

Special Report

**Combating Food Waste:  
an opportunity for  
the EU to improve the  
resource-efficiency of the  
food supply chain**



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(pursuant to Article 287(4), second subparagraph, TFEU)

The ECA's special reports set out the results of its performance and compliance audits of specific budgetary areas or management topics. The ECA selects and designs these audit tasks to be of maximum impact by considering the risks to performance or compliance, the level of income or spending involved, forthcoming developments and political and public interest.

This report was adopted by Audit Chamber I — headed by ECA Member Phil Wynn Owen — which specialises in sustainable use of natural resources. The audit was led by ECA Member Bettina Jakobsen supported by Katja Mattfolk, head of private office; Kim Storup, private office attaché; Michael Bain, principal manager, Maria Eulàlia Reverté i Casas, head of task. The audit team consisted of Els Brems, Klaus Stern, Diana Voinea and Paulo Oliveira.



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**Reply of the Commission**

**CAP:** Common agricultural policy

**CFP:** Common fisheries policy

**CMO:** Common Market Organisation

**COPA Cogeca:** COPA — Committee of Professional Agricultural Organisations (the European representative organisation of farmers), Cogeca — General Confederation of Agricultural Cooperatives

**DAS:** European Court of Auditors annual statements of assurance

**DG:** European Commission's departments and services known as directorates-general (DGs)

**DG AGRI:** European Commission's Directorate-General for Agriculture and Rural Development

**DG CNECT:** European Commission's Directorate-General for Communications Networks, Content and Technology

**DG EMPL:** European Commission's Directorate-General for Employment, Social Affairs and Inclusion

**DG ENER:** European Commission's Directorate-General for Energy

**DG ENTR:** European Commission's Directorate-General for Enterprise and Industry. New name: Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs (GROW).

**DG ENV:** European Commission's Directorate-General for the Environment

**DG GROW:** European Commission's Directorate-General for Internal Market, Industry, Entrepreneurship and small and medium-sized businesses (SMEs)

**DG MARE:** European Commission's Directorate-General for Maritime Affairs and Fisheries

**DG MARKT:** Directorate-General for the Internal Market and Services. New name: Directorate-General for Financial Stability, Financial Services and Capital Markets Union (FISMA).

**DG RTD:** European Commission's Directorate-General for Research and Innovation

**DG SANCO:** European Commission's Directorate-General for Health and Consumers. New name: Directorate-General for Health and Food Safety (SANTE).

**DG SANTE:** European Commission's Directorate-General for Health and Food Safety

**DG TAXUD:** European Commission's Directorate-General for the Taxation and Customs Union

## Terms and abbreviations

**EAFRD:** European Agricultural Fund for Rural Development

**EAGF:** European Agricultural Guarantee Fund

**EFF:** European Fisheries Fund

**EIP:** European Innovation Partnership

**EMFF:** European Maritime and Fisheries Fund

**Eurostat:** The statistical office of the European Union

**Export refunds:** Export refunds may be paid by the EU to trading companies that sell certain agricultural goods in third countries. The refund normally covers the difference between the internal EU price and the world market price.

**FAO:** Food and Agriculture Organisation of the United Nations

**Faostat:** Food and Agriculture Organisation of the United Nations, Statistics Division

**FEAD:** Fund for European Aid to the Most Deprived

**G20:** (or Group of Twenty) is an international forum for the governments and central bank governors from 20 major economies.

**GMS:** General marketing standard

**Green harvesting:** Totally harvesting non-marketable (but not damaged) products on a given cultivated area, before the normal harvest.

**Market withdrawal:** Withdrawing products from the market (not putting them up for sale).

**MDP:** Food Distribution programme for the Most Deprived Persons

**Non-harvesting:** Not taking any commercial production from the cultivated area during the normal production cycle. Does not include destruction of products due to climatic event or disease.

**Private storage aid:** Aid for putting products into storage. This helps to stabilise the market for a product if there's a surplus and prices become weak.

**Public intervention:** When market prices for certain agricultural products fall below a predetermined level, the European Commission can decide to stabilise the market by purchasing surplus supplies, which may then be stored in the Member States until the market price increases.

**Rural development:** The EU's rural development policy complements the system of direct payments and market measures and it works to improve certain aspects of the economic, environmental and social situation of the EU's rural areas.

**UNECE:** United Nations Economic Commission for Europe

**VAT:** Value added tax

**VCS:** Voluntary coupled support

**WRAP:** (Waste & Resources Action Programme) Charity and company in the UK which works with governments, businesses and communities to deliver practical solutions to improve resource efficiency and to accelerate the move to a sustainable, resource-efficient economy.





Food waste is a global problem that has moved up the public and political agenda in recent years. It will grow in importance, especially given the need to feed the rising global population. Food is a precious commodity and its production can be resource intensive. Current estimates indicate that, globally, around one third of the food produced for human consumption is wasted or lost, with a consequent economic and environmental cost.



Against this backdrop, the Court examined the role the EU can play in combating food waste. We looked at the actions taken thus far and how the various EU policy instruments work to reduce food waste. We focused on the actions of prevention and donation, which are those most preferred in the fight against food waste.



The audit examined the question 'Does the EU contribute to a resource-efficient food supply chain by combating food waste effectively?' It found that currently it does not, but the report highlights the ways in which the current policies could be used more effectively to address the problem. Many of the potential improvements do not require new initiatives nor more public funding, but rather involve a better alignment of existing policies, improved coordination, and clearly identifying the reduction of food waste as a policy objective. Specifically, the audit found that:

- (i) Despite the increasing importance of food waste on the political agenda, the Commission's ambition has decreased over time. The action taken to date has been fragmented and intermittent, and coordination at Commission level is lacking. The lack of a common definition for food waste and of an agreed baseline, from which to target reductions in waste, has hampered further progress.
- (ii) Food waste is a problem along the entire food supply chain and therefore action should be targeted all along the chain with potential benefits for all those involved. Emphasis should be put on prevention, as the benefits of avoiding waste outweigh those of dealing with it later. Whilst there are a number of EU policies with the potential to combat food waste, this potential is not exploited and the opportunities offered have yet to be taken. There has been a notable lack of assessment of the impact of the various EU policies on the fight against food waste. Major policy areas, such as agriculture, fisheries and food safety, all have a role to play and could be used to better combat food waste. It must be recognised that, over time, policy changes, including reforms to the CAP and fisheries policy, have had a positive impact. For example the move away from intervention based agriculture policy reduced overproduction. The report highlights a number of good practices, but their positive impact was coincidental rather than as a result of targeted policy action.
- (iii) In terms of donation of food, a number of the barriers that currently exist, such as different interpretations of legal provisions, could be addressed to facilitate the donation of food that would otherwise be wasted.

### IV

The report makes three recommendations:

- (i) The EU strategy to combat food waste should be strengthened and better coordinated. The Commission should build upon its initial steps to develop an action plan for the years ahead.
- (ii) In coordinating the various policies with the potential to combat food waste, the Commission should consider food waste in its future impact assessments and better align the different EU policies which can combat food waste.
- (iii) To facilitate the donation of food that would otherwise be wasted, the Commission could usefully clarify the interpretation of legal provisions that can discourage donation. The Commission should encourage further exploitation of existing possibilities for donation and consider how to facilitate donation in other policy areas.

## 01

Food waste is a recognised problem that has gained political and social importance in recent years. Numerous high level political statements formulated in the last decade express the need to combat food waste. It is generated all along the food supply chain at the stages of production, processing, retailing and consumption. Food waste can be defined in many different ways and there is no unique methodology for measuring it. Nevertheless, it is generally recognised that, at global level, around one third of the food produced for human consumption is wasted or lost<sup>1</sup>. The annual related economic and environmental costs of the waste worldwide are estimated, by the United Nations, to be some 1.7 trillion USD.

## The audit topic

### How to define food waste?

## 02

At present there is no agreed definition of food waste at the EU level. Different definitions are being used by Member States, just as the Food and Agriculture Organisation of the United Nations (FAO) uses its own definition<sup>2</sup>.

## 03

In July 2014 the European research project Fusions proposed another framework to define food waste<sup>3</sup> and in March 2016 it proposed a methodology for measuring and monitoring amounts of food waste<sup>4</sup>. More recently, a global Food Loss and Waste Accounting and Reporting Standard was published in June 2016 by a multi-stakeholder partnership<sup>5</sup>.

## 04

For the purpose of this report, food waste refers to any product or part of a product grown, caught or processed for human consumption that could have been eaten if handled or stored differently. While it is acknowledged that this definition may not be directly compatible with the current EU regulatory framework, other definitions such as those used by Fusions, the FAO and the Member States visited in this audit are also at variance with that framework.

- 1 As measured by weight. FAO, 2011. Global food losses and food waste — extent, causes and prevention. Rome: UN FAO.
- 2 Food loss is defined as 'the decrease in quantity or quality of food'. Food waste is part of food loss and refers to discarding or alternative (non-food) use of food that is safe and nutritious for human consumption along the entire food supply chain, from primary production to end household consumer level (<http://www.fao.org/platform-food-loss-waste/food-waste/definition/en/>).
- 3 Food waste is any food, and inedible parts of food, removed from the food supply chain to be recovered or disposed (including composted, crops ploughed in/ not harvested, anaerobic digestion, bio-energy production, co-generation, incineration, disposal to sewer, landfill or discarded to sea) (<http://www.eu-fusions.org/index.php/about-food-waste/280-food-waste-definition>).
- 4 <http://www.eu-fusions.org/index.php/download?download=254:fusions-quantification-manual>
- 5 Including the FAO, UNEP, the World Business Council on Sustainable Development (WBCSD), the Consumer Goods Forum, EU project Fusions, and Waste and Resources Action Programme as core partners (<http://flwprotocol.org/>).

## The waste hierarchy applied to food waste

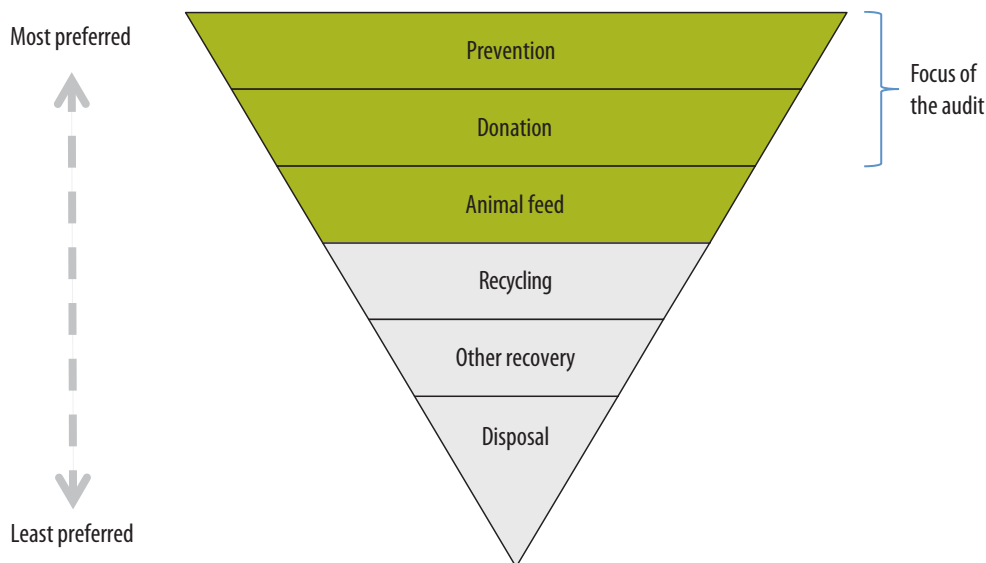
### 05

A waste hierarchy prioritises waste treatment actions from the most preferred to the least preferred based on environmental sustainability. The EU waste framework directive<sup>6</sup> defines the EU waste hierarchy<sup>7</sup>. This hierarchy can be applied to food waste but should be slightly modified in order to take account of the particularities of food. Several Member States have adapted the waste hierarchy for food, with the order of preference as shown in **Figure 1**.

6 Article 4 of Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

7 (a) Prevention; (b) Preparing for reuse; (c) Recycling; (d) Other recovery, e.g. energy recovery; and (e) Disposal.

**Figure 1** Food waste hierarchy<sup>1</sup>



1 There is currently no EU legislation or specific guidance on how to apply the EU waste hierarchy to food. The image in Figure 1 is based on the following existing food waste hierarchies: Wageningen University's Ladder of Moerman, Food Waste Pyramid for London, OVAM's (Public Waste Agency of Flanders) food waste hierarchy, FEVIA's (Fédération de l'Industrie Alimentaire/Federatie Voedingsindustrie) food waste hierarchy and US Environmental Protection Agency's food waste hierarchy.

### 06

According to the definition of food waste used for this report, food waste constitutes the three bottom layers of the above hierarchy (recycling, other recovery and disposal). The top three layers (prevention, donation and animal feed) are actions that can be taken before food constitutes waste and are the most preferable (from an economic and environmental perspective). The focus of this audit is on prevention and donation, the two highest layers in the hierarchy.

## Data on Food Waste

## 07

According to the European Commission, around 88 million tonnes of food are wasted annually in the EU<sup>8</sup>. It is estimated that total EU food waste will rise to approximately 126 million tonnes by 2020 unless additional preventive action or measures are taken<sup>9</sup>. Data on food waste varies significantly according to the source. Evidently, one of the reasons for this is the different interpretation of what constitutes food waste (i.e. the lack of an agreed definition) and the different methodologies used for measuring it. Different studies present divergent data for each of the sectors of the food supply chain. **Table 1** presents the results of a selection of those studies and shows that food waste occurs along the entire food chain, though care should be taken when comparing the results as the methodology and definition of food waste used are not homogeneous.

8 Figure based on 2012 data ([http://ec.europa.eu/food/safety/food\\_waste/index\\_en.htm](http://ec.europa.eu/food/safety/food_waste/index_en.htm)). The reference for the figure of 88 million tonnes of food waste quoted by the Commission corresponds to the latest estimates of food waste generated in the EU-28 published by FP7 project Fusions (Estimates of European food waste levels, Fusions, 2016 <http://www.eu-fusions.org/phocadownload/Publications/Estimates%20of%20European%20food%20waste%20levels.pdf>). This figure is not broken down on what is produced in the EU and what is imported.

9 European Commission, Directorate-General for Environment, 'Preparatory study on food waste across EU 27', 2010.

**Table 1** Share of food waste at the different stages of the food supply chain (in %) according to different studies<sup>1</sup>

	FAO (Europe)	Foodspill (Finland)	FH Münster (Germany)	Bio Intelligence Service (EU)	Fusions <sup>2</sup> (EU)
Production sector	23	19-23	22	34.2	11
Processing sector	17	17-20	36	19.5	19
Retail sector	9	30-32	3	5.1	17
Consumers	52	28-31	40	41.2	53

1 WRI analysis based on FAO 2011 Global food losses and waste — extent, causes and prevention. Rome: UN FAO. June 2013; <http://www.mtt.fi/foodspill>, 2011; <https://www.fh-muenster.de/isun/lebensmittelabfall-projekte.php>, 2012; ITAS-calculations based on the SIK-methodology (Gustavsson et al., 2013); Fusions, 'Estimates of European food waste levels', 2016.

2 The study recognises that 'there is moderately high uncertainty around this estimate' (page 27). In particular for the data related to the production sector, estimates are based on data from six countries only and 'the estimated uncertainties of  $\pm 17\%$  is probably underestimated' (page 21).

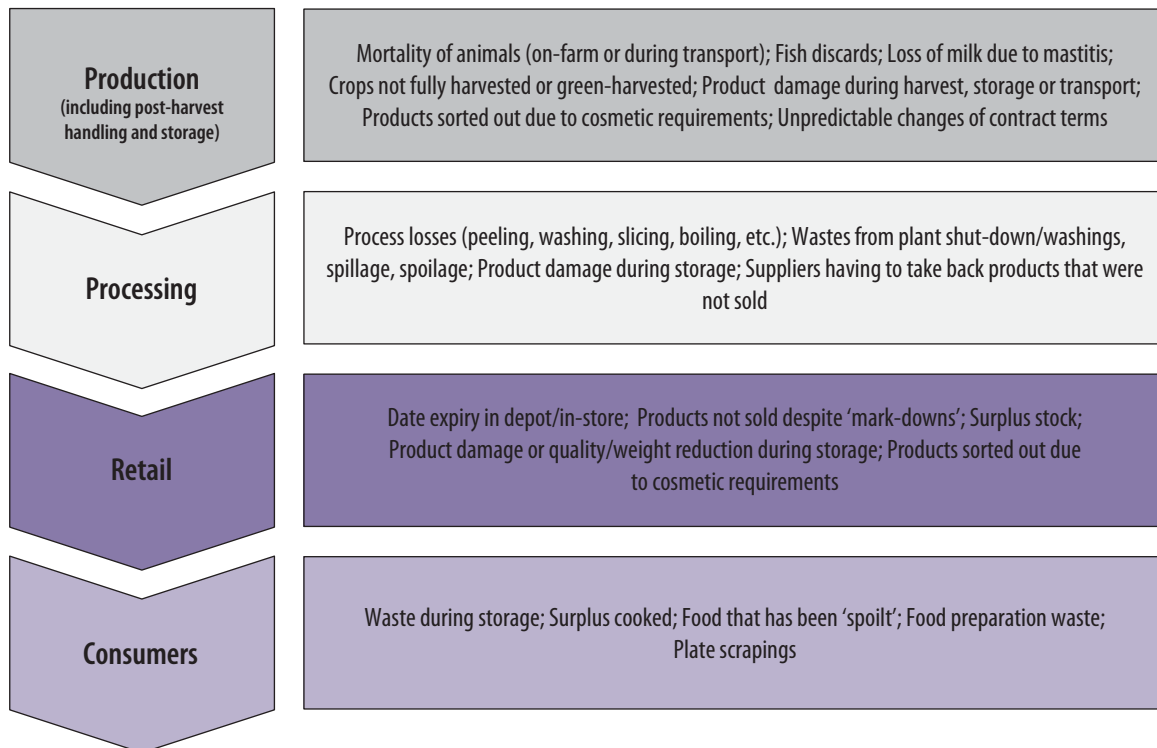
Food waste is generated all along the food supply chain

08

Situations which generate food waste can be very different but they occur at every stage of the food supply chain. Several studies have analysed the different ways in which food is wasted<sup>10</sup>. A number of situations are shown in **Figure 2**.

