



EUROPEAN COMMISSION  
HEALTH AND FOOD SAFETY DIRECTORATE-GENERAL

Food and feed safety, innovation  
Food information and composition, food waste

## SUMMARY REPORT

### EU PLATFORM ON FOOD LOSSES AND FOOD WASTE: SUB-GROUP ON FOOD DONATION

DG HEALTH AND FOOD SAFETY (SANTE)

1<sup>st</sup> meeting

*Brussels, 36 Rue Froissart (Albert Borschette building), Room AB-0B*

*20 March 2017 – From 10:00 to 16:00*

**Chair:** Alexandra Nikolakopoulou, *Head of Unit, Food information and composition, food waste, DG SANTE*

**Commission: DG SANTE:** Tim Gumbel, Anne-Laure Gassin, Bartosz Zambrzycki, Manuela Marcolini, Athanasios Raikos, Kris De Smet; **DG AGRI:** Olivier Diana; **DG EMPL:** Plamen Kolev.

#### **Member States represented:**

BE, BG, DK, ES, FI, FR, HR, IT, LT, LV, NL, PL, RO and SI

#### **Private sector organisations:**

CITY OF MILAN: Secretariat of the Milan Urban Food Policy Pact; EUROCOMMERCE; European Federation of Food Banks (FEBA); FOODDRINKEUROPE (FDE); FOODSERVICEEUROPE ; HOTREC; Hungarian Food Bank Association (HFBA); INDEPENDENT RETAIL EUROPE; LES RESTAURANTS DU COEUR.

#### **Observers:**

**EFTA:** Norway.

### **1. WELCOME AND ADOPTION OF THE AGENDA**

The Chair, Ms. Alexandra Nikolakopoulou, introduced herself and welcomed members to the first meeting of the sub-group on food donation of the EU Platform on Food Losses and Food Waste. She thanked all participants for their interest in contributing to EU efforts to facilitate food donation and also extended her thanks to colleagues present from other Directorates-General of the Commission (DG AGRI and EMPL).

The Chair went on to outline the agenda and the Commission's expectations with respect to the day's meeting which would focus its discussions on the latest version of the draft document to prepare EU Guidelines on food donation. In the afternoon, the Commission

would introduce the EP Pilot project on food redistribution and discuss its main objectives and components. Last but not least, the floor would be given to all participants to share information on food donation activities in Member States and by sectorial organisations.

In regard to the day's agenda, the Chair confirmed that Italy's request to update the group on the Italian legislation to prevent food waste, adopted in 2016, would be taken under point 5 of the agenda (information sharing). There were no requests for AOB items and the agenda was adopted.

## **2. MANDATE OF SUB-GROUP ESTABLISHED UNDER THE EU PLATFORM ON FOOD LOSSES AND FOOD WASTE TO SUPPORT EU ACTIVITIES TO FACILITATE FOOD DONATION: PRESENTATION BY COMMISSION AND DISCUSSION WITH MEMBERS**

Following presentation of the draft mandate of the sub-group by Commission officials, the Chair opened up the floor for discussion and comments.

The questions and comments of the participants centred on the following topics:

1. The need to clarify whether the mandate of the subgroup would address "food redistribution" more generally, as "food donation" may have a more restrictive meaning. This query also related to the scope of the guidelines being developed by the Commission.
2. Restaurants du Coeur highlighted the necessity to carry out an evaluation of food donation activities based on market value and inquired whether this quantitative assessment could be carried out in the context of the sub-group's activities.

In regard to these comments, the Chair stated that:

- the focus of the sub-group's work reflects the priorities laid down in the Circular Economy Action Plan, which requires the Commission to clarify relevant EU rules in order to facilitate food donation. The name of the sub-group and that of the draft EU guidelines therefore reflects this priority. The Chair took note of members' interests in the related and broader issue of food redistribution and invited members to provide further information as to the aspects which they might wish to be considered in future.
- the value assessment of food redistributed through food donation activities could possibly be addressed as part of the Platform's work on "action and implementation," that is, the sharing of food waste prevention practices and results achieved – a topic which will be discussed at the Platform's meeting in June. The Chair further clarified that the amount of food redistributed through food donation could be reported by Member States as part of the monitoring of food waste prevention measures (cf waste legislation proposal). She also further clarified that, under the waste legislation proposal, monitoring of food waste levels as such would concern material flows, not value.

