

## **Entscheidung in der Sache OI/14/2011/BEH - Verfahrensweisen bei den von den Organen und bestimmten Einrichtungen unterhaltenen Kantinen im Hinblick auf den Umgang mit nicht verzehrten Lebensmitteln**

Entscheidung

**Fall** OI/14/2011/BEH - **Geöffnet am** 31/10/2011 - **Entscheidung vom** 20/12/2012 -

**Betroffene Einrichtung** Europäisches Parlament | Rat der Europäischen Union | Europäische Kommission | Gerichtshof der Europäischen Union | Europäischer Rechnungshof | Europäische Zentralbank | Europäischer Wirtschafts- und Sozialausschuss | Europäischer Ausschuss der Regionen |

Viele Organe, Einrichtungen, Ämter und Agenturen der EU unterhalten Kantinen, die in erster Linie auf die Versorgung ihrer Bediensteten ausgerichtet sind. In Anbetracht der offensichtlichen Unterschiede zwischen den Verfahrensweisen dieser Kantinen im Hinblick auf die Entsorgung von nicht verzehrten Lebensmitteln leitete der Bürgerbeauftragte im Oktober 2011 aus eigener Initiative eine Untersuchung der Sachlage ein, um die vorbildlichsten Verfahren zu ermitteln.

In ihren Stellungnahmen gaben alle Organe an, Kantinen zu unterhalten, die von ihren Bediensteten und für gewöhnlich auch von weiteren berechtigten Personen genutzt werden können. Diese Kantinen werden in der Regel von Vertragnehmern bewirtschaftet. Die meisten Organe erklärten, dass sie die Menge der in einem bestimmten Zeitraum zuzubereitenden Lebensmittel im Voraus schätzten. Ferner nannten die Organe verschiedene Verfahren zur Abgabe von nicht verzehrten Lebensmitteln an Dritte oder zum Verkauf von Lebensmitteln als organische Abfälle an private Unternehmen, die diese als Düngemittel einsetzen oder zur Erzeugung von Biomasse verwerten. Hinsichtlich der Abgabe von nicht verzehrten Lebensmitteln an Wohltätigkeitsorganisationen wiesen einige Organe darauf hin, dass ihnen diesbezüglich durch nationale Rechtsvorschriften zur Lebensmittelsicherheit Beschränkungen auferlegt werden.

Der Bürgerbeauftragte lobte die Bemühungen der Organe um eine weitmöglichste Vorausschätzung des Lebensmittelbedarfs für bestimmte Zeiträume. Er vertrat die Auffassung, dass ressourcenschonenden Verwendungen und insbesondere dem Einsatz von nicht verzehrten Lebensmitteln zum menschlichen Verzehr so weit als möglich der Vorzug zu geben ist. Diese Zielsetzung könnte beispielsweise durch Lebensmittelspenden an Wohltätigkeitsorganisationen realisiert werden oder auch durch die Wiederverwertung von nicht verzehrten Lebensmitteln in den Kantinen selbst. Die Verwendung von Lebensmitteln zur



Erzeugung von Düngemitteln oder Biomasse, durch die unnötige Abfälle zwar zweifelsohne vermieden werden können, sollte hingegen nur dann in Erwägung gezogen werden, wenn keine anderen praktikablen und realistischen Möglichkeiten bestehen.

Der Bürgerbeauftragte gelangte zu dem Schluss, dass die Auslotung von möglichen Verfahren zur sowohl wirtschaftlich als auch unter ethischen Gesichtspunkten sinnvollen Verwertung von nicht verzehrten Lebensmitteln ein konkretes Zeichen für die Fürsorge der Europäischen Union für Bedürftige sein könnte. Er begrüßte die Initiativen zur Vermeidung von Lebensmittelabfällen, die von den betreffenden Organen bereits in die Praxis umgesetzt wurden. Er regte sie ferner dazu an, die Frage der Abgabe der in ihren Kantinen aufgrund eines überschüssigen Angebots unverzehrt gebliebenen Lebensmitteln an Dritte ernsthaft zu prüfen. Abschließend nahm er zur Kenntnis, dass das Europäische Parlament die Frage mittlerweile aufgegriffen und eine einschlägige Empfehlung abgegeben hat.

