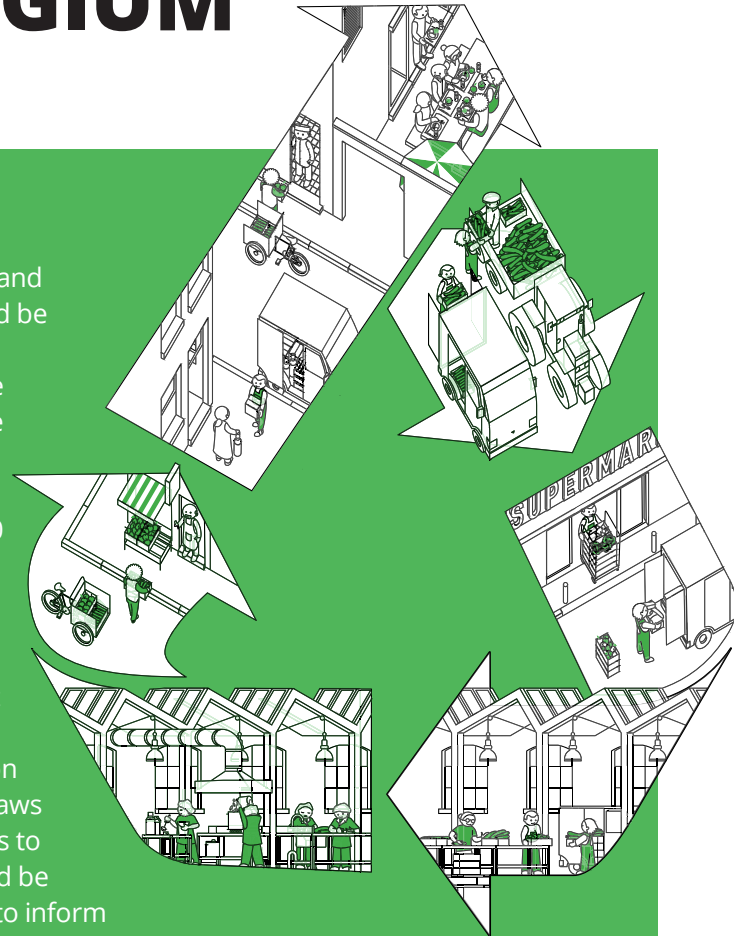


# TOWARDS AN INCLUSIVE, LOW-CARBON FOOD SURPLUS SECTOR: RECOMMENDATIONS FOR POLICYMAKERS IN THE EU, FRANCE, AND BELGIUM

## KEY MESSAGES

- Tackling food waste can provide benefits for the climate and for society. The priority action for all governments should be to prevent surplus food from being produced in the first place. The second priority should then be supporting the food surplus sector to effectively redistribute food waste that cannot be prevented, in order to help the EU reach its objectives of halving food waste by 2030, cutting greenhouse gas (GHG) emissions by at least 55% by 2030 and reaching climate neutrality by 2050.
- Momentum to tackle the issue of food waste at the level of the EU is increasing. Forthcoming legislation on mandatory food waste reduction targets should account for food waste across the whole supply chain. This will be an essential building block of ambitious national action by Member States (MS). The impact of existing national laws in some MS (such as in France) that require supermarkets to donate surplus food and reward them accordingly should be adequately documented, analysed, and shared in order to inform potential policy in other MS.
- Better policymaking in support of a circular economy, waste management, and employment can create opportunities to make use of surplus food while creating employment for people who are far from the labour market. To power up circular economies and inclusive employment, the European Commission's General Block Exemption Regulation, which strictly limits state support for social enterprises and disadvantaged workers, should be urgently revised to capitalise on opportunities to tackle food waste through work integration social enterprises (WISEs). National or regional laws related to the status of social enterprise or hiring of people far from the labour market should also be reviewed and streamlined to promote the most enabling regulatory environment possible for WISEs.



# SUMMARY OF POLICY RECOMMENDATIONS

## FOR THE EU

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|--|---|
| <p><b>1. Implement legally binding food waste targets that account for all stages of the food supply chain and require a uniform kg per capita target for all MS</b></p> | <ul style="list-style-type: none"> <li>In line with SDG 12.3, put forward a legislative proposal (ideally by Q4 of 2022) for all a target that requires all member states to meet a uniform kg per capita FLW (food loss and waste) reduction target that ensures an EU-wide 50% reduction, from farm to fork, by 2030.</li> </ul>  |
| <p><b>2. Explore complementary and additional regulations and fiscal incentives to enforce the food use hierarchy and enforce the ‘polluter pays’ principle</b></p>      | <ul style="list-style-type: none"> <li>Explore regulations that can deliver more ambitious faster-paced FLW reduction, such as mandatory FLW public reporting and reduction targets for food businesses over a certain size, strengthened Unfair Trading Practices regulation, and increased taxes or bans on sending FLW to incineration and landfill (to what degree these practices still occur).</li> </ul> |
| <p><b>3. Revise the General Block Exemption Regulation to better support social enterprises and aid/training for disadvantaged workers</b></p>                           | <ul style="list-style-type: none"> <li>Revise the General Block Exemption Regulation (GBER)<sup>a</sup> to better enable state support for work integration social enterprises by allowing for state-supported employment contracts that are long enough to truly integrate employees into the workforce and provide adequate training.</li> </ul>  |

## FOR FRANCE

- |  |   |
|--|---|
| <p><b>1. Clarify and strengthen enforcement of current Garot and Egalim food waste donation laws</b></p>                                   | <ul style="list-style-type: none"> <li>Clarify the enforcement mechanisms for the Garot and Egalim laws to ensure that mandatory food waste donation policies and the fines for not making good on them are properly enacted, in order to better support the food surplus sector.</li> </ul>  |
| <p><b>2. Install a steering committee to ensure a balanced relationship between food surplus organisations and food surplus donors</b></p> | <ul style="list-style-type: none"> <li>Set up an independent steering committee to monitor the quality of and compliance with conventions made between food businesses and social enterprises, in order to ensure that food surplus organisations have adequate recourse if agreements are not being fulfilled.</li> </ul>            |
| <p><b>3. Establish a joint fund between government and food businesses to help cover the costs of food redistribution</b></p>              | <ul style="list-style-type: none"> <li>Create a joint fund designed to support food surplus organisations to scale up infrastructure and capacities, and reduce overreliance on volunteers, in order to deal with the increasing volume of food waste donations.</li> </ul>   |
| <p><b>4. Collect and publish more and better data on the impact of food waste policies</b></p>   | <ul style="list-style-type: none"> <li>The monitoring and evaluation arm of the ‘Pacte national de lutte contre le gaspillage alimentaire 2017-2020’ must collect and publish more and better data on the impact of food waste action in France in order to facilitate further action and knowledge sharing across the EU.</li> </ul> |