### 3. EU FOOD DONATION GUIDELINES

In an introductory presentation, the Commission recalled the overall aim of the EU guidelines on food donation and identified its main objectives as being to facilitate compliance of food surplus providers and recipients within the current EU regulatory framework and to promote common interpretation of EU rules among Member States. The EU guidelines on donation seek to complement, rather than duplicate national guidance.

The Commission outlined the nature of comments received from Platform members as well as the degree to which they had been addressed in the revised draft document. The Commission further explained that any input received which may contradict EU rules cannot be integrated in guidance which aims to clarify what is allowed in the current EU regulatory framework. The final format of the document and its possible articulation with examples of practices in the Member States is still under consideration in the Commission. The Commission outlined further actions to be taken prior to adoption of the guidelines by the end of 2017 including a final review by the Platform at its meeting on 14 June.

The Chair then invited participants to review each section of the draft working document, following an introduction from the Commission as to how comments and suggestions had been integrated (in track changes) in the current draft.

A summary of the sub-group's discussion is provided hereafter.

1. In context of discussions on the scope of the guidelines, several member organisations raised questions about the terminology utilised (ie "food donation") and whether the guidelines could also address other food redistribution mechanisms, for instance selling of food at a subsidised price. Several participants emphasized the fact that food donation is not always free of charge – as handling and distribution of the food involves certain costs (FoodDrinkEurope, Restaurants du Coeur, Denmark, Finland and Poland).

Some members pointed to different national rules and agreements governing food donation which-- while food is given free of charge-- may require certain actors in the food value chain to assume costs related to handling and transport of donated food. The representative from the Restaurants du Coeur outlined cooperation agreements in place in France to facilitate the donation of dairy products; producers provide milk free of charge to the association which then organises and pays for costs related to further processing and/or packaging of products which are then made available in the association's social restaurants.

The Chair confirmed that the General Food Law does not distinguish between food placed on the market for the purpose of donation or for sale. She further stated that the aim of the EU guidelines was to clarify relevant provisions laid down in EU rules applicable to the donation of foods (ie free of charge) and that national competent authorities were best placed to assess how food donation can be facilitated in practice by the actors concerned as well as the specific rules which may apply depending on the nature of the activity.

2. In regard to the actors involved (section 2.2 of the draft guidelines), the Commission clarified that private persons who provide food on an *ad hoc* basis at community or other charity events are excluded from obligations relating to the General Food Law as are charity organisations which occasionally receive food from private persons. Given the diversity of the initiatives and the actors which may be involved, the Commission considers that national competent authorities can best consider whether additional rules or advice are needed to help charity and community food providers comply with the requirement to provide safe food to the end beneficiaries. For instance, some may provide guidance as to when organisations carrying out such activities should be considered and registered as food business operators.
3. On the subject of sorting of surplus food for redistribution by food business operators (for instance separating spoiled fruit from that which is suitable for human consumption), the Commission confirmed that this may be done either by the donor (eg a retailer) or the receiver (eg food bank or other charity organisation).
4. There were several suggestions related to the terminology used in the guidelines and suggestion made, for example, (in section 3) to replace "in-house auto-control" with "in-house self-control" (Belgium, Finland, Denmark, FEBA). Norway asked if it would be more appropriate to use the words HACCP or HACCP-based procedures instead of "auto-control" system since HACCP terminology is more recognizable and also used in EU food hygiene regulations. Concerning the application of good hygiene practices and reference made to an "auto-control" system, the Commission confirmed that this is the term which is utilised when describing HACCP-based procedures put in place to help prevent and mitigate against possible risks. The use of this term is further explained in a footnote (20).
5. On reference made in section 3.1. to the "end user" (vs "final consumer", as suggested by PL), the Commission will consider the most appropriate term and ensure consistency throughout the document.
6. When asked about record keeping to ensure traceability of food donated with support of the Fund For European Aid to the Most Deprived (FEAD), the Commission confirmed that any EU or national requirements on record keeping for food donation would apply to food which is donated in the framework of the FEAD as well. In regard to traceability, HOTREC indicated that it would be helpful to provide a standard template document which could be utilised by SMEs in fulfilling these requirements for donated food products.
7. In the context of discussions on section 4 (liability), FoodServiceEurope (FSE) stated that it would be useful to include a concluding checklist of issues which Member States should consider when elaborating national guidelines to facilitate food donation. They also welcomed reference to the redistribution partnership agreements in place in some Member States (referenced in the document accompanying the guidelines) which clarify the responsibilities of the actors involved and include for instance documentation of the transfer of ownership and responsibility from donors to receivers.

