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Food Donation in the EU: state of art, barriers, and perspectives

Introduction

Food waste is an economic challenge for Western societies, with the production process typically resulting in overproduction and depletion of natural resources. The illusion that having more options leads to greater wealth and happiness perpetuates this system. The large number of trade references available on the market also contributes to this illusion of abundance. Amidst rising numbers of people in Western societies without access to food, it is concerning that food waste is concentrated at the consumer level. While there is no uniform method of data collection and analysis, Eurobarometer data shows a troubling trend. However, waste occurs at other points in the food supply chain and can be hidden in various ways. The analysis of our data shows that vendors apply incoming product acceptance rules, and food products are donated to charities when they reach their use-before.

The EU has implemented policies to reduce food waste in the past five years, and numerous Member States (MS) have subsequently adopted national policies to adhere to European guidelines.

Scope and purpose

Our study aimed to conduct a survey of national legislations and analyse their implementation across different Member States. We collaborated with national government institutions and NGOs that are involved in Food Donation actions. Out of the 15 organisations we contacted, 10 from 10 MS responded in the first year. We prepared a questionnaire consisting of two main sections: the first one was designed to assess how well national legislations are recognised and understood, while the second section focused on the challenges and opportunities encountered when implementing these legislations.

Data Analysis

Finland

The Finnish Ministry of Agriculture took part in our research.

Legislation

Finland has a law on food donation, which mandates that all food operators to calculate their food waste. Additionally, any excess food must be donated as required by the law. Retailers are required to keep records of their donations and recipients. The donation process does not involve intermediaries, allowing retailers to donate directly to individuals or charitable organisations.

Data collection responsibilities lie with the Ministry of the Environment.

The Finnish government has also adopted guidelines for safe food practices when donating by traders.

Challenges and opportunities for implementation

Food is expensive in Finland, and many individuals face challenges in affording it. The number of individuals in need has increased significantly, as the results of the war in Ukraine and COVID-19. Although the quantity of donated food remains consistent, it sometimes fails to meet the growing demands.

The provision of direct donation has resulted in the establishment of "communal kitchens" that offer donated food which people can cook.

The law has simplified the Fund for European Aid to the Most Deprived (FEAD) . There are specific VAT regulations that only apply to products donated near their 'best before' or expiry dates.

However, the regulation does not specify the maximum or minimum number of days for such products to be considered. The government is currently working on resolving this issue.

Malta

The Maltese Ministry of Agriculture participated in our research.

Legislation

in Malta, there is currently no specific legislation regarding food donations. However, assistance to those in need is managed by various ministries. A separate law is not deemed necessary, due to the small size of the population.

The distribution process involves government centres filling boxes with food and distributing them to those in need. This distribution occurs on a schedule, usually every quarter or half-year, or occasionally monthly, depending on the specific government scheme. The government covers all costs associated with food collection.

Individuals who meet established criteria and contacted directly by the government distribution system. they are notified to collect boxes at central locations. Any leftover items are used in the next distribution or donated to charitable NGOs for distribution to those in need or referral to government structures. The distribution system also includes the donation of medicines, clothes, and other items.

Data shows that poverty levels in Malta have not increased.

Challenges and opportunities for implementation

Malta currently considers a a national law necessary as the existing public system functions well. However, a law may be implemented in the future. Some logistical challenges have been faced, but they are being addressed with assistance of certain NGOs that directly distribute the donated food.

There have been no significant efforts to combat food waste or implement a reduction programs. The government acquires surplus food through public procurements financed by national and European schemes (FEAR). This is why Malta does not face VAT issues in relation to food donations.

Germany

In Germany, both the Federal Ministry of Agriculture and the National Food Bank took part in our survey.

Federal Ministry of Agriculture

Legislation

Currently, there is no specific law in Germany regarding food donations.