## FOR BELGIUM

- |  |  |
|--|--|
| <p><b>1. Introduce a tax deduction scheme for food donations to incentivise the food use hierarchy</b></p> | <ul style="list-style-type: none"> <li>Sign into law a proposed bill<sup>b</sup> that would allow for 60% of the value of food donations to be subtracted from businesses’ income tax. Consider creating a joint fund for government and business to help social enterprises cover the cost of redistributing higher levels of surplus.</li> </ul>   |
| <p><b>2. Reduce barriers for social enterprises to employing people far from the labour market</b></p>     | <p><b>2.1 Clarify and capitalise on changes to the “customised work” label to provide the strongest support possible for food surplus organisations employing people far from the labour market, including through public procurement</b></p> <ul style="list-style-type: none"> <li>Clarify upcoming changes to the status of social enterprises that provide “customised work” opportunities in Belgium to ensure that social enterprises are prioritised in public procurement, an important driver of financial sustainability for WISEs in the food surplus sector.</li> </ul> <p><b>2.2 Introduce a collaborative component into state-led hiring processes for WISEs to improve worker-job match, and gender equity and diversity efforts</b></p> <ul style="list-style-type: none"> <li>Collaborate with WISEs on state-supported hiring processes for vulnerable workers, in order to ensure that hires are the right fit for the organisations in which they are placed and to give WISEs autonomy over diversity and inclusion efforts in their organisations.</li> </ul> |

a Commission Regulation (EC) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the common market in application of Article 107 and 108 of the Treaty (General block exemption Regulation).

b Proposal entitled ‘Proposition de loi modifiant le Code des impôts sur les revenus 1992 en ce qui concerne la remise à titre gratuit d’aliments et de biens non alimentaires de première nécessité (déposée par Mme Anneleen Van Bossuyt et consorts)’

## BOX 1: KEY TERMS

**AD:** Anaerobic digestion

**FLAVOUR:** Food surplus and Labour, the Valorisation of Underused Resources', a regional food surplus and inclusive jobs project funded by the EU's Interreg 2 Seas Mers Zeeën 2014-2020 programme

**FLW:** Food loss and waste

**Food use hierarchy:** a pyramid that guides the best use of food surplus, firstly by preventing food surplus from occurring; secondly, by redistributing surplus food for human consumption; and thirdly, by using it for animal feed, then followed by nutrient recycling, energy recovery, and then disposal.

**Inclusive jobs:** Jobs that value, encourage, and promote account for diversity, across axes of identity such as employment status, ability, neurodiversity, gender, sexuality, ethnicity, race, class, and religion.

**MS:** Member States of the European Union.

**'Polluter pays' principle:** a principle which holds the entity producing pollution responsible for paying for the damage or costs of offsetting that damage.

**Revalorisation:** The process by which surplus food is transformed into a value-add product.

**SDG:** Sustainable Development Goal to be achieved by 2030

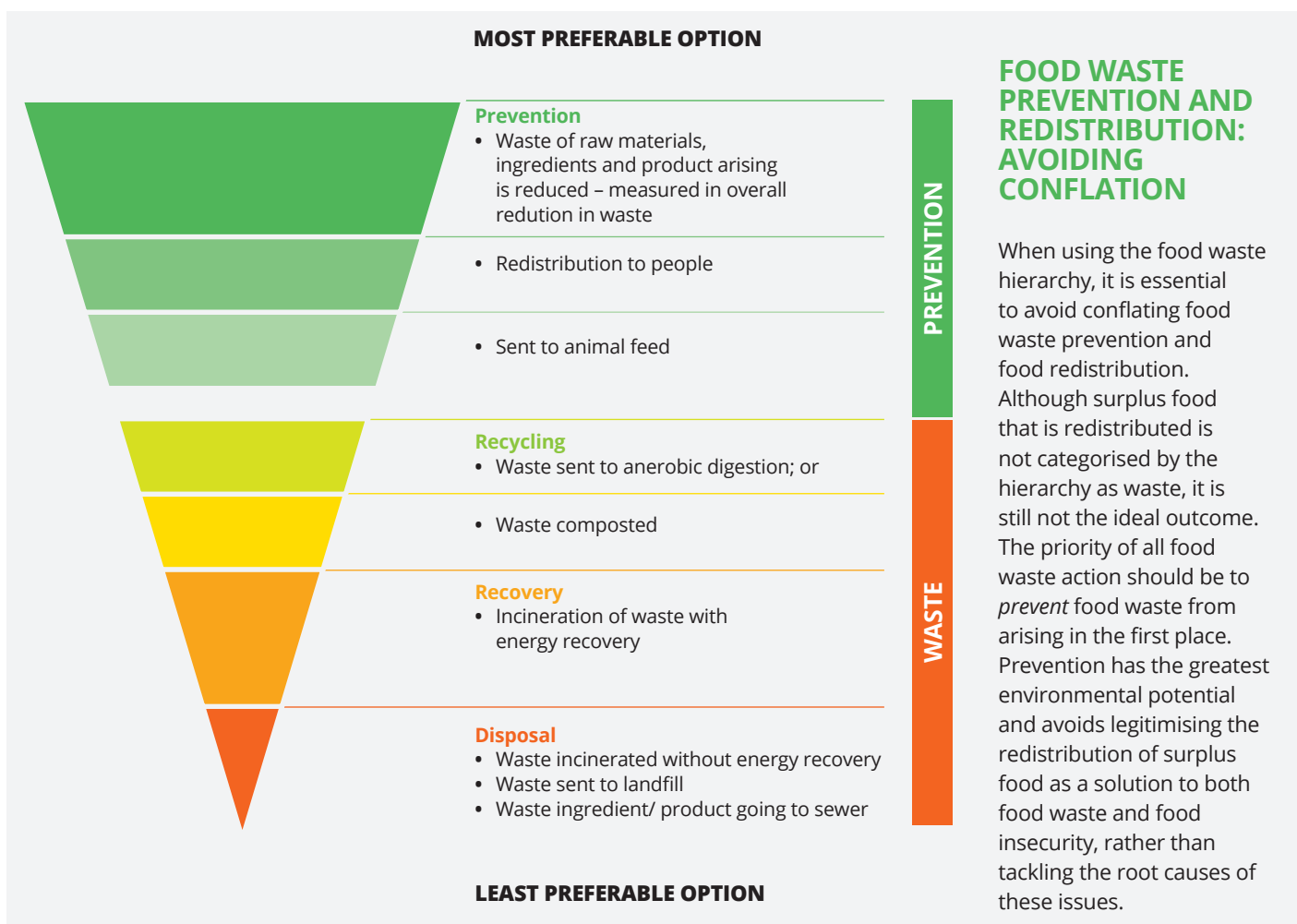
**Social enterprise:** a business with a positive social objective, that dedicates its work and profits towards achieving that social objective.

**Social economy:** The sector of the economy that includes cooperatives, mutual societies, non-profit associations, foundations and social enterprises that intend to create profits for people other than owners or investors.

**Systems thinking:** an approach to viewing the behaviour of a system as an interplay of interacting subsystems, rather than as a simple chain of cause-effect relationships<sup>1</sup>

**WISEs:** 'Work integration social enterprises', or a social enterprise whose primary focus is the social and professional integration of individuals who are traditionally excluded from or struggle to integrate into the labour market.

