



Food redistribution in the EU: translation of
*Joint initiative of the Czech Confederation of
Commerce and Tourism and the Czech Food
Bank Federation*

 **Saving Food Together**

DISCLAIMER

This document constitutes an English translation of “Zásady ‘povinného darování potravin’” of Czech Republic, originally drafted, published and authenticated in Czech. For legal purposes, only the authentic Czech text of “Principles of ‘Compulsory food donation’” shall be used. Whilst every effort was made to provide accurate information, the European Commission cannot take responsibility for any errors.

Principles of “Compulsory food donation”



Česká Federace potravinových bank

Joint initiative of the Czech Confederation of Commerce and Tourism and the Czech Food Bank Federation

These principles regulate the compulsory duty to donate food, enshrined in Section 11(2) of Act No 110/1997 Sb., on food and tobacco products, as amended (hereinafter the “Act”), under retail/wholesale terms within the Czech Republic. The principles defined below, created in cooperation with representatives of food banks, are one of the tools for successfully implementing the Act in practice.

The Ministry of Agriculture has already issued a decree regarding the aforementioned Act, which provides a list of organisations that are authorised to receive foods that cannot be sold (do not comply with legal requirements), but are safe. It is recommended that operators of a food business – a trading company that markets food at premises with a retail space of over 400 m² (hereinafter the “PP P”) – conclude a Contract for the collection of the defined foods with at least one of the authorised recipients.

It is recommended that the PPP conclude a regional contract with at least one non-profit organisation (hereinafter the “NO”) with regional activities (e.g. a food bank), to which the goods will be offered, and to define the collection schedule in said contract. Whenever possible and expedient, it is recommended for shops and, where appropriate, distribution warehouses that are part of a retail chain, that contracts be concluded by the headquarters of the specific retail chain for the entire catchment group of shops active within the region covered by the specific NO. This recommended procedure will simplify the administrative burden on establishing a partnership for both the donating subject (shops and distribution warehouses) and the NO receiving the donations. An example of a possible contract between a food donor and the recipient of the donation is appended.

Safe foods, which must be donated according to the aforementioned Act, can be divided into two groups according to the degree of risk associated with their handling and subsequent consumption:

- a) **Low risk - LR**

b) Medium risk - MR (for details see the table below)

Foods classified as **High risk - HR** (ready meals, etc.) are not considered suitable for donation to NOs by shops and distribution warehouses, as is generally required by the Act and as permitted by actual practical feasibility. As a result, according to this Act, the donation of HR foods is not included as a duty in the common interpretative principles. The rules for eventual delivery of HR foods to specific subjects will therefore always be covered by individual special agreements concluded between the stakeholders, who will also determine the appropriate conditions for eliminating the potential health risks associated with the handover of such foods.

Which foods suitable for donation under Section 11 of Act No 110/1997 cannot be recommended?:

- the entire range of “High-Risk” foods, as defined below, which are classified as dangerous at the time of delivery
- foods whose primary packaging is damaged, foods with an expired use by date and any foods, including beverages, on which another clearly visible defect or sensory change was found at the time of delivery, which could influence the safety of foods, and which are not suitable for human consumption for any reason (including fresh bakery products and a range of fruit and vegetables, where over 20% has been destroyed), because these foods cannot be considered safe
- beverages with an alcohol content higher than 0.5% by volume
- foods with an expired use by date are specifically excluded from the option of donation for the purpose of human consumption according to another paragraph of the same Act.

We recommend that the NO and the trader draw up an individual agreement specifying the terms of donation and covering:

- individual “High Risk” items of food, as defined below
- foods, including beverages distributed in packaging or crates covered by a refundable deposit; this deposit may be required from the NO receiving the donation
- foods identified as the private brands of individual traders.

Safe foods where the product packaging provides **information** that is **in conflict with the legislation** may be donated from 1 January 2018 on the basis of information provided in a protocol by the supervisory body, which limits their introduction into circulation based on its inspection findings.

Food receipt process:

1. The PPP prepares food for collection and stores it bearing the label “*Intended for charity purposes – Not for sale*” under the prescribed storage (temperature) regime according to the manufacturer’s instructions provided on the foodstuff packaging. The donated food is subsequently collected:
 - a. for low-risk foods: on the contractually arranged dates and times according to the collection plan
 - b. for medium-risk foods: following an active call for collection from a specific shop or distribution centre (e.g. by email, text message - always specified in the contract)