The Federal Ministry of Food and Agriculture has entered into an agreement with 14 companies in the wholesale and retail sectors to reduce food waste. The companies have committed to specific reduction targets and mandatory measures – both within their own companies and throughout the food supply chain. The agreement with retailers and out-of-home catering includes an obligation for retailers to cooperate with NGOs.

In addition, the Ministry of Food and Agriculture is active in supporting organisations involved in food redistribution, by providing guidelines on passing on food.

There is no single approach to increasing food donations in Germany. Many food donations already occur through food banks. Additionally, and stakeholders are becoming more aware of the issue of food waste and taking measures to donate suitable food products. The Federal Ministry of Food and Agriculture is monitoring these developments and considering further measures. Improvements should be made to the circumstances surrounding food donations such as reducing bureaucracy while ensuring consumer protection.

Germany is currently observing the strategies of other EU Member States, including France, Italy, and Poland, which have developed various regulatory approaches that require further examination.

Challenges and opportunities for implementation

One of the major barriers to food donations in Germany is believed to be legislative in nature. EU regulation 178/2002 imposes high requirements on the traceability of food, which apply to all food operators, regardless of whether they are charitable or not. This, combined with the lack of a specific law regarding food donations, creates uncertainty among potential donors. The results of the current evaluation of barriers are going to be available in January 2024.

Furthermore, the federal government structure in Germany has led to an increase in regulations, posing challenges for the responsible control authorities in the federal states.

In terms of VAT, when foodstuffs are passed on free-of-charge, the sales tax assessment basis is determined by the purchase price at the time of the sale. The Federal Ministry of Finance issued a clarification in the sales tax application decree in 2021, creating a solid national legal framework. This specifies when a reduced or zero assessment basis can be applied, such as for groceries nearing their expiration or non-sellable fresh produce dates. In these cases, little to no sales tax is required, incentivising companies to donate unsold groceries.

Regarding income tax, if food is passed on free-of-charge as part of a sponsorship, this reduces taxable profit. If the food is passed on outside of sponsorship, its partial value is included in the profit and subject to taxation. However, in the case of non-marketable food, the value can be zero, resulting in no income taxation.

Donations made to promote tax-privileged purposes, such as donations to public legal entities or non-profit associations/foundations, can be considered deductible expenses under the Corporation Tax Act, or special expenses under the Income Tax Act. These donations can help mitigate the corresponding tax obligations.

Germany Food Bank

Legislation

While there are voluntary agreements with retailers and a national strategy for food donations, there is no legal requirement in Germany. The aim is to facilitate food donations, and it is acceptable to donate food before its best before date.

Retailers follow a code of good practice approved by the Ministry of Health, but adherence to this code is not always consistent.

Challenges and opportunities for implementation

Some retailers choose not to donate due to concerns about how the donated food will be used by charitable organisations and those in poverty. Moreover, there is no clear distinction of responsibility at the end of the food chain in Germany.

The German Food Bank faces challenges with accepting fresh produce due to the cold chain problem, and most of their donations come from local retailers. However, efforts are being made to establish new distribution hubs.

Unlike other food banks, the German Food Bank solely focuses on donating food and does not handle medicine and clothes.

There is a need for clearer national and European laws regarding food safety to avoid inconsistent application.

The German Food Bank suggests the adoption of a European law at a national level to prevent varying interpretations. Improvement could also be made to current European guidelines; however, strict and specific regulations could have an unintended outcome.

Although the German Food Bank has not experienced a decline in donations, other food banks that rely on different sources have seen a reduction.

Czech Republic

For the Czech Republic, the Czech Consumers' Association plays a significant role in collecting food donations to directly support families in need. However, due to price increase, **less than one-sixth of employed population can afford a daily hot lunch**.

Czechs employees are opting for hot lunches at work less frequently. Merely 16% of workers have lunch in a canteen or restaurant daily, while almost half do not go out for lunch at all. In contrast, snacks and convenience foods from supermarkets are gaining popularity, but they cannot serve as a long-term replacement for a nutritious lunch. The reason for the decrease in regular meals at canteens and restaurants is the increase in prices.

