



# Food redistribution in the EU:

Mapping and analysis of existing regulatory and policy measures impacting food redistribution from EU Member States

 **Saving Food Together**

Written by Wageningen Economic Research and Ecorys in association with Deloitte.  
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# Glossary

## **EU law**

EU law is divided into “primary” and “secondary” legislation. The treaties (primary legislation) are the basis or ground rules for all EU action. Secondary legislation – which includes regulations, directives and decisions – is derived from the principles and objectives set out in the treaties.

## **EU regulation**

Regulations are legal acts defined by Article 288 of the Treaty on the Functioning of the European Union (TFEU). They have general application, are binding in their entirety and directly applicable in all EU countries from the date of their entry into force (a date that it sets or, failing that, 20 days after its publication in the Official Journal). Its legal effects are simultaneously, automatically and uniformly binding in all the national legislations.

## **EU directive**

Directives are legal acts defined by Article 288 of TFEU. A directive is binding in the countries to which it is addressed (one, several or all of them) as to the result to be achieved. They have to be transposed into the national legal framework and thus leave room for manoeuvre as to the form and means of implementation.

## **Value Added Tax**

Value Added Tax (VAT) in the EU is a general, broadly based consumption tax assessed on the value added to goods and services. It applies more or less to all goods and services that are bought and sold for use or consumption in the EU. VAT is charged as a percentage of price, meaning that the actual tax burden is visible at each stage in the production and distribution chain. EU Directive 2006/112/EC, in effect since 1 January 2007, is the main piece of EU legislation relating to VAT.

## **VAT exemption**

A supply of goods or services is an exempt supply if no VAT is applied to it, whether at the final stage of sale to the consumer or at some intermediate business-to-business stage. Supplies that must be exempt include certain activities in the public interest (such as medical and dental care, social services, education, etc.) as well as most financial and insurance services and certain supplies of land and buildings. Exemptions also exist for intra-EU supplies and exports of goods outside the EU. In most cases, if a supply is exempt from VAT, deduction of the VAT paid (input VAT) on goods and services purchased to make that supply is not allowed.

## **“Zero-rate VAT”**

Whereas most exempt transactions involve no right to deduct the associated input VAT (“exemptions without the right to deduct”), there are certain exempt transactions in respect of which suppliers are allowed to deduct their input VAT. Sometimes these exempt transactions are called “zero-rated” transactions because the result is that there is no residual VAT in the final price.

**Tax credit**

Tax credit is a tax break that is subtracted directly from the tax liability otherwise due by the beneficiary household or corporation. There are two forms of tax credits: non-payable tax credits and payable tax credits.

**Tax deduction**

A tax deduction is an amount or cost that can be subtracted from someone's income before calculating how much tax they owe. The difference between deductions and credit is that deductions reduce taxable income, while credits reduce tax.

**Fiscal incentives**

Fiscal incentives encouraging food redistribution are economic incentives such as tax reduction, fiscal exemptions or rewards, grants and subsidies, applied by the governments that encourage behavioural change and can support various activities of individuals and organisations. In particular, for this study, the presence of applied VAT, VAT-exempt or zero-rate VAT, corporate tax credits and tax deductions are considered.

**Legal instruments**

Legal instruments for food redistribution are divided into two categories: binding (hard law) and non-binding (soft law) instruments. Within the scope of this study, legal instruments covering the following (non-exhaustive) list of topics are considered: traceability, liability, hygiene, food information to consumers (e.g. date labelling, language requirements) and food use hierarchy.

**Guidelines**

Guidelines are non-binding documents that aim to facilitate the implementation of legislation and/or to develop and adopt good practices. Within the scope of this study the EU guidelines and the guidelines developed by national governments are considered.

**Voluntary Agreements**

Voluntary Agreements are self-determined commitments or pacts with qualitative and quantitative objectives, developed by private entities and/or other stakeholders in consultation with their signatories. They are used as alternative courses of action to traditional legislation, can be piloted by government officials, businesses or other actors, and can be used in addition to, or independently from, existing legislation.

**Other initiatives**

The other initiatives for food redistribution considered within the scope of this study include: working groups, charters, surveys, national studies, digital platforms, actions in response to the impact of the ban on imports, and the applicability of Funds for European Aid to the Most Deprived (FEAD) and common organisation of the markets in agricultural products in relation to food redistribution.





# 1 Introduction

## 1.1 Background

Food waste is an issue of importance for global food security and good environmental governance. It can be directly linked to environmental (e.g. energy, climate change, water, availability of resources), economic (e.g. resource efficiency, price volatility, increasing costs, consumption, waste management, commodity markets) and social (e.g. health, equality) impacts. Drivers of food waste are diverse and can be associated with technical, socio-economic and institutional (legislation and policy) factors<sup>1</sup>. For example, technical aspects can include waste that occurs during mechanical harvesting, handling, processing and transportation of food staples. At a household level, causes of food waste resulting from socio-economic factors may include buying too much food, overcooking food or not consuming food before its “use by” date. Meanwhile, food waste in the food supply chain may be due for example to incorrect stock turnover or, in the farming sector, to destruction of agricultural products when market prices are low. Examples of factors for food waste arising from the regulatory context could include, for example, waste that occurs due to strict interpretation and implementation of food hygiene rules by supply chain operators, or misinterpretation of legislation on date marking of “best before” and “use by” dates<sup>2</sup>.

The primary focus of food waste prevention should be to act at the source by limiting the generation of surplus food at each stage of the food supply chain (i.e. production, processing, distribution and consumption). However, when food surpluses occur, the best destination, which ensures the highest value use of edible food resources, is to redistribute these to human consumption<sup>3</sup>. As also explained in the EU guidelines on food donation, this not only supports the fight against food poverty but also can be an affective lever in reducing the amount of surplus food put to industrial use and sent for waste treatment and ultimately to landfill. This important role is recognised at an EU level, where steps are being taken to integrate the aspects of food donation in policy frameworks (e.g. as part of the Circular Economy Action Plan, under which the EU guidelines on food donation have been adopted and food redistribution will continue to be addressed as part of food waste prevention under the Farm to Fork Strategy<sup>4</sup>). On World Food Day 2017 (16 October 2017), the Commission adopted the **EU guidelines on food donation**<sup>5</sup> as part of the Circular Economy Action Plan. Developed in consultation with the **EU Platform on Food Losses and Food Waste**,<sup>6</sup> the EU guidelines aim to facilitate the recovery and redistribution of safe, edible food to those in need. More specifically, the guidelines seek to: (1) **facilitate the compliance of providers and recipients of surplus food** with the relevant requirements laid down by the EU regulatory framework (e.g. food safety, food

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<sup>1</sup> The terminology used in this report is coherent with the one adopted in Fusions project on identifying the drivers of food waste, which later has been published in journal “sustainability” Canali, M., Amani, P., Aramyan, L., Gheoldus, M., Moates, G., Östergren, K., Vittuari, M. (2017). Food waste drivers in Europe, from identification to possible interventions. Sustainability, 9(1), [37]. <https://doi.org/10.3390/su9010037>

<sup>2</sup> FUSIONS 2014. Establishing a common framework for food waste definition and identifying its drivers. <http://www.eu-fusions.org/index.php/publications/265-establishing-a-common-framework-for-food-waste-definition-and-identifying-its-drivers>.

<sup>3</sup> Commission Notice EU guidelines on food donation, OJ C 361, p.1

<sup>4</sup> Communication from the Commission the European Parliament, the European Council, the European Economic and Social Committee and the Committee of the Regions, the European Green Deal, COM(2019) 640 final, 11.12.2019

<sup>5</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>.

<sup>6</sup> European Commission. “EU Platform on Food Losses and Food Waste”. [https://ec.europa.eu/food/safety/food\\_waste/eu\\_actions/eu-platform\\_en](https://ec.europa.eu/food/safety/food_waste/eu_actions/eu-platform_en).

hygiene, traceability, liability, VAT, etc.); and (2) **promote a common interpretation by the regulatory authorities** in Member States of the rules applying to the redistribution of surplus food<sup>7</sup>.

According to the EU guidelines on food donation, "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". Food surplus redistribution aims at both waste minimisation and food poverty relief.

At the same time, at Member State level, there are substantial variations as to the extent to which policy frameworks enable and encourage food donation. Thus, arguably, more needs to be done to urge Member States to implement measures (such as national rules, guidance, incentives and training/communications programmes) to support food donation activities.

The aim of this report is to map and analyse existing regulatory and policy measures impacting food redistribution from all Member States. It does not, however, cover general food waste prevention policies of Member States. This report was arranged within the pilot project "Food redistribution in the EU"<sup>8</sup>. The sources of information used for this document are: a literature review, scoping interviews conducted between April and July 2018 and the input provided by the members of the *EU Platform on Food Losses and Food Waste* following the calls for information issued by DG SANTE in December 2017, April 2018, November 2018, May 2019 and September 2019.

## 1.2 Objectives

The main objective of this report is to map and analyse the existing national and, where applicable, regional regulatory and policy measures relevant for food redistribution in all Member States. The sub-objectives are to analyse for each national or regional measure:

1. Whether the measure integrates relevant requirements resulting from EU legislation and policies and, if so, how these requirements are incorporated;
2. How the measure aims to overcome barriers to food redistribution;
3. The nature and extent of identified barriers;
4. How the measure integrates and/or makes use of other (regulatory and non-regulatory) instruments to promote and foster food redistribution.

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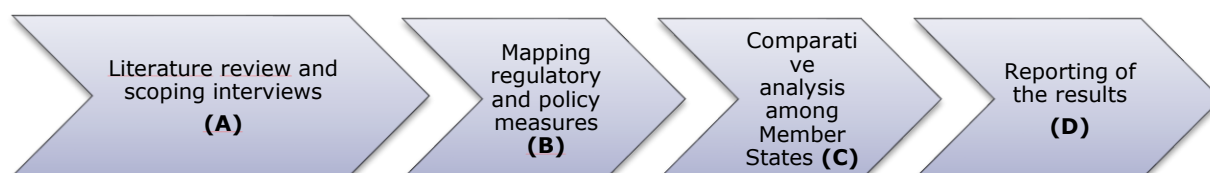
<sup>7</sup>European Commission. "Food Donation - Food Safety - European Commission". Food Safety. [https://ec.europa.eu/food/safety/food\\_waste/eu\\_actions/food-donation\\_en](https://ec.europa.eu/food/safety/food_waste/eu_actions/food-donation_en).

<sup>8</sup> [https://ec.europa.eu/food/safety/food\\_waste/eu\\_actions/food-donation\\_en](https://ec.europa.eu/food/safety/food_waste/eu_actions/food-donation_en)

## 2 Methodology

To achieve the main objective and sub-objectives of the report a four-step methodology (illustrated in Figure 1) was implemented.

**Figure 1. Methodological steps of the report**



A detailed description of each step is provided in the sub-sections below.

### 2.1 Literature review and scoping interviews (Step A)

Initial evidence on the current regulatory and policy measures related to food redistribution in Member States was collected through a combination of desk-based research and scoping interviews.

#### **Literature review**

The project team was able to draw on the experience gained through the Consortium's involvement in three studies related to the topic of food waste and food redistribution. These are the "Comparative Study on EU Member States' legislation and practices of food donation", conducted for the European Economic and Social Committee (EESC) in 2014 and led by Deloitte, and the EU FUSIONS and REFRESH projects led by Wageningen University in the periods 2012-2016 and 2015-2019 respectively. The literature and data collected for these projects provided the starting point for this pilot project. The information has been complemented by online desk-based research. In particular, the studies, guidelines and notices provided by Member States, which appear on DG SANTE's Resources Library, have been a primary source of further information for the literature review. Examples of the information that appears in the DG SANTE's Resources Library include studies from the Nordic Council of Ministers, Member State- and EU-level food donation guidelines and specific links to policy measures and initiatives.

In addition, DG SANTE provided the team with information on the current regulatory practices on redistribution activities in the different Member States. This information is based on the inputs received for the *EU Platform on Food Losses and Food Waste's* document on "[Redistribution of surplus food: examples of practices in the Member States, 2019](https://ec.europa.eu/food/sites/food/files/safety/docs/fw_eu-actions_food-donation_ms-practices-food-redis.pdf)"<sup>9</sup>, published in April 2019.

#### **Scoping interviews**

The outcomes of the literature review served to identify information gaps. For Member States for which information was incomplete or missing, further inputs were obtained through scoping interviews. For Member States for which data were already available through the literature review, this information was updated, cross-checked and completed through interviews. The interviews were conducted by national-level experts who acted as national contact points for the project, addressing

<sup>9</sup> [https://ec.europa.eu/food/sites/food/files/safety/docs/fw\\_eu-actions\\_food-donation\\_ms-practices-food-redis.pdf](https://ec.europa.eu/food/sites/food/files/safety/docs/fw_eu-actions_food-donation_ms-practices-food-redis.pdf)

relevant stakeholders and recognised experts in the field of food donation and redistribution within each Member State. Information included in Chapter 3 was provided in certain cases, where indicated, directly on this report by the competent authority of the Member State.

To prepare the data collection, the team members responsible for this report contacted the country experts individually (phone/Skype) to go over the steps as described in a previously prepared guidance document. Each country expert conducted from one to three interviews with the relevant stakeholders in the food supply chain. In line with the scope of this report, **governmental bodies and policy makers at the national level** were the primary target group for the interviews. Additionally, **redistribution and charity organisations (COs) (including food banks)** were also interviewed to gain insight into their experience with existing policies and regulations, barriers and opportunities. The project team also sought and gained permission from DG SANTE to contact Member State representatives of the *EU Platform on Food Losses and Food Waste*, especially those who participate in the sub-group on food donation, and to request their participation in these scoping interviews. Thus, several platform members have also participated in the interviews.

The project team developed a questionnaire template covering key questions related to policy and legislation in relation to food redistribution. The questionnaire was used as an interview guide and sent to the identified stakeholders prior to conducting telephone/face-to-face interviews, allowing them time to collect information and prepare their answers. Examples of the general policy areas covered by the questionnaire and gathered through the interviews are shown in Table 1. The full questionnaire can be found in Annex II.

Furthermore, individuals from the network of experts assembled for the FUSIONS, EESC and REFRESH projects were consulted in this study, and they contributed to updating, cross-checking and validating the available information from literature as well as the findings of the country experts.

### ***Annex document "Redistribution of surplus food: Examples of practices in the Member States"***

Linked to the report, a parallel activity was the preparation of the document "Redistribution of surplus food: Examples of practices in the Member States" to illustrate how Member States implement EU rules to facilitate food donation in practice<sup>10</sup>. The members of the *EU Platform on Food Losses and Food Waste* adopted the document on 6 May 2019. This document, which is structured in the same way as the EU guidelines on food donation, consolidates national food redistribution practices per section of the guidelines. The sources of information used for this document are the same as for this report, namely a literature review, scoping interviews and the input provided by the members of the *EU Platform on Food Losses and Food Waste*, following the calls for information issued by DG SANTE in December 2017, April 2018, November 2018 and May 2019. This document provides country overviews of the practical implementation of relevant legal provisions by national-level actors. It covers the areas where EU legislation prevails (e.g. on food hygiene, food labelling) as well as those governed by national rules (e.g. liability, taxation) but is not intended to provide analyses or recommendations.

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<sup>10</sup> The document can be found at [https://ec.europa.eu/food/sites/food/files/safety/docs/fw\\_eu-actions\\_food-donation\\_ms-practices-food-redis.pdf](https://ec.europa.eu/food/sites/food/files/safety/docs/fw_eu-actions_food-donation_ms-practices-food-redis.pdf)

## 2.2 Mapping and overview of policy measures (Step B)

In order to provide a comprehensive mapping for each Member State, information gathered through the literature review and scoping interviews has been structured by policy area, as illustrated in Table 1 below.

**Table 1. Policy area categorisation and definitions used within this study**

<b>National strategies for food redistribution</b>	National strategies are a method, strategy or plan, specifically addressing food redistribution activities. These may be in the form of overarching input or can be specific to a particular redistribution sector.
<b>Fiscal incentives for food redistribution</b>	Fiscal incentives encourage behavioural change through fiscal exemptions or rewards, such as tax exemptions or deductions, rather than through regulation. In particular, for this study, the presence of applied VAT, VAT-exempt or zero-rate VAT, corporate tax credits and tax deductions are considered.
<b>Legal measures for food redistribution</b>	Within the scope of this study, "legal measures" cover: general legal framework (including government-developed guidelines or frameworks), traceability, liability, hygiene regulations, food information to consumers (e.g. date labelling, language requirements) and food use hierarchy.
<b>Voluntary Agreements for food redistribution</b>	Voluntary Agreements are self-determined commitments or pacts with qualitative and quantitative objectives, developed by private entities and/or other stakeholders in consultation with their signatories. They are used as alternative courses of action to traditional legislation, can be piloted by government officials, businesses or other actors, and can be used in addition to, or independently from, existing legislation <sup>11</sup> .
<b>Other initiatives for food redistribution</b>	Other initiatives were considered within the scope of this study, such as: working groups, charters, surveys, national studies, digital platforms, actions in response to the impact of the ban on imports, and the applicability of funds for FEAD and common organisation of the markets in agricultural products in relation to food redistribution.

On the basis of this categorisation, an analysis of the policy measures impacting food redistribution was conducted for each Member State. The analysis covered the following aspects:

- Geographical coverage (EU, national, regional/local);
- Institutional nature (e.g. governments and public authorities, private sectors (non-regulatory), mixed – arising from the interaction between governmental policies and private sector);
- Barriers, for example does the measure create barriers to food donation activities?
- Effectiveness, for example does the measure effectively support food donation activities?
- Links with EU policy (transposition of EU legislation vs national legislation);
- Links with other national policies on food redistribution (fiscal incentives, Voluntary Agreements, liability, projects, etc.);
- Impact on food redistribution (positive or negative).

<sup>11</sup> Burgos, Stephanie; Colin, Flavien; Graf Venice; Mahon, Patrick (2019). "Voluntary Agreements as a collaborative solution for food waste reduction" EU Horizon 2020 REFRESH. <https://eu-refresh.org/voluntary-agreements-collaborative-solution-food-waste-reduction>.

For each Member State, the existence or absence of any public sector guidelines on food donation (such as the DRAAF Rhône-Alpes French guidelines)<sup>12</sup> was indicated within each relevant policy category.

In addition to the categorisation of policy measures, an analytical framework for mapping of policy measures (as presented in Table 2 below) was developed and used. The framework was also used to help organise and trace the data collected and to facilitate the comparison of different policies.

**Table 2. An analytical framework to analyse selected policy measures and regulations per country**

Type of policy measure (per Member State)	The objective of the measure	Geographical coverage	Institution ownership	Actors involved	Links with other policies	Impact on redistribution
National strategies for food redistribution						
Fiscal incentives for food redistribution						
Legal measures for food redistribution						
Voluntary agreements for food redistribution						
Other initiatives for food redistribution						

The information gathered for the above-mentioned points is presented within the Member State sections in Chapter 3. In addition, a table with an overview of this information per Member State is provided in Appendix. Regarding the analysis of each policy measure, whenever analytical information on the impact of a measure on food redistribution was not available, this is indicated in the report.

The main EU legal provisions with relevance for food donation are summarised in Table 3 below.

<sup>12</sup> DRAAF Rhône-Alpes. 2015. "Donating agricultural products". <http://draaf.auvergne-rhone-alpes.agriculture.gouv.fr/Guide-reglementaire-et-pratique>; DRAAF Rhône-Alpes. 2013. "Donner aux associations d'aide alimentaire, Guide pratique et réglementaire: Produits agricoles". [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. 2015. "Food donation guidelines for the catering sector". <http://draaf.auvergne-rhone-alpes.agriculture.gouv.fr/Reutiliser-ses-excedents-et-ou-les>; DRAAF Rhône-Alpes. 2015. "Guidelines for food donation". [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); DRAAF Rhône-Alpes. 2013. "Mass catering – How to donate to food aid organisations". [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).

**Table 3. Summary table of legal provisions with relevance for food donation<sup>13</sup>**

<p><b>General Food Law</b></p>	<p>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 ("General Food Law")</p>	<p>This regulation applies to all food business operators placing food in the market, including redistribution organisations and other COs (Art. 3.2.).</p> <ul style="list-style-type: none"> <li>• Food business operators at all stages of production, processing and distribution within the business under their control shall ensure that foods satisfy the requirements of food law, which are relevant to their activities and shall verify that such requirements are met (Art. 17.1.).</li> <li>• A food business operator holds primary responsibility for ensuring compliance with food law and in particular food safety.</li> <li>• Article 14 lays down essential food safety requirements.</li> <li>• Article 18 of the General Food Law introduces the concept of traceability.</li> <li>• Activities related to private domestic use and consumption of foods are excluded from the scope of the regulation (Art. 1.3.).</li> </ul>
<p><b>Food Hygiene Package</b></p>	<ul style="list-style-type: none"> <li>• Regulation (EC) No. 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs</li> <li>• Regulation (EC) No. 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin</li> </ul>	<ul style="list-style-type: none"> <li>• Food business operators have to comply with EU rules related to food hygiene.</li> <li>• It is necessary to ensure food safety throughout the food chain, starting with primary production.</li> <li>• It is important for food that cannot be stored safely at ambient temperatures, particularly frozen food, to maintain the cold chain.</li> <li>• Good hygiene practices and procedures based on Hazard Analysis Critical Control Points (HACCP) principles, where applicable, need to be complied with throughout the food chain.</li> <li>• Specific requirements apply for redistribution/donation of foods of animal origin.</li> </ul> <p>Hygiene rules should apply only to undertakings, the concept of which implies a certain continuity of activities and a certain degree of organisation (recital 9 of Regulation (EC) No. 852/2004).</p>

<sup>13</sup> The information in this table is based on the information provided in Annex I Table of the EU guidelines on food donation; 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>.

<b>Food labelling and durability</b>	Regulation (EU) No. 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No. 1924/2006 and (EC) No. 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No. 608/2004	<ul style="list-style-type: none"> <li>• Food business operators are required to indicate a “best before” or a “use by” date.</li> <li>• The marketing of foodstuffs beyond their “best before date” is allowed under EU law (but distribution of foods past the “use by” date is considered unsafe and therefore prohibited).</li> <li>• Rules on the provision of food information to consumers shall apply only to undertakings, the concept of which implies a certain continuity of activities and a certain degree of organisation (recital 15).</li> </ul>
<b>VAT rules</b>	Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax. VAT Committee guidelines resulting from its 97th meeting <sup>14</sup>	<p>According to Council Directive 2006/112/EC, VAT has to be paid on food intended for donation if the VAT paid by the donor upon purchase has been deducted (Art. 16).</p> <ul style="list-style-type: none"> <li>• The taxable amount is the purchase price at the moment of the donation adjusted to the state of those goods at the time when the donation takes place (Art. 74).</li> <li>• European Commission recommends that, for foods close to the “best before” date, Member States should consider the value on which the VAT is calculated to be fairly low, even close to zero in cases where the food genuinely has no value.</li> </ul>
<b>Waste Framework Directive</b>	Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain directives and Directive (EU) 2018/851 of the European Parliament and of the Council of 30 May 2018 amending Directive 2008/98/EC on waste	Establishes waste prevention as the first step of the waste hierarchy and requires Member States to set up waste prevention programmes.
<b>Common organisation of the markets in agricultural products</b>	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 and repealing Council	Art. 34(4) on charity withdrawals: these withdrawals are at present a form of organised donation for “free” to final recipients. The related legislation provides more support for free distribution (charity withdrawals) than for withdrawals for other destinations. A specific labelling is also foreseen to

<sup>14</sup> Included in the list of guidelines to be found at: [https://ec.europa.eu/taxation\\_customs/business/vat/vat-committee\\_en](https://ec.europa.eu/taxation_customs/business/vat/vat-committee_en); European Commission VAT Committee. Up until 6 June 2019. Guidelines resulting from meetings of the VAT committee”. [https://ec.europa.eu/taxation\\_customs/sites/taxation/files/guidelines-vat-committee-meetings\\_en.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/guidelines-vat-committee-meetings_en.pdf)



	Regulations (EEC) No. 922/72, (EEC) No. 234/79, (EC) No. 1037/2001 and (EC) No. 1234/2007	promote the source and the use of the EU funding. The priority allocation of market withdrawals is clearly that aid is given to the needy through charities and other institutions approved by Member States. Other uses of withdrawn products take place as alternatives to free distribution.
<b>Common organisation of the markets in fishery and aquaculture products</b>	Regulation (EU) No. 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products, amending Council Regulations (EC) No. 1184/2006 and (EC) No. 1224/2009 and repealing Council Regulation (EC) No. 104/2000	Art. 34(2) on compliance with common marketing standards lays down that fishery products landed, including those that do not comply with common marketing standards (such as minimum conservation reference sizes) may not be provided for direct human consumption.
<b>FEAD operational programme</b>	Regulation (EU) No. 223/2014 of the European Parliament and of the Council of 11 March 2014 on the Fund for European Aid to the Most Deprived	A FEAD operational programme may foresee the financing of food donations, whereby food is donated to a partner organisation (public body or non-profit organisation) free of charge. <ul style="list-style-type: none"> <li>• The costs 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.</li> <li>• Awareness-raising activities among potential food donors may also be supported.</li> </ul>

### 2.3 Comparative analysis among Member States (Step C)

The aim of the comparative analysis is to evaluate how Member State authorities and other stakeholders address the requirements of relevant EU legal frameworks at national level and Voluntary Agreements in their food donation practices. The analysis seeks to identify strengths and weaknesses across Member States, along with the identification of barriers and the relative effectiveness of different measures. The main findings are used to identify trends and outliers among the types of measures and Member States, highlighting any “lessons learned”. To be able to compare the Member States, three levels of maturity were identified: “mature”, “developing” and “start-up” countries, which have been subsequently used to classify Member States. It should be noted that the maturity level relates to legal frameworks relevant to food donation and redistribution only and do not reflect the maturity level of a Member State with regards to general food waste reduction and prevention. With respect to the above-mentioned classification, the following aspects were considered:

- What are the key elements used to define the classification?
- What are the criteria used in the comparative analysis to determine the classification of Member States, and why have they been chosen?
- How are the Member States assessed (mature, developing and start-up)?

The key elements used for the classification of Member States’ maturity levels are the five policy categories outlined in Table 1:

- National strategies for food redistribution;
- Fiscal incentives for food redistribution;

- Legal measures for food redistribution;
- Voluntary Agreements for food redistribution;
- Other initiatives for food redistribution.

Each category contains a number of criteria, the justification for the selection of these criteria and explanation of the criteria are presented in Table 6. The criteria are split into three levels as to their existence or absence:

- Criteria present: the criterion exists and is applied in the Member State;
- Criteria partly present: the criterion is only partly applied, or the Member State has started to consider it;
- Criteria not present: the criterion is not present in the Member State.

In total, 24 criteria are used across all the categories, with an equal weighting given to each criterion (Table 4).

**Table 4. Number of criteria per policy category**

Policy categories	Number of criteria per category
National strategies for food redistribution	4
Fiscal incentives for food redistribution	2
Legal measures for food redistribution	12
Voluntary Agreements for food redistribution	1
Other initiatives for food redistribution	5
<b>Total</b>	<b>24</b>

The analysis was conducted in two steps. First, based on the information gathered for each Member State, the implementation level for all 24 criteria was evaluated and coded (using the colour coding presented in Table 5 below).

**Table 5. Colour coding**

Criteria	Colour
Present	Green
Partly present	Yellow
Not present	Red

Subsequently, the percentages of "present" (green), "partly present" (yellow) and "not present" (red) criteria are calculated as follows: "present" (green) % = total "present" (green) score/total max score ["present" (green) + "partly present" (yellow) + "not present" (red)]x100%. Similar calculations were done for "partly present" (yellow) and "not present" (red) criteria. When information is not available for a criterion, it is excluded from the calculation. These calculations served as a basis to define the maturity level of the country. Depending on the percentage of available "present" (green), "partly present" (yellow) and "not present" (red), the maturity threshold was defined. To be able to set up a specific threshold for maturity level to define whether a Member State is considered "mature", "developing" or "start-up", the analysis of the total results has been conducted by examining the patterns of how countries scored against the criteria (see Chapter 4 for further explanations). A comprehensive table containing the comparative analysis of Member States by implementation level for each criterion can be found in the Appendix.

When the overall maturity level of the country is defined, the second step of the analysis is carried out. In this step, the analysis per policy category is carried out to assess the Member States' advancement within each of the five categories. This analysis does not change the maturity level of the country defined in the first step, but enables a picture of the extent to which a Member State is advancing, to a greater or lesser extent, in particular categories. For instance, if a country is initially classified as "developing", analysis of specific categories can reveal in which policy category the country is advancing and therefore whether it is approaching the next "maturity" level, or if it has just passed the "start-up" level. For this analysis, a 1-3-9 scoring system has been applied: a score of 1 is applied for "not present" (red), 3 for "partly present" (yellow) and 9 for "present" (green) based on a technique called Quality Function Deployment<sup>15</sup>. This scoring system creates better results than the 1-2-3 system when it comes to small differentiation between the lowest and highest scores. The calculation has been done as follows: for each policy category the maximum score has been calculated (e.g. for "National strategy" it is  $9 \times 4 = 36$ ) and for each Member State the total score per policy category is calculated. The percentage of the implementation of the policy category has been calculated as a ratio of the country score per policy category to a total maximum score of the policy category. For instance, for Belgium for policy category "National strategy", the total score of four criteria defined in this category totals 30 (three "present" criteria ( $3 \times 9$ ) and one "partly present" criteria ( $1 \times 3$ ) = 30). Thus, the implementation level of this category is  $30/36 \times 100 = 83\%$ .

**Table 6. Criteria used for the classification in the comparative analysis**

	Justification of criteria importance	Criteria present	Criteria partly present	Criteria not present
<b>"National strategies for food redistribution" criteria</b>				
<b>Presence of a national food waste strategy including food redistribution measures</b>	The presence of a national food waste strategy, including measures on food redistribution, is considered to be the baseline document to which actors can refer to understand the objectives of their particular Member State.	The Member State's food waste strategy includes concrete measures on food redistribution, which have been implemented by initiating action within the Member State.	The Member State has a national food waste strategy that addresses food redistribution measures.	The Member State either does not have a national food waste strategy that addresses food redistribution, or is developing a national strategy on food waste that does not mention food redistribution.
<b>Adoption of SDG 12.3 or more ambitious goals, driving the adoption of food redistribution to meet these targets</b>	Alignment with the SDG 12.3 or more ambitious goals ensures that the Member State's actions on food redistribution within the scope of food waste aim at a common quantifiable objective.	The Member State has adopted SDG 12.3 or a similar target within the scope of its national food waste strategy, which considers food redistribution as a food surplus management option within the scope of its target(s).	The Member State has not set any food redistribution targets within the scope of food waste reduction. However, the establishment of such targets are currently under consideration.	The Member State has not adopted any food redistribution target and its establishment is not currently foreseeable.

<sup>15</sup> Cohen, L. 1995. "Quality Function Deployment: How to Make QFD Work for You". Addison-Wesley. pp 348

	Justification of criteria importance	Criteria present	Criteria partly present	Criteria not present
<b>Availability of guidelines to facilitate and promote food donation</b>	National guidelines are useful tools for food redistribution actors and control authorities to gain knowledge on food redistribution, thus facilitating and promoting this practice.	Guidelines have been elaborated in the Member State by national authorities and/or by private sector actors to facilitate and promote food donation and to educate food redistribution actors on the needs and advantages of redistribution.	Guidelines are currently elaborated in the Member State by national authorities and/or by private sector actors to facilitate and promote food donation and to educate food redistribution actors on the needs and advantages of redistribution.	The Member State has not yet elaborated national guidelines (by national authorities and/or by private sector actors) to facilitate and promote food donation.
<b>Call to develop and strengthen relationships between food redistribution actors</b>	Encouraging food redistribution actors to take part in activities to strengthen collaboration is a key best practice within a national strategy as it fosters discussion to achieve common goals for redistribution.	The Member State places some importance on enhancing collaboration among food redistribution actors, and has set up/is in the process of setting up dedicated working groups or communication channels to harness discussion among them.	Though the Member State has not implemented any concrete measures on food redistribution as yet, such measures are currently under consideration and foreseeable in the future.	The Member State does not yet consider the development of relationships between food redistribution actors as a priority, and does not have any measures encouraging these relationships for optimised food redistribution.
<b>"Fiscal incentives for food redistribution" criteria</b>				
<b>Presence of a fiscal regime specific to food redistribution</b>	The fiscal regime* (VAT exemptions/zero-rate of VAT and/or tax deductions) may encourage the redistribution of food if fiscal incentives are perceived when donating food products.	The Member State benefits from fiscal incentives (at least one of: VAT exemption, zero rate of VAT, tax deductions), which encourage food redistribution.	<i>N/A There is no intermediate level: the Member State either has incentives or not</i>	The Member State does not have any fiscal incentives that encourage food redistribution.
<b>Presence of guidelines to clarify how to address complex fiscal regimes such as VAT and/or tax deductions</b>	The fiscal regime (VAT exemptions/zero-rate of VAT and/or tax deductions) applicable to food redistribution can be complex, and national guidelines can be a helpful tool for actors to understand	The Member State has elaborated guidelines to clarify the fiscal consequences such as VAT or tax deductions related to food redistribution.	The Member State is currently developing national guidelines to clarify fiscal consequences such as VAT or tax deductions applicable to food redistribution.	The Member State does not have guidelines clarifying the fiscal consequences for food redistribution.

	<b>Justification of criteria importance</b>	<b>Criteria present</b>	<b>Criteria partly present</b>	<b>Criteria not present</b>
	how to consider and apply the regime.			
<b>“Legal measures for food redistribution” criteria</b>				
<i>General legal framework on food redistribution</i>				
<b>Presence of a legal framework specific to food redistribution, in addition to EU rules</b>	The establishment of a legal framework specific to food redistribution can make it easier for the concerned food redistribution actors to identify the procedures relevant to their activity.	The Member State has a food redistribution-specific legal framework, which facilitates the understanding of the context for food redistribution actors.	The Member State is in the process of developing legislation to define a legal framework specific to food redistribution.	The Member State does not have a clear legal framework specific to food redistribution.
<b>Presence of the food use hierarchy</b>	The presence of the food use hierarchy in national rules sends a clear message to food redistribution actors that the preferential valorisation route for food surplus begins with food redistribution to individuals.	The Member State has implemented the food use hierarchy (prioritising food redistribution), within national rules.	The Member State has not yet formally implemented the food use hierarchy, though it is foreseeable in the future.	The Member State does not include or make reference to the food use hierarchy within its legal framework or guidelines.
<i>Traceability requirements applicable to food redistribution</i>				
<b>Presence of a clear traceability regime for food redistribution</b>	The establishment of a traceability regime specific to food redistribution (in addition to EU General Food Law) makes it easier for the concerned food redistribution actors to identify the procedures relevant to their activity.	The Member State clearly defines the traceability requirements for actors of food redistribution within its national law specific to food redistribution.	The Member State is in the process of developing legislation to define the traceability regime specific to food redistribution.	While EU General Food Law traceability measures (applied to food redistribution) are applied, no specific national measures on traceability within the scope of food redistribution exist.
<b>Presence of guidelines that clarify the traceability regime for food redistribution</b>	National guidelines on traceability in the context of food redistribution are useful tools for food redistribution actors to identify and understand the procedures relevant to their activity.	The Member State has guidance documents to simplify the application of food redistribution traceability measures, in line with the EU General Food Law.	The Member State is in the process of developing guidelines to simplify the application of food redistribution traceability measures, in line with the EU General Food Law.	The Member State does not have any guidelines explaining how to apply the traceability requirements applicable for food redistribution, in line with the EU General Food Law.

	Justification of criteria importance	Criteria present	Criteria partly present	Criteria not present
<i>Primary responsibility and liability rules for food redistribution</i>				
<b>Presence of clear primary responsibility and liability rules for food redistribution</b>	The establishment of legal provisions at national level on primary responsibility and liability for food redistribution (in addition to EU General Food Law) sets clear legal obligations for food redistribution actors to ensure compliance with all requirements of food law established both at EU and national level for the operations under their control.	The Member State adopted legal provisions at national level that set out a primary responsibility and liability of food redistribution actors for food redistribution.	The Member State is in the process of developing legislation that sets out a primary responsibility and liability of food redistribution actors to ensure compliance with all requirements of food law established both at EU and national level for the operation under their control.	While EU General Food Law is applied, no legal provisions on responsibility and liability exist at national level for food redistribution.
<b>Presence of guidelines that clarify primary responsibility and liability rules for food redistribution</b>	National guidelines on responsibility and liability rules specific to food redistribution are useful tools for food redistribution actors to identify and understand the procedures relevant to their activity.	The Member State has guidance documents to clarify responsibility and liability rules specific to food redistribution, in line with the EU General Food Law.	The Member State is in the process of developing guidelines to simplify the application of the food redistribution primary responsibility and liability rules specific to food redistribution, in line with the EU General Food Law.	The Member State does not have any guidelines explaining the responsibility and liability rules specific to food redistribution, in line with EU rules.
<i>Hygiene rules applicable to food redistribution</i>				
<b>Presence of national laws in addition to EU rules to simplify hygiene requirements for food redistribution</b>	The presence of national laws to simplify the hygiene requirements for food redistribution make it easier for the concerned food redistribution actors to identify the procedures relevant to their activity.	The Member State has national laws specific to hygiene requirements for food redistribution.	The Member State is in the process of developing laws specific to hygiene requirements for food redistribution.	The Member State does not have any national laws specific to hygiene requirements within the scope of food redistribution.
<b>Presence of national guidelines explaining hygiene requirements for food redistribution,</b>	National guidelines on hygiene in the context of food redistribution are useful tools for food redistribution actors to identify and understand the procedures relevant to their activity.	The Member State has guidelines available to food redistribution actors that clarify the EU law and/or national law on hygiene	The Member State is in the process of developing guidelines specific to hygiene requirements for food redistribution.	The Member State does not have any guidelines specific to hygiene requirements within the scope of food redistribution.

	Justification of criteria importance	Criteria present	Criteria partly present	Criteria not present
<b>clarifying EU rules and making them easier to understand for relevant actors</b>		requirements for food redistribution.		
<i>Food information to consumers – rules applicable to food redistribution</i>				
<b>Donation requirements in line with EU recommendation on “best before” dates</b>	EU rules allow the redistribution of products after the “best before” date, which is intended to increase the shelf life of edible products and the amount of redistributed food.	The Member State allows the redistribution of food that has passed the “best before” date and is in line with the EU recommendation that supports it.	<i>N/A There is no intermediate level: the Member State either allows the donation of food after the “best before” date, or does not.</i>	The Member State only allows the donation of food before the “best before” date.
<b>Presence of national guidelines on “best before” dates</b>	The development of national guidance documents specifically aimed at food redistribution actors can help clarify practical aspects regarding date labelling and donation.	The Member State has guidelines that specifically address date labelling requirements for food redistribution.	The Member State is in the process of developing national guidelines specific to date labelling requirements for food redistribution.	The Member State does not have guidelines that specifically address date labelling requirements for food redistribution.
<b>Presence of laws targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)</b>	The presence of national laws to simplify the language and labelling requirements for food redistribution make it easier for actors to identify the procedures relevant to their activity.	The Member State has national laws specific to food redistribution that include specifications concerning language and labelling requirements.	The Member State is in the process of developing national legislation specific to food redistribution, which will include specifications concerning language and labelling requirements.	The Member State does not have specific laws clarifying the language and labelling requirements for food redistribution.



	Justification of criteria importance	Criteria present	Criteria partly present	Criteria not present
<b>Presence of national guidelines targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)</b>	National guidelines on language and labelling in the context of food redistribution are useful tools for food redistribution actors to identify and understand the procedures relevant to their activity.	The Member State has national guidelines specific to food redistribution that include specifications concerning language and labelling requirements.	The Member State is in the process of developing national guidelines specific to food redistribution, which will include specifications concerning language and labelling requirements.	The Member State does not have specific guidelines clarifying the language and labelling requirements for food redistribution.
<b>“Voluntary Agreements for food redistribution” criteria</b>				
<b>Presence of a Voluntary Agreement that addresses all five pillars* of the EU REFRESH Blueprint with regard to food donation</b>	Voluntary Agreements considering food redistribution are useful tools to bring actors together to collaborate on achieving common goals.	The Member State has set up a Voluntary Agreement addressing the five pillars of the EU REFRESH Blueprint (considering food redistribution).	The Member State is considering the establishment of a Voluntary Agreement with a component on food redistribution.	The Member State has not yet launched a Voluntary Agreement for food redistribution.
	* <i>The Blueprint was developed within the scope of the H2020 EU research project. The Blueprint is a roadmap designed for policy makers on how to set up Voluntary Agreements within any Member State’s context. Its five pillars, which are essential to the make-up of a successful Voluntary Agreement, are the following: <b>initiation and set-up</b> (what organisation leads the agreement?), <b>ambition</b> (what kind of targets does the Voluntary Agreement align with?), <b>governance and funding</b> (how is the Voluntary Agreement funded?), <b>establishing actions</b> (what is the timeline to carry out actions?) and <b>measurement and evaluation</b> (how will data on progress be collected?).</i>			
<b>“Other initiatives for food redistribution” criteria</b>				
<b>Use of the FEAD operational programme to support the redistribution of food</b>	The use of the FEAD programme’s funds to support food redistribution actors is considered as a driver of food redistribution, as these actors often	The Member State uses funds from the FEAD operational programme to finance food redistribution, by allocating funds to finance the logistic	N/A <i>There is no intermediate level: either the FEAD funds support the redistribution of food or they do not.</i>	The Member State does not use funds from the FEAD operational programme to support the redistribution of food.



	Justification of criteria importance	Criteria present	Criteria partly present	Criteria not present
	have limited sources of funding.	costs (collection, storage and distribution) of redistribution actors.		
<b>Presence of measures encouraging the redistribution of fruits and vegetables withdrawn from the market, in line with Regulation (EU) 1308/2013</b>	The presence of measures encouraging the redistribution of withdrawn fruits and vegetables that would otherwise be discarded is considered as a driver of food redistribution.	The Member State has implemented market withdrawal measures, and may use withdrawn fruits and vegetables for redistribution.	<i>N/A There is no intermediate level: either the Member State encourages the redistribution of withdrawn fruits and vegetables or it does not.</i>	In the event of market withdrawal, the Member State does not send the withdrawn fruits and vegetables for redistribution.
<b>Publication of studies/research related to food redistribution</b>	The publication of studies or research conducted by the public or private sector can shed light on barriers or drivers of redistribution, which can provide evidence to potentially feed into policy on food redistribution.	The Member State has conducted studies/engaged in research activities on food redistribution.	The Member State has initiated studies and/or research activities related to food redistribution, though they are not finalised.	The Member State has seldom or never conducted studies or research activities on food redistribution.
<b>Presence of financial or logistical support for food redistribution at the national/regional/local level</b>	Governmental support provided to food banks and other entities is useful to help them develop their activities, as they are often limited in terms of funding.	The Member State has government-backed or regional financial support/funds to help drive food redistribution.	The Member State is in the process of granting government-backed or regional financial support/funds to help drive food redistribution.	The Member State has not yet initiated financial or logistical support for food redistribution.
<b>Absence of incentives for the valorisation of food surplus via anaerobic digestion, which may otherwise</b>	While sending food surplus towards redistribution is, according to the food use hierarchy, the priority valorisation route after prevention, the use of surplus food for anaerobic digestion is a solution that helps	The Member State does not provide fiscal incentives for sending food surplus for anaerobic digestion, thus having a neutral effect on food redistribution.	<i>N/A There is no intermediate level: the Member State either supports or does not support sending food surplus towards anaerobic digestion with fiscal incentives.</i>	The Member State benefits from fiscal incentives for anaerobic digestion, a disincentive for food redistribution.

	<b>Justification of criteria importance</b>	<b>Criteria present</b>	<b>Criteria partly present</b>	<b>Criteria not present</b>
<b>hinder redistribution if the incentives for anaerobic digestion favour this recovery route over redistribution</b>	lower food waste levels. However, the two routes may compete if the fiscal incentives for anaerobic digestion favour this recovery route over redistribution.			
* The criteria take into account the presence/absence of any fiscal incentive encouraging food redistribution, however the analysis in Chapter 4 makes a distinction between different types of fiscal incentives used in different Member States.				

## 2.4 Reporting of findings (Step D)

This report is structured as follows: Chapter 3 presents, for each Member State, an overview and analysis of all the relevant measures and their level of implementation, according to the outcomes of the mapping exercise outlined in Table 2 (section 2.2. of this report). Chapter 4 provides a comparative analysis of countries based on their maturity levels and outlines any important lessons learned. Chapter 5 draws the main conclusions and sets out the study recommendations.

The main report contains an appendix; furthermore, a number of stand-alone annex documents are also available, including:

- 1) Appendix **Comparative analysis of the existing policy on food redistribution** and levels of implementation within Member States (as of November 2019). Presented in the form of a comprehensive table that provides an overview of all policy measures considered in this study, with detailed information on the level of implementation of each criterion for each Member State (using colour coding);
- 2) Annex I **Overview of EU policies' influence on food redistribution per Member State.** This is presented in a table that gives an overview of the main EU policies influencing food redistribution and the way these policies are implemented at Member State levels;
- 3) Annex II **Country interview questionnaire.** The interview guide that was provided to country experts for the scoping interviews;
- 4) Annex III Redistribution of surplus food: Examples of practices in the Member States;
- 5) Annex IV Compilation of Member States guidelines on food donation;
- 6) Annex V List of guidelines translated into English.

It should be noted that the policies outlined within this document focus on national, regional and/or local policies that include specific mentions of food redistribution within their scope (e.g. food redistribution objectives within a national strategy of food waste), whether or not this forms the entire focus of the measure. It is understood that, as a baseline, EU legislation is implemented within all countries unless otherwise specified.

The analysis covers the 27 EU Member States and the United Kingdom (UK) since the UK was still a Member of the EU during the period covered by the report (2018-2019)<sup>16</sup>. It should be noted that when the document refers to EU Member States in the presentation of the results, these include the UK.

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<sup>16</sup> The UK withdrew from the EU and became a third country as of 1 February 2020.

### **3 Mapping of current policy in EU Member States: overview of current and foreseen regulatory and policy measures**

This chapter provides an overview of the existing measures and initiatives to support food redistribution in each Member State.

Information gathered through the literature review and scoping interviews has been structured by policy area to provide a comprehensive mapping for each Member State and specifically focusing on:

- National strategies;
- Fiscal incentives;
- Legal measures (traceability, responsibility and liability rules, hygiene rules, information for consumers);
- Voluntary Agreements;
- Communication initiatives;
- Other initiatives for food redistribution.

At the end of each sub-section, a table provides an overview of the status of the policy area in the Member State.

Chapter 4 of this report provides a comparative analysis between Member States, based on the information provided in this chapter.

## 3.1 Austria

### 3.1.1 National strategies for food redistribution

In 2011, the Federal Ministry for Agriculture, Forestry, Environment and Water Management launched the **2011 Federal Waste Prevention Program** (*Abfallvermeidungsprogramm 2011, published as part of the Federal Waste Management Plan 2011*)<sup>17</sup>. This Plan aimed in part to reduce food waste in Austria and specifically identified food redistribution as a key solution to tackle 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 of liability during redistribution to social organisations<sup>18</sup>.

The effectiveness of the 2011 measures proposed for implementation were evaluated within the **2017 Federal Waste Prevention Program** (*Abfallvermeidungsprogramm 2017, published as part of the Federal Waste Management Plan 2017*)<sup>19</sup>. Below is a list of the original measures outlined in the 2011 Plan along with the feedback from the 2017 evaluation:

- 2011 measure: Collection of best-practice examples of the economy and publication via brochures or internet platforms.
  - 2017 evaluation: Although a brochure was published, best-practice examples of food waste prevention specifically for food manufacturing companies were not completed due to the difficulty in collecting measures from such a wide range of branches and activities.
- 2011 measure: Development of incentives for companies to motivate them to redistribute food.
  - 2017 evaluation: Redistribution incentives for companies were developed and positively received, in part thanks to the marketing impact created by the Ministry award, named the Viktualia Award. By the end of the 2011 Plan, the majority of food redistribution was carried out by the retail sector, which positively strengthened its cooperation with social organisations<sup>20</sup>.
- 2011 measure: Clarification of legal aspects regarding liability in case of food redistribution to social organisations and the clarification of the term "waste" in the case of redistribution of edible food.
- 2017 evaluation: A set of guidelines were written to clarify the most important questions on liability.
- 2011 measure: Harmonization of legal conditions for the food redistribution in the provinces.
  - 2017 evaluation: Not achieved by the end of the 2011 Plan.
- 2011 measure: Development of guidelines for food redistribution to social organisations.
  - 2017 evaluation: Not achieved by the end of the 2011 Plan.
- 2011 measure: Development of a quality standard (e.g. certificate, quality label) for social organisations which distribute food (still in discussion).
  - 2017 evaluation: Not achieved by the end of the 2011 Plan.
- 2011 measure: Regular training courses on handling foodstuffs for employees of welfare organisations
  - 2017 evaluation: ongoing.

Through the evaluation of the 2011 Program, the Ministry was able to build from its initial objectives and measures in order to re-evaluate and restate the country's objectives within the 2017 Waste

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<sup>17</sup> Federal Ministry of Agriculture, Forestry, Environment and Water Management, renamed in Federal Ministry for Sustainability and Tourism. 2011. "Federal Waste Management Plan 2011" (Bundesabfallwirtschaftsplan 2011). Vienna.

<sup>18</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>19</sup> Federal Ministry of Sustainability and Tourism. 2017. "Federal Waste Management Plan 2017". <https://www.bmnt.gv.at/umwelt/abfall-ressourcen/bundes-abfallwirtschaftsplan/BAWP2017-Final.html>.

<sup>20</sup> Federal Ministry of Sustainability and Tourism. 2017. "Federal Waste Management Plan 2017". <https://www.bmnt.gv.at/umwelt/abfall-ressourcen/bundes-abfallwirtschaftsplan/BAWP2017-Final.html>.

Prevention Program. This Plan's long-term objective set out to reduce avoidable food waste in Austria across the entire supply chain.

Furthermore, the Plan is aligned with the UN's 2030 Sustainable Development Goal 12.3, which sets out to halve avoidable food waste by 2030<sup>21</sup>. Similarly to its predecessor, the 2017 Plan established food redistribution as a key priority to reduce food waste, but this time with the SDG's 50% reduction target as an objective. The following measures contribute to ensuring that food products which cannot be sold have the potential to be redistributed to food banks or to social markets and are included within this Plan's "food waste prevention" objectives and its "charity organisations" sub-objectives:

- Relaunch of the "Viktualia Award", awarded to companies with notable food waste reduction measures;
- Update of the guideline "Passing on foodstuffs to charity organisations" on the basis of experience and considering the modified framework conditions;
- Certification marks for commercial enterprises which redistribute food items;
- Preparation of a quality standard for charity organisations which redistribute food items;
- Regular training courses on handling food products for employees of charity organisations;
- Establishment of a joint planning platform for the participating charity organisations;
- Support with expansion of the charity organisations' storage and cooling infrastructures;
- Ascertainment of the quantity of foodstuffs passed on;
- Acknowledgement of the quantity of foodstuffs passed on.

The so called "big picture" objective of food redistribution aims at reducing resource consumption and waste treatment costs. Thanks to the detailed measures on food redistribution which were redefined after the evaluation of the 2011 Program, the new Plan has greater potential to foster food redistribution than its predecessor<sup>22</sup>. More generally, the Ministry of Sustainability and Tourism encourages the use of the food use hierarchy.

The Guideline for food redistribution - cooperation between companies of the consumer goods sector and social organisations in line with sustainability<sup>23</sup>, issued by ECR Austria in 2011, defines the general framework around food redistribution in Austria, and was written to consolidate the partnerships between donors and social institutions. The Guideline lists the aspects which define a food product's eligibility for redistribution, and these aspects are implemented in different manners by the various institutions involved in redistribution. The following products are generally deemed unacceptable:

- Alcohol and cigarettes;
- Products that are unfit for consumption and which represent a danger to human health;
- Products which must be disposed of due to an interruption in the cooling/freezing chain.

The document also provides a range of recommendations for donors and charity organisations to overcome any barriers of food redistribution. As such, the document suggests the following: "To ensure a fair and long-lasting cooperation, we recommend that you go through the above criteria with your partner and discuss them. Keep a written record of all agreements". This document therefore proposes an action plan to companies and charity organisations in order to consolidate

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<sup>21</sup> Federal Ministry of Sustainability and Tourism. 2017. "Federal Waste Prevention Program 2017". <https://www.bmnt.gv.at/umwelt/abfall-ressourcen/bundes-abfallwirtschaftsplan/BAWP2017-Final.html>.

<sup>22</sup> Federal Ministry of Sustainability and Tourism. 2017. "Federal Waste Prevention Program 2017". <https://www.bmnt.gv.at/umwelt/abfall-ressourcen/bundes-abfallwirtschaftsplan/BAWP2017-Final.html>.

<sup>23</sup> Meissner, Markus and Schneider, Felicitas. 2011. "FINAL REPORT - Results of the ECR Austria Working Group 'Social Sustainability'". Österreichisches Ökologieinstitut. Universität für Bodenkultur Wien. Vienna: ECR Austria.

their existing partnerships; and to provide solid criteria and principles for food redistribution. It also facilitates the establishment of new partnerships<sup>24</sup>.

In 2018 the Platform for food retail fostering redistribution and preventing food waste was launched to save more food suitable for human consumption from going to waste in the retail sector, and to strengthen the supply of non-marketable food to social organisations. The platform was founded by the Tafeln (the umbrella organisation of the Austrian food banks) and food retailers. It gathers the largest Austrian retail companies (REWE International AG, SPAR Österreich, HOFER, LIDL Österreich) and the Austrian food bank association, and is open to any other actor. It fosters the exchange of best practices, experiences from the ground, and challenges and opportunities around food waste prevention and food redistribution<sup>25 26</sup>.

**Table 7 Evaluation of the Member State’s policy in terms of “National strategies for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a national food waste strategy including food redistribution measures	x			
Adoption of SDG 12.3 or more ambitious goals, driving the adoption of food redistribution to meet these targets	x			
Availability of guidelines to facilitate and promote food donation	x			
Call to develop and strengthen relationships between food redistribution actors	x			

**3.1.2 Fiscal incentives for food redistribution**

The 1994 Federal Law on VAT (*Umsatzsteuergesetz*)<sup>27</sup> defines the VAT rate for donated food. However, it is not clear whether VAT needs to be paid for donated food in Austria, and no piece of legislation clearly lays out the situation in respect to redistribution. Food redistribution stakeholders would like to raise the issue at the Ministerial level, in order to harmonise the strategies used by several redistributing companies. The largest retail chains in Austria allocate donated food to “broken and depreciated goods” for which no VAT applies.

The absence of clarity on the VAT situation in Austria has not been reported as a hurdle to redistribution. Redistributing their surplus food prevents companies from paying the costs of collection and recycling that they would have encountered otherwise<sup>28</sup>.

<sup>24</sup> Meissner, Markus and Schneider, Felicitas. 2011. "FINAL REPORT - Results of the ECR Austria Working Group 'Social Sustainability'". Österreichisches Ökologieinstitut. Universität für Bodenkultur Wien. Vienna: ECR Austria.  
<sup>25</sup> Federal Ministry of Sustainability and Tourism. 2018. " Action platform food retail" (Aktionsplattform Lebensmittelhandel). BMNT Bundesministerium für Nachhaltigkeit und Tourismus. [https://www.bmnt.gv.at/land/lebensmittel/kostbare\\_lebensmittel/Lebensmittel-sind-kostbar-Aktionsplattform.html](https://www.bmnt.gv.at/land/lebensmittel/kostbare_lebensmittel/Lebensmittel-sind-kostbar-Aktionsplattform.html).  
<sup>26</sup> Information from the EU Platform on Food Losses and Food Waste. 2018  
<sup>27</sup> UStG. 1994. " VAT Act 1994" (Bundesgesetz über die Besteuerung der Umsätze (Umsatzsteuergesetz 1994 - UStG 1994).  
<sup>28</sup> Interview with the Austrian Federal Food Bank Association. 30 June 2018.

Food donors may receive tax deductions on their donations. Financial and material donations up to 10% of a company's revenue are deductible from the taxable income as operating expenses<sup>29</sup>. Retail companies generally account donated food as "spoilage", which is therefore depreciated<sup>30</sup>. According to social organisations, companies make use of the tax deduction differently, but there is no proof that companies actually deduct the tax from redistributed food. Clearer rules on the deductibility of donations are needed; for which, the Austrian Federal Food Bank Association has highlighted good examples that exist for the deductibility of donations abroad<sup>31</sup>.

**Table 8 Evaluation of the Member State's policy in terms of "Fiscal incentives for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a fiscal regime specific to food redistribution			x	
Presence of guidelines to clarify how to address complex fiscal regimes such as VAT and/or tax deductions			x	

### 3.1.3 Legal measures for food redistribution

#### 3.1.3.1 General legal framework on food redistribution

The Ministry of Sustainability and Tourism encourages the use of the food use hierarchy, though it is not enshrined in legal texts.

In Austria, a social organisation, which receives and redistributes food provided by businesses to other social organisations or directly to individuals, is considered as a food business operator, independently of having received the food free of charge or not. Austria considers redistribution as a prolongation of the food supply chain. 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 food business operator. It is worth noting that activities of the Austrian food banks range from collection, sorting, storage, processing and distribution<sup>32</sup>.

**Table 9 Evaluation of the Member State's policy in terms of "General legal framework on food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a legal framework specific to food redistribution, in addition to EU rules			x	
Presence of the food use hierarchy		x		

<sup>29</sup> BMF. 2018. "The deductibility of donations" (Spendenabsetzbarkeit). <https://www.bmf.gv.at/kampagnen/spendenservice.html>.

<sup>30</sup> Lebersorger, Sandra and Schneider, Felicitas. 2014. " Food losses in the Austrian retail" (Aufkommen an Lebensmittelverderb im österreichischen Lebensmittelhandel). University of Natural Resources and Life Sciences BOKU Vienna.

<sup>31</sup> Interview with the Austrian Federal Food Bank Association. 30 June 2018.

<sup>32</sup> Information from the EU Platform on Food Losses and Food Waste. 2018





### 3.1.3.2 Traceability requirements applicable to food redistribution

**Table 10 Evaluation of the Member State’s policy in terms of “Traceability requirements applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a clear traceability regime for food redistribution	x <sup>33</sup>			
Presence of guidelines which clarify the traceability regime for food redistribution	x <sup>34</sup>			

### 3.1.3.3 Primary responsibility and liability rules for food redistribution

Primary responsibility for a product is defined in the **Product Liability Law (Produkthaftungsgesetz)**<sup>35</sup> of 1988. The company which produces or imports a product is liable for any harm that occurs. If the producer or importer cannot be determined, the distributing company, and in the case of food redistribution, the social organisation is liable<sup>36</sup>. The organisation/company/person who redistributes is liable, independently of the redistribution taking place free of charge or not<sup>37</sup>. Furthermore, according to the **Austrian General Civil Code (Allgemeines Bürgerliches Gesetzbuch (ABGB))**<sup>38</sup>, there are no warranty obligations for a company which donates food to social organisations free of charge. This is different to the distribution of food from social organisations to consumers, which is usually done in exchange of a small payment. In this latter case, the products need to have agreed upon characteristics<sup>39</sup>.

To help redistribution organisations and donors understand the legal aspects regarding redistribution, the Federal Ministry of Agriculture, Forestry, Environment and Water Management issued a **“Guideline for food redistribution to social organisations - legal aspects”**<sup>40</sup> in 2015. According to this document, the responsibility for food safety lies with the food company which redistributes food. Food safety is an essential term in this context, and each company ensures it through internal measures. Charity organisations are treated as any other food retailers in this respect, and must therefore comply with all food legislation. 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<sup>41</sup>. All provisions of the Austrian food legislation mentioned

<sup>33</sup> Absence/presence of the criteria is based on the information provided by the competent authority of the Member State during the consultation on the report.

<sup>34</sup> Absence/presence of the criteria is based on the information provided by the competent authority of the Member State during the consultation on the report.

<sup>35</sup> Produkthaftungsgesetz. 1988. “Product Liability Law” (Bundesgesetz vom 21. Jänner 1988 über die Haftung für ein fehlerhaftes Produkt (Produkthaftungsgesetz)). StF: BGBl. Nr. 99/1988. Austrian Government.; Horak, Eva. 2018. Staff at Federal Ministry of Sustainability and Tourism. Department of waste prevention, waste distribution and waste evaluation. Telephone interview.

<sup>36</sup> Schneider, Felicitas. 2015. “Guideline for food redistribution to social organisations - legal aspects” (Leitfaden für die Weitergabe von Lebensmitteln an soziale Einrichtungen). 2nd edition (1st edition in 2011). Institute of Waste Management. University of Natural Resources and Life Sciences BOKU Vienna.

<sup>37</sup> Interview with a member of the Federal Ministry of Sustainability and Tourism. Department of waste prevention, waste distribution and waste evaluation. 2018.

<sup>38</sup> ABGB. 1811. “Austrian General Civil Code” (Allgemeines bürgerliches Gesetzbuch für die gesammten deutschen Erbländer der Oesterreichischen Monarchie) StF: JGS Nr. 946/1811. Austrian Government.

<sup>39</sup> Schneider, Felicitas. 2015. “Guideline for food redistribution to social organisations - legal aspects” (Leitfaden für die Weitergabe von Lebensmitteln an soziale Einrichtungen). 2nd edition (1st edition in 2011). Institute of Waste Management. University of Natural Resources and Life Sciences BOKU Vienna.

<sup>40</sup> Schneider, Felicitas. 2015. “Guideline for food redistribution to social organisations - legal aspects” (Leitfaden für die Weitergabe von Lebensmitteln an soziale Einrichtungen). 2nd edition (1st edition in 2011). Institute of Waste Management. University of Natural Resources and Life Sciences BOKU Vienna.

<sup>41</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

above, especially those concerning food safety, apply without restrictions for the redistribution of food.

The “**Guideline for food redistribution to social organisations - legal aspects**” gives information on the food products acceptable for redistribution. It is widely used by food banks and the federal food bank association. However, these actors think that an update of the guideline is necessary regarding frozen food and prepared food for instance, and suggest an improvement in relation to product primary responsibility, based on the Italian Good Samaritan Law. There is also an open discussion among actors concerning the practical implementation of requirements for non-profit organisations, on product responsibility and liability in the case of further sale, labelling of goods which have passed the “best before” date, traceability and food safety and hygiene<sup>42</sup>.

**Table 11 Evaluation of the Member State’s policy in terms of “Primary responsibility and liability rules for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of clear primary responsibility and liability rules for food redistribution	x			
Presence of guidelines which clarify the primary responsibility and liability rules for food redistribution	x			

### 3.1.3.4 Hygiene rules applicable to food redistribution

In Austria, the **Food Safety and Consumer Protection Act** (*Lebensmittelsicherheits- und Verbraucherschutzgesetz – LMSVG*)<sup>43</sup> of 2006 governs the handling of food, in line with the General Food Law. A social organisation which deals with food redistribution is a food company by law, therefore they must comply with the Food safety and consumer protection law<sup>44</sup>. This is neither a hurdle nor a driver to redistribution.

Several guidelines with regard to food hygiene have been developed in the frame of the Codex Alimentarius Austriacus which are also relevant for food redistribution:

- Hygiene guidelines for industrial kitchens, healthcare facility kitchens and similar public catering facilities<sup>27</sup>
- Guidance for caterer<sup>28</sup>.
- 

In direct relation to food redistribution, the “Guideline for food redistribution to social organisations - legal aspects” provides a reminder that personnel working in social organisations that deal with redistributed food have to apply the same hygiene requirements as all food companies, of which practical recommendations are listed in the “Hygienic holdings for bread and pastry for self-service”.

<sup>42</sup> Interview with the Austrian Federal Food Bank Association. 30 June 2018.

<sup>43</sup> Austrian Government. LMSVG. 2006. "Food Safety and Consumer Protection Act" (Bundesgesetz über Sicherheitsanforderungen und weitere Anforderungen an Lebensmittel, Gebrauchsgegenstände und kosmetische Mittel zum Schutz der Verbraucherinnen und Verbraucher (Lebensmittelsicherheits- und Verbraucherschutzgesetz - LMSVG)).

<sup>44</sup> Schneider, Felicitas. 2015. "Guideline for food redistribution to social organisations - legal aspects" (Leitfaden für die Weitergabe von Lebensmitteln an soziale Einrichtungen). 2nd edition (1st edition in 2011). Institute of Waste Management. University of Natural Resources and Life Sciences BOKU Vienna.

To ensure the safe redistribution of bread, the product must be stored, transported and offered in such a way that consumers cannot contaminate it<sup>45 46</sup>.

**Table 12 Evaluation of the Member State’s policy in terms of “Hygiene rules applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of national laws in addition to EU rules to simplify hygiene requirements for food redistribution			x	
Presence of national guidelines explaining hygiene requirements for food redistribution, clarifying EU rules and making them easier to understand for relevant actors	x			

### 3.1.3.5 Food information to consumers applicable to food redistribution

The “Guideline for food redistribution - cooperation between companies of the consumer goods sector and social organisations in line with sustainability” highlights the rules for food produced abroad. Food for which the required information (including list of ingredients, net quantity) is not written in a language understandable by consumers cannot be sold on the market<sup>47</sup>. 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. Food information in Austria must be given in German<sup>48</sup>.

With respect to date marking, clients need to be informed if a product is close to its “best before” date or if it has passed it. In the case of a damaged product, it is often up to the social organisation to decide whether or not to redistribute it<sup>49</sup>. Some organisations accept products after their “best before” date, while others do not. Products after the “use by” date are generally not redistributed and cannot be sold in commercial retail. The Viennese food bank, together with the Viennese authority for food control analysis, developed a document laying down rules on how to handle products after the “best before” date: the **“Is that still good?” document** (*Ist das noch gut?*)<sup>50</sup>. Several food redistribution organisations use this brochure as a guideline.

<sup>45</sup> Schneider, Felicitas. 2015. "Guideline for food redistribution to social organisations - legal aspects" (Leitfaden für die Weitergabe von Lebensmitteln an soziale Einrichtungen). 2nd edition (1st edition in 2011). Institute of Waste Management. University of Natural Resources and Life Sciences BOKU Vienna.

<sup>46</sup> Federal Ministry of Women and Health. 2017b. "Hygienic holdings for bread and pastry for self-service" (Hygienisches Feilhalten von Brot und Gebäck zur Selbstbedienung (SB-Spender). Österreichisches Lebensmittelbuch. IV. Auflage Codexkapitel A2 Hygiene. BMGF Bundesministerium für Frauen und Gesundheit. BMGF-75220/0009-IV/B/7/2007 vom 10.4.2007.

<sup>47</sup> Meissner, Markus and Schneider, Felicitas. 2011. "FINAL REPORT - Results of the ECR Austria Working Group 'Social Sustainability'". Österreichisches Ökologieinstitut. Universität für Bodenkultur Wien. Vienna: ECR Austria.

<sup>48</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>49</sup> Schneider, Felicitas. 2015. "Guideline for food redistribution to social organisations - legal aspects" (Leitfaden für die Weitergabe von Lebensmitteln an soziale Einrichtungen). 2nd edition (1st edition in 2011). Institute of Waste Management. University of Natural Resources and Life Sciences BOKU Vienna.

<sup>50</sup> Wiener Tafel. "Is that still good?" guidelines document (Ist das noch gut?). [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 Austrian Agency for Health and Food Safety Ltd. (AGES) also published information on the topic, in its **“Information on the best before date”** (*Mindesthaltbarkeitsdatum*).<sup>51</sup> A product is generally still edible after its “best before” date, though it is difficult to estimate the length of time during which it can still be consumed, as it depends on the product category and on its storage conditions. According to the AGES, if the product is roughly tested on its colour, smell and appearance, and if the “best before” date is not widely exceeded, there is no reason why this product shall not be eaten.

In Austria, while distribution 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 from 2014). On the specific topic of eggs, they cannot be redistributed after their “sell by” date (21 days between laying the egg and sold to end-consumer), but they may be used, e.g. cooked<sup>52</sup>. As mentioned above, the “Guideline for food redistribution to social organisations - legal aspects” has been widely adopted by all actors involved in food redistribution, though they suggest some amendments to be made. For instance, a central area for improvement is linked to the practical implementation of product liability and primary responsibility requirements for non-profit organisations such as food banks. Elsewhere, the requirements linked to frozen foods have also been identified as requiring some adjustments.

**Table 13 Evaluation of the Member State’s policy in terms of “Food information to consumers applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Donation requirements in line with EU recommendation on “best before” dates	x			
Presence of national guidelines on “best before” dates	x			
Presence of laws targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)			x	
Presence of national guidelines targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)			x	

<sup>51</sup> AGES. 2018. “Best before date” (Mindesthaltbarkeitsdatum). <https://www.ages.at/en/topics/food/shelf-life/mindesthaltbarkeitsdatum/>.

<sup>52</sup> Schneider Felicitas. 2015. “Guideline for food redistribution to social organisations - legal aspects” (Leitfaden für die Weitergabe von Lebensmitteln an soziale Einrichtungen). 2nd edition (1st edition in 2011). Institute of Waste Management. University of Natural Resources and Life Sciences BOKU Vienna.

### 3.1.4 Voluntary Agreements for food redistribution

In 2017, in collaboration with several Austrian food businesses and small-scale retailers, the Federal Ministry of Agriculture and Forestry, Environment and Water Management<sup>53</sup> signed a voluntary agreement (2017-2030) to prevent food waste in food companies. Food companies that are signatories to the agreement have to fulfil several obligations, such as:

- cooperating with social institutions and redistribution organisations, or passing on food via other organisations, whereby the coverage of the branches of the food companies must reach 80%;
- the topic "Reduction of food waste" must be integrated into the regular training of employees;
- companies with more than 4 business locations/branches have to record and report the amount of food that cannot be purchased by the consumer but is still fit for human consumption or 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 (e.g. 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 5 must be implemented<sup>54</sup>.

**Table 14 Evaluation of the Member State's policy in terms of "Voluntary Agreements for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a Voluntary Agreement which addresses all 5 pillars of the EU REFRESH blueprint in regard to food donation		x		

### 3.1.5 Communication initiatives for food redistribution

There are ongoing initiatives at regional and level, for instance in Vienna (Neuer Leitfaden "Das is(s)t es mir wert")<sup>55</sup>.

### 3.1.6 Other initiatives for food redistribution

Ministerial involvement in food redistribution remains strong, and the Federal Ministry of Sustainability and Tourism, Forestry, Environment and Water management<sup>56</sup> issued a study on "**Food redistribution in Austria: An active support for waste prevention**" in 2015<sup>57</sup>. The study draws

<sup>53</sup> Renamed in Federal Ministry for Sustainability and Tourism.

<sup>54</sup> Information from the *EU Platform on Food Losses and Food Waste*. 2018; see also, Bundesministerium Nachhaltigkeit und Tourismus. 2018. Vereinbarung 2017–2030 zur Vermeidung von Lebensmittelabfällen bei Lebensmittelunternehmen - Bericht 2018 (2017-2030 Voluntary Agreement to Prevent Food Waste from Food Companies - Report 2018).

[https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=2ahUKewio5IDy5\\_HiAhXhmFwKHWhcAWIQFjAAegQIARAC&url=https%3A%2F%2Fwww.bmnt.gv.at%2Fdam%2Fjcr%3A253a83f4-67c2-407d-a88a-72dc560b9e51%2FBMNT\\_Broschuere\\_Wir\\_rennen\\_Lebensmittel\\_PK\\_Sept%25202018.pdf&usq=AOvVaw1ju6TkFCIZiQtmLoKZ-Nn-https://www.bmnt.gv.at/dam/jcr:253a83f4-67c2-407d-a88a-72dc560b9e51/BMNT\\_Broschuere\\_Wir\\_rennen\\_Lebensmittel\\_PK\\_Sept%202018.pdf](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=2ahUKewio5IDy5_HiAhXhmFwKHWhcAWIQFjAAegQIARAC&url=https%3A%2F%2Fwww.bmnt.gv.at%2Fdam%2Fjcr%3A253a83f4-67c2-407d-a88a-72dc560b9e51%2FBMNT_Broschuere_Wir_rennen_Lebensmittel_PK_Sept%25202018.pdf&usq=AOvVaw1ju6TkFCIZiQtmLoKZ-Nn-https://www.bmnt.gv.at/dam/jcr:253a83f4-67c2-407d-a88a-72dc560b9e51/BMNT_Broschuere_Wir_rennen_Lebensmittel_PK_Sept%202018.pdf)

<sup>55</sup> Information from the *EU Platform on Food Losses and Food Waste*. 2019; City of Vienna, neuer Leitfaden „Das is(s)t es mir wert“: <https://www.wien.gv.at/umweltschutz/nachhaltigkeit/pdf/leitfaden-lebensmittelweitergabe.pdf>.

<sup>56</sup> Renamed in Federal Ministry for Sustainability and Tourism.

<sup>57</sup> Pladerer, Christian, Hietler, Philipp, Kalleitner, Maria, Bernhofer, Gabi and Meissner, Markus. 2015. "Food redistribution in Austria: An active support for waste prevention" (Lebensmittelweitergabe in Österreich: Ein aktiver Beitrag zur Abfallvermeidung). Österreichisches Ökologieinstitut. Vienna: BMLFUW Bundesministerium für Land- und Forstwirtschaft, Umwelt und Wasserwirtschaft (Federal Ministry of Agriculture, Forestry, Environment and Water Management).

on a survey addressed the social organisations involved in food redistribution in Austria, addressing the following topics:

- The sources of redistributed food;
- An estimation of the redistributed food in Austria;
- An identification of gaps for food redistribution in Austria;
- A summary of on-the-ground experience;
- The charity organisations' needs;
- The main framework conditions around redistribution.
- 

The results of the survey have proven that redistribution of food to social organisations is useful and expandable in Austria, and the Ministry of Sustainability and Tourism uses these results as promotion material for food redistribution.

As evoked in section 4.1.1, since 2013 the Viktualia award<sup>58</sup> rewards initiatives for the responsible use food, raising public awareness on topics such as food waste, food waste prevention and food redistribution. The award is delivered during a public event, and the winning projects are listed in a brochure and on the website of the Federal Ministry of Sustainability and Tourism<sup>59</sup>, giving the topic a large media coverage. The 2017 Waste Prevention Program identifies support for the expansion of charity organisations' storage and cooling infrastructures for food redistribution as one of the objectives of the plan (e.g., City of Vienna, VKS-promotion)<sup>60</sup>.

Finally, in addition to the publishing of its "Guideline for food redistribution – cooperation between companies of the consumer goods sector and social organisations in line with sustainability" the Efficient Consumer Response (ECR) Austria Working groups on social solidarity and waste management publish regular studies on food losses and food donation in the retail sector. According to the 2014 study on "**Food losses in the Austrian retail sector**"<sup>61</sup>, 6 600 metric tons of edible food were donated by the retail sector to social institutions. The 2016 ECR study on "**Best Practice in the operational waste prevention in the field of food**"<sup>62</sup> provides solutions to reduce and prevent food waste in the retail sector, including food redistribution. The reported quantities of redistributed food available in the studies are very relevant tools used by the government to promote food redistribution.

**Table 15 Evaluation of the Member State's policy in terms of "Other initiatives for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Use of the FEAD operational programme to support the redistribution of food			x	
Presence of measures encouraging the redistribution of fruits and vegetables withdrawn from the market, in			x	

<sup>58</sup> Federal Ministry of Sustainability and Tourism. 2016b. "Viktualia - der Award". BMNT Bundesministerium für Nachhaltigkeit und Tourismus. [https://www.bmnt.gv.at/land/lebensmittel/kostbare\\_lebensmittel/viktualia.html](https://www.bmnt.gv.at/land/lebensmittel/kostbare_lebensmittel/viktualia.html). Accessed on 6 June 2018.

<sup>59</sup> Federal Ministry of Sustainability and Tourism. 2016b. "Viktualia - der Award". BMNT Bundesministerium für Nachhaltigkeit und Tourismus. [https://www.bmnt.gv.at/land/lebensmittel/kostbare\\_lebensmittel/viktualia.html](https://www.bmnt.gv.at/land/lebensmittel/kostbare_lebensmittel/viktualia.html). Accessed on 6 June 2018.

<sup>60</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>61</sup> Lebersorger, Sandra and Schneider, Felicitas. 2014. "Food losses in the Austrian retail " (Aufkommen an Lebensmittelverderb im österreichischen Lebensmittelhandel). University of Natural Resources and Life Sciences BOKU Vienna. Vienna: ECR Austria.

<sup>62</sup> Meissner, Markus and Hietler, Philipp. 2016. "Best Practice der betrieblichen Abfallvermeidung im Bereich Lebensmittel". Österreichisches Ökologieinstitut. Vienna: ECR Austria.

	Criteria present	Criteria partly present	Criteria not present	Unknown
line with Regulation (EU) 1308/2013				
Publication of studies/research related to food redistribution	x			
Presence of financial or logistic support for food redistribution at the national/regional/local level		x		
Absence of incentives for the valorisation of food surplus via anaerobic digestion, which may otherwise hinder redistribution if the incentives for anaerobic digestion favour this recovery route over redistribution	x			



## 3.2 Belgium

### 3.2.1 National strategies for food redistribution

In response to the SDG 12.3 objective to halve food waste by 2030, to the European Union's alignment to this goal, and to the general public's growing awareness of food waste issues, food waste reduction strategies were established in all 3 Belgian regions: Brussels, Flanders and Wallonia.

In the Brussels region, the **Good Food Strategy** initiated by the regional government in 2016, set the ambitious target of a 30% food waste reduction by 2020. This strategy also supports the recovery of unsold food, notably targeting the retail sector through the objective for all supermarkets in the region to collaborate with at least one food aid association to voluntarily initiate food redistribution. Furthermore this strategy promotes the better use and promotion of existing tools facilitating food surplus redistribution on the consumer level<sup>63</sup>.

Within the region of Flanders, although there is no specific policy targeting food redistribution, the **Food Supply Chain Roadmap** sets out food waste measures. Within this roadmap, a two-tier food waste reduction target is laid out which slightly varies from the Brussels' regional target: a 15% reduction target by 2020 and a 30% reduction by 2025<sup>64</sup>. The Voedselverlies website, the official website of the Flemish government on food waste in Flanders, tracks the results of their regional agri-food chain monitoring project, using a data collection methodology aligned as much as possible with that of the EU FUSIONS "Food Waste Quantification Manual". The actions of the Food Supply Chain Roadmap have started according to plan, though the results for 2017 are not available<sup>65 66 67</sup>.

In the region of Wallonia, the **Walloon Program to fight against food losses and food waste (REGAL Plan)**, adopted by the Walloon Government in 2015 sets out a 30% food waste reduction target by 2025, and specifically addresses the lack of collaboration between actors in the food supply chain to meet this objective. Among the REGAL Plan's 5 main focus areas, 17 actions were defined to meet the 30% reduction target, including several actions promoting food redistribution:

- Implementing fast and efficient logistics solutions for the transportation, sorting, packaging and processing of surplus and/or unsold food. Sharing logistical equipment between actors or exempting the donation from VAT are 2 examples of proposed solutions;
- Implementing fast and effective information channels between actors to facilitate food aid;
- Creating, supporting and professionalising coordination structures and communicating about existing logistics collaboration projects to bring relevant supply chain actors together;
- Promoting and supporting projects for the transformation of unsold food<sup>69</sup>.

Although the impact and effectiveness of these actions has not yet been studied, each of the measures of the REGAL plan have successfully been initiated<sup>70</sup>.

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<sup>63</sup> Brussels Environment. 2016. "Good Food Strategy – Towards a sustainable food system in the Brussels-Capital Region." [http://document.environnement.brussels/opac\\_css/elecfile/BRO\\_GoodFood\\_Strategy\\_ENGL.pdf](http://document.environnement.brussels/opac_css/elecfile/BRO_GoodFood_Strategy_ENGL.pdf).

<sup>64</sup> Flemish Government, Environment Departmen. n.d. "Voedselverlies – Prevention of Food Loss in Flanders." Accessed July 31, 2018. [www.voedselverlies.be/EN](http://www.voedselverlies.be/EN), Accessed on 31 July 2018.

<sup>65</sup> Interview with Komosie. 7 June 2018.

<sup>66</sup> Interview with a member of the Department of Agriculture and Fisheries - Government of Flanders. 16 May 2018.

<sup>67</sup> FUSIONS. 2016. "Food waste quantification manual to monitor food waste amounts and progression." 31 March. <http://www.eu-fusions.org/phocadownload/Publications/Food%20waste%20quantification%20manual%20to%20monitor%20food%20waste%20amounts%20and%20progression.pdf>.

<sup>68</sup> Voedselverlies. n.d. "Prevention of food losses in Flanders." Accessed July 31, 2018. <http://www.voedselverlies.be/en>.

<sup>69</sup> Wallonia Region. n.d. "REGAL Plan: Reduction of Food Waste in the Wallonia Region." Accessed July 31, 2018. <http://moinsdedechets.wallonie.be/fr/je-m-engage/gaspillage-alimentaire>.

<sup>70</sup> Interview with a member of the Department of Agriculture and Fisheries - Government of Flanders. 16 May 2018.

The food waste reduction strategies are complementary to broader waste reduction plans which mention food waste reduction (e.g. **Walloon Waste-Resources Plan 2025**)<sup>71</sup> and by action plans to reduce poverty (e.g. **Flemish action plan to fight against poverty 2015 – 2019**, and **Walloon Plan to fight against poverty**).

In 2012, the Federal Agency for the Safety of the Food Chain (FAFSC) and the Belgian Federation of Food banks published a guide "**Food surplus. Donate to food banks or to other charity organisations**" (*Excédents alimentaires. Faites don aux banques alimentaires ou à d'autres associations à finalité sociale*)<sup>72</sup>, which provides information on donating food to charity organisations or food banks. It should 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>73</sup>.

The FAFSC also published other information sheets and circulars relative to food redistribution. Indeed, in 2014, in an attempt to facilitate food redistribution, the FAFSC published a series of information sheets defining the different activities in the food supply chain. Among them, food banks and charity organisations were identified and described:

- Food banks collect products in order to distribute them to charity organisations;
- Charity organisations are not for profit organisations, which distribute food to people in need.

According to these information sheets, charity organisations that take part in activities other than the storage, transport and distribution of food must indicate that they have an extra business activity. For example, charity organisations should report a "restaurant" activity if their business activity's scope also acts as a social restaurant<sup>74 75 76</sup>. While these sheets give clear definitions and information on the roles of different actors, it is suggested that the information is not always used optimally<sup>77</sup>.

**Table 16 Evaluation of the Member State's policy in terms of "National strategies for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a national food waste strategy including food redistribution measures	x			
Adoption of SDG 12.3 or more ambitious goals, driving the		x		

<sup>71</sup> Wallonia Region. 2017. "Walloon Waste-Resources Plan: non-technical summary." <http://environnement.wallonie.be/enquete-dechetsressources/docs/WWRP-NTS-EN.pdf>.

<sup>72</sup> FAFSC. 2012. 2012. "Food surplus. Donate to food banks or to other charity organisations (Excédents alimentaires. Faites don aux banques alimentaires ou à d'autres associations à finalité sociale)." [http://www.afsca.be/publicationsthematiques/\\_documents/2012-12-12\\_Drieluik\\_VoedseloverschottenFr.pdf](http://www.afsca.be/publicationsthematiques/_documents/2012-12-12_Drieluik_VoedseloverschottenFr.pdf).

