French and Italian Food Waste Legislation: An Example for other EU Member States to Follow?

Luis González Vaqué
Editorial
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Articles

**The Role and Mission of the Codex Alimentarius and Its Relation to Its Parent Institutions**
Nicole Coutrelis, Sandra Caussanel
Page 212 - 216

**Food Diversity and Consumer Protection**
Sara Tommasi
Page 217 - 223
French and Italian Food Waste Legislation: An Example for other EU Member States to Follow?
Luis González Vaqué
Page 224 - 233

Analysis of the Food Safety Legislation of the Eurasian Economic Union
Meruyet Nurgaliyeva, Atte von Wright, Katja Lindroos, Agybay Smagulov, Zhanat Iskakova
Page 234 - 244
French and Italian food waste legislation: An example for other EU Member States to follow?

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«Ideas are like rabbits. You get a couple and learn how to handle them, and pretty soon you have a dozen»

John Steinbeck

I. Introduction

According to the FAO’s latest estimates, 1.3 billion tonnes of food is lost or wasted in the world every year, representing a third of total food production. This is absurd given that at the same time over 1,000 million people in the world are suffering from hunger, 148 million are malnourished, and 36 million die each year from deficiencies or diseases caused by lack of food. The huge amount of food lost or wasted on a daily basis thus poses a real nutritional and ethical challenge. And neither should we forget the economic and environmental costs of producing food which ends up being thrown away, and then having to manage that waste in the form of residues.


Food loss and waste is, then, a global problem. As far as the European Union is concerned, I would highlight the following initiatives:

- The European Parliament has asked the Commission to take practical measures towards halving food waste by 2025 and at the same time preventing the generation of bio-waste (2011);

- The Parliament has repeatedly asked the Commission (in 2011, 2012, 2015 and 2016) to take action towards reducing food waste; and

- Member States have started setting targets to reduce food waste, and the Council of the European Union has highlighted the need to combat food waste all along the food supply chain.

In addition, the Council of the European Union «supports efforts of all actors to reduce food waste, which will contribute to achieving Sustainable Development Goal […], 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.».

However, an interesting and timely special report published at the end of last year by the European Court of Auditors (ECA) entitled “Combating Food Waste: an opportunity for the EU to improve the resource-efficiency of the food supply chain” confirms that high level political statements have not translated into suitable measures. This remains the case even though the fight against food waste has acquired greater importance in recent years, appearing for the first time on public agendas at every political level.

The subject of food waste in the European Union has already been widely discussed, and I do not intend to repeat what has already said. Instead this article shall focus specifically on the fact that some countries, France and Italy among them, have already adopted relevant legal measures. In both these countries this

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3 In particular, note that for the G20, “the reduction of food loss and waste is a good objective for a collective action (2015)”. Furthermore, the United Nations’ agenda for sustainable development states that it seeks 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” by 2030 (2015).

4 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).

5 https://europa.eu/european-union/about-eu/institutions-bodies/european-court-auditors_en


7 See Annex III of the ECA food waste report, which lists the most important political statements to be made on food waste since 2009.
is only a recent development and the new laws have only been in force for a short
time, so I lack information about their implementation and any difficulties and
shortcomings encountered along the way. However, it is still possible to analyse
them in some detail, so that, as our title suggests, other Member States can use
their provisions as a guide when it comes to drawing up their own national
legislation in this field.

II. France: Loi N. 2016-138 du 11 février 2016 relative a la lutte contre le
gaspillage alimentaire

By virtue of this Law, various provisions, paragraphs or points have been added
to the code de l’environnement and other national regulations have also been
amended (with the legislator referring back to the latter in many cases). In this
way the fight against food waste has been incorporated into the pre-existing
regulatory system. So, for example, in application of article 1 of loi N. 2016-138,
volume V (title IV) of the code de l’environnement now includes the following:

- «Subsection 1 bis

The fight against food waste».