Having a regular hot lunch at the cafeteria has been a long-standing tradition for many Czechs from their early childhood to retirement. Nevertheless, based on a survey conducted by STEM/MARK, Czech employees are indulging in this less often. Less than one sixth (16%) of workers eat a hot meal from a canteen or restaurant every working day. A further 13% have lunch three or four times a week, and 22%

have lunch once or twice. Half of employees (49%) do not have lunch at a canteen or restaurant even once during the workweek. This marks an increase of 8 percentage points compared to last year.

The current situation, where people are progressively opting for less nutritious lunches, is concerning. While some individuals are capable of substituting these meals with high-quality homemade food, which would be ideal, many others often lack the time, money, and healthy alternatives in their vicinity. For vulnerable consumers, such as those with reduced mobility and elderly individuals, as well as socially excluded people, the situation is even worse.

A significant portion of the population even skips lunch altogether, which is detrimental to their health and leads to decreased productivity, increased fatigue, and lack of energy for essential physical activities. It also results in either overeating in the evening or gradual difficulties with food intake.

Meanwhile, according to the survey, the popularity of fast food from supermarkets is on the rise, and this trend has been growing in recent years. A higher percentage of employees (27%) even prefer this way of eating at work compared to going out to restaurants (19%), while the latter experienced a significant decline (25%) compared to 2021. The proportion of people who do not eat lunch at all has increased to 7%.

Therefore, despite the decline in the coronavirus pandemic, employees have started to eat less while being at work, with quick and nutritionally inadequate substitutes for a full lunch becoming the norm. Data indicates that this style of eating can impact not only their performance, but also their health.

The survey discovered that almost half (48%) of employees who avoid dining in canteens or restaurants do so because they consider the food to be too expensive. Rising prices are influenced by inflation¹ as well as increased costs of raw materials and human resources.

The Edened Restaurant Index confirms the significant increase in lunch prices, which is based on payments made by over 220,000 Edened benefit cardholders. In July, the average lunch menu cost CZK 185.4, showing a year-on-year increase of CZK 21.4 compared to July 2022, when lunch price was CZK 164.

The sharp rise in prices during the second half of last year made regular meals in canteens and restaurants unsustainable for some employees in the long run. To put in perspective, Czechs could buy almost 5% fewer lunches in July 2023 compared to the previous year, considering their average salary. While there are no specific statistics for vulnerable consumers and socially excluded people, their situation is considerably worse.

Nutritionists warn about the detrimental effects of long-term eating that can be difficult to break.

¹ It is currently still the second highest in the EU.

**Podíl ceny 20 obědů
z průměrné měsíční mzdy**

Oblast	Červen
Liberec	10,3 %
České Budějovice	10,3 %
Pardubice	10,1 %
Plzeň	10,0 %
Karlovy Vary	9,9 %
Brno	9,7 %
Hradec Králové	9,7 %
Ostrava	9,6 %
Olomouc	9,1 %
Zlín	9,0 %
Ústí nad Labem	8,9 %
Jihlava	8,7 %
Praha	7,8 %
Česká republika	8,8 %

The situation differs from one region to another. Lunch expenses account for more than a tenth of individuals' monthly income.

A comparison of lunch prices with average wages in various regions, according to data from the Czech Statistical Office, shows that people in Liberec, České Budějovice, Pardubice, and Plzeň spend the largest part of their income for meals, with more than a tenth being spent on lunch. On the other hand, despite the highest average prices, Prague residents spend by far the smallest part of their income on lunch. In June, twenty lunches in a restaurant costed CZK 4,128, approximately 7.8% of the average wage in the capital.

Differences in purchasing power among different regions are not new, but they become noticeable when Czechs (whether they are travelling for work or families with children) travel around the country. People from regions with lower average incomes, which are usually matched by local lunch prices, are currently paying up to 25% more for lunch in some cases.

monthly wage.