FIGURE 1: THE FOOD USE HIERARCHY



Source: Sinclair-Taylor et al., 2020.<sup>2</sup>

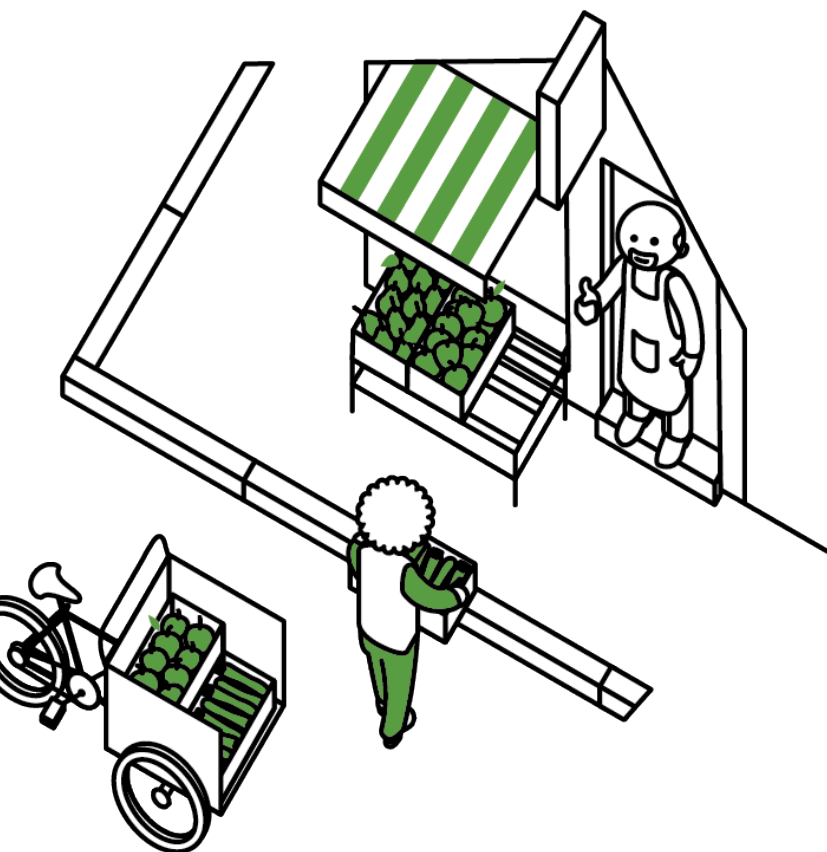
# INTRODUCTION

Food is a key climate issue, with the global food system accounting for approximately 30% of all human-generated greenhouse gas (GHG) emissions according to conservative estimates.<sup>3</sup> The colossal scale of food waste, responsible for around 6-8% of all human-generated GHG emissions, means that a significant chunk of these emissions is expended for nothing.<sup>3</sup> In the EU, around 88 million tonnes of food waste are generated annually at a cost of 143 billion euros.<sup>4</sup> This accounts for approximately 20% of the total food produced.

The food sector is a key part of the economy. In 2019, 15.9 million people aged over 15 were employed in the food supply sector in the EU, representing 8% of total employment.<sup>5</sup> Nearly 40% of employees in the sector are women, and people aged 50 and above account for over a third of food sector workers.<sup>5</sup> Additionally, the sector includes many non-national seasonal workers who are critical to the function of the EU fruit and vegetable sector.<sup>6</sup> This suggests that the food sector is critical towards supporting society's most vulnerable workers, many of whom were disproportionately impacted by COVID-19 shutdowns. These negative impacts, of course, are not limited to the food sector, and many people in the EU have found themselves out of work since March 2020. Employment rates are slowly recovering but continue to lag behind levels seen prior to the pandemic.<sup>7</sup>

Current policies aimed at preventing and reducing food waste, such as the EU Farm to Fork Strategy, are not realising the potential to support vulnerable workers by providing meaningful employment in organisations that effectively redistribute food waste in the case it can't be prevented. The FUSIONS (Food Use for Social Innovation by Optimising Waste Prevention Strategies) project, which has 21 project partners across the EU, recognised this opportunity. In its 2016 report on recommendations for a common European waste framework policy, FUSIONS highlighted the importance of creating a favourable policy environment for "social innovation initiatives" that work on food redistribution.<sup>8</sup> But until now, food waste organisations in the EU continue to report challenges such as a lack of sustainable funding—which leads to an over-reliance on volunteers and low-quality infrastructure—as well as being burdened by heavy-handed bureaucracy related to food waste donation.

Combined, the continued scale of food surplus and the importance of jobs in the food industry presents a significant opportunity to create inclusive jobs in the area of food surplus redistribution and revalorisation. Policies designed to support waste prevention, a circular economy, and employment in an integrated way can reduce environmental harm while providing social benefits. This brief makes a series of recommendations to achieve these goals based on the experiences of the FLAVOUR project, an innovative regional project designed to tackle food waste and reduce the number of unemployed people living with food insecurity (see Box 2).



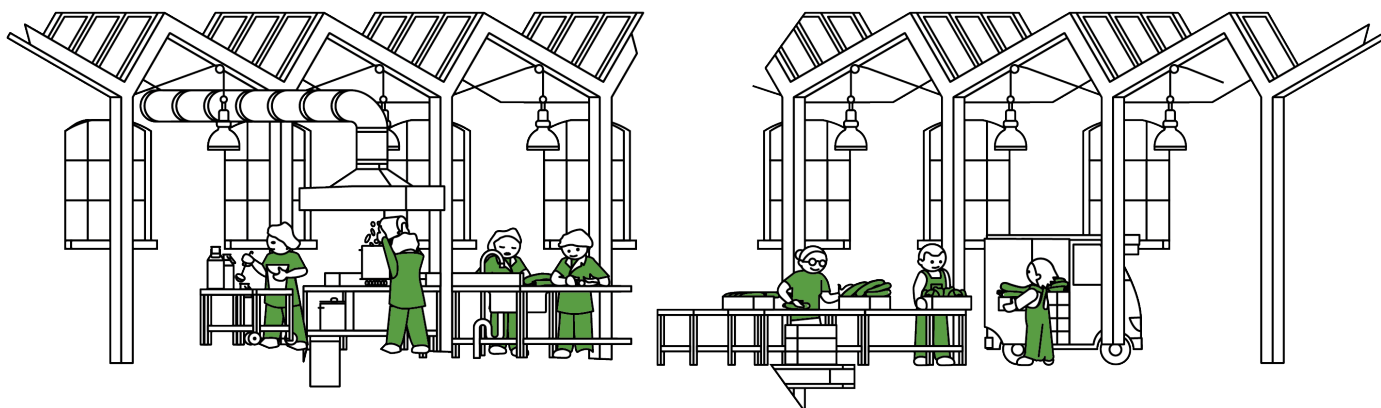
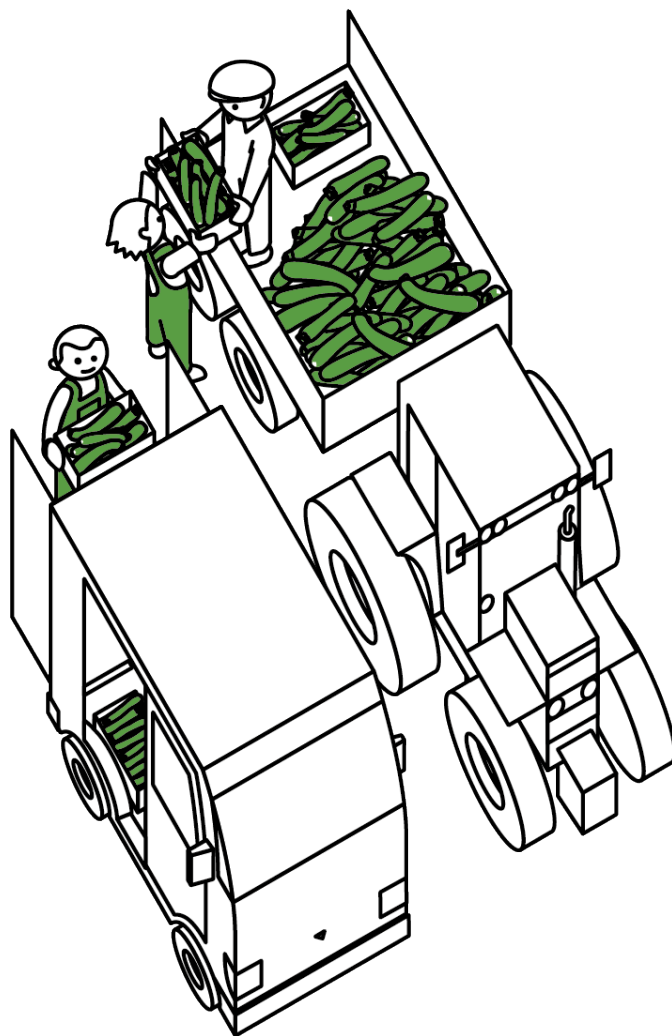
## BOX 2: THE FLAVOUR PROJECT