## **The background to the complaint**

1. According to Article 228 of the Treaty on the Functioning of the European Union, the European Ombudsman is empowered to conduct inquiries on his own initiative in relation to possible instances of maladministration in the activities of the Union institutions, bodies, offices or agencies.
2. Many institutions, bodies, offices and agencies of the EU have canteens, which are primarily aimed at catering for their staff.
3. It came to the Ombudsman's attention that there appeared to be some divergence in the manner in which these canteens dispose of unconsumed food. Whereas some appear to donate such food to charities, at least one canteen seems to throw such food away.
4. It is good administrative practice to use as economically as possible the resources that have been allocated to the individual institutions, bodies, agencies and offices of the EU. In addition to that, the way in which unconsumed food is disposed of is likely to affect the manner in which citizens perceive the EU and, in some cases, may be of direct relevance to their daily lives.
5. The Ombudsman therefore decided to open an own-initiative inquiry into the practices of canteens made available by the institutions and certain bodies of the EU, in relation to unconsumed food. The Ombudsman decided to include the institutions and bodies of the EU mentioned in Article 13 of the EU Treaty in his own-initiative save for the European Council, that is to say, the European Parliament, the Council, the European Commission, the Court of Justice, the European Central Bank, the Court of Auditors, the Economic and Social Committee, and the Committee of the Regions (henceforth collectively referred to as 'the institutions concerned').



## The subject matter of the inquiry

6. In his letter opening the present inquiry, the Ombudsman informed the institutions concerned that his inquiry aims at ascertaining the current practices of canteens with regard to the management of unconsumed food, and to highlight possible best practices. The Ombudsman also pointed out that, during his inquiry, he may consider publishing the opinions received in order to give interested third parties the opportunity to make observations.

7. In his letter opening the present inquiry, the Ombudsman put the following two questions to the institutions concerned:

(i) Does your institution make a canteen available to its staff?

(ii) If so, what practices are followed by that canteen to deal with unconsumed food?

## The inquiry

8. On 31 October 2011, the Ombudsman requested an opinion from the institutions concerned by 31 January 2012.

9. The Ombudsman received the opinions of the institutions concerned between 24 November 2011 and 28 February 2012.

## The Ombudsman's analysis and conclusions

### A. Information submitted to the Ombudsman

10. The **Council**, which is based in Brussels, provides its staff and other authorised persons (such as other institutions' personnel, representatives of Member States, journalists and visitors) with several canteens and cafeterias. Due to the diversity of possible consumers, the number of customers at the canteens varies. Hence, it is more difficult for the Council's canteens to estimate the amount of food to be prepared than in other collective restoration structures.

11. The private catering service provider with which the Council entered into a contract is mainly responsible for the management of unsold food, both from an economic and food safety perspective. According to the contract in force, the Council Secretariat exercises only a management control over the provider. The food stock kept and all foodstuffs prepared and distributed belong to the contractor until they are distributed to consumers.

12. The contractor is subject to both the European Union's policy on food safety and national and European food legislation in force [1]. Therefore, the Council stated that the contractor's



practices concerning the reduction of food waste must be necessarily brought in line with the requirement of fully guaranteeing quality and safety to consumers. In this regard, the catering service provider follows the so-called HACCP rules [2] , according to which unconsumed hot meals cannot be served again. The reason for this is that reheating food can cause certain bacteria to develop, which could give rise to toxicological infections. However, unconsumed food, such as surplus hot meals, is given to the contractor's personnel whenever possible.

**13.** According to the Council, the management of unconsumed cold dishes allows for more flexibility. In order to re-use them, however, it is fundamental not to break the cold chain. This means that the food must be kept at a constant cold temperature during its storage and distribution. If these requirements, the expiration date, and the durability limits established by HACCP rules are respected, these products can be distributed again. However, food beyond these dates must be disposed of.

**14.** In order to reduce food waste, the catering service provider tries to foresee the quantity of food likely to be needed within a certain period of time, and to produce only the quantities likely to be consumed.