10 Franke, U., Einarson, E., Andrésen, N., Svanes, E., Hartikainen, H. and Mogenssen, L., *Kartläggning av matsvinnet i primärproduktionen*, Nordic Council, Copenhagen, 2013. ([www.norden.org/sv/publikationer/publikationer/2013-581](http://www.norden.org/sv/publikationer/publikationer/2013-581)); Hanssen, O. J., Ekegren P., Gram-Hanssen, I., et al., *Food Redistribution in the Nordic Region*, the Nordic Council of Ministers, Copenhagen, 2014. (<http://norden.diva-portal.org/smash/record.jsf?pid=diva2%3A784307&dsid=9068>); House of Lords Report 'Counting the Cost of Food Waste: EU Food Waste Prevention', European Union Committee, 10th Report of Session 2013-14, p. 12.

Figure 2 Situations that generate food waste and food losses along the food supply chain



Source: European Court of Auditors.

## The cost of food waste

### 09

The cost associated with food waste is made up of at least two different types of costs: the economic and the environmental costs. The economic cost includes not only the cost linked to the value of the products themselves, but also the costs linked to the production, transport and storage of the wasted products, as well as their treatment costs. From an environmental point of view, food waste represents a waste of the resources throughout the products' life cycle such as land, water, energy and other inputs, and the consequent increase in greenhouse gas emissions.

### 10

Due to the difficulties in obtaining complete, reliable and harmonised data on the current quantities of existing food waste, any estimate of the cost of waste will suffer from a lack of reliability. Nevertheless, some studies have tried to determine the cost of food waste and these figures can be used as indicators of the potential extent of the food waste issue.

### 11

The FAO performed an assessment of the cost of food waste on a global scale and found that in addition to an estimated economic cost of 1 trillion USD per year (the value of the wasted products and the subsidies paid to produce them), environmental costs (such as greenhouse gas emissions, water scarcity and erosion) reach around 700 billion USD<sup>11</sup>.

## Food waste and market forces

### 12

The reasons why food waste is generated differ according to the role of each actor in the food supply chain. Generally, decisions taken by business operators (producers, processors and retailers) are taken with the aim of maximising profit, even though some decisions may entail generating a certain amount of food waste. While the various operators do not intend to generate food waste, it is nonetheless often a consequence.

11 FAO, 'Food wastage Foodprint. Impacts on natural resources', FAO Rome, 2013 (<http://www.fao.org/nr/sustainability/food-loss-%c2%adand-waste/en/>).

## Introduction

### 13

Consumers take decisions which could lead to food waste for altogether different reasons. For them, it is rather a matter of obtaining satisfaction, whether in terms of meeting their nutritional needs or in other respects (e.g. quality, abundance, variety, price, etc.).

### 14

The reasons why food waste is generated are intrinsically linked with the issue of who pays for the cost associated with the food wasted. As regards the economic cost of food waste, there are at least three different groups of actors who pay for it: consumers, specific food supply chain operators and charities.

- Operators in the food supply chain internalise the cost of food waste and include it in the final consumer price of the product. For example, a retailer will, very probably, set the product price high enough to take account of the cost of both sold and expected unsold products.
- Part of the cost of food waste may be shifted from one food business operator to another. For example when significant imbalances in bargaining powers exist between business operators, the cost of food waste may be pushed back to the weaker operator.
- Part of the cost of food waste can also be externalised to charities in the form of food donation. Charities often bear the sorting, storage, handling and treatment costs that otherwise would be paid for by the operators donating such food.

The environmental cost of food waste is paid for by society as a whole mainly through the growing scarcity of natural resources (which in the long term may be translated into an increase in the price of these resources). **Annex I** shows, using two concrete examples, how market forces influence the generation of food waste. While the report does not concentrate on these market forces, we acknowledge their importance when combating food waste. The Commission and the European Parliament<sup>12</sup> have recognised the role these forces play in the food supply chain.

12 EP briefing internal market and consumer protection. Unfair Trading Practices in the Business-to-Business Food Supply Chain ([http://www.europarl.europa.eu/RegData/etudes/BRIE/2015/563430/IPOL\\_BRI\(2015\)563430\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2015/563430/IPOL_BRI(2015)563430_EN.pdf)).



## Food waste and the EU

### 15

Food waste is a global problem. Even though the EU's action as regards food waste will have, by definition, limited effects at world level, the EU, as an important actor on the international scene, may impact on the volume of food waste generated through the different policies for which it is responsible (such as the common agricultural policy, the common fisheries policy, the food safety policy, the waste policy). In this context, the Commission bears responsibility as it is the initiator of EU legal provisions that may have an influence on food waste generation.

### 16

At the level of the European Commission, the Directorate-General (DG) for Health and Food Safety is in charge of the food waste file. In that context it takes a number of actions (such as establishing working and expert groups) and communication initiatives. Several other Commission DGs also have a role to play in food waste prevention since several of the EU policies and provisions can have an influence on the generation of food waste (such as the agricultural policy, the fisheries policy, the food safety policy, the waste policy) (see **Annex II**).

### 17

The responsibility that Member States bear as regards food waste is equally important. Member States can favour or hinder food waste prevention and food donation depending on the way they enact EU provisions. Their responsibility is arguably even more important as they can also launch their own initiatives (outside the EU framework) to tackle food waste<sup>13</sup>.

13 Member States' own initiatives are not included within the scope of the current audit. Only examples of specific practices are included for illustrative purposes.

## Audit scope and audit approach

### 18

There are many studies on food waste but none of these have focussed on the EU's<sup>14</sup> responsibility in this regard. The audit carried out by the Court therefore aimed to provide a comprehensive analysis of the topic of food waste, seen from an overall EU perspective.

### 19

We recognise that the policies and legal provisions reviewed within the context of this audit have objectives other than that of preventing food waste. While not specifically addressing the problem of food waste, different EU instruments nevertheless have an effect on the behaviour of the different actors in the food chain. This behaviour may result in an increase or decrease in the amount of food being wasted. The EU has the ability to influence food waste through the different funds at its disposal and through the different provisions that affect the functioning of the actors in the food supply chain. This audit has concentrated exclusively on prevention and donation, as these actions are the two most preferred ways of fighting food waste according to the food waste hierarchy (see **Figure 1**).

### 20

We identified the EU instruments (funds and legal provisions not linked to funds) included in **Annex II** as having an effect in terms of preventing food waste or/and in terms of facilitating donation. For the purpose of this report, we have classified the sectors of the food supply chain into four groups (producers, processors, retailers and consumers).

### 21

The main objective of the audit was to assess whether the EU's legal provisions and their implementation by Member States contribute to positive behaviour in relation to food waste by the various actors in the food supply chain. The overall audit question addressed was:

***Does the EU contribute to a resource-efficient food supply chain by combating food waste effectively?***

14 EU understood as the EU institutions (charged with designing the different policies and establishing the different legal provisions) together with the Member States (charged with implementing those policies and provisions).

## The audit

### 22

The audit only considered the effect of policies and legal provisions as regards food waste in the EU itself and excluded the impact in countries outside the EU.

### 23

This report firstly assesses the extent to which the Commission, as the executive arm of the EU, has translated the high level political statements to fight food waste into action. Secondly, it describes the opportunities to combat food waste that existing policies have missed.

### 24

The time frame covered by the audit was:

- as regards the common agricultural policy (CAP) funds: both the period 2007-2013 and the period 2014-2020;
- as regards the European Fisheries Fund (EFF) and the European Maritime and Fisheries Fund (EMFF): the periods 2007-2013 and 2014-2020 respectively;
- as regards the Fund for European Aid to the Most Deprived (FEAD): the period 2014-2020;
- as regards the legal provisions not linked to funds: the audit took into account those legal provisions in place at the time of the audit as well as published proposals for new provisions.

### 25

The audit was carried out from July 2015 to May 2016<sup>15</sup> and audit evidence was collected through:

- o Documentary reviews and interviews with Commission departments. Six DGs were concerned by the audit: DG Health and Food Safety (SANTE), DG Internal Market, Industry, Entrepreneurship and SMEs (GROW), DG Agriculture and Rural Development (AGRI), DG Environment (ENV), DG Maritime Affairs and Fisheries (MARE), DG Employment, Social Affairs and Inclusion (EMPL);
- o Audit visits to five Member States: Italy (Lazio), the Netherlands, Portugal, Romania and Finland. In each of these Member States typically the Ministry of Agriculture (for the CAP and for EMFF), the Ministry of the Environment (for the strategy and subjects related to the waste directive), the Ministry of Social Affairs (for the FEAD), the Ministry of Health (for the Food and Hygiene Package) and the Ministry of Finance (for the financial stimuli) were visited. On-the-spot visits to relevant EU beneficiaries were also carried out;
- o Consultation meetings with relevant stakeholders including Copa and Cogeca, Independent Retail Europe, representatives from WRAP (a UK charity), Somaro (a Romanian non-profit organisation) and the EU research project Fusions, a parliamentarian from the French National Assembly, representatives of a working committee of the House of Lords in the UK and with a UK representative in the UNECE standards committee meetings.

15 The report includes, however, relevant political statements concerning food waste up to 1 July 2016.

## High level political statements have not been translated into sufficient action

### 26

In recent years, the fight against food waste has gained in importance and has begun to appear on public agendas at all political levels (see **Annex III**). The European Parliament repeatedly asked the Commission (in 2011, 2012, 2015 and 2016) to take action towards reducing food waste. Member States have started setting targets to reduce food waste, and the Council of the European Union, the G20 and the United Nations have highlighted the need to combat food waste all along the food supply chain. Examples are:

- The European Parliament ‘asks the Commission, furthermore, to take practical measures towards halving food waste by 2025 and at the same time preventing the generation of bio-waste’ (2011);
- The G20 believes that ‘the reduction of food loss and waste is a good objective for G20 collective action’ (2015);
- The United Nations indicated in its agenda for sustainable development that, by 2030, it aimed to ‘halve per capita global food waste at the retail and consumer levels and reduce food losses along production and supply chains, including post-harvest losses’ (2015);
- The Council of the European Union ‘supports efforts of all actors to reduce food waste, which will contribute to achieving Sustainable Development Goal 12.3, which aims at halving per capita global food waste at the retail and consumer level, and reducing food losses along production and supply chains including post-harvest losses by 2030’ (2016)<sup>16</sup>.

Despite these repeated political statements the Commission’s response has decreased in ambition over time and the action taken until now has been fragmented and intermittent.

16 Council conclusions on the EU action plan for the circular economy of 20 June 2016 (10444/16 — outcome of the 3476th Council meeting). These conclusions were developed in more detail by the Council conclusions on food losses and food waste of 28 June 2016 (10730/16 outcome of the 3479th Council meeting).

## Decreasing ambition in the Commission's strategic documents over time

### 27

The Commission should, as the executive arm of the EU, address the high level political statements formulated over the time. The Commission has, since 2011, published a number of documents committing itself to combating food waste:

- In September 2011, in its Roadmap to a Resource Efficient Europe<sup>17</sup>, the European Commission identified food as one of the key sectors where resource efficiency should be improved. The 2011 Roadmap also announced the publication of a 'Communication on sustainable food' in 2013 in which the Commission would, amongst other things, further assess how to limit food waste throughout the food supply chain. By June 2016, the above communication has still not been published;
- After a public consultation by the Commission in the summer of 2013 on the 'sustainability of the food system', which included a section on preventing and reducing food waste, in July 2014, the Commission published a proposal for a directive of the European Parliament and of the Council<sup>18</sup> amending, among others, the waste directive. However, the proposal for a new directive on waste was withdrawn by the European Commission in December 2014 with the intention of replacing it with something 'more ambitious'<sup>19</sup>;
- In December 2015, the Commission adopted a Circular Economy Package which included revised legislative proposals on waste. The issue of combating food waste is integrated in these proposals.

### 28

However, when analysing the above documents, we note that the Commission's ambition in regard to food waste, has decreased over time. As shown in **Figure 3**, waste reduction targets have been lowered, the obligation for Member States to report on food waste has been delayed, the deadline for the Commission to adopt an implementing act to establish a common methodology for measuring food waste has been repeatedly postponed and there is still no EU-wide definition for food waste. Together with this, a baseline (a reference level for a given year) from which to target reduction in food waste has never been defined (see **Box 1**).

17 [http://ec.europa.eu/environment/resource\\_efficiency/about/roadmap/index\\_en.htm](http://ec.europa.eu/environment/resource_efficiency/about/roadmap/index_en.htm)

18 COM(2014) 397 final of 2 July 2014 'Proposal for a Directive of the European Parliament and of the Council amending Directives 2008/98/EC on waste, 94/62/EC on packaging and packaging waste, 1999/31/EC on the landfill of waste, 2000/53/EC on end-of-life vehicles, 2006/66/EC on batteries and accumulators and waste batteries and accumulators, and 2012/19/EU on waste electrical and electronic equipment'.

19 [http://europa.eu/rapid/press-release\\_STATEMENT-14-2723\\_en.htm](http://europa.eu/rapid/press-release_STATEMENT-14-2723_en.htm)

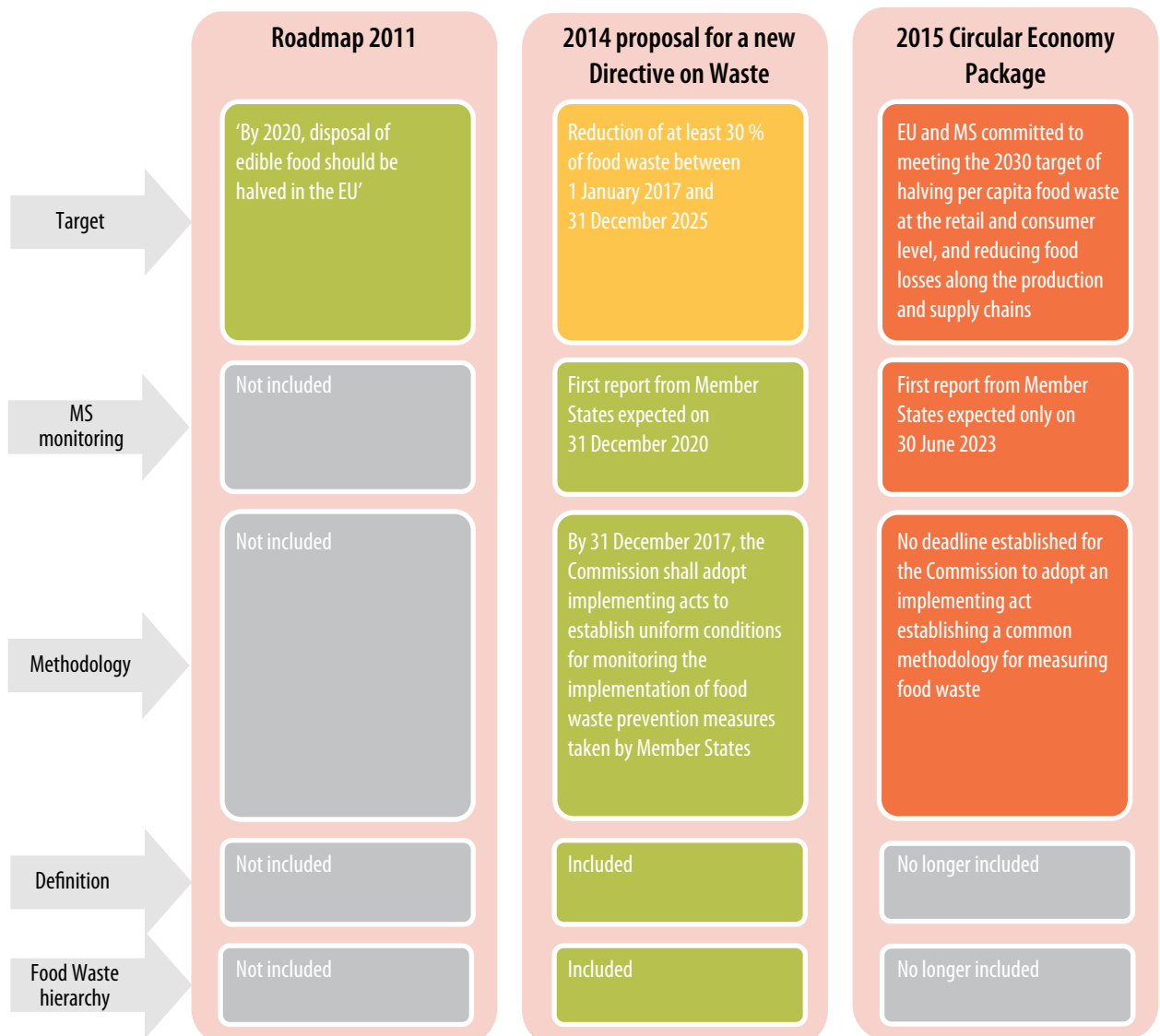
Box 1

**Why is a 'baseline' important?**

In order to set meaningful targets for reducing waste and also to allow measurement of any initiatives that may be taken an agreed starting point or 'baseline', setting out the current level of food waste, is needed. Initiatives taken to date, by Member States and other NGO's have claimed significant percentage reductions in waste but without a common baseline it is difficult to assess the relative success of such initiatives. The agreement of an EU baseline is therefore needed as part of any future EU food waste policy.

