

Governing Food Waste in the European Union

1. Introduction

This article examines the role of EU law in addressing the structural failure to value food. The issue of food waste falls within several legal domains, including food safety, labelling, tax law, and competition law. In recent years, waste law has also begun to address the issue of food waste.¹

Approximately two decades ago, the extent of food waste remained largely unexamined. The first studies addressing this issue appeared in the United States in 1997. Since then, an increasing number of reports and an increasing amount of research work have aimed to quantify and analyze the scale of the problem. In 2011, the Food and Agriculture Organization (FAO) published its first report assessing global food losses and food waste.² This food wastage also represents a missed opportunity to enhance global food security and reduce environmental impacts.

Almost ten years ago, the EU and its Member States (MS) committed themselves to the United Nations (UN) Sustainable Development Goals (SDGs), including a 50% reduction of food waste across the entire supply chain as outlined by SDG 12.3.³ According to the FAO, approximately one third of all food produced in the world is lost or wasted.⁴ Food waste and food losses both refer to the reduction of edible food that is fit for human consumption, but they occur at different stages of the food supply chain and have different implications. Food losses refer to food that is lost during the production, processing, and distribution stages of the supply chain. This can include crops that are not harvested, food that spoils during transport, or products that are damaged during processing. Food waste refers to food that is discarded by consumers and retailers. It occurs at the end of the supply chain and includes food that is thrown away because of spoilage, over-purchasing, or lack of proper storage. In 2020, EU MS

¹ C. Bradshaw, "Waste Law and the Value of Food," *Journal of Environmental Law* 2018, vol. 30, no. 2, pp. 311–331.

² FAO, *Global Food Losses and Food Waste – Extent, Causes and Prevention*, Rome 2011.

³ FAO – SDG Indicators Data Portal, <https://www.fao.org/sustainable-development-goals-data-portal/data/indicators/1231-global-food-losses/en> [accessed: 15.04.2025].

⁴ FAO, *Global Food Losses...*

measured food waste levels for the first time using the harmonised methodology established by the Commission.⁵ In the European Union (EU) 59 million tonnes of food are thrown away each year, representing an estimated loss of €132 billion.⁶ The primary EU legislation influencing food waste generation and management, both positively and negatively, includes date marking provisions, food donation regulations, and waste management laws.

2. EU legal framework

The issue of food waste is complex, as is the role of food within the EU legal system. EU food legislation spans various areas of law; food waste similarly is addressed by different policy areas with interconnected effects.⁷ The primary piece of legislation to consider is Regulation 178/2002,⁸ which establishes important principles of food law in the EU. While EU food law is sovereign, it significantly intersects with other areas such as agricultural law, consumer protection law, commercial law, and environmental law. The Common Agricultural Policy (CAP), since its establishment in 1962, has focused on enhancing agricultural productivity to maintain a consistent supply of affordable food for consumers. This framework of agricultural production resulted in overproduction and, subsequently, excessive consumption, leading to food hoarding.

At the same time, consumer protection law developed in the EU, which shaped the concept of the average consumer, including the consumer of food. Such a consumer is characterized as an informed, attentive, and rational individual. This archetype of the consumer is essential in understanding how individuals utilize available information to shape their purchasing decisions. The notion of the average consumer has been developed and refined through the jurisprudence of the Court of Justice of the European Union (CJEU).⁹ Within the EU legal framework, the consumer is depicted as an informed individual who actively utilizes the information available to make

⁵ Commission Delegated Decision (EU) 2019/1597 of 3 May 2019 supplementing Directive 2008/98/EC of the European Parliament and of the Council as regards a common methodology and minimum quality requirements for the uniform measurement of levels of food waste, OJ L 248, 27.09.2019, p. 77.

⁶ United Nations – Department of Economic and Social Affairs, <https://sdgs.un.org/partnerships/eu-platform-food-losses-and-food-waste-flw-working-together-fight-food-waste> [accessed: 15.04.2025].

⁷ M. Eriksson, S. Giovannini, R. Kumar Ghosh, “Is there a need for greater integration and shift in policy to tackle food waste? Insights from a review of European Union legislations,” *SN Applied Sciences* 2020, vol. 2, 1347.

