



Harmonization and implementation of  
Corporate Social Responsibility EU Directives

# Legislation concerning food donations in EU Member States and Croatia

Jasenka Begić, mag. ling., mag. litt. comp.

*Funded by*



*Partners*



# Content

---

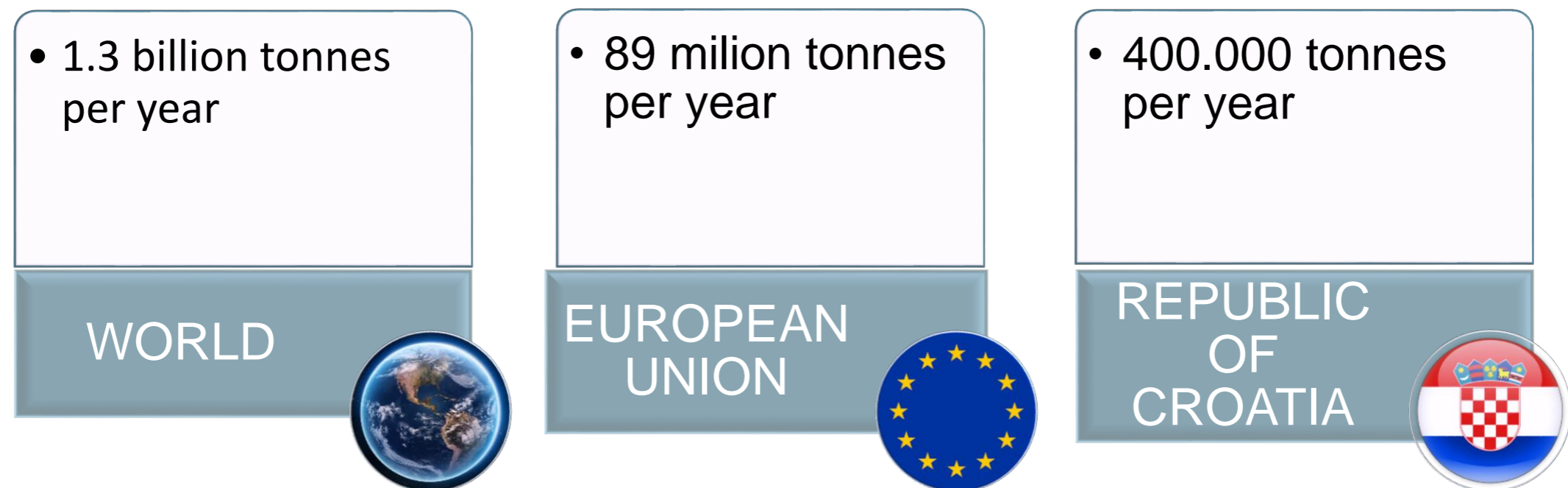
1. The scope of the problem
2. Overview of the current legislation and practices concerning food donation in EU Member States
3. Regulations on food donations in Croatia
4. Possible solutions
5. Examples of good practices
6. Instead of a conclusion



# 1. The scope of the problem

---

The Food and Agriculture Organization of the United Nations (FAO)



# 1. The scope of the problem

---

- Food waste – „any edible food intended for human consumption that fails to be eaten”

## *Environmental loss*

- 3.3 billion tonnes of CO<sub>2</sub> globally
- In the EU, food production and consumption generate an estimated 20% to 30% of all EU environmental impacts

# 1. The scope of the problem

---

## *Economic loss*

- around USD 750 billion per year

## *Social questions*

- 870 million people go hungry every day
- 79 million EU citizens live beneath the poverty line
- 16 million depend on food aid from charitable institutions

## 2. Overview of the current legislation concerning food donation in EU Member States

---

### The General Food Law: Regulation (EC) No 178/2002

- lays down the general principles and requirements of food law
- establishes the European Food Safety Authority
- establishes procedures in matters of food safety
- provides a framework to ensure a coherent approach in the development of food legislation across the EU
- clarifies definitions, principles and obligations covering all stages of food/feed production and distribution
- identifies food donation as a “market operation” and food donors as “food business operators”
- underlines that all actors taking part in food donation have to comply with the EU food legislation concerning responsibility, liability, traceability, and food health and safety.

## 2. Overview of current legislation concerning food donation in EU Member States

---

### The Food Hygiene Package:

- Regulation (EC) No 852/20044 on the hygiene of foodstuffs
- Regulation (EC) No 853/20045 lays down specific hygiene rules for food of animal origins
- Regulation (EC) No 854/20046 lays down specific rules for the organisation of official controls on products of animal origin intended for human consumption
- Directive 2004/41/EC7 repeals certain directives concerning food hygiene and health conditions for the production and placing on the market of certain products of animal origin intended for human consumption.

