



PARAGUAY
**LEGAL
GUIDE**
FOOD DONATION
LAW AND POLICY

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Authors

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About The Global Food Donation Policy Atlas

The Global Food Donation Policy Atlas is a first-of-its-kind initiative to promote better laws on food donation to help address food loss and food insecurity. This project maps the laws affecting food donation in countries across the globe to help practitioners understand national laws relating to food donation, compare laws across countries and regions, analyze legal questions and barriers to donation, and share best practices and recommendations for overcoming these barriers. The project is a collaboration between the Harvard Law School Food Law and Policy Clinic (FLPC) and The Global FoodBanking Network (GFN). To learn about and compare the food donation laws and policies for the countries FLPC has researched to date, visit www.atlas.foodbanking.org.

About the Harvard Law School Food Law and Policy Clinic

The Harvard Law School Food Law and Policy Clinic (FLPC) serves partner organizations and communities by providing guidance on cutting-edge food system legal and policy issues, while engaging law students in the practice of food law and policy. FLPC focuses on increasing access to healthy foods; supporting sustainable food production and food systems; and reducing waste of healthy, wholesome food. For more information, visit www.chlpi.org/food-law-and-policy.



About The Global FoodBanking Network

The Global FoodBanking Network (GFN) supports community-driven solutions to alleviate hunger in more than 40 countries. While millions struggle to access enough safe and nutritious food, nearly a third of all food produced is lost or wasted. GFN is changing that. GFN believes food banks directed by local leaders are key to achieving Zero Hunger and building resilient food systems. For more information, visit www.foodbanking.org.



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INTRODUCTION

PURPOSE OF THIS GUIDE

Food loss and waste (FLW) has emerged as one of the greatest food system challenges that we face today. An estimated one-third of food produced globally is ultimately lost or wasted along the supply chain;¹ this amounts to approximately 1.3 billion tons of food each year that ends up in the landfill.² FLW occurs at every stage of the food system: during the initial harvest due to low market prices, because of high labor costs and demand for perfect-looking produce; by grocery stores and restaurants over-estimating customer demands; and by consumers who engage in inefficient shopping and cooking practices and lack a clear understanding about date labels.³

These behaviors have significant environmental, economic, and social consequences: food that is ultimately lost or wasted has a huge carbon footprint of 3.3 gigatons,⁴ using roughly 28% of agricultural land,⁵ and accounting for eight percent, or 70 billion tons, of total global greenhouse gas emissions.⁶ Collectively, this damage costs approximately \$940 billion per year.⁷ Meanwhile, more than 820 million people are undernourished and one in nine are food insecure.⁸ The international community has sought to address this paradox and mobilize the reduction of food waste, especially within the framework of the *2030 Agenda for Sustainable Development* and Sustainable Development Goal 12.3.⁹

In many countries, food donation has emerged as a popular and logical solution to redirect safe, surplus food destined for the landfill into the hands of those who need it most. Most food donations are facilitated through food banks or other charitable, nongovernmental organizations that recover surplus, wholesome food and redirect the recovered food to local beneficiary agencies (such as soup kitchens, shelters, and community pantries) to feed low-income, food insecure persons. As food insecurity, food loss, and food waste have continued to rise, new, innovative models of food recovery have emerged around the world.

However, there is some uncertainty surrounding the laws and regulations most relevant to food donation. To help address the most pressing questions, 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.¹⁰ This innovative partnership will map the laws and policies affecting donations in many countries throughout the world. 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.

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.

This Legal Guide focuses on Paraguay, where 25.3% of the population experienced moderate to severe food insecurity in 2020.¹¹ FLPC and GFN, in collaboration with partners in Paraguay,¹² have developed this resource to help food donors, food banks and other intermediaries (hereinafter collectively referred to as “food recovery organizations”) understand the relevant legal frameworks that impact food waste and donation efforts. It is also intended to serve as a resource for those in other countries who are looking to inform their own food donation laws and policies.