⁸ 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, 1.02.2002, p. 1 (hereinafter: Regulation 178/2002).

⁹ CJEU, Judgment of 6 July 1995, *Verein gegen Unwesen in Handel und Gewerbe Köln e.V. v Mars GmbH*, C-470/93, ECLI:EU:C:1995:224; CJEU, Grand Chamber, Judgment of 15 July 2004, *Douwe Egberts NV v Westrom Pharma NV and Christophe Souranis*, C-239/02, ECLI:EU:C:2004:445. See also CJEU, Judgment of 14 November 2024, *Compass Banca SpA v Autorità Garante della Concorrenza e del Mercato*, C-646/22, ECLI:EU:C:2024:957, para. 59: the concept of ‘average consumer.’

educated decisions. However, in the context of the average food consumer, purchasing decisions frequently occur without extensive analysis.¹⁰ This portrayal emphasizes the consumer's reliance on his/her capacity to assess products and services with both reason and caution, reflecting a trust in his/her judgment to navigate the market effectively.¹¹

The promotion of sustainable consumption has been part of EU policies since 2008, when the European Commission (EC) adopted the Sustainable Consumption Action Plan (SCAP),¹² emphasizing the critical importance of enhancing the environmental efficacy of products, raising consumer awareness, and stimulating demand for sustainable alternatives. Sustainable consumption is defined as an approach that seeks to maximize product effectiveness and efficiency while addressing current needs without jeopardizing the capacity of future generations. A special place for the promotion of sustainable consumption has been reserved in the Farm to Fork Strategy (F2F)¹³ launched as part of the European Green Deal. F2F was supposed to create a fair, healthy, and environmentally-friendly food system. Proposed modifications were intended to influence on the food chain, food production, food industry practices, and consumer behaviour. While SCAP did not explicitly address sustainable food consumption, it did advocate a comprehensive strategy to promote ecological and energy-efficient products. Consequently, the suggested tools such as incentives, procurement strategies, and simplified labelling methods, could also be effectively utilized in the food sector.

Efforts to address food waste focus on four key areas. The first concerns food labelling systems. The second involves regulations governing food donation for charitable purposes, whilst the third addresses waste management. The fourth emphasizes the significance of education. In each of these areas, EU legislation significantly influences the strategies adopted by MS.

3. Example of food labelling

We can explore what options remain available to us, as well as strategies that will enhance the sustainability of our food systems. Creating a balanced food consumption pattern that will contribute to reducing food waste is a multifaceted issue. One of the problems identified and addressed by the European Commission (EC) is the

¹⁰ P. Wojciechowski, "Konsument żywności," *Food-Lex* 2019, no. 4, p. 96.

¹¹ A. Kunkiel-Kryńska, „Prawo konsumenckie – wzorzec konsumenta – wprowadzenie i wyrok TS z 6.07.1995 w sprawie C-470/93 Verein gegen Unwesen in Handel und Gewerbe Köln e.V. v. Mars GmbH,” *Europejski Przegląd Sądowy* 2012, no. 4.

¹² Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the Sustainable Consumption and Production and Sustainable Industrial Policy Action Plan {SEC(2008) 2110} {SEC(2008) 2111}, COM(2008)0397 final.

¹³ Communications from the Commission, A Farm to Fork Strategy, for a Fair, Healthy and Environmentally-Friendly Food System, COM(2020)381 final.

misinterpretation of use-by dates on food products. In 2018, the EC conducted a study¹⁴ on the meaning of the term “use by” or “best before” dates. According to the final report European law¹⁵ mandates that most pre-packed foods display a date mark indicating either safety (“use by”) or quality (“best before”). This study was aimed to inform EU actions on food waste as part of the Circular Economy Action Plan¹⁶ (CEAP) by analysing the implications of date labelling legislation.

The study revealed that improvements in labelling practices could significantly reduce waste. Variations in date marking practices were noted among MS, with some products labelled differently in different countries. Recommendations include creating technical guidance for food businesses on determining shelf life and date marks, improving label legibility, and addressing consumer misunderstandings of date marks. There is also support for consumer information campaigns on date labelling, alongside the need for further research on consumer behaviour regarding date marks and storage advice.

