



# Governing plastic waste management in Menorca

Assessment of legal, policy and institutional frameworks



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# Executive Summary

In Menorca, plastic waste per capita generation (60 kg/cap/year) is close to the Western Europe average (64 kg/cap year), according to the *National Guidance for Plastic Pollution Hotspotting and Shaping Action Report for Menorca*.<sup>1</sup> One of the main problems that has been detected in this study is the insufficient selective collection of some waste's fractions, and such is the case of the light packaging, mostly made of polyethylene terephthalate (PET) and high-density polyethylene (HDPE) plastics containers.

The levels of separate collection of light packaging in Menorca, as in many other regions of the Balearic Islands and Spain, are quite low. Less than 30% of the estimated total consumption of light packaging is being selectively collected on the island, contributing either with an increased amount of littering (with