After providing initial commentary on food loss and recovery in Paraguay, this Legal Guide provides an overview of the legal frameworks most relevant to food donation at the national and local levels. The subsequent sections

take a closer look at the laws generally applicable to food donation: food safety laws and regulations, food date labeling laws, “Good Samaritan” or liability protection laws, tax incentives for food donation and/or tax policy disincentives, and waste diversion laws that penalize food waste or require recovery. The extent to which Paraguay has developed and subsequently implemented these legal frameworks compared to other countries may vary.

STATE OF FOOD INSECURITY, FOOD LOSS, WASTE, AND RECOVERY IN PARAGUAY

Policies to promote food donation gain new importance when a country is battling issues of both food waste and food insecurity among greater socioeconomic challenges. After years of political instability, Paraguay began to see significant improvements in its economy during the early 2000s.¹³ The country successfully reduced its poverty rate from 58% in 2002 to 26.9% in 2020.¹⁴ This period was defined by economic recovery and institutional improvements. Despite impressive economic growth, food insecurity continues to persist, especially among rural communities. In fact, poverty rates are nearly twice as high in rural areas compared to urban areas.¹⁵

The Joint Programme on Paraguay Protects, Promotes, and Facilitates Effective Implementation of the Right to Food Security and Nutrition focused on preventing chronic malnutrition.¹⁶ Four UN agencies led this project in close collaboration with national partners: Food and Agriculture Organization (FAO), United Nations Children’s Fund (UNICEF), World Food Programme (WFP), and World Health Organization (WHO).¹⁷ Their goal was to implement a multisectoral approach to decreasing malnutrition among indigenous populations and rural communities. This included providing agricultural training on improving food systems, providing technical support to establish school gardens, and promoting financial literacy for female heads of households.¹⁸ However, the program was difficult to sustain because of challenges such as the Paraguayan government’s decision to change focus and the short implementation period of only eight months.¹⁹ Although the joint UN program helped reduce food insecurity, the program did not continue beyond its initial phases.²⁰

A dearth of statistical information surrounds FLW in Paraguay, as most quantitative studies addressing this have not focused on Paraguay.²¹ However, FAO estimated in 2014 that the amount of food wasted in Paraguay at the retail level alone could feed 269,000 people a year.²² Additionally, in 2021 the National Commission for the Defense of Natural Resources (*La Comisión Nacional de Defensa de los Recursos Naturales*) started collecting information on what contributes to the exorbitant food waste in the nation.²³

FAO ESTIMATED IN 2014 THAT THE AMOUNT OF FOOD WASTED IN PARAGUAY AT THE RETAIL LEVEL ALONE COULD FEED 269,000 PEOPLE A YEAR.

Both the nonprofit and for-profit sectors as well as the government have made efforts to combat food waste in Paraguay. The Banco de Alimentos de Paraguay (BAPY), a nonprofit food bank established by Decree No. 2968/04 of the Executive Branch in 2004, is particularly active.²⁴ The organization recognizes the deep connection between food insecurity and food waste, with a principal goal of reducing food waste and caring for the environment.²⁵ In 2019 the food bank recovered 127,500 kilograms of food.²⁶

In 2015 BAPY partnered with Cargill Paraguay, whose general manager used to be the president of the Rosario Food Bank in Argentina, to create a food waste awareness campaign funded by a donation from Cargill.²⁷ Among other goals, the campaign advocated for legislation that would prohibit grocery stores from discarding usable food.²⁸ Additionally, in September 2020, the Paraguayan government passed Ley 6601 (hereinafter “Food Donation Law”) to alleviate hunger and address food waste.²⁹ Among other provisions of the new law, the government passed a waste ban on foods seized at the border. Paraguay’s Customs Authority now provides a substantial amount of BAPY’s donations.

As Paraguay seeks to reduce FLW and mitigate food insecurity, food recovery organizations and current and potential food donors must recognize and understand the laws that apply to food donation. The remaining sections of this Legal Guide provide an overview of Paraguay’s food donation legal framework and address the issues most likely to arise for food donors, food recovery organizations, policymakers, and other interested stakeholders.