- c. for all food categories: alternatively, on the basis of an electronic offer of food for donation on a shared internet portal (if one is established after the Act entered into force and the contracting parties agree on such a means of communication).
2. If this concerns an offer of food for donation following a call for collection by the PPP (not the regular collection of low-risk foods), the offer must be made within the timeframe set out in the table below. The NO receiving the food is then required to respond to the offer, either by written acceptance (text message, email, etc.) of the donation, which will be delivered at the time set out in the table, or written refusal (text message, E-mail, etc.) of the donation, so that the PPP knows clearly and in good time to make further arrangements to dispose of the food for donation.
 3. The communication regime can be negotiated individually with specific NOs to ensure it is mutually beneficial and factors in the need to minimise total time, labour and financial demands, while remaining compliant with legislation.
 4. The NO is required to collect the food at the time set out in the table, in compliance with the specifications for its transportation.
 5. For the “**Low-risk B**” category, collection is usually executed according to the contractually agreed collection schedule, with a fixed collection frequency. The place and time for food delivery are determined by the PPP and the NO and stipulated in the Donation Contract. Collection of **medium-risk** foods at all contractually arranged collection sites usually takes place following a call for collection, in compliance with the conditions specified below in the table.
 6. However, on the basis of individual specific agreements with the NO, **all food categories** may be collected, either following a call for collection or based on a fixed collection schedule, at the arranged central collection site (e.g. distribution warehouse), or usually at individual business premises managed by the PPP (individual shops, as defined by law).
 7. The NO checks the food at the time of receipt and returns the food to the PPP for disposal if any of the conditions for receipt have been violated.
 8. The donated goods become the property of the NO receiving the goods from the moment of receipt, upon which the NO assumes full liability for the donated goods (full legal liability in terms of quality, safety, distribution and further use of the goods).
 9. In the delivery note, the PPP shall provide the required information to the NO for the full identifiability and traceability of the product (product name, EAN code, possibly batch, quantity of goods handed over, price, reason for donation, allergen packaging - if this is different to that given on the product packaging and if this was a reason for the sale of the goods being prohibited). The delivery note is made in two copies, with one copy for the recipient (NO) together with the donated goods, and a second copy for the donor (PPP) who keeps the second copy as proof of delivery. A sample of the delivery note is appended to these principles.
 10. The NO is required to keep records of the quantity of food received as a **total sum of kilograms** (possibly in litres for liquid foods), for each individual item, and the NO is required to regularly submit this sum at the required interval and in the arranged manner to the PPP (individual shop, distribution centre, or group of shops). The minimum frequency of the reports on the quantity of foods received is once a month. The confirmation of the quantity of foods handed over to the NO is used by the providing shop, distribution centre or catchment group of shops, as a record of the handed over goods and also as a document for the Tax Office for the deduction of VAT corresponding to the quantity of food handed over.

Summary of main rights and duties of recipients of donated food (NO)

Recipients shall:

- register as an operator of a food business with a supervisory body (Czech Agriculture and Food Inspection Authority, State Veterinary Inspection, Public Health Protection Body).
- ensure that the employees receiving the food are properly trained in relevant food legislation and on the principles of handling food safely.
- ensure the physical receipt of the donated goods, handle them in accordance with the prescribed temperature conditions depending on the category of goods, and subsequently distribute the safe goods to the final consumers.
- ensure that the essential information is entered on the delivery note and provide 1 copy thereof to the PPP providing the goods. The signature of the recipient on the delivery note also confirms that the food is suitable for delivery and for subsequent consumption (adherence to temperature conditions, undamaged primary packaging, goods without serious changes to sensory properties).
- ensure that regular summaries of the received goods are sent, broken down by individual collection site as well as type and quantity of the received goods.
- ensure delivery of the received goods to the final users in compliance with the valid legislation (only safe goods in accordance with the use by date or date of minimum durability defined by the manufacturer).
- ensure that the contractual collection schedules are respected and demonstrate flexibility with the urgent collection of larger numbers of offered goods.
- provide comprehensible information according to Article 9(1)(c) of Regulation No. 1169/2011 to other parties receiving the donated foods.

The recipient is entitled to:

- refuse any offer of donated goods at any time in writing (SMS, e-mail, etc.), stating a relevant reason for this refusal.
- refuse the goods (the entire quantity or just part thereof) during the physical delivery, if there are valid reasons for doing so (expired use-by-date, damaged primary packaging, serious changes to sensory properties, etc.). Such situations must always be recorded in the delivery note.

The recipient cannot make claims against the donor regarding the quality of the donated goods after the goods have physically been received and documented. If the donor itself finds, or is informed by the manufacturer, that the quality of the goods is impaired, or the goods are not safe, it must inform the recipient immediately. The recipient may subsequently submit a claim to the manufacturer regarding these goods if it is clear that the problem originated at the manufacturer.

Summary of basic rights and duties of the food donor (PPP)

The donor shall:

- store the food under the prescribed storage conditions for the entire time the food is in the donor's logistics/sales system.
- prepare the food for delivery to the recipient in suitable non-refundable packaging (e.g. in banana boxes) and prepare it for receipt by the recipient/contractual partner.
- only deliver the food to contractual partners with a delivery note, which precisely identifies the goods being delivered, including their weight, possibly the volume of individual items, and their total sales price.
- actively monitor the lists of NOs approved for accepting donated foods, as published on the website of the Ministry of Agriculture, as well as constantly seek out the most suitable recipients of donated foods in individual regions and conclude partnership agreements with them, where possible.