<sup>73</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>74</sup> FAFSC. 2014a. "Food Bank and Food charity definition sheet" (Fiche technique d'activité – Banque alimentaire, institution caritative). [http://www.favv-afsca.be/agrements/activites/fiches/\\_documents/2014\\_12\\_18\\_ACT381\\_banque\\_alimentaire\\_association\\_caritative\\_T1\\_1\\_V01\\_fr.pdf](http://www.favv-afsca.be/agrements/activites/fiches/_documents/2014_12_18_ACT381_banque_alimentaire_association_caritative_T1_1_V01_fr.pdf)

<sup>75</sup> FAFSC. 2014b. "Food Bank and Food charity definition sheet for food surplus with a shelf life of at least three months at room temperature" (Fiche technique d'activité - Banque alimentaire, institution caritative (exclusivement des denrées alimentaires ayant une période de conservation d'au moins 3 mois à température ambiante)). [http://www.favv-afsca.be/agrements/activites/fiches/\\_documents/2014\\_12\\_18\\_ACT356\\_banque\\_alimentaire\\_institution\\_caritative\\_R\\_V02\\_fr.pdf](http://www.favv-afsca.be/agrements/activites/fiches/_documents/2014_12_18_ACT356_banque_alimentaire_institution_caritative_R_V02_fr.pdf)

<sup>76</sup> FAFSC. 2014c. "Catering definition sheet" (Fiche technique d'activité – Restauration). [http://www.favv-afsca.fgov.be/agrements/activites/fiches/\\_documents/2014\\_10\\_02\\_ACT018\\_restaurations\\_T1\\_1\\_V03\\_fr.pdf](http://www.favv-afsca.fgov.be/agrements/activites/fiches/_documents/2014_10_02_ACT018_restaurations_T1_1_V03_fr.pdf).

<sup>77</sup> Interview with Komosie. 7 June 2018.

	Criteria present	Criteria partly present	Criteria not present	Unknown
adoption of food redistribution to meet these targets				
Availability of guidelines to facilitate and promote food donation	x			
Call to develop and strengthen relationships between food redistribution actors	x			

### 3.2.2 Fiscal incentives for food redistribution

Since 2015, the **VAT Decision n° E.T.127.958** (*Décision TVA n° E.T.127.958 of the 21.05.2015*) established that VAT is not imposed on donations made to local social or charity organisations recognised as such by the local authorities, provided certain conditions are met. Under the previous **VAT Decision n°E.T.124.417** (*Décision n°E.T.124.417 of 31.07.2013*), only donations made to the 9 food banks registered by the Belgian Food Bank Federation could benefit from VAT exemptions. At the moment, supermarkets have to keep records of the food they donate, and social organisations are not controlled on how they distribute.<sup>78</sup> The 2015, VAT exemption is seen by the government as a step forward for food redistribution in Belgium. Thanks to this exemption, smaller-sized grocery stores with less stock in terms of surplus food are more prone to collaborate with local food surplus entrepreneurs/charitable organisations as their structure is not charged with VAT. This VAT exemption therefore aims at facilitating greater levels of donated food surplus to local food surplus entrepreneurs and other local charities<sup>79</sup>. The Minister of Finance foresees to integrate both VAT decisions into a new law to give these measures more legal certainty<sup>80</sup>.

Retailers must, however, carefully select their social and charitable organisation partners as certain entities do not meet the requirements imposed by the VAT Decision n°E.T.127.958 of 2015 for VAT-free donations. For example, this Decision's requirement excludes social restaurants and social groceries from the VAT exemption. Furthermore, transforming food items is not authorised, and certain structures such as distribution platforms, which are intermediary entities in the redistribution chain, are not viable beneficiaries of food surplus within the scope of this Decision and, therefore, not VAT exempt. These beneficiary specificities represent hurdles towards food donation.

Well aware of these barriers, the Ministry of Finance began conducting a review in 2018 to adapt the measure. Both VAT decisions (VAT Decision n° E.T.127.958 and VAT Decision n°E.T.124.417) are to be included in a broader law in order to give measures on VAT for food donation more legal certainty. It is foreseen that the new law will apply VAT exemptions to a wider scope of beneficiaries, including distribution platforms and federations (the intermediaries between donors and charities), and should allow the transformation of donated food into meals. As of May 2019, the text is in a draft version<sup>81</sup>

<sup>82</sup>.

<sup>78</sup> Union des Villes et des Communes de Wallonie. 2015. "VAT – Donation of surplus food to local institutions and to recognized food aid organisations". <http://www.uvcw.be/actualites/2,129,1,0,6103.htm>

<sup>79</sup> Union des Villes et des Communes de Wallonie. 2015. "VAT – Donation of surplus food to local institutions and to recognized food aid organisations." <http://www.uvcw.be/actualites/2,129,1,0,6103.htm>.

<sup>80</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>81</sup> Interview with Komosie. 7 June 2018.

<sup>82</sup> Interview with the Fédération des Services Sociaux. 7 May 2018.

With regards to income tax incentives, there are no tax deductions or tax credits on food donations, though cash donations can benefit from tax deductions<sup>83</sup>.

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<sup>83</sup> Interview with a member of the Department of Agriculture and Fisheries - Government of Flanders. 16 May 2018.

**Table 17 Evaluation of the Member State’s policy in terms of “Fiscal incentives for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a fiscal regime specific to food redistribution	x			
Presence of guidelines to clarify how to address complex fiscal regimes such as VAT and/or tax deductions			x	

### 3.2.3 Legal measures for food redistribution

#### 3.2.3.1 General legal framework on food redistribution

In the Wallonia and the Brussels regions, 2 key measures set the scene for food redistribution: the Draft Ministerial Order amending the Ministerial Order of 5 June 1997 on the environmental permit (Brussels region) and the Draft decree amending Decree of 11 March 1999 concerning the environmental license to promote the distribution of food surplus to food charities (Wallonia region). In both cases, these compelling measures oblige supermarkets to donate their surplus food to charity organisations in order to renew their environmental permits. In Wallonia, however, supermarkets must first attempt to donate their food surplus to at least one food redistribution charity, but if they cannot guarantee the quality of the product, then it can be sent to other valorisation outlets like composting. This requirement follows the preferential valorisation route of the “food use hierarchy” recommended by the EU REFRESH research project on food waste reduction as it favours food redistribution for human consumption over other valorisation options<sup>84</sup>. Administrative controls are carried out to monitor the proper compliance of supermarkets in the Walloon region<sup>85 86</sup>.

Despite the positive legal drivers for food redistribution, charitable organisations face infrastructure capacity challenges to taking on large amounts of food surplus from retailers. To overcome this challenge, increases in resources to these charitable organisations (via funding/grants, etc.) could be envisioned<sup>87</sup>.

The **food use hierarchy** is well known in Belgium and there is a strong emphasis on its application. However, this is difficult to achieve in practice. Although the percentage of food redistribution of food surplus remains low, efforts have been made to track food valorisation data, which will help the region monitor progress<sup>88</sup>.

All operators active in the food chain in Belgium have to be registered at 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 3 months at

<sup>84</sup> Wunder, Stephanie, Keighley McFarland, Martin Hirschnitz-Garbers, Julian Parfitt, Karen Luyckx, Dominika Jarosz, Lena Youhanan, Åsa Stenmarck, Flavien Colin, Stephanie Burgos, Manuela Gheoldus, Alfred Charles Cummins, Patrick Mahon, and Erica van Herpen (2018) Food waste prevention and valorisation: relevant EU policy areas. Report of the REFRESH Project, D3.3 Review of EU policy areas with relevant impact on food waste prevention and valorization. <https://eu-refresh.org/food-waste-prevention-and-valorisation-relevant-eu-policy-areas>

<sup>85</sup> EESC - Bio by Deloitte. 2014. “Comparative Study on EU Member States’ legislation and practices on food donation.” [https://www.eesc.europa.eu/resources/docs/comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation\\_finalreport\\_0](https://www.eesc.europa.eu/resources/docs/comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation_finalreport_0).

<sup>86</sup> Walloon Government. 2014. “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.” [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>87</sup> Interview with Komosie. 7 June 2018.

<sup>88</sup> Interview with Komosie. 7 June 2018.

ambient temperature, must be registered at the FASFC. Other food banks need an authorisation. It should be mentioned that 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 food business operators and comply with food hygiene and food safety legislations. 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<sup>89 90</sup>.

**Table 18 Evaluation of the Member State’s policy in terms of “General legal framework on food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a legal framework specific to food redistribution, in addition to EU rules	x			
Presence of the food use hierarchy		x		

### 3.2.3.2 Traceability requirements applicable to food redistribution

On the matter of traceability, food business operators have to keep clear records (with information on the nature of the product, identification, quantity, date of receipt and identification of the food business operator) of the flows of incoming and outgoing food items according to the **Royal decree on the self, mandatory notification and traceability in the food supply chain** issued by the Government. This decree, applicable to food donation, is more flexible than the European **General Food Law** and facilitates the administrative work of social organisations receiving food surplus from different sources. The Royal decree on the self, mandatory notification and traceability in the food supply chain simplifies the donation process, though it implies that fewer records are available.

The **Circular concerning provisions applicable to food banks and charities** (*Circulaire relative aux dispositions applicables aux banques alimentaires et associations caritatives*), published by the FASFC in 2017 provides further guidance on traceability, and describes cases in which a more relaxed form can be applied without compromising food safety regulations. It is specifically the case for donations happening at the end of the food supply chain. Donations at the end of the supply chain involve products from retailers. These products are assumed to carry labels. In other words, they are fully identified/labelled items which are more easily traceable and can be quickly withdrawn from the market or recalled if necessary. Additionally, retailers have already complied with a number of requirements concerning food traceability, which can be easily duplicated for donations. In other cases, the conditions are as follows:

- For deliveries to food banks and charity organisations, FBOs must list all branches of the charity organisations to which the outgoing products were delivered;
- Food banks and charity organisations need to compile a list of establishments from which their products originate.

<sup>89</sup> FASFC. 2018. “Registrations and authorisations in the distribution sector”. <http://www.favv-afsca.be/erkenningen/activiteiten/fiches/default.asp#dis>

<sup>90</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

The Circular complements the legal provisions and clarifies the regulation and, thereby, has the potential to facilitate the process for donors<sup>91 92</sup>.

**Table 19 Evaluation of the Member State’s policy in terms of “Traceability requirements applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a clear traceability regime for food redistribution	x			
Presence of guidelines which clarify the traceability regime for food redistribution	x			

### 3.2.3.3 Primary responsibility and liability rules for food redistribution

The FAFSC clarified primary responsibility and liability issues in its “Circular concerning provisions applicable to food banks and charities”. The donor is responsible for the product up until a food aid organisation receives the product and signs a list of received items, at which time it assumes primary responsibility. Thus, the responsibility for food safety is split up between the actors.

The document “Food surplus. Donate to food banks or to other charity organisations” published by the FAFSC provides guidance for food producers and retailers to understand how food redistribution can take place, and what are their roles and obligations. The donor is responsible for:

- Collecting and controlling the donated food items;
- Preparing the packages when possible;
- Letting food banks or other charity organisations know of the availability of the items;
- Letting the food banks or other charity organisations have free access to the trucks to pick up the items;
- Keeping the list of all the food banks or charity associations they collaborate with, e.g. in case of a product recall.

The food bank or charity organisation is responsible for:

- Picking up the food items;
- Having an adequate transport vehicle (to maintain the cold chain when needed);
- Causing as little disturbance as possible to the donating company’s functioning;
- Transporting the items towards its premises;
- Sorting the products;
- Keeping a list of the donating companies.

The guide can also be used to find relevant food banks based on geographical location. The guide is a good example that illustrates the government’s and FAFSC’s involvement in food waste reduction and food redistribution strategies<sup>93 94</sup>.

<sup>91</sup> FAFSC. 2017. “Circular on the provisions applicable to food banks and charity associations (Circulaire relative aux dispositions applicables aux banques alimentaires et associations caritatives).” <http://www.favv-afsc.be/denreesalimentaires/circulaires/#A1092228>.

<sup>92</sup> EESC - Bio by Deloitte. 2014. “Comparative Study on EU Member States’ legislation and practices on food donation.” [https://www.eesc.europa.eu/resources/docs/comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation\\_finalreport\\_0](https://www.eesc.europa.eu/resources/docs/comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation_finalreport_0).

<sup>93</sup> FAFSC. 2012. “Food surplus. Donate to food banks or to other charity organisations (Excédents alimentaires. Faites don aux banques alimentaires ou à d’autres associations à finalité sociale).” [http://www.afsca.be/publicationsthematiques/\\_documents/2012-12-12\\_Drieluik\\_VoedseloverschottenFr.pdf](http://www.afsca.be/publicationsthematiques/_documents/2012-12-12_Drieluik_VoedseloverschottenFr.pdf).

<sup>94</sup> Interview with Komosie. 7 June 2018.

**Table 20 Evaluation of the Member State’s policy in terms of “Primary responsibility and liability rules for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of clear primary responsibility and liability rules for food redistribution				X
Presence of guidelines which clarify the primary responsibility and liability rules for food redistribution	X			

### 3.2.3.4 Hygiene rules applicable to food redistribution

Most hygiene regulations applicable to donated food are listed and explained in the “Circular concerning provisions applicable to food banks and charities”. The Circular lists all the requirements related to the freezing of prepacked foods. Prepacked food products that need to be stored in cool conditions by food banks or charity organisations (e.g. charcuterie, fresh meat or fish) can be frozen for further redistribution provided the freezing takes place under certain conditions. Retailers can also freeze prepacked foods intended for redistribution themselves, provided all the conditions listed in the Circular are met and if there is a clear distinction between products destined for redistribution and the other products in the store<sup>95</sup>.

Furthermore, the FAFSC and the Belgian Federation of Food Banks published a guide in 2012 “**Food surplus. Donate to food banks or to other charity organisations**” (*Excédents alimentaires. Faites don aux banques alimentaires ou à d’autres associations à finalité sociale*), providing information on hygiene requirements for food donation<sup>96</sup>.

**Table 21 Evaluation of the Member State’s policy in terms of “Hygiene rules applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of national laws in addition to EU rules to simplify hygiene requirements for food redistribution			X	
Presence of national guidelines explaining hygiene requirements for food redistribution, clarifying EU rules and making them easier to understand for relevant actors	X			

<sup>95</sup> FAFSC. 2017. “Circular on the provisions applicable to food banks and charity associations (Circulaire relative aux dispositions applicables aux banques alimentaires et associations caritatives).” <http://www.favy-afsca.be/denreesalimentaires/circulaires/#A1092228>.

<sup>96</sup> FAFSC. 2012. “Food surplus. Donate to food banks or to other charity organisations (Excédents alimentaires. Faites don aux banques alimentaires ou à d’autres associations à finalité sociale).” [http://www.afsca.be/publicationsthematiques/documents/2012-12-12\\_Drieluik\\_VoedseloverschottenFr.pdf](http://www.afsca.be/publicationsthematiques/documents/2012-12-12_Drieluik_VoedseloverschottenFr.pdf).



### 3.2.3.5 Food information to consumers applicable to food redistribution

In respect to date marking, the FAFSC published a **Circular on the differences between date marking** (*Omzendbrief met betrekking tot de houdbaarheidsdata*)<sup>97</sup> in 2011. This was supplemented by the **Circular concerning provisions applicable to food banks and charities**<sup>98</sup> in 2017. Food products past their “best before” date that do not pose a health risk can still be delivered to consumers, under certain circumstances. Retailers are recommended to donate food 3 days before the passing of the “use by” date, to allow food banks the time to sort and distribute them. The FASFC drafted a non-exhaustive list of foods, used as a guideline for food banks and charity organisations when assessing the shelf life of food past its “best before” date. This list was 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 or distributed. By providing conservation and storage recommendations for several staple foods and guidelines for food banks and charities when assessing the shelf life of foods, both Circulars help define clear guidance for food safety, making it possible to valorise more food for human consumption. However, the donation of non-prepacked food remains difficult in Belgium, and there may still be improvements to be made in that field.

The Circular concerning provisions applicable to food banks also gives guidelines on food labelling: all items included in Article 9 of **Regulation (EU) No 1169/2011 on the provision of food information** have to be written on prepacked food intended for the final consumer and, as already set in Article 8 of the law of 24 January 1977, in the language of the area in which they are distributed<sup>99</sup>. Non-prepacked food must be entirely relabelled before donation. In both cases, the donor is responsible for ensuring the products carries the correct labelling before donation. If a food bank or redistribution organisation receives products without the required labelling, they must relabel the products themselves, so that at least the following information is written:

- The sales description;
- The expiration date;
- The name and address of the food bank or charity organisation distributing the product.

The information mentioned in Article 9 of Regulation (EU) No 1169/2011 must be available to the recipient of products even when they are not intended directly for the consumer (e.g. distributed and processed in social restaurants for example). Food banks and charity organisations are free to choose in which way the information is passed on, with an enclosed document for example. Individual packaging is not required in this case.

There are no controls or monitoring to check if FBOs follow the rules cited in the Circular concerning provisions applicable to food banks and charities as it only clarifies regulations, but it does provide clear food safety rules to social organisations, making it possible to valorise more food surplus for human consumption<sup>100</sup>.

<sup>97</sup> FAFSC. 2011. “Circular on the difference between date marking.” [http://www.favv-afsc.be/levensmiddelen/documents/2011\\_12\\_23\\_Omzendbrief\\_houdbaarheidsdata\\_23-12-2011.pdf](http://www.favv-afsc.be/levensmiddelen/documents/2011_12_23_Omzendbrief_houdbaarheidsdata_23-12-2011.pdf).

<sup>98</sup> FAFSC. 2017. “Circular on the provisions applicable to food banks and charity associations (Circulaire relative aux dispositions applicables aux banques alimentaires et associations caritatives).” <http://www.favv-afsc.be/denreesalimentaires/circulaires/#A1092228>.

<sup>99</sup> Law of January 24, 1977 relative to consumers’ health protection concerning food items and other products. [http://www.ejustice.just.fgov.be/cgi\\_loi/change\\_lg.pl?language=fr&la=F&cn=1977012431&table\\_name=loi](http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=1977012431&table_name=loi)

<sup>100</sup> Interview with Komosie. 7 June 2018.

**Table 22 Evaluation of the Member State’s policy in terms of “Food information to consumers applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Donation requirements in line with EU recommendation on “best before” dates	x			
Presence of national guidelines on “best before” dates	x			
Presence of laws targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)			x	
Presence of national guidelines targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)	x			

### 3.2.4 Voluntary Agreements for food redistribution

As of 2018, there are no Voluntary Agreements addressing food waste or promoting food redistribution in Belgium.

**Table 23 Evaluation of the Member State’s policy in terms of “Voluntary Agreements for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a Voluntary Agreement which addresses all 5 pillars of the EU REFRESH blueprint in regard to food donation			x	

### 3.2.5 Communication initiatives for food redistribution

As of 2018, there are no communication initiatives targeting food redistribution in Belgium.

### 3.2.6 Other initiatives for food redistribution

In Belgium, in the context of the **Fund for the European Aid to the Most Deprived (FEAD) programme**, the government uses an open bidding process for the manufacture of food products

purchased using monies from FEAD". The products are distributed to charities, which have 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 of bringing food from the manufacturers to the charities. Many charities have based their model on the FEAD programme, and solely redistribute food items purchased with FEAD funds as they only need an authorisation from the food safety organisation to redistribute such items. Furthermore, a project proposal to finance the transformation of food surplus into soup with FEAD money was also submitted to the Ministry of Social integration<sup>101 102</sup>.

In the Flanders region, most of the valorised food waste goes towards animal feed and bio-waste, "the biggest bump is in the middle of the food use hierarchy", while the food surplus redirected to human consumption represents less than 3% of total food waste<sup>103</sup>.

Comeos, Fevia, the Federation of Food Banks, social grocers, social restaurants and poverty organisations on the one hand, and the federal government and the 3 regions on the other, have joined forces in an appeal to prevent companies from wasting food. They provide a structural form of gifts, i.e. financial or logistic support, and donations in which each party continues to take its responsibilities<sup>104</sup>.

Furthermore, the promotion and support of projects for the transformation of unsold food for redistribution was outlined as a key objective of the Walloon Program to fight against food losses and food waste (REGAL Plan)<sup>105</sup>.

**Table 24 Evaluation of the Member State's policy in terms of "Other initiatives for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Use of the FEAD operational programme to support the redistribution of food			x	
Presence of measures encouraging the redistribution of fruits and vegetables withdrawn from the market, in line with Regulation (EU) 1308/2013				x
Publication of studies/research related to food redistribution			x	
Presence of financial or logistic support for food redistribution at the national/regional/local level	x			x
Absence of incentives for the valorisation of food surplus via anaerobic digestion, which may otherwise hinder redistribution if			x	

<sup>101</sup> 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). <https://ec.europa.eu/social/BlobServlet?docId=18932&langId=en>

<sup>102</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>103</sup> Interview with Komosie. 7 June 2018.

<sup>104</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>105</sup> Wallonia Region. n.d. "REGAL Plan: Reduction of Food Waste in the Wallonia Region." Accessed July 31, 2018. <http://moinsdedechets.wallonie.be/fr/je-m-engage/gaspillage-alimentaire>.

	Criteria present	Criteria partly present	Criteria not present	Unknown
the incentives for anaerobic digestion favour this recovery route over redistribution				

## 3.3 Bulgaria

### 3.3.1 National strategies for food redistribution

In Bulgaria, in the absence of a national strategy targeting food waste or food redistribution, a **strategic document with a focus on food waste and food waste reduction** is under development by the Ministry of Agriculture and Food. This document will either take the form of a national plan. The document is in a preliminary draft version, and as of 2018, little information is available on its content<sup>106 107 108</sup>. One of the objectives of the Bulgarian National Plan for Waste Management would be to foster voluntary agreements amongst the different actors of the food supply chain, which could potentially encourage food donation<sup>109</sup>.

**Table 25 Evaluation of the Member State’s policy in terms of “National strategies for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a national food waste strategy including food redistribution measures			x	
Adoption of SDG 12.3 or more ambitious goals, driving the adoption of food redistribution to meet these targets			x	
Availability of guidelines to facilitate and promote food donation			x	
Call to develop and strengthen relationships between food redistribution actors			x	

### 3.3.2 Fiscal incentives for food redistribution

The **2015 Value Added Tax Act** (*Закон за данък върху добавената стойност*), effective since the beginning of 2017, exempts food donors from paying VAT on donated products, provided that the following requirements are met:

- The value of one unit of food must be negligible;
- The food bank operator that is to receive the donation must be registered as a food bank;
- The donated food is included in the Ministry of Agriculture’s list of foods eligible for food donation;
- The food has not passed its expiration date;
- The value of the donated food should not exceed 0.5% of the turnover of the retailer/food producer of the previous year;
- The donor does not have any public obligations;
- The food is marked with a “Donation, not for sale” label<sup>110</sup>.

The National Revenue Agency generally supervises the VAT process and collection.

<sup>106</sup> Information from the EU Platform on Food Losses and Food Waste. 15 June 2018.

<sup>107</sup> Interview with the Bulgarian Food Bank. 15 June 2018.

<sup>108</sup> Interview with the Bulgarian Food Safety Agency. 15 June 2018.

<sup>109</sup> Bulgaria Ministry of Environment, “Национален план за управление на отпадъците 2014-2020 - National Plan for Waste Management 2014-2020”, 2014, [https://www.moew.government.bg/static/media/ups/tiny/filebase/Waste/NACIONALEN\\_PLAN/\\_NPUO\\_2014-2020.pdf](https://www.moew.government.bg/static/media/ups/tiny/filebase/Waste/NACIONALEN_PLAN/_NPUO_2014-2020.pdf)

<sup>110</sup> Bulgaria Ministry of Taxation. 2015. “VAT - Delivery of Surplus Food.” <http://www.nap.bg/document?id=150>.

The 20% VAT rate applied on all goods and services before the adoption of this law, was perceived by donors, and prospective donors, as an obstacle for food donations. By lifting this 20% rate and introducing a VAT exemption, the VAT Act made food donation more attractive to producers and retailers. However, as this Act created a requirement to add a label on donated products to avoid any abuse of the fiscal rules, this created a new barrier. Adding a label on each donated product incurs additional costs for the donor (time, labour, material), and it is seen as one of the major obstacles to a greater popularity of food donation. Furthermore, the VAT Act amendments regarding food donations are viewed as too detailed and bureaucratic, causing an administrative burden which dissuades prospective donors. An amendment in the Bulgarian Food Act however aims at reducing some of the administrative burden on food donors.

Initially, it was believed that the previous 20% VAT rate was among the main obstacles hindering food donations from producers and food retailers. However, according to the Bulgarian food bank, the change did not generate any modifications in the amounts of donated food, while the amounts of food donations were expected to double. On the contrary, the volume of donated food declined by approximately 20% and the Bulgarian Food Bank, among other charities, lost some major donors that were not ready to cover the additional labelling costs associated with the new VAT Act. In addition, some donors preferred to pay VAT on donated food, as required under the previous VAT regime, rather than covering the additional costs within the VAT Act. Paying the VAT would save them time and labour and was more practical for the food bank as well, as donated food reached the recipients faster<sup>111</sup>.

With regards to tax deductions, although not specifically created with food redistribution in mind, 3 acts are applicable to food redistribution. By making donations tax deductible the **Income Taxes of Natural Persons Act** (*Закон за данъците върху доходите на физическите лица*) of 2007 encourages individuals to give financial donations to predefined entities, including food banks, to help financially support their operating costs. The sum of the annual tax base of individuals can be reduced by the value of the donations made during the year if they were made in favour of non-profit legal entities with a public benefit status. The maximum deductibility rate is 5% of the annual tax base, and the total tax relief for donations may not exceed 65% of the annual tax base<sup>112</sup>. Meanwhile, the **Corporate Income Tax Act** (*Закон за корпоративното подоходно облагане*) of 2007 encourages corporate entities to give financial donations, which support the food banks with their operational costs, by making these donations tax deductible. For tax purposes, the costs for donations totalling up to 10% of the positive accounting financial result (accounting profit) are recognised when donations are made to non-profit legal entities with a public benefit status. The whole donation cost is not recognised for tax purposes when the donation benefits directly or indirectly the managers of the business entity or if there is evidence that the donation was not received. The total sum of all donations cannot exceed 65% of the accounting profit<sup>113</sup>.

Both the Income Taxes of Natural Persons Act and the Corporate Income Tax Act make donations to NGOs, including food banks, more attractive to individuals. However, neither of these measures is specifically designed for food donation, as the provisions were in place before the establishment of the first food bank in the country, and there is no information on the actual impact both measures have had on redistribution.

Finally, any funding that food bank organisations receive is not taxable, thus easing their operations according to the **Local Taxes and Fees Act** (*Закон за местните данъци и такси*) of 1998. As with

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<sup>111</sup> Interview with the Bulgarian Food Bank. 15 June 2018.

<sup>112</sup> Bulgaria Ministry of Finance. 2007. "Income Taxes of Natural Persons Act (Закон за данъците върху доходите на физическите лица)." [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>113</sup> Bulgaria Ministry of Finance. 2007. "Corporate Income Tax Act (Закон за корпоративното подоходно облагане)." [http://www.minfin.bg/upload/36647/ZAKON\\_za\\_korporativното\\_podohodno\\_oblagane.pdf](http://www.minfin.bg/upload/36647/ZAKON_za_korporativното_podohodno_oblagane.pdf).

the Income Taxes of Natural Persons Act and the Corporate Income Tax Act, the Local Taxes and Fees Act was not specifically designed for food donation and was in place before the establishment of the first food bank in the country. There is no information on the impact of the tax relief on the funding of food banks<sup>114</sup>.

**Table 26 Evaluation of the Member State’s policy in terms of “Fiscal incentives for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a fiscal regime specific to food redistribution	x			
Presence of guidelines to clarify how to address complex fiscal regimes such as VAT and/or tax deductions			x	

### 3.3.3 Legal measures for food redistribution

#### 3.3.3.1 General legal framework on food redistribution

The **Food Act** (*Закон за храните*) of 1999 defines food bank activities in Bulgaria and sets the requirements for organisations that wish to operate as such. Organisations must follow all food safety and hygiene requirements applicable to food producers and food trade actors. The vehicles and premises they rent or own must comply with hygiene requirements. Furthermore, any organisation applying for a food bank license needs to prove that it can serve at least 20% of the country's provinces. The Food Act also appoints the body that monitors food bank operators and outlines the process to acquire a food bank license.

Donated products must carry a label indicating that the product is donated and should not be sold. This label needs to be attached in a way that it does not hide any information from the item’s original label and cannot be removed without removing or destroying the integrity of the package. The donor can relabel the products whenever necessary. The Food Act also envisages a specific list of people and organisations/units eligible to receive food donations, and a list of food categories that are eligible for donation. The Bulgarian Food Safety Agency keeps a register of all organisations which hold the licenses to operate as food banks<sup>115</sup>.

On the one hand, the combination of some of the requirements to operate as food banks imposes entry barriers on prospective food bank operators, as the initial investment is significant. This limits the development of the sector, notably seen by the fact that as of 2018, only one food bank operates in Bulgaria. However, on the other hand, the explicit definition of food bank organisations as special legal entities makes it possible for donors to reduce their VAT duties on donations, thus making redistribution more attractive. The Food Act also generated a lot of media coverage around food redistribution, creating awareness around the topic<sup>116</sup>.

In line with the Food Act, the Ministry of Agriculture and Food issued an **Ordinance on the List of Foods Eligible for Food Banking** (*Заповед № РД 09-181/09.03.2017 на министъра на земеделието и храните относно списък на храните, обект на хранително банкиране*), listing the

<sup>114</sup> Bulgaria Ministry of Finance. 1998. “Закон за местните данъци и такси - Local Taxes and Fees Act.” [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>115</sup> Bulgaria Ministry of Agriculture and Food. 1999. “Закон за храните - Food Law.” [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>116</sup> Interview with the Bulgarian Food Safety Agency. 15 June 2018.

food items eligible for donation<sup>117</sup>. Meanwhile, the **Ordinance on the List of Groups of Persons in Need and Organisations that Provide Social Services that are Eligible for Food Donations by Food Banks** (Заповед № РД 01-206/23.03.2017 на министъра на труда и социалната политика относно утвърждаване списък на групите нуждаещи се лица и на лицата, които предоставят социални услуги, на които операторите на хранителни банки могат да предоставят дарените храни) of 2017, defines the list of persons in need and social organisations that are eligible to receive food donations from food banks.

While not directly promoting food redistribution, both ordinances make the Food Act operational under the new set of regulations, and therefore allow food redistribution via food banks. The list of food items eligible for donation is quite extensive and does not limit the variety of food that can be donated, and the same is applicable to the list of people and units eligible for food donation.

**Table 27 Evaluation of the Member State’s policy in terms of “General legal framework on food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a legal framework specific to food redistribution, in addition to EU rules	x			
Presence of the food use hierarchy			x	

### 3.3.3.2 Traceability requirements applicable to food redistribution

As of June 2019, there are no guidelines which clarify the traceability regime for food redistribution in Bulgaria.

**Table 28 Evaluation of the Member State’s policy in terms of “Traceability requirements applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a clear traceability regime for food redistribution				x
Presence of guidelines which clarify the traceability regime for food redistribution			x	

### 3.3.3.3 Primary responsibility and liability rules for food redistribution

As of June 2019, there are no guidelines which clarify the primary responsibility and liability rules for food redistribution in Bulgaria.

<sup>117</sup> Bulgaria Ministry of Agriculture and Food. 2017. “Ordinance on the List of Foods Eligible for Food Banking (Заповед № РД 09-181/09.03.2017 на министъра на земеделието и храните относно списък на храните, обект на хранително банкиране).” <http://www.babh.government.bg/userfiles/files/%20%E2%84%96%20%D0%A0%D0%94%2009-181%2009.03.2017.pdf>.



**Table 29 Evaluation of the Member State’s policy in terms of “Primary responsibility and liability rules for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of clear primary responsibility and liability rules for food redistribution				x
Presence of guidelines which clarify the primary responsibility and liability rules for food redistribution			x	

### 3.3.3.4 Hygiene rules applicable to food redistribution

With regards to **food hygiene**, the **Ordinance N1/26.01.2016 on Food Hygiene** (Наредба №1 от 26.01.2016 на министерството на здравеопазването и министерството на земеделието и храните за хигиената на храните) defines the hygiene requirements for food production and food trade, in line with the EU Hygiene Package. Food bank operators must comply with all requirements that are applicable to food producers, food traders and food transport agents, and they are controlled by the Bulgarian Food Safety Agency<sup>118</sup>.

According to the Bulgarian Food Bank, compliance with food production and food trade hygiene requirements deeply affects the expenses of food banks and lays an administrative burden on them. Despite this, food bank compliance with food safety and hygiene requirements is perceived as a standard and good practice to apply, especially by food producers, the main food donors in Bulgaria. By strictly applying all hygiene requirements, food banks are viewed in a positive light by food producers, the main food donors in Bulgaria. The Ordinance N1/26.01.2016 on Food Hygiene indirectly supports food donations as it guarantees food quality and safety to entities that receive food donations<sup>119</sup>.

Finally, 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>120</sup>.

**Table 30 Evaluation of the Member State’s policy in terms of “Hygiene rules applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of national laws in addition to EU rules to simplify			x	

<sup>118</sup> Bulgaria Ministry of Health and Ministry of Agriculture and Food. 2016. “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.” [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>119</sup> Interview with the Bulgarian Food Bank. 15 June 2018.

<sup>120</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://babh.government.bg/uploads/File/Dokumenti\\_naredbi/Hrani/Naredba%20%E2%84%96%2016%20ot%2028%20mai%202010.pdf](http://babh.government.bg/uploads/File/Dokumenti_naredbi/Hrani/Naredba%20%E2%84%96%2016%20ot%2028%20mai%202010.pdf)

	Criteria present	Criteria partly present	Criteria not present	Unknown
hygiene requirements for food redistribution				
Presence of national guidelines explaining hygiene requirements for food redistribution, clarifying EU rules and making them easier to understand for relevant actors			x	

### 3.3.3.5 Food information to consumers applicable to food redistribution

In addition to listing the food items eligible for donation, the Ordinance on the List of Foods Eligible for Food Banking provides information on **date marking**. Products that have "best before" dates can be donated in the last tenth of their minimum durability period. Products that have "use by" dates can be donated in the last half or third of their expiry period, depending on the length of the expiry period. No analysis was found on the impact of these periods.

The topic of food labelling and presentation is raised in the **Ordinance for Food Labelling and Presentation** (*Наредба за изискванията за етикетирането и представянето на храните*), laying out the national rules in line with EU regulations. Thus, the measure indirectly supports food donations as it guarantees accessible information to entities that receive food donations about food ingredients, origin, and expiry date<sup>121</sup>.

Finally, according to the Food Act, donated products shall 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 must be attached in such a way that it cannot be removed without destroying the integrity of the package<sup>122</sup>.

**Table 31 Evaluation of the Member State's policy in terms of "Food information to consumers applicable to food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Donation requirements in line with EU recommendation on "best before" dates			x	
Presence of national guidelines on "best before" dates			x	
Presence of laws targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling)			x	

<sup>121</sup> Bulgaria Government. 2014. "Наредба за изискванията за етикетирането и представянето на храните / Ordinance for Food Labelling and Presentation."

<http://www.babh.government.bg/userfiles/files/KH/Doc/Ordinance~Labeling-foods.pdf>.

<sup>122</sup> Bulgarian Ministry of Agriculture and Food. 1999. "Закон за храните - Food Act". [http://www.babh.government.bg/userfiles/files/Zakoni/ZAKON\\_za\\_hranite.pdf](http://www.babh.government.bg/userfiles/files/Zakoni/ZAKON_za_hranite.pdf)

	Criteria present	Criteria partly present	Criteria not present	Unknown
requirements, apart from date marking)				
Presence of national guidelines targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)			x	

### 3.3.4 Voluntary Agreements for food redistribution

As of June 2019, there are no Voluntary Agreements addressing food waste or promoting food redistribution in Bulgaria.

**Table 32 Evaluation of the Member State's policy in terms of "Voluntary Agreements for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a Voluntary Agreement which addresses all 5 pillars of the EU REFRESH blueprint in regard to food donation			x	

### 3.3.5 Communication initiatives for food redistribution

Information or communication campaigns have not been initiated by state authorities in Bulgaria as of 2018, though there have been several communication and awareness raising campaigns launched by the NGO sector, such as the Bulgarian Food Banks' "Become one of us, donate hope!" campaign.

### 3.3.6 Other initiatives for food redistribution

As of June 2019, Bulgaria does not use the FEAD operational programme to support redistribution of food.

**Table 33 Evaluation of the Member State's policy in terms of "Other initiatives for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Use of the FEAD operational programme to support the redistribution of food			x	
Presence of measures encouraging the redistribution of fruits and vegetables				x

	Criteria present	Criteria partly present	Criteria not present	Unknown
withdrawn from the market, in line with Regulation (EU) 1308/2013				
Publication of studies/research related to food redistribution			x	
Presence of financial or logistic support for food redistribution at the national/regional/local level			x	
Absence of incentives for the valorisation of food surplus via anaerobic digestion, which may otherwise hinder redistribution if the incentives for anaerobic digestion favour this recovery route over redistribution	x			

## 3.4 Croatia

### 3.4.1 National strategies for food redistribution

As of 2018, Croatia has been planning the implementation of a four-year **Plan for food waste reduction and prevention**, elaborated by the Food Waste Prevention Department at the Ministry of Agriculture. The Plan and accompanying Programme for the implementation of the Plan was finalised at the end of 2018 and adopted in 2019<sup>123</sup> <sup>124</sup>. The Plan includes various measures and activities, such as a measure on food donation. The Plan and Programme aim at:

- Improving the food donation system;
- Encouraging food waste reduction;
- Promoting social responsibility of the food sector;
- Raising awareness among consumers and setting up an educational programme for pre-school and school children;
- Encouraging and investing in research and innovations for food waste prevention models;
- Monitoring the implementation and evaluation of the results achieved.

The main measures, which aim to improve the food donation system, are determined by areas of action, and consist of the following activities:

- Targeted legislative amendments;
- Drafting guidelines for the clarification of relevant national and EU provisions regarding food safety in the food donation system to facilitate compliance with legislation relating to food safety, quality, hygiene, traceability, FIC regulation, distribution of responsibilities, tax regulations, *etc.* (the guidelines should also clarify the roles and responsibilities of food business operators and offer examples of good practices);
- Creation of an IT system for food donation for 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.

Several communication campaigns and a Voluntary Agreement are drafted as potential measures in this Plan<sup>125</sup>.

In partnership with the Faculty of Food Technology and Biotechnology of the University of Zagreb, the Ministry of Agriculture conducted a study in 2017 to provide material for the Plan for food waste reduction and prevention and to identify the main obstacles hindering food donation in Croatia. The liability for donated food was identified as a key hurdle for food donors, who also experience trouble initiating food donation activities and identifying relevant charity organisations to take on the donated items. Finally, the lack of communication between actors was cited as a major obstacle to overcome for food donation.

The outcomes of this study, including better knowledge of the barriers to food redistribution, were key inputs for the drafting proposals for the Plan for food waste reduction and prevention and for drafting new Ordinance on food and feed donation. As such, the Plan for food waste reduction and prevention aims to focus on the key areas which can encourage food donation<sup>126</sup>.

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<sup>123</sup> [Food Waste Prevention and Reduction Plan \(OG No. 61/19\)](#)

<sup>124</sup> [Programme for the implementation of Food Waste Prevention and Reduction Plan](#)

<sup>125</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>126</sup> Interview with a member of the Croatian Ministry of Agriculture. 13 June 2018.

**Table 34 Evaluation of the Member State’s policy in terms of “National strategies for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a national food waste strategy including food redistribution measures	x			
Adoption of SDG 12.3 or more ambitious goals, driving the adoption of food redistribution to meet these targets		x <sup>127</sup>		
Availability of guidelines to facilitate and promote food donation			x	
Call to develop and strengthen relationships between food redistribution actors		x		

### 3.4.2 Fiscal incentives for food redistribution

Since 2015, VAT is not imposed on food that is no longer suitable for the market and is donated to a registered charity organisation (within the limit of 2% of the donor’s income) according to the **Value Added Tax Ordinance** of the Ministry of Finance.

To benefit from the zero-rate VAT on donated items, the Tax Administration of the Ministry of Finance requires donors to send a report in an electronic format stating the value of donated foods (without VAT). However, the government is not aware of the impact that this market-based instrument has had on the amounts of food donated as several measures encouraging food redistribution have been initiated in parallel making it difficult to estimate the impacts of these separately<sup>128 129 130</sup>.

In addition to the VAT context for donations, 2 measures on tax deductions also facilitate food donation in Croatia. Provided a registered non-profit legal entity (charity) receives the donation, the **Profit Tax Act** grants a full tax deduction on food donations made by profit taxpayers, within the limit of 2% of their income from the previous year. Redistribution organisations (charities) must, however, send a summary on the donated, received and redistributed food to the Ministry of Agriculture, to maintain the traceability of the donated products and donors must keep relevant documentation to confirm that the food has been donated to the charities<sup>131</sup>. According to the **Income Tax Act**, income taxpayers can also benefit from a full tax deduction on food donations made for humanitarian purposes<sup>132</sup>. In both cases, Croatian actors have observed an increase in the number of donations; this increase cannot, however, be solely attributed to the tax deductions as previously explained, as a result of the parallel initiatives<sup>133</sup>.

<sup>127</sup> Presence of the criteria is based on the information provided by the competent authority of the Member State during the consultation on the report.

<sup>128</sup> Interview with RRiF-Plus. 13 June 2018.

<sup>129</sup> Petarčić, Ivan. 2017. “The role of VAT on Corporate social responsibility in Croatia.” *Journal of Accounting and Management* 2017, vol.: 07; no.: 02; page 53 - 64. <https://hrcak.srce.hr/file/287152>.

<sup>130</sup> VAT Ordinance (OG No79/13, 85/13, 160/13, 35/14, 157/14, 130/15, 1/17, 41/17, 128/17 and 1/19, [https://www.porezna-uprava.hr/hr\\_propisi/\\_layouts/15/in2.vuk2019.sp.propisi.intranet/propisi.aspx#id=pro1472](https://www.porezna-uprava.hr/hr_propisi/_layouts/15/in2.vuk2019.sp.propisi.intranet/propisi.aspx#id=pro1472)

<sup>131</sup> Profit Tax Act (OG 177/04, 90/05, 57/06, 146/08, 80/10, 22/12, 148/13, 143/14, 50/16, 115/16 and 106/18), [https://www.porezna-uprava.hr/hr\\_propisi/\\_layouts/in2.vuk.sp.propisi.intranet/propisi.aspx#id=pro19](https://www.porezna-uprava.hr/hr_propisi/_layouts/in2.vuk.sp.propisi.intranet/propisi.aspx#id=pro19).

<sup>132</sup> Income Tax Act (OG No 115/16 and 106/18), [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>133</sup> Interview with RRiF-Plus. 13 June 2018.

**Table 35 Evaluation of the Member State’s policy in terms of “Fiscal incentives for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a fiscal regime specific to food redistribution	x			
Presence of guidelines to clarify how to address complex fiscal regimes such as VAT and/or tax deductions			x	

### 3.4.3 Legal measures for food redistribution

#### 3.4.3.1 General legal framework on food redistribution

In the **2018 Agriculture Act**, the Ministry of Agriculture set out a three-fold objective for food waste prevention in which food redistribution is addressed: preventing the disposal of large amounts of edible food, providing assistance to end recipients, and protecting the environment. The Agriculture Act provides the following definitions for donors and redistribution organisations: donors are food business operators as referred to in Article 3 (3) of the Regulation (EC) No.178/2002 while redistribution organisations in the food redistribution chain are non-profit natural or legal persons (charities), registered by the Ministry of Agriculture. Both actors are considered as food business operators (registered by the Ministry of Health) within the scope of this definition, receiving food from donors and distributing it to final recipients: people in need. It is forbidden to sell donated food according to Article 82 of the Agriculture Act (Official Gazette No 118/2018)<sup>134</sup>.

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 older people and in social stores. The Ministry of Health registers COs as FBOs in the category of entities which redistribute food to the people in need<sup>135</sup>.

The Croatian framework around food redistribution is further defined in the **Ordinance on conditions, criteria and modalities of donating food and feed** (*Pravilnik o uvjetima, kriterijima i načinima doniranja hrane i hrane za životinje*),<sup>136</sup> published by the Ministry of Agriculture in 2015<sup>137</sup>. This Ordinance complements the objectives of the Agriculture Act and establishes the list of food products that can be donated. Food with errors in or lack of packaging, labelling, weighing, or products close to their expiry dates is eligible for donation provided they are safe for human consumption. Food produced or prepared by mass catering entities can also be donated if not previously served to consumers, and if hygiene requirements are respected<sup>138</sup>. The Ordinance, however, lays out strict administrative obligations for donors and receiving entities. For donors must keep detailed information of all food donations and food receipt. It created an administrative burden

<sup>134</sup> Croatian Parliament. December 2018. “Odluku o Proglašenju Zakona o Poljoprivredi / Decision on the Provision of Agricultural Law”. [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>135</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>136</sup> Croatian Ministry of Agriculture. 2015. “Ordinance on the Conditions, Criteria and Ways of Donating Food and Feed (Pravilnik o uvjetima, kriterijima i načinima doniranja hrane i hrane za životinje)”. [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>137</sup> Croatia Ministry of Agriculture. 2015b. “Ordinance on the Conditions, Criteria and Ways of Donating Food and Feed (Pravilnik o uvjetima, kriterijima i načinima doniranja hrane i hrane za životinje)”. [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>138</sup> Croatian Ministry of Agriculture. 2015. “Ordinance on the Conditions, Criteria and Ways of Donating Food and Feed (Pravilnik o uvjetima, kriterijima i načinima doniranja hrane i hrane za životinje)”. [http://narodne-novine.nn.hr/clanci/sluzbeni/2015\\_10\\_119\\_2257.html](http://narodne-novine.nn.hr/clanci/sluzbeni/2015_10_119_2257.html)

on structures and possibly prevented from getting involved in the redistribution process. However, Croatia has sought to reduce these requirements to make the system more lenient<sup>139</sup>. The new Ordinance on the food and feed donation is in the final stages of preparation, and it will reduce administrative burden and allow redistribution of food after the expiry of best before date taking account on the food safety.

**Table 36 Evaluation of the Member State’s policy in terms of “General legal framework on food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a legal framework specific to food redistribution, in addition to EU rules	x			
Presence of the food use hierarchy		x <sup>140</sup>		

### 3.4.3.2 Traceability requirements applicable to food redistribution

To benefit from full tax deductions on food donations, the Profit Tax Act and accompanying Ordinance states that donors and redistribution organisations must have relevant documentation to confirm that the donation was made for the humanitarian purposes and send a summary of the donated, received and redistributed food to the Ministry of Agriculture, to maintain the traceability of the donated products<sup>141</sup>.

Furthermore, as stated in the Ordinance on conditions, criteria and modalities of donating food and feed, (Official Gazette, No 119/15)<sup>142</sup>, donors must inform the Ministry of Finance on the amounts of donated food per year, and they must keep detailed records of all food donations (type and name of food, quantity and date of donation) and food receipts (name and register number of the CO or name of end recipient in case of direct donation). Additionally, redistribution organisations (charities) must keep databases of all their final recipients and of the food they have received but not redistributed<sup>143</sup>. This page can be deleted

**Table 37 Evaluation of the Member State’s policy in terms of “Traceability requirements applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a clear traceability regime for food redistribution	x			
Presence of guidelines which clarify the traceability regime for food redistribution			x	

<sup>139</sup> Interview with a member of the Croatian Ministry of Agriculture. 13 June 2018.

<sup>140</sup> Presence of the criteria is based on the information provided by the competent authority of the Member State during the consultation on the report.

<sup>141</sup> Profit Tax Act (OG 177/04,90/05,57/06,146/08,80/10,22/12,148/13,143/14,50/16,115/16,106/18), [https://www.porezna-uprava.hr/hr\\_propisi/layouts/in2.vuk.sp.propisi.intranet/propisi.aspx#id=pro19](https://www.porezna-uprava.hr/hr_propisi/layouts/in2.vuk.sp.propisi.intranet/propisi.aspx#id=pro19).

<sup>142</sup> Ordinance on Value Added Tax (OG No. 79/13, 85/13, 160/13, 35/14, 157/14, 130/15, 1/17, 41/17, 128/17 and 1/19), [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). Croatian Ministry of Agriculture. 2015. “Ordinance on the Conditions, Criteria and Ways of Donating Food and Feed (Pravilnik o uvjetima, kriterijima i načinima doniranja hrane i hrane za životinje)”. [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>143</sup> Information from the EU Platform on Food Losses and Food Waste. 2018



### 3.4.3.3 Primary responsibility and liability rules for food redistribution

Article 82(3) of the Agriculture Act sets out the general regulatory framework for the responsibilities and food safety requirements for the food redistribution chain. FBOs involved in the food redistribution chain, and therefore including redistribution organisations, must ensure that food under their control during the production, processing, storage, transport, distribution and preparation stages complies with the prescribed requirements regarding food safety. As such, donors are not responsible for food items after donation, which makes the process easier on their end<sup>144 145 146</sup>.

Despite the provisions of the Agriculture Act, the 2017 study from the Ministry of Agriculture and the University of Zagreb identified primary responsibility and liability for donated food as the most common obstacles in the food donation chain and a need for further clarifications regarding the responsibilities of actors in the food redistribution chain and food safety.<sup>147</sup>

Furthermore, Article 3 (3) of the Ordinance on conditions, criteria and modalities of donating food and feed (Official Gazette, No 119/15)<sup>148</sup> states that donor and CO participating in the food redistribution chain shall be responsible for the food safety in stages under their control (in accordance with Regulation (EC) No. 178/2002)<sup>149</sup>.

**Table 38 Evaluation of the Member State’s policy in terms of “Primary responsibility and liability rules for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of clear primary responsibility and liability rules for food redistribution	x			
Presence of guidelines which clarify the primary responsibility and liability rules for food redistribution			x	

### 3.4.3.4 Hygiene rules applicable to food redistribution

The Ordinance on conditions, criteria and modalities of donating food and feed (Official Gazette, No 119/15)<sup>150</sup> is the main text setting out regulations on hygiene conditions and requirements for donating food. Article 3 (3) of the Ordinance states that donor and CO participating in the food redistribution chain shall comply with the general hygiene requirements laid down in Regulation (EC) No. 852/2004. It is only allowed to donate safe food in line with the Regulation (EC) No. 178/2002.

In 2018, the Ministry of Agriculture, in cooperation with the Croatian Food Agency prepared a study to evaluate food safety after the expiration of the “use by” and “best before” dates. The first part of

<sup>144</sup> Interview with a member of the Croatian Ministry of Agriculture. 13 June 2018.

<sup>145</sup> [Agriculture Act \(OG No. 118/18\)](#)

<sup>146</sup> Petarčić, Ivan. 2017. “The role of VAT on Corporate social responsibility in Croatia.” *Journal of Accounting and Management* 2017, vol.: 07; no.: 02; page 53 - 64. <https://hrcak.srce.hr/file/287152>.

<sup>147</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>148</sup> Minister of Agriculture. 2015. "[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)

<sup>149</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>150</sup> Minister of Agriculture. 2015. "[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)

the study is based on a laboratory analysis of food and the second part consists of recommendations based on already available literature. The study will be the basis for drawing up guidelines and provisions on food consumption and donation after the expiration of the “best before” date<sup>151</sup>.

Furthermore, the Ministry of Agriculture is planning to prepare a guideline with clear explanations on the hygiene requirements and responsibility of actors in food redistribution chain to avoid any possible uncertainty<sup>152</sup>.

**Table 39 Evaluation of the Member State’s policy in terms of “Hygiene rules applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of national laws in addition to EU rules to simplify hygiene requirements for food redistribution	x			
Presence of national guidelines explaining hygiene requirements for food redistribution, clarifying EU rules and making them easier to understand for relevant actors			x	

### 3.4.3.5 Food information to consumers applicable to food redistribution

Regarding date marking, distributing entities such as food banks must receive surplus food before it has passed its “best before” date. However, redistribution entities can then redistribute this food to the end consumer after this date, as long as the final recipient is informed according to the Ordinance on conditions, criteria and modalities of donating food and feed, (Official Gazette, No 119/15)<sup>153</sup>. The government recognised that this stricter interpretation of EU law poses a barrier towards food redistribution. The new Ordinance on food and feed donation, which is in the final stage of preparation and will be published soon, will change these provisions. In 2018, the Ministry of Agriculture ordered a study from the Croatian Food and Agricultural Agency for which they plan to publish their findings on food consumption past the “best before” date. It is expected that the results will help charities better understanding of the durability of food after the expiry of “best before date”. Moreover, national guidance will additionally clarify hygiene and date labelling issues.

As stated in 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 errors in the information on the packaging, labelling, weighing (or lack of this information) or is close to its expiry dates is eligible for donation provided it is safe for human consumption and the final recipient receives the correct information on the product<sup>154</sup>.

<sup>151</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>152</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>153</sup> Interview with a member of the Croatian Ministry of Agriculture. 13 June 2018.

<sup>154</sup> Croatian Ministry of Agriculture. 2015. “Ordinance on the Conditions, Criteria and Ways of Donating Food and Feed (Pravilnik o uvjetima, kriterijima i načinima doniranja hrane i hrane za životinje)”. [http://narodne-novine.nn.hr/clanci/sluzbeni/2015\\_10\\_119\\_2257.html](http://narodne-novine.nn.hr/clanci/sluzbeni/2015_10_119_2257.html)

**Table 40 Evaluation of the Member State’s policy in terms of “Food information to consumers applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Donation requirements in line with EU recommendation on “best before” dates			x	
Presence of national guidelines on “best before” dates		x		
Presence of laws targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)	x			
Presence of national guidelines targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)			x	

#### 3.4.4 Voluntary Agreements for food redistribution

Within Croatia’s four-year plan for food waste reduction and prevention, elaborated by the Food Waste Prevention Department at the Ministry of Agriculture, initiating a Voluntary Agreement is indicated as a priority action, which is foreseen to include a component on food redistribution as a solution towards curbing food waste<sup>155</sup>. Concrete actions were taken by the Croatian Ministry to initiate a Voluntary Agreement following their participation in the EU REFRESH Policy Platform on Voluntary Agreements<sup>156</sup>. This platform, which was financed within the scope of this H2020 research project, aims to show Member States how to apply the project’s Blueprint, a roadmap on how to set up Voluntary Agreements within any country’s context. Application of this Blueprint tool, which should be available on the REFRESH Community of Experts page by the summer of 2019, in combination with the support from the REFRESH project team is expected to help launch the Voluntary Agreement<sup>157</sup>. Impacts on food redistribution will only be available after its launch.

<sup>155</sup> Interview with a member of the Croatian Ministry of Agriculture. 13 June 2018.

<sup>156</sup> EU REFRESH. 19.06.2018 Policy Working group on Voluntary Agreements led by Deloitte Sustainability and WRAP. <https://eu-refresh.org/refresh-policy-working-group-voluntary-agreements>

<sup>157</sup> EU REFRESH. Community of Experts. <http://www.refreshcoe.eu/>

**Table 41 Evaluation of the Member State’s policy in terms of “Voluntary Agreements for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a Voluntary Agreement which addresses all five pillars of the EU REFRESH blueprint in regard to food donation			x	

### 3.4.5 Communication initiatives for food redistribution

As with Voluntary Agreements, setting up national communication campaigns for food waste reduction was cited as a potential measure within Croatia’s four-year plan for food waste reduction and prevention, although their ambitions for food redistribution are unknown.

However, as a micro-initiative, Croatian representative in the European Parliament with the assistance of the civil society association has recently launched a “best donator” prize to rewards entities that carry out food redistribution activities. As the award is a small scale and currently low-impact initiative, the project team does not consider that this initiative is sufficient to classify Croatia as having significant communication actions regarding food redistribution. It nevertheless has created some awareness on food redistribution on the local level. As of mid-2018, the Ministry is considering collaborating with some of these winners and spotlight them as “ambassadors of food donation”, to encourage and raise awareness about food redistribution<sup>158</sup>.

### 3.4.6 Other initiatives for food redistribution

As cited in section 4.3.1, the Ministry of Agriculture conducted a study in 2017 in partnership with the Faculty of Food Technology and Biotechnology of the University of Zagreb, to identify the main obstacles hindering food donation in Croatia, feeding into the key inputs for the Plan for food waste reduction and prevention<sup>159</sup>.

Croatia launched a pilot project regarding e-donations. IT system for food donation facilitates food donation process. Donors put the information on a surplus food in the system, and the central manager of an IT system via IT sends a proposal of donation to the charities. Charity, who is interested and has the capacity and resources, ticks the box in IT for that donation and goes to pick up a donation from the donor.

The Republic of Croatia uses the FEAD programme as an addition 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 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 of the

<sup>158</sup> Interview with a Member of the Croatian Ministry of Agriculture. 13 June 2018.

<sup>159</sup> Interview with a member of the Croatian Ministry of Agriculture. 13 June 2018.

rental or procurement of equipment for more efficient food distribution (refrigerators, pallet trucks, storage bins) or the purchase of vehicles to transport food<sup>160</sup>.

Finally, 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 activities to assist persons whose right to public assistance is recognised in national legislation<sup>161</sup>.

**Table 42 Evaluation of the Member State’s policy in terms of “Other initiatives for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Use of the FEAD operational programme to support the redistribution of food	x <sup>162</sup>			
Presence of measures encouraging the redistribution of fruits and vegetables withdrawn from the market, in line with Regulation (EU) 1308/2013	x			
Publication of studies/research related to food redistribution	x			
Presence of financial or logistic support for food redistribution at the national/regional/local level			x	
Absence of incentives for the valorisation of food surplus via anaerobic digestion, which may otherwise hinder redistribution if the incentives for anaerobic digestion favour this recovery route over redistribution	x			

<sup>160</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>161</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>162</sup> Presence of the criteria is based on the information provided by the competent authority of the Member State during the consultation on the report.

## 3.5 Cyprus

### 3.5.1 National strategies for food redistribution

In Cyprus, the **Waste prevention programme** (*Πρόγραμμα Πρόληψης Δημιουργίας Αποβλήτων*), running from 2015 to 2021 sets out objectives for an integrated waste management policy and provides measures for food waste reduction. While it is not the primary focus of the programme, food redistribution activities are encouraged: the donation to charities is mentioned explicitly within the indicative list of measures for the elaboration of a good practices guide. No quantitative targets were set to monitor this plan due to the unavailability of data and a baseline to compare it. The measures are however monitored and evaluated using appropriate indicators, by the Department of Agriculture and the Department of Environment<sup>163</sup>.

It is worth noting that 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 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<sup>164</sup>.

**Table 43 Evaluation of the Member State's policy in terms of "National strategies for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a national food waste strategy including food redistribution measures		x		
Adoption of SDG 12.3 or more ambitious goals, driving the adoption of food redistribution to meet these targets			x	
Availability of guidelines to facilitate and promote food donation			x	
Call to develop and strengthen relationships between food redistribution actors			x	

### 3.5.2 Fiscal incentives for food redistribution

Unlike the general VAT rate which amounts to 19%, a lower rate of 5% applies to the provision of certain goods (and services) according to the Cypriot **Value Added Tax Law** (*Ο περί Φόρου Προστιθέμενης Αξίας Νόμος του 2000*)<sup>165</sup>. The supply of food, including beverages (except alcoholic beverages, beer, wine and soft drinks) for human consumption can benefit from this reduced VAT rate. The term "food" used in the law may also encompass the transportation of prepared or non-

<sup>163</sup> Cyprus Ministry of Agriculture, Rural Development and Environment. 2015. Waste prevention programme 2015-2021. [http://www.moa.gov.cy/moa/environment/environmentnew.nsf/page20\\_gr/C2CAECE079E9931DC2257EF200356E7A/\\$file/%CE%A0%CF%81%CF%8C%CE%B3%CF%81%CE%B1%CE%BC%CE%BC%CE%B1%20%CE%A0%CF%81%CF%8C%CE%BB%CE%B7%CF%88%CE%B7%CF%82%20%CE%94%CE%B7%CE%BC%CE%B9%CE%BF%CF%85%CF%8](http://www.moa.gov.cy/moa/environment/environmentnew.nsf/page20_gr/C2CAECE079E9931DC2257EF200356E7A/$file/%CE%A0%CF%81%CF%8C%CE%B3%CF%81%CE%B1%CE%BC%CE%BC%CE%B1%20%CE%A0%CF%81%CF%8C%CE%BB%CE%B7%CF%88%CE%B7%CF%82%20%CE%94%CE%B7%CE%BC%CE%B9%CE%BF%CF%85%CF%8)

<sup>164</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>165</sup> Cyprus Ministry of Finance. 2000. "Value Added Tax Law (95 (I) 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).

prepared food and/or beverages within the scope of the applied VAT. However, the Value Added Tax Law grants a **zero-rate of VAT** in the case of the supply of goods to non-profit organisations, which export them outside the EU Member States as part of their humanitarian, charitable or teaching activities.

The Value Added Tax Law has a dual effect on food redistribution. The absence of a VAT exemption for non-exported food donations within Cyprus may act as a disincentive for entities to engage in food redistribution, thus implying lower amounts of redistributed food. However, the zero-rate for exported redistributed food encourages redistribution, but with a very limited scope: only a selection of food products may be exported to countries outside the European Union. Upon analysis by the project team, it cannot be concluded that the Value Added Tax Law promotes food redistribution, as it only offers a fiscal incentive for the redistribution of food outside the European Union. Furthermore, the items exported outside of the EU are most likely bought in Cyprus, and not recovered as surplus food.

Another measure from the Tax Department complicates food redistribution from a financial standpoint. The 2015 **Circular on "Losses and free supply of food"** (*Ερμηνευτική Εγκύκλιος αρ. 195 "Απώλειες και Δωρεάν Παράδοση Τροφίμων"*) makes a distinction between the applicable VAT rate for food losses and for food supplied free of charge<sup>166</sup>. To clarify, food products which are considered as food losses (destroyed or disposed of daily) can benefit from a VAT exemption, provided that the taxable entity destroying the goods maintains records of them. This is a significant hurdle towards food redistribution as there is a clear fiscal advantage for potential donors to destroy their surplus food, motivated by the VAT exemption, rather than redistributing the products, which is more expensive. This will remain a problem unless the exemption is either counterbalanced by landfill/disposal tax (or any other penalty) or if the destruction VAT exemption is lifted.

Meanwhile, the **Income Tax Law** can indirectly have a positive impact on food redistribution as a tax deduction for donations or contributions for educational or other charitable purposes made to municipal authorities, or any approved charity organisations, to help these organisations with their operating expenses, can be applied<sup>167</sup>. Therefore, although the Income Tax Law was not intentionally designed to facilitate food redistribution, the tax deduction can create a fiscal advantage for FBOs to donate their surplus food. However, no expert analysis on the impact of the measure is available<sup>168</sup>

<sup>169</sup>.

**Table 44 Evaluation of the Member State's policy in terms of "Fiscal incentives for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a fiscal regime specific to food redistribution	x			
Presence of guidelines to clarify how to address complex fiscal regimes such as VAT and/or tax deductions			x	

<sup>166</sup> Cyprus Ministry of Finance. 2015. "Losses and free supply of food, Circular No 195 of 18.11.2015."

[http://www.mof.gov.cy/mof/VAT/VAT.nsf/All/CF35835FC967BC1BC2257F0A002894AB/\\$file/EE195.pdf?Openement](http://www.mof.gov.cy/mof/VAT/VAT.nsf/All/CF35835FC967BC1BC2257F0A002894AB/$file/EE195.pdf?Openement).

<sup>167</sup> Cyprus Ministry of Finance. 2002. "Article 9-1(f) of Income Tax Law of 2002 (118(I)/2002) about tax deductible expenses."

<sup>168</sup> Cyprus Tax Department. n.d. "List of approved charitable institutions." Accessed August 13, 2018.

[http://www.mof.gov.cy/mof/taxdep.nsf/page20\\_gr/page20\\_gr?OpenDocument](http://www.mof.gov.cy/mof/taxdep.nsf/page20_gr/page20_gr?OpenDocument).

<sup>169</sup> Deloitte. 2017. Tax Information.

[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).

### 3.5.3 Legal measures for food redistribution

#### 3.5.3.1 General legal framework on food redistribution

As of June 2019, there are no legal framework specific to food redistribution in addition to EU rules in Cyprus.

**Table 45 Evaluation of the Member State’s policy in terms of “General legal framework on food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a legal framework specific to food redistribution, in addition to EU rules			x	
Presence of the food use hierarchy				x

#### 3.5.3.2 Traceability requirements applicable to food redistribution

As of June 2019, there are no guidelines which clarify the traceability regime for food redistribution in Cyprus.

**Table 46 Evaluation of the Member State’s policy in terms of “Traceability requirements applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a clear traceability regime for food redistribution				x
Presence of guidelines which clarify the traceability regime for food redistribution			x	

#### 3.5.3.3 Primary responsibility and liability rules for food redistribution

As of June 2019, there are no guidelines which clarify the primary responsibility and liability rules for food redistribution in Cyprus.

**Table 47 Evaluation of the Member State’s policy in terms of “Primary responsibility and liability rules for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of clear primary responsibility and liability rules for food redistribution				x
Presence of guidelines which clarify the primary responsibility and liability rules for food redistribution			x	



### 3.5.3.4 Hygiene rules applicable to food redistribution

A variety of rules exist laying out the requirements for food hygiene:

- The **Food (Control and Sale) Laws (54(I)/1996) of 1996-2014** (*Οι περί Τροφίμων (Έλεγχος και Πώληση) Νόμοι του 1996-2014*) prohibits the sale, production for sale, import for sale of unfit food, and the production, preservation, packaging, transportation or storage of any food under unsanitary conditions<sup>170</sup>. Food shall not be labelled or presented in a manner that is false, misleading or deceptive;
- The **Law on hygiene for the production of food of animal origin, their placing on the market and related matters (150(I)/2003)** (*Ο περί Υγιεινής Παραγωγής Τροφίμων Ζωικής Προέλευσης και Διάθεσής τους στην Αγορά καθώς και για άλλα Συναφή Θέματα Νόμος του 2003*)<sup>171</sup> regulates the placing on the market of food items of animal origin;
- The **Law on the hygiene of food of plant origin at the stage of primary production 39(I)/2017** (*Ο περί Υγιεινής των Τροφίμων Φυτικής Προέλευσης στο Στάδιο της Πρωτογενούς Παραγωγής Νόμος του 2017*)<sup>172</sup> transposes Regulation EC No 852/2004;

Finally, the Ministry of Health elaborated 9 **Guides to good hygiene practice** (*Οδηγοί Υγιεινής*)<sup>173</sup> to ensure the implementation of the 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>174</sup>.

For all of the above texts, there are no specific provisions on how to utilise food waste and/or reduce food waste. Non-compliance is mentioned in the Law on the hygiene of food of plant origin, stipulating that in the case of non-compliance, the competent authority monitors the adoption of corrective measures ensuring that products are safe. The adoption of these corrective measures can also minimise food waste at the same time. Also, article 5(2)(e) of Regulation (EC) No. 852/2004 on the hygiene of foodstuffs, which is transposed in Annex III and articles 6,9, 14, 16<sup>A</sup>, 17, 23A, 23B, 23C and 25(2) of the **Food (Control and Sale) Laws (54(I)/1996) of 1996-2014** (*Οι περί Τροφίμων (Έλεγχος και Πώληση) Νόμοι του 1996-2014*), foresees that food business operators shall put in place, implement and maintain a permanent procedure or procedures based on the HACCP principles, including establishing corrective measures when monitoring indicates that a critical control point is

<sup>170</sup> Cyprus Ministry of Health. 1996. "Food (control and sale) law (54(I)/1996) (Ο περί Τροφίμων (Έλεγχος και Πώληση) Νόμος του 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>171</sup> Cyprus Ministry of Agriculture, Rural Development and Environment. 2003. "Law on hygiene for the production of food of animal origin, their placing on the market and related matters (150(I)/2003), (Ο περί Υγιεινής Παραγωγής Τροφίμων Ζωικής Προέλευσης και Διάθεσής τους στην Αγορά καθώς και για άλλα Συναφή Θέματα Νόμος του 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>172</sup> Cyprus Ministry of Agriculture, Rural Development and Environment.. 2017. "Law on the hygiene of food of plant origin at the stage of primary production 39(I)/2017 (Ο περί Υγιεινής των Τροφίμων Φυτικής Προέλευσης στο Στάδιο της Πρωτογενούς Παραγωγής Νόμος του 2017)." [http://www.mof.gov.cy/mof/gpo/gpo.nsf/All/918CF4426D96AEC1C22581090038DAD0/\\$file/4598%2021%204%202017%20PARATHMA%201o%20MEROS%20I.pdf](http://www.mof.gov.cy/mof/gpo/gpo.nsf/All/918CF4426D96AEC1C22581090038DAD0/$file/4598%2021%204%202017%20PARATHMA%201o%20MEROS%20I.pdf).

<sup>173</sup> Cyprus Ministry of Health. n.d. "Guides to good hygiene practice (Οδηγοί Υγιεινής)." [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>174</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)

not under control. Also, article 54 of Regulation (EC) No. 882/2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules, which is transposed in Annex III and articles 6,9, 14, 16<sup>A</sup>, 17, 23A, 23B, 23C and 25(2) of the **Food (Control and Sale) Laws (54(I)/1996) of 1996-2014** (*Οι περί Τροφίμων (Έλεγχος και Πώληση) Νόμοι του 1996-2014*), foresees that when the competent authority identifies non-compliance, it shall take action to ensure that the food business operator remedies the situation. These corrective measures can also minimise food waste at the same time.

**Table 48 Evaluation of the Member State’s policy in terms of “Hygiene rules applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of national laws in addition to EU rules to simplify hygiene requirements for food redistribution			x	
Presence of national guidelines explaining hygiene requirements for food redistribution, clarifying EU rules and making them easier to understand for relevant actors			x	

### 3.5.3.5 Food information to consumers applicable to food redistribution

In regard to **date marking**, Cyprus’ application of EU legislation on “best before” dates within the scope of food redistribution is stricter than required by this legislation. Charitable organisations refrain from donating food past the “best before” date to beneficiaries due to the risks specific to the liability. Large amounts of edible food, safe for human consumption, are therefore wasted.

Regarding **marketing standards and quality requirements**, fruits and vegetables that do not meet product quality requirements can be placed on the market without any classification, and potentially at lower prices. Redirection of food products that do not meet quality standards to transformation/processing is another option for specific food items, such as eggs, which do not meet the Class A requirements, or poultry and meat. Food can also be rerouted to biofuel plants upon inspection by the authorities. Although these recovery options ultimately help cut food waste, it is not clear if the food use hierarchy is considered in order to prioritise food redistribution for human consumption over biofuel recovery.

**Table 49 Evaluation of the Member State’s policy in terms of “Food information to consumers applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Donation requirements in line with EU recommendation on “best before” dates		x		
Presence of national guidelines on “best before” dates			x	
Presence of laws targeting food redistribution actors to clarify			x	

	Criteria present	Criteria partly present	Criteria not present	Unknown
the requirements for food information to consumers (language and labelling requirements, apart from date marking)				
Presence of national guidelines targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)			x	

### 3.5.4 Voluntary Agreements for food redistribution

As of June 2019, there are no Voluntary Agreements promoting food redistribution in Cyprus.

**Table 50 Evaluation of the Member State's policy in terms of "Voluntary Agreements for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a Voluntary Agreement which addresses all five pillars of the EU REFRESH blueprint in regard to food donation			x	

### 3.5.5 Communication initiatives for food redistribution

As June 2019, there are no communication initiatives targeting food redistribution in Cyprus.

### 3.5.6 Other initiatives for food redistribution

Between 2017 and 2018, the **extended ban on the imports of certain EU products** imposed by the Russian government led to considerable surplus among citrus fruits producers. However, producers could choose to distribute their products to organisations (*i.e.* charity, schools) or send them to other recovery outlets (*i.e.* animal feed, composting, processing). In total, approximately five tonnes of citrus fruits were withdrawn from the market during this period. The competent authority that supervised this food operation liaised with local charity organisations to determine their reception capacity. Ultimately, as these organisations only had the resources to recover one tonne of the citrus fruits surplus, the remaining 4 tonnes went to other forms of recovery that were

lower in the food use hierarchy<sup>175</sup>. Upon analysis by the project team, it was determined that while the competent authority’s prioritisation of food redistribution to other forms of valorisation is a good example of food redistribution, this example surfaced capacity and resource barriers of food charities, which hinder greater recovery.

Furthermore, the **FEAD programme** is applied in Cyprus and funds can be used to support various projects and provide food assistance to people in need, such as the programme of free distribution of breakfast to students with lesser means, reaching out to over 13 000 children (*Παροχή δωρεάν προγεύματος σε μαθητές/τριες που χρήζουν βοήθειας*)<sup>176</sup>. The funds of the FEAD programme are however used to purchase food, not to redistribute food. Still, food donors are also encouraged to participate in the operational redistribution aspect of the programme.

**Table 51 Evaluation of the Member State’s policy in terms of “Other initiatives for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Use of the FEAD operational programme to support the redistribution of food			x	
Presence of measures encouraging the redistribution of fruits and vegetables withdrawn from the market, in line with Regulation (EU) 1308/2013	x			
Publication of studies/research related to food redistribution			x	
Presence of financial or logistic support for food redistribution at the national/regional/local level			x	
Absence of incentives for the valorisation of food surplus via anaerobic digestion, which may otherwise hinder redistribution if the incentives for anaerobic digestion favour this recovery route over redistribution	x			

<sup>175</sup> Cyprus Agricultural Payments Organisation. 2017. “Implementation Manua.” [http://www.capo.gov.cy/capo/capo.nsf/0/516fc1c5f56003fbc22581d8004b7e62/\\$FILE/%CE%95%CE%93%CE%A7%CE%95%CE%99%CE%A1%CE%99%CE%94%CE%99%CE%9F%CE%95%CE%A6%CE%91%CE%A1%CE%9C%CE%9F%CE%93%CE%97%CE%A3%CE%95%CE%9D%CE%97%CE%9C%CE%95%CE%A1%CE%A9%CE%A3%CE%97%CE%91](http://www.capo.gov.cy/capo/capo.nsf/0/516fc1c5f56003fbc22581d8004b7e62/$FILE/%CE%95%CE%93%CE%A7%CE%95%CE%99%CE%A1%CE%99%CE%94%CE%99%CE%9F%CE%95%CE%A6%CE%91%CE%A1%CE%9C%CE%9F%CE%93%CE%97%CE%A3%CE%95%CE%9D%CE%97%CE%9C%CE%95%CE%A1%CE%A9%CE%A3%CE%97%CE%91)

<sup>176</sup> Cyprus Ministry of Education. 2017. “Circular of the Ministry of Education - School year 2017-2018.” <http://enimerosi.moec.gov.cy/archeia/1/ypp6184a>.

## 3.6 Czech Republic

### 3.6.1 National strategies for food redistribution

While there is no national strategy that includes food redistribution activities in Czech Republic, the **Waste Management Plan for the period 2015-2024** (*Nařízení vlády 352/2014 Sb., o Plánu odpadového hospodářství České republiky pro období 2015-2024*) has a clear focus on food waste. Its ambition is to cut food waste throughout all levels of the food cycle, from the production of foodstuffs to the placing of food production on the market and its consumption<sup>177</sup>. At this stage, it is unknown if this plan will be revised to include food redistribution within its measures to cut food waste.

However, in 2017, the Czech Federation of Food Banks and Czech Confederation of Commerce and Tourism published the **Internal guidelines for food donation** (*Zásady 'povinného' darování potravin vytvořena Českou federací potravinových bank a Svazem obchodu a cestovního ruchu ČR*)<sup>178</sup> to provide clarifications to the Law no. 180/2016 (see section 3.6.3.1). These guidelines provide information on various topics relating to food redistribution, such as primary responsibility and food information to consumers. Another guidance document, written by the general directorate of finance, provides information on VAT with relation to donated products in Czech Republic (see section 3.6.2)<sup>179</sup>.

Finally, the Ministry of Agriculture organises **round tables** among different food waste to exchange ideas and enhance communication. They have been held on an ad-hoc basis since November 2016 and are hosted by various organisations. Within this scope, meetings are organised between the Ministry of Agriculture and food banks to encourage cooperation between governmental and non-governmental organisations. These meetings surfaced the need to develop the various existing guideline documents, such as the "Guidelines for the application of VAT to food donated to food banks", issued in 2014<sup>180</sup>.

**Table 52 Evaluation of the Member State's policy in terms of "National strategies for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a national food waste strategy including food redistribution measures			x	
Adoption of SDG 12.3 or more ambitious goals, driving the adoption of food redistribution to meet these targets			x	
Availability of guidelines to facilitate and promote food donation	x			

<sup>177</sup> Czech Ministry of the Environment. 2015-2024. Government Regulation 352/2014 Coll. on Waste Management Plan of the Czech Republic for the period 2015-2024 (*Nařízení vlády 352/2014 Sb., o Plánu odpadového hospodářství České republiky pro období 2015-2024*). [https://www.mzp.cz/cz/plan\\_odpadoveho\\_hospodarstvi\\_aj](https://www.mzp.cz/cz/plan_odpadoveho_hospodarstvi_aj).

<sup>178</sup> Czech Federation of Food Banks and Czech Confederation of Commerce and Tourism. 2017. "Internal guidelines for food donations drafted by the Czech Federation of Food Banks and Czech Confederation of Commerce and Tourism" (*Zásady 'povinného' darování potravin vytvořena Českou federací potravinových bank a Svazem obchodu a cestovního ruchu ČR*). <http://potravinovebanky.cz/ke-stazeni/>.

<sup>179</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>180</sup> Czech Ministry of Agriculture official website for the press releases on the outcomes of the round tables. <http://eagri.cz/public/web/mze/>.

	Criteria present	Criteria partly present	Criteria not present	Unknown
Call to develop and strengthen relationships between food redistribution actors	x			

### 3.6.2 Fiscal incentives for food redistribution

Via the 2004 **Law on a methodological change in VAT calculation** (*Zákon č. 235/2004 Sb. Zákon o dani z přidané hodnoty*), the VAT rate on donated food changed from an applied 15% VAT to a **zero-rate** or close to zero-rate VAT<sup>181</sup>. 10 years later, in an attempt to clarify the basic rules and approaches for the application of VAT in the specific case of donation of foodstuffs to a food bank, the General Directorate of Finance issued **guidelines for the application of VAT to food donated to food banks** (*Informace GFŘ k uplatnění DPH při darování zboží do potravinových bank*)<sup>182</sup>. These guidelines, aimed at retailers, charities and food banks, laid out how to calculate the VAT rate to reduce to zero or close to zero on donated food items. However, according to an interview with a member of the Ministry of Agriculture, the effectiveness of these VAT guidelines is unknown<sup>183</sup>.

**Table 53 Evaluation of the Member State's policy in terms of "Fiscal incentives for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a fiscal regime specific to food redistribution	x			
Presence of guidelines to clarify how to address complex fiscal regimes such as VAT and/or tax deductions	x			

### 3.6.3 Legal measures for food redistribution

#### 3.6.3.1 General legal framework on food redistribution

Food banks must be registered with the Czech Ministry of Agriculture as official "Food Business Operators", independently of having received the food free of charge or not. They must comply with the same food regulatory provisions as food producers, retailers, and food warehouses, whether or not they have received surplus food free of charge<sup>184</sup>. FBOs that store and redistribute food of animal origin must furthermore be registered with the Veterinary Control Agency.

Inspired by the French no. 2016-138 Law on fighting against food waste, the January 2018 **Law no.180/2016 Coll. Amending the Bill No. 110/1997 Law on Food and Tobacco Products** (*ZÁKON č. 180/2016 sb., kterým se mění zákon č. 110/1997 Zákon o potravinách a tabákových*

<sup>181</sup> Czech Republic Ministry of Finances. 2004 "Law on a methodological change in VAT calculation" (*Zákon č. 235/2004 Sb. Zákon o dani z přidané hodnoty*). <https://www.mfcr.cz/cs/legislativa/legislativni-dokumenty/2004/zakon-c-235-2004-sb-3570>.

<sup>182</sup> Czech Republic General Directorate of Finance. 2014. "Information by General Directorate of Finance for VAT application for donated food to food banks" (*Informace GFŘ k uplatnění DPH při darování zboží do potravinových bank*). <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>183</sup> Interview with a member of the Czech Ministry of Agriculture. 2018.

<sup>184</sup> Information from the *EU Platform on Food Losses and Food Waste*. 5 November 2018.

výrobcích)<sup>185</sup> introduced a key amendment on food redistribution in attempt to drive retailer donation practices. The amended Law no. 180/2016 tightens the original voluntary food redistribution measures – outlined within the predeceasing law – by introducing mandatory requirements for food retailers with supermarkets of over 400m<sup>2</sup> to engage in food redistribution actions with registered FBOs. Monitored by the Czech Agricultural Ministry and the Food Inspection Authority, failure to comply entails fines of up to one million CZK to the retailer. 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>186</sup>. By mid-2018, the national volume of donated surplus food has already surpassed 2017’s levels and is expected to double by the end of 2018<sup>187</sup>.

**Table 54 Evaluation of the Member State’s policy in terms of “General legal framework on food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a legal framework specific to food redistribution, in addition to EU rules	x			
Presence of the food use hierarchy			x	

### 3.6.3.2 Traceability requirements applicable to food redistribution

The 2017 **Internal guidelines for food donation**<sup>188</sup> clarify the **traceability** requirements laid out in Law 180/2016, which stipulates that a product must be traceable from the donor to the charity organisation up until its receiving entity<sup>189</sup>.

The organisation distributing the donations is responsible for implementing the “one step before, one step after” strategy, which makes it necessary to have information regarding the donor and the beneficiary for each product. This information does not necessarily need to be shared to the beneficiary, but it should be traceable by the food operator/food bank<sup>190</sup>.

**Table 55 Evaluation of the Member State’s policy in terms of “Traceability requirements applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a clear traceability regime for food redistribution	x			
Presence of guidelines which clarify the traceability regime for food redistribution	x			

<sup>185</sup> Czech Republic Ministry of Agriculture. “Law no. 180/2016 Coll. Amending the Bill No. 110/1997 Law on Food and Tobacco Products” (ZÁKON č. 180/2016 sb., kterým se mění zákon č. 110/1997 Zákon o potravinách a tabákových výrobcích). <https://www.zakonyprolidi.cz/cs/2016-180>.

<sup>186</sup> Czech Republic Government. 2016. “Act No. 180/2016 amending Act No. 110/1997 Coll. On Food and Tobacco Products and on Amendments to Certain Related Acts”. <https://www.zakonyprolidi.cz/cs/2016-180>

<sup>187</sup> Interview with a member of the Czech Ministry of Agriculture. 2018.

<sup>188</sup> Czech Federation of Food Banks and Czech Confederation of Commerce and Tourism. 2017. “Internal guidelines for food donations drafted by the Czech Federation of Food Banks and Czech Confederation of Commerce and Tourism” (*Zásady 'povinného' darování potravin vytvořena Českou federací potravinových bank a Svazem obchodu a cestovního ruchu ČR*). <http://potravinovebanky.cz/ke-stazeni/>.

<sup>189</sup> Information from the EU Platform on Food Losses and Food Waste. 5 November 2018.

<sup>190</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

### 3.6.3.3 Primary responsibility and liability rules for food redistribution

To provide clarifications on the requirements of the Law no. 180/2016, the 2017 Internal guidelines for food donation<sup>191</sup> lay out the primary responsibility requirements for food between donors and food banks. These guidelines stipulate that the **primary responsibility for food passes from the donor to the food bank** as soon as the food bank accepts the donation unless a problem linked to the production stage occurs. In case a superficial quality issue (e.g. aesthetic alteration) arises to the food products prior to the donation, the charity organisation is responsible for properly informing the final recipients<sup>192</sup>. Moreover, 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>193</sup>. The guidelines have been widely adopted by the involved actors, and are considered as a very useful tool for food redistribution.