Figure 3

**Development of key aspects in Commission strategic documents dealing with food waste**



**29**

While there is no specific EU policy on food waste, various EU policies have or could have an impact on it. However, the Commission has not reviewed these policies in order to assess whether they are sufficiently aligned with the need to combat food waste (this is further developed in paragraphs 33 to 80). Member States have recognised the need to fight food waste and, given the lack of coordinated policy at EU level, have tackled the issue in a range of different ways including legislative approaches (see **Box 2**). Some Member States have also explicitly invited the Commission to take action at EU level (see **Box 3**).

**Box 2****Member State's response to the food waste issue: from encouragement to legislative action**

In France, a law on combating food waste was enacted on 11 February 2016. The main features of the French law are that (a) it clarifies the waste hierarchy in the case of food waste; (b) it introduces fines in case business operators make safe food voluntarily inedible; and (c) it introduces the obligation for supermarkets to sign an agreement with non-profitable organisations to donate food that otherwise would be wasted. As regards this last point, the French law does not establish the proportion of food to be donated. So, if the supermarket signs an agreement to donate 1 % of such food, it is already complying with the law.

**Box 3****Member States have sought EU coordinated action to fight food waste**

In July 2015, the UK House of Lords launched the very first Green Card<sup>20</sup> on food waste on behalf of the UK government, co-signed by the chairs of committees in 15 other national parliaments and chambers, inviting the European Commission to adopt a strategic approach to food waste reduction. The Green Card acknowledged that 'an EU-level strategy could help to ensure a coordinated approach to tackling this issue'. The Commission promised in its answer to 'pay particular attention to (the) suggestions' within the framework of the Circular Economy Package. (The limitations of this Package in relation to the fight against food waste are described in paragraph 28 and illustrated by **Figure 3**).

<sup>20</sup> The Green Card is a new initiative, in compliance with Article 9 of Protocol 1 of the Lisbon Treaty, which enables the parliaments of EU Member States to join forces to make proposals to the Commission, and thereby influence the development of EU policy.



## Fragmented and intermittent action at the technical level

### 30

Whilst acknowledging that food waste has been a subject of discussion in multiple fora (e.g. High Level Forum for a Better Functioning Food Supply Chain), the Commission's action at a technical level has been limited to establishing working and expert groups. These groups were set up to consult stakeholders and to support the Commission as well as Member States in identifying ways to prevent and reduce food waste without compromising food safety. In 2012, the Commission established a Working Group on food losses/food waste (further referred to as the Working Group). Participants in this working group were stakeholders in the food supply chain<sup>21</sup> and representatives from different departments of the European Commission<sup>22</sup>.

### 31

In 2014, an Expert Group on food losses and food waste was set up by the Commission (further referred to as the Expert Group). Participants in this Expert Group were Member State representatives and representatives from the various European Commission<sup>23</sup> directorates concerned. This Expert Group has met twice so far. In autumn 2015, the Commission invited Member State experts to participate in a dedicated conference on food waste prevention in October 2015, in the context of Expo 2015. In April 2016 the Commission published a call for proposals to participate in the new platform launched to deal with food waste issues. It has not been clarified whether this platform will work in addition to the Expert Group or if it will replace it.

### 32

The meetings of the working and expert groups did not take place often enough to create a momentum for real change (see **Box 4**). Moreover, action on food waste suffered from a lack of continuity due to changes in the areas of responsibility within the Commission<sup>24</sup> on the one hand, and to a change in the meeting participants on the other hand.

- 21 Mainly European umbrella organisations representing producers, processors, caterers, retailers, packaging industries and research bodies.
- 22 DG SANCO, DG ENV, DG AGRI for all meetings and DG RTD, DG TAXUD, DG ENER, DG ENTR, DG MARKT for some of the other meetings.
- 23 DG SANCO/SANTE, DG AGRI and depending on the meeting: DG CNECT, DG ENTR, DG TAXUD, DG GROW, DG RTD, EUROSTAT.
- 24 Although food waste has been coordinated by DG SANTE since 2012, the file was moved from DG ENV to DG SANTE (unit A6) on 1.1.2015. The file was moved again within DG SANTE to unit E1 on 1.2.2016.

## Box 4

**No real signs of progress by the Working Group and by the Expert Group:**

- Since the first meeting in October 2012, the need for clarification on food donation has been highlighted. In May 2014 DG SANCO stated that it would work on developing EU guidelines to facilitate donation. As of June 2016, no guidelines have been published (see also paragraph 72).
- In February 2013, the Commission indicated that it would look into the fact that some Member States withdraw products which are past their best before date from the market. In November 2014, the expert group identified a need for EU guidance regarding the marketing of foods which are past their best before date. As at June 2016 there is no such guidance.
- The possibility of extending the list of products which do not need a best before date (Annex X of Regulation (EU) No 1169/2011<sup>25</sup>) was mentioned by the Commission in May 2014. Due to a lack of information (e.g. on the actual impact of such a measure on food waste, on the behaviour of consumers, on how to determine which products to add to the list), no concrete action has been taken so far. The Commission has indicated that it will carry out a research study on date marking and food waste prevention.
- Several issues that were raised in the meetings were not followed up on further. These included the European Innovation Partnership (EIP) potential to help reduce food waste, the possibility of stimulating short supply chains, or the need to look across all relevant policy areas.

<sup>25</sup> Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 (OJ L 304, 22.11.2011, p. 18).

**Existing policies could be better aligned to combat food waste more effectively****33**

The EU influences the daily lives of people in Europe in a number of ways, for example through regulations or directives, sometimes also through funding for projects, investments or for certain practices, thus stimulating certain types of behaviour. We have looked at a number of EU policy areas that are likely to influence the behaviour of the different actors in the food supply chain with respect to food waste (agriculture, fisheries, food safety, environment, social affairs and taxation). Whilst avoiding food waste is not a primary objective of these policies, our work focused on those aspects that could either help to prevent food waste or facilitate the donation of food. We identified a number of opportunities to integrate the fight against food waste into existing policies. These opportunities have yet to be exploited.

## Alignment of policies for improved food waste prevention

### Common agricultural policy (CAP)

#### 34

Food waste occurs along the entire food supply chain (see **Table 1**). Through direct payments, market measures and rural development payments, the CAP can have an influence on the generation of food waste in the production, the processing and the retail stages of the food supply chain. In addition, given that the new CAP strongly emphasises the concept of resource-efficiency<sup>26</sup>, it is reasonable to expect that the subject of food waste would also be addressed by the CAP.

### Historical evolution of the CAP and current nature of direct payments

#### 35

In the early years of the CAP, fixed product prices and export refunds provided farmers with incentives to produce agricultural products. Between the 1970s and the early 1990s, this led to surpluses and huge stockpiles of products such as butter, skimmed milk powder, cereals and beef across the EU. Aid rates were significantly reduced under the 1992 CAP reform, and coupled direct payments<sup>27</sup> were introduced to compensate for the decrease. From 2005 onwards, the decoupling of direct payments from production was a further step towards a market-based CAP. EU export refund expenditure has fallen since the 1990s and now all export refund rates are set at zero.

#### 36

Following these successive CAP reforms, production surpluses decreased drastically and the level of intervention stocks declined. By moving away from product support to producer support, the overproduction in earlier years was effectively reduced, which probably contributed to reduce food waste.

26 According to Article 39(1)(a) and (c) of the Treaty on the Functioning of the European Union (TFEU), the CAP aims primarily at supporting the economic viability of the farm sector and the stability of the markets for agricultural products. However, Article 39(1) (a) also requires an 'optimum utilisation of the factors of production', i.e. it requires the sustainable and efficient use of natural resources. In this context, Article 11 is also relevant: 'Environmental protection requirements must be integrated into the definition and implementation of the Union's policies and activities, in particular with a view to promoting sustainable development'.

27 Compensatory payments to farmers that are linked either to fixed areas (or fixed yields), or to a fixed number of animals.

37

Nowadays, the majority of direct payments no longer directly support the production of a specific crop or product; they contribute only indirectly to the production of agricultural products by giving financial support to producers. In 2013, EU direct payments amounted to 41.7 billion EUR. According to Faostat data, in the same year the EU produced the following quantities of products (see **Table 2**). **Figure 4** shows the yearly food waste volumes for agricultural products worldwide. Whilst these two sets of figures are not directly comparable they show that EU support is given, either directly or indirectly, for products where significant waste occurs at global level.

Table 2

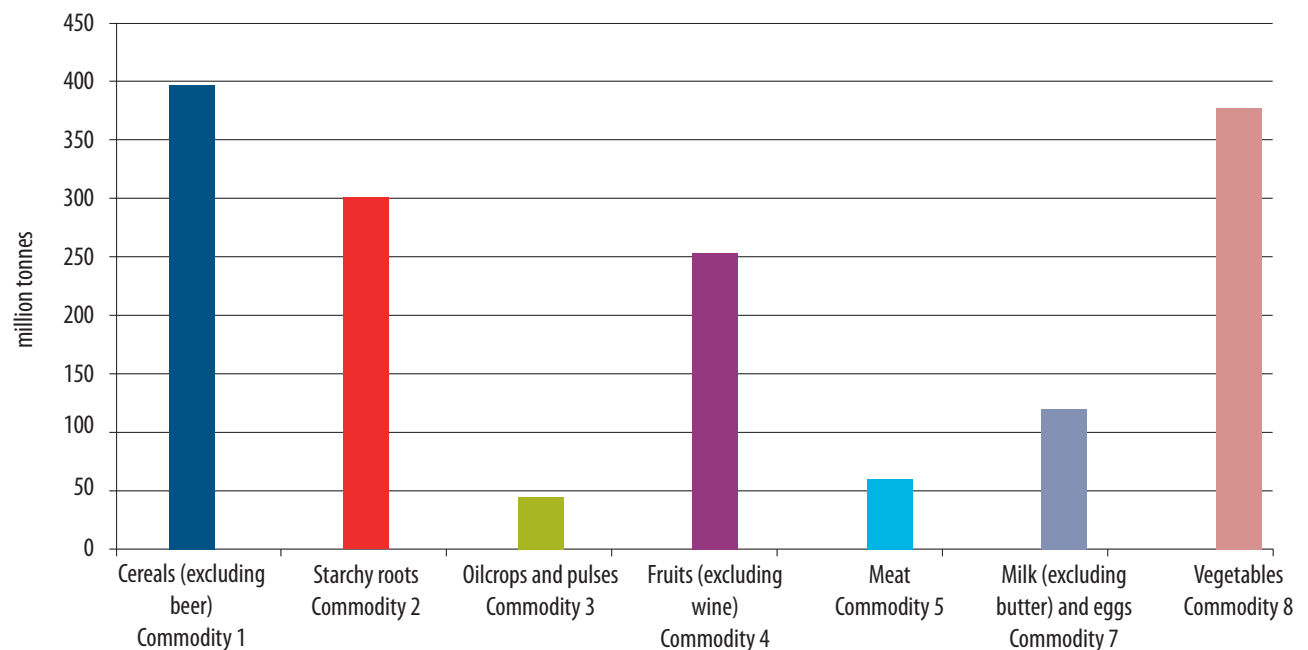
EU agricultural production volumes for 2013 (in million tonnes)

Cereals	Starchy roots	Oil crops and pulses	Fruits	Meat	Milk and eggs	Vegetables
309.55	54.44	34.62	62.19	44.3	164.33	64.66

Source: Faostat.

Figure 4

Yearly food wastage volumes for agricultural products worldwide by commodity



Source: FAO 'Technical Report on Food Wastage Footprint — Impacts on Natural Resources', Rome, 2013, p. 103 (<http://www.fao.org/docrep/018/ar429e/ar429e.pdf>).

### 38

A limited proportion of EU direct payments (around 6 % in 2014) is still linked to production. In this context, Member States may use VCS (voluntary coupled support). Through this scheme (available since 2015), most Member States have increased their share of coupled support of their direct payments. In 10 Member States, the share of coupled payments has increased by more than 10 percentage points (e.g. in Poland they represented 3.5 % of direct payments in 2014 rising to 15 % in 2015). In five further Member States, this share has increased by more than seven percentage points. The most important sectors receiving coupled payments are: beef (41 % of the total); milk (20 %); sheep and goats (12 %) and protein crops (11 %).

### 39

Coupled support 'may only be granted to those sectors or to those regions of a Member State where specific types of farming or specific agricultural sectors that are particularly important for economic, social or environmental reasons undergo certain difficulties<sup>28</sup>'. When taking the example of the dairy sector, figures show that several Member States (Czech Republic, France, Poland, Italy, Spain, Lithuania, Slovakia and Malta) support all of their dairy farmers by using VCS. As the support is linked to the number of dairy cows notified by the Member States, in practice it can provide an incentive for maintaining or even increasing existing production, even though the regulation intends to prevent this<sup>29</sup>. The audit found examples where this occurred and the Commission acknowledges that this risk is not covered by their checks. From a food waste perspective, coupled payments stimulate the production of specific products for which there is a risk that demand does not exist.

### 40

The Commission has not undertaken any studies on the impact of the successive CAP reforms (including decoupling) on the quantities of agricultural production and on the estimated effect of this on the generation of food waste. It has never included any assessment of food waste in its impact assessments for EU direct payments and has not assessed the extent of the effect of coupled payments on stimulating the supply of specific products for which there is a risk that demand does not exist (see **Figure 4**).

28 Article 52(3) of Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 (OJ L 347, 20.12.2013, p. 608).

29 Article 52(5) of Regulation (EU) No 1307/2013.

## Market measures

### 41

Market intervention measures (public intervention, private storage, market withdrawals, green harvesting and non-harvesting) represent a small proportion of the CAP budget, and their use has steadily declined since the mid 1990s, after the 1992 CAP reform. These measures are used to support the removal of (future) supplies that are surplus to demand when prices become weak. The products may either be stored until the market price increases and then returned to the market for sale, export or donation, or may be disposed of in another way (e.g. destroyed). Therefore market measures directly generate, in the case of green harvesting and non-harvesting, food waste and may result, particularly for market withdrawals, in food being wasted.

### 42

According to the Commission, market measures are intended to meet two main objectives: (a) continued market orientation and (b) a safety net for farmers in case of strong market disruptions<sup>30</sup>. However, the Commission has not defined the extent of the safety net and depending on how the market measures are used, only one of these two objectives may be reached. A quote from a Swedish study<sup>31</sup> illustrates the relation between the use of market measures and food waste: 'When prices are so low that the situation is considered a crisis, the EU agricultural policy offers support to growers. If those funds are used for supporting a situation of structural overproduction and not only during immediate crises, this can have the effect of not only cementing a structural imbalance but also of increasing waste'.

### 43

The usage of the public intervention mechanism has steadily declined since the 1992 CAP reform. Most of the products stored under public intervention returned to the market or were donated to people in need and current stock levels are very low. However, stocks have recently started to increase again<sup>32</sup>. In this context the possibility of distributing products free of charge may gain importance. However, the legal arrangements to make this possible are currently not in place (see paragraphs 75 and 76).

30 SEC(2011) 1153 final/2 of 20.10.2011 'Impact Assessment Common Agricultural Policy towards 2020', Annex 5 Market Measures, p. 12.

31 Mattson, K., 'Why do we throw away edible fruit and vegetables?', Rapport 2014:5 EN, Division for Trade and Markets, Financed by the Swedish National Food Agency (p. 22).

32 The figures published in August 2016 by the Commission's milk market observatory show that stocks have recently increased. [http://ec.europa.eu/agriculture/market-observatory/milk/pdf/eu-stocks-butter-smp\\_en.pdf](http://ec.europa.eu/agriculture/market-observatory/milk/pdf/eu-stocks-butter-smp_en.pdf)

## Observations

### 44

Between 2008 and 2015, in the EU, 1.8 million tonnes of fruit and vegetables were withdrawn from the market and over 45 500 ha of land were harvested before maturity or have not been harvested. The EU paid 380 million euros in compensation for this to the producers concerned. According to the Commission's figures, 66 % of the products withdrawn were wasted. Besides this direct cost (the paid compensation to producers) the total cost of food waste should take into account the production costs and transport costs of the products as well as the costs of treating the waste generated. In addition, the associated environmental costs throughout the products' life cycle should be taken into account.

### 45

Every year, thousands of tonnes of products are affected by these market measures and a proportion of them is destroyed. It is therefore appropriate to assess the potential impact of planned market measures on the generation or prevention of food waste. This kind of assessment was not carried out in the context of the recent CAP reform or for the market measures taken since 2014 (responding to the Russian import ban and the producer price crisis); the latter despite the European Parliament's resolution of July 2015 calling on the Commission, 'when conducting an impact assessment on new relevant legislative proposals, to evaluate their potential impact on food waste' (see **Annex III**).

