



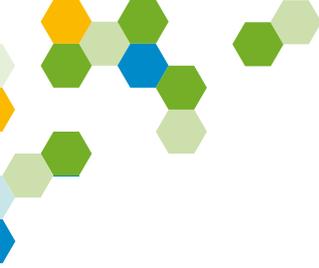
SPECIAL REPORT

Spain tackles the challenge of food wastage

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1. INTRODUCTION

The initiatives designed to check the growing volume of food waste generated in developed countries every year are snowballing around the world.

Spain is caught up in this trend, which has just begun to move toward greater social sustainability in the food sector. Consequently, the central and regional governments, political parties and Parliament are all embarking on initiatives in this area, with diverse scope and focus.

These measures are intended to alter the framework of relations between distribution, marketing and catering companies and society. They will also bring major challenges for the food sector, which may be forced in the future to review its manufacturing, labelling and preservation processes and its protocols for handling waste food.

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2. CONTEXT

Every year, around 88 million tons of food ends up in the bin in the European Union. The production and elimination of that food involves the use of 26 million tons of resources and it causes the emission of 170 million tons of CO₂.

Spain ranks seventh among the Member States that produce most food waste, in absolute figures, with 7.7 million tons a year, according to figures published by the Ministry of Agriculture, Fisheries, Food and Environment. This has an estimated cost of 3 billion euros a year.

In view of these figures and in an economic climate still shuddering from the recent economic crisis and the repercussions of climate change, global initiatives abound to curb this wastefulness, which has not only social consequences, but also a major environmental impact.

The **United Nations** has proposed halving food waste from retail and end consumers by 2030 and cutting food loss in the production and supply chains.

Along the same lines, in 2012, and again in May 2017,

the **European Parliament** approved initiatives requesting Member States to halve the quantity of food discarded each year by 2015/2030, through measures such as the removal of restrictions for donations, the forthcoming tax exemption on food donations and clarification of the “best-before” and “use-by” dates. Meanwhile, the **European Commission** laid the groundwork for preparing an action plan in this regard, which was set out in 2015's Circular Economy Package.

Since mid-2016, several Spanish parliamentary groups have presented proposals to alleviate the problem of food wastage, in line with the initiatives recently started up in several of our neighboring countries.

In **France**, for example, since February 2016, supermarkets have been forbidden by law to throw food away and are obliged to donate any surplus food to NGOs and food banks. Some 10 million food rations have been donated thanks to these measures.

In **Italy**, where food donations have multiplied by 12 over the past 10 years, the measures adopted—including those established in the Gadda Act 2016—have focused on tax incentives for food donations, lowering VAT and reducing the

“Several associations in the food and distribution sector have underlined the importance of having adequate, negotiated legislation, passed in consensus with all parties involved”

red tape for supermarkets that donate food.

Finally, in **Great Britain** supermarket chains must provide information on the amount of food they throw away.

After two unsuccessful parliamentary initiatives presented in 2016 by Ciudadanos and Compromís, a motion was approved on May 16, 2017 for “Measures to combat food waste”, presented by the Socialist Parliamentary Group.

Barely one month later, the ‘Popular’ (center-right) Group in Congress presented a further two parliamentary initiatives along the same lines. One was a motion concerning VAT on food donations (161/001992), approved in committee on October 18, 2017. And the other one was a policy proposal “to promote and expedite food donations” (122/000106), which is currently being processed.

These three legislative measures that have been or are ongoing, are completed with the “More food, less waste” strategy that the Ministry of Agriculture, Fisheries, Food and Environment has been

developing since 2013 and which entered into its second stage (2017-2020) in December 2017.

Several associations in the food and distribution sector have underlined the importance of having adequate, negotiated legislation, passed in consensus with all parties involved, to promote the donation of food and reduce the obstacles that currently exist. Italian legislation could be taken as a model to follow for this reform, in view of the excellent results it has achieved.

3. INITIATIVES

Numerous measures have recently been taken in this regard on a national and international scale. The scope of those measures varies considerably, although the most important ones are those passed within the United Nations and the European Union, which point the way for other national, regional or even local measures. (See chart 1).

The following table provides more detailed information on the four principal initiatives with national scope that have the best chance of going ahead. (See chart 2).

