

The adoption of an effective European bill will be necessary to reduce food waste

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ABSTRACT

The purpose of this analysis is to highlight the urgency of quickly obtaining an effective European law against food waste. This analysis demonstrates the blockages (lobbying and long and slow procedures), and solutions are proposed in view of the social and environmental emergency. This analysis is therefore all the more important as it applies in a disrupted and unbalanced social and environmental situation. Indeed, with millions of poor people on the European continent on the one hand and the emergence of worrying global warming on the other, citizens are expecting effective and innovative legal tools. Legislative decision-making between the different bodies of the European Union (European Commission, European Parliament and Council of the European Union) is a legal challenge that must be taken up. It should indeed be remembered that the DrawDown project (2020) and IPCC (2022) reports have confirmed that reducing food waste is one of the three main solutions to combat global warming. Can European law therefore reconcile economic production and social redistribution for better equity between everyone ? This is the objective of this legal analysis.

KEY WORDS

Food Waste, European Law, sustainable development, Food loss

Date of Submission: 02-04-2024

Date of acceptance: 12-04-2024

I. INTRODUCTION

The Food and Agriculture Organization of the United Nations (FAO) estimates that thirty percent of the food produced worldwide is wasted².

This amounts to one out of every three foods worldwide.

However, according to the Food and Agriculture Organization (FAO), 783 million people globally faced hunger in 2022, and 3.1 billion people lacked access to a good food in 2021³.

At the same time, the organization estimates that, globally, « 13% of food is lost in the distribution chain, from post-harvest to pre-retail and that an additional 17% of food is wasted at the household, food service and retail levels »^{4 5}

The demand for food items has increased globally in recent decades due to changes in eating patterns and demographic growth.

Modern agriculture faces a myriad of challenges that impede its productivity and sustainability. These challenges include inherent limitations in crop yields, the necessity for effective integration of technological advancements, the increasing frequency and severity of natural disasters exacerbated by climate change, the encroachment of urbanization on fertile agricultural lands, and the ever-growing scarcity of water resources essential for cultivation.

In light of these challenges, there arises a pressing need to bolster agricultural productivity to ensure an adequate and sustainable food supply for the world's growing population. However, simply striving for increased

¹ « Nobel Prize for sustainable development: lawyer Arash Derambarsh rewarded » : <https://clever-energies.com/en/nobel-prize-for-sustainable-development-lawyer-arash-derambarsh-rewarded/>

² *The world counts*. (s. d.). <https://www.theworldcounts.com/challenges/people-and-poverty/hunger-and-obesity/food-waste-statistics>

³ *Hunger*. (s. d.). Food And Agriculture Organization Of The United Nations. <https://www.fao.org/hunger/en/>

⁴ FAO - 2022

⁵ United Nations Environment Program, 2021

productivity may not be sufficient. Another critical aspect that demands attention is the reduction of losses and waste throughout the food production and distribution chain.

The distinction between 'losses' and 'waste' within the agricultural context is nuanced and often blurred due to the diverse array of circumstances encountered across different regions and nations. 'Losses' typically refer to the reduction in quantity or quality of agricultural products during production, harvesting, storage, and transportation stages. This can result from factors such as pest infestations, diseases, spoilage, mishandling, or inadequate storage facilities. On the other hand, 'waste' encompasses the inefficiencies and excesses that occur further downstream in the food supply chain, including retail, distribution, and consumption stages. This may include discarded or unsold food products, expiration of perishable items, overproduction leading to surplus disposal, and consumer behavior contributing to unnecessary waste generation.

Addressing both losses and waste in the food system requires a multifaceted approach involving collaboration among stakeholders at various levels. Strategies may include investment in improved infrastructure and technology to minimize losses during production and distribution, implementation of effective storage and preservation techniques, adoption of sustainable agricultural practices to mitigate environmental stressors, promotion of consumer education and awareness campaigns to reduce food waste at the household level, and the development of policies and incentives to incentivize responsible consumption and production practices.

According to the FAO, 30% of food produced worldwide is wasted.

1.3 billion tons of food, or more than half of the world's grain supply, are lost or wasted annually worldwide, from agricultural production to ultimate consumption.

The issue at hand is worldwide : 670 million and 630 million tons of food are wasted annually in wealthy and developing nations, respectively.

