sites/default/files/medien/376/publikationen/prevention_of_food_waste_in_the_catering_sector_bf.pdf)

<sup>195</sup> Hungarian Government, "Regulation on the producing and marketing of products by the catering and hospitality sectors", 2011, [http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=138621\\_286250](http://njt.hu/cgi_bin/njt_doc.cgi?docid=138621_286250)

<sup>196</sup> Hungarian Government, "37/2014. (IV. 30.) EMMI rendelet a közétkeztetésre vonatkozó táplálkozás-egészségügyi előírásokról Regulation of food-health requirements applied in public catering", 2014, <https://net.jogtar.hu/jogszabaly?docid=A1400037.EMM>

<sup>197</sup> DariAcordar, "Procedures for food donated by large establishments", [https://ec.europa.eu/food/sites/food/files/safety/docs/fw\\_lib\\_portugal\\_procedures-food-donation-large-establishment\\_en.pdf](https://ec.europa.eu/food/sites/food/files/safety/docs/fw_lib_portugal_procedures-food-donation-large-establishment_en.pdf); DariAcordar, "Procedures to be adopted for restaurants/catering services/events", [https://ec.europa.eu/food/sites/food/files/safety/docs/fw\\_lib\\_portugal\\_procedures-food-donation-hospitality-catering\\_en.pdf](https://ec.europa.eu/food/sites/food/files/safety/docs/fw_lib_portugal_procedures-food-donation-hospitality-catering_en.pdf)

## 6 Food information to consumers (Section 6)

### 6.1 Information requirements for prepacked foods (Section 6.2.1)

#### ➤ **Belgium**

Everyone is entitled to full disclosure regarding the food products they consume. The absence of certain particulars, for example regarding the presence of allergens, can pose a real health risk to susceptible people.

For all prepacked foodstuffs intended for the final consumer, all of the particulars included in art. 9 of Regulation (EU) No 1169/2011 on the provision of food information to consumers have to be available in the language of the linguistic region where the products are distributed (Law of 24 January 1977). However, if prepacked foodstuffs are supplied to food banks or charitable organisations without the proper labelling, the labels have to be applied to the products before they are distributed to the consumers. Guidelines in this matter are given in the Circular letter written by the FASFC. This Circular has also included guidelines for packaging that is not directly intended for the consumer, but that is distributed to social restaurants (FAFSC 2017).

#### ➤ **Bulgaria**

Donated products carry a label indicating that the product is a donation and should not be sold. The re-labelling is carried out piece by piece by the donating entity. The label must not hide any information from the original label, and is attached in a way that it cannot be removed without destroying the integrity of the package<sup>198</sup>.

In general, donated food is subject to the rules of food labelling, presentation and advertising as defined in a Ministerial Ordinance<sup>199</sup>.

#### ➤ **Croatia**

According to the Ordinance on conditions, criteria and modalities of donating food and feed (Official Gazette, No 119/15), food that is not suitable for sale due to labelling errors, which do not affect food safety can be donated, provided that the final recipient receives the correct information on the product<sup>200</sup>.

#### ➤ **Czech Republic**

Information about foods must be provided on the packaging, in line with Regulation (EU) No 1169/2011. If this is not the case, it is possible to do so in an enclosed document, however information on allergens and “use by” dates must always be present on the label.

#### ➤ **Denmark**

In Denmark, we only require information related to food safety, when donating foods. Information such as allergen information and the date mark shall be given (can be provided on a separate sheet), whereas the net quantity or the origin information is not required. The FBOs distributing the food to the final consumer shall however make sure, that the consumer is informed that the food might have labelling errors on the packaging.

<sup>198</sup> Bulgarian Ministry of Agriculture and Food, “Закон за храните - Food Act”, 1999, [http://www.babh.government.bg/userfiles/files/Zakoni/ZAKON\\_za\\_hranite.pdf](http://www.babh.government.bg/userfiles/files/Zakoni/ZAKON_za_hranite.pdf)

<sup>199</sup> Bulgarian Government, “Наредба за изискванията за етикетирането и представянето на храните / Ordinance for Food Labelling and Presentation”, 2014, <http://www.babh.government.bg/userfiles/files/KH/Doc/Ordinance-Labeling-foods.pdf>

<sup>200</sup> Croatian Ministry of Agriculture, “Ordinance on the Conditions, Criteria and Ways of Donating Food and Feed (Pravilnik o uvjetima, kriterijima i načinima doniranja hrane i hrane za životinje)”, 2015, [http://narodne-novine.nn.hr/clanci/sluzbeni/2015\\_10\\_119\\_2257.html](http://narodne-novine.nn.hr/clanci/sluzbeni/2015_10_119_2257.html)

### ➤ Finland

Food donation guidelines elaborated by the national Food Safety Agency state that:

*"If, during food manufacturing or storage, an observation is made that the product has a defect making it unfit for sale, for example incorrect labelling, or if the product is inconsistent with its labelling (e.g. apple juice bottle contains orange juice), the product can be donated to food aid. The product must not pose any risks and the information about incorrect labelling should be provided to the final consumer at the time of donation [...]".*

Placing a sign with the correct information next to a box of mislabelled products is enough to correct the faulty label and send the products for donation. However, in order to sell mislabelled products they need to be relabelled, something that is rarely done due to the high associated costs. Relabelling falls under the responsibility of the manufacturer<sup>201</sup>.

### ➤ Germany

The European and associated German provisions require packaging to contain accurate, clear and easy to understand information in German language that is easily visible, clearly legible and where appropriate indelible. National guidelines for food donations by the Federal Ministry for Food and Agriculture (BMEL) do not contain detailed specifications for the "re-labelling" of individual foodstuffs. Food donors assess, on a case-by-case basis, how to provide the required information to the consumer.

### ➤ Ireland

The same requirements apply for food redistribution as for business-to-business sales. The commercial documents referring to the food provide all the necessary information. These documents must either accompany the food during the delivery or must have been sent before in the following cases:

- when the prepacked food is intended for the final consumer but marketed at a stage prior to the sale to final consumers;
- when the food is intended for supply to mass caterers for preparation, processing, splitting or cutting up.

The following information must appear on the external packaging of prepacked foods available on the market:

- name of the food;
- "best before" or "use by" date;
- any special storage conditions and/or conditions of use;
- the name, business name and address of the FBO.

For food redistribution cases, when the food is not intended for final consumers or mass caterers, the FBO supplying the food must ensure that the other businesses are provided with sufficient information to enable them, when appropriate, to meet all food information requirements.

If food is repacked, all of the mandatory labelling information must be transferred onto the repacked foods. Restrictions are in place for the repacking of foods of animal origin such as meat, fish and cheese. Charities wishing to repack these foods are advised to first contact the Food Safety Authority of Ireland (FSAI). Any organisation, which changes the nature of the food product, is responsible for its relabelling<sup>202</sup>.

<sup>201</sup> Finish food safety authority (EVIRA), "Foodstuffs Donated to Food Aid", 2017, <https://www.diva-portal.org/smash/get/diva2:902211/ATTACHMENT02.pdf>

<sup>202</sup> Food Safety Authority Ireland, "Food donataion – Introduction", 2017, [https://www.fsai.ie/food\\_businesses/donations/donations.html](https://www.fsai.ie/food_businesses/donations/donations.html)

➤ **Italy**

Article 3 of Law 166/2016 states that unsold or withdrawn food surplus with non-correct labelling or packaging can be donated as long as it is in line with mandatory labelling and sanitary rules. The imperfections allowed do not extend to an error in date marking or the presence of substances that cause allergies. All information defined in EU Regulation 1169/2011 on the provision of food information to consumers need to appear on food labels<sup>203</sup>.

➤ **Lithuania**

Food banks and charitable organisations can repackage or sort food, provided that all mandatory food labelling information defined in Regulation (EU) No 1169/2011 is provided to the final consumer<sup>204</sup>.

➤ **Luxembourg**

Prepacked food not intended for the final consumer must carry all product information on its packaging or on a separate sheet attached to the product. Where a prepacked item consists of two or more individual prepacked items containing the same product and these are separated, each individual item must be relabelled<sup>205</sup>.

➤ **Netherlands**

Food banks are entitled to decide whether to accept food products that are missing a label. In any case, the missing information (product name, product “best before” or “use by” date, storage temperature and allergens) must be available to the food bank in writing, on a document attached to the product. The final consumer must receive all information in writing when he receives the product<sup>206</sup>.

➤ **Norway**

There is no particular legislation or guidelines for food donation. Food donations follow the same labelling requirements applicable to food producers and food retailers.

➤ **Poland**

In Poland, food labelling is regulated by the Law on Commercial Quality of Agricultural and Food Products, (Polish O.J. 2212 from 2017 with amendments), by the Regulation on the labelling of particular types of food (Polish Minister of Agriculture and Rural Development O.J. 20 from 2015 with amendments) and by the Act on Food Safety and Nutrition (2006). Relabelling is forbidden for redistributed food and for any other food for that matter. Redistributed food cannot be sold in commercial retail: it must be given to people in need by COs<sup>207</sup>.

➤ **Slovenia**

For all prepacked foodstuffs intended for beneficiaries Regulation (EU) No 1169/2011 applies. There is a possibility that the distributors accept food which is incorrectly labelled (e.g. wrong language) but the correct labels are to be applied to the products before they are distributed to the beneficiaries.

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<sup>203</sup> “Regulation (EC) No 1169/2011 on the provision of food information to consumers”, *OJ L 304*, 22.11.2011, 2011, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011R1169&from=en>

<sup>204</sup> State Food and Veterinary Service, “Guideline for handling food for charity (Dėl Labdarai ir paramai skirto maisto tvarkymo aprašo patvirtinimo)”, 2016, <https://www.e-tar.lt/portal/lt/legal/Act/d386c9e06b8411e69d8fa40f56962063>

<sup>205</sup> Luxembourg Chamber of Trades (Chambre des Métiers) and the National Federation of Hoteliers, Restaurateurs and Cafe owners (HORESCA), “Fiche Pratique: Redistribution/donation de denrées alimentaires à des fins d'alimentation humaine” <http://sante.public.lu/fr/publications/f/fiche-pratique-donation-denrees-alimentaires-fr-de/fiche-pratique-donation-denrees-alimentaires-fr.pdf>;

<sup>206</sup> Netherlands Food and Consumer Product Safety Authority, “Charities - Information Sheet 76”, December 2015, <https://www.nvwa.nl/documenten/consument/eten-drinken-roken/levensmiddelenketen/publicaties/charitatieve-instellingen-en-organisaties-informatieblad-76>; Association of Dutch Food Banks, “Food Safety Guide”, 2016, <https://voedselbankennederland.nl/wp-content/uploads/2016/12/handboek-voedselveiligheid-voedselbanken-nederland.pdf>

<sup>207</sup> USDA Foreign Agricultural Services, “Poland – Food and Agricultural Import Regulations and Standards, Narrative. FAIRS Country Report”, 2018, [https://gain.fas.usda.gov/Recent%20GAIN%20Publications/Food%20and%20Agricultural%20Import%20Regulations%20and%20Standards%20-%20Narrative\\_Warsaw\\_Poland\\_1-8-2018.pdf](https://gain.fas.usda.gov/Recent%20GAIN%20Publications/Food%20and%20Agricultural%20Import%20Regulations%20and%20Standards%20-%20Narrative_Warsaw_Poland_1-8-2018.pdf)

### ➤ Romania

According to the Law no 217/2016, amended by Law no 200/2018<sup>208</sup>, public authorities with regulatory and control responsibilities in the agro-food sector are responsible for informing final consumers about the date of minimum durability and food hygiene conditions.