**15.** The Council further stated that the quantity of unsold but still edible food is by its nature unpredictable and limited, given the principle that production should be limited only to what is necessary. It follows that giving unsold but still edible food to charities would imply a substantial logistical and technical organisation for which no provision has been made in the Council's budget. According to the Council, changing the regulation in force would imply an organisational and economic effort which does not appear to be proportionate to the possible outcome. In the Council's view, food safety risks, and the limited benefits that charities would get from distribution of unconsumed food, meant that such a change would not be justified.

**16.** The **Committee of the Regions** and the **European Economic and Social Committee** (henceforth referred to as the 'Committees'), which are based in Brussels, submitted a joint opinion in which they stated that they make available, to their staff and to the Members of the Committees, a self-service canteen, a small à la carte restaurant and three cafeterias. In addition, the Committees organise meetings and other important events at their headquarters, during which both hot and cold meals are served.

**17.** The Committees stated that they are aware of the importance of using food as economically as possible and in a responsible way. In fact, the Committees stated that this issue, together with the issue of unconsumed food/food waste, had been dealt with also in the framework of the EU Eco-Management and Audit Scheme (EMAS) [3] . Moreover, the Committees and their catering service providers "carefully studied" the possibility of donating unconsumed food to food banks or organisations that help homeless people. This idea was also put to the Belgian Federal Agency for the Safety of the Food Chain. However, it appeared that Belgian food safety legislation is such that this type of scheme would not be feasible. According to Belgian legislation, food waste from glasses, cups or plates used to serve customers cannot be used for human consumption. For example, the Committees submitted that, according to Belgian law, " *all hot meals kept for 30 minutes at <50°C or for more than two hours* ", " *all cold*



*meals exposed for more than 30 minutes at >15°C " and " previously served unprotected products " cannot be re-used.*

**18.** In view of this situation, the Committees stated that they concentrated their efforts on the reduction of food waste. Since May 2011, the Committees, together with their main food provider contractor, had taken part in two official projects of the Brussels Capital Region, namely, the 'Sustainable Canteen Programme' and the 'Food Waste Pilot Project'. To this end, the Committees are assisted by specialised external consultants from the Brussels Capital Region.

**19.** The Committees' contractor is also making specific efforts in trying to reduce food waste and has, for instance, integrated the programme 'Stop Hunger' in its enterprise sustainability policy. This programme entails, for example, the participation in summer camps for disadvantaged children and in a charitable grocery store, and serving meals to the homeless at the end of the year.

**20.** The Committees also explained that they are currently working to: (i) reduce food waste at all stages; and (ii) manage food waste as environmentally as possible and provided numerous concrete examples in this regard. Thus, for instance, with regard to purchasing, food is ordered on the basis of planned seasonal meals and statistics are kept in order to estimate the demand for food as accurately as possible. On the production process side, meals are prepared from set recipes that allow some flexibility in incorporating unused ingredients from previous days which have not been served or exposed. With regard to the distribution process, the Committees and their contractor are carrying out an awareness campaign and training staff serving food to adjust portions to the consumers' appetites. Posters have been put up in the canteen to remind clients that portions can be suited to their appetites. As concerns food waste management, unsold sandwiches are given away for free to the contractor's personnel, and a sub-contractor takes care of the food waste in order to produce bio-gas.

**21.** The **Commission** explained that it provides its staff with several canteens in the three main locations where it has places of work (Brussels, Luxembourg, and Ispra). The canteens are managed by catering service providers and fall within the competence of two Commission offices. One office is in charge of 11 canteens in Brussels and of one canteen in Ispra. The other office is in charge of six canteens in Luxembourg. The catering services are outsourced in Brussels and remain internal in Luxembourg and in Ispra. Thus, while the Commission directly manages canteens in Ispra and Luxembourg, the Brussels canteens are managed by an external contractor.

**22.** According to the Commission, all food safety-related issues fall within the primary responsibility of the food providers, which act under close supervision by the Commission. The catering providers apply the HACCP rules, according to which they re-use the daily surplus food whenever health and hygiene regulations allow it.

**23.** All the Commission's catering providers, both internal and external, adopt measures to estimate the food demand in order to reduce waste to a minimum.



**24.** With regard to the potential redistribution of surplus food to external organisations, the Commission's contractors have no formal contractual obligations in this respect, but nothing prevents them from doing so. In the Commission's opinion, it appeared difficult systematically to redistribute the food to charities because of the HACCP rules. To the Commission's knowledge, the charities that contacted the contractors in this respect until now disposed of neither the appropriate equipment, nor the financial means, to transport the food in the appropriate hygienic conditions.

