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Legal Instruments to Support Short Food Supply Chains and Local Food Systems in France

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Abstract: The aim of the study is to identify legal instruments, implemented in France, supporting short food supply chains and, more generally, local food systems. The research has identified these tools from a variety of domains and levels, including national laws, government policies, and local government initiatives, and analysed them in relation to various forms of short supply chains present in French territory, which are the key components of local food systems, such as direct marketing, producers' stores, basket systems, urban agriculture, and deliveries to public catering. Overall, the French instruments are multiple, diverse, mostly innovative, take into account social, environmental, and solidarity values, and can be good examples to follow. Most of them are established at the local level, being thus an expression of new models of local food governance, corresponding to the values of a participative economy and food democracy.

Keywords: local food systems; short supply chains; direct sales; French law



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1. Introduction

The European Commission, in its Farm to Fork Strategy (European Commission 2020, p. 4), recognised the growing importance of short supply chains and local food systems, stating that “the calls for shorter supply chains have intensified during the current outbreak” of the pandemic “with a view to enhance resilience of regional and local food systems, the Commission in order to create shorter supply chains will support reducing dependence on long-haul transportation” (European Commission 2020, p. 14). So far the EU has legally recognised the phenomenon of “short supply chain” by defining it in Regulation (EU) 1305/2013 (Art 2 para 1 (m)).¹ “Local food system”, in turn, is not a legal term, but is used and defined in EU documents as a system in which “the production, processing, trade and consumption of food takes place in a relatively small geographical area” (European Commission 2013, p. 5).

In French law² and literature (e.g., Friant-Perrot 2016, pp. 171–84; Philipon et al. 2017), a specific term for short food supply chains (SFSCs) is “*les circuits courts*”. For local food systems, the more common term is “territorial” food systems (“*systèmes alimentaires territoriaux*”), which appears for example in article L111-2-2 of the Rural Code and in the literature is used e.g., by Bodiguel and Bréger (2018, pp. 780–85); Rastoin (2015); Philipon et al. (2017).³ As Philipon et al. (2017, p. 13) noted both phenomena, SFSCs and LFS, have existed in France from the very beginning of agriculture. Farmers sold their produce to consumers on the farm or at a nearby market and often supplied stores in large cities. Direct sales at marketplaces remained important until the 1950s for some products, such as fruit,

¹ See Art 2 para 1 (m) of Regulation (EU) 1305/2013 of the European Parliament and the Council on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) 1698/2005 [2013], OJ L 347/487, 20.12.2013. See more on the subject in (Kapala 2020).

² e.g., in Articles L. 1 and L. 111-2-2 of the Rural and Maritime Fisheries Code (*Code rural et de la pêche maritime*, hereinafter referred to as the “Rural Code”).

³ In the literature see e.g.,: Bodiguel and Bréger (2018, pp. 780–85); Rastoin (2015); Philipon et al. (2017).

vegetables, milk and dairy products, eggs, and poultry. Many butchers bought animals directly from breeders. Self-sourcing farming has been practised for a long time and has not completely disappeared, contributing to the protection of rural and suburban areas.

SFSCs began to disappear after World War II, when the American model of agriculture was promoted, aiming at mechanization, intensification of production based on chemicals, specialization and enlargement of farms, and the concentration of the agri-food industry and supply chains in the hands of several large entities (Philippon et al. 2017, p. 18). In the 1950s and 1960s the first self-service stores were opened (Leclerc, Carrefour, Auchan) which was the beginning of the phenomenon of hypermarkets (large-format stores with an area of more than 2500 m²)⁴. Since then, food has been packaged, labelled, standardised, and often processed and sold cheaper than by local shopkeepers, who are more likely to buy from local farmers than wholesalers. Thus, the methods of producing and selling food have changed dramatically.

However, Philippon et al. (2017, p. 18) observes that since the beginning of the 21st century, direct sales, and more broadly the SFSC, have returned, with grass-roots movements initiated by consumers concerned about the quality and origin of food and dissatisfied with the “dehumanised” way in which food was sold. New forms of SFSC have emerged, and the term has appeared in legal texts and national food policy. For some, the choice of short supply chains is an expression of a global approach, opposing the concentration of distribution in the hands of giants and an economic model in which the producer does not receive fair remuneration for his work and often runs a type of agriculture that is harmful to the environment.

Given the growing importance of the SFSCs and LFS in EU policy and for European consumers and producers (Santini and Gomez y Paloma 2013), it is worth investigating how these phenomena are supported in the legislation of EU Member States. Therefore, the aim of this study is to identify legal instruments, implemented in France, supporting short food supply chains and, more generally, local food systems. It is not an easy task, as the regulations concerning the SFSCs and LFS cannot be found in one single act devoted to this issue. Instead, they need to be drawn from a variety of domains and levels, including national laws, government policies, and local governance⁵ initiatives. These legal initiatives, national and local, will be analysed in relation to various forms of SFSC which are the key components of local food systems, such as direct marketing, producers’ stores, basket systems, urban agriculture, and supplies to public catering.