8. Independent Retail Europe highlighted the need to define food waste so that Member States may refer to this when elaborating their own national guidelines of food donation (ie reference to its role in food waste prevention).

On this point, the Chair confirmed that the Commission had not proposed a definition of food waste as such in its proposal to revise waste legislation but would lay down a harmonised methodology describing what material should be quantified as food waste at each stage in the food value chain. She further stated that these issues would be further discussed in the subgroup established to support the Commission's work on food waste measurement.

9. Some members (FEBA, FDE) asked why there was no reference to a food waste hierarchy or at least a commitment to the implementation of such a hierarchy in the working document on EU food donation guidelines. The Chair specified that the working document clearly identifies, in the introduction, food redistribution as the best destination when food surpluses occur and one which ensures the highest value use of edible food resources. She further specified that the amendments made by the European Parliament to the waste legislation proposal also included the possible introduction of a "food waste hierarchy" and that the issue will likely be further discussed by Parliament and Council in context of their negotiations on the final text of the revised Waste Framework Directive.
10. Specific issues related to Member States' national policies were also raised in context of the discussion on EU food donation guidelines. Finland proposed for instance the placing of infant formula on a list of foods to be prohibited for food donation. The Chair confirmed that the aim of the guidelines was to clarify EU rules and avoid that these may be misinterpreted and/or misused; however, these guidelines cannot take into consideration national health policies. Other members (Hungarian Food Bank Association, Restaurants du Coeur) stated that notwithstanding national health policies, the guidelines should not be restrictive nor lay down guidance as to the specific foods which can or cannot be donated.
11. On the issue of food donation from the catering sector (section (5.3), HOTREC asked that reference to the need to prevent the production of excess food should be qualified with "wherever possible", given inherent difficulties in predicting demand in this sector as well as the need to take into account customer needs and obligations.
12. At Poland's request, participants shared practices related to the donation of fresh meat. EuroCommerce indicated that they would welcome discussing the practice, carried out by some retailers, of freezing of fresh meat to facilitate its redistribution. The Hungarian Food Banks Association (HFBA) mentioned the alternative of direct/express delivery of fresh meat by charity organisations in order to facilitate access and use of these foods. The Netherlands underlined that food banks can reject food close to its "use by" date and Restaurants du Coeur referred to French legislation stating that products can be donated up to 2 days before expiration of their "use by" date.
13. The need to provide guidance regarding freezing of foods to facilitate their donation was further raised by a number of members. EuroCommerce raised questions relating to the issue of establishing a new date mark after freezing (ie

who is responsible and should the date be changed from "use by" to "best before"). Norway also warned that allowing the freezing of fresh meat for the purpose of donation should not lead to practices whereby fresh meat is frozen at the end of its shelf-life for selling to consumers.

The Commission confirmed that EU food hygiene rules require that food of animal origin intended for freezing must be frozen without undue delay after production. Member States which grant the possibility of freezing meat prior to the expiry of the "use by" date for the purpose of food donation should adopt national measures using the exclusion for a marginal, localised and restricted activity, and notify them to the Commission and other Member States (as specified in Regulation n° 853/2004).

14. Croatia raised questions related to the donation of mislabelled foods in regard to the responsibility of different actors in the food value chain and the manner in which missing information can reach the final consumer. Several participants took the floor to inform as to how this issue is handled by their respective organisations. Belgian authorities consider that if the donated food is to be consumed within 24 hours, then information requirements can be considered as the same as for "non-prepacked" food. The Restaurants du Coeur indicated that informative posters are made available in social restaurants to advise consumers about the composition of food served (eg information provided during the 2013 horsemeat incident to presence of this type of meat in mislabelled lasagna). The Hungarian Food Bank Association also provides information on mislabelled products through leaflets and posters and may relabel products with information provided by the producers. FoodService Europe also suggested that the Commission's accompanying document include examples of information requirements for non-prepacked food.

The Chair indicated that the Regulation on Food Information to Consumers requires, for pre-packed foods, that all information be provided on the label. The Commission has noted in the guidelines that national authorities have taken measures to allow the donation of food with defects in labelling. EU rules stipulate that the producer is responsible for provision of food information and therefore would be accountable for providing any information which needs to be corrected. EU rules do not however specify who may correct this information once it has been provided by the producer.