**25.** However, the Commission stated that the Office for Infrastructure and Logistics (OIB), which is in charge of the management of canteens in Brussels, had inserted the obligation for the future contractor(s) to implement a system of efficient waste-management, aiming at further reducing food waste in the canteens in the new call for tender currently in preparation. In a more general way, the Commission indicated that it had implemented the EMAS, and the Commission has been registered in the relevant database since 2005.

**26.** The **European Parliament** explained that it provides its staff and other authorised persons (such as the Members of Parliament, their assistants, staff employed by the political groups, officials of other institutions, visitors and external staff) with restaurant facilities in each of its three places of work, namely, Brussels, Strasbourg and Luxembourg. The catering service providers are directly responsible for dealing with unconsumed food.

**27.** The contractors comply with the food hygiene legislation in each of the countries where Parliament is based. More specifically, catering service providers follow the precautionary principle and standard practices in the industry, which are set out in the relevant guides of good hygiene practices. In this context, food put on display and not consumed is disposed of and recovered as organic waste.

**28.** Parliament stated that it is worth noting that, in the past, it used to donate foodstuffs to charities in certain exceptional cases (non-reusable pre-prepared products which have not been offered for sale). This procedure was applied where the rules for hygiene conservation of food so permitted, namely, when the cold chain had not been broken and the 'best before' date had not expired.

**29.** The **Court of Auditors**, based in Luxembourg, makes available to its staff one canteen and several cafeterias which are managed by a catering service provider. The provider is fully responsible for the purchase of food and all aspects related to food safety. The Court of Auditors only ensures management control.

**30.** The provider applies the HACCP rules with regard to all food safety related issues. Hence, all products which have been exposed in the distribution zone but are not consumed are destroyed, in line with food safety regulation in force. With regard to unsold products, or foodstuffs which have been removed from their original package ("produits déconditionnés"), they are conserved and labelled in accordance with strict rules. According to the Court of Auditors, the current contract signed with the catering provider does not foresee the possibility



for the Court to interfere with, or regulate, the management of unconsumed food.

**31.** The **Court of Justice** of the EU, situated in Luxembourg, stated that it makes available three canteens both to its personnel and other authorised persons, such as the personnel of other EU institutions, the personnel of other Luxembourgish institutions, and visitors.

**32.** According to the HACCP rules, followed by the Court's contractor, there are two kinds of unsold foodstuffs:

(i) Foodstuffs directly exposed on displays in order to be sold, which are disposed of at the end of service because they are considered unsuitable for further consumption.

(ii) Foodstuffs which have been stocked in order to be used during the service and which can be sold until the end of their expiration date. After this deadline, these foodstuffs are disposed of, too.

The contractor in charge of the canteens has the exclusive responsibility of dealing with food safety matters, including the disposal of unsold food, and food, whose expiration date has, according to the HACCP rules, passed.

**33.** In order to prevent food waste, the Court provides the contractor well in advance with the number of visitors foreseen who are likely to take a meal in the canteen. The Court expressed its readiness to put the issue of making unconsumed food available to charities on the agenda of the next meeting of the inter-institutional working group which deals with food issues.

**34.** In its opinion, the **European Central Bank**, based in Frankfurt, stated that there are three canteens available to its staff. One of these is an onsite caterer for the ECB, and two are external restaurants which are accessible to the Bank's personnel.

**35.** In all three canteens, unconsumed food is sold to external contractors which treat it in order to produce organic fertiliser for agricultural use, or biomass which will afterwards be converted into bio-fuel.

## B. The Ombudsman's assessment

**36.** In their opinions, all institutions stated that they make one or more canteens in their premises available to their personnel, and usually to other authorised persons. All canteens are managed by contractors under the supervision of the respective institution, except for the Commission which directly manages its canteens in Luxembourg and Ispra. There are differences as regards the management systems and practices followed by the relevant institutions, and there are also differences as regards the approaches to how food which remains unsold is dealt with.