Paraguay by the Numbers		
Population 7.5 million	Prevalence of moderate to severe food insecurity 25.3%	World Bank Classification Upper Middle Income
Median Age 29.7 years	Global Food Security Index 57.9	Human Development Index 0.724
GDP \$38.15 billion	GINI Index 46.2	FLW Estimates 510,256 tons/year (household)
Poverty Rate (national poverty lines) 24.2%	Food Sustainability Index N/A	

OVERVIEW OF PARAGUAY’S RELEVANT LEGAL FRAMEWORK

THE CONSTITUTION OF PARAGUAY

Paraguay’s constitution is the highest law of the land. Ratified on June 20, 1992, three years after democracy was established in the country,³⁰ the constitution comprises more than 200 articles that declare the rights of citizens and the nation’s political structure.³¹ Of particular importance to food policy is chapter VI, which concerns health. For instance, article 72 of this section establishes the government’s authority and obligation to control food quality,³² and article 57 notes that the elderly have a right to food.³³

Subject to the constitution, Paraguay’s laws are made by the executive or legislative branch, then send to the alternate branch for approval.³⁴ The legislature has two chambers: a 40-member chamber of senators and an 80-member chamber of deputies.³⁵ Each chamber has specific duties, with the deputies, for instance, empowered to introduce bills regarding departmental and municipal legislation, while the senators can do the same for bills regarding treaties and law enforcement.³⁶ Legislators sit on both unicameral and bicameral committees that focus on human rights, penitentiary system reform, and internal regulations, among other issues.³⁷ Paraguay also has a three-leveled judiciary branch, with the Supreme Court of Justice being highest in the hierarchy of authority.³⁸ The country is also bound by its agreements with the Mercosur trade bloc,³⁹ a political and economic coordination effort between Argentina, Brazil, Paraguay, Uruguay, and several other South American nations.⁴⁰

STATUTORY FRAMEWORK AND FOOD DONATION LAW

Consistent with the nation's constitutional duty to control the quality of food,⁴¹ Paraguay's food safety laws are contained in book II of Ley No. 836, the country's Health Code (*Código Sanitario*), which regulates the advertising, hygiene, conservation, storage, transportation, and distribution of food, regardless of whether it is sold or donated.⁴² The Health Code itself does not distinguish between donations and other methods of food distribution in setting safety guidelines.⁴³

Article 160 of chapter I on food control requires owners of food establishments to provide the Ministry of Health (*Ministerio de Salud*) with samples of their products for testing to ensure they are appropriately sanitary.⁴⁴ Chapter II on culinary preparation compels “[c]ulinary preparations of establishments that produce, distribute or sell prepared food for consumption” to “comply with the hygienic and sanitary conditions established by the relevant regulations.”⁴⁵ Chapter IV focuses on refrigeration, irradiation, and preservation in general, stating that, across the board, parties must follow guidelines set by the Ministry of Public Health and Social Welfare (*Ministerio de Salud Pública y Bienestar Social*).⁴⁶

On September 8, 2020 Paraguay passed Ley No. 6601, which established the Special Regime for the Donation of Food (*El Régimen Especial para la Donación de Alimentos*), a comprehensive law that provides quality standards, safety procedures, and liability protection for food donation.⁴⁷ Article 2 defines what it means for food to be fit for human consumption and states that food seized by authorities that is safe for human consumption must be donated.⁴⁸ Other sections of the law address economic concerns (e.g., the prohibition of the resale of donated foods and liability protection).⁴⁹

COMPLIANCE WITH THE FOOD DONATION LAW IS BROADLY ENFORCED BY THE MINISTRY OF SOCIAL DEVELOPMENT (*MINISTERIO DE DESARROLLO SOCIAL*, OR MDS), AND ARTICLE 3 CREATES AN ADVISORY, CONSULTATIVE COUNCIL TO OVERSEE FOOD DONATION.

