Commission Delegated Decision (EU) 2019/1597 of 3 May 2019 supplementing Directive 2008/98/EC of the European Parliament and of the Council as regards a common methodology and minimum quality requirements for the uniform measurement of levels of food waste (Text with EEA relevance)

COMMISSION DELEGATED DECISION (EU) 2019/1597

of 3 May 2019

supplementing Directive 2008/98/EC of the European Parliament and of the Council as regards a common methodology and minimum quality requirements for the uniform measurement of levels of food waste

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives[(1)], and in particular Article 9(8) thereof,

Whereas:

(1) Directive 2008/98/EC lays down an obligation for Member States to include food waste prevention into their waste prevention programmes and to monitor and assess the implementation of their food waste prevention measures by measuring the levels of food waste on the basis of a common methodology. The Commission is to establish that common methodology and set out minimum quality requirements for the uniform measurement of levels of food waste on the basis of the outcome of the work of the EU Platform on Food Losses and Food Waste.

(2) The definition of 'food' laid down in Regulation (EC) No 178/2002 of the European Parliament and of the Council[(2)] encompasses food as a whole, along the entire food supply chain from production until consumption. Food also includes inedible parts, where those were not separated from the edible parts when the food was produced, such as bones attached to meat destined for human consumption. Hence, food waste can comprise items which include parts of food intended to be ingested and parts of food not intended to be ingested.

(3) Food waste does not include losses at stages of the food supply chain where certain products have not yet become food as defined in Article 2 of Regulation (EC) No 178/2002, such as edible plants which have not been harvested. In addition, it does not include by-products from the production of food that fulfil the criteria set out in Article 5(1) of Directive 2008/98/EC, since such by-products are not waste.

(4) Food waste is to be prevented and reduced along the whole food supply chain. As the types of food waste and the factors contributing to the generation of food waste differ

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significantly between the different stages of the food supply chain, food waste should be measured separately for each stage.

(5) The attribution of food waste to the different stages of the food supply chain should be carried out in accordance with the common statistical classification of economic activities in the Union established by Regulation (EC) No 1893/2006 of the European Parliament and of the Council[3] as 'NACE Revision 2'. In the absence of a pertinent NACE Rev. 2 classification, the attribution to 'households' should be carried out by reference to point 1.2 of Section 8 of Annex I to Regulation (EC) No 2150/2002 of the European Parliament and of the Council[4].

(6) While Commission Decision 2000/532/EC[5] establishing a European List of Waste does not always allow for a precise identification of food waste, it can provide guidance for national authorities in the context of measurement of food waste.

(7) Agricultural material referred to in Article 2(1)(f) of Directive 2008/98/EC and animal by-products referred to in Article 2(2)(b) of Directive 2008/98/EC are excluded from the scope of that Directive and should therefore not be measured as food waste.

(8) In order for the methodology to be practically applicable and in order for the burden resulting from monitoring to be proportional and reasonable, some waste streams, which are not expected to include food waste or include food waste in negligible amounts, should not be measured as food waste.

(9) To improve the precision of the measurement of food waste, non-food materials mixed together with food waste (e.g. soil or packaging) should be excluded from the mass of the food waste to the extent possible.

(10) There are several types of food, which are usually discarded as or with wastewater, such as bottled drinking and mineral water, beverages and other liquids. There are currently no methods for measuring such waste which would ensure sufficient levels of confidence and comparability of reported data. Therefore, such types of food should not be measured as food waste. However, MS should have the possibility to report information on these types of food on a voluntary basis.

(11) While substances that are destined for use as feed materials referred to in Article 2(2)(e) of Directive 2008/98/EC are excluded from the scope of that Directive and should therefore not be measured as food waste, information on food originally intended for human consumption and then directed to animal feed (including former foodstuffs as defined in point 3 of Part A of the Annex to Commission Regulation (EU) No 68/2013[6] is important for the understanding of material flows related to food and may be useful in planning a targeted food waste prevention policy. For this reason Member States should have the possibility to report this information in a uniform manner on a voluntary basis.

(12) To enable a precise indication of the amounts of food waste generated at each stage of the food supply chain, Member States should carry out an in-depth measurement of the amounts of food waste. Such in-depth measurement should be conducted on a regular basis for each stage of the food supply chain and at least once every four years.

