

## European Policy for Food Security: The Surplus Food Redistribution Option

*Benedetta De Pieri, Tatiana Tallarico, Simone Baglioni,  
Urszula Soler, and Elisa Ricciuti*

**Abstract** Food security has become a central issue in international policy debates and academic literature. Although high-income countries have long considered their population sheltered from food insecurity, the recent economic and financial crisis has challenged such assumption and food poverty has become an increasingly relevant policy issue across

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B. De Pieri · S. Baglioni (✉)  
Glasgow Caledonian University, Glasgow, Scotland, UK  
e-mail: simone.baglioni@gcu.ac.uk

B. De Pieri  
e-mail: benedetta.depieri@gcu.ac.uk

T. Tallarico · E. Ricciuti  
Bocconi University, Milan, Italy  
e-mail: tatiana.tallarico20@gmail.com

E. Ricciuti  
e-mail: elisa.ricciuti@unibocconi.it

U. Soler  
John Paul II Catholic University of Lublin, Lublin, Poland  
e-mail: urszula.soler@gmail.com

Europe. In this context, food surplus recovery and donation to those in need has emerged as one possible answer to food poverty in affluent societies. Based on academic and grey literature, the chapter illustrates the regulatory framework at European level involved in the reduction of food waste and in the recovery of edible surplus food. It highlights the main strengths and weaknesses of policies at EU level and across Europe and discusses good practices.

**Keywords** EU policy · Food security policy · Liability · Fiscal policy · Tax benefits · Public administration · Data traceability Governance

## 2.1 INTRODUCTION

Food security is well known as a policy priority in low-income countries (Conceição and Mendoza 2009); however, over the last decade it has also become a salient policy issue in high-income countries where an increasing number of people have problems in accessing safe and nutritious food on a daily basis. Several organisations and public institutions in different European states are registering a general rise in needs from existing, as well as from new, vulnerable groups (IFRC 2013; Eurostat 2015). According to Eurostat, in 2013, 24.5% of the population in the EU-28 countries was at risk of poverty or social exclusion, meaning that these people were living in at least one of the following conditions: being at risk of poverty after social transfers (income poverty), being severely materially deprived, or living in households with very low work intensity (Eurostat 2015). Western countries are facing increasing societal needs in the form of ageing, poverty, and unemployment, aligned with budget pressures and economic and political instability (Ferrara and Missios 2012). Food insecurity often accompanies these situations, as has been shown by the recent increase in food aid requests to charities in many European countries (IFRC 2013; Caritas 2015; Lambie-Mumford and Dowler 2015).

Despite this situation, the specific issue of food security in Europe does not receive the attention it deserves from policy makers. Scholars have highlighted that the link between food and social exclusion needs to be further explored, and that food poverty should be addressed as a specific topic requiring adequate interventions at a policy level (Friel and

Conlon 2004; Riches 2011). Likewise, in order to address food security, a coherent policy framework is required, which includes a complex range of evidence from social, environmental, and economic sources. Food systems should be addressed as a whole using a multi-focus perspective focusing on all stages and constituent parts of the food supply chain (Lang and Barling 2012).

In this context, and considering the complexity of such a multifaceted issue, one relevant policy option to try to reduce food insecurity in high-income societies is food waste prevention. In fact, the contradiction of a wealthy society where food poverty affects part of the population while large quantities of food are wasted every day has become increasingly prominent in both academic and public opinion debates. As has been pointed out by FAO, despite the fact that millions of people suffer from hunger globally, “roughly one-third of the edible parts of food produced for human consumption gets lost or wasted globally, which is about 1.3 billion ton per year” (FAO 2011, p. 4). This wastage also affects European society (BCFN 2012).

Although food recovery cannot be the only way to reach food security, it is a relevant area of intervention for policy makers and has been indicated by many as a political priority as it is able to reduce food poverty and food waste at the same time (Parfitt et al. 2010; Bloom 2010, in: Eng 2011; Finn 2011; FAO 2011; BCFN 2012; Deloitte 2014).

This chapter presents the main policy measures implemented across countries both within and outside Europe, and at the EU level, encouraging or hindering surplus food recovery and redistribution for human consumption.

The next subsection provides a general overview of existing European policy on the issue, identifying the main topics and describing the actors involved in the process. In each of the following four paragraphs, the specific regulation addressing each actor across countries is described.

## 2.2 SURPLUS FOOD REDISTRIBUTION IN EUROPE: POLICY TOPICS AND ACTORS INVOLVED

Surplus food recovery and redistribution touches a wide range of policy issues, particularly waste-related issues on the one hand, and food poverty and insecurity issues on the other.