According to FAO estimates, there will be an additional 2.3 billion people on Earth by 2050, bringing the total population to more than 9 billion. By 2100, there will be more people on the planet than 11 billion.

Food production will need to expand in order to keep up with the population's continued need for food.

Demand for food will continue to increase and it will be necessary to intensify food production to feed this population.

If this trend continues, the FAO estimates that global food production will have to increase by 40 to 70% by 2050 to meet needs.

It won't be sufficient to increase output at this rate of waste.

By examining the true demands of the consumer, we must investigate the strategies that should be used at every link in the food chain.

At every level, progress is achievable.

To create solutions that both « feed more » and « feed better » for a growing population, all stakeholders must band together.

Food waste and food insecurity are therefore two complex and interdependent phenomena. Food waste is a major problem, both environmentally and socially.

It represents a loss of valuable resources and can have a negative impact on people in food insecurity.

Therefore, the concept of food insecurity is often reduced to the question of access to sufficient food in quantity and quality.

However, a broader approach is needed to take into account the social, cultural and political issues associated with food.

By considering food insecurity through the prism of social and political factors, we are led to re-examine the legal issues that arise from it, as evidenced by the history of the right to food. Indeed, Nicolas Bricas, Damien Conaré and Marie Walser highlight the relational and political dimension of food, which transcends many domains and profoundly influences our world. Rather than considering it as an isolated domain, an ecological approach to food suggests using it as a lever to rethink our society in crisis.

That said, the consumer-citizen, a specific actor, must be convinced of the importance of fighting against food waste and appropriate this approach, thus underlining the importance of lifelong education, training and communication. From this perspective, the causes of food insecurity are multiple and complex. They can be related to economic, social, political or individual factors.

It is precisely because there is a social emergency and a crisis at the level of the food chain that it is appropriate to legally regulate these dysfunctions and economic imbalances.

So, can the law reconcile economic productivity and social redistribution ?

Our analysis responds to this problem with a requirement to accelerate the legislative process at the European level.

MAIN PART

I- A food scandal in front of social and environmental emergency

For a long time, food contributions were the subject of a controversy as most supermarkets tossed away their unsold stock instead of donating it to the underprivileged or nonprofit organizations⁶.

The fact that the Observatory of Inequalities estimates that 5.3 million individuals in France lived below the poverty level in 2023 makes this scenario much more concerning.⁷

Therefore, in order to put an end to this plague, specific answers had to be given.

The #StopFoodWaste movement led to the adoption of a legislation in France requiring retailers to give unsold food, preventing over 10 million meals from ending up in landfills and resulting in a 22% increase in food contributions to charitable organizations.⁸

Every grocery store in the European Union continues to discard more than 40 kg of food every night, despite the fact that more than 95.3 million people (or 22% of the population) live in poverty and frequently struggle to provide for their families in 2022.⁹

The #StopFoodWaste campaign's straightforward solution to this issue was to pass a national law encouraging stores to donate unsold food instead of throwing it out.

Passed on 3rd February 2016¹⁰, the new law seeks to tackle food waste by obliging all French supermarkets to give away their unsold food and distribute it to those in need, ensuring that nothing is wasted. Supermarkets are free to support the aid association or charity of their choice, and every citizen can apply to create an authorised association to assist in food distribution.

Over 10 million meals are prevented from ending up in landfills each year thanks to the regulation, which has also increased food donations to social assistance organizations by more than 22%. In addition to mobilizing volunteers and streamlining the distribution of food contributions through affiliated organizations, the initiative has increased public awareness of the problem of food waste at the municipal level.

II- A European legal framework difficult to obtain

Encouragingly, the effort now aims to spread throughout the European Union.

It is necessary to expand and strengthen this attempt lawfully.

In actuality, the law mandates that stores with more than 400 square meters provide their unsold merchandise to the organization of their choice. This law has caused large supermarkets to modify their operations, but with limitations.

Since the French legislation has proven beneficial and the state of society in Europe is obviously concerning, we must secure a directive prohibiting food waste in order to bring the law to our continent.

Such a directive's effect at the European level would enable us to partially end hunger on our continent.

An act of normative action adopted by the European Union's institutions is called a directive.

Community directives are a component of EU secondary legislation, along with rules, rulings, views, and suggestions.