2. National Policy Supporting SFSCs and LFS and the Definition of “Circuit Court”

Regarding the concept of “short food supply chains” in France, the term “*circuit court*” appears in the legal provisions, in Articles L. 1 and L. 111-2-2 of the Rural Code, in the 2010 law on the National Commitment for the Environment,⁶ and in the 2010 law on modernization of agriculture and fishing.⁷ The latter act introduced “the development of short circuits and the promotion of geographical proximity between producers and processors” and “the supply of local agricultural products in public and private collective catering” among the objectives of the agri-food policy set forth in article 1 of the Rural

⁴ In 1948, the Goulet Turpin company opened the first self-service store in Paris. A year later, Michel-Edouard Leclerc transformed his grocery store (epicerie de Lenderneau, dans le Finistère) into a self-service store. In 1958 Carrefour opened the first store in Annecy, and Auchan in 1960 in Roubaix, Ibidem.

⁵ According to (Bodiguel 2017), the term “governance” designates “the set of rules and processes, formalized or not, by which all the actors (public and private) concerned participate in the decision and implementation of collective actions around a given issue on a given territory”. See other definitions in (Darrot et al., p. 54) as well as analysis of the processes and modalities of local food governance and the issues of democracy and food justice in urban areas op. cit., pp. 52–130.

⁶ Loi n° 2010-788 du 12 juillet 2010 portant Engagement national pour l’environnement, Journal officiel de la République française n° 160 du 13 juillet 2010.

⁷ Loi n° 2010-874 du 27 juillet 2010 de modernization de l’agriculture et de la pêche, Journal officiel de la République française n° 0172 du 28 juillet 2010.

Code. Furthermore, the 2014 law⁸ encourages the “territorial anchoring of the production, processing and marketing of agricultural products”, as incorporated in Article L. 1 of the Rural Code. Thus, the territorial anchorage of food and the development of the SFSCs are the priorities of national food policy. The law on modernization of agriculture and fishing also brought novelties in the institutional area. Besides the classic forms of grouping producers, it is possible to create economic and environmental interest groups (*Groupement d'intérêt économique et environnement*) which can bring together all the actors relating to SFSCs at the territorial level and promote the emergence of new food governance and new forms of contractual regulation adjusted to SFSCs (Friant-Perrot 2016, p. 182).

Regarding the concept of “short food supply chains” in France, although the term appears in legal provisions, it is not legally defined and there is no consensus on its concept. In the Action Plan of June 2009 for the development of short circuits, prepared by the Minister of Agriculture (Ministère de l'agriculture 2009), “circuit court” means “a method of marketing agricultural products that is exercised either by direct sale from the producer to the consumer or by indirect sale on condition that there is only one intermediary between the farmer and the consumer”. The definition refers to the method of commercialization and the number of intermediaries, not to the production method. Moreover, there is no criterion of geographical proximity between the producer and the consumer. While it is generally accepted that short supply chains contain this condition, the kilometre limit is not set by any legislation.

Grimonprez points out that the proximity of the places of production and purchase and a relationship as direct as possible between the producer and the consumer should be included in the definition (Grimonprez 2016, p. 204). The buyers, as well as the producers, care about direct social relations, far from the anonymity of large-format stores. Thus, these two criteria, geographical and social, should distinguish SFSCs from long chains. The EU definition laid down in Article 2 of Regulation (EU) No 1305/2013 is more complete than the French one. It includes the criterion of geographical proximity and also takes into account values such as close relations between SFSC participants, which are the basic element that distinguishes these chains from long chains. However, the distance that determines geographic proximity again is not defined.

Certainly, geographical proximity is not a guarantee of all expected non-market values, such as quality of the product and more solidarity in commercial relations, as was aptly observed by Friant-Perrot (2016, p. 184). According to some views, the ministerial definition lacks the requirement of environmentally friendly production methods or any reference to the farmer's fair revenues (Philipon et al. 2017, p. 41). Criteria such as freshness, taste, nutritional quality, origin, reduction of unnecessary packaging and information about the method of production are also important. Similarly important in these distribution methods are higher margins in the absence of middlemen, and instant payments, even in advance, which are supposed to improve income and sometimes even ensure the survival of the farm. Producers want not only to take over the greater part of the added value of their products but also to be independent in their work and overcome the constraints of long supply chains (Philipon et al. 2017, p. 41).

While the national authorities in France wish to promote the SFSC, they have not imposed a specific model of legal framework for these alternative forms of distribution. At the local level, the conditions for achieving food policy objectives have not been defined. Taking legal or organizational action in this matter is left mainly to the initiative of regions and local stakeholders. Hence, this is done through a bottom-up approach where consumers, various social organizations, professional agricultural organizations such as the CIVAM Farmers Network (Centre for Agricultural and Rural Valorisation Innovation) and rural actors are involved in creating the regulatory model for the SFSC.

⁸ Loi n° 2014-1170 du 13 octobre 2014, loi d'avenir pour l'agriculture, l'alimentation et la forêt de 2014, Journal officiel de la République française n° 0238, du 14 octobre 2014.

The chambers of agriculture and agricultural trade unions (*la Fédération nationale des syndicats d'exploitants agricoles*, FNSEA) also play an important role in promoting SFSCs (Philippon et al. 2017, pp. 48–49). For example, in 2015, the network “*Chaines alimentaires courtes de proximité pour une alimentation durable*” was established, bringing together actors to exchange experiences and create an expert platform for the SFSC.⁹ SFSCs facilitate food management by mobilizing all actors such as local authorities, farmers, artisans, traders, consumers and restaurants, expressing food democracy¹⁰ at the local level. In this model of food system, the power is exercised by the community, not the state or the market, hence activities are decentralized, involving local institutions and entities in developing rules (Friant-Perrot 2016, pp. 171–72).