**37.** The Ombudsman considers that, in terms of best practices, the institutions should, in the





first place, seek to avoid producing meals remaining unconsumed, by endeavouring to anticipate as much as possible food demand for particular periods of time. From the opinions submitted, it appears that most or all the institutions, together with their catering contractors, try to estimate in advance the number of consumers likely to make use of canteens, thus trying to reduce the risk of being left with foodstuffs that need to be disposed of. The Ombudsman commends these efforts.

**38.** Apart from estimating the quantity of food to be produced, two further possibilities are in principle open to institutions in order to address the issue at stake: (i) make the redundant foodstuff available to third parties or (ii) use the unconsumed foodstuffs in other ways.

**39.** As regards option (ii), some institutions stated that they sell the foodstuffs that cannot be sold as organic waste to private companies which will use it as fertilizer or to produce biomass.

**40.** The Ombudsman considers that this practice, which aims at avoiding unnecessary waste, is clearly useful. He considers, however, that using foodstuffs in this way cannot be regarded as the ideal solution, but should only be considered if there are no other practicable and realistic possibilities.

**41.** In the Ombudsman's view, preference should be given, to the greatest extent possible, to resource-efficient uses and, in particular, to using unconsumed food for human consumption. This objective could be realised through donations to charities, for instance, or by re-using food which has not been consumed within the canteens themselves.

**42.** The Ombudsman notes that a number of institutions made reference to what they perceive to be certain restrictions regarding the way they deal with unconsumed food. Such restrictions stem from (i) the contracts they have entered into with catering service caterers, (ii) the potential toxicological danger linked to re-using unconsumed food and the related limits posed by HACCP rules, national food safety legislation and other applicable rules, and (iii) the disproportionate economic and organisational effort that would be necessary in order to give unsold but still edible food to charities.

**43.** As regards the first issue, it emerges from the information provided to the Ombudsman that the contents of the contracts signed between the institutions and catering service providers vary significantly. While some institutions, such as the Committees, pointed out that the contracts they enter into contain specific provisions with regard to the issue at stake, the Commission referred to a lack of express provisions in this regard, which would not however affect the possibility to adopt specific measures. Moreover, other institutions, such as the Court of Auditors, stated that their contract with the catering provider allows the latter to be completely free with in the management of unconsumed food, and added that they do not have a say on the matter.

**44.** While there can be no doubt that the institutions are bound by the contracts they enter into, there would appear to be nothing to prevent them, when inviting tenders for the award of such contracts, from requiring successful tenderers to take specific action in relation to unconsumed





food. In fact, the Ombudsman notes that the contracts entered into by a number of institutions in fact contain specific provisions with regard to the management of unconsumed food.

**45.** As regards the second issue, the Ombudsman notes that a number of institutions made reference to national food safety legislation and the HACCP rules. While it is true that food safety rules constitute a legal framework which might limit the possibilities of managing unconsumed food, this does not necessarily mean that they rule out taking specific actions in this regard. Thus, for instance, the Committees pointed out that foodstuffs which have not been served or exposed can either be served over the following days or used to prepare meals from set recipes allowing for some flexibility for incorporating unused foodstuffs as ingredients. The Ombudsman therefore takes the view that national food safety legislation and other applicable rules do not as such amount to insuperable obstacles to adopting specific measures in relation to unconsumed food.

**46.** None of the institutions concerned has put in place any measures in order to give unconsumed food to charities, even though some of them have reflected, or are currently reflecting, about the possibility of doing so. While some institutions pointed to legal constraints in this regard, it is noteworthy that Parliament stated that it used to give unconsumed food to charities in the past, without specifying the reasons why it discontinued this practice. This clearly shows that food safety issues do not necessarily rule out the possibility of making foodstuffs available to third parties.

**47.** The Ombudsman applauds the practice, adopted by most institutions' contractors, to reuse unconsumed food within the canteens, whenever possible according to food safety rules. It appears that, for food safety reasons, this is less problematic as regards cold dishes, while, for instance, the HACCP rules [4] would appear to impose limits on the redistribution of unconsumed hot meals. However, it should be noted in this regard that the Council's catering service provider, for instance, offers unconsumed hot meals to its personnel. The same practice has been implemented by the Committees' contractors with regard to unconsumed sandwiches.