In contrast to a community law that is applicable in its entirety, a directive sets goals for member nations to meet

⁶ The Telegraph «Iceland staff 'pour bleach onto waste food to stop homeless people eating it' » : <https://www.telegraph.co.uk/foodanddrink/foodanddrinknews/7564402/Iceland-staff-pour-bleach-onto-waste-food-to-stop-homeless-people-eating-it.html>

⁷ France Info : https://www.francetvinfo.fr/societe/plan-pauvrete/precarite-en-2023-5-3-millions-de-personnes-vivaient-sous-le-seuil-de-pauvrete-en-france_6304863.html

⁸ Anti-food waste law: what results after 18 months ? (Le Figaro – 2018) : <https://www.lefigaro.fr/economie/le-scan-eco/2018/10/16/29001-20181016ARTFIG00007-loi-anti-gaspillage-alimentaire-quel-bilan-apres-18-mois.php>

⁹ Poverty in Europe (Statista 2023) : <https://fr.statista.com/infographie/17748/niveaux-de-pauvrete-en-france-et-en-europe/>

¹⁰ Law No. 2016-138 of 11th February 2016 relating to the fight against food waste : <https://www.legifrance.gouv.fr/jorf/id/JORFARTI000032036290>

within a certain timeframe. The national governments can adjust to the new laws thanks to this delay.

According to Article 288 of the Treaty on the Functioning of the European Union (TFEU)¹¹, the directive leaves the national authorities flexibility on the form and means of achieving the goal, but it is obligatory on the Member States that are its beneficiaries (one, multiple, or all).

Secondary EU legislation includes directives. Based on the treaties, the European institutions adopt them. The Member States then transpose them so that they become enforceable laws.

Similar to the French law, this rule is straightforward in that it would force supermarkets to contribute their unsold inventory to the group of their choosing. It would make it easier for volunteers to retrieve unwanted consumer goods from a store.

After then, the latter might give them out right away to those in need, especially the homeless.

Three effects would arise from this European legal framework :

The ability to form an association and receive permission from the appropriate authorities is available to all citizens of Europe.

Every European national will then be able to get in touch with the brand of their choosing, who will then be able to provide them with unsold merchandise to distribute that same evening.

A supermarket will also face a hefty fine if it continues to reject. A fine of 10,000 euros applies in France. According to Article 17(2) of the EU Treaty, the European Commission has the exclusive right to propose legislation inside the Union.¹²

The legislative proposals that will be approved by the European Parliament and the Council are also created by this same Commission.

But because the European Commission is hampered in its actions by numerous lobbyists, this procedure appears altered. When discussing significant subjects, having too many obscure mediators might cause disruptions.

Thus, it is fitting that the idea originates from a head of state in full openness.

A European regulation in this food-related field must also be flexible enough to be voted on in light of the social emergency in order for European law to be implemented and administered in a timely manner.

III- Requirement to obtain an accelerated procedure in specific and emergencies situations

In fact, delays are often very long.

So, in compliance with Articles 289 and 294 of the Treaty on the Functioning of the European Union, the European Commission, on the one hand, submits a proposal to the Council and the European Parliament.^{13 14}

After that, a legislative proposal is either adopted at first reading or second reading by the Council and the Parliament.

In the event that no date is given for the first reading in the Council and Parliament, each institution's second reading deadline is three months, with a one-month extension conceivable.

A conciliation committee is constituted if, following the second reading, the two institutions are unable to come to an agreement.

The conciliation committee has to get together in six or eight weeks. After then, the committee has six weeks to approve a shared text.

¹¹ EUR-Lex : <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12012E288>

¹² EUR-Lex : <https://eur-lex.europa.eu/legal-content/FR/TXT/HTML/?uri=CELEX%3A12012M%2FTXT>

¹³ EUR-Lex : <https://eur-lex.europa.eu/EN/legal-content/summary/legislative-procedures.html>

¹⁴ EUR-Lex : <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12012E294>

Following these steps, a decision must be made by the Parliament and the Council within six weeks after the approval date of the common text.

The legislative act becomes law if, at third reading, both institutions agree to the wording chosen by the conciliation committee.

The process comes to an end and no legislation is approved if a legislative proposal is rejected at any point during the process or if Parliament and the Council are unable to come to an agreement.

These delays are significant given that around 100 million people in Europe live in poverty.

In order to swiftly enact a European rule prohibiting food waste throughout the continent, it is imperative that the legislative process be shortened and made more adaptable.