A preparatory study on food waste commissioned in 2010 by the European Commission cites surplus food redistribution as a possible

measure to prevent food waste (European Commission 2010). The study identifies three policy recommendations against food waste: data disclosure, including a definition of the reporting requirements and methodologies for calculating food waste quantities; the promotion of data labelling coherence in all the member states to reduce food waste both by households and by retailers; and the design and activation of campaigns promoting behavioural change and awareness among all stakeholders. In order to assess these policy recommendations and to compare them with other options, the study considers a range of indicators including economic, social, and environmental aspects, together with the possibility of integrating the new policies with existing regulations while limiting costs. Although the recovery and redistribution of surplus food is a marginal issue in the study, it is mentioned as one of the potential measures to prevent food waste, and its relation to the selected policy recommendations is observed.

In its investigation of the causes and impacts of food waste, the Barilla Center for Food and Nutrition (BCFN) makes recommendations to reduce the scale and impacts of food waste, such as identifying common definitions, analysing causes, launching new initiatives, identifying political priorities, and promoting cooperation (BCFN 2012, pp. 112–113). The BCFN list also includes the food recovery option, particularly highlighting that the recovery of surplus food should prioritise redistribution to human beings, among other kinds of reuse (such as animal feed or the production of bio-energy). This option is tightly related to the importance of policy interventions fostering food recovery and redistribution, and to the promotion of cooperation among the different stakeholders involved in the food supply chain.

In addition to waste prevention, surplus food redistribution to people in need could be also an important way to tackle food poverty. A recent study on European member states' legislation and practices on food donations commissioned by the European Economic and Social Committee (EESC) analyses the main policy measures in Europe currently being used to incentivise this practice, seen as a crucial support for the most deprived people in national populations, as well as an important tool for the reduction of food waste (Deloitte 2014).

The EESC study recognises five main topics within which existing legislation and practices on food donations can be classified:

- Food use hierarchy: legislation identifies some priorities in the recovery of food, for example suggesting that surplus food should

be destined first for human consumption and secondly for other uses;

- Fiscal instruments: there are fiscal tools that can encourage food donation and food recovery, such as the abandonment of VAT liability, or the use of tax credits;
- Liability legislation: there are measures to limit civil and criminal liability related to food donation;
- Food durability and ‘best before’ dates: there is a general misunderstanding around the possibility of consuming food at or past these dates and, thus, confusion over whether to donate food that has passed its ‘best before’ date persists among consumers. This date does not correspond to the physical deterioration of the product, and many products are still edible once they pass it. However, due to the lack of legislation clarifying the possibility of eating and donating food which has passed its ‘best before’ date, a great amount of edible food is wasted; and
- Other aspects, such as food safety and hygiene, and food waste data management, are relevant in understanding the complexity of the practice and legislation about food donations.

The present chapter analyses the existing European policy on surplus food recovery and redistribution, focusing on the main policy areas outlined above and considering the stakeholders involved in the process, which are also the main targets of the policy interventions: public administrations, food companies, non-profit organisations, and private citizens (Garrone et al. 2014; Gille 2013; Parfitt et al. 2010).

Table 2.1 presents an overview of the most salient food recovery policy interventions at both the European and national levels, according to the types of actor they are aimed at (public administrations, companies, non-profit organisations, individuals, and communities). Public administrations at various levels are the recipients of policies recommending interventions on data collection, traceability, and official food use hierarchies. Food companies in their dual role of producers of food surplus and donors are the recipients of policies aiming at reducing food waste and increasing food surplus donations. Similarly, non-profit organisations partnering with food business operators are also the recipients of policy on food durability and data labels, regulations on traceability and hygiene, and liability issues. Finally, private citizens and communities are the targets of policies and campaigns aimed at strengthening public

**Table 2.1** Food-recovery policy interventions by level of government and by policy addressees/targets

<i>Target</i>	<i>European level</i>	<i>Member state level</i>
Public administration	Data management and traceability Food use hierarchy	Data management food traceability Food use hierarchy
Companies	Food use hierarchy Food durability and ‘best before’ date Traceability and data management	Fiscal instruments Liability legislation Food durability and ‘best before’ date
Non-profit organizations	Hygiene and safety Food durability and ‘best before’ dates Traceability and data management The EU’s “Food Distribution Programme for the Most Deprived Persons of the Community” (MDP)	Hygiene and safety Liability legislation
Individuals and communities	Education campaigns and social programs	Education campaigns and social programs

awareness, and raising the involvement of households and the beneficiaries of food waste recovery in the food recovery process.

The next sections discuss each policy in more detail according to the principal recipients, as presented in Table 2.1.

### 2.2.1 *Public Administrations*

The recovery of surplus food for a social purpose is a complex issue involving not only several actors along the food supply chain, but also some actors beyond it. Public administrations are among the latter group.