The donors may participate voluntarily as partners in the activities and campaigns proposed by the authorities and/or may initiate their own information actions in the spirit of this law.

The Annex of the amended Law no. 217/2016 includes the definition of "label" and "labelling". There are no specific provisions related to re-packing or re-labelling of the donated food.

### ➤ Sweden

If a company wishes to redistribute food, it is responsible in making sure that the information provided on the label follows the legislation.

For repackaging and relabelling, see the National Food Agency's Ordinance LIVSFS 2005:20.

It is not allowed to change "best before" or "use by" dates on a prepacked food unless the food is undergoing a treatment that extends its durability.

### ➤ United Kingdom

In the UK, a charity can accept food with the wrong labelling or an error on its label. The food label should be correct by the time the food is presented to the final consumer, whether this is a paying customer or not. Food manufacturers are responsible for the relabelling in most cases, but can also give other FBOs permission to relabel food products. For example, a FBO can freeze a product when appropriate to extend its shelf-life, but must determine the new durability date and conditions of use and storage which will appear on the label.

The name, list of ingredients, allergens, "use by" or "best before" dates of the product need to appear on the new label or on a label accompanying the food. WRAP, in collaboration with Defra and the Food Standards Agency, published a report to provide labelling and storage guidance<sup>209</sup>. The best practice labelling guidance<sup>210</sup> produced by Defra/FSA/WRAP provides advice relevant to UK FBOs.

The Food Standards Agency has policy responsibility for almost all food labelling matters. In law, these mostly originate from the EU Food Information for Consumers Regulation (FIC).

## 6.2 Language requirements (Section 6.2.2)

### General remarks

As stated in the EU food donation guidelines, Article 15 of the Regulation (EU) No 1169/2011 requires that mandatory food information must appear in a language easily understood by the consumers of the Member States where a food is marketed. In addition, the Member States where the product is marketed may require the use of a "specific language"<sup>211</sup>.

<sup>208</sup> Romanian Parliament, "Legea nr. 200/2018 pentru modificarea și completarea Legii nr. 217/2016 privind diminuarea risipei alimentare", 2018, <https://lege5.ro/Gratuit/qi4dsmzuqqzq/legea-nr-200-2018-pentru-modificarea-si-completarea-legii-nr-217-2016-privind-diminuarea-risipei-alimentare>

<sup>209</sup> WRAP, Defra and Food Standards Agency, "Labelling guidance – Best practice on food date labelling and storage advice", 2017, <http://www.wrap.org.uk/sites/files/wrap/labelling-guidance.pdf>

<sup>210</sup> WRAP, "Food date labelling and storage advice", November 2017, <http://www.wrap.org.uk/food-date-labelling>

<sup>211</sup> Commission Notice, EU guidelines on food donation, OJ C 361, 25.10.2017, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C:2017:361:TOC>

➤ **Austria**

The same requirements are applied for all food products in Austria. As stated in Article 15 of Regulation (EU) No 1169/2011, food information shall appear in a language easily understood by the consumers of the respective Member State. In Austria food information must be given in German.

➤ **Czech Republic**

All information considered mandatory according to Article 9 of FIC has to be in Czech to be acceptable by the final beneficiary. If the information is not on the packaging, then enclosed document is possible. The conditions are described in the Principles of "Mandatory Food Donation"<sup>212</sup>.

➤ **Denmark**

If a supermarket receives a prepacked product with labelling in a foreign language, the supermarket may provide the mandatory information in the correct language on a separate sign next to the food - except for allergens and "use by" dates, which have to be explicitly on the label. These requirements apply for all food businesses including actors which take part in food redistribution.

➤ **Finland**

The same language requirements apply for all food products, whether sold or donated in Finland. The information can be given in Finnish and/or Swedish<sup>213</sup>.

➤ **France**

For the purpose of food redistribution, food banks and other COs may accept products labelled in a foreign language or with incomplete labels as long as the food information (or its translation) is accessible to the final consumer in the distribution centres<sup>214</sup>.

➤ **Germany**

See chapter 6.1.

➤ **Hungary**

A sticker label in Hungarian is added to any imported prepacked food with its original label in a foreign language. This sticker contains all information stated in the Hungarian labelling requirements, and must be added to the product by the foreign producer, exporter, importer or distributor before the product reaches the consumer<sup>215</sup>.

➤ **Ireland**

In Ireland, food information is in English or in Irish and English. Information in other languages may be included in addition to English<sup>216</sup>.

➤ **Netherlands**

In the Netherlands, many food products are sent for sale in other countries and are therefore labelled in a foreign language. In order to facilitate the redistribution of surplus food destined for another country and hence labelled in a foreign language, the Dutch Food Safety Authority has accepted that such surplus food be accompanied with a leaflet in Dutch to help food banks and other charitable organisations inform their clients correctly. Thereafter, it is the responsibility of the receiving organisation to accept the food products labelled in a foreign language. In this way, safe edible food, which would otherwise be wasted (due to wrong labelling), is made available for redistribution.

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<sup>212</sup> Czech Federation of Food Banks, "What do FOOD BANKS do?", [www.Potravinovebanky.cz](http://www.Potravinovebanky.cz)

<sup>213</sup> Finish food safety authority (EVIRA), "Foodstuffs Donated to Food Aid", 2017, <https://www.diva-portal.org/smash/get/diva2:902211/ATTACHMENT02.pdf>

<sup>214</sup> France Ministry of Agriculture, "Guide to hygiene best practices for charity organisations during the distribution of food products", 2011, [http://agriculture.gouv.fr/sites/minagri/files/documents/pdf/gph\\_20115943\\_0001\\_p000\\_cle0e8e3f.pdf](http://agriculture.gouv.fr/sites/minagri/files/documents/pdf/gph_20115943_0001_p000_cle0e8e3f.pdf)

<sup>215</sup> USDA Foreign Agricultural Services, "Hungary – Food and Agricultural Import Regulations and Standards, Narrative. FAIRS Country Report", 2016, [https://gain.fas.usda.gov/Recent%20GAIN%20Publications/Food%20and%20Agricultural%20Import%20Regulations%20and%20Standards%20-%20Narrative\\_Budapest\\_Hungary\\_1-20-2016.pdf](https://gain.fas.usda.gov/Recent%20GAIN%20Publications/Food%20and%20Agricultural%20Import%20Regulations%20and%20Standards%20-%20Narrative_Budapest_Hungary_1-20-2016.pdf)

<sup>216</sup> Food Safety Authority Ireland, "Food donataion – Introduction", 2017, [https://www.fsai.ie/food\\_businesses/donations/donations.html](https://www.fsai.ie/food_businesses/donations/donations.html)

➤ **Norway**

There is no particular legislation or guidelines for food donation. Food donations follow the language requirements applicable to food producers and food retailers, *i.e.* all mandatory information must be in Norwegian.

➤ **Slovenia**

For all prepacked foodstuffs intended for the beneficiaries, the language on the labels has to be Slovenian.

➤ **Spain**

Language requirements are established in the Royal Decree 1334/1999, of July 31, which approves the general standard of labelling, presentation and advertising of food products. Article 18 imposes at least the use of the official language of the State.

At the regional level, in the case of donation of food originally destined to be exported to other countries, the Food Bank Foundation of Navarra (BAN) proceeds to the relabelling in Spanish of all the units and packaging, according to the text provided by the company and complying with all the requirements of the regulations on food labelling. This relabelling in the native language is authorised by the Health Inspection of the Autonomous Community of Navarra for distribution to disadvantaged people. However, it only applies to the BAN and not to other Spanish redistributing organisations.

➤ **Sweden**

The labelling of donated food must follow the language requirements applicable to food producers and food retailers (see the National Food Agency's Ordinance LIVSFS 2014:4).

### 6.3 Information requirements for non-prepacked foods (Section 6.2.3)

➤ **Denmark**

For non-prepacked food distributed to a restaurant, the mandatory information can appear on a separate sheet accompanying the food - except for the allergens and expiration dates, which have to be on the label. Any non-prepacked food – regardless of being in a donation situation – shall only provide information on allergens. This information can be given orally as long as it is also displayed in signage, or in a menu card, or similar fashion, ensuring that this information can be obtained by request.

➤ **Ireland**

The information on allergens must be available in written form near the food, in such a way that consumers do not have to specifically ask for it. This written form can consist of a wall chart listing all foods being handled/served, or it can be written in front of the food being served<sup>217</sup>.

➤ **Slovenia**

Non-prepacked food has to be provided at least with the information regarding the presence of the allergens.

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<sup>217</sup> Food Safety Authority Ireland, "Food donataion – Introduction", 2017, [https://www.fsai.ie/food\\_businesses/donations/donations.html](https://www.fsai.ie/food_businesses/donations/donations.html)

➤ **Netherlands**

If asked for, the charity institution or organisation has to be able to give the desired information. This information should be given by the donor when the donated food is delivered (NVWA *Informatieblad 76*)<sup>218</sup>.

➤ **Sweden**

See the National Food Agency's Ordinance LIVSFS 2014:4.

## 6.4 Date marking (Section 6.3)

"The marketing of foods beyond the date of minimum durability (*i.e.* "best before") is allowed under EU rules, provided that the foods concerned are still safe and their presentation is not misleading. It is permitted, at each stage in the food supply chain, to place food on the market which has passed the date of minimum durability. It is the food business operator's responsibility (*e.g.* the retailer) to ensure that the food is still safe for human consumption and that consumers are duly informed that the product concerned is past the "best before" date (for instance, such products may be marketed separately with signs indicating that the minimum durability date is exceeded)<sup>219</sup>."

Redistribution of food past the "best before" date is possible in most Member States, with the exception of Bulgaria, Cyprus, Hungary, Latvia, Poland and Romania where such practice is not authorised. In Latvia, work is ongoing to amend current national rules in order to allow use of food past the "best before" date.

➤ **Austria**

In Austria, while distribution of food after the "use by" date is not allowed, food products past their "best before" date can be sold to consumers if they are safe (Austrian Regulation on Allergen information 2014). A document written by the Viennese food bank provides guidance on how to handle products after the "best before" date, but COs are free to choose whether or not to accept such products. If they are distributed past their "best before" date, food products must carry a clear mention of it<sup>220</sup>.

➤ **Belgium**

Food products past their "best before" date can still be delivered to consumers without any risk to public health under certain circumstances. The Federal Agency for the Safety of the Food Chain (FAFSC) drafted a non-exhaustive list of foods indicating the shelf-life of food once the date of minimum durability has been reached or exceeded and supporting food banks and COs in the relevant assessment. This list is divided into four categories, going from a very long shelf-life to a short shelf-life. It contains an estimation of the period during which the food may still be distributed after the "best before" date. However, this period is purely indicative and a case-by-case assessment is still necessary. Products that have passed their "use by" date can under no circumstances be accepted for redistribution purposes (FAFSC 2011 and 2017).