Thus, on the one hand, government policy is of great importance for the development of the SFSC, but on the other hand local authorities are generally designated by law as the most appropriate primary initiators to support local food system projects and their implementation (Bodiguel 2018a, pp. 80–81).¹¹ As noted in recent studies, it is important that local actors have a sufficiently binding legal framework that “does not depend on local games” and that authorizes and obliges appropriate action. The point is not, however, that the state should impose goals, methods and procedures because it is crucial that “the local approach should assume freedom and flexibility of action; (as) a result a general framework is needed”, but it must remain flexible enough to allow actors “in the field to adapt to local circumstances.” (Bodiguel 2020, p. 77).

Regarding the concept of local food systems (LFS), this is not defined in French law. In the literature, the term “territorial” food systems is used more often, but is also not a legal concept. The term comes mainly from research in the field of agro-economy and from actors implementing local collective initiatives. It has been gradually developed in response to changing farming and food practices (Bodiguel and Bréger 2018, p. 781). The concept of “territorial food systems” was defined by Rastoin (2015, pp. 11–13) as “a set of agri-food chains that meet the criteria of sustainable development, located in a geographic area with a regional dimension and coordinated by territorial governance”. These systems develop according to several principles: the sustainability of agricultural systems and the ability to renew the natural resources of the territory; food democracy and building the local economy; participatory management; and finally corporate social responsibility. The concept of territorial food systems can therefore be analysed as a “third way” between a globalized production-oriented model and a subsistence (family) farming model (Bodiguel and Bréger 2018). They are part of the “debates to change the agri-food system, at the centre of which is the desire to rethink the relationship between agriculture and its human and natural environment; (t)his includes re-establishing the social bond between consumers and producers, between consumption and production, and providing everyone with high-quality (healthy and good) food, while preserving nature, culture and traditional knowledge” (Bodiguel and Bréger 2018, p. 783).

An important tool for the territorial food systems development is the National Food Program (NFP) which includes priorities that can participate in their development: social justice, food education for young people, the fight against food waste and territorial anchoring (article 1 of the Code Rural). The second tool, placed under the jurisdiction of the NFP, is “territorial food projects” (TFPs) as defined in article L. 111-2-2 of the Rural Code.¹²

⁹ See more on http://www.acta.asso.fr/r-d/partenariats-nationaux/reseaux-mixtes-technologiques/detail-rmt/fi/fiche/detail/cacp_chaines_alimentaires_courte_de_proximite_pour_une_alimentation_durable.html (accessed on 3 February 2022).

¹⁰ See recent research on the “sustainable right to food” embedded in the concept of food democracy and analyzing the conditions of access to food for low-budget families and people in financially precarious situations in: (Paturel and N'Diaye 2020).

¹¹ See also a recent study identifying the direct or indirect legal competence of local authorities (regions, departments, municipalities) in the field of production, processing and consumption of local food, which enables to understand the various legal areas of activity available to local authorities, in particular in the context of the Territorial Food Project, in (Bodiguel et al. 2021).

¹² See more on the subject in (Bodiguel 2018b).

Essentially in the form of contracts, these projects are carried out “in concert with all the players in a territory and meet the objective of structuring the agricultural economy and implementing a territorial food system; (t)hey participate in the consolidation of localised sectors and in the development of the consumption of products from short circuits, in particular relating to organic production” (Bodiguel and Bréger 2018, p. 783).

Therefore, the TFPs appear to be appropriate tools for territorial food systems’ development, as they aim to bring together all the food chain actors concerned and to organize the food sector locally around production, processing and local consumption ” (Bodiguel and Bréger 2018, p. 783). The TFPs often form public–private partnerships involving local authorities, local communities and farmers with the aim of developing urban agriculture, supplying public catering with local food, or creating brands for local products. The instruments used by TFPs include, for example, public land policies to reclaim peri-urban agricultural space and regulate the land market (town planning and land use planning), the use of protected geographical indications, or even the creation of local brands to promote local production and to better inform the consumer (Bodiguel and Bréger 2018, p. 784).

3. Forms of Short Food Supply Chains in France

There are various forms of SFSCs, both traditional and innovative. The traditional ones include sales on farms, e.g., on a wine farm or in agritourism, and sales at marketplaces. More innovative forms are producers’ markets (*marchés de producteurs*), reserved only for producers, to which wholesalers, traders, and intermediaries have no access. Other innovative forms are online ordering systems, itinerant shops (*boutiques ambulantes*), local product supply for public catering (school canteens, hospitals, prisons, retirement houses, etc.) (Philippon et al. 2017, pp. 14, 48–49), collective public gardens in cities, crops grown on terraces and balconies, basket systems (*systemès de paniers*), where the producer sells a set of products corresponding to the average weekly consumption, adapting to the type of consumer, producers’ stores, and collective sale points. There are also local brands (“*Iles des France*”, “*Aubagne*”), which are the result of cooperation between local economic actors (producers, restaurant owners), consumers and local authorities (Friant-Perrot 2016, p. 175). A well-established practice in France, inspired by the “Community-supported agriculture” developed in the USA, and the Japanese *teikei* system, are the French Associations for the Preservation of Peasant Agriculture, called AMAPs (in French *Associations pour le maintien d’une agriculture paysanne*)¹³. Producers can sell their products individually or collectively. Some of the collective groups are formally organized, e.g., in the form of cooperatives or in the type of association regulated by the “1901 law”.¹⁴ A “1901 law” association must have a non-profit goal, which, however, does not preclude gaining profits from commercial activities, but redistribution of profits to members of the association is strictly prohibited. Associations of persons, a minimum of two, may be formed freely without prior authorization or declaration, but they have legal capacity only after registration with the Prefecture and submission of a statute specifying how they operate.