Compliance with the Food Donation Law is broadly enforced by the Ministry of Social Development (*Ministerio de Desarrollo Social*, or MDS), and article 3 creates an advisory, consultative council to oversee food donation.⁵⁰ The National Council for Food Donation (*Consejo Nacional para la Donación de Alimentos*, or the Council), which derives its regulatory authority from MDS, is a body comprising accomplished representatives from both the public and private sectors.⁵¹ Specifically, the body is made of one representative each from MDS, the Ministry of Industry and Commerce (*Ministerio de Industria y Comercio*), the National Institute of Food and Nutrition (*Instituto Nacional de Alimentación y Nutrición*), the National Animal Health and Sanitation Service (*Servicio Nacional de Salud y Sanidad Animal*), the National Plant Quality and Health Service and of Seeds (*Servicio Nacional de Calidad y Sanidad Vegetal y de Semillas*), and the National Institute of Technology, Standardization and Measurement (*Instituto Nacional de Tecnología, Normalización y Metrología*), plus two representatives from nonprofits focused on issues of food donation and recovery.⁵² The Council's duties are defined in article 12. Although the Council does not have direct legislative powers, it is charged with advising on public policy related to food donation and guiding public discourse.⁵³ An example of an initiative that it has the authority to undertake includes raising awareness about the problem of food waste.⁵⁴ Article 5 of the law also gives the Council broad authority to establish procedures related to the logistics of food donation.⁵⁵ In recent meetings, the Council has expressed its intent to begin consumer awareness campaigns to further facilitate the process of food donation.⁵⁶

The Ministry of Public Health (*Ministerio de Salud Pública*) also plays a substantial role in governing food donation outside of Ley 6601. It sets quality and purity standards for food placed in trade as well as general hygiene guidelines for the “production, processing, handling, transport and sale of food items.”⁵⁷

OTHER FEDERAL LAWS

Paraguay's Civil Code (*Código Civil*) is broadly relevant to food donation law. The Civil Code sets out the requirements for establishing a nonprofit (articles 102 to 117) and defines the liability of legal entities for harms to third parties (article 98).⁵⁸ The Civil Code also includes a unique provision that establishes a kinship-based obligation to provide food. Articles 258 to 266 detail a familial hierarchy and establishes a duty to provide food until children reach the age of majority, one of the parties dies, or other extenuating circumstances arise.⁵⁹ The law will punish them in the case of nonfulfilment of their duties of providing food.⁶⁰ However, it is worth noting that, under Ley 1680/2001, Paraguay's Childhood and Adolescence Code (*Código de la Niñez y Adolescencia*), "food" is used as an umbrella term inclusive of "everything consistent with the needs of the minor during their development, whether it is education, health, housing, clothing and recreation" and the obligation is flexible, increasing or decreasing with the child's needs.⁶¹

Additionally, Paraguay has a law governing school lunches: Ley No. 5210, On School Feeding and Health Control (*De Alimentación Escolar y Control Sanitario*).⁶² This statute sets out the program's broad normative goal of providing food that is "balanced, of optimal quality and adequate to the nutritional requirements of each age group, provided within the framework of the school regime, in accordance with the socio-cultural characteristics and the availability of the products and food inputs characteristic of the territories."⁶³ It also sets out the six core principles of decentralization, equity, integrity, participation, sustainability, and universality.⁶⁴

MUNICIPAL/LOCAL/STATE LAW

Paraguay comprises 17 departments that consist of many municipalities and rural districts.⁶⁵ Each municipality has a mayor who is elected by direct vote.⁶⁶ The municipalities have "autonomy in the collection and investment of their resources," but they are tasked with enforcing several national laws, including monitoring and policing the hygiene of grocery stores and other food service establishments within their borders.⁶⁷

LEGAL ISSUES RELEVANT TO FOOD DONATION

FOOD SAFETY FOR DONATIONS

In many countries, a key barrier to the donation of surplus food is the lack of knowledge or readily available guidance regarding safety procedures for food donation. All donated food should be safe for consumption and comply with applicable food safety laws and regulations. Potential donors are often uncertain as to which food safety regulations apply to donated food as opposed to purchased food as well as the steps necessary to safely donate food in compliance with applicable regulations. As a result, safe, surplus food that could be redirected to populations in need is often destined for landfills.