Administrations, both nationally and locally, can play an important role in promoting food recovery and distribution, not only through legislation and regulation, but also through leading by example and promoting collaborations between public and private sector organisations (Finn 2011). As has been suggested by a study on food donations in Europe commissioned by the European Economic and Social Committee, “actors outside the food chain [...] can eliminate food donation barriers especially in terms of lack of awareness of the

legislation, by optimizing the food redistribution network and connection public actors, with donors (restaurants, canteens, hotels, supermarkets) and food charities” (Deloitte 2014, p. 44).

Policies targeting public administrations focus mainly on two relevant areas at both the European and the national levels:

- Data management and food traceability; and
- Food use hierarchy.

These are now discussed in turn in the next subsections.

### *Data Management and Traceability*

Any action on food security must be informed by reliable data on food availability and access, along with data on food waste. Therefore, the limited availability of reliable data on food waste is a real problem (European Commission 2010, 2014; BCFN 2012; FAO 2011; Møller 2013). FAO concludes its study on the amount of food waste on the global level by considering that “due to lack of sufficient data, many assumptions on food waste levels at foremost the distribution and consumption levels had to be made. Therefore, the results in this study must be interpreted with great caution” (FAO 2011, p. 15).

At the moment, relevant policy interventions moving towards the promotion of data collection by public administration are yet to become available in Europe. Therefore, different institutions (European Commission 2010; Segre 2014; Møller 2013) have suggested that the European Commission and the EU Member States should encourage the creation of agencies or offices designed to collect and standardise the methodologies for the calculation of the amount of food waste to ensure cross-EU comparability. The availability of comparable data about food waste and food donations could then improve awareness and better address future policies.

According to the Preparatory Study on Food Waste commissioned by the European Commission, “a standardized method for calculation would be important to ensure the comparability and usefulness of data. If introduced as a mandatory requirement, hence necessitating a change to the EUROSTAT legal framework for data collection, the policy option would be enforceable” (European Commission 2010, p. 141). Moreover, this option of standardisation and central data collection would also provide a clearer picture of food waste quantities, sources,

and treatment, thereby allowing the identification and addressing of problem areas in the context of food waste generation and treatment (European Commission 2010).

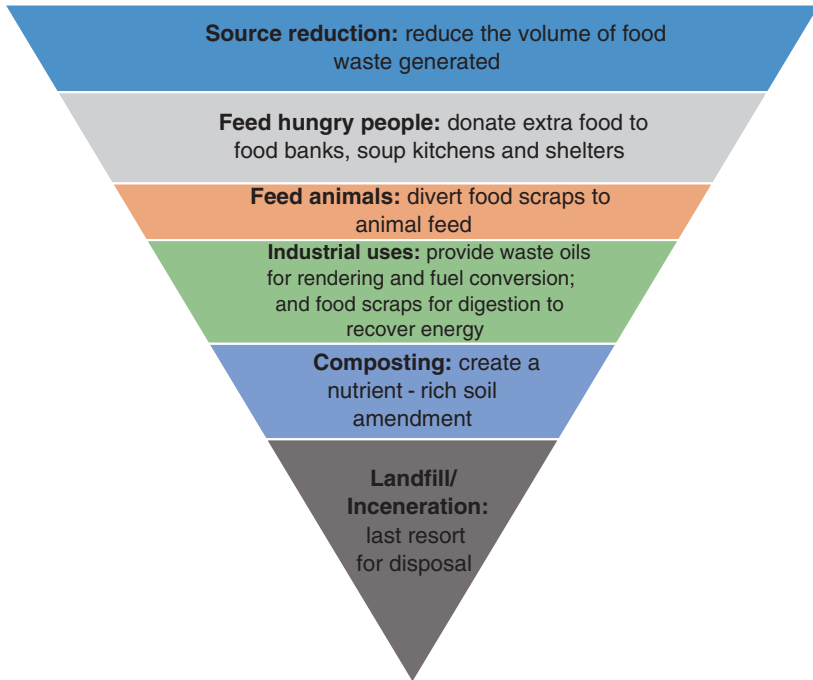
With regard to food traceability, the regulations which define the standards to be used to trace food through the production and distribution chain are an important tool to collect data about food waste, and in defining responsibilities and planning interventions. Nevertheless, public administration at national and local levels should consider that strict regulation of traceability could obstruct the practice of food donations by increasing the bureaucratic burden, for both profit-driven and non-profit organisations. At the European level, the General Food Law (Regulation EC n.178/2002) lays down the general principles of a common food law for the EU's Member States and allows them to design their own procedures to cover traceability (European Commission 2014). This theme will be further examined below in the section on companies, as they are the main actors responsible for traceability.