This policy brief highlights policy recommendations for EU, French, and Belgian policymakers based on the work of the 'Food surplus and Labour, the Valorisation of Underused Resources' (FLAVOUR) project funded by the EU's Interreg 2 Seas Mers Zeeën 2014-2020 programme. With partners in the UK, France, and Belgium, FLAVOUR is an innovative regional project designed to tackle food waste in an integrated way and to share findings with others in the region. It seeks to systematise the redistribution and revalorisation of food surplus while creating pathways to meaningful employment for people who are considered to be socially or economically vulnerable, including those who are neurodiverse, from an ethnic minority background, or otherwise facing personal or structural barriers to the labour market. FLAVOUR also works to identify the ideal business models and policy environment for achieving these objectives.

# WHAT IS THE ROLE OF THE SOCIAL ECONOMY AND SOCIAL ENTERPRISE IN DELIVERING A CIRCULAR FOOD ECONOMY AND BETTER JOBS?

The social economy is the sector of the economy that includes social enterprises, as well as cooperatives, mutual societies, non-profit associations, and foundations. These entities operate with the aim of prioritising people and social and/or environmental purpose over profit and reinvest most profits back into activities that benefit members/users or society at large.<sup>9</sup> With over 2.8 million social organisations and entities in Europe, social economy organisations provide a wide range of products and services across the European single market and generate nearly 14 million jobs.<sup>9</sup>

Work integration social enterprises (WISEs) are a specific form of social economy organisation that aims to integrate vulnerable workers. The term describes most FLAVOUR pilots (see box 2) and provides many social benefits. A 2020 study by the European Network of Social Integration Enterprises (ENSIE) of nearly 400 WISEs in 10 European countries found that among 10,136 disadvantaged workers (40% of whom were women), 80% went on to find a job in the same WISE or in another one, in the traditional labour market, or became self-employed or started an education program.<sup>10</sup> Up to 35% of these WISEs were active in the food, restaurant, or canteen sector.<sup>10</sup> Food and food-related businesses adopting or starting with WISE models can contribute to building a greener, fairer economic model that tackles food waste more effectively while providing meaningful job opportunities.



# THE CASE FOR POLICY IN SUPPORT OF THE SOCIAL ECONOMY AND AN INCLUSIVE FOOD SURPLUS SECTOR

Responding to both the climate crisis and the COVID-19 pandemic requires innovative and synergetic policy solutions. There are real opportunities in taking an integrated policy approach to support programs and initiatives that address both food waste and labour market exclusion.

Firstly, the imperative for EU MS to tackle the issue of food waste is increasing, largely as a result of actions proposed in the Farm to Fork strategy and Circular Economy action plan, both adopted in 2020. As of 2021, EU member states (MS) will be required to report on their national food waste levels, and legislation on mandatory food waste reduction targets is forthcoming in 2023. Regulation (EU) No 1169/2011 on the provision of food information to consumers is currently being revised with the aim of reducing food waste related to confusing or unclear labelling.

Inclusive employment can be used as a mechanism to simultaneously work towards food waste goals. The emphasis on inclusive employment in the EU's Green Deal, which strives to create "future-proof" jobs, and the Recovery Assistance for Cohesion and the Territories of Europe initiative (REACT-EU) instrument, which, as part of the EU Recovery Plan - 'NextGenerationEU', funds training for unemployed people to improve their skills and develop new ones, with a

focus on sustainability and the circular economy, points to this potential.<sup>11</sup> The Commission's recent Joint Employment Report 2022 indicates that rising labour and skill shortages in some sectors will require an additional focus on participation in adult learning, which remains low across many MS, and that upskilling will be critical to keeping pace with rapidly changing labour markets. The report also notes that the labour market participation of women remains a long-standing challenge, with the COVID-19 pandemic leading to a steeper temporary fall in working hours and a disproportionate increase in women's care responsibilities.<sup>12</sup>

If equipped with adequate resources and enabling policy frameworks, WISEs working with food surplus, such as the FLAVOUR pilot projects (see Figure 3), have proven their effectiveness to respond to the challenges of food waste reduction, labour market inclusion, and gender equity.<sup>10</sup> The progress made by the FLAVOUR project, despite challenges related to COVID-19, demonstrates the significant potential of the food surplus sector to achieve social and climate objectives.<sup>c</sup> Research and data gathered by FLAVOUR highlight that this type of socially inclusive innovation thrives only if cross-cutting policy action is taken to reduce barriers to effective food redistribution and social employment.

**FIGURE 2: TRIPLE-LAYER BENEFITS OF A THRIVING FOOD SURPLUS SECTOR**



*Credit: Feedback, 2022.*

<sup>c</sup> By the end of the project in 2022, FLAVOUR aims to have increased the employability of 250 persons who are far from the labour market; created 50 new jobs; have 30 social enterprises start to distribute and/or process food surplus, and to redistribute 4,000 tonnes of surplus and process 300 tonnes of surplus.

### FIGURE 3: FLAVOUR PILOTS AND THEIR LESSONS LEARNED

FLAVOUR has 10 partners in the UK, France, and the Flanders region of Belgium: Feedback Global, Fareshare Sussex, Brighton & Hove Food Partnership, Plymouth Marjon University, Panier de la Mer, HERW!N, City of Brugges, City of Mechelen, Milieu & Werk, and Vives Hogeschool. These partners are involved in 10 pilot projects, which focus on creating innovative socio-economic business models for redistributing food surplus or processing it into revalorised products. Employing people who were previously unemployed or face barriers to accessing the labour market is an important part of these business models. The table below summarises some of the pilot projects and their key learnings so far.

	The UK	France	Belgium (Flanders region)
<b>Pilots</b>	 <p><b>The Surplus Food Network (Brighton &amp; Hove Food Partnership) collaborative pilot:</b> coordinating redistribution initiatives around Brighton</p>  <p><b>Fareshare Sussex:</b> runs an experimental kitchen for revalorised products and shares learnings across the FareShare UK network</p>  <p><b>Sussex Surplus (Feedback):</b> takes fresh and surplus food in danger of being wasted and transforming it into soup and community meals, while working with communities to develop employment opportunities</p>  <p><b>The FLAVOUR Kitchen (Brighton &amp; Hove Food Partnership):</b> processes surplus food in a community kitchen</p>	 <p><b>Panier de La Mer:</b> processes surplus fish for catering and into long-life products while providing employment to vulnerable workers</p>	 <p><b>Foodsavers Brugge (City of Brugge):</b> leads a food redistribution platform</p>  <p><b>Foodsavers Mechelen (City of Mechelen):</b> leads a food redistribution platform</p>  <p><b>Milieu &amp; Werk:</b> leads the Foodsavers Zuiderkempen food redistribution platform</p>  <p><b>City of Antwerp:</b> scaling up a food redistribution platform</p>
<b>Select lessons learned</b>	<ul style="list-style-type: none"> <li>• Burden of education on food waste and social enterprise falls largely on NGOs</li> <li>• Hiring government-subsidised employees under the Kickstart scheme can result in delays due to the number of agencies involved and rigid referral processes</li> <li>• The continued ‘charitisation’ of the food redistribution sector (relying on volunteers and grants to operate, a legacy of food aid historically being seen as the remit of charities) puts organisations in a precarious position of relying on volunteer labour and being dependent on external funding</li> </ul>	<ul style="list-style-type: none"> <li>• Mandatory food waste redistribution laws can pose challenges to food redistribution platforms without adequate investment in infrastructure and staff</li> <li>• Unequal power dynamics between food surplus redistributors and large supermarkets make it difficult for redistributors to assert their legal rights</li> </ul>	<ul style="list-style-type: none"> <li>• Food labelling laws set by the federal agency for food safety, FAVV, pose challenges for redistribution platforms when food is received in a bulk donation with one dossier</li> <li>• Current government policy on green energy incentivises AD over food donation</li> <li>• Government-subsidised positions are filled without input from redistribution organisations themselves, resulting in poor profile-position matches</li> </ul>

