

# JURISPRUDENCE

## A NEW BILL AGAINST FOOD WASTE TO GO FURTHER

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### Abstract

The objective of this analysis is to highlight the urgency of quickly obtaining a new effective law against food waste.

Indeed, the alarming situation with regard to the social and environmental emergency requires a change in the law.

Indeed, with on the one hand an increase in impoverishment in our country and increasingly long queues at the « soup kitchen » and on the other hand the emergence of worrying global warming, citizens expect effective, innovative and adapted legal tools.

Let us recall that the French law of 3<sup>rd</sup> February 2016 had positive consequences that we will study.

However, we must go further with a new bill against food waste in order to adapt the legal framework to the current situation.

This is the objective of this legal analysis.

**Keywords:** Food Waste, European Law, sustainable development, Food lost, Bill, French Law, Food Waste, FAO.

### INTRODUCTION

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

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 2021.

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. »<sup>11 12</sup>

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

The restrictions that agriculture faces—such as yield limits, technological integration, natural disasters, climate change, urbanization-related loss of agricultural lands, and scarcity of water resources—are placing growing pressure on agricultural productivity.

To fulfill the food supply, reducing losses and waste might be a key lever in addition to raising agricultural productivity.

It is impossible to distinguish clearly between the two concepts of « losses » and « waste » due to the wide variety of circumstances under which they arise across nations.

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.

<sup>10</sup> «Nobel Prize for sustainable development: lawyer Arash Derambarsh rewarded»: <https://clever-energies.com/en/nobel-prize-for-sustainable-development-lawyer-arash-derambarsh-rewarded/>

<sup>11</sup> FAO - 2022

<sup>12</sup> United Nations Environment Program, 2021

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.

The French law of 3<sup>rd</sup> February 2016 quickly proved its beneficial effects:

- More than 10 million meals are distributed each year in France.

- A 22% increase in food donations to charities.

However, due to the increase in impoverishment within the middle class and the establishment of increasingly long queues for the "soup kitchen", added to this a decrease in food donations to charities, it is necessary to provide even bolder responses.

Hence the filing of a new French bill against food waste in order to go further.

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 a new legal framework better regulate the food donation system ?

Our analysis responds to this problem with a requirement to accelerate the legislative process at the national 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 organizations.<sup>13</sup>

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.<sup>14</sup>

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.<sup>15</sup>

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.<sup>16</sup>

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 3<sup>rd</sup> February 2016<sup>17</sup>, 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- The French city of Courbevoie as a driving force against food waste

Since the adoption of the law against food waste, voted on 11<sup>th</sup> February 2016, supermarkets have been required to donate their unsold food to charities. A world first.

In accordance with **LAW No. 2016-138** of 11<sup>th</sup> February 2016 relating to « *the fight against food waste* »<sup>18</sup>, supermarkets whose sales area exceeds the surface area threshold of 400 square meters are required to donate their unsold consumable food to a charity. Failing this, the fine is 3,750 euros.

In 2019, an amendment increased the penalties in force. The one targeting food retailers that have not signed a donation agreement with an association, goes from a third-class fine (of a maximum amount of 450 euros) to a fifth-class fine (1,500 euros maximum). The amount of the administrative fine incurred for the destruction of consumable foodstuffs increases from 3,750 euros to 10,000 euros.<sup>19</sup>

**Senator Esther BENBASSA** explained the purpose of her amendment in the following terms on 20<sup>th</sup> September 2019:

*«It has been noted that some distribution players are still recalcitrant when it comes to applying the 2016 Law. It is therefore deemed necessary by the information report of June 12, 2016 on the evaluation of Law No. 2016-138 to make the penalties incurred more stringent so that they are more dissuasive.*

*The penalty for non-compliance is currently punishable by a fixed penalty of the third class. This*