### *Food Use Hierarchy*

The adoption of a food use hierarchy policy is considered a valid tool to facilitate food surplus recovery and redistribution to those in need, as it would make donation a compelling option for food business operators. However, although a waste hierarchy does presently exist at the European level, it does not address food waste. In fact, the EU's Waste Framework Directive (Directive 2008/98/EC) recommends waste prevention as the preferred policy business option, followed by reuse, recycling, recovery (including energy recovery), and safe disposal (Cox et al. 2010). However, as this Directive does not refer specifically to food waste, any Member State is free to decide whether to direct local authorities to prioritise food recovery for social purpose or not. The explicit provision of a food waste hierarchy could support local administrations to define economic incentives for food waste reduction and to facilitate donations of surplus food (Deloitte 2014).

An explicit food use hierarchy exists in the USA, where the Department for Agriculture (USDA) and the Environmental Protection Agency (EPA) supply it (Fig. 2.1). In particular, the "Waste not, want not" campaign explains how states or municipalities, as well as private companies dealing with food, can reduce their solid waste by donating surplus food. The food hierarchy provided by the USDA-EPA gives first





**Fig. 2.1** Food recovery hierarchy by EPA (EPA 2012)

place to feeding humans, followed by feeding animals, recycling, and finally composting and landfill (USDA-EPA 1999; EPA 2012).

The impact of a clear food use hierarchy on companies is described in more detail next.

### 2.2.2 *Companies*

Companies operating in the food industry are the main players involved in food surplus generation and recovery. For this reason, the majority of policies addressing the issue target the food industry or, more generally, business organisations working at various stages along the food supply chain: production, manufacturing, retail, and food services.

The main policy areas impacting upon companies' roles in food recovery and reuse are

- Food use hierarchy;
- Fiscal instruments;
- Liability legislation;
- Food durability and ‘best before’ dates;
- Traceability and data management; and
- Hygiene and safety.

### *Food Use Hierarchy*

As was discussed earlier, a clear food use hierarchy promoted by local authorities can be an effective method by which to increase levels of food recovery. Its main targets are companies working in the food supply chain which, in the case of a shared food use hierarchy, could benefit from a clearly set out food recovery procedure and from related economic incentives.

In the USA, the EPA launched a campaign at federal level called “Food recovery challenge” that challenged participants to reduce their food waste. The campaign specified that participating companies had to produce an assessment of their food waste and a three-year strategy to reduce it. To reduce waste, it is suggested that companies follow the “food waste recovery pyramid” set by the EPA, placing feeding humans in the first place after source reduction (BCFN 2012).

Some US states also developed local initiatives to increase the efficacy of the food use hierarchy through the adoption of appropriate incentives for companies. One example is the “Supermarket Recycling Program Certification” in Massachusetts, promoted by the Massachusetts Department of Environmental Protection (MassDEP) (BCFN 2012). In such a programme, supermarkets can receive a voluntary certification for their recycling, including support for their food donations to the needy, the dispatch of food waste, paper, cardboard, plants, and wooden boxes for composting. The MassDEP helps supermarkets to develop their programmes, and companies are motivated not only by receiving positive recognition, but above all by benefitting from regulatory and economic advantages, since waste disposal is a significant operating cost. Therefore, for supermarkets, composting or donating has become a low-cost alternative to disposal. Even though this programme does not identify donation for human consumption as a clear priority over composting, it indirectly promotes the first option as being the most favourable.

Some of the EU’s Member States, such as the UK and Belgium, explicitly identify a hierarchy determining how surplus food should be

used, which is as follows: prevention, redistribution to humans, feeding to animals, energy or nutrient recovery through methods such as anaerobic digestion (AD), composting, and finally, land filling (Deloitte 2014). In Belgium, supermarkets are obliged to donate surplus food to food banks in order to obtain the renewal of their environmental permit. The permit requirements mention that supermarkets must offer unsold edible products to at least one food redistribution charity before they are sent to other forms of disposal (Deloitte 2014). In a similar vein, France, as discussed in more detail in this chapter, recently strongly encouraged donations via ad hoc regulation.

However, apart from such positive examples, in most EU countries donating surplus food is still too expensive compared to simply composting it. For instance, in the UK, fiscal incentives make the disposal of food waste via anaerobic digestion more economically viable than redistributing it (Ibidem).

In conclusion, the adoption of a shared, binding food use hierarchy at the European level would be of great support in influencing the Member States to integrate the principles of food waste hierarchy into their national food waste prevention programmes (Deloitte 2014).