### Export refunds

### 46

Export refunds may have given an incentive in the past to the production of agricultural products for which a considerable level of food waste is generated at global level. At the World Trade Organisation meeting in Nairobi on 19 December 2015 it was agreed to abolish export subsidies. This decision may help to prevent such potential over-production.

## School milk scheme and school fruit scheme

### 47

Under the School Milk Scheme, the EU subsidises the cost of various milk products distributed to children in schools. Under the School Fruit Scheme, the EU provides school children with fruit and vegetables, with the aim of encouraging good eating habits in young people<sup>33</sup>. Both schemes provide for accompanying measures, with the measures being mandatory for the fruit scheme and optional for the milk scheme. According to the current regulation, the accompanying measures for both schemes 'may include information on measures for education about (...) combating food wastage'<sup>34</sup>. However, at the time of the audit, no Member States had yet taken the opportunity to use the accompanying measures of the school milk scheme to pass on educational messages about the generation and prevention of food waste. For the school fruit scheme, only some Member States have used the mandatory accompanying measures for this purpose<sup>35</sup>.

## Rural development

### 48

The European Agricultural Fund for Rural Development (EAFRD) has the potential to contribute to reducing food waste in primary production and in the food processing sector (for example by helping to reduce on-farm mortality of animals, by helping to reduce harvest losses, by improving storage conditions or by helping to reduce losses during processing).

### 49

Despite the fact that food waste reduction is not specifically mentioned in the different regulations on rural development, action to reduce food waste can be financed through several measures, such as knowledge transfer and information activities, investment in physical assets (e.g. less damaging equipment, improved post-harvest storage, adapted animal housing to reduce sickness and mortality), animal welfare payments or cooperation activities<sup>36</sup>. Article 53(3) is the only article of the rural development regulation that refers explicitly to the potential of the EIP network to 'reduce post-harvest losses and food wastage'.

- 33 As of 1 August 2017, the School Milk and School Fruits schemes will be merged.
- 34 Articles 23(2) and 26(2) of Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).
- 35 Only Belgium, Croatia, Italy, the Netherlands, and Slovakia have included food waste-related educational messages in the accompanying measures of the school fruit scheme.
- 36 Articles 14, 15, 17, 33 and 35 of Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 (OJ L 347, 20.12.2013, p. 487).



### 50

The Commission has not specifically encouraged Member States to use EAFRD funds to combat food waste. For their part, the Member States audited did not specifically mention food waste or refer to combating food waste as a need or objective of their programmes for 2007-2013 and 2014-2020, even though they had the opportunity to do so. Nevertheless, several of the Member State authorities visited during the audit recognised the potential of the EAFRD to contribute to reducing food waste and they presented concrete project examples to demonstrate it (see **Box 5**). These examples are not, however, the result of a strategic and planned approach to fighting food waste, but more a coincidental effect of EAFRD implementation in those specific Member States. At the time of the audit, most Member States had only started to establish their EIP agreements and projects, meaning that it is currently difficult to provide an overview of food waste issues which have been included in the EIP's activities.

#### Box 5

#### Examples of rural development projects in Italy that contributed to reducing food waste

A. Financing of a cereal storage silo which drastically reduced (from around 12 % down to 0.2 %) waste of cereals due to moulds and pollution by birds and rodents.

B. Financing of investment in a dairy cow shed (moving from a tie-stall to a free stall with mattresses, scrapers, etc.) led to improved animal welfare and hygiene conditions, which in turn led to a reduction in the number of cows with mastitis and in the volume of milk wasted.

### 51

Despite some good examples, the EAFRD's potential to help reduce food waste at the level of producers and processors has not yet been fully exploited.

## Common fisheries policy (CFP)

### 52

Fishermen do not only catch the fish they specifically target or are authorised to fish. Until recently, the unwanted parts of their catches were discarded at sea, often dead. This was seen by many as an unacceptable waste of scarce resources. In 2013, a reform of the common fisheries policy (CFP) was approved, aimed at putting an end to this practice by introducing the landing obligation. Through the European fisheries funds<sup>37</sup>, Member States had/have the opportunity to finance projects for preparing the landing obligation and for positively influencing the survival rate of fish in aquaculture. Another element of the CFP reform that potentially impacts food waste generation is the abolition of compensation for market withdrawals of fish (see paragraph 61).

## Discards at sea and landing obligation

### 53

The European Parliament and the Council consider that 'unwanted catches and discards constitute a substantial waste' and they have established an obligation to land all catches ('the landing obligation')<sup>38</sup>. The landing obligation is being introduced gradually, between 2015 and 2019. Under the landing obligation all catches have to be kept on board, landed and counted against the quotas. Species that have a high chance of survival when released under certain conditions may be exempt. According to the regulations, undersized fish cannot be marketed for direct human consumption purposes.

### 54

According to the Commission, the aim is to reduce discard rates from 15-25 % to 5 %<sup>39</sup>. However, discard rates vary according to the type of fishing, species and year (e.g. discards when fishing close to or on the sea bed (demersal fishing) in the North Sea are on average 40 % of the catch<sup>40</sup>, total discards in the Mediterranean are estimated at 18.6 % of the total catch<sup>41</sup>). The Commission plans to set more refined targets by species or by geographical area in the EU's multiannual plans that are currently under development.

37 European Fisheries Fund (EFF) for the period 2007-2013 and the European Maritime and Fisheries Fund (EMFF) for the period 2014-2020.

38 Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

39 Referred to in Article 15(5) of Regulation (EU) No 1380/2013 as 'de minimis exemptions of up to 5 % of total annual catches of all species'.

40 Discard Atlas of North Sea Fisheries, IMARES Wageningen UR, Wageningen, August 2014.

41 The obligation to land all catches — consequences for the Mediterranean. In-depth analysis. European Parliament, 2014.

## Observations

### 55

It is clear that the landing obligation has the potential to help to reduce food waste if it is correctly implemented; that is, if it leads to increased selectivity, thus reducing the quantity of unwanted catches (such as undersized fish). On the contrary, if the fishing activity does not become more selective, all the edible fish caught that cannot be used for human consumption (e.g. because of minimum size requirements) will constitute food waste according to the definition used for this report.

### 56

In order to more effectively monitor the implementation of the landing obligation, it is important to have reliable data on catches and discards. However, some of these data are not yet readily available at Commission level because:

- the electronic fishing logbook<sup>42</sup> for fishing vessels of a certain size has not been fully implemented in the Member States;
- despite the obligation, since 1 January 2010, for fishermen to record estimates of all discards over 50 kg in their fishing logbook, there is no obligation for Member States to send these discard data to the Commission;
- the requirement to record authorised discards, as well as species below the minimum conservation size (previously discarded,) as separate entries in the electronic logbook, was only introduced in May 2015.

In the absence of this data it is difficult to obtain information on the scale of food waste in relation to fish.

### The Fisheries Funds

### 57

Through the European Fisheries Fund (EFF) and the European Maritime and Fisheries Fund (EMFF), Member States had/have the opportunity to finance projects that facilitate the implementation of the landing obligation, such as investments in selective fishing gear, equipment for dealing with unwanted catches on board, research concerning survival rates of fish, investments for processing discards on shore, etc. Four of the five Member States visited used the EFF in particular to finance research projects or projects for developing and testing more selective fishing gear (see **Box 6**), but the number of this type of projects was very small in two of those Member States. Projects to facilitate the implementation of the landing obligation can also be financed through the EMFF, but since the operational programmes were approved by December 2015, no projects had yet been selected for financing at the time of the audit.

42 Required by Article 15 of Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p. 1).

## 58

Through the EMFF, Member States may also finance projects that have a positive influence on the survival rate of fish in aquaculture. In one of the Member States visited, the EFF has been used to finance projects to combat fish diseases, thus increasing the survival rate of the fish in the fish farms concerned<sup>43</sup>.

43 Between January 2007 and November 2015, the Finnish authorities approved 14 projects to combat fish diseases (3 research and 11 pilot projects).

## 59

Both the EFF and the EMFF can potentially help to reduce food waste, even if this is not explicitly stated in the relevant regulations. This potential has yet to be fully realised in the Member States visited.

### Box 6

#### Good example of an EFF project in the Netherlands that helps to prepare the fisheries sector for implementing the landing obligation

The project concerned the development of (1) a more selective fishing net for flatfish fishing; (2) an automated discard separation system on board and (3) improvements in the on-board fish processing line, in order to increase fish survival chances (and thereby obtain an exemption from the landing obligation).

The project results showed a reduction in discards thanks to the new fishing net (10-15 % of estimated discards after the project versus 22 % discards before). However, catches are lower too since some of the fish targeted escape through the net. The automated discard separation system is meant to minimise the additional on-board work load caused by the obligation to land all catches. Thanks to the use of wet tanks at the beginning of the processing chain, caught fish stay alive until sorting and may thus have higher chances of survival when discarded. Research is still ongoing to measure survival rates.



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More selective fishing net



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Camera-based detection and sorting system

## Withdrawal of fish

### 60

In the 2007-2013 period, the EU paid compensation to Member States for withdrawing fish from the market when the price of fish was too low. In 2007-2014, 25.4 million euros was paid to Member States for fish withdrawn (on average 3.2 million euros per year). This corresponds to 51 386 tons of fish (on average 6 423 tons of fish per year). There is no information available on the quantities of fish that were destroyed or used for other purposes such as fishmeal. According to the Commission, the only certainty with respect to the final destination of this fish is that it was not used for direct human consumption.

### 61

In its communication on the reform of the CFP, the Commission states that 'spending public money to destroy fish is no longer justifiable'. This was also confirmed by the public consultation carried out by the Commission in 2009<sup>44</sup>. Moreover, the system no longer reflected 'the changing balance in supply and demand'. The new CMO regulation on fisheries and aquaculture that entered into force in 2014<sup>45</sup> no longer grants any financial compensation for market withdrawal and destruction of fish. Producer organisations can still decide to withdraw fish from the market<sup>46</sup>, but at their own expense. By abolishing compensation for market withdrawals of fish, the European Union gave a clear signal to European fisheries to abolish wasteful practices and better align fishing activities with demand.

## Food safety policy

### 62

The European Commission's food safety policy is aimed at ensuring that food products are safe for the public to eat. To this end, the Commission takes legislative action and monitors whether Member States ensure that retailers, manufacturers and food producers adhere to the rules. Food safety and hygiene rules are primarily intended to guarantee that foodstuffs are safe for consumption. Nevertheless, when implementing such rules in practice, care should be taken not to risk generating food waste by exceeding the essential requirements of food safety. The audit identified a number of areas where further efforts are still necessary by the Commission and Member States with respect to preventing food waste, related to the exchange of good hygiene practices, traceability requirements and date labelling.

44 COM(2011) 417 final, SEC(2011) 884 final and SEC(2010) 428 final.

45 Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products, amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000 (OJ L 354, 28.12.2013, p. 1).

46 For example, in 2014, the Dutch producer organisations withdrew 875 tonnes of plaice from the market at their own expense (around 2 % of the landings auctioned), due to the fact that the threshold price was not met. In 2015, that quantity was only 5 tonnes, thanks to a better price.

## Guides to good hygiene practice

### 63

'Guides to good hygiene practice' are practical guides developed by specific sectors in the Member States (e.g. the retail sector, flour milling industry, bottled water industry), on how to comply with general food hygiene legislation and related requirements. The guides give advice and provide guidance to businesses on how to comply with the applicable hygiene regulations, such as how to conduct an assessment of the risks to food safety within their business, how to apply precautions to deal with these risks, or how to deal with temperature control, pest control, etc. Such guides allow safety requirements to be tailored to specific situations and food waste to be potentially reduced because the requirements set are only as strict as actually needed to meet the required level of safety.

### 64

The European Commission keeps a register of national guides to good hygiene practices with the aim of exchanging good practice between Member States and food business operators. However, for some Member States, this register contains outdated information and guides that are no longer active. Other Member States do not oblige the private companies, that have developed these guides, to make them public. Despite the existence of the register, several Member States visited have expressed their concern about the fact that there is insufficient exchange of knowledge in this area at EU level.

## Recalls and withdrawals

### 65

In the case of product recalls or withdrawals for reasons of food safety, traceability is crucial. The more refined a traceability system is, the smaller the risk of food waste because the products to be recalled/withdrawn can be identified with greater precision. The General Food Law<sup>47</sup> requires operators to have a traceability system capable of tracing a product by a 'one step forward and one step back' approach<sup>48</sup>. Directive 2011/91/EU<sup>49</sup> determines that a foodstuff should carry indications or marks identifying the lot to which it belongs, but it does not require any reference to the size of the lots. In practice, the implementation of such lot traceability differs from company to company.

47 Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1).

48 This means that they must be able to identify the businesses to which their products have been supplied and to trace food chain inputs back to the immediate supplier.

49 Directive 2011/91/EU of the European Parliament and of the Council of 13 December 2011 on indications or marks identifying the lot to which a foodstuff belongs Text with EEA relevance (OJ L 334, 16.12.2011, p. 1).



**66**

Four out of the five Member States<sup>50</sup> visited during the audit did not establish any further requirements or guidance related to the size of the lots and the authorities of only two of the Member States<sup>51</sup> visited declared that they encouraged producers and processors to adopt small lot sizes (see **Box 7**). The information gathered in the Member States visited showed that the quantities recalled are sometimes difficult to estimate and often the information required to identify the products in need of recall is too vague. The code that identifies the quantities to be recalled is not uniform; it can be a lot number or an expiry date, and the corresponding quantities per lot can be very different, even for similar products.

50 Italy, the Netherlands, Portugal and Romania.

51 Portugal and Finland.

**Box 7****Good practice regarding traceability in Finland**

The Finnish authorities have drawn up a food information guide establishing that the maximum volume of one lot should be one day's production. Food products produced on the same day and containing the same ingredients may thus form a lot.

According to the Finnish authorities, preventing food waste in recall situations has been considered case by case. One example of this was a governmental decision in 2014 which was intended to reduce the food waste caused by the exceptional Russian import ban and permitted food with labels in Russian only to be sold subject to certain conditions, and provided that information on the product contents was available in writing in Finnish in the vicinity of the product.

**Dates on labels****67**

Ambiguous date labelling of foodstuffs is a major factor contributing to confusion about food safety among consumers. Date labels should be sufficiently clear for consumers in order to avoid unsafe food from being eaten and safe food from being discarded. According to EU law<sup>52</sup>, products must be labelled with either the best before date or the use by date. The 'best before date' (or 'date of minimum durability of a food'), means the date until which the food retains its specific properties when properly stored, and the 'use by' date, indicates the last day on which the product is considered to be safe.

52 Regulation (EU) No 1169/2011.

## 68

Despite the authorities' initiatives to circulate information on this in the Member States visited, the 'best before' and 'use by' dates are used in different ways by producers/processors/retailers. Identical (or very similar) products may carry either the 'use by' or the 'best before' dates promoting confusion and resulting in perfectly edible food being thrown away, as highlighted by the examples collected during the audit (see **Box 8**). Moreover, as illustrated by the results of the Flash Eurobarometer 425 survey, consumers are not fully aware of the differences between the 'best before' and the 'use by' dates, as only 47 % of the people interviewed had identified the correct definition for the 'best before' date and only 40 % for the 'use by' date, with significant differences between Member States<sup>53</sup>.

53 Flash Eurobarometer 425, Food waste and date marking, September 2015.

## Box 8

## Date labelling practices — examples

A study called 'Date labelling in the Nordic countries'<sup>54</sup> investigated how companies determine the shelf life of their products. For all the products in the study, there were major variations in shelf lives between similar products. For some products the longest shelf life in days, as marked by one retailer, was twice as long as the shelf life determined by another retailer.

During the audit, the Court found several examples of products that were very similar but used different types of dates:

- Parma ham (Italy): a product had a 'use by' date (*da consumare entro*) and another product had a 'best before' date (*da consumarsi preferibilmente entro*);
- Cheese (Romania): a product had a 'use by' date (*expira la*) and another product had a 'best before' date (*a se consuma, de preferinta, inainte de*).

The different dates may cause confusion amongst consumers resulting in the discarding of food which is perfectly safe to eat.

<sup>54</sup> Møller, H., Lødrup, N., et al., 'Date labelling in the Nordic countries: Practice of legislation', Nordic Council of Ministers, 2014.

## 69

According to the EU provisions, products requiring a 'best before' date can still be sold after that date. Nevertheless, to date, there are still Member States where it is illegal to sell products after the best before date (e.g. Romania, Slovakia) (see also **Box 9**).



## Box 9

**Example of date labelling rules not being correctly applied (Romania)**

In Romania the national legislation (Government Decision 984/2005) does not distinguish between 'best before' or 'use by' dates but refers to the 'expiry of the product validity'. The same text states that it is forbidden in Romania to sell/place on the market/donate products that have passed their 'expiry date'. Government Ordinance OG no. 21/1992 concerning consumer protection (updated in 2008) does use the correct date labelling terms but indicates that products may be sold only if they are within their 'use by date'/'date of minimum durability'. The meaning of the different dates and the possibility of continuing to sell and consume a product after the best before date has therefore not been clarified in Romania.

**Clarification and alignment of the policies and provisions for facilitating the donation of food****70**

Donating food is the second most preferred option before food constitutes waste (see paragraphs 5 and 6). In the EU, there is a strong culture of food donation, and the Commission has also recognised the importance of facilitating food donation as a way to reduce food waste in the EU<sup>55</sup>. At the level of the different EU policy areas, there are still a number of barriers to donation, such as a lack of clarity in existing legal provisions, missing legal provisions or legal provisions that are not used in practice. Overcoming these barriers would contribute to aligning the EU policies for facilitating the donation of food.