Any duly declared association may, without any special authorisation, be a party to legal proceedings, and receive manual donations, as well as donations from public utility establishments, and the contributions of its members.¹⁵ The Act of 1901 does not require nor define governing bodies for the association, giving freedom to members to choose whether to have these and how to define them in the statute. The legislator has defined a framework that is not very restrictive, thus facilitating the creation of associations and contributing to the popularity of this type of organization.

¹³ See more on <http://www.reseau-amap.org/> (accessed on 10 January 2022).

¹⁴ Loi du 1er juillet 1901 relative au contrat d’association, *Journal officiel de la République française* du 2 juillet 1901 (cited as “1901 law”) According to article 1 “Association is the agreement by which two or more people pool, on a permanent basis, their knowledge or their activity for a purpose other than to share profits. As to its validity, it is governed by the general principles of law applicable to contracts and obligations.”

¹⁵ See articles 5–6 of “1901 law”.

Sale practices are most often purely contractual, although in some cases self-regulatory statutes are used, as in the case of the MIRAMAP, which is an example of an AMAP.¹⁶

3.1. Direct Sales

Direct sale is the primary form of commercialization in short food supply chains. It may take place directly to the consumer, to large stores, local stores or mass caterers. In legal terms, the sale of agricultural products (as well as their processing) directly by the farmer is considered as part of an “auxiliary” agricultural activity which is the “extension of the act of production”, as defined in Article L.311-1 of the Rural Code.¹⁷ In order not to qualify as a commercial activity, direct sales must be carried out by the farmer and concern only products from his farm.¹⁸ It can be run as well in agritourism or eno-tourism where there is a restaurant activity (*tables d’hotes, fermes-auberges*) (Rochdi 2016, p. 152). The Internet is used as a direct sales support tool, such as websites popular in France known as “*drives fermier*”.

Under the social security legislation, processing, preservation and commercialization of agricultural products is an activity qualified as an extension of the act of agricultural production (article L 722-1 of the Code Rural). Thus, a farmer carrying out these activities benefits from the social security scheme established for those “self-employed in agricultural professions”. Likewise, under the tax law (Article 75 Code général des impôts), the sale and processing of agricultural products are assimilated to agricultural activity (Rochdi 2016, p. 161), provided that the average annual commercial and non-commercial income (including from the sale of food) for these three years does not exceed 50% of the average annual agricultural income for these years, i.e., EUR 100,000. The agricultural, tax and social legislation qualifying direct sales as an agricultural activity is an important instrument to facilitate direct sales of agricultural products, both basic and processed.

However, within the legal framework, there are some issues and ambiguities regarding this activity.

Firstly, direct selling, although according to the Rural Code is a “civil” activity not subject to commercial regulations, follows legal regulations derived from commercial law (Rochdi 2016, p. 164). Thus, even though a farmer retains his status, he cannot be exempt from the rules which apply to any sale operation, concerning safety, hygiene, labelling, etc. Formally, commercial legislation remains complementary to agricultural legislation (Rochdi 2016, p. 164). Direct sale is governed by a set of rules scattered across various sources of law that are often restrictive and may inhibit the development of alternative networks. Complying with these regulations requires additional costs and the farmer may not be able to absorb these due to the absence of economies of scale, unlike the large-scale distribution sector.

The food producer is subject to European regulations, such as the Hygiene Package,¹⁹ as well as national sanitary regulations for retail trade,²⁰ and must also comply with the consumer protection rules of the Consumer Code (Code de la consommation) on pricing and labelling. The provisions of EU Regulation 1169/2011 on the indication of

¹⁶ See the Miramap statute on: <http://miramap.org/Statuts-du-MIRAMAP-et-Reglement-interieur.html>, accessed on 2 December 2021.

¹⁷ Code rural et de la pêche maritime, Version consolidée au 14 avril 2020, Article L. 311-1 as amended by LOI n° 2019-469 du 20 mai 2019—article 4 (V), *Journal Officiel de la République Française* No. 0117, 21.05.2019.

¹⁸ Bodiguel and Cardwell (2005a, p. 459; 2005b, p. 432) and see there endnote no. 48, in which the authors give rulings regarding the condition of coexistence of agricultural activities “*par nature*”, for instance: CAA Bordeaux, 9 oct. 2001, n° 99BX02611; Cass. soc., 6 déc. 2001, Bull. n° 5130; Cass. soc., 11 juill. 2002, RD rur. n° 310, févr. 2003

¹⁹ It includes Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs *OJ L 139, 30.4.2004*, Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin, *OJ L 139, 30.4.2004*, and Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, *OJ L 95, 7.4.2017*.

