



# THE GLOBAL FOOD DONATION POLICY ATLAS

## Executive Summary: Paraguay

*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 maps the laws and policies in countries across the globe. 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.

### PARAGUAY FOOD LOSS AND WASTE

In 2014 the Food and Agriculture Organization of the United Nations (FAO) estimated that the amount of food wasted in Paraguay at the retail level alone could feed 269,000 people a year. Much of this food is still safe for human consumption and could be redirected to those experiencing hunger and chronic malnutrition throughout the country. The benefits of greater food recovery and donation are particularly apparent in Paraguay, where 25.3% of the population is moderately or severely food insecure. Despite government interventions, the rising cost of food has outpaced increases in income for those who earn the least.

In September 2021 Paraguay passed a national food donation law, Ley 6601 (hereinafter “Food Donation Law”). The law is a great first step to help reduce food loss and waste (FLW) and get food to those in need. It establishes the National Council for Food Donation, provides liability protection to donors, and prevents customs and border patrol from throwing away food that is safe for human consumption, which is a significant source of donations for Banco de Alimentos de Paraguay (BAPY). BAPY, a nonprofit food bank established in 2004, recovered 127,500 kilograms of food in 2019.

### Paraguay: By the Numbers

- Population: 7.5 million
- GDP: \$38.15 billion
- Poverty Rate: 24.2%
- Prevalence of Food Insecurity: 25.3%
- Global Food Security Index: 57.9
- FLW Estimates: 510,256 tons/year (household)

## PARAGUAY FOOD DONATION POLICY HIGHLIGHTS

**LIABILITY PROTECTION:** Paraguay currently offers robust liability protection for food donors and intermediaries. After delivering food, donors are released from all civil and criminal liability regarding their donation, except in instances of fraud or fault directly attributable to the donor. This protection also extends to food banks and other intermediary institutions as well as donors who give directly to individuals.

**ACTION OPPORTUNITY:** To help industry and the general public understand the protection offered by Paraguay's recently passed Food Donation Law, the government should produce and distribute guidance that explains the requirements for liability protection when donating food. The guidance should outline exactly how far these protections extend so potential donors understand the steps they need to follow to gain protection. Additionally, the guidance should clarify what constitutes a "fault directly attributable to the donor." By providing this additional information, the government will encourage more donations as potential donors understand the actions needed to avail themselves of the law's protections.

## PARAGUAY FOOD DONATION POLICY OPPORTUNITIES

**DATE LABELING:** Paraguay is a member of Mercosur, a South American trade bloc that requires food producers to mark certain foods with duration dates preceded by a prescribed phrase. Neither Mercosur nor Paraguay has provided definitions or guidance that identifies whether these prescribed phrases indicate quality or safety. As a result, consumers often throw away food that has passed the date on the package, even though that date only relates to food quality and the food is still safe to consume. In terms of food donations, it is legal to donate food past the expiration date if accompanied by a memo explaining why it is still safe to eat.

**ACTION OPPORTUNITY:** While Paraguay has a strong basic framework for date labeling, it does not explicitly define date phrases as either quality-based or safety-based. The government should pass a law or promulgate guidance that establishes a dual date labeling regime. Under such a system, one phrase would refer to food safety (i.e., foods should not be consumed after that date), while a second phrase indicates quality (i.e., food is safe to eat beyond that date). Food products would include one of these dates, and a national, uniform approach would ensure consumers have the information they need to make informed decisions. Once the law passes or guidance becomes available, the government should initiate a campaign to educate consumers about the new labels and what they mean.

**TAX INCENTIVES AND BARRIERS:** Currently, Paraguay has minimal tax incentives for food donation. Corporations can only deduct a negligible 1% of their annual gross incomes for charitable contributions to registered public benefit entities (PBE). In terms of barriers, raw foods and many other staples are subject to Paraguay's value-added tax (VAT), and Paraguay's Food Donation Law declares that food donations are not subject to taxation. However, donors of processed foods are unable to reclaim the input VAT they spent acquiring ingredients for food that is donated instead of sold, which may make some donors reluctant to donate.