**A lack of clarity in existing legal provisions****Waste hierarchy****71**

Both Article 4 of the waste framework directive<sup>56</sup> and the 2015 proposal for a directive amending several waste directives specify the waste hierarchy to be applied in the European Union (see paragraph 5) but do not specify how this order of priorities should be applied in the specific case of food and do not include a definition of the term 'food waste'. Thus, the EU texts do not clarify whether donated food should be counted as wasted food or, on the contrary, whether donation should be considered to be a way of preventing food from being wasted<sup>57</sup>. This, in turn, has implications for monitoring food waste<sup>58</sup> and for taking actions to reduce food waste.

55 [http://ec.europa.eu/food/safety/food\\_waste/eu\\_actions/index\\_en.htm](http://ec.europa.eu/food/safety/food_waste/eu_actions/index_en.htm)

56 Directive 2008/98/EC.

57 In the same way, in the absence of a clear definition, some Member States may consider food for feeding animals as constituting food waste and other may consider the opposite.

58 According to the definition of food waste considered for this report it is clear that we consider food donated as a way to prevent food waste.

**Food safety policy**

**72**

The food hygiene legislation from 2002 does not clarify the obligations of food banks or other charities when handling donated food. In particular, EU law<sup>59</sup> does not specify whether food banks and charities are to be considered ‘food business operators’<sup>60</sup> and hence have to comply with food laws. Member States have thus adopted different interpretations for food banks and other charities dealing with donated food (see **Box 10**). Since 2013, several Member States have themselves developed their own guidelines for food banks and charities, clarifying donation with regard to liability issues and explaining how to interpret food safety factors such as expiry dates, traceability, labelling and freezing of foodstuffs. The Commission has now gathered national and sectorial guidelines on food redistribution shared by various actors on its website to promote the exchange of good practice between Member States. Although there have been repeated calls from the Commission itself since 2012 for EU guidelines on food donation to clarify this issue, at the time of the audit, in June 2016, the Commission indicated that they were still working on a first draft of these guidelines<sup>61</sup>. Therefore, the Commission has still the potential to contribute to clarifying existing legal provisions in this regard.

59 Regulation (EC) No 178/2002.

60 Article 3 of Regulation (EC) No 178/2002: ‘food business operator’ means the natural or legal persons responsible for ensuring that the requirements of food law are met within the food business under their control.

61 Also the European Parliament has asked the Commission to present guidelines on food for donation (EP Committee on the Environment, Public Health and Food Safety, Draft Report on the proposal for a directive of the European Parliament and of the Council amending Directive 2008/98/EC on waste (COM(2015)0595 – C8-0382/2015 – 2015/0275(COD)).

**Box 10**

**Examples of different interpretations in Member States as regards the roles and responsibilities of food banks and other charities in relation to the food hygiene legislation:**

In Romania, charities or non-governmental organisations (NGOs) are not considered food business operators. This results in an unclear situation as regards their liability when dealing with donated food. In Portugal, charities are assimilated as ‘food business operators’, but as they are not the main intended subjects of the hygiene regulations, the rules and principles deriving from these regulations are applied with a certain degree of flexibility. In Italy, recognised charity organisations that are freely distributing food to deprived people are treated in the same way as other food business operators from the point of view of liability linked to the correct storage, transportation and use of foodstuffs.

**Value added tax**

**73**

Fiscal incentives for food donation are seen by many stakeholders as the most powerful tool for incentivising donation. Discussions on fiscal incentives at EU level have concentrated on how VAT should be applied to donated food. This has been the subject of numerous meetings held by the Commission. The EU’s VAT legislation does not constitute, per se, a barrier to donation for those types of foodstuffs, but the interpretation of that legislation by certain Member States may still represent a barrier to donate food (see **Box 11**).

### Application of VAT on food donated<sup>62</sup>

Following requests from Member States in 2012 and 2013, both the European VAT Committee and the Commission have undertaken, on several occasions, to clarify how VAT should be applied to donated foodstuffs, in line with the VAT directive. Their clarification states that VAT on donated food is due, but Member States may consider that the value on which the VAT is calculated may be low or close to zero if donation takes place close to the 'best before' date or if the goods are not fit for sale. Therefore, where the VAT to be paid on donated foodstuffs is low or close to zero, donated foodstuffs for the purpose of VAT are treated in the same way as discarded foodstuffs.

Nevertheless, the term 'not fit for sale' can be interpreted in different ways and can thus cause uncertainty amongst potential donors of foodstuffs, especially in those Member States where the interpretation is left to the potential donor. Umbrella organisations have raised concerns about the fact that such uncertainty may discourage actual donation for fear of breaking the rules. In practice, VAT on donated goods is treated differently in different Member States. In Portugal, the VAT to be paid on food donated is zero if it is given to certain bodies. In Italy, only certain types of foodstuffs are subject to zero VAT. In the Netherlands and Finland, donors can themselves determine when a foodstuff is no longer saleable and therefore subject to zero VAT. In Romania, the relevant clarifying documents were still being drafted at the time of the audit visit.

<sup>62</sup> The EU's value added tax system is described in Council Directive 2006/112/EC, with Article 16 of the directive referring to the donation of goods. According to EU fiscal rules, VAT on donated foodstuffs is due in a number of situations, to be determined by Member States. The value on which the VAT is based can be fairly low or even close to zero.

## Missed opportunities for facilitating donation due to a lack of legal provision

### Common fisheries policy

#### 74

According to the Commission, during the negotiations of the CFP reform, the opportunity to include donation in the reformed CFP was debated with the legislator and eventually rejected. Therefore, there is still no mechanism to encourage the donation of withdrawn fish nor is there a mechanism to encourage donation of fish that cannot be marketed (e.g. undersized).

### Common agricultural policy

#### 75

As explained in paragraph 35, for many years the EU had considerable stockpiles of butter, skimmed milk powder, cereals, etc. A dedicated programme (Food Distribution programme for the Most Deprived Persons of the Community — MDP) existed within the CAP for donating some of these intervention stocks to needy people through charities.

### 76

From the 1990s onwards, the use of the public intervention mechanism steadily declined and so did the stocks. As of 2014, the MDP has been replaced by another programme, outside the CAP, called the FEAD. Although both the applicable regulations<sup>63</sup> provide for the possibility of using products from the intervention stocks through the FEAD, the necessary Commission implementing acts that establish the relevant procedures are missing.

### Opportunities to facilitate donation not sufficiently exploited

#### Fund for European Aid to the most Deprived

### 77

The FEAD has existed since 2014. Unlike the MDP, the main focus of the FEAD<sup>64</sup> is not to make products from intervention stocks available to the most deprived, but to provide material and non-material assistance to the most deprived.

### 78

The FEAD regulation<sup>65</sup> provides for ways of facilitating food donation, but the Commission has not actively promoted this aspect of the FEAD to the Member States and only a few Member States have actually used it:

- Article 23(4) provides for the possibility of freely distributing food from intervention stocks to the most deprived people under the FEAD. In practice, only one Member State out of 28 (Finland) has included this in its FEAD operational programme (OP).
- Article 26(2)(d) provides for the possibility of financing the cost of collection, transport, storage and distribution of food donations. According to the Commission, only four Member States have included this in their OPs (Estonia, Italy, Luxembourg and Slovakia) as an action in the programme, but without a specific budget attached.

63 Regulation (EU) No 1308/2013 and Regulation (EU) No 223/2014 respectively.

64 The objectives of the FEAD, as presented in Article 3, are to promote social cohesion, enhance social inclusion and ultimately contribute to achieving the poverty reduction target of the Europe 2020 strategy. The FEAD contributes to the specific objective of alleviating the worst forms of poverty through the provision of non-financial assistance to the most deprived persons.

65 Regulation (EU) No 223/2014 of the European Parliament and the Council of 11 March 2014 on the Fund for European Aid to the Most Deprived (OJ L 72, 12.3.2014, p. 1).

## Common agricultural policy

## 79

When producers withdraw fruit and vegetables from the market, they can receive EU funding for disposing of it (see paragraph 44). When they donate the products to certain bodies, they receive a higher compensation than when they destroy them. Despite this higher compensation, the data received during the audit show that less than 40 % of the fruit and vegetables withdrawn from the market was actually donated in the period 2007-2015. Figures vary widely between Member States, and from year to year. The audit showed that, in one Member State visited during the audit, there are serious problems with the reliability of the data (see **Box 12**).

## Box 12

## Data inconsistencies regarding withdrawals, green harvesting and non-harvesting (Italy)

Member States are required to report to the European Commission yearly on the quantities, values and destinations of the fruit and vegetables that were withdrawn from the market. According to the data received from the Italian authorities of Regione Lazio for the year 2011, the total quantity of products given for free distribution amounted to 139 ktonnes, which is almost triple the total quantity of products withdrawn (50 ktonnes). This figure cannot simply be a one-off error, since there were nine different product categories where the quantity of products freely distributed exceeded the total quantity of products withdrawn.

Furthermore, the auditors requested three examples of cases where a producer organisation had donated withdrawn products for free distribution. The documentation received showed that a certain producer organisation had donated 24 tonnes of water melons to a charity in 2014. The supporting documentation also indicates that it was the seventh time in 2014 that the producer organisation had given withdrawn products for free distribution. However, according to the 2014 annual report sent to the Commission, that particular producer organisation had not withdrawn any quantities of products during that year.

The authorities acknowledged that there were errors in the data and were not able to provide an explanation.

## 80

One of the difficulties reported by Member State authorities with regard to the free distribution of withdrawn fruit and vegetables to certain public establishments<sup>66</sup> is the fact that, according to EU law, free distribution is not permitted to replace quantities normally bought in by such establishments. Whilst this provision is in place to avoid interference in the market, in practice, due to the difficulty of checking whether this provision is being complied with, some authorities are discouraged from donating products to these types of establishment at all.

<sup>66</sup> Penal institutions, schools, establishments referred to in Article 22, children's holiday camps, hospitals and old people's homes designated by the Member States.

## 81

Food waste is a global problem that has moved up the public and political agenda in recent years, it is likely to continue to grow in importance, especially given the need to feed the rising global population. Food is a precious commodity and its production can be very resource intensive. Current estimates indicate that, globally, around one third of the food produced for human consumption is wasted or lost, with a consequent economic and environmental cost.

## 82

Against this backdrop we examined the role the EU can play in combating food waste. While acknowledging the importance of the market forces when combating food waste, the audit examined the actions taken thus far and the way in which the various EU policy instruments work to reduce food waste. It focused on the actions of prevention and donation which are those most preferred in the fight against food waste.

## 83

The audit examined the question 'Does the EU contribute to a resource-efficient food supply chain by combating food waste effectively?' It found that currently it does not, and the report highlights the ways in which the current initiatives and policies could be used more effectively to address the problem of food waste. Many of the potential improvements do not require new initiatives or more public funding but rather involve the better alignment of existing policies, improved coordination within the Commission and between the Commission and Member States, and clearly identifying the reduction of food waste as one of the objectives of the existing policies.

## Conclusions and recommendations

### 84

The European Parliament, Council and Commission along with the Member States have all expressed their desire to combat the problem of food waste. The action taken to date to fulfil that desire has been fragmented and intermittent, there is not an agreed EU-wide strategy and the coordination at Commission level is lacking. Despite the increasing importance of food waste on the political agenda the Commission's ambition has decreased over time (paragraphs 26 to 32). This even though the fight against food waste is an area where there appears to be agreement that the Commission can play a leading role. The absence of a common definition for food waste and an agreed baseline from which to target reductions in waste has hampered further progress in this area. Therefore we recommend:

#### Recommendation 1

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The EU efforts to combat food waste should be strengthened and better coordinated; in doing this the EU could take a greater role in the appropriate forums at a global level. This implies concerted action by the EU bodies and Member States to agree a common strategy as soon as possible.

At the technical level the Commission should now develop an action plan for the years ahead covering various policy areas. This should include agreed descriptions of what constitutes food waste at all stages of the food chain and a methodology for measuring the impacts of its strategy.

## Conclusions and recommendations

### 85

We looked at a number of EU policy areas that are likely to influence the behaviour of the different actors in the food supply chain with respect to food waste (agriculture, fisheries, food safety, environment, social affairs and taxation). Action should be targeted all along the food supply chain with potential benefits for all those involved. That said, emphasis should be put on prevention, as the benefits of avoiding waste largely outweigh those of dealing with it later.

### 86

Whilst there are a number of EU policies that have the potential to combat food waste this potential has not been fully exploited and the opportunities offered have yet to be taken. There has been a notable lack of assessment of the impact of the various EU policies on the fight against food waste. Major policy areas such as the common agricultural policy, including rural development, the common fisheries policy and the food safety policy all have a role to play and could be used to better combat food waste (paragraphs 34 to 69). However, over time, policy changes, including CAP reform and changes to the fisheries policy have had a positive impact, for example the move away from intervention-based agriculture policy which created overproduction. The report highlights a number of good practices but their positive impact on food waste was coincidental rather than as a result of targeted policy action. Therefore we recommend:

### Recommendation 2

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In order to coordinate the various policies with the potential to combat food waste the Commission should consider food waste in future impact assessments. The Commission should better align the different policies and consider ways in which they could be developed to target the problem. In particular:

- (a) As regards the CAP the topic of food waste should be included in the forthcoming review of the policy. The Commission should also encourage Member States to prioritise the objective of combating food waste when programming future expenditures by, for example, making it one of the objectives for the next rural development programming period.
- (b) As regards the common fisheries policy, closer monitoring of the landing obligation for fish is needed and the Commission should from now on facilitate the use of available EU funds for investments that combat food waste.
- (c) When developing its food safety policy the Commission should further facilitate the exchange of good practices on hygiene and traceability. As regards food labelling it should assess the need to intervene in order to prevent labelling practices that generate food waste.



## Conclusions and recommendations

### 87

Donation of food that would otherwise be wasted already occurs in the EU through, for example, food banks. Nevertheless, a number of barriers still exist to donation, and a lack of clarity and consistency in certain legal provisions relating to donation. A number of opportunities to facilitate the donation of food that otherwise would be wasted have not been taken (paragraphs 70 to 80). Therefore, while stressing that efforts should be primarily directed towards food waste prevention, we recommend:

### Recommendation 3

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The Commission should promote the option of donating food that is safe for consumption and that would otherwise be wasted. In particular, and as soon as is practicable, by:

- (a) clarifying the interpretation of legal provisions that discourage the donation of food, in particular with reference to the waste framework directive and the General Food Law;
- (b) carrying out an assessment of the impact of extending donation to those policy areas where it is not taking place, particularly in relation to the common fisheries policy;
- (c) completing the legislative requirement to allow the use of food from agricultural stocks from public intervention; and
- (d) promoting among Member States the use of existing provisions for donation, with particular reference to fruit and vegetables withdrawn from the market and to the FEAD.

This report was adopted by Chamber I, headed by Mr Phil WYNN OWEN, Member of the Court of Auditors, in Luxembourg at its meeting of 10 November 2016.

*For the Court of Auditors*



Klaus-Heiner LEHNE  
*President*

## The role of market forces in generating food waste

Market economies aim to bring prosperity to society as a whole and to stimulate competition as an incentive for innovation. However, negative externalities<sup>1</sup> may occur all along the food chain, generating food waste and costs to specific actors and to society as a whole. Therefore, the generation of food waste can to some extent be considered the result of a market failure. In addition, consumers are not fully informed about the food waste associated with each of the products they consume. Unless proper action is taken to reverse these negative externalities, there will be insufficient incentive for the actors along the food chain to reduce food waste and society will keep paying for the associated costs. Two concrete examples of the influence of market forces on the generation of food waste are developed below.

### First example: marketing standards for fruit and vegetables

Marketing standards are quality and aesthetic standards for classifying agricultural products. The EU applies a system of marketing standards for fruit and vegetables. In addition to public standards, firms can establish their own private marketing standards which may also include aesthetic components.

Marketing standards are useful because they establish a common language and therefore facilitate trade. They can encourage high quality production, improve profitability and protect consumer interests. Public marketing standards may also avoid the proliferation of numerous private standards.

However, due to such standards, perfectly edible products can be taken out of the food supply chain for aesthetic reasons (such as size and shape requirements)<sup>2</sup>. Very few studies exist showing that products that are not sold as the two highest quality categories ('category I' or 'extra'), can actually be sold to the processing industry. Moreover, the processing industry, for technical reasons, may require even stricter size and shape requirements<sup>3 4</sup>.

There is therefore a need for further research as regards the relation between marketing standards and food waste<sup>5</sup>. Food waste related to the use of the standards was recently discussed in the UNECE<sup>6</sup> Working Party on Agricultural Quality Standards. The Commission and the EU Member States can influence the UNECE public standards, which are endorsed, and subsequently implemented, by the EU. In such discussions, consideration could be given to public interest issues such as avoiding waste of resources by preventing the generation of food waste, both for economic and environmental reasons.

1 A negative externality occurs when an individual or firm making a decision does not have to pay the full cost of the decision (<http://economics.fundamentalfinance.com/negative-externality.php>).