➤ **Croatia**

At the moment, FBOs must donate food before the expiration of the "best before" date, but COs can distribute food after this date as long as the final recipient is informed and that s/he accepts such food. The Ministry of Agriculture, in cooperation with the Croatian Food Agency prepared a study for the purpose of evaluating food safety after the expiration of the "use by" and "best before" dates. The first part of the study is based on a laboratory analysis of food and the second part is about recommendations based on already available literature data. The study will be

<sup>218</sup> Netherlands Food and Consumer Product Safety Authority, "Charities - Information Sheet 76", December 2015, <https://www.nvwa.nl/documenten/consument/eten-drinken-roken/levensmiddelenketen/publicaties/charitatieve-instellingen-en-organisaties-informatieblad-76>

<sup>219</sup> Commission Notice, EU guidelines on food donation, OJ C 361, 25.10.2017, p.18, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C:2017:361:TOC>

<sup>220</sup> Wiener Tafel, "Ist das noch gut ('Is this still good?)" , 2016, [https://www.wienertafel.at/fileadmin/Presse/WT\\_DIV\\_16004\\_MHD\\_Broschuere\\_RZ\\_PRINT.pdf](https://www.wienertafel.at/fileadmin/Presse/WT_DIV_16004_MHD_Broschuere_RZ_PRINT.pdf)

the basis for drawing up guidelines and provisions on food consumption and donation after the expiration of the “best before” date.

➤ **Czech Republic**

In Czech Republic, food past its “best before” date is allowed for donation and for commercial retail as long as the food safety and hygiene are guaranteed. The Ministry of Agriculture and Food Banks encourage consumer awareness on the difference between the “use by” and “best before” dates through educative activities, leaflets and seminars<sup>221</sup>.

➤ **Denmark**

In 2014, the repeal of a measure prohibiting the redistribution of food past its “best before” date made it possible for retailers and other food business operators to donate, sell and redistribute food past this date, as long as the consumer is aware of the date passing<sup>222</sup>. A date marking campaign was launched afterwards to increase consumer and FBOs knowledge of “use by” and “best before” dates<sup>223</sup>.

➤ **Estonia**

In 2010, the Estonian Food Bank published a set of guidelines (translated from the Dutch Food and Consumer Board guidelines), allowing food charities to receive and redistribute food past the “best before” date. These guidelines represent a “silent agreement”: food banks can apply them but no official state documents determine the rules concerning such food.

➤ **Finland**

While donating products after the “use by” date is forbidden, both the donation and sale of products past their “best before” date are allowed in Finland, provided the food is safe for human consumption<sup>224</sup>.

➤ **France**

In France, while products that have passed their “use by” date cannot be redistributed, those that have passed the “best before” date can be donated. The guide on best practices for food donation recommends food aid organisations to make case-by-case assessments, and to make sure of the quality of the food<sup>225</sup>.

The French Ministry also carries out food waste reduction campaigns every year, with an emphasis on educating consumers about the distinction between “best before” and “use by” dates. Better understanding of the meaning of “best before”, that is clarifying that it is not an expiry date as such, can also facilitate food donation past the “best before” date. (France Ministry of Agriculture n.d.).

➤ **Germany**

Donating foods past their “use by” date is illegal in Germany, but foods past the “best before” date can be redistributed as long as the food was properly stored and it is considered safe by the donor (e.g. no abnormalities in the colour, odour or appearance). The passing of the product’s “best before” date must be indicated in a clear and intelligible matter when donating such a product<sup>226</sup>.

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<sup>221</sup> Czech Republic Ministry of Agriculture, “The difference between “use by” and “best before” dates”, 2016, <http://eagri.cz/public/web/mze/potravinny/aktualni-temata/plytvani-potravinami-1/rozdil-datem-spotreby-a-datem-minimalni.html>

<sup>222</sup> Danish Ministry of Environment and Food, “Decree on the labeling of foodstuffs”, 2015, <https://www.retsinformation.dk/Forms/R0710.aspx?id=175746>

<sup>223</sup> Denmark Veterinary and Food Administration, “Check the Date”, <https://www.foedevarestyrelsen.dk/kampagner/TjekDatoen/Sider/default.aspx>

<sup>224</sup> Finnish food safety authority (EVIRA), “Foodstuffs Donated to Food Aid”, 2017, <https://www.diva-portal.org/smash/get/diva2:902211/ATTACHMENT02.pdf>

<sup>225</sup> French Ministry of Agriculture, “Guide to hygiene best practices for charity organisations during the distribution of food products”, 2011, [http://agriculture.gouv.fr/sites/minagri/files/documents/pdf/gph\\_20115943\\_0001\\_p000\\_cle0e8e3f.pdf](http://agriculture.gouv.fr/sites/minagri/files/documents/pdf/gph_20115943_0001_p000_cle0e8e3f.pdf)

<sup>226</sup> Zugutfuerdietonne.De, Federal Ministry for Food and Agriculture Germany, 2018, [https://www.zugutfuerdietonne.de/fileadmin/Neuigkeiten/PDF-Dateien/Leitfaden\\_Lebensmittel\\_sozial\\_bf.pdf](https://www.zugutfuerdietonne.de/fileadmin/Neuigkeiten/PDF-Dateien/Leitfaden_Lebensmittel_sozial_bf.pdf)

➤ **Greece**

Since 2017, food products past their “best before” date may be donated on a case-by-case basis. No additional rules or guidelines are in place at the moment<sup>227</sup>. Food banks have the right by law to deliver foodstuff after the “best before” date, but they never do it due to the confusion between “best before” date and “use by” date by the final consumers who might make any complains to the food companies.

➤ **Ireland**

Food can be redistributed after its “best before” date. FSAI Guidance Note 18<sup>228</sup> refers to all food and this principle is carried through to food redistribution.

*“The best before date typically reflects the quality rather than safety of a food product. Therefore food which is past its best before date may not be unsafe to consume but may not be of optimum quality. A best before date is normally required on products such as ambient/shelf stable, canned, dried and frozen foods. Products of this nature are more prone to chemical deterioration or microbial spoilage rather than pathogenic growth and consequently unlikely, after a short period of time, to pose a risk to public health.”*

In Ireland food past the “best before” date may be suitable for use as long as the storage instructions have been adhered to and the packaging is intact. However this food should be assessed on a case-by-case basis.

➤ **Italy**

Article 2 of Law 166/2016 clarifies that the “*termine minimo di conservazione*” (or date of minimum durability/“best before” date) is not the same as “use by” date. It states that products beyond their minimum conservation limits can be donated or sold, if the integrity of the packaging is ensured.

➤ **Latvia**

In Latvia, it is forbidden to donate or sell food past its “best before” or “use by” date. The Ministry of Agriculture is developing amendments to the current Regulation, to pave the way for the development of regulations to allow the use of food after the “best before” date. In addition, a survey conducted by the Ministry proved that consumers are willing to receive food past the “best before” date as a donation, or to purchase the food if it is at a discounted price. The results of the survey should be used for the purpose of the amendments of the date marking regulation.

➤ **Lithuania**

Food that has passed its “best before” date can be donated as long as it is in accordance with the timeframe defined in the SFVS guidelines<sup>229</sup>.

➤ **Luxembourg**

In Luxembourg donation and commercial retail is allowed for food past its “best before” date as long as the final consumer is aware of the date passing<sup>230</sup>.

➤ **Netherlands**

In the Netherlands foodstuffs that have passed the “best before” date can be donated from the legal point of view, but the food banks can choose whether or not to accept such food. If they choose to accept it, they also assume responsibility for quality.

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<sup>227</sup> Greek Ministry of Agriculture, “National Ministerial Decision 91354/2017, Rules for the Handling and Marketing of Products and Services (DIEIPY)”, Article 13, 2017, <https://diavgeia.gov.gr/doc/7%CE%96%CE%96%CE%93465%CE%A7%CE%998-%CE%A7%CE%9A%CE%A0?inline=true>

<sup>228</sup> Food Safety Authority of Ireland, “Shelf-life Determination”, 2018, [https://www.fsai.ie/faq/shelf\\_life/determination.html](https://www.fsai.ie/faq/shelf_life/determination.html)

<sup>229</sup> “Guideline for handling food for charity (Dėl Labdarai ir paramai skirto maisto tvarkymo aprašo patvirtinimo).”, SFVS, 2016, <https://www.e-tar.lt/portal/lt/legalAct/d386c9e06b8411e69d8fa40f56962063>

<sup>230</sup> Luxembourg Chamber of Trades (Chambre des Métiers) and the National Federation of Hoteliers, Restaurateurs and Cafe owners (HORESCA); Ministry of Health; Ministry of Agriculture, Viticulture and Consumer Protection; Environmental Administration, “Fiche Pratique: Redistribution/donation de denrées alimentaires à des fins d'alimentation humaine”, 2018, [http://antigaspi.lu/wp-content/uploads/2018/01/FT-redistribution\\_don\\_alimentaire.pdf](http://antigaspi.lu/wp-content/uploads/2018/01/FT-redistribution_don_alimentaire.pdf)

Furthermore, retailers can sell food products that have passed their “best before” date as long as the food has normal characteristics (colour, smell, consistency and taste, no mould) and is safe for human consumption. Thus, they can legally sell products past the “best before” date, and possibly provide a new date, if the product still meets all requirements. They also take over the responsibility for food safety and hygiene from the producer or packaging entity at this point. The final consumer must however be clearly informed of the product’s extended shelf-life<sup>231</sup>.

➤ **Norway**

Norway does not have national food legislation that expressly prohibits redistribution of food after the “best before” date. In Norway (as in the EU) distribution after the “use by” date is not allowed.

➤ **Portugal**

A technical note in date marking was issued in 2018 by the National Authority for Food and Animal Health (DGAV) in the framework of the National Strategy to Combat Food Waste<sup>232</sup>, that clarifies at retail level, that past the “best before” date of the product the retailer, taking into account the product itself, may choose to keep the product available for sale for a longer period of time provided there is no safety risk and the consumer is informed about the exceeded “best before” date. The same applies for donated foods as long as there are no signs of alteration.

➤ **Slovakia**

An amendment to the National Food law of Slovakia<sup>233</sup> allows retailers to donate food after the “best before” date to registered COs. The Ministry of Agriculture issued a guideline document for COs with instructions for redistributing food that has passed this date.

➤ **Slovenia**

In Slovenia, food cannot be distributed after the “use by” date. In 2014, the Ministry of Agriculture, Forestry and Food adopted the Rules on special requirements for labelling and presentation of prepacked foodstuffs, allowing the donation of food passed the “best before” date as long as the food is safe<sup>234</sup>. However, according to the guidelines for good hygiene practices, the “best before” date on food defines the period after which the manufacturer can no longer guarantee optimum product quality. The liability for wholesomeness of such foodstuffs lies on the FBO, who has such food in a possession. FBOs need to have procedures in place to assess if the food is suitable for further distribution and to assess for how long such food can be offered for sale or donation.