### *Fiscal Instruments*

Fiscal instruments (such as taxes and incentives) are discussed here as policy measures that “are used to introduce price signals to consumers and producers and to act as a reminder of the external costs and benefits of goods and/or activities” (OECD 2002, in: Darnton 2009, p. 36). Although fiscal instruments can be used by policy makers to promote (or discourage) pro-environmental behaviour (Darnton 2009), tax legislation related to food recovery appears to be highly controversial, particularly in relation to the national interpretation of European Council Directive 2006/112/EC<sup>10</sup> of 28 November 2006 on the common system of value added tax (VAT).

According to this Directive, food donations are taxable: “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” (Article 74). Most EU Member States do not consider food donors as liable to VAT if certain conditions are fulfilled, mainly by interpreting the Directive so that the value of the donated foods is deemed to be near to zero. However, the Directive remains controversial and “whether or not this is to be considered a VAT exemption is a question of translation and

interpretation of the respective legal texts” in each of the Member States (Deloitte 2014, p. 52). Consequently, depending on the different interpretations across the Member States it may be the case in some countries that donating is more expensive since food nearing its “best before/use by” date is considered as retaining its original commercial value, and donors are therefore liable to VAT, as is the case in Denmark, Spain, and Sweden.

However, VAT exemptions alone do not constitute a guarantee of incentive for food donations, unless they are part of a coherent approach along with other regulations and fiscal instruments. In Italy, for example, although no VAT is due on donated products, food donation is not always the most convenient option for food companies because of other obstructive regulations (next chapter discusses fiscal instruments in the context of the Italian case in more depth, along with the French, German, and Spanish ones).

Another relevant issue related to fiscal instruments is that if the value of donated food which is close to the expiration date is regarded as small or zero, as suggested by the EU Directive presented earlier, food business operators might find it difficult to benefit from tax credits, which represent the other fiscal instrument useful in promoting food surplus redistribution. In fact, in many EU Member States, food donation can be treated as a deductible tax expense which is able to reduce the company’s taxable income, as is the case in France and Spain, where donors benefit from tax credits of 60 and 35% respectively of the net book value of donated food. The value of the donated food is equal to its net book value, meaning its original cost minus its depreciation. However, if the net book value of the food products depreciates, and it is estimated to be close to zero because of an approaching or passed expiration date, food donors cannot then benefit from the tax credit (Deloitte 2014).

While the imposition of VAT is indeed a controversial issue due to the legal interpretation of the EC Directive, tax credits have been proved to be the most effective incentive to encourage food donation rather than anaerobic digestion. As a consequence, in order not to nullify the value of a tax credit, VAT may be “abandoned”, or “exempted” (Deloitte 2014, p. 25), rather than valuing donated food at zero.

### *Liability Legislation*

Under EU Regulation n.178/2002 (known as the “General Food Law”), food donation is recognised as a “market operation” and food donors as

“food business operators”, meaning that all the actors involved in food recovery and distribution must comply with the Regulation concerning liability, traceability, and food health and safety. Therefore, since food sales and donations must follow the same rules, food manufacturers, retailers and non-profit organisations are held responsible for food safety within the limits of their activity (Deloitte 2014). Such a liability, especially when food is close to its “use by” or “best before” date, represents a deterrent for food industry operators so that they may become reluctant to donate in order not to take the risk of being damaged in reputation in the case of food poisoning (Planchenstainer 2012; Deloitte 2014).

The liability issue was addressed in the USA in 1996 by the so-called “Good Samaritan Law”, adopted during the Clinton presidency (1993–2001), the first to show an interest in food waste issues (BCFN 2012). The Bill Emerson Good Samaritan Food Donation Act had the explicit purpose of promoting food donation (BCFN 2012; Planchenstainer 2012), by relieving donors from any liability from injuries (Planchenstainer 2012; Schneider 2012), also “in case of food products not meeting all the quality and labelling standards required by Federal and State Law, provided that the receiving charity is informed and able to recondition food” (Committee on Economic and Educational Opportunities 1996, in: Planchenstainer 2012, p. 23). Protection is not limited to food donors, but is also extended to persons, gleaners, and non-profit organisations (Deloitte 2014; Planchenstainer 2012). According to this US law, liability is limited to intended misconduct or gross negligence (Planchenstainer 2012; Schneider 2012); otherwise, donors “do not incur civil or criminal liability for harm resulting from the supply of apparently safe and edible food” (BCFN 2012, p. 115).