2 FAO, 'Global food losses and food waste — extent, causes and prevention', Rome: UN FAO, 2011.

3 <http://www.fao.org/docrep/V5030e/V5030E0q.htm#Chapter>

4 Maintaining the post-harvest quality of fruits and vegetables; J. Aked, Cranfield University.

5 <http://www.unece.org/index.php?id=41420#/>

6 ECE/TRADE/C/WP.7/GE.1/2015/10, ECE/CTCS/WP.7/GE.1/2016/2, ECE/CTCS/WP.7/GE.1/2016/10. A discussion paper prepared by several delegations proposed a possible revision of the standard layout and the standards regarding apples, tomatoes and leeks. When the paper was discussed in April 2015 it was decided to look at revising the standards for leeks and tomatoes. Representatives of the World Apple and Pear Association (WAPA) also attended that meeting.

**Second example: unfair trading practices (UTPs) and significant differences in bargaining power**

Unfair trading practices are practices that grossly deviate from good commercial conduct and are contrary to good faith and fair dealing. They are typically imposed in a situation of imbalance by a stronger party on a weaker one, and can exist from any side of the business-to-business relationship<sup>7</sup>. UTPs and situations of imbalanced bargaining power between business operators are thus two different concepts that can occur at the same time.

Both types of situation may cause food waste (see **Box**). In both cases, if food waste occurs, the stronger, dominant operator succeeds in pushing back part of the cost of food waste onto the weaker, dominated operator in the business relationship.

**Box****Business relationships with effect on food waste**

**Examples of unfair trading practices** that may have an effect on food waste:

- absence of written contracts;
- unilateral modification of the agreed terms and conditions after conclusion of the contract.

Food waste may occur in the case of last-minute cancellations or changes to the volumes previously ordered when the supplier is unable to find another buyer for its produce.

**Examples of 'fair' trading practices** taking place in situations of imbalanced bargaining power that may have an effect on food waste:

- contractual clauses fixing a high level of product availability, without guaranteed purchase;
- suppliers aiming for a very high product availability in order not to run the risk of discontinued business relationships with their client.

Such situations may result in food waste, if the buyer needs fewer products than made available by the supplier.

<sup>7</sup> EP briefing internal market and consumer protection. Unfair trading Practices in the Business-to Business Food Supply Chain ([http://www.europarl.europa.eu/RegData/etudes/BRIE/2015/563430/IPOL\\_BRI\(2015\)563430\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2015/563430/IPOL_BRI(2015)563430_EN.pdf)).

The relation between bargaining power imbalances, unfair trading practices and food waste has been repeatedly highlighted by the European Parliament and it is recognised that 'fair trading should in turn help to prevent overproduction and food waste'<sup>8</sup>. The Commission and the Member State authorities acknowledge that unfair business-to-business practices exist and that action needs to be taken against them. A recent Commission report<sup>9</sup> states that 'the Commission does not see the added value of a specific harmonised regulatory approach at EU level at this stage'.

However, despite (i) efforts to strengthen the primary sector by supporting the establishment and expansion of producer organisations<sup>10</sup>, (ii) the existence of the so-called the Supply Chain Initiative (SCI)<sup>11</sup> since 2011 in the context of the High Level Forum for a Better Functioning Food Supply Chain<sup>12</sup> and (iii) the existence of specific legislation for combating UTPs in a majority of Member States, these complex issues remain, at least to a certain extent, unresolved and considering the impact of UTPs on the generation of food waste remains an issue.

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8 Press release — Agriculture/Industry — 7.6.2016 at 13:14.

9 COM(2016) 32 final 'Report from the Commission to the European Parliament and the Council on unfair business-to-business trading practices in the food supply chain'.

10 Support to the establishment and expansion of producer organisations is available under the second pillar of the CAP and under the CFP. Elements of the first pillar of the CAP also aim to reduce the bargaining power gap between farmers and other parties in the food supply chain.

11 <http://www.supplychaininitiative.eu/about-initiative>

12 The Initiative's aim was to increase fairness in vertical trade relationships with the voluntary participation of actors in the food supply chain.

## Overview of EU instruments which can impact the fight against food waste

At the level of the European Commission, DG Health and Food Safety is in charge of the food waste file. In that context it takes a number of actions (such as establishing working and expert groups) and communication initiatives. Several other Commission DGs also have a role to play in food waste prevention since several of the EU policies and provisions can have an influence on the generation of food waste (such as the agricultural policy, the fisheries policy, the food safety policy, the waste policy).

We have analysed, for the audit, the EU policies and EU legal provisions and have identified those instruments (both EU funds as well as legal provisions that are not linked to any funds) that can have an influence on the behaviour of the different players<sup>1</sup> of the food supply chain in terms of preventing food waste or donating food that otherwise would be wasted. The result is shown in the table below: it gives an overview of those EU instruments which impact on the fight against food waste, indicating in which part of the food supply chain the behaviour of the different players might be influenced.

EU instruments which have an effect on the fight against food waste		Food waste prevention				Donation
		Producers	Processors	Retailers	Consumers	
EU Funds	EAGF	X	X		X	X
	EAFRD	X	X			
	EMFF	X	X			X
	FEAD					X
Legal provisions not linked to funds	Waste directive <sup>1</sup>	X	X	X		X
	Food safety rules <sup>2</sup>	X	X	X		X
	Labelling <sup>3</sup>	X	X	X	X	X
	Traceability <sup>2</sup>	X	X	X		X
	Marketing standards <sup>4</sup>	X	X	X	X	
	(Un)fair trading practices	X	X	X		
	VAT <sup>5</sup> and financial stimuli	X	X	X		X

1 Directive 2008/98/EC.

2 General Food Law (Regulation (EC) No 178/2002) and Food and Hygiene Package (Regulation (EC) No 852/2004, Regulation (EC) No 853/2004, Regulation (EC) No 854/2004 and Directive 2004/41/EC).

3 Food durability and date marking (Regulation (EC) No 1169/2011).

4 EC Regulation 1580/2007 (as amended, in particular by EC Regulation 1221/2008).

5 Council Directive 2006/112/EC.

The above table lists EU instruments that are laid down in either regulations of the European Parliament and of the Council, Commission regulations or directives of the European Parliament and of the Council. Depending on the type of text, the influence on the implementation of the provisions can be either direct (in the case of regulations) or indirect (in the case of directives), leaving some room for interpretation for the Member States in the way they enact the EU provisions.

The Member States' responsibility, with regard to the above EU instruments, as regards food waste, is therefore to use the funds and to enact the EU provisions in such a way as to favour food waste prevention and donation.

1 For the purpose of this report, and while accepting that this is a simplification of the many different levels that exist, we have classified the sectors of the food supply chain into four groups (producers, processors, retailers and consumers).

## Main political statements regarding food waste since 2009

2009	<ul style="list-style-type: none"> <li>• <b>Former Danish Commissioner Madame Fischer Boel<sup>1</sup></b> 'It makes no sense to throw perfectly good products away, just because they are the 'wrong' size and shape.'</li> </ul>
2010	<ul style="list-style-type: none"> <li>• <b>Joint declaration against food waste<sup>2</sup></b> 'In adopting this declaration we intend to make explicit our commitment at national, regional and global levels to <b>reduce by 50 % the amount of food waste</b> throughout the food chain. (. . .) Steps should urgently be taken to identify what actions should be embraced to make such an objective a realistic goal to be achieved <b>by 2025</b>.'</li> </ul>
2011	<ul style="list-style-type: none"> <li>• <b>European Parliament: Report on how to avoid food wastage: strategies for a more efficient food chain in the EU<sup>3</sup></b> 'asks the Commission, furthermore, to take practical measures towards halving food waste by 2025 and at the same time preventing the generation of bio-waste'</li> </ul>
2012	<ul style="list-style-type: none"> <li>• <b>European Parliament resolution of 19 January 2012 on how to avoid food wastage: strategies for a more efficient food chain in the EU<sup>4</sup></b> 'Asks the Commission, furthermore, to take practical measures towards <b>halving food waste by 2025</b> and at the same time preventing the generation of bio-waste' 'Urges the Council and the Commission to <b>designate 2014 the European Year against Food Waste</b>'</li> </ul>
2013	<ul style="list-style-type: none"> <li>• <b>European Parliament and Council: Decision No 1386/2013/EU on a General Union Environment Action Programme to 2020 'Living well, within the limits of our planet'<sup>5</sup></b> 'The Rio + 20 outcome recognised the need to significantly reduce post-harvest and other food losses and waste throughout the food supply chain. The <b>Commission should present a comprehensive strategy</b> to combat unnecessary food waste and work with Member States in the fight against excessive food waste generation.'</li> </ul>
2015	<ul style="list-style-type: none"> <li>• <b>13 Members of the European Parliament: Written declaration on food wastage<sup>6</sup></b> The Commission is also called upon to <b>designate 2016 as the European Year against food wastage</b>.</li> <li>• <b>European Parliament resolution of 30 April 2015 on Milano Expo 2015: Feeding the Planet, Energy for Life<sup>7</sup></b> 'Calls on the Commission to fight against food waste with <b>ambitious, clearly defined, binding targets</b> to encourage the Member States to take action against food waste at every level of the food supply chain, from field to fork' 'Encourages the Member States to educate citizens, promote and disseminate best practices, conduct analyses and initiate social and educational campaigns in schools on food waste and on the importance of a healthy, balanced diet, giving priority to local farm produce, <b>designating 2016 as the European Year against Food Waste</b>.'</li> <li>• <b>G20 Agriculture Ministers Meeting — Istanbul, 7-8 May 2015, Final Communiqué<sup>8</sup></b> 'We note with great concern the significant extent of food loss and waste throughout food value chains and their negative consequences for food security, nutrition, use of natural resources and the environment. We highlight this as a global problem of enormous economic, environmental and societal significance and encourage all G20 members to strengthen their efforts to address it. We believe the <b>reduction of food loss and waste is a good objective for G20 collective action</b> and that the G20 can provide global leadership in this regard. We recall the CFS's Policy Recommendations on Food Loss and Waste. In the context of policy coherence, we encourage the DWG to continue its efforts to develop actions to reduce food loss and waste as part of its Implementation Plan for the G20 FSN Framework.'</li> <li>• <b>European Parliament resolution of 9 July 2015 on resource efficiency: moving towards a circular economy<sup>9</sup></b> 'Calls on the Commission to propose, by the end of 2015, targets, measures and instruments to efficiently tackle food waste, including setting a <b>binding food waste reduction target of at least 30 % by 2025 in the manufacturing, retail/distribution, food service/hospitality sectors and the household sector</b>' 'calls on the Commission, <b>when conducting an impact assessment on new relevant legislative proposals, to evaluate their potential impact on food waste</b>'</li> <li>• <b>European Committee of the regions: Resolution on Sustainable Food<sup>10</sup></b> 'reiterates its request to the European Commission to promote reduction of food waste and to re-table a proposal for a <b>food waste reduction objective of at least 30 % by 2025</b>, based on its withdrawn proposal from 2014 amending the waste framework directive to promote a circular economy (. . .); in this context, <b>supports the European Parliament's call for 2016 to be dedicated to the European Year against Food Waste</b>'</li> <li>• <b>United Nations: Resolution adopted by the General Assembly on 25 September 2015 70/1. Transforming our world: the 2030 Agenda for Sustainable Development<sup>11</sup></b> '12.3 <b>By 2030, halve per capita global food waste at the retail and consumer levels and reduce food losses along production and supply chains, including post-harvest losses</b>'</li> </ul>

2016	<ul style="list-style-type: none"> <li>• <b>European Parliament Draft Report on the proposal for a directive of the European Parliament and of the Council amending Directive 2008/98/EC on waste. Committee on the Environment, Public Health and Food Safety, 24 May 2016<sup>12</sup></b> ‘Definitions of (...), food waste and decontamination need to be included in Directive 2008/98/EC so that the scope of these concepts is clarified. (...) The Commission should present <b>guidelines for food for donation</b> including on fiscal and technical aspects. (...) Member States shall monitor and assess the implementation of their food waste prevention measures by measuring the levels of food waste on the basis of a common methodology. By 31 December 2017, the Commission shall adopt a delegated act in accordance with Article 38a to establish the <b>methodology</b>, including minimum quality requirements, for the uniform measurement of the levels of food waste. (...) ‘Member States shall establish, in accordance with Articles 1 and 4, waste prevention programmes aimed to achieve, at least, the following objectives: (...) a <b>50 % reduction of food waste generation by 2030;</b>’</li> <li>• <b>Council of the European Union. Food losses and food waste — Council conclusions (28 June 2016)</b> These Council conclusions develop in more detail the Council conclusions on the EU action plan for the circular economy (20 June 2016)</li> </ul>
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- 1 [http://europa.eu/rapid/press-release\\_IP-09-1059\\_en.htm](http://europa.eu/rapid/press-release_IP-09-1059_en.htm)
- 2 Joint declaration against food waste: signed by academics and researchers from universities in different countries around the world, Members of the EP, politicians and representatives of international organisations and civil society, [http://www.lastminutemarket.it/media\\_news/wp-content/uploads/2010/12/JOINT-DECLARATION-FINAL-english.pdf](http://www.lastminutemarket.it/media_news/wp-content/uploads/2010/12/JOINT-DECLARATION-FINAL-english.pdf)
- 3 European Parliament: Report on how to avoid food wastage: strategies for a more efficient food chain in the EU (2011/2175(INI)), <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A7-2011-0430+0+DOC+XML+V0//EN>
- 4 European Parliament resolution of 19 January 2012 on how to avoid food wastage: strategies for a more efficient food chain in the EU (2011/2175(INI)) (2013/C 227 E/05), <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2012-0014+0+DOC+XML+V0//EN>
- 5 European Parliament and Council: Decision No 1386/2013/EU on a General Union Environment Action Programme to 2020 ‘Living well, within the limits of our planet’.
- 6 13 Members of the European Parliament: Written declaration on food wastage, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+WDECL+P8-DCL-2015-0001+0+DOC+WORD+V0//EN>
- 7 European Parliament resolution of 30 April 2015 on Milano Expo 2015: Feeding the Planet, Energy for Life (2015/2574(RSP)), <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0184+0+DOC+XML+V0//EN>
- 8 G20 Agriculture Ministers Meeting — Istanbul, 7-8 May 2015, Final Communiqué.
- 9 European Parliament resolution of 9 July 2015 on resource efficiency: moving towards a circular economy (2014/2208(INI)), <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0266+0+DOC+XML+V0//EN>
- 10 European Committee of the regions: Resolution on Sustainable Food.
- 11 United Nations: Resolution adopted by the General Assembly on 25 September 2015 70/1. Transforming our world: the 2030 Agenda for Sustainable Development, [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/RES/70/1&Lang=E](http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E)
- 12 Draft Report on the proposal for a directive of the European Parliament and of the Council amending Directive 2008/98/EC on waste (COM(2015) 0595 – C8-0382/2015 – 2015/0275(COD)). Committee on the Environment, Public Health and Food Safety. 2015/0275(COD).

## Executive summary

I  
The Commission fully recognises that food waste is a global problem and is taking action to prevent food waste and optimise resource use all along the food value chain. In 2015, as part of the Circular Economy Package, the Commission reconfirmed the EU's commitment to the food waste reduction target laid down in the global 2030 Sustainable Development Agenda.

III  
The new Circular Economy Package adopted by the Commission in 2015 recognises food waste prevention as a priority area and proposes to tackle it in a multifaceted action plan developed in a collegial manner by all directorates-general.

III  
(i)  
The Commission considers that it has not decreased its level of ambition over time but rather ensured that provisions related to food waste are clear, implementable and coherent with the EU regulatory framework. Commission policy documents have therefore evolved from 'vision' statements to more concrete proposals needed to support implementation of food waste prevention programmes by all actors. In doing so, the Commission has benefited from the extensive dialogue on possible initiatives with a wide range of stakeholders since 2012.

The Commission considers that no new common definition on 'food waste' is needed as the definitions of 'food' and 'waste' are already well established in the EU regulatory framework.

The EU launched work on a methodology on the measurement of food waste to ensure that national waste prevention programmes and target setting are based on solid evidence.

(ii)  
Food waste prevention requires action throughout the food value chain and strengthened inter-sector cooperation. Food waste prevention and optimisation of resource use may contribute to innovative models for producing, marketing, distributing and consuming food.

The Commission has sought to support stakeholder efforts through the action plan proposed in the Circular Economy Action Plan. Notably, the new EU Platform on Food Losses and Food Waste (FLW) aims to support all actors in defining measures needed to prevent food waste; sharing best practice; and evaluating progress made over time.



## Reply of the Commission

### (iii)

The Commission acknowledges that various provisions with relevance for food donation (for example, food hygiene, food information to consumers) are being interpreted in different manners across the EU. As a consequence food donation is not used to its full potential. As specified in the Communication on Circular Economy<sup>1</sup>, the Commission will take steps to facilitate the common understanding of the EU legal provisions relevant for food donation. This includes a commitment to develop EU food donation guidelines for food donors and food banks on how to comply with relevant EU legislation in the current regulatory framework (for example, food safety, food hygiene, traceability, liability, etc.).

### IV (i)

A specific action plan to support EU efforts to prevent and reduce food waste has been adopted as part of the Circular Economy Action Plan of 2015. This multi-year action plan will guide the efforts of the Commission, Member States and actors in the food value chain to reach the Sustainable Development Goals target. The EU Platform on Food Losses and Food Waste will support all actors — inter alia — in defining measures needed to prevent food waste.

### IV (ii)

The Commission considers that food waste could be an additional element to be analysed in future impact assessments of relevant EU policies.

### (iii)

The Commission is currently taking actions to clarify the EU legal provisions facilitating food donation (see Commission reply to paragraph III(iii)).