²⁰ Decree of 21 December 2009 relating to health rules, JORF n 0303 du 31 decembre 2009.

allergens, the origin of meat and nutrition claims also apply.²¹ Local deliveries to mass caterers must comply with public market regulations.²² For perishable products, any off-site advertising must indicate place of origin (Rochdi 2016, p. 165). The development of SFSCs is increasingly based on collective trademarks which are subject to article L 715-1 of the Intellectual Property Code.²³ In all cases, direct sales must be in line with article L 121-1 of the Consumer Code,²⁴ which prohibits unfair marketing practices.

Secondly, while the sale of products produced on the farm remains an agricultural activity, a farmer selling products purchased from another farmer is not only a farmer but also becomes a trader (*commerçant*), because such activity is a commercial activity within the meaning of the Commercial Code.²⁵ In practice, a farmer, in order to expand his offer and retain customers, often buys products and adds them to his own to produce a new product. Such an action meets the definition of commercial activity (Rochdi 2016, p. 162). If in this case he is considered a farmer, his actions may result in unfair competition against sellers, and under tax regulations may conflict with equality in terms of public burdens (Rochdi 2016, p. 162). Moreover, with regard to innovative forms of sale, the issue of qualifying direct sales as an agricultural activity arises. As a rule, only sales by the farmer himself at fairs, markets, on the farm, shops or in public catering establishments can be considered as “agricultural”. Therefore, when a sale passes through an intermediary such as a collective structure, there is a risk that the sale will turn into a commercial act (Grimonprez 2016, p. 205).

Therefore, a postulate has been put forward in the literature to redefine the boundaries of agricultural status, which is necessary for the development of short supply chains. In the absence of clear legal boundaries for activity that remains agricultural, the delimitation of which is left in practice to the court’s decision, the producer-seller is exposed to the risk of reclassifying his commercial activity and subordinating it to the different statuses of farmer, merchant or craftsman.²⁶ This is often the case with AMAPs that are taxed on commercial profits due to the lucrative nature of their business, as will be discussed later in the study. In terms of social insurance, the disqualification of sales as an agricultural activity will also result in the farmer being subject to various social insurance regimes (Rochdi 2016, p. 162).

3.2. Producers’ Stores and Collective Sale Points

Producers’ stores are defined in article L 611-8 the Rural Code, under which groups of local agricultural producers market their products in their stores within the framework of a short supply chain. They can offer only their own products, whether raw or processed, which must represent in value at least 70% of the total turnover of this point of sale. A maximum of 30% of the products sold can come from agricultural cooperatives, food artisans, or producers who are not members of the store. Thus, this kind of collective sale by agricultural producers is officially recognised by French law.

By excluding situations where producers sell products that have not been proven to be of local origin or that are wholesale, the law aims to ensure that products sold and presented as “local” are indeed such. Other products would not correspond to the authenticity of the short supply chain model. The purpose of this provision is also to ensure that, under the

²¹ Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, *OJ L 304*, 22.11.2011, See more in: (Kapala and Lattanzi 2021, pp. 217–36).

²² e.g., Code de la commande publique.

²³ Code de la propriété intellectuelle as modified by Ordonnance n° 2019-1169 du 13 Novembre 2019 relative aux marques de produits ou de services.

²⁴ As introduced by Ordonnance n° 2016-301 du 14 mars 2016 relative à la partie législative du code de la consommation, *JORF n°0064 du 16 mars 2016*.

²⁵ Article L 110-1 *Code de commerce* states that any purchase for resale is a commercial act, version amended by Ordonnance n° 2021-1192 du 15 Septembre 2021 portant réforme du droit des sûretés, *JORF n°0216 du 16 Septembre 2021*.

²⁶ A craftsman is one who carries out his profession to process things under the conditions laid down in the decree n. 98-247 du 8.4.2011.

Law of Consumption of 17 March 2014²⁷ collective selling is not a deceptive commercial practice (punishable by two years' imprisonment and a fine of EUR 300,000). The formula nevertheless leaves uncertainties about the notions of "local" agricultural producers and "organized short supply chains". Producers' stores are particularly popular in the Rhône-Alpes region, where the association "*Terre d'envies*" has even registered a trademark with the French National Institute for Industrial Property for products sold in these sale points. The figurative mark "Products from our farms sold by us" (*Produits de nos fermes, vendus par nous-mêmes*) may be used by farmers with the consent of the association. From a legal and organizational point of view, as there is no legal category for collective outlets, such points can be run in the form of a limited liability company, an economic interest group, agricultural cooperative or association of the "1901 law" type. The Ministry of Food, Agriculture and Fisheries defined these collective points of sale, a special case of a collective workshop, as a place used in common by several producers, where they ensure the direct sale to consumers of products from their farms and declared that they are considered as carrying out direct delivery to the final consumer under certain conditions.²⁸

The specified requirements concern the presence of a producer (or a member of the family, or farm employee) at the sale, the method of marketing the products and the sanitary control of the products. In particular, as regards the first requirement, the members must ensure the presence, on a regular and effective basis, of producers (member of the family, or operating employee) at the sale. A farm employee may work on behalf of and in the name of his employer, provided that he also participates in production activity on the farm, which must be clearly specified in the internal regulations of the collective point and possibly also in the employment contract. In the case of hiring staff for the collective point of sale, the employee can work only in the presence of a producer (or a member of his family or employee of the farm) and under the responsibility of the producer.