<sup>13</sup> 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>

<sup>14</sup> France Info: [https://www.francetvinfo.fr/societe/plan-pauvrete/precarite-en-2023-5-3-millions-de-personnes-vivraient-sous-le-seuil-de-pauvrete-en-france\\_6304863.html](https://www.francetvinfo.fr/societe/plan-pauvrete/precarite-en-2023-5-3-millions-de-personnes-vivraient-sous-le-seuil-de-pauvrete-en-france_6304863.html)

<sup>15</sup> Anti-food waste law: what results after 18 months ? (Le Figaro – 2018): <https://www.lefigaro.fr/economie/le-scaneco/2018/10/16/29001-20181016ARTFIG00007-loi-anti-gaspillage-alimentaire-quel-bilan-apres-18-mois.php>

<sup>16</sup> Poverty in Europe (Statista 2023): <https://fr.statista.com/in-fographie/17748/niveaux-de-pauvrete-en-france-et-en-europe/>

<sup>17</sup> Law No. 2016-138 of 11<sup>th</sup> February 2016 relating to the fight against food waste: <https://www.legifrance.gouv.fr/jorf/id/JORFARTI000032036290>

<sup>18</sup> LOI n° 2016-138 du 11 février 2016 relative à la lutte contre le gaspillage alimentaire: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000032036289/>

<sup>19</sup> Amendement présenté par la sénatrice Esther BENBASSA: [https://www.senat.fr/amendements/2018-2019/728/Amdt\\_213.html](https://www.senat.fr/amendements/2018-2019/728/Amdt_213.html)

*amendment therefore proposes to increase it to a fine of the fifth class.*

*The penalty for destroying consumable foodstuffs is an administrative fine of 3,750 euros, which currently only applies to distributors in the food sector. This amendment proposes to increase this fixed fine to 10,000 euros ».*

Thus, this law has quickly proven its beneficial effects:

- More than 10 million meals are distributed each year in France.
- A 22% increase in food donations intended for charitable associations.

This assessment is therefore positive, but we must go further and improve the law due to the increase in impoverishment in our country and the long queues for the « Meal Center ».<sup>20</sup>

Indeed, charities complain of a drop in donations. We must therefore find new solutions.

Since 2020, the City of Courbevoie has been pursuing a dynamic and bold policy to combat food waste and hunger.

And the results are remarkable: more than 500,000 meals saved and distributed to charities.

On 31st Friday January 2025, Courbevoie city welcomed agents of the Food and Agriculture Organization of the United Nations (FAO) for a major international conference.<sup>21</sup>

Many guests were present, including **Jacques KOSSOWSKI** (Mayor of Courbevoie city), **Divine NAGANJE NIJE** (Deputy Director of the Agri-Food Systems and Food Safety Division of FAO), **Myriam ANNETTE** (International Expert, Prevention and Reduction of Food Losses and Waste, at the FAO Regional Office for Europe and Central Asia), **Reza NAJIB** (FAO Programme Officer), **Roselyne BACHELOT-NARQUIN** (former Minister), **Jean-Jacques BOUYA** (Minister of State of Congo Brazzaville), **Frédéric SIMONIN** (Starred Chef, Meilleur Ouvrier de France 2019), **Franck PAPAIZIAN** (President MediaSchool and co-president of the CCAF), **Manon MONTESSUIT** (chef), **Nabil ZEMMOURI** (Anti-waste Chef), **Karim BOUAMRANE** (Mayor of Saint-Ouen-sur-Seine city), **Joelle CECCALDI RAYNAUD** (Mayor of Puteaux city and President of POLD) and **Marie-Do AESCHLIMANN** (French Senator).

The United Nations agents were able to note that indeed, more than 500,000 meals were saved and redistributed to charitable associations so that the poor (middle class representing single mothers or fathers raising several children, retirees, unemployed or students) could eat their fill.

And thanks to these results, the city of Courbevoie has been recognized as an « **FAO Green City** ». <sup>22</sup>

And this change provides solutions to the current social situation in our country which is alarming.

This social situation also demonstrates that even in a city that appears « well-off », poverty has multiple facets. Poverty is increasing and the middle class is declining.