Criticism of the Act focused on the status given to public welfare and its favouring of an increased role for the private sector in providing social services (Cohen 2006, in: Planchenstainer 2012). Furthermore, Cohen pointed out that the Act unfairly deprived beneficiaries of the possibility of filing an appeal (Cohen 2006, in: Planchenstainer 2012), even though no food-borne illness related to food donation was reported (Planchenstainer 2012). However, even its critics had to admit the effectiveness of the Regulation in promoting food donations (Cohen 2006; Poppendieck 1998, in: Planchenstainer 2012), and the majority of organisations committed to food recovery recognised its helpfulness in carrying on their mission (Hawkes and Webster 2000, in: Planchenstainer 2012). Finally, the Good Samaritan Act was

accompanied by an increased involvement of citizens in food donation practices through public–private partnerships (USDA and EPA 2009, in: Planchenstainer 2012).

As this book goes on to discuss in detail in this chapter, the only EU country to have passed a law concerning food donation liability is Italy, whose Law n.155 is composed of only one article, which reads: “Non-profit and social utility organizations recognized as such by Law n. 460, 4 December 1997, Art. 10, and amended later, that carry out for charity purposes a free distribution of food products to those in need, have an equal status to that of final consumers, within the bounds of the service provided, in order to meet the required standards of preservation, transport, storage and use of food”.

However, some controversy has arisen over such specific legislation for donations of food, as opponents argue that the same legal requirements should apply to anyone who markets food regardless of who the beneficiaries might be, and others worry about a two-tier society in which second class products go to second class people (Schneider 2013).

Despite these criticisms, other European states (such as the UK) are discussing the possibility of replicating the Italian Law, while supporters of a common European approach to the issue ask for a reduction in donor liability, provided that all hygiene standards are met (Deloitte 2014). Not only would this be compatible with the European legal framework, but it would also enhance the capability of volunteers to assist people in need (McGlone et al. 1999, in: Planchenstainer 2012).

### *Food Durability and the “Best Before” Date*

According to EC Regulation n.1169/2011 on food durability and date marking, a food product’s “use by” date marks the end of the period during which a product is considered safe for consumption under any storage condition; after this date, the product should not be considered marketable, nor should it be donated. “Best before” or “minimum durability” dates, in contrast, mark the date after which the product remains safe, edible, marketable and thus suitable for donation, although it loses specific qualities. Furthermore, under EC Regulation n.1169/2011, the “best before/use by” date is to be chosen by the food business operator according to the composition of the product.

The European Union has no legislative guidance regarding donation and “best before” dates, leading many countries (e.g. Hungary) to impose barriers on donating food which has passed its “best before”

date. The general misinterpretation and confusion over date marking legislation is, therefore, not only a cause of household food waste (European Commission 2010), but it can also generate barriers to food recovery and distribution (Deloitte 2014).

Belgium provides best practice guidelines on this front, as in 2013 the Belgian Federal Agency for the Safety of the Food Chain (FASFC) published guidelines on the interpretation of foodstuff minimum durability, traceability, and the labelling and storage of food for national food banks and food charities, providing a non-limiting list of foods, which are useful in the assessment of conservation after the date of minimum durability has passed (Ibidem).

Clarifying and standardising current food data labels, together with disseminating the related information to the public and reaching a state of effective data labelling coherence, could actually reduce the negative impact on food waste and food surplus, as empirical evidences prove (European Commission 2010). The creation of EU guidelines to assess the additional lifetime of products in line with the Belgian example to facilitate food surplus redistribution could be an effective incentive for food companies to donate, with the guarantee of avoiding the misuse of food products (Ibidem).

### *Traceability and Data Management*

The EU General Food law requires food business operators to be able to identify from whom and to whom a product has been supplied, and to be in possession of systems and procedures providing information upon request (European Commission 2010). This law does not explicitly compel operators to establish a link between incoming and outgoing products, and does not specify what type of information should be kept by the food business operators, nor does it set the minimum period of time for keeping records. Nonetheless, in order not to incur liability problems, and to avoid creating further bureaucratic burdens, many companies prefer to dismiss food surplus rather than donating it (Deloitte 2014).

A good practice at the national level is the Belgian decree of traceability. In 2003, the Belgian government issued a decree which, although obligating companies to keep records of their incoming and outgoing products, also includes a derogation stating that the list of retailers/manufacturers donating foodstuffs can serve as a record of incoming products, and that the list of food banks and charities can serve as a record for

outgoing products. Such flexibility in traceability has since simplified the bureaucracy of donation (Idem).

### *Hygiene and Safety*

In 2006, the European Commission revised the existing legislation and issued the “Food Hygiene Package”, with the overall aim of guaranteeing the highest level of protection of human health and consumers’ interests concerning food (Deloitte 2014). The new legal framework consists of four Regulations (Regulation (EC) No. 852/200446; Regulation (EC) No. 853/200447; Regulation (EC) No. 854/200448 and Directive 2004/41/EC49), intended to cover all food business operators including food banks and charity organisations, and addressing all the activities which occur along the food supply chain, together with providing instruments to manage food safety and potential crises.