Therefore, it would not be unreasonable to request that these procedure durations be shortened in emergency situations, such when food aid is needed for charity. French legislative procedure expedited.

Article 45, paragraph 2, of the Constitution states that the expedited procedure in France is characterized by a measure being subjected to just one reading by each body of Parliament (National Assembly and Senate) before to adoption.

As a result, this limits the parliamentary shuttle to only one text communication.¹⁵

As a result of public pressure, and especially after over 1.6 million Europeans signed a petition, the EU has worked hard to establish a uniform framework for dealing with FLW.¹⁶

Additionally, the Juncker Commission unveiled a fresh plan for a circular economy in 2015.¹⁷

However, these measures are insufficiently successful, and on a continent where serious poverty is a problem now more than ever, passing the French law against waste must be the top priority.

II. CONCLUSION

As we have analyzed, the social situation is alarming. And in the face of this, European citizens are legally helpless.

The current social landscape presents a myriad of challenges, from economic disparities to food insecurity, environmental degradation, and access to basic necessities. Amidst these complexities, European citizens are confronted with a sense of legal helplessness, where existing frameworks may not adequately address their needs or provide sufficient avenues for recourse.

One of the critical areas where this legal vulnerability is pronounced is in addressing issues such as food waste and hunger. Despite growing awareness and initiatives aimed at combating these challenges, the legal tools available to European citizens often fall short. There is a gap between the scale and urgency of social issues and the legal mechanisms designed to address them, leaving individuals and communities feeling marginalized and without effective means of redress.

Furthermore, the complexity of the European legal system, with its multiple layers of governance and decision-making processes, can hinder timely and decisive action. The intricate relationship between national and EU-level regulations, coupled with bureaucratic hurdles, can impede efforts to enact meaningful change.

To empower European citizens and address these pressing social concerns, there is a need for a comprehensive review and reform of existing legal frameworks. This involves not only strengthening laws and regulations but also streamlining processes to ensure greater accessibility, transparency, and accountability.

Moreover, fostering a culture of active citizenship and engagement is essential in shaping policies that are responsive to the needs of the people. By promoting dialogue, participation, and collaboration between policymakers, civil society organizations, and affected communities, we can co-create solutions that are both effective and equitable.

Indeed, the legal tools made available to Europeans to combat food waste and contribute to reducing hunger are not suitable.

¹⁵ Article 45 paragraph 2 of the French Constitution of 4th October 1958 (Legifrance) : https://www.legifrance.gouv.fr/loda/article_lc/LEGIARTI000019241040

¹⁶ « Stop Food Waste in Europe » (Change.org) : https://www.change.org/p/mettons-fin-au-gaspillagealimentaire-en-europe-stopfoodwaste?source_location=search

¹⁷ Closing the loop: Commission adopts ambitious new Circular Economy Package to boost competitiveness, create jobs and generate sustainable growth (European Commission) : https://ec.europa.eu/commission/presscorner/detail/en/IP_15_6203

Building upon the analysis conducted earlier, it becomes evident that streamlining the voting and decision-making processes within the various legislative bodies of the European Union is imperative. Additionally, enhancing the fluidity of the relationship among key institutions such as the European Parliament, the European Commission, and the Council of Heads of State of the European Union is crucial.

The complexity and inefficiency of current decision-making processes often hinder timely and effective action on pressing issues, including those related to social welfare, environmental protection, and economic stability. Lengthy deliberations and bureaucratic hurdles can delay the adoption of much-needed policies and reforms, exacerbating the challenges faced by European citizens.

By compressing the voting and decision-making processes, we can expedite the formulation and implementation of policies aimed at addressing societal needs and promoting the common good. This may involve streamlining procedures, reducing bureaucratic red tape, and promoting greater cooperation and consensus-building among EU institutions.

Furthermore, enhancing the fluidity of relationships among key EU bodies can facilitate more cohesive and coordinated efforts in addressing shared objectives and challenges. Closer collaboration between the European Parliament, the European Commission, and the Council of Heads of State can foster greater alignment of priorities, enhance communication, and enable more effective decision-making processes.

Ultimately, by reforming the structures and processes governing EU governance, we can create a more agile, responsive, and accountable system that better serves the interests and needs of European citizens. This requires a concerted effort from all stakeholders, including policymakers, legislators, civil society organizations, and the public, to drive meaningful change and build a stronger, more cohesive European Union.

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