Thus in an alarming report, Secours Catholique estimated that nearly 10% of French people resort to food aid.<sup>23</sup>

Indeed, « between 5 and 7 million people » had recourse to food aid in 2020, warns Secours Catholique in its annual report on the state of poverty in France published on the basis of data from the General Directorate for Social Cohesion (DGCS).<sup>24</sup>

The city of Courbevoie has therefore shown inventiveness in its fight against food waste.<sup>25</sup>

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It was therefore decided that with the help of several start-ups and social and economic actors, a charter against food waste would be voted on each year in all spheres of activity in the city:

- 2020 with all supermarkets located in the city without delimitation of surface area
  - 2021 with hospital catering
  - 2022 with school catering
  - 2023 with food stores (food stores, restaurants, bakeries, markets)
  - 2024 with retirement homes and nursing homes.
- These commitment charters, a first in France, have a multiple objective:
- Create synergies so that everyone can take part in this fight and adapt their practices
  - Participate in raising awareness among the general public about the fight against food waste
  - Contribute to reducing the economic impact of this waste
  - Set up food donation partnerships for associations in accordance with the law
  - Promote partnerships with municipal associations
  - Organize « anti-waste » promotions, particularly for products close to their use-by date (UBD)
  - Offer wholesale or unit sales in order to adapt the quantities purchased and reduce packaging
  - Promote the development of fresh products, and develop awareness-raising marketing operations (operation « Ugly Fruits and Vegetables », etc.)
  - Conduct a discussion with suppliers in order to define a control strategy against food waste (product quality charters, etc.)

<sup>20</sup> « L'appel des Restos du cœur, révélateur des difficultés de tout un secteur face à la hausse des besoins »: [https://www.lemonde.fr/societe/article/2023/09/07/l-appel-des-restos-du-c-ur-revelateur-des-difficultes-de-tout-un-secteur-face-a-la-hausse-des-besoins\\_6188233\\_3224.html](https://www.lemonde.fr/societe/article/2023/09/07/l-appel-des-restos-du-c-ur-revelateur-des-difficultes-de-tout-un-secteur-face-a-la-hausse-des-besoins_6188233_3224.html)

<sup>21</sup> « Le combat de Courbevoie contre le gaspillage alimentaire inspire d'autres élus et collectivités »: <https://www.echoidf.fr/de-nouvelles-actions-contre-le-gaspillage-alimentaire/>

<sup>22</sup> « Green Cities Initiative » (FAO): <https://www.fao.org/green-cities-initiative/network/en>

<sup>23</sup> « Pauvreté en France: 10% de la population a eu besoin d'une aide alimentaire en 2020 » (Université Paris Saclay): <http://www.ritm.universite-paris-saclay.fr/poverty-in-france-10-of-the-population-needed-food-aid-in-2020/>

<sup>24</sup> Site Ville de Courbevoie: <https://www.ville-courbevoie.fr/2195/lutte-contre-le-gaspillage-alimentaire.htm>

<sup>25</sup> The law on Food Waste - From Courbevoie to Assembly: <https://resource.co/article/law-food-waste-courbevoie-assembly-10198>

- Act to recover waste.

On the strength of all this work, the FAO designated the city of Courbevoie as a «**World Green City**» in 2024, thus granting it formal recognition.

### III-A new bill proposal to go further

It is precisely on this alarming situation that Senator Marie-Do AESCHLIMANN was asked to propose a new law to go further.

A «*Bill to strengthen the fight against food waste*» was therefore submitted to the Senate on 20<sup>th</sup> January 2025 and whose Text bears the reference number 247 (2024-2025).

The proposal was simple: modify the law against food waste promulgated on February 11, 2016.

- Reduce the current ceiling of 400 m<sup>2</sup> imposed on supermarkets to reduce it to at least 100 m<sup>2</sup> in order to include more than 5,000 additional points of sale.
- Increase the current fines of the 5th class representing 10,000 euros to 20,000 euros against supermarkets that continue to throw away unsold edible food.