# A FRAMEWORK FOR INTEGRATED POLICYMAKING ON FOOD WASTE, FOOD SURPLUS, AND THE SOCIAL ECONOMY

Integrated policymaking in the area of food waste and inclusive jobs is an effective mechanism to strengthen the social economy and incentivise proper following of the food use hierarchy. However, expanding food surplus redistribution efforts is not a systemic solution to poverty, food insecurity, or climate change. We, therefore, propose the following hierarchy for policy action:

3. First, enact policy to prevent food waste from occurring in the first place. This includes policies that address the root causes of surplus food production, as well as setting ambitious food waste reduction targets that are underpinned by actions to ensure food waste is transparently and properly measured.
4. Secondly, enact policy to facilitate the optimal redistribution of food surplus that cannot be prevented from occurring, such as by mandating the use of the food use hierarchy (see Figure 1) in accordance with the 'polluter pays' principle.
5. Thirdly, ensure that policies related to food redistribution create an enabling environment for social enterprises working with food surplus to support other social objectives, such as providing employment to people who are far from the labour market. Complement policies to support inclusive jobs in the social sector with more systemic policy changes to strengthen social safety nets.

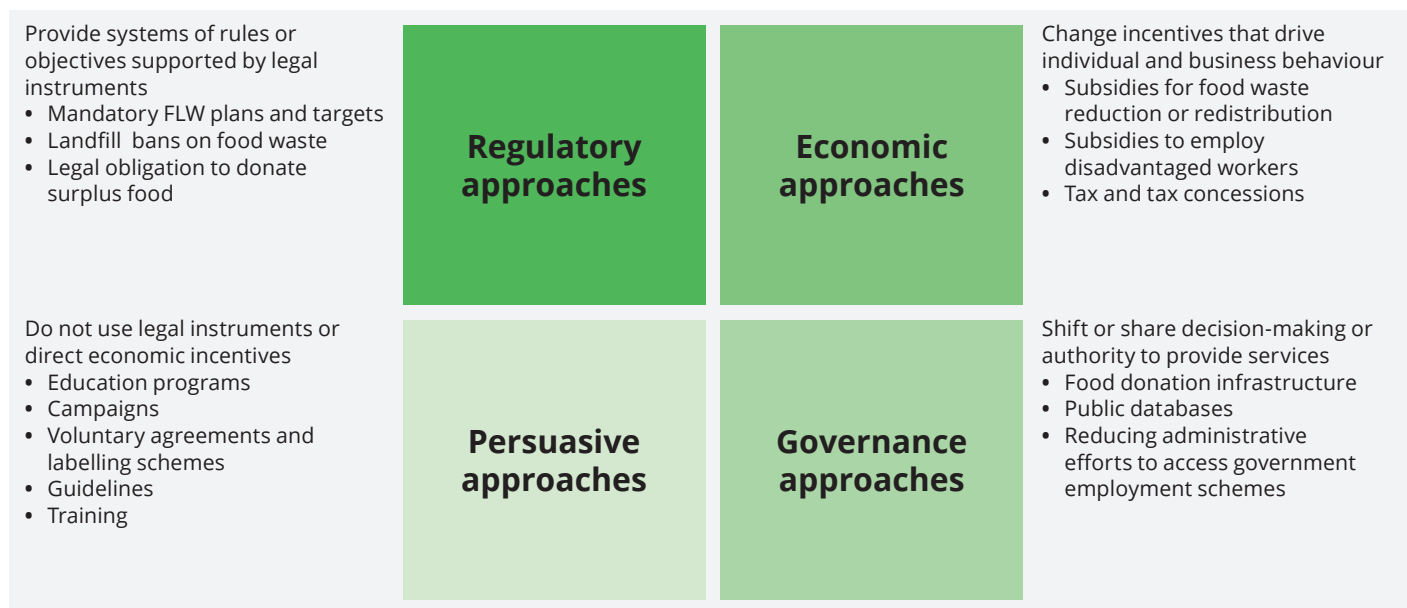
## POLICY AREAS RELATED TO AN INCLUSIVE FOOD SURPLUS SECTOR

Given the number of policy areas relevant to enabling inclusive employment in the food surplus sector, policymakers should take a systems-thinking perspective on food waste and labour market issues. This means working across silos to understand opportunities, challenges, synergies, and trade-offs. Below are the policy areas considered in this brief.

- Food policy
- Food waste and general waste policy
- Fiscal policy
- Agricultural policy
- Environmental and climate policy
- Labour market policy
- Social enterprise policy
- Education policy
- Public procurement

In some cases, these policy areas may intersect (e.g. fiscal policies aimed to stimulate the social enterprise sector) and therefore these categories should not be considered mutually exclusive nor categorically exhaustive. Within each category, there are different policymaking approaches one could take to enact change (see Figure 4).

**FIGURE 4: APPROACHES TO POLICYMAKING RELATED TO FOOD SURPLUS AND INCLUSIVE JOBS**



*Credit: Feedback, 2022. Adapted from EU FUSIONS (2016)<sup>9</sup> and the Government of British Columbia (2020)<sup>13</sup>.*



# POLICY RECOMMENDATIONS

As defined in our framework for policymaking, to enable a thriving food surplus sector policymakers must first seek to prevent food waste, and then enable effective redistribution and revalorisation by promoting inclusive employment in food surplus organisations. Therefore we recommend policymakers take the following steps:

