



# Food waste and donation policies in France and the Netherlands

## Initiatives to reduce food waste



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This article provides an overview of both the French and Dutch national legal framework for food donation and the initiatives undertaken to decrease food waste. One third of all food in the world is wasted yearly.<sup>[1]</sup> Not only consumers throw away parts of their food and create food waste, also food business operators (hereinafter: 'FBOs') create food waste, sometimes in order to comply with food law. The European Commission mentions the following factors contributing to food waste:

- Insufficient shopping and meal planning and promotions like "buy one get one free" leading to too much food being purchased or prepared
- Misunderstandings about the meaning of "best before" and "use by" date labels leading to edible foods being thrown away
- Standardised portion sizes in restaurants and canteens
- Difficulty in anticipating the number of customers (a problem for catering services);

- Stock management issues for manufacturers and retailers
- High quality standards (eg. for produce sold at retail)
- Overproduction or lack of demand for certain products at certain times of the year; product and packaging damage (farmers and food manufacturing)
- Inadequate storage/transport at all stages of the food chain.<sup>[2]</sup>

A possibility to reduce food waste is to use part of the waste stream for human consumption in products such as soups and sauces and use smarter packaging. Furthermore, providing information to the consumer about clever cooking and reducing food waste is also a way to raise awareness and reduce the food wastage. Before taking a closer look at the practices in France and the Netherlands, let's see what is happening at a European level.

## Europe

In 2011 the European Commission released a "Roadmap to a Resource Efficient Europe" in which a commitment was incorporated to waste 50% less food by 2020. In 2014, the European Commission adopted a proposal to amend a number of waste Directives, along with a reduction of food waste of at least 30% by 2025, as part of the package 'circular economy'.<sup>[3]</sup> However, in its 2015 work programme,<sup>[4]</sup> the Commission has announced that it would withdraw its legislative proposal on waste targets and replace it by end of year with a new, more ambitious proposal to promote circular economy. The withdrawal of the proposal was formalised and the Commission is currently reflecting on the scope of the new proposal to promote circular economy including actions to prevent food waste. Furthermore, the research project 'FUSIONS', a four-year EU FP7 research project was launched in 2012 and is still not finished.<sup>[5]</sup>

## The Netherlands

Food wastage is not a problem that is easily solved, as many stakeholders such as consumers, farmers and retailers are involved. In 2009 the Dutch Sustainable Food policy contained the aim to reduce food waste by 20% by the end of 2015. The aim of the policy: reducing the amount of food which is intended to be eaten by humans but which is actually not eaten by humans. To measure food waste and to measure the reduction, the Food Waste Monitor was introduced. In 2013 a mid-term report about this monitor and the status of the reduction was released and although effort has been made to reduce the food waste, the aimed reduce in food waste was still far away.<sup>[6]</sup> Let's take a closer look at the efforts that have been made so far and the developments with regards to food waste in the Netherlands.

## Kliekipedia & Kromkommer

As consumers cause a lot of food waste, the website 'kliekipedia'<sup>[7]</sup> was created. It offers consumers ideas and recipes for leftovers and food products consumers usually throw away. The Dutch TV channel 24kitchen also contributed by creating short clips in which the chefs cook with leftovers to help consumers reduce their food waste. There are also projects that aim to change the mindset of consumers in such way that they will also buy 'ugly' vegetables, like a curved cucumber (in Dutch: komkommer) or a two-legged carrot. This initiative has

the name 'Kromkommer'<sup>[8]</sup> and currently they sell their products, made from 'ugly' vegetables, in several stores. Kromkommer is seen as an innovative initiative to reduce the need of producers to throw away food that does not meet the strict quality standards.

## Food Banks & Good Samaritan Law

Donating food to food banks is a way to reduce food waste and of course help people who have limited access to food due to limited resources. In the Netherlands help from a food bank is limited to a maximum of three years.