It is precisely Senator Marie-Do AESCHLIMANN who is carrying this «*Bill to strengthen the fight against food waste*» tabled in the Senate on 20<sup>th</sup> January 2025 and whose Text bears the reference number 247 (2024-2025).

Here is the explanatory statement of **Senator Marie-Do AESCHLIMANN**

Ladies and Gentlemen,

Every year, millions of tons of food are wasted in France, even though part of the population struggles to eat properly. This aberration, which is at once ethical, social and economic, requires renewed mobilization against food waste. Under Article L. 541-15-1 of the Environmental Code resulting from Law No. 2020-105 of 10<sup>th</sup> February 2020 relating to the fight against waste and the circular economy, food waste is defined as "any food intended for human consumption which, at any stage of the food chain, is lost, thrown away or degraded".

On a global scale, the equivalent of one billion meals would have been wasted every day in 2022, according to a report by the United Nations Environment Programme (UNEP). A waste that the director of UNEP(\*) describes as a "global tragedy".

In France, according to data from the Ministry of Agriculture and Food Sovereignty, food waste represented 4.3 million tons of food in 2022.

The worrying increase in food insecurity - which today affects 16% of the French population2(\*) - makes throwing away edible food even more unacceptable. For the year 2023, it is estimated that 2 to 3 million3(\*) people benefited from food aid distributed by associations.

This development is closely linked to the context of food inflation. After an 11% price increase in 2022, the Observatory published by rural Families recorded a further 16% price increase for fruits and vegetables in 2023.

In addition, according to the Observatory of Food Vulnerabilities created by the Nestlé Foundation, 37% of French people declared themselves to be food insecure in 2023, compared to 11% in 2015. This study also reveals that young people aged 18-24 are particularly

affected, as are women, single people and single-parent families4(\*).

With an estimated cost of 16 billion euros per year in France and 1,000 billion dollars for the global economy5(\*), food waste has consequences that are not negligible on the economic level.

Finally, its environmental cost is particularly significant since it represents 8 to 10% of global greenhouse gas emissions6(\*). According to the Waste and Resources Action Program (WRAP), if it were considered a country, food waste would be the "third largest emitter of greenhouse gases behind the United States and China". In France, the Agency for Ecological Transition (ADEME) estimates this impact at 15.3 million tonnes of CO<sub>2</sub> equivalent, or 3% of all our emissions7(\*).

The fight against food waste is therefore a major ethical, ecological, social and economic challenge for our society. Since signing the National Pact to Combat Food Waste in 2013, France has resolutely taken up this issue by strengthening its legislative arsenal in order to raise awareness and involve all stakeholders in the food chain in the fight against food waste, in particular through the practice of food donations, which is an essential lever in the fight against poverty.

Thus, as a result of the successive laws adopted over the last ten years, the list of stakeholders affected by the obligation to conclude food donation agreements with associations has continued to grow. Initially applied to distributors with a sales area of more than 400 m<sup>2</sup>, this obligation has been extended to operators of collective catering serving more than 3,000 meals per day as well as to operators in the agri-food industry and wholesale trade whose turnover exceeds 50 million euros.

At the same time, the associative world, communities, but also companies and players in the food sector, have also committed to developing virtuous initiatives aimed at reducing waste. This is the case, for example, of the city of Courbevoie, in Hauts-de-Seine, where under the leadership of Arash Derambarsh, deputy mayor, a Charter of Commitment against Food Waste signed with local stakeholders has made it possible to save and redistribute 400,000 meals in four years. In 2024, this proactive approach earned Courbevoie the title of "green city" awarded by the Food and Agriculture Organization (FAO), the specialized agency of the United Nations (UN)8(\*).

Despite real awareness at all levels since 2013, due to a lack of tools and indicators, it has not been possible to accurately assess the volume of food waste sources and their evolution. The objective assigned by the anti-waste law for a circular economy (AGEC) of February 20, 2020, proclaiming a goal of reducing food waste by 50% by 2025 compared to 2015, has consequently proven to be ineffective. However, the 2025 horizon is nonetheless a pivotal date in the fight against this scourge. The volume of 4.3 million tons of wasted food, measured in 2022, remains alarming in light of the food insecurity issues facing our country. This figure highlights the contrast between stated ambitions and concrete actions, recalling the urgency of intensifying our efforts to reduce waste while ensuring a better

redistribution of food resources to vulnerable populations.