As mentioned above, food safety laws are contained in the Health Code,⁶⁸ which does not distinguish between donations and other methods of food distribution in setting safety guidelines.

The Food Donation Law includes several provisions related to food safety and is the only source for exclusive guidance on food safety for donations. Donated food must be distributed before it decomposes or expires,⁶⁹ and donors must guarantee that the food has been stored in hygienic conditions.⁷⁰ Donors can remove the product brand but must retain all other relevant and required labeling information, including a list of ingredients and the expiration date.⁷¹ Donors may also provide guidance regarding conservation, storage, cooking time, and preparation.⁷²

Under article 2, all food seized by customs authorities must be donated except when it is “high risk.”⁷³ Food of “unknown origin” obtained via seizure must also undergo testing before donation.⁷⁴

DATE LABELING

Date labels affixed to food products are a major driver of food waste but can also be an obstacle to food donation. As explained in the previous section, most food donors and food recovery organizations are appropriately cautious about donating food that meets safety standards, but it is not always clear which standards relate to food safety. And while fresh products like fruits and vegetables will appear visibly spoiled when they are no longer safe to consume, this can be difficult to gauge with packaged foods. Many donors interpret date labels affixed to such food products as indicators of safety and will therefore throw away food once the “expiration date” passes. Intermediaries may refuse to accept donated food after this date, deeming the food product unfit for human consumption.

Despite this interpretation, for the vast majority of foods, date labels indicate freshness or quality rather than food safety. Manufacturers use a variety of quality-based methods to determine the time frame for label dates, most of which reflect when the food will be at its “peak quality.” Nevertheless, global trends indicate that consumers generally confuse date labels as indicators of safety rather than quality. In the United Kingdom, for example, researchers found that consumers discarded about 22% of food that they could have eaten due to confusion over date labeling.⁷⁵ Similarly, 84% of Americans report that they throw away food after the expiration date passes due to safety concerns, even if there is a minimal risk of foodborne illness at that time.⁷⁶

Paraguay is a member state of FAO’s *Codex Alimentarius* International Food Standards.⁷⁷ As such, its foods should comply with the *Codex Alimentarius*’s General Standard for the Labelling of Prepackaged Foods.⁷⁸ According to the *Codex*, a “use by” or expiration label is required “when a food must be consumed by a certain date” and “best before” or best quality dates are encouraged in all other scenarios, which may include situations when the manufacturer finds that quality diminishes but the food is otherwise safe to eat.

Additionally, Paraguay is part of Mercosur, a South American trade bloc that lays out labeling requirements for member states.⁷⁹ Under Mercosur Resolution 26/03, all foods must be labeled with duration dates except for certain exempt foods such as fresh fruits and vegetables, certain alcoholic beverages, baked goods that are generally consumed within 24 hours, vinegar, solid sugar, and confectionary products.⁸⁰ Mercosur’s list includes phrases that could be understood to denote quality-based dates (e.g., “*consumir preferentemente antes de*” or “preferably consume before”) and others that could be understood to denote safety-based dates (e.g., “*consumir antes de*” or “consume before”). However, Mercosur doesn’t define any of the phrases or indicate in any way which are quality-based or safety-based.⁸¹

In Paraguay, Decree 8064/2006 officially adopts Mercosur Resolution 26/03’s requirements for food labeling, but similarly, it does not further define Mercosur’s required phrases or otherwise differentiate between phrases that indicate quality and safety.

In terms of donations, article 6 of the Food Donation Law states that food must be donated prior to its expiration date, unless it is accompanied by a memo detailing why and how the food is still safe for human consumption.⁸² This comports with articles 5 and 7, which prescribe timely distribution of donated foods to ensure that beneficiaries can consume them prior to expiration.⁸³

In sum, under Mercosur, all food in Paraguay must be marked with a duration date preceded by a phrase from a prescribed list. While the phrases could be divided into quality-based and safety-based dates as recommended by the *Codex Alimentarius*, of which Paraguay is a part, they are not. Further, donated food cannot be past its expiration date unless accompanied by an explanatory memo.