**Table 56 Evaluation of the Member State's policy in terms of "Primary responsibility and liability rules for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of clear primary responsibility and liability rules for food redistribution	x			
Presence of guidelines which clarify the primary responsibility and liability rules for food redistribution	x			

### 3.6.3.4 Hygiene rules applicable to food redistribution

At the 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 (*Vyhláška č. 137/2004 Sb. o hygienických požadavcích na stravovací služby a o zásadách osobní a provozní hygieny při činnostech epidemiologicky závažných*)<sup>194</sup> 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.

However, food redistribution falls out of the scope of these Czech hygiene requirements, therefore meaning that there is currently an absence of national guidelines or measures on hygiene applicable to food redistribution actions. Although extensive analysis on the impact of this Decree is not

<sup>191</sup> Czech Federation of Food Banks and Czech Confederation of Commerce and Tourism. 2017. "Internal guidelines for food donations drafted by the Czech Federation of Food Banks and Czech Confederation of Commerce and Tourism" (*Zásady 'povinného' darování potravin vytvořena Českou federací potravinových bank a Svazem obchodu a cestovního ruchu ČR*). <http://potravinovebanky.cz/ke-stazeni/>.

<sup>192</sup> Information from the *EU Platform on Food Losses and Food Waste*. 5 November 2018.

<sup>193</sup> Czech Federation of Food Banks. Confederation of Commerce and Tourism. 2017. "Zásady "povinného darování potravin" (Internal guidelines for food donation)". <http://potravinovebanky.cz/ke-stazeni/>.

<sup>194</sup> Czech Republic Ministry of Health. 2004. "Decree No. 137/2004 Coll., on hygienic requirements for catering services and on principles of personal and operational hygiene in epidemiologically important activities (*Vyhláška č. 137/2004 Sb. o hygienických požadavcích na stravovací služby a o zásadách osobní a provozní hygieny při činnostech epidemiologicky závažných*). <http://www.epi.sk/zzcr/2004-137>.



available, the food service actors affected by this Decree perceive these requirements to be too strict to apply for food redistribution actions<sup>195</sup> Therefore, donations from this sector are very rare<sup>196</sup>.

**Table 57 Evaluation of the Member State’s policy in terms of “Hygiene rules applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of national laws in addition to EU rules to simplify hygiene requirements for food redistribution			x	
Presence of national guidelines explaining hygiene requirements for food redistribution, clarifying EU rules and making them easier to understand for relevant actors			x	

### 3.6.3.5 Food information to consumers applicable to food redistribution

According to Law 180/2016; food past its **“best before”** date can be donated and marketed as long as the product is separated from food that is not past the “best before” date, and food safety and hygiene are guaranteed. Furthermore, the labelling of an item must be visible and at least include the following written in Czech: production and expiration date, clear indication that it has passed its “best before” date, and allergens, in line with Regulation (EU) No 1169/2011<sup>197</sup>. 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. The conditions are described in the **Principles of “Mandatory Food Donation”**<sup>198</sup>. The Ministry of Agriculture and the food banks encourage consumer awareness on the difference between the “use by” and “best before” dates through educative activities, leaflets and seminars<sup>199</sup>.

**Table 58 Evaluation of the Member State’s policy in terms of “Food information to consumers applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Donation requirements in line with EU recommendation on “best before” dates	x			
Presence of national guidelines on “best before” dates			x	
Presence of laws targeting food redistribution actors to clarify the requirements for food				x

<sup>195</sup> Information from the *EU Platform on Food Losses and Food Waste*. 5 November 2018.

<sup>196</sup> Information from the *EU Platform on Food Losses and Food Waste*. 2018

<sup>197</sup> Information from the *EU Platform on Food Losses and Food Waste*. 5 November 2018.

<sup>198</sup> Czech Federation of Food Banks. “What do FOOD BANKS do?”. [www.Potravinovebanky.cz](http://www.Potravinovebanky.cz)

<sup>199</sup> Czech Republic Ministry of Agriculture. 2016. “The difference between ‘consumption date and ‘date of minimum durability’” (Rozdíl mezi “datem spotřeby” a “datem minimální trvanlivosti”). <http://eagri.cz/public/web/mze/potraviny/aktualni-temata/plytvani-potravinami-1/rozdil-datem-spotreby-a-datem-minimalni.html>.

	Criteria present	Criteria partly present	Criteria not present	Unknown
information to consumers (language and labelling requirements, apart from date marking)				
Presence of national guidelines targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)				X

### 3.6.4 Voluntary Agreements for food redistribution

As of June 2019, there are no Voluntary Agreements addressing food waste or promoting food redistribution in Czech Republic.

**Table 59 Evaluation of the Member State's policy in terms of "Voluntary Agreements for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a Voluntary Agreement which addresses all five pillars of the EU REFRESH blueprint in regard to food donation			x	

### 3.6.5 Communication initiatives for food redistribution

The Ministry of Agriculture organises educative activities for food banks regarding food safety issues (seminars, webpages) and consumers and the public including visits to schools, leaflets and seminars. These communication activities aim to raise awareness around the issue of food waste, but there is no specific focus given to redistribution activities in these communication actions<sup>200</sup>.

### 3.6.6 Other initiatives for food redistribution

The **FEAD programme** in Czech Republic is piloted by the Ministry of Social Affairs. The Ministry distributes food and hygiene products to people in need, in collaboration with food banks, charity organisations and registered social services providers. The funding goes to clients of social services. The distribution to the final beneficiary can be done only with registered social services providers. The distributed products are however purchased, and not recovered<sup>201</sup>.

<sup>200</sup> Czech Ministry of Agriculture. 2018. Subpage on food waste (Plýtvání potravinami). <http://eagri.cz/public/web/mze/potravinny/aktualni-temata/plytvani-potravinami-1/>.

<sup>201</sup> Information from the *EU Platform on Food Losses and Food Waste*. 5 November 2018.

Additionally, the Ministry of Agriculture supports food banks and charities distributing surplus food<sup>202</sup> through grants (financial support for investments and operations). As the Law no. 180/2016 drove an increase in redistributed surplus food levels, the Ministry of Agriculture started to investigate how these increased levels could be taken on by FBOs. Taking into account that FBOs may not have enough resources to cover the increased operational and logistical costs, and may not have the needed storage capacity and means to handle higher levels of food surplus, Ministry financed subsidies were introduced as an economic solution for these actors. It is therefore via the **Subsidiary title no. 3 by the Ministry of Agriculture concerning the support of food banks and other charity organisations** (*Dotační titul č. 18 Ministerstva Zemědělství Podpora potravinových bank a jiných organizací s humanitárním charakterem*)<sup>203</sup> that FBOs can be partially economically supported in their operating expenses. Monitored by the Ministry of Agriculture, FBOs, including the Czech federation of food banks must annually report their donated food surplus to this ministerial branch in order to secure funding.

In response to Law no. 180/2016, a 450 000 CZ subsidy called the **Individual non-investment subsidy for the Food Bank Prague and Central Bohemia** (*Individuální účelová neinvestiční dotace Potravinové Banky Praha a Středočeský Kraj*) was financed by the regions of Prague and Central Bohemia. This regional financial support was mainly made available to FBOs to help offset the increased maintenance costs (energy, fuel, housing, wages, reparations, etc.) in response to the increased levels of food surplus donated by retailers<sup>204</sup>.

During the 20th Meeting of the Plenary Session of the Chamber of Deputies on 25 October 2018 in which the Czech Prime Minister was present, the subsidies financing pool for food redistribution was discussed to ensure the necessary follow-up for its monitoring. An impact assessment was foreseen to be carried out at the end of 2018 to track progress since January 2018.

**Table 60 Evaluation of the Member State's policy in terms of "Other initiatives for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Use of the FEAD operational programme to support the redistribution of food			x	
Presence of measures encouraging the redistribution of fruits and vegetables withdrawn from the market, in line with Regulation (EU) 1308/2013				x
Publication of studies/research related to food redistribution			x	
Presence of financial or logistic support for food redistribution at the national/regional/local level	x			

<sup>202</sup> Czech Republic Ministry of Agriculture. "Food Waste". <http://eagri.cz/public/web/mze/potravinovy/aktualni-temata/plytvani-potravinami-1>,

<sup>203</sup> Ministry of Agriculture. "Subsidiary title no. 3 by the Ministry of Agriculture concerning the support of food banks and other charity organisations" (Dotační titul č. 18 Ministerstva Zemědělství Podpora potravinových bank a jiných organizací s humanitárním charakterem). <http://eagri.cz/public/web/mze/dotace/narodni-dotace/zasady-zemedelstvi-potravinarstvi/>.

<sup>204</sup> Náš Region. 23 April 2018. "Half a million for homeless people. Prague sponsors a food bank that distributes food to the needy". <http://nasregion.cz/pul-milionu-na-lidi-bez-domova-praha-sponzoruje-potravinovou-banku-ktera-rozdava-jidlo-potrebnym-37113>.

	Criteria present	Criteria partly present	Criteria not present	Unknown
Absence of incentives for the valorisation of food surplus via anaerobic digestion, which may otherwise hinder redistribution if the incentives for anaerobic digestion favour this recovery route over redistribution	X			

## 3.7 Denmark

### 3.7.1 National strategies for food redistribution

Despite the absence of a national strategy related to food redistribution, Denmark's waste prevention strategy **Denmark without Waste**<sup>205</sup> includes measures on food waste prevention. The strategy involves all actors of the food supply chain (government, businesses, etc.) and testing new initiatives for redistributing food<sup>206</sup>. The waste prevention strategy furthermore outlines initiatives regarding food redistribution that are being tested<sup>207</sup>. The government has also provided funding to create and test new opportunities for food redistribution in the entire food value chain.

In Denmark, an 8% reduction of per capita food waste between 2011 and 2017 has been demonstrated<sup>208</sup>.

Since 2016, the Danish Minister of Environment and Food has held an annual 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 Food is hosting the Summit to connect with leaders who are ready to act. Leaders from politics, industry, academia and organisations gather to collectively identify new pathways towards a transformation of the food systems and commit to new actions<sup>209</sup>.

Furthermore, the Danish Veterinary and Food Administration published two guidelines in 2017:

- How food operators can avoid food waste, e.g. in case of redistribution (*Sådan kan virksomheden undgå madspild, fx ved donation*)<sup>210</sup>;
- **How to avoid food waste at festivals** (*Sådan undgår du madspild fra festivaler*)<sup>211</sup>.

The first set of national guidelines supports restaurants, canteens etc. with practical instructions on how to prevent food waste from buffets and kitchens without compromising food safety, while the other one aims at avoiding food waste at festivals. They provide guidance for restaurants or supermarkets on the logistical and operational details regarding food donation. They give information on food acceptable for redistribution (conditions to collect and distribute food, on the proper storing and cooking of collected foods and on traceability), but both the circumstances under which the redistribution takes place and the determination as to whether food is fit for human consumption have proven complicated. For instance, the guidelines "How food business operators can avoid food waste, e.g. in case of redistribution" clarifies the meaning of "fit for human consumption". It includes illustrative 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>212</sup>. According to the guidelines on "How to avoid food waste at festivals", surplus food from festivals can be donated provided the food was properly stored and was

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<sup>205</sup> Danish Environmental Protection Agency. 2015 "Denmark without Waste II" (Danmark uden affald). [https://eng.mst.dk/media/164923/denmark-without-waste-ii\\_wasteprevention.pdf](https://eng.mst.dk/media/164923/denmark-without-waste-ii_wasteprevention.pdf)

<sup>206</sup> Denmark Environmental Protection Agency. "Denmark without waste II". 2015 [https://eng.mst.dk/media/164923/denmark-without-waste-ii\\_wasteprevention.pdf](https://eng.mst.dk/media/164923/denmark-without-waste-ii_wasteprevention.pdf)

<sup>207</sup> Interview with members of the Ministry of Environment and Food of Denmark. 12 September 2018

<sup>208</sup> Information from the EU Platform on Food Losses and Food Waste. 2019

<sup>209</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>210</sup> Danish Veterinary and Food Administration. 2017. "How food business operators can avoid food waste, e.g. in case of redistribution" (*Sådan kan virksomheden undgå madspild, fx ved donation*).

<https://www.foedevarestyrelsen.dk/Selvbetjening/Guides/Sider/Saadan-kan-virksomheden-undgaa-madspild.aspx>.

<sup>211</sup> Danish Veterinary and Food Administration. 2017. "How to avoid food waste at festivals" (*Sådan undgår du madspild fra festivaler*). <https://www.foedevarestyrelsen.dk/Selvbetjening/Guides/Sider/Saadan-undgaa-du-madspild-p%C3%A5-festivaler.aspx>.

<sup>212</sup> Danish Veterinary and Food Administration. 2017. "How food business operators can avoid food waste, e.g. in case of redistribution". <https://www.foedevarestyrelsen.dk/Selvbetjening/Guides/Sider/Saadan-kan-virksomheden-undgaa-madspild.aspx>

not on display. It can be processed in retail or wholesale establishments before being served for people in need<sup>213</sup>. The impact and the use of these guidelines is, however, unknown.

Moreover, in March 2019, ONE\THIRD - 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 are representatives from national authorities, industry, organisations, academia etc. Among other things, the Think Tank operates 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<sup>214</sup>.

**Table 61 Evaluation of the Member State's policy in terms of "National strategies for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a national food waste strategy including food redistribution measures	x <sup>215</sup>	x		
Adoption of SDG 12.3 or more ambitious goals, driving the adoption of food redistribution to meet these targets			x	
Availability of guidelines to facilitate and promote food donation	x			
Call to develop and strengthen relationships between food redistribution actors	x			

### 3.7.2 Fiscal incentives for food redistribution

The **VAT reduction guidelines** (*Moms - udlevering af overskudsfødevarer - styresignal*)<sup>216</sup> issued by the Ministry of Taxation in 2015 provide information on the fiscal aspects for FBOs donating surplus food to food banks. According to the Danish Customs and Tax Administration, "surplus goods" constitute goods that, unless donated, represent a negative value for the company due to their disposal costs. However, as food is socially perceived as having economic value up until its expiration, VAT exemptions or zero-rates are not applied within this country.

Instead, the VAT rate applicable to staple food is set at 25%. The sales price of the food to the charity organisation (or others) can be set at a low level and for example, at a unit price (x kroner per y kilo food). VAT is paid on the actual sales price. In situations where a retailer or food manufacturer fully or partially can deduct input VAT connected to the goods, VAT must be paid if the goods are donated—that is not sold but given away free of charge. According to the Danish VAT regulation, this VAT is calculated based on their purchase price of the goods. However, in a bill expected to be presented to Parliament at the beginning of October 2019, it is proposed that VAT on donated goods shall be calculated based on the value of the goods at the time of donation (the residual value) instead of the

<sup>213</sup> Danish Veterinary and Food Administration. 2017. "How to avoid food waste at festivals." <https://www.foedevarestyrelsen.dk/Selvbetjening/Guides/Sider/Saadan-undgaar-du-madspild-pa-festivaler.aspx>

<sup>214</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>215</sup> Presence of the criteria is based on the information provided by the competent authority of the Member State during the consultation on the report.

<sup>216</sup> Danish Ministry of Taxation. 2015. "VAT reduction guidelines"(Moms - udlevering af overskudsfødevarer - styresignal). <https://www.skat.dk/skat.aspx?oID=2179524>.

purchase price. For surplus food, the residual value will often correspond to the low unit price at which the supermarket sells the goods today.

Furthermore, there is work in progress for charity organisations to receive a refund of national excise duties for food donated to the organisations or bought by the organisations. The Danish tax authorities do not consider it possible to refund the harmonised excise duties.

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 16 300 (2019).

Donors can deduct an incurred expense in connection with donations for charitable purposes when the expense is an advertising expense (held to sell 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>217</sup>.

Financial donations, such as financial donations to food banks to support them in their operating expenses, and charitable contributions are **tax-deductible** expenses according to the **Danish Tax Assessment Act**, if the receiving organisation is approved by the Danish Tax 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 Tax Agency (*Skattestyrelsen*) discloses a list of entities approved under the mentioned sections every year<sup>218</sup>. The deduction of gifts is limited to DKK 16 300 for the tax year of 2019, while the deduction of continuing donations is limited to 15 % of the yearly income, but no less than DKK 15 000. The yearly income of individuals is equal to the sum of personal and capital income, while it is equal to the taxable income for corporations and other taxable institutions. The tax value of the deduction is 25.6% for the tax year of 2019. 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 does not exceed the fixed amounts. However, the impact of the tax deduction on donations is unknown.

**Table 62 Evaluation of the Member State's policy in terms of "Fiscal incentives for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a fiscal regime specific to food redistribution	x			
Presence of guidelines to clarify how to address complex fiscal regimes such as VAT and/or tax deductions	x			

### 3.7.3 Legal measures for food redistribution

#### 3.7.3.1 General legal framework on food redistribution

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

<sup>217</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>218</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

The **Danish Order on Approval and Registration of Food Businesses etc.**<sup>219</sup> covers the registration requirements of FBOs and the procedures when registering with the Danish Veterinary and Food Administration. All FBOs active in the food chain in Denmark must be registered at the Danish Veterinary and Food Administration either by means of a registration or approval. Retail businesses with limited activities are exempt from the requirement of registration. The Guidance on Approval and Registration of Food Businesses etc.<sup>220</sup> applies to the transfer of food from one food businesses to another, including organisations, 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<sup>221</sup>.

In July and September 2018, the Danish Veterinary and Food Administration authorised the sale or donation of surplus food (animal and non-animal products) from retailers to entities further back in the food supply chain - i.e. from retail to wholesale. The usual rules for food delivery still apply: traceability must be ensured, the food must be safe at the time of dispatch, and the recipient must emit a receipt. The donor must ensure that marking is in order, including compliance with durability markings. The Danish Veterinary and Food Administration published two notes on the subject<sup>222</sup>, one for the delivery of animal food products from retailers to other food businesses (September 2018), and one for the delivery of food of non-animal origin (July 2018).

Both notes broaden the scope of redistribution and create new channels – towards wholesalers or manufacturers – by delivering food back in the food supply chain. Retailers can valorise larger quantities of surplus food that could not be taken in by redistribution organisations<sup>223</sup>.

It is worth noting that a social organisation, which receives and redistributes food, is considered an FBO, independently of having received the food free of charge or not<sup>224</sup>.

**Table 63 Evaluation of the Member State’s policy in terms of “General legal framework on food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a legal framework specific to food redistribution, in addition to EU rules	x			
Presence of the food use hierarchy				x

<sup>219</sup> Danish Veterinary and Food Administration. Order No. 1404 on Approval and Registration of Food Businesses etc of 29 November 2018. <https://www.retsinformation.dk/Forms/R0710.aspx?id=160566>

<sup>220</sup> Danish Veterinary and Food Administration. Guidance No. 9126on Approval and Registration of Food Businesses etc. of 15 February 2019.

<sup>221</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>222</sup> Danish Veterinary and Food Administration. July and September 2018. <https://www.foedevarestyrelsen.dk/Selvbetjening/Vejledninger/Autorisationsvejledning/Notater/Sider/Detailvirksomheder-m%C3%A5-levere-f%C3%B8devarer-til-engrosvirksomheder.aspx>.

<sup>223</sup> Interview with members of the Ministry of Environment and Food of Denmark. 12 September 2018.

<sup>224</sup> Information from the EU Platform on Food Losses and Food Waste. 2018



### 3.7.3.2 Traceability requirements applicable to food redistribution

The Danish Veterinary and Food Administration has published a Guideline **on traceability of food**<sup>225</sup> also covering food donations<sup>225</sup>. Denmark has the same documentation requirements for donation as for other supply of food between food business operators. 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 food business operator can organise this with help from a third party, but they still must be able to show all the documentation. When charity organisations donate to consumers, there is no obligation for documentation.

**Table 64 Evaluation of the Member State's policy in terms of "Traceability requirements applicable to food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a clear traceability regime for food redistribution				x
Presence of guidelines which clarify the traceability regime for food redistribution	x			

### 3.7.3.3 Primary responsibility and liability rules for food redistribution

Denmark applies Regulation (EC) No. 178/2002 for all **primary responsibility** practices. No information was identified regarding its impact on food redistribution on the national level. It should be mentioned that every food business is responsible for the food safety of the food placed on the market, no matter the charge for the food.

**Table 65 Evaluation of the Member State's policy in terms of "Primary responsibility and liability rules for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of clear primary responsibility and liability rules for food redistribution			x	
Presence of guidelines which clarify the primary responsibility and liability rules for food redistribution				x

### 3.7.3.4 Hygiene rules applicable to food redistribution

The **Danish Food Safety legislation**<sup>226</sup>, which is in line with the EU Hygiene Regulations lays out strict national rules for certain areas of food safety, such as temperature control requirements. The

<sup>225</sup> Danish Veterinary and Food Administration. Guidance on traceability of food. 18 October 2017. <https://www.foedevarestyrelsen.dk/SiteCollectionDocuments/Kontrolstyring/Vejledning%20om%20sporbarhed%20-%20f%C3%B8devarer%202017.pdf>

<sup>226</sup> EESC - Bio by Deloitte. 2014. Comparative Study on EU Member States' legislation and practices on food donation. [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)

Danish food safety legislation defines specific hygiene rules applicable to food of animal origin in the Danish Order on Food Hygiene<sup>227</sup>. There is no information on the hygiene requirements applicable to food redistribution, and no further information about the details and impacts of the Danish Food Safety legislation.

In terms of its microbiological, chemical and physical quality, composition and other properties, food must be fit for human consumption. It 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 to ensure that the food, food premises and food storage, transport and handling conditions meet the requirements of legislation concerning foodstuffs<sup>228</sup>.

However, the Danish guidance on Food Hygiene<sup>229</sup> - an associated, comprehensive and detailed guideline, addressed to all food businesses including actors which engage in food donation/redistribution- may provide specific guidance on particular cases in which food hygiene is considered, such freezing products to extend their shelf lives<sup>230</sup>. It clarifies and exemplifies hygiene requirements laid down in both EU food legislation and Danish food legislation.

On the specific topic of eggs, in Denmark, they 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 21 days after laying. Eggs may be sold/donated/redistributed to food businesses (retail as well as wholesale) and used in the 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<sup>231</sup>.

**Table 66 Evaluation of the Member State’s policy in terms of “Hygiene rules applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of national laws in addition to EU rules to simplify hygiene requirements for food redistribution			x	
Presence of national guidelines explaining hygiene requirements for food redistribution, clarifying EU rules and making them easier to understand for relevant actors	x			

<sup>227</sup> The Danish Veterinary and Food Administration Order nr. 736 on Food Hygiene of 10 July 2019. <https://www.retsinformation.dk/Forms/r0710.aspx?id=195051>

<sup>228</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>229</sup> The Danish Veterinary and Food Administration 20194. Guidance nr. 9613 on Food Hygiene of 5 July 2019.

[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>230</sup> The Danish Veterinary and Food Administration. 2017. “How food businesses can avoid food waste, e.g. in case of redistribution” (Sådan kan virksomheden undgå madspild, fx ved donation).

<https://www.foedevarestyrelsen.dk/Selvbetjening/Guides/Sider/Saadan-kan-virksomheden-undgaa-madspild.aspx>.

<sup>231</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

### 3.7.3.5 Food information to consumers applicable to food redistribution

When the previous § 36(3) of Order **on labelling etc. of foodstuffs** (*Bekendtgørelse om mærkning m.v. af fødevarer, § 36, stk. 3*)<sup>232</sup> was repealed in 2013, it was made legal for food to be donated and sold past its "best before" date. When food is placed on the market in Denmark, the mandatory food information must be stated in Danish or another language for which there are only small differences compared to Danish<sup>233</sup>. It is mandatory to provide the consumers with 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 original 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>234</sup>.

Any food donor which redistributes prepacked products past its "best before" date must inform the receiver that the food has passed its (best before) durability and make sure that also other information, which is of food safety importance (such as allergen information) is there in Danish.

The main impact of the repeal of § 36(3) of Order on labelling etc. of foodstuffs is that it allows food business organisations to donate or sell (in stores) their products after the "best before" date. Prior to this legislation, it was not possible to do so, thus limiting the amounts of food sent towards redistribution<sup>235</sup>.

The Danish Veterinary and Food Administration guidelines offer interactive guidance with case by case assessments on products that may be sold or donated depending on the date labelling or food information issue that concerns an FBO's food products<sup>236</sup>.

**Table 67 Evaluation of the Member State's policy in terms of "Food information to consumers applicable to food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Donation requirements in line with EU recommendation on "best before" dates	x			
Presence of national guidelines on "best before" dates	x			
Presence of laws targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)	x			
Presence of national guidelines targeting food redistribution	x			

<sup>232</sup> Ministry of Environment and Food. 2015. "Order on labelling etc. of foodstuffs" (Bekendtgørelse om mærkning m.v. af fødevarer, § 36, stk. 3). <https://www.retsinformation.dk/Forms/R0710.aspx?id=175746>.

<sup>233</sup> Interview with members of the Ministry of Environment and Food of Denmark. 12 September 2018.

<sup>234</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>235</sup> Interview with members of the Ministry of Environment and Food of Denmark. 12 September 2018.

<sup>236</sup> Danish Veterinary & Food Authority. 2017. "This way the company can avoid food waste, for example, by donation" (Sådan kan virksomheden undgå madspild, fx ved donation). <https://www.foedevarestyrelsen.dk/Selvbetjening/Guides/Sider/Saadan-kan-virksomheden-undgaa-madspild.aspx>.

	Criteria present	Criteria partly present	Criteria not present	Unknown
actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)				

### 3.7.4 Voluntary Agreements for food redistribution

ONE\THIRD – Think Tank on Prevention of Food Loss and Food Waste is running a voluntary agreements addressing food waste aligned with SDG 12.3. Danish organisations are members of the voluntary agreement (The Danish Food Bank and Stop Wasting Food Movement Denmark).

**Table 68 Evaluation of the Member State’s policy in terms of “Voluntary Agreements for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a Voluntary Agreement which addresses all five pillars of the EU REFRESH blueprint in regard to food donation		x		

### 3.7.5 Communication initiatives for food redistribution

The “**Check out the date**” (*Tjek Datoen*)<sup>237</sup> campaign by the Danish Ministry of Environment and Food promotes a better understanding of date marking, intending to prevent food wastage. The Ministry of Environment and Food noted minor positive changes in the consumers’ general understanding of the date marks after the campaigns had aired<sup>238</sup>. However, there are no campaign with a specific focus on food redistribution in Denmark.

### 3.7.6 Other initiatives for food redistribution

The Danish government provides funding for different initiatives to reduce food waste in the entire food value chain. Twenty-two projects were initiated, such as projects raising awareness at the consumer level, donation of surplus food, and new business models for the marketing of second quality vegetables<sup>239</sup>.

Denmark does not use the scheme for the financial assistance of market withdrawals of fruits and vegetables (Regulation (EU) 1308/2013, Article 34, 4).

<sup>237</sup> Ministry of Environment and Food. “Check out the date” (*Tjek Datoen*). <https://www.foedevarestyrelsen.dk/kampagner/TjekDatoen/Sider/default.aspx>.

<sup>238</sup> Interview with members of the Ministry of Environment and Food of Denmark. 12 September 2018.

<sup>239</sup> Interview with members of the Ministry of Environment and Food of Denmark. 12 September 2018.

**Table 69 Evaluation of the Member State's policy in terms of "Other initiatives for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Use of the FEAD operational programme to support the redistribution of food			x	
Presence of measures encouraging the redistribution of fruits and vegetables withdrawn from the market, in line with Regulation (EU) 1308/2013			x	
Publication of studies/research related to food redistribution			x	
Presence of financial or logistic support for food redistribution at the national/regional/local level	x			
Absence of incentives for the valorisation of food surplus via anaerobic digestion, which may otherwise hinder redistribution if the incentives for anaerobic digestion favour this recovery route over redistribution	x			

## 3.8 Estonia

### 3.8.1 National strategies for food redistribution

In Estonia, the **State Waste Management Plan 2014-2020** (*Riigi Jäätmekava 2014 – 2020*) based on EU Directive 2008/98/EC and the European Waste Hierarchy lays out waste management in Estonia and addresses food waste as a serious challenge, but does not specifically set targets or goals regarding food waste or food redistribution<sup>240 241</sup>.

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.

In 2019, the **Estonian Veterinary and Food Board issued guidelines for food donation and food safety**<sup>242</sup>, which clarifies and exemplifies hygiene requirements laid down in EU food legislation. This guide provides guidelines for charities and other organizations to better understand the food safety issues on food donations and distribution. The guide covers the following topics: applicable legislation; definitions; storage temperatures; labelling; freezing; ensuring traceability; working environment.

**Table 70 Evaluation of the Member State’s policy in terms of “National strategies for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a national food waste strategy including food redistribution measures			x	
Adoption of SDG 12.3 or more ambitious goals, driving the adoption of food redistribution to meet these targets				x
Availability of guidelines to facilitate and promote food donation	x			
Call to develop and strengthen relationships between food redistribution actors				x

### 3.8.2 Fiscal incentives for food redistribution

There are no special fiscal incentives or tax deductions for food redistribution. In Estonia, according to the **Value Added Tax Act** (*Käibemaksuseadus*)<sup>243</sup> Article 12 (3) in the case of the transfer of goods without charge the taxable value shall be the value determined based on the purchase price or, in the absence thereof, the cost price of the goods or other similar goods during the performance of the aforementioned acts. If the food donated is close to its best-before date, the value could be

<sup>240</sup> Estonia Ministry of Environment. 2014. “Riigi jäätmekava 2014 -2020 (State Waste Management Plan 2014-2020).” [https://www.envir.ee/sites/default/files/riigi\\_jaاتمekava\\_2014-2020.pdf](https://www.envir.ee/sites/default/files/riigi_jaاتمekava_2014-2020.pdf).

<sup>241</sup> Interview with a member of the Estonian Ministry of Environment. 15 June 2018.

<sup>242</sup> Veterinary and Food Board. “Food Donation”. Accessed 12. September 2019. <https://vet.agri.ee/et/toit/toidu-annetamine>

<sup>243</sup> Estonia Government. 2003. “Value Added Tax Act (Käibemaksuseadus).” <https://www.riigiteataja.ee/en/eli/527022014003/consolide>.

fairly low, and it could even be zero if they are donated after their best-before date. The Tax and Customs Board has explained the Value Added Tax Act on their web page<sup>244</sup>.

The Estonian tax system has also proven to be a driver towards redistribution. In 2018, the Tax and Customs Board put forward a **list of NGOs, foundations and religious organisations benefiting from income tax incentives** (*Tulumaksusoodustega mittetulundusühingute, sihtasutuste ja usuliste ühenduste koondnimekiri*)<sup>245</sup>. Any donation in the form of money or assets perceived by organisations on this list is tax-deductible up to a certain limit<sup>246</sup>. Upon analysis by the project team having establishments benefiting from a tax incentive for donations encourages food redistribution. Donations can help redistribution organisations develop and expand their activities, and the income tax incentives will make donors more willing to make contributions for that purpose. These tax deductions have an effect at the food donor level, as the monetary value of the donated food is determined and accounted for by the donor.

**Table 71 Evaluation of the Member State’s policy in terms of “Fiscal incentives for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a fiscal regime specific to food redistribution	x			
Presence of guidelines to clarify how to address complex fiscal regimes such as VAT and/or tax deductions			x	

### 3.8.3 Legal measures for food redistribution

#### 3.8.3.1 General legal framework on food redistribution

The Food Act of 1999<sup>247</sup>, lastly amended in 2017, transposes EU laws for food safety. The Food Act contains:

- Requirements for food handling
- Traceability of food
- Requirements for food information
- Self-checking requirement of operators
- Notification and licence obligation
- State and administrative supervision

However, the explicit mention of redistribution is not made within this act.

<sup>244</sup> Estonian Tax and Customs Board. 2019. “Taxable value.” Accessed 12. September 2019.

<https://www.emta.ee/et/ariklient/tulu-kulu-kaive-kasum/kaibemaksuseaduse-selgitused/maksustatav-vaartus>

<sup>245</sup> Estonia Tax and Customs Board. 2018. “To the association in the list of associations benefiting from income tax incentives.” Accessed August 14, 2018. <https://www.emta.ee/eng/business-client/registration-business/association-list-associations-benefiting-income-tax-incentives>.

<sup>246</sup> Estonian Tax and Customs Board. 2019. “Taxation of donations.” Accessed 28. August, 2019.

<https://www.emta.ee/et/ariklient/tulu-kulu-kaive-kasum/kingitused-ja-annetused-ning-vastuvotukulud/annetuste-maksustamine>

<sup>247</sup> Parliament of Estonia. 1999. “Food Act”. <https://www.riigiteataja.ee/en/eli/ee/Riigikogu/act/516112017001/consolide>

**Table 72 Evaluation of the Member State’s policy in terms of “General legal framework on food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a legal framework specific to food redistribution, in addition to EU rules	x			
Presence of the food use hierarchy				x

### 3.8.3.2 Traceability requirements applicable to food redistribution

In 2019, from July the **Estonian Veterinary and Food Board issued guidelines for food donation and food safety**, which clarifies and exemplifies hygiene requirements laid down in EU food legislation.

This guide provides guidelines for charities and other organizations to better understand the food safety issues on food donations and distribution. The guide covers the following topics: applicable legislation; definitions; storage temperatures; labelling; freezing; ensuring traceability; working environment.

**Table 73 Evaluation of the Member State’s policy in terms of “Traceability requirements applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a clear traceability regime for food redistribution	x <sup>248</sup>			
Presence of guidelines which clarify the traceability regime for food redistribution	x			

### 3.8.3.3 Primary responsibility and liability rules for food redistribution

In 2019, from July the Estonian Veterinary and Food Board issued guidelines for food donation and food safety, which clarifies and exemplifies hygiene requirements laid down in EU food legislation. See description above.

<sup>248</sup> Presence of the criteria is based on the information provided by the competent authority of the Member State during the consultation on the report.



**Table 74 Evaluation of the Member State’s policy in terms of “Primary responsibility and liability rules for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of clear primary responsibility and liability rules for food redistribution	x <sup>249</sup>			
Presence of guidelines which clarify the primary responsibility and liability rules for food redistribution	x			

### 3.8.3.4 Hygiene rules applicable to food redistribution

The Food Act of 1999<sup>250</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 with food safety and hygiene requirements. The Veterinary and Food Board have developed a guide for donating food<sup>251</sup>.

**Table 75 Evaluation of the Member State’s policy in terms of “Hygiene rules applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of national laws in addition to EU rules to simplify hygiene requirements for food redistribution	x <sup>252</sup>			
Presence of national guidelines explaining hygiene requirements for food redistribution, clarifying EU rules and making them easier to understand for relevant actors	x			

### 3.8.3.5 Food information to consumers applicable to food redistribution

In 2019, from July the Estonian Veterinary and Food Board issued guidelines for food donation and food safety, which clarifies and exemplifies hygiene requirements laid down in EU food legislation.

<sup>249</sup> Presence of the criteria is based on the information provided by the competent authority of the Member State during the consultation on the report.

<sup>250</sup> Parliament of Estonia. 1999. “Food Act”. <https://www.riigiteataja.ee/en/eli/ee/Riigikogu/act/516112017001/consolide>

<sup>251</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>252</sup> Absence/presence of the criteria is based on the information provided by the competent authority of the Member State during the consultation on the report.

This guide provides guidelines for charities and other organizations to better understand the food safety issues on food donations and distribution. The guide covers the following topics: applicable legislation; definitions; storage temperatures; labelling (including “best before” and “use by”; freezing; ensuring traceability; working environment.

For relevant information regarding food labelling, there was consumer research carried out in 2014<sup>253</sup>. The survey is available in Estonian; only the executive summary is available also in English in the following website: <https://www.agri.ee/sites/default/files/content/uuringud/2014/uuring-2014-toidumargistus.pdf>

Some conclusions from this survey to be pointed out:

- the majority of Estonian people are aware of the meaning of “best before”: 75% know that the product is definitely good until the marked date but can still be consumed after;
- slightly more than half (55%) of the people know the meaning of “use by”: that the product is good until the marked date and after that date it cannot be sold at the shop or consumed at home. At the same time, 43% of the people find that the product is definitely good until the marked date, but it could be consumed later as well.

However, the **Consumer Protection Act** (*Tarbijakaitseadus*)<sup>254</sup> of 2017 views food as defective after passing of the “best before” date. While the direct impact of the Consumer Protection Act is unknown, using the term “defective” for food after the “best before” date can scare potential donors and receivers from operating with such food.

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. These guidelines have had a major impact on redistribution in Estonia: they describe how food banks can use food after passing of the “best before” date by going over the risks, decay characteristics and shelf life for every food group<sup>255</sup>.

**Table 76 Evaluation of the Member State’s policy in terms of “Food information to consumers applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Donation requirements in line with EU recommendation on “best before” dates	x			
Presence of national guidelines on “best before” dates	x			
Presence of laws targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling)	x <sup>256</sup>			

253 TNS Emor. 2014. „Toidu märgistuse alase uuringu aruanne”. <https://www.agri.ee/sites/default/files/content/uuringud/2014/uuring-2014-toidumargistus.pdf>

254 Consumer Protection Act (*Tarbijakaitseadus*), RT I, 31.12.2015, 1, Consolidated text 2015. <https://www.riigiteataja.ee/en/eli/515032016002/consolide>

255 Interview with the Estonian Food Bank. 15 June 2018.

256 Presence of the criteria is based on the information provided by the competent authority of the Member State during the consultation on the report.

	Criteria present	Criteria partly present	Criteria not present	Unknown
requirements, apart from date marking)				
Presence of national guidelines targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)	x			

### 3.8.4 Voluntary Agreements for food redistribution

As of June 2019, there are no Voluntary Agreements addressing food waste or promoting food redistribution identified in Estonia.

**Table 77 Evaluation of the Member State's policy in terms of "Voluntary Agreements for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a Voluntary Agreement which addresses all five pillars of the EU REFRESH blueprint in regard to food donation				x

### 3.8.5 Communication initiatives for food redistribution

The **Tarbi Toitu Targalt** (Use Food In A Clever Way) campaign, which was initiated in 2016, gathers nine supermarket chains and a food redistribution mobile application (ResQ Club) to draw attention to food waste prevention. With support from the Stockholm Environment Institute Tallinn, the Estonian Food Banks, the Estonian Traders Association and the Environmental Investment Centre, the campaign gives information on food waste and valorising surplus food, by redistributing it for example. There is no data on the effectiveness of the campaign, or on how it has influenced food redistribution practices in Estonia<sup>257</sup>.

### 3.8.6 Other initiatives for food redistribution

In 2014, the Ministry of Social Affairs decided that 10% of the budget of the **FEAD programme** should be earmarked for "the costs of collection, transport, storage and distribution of food donations and directly related awareness raising activities, incurred and paid for by partner organisations" as described in article 26.2.d. of the FEAD Regulation. However, by 2018, the programme was not yet in place because of bureaucratic complications and red tape. According to the Estonian Food Bank, the FEAD support could have a real impact on redistribution, as the Ministry of Social Affairs could

<sup>257</sup> 2016. Tarbi Toitu Targalt. Accessed August 14, 2018, <http://tarbitoitutargalt.ee/>.

purchase around 0,7 kilos of food with one euro, while the impact of a one euro investment towards food banks could be 10-15 higher with regards to the redistribution of food products<sup>258</sup>.

In respect to another initiative which addresses food waste, the Stockholm Environment Institute Tallinn (SEIT) conducted research on the amounts of food wasted in Estonian households, restaurants, canteens, industry, wholesale and retail in 2014 and 2016. The 2 studies led by SEIT were the first and only serious studies on food waste in Estonia, and they provide an overview of the situation of food waste and food redistribution in the country. This additional data could be a driving force to design effective solutions for food waste reduction and promotion of food redistribution, though the impact of the studies is unknown<sup>259 260 261</sup>.

Another ongoing project research will address the generation of food waste and food losses in primary production (in primary agriculture and fisheries). This is a long-term follow-up study and project will run until the end of 2020. The first-year report was completed in 2017. The aim of the study "Causes and amounts of food loss and waste in agricultural and waste primary production in 2016-2020" is to assess the causes and extent of food losses and wastage in agriculture and fisheries at the level of primary production in Estonia.

Food banks can access different forms of public funding, which could be used for logistic support. These funding may be granted at different levels of authority (local or central).

**Table 78 Evaluation of the Member State's policy in terms of "Other initiatives for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Use of the FEAD operational programme to support the redistribution of food			x	
Presence of measures encouraging the redistribution of fruits and vegetables withdrawn from the market, in line with Regulation (EU) 1308/2013		x <sup>262</sup>		
Publication of studies/research related to food redistribution	x			
Presence of financial or logistic support for food redistribution at the national/regional/local level		x		
Absence of incentives for the valorisation of food surplus via anaerobic digestion, which may otherwise hinder redistribution if the incentives for anaerobic	x			

<sup>258</sup> Interview with the Estonian Food Bank. 12 June 2018.

<sup>259</sup> Stockholm Environment Institute Tallinn. 2014. "Food waste and food products Estonia in households and catering establishments." [https://www.envir.ee/sites/default/files/news-related-files/toidujaatmete\\_teke\\_eesti\\_kodumajapidamistes\\_ja\\_toitlustusasutustes.pdf](https://www.envir.ee/sites/default/files/news-related-files/toidujaatmete_teke_eesti_kodumajapidamistes_ja_toitlustusasutustes.pdf).

<sup>260</sup> Stockholm Environment Institute Tallinn. 2016. "Food Waste Generation - Estonian Retail and Food Industry companies." [https://www.envir.ee/sites/default/files/toidujaatmed\\_ii.pdf](https://www.envir.ee/sites/default/files/toidujaatmed_ii.pdf).

<sup>261</sup> Interview with the Stockholm Environment Institute Tallinn. 15 June 2018.

<sup>262</sup> Presence of the criteria is based on the information provided by the competent authority of the Member State during the consultation on the report.

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route over redistribution

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## 3.9 Finland

### 3.9.1 National strategies for food redistribution

Published in 2018, **Finland's National Plan for Waste Management** includes establishing a road map, of which food donations are an integral part, to reduce food waste<sup>263</sup>. The road map is expected to be completed by the end of 2019<sup>264</sup>. Furthermore, the Ministry of Agriculture's governmental report "**Food 2030. Finland feeds us and the world**" sets out a vision of what food should be in 2030. It promotes different projects on food waste prevention and reduction, though its impact on food redistribution is unknown<sup>265</sup>.

Finland's clear commitment to sustainable development is key to the implementation of the UN 2030 Agenda for Sustainable Development. All societal operators, such as companies, municipalities, administrations, educational institutions, local actors and individuals may commit to the operational commitments sustainable development implies. Indeed, supermarkets have made commitments to reduce food waste, using food donations as a tool for success. The Finnish authorities have taken a clear stand on the subject, by encouraging and promoting food donations through national guidelines published in 2013, later updated 2017<sup>266</sup>.

Indeed, the Finnish Food Authority (previously known EVIRA, until the end of 2018) published a guide "**Foodstuffs donated to food aid**" (*Ruoka-apuun luovutettavat elintarvikkeet*)<sup>267</sup>. The "Foodstuffs donated to food aid" guide outlines the requirements for food redistribution, such as food labelling which cannot mislead the consumer. Food business operators must meet all requirements in terms of food safety and food hygiene for food premises, storage, transport and handling conditions<sup>268</sup>. The Finnish Food Authority's guide provides practical information to all actors along the donation process, and defines the regulatory framework in place for food redistribution in Finland, used and explained in an informal way<sup>269</sup>.

**Table 79 Evaluation of the Member State's policy in terms of "National strategies for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a national food waste strategy including food redistribution measures		X		
Adoption of SDG 12.3 or more ambitious goals, driving the adoption of food redistribution to meet these targets				X
Availability of guidelines to facilitate and promote food donation	X			

<sup>263</sup> Information from the *EU Platform on Food Losses and Food Waste*. 29 October 2018.

<sup>264</sup> The Finnish Environment. 2018. "From Recycling to a Circular Economy – National Waste Plan to 2023". [http://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/160889/SY\\_01en\\_18\\_WEB.pdf?sequence=1&isAllowed=y](http://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/160889/SY_01en_18_WEB.pdf?sequence=1&isAllowed=y).

<sup>265</sup> Ministry of Agriculture and Forestry. 2017. "Government report on food policy, Food2030 - Finland feeds us and the world" [https://mmm.fi/documents/1410837/1923148/lopullinen03032017ruoka2030\\_en.pdf/d7e44e69-7993-4d47-a5ba-58c393bbac28](https://mmm.fi/documents/1410837/1923148/lopullinen03032017ruoka2030_en.pdf/d7e44e69-7993-4d47-a5ba-58c393bbac28).

<sup>266</sup> Information from the *EU Platform on Food Losses and Food Waste*. 29 October 2018.

<sup>267</sup> EVIRA. 2017. "Foodstuffs donated to food aid" (Ruoka-apuun luovutettavat elintarvikkeet). [https://www.ruokavirasto.fi/globalassets/tietoa-meista/asiointi/oppaat-ja-lomakkeet/yritykset/elintarvikeala/food-lomakkeet---ohjeet/eviran\\_ohje\\_16035\\_2\\_uk.pdf](https://www.ruokavirasto.fi/globalassets/tietoa-meista/asiointi/oppaat-ja-lomakkeet/yritykset/elintarvikeala/food-lomakkeet---ohjeet/eviran_ohje_16035_2_uk.pdf).

<sup>268</sup> EVIRA. 2017. "Foodstuffs donated to food aid" (Ruoka-apuun luovutettavat elintarvikkeet). [https://www.ruokavirasto.fi/globalassets/tietoa-meista/asiointi/oppaat-ja-lomakkeet/yritykset/elintarvikeala/food-lomakkeet---ohjeet/eviran\\_ohje\\_16035\\_2\\_uk.pdf](https://www.ruokavirasto.fi/globalassets/tietoa-meista/asiointi/oppaat-ja-lomakkeet/yritykset/elintarvikeala/food-lomakkeet---ohjeet/eviran_ohje_16035_2_uk.pdf).

<sup>269</sup> Interview with a member of the Ministry of Agriculture and Forestry. 7 June 2018.

	Criteria present	Criteria partly present	Criteria not present	Unknown
Call to develop and strengthen relationships between food redistribution actors	x			

### 3.9.2 Fiscal incentives for food redistribution

There are no fiscal incentives or tax deductions encouraging food redistribution in Finland. Applying VAT to donated food is a disincentive to food donation; therefore the fiscal system in Finland hinders food redistribution. The Finnish VAT treatment is in line with the EU VAT law (the VAT Directive).

**Table 80 Evaluation of the Member State's policy in terms of "Fiscal incentives for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a fiscal regime specific to food redistribution			x	
Presence of guidelines to clarify how to address complex fiscal regimes such as VAT and/or tax deductions			x	

### 3.9.3 Legal measures for food redistribution

#### 3.9.3.1 General legal framework on food redistribution

The Finnish **Food Act** (*Elintarvikelaki / Livsmedelslag*)<sup>270</sup> determines the general regulatory framework around food in Finland. The Food Act:

- Safeguards food safety, safe food handling, healthy food quality;
- Ensures that information is correct and not misleading;
- Protects consumers from health hazards and financial loss;
- Ensures traceability;
- Ensures high-quality supervision;
- Improves the statute of food businesses.

However, the clear mention of redistribution is not made within this act.

**Table 81 Evaluation of the Member State's policy in terms of "General legal framework on food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a legal framework specific to food redistribution, in addition to EU rules			x	
Presence of the food use hierarchy				x

<sup>270</sup> National Government. 2006 "Law on Food" (*Elintarvikelaki / Livsmedelslag*). <https://www.finlex.fi/fi/laki/ajantasa/2006/20060023>.

### 3.9.3.2 Traceability requirements applicable to food redistribution

In terms of **traceability**, according to the Finnish Food Authority's guidelines "Foodstuff donated to food aid", a food business operator who donates food to food aid must describe the donation activity in their own-check plan, an auto-control system, to identify, evaluate and control hazards, to help the donor anticipate and manage any potential risks associated with the operation. The donor FBO must also ensure that the food is immediately conveyed to the end recipients<sup>271</sup>.

**Table 82 Evaluation of the Member State's policy in terms of "Traceability requirements applicable to food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a clear traceability regime for food redistribution			x	
Presence of guidelines which clarify the traceability regime for food redistribution	x			

### 3.9.3.3 Primary responsibility and liability rules for food redistribution

The Finnish Food Authority published food redistribution guidelines that clearly state how the responsibility moves along the donation process. The guidelines provide information on implementing the 85/374/EEC Directive on product liability, together with the EU Hygiene Package. In terms of **primary responsibility**, according to the guidelines, all food business operators can donate food items to food aid. Food business operators may donate prepacked or unpacked products to consumers either directly or through charity organisations. All food business operators who donate food must describe the donation activity in their own-check plans. Generally speaking, food business operators are responsible for the safety of the foodstuffs they manufacture, sell or convey, and this requirement applies to the food donations as well. As so, charity organisations and other operators involved in charitable activities are responsible for the food safety of the products they receive<sup>272</sup>.

**Table 83 Evaluation of the Member State's policy in terms of "Primary responsibility and liability rules for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of clear primary responsibility and liability rules for food redistribution		x <sup>273</sup>		
Presence of guidelines which clarify the primary responsibility and liability rules for food redistribution	x			

<sup>271</sup> EVIRA. 2017. "Foodstuffs donated to food aid" (Ruoka-apuun luovutettavat elintarvikkeet). [https://www.ruokavirasto.fi/globalassets/tietoa-meista/asiointi/opaat-ja-lomakkeet/yritykset/elintarvikeala/food-lomakkeet---ohjeet/eviran\\_ohje\\_16035\\_2\\_uk.pdf](https://www.ruokavirasto.fi/globalassets/tietoa-meista/asiointi/opaat-ja-lomakkeet/yritykset/elintarvikeala/food-lomakkeet---ohjeet/eviran_ohje_16035_2_uk.pdf).

<sup>272</sup> Information from the *EU Platform on Food Losses and Food Waste*. 29 October 2018.

<sup>273</sup> Presence of the criteria is based on the information provided by the competent authority of the Member State during the consultation on the report.



### 3.9.3.4 Hygiene rules applicable to food redistribution

The Finnish Food Authority's guidelines on "Foodstuffs donated to food aid" provide information on the hygiene requirements for donated food. For instance, the charity organisations who donate easily perishable food to consumers have to register as food business operators to local food control authority and are subject to food controls. The guidelines complement the Finnish Food Act, which itself determines food safety, food hygiene and traceability requirements, though not specific to food redistribution. The guidelines highlight the key legislative requirements set out in food legislation and describe how redistributing surplus food is subject to these requirements. An own check control plan is required for food premises, and its implementation will help food aid distributors manage operational risks<sup>274</sup>. Also, the transport of food must not compromise its hygienic quality<sup>275</sup>. The Finnish legislation is enforced together with EU regulations, and, hence, strictly implemented. Checks and controls are in place at both local and regional levels for all food safety matters.

Furthermore, the **Ministry of Agriculture and Forestry's regulation on frozen foods** (*Maa- ja metsätalousministeriön asetus pakasteista*)<sup>276</sup> of 2012 lays down the regulation requirements for producing frozen foods for consumer sale. The guidelines on "Foodstuffs donated to Food aid" provide guidance on freezing food in the context of redistribution. According to the guidelines, it is possible to freeze products before the "use by" date, assuming proper arrangements are in place and do not compromise food safety. Frozen products should be donated as soon as possible and given to consumers while icy. However, freezing dates must be clearly marked on the packaging and food donors must be aware that not all products are suitable for freezing because of food safety issues.

Additionally, in its guidelines on Foodstuffs Donated to Food Aid, the Food Safety Authority provides specific guidance regarding the cooling of meals: An operator who offers self-service food to customers must ensure that food that is served hot remains at a minimum of 60 degrees while it's being served or alternatively that it is only being served for a maximum of four hours. Food that is to be served cold, such as salads, should be either stored at 6 degrees or if it is being served for a maximum of four hours, the temperature may rise to 12 degrees. 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>277</sup>.

The Ministry of Agriculture and Forestry also published a **Regulation on food hygiene** (*Maa- ja metsätalousministeriön asetus ilmoitettujen elintarvikehuoneistojen elintarvikehygieniasta*)<sup>278</sup> in 2011, determining the food hygiene requirements for storage temperature for example. These regulations are perceived as limiting, and in its report on "**Food waste reduction by developing legislation**" (see section 3.9.6), the Lexfoodwaste project suggests to amend some of the provisions of the Ministry's Regulation on food hygiene, such as the restrictions on storage temperatures<sup>279</sup>.

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<sup>274</sup> Finish food safety authority (EVIRA). 2017. "Foodstuffs Donated to Food Aid". <https://www.diva-portal.org/smash/get/diva2:902211/ATTACHMENT02.pdf>

<sup>275</sup> Finish food safety authority (EVIRA). 2017. "Foodstuffs Donated to Food Aid". <https://www.diva-portal.org/smash/get/diva2:902211/ATTACHMENT02.pdf>

<sup>276</sup> Ministry of Agriculture and Forestry. 2012. "The Ministry of Agriculture and Forestry regulation on frozen foods" (*Maa- ja metsätalousministeriön asetus pakasteista / Jord- och skogsbruksministeriets förordning om djupfrysta livsmedel 818/2012*). <https://www.finlex.fi/fi/laki/alkup/2012/20120818>.

<sup>277</sup> Finnish food safety authority (EVIRA). 2017. "Foodstuffs Donated to Food Aid". <https://www.diva-portal.org/smash/get/diva2:902211/ATTACHMENT02.pdf>

<sup>278</sup> Ministry of Agriculture and Forestry. 2011. "The Ministry of Agriculture and Forestry regulation on food hygiene" (*Maa- ja metsätalousministeriön asetus ilmoitettujen elintarvikehuoneistojen elintarvikehygieniasta*). <https://www.finlex.fi/fi/laki/alkup/2011/20111367>.

<sup>279</sup> Hietala, Sanna, Riipi, Inkeri, Välimaa, Anna-Liisa, Katajajuuri, Juha-Matti. September 2018. "Food waste reduction by developing legislation". <http://tietokayttoon.fi/documents/1927382/2116852/9-2018-Food+waste+reduction+by+developing+legislation/713f019b-8b05-43c6-bfbd-5423706fadde?version=1.0>.

Overall, the “Foodstuffs donated to Food aid” guidelines go hand in hand with the regulatory framework; though they are more user-friendly for actors than having to read and interpret the laws. All food operators follow the guidelines, which are considered as a reference in the food industry.

**Table 84 Evaluation of the Member State’s policy in terms of “Hygiene rules applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of national laws in addition to EU rules to simplify hygiene requirements for food redistribution			x	
Presence of national guidelines explaining hygiene requirements for food redistribution, clarifying EU rules and making them easier to understand for relevant actors	x			

### 3.9.3.5 Food information to consumers applicable to food redistribution

In respect to **date marking**, according to the guidelines, while donating products after the “use by” date is forbidden, products can be donated and sold after their “best before” date, provided the food is safe for human consumption<sup>280</sup>. Consumers must, however, be informed about the date passing.

For **relabelling**, food donation guidelines elaborated by the Food Safety Authority 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, 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>281</sup>.

Moreover, according to the guidelines, the same requirements are applied for all products: whether domestic food packages need relabelling or whether the products come from abroad, the labelling information needs to state what the package contains in the national languages (Finnish or Swedish). In the case of the donation of a pallet of products, placing a sign next to the box of miss-labelled products is enough to correct the faulty labels<sup>282</sup>.

<sup>280</sup> Finish food safety authority (EVIRA). 2017. “Foodstuffs Donated to Food Aid”. <https://www.diva-portal.org/smash/get/diva2:902211/ATTACHMENT02.pdf>

<sup>281</sup> Finish food safety authority (EVIRA). 2017. “Foodstuffs Donated to Food Aid”. <https://www.diva-portal.org/smash/get/diva2:902211/ATTACHMENT02.pdf>

<sup>282</sup> EVIRA. 2017. “Foodstuffs donated to food aid” (Ruoka-apuun luovutettavat elintarvikkeet). [https://www.ruokavirasto.fi/globalassets/tietoa-meista/asiointi/opaat-ja-lomakkeet/yritykset/elintarvikeala/food-lomakkeet--ohjeet/eviran\\_ohje\\_16035\\_2\\_uk.pdf](https://www.ruokavirasto.fi/globalassets/tietoa-meista/asiointi/opaat-ja-lomakkeet/yritykset/elintarvikeala/food-lomakkeet--ohjeet/eviran_ohje_16035_2_uk.pdf).

**Table 85 Evaluation of the Member State’s policy in terms of “Food information to consumers applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Donation requirements in line with EU recommendation on “best before” dates	x			
Presence of national guidelines on “best before” dates	x			
Presence of laws targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)			x	
Presence of national guidelines targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)	x			

### 3.9.4 Voluntary Agreements for food redistribution

In Finland, a Voluntary Agreement was launched March 2019 and it will run until the end of 2021. The agreement is signed by the packaging industry, retail and food industry together with the Ministry of Agriculture and Forestry, the Ministry of Environment and the Ministry of Economic Affairs and Employment. The key content of the commitments made by companies joining the voluntary agreement is that the commitments consist of actions and practical material efficiency measures leading to the sustainable use of resources as well as economic and environmental benefits. Food waste related actions are part of the agreement and food donations as part of food waste prevention. Motiva, a government-owned sustainable development company, leads the execution of the voluntary agreement. The Ministry of Economic Affairs and Employment finances Motiva’s work during the agreement. Motiva will collect both qualitative results and quantitative data during the monitoring process. First evaluation results will be available November 2020, second evaluation is in November 2021 and the final report will be published in 2022<sup>283</sup>.

<sup>283</sup> Information in Finnish available at [https://www.motiva.fi/ratkaisut/materiaalitehokkuus/materiaalitehokkuuden\\_sitoumukset](https://www.motiva.fi/ratkaisut/materiaalitehokkuus/materiaalitehokkuuden_sitoumukset)

**Table 86 Evaluation of the Member State’s policy in terms of “Voluntary Agreements for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a Voluntary Agreement which addresses all five pillars of the EU REFRESH blueprint in regard to food donation	x <sup>284</sup>			

### 3.9.5 Communication initiatives for food redistribution

Every year in Finland, an annual event around food waste takes place, the **Food Waste Week** (*Hävikkiviikko*). The Ministry of Agriculture and Forestry organises this event together with the *Kuluttaja* magazine<sup>285</sup>, to raise awareness about food waste prevention. The event includes sharing solutions for the reduction of food waste, which could eventually include food redistribution, though the topic is not the sole focus of the event<sup>286</sup>.

### 3.9.6 Other initiatives for food redistribution

Similarly to Belgium, the funds from the **FEAD programme** (2014-2020) are used to purchase food items in Finland, and not to redistribute food. Food is distributed to 21 partner-organisations in charge of the redistribution of food to over 600 local organisations. The products purchased include wheat and graham flour, canned meat, canned pea soup, porridge flakes, pasta, muesli, crispbread, ready-made meals of pasta and milk powder. The nutritional quality of the food is one of the purchase criteria (i.e. milk powder must be fortified with vitamin D)<sup>287</sup>. Donated food is distributed through the same organizations.

Furthermore, a thorough review of all legislations relative to food waste was conducted throughout the **Lexfoodwaste project** in 2018, by listing the all relevant national and EU regulations and providing a list of the food safety and food hygiene guides for food operators, including those involved in food redistribution. The project report gives a detailed overview of current legislation and points out pitfalls in it with regards to food waste. The resulting “Food waste reduction by developing legislation” report highlights the weaknesses in legislation, and offers suggestions for changes, some of which concern food redistribution<sup>288</sup>.

<sup>284</sup> Presence of the criteria is based on the information provided by the competent authority of the Member State during the consultation on the report.

<sup>285</sup> *Kuluttaja* magazine. Official website. <https://havikkiviikko.fi>.

<sup>286</sup> Interview with a member of the Ministry of Agriculture and Forestry. 7 June 2018

<sup>287</sup> Information from the *EU Platform on Food Losses and Food Waste*. 29 October 2018.

<sup>288</sup> Hietala, Sanna, Riipi, Inkeri, Välimaa, Anna-Liisa, Katajajuuri, Juha-Matti. September 2018. “Food waste reduction by developing legislation”. <http://tietokayttoon.fi/documents/1927382/2116852/9-2018-Food+waste+reduction+by+developing+legislation/713f019b-8b05-43c6-bfbd-5423706fadde?version=1.0>.

**Table 87 Evaluation of the Member State’s policy in terms of “Other initiatives for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Use of the FEAD operational programme to support the redistribution of food			x	
Presence of measures encouraging the redistribution of fruits and vegetables withdrawn from the market, in line with Regulation (EU) 1308/2013				x
Publication of studies/research related to food redistribution	x			
Presence of financial or logistic support for food redistribution at the national/regional/local level			x	
Absence of incentives for the valorisation of food surplus via anaerobic digestion, which may otherwise hinder redistribution if the incentives for anaerobic digestion favour this recovery route over redistribution	x			

## 3.10 France

### 3.10.1 National strategies for food redistribution

The **French National Pact Against Food Waste** (*Pacte national de lutte contre le gaspillage alimentaire*) was established in 2013 by the Ministry of Agriculture, which considers it as a Voluntary Agreement with the overall objective to reduce food waste on the national level. Shortly after the establishment of this pact, the French government established the 16<sup>th</sup> of October as the national day for the fight against food waste (*journée nationale de la lutte contre le gaspillage alimentaire*), purposely on the same date as World Food Day, established by the United Nations in 1945. As a result of its voluntary nature, the Ministry has not enacted any progress checks to determine its impact on food waste reduction levels and on food redistribution.

Within this Pact and in line with the United Nation's Sustainable Development Goal 12.3, the French strategy sets the ambitious target to halve food waste by 2025<sup>289</sup>. In order to meet this target, 6 working groups comprised of French supply chain actors were established on the following topics:

- Indicators and measuring waste and losses;
- Expiration dates (date labelling);
- Management of unsold products and of food donation;
- Innovation and partnerships in the food supply chain;
- Education, awareness raising and training for various target groups;
- Prevention and raising awareness on the European and international levels to establish partnerships.

Although a working group was not specifically created to address food redistribution, though it is implied in the "Management of unsold products and of food donation", the Pact has supported various food redistribution initiatives and policy through their outreach of food waste topics. For example, the Pact also positively influenced the voting of the **n°2016-138 Law on fighting against food waste** (*LOI n° 2016-138 du 11 février 2016 relative à la lutte contre le gaspillage alimentaire*) in 2016 adopted by the National Assembly<sup>290</sup>. The law's most well-known measure is the obligation for supermarkets with a surface area of over 400m<sup>2</sup> to establish contracts with charitable organisations to whom they must donate their food surplus (see section 3.10.3.1). These working groups also supported the launch of several communication campaigns, which, for example, aimed creating awareness about the benefits of take-out boxes within restaurants. In 2017, the pact was renewed for another 3 years and will continue working on the various food waste topics outlined in 2013. In particular to food redistribution, the Pact will focus on addressing hygiene rules applicable to donated food.

During the 2017 **French National Food Conference** (*Etats Généraux de l'Alimentation*), which ran from July to December, the French president outlined 4 priority areas that the assembly aims at achieving:

- Revitalise the creation of value and its fair distribution;
- Enable farmers and growers to earn a decent living from their work by receiving payment of fair prices;
- Support a transformation in production models in order to respond more effectively to consumer expectations and needs;

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<sup>289</sup> EESC - Bio by Deloitte. 2014. "Comparative Study on EU Member States' legislation and practices on food donation." [https://www.eesc.europa.eu/resources/docs/comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation\\_finalreport\\_0](https://www.eesc.europa.eu/resources/docs/comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation_finalreport_0).

<sup>290</sup> France Government. 2016. 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>.

- Promote consumer choice with food that is healthy, safe and sustainable.

Within the French National Food Conference, 14 working groups were established and conducted with stakeholders from the food supply chain. 2 of them touched upon the topic of food redistribution: the working groups on food security and on sustainable consumption patterns (France Ministry of Agriculture 2017). As a result of the French National Food Conference's public consultations and its local, regional and national working groups, a bill was presented by the Ministry of Agriculture at the end of January 2018, the Law on "Agriculture: for an equal balance of the commercial relationships in the agri-food sector" (*Loi Agriculture : équilibre des relations commerciales dans le secteur agro-alimentaire*), commonly known as the **Law on Food and Agriculture** (*Loi agriculture et alimentation*). This law, through its Article 12 and 15, would, among many measures relative to the food and agricultural sector, extend the n°2016-138 Law on fighting against food waste and make it applicable to mass caterers and to the food manufacturing sector<sup>291</sup>. They would also have to monitor their food waste quantities and donate their surplus/unsold food products by setting up conventions with food charities. Including mass catering and food manufacturing within the scope of this law was seen as a necessary step to promote food redistribution and limit food waste at this particular level. This bill was adopted by the Parliament on October 2<sup>nd</sup> 2018 and was promulgated on 1<sup>st</sup> November 2018. Meanwhile, measurement is not foreseen to evaluate the impact of the French National Food Conference on food waste levels and on food redistribution<sup>292</sup>.

Upon analysis by the project team, the French National Food Conference was influential in gathering public opinion and identifying key focus areas for the future of the agricultural sector within a short period of time. Regarding its relevance to food redistribution, the bill proposal on the Law on Food and Agriculture can be seen as complimenting the French National Pact Against Food Waste's activities and objectives. However, as the proposal is still under scrutiny, no further information is available on the impact of the extension of the n°2016-138 Law on fighting against food waste to mass catering.

Finally, several guidance documents have been elaborated on the topic of food donation/redistribution in France. The French Federation of Food Banks in collaboration with NGOs elaborated a **Guide to Good hygiene practices in the distribution of foods by charity organisations** (*Guide des bonnes pratiques d'hygiène de la distribution de produits alimentaires par les organismes caritatifs*), validated by the French national Food Safety Agency and other competent authorities<sup>293</sup>. It includes practical guidance to help operators carry out their activities, such as decision criteria to select food suitable for redistribution. Additionally, there are clear explanations in the Rhône-Alpes region guidance<sup>294</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. These guidance documents help to carry out food redistribution at every step of the food chain, from the agricultural producer to retailers or caterers.

<sup>291</sup> France Government. 2018. Projet de loi pour l'équilibre des relations commerciales dans le secteur agricole et alimentaire et une alimentation saine, durable et accessible à tous (AGR1736303L). <http://www.assemblee-nationale.fr/15/projets/pl0627.asp>.

<sup>292</sup> French Ministry of Agriculture and Food. 2018. "#Egalim – tout savoir sur la loi Agriculture et Alimentation". <https://agriculture.gouv.fr/egalim-tout-savoir-sur-la-loi-agriculture-et-alimentation>

<sup>293</sup> Fédération Française des Banques Alimentaires. 2011. "Guide des bonnes pratiques d'hygiène de la distribution de produits alimentaires par les organismes caritatifs."

[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>294</sup> DRAAF Rhône-Alpes. 2015. "Guidelines for food donation". [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).

**Table 88 Evaluation of the Member State’s policy in terms of “National strategies for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a national food waste strategy including food redistribution measures	x			
Adoption of SDG 12.3 or more ambitious goals, driving the adoption of food redistribution to meet these targets	x			
Availability of guidelines to facilitate and promote food donation	x			
Call to develop and strengthen relationships between food redistribution actors	x			

### 3.10.2 Fiscal incentives for food redistribution

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 (Ministerial directive of 14/02/84). Donors can also benefit from a tax credit of 60% of the donated value on their corporate income tax, according to Article 238 bis of the **General Tax Code**<sup>295</sup>, with a cap of 0.5% of the company turnover. The deduction can be continued over the next five years if not fully used during its first year. 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<sup>296</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 products produce since 2013, then eggs and processed fruits and vegetables in 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 the donors to benefit from a tax break<sup>297</sup>.

Tax authorities monitor these measures via private and individual controls. However, food aid organisations valorise and measure donations in kilos, and are not aware of the amounts of money they represent. They are still required to hold certified accounts of the donations they receive if they amount to over 153 000€/year of tax-deductible donations according to the Finance Act No 87/571 of 07/23/87 on the development of sponsorship<sup>298</sup>.

The French tax deduction system has proven to be a powerful driver towards food redistribution, and is also applicable to the delivery, transformation and storage of redistributed food, overcoming cost hurdles for these activities. Although studies have not yet been planned to measure the effectiveness

<sup>295</sup> General Tax Code (Code Général des impôts). <https://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006069577&idArticle=LEGIARTI000021658127>.  
<sup>296</sup> Information from the EU Platform on Food Losses and Food Waste. 2018  
<sup>297</sup> Information from the EU Platform on Food Losses and Food Waste. 25 October 2018.  
<sup>298</sup> EESC - Bio by Deloitte. 2014. "Comparative Study on EU Member States' legislation and practices on food donation." [https://www.eesc.europa.eu/resources/docs/comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation\\_finalreport\\_0](https://www.eesc.europa.eu/resources/docs/comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation_finalreport_0).



of this tax deduction and the absence of VAT on donated products, French actors strongly believe that food redistribution would decrease in the absence of these incentives<sup>299</sup>.

**Table 89 Evaluation of the Member State’s policy in terms of “Fiscal incentives for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a fiscal regime specific to food redistribution	x			
Presence of guidelines to clarify how to address complex fiscal regimes such as VAT and/or tax deductions			x	

### 3.10.3 Legal measures for food redistribution

#### 3.10.3.1 General legal framework on food redistribution

In 2016, on the initiative of the Ministry of Agriculture, a bill was published, that would later become adopted by the National Assembly and serve as a pioneering law promoting food waste reduction through food redistribution<sup>300</sup>. This **n°2016-138 Law on fighting against food waste** obliges supermarkets with a surface area of at least 400m<sup>2</sup> to facilitate food waste reduction by establishing contracts with relevant charitable organisations to donate retailer food surplus. These contracts establish the responsibility over the donated food between both parties in order to ensure that the appropriate party is liable for its hygiene, redistribution, etc. This law also introduced the food use hierarchy into its official text as the preferential valorisation route, which is in line with the EU Waste Framework Directive.

From its initial bill proposal until its official adoption, this law gained national, European, and worldwide attention and praise, coining France as the first country to enact legislation towards food waste reduction through redistribution on the retail level. While this piece of legislation was successful in creating awareness and political attention on the importance of food waste reduction, and even serving as inspiration for other Member States to enact similar legislation, such as Czech Republic. The French Parliament published an evaluation of the law in June 2019<sup>301</sup>.

In the absence of expert feedback on the impact of this legislation, upon analysis within the scope of this report by the project team, several points were taken into consideration. While media headlined the law as obliging retailers to donate surplus food to charitable organisations, general communication on the measure omitted clarifying that the binding element of the law consisted of obliging retailers to establish contracts with charitable organisations stipulating the terms for redistribution. This subtlety within the law therefore could mean that in practice, retailers could simply suffice the requirement of establishing a contract without actually redistributing their food surplus.

On the other hand, in the case that retailers follow through with their contracts and partake in redistribution to charitable organisations, support has not been put in place to consider infrastructure, personnel and logistical issues faced by charitable organisations and food banks to take on food

<sup>299</sup> Interview with the French Federation of Food Banks. 1 June 2018.

<sup>300</sup> France Government. 2016. 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>301</sup> Information from the EU Platform on Food Losses and Food Waste. 25 October 2019

surplus levels. For example, as food banks are often run by volunteers, having on call personnel to ensure that last minute or large redistribution deliveries can be taken on remains a challenge.

Additionally, the Decree of December 2016<sup>302</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, only later if the charity is able to redistribute them, and have to carry all information as required by European law on their label. 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<sup>303</sup>.

In terms of enforcement, fines of 3750 € and of 750€ are clearly mentioned within the law, which could be applied to the retailer in question if a convention has not been set in place with a food aid organisation. However, the conditions to apply these fines are not stipulated within the legislative text (i.e. Are the fines applied based on complaints, or based on reporting?) as the law remains relatively new.

The regulatory and legislative context of food donation is further defined in a note published by the Ministry of Agriculture, which clarifies and summarises all legislation relative to food donation, and lists the products authorised for donation, restricting the donation of certain “difficult” food items such as minced meat<sup>304</sup>. In France, eggs have to be sold at the latest 21 days before the best before date, and cannot be redistributed after this period<sup>305 306</sup>.

**Table 90 Evaluation of the Member State’s policy in terms of “General legal framework on food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a legal framework specific to food redistribution, in addition to EU rules	x			
Presence of the food use hierarchy	x			

**3.10.3.2 Traceability requirements applicable to food redistribution**

On the topic of **traceability**, donors must provide the charity organisations with a document mentioning at least the donor’s name, the product names and the quantities donated<sup>307</sup>. The Guide to Good hygiene practices in the distribution of foods by charity organisations contains a “practical sheet” on the traceability requirements which must be put in place in the scope of food redistribution. It recommends charity organisations receiving products to keep clear records of the products’ origin and of their destinations (i.e. warehouses, distribution platforms), and to keep this information available for competent authorities. It also recommends them to keep all information on the traceability of products for a minimum of five years.

<sup>302</sup> French Government. 2016. "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". <https://www.legifrance.gouv.fr/eli/decret/2016/12/28/AGRG1634169D/jo/texte>

<sup>303</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>304</sup> France Ministry of Agriculture. 2017. "Note DGAL/SDSSA/2017-551 on Food hygiene and food safety of food donations." <https://info.agriculture.gouv.fr/gedei/site/bo-agri/instruction-2017-551>.

<sup>305</sup> Interview with a member of the French Ministry of Agriculture. 6 June 2018.

<sup>306</sup> Interview with the French Federation of Food Banks. 1 June 2018.

<sup>307</sup> Information from the EU Platform on Food Losses and Food Waste. 25 October 2018.

**Table 91 Evaluation of the Member State’s policy in terms of “Traceability requirements applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a clear traceability regime for food redistribution				x
Presence of guidelines which clarify the traceability regime for food redistribution	x			

### 3.10.3.3 Primary responsibility and liability rules for food redistribution

In 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>308</sup>.

In regards to primary responsibility, the **application of Article L. 230-6 of the rural and maritime fisheries code** (modified by the law on agriculture and food from October 2018) generally defines food aid and the conditions to donate food, including each actor’s responsibilities<sup>309</sup>. According to the application of this Article, all organisations which take part in food redistribution activities must be registered by the French authorities and must sign an agreement with all donating parties. This agreement documents the transfer of ownership of goods between food donors and recipients and outlines the respective roles and responsibilities of each actor in ensuring safety, traceability and consumer information throughout the food redistribution chain. Article L 230-6 was forecasted to be amended late 2018 by the Law on Food and Agriculture. To date, information is not available on the foreseen changes of this Article.

Furthermore, the requirements for primary responsibility in the context of food redistribution are further outlined in the Guide to Good hygiene practices in the distribution of foods by charity organisations, with provides details on each actor responsible per stage of the food redistribution process.

**Table 92 Evaluation of the Member State’s policy in terms of “Primary responsibility and liability rules for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of clear primary responsibility and liability rules for food redistribution	x			
Presence of guidelines which clarify the primary responsibility and liability rules for food redistribution	x			

<sup>308</sup> French Ministry of Agriculture. 2013. “Guillaume Garot présente le Pacte national de lutte contre le gaspillage alimentaire”. <http://alimentation.gouv.fr/pacte-national-lutte-antigasillage>

<sup>309</sup> 2010. “Rural Sea and Fisheries Code (Code rural et de la pêche maritime) Article L230-6.” <https://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006071367&idArticle=LEGIARTI000022523158&dateTexte=&categorieLien=cid>.

### 3.10.3.4 Hygiene rules applicable to food redistribution

Several measures are applicable to food hygiene during the transport and storage of food and in retail. 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>310</sup>. The **Decree of 20/07/1998** establishes the technical and hygienic conditions for the transport of food while the **Decree of the 07/01/2008** defines the sanitary and technical standards for vehicles transporting food (with specific requirements for each food category). The Ministry of Agriculture published a note in 2008 to update the procedures for the delivery and renewal of conformity assessments for refrigerated transport vehicles. Furthermore, the **Decree of 21/12/2009** on health rules applicable to retail, storage and transportation of animal products and foodstuffs bans the export to all countries of animal-origin products and animal by-products for incineration or landfill, and to non-OECD countries for use in biogas or compost. This Decree also determines the temperature, storage and transportation requirements for animal-origin and food products<sup>311</sup>. A **memorandum**, detailing the implementation measures of the previous decree, was adopted in 2011<sup>312</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>313</sup>.

A **memorandum** published in 2018 by the Ministry of Agriculture highlights the requirements for the health and safety accreditation of establishments handling animal-origin foodstuffs, and their redistribution to other establishments. This text also lists the necessary conditions for potential certificate exemption<sup>314</sup>

Lastly, the Guide to good hygiene practices in the distribution of foods by charity organisations<sup>315</sup> – elaborated by the French Federation of Food Banks together with NGOs and validated by the French National Food Safety Agency and the competent national authorities - includes exhaustive practical guidance to help operators carry out their activities, such as decision criteria to select food suitable for redistribution and guidance to ensure food hygiene at each step of the redistribution process. 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>316</sup>. 2 sets of guidelines on surplus food donation in the context of restaurants, catering and food services were published by the

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<sup>310</sup> French Government. 1997. "Arrêté fixant les conditions d'hygiène applicables dans les établissements de restauration collective à caractère social".

<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000750248>

<sup>311</sup> EESC - Bio by Deloitte. 2014. "Comparative Study on EU Member States' legislation and practices on food donation." [https://www.eesc.europa.eu/resources/docs/comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation\\_finalreport\\_0](https://www.eesc.europa.eu/resources/docs/comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation_finalreport_0).

<sup>312</sup> French Ministry of Agriculture. 2011. "Note de service DGAL/SDSSA/N2011-8117".

<https://info.agriculture.gouv.fr/gedei/site/bo-agri/instruction-N2011-8117/telechargement>

<sup>313</sup> French Ministry of Agriculture. 2017. "Note DGAL/SDSSA/2017-551 on Food hygiene and food safety of food donations". <https://info.agriculture.gouv.fr/gedei/site/bo-agri/instruction-2017-551>

<sup>314</sup> France Ministry of Agriculture. 2018. "Note de service DGAL/SDSSA/2018-141."

<https://info.agriculture.gouv.fr/gedei/site/bo-agri/instruction-2018-141>.

<sup>315</sup> Fédération Française des Banques Alimentaires. 2011. "Guide des bonnes pratiques d'hygiène de la distribution de produits alimentaires par les organismes caritatifs."

[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>316</sup> Fédération Française des Banque Alimentaires. 2011. "Guide des bonnes pratiques d'hygiène de la distribution de produits alimentaires par les organismes caritatifs".

[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)

Rhône-Alpes region (DRAAF), and are used at national level<sup>317</sup>. Another guideline document for FBOs was written in 2015<sup>318</sup>. The city of Paris, in collaboration with the Ministry of Agriculture, elaborated best practices for Parisian caterers<sup>319</sup>.

**Table 93 Evaluation of the Member State’s policy in terms of “Hygiene rules applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of national laws in addition to EU rules to simplify hygiene requirements for food redistribution	x			
Presence of national guidelines explaining hygiene requirements for food redistribution, clarifying EU rules and making them easier to understand for relevant actors	x			

**3.10.3.5 Food information to consumers applicable to food redistribution**

Regarding the **date labelling**/quality of donated food items, the n°2016-138 Law on fighting against food waste states that retailers are responsible for sorting their surplus food, and that charity organisations may refuse any products they consider they will not be able to redistribute<sup>320</sup>. Furthermore, food items must be donated at the latest 2 days before their “use-by” date, to avoid retailers from burdening charitable organisations with expired food items. Despite this consideration, it is not yet clear if this redistribution cut off timeline is long enough to ensure that charitable organisations have enough time to properly account for and redistribute the food to recipient parties, especially since these organisations usually verify and re-sort food items as part of their internal organisation to ensure that all donated food indeed respects safety/hygiene regulations. Furthermore, information was not found on the frequency of food donation rejections due to food donations past expiry and/or quality issues (i.e. damaged goods) and what implications this has on the charitable organisation (i.e. Are the food items returned to the retailer? Are these rejected items accounted for as food waste on the retailer level or the charitable organisation level? What fiscal impact does this have on both parties?, etc.).

The Guide to Good hygiene practices covers the legislative and logistical aspects of food donation, clarifying the sanitary and food safety regulations proper to each sector of the food supply chain. For the purpose of food redistribution, food banks and other charitable organisations may accept products labelled in a foreign language or bearing incomplete labels. However, the food information (or its translation) must be accessible to the final consumer within the food redistribution centres supplied by the charitable organisations. The guide is of a great help to food aid organisations, as they highly rely on it to make sure they are in line with hygiene and safety regulations. The information provided

<sup>317</sup> DRAAF Rhône-Alpes. 2013. “Donner aux associations d’aide alimentaire, Guide pratique et réglementaire : Produits agricoles”. [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. 2013. “Mass catering – How to donate to food aid organisations”. [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>318</sup> DRAAF Rhône-Alpes. 2015. “Guidelines for food donation”. [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>319</sup> Paris Mayor’s Office. 2015. “The involvement of Parisian caterers in the Pact against Food Waste”. [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>320</sup> Information from the *EU Platform on Food Losses and Food Waste*. 25 October 2018.

within served as the basis for 2 training sessions on "Hygiene and food safety: conditions to be eligible to redistribute food".

**Table 94 Evaluation of the Member State’s policy in terms of “Food information to consumers applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Donation requirements in line with EU recommendation on “best before” dates	x			
Presence of national guidelines on “best before” dates	x			
Presence of laws targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)				x
Presence of national guidelines targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)	x			

### 3.10.4 Voluntary Agreements for food redistribution

The following overview of this Voluntary Agreement (VA), which includes a focus on food redistribution, is analysed against the 5 pillars of a successful VA, as defined within the EU REFRESH Blueprint<sup>321</sup>. initiation and set-up, ambition, governance and funding, establishing actions, and measurement and evaluation.

#### Initiation and set-up

Initiated in 2013 by the French Government, the French National Pact Against Food Waste is piloted by the French Ministry of Agriculture and by the Ministry of Environment. In total 5 ministries have signed the Pact (Agriculture, Environment, Education, Finance and Health and Social Affairs), and 55 partners of the entire food supply chain are gathered under the Pact’s umbrella<sup>322</sup>. Initially, the first pact, running from 2013 until 2017, gathered actors from the primary sector, wholesalers, food manufacturers, retailers, caterers, regional instances, charity organisations and food banks, consumer associations, and environmental associations. These actors renewed their involvement for the second Pact, running between 2017 and 2020<sup>323</sup>.

<sup>321</sup> The Blueprint was developed within the scope of the H2020 EU research project. The Blueprint is a roadmap designed for policy makers on how to set up Voluntary Agreements within any country’s context. Application of this Blueprint tool, which is expected to be available on the REFRESH Community of Experts page by 2020, together with support from the REFRESH project team, is expected to help launch the Voluntary Agreement. <http://www.refreshcoe.eu/>

<sup>322</sup> Ministry of Agriculture. 16 October 2018. <http://agriculture.gouv.fr/la-france-pionniere-de-la-lutte-contre-le-gaspillage-alimentaire>.

<sup>323</sup> Ministry of Agriculture. 14 June 2013. “Press release – National Pact against Food Waste” (Dossier de Presse – Pacte national de lutte contre le gaspillage alimentaire”. [http://agriculture.gouv.fr/sites/minagri/files/pacte\\_gapillage\\_alimentaire\\_3.pdf](http://agriculture.gouv.fr/sites/minagri/files/pacte_gapillage_alimentaire_3.pdf).