## 2. Overview of current legislation concerning food donation in EU Member States

---

**The Food Hygiene Package** lays down general rules for food business operators (including food banks) on hygiene conditions for foodstuffs.

The primary responsibility for food safety rests with the food business operator.

### Main issues:

- Some Member States can interpret the EU Hygiene Package rigidly (especially rules related to food safety, storage and transport), creating more difficult conditions for food donation.
- There are no EU guidelines designed for food business operators clarifying their compliance with the EU Food Hygiene legislation when donating food.



## 2. Overview of current legislation concerning food donation in EU Member States

---

### Food durability and date marking: Regulation (EC) No 1169/20119

- on the provision of food information to consumers
- food business operators are required to determine, based on the composition of the product, whether it is appropriate to use a 'best before' or a 'use by' date
- products past their 'use by' date are not marketable and thus cannot be donated, whereas products past their 'best before' date can still be donated if the product was properly stored.

### Main issues:

- there is a general misunderstanding and confusion across the EU about the potential to donate food that has passed its 'best before' date
- there is a further concern that food donated after its 'best before' date may be of inferior quality and that the deprived benefiting from donated food should not receive inferior products.

## 2. Overview of current legislation concerning food donation in EU Member States

---

### **Tax legislation: Council Directive 2006/112/EC<sup>10</sup>**

- imposition of VAT on food donation in some MS is a difficult area
- terminology in legal texts vary such that the value of food may be considered low or zero at time of donation
- VAT may be "abandoned", or "exempted"
- this issue is both controversial and lacks clarity.

## 2. Overview of current legislation concerning food donation in EU Member States

---

### The Waste Framework Directive: Directive 2008/98/EC<sup>12</sup>

- MS shall apply as a priority order the following waste management hierarchy: prevention, preparing for re-use, recycling, recovery and disposal
- there is not specific EU guidance on a food waste or food use hierarchy, prioritising food redistribution to humans over feeding animals, energy or nutrient recovery via treatment methods such as anaerobic digestion (AD), in-vessel composting, land spreading, and landfilling.

#### Main issues:

- a number of MS have put in place economic incentives which make lower stages of the hierarchy, including AD, more financially inviting.
- there is not a mechanism to enforce the proper implementation of the EU waste hierarchy in MS waste management legislation.

## 3. Regulations on food donations in Croatia

---

### **Regulations on the conditions, criteria and ways of donating food and food for animals (2015)**

- lay down detailed conditions, criteria and ways of donating food and food for animals
- the conditions that the mediator must meet in donating food and food for animals
- the content and manner of maintaining the Register of mediators.

# 3. Regulations on food donations in Croatia

---

## Rules on the conditions, criteria and ways of donating food and food for animals (2015)

- rely on the Croatian Food Law and the Law on food hygiene and microbiological criteria for food
- in the process of donating food both donors and mediators must adhere to the conditions laid down in the in Regulation (EC) No. 178/2002 and the general requirements relating to hygiene laid down in the Regulation (EC) No. 853/2004 or the Regulation (EC) No. 1831/2003.

# 3. Regulations on food donations in Croatia

---

## According to the Regulations:

- Donated food must not be the subject of trade.
- If it is marked with the term "use by " a certain date, it must be donated before the deadline.
- If the date is already expired, the food can be donated only if the recipient is informed about it and that he accepted the food.
- Food unsuitable for sale because of defects in quality, packaging, labeling, weight or other reasons can be donated, provided that such defects do not affect the safety of food.

# 3. Regulations on food donations in Croatia

---

## According to the Regulations:

- Food prepared in various culinary establishments can be donated only if it hasn't been previously served.
- Manufacturers alone decide how long after the deadline "best before" food can still be used for human consumption.

## 3. Regulations on food donations in Croatia

---

### Who can donate food?

All food manufacturers only when it comes to food which is worth up to 2% of their total income from the previous year.

### Who can act as a mediator in donating food?

Humanitarian non-profit entities that work in accordance with regulations and are registered in the Register of mediators in the Ministry of Agriculture.