## AT THE EU

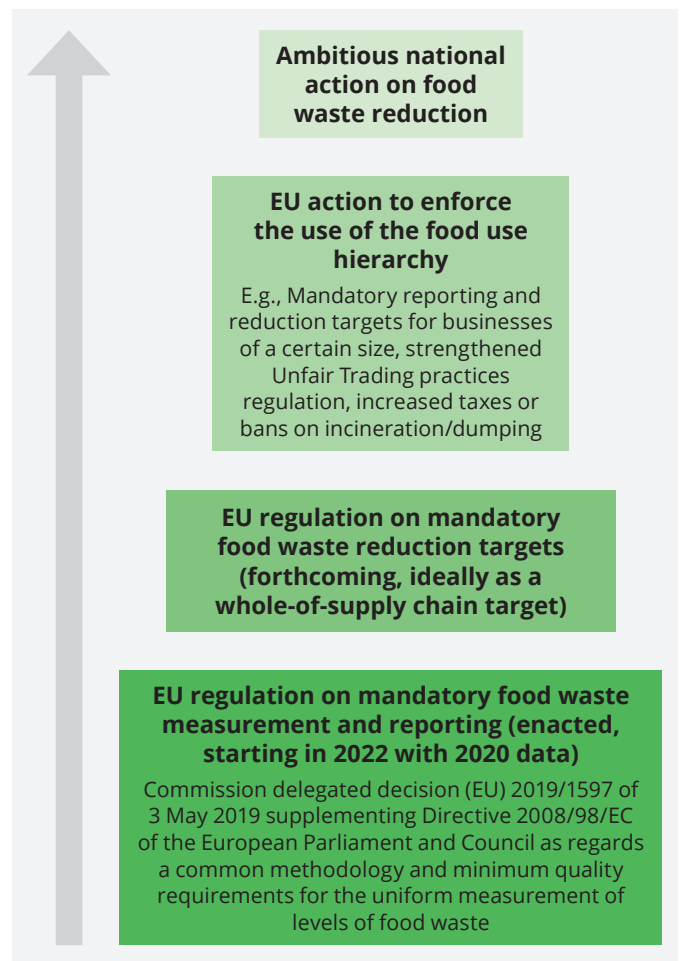
### **1. Implement legally binding food waste targets that account for all stages of the food supply chain and require a uniform kg per capita target for all Member States (MS)**

Consultations on mandatory food waste reduction targets for EU MS are currently ongoing. Following this consultation, the European Commission (EC) should put forward a legislative proposal—ideally by Q4 of 2022—for all member states to meet a 50% reduction of food loss and waste (FLW) from farm to fork by 2030. Along with the Commission regulation on mandatory food waste and loss measurement at a national level beginning in 2022<sup>d</sup>, this legislation will be an essential building block for ambitious national action by MS (see Figure 5).

To create a level playing field, the target should require all MS to reduce their FLW to a uniform kg per capita food waste, set at a level to ensure EU-wide 50% FLW reduction by 2030. The Commission should include all stages of the supply chain in the target to avoid the targets creating perverse side-effects, like the risk of food waste being moved further up the supply chain rather than reduced. This is in accordance with guidance from Champions 12.3 on SDG 12.3; EU FUSIONS data that shows that over three times more food is wasted in the EU processing sector, and two times more in food service, than in the retail sector, new data from the WWF's recent 'Driven to Waste' report, which found that 150 million tonnes of food are wasted on European farms (14.6% of total production) each year.<sup>14</sup> Reporting on waste in primary production should also include food left unharvested and ploughed back in, as well as on-farm livestock mortalities.

Calls to include on-farm waste in reduction targets have wide support. In 2017, 67 European organisations called for an EU FLW “reduction target of 50% by 2030 to be specified as farm to fork [...] binding at EU member state level”.<sup>15</sup> In 2020, many organisations reiterated this policy ask, calling for “binding targets committing to a 50% reduction by 2030 of all food waste from farm to fork, and bring forward the proposal of binding targets on food waste to the whole supply chain as early as possible, ideally to 2022”.<sup>16</sup>

**FIGURE 5: EU POLICY PYRAMID TO CREATE AN ENABLING ENVIRONMENT FOR NATIONAL ACTION ON FOOD WASTE**



Credit: Feedback, 2022.

<sup>d</sup> Commission delegated decision (EU) 2019/1597 of 3 May 2019 supplementing Directive 2008/98/EC of the European Parliament and Council as regards a common methodology and minimum quality requirements for the uniform measurement of levels of food waste

## 2. Explore complementary and additional regulations and fiscal incentives to enforce the food use hierarchy and enforce the 'polluter pays' principle

In addition to introducing legally binding FLW reduction targets (see Figure 4), the EU should explore regulations that can deliver more ambitious faster-paced FLW reduction. These include mandatory FLW public reporting and reduction targets for food businesses over a certain size, strengthened Unfair Trading Practices regulation, and increased taxes or bans on sending FLW to incineration and landfill (to what degree these practices still occur).<sup>17</sup> The revised EU Waste Framework directive<sup>e</sup>, which requires MS to “reduce food waste at each stage of the food supply chain, monitor food waste levels and report back regarding progress made”, provides a basis for further action by the Commission if measures are not adequately transposed into national law.<sup>f</sup>

Additional regulation should ensure that it is always more financially viable for businesses to firstly prevent food waste, or secondly to redistribute or reuse it, before moving to lower levels of the food use pyramid. It should also enforce the 'polluter pays' principle, which holds the entity producing the pollution responsible for paying for the damage or costs of offsetting that damage. The EU directive on waste electrical and electronic equipment (WEEE)<sup>g</sup>, which requires electronic producers to collect waste at their own expense, lays out a potential model for implementing this.

As much as possible, proposals for new regulation should incorporate learnings from existing national schemes, such as the French food waste law that requires supermarkets of a certain size by law to donate their food to a registered charity<sup>h</sup>, reductions on municipal waste tax related to food waste donation in Italy<sup>i</sup>, and regional legal measures to mandate the food waste hierarchy in the Brussels and Wallonia regions of Belgium<sup>19</sup>.

## 3. Revise the General Block Exemption Regulation to better support social enterprises and aid/training for disadvantaged workers

The Commission has pledged to propose a Council Recommendation on developing the EU social economy framework conditions in 2023, with the aim of creating the right policy and legal frameworks for social enterprise to thrive.<sup>9</sup> As part of this council recommendation, we echo the call by the European Network of Social Integration

Enterprises (ENSIE) to revise the EU General Block Exemption Regulation (GBER)<sup>j</sup> to better enable state support for WISEs. Article 32 of the General Block Exemption Regulation places limits on the “Aid for the recruitment of disadvantaged workers in the form of wage subsidies”, limiting state-supported employment contracts to no longer than 24 months.<sup>20</sup>

ENSIE, as well as FLAVOUR partners in Belgium and France, report that many disadvantaged groups who are far from the labour market are not ready to integrate into the labour market after this time and therefore find themselves unemployed again once integration contracts are terminated.<sup>21,22</sup> Another challenge created by the GBER is the cap of 70% placed on public funding to support training for disadvantaged workers, which ENSIE has reported preventing regional and local authorities in France from supplementing necessary training programs. ENSIE's 2021 report 'ENSIE, its networks and WISEs contribution to the European Action plan for the Social Economy' puts forward clear recommendations for how these limitations could be legitimately be removed, building on the precedent given to the maritime transport sector to achieve 100% aid intensity for small and medium-sized businesses providing training for disadvantaged workers.<sup>20</sup>

The potential to revise the GBER is raised in communication from the EU Commission on an action plan for the EU's social economy, which says that “the Commission will, in the revision of the GBER that will take place in view of its expiry at the end of 2023, consider whether the available evidence justifies easing the rules in relation to aid for social enterprises' access to finance and as regards aid for hiring disadvantaged or severely disadvantaged workers”.<sup>9</sup> The suggestion in the same communication that “one issue is that public authorities and recipients often do not make the most of existing State aid possibilities” is refuted by the experiences of FLAVOUR pilots, which report spending a significant amount of time and money to navigate EU state aid regulations.