### Ambition

In 2013, the French National Pact Against Food Waste set the target to halve food waste by 2025, a more ambitious target than the United Nations' Sustainable Development Goal of halving food waste by 2030<sup>324</sup>. One of the 2017-2020 Pact's areas of action is the "Management of unsold food and of food donation", with a focus on the prevention of food surplus in the manufacturing sector and for retailers, and the objective to sustain the already existing tools for food redistribution.

### Governance and funding

A steering committee is in charge of the governance and communication around the 2017-2020 National Pact Against Food Waste. The operational committee ensures the operational piloting of the Pact, and 6 working groups each target a specific area relative to food waste. A working group was dedicated to "Management of unsold products and of food donation"<sup>325</sup>.

### Establishing actions

The establishment of contacts between retailers and redistribution organisations (in the scope of the n°2016-138 Law on fighting against food waste) should be easier to set up while guaranteeing each party is satisfied with the conditions the contracts procure via this working group<sup>326</sup>.

### Measurement and evaluation

Under the 2017-2020 National Pact Against Food Waste, a working group is specifically dedicated to "Indicators and measuring waste and losses". One of the roles of this working group is to construct a reading grid to validate the actions defined under the Pact, and to evaluate if the quantitative objectives are reached. Therefore the clear impact of the Pact on food redistribution remains unknown.

**Table 95 Evaluation of the Member State's policy in terms of "Voluntary Agreements for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a Voluntary Agreement which addresses all 5 pillars of the EU REFRESH blueprint in regard to food donation		x		

### 3.10.5 Communication initiatives for food redistribution

Since the launch of the French National Pact against Food Waste in 2013, the French Ministry of Agriculture organises yearly campaigns on food waste around the national food waste day on the 16<sup>th</sup> of October to educate and raise awareness about food waste topics, relatively unknown to the general public. Although campaigns have not yet been carried out on food redistribution, a communication campaign was executed with an emphasis on educating consumers about the distinction between "best before" and "use by" dates. Better understanding of the meaning of "best

<sup>324</sup> Ministry of Agriculture. 22 January 2018. "National Pact against Food Waste - 2017-2020" (Pacte national de lutte contre le gaspillage alimentaire - 2017-2020). <http://agriculture.gouv.fr/telecharger/85663?token=9a5c7763817feee676072c8131d9fcab>.

<sup>325</sup> Ministry of Agriculture. 22 January 2018. "National Pact against Food Waste - 2017-2020" (Pacte national de lutte contre le gaspillage alimentaire - 2017-2020). <http://agriculture.gouv.fr/telecharger/85663?token=9a5c7763817feee676072c8131d9fcab>.

<sup>326</sup> Ministry of Agriculture. 22 January 2018. "National Pact against Food Waste - 2017-2020" (Pacte national de lutte contre le gaspillage alimentaire - 2017-2020). <http://agriculture.gouv.fr/telecharger/85663?token=9a5c7763817feee676072c8131d9fcab>.



before" dates helps clarify that it is not an expiry date as such. This can also facilitate/encourage food donation past the "best before" date<sup>327</sup>.

**Figure 2. Infographic for the Ministry of Agriculture's 2017 national food waste campaign: "Snow White should have taken a bite from an ugly apple".**



In 2017, the campaign was illustrated with fairy tale characters to raise awareness by in a fun way and with well-known childhood characters, as seen in Figure 2 "Snow White should have taken a bite from an ugly apple". The main focuses of these campaigns consisted on informing the public about the distinction between use by and best before dates and on helping overcome aesthetic barriers for consumers when buying certain products (e.g. fruits and vegetables)<sup>328</sup>.

**Figure 3. ADEME "Ca suffit le gâchis" food waste campaign flyer (ADEME, 2018): "At the restaurant, don't forget to take your leftovers home with you" "Going home with leftovers is a piece of cake"**

<sup>327</sup> Ministry of Agriculture. Antigaspi initiatives. <http://agriculture.gouv.fr/antigaspi>

<sup>328</sup> Ministry of Agriculture. n.d. Antigaspi. Accessed September 19, 2018. <http://agriculture.gouv.fr/antigaspi>.



Furthermore, the French environmental agency, the ADEME, launched the “**Enough with Waste**” (*Ca suffit le gâchis*) campaigns in 2018, targeting French citizens, businesses and local communities on food waste reduction solutions<sup>329</sup>. As seen in Figure 3, this campaign addresses restaurant go-ers by encouraging them to take their restaurant leftovers back home in a take-out-box, a practice that is not very well socially accepted in France at the moment<sup>330</sup>.

While both of these campaigns aim for food waste prevention at large and are directed towards consumers (without a specific focus on food redistribution), these 2 campaigns indirectly evoke positive notions regarding food surplus, which could be advantageous in orienting consumer behaviour towards this idea.

### 3.10.6 Other initiatives for food redistribution

The French government receives funds from the **Funds for European Aid to the Most Deprived** (FEAD). The French government buys approximately 30 different sorts of products with FEAD funds, which it distributes to charities (The French Federation of Food Banks, Red Cross, Restos du Coeur, Secours Populaire)<sup>331</sup>. Besides, a small part of the funds are allocated for logistic costs (transport, storage, etc.). 25% of the dry products the French Food Bank federation receives come from FEAD funds. Though the amounts of food coming from the FEAD fund vary between charities, they generally receive 1/3 of their products from the FEAD fund, 1/3 via their collection campaigns and 1/3 from donations. The funds of the FEAD are not freely used by the actual actors involved in food redistribution and the food provided to charities is bought, not recovered. Thus FEAD funds are more

<sup>329</sup> ADEME. n.d. Ca suffit le gâchis. Accessed September 19, 2018. <http://www.casuffitlegachis.fr/particuliers/je-relaie-la-campagne/campagne>.

<sup>330</sup> Interview with the French Federation of Food Banks. 1 June 2018.

<sup>331</sup> Information from the *EU Platform on Food Losses and Food Waste*. 5 November 2018.

focused on limiting food insecurity than on encouraging redistribution<sup>332</sup>. However, the Restos du Cœur, one of the main redistribution organisations in the country, emphasise the FEAD programme's importance in providing basic products for the supply of food banks. As they say themselves "*It is only thanks to the security provided by the FEAD – which gives charity organisations the basic products to redistribute – that we can have an ambitious strategy for the prevention of food losses and food wastes*"<sup>333</sup>. Mention was also made of the possibility to use FEAD funds to finance the logistics costs of redistribution organisations, thus directly supporting redistribution, though it is unknown whether the funds are used in that way in France.

The support (whether it be financial or through other kinds of support) of redistribution organisations is outlined as a key objective of the French National Pact Against Food Waste, and all signatories commit to support food aid organisations<sup>334</sup>.

Finally, 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<sup>335</sup>.

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<sup>332</sup> Interview with a member of the French Ministry of Agriculture. 6 June 2018.

<sup>333</sup> Restos du Cœur. 2018. "Participation to the sub-group on food donation".

<sup>334</sup> Ministry of Agriculture. 2017 "French National Pact Against Food Waste 2017-2020" (Pacte National de lutte contre le gaspillage alimentaire 2017-2020".

<https://agriculture.gouv.fr/telecharger/85663?token=9a5c7763817feee676072c8131d9fcab>.

<sup>335</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

**Table 96 Evaluation of the Member State’s policy in terms of “Other initiatives for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Use of the FEAD operational programme to support the redistribution of food				x
Presence of measures encouraging the redistribution of fruits and vegetables withdrawn from the market, in line with Regulation (EU) 1308/2013				x
Publication of studies/research related to food redistribution				x
Presence of financial or logistic support for food redistribution at the national/regional/local level	x			
Absence of incentives for the valorisation of food surplus via anaerobic digestion, which may otherwise hinder redistribution if the incentives for anaerobic digestion favour this recovery route over redistribution	x			

## 3.11 Germany

### 3.11.1 National strategies for food redistribution

In Germany, the **Federal Waste Prevention Programme** of 2013, adopted by the Cabinet, aims at preventing all kind of waste in Germany, including food waste<sup>336</sup>. Though it is not a national food waste prevention plan, avoiding food waste is a key priority of the Federal Waste Prevention Programme. It includes a suggestion for an industry voluntary agreement on food waste reduction. The Waste Prevention Programme does not directly address food redistribution, but helps prevent food waste thanks to various campaigns and agreements between public institutions and the food industry and commerce sectors. Adequate benchmarks and indicators are intended to be identified in order to assess and monitor progress made on food waste prevention measures. The review of the programme is under elaboration and will include more measures for waste prevention.

However, the **National Strategy for the reduction of food waste**<sup>337</sup> was passed in February 2019, piloted by the Federal Government. Based on four pillars: raising awareness, research, cooperation with stakeholders along the value chain and the implementation of projects, the national strategy aims at preventing waste in Germany, including food waste, involving all actors of the food supply chain, in accordance with SDG 12.3. The intended activities include dialogue forums for each sector as well as national one, in which voluntary agreements on sector-specific targets and measures for food waste prevention will be elaborated. An interministerial working group on SDG Indicator 12.3 is responsible for developing a coherent reporting system and for advising the dialogue forums on data collection and measurement.

The joint body of the Federal Government and the Länder is intended to assess legislation with respect to obstacles and barriers, for instance in food donations, while aiming at uniform enforcement and handling of non-profit organisations across the Länder. This body will be able to discuss and develop support schemes for research and innovation and support instruments that assist both the Länder and the municipalities, especially the public waste management authorities, in the implementation.

The implementation process of the National strategy is documented on the accompanying website [www.lebensmittelwertschaetzen.de](http://www.lebensmittelwertschaetzen.de)<sup>338</sup>. To date, the website lists more than 100 concrete activities that aim at reducing food waste in the entire food value chain, divided into 4 categories: production, trade, catering and society, among which some of these activities promote food redistribution and donation<sup>339</sup>.

The dialogue fora for each sector are to assist the Working Group on Indicator SDG 12.3. by providing measurements made in practice in order to obtain a valid data base and to supplement existing data sources. The data will be analysed, with priority given to areas that have the greatest potential for reducing food waste.

The Thünen Institute, the Federal Research Institute for Rural Areas, Forestry and Fisheries, identified the baseline for 2015. It reflects the total volume of food waste for 2015 and constitutes the starting point for an assessment of the progress made and for continuous monitoring. In the

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<sup>336</sup> Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety. 2013. "Waste Prevention Programme of the German Government with the Involvement of the Federal Länder". [http://policy.nl.go.kr/cmnn/FileDown.do;jsessionid=jsBTMj5oBCiqO17KtFQI7UO2DhwagPM7raNJR5Xkn3a3NPtj0qDw1biE6DsN808a.sl-extwas\\_servlet\\_engine5?atchFileId=144602&fileSn=24009](http://policy.nl.go.kr/cmnn/FileDown.do;jsessionid=jsBTMj5oBCiqO17KtFQI7UO2DhwagPM7raNJR5Xkn3a3NPtj0qDw1biE6DsN808a.sl-extwas_servlet_engine5?atchFileId=144602&fileSn=24009).

<sup>337</sup> Federal Ministry for Food and Agriculture. "National Strategy for the Reduction of Food Waste". 19 June 2019. [https://www.bmel.de/SharedDocs/Downloads/EN/Food/Strategy\\_FoodWasteReduction.pdf?\\_\\_blob=publicationFile](https://www.bmel.de/SharedDocs/Downloads/EN/Food/Strategy_FoodWasteReduction.pdf?__blob=publicationFile).

<sup>338</sup> "Appreciate food" (Lebensmittel wertschaetzen). Official website. <https://www.lebensmittelwertschaetzen.de/>.

<sup>339</sup> Interview with a member of the German Federal Ministry of Food and Agriculture. 4 June 2018.

strategy, the collaboration between food industry actors and charity organisations for the donation of surplus food is pinpointed as an important measure to reduce food waste<sup>340</sup>.

Furthermore, the Federal Ministry of Food and Agriculture published a **"Guidebook on donating food to social welfare organisations - Legal aspects"**<sup>341</sup>, to provide guidelines around the legal framework for food redistribution in Germany. Through its guide on donating food to social welfare organisations, the Federal Ministry of Food and Agriculture promotes food redistribution by clarifying the often complicated framework revolving around it. Surplus food is also defined in this guide. According to the guide, all product groups (e.g. fresh fruits and vegetables, canned food and frozen food) can be donated as long as the products are considered safe for human consumption<sup>342</sup>.

On the Internet platform [www.lebensmittelwertschaetzen.de](http://www.lebensmittelwertschaetzen.de), the Federal Government and the federal states publish initiatives to fight food wastage, call on other actors to present their projects and thus also raise awareness of this subject. The website lists concrete activities that aim at reducing food waste in the entire food value chain, divided into 4 categories: production, trade, catering and society, among which some of these activities promote food redistribution and donation<sup>343</sup>.

Finally, some federal states, including Baden-Wuerttemberg, Bavaria, North Rhine-Westphalia, Rhineland-Palatinate and Saxony, are promoting food waste prevention activities<sup>344</sup>. As a case in point, the **"We save food" Alliance (Bündnis "Wir retten Lebensmittel")**, piloted by the Bavarian Ministry of Food, Agriculture and Forestry and gathering members of the food supply chain, has developed 17 proposals for "rescue operations" in the manufacturing, processing, food trade, out-of-home catering and consumer organisations fields<sup>345</sup>. The Alliance supports measures that promote food redistribution, such as a logistical support projects to make food charities better aware of when goods are available for pick-up.

**Table 97 Evaluation of the Member State’s policy in terms of “National strategies for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a national food waste strategy including food redistribution measures		x		
Adoption of SDG 12.3 or more ambitious goals, driving the adoption of food redistribution to meet these targets	x			
Availability of guidelines to facilitate and promote food donation	x			

<sup>340</sup> Federal Ministry for Food and Agriculture. "National Strategy for the Reduction of Food Waste". 19 June 2019. [https://www.bmel.de/SharedDocs/Downloads/EN/Food/Strategy\\_FoodWasteReduction.pdf?\\_\\_blob=publicationFile](https://www.bmel.de/SharedDocs/Downloads/EN/Food/Strategy_FoodWasteReduction.pdf?__blob=publicationFile).

<sup>341</sup> Federal Ministry of Food and Agriculture. " Guidebook on donating food to social welfare organisations - Legal aspects ". <https://www.bmel.de/SharedDocs/Downloads/EN/Publications/Guidebook-donatingfood-welfareorganisations.html>.

<sup>342</sup> idem

<sup>343</sup> Interview with a member of the German Federal Ministry of Food and Agriculture. 4 June 2018.

<sup>344</sup> WWF. "Lebensmittelverschwendung. Was tut die Politik? Ein Blick auf die Bundesländer", 2018, [http://www.wwf.de/fileadmin/fm-wwf/Publikationen-PDF/WWF-Studie\\_Bundeslaender\\_und\\_Lebensmittelverschwendung.pdf](http://www.wwf.de/fileadmin/fm-wwf/Publikationen-PDF/WWF-Studie_Bundeslaender_und_Lebensmittelverschwendung.pdf)

<sup>345</sup> Bavarian Ministry of Food, Agriculture and Forestry. "We save Food Alliance" (Bündnis "Wir retten Lebensmittel"). <http://www.stmelf.bayern.de/wir-retten-lebensmittel>.

	Criteria present	Criteria partly present	Criteria not present	Unknown
Call to develop and strengthen relationships between food redistribution actors	x			

### 3.11.2 Fiscal incentives for food redistribution

The German fiscal context creates a positive framework around food redistribution. According to the **German Tax Code** (*Abgabenordnung § 163*)<sup>346</sup>, the VAT rate for donated food is either set at zero or at a very low fixed rate. 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<sup>347</sup>. However, no data exists to measure the relevance of this measure.

Furthermore, donations in cash and in kind are tax-deductible expenses, within the limit of 20% of the company turnover or 20% of the corporate's revenues and 0.4% of the company's total sales, wages and salaries spent in the calendar year according to both the **Income Tax Act** (*Einkommensteuergesetz §10b EStG*)<sup>348</sup> and the **Corporate Tax Act** (*Körperschaftsteuergesetz, §9 Abs. 1 Nr. 2 KStG*)<sup>349</sup>. The donations of food shortly prior to the expiry of the best-before date or the marketability as fresh goods that is being made for charitable purposes are entirely deductible, though they must comply with all requirements of the law, such as issuing a receipt after a donation. The regime has been in effect since 2012 and was developed in response to the unclear status of the donations of a baker to the food banks. However, similarly to the VAT incentive, no data exists to evaluate the relevance of the tax deduction, and its impact on the amounts of food donated and redistributed<sup>350</sup>.

**Table 98 Evaluation of the Member State's policy in terms of "Fiscal incentives for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a fiscal regime specific to food redistribution	x			
Presence of guidelines to clarify how to address complex fiscal regimes such as VAT and/or tax deductions			x	

### 3.11.3 Legislation and other regulatory instruments

#### 3.11.3.1 General legal framework on food redistribution

There is no special legislation on redistribution activities. Food COs and redistribution entities are viewed as FBOs. Hence, they are legally handled in the same way as common FBOs, they have to

<sup>346</sup> German Federal Government. 1979. "German Tax Code" (Abgabenordnung). [http://www.gesetze-im-internet.de/ao\\_1977/index.html](http://www.gesetze-im-internet.de/ao_1977/index.html).

<sup>347</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>348</sup> German Federal Government. "Income Tax Act" (*Einkommensteuergesetz §10b EStG*). <https://www.gesetze-im-internet.de/estg/>.

<sup>349</sup> German Federal Government. "Corporate Tax act" (*Körperschaftsteuergesetz, §9 Abs. 1 Nr. 2 KStG*). [https://www.gesetze-im-internet.de/kstg\\_1977/](https://www.gesetze-im-internet.de/kstg_1977/).

<sup>350</sup> Interview with a member of the German Federal Ministry of Food and Agriculture. 4 June 2018.

comply with Food Law (the Code on Foods, Consumer Goods and Feedstuffs<sup>351</sup>, various ordinances and guidelines as well as enforcement provisions) to the same extent. They have to commit to food safety requirements and must monitor and document the products they receive<sup>352</sup>.

With respect to the waste hierarchy and the food use hierarchy, food waste is subject to the five-step waste hierarchy enshrined in German law. Waste prevention is key in this regard.

**Table 99 Evaluation of the Member State’s policy in terms of “General legal framework on food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a legal framework specific to food redistribution, in addition to EU rules			x	
Presence of the food use hierarchy	x			

### 3.11.3.2 Traceability requirements applicable to food redistribution

According to the “Guidebook on donating food to social welfare organisations – Legal aspects”, every food business operator should be able to provide information on the origin and on the destination of food products. All regulations applicable for traceability in the food industry are applicable to charity and redistribution organisations. In this context, the documentation requirements refer to one stage forward and one stage back along the food chain if other food businesses are involved<sup>353</sup>. In order to take account of the special aspects of non-profit bodies, Germany introduced a simplified delivery note procedure in 2005 for the donation of food to these bodies. Under this procedure, donors satisfy the necessary requirements if they keep the form once it has been filled in and signed by the recipient. A corresponding simplified delivery note has since been used by the food banks without any difficulties<sup>354</sup>.

**Table 100 Evaluation of the Member State’s policy in terms of “Traceability requirements applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a clear traceability regime for food redistribution			x	
Presence of guidelines which clarify the traceability regime for food redistribution	x			

<sup>351</sup> German Federal Government. 2005. “Code on Foods, Consumer Goods and Feedstuffs (Lebensmittel-, Bedarfsgegenstände- and Futtermittelgesetzbuch). <https://www.gesetze-im-internet.de/lfgb/LFGB.pdf>

<sup>352</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>353</sup> the so-called “one step back - one step forward” approach within the rules for traceability, regulated in Article 18 of Regulation (EC) No 178/2002.

<sup>354</sup> Federal Ministry for Food and Agriculture, “Leitfaden für die Weitergabe von Lebensmitteln an soziale Einrichtungen, Legal aspects”, June 2018, [https://www.bmel.de/SharedDocs/Downloads/Broschueren/LeifadenWeitergabeLMSozEinrichtungen.pdf;jsessionid=BE8D3FA33216A9881D2FE4555CE2B45F.2\\_cid288?\\_\\_blob=publicationFile](https://www.bmel.de/SharedDocs/Downloads/Broschueren/LeifadenWeitergabeLMSozEinrichtungen.pdf;jsessionid=BE8D3FA33216A9881D2FE4555CE2B45F.2_cid288?__blob=publicationFile)



### 3.11.3.3 Primary responsibility and liability rules applicable to food redistribution

The **German Civil Code** (*Bürgerliches Gesetzbuch*)<sup>355</sup>, and the **Product Liability Act** (*Produkthaftungsgesetz, ProdHaftG*) of 15 December 1989<sup>356</sup> contain regulations which must be observed in connection with the food redistribution in Germany. The Product Liability Act regulates any claims, which can be asserted due to bodily injury or damage to property caused by a product defect regardless of fault. According to article 3 para. 1 ProdHaftG, a product is considered as defect, if it does not ensure the security that can be expected. Food, however, that has passed the best-before date (*Mindeshaltbarkeitsdatum*) is not immediately considered as “defective”. The manufacturer or the importing company is liable for the damage incurred.

According to the German Civil Code, a seller is liable to the other contracting party in the case of material or legal defects of sold products.. He is also liable for damages caused by defects in cases of intention or negligence. When producers or retailers cannot be identified, the food redistributor carries the responsibility. Passing on food free of charge from redistribution organisations, such as the German Tafel, the German food bank network, to the end consumers is regulated according to article 521 of the German Civil Code, according to which the donor is responsible for intent and gross negligence. However, as this paragraph applies to any kind of donation and was not specifically written to consider food redistribution, it is considered that there is no liability policy for food redistribution<sup>357</sup>.

According to the “Guidebook on donating food to social welfare organisations – Legal aspects”, The goods may also be marketed after the best-before date has expired, provided that the company that releases the goods has made sure that they are safe. Whenever food is donated, the responsibility for its safety lies entirely with the respective food business operator, which may well be the social welfare organisation. If donors purposely omit information about a product (including food donation) past the “best before” date, they can be liable for damages caused by material defects (article 524 section 1 of the German Civil Code). The German Food Bank is in an equivalent situation with regard to its users, and the German Civil Code applies in that case<sup>358</sup>. The guide also lists the products that can be donated: all conceivable types of food, from fresh fruit and vegetables to canned and deep frozen food. Alcohol is the only thing that is not accepted by most social welfare organisations. All goods must be traceable, and food examiners also require proof that the social facilities receiving the food comply with all food hygiene requirements.

**Table 101 Evaluation of the Member State’s policy in terms of “Primary responsibility and liability rules for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of clear primary responsibility and liability rules for food redistribution			x	
Presence of guidelines which clarify the primary responsibility and liability rules for food redistribution	x			

<sup>355</sup> German Federal Government. “German Civil Code” (Bürgerliches Gesetzbuch). <https://www.gesetze-im-internet.de/bgb/index.html>.

<sup>356</sup> German Federal Government. 1989, last amended in 2015. “Product liability Act”. [https://www.gesetze-im-internet.de/englisch\\_prodhaftg/englisch\\_prodhaftg.html](https://www.gesetze-im-internet.de/englisch_prodhaftg/englisch_prodhaftg.html).

<sup>357</sup> Interview with Die Tafel. 12 June 2018.

<sup>358</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)

### 3.11.3.4 Hygiene rules applicable to food redistribution

With regards to food safety and food hygiene, the German Regulation on hygiene requirements for the manufacture, treatment and supply of food, National Food Hygiene Ordinance (LMHV) (*Lebensmittelhygiene-Verordnung*)<sup>359</sup> of 2007 and the German Regulation on hygiene requirements for the manufacture, treatment and placing on the market of certain food of animal origin (Animal LMHV) (*Tierische Lebensmittel-Hygieneverordnung - Tier-LMHV*)<sup>360</sup> are the 2 main regulatory texts which regulate food hygiene and food safety aspects in Germany.

Since the LMHV addresses general hygiene requirements, the Animal LMHV defines foodstuff of animal origin, and lists the requirements for the supply, production and treatment of such food of in retail. All of these requirements apply to food redistribution, though they do not specifically target this practice. The implementation and monitoring of compliance with EU and national regulations is in the responsibility of the individual federal states. Local and regional health and food safety inspectorates monitor the adherence to the regulation. It may therefore be that<sup>361</sup> the measures outlined in the LMHV are implemented in different ways depending on the geographical location. For example, informing consumers of the incorrect packaging of a product verbally or with a sign can be sufficient in one town, though in another area food safety inspectors may require the relabelling of each individual package. More generally, the implementation of European food safety ordinances differs at the regional and local level, which can be a hurdle to properly implement food safety measures. However, on the whole, both measures limit food waste by defining strict regulations to maintain food safety, regardless of whether the food is donated or purchased<sup>362</sup>.

Meanwhile, the "Guidebook on donating food to social welfare organisations – Legal aspects" provides some guidance on hygiene requirements for food redistribution. All legal requirements for food hygiene are applicable to redistribution and charity organisations. The guide also states that charity organisations which pass on food directly to end users can accept food that is protected from any adverse effects, such as fruits and vegetables stored in covered boxes to protect them from dust or insects<sup>363</sup>.

The German Environment Agency also published Guidelines on the Prevention of Food Waste in the Catering Sector in 2016. These guidelines contain a wide range of information on food waste prevention, the guidelines touch upon hygiene regulations for the catering sector, and also provide tips for food redistribution. However, while the guideline outline donation as a way to reduce food waste in the catering sector, they do not explicitly provide guidance on the hygiene requirements applicable for this activity<sup>364</sup>.

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<sup>359</sup> Federal Government. 2007. "Regulation on hygiene requirements for the manufacture, treatment and supply of food, National Food Hygiene Ordinance (LMHV)" (*Lebensmittelhygiene-Verordnung*). [http://www.gesetze-im-internet.de/lmhv\\_2007/](http://www.gesetze-im-internet.de/lmhv_2007/).

<sup>360</sup> Federal Government. 2007. "German Regulation on hygiene requirements for the manufacture, treatment and placing on the market of certain food of animal origin" (*Tierische Lebensmittel-Hygieneverordnung - Tier-LMHV*). <http://www.gesetze-im-internet.de/tier-lmhv/BjNR182800007.html>.

<sup>361</sup> Federal Ministry of Justice. 2007. "Regulation on hygiene requirements in the manufacture, treatment and placing on the market of food". [http://www.gesetze-im-internet.de/lmhv\\_2007/](http://www.gesetze-im-internet.de/lmhv_2007/)

<sup>362</sup> Interview with Die Tafel. 12 June 2018.

<sup>363</sup> Federal Ministry for Food and Agriculture, "Leitfaden für die Weitergabe von Lebensmitteln an soziale Einrichtungen, Legal aspects", June 2018, [https://www.bmel.de/SharedDocs/Downloads/Broschueren/LeitfadenWeitergabeLMSozEinrichtungen.pdf;jsessionid=BE8D3FA33216A9881D2FE4555CE2B45F.2\\_cid288?\\_\\_blob=publicationFile](https://www.bmel.de/SharedDocs/Downloads/Broschueren/LeitfadenWeitergabeLMSozEinrichtungen.pdf;jsessionid=BE8D3FA33216A9881D2FE4555CE2B45F.2_cid288?__blob=publicationFile)

<sup>364</sup> German Environment Agency. 2016. "Guidelines on the Prevention of food waste in the Catering Sector." [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).

Finally, in Germany, eggs must be stored separately from other food. Eggs cannot be redistributed beyond 21 days after being laid. After this date, they 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<sup>365</sup>.

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<sup>365</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

**Table 102 Evaluation of the Member State’s policy in terms of “Hygiene rules applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of national laws in addition to EU rules to simplify hygiene requirements for food redistribution			x	
Presence of national guidelines explaining hygiene requirements for food redistribution, clarifying EU rules and making them easier to understand for relevant actors	x			

### 3.11.3.5 Food information to consumers applicable to food redistribution

The European and associated German provisions require packaging to contain accurate, clear and easy to understand information in German that is 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. Concerning eggs, they cannot be donated if they are entirely or damaged<sup>366</sup>.

With respect to **date marking**, the Federal Ministry of Food and Agriculture’s “Guidebook on donating food to social welfare organisations - Legal aspects” clarifies that products can be donated after their “best before” date if the passing of the date is clearly indicated on the product, but cannot be donated after the “use by” date<sup>367</sup>. The food with an expired “best before” date can be redistributed as long as the food was properly stored and is considered safe by the donor (e.g. no abnormalities in the colour, odour or appearance)<sup>368</sup>.

**Table 103 Evaluation of the Member State’s policy in terms of “Food information to consumers applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Donation requirements in line with EU recommendation on “best before” dates	x			
Presence of national guidelines on “best before” dates	x			
Presence of laws targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling)			x	

<sup>366</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>367</sup> Federal Ministry of Food and Agriculture. Guidebook on donating food to social welfare organisations - Legal aspects. [https://www.bmel.de/SharedDocs/Downloads/Broschueren/LeifadenWeitergabeLMSozEinrichtungen.pdf?\\_\\_blob=publicationFile](https://www.bmel.de/SharedDocs/Downloads/Broschueren/LeifadenWeitergabeLMSozEinrichtungen.pdf?__blob=publicationFile)

<sup>368</sup> Zугutfuerdietonne.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)

	Criteria present	Criteria partly present	Criteria not present	Unknown
requirements, apart from date marking)				
Presence of national guidelines targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)				x

### 3.11.4 Voluntary Agreements for food redistribution

Though none was in place as of 2018, Voluntary Agreements for the prevention and reduction of food waste are foreseen within the scope of the National Strategy for Food Waste Reduction<sup>369</sup>. Together with food manufacturers, civil society organisations, representatives from the competent ministries at Länder and federal level, as well as scientists, specific measures to reduce food waste are to be established in dialogue fora for each sector. The implementation of these voluntary measures is then to be made transparent. Targets are to be defined for the respective sectors and appropriate formats for the implementation and performance review to be agreed.

Voluntary agreements will be developed in the sectoral dialogue forums under the National Strategy.

**Table 104 Evaluation of the Member State’s policy in terms of “Voluntary Agreements for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a Voluntary Agreement which addresses all 5 pillars of the EU REFRESH blueprint in regard to food donation			x	

### 3.11.5 Communication initiatives for food redistribution

Several longstanding communication campaigns on the topic of food waste have existed in Germany, although none have been specifically targeted at food redistribution. One of the most famous and impactful campaigns is the "**Too good for the bin**" initiative (*Zu gut für die Tonne!*)<sup>370</sup>, initially launched in March 2012 by the Federal Ministry of Food and Agriculture. The “Too Good for the bin” campaign shares information about food waste and possibilities for food waste reduction, to reduce food waste with conjoint efforts from the entire food supply chain. In this regard, the Federal Ministry cooperates with various partners, including German food banks. However, no information on its potential for food redistribution is available<sup>371</sup>.

<sup>369</sup> Interview with a member of the German Federal Ministry of Food and Agriculture, 4 June 2018.

<sup>370</sup> Federal Ministry of Food and Agriculture. “Too good for the bin!” (*Zu gut für die Tonne!*). <https://www.zugutfuerdietonne.de/>.

<sup>371</sup> FUSIONS. 2016 “Germany – Country report on national food waste policy”. <https://www.eu-fusions.org/index.php/country-reports/reports/293-germany>.

### 3.11.6 Other initiatives for food redistribution

In Germany, the **FEAD programme** supports the social cohesion and integration of people at risk of poverty and social exclusion. The Federal Ministry of Labour and Social Affairs cooperates with the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth to help municipalities face the challenges resulting from the increasing immigration of Union citizens from other EU states. Another target group are homeless people and people at risk of homelessness. Funding is granted for additional staff, especially for outreach work counsellors and in local counselling centres. Their task is to help the persons affected to get access to existing programmes. Another target group are homeless people and people at risk of homelessness. Funding is granted for additional staff, especially for outreach work counsellors and in local counselling centres. Their task is to help the persons affected to get access to existing programmes<sup>372</sup>. Food banks are therefore excluded from the FEAD support in Germany; thus these funds have no effect on redistribution<sup>373</sup>.

**Table 105 Evaluation of the Member State's policy in terms of "Other initiatives for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Use of the FEAD operational programme to support the redistribution of food			x	
Presence of measures encouraging the redistribution of fruits and vegetables withdrawn from the market, in line with Regulation (EU) 1308/2013				x
Publication of studies/research related to food redistribution			x	
Presence of financial or logistic support for food redistribution at the national/regional/local level			x	
Absence of incentives for the valorisation of food surplus via anaerobic digestion, which may otherwise hinder redistribution if the incentives for anaerobic digestion favour this recovery route over redistribution	x			

<sup>372</sup> German Federal Ministry of Labour and Social Affairs. 9 July 2018. "Fund for the European Aid to the Most Deprived (FEAD) in Germany". <https://www.bmas.de/EN/Our-Topics/Social-Europe-and-international-Affairs/Programmes-and-Funds/FEAD/fead-article.html>.

<sup>373</sup> Interview with Die Tafel. 12 June 2018.

## 3.12 Greece

### 3.12.1 National strategies for food redistribution

The Greek **National Strategic Plan for Waste Management** and the **National Strategic Plan for the Prevention of Waste Generation** of 2015 define the main targets for waste prevention and management on a 2020 horizon<sup>374</sup>. The consequences of food waste on global food security, on the environment and on greenhouse gas emissions made food waste prevention as a priority area of the National Strategic Plan for Waste Management. Meanwhile, the National Strategic Plan for the Prevention of Waste Generation adopted measures to prevent food waste by undertaking information and public awareness campaigns, setting voluntary agreements, and developing good practices guides addressed to different actors, such as consumers, public administration and private companies of the retail, foodservice, touristic accommodation, hotels, hospitals sectors.

On the topic of food redistribution, Greek municipalities and the bodies in charge of solid waste management (FODSA) are required to 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. As of 2018, no data is available on how both plans have impacted the prevention of food waste. However, fuelled by the developments at the European and international levels, the Ministry of Rural Development and Food has set up a working group to elaborate a detailed food waste policy and action plan. No information is available on the food waste policy's ambitions for food redistribution<sup>375</sup>.

**Table 106 Evaluation of the Member State's policy in terms of "National strategies for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a national food waste strategy including food redistribution measures			x	
Adoption of SDG 12.3 or more ambitious goals, driving the adoption of food redistribution to meet these targets				x
Availability of guidelines to facilitate and promote food donation			x	
Call to develop and strengthen relationships between food redistribution actors			x	

### 3.12.2 Fiscal incentives for food redistribution

Since 2014, a VAT exemption is applied to food donated to non-profit public or private entities, if the food is redistributed to vulnerable social groups, apart from specific food products subject to

<sup>374</sup> Greece Ministry of Environment, Energy and Climate Change. 2014. "National Strategic Plan for the Prevention of Waste Generation (ΕΘΝΙΚΟ □ΣΤΡΑΤΗΓΙΚΟ □ΧΕΔΙΟ ΠΡΟΛΗΨΗ□ ΔΗΜΙΟΥΡΓΙΑ□ ΑΠΟΒΛΗΣΩΝ)." <http://www.ypeka.gr/LinkClick.aspx?fileticket=2Y2%2B%2BPSM4P0%3D&tabid=238&language=el-GR>.

<sup>375</sup> Interview with members of the Greek Ministry of Agriculture. 2018.

consumption taxes<sup>376</sup>. However, there is no information available on how the VAT exemption has influenced redistribution practices in Greece.

**Table 107 Evaluation of the Member State’s policy in terms of “Fiscal incentives for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a fiscal regime specific to food redistribution	x			
Presence of guidelines to clarify how to address complex fiscal regimes such as VAT and/or tax deductions			x	

### 3.12.3 Legal measures for food redistribution

#### 3.12.3.1 General legal framework on food redistribution

2 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>377</sup>;
- 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)<sup>378</sup>.

Both Ministerial Decisions consider food donation in the case of infringements to illegal fishing activities and seizing catches. Infringed catches cannot be sold, but can be donated to charity organisations, under the control of Port Authorities. However, the actual impact on both ministerial decisions on the amounts of food redistributed is unknown<sup>379</sup>.

No further information on the general legal and regulatory framework around food redistribution is available.

**Table 108 Evaluation of the Member State’s policy in terms of “General legal framework on food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a legal framework specific to food redistribution, in addition to EU rules			x	
Presence of the food use hierarchy			x	

<sup>376</sup> EESC - Bio by Deloitte. 2014. “Comparative Study on EU Member States’ legislation and practices on food donation.” [https://www.eesc.europa.eu/resources/docs/comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation\\_finalreport\\_0](https://www.eesc.europa.eu/resources/docs/comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation_finalreport_0).

<sup>377</sup> Greece Ministry of Agriculture. 2015. “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.” <https://www.e-nomothesia.gr/kat-naytilia-nausiploia/alieumata/upourgike-apophase-1750-32219-2015.html>.

<sup>378</sup> Greece Ministry of Agriculture. 2016. “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).” <https://www.geotee.gr/MainNewsDetail.aspx?CatID=1&RefID=8102&TabID=5>.

<sup>379</sup> Interview with members of the Greek Ministry of Agriculture. 2018.



### 3.12.3.2 Traceability requirements applicable to food redistribution

As of June 2019, there are no guidelines, which clarify the traceability regime for food redistribution in Greece.

**Table 109 Evaluation of the Member State’s policy in terms of “Traceability requirements applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a clear traceability regime for food redistribution				x
Presence of guidelines which clarify the traceability regime for food redistribution			x	

### 3.12.3.3 Primary responsibility and liability rules for food redistribution

With regards to **primary responsibility**, **Article 6 of Greek Law 2251/1994 concerning "consumer protection"**, determines the responsibility for donated food, though it is not applicable to processed food. 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 **National Law 4235/2014** complements the consumer protection law, and determines primary responsibility requirements. According to the provisions of the National Law 4235/2014, and to EU relevant legislation, a FBO must take specific measures in the case of the non-conformity of a food product linked to an issue other than food safety (e.g. non conformity to EU marketing standards). These measures, recommended by the competent authorities (local authorities or the Hellenic Food Authority), can consist in changing the final use of the product, re-dispatching it or destroying it. Competent authorities usually encourage alternatives to disposal, and monitor the measures applied by FBOs<sup>380</sup>.

Meanwhile, the non-profit organisation Boroume, who organises the distribution of surplus food for charities throughout Greece, wrote a draft **Memorandum of Understanding on liability issues**, promoting the use of a transmission slip between donors and receivers to provide evidence for food safety at the time of the donation. This memorandum of understanding on liability issues should encourage food donation as the primary responsibility and the liability in case of an issue with donated food will be clearly defined. However, the use of the transmission slip is voluntary, thus limiting food donation in Greece, and there is no information available on its uptake by redistribution stakeholders<sup>381</sup>.

<sup>380</sup> Interview with members of the Greek Ministry of Agriculture. 2018.

<sup>381</sup> EESC - Bio by Deloitte. 2014. "Comparative Study on EU Member States' legislation and practices on food donation." [https://www.eesc.europa.eu/resources/docs/comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation\\_finalreport\\_0](https://www.eesc.europa.eu/resources/docs/comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation_finalreport_0).

**Table 110 Evaluation of the Member State’s policy in terms of “Primary responsibility and liability rules for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of clear primary responsibility and liability rules for food redistribution	x			
Presence of guidelines which clarify the primary responsibility and liability rules for food redistribution	x			

### 3.12.3.4 Hygiene rules applicable to food redistribution

In Greece, FBOs are in line with all EU Hygiene Package Requirements, applicable also to food donation. On **food hygiene**, the Hellenic Food Authority<sup>382</sup> issued national hygiene guidance documents for different food businesses, though none solely targeting food donation has been developed yet.

**Table 111 Evaluation of the Member State’s policy in terms of “Hygiene rules applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of national laws in addition to EU rules to simplify hygiene requirements for food redistribution			x	
Presence of national guidelines explaining hygiene requirements for food redistribution, clarifying EU rules and making them easier to understand for relevant actors			x	

### 3.12.3.5 Food information to consumers applicable to food redistribution

The **National Ministerial Decision 91354/2017** of 2017 revises the rules of distribution and marketing of products, and allows food items that have passed their “best before” date to be placed on the market and donated on a case by case basis. Many products are still safe for human consumption long after their “best before” date, thus the Ministerial Decision 91354/2017 increases the number of food products authorised for redistribution.

The measure was quite poorly transmitted in the media, which presented it as a solution to make use of expired goods. Few companies therefore accept to donate food items after the “best before” date, to protect themselves from any negative press coverage. The lack of guidelines for food

<sup>382</sup> “Hellenic Food Authority is not the only authority responsible for food hygiene matters. There are independent local authorities in every region as well as the General Chemical State Laboratory. All of them are independent. They might get some advice from the Hellenic Food Authority, but they have their own approach.” Information from the *EU Platform on Food Losses and Food Waste, 2020*.

donation, explicitly allowing donation after the “best before” date weighs on donors, is an issue as companies still quite often confuse both the “best before” and “use by” dates. 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. Positive media coverage could help overcome this issue, by informing potential donors about the legality of donation after the “best before” date<sup>383</sup>.

**Table 112 Evaluation of the Member State’s policy in terms of “Food information to consumers applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Donation requirements in line with EU recommendation on “best before” dates	x			
Presence of national guidelines on “best before” dates			x	
Presence of laws targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)			x	
Presence of national guidelines targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)			x	

**3.12.4 Voluntary Agreements for food redistribution**

While there is no Voluntary Agreement targeting food waste or food redistribution in Greece as of May 2019, the promotion of voluntary agreements in the food supply chain and retail sector is foreseen among other specific measures for food waste prevention under the National Strategic Plan for Waste Prevention<sup>384</sup>. These Voluntary Agreements are expected to include measures on food redistribution. Furthermore, following their participation in the EU REFRESH Policy Platform on Voluntary Agreements<sup>385</sup>, there have been discussions about pursuing a project of implementation of a Voluntary Agreement, which would include food redistribution as a component of the agreement.

<sup>383</sup> Interview with members of the Greek Ministry of Agriculture. 2018.  
<sup>384</sup> Interview with members of the Greek Ministry of Agriculture. 2018.  
<sup>385</sup> EU REFRESH. 19.06.2018 Policy Working group on Voluntary Agreements led by Deloitte Sustainability and WRAP. <https://eu-refresh.org/refresh-policy-working-group-voluntary-agreements>

**Table 113 Evaluation of the Member State’s policy in terms of “Voluntary Agreements for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a Voluntary Agreement which addresses all 5 pillars of the EU REFRESH blueprint in regard to food donation		X		

### 3.12.5 Communication initiatives for food redistribution

As of June 2019, there are no communication initiatives targeting food redistribution in Greece.

### 3.12.6 Other initiatives for food redistribution

In Greece, the **FEAD programme** supports activities related to the collection, transport, storage and distribution of food products, under the supervision of 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. Funds from the FEAD programme are used to buy products which are then handed out to charity organisations. According to a member of the Ministry of Agriculture, only very small amounts of food have been distributed since the launch of the programme in 2014 until mid-2018, and the use of the FEAD programme does not support the redistribution of food, but rather its purchase and distribution. However, certain charity organisations highly rely on the supply of products provided via the FEAD funds, and would potentially not have enough products to redistribute without that supply<sup>386</sup>.

**Table 114 Evaluation of the Member State’s policy in terms of “Other initiatives for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Use of the FEAD operational programme to support the redistribution of food			X	
Presence of measures encouraging the redistribution of fruits and vegetables withdrawn from the market, in line with Regulation (EU) 1308/2013				X
Publication of studies/research related to food redistribution			X	
Presence of financial or logistic support for food redistribution at the national/regional/local level			X	

<sup>386</sup> Interview with members of the Greek Ministry of Agriculture. 2018.

	Criteria present	Criteria partly present	Criteria not present	Unknown
Absence of incentives for the valorisation of food surplus via anaerobic digestion, which may otherwise hinder redistribution if the incentives for anaerobic digestion favour this recovery route over redistribution	x			

## 3.13 Hungary

### 3.13.1 National strategies for food redistribution

No national strategy solely addresses food waste reduction and food redistribution in Hungary, but the topic is touched upon in the **National Waste Management Plan** (NWMP, 2014-2020). The NWMP has several objectives concerning food waste:

- Bio-waste should go towards biological treatment in line with the **waste hierarchy**;
- It must be diverted from landfills towards other recovery routes;
- An infrastructure ensuring a high level of waste treatment must be created.

**Table 115 Evaluation of the Member State’s policy in terms of “National strategies for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a national food waste strategy including food redistribution measures			x	
Adoption of SDG 12.3 or more ambitious goals, driving the adoption of food redistribution to meet these targets				x
Availability of guidelines to facilitate and promote food donation			x	
Call to develop and strengthen relationships between food redistribution actors			x	

### 3.13.2 Fiscal incentives for food redistribution

Since 2010, charity organisations can benefit from a **VAT exemption**<sup>387</sup> (Hungarian VAT Act) on donations made for public use. “Charitable donations” encompass goods and services made available to public-benefit organisations. In this regard, no VAT exemption applies, for example, when the products are given to employees or are internally used by the company. The general VAT rate in Hungary is at 27%, while the preferential rate is 5% or 18%. Products with the 5% VAT rate include fresh, chilled or frozen pork, beef, poultry meat, lamb and sheep meat, eggs, fresh milk, fish suitable for human consumption, edible by-products of swine slaughter (tail, nail, ear, nose etc.) and edible offal of swine (liver, kidneys, etc.). Products with the 18% VAT rate include products made of cereals, flour, starch or milk, dairy products, flavoured milk, bread, bakery products and pastries.

The VAT exemption for donations is a fiscal incentive encouraging food donation as donors do not have to pay VAT on donated products. Before this change, destroying food could be financially more beneficial than donating if VAT was applied for food surplus donations<sup>388</sup>.

In Hungary, Article 7(z) of the **Corporate Tax Law**<sup>389</sup> grants a **tax deduction of 20%** on the amount of the donation (deducted from the corporate tax base). This deduction can reach 50% in

<sup>387</sup> Hungarian VAT Act (2007. évi CXXVII. törvény az általános forgalmi adóról), Hungarian Government, 2010. <https://net.jogtar.hu/jogszabaly?docid=A0700127.TV>

<sup>388</sup> Interview with the Hungarian Food Bank. 2018.

<sup>389</sup> Corporate Tax Law Hungary, (1996. évi LXXXI. Törvény a társasági adóról és az osztalékadóról), Hungarian Government, 2011, <http://net.jogtar.hu/jogszabaly?docid=99600081.TV>

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 (at least 3 years) donation agreements<sup>390</sup>.

However, the following conditions must be met to benefit from the tax deduction:

- The ceiling for deductibility is the amount of pre-tax profit;
- The recipient of the donation has to be a public use organisation;
- The recipient must issue a tax credit statement about the donation(s).

This measure stimulates food donations and overcomes economic hurdles by allowing a tax deduction to companies. There has been an increase in the number of financial and food donations made by companies and individuals due to this measure, although the effectiveness is quite limited because of the low level of the incentive<sup>391</sup>.

**Table 116 Evaluation of the Member State’s policy in terms of “Fiscal incentives for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a fiscal regime specific to food redistribution	x			
Presence of guidelines to clarify how to address complex fiscal regimes such as VAT and/or tax deductions			x	

### 3.13.3 Legal measures for food redistribution

#### 3.13.3.1 General legal framework on food redistribution

In Hungary, there are no specific national level regulatory instruments addressing food redistribution. There are some regulations on food distribution, however, none of them affect directly food donations. The National Act no XCV/2009 on the **prohibition of unfair distributor conduct** has had an indirect impact on redistribution<sup>392</sup>. This act limits the timeframe for distributors to discount their products, which consequently leaves less time for food redistribution. Time limits should be extended in the case of free redistribution organised by specific retailer (thereby the primary goal of the act could still be maintained). Changing the National Act would enable retailers to give away fresh food for redistribution sooner<sup>393</sup>.

On another matter, the **Regulation on the production and marketing of products by the catering and hospitality sectors** (*VM rendelet a vendéglátó-ipari termékek előállításának és forgalomba hozatalának élelmiszerbiztonsági feltételeiről*)<sup>394</sup> of 2011 sets the conditions for food safety in the hospitality sector. These conditions are restrictive as they do not take into consideration the flexibility requirements needed for food surplus redistribution, for instance the options of cooling or freezing meals after the end of service period<sup>395</sup>.

<sup>390</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>391</sup> Interview with the Hungarian Food Bank. 2018.

<sup>392</sup> National Act XCV of 2009 on the prohibition of unfair distributor conduct vis-à-vis suppliers regarding agricultural and food industry products [www.dmia.nl/images/2009\\_4thQ/221209\\_Prohibition\\_of\\_Unfair\\_Distributor\\_Conduct\\_Act\\_Vis\\_Vis\\_Suppliers.pdf](http://www.dmia.nl/images/2009_4thQ/221209_Prohibition_of_Unfair_Distributor_Conduct_Act_Vis_Vis_Suppliers.pdf)

<sup>393</sup> Interview with the Hungarian Food Bank. 2018

<sup>394</sup> Hungarian government. 2011. 62/2011. (VI. 30.). Regulation on the production and marketing of products by the catering and hospitality sectors (VM rendelet a vendéglátó-ipari termékek előállításának és forgalomba hozatalának élelmiszerbiztonsági feltételeiről). <https://net.jogtar.hu/jogszabaly?docid=A1100062.VM>

<sup>395</sup> Interview with the Hungarian Food Bank. 2018.

**Table 117 Evaluation of the Member State’s policy in terms of “General legal framework on food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a legal framework specific to food redistribution, in addition to EU rules			x	
Presence of the food use hierarchy			x	

### 3.13.3.2 Traceability requirements applicable to food redistribution

As of June 2019, there are no guidelines which clarify the traceability regime for food redistribution in Hungary.

**Table 118 Evaluation of the Member State’s policy in terms of “Traceability requirements applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a clear traceability regime for food redistribution				x
Presence of guidelines which clarify the traceability regime for food redistribution			x	

### 3.13.3.3 Primary responsibility and liability rules for food redistribution

The **Law on Food Chain and its official control**<sup>396</sup> grants the primary responsibility for food safety to the FBO at all stages of the food supply chain, in line with the requirements of Regulation 178/2002/EC. The responsibility is however shared along the food supply chain. Governmental Regulation nr. 194/2008. (VII. 31) describes the consequences in case of non-compliance with the regulation. Typical consequences include: fines, obligations to act and warnings. Food safety (consumer health protection) has a higher priority than food waste reduction in Hungary. The consequences of this law on food redistribution are unknown<sup>397</sup>.

<sup>396</sup> Law on Food Chain and its official control, (Törvény az élelmiszerláncról és hatósági felügyeletéről), Hungarian Government, 2008 <http://net.jogtar.hu/jogszabaly?docid=A0800046.TV>

<sup>397</sup> Interview with Hungarian Ministry of Agriculture



**Table 119 Evaluation of the Member State’s policy in terms of “Primary responsibility and liability rules for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of clear primary responsibility and liability rules for food redistribution				x
Presence of guidelines which clarify the primary responsibility and liability rules for food redistribution			x	

### 3.13.3.4 Hygiene rules applicable to food redistribution

When it comes to Hygiene regulations, the Hungarian Food Book (*Codex Alimentarius Hungaricus*)<sup>398</sup> is applied, which contains detailed **Guidelines on food quality, food labelling and food safety requirements** for certain categories of food. Hungary has also a series of **Good Hygiene Practices (GHP)**<sup>399</sup> 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.). For instance, 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>400</sup>. The Ministry of Human Resources also issued a regulation on nutrition and health regulations for public catering<sup>401</sup>. Neither regulation specifically addresses food redistribution. However, given that food redistribution falls within the scope of catering and hospitality, they are applicable.

**Table 120 Evaluation of the Member State’s policy in terms of “Hygiene rules applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of national laws in addition to EU rules to simplify hygiene requirements for food redistribution			x	
Presence of national guidelines explaining hygiene requirements for food redistribution, clarifying EU rules and making them easier to understand for relevant actors			x	

<sup>398</sup>Decree No. 152 of 2009 (XI. 12.) FVM of the Ministry of Agriculture and Rural Development on the binding provisions of the Codex Alimentarius Hungaricus.

[http://vedooltas.com/images/stories/letoltesek/codex\\_alimentar\\_us\\_hungaricus.pdf](http://vedooltas.com/images/stories/letoltesek/codex_alimentar_us_hungaricus.pdf).

<sup>399</sup> Good Hygiene Practice Guides. 2018. <http://elelmiszerlanc.kormany.hu/jo-higieniai-gyakorlat-utmutatok>

<sup>400</sup> Hungarian Government. 2011. “Regulation on the producing and marketing of products by the catering and hospitality sectors”. [http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=138621.286250](http://njt.hu/cgi_bin/njt_doc.cgi?docid=138621.286250)

<sup>401</sup> Hungarian Government. 2014. “37/2014. (IV. 30.) EMMI rendelet a közétkeztetésre vonatkozó táplálkozás-egészségügyi előírásokról Regulation of food-health requirements applied in public catering”. <https://net.jogtar.hu/jogszabaly?docid=A1400037.EMM>

### 3.13.3.5 Food information to consumers applicable to food redistribution

Hungary follows the **EU Law on food information to consumers** (No 1169/2011)<sup>402</sup> for requirements on **labelling**. The labelling of a product placed on the market must contain all information in Hungarian, in an easily legible, understandable and clear manner. A stick-on label in Hungarian is added to any imported prepacked food, in addition to its original label in a foreign language. This sticker contains all of the information required by the Hungarian labelling regulations, and must be added to the product by the foreign producer, exporter, importer or distributor before the product reaches the consumer<sup>403</sup>.

In Hungary, a typical form of food fraud was the relabelling of expired food products from Western EU countries. These goods, that could not be sold in normal market conditions, were transported to newly accessed Eastern member countries in big quantities and were sold to the consumers at a normal price after relabelling. This practice severely affected the rights of Hungarian consumers, therefore the National Food Chain Safety Office had to take strict measures to prevent it. This experience hinders the liberalisation of the trade of products having passed their "best before" date. Hungary still considers it as an important goal to avoid being the terminal station of expired goods from Western countries<sup>404</sup>.

The Law on Food Chain and its official control disincentive donations, as food cannot be donated after the "use by" and "best before" dates, and since, many non-highly perishable food products still safe for human consumption cannot be donated. Adapting the law to authorise the donation of some food items past their "best before" date would stimulate donation activities<sup>405</sup>. Donors are more motivated to donate before the expiration date, but many consumers are not educated about the difference between "best before" and "use by" dates. Although this limitation prevents a very large amount of food from entering the process of redistribution, consumer education is needed before any changes are made to the law<sup>406</sup>.

**Table 121 Evaluation of the Member State's policy in terms of "Food information to consumers applicable to food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Donation requirements in line with EU recommendation on "best before" dates			x	
Presence of national guidelines on "best before" dates			x	
Presence of laws targeting food redistribution actors to clarify the requirements for food information to consumers			x	

<sup>402</sup> Regulation (EC) No 1169/2011 on the provision of food information to consumers. 2011 <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011R1169&from=en>

<sup>403</sup> USDA Foreign Agricultural Services. 2016. Hungary – Food and Agricultural Import Regulations and Standards, Narrative. FAIRS Country Report. [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>405</sup> Interview with the Hungarian Food Bank, Interview with a member of the Hungarian Ministry of Agriculture. 2018.

<sup>406</sup> Interview with the Hungarian Food Bank, Interview with a member of the Hungarian Ministry of Agriculture. 2018.

	Criteria present	Criteria partly present	Criteria not present	Unknown
(language and labelling requirements, apart from date marking)				
Presence of national guidelines targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)			x	

### 3.13.4 Voluntary Agreements for food redistribution

As of June 2019, there are no Voluntary Agreements addressing food waste or promoting food redistribution in Hungary.

**Table 122 Evaluation of the Member State's policy in terms of "Voluntary Agreements for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a Voluntary Agreement which addresses all 5 pillars of the EU REFRESH blueprint in regard to food donation			x	

### 3.13.5 Communication initiatives for food redistribution

To date, communication campaigns have not been carried out on food redistribution within Hungary, although several campaigns have been carried out on food waste. One of these campaigns includes the "**Give Food a Chance**" campaign<sup>407</sup> organised by the Hungarian Food Bank Association. The objective of the campaign was not to promote redistribution but to provide practical tips for saving food via: a web portal, a media campaign, a cooking school road show, a school program. Although no concrete discussions are currently taking place on relaunching a campaign on food redistribution, upon analysis by the project team, it is believed that the current campaigns have laid a good foundation to expand its scope to food redistribution.

### 3.13.6 Other initiatives for food redistribution

In Hungary, **FEAD funds** provide food and basic material assistance through its operational programme<sup>408</sup>. The funds from the FEAD programme are specifically used to finance projects which provide food assistance to vulnerable target groups: poor families with children, the homeless and lastly, socially deprived persons with a disability and elderly persons with an extremely low income.

<sup>407</sup> Hungarian Food Bank Association. Eselytazetelnek . "Give Food A Chance (Esélyt Az Ételnék - Magyar Élelmiszerbank Egyesület)". <http://www.eselytazetelnek.hu/>.

<sup>408</sup> Interview with Hungarian Ministry of Agriculture

In order to ensure continuity and quality of service throughout the project, food procurement is carried out under a public procurement procedure. As the donations must include food has an expiration date of at least 3 months from the date of manufacture, the execution of the FEAD program currently does not support the redistribution activities of food surplus donations. However, there are preparation activities in place aiming to include these activities in the program in the next operative program starting after 2020.

Lastly, in Hungary, the producers' organisations recognised in the fruits and vegetables sector may benefit **from market withdrawal** within the framework of their operational program for crisis prevention and management according to Article 33 of **Regulation of the European Parliament and the Council (EU) No 1308/2013** of 17 December 2013 establishing a common organisation of the markets in agricultural products, EU, 2013<sup>409</sup>/ Charitable organisations and other organisations approved by the State may use these products to assist people in need, as recognised by national law.

**Table 123 Evaluation of the Member State's policy in terms of "Other initiatives for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Use of the FEAD operational programme to support the redistribution of food			x	
Presence of measures encouraging the redistribution of fruits and vegetables withdrawn from the market, in line with Regulation (EU) 1308/2013	x			
Publication of studies/research related to food redistribution			x	
Presence of financial or logistic support for food redistribution at the national/regional/local level			x	
Absence of incentives for the valorisation of food surplus via anaerobic digestion, which may otherwise hinder redistribution if the incentives for anaerobic digestion favour this recovery route over redistribution	x			

<sup>409</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 and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007

## 3.14 Ireland

### 3.14.1 National strategies for food redistribution

Ireland's **National Waste Prevention Programme**<sup>410</sup> supports national-level, strategic programmes to prevent waste and drive the Circular Economy in Ireland. Food waste has been identified as a priority waste stream within the NWPP and while it does not specifically target food redistribution, redistribution is included in prevention and circular economy definitions. Reducing food waste by 50% has also been included as a target within Ireland's **Climate Action Plan**<sup>411</sup>.

In order to reach the United Nation's Sustainable Development Goals, the Irish government elaborated a **National Implementation plan** to:

- Provide a framework for Ireland to implement the United Nation's Sustainable Development Goals between 2018 and 2020;
- Support national policies which contribute to meeting the Goals;
- Facilitate multi-stakeholder participation.

While the plan does not specifically target food redistribution but the reduction of food waste, certain of the initiatives that are supported to achieve the SDG Goal 12.3 include measures promoting redistribution, such as the Rural Innovation and Development Fund, which finances food waste prevention pilot projects such as a project in rural redistribution. The project is in progress, and its monitoring and impact will be determined subsequently<sup>412 413</sup>.

Furthermore, in 2017, the Food Safety Authority of Ireland (FSAI) issued a series of **guidance documents** on the use of surplus food by charities and donors, for businesses donating food, charities receiving donated food, food banks and distribution centres and their roles:

- For donor organisations<sup>414</sup>;
- Front-line organisations / Charity Organisations (CO)<sup>415</sup>;
- Back-line organisations / Redistribution Organisations (RO) – also called "food banks" in some Member States<sup>416</sup>;
- A document also addresses the specific topic of compiling food into food parcels for redistribution<sup>417</sup>.

Finally, the **Origin Green** programme is Ireland's food and drink sustainability programme, gathering the government, the private sector and food producers through Bord Bia, the Irish Food Board<sup>418</sup>. FoodCloud, Ireland's national food redistribution network, has been invited to be a partner of Origin Green, and the exact role of food redistribution and food waste in the programme is being developed<sup>419</sup>.

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<sup>410</sup> <http://www.epa.ie/waste/nwpp/>

<sup>411</sup> Government of Ireland, Climate Action Plan 2019, To Tackle Climate Breakdown, <https://www.dccae.gov.ie/documents/Climate%20Action%20Plan%202019.pdf>

<sup>412</sup> Department for Communications, Climate Action and Environment. 2018. "The Sustainable Development Goals National Implementation Plan 2018-2020". <https://www.dccae.gov.ie/documents/DCCAE-National-Implement-Plan.pdf>.

<sup>413</sup> Ministry of Agriculture, Food and the Marine. "Food Waste Reduction". <https://www.agriculture.gov.ie/agri-foodindustry/agri-foodandtheeconomy/cedraschemes/foodwastereduction/>. Accessed on 05 November 2018.

<sup>414</sup> [https://www.fsai.ie/food\\_businesses/donations/business.html](https://www.fsai.ie/food_businesses/donations/business.html)

<sup>415</sup> [https://www.fsai.ie/food\\_businesses/donations/charities\\_receiving.html](https://www.fsai.ie/food_businesses/donations/charities_receiving.html)

<sup>416</sup> [https://www.fsai.ie/food\\_businesses/donations/food\\_banks.html](https://www.fsai.ie/food_businesses/donations/food_banks.html)

<sup>417</sup> Food Safety Authority of Ireland. 2017. "Food donation". [https://www.fsai.ie/food\\_businesses/donations/donations.html](https://www.fsai.ie/food_businesses/donations/donations.html).

<sup>418</sup> Origin Green. Official website. <https://www.origingreen.ie/>.

<sup>419</sup> Interview with FoodCloud. 2018

**Table 124 Evaluation of the Member State’s policy in terms of “National strategies for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a national food waste strategy including food redistribution measures		x		
Adoption of SDG 12.3 or more ambitious goals, driving the adoption of food redistribution to meet these targets	x			
Availability of guidelines to facilitate and promote food donation	x			
Call to develop and strengthen relationships between food redistribution actors	x			

### 3.14.2 Fiscal incentives for food redistribution

The **VAT Consolidation Act** of 2010 sets out Value Added Tax (VAT) charged on food and drink in Ireland, and "*the zero-rate of VAT applies to the supply of most food stuffs*", simplifying the treatment of VAT for food donation<sup>420</sup>. However, there are no corporate income tax deductions applicable to food donations.

**Table 125 Evaluation of the Member State’s policy in terms of “Fiscal incentives for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a fiscal regime specific to food redistribution	x			
Presence of guidelines to clarify how to address complex fiscal regimes such as VAT and/or tax deductions			x	

### 3.14.3 Legal measures for food redistribution

#### 3.14.3.1 General legal framework on food redistribution

The Irish EPA provides guidance on the food waste hierarchy, and information for businesses through its communications<sup>421</sup>.

<sup>420</sup> Department of Finance. 2018. "VAT on Food and Drink". <https://www.revenue.ie/en/tax-professionals/tdm/value-added-tax/part03-taxable-transactions-goods-ica-services/Goods/goods-food-and-drink.pdf>.

<sup>421</sup> Ireland EPA. 2017. "Food waste charter". <http://foodwastecharter.ie>

**Table 126 Evaluation of the Member State’s policy in terms of “General legal framework on food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a legal framework specific to food redistribution, in addition to EU rules			x	
Presence of the food use hierarchy		x		

### 3.14.3.2 Traceability requirements applicable to food redistribution

The FSAI Food Donation Guidelines provide specific guidance on traceability requirements per supply chain actor<sup>422</sup>. The FSAI’s guidance documents set out requirements concerning **traceability**, though they are deemed to be time-consuming and difficult to implement. They are required to have a “one-step forward” traceability system in place, and some items, such as food of animal origin, are required to carry more specific information than other products when passing on from one food operator to another (e.g. volume/quantity of food, reference identifying the batch number). The social enterprise FoodCloud, which connects donors with charities, developed a technology system which digitalises the traceability systems, thus simplifying their application.

**Table 127 Evaluation of the Member State’s policy in terms of “Traceability requirements applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a clear traceability regime for food redistribution				x
Presence of guidelines which clarify the traceability regime for food redistribution	x			

### 3.14.3.3 Primary responsibility and liability rules applicable to food redistribution

According to the FSAI’s guidance documents, responsible for food safety lies with the food donor until the food products are collected by the redistribution organisation or food bank. The redistribution organisation or food bank becomes responsible for the food until the product is passed to either the end user or the customer. 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>423</sup>.

Despite the difficulties in following all of the guidelines, the FSAI documents are extremely useful for businesses, charities, food banks and distribution centres as they give clear information for the safe storage, labelling and distribution of food<sup>424</sup>.

<sup>422</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>423</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>424</sup> Interview with FoodCloud. 2018.

**Table 128 Evaluation of the Member State’s policy in terms of “Primary responsibility and liability rules for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of clear primary responsibility and liability rules for food redistribution				x
Presence of guidelines which clarify the primary responsibility and liability rules for food redistribution	x			

### 3.14.3.4 Hygiene rules applicable to food redistribution

On **food hygiene**, the FSAI’s guidance documents state that food donors, food banks and charities are responsible for the implementation of the EU hygiene package within their own organisations<sup>425</sup>.

**Table 129 Evaluation of the Member State’s policy in terms of “Hygiene rules applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of national laws in addition to EU rules to simplify hygiene requirements for food redistribution			x	
Presence of national guidelines explaining hygiene requirements for food redistribution, clarifying EU rules and making them easier to understand for relevant actors	x			

### 3.14.3.5 Food information to consumers applicable to food redistribution

On the topic of **date marking**, food products can be sold and donated after their “best before” date. FSAI Guidance Note 18<sup>426</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.”*

Nevertheless, it is strongly recommended to indicate to the consumers that the products have passed this date<sup>427</sup>. The FSAI’s guidance documents state that food donated after the “best before” date

<sup>425</sup> Food Safety Authority Ireland. 2017. “Food donation – Introduction”.  
[https://www.fsai.ie/food\\_businesses/donations/donations.html](https://www.fsai.ie/food_businesses/donations/donations.html)

<sup>426</sup> Food Safety Authority of Ireland. 2018. “Shelf-life Determination”. [https://www.fsai.ie/faq/shelf\\_life/determination.html](https://www.fsai.ie/faq/shelf_life/determination.html)

<sup>427</sup> Interview with FoodCloud. 2018



must be in an acceptable condition and handled properly, the storage instructions must have been adhered to and the packaging must be intact. However, this food should be assessed on a case by case basis<sup>428</sup>.

With regards to **food information to consumers**, the following requirements are laid out in the FSAI’s guidance documents:

- Food information must be available in English or in Irish and English. Information in other languages may be included in addition to English;
- For business to business sales, food information can be provided on the commercial documents referring to the food, if they accompany the products or were sent before or during delivery, if:
  - The prepacked food is intended for the final consumer but marketed beforehand;
  - The prepacked food is intended for supply to mass caterers to be further prepared, processed, split or cut up.
- However, the following pieces of information must appear on the product’s external packaging:
  - 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 food business operator.
- For business to business sales where the food is not intended for either final consumers or mass caterers, the food supplier must ensure that the receiving FBO is provided with enough information for him to meet his provisions of food information requirements;
- If food is repacked, all mandatory food information must be transferred to the new packaging. However, restrictions are in place for the repacking of foods of animal origin such as meat, fish and cheese. Charity organisations wishing to repack these categories of food are advised to contact the FSAI on this matter;
- Non-prepacked food items must carry allergen information, displayed in written form near the food, where it is freely available to those consuming the food (written in front of the food or on a wall chart listing all foods being handled/served);
- If an organisation changes the nature of a food product during the redistribution process, it is responsible for the product’s labelling before it reaches the consumer<sup>429</sup>.

**Table 130 Evaluation of the Member State’s policy in terms of “Food information to consumers applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Donation requirements in line with EU recommendation on “best before” dates	x			
Presence of national guidelines on “best before” dates	x			
Presence of laws targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)			x	

<sup>428</sup> Food Safety Authority of Ireland. 2017. “Food donation”. [https://www.fsai.ie/food\\_businesses/donations/donations.html](https://www.fsai.ie/food_businesses/donations/donations.html).

<sup>429</sup> Food Safety Authority of Ireland. 2017. “Food donation”. [https://www.fsai.ie/food\\_businesses/donations/donations.html](https://www.fsai.ie/food_businesses/donations/donations.html).

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of national guidelines targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)	x			

### 3.14.4 Voluntary Agreements for food redistribution

Ireland's **Food Waste Charter**, launched in 2017, is a Voluntary Agreement for food waste reduction aiming to achieve a 50% reduction in Food Waste by 2030, by providing a collective commitment for people, businesses and communities. The following overview of this Voluntary Agreement (VA) is analysed against the 5 pillars of a successful VA, as defined within the EU REFRESH Blueprint<sup>430</sup>: initiation and set-up, ambition, governance and funding, establishing actions, and measurement and evaluation.

#### Initiation and set-up

The Food Waste Charter was launched in 2017, piloted by Ireland's Environmental Protection Agency (EPA), an independent and trusted organisation. The EPA provides leadership and receives Government support and buy in from retailers. The first signatories were 5 major Irish retailers, representing 70% of Irish grocery market. This group has the ability to support the donation of food for redistribution collectively<sup>431 432</sup>. A sectorial approach will roll out the Charter across the entire food supply chain, in partnership with representative bodies and others.

#### Ambition

The Food Waste Charter aims to:

- Create a collective agreement to tackle food waste along the entire supply chain;
- Share best practices and develop guidance;
- Address gaps in the available data to anticipate future reporting requirements and identify areas for intervention;
- Report data by using a consistent methodology.
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The agreement's ambition is in line with the EU's circular economy package, and with SDG 12.3 of halving food waste by 2030. The Food Waste Charter agreement with the grocery retail sector is a 3 year project, looking at the preliminary data available and the low-hanging fruit actions to reduce food waste. However, the Food Waste Charter's ambitions relative to food redistribution are unknown.

#### Governance and funding

<sup>430</sup> The Blueprint was developed within the scope of the H2020 EU research project. The Blueprint is a roadmap designed for policy makers on how to set up Voluntary Agreements within any country's context. Application of this Blueprint tool, which is expected to be available on the REFRESH Community of Experts page by 2020, together with support from the REFRESH project team, is expected to help launch the Voluntary Agreement. <http://www.refreshcoe.eu/>

<sup>431</sup> Ireland EPA. "National Waste Prevention Programme (NWPP)". <http://www.epa.ie/waste/nwpp/>; Ireland EPA. "Stop Food Waste". <https://stopfoodwaste.ie/>

<sup>432</sup> Ireland Department of Communications, Climate Action & Environment. 2018. "Major Irish Retailers Sign Up to Government's Food Waste Charter". <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>

The EPA essentially supports the costs for this programme, and the government provides some support via the Environment Fund (Government fund established from landfill and plastic bag levies).

**Establishing actions**

Retailers collectively make decisions after discussions, and the EPA coordinates all of the actions. The Retail Action Group was established by the Minister under the scope of the Food Waste Charter to support retailers with achieving their commitments under the agreement. The Retail Action Group has the ability to collectively support the donation of food for redistribution, but its concrete measures in this field are unknown. As of 2018, no actions have been specifically implemented for food redistribution.

**Measurement and evaluation**

In terms of measurement and evaluation, the Food Waste Charter includes a data reporting element, and systems for the collection and reporting of data are to be developed. For transparency reasons, the Charter foresees to publish data on food waste per sector<sup>433 434</sup>.

As the Charter’s ambitions and impacts concerning food redistribution remain relatively unclear, it is considered not yet as being a key instrument to support and promote food redistribution.

**Table 131 Evaluation of the Member State’s policy in terms of “Voluntary Agreements for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a Voluntary Agreement which addresses all 5 pillars of the EU REFRESH blueprint in regard to food donation			x	

**3.14.5 Communication initiatives for food redistribution**

As of June 2019, there are no communication initiatives targeting food redistribution in Ireland.

**3.14.6 Other initiatives for food redistribution**

Ireland’s **Green Business Initiative**, now concluded, consisted in an assembly of projects, were funded through the EPA’s Green Enterprise fund – part of NWPP, aimed at helping enterprises save money and reduce their environmental impacts. Food waste continues to be a topic included in calls for proposals for this funding programme<sup>435</sup>. Through the National Waste Prevention Programme the EPA has provided funding to support projects including: a food safety project for redistribution with FoodCloud and supply chain engagement/awareness actions around redistribution<sup>436</sup>.

Finally, in Ireland, the **FEAD programme** does not directly support redistribution as there continues to be a lack of clarity around the practical application of Article 26 in Regulation (EU) No 223/2014

<sup>433</sup> Interview with Irish EPA. 12 June 2018; FEAD case study 2017: Ireland – Department of Employment Affairs & Social Protection and FoodCloud Hubs. National Food Distribution. 2017. <https://ec.europa.eu/social/BlobServlet?docId=18944&langId=en>  
<sup>434</sup> REFRESH. 19 June 2018. “Voluntary Agreements as a policy instrument or food waste reduction” Minutes of the Policy Working Group. [https://eu-refresh.org/sites/default/files/MINUTES\\_REFRESH-Policy-Working-Group-on-VAs.pdf](https://eu-refresh.org/sites/default/files/MINUTES_REFRESH-Policy-Working-Group-on-VAs.pdf).  
<sup>435</sup> Environmental Protection Agency, “Green Enterprise Innovation for a Circular Economy Fund” <http://www.epa.ie/researchandeducation/research/epafunding/greenenterprise/>  
<sup>436</sup> Green Business Initiative. Official website. <https://greenbusiness.ie/>.

on the Fund for European Aid to the Most Deprived in Ireland. FoodCloud hubs run the FEAD programme in parallel with surplus redistribution<sup>437</sup>.

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<sup>437</sup> Interview with FoodCloud. 2018;

**Table 132 Evaluation of the Member State’s policy in terms of “Other initiatives for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Use of the FEAD operational programme to support the redistribution of food			x	
Presence of measures encouraging the redistribution of fruits and vegetables withdrawn from the market, in line with Regulation (EU) 1308/2013				x
Publication of studies/research related to food redistribution			x	
Presence of financial or logistic support for food redistribution at the national/regional/local level	x			
Absence of incentives for the valorisation of food surplus via anaerobic digestion, which may otherwise hinder redistribution if the incentives for anaerobic digestion favour this recovery route over redistribution				x

## 3.15 Italy

### 3.15.1 National strategies for food redistribution

In 2016, Italy approved Law No. 166/2016, concerning provisions on the donation and redistribution of food and pharmaceutical products for social purpose and to limit waste (*Diposizioni concernenti la donazione e la distribuzione di prodotti alimentari e farmaceutici a fini di solidarietà sociale e per la limitazione degli sprechi*). Law No. 166/2016 (details in section 3.15.3.1) established a national advisory round table (Table for the fight against food waste and for food aid), coordinated by the Ministry of Agriculture. The table gathers all the actors of the food supply chain (from agriculture to food service sector), charitable organisations and competent authorities (e.g. Ministry of Health, Ministry of Environment) to study themes related to food redistribution, among other topics. Law No. 166/2016 provides the establishment of a national observatory as part of the national advisory round table for collection and harmonising data on surplus food, food redistribution and food waste<sup>438</sup>.

Previously, in 2014, the Ministry of the Environment launched the **National Food Waste Prevention Plan (PINPAS)** (*Piano Nazionale di Prevenzione degli Sprechi Alimentari*), with the objectives of:

- Bringing food waste prevention to the centre of the political agenda from local up to European level;
- Increasing and spreading knowledge about the environmental, social and economic impacts of food waste;
- Raising awareness among consumers.

At the moment, no data on the qualitative and quantitative impact of PINPAS are available<sup>439</sup>.

PINPAS foresees to measure food waste at source and to recover surplus food through donation to charities. PINPAS contributes to raising awareness about food donation, a practice otherwise unknown in Italy. Within its 10 national-level priorities, the plan directly encourages food redistribution, such as the donation of unsold products to avoid food waste and the introduction of incentive criteria in collective food services contracts for actors who freely distribute surplus food<sup>440</sup>.

PINPAS intends to tackle the problem of food waste along the entire supply chain from primary production to final consumption.

The PINPAS plan is more focused on waste prevention than recovery. However, no data on the qualitative and quantitative impact of PINPAS are yet available<sup>441</sup>.

For recovery activities, the “Good Samaritan Law” (Law 155/2003) is fundamental, which gives greater impetus to the recovery of food by charitable organisations.

Law No. 166/2016 on the provisions concerning the donation and redistribution of food and pharmaceutical products for social purpose and to limit waste. This law represents a further step forward in the prevention of food waste through recovery. It has an innovative

<sup>438</sup> Information from the *EU Platform on Food Losses and Food Waste*, 2 March 2018.

<sup>439</sup> Interview with Last Minute Market. 6 June 2018.

<sup>440</sup> Italian Government, Ministry of the Environment. 5 June 2014. “National Food Waste Prevention Plan (PINPAS)” (Piano Nazionale di Prevenzione degli Sprechi Alimentari).

[http://www.minambiente.it/sites/default/files/archivio\\_immagini/Galletti/Comunicati/PINPAS%2010%20MISURE%20PRIORITARI%205%20GIUGNO%202014.pdf](http://www.minambiente.it/sites/default/files/archivio_immagini/Galletti/Comunicati/PINPAS%2010%20MISURE%20PRIORITARI%205%20GIUGNO%202014.pdf)

Banco Alimentare. 3 October 2016. “Law No 166/2016 Briefing produced by Chamber of Deputies”.

<https://www.bancoalimentare.it/en/node/4222>

<sup>441</sup> Interview with Last Minute Market. 6 June 2018.

approach in the fight against waste because, without prejudice to the need to avoid food surpluses, it does not consider surpluses as negative if they can be recovered or reused for other uses in an approach to the circular economy.

For this reason, the law:

- Encourages the recovery of products left in the field;
- Encourages the processing of surpluses to make them more conservable for redistribution to the most deprived person;
- Clarifies that the products can be donated and distributed beyond the minimum conservation terms if the health and hygiene requirements are maintained;
- Clarifies that the products can be donated if they have labelling or packaging defects that do not compromise the health and hygiene requirements;
- Provides for the drafting of manuals of correct operating practices to manage food by charitable organisations (see the Food Bank and Caritas manual mentioned below);
- Allows the donation of food products confiscated not for reasons of public health in compliance with health and hygiene regulations;
- Provides for the establishment of a National Consultative Round Table with the entire supply chain and charitable organisations to discuss and investigate issues relating to the fight against food waste and to propose regulatory changes;
- Provides for the establishment of a national fund with the aim of promoting actions against food waste and of co-financing projects against waste (managed by the Ministry of Agriculture);
- Provides that the relevant ministries (Health, Agriculture, Education, Environment) take action with information and training campaigns for consumers and companies to raise awareness of the fight against food waste;
- Provides tax incentives for companies that adopt food recovery measures (e.g. reduction of waste tax);
- Provides incentives for waste reduction, including the use of “doggy bags”.

As provided by the law, a **Guide to good practices for redistribution of food by charitable organisations** (*Recupero, raccolta e distribuzione ai fini di solidarietà sociale*) was developed by Caritas Italiana and the Fondazione Banco Alimentare Onlus (*Organizzazioni non lucrative di utilità sociale* – see section 3.15.2 below) and was validated by the Italian Ministry for Health<sup>442</sup>. This guide provides insight for actors of the food redistribution chain on how to properly conduct their activities.

On a micro level, the **City of Milan’s Food Policy**, established in 2015, defined a 50% food waste reduction target by 2030 with the help of local actors. The “promotion of the recovery and redistribution of food losses creating relations among the local players (charities and food banks)” is one of the four main guidelines that steer Milan’s Food Policy, thus putting food redistribution on the top of the agenda. The project tackles food waste through several angles by addressing the generation of food waste at different levels. It is a big step forward for food redistribution as it raises consumer awareness, establishing relations among local redistribution actors and granting a tax reduction for food donations (as mentioned in section 4.15.2)<sup>443 444</sup>.

Finally, to go further on the issues related to food surplus and food recovery, Law No. 166/2016 (detailed in section 3.15.3.1) established a **National Consultative Round Table** (*Tavolo per la lotta agli sprechi e per l’assistenza alimentare*), coordinated by the Ministry of Agriculture. The round table gathers all of the actors of the food supply chain (from agricultural to catering), such as COs

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<sup>442</sup> Caritas Italiana, Banco Alimentare. 2016. “Recovery, collection and redistribution of food for charitable purposes”. (*Recupero, raccolta e distribuzione ai fini di solidarietà sociale*).

[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>443</sup> Interview with the City of Milan Mayor’s Office. 10 July 2018.

<sup>444</sup> City of Milan. 2018. “Circular economy for food donation”. <http://www.milanurbanfoodpolicypact.org/wp-content/uploads/2018/06/CIRCULARITY-1.pdf>

as well as the competent authorities (i.e. the Ministry of Health, the Ministry of Environment), to study themes related to food recovery, among other topics. Law No. 166/2016 also provides for the establishment of a national observatory within the National Consultative Round Table for the collection and harmonisation of data on food surplus, food recovery and food waste<sup>445</sup>.

**Table 133. Evaluation of the Member State’s policy in terms of “National strategies for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a national food waste strategy including food redistribution measures	x			
Adoption of SDG 12.3 or more ambitious goals, driving the adoption of food redistribution to meet these targets		x		
Availability of guidelines to facilitate and promote food donation	x			
Call to develop and strengthen relationships between food redistribution actors	x			

### 3.15.2 Fiscal incentives for food redistribution

In Italy, a specific category of non-profit COs – the ONLUS – benefit from a special status compared to other non-profit organisations due to their social value. **Legislative Decree No. 460 of December 1997** (*Riordino della disciplina tributaria degli enti non commerciali e delle organizzazioni non lucrative di utilità sociale*) facilitates the financial aspects of food donations made to ONLUS by, for instance, allowing VAT exemption on food donated<sup>446</sup>.

The Third Sector Reform (Legislative Decrees 117/2017 and 118/2016) reorganised the non-profit organisations and determined the abrogation of the ONLUS regulation. The abrogation will be effective, according to Article 104, co. 3 of Legislative Decree No. 117/2017, starting from the tax period following the approval by the European Commission of the National Single Registry of the Third Sector (NSRTS). In force of the above, fiscal incentives for food redistribution made to ONLUS will also be applied to the food redistribution made by organisations registered in the NSRTS.

In the case of unsold food products that meet food safety and hygiene requirements, the following procedure is necessary to benefit from the VAT incentive:

- For each sale, a transport document describing the type, quantity and quality of donated goods needs to be available;
- A monthly summary statement is provided to the Revenue Agency for donations made in the previous month. However, donations of easily perishable products and those worth less than €15 000 are not to be included in the monthly statement;
- A quarterly statement is issued by the beneficiary, guaranteeing that the received products will be used for charitable purposes.

<sup>445</sup> Information from the EU Platform on Food Losses and Food Waste. 2 March 2018.

<sup>446</sup> Italian Government. 1997. “Legislative Decree n. 460” (Riordino della disciplina tributaria degli enti non commerciali e delle organizzazioni non lucrative di utilità sociale). [http://www.gazzettaufficiale.it/atto/serie\\_generale/caricaDettaglioAtto/originario?atto.dataPubblicazioneGazzetta=1998-01-02&atto.codiceRedazionale=097G0489&normativi=false&tipoVigenza=originario&tipoSerie=serie\\_generale%C2%A4tPage=1](http://www.gazzettaufficiale.it/atto/serie_generale/caricaDettaglioAtto/originario?atto.dataPubblicazioneGazzetta=1998-01-02&atto.codiceRedazionale=097G0489&normativi=false&tipoVigenza=originario&tipoSerie=serie_generale%C2%A4tPage=1).



