

Brussels, 5 December 2024
(OR. en)

16512/24

AGRI 856
FOOD 128

NOTE

From: General Secretariat of the Council
To: Delegations

Subject: AOB item for the meeting of the "Agriculture and Fisheries" Council of 9 and 10 December 2024:
Introduction of a “charitable food business operator” under European food law
– *Information from Germany, supported by Cyprus, Denmark, Latvia, Luxembourg and Spain*

Too much food waste still is produced in the EU; according to the latest figures of EU reporting, it amounted to 59.2 million tonnes in 2022. Sustainable Development Goal 12 includes the targets to halve the per-capita global food waste at retail and consumer levels and to reduce food losses that occur along production and supply chains, including post-harvest losses, by 2030. Charitable organisations that redistribute still edible food contribute significantly to this target.

To facilitate the free-of-charge redistribution of food, the BMEL has commissioned a legal opinion that draws up different regulatory proposals to make redistribution easier. The legal opinion focuses on the proposal to introduce the “charitable food business operator” as a new category at European law level. Based on that, special provisions for the retail sector and for charitable organisations operating in the food donation process could be further explored. The commissioned legal opinion investigated in particular how the proposed changes to food law regulations (e.g. Regulation (EC) No. 178/2002) can facilitate food donations on the one hand and guarantee the safety and quality of these foods on the other hand. The special provisions proposed in the legal opinion for instance relate to:

- avoiding double controls when food is redistributed;
- facilitating the redistribution of food with labelling deficiencies, as long as these deficiencies don't represent a health risk to the final consumer;
- easing documentary duties in food redistribution.

The legally secure implementation of the overall plan would require amendments to various EU food law regulations. In particular, this would include the introduction of the “charitable food business operator” as a new legal concept within Regulation (EC) No. 178/2002. This could create a starting point for exploring the socially desired and welcomed simplification of the food donating process within the framework of the respective national regulatory options. In other respects, this is also consistent with a proposal by the *Strategic Dialogue on the Future of EU Agriculture* to the European Commission with regard to the issue of food waste, which is to draw up a harmonised definition on the role of social organisations that are involved in the logistics and distribution of food to those in need (p.68).