- «Art. L. 541-15-4.-

The fight against food waste means food producers, processors and
distributors, consumers and associations must assume responsibility and
take action. Action to combat food waste shall be taken in the following order
of priority:

1. Preventing food waste;

2. Marking unsold products which are still fit for consumption for donation or
processing;

3. Recovering food waste by converting it into animal feed.

4. Using it as agricultural fertilizer or recovering it as energy, including
biogas.

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8 On this article see
https://www.legifrance.gouv.fr/affichTexteArticle.do;jsessionid=D729B62BBDF951CEA4FA00FEBAF3ECC8.tpdlia19v_3?idArticle=JORFARTI000032036290&cidTexte=JORFTEXT000032036289&dateTexte=29990101&categorieLien=id

9 This and all following citations are based on an unofficial translation in which our main aim has
been to ensure that the text reflects as much as possible the meaning of the original words and
expressions, even if this means the English syntax might be a little forced and that the
translation of certain terms has required an imaginative approach.
The fight against food waste includes raising awareness among and educating all stakeholders; action by local operators, and regular communication with consumers, especially in the context of local waste prevention programmes. »

[Commentary: In principle, prevention is the preferred option. A central aspect of this provision is that all parties involved assume responsibility, and to this end it provides for awareness-raising and educational campaigns among all stakeholders.

Apart from these awareness-raising measures, the legislator contemplates actions to combat food waste and lays down an interesting order of priority (including donating and recovering waste) in which, as we have noted, prevention comes first.]


I.- Food sector distributors shall market or recover their products in the order set out in article L. 541-15-4. Without prejudice to the relevant food health safety rules, [said distributors] may not deliberately allow unsold products which are still fit for consumption to be made unfit for consumption, or any form of recovery referred to in article L. 541-15-4.

II.- No contractual provision may prevent the donation of food sold under a distributor’s label within the meaning of article L. 112-6 of the code de la consommation10, where such a donation is made by a food sector operator to an authorised charitable organization as stipulated by article L. 230-6 of the code rural et de la pêche maritime11 by virtue of an agreement between the two.

III.- Where a food retailer whose sales area exceeds the threshold mentioned in article 3 (1) of loi N. 72-657 du 13 juillet 197212, establishing measures for certain categories of elderly traders and craftsmen, donates food to an authorised charitable organization as defined by article L. 230-6 of the code rural et de la pêche maritime13, this donation shall be subject to an agreement which sets out how the ways in which it should be made.

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10 See https://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006069565&idArticle=LEGIARTI000006291879&dateTexte=&categorieLien=cid

11 See https://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006071367&idArticle=LEGIARTI000022523158&dateTexte=&categorieLien=cid

12 See https://www.legifrance.gouv.fr/affichTexteArticle.do?cidTexte=JORFTEXT000000875580&idArticle=LEGIARTI000006511464&dateTexte=&categorieLien=cid

13 See https://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006071367&idArticle=LEGIARTI000022523158&dateTexte=&categorieLien=cid
IV.- This provision shall not apply to food which is unfit for consumption.

V.- The methods of implementing this article shall be adopted by Decree. »

[Commentary: This article focusses on donations, and includes a general ban on food distributors disposing of products. It also prohibits agreements which may invalidate such a ban, to cover also products with a distributor’s label. Referring to article L. 230-6 of the code rural et de la pêche maritime it specifies what is meant by an authorised charitable organization (to avoid creating a new definition and to ensure coherence across different standards).

The article also refers again to the ban on donating food unfit for consumption: an obvious restriction but one that nonetheless bears repeating.]

- Art. L. 541-15-6 refers to particular implementing measures that should be adopted in the future, and sets a date for the Law’s provisions to enter into force. It also establishes that:

«II.- Failure to comply with the obligation set out in I. shall be sanctioned by means of a fine applicable to third class infringements.

"III.- Any food sector distributor that deliberately allows unsold products which are still fit for consumption to be made unfit for consumption, without prejudice to the provisions regulating food safety, shall be sanctioned by means of a €3,750 fine. They will also be subject to the additional penalty of having to publish or disseminate the resolution handed down, pursuant to article 131-35 of the code pénal14.»

[Commentary: We would note that here the legislation expressly stipulates the penalties for non-compliance. In our opinion the additional penalty of having to publish or disseminate the resolution handed down could have a particularly strong dissuasive effect.]