This measure provides VAT relief for donors, and will contribute to making food donation more accessible.

Articles 16 and 17 of Law No. 166/2016 on the provisions concerning the donation and redistribution of food and pharmaceutical products for social purpose and to limit waste (*Legge 19 agosto 2016 Disposizioni concernenti la donazione e la distribuzione di prodotti alimentari e farmaceutici a fini di solidarietà sociale e per la limitazione degli sprechi*) also simplifies domestic regulations regarding donation and provides fiscal incentives for food redistribution.

Under the provisions of Law No. 166/2016, city municipalities may implement tax deductions on food donations made towards charities. Though Law No 166/2016 provides the possibility to reduce taxes on donations, it is not mandatory, and the effectiveness of the measure cannot be measured yet. However, as a direct result of this provision, the **City of Milan implemented a tax deduction** on food donations made to redistribution organisations. The year 2018 was the project’s pilot year, during which the tax deduction was set at 20%. The municipality, however, intends to raise it to 50% in 2019. Food businesses wishing to benefit from the tax deduction must report their amounts of donated food to the municipality. In addition to being a prime incentive for food donation, this measure will also support the mapping, strengthening and spreading of food donation initiatives led by non-profit organisations throughout the City of Milan<sup>447 448</sup>.

**Table 134. Evaluation of the Member State’s policy in terms of “Fiscal incentives for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a fiscal regime specific to food redistribution	x			
Presence of guidelines to clarify how to address complex fiscal regimes such as VAT and/or tax deductions			x	

### 3.15.3 Legal measures for food redistribution

#### 3.15.3.1 General legal framework on food redistribution

The general legal framework around food redistribution, touching upon many topics including primary responsibility, is laid out in Law No. 166/2016 on the provisions concerning the donation and redistribution of food and pharmaceutical products for social purpose and to limit waste<sup>449</sup>. It provides definitions of “food waste” and “food surplus”, and lists the products that are eligible for donation. Law No. 166/2016 also establishes the **hierarchy for the use of surplus food**, which prioritises the prevention of surplus food, before its redistribution for human consumption. It also provides the possibility to recover agricultural products directly from the farmers under the responsibility of the receiving association or non-profit organisation.

<sup>447</sup> City of Milan. 2018. “Circular economy for food donation”. <http://www.milanurbanfoodpolicypact.org/wp-content/uploads/2018/06/CIRCULARITY-1.pdf>

<sup>448</sup> Interview with the City of Milan Mayor’s Office. 10 July 2018.

<sup>449</sup> Italian Government. 2016. Law no.166/2016 “Provisions regarding donation and distribution of food products and pharmaceuticals for social solidarity and for the decreasing of food waste” (*Legge 19 agosto 2016 Disposizioni concernenti la donazione e la distribuzione di prodotti alimentari e farmaceutici a fini di solidarietà sociale e per la limitazione degli sprechi*). <http://www.gazzettaufficiale.it/eli/id/2016/08/30/16G00179/sq>.

Moreover, Article 2 of Law No. 166/2016 clarifies the definition of operators that 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>450</sup>. In addition to the definition laid down for donor organisations – or 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>451</sup>.

The goal of Law No. 166/2016 is two-fold. Its main ambition is to match the supply of and the demand for food surplus, to simplify the procedures – for instance, the administrative procedures around food redistribution – and to reduce waste in each of the stages of production, transformation, distribution and handling of food products, pharmaceuticals and other products, through the realisation of the following priority objectives:

- To promote the recovery and donation of food surpluses for purposes of social solidarity, prioritising their allocation for human use;
- To favour the recovery and the donation of pharmaceutical products and other products for purposes of social solidarity;
- 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 to extend the product life cycle;
- To contribute to the achievement of the general objectives established by the National Waste Prevention Programme adopted pursuant to Article 180, paragraph 1-bis, of the Legislative Decree No. 152 of 3 April 2006, and from the National Plan to prevent food waste provided by the same programme on “the reduction of the quantity” of biodegradable waste sent to landfill;
- To contribute to research, information and awareness-raising activities for consumers and institutions on subjects of the present law, with particular reference to the younger generations<sup>452</sup>.
- 

Finally, products that can be donated are 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;
- Products not suitable for the market due to alterations in the secondary packaging that do not affect their suitable storage conditions.

Also, where foodstuffs fit for human or animal consumption have been confiscated, the competent authority shall have them transferred to charitable organisations free of charge. All confiscated products can be donated, including fish. However, the hygienic safety of the product must be guaranteed<sup>453</sup>.

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<sup>450</sup> Italian Government. 2016. “Law No.166/2016 Provisions regarding donation and distribution of food products and pharmaceuticals for social solidarity and for the decreasing of food waste”.

<http://www.gazzettaufficiale.it/eli/id/2016/08/30/16G00179/sg>

<sup>451</sup> Caritas Italiana, Banco Alimentare. 2015. “Manual of good practices for charitable organisations”.

[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>452</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>453</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

**Table 135. Evaluation of the Member State’s policy in terms of “General legal framework on food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a legal framework specific to food redistribution, in addition to EU rules	x			
Presence of the food use hierarchy	x			

### 3.15.3.2 Traceability requirements applicable to food redistribution

Article 5 of Law No. 166/2016 imposes full **traceability** of donated products, which must be kept separate from other food items. Furthermore, the guide to good practices for redistribution of food by charitable organisations lays out the requirements for traceability, which must be guaranteed through each stage of provision, transport, storage and final distribution. COs must be able to indicate supplier identity and recipient identity (backward and forward traceability)<sup>454</sup>.

**Table 136. Evaluation of the Member State’s policy in terms of “Traceability requirements applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a clear traceability regime for food redistribution	x			
Presence of guidelines that clarify the traceability regime for food redistribution	x			

### 3.15.3.3 Primary responsibility and liability rules for food redistribution

The general legal and regulatory framework for food donation in Italy is highly influenced by **Law No. 155 of 2003, the so-called Good Samaritan Law**, (*Disciplina della distribuzione dei prodotti alimentari a fini di solidarietà sociale*)<sup>455</sup>, a unique law that defines the **primary responsibility** for donated food. According to the Good Samaritan Law, ONLUS are considered as final consumers in terms of liability arising from food safety rules. Food donors are thereby only liable to the recipients of the food (i.e. ONLUS redistribution organisations or charities, as defined in Law No. 460), which are considered, within the limits of the service provided, as the final consumers. Food donors are consequently relieved of liability in regard 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 law – do not apply to donated food.

<sup>454</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>455</sup> Italian Government. 2003. “Law No.155/2003, Good Samaritan Law” (*Disciplina della distribuzione dei prodotti alimentari a fini di solidarietà sociale*). <http://www.gazzettaufficiale.it/eli/id/2003/07/01/003G0174/sg>.

Law No. 147/2013 – Stability Law<sup>456</sup> – confirms the special status of COs<sup>457</sup>, exceptionally providing legal protection from possible litigation arising from donated surplus food. In compliance with the Hygiene Package Requirements, 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).

Law No. 166/2016 incorporates the Good Samaritan Law and applies the provisions to a wider range of beneficiaries. Public agencies and private entities that have a non-profit or civic purpose (including the entities referred to in Article 10 of Legislative Decree No. 460 of December 1997) may benefit from the same liability provisions as the ONLUS<sup>458</sup>. This is true also for the Entities of the Third Sector, in force of Legislative Decree No. 117/2017. By relieving donors from the principle of the “responsibility for the chain”, according to which they must guarantee the proper state of conservation, transportation, storage and use of the donated food even after delivery, the Good Samaritan Law and Law No. 166/2016 overcome the tricky issue of liability related to donation. Meanwhile, the widening of potential beneficiaries of Law No. 166/2016 renders the simplification of liability aspects applicable to a much wider group, increasing the impact of the law<sup>459</sup>.

The legal construct defined in the Good Samaritan Law is further explained in the Guide to good practices for redistribution of food by charitable organisations (*Recupero, raccolta e distribuzione ai fini di solidarietà sociale*), developed by Caritas Italiana and the 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>460 461</sup>.

**Table 137. Evaluation of the Member State’s policy in terms of “Primary responsibility and liability rules for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of clear primary responsibility and liability rules for food redistribution	X			
Presence of guidelines that clarify the primary responsibility and liability rules for food redistribution	X			

<sup>456</sup> Italian Government. 2013. “Stability Law”. <http://www.gazzettaufficiale.it/eli/id/2013/12/27/13G00191/sg>; Stability law supports the economic policy for the next three-year period. It includes several measures and for this specific case it includes references to food operators donating food.

<sup>457</sup> Italian Government. 2013. “Stability Law”. <http://www.gazzettaufficiale.it/eli/id/2013/12/27/13G00191/sg>

<sup>458</sup> Italian Government. 2016. Law No.166/2016 “Provisions regarding donation and distribution of food products and pharmaceuticals for social solidarity and for the decreasing of food waste” (Legge 19 agosto 2016 Disposizioni concernenti la donazione e la distribuzione di prodotti alimentari e farmaceutici a fini di solidarietà sociale e per la limitazione degli sprechi). <http://www.gazzettaufficiale.it/eli/id/2016/08/30/16G00179/sg>.

<sup>459</sup> Interview with Last Minute Market. 6 June 2018.

<sup>460</sup> Caritas Italiana. 2015. Banco Alimentare, “Manual of good practices for charitable organisations” [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>461</sup> Caritas Italiana, Banco Alimentare. 2016. “Recovery, collection and redistribution of food for charitable purposes” (Recupero, raccolta e distribuzione ai fini di solidarietà sociale). [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).

### 3.15.3.4 Hygiene rules applicable to food redistribution

With respect to **food hygiene** and **food safety**, the **Stability Law** of 2013 (*Disposizioni per la formazione del bilancio annuale e pluriennale dello Stato*)<sup>462</sup> reconfirms the special status of ONLUS and sets out essential safety requirements for food donation. In compliance with the EU Hygiene Package Requirements, redistribution organisations and charities are recognised as FBOs, and must meet all required standards for preservation, transport, storage and use of food, as well as obligations relating to the traceability and recall of products as specified by the General Food Law. Upon analysis by the study team, the FBO status of ROs is a driver for food redistribution in that it defines a concrete framework, with clear food safety and food hygiene requirements. These requirements may also limit food losses and contribute to regulation of food redistribution activities.

In 2016, Law No. 166/2016 laid out the general framework on **food safety, food hygiene and food information** to consumers for the redistribution of donated food items. Donors are required to have operating practices that ensure the hygienic safety of donated foods, and must select the products sent for donation according to quality and hygiene requirements<sup>463</sup>. Furthermore, as required by the law, the Ministry of Health issued "**Guidelines addressed to the managing bodies of school, company, hospital, social and community canteens, in order to prevent and reduce food-related waste**" for the mass catering sector to prevent and reduce the waste associated with the supply of food. Caritas Italiana and the Fondazione Banco Alimentare Onlus' **Guide of good practices for charitable organisations** also lists the correct hygiene practices for recovering, collecting, storing and distributing food, and provides examples<sup>464</sup>.

**Table 138. Evaluation of the Member State's policy in terms of "Hygiene rules applicable to food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of national laws in addition to EU rules to simplify hygiene requirements for food redistribution	x			
Presence of national guidelines explaining hygiene requirements for food redistribution, clarifying EU rules and making them easier to understand for relevant actors	x			

### 3.15.3.5 Provision of food information to consumers applicable to food redistribution

According to Article 3 of Law No. 166/2016, food surplus that has not been sold or has been withdrawn from the market due to imperfections in labelling – that are not related to information about the expiration date or products that cause allergies and intolerances – or packaging can be donated as long as it is in line with the mandatory labelling and sanitary rules. All information defined in Regulation (EU) No. 1169/2011 on the provision of food information to consumers must appear

<sup>462</sup> Italian Government. 2013. "Stability Law" (Disposizioni per la formazione del bilancio annuale e pluriennale dello Stato (Legge di stabilità 2014)).

<http://www.gazzettaufficiale.it/eli/id/2013/12/27/13G00191/sg;jsessionid=CKPzq3H+GtwaV2z726hhs...ntc-as1-guri2a>.

<sup>463</sup> Italian Government. 2016. "Article 5, Law No.166/2016 Provisions regarding donation and distribution of food products and pharmaceuticals for social solidarity and for the decreasing of food waste".

<http://www.gazzettaufficiale.it/eli/id/2016/08/30/16G00179/sg>

<sup>464</sup> Caritas Italiana, Banco Alimentare. 2015. "Manual of good practices for charitable organisations".

[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)

on food labels<sup>465</sup>. Article 2 of Law No. 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 and allows the donation and sale of products past their “best before” date (minimum conservation limits), if the integrity of the packaging is ensured. It also allows the donation of bakery products that remain unsold 24 hours after production<sup>466</sup>.

The clarification of many aspects of the donation processes with relation to food hygiene, food safety or food information is a driver for an increase in food redistribution<sup>467</sup>.

Furthermore, the guide to good practices for redistribution of food by COs provides information on date labelling, stating once again that food that has reached or exceeded the “best before” date may be redistributed. It also states that suppliers can donate unlabelled or inadequately labelled food provided the information required by Regulation (EU) No. 1169/2011 is printed in the national language so that it is available to final beneficiaries<sup>468</sup>.

**Table 139. Evaluation of the Member State’s policy in terms of “Provision of food information to consumers applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Donation requirements in line with EU recommendation on “best before” dates	x			
Presence of national guidelines on “best before” dates	x			
Presence of laws targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)	x			
Presence of national guidelines targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)	x			

**3.15.4 Voluntary Agreements for food redistribution**

As of 2018, there are no Voluntary Agreements fully aligned with all five pillars of the EU REFRESH Blueprint in Italy. However, following participation in the EU REFRESH Policy Platform on Voluntary

<sup>465</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>466</sup> Information from the EU Platform on Food Losses and Food Waste. 2018  
<sup>467</sup> Interview with Last Minute Market. 6 June 2018.  
<sup>468</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

Agreements<sup>469</sup>, there have been discussions about developing a project for the implementation of a Voluntary Agreement that would include food redistribution as one of its components. Impacts on food redistribution will only be noticeable after the launch of this project.

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<sup>469</sup> EU REFRESH. 19.06.2018 Policy Working group on Voluntary Agreements led by Deloitte Sustainability and WRAP. <https://eu-refresh.org/refresh-policy-working-group-voluntary-agreements>

**Table 140. Evaluation of the Member State’s policy in terms of “Voluntary Agreements for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a Voluntary Agreement that addresses all five pillars of the EU REFRESH Blueprint in regard to food donation		x		

### 3.15.5 Communication initiatives for food redistribution

As of June 2019, there are no communication initiatives targeting food redistribution in Italy.

### 3.15.6 Other initiatives for food redistribution

Ministerial Decree No. 9084 “National provisions regarding the approval and control of fruit and vegetable producer organisations and their associations, operational funds and programmes” (*Disposizioni nazionali in materia di riconoscimento e controllo delle organizzazioni di produttori ortofrutticoli e loro associazioni, di fondi di esercizio e programmi operativi*)<sup>470</sup> of August 2004 provides for the possibility of donating fruits and vegetables withdrawn from the market. In the frame of Regulation (EU) No. 1308/11<sup>471</sup> and of the Rules of Embargo, Italy has defined a regulatory framework for charitable organisations and for operators who regularly donate perishable fruits and vegetables. These operations are subject to food legislation and to traceability requirements. Procedures at both regional and national levels and databases help trace donated products.

In the case of a market crisis, the Italian government supports the transformation of fresh products into non-perishable products to increase fruit and vegetable donations with the help of a national fund to support the costs of food transformation. The National Consultative Round Table created a national procedure to identify the steps that actors have to follow to donate, transform and distribute transformed products. The Ministry of Agriculture was examining the legal aspects of this procedure in 2018. In 2016, the ministry tested the possibility for COs to pay for the costs of transformation using a system of exchange, for instance by giving part of their fresh fruit to the industry as payment. However, the costs were deemed too high as over 80% of the raw material was required to cover the costs. Furthermore, this procedure does not ensure fair competition in the market as transformed products are returned to the market<sup>472</sup>.

The **National Consultative Round Table** has decided to set up an **observatory on surpluses, on recoveries and on food waste** to have a single point of reference at national level on data relating to the fight against food waste. The observatory is active and in 2018 it produced a first

<sup>470</sup> 2014. National Government. “Ministerial Decree No. 9084 "National provisions regarding the approval and control of fruits and vegetable producer organisations and their associations, operational funds and programmes" (Disposizioni nazionali in materia di riconoscimento e controllo delle organizzazioni di produttori ortofrutticoli e loro associazioni, di fondi di esercizio e programmi operativi). [http://www.gazzettaufficiale.it/atto/serie\\_generale/caricaDettaglioAtto/originario?atto.dataPubblicazioneGazzetta=2014-10-20&atto.codiceRedazionale=14A07915&elenco30giorni=false](http://www.gazzettaufficiale.it/atto/serie_generale/caricaDettaglioAtto/originario?atto.dataPubblicazioneGazzetta=2014-10-20&atto.codiceRedazionale=14A07915&elenco30giorni=false).

<sup>471</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 and repealing Council Regulations (EEC) No. 922/72, (EEC) No 234/79, (EC) No. 1037/2001 and (EC) No. 1234/2007. 2013. <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32013R1308>.

<sup>472</sup> Information from the EU Platform on Food Losses and Food Waste. 2 March 2018.



publication<sup>473</sup> that reviewed the existing data in the literature, the data banks of the supply chain, public bodies and COs (members of the round table). This publication also contains a research on food waste at family level that is part of the European REFRESH project. Law No. 166/2016 finances the observatory through the fund managed by the Ministry of Agriculture.

Furthermore, the introduction of incentive criteria in collective food services contracts for actors who freely distribute food surplus is stated as an objective of PINPAS<sup>474</sup>.

Finally, the **Zero Waste Charter**, an initiative led in 2013 by Last Minute Market and the Municipality of Sasso Marconi near Bologna, gathered over 700 Italian municipal councils and committed to 10 objectives, including promoting discounted sales when a product is close to its expiry date<sup>475</sup>.

**Table 141. Evaluation of the Member State's policy in terms of "Other initiatives for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Use of the FEAD operational programme to support the redistribution of food			x	
Presence of measures encouraging the redistribution of fruits and vegetables withdrawn from the market, in line with Regulation (EU) No. 1308/2013	x			
Publication of studies/research related to food redistribution	x			
Presence of financial or logistical support for food redistribution at the national/regional/local level		x		
Absence of incentives for the valorisation of food surplus via anaerobic digestion, which may otherwise hinder redistribution if the incentives for anaerobic digestion favour this recovery route over redistribution	x			

<sup>473</sup> Ministero delle politiche agricole, agroalimentari, forestali e del turismo e Crea-Consiglio per la ricerca in agricoltura e l'analisi dell'economia agraria, February 2019, "L' osservatorio sulle eccedenze, sui recuperi e sugli sprechi alimentari - Ricognizione delle misure in Italia e proposte di sviluppo - Rapporto della prima annualità", <https://www.crea.gov.it/documents/20126/0/Osservatorio+CREA+O-ERSA+WEB.pdf/1f240c59-8db1-6368-37e9-f276a9faf451?t=1552320523845>

<sup>474</sup> Italian Government, Ministry of the Environment. 5 June 2014. "National Food Waste Prevention Plan (PINPAS)" (Piano Nazionale di Prevenzione degli Sprechi Alimentari). [http://www.minambiente.it/sites/default/files/archivio\\_immagini/Galletti/Comunicati/PINPAS%2010%20MISURE%20PRIORITA%20RIE%205%20GIUGNO%202014.pdf](http://www.minambiente.it/sites/default/files/archivio_immagini/Galletti/Comunicati/PINPAS%2010%20MISURE%20PRIORITA%20RIE%205%20GIUGNO%202014.pdf)  
Banco Alimentare. 3 October 2016. "Law No 166/2016 Briefing produced by Chamber of Deputies". <https://www.bancoalimentare.it/en/node/4222>

## 3.16 Latvia

### 3.16.1 National strategies for food redistribution

Food waste and food redistribution are 2 separate policy areas in Latvia. While food waste is the responsibility of the Ministry of Environmental Protection and Regional Development (VARAM), the Ministry of Agriculture oversees food redistribution.

There is no national strategy for food redistribution in Latvia as the Cabinet of Ministers rules No. 742 (of 7 July 2009) on the Regulations on the procedures for further use or destruction of food unfit for distribution (*Izplatīšanai nederīgas pārtikas turpmākās izmantošanas vai iznīcināšanas kārtība*)<sup>476</sup> of 2009, issued in accordance to the Law on the Supervision of the Handling of Food (*Pārtikas aprites uzraudzības likums*)<sup>477</sup> forbids the sale and donation of food for human consumption past both the "use by" and "best before" dates. Indeed, the Law on the Supervision of the Handling of Food gives the Cabinet of Ministers the authority to issue such regulations. In October 2018, amendments 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.

VARAM, the Ministry in charge of food waste, leads a working group on food surplus and waste, regrouping other state institutions, organisations and NGOs. The working group aims to create a food waste reduction plan to achieve a 50% reduction by 2030.

**Table 142 Evaluation of the Member State's policy in terms of "National strategies for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a national food waste strategy including food redistribution measures			x	
Adoption of SDG 12.3 or more ambitious goals, driving the adoption of food redistribution to meet these targets		x		
Availability of guidelines to facilitate and promote food donation			x	
Call to develop and strengthen relationships between food redistribution actors			x	

### 3.16.2 Fiscal incentives for food redistribution

There are no fiscal incentives specifically designed to encourage food donation or redistribution in Latvia. However, the broad provisions of the **Enterprise Income Tax Law** (*Uzņēmumu ienākuma*

<sup>476</sup> 2009. Cabinet of Ministers rules No. 742 (of 7 July 2009) on the Regulations on the procedures for further use or destruction of food unfit for distribution (*Izplatīšanai nederīgas pārtikas turpmākās izmantošanas vai iznīcināšanas kārtība*). <https://likumi.lv/doc.php?id=194744>.

<sup>477</sup> 1998. Law on the Supervision of the Handling of Food (*Pārtikas aprites uzraudzības likums*). <https://likumi.lv/ta/en/en/id/47184-law-on-the-supervision-of-the-handling-of-food>.

*nodokļa likums*)<sup>478</sup> of 2017 allows donors to benefit from a 75% fiscal reduction, with a 20% cap on its income tax, if they establish donation contracts with recognized food banks. The tax reduction incentivises FBOs that pay corporate income tax to distribute their surplus food or any food that does not meet weight or aesthetic requirements. However, there is no information available on the impact of this regulation on food redistribution volumes, though the fiscal authorities or the food banks may have

a general oversight.

There is no mention of the term “donation” in relation to the standard VAT rate nor to the reduced VAT rate in the **Value Added Tax Law** (*Pievienotās vērtības nodokļa likums*)<sup>479</sup>. The standard VAT rate of 21% is therefore assumed to apply to food donations, consisting in a major hurdle to food donations, though both the government and associations are unsure of the exact rate to apply in this case. The simple disposal of food or its donation at a value set at zero would be simpler, and many stakeholders involved in food redistribution hope that a framework around VAT on food donations will be defined in the upcoming amendment to the Law on the Supervision of the Handling of Food.

**Table 143 Evaluation of the Member State’s policy in terms of “Fiscal incentives for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a fiscal regime specific to food redistribution	x			
Presence of guidelines to clarify how to address complex fiscal regimes such as VAT and/or tax deductions			x	

### 3.16.3 Legal measures for food redistribution

#### 3.16.3.1 General legal framework on food redistribution

The general context around redistribution is defined in the Cabinet of Ministers rules No. 742 (of 7 July 2009) on the Regulations on the procedures for further use or destruction of food unfit for distribution<sup>480</sup>. The Cabinet of Ministers rules No. 742 forbid operators to distribute food that is “unfit for distribution”, including food that has passed the “best before” and “use by” dates. The rules require the operators to separate these products from any other products and prevent their use for human consumption. The Cabinet of Ministers rules No. 742 determine how food items of animal and plant origin should be disposed of, and stipulate that food unfit for human consumption can be used for animal feed if it was not in contact with uncooked animal products and complies with all animal nutrition requirements<sup>481</sup>.

According to the Cabinet of Ministers rules No. 742, prepared meals (from restaurants or other caterers) need to be distributed within 24 hours. However, the practice is quite rare as most restaurants close late at night, leaving limited time for food redistribution.

<sup>478</sup> 2017. Enterprise Income Tax Law (Uzņēmumu ienākuma nodokļa likums). <https://likumi.lv/ta/en/en/id/292700-enterprise-income-tax-law>.

<sup>479</sup> Value Added Tax Law (Pievienotās vērtības nodokļa likums). <https://likumi.lv/ta/en/en/id/253451-value-added-tax-law>.

<sup>480</sup> 2009. Cabinet of Ministers rules No. 742 (of 7 July 2009) on the Regulations on the procedures for further use or destruction of food unfit for distribution (Izplatīšanai nederīgas pārtikas turpmākās izmantošanas vai iznīcināšanas kārtība). <https://likumi.lv/doc.php?id=194744>.

<sup>481</sup> Interviews with members of the Ministry of Agriculture and of VARAM. 2018

**Table 144 Evaluation of the Member State’s policy in terms of “General legal framework on food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a legal framework specific to food redistribution, in addition to EU rules	x			
Presence of the food use hierarchy			x	

### 3.16.3.2 Traceability requirements applicable to food redistribution

As of June 2019, there are no guidelines which clarify the traceability regime for food redistribution in Latvia.

**Table 145 Evaluation of the Member State’s policy in terms of “Traceability requirements applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a clear traceability regime for food redistribution				x
Presence of guidelines which clarify the traceability regime for food redistribution			x	

### 3.16.3.3 Primary responsibility and liability rules for food redistribution

On the topic of **primary responsibility**, once transferred to the food bank, the responsibility for donated food is transferred from the producer or distributor to the food bank. The food bank must meticulously check that the donated food matches what is written on the bill of lading, and it must not accept any food that does not match the bill or its specifications. The final consumers receiving the food are systematically informed of the “best before” and “use by” date, and they bear any responsibility of consuming the products after this date. The prospective amendments to the Cabinet of Ministers rules No. 742 should further define the responsibility of actors involved in the redistribution process<sup>482</sup>.

**Table 146 Evaluation of the Member State’s policy in terms of “Primary responsibility and liability rules for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of clear primary responsibility and liability rules for food redistribution		x		
Presence of guidelines which clarify the primary responsibility			x	

<sup>482</sup> Interviews with members of the Ministry of Agriculture and of VARAM. 2018

	Criteria present	Criteria partly present	Criteria not present	Unknown
and liability rules for food redistribution				

### 3.16.3.4 Hygiene rules applicable to food redistribution

In Latvia, the redistribution of prepared food is quite rare as it needs to be done within 24 hours of preparation as mentioned in section 4.16.3.1, and cannot be frozen to extend its lifespan. There have been discussions between an NGO and the Ministry of Agriculture on freezing food surplus in schools to serve it to children in need on the next day, but the Ministry argued on the loss of food quality upon freezing<sup>483</sup>.

**Table 147 Evaluation of the Member State’s policy in terms of “Hygiene rules applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of national laws in addition to EU rules to simplify hygiene requirements for food redistribution			x	
Presence of national guidelines explaining hygiene requirements for food redistribution, clarifying EU rules and making them easier to understand for relevant actors			x	

### 3.16.3.5 Food information to consumers applicable to food redistribution

As described in the Cabinet of Ministers rules No. 742, the distribution of food for human consumption after the “best before” and “use by” dates is forbidden. In practice, redistributed food products are usually within their last 2 weeks of validity. These legal barriers and the absence of hygiene guidelines or handbooks make it illegal to distribute food past the “best before” or “use by” dates, hindering the amounts of food sent towards redistribution.

As previously mentioned, as of 2018 the Ministry of Agriculture was working on amendments to the Law on the Supervision of the Handling of Food, which entered into force 28th of November 2018. These amendments will foresee either a new regulation by the Cabinet of Ministers of national requirements for the distribution of food after the date of minimum durability, i.e. the distribution or donation of food after the “best before” date. The new regulation determines the product groups eligible for redistribution, as well as the relevant distribution channels and timeframes.

The Ministry of Agriculture is working on national rules for retail businesses that perform additional, local and limited activities, supplying or donating food of animal origin. The aim is to allow food companies to transfer small amounts of food of animal origin for donation without undertaking a process of approval of the company.

<sup>483</sup> Interviews with members of the Ministry of Agriculture and of VARAM. 2018

On the topic of **information to consumers**, there are no examples of food charities receiving products from other countries in Latvia. According to the **Latvian language law**<sup>484</sup>, food labels must carry complete food information (components, volume, expiration date, information on the producer, country of origin and nutritional values) written in Latvian. However, as food redistribution after the “best before” and “use by” date is forbidden, there is no need for any kind of relabelling<sup>485</sup>. The Food and Veterinary Service (FVS) monitors the operators’ compliance to food regulations. Additional labelling requirements for product donations are specified in Cabinet of Ministers rules No.261 “Requirements for the distribution of food after the date of minimum durability”.

**Table 148 Evaluation of the Member State’s policy in terms of “Food information to consumers applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Donation requirements in line with EU recommendation on “best before” dates	x			
Presence of national guidelines on “best before” dates			x	
Presence of laws targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)	x <sup>486</sup>			
Presence of national guidelines targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)			x	

#### 3.16.4 Voluntary Agreements for food redistribution

As of June 2019, there are no Voluntary Agreements addressing food waste or promoting food redistribution in Latvia.

<sup>484</sup> Official Language Law. <https://likumi.lv/ta/en/en/id/14740-official-language-law>.

<sup>485</sup> Interviews with members of the Ministry of Agriculture and of VARAM. 2018

<sup>486</sup> Presence of the criteria is based on the information provided by the competent authority of the Member State during the consultation on the report.

**Table 149 Evaluation of the Member State's policy in terms of "Voluntary Agreements for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a Voluntary Agreement which addresses all 5 pillars of the EU REFRESH blueprint in regard to food donation			x	

### 3.16.5 Communication initiatives for food redistribution

As of June 2019, there are no communication initiatives targeting food redistribution in Latvia.

### 3.16.6 Other initiatives for food redistribution

In 2017, a **survey** was conducted by the Ministry of Agriculture and the food bank "For a Fed Latvia" (Zemkopības ministrijas un pārtikas bankas "Paēdušai Latvijai" Aptauja par pārtikas produktu lietošanu pēc ražotāja noteiktā derīguma termiņa), to assess consumer willingness of using food items after their "use by" and "best before" dates. After the consultation of 600 people within a specific target group (visitors of a food bank's website), the survey showed that the potential users were willing to consume food past its "best before" date, but unwilling to use food after the "use by" date. 60% of respondents would appreciate to receive the food past the "best before" date as a donation. The survey results were communicated to the Ministry of Agriculture in the scope of the legal amendments pursued, and showed the existing consumer enthusiasm around these solutions<sup>487</sup>.

Furthermore, during the discussion festival "Lampa" in 2017, a **conference entitled "Can we reduce the amount of food waste?"** (*Diskusiju par pārtikas atkritumu samazināšanu*), involving the Ministry of Agriculture, food banks, the NGO "Homo Ecos" and other actors took place. The discussions were oriented on raising awareness on the existing possibilities to reduce food waste, including the clarification of the difference between the "best before" and "use by" dates, and the opportunities for donating food from restaurants<sup>488</sup>.

**Table 150 Evaluation of the Member State's policy in terms of "Other initiatives for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Use of the FEAD operational programme to support the redistribution of food			x	
Presence of measures encouraging the redistribution of fruits and vegetables				x

<sup>487</sup> Ministry of Agriculture and "For a Fed Latvia" food bank. February 2017. Survey (Zemkopības ministrijas un pārtikas bankas "Paēdušai Latvijai" Aptauja par pārtikas produktu lietošanu pēc ražotāja noteiktā derīguma termiņa). <https://www.zm.gov.lv/zemkopibas-ministrija/aptaujas/aptauja-par-partikas-produktu-lietosanu-pec-razotaja-noteikta-deriguma?id=183>.

<sup>488</sup> Freedom and Solidarity Foundation. 2017. "Can we reduce the amount of food waste?" (Diskusiju par pārtikas atkritumu samazināšanu). <http://www.paedusailatvijai.lv/jaunumi/aicinam-uz-diskusiju-par-partikas-akritumu-samazinanu>.

	Criteria present	Criteria partly present	Criteria not present	Unknown
withdrawn from the market, in line with Regulation (EU) 1308/2013				
Publication of studies/research related to food redistribution	x			
Presence of financial or logistic support for food redistribution at the national/regional/local level			x	
Absence of incentives for the valorisation of food surplus via anaerobic digestion, which may otherwise hinder redistribution if the incentives for anaerobic digestion favour this recovery route over redistribution	x			



## 3.17 Lithuania

### 3.17.1 National strategies for food redistribution

In Lithuania, the **Program of State Waste Prevention**, the general state waste management plan running from 2014 to 2020, includes a measure on the reduction of food waste and foresees the separate collection of bio-waste starting in 2019, but it does not mention anything about the redistribution of surplus food<sup>489 490</sup>.

However, the general framework around food redistribution is laid out in the State Food and Veterinary Service's (SFVS) guidelines of 2016, **Procedure for handling food for charity** (*Labdarai ir paramai skirto maisto tvarkymo aprašas*). According to the guidelines, food banks and other charitable organisations should be registered as food business operators depending on their activities as wholesalers or caterers. The document covers a wide range of topics, from food safety to date marking, and lists the food products or groups of products that can and cannot be donated. To reduce food waste, the following products can be donated:

- Prepacked food after the "best before" date but within an indicative timeframe defined per product category in the recommendations;
- Food with a labelling issue or mislabelled food. Food banks or charitable organisations can repack or sort food as well, provided the correct required labelling information is available to the final consumer;
- Food (including fruits and vegetables) which does not meet manufacturer or customer specifications, quality or marketing standards, or that contains production errors, or test production batches;
- Food with damaged packaging as long as there is no risk for food safety;
- Food returned from other food business operators, confiscated or collected from an accident site<sup>491</sup>.

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>492</sup>.

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>493</sup>.

Local experts signed the praises of these guidelines, and they have proven they are useful for food redistribution. According to the Lithuanian Food Bank, the amounts of donated have grown significantly since 2016. An amendment project for the guidelines is foreseen, which should include a broader scope of topics, such as extending animal product lifespan for instance<sup>494 495</sup>.

Furthermore, the Ministry of Environment launched a **Coordinating Working Group on Measures for the Prevention and Management of Food Waste** in 2018. Through this working group, the

<sup>489</sup> Lithuania Ministry of Environment. 2014. "State Waste Prevention Programme." <https://e-seimas.lrs.lt/portal/legalActEditions/lt/TAD/TAIS.458655?faces-redirect=true>.

<sup>490</sup> Interview with the Lithuanian State Food and Veterinary Service. 2018.

<sup>491</sup> SFVS. 2016. "Guideline for handling food for charity (Dėl Labdarai ir paramai skirto maisto tvarkymo aprašo patvirtinimo)." <https://www.e-tar.lt/portal/lt/legalAct/d386c9e06b8411e69d8fa40f56962063>

<sup>492</sup> SFVS. 2016. "Guideline for handling food for charity (Dėl Labdarai ir paramai skirto maisto tvarkymo aprašo patvirtinimo)." <https://www.e-tar.lt/portal/lt/legalAct/d386c9e06b8411e69d8fa40f56962063>.

<sup>493</sup> SFVS. 2016. "Guideline for handling food for charity (Dėl Labdarai ir paramai skirto maisto tvarkymo aprašo patvirtinimo)." <https://www.e-tar.lt/portal/lt/legalAct/d386c9e06b8411e69d8fa40f56962063>

<sup>494</sup> Interview with Maisto Bankas. 2018.

<sup>495</sup> Interview with the Lithuanian State Food and Veterinary Service. 2018.

government gathers the relevant state institutions and NGOs to prepare proposals for legal and organisational decisions, and draft a national plan for the reduction of food losses and food waste. The working group covered several areas related to food redistribution and was expected to write guidance documents promoting and simplifying redistribution, taking into account the needs and proposals of all stakeholders. There is no public information available on the outcomes of the working group yet<sup>496 497</sup>.

**Table 151 Evaluation of the Member State’s policy in terms of “National strategies for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a national food waste strategy including food redistribution measures			x	
Adoption of SDG 12.3 or more ambitious goals, driving the adoption of food redistribution to meet these targets			x	
Availability of guidelines to facilitate and promote food donation	x			
Call to develop and strengthen relationships between food redistribution actors	x			

### 3.17.2 Fiscal incentives for food redistribution

The 2016 SFVS guidelines define a zero-rate of VAT for donated food<sup>498</sup>. According to the Lithuanian Food Bank, the volumes of donated products have grown significantly since the publishing of these guidelines, but this increase is most likely due to the global relevance of the guidelines for food redistribution, clarifying a wide range of issues, and not only linked to the zero-rate of VAT on donated products<sup>499</sup>.

The application of tax reliefs or compensation of costs incurred in the case of food donations is also 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>500</sup>.

<sup>496</sup> Interview with the Lithuanian State Food and Veterinary Service. 2018.

<sup>497</sup> Interview with Maisto Bankas. 2018.

<sup>498</sup> SFVS. 2016. "Guideline for handling food for charity (Dėl Labdarai ir paramai skirto maisto tvarkymo aprašo patvirtinimo)." <https://www.e-tar.lt/portal/lt/legalAct/d386c9e06b8411e69d8fa40f56962063>.

<sup>499</sup> Interview with Maisto Bankas. 2018.

<sup>500</sup> European Commission, Information received from the European Commission by email, 4 July, 2018.

**Table 152 Evaluation of the Member State’s policy in terms of “Fiscal incentives for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a fiscal regime specific to food redistribution	x			
Presence of guidelines to clarify how to address complex fiscal regimes such as VAT and/or tax deductions	x			

### 3.17.3 Legal measures for food redistribution

#### 3.17.3.1 General legal framework on food redistribution

The general legal and regulatory framework around food redistribution is susceptible to change. Indeed, inspired by the French n°2016-138 Law on fighting against food waste, the NGO “Žali” submitted a **proposal to include a clause for a clear hierarchy in the management of food waste** in Lithuanian waste management regulations. The proposal, submitted to the Ministry of Environment and the State Food and Veterinary Service (SFVS), put forward an obligation for supermarkets of over 400m<sup>2</sup> to handle food surplus according to the food use hierarchy. The Ministry of Environment already encourages supermarkets to manage their food waste according to this hierarchy, but while nothing is enshrined in national legislation, retailers are free to choose how they deal with surplus food. The proposal implies a significant effort made on the retailer part, which would imply additional costs to comply with the measure.

The proposal received positive feedback in February 2018 when it was presented to the SFVS and the Ministry of Environment. It will be further discussed during the Ministry's working groups on food losses and on the reduction of food waste. Local experts recommend the discussions to not only include state institutions but also organisations that represent the interest of consumers and of the society as a whole<sup>501 502</sup>.

**Table 153 Evaluation of the Member State’s policy in terms of “General legal framework on food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a legal framework specific to food redistribution, in addition to EU rules		x		
Presence of the food use hierarchy		x		

#### 3.17.3.2 Traceability requirements applicable to food redistribution

For **traceability**, all product systems must take into account any donated food in the case of product recalls. The SFVS controls the compliance of FBOs to the requirements of the guidelines in their daily

<sup>501</sup> Zemeckis, Romualdas. 2018.

<sup>502</sup> Žiedinė Ekonomika. 2018. “Žali.LT calls for the promotion of food donation (VšĮ “Žiedinė ekonomika” ir Susivienijimas ŽALI.LT kviečia skatinti maisto aukojimą).” 8 February. <http://www.circulareconomy.lt/?p=836>.

activities<sup>503</sup>. SFVS issued a national guideline on handling food in charity organisations according to which all donors must ensure that their traceability systems consider donations in case of product recalls<sup>504</sup>.

**Table 154 Evaluation of the Member State’s policy in terms of “Traceability requirements applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a clear traceability regime for food redistribution			x	
Presence of guidelines which clarify the traceability regime for food redistribution	x			

### 3.17.3.3 Primary responsibility and liability rules for food redistribution

For **primary responsibility** matters, according to SFVS guidelines, both the donor and the receiving entities are responsible for making sure the food is safe for consumption during the redistribution process. The shared responsibility may also be specified in a written agreement between the 2 actors<sup>505</sup>.

**Table 155 Evaluation of the Member State’s policy in terms of “Primary responsibility and liability rules for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of clear primary responsibility and liability rules for food redistribution			x	
Presence of guidelines which clarify the primary responsibility and liability rules for food redistribution	x			

### 3.17.3.4 Hygiene rules applicable to food redistribution

The SFVS guidelines gather most information on the hygiene regulations and food information to consumers applicable to the redistribution of surplus food.

As aforementioned, the guidelines have had a significant impact on the volumes of food redistributed, as they clarify many aspects of regulations applicable to food donation that are usually difficult to understand for donors and charity organisations. Upon analysis by the project team, the foreseen amendment, with a widening of the scope of guidelines, could contribute to a further increase of redistributed products.

<sup>503</sup> SFVS. 2016. “Guideline for handling food for charity (Dėl Labdarai ir paramai skirto maisto tvarkymo aprašo patvirtinimo).” <https://www.e-tar.lt/portal/lt/legalAct/d386c9e06b8411e69d8fa40f56962063>.

<sup>504</sup> SFVS. 2016. “Guideline for handling food for charity (Dėl Labdarai ir paramai skirto maisto tvarkymo aprašo patvirtinimo).” <https://www.e-tar.lt/portal/lt/legalAct/d386c9e06b8411e69d8fa40f56962063>

<sup>505</sup> SFVS. 2016. “Guideline for handling food for charity (Dėl Labdarai ir paramai skirto maisto tvarkymo aprašo patvirtinimo).” <https://www.e-tar.lt/portal/lt/legalAct/d386c9e06b8411e69d8fa40f56962063>.

On another matter, the **Procedure of non-animal food use in animal nutrition** (*Negyvūninio maisto naudojimo gyvūnams šerti tvarkos aprašas*)<sup>506</sup> issued by the SFVS in 2014 allows food business operators (other than catering establishments) to send non-animal food products, no longer suitable for the market, towards animal feed. In Lithuania, this measure is not perceived as hindering food redistribution, as it is an intermediate chain in the process of non-animal food redistribution. While sending surplus for animal feed can sometimes compete with donation, it remains a better solution than landfill<sup>507</sup>.

**Table 156 Evaluation of the Member State’s policy in terms of “Hygiene rules applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of national laws in addition to EU rules to simplify hygiene requirements for food redistribution			x	
Presence of national guidelines explaining hygiene requirements for food redistribution, clarifying EU rules and making them easier to understand for relevant actors	x			

### 3.17.3.5 Food information to consumers applicable to food redistribution

In Lithuania, food items that have passed their “best before” date can be redistributed within the timeframe defined per food category in the SFVS guidelines<sup>508</sup>. Furthermore, 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>509</sup>.

**Table 157 Evaluation of the Member State’s policy in terms of “Food information to consumers applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Donation requirements in line with EU recommendation on “best before” dates	x			
Presence of national guidelines on “best before” dates	x			
Presence of laws targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling)			x	

<sup>506</sup> SFVS. 2014. “Procedure of non-animal food use in animal nutrition.” <https://www.e-tar.lt/portal/lt/legalAct/bdb19eb0cae611e3abdad93da7b71>.

<sup>507</sup> Interview with the Lithuanian State Food and Veterinary Service, Animal Health and Welfare Unit. 2018.

<sup>508</sup> SFVS. 2016. “Guideline for handling food for charity (Dėl Labdarai ir paramai skirto maisto tvarkymo aprašo patvirtinimo).” <https://www.e-tar.lt/portal/lt/legalAct/d386c9e06b8411e69d8fa40f56962063>.

<sup>509</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

	Criteria present	Criteria partly present	Criteria not present	Unknown
requirements, apart from date marking)				
Presence of national guidelines targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)	x			

### 3.17.4 Voluntary Agreements for food redistribution

As of June 2019, there are no Voluntary Agreements addressing food waste or promoting food redistribution in Lithuania.

**Table 158 Evaluation of the Member State's policy in terms of "Voluntary Agreements for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a Voluntary Agreement which addresses all 5 pillars of the EU REFRESH blueprint in regard to food donation			x	

### 3.17.5 Communication initiatives for food redistribution

As of June 2019, there are no communication initiatives targeting food redistribution in 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.

### 3.17.6 Other initiatives for food redistribution

2 years before the forming of the Coordinating Working Group on Measures for the Prevention and Management of Food Waste, the Kaunas University of Technology Food Institute conducted a **Research study on food losses and food waste in Lithuania**, which ran between 2016 and 2017 (*Švaistomo maisto sulaikymas, patikrinimas, paskirstymas ir prieinamumas vartotojams – įveiklinimo modelis*), in partnership with the Lithuanian Food Bank and the Lithuanian Institute of Agrarian Economics. The Lithuanian government was at the initiative of the study while the Lithuanian Research Council financed it. The project intended to define the concept of food waste and made recommendations for food waste's reduction, by changing the legislative framework, creating a food redistribution inter-institutional coordination model and educating the food supply chain stakeholders and consumers. The study received a lot of interest from governmental institutions and various stakeholders. The research findings were used to illustrate the Lithuanian situation on food waste during multiple events, and provided valuable information to policy makers,

food business operators and consumers. With the research findings, the project team was expected to draft legal documents related to the topic. They indeed made suggestions to improve already existing documents based on the results, but no new documents or texts were issued as a result of the project<sup>510 511</sup>.

Lastly, the Ministry of Social Security and Labour uses the funds of the **FEAD programme** to provide assistance to the most deprived in all 60 municipalities throughout Lithuania. In 2018, the funds were meant to be distributed between:

- Food items and products for hygiene (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 6 occasions throughout the year, adding up to approximately 400 000 packages and reaching roughly 70 000 people. However, the food distributed was purchased thanks to FEAD funds, hence not having a positive influence on the redistribution of food products<sup>512</sup>.

**Table 159 Evaluation of the Member State's policy in terms of "Other initiatives for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Use of the FEAD operational programme to support the redistribution of food			x	
Presence of measures encouraging the redistribution of fruits and vegetables withdrawn from the market, in line with Regulation (EU) 1308/2013				x
Publication of studies/research related to food redistribution	x			
Presence of financial or logistic support for food redistribution at the national/regional/local level			x	
Absence of incentives for the valorisation of food surplus via anaerobic digestion, which may otherwise hinder redistribution if the incentives for anaerobic digestion favour this recovery route over redistribution	x			

<sup>510</sup> Kaunas Technological University. 2016. "Detention, Inspection, Distribution and Availability of Spoiled Food to Consumers - Inclination Model (Švaistomo maisto sulaikymas, patikrinimas, paskirstymas ir prieinamumas vartotojams – įveiklinimo modelis)." <https://ktu.edu/projects/svaistomo-maisto-sulaikymas-patikrinimas-paskirstymas-ir-prieinamumas-vartotojams-iveiklinimo-modelis-nesvaistykim/>.

<sup>511</sup> A lenčikienė, Gitana, interview by Romualdas Zemeckis. 2018. Project Coordinator, Sen. Researcher, Food Institute, Kaunas Technological University

<sup>512</sup> Zemeckis, Romualdas. 2018.

## 3.18 Luxembourg

### 3.18.1 National strategies for food redistribution

In its **National plan for waste and resource management** (*Plan national de gestion des déchets et des ressources (PNGDR)*) of 2018, the Ministry of Sustainable Development and Infrastructure sets the policy framework on food waste, including on food donation, for the following years. Food donation is put forward as a key measure to reduce food waste within the National plan for waste and resource management, which also sets the ambitious goal of reducing food waste by 50% by 2022. The National plan for waste and resources management stipulates a three-year monitoring of food waste, consisting in a very detailed analysis measuring food waste occurring in restaurants, in the gastronomic and retail sectors.

Furthermore, the government wishes to support food redistribution organisations by creating links with other actors of the same field, by providing guidance on the applicable legislative texts and by outlining their possibilities for action<sup>513</sup>.

As mentioned above, the National plan for waste and resource management sets the policy framework on food waste, including on food donation, for the coming years. Upon analysis by the project team, the plan has the potential to have a very positive impact on food redistribution nationally, as the government is inclined to provide support to the actors involved in this field. The government also highlighted its will "to reduce food waste at all levels of the supply chain in every possible way" in its Government Programme 2013-2018, thus creating sufficient media coverage and political will to support concrete projects<sup>514 515</sup>. However, as the plan was released in June 2018, no data is yet available on its effects or results<sup>516</sup>.

To respond to the ambition of the National plan for waste and resource management, the government created a **Food Waste Taskforce** in 2018, to coordinate the actions on food waste between governmental actors and stakeholders, and to disseminate information on food waste reduction. Among the 2 working groups of the Food Waste Taskforce, one focuses on identifying and overcoming legal and other barriers, and could, therefore, have an indirect impact on food redistribution if barriers to donations<sup>517 518</sup> were identified as causes of food waste.

Before the creation of the Food Waste Taskforce, the responsibilities for food waste, including food donation, among the Ministries were unclear. By redefining the Ministries in charge of food safety, food waste and food redistribution, as well as by creating a new structured organisation in charge of EU Regulation 2017/625, the Food Waste Taskforce may identify and overcome legal and other barriers in the future by a streamlined action plan for food waste reduction<sup>519</sup>.

Finally, the Luxembourg Chamber of Trades, the National Federation of Hoteliers, Restaurateurs and Cafe owners (HORESCA), the Ministry of Health, of Agriculture, Viticulture and Consumer Protection and the Environmental Administration published a guidance document "**Factsheet: Redistribution / donation of food for human consumption**" (*Fiche Pratique: Redistribution/donation de denrées*

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<sup>513</sup> The Government of the Grand Duchy of Luxembourg, Ministry of Sustainable Development and Infrastructure. 1 June 2018. « National plan for waste and resource management » (Plan national de gestion des déchets et des ressources (PNGDR)). Umwelt.lu. [https://environnement.public.lu/dam-assets/documents/offall\\_a\\_ressourcen/pngd/plan/PNGD.pdf](https://environnement.public.lu/dam-assets/documents/offall_a_ressourcen/pngd/plan/PNGD.pdf)

<sup>514</sup> National Government of Luxembourg. 2013. "Programme gouvernemental 2013 - 2018". Website Ministry of Education. <http://www.men.public.lu/fr/acteurs/ministere/priorites-politique-scolaire/prog-gouv-2013-2018.pdf>

<sup>515</sup> Interview with the Stëmm vun der Strooss. 5 June 2018.

<sup>516</sup> Interview with the Environment Administration. 15 June 2018.

<sup>517</sup> The Government of the Grand Duchy Of Luxembourg, Ministry of Sustainable Development and Infrastructure. 1 June 2018. « National plan for waste and resource management » (Plan national de gestion des déchets et des ressources (PNGDR)). Umwelt.lu. [https://environnement.public.lu/dam-assets/documents/offall\\_a\\_ressourcen/pngd/plan/PNGD.pdf](https://environnement.public.lu/dam-assets/documents/offall_a_ressourcen/pngd/plan/PNGD.pdf)

<sup>518</sup> Interview with a member of the Luxembourgish Ministry of Agriculture, Viticulture and Consumer Protection. 5 June 2018.

<sup>519</sup> Information from the *EU Platform on Food Losses and Food Waste*. 30 October 2018.



*alimentaires à des fins d'alimentation humaine*) to provide insight on the existing requirements for redistribution activities<sup>520</sup>.

**Table 160 Evaluation of the Member State's policy in terms of "National strategies for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a national food waste strategy including food redistribution measures		x		
Adoption of SDG 12.3 or more ambitious goals, driving the adoption of food redistribution to meet these targets	x			
Availability of guidelines to facilitate and promote food donation	x			
Call to develop and strengthen relationships between food redistribution actors	x			

### 3.18.2 Fiscal incentives for food redistribution

There are no fiscal incentives encouraging food redistribution in Luxembourg.

**Table 161 Evaluation of the Member State's policy in terms of "Fiscal incentives for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a fiscal regime specific to food redistribution			x	
Presence of guidelines to clarify how to address complex fiscal regimes such as VAT and/or tax deductions			x	

### 3.18.3 Legal measures for food redistribution

#### 3.18.3.1 General legal framework on food redistribution

The National plan for waste and resources management embeds the waste hierarchy applied to food waste. Indeed, the plan calls for food donation to be a preferred option over anaerobic digestion: when food waste cannot be prevented, leftover food should be stored in a way that allows its redistribution. However, the consistent application of the food use hierarchy, embedded in the National plan for waste and resources management, is not always possible. For instance, the offer of

<sup>520</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. 19 July 2017. « Fact Sheet: Redistribution / donation of food for human consumption » (Fiche Pratique: Redistribution/donation de denrées alimentaires à des fins d'alimentation humaine) Antigaspi.lu. [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)

food surplus in Luxembourg is much bigger than the demand of food redistribution organisations or social entrepreneurs, meaning that larger quantities are sent to biogas recovery over redistribution for human consumption<sup>521</sup>.

**Table 162 Evaluation of the Member State’s policy in terms of “General legal framework on food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a legal framework specific to food redistribution, in addition to EU rules			x	
Presence of the food use hierarchy	x			

### 3.18.3.2 Traceability requirements applicable to food redistribution

As outlined in the “Factsheet: Redistribution / donation of food for human consumption”, 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, to ensure the traceability of donations<sup>522</sup>.

**Table 163 Evaluation of the Member State’s policy in terms of “Traceability requirements applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a clear traceability regime for food redistribution			x	
Presence of guidelines which clarify the traceability regime for food redistribution	x			

### 3.18.3.3 Primary responsibility and liability rules applicable to food redistribution

Concerning **primary responsibility**, the actors involved in food redistribution share the responsibility for donated food; the donor is responsible for the food up until it is collected, upon which the redistribution organisation becomes liable in case an issue arises. However, the “Factsheet: Redistribution / donation of food for human consumption” mentions the possibility of having

<sup>521</sup> The Government of the Grand Duchy Of Luxembourg, Ministry of Sustainable Development and Infrastructure. 1 June 2018. « National plan for waste and resource management » (Plan national de gestion des déchets et des ressources (PNGDR)). Umwelt.lu. [https://environnement.public.lu/dam-assets/documents/offall\\_a\\_ressourcen/pngd/plan/PNGD.pdf](https://environnement.public.lu/dam-assets/documents/offall_a_ressourcen/pngd/plan/PNGD.pdf)

<sup>522</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. 19 July 2017. « Fact Sheet: Redistribution / donation of food for human consumption » (Fiche Pratique: Redistribution/donation de denrées alimentaires à des fins d'alimentation humaine) Antigaspi.lu. [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)

established contracts between donors and receivers to clarify the primary responsibility during the donation process, though no official contract models exist<sup>523</sup>.

**Table 164 Evaluation of the Member State’s policy in terms of “Primary responsibility and liability rules for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of clear primary responsibility and liability rules for food redistribution			x	
Presence of guidelines which clarify the primary responsibility and liability rules for food redistribution	x			

### 3.18.3.4 Hygiene rules applicable to food redistribution

As mentioned above, redistribution organisations have to comply with the **food hygiene and food safety** norms as defined in **Regulation 852/2004/CE**. Full compliance to the regulation is difficult for these organisations; their knowledge of food hygiene and food safety requirements is limited. Therefore, they need to invest in training for their staff, in addition to the investments needed for the required material and vehicles. Redistribution organisations with limited funding have difficulties covering these expenses. Moreover, the food hygiene and food safety rules lead them to refuse certain food items, despite the Food Safety Authority having translated all food hygiene rules used during controls in easy-to-use checklists for food operators<sup>524</sup>. Furthermore, national regulations define penalties in case of non-compliance to the requirements of the Regulation<sup>525</sup>.

Food redistribution organisations would like to see more flexibility in these rules. The Food Safety Authority suggests having one person responsible for food safety and hygiene within each food redistribution. Furthermore, the Food Safety Authority supports the idea of having a central organisation to provide guidance for food redistribution organisations<sup>526 527</sup>

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>528</sup>. Meanwhile, the “Factsheet: Redistribution / donation of food for human

<sup>523</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. 19 July 2017. « Fact Sheet: Redistribution / donation of food for human consumption » (Fiche Pratique: Redistribution/donation de denrées alimentaires à des fins d'alimentation humaine) Antigaspi.lu. [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)

<sup>524</sup> Organisme pour la Sécurité et la Qualité de la Chaîne Alimentaire – Secrétariat. 4 January 2017. Check-lists on food hygiene (Check-listes en matière d'hygiène alimentaire. Sécurité-alimentaire.lu). <http://www.securite-alimentaire.public.lu/professionnel/enregistrement/index.html>

<sup>525</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>526</sup> Organisme pour la Sécurité et la Qualité de la Chaîne Alimentaire – Secrétariat. 2 March 2017.

Enregistrement des établissements du secteur alimentaire. Sécurité-alimentaire.lu. <http://www.securite-alimentaire.public.lu/professionnel/enregistrement/index.html>

<sup>527</sup> Interview with the Stëmm vun der Strooss. 5 June 2018.

Interview with a member of the Luxembourgish Ministry of Health. 30 May 2018.

Interview with the Spendchen Asbl. 5 June 2018.

<sup>528</sup> Organisme pour la Sécurité et la Qualité de la Chaîne Alimentaire. 2017. “Food safety checklists (Check-listes en matière d'hygiène alimentaire)”. <http://www.securite-alimentaire.public.lu/professionnel/enregistrement/index.html>

consumption” provides guidance on the hygiene requirements that must be maintained in the food redistribution chain, such as information on the cold chain or on conservation temperatures<sup>529</sup>.

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<sup>529</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. 19 July 2017. « Fact Sheet: Redistribution / donation of food for human consumption » (Fiche Pratique: Redistribution/donation de denrées alimentaires à des fins d'alimentation humaine) Antigaspi.lu. [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)

**Table 165 Evaluation of the Member State’s policy in terms of “Hygiene rules applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of national laws in addition to EU rules to simplify hygiene requirements for food redistribution			x	
Presence of national guidelines explaining hygiene requirements for food redistribution, clarifying EU rules and making them easier to understand for relevant actors	x			

### 3.18.3.5 Food information to consumers applicable to food redistribution

On the subject of **date marking**, the “Factsheet: Redistribution / donation of food for human consumption” clarifies the legislation. Food items can be donated and sold in retail after the “best before” date, as long as the final consumer is informed of the passing of the date.

The factsheet also gives guidance on **relabelling**; the new label of a product should either be in French, German or Luxembourgish, and donated products need to be relabelled piece by piece<sup>530</sup>. The factsheet clarifies the applicable EU legislation, and it has a very positive effect on redistribution organisations, who have all the necessary knowledge to comply with food safety, food hygiene and food information requirements.

Concerning **prepacked foods**, when they are not intended for the final consumer, they must carry all product information on the packaging or on a separate sheet attached to the product. Where a prepacked item consists of 2 or more individual prepacked items containing the same product and these are separated, each individual item must be relabelled<sup>531</sup>.

**Table 166 Evaluation of the Member State’s policy in terms of “Food information to consumers applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Donation requirements in line with EU recommendation on “best before” dates	x			
Presence of national guidelines on “best before” dates	x			

<sup>530</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. 19 July 2017. « Fact Sheet: Redistribution / donation of food for human consumption » (Fiche Pratique: Redistribution/donation de denrées alimentaires à des fins d'alimentation humaine) Antigaspi.lu. [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)

<sup>531</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](http://sante_public.lu/fr/publications/f/fiche-pratique-donation-denrees-alimentaires-fr-de/fiche-pratique-donation-denrees-alimentaires-fr.pdf);

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of laws targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)			x	
Presence of national guidelines targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)	x			

#### 3.18.4 Voluntary Agreements for food redistribution

The **Solidarity pact in the fight against food waste** (*Nationalen "Antigaspi" Solidaritéitspakt*) initiated in 2016 is a good example of a Voluntary Agreement at the local level. The pact gathers municipalities who wish to put food waste on the local political agenda, with the support of a private agency providing best practices and keeping track of the members' activities for food waste reduction. The promotion of food redistribution is included in some of the activities, with the establishment of social groceries for instance. However, it is not clear whether the opening of these stores results from the Solidarity pact or if they were already planned<sup>532</sup>.

**Table 167 Evaluation of the Member State's policy in terms of "Voluntary Agreements for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a Voluntary Agreement which addresses all 5 pillars of the EU REFRESH blueprint in regard to food donation		x		

#### 3.18.5 Communication initiatives for food redistribution

As June 2019, there are no communication initiatives targeting food redistribution in Luxembourg.

#### 3.18.6 Other initiatives for food redistribution

Luxembourg participates in the **FEAD programme**, and benefits from € 3 944 660 from the European Union, plus € 696 199 in national appropriations for the period 2014-2020. The country

<sup>532</sup> Le Gouvernement Du Grand-Duché De Luxembourg, Ministère de l'Agriculture, de la Viticulture et de la Protection des consommateurs. 22 November, 2016. Nationalen "Antigaspi" Solidaritéitspakt. <http://antigaspi.lu/news/aktuelles/nationalen-antigaspi-solidariteitspakt/>

has chosen to use this money both to purchase food and basic hygiene goods such as soap or shampoo, hence not directly supporting the redistribution of food<sup>533</sup>.

**Table 168 Evaluation of the Member State’s policy in terms of “Other initiatives for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Use of the FEAD operational programme to support the redistribution of food			x	
Presence of measures encouraging the redistribution of fruits and vegetables withdrawn from the market, in line with Regulation (EU) 1308/2013				x
Publication of studies/research related to food redistribution			x	
Presence of financial or logistic support for food redistribution at the national/regional/local level			x	
Absence of incentives for the valorisation of food surplus via anaerobic digestion, which may otherwise hinder redistribution if the incentives for anaerobic digestion favour this recovery route over redistribution	x			

<sup>533</sup> Depouillon, Joris. September 10, 2018. Responses to email questions.

## 3.19 Malta

### 3.19.1 National strategies for food redistribution

The **Waste Management Plan for the Maltese Islands is a resource management approach**, running between 2014 and 2020. It highlights the future actions and targets for reducing food waste<sup>534</sup>. The Waste Management Plan aims to lower food waste from 22% to 15% over a period of 5 years, and proposes actions to create a greater awareness of the problem through strategic alliances with supermarkets and through media coverage. As such, these actions may be drivers for food redistribution, although “food redistribution” is not explicitly mentioned in the context of waste prevention and reduction.

**Table 169 Evaluation of the Member State’s policy in terms of “National strategies for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a national food waste strategy including food redistribution measures			x	
Adoption of SDG 12.3 or more ambitious goals, driving the adoption of food redistribution to meet these targets			x	
Availability of guidelines to facilitate and promote food donation			x	
Call to develop and strengthen relationships between food redistribution actors			x	

### 3.19.2 Fiscal incentives for food redistribution

Information not available.

**Table 170 Evaluation of the Member State’s policy in terms of “Fiscal incentives for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a fiscal regime specific to food redistribution				x
Presence of guidelines to clarify how to address complex fiscal regimes such as VAT and/or tax deductions				x

<sup>534</sup> Malta Ministry for Sustainable Development, the Environment and Climate Change. 2014. “Waste Management Plan for the Maltese Islands.” January. <https://msdec.gov.mt/en/document%20repository/waste%20management%20plan%202014%20-%202020%20-%20final%20document.pdf>.



### 3.19.3 Legal measures for food redistribution

#### 3.19.3.1 General legal framework on food redistribution

As of June 2019, there are no legal framework specific to food redistribution, in addition to EU rules in Malta.

**Table 171 Evaluation of the Member State's policy in terms of "General legal framework on food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a legal framework specific to food redistribution, in addition to EU rules			x	
Presence of the food use hierarchy			x	

#### 3.19.3.2 Traceability requirements applicable to food redistribution

Information not available.

**Table 172 Evaluation of the Member State's policy in terms of "Traceability requirements applicable to food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a clear traceability regime for food redistribution				x
Presence of guidelines which clarify the traceability regime for food redistribution				x

#### 3.19.3.3 Primary responsibility and liability rules for food redistribution

Information not available.

**Table 173 Evaluation of the Member State's policy in terms of "Primary responsibility and liability rules for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of clear primary responsibility and liability rules for food redistribution				x
Presence of guidelines which clarify the primary responsibility and liability rules for food redistribution				x

### 3.19.3.4 Hygiene rules applicable to food redistribution

Information not available.

**Table 174 Evaluation of the Member State’s policy in terms of “Hygiene rules applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of national laws in addition to EU rules to simplify hygiene requirements for food redistribution				x
Presence of national guidelines explaining hygiene requirements for food redistribution, clarifying EU rules and making them easier to understand for relevant actors				x

### 3.19.3.5 Food information to consumers applicable to food redistribution

Information not available.

**Table 175 Evaluation of the Member State’s policy in terms of “Food information to consumers applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Donation requirements in line with EU recommendation on “best before” dates				x
Presence of national guidelines on “best before” dates				x
Presence of laws targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)				x
Presence of national guidelines targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)				x

### 3.19.4 Voluntary Agreements for food redistribution

Information not available.

**Table 176 Evaluation of the Member State’s policy in terms of “Voluntary Agreements for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a Voluntary Agreement which addresses all 5 pillars of the EU REFRESH blueprint in regard to food donation				x

### 3.19.5 Communication initiatives for food redistribution

Information not available.

### 3.19.6 Other initiatives for food redistribution

In Malta, the Ministry of Family, Children Rights and Social Security implements the **FEAD programme** (*Programm Operattiv Tal-ghajnuna Alimentari u/jew Materjali bazıka*) and uses the funds to purchase food items that are distributed to people in need 3 times a year. While the distributed food is purchased and not recovered surplus food, the programme has 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 the food; the FEAD programme 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 5 times the number the FEAD programme targeted. Distribution of this national food aid takes place through 12 LEAP centres (anti-poverty and social exclusion centres created under a previous project), through social security services and government schools<sup>535 536</sup>.

**Table 177 Evaluation of the Member State’s policy in terms of “Other initiatives for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Use of the FEAD operational programme to support the redistribution of food				x
Presence of measures encouraging the redistribution of fruits and vegetables withdrawn from the market, in line with Regulation (EU) 1308/2013				x
Publication of studies/research related to food redistribution				x

<sup>535</sup> Interview with a member of the Maltese Ministry for the Family, Children’s rights and Social Solidarity. 2018.

<sup>536</sup> Interview with LEAP. 2018.

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of financial or logistic support for food redistribution at the national/regional/local level				x
Absence of incentives for the valorisation of food surplus via anaerobic digestion, which may otherwise hinder redistribution if the incentives for anaerobic digestion favour this recovery route over redistribution				x

## 3.20 The Netherlands

### 3.20.1 National strategies for food redistribution

**A new initiative called “United against food waste”** was launched in March 2018 in the Netherlands. This initiative was initiated by the Taskforce Circular Economy in Food, gathering 25 members, including the Ministry of Agriculture, Nature & Food Quality, Rabobank, McDonald's Netherlands, Voedingscentrum, Hutten Catering, Protix and Wageningen University & Research<sup>537</sup>. While the topic of food waste has been on the political agenda for a long time, the “United against food waste” is the largest-scale partnership covering the entire food chain formed in the Netherlands, and with such major ambitions<sup>538</sup>. The taskforce aims to reduce food waste in the Netherlands by half in 2030 compared to the 2015 levels. The Dutch Ministry of Agriculture, Nature and Food Quality will provide a total of 7 million euros between 2018 and 2022 to support this objective via investments in innovation, research, monitoring and education. One of the objectives of the Dutch coalition of 2017 addresses food redistribution by stating that *“Where necessary and possible, supermarkets and food service receive more space to donate surpluses to food banks”* in order to overcome barriers<sup>539</sup>. In other words, the members of the initiative have put together an agenda to prevent and reduce food waste, and to remove barriers in legislation. Food donation is explicitly mentioned in the Agenda document as a measure to prevent food waste in the coming years.

According to the Dutch Food Bank Association, the above mentioned national strategy makes food companies more aware of the reasons for reducing food waste, and the existing solutions, including food donation possibilities. As the National Food Bank Association is a part of the taskforce, which creates new opportunities and connection, it is expected that food donations will increase. The current strategy provides the framework for the coming years on food waste reduction, however the impact on food donation is unclear to date.

Although the food waste hierarchy is the central framework of the national strategy “United Against Waste” with an emphasis on food prevention activities such as food donation, stimulating the use of this framework may have an adverse impact on food donation. From the expert interviews<sup>540</sup>, it has been noted that the Food Bank of Amsterdam observed that food companies do more and more to prevent food waste, which results in less donation activities.

Before the initiative “United against food waste” was launched, in October 2017, the ruling parties of the Netherlands all joined in on a coalition agreement, **“Confidence in the future”**. One of the objectives outlined in the agreement addressed food redistribution: *“Where necessary and possible, supermarkets and food service receive more room to donate surpluses to food banks”*<sup>541</sup>. In the view of this agreement, the Dutch association of food banks was approached by a governmental body to discuss the problems and issues related to food redistribution. The Dutch association of food banks wants to bring the following issues forward<sup>542</sup>:

- “Best before” dates: people believe that after this date, food is no longer edible. A possibility for the government would be to abolish the use of this date for certain products or raising awareness about it;

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<sup>537</sup> Taskforce Circular Economy in Food. 26 February 2018. “Agenda Samen Tegen Voedselverspilling” <http://samentegenvoedselverspilling.nl/de-taskforce/>

<sup>538</sup> Press release, on March 21, 2018, “Dutch agenda against food waste aims to cut food waste by half” <https://www.wur.nl/en/newsarticle/Dutch-agenda-against-food-waste-aims-to-cut-food-waste-by-half.htm>

<sup>539</sup> The Netherlands Cabinet Formation Office, “Regeerakkoord Vertrouwen in de Toekomst”, 10 October 2017, <https://www.kabinetsformatie2017.nl/documenten/publicaties/2017/10/10/regeerakkoord-vertrouwen-in-de-toekomst>

<sup>540</sup> Interviews with the Dutch Food Banks association and Ministry of Agriculture, Nature and Food Quality (May 22, 2018).

<sup>541</sup> Regeerakkoord Vertrouwen in de Toekomst”. National Government of the Netherlands. 10 October 2017 <https://www.kabinetsformatie2017.nl/documenten/publicaties/2017/10/10/regeerakkoord-vertrouwen-in-de-toekomst>

<sup>542</sup> Interviews with the Dutch Food Banks association and Ministry of Agriculture, Nature and Food Quality. 22 May 2018.

- Companies donating food can deduct the donation from their profit to reduce the corporation tax up until an absolute maximum of 100 000 euro and 50% of total profit. The association would like to abolish the absolute maximum;
- The government could raise taxes on producing waste. This would be a natural incentive to reduce (food) waste. The government should stimulate food companies to process food surplus into new products;
- Currently, bycatch of fish cannot be used for human consumption. The government could be more lenient in this regulation and stimulate bycatch to be processed and donated.

Finally, to support Food Business Operators in understanding and interpreting the existing regulations affecting food redistribution, in 2016, members of Food Banks Netherlands adopted the **Food Safety Guide**, which is based on the CBL Hygiene Code, the Hygiene Code for Poultry, and the **Information sheet 76/December 2015 of the Netherlands Food and Consumer Product Safety Authority (NVWA)**<sup>543</sup>, intended for charitable institutions and voluntary organisations. It is applicable to all food banks affiliated with the Association. **Information sheet 76/December 2015** lists the products that are deemed acceptable for redistribution and those that are not, and provides a list of food to be used as a guideline to determine whether or not food past the “best before” date can be accepted. It defines a charity institution, such as a food bank, as an institution that collects food to be redistributed directly to beneficiaries. The institution can act as an assembly point from which the food is brought to distribution points. A charity organisation, such as a social restaurant or a social enterprise, is defined as a non-profit humanitarian organisation that provides food to people in need<sup>544</sup>. The Netherlands Food and Consumer Product Safety Authority (NVWA Informatieblad 76)<sup>545</sup> has defined 2 activities for redistribution:

- to collect and redistribute food to people in need, carried out by charity institutions like foodbanks;
- to provide people in need with food, carried out by charity organizations like social restaurants<sup>546</sup>.

Meanwhile, the Food Safety Guide, updated in 2018, describes the work of regional distribution centres, local food banks and their subsections, and provides guidelines for the management and distribution of foodstuffs. It covers all aspects of food redistribution and includes advice from the NVWA. Several pieces of legislation affecting food redistribution are explained in this guideline.

The Food Safety Guide clarifies how EU legislation should be implemented. Before, companies did not want to donate food surplus after the “best before” date, due to the lack of awareness of the regulation<sup>547</sup>. This guideline clarifies several issues, for instance in case of mislabelling, products can be still donated or meat can be frozen on its “use by” date and be redistributed up until 2 months after. 2 external agencies monitor all Dutch food banks once per year to check whether they comply to the framework laid out in the Information sheet 76/December 2015 and in the Food Safety Guide.

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<sup>543</sup> Voedselbanken Nederland. 28 May 2016. “Handboek Voedselveiligheid van de Verenigingen van Nederlandse Voedselbanken”. Voedselveiligheid. <https://voedselbankennederland.nl/wp-content/uploads/2016/12/handboek-voedselveiligheid-voedselbanken-nederland.pdf>

<sup>544</sup> Information from the *EU Platform on Food Losses and Food Waste*. 2 November 2018.

<sup>545</sup> Netherlands Food and Consumer Product Safety Authority. December 2015. “Charities - Information Sheet 76”. <https://www.nvwa.nl/documenten/consument/eten-drinken-roken/levensmiddelenketen/publicaties/charitatieve-instellingen-en-organisaties-informatieblad-76>

<sup>546</sup> Information from the *EU Platform on Food Losses and Food Waste*. 2018

<sup>547</sup> Interviews with the Dutch Food Banks association. 22 May 2018.

**Table 178 Evaluation of the Member State’s policy in terms of “National strategies for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a national food waste strategy including food redistribution measures	x			
Adoption of SDG 12.3 or more ambitious goals, driving the adoption of food redistribution to meet these targets	x			
Availability of guidelines to facilitate and promote food donation	x			
Call to develop and strengthen relationships between food redistribution actors	x			

### 3.20.2 Fiscal incentives for food redistribution

As there were many uncertainties surrounding the tax consequences of food supplies from companies to the food banks, consultations were held with the Ministry of Finance at the request of the Dutch Food Bank (Voedselbanken Nederland) on 18 June 2014, which also included representatives from the FNLI (Dutch Food Industry Federation), the umbrella organisation of companies and branch organisations in the Dutch food industry (food and non-food), CBL (Central Bureau for Food Trade, the advocate of the supermarket branch and food service companies) and the Ministry of Economic Affairs. On the basis of consultations and questions from members, the Ministry of Finance clarified the tax consequences of food supplies from companies to the Dutch House of Representatives<sup>548</sup>. This was published by the Dutch Food Bank in the Infosheet **“Food donation and fiscal consequences for food companies and food banks”**<sup>549</sup>. where the main points on value added tax and corporate tax deduction are presented below.

**Value added tax (VAT)**, governed at EU level by the VAT Directive<sup>550</sup>, is applied as follows for food donation. In the 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 these products acquire a zero-rate of VAT. However, the company has to take into account the threshold of € 227 (excl. VAT) per year per foodbank. If this threshold is exceeded the company will have to correct the previously deducted VAT related to the donated food.

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>548</sup> Brief van 16 september 2014, nr. AFP 2014/806 en de bijlage bij de brief van 8 december 2014, nr. AFP/2014/1085. <http://www.fiscaalleven.eu/KamerstukFiscaleToezeggingenAFP2014-806Prinsjesdag2014.pdf>

<sup>549</sup> Infobulletin: Fiscaliteit bedrijven en voedselbanken. published on March 17, 2015. <https://voedselbankdronten.nl/cmsVoedselbank/wp-content/uploads/2017/04/1484576880-20150317vbnib-fiscaliteit-bedrijven-en-voedselbanken.pdf>

<sup>550</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).

**Table 179 Evaluation of the Member State’s policy in terms of “Fiscal incentives for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a fiscal regime specific to food redistribution	x			
Presence of guidelines to clarify how to address complex fiscal regimes such as VAT and/or tax deductions	x			

### 3.20.3 Legal measures for food redistribution

#### 3.20.3.1 General legal framework on food redistribution

The United against food waste initiative (described in section 3.20.1) put forward a clear objective to valorise food waste as much as possible using the food waste hierarchy and “the ladder of Moerman”<sup>551</sup>.

**Table 180 Evaluation of the Member State’s policy in terms of “General legal framework on food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a legal framework specific to food redistribution, in addition to EU rules			x	
Presence of the food use hierarchy	x			

#### 3.20.3.2 Traceability requirements applicable to food redistribution

The Information sheet 76/December 2015 on charitable institutions and organisations contains general requirements concerning **traceability**. The general principles and rules for food safety are available in Regulation (EC) 178/2002, which includes required actions to correctly ensure product traceability. Traceability is necessary to take all necessary actions quickly in the event of a crisis. A relaxed form can be applied in the case of food donations, without compromising the food safety regulations:

- The charity institution / organisation keeps a list of all received products and/or 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>552</sup>.

<sup>551</sup> Taskforce Circular Economy in Food. 26 February 2018. “Agenda Samen Tegen Voedselverspilling” [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>552</sup> Netherlands Food and Consumer Product Safety Authority. 2015. <https://www.nvwa.nl/documenten/consument/eten-drinken-roken/levensmiddelenketen/publicaties/charitatieve-instellingen-en-organisaties-informatieblad-76>



**Table 181 Evaluation of the Member State’s policy in terms of “Traceability requirements applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a clear traceability regime for food redistribution			x	
Presence of guidelines which clarify the traceability regime for food redistribution	x			

### 3.20.3.3 Primary responsibility and liability rules for food redistribution

In accordance with applicable legislation on the **primary responsibility** of food business operators to ensure compliance with food law as set out in Article 17 of General Food Law, in the Netherlands, an FBO is liable for product quality and safety until the product’s expiration date. The food bank, however, assumes the responsibility related to quality and safety in the case of products redistributed after the “best before” date<sup>553</sup>.

This principle is included in the Food Safety Guide of the Dutch Association of Food Banks mentioned in the section above. According to this Guide, the food bank’s board is responsible for food safety, from the moment of receipt until product redistribution 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>554</sup>.

**Table 182 Evaluation of the Member State’s policy in terms of “Primary responsibility and liability rules for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of clear primary responsibility and liability rules for food redistribution			x	
Presence of guidelines which clarify the primary responsibility and liability rules for food redistribution	x			

### 3.20.3.4 Hygiene rules applicable to food redistribution

In order to protect consumers and ensure food safety, only food which meets requirements laid down in EU food hygiene rules<sup>555</sup> and fit for human consumption may be placed on the market, including that which is donated to non-profit organisations for distribution to those in need. Several pieces of

<sup>553</sup> Voedselbanken Nederland. 2016. “Handboek Voedselveiligheid van de Verenigingen van Nederlandse Voedselbanken”. Voedselveiligheid. <https://voedselbankennederland.nl/wp-content/uploads/2016/12/handboek-voedselveiligheid-voedselbanken-nederland.pdf>

<sup>554</sup> Netherlands Food and Consumer Product Safety Authority. 2015. <https://www.nvwa.nl/documenten/consument/eten-drinken-roken/levensmiddelenketen/publicaties/charitatieve-instellingen-en-organisaties-informatieblad-76>

<sup>555</sup> Regulation (EC) No 852/2004 on the hygiene of foodstuffs and Regulation (EC) No 853/2004 laying down specific hygiene rules for food of animal origin

legislation were implemented in the Netherlands as a transposition to the regulation. They all refer to **hygiene and safety requirements** for food transformation processes, storage, transport, etc.

Furthermore, the **NVWA Information sheet 76/December 2015**<sup>556</sup> states that unfit or unsafe food should not be accepted and that handling of surplus food, such as sorting and portioning, can only be done in a suitable, well equipped and clean area. A non-exhaustive list of foods is included and can be used as a guideline to examine whether or not foods past their 'best before' dates can be accepted<sup>557</sup>. 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<sup>558</sup>.

As mentioned in section 3.20.3.1 to clarify hygiene and safety requirements in the Netherlands, the Association of Dutch food banks elaborated in 2016 a Food Safety Guide, which has been updated in 2018, based on the CBL Hygiene Code 2011, the Hygiene Code for Poultry and the NVWA Information sheet 76/December 2015. In its Food Safety Guide, the Dutch Association of Food Banks states that donors should preferably portion their food surplus prior to donation. If this was not done and if a food bank needs to portion the surplus itself, it must follow the requirements as described in the Food Safety Guide<sup>559</sup>. Furthermore, in order to ensure the safe handling of donated food, the Association of Dutch Food Banks has set up a certification scheme for food banks and regional distribution centres, with the help of an inspection bureau<sup>560</sup>.

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>561</sup>. According to the information of NVWA Information sheet 76/December 2015<sup>562</sup>, food banks in the Netherlands can provide fresh eggs to consumers until their expiration date, which is 21 days after the laying of the egg. After that date, the eggs may no longer be redistributed.

**Table 183 Evaluation of the Member State's policy in terms of "Hygiene rules applicable to food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of national laws in addition to EU rules to simplify hygiene requirements for food redistribution			x	
Presence of national guidelines explaining hygiene requirements for food redistribution, clarifying EU	x			

<sup>556</sup> Netherlands Food and Consumer Product Safety Authority. December 2015. "Charities - Information Sheet 76". <https://www.nvwa.nl/documenten/consument/eten-drinken-roken/levensmiddelenketen/publicaties/charitatieve-instellingen-en-organisaties-informatieblad-76>

<sup>557</sup> Dutch Food Banks Association. 2016. "Food Safety Guide". <https://voedselbankennederland.nl/wp-content/uploads/2016/12/handboek-voedselveiligheid-voedselbanken-nederland.pdf>

<sup>558</sup> Netherlands Food and Consumer Product Safety Authority. December 2015. "Charities - Information Sheet 76". <https://www.nvwa.nl/documenten/consument/eten-drinken-roken/levensmiddelenketen/publicaties/charitatieve-instellingen-en-organisaties-informatieblad-76>

<sup>559</sup> Information from the *EU Platform on Food Losses and Food Waste*. 2 November 2018.

<sup>560</sup> Voedselbanken Nederland. 2016. "Handboek Voedselveiligheid van de Verenigingen van Nederlandse Voedselbanken". Voedselveiligheid. <https://voedselbankennederland.nl/wp-content/uploads/2016/12/handboek-voedselveiligheid-voedselbanken-nederland.pdf>

<sup>561</sup> Article 2 of 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 (OJ L 163, 24.6.2008, p. 10).

<sup>562</sup> Netherlands Food and Consumer Product Safety Authority. 2015. <https://www.nvwa.nl/documenten/consument/eten-drinken-roken/levensmiddelenketen/publicaties/charitatieve-instellingen-en-organisaties-informatieblad-76>

### 3.20.3.5 Food information to consumers applicable to food redistribution

In the Netherlands, foodstuffs that have passed their “best before” date can be donated, but the food banks can choose whether or not to accept such food. If they choose to accept it, they also assume responsibility for the food’s quality. Likewise, 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>563</sup>.

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 packer at this point. However, the final consumer must be clearly informed of the product’s extended shelf life<sup>564</sup>.