➤ **Sweden**

While donating products after the “use by” date is forbidden, both the donation and sale of products past their “best before” date are allowed in Sweden, provided the food is safe for human consumption and the food quality is still acceptable.

➤ **United Kingdom**

WRAP, Defra and the Food Standards Agency have published guidance documents to inform FBOs (including those involved in the provision and receipt of food surplus for redistribution) on food date labelling and storage advice, to ensure food is safe to eat, reduce consumer food waste and remove barriers to redistribution<sup>235</sup>.

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<sup>231</sup> Association of Dutch Food Banks, “Food Safety Guide”, 2016, <https://voedselbankenederland.nl/wp-content/uploads/2016/12/handboek-voedselveiligheid-voedselbanken-nederland.pdf>

<sup>232</sup> National Authority for Food and Animal Health (DGAV), “Interpretação Das Menções “Data Limite De Consumo” E “Data Da Durabilidade Mínima” Na Rotulagem De Géneros Alimentícios”, 2018, [http://www.cncda.gov.pt/images/Documentos/legislacao/8\\_Esclar\\_Rotulagem.pdf](http://www.cncda.gov.pt/images/Documentos/legislacao/8_Esclar_Rotulagem.pdf)

<sup>233</sup> Slovakian Ministry of Agriculture and Rural Development, “Common Instructions on how proceed before and during donating of food after expiring of ‘before dates’ to charitable organisations pursuant to par. 6 of the Food Law no. 152/1995 Z.z. .”, 1995, [http://www.uvzsr.sk/index.php?option=com\\_content&view=article&id=3059&Itemid=137](http://www.uvzsr.sk/index.php?option=com_content&view=article&id=3059&Itemid=137)

<sup>234</sup> Slovenian Ministry of Agriculture, Forestry and Food, “Rules on specific requirements for the labelling and presentation of prepacked foodstuffs”, 2014, <http://www.pisrs.si/Pis.web/pregledPredpisa?id=PRAV12209>

<sup>235</sup> WRAP, Defra and Food Standards Agency, “Labelling guidance – Best practice on food date labelling and storage advice”, 2017, <http://www.wrap.org.uk/sites/files/wrap/labelling-guidance.pdf>

The available documents are: Guidance on Date labelling and storage advice<sup>236</sup>; Best practice and food safety for redistribution – Summary<sup>237</sup>; Best practice and food safety for redistribution – Checklist<sup>238</sup>.

To complement the main guidance document, specific resources were developed in conjunction with those involved in redistribution – which include a short summary and a checklist.

In the United Kingdom, products can be sold, redistributed and consumed after their “best before” dates, but in practice few ROs accept such products due to quality concerns and/or concerns that giving “out of date food” may be perceived as giving people in need “second class food”. Products past the “best before” date are allowed for commercial retail, and the retailer Co-op was the first to sell food beyond its “best before” date early 2018<sup>239</sup>. There has been good progress in working with FBOs and ROs to ensure food past “best before” date is sold or redistributed<sup>240</sup>.

## 6.5 Eggs (Section 6.3.3)

According to EU marketing rules, eggs marketed as class “A” (*i.e.* table eggs) must be labelled with a “best before” date which is set at 28 days from laying<sup>241</sup>. EU food hygiene rules<sup>242</sup> further specify that eggs must be delivered to the consumer within a maximum time limit of 21 days of laying. The EU food donation guidelines clarify that, beyond the 21-day limit, eggs may be made available for food redistribution, provided that the receiving food business operator (*e.g.* charity organisation) processes the eggs (with sufficient heat treatment to ensure their safety) before making these available to consumers<sup>243</sup>.

Members of the EU Platform on FLW have provided the following observations regarding Member State practices:

### ➤ Denmark

All eggs in Denmark must be kept at a temperature of no more than 12 °C in food premises after primary production, except during transportation lasting less than 8 hours. Eggs must be sold/donated/redistributed to the final consumer within the 21 days after laying. Eggs may be sold/donated/redistributed to food businesses (retail as well as wholesale) and used in production of food after the 21 days after laying, if the eggs are undergoing sufficient heat treatment before being served/sold/donated to final consumers.

### ➤ France

In France, eggs have to be sold at the latest 21 days before the best-before date. They cannot be redistributed after this period.

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<sup>236</sup> WRAP, Defra and Food Standards Agency, “Food date labelling and storage advice”, 2017, <http://www.wrap.org.uk/food-date-labelling>

<sup>237</sup> WRAP, Defra and Food Standards Agency, “Redistribution summary - Food labelling and safety”, 2017, [http://www.wrap.org.uk/sites/files/wrap/redistribution-summary\\_0.pdf](http://www.wrap.org.uk/sites/files/wrap/redistribution-summary_0.pdf)

<sup>238</sup> WRAP, Defra and Food Standards Agency, “Redistribution checklist - Date labels, storage advice and freezing for food safety”, 2017, [http://www.wrap.org.uk/sites/files/wrap/redistribution-checklist\\_0.pdf](http://www.wrap.org.uk/sites/files/wrap/redistribution-checklist_0.pdf)

<sup>239</sup> The Guardian, “Co-op to sell food past its “best-before” date in bid to cut waste”, 2017, <https://www.theguardian.com/environment/2017/dec/04/retailer-to-sell-food-past-its-best-before-date-in-bid-to-cut-waste>

<sup>240</sup> FareShare, “The food we take” <https://fareshare.org.uk/giving-food/the-food-we-take/>; The Grocer, “Central England Co-op extends food waste scheme to all stores”, 2018, <https://www.thegrocer.co.uk/home/topics/waste-not-want-not/central-england-co-op-extends-food-waste-scheme-to-all-stores/568370.article>

<sup>241</sup> Commission Regulation (EC) No 589/2008 of 23 June 2008 laying down detailed rules for implementing Council Regulation (EC) No 1234/2007 as regards marketing standards for eggs, Article 2, OJ L 163, 24.6.2008, p.6, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32008R0589>

<sup>242</sup> Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin, Annex III, Section X, Chapter 1.3, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32004R0853>

<sup>243</sup> Commission Notice, EU guidelines on food donation, OJ C 361, 25.10.2017, p 19, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C:2017:361:TOC>

➤ **Germany**

Eggs must be stored separately from other food. Eggs cannot be redistributed beyond 21 days after being laid. After this date, eggs can only be passed on to consumers in a processed, fully heated form, e.g. as hard-boiled eggs, scrambled eggs, or as an ingredient in baked goods. Unlabelled or damaged eggs may not be donated.

➤ **Lithuania**

No specific national requirements exist to ensure the safe redistribution of eggs at the moment, but it is included in the foreseen amendments of the Guidelines for handling food for charity<sup>244</sup>.

➤ **Romania**

According to the provisions of the Government Decision no. 51/2019 for the approval of the Methodological Norms for the application of Law no. 217/2016 on the reduction of food waste, it is forbidden to donate eggs directly to final consumers (individuals). Eggs are allowed to be donated only to receiver organisations, the type of social canteens or other public food serving locations, operating under the provisions of the social assistance law, in order to be prepared, without unjustified delay, into a finished product intended for the final consumer.

➤ **Sweden**

In Sweden, eggs cannot be sold or donated later than seven days before “best before” date.

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<sup>244</sup> State Food and Veterinary Service, “Guideline for handling food for charity (Dėl Labdarai ir paramai skirto maisto tvarkymo aprašo patvirtinimo)”, 2016, <https://www.e-tar.lt/portal/lt/legalAct/d386c9e06b8411e69d8fa40f56962063>

## 7 Fiscal rules (Section 7)

### 7.1 Value Added Tax (VAT) (Section 7.1)

At EU level, VAT is governed by the VAT Directive<sup>245</sup>. EU Member States are responsible for transposing these provisions into national legislation. An outline of the rules as applied under national law can be found below.

#### ➤ Austria

In Austria, VAT is not perceived as an obstacle to food donation. Donated food's value is depreciated in the Austrian retail sector, even when it is redistributed for human consumption. By redistributing food, companies actually avoid the disposal costs they would have paid otherwise<sup>246</sup>.

#### ➤ Belgium

In Belgium, the Decision TVA n° E.T. 124.417 abandons VAT provisions on food donated to the nine food banks registered by the Belgian Food Bank Federation. Another decision, the 2015 Decision TVA n° E.T.127.958, enlarges the previous text and allows local social/charity organisations recognised by local authorities to receive food donations benefiting from the VAT exemption. At the moment, supermarkets have to keep records of the food they donate, and social organisations are not controlled on how they distribute<sup>247</sup>.

The Minister of Finance foresees to integrate both VAT decisions into a new law to give these measures more legal certainty (draft version available at the moment).

#### ➤ Bulgaria

The Value Added Tax Act<sup>248</sup> regulates the levying of VAT on donated food: since 2017, food donors benefit from a VAT exemption on donated products provided that a number of requirements are met:

- the value of one unit of food is negligible;
- the food bank operator that is to receive the donation is registered;
- the donated food is included in the Ministry of Agriculture's list of foods eligible for food donation;
- the food has not passed its date mark;
- the value of the donated food should not exceed 0.5% of the turnover of the retailer/producer in the previous year;
- etc.

#### ➤ Croatia

In Croatia, VAT is not imposed when food no longer suitable for the market is donated to registered COs, within the limit of 2% of the donor's income. To receive VAT exemptions, donors are required to send a report on the value of donated foods (without VAT) to the Tax Administration of the Ministry of Finance<sup>249</sup>.

<sup>245</sup> Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, OJ L 347, 11.12.2006, p. 1, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32006L0112>

<sup>246</sup> Lebersorger, Sandra, and Felicitas Schneider, "Aufkommen an Lebensmittelverderb im österreichischen Lebensmittelhandel", Universität für Bodenkultur Wien, ECR Austria. Vienna", 2014

<sup>247</sup> Union des Villes et des Communes de Wallonie, "VAT – Donation of surplus food to local institutions and to recognized food aid organisations", 2015, [http://www.uvcw.be/actualites/2\\_129\\_1\\_0\\_6103.htm](http://www.uvcw.be/actualites/2_129_1_0_6103.htm)

<sup>248</sup> Bulgarian Ministry of Taxation, "VAT - Delivery of Surplus Food", 2015, <http://www.skat.dk/skat.aspx?oID=2179524>

<sup>249</sup> Croatian Ministry of Finance, "Value Added Tax Ordinance", OG, No 79/13,85/13,160/13, 35/14, 157/14, 130/15, 1/17, 41/17, 128/17, 1/19, 2017, [https://www.porezna-uprava.hr/hr\\_propisi/\\_layouts/in2.vuk.sp.propisi.intranet/propisi.aspx?id=pro1472](https://www.porezna-uprava.hr/hr_propisi/_layouts/in2.vuk.sp.propisi.intranet/propisi.aspx?id=pro1472)

### ➤ **Cyprus**

A reduced rate of 5% of VAT applies to the supply of food for human consumption, with the exception of alcoholic beverages, beer, wine and soft drinks. While the supply of food in Cyprus benefits from a reduced VAT rate, there is a zero rate of VAT for the supply of goods to non-profit organisations which export them outside of EU member states, as part of their humanitarian, charitable or teaching activities<sup>250</sup>.

