



THE GLOBAL FOOD DONATION POLICY ATLAS

Executive Summary: Costa Rica

More than enough food is produced to feed every person, yet one-third of all food is wasted. Redirecting safe, surplus food is an effective and compassionate solution, but it can be complicated because food is a heavily-regulated product.

To help address the most pressing and universal legal and policy questions surrounding food recovery and donation, the **Harvard Law School Food Law and Policy Clinic (FLPC)** and **The Global FoodBanking Network (GFN)** have partnered to create The Global Food Donation Policy Atlas. This innovative partnership will map the laws and policies affecting donations in 15 countries over the course of two years. The project aims to: identify and explain national laws relating to food donation, analyze the most common legal barriers to promoting greater food donation and share best practices and recommendations for overcoming these barriers.

COSTA RICA FOOD LOSS AND WASTE

While Costa Rica has not published official food loss and waste data, estimates suggest that approximately 40% of the country's food supply is needlessly lost or wasted each year. At the same time, more than 30% of the population was moderately or severely food insecure prior to the novel coronavirus (COVID-19) pandemic—a global emergency that has since severely exacerbated poverty, hunger, and food loss and waste in Costa Rica.

The Costa Rican government has demonstrated a commitment to address food and nutritional security and to promote food system sustainability through national policy initiatives. For example, the National Policy of Sustainable Production and Consumption 2018-2030 (*Política Nacional de Producción y Consumo Sostenible 2018-2030*) prioritizes the reduction and appropriate management of food waste as a way to promote sustainable agrifood systems. In 2014 the government created the Costa Rican Network for the Reduction of Food Loss and Waste (*Red Costarricense para la Disminución de Pérdidas y Desperdicio de Alimentos*) to promote strategies for reducing food loss and waste throughout the country. These initiatives confirm the potential for Costa Rica to continue to mitigate food loss and waste and food insecurity by increasing the donation of safe, surplus food.

Costa Rica: By the Numbers

- Population: 5,098,000
- GDP: \$84 billion
- Poverty Rate: 21.7%
- Prevalence of Food Insecurity: 5.4%
- Global Food Security Index: 70.1
- Food Sustainability Index: N/A
- FLW Estimates: N/A

COSTA RICA FOOD DONATION POLICY HIGHLIGHTS

DATE LABELING: Costa Rica standardizes date labels pursuant to the Central American Technical Regulation for the General Labeling of Prepackaged Foods (*Reglamento Técnico Centroamericano, RTCA 67.01.02:10, Etiquetado General de los Alimentos Previamente Envasados (Preenvasados)*). The Technical Regulation applies to all countries that are part of the Central American Economic Integration System. It is intended to harmonize national legislation with the Codex Alimentarius General Standard for the Labeling of Prepackaged Foods. Unfortunately, the Technical Regulation has not been updated to align with the 2018 version of the *Codex Alimentarius* General Standard, which designates the “expiration date” as a safety-based label and “best before” as an indication of quality. As a result, manufacturers in Costa Rica continue to use the “expiration date” to reflect quality rather than safety.

ACTION OPPORTUNITY: The Costa Rican government should coordinate with the Secretariat for Central American Economic Integration (Secretaría de Integración Económica Centroamericana or SIECA) to introduce a standardized dual date labeling scheme in the Technical Regulation so it aligns with the *Codex Alimentarius*. Costa Rica should subsequently ratify the Technical Regulation at the national level. The government should also permit and promote food donation after the quality-based date, effectively making permanent the changes introduced in the temporary COVID-19 Food Donation Guidelines (*Lineamientos Generales para la Donación de Alimentos ante la Alerta Sanitaria por COVID-19*).

TAX INCENTIVES AND BARRIERS: Costa Rica offers tax benefits for food donations pursuant to the Income Tax Law (*Ley del Impuesto sobre la Renta*). This Law exempts charitable donations, including in-kind donations, from gross income calculations for tax purposes up to a limit of 10% of the taxpayer’s net income. Food recovery organizations such as food banks presumably fall within the classification of appropriate recipients of charitable donations under this Law. Despite this benefit, Costa Rica has not entirely exempted food donations from the value-added tax (VAT), which may pose a burden on donors and food recovery organizations.

ACTION OPPORTUNITY: While Costa Rica already offers an income tax deduction for qualifying food donations, the current maximum amount that may be claimed is relatively low, capped at 10% of the donor’s net income. Costa Rica should amend its Income Tax Law to offer a more competitive tax deduction rate and to introduce tax credits that would benefit a broader subset of donors. Costa Rica should also exempt food donations from the existing VAT scheme.

COSTA RICA FOOD DONATION POLICY OPPORTUNITIES

FOOD SAFETY FOR FOOD DONATIONS: Most of Costa Rica’s food safety standards are contained in the General Health Law (*Ley General de Salud*) and its corresponding regulations. These authorities do not explicitly reference food donation or feature a donation-specific section. The General Health Law prohibits the transfer, including when provided free of charge, of foods that are altered, deteriorated, contaminated, adulterated, or falsified. Therefore, food donors and food recovery organizations may reasonably interpret such provisions as prohibiting the donation of certain foods.