The second requirement is that the producers do not sell their products to the collective structure but remain their owners until the products are sold to the final consumers. The profit from their sale is attributed directly to the producer and not to the collective structure. Regarding the sanitary control of the products, the internal regulations should specify the sharing of responsibilities and the organization adopted in terms of the health control plan, with particular attention to the control of the cold chain and the implementation of cleaning-disinfection, as well as the traceability of the products sold. When several producers sell the same category of products, it is important that these are clearly linked to a specific producer.

Such recognition of collective points of sale as carrying out direct delivery to the final consumer makes it possible to qualify collective sales as a so-called "extension of the agricultural activity of the farm", which translates into benefits in many areas.

According to hygiene law, the establishments engaged in processing products, including plant products, must set up and apply a health control plan including procedures based on HACCP principles, good hygiene practice and food withdrawal procedures (Friant-Perrot 2016, p. 178). The technical instructions (Ministère de l'agriculture 2019) define the criteria for determining establishments eligible for flexibility measures and guidelines for the implementation of this flexibility at the level of the health control plan (HCP).

In general, the purpose of flexibility in an HCP is to allow the implementation of control measures adapted to the nature and size of the establishment; thus, it may allow adaptations in documents or the design and the use of the premises, or the application of the initial stages of procedures based on HACCP principles (especially hazard analysis) together with good hygiene practices (GHP) (Ministère de l'agriculture 2019). When

²⁷ Loi n° 2014-344 du 17 mars 2014 relative à la consommation, (loi Hamon), JORF n°0065 du 18 mars 2014.

²⁸ For the first time it was specified by the Ministry of Food, Agriculture And Fisheries in the official note N.97/N8083 of May 15, 1997. With the entry into force of the Community regulations on 1 January 2006 (Hygiene Package) the conditions that must be met by collective outlets to continue to be considered as carrying out direct delivery to the final consumer are specified in the service note: DGAL/SDSSA/N2010-8103 of 7 April 2010.

selling prepacked food, all hazards can be controlled by following GHP with a simplified documentation system. For the sale and processing of non-prepacked food, the food business operator has to perform a hazard analysis to confirm that any hazard that is not controlled by the GHP is not being ignored (Ministère de l'agriculture 2019; Kapala 2021, pp. 291–92).

From the fiscal point of view, sales income at the collective point of sale is treated as agricultural income, not commercial income. As this sale is an extension of the farm, farmers are not considered traders under the general social system (*Caisse primaire d'Assurance-maladie*) and are not required to pay additional contributions for their activities. In addition, a farmer who produces and sells bread or meat at a collective point of sale does not need to be professionally qualified and can therefore sell his products himself without an appropriate professional diploma (Maréchal 2008, p. 58).

3.3. Basket Systems and AMAP

The basket system is quite diverse and purchasing groups are very popular in France. Many of them operate informally, being set up by producers or consumers. In general, baskets are organized in form and structure at the initiative of producers or of consumers themselves. The basic principles of their functioning are relatively simple. A group of producers or consumers organizes to jointly sell or buy products, mostly agri-food products. Consumer-initiated basket systems are often organized in the legal form of the aforementioned “1901 law” association (Maréchal 2008, p. 70). However, there is no ready-made scheme for creating a basket system. An example of a basket system that brings together consumers and producers from neighbouring municipalities is *Les Paniers de Saint-Gilles*, founded in 2006 on the initiative of the municipal association of environmentalists. This is based on the principles of supporting local agriculture which creates jobs and promotes economic dynamism by focusing on environmentally respectful production and supply systems (Maréchal 2008, p. 70).

Another example is the original form of a basket system with a strong social vocation, as organized in the form of the collective garden *Les Jardins de Cocagne*, which is part of the social economy and solidarity *sensu stricto*. Founded in 1991 as associations under the law of 1901, *Les jardins de Cocagne* are ecological fair gardens whose vocation is social and professional integration. By producing and distributing organic vegetables in the form of weekly baskets to members-consumers, but also at fairs, these gardens allow adults who are struggling to find work in order to rebuild a professional project (Maréchal 2008, p. 71).

The AMAP is the formal and networked result of the “basket system”, inspired by the Community Supported Agriculture model. It first appeared in France in the early 2000s and is now an important phenomenon in French territorial food systems. This model is based on a partnership agreement between consumers and producers, referred to as a solidarity contract (Rochdi 2016, p. 153). Consumers contractually undertake to purchase farmers' produce in advance and to prepay the costs of the products to be delivered to them, giving farmers working capital or sufficient cash to cover their expenses and investments. Through their activity, AMAPs allow producers not only to obtain outlets but also to provide them with an income. The box prices are fixed in a “fair manner” so that the farmer receives a fair revenue and the price is affordable for the consumer.

The legal forms of AMAP are associations of the “1901 law” type, the purpose of which is to establish a direct link between the consumer and the farmer (see more in Lamine and Perrot 2008). As part of the solidarity economy, AMAPs aim to forge new social (even political) relationships between the local agricultural world and “consumers-actors”, young, well endowed with school diplomas, and aware of environmental issues (Noël et al. 2021, § 4).