Furthermore, a circular from the Ministry of Finance makes a distinction on the applicable VAT rate between food losses and food supplied free of charge<sup>251</sup>.

### ➤ **Czech Republic**

In Czech Republic, a law on VAT calculation set a zero rate of VAT on donated food, instead of the usual 15% paid on staple food<sup>252</sup>. The Directorate of Finance issued guidelines explaining how to apply VAT when donating goods to food banks<sup>253</sup>.

### ➤ **Denmark**

According to Danish administrative VAT practice, "surplus goods" constitute goods that the company would normally destroy. The goods therefore represent a negative value for the company (since destroying the products would imply additional costs). The Danish Ministry of Taxation has defined guidelines on VAT reduction for FBOs donating surplus food to food banks. The "surplus goods" donated by retailers to food banks often assume a zero rate of VAT<sup>254</sup>.

### ➤ **Estonia**

Food donated to charities benefits from a zero rate of VAT as long as the donor "writes off" the products in a report by declaring its inability to sell the food for whatever reason<sup>255</sup>.

### ➤ **France**

In France, food donations made to associations with a public general interest of humanitarian, educational, social or charitable nature within the country are not subject to VAT. The Ministerial Directive of the 14/02/84 exempts food donors from paying VAT on donated staple food.

### ➤ **Germany**

In the case of the free donation of foodstuff shortly before its expiration date, no objections are raised if the product assumes a zero-euro value, resulting in a zero rate of VAT. For this rule to be applicable, the donation must be made for charitable purposes.

Turnover tax is waived for the supply of foodstuffs free of charge, shortly prior to the expiry of the best-before date or the marketability as fresh goods that is being made for charitable purposes, however a donation receipt may not be issued. The regime has been in effect since 2012 and was developed in connection with the donations of a baker to the food banks.

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<sup>250</sup> House of Representatives, "The Value Added Tax Law of 2000 (95 (I) / 2000)", 2000, [http://www.cylaw.org/nomoi/enop/non-ind/2000\\_1\\_95/full.html](http://www.cylaw.org/nomoi/enop/non-ind/2000_1_95/full.html)

<sup>251</sup> Cyprus Ministry of Finance, Tax Department, "Losses and free supply of food, Circular No 195 of 18.11.2015", 2015

<sup>252</sup> Czech Republic Ministry of Finance, "Act No. 235/2004 on Value Added Tax", 2004, <https://www.mfcr.cz/cs/legislativa/legislativni-dokumenty/2004/zakon-c-235-2004-sb-3570>

<sup>253</sup> Czech Republic General Directorate of Finance, "How to apply VAT correctly when donating goods to food banks", 2014, <http://www.financnisprava.cz/cs/financni-sprava/pro-media/tiskove-zpravy/tiskove-zpravy-2014/jak-spravne-uplatnit-dph-u-darovani-zbozi-do-potravinovych-bank-5553>

<sup>254</sup> Danish Ministry of Taxation, "VAT - Delivery of surplus food", 2015, <https://www.skat.dk/skat.aspx?oID=2179524>

<sup>255</sup> Estonian Government, "Value Added Tax Act (Käibemaksuseadus)", 2003, <https://www.riigiteataja.ee/en/eli/527022014003/consolide>

➤ **Greece**

Food donations made to non-profit public or private entities are not subject to VAT, apart from specific food products subject to consumption taxes. The VAT exemption is valid only when food is redistributed to exclusively serve or relieve vulnerable social groups<sup>256</sup>.

➤ **Hungary**

Charitable donations made to public use organisations benefit from a VAT exemption since 2010 (Hungarian VAT Act).

➤ **Ireland**

A zero rate of VAT applies to the free supply of most foodstuffs<sup>257</sup>.

➤ **Italy**

The legislation on VAT, recently amended with the Laws no. 166/2016 and no. 205/2017, provides that food surpluses donated to charitable organisations are exempted from VAT since they are considered as “destroyed”. The scope includes unsold food products that comply with health and safety requirements<sup>258</sup>. The following procedure is applicable in those cases:

- for each sale, a transport document describes the type, quantity and quality of donated goods;
- a monthly summary statement is made to the Revenue Agency for donations made in the previous month; donations of easily perishable products and those worth less than 15 000 € are not subject to the monthly statement;
- a quarterly statement is issued by the donor, guaranteeing that he will use the received products for charitable purposes.

➤ **Lithuania**

The VAT rate is set at zero for donated food products in Lithuania<sup>259</sup>.

➤ **Netherlands**

When food is no longer suitable for sale and is donated, it can be entered as a cost item. As such, the basis for VAT collection will lapse, and the VAT rate for these products reduces to zero. However, the company has to take into account the threshold of 227 € (excl. VAT) per year per food bank. If this threshold is exceeded the company will have to correct the previously deducted VAT related to the donated food.

➤ **Norway**

Donated food falls under the scope of “waste”, even when it is redistributed for human consumption. Food donors benefit from a VAT exemption on donated products provided that the food is redistributed to charity.

➤ **Poland**

Since January 2009 food producers are exempted from VAT (Act of 11 March 2004 on goods and services tax) while donating food for charity purposes. The provisions were extrapolated to FBOs (distributors, wholesalers, restaurant owners and catering companies) in 2013.

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<sup>256</sup> Greek government, “Law N° 4238/2014 on the National Primary Health Care Network (PEDY), on the change of scope of the Greek National Health Service (EOPYY) and other provisions”, 2014, [http://www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=en&p\\_isn=100566](http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=100566)

<sup>257</sup> Ireland Tax and Customs, “VAT on Food and Drink.”, 2017, <https://www.revenue.ie/en/tax-professionals/tadm/value-added-tax/part03-taxable-transactions-goods-ica-services/Goods/goods-food-and-drink.pdf>

<sup>258</sup> Italian Government, “State budget for the 2018 financial year and budget for the three-year period 2018-2020”, 2017, <http://www.gazzettaufficiale.it/eli/id/2017/12/29/17G00222/sq>

<sup>259</sup> State Food and Veterinary Service, “Guideline for handling food for charity (Dél Labdarai ir paramai skirto maisto tvarkymo aprašo patvirtinimo)”, 2016, <https://www.e-tar.lt/portal/lt/legalAct/d386c9e06b8411e69d8fa40f56962063>

Since October 2013, all food delivered free of charge to registered COs is exempted from VAT. This is a direct consequence of the provisions of the Act of 11 March 2004 on goods and services tax. Food producers, distributors, wholesalers, restaurant owners and catering companies can qualify as donors. The exemption only applies if there is proof of the donation via documentation and if the registered CO uses the goods for charitable purposes. In addition, donors will not lose the right to reclaim input VAT on purchased food which is subsequently donated, in line with Article 86(8)(3) of the VAT Act<sup>260</sup>.

➤ **Portugal**

In Portugal, there is a zero rate of VAT on food donations made to specific entities (e.g. to the State and to non-profit organisations) when those goods are delivered to people in need.

➤ **Romania**

The donors have to pay VAT on food donations, and it is more expensive for them to donate food rather than to throw it out. Most probably the impact of the new legislation will be assessed by taking the necessary steps to encourage donation through additional fiscal incentives.

➤ **Spain**

In Spain, free donation of goods is considered self-consumption, and as such, food donation is charged with VAT.

➤ **Slovakia**

The VAT rate reduces to zero for food products donated to the Slovak Food Bank, as long as the food is worth less than 17 €/piece<sup>261</sup>. The Ministry of Finance issued guidelines explaining the conditions for the VAT reduction<sup>262</sup>.

➤ **Slovenia**

In Slovenia, donation of goods is treated as a supply of goods for consideration. The implementation rules on VAT legislation, as amended in September 2017 provide an adjustment for determining the food product's value, which is otherwise determined based on accounting standards<sup>263</sup>. In Slovenia, the value of food donated for charitable reasons is equal to zero as long as it meets all regulations laid down in the Agriculture Act, and that the total value of donated food does not exceed 2% of the taxpayer's annual profits.

➤ **Sweden**

The VAT legislation, regulated by the Swedish Tax Agency, states that VAT has to be paid on any kind of donation, including food.

➤ **United Kingdom**

As a consequence of the negotiation process prior to EU accession, the UK's VAT Directive sets a zero-rate VAT on all food and drink for human consumption, except catering, alcoholic drinks, confectionery, crisps and savoury snacks, hot food, sports drinks, hot takeaways, ice cream, soft drinks and mineral water which are standard rated. Thus, food donations benefit from the zero rate of VAT<sup>264</sup>.

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<sup>260</sup> Polish Ministry of Finance, "VAT Act (Polish Journal of Laws)", 2016, <http://www.mf.gov.pl/documents/766655/6054317/Ustawa+o+podatku+VAT+Dz.+U.+z+2017r.+poz.+1221.pdf>

<sup>261</sup> Slovakia National Council, "Law no. 222/2004 on Value Added Tax (Úplné Znenie Zákona Č. 222/2004 Z. Z. O Dani Z Pridanej Hodnoty)", 2004, [https://www.financnasprava.sk/\\_img/pfsedit/Dokumenty\\_PFS/Legislativa/2015.02.19\\_Zak\\_DPH\\_2.pdf](https://www.financnasprava.sk/_img/pfsedit/Dokumenty_PFS/Legislativa/2015.02.19_Zak_DPH_2.pdf)

<sup>262</sup> Slovakian Financial Directorate, "Guidance on the tax implications of food aid provision (Usmernenie k daňovým dôsledkom poskytnutia potravinovej pomoci)", December, 2014, [https://www.financnasprava.sk/\\_img/pfsedit/Dokumenty\\_PFS/Zverejnovanie\\_dok/Dane/Metodicke\\_usmernenia/Priame\\_dane/2014\\_12\\_12\\_darova\\_nie\\_potravin.pdf](https://www.financnasprava.sk/_img/pfsedit/Dokumenty_PFS/Zverejnovanie_dok/Dane/Metodicke_usmernenia/Priame_dane/2014_12_12_darova_nie_potravin.pdf)

<sup>263</sup> "Rules on the Implementation of the Value Added Tax Act Slovenia", 2017, <http://www.pisrs.si/Pis.web/pregledPredpisa?id=PRAV7542>

<sup>264</sup> U.K. Government, "VAT rates on different goods and services", 2014, <https://www.gov.uk/guidance/rates-of-vat-on-different-goods-and-services#food-and-drink-animals-animal-feed-plants-and-seeds>

## 7.2 Fiscal incentives (Section 7.2)

In the field of direct taxation, EU rules are less prevalent. Corporate and personal income tax is first and foremost governed by national rules. An outline of the fiscal incentives applied in regard to direct taxation can be found below.

### ➤ Austria

Financial donations and donations in kind, considered as operating expenses, can benefit from tax deductions of up to 10% of the company's annual revenue<sup>265</sup>.