- Article 2 of loi N. 2016-13815 provides for the insertion of a paragraph in article 1386-6 of the code civil which includes reference to article L. 112-6

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14 See https://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006070719&idArticle=LEGIARTI000006417308&dateTexte=&categorieLien=cid

15 On this article see https://www.legifrance.gouv.fr/affichTexteArticle.do;jsessionid=C3B51075F81610DF982FBD5F5EF28CE.tpdiia19v_3?idArticle=JORFARTI000032036301&cidTexte=JORFTEXT000032036289&dateTexte=29990101&categorieLien=id
of the code de la consommation\textsuperscript{16}. This does not require comment (see footnotes).

- Article 3\textsuperscript{17} meanwhile provides for the inclusion of «and the fight against food waste» before the first mention of «alimentation» in article L. 312-17-3 of the code de l'éducation (see https://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006071191&idArticle=LEGIARTI000029581532&dateTexte=&categorieLien=id).

- Lastly, article 4\textsuperscript{18} stipulates that «of the fight against food waste» is to be added after the word «circulaire» in the first sentence of article L. 225-102-1 (5) of the code de commerce. (See https://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006071191&idArticle=LEGIARTI000029581532&dateTexte=&categorieLien=id).

[Final comment: These provisions are relatively concise. Overall, the provisions of this loi de l'État have been incorporated into various national regulations, which should prevent regulatory dispersal and inconsistency].

We end this section with the following inset from the ECA food waste report.

\begin{quote}
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.
\end{quote}

\textsuperscript{16} On this article see https://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006069565&idArticle=LEGIARTI000006291879&dateTexte=&categorieLien=id

\textsuperscript{17} On this article see https://www.legifrance.gouv.fr/affichTexteArticle.do;jsessionid=C3B51075F81610DF982FBD5F5E7F28CE.tpdlia19v_3?idArticle=JORFTEXT000032036305&cidTexte=JORFTEXT000032036289&dateTexte=29990101&categorieLien=id

\textsuperscript{18} On this article see https://www.legifrance.gouv.fr/affichTexteArticle.do;jsessionid=C3B51075F81610DF982FBD5F5E7F28CE.tpdlia19v_3?idArticle=JORFTEXT000032036305&cidTexte=JORFTEXT000032036289&dateTexte=29990101&categorieLien=id
III. Italy: *Legge 19 agosto 2016, n. 166 - disposizioni concernenti la donazione e la distribuzione di prodotti alimentari e farmaceutici a fini di solidarietà sociale e per la limitazione degli sprechi*

In the Italian case the legislator has adopted a specific, single-subject Law.

The Law in question refers not only to foodstuffs but also to drugs and other goods. However, in this section we shall be concentrating on the provisions which relating to food products (which make up a large number of its articles):

«Chapter I – Purpose and definitions

Article 1

Purpose

This Law seeks to reduce waste at each stage of the production, processing, distribution and supply of food, pharmaceutical and other products by pursuing the following priority objectives:

a) promote the recovery and donation of surplus food for social welfare purposes, giving priority to human use;

b) promote the recovery and donation of pharmaceutical and other products for social welfare purposes;

c) contribute to limiting negative impacts on the environment and natural resources through actions centred on reducing the production\(^{19}\) of waste and promoting reuse and recycling in order to extend product life cycles;

d) contribute to achieving the general objectives set forth in the *Programma nazionale di prevenzione dei rifiuti*, adopted under article 180, paragraph 1 bis of the *decreto legislativo 3 aprile 2006, n. 152* and the *Piano nazionale di prevenzione dello spreco alimentare\(^{20}\)* provided for in the same Programme, and reduce the amount of biodegradable waste going into tips;

e) contribute to research, information and education of consumers and institutions active in the spheres covered by the Law, with special reference to young people. »

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\(^{19}\) Emphasis added by the author.

\(^{20}\) On this article see https://www.legifrance.gouv.fr/affichTexteArticle.do;jsessionid=C3B51075F81610DF982FBD5F5E7F28CE.tpdila19v_3?idArticle=JORFARTI000032036305&cidTexte=JORFTEXT000032036289&dateTexte=29990101&categorieLien=id
[Commentary: It is interesting to compare the Italian list of priority objectives with the order of priority laid down in article 1 of loi N. 2016-138, notwithstanding differences in their content and implementation…

It is also worth noting that the Italian legislation refers at different points to social welfare (solidarieta sociale). It also mentions the education of consumers, with special reference to young people, and in this respect the Italian legislation bears an apparent likeness to the awareness-raising contemplated in its French counterpart.]