AMAPs' activities are tax-recognized as profitable and therefore subject to trade taxes regardless of their size and the amount of their income. However, since these associations receive, in principle, only a modest income, the effects of taxing these structures are limited.

In practice, AMAPs avoid being an “economic” partner and try to lie formally outside of the trade between farmers and consumers, precisely to avoid tax.

Producers and consumers contractually undertake to comply with the AMAP statute created in 2003 by Alliance PEC.²⁹ The statute combines several goals: economic, social and solidarity aspects; environmental protection; a healthy and varied diet in sufficient quantity, as well as civic and political dimensions. AMAPs and more generally basket systems promote the logic of “peasant, socially just and ecologically healthy” agriculture and the defence of “local farms” in the form of an alternative agri-food system as opposed to the dominant agri-food system characterized by a coupling of intensive farming and mass distribution (see more in [Lamine and Perrot 2008](#)).

3.4. Supplies to Public Catering

In general, it is difficult to adopt criteria such as “local origin” of products or “proximity” in public procurement law, as this may be contrary to the EU principle of free movement of goods and free competition. However, an important amendment to article 53 of the *Code des marchés publics* was introduced in 2011³⁰, which consequently allowed the selection of offers for delivery to mass caterers according to the criterion of direct deliveries of agricultural products. This provision, along with the entire code, was repealed in 2016 and replaced by the new Public Procurement Code (*Code de la commande publique*).³¹ Article R2152-7 of the new code also contains the criterion of “development of direct supply of agricultural products”. The direct delivery criterion opened up the possibility of short-chain deliveries to school canteens, hospitals, retirement homes and other mass catering facilities. At the same time, it does not prohibit deliveries in long chains, provided that the criterion of direct delivery is met ([Rochdi 2016](#), p. 160).

In 2014, the French government set a target in the Practical Guidebook of the Minister of Agriculture that, by 2017, 40% of the products in collective restaurants should be local ([Ministère de l’agriculture 2014](#)). To achieve this goal, local authorities create and implement local food projects. With the aim of supplying school canteens, municipalities decide to develop local agriculture, while controlling distribution channels. These strategies take many forms, from simple contracts with suburban farmers (based on a tender), through the placement of one or more farmers on the municipality’s own land (“agricultural pole of proximity”), to the creation of “agricultural boards which are municipal structures in charge of production” ([Grimonprez 2016](#), p. 203). Thus, in France, as has been observed in the literature by [Grimonprez \(2016, p. 203\)](#), in order to secure the supply of fresh produce to local collective gastronomy, a whole range of partnerships and public–private agreements are established. Collective catering services require a rigorous collective organization. Therefore, many producer groups were formed as associations, economic interest groups, and collective interest cooperatives. In order to offer a full service to communities, some of these groups may also offer an additional range of products through contracts with certain wholesalers, especially for organic products.

The most important legal initiative for the development of local (or territorial) food systems was launched in 2018 by the Act of 30 October 2018, on the balance of trade relations in the agri-food sector and healthy, sustainable and accessible food, which set the target of “Promoting healthy, safe and sustainable food”.³² As part of this purpose, article 24 of the 2018 law introduced to article L. 230-5-1.-I. of the Rural Code an obligation for collective restaurants, for which legal entities under public law are responsible, to

²⁹ The association brings together national organizations of farmers, consumers, environmentalists, as well as departmental and regional Alliances and is part of the European Network for Sustainable Agriculture and Food; <http://alliancepec.free.fr/> (accessed on 5 January 2022).

³⁰ The amendment was introduced by the Decree No. 2011-1000 of 25 August 2011, amending certain provisions on markets and procurement covered by public procurement, ORF n. 0197 du 26 aout 2011.

³¹ See l’ordonnance n° 2018-1074 du 26 novembre 2018 (JORF n° 0281 du 5 Décembre 2018) oraz décret n° 2018-1075 du 3 décembre 2018 (JORF n° 0281 du 5 Décembre 2018).

³² Loi n° 2018-938 du 30 octobre 2018 pour l’équilibre des relations commerciales dans le secteur agricole et alimentaire et une alimentation saine, durable et accessible à tous, JORF n° 0253 du 1 Novembre 2018.

obtain from 2022 at least 50% of local products, or with an indication of origin and quality, including 20% from organic farming. This requirement enables local farmers to have a stable market for fresh, seasonal produce and government agencies for nutritious food. The act proves the commitment of the state to support local farmers and thus the local food system.

3.5. Urban Agriculture

A possible theoretical definition of urban agriculture is given by the French Ministry of Agriculture and Food as “all initiatives involving an agricultural production activity located in urban and peri-urban when they maintain a functional link with the city: production and/or social and environmental services” (Ministère de l’agriculture 2020, p. 11) Urban agriculture has been developing strongly in France over the past ten years. There has been a steady increase in the formation of structures and the emergence of initiatives, many of which are taking place without any help or incentives from the state (Ministère de l’agriculture 2020).