Providing food to consumers is considered 'placing on the market' under the General Food Law and the food banks qualify as FBO's that have act in accordance with the food legislation, including safety requirements. To help the food banks, the Dutch Food Safety Authority (NVWA) published a guidance for food banks on how to comply with all safety and hygiene standards. Products that are offered to food banks often are near the expiration date or even past the expiration date. This creates a problem, the expiration date is on the products to ensure the product is safe when it is consumed. The NVWA has made an indicative list of products that can be consumed after the expiration date.

One political party in the Netherlands, the CU, suggested that a so-called 'good Samaritan' law should be implemented in which product liability for FBO's and consumers who donate food to the food banks is excluded.<sup>[9]</sup> At present there is no such law therefore the risk of product liability remains unchanged. Product liability is also a cause of food waste as for retailers it is a reason to throw away the food that is close to or on the expiration date.<sup>[10]</sup> Another initiative worth mentioning is an initiative of the Groen Links (left wing green party) for transparency in waste management. By forcing retailers to publish their waste numbers, retailers could distinguish themselves by greatly reducing their waste and thus boosting their reputation. In Norway there is such a law and the reduction in waste by some of the retailers is spectacular. However, in the Netherlands this initiative did not get the required support to become law.

## Reintroduction of swill

A very specific measure, which the Netherlands is trying to achieve in Brussels, is the reintroduction of 'swill'. This is animal feed made partially or fully from animal carcasses. Safety is a main concern as the likelihood of disease spreading increases by feeding animals with other animals. One of the causes of the BSE crisis was found in the fact that the cows were fed with this type of feed.<sup>[11]</sup> On the other hand, using animal carcasses as feed for livestock creates less waste. Until now the Dutch lobby has been unsuccessful in lifting the ban on swill.<sup>[12]</sup>

## France

Over the last three years, there have been many public policy and communication initiatives from the French authorities to educate consumers about food waste and encourage the food industry to be more active in the reduction of food waste. Among these initiatives, we can mention the so-called "anti-gaspi campaign" that has been renewed for the 2015-2016 period ("gaspi" comes from "gaspillage" which means wastage). It consists of publishing a lot of information about the importance of food waste in France and how people can contribute to reduce it, for instance with a better understanding of the "use by" and "best before" dates, the promo-

tion of ugly fruits and vegetables, etc. This campaign led to the creation of a national day against food wastage; the third and last one being the 16<sup>th</sup> of October 2015. The main measures for the prevention of food waste have been listed in the National Pact Against Food Waste<sup>[13]</sup> launched in June 2013 and signed by representatives of the public authorities (national and local), the food industry, major French retailers, mass caterers, etc. Let's focus on the ones that have a direct impact on Food laws and regulations.

## Guidelines on the donation of food products

Donation of food products falls under the food legislation like any other food product. There is no derogation because the food is donated. Several guidelines of the French administration give good directions on how to donate food products in practice.

- Donated food product should be safe, compliant and fair. Products that are likely to create a safety risk should be excluded (i.e. raw meat and sea food, non-prepacked foods, strongly damaged packaging, etc.).
- Donations do not exempt the donator and the recipient to comply with their food law obligations (i.e. traceability, recall or withdrawal). In this respect, the association receiving the food should be sufficiently organized to ensure the hygiene and the traceability of the products and should be able to manage a food crisis like any other food operator.
- The donation of mislabeled products is a sensitive issue. It is should be exceptional and tolerated only if 1) the missing or wrong information does not relate to the safety of the product (i.e. allergen information missing), 2) the correct information is provided on separated documents in any case and 3) the recipient makes this information available to people at the time of donation.
- It is not possible to donate expired "use by date" products (this is a criminal offense in France). "Best before date" products can be donated after the expiration of their durability date if they are loyal and do not present any safety risk. Guidelines for the donation of expired "best before date" products have been issued by the Belgian authorities, but not endorsed by the French authorities.
- It is recommended to issue a delivery note to keep the traceability of the donated products and prove the existence and timing of the transfer of property from the donator to the recipient.
- Lastly, the French authorities recommended signing a contract with the recipient of the donated food in order to determine each party's obligations and the organization to be put in place.