**48.** As regards the third of the arguments put forward by some institutions (see point 42 above), concerning the allegedly disproportionate effort that would be needed in this respect, the Ombudsman considers that, in general, it would not apply. The concrete action taken by some institutions demonstrates that there is room for action in this respect, and that the effort that is needed to do so is bearable. The Ombudsman considers that, in any event, the various possibilities should be concretely explored, and he invites the institutions to do so by liaising with charities. Doing so can bring forth useful and concrete suggestions concerning the matter.

**49.** In this context, the Ombudsman particularly welcomes the readiness expressed by the Court of Justice to trigger a discussion on the issue of making unconsumed food available to charities in the relevant inter-institutional working group.

**50.** Overall, the Ombudsman concludes that the exploration of possible ways to deal with unconsumed food in a way that is both economical and guided by ethical considerations would be a concrete sign of the European Union's care for needy people.



**51.** The Ombudsman is happy to note that, in addition to the various individual measures already taken or considered by the institutions concerned, the relevant issues have recently also been addressed at a more fundamental level by the Commission and the European Parliament.

**52.** In this respect, it should be noted that the Commission commissioned a study on food waste in the EU in 2010, "in order to provide [it] with more detailed information about the causes, quantities and environmental impacts of food waste generated in the EU27" [5] .

**53.** With regard to reduction of food waste in canteens, this study suggested that launching awareness raising campaigns could be a first course of action to be envisaged. Moreover, it stressed the importance of putting logistical improvements in place. These improvements "may include reservation requirements for meals to help predict food quantities, [and] satisfaction surveys in cafeterias to help food better meet customer preferences". Another measure suggested by the report is to organise initiatives that engage participants in waste measurement activities. The study states that "the act of measurement itself is often enough to stimulate food waste reductions, and because of its hands-on nature, is potentially more effective than information-based awareness-raising." With regard to food redistribution activities, the study strongly recommends this practice, whenever it is possible.

**54.** On its website [6] , the Commission states that it is examining, with the assistance of stakeholder platforms, how to minimise food waste without compromising food safety. It also states that it intends consulting " *EU countries and experts to choose the most appropriate EU actions to complement national and local ones* ", as well as " *setting up a data base on good practices in food waste reduction* ". These actions will be taken within the framework set out by the Commission's Communication entitled 'Roadmap to a resource-efficient Europe' [7] , which " *features the food sector as key to improving resource efficiency and seeks incentives to halve the disposal of edible food waste in the EU by 2020.* " Furthermore, a Communication on Sustainable Food is going to be adopted in 2013.

**55.** Moreover, on 19 January 2012 Parliament adopted a resolution on how to avoid food wastage [8] , in which it called for urgent measures to halve food waste by 2025 and to improve access to food for needy EU citizens.

**56.** In particular, Parliament expressed its concern " *about the fact that a considerable amount of food is being discarded on a daily basis, despite being perfectly edible and that food waste gives rise to both environmental and ethical problems and economic and social costs* ". According to Parliament, studies in Europe report that around 50% of healthy, edible food is lost along the entire food supply chain, in some cases all the way up to the consumer, and becomes waste. Meanwhile, 79 million people are still living below the poverty threshold in the EU. Therefore, Parliament called on the Commission, the Council and the Member States and " *players in the food supply chain to address as a matter of urgency the problem of food waste along the entire supply and consumption chain* " and urged them to prioritise this within the European policy agenda.



**57.** Regarding the possibility of donating unconsumed food, Parliament welcomed measures aiming at *"recovering, locally, unsold and discarded products throughout the food supply chain in order to redistribute them to groups of citizens below the minimum income threshold who lack purchasing power"*.

**58.** With regard to canteens made available by the European institutions to their personnel and other people, Parliament called on the Commission to set an example by addressing the issue of *"food waste within the EU institutions, and to take the necessary measures as a matter of urgency to reduce the particularly large quantity of food discarded every day in the canteens of the various EU institutions"*. In this regard, Parliament also called on the Commission to *"consider possible amendments to the public procurement rules on catering and hospitality services so that, all other conditions being equal, when contracts are awarded, priority is given to undertakings that guarantee that they will redistribute free of charge any unallocated (unsold) items to groups of citizens who lack purchasing power, and that promote specific activities to reduce waste upstream, such as giving preference to agricultural and food products produced as near as possible to the place of consumption"*. The Ombudsman considers that this statement is of particular importance when considering that one of the obstacles to the management of unconsumed food mentioned by certain institutions concerns the alleged impossibility of influencing the catering service provider's behaviour because of the contract in force between the parties (see paragraphs 37-39 above).