**The provision of food information to consumers<sup>565</sup>** aims to ensure a high level of protection of consumers' health and interests by providing a basis for consumers to make informed choices and safe use of food. Among other information, the date of minimum durability (i.e. "best before") or when appropriate the "use by" date, any special storage conditions and/or conditions of use, and a nutrition declaration are required on the labelled products.

Regulation (EU) No 1169/2011 also requires that mandatory food information must appear in a language easily understood by the consumers of the Member States where a food is marketed. The Food Safety Guide of the Dutch Association of Food Banks provides guidelines to FBO on these 2 aspects, which is presented below.

With regards to language requirements, 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 must 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.

<sup>563</sup> Netherlands Food and Consumer Product Safety Authority. December 2015. “Charities - Information Sheet 76”. <https://www.nvwa.nl/documenten/consument/eten-drinken-roken/levensmiddelenketen/publicaties/charitatieve-instellingen-en-organisaties-informatieblad-76>; Dutch Food Banks Association. 2016. “Food Safety Guide”. <https://voedselbankennederland.nl/wp-content/uploads/2016/12/handboek-voedselveiligheid-voedselbanken-nederland.pdf>

<sup>564</sup> Voedselbanken Nederland. 2016. “Handboek Voedselveiligheid van de Verenigingen van Nederlandse Voedselbanken”. Voedselveiligheid. <https://voedselbankennederland.nl/wp-content/uploads/2016/12/handboek-voedselveiligheid-voedselbanken-nederland.pdf>

<sup>565</sup> Regulation (EU) N<sup>o</sup>1169/2011

**Table 184 Evaluation of the Member State’s policy in terms of “Food information to consumers applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Donation requirements in line with EU recommendation on “best before” dates	x			
Presence of national guidelines on “best before” dates	x			
Presence of laws targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)			x	
Presence of national guidelines targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)	x			

### 3.20.4 Voluntary Agreements for food redistribution

#### Initiation and set-up

Next to the initiative ‘United against food waste’ explained in section 4.20.1, the Dutch Federation of Food Banks started working alongside the **Alliance Sustainable Food**. Over time, they have strongly helped in making FBOs aware of the possibility of donating their surplus food to food banks<sup>566</sup>.

#### Ambition

The Dutch Alliance on Sustainable Food – a cooperation of 6 branch organisations that cover the whole food chain – has had a strong focus on reducing food waste and reuse of secondary resources since 2013. The Dutch government, as founder of the Alliance’s predecessor, works together with the Alliance and its members and has for instance stimulated the cooperation between the Alliance and the Dutch Association of Food Banks.

#### Governance and funding

The Dutch Food Bank Association and the Alliance on Sustainable Food meet 3-4 times per year. Once per year, a meeting of the Dutch Food Bank Association and the Alliance on Sustainable Food is attended by the State Secretary, who wants to be kept informed of the progress.

#### Establishing actions

The regular meetings between the Alliance and the Dutch Association of Food Banks helped achieved the following results: 1) new connections were established, 2) the Alliance on Sustainable Food

<sup>566</sup> Interviews with the Dutch Food Banks association, Ministry of Agriculture, Nature and Food Quality 22 May 2018 and with the Food Bank Amsterdam, 11 June 2018

started communicating about the food banks in their communication channels, 3) food companies started supporting food banks not only by food donation, but also in other ways such as providing cars, buildings, and fuel. This cooperation is also monitored by the government, although it is limited. The cooperation between the Dutch Food Bank Association and the Dutch Alliance on Sustainable Food has resulted in an increase in donations from food companies, since companies get to know more about food banks and their activities<sup>567</sup>.

Measurement and evaluation  
Information not available.

**Table 185 Evaluation of the Member State’s policy in terms of “Voluntary Agreements for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a Voluntary Agreement which addresses all 5 pillars of the EU REFRESH blueprint in regard to food donation	x			

**3.20.5 Communication initiatives for food redistribution**

As of June 2019, there are no communication initiatives targeting food redistribution in the Netherlands.

**3.20.6 Other initiatives for food redistribution**

To support the Amsterdam Food Bank in redistributing more food and helping more people in need, the local authority of Amsterdam initiated **a Subsidy to the Amsterdam Food Bank** to enable it to operate financially<sup>568</sup>. The subsidy is provided pro rata of the amount of food donated to people in need. This does not allow the Amsterdam Food Bank to cover its general costs (maintaining food safety, infrastructure etc.), however, it provides subsidies that (at least partly) cover general operations. The subsidy overcomes the barrier of financial instability. The subsidy agreement provides financial stability for multiple years. This provides a good counter weight for private funding. Furthermore, there is a close relationship between the Amsterdam Food Bank and social workers of the Amsterdam authority. This allows the Amsterdam Food Bank to know its target group better and co-create new ways to reaching them. This results in a bigger 'market' and more capacity to distribute food<sup>569</sup>.

On another matter, **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.

Moreover, the fruits and vegetables withdrawn from the market due to the Russian embargo were authorised for redistribution by food banks<sup>570</sup>.

<sup>567</sup> Information from the EU Platform on Food Losses and Food Waste. 2018  
<sup>568</sup> <https://www.amsterdam.voedselbank.org/wp-content/uploads/2017/05/Beleidsplan-Voedselbank-Amsterdam-2017.pdf>  
<sup>569</sup> Interview with the Amsterdam Food bank. 11 June 2018  
<sup>570</sup> Information from the EU Platform on Food Losses and Food Waste. 2 November 2018.

Lastly, there are incentives in place in the Netherlands to send the surplus products to biomass production. The “**Stimulation of Sustainable Energy Production scheme**” (SDE +)<sup>571</sup> supports the production of energy from biomass. The SDE + compensates the difference between the cost price of a renewable energy project and the market value of the energy produced, also known as the unprofitable summit. Food surpluses are counted as biomass and can be used in this scheme. The SDE + only compensates for the unprofitable summit and is annually set at such a height that no disruptive effect could occur on food donation. Nevertheless, there is a perception in the society that due to the existence of the SDE +, food surpluses are more likely to be sent to anaerobic digestion than to be processed in a more 'high-quality' manner<sup>572</sup>.

**Table 186 Evaluation of the Member State’s policy in terms of “Other initiatives for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Use of the FEAD operational programme to support the redistribution of food			x	
Presence of measures encouraging the redistribution of fruits and vegetables withdrawn from the market, in line with Regulation (EU) 1308/2013	x			
Publication of studies/research related to food redistribution				x
Presence of financial or logistic support for food redistribution at the national/regional/local level	x			
Absence of incentives for the valorisation of food surplus via anaerobic digestion, which may otherwise hinder redistribution if the incentives for anaerobic digestion favour this recovery route over redistribution			x	

<sup>571</sup> “SDE+ Autumn 2018. Instructions on how to apply for a subsidy for the production of renewable energy”  
Opening period: 2 October – 8 November 2018

[https://english.rvo.nl/sites/default/files/2018/09/Brochure\\_SDEplus\\_2018\\_ENG\\_WCAG.pdf](https://english.rvo.nl/sites/default/files/2018/09/Brochure_SDEplus_2018_ENG_WCAG.pdf)

<sup>572</sup> Interviews with the Dutch Food Banks association and Ministry of Agriculture, Nature and Food Quality. 22 May 2018.

## 3.21 Poland

### 3.21.1 National strategies for food redistribution

Despite the absence of a national food waste or food redistribution strategy, Poland's involvement in the European Union's Food Loss and Food Waste Platform has driven the country to consider setting up such a strategy. The Ministry of Agriculture conducted preliminary research on the potential involvement of stakeholders in the case of a national plan, and on existing guidelines for food waste reduction. Upon the results of this research phase, the Ministry formed a working group with a consortium of stakeholders from the food supply chain with the objective of drafting a proposal to introduce a national plan for food waste reduction, and collectively decide on its main action points. The working group's kick-off meeting took place in September 2018<sup>573</sup>. As it is unclear if this national strategy will include any measures on food redistribution, it is considered as of May 2019 that Poland does not yet have a national strategy on food donation.

Nevertheless, according to the Polish Law<sup>574</sup> on waste, the national waste management plan and the regional plans include food waste prevention programmes. The **2022 National Waste Management Plan** (*Krajowy plan gospodarki odpadami 2022 przyjęty przez Radę Ministrów uchwałą nr 88 z dnia 1 lipca 2016*)<sup>575</sup> promotes food waste reduction, public awareness on the topic and the proper management of food waste. While establishing food banks to redistribute food for people in need is considered as a target within the National Waste Management Plan, there is currently no additional information on whether any progress on this goal has been made<sup>576</sup>.

**Table 187 Evaluation of the Member State's policy in terms of "National strategies for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a national food waste strategy including food redistribution measures			x	
Adoption of SDG 12.3 or more ambitious goals, driving the adoption of food redistribution to meet these targets			x	
Availability of guidelines to facilitate and promote food donation			x	
Call to develop and strengthen relationships between food redistribution actors				x

### 3.21.2 Fiscal incentives for food redistribution

Since January 2009, the **Act of 11 March 2004 on goods and services tax**<sup>577</sup> exempts food producers from paying VAT on food donated for charity purposes. The provisions of this Act were

<sup>573</sup> Interview with a member of the Polish Ministry of Agriculture and Rural Development. 17 May 2018.

<sup>574</sup> Polish Government. "Waste Act of 14 December 2012". Journal of Laws of 2018, item 992, as amended)

<sup>575</sup> National government. 2016. "National waste management Plan 2022" (Krajowy plan gospodarki odpadami 2022 przyjęty przez Radę Ministrów uchwałą nr 88 z dnia 1 lipca 2016 r.). <https://bip.mos.gov.pl/strategie-plan-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>576</sup> Information from the *EU Platform on Food Losses and Food Waste*. 31 October 2018.

<sup>577</sup> National government. 2004. "Act of 11 March 2004 on goods and services tax". [http://www.polishlaw.com.pl/pdf/act04t\\_new.pdf](http://www.polishlaw.com.pl/pdf/act04t_new.pdf).

extrapolated to food business operators (distributors, wholesalers, restaurant owners and catering companies) in 2013<sup>578</sup>. Indeed, since October 2013 and under the **VAT Act**, a VAT exemption applies to all food delivered free of charge to registered charity organisations<sup>579</sup>. Food producers, distributors, wholesalers, restaurant owners and catering companies can qualify as donors, and the exemption only applies if the donation is documented and if the registered redistribution organisation uses the food products for charitable purposes. Donors have to compile all of the information on donations (amounts of food, names of the donors and receivers), and present these numbers to the fiscal office.

However, the Ministry has not taken any further steps to check that all donors report their data, and there are no official published numbers on the amount of redistributed food. Despite the absence of official data to illustrate the regulation's impact on redistribution, government officials have noted an increase of the amounts of redistributed food since 2013, and claim that the VAT exemption has incentivised retailers to donate their surplus food<sup>580</sup>. In line with the VAT Act, donors can also reclaim input VAT on food which is subsequently donated to redistribution organisations, in line with Article 86(8)(3) of the VAT Act<sup>581</sup>. There is no monitoring of this measure however, and no expert feedback on the measure's impact for food redistribution<sup>582</sup>.

Finally, food donations can be considered as tax-deductible costs within the limit of 10% of the donor's taxable income according the **Amendment of the Act on Personal Income Tax**<sup>583</sup> and to the **Act on Corporate Income Tax**. Similarly to the VAT exemptions, this tax deduction consists of an incentive for FBOs to donate their surplus food, though no data is available to evaluate the measure's actual impact<sup>584</sup>.

**Table 188 Evaluation of the Member State's policy in terms of "Fiscal incentives for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a fiscal regime specific to food redistribution	x			
Presence of guidelines to clarify how to address complex fiscal regimes such as VAT and/or tax deductions			x	

### 3.21.3 Legal measures for food redistribution

#### 3.21.3.1 General legal framework on food redistribution

The **Act on Food Safety and Nutrition** of 25 August 2006, amended in 2015, is the main piece of legislation regulating the legal framework for food hygiene and food safety of donations, establishing

<sup>578</sup> Information from the *EU Platform on Food Losses and Food Waste*. 31 October 2018.

<sup>579</sup> Polish Government. 2013. "Provisions of October 2013 on the Act of 11 March 2004 on goods and services tax, referred to as the VAT Act." <http://dziennikustaw.gov.pl/du/2016/710>.

<sup>580</sup> Interview with a member of the Polish Ministry of Agriculture and Rural Development. 17 May 2018.

<sup>581</sup> Polish Ministry of Finance. 2016. "VAT Act (Polish Journal of Laws)". <http://www.mf.gov.pl/documents/766655/6054317/Ustawa+o+podatku+VAT+Dz.+U.+z+2017r.+poz.+1221.pdf>

<sup>582</sup> 2016. "VAT Act, Article 86(8)(3) (Polish Journal of Laws)". <http://www.mf.gov.pl/documents/766655/6054317/Ustawa+o+podatku+VAT+Dz.+U.+z+2017r.+poz.+1221.pdf>.

<sup>583</sup> 2009. "Amendment of the Act on Personal Income Tax Poland." <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>584</sup> EESC - Bio by Deloitte. 2014. "Comparative Study on EU Member States' legislation and practices on food donation." [https://www.eesc.europa.eu/resources/docs/comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation\\_finalreport\\_0](https://www.eesc.europa.eu/resources/docs/comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation_finalreport_0).



the sanitary and hygiene requirements applicable to such food items<sup>585</sup>. The Act mainly transposes EU legislation, thus Poland does not qualify as having its own general legal and regulatory framework around food redistribution. However, the Act on Food Safety and Nutrition does apply EU legislation in a more rigid manner for date labelling.

It should be mentioned that redistributed food cannot be sold in commercial retail: it must be given to people in need by COs<sup>586</sup>.

**Table 189 Evaluation of the Member State’s policy in terms of “General legal framework on food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a legal framework specific to food redistribution, in addition to EU rules			x	
Presence of the food use hierarchy			x	

### 3.21.3.2 Traceability requirements applicable to food redistribution

As of June 2019, there are no guidelines which clarify the traceability regime for food redistribution in Poland.

**Table 190 Evaluation of the Member State’s policy in terms of “Traceability requirements applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a clear traceability regime for food redistribution				x
Presence of guidelines which clarify the traceability regime for food redistribution			x	

### 3.21.3.3 Primary responsibility and liability rules for food redistribution

As of June 2019, there are no guidelines which clarify the primary responsibility and liability rules for food redistribution in Poland.

<sup>585</sup> Polish Government. 2006. “Act on Food Safety and Nutrition.” <https://www.ecolex.org/details/legislation/act-on-safety-of-food-and-nutrition-lex-faoc113724/>.

<sup>586</sup> USDA Foreign Agricultural Services. 2018. “Poland – Food and Agricultural Import Regulations and Standards, Narrative. FAIRS Country Report”. <https://gain.fas.usda.gov/Recent%20GAIN%20Publications/Food%20and%20Agricultural%20Import%20Regulations%20and%20Standards%20-%20Narrative%20Warsaw%20Poland%201-8-2018.pdf>

**Table 191 Evaluation of the Member State’s policy in terms of “Primary responsibility and liability rules for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of clear primary responsibility and liability rules for food redistribution				X
Presence of guidelines which clarify the primary responsibility and liability rules for food redistribution			x	

### 3.21.3.4 Hygiene rules applicable to food redistribution

The Ordinance 26 April 2004 on the hygienic and sanitary requirements in the establishments manufacturing or placing foodstuffs on the market of the Ministry of Health prescribes the detailed hygiene and sanitary requirements for establishments involved in the circulation of food (e.g. the quantity of sinks, ventilation systems, etc.). It also determines the sanitary conditions and requirements in the circulation of food concerning, for instance, the storage of food waste. The consequences of this measure on food redistribution are unknown, and there are no legislative texts addressing hygiene regulations for food redistribution in Poland<sup>587</sup>.

Nevertheless, food business organisations including food banks and other charities must fully respect the EU Hygiene Package (especially the Regulation 852/2004). Polish national law defines penalties in case of non-compliance<sup>588</sup>. 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. Also, the food cannot be marketed after its date mark (“use by”, “best before” date) and the food banks and food charity organisations must be registered or approved<sup>589</sup>.

Likewise, 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)<sup>590</sup> and implementing acts<sup>591</sup>.

<sup>587</sup> EESC - Bio by Deloitte. 2014. “Comparative Study on EU Member States’ legislation and practices on food donation.” [https://www.eesc.europa.eu/resources/docs/comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation\\_finalreport\\_0](https://www.eesc.europa.eu/resources/docs/comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation_finalreport_0).

<sup>588</sup> Polish Act on Food Safety and nutrition. 2006. <http://extwprlegs1.fao.org/docs/pdf/pol113724.pdf>; Information from the *EU Platform on Food Losses and Food Waste*. 31 October 2018.

<sup>589</sup> Information from the *EU Platform on Food Losses and Food Waste*. 2018

<sup>590</sup> Polish Act on products of animal origin. 2005. <http://extwprlegs1.fao.org/docs/pdf/pol62751.pdf>

<sup>591</sup> Information from the *EU Platform on Food Losses and Food Waste*. 2018

**Table 192 Evaluation of the Member State’s policy in terms of “Hygiene rules applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of national laws in addition to EU rules to simplify hygiene requirements for food redistribution			x	
Presence of national guidelines explaining hygiene requirements for food redistribution, clarifying EU rules and making them easier to understand for relevant actors			x	

### 3.21.3.5 Food information to consumers applicable to food redistribution

With respect to **date marking**, food that has passed its “best before” date cannot be donated to redistribution organisations in Poland. The government gathered actors of the food supply chain to discuss the possibility of allowing redistribution after the “best before” date. However, the conclusions drawn went against changing the law, as actors are generally concerned about food safety and ensuring the cold chain. The food received in the day by redistribution organisations should therefore be donated to the final consumers within 24 hours. The Act on Food Safety and Nutrition also forbids the relabelling of redistributed food, and its sale in commercial retail.

The Act on Food Safety and Nutrition hinders larger scale redistribution of food as retailers have to donate their surplus food items before passing of the “best before” date. Retailers and the industry appear to be wary about the passing of this date. A targeted communication campaign could be effective in informing them about the correct interpretation of the “use by” and “best before” dates. According to an expert from the Polish Ministry of Agriculture, making the law more flexible, by allowing the redistribution of food past the “best before” date, and authorising the relabelling of donated food items, could have a very positive impact on the amounts of food redistributed<sup>592</sup>.

With respect to **labelling**, 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 any sort of food<sup>593</sup>.

<sup>592</sup> Interview with a member of the Polish Ministry of Agriculture and Rural Development. 17 May 2018.

<sup>593</sup> Information from the *EU Platform on Food Losses and Food Waste*. 31 October 2018.

**Table 193 Evaluation of the Member State’s policy in terms of “Food information to consumers applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Donation requirements in line with EU recommendation on “best before” dates			x	
Presence of national guidelines on “best before” dates			x	
Presence of laws targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)			x	
Presence of national guidelines targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)			x	

#### 3.21.4 Voluntary Agreements for food redistribution

As of June 2019, there are no Voluntary Agreements addressing food waste or promoting food redistribution in Poland.

**Table 194 Evaluation of the Member State’s policy in terms of “Voluntary Agreements for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a Voluntary Agreement which addresses all 5 pillars of the EU REFRESH blueprint in regard to food donation			x	

#### 3.21.5 Communication initiatives for food redistribution

As of June 2019, there are no communication initiatives targeting food redistribution in Poland.

#### 3.21.6 Other initiatives for food redistribution

Poland implements the **FEAD programme** under OP1 as separate sub-programmes, each of them lasting approximately 10 months. The most deprived individuals and families, who meet specific

income criteria, are provided with food packages and served on the spot meals. The programme also includes accompanying measures such as workshops on food preparation in order to prevent its waste, home budget management or other activities empowering end recipients<sup>594</sup>. At the national level, 4 partner organisations share the responsibility for the programme: Caritas Poland, the Polish Federation of Food Banks, the Polish Red Cross and the Polish Committee of Social Assistance, assisted by approximately 100 regional organisations and around 2 500 local organisations delivering food directly to end recipients. The National Centre for Agriculture, an intermediate body (National Centre for Agriculture), purchases the food within a public procurement procedure. As such, the food that is distributed is purchased, and not recovered, and thus does not have a direct influence on redistribution<sup>595</sup>.

Poland also exceptionally implemented a temporary support measure for producers of certain fruits and vegetables due to the Russian embargo, by which individual fruits and vegetable producers could also apply for support. The withdrawn products could be either be redistributed or sent for biogas production. The withdrawal operations almost exclusively went towards redistribution, as the support rates applicable for other valorisation routes were significantly lower<sup>596</sup>. Furthermore, according to the EU’s common market organisation provisions (Regulation (EU) 1308/2013, Article 34 (4)), Poland implemented **market withdrawal measures** for crisis prevention and management. Producers’ organisations may withdraw fruits and vegetables for redistribution (free of charge to charity organisations, hospitals, educational establishments, etc.) and for animal feed.

**Table 195 Evaluation of the Member State’s policy in terms of “Other initiatives for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Use of the FEAD operational programme to support the redistribution of food			x	
Presence of measures encouraging the redistribution of fruits and vegetables withdrawn from the market, in line with Regulation (EU) 1308/2013	x			
Publication of studies/research related to food redistribution			x	
Presence of financial or logistic support for food redistribution at the national/regional/local level			x	
Absence of incentives for the valorisation of food surplus via anaerobic digestion, which may otherwise hinder redistribution if the incentives for anaerobic digestion favour this recovery route over redistribution	x			

<sup>594</sup> Information from the EU Platform on Food Losses and Food Waste. 2018  
<sup>595</sup> Information from the EU Platform on Food Losses and Food Waste. 31 October 2018.  
<sup>596</sup> Information from the EU Platform on Food Losses and Food Waste. 31 October 2018.

## 3.22 Portugal

### 3.22.1 National strategies for food redistribution

In 2016, the Ministerial Order 1420B/2016 established the **National Commission for Combating Food Waste (CNCDA)**, a task force coordinated by the Ministry of Agriculture, with the mission of promoting food waste reduction through an integrated and multidisciplinary approach. The CNCDA has many tasks, including the diagnosis, assessment and monitoring of food waste at the national level, the identification of good practices and the elaboration of food waste reduction measures that integrate food security, public health, and best practices in the fields of production, agro-food industry, distribution and consumption<sup>597</sup>. 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.

From its initial launch in 2016, the task force conducted plenary meetings and public consultations to design a **National Strategy and Action Plan to Combat Food Waste 2018-2021**, which was approved by the *Resolução do Conselho de Ministros nº 46/2018 in 2018*. The national strategy is a firm commitment to SDG 12.3, and to adopting a global approach, with a focus on food waste while 2 from the 14 strategy actions addresses specifically food redistribution. It defines 3 main strategic objectives to combat food waste, which are to prevent, reduce and monitor, that aim to develop the mandate of the task force: 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 referred to in v) to facilitate food donation will be available by the end of 2019<sup>598</sup>. The national strategy includes 2 measures which directly promote food redistribution, thus identifying it as an essential solution for food waste reduction:

- "Facilitating and encouraging the food donation scheme;
- Implementing a collaborative platform to identify availability of food promoting food donation<sup>599</sup>  
<sup>600</sup>".

While it is still in its initial stages, the national strategy defines 7 indicators that will be used to monitor food waste. The CNCDA will monitor and evaluate the implementation of the strategy, including the monitoring of the strategy's measures. The first notification of food waste measurements in Portugal will be submitted to the European Commission in 2022, based on 2020 as a reference year, in line with the revised waste Directive<sup>601</sup>.

The National Strategy and Action Plan to Combat Food Waste fuelled the writing of Portugal's **Action Plan for the Circular Economy 2017-2020 - Food without excess: combatting food waste** (*Alimentar sem sobrar: combate ao desperdício*)<sup>602</sup>, with the following objectives:

- Understand and monitor the national reality of food waste in the value chain;
- Reduce the production of organic waste and increase the productivity of the value chain;
- Contribute to producer and consumer education.

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<sup>597</sup> Information from the EU Platform on Food Losses and Food Waste. 4 July 2018.

<sup>598</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>599</sup> Interview with a member of the Portuguese Ministry of Agriculture. 12 June 2018.

<sup>600</sup> CNCDA. 19 March 2018. "National strategy and action plan to combat food waste".

[https://ec.europa.eu/food/sites/food/files/safety/docs/fw\\_eu-platform\\_20180319\\_sub-ai\\_pres-05.pdf](https://ec.europa.eu/food/sites/food/files/safety/docs/fw_eu-platform_20180319_sub-ai_pres-05.pdf).

<sup>601</sup> Interview with a member of the Portuguese Ministry of Agriculture. 12 June 2018.

<sup>602</sup> Interview with the Portuguese Banco Alimentar Contra a Fome. 6 May 2018.

The National Strategy and Action Plan to Combat Food Waste and the Action Plan for the Circular Economy are intertwined, and the national strategy will help achieving some of the Action Plan for the Circular Economy's objectives, including those on food donation. Indeed, the Action Plan for the Circular Economy aims to review the legislation associated with donating food products, in connection with European guidelines. However, no data is available on the advancement of the measure, nor its impact on food redistribution<sup>603</sup>.

Finally, in collaboration with the Portuguese Food and Economic Safety Authority (ASAE) and the National Authority for Food Safety and Animal Health (DGAV), the non-profit DariAcordar published a "**Frequently asked questions on food donation**" (*FAQs (Perguntas frequentes)*)<sup>604</sup> guidance document, providing answers to the questions regularly asked by donors and institutions that receive or distribute meals. The "Frequently asked questions on food donation" provides guidance on the following topics:

- Type of packaging to use to donate or distribute meals;
- The types of meals that may be donated;
- The storage conditions for food items that are to be or that have been donated;
- The procedure for donating meals to recipient entities;
- The procedure for distributing meals to users;
- Information concerning financial supervision and responsibilities.

The document gives specific guidance on technical questions (storage over the week-end for redistribution organisations only open in the week, mixing and distributing food items from different sources, etc.). By clearly going over all steps of the food donation process, and answering the most common interrogations of actors, donors and redistribution organisations are aware of the exact requirements for food redistribution, thus limiting the issues which can prevent them from redistributing or accepting donated food items. According to the Frequently asked questions on food donation document developed, 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 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>605</sup>.

Other guidance documents were also issued in Portugal to promote food redistribution. Several guidance documents have been written by those 3 same actors: ASAE, the DGAV and DariAcordar. For instance, the "Procedures to be adopted for restaurants/catering services/events" 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>606</sup>. All those documents are available online at National Commission for Combating Food Waste website in the documents section<sup>607</sup>.

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<sup>603</sup> Interview with a member of the Portuguese Ministry of Agriculture. 12 June 2018.

<sup>604</sup> DariAcordar/ASAE/DGAV. "Frequently asked questions on food donation" (FAQs (Perguntas frequentes)). [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>605</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>606</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)

<sup>607</sup> <http://www.cncda.gov.pt/index.php/documentos-e-legislacao/documentos-de-apoio>

**Table 196 Evaluation of the Member State’s policy in terms of “National strategies for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a national food waste strategy including food redistribution measures		x		
Adoption of SDG 12.3 or more ambitious goals, driving the adoption of food redistribution to meet these targets	x			
Availability of guidelines to facilitate and promote food donation	x			
Call to develop and strengthen relationships between food redistribution actors	x			

### 3.22.2 Fiscal incentives for food redistribution

In Portugal, the Tax Benefit Code (*Estatuto dos Benefícios Fiscais - EBF*)<sup>608</sup> fosters food donation; according to Article 64 of the **Portuguese Tax Benefit code**, VAT is not charged on food donated to specific entities (e.g. the State and non-profit organisations) when the goods are to be delivered to people in need. Generally, the value of food items close to their "best before" date is set at zero<sup>609</sup>.

Furthermore, Article 62 of the Portuguese Tax Benefit code grants the possible deduction for food donations from the taxable income basis plus 20%, 30% or 40% depending on the institution, with the limit of the 0,08% of the turnover. The enhanced tax deduction is equal to the adjusted tax basis of the products at the moment of the donation, plus 20%, 30% or 40%<sup>610</sup>.

During the CNCDA’s public stakeholder consultations for the national strategy, no complaints were made about the VAT and tax incentives which regulate food donation, except on the cap of 0.08% for the tax deduction which is considered too low. As such, stakeholders were viewed as content with the current system. However, it is difficult to determine the direct impact of both measures on the amount of food redistributed, as there are many factors involved and no direct correlation can be established. However the fiscal issue, among others like date marking are to be at later stage revisited and more deeply discussed on technical seminars promoted by CNCDA<sup>611</sup>.

<sup>608</sup> National Government. 1989. "Portuguese Tax Benefit code" (Estatuto dos Benefícios Fiscais - EBF). <https://www.pwc.pt/pt/pwcinforfisco/codigos/ebf.html>.

<sup>609</sup> EESC - Bio by Deloitte. 2014. "Comparative Study on EU Member States' legislation and practices on food donation." [https://www.eesc.europa.eu/resources/docs/comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation\\_finalreport\\_0](https://www.eesc.europa.eu/resources/docs/comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation_finalreport_0).

<sup>610</sup> EESC - Bio by Deloitte. 2014. "Comparative Study on EU Member States' legislation and practices on food donation." [https://www.eesc.europa.eu/resources/docs/comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation\\_finalreport\\_0](https://www.eesc.europa.eu/resources/docs/comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation_finalreport_0).

<sup>611</sup> Interview with a member of the Portuguese Ministry of Agriculture. 12 June 2018.



**Table 197 Evaluation of the Member State’s policy in terms of “Fiscal incentives for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a fiscal regime specific to food redistribution	x			
Presence of guidelines to clarify how to address complex fiscal regimes such as VAT and/or tax deductions			x	

### 3.22.3 Legal measures for food redistribution

#### 3.22.3.1 General legal framework on food redistribution

As of June 2019, there is no legal framework specific to food redistribution, in addition to EU rules in Portugal.

**Table 198 Evaluation of the Member State’s policy in terms of “General legal framework on food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a legal framework specific to food redistribution, in addition to EU rules			x	
Presence of the food use hierarchy				X

#### 3.22.3.2 Traceability requirements applicable to food redistribution

In Portugal, the traceability of products (quantity and origin of donated products) must be maintained at all times, especially regarding the place of origin and amounts of donated food, according to the **Technical note on the Donation of Foodstuffs** (*Nota técnica – Doação de géneros alimentícios*), developed by the ASAE in 2014. Furthermore, products must be stored and consumed on the "first in, first out" principle<sup>612</sup>. The receiving agency must keep an up-to-date register of all accepted products<sup>613</sup>.

**Table 199 Evaluation of the Member State’s policy in terms of “Traceability requirements applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a clear traceability regime for food redistribution			x	
Presence of guidelines which clarify the traceability regime for food redistribution	x			

<sup>612</sup> ASAE. 2014. “Technical note No. 01/2014 – Donations of Foodstuffs.”

[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>613</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

### 3.22.3.3 Primary responsibility and liability rules applicable to food redistribution

In terms of **primary responsibility**, it is shared for donated food between the actors involved, and the person who holds the food at a given time is responsible for it: "The responsible for the hygiene and safety of the donated food items is the next intervenient in the donation process to which the Donor Entities delivers the items, with the latter party being free from any responsibility from after the donation"<sup>614</sup>. In other words, the liability for donated items lies with the receiving entity. After the donation, the donor is free from any responsibility,<sup>615</sup> except in cases where food safety 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.

Furthermore, 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<sup>616</sup>.

More recently, in the framework of the National Strategy to Combat Food Waste, the DGAV in collaboration with ASAE published guidelines for food donation to NGOs<sup>617</sup> which address handling, the conservation and transport issues for food donation, as well as the responsibilities of actors concerned in relation to food safety and liability<sup>618</sup>.

**Table 200 Evaluation of the Member State's policy in terms of "Primary responsibility and liability rules for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of clear primary responsibility and liability rules for food redistribution			x	
Presence of guidelines which clarify the primary responsibility and liability rules for food redistribution	x			

### 3.22.3.4 Hygiene rules applicable to food redistribution

In its Technical note on the Donation of Foodstuffs<sup>619</sup>, the ASAE establishes the appropriate procedures during the reception, sorting, packaging and preservation of food received in redistribution organisations. It provides clear guidelines to receiving agencies, such as the following measures:

<sup>614</sup> Dariacordar/ASAE/DGAV. "Frequently asked questions on food donation" (FAQs (Perguntas frequentes)).

[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>615</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>616</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>617</sup> Portuguese National Authority for Animal Health. 2018. "Combating Food Waste - Frequently Asked Questions". [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>618</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>619</sup> ASAE. 2014 "Technical note on the Donation of Foodstuffs" (Nota técnica – Doação de géneros alimentícios). [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).

- Food transportation must be carried out respecting required storage temperatures, to avoid contamination or damage;
- Vehicles that transport food items must be cleaned and disinfected according to their frequency of use;
- Non-perishable food items are to be stored in cool, dry conditions, away from direct sunlight.

The Technical note on the Donation of Foodstuffs does not explicitly promote food redistribution, it gives guidelines to meet all health and safety criteria, thus ensuring that donated products always comply with the **food safety and hygiene** requirements<sup>620</sup>.

Furthermore, in collaboration with the ASAE and the DGAV, the non-profit DariAcordar elaborated guidance documents 2 more guidance documents: the **Procedures for food donation in hospitality and catering sector** (*Procedimentos a adotar para restauração/catering/eventos*)<sup>621</sup> and the **Procedures for food donation by large establishments** (*Procedimento a adotar para alimentos doados por grandes superfícies*)<sup>622</sup>.

Concerning food hygiene and food safety, the Procedures for food donation in hospitality and the catering sector define the following requirements:

- As a rule, all food items that remain in the kitchen can be donated as long as they were not exposed to possible contamination;
- Food items that were served or placed on tables, in direct contact with consumers, must follow the following rules:
  - If the food items were collected from a buffet, they must be served at the next meal, not exceeding 12 hours between collection and service;
  - If the food items were displayed while hot, bain-marie temperatures must ensure that the items are maintained at minimum 70°C;
  - If the food items were displayed while cold, they must be kept at a temperature of no more than 5°C;
  - Food items cannot have been displayed for over 3 hours, or another period of time that was validated through an HACCP study;
  - After being displayed, the food must be taken to the kitchen where it is packed, and stored in the cold;
  - The items cannot be delivered to end users but must be distributed and served to consumers within the receiving institutions within 12 hours of reception.

Furthermore, the following food items cannot be collected:

- Food with raw or undercooked ingredients;
- Seafood;
- Products which contain eggs and that did not reach 70°C during cooking.

These documents give guidelines on the identification, sorting, collection, transport, liability and distribution of donated products. They provide guidance on the appropriate hygiene procedures to follow. They give clear instructions for caterers, restaurants, donors as well as for “large establishments” (retailers) above the procedures to follow to donate food in a safe manner, thus facilitating the donation process for the involved entities. For example, there are precise temperature

<sup>620</sup> Interview with a member of the Portuguese Ministry of Agriculture. 12 June 2018.

<sup>621</sup> Dariacordar/ASAE/DGAV. “Procedures for food donation in hospitality and catering sector” (Procedimentos a adotar para restauração/catering/eventos).

[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>622</sup> Dariacordar/ASAE/DGAV. “Procedures for food donation by large establishments” (Procedimento a adotar para alimentos doados por grandes superfícies).

[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).

requirements for the different stages of the redistribution process (transport, storage, etc.) depending on the food category<sup>623</sup>.

Finally, in the framework of the National Strategy to Combat Food Waste, guidelines for food donation to NGOs were published in 2018<sup>624</sup> by DGAV in collaboration with ASAE, addressing several issues including general hygiene requirements and responsibilities of donor and receivers in the donation process.

**Table 201 Evaluation of the Member State’s policy in terms of “Hygiene rules applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of national laws in addition to EU rules to simplify hygiene requirements for food redistribution			x	
Presence of national guidelines explaining hygiene requirements for food redistribution, clarifying EU rules and making them easier to understand for relevant actors	x			

### 3.22.3.5 Food information to consumers applicable to food redistribution

With respect to **date marking**, products may be donated after the “best before” date, and prepacked products that are labelled “products of the day” can be donated until noon on the day after<sup>625</sup>.

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>626</sup> It 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 it does not show sign of alteration<sup>627</sup>.

Furthermore, according to the Technical Note on the Donation of Foodstuffs, all products must be identified by their name and date of reception or by their expiry date for labelled products<sup>628</sup>.

<sup>623</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>624</sup> Portuguese National Authority for Animal Health. 2018. “Combating Food Waste - Frequently Asked Questions”. [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>625</sup> Dariacordar/ASAE/DGAV. “Frequently asked questions on food donation” (FAQs (Perguntas frequentes)). [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>626</sup> National Authority for Food and Animal Health (DGAV). 2018. “Interpretação Das Menções “Data Limite De Consumo” E “Data Da Durabilidade Mínima” Na Rotulagem De Géneros Alimentícios”. [http://www.cncda.gov.pt/images/DocumentosLegislacao/8\\_Esclar\\_Rotulagem.pdf](http://www.cncda.gov.pt/images/DocumentosLegislacao/8_Esclar_Rotulagem.pdf)

<sup>627</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>628</sup> ASAE. 2014. “Technical note No. 01/2014 – Donations of Foodstuffs.” [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).

**Table 202 Evaluation of the Member State’s policy in terms of “Food information to consumers applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Donation requirements in line with EU recommendation on “best before” dates	x			
Presence of national guidelines on “best before” dates	x			
Presence of laws targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)			x	
Presence of national guidelines targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)	x			

### 3.22.4 Voluntary Agreements for food redistribution

The National Commission to fight food waste established a Voluntary Agreement with the retail sector for the creation of specific outlets for food products which may be wasted, launched campaigns directed to consumers to provide explanations on date marking and organised explanation sessions targeting specific groups of economic operators (e.g. industry, restaurants and touristic operators). Information on the effectiveness of this agreement is not yet public available<sup>629</sup>.

Before the establishment of the national strategy to combat food waste, civil society associations had established several Voluntary Agreements with the retail sector to rescue surplus food for food donation. These actions were supported by ASAE, and in some cases by the local administration, providing information and training for hygiene and food security. Additionally, the Portuguese Federation of Food Banks has agreements with charitable organisations for the donation of surplus food<sup>630</sup>.

<sup>629</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>630</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

**Table 203 Evaluation of the Member State’s policy in terms of “Voluntary Agreements for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a Voluntary Agreement which addresses all 5 pillars of the EU REFRESH blueprint in regard to food donation		x		

### 3.22.5 Communication initiatives for food redistribution

National communication campaigns for food waste reduction should be launched within the scope of the National Strategy and Action Plan to Combat Food Waste, but there is no information on campaigns promoting food redistribution at this stage.

A campaign, included in the National Strategy and Action Plan was launched in 2018 by *Direção Geral do Consumidor* addressing consumers with a leaflet entitled “*Poupe! Diga NÃO ao Desperdício Alimentar!*” (“Save! Say NO to food waste”), with simple tips for consumers when preparing to go shopping or when at home manage food at home, aiming to prevent and avoid food waste<sup>631</sup>.

One of the actions of the National Strategy includes promoting and sharing good practices. To that effect the institutional website of CNCDA is regularly updated on the section dedicated to those “good practices” by way of publishing a standard and harmonized file with the description initiatives, mainly private, aiming at reducing food waste, with some of them directed to food redistribution.

### 3.22.6 Other initiatives for food redistribution

The **Zero Waste Movement** (*Zero Desperdício*) piloted by DariAcordar since 2012 carries the ambition to set up a network of relationships and establish strong links between existing bodies, donors and recipients of food donations. The aim is to guarantee fast, safe transfers of food products to the redistribution organisations which support people in need. The Zero Waste Movement acts at the local level, within cities such as Cascais, Lisbon, Loures or Sintra, by developing best practices and guidelines for food donors<sup>632</sup>.

The Zero Waste Movement overcomes barriers to food redistribution, by optimising the food redistribution network and connecting public actors with donors (restaurants, school canteens, hotels, and supermarkets) and food charities. It also aims at overcoming the misinterpretation and lack of knowledge of the General Food Law in terms of responsibility and liability. The pilot phase started in January 2012, and the Zero Waste Movement helped distribute almost 6 million meals since then, mainly in the cities, and helped avoid the waste of almost 3000 tonnes of food surplus. It gathers 310 donors and 78 receiving entities<sup>633</sup>. This movement complements the work of the food banks, as it mainly distributes meals and fresh products (fruits and vegetables).

<sup>631</sup> CNCDA, “Poupe! Diga Nao ao desperdício Alimentar!” <http://www.cncda.gov.pt/images/DocumentosLegislacao/DesperAlimentDGConsumidor.pdf>

<sup>632</sup> EESC - Bio by Deloitte. 2014. “Comparative Study on EU Member States’ legislation and practices on food donation.” [https://www.eesc.europa.eu/resources/docs/comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation\\_finalreport\\_0](https://www.eesc.europa.eu/resources/docs/comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation_finalreport_0).

<sup>633</sup> DariAcordar. “Zero Waste Movement” (Zero Desperdício). Official website. <http://www.zerodesperdicio.pt/>.

Finally, 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 the produce is canalized through food banks with adequate infrastructure and action at regional level, sometimes there are peak quantities difficult to store, handle or to consume in a short period of time<sup>634</sup>.

**Table 204 Evaluation of the Member State’s policy in terms of “Other initiatives for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Use of the FEAD operational programme to support the redistribution of food			x	
Presence of measures encouraging the redistribution of fruits and vegetables withdrawn from the market, in line with Regulation (EU) 1308/2013	x			
Publication of studies/research related to food redistribution			x	
Presence of financial or logistic support for food redistribution at the national/regional/local level			x	
Absence of incentives for the valorisation of food surplus via anaerobic digestion, which may otherwise hinder redistribution if the incentives for anaerobic digestion favour this recovery route over redistribution	x			

<sup>634</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

## 3.23 Romania

### 3.23.1 National strategies for food redistribution

Although there is no national plan related to food redistribution activities, Romania published on January 5<sup>th</sup>, 2018 a **National Waste Management Plan**<sup>635</sup>. The Plan, which contains information about food waste generation and management, can have an impact on surplus food redistribution.

The Romanian waste management plan contains targets to reduce all types of waste, including food waste. The program is in line with the guidelines from the European Union regarding food waste prevention and reduction<sup>636</sup>. It therefore encourages reduction at the source, donation, recycling, and avoiding waste incineration, in line with the waste hierarchy principles. This plan does not however directly impact food redistribution.

Furthermore, Romania is a signatory of the Paris Agreement signed on December 12, 2015, which along with the other EU member states and as well as the United Nations (UN) member states, confirmed the commitment to reduce food waste by 50% until the year 2030, set out in the 2030 Agenda for sustainable development, adopted at the UN summit in New York, in September 2015. In April 2016, the Declaration no. 1/2016 of the Parliament of Romania on the objectives of sustainable development, reiterates the attachment of Romania to the UN objectives and that the country is committed to the continuous mobilization of expertise and own resources in order to achieve the 2030 Agenda.

In 2016, the Law no. 217 regarding the reduction of food waste was adopted and was amended and supplemented by Law no. 200/2018 and published in the Official Journal of Romania 647 / 25.07.2018. In February 2019, the Norms of application of Law no. 217/2016 regarding the reduction of food waste, which were modified and completed by Law no. 200/2018, were approved by H.G. no. 51/2019.

**Table 205 Evaluation of the Member State's policy in terms of "National strategies for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a national food waste strategy including food redistribution measures			x	
Adoption of SDG 12.3 or more ambitious goals, driving the adoption of food redistribution to meet these targets	x			
Availability of guidelines to facilitate and promote food donation			x	
Call to develop and strengthen relationships between food redistribution actors			x	

<sup>635</sup> Hotararea Guvernului nr. 942/2017 privind aprobarea Planului National de gestionare a deseurilor)

<sup>636</sup>Information from the EU Platform on Food Losses and Food Waste. 2018



### 3.23.2 Fiscal incentives for food redistribution

**The Romanian fiscal code**<sup>637</sup> sets the General Tax Code in Romania.

According to Law No 217/2016 on reducing food waste, Article 4, the economic operators that transfer food by donation, according to the present law, benefit from fiscal facilities, as they are regulated by the provisions of Article 25 para. (4) , c), points 4, 5 and 6 of Law no. 227/2015 regarding the Fiscal Code, as subsequently amended and supplemented. According to it, food donors may benefit from a tax corporate credit, meaning that 100% of the value of the donation can be deducted from the tax due.

As per Article. 25 that refers to Costs, para. (4) the following **expenses are not deductible**: (c) the expenses regarding the goods of the nature of the stocks or of the fixed depreciable assets found missing from management or degraded, not imputable, as well as the related value added tax, if it is due according to the provisions of Title VII. **These expenses are deductible** in the following situations / conditions: 4. foods intended for human consumption, with a deadline for consumption close to expiry, other than those in the situations / conditions provided for in points 1 and 2, if their transfer is made according to the legal provisions regarding the reduction of food waste; 5. by-products of animal origin, not intended for human consumption, other than those in the situations / conditions provided for in points 1-3, if their elimination is carried out in accordance with the legal provisions regarding the reduction of food waste; 6. agri-food products, which have become unfit for human or animal consumption, if the targeting / directing aims to transform them into compost / biogas or to neutralize them, according to the legal provisions regarding the reduction of food waste.

Meanwhile, the full rate of VAT is applied to donated products in Romania, and it is making more expensive to donate food rather than to throw it out<sup>638</sup>.

**Table 206 Evaluation of the Member State's policy in terms of "Fiscal incentives for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a fiscal regime specific to food redistribution	x			
Presence of guidelines to clarify how to address complex fiscal regimes such as VAT and/or tax deductions			x	

### 3.23.3 Legal measures for food redistribution

#### 3.23.3.1 General legal framework on food redistribution

Food donation is described in the *Law no. 32/1994 on sponsorship*, the general law that defines sponsorship and donation.

The country is at its very beginning as concerns large scale food donation initiatives, although donations have been taking place locally through small charities linked to the Orthodox Church. Nonetheless, inspired by the French law n°2016-138 on fighting food waste, the Romanian

<sup>637</sup> Legea nr. 227/2015 privind Codul fiscal <http://itva.ro/documents/Lege227per2015.pdf>

<sup>638</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

government published a first “food waste” legislation<sup>639</sup> in November 2016 that obliged retailers to donate food to charities. The original proposal defined food waste and economic operators, moreover it outlined the obligations for retailers regarding food waste reduction actions, such as:

- Raising awareness on food waste across the supply chain;
- Selling at discount prices products which are close to the expiry date;
- Donating food to charities in accordance to the hygiene legislation;
- Sending surplus food to be used for animal feed, anaerobic digestion etc;
- In case retailers did not respond to their obligations, fines were to apply<sup>640</sup>.

The application of the proposal has been suspended until July 2018 when the amended Law, no. 200/2018 (*Legea no. 200/2018 pentru modificarea Legii nr.217/2016 privind diminuarea risipei alimentare*), was voted on<sup>641</sup>, consequently amending some articles included in the initial proposal. The new proposal recommends (and does not oblige) retailers to implement at least 2 of the above-mentioned food waste reduction actions. According to this revised version, no fines would be applied to retailers who do not implement at least 2 of the suggested actions to reduce food waste, including food donation. According to the amended Law, the operators in the food industry may take measures to prevent food waste such as discounts on food close to the expiration date and donation of food close to their expiration date.

Moreover, the Annex of the Law no. 200/2018 includes definitions for donors, receivers and final consumers. Both donors and receiver organisations have to be authorised sanitary-veterinary organisations, and comply with food hygiene and food safety norms<sup>642</sup>. Recipient operators (beneficiary organizations) are agro-food sector operators carrying out registered/authorized veterinary and food safety activities and they are responsible for complying with food hygiene legislation after taking over from donor operators, finally they are intended to supply only end consumers<sup>643</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. Economic operators (donor organisations) are defined as in Regulation (EC) No. 178/2002.

The Government Decision no. 51/2019<sup>644</sup> stipulating the rules for applying the amended Law no. 217/2016, was adopted in January 2019. The main 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 food waste prevention hierarchy;
- 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), as well as reporting obligations for both donors and receivers<sup>645</sup>.

Furthermore, the Law stipulates that food can be donated at any time within 10 days before the date of minimum durability. Government Decision no. 51/2019 for the approval of the Methodological

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<sup>639</sup> Legea nr.217/2016 privind diminuarea risipei alimentare  
[http://www.dreptonline.ro/legislatie/legea\\_217\\_2016\\_diminuarea\\_risipei\\_alimentare.php](http://www.dreptonline.ro/legislatie/legea_217_2016_diminuarea_risipei_alimentare.php)

<sup>640</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>641</sup> Legea nr. 200/2018 pentru modificarea și completarea Legii nr. 217/2016 privind diminuarea risipei alimentare  
<https://lege5.ro/Gratuit/gi4dsmzugqzq/legea-nr-200-2018-pentru-modificarea-si-completarea-legii-nr-217-2016-privind-diminuarea-risipei-alimentare>

<sup>642</sup> Romanian Parliament. 2018. “Legea nr. 200/2018 pentru modificarea și completarea Legii nr. 217/2016 privind diminuarea risipei alimentare”. <https://lege5.ro/Gratuit/gi4dsmzugqzq/legea-nr-200-2018-pentru-modificarea-si-completarea-legii-nr-217-2016-privind-diminuarea-risipei-alimentare>

<sup>643</sup> Romanian Parliament. 2018. “Legea nr. 200/2018 pentru modificarea și completarea Legii nr. 217/2016 privind diminuarea risipei alimentare”. <https://lege5.ro/Gratuit/gi4dsmzugqzq/legea-nr-200-2018-pentru-modificarea-si-completarea-legii-nr-217-2016-privind-diminuarea-risipei-alimentare>

<sup>644</sup> Romanian Government. 2019. “Government Decision no. 51/2019”.  
<http://www.monitoruloficial.ro/emonitornew/emonviewmof.php?fid=MS43ODYzMTQ1NDA4NzAyRSszMA==>

<sup>645</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

Norms for the application of Law no. 217/2016 on the reduction of food waste, stipulates that the following items are forbidden from donation: vegetable juices and unpasteurized fruits; pre-cut vegetables and fruits, germinated seeds, and alcohol. Some perishable agro-food products can be donated 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. The products concerned are 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<sup>646</sup>.

Additionally, the FBOs (donors) shall provide annual reports to the regulatory authorities presenting plans to reduce food waste, together with the actions undertaken and the results obtained. Annual reports are based on international reporting frameworks if they are not already included in the non-financial results reports of those operators<sup>647</sup>.

Finally, 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<sup>648</sup>.

**Table 207 Evaluation of the Member State’s policy in terms of “General legal framework on food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a legal framework specific to food redistribution, in addition to EU rules	x			
Presence of the food use hierarchy	x			

3.23.3.2 Traceability requirements applicable to food redistribution

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>649</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<sup>650</sup>.

<sup>646</sup> Information from the EU Platform on Food Losses and Food Waste. 2018  
<sup>647</sup> Information from the EU Platform on Food Losses and Food Waste. 2018  
<sup>648</sup> Information from the EU Platform on Food Losses and Food Waste. 2018  
<sup>649</sup> Romanian Government. 2019. “Government Decision no. 51/2019”.  
<http://www.monitoruloficial.ro/emonitornew/emonviewmof.php?fid=MS43ODYzMTQ1NDA4NzAyRSszMA==>  
<sup>650</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

**Table 208 Evaluation of the Member State’s policy in terms of “Traceability requirements applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a clear traceability regime for food redistribution	x			
Presence of guidelines which clarify the traceability regime for food redistribution			x	

### 3.23.3.3 Primary responsibility and liability rules for food redistribution

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

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

**Table 209 Evaluation of the Member State’s policy in terms of “Primary responsibility and liability rules for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of clear primary responsibility and liability rules for food redistribution	x			
Presence of guidelines which clarify the primary responsibility and liability rules for food redistribution			x	

### 3.23.3.4 Hygiene rules applicable to food redistribution

Law no. 200/2018 mentions that food donation should be carried out in line with the hygiene requirements of the **National Hygiene and Food Safety authority**<sup>651</sup>. However, hygiene requirements specific to food redistribution do not exist within these requirements.

<sup>651</sup> Romanian Parliament. 2018. “Legea nr. 200/2018 pentru modificarea și completarea Legii nr. 217/2016 privind diminuarea risipei alimentare”. <https://lege5.ro/Gratuit/gi4dsmzugqzq/legea-nr-200-2018-pentru-modificarea-si-completarea-legii-nr-217-2016-privind-diminuarea-risipei-alimentare>

**Table 210 Evaluation of the Member State’s policy in terms of “Hygiene rules applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of national laws in addition to EU rules to simplify hygiene requirements for food redistribution	x			
Presence of national guidelines explaining hygiene requirements for food redistribution, clarifying EU rules and making them easier to understand for relevant actors			x	

### 3.23.3.5 Food information to consumers applicable to food redistribution

The **Romanian legislation defining date marking**<sup>652</sup> was adopted in 1999 and has not undergone and revisions since. Article 13 defines “best before” date as “*the date up to which food products keep their specific characteristics, in the best storing conditions*”. Some products are exempted from date marking such as: drinks with +10% alcohol, sugar, fresh fruits and vegetables, vinegar, salt and others.

Furthermore, the Law on food waste, taking effect as of February 2019, states that food products can be donated as of 10 days before their “best before” date and up until the date of expiry, but not after<sup>653</sup>. No analysis on the impact of this piece of legislation is yet available<sup>654</sup>.

**Table 211 Evaluation of the Member State’s policy in terms of “Food information to consumers applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Donation requirements in line with EU recommendation on “best before” dates			x	
Presence of national guidelines on “best before” dates			x	
Presence of laws targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)			x	

<sup>652</sup> Hotararea Nr. 953 din 15 noiembrie 1999 privind modificarea și completarea Hotarării Guvernului nr. 784/1996 pentru aprobarea Normelor metodologice privind etichetarea produselor alimentare <http://www.legex.ro/Hotararea-953-1999-19782.aspx>

<sup>653</sup> Romanian Parliament. 2018. Legea nr. 200/2018 pentru modificarea și completarea Legii nr. 217/2016 privind diminuarea risipei alimentare. 28 07. Accessed 08 13, 2018. <https://lege5.ro/Gratuit/gi4dsmzugqzq/legea-nr-200-2018-pentru-modificarea-si-completarea-legii-nr-217-2016-privind-diminuarea-risipei-alimentare>.

<sup>654</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of national guidelines targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)			x	

### 3.23.4 Voluntary Agreements for food redistribution

As of June 2019, there are no Voluntary Agreements addressing food waste or promoting food redistribution in Romania.

**Table 212 Evaluation of the Member State’s policy in terms of “Voluntary Agreements for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a Voluntary Agreement which addresses all 5 pillars of the EU REFRESH blueprint in regard to food donation			x	

### 3.23.5 Communication initiatives for food redistribution

As of June 2019, there are no communication initiatives targeting food redistribution in Romania.

### 3.23.6 Other initiatives for food redistribution

The initiatives for food redistribution are scarce in Romania, however do exist. The donors may participate voluntarily as partners in the activities and campaigns proposed by the authorities and/or may initiate their own information activities. According to stakeholder interviews, it seems that there is no established practice for food donation in Romania: there are a lot of people in need, but resources are difficult to find. This situation might also be linked to a lack of environmental awareness and to the fact that donations are typically made by religious charity networks.

FEAD resources have been provided for years to the most deprived via the local public institutions, such as town halls, though they do not directly promote the redistribution of food. The Fund helps 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 can be distributed to children in low income and disadvantaged households, with the aim of boosting children’s motivation and reducing school dropout rates<sup>655</sup>.

<sup>655</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

In 2017, **the first Romanian food bank** (*Banca pentru alimente*) was launched in Bucharest thanks to the support of the European Federation of Food Banks. The objective of the food bank is to collect 250 tonnes of surplus food from 20 donors (at the moment there are only 6) and to distribute this to 100 charities in order to feed 15 000 people in need<sup>656</sup>.

**Table 213 Evaluation of the Member State’s policy in terms of “Other initiatives for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Use of the FEAD operational programme to support the redistribution of food			x	
Presence of measures encouraging the redistribution of fruits and vegetables withdrawn from the market, in line with Regulation (EU) 1308/2013				X
Publication of studies/research related to food redistribution			x	
Presence of financial or logistic support for food redistribution at the national/regional/local level			x	
Absence of incentives for the valorisation of food surplus via anaerobic digestion, which may otherwise hinder redistribution if the incentives for anaerobic digestion favour this recovery route over redistribution	X			

<sup>656</sup> Interview Gabriel Sescu, founder of the Romanian food bank, 27/07/2018

## 3.24 Slovakia

### 3.24.1 National strategies for food redistribution

In 2016, the Ministry of Agricultural and Rural Development established the **Plan for preventing food waste**, the implementation of which was assisted by the **National Platform against food waste** (*Národná Platforma proti plýtvaniu potravinami*)<sup>657</sup>. In the scope of the National Platform against food waste, the Ministry of Agriculture and Rural Development works alongside the Food Chamber of Slovakia, the Slovak Association of Commerce and other influential parties, such as retailers, in food waste reduction. The National Platform against food waste aims to facilitate communication, information exchange and the sharing of experiences between all involved actors. A first meeting took place to establish the Platform, and the second meeting, in autumn 2018, was foreseen to discuss the results from 2 measurements carried out on household food waste as well as potential solutions. It is however unclear if the Plan addresses measures concerning food redistribution.

Meanwhile, several guideline documents specific to food redistribution have been published in Slovakia, either relating to the fiscal regime around food redistribution, or the consequences of date marking on donations (see sections 3.24.2 and 3.24.3.5).

**Table 214 Evaluation of the Member State's policy in terms of "National strategies for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a national food waste strategy including food redistribution measures			x	
Adoption of SDG 12.3 or more ambitious goals, driving the adoption of food redistribution to meet these targets				x
Availability of guidelines to facilitate and promote food donation	x			
Call to develop and strengthen relationships between food redistribution actors			x	

### 3.24.2 Fiscal incentives for food redistribution

In Slovakia, food donations made to the Slovak food bank benefit from a zero-rate VAT according to the **Law no. 222/2004 on Value Added Tax** (*Zákon č. 222/2004 Z. z. O dani z pridanej hodnoty*)<sup>658</sup>. The value of each donated food item must however remain under 17 euros, excluding VAT. The Ministry of Finance does not evaluate the VAT law's impact on food redistribution, thus the effectiveness of the measure for redistribution is unknown.

<sup>657</sup> Ministry of Agricultural and Rural Development of the Slovak Republic. 2016. National Platform against food waste (*Národná Platforma proti plýtvaniu potravinami*). <http://www.mpsr.sk/index.php?navID=126&year=2016>.

<sup>658</sup> Ministry of Finance . 2004. "Law number 222/2004 on Value Added Tax" (*Zákon č. 222/2004 Z. z. O dani z pridanej hodnoty*). [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).



The Slovak Financial Directorate did however publish a guidance document on tax deductions in 2015, the “**Guidance on the tax implications regarding food donation to the Food Bank of Slovakia**” (*Usmernenie k daňovým dôsledkom poskytnutia potravinovej pomoci Potravinovej banke Slovenska*)<sup>659</sup>. Through this document, the Slovak Financial Directorate clarifies the rules necessary to benefit from the zero-rating of VAT, such as the 17 euro limit on the value of food. No further information is available on the guidelines’ use for redistribution.

In addition to their zero-rate of VAT, food donations made to the Slovak food bank can be corporate and income tax deductible expenses, thanks to the provisions of the **law no. 595/2003** (*Zákon č. 595/2003 Z. z. o dani z príjmov v znení neskorších predpisov*)<sup>660</sup>. The tax incentive applies to both individual and corporate donations, with no ceiling for the deductibility<sup>661</sup>. Thereby, both companies and citizens may benefit from this tax deduction, with the objective of increasing the amounts of food redistributed. However, similarly to the law no. 222/2004 on Value Added Tax, the measure is not monitored by the Ministry of Finance, and thus its impact on food redistribution remains unknown.

**Table 215 Evaluation of the Member State’s policy in terms of “Fiscal incentives for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a fiscal regime specific to food redistribution	x			
Presence of guidelines to clarify how to address complex fiscal regimes such as VAT and/or tax deductions	x			

### 3.24.3 Legal measures for food redistribution

#### 3.24.3.1 General legal framework on food redistribution

The **law no. 152/1995 on food**, amended by 376/2016 (*Zákon národnej rady Slovenskej republiky č. 152/1995 Z. z. o potravinách v znení neskorších predpisov*)<sup>662</sup>, lists the requirements for the donation of food items. Prior to the amendments in 2017, only the Slovak Food Bank was considered under the law on food, and it was the only recognized entity which could receive food donations. The 2017 amendments broadened its scope to include other charity organisations, defined in the legal and regulatory framework around redistribution. The amendment specifies, among the conditions for food donation, that the donor cannot ask for payment in exchange for the donation<sup>663</sup>.

However, while the 2017 amendments of the law on food include other charity organisations as potential beneficiaries of the law, the 2015 amendments of both financial laws (law no. 222/2004 on

<sup>659</sup> Financial Directorate of the Slovak Republic. 2015. “Guidance on the tax implications regarding food donation to the Food Bank of Slovakia” (*Usmernenie k daňovým dôsledkom poskytnutia potravinovej pomoci Potravinovej banke Slovenska*). [https://www.financnasprava.sk/\\_img/pfsedit/Dokumenty\\_PFS/Zverejnovanie\\_dok/Dane/Metodicke\\_usmernenia/Priame\\_dane/2\\_014\\_12\\_12\\_darovanie\\_potravin.pdf](https://www.financnasprava.sk/_img/pfsedit/Dokumenty_PFS/Zverejnovanie_dok/Dane/Metodicke_usmernenia/Priame_dane/2_014_12_12_darovanie_potravin.pdf).

<sup>660</sup> Ministry of Finance. 2003. Law number 595/2003 Z.z. on Income Tax - donation to the Food Bank of Slovakia - deductible expense for Corporate income tax and for self-employed natural persons (*Zákon č. 595/2003 Z. z. o dani z príjmov v znení neskorších predpisov*). <http://www.mfsr.sk/Default.aspx?CatID=8691>.

<sup>661</sup> Slovakia Ministry of Finance. 2003. “Law no. 595/2003 on income tax (*Zákon č. 595/2003 Z. z. o dani z príjmov v znení neskorších predpisov*)”. <http://www.mfsr.sk/Default.aspx?CatID=8691>

<sup>662</sup> Ministry of Agriculture and Rural Development. Last amended 1.1.2017. “Law number 152/1995 on Food, amended by 376/2016” (*Zákon národnej rady Slovenskej republiky č. 152/1995 Z. z. o potravinách v znení neskorších predpisov*). <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2016/376/20170101.html>.

<sup>663</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

Value Added Tax and law no. 595/2003 Z.z. on Income Tax) are only applicable to the Slovak Food Bank. Retailers can thus donate surplus food to any charity organisation, but will only benefit from the fiscal incentives if they donate to the Slovak Food Bank. Local actors mentioned the discrepancy between both laws, which implies the Slovak Food Bank will receive most donations, excluding other charity organisations.

**Table 216 Evaluation of the Member State’s policy in terms of “General legal framework on food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a legal framework specific to food redistribution, in addition to EU rules	x			
Presence of the food use hierarchy			x	

### 3.24.3.2 Traceability requirements applicable to food redistribution

**Table 217 Evaluation of the Member State’s policy in terms of “Traceability requirements applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a clear traceability regime for food redistribution				x
Presence of guidelines which clarify the traceability regime for food redistribution			x	

### 3.24.3.3 Primary responsibility and liability rules for food redistribution

According to the law no. 152/1995 on food, donor organisations are responsible for food safety up until the charity collects the donated food. Thereafter, the charity organisation becomes responsible. Charity organisations are to notify the District Public Health Authority about food control before preparing any meal with food products received from donations.

**Table 218 Evaluation of the Member State’s policy in terms of “Primary responsibility and liability rules for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of clear primary responsibility and liability rules for food redistribution	x			
Presence of guidelines which clarify the primary responsibility and liability rules for food redistribution			x	

### 3.24.3.4 Hygiene rules applicable to food redistribution

According to the Amendment 376/2016 to the 1995 National Food law, 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>664</sup>. Furthermore, the COs must notify the District Public Health Authority about food control before preparing meals from donated foods.

**Table 219 Evaluation of the Member State's policy in terms of "Hygiene rules applicable to food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of national laws in addition to EU rules to simplify hygiene requirements for food redistribution	x			
Presence of national guidelines explaining hygiene requirements for food redistribution, clarifying EU rules and making them easier to understand for relevant actors			x	

### 3.24.3.5 Food information to consumers applicable to food redistribution

The law no. 152/1995 on food allows retailers to donate food which has passed its "best before" date to charity organisations registered with the State Veterinary and Food Administration.

After the amendments of the law no. 152/1995 on food in January 2017, the Ministry of Agriculture and Rural Development issued a document, "**Common instructions on how to proceed before and during the donation of food after the expiry of "best before" dates to charitable organisations**" (*Spoločná inštrukcia o postupe pred a pri poskytovaní potravín po uplynutí dátumu minimálnej trvanlivosti charitatívnou organizáciou podľa § 6 zákona Národnej rady Slovenskej republiky č. 152/1995 Z. z. o potravinách v znení neskorších predpisov ďalej len „zákon o potravinách"*)<sup>665</sup> to provide clear instructions to both retailers and charity organisations concerning food donation. There is no information available on the impact of the guidelines, nor feedback from the relevant actors.

**Table 220 Evaluation of the Member State's policy in terms of "Food information to consumers applicable to food redistribution":**

<sup>664</sup> Slovak State Veterinary and Food Administration. 2016. "Amendment 376/2016 to the National Food law number 152/1995, effective since 1.1.2017". <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2016/376/>

<sup>665</sup> Ministry of Agriculture and Rural Development of Slovak Republic. 2017. "Common instructions on how to proceed before and during donation of food after the expiry of "best before" dates to charitable organisations pursuant to par. 6 of the Food Law no. 152/1995 Z.z" (*Spoločná inštrukcia o postupe pred a pri poskytovaní potravín po uplynutí dátumu minimálnej trvanlivosti charitatívnou organizáciou podľa § 6 zákona Národnej rady Slovenskej republiky č. 152/1995 Z. z. o potravinách v znení neskorších predpisov (ďalej len „zákon o potravinách"*)). [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).

	Criteria present	Criteria partly present	Criteria not present	Unknown
Donation requirements in line with EU recommendation on "best before" dates	x			
Presence of national guidelines on "best before" dates	x			
Presence of laws targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)				X
Presence of national guidelines targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)				X

#### 3.24.4 Voluntary Agreements for food redistribution

As of June 2019, there are no Voluntary Agreements addressing food waste or promoting food redistribution in Slovakia.

**Table 221 Evaluation of the Member State's policy in terms of "Voluntary Agreements for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a Voluntary Agreement which addresses all 5 pillars of the EU REFRESH blueprint in regard to food donation			x	

#### 3.24.5 Communication initiatives for food redistribution

As of June 2019, there are no communication initiatives targeting food redistribution in Slovakia.

#### 3.24.6 Other initiatives for food redistribution

**Table 222 Evaluation of the Member State's policy in terms of "Other initiatives for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Use of the FEAD operational programme to support the redistribution of food			x	
Presence of measures encouraging the redistribution of fruits and vegetables withdrawn from the market, in line with Regulation (EU) 1308/2013				x
Publication of studies/research related to food redistribution			x	
Presence of financial or logistic support for food redistribution at the national/regional/local level			x	
Absence of incentives for the valorisation of food surplus via anaerobic digestion, which may otherwise hinder redistribution if the incentives for anaerobic digestion favour this recovery route over redistribution	x			

## 3.25 Slovenia

### 3.25.1 National strategies for food redistribution

The Slovenian **Operational Programme on Waste Management and Waste Prevention**, launched in 2016 under the auspices of the Ministry of the Environment and Spatial Planning (MESP), includes a package of measures for the prevention of food waste. Food waste prevention was identified as a priority area due to its impacts on the environment and on greenhouse gas emissions. The objectives of the measures range from establishing a methodology to monitor food waste data to promoting the reduction and prevention of food waste, including household 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. However, the Operational Programme on Waste Management and Waste Prevention does not yet have a focus on redistribution<sup>666</sup>. In the same year, the Ministry of Agriculture was actively involved in the preparations for the country's waste management strategy. The project was prepared in close collaboration with the Ministry of Environment and the NGO "Ecologists without Borders". On the topic of food waste, the project defined:

- The national strategy of waste management, including food waste from households, on both national and local levels;
- The action plan for waste management;
- Market instruments (tax reliefs, environmental tax on waste) and commitments;
- The legislative framework (national and EU legislation in the field of environmental protection, eco labelling, food safety and consumers protection, market organisation for agricultural products and food) and targets;
- Possible agreements to reduce waste and food waste between different partners;
- Technical reports, scientific articles and media campaigns<sup>667</sup>.

Furthermore, as part of the **Zero Waste Europe movement**, Zero Waste Slovenia is a platform for national networks of municipalities, keeping track of their progress towards the Zero Waste pledge. The platform promotes Zero Waste at the national level and connects public and private entities with waste reduction initiatives<sup>668</sup>.

In 2015, the Ministry of Agriculture prepared an appeal ensuring that all institutions of the public sector offer their **surplus food to humanitarian organisations**. The project continued in 2016, and all partners agreed on the importance of obtaining data on the amount of surplus food in the country in 2015 and planned out the project's activities for 2016<sup>669</sup>. A somewhat similar act was voted in 2013, the School Meals Act, by which 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 organizations that are registered in the register of humanitarian organizations<sup>670</sup>.

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<sup>666</sup> Slovenia Ministry of Environment and Spatial Planning 2016; Slovenia Ministry of Environment and Spatial Planning n.d., Interviews with the member of the *EU Platform on Food Losses and Food Waste* (representing Slovenia)

[http://www.mop.gov.si/si/delovna\\_podrocja/odpadki/odpadna\\_hrana/](http://www.mop.gov.si/si/delovna_podrocja/odpadki/odpadna_hrana/)  
[http://www.mop.gov.si/fileadmin/mop.gov.si/pageuploads/zakonodaja/varstvo\\_okolja/operativni\\_programi/op\\_odpadki.pdf](http://www.mop.gov.si/fileadmin/mop.gov.si/pageuploads/zakonodaja/varstvo_okolja/operativni_programi/op_odpadki.pdf)

<sup>667</sup> Strategy for waste management in the framework of platform for circular economy, Slovenia Ministry of Agriculture, Forestry and Food 2016

<sup>668</sup> Zero Waste Slovenia, <http://ebm.si/zw/intro/>

<sup>669</sup> Information from the EU Platform on Food Losses and Food Waste. 2018.

<sup>670</sup> Slovenia Ministry of Education, Science and Sport 2013, School Meals Act, <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO6564>

Finally, the National Food Administration (AFSVSPP) defined all possible activities for charitable organisations and other intermediaries with the adoption of the **Guidelines for good hygiene practice for FBOs**<sup>671</sup>, who voluntarily collect, store, transport, distribute or redistribute food.

**Table 223 Evaluation of the Member State’s policy in terms of “National strategies for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a national food waste strategy including food redistribution measures			x	
Adoption of SDG 12.3 or more ambitious goals, driving the adoption of food redistribution to meet these targets			x	
Availability of guidelines to facilitate and promote food donation	x			
Call to develop and strengthen relationships between food redistribution actors	x			

### 3.25.2 Fiscal incentives for food redistribution

In 2011, **the Volunteering Act**<sup>672</sup> was adopted, which provides, inter alia, training and support for volunteers for voluntary public work. This relief can be deployed up to 0.3% of taxable income of the taxpayer during the tax period. This includes companies engaging volunteers in public services or not-for-profit activities, thereby including companies in the field of food industry and retailers who donate food to humanitarian organisations.

Likewise, taxpayers who independently carry out an activity and who determine the activity’s tax base 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<sup>673</sup>.

In 2017, as part of the amendment to the Agricultural Act, legislation was adopted for the special treatment of **VAT (tax relief) for donated food**. For food waste reduction purposes, Slovenia introduced tax reliefs on food donations made to humanitarian organisations on the basis of Article 66 of the Personal Income Tax Act<sup>674</sup>. A taxpayer can also claim this deduction for donations in cash and in kind to other humanitarian organisations and generally beneficial purposes.

The amended rules of the VAT Act regulate the implementation of this Act and provide an exemption for determining the food product’s value, which is otherwise determined based on accounting

<sup>671</sup> Slovenia Ministry of Agriculture and University of Ljubljana. 2017. “Guidelines for the handling of food by charity organisations”. [Not available online.](#)

<sup>672</sup> Official Gazette of the Republic of Slovenia, No. 10/11, 16/11  
[http://www.mop.gov.si/si/delovna\\_podrocja/odpadki/odpadna\\_hrana/](http://www.mop.gov.si/si/delovna_podrocja/odpadki/odpadna_hrana/)

<sup>673</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>674</sup> Personal Income Tax Act. Official Gazette of the Republic of Slovenia no. 13/11, 24/42, 75/12, 94/12, 96/13, 23/15, 55/15, and 63/16

standards. The 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>675</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 as long as the total value of donated food on behalf of the taxpayer does not exceed 2% of the taxpayer's annual profits. Although this regulation stimulates food donation, in Slovenia **food banks are not considered as humanitarian organisations**, and cannot benefit from this law<sup>676</sup>. It has been reported by the Slovenian Food Bank (SIBAHE) that, because the law incentivises donations to humanitarian organisations, donations to SIBAHE (treated as a private company) may drop. This is perceived as a hurdle by SIBAHE, because food that might have otherwise been donated to SIBAHE is now more likely to be rerouted to humanitarian organisations. According to SIBAHE the same tax breaks would need to be applied also for donations to food banks (or also other entities engaging in food redistribution, not only humanitarian organisations)<sup>677</sup>.

It is worth noting that in terms of the volumes of food redistributed in Slovenia, the humanitarian organisations currently contribute the most, and that SIBAHE is the only food bank in Slovenia. In terms of primary donors of surplus food, these are the big grocery stores such as Hofer, Lidl, Spar, Mercator, and L'Eclerc.

**Table 224 Evaluation of the Member State's policy in terms of "Fiscal incentives for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a fiscal regime specific to food redistribution	x*			
Presence of guidelines to clarify how to address complex fiscal regimes such as VAT and/or tax deductions			x	

\* The regulation of zero rate of VAT is in place for donations, however food banks do not benefit from it, since VAT=0 only for humanitarian organisations, excluding the Slovenian Food Bank.

### 3.25.3 Legal measures for food redistribution

#### 3.25.3.1 General legal framework on food redistribution

In June 2017, an amendment of the **Agriculture Act**<sup>678</sup> defined more specifically the conditions for food donations (including possible investments in technical support for those purposes). In particular, this Act regulates the implementation of the following EU regulations related to food donation:

1. Food donation is a free distribution of food that meets all the prescribed food safety requirements in accordance with Regulation 178/2002 / EC.

<sup>675</sup> 2017. "Rules on the Implementation of the Value Added Tax Act Slovenia".

<http://www.pisrs.si/Pis.web/pregledPredpisa?id=PRAV7542>

<sup>676</sup> Slovenia Ministry of Finance. 2017. "Better tax treatment for food donations".

[http://www.mf.gov.si/si/medijsko\\_sredisce/novica/3282/](http://www.mf.gov.si/si/medijsko_sredisce/novica/3282/); Interview with the member of the *EU Platform on Food Losses and Food Waste* (reperesneting Slovenia), interview with Slovenian food bank association (SIBAHE)

<sup>677</sup> Interview with Slovenian food bank association (SIBAHE). 2018.

<sup>678</sup> Official Gazette of the Republic of Slovenia, No. 45/08, 57/12, 90/12 - ZdZPVHVR, 26/14 and 32/15, <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2017-01-1446/#1.%C2%A0%C4%8Dlen>



2. Food donors are legal and natural persons engaged in the production, processing, distribution or sale of food in the food supply chain and in their business process they donate food to intermediaries in the distribution of donated food for humanitarian purposes.
3. Mediators, food donors and charitable organisations in the distribution of donated foods are humanitarian organisations in accordance with the law governing humanitarian organisations, organisations of persons with disabilities in accordance with the law governing organisations of persons with disabilities, as well as public institutions in the field of social and care services that distribute donated food to beneficiaries of the fifth of this paragraph.
4. Food donors and brokers in the distribution of donated foods are food business operators in accordance with Regulation 178/2002 / EC responsible for food safety, control over it in accordance with Regulation 178/2002 / EC and compliance with the general hygiene conditions food referred to in Regulation 852/2004 / EC and entered in the register of establishments referred to in Article 152a of this Act.
5. Beneficiaries for receiving donated food are:
  - beneficiaries of financial social assistance and care allowance in accordance with the regulations governing social protection;
  - recipients of financial support and social services in accordance with local community regulations on co-financing of humanitarian organisations;
  - disabled people, which type of disability causes social risk; or
  - people for whom an agent with a high likelihood estimates the need for assistance.

It should be mentioned that activities of distributors range from collecting, storing, transporting, distributing and mediating food surplus. The final sorting of food surplus is the exclusive role of distributors. For this task, distributors must have properly trained staff and premises<sup>679</sup>.

The Ministry of Agriculture, Food, and Forestry may co-finance the purchase of **technical equipment for food donation**, i.e. for intermediaries carrying out the activities referred to in the previous Article. Humanitarian organisations may apply for such support, and the first such tender came out in the May 2018.

Although the above-mentioned amendment aims to encourage and incentivize food donations to humanitarian organisations, to provide equipment and technical support to humanitarian organisations, to provide workshops and trainings to volunteers, the humanitarian organisations have foreseen some hurdles to it. According to the initial comments by the Red Cross in Slovenia<sup>680</sup> on the above-mentioned regulation, the amendment is seen by them as a donors' relief, while for humanitarian organisations this will only be an additional pressure; that it is not enough just to co-finance the purchase of a refrigerator, but that provisions should be made for suitable food distribution facilities, additional people to employ and provide resources for them, someone who will coordinate the work of volunteers, etc.

Another initiative by the **government to manage surplus of food** was launched in 2015. The Committee for State Regulation and Public Affairs adopted a resolution which obliges the Ministry of Agriculture, Food and Forestry to prepare an appeal for all institutions of the public sector (e.g. hospitals, kindergartens, schools, homes for the elderly, safe houses, kitchen of Slovenian Armed Forces) to ensure that their kitchens offer their surplus of food to humanitarian organisations. It was estimated that up to 300 meals a day could be delivered to socially endangered citizens, with surplus food from public sector institutions. The distribution of surplus of food being logistically very difficult,

<sup>679</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>680</sup> Newspaper article interview with the secretary of the Ljubljana Regional Red Cross Association Ema Verbnik, published on March 02, 2017 in online newspaper "Delo" <https://www.delo.si/novice/slovenija/za-podarjeno-hrano-ne-bo-treba-placati-ddv.html>

an agreement authorised the ministries to distribute these surpluses within the system (using public infrastructure and services)<sup>681</sup>.

In February 2016, the Ministry of Agriculture, Forestry and Food adopted activities to promote the distribution of surplus food by retailers to humanitarian organisations. It was necessary to establish:

- A detailed view of the accumulated surplus of food in 2015;
- Plans for humanitarian organisations' activities in 2016;
- Links with individual local authorities and mayors for the efficient distribution of food to the people in need.

The aim was to increase the number of sales and amounts of surplus of food going to people in need. Stakeholders will try to stimulate the traders by clarifying the tax deduction regulations for donated food. For humanitarian organisations, the goal is (through the public tenders for public works) to reach out to sufficient number of volunteers in their organisational networks and to upgrade their equipment for food distribution. The goal of the activities is to get as much surplus of food as possible to be donated for charitable purposes to those in need, at home as well as in third countries.

**Table 225 Evaluation of the Member State's policy in terms of "General legal framework on food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a legal framework specific to food redistribution, in addition to EU rules	x			
Presence of the food use hierarchy				x

### 3.25.3.2 Traceability requirements applicable to food redistribution

Concerning traceability, all relevant requirements of the Regulation EC/178/2002 apply.

**Table 226 Evaluation of the Member State's policy in terms of "Traceability requirements applicable to food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a clear traceability regime for food redistribution			x	
Presence of guidelines which clarify the traceability regime for food redistribution				x

### 3.25.3.3 Primary responsibility and liability rules for food redistribution

When it comes to **primary responsibility and liability for donated food**, in Slovenia, charitable organisations have a regulated status of food business operators and concluded non-tariff agreements with companies in the private sector that produce or trade with food. When a charitable organisation takes over donated food, it passes on to it all **responsibility for the safety and**

<sup>681</sup> Information from the EU Platform on Food Losses and Food Waste. 2018.

**quality of food**, which is then redistributed to the final beneficiary. However, food prior to donation must also comply with all relevant food safety requirements. Liability for this lies with the donors. This is also regulated in the **Guidelines for Good Hygiene Practice**<sup>682</sup> for food business operators who collect, store, transport, and distribute food. The guidelines offer basic instructions to help to meet the requirements of the Food Regulation 852/2004<sup>683</sup>. These guidelines are not obligatory but are an essential tool for the proper implementation of this activity in practice for food business operators and their establishments.

**Table 227 Evaluation of the Member State’s policy in terms of “Primary responsibility and liability rules for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of clear primary responsibility and liability rules for food redistribution				x
Presence of guidelines which clarify the primary responsibility and liability rules for food redistribution	x			

**3.25.3.4 Hygiene rules applicable to food redistribution**

First of all, in Slovenia, a risk assessment helps to determine whether food items are eligible for donation. Foodstuffs are divided into 2 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 ingredient, 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<sup>684</sup>.

Furthermore, the National Food Administration (AFSVSPP) has defined all possible activities for charitable organisations and other intermediaries with the adoption of the **Guidelines for good hygiene practice for FBOs**<sup>685</sup>, prepared by the Veterinary Faculty, who voluntarily collect, store, transport, distribute or redistribute food. The guidelines define general and specific requirements

<sup>682</sup> Slovenia Ministry of Agriculture and University of Ljubljana. 2017. Guidelines for the handling of food by charity organisations. Document not available online.  
<sup>683</sup> Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs. Regulation (EC) No 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin  
<sup>684</sup> Information from the EU Platform on Food Losses and Food Waste. 2018  
<sup>685</sup> Slovenia Ministry of Agriculture and University of Ljubljana. 2017. “Guidelines for the handling of food by charity organisations”. Document not available online.

regarding donation and redistribution of food, risk assessment, handling of food, temperature regimes, etc. Freezing requirements for perishable food and temperature regime for handling with food are defined within these Guidelines.

Before that, the Agriculture Act<sup>686</sup> laid down the safety principles and hygiene codes for food of non-animal origin in accordance with EC Regulations. Well aware of the difficulties humanitarian organisations encounter in following strict hygiene requirements, the Ministry of Agriculture, Forestry and Food organised workshops for these organisations, to provide guidance on how to ensure food safety with minimal costs. The Veterinary Faculty also developed guidelines for good hygiene practices in the management of donated foods.<sup>687</sup> The Veterinary Compliance Criteria Act of 2005<sup>688</sup> defined safety principles and hygiene codes for food of animal origin in accordance with EC Regulation. FBOs donating food must have a responsible person or a legal person who must be properly trained in hygiene rules for handling food and with regard to health requirements for people who are in contact with or are handling food. The record of volunteers and employees' qualifications is kept by the National Food Administration, in Appendix I of the Guidelines<sup>689</sup>.

Additionally, the Veterinary Compliance Criteria Act of 2005 defined safety principles and hygiene codes for food of animal origin in accordance with EC Regulations<sup>690</sup>.

Lastly, 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<sup>691</sup>.