«Article 2

Definitions

1. The following definitions shall be used for the purposes of this Law:

   a) “food business operator”: stakeholders, whether public or private, for-profit or non-profit, which perform activities related to any stage of the production, packing, processing, distribution and supply of food;

   b) “donor organisations”: public or private non-profit bodies set up for civic and welfare purposes which, in application of the principle of subsidiarity and in accordance with their respective memorandums or articles of association, promote or perform activities of general interest through the production and exchange of socially useful goods and services or through mutuality, including article 10 of the decreto legislativo de 4 dicembre 1997 n. 460;

   c) "surplus food": food, agricultural and agri-food products which comply with product hygiene and safety requirements and include but are not limited to the following list of examples: products which have not been sold or supplied due to lack of demand; products removed from sale because they fail to comply with the selling company’s requirements; leftovers from promotional activities; products which are close to their expiration date; stock left over after a new product test launch; products left unsold because of damage caused by weather conditions; products left unsold because of production schedule errors; products unfit for sale because of changes to the packaging which do not affect suitable conservation conditions;

   d) “food waste”: all food in the food supply chain which is thrown away for business or aesthetic reasons or because the expiration date is imminent, which remains edible and could potentially be used to feed people or animals, and which, in the absence of any possible alternative use, is marked for destruction;

   e) "donation": goods handed over for free;

   f) “Best before date”, the date until which a food product preserves its specifications if it has been stored correctly. Foods which have passed this
date may be donated under article 4 provided that the packaging is intact and storage conditions are suitable;

g) "expiration date" is the date which replaces the best before date in the case of foods which are highly perishable from a microbiological perspective. They may not be supplied or consumed after this date because of the risk involved.

[Commentary: The definition of food business operator (operatore del settore alimentare in Italian) does not match exactly the definition found at article 3.3 of Regulation No 178/2002\(^\text{21}\). However, as the former definition, used throughout the Italian legislation, is broader, it does not seem problematic.

The purpose of the donor organisations should be to promote and perform activities of general interest through the production and exchange of socially useful goods and services.

The definition of surplus food used to cover the examples listed of food, agricultural and agri-food products appears to be very comprehensive, although the list remains open precisely because it is not exhaustive.

Similarly, the definition of food waste (spreco alimentare) seems satisfactory and could serve as the basis for an EU-wide definition, as recommended by the European Court of Auditors\(^\text{22}\).

The definitions of minimum conservation period (termine minimo di conservazione) and expiration date (data di scadenza) are not comparable to those which appear in Regulation No 1169/2011\(^\text{23}\) (the date of minimum durability and the 'use by' date); However, the indications in question are often poorly understood by consumers and present the main obstacle in the way of effective...


\(^{22}\) According to the ECA food waste report there is currently no agreed definition of food waste applicable across the EU because Member States have used different definitions. In fact the ECA specifically states in its first recommendation that «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» (Emphasis added by the author).

food waste awareness-raising campaigns. This is clearly the case in Italy where the expression data di scadenza conveys a very strong message to buyers, perhaps overwhelmingly so\textsuperscript{24}.

On the controversial issue of dates, a recent Opinion of the European Committee of the Regions on food waste\textsuperscript{25} states that «the food expiration practices and labelling made to promote consumer protection and public health are not fit for purpose in the case of all products, with the result that edible food is unecessarily thrown away: the Commission has a key role to play in establishing whether it would be possible to draw up guidelines on better resource use, for instance with respect to donating food products to charities and food banks, and employing as fodder food that has passed its use by date, subject to compliance with food safety requirements» (paragraph 9); and that furthermore, «it is necessary to educate all stakeholders, producers, retailers and consumers to improve understanding of expiration date labels; for instance, it should be made clear that the ‘best before’ date does not mean that the food will become toxic after that date» (\textit{ibidem}).]

«Article 3

Donation of surplus food for welfare purposes\textsuperscript{26}

1. Food business operators may donate surplus food to donor organisations, who may either collect it themselves or arrange for other donor organisations to do so.