At the origin of more than a third of food waste, the agri-food industry, distribution and out-of-home consumption still represent a considerable source of food that should be valorized in order to limit losses, develop donations and meet the growing need for food aid.

This law intends to act more specifically on this source by broadening the scope of the actors concerned, by strengthening the obligation for these actors to communicate their data on wasted food annually and by toughening the sanctions applicable to companies that make them unfit for consumption.

**Article 1<sup>st</sup>** extends the scope of the obligation for businesses and operators to propose agreements to donate their unsold goods to food aid associations in order to combat waste. On the one hand, by lowering the threshold of businesses concerned by the said obligation from 400 m<sup>2</sup> to 200 m<sup>2</sup>, which would allow the inclusion of some 5,000 local businesses in the scope of the law. On the other hand, by including food wholesale operators whose annual turnover exceeds 25 million euros, agri-food industry operators whose turnover exceeds 25 million euros and collective catering operators whose number of meals prepared exceeds 2,000 meals per day in this system. This article provides for the submission of a summary document of the donations made by these operators no later than 1 February of each year. This must be sent to the services of the General Directorate for Competition, Consumer Affairs and Fraud Control (DGCCRF). The Government must also submit, within twelve months, a report on the quality and compliance of donations to associations.

**Article 2<sup>nd</sup>** draws conclusions from the shortcomings in the application of the law by strengthening its control. Indeed, the DGCCRF investigation carried out throughout 2021 resulted in 345 establishments visited, 66 warnings, and 2 injunctions. The rate of establishments in anomalous is 20.87%. The anomalies noted are the absence of a proposed agreement, agreements not signed or not respecting the required formalities<sup>9(\*)</sup>. The operators concerned will also have to establish a quantified and exhaustive assessment, on an annual basis, of the quantities of food wasted.

**Article 3<sup>rd</sup>** toughens the sanctions against companies that make food unfit for consumption by replacing the fixed fine set at a maximum of 0.1% with a fine of between 0.1% and 0.5% of turnover. The aim is to combat the downward trend in donations within the large-scale distribution sector, deplored by many associations<sup>10(\*)</sup>.

**Article 4<sup>th</sup>** constitutes the financial guarantee of this bill.

\* 1 UN, "UN Food Waste Index Report: World Wastes More Than a Billion Meals a Day," UN Environment Programme, March 27, 2024.

\* 2 Marianne Bléhaut, Mathilde Gressier, Antoine Bernard de Raymond, "The Resourcefulness of People Who Don't Always Have Enough to Eat," Crédoc, September 2023.

\* 3 Food Bank Study: "Profiles" Who Are the People Who Receive Food Aid?

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\* 5 Ministry of Ecological Transition and Territorial Cohesion, Food Waste, June 12, 2024.

\* 6 UN, op. cit..

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\* 9 Directorate General for Competition, Consumer Affairs and Fraud Control, "Professionals: how to avoid food waste".

\* 10 In their 2023 activity report, the ANDES association notes, for example, that the share of donations from large retailers in the supply of solidarity grocery stores has fallen, from 35% in 2022 to 22% in 2023.

The overhaul of the agri-food system, aid for charitable associations and the fight against hunger therefore require the vote on this « Bill aimed at strengthening the fight against food waste » put forward by Senator Marie-Do AESCHLIMANN and which should be supported.

## CONCLUSION

As we have analyzed, the social situation is alarming. And faced with this, citizens are legally helpless.

Indeed, the legal tools made available to citizens must be updated and systematically adapted in order to respond to daily concerns: combating food waste and helping to reduce hunger.

As studied in the main part, it is necessary to vote on a new law against food waste because food donations have decreased. However, since the legal framework is insufficiently adapted, this bill will be welcome.

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