LIABILITY PROTECTIONS FOR FOOD DONATION

A significant barrier to food donation is the fear among donors that they will be found liable if someone becomes sick after consuming donated food. This fear is particularly heightened when the applicable law provides for “strict liability” (i.e., a donor or food recovery organization that did not act maliciously or intend to inflict harm may still be held legally and financially responsible for any resulting damage).⁸⁴ Some countries including Argentina and the United States have established protections for both food donors and food recovery organizations to limit the likelihood that these actors will be held responsible for harm.

Paraguay’s Food Donation Law offers robust protection for donors and intermediaries from potential liability. This protection begins as soon as the food is delivered to either a food bank intermediary or an individual.⁸⁵ Upon delivery, donors are released from all civil and criminal liability for any acts or omissions previously made that might affect the food’s quality.⁸⁶ Food banks and other intermediary institutions are similarly released from liability after the donated food is delivered to the final recipient.⁸⁷ The Food Donation Law does not limit liability protection only to cases in which the donations benefit specific needy populations or registered public or private institutions. Donations to any end recipient qualify.⁸⁸

The Food Donation Law provides an exception to this broad liability protection in instances of fraud or faults that are directly attributable to a donor.⁸⁹ The Food Donation Law does not articulate the kinds of faults for which a donor would still be liable, nor does it include an explicit mental state requirement. Without further guidance, liability would likely be evaluated on a case-by-case basis.

Ordinarily, institutions and individuals are held liable for any damages resulting from their acts and omissions on third parties.⁹⁰ Thus, explicit liability protection for food donation removes a potential barrier for both the initial donor and the recipient food bank.

TAXES

Reducing FLW results in sizable economic benefits to society, as it minimizes the costs associated with producing and discarding food that is never consumed. Food donation also helps mitigate the costs of hunger and stimulates the economy: food recovery organizations provide jobs or sponsor community development, and recipients of donated food can spend limited financial resources on other basic goods and services.

Yet food donation can be expensive, as food donors must allocate time and money to glean, package, store, and transport surplus food that otherwise would be discarded at no cost. As a result, it is often easier and less expensive for farmers, businesses, and private individuals to throw away food instead of donating it. Some countries have sought to address this issue by offering tax incentives and removing financial barriers to food donation.

INCENTIVES

Tax incentives can provide significant support for food donation efforts and for the reduction of FLW. For example, corporate donors may be more likely to donate surplus food to food recovery organizations if they receive a charitable deduction to offset the cost of transportation and logistics.

These tax incentives could help reduce the burden of the national income tax or other taxes levied on businesses. In Paraguay, for example, corporations that generate earnings, income, or profits must pay a 10% business income tax (*Impuesto a la Renta Empresarial*, or IRE), and branches of foreign businesses must pay a 15% withholding tax before transferring profits to headquarters abroad.⁹¹ Paraguay currently offers limited benefits to help offset food donation costs and reduce the burden of the IRE.

The Ministry of Finance (*Ministerio de Hacienda*, or MOF) manages most of Paraguay's tax system.⁹² The MOF requires all entities—other than a state, city, or religious entity—that receive charitable donations to register as public benefit entities (PBE).⁹³ Corporations are allowed to deduct charitable contributions, including in-kind donations, to registered PBEs from their taxes if the PBEs have an educational, cultural, social, health, or charitable purpose.⁹⁴ Individual taxpayers, likewise, may deduct charitable contributions to the same entities as corporations.⁹⁵

This deduction, however, has little practical effect. Corporations and individuals may only deduct 1% of their annual gross income from their charitable contributions.⁹⁶ Although the tax deduction law does not place a ceiling on the monetary amount that can be claimed for donations, the MOF has, under its statutory authority, imposed this stringent percentage limit.⁹⁷ Paraguay does not offer any other incentive, such as tax credits, for the costs of donating food.