15. Participants further discussed the interpretation of marketing standards for eggs and rules laid down in hygiene regulations. Norway asked if sending eggs from retailers back to an approved establishment is in line with the EU food hygiene regulations (cf section 6.3.3. of the draft guidelines). The Commission emphasized the fact that according to EU food hygiene rules, eggs must be delivered to the consumer within a maximum time limit of 21 days of laying. However, this only refers to delivery to the final consumer, thus leaving the possibility for retailers to deliver eggs past 21 days to processing plants. Retail food business operators (including redistribution and charity organisations) may also process eggs (with sufficient heat treatment) and deliver related products to the final consumer.

16. In regard to other EU programmes, the participants discussed the possibility of receiving financial and logistical support from FEAD for food donation, as provided for by Art. 26.2.d of Regulation (EU) No 223/2014. FEBA requested a simpler procedure for Member States and stakeholders so that funds may be accessed more easily. The Commission recalled that the Omnibus Regulation proposes a change to the FEAD Regulation, which would facilitate the financing of food donations. Spain suggested that the section of the guidelines related to the donation of fruit and vegetables under the Common organisation of the markets in agricultural products could be further expanded (including some of the details provided in the annex).
17. Croatia raised the topic of VAT rules defined in relation to date marking, outlining the issues which may arise when assessing the value of products that do not have date marking (such as fresh fruits and vegetables or salt/sugar). In Poland VAT does not apply to foods donated by those organisations which, for reasons of transparency, are registered with the state. Other Member States, such as Croatia, have a more flexible interpretation as to the application of VAT rules to food donation. Bulgaria informed that new rules had come into force one month ago which no longer require charging of VAT in the context of food donation. Norway also informed about new rules in force in 2016 which no longer require charging of VAT in the context of food donation.
18. FEBA and Italy recommended that the Commission encourage Member States to revise their fiscal regulations and provide fiscal incentives to encourage the donation of food by industry. EuroCommerce suggested that there is the need to further elaborate on the fiscal rules section of the guidelines and add best practices from Member States. Other participants concurred that it would be useful to map how VAT rules apply to food donation in the Member States.

The Chair stated that an EU guidelines document does not provide the scope for recommendations from the Commission to the Member States, and that this would need to be considered further, as for the suggestion made by members that the subgroup carry out a mapping of how VAT rules are applied to food donation in the EU.

Finally, the Chair closed this agenda item by thanking all participants for their open exchange of views and the input provided on the draft document of the EU guidelines on food donation. She ensured all present that the Commission will revise the final document taking into account comments received. She also requested that participants review the accompanying document illustrating food donation practices in the Member States, both for accuracy and completeness, and asked that any further input be provided to the Commission by 15 April.

#### **4. EP PILOT PROJECT ON FOOD REDISTRIBUTION: PRESENTATION BY COMMISSION OF MAIN OBJECTIVES AND COMPONENTS; DISCUSSION WITH MEMBERS**

The Commission presented the EP Pilot Project on food redistribution, to be launched in 2017, and whose main aim is to support redistribution of safe surplus food in the Member States. The project includes two main components: research and analysis of the existing Member States food redistribution frameworks; information and dissemination activities related to the future EU guidelines on food donation following their adoption by the Commission. Platform members would be asked to contribute to the project and were asked for feedback on its value; the main components; areas of investigation; and opportunities for collaboration at national level.

The European Federation of Food Banks (FEBA) inquired about the methodology of the study and by which means data would be collected (eg interviews, questionnaires questionnaires etc...). FEBA also suggested that the study could usefully investigate capacity issues in relation to food donation. In regard to the methodology of the study, the Chair indicated that this would be settled at a later stage, together with the external contractor in charge.

Finland indicated that it would be useful to gather information and learning as to how food donation is carried out, the interaction between donor and receiver (eg contracts, agreements...) in order to gather experience and solutions found in practice. FDE indicated that there were many different types of food redistribution models (eg social supermarkets) and that this project could provide further learning in this regard. On another note, HFBA highlighted the fact that these guidelines would not fix the root issue of food waste and that there is potential to save far greater amounts of food for human consumption in the EU. HFBA is of the view that legal aspects are not the biggest barrier to food donation but rather other issues which need to be investigated such as: reputational risks for food manufacturers, high internal costs, capacity issues etc...