2. The donor organisations mentioned in paragraph 1 should give the surplus food received, for free and in a state fit for human consumption, to the most deprived\textsuperscript{27}.

3. Any surplus food not fit for human consumption may be given away to be used as animal feed, for home composting, or for aerobic composting in the community.

4. Foods with labelling irregularities may be given away to the donor organisations as long as those irregularities do not include a failure to display either a date of expiration or ingredients or products that cause allergies or intolerances.


\textsuperscript{25} Rapporteur: Martikainen, O. (Finland); available at the following web page, last accessed on 1 February 2017: http://eur-lex.europa.eu/legal-

\textsuperscript{26} Emphasis added by the author.

\textsuperscript{27} \textit{Persone indigenti} in the \textit{legge} that concerns us here.
5. Likewise, surplus agricultural products from the countryside or from breeding centres, and which are fit for human and animal consumption, may also be given away for free. The collection and removal of the agricultural products shall come under the responsibility of the donor organisations or whoever carries them out, and shall be performed in compliance with food hygiene and safety standards.»

[Commentary: The free translation of this article has been particularly challenging, and we therefore would advise reading the text in Italian, available at https://app.box.com/s/u57q0pxhs27sjjhoxm282wtsoivfa9ql]

«Article 4

Ways of giving surplus food

1. Under article 3 food may be given away even if the product has passed its best-before date, as long as the main packaging is intact and storage conditions are suitable.

2. Provided that hygiene and safety standards are satisfied and the date of expiration taken into consideration, surplus food may be converted into products for human or animal consumption.

3. Donor organisations may also receive donations in the form of finished bakery products and dough-based products made on baking premises that do not require a temperature-controlled environment, and that have not been sold or supplied for 24 hours after being produced. This is so because the surplus from shop sales and large-scale distribution must be considered, as well as that which comes from small-scale or industrial production sites, and organized catering, including agritourism and catering.

[Commentary: If in doubt see the original Italian text].

«Article 5

Standards and conservation of surplus food for donation

1. Food business operators who give food away for free pursuant to article 3 (1) and article 4 should aim to guarantee food health and hygiene safety through good operational practice, as set out in Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs28 and in article 1 (236), of legge 27 dicembre 2013, n. 147, amended by article 7 of the Law under discussion here. Food business operators will effectively be responsible for meeting food product standards until the food is donated, at which point the provisions of legge 25 giugno 2003, n. 155 become applicable.

2. Under articles 3 and 4 on donations, food business operators should select foodstuffs for donation on the basis of quality and health/hygiene standards and in accordance with current legislation.

3. Food business operators should also adopt the measures necessary to avoid the risk of contaminating or mixing up products destined for the different purposes set out in the aforementioned articles.

[No commentary. We have not included here a transcription of articles 6 and 7 concerning different amendments to existing legislation.]

«Article 8
Coordination Board

1. Pursuant to article 58 of the decreto-legge 22 giugno 2012, n. 83, as modified by legge 7 agosto 2012, n. 134 with the decree from the Ministro delle politiche agricole alimentari e forestali 17 dicembre 2012, published in the Gazzetta Ufficiale n. 45 of 22 February 2013, the functions and composition of the permanent Coordination Board (hereinafter “the Board”), as set out in the aforementioned decree shall be organized according to the following criteria:

a) the Board shall perform the following functions:

1) formulate proposals and opinions regarding the management of the Fondo per la distribuzione di derrate alimentari alle persone indigenti and the supply of food products, goods and services, as well as innovatory waste reduction projects;

2) formulate proposals to develop information and awareness initiatives around surplus food donation and recovery and disseminate knowledge of legal instruments which facilitate donating, including tax-related instruments;

3) formulate procedural proposals around specific incentives for organisations responsible for giving away, recovering and distributing food products and donating money, goods and services;

4) develop food surplus and waste monitoring activities;

5) promote innovatory projects and research on reducing food waste and the use of surplus food, with special emphasis on the most deprived; [and]

6) formulate proposals to help disseminate and consolidate initiatives originating with public and private bodies which distribute food products to the most deprived people in their areas;

b) the Board is made up of:
1) three representatives of the Ministero delle politiche agricole alimentari e forestali, one of whom holds the position of president;