Chart 1. Summary of legislative initiatives to combat food waste in Spain

INITIATIVE	SCOPE	STATUS
Motion "for measures to reduce food waste discarded for sale but suitable for human consumption in the distribution sector" (Ciudadanos)	National	Held up in Congress since 2016
Motion "regarding the fight against food waste" Congress (Unidos-Podemos)	National	Held up in Congress since 2016
Motion "for measures to combat food waste" (PSOE)	National	Approved by Congress (2017)
Motion regarding VAT charged on food donations (PP)	National	Approved by Congress (2017)
Motion urging the government to "study regulatory measures to reduce food waste, except for food that has passed its use-by date" (PP)	National	Approved by Senate (2017)
Policy proposal "to promote and expedite food donation" (PP)	National	Going through Congress (29 June 2017)
"More food, less waste" strategy Ministry of Agriculture, Fisheries, Food and Environment	National	Under implementation (2017-2020)
Circular economy strategy Ministry of Agriculture, Fisheries, Food and Environment and Ministry of Economy, Industry and Competitiveness	National	At public scrutiny stage
Discussion paper on food waste in the State of Spain Agriculture Commission in the Senate (Created at the proposal of PNV)	National	Active since 2017
Andalusia: agriculture and livestock bill (several articles)	Regional	Going through parliament
Balearic Islands: draft bill on waste and contaminated soil (several articles)	Regional	Going through parliament
Catalonia: policy proposal for the reduction of food waste (specific) PSC parliamentary group	Regional	New text admitted for discussion in the Catalan parliament after discarding the previous text due to the end of the parliamentary term
Castile-La Mancha: draft circular economy bill (one article)	Regional	Public information stage completed. The regional government considers that it could be in force by the end of 2018
Asturias: motion by the Izquierda Unida parliamentary group for the drafting of a plan to halve the volume of food waste (specific)	Regional	Approved

Chart 2. Initiatives that have made the greatest progress

INITIATIVE	PROPOSED BY	GOAL	STATUS
Policy proposal to promote and expedite food donation	PP parliamentary group	Specific amendment to the Food Safety Act to facilitate donations by non-profit organizations	In final stage of going through parliament
Motion regarding VAT charged on food donations	PP parliamentary group	Requests European institutions to amend the directive to make food donations exempt from VAT	Approved
Motion for measures to combat food waste	PSOE parliamentary group	Requests the government to put into place a number of global measures to promote food donations	Approved
"More food, less waste" strategy	MAPAMA	Channels the initiatives of all parties committed to reducing food waste	In implementation (2017-2020)

* MAPAMA = Ministry of Agriculture, Fisheries, Food and Environment

“The policy proposal merely offers greater legal security to food-donating entities in order to facilitate donations”

AIM OF THE INITIATIVES

The four most important initiatives regarding food waste that are active in Spain at present adopt a formula similar to the one adopted in Italy, granting **tax incentives and regulatory concessions rather than imposing coercive measures**, as in France.

1. The policy proposal “to promote and expedite food donations” merely offers greater legal security to food-donating entities in order to facilitate donations. It consists of a specific amendment (to one article) of the Food Safety and Nutrition Act that will change the consideration of non-profit organizations so that they are considered end consumers in respect of food donors, while maintaining their obligations as food operators in respect of their beneficiaries.

More specifically, the motion seeks to add a supplementary provision to Food Safety and Nutrition Act 17/2011 of 5 July with the following text:

- « Supplementary provision: to facilitate the donation of fresh, perishable food to non-profit organizations.

Organizations that meet the requirements to be recognized as non-profit organizations, established in Organic Law 1/2002 of 22 March regulating the right of association and in Articles 2 and 3 of Law 49/2002 of

23 December on the tax regime of non-profit organizations and tax incentives for sponsorship, and that contemplate social, welfare and charitable activities and purposes in their bylaws, shall be considered end consumers in respect of food donors, while maintaining their obligations as food operators in respect of their beneficiaries, on the terms stipulated in the Food Safety and Nutrition Act 17/2011 of 5 July ».

The current wording of this reform does not contemplate any subsequent regulatory development and would leave it up to the non-profit organizations, now recognized as end consumers, to organize their relations with food donors, i.e. the distributors or catering firms.

The latter, in turn, would not have any obligations under this reform other than to respond voluntarily to the demands of organizations receiving the donations.

2. As a supplementary measure, the PP parliamentary group presented a motion, approved on 28 September 2017, urging the government to request the European institutions to amend the directive concerning the common VAT system to exempt from that tax the deliveries of products or food to the NGO when they are to be consumed within the European Union. The directive already contemplates exemption from VAT if the products are sent outside the

“The ‘More food, less waste’ strategy aims to channel the initiatives of all the parties committed to reducing wastage”

EU within solidarity actions, but not if the donation is made within the EU.