ACTION OPPORTUNITY: Food donors in Costa Rica have expressed uncertainty as to which food safety standards apply to donated food. The government should provide clarification by amending the national regulatory framework to explicitly state which food safety provisions apply to food donors and donation-receiving entities. Government ministries responsible for overseeing food safety could also produce and disseminate guidance to clarify which food safety standards apply to food donation.

LIABILITY PROTECTION FOR FOOD DONATIONS: Costa Rica does not limit the potential legal or financial liability that may be imposed on food donors and food recovery organizations in the event a beneficiary is harmed. Costa Rica’s Consumer Defense Law (*Ley de Promoción de la Competencia y Defensa Efectiva del Consumidor*) does not specifically address food or food donation, but it does generally apply to relationships between consumers and suppliers. The broad definitions of the Law suggest that food donors and food recovery organizations could face liability in the event a beneficiary alleges harm arising from donated food.

ACTION OPPORTUNITY: Costa Rica should adopt legislation that establishes comprehensive and clear liability protection for food donors and food recovery organizations that act in good faith (*buena fe*). Costa Rica’s liability protections should allow food recovery organizations and other intermediaries to charge a nominal fee for donated food. This model of low-cost donations would support food recovery operations that otherwise lack sustainable funding.

DONATION REQUIREMENTS OR FOOD WASTE PENALITES: The Costa Rican government has made various policy commitments to reduce landfill waste and to guarantee the right to live in a healthy and ecologically balanced environment. Nevertheless, the country has not yet adopted any law or policy that would require food donation or impose monetary penalties for safe, sanitary food that is sent to landfills.

ACTION OPPORTUNITY: Costa Rica should build on the commitment it recently expressed in its National Policy of Sustainable Production and Consumption 2018-2030, which prioritizes the reduction and appropriate management of food waste. For example, the government could require certain businesses to subscribe to organic waste recycling services.

COSTA RICA FOOD DONATION POLICY: HOW DOES IT COMPARE?

Costa Rica does not have a comprehensive, binding legal framework to administer food donations or to promote the reduction of food loss and waste. Nevertheless, the Costa Rican government has demonstrated an increasing interest in the issue of food recovery in recent years. Clarifying food safety requirements, adopting a dual date labeling system, recognizing more competitive tax benefits for food donation, limiting legal liability for food donors and food recovery organizations that act in good faith, and potentially imposing donation requirements or food waste penalties will further support food recovery and donation efforts.

Food Safety for Donations	Date Labeling	Liability Protection for Food Donation	Tax Incentives	Tax Barriers	Donation Requirements or Food Waste Penalties	Government Grants and Incentives
Weak policy	Weak Policy	No Policy	Weak Policy	Yes	No policy	No Policy

For more detail on how Costa Rica measures up against the other countries evaluated in The Global Food Donation Policy Atlas project, check out atlas.foodbanking.org. For more information about the food donation legal framework in Costa Rica and policy recommendations for strengthening this framework, check out the Costa Rica Food Donation Legal Guide and the Costa Rica Food Donation Policy Recommendations.

BACKGROUND INFORMATION: MAJOR LEGAL ISSUES IMPACTING FOOD DONATION

Food Safety for Donations: A key barrier to food donation is lack of knowledge regarding safety procedures for donated food. All donated food should be safe for consumption and comply with applicable food safety laws. Potential donors, however, are often uncertain which food safety regulations apply to donated food and the steps necessary to comply.

Date Labeling: Date labels, such as “use by,” “best before,” “sell by,” and “expires on,” are a major driver of food waste and obstacle to donation. For the majority of foods, date labels are used by manufacturers to reflect freshness or quality rather than safety, yet without standard labels delineating safety versus quality, safe food often goes to waste rather than being donated.

Liability Protection for Food Donations: A significant barrier to food donation is the fear among donors that they will be liable if someone becomes sick after consuming donated food. Many countries are moving to adopt liability protections to mitigate this concern. In such countries, donors and food recovery organizations may still face uncertainty as to the parameters of this protection.

Tax Incentives and Barriers: Donating surplus food can be expensive, as food donors must allocate time and money to glean, package, store, and transport surplus food that otherwise would be discarded, usually at no cost. Tax incentives (deductions or credits), can help offset these costs and make donation a more attractive option. In some countries, such as several countries with a value added tax, tax schemes are themselves a barrier to donations.

Donation Requirements or Food Waste Penalties: Some countries have employed food donation requirements or impose monetary penalties for food that is sent to the landfill (often known as organic waste bans or waste taxes) in order to influence business behavior and promote more sustainable solutions such as food donation and recovery.

Government Grants and Incentives: Grants and incentive programs funded at the national or local level offer another important resource for food donation initiatives. This is particularly true in countries where donors consider tax incentives to be insufficient to offset the costs of donation or where a lack of infrastructure limits food recovery efforts.

THE GLOBAL FOOD DONATION POLICY ATLAS PROJECT SUPPORT

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