According to the Package, the primary responsibility for food safety remains with the food business operator, who should guarantee it along the whole supply chain. Food should be stored appropriately, and food business operators should have procedures in place based on the Hazard Analysis Critical Control Point (HACCP) principles and produce guides to help support the correct application of safety and hygiene principles.

The Hygiene Package is not perceived by stakeholders as the main barrier to food donation, as other barriers have arisen during its transposition at the national level; due to their flexibility and the absence of a EU guidance for food business operators, some European countries have interpreted it more rigidly than others, thus creating more difficult conditions for food donation (Deloitte 2014).

The European Commission is planning to include provisions to simplify rules, especially for retailers donating food to food banks and charities (Schneider 2012).

### **2.2.3 Non-profit Organisations**

In most of the pertinent European regulations, no distinction is drawn between profit and non-profit organisations, or between market operations and food donations. For this reason, national legislations can accidentally create barriers to food recovery, mainly by discouraging food donations and enforcing cautious behaviours from the food industry (Schneider 2012). For example, according to the European General Food Law (EC Reg. n.178/2002), food donations are “business



operations”, and food donors as well as charities are considered to be “food business operators”, functioning at the same level of any other operator in the market. “In other words, a food business operator has to comply with the same rules whether he is selling or donating food. As a consequence, he is responsible for food safety within the limits of his activity” (Deloitte 2014, p. 21).

In actual fact, when legislation on food surplus recovery and redistribution is in place, it is mainly aimed at for-profit organisations, in order to relieve them of the potential bureaucratic and liability burdens that could prevent them from taking part in donation activities. Nonetheless, non-profit organisations are equally important actors in the chain of donations. They manage the collection of surplus food from companies and organise distribution to the needy (Baglioni et al. 2016). Of course, because food recovery and distribution are part of their mission, non-profit organisations do not need to be motivated by legislation; rather, they must have their activities facilitated.

In the next section, an overview of the main areas of legislation directly (or not) affecting the third sector is provided. Non-profit actors’ roles and activities in food surplus recovery are discussed in more depth in Chaps. 6 and 7.

### *Liability Legislation*

As was discussed earlier, one of the main barriers to donation lies with companies’ liability towards beneficiaries in case of food poisoning, and Italy is the only country in Europe which has removed this hurdle to donations, also affecting the relationship with non-profit organisations. In the next chapter, the Italian liability legislation is described in more detail. With the Italian Good Samaritan Law, the status of food banks and charities is seen as that of a “final consumer” instead of a “business operator”. This equivalence relieves charities and social organisations, as well as donors, from the principle of liability arising from food safety and hygiene rules. For example, in the case of food poisoning, food beneficiaries cannot file a lawsuit against the food donor, as the food bank or another non-profit organisation is the final link of the food chain (Planchenstainer 2012; Deloitte 2014).

### *Food Durability and ‘Best Before’ Dates*

The general misunderstanding of the date information on food labels discussed above also affects the third sector. For that reason, the

guidance on the interpretation of foodstuff minimum durability, traceability, and the labelling and storage of food released in Belgium specifically targets food banks and charities. For example, the Federal Agency for the Safety of the Food Chain (FASFC) recommends that non-profit organisations do not accept foods with shorter conservation dates, such as meat, eggs, and yogurts if their “best before” or “use by” date has passed, and if the conservation of the cold chain is not guaranteed (Deloitte 2014).

*The EU’s “Food Distribution Programme for the Most Deprived Persons of the Community” (MDP)*

Until 2013, an important source of provisions for those organisations working with the most deprived person was the EU’s “Food Distribution Programme for the Most Deprived Persons of the Community” (MDP). Established in 1987, it aimed at making public purchasing more efficient by recovering agricultural excess stocks and addressing them as food aid for the most deprived persons of the community, who eventually accounted for over 18 million people by 2010. Nonetheless, to cope with the constant decrease in excess agricultural production, in the mid-1990s the MDP was modified to include market purchases, and during the following years, the programme became a more and more market-oriented system.

Within the period 2011–2012, the rapid depletion of the excess stocks following the reform of the Common Agricultural Policy (PAC) and German litigation against the European Commission to prevent the replacement of the intervention stocks with market purchases led the Council and the European Parliament to close the MDP in 2013 (Frigo 2014).

To fill the gap created by the closure of the MDP, the Fund for European Aid to the Most Deprived (FEAD) was then established, supporting EU countries’ actions to provide material assistance to the most deprived among their populations. This includes the provision of food, clothing and other essential items for personal use (European Commission 2014). Nevertheless, since this latest European instrument is entirely based on the public purchase or funding of food or goods, it has no influence on policies related to food donations and the reuse of surplus food; therefore, we do not consider it among the policies promoting food surplus recovery in this book.