### ➤ Bulgaria

Individuals and companies can benefit from tax deductions on food donations: the Income Taxes of Natural Persons Act<sup>266</sup> provides a deductibility rate of up to 5% of the annual tax base though the total tax relief for donations may not exceed 65% of the annual tax base. Donations are also deductible from the corporate tax basis, within the limit of 10% of the company's financial result if the donation is made to non-profit legal entities with a public benefit status. The total sum of all donations cannot exceed 65% of the accounting profit (Bulgaria Ministry of Finance 2007)<sup>267</sup>. Finally, food aid organisations are not taxable on any funds they receive from donations<sup>268</sup>.

### ➤ Croatia

In Croatia, if made under certain conditions, donations from profit tax payers are tax deductible (within the limit of 2% of the donor's income from the previous year)<sup>269</sup>. Income tax payers can also benefit from a tax deduction on food donations<sup>270</sup>.

### ➤ Cyprus

"Tax deductible expenses" include donations or contributions for educational or other charitable purposes to the municipal authorities, or any approved charitable organisation. These donations are fully deductible, as long as they are made to "approved" COs<sup>271</sup>.

### ➤ Denmark

A donation or a charitable contribution to an organisation endorsed by the Danish Tax authorities is a deductible tax expense within the limit of DKK 14 800<sup>272</sup>.

Donors can deduct an incurred expense in connection with donations for charitable purposes when the expense is an advertising expense (held for the purpose of selling goods) (Section 8 (1) of the Tax Assessment Act). Contributions for cultural or charitable purposes are regarded as advertising when companies obtain the right to advertise their name. Businesses can obtain a full deduction if they achieve an advertising value that is comparable to the contribution made, as long as the contribution was not made for the sake of the proprietor's personal interest. In practice, these conditions are not normally met. Otherwise, the deduction value is 22%, corresponding to the corporate tax rate.

<sup>265</sup> Austrian federal Government, "Austrian Income Tax Act, 1988, Fassung vom 12.04.2019", Version of 2019, <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10004570>

<sup>266</sup> Bulgarian Ministry of Finance, "Закон за данъците върху доходите на физическите лица - Income Taxes of Natural Persons Act", 2007, [http://www.minfin.bg/upload/36651/ZAKON\\_za\\_danycite\\_vyrhu\\_dohodite\\_na\\_fiziceskite\\_lica.pdf](http://www.minfin.bg/upload/36651/ZAKON_za_danycite_vyrhu_dohodite_na_fiziceskite_lica.pdf)

<sup>267</sup> Bulgarian Ministry of Finance, "Закон за корпоративното подоходно облагане - Corporate Income Tax Act", 2007, [http://www.minfin.bg/upload/36647/ZAKON\\_za\\_korporativnoto\\_podohodno\\_oblagane.pdf](http://www.minfin.bg/upload/36647/ZAKON_za_korporativnoto_podohodno_oblagane.pdf)

<sup>268</sup> Bulgaria Ministry of Finance, "Закон за местните данъци и такси - Local Taxes and Fees Act", 1998, [http://www.minfin.bg/upload/36160/ZAKON\\_za\\_mestnite\\_danyci\\_i\\_taksi.pdf](http://www.minfin.bg/upload/36160/ZAKON_za_mestnite_danyci_i_taksi.pdf)

<sup>269</sup> Croatian Government, "Profit Tax Act", OG, No 177/04, 90/05, 57/06, 146/08, 80/10, 22/12, 148/13, 143/14, 50/16, 115/16, 106/18, <https://www.zakon.hr/z/85/Zakon-o-porezu-na-dohodak>

<sup>270</sup> Ministry of Finance, Income Tax Act (OG, No 115/16, 106/18), 2019, [https://www.porezna-uprava.hr/hr\\_propisi/\\_layouts/in2.vuk.sp.propisi.intranet/propisi.aspx?id=pro1623](https://www.porezna-uprava.hr/hr_propisi/_layouts/in2.vuk.sp.propisi.intranet/propisi.aspx?id=pro1623)

<sup>271</sup> Cyprus Tax Department, "Article 9-1(f) of Income Tax Law of 2002 (118(I)/2002) about tax deductible expenses", 2002; Deloitte, "Tax Information", 2017, [https://www2.deloitte.com/content/dam/Deloitte/cy/Documents/tax/CY\\_Tax\\_TaxFacts2017GR\\_Noexp.pdf](https://www2.deloitte.com/content/dam/Deloitte/cy/Documents/tax/CY_Tax_TaxFacts2017GR_Noexp.pdf)

<sup>272</sup> EESC - Bio by Deloitte, "Comparative Study on EU Member States' legislation and practices on food donation", 2014, <https://www.eesc.europa.eu/resources/docs/executive-summary-comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation.pdf>

With regards to individual tax benefits, donations to public benefit or COs can be deducted from the taxable income if the receiving organisation is approved by the Danish Agency (*Skattestyrelsen*) or a similar authority in another EU- or EEA-state (Section 8 A and 12(2-4), in the Danish Tax Assessment Act). The Danish Agency (*Skattestyrelsen*) discloses a list of entities approved under the mentioned sections every year. The threshold for deduction is set at DKK 15.900 for the tax year of 2018, and limited to 15% of yearly income for longstanding donations, but no less than DKK 15.000. The deduction value is of 26.6%.

Although maximum amounts are defined for tax deduction (Section 8 A and 12(2-4)), the deductions apply to donations in cash and in kind, as long as the value of the goods do not exceed the fixed amounts.

#### ➤ **France**

France includes a tax break of 60% of the donated value, according to Article 238 *bis* of the General Tax Code, with a cap of 0.5% of the company turnover. If the tax break was not fully used during its first year because of the cap, it may continue over the next five years. The value of the donated food is equal to its net book value, meaning its original cost minus its depreciation. This tax credit system is referred to in the guidelines created for retailers on food redistribution to charitable organisations.

Article 238 *bis* of the General Tax Code also applies when the company provides delivery and storage of foods for donation, considering the service delivery or storage as a gift.

If charitable organisations receive over 153 000€/year of tax-deductible donations, they must, according to the Finance Act No 87/571 of 07/23/87 on the development of sponsorship, hold certified accounts of these donations<sup>273</sup>.

Charities have also broken new ground in the extension of tax incentives for donations made by agricultural producers to new sectors. Associations began to collect dairy produce from 2013 and then eggs and processed fruit and vegetables from 2014 and 2015. They are now working with the authorities to include the meat sector in particular. Furthermore, 16 food charities are certified at the national level to receive food donations and thus to deliver tax certificates that allow donors to benefit from a tax break.

#### ➤ **Germany**

According to the Income Tax Act (EStG §10b) and the Corporate Tax Act (Section 9)<sup>274</sup>, donations in cash and donations in kind are tax-deductible expenses, within the limit of 20% of the corporate's income or 0.4% of the company's total sales, wages and salaries spent in the calendar year.

#### ➤ **Hungary**

In Hungary, Article 7(z) of the Corporate Tax Law grants a tax deduction of 20% of the amount of the donation (deducted from corporate tax base). This deduction can reach 50% in the case of donations made to the Hungarian Disaster Fund or the Hungarian Cultural Fund. An additional 20% can be deducted in the case of long term donation agreements (at least 3 years).

The ceiling for deductibility is the amount of pre-tax profit. The recipient of the donation has to be a public use organisation and issues a tax credit statement about the donation(s)<sup>275</sup>.

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<sup>273</sup> EESC - Bio by Deloitte, "Comparative Study on EU Member States' legislation and practices on food donation", 2014, [https://www.eesc.europa.eu/resources/docs/executive-summary\\_comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation.pdf](https://www.eesc.europa.eu/resources/docs/executive-summary_comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation.pdf)

<sup>274</sup> German Ministry of Justice, "Körperschaftsteuergesetz (KStG) § 9 Abziehbare Aufwendungen / Income Tax Act (EStG §10b)", 1977, [https://www.gesetze-im-internet.de/kstg\\_1977/\\_9.html](https://www.gesetze-im-internet.de/kstg_1977/_9.html)

<sup>275</sup> Hungarian government, "1996. évi LXXXI. Törvény a társasági adóról és az osztalékadóról / 1996 LXXXI. Law on Corporate Tax and Dividend Tax", 1996, <http://net.jogtar.hu/jogszabaly?docid=99600081.TV>

➤ **Italy**

Article 16 and 17 of Law 166/2016 simplify national regulations regarding donation and provide fiscal incentives for donations. Within this simplification, municipalities can reduce producers' taxes on waste if they donate their food surplus to COs.

At the local level, the City of Milan and five other cities are at the heart of an initiative to reduce the taxes paid on food donations. In the first year of the project (2018), a 20% reduction applied to the waste tax paid by food businesses (supermarkets, restaurants, canteens, producers *etc.*) that donate their food surplus to charities. In the second year, the tax reduction could reach 50%<sup>276</sup>.

➤ **Lithuania**

The application of tax reliefs or compensation of costs incurred in the case of food donations is under discussion in Lithuania. A Coordination Working Group on the Reduction for Food Waste Prevention and Management was implemented by the government in 2015 and holds regular meetings since then to achieve progress in this field. The working group is currently working on proposals for specific legislative and organisational solutions, and will submit them for discussion at Governmental meetings<sup>277</sup>.

➤ **Netherlands**

In the Netherlands, the donation of food free of charge gives right to a corporate tax deduction: 100% of the donation is deductible as long as the food is no longer suitable for the market and the value of the donation stays within the limit of 50% of 100 000 €<sup>278</sup>.

➤ **Poland**

If specific requirements are met, food donations can be treated as tax-deductible costs or can be deducted from a taxable basis (up to 10% of the taxable income)<sup>279</sup>.

➤ **Portugal**

According to Article 62 of the Portuguese Tax benefit Code, food donations may be deductible from the taxable income basis plus 20%, 30% or 40% depending on the type of receiving institution, with the limit of 8/1000 of the turnover. The enhanced tax deduction is equal to the adjusted tax basis of the products at the moment of the donation, plus a certain percentage<sup>280</sup>.

➤ **Romania**

The donors who donate food under the Law 217/2016 amended by Law no. 200/2018 benefit from tax incentives - the expense with the donated food is deductible according to article 25 point 4, 5, 6 from the Law 227/2015 - General Tax Code in Romania.

➤ **Slovakia**

In Slovakia, donations made to the Slovak Food Banks are deductible expenses according to the Law no. 595/2003 on income tax. The tax incentive applies to both individual and corporate donations, with no ceiling for the deductibility<sup>281</sup>.

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<sup>276</sup> City of Milan, "Milan Circular economy for food donation.", 2017, <http://www.milanurbanfoodpolicypact.org/wp-content/uploads/2018/06/CIRCULARITY-1.pdf>

<sup>277</sup> European Commission, Information received from the European Commission by email, 4 July, 2018.