Beyond adjusting language, a more in-depth overhaul of the regulation could start by re-framing the currently binary distinction between economic and charitable activities. The Commission Staff Working Document “Guide to the application of the European Union rules on state aid, public procurement and the internal market to services of general economic interest, and in particular to social services of

e Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (Text with EEA relevance)

f In implementing policy in support of the principles of 'polluter pays', policy should also consider evidence of rebound effects in food waste reduction efforts in the context of continued economic growth: in this case, the possibility that money businesses save by reducing food waste is instead invested into expanding production or other areas that have a negative environmental or social impact.<sup>18</sup> Studies have shown that the rebound effect may reduce potential emissions savings from food waste reduction by up to half—suggesting that ambitious action to achieve net zero by 2050 may be undermined by a growth paradigm of constantly increasing GDP.

g Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (WEEE)

h According to the French law 'Loi n° 2016-138 du 11 février 2016 relative à la lutte contre le gaspillage alimentaire'

i According to the Italian law 'Legge 19 agosto 2016, n. 166, Disposizioni concernenti la donazione e la distribuzione di prodotti alimentari e farmaceutici a fini di solidarietà sociale e per la limitazione degli sprechi'

j Commission Regulation (EC) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the common market in application of Article 107 and 108 of the Treaty (General block exemption Regulation)

general interest” confirms that the binary reframing is reductionist and hints that the regulation could be revised to better define, conceptualise, and support the role of WISEs in the European economy.<sup>23</sup>

Numerous EU-related entities recognise the potential for further support to WISEs to enable better action on food waste reduction. The EU Farm to Fork Strategy commits to help coordinate and scale up action on food waste across the EU. The EU FUSIONS platform recognises that social enterprises will play a key role in spurring this “innovative” action; its 2016 report on recommendations about food waste urges the creation of a “favourable EU and national legislative framework to promote social innovation initiatives on (increased) food donations” (Recommendation 4.1). It recommends conducting an analysis of enabling and disabling laws and policies that impact social innovation related to food distribution. With the General Block Exemption due to expire in 2023, further, more systematic research should urgently model the potential for growth of WISEs with changes to the regulation.

## IN FRANCE

### **1. Clarify and strengthen enforcement of current Garot and Egalim food waste donation laws**

The Garot and Egalim laws should be tightened to ensure that mandatory food waste donation policies are properly enforced. In 2016, the Garot Law obliged supermarkets with a surface area of at least 400m<sup>2</sup> to donate surplus food to designated charities. This was extended in 2018 by the Egalim Law to include caterers preparing over 3,000 meals a day, and agri-businesses with an annual turnover of more than 50 million euros.<sup>24</sup> However, the current wording allows companies to establish “conventions” with registered food charities without further responsibility to donate surplus food under those conventions.<sup>19</sup> Additionally, it is not clear how the fines specified by the law—of €3750 and of €750—for not creating a convention should be applied. These fines should be clarified and adequately enforced.<sup>19</sup> In the case it provides too difficult to monitor, another model for enforcement is demonstrated in the Wallonia region of Belgium, where supermarkets are obliged to prove they first tried to donate food surplus to at least one charity before moving down the food use hierarchy, in order to renew an ‘environmental license’ required to operate.<sup>19</sup>

As the law currently stands, donors and food surplus organisations are able to define the content of the conventions, which has the benefit of allowing them to account for specificities in the partnerships (type of food for donation, capacity to receive and distribute, etc.). On the other hand, due to the inherent power imbalances between the parties, this flexibility can lead to agreements that are unfair for food surplus organisations. More guidance and support on how the law is enforced will ensure that conventions are fairly enacted.

### **2. Install a steering committee to ensure a balanced relationship between food surplus organisations and food surplus donors**

In order to avoid unfair donation agreements related to the power imbalance between large businesses and food surplus organisations (see previous recommendation), an independent steering committee should be set up to monitor the quality of and compliance with conventions made between parties. This third-party body could review convention wording, remedy disputes, and ensure that food surplus organisations are not being penalised for speaking up in the case they feel that agreements are not being adequately fulfilled.

### **3. Establish a joint fund between government and food businesses to help cover the costs of food redistribution**

In accordance with the ‘polluter pays’ principle, food businesses should be required to cover part of the costs for social businesses and charities to receive, process, redistribute and/or revalorise their surplus. The introduction of the EGalim law requiring food waste to be donated has resulted in exponential increases in the level of donated food surplus. Although this is an overall positive outcome, EU-funded research on food waste action and FLAVOUR partners in France report that it has the potential to overwhelm existing infrastructure and capacities in the food surplus sector.<sup>19,25</sup> A joint fund created by the government and businesses to support food surplus organisations would legitimise the importance of the social and environmental benefits they create. Such a fund will also help policymakers to meet the forthcoming EU-mandated national FLW reduction targets.

### **4. Collect and publish more and better data on the impact of food waste policies**

France is a leader in regulatory action on food waste within the EU. It is therefore imperative that it begins to collect more and better data on the impact of its ambitious national action. Until now, data on food waste action remains broad and incomplete. This makes it difficult to accurately assess the impact of France’s ambitious arsenal of food waste legislation, including the tax deduction scheme on donated food and legal requirement for large retailers, including caterers and agribusiness, to donate surplus food (*Loi °2016-138*).<sup>19</sup> Evidence on how these provisions impact food waste prevention, redistribution, and other outcomes in France would provide valuable insights for other EU MS looking to implement similar policy packages as a complement to EU directives or transposition of EU regulation. The monitoring and evaluation arm of the *Pacte national de lutte contre le gaspillage alimentaire 2017-2020* is currently conducting an impact assessment of food waste actions at a state and partner organisation level.<sup>26</sup> It should compile findings into accessible, publicly available reports.

## IN BELGIUM<sup>k</sup>

### 1. Introduce a tax deduction scheme for food donations to incentivise the food use hierarchy

On 27 April 2021, a bill was submitted to the Belgian parliament which proposes introducing a tax deduction scheme on food donations. Like the law in France, it would allow companies to subtract 60% of the value of donated food items from their income tax (up to a value of 20,000 euros or 0.5% of company turnover).<sup>l</sup> We recommend for this bill to be introduced, as it will be a strong starting point to incentivise companies to redirect surplus food to human consumption rather than to anaerobic digestion (AD), which currently fits with the national government's renewable energy policies and is not actively de-incentivised.<sup>19,27</sup> In fact, FLAVOUR pilots report that it requires companies to fill out less paperwork, making it a more attractive option.

To accompany this tax deduction scheme, a joint fund between government and businesses could be introduced to help social enterprises cover the costs of food redistribution. This cost-sharing falls in accordance with the 'polluter pays' principle given that companies donating food surplus have not prevented food waste from occurring. The additional funding would go a long way in supporting social enterprises to more efficiently redistribute and revalorise food surplus. In turn, this will support the Belgian government to meet forthcoming mandatory EU FLW reduction targets.

### 2. Reduce barriers for social enterprises to employing people far from the labour market

#### 2.1 Clarify and capitalise on changes to the "customised work" label to provide the strongest support possible for food surplus WISEs

Upcoming changes to the status of social enterprises that provide "customised work" opportunities in Belgium require urgent clarification to ensure that social enterprises are adequately supported. The "customised work" label is currently applied to companies which hire at least 20 people under "customised work" opportunities, tailor-made jobs that take into account a person's talent and disabilities, with 65% of the workforce of these enterprises having to fulfil the conditions to apply for the corresponding subsidies. WISEs with this label can benefit from public procurement regulations that prioritise social enterprises with at least 30% employees who are disabled or vulnerable, although these regulations are somewhat ambiguous. In 2023, however, it is expected that all enterprises will be allowed to provide "customised work" opportunities to those who qualify.

This is a positive development given the Belgian government's overall goal of lowering barriers for disadvantaged workers to enter the workforce but will require a careful introduction to ensure that organisations with a social mission do not lose out on critical opportunities. To support WISEs, it is important that they retain priority in public procurement processes. This fits well with the Flemish government's push to support food distribution platforms in the revalorisation of food surplus under the new Action Plan for Food Loss and Biomass (residual) Flows Circular 2021-2025 for Flanders.