**59.** In the light of these considerations, the Ombudsman welcomes the initiatives already put in practice by the institutions concerned in order to prevent food waste. The Ombudsman notes and approves the effort made by some institutions, namely, the Commission, the Council, the Committee of the Regions, the European Economic and Social Committee, and the Court of Justice, to estimate the quantity of food that should be prepared for a certain period of time. As a possible example of best practice in this regard, the Ombudsman makes reference to the thorough planning characterising the relevant policies of the Committees and of their contractors in this regard. Thus it appears that the latter institutions address the issue of food waste prevention at various stages, namely, in the purchasing phase, with regard to stock management, during the preparation process and in the distribution process. The Ombudsman encourages other institutions to consider similar approaches, and to cooperate with their contractors in order to address the issue at stake in a thorough and structured way.

**60.** The Ombudsman moreover encourages the institutions concerned to examine seriously the issue of making available to third parties food which, due to a surplus of supply, remains unconsumed in their canteens. To this end, the institutions concerned could seek to identify possibilities of entering into contact with charities and NGOs active in this field and offer to make unconsumed food available to them, within the framework of national food safety legislation and other applicable rules.

## C. Conclusions



On the basis of his inquiry, the Ombudsman closes it with the following conclusion:

**By ascertaining current practices of canteens with regard to the management of unconsumed food and, on this basis, highlighting possible best practices, the own-initiative inquiry has attained its aims.**

The institutions concerned will be informed of this decision.

P. Nikiforos Diamandouros

Done in Strasbourg on 20 December 2012

[1] As for EU law, the Council, in particular, referred to Regulation 2002/178/EC of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety, (OJ 2002 L 60, p.60); Regulation 2004/852/EC of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs (OJ 2004 L 139, p. 1); Regulation 2004/853/EC of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin, (OJ 2004 L 139, p. 55). As for Belgian national law, the Council mentioned a Royal Decision of 14 November 2003 (Arrêté royal du 14 novembre 2003 relatif à l'autocontrôle, à la notification obligatoire et à la traçabilité dans la chaîne alimentaire), as modified by the Royal Decision of 26 May 2011.

[2] The HACCP (Hazard Analysis and Critical Control Points) system is a framework developed by the NASA in the 1960s which governs the management, follow-up and correction of any health/security/hygiene issues in the area of food preparation, sale and distribution. It was adopted by the EU with Regulation (EC) 852/2004 of the EU Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs (OJ L 139, 30.4.2004, p. 1).

[3] EMAS is a management tool for companies and other organisations, designed to evaluate, report and improve their environmental performance.

[4] According to Article 5(2) of Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs, OJ 2004 L 139, p. 1, the HACCP principles consist of the following: "(a) identifying any hazards that must be prevented, eliminated or reduced to acceptable levels; (b) identifying the critical control points at the step or steps at which control is essential to prevent or eliminate a hazard or to reduce it to acceptable levels; (c) establishing critical limits at critical control points which separate acceptability from unacceptability for the prevention, elimination or reduction of identified hazards; (d) establishing and implementing effective monitoring procedures at critical control points; (e) establishing corrective actions when monitoring indicates that a critical control point is not under control; (f) establishing procedures, which shall be carried out regularly, to verify that the measures outlined in subparagraphs (a) to (e) are working effectively; and (g) establishing documents and



records commensurate with the nature and size of the food business to demonstrate the effective application of the measures outlined in subparagraphs (a) to (f)."

[5] Report European Commission (DG ENV) Directorate C - Industry Preparatory Study on Food Waste Across EU 27, Final Report October 2010.

[6] [http://ec.europa.eu/food/food/sustainability/index\\_en.htm](http://ec.europa.eu/food/food/sustainability/index_en.htm) [Link]

[7] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions, Brussels, 20.9.2011, COM(2011) 571 final.

[8] European Parliament resolution of 19 January 2012 on how to avoid food wastage: strategies for a more efficient food chain in the EU [2011/2175(INI)].