<sup>278</sup> Voedselbanken Nederland, "Food donation and fiscal consequences for food companies and food banks / Infobulletin: Fiscaliteit bedrijven en voedselbanken", 17 March 2015, <https://voedselbankdronten.nl/cms/Voedselbank/wp-content/uploads/2017/04/1484576880-20150317vbnib-fiscaliteit-bedrijven-en-voedselbanken.pdf>

<sup>279</sup> Ministry of Finance, "Amendment of the Act on Personal Income Tax Poland", 2009, <https://www.global-regulation.com/translation/poland/2985948/regulation-of-the-minister-of-finance-of-10-september-2009-on-the-way-and-determine-the-income-of-legal-persons-by-way-of-assessment-and-how-and-the-e.html>

<sup>280</sup> EESC - Bio by Deloitte, "Comparative Study on EU Member States' legislation and practices on food donation", 2014, <https://www.eesc.europa.eu/resources/docs/executive-summary-comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation.pdf>

<sup>281</sup> Slovakia Ministry of Finance, "Law no. 595/2003 on income tax (Zákon č. 595/2003 Z. z. o dani z príjmov v znení neskorších predpisov)", 2003, <http://www.mfsr.sk/Default.aspx?CatID=8691>

➤ **Slovenia**

Taxpayers who independently carry out an activity and who determine the tax base of the activity on the basis of revenues and actual expenses in accordance with Personal Income Tax Act, and legal entities, liable under the Corporate Income Tax Act, may apply a reduction of the tax base for the amount of payments in cash and in kind (including food) made to humanitarian organisations (and other specified non-profit organisations) up to 0.3% of the taxable income of the taxable person up to the amount of the tax base of the tax period.

➤ **Spain**

In Spain, donations and liberalities are not deductible from direct taxes, the Personal Income Tax (*Impuesto Sobre la Renta de las Personas físicas* – IRPF) and the Corporative Tax (*Impuesto de Sociedades* – IS). However, when such donations are made to non-profit entities as regulated in Law 49/2002 on fiscal regime for non-profit entities and tax incentives to patronage, some tax reductions are granted. In the last amendment of the law (November 2014), the conditions for deduction are stated as follows:

- in the IRPF, the percentage of deduction has gone from 25% to 35% of the value of the goods donated over the total tax amount, though the deduction is still limited to a maximum of 10% of taxpayer's tax base;
- in the IS, the percentage of deduction has not been changed, being 35% of the value of donated goods, with the same limit of the 10% of the tax base. The tax deduction is applicable during the following ten tax years if it is not entirely used all at once.

## 8 Other EU Programmes (Section 8)

### 8.1 Fund for European Aid to the Most Deprived and food donation (FEAD) (Section 8.1)

The Fund for European Aid to the Most Deprived (FEAD)<sup>282</sup> has the specific objective to contribute to alleviating the worst forms of poverty in the EU through the provision of non-financial assistance to the most disadvantaged persons in the EU. Assistance from the FEAD may take the form of food support, basic material assistance (clothing, footwear, hygiene items, *etc.*) or actions to promote the social inclusion of the most deprived persons. In every Member State, FEAD is implemented with the help of partner organisations – public bodies or non-profit organisations – in charge of distributing the assistance or undertaking the social inclusion activities.

The food distributed by the partner organisations may be purchased with FEAD resources but it may also be donated. A FEAD operational programme may provide for the financing of food donations, whereby food is donated to a partner organisation and distributed to the most deprived persons free of charge. The costs of the partner organisations for the collection of the donated food from the donor, its transportation, storage, and distribution to the most deprived persons may be covered with FEAD funds.

The Commission has set up the FEAD Network for exchange of experience and good practice among FEAD stakeholders. This is a forum where partner organisations may share their experiences with donated food and every year, a catalogue of FEAD case studies is presented<sup>283</sup>.

Members of the EU Platform on FLW have provided the following observations in relation to FEAD support for food donation activities:

#### ➤ **Belgium**

In Belgium, the FEAD funds are used to purchase food items, which are then distributed to charities. The charities are in charge of redistribution to the most deprived.

The government makes open bids for the production of food products, to which food manufacturers can respond and produce the food required. The products are distributed to charities in charge of their redistribution. All charities need an authorisation from the food safety organisation to redistribute food bought with FEAD funds. Out of the total amount of money allocated to FEAD, 5% can finance the logistic costs for bringing food from the manufacturers to the charities.

See also [FEAD case study 2017 - Belgium - Mons Borinage Urban Relay with the City of Mons Food Bank](#)  
[The SOREAL Platform \(Solidarité Réseau Alimentaire - Solidarity Food Network\)](#)

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<sup>282</sup> European commission, "Fund for European Aid to the Most Deprived (FEAD)", <http://ec.europa.eu/social/main.jsp?catId=1089&langId=en>

<sup>283</sup> European Commission, "Diverse approaches to supporting Europe's most deprived - FEAD case studies 2018", 2018, <https://ec.europa.eu/social/main.jsp?langId=en&catId=1089&furtherNews=yes&newsId=9271>

➤ **Croatia**

The Republic of Croatia uses the FEAD programme as an added value to existing national programs for food and basic material assistance.

Only COs approved by the Ministry for Demography, Family, Youth and Social Policy can apply to the FEAD programme. The funds from the programme can be used to cover the collection, transport, storage, distribution of food donations and directly related awareness-raising activities generated and paid by the partner organisation. The cost of redistribution cannot exceed the cost of purchase of the food. In addition, 5% of the money can cover administrative, transportation and storage costs.

In the framework of technical assistance, applicants can express the need for technical assistance if it contributes to the implementation of their targeted activities. This can consist in the rental or procurement of equipment for more efficient food distribution (refrigerators, pallet trucks, storage bins) or the purchase of vehicles to transport food.

➤ **Cyprus**

In Cyprus, FEAD funds can be used to finance projects which provide food assistance to people in need. In 2017, the FEAD programme co-financed for the first time a programme which distributed breakfast to students with lesser means, reaching out to over 13 000 children<sup>284</sup>.

➤ **Czech Republic**

The Ministry of social affairs is organizing the FEAD administration for the State. In connection with food banks, NGOs and social services providers, they distribute food and hygiene products to help the people. The funding goes to clients of social services. The distribution to the final beneficiary can be done only with registered social services providers.

➤ **Finland**

Similarly to Belgium, the FEAD funds are used to purchase food items in Finland. Food is distributed to 21 partner-organisations and these charities are in charge of redistribution of food to the most deprived through over 600 local organisations. Foods purchased include wheat and graham flour, canned meat, canned pea soup, porridge flakes, pasta, muesli, crisp bread, ready-made meal of pasta and milk powder. Food nutritional quality is one of the purchase criteria e.g. milk powder must be fortified with vitamin D. Donated food is distributed through the same organisations.

➤ **France**

Similarly to Belgium, the FEAD funds are used to purchase food items in France, which are then distributed to charities. The charities are in charge of redistribution to the most deprived. The French government buys approximately 30 different sorts of products with FEAD funds, which it distributes to charities (Food Banks, Red Cross, Restaurants du Coeur, Secours populaire) based on their lists of needs.

➤ **Germany**

In Germany, the FEAD programme's priority areas do not target food redistribution, as it aims to support the social cohesion and social integration of persons at risk of poverty and social exclusion<sup>285</sup>.

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<sup>284</sup> Cyprus Ministry of Education, "Provision of free breakfast for students in need of assistance", 2017, <http://enimerosi.moec.gov.cy/archeia/1/ypp6184a>

<sup>285</sup> German Ministry of Labour and Social Affairs, "Fund for the European Aid to the Deprived (FEAD) in Germany", 2018, <https://www.bmas.de/EN/Our-Topics/Social-Europe-and-International-Affairs/Programmes-and-Funds/FEAD/fead-article.html>

➤ **Greece**

In Greece, the competent authority for the FEAD program is the Ministry of Labour, Social Security and Social Solidarity. FEAD is implemented by decentralised procurements of food and basic material for assistance. The fund can support activities related to the collection, transport, storage and distribution of food donations. It serves to buy food items which are then handed out to charity organisations. The amounts of food redistributed have however been very small so far (June 2018).

➤ **Hungary**

Hungary provides food and basic material assistance through its operational programme, and funds from the FEAD programme are specifically used to finance projects which provide food assistance to people in need.

The FEAD operational programme supports vulnerable target groups: poor families with children, the homeless, socially deprived people with a disability and elderly people with very extremely low incomes. The food that is redistributed must comply with current food safety requirements and have an expiration date of at least three months from the date of manufacture.

➤ **Ireland**

FEAD does not directly support food redistribution in Ireland as there continues to be a lack of clarity around the practical application of Article 26 in Regulation (EU) No 223/2014 on the Fund for European Aid to the Most Deprived. FoodCloud hubs runs the FEAD programme in parallel to their activities of surplus food redistribution. The programme increases awareness around surplus food and the demand for redistributed food.

See also [FEAD case study 2017: Ireland – Department of Employment Affairs & Social Protection and FoodCloud Hubs. National Food Distribution](#)

➤ **Lithuania**

The FEAD funds provide non-financial assistance to the most deprived in all 60 municipalities in Lithuania.

The distribution of funds for 2018 is as follows:

- foodstuffs and products for hygiene (from 2018) (89% of funds);
- other activities (5% of funds);
- administration, warehousing and transportation costs of partner organisations (5% of funds);
- provision of transport costs to partners' central warehouses (1% of funds).

In 2017, the Lithuanian Food Bank used these funds to hand out food packages. It distributed packages on six occasions throughout the year, adding up to approximately 400 thousand packages and reaching roughly 70 thousand people.

➤ **Luxembourg**

Luxembourg benefits from 3,944,660 € from the EU FEAD funds, plus 696,199 € in national appropriations for the period 2014-2020. The country uses this money both for the purchase of food and of basic hygiene goods such as soap or shampoo.

➤ **Malta**

FEAD funds serve to purchase food in Malta, and have paved the way for governmental funds to help those who cannot benefit from FEAD. Indeed, by carrying out the FEAD operational programme, the government realised that not all people in need had access to this food: FEAD only covers people with low threshold incomes, registered to social security and able to provide tax return statements. To avoid leaving people out of the programme, the government set up a nationally sponsored food aid that addresses around 22 000 families per year, more than five times more than the number the FEAD programme targeted *i.e.* 4 000 families. Distribution takes place through 12

LEAP centres (anti-poverty and social exclusion centres created under a previous project), through social security services and government schools.

➤ **Netherlands**

FEAD funds are not used for food redistribution in the Netherlands. Instead, the objective of the operational programme is to reduce the social exclusion of elderly people with a low disposable income.

➤ **Poland**

Poland implements FEAD under OP1 as separate subprogrammes (duration: ca. 10 months each). The most deprived people, individuals and families who meet specific income criteria, are provided with food packages and served meals on the spot. Other accompanying measures include workshops on food preparation in order to prevent its waste, home budget management or other activities empowering end recipients. There are currently four partner organisations on national level: Caritas Poland, Polish Federation of Food Banks, Polish Red Cross and Polish Committee of Social Assistance. Moreover, there are ca. 100 regional organisations and ca. 2 500 local organisations delivering food directly to end recipients. An intermediate body (National Centre for Agriculture) is responsible for purchasing food within the public procurement procedure. Within subprogramme 2017, ca. 1 400 000 end recipients received food aid.

➤ **Romania**

Romania provides food and basic material assistance through the FEAD operational programme, which aims to provide food to those most in need, as well as school supplies to children in difficulty.

The Fund will help to strengthen social cohesion by alleviating the worst forms of poverty, mainly by distributing food packages to the most deprived. Secondly, school supplies and school bags will be distributed to children in low income and disadvantaged households, with the aim of boosting children's motivation and reducing dropout rates.