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(13) Pursuant to Article 37(3) of Directive 2008/98/EC, Member States are to report amounts of food waste on a yearly basis. In order to ensure proportionality and to reduce administrative burden, Member States should be provided with a range of methods for the measurement of food waste for the purposes of those yearly reports, including the existing analyses of food waste generation, new dedicated studies on food waste as well as data collected for waste statistics or reporting obligations on waste and other socioeconomic data, or a combination of those options. As far as possible, established sources of data such as the European statistical system, should be used.

(14) In order to ensure uniform monitoring of material flows in the food supply chain in the context of a targeted food waste prevention policy, it should be ensured that Member States which decide to measure food waste in more detail or to extend the coverage of the measurement into related material flows, can do so in a uniform way.

(15) In order to allow for verification of reported data and improvement of measurement methods and in order to ensure the comparability of those methods, Member States should provide additional information linked to the methods of measurement and the quality of the collected data,

HAS ADOPTED THIS DECISION:

Article 1

Scope of measurement of food waste

1 The amounts of food waste shall be measured separately for the following stages of the food supply chain:

a primary production;
b processing and manufacturing;
c retail and other distribution of food;
d restaurants and food services;
e households.

2 Food waste shall be attributed to each of the stages of the food supply chain referred to in paragraph 1 in accordance with Annex I.

3 The measurement shall cover food waste that is classified under the waste codes referred to in Annex II or under any other waste code for waste that includes food waste.

4 The measurement of food waste shall not cover the following items:

a agricultural material referred to in Article 2(1)(f) of Directive 2008/98/EC;
b animal by-products referred to in Article 2(2)(b) of Directive 2008/98/EC;
c food waste residues collected within packaging waste classified under waste code ‘15 01 — Packaging (including separately collected municipal packaging waste)’ in the European list of waste as established in Decision 2000/532/EC;
d food waste residues collected within waste classified under waste code: ‘20 03 03 — Street cleaning residues’ in the European list of waste as established in Decision 2000/532/EC;
e non-food materials that are mixed together with food waste when collected, to the extent possible.

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5 The measurement of food waste shall not cover the following items, without prejudice to the voluntary measurement referred to in Article 3:

a food waste drained as or with wastewater;

b substances that are destined for use as feed materials referred to in Article 2(2)(e) of Directive 2008/98/EC.

Article 2

Methodology for the measurement of food waste

1 Member States shall measure each year the amount of food waste generated in a full calendar year.

2 Member States shall measure the amount of food waste for a given stage of the food supply chain using the methodology set out in Annex III at least once every four years.

3 When the methodology set out in Annex III is not used, Member States shall measure the amount of food waste for a given stage of the food supply chain using the methodology set out in Annex IV.

4 For the first reporting period, as referred to in the third subparagraph of Article 37(3) of Directive 2008/98/EC, Member States shall measure the amount of food waste for all stages of the food supply chain using the methodology set out in Annex III. For that period, Member States may use data already collected under existing arrangements for the year 2017 or later.

5 The amounts of food waste shall be measured in metric tons of fresh mass.

Article 3

Voluntary measurement

Member States may measure and provide the Commission with further data related to food waste levels as well as data related to food waste prevention. Such data may include the following:

(a) amounts of food waste regarded as composed of parts of food intended to be ingested by humans;

(b) amounts of food waste drained as or with wastewaters;

(c) amounts of food which has been redistributed for human consumption as referred to in Article 9(1)(h) of Directive 2008/98/EC;

(d) amounts of food no longer intended for human consumption placed on the market for transformation into feed by a feed business operator as defined in Article 3(6) of Regulation (EC) No 178/2002;

(e) former foodstuffs as defined in point 3 of Part A of the Annex to Regulation (EU) No 68/2013.

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Article 4

Minimum quality requirements

1 Member States shall take appropriate measures to ensure the reliability and accuracy of the measurements of food waste. In particular, Member States shall ensure that:

a the measurements conducted in accordance with the methodology set out in Annex III are based on a representative sample of the population to which its results are applied, and adequately reflect the variations in the data on food waste amounts to be measured;

b the measurements conducted in accordance with the methodology set out in Annex IV are based on the best information available.

2 Member States shall provide the Commission with information on the methods used for measurement of food waste for each of the stages of the food supply chain and on any significant modifications to the methods used in comparison with the methods used for a previous measurement.

Article 5

Entry into force

This Decision shall enter into force on the twentieth day following its publication in the *Official Journal of the European Union*.

Done at Brussels, 3 May 2019.

For the Commission

The President

Jean-Claude JUNCKER