3. The motion “for measures to combat food wastage”, also approved, goes further than the PP proposals, urging the government to provide incentives for food donation in the form of specific tax benefits; revise labeling requirements, extending in certain cases the “best-before” and “use-by” dates; and promote diversification of packaging sizes in the food industry to help consumers to choose adequate quantities and avoid food wastage.
4. The “More food, less waste” strategy developed by the Ministry of Agriculture, Fisheries, Food and Environment aims to channel the initiatives of all the parties committed to reducing wastage. It focuses on goals such as the stimulation of awareness—quantifying food waste at all levels of the food chain as a prerequisite for defining actions—, training, research and innovation, and collaboration with other players, such as entities, associations, companies, producers and consumers.

The Ministry considers this to be Spain’s contribution to the European Parliament resolution of January 19, 2012 urging Member States to act against food wastage.

After four years of this strategy, a second stage commenced in December, covering the

period 2017-2020, to work in coordination with and parallel to the study group set up in June 2017 within the Agriculture and Food Commission of the Senate, with a view to investigating and assessing the extent of the problem and proposing measures to reduce it.

This strategy is also a principal point of reference in respect of food wastage within the circular economy strategy, recently announced by the government, promoted by the Ministry of Agriculture, Fisheries, Food and Environment and the Ministry of Economy, Industry and Competitiveness, with the collaboration of other seven departments.

The circular economy strategy, currently under public scrutiny, contemplates an action plan 2018-2020 with five main lines of action: production, consumption, waste management, secondary raw materials and reuse of water.

A further three cut across those five: awareness and participation; research, innovation and competitiveness; and employment and training.

4. TIMING

Although political groups like Podemos and Ciudadanos uphold that the measures presented by PP in this area are insufficient and

unambitious, **the policy proposal “to promote and expedite food donations” might achieve rapid approval.**

After conclusion of the period for proposing amendments and the presentation of the Commission’s report in February, this initiative may be approved in the next few months. The policy proposal could be modified during these final stages, mainly as a result of the possible amendments approved by the Partido Popular (PP) in the Senate, where it has an absolute majority.

As regards the motion requesting a change in VAT on donated food, this initiative depends on the European Union, which would have to amend the directive on that tax.

5. KEY ISSUES FOR THE SECTOR

The principal changes that may be brought about in the food sector by the initiatives concerning food wastage are described below:

- The growing number of initiatives and “good samaritan laws” on a global level brings this issue increasingly into the limelight, subject to imminent legislation. For much of the sector, the three key points of any initiative in this area must be food safety as a basic pillar of business and throughout the value chain of the products (so the matter of responsibilities

is still crucial); taxation of the products donated and not sold; and finally, flexibility for reducing or redistributing surplus food.

- **Public-private collaboration is one of the solutions prioritized by the UN for channeling these initiatives.** In the private sphere, this requires an effort to make the requests clear and adjust supply to demand.
- One of the initiatives included in the “More food, less waste” strategy focuses on quantification of the food discarded. Although most of that wastage (42 percent) is produced by households, catering (14 percent) and commercial distribution (5 percent) are also affected by the growing quantities of food wastage.
- This need for quantification may also raise problems for establishing unified measuring units, which do not currently exist (see [here](#) the food wastage quantification panel of the Ministry of Agriculture, Fisheries, Food and Environment).
- Several parliamentary groups, such as Podemos or Ciudadanos, have requested greater ambition when regulating control of food wastage. This pressure could lead to the adoption of measures similar to those existing in France, where supermarkets and restaurants are forbidden to throw food away. A measure like this would force those companies

to manage—through NGOs and food banks—a part of their stock that does not require any management effort at present.

- The possible reform of the **legislation on ‘use-by’ and ‘best-before’ dates**, extending these times in an effort to give food products a longer useful life, may force the sector to review its protocols in this area and its food-labeling strategy.
- **There is also a possibility of changes in packaging laws**, forcing producers to use smaller packaging, adjusted to consumption in order to avoid wastage. These changes might be accompanied by initiatives for return of packaging and deposit-return systems.

Within the framework of broader initiatives focusing on areas such as sustainability

or the circular economy, some autonomous communities, especially those governed by left-wing parties, have put into place or are currently preparing **stricter regulations on food wastage**. On the whole, they tend to be soft-focus political initiatives that are widely acceptable among citizens.

The forthcoming regional elections, scheduled for 2019, may induce governments to embark on initiatives of this nature.