4. Example of food donation

The matter of food donation is complex, encompassing various legislative domains, including EU regulations (food safety and hygiene, labelling, VAT) and national laws (product liability, additional taxes). MS and stakeholders have identified legal and operational barriers for donors and recipients regarding the redistribution of safe and edible food in the EU.¹⁷ The “Saving Food Together”¹⁸ EU guidelines focus on key issues that require EU-level attention. Although guidelines are not legally binding, they can play an important role in everyday practice.¹⁹ It is worth stressing that the EU guidelines on food donation were based on two scientific opinions from EFSA.²⁰

¹⁴ Anthesis, Brook Lyndhurst, Directorate-General for Health and Food Safety, ICF, WRAP, *Market Study on Date Marking and Other Information Provided on Food Labels and Food Waste Prevention. Final Report*, Brussels 2018.

¹⁵ 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, OJ L 304, 22.11.2011, p. 18.

¹⁶ Closing the Loop – An EU Action Plan for the Circular Economy, COM(2015)614 final.

¹⁷ Documented for instance in “Comparative study on EU Member States’ Legislation and Practices on Food Donations” (EESC, 2014); “Counting the Cost of Food Waste: EU Food Waste Prevention” (UK House of Lords, 2013–2014); “Review of EU Legislation and Policies with Implications on Food Waste” (FUSIONS, 2015; “Food redistribution in the Nordic Region”) (Nordic Council of Ministers, TemaNord, 2014–2016).

¹⁸ Commission Notice, EU Guidelines on Food Donation, C:2017:361:TOC C 361, 25.10.2017, p. 1, <https://eur-lex.europa.eu/lega> [accessed: 15.04.2025].

¹⁹ L. Senden, *Soft Law in European Community Law*, Oxford 2004, p. 155.

²⁰ The European Food Safety Authority (EFSA) was established under Regulation 178/2002 and is classified as one of the EU agencies. EFSA was established as an expert body, whose opinions provide the scientific basis for the preparation and implementation of food safety measures. The scientific opinions referred to in Article 29 of Regulation 178/2002 are issued at the request of the Commission in all cases where EU law requires consultation with the Authority.

The guidelines emphasize several key aspects. First of all, they provide clarity on the legal obligations surrounding food donation. They delineate the responsibilities of donors and recipients, ensuring that both parties understand their roles in the donation process. This includes guidance on food safety standards, labelling requirements, and the proper handling of donated food to prevent health risks. The EU encourages food businesses, including retailers, manufacturers, and producers, to donate surplus food. This is supported through legislative measures that simplify the donation process, ensuring that businesses are not deterred by concerns over liability or regulatory barriers.

The document "Redistribution of Surplus Food: Examples of Practices in the Member States"²¹ from the EU Platform on Food Losses and Food Waste²² provides a summary of various initiatives and practices in MS aimed at the redistribution of surplus food. It underscores the significance of mitigating food waste by illustrating effective programmes and strategies employed to reclaim surplus food and redirect it to individuals in need. Key themes include collaboration between stakeholders (such as retailers, charities, and local governments), legal frameworks that facilitate food donation, and innovative solutions for logistics and distribution. The document serves as a resource for understanding how MS are tackling food waste and promoting food security through effective redistribution practice.

The objective is to clarify the pertinent provisions within EU legislation and to help eliminate obstacles to food redistribution under the existing EU regulatory framework. This includes facilitating compliance for both providers and recipients of surplus food with the relevant EU regulation requirements. Food donations must follow the General Food Law²³ and EU hygiene regulations.²⁴ Key requirements for food businesses include registering with authorities, applying good hygiene practices, and using Hazard Analysis and Critical Control Points principles. One of the most critical instruments shaping the dynamics of food donation is the Regulation of Value Added Tax (VAT).²⁵ By modifying the regulations concerning goods distributed free of charge (specifically Articles 16 and 74 of the VAT Directive), MS can promote the donation of surplus food for charitable purposes.