**ACTION OPPORTUNITY:** The government should allow donors to reclaim the input VAT for food that is donated instead of sold, making all donated food subject to a 0% VAT. Additionally, the government should provide more significant tax credits and deductions for entities that donate food or assist with its storage, transportation, or delivery.

**GRANTS AND INCENTIVES:** National or local grants and incentive programs can be important resources for food donation initiatives, especially as alternatives or supplements to tax incentives. For example, government grants can help food donors and food banks acquire equipment and resources

necessary for gleaning, storing, processing, and transporting food for donation. Government funding can also support new technological innovations to make food donation more efficient and sustainable. Paraguay does not currently offer any national grants or incentives for food donation infrastructure needs.

**ACTION OPPORTUNITY:** Grants and incentives funded at the national, provincial, or local level offer an important potential resource for food donation initiatives, as cost is a main barrier preventing food businesses from donating. More specifically, transportation and storage costs are often cited as the main expenses that manufacturers, retailers, and restaurants need to overcome to donate food. Accordingly, the Paraguayan government should establish grant programs to create infrastructure to store, transport, and deliver food to food recovery organizations as well as support new innovations and emerging technologies that will make food donation more efficient and sustainable.

## PARAGUAY FOOD DONATION POLICY: HOW DOES IT COMPARE?

Paraguay’s recent Food Donation Law demonstrates momentum for policy change. While Paraguay works toward this comprehensive, national framework, it should pursue more targeted improvements to existing laws and regulations that impact food donation. In particular, clarifying the date labeling requirements, drafting liability protection guidance, allowing donors to recover the VAT, and offering government grants and incentives may significantly increase food donations in Paraguay.

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	National FLW/ Donation Law or Policy
No Policy	Moderate Policy	Strong Policy	Limited Policy	Yes	Moderate Policy	No	Yes

For more detail on how Paraguay measures up against the other countries evaluated in The Global Food Donation Policy Atlas project, check out [www.atlas.foodbanking.org](http://www.atlas.foodbanking.org). For more information about the food donation legal framework in Paraguay and policy recommendations for strengthening this framework, check out the Ecuador Food Donation Legal Guide and the Ecuador Food Donation Policy Recommendations.

# BACKGROUND INFORMATION: MAJOR LEGAL ISSUES IMPACTING FOOD DONATION

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

**Date Labeling:** Date labels affixed to food products are a major driver of food waste and an obstacle to food donation. Most food donors and food recovery organizations are appropriately cautious about donating food that may no longer be safe, but it is not always clear whether the date label accompanied by language such as “sell by,” “expires on,” or “best by” relates to food safety. In fact, date labels are generally intended to reflect freshness or quality rather than safety for the vast majority of foods.

**Liability Protection for Food Donations:** 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. Some countries have adopted liability protections to mitigate this concern. However, many food donors and food recovery organizations are uncertain as to whether they are eligible for this protection, whether there are actions required to maintain the protection, and what limits, if any, apply.

**Tax Incentives and Barriers:** Transportation and storage costs are often cited as the main expenses that manufacturers, retailers, and restaurants need to overcome to donate food. Tax incentives, including deductions and credits, can help to offset these financial inputs and help make donation a more attractive, affordable option. The application of certain taxes to donated foods, such as the value-added tax, however, can also create a barrier to donation.

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

**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.

**National law or policy on food waste:** Adopting a national food loss and waste or food donation framework can help governments ensure policy coherence and advance food recovery efforts along the supply chain. Offering a unified and comprehensive framework may better enable governments to clarify food safety rules, standardize date labels, define liability protections for food donors and food recovery organizations, and set forth additional tax benefits to which donors may be entitled under relevant law. A national law or policy can also serve as a foundation for government grant programs and awareness campaigns focused on food system sustainability and food security.

## THE GLOBAL FOOD DONATION POLICY ATLAS PROJECT SUPPORT



**Project Partners:** The Global Food Donation Policy Atlas is a project of the Harvard Law School Food Law and Policy Clinic, with support from the Global FoodBanking Network.



### Support from the Walmart Foundation:

This research was made possible through funding by the Walmart Foundation. The findings, conclusions, and recommendations are those of Harvard Law School Food Law and Policy Clinic alone, and do not necessarily reflect the opinions of the Walmart Foundation.