Source: Edenred

↑ The table shows the share of the price of 20 lunches from the average

Due to rising costs of raw materials and energy, the prices of school lunches are also increasing in the Czech Republic. Consequently, the number of children unable to benefit from these meals due to their parents' worsening economic is rising as well (although the prices of school lunches vary by region and age of children).

According to statistics from WOMEN FOR WOMEN, the monthly cost of school lunches per pupil in 2022 was around CZK 700. As a result, the average cost of lunch has increased to 33 CZK compared to 2021. The average price in these statistics varies between CZK 30 and CZK 38 per lunch in each region, depending on the age of the pupils and the number of schools participating. The average price varies between CZK 30 and CZK 38 per lunch in each region, depending on the age of the pupils and the number of schools participating.

Legislative changes this year have allowed school cafeterias to raise the price of lunch by up to 20%. The Ministry of Education has updated the decree that sets the maximum price for school meals. From the new school year, the price can now range from 47 to 54 CZK, compared to the previous range of 39 to 45 CZK.

Data from a recent major comparative FOOD dietary survey conducted by the European Union in 11 European countries at the end of 2021 shows that there is limited availability and interest in balanced food in the Czech Republic compared to the EU. This is further supported by long-term statistics on food purchases and the offerings in restaurants. Unfortunately, even when visiting gastronomic establishments, guests do not prioritize healthy eating.

According to the survey, only 42% of people in the Czech Republic expect a healthy food offer in restaurants, compared to the European average of 74%. Additionally, 73% of restaurants in the Czech Republic report that it costs more to prepare healthy meals compared to other European countries where higher prices for healthy food are reported by 50% of restaurateurs.

During the corona-crisis, the Czech Republic ranked poorly in terms of healthy eating. However, 15% more Czechs claim to be eating healthier now compared to before the pandemic, while the European average improvement is reported by 22% of respondents.

In the Czech Republic, there is an increasing interest among those in need for food aid. There are 15 food banks in the country that not only distribute food but also provide drugs and hygiene products. However, the rising prices have affected this area as well, resulting in a roughly 10% decrease in donations to food banks compared to previous years.

Slovenia

Legislation

Slovenia has a national strategy to decrease food loss and waste and has formulated its own action plan. The country produces 68 kg of food waste per capita each year, of which 40% is edible, equally to approximately 20 kg.

Since 2017, Slovenia has implemented the Agricultural Law. This law does not only defines donated food and identifies the donor and recipient, but also provides financial support for organisations that distribute food to acquire humanitarian equipment.

The law only covers food donations, and surplus food donations throughout the food chain are not included. However, the agricultural sector does not follow this law much, due to the lack of farmer aggregation organisations. Nonetheless, there are a few agricultural cooperatives that collect unsold fruit and process it into juices and jams for those in need. They have utilised funds from the European agricultural market crisis to make these changes, but it is not a common practice. However, they plan to use these funds in the future.

Challenges and opportunities for implementation

One of the main challenges concerning food donation is the lack of personnel, storage facilities, and transportation. Charities do not receive any assistance from the government given their charitable nature. As a result, volunteers do not stay for long, leading to a lack of crucial support. Urban areas are primarily affected by this problem.

The Slovenian government aims to use ESF funds to increase donations of fresh food, a resource that is currently scarce. This would allow for the recruitment of additional staff, including local personnel, to support charities that are closest to those in need.

Moreover, Slovenia has highlighted the lack of European legislation on food donations as another important issue. However, the Slovenian government is studying the donation systems of similar countries, such as Estonia and Lithuania to improve their own system. Their goal is to integrate ESF funds with agricultural funds, without centralization by the state.

Another issue highlighted by Slovenia is the cost of transportation expenses, especially with the recent increase in fuel costs. Some traders donate their excess food to avoid disposal costs. The country also faces the issue of food donation or dumping food near its expiration or best before date, which limits its usability by charities to a period of two to three days.

Since 2017, the VAT situation has improved because Slovenian VAT regulations state that donated food is subject to 0% VAT if the yearly turnover does not exceed 2%. Depending on the company's turnover, VAT does not apply to donated products.