²¹ Redistribution of surplus food: Examples of practices in the Member States, EU Platform on Food Losses and Food Waste, May 2019, https://ec.europa.eu/food/safety/food_waste/eu_actions/eu-platform_en [accessed: 15.04.2025].

²² The EU Platform on Food Losses and Food Waste is a collaborative initiative established by the EC to address the issue of food waste across Europe. It brings together stakeholders from various sectors, including governments, NGOs, businesses, and researchers, to share best practices, develop strategies, and promote actions aimed at reducing food waste.

²³ Regulation 178/2002.

²⁴ Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs, OJ L 139, 30.04.2004, p. 1; Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin, OJ L 139, 30.04.2004, p. 55.

²⁵ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, OJ L 347, 11.12.2006, p. 1.

5. Example of waste management

The revisions to the Waste Framework Directive,²⁶ particularly in the context of food waste, represent significant progress in the EU's efforts to address waste management and promote sustainability. One of the key revisions emphasises the establishment of binding targets for reducing food waste. The directive aims for MS to reduce food waste at various stages of the supply chain, including production, processing, distribution, and consumption. In this context, it is pertinent to evaluate whether MS continue to prioritise these objectives.

Nevertheless, certain proposals deserve to be emphasised, as they address the issues identified and articulated within the framework of food waste governing. The revision clarifies and standardises the definition of food waste, ensuring a consistent understanding across MS. This includes distinguishing between avoidable and unavoidable food waste, which is crucial for developing targeted strategies for reduction. The directive reinforces the waste hierarchy, prioritizing prevention over disposal. In terms of food waste, this means that preventing food waste should be the primary objective, followed by preparing food for reuse, recycling, and disposal. This approach encourages innovative solutions for minimizing waste and maximizing resource efficiency.

6. Role of education

The proposed changes will particularly affect producers. The revisions encourage the implementation of Extended Producer Responsibility schemes that hold producers accountable for the entire lifecycle of their products, including food packaging. This can incentivize producers to design products and packaging that minimize waste and promote recycling. Nonetheless, the proposed modifications will be unlikely to succeed without consumer participation. This group is accountable for the predominant share of food waste. It is crucial to cultivate consumers who share responsibility for successfully mitigating food waste. The revisions emphasize the need for consumer awareness campaigns to promote responsible consumption and reduce food waste at the household level. This includes educating consumers about proper food storage, expiration dates, and meal planning to minimize waste.

Educational initiatives are likely to succeed with the proper engagement of civil society, particularly non-governmental organisations. The directive promotes cooperation among diverse stakeholders, including governments, businesses, NGOs, and citizens, to formulate comprehensive strategies for mitigating food waste. The EC is currently coordinating activities to engage the aforementioned entities. For the first

²⁶ Directive (EU) 2025/1892 of the European Parliament and of the Council of 10 September 2025 amending Directive 2008/98/EC on waste, OJ L, 2025/1892, 26.09.2025.

time, the EC has organised citizens' panels²⁷ in order to exchange views with citizens. The Citizens' Panel on Food Waste in the EU represents a progressive step towards addressing one of the most critical challenges in contemporary food systems. By facilitating citizen engagement, raising awareness, and gathering insights, the panel aims to create effective strategies that not only reduce food waste but also promote a more sustainable and responsible approach to food consumption across Europe. This initiative highlights the importance of collective action and the role of citizens in shaping a more sustainable future.

7. Conclusions

Countries around the world are implementing various strategies to combat food waste.²⁸ These efforts reflect a growing recognition of the need to tackle food waste through legislation, incentives, and public engagement. The EU legal framework represents a response to the dual challenges of food waste and food insecurity. By promoting food donation as a viable and beneficial practice, the EU aims to create a more sustainable food system that not only minimizes waste but also has the potential to contribute to strengthening food security. Reducing food waste is crucial for achieving the SDGs related to environmental sustainability and food security. Food waste adversely impacts the fulfilment of the human right to adequate food, compromising initiatives aimed at guaranteeing universal access to sufficient and nutritious sustenance.