At the national level, the law that may indirectly contribute to the development of urban agriculture is the Biodiversity Act, which, from 2017, requires the production of renewable energy or greening systems on the roofs of retail stores in commercial zones.³³ In cases where edible plants are planted on rooftops, this law can play a role in promoting local food security and strengthening community resilience. It can also contribute to increasing the links between green zones and local nature. Apart from this legislation taken at the national level, as a rule legal instruments for urban and suburban agriculture are based on the will and resources of local authorities. This is the case with the protection of agricultural land, in particular, land in urban and suburban areas, which is related to urban planning documents blocking the artificialisation of agricultural land. Examples include territorial cohesion diagrams and local plans. Likewise, certain specific zones may be introduced, for example, boundaries to protect and enhance suburban agriculture, natural areas and protected farm areas (Bodiguel 2018a, pp. 80–81).

An interesting example of a local land use policy that benefits local agriculture in an urban and peri-urban area is the Rennes Métropole Local Plan for Agriculture.³⁴ This document aims to support the concept of an “urban archipelago”, which is supposed to hinder the city’s expansion beyond the ring road and to maintain “green” areas between the city and the “satellite municipalities” while preserving land for the cultivation and development of the SFSC. Under this policy, prosperous agriculture is considered to be the best and most economical way to maintain the “green belt”. Another example is the city of Mouans-Sartoux, where the municipal agricultural office manages four hectares of municipal land for the production of vegetables for school gastronomy (Bodiguel 2018a, pp. 80–81).

4. Conclusions

The considerations above show that instruments supporting short food supply chains and local food systems in France can be identified at the national and local levels. At the national level, legislation determines short supply chains, local products and territorial anchorage as priorities for national food policy. Important for the development of LFS are the rules strengthening the organizational possibilities of cooperation of all SFSC stakeholders in the form of territorial food projects, as well as providing for new forms of producer group, i.e. economic and environmental interest groups.

The establishment of territorial food projects is an opportunity to jointly build regulations adapted to alternative distribution chains (Friant-Perrot 2016, p. 181). Another significant tool at the national level is the legislation enabling the classification of direct

³³ L’article 86 Loi n° 2016-1087 du 8 août 2016 pour la reconquête de la biodiversité, de la nature et des paysages, *Journal officiel de la République française* n°0184 du 9 août 2016 le 8 août 2016.

³⁴ See the study on the agronomic feasibility of an autonomy scenario for the metropolis of Rennes in Darrot (2014).

sales by farmers as an agricultural activity, facilitating the conduct of this activity as a civil rather than a commercial activity, with the consistent application of the rules concerning the farmer and his activities in the social and tax law. However, the boundaries between the commercial and agricultural nature of this activity are quite uncertain and not fully aligned with the SFSC and should therefore be redefined. Collective selling by agricultural producers, is, nevertheless, officially recognized by French law.

The decisive role to play in the development of short supply chains and LFS has been left to municipalities and regions. Thus, the effectiveness of SFSC development activities depends on local governance. As agricultural policy is traditionally decided and conducted at the European and national level, for a long time local authorities have not dealt with a topic that was not clearly within their remit. Consequently, local agriculture is suffering from a lack of governance.

Nevertheless, for several years, municipalities have started to participate in local agricultural policy, including the protection of arable land in suburban areas, the creation of local agricultural centres, assistance in the creation of short supply chains, etc (Grimonprez 2016, p. 200). In French literature, this is called the process of “reterritorialisation” of agricultural and food policies (Bodiguel and Bréger 2018, p. 782). Nevertheless, there is still uncertainty over the distribution of administrative powers. Another problem for the development of LFS is the lack of social and legal visibility of local agriculture. In order to be able to really develop, it has to be not only identified but also promoted by public authorities. It is therefore advisable to directly support projects marked as “local agriculture” (Grimonprez 2016, p. 201) together with local products’ labels.

Also important are the initiatives taken by local actors to embody food democracy, which are numerous in France and of which only a few examples are presented in this study. AMAPs are the best example of the formalisation of solidarity relations on the local level. They represent the will to ensure a better revenue for farmers and greater independence from other links in the chain, as well as to respond to consumers’ needs and preserve the local economy. SFSCs thrive on these new forms of partnership between consumers and producers. Their further expansion depends on the involvement of support players, such as organizations and environments working for the development of agriculture.

Unfortunately, there is no legal system aimed at contract justice (willingness to provide a fair income for farmers) and food democracy (citizen participation), which is a real obstacle to the development of the SFSC, and being more than a marginal but significant chain of distribution (Friant-Perrot 2016, p. 183). Consequently, as a product of new systems of food governance, the short supply chains legal framework is derived from private and public regulations, often taking into account environmental and social standards (AMAP charter, paralegals standards of various organizations, ministerial Practical Guide), the normative force of which varies (Friant-Perrot 2016, p. 175). Therefore, as was aptly noted in the literature, the normative structure of the SFSC is characterized by legal pluralism: a multiplicity of legal orders (European, national, regional, local), a multiplicity of entities (farmers, consumers, social and agricultural organizations, local authorities) and a multiplicity of regulations (legal provisions, legal judgments, private norms, technical standards (Friant-Perrot 2016, pp. 173–74).

In conclusion, it can be said that the French SFSC and LFS development instruments are important and can be a good example to follow. However, the law in force does not yet provide an ideal framework for the development of a global project for local agriculture (Grimonprez 2016, p. 206). Therefore, state and local authorities should continue to become more involved in the development of LFS, using the existing support instruments, expanding them and creating new ones. Short supply chains do not have to be a marginal model of agriculture, but can be an alternative model that should be considered by the political and legislative authorities, both national and local.

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