The Commission has proposed several amendments to the FEAD regulation as part of the proposal for revision of the financial regulation, adopted on 14/09/2016. One of these amendments, if approved, will offer the possibility for Member States to use simplified cost options when financing food donations. This is a measure aiming to facilitate the use of food donations under the FEAD.

The CFP does not provide for donations of withdrawn fish, Member States may however encourage and support the development of structures that enable the donation of fish that cannot be placed on the market for direct human consumption. Donation may also be facilitated through the storage aid supported by the EMFF: this mechanism aims at offsetting costs incurred for the stabilisation and storage of products that cannot be sold above a certain price. After the storage period, fisheries producer organisations (POs), when reintroducing the products for direct human consumption, may make them available on the market for free. After the expiration of the mechanism in 2019, POs are allowed to organise a similar mechanism on their own funds.

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1 COM (2015) 614 final

## Introduction

### 01

While there is high uncertainty regarding data on food waste in the EU, the amount of food produced in the EU which is wasted appears to be lower than the global estimate. The EU-funded research project 'Food Use for Social Innovation by Optimising Waste Prevention Strategies' (Fusions) estimates that around 20 % of food produced in the EU is wasted, with food waste mostly concentrated around consumption<sup>2</sup>.

### 02

The Commission considers that in order to prevent food waste, it is necessary to describe what material constitutes food waste, at each stage of the food supply chain, i.e. production, distribution and consumption. To this end, the Commission will elaborate a methodology<sup>3</sup> which will illustrate, in the light of EU definitions of 'food' and 'waste'<sup>4</sup>, what material at each stage of the food supply chain is regarded as food waste and what is not, in particular, in view of the exemptions defined in the waste framework directive (2008), Articles 2 and 5 (for example, a production by-product or food used on farm or for the production of bio-energy are not considered as waste). A legal base for monitoring, measurement and reporting on food waste levels is part of the Commission's proposal<sup>5</sup> for revising the waste framework directive (2008).

The methodology will provide detailed rules on how food waste should be quantified; the food supply chain sectors concerned; and the type of data to be collected and reported for the purposes of meeting the monitoring and reporting obligations laid down in the proposal amending the waste framework directive. Given the above, the Commission considers that there would be no added value in proposing a specific and unique definition of 'food waste'.

### 03

The definitional framework proposed by Fusions was a first step in elaborating a manual designed to support Member States in developing coherent methods for acquiring national food waste data covering all sectors of the food value chain. The comprehensive food waste quantification manual elaborated by Fusions was designed to be a functional tool based on the research project's own definitional framework which, while overlapping with the EU regulatory framework (for 'waste' and 'food') is not always consistent with the definitions therein. In particular, the Fusions definition includes more agricultural material than that which may be considered as waste under the EU regulatory framework (see paragraph 2).

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2 Estimates of European food waste levels, Fusions, March 2016 (<http://www.eu-fusions.org/phocadownload/Publications/Estimates%20of%20European%20food%20waste%20levels.pdf>).

3 The Commission's planned approach to elaborating a methodology to measure food waste at each stage of the food supply chain was discussed at a meeting with Member State experts on 22 June 2016 ([http://ec.europa.eu/food/safety/docs/fw\\_eu-actions\\_ms\\_20160622\\_p06.pdf](http://ec.europa.eu/food/safety/docs/fw_eu-actions_ms_20160622_p06.pdf)).

4 In EU law, food is defined in Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety. Waste is defined under Directive 2008/98/EC.

5 COM(2015)595 final: Commission's proposal to amend Directive 2008/98/EC on waste.

## Reply of the Commission

### 05

The Commission considers that the waste hierarchy defined in the waste framework directive fully applies to food waste. The Commission does not consider it necessary to lay down a specific food waste hierarchy in the EU waste legislation.

### 07

EU data on food waste are to date insufficient. The waste legislation proposal seeks to address this gap as 'what is not measured cannot be managed'.

### 15

Dialogue at EU and international levels to optimise food waste prevention and reduction efforts will be continued and intensified as the key actors at international levels (Food and Agriculture Organisation, United Nations Environment Programme) are invited to participate in the EU Platform on Food Losses and Food Waste.

Food waste prevention requires integrated action plans bringing together all actors in the food value chain as well as public entities<sup>6</sup>. Both legislative and non-legislative measures are needed; this approach to food waste prevention is reflected in the action plan to promote Circular Economy.

The fight against food waste is not among the objectives of the CAP as defined in Article 39 of TFEU. The current CAP provides a wide range of measures for prevention and reduction of food losses and food waste in primary production and processing. For the stages in the food chain beyond this level, the CAP has no legal basis to act.

## Observations

### 26

Already in 2011, the Commission issued guidelines on food waste prevention<sup>7</sup> and the European Environment Agency has organised specific waste prevention webinars to facilitate information and knowledge exchange between Member States since 2012, including with specific sessions on food waste (e.g. October 2013 webinar).

Since 2012, the Commission has engaged and worked actively with all actors to identify where food waste occurs in the food chain, where barriers to food waste prevention have been encountered and areas where actions are needed at EU level. This resulted in the elaboration of an integrated action plan to tackle food waste adopted by the Commission as part of the Circular Economy Package in 2015.

### Common reply to paragraphs 26 and the title before paragraph 27

The Commission considers that it has not decreased its level of ambition over time but rather ensured that provisions related to food waste are clear, implementable and coherent with the EU regulatory framework. Commission policy documents have therefore evolved from 'vision' statements to more concrete proposals needed to support implementation of food waste prevention programmes by all actors across the whole food value chain. First and foremost, the commitment of the EU Member States to food waste prevention, including setting national targets and defining indicators to assess progress made over time, is critical to achieving the ambitions laid down in the Circular Economy Package.

<sup>6</sup> Committee on World Food Security (2014), Policy recommendations. Food Losses and Waste in the Context of Sustainable Food Systems (<http://www.fao.org/3/a-av037e.pdf>)

<sup>7</sup> [http://ec.europa.eu/environment/waste/prevention/pdf/prevention\\_guidelines.pdf](http://ec.europa.eu/environment/waste/prevention/pdf/prevention_guidelines.pdf)

### Common reply to first and second indent of paragraph 27

In line with the Political Guidelines translated in its Work Programme for 2015, the Commission has applied the principle of political discontinuity across all pending proposals on the grounds of coherence with these priorities. This applied also to the Communication on Sustainable Food Systems. Work undertaken on food waste prevention including a public consultation<sup>8</sup> carried out in the context of the preparation of the Communication on Sustainable Food Systems, helped to inform the action plan on food waste prevention put forward as part of the Circular Economy Package. Thus, the Commission considers that separate publication of the Communication would at this stage provide only limited added value.

28. The Commission considers that its level of ambition with respect to food waste has been maintained and tools put forward to achieve results and monitor progress have been sharpened. The Commission's waste legislation proposal requires the Member States to assess progress through measurement of food waste and use of indicators and targets to monitor food waste. An EU baseline can only be established once Member States have collected sufficient data in a consistent manner. Furthermore, the EU Platform on Food Losses and Food Waste, which will convene for the first time in November 2016, will facilitate progress of all actors.

On the issues of food waste definition and baseline, see also the Commission's reply to paragraph 2.

### Box 1 — Why is a 'baseline' important?

The identification of a baseline cannot be dissociated from work on developing tools for measuring food waste levels, definition of indicators and targets, and monitoring food waste prevention measures at national level. The data on food waste gathered in accordance with the EU common methodology will be instrumental in defining a common baseline for the purposes of setting targets on food waste prevention.

The issue will be further considered with Member States: in the framework of any reporting obligations put forward by the United Nations related to the Sustainable Development Goals; during discussions on the waste legislation proposal related to reporting and monitoring obligations; in elaborating a common food waste measurement methodology; and in the EU Platform on Food Losses and Food Waste. These processes will take account of existing measures and practices in the Member States, in particular, national baselines and measurement methods for the purpose of national indicators and targets.

### 29

See Commission reply to paragraphs 26 and 32.

### 30

In order to be effective, food waste prevention requires action at all levels (global, EU, national, regional and local) and engagement of all key players. All actors agree with the need to prevent food waste and most have been taking action.

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<sup>8</sup> [http://ec.europa.eu/environment/archives/eussd/pdf/food\\_results.pdf](http://ec.europa.eu/environment/archives/eussd/pdf/food_results.pdf)

## Reply of the Commission

The Commission has engaged with a wide range of stakeholders in order to identify those issues needing to be addressed at EU level in support of their work on the ground. The approach followed was inclusive as Commission sought to engage both with private actors and public entities. Given the multifaceted nature of food waste prevention, the topic was addressed not only in expert groups dedicated to the issue but also by other fora with broader remit<sup>9</sup>.

The stakeholder group convened by the Commission as of 2012 has addressed a wide number of topics related to food waste prevention (for example, food redistribution, date marking, safe use of former foodstuffs in animal feed, food waste measurement, etc.) and provided clarification as to where barriers to food waste prevention have been encountered by actors concerned. Input from this group has therefore helped to guide and focus the definition of an EU action plan to fight food waste. This group has also contributed to the sharing of good practice, helping to inform the repository published on the Commission's website.<sup>10</sup>

### 31

The specific role of the Member State expert group is to provide advice and expertise, both to the Commission and to Member States, in view of preparing possible policy initiatives and improve the coherent implementation of EU legislation, programmes and policies with respect to food waste prevention.

At this stage, the Commission does not consider that the new EU Platform on Food Losses and Food Waste (bringing together both public and private entities) would necessarily replace the Member State expert group. This issue will be reassessed by the Commission once the Platform is established, related working processes defined and the commitment of all parties have been clarified.

### 32

While expert groups can help to mobilise, facilitate and optimise change, momentum for food waste prevention is not solely dependent on the number of meetings held. It is important for the Commission to ensure that actions taken at EU level provide real added value and focus on key deliverables. The meeting participants did not change as such, but rather the need for the Commission to engage both with stakeholders and Member States. A joint meeting was held for instance on 22 June 2016 in order to discuss a working document to prepare EU guidelines on food donation. The new EU Platform on Food Losses and Food Waste will bring together all relevant actors (from public and private entities) in order to strengthen cooperation of all players and facilitate elaboration of integrated programmes and solutions to fight food waste.

<sup>9</sup> In 2010-2014, the High Level Forum for a Better Functioning Food Supply Chain discussed ways to improve the sustainability of the food system including food waste prevention ([https://ec.europa.eu/growth/sectors/food/competitiveness/supply-chain-forum\\_en](https://ec.europa.eu/growth/sectors/food/competitiveness/supply-chain-forum_en)). The European Food Sustainable Consumption and Production Round Table, an initiative co-chaired by the Commission and food supply chain partners also considers food waste in its work to assess the environmental footprint of the European food supply chain (<http://www.food-scp.eu/>). The Retail Forum was set up by the Commission in 2009 together with representatives of EuroCommerce and the European Retail Round Table, in order to exchange best practices and take action to strengthen sustainability in the European Retail sector including food waste prevention ([http://ec.europa.eu/environment/industry/retail/index\\_en.htm](http://ec.europa.eu/environment/industry/retail/index_en.htm)). The European Environment Agency and the Commission have organised workshops with Member States to exchange experiences and disseminate best practices on waste prevention including food waste. The FP7 project Fusions, bringing together 21 project partners **from 13 countries**, established an inventory of social innovations to prevent food waste and related pilot projects (<http://www.eu-fusions.org/index.php/social-innovations>) and facilitated multi-stakeholder engagement (government, industry, NGOs at local, regional, national and EU levels) from 2012-2016. The Horizon 2020 project REFRESH (<http://eu-refresh.org/about-refresh>) will support the EU's progress towards Sustainable Development Goal food waste reduction target by establishing 'Frameworks of Action' on food waste which will be developed and tested, in Germany, Hungary, Spain and the Netherlands together with partners from business, civil society, and governments.

<sup>10</sup> [http://ec.europa.eu/food/safety/food\\_waste/good\\_practices/index\\_en.htm](http://ec.europa.eu/food/safety/food_waste/good_practices/index_en.htm)

The Commission's decision to centralise food waste in one directorate-general (DG Health and Food Safety) — implemented as part of the organisation of the new Commission in 2014 — has helped to streamline work through clear accountability and ensure that food waste prevention is always considered in the light of food and feed safety. Continuity of the actions has been ensured, and the relevant expertise and consistent approach maintained at all times.

### **Box 4 — No real signs of progress by the Working Group and by the Expert Group Reply to the first indent on EU food donation guidelines**

To develop guidelines, in a complex area such as this, where evidence needs to be gathered to help inform policy in multiple areas as well as actual practices in market, it is necessary to consult widely. The Commission will submit draft guidelines to the new EU Platform on Food Losses and Food Waste at its first meeting in November 2016 in view of the adoption of final guidance by the Commission by end 2017.

### **Reply to the second indent**

The fact that EU rules do not prohibit marketing of foods past the 'best before' date has been reiterated at several expert meetings. The Commission will also address this issue in the context of its work on EU guidelines to facilitate food donation.

### **Reply to the third indent: Date marking**

The Commission has launched a study to investigate how food business operators and control authorities understand and utilise date marking and possible impact of practices on food waste. Findings from this research, which a contractor has started working on in September 2016, are expected by end 2017 and will support future policy making in relation to date marking and food waste prevention. Further information on the Commission's work was published<sup>11</sup> in relation to date marking including information and communications materials developed, in all EU languages, to foster better understanding of the meaning of 'best before' and 'use by'.

### **Reply to the fourth indent**

Initial meetings held in 2012/2013 identified a wide range of areas with potential impact on food waste prevention. The actions included in the food waste prevention action plan of the Circular Economy Package are the result of consultation and prioritisation within the Commission.

Information on the activities of operational groups, projects and networking activities taking place under EIP-AGRI, the final report of the EIP Focus Group on Short Supply Chains and the recent EIP-AGRI Workshop 'Cities and Food — Connecting Consumers and Producers' is available on <http://ec.europa.eu/eip/agriculture>. Moreover, information about the ENRD work on smart supply chains, including a selection of examples and recommendation for better implementation was developed and published on the website of the ENRD. The ENRD also organised a workshop for Managing Authorities on better implementation of the cooperation measure which is the measure used to support the development of short supply chains and local markets under EAFRD. Moreover, food losses and waste are considered to be one of the priority topics in the 2017 Work Programme of EIP-AGRI.

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<sup>11</sup> [http://ec.europa.eu/food/safety/food\\_waste/eu\\_actions/date\\_marking/index\\_en.htm](http://ec.europa.eu/food/safety/food_waste/eu_actions/date_marking/index_en.htm)

## Reply of the Commission

### 34

See Commission reply to paragraph 15.

### 35

Successive policy reforms, most recently in 2013, moved away from coupled support tied directly to the production of particular products, to supporting farmers in a way that is non-market and non-trade distorting.

### 37

The Commission considers that EU support is independent of the degree of waste and that direct payments neither directly nor indirectly provide an incentive to produce agricultural products. The majority of direct payments (about 90 %) are decoupled from production and are not related to any particular production. Farmers who receive them can exercise an agricultural activity such as maintaining the agricultural land in a state suitable for grazing or cultivation without production. Perishable food is manifestly subject to a greater waste.

### Common reply to paragraphs 38 and 39

Voluntary Coupled Support may only be granted to the extent necessary to create an incentive to maintain current levels of production in the sectors or regions concerned. Since 2015, it can represent a share of 10 % of all direct payments. Increased shares of couple support reflect choices of the Member States in favour of sectors in difficulty to the extent necessary to create an incentive to maintain the production levels. The overshoot of these reference levels is strictly monitored by the Commission.

### 40

Although no EU study has been carried out specifically on the issue of potential food waste linked to direct payments, studies and evaluations on market policies routinely include analysis of production quantities.

### Common reply to paragraphs 41 and 42

The Commission considers that market intervention measures do not contribute to food waste. Products bought into public intervention or stored with the benefit of a storage aid must be stored in such a way that their quality is maintained. Without such measures, the produce would not be harvested when prices are below costs of harvesting and therefore 'wasted'.

Market measures such as public intervention or private storage can be used only as a safety net when there is a severe crisis affecting the market with the aim of avoiding supporting structural imbalance.

Crisis prevention and management measures such as market withdrawals or green- and non-harvesting are designed to prevent misuse. The level of support is such that it would be preferable for producers to sell their products on the market rather than withdrawing.

Neither free distribution nor withdrawals for other destinations are intended as an alternative outlet but a tool to help manage crisis. The quantities that may be withdrawn are limited. Withdrawal of products provides for specific use of the withdrawn products (e.g. in favour of charities or schools).

### 43

The Commission is currently preparing modalities for the possible use by Member States of intervention stocks under the most deprived scheme.

See also the Commission reply to paragraph 41.

### 44

The Commission notes that 1.8 million tonnes represents about 0.002 % of the production between 2008 and 2015 and that withdrawals of products have to comply with environmental requirements for disposal.

The Commission considers that crisis prevention and management measures do not cause food waste. For instance green harvesting has no impact on the production of food.

### 45

Public intervention does not contribute to food waste. It withdraws products with insufficient market outlets that otherwise would have risked to generate food waste. Once the market price has increased, products are released to the market for sale or distributed in alternative ways or released for use in the food for the most deprived scheme.

As regards the exceptional measures put in place to counteract the Russian ban and the urgency needed to have a real impact on the market crisis, by the very nature of the measures, an impact assessment is not needed (urgency procedure).