The Slovenian government has taken significant measures to reduce food waste, including television advertisements and newspaper messages about preventing food waste, as well as implementing the national strategy "Respect food, respect the planet." They also work with school children to promote responsible behaviour and respect for the planet, which is believed to reduce food waste.

Croatia

The Croatian Ministry of Agriculture participated in our survey and provided valuable insights.

Legislation

The Agriculture Act covers food donations, but there is currently no specific legislation regarding this.

The Ministry of Agriculture is responsible for implementing a national Food Donation Plan, while the Ministry of Economy measures the outcomes of the plan.

By law, food businesses throughout the supply chain are required to donate surplus food to registered intermediaries, such as charitable organisations and food banks.

Since 2019, donation rules have been simplified, allowing food to be donated up to and including its best before date, as long as it is still safe to consume. Guidelines for donating food have been established, and compliance with the EU agreement regarding the food sector is increasing. It should be noted that the legislation only applies to food donations and does not include other commodities.

Challenges and opportunities for implementation

Croatia has faced logistical and machinery issues when it comes to collecting and donating food. To address this, the government has allocated PNNR (Italy's Recovery and Resilience plan) 4 million to

improve the sector, purchase new machinery, and invest in communication. To facilitate food donation, the government has developed a voluntary IT system that was upgraded last year. Charities can enter the desired food quantities into the system and the IT's external “central manager” locates and informs them where to retrieve the food.

Since 2015, VAT legislation has exempted products that can no longer be sold and are therefore donated from VAT. VAT is not applied based on the company's turnover, and the turnover of donated goods needs to exceed 2% of the total turnover. This also applies to bakers, potentially leading to a loss of donations.

Belgium

The Restaurant de Couer charity kindly took part in our survey.

Legislation

In Belgium, there are regional laws instead of a single national law, with separate laws for Wallonia, Flanders and Brussels. However, there has been a national law concerning VAT for the past three years, which states that no declaration is necessary to (determine whether a product was donated or received as a gift.

The Brussels Capital Region is leading the way compared to the other regions with a law in place for the opening of new supermarkets. These supermarkets must choose an association to donate to and must occupy a minimum of 300 square metres.

Challenges and opportunities for implementation

The lack of a unified national law presents challenges for charities operating in food donation. A more balanced approach is needed.

Currently, donations are limited only to food with no extensions permitted, and the best before date poses additional issues. It would be more beneficial to have an additional date, alongside the best before date, which could indicate when the food can still be consumed.

Belgian supermarkets donate food, but only when the best before date is near. Charities struggle to make use of donated food that is approaching its use-by date as it becomes a dumping ground for supermarkets. By doing this, retailers avoid paying a tax on discarded food.

They do not consider logistical obstacles as a major issue. In reality, they have vans and are well-equipped. Nonetheless, a publicly accessible food hub separate from the private food bank could be beneficial.

In recent times, the demand for aid has increased, despite no decrease in donations, and the quantity of donated food is inadequate to support them.

Italy

The food waste observatory of the Italian Ministry of Agriculture's CREA (*Centro Ricerca Energia ed Agricoltura*) kindly participated in our research.

Legislation

In Italy, the Gadda Law (Law No. 166) has been in place since 2016. It aims to combat food and pharmaceutical waste by simplifying and updating the existing legal framework while extending the law's coverage to more Third Sector entities, benefiting those who are economically disadvantaged.

The main aspects of the Gadda Law include defining food business operator, transferors, food surpluses, food waste, donation, minimum durability date, and expiry date. Moreover:

- Authorities should have the option to donate confiscated food to non-profit organisations.
- Donors should be provided with administrative facilitation that simplifies the donation process instead of resorting to destruction.
- Recovering food for human consumption should be prioritised to avoid destruction; where human consumption is not feasible, the value recovery for livestock or energy use should be encouraged.
- Develop communication campaigns on national television channels to encourage corporate donations and increase awareness of waste among consumers.
- Foster relationships with the agricultural sector for field collection.
- Introduce the option for local authorities to offer waste tax reductions as an incentive for donations to non-profit organisations.