BARRIERS

While certain tax schemes may encourage food donations, they may also deter food donations. In many countries, the value-added tax (*Ley del Impuesto al Valor Agregado*, or VAT) creates a financial barrier to donating food. VAT is levied on a good at each stage of the supply chain, from production to the point of sale, whenever value is added. This tax is levied through a system of debits (output VATs) and credits (input VATs). The VAT debit is the amount that a VAT-registered business will charge when it sells the good, whereas the VAT credit is the amount invoiced to the VAT-registered business upon the good's purchase.

To circumvent the VAT obstacle, countries have two main options: VAT exemption or zero-rating.⁹⁸ In general, if a donation is considered VAT exempt, the government does not tax the transfer of the food, but the food business cannot reclaim the input VAT it paid on business purchases along the value change to produce it. By contrast, if a good is zero-rated, the government does not tax the transfer and still allows the food business to reclaim credit for the input VAT paid on raw materials it required. Many countries also adjust the VAT rates to align with larger policy agendas. For example, countries may apply reduced VAT rates to essentials such as pharmaceuticals, health care services, and education.

The standard VAT rate in Paraguay is 10%.⁹⁹ A reduced rate of 5%, however, applies to basic processed food products,¹⁰⁰ and all unprocessed, raw agricultural products such as fruit and vegetables.¹⁰¹

Typically, charitable and social support organizations are subject to VAT registration in Paraguay.¹⁰² But article 14 of Paraguay's Ley 6601 requires that "food donations will not be taxed."¹⁰³ Food recovery organizations and food donors are exempt from VAT at the time of the donation. This reduction may help remove the VAT burden on food recovery organizations and food donors.

DONATION REQUIREMENTS OR FOOD WASTE PENALTIES

Some countries influence business behavior and promote sustainable food systems through food donation requirements or monetary penalties for sending food to landfills (often known as organic waste bans or waste taxes).

Article 2 of Paraguay's Food Donation Law bans authorities, including those at customs, from destroying seized food without a well-founded cause if it is deemed safe for human consumption after undergoing lab testing. However, outside of customs, currently no existing or pending national or regional laws impose requirements or penalties for households or businesses that contribute to excess food waste. Paraguay does not have a national food donation requirement or an organic waste ban.

FEDERAL GRANTS AND INCENTIVES

Grants and incentive programs funded at the federal or local level offer another important resource for food donation initiatives. This is particularly true in countries where donors consider tax incentives insufficient to offset the costs of donation or where a lack of infrastructure limits food recovery efforts. For example, government grants can help food donors and food recovery organizations acquire equipment and resources necessary for recovering, storing, processing, and transporting food for donation. Government funding can also support new innovations and emerging technologies that will make food donation more efficient and sustainable. As of the time of writing this Legal Guide, such funding had not been made available in Paraguay.

CONCLUSION

This Legal Guide identifies Paraguay's current laws, policies, and programs that relate to FLW and food donation, such as Paraguay's Food Donation Law that provides liability protection, removes tax barriers, and requires donations in certain circumstances. While the federal government is primarily responsible for guaranteeing food security and sustainable food systems, food recovery organizations acting in a private capacity can provide an additional social safety net.

This Legal Guide provides a starting point from which policymakers, private-sector actors, and civil society may better understand the current laws and policies relevant to food donation. It also offers a foundation for a dialogue about FLW prevention and the value of food recovery to Paraguay's food security, economic stability, and environmental sustainability. To contribute to this discussion, a separate document produced under The Global Food Donation Policy Atlas project sets forth policy recommendations specific to Paraguay. In the meantime, food donors and food recovery organizations should consider the laws, policies, and legal issues discussed in this Legal Guide when donating food or distributing donated food to those in need. To better understand the regulation of food donation in Paraguay, donors, intermediaries, and policymakers should investigate the laws identified in this Legal Guide and seek additional legal counsel, if necessary.

ENDNOTES

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- ³ HARVARD LAW SCHOOL FOOD LAW AND POLICY CLINIC, KEEPING FOOD OUT OF THE LANDFILL: POLICY IDEAS FOR STATES AND LOCALITIES 1 (2016).
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- ⁵ *Id.*
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- ⁷ *Id.*
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