## New law on food wastage

In 2015, during the discussion on a new law on sustainable energy transition, the Government and the Members of the Parliament voted several amendments to insert new provisions on food waste in the 'Waste' section of the French Environmental Code.<sup>[14]</sup> These amendments created a new prohibition for retailers to deliberately destruct or alterate their stocks of unsold food products that are still consumable or acceptable for animal feed. A criminal fine of 3.750 euros and the possible publication of the court decision asserted this prohibition. Another amendment was dealing with the obligation for retailers to pass a convention with non-profit associations to organize the donation of food.

The French Constitutional Council canceled these amendments because they were introduced very late in the discussions of the law in contradiction with procedural rules. The French government reacted very quickly and suggested to the major French retailers that they apply these amendments on a voluntary basis. The so-called 'Convention d'engagement volontaire en faveur de la lutte contre le gaspillage alimentaire par les distributeurs du secteur alimentaire' (= convention of voluntary commitment against food waste by retailers of the food sector) was signed in this respect on the 27<sup>th</sup> of August; 15 days after the amendments of the law were canceled.<sup>[15]</sup>

The only amendment that legally survived is the prohibition to put a 'best before date' on the products exempted of date of minimum durability as listed under point 1(d) of Annex X of the Food Information Regulation no 1169/2011: fresh fruit and vegetables, including potatoes, which have not been peeled, cut or similarly treated, wines, liqueur wines, sparkling wines, aromatised wines, vinegar, cooking salt, etc.

## Conclusion

Both in France and the Netherlands efforts are being made to reduce food waste, but reducing food waste is not easily achieved. Europe's earlier set targets are likely not achieved. Food waste is a complex problem and many stakeholder efforts are needed to achieve results. Perhaps the announced more ambitious proposal to promote a circular economy will also include a proposal to change product liability in order to reduce food waste?

## Literature

- [1] See infographic from Wageningen University available through: <https://www.wageningenur.nl/en/infographic/Food-waste-towards-half-as-much.htm>
- [2] General website European Commission on Food waste: [http://ec.europa.eu/food/safety/food\\_waste/stop/index\\_en.htm](http://ec.europa.eu/food/safety/food_waste/stop/index_en.htm)
- [3] Communication from the Commission to the European Parliament, the Council, The European Economic and Social Committee and the Committee of the Regions: Towards a circular economy: A zero waste programme for Europe, (COM (2014) 398)
- [4] [http://europa.eu/rapid/press-release\\_IP-14-2703\\_en.htm](http://europa.eu/rapid/press-release_IP-14-2703_en.htm)
- [5] <http://www.eu-fusions.org/>
- [6] Report (in Dutch) <http://www.wageningenur.nl/en/Publication-details.htm?publicationId=publication-way-343339323234>
- [7] <http://www.kliekipedia.nl/>
- [8] <http://www.kromkommer.com/>
- [9] The rationale behind the Good Samaritan law is that if you help people, you are exempted from liability claims if during this 'good deed' you would in the action cause harm to the one you are helping.
- [10] Dutch research journalists made an episode of the informative program Zembla in which they interview retailers on this particular topic. The episode can be viewed at (in Dutch): <http://zembla.vara.nl/seizoenen/2012/afleveringen/09-03-2012>
- [11] [https://en.wikipedia.org/wiki/Bovine\\_spongiform\\_encephalopathy](https://en.wikipedia.org/wiki/Bovine_spongiform_encephalopathy)
- [12] Art. 11, par 1, sub a Regulation (EG) nr. 1069/2009, 14 November 2009.
- [13] <http://agriculture.gouv.fr/guillaume-garot-presente-le-pacte-national-de-lutte-contre-le-gaspillage-alimentaire-1>
- [14] Article 103 of the law no 2015-992 of 17 August 2015.
- [15] [http://www.developpement-durable.gouv.fr/IMG/pdf/Convention\\_d\\_engagement\\_volontaire.pdf](http://www.developpement-durable.gouv.fr/IMG/pdf/Convention_d_engagement_volontaire.pdf)