# 3. Regulations on food donations in Croatia

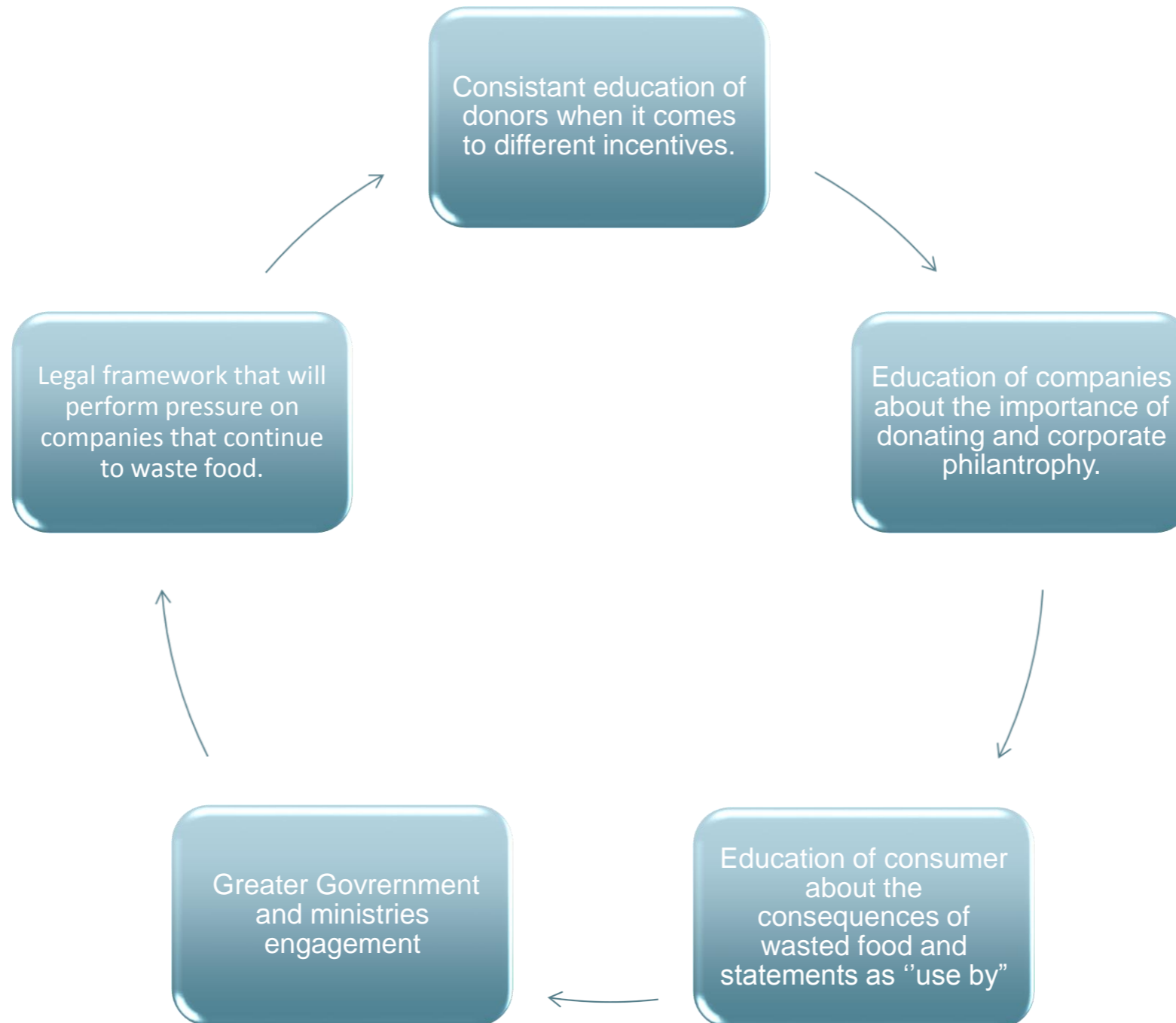
---

## Main issues

1. Rules set by the Regulations are a business secret of a company – still it is required by the documentation.
2. All mediators need to be entered into Register of mediators in the Ministry of Agriculture.
3. Great administrative difficulties (Ministry of Agriculture, health, finance and social policy).
4. Providing special warehouse.

# 4. Possible solutions

---



## 5. Examples of good practices

REFERESH project, EU

(Resource Efficient Food and  
dRink for Entire Supply Chain

<http://eu-refresh.org/>)



France, Intermarche,

Inglorious fruits and

vegetables

# Instead of a conclusion

---

- Discussion

Thank you for your attention!

Do you have any questions?

[jasenka@idop.hr](mailto:jasenka@idop.hr)