### 2.2.4 *Individuals and Communities*

Educating the community is an important step to reduce food waste (Finn 2011), and government plays “a pivotal role in changing [...] behaviours over time. But it has to find a way of engaging with both individuals and the public, in supporting the development of new social norms and fostering facilitating conditions in a strategic and long-term approach to behaviour change” (DEFRA 2005, p. 1). Nonetheless, interventions should address not only people’s knowledge, attitudes, and behaviours, but also the social and material context through which practices are ordered and (re)produced (Evans 2011).

At a policy level, different instruments could be used to influence consumer knowledge and willingness to behave pro-environmentally. Among these, common means are national public education campaigns or, to a lesser extent, social programmes (OECD 2002; FAO 2011).

Awareness campaigns also have an essential role in behavioural change in the field of food recovery (BCFN 2012; European Commission 2010), and they are usually easy to implement because they do not require any changes to legislation (European Commission 2010). Nonetheless, because the EU Member States launch them on a voluntary basis, they are not enforceable and thus may appear to be uncertain. According to, “such campaigns should employ a wide arrange of tools, including policy instruments, infrastructure, and information provision; a targeted approach observing difference between subgroups should be adopted” (DEFRA 2005, p. 3). Cox et al. (2010) add that campaigns and encouragement to participate should not be a “general exhortation to reduce food waste”, but should instead identify specific activities, “helping consumers to be good at them and educating about the need to do these things. Consumers may not immediately identify such activities as ‘environmental’ and other hooks may need to be found” (Cox et al. 2010, p. 214). The education process should include the promotion of public awareness, aiming to get individuals past the fear of liability. In particular with regard to food surplus recovery, individuals should be made aware of the paradox between hunger and food surplus, of the environmental impact of the latter, of the existing ways to donate, and of the products most suitable for donation (Finn 2011).

The European Commission (2010) recognises the effectiveness of awareness campaigns in the field of food waste reduction. Despite the costs to the Member States and the difficulties involved in measuring the

impact of campaigns, they represent a concrete way to create synergies with other policy options, to involve the public, and above all, to contribute to a long-term behaviour change towards food waste reduction (European Commission 2010).

Several governments have recently launched national education campaigns against food waste, such as the “Zu gut für die Tonne” in Germany or the “Réduisons nos déchets” in France (BCFN 2012; European Commission 2010; FAO 2011), which will be detailed in this chapter; Italy is also planning to catch up with these practices by launching its own campaign towards final consumers (Segre 2014).

### 2.3 CONCLUDING REMARKS

Food security has become a salient policy issue in the last two decades not only in low-income countries, but also in high-income ones. While a lack of economic development, or the occurrence of conflicts or natural disasters, can still prevent low-income populations from accessing “sufficient, safe and nutritious food to meet dietary needs and food preferences for an active and healthy life” (FAO 2009, p. 8), high-income countries also meet challenges in ensuring that large portions of their societies have food security. To tackle the issue, a constellation of public and private actors has developed policy tools and organisational capacities to recover surplus food that remains edible but would be destined to be wasted, and to donate it to those in need.

Such a constellation represents a “governance” system of food surplus recovery, or in other words, a mechanism in which public administrations, food industry operators, non-profit organisations, and citizens and communities all cooperate to address unmet food-related needs. In particular, the governance mechanism of food surplus recovery is made up of regulations dealing with hygiene and safety issues, the liability of providers, and fiscal and tax related aspects, as well as of principles such as the food use hierarchy, and practical issues such as food waste data management and traceability.

Although all such actors, policies, and practices when taken together provide an image of a vibrant policy environment, there remain real differences among countries in terms of their relative levels of policy enforcement and governance capacities. Such a differentiated picture renders Europe a geo-political area that is far from having unlocked its potential for food surplus recovery. Some countries present convincing

governance, but as we have discussed through the chapter, only very few EU Member States have put together an effective system of food recovery which combines fiscal incentives for food businesses donations, as well as compelling legislation governing cooperation between food business operators and charities or non-profit organisations in order to tackle food security issues.

At the EU level, there is also scope for improvement as, for example, the adoption of a food use hierarchy on the US model would benefit all countries, and more health-safety fine-tuned legislation may also ease food recovery, as at the moment liability still prevents food donations in some cases (only a few countries, with Italy being the path opener in Europe, have legislated in this regard).

To conclude, Europe offers some good policy examples and some particularly well-organised governance systems, but the continent still suffers from a lack of consistency and a scattered application of norms, with each EU Member State pursuing its own path. In order to increase the impact and meet food security needs, an EU-wide, effective governance is required.

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