**Table 228 Evaluation of the Member State's policy in terms of "Hygiene rules applicable to food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of national laws in addition to EU rules to simplify hygiene requirements for food redistribution	x			
Presence of national guidelines explaining hygiene requirements for food redistribution, clarifying EU rules and making them easier to understand for relevant actors	x			

<sup>686</sup> Slovenia Ministry of Agriculture, Forestry and Food. 2008. "Agricultural Act". <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2008-01-1978?sop=2008-01-1978>

<sup>687</sup> Slovenian Ministry of Agriculture and University of Ljubljana. 2017. "Guidelines for the handling of food by charity organisations". Document not available online.

<sup>688</sup> Slovenia Ministry of Agriculture, Forestry and Food. 2005. "Veterinary Compliance Criteria Act". <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina?urlurid=20054018>

<sup>689</sup> Slovenia Ministry of Agriculture and University of Ljubljana. 2017. "Guidelines for the handling of food by charity organisations". Document not available online.

<sup>690</sup> Slovenia Ministry of Agriculture, Forestry and Food. 2005. "Veterinary Compliance Criteria Act.". <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina?urlurid=20054018>.

<sup>691</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

### 3.25.3.5 Food information to consumers applicable to food redistribution

In Slovenia, the provision of food information to consumers is regulated by a **National Decree**<sup>692</sup> which implements (EC) Regulation No. 1169/2011 on the provision of food information to consumers. The regulation, adopted by the National Assembly, is summarising Regulation (EC) No. 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers. 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. Also, for all prepacked foodstuffs intended for the beneficiaries, the language on the labels has to be Slovenian<sup>693</sup>.

The amendment to the law<sup>694</sup> on **date marking** allows the donation of food past the "best before" date. In 2014, the Ministry of Agriculture, Forestry and Food adopted the rules on special requirements for the labelling and presentation of pre-packaged foodstuffs, allowing the donation of food past the "best before" date as long as the food is safe. 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 food business operator (FBO), who has such food in a possession. Thus, quality checks are prescribed (consistency, smell and taste) for food distributed after this date. 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 donate<sup>695</sup>.

The adopted national provisions clarify the rules on the further distribution and use of foods past the "best before" date, with the objective of reducing food waste, encouraging food deliveries to socially deprived persons, and easing the management of food donations for charity organisations. Rules, inter alia, extend the range of foods with a shelf life "best before", and substantially contribute to the reduction of food waste. According to Article 3<sup>696</sup>, better conditions for the handling of non-perishable food with a marked shelf life have been introduced. A policy allows traders to sell food in retail at a reduced price or to donate these foods with the expiry date of minimum durability "best before" as long as food is safe. According to SIBAHE, however, some humanitarian organisations and political discourse consider food donated past the "best before" date to be damaging to the dignity of those receiving it.

**Table 229 Evaluation of the Member State's policy in terms of "Food information to consumers applicable to food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Donation requirements in line with EU recommendation on "best before" dates	x			
Presence of national guidelines on "best before" dates	x			

<sup>692</sup> Slovenia Ministry of Agriculture, Forestry and Food. 2014. Decree implementing the Regulation (EU) on the provision of food information to consumers. <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2014-01-0118/uredba-o-izvajanju-uredbe-eu-o-zagotavljanju-informacij-o-zivilih-potrosnikom>

<sup>693</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>694</sup> Pursuant to the fourth paragraph of Article 64 of the Agriculture Act (Official Gazette of the Republic of Slovenia, No. 45/08, 57/12, 90/12 - ZdZPVHVVR and 26/14) and the first paragraph of Article 8 of the Law on the health suitability of foodstuffs and products and substances, which come into contact with foodstuffs (Official Gazette of the Republic of Slovenia, No. 52/00, 42/02 and 47/04 - ZdZPZ), is issued by the Minister of Agriculture, Forestry and Food in agreement with the Minister of Health <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina?urlurid=20143434>

<sup>695</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>696</sup> <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina?urlurid=20143434>

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of laws targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)				x
Presence of national guidelines targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)				x

#### 3.25.4 Voluntary Agreements for food redistribution

As of June 2019, there are no Voluntary Agreements addressing the promotion of food redistribution in Slovenia. However, following the Slovenian participation in the EU REFRESH Policy Platform on Voluntary Agreements<sup>697</sup>, there have been discussions about pursuing a project of implementation of a Voluntary Agreement for food waste. It is not yet clear if this Voluntary Agreement will also include measures on food redistribution.

**Table 230 Evaluation of the Member State's policy in terms of "Voluntary Agreements for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a Voluntary Agreement which addresses all 5 pillars of the EU REFRESH blueprint in regard to food donation			x	

#### 3.25.5 Communication initiatives for food redistribution

As of June 2019, there are no communication initiatives targeting food redistribution in Slovenia.

#### 3.25.6 Other initiatives for food redistribution

In Slovenia, **FEAD funds** offer food relief to the most deprived people by providing them with food packages delivered 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>698</sup>.

<sup>697</sup> EU REFRESH. 19.06.2018 Policy Working group on Voluntary Agreements led by Deloitte Sustainability and WRAP. <https://eu-refresh.org/refresh-policy-working-group-voluntary-agreements>

<sup>698</sup> EU Portal. 2018. "20.5 million euros for socially most deprived". <http://www.euportal.si/en/slovenia-in-eu/20-5-million-euros-for-socially-most-deprived/>

Some food ROs can receive up to 85% of their products from the FEAD program, though the products are not recovered, and hence it does not positively impact food redistribution.

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) 3 times per year. Purchased food products are determined with the assistance of the partner organisations, 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<sup>699</sup>.

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<sup>700</sup>.

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<sup>701</sup>.

In November 2015, the **Great autumn food seminar**<sup>702</sup> (*Veliki jesenski živilski Seminar*) was organised by the Chamber of Commerce and the Food Processing Industry. This seminar had priorities for food waste reduction, to define the rate of food waste in the processing and retail sectors, and to elaborate technical solutions for food business operators. The conclusions of the seminar outlined the costs of surplus food, and the possibility of donating food close to its expiry date to public institutions and humanitarian organisations.

In addition, in 2015 and 2016, Slovenia began to implement **a measure to help the withdrawal of fruits and vegetables** caused by the Russian embargo. The measure aimed to ensure a stable situation for the agricultural market. Donors of fruits and vegetable were entitled to a financial compensation and the charitable organisations Red Cross and Caritas organised the distribution.

As stated in section 3.25.3.1, the Ministry of Agriculture, Food, and Forestry may co-finance the purchase of technical equipment for food donation, i.e. for intermediaries carrying out the activities referred to in the previous Article. Humanitarian organisations may apply for such support, and the first such tender came out in the May 2018<sup>703</sup>.

Finally, 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 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

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<sup>699</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>700</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>701</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>702</sup> [https://www.gzs.si/zbornica\\_kmetijskih\\_in\\_zivilskih\\_podjetij/Novice/ArticleId/49911/veliki-jesenski-zivilski-seminar-utrinki](https://www.gzs.si/zbornica_kmetijskih_in_zivilskih_podjetij/Novice/ArticleId/49911/veliki-jesenski-zivilski-seminar-utrinki)

<sup>703</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

also show conclusive change mitigation potential for sustainable food waste management in Slovenia<sup>704</sup>.

**Table 231 Evaluation of the Member State's policy in terms of "Other initiatives for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Use of the FEAD operational programme to support the redistribution of food			x	
Presence of measures encouraging the redistribution of fruits and vegetables withdrawn from the market, in line with Regulation (EU) 1308/2013	x			
Publication of studies/research related to food redistribution			x	
Presence of financial or logistic support for food redistribution at the national/regional/local level	x			
Absence of incentives for the valorisation of food surplus via anaerobic digestion, which may otherwise hinder redistribution if the incentives for anaerobic digestion favour this recovery route over redistribution	x			

<sup>704</sup> Information from the EU Platform on Food Losses and Food Waste. 2018



## 3.26 Spain

### 3.26.1 National strategies for food redistribution

Launched in 2013, the Ministry of Agriculture, Fisheries and Food (MAPA)<sup>705</sup> set up a national strategy on food waste prevention called “More food, less waste” (*Más alimento, menos desperdicio*), which has been reedited for the period 2017-2020<sup>706</sup>. Within this strategy, the ministry acknowledges the waste hierarchy clearly prioritises food waste prevention and redistribution over other valorisation routes. The Directorate-General for Health and Food Safety coordinates the “More food, less waste” strategy. A Monitoring Committee has also been established, which includes all stakeholders across the food chain, NGOs and COs, along with the General State Administration and regional and local authorities<sup>707</sup>.

Furthermore, to best track the impact of this strategy, MAPA launched and published the results of the 2012 **survey “Climate of Confidence Barometer for the Agri-Food Sector”** within the strategy’s final version. While these survey questions largely aimed at gathering a baseline understanding of the attitudes of producers, industry, distributors and consumers on food loss and waste at large, certain questions also touched on food redistribution topics. As stated within the survey results, “the highest percentage of those who donated to food banks/NGOs was among wholesalers (44.9%), while within industry it was 18% and for producers the figure was 9.2%”<sup>708</sup>. The existence of this quantitative data provides a baseline for the MAPA to track the impact of this strategy’s food redistribution measures. This study was repeated in 2015<sup>709</sup> and 2017<sup>710</sup>, showing a slight increase in redistribution percentages by the food supply chain operators over time (with the exception of primary producers).

Various qualitative action points specifically relating to food waste were described within this strategy, including:

- Promotion of the development of Voluntary Agreements, specifically referring to food redistribution as a priority area to be addressed for food waste reduction;
- Promotion of partnerships with food banks and charities, in particular to maximise food redistribution;
- Encouragement of company practices that reduce food waste, including food redistribution;
- Establishment of mechanisms to ensure sound food safety and hygiene standards, specifically for food redistribution;
- Development of a “redistribution committee” in collaboration with the Spanish Federation of Food Banks (FESBAL) to actively seek out food redistribution solutions and support, such as computer tools, donation and storage optimisation, etc.

As a complementary action to this strategy, in 2014, 2015 and 2017, **four sector-specific manuals** were developed for retailers, education centres, consumers and the hospitality sector, outlining best practices and tools for food waste prevention, and were published on a specific web page on food

<sup>705</sup> At the date of publication of the strategy, the name was Ministry of Agriculture, Food and Environment (MAGRAMA).

<sup>706</sup> Spain Ministry of Agriculture, Fisheries and Food 2012 and 2017 *National Strategy “More food, less waste”*. <http://www.menosdesperdicio.es/nuestra-estrategia>

<sup>707</sup> Ministry of Agriculture, Fisheries and Food 2017, *“More food, less waste strategy 2017-2020”*, [http://www.menosdesperdicio.es/sites/default/files/documentos/relacionados/estrategia\\_2017-2020\\_en.pdf](http://www.menosdesperdicio.es/sites/default/files/documentos/relacionados/estrategia_2017-2020_en.pdf)

<sup>708</sup> Spain Ministry of Agriculture, Food and Environment, *“Barómetro del Clima de Confianza del Sector Agroalimentario”*, 2012, [http://www.menosdesperdicio.es/sites/default/files/documentos/relacionados/monog\\_desperdicio\\_alimentario\\_1er\\_trim\\_2o\\_trim\\_y\\_4o\\_trim\\_2012\\_tcm7-287271.pdf](http://www.menosdesperdicio.es/sites/default/files/documentos/relacionados/monog_desperdicio_alimentario_1er_trim_2o_trim_y_4o_trim_2012_tcm7-287271.pdf)

<sup>709</sup> Spain Ministry of Agriculture, Food and Environment, *“Barómetro del Clima de Confianza del Sector Agroalimentario”*, 2015, [http://www.menosdesperdicio.es/sites/default/files/documentos/relacionados/barometro\\_clima\\_confianza\\_desperdicio\\_2015.pdf](http://www.menosdesperdicio.es/sites/default/files/documentos/relacionados/barometro_clima_confianza_desperdicio_2015.pdf)

<sup>710</sup> Spain Ministry of Agriculture and Fisheries, Food and Environment, *“Barómetro del Clima de Confianza del Sector Agroalimentario”*, 2017, [http://www.menosdesperdicio.es/sites/default/files/documentos/relacionados/e-3167\\_informe\\_barometro\\_4t\\_2017\\_monog\\_desperdicio\\_p-i-m-d\\_4o\\_t\\_2017.pdf](http://www.menosdesperdicio.es/sites/default/files/documentos/relacionados/e-3167_informe_barometro_4t_2017_monog_desperdicio_p-i-m-d_4o_t_2017.pdf)

waste. These four manuals, listed below, also include information on how food surplus can be a viable means for food redistribution<sup>711</sup>.

- "Spain – [Practical guide to reduce food waste at education centres. Good use of food](#)" (MAGRAMA 2014);
- "Spain – [Practical guide for the consumer: How to reduce food waste. Good use of food](#)" (MAGRAMA, 2014);
- "Spain – [Practical guide to reduce food waste in the retail sector. Good use of food](#)" (MAGRAMA 2015);
- "Spain – [Practical guide to reduce food waste in the hospitality sector. Good use of food](#)" (MAPAMA 2017) ([available in English](#)).

Additionally, within the framework of the "More food, less waste" strategy, the creation of a National Guide will be promoted to facilitate the donation of food. In the guide, barriers to food redistribution will be identified and clarified, such as 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<sup>712</sup>. No analysis of the impact of the guides is currently available as an impact assessment has yet to be conducted.

Building on the Spanish government's national strategy and its call to action to the Autonomous Communities of Spain to engage in food waste and food redistribution actions, several initiatives have been developed at the regional level (this is not a closed list as there are initiatives still in progress):

- The Aragon government has included food waste among the main lines of action in its Integral Waste Management Plan 2018-2020<sup>713</sup>. A Code of Good Practices against food waste and guidance have also been issued<sup>714</sup>;
- The Catalan Waste Agency developed a Waste and Resource General Programme for 2013-2020 aiming at halving food wastage quantities from the 2010s in the retail, hospitality, restoration sectors and households by the end of 2020<sup>715</sup>. It has also published an action plan to prevent food waste in Catalonia for 2019-2020<sup>716</sup>;
- The Basque Country government has developed its action plan against food wastage<sup>717</sup>;
- The Cantabria government has approved Decree No. 56/2019 of 11 April, approving the strategy against food waste in the Autonomous Region of Cantabria<sup>718</sup>;
- The Castilla-La Mancha government has approved Decree No. 18/2010 of 26 March, promoting measures to avoid food waste and promote food redistribution in Castilla-La Mancha<sup>719</sup>;
- The Community of Madrid has included the reduction of food waste and the promotion of food redistribution in its programme to avoid waste generation<sup>720</sup>;

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<sup>711</sup> Ministry of Agriculture, Fisheries and Food, ¿Qué puedo hacer yo?, <http://www.menosdesperdicio.es/que-puedo-hacer-yo>

<sup>712</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>713</sup> Dirección General de Sostenibilidad, "Plan de gestión integral de residuos de aragón", 2018-2022, [http://gobierno.aragon.es/estaticos/GobiernoAragon/Departamentos/AgriculturaGanaderiaMedioAmbiente/TEMAS\\_MEDIO\\_AMBIENTE/AREAS/RESIDUOS/GIRA/PLAN\\_GIRA\\_2018\\_2022.pdf](http://gobierno.aragon.es/estaticos/GobiernoAragon/Departamentos/AgriculturaGanaderiaMedioAmbiente/TEMAS_MEDIO_AMBIENTE/AREAS/RESIDUOS/GIRA/PLAN_GIRA_2018_2022.pdf)

<sup>714</sup> Desperdicio Alimentario, "Código aragonés de buenas prácticas frente al desperdicio alimentario", <https://consumoresponsable.org/desperdicioalimentario/>

<sup>715</sup> Waste Agency of Catalonia, "Planificació", [http://residus.gencat.cat/ca/ambits\\_dactuacio/planificacio/](http://residus.gencat.cat/ca/ambits_dactuacio/planificacio/)

<sup>716</sup> Waste Agency of Catalonia, "Pla de prevenció del malbaratament alimentari"

[http://residus.gencat.cat/ca/ambits\\_dactuacio/prevencio/malbaratament\\_alimentari/plaprevencio\\_ma/](http://residus.gencat.cat/ca/ambits_dactuacio/prevencio/malbaratament_alimentari/plaprevencio_ma/)

<sup>717</sup> Basque Foundation for Agro-food Safety, "Plan de actuaciones frente al despilfarro de alimentos en Euskadi", 2018 <https://sostenibilidad.elika.eus/wp-content/uploads/sites/11/2018/10/PLAN-Despilfarro-alimentarioWEB.pdf>

<sup>718</sup> Government of Cantabria, "Estrategia contra el despilfarro de alimentos en la comunidad autónoma de Cantabria 2019-2022", 2019, <https://boc.cantabria.es/boces/verAnuncioAction.do?idAnuBlob=337823>

<sup>719</sup> Government of Castilla-La Mancha, Decreto 19/2019, de 26 de marzo, por el que se promueven medidas para evitar el desperdicio alimentario y se facilita la redistribución de alimentos en Castilla-La Mancha. [2019/3338],

[https://docm.castillalamancha.es/portaldocm/descargarArchivo.do?ruta=2019/04/04/pdf/2019\\_3338.pdf&tipo=rutaDocm](https://docm.castillalamancha.es/portaldocm/descargarArchivo.do?ruta=2019/04/04/pdf/2019_3338.pdf&tipo=rutaDocm)

<sup>720</sup> [http://www.madrid.org/es/transparencia/sites/default/files/regulation/documents/2\\_programa\\_de\\_prevencion\\_de\\_residuos.pdf](http://www.madrid.org/es/transparencia/sites/default/files/regulation/documents/2_programa_de_prevencion_de_residuos.pdf)

- The Community of Valencia has developed its action plan against food waste, including in Measure 4 the improvement of relationships among food chain operators, including social entities, to make better use of food surplus<sup>721</sup>;
- The Balearic Islands government has approved Law No. 8/2019 of 19 February, on waste and contaminated soils on the Balearic Islands, banning retailers from throwing out food that is still edible<sup>722</sup>;
- The Chartered Community of Navarre (*Comunidad Foral de Navarra*) includes food waste prevention in its Waste Plan for Navarre 2017-2027<sup>723</sup>;
- The Region of Murcia has developed its Waste Plan for the Region of Murcia 2016-2020<sup>724</sup>.

**Table 232. Evaluation of the Member State’s policy in terms of “National strategies for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a national food waste strategy including food redistribution measures	x			
Adoption of SDG 12.3 or more ambitious goals, driving the adoption of food redistribution to meet these targets	x			
Availability of guidelines to facilitate and promote food donation	x			
Call to develop and strengthen relationships between food redistribution actors	x			

### 3.26.2 Fiscal incentives for food redistribution

According to the current fiscal set-up within Spain, donated food is not regarded as a “free” good, as any donated food is considered to be going to market. Therefore, **VAT is applied to all donated food items**. The tax rate for most food items is 10%, while certain basic food items are taxed at 4% (e.g. bread, flour, milk, cheese, eggs, vegetables, fruits, legumes, tubers and cereals).

The application of VAT on donated items, which is not in line with the EC recommendation to value donated food at a zero rate, is considered to be a barrier to food redistribution. Especially in the case of fresh produce items that are highly perishable, COs that have the logistical capacity and are willing to collect any surplus must do so within a short timeframe (before its “best before” date). Depending on the situation, potential donors, who bear the cost of VAT, may therefore prefer to pay the disposal costs as there may not be many COs with enough refrigeration capacity to store received products<sup>725</sup>.

Regarding tax deductions, two tax systems exist within the country: the Personal Income Tax (*Impuesto Sobre la Renta de las Personas físicas – IRPF*) and the Corporate Tax (*Impuesto de*

<sup>721</sup>Generalitat Valenciana, “Plan de acción contra el desperdicio alimentario en la comunitat Valenciana”, 2019, <http://www.agroambient.gva.es/documents/163228750/167963023/Pla+Bon+Profit.+Contra+el+desperdicio+alimentario/d300c243-93d0-42c2-9dbc-e84321f122d1>

<sup>722</sup> Balearic Islands government, “Ley 8/2019, de 19 de febrero, de residuos y suelos contaminados de las Illes Balears” <https://www.caib.es/eboibfront/pdf/es/2019/23/1027912>

<sup>723</sup> Comunidad Foral de Navarra, “Plan de residuos de Navarra 2017-2027”, 2016, [https://gobiernoabierto.navarra.es/sites/default/files/3295\\_plan\\_pigrn\\_anexo.pdf](https://gobiernoabierto.navarra.es/sites/default/files/3295_plan_pigrn_anexo.pdf)

<sup>724</sup> Region of Murcia, “Plan de residuos de la región de murcia 2016-2020”, 2016, [https://www.carm.es/web/pagina?IDCONTENIDO=53799&IDTIPO=100&RASTRO=c507\\$m1463](https://www.carm.es/web/pagina?IDCONTENIDO=53799&IDTIPO=100&RASTRO=c507$m1463)

<sup>725</sup> Information from the *EU Platform on Food Losses and Food Waste*. May 2018.

*Sociedades – IS*). Donations in general are not deductible from direct taxes: the IRPF and IS. However, **food donors can benefit from tax deductions** if donations are made to non-profit entities that fit the definition in Article 6 in Law No. 49/2002 on the Tax Regime of Non-Profit Entities and Tax Incentives to Sponsorship (*Ley 49/2002, de 23 de diciembre, de régimen fiscal de las entidades sin fines lucrativos y de los incentivos fiscales al mecenazgo*)<sup>726</sup>. As stated within this law's 2014 amendment, some tax deductions are granted to non-profits, as follows:

- In the IRPF's amendment, the tax deduction potential 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 the taxpayer's tax base;
- In the IS, the percentage of deduction has not been changed, remaining at 35% of the value of donated goods, with the same limit of 10% of the tax base. The tax deduction is applicable during the following 10 tax years if it is not used all at once.

As concluded within the 2017 **survey "Climate of Confidence Barometer for the Agri-Food Sector"**, half of the operators that had to withdraw products because they could not sell them admitted that they threw them out<sup>727</sup>. Based on the project team's analysis, the reasons behind this high percentage of disposal could be because of the above-mentioned hurdles within the country's current VAT regime.

In response to this barrier, the Finance and Public Function Committee approved a non-legislative proposal in 2017 by which the Congress of Deputies urges the Spanish government to<sup>728</sup>:

- In the interim, adopt the criterion recommended by the European Parliament to consider the value of deliveries of such goods close to zero;
- Present the relevant regulatory initiatives so that deliveries of goods or food to non-profit organisations enjoy as many fiscal benefits as are necessary or convenient to stimulate the exercise of their activity;
- Request the corresponding European institutions to amend the Council Directive 2006/112/EC of 28 November on the common VAT system to add the delivery of goods or food to non-profit organisations to the exemptions, when they are destined to be consumed within the community.

Furthermore, according to the "Climate of Confidence Barometer for the Agri-Food Sector" survey, 71.7% of respondents in the supply chain were in favour of developing regulations allowing products close to their "use by" dates to be sold at a cheaper price<sup>729</sup>.

Passing this proposal, in particular bringing the VAT close to or near zero, could be a positive step in facilitating food donation within Spain.

However, it should be noted that allowing for tax deductions and bringing VAT close to or near zero could be incompatible measures, because if the price of products donated were considered as close to zero to qualify for the VAT exemption, the same items donated could not be considered at full price to qualify for IRPF or IS deductions. Therefore, it would be necessary to evaluate which approach is more beneficial to operators and thus more favourable to food redistribution.

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<sup>726</sup> Law 49/2002, of 23 December, Tax Regime of Non-Profit Entities and Tax Incentives to Sponsorship, original version: <https://www.boe.es/buscar/doc.php?id=BOE-A-2002-25039>; Translated version: <https://www.global-regulation.com/translation/spain/1450639/law-49-2002%252c-of-23-december%252c-tax-regime-of-non-profit-entities-and-tax-incentives-to-sponsorship.html>

<sup>727</sup> Spain Ministry of Agriculture and Fisheries, Food and Environment, "*Barómetro del Clima de Confianza del Sector Agroalimentario*", 2017, [https://www.menosdesperdicio.es/sites/default/files/documentos/relacionados/e-3167\\_informe\\_barometro\\_4t\\_2017\\_monografico\\_desperdicio\\_alim\\_consumidores.pdf](https://www.menosdesperdicio.es/sites/default/files/documentos/relacionados/e-3167_informe_barometro_4t_2017_monografico_desperdicio_alim_consumidores.pdf)

<sup>728</sup> Information from the EU Platform on Food Losses and Food Waste. May 2018.

<sup>729</sup> Spain Ministry of Agriculture, Food and Environment, "*Barómetro del Clima de Confianza del Sector Agroalimentario*", 2012, [http://www.menosdesperdicio.es/sites/default/files/documentos/relacionados/monog\\_desperdicio\\_alimentario\\_1er\\_trim\\_2o\\_trim\\_y\\_4o\\_trim\\_2012\\_tcm7-287271.pdf](http://www.menosdesperdicio.es/sites/default/files/documentos/relacionados/monog_desperdicio_alimentario_1er_trim_2o_trim_y_4o_trim_2012_tcm7-287271.pdf)

**Table 233. Evaluation of the Member State’s policy in terms of “Fiscal incentives for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a fiscal regime specific to food redistribution	x			
Presence of guidelines to clarify how to address complex fiscal regimes such as VAT and/or tax deductions			x	

### 3.26.3 Legal measures for food redistribution

#### 3.26.3.1 General legal framework on food redistribution

As stated in section 3.26.1, the ministry acknowledges the waste hierarchy, and clearly prioritises food waste prevention and redistribution over other valorisation routes in its “More food, less waste” national strategy. However, the food use hierarchy is not yet enshrined in national legislation<sup>730</sup>.

**Table 234. Evaluation of the Member State’s policy in terms of “General legal framework on food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a legal framework specific to food redistribution, in addition to EU rules		x <sup>731</sup>		
Presence of the food use hierarchy		x		

#### 3.26.3.2 Traceability requirements applicable to food redistribution

Regarding **traceability**, 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 No. 17/2011 of 5 July on Food Safety and Nutrition, guarantees the right to food security throughout the food chain as a fundamental aspect of public health;
- Law No. 28/2015 of July 30 on Defence of Food Quality: Article 10 establishes the self-control system as the basis of the traceability verification process. It must be applied by all the operators to each of the processes under their responsibility in order to comply with the applicable legislation<sup>732</sup>.

Furthermore, work has been done by national public authorities to provide guidance on the traceability practices to actors in the food supply chain. Although the guidance documents were not

<sup>730</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>731</sup> Presence of the criteria is based on the information provided by the competent authority of the Member State during the consultation on the report. Despite the absence of national legal framework, there are some regional regulations addressing food donation (e.g. Balearic Islands, Castilla-La Mancha).

<sup>732</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

specifically drafted for food redistribution, they include food redistribution within their scope. The Spanish Agency for Food Safety and Nutrition drafted the “Guide for the application of traceability systems in agri-food businesses” (*Guía para la aplicación del sistema de trazabilidad en la empresa agroalimentaria*)<sup>733</sup>, a document that specifically lays down the traceability requirements that must be respected by all entities dealing with food. Within the scope of food waste reduction, the Ministry of Agriculture included sections on traceability within the guides published by MAPA for consumers, education centres, hospitality services and retailers, as detailed within the “national strategies” section of this chapter. An analysis of the impacts of these guidelines was not available.

**Table 235. Evaluation of the Member State’s policy in terms of “Traceability requirements applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a clear traceability regime for food redistribution			x	
Presence of guidelines that clarify the traceability regime for food redistribution	x			

### 3.26.3.3 Primary responsibility and liability rules for food redistribution

According to Article 9 of Law No. 17/2011 of 5 July on Food Safety and Nutrition, which guarantees the right to food security throughout the food chain as a fundamental aspect of public health, the responsibility is distributed throughout the food supply chain, where each operator assumes the responsibility in the stage in which they act<sup>734</sup>.

Currently, the **primary responsibility** specifications of each actor of the supply chain when carrying out food redistribution activities (in particular on their direct or indirect impact on food loss and waste) is detailed within the “More food, less waste” strategy.

**Table 236. Evaluation of the Member State’s policy in terms of “Primary responsibility and liability rules for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of clear primary responsibility and liability rules for food redistribution			x	
Presence of guidelines that clarify the primary responsibility and liability rules for food redistribution			x	

<sup>733</sup> Spanish Ministry of Health and Social Policy. 2009. Guide for the application of traceability systems in agro-food businesses (*Guía para la aplicación del sistema de trazabilidad en la empresa agroalimentaria*). [http://www.aecosan.msssi.gob.es/AECOSAN/docs/documentos/seguridad\\_alimentaria/gestion\\_riesgos/Trazabilidad1.pdf](http://www.aecosan.msssi.gob.es/AECOSAN/docs/documentos/seguridad_alimentaria/gestion_riesgos/Trazabilidad1.pdf)

<sup>734</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

### 3.26.3.4 Hygiene rules applicable to food redistribution

At the national level, Royal Decree No. 640/2006 regulates certain conditions of application of the community provisions on hygiene, production and marketing of food products<sup>735</sup>. Additionally, Royal Decree No. 1945/1983 defines measures to protect consumer health in regards to agro-food production for processing, distribution, supply and sale of food, which includes relevant sanctions for non-compliance<sup>736</sup>. Furthermore, Law No. 17/2011 on Food Safety and Nutrition outlines the potential risks that could be associated to a food or one of its components<sup>737</sup>; it also states the obligations of economic operators. 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, especially by changing procedures related to food delivery and food freezing<sup>738</sup>.

Despite the existence of this legislation that generally applies to all food operations, there is no legislation specific to food redistribution (within the context of food waste). However, regional-level initiatives have issued guides of good hygiene practices for food redistribution, such as the Catalan Food Safety Agency's (*Agència Catalana de Seguretat Alimentària*) that targeted restaurants and retail trade in 2013<sup>739</sup> and the document "Food safety requirements on food donation"<sup>740</sup> specific to the Catalan context, or the Community of Madrid's good practice guide for the use of food surplus<sup>741</sup>.

**Table 237. Evaluation of the Member State's policy in terms of "Hygiene rules applicable to food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of national laws in addition to EU rules to simplify hygiene requirements for food redistribution		x		
Presence of national guidelines explaining hygiene requirements for food redistribution, clarifying EU rules and making them easier to understand for relevant actors		x <sup>742</sup>		

<sup>735</sup> 2015. Higiene General De Los Productos Alimenticios

[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)

<sup>736</sup> Ganadería, Consejería de Agricultura y. 1983. 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 <https://www.boe.es/buscar/act.php?id=BOE-A-1983-19755&p=20150627&tn=1>.

<sup>737</sup> Law 17/2011, July 5, Food Security and Nutrition <https://www.boe.es/buscar/act.php?id=BOE-A-2011-11604>

<sup>738</sup> Information from the EU Platform on Food Losses and Food Waste. 2018.

<sup>739</sup> Catalan Food Safety Agency, "Guía de prácticas correctas de higiene para el aprovechamiento seguro de la comida en los sectores de la restauración y comercio minorista", 2013, <http://acsa.gencat.cat/es/Publicacions/guies-i-documents-de-bones-practiques/guies-de-practiques-correctes-dhigiene-reconegudes-oficialment/guia-de-practiques-correctes-dhigiene-per-a-laprofitament-segur-del-menjar-en-els-sectors-de-la-restauracio-i-comerc-minorista/index.html>

<sup>740</sup> Catalan Food Safety Agency, "Requisitos de seguridad alimentaria en la donación de alimentos", 2017, <http://acsa.gencat.cat/es/Publicacions/guies-i-documents-de-bones-practiques/documents-de-bones-practiques/requisits-de-seguretat-alimentaria-en-la-donacio-daliments-00001/>

<sup>741</sup> Madrid Salud. Ayuntamiento de Madrid, Municipality of Madrid "Guía de buenas prácticas de higiene para el aprovechamiento de excedentes alimentarios", 2017, <http://www.madrid.org/bvirtual/BVCM017981.pdf>

<sup>742</sup> Presence of the criteria is based on the information provided by the competent authority of the Member State during the consultation in the report. Despite the absence of guidelines at the national level, guidelines have been developed at a regional level (Catalonia).



### 3.26.3.5 Food information to consumers/date marking applicable to food redistribution

Regarding **date marking**, Spain applies the General Food Law and Spanish Law No. 17/2011 on Food Safety and Nutrition. Both regulations prohibit food operators from putting unsafe food products on the market, either sold or donated. Thus, food past its “use by” date cannot be donated.

Regarding food past its “best before” date, Royal Decree No. 1945/1983 of 22 June, which regulates infractions and sanctions in the field of consumer defence and agri-food production, while not explicitly banning the donation of food past its “best before” date, states in Article 3 entitled “Violations in the field of consumer protection”, section 3.1.2, that: *“the preparation, distribution, supply or sale of goods when their composition or quality does not conform to the provisions in force or differs from that declared and recorded in the corresponding registry, is an infraction by alteration, adulteration or fraud in goods and services susceptible to consumption.”*

So, the donation of food past its “best before” date is not allowed on a consumer rights protection basis.

However, the Spanish Agrarian Guarantee Fund (Fondo Español de Garantía Agraria – FEAGA) has issued a guidance document for authorised ROs (*Organizaciones Autorizadas de Redistribución*)<sup>743</sup> working in the framework of the FEAD food aid programme. In this guide, and referring specifically to the products with long shelf lives included in the FEAD programme, it is explained that food past the “best before” date is not harmful, but may have lost some quality. Therefore, it allows for redistribution of FEAD food products past their “best before” date if:

- They are checked before being consumed and the packaging is intact and not damaged;
- They are checked before being consumed and food looks, smells and tastes good;
- The conservation instructions have been respected;
- Once a food container with a “best before” date has been opened, the instructions on the label are followed when available, that is “once the container has been opened, consume within three days”.

Royal Decree No. 1334/1999, together with Article 15 of Regulation (EU) No. 1169/2011, set the language requirements, approving the general norm for labelling, presentation and advertising of foodstuffs. This national regulation requires at least the use of the official language of the country<sup>744</sup>.

As an example at the regional level, in the case of donations of food originally destined to be exported to other countries, the Food Bank Foundation of Navarre (BAN) requires the relabelling in Spanish of all the items 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 Inspectorate of the Autonomous Community of Navarre for distribution to disadvantaged people in their own territory. However, it only applies to the BAN and not to other Spanish ROs<sup>745</sup>.

**Table 238. Evaluation of the Member State’s policy in terms of “Food information to consumers applicable to food redistribution”:**

<sup>743</sup> Ministry of Agriculture, Fisheries and Food, Guía para las organizaciones asociadas de reparto participantes en el programa de ayuda alimentaria 2019 del fondo de ayuda europea para las personas más desfavorecidas (Po FEAD 2014-2020) en España [https://www.fega.es/sites/default/files/Guia\\_OAR\\_2019.pdf](https://www.fega.es/sites/default/files/Guia_OAR_2019.pdf)

<sup>744</sup> Presidencia. 1999. Real Decreto 1334/1999, de 31 de julio, por el que se aprueba la norma general de etiquetado, presentación y publicidad de los productos alimenticios. <https://www.boe.es/buscar/act.php?id=BOE-A-1999-17996>.

<sup>745</sup> Information from the EU Platform on Food Losses and Food Waste. 2018



	Criteria present	Criteria partly present	Criteria not present	Unknown
Donation requirements in line with EU recommendation on "best before" dates	x			
Presence of national guidelines on "best before" dates	x			
Presence of laws targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)			x	
Presence of national guidelines targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)			x	

### 3.26.4 Voluntary Agreements for food redistribution

The following overview of this Voluntary Agreement, which includes a focus on food redistribution, is analysed against the five pillars of a successful Voluntary Agreement, as defined within the EU REFRESH Blueprint<sup>746</sup>: initiation and set-up, ambition, governance and funding, establishing actions and measurement and evaluation. It should be noted that although this Voluntary Agreement includes a focus on food redistribution, it is unclear whether any action has yet been taken, as the main focus of the Voluntary Agreement is on food waste.

#### Initiation and set-up

As included within the "More food, less waste" national strategy launched in 2013, the ministry had a specific ambition to support the development of Voluntary Agreements. One such agreement was launched in 2014 by the Spanish Association of Commercial Coding (AECOC) under the name "Food has no waste. Use it" ("*La alimentación no tiene desperdicio. Aprovéchala*")<sup>747</sup> to encourage cooperation among entities across the food supply chain to reduce food waste.

#### Ambition

Within the ambition to curb food waste, a specific action point was included to consider the redistribution of food within the scope of the Voluntary Agreement.

#### Governance and funding

This Voluntary Agreement is private-driven. The ministry supports and encourages the initiative. Information on the cost and financing mechanism is not yet available.

<sup>746</sup> The Blueprint was developed within the scope of the H2020 EU research project. The Blueprint is a roadmap designed for policy makers on how to set up Voluntary Agreements within any country's context. Application of this Blueprint tool, which is expected to be available on the REFRESH Community of Experts page by 2020, together with support from the REFRESH project team, is expected to help launch the Voluntary Agreement <http://www.refreshcoe.eu/>

<sup>747</sup> La Alimentación no tiene desperdicio, AECOC, 2019, <https://www.alimentacionsindesperdicio.com/>

### Establishing actions

It is not clear at this stage whether the food redistribution component of this Voluntary Agreement has been enacted and therefore if it has had any impact on food redistribution levels in Spain since its launch.

### Measurement and evaluation

As of 2019, over 500 members of the AECOC signed this Voluntary Agreement, however specific impacts were not found<sup>748</sup> in a general sense, although the agreement was successful in attracting numerous actors.

**Table 239. Evaluation of the Member State’s policy in terms of “Voluntary Agreements for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a Voluntary Agreement that addresses all five pillars of the EU REFRESH Blueprint in regard to food donation		x		

### 3.26.5 Communication initiatives for food redistribution

The Spanish government has launched several communication campaigns on food waste measures, however none have been specifically launched to promote food redistribution.

In terms of face-to-face communication, the Spanish Association of Distributors and Supermarkets has provided training to entities that receive surplus food and to groups of people that benefit from aid<sup>749</sup>. Within these training sessions, various materials are made available to the target audiences, in particular the consumers receiving the surplus food. For example, free guides are available on affordable and healthy menus, videos on how to most efficiently design menus, how to read product labels and tips for good hygiene practices<sup>750 751</sup>.

### 3.26.6 Other initiatives for food redistribution

**FEAD** is actively applied in Spain and has developed into an operational programme for food redistribution for disadvantaged individuals. Similar 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 several food items with long shelf lives such as rice, pots of baby food (chicken and fruit), children’s cereals, powdered follow-on milk, cooked white beans, ultra-heat treated whole milk, soluble cocoa, canned tuna, macaroni, canned fried tomatoes, biscuits, canned green beans and canned fruit in light syrup<sup>752</sup>.

<sup>748</sup> La Alimentación no tiene desperdicio, AECOC, 2019, <https://www.alimentacionsindesperdicio.com/>

<sup>749</sup> Information from the EU Platform on Food Losses and Food Waste. May 2018.

<sup>750</sup> El Conocimiento de los alimentos. 2013.

<https://issuu.com/fundacionalimerka/docs/primertema?layout=http%25253A%25252F%25252Fskin.issuu.com%25252Fv%25252Fflight%25252Flayout.xml&showFlipBtn=true>

<sup>751</sup> Etiquetado de alimentos evasados. 2013 & Diseño de menus. 2013.

[https://www.youtube.com/watch?v=jx7bEWhas6Q&list=PLMdw9bugmlM7VfVfy4HES\\_Z4pdEtBTM6f&index=3](https://www.youtube.com/watch?v=jx7bEWhas6Q&list=PLMdw9bugmlM7VfVfy4HES_Z4pdEtBTM6f&index=3);

[https://www.youtube.com/watch?list=PLMdw9bugmlM7VfVfy4HES\\_Z4pdEtBTM6f&v=fsJj5qu1BI8](https://www.youtube.com/watch?list=PLMdw9bugmlM7VfVfy4HES_Z4pdEtBTM6f&v=fsJj5qu1BI8)

<sup>752</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

In 2017, the president of FEAGA, in accordance with the procedure and conditions established in Resolution AAA/2205/2015 and in the 2017 Resolution of the FEAGA, designated FESBAL and the Spanish Red Cross as official national food redistribution actors within the scope of this programme. To date, this initiative provides food to some 5 600 distribution partner organisations that serve people in need<sup>753</sup>.

The current operational programme does not contemplate the funding of recovery and redistribution of surplus foods with FEAD funds.

As an example at the regional level, since 2010, the Mancomunidad de la Comarca de Pamplona, BAN and the Waste Recovery Services have teamed up to conduct food redistribution activities. The Waste Recovery Services collect non-marketable food still suitable for consumption from retailers, which have voluntarily donated these products, and deliver them to the BAN, from where they are sent to social charities the next day. For traceability purposes, the BAN produces monthly reports on the donated food and its recipients. The government of Navarre considers this project as the basis for the prevention and reduction of food waste, and is now working to expand it to the rest of the autonomous community in collaboration with the BAN<sup>754</sup>.

Furthermore, Spain applies EU Regulation No. 1308/2013 and allows producer organisations to withdraw fruits and vegetables from the market so they can be redistributed free of charge as a measure of “crisis management”. However, this option cannot be sufficiently developed due to the difficulties associated with transporting and storing fresh fruits and vegetables – few charities or food banks have enough refrigeration capacity to store the produce. To curb this limitation, in addition to fresh produce redistribution, the transformation into juice of surplus fruit withdrawn from the market is allowed, with the possibility of payment in kind, as these products have a longer shelf life and are easier to manage<sup>755</sup>.

Finally, as stated in section 3.26.6, MAGRAMA launched and published the results of the 2012 **survey “Climate of Confidence Barometer for the Agri-Food Sector”**, in which certain questions touched on food redistribution topics. As stated within the survey results, “the highest percentage of those who donated to food banks/NGOs was among wholesalers (35.9%), while within industry it was 27.1% and for producers the figure was 10.5%”<sup>756</sup>.

**Table 240. Evaluation of the Member State’s policy in terms of “Other initiatives for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Use of the FEAD operational programme to support the redistribution of food			x	
Presence of measures encouraging the redistribution of fruits and vegetables withdrawn from the market, in	x			

<sup>753</sup> Spanish Agrarian Guarantee Fund, “Programa operativo de ayuda alimentaria del fondo de ayuda europea para las personas más desfavorecidas (2014-2020) en España”, [https://www.fega.es/PwfGcp/es/accesos\\_directos/plan2010\\_ayudas/index.jsp](https://www.fega.es/PwfGcp/es/accesos_directos/plan2010_ayudas/index.jsp)

<sup>754</sup> Information from the EU Platform on Food Losses and Food Waste. May 2018.

<sup>755</sup> Spanish Agrarian Guarantee Fund, “The Spanish Agrarian Guarantee Fund Autonomous Body (Organización Común de Mercados de productos Agrícolas – OCMA)”, <https://www.fega.es/es/node/48525>.

<sup>756</sup> Spain Ministry of Agriculture, Food and Environment, “Barómetro del Clima de Confianza del Sector Agroalimentario”, 2017, [http://www.menosdesperdicio.es/sites/default/files/documentos/relacionados/monog\\_desperdicio\\_alimentario\\_1er\\_trim\\_2o\\_trim\\_y\\_4o\\_trim\\_2012\\_tcm7-287271.pdf](http://www.menosdesperdicio.es/sites/default/files/documentos/relacionados/monog_desperdicio_alimentario_1er_trim_2o_trim_y_4o_trim_2012_tcm7-287271.pdf)

line with Regulation (EU) No. 1308/2013				
Publication of studies/research related to food redistribution	x			
Presence of financial or logistical support for food redistribution at the national/regional/local level			x	
Absence of incentives for the valorisation of food surplus via anaerobic digestion, which may otherwise hinder redistribution if the incentives for anaerobic digestion favour this recovery route over redistribution	x			

## 3.27 Sweden

### 3.27.1 National strategies for food redistribution

The Swedish Parliament decided a National Food Strategy for Sweden on 20 June 2017. Concrete measures were put forward in the Government's action plan stemming from areas identified in the strategy. One of them was for the Government to give an assignment to the Swedish National Food Agency, in collaboration with the Swedish Environmental Protection Agency and the Swedish Board of Agriculture from the year 2017 to 2019 to work with food waste reduction actions. The first stage of the assignment was to, in close collaboration with relevant players, develop an action plan for how Sweden can work with long-term measures to reduce food loss and food waste. The measures are to contribute to the fulfilment of the global sustainability goal 12.3 concerning food loss and food waste in the United Nations' Agenda 2030. In June 2018 the authorities presented an Action Plan *More to do more*, which aims to reduce food waste throughout the whole food chain and includes steps and actions at all stages from farm to fork<sup>757</sup>. Four areas were identified as prerequisites for a successful effort. The different areas were: A national goal and the development of monitoring methods, Active collaboration between industry players in the food supply chain, Changes in consumer behaviour and finally Investigation, research and innovation.

The Swedish Environmental Protection Agency also proposed a milestone targeting 2013. However, this was not decided by the Government.

Finally, several initiatives and projects have emerged in Sweden to tackle the issue of food waste and lightly address food redistribution. The **SaMMA Network**, the Collaboration Group for Reduced Food Waste (*Samverkansgruppen för minskat matavfall*), gathers authorities, researchers and industrial interest groups to exchange information and act to reduce food wastage. The network encourages food redistribution by sharing information between actors<sup>758</sup>.

**Table 241 Evaluation of the Member State's policy in terms of "National strategies for food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a national food waste strategy including food redistribution measures		x		
Adoption of SDG 12.3 or more ambitious goals, driving the adoption of food redistribution to meet these targets	x			
Availability of guidelines to facilitate and promote food donation			x	
Call to develop and strengthen relationships between food redistribution actors	x			

<sup>757</sup> Interview with the Stockholms Stadsmission. 29 May 2018.; Swedish Food Agency. 2018. "Government Commission To Reduce Food Loss And Waste". <https://www.livsmedelsverket.se/en/food-habits-health-and-environment/food-and-environment/take-care-of-the-food--minimize-food-waste/food-waste-reports>.

<sup>758</sup> FUSIONS. 2016. "Sweden - Country Report on national food waste policy." <https://www.eu-fusions.org/phocadownload/country-report/SWEDEN%2023.02.16.pdf>.

### 3.27.2 Fiscal incentives for food redistribution

In Sweden, the VAT Act states<sup>759</sup> that **VAT** must be paid when anything is given or donated, including food donations, thus posing a major hurdle to food redistribution. Furthermore, food donations do not qualify for corporate or income tax deductions and credits. On the other hand, companies do not have to pay VAT when disposing of food or sending it for biogas, making food producers and retailers more inclined to dispose of their surplus food in that fashion instead of redistributing it to those in need. Organisations and companies dealing with food redistribution in Sweden find the regulation on VAT unclear and struggles to interpret it, and that can hinder donations<sup>760</sup>.

**Table 242 Evaluation of the Member State’s policy in terms of “Fiscal incentives for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a fiscal regime specific to food redistribution			x	
Presence of guidelines to clarify how to address complex fiscal regimes such as VAT and/or tax deductions			x	

### 3.27.3 Legal measures for food redistribution

#### 3.27.3.1 General legal framework on food redistribution

There is no general and regulatory framework on food redistribution in Sweden. Food for redistribution must, as food placed on the market, follow the food legislation. The Food Act<sup>761</sup> is the central legal foundation in food legislation in Sweden. The Food Decree<sup>762</sup> issued by the Government develops the rules of the Food Act in some greater detail. Swedish National Food Agency Ordinance LIVSFS 2005:20 on food hygiene is another legislation relevant for food redistribution<sup>763</sup>.

Illustrating that Sweden is not yet aligned to the food use hierarchy, the Food Strategy Roadmap outlines the objective of biological treatment for 50% of food waste, with 40% going towards bio-energy or bio-gas and 10% for compost<sup>764</sup>. Swedish authorities therefore currently prioritise actions in the earlier stages of the food supply chain, giving donations a lower priority<sup>765</sup>. The government believes that the food use hierarchy cannot serve as the only source for strategic decision-making, and that complementary analyses, e.g. life cycle assessment, should be used to justify valorisation routes<sup>766</sup>.

<sup>759</sup> Value Added Tax Act (1994:200) (Mervärdesskattelag (1994:200)), Swedish Tax Agency, 1994

<sup>760</sup> Interview with the Stockholms Stadsmission. 29 May 2018.

<sup>761</sup> Swedish Parliament. 2006. "Food Act (SFS 2006:804)". <http://extwprlegs1.fao.org/docs/pdf/swe68351E.pdf>

<sup>762</sup> Swedish Government. "Food Decree (SFS 2006:813)". <http://extwprlegs1.fao.org/docs/pdf/swe68126E.pdf>

<sup>763</sup> Swedish National Food Agency. 2005. "Ordinance on food hygiene (LIVSFS 2005:20)". [https://www.livsmedelsverket.se/globalassets/om-oss/lagstiftning/livsmedelshygien/livsfs-2005-20-kons-2018-3\\_huvudnot.pdf](https://www.livsmedelsverket.se/globalassets/om-oss/lagstiftning/livsmedelshygien/livsfs-2005-20-kons-2018-3_huvudnot.pdf)

<sup>764</sup> Interview with RISE. 2018.

<sup>765</sup> Information from the Swedish Ministry of Enterprise and Innovation. 2018.

<sup>766</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

**Table 243 Evaluation of the Member State’s policy in terms of “General legal framework on food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a legal framework specific to food redistribution, in addition to EU rules			x	
Presence of the food use hierarchy			x	

### 3.27.3.2 Traceability requirements applicable to food redistribution

In Sweden, the General Food Law is applied for the traceability of donated food, and it entails keeping documented information on all donated and received products. However, it is proven to be an administrative burden for the redistribution process. Sometimes it also is a problem for retailers to show documented traceability on products they want to donate. Therefore, the receiving organisation has to decline the donation. More generally, local experts stress the need for governmental action to regulate and monitor food waste<sup>767 768</sup>.

Furthermore, every FBO is responsible for the safety of the foodstuffs they manufacture, sell or convey. In other words, it is a prerequisite for an operation that the food business operators take sufficient care in all their operations 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 to other stakeholders. 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>769</sup>.

**Table 244 Evaluation of the Member State’s policy in terms of “Traceability requirements applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a clear traceability regime for food redistribution			x	
Presence of guidelines which clarify the traceability regime for food redistribution			x	

### 3.27.3.3 Primary responsibility and liability rules for food redistribution

As of June 2019, there are no clear primary responsibility and liability rules for food redistribution in Sweden.

<sup>767</sup> Interview with Axfood. 24 May 2018.

<sup>768</sup> Interview with the Stockholms Stadsmission. 29 May 2018.

<sup>769</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

**Table 245 Evaluation of the Member State’s policy in terms of “Primary responsibility and liability rules for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of clear primary responsibility and liability rules for food redistribution			x	
Presence of guidelines which clarify the primary responsibility and liability rules for food redistribution			x	

### 3.27.3.4 Hygiene rules applicable to food redistribution

As all food producers and food retailers, food banks and charity organisations must comply with Ordinance LIVSFS 2005:20 on food hygiene<sup>770</sup> and any other food safety and hygiene requirements applicable. There are no national laws or guidelines which address hygiene in the specific scope of food redistribution.

It is worth noting that, in Sweden, eggs cannot be sold or donated later than 7 days before “best before” date.

**Table 246 Evaluation of the Member State’s policy in terms of “Hygiene rules applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of national laws in addition to EU rules to simplify hygiene requirements for food redistribution			x	
Presence of national guidelines explaining hygiene requirements for food redistribution, clarifying EU rules and making them easier to understand for relevant actors			x	

### 3.27.3.5 Food information to consumers applicable to food redistribution

In Sweden, food banks and charity organisations must comply with all food information requirements to consumers applicable to food producers and food retailers. If a company wishes to redistribute food, it is responsible for making sure that the information provided on the label follows the legislation, especially the National Food Agency’s Ordinance LIVSFS 2014:4 on food information<sup>771</sup>. The labelling of donated food must follow the language requirements applicable to food producers

<sup>770</sup> Swedish National Food Agency. 2005. “Ordinance on food hygiene (LIVSFS 2005:20)”. [https://www.livsmedelsverket.se/globalassets/om-oss/lagstiftning/livsmedelshygien/livsfs-2005-20-kons-2018-3\\_huvudnot.pdf](https://www.livsmedelsverket.se/globalassets/om-oss/lagstiftning/livsmedelshygien/livsfs-2005-20-kons-2018-3_huvudnot.pdf).

<sup>771</sup> Swedish National Food Agency. 2014:4. “Ordinance on food information (LIVSFS 2014:4)”. <https://www.livsmedelsverket.se/globalassets/om-oss/lagstiftning/livsmedelsinfo-till-konsum---markning/livsfs-2014-4-tryckvers.pdf>



and retailers set in this Ordinance. The Ordinance includes requirements for non-prepacked foods. The National Food Agency's Ordinance LIVSFS 2005:20<sup>772</sup> also contains relevant provisions on repackaging and relabelling<sup>773</sup>.

The **Swedish Food Agency's Ordinance (LIVSFS 2004:27) regarding the labelling and presentation of food** of 2004 (*Livsmedelsverkets föreskrifter om märkning och presentation av livsmedel*) regulates, among other things, the responsibility for selling food after the "**best before**" date<sup>774</sup>. Any food may be donated by food manufacturers, caterers, retailers and other types of food business operators if it is in an acceptable condition. When a "use-by" is stipulated, the food must be donated before 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. It is not allowed to change "best before" or "use by" dates on prepacked food unless it undergoes a treatment, which extends its durability<sup>775</sup>.

Retailers can donate and sell retail food items that have passed the "best before" date, but some are still reluctant to do so because of misperceived health hazards. The Ordinance concerning the labelling and presentation of food also provides exceptions for labelling requirements, resulting in differing responsibilities for donating or selling food after the "best before" date<sup>776 777</sup>.

**Table 247 Evaluation of the Member State's policy in terms of "Food information to consumers applicable to food redistribution":**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Donation requirements in line with EU recommendation on "best before" dates	x			
Presence of national guidelines on "best before" dates			x	
Presence of laws targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)			x	
Presence of national guidelines targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)			x	

<sup>772</sup> Swedish National Food Agency. 2005. "Ordinance on food hygiene (LIVSFS 2005:20)". [https://www.livsmedelsverket.se/globalassets/om-oss/lagstiftning/livsmedelshygien/livsfs-2005-20-kons-2018-3\\_huvudnot.pdf](https://www.livsmedelsverket.se/globalassets/om-oss/lagstiftning/livsmedelshygien/livsfs-2005-20-kons-2018-3_huvudnot.pdf)

<sup>773</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>774</sup> Swedish National Food Agency. 2004. "Ordinance on labelling (LIVSFS 2004:27)."."

<https://www.livsmedelsverket.se/globalassets/om-oss/lagstiftning/livsmedelsinfo-till-konsum---markning/livsfs-2004-27.pdf>.

<sup>775</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>776</sup> FUSIONS. 2016. "Sweden - Country Report on national food waste policy". <https://www.eu-fusions.org/phocadownload/country-report/SWEDEN%2023.02.16.pdf>

<sup>777</sup> Swedish National Food Agency. 2004. "Regulations on labelling". <https://www.livsmedelsverket.se/globalassets/om-oss/lagstiftning/livsmedelsinfo-till-konsum---markning/livsfs-2004-27.pdf>

### 3.27.4 Voluntary Agreements for food redistribution

After participation in a workshop organised by the EU REFRESH Policy Platform on Voluntary Agreements<sup>778</sup> a project to form a proposal for a Voluntary Agreement to reduce food loss and waste in Sweden started in 2018. The project is led by the Swedish Environmental Research Institute (IVL), and it involves actors from all parts of the food chain. The project discusses what a Voluntary agreement should include, how it is best organised and how it should be financed<sup>779</sup>. This platform, which was financed within the scope of this H2020 research project, had the objective of presenting to Member States how to apply the project’s Blueprint, a roadmap on how to set up Voluntary Agreements within any country’s context. In the specific case of Sweden, a Voluntary Agreement Blueprint workshop was organised by the end of 2018, bringing together a mix of stakeholders including policymakers, industry and NGOs to establish a framework of collaboration along the entire supply chain.

**Table 248 Evaluation of the Member State’s policy in terms of “Voluntary Agreements for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a Voluntary Agreement which addresses all 5 pillars of the EU REFRESH blueprint in regard to food donation		x		

### 3.27.5 Communication initiatives for food redistribution

No campaigns have focused explicitly on food redistribution in Sweden. However, there have been several major communication campaigns intent on raising consumer awareness about food waste in general, and on informing them about how to reduce their own food surplus. The **Stop Food Waste initiative** (*Stoppa Matsvinnet*)<sup>780</sup> provided tips applicable at the consumer level<sup>781</sup>. Information campaigns are also in the running in schools, and the **Climate smart** (*Klimatsmart*) network works towards reducing food waste occurring during primary and secondary school lunches, by changing behavioural habits. None of the campaigns is monitored, making it difficult to evaluate their effectiveness for food waste reduction and the readiness to put forth communication on food redistribution<sup>782</sup>.

### 3.27.6 Other initiatives for food redistribution

Sweden coordinated a Nordic food waste project between 2013 and 2017 with 3 focus areas: data for waste and losses in primary production, date labelling and donation. The term “side flow” for food waste and production losses in primary production was introduced and defined, a common Nordic

<sup>778</sup> EU REFRESH. 19.06.2018 Policy Working group on Voluntary Agreements led by Deloitte Sustainability and WRAP. <https://eu-refresh.org/refresh-policy-working-group-voluntary-agreements>

<sup>779</sup> EU REFRESH. 19.06.2018 Policy Working group on Voluntary Agreements led by Deloitte Sustainability and WRAP. <https://eu-refresh.org/refresh-policy-working-group-voluntary-agreements>

<sup>780</sup> This webpage is no longer managed by The Swedish National Food Agency

<sup>781</sup> Stoppa Matsvinnet.

<sup>782</sup> FUSIONS. 2016. “Sweden - Country Report on national food waste policy.” <https://www.eu-fusions.org/phocadownload/country-report/SWEDEN%2023.02.16.pdf>.

figure for a better understanding of date labels was presented, and recommendations for developing food banks to act as systems operators for redistribution were submitted<sup>783</sup>.

**Table 249 Evaluation of the Member State’s policy in terms of “Other initiatives for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Use of the FEAD operational programme to support the redistribution of food			x	
Presence of measures encouraging the redistribution of fruits and vegetables withdrawn from the market, in line with Regulation (EU) 1308/2013				x
Publication of studies/research related to food redistribution	x			
Presence of financial or logistic support for food redistribution at the national/regional/local level			x	
Absence of incentives for the valorisation of food surplus via anaerobic digestion, which may otherwise hinder redistribution if the incentives for anaerobic digestion favour this recovery route over redistribution			x	

<sup>783</sup> Information from the Swedish Ministry of Enterprise and Innovation. 2018.

## 3.28 United Kingdom

### 3.28.1 National strategies for food redistribution

In the United Kingdom, the **Courtauld Commitment** is one of the most advanced Voluntary Agreements in Europe which is furthermore considered by the UK as its national food waste strategy. Initiated in 2005, and renewed 3 times since its initial launch, it gathers actors from the entire UK supply chain to improve resource efficiency, prevent millions of tons of packaging and food waste and generated billions in savings<sup>784</sup>.

Specific consideration for food redistribution was introduced in the latter of the phases, which is expected to have a positive effect on food redistribution levels. In January 2017, 40 signatories of Courtauld 2025 committed to doubling how much they redistribute to charities by 2020, against a 2015 baseline. If the goal is met, it would represent an additional 30 000 tonnes of redistributed food, enough to prepare 60 million meals<sup>785 786</sup>.

Under the Courtauld Commitment's umbrella, the Waste and resources Action programme WRAP, the organisation in charge of leading the agreement, gathers more than 25 representatives from a wide range of organisations (food retailers, manufacturers, representatives from UK Governments etc.) in a **redistribution working group**<sup>787</sup>. These 25 organisations work hand in hand to find solutions to increase the amounts of food surplus redistributed, through sharing best practices, identifying barriers and opportunities, and overseeing new approaches to monitor progress. By gathering all of the involved actors around the table, new opportunities and synergies can be created for food redistribution. The Courtauld Commitment is a case study example of a successful national strategy for food waste reduction with a promising impact on food redistribution.

While the Courtauld Commitment has proven to be one of the most advanced Voluntary Agreements for food waste reduction across Europe, 89 UK food businesses committed to an even more ambitious agreement in September 2018. Indeed, under **WRAP's Food Waste Reduction Roadmap**<sup>788</sup>, large businesses committed to halve their food waste by 2030<sup>789</sup>. Furthermore, under this Roadmap, they must adopt a "Target-Measure-Act" approach, by:

- Setting their own food waste reduction goal within their UK operations, in line with SDG 12.3;
- Measuring their results and transparently and publicly publishing them;
- Acting to reduce their food waste, and encouraging their suppliers and consumers to follow suit.

After a successful lobbying campaign led by FareShare, the UK Government introduced a £15 million pilot fund 2019/20 was announced in October 2018 to increase food redistribution and reduce food waste in England<sup>790</sup>. The pilot scheme will help make sure that good food goes to people who need

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<sup>784</sup> The first edition of the Courtauld Commitment (2005-2010) prevented 1,2 million tonnes of packaging and food waste and 3,3 million tonnes of CO2 emissions, saving an estimated £1,8 billion. The second edition (2010-2012) reduced the overall waste in the supply chain by 7,4%, and the third edition (2013-2015) reduced ingredient, product and packaging waste in the grocery supply chain by 3%. The most recent version of the Courtauld Commitment, Courtauld 2025, is a 10 year commitment, from 2015 until 2025, with targets for food and drink waste reduction among the production, manufacture, distribution, retail, hospitality and food service sectors.

<sup>785</sup> WRAP. 2017. "Courtauld Commitment 2025 signatories to double redistribution."

<http://www.wrap.org.uk/content/courtauld-commitment-2025-signatories-double-redistribution>.

<sup>786</sup> WRAP. n.d. "What is Courtauld 2025?" Accessed August 10, 2018. <http://www.wrap.org.uk/content/what-courtauld-2025>.

<sup>787</sup> WRAP. n.d. "Surplus Food Redistribution Working Group". <http://www.wrap.org.uk/content/surplus-food-redistribution-working-group-0>.

<sup>788</sup> WRAP. 2018. "The Food Waste Reduction Roadmap – Toolkit". [www.wrap.org.uk/sites/files/wrap/food-waste-reduction-roadmap-toolkit\\_0.pdf](http://www.wrap.org.uk/sites/files/wrap/food-waste-reduction-roadmap-toolkit_0.pdf).

<sup>789</sup> Feedback Global. 2018. "Feedback Welcomes Major Step Forward For Business As Usual On Food Waste - Feedback". <https://feedbackglobal.org/feedback-welcomes-big-change-to-business-as-usual-on-food-waste/>

<sup>790</sup> Feedback global. 2018. "Gove Pledges £15M To Support Redistribution Of Food Surplus - Feedback". <https://feedbackglobal.org/gove-pledges-15m-to-support-redistribution-of-food-surplus/>

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<sup>791</sup>.

Finally, the general framework around food redistribution is well defined in the association WRAP’s report on **Framework for Effective Redistribution Partnerships** (‘the Redistribution Framework’)<sup>792</sup>, which aims to increase the volumes of food redistributed by:

- Providing a structured approach to the creation of partnerships for successful food redistribution;
- Supporting a better exchange of key information;
- Establishing a more structured approach to identify surpluses suitable for redistribution.

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 various topics relating to labelling, primary responsibility, date marking, and storage advice, etc., to ensure food is safe to eat, reduce consumer food waste and remove barriers to redistribution. Hence, it provides redistribution organisations with clear instructions for their activities<sup>793</sup>.

**Table 250 Evaluation of the Member State’s policy in terms of “National strategies for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a national food waste strategy including food redistribution measures	x			
Adoption of SDG 12.3 or more ambitious goals, driving the adoption of food redistribution to meet these targets	x			
Availability of guidelines to facilitate and promote food donation	x			
Call to develop and strengthen relationships between food redistribution actors	x			

**3.28.2 Fiscal incentives for food redistribution**

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, as clarified in **guidance on VAT rates** for food<sup>794</sup>, food donations benefit from the zero rate of VAT<sup>795</sup>. While the zero rating of VAT on donated

<sup>791</sup> Information from the EU Platform on Food Losses and Food Waste. 2018  
<sup>792</sup> WRAP. 2016. “Framework for Effective Redistribution Partnerships.” [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>793</sup> Information from the EU Platform on Food Losses and Food Waste. 2018  
<sup>794</sup> 2014. “VAT rates on different goods and services”. <https://www.gov.uk/guidance/rates-of-vat-on-different-goods-and-services#food-and-drink-animals-animal-feed-plants-and-seeds>.  
<sup>795</sup> U.K. Government. 2014. “VAT rates on different goods and services”. <https://www.gov.uk/guidance/rates-of-vat-on-different-goods-and-services#food-and-drink-animals-animal-feed-plants-and-seeds>

goods is a clear incentive for donation, its impact and effectiveness is difficult to evaluate as it has not been specifically monitored<sup>796</sup>.

**Table 251 Evaluation of the Member State’s policy in terms of “Fiscal incentives for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a fiscal regime specific to food redistribution	x			
Presence of guidelines to clarify how to address complex fiscal regimes such as VAT and/or tax deductions	x			

### 3.28.3 Legal measures for food redistribution

#### 3.28.3.1 General legal framework on food redistribution

In 2016, the Environment, Food and Rural Affairs Committee (EFRA) conducted an **Enquiry about the economic, social, and environmental impact of food waste in England**, setting a binding national target for food waste reduction and proposing recommendations for food redistribution. The government rejected 2 of its key recommendations in April 2017:

- Adopting a national food waste reduction target in line with the SDG goal of reducing food waste by 50% by 2030;
- Requiring all food businesses over a certain size to publicly report their food waste figures<sup>797 798</sup>.

However, the department for the Environment, Food and Rural Affairs ran a public consultation between February and May 2018 on “The future for food, farming and the environment” in which the 50% food waste reduction target was asked for once again. The responses to the consultation fuelled the writing of the **Agriculture Bill**, laid in front of the Parliament in September 2018<sup>799</sup>.

On another subject of importance to food redistribution, the **Waste Regulation** of 2011 for England and Wales transposed the EU Waste Framework Directive’s waste hierarchy, into its regulation<sup>800</sup>. To make this waste hierarchy easier to apply by actors in the food supply chain, WRAP developed a “food use hierarchy” in which redistribution to human consumption is prioritised over other valorisation options such as animal feed, biogas, compost, etc. While this adapted food use hierarchy is a key guiding tool for food supply chain actors in the UK, the Waste Regulation is not legally binding as it only recommends food business organisations to “take all such measures available to it as are reasonable in the circumstances”. The “reasonable in the circumstances” can be widely interpreted, creating differing levels of involvement from actors. The regulation is not enforced either, and FBOs do not have to provide any evidence or data about how they abide by the Waste Regulation. As such,

<sup>796</sup> EESC - Bio by Deloitte. 2014. “Comparative Study on EU Member States’ legislation and practices on food donation.” [https://www.eesc.europa.eu/resources/docs/comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation\\_finalreport\\_0](https://www.eesc.europa.eu/resources/docs/comparative-study-on-eu-member-states-legislation-and-practices-on-food-donation_finalreport_0).

<sup>797</sup> Environment, Food and Rural Affairs Committee. 2016. “Food waste in England inquiry.” <https://www.parliament.uk/business/committees/committees-a-z/commons-select/environment-food-and-rural-affairs-committee/inquiries/parliament-2015/food-waste-inquiry-16-17/>.

<sup>798</sup> Interview with Feedback Global. 2018.

<sup>799</sup> Department for Environment, Food & Rural Affairs. 2018. “The future for food, farming and the environment - Consultation Outcome.” <https://www.gov.uk/government/consultations/the-future-for-food-farming-and-the-environment>.

<sup>800</sup> 2011. “The Waste Regulation (England and Wales).” <http://www.legislation.gov.uk/ukxi/2011/988/regulation/12/made>.

it is difficult to analyse the real effectiveness of this regulation, and local experts suggest making the measure more constraining to create real impact<sup>801</sup>.

**Table 252 Evaluation of the Member State’s policy in terms of “General legal framework on food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a legal framework specific to food redistribution, in addition to EU rules		x		
Presence of the food use hierarchy	x			

3.28.3.2 Traceability requirements applicable to food redistribution

WRAP provides guidance on traceability requirements, by listing all of the key legislations related to food safety, food hygiene and traceability applicable to food redistribution<sup>802</sup>.

**Table 253 Evaluation of the Member State’s policy in terms of “Traceability requirements applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a clear traceability regime for food redistribution			x	
Presence of guidelines which clarify the traceability regime for food redistribution	x			

3.28.3.3 Primary responsibility and liability rules for food redistribution

The 2016 Framework for Effective Redistribution Partnerships, established by WRAP, offers a partnership arrangement tool, established between donors and redistribution organisations to cover all legal liability and documentation aspects, and the transfer of responsibility between donor and receiver. The declarations could also help establish new efficient partnerships based on supply and demand, geographical coverage, food surplus characteristics and supplier policies<sup>803</sup>.

Meanwhile, on the topic of **primary responsibility**, actors of the food redistribution chain generally have HACCP policies which define liability within their frameworks, and the liability for donated food is split up between them. For example, the largest UK redistribution organisation, Fareshare defined contracts with its charity partners including agreements for liability insurance<sup>804</sup>.

The responsibilities of FBOs are also laid out in **WRAP’s “Labelling guidance”**<sup>805</sup>, according to which the responsibility for donated food transfers along the food supply chain in the redistribution

<sup>801</sup> Interview with Feedback Global. 2018.  
<sup>802</sup> WRAP. “Legal and regulatory links for food redistribution”. <http://www.wrap.org.uk/content/legal-and-regulatory-links-food-redistribution>.  
<sup>803</sup> WRAP. 2016. “Framework for Effective Redistribution Partnerships.” [http://www.wrap.org.uk/sites/files/wrap/Redistribution%20Framework%20Version%20201.0\\_0.pdf](http://www.wrap.org.uk/sites/files/wrap/Redistribution%20Framework%20Version%20201.0_0.pdf).  
<sup>804</sup> Interview with Fareshare. 9 July 2018.  
<sup>805</sup> WRAP. November 2017. “Labelling guidance”. <http://www.wrap.org.uk/sites/files/wrap/labelling-guidance.pdf>.

process. This guidance document provides guidelines for specific cases (e.g. redistribution of chilled products, of frozen products or of batches of products) to ensure that the FBO handling the food maintains food safety at all stages.

**Table 254 Evaluation of the Member State’s policy in terms of “Primary responsibility and liability rules for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of clear primary responsibility and liability rules for food redistribution			x	
Presence of guidelines which clarify the primary responsibility and liability rules for food redistribution	x			

### 3.28.3.4 Hygiene rules applicable to food redistribution

WRAP, Defra and the Food Standards Agency’s guidance documents aim 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>806</sup>, specific resources were developed in conjunction with those involved in redistribution – which consisted of a short summary, the “Best practice and food safety for redistribution – Summary”<sup>807</sup>, and a checklist, the “Best practice and food safety for redistribution – Checklist”<sup>808</sup>. These documents provide essential information on food safety measure to apply, such as requirements for food transport and storage and for freezing food. Charities, similarly to any other food business, are required to put in place and maintain food safety management systems, though these may be adapted to the nature of the food business<sup>809</sup>.

However, no redistribution-specific legislation exists in the United Kingdom; the full EU hygiene package is applied.

**Table 255 Evaluation of the Member State’s policy in terms of “Hygiene rules applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of national laws in addition to EU rules to simplify hygiene requirements for food redistribution			x	
Presence of national guidelines explaining hygiene requirements for food redistribution, clarifying EU	x			

<sup>806</sup> WRAP. 2017. Defra and Food Standards Agency. “Labelling guidance – Best practice on food date labelling and storage advice.” Accessed July 31, 2018. <http://www.wrap.org.uk/sites/files/wrap/labelling-guidance.pdf>.

<sup>807</sup> WRAP. 2017. Defra and Food Standards Agency. “Redistribution summary - Food labelling and safety.” [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>808</sup> WRAP. 2017. Defra and Food Standards Agency. “Redistribution Checklist - Date labels storage advice and freezing for food safety.” [www.wrap.org.uk/sites/files/wrap/redistribution-checklist\\_0.pdf](http://www.wrap.org.uk/sites/files/wrap/redistribution-checklist_0.pdf).

<sup>809</sup> WRAP. 2017. Defra and Food Standards Agency. “Redistribution summary - Food labelling and safety.” [http://www.wrap.org.uk/sites/files/wrap/redistribution-summary\\_0.pdf](http://www.wrap.org.uk/sites/files/wrap/redistribution-summary_0.pdf).



### 3.28.3.5 Food information to consumers applicable to food redistribution

With regards to **date marking**, 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”. Also, products past the “best before” date are allowed for commercial retail<sup>810</sup>. The association WRAP regularly issues **technical reports** and guidance documents to inform on the correct interpretation of expiration dates. There has been good progress in assuring that retailers collaborate with redistribution organisations to ensure that food past the “best before” date is redistributed.<sup>811</sup> FareShare increasingly works on the topic, and published guidance for FBOs **“The food we take”**<sup>812</sup> listing the categories of food they accept for redistribution. However, the retailer Co-op became the first major retailer in spring 2018 to sell products beyond their “best before” date in commercial retail, setting a good example for other actors in the sector<sup>813</sup>. This is encouraging, also considering that the reports published by WRAP setting out best practices in the choice and application of date labels and give storage advice proved that the amount of food currently redistributed could be multiplied by 4 if there was a better use of date labelling<sup>814 815</sup>.

After a successful pilot in 9 of its stores, Co-op also foresees to extend its redistribution scheme to deliver donations with their own trucks up to twice a day to FareShare. The retailer states that this would enable food surplus to reach organisations in 48 hours, thus increasing the amount and type of food that can be considered for redistribution, such as bread and pastries. The scheme is predicted to cut food waste levels by 40%, with a long-term objective of avoiding food waste completely<sup>816</sup>. Furthermore, Asda announced it will donate £20 million to FareShare and the Trussell Trust to the value of £15 million, in order to make redistribution financially attractive to retailers – unprecedented donation from a UK supermarket<sup>817</sup>.

In its guidance document **“Labelling guidance – Best practice on food date labelling and storage advice”**, WRAP, in collaboration with the Food Standards Agency and the Department for Environment, Food and Rural Affairs (Defra)<sup>818</sup>, estimates that technical changes to packaging and labelling could help cut around 350 000 tonnes of household food waste a year by 2025, saving shoppers around £1 billion in wasted food. Average retailers store between 20 000-30 000 products, thus changes in labelling may take some time to appear on shelf. However, WRAP has already noted encouraging changes: pasteurised fruit juices and hard cheeses moving from “use by” to “best before” dates, and more fresh produce carrying advice for storage in the fridge for example. To complement the main guidance document, the Guidance on date labelling and storage advice<sup>819</sup>,

<sup>810</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

<sup>811</sup> FareShare. “The food we take”. <https://fareshare.org.uk/giving-food/the-food-we-take/>; The Grocer. 2018. “Central England Co-op extends food waste scheme to all stores”. <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>812</sup> Fareshare. n.d. “The food we take”. <https://fareshare.org.uk/giving-food/the-food-we-take/>. Accessed 18 November 2018.

<sup>813</sup> The Guardian. 2017. “Co-op to sell food past its “best-before” date in bid to cut waste”. <https://www.theguardian.com/environment/2017/dec/04/retailer-to-sell-food-past-its-best-before-date-in-bid-to-cut-waste>

<sup>814</sup> Interview with Fareshare. 9 July 2018.

<sup>815</sup> Interview with Feedback Global. 2018.

<sup>816</sup> Calnan, Marianne. 19 June 2018. “Centra England Co-op extends food waste scheme to all stores”. The Grocer. <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>817</sup> The Food Waste Scorecard. Feedback. [https://feedbackglobal.org/wp-content/uploads/2018/06/Supermarket-scorecard\\_136\\_fv-1.pdf](https://feedbackglobal.org/wp-content/uploads/2018/06/Supermarket-scorecard_136_fv-1.pdf)

<sup>818</sup> WRAP. 2017. Defra and Food Standards Agency. “Labelling guidance – Best practice on food date labelling and storage advice.” Accessed July 31, 2018. <http://www.wrap.org.uk/sites/files/wrap/labelling-guidance.pdf>.

<sup>819</sup> WRAP. 2017. Defra and Food Standards Agency. “Labelling guidance – Best practice on food date labelling and storage advice”. <http://www.wrap.org.uk/sites/files/wrap/labelling-guidance.pdf>

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>820</sup> and a checklist, the Best practice and food safety for redistribution – Checklist<sup>821</sup>.

Concerning labelling, several forms of guidance and legislative texts exist concerning food information to consumers and specifically on **labelling**. The **Food Information Regulation** of 2014 defines **labelling rules** for food business operators<sup>822</sup>. The government issued a guidance document in 2015 on “**Food labelling: giving food information to consumers**”<sup>823</sup>, consolidating all information needed for actors to fulfil the requirements of the Food Information Regulation of 2014 and of the EU’s Food Information to Consumers regulation of 2011. Likewise, WRAP, in collaboration with Defra and the Food Standards Agency, published a report to provide labelling and storage guidance<sup>824</sup>. The Best practice labelling guidance<sup>825</sup> produced by Defra/FSA/WRAP provides advice relevant to UK FBOs. In Wales, the Food Standard Agency Wales based itself on the EU’s Food Information to Consumers regulation to establish policy responsibility for almost all food labelling matters<sup>826</sup>.

In the specific case of **relabelling** donated food, a charity can accept mislabelled food. While in most cases, food manufacturers are in charge of relabelling, they can give permission to other FBOs to do so. Food business organisations are therefore allowed to update the information given on a label if it requires modifications, but are then responsible for the accuracy of the changes. For instance, a FBO can freeze a product when appropriate to extend its shelf life, but must determine the new durability date and the new conditions of use and storage which will appear on the label and ultimately must be properly labelled by the time it reaches the final consumer, whether this is a paying customer or not. 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. The simplification of relabelling procedures laid out in the Food Information Regulation, and explained in the “Food labelling: giving information to consumers” guidance document makes it easier for actors to extend product lifespan, thus increasing potential for redistribution. All regulations dealing with food information or safety remain nonetheless very well monitored in the United Kingdom, with local authorities’ controls and potential prosecutions if a food business organisations breaks certain rules. Lastly, 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)<sup>827</sup>.

**Table 256 Evaluation of the Member State’s policy in terms of “Food information to consumers applicable to food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Donation requirements in line with EU recommendation on “best before” dates	x			
Presence of national guidelines on “best before” dates	x			

<sup>820</sup> WRAP. 2017. Defra and Food Standards Agency, “Redistribution summary - Food labelling and safety”. [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>821</sup> WRAP. 2017. Defra and Food Standards Agency, “Redistribution Checklist - Date labels storage advice and freezing for food safety”. [www.wrap.org.uk/sites/files/wrap/redistribution-checklist\\_0.pdf](http://www.wrap.org.uk/sites/files/wrap/redistribution-checklist_0.pdf)

<sup>822</sup> 2014. “The Food Information Regulations.” <http://www.legislation.gov.uk/ukxi/2014/1855/contents/made>.

<sup>823</sup> 2015. “Food labelling: giving food information to consumers.” <https://www.gov.uk/guidance/food-labelling-giving-food-information-to-consumers#get-labelling-advice>.

<sup>824</sup> WRAP. 2017. Defra and Food Standards Agency. “Labelling guidance – Best practice on food date labelling and storage advice”. <http://www.wrap.org.uk/sites/files/wrap/labelling-guidance.pdf>

<sup>825</sup> WRAP. November 2017. “Food date labelling and storage advice “. <http://www.wrap.org.uk/food-date-labelling>

<sup>826</sup> Information from the EU Platform on Food Losses and Food Waste. 2 November 2018.

<sup>827</sup> Information from the EU Platform on Food Losses and Food Waste. 2018

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of laws targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)	x			
Presence of national guidelines targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)	x			

### 3.28.4 Voluntary Agreements for food redistribution

The following overview of the Courtauld Commitment Voluntary Agreement (VA), which includes a focus on food redistribution, is analysed against the 5 pillars of a successful VA, as defined within the EU REFRESH Blueprint<sup>828</sup>: initiation and set-up, ambition, governance and funding, establishing actions, and measurement and evaluation.

#### Initiation and set-up

WRAP, a organisation, coordinates and leads the Courtauld Commitment and works alongside retailers, manufacturers and suppliers. Members include a wide majority of the stakeholders of the food supply chain, but lacks actors from the primary production sector, most likely as a result of the initial goals of the agreement targeted towards food and packaging waste reduction in the retail sector. The agreement receives support from the Westminster, Scottish, Welsh and Northern Ireland governments.

#### Ambition

As an evolution from the initial objectives of the agreement aiming for the reduction of food and packaging waste, Courtauld 2025 targets a 20% reduction in food and drink waste in the United Kingdom. Meeting the goals of Courtauld 2025 will help reach the United Nations Sustainable Development Goal 12.3 of halving food waste by 2030. Furthermore, in January 2017, 40 signatories of Courtauld 2025 committed to doubling how much they redistribute to charities by 2020, against a 2015 baseline.

#### Governance and funding

The Courtauld Commitment is funded by the Westminster, Scottish, Welsh and Northern Ireland governments. WRAP strategically retains its members by showing them the added-value of their participation, notably through public recognition and economic benefits brought on through the application of food waste reduction measures overseen by WRAP. As of late 2017, funding for WRAP

<sup>828</sup> The Blueprint was developed within the scope of the H2020 EU research project. The Blueprint is a roadmap designed for policy makers on how to set up Voluntary Agreements within any country's context. Application of this Blueprint tool, which is expected to be available on the REFRESH Community of Experts page by 2020, together with support from the REFRESH project team, is expected to help launch the Voluntary Agreement. <http://www.refreshcoe.eu/>

has been significantly cut by the government. The impacts of this funding decrease on the Courtauld Commitment is still unknown<sup>829</sup>.

**Establishing actions**

The Courtauld Commitment’s priority areas for action are food and packaging waste reduction, on limiting greenhouse gas emissions in relation to food and drink consumption in the UK and on improving the quality and efficient use of water in operations. Each targeted action for the Courtauld Commitment is carefully decided upon before the launch of the agreement, and are thought out depending on the achievement of previous ones. In the past 3 phase of the Commitment, ambitious yet achievable objectives were set, and were always almost reached.

**Measurement and evaluation**

There are annual reviews of the Courtauld Commitment to measure progress and the advancement of activities<sup>830</sup>. In January 2017, 40 signatories of Courtauld 2025 committed to doubling how much they redistribute to charities by 2020, against a 2015 baseline. If the goal is met, it would represent an additional 30 000 tonnes of redistributed food, enough to prepare 60 million meals<sup>831 832</sup>.

While the Courtauld Commitment has proven to be one of the most advanced Voluntary Agreements for food waste reduction across Europe, 89 UK food business committed to an even more ambitious agreement in September 2018. Indeed, under **WRAP’s Food Waste Reduction Roadmap**<sup>833</sup>, large businesses must adopt a “Target-Measure-Act” approach, by:

- Setting their own food waste reduction goal within their UK operations, in line with SDG 12.3;
- Measuring their results and transparently and publicly publishing them;
- Acting to reduce their food waste, and encouraging their suppliers and consumers to follow suit.