EuroCommerce welcomed the project and stated that they would look to see how the guidelines could be further disseminated not only at national but also at regional levels, and would explore how the project could be utilised to gain further understanding of the needs of the final beneficiaries of food donation. The Restaurants du Coeur stated that charity organisations already have ongoing contact with beneficiaries and receive input and comments directly regarding donated products. HFBA stated that national alliances put in place to prevent food waste (including all players from private and public sectors) should be involved in the dissemination activities.

Italy also considered the project as very positive and useful. In addition, Italy informed about the establishment of a national observatory, in compliance with Italian Law No 166/2016 which aims to estimate surplus food and measure food recovery throughout the country.

The Chair emphasized that whilst the EU guidelines on food donation seek to address and clarify legal aspects related to food donation, the scope of the EP pilot project was broader and would include other aspects related to the practice of food donation and food redistribution activities. She stated that there would be further opportunity to discuss the project in more depth and that Platform members would be consulted regularly in the context of its elaboration.



## **5. INFORMATION SHARING ON FOOD DONATION ACTIVITIES IN MEMBER STATES/BY SECTORIAL ORGANISATIONS: UPDATE FROM MEMBERS**

Italy took the floor and presented National Law 166/2016 concerning food donation. The law defines food waste and food surplus; establishes a "food use" hierarchy; clarifies the type of foods which can be donated (eg. mislabelled food, food products confiscated by public authorities which are safe for human consumption etc.); clarifies the status of operators that redistribute food on a regular basis; simplifies and streamlines regulations in regards to food donation; launches a national consultation group ("Tavolo per la lotta agli sprechi e per l'assistenza alimentare") with the agri-food supply chain and the charitable organisations under the coordination of the Ministry of Agricultural, Food and Forestry Policies; eases the recovery of agricultural and farming surplus; promotes the creation of a culture favourable to food donation (eg. through information campaigns run by the Ministries of Health, Agriculture, Environment etc.); and finances a national fund both for the establishment of a national observatory with the aim of estimating surplus food and measuring food recovery throughout the country, and for the support of innovative projects dealing with the prevention of food waste and the recovery of surplus food.

Referring to Article 17 of the above mentioned law, the City of Milan indicated that local municipalities can offer fiscal incentives for food donation by reducing waste management taxes for entities from the commercial and industrial sectors engaging in such activity.

Finland asked whether follow-up and monitoring would be carried out at national level to evaluate effectiveness of the new legislation. In the Netherlands, the use of doggy bags (promoted through the Italian legislation) is not encouraged on the premise that these might actually lead consumers to request more food, and subsequently waste it.

FDE expressed its availability to contribute both to the elaboration of the EU guidelines on food donation and the EP Pilot Project on food redistribution. They also emphasized the fact that the joint FDE/FEBA/EuroCommerce guidelines on food donation have been endorsed by the Standing Committee on Plants, Animals, Food and Feed and that an interactive video campaign will be launched to showcase the action taken by food companies in promoting food donation.

Norway announced the Nordic Food Waste Prevention Conference taking place on the 27 April 2017 in Oslo as well as a two-day workshop on food shelf-life studies to be held in Brussels on 19-20 April 2017.

The Chair thanked participants for these updates and indicated that information sharing would be a regular agenda item for meetings of the food donations sub-group.

## **6. A.O.B.**

Poland inquired about the possibility to participate in the meeting of the Platform's sub-group on food measurement in order to present its national results in food waste prevention undertaken since 2014. The Chair indicated that she would advise colleagues in charge of managing the sub-group regarding this request, however as mentioned at the Platform meeting in November, participation in sub-groups was limited to 25 member organisations in order to facilitate discussion.

Italy underlined that Member States should use fiscal incentives as a lever to encourage food donation; for instance by implementing fiscal policies which favour donation of surplus food over waste treatment options. The proceeds of such fiscal policies could be allocated to fund food recovery initiatives.

Before closing the meeting, the Chair reminded all present that the core role of the Platform is to facilitate dialogue and share information and encouraged all members to provide direct input on food donation practices. On behalf of the Commission, she welcomed any suggestions on issues to be raised in order to create an active forum of discussion and exchange. In ending the discussion, the Chair thanked members for their contribution and for the future input which they would provide (by 15 April 2017).