### 47

In their strategies for the school milk scheme, 10 Member States (Bulgaria, Estonia, Spain, Finland, Croatia, Ireland, Lithuania, Luxembourg, Malta and Romania) provide for accompanying measures. One Member State's strategy for school year 2016-2017 (Croatia) contains a reference to educational activity which contributes towards prevention of food waste.

### 49

Other measures such as investments in physical assets which aim to improve the efficiency of processing of agricultural products or to use more efficient machinery contribute to reduction of food waste in the EU.

Common reply to paragraph 50 and 51.

Combating food waste is not a specific objective of rural development policy, therefore Member States were not required to specifically include it in their strategies. However, Member States had a possibility to address the issue of food waste in their strategies and programmes through several measures such as knowledge transfer, information activities, investments in physical assets, animal welfare and cooperation.



## Reply of the Commission

### 56

The Commission shares the Court's observations that more reliable data is needed to effectively monitor the implementation of the landing obligation.

### Reply to the second indent

Although there is no explicit provision in the control regulation to report on discards, the Commission has engaged in a process of collecting discards data for monitoring the implementation of the landing obligation. It can also collect discards data for scientific purposes through the Data Collection Framework.

### Reply to the third indent

Accurate and illustrative data on the percentage of discards is scarce primarily related to the fact that the revision of the implementing rules on logbook declarations detailing and differentiating discards by type (below minimum conservation reference size, prohibited species or other) could only be adopted in October 2015, following the agreement on the Omnibus Regulation in May 2015. The transition to incorporate new requirements of logbook declarations in the day-to-day operations of the industry as well as the changes required by control authorities take time. In the meantime, the Commission and administrations are relying on estimates of catches reported as discarded, provided through data on effort management and the Data Collection Framework.

### 63

The regulation on food hygiene<sup>12</sup> encourages the development of guides to good hygiene practice. Either these are EU guides evaluated and endorsed by the Standing Committee on Plants, Animals, Food and Feed, or they are national guides assessed by national authorities (see paragraph 64 on the latter ones).

As laid down in the regulation, the initiative of developing an EU guide must come from stakeholder organisations. The Commission encourages these organisations at each occasion on this tool for the implementation of hygiene requirements and offers translation in all languages for free. Guidelines have been published on how to prepare such guides<sup>13</sup> and the Commission so far has never refused the assessment of submitted drafts. The Commission took the initiatives to develop certain guides itself. Specifically with regard to the reduction of food waste, the Standing Committee has recently reviewed the EU food donations guidelines 'Every Meal Matters', with final endorsement pending.

### 64

While the responsibility for development and update of national guides lies at national level, the Commission is responsible for running a registration system and making it available to Member States.

In the summer of 2016, a new electronic format and register was introduced. It also makes the search for certain topics easier amongst the over 700 national guides published in the register.<sup>14</sup>

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12 Regulation (EC) No 853/2004

13 [http://ec.europa.eu/food/safety/docs/biosafety\\_fh\\_legis\\_guidelines\\_good\\_practice\\_en.pdf](http://ec.europa.eu/food/safety/docs/biosafety_fh_legis_guidelines_good_practice_en.pdf)

14 See at: <https://webgate.ec.europa.eu/dyna/hygienelegislation>

### Common reply to paragraphs 65 and 66

The size of a batch must be defined by the food business operator. It depends on the operator's production system, e.g. in which amount of food produced the hazard can be found and depends on the possibility to clean and disinfect between production batches, how large recipients are (and how often they become empty), possibility for internal traceability, etc. It can only be justified that smaller batches of food are recalled if it can be demonstrated that the production of such a batch was separate from other batches and no cross-contamination was possible. Furthermore, it would need to be assessed more in detail whether smaller lots would actually contribute to a strategy aiming at reducing food waste during production.

In the light of the overall high level of food safety in the EU, recalls and withdrawals constitute only a very limited proportion of food waste generated.

### 67

Date marking is under the responsibility of food business operators who determine whether a product will require a 'use by' or a 'best before' date as well as the length of shelf-life taking into account safety, quality and marketing considerations. Some foods are exempt from the obligation of 'best before' labelling such as fresh fruit and non-perishable foods such as salt, sugar, vinegar. The only category of food for which date marking is prescribed by EU legislation is table eggs<sup>15</sup>.

### 68

The Commission is actively exploring ways to improve the use and understanding of date marking by all actors in the food supply chain as well as control authorities<sup>16</sup> (see reply to paragraph 32 regarding ongoing study launched by the Commission).

### 70

The Commission acknowledges that various provisions with relevance for food donation (for example, food hygiene, food information to consumers) are being interpreted in different manners across the EU. As a consequence food donation is not used to its full potential. As specified in the Communication on Circular Economy<sup>17</sup>, the Commission will take steps to facilitate the common understanding of the EU legal provisions relevant for food donation. This includes a commitment to develop EU food donation guidelines for food donors and food banks on how to comply with relevant EU legislation in the current regulatory framework (for example, food safety, food hygiene, traceability, liability, etc.).

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<sup>15</sup> The 'best before' date is applicable to eggs marketed as class 'A/Fresh' (table eggs) and is laid down in the Regulation (EC) No 589/2005 (Article 2) on the marketing of eggs. A 'sell by' date is furthermore established at 21 days in Regulation (EC) No 853/2004 laying down specific hygiene rules for food of animal origin (point 3 of Chapter 1 of Section X, Annex III).

<sup>16</sup> [http://ec.europa.eu/food/safety/food\\_waste/eu\\_actions/date\\_marking/index\\_en.htm](http://ec.europa.eu/food/safety/food_waste/eu_actions/date_marking/index_en.htm)

<sup>17</sup> COM (2015) 614 final

## Reply of the Commission

### 71

Food donation is a form of waste prevention measure. This has been reflected also in DG Environment's guidelines on food waste prevention<sup>18</sup>. Food may be made available to end users either through commercial distribution channels or redistribution organisations (i.e. food banks and/or charity organisations). Food donation is hence part of the food supply chain and it can also help to prevent food waste.

Monitoring of food redistribution as part of food waste prevention will be further discussed in the EU Platform on Food Losses and Food Waste.

### 72

EU legislation contains a number of references to activities which are either exempt or subject to less burdensome requirements. However, the interpretation of these provisions, e.g. in the areas of hygiene and food labelling, differs across the EU. Therefore, the Commission will further clarify obligations of food business operators and food banks and/or charities when handling donated food in elaborating EU guidelines to facilitate food donation (see the Commission reply to paragraphs III(iii) and 32).

Food donation is a complex subject, involving multiple and diverse players, with practices evolving over time based on needs of both donors (farmers, food manufacturers, retailers, etc.) and receivers (food banks, charity organisations and end users). To facilitate these practices, EU guidelines must take into account all these elements and ensure that safe practices are implemented and can be checked by regulatory authorities (see also Commission replies to paragraph 32 and box 4).

### 73

The application of VAT rules to food donation is one of the issues to be addressed by the Commission when elaborating EU guidelines to facilitate food donation (see paragraphs III(iii) and 32).

### Box 11 — Application of VAT on food donated

The Commission considers that the value on which the VAT is calculated may be low or close to zero if donation takes place close to the 'best before' date or if the goods are not fit for sale. Where the food genuinely has no value, it may even be zero.

### 74

The new CFP does not provide for donations of withdrawn fish however Member States may encourage and support the development of structures that enable the donation of fish that cannot be placed on the market for direct human consumption.

Donation may also be facilitated through the storage mechanism supported by the EMFF. This mechanism contributes to offsetting costs incurred for the stabilisation and storage of products that could not be sold above a certain price. After the storage period, Fisheries Producer Organisations (POs) when reintroducing the products for direct human consumption may make them available on the market for free. The mechanism expires from 2019, but POs are allowed to organise a similar mechanism on their own funds.

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18 [http://ec.europa.eu/environment/waste/prevention/pdf/prevention\\_guidelines.pdf](http://ec.europa.eu/environment/waste/prevention/pdf/prevention_guidelines.pdf)

### 76

The procedures to facilitate the use of intervention stocks for the benefit of the most deprived have not yet been inserted in the relevant implementing act and discussions with Member States are ongoing. It should be also noted that there were no intervention stocks in 2014. Intervention buying in of skimmed milk powder (SMP) started in 2015 and continued in 2016 in response to declining prices in the milk sector. The dairy markets have not recovered yet, therefore, in accordance with Article 16(1)(a) of the single CMO regulation, market conditions would not yet allow release of intervention stocks. At this stage there are no other products in intervention than SMP.

### 78

The primary concern of the Commission during the programming of FEAD resources has been to ensure that FEAD programmes are in line with the objectives of the FEAD as stated above. Member States have had the possibility to choose between the different options provided by the FEAD regulation and tailor the support in view of the needs of the most deprived persons.

### Common reply to indent one and two

Article 9 of the FEAD regulation sets out a procedure to amend operational programmes. In view of the end date of eligibility of expenditure under the FEAD (31 December 2023), the current texts of programmes do not preclude the possibility of modifying them in the future.

However, even if the possibility to facilitate food donation in the programme is not explicitly included, this does not mean that there is no donated food in the Member State. For example, the Finnish OP focuses on purchased food, but on the ground the partner organisations also distribute donated food that is generally fresh food.

### 79

The quality of the data is the responsibility of the Member States.

The Commission conducts audit missions on a regular basis to ensure the correct implementation of the policy and to recover funds unduly spent. The Commission also conducts quality checks of the annual reports to avoid inconsistencies. Only operations implemented and controlled are paid for.

The Commission also notes that producer organisations may give products for free distribution without asking for EU support.

### 80

Safeguards are necessary to ensure that the crisis prevention and management measures achieve their aim and that EU funds are spent properly.

The legislation provides for higher support for free distribution than for withdrawals for other purposes. The priority is clearly given to provide help through charities and other institutions approved by Member States.

## Reply of the Commission

### Conclusions and recommendations

#### 81

The Commission fully recognises the need to take action to prevent food waste and optimise resource use all along the food value chain. In 2015, as part of the Circular Economy Package, the Commission reconfirmed the EU's commitment to the food waste reduction target laid down in the global 2030 Sustainable Development Agenda.

#### 83

Food waste prevention is highlighted as a priority area in the 2015 Circular Economy Package. An integrated action plan, including both legislative and non-legislative initiatives, has been put forward to tackle food waste in the EU. The new EU Platform on Food Losses and Food Waste (FLW) brings together public entities and actors in the food value chain, including consumer- and other non-governmental organisations. It will support all actors in taking measures to progress towards the Sustainable Development Goals food waste reduction target and sharing best practices. The Platform on FLW is expected to identify new initiatives and opportunities to address food waste prevention at EU level.

#### 84

The Commission considers that its ambitions have not decreased over time. In 2015, the Commission adopted the Circular Economy Package which recognises food waste prevention as a priority area and proposes to tackle it in a multifaceted action plan developed in a collegial manner by all services of the Commission. It strengthens the integration of food waste measures not only in waste prevention policy but also in the waste prevention programmes put in place by Member States. The Commission has sought to ensure that the provisions related to food waste are clear, implementable and coherent with the EU regulatory framework.

The Commission's proposal requires Member States to reduce food waste at each stage of the food supply chain, monitor food waste levels and report back on progress made in preventing food waste. The implementation of food waste monitoring programmes in the EU Member States, supported by harmonised measurement methodology, will provide the evidence base needed to establish effective national food waste prevention measures and setting of food waste reduction targets.

#### Recommendation 1

The Commission accepts recommendation 1 in regard to its own role in supporting efforts in the EU Member States.

Several actions are already ongoing. Involvement of international organisations (Food and Agriculture Organisation, United Nations Environment programme) in the EU Platform on Food Losses and Food Waste will help facilitate cooperation and coordination of efforts at national, EU and global levels.

The Commission is already implementing initiatives to fight food waste as part of the 2015 Circular Economy Action Plan. The Commission is already elaborating a methodology which will illustrate what constitutes food waste at each stage of the food value chain on the basis of the existing legal framework. This methodology will support consistent measurement of food waste levels needed to assess the impact of measures taken.

### 86

The Commission agrees that food waste prevention requires action throughout the food value chain and strengthened inter-sector cooperation. Food waste prevention and optimisation of resource use may contribute to innovative models for producing, marketing, distributing and consuming food.

The Commission has sought to support stakeholder efforts through the action plan proposed in the Circular Economy Action Plan. Notably, the new EU Platform on Food Losses and Food Waste (FLW) aims to support all actors in defining measures needed to prevent food waste; sharing best practice; and evaluating progress made over time.

The fight against food waste is not among the objectives of the CAP as defined in Article 39 of TFEU. The current CAP provides a wide range of measures for prevention and reduction of food waste in primary production and processing. For the stages in the food chain beyond this level, the CAP has no legal basis to act.

### Recommendation 2

#### (a)

The Commission does not accept recommendation 2(a), however it will consider food losses and food waste in its work for the preparation of the next CAP taking into account that:

- Agriculture primary production only generates limited food losses which is a fully different issue than food waste (as covered by the waste framework directive). Food waste is mainly concentrated on the rest of the food supply chain including processing, retail and consumption;
- The rural development policy provides already a set of measures which can be used for preventing and reducing food waste and food losses;
- Investments under rural development programmes already support the prevention of food waste in the processing sector (e.g. by cooperatives for improving storage capacities) and the efforts to be made in future should be proportionate to the importance of the problem which is limited.

#### (b)

The Commission accepts recommendation 2(b).

The Commission accepts the Court's recommendation that as regards the common fisheries policy, closer monitoring of the landing obligation is needed. Although the fight against food waste is not in itself an objective of the common fisheries policy which is to ensure that fishing and aquaculture are environmentally, economically and socially sustainable, the Commission agrees that the fight against food waste can be facilitated through the implementation of the existing instruments at national, regional and local level.

#### (c)

The Commission accepts recommendation 2(c). Concerning food hygiene, improved web-based access to food hygiene guides has been implemented in 2016 which further facilitates the exchange of good practices. As regards traceability, the Commission is already auditing Member States' control systems on the implementation of requirements as part of the legal framework on food safety. Concerning date marking, as indicated in the Circular Economy Action Plan, the Commission is exploring options for more effective use and understanding of date marking on food, by all actors concerned. To inform this work, the Commission has launched a new study with findings expected in 2017 (see section on 'date marking' in para 32).

## Reply of the Commission

### 87

As specified in the Communication on Circular Economy<sup>19</sup>, the Commission will take measures to clarify EU legislation in order to facilitate food donation. This includes a commitment to develop EU food donation guidelines for food donors and food banks on how to comply with relevant EU legislation in the current regulatory framework (e.g. food safety, food hygiene, traceability, liability, etc.).

### Recommendation 3

#### (a)

The Commission accepts and is already implementing recommendation 3(a). To promote a harmonised understanding of relevant EU legal provisions the Commission will elaborate EU guidelines in order to facilitate food donation in cooperation with Member States and stakeholders. A first draft will be reviewed by the EU Platform on Food Losses and Food Waste in November 2016 and final guidance is expected to be adopted by the Commission by end 2017.

#### (b)

The Commission does not accept recommendation 3(b) for the reason that in the framework of the reform of the CFP and of one of its pillars — the CMO — the Commission proposed to ‘distribute landed products free of charge to philanthropic or charitable purposes’. This was rejected by the Council and the Parliament.

#### (c)

The Commission accepts the recommendation 3(c). Agricultural products bought under public intervention may be disposed of by making them available for the scheme for food distribution to the most deprived in the Union if that scheme so provides.

#### (d)

The Commission accepts recommendation 3(d) and is taking steps to promote food donation.

The Commission has proposed several amendments to the FEAD regulation as part of the proposal for revision of the financial regulation, adopted on 14/09/2016. One of these amendments, if approved, will offer the possibility for Member States to use simplified cost options when financing food donations. This is a measure aiming to facilitate the use of food donations under the FEAD.

While the Commission is committed to simplifying the implementation of the FEAD, including as far as food donations are concerned, it will always focus on the achievement of the objectives of the Fund, which entail enhancing social cohesion and inclusion and contributing to alleviating the worst forms of poverty in the EU. Reducing food waste in itself is not an objective of the FEAD.

Charity withdrawals are at present a form of organised donation for ‘free’ to final recipients. The related legislation provides a higher support for free distribution (charity withdrawals) than for withdrawals for other destinations. A specific labelling is also foreseen to promote the source and the use of the EU funding. The priority allocation of market withdrawals is clearly that aid is given to the needy through charities and other institutions approved by Member States. Other uses of withdrawn products take place as alternatives to free distribution.

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<sup>19</sup> COM (2015) 614 final





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Event	Date
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Official sending of draft report to Commission (or other auditee)	16.9.2016
Adoption of the final report after the adversarial procedure	10.11.2016
Commission's (or other auditee's) official replies received in all languages	6.12.2016

Food waste is a global problem that has moved up the public and political agenda in recent years. Food is a precious commodity and its production can be very resource intensive. Estimates show that up to one third of food is wasted or lost and therefore huge environmental and economic costs are at stake.

The audit examined the role the EU plays in combating food waste, the actions taken thus far and the way in which the various EU policy instruments work to reduce food waste. It focused on the actions of prevention and donation which are those most preferred in the fight against food waste.

This report concludes that the action to date has not been sufficient and that the EU strategy on food waste has to be strengthened and better coordinated. The Commission should explore ways of using existing policies to better fight food waste and loss.



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