In 2022, the World Wildlife Fund (WWF) published a report "Europe Eats the World,"²⁹ exposing the way European consumers purchase food. The report provides a comprehensive analysis of the impact of European dietary choices on global food systems and the environment. The document underscores the significant role that Europe plays in influencing agricultural practices and food consumption patterns worldwide. A key finding of the report is the substantial ecological footprint associated with European diets, which contribute to deforestation, biodiversity loss, and greenhouse gas emissions. The report highlights the fact that European consumers have a considerable reliance on imported foods, many of which are produced through environmentally damaging practices in other regions. Additionally, the report emphasizes the importance of transitioning towards more sustainable food system.

Through legal frameworks, public awareness campaigns, and collaborative efforts, the EU seeks to foster a culture of food sharing that contributes to social equity and

²⁷ A citizens' panel in the EU is a participatory mechanism designed to engage citizens in the policymaking process. It involves a group of randomly selected individuals who represent a cross-section of society.

²⁸ Countries with Laws Against Food Waste.

²⁹ WWF, *Europe Eats the World: How the EU's food production and consumption impact the planet*, Lead author: J. Ruiz Mirazo, Brussels 2022.

environmental sustainability. The EU has implemented measures aimed at reducing food waste. The aforementioned mechanisms highlight some potential strategies in this area. Initiatives such as promoting food donations for charitable purposes, revising food labelling practices, implementation of food waste management, and engaging in educational campaigns are significant steps forward. However, there remains a need for systemic solutions that can effectively alter sales mechanisms for both sellers and buyers.

The EU possesses the capability to influence all market participants uniformly through its legislation. Ideally, food waste should be eradicated entirely; in light of its persistence, it is essential to take comprehensive actions to address this issue. The aim of this article is to indicate the areas in which the EU is taking action to reduce food waste. Instruments established within the framework of European Union governance to minimise food waste are implemented at various levels and exhibit differing degrees of impact. These measures clearly indicate that food waste in the EU has been formally recognised and that actions are being undertaken to address it, targeting countries, businesses, and consumers. The solutions proposed have the potential to help solve the problem, but require the involvement of a large number of actors. The function of law as a tool for shaping reality is recognised, but it is the attitudes of the stakeholders themselves that have the power to bring about change.

Literature

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Summary

Olga Śniadach

Governing Food Waste in the European Union

The issue of food waste in a world where millions still suffer from hunger is truly concerning. Unfortunately, this remains a reality. In the EU, we discard millions of tonnes of food that is still perfectly safe for consumption. We all share responsibility for this situation. However, there are emerging changes in attitudes toward food. The EU has acknowledged this widespread issue, which not only affects all EU citizens but also has global implications. The purpose of this article is to highlight the various initiatives introduced by the EU aimed at raising awareness and reducing food waste. Some of these initiatives stem from soft law, while others impose binding commitments on stakeholders in today's world.

Keywords: waste food, consumption, food security.

Streszczenie

Olga Śniadach

Unia Europejska wobec problemu marnotrawstwa żywności

Prawie 10 lat temu Unia Europejska i jej państwa członkowskie zobowiązały się do realizacji celów zrównoważonego rozwoju ONZ, w tym do ograniczenia marnotrawstwa żywności o 50% w całym łańcuchu dostaw. Problem marnotrawstwa żywności w świecie, w którym miliony ludzi wciąż cierpią z powodu głodu, jest naprawdę niepokojący. W UE wyrzuca się miliony ton żywności, która nadal nadaje się do spożycia. Wszyscy (decydenci polityczni, producenci, konsumenci) ponoszą odpowiedzialność za tę sytuację. Od pewnego czasu w Unii wdraża się działania ukierunkowane na ograniczenie strat żywności. Inicjatywy te są podejmowane zarówno na poziomie unijnym, jak i krajowym przez organy administracji publicznej i podmioty prywatne. W artykule podjęto próbę przybliżenia instrumentów prawnych i politycznych, które mają na celu zmniejszenie zjawiska marnotrawienia żywności w Unii.

Słowa kluczowe: marnotrawienie żywności, zrównoważona konsumpcja, bezpieczeństwo żywnościowe.