WRAP’s Food Waste Reduction Roadmap counts 46 food producers and manufacturers among its signatories, all of the major UK retailers and different trade bodies such as the National Farmers’ Union. With backing from the English, Welsh and Scottish Governments, the Food Waste Reduction Roadmap ambitions to work alongside Courtauld 2025, to achieve the collective ambition of halving food waste by 2030<sup>834</sup>. While the Food Waste Reduction Roadmap’s impact on food redistribution is unknown, redistribution to people is explicitly listed as a destination of surplus food, whether it be redistribution to charity or commercial organisations<sup>835</sup>.

**Table 257 Evaluation of the Member State’s policy in terms of “Voluntary Agreements for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Presence of a Voluntary Agreement which addresses all 5 pillars of the EU REFRESH blueprint in regard to food donation	x			

<sup>829</sup> WRAP facing up to 25 job losses following cuts to government funding. <https://www.businessgreen.com/bg/news/3024593/wrap-facing-up-to-25-job-losses-following-cuts-to-government-funding>  
<sup>830</sup> WRAP. n.d. The Courtauld Commitment. <http://www.wrap.org.uk/content/what-is-courtauld>.  
<sup>831</sup> WRAP. 2017. “Courtauld Commitment 2025 signatories to double redistribution.” <http://www.wrap.org.uk/content/courtauld-commitment-2025-signatories-double-redistribution>.  
<sup>832</sup> WRAP. n.d. “What is Courtauld 2025?” Accessed August 10, 2018. <http://www.wrap.org.uk/content/what-courtauld-2025>.  
<sup>833</sup> WRAP. 2018. “The Food Waste Reduction Roadmap – Toolkit”. [www.wrap.org.uk/sites/files/wrap/food-waste-reduction-roadmap-toolkit\\_0.pdf](http://www.wrap.org.uk/sites/files/wrap/food-waste-reduction-roadmap-toolkit_0.pdf).  
<sup>834</sup> Dickinson, Kate. 25 September 2018. “UK businesses sign up to ‘world first’ food waste reduction roadmap”. Resource. <https://resource.co/article/uk-businesses-sign-world-first-food-waste-reduction-roadmap-12857>.  
<sup>835</sup> WRAP. 2018. “The Food Waste Reduction Roadmap – Toolkit”. [www.wrap.org.uk/sites/files/wrap/food-waste-reduction-roadmap-toolkit\\_0.pdf](http://www.wrap.org.uk/sites/files/wrap/food-waste-reduction-roadmap-toolkit_0.pdf).

### 3.28.5 Communication initiatives for food redistribution

The most longstanding communication campaign targeting food waste in the UK is the “**Love Food Hate Waste**” campaign, launched by WRAP in 2007. For the food industry the campaign, mostly actioned by charities and food industry magazines like *The Grocer*, delivers practical guidelines to reduce food waste, tools and suggestions for behavioural changes (shopping lists, anti-waste recipes). Although this campaign does not address food redistribution, a positive impact on food redistribution could potentially be envisioned if its scope was widened, as it already has created significant awareness amongst its targets<sup>836</sup>.

### 3.28.6 Other initiatives for food redistribution

Sending surplus food to anaerobic digestion is a commonplace in the United Kingdom, and actors from the food supply chain have diverging opinions concerning the use of food waste for energy production. Most anaerobic digestion organisations claim they do not use edible food waste, but no transparent data on the national level supports this statement. However, Tesco, who became the first retailer in the UK to publicly publish food waste data, published their figures showing that they alone sent almost 20,000 tonnes of edible food waste to anaerobic digestion in 2017, as compared to less than half (8,000 tonnes) which were redistributed. This data surfaces that there is a clear need to facilitate food redistribution to consumers, which Tesco aims at tackling through various in-store actions geared at favouring redistribution to consumers<sup>837</sup>.

Despite efforts for food redistribution, supporters of anaerobic digestion have their own set of arguments. For example, as the hygiene requirements associated with anaerobic digestion are not as strict as for food redistribution, it is seen as a more efficient and cost-effective way to dispose of waste. Strengthening this argument, the “**feed-in tariffs**” subsidies associated with anaerobic digestion generally cover the costs of collection and transport of surplus food since 2010. However, these subsidies provide a barrier towards food redistribution subsidies which do not exist for food recovery<sup>838</sup>. The Department of Energy and Climate Change launched a **governmental consultation** in 2017 to assess the interest in removing the feed-in tariff subsidies for large anaerobic digestion plants, decrease levels for smaller plants and maintain support for micro combined heat and power. While there were strong supporters of lifting the subsidies on anaerobic digestion in order to facilitate food donation, such as FareShare, others questioned the repercussions of lifting this ban. It was found out that as most anaerobic digestion plants in the United Kingdom are owned by farmers who widely adopted the technology at a time when they could no longer make a living from their farming activities, the removal of this subsidy could affect their livelihood. Regardless, as a result of the consultation, the government proposed reduced generation rates<sup>839</sup> <sup>840</sup>. On the opposite spectrum, it was also identified that despite the positive intentions to incentivise food redistribution, recipient FBOs did not always have the necessary logistics and storage equipment, meaning that they did not necessarily have the capacity and resources to absorb large

<sup>836</sup> Love Food Hate Waste. 2007. <https://www.lovefoodhatewaste.com/>.

<sup>837</sup> UK Food Waste Data 2017/2018. <https://sustainability.tescopl.com/sustainability/food-waste/topics/uk-data/>

<sup>838</sup> Feedback Global. n.d. “EC Circular Economy Consultation - Feedback Dedicated Position Paper.” <http://feedbackglobal.org/wp-content/uploads/2016/09/EC-Circular-Economy-Consultation-Feedback-Dedicated-Position-Paper.pdf>.

<sup>839</sup> Department of Energy and Climate Change. 2017. “Government consultation on the review of support for anaerobic digestion and micro-combined heat and power under the feed-in tariff scheme.” [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/590330/FITs\\_AD\\_mCHP\\_government\\_response.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/590330/FITs_AD_mCHP_government_response.pdf).

<sup>840</sup> Sheffield, Hazel. 2016. “The UK Government subsidies that divert thousands of tonnes of food from feeding the hungry.” *The Independent*. <https://www.independent.co.uk/news/business/news/uk-government-paying-millions-to-turn-food-waste-into-energy-while-needy-go-hungry-a6863401.html#r3z-addoor>.

levels of surplus food in the United Kingdom. According to local experts, establishing a balanced between food redistribution and anaerobic digestion would be the most optimal solution in order to avoid burdening FBOs.

Other fiscal measures indirectly encourage food redistribution, by determining taxes for other waste disposal routes. The **Landfill Allowance Trading Scheme** of 2005 promotes a reduction of bio waste sent to landfill in England, while the **Landfill Tax Escalator** of 1996 raises the cost of landfilling one tonne of waste in England, Wales and Northern Ireland, thus indirectly promoting other valorisation methods higher up in the food use hierarchy, such as redistribution for human consumption<sup>841</sup>. Finally, the **Landfill Tax Act** of 2014 determines 2 rates for disposing of waste in landfills in Scotland: a standard rate for active materials and a lower rate for lesser polluting materials (referred to as 'inert') materials<sup>842</sup>. Upon analysis by the project team, the Landfill Allowance Trading Scheme, the Landfill Tax Escalator and the Landfill Tax Act aim to restrain landfilling of food waste, in line with the food use hierarchy, but do not offer alternative solutions for its treatment. Furthermore, there are no financial incentives for food donation (tax deductions or tax credits) in the United Kingdom. Having both a disincentive for landfilling and an incentive for redistribution could potentially have more impact on the promotion of food redistribution.

Furthermore in response to this consultation, the House of Lords published a **report in 2014, "Counting the Cost of Food Waste: EU Food Waste Prevention"**, which widely debated the valorisation of surplus food through anaerobic digestion<sup>843</sup>. It was concluded that this valorisation route should remain an option for unavoidable food waste, while the treatment of edible food surplus should follow the food use hierarchy whenever possible. Furthermore, the House of Lords recommends that the government investigate incentives for food waste redistribution.

In response, the government initiated some support for redistribution activities. In December 2017, the Department of Environment, Food and Rural Affairs provided a £500 000 fund, called the **Food Waste Reduction Fund**, to support organisations who redistribute food, and charities who receive and share food with people in need. This financing was set out to help these organisations overcome common barriers such as training and education costs, infrastructure support, the forming of collaborative partnerships and communication, as well as logistics and technology.

In parallel, FareShare launched the **"Feed people first"** campaign to raise awareness on how the financial incentives favouring anaerobic digestion over redistribution hinder food donation practices. Through FareShare's campaign, it surfaced key figures such as a redistribution potential of 100 000 tonnes of food towards the needy if the incentives were lifted. It ultimately launched a petition which gathered over 16 000 signatures by May 2018 and was sent to the government for consideration<sup>844</sup><sup>845</sup>. The governmental fund, administered by WRAP, provided grants to 8 charities or not-for-profit groups, and has a potential to finance 6 million meals. Charities are expected to continue reporting on their activities and the use of funds until 2019. However, this £500 000 fund only represented 3.3% of the £15 million that was requested by FareShare to reach its target of redistributing an additional 100 000 tonnes of food<sup>846</sup><sup>847</sup>. In October 2018, the Secretary of State for the Environment, Food and Rural Affairs pledged to provide this £15 million fund to support food

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<sup>841</sup> FUSIONS. 2016. "UK – Country Report on national food waste policy." <https://www.eu-fusions.org/index.php/country-reports/reports/303-uk>.

<sup>842</sup> 2018. "Scottish Landfill Tax."

<https://www.gov.scot/Topics/Government/Finance/scottishapproach/devolvedtaxes/Scottishlandfilltax>.

<sup>843</sup> House of Lords. 2014. "Counting the Cost of Food Waste: EU Food Waste Prevention." <https://www.parliament.uk/documents/lords-committees/eu-sub-com-d/food-waste-prevention/154.pdf>.

<sup>844</sup> Fareshare. 2018. "UK's largest food charity calls on public to sign food surplus petition." <http://fareshare.org.uk/feed-people-first-campaign-launches/>.

<sup>845</sup> Interview with Feedback Global. 2018.

<sup>846</sup> WRAP. 2018. "£500,000 fund opens to increase surplus food redistribution in England." <http://www.wrap.org.uk/content/%C2%A3500000-fund-opens-increase-surplus-food-redistribution-england>.

<sup>847</sup> Interview with Feedback Global. 2018.



redistribution, which was the initial amount requested by FareShare. This fund has the potential to create almost 250 million meals worth of food, and represents a large potential for the development of redistribution organisations<sup>848</sup>.

The Welsh Government has also supported food redistribution activities in Wales: it provides funding to FareShare Cymru, which helped local community groups and charities by providing access to affordable food, redistributing enough food for approximately 3.2 million meals between October 2015 and June 2018. Furthermore, the Welsh Government established the Food Poverty Alliance that brings together key charities, the Welsh Local Government Association, and Public Health Wales in response to the outcomes of the local government’s April 2015 Think Tank<sup>849</sup>.

Considering the results, research carried out by WRAP revealed that surplus food redistribution from retailers, manufacturers and hospitality and food service businesses increased by 50% in just 2 years. The combined increase for charitable and commercial redistribution brought the 2017 total to the equivalent of 102 million meals redistributed, meaning that there is great potential for the consecutive years<sup>850</sup>.

Furthermore, the United Kingdom applies EU regulation 1308/2013 and can withdraw fruits and vegetables from the markets and send them for food redistribution. Many governmental quality specifications concerning these products were withdrawn, thus increasing the amounts of food items that could be redistributed. Nonetheless, retailer specifications are often stricter than governmental ones, leading to product rejection.

Finally, the British Government does not allocate FEAD funds towards food redistribution but uses them for its structural fund budget instead, which is geared towards social inclusion and helps disadvantaged people into work<sup>851</sup>.

**Table 258 Evaluation of the Member State’s policy in terms of “Other initiatives for food redistribution”:**

	Criteria present	Criteria partly present	Criteria not present	Unknown
Use of the FEAD operational programme to support the redistribution of food			x	
Presence of measures encouraging the redistribution of fruits and vegetables withdrawn from the market, in line with Regulation (EU) 1308/2013	x			
Publication of studies/research related to food redistribution	x			
Presence of financial or logistic support for food redistribution at the national/regional/local level	x			

<sup>848</sup> FareShare. 1 October 2018. “New surplus food fund will create almost 250 million meals for good causes”. <https://fareshare.org.uk/new-surplus-food-fund-will-create-almost-250-million-meals-for-good-causes/>.

<sup>849</sup> Information from the *EU Platform on Food Losses and Food Waste*. 2 November 2018.

<sup>850</sup> WRAP. 16 July 2018. “Surplus food redistribution in the UK; 2015 to 2017” <http://www.wrap.org.uk/content/uk-food-redistribution-increase>.

<sup>851</sup> Danzig, Jon. 2014. “UK Government rejects EU food aid for Britain's poor”. <https://eu-ropen.ideason.eu/2014/12/07/uk-government-fedup-eu-rejects-food-poor/>.

	Criteria present	Criteria partly present	Criteria not present	Unknown
Absence of incentives for the valorisation of food surplus via anaerobic digestion, which may otherwise hinder redistribution if the incentives for anaerobic digestion favour this recovery route over redistribution			x	



## 4 Comparative analysis of Member States

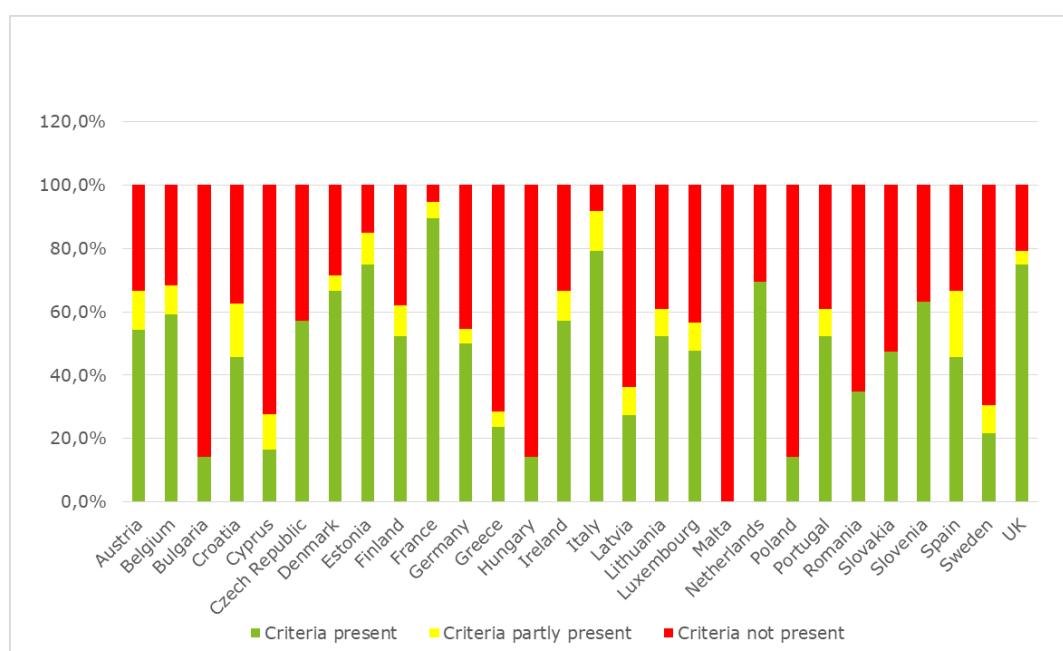
### 4.1 Overall analysis of the maturity levels of the Member States

This section presents an overall analysis of the food redistribution maturity levels of Member States. Detailed presentations for each policy category are provided in sections 4.1.1-4.1.5. A comprehensive table with an overview of comparative analysis on the existing policy on food redistribution and the levels of implementation within each Member State can be found in the Appendix. As already mentioned in section 1.1, the analysis of maturity levels in this report relates to Member States' **regulatory and policy frameworks relevant to food redistribution** only, and does not reflect the maturity levels of Member States' overall food waste reduction and prevention policy. The comparative analysis draws on the information presented in Chapter 3 and in Annex III (Redistribution of surplus food: examples of practices in the Member States). The analysis is based on the information available up to May 2019. As described in Chapter 2, a number of criteria were identified as recurring elements within each policy category (see Table 6 for the full list of policy categories and associated criteria). To evaluate the Member States' food redistribution maturity level, each criterion was assessed according to three levels of implementation:

- Criteria present: the criterion exists and is applied in the Member State;
- Criteria partly present: the criterion is only partly applied, or the Member State has started to consider it;
- Criteria not present: the criterion is not present in the Member State.

The analysis of the results started from examination of overall trends with regards to implementation levels of criteria in Member States by looking into the patterns of the country scores in terms of "present", "partly present" and "not present" criteria. Results from the assessment of implementation levels indicate that, among the 28 EU Member States, 10 countries have implemented more than 55% of 24 criteria (criteria present), although 2 of these countries had more than 35% of criteria assessed as "not present". Conversely, nine Member States are found to have more than 55% of criteria assessed as "not present", within which four Member States have over 80% of criteria assessed as "not present". Concerning criteria assessed as "partly present" (i.e. the Member State has partly applied a criterion or has started to consider it), this situation is observed less frequently than either "present" or "not present", as reflected by the yellow rectangles in Figure 4. The maximum share of "partly present" criteria is 21%, with only six Member States having levels of "partly present" criteria over 10%. Overall, this suggests that the food redistribution criteria are assessed mostly to be either implemented or not implemented by Member States, with only a few cases where criteria are either partly implemented or under consideration.

**Figure 4. Illustration of the presence of the criteria in Member States**



When defining the maturity level of the country the following assumptions are made:

- Mature countries should have implemented a relatively high number of criteria and have a low level of “not present” criteria. Mature countries may also have “partly present” criteria;
- Developing countries have implemented a number of criteria, but to a lesser extent than mature countries;
- Start-up countries are those with the most “not present” criteria, compared to developing and/or mature countries.

Based on the analysis of implementation of assessed criteria, looking into the patterns of the country scores in terms of “present”, “partly present” and “not present” criteria, and taking into account the above-mentioned assumptions, the following thresholds were considered in the categorisation of Member State food redistribution maturity levels as presented in Table 259 below:

**Table 259. Thresholds for the maturity levels of Member States**

	Mature	Developing	Start-up
Criteria present and criteria partly present	65% and more		
Criteria present and criteria partly present		50% and more but less than 65%	
Criteria not present			Does not apply to the two above

As shown in Table 259, Member States are considered to be “mature” with regards to food redistribution if the sum of criteria assessed as “criteria present” or “criteria partly present” is 65% or more of the total number of criteria. Essentially, these are considered to be mature countries if they have successfully implemented/set up a high proportion of the components deemed as important to facilitating food redistribution. Member States are considered to be “developing” if the combined share of criteria assessed as “criteria present” or “criteria partly present” is below 65% but above or equal to 50%. While, in turn, Member States with a corresponding share of less than 50% (of present and partly present criteria) are considered to be “start-up”.

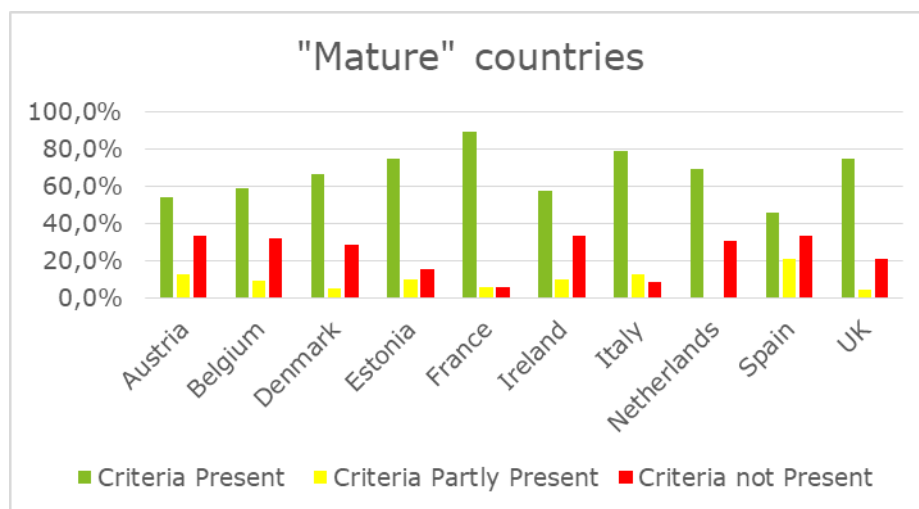
Based on the threshold level applied to determine the three maturity levels, the classification of Member States is as follows:

**Table 260. Classification of countries in maturity level groups**

Mature	Developing	Start-up
Austria	Croatia	Bulgaria
Belgium	Czech Republic	Cyprus
Denmark	Finland	Greece
Estonia	Germany	Hungary
France	Lithuania	Latvia
Ireland	Luxembourg	Malta
Italy	Portugal	Poland
Netherlands	Slovenia	Romania
Spain		Slovakia
United Kingdom		Sweden

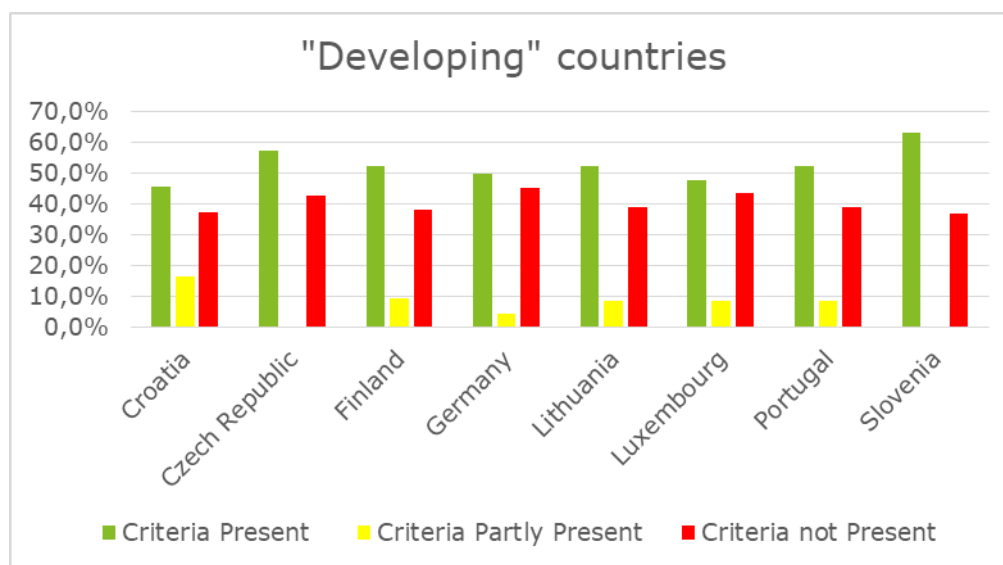
In total, 8 countries are classified as “mature”, 10 are in the “developing” category and 10 are placed in the “start-up” group. Within these groups, however, different patterns can be observed in the prevalence of criteria assessed with different levels of presence.

**Figure 5. Criteria representation for “mature” countries**



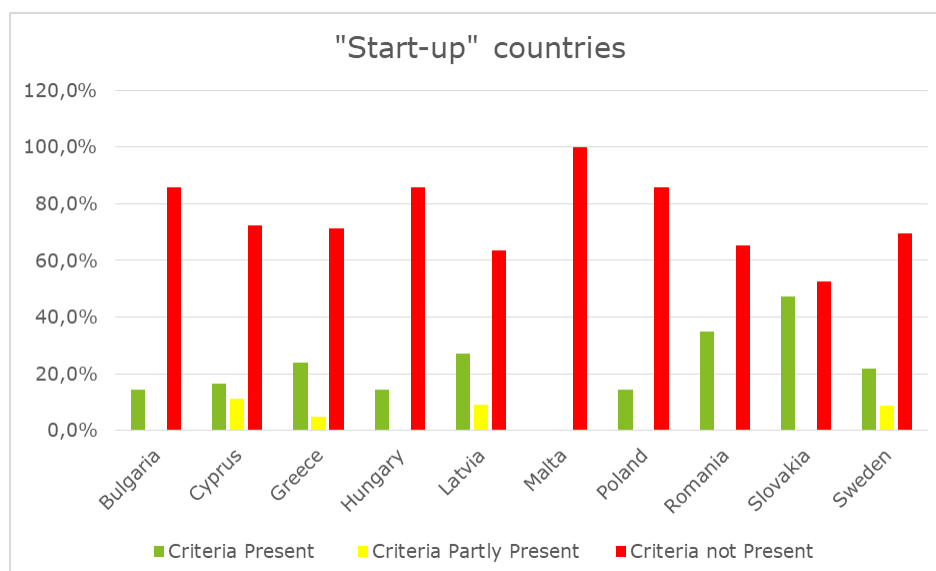
As seen from Figure 5, the essential components facilitating and encouraging food donation are present at over 70% in Estonia, France, Italy and the UK, and at almost 70% in Denmark and the Netherlands. Meanwhile, while having slightly lower rates of “present” criteria, Austria, Belgium, Ireland and Spain have high levels of “partially applied” criteria (when compared to the entire sample of 28 Member States).

**Figure 6. Criteria representation for “developing” countries**



While the number of “present” criteria in developing countries is generally lower than that of mature countries (with the exception of Slovenia), “developing” countries have implemented or started to put in place many of the components essential to the facilitation of food redistribution. Among developing countries, the Member States with the highest scores of “present criteria” also have low scores for “partly present” criteria (Czech Republic, Slovenia). However, other Member States, such as Croatia, Finland, Lithuania, Luxembourg and Portugal are on the verge of implementing additional regulations, illustrated by their slightly higher ranks of “partly present” criteria.

**Figure 7. Criteria representation for “start-up” countries**



As seen from Figure 7, Slovakia, with over 47% of “present” criteria, can be considered as verging on being a “developing” country. Romania is the second-highest ranking Member State in this group with over 30% of “present” criteria.

This section has provided an overall overview of the Member States’ implementation of different policy criteria in the maturity groups, and has identified certain trends within these groups. The next section offers a detailed and separate analysis of each policy category for the above-defined mature,

developing and start-up maturity levels. Within the following sections, the existing trends identified among maturity levels are detailed.

#### 4.1.1 *National strategies for food redistribution*

Within “National strategies for food redistribution”, the following criteria were considered in order to compare and justify the level of maturity of each Member State:

- Presence of a national food waste strategy including food redistribution measures:
  - The presence of a national food waste strategy, including measures on food redistribution, is considered to be the baseline document to which actors can refer to understand the objectives of their particular Member State.
- Adoption of the SDG 12.3 or more ambitious goals, driving the adoption of food redistribution to meet these goals:
  - Alignment with the SDG 12.3 or more ambitious goals ensures that the Member State’s actions on food redistribution within the scope of food waste aim at a common quantifiable objective.
- Availability of guidelines to facilitate and promote food donation:
  - National guidelines are useful tools for food redistribution actors and control authorities to gain knowledge on food redistribution, thus facilitating and promoting this practice.
- Call to develop and strengthen relationships between food redistribution actors:
  - Encouraging food redistribution actors to take part in activities to strengthen collaboration is a key best practice within a national strategy as it fosters discussion to achieve common goals for redistribution.

The following sections expand on the above-mentioned criteria for each Member State category (“mature”, “developing” and “start-up”). When relevant, individual Member State examples are highlighted to provide further detail.

##### 4.1.1.1 **Mature**

“Mature” Member States have successfully implemented most criteria within the national strategies group, hence disposing of the components considered to be essential for a successful food redistribution plan. “Mature” countries have a national food waste prevention strategy that includes measures on food redistribution, which, depending on the level of detail of the strategy, can be a paramount driving factor for food redistribution. While eight “mature” countries reported having a national strategy that included food redistribution measures, those of Belgium, France, Italy, the Netherlands and the UK are seen as “best practice” examples, as the measures within these strategies go beyond simply listing food redistribution as a potential course of action. In Ireland, the national strategy is considered as partly present, as Ireland’s National Implementation plan includes measures on food waste prevention. Meanwhile, Estonia has not yet set up a national strategy including food redistribution measures.

While the European Commission adopted EU-wide guidelines on food donation, “mature” countries have also elaborated national guidelines, or guidelines written in collaboration with the public or private sectors, on the topics linked to food redistribution. In fact, the most “mature” countries for food redistribution are those that have issued specific national guidelines covering food redistribution. These documents may concern the general framework around food redistribution, the actors involved, food hygiene, food safety, liability, primary responsibility and traceability requirements for each actor, the fiscal regime linked to food redistribution, and any other topic that needs to be taken into account regarding food redistribution. Such guidelines aim at educating food redistribution actors on the needs and advantages of redistribution, and on the specifics linked to their activities.

Guidelines are thus considered as key components to facilitate food donation, and food redistribution actors within mature countries have stressed their dependence on these documents to conduct their activities.

Two Member States, Belgium and Italy, have been assessed as partly applying the criteria “Adoption of the SDG 12.3 or more ambitious goals, driving the adoption of food redistribution to meet these goals”, since they have food waste reduction targets but make no clear reference to food redistribution as a means to achieve these targets.

Finally, “mature” countries attach some importance to actions to enhance collaboration among food redistribution actors and to foster collective discussion of the barriers and drivers for large scale food redistribution. Whether overseen or not by the government, these discussion groups or platforms gather a wide selection of actors and allow them to freely share ideas to meet their food redistribution objectives.

#### 4.1.1.2 Developing

Compared to “mature” countries, most “developing” countries have implemented only some components of national strategies to promote food redistribution. Of the eight “developing” countries, seven fulfil at least two of the four strategy criteria (see Appendix). Moreover, Germany, Luxembourg and Portugal have three criteria implemented and one partly implemented. Furthermore, five out of eight countries have “partly applied” criteria, meaning they are either in the process of developing these measures, or that it is foreseen in the future (see Appendix). Thus, there is variation across “developing” Member States in the “maturity” of national strategy development.

“Developing” countries tend to either have a national strategy on food waste with a mention of food redistribution that is under development or, alternatively, have food waste measures (that may or may not include food redistribution) within their national waste management plans. They do not have any food redistribution targets but some have or plan on including the SDG 12.3 target within their waste management or food waste prevention strategies.

The presence of guidelines has been identified as a key component for successful food redistribution and, out of the eight Member States in the “developing” maturity group, seven have successfully elaborated guidelines to facilitate and promote food redistribution, stressing the importance of the “Presence of guidelines” criterion.

Finally, while there may not be an express call from the government to develop and strengthen relationships, seven of the eight “developing” countries have initiated (with or without governmental support) working groups or platforms gathering actors to discuss solutions and exchange best practices about food redistribution. The remaining country, Croatia, is considered to partly implement this criterion.

Overall, two sub-groups may be observed within this maturity group. Some developing countries, including Luxembourg, Portugal and Germany are well advanced in the implementation of measures linked to national strategies for food redistribution, and have more than 80% of the criteria present. Meanwhile, other developing countries are still in the process of adopting these measures, with some still on their way (e.g. Croatia and Finland).

#### 4.1.1.3 Start-up

“Start-up” countries have generally not yet implemented any of the “National strategies” criteria to promote food redistribution. Indeed, out of the 10 Member States in the “start-up” group, 7 have not yet successfully set up any of the components within this category, which are deemed as essential for the promotion of food redistribution (see Appendix). “Start-up” countries for the most part either do not have a national waste management or food waste prevention strategy or plan that addresses food waste or food redistribution, or they may be developing a national strategy on food waste without a mention of food redistribution. They have generally not yet adopted SDG 12.3 targets nor food redistribution targets, and there are only a very few cases of “start-up” countries that have elaborated guidelines, which are considered as a key tool to facilitate redistribution and knowledge sharing on the topic. Finally, “start-up” countries do not specifically outline measures for promoting collaboration among actors, and few of them have initiated any sort of discussion group or platform gathering actors together. However, Romania, Slovakia and Sweden have initiated some activities concerned with “National strategy for food redistribution” criteria. As such, these countries may be considered as leaning towards the “developing” maturity level in terms of “National strategy” criteria.

#### 4.1.2 Fiscal incentives for food redistribution

Within “Fiscal incentives for food redistribution”, the following criteria were considered in order to compare and justify the level of maturity of each Member State:

- Presence of a fiscal regime specific to food redistribution:
  - The fiscal regime (VAT exemptions/zero rate of VAT and/or tax deductions) may encourage the redistribution of food if fiscal incentives are provided for food donations. As explained in Chapter 2 (Table 6), the criteria for fiscal incentives consider the presence of any fiscal regime specific to food redistribution. However, in the analysis, the specific fiscal measures related to VAT and those related to tax deductions are detailed and discussed separately.
- Presence of guidelines to clarify how to address complex fiscal regimes such as VAT and/or tax deductions:
  - The fiscal regime (VAT exemptions/zero rate of VAT and/or tax deductions) applicable to food redistribution can be complex, and national guidelines can be a helpful tool for actors to understand how to consider and apply the regime.

There are few differences between maturity levels for the implementation of “Fiscal incentive” criteria. Indeed, there are Member States in all three maturity groups that have a fiscal regime favourable to food redistribution. Furthermore, the presence of guidelines clarifying fiscal regimes is not specifically characteristic to any of the maturity levels, although it is more frequent among “mature” and “developing” Member States than among the “start-up” countries.

#### 4.1.2.1 Mature

The presence of a fiscal regime specific to food redistribution that creates fiscal incentives for donating food to redistribution can be paramount to a successful food redistribution approach. All countries in the “mature” group benefit from at least one fiscal incentive, whether it be a zero rate of VAT, exempting donated products from VAT or benefiting from a tax deduction for donations made to redistribution.

Austria is not considered to benefit from special fiscal incentives on VAT for food redistribution. In the other “mature” countries, redistributed food is either zero-rated (i.e. the goods are still VAT-taxable but the rate of VAT charged to the customers is 0%), exempt from VAT (i.e. the goods are

not VAT-taxable) or benefits from reduced VAT rates. There are strong incentives in France and the Netherlands (respectively 60% tax credit and a full tax deduction). In Italy, incentives are applied locally; for example, the City of Milan has implemented a 20% tax deduction in 2018 and aims to apply a 50% rate in the following year<sup>852</sup>.

While fiscal incentives are a major step to promoting redistribution, there is a clear additional value in providing guidelines to actors (regardless of their fiscal regime) to ensure that fiscal implications and requirements are understood by all. The Dutch Food Bank published an information sheet in 2015 on "Food donation and fiscal consequences for food companies and food banks" to clarify the fiscal implications of food donation, and the UK government issued guidance on VAT rates. Furthermore, the Ministry of Taxation in Denmark issued VAT reduction guidelines in 2015 that provide information on the fiscal aspects for FBOs donating surplus food to food banks. However, none of the other "mature" countries has developed guidance specifically addressing the fiscal regime linked to food redistribution.

Overall, all "mature" countries benefit from a favourable fiscal regime, encouraging the practice of food donation. However, while 3 of the 10 "mature" countries have developed guidelines on the topic, such information is lacking in the other Member States with the same maturity level. Provision of guidelines in these Member States could further encourage relevant actors to make donations by providing clear information on its fiscal benefits.

#### 4.1.2.2 Developing

As with "mature" countries, most Member States in the "developing" maturity group benefit from a fiscal regime specific to food redistribution; although two "developing" Member States – Finland and Luxembourg – have not yet implemented any fiscal measures incentivising food redistribution.

With respect to VAT, half the Member States in the "developing" group have favourable VAT regimes; Croatia, Czech Republic, Germany, Lithuania and Portugal provide either VAT exemptions or a zero rate applies to the value of the food. The remaining "developing" countries do not benefit from VAT incentives, except Slovenia where the law provides special VAT treatment of donated food but does not include food banks within its scope. In terms of tax deductions, the topic is under discussion in Lithuania within the scope of a coordination working group on the reduction of food waste.

Within the "developing" group, the Czech Republic and Lithuania have elaborated guidelines providing information on the fiscal consequences of food redistribution. However, many countries with this maturity level do not yet have guidelines, which poses a potential barrier to improved uptake of the fiscal advantages they offer for food donations.

Consequently, while many "developing" countries provide fiscal incentives, few have measures targeting both VAT and tax deductions. However, some "developing" countries, such as Czech Republic and Lithuania, benefit from both guidelines and either a favourable VAT incentive or a tax deduction/credit. As such, these two countries are well advanced compared to the rest of their maturity group and lean towards the trend set by some "mature" countries.

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<sup>852</sup> City of Milan. 2017. "Milan Circular economy for food donation."  
<http://www.milanurbanfoodpolicy.org/wp-content/uploads/2018/06/CIRCULARITY-1.pdf>.



### 4.1.2.3 Start-up

In terms of the presence of fiscal regimes, there are no notable differences between the group of “start-up” countries and those with other maturity levels. Almost all “start-up” Member States benefit from a favourable fiscal regime for food redistribution, with only Sweden assessed as not having any national fiscal incentives for food redistribution. As such, most “start-up” countries have implemented favourable fiscal incentives to encourage food redistribution, a key component to the promotion of this practice.

Within the “start-up” group, Slovakia is the only country that has elaborated guidelines on the fiscal regime applicable to food redistribution, whereas approximately 30% of the countries in the “mature” and “developing” groups have guidance documents.

Overall, fiscal incentives do not differ strongly between the maturity levels, although almost all “start-up” countries still lack guidelines covering this topic.

### 4.1.3 *Legal measures for food redistribution*

The following section is divided into five sub-sections:

- General legal framework on food redistribution;
- Traceability requirements applicable to food redistribution;
- Primary responsibility and liability rules for food redistribution;
- Hygiene rules applicable to food redistribution;
- Food information to consumers applicable to food redistribution.

#### 4.1.3.1 General legal framework on food redistribution

Within “General legal framework on food redistribution”, the following criteria were considered in order to compare and justify the level of maturity of each Member State:

- Presence of a legal framework specific to food redistribution, in addition to EU rules:
  - The establishment of a legal framework specific to food redistribution makes it easier for the concerned food redistribution actors to identify the procedures relevant to their activity.
- Presence of the food use hierarchy:
  - The presence of the food use hierarchy in national rules sends a clear message to food redistribution actors that the preferential valorisation route for food surplus begins with food redistribution to individuals.

##### 4.1.3.1.1 Mature

“Mature” countries are characterised by being the most advanced in terms of setting up general legal frameworks around food redistribution. Indeed, there is a specific national framework in half the “mature” countries, adding legal backing to the process of redistribution. Furthermore, four Member States – France, Italy, the Netherlands and the UK – enshrine a food use hierarchy in national law, thereby promoting the redistribution of food above any other valorisation routes and providing a driver for redistribution activities. Although Austria, Belgium, Ireland and Spain do not specifically refer to each of the steps in the food use hierarchy, they make clear that food redistribution is a priority recovery route for surplus food.

#### 4.1.3.1.2 Developing

As with “mature” countries, some “developing” countries also have food redistribution-specific frameworks embedded in legislative measures. Of the eight “developing” Member States, three have a legal framework that regulates or promotes food redistribution, and the process is ongoing in Lithuania. The laws developed around food redistribution in Czech Republic and Lithuania were strongly inspired by the French Law No. 2016-138 fighting against food waste, suggesting that the French legislation provides a “best practice” example. Information gathered during scoping interviews indicates that the presence of a legal framework positively influences redistribution as it attaches legal importance to addressing this topic by concerned actors.

Information on the presence of a recognised food use hierarchy is not available for half of the “developing” Member States: the food use hierarchy is not present in Czech Republic, partly present in Croatia and Lithuania and present only in Luxembourg and Germany.

In conclusion, the existence of legal frameworks for food redistribution is less present among “developing” countries than “mature” countries, though several Member State are in the process or have initiated some action at this level. The analysis indicates that, within the “developing” group, countries such as Czech Republic, Lithuania and Luxembourg are the most advanced on this topic.

#### 4.1.3.1.3 Start-up

Patterns for the presence of “General framework on food redistribution” for “start-up” countries are somewhat similar to those of “developing” countries. However, there are higher rates of “start-up” countries in which neither criteria are present, and fewer cases in which the criteria are either present or partly present.

“Start-up” countries generally do not have clear frameworks specific to food redistribution, as illustrated by the absence of country-specific frameworks on food redistribution in 6 out of the 10 “start-up” countries. As required, these countries apply EU regulations for food redistribution operations but do not complement them with additional national law to address specific issues tailored to each national situation. Bulgaria, Latvia, Romania and Slovakia are exceptions, as they have implemented a national legal framework around food redistribution. “Start-up” countries do not explicitly apply the food use hierarchy, except for Romania, where Government Decision No. 51/2019 stipulating the rules for applying the amended Law No. 217/2016 was adopted in January 2019. The main provision of this decision concerns measures on each stage of the food supply chain to be taken by economic operators to prevent and reduce food waste according to the hierarchy of prevention.

A few “start-up” Member States – Bulgaria, Latvia and Slovakia – are in the process of or have implemented either a legal framework around food redistribution or have enshrined the food use hierarchy in national law, which demonstrates their willingness to take action and grant importance to the topic.

#### 4.1.3.2 Traceability requirements applicable to food redistribution

Within “Traceability requirements applicable to food redistribution”, the following criteria were considered in order to compare and justify the level of maturity of each Member State:

- Presence of a clear traceability regime for food redistribution:

- The establishment of a traceability regime specific to food redistribution (in addition to EU General Food Law) that makes it easier for the concerned food redistribution actors to identify the procedures relevant to their activity.
- Presence of guidelines that clarify the traceability regime for food redistribution:
  - National guidelines on traceability in the context of food redistribution are useful tools for food redistribution actors to identify and understand the procedures relevant to their activity.

#### 4.1.3.2.1 Mature

Few “mature” countries have traceability regimes specific to food redistribution. Belgium has defined national traceability requirements for the food supply chain, applicable to food redistribution, and Italy’s Law No. 166/2016<sup>853</sup> imposes full traceability of donated products. However, national guidelines have proven useful in laying out these traceability requirements and are present in all “mature” countries. In Ireland, the FSAI’s guidance documents set out requirements concerning traceability, though they are deemed to be time-consuming and difficult to implement. Food businesses in the redistribution supply chain are required to have a “one-step forward” traceability system in place and some items, such as food of animal origin, are required to carry more specific information than other products when they are passed from one food operator to another (e.g. volume/quantity of food, reference identifying the batch number). The Estonian Veterinary and Food Board guidelines for food donation and food safety also cover the issue of traceability in the process of food redistribution.

As such, “mature” countries seem to favour the elaboration of guidelines rather than defining a traceability regime specific to redistribution (in line with EU regulations) to clarify the requirements for the relevant actors.

#### 4.1.3.2.2 Developing

Few “developing” countries have specific traceability regimes for food redistribution activities. Of the eight countries at this maturity level, only two have traceability regimes that specifically mention the case of redistribution of food (see Appendix). However, “developing” countries follow the same trend as “mature” ones, as they have given more attention to the elaboration of national guidelines covering the traceability requirements applicable to food redistribution actors. For instance, the German “Guide for the transfer of food to Social Facilities – Legal Aspects” makes reference to the EU guidelines on the matter of traceability, though a simplified delivery note procedure was adopted in Germany in 2005. This delivery note was successfully adopted by Tafel, the network of German food banks.

#### 4.1.3.2.3 Start-up

“Start-up” countries either do not have traceability regimes specific to food redistribution or information on their regime has not been identified. Similarly, they have not yet elaborated guidelines detailing the traceability requirements for food redistribution, or the situation is unknown.

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<sup>853</sup> Italian government. 2016. “Law No. 166/2016 Provisions regarding donation and distribution of food products and pharmaceuticals for social solidarity and for the decreasing of food waste.” <http://www.gazzettaufficiale.it/eli/id/2016/08/30/16G00179/sg>.

#### 4.1.3.3 Primary responsibility and liability rules applicable to food redistribution

Within “Primary responsibility and liability rules applicable to food redistribution”, the following criteria were considered in order to compare and justify the level of maturity of each Member State:

- Presence of clear primary responsibility and liability rules for food redistribution:
  - The establishment of legal provisions at national level on primary responsibility and liability for food redistribution (in addition to EU General Food Law) sets clear legal obligations for food redistribution actors to ensure compliance with all requirements of food law established both at EU and national level for the operations under their control.
- Presence of guidelines that clarify responsibility and liability for food redistribution:
  - National guidelines on responsibility and liability rules specific to food redistribution are useful tools for food redistribution actors to identify and understand the procedures relevant to their activity.

##### 4.1.3.3.1 Mature

Two sub-groups have been identified among “mature” countries: the first sub-group consists of countries that have adopted national-level legal provisions on primary responsibility and liability for food redistribution, and the second sub-group covers countries without such provisions within their national law. Of the 10 “mature” countries, Austria, Estonia, France and Italy have a clear liability regime specific to food redistribution. Italy’s Good Samaritan Law (L.155/2003) is an example of best practice, exceptionally providing legal protection to non-profit organisations (the ONLUS) that redistribute food for charitable purposes. These organisations have an equivalent status to that of final consumers. Food donors are only liable to the recipients of the food (i.e. redistribution organisations or charities), which are considered the final consumers and are relieved of their liability regarding the final beneficiaries. This legal construct is further explained in the guide to good practice for redistribution of food by COs developed by Caritas Italiana and Fondazione Banco Alimentare Onlus in cooperation with the Italian Ministry for Health, under Article 8 of Regulation (EC) No. 852/2004 on the hygiene of foodstuffs. The success of this law influenced the launch of discussions in Austria on the development of similar legislation; these discussions were also motivated by the request from food redistribution actors for clarification on primary responsibility and liability.

Furthermore, all “mature” countries (except Denmark, for which no information is available) have guidance documents to lay out how the primary responsibility is transferred throughout a food product’s redistribution, in line with EU rules; these are:

- Austria: “Guideline for food redistribution to social organisations - legal aspects”, Institute of Waste Management;
- Belgium: “[Circular concerning provisions applicable to food banks and charities](#)”, FASFC;
- Estonia: “[Guidelines for food donation and food safety](#)”, Estonian Veterinary and Food Board;
- France: “[Guide to Good Hygiene Practices in the distribution of foods by charity organisations](#)”, French Federation of Food Banks, validated by the French national Food Safety Agency and other competent authorities;
- Ireland: “Food donation – Introduction”, 2017, Food Safety Authority Ireland;
- Italy: “[Guide to good practices for redistribution of food by charitable organisations](#)”, Caritas Italiana, Fondazione Banco Alimentare Onlus, validated by the Italian Ministry for Health;
- Netherlands: “[Food Safety Guide](#)”, Dutch Association of Food Banks; “[Information sheet 76/December 2015 on charitable institutions and organisations](#)”, Netherlands Food and Consumer Product Safety Authority;
- Spain: “[More food, less waste](#)”, Ministry of Agriculture, Fisheries and Food;
- UK: “[Labelling guidance](#)”, WRAP.

As with the “Availability of guidelines to facilitate and promote food donation” criteria (see section 4.1.2), guidelines laying out primary responsibility requirements applicable to food redistribution actors are considered as a key component to facilitate food donation. As such, all “mature” countries have successfully implemented this important factor.

#### 4.1.3.3.2 Developing

Few “developing” countries have specific laws relating to primary responsibility for food redistribution. Out of the eight Member States within this maturity group, only two – Croatia and Czech Republic – have addressed responsibility for food redistribution within their national legislation.

Guidelines on responsibility and liability rules are much more frequent than a specific legal regime, with seven “developing” Member States having illustrated and explained the requirements linked to primary responsibility in national guidance documents. It seems, therefore, that Member States have preferred to explain and lay out the definitions and requirements of the General Food Law in terms of primary responsibility in guidelines, rather than elaborating their own national rules in line with the General Food Law.

#### 4.1.3.3.3 Start-up

Most “start-up” countries either do not have national laws specific to primary responsibility for redistributed food, or the information could not be identified. They also very rarely have guidelines specifically explaining requirements linked to primary responsibility for food redistribution (present in only 1 out of 10 Member States). Therefore, there is a large difference between “start-up” countries and those of the other two maturity levels.

#### 4.1.3.4 Hygiene rules applicable to food redistribution

Within “Hygiene rules applicable to food redistribution”, the following criteria were used to compare and justify the level of maturity of each Member State:

- Presence of national laws in addition to EU rules to simplify hygiene requirements for food redistribution:
  - The presence of national laws to simplify the hygiene requirements for food redistribution make it easier for the concerned food redistribution actors to identify the procedures relevant to their activity.
- Presence of national guidelines explaining hygiene requirements for food redistribution, clarifying EU rules and making them easier to understand for relevant actors:
  - National guidelines on hygiene in the context of food redistribution are useful tools for food redistribution actors to identify and understand the procedures relevant to their activity.

##### 4.1.3.4.1 Mature

Of the “mature” countries, only France, Estonia and Italy have outlined hygiene requirements linked to redistribution in national law. Although it could be considered ideal that all “mature” countries follow suit and outline their own national requirements, all the “mature” countries have developed guideline documents that address this topic. Findings from scoping interviews indicate that these guidelines have been successful in clarifying EU legislation on hygiene requirements for food

redistribution, which may be as impactful as the legal approach used in France and Italy. Furthermore, the French Federation of Food Banks elaborated a “Guide to Good Hygiene Practices” in 2011, which was widely adopted and used by redistribution actors in the country.

#### 4.1.3.4.2 Developing

Out of the eight “developing” countries, only Croatia and Slovenia address hygiene requirements for food donation, though this is done within the general laws on food redistribution. All other countries within this maturity group do not have any mention of food hygiene for redistribution in legal texts. However, despite the limited attention in national laws to food hygiene in the context of redistribution, “developing” countries generally have guideline documents on hygiene available to food redistribution actors. Indeed, six of the eight “developing” Member States have elaborated guidance laying out the necessary food hygiene requirements. Slovenia also defines freezing requirements for food to be donated within their national guidelines. Overall, if to a lesser extent, “developing” countries seem to follow the trends of “mature” countries with regards to hygiene regulations applicable to redistribution.

#### 4.1.3.4.3 Start-up

Most “start-up” countries do not have any specific laws or do not specifically mention hygiene for redistributed food in any laws. In fact, stakeholders within certain countries, such as Bulgaria, have noted that the current lack of national laws on hygiene hinder the uptake of redistribution activities, as compliance with EU food production and food trade hygiene requirements is perceived as having an unequal administrative burden among food redistribution actors.

#### 4.1.3.5 Food information to consumers applicable to food redistribution

Within “Food information to consumers applicable to food redistribution”, the following criteria were considered to compare and justify the level of maturity of each Member State:

- Donation requirements in line with EU recommendation on “best before” dates:
  - EU rules allow the redistribution of products after the “best before” date, which is intended to increase the shelf life of edible products and the amount of redistributed food.

The following Member States do not allow the donation of food after the “best before” date: Bulgaria, Croatia, Cyprus, Hungary, Poland and Romania.

- Presence of guidelines on “best before” dates:
  - The development of national guidance documents specifically aimed at food redistribution actors can help clarify practical aspects regarding date labelling and donation.
- Presence of laws targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking):
  - National laws to simplify the language and labelling requirements for food redistribution make it easier for actors to identify the procedures relevant to their activity.
- Presence of national guidelines targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking):
  - National guidelines on language and labelling in the context of food redistribution are useful tools for food redistribution actors to identify and understand the procedures relevant to their activity.

#### 4.1.3.5.1 Mature

In line with the EU recommendations, “mature” countries allow the redistribution of food that has passed the “best before” date. It should, however, be noted that despite this allowance, France’s Law No. 2016-138 on fighting food waste and Belgium’s “Circular concerning provisions applicable to food banks and charities” have both added a requirement to donate food to FBOs at least two and three days respectively before this date to give food banks time to sort and redistribute food to end consumers. The introduction of a timescale for these countries has not been identified as a barrier, as its objective is to facilitate the logistical aspects surrounding food redistribution rather than in response to misperceived stigma related to hygiene/safety issues of donated food. “Mature” countries generally have guidelines that specifically address how to apply the EU date labelling/“best before” law. Guidelines on “best before” dates exist in all “mature” countries. In addition, some of these guidelines provide recommendations on how to determine whether a product is still safe for human consumption.

All “mature” countries also have guidelines that cover specifications concerning food information to consumers, including labelling requirements. For example, Belgium’s “Circular concerning provisions applicable to food banks and charities” clarifies the food labelling information that must be provided according to EU regulations on the provision of food information. Meanwhile, the Dutch Food Safety Guide clarifies the passing of information from the food donor to the receiving entity. In the UK, WRAP provides technical reports and guidance on the topic as well. However, it should be noted that while all “mature” countries have guidance on this topic, few of them have codified the labelling requirements in laws targeting food redistribution, once again illustrating the preference for using national guidelines to pass key messages. Denmark aligned its national requirements with those of the EU in 2015.

#### 4.1.3.5.2 Developing

In line with the EU recommendation, most “developing” countries allow the redistribution of food that has passed the “best before” date. In 2017, Greece aligned its national requirements with those of the EU but without an observed increase in food donation, possibly because communication efforts have been low<sup>854</sup>. Croatia has not followed the “developing” countries’ trend for date marking, which may be attributed to the stigma related to safety/hygiene issues of donated food. However, as the government recognised that this stricter interpretation of EU law poses a barrier to food redistribution, the provisions are in the process of being changed.

In common with “mature” countries, of the eight “developing” countries, six have guidelines providing information on date marking and four have also elaborated guidance on food labelling in the case of redistribution. However, only Croatia has a law that covers these labelling requirements.

Overall, for the criteria covered under “Food information to consumers”, the trend for “developing” countries is very similar to that of “mature” countries. However, some Member States, such as Finland, Lithuania, Luxembourg and Portugal, are well advanced in this regard and present a lot of the same characteristics as “mature” countries.

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<sup>854</sup> In Greece, the National Ministerial Decision 91354/2017 of 2017 revises the rules of distribution and marketing of products and allows food items that have passed their “best before” date to be placed on the market and donated on a case-by-case basis.

#### 4.1.3.5.3 Start-up

Generally, restrictions concerning date marking are most commonly found among the “start-up” countries. Indeed, five “start-up” countries do not allow food products to be donated after the “best before” date has passed. Cyprus, Hungary and Poland are currently not pursuing active measures to reconsider the restriction against redistribution after the “best before” date. Among “start-up” countries, only Slovakia has guidelines on “best before” dates and addresses this topic within national guidance documents. Furthermore, none of the “start-up” Member States provide guidance regarding language and other labelling requirements. Finally, none of the “start-up” Member States have national laws mentioning the labelling requirements for redistributed food.

As with hygiene regulations, “start-up” countries are not as advanced as the other maturity levels in terms of implementation of “Food information to consumers” components. While the trends of the “developing” countries and “mature” countries are similar, “start-up” countries are still in the beginning stages of implementation for these criteria.

#### 4.1.4 *Voluntary Agreements for food redistribution*

Within “Voluntary Agreements for food redistribution”, the following criteria were considered in order to compare and justify the level of maturity of each Member State:

- Presence of a Voluntary Agreement that addresses all five pillars\* of the EU REFRESH Blueprint in regard to food donation:
  - Voluntary Agreements considering food redistribution are useful tools to bring actors together to collaborate on achieving common goals.

\* The five pillars of a successful Voluntary Agreement, as defined within the EU REFRESH Blueprint<sup>855</sup>, are listed below:

##### Initiation and set-up

- Is a trusted and neutral organisation leading the agreement? Is there support from regional or national government?

##### Ambition

- Is there a national target (e.g. for food waste prevention)? Is the Voluntary Agreement aligned with wider goals such as UN SDG 12.3?

##### Governance and funding

- Is there access to funding to manage and administer the Voluntary Agreement?

##### Establishing actions

- What are the priority areas for action? What actions are already taking place?

##### Measurement and evaluation

- Does a baseline exist? Is there an agreement to collect and analyse required data from signatories?

The above-mentioned pillars were used for the country analysis described in Chapter 3. The following sub-sections for “mature”, “developing” and “start-up” countries provide snapshot summary

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<sup>855</sup> The Blueprint was developed within the scope of the H2020 EU research project. The Blueprint is a roadmap designed for policy makers on how to set up Voluntary Agreements within any country’s context. Application of this Blueprint tool, which is expected to be available on the REFRESH Community of Experts page by 2020, together with support from the REFRESH project team, is expected to help launch the Voluntary Agreement. <http://www.refreshcoe.eu/>



examples of implementation of Voluntary Agreements concerned with food redistribution for individual Member States.

#### 4.1.4.1 Mature

Out of the three ongoing Voluntary Agreements with a focus on food redistribution, two are found among the “mature” countries. The Dutch Alliance for Sustainable Food and the UK’s Courtauld Commitment include a focus on food redistribution.

As part of the fourth revision of the agreement in 2015, the Courtauld Commitment upscaled its activities by launching a surplus food redistribution working group to share and discuss best practices for redistribution and identify barriers and opportunities to the redistribution of surplus food. Uniquely, the Courtauld Commitment has defined an ambitious plan for redistribution, with all business signatories pledging to double the amount of food they redistribute by 2020. The results are already positive, as charitable redistribution rose by around 80% between 2015 and 2017, with an increase of 30% via commercial organisations, according to WRAP.

In the Netherlands, the recently launched Alliance for Sustainable Food targets food redistribution at a different level. As with the Courtauld Commitment, members of the Alliance for Sustainable Food cover the entire food supply chain and their collaboration with the Dutch Association of Food Banks has stimulated the creation of new partnerships between donors and food banks, which has had a positive impact on donation and support (material, logistics) provided to food banks. As of 2018, the alliance is in its finalising stages, and received large financial support from the government to pursue its activity in the future.

In 2017, the Austrian 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 food businesses and small scale retailers. This initiative was welcomed by the associations, and addresses food redistribution (e.g. need for food businesses to cooperate with redistribution/social organisations), but little information is available on the results of this initiative.

None of the other “mature” countries have fully implemented the Voluntary Agreement criteria. Indeed, while food redistribution is within the scope of the French National Pact Against Food Waste, there is no mention of targets or impacts of the working group on “Management of unsold food and of food donation”, suggesting that it is still in its initial stages. Italy’s participation in a working group organised within the scope of the June 2018 EU REFRESH Policy Platform on Voluntary Agreements contributed to setting the ambition to pursue a national Voluntary Agreement on food waste, including food redistribution as one of its components. Denmark’s ONE\THIRD – Think Tank on Prevention of Food Loss and Food Waste addresses food waste aligned with SDG 12.3, and counts the Danish Food Bank as a member. Regarding Spain, although its 2012 national food waste strategy “More food, less waste” stated a specific ambition to support the development of a Voluntary Agreement, which was reportedly launched in 2014 under the name “Food has no waste. Use it”, no follow-up information implementation and impacts were identified.

Regarding Belgium, Estonia and Ireland, as of May 2019, the government has not launched measures to define a Voluntary Agreement on food redistribution.

Consequently, with two successful examples of Voluntary Agreements for food redistribution, and five partly applied examples, the overall pattern for Voluntary Agreements in the scope of food redistribution remains quite positive in “mature” countries.

#### 4.1.4.2 Developing

Finland's Voluntary Agreement, launched in March 2019, gathers the packaging industry, retail and food industry together with the Ministry of Agriculture and Forestry, the Ministry of Environment and the Ministry of Economic Affairs and Employment. It considers food donations as part of food waste prevention, and is considered a successful example of a Voluntary Agreement, though no evaluation of the agreement's results is available yet.

None of the other "developing" countries yet have Voluntary Agreements on food redistribution, although there are some in their initial stages. Like Italy, following its ministry's involvement in the EU REFRESH Voluntary Agreements working group, Slovenia has expressed its interest in launching internal discussions to consider a Voluntary Agreement on food waste, with a component on redistribution. Within the scope of its national strategy, Croatia is also currently considering the development of a Voluntary Agreement on food waste, including a focus on food redistribution. Meanwhile, in 2018, Luxembourg launched a solidarity pact in the fight against food waste that includes actions on food, but it is too soon to assess any impacts of the pact on redistribution.

#### 4.1.4.3 Start-up

Except for two Member States, "start-up" countries have not initiated actions to launch Voluntary Agreements on food redistribution. Following their participation in the REFRESH Policy Platform on Voluntary Agreements, Greece and Sweden both expressed interest in developing a Voluntary Agreement on food redistribution including a component on food redistribution. As such, similar to "developing" countries, "start-up" countries are still at the beginning of implementing Voluntary Agreements as a tool to promote and encourage food redistribution.

#### 4.1.5 Other initiatives for food redistribution

Within "Other initiatives for food redistribution", the following criteria were considered in order to compare and justify the level of maturity of each Member State:

- Use of the FEAD operational programme to support the redistribution of food:
  - The use of FEAD programme funds to support food redistribution actors is considered a driver of food redistribution, as these actors often have limited sources of funding.
- Presence of measures encouraging the redistribution of fruits and vegetables withdrawn from the market, in line with Regulation (EU) No. 1308/2013:
  - The presence of measures encouraging the redistribution of withdrawn fruits and vegetables that would otherwise be discarded is considered as a driver of food redistribution.
- Publication of studies/research related to food redistribution:
  - The publication of studies or research conducted by the public or private sector can shed light on barriers or drivers of redistribution, which can provide evidence to potentially feed into policy on food redistribution.
- Presence of financial or logistical support for food redistribution at the national/regional/local level:
  - Governmental support provided to food banks and other entities is useful to help them develop their activities, as they often face funding constraints.
- Absence of incentives for the valorisation of food surplus via anaerobic digestion, which may otherwise hinder redistribution if the incentives for anaerobic digestion favour this recovery route over redistribution:

- While sending food surplus for redistribution is, according to the food use hierarchy, the priority valorisation route after prevention, the use of surplus food for anaerobic digestion is a solution practised within countries that helps lower food waste levels. However, the two routes may compete if the fiscal incentives for anaerobic digestion favour this recovery route over redistribution.

#### 4.1.5.1 Mature

In “mature” countries, the FEAD fund mainly supports the purchase of foods to make them available to food banks and other COs. No cases have been identified of FEAD being used to provide funding for the redistribution of recovered products.

Some “mature” countries have implemented other initiatives, such as studies or research related to food redistribution to support this practice. Indeed, while Belgium, Denmark and Ireland have not yet conducted any studies, Austria, Estonia, Italy, Spain and the UK have published studies on food redistribution, going over quantitative results and on-the-ground reports, identifying the barriers and the needs of actors. This type of research or studies can be considered as important factors for food redistribution, as they can identify specific pain points to address and fuel the adoption of policy to overcome them.

Furthermore, “mature” countries generally have government-backed financial support/funds to help drive food redistribution. Both in the UK and in the Netherlands, governmental or municipal subsidies have been granted to food banks to help these entities cover their costs, while in France, the National Pact has supported food redistribution initiatives. In the UK, GBP 15 million was granted to support food redistribution. In Belgium and Italy, these measures are outlined as objectives of their respective national food waste or waste management strategies.

Little information is available on the topic of market measures to encourage the redistribution of fruits and vegetables withdrawn from the market, in line with Regulation (EU) No. 1308/2013, although four of the “mature” countries (Italy, the Netherlands, Spain and the UK) encourage and support the redistribution or transformation of such products.

Finally, “mature” countries sometimes face issues concerning incentives linked to anaerobic digestion, which may disadvantage redistribution actions. For example, Belgium, the Netherlands and the UK have systems that make anaerobic digestion a favourable recovery route. Redistribution organisations have perceived the subsidies granted for anaerobic digestion in the Netherlands and in the UK as negatively impacting food redistribution. In the UK, redistribution organisations consider subsidies for anaerobic digestion as a barrier to redistribution of food for human consumption, as the subsidies lower the costs for companies to send food for anaerobic digestion. In the Netherlands, the “Stimulation of Sustainable Energy Production scheme” (SDE +) supports the production of energy from biomass. SDE + compensates the difference between the cost price of a renewable energy project and the market value of the energy produced, also known as the unprofitable summit. SDE + only compensates for the unprofitable summit and is set at such a height annually that no disruptive effect could occur on food donation. Nevertheless, there is a perception that because of SDE +, food surpluses are more likely to be sent for anaerobic digestion than to food banks. In Belgium, although there is a national emphasis on applying the food use hierarchy, incentives for biomass and biofuel production have been in place for the past 10 years, and in the Flanders region, food surplus is mostly recovered via this route.

In conclusion, “mature” countries have at least initiated activity in all of the areas mentioned in the “Other initiatives for food redistribution” criteria (except for the use of FEAD funds to specifically

support the redistribution of recovered/surplus food). However, it is among this maturity group that there are the most Member States in which food redistribution competes with anaerobic digestion due to fiscal incentives for this practice, a pattern which is not found in any other maturity groups.

#### 4.1.5.2 Developing

Like “mature” countries, there are no identified cases of FEAD funding for the redistribution of recovered products in “developing” countries, except for Croatia. In terms of providing financial or logistical support for food redistribution, governmental support is provided to food banks or redistribution initiatives in two out of eight “developing” Member States (Czech Republic and Slovenia). As such, “developing” countries are quite similar to the trend observed in “mature” countries. The same analysis is applicable to the presence of studies or research activities, in which Croatia, Finland and Lithuania have been involved. Indeed, these Member States have initiated research on food redistribution, either to identify barriers in the current systems, to gather consumer input on date marking or to prepare models to raise awareness on the topic. In all cases, the research was intended to fuel the writing of legislation or, in the case of Croatia, the country’s national strategy for food waste reduction.

There is little information available concerning the support provided for the redistribution of fruits and vegetables withdrawn from the market, though it is encouraged in Slovenia, Portugal and Croatia. Finally, there have been no reports of fiscal incentives for anaerobic digestion negatively impacting food redistribution in “developing” countries. In the case of Luxembourg, where the national strategy indicates food distribution as the priority recovery option for food surplus and there are incentives for anaerobic digestion, the majority of food surplus continues to be recovered via anaerobic digestion due to lack of demand from FBOs.

In conclusion, for this “Other initiatives” group of criteria, the patterns among “developing” countries are quite similar to those of “mature” countries, with Member States of this maturity level initiating activity in most areas. This proves that “developing” countries are aware of the importance of these additional forms of policy and of their importance in encouraging food redistribution.

#### 4.1.5.3 Start-up

With regards to the use of the FEAD operational programme to support the redistribution of recovered/surplus food, the patterns for “start-up” countries are much the same as for “mature” and “developing” countries. However, contrary to the other maturity levels, “start-up” countries have not initiated governmental financial or logistical support for food redistribution, and few have conducted research or studies. Indeed, among the 10 “start-up” countries, Latvia and Sweden have engaged in research activities addressing food redistribution, which could be a driving force to design effective solutions for the promotion of food redistribution.

In terms of market withdrawals of fruits and vegetables and support for the redistribution of these products, Cyprus, Hungary and Poland provide support to recover such food items for redistribution. The information on this topic is unknown for the other “start-up” countries.

Finally, “start-up” countries do not generally mention frameworks incentivising anaerobic digestion rather than food redistribution. As such, food redistribution and anaerobic digestion do not seem to compete in these countries.

“Start-up” countries are consequently less advanced than the other maturity levels in the areas covered by the “Other initiatives for food redistribution” criteria, especially in terms of subsidies and research on food redistribution, which are most applied within “developing” and “mature” countries. Such measures could make good entry points for countries wishing to encourage food redistribution via forms of policy other than the most conventional ones.

## 4.2 Lessons learned from cross-analysis

This report has mapped and analysed national and regional regulatory and policy measures relevant for food redistribution in all EU Member States, and its analysis is limited to policy measures related to food redistribution. National and regional regulatory and policy measures related to general food waste reduction and prevention have not been analysed in this report. Several overarching lessons, outlining both the key drivers and barriers to food redistribution, can be drawn from this research.

While Member States apply EU legislation on food hygiene, food safety and food information to consumers with respect to their national-level food redistribution processes, the elaboration of national guidelines that describe and clarify EU legislation has proven to be a powerful driver for food redistribution activity. The analysis shows that countries categorised as having a high level of maturity of food redistribution frameworks (policy, legal and institutional) are characterised by the presence of food donation-specific guidelines and national strategies. In fact, the most “mature” countries for food redistribution are those with national guidelines specific to food redistribution. Similarly, many “developing” countries have elaborated national guidelines for food redistribution, and the publication of such guidance documents is often the first step many countries take to encourage food redistribution. Notably, such guidelines are mostly developed by public–private cooperation, as is the case in Belgium, Czech Republic, France, Italy, Luxembourg, the Netherlands, Portugal and the UK. In some cases, public parties develop the guidelines, for example in Germany, Finland and Lithuania, while in other cases, such as in Estonia, private parties develop them.

At the opposite end of the spectrum, this analysis reveals that certain Member States have practices that hinder food redistribution, such as unclear or absent guidance on fiscal incentives (VAT and tax deductions), strict application of EU legislation that limits the donation of food items past their “best before” date and fiscal incentives for anaerobic digestion. Notwithstanding these differences, the report finds that a positive “bandwagon” effect can be identified in several situations, whereby Member States draw inspiration from one another and use the best practices developed abroad to fuel changes in the formulation of their own food redistribution policies.

The sections below outline key drivers and barriers arising from the cross-analysis, along with recommendations.

### 4.2.1 Drivers

The study has identified the following key drivers of food redistribution activity levels:

- Positive “bandwagon effect” on countries:
  - Examples of successful or promising policies on food redistribution implemented in other countries can stimulate interest in Member States to enact similar measures, thereby creating a “bandwagon effect”. This phenomenon has been observed in the case of the French law on retailers<sup>856</sup> which was a driver for the Czech Republic and Lithuania to develop similar laws, as

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<sup>856</sup> See section “3.10.1 National strategies related to redistribution activities” for more information.

well as influencing the Romanian food waste law. The success of Italy's Good Samaritan Law<sup>857</sup> has sparked discussions within Spain and Austria on possibilities for a similar law. The visibility of national actions towards food redistribution and the exchange of best (and worst) practices is therefore seen as a powerful driver that has a great upscaling potential.

- Presence of guidelines specific to food redistribution:
  - The availability of guidelines specifically created for food redistribution is seen as a major driver, since they make it easier for food redistribution actors to identify the documents and requirements relative to their activities. Indeed, according to Regulation (EC) No. 852/2004, national competent authorities may encourage the elaboration and dissemination of good practice guides on food hygiene for the recovery and redistribution of surplus food. These guideline documents may be developed by the relevant public organisations or may result from collaboration between the public and private sectors. In many cases, such as in Czech Republic, France, Italy or Portugal, redistribution actors have contributed to the elaboration of guideline documents to various extents. Many guideline documents address the topics of food hygiene, although they are not limited to this sole, albeit extremely important, topic. Indeed, guideline documents may address all topics relevant to the requirements of the food redistribution process: labelling requirements for redistributed food, food safety requirements, traceability, primary responsibility and liability, or even the general fiscal regime related to food donations. Documents that specifically address food redistribution actors are more relevant and easier to understand and apply than general legislation or guidelines covering a broader range of activities. These specific documents avoid the need for food redistribution actors to sift through general national or EU legislation to decipher what measures are applicable to their own activity. Additionally, the presence of guidelines, for any policy area related to food redistribution, sends a clear message to food redistribution actors that public authorities attach importance to this topic.
- Voluntary Agreements:
  - The quantifiable achievements and targets for food redistribution set by the Courtauld Commitment and the launch of the Dutch Voluntary Agreement, which recently received significant financial support from the government for its execution, demonstrate how establishing a national Voluntary Agreement can generate a positive effect on food redistribution actions. By gathering relevant actors from the entire food supply chain to collectively act on the food waste issue (with a component on food redistribution), a Voluntary Agreement can foster discussion among stakeholders in the food supply chain that it may be difficult to undertake in another context (e.g. discussions between competing retailers). A Voluntary Agreement thus has the potential to trigger a significant increase in food redistribution volumes by gathering together some of the most relevant actors in the food supply chain.
- Fiscal incentives:
  - The analysis of fiscal incentives reveals that countries that have adopted VAT exemptions or a zero rate of VAT generally have tended to achieve greater potential for facilitated food redistribution compared to countries that continue to apply VAT;
  - Tax deductions (or in some cases tax credits) granted for food donations can be an important driver for food redistribution, as several actors consider that the volumes of donated food would likely decrease in their absence. Mature countries are characterised by the presence of fiscal incentives applicable to food donations. Indeed, the strong incentives in France and the Netherlands (respectively 60% tax credit and a full tax deduction) are considered as stimulating food donations in these countries. In Italy, a 20% tax deduction was locally

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<sup>857</sup> See section "3.15.3.2 Traceability/liability requirements applicable to food redistribution" for more information.

implemented in 2018, but is forecast to increase to a 50% rate in 2019 to further promote food redistribution. However, there are fewer tax deductions available for food donations among “developing” countries. This can be considered as limiting food redistribution in these countries. Meanwhile, “start-up” countries have also made tax deductions or tax credits for food donations available. The laws defining the deductions usually apply to donations in general and not only to food donations, which suggests that these countries could benefit from measures that specifically target food donation. In some “start-up” countries, the necessary infrastructure might not be yet established to support redistribution, and thus the tax deductions are possibly not applied as much as in the other maturity groups. As such, fiscal incentives are considered a strong driver to increase food donations at a national or regional scale, thus positively impacting food redistribution throughout the country;

- As of 2018, most of the Member States have implemented fiscal incentives that are favourable tools for the redistribution of food.

#### 4.2.2 Barriers

The study has identified the following key barriers to food redistribution activity levels:

- Non-application of donations past the “best before” date:
  - EU law, which allows the redistribution of products after the “best before” date, is not universally applied across all Member States and is therefore a missed opportunity for food redistribution. In fact, some Member States<sup>858</sup> still adopt a stricter interpretation of EU law, placing restrictive measures on food redistribution after the “best before” date<sup>859</sup>. Restricting the donation of food after the “best before” date means that food surplus is instead sent to other valorisation routes that have less demanding storage and food safety requirements (for example, biogas). Consequently, restrictions on the donation of food after the “best before” date are viewed as a major barrier to the redistribution of larger amounts of food in the concerned countries. Meanwhile, even for countries that allow the redistribution of food after the “best before” date, it is generally unclear how consistently food actors follow EU or national law concerning hygiene and food safety of surplus food nearing the “best before” date. This continues to be at the forefront of issues raised by relevant actors, and is something that could be resolved if actors consistently followed EU rules.
- Incentives for anaerobic digestion:
  - Incentives for anaerobic digestion can create barriers to the application of the food use hierarchy, as recovering surplus food via anaerobic digestion is perceived as more economically advantageous than food redistribution, as it is perceived in the Netherlands. Furthermore, considering prior investments into bioenergy plants for anaerobic digestion, at a national level there may be a higher return on investment for using existing anaerobic digestion infrastructure. This was observed in Belgium and the UK<sup>860</sup>. It is remarkable that in some cases, even if the country does not have incentives for anaerobic digestion in place, the consistent application of the food use hierarchy, embedded in the national plan for waste and resources management, is not always possible. For instance, the offer of food surplus in Luxembourg is much bigger than the demand from redistribution organisations or social entrepreneurs. These large amounts of surplus food therefore cannot all be recovered via food redistribution, and larger quantities are sent for biogas recovery rather than to redistribution for human consumption.

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<sup>858</sup> See section 4.1.4.5 for the full list of concerned Member States.

<sup>859</sup> See section “4.1.3.4 Food information to consumers applicable to food redistribution” for an overview of Member States’ current application and perception of the safety of food near or past its “best before” date.

<sup>860</sup> See section “5.1.6 Other initiatives for food redistribution” for more information on AD in relation to food redistribution.



- Absence of guidelines on fiscal regimes:
  - Absence of guidelines covering any policy area that concerns food redistribution can be a barrier. However, because VAT regime structures are complex and vary from one Member State to another, there is a specific need to ensure that guidelines clarifying the VAT treatment of donated/redistributed food (e.g. zero rate, VAT-exempt or normal VAT rate) and/or how tax deductions can be applied to food redistribution activities are available at the national/regional level to food redistribution actors. The Netherlands, for example, has created guidelines for its fiscal regime in response to national actors' perception that documents are not written clearly.

### 4.3 Recommendations

Actions at the EU and national level have created significant momentum for food redistribution. The recommendations below draw on the main lessons learned within the scope of this study.

At the EU level:

- Optimised exchange of Member State best practices driven by European Commission
  - Identifying EU-level actions to enhance information exchange among Member States is paramount to drive food redistribution. To achieve this, the European Commission launched and led the *EU Platform on Food Losses and Food Waste* sub-group on food donation, which has been a key initiative, and aims to create a space for Member States to discuss barriers and success factors for food redistribution at the national level. Findings from the scoping interviews conducted by this study have identified this platform as a mechanism that has helped promote dialogue and create links between Member State actors, facilitated learning from each other and initiated discussion on how to interpret EU food redistribution rules. Through this information sharing, a "bandwagon" effect has already been put in motion, with Member States modelling actions based on each other's experiences. The availability of this EU platform has proved valuable, especially by helping stakeholders to realise that successful initiatives in one country have the potential to be replicated elsewhere, if adjusted to each particular national context. To further build on the successes of this collaboration among Member States, specific working sessions could be set up to address information gaps identified through this study, for example best practices on freezing, application of VAT and the application of the food use hierarchy. Moreover, sharing Member State experiences with the application of EU rules and their clarification could help encourage the common application of these rules across all Member States. Furthermore, an EU-developed periodic reporting methodology for Member State food redistribution activity levels, including a set of indicators, could be implemented to track progress on the status of food redistribution over time.
  - The Circular Economy Package (CEP) and the revised EU Framework Waste Directive, which both place importance on food waste reduction, are important measures that can stimulate food donation. This impact has in part been driven through the adoption of the EU guidelines on food donation within the scope of the CEP. Although it is too early to extensively evaluate the impacts of the 2017 guideline document, scoping interviews have revealed that Member States view the availability of this document, alongside the recurrent discussions at the *EU Platform on Food Losses and Food Waste*, to be a useful guiding tool for the development and/or revision of existing national guidelines. Thus, further stimulation and promotion of the use of the EU guidelines on food donation together with sharing of the best practices from Member States can help in further development and/or revision of existing national guidelines.

Although food waste initiatives are generally considered as a priority topic within national strategies, one of the main conclusions of this study is that the link between food waste and food redistribution is not yet secured in most Member States. This suggests that continuing efforts are required at an



EU level to ensure information exchange among Member States, and to strive for the development of national guidelines aligned with the 2017 EU food donation guidelines.

At the Member State level:

- Activating national supply chain stakeholders and development of Member State guidelines

Greater efforts should be made to support the diffusion of knowledge gathered by Member State policy makers through the *EU Platform on Food Losses and Food Waste*. These policy makers can then carry the responsibility of channelling this knowledge gathered at the EU level to promote national-level actions to drive food redistribution. Drawing on the EU-wide knowledge gathered by the platform, various national-level actions are recommended:

- Creation of national working groups on food redistribution topics to facilitate discussion among national supply chain actors;
- **Development of national food donation guidelines** in line with the 2017 EU **guidelines** on food donation, and drawing on the successes of other Member States;
- **Promotion of information exchange among food suppliers and receiving organisations.** With the feedback gathered from the national working groups, outreach initiatives could be designed to share information and materials between the various players in the food supply chain, notably retailers, caterers and other food service actors. The objective of this information exchange would be for all actors to understand their role in driving food donation at large, and to clarify questions on how key pieces of legislation are influencing food donation are applicable to their activity, which could be done through workshops and tools.

This study has identified the following specific areas, outlining where improved information and clarification could benefit food redistribution actors:

- **Enhanced communication to address the misconception that it is not safe to redistribute food after the “best before” date.** Member States that restrict food donation after the “best before” date may be advised to reconsider this restriction, using research and best practices from other countries as evidence that perceived hurdles can be overcome. Even in Member States where redistribution after the “best before” date is allowed, communication on food safety measures should nevertheless be implemented to ensure that all food redistribution actors know how to redistribute food safely in practice;
- **Educate national actors on the environmental rationale behind the application of the food use hierarchy** and investigate the impacts that anaerobic digestion has on food redistribution so as to mediate any potential barriers experienced by this latter form of valorisation;
- **Re-evaluation of national fiscal measures.** Member States that do not have VAT exemptions, zero-rate VAT or tax deductions/credits applicable to food donations may be advised to re-evaluate whether changes to fiscal systems that favour food donations could increase the potential for food redistribution activities.

In summary, findings from the pilot project “Food redistribution in the EU: analysis of existing frameworks and dissemination opportunities” show that optimised food redistribution has the potential to be a powerful solution for the reduction of food waste, as well as providing food for individuals in need and, therefore, can be a key component of an integrated approach towards achieving a circular economy.

# 5 Appendix: Food redistribution: Comparative analysis of the existing policy and levels of implementation within Member States\*

	National strategy				Legal measures										Fiscal incentives		Voluntary Agreements	Other initiatives							
					General Legal and regulatory framework	Food use hierarchy	Traceability		Liability rules applicable to food redistribution		Hygiene rules applicable to food redistribution		Food information to consumers rules applicable to food redistribution												
	Presence of a national food waste strategy including food redistribution measures	Adoption of the SDG 12.3 or more ambitious goals, driving the adoption of food redistribution to meet these goals	Availability of guidelines to facilitate and promote food donation	Call to develop and strengthen relationships between food redistribution actors	Presence of a legal framework specific to food redistribution, in addition to EU rules	Presence of the food use hierarchy	Presence of a clear traceability regime for food redistribution	Presence of guidelines which clarify the traceability regime for food redistribution	Presence of a clear liability regime for food redistribution	Presence of guidelines which clarify the liability regime for food redistribution	Presence of national laws in addition to EU rules to simplify hygiene requirements for food redistribution	Presence of national guidelines explaining hygiene requirements for food redistribution, clarifying EU rules and making them easier to understand for relevant actors	Donation requirements in line with EU recommendation on "best before" dates	Presence of national guidelines on "best before" dates	Presence of laws targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)	Presence of national guidelines targeting food redistribution actors to clarify the requirements for food information to consumers (language and labelling requirements, apart from date marking)	Presence of a fiscal regime specific to food redistribution	Presence of guidelines to clarify how to address complex fiscal regime such as VAT and/or tax deductions	Presence of a Voluntary Agreement which addresses all five pillars** of the EU REFRESH Blueprint in regard to food donation	Use of the FEAD operational programme to allocate funds to finance the logistic costs (collection, storage and distribution) of redistribution actors	Presence of measures encouraging the redistribution of fruits and vegetables withdrawn from the market, in line with Regulation (EU) 1308/2013	Publication of studies/research related to food redistribution	Presence of financial or logistic support for food redistribution at the national/regional level	Absence of incentives for the valorisation of food surplus via anaerobic digestion, which may otherwise hinder redistribution if the incentives for anaerobic digestion favour this recovery route over redistribution	
"Mature" countries																									
Austria																									
Belgium																									
Denmark																									
Estonia																									
France																									
Ireland																									
Italy																									
Netherlands																									
Spain																									
UK																									
"Developing" countries																									
Croatia																									
Czech Republic																									
Finland																									
Germany																									
Lithuania																									
Luxembourg																									
Portugal																									
Slovenia																									
"Start up" countries																									
Bulgaria																									
Cyprus																									
Greece																									
Hungary																									
Latvia																									
Malta																									
Poland																									
Romania																									
Slovakia																									
Sweden																									
	Criteria present: the criteria exists and is applied in the Member State																								
	Criteria partly present: the criteria is only partly applied, or it has started to be considered within the Member State																								
	Criteria not present: the criteria is not present in the Member State, and is not foreseeable to be considered in the immediate future																								
	Information on the criteria was not available for the concerned Member State																								

\* See Methodology for the full list of criteria and case-by-case explanations of the implementations level

\*\* The Blueprint was developed within the scope of the H2020 EU research project. The Blueprint is a roadmap designed for policy makers on how to set up Voluntary Agreements within any Member State's context. Its five pillars, which are essential to the make-up of a successful VA, are the following: initiation and set-up (what organisation leads the agreement?), ambition (what kind of targets does the VA align with?), governance and funding (how is the VA funded?), establishing actions (what is the timeline to carry out actions?), and measurement and evaluation (how will data on progress be collected?).

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