#### 2.2 Introduce a collaborative component into state-led hiring processes for WISEs to improve worker-job match, and gender equity and diversity efforts

State-supporting hiring processes should introduce an element of collaboration with WISEs to ensure that hires are the right fit for the organisations in which they are placed. In Flanders, employment decisions are currently made by the employment agency, VDAB, with no opportunity for input offered to organisations themselves. These hiring processes are subject to complex rules and requirements, including limited contingents and quotas on hires. FLAVOUR partners report that this makes it hard for organisations to expand, as well as to find the right people for open positions.

Allowing WISEs to collaborate on the hiring process would i) improve the chances of a hire succeeding in the long-term and ii) allow for WISEs to have autonomy over gender equity and diversity efforts in their own organisations, an area that FLAVOUR partners identified as having room to make progress.<sup>27</sup> Additionally, VDAB's work scheme should provide WISEs receiving workers far from the labour market with guidance on how to ensure accessible and inclusive workplaces for women, LGBTQ2+, ethnic minority, neurodiverse, and/or non-national staff. For people living in food insecurity, the availability of and access to culturally acceptable food is very important. Promoting inclusive WISEs in the food surplus sector can, in turn, ensure that these WISEs serve their communities more effectively and equitably.

<sup>k</sup> Given the federal structure of Belgium, the recommendations below are not exclusively oriented towards either the federal or regional level. While some (e.g. tax) require federal actions, others linked to the labour market require actions at the regional and/or federal level. Belgium is a highly decentralised country with significant autonomy given to regions on agriculture, infrastructure, industrial policy, employment, and tax.

<sup>l</sup> Proposal entitled 'Proposition de loi modifiant le Code des impôts sur les revenus 1992 en ce qui concerne la remise à titre gratuit d'aliments et de biens non alimentaires de première nécessité (déposée par Mme Anneleen Van Bossuyt et consorts)'

### BOX 3: FURTHER READING

The FLAVOUR project is impacted by a complex set of policy areas. For more detailed information related to food surplus and inclusive jobs, please refer to the following documents:

#### On food surplus reduction and redistribution

European Commission. (2020). *Food redistribution in the EU: mapping and analysis of existing regulatory and policy measures impacting food redistribution from EU member states*. [https://doi: 10.2875/406299](https://doi.org/10.2875/406299)

Safe Food Advocacy Europe. (2020). Food Donation Policy Report: Document addressed to the European Commission by SAFE. <https://www.safefoodadvocacy.eu/wp-content/uploads/2021/01/Food-Donation-policy-report-Safe-Food-Advocacy-Europe.pdf>

Vittuari, M., Azzurro, P., Gaiani, S., Gheoldus, M., Burgos, S., Aramyan, L., Valeeva, N., Rogers, D., Östergren, K., Timmermans, T., & Bos-Brouwers, H. (2016). *Recommendations and guidelines for a common European food waste policy framework*. FUSIONS. <https://doi.org/10.18174/392296>

#### On the labour market and the social economy

ENSIE. (2021). *ENSIE, its networks and WISEs contribution to the European Action plan for the Social Economy*. [https://www.ensie.org/Portals/ensie/OpenContent/Files/11728/ENSIE\\_Position\\_on\\_the\\_EU\\_Action\\_Plan\\_for\\_the\\_Social\\_Economy\\_EN.pdf](https://www.ensie.org/Portals/ensie/OpenContent/Files/11728/ENSIE_Position_on_the_EU_Action_Plan_for_the_Social_Economy_EN.pdf)

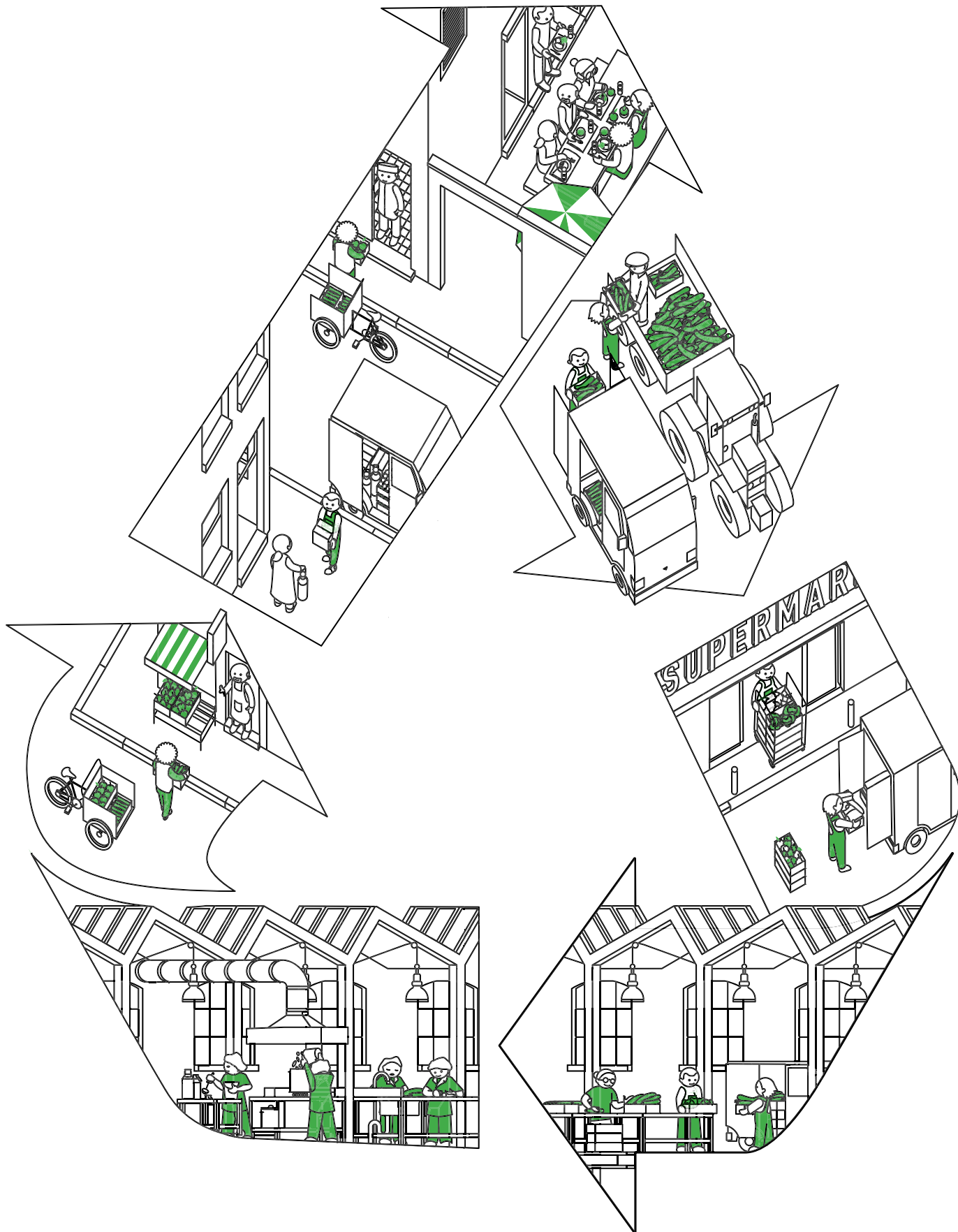
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