➤ **Slovenia**

The FEAD programme in Slovenia is aiming to provide food aid to the most deprived people by distributing them food packages at local distribution points of selected partner organisations. The most vulnerable and socially excluded people can also directly receive these packages at their homes or in shelters<sup>286</sup>.

The Ministry of Labour, Family, Social Affairs and Equal Opportunities is providing the food to the warehouses of the selected partner organisations (non-profit, humanitarian organisations) three times per year. Purchased food products are determined with the assistance of the partner organisations, while taking into account the needs and the contribution of the selected products to the balanced nutrition of the most vulnerable members of society. The partner organisations are responsible for the transport of food from the central warehouses to local dispatch points, as well as storage and distribution. A free package of food is handed out to the most vulnerable at the partner organisations dispatch points. They receive pre-prepared packages or choose products by themselves according to their needs and wishes. The packages are delivered by partner organisations free of charge to the most vulnerable persons in shelters, maternity homes, etc., and to the homes of the most socially excluded people.

Food is primarily provided to recipients of social assistance benefits in cash, the unemployed, employed persons who for a longer period of time have not received a salary, single mothers, the homeless, substance addicts, foreigners, the elderly, and persons who receive assistance in shelters, maternity homes, and similar social institutions.

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<sup>286</sup> EUPortal, "20.5 million euros for socially most deprived", <http://www.euportal.si/en/slovenia-in-eu/20-5-million-euros-for-socially-most-deprived/>

In addition to food distribution, the partner organisations also carry out different accompanying measures that contribute to increase the social inclusion of the final recipients.

➤ **Spain**

According to the Spanish Federation of Food Banks (FESBAL), in 2017 the President of the Spanish Agrarian Guarantee Fund (FEGA), in accordance with the procedure and conditions established in Resolution AAA / 2205/2015, of October 15 and in the Resolution of the FEGA, of January 4, 2017, designated FESBAL and the Spanish Red Cross as national food redistribution actors (*Centros de Almacenamiento y Distribución, CAD*), within the framework of the FEAD Operational Program. This initiative provides food to some 5,600 distribution partner organisations (*Organizaciones Asociadas de Reparto, OAR*) that serve people whose economic or family situation of need prevents them from acquiring food on a regular basis<sup>287</sup>.

Similarly to Belgium or France, the FEAD funds are used in Spain to purchase food items, which are then distributed to the distribution partner charities. The charities are in charge of redistribution to the most deprived as front line organisations. Food is acquired with FEAD funds by means of a call for tenders, and it consists of long shelf-life food items such as rice, pots of baby food (chicken and fruit), children's cereals, powdered follow-on milk, cooked white beans, UHT whole milk, soluble cocoa, canned tuna, macaroni, canned fried tomato, biscuits, canned green beans and canned fruit in light syrup.

➤ **Sweden**

In Sweden, the FEAD funding mainly goes towards non-Swedish citizens in the country, such as EU migrants. Some of the money is used to distribute food to these people, though food redistribution is not the main priority of the FEAD programme.

➤ **United Kingdom**

The British Government has not started to implement the FEAD programme. The use of its structural fund budget is geared towards social inclusion and helps disadvantaged people into work<sup>288</sup>.

## 8.2 Common organisation of the markets in agricultural products (Section 8.2)

➤ **Bulgaria**

When imported fresh fruits and vegetables are not in line with quality requirements, they can be redirected for animal feed, industrial processing or for other non-food purposes; or they can be destroyed<sup>289</sup>.

➤ **Croatia**

Croatia began to implement the temporary exceptional support measures for producers of apples and mandarins withdrawn from the market for free distribution since the beginning of the Russian ban in 2014. The recipients of products withdrawn from the market were charitable organisations and foundations approved by the Republic of Croatia for use in their activities to assist persons whose right to public assistance is recognised in national legislation.

➤ **Cyprus**

Recipient organisations for food donation activities comprise charitable organisations, social welfare institutions, NGOs, health care and educational establishments and public shelters for the elderly. However, the amounts of

<sup>287</sup> Interview Alimentos, FESBAL - Federación Española de Bancos de Alimentos, June, 2018.

<sup>288</sup> Jon Danzig, "UK Government rejects EU food aid for Britain's poor", 2014, <https://eu-ropenews.eu/2014/12/07/uk-government-fedup-eu-rejects-food-poor/>

<sup>289</sup> Bulgarian Ministry of Agriculture and Food "Наредба №16 от 28 май 2010г. на Министерството на земеделието и храните за изискванията за качество и контрол за съответствие на пресни плодове и зеленчуци / Ordinance N 16/28.05.2010 of Ministry of Agriculture and Food on the Quality Requirements and Compliance", 2010, [http://bah.government.bg/uploads/File/Dokumenti\\_naredbi/Hrani/Naredba%20%E2%84%96%2016%20ot%2028%20mai%202010.pdf](http://bah.government.bg/uploads/File/Dokumenti_naredbi/Hrani/Naredba%20%E2%84%96%2016%20ot%2028%20mai%202010.pdf)

food sent to redistribution were lower than those sent to other valorisation routes (e.g. feed or composting). Indeed, the competent authorities proceed to the allocation of food items according to the estimate quantities that can be used by charitable organisations.

Furthermore, fruits and vegetables that do not meet the product quality requirements can be placed on the market without classification and at lower prices. Eggs that do not meet the Class A requirements can be sent to food processing, and the same applies to poultry meat that does not meet the quality classes criteria. Eggs, poultry meat and other processed meat products discarded by the food industry can be sent to biofuel plants, minimising food waste.

➤ **Denmark**

Denmark does not use the scheme for the financial assistance of market withdrawals of fruit and vegetables (Regulation (EU) 1308/2013, Article 34, 4).

➤ **Germany**

In Germany, market withdrawals are not used for crisis prevention.

➤ **Hungary**

In Hungary, producers' organisations allow the withdrawal of fruits and vegetables from the market within the framework of their operational program for crisis prevention and management. Charitable organisations and foundations approved by the Member States can use these products to assist people in need, as recognised by national law.

➤ **Italy**

In the scope of Regulation 1308/2011 and Rules of Embargo, Italy defined a regulatory framework for charitable organisations and for operators who regularly donate perishable fruit and vegetables. These operations are subject to food legislation and traceability requirements. Procedures at the national and regional levels and databases are used to trace donated products<sup>290</sup>.

Ministerial Decree n. 9084 also provides for the possibility of donating products withdrawn from the market. In the case of a market crisis, the Italian government would support the transformation of fresh products into non-perishable products to increase fruit and vegetable donations. A national fund could finance the costs of the food transformation.<sup>291</sup>

The "Round Table for the fight against food waste and for food aid" has created a national procedure to identify the steps that actors have to follow to donate, transform, and distribute transformed products. The Ministry of Agriculture is currently examining the legal aspects of this procedure.

➤ **Netherlands**

Fruits and vegetables that had to be withdrawn from the market because of the Russian ban could be donated to food banks or other social initiatives that provide free food.

➤ **Norway**

EU marketing rules (Common Organisation of the Agricultural Markets) are not a part of the EEA-agreement.

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<sup>290</sup> Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products, OJ L 347, 20.12.2013, 2013, <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32013R1308&from=EN>

<sup>291</sup> Italian Ministry of Agriculture, "National provisions regarding the approval and control of fruit and vegetable producer organisations and their associations, operational funds and programs", 2014, <https://www.politicheagricole.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/7940>

#### ➤ **Poland**

Under the EU common market organisation provisions (Regulation (EU) 1308/2013, Article 34 (4)), Poland implemented the market withdrawals measure as a measure of crisis prevention and management. According to national rules, producer organisations are allowed to withdraw fruit and vegetables with a view to their free distribution (free of charge to charity organisations, hospitals, educational establishments, *etc.*) and animal feed. Poland also implemented temporary exceptional support measure for producers of certain fruit and vegetables due to the Russian embargo. Under this measure, besides producer organisations, also individual fruit and vegetables producers were entitled to apply for support. Withdrawn products could be intended for free distribution as well as biogas production. The withdrawal operations that were carried out almost exclusively contributed to free distribution as the support rates applicable for destinations other than free distribution were significantly lower.

#### ➤ **Portugal**

In Portugal market withdrawals of fruits and vegetables (perishables) from Producer Organisations in the framework of operational programs crises management are generally used for free distribution. Although most of it is channelled through food banks with adequate infrastructure and action at regional level, sometimes there are peak quantities difficult to store, to handle or to be consumed in a short period.

#### ➤ **Slovenia**

In 2015 and 2016, Slovenia began to implement a measure to help the withdrawal of fruit and vegetables caused by the Russian embargo. The measure aimed to ensure a stable situation for the agricultural market. Fruit and vegetable donors were entitled to a financial compensation and the charitable organisations Red Cross and Caritas organised the distribution.

#### ➤ **Spain**

Producer Organisations (POs) make use of the withdrawal of fruits and vegetables that the single CMO contemplates as a measure of "crisis management", allocating most withdrawals to free distribution. However, this route cannot be sufficiently developed, due to the difficulties associated with transporting and storing fresh fruits and vegetables, as there are few charities or food banks that have enough refrigeration capacity to keep the received products.

### 8.3 Common organisation of the markets in fishery and aquaculture products (Section 8.3)

#### ➤ **Greece**

Two Ministerial Decisions concerning fishery policy touch upon food donation:

- additional measures on the implementation of the Regulation on common organisation of the markets in fishery and aquaculture products, and on the Community Fisheries Control System on transporting and marketing of fishery products<sup>292</sup>;
- additional measures on the implementation of the EU fisheries legislation related to fishing, transporting and marketing of bluefin tuna (*Thunnus thynnus*, BFT) and of swordfish (*Xiphias gladius*, SWO)<sup>293</sup>.

Donation for charitable purposes is foreseen under both Ministerial Decisions, in the cases of imposed infringements to illegal fishing activities and seizing catches. Infringed catches cannot be sold but can be offered to charitable organisations, as they are safe for human consumption.

<sup>292</sup> Greek Ministry of Agriculture, "Additional measures on the implementation of the Regulation on common organisation of the markets in fishery and aquaculture products, and on the Community Fisheries Control System on transporting and marketing of fishery products", 2015, <https://www.e-nomothesia.gr/kat-navtilia-nausiploia/alieumata/upourgike-apophase-1750-32219-2015.html>

<sup>293</sup> Greek Ministry of Agriculture, "Additional measures on the implementation of the European Union fisheries legislation related to fishing, transporting and marketing of Bluefin tuna (*Thunnus thynnus*, BFT) and of swordfish (*Xiphias gladius*, SWO)", 2016, <https://www.geotee.gr/MainNewsDetail.aspx?CatID=1&RefID=8102&TabID=5>

➤ **Italy**

Where foodstuffs fit for human or animal consumption have been confiscated, the competent authority shall have them transferred to charitable organisations for free. All confiscated products can be donated, even fish. The safety of the product from a hygienic point of view must however be guaranteed.

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## 10 Contact details in Member States

For further information regarding food redistribution practices in Member States, interested stakeholders may contact the organisations listed hereunder:

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