- dispose of foods offered for donation to NOs, and subsequently not collected by NOs for various reasons, in compliance with the requirements of legal regulations in force (e.g. Act No. 185/2001 Sb., on wastes, Regulation No. 1069/2009 laying down health rules as regards animal by-products and derived products not intended for human consumption) with the goal of finding the best technical solution for their disposal (order of priorities: feeding, composting, biogas, storage).

By receiving goods and signing the delivery note, the recipient/contractual partner assumes all the physical and legal liability for the received goods, while all the rights and duties regarding the received goods pass on to the recipient as well.

Table 1 - Risk levels:

		Shelf life		
		Use by date	Date of minimum durability	No shelf life
Food type	DRY - no specific temperature conditions		LR	LR
	FROZEN	MR	MR	
	REFRIGERATED - packaged by the manufacturer	MR	MR	
	REFRIGERATED - packaged at the shop	HR		
	FRESH - with the exception of fresh bakery products, fruit and vegetables			MR
	Fresh bakery products, fruit and vegetables			LR
	HOT	HR		HR

Legend:

LR	Low risk
MR	Medium risk
HR	High risk

	Inapplicable
Use by date	Use by date
Date of minimum durability	Date of minimum durability

Table 2 - Risk assessment (typical examples, not an exhaustive list):

Risk		Mandatory parameters for delivery and collection (recipient responsible)	Mandatory parameters for donated food (PPP responsible)	Reasons for refusal (evaluated by recipient)
<p>High risk</p> <p>HR</p>	<ul style="list-style-type: none"> • Cooked food with multi ingredients • Cooked food with meat • Portioned dairy products and delicatessen products • Fresh bakery products with a filling • Confectionary products • Products prepared on a local grill, etc. 	<ul style="list-style-type: none"> • The duty to donate these foods in accordance with Section 11 of Act No. 110/1997 Sb. does not apply to these in general. • Individual agreement may be reached with a specific NO 	<ul style="list-style-type: none"> • Arranged in an individual agreement, if an individual contract for such food exists 	<ul style="list-style-type: none"> • Arranged in an individual agreement, if an individual contract for such food exists
<p>Medium risk</p> <p>MR A</p>	<ul style="list-style-type: none"> • Refrigerated foods packaged by the manufacturer in their original packaging: some fresh products (e.g. meat that is vacuum packed or packaged in a modified atmosphere by the manufacturer), butter, fats, eggs, fish, etc. 	<ul style="list-style-type: none"> • Collection at least 24 hours before expiry of the use by date. • Adherence to required temperature determined by the manufacturer 	<ul style="list-style-type: none"> • Notification of possibility of collection at least 48 hours before expiry of the use by date • Adherence to temperature determined by the manufacturer • Minimum total accumulated quantity of offered goods: 10 kg 	<ul style="list-style-type: none"> • Damaged primary product packaging • Changes to sensory properties - signs of contamination by mould visible to the naked eye, signs of other contamination, signs of decay, signs of spoilage • Expired use by date upon collection of food

<p>Medium risk</p> <p>MR B</p>	<ul style="list-style-type: none"> • Deep-frozen foods 	<ul style="list-style-type: none"> • Collection at least 24 hours before expiry of use by date. • Adherence to required temperature: -18°C 	<ul style="list-style-type: none"> • Notification of the possibility of collection at least 48 hours before expiry of the use by date • Adherence to required temperature: -18°C • Tightly enclosed in undamaged packaging • Minimum total accumulated quantity of offered goods: 10 kg 	<ul style="list-style-type: none"> • Damaged primary product packaging • Changes to sensory properties - signs of contamination by mould visible to the naked eye, signs of other contamination, signs of decay, signs of spoilage • Expired use by date on collection
<p>Low risk</p> <p>LR A</p>	<ul style="list-style-type: none"> • Fresh bakery products • Fruit • Vegetables 	<ul style="list-style-type: none"> • Collection within 1 business day from notification of offer • Adherence to required temperature range: 5 - 20°C 	<ul style="list-style-type: none"> • No more than 20% of delivery is destroyed by storage • Temperature appropriate for specific food • Content may be non-standard up to 100% • Minimum total accumulated quantity of offered goods: 20 kg 	<ul style="list-style-type: none"> • Changes to sensory properties - signs of contamination by mould visible to the naked eye, signs of other contamination, signs of decay, signs of spoilage in more than 20% of the batch • Signs of contamination by mould visible to the naked eye, signs of other contamination, signs of decay, signs of spoilage are not acceptable in fresh bakery products
<p>Low risk</p> <p>LR B</p>	<ul style="list-style-type: none"> • Beverages • Dry foods (cans, rice, pasta, cereals, dried fruit) • Tea, coffee • Vegetable fats • Snacks 	<ul style="list-style-type: none"> • Collection according to collection schedule 	<ul style="list-style-type: none"> • Temperature appropriate for specific food • Expiry of date of minimum durability may be no more than 3 months • Minimum total accumulated quantity of offered goods: 20 kg 	<ul style="list-style-type: none"> • Changes to sensory properties - signs of contamination by mould visible to the naked eye, signs of other contamination, signs of decay, signs of spoilage

				<ul style="list-style-type: none">• Presence of pests• Damaged inner packaging
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