This possibility opens two fronts for the food sector:

- The new regulations may be more restrictive, ignoring suggestions from companies in the sector.
- The possible existence of regional regulations, sometimes contradicting one another,

Chart 3. Summary of possible consequences for the food sector

INICIATIVA	CLAVES PARA EL SECTOR
Quantification of the food discarded (“More food, less waste” strategy)	• Reputational risk
Prohibition to throw away food in good condition	• Increased management needs for distribution and catering firms • Changes in tax laws • Risk deriving from the lack of structure of the NGOs and food banks in Spain for accepting donations of refrigerated food. Most of the third sector infrastructure is designed for non-perishable food, whereas the projects for combating food wastage entail a need to maintain the cold chain.
Mechanisms for mandatory donation of discarded food	• Need to coordinate donations with NGOs and social entities
Reforms to extend the useful life of food products	• Changes in food control protocols • Changes in labeling policy
Reduction of the size of packaging to avoid wastage	• New packaging needs

could complicate the business activities of companies in the sector that operate on a nationwide scale.

Some of the most recent regional laws and regulations are listed below:

Catalonia

Following the dismissal of its previous legislative project owing to the end of the parliamentary term, the PSC has presented another policy proposal for reducing food wastage, which was admitted for discussion on 13 February 2018.

The new text, just like its predecessor, includes novel proposals with respect to other initiatives. Among others, it contemplates measures such as the obligation of all sectors participating in the food chain to design and implement a strategic plan to combat wastage and the prohibition for commercial establishments of over 400 square meters to discard as waste any food that has gone past its best-before date.

Large catering organizers must have agreements in place with social entities to take up any food not consumed during the event.

Public administrations are obliged to include wastage reduction clauses in any public tenders associated with catering activities.

The new policy proposal also adds, for example,

the requirement for social entities to improve the food preservation and distribution conditions, the establishment of a system of common indicators to know the volume of waste reduction in Catalonia and the need for a Catalonia-wide scheme to combat food wastage.

Balearic Islands

The preliminary Balearic draft law on contaminated soil and waste, currently under public scrutiny, specifies that hotel and catering establishments will be obliged to provide any customers that may so request with the leftovers they have not consumed.

In addition, retail outlets and points of sale may not throw away any food in good condition and measures will be promoted to ensure that any cooked food left over from school meals and in hospitals, nursing homes and other large collectives can be donated to soup kitchens or distributed among the needy.

Asturias

The motion put forward by the Izquierda Unida parliamentary group to prepare a plan to halve the quantity of food waste, approved on 9 February 2018, urges the regional government to design a plan before the end of this year containing, among other measures, an agreement with social entities working in the area of social

intervention that includes measures fostering channels for receiving excess food in good condition that may be donated by retail outlets and catering establishments for distribution among people at risk of poverty.

Groups have also called for measures to reduce food wastage in the regional administration and public services, and a study of the possibilities of recycling surplus food that cannot be distributed among people at risk of poverty, so that it can be used for other purposes, such as animal consumption or the preparation of compost or fertilizer.

Castilla-La Mancha

The regional government has drafted a Circular Economy Law which it estimates could enter into force at the end of 2018, following public scrutiny. This law contains references to the need to reduce food wastage.

6. CONCLUSION

The conjunction of three very active levels of legal initiatives—European, national

and regional—addressing the reduction of food wastage puts the entire food sector on the threshold of a major disruptive change. Both the central and, especially, the regional governments have in place, or are about to approve, a broad range of measures seeking to secure the channeling of any unsold food products into social causes by means of tax incentives, regulating relations with NGOs and making the marketing processes of producers and distributors more efficient.

Although it is too early to assess the real outcome of these measures, this change in policy, along with the circular economy, will no doubt have a bearing not only on the reputation and income statements of corporations, but also on their production processes, marketing strategies and their role as social entities in a society where everything is becoming increasingly inter-related. Food wastage will thus cease to be considered expendable and residual, and be recognized as an inherent part of a corporation's social, environmental and economic value chain.

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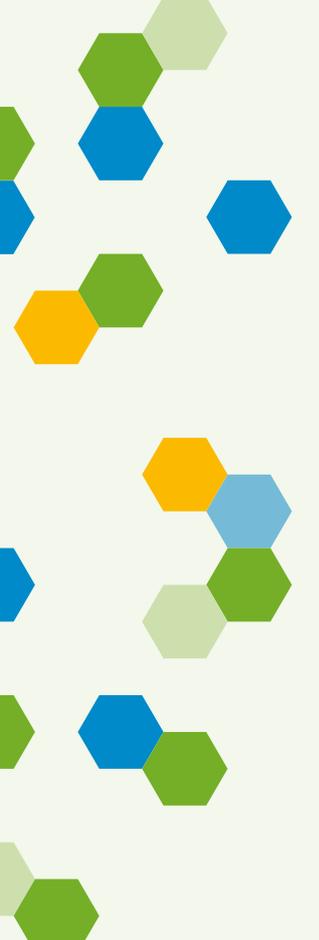
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