According to the latest Ministry data, all food distribution companies donate or redistribute food surpluses, by collaborating with local charitable associations, with 92% of them working with Banco Alimentare, the Italian Food Bank. Furthermore, 75% of companies provide special discounts for food products that are near their expiry dates.

Farms also make significant contributions, but only when they are part of Producer Organisations (POs) or Cooperatives. In fact, their capability to process and handle unsold produce, supported by FEAR, enables them to significantly minimise waste.

Challenges and opportunities for implementation

The only challenges faced in recent years have been related to the application of FEAR funds for food donations. The complex bureaucratic processes have sometimes hindered their use, primarily due to the Italian tax policies, which have made it difficult to utilise them within the required timeframe for processing food surpluses.

Portugal

The Portuguese Ministry of Agriculture kindly participated in our research.

Legislation

Measures to prevent food waste are laid down in Decree-Law No 102-D/2020, published on 10 December 2020. By 2024, establishments such as restaurants, catering companies, agro-industries, supermarkets and hypermarkets that generate a significant amount of bio-waste must have in place measures to combat food waste. From 2024 onwards, food retailers, wholesalers, industry, restaurants, and caterers will be prohibited from throwing away food that is still edible and they should establish agreements to donate food to social solidarity institutions. Municipal plans must also include measures to reduce food waste. The introduction of Law 62/2021 approves the scheme for the donation of food for the purposes of social solidarity purposes and measures to combat food waste. The law includes two important new aspects: the obligation to donate food that cannot be sold but is still suitable for consumption, and the inclusion of the reduction and prevention of food waste in school programs.

Challenges and opportunities for implementation

In 2020, a citizens' movement called the 'Movimento Unidos Contra o Desperdício' ('Movement United Against Waste') was established with the participation of various public and private entities. This movement aims to facilitate the donation of leftover food and promote responsible consumption. The Movement focuses on raising awareness and developing some specific campaigns. It also provides tips on how to reduce food waste at home, as well as recipes for using leftovers and parts of food that are not usually consumed.

Major supermarket chains in Portugal, such as Continente, Auchan, and Pingo Doce, have implemented measures to reduce food waste, including color-coding products nearing their sell-by date to indicate lower prices, using food that would otherwise be wasted for other purposes (e.g., using day-old bread to make breadcrumbs for fried foods and ripe bananas for banana cakes), and encouraging agreements with social solidarity institutions and animal shelters to donate products approaching their sell-by date

Conclusion

Food waste is the results of policies that lead to overproduction and the depletion of the Earth's resources. It is driven by excessive consumption due to desires for wealth and an emphasis on purchasing food. Unless this macro production system undergoes transformation, food waste will persist, even if it is lab-grown alternative food. Unless there is a transformation in the macro production system, food waste will continue to persist.

Our survey highlights the need for harmonising food safety regulations within the EU, particularly concerning the legal responsibilities surrounding charitable donations. The lack of a harmonised EU legal framework for food donations, the delegation of responsibility for the application and interpretation of food safety rules to decentralised structures, the increase in transport costs and some policies on taxation of unsold food are still major problems for the development of the sector.

Local service communities are no longer able to maintain their activities because of these problems, thus losing their link with the territory and increasing the number of disadvantaged areas.

In MS where agricultural aggregation is strong, it is still possible to maintain fresh food production or processing.

The problems are not only related to food security but also to financial management. However, our partial survey in 15 MS found that the issue of VAT management for organisations receiving food donations is being addressed more effectively than in previous years.

However, quantifying food waste at the consumer level, however, remains a challenge. Finland offers an excellent example of how food waste can be quantified throughout the food chain, despite omitting the consumer level. Therefore, it is recommended that the requirement to monitor surplus food donations be expanded to cover the entirety of the EU.