2) two representatives of the Ministero of the lavoro e delle politiche sociali;

3) one representative of the Ministero dell'economia e delle finanze;

4) one representative of the Ministero della salute;

5) two representatives of the Ministero dell'ambiente e della tutela of the territorio e of the mare, of whom one sits on the Comitato tecnico scientifico per l'implementazione e lo sviluppo of the Programma nazionale di prevenzione dei rifiuti;

6) one representative of the Ministero dello sviluppo economico;

7) four representatives designated by the most representative distributor associations;

8) one representative of each of the charitable organizations on the Albo (register) of the Agenzia per le erogazioni in agricoltura (AGEA) in order to allocate the food;

9) three representatives designated by the most representative small-scale production (processing) and agri-food associations;

10) two representatives designated by the most representative food and drink supplier associations, one of them representing catering;

11) two representatives designated by the agricultural associations;

12) two representatives designated by the autonomous regions and provinces;

13) two representatives of the Associazione nazionale dei comuni italiani (ANCI);

14) two representatives designated by the by the most representative agri-food market associations;

15) one representative of agricultural cooperation.

2. The Board’s activities shall be publicised on the Ministero delle politiche agricole alimentari e forestali’s website and reported on annually by Parliament.

3. Participation on the Board is voluntary and does not carry with it any remuneration, allowance, payment, compensation, or refunding of expenses.”
[Commentary: This confirms that the scope of application of the Italian legislation discussed here is not limited to the supply of food products, but also covers other goods and services.

On the other hand, it is surprising that the Italian legislator sees the most deprived as practically the only potential recipients of donations, as, unless the concept of indigenti is broader than its equivalent in English, it would appear to exclude other citizens who are not (yet) among the most deprived, but ought to benefit from, for example, food banks.

Needless to say, because it is such a large and eminently bureaucratic body, a product of the endemic administrative culture common to all southern European states, the Tavolo di coordinamento is not a good example for other Member States to follow29.]

«Article 9

Publicity, education and preventive measures to reduce waste

1. Article 45 of the decreto legislativo 31 luglio 2005, n. 17 provides at paragraph 2 (b) that public radio, television and multimedia must ensure that a sufficient number of the broadcasting hours allocated to information provision are used to promote behaviour and measures aimed at reducing food, energy and other types of waste.

2. To promote consumer and buyer behaviour which incorporates welfare and sustainability in order to encourage recovery and redistribution for charitable purposes, the Ministero delle politiche agricole alimentari e forestali, together with the Ministries of lavoro e delle politiche sociali, della salute and the ambiente e della tutela del territorio e del mare, shall carry out national information campaigns to publicise the food recovery and waste reduction data collected by the Ministries involved, and to raise public and corporate awareness of the negative effects of food waste, especially with regard to the right to food, the impact on the environment and natural resources, and measures that might be taken to combat such waste.

3. The Ministero dell’ambiente e della tutela del territorio e del mare, together with the Ministero delle politiche agricole alimentari e forestali and the Ministero della salute, shall carry out national information campaigns to encourage the prevention of food waste production, as well as catering sector practices that allow customers to take away their own leftovers.

4. To reduce food waste in the catering sector and thus help achieve the objectives of the Programma nazionale di prevenzione dei rifiuti, regions may establish responsible behaviour agreements or protocols. The purpose of such agreements would be to reduce food waste and provide catering

29 See Mayoral, A., op. cit., 3-5.
businesses with reusable recipients, made with recycled materials, in which customers can take away their own leftovers. Information about such initiatives may be included on local authority websites.

5. The Ministero dell’istruzione, dell’universita’ e della ricerca, the Ministero della salute, and the Ministries of politiche agricole alimentari e forestali and the ambiente e della tutela of the territorio e of the mare, shall promote specific processes in educational establishments of every category and level, with a view to encouraging food education, ecologically sustainable food production and awareness of food waste and unequal access to food both nationally and internationally.

6. No further public financing obligation emanates from the implementation of the provision contained in paragraphs 2, 3 and 5 of the present article. Any interested local administration shall offer the activities referred to using the human resources, financing and instruments available under existing legislation. »

[Commentary: instead of dividing up responsibilities for the actions described, the Italian legislator would in my view have done better to bring them within the remit of just one efficient and specialised body. Furthermore, it is surprising that the Law itself appears to exclude any public financing of these actions (!)].

«Article 10

Food waste reduction measures

1. In the 90 days after this law enters into force, and subject to prior agreement by the Conferenza unificata established by decreto legislativo 28 agosto 1997, n. 281, the Ministero della salute shall provide instructions to the bodies that manage school, company, hospital, community and social canteens aimed at preventing and reducing food waste at the point of food supply, as set forth from paragraph 5 onwards of article 4 of the decreto-legge 12 settembre 2013, n. 104, amended by legge 8 novembre 2013, n. 128.

[No commentary – brevitas causae we have omitted any reference to other articles that refer to drugs (article 13), second hand clothing (article 14) or other procedural or funding issues (for example, article 17 on the Riduzione della tariffa relativa alla tassa sui rifiuti), etc.]

IV. CONCLUSIONS

In spite of the problems invariably posed by trilingual texts, we hope to have presented enough information here to illustrate how two Member States have regulated the fight against food waste in ways which are both similar and very different.
Apart from the various initiatives listed in the Introduction in regard to this interesting and topical subject, we should also note the following observation made by the recent Opinion of the European Committee of the Regions, which «regards food waste and waste generated in the production, processing, distribution and consumption of food as a serious global problem which significantly inhibits the achievement of economic, social and environmental development goals. The problem can only be addressed through broad and determined cooperation bringing together different levels of government and areas of policymaking. Civil society and businesses must be fully involved in measures».

It is worth asking at this point whether the solution is for each Member State to autonomously regulate its fight against food waste, or whether that fight should be the subject of a Directive which serves to harmonize relevant definitions (for statistical purposes, for example) or objectives, whilst giving Member States ample autonomy when it comes to awareness-raising campaigns, etc.

We have transcribed below a series of statements in the aforementioned Opinion which would appear to refer to EU legislation in this respect:

- The Committee «believes that the initiatives of the European Commission relating to resource efficiency and the circular economy also provide a good opportunity to develop projects and legislation to improve the sustainability of food production and consumption».

- The Committee «asks the European Commission to take action to develop standard terminology and definitions in this area at European level, and urges it to take part in and shape international dialogue and also to ensure that international observations and recommendations inform EU action. This would make it easier to identify the problems and draw comparisons, and to take the issues into account in the EU’s own legislation and cooperation with its trading and development partners. The EU is among other things an internal market».

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30 Emphasis added by the author.

31 See paragraph 1 of the Opinion.

32 Emphasis added by the author.

33 See paragraph 4 of the Opinion.

34 Emphasis added by the author.

35 This paragraph of the Opinion includes the following footnote: «Different definitions and calculation methods can lead to different conclusions. For the FAO, food loss is the decrease in quantity or quality of food reflected in nutritional value, economic value or food safety of all food produced for human consumption but not eaten by humans, while food waste is part of food loss and refers to discarding or alternative (non-food) use of safe and nutritious food for human consumption all along food supply chains. (FAO, 2014) »
and it has a common agricultural policy, and common concepts, procedures and comparable indicators are therefore needed. This could be the basis for establishing comparable criteria\textsuperscript{36} at regional level and interregionally for reducing and preventing the generation of food waste.»\textsuperscript{37}

[See also paragraph 9 of Opinion, cited in the previous section].

The recommendations made by the \textit{ECA food waste report} would appear to contain some rather similar suggestions:

- \textit{Recommendation 1}: see footnote 23.

- \textit{Recommendation 2}

«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\textsuperscript{38}.»

- \textit{Recommendation 3}


\textsuperscript{36} Emphasis added by the author.

\textsuperscript{37} See paragraph 5 of the Opinion.

\textsuperscript{38} Emphasis added by the author.
«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\(^{39}\); 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\(^{40}\).»

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\(^{39}\) \textit{Idem}.  

\(^{40}\) The Fund for European Aid to the most Deprived has existed since 2014 (http://ec.europa.eu/social/main.jsp?catId=1089). Unlike the Food Distribution programme for the Most Deprived Persons of the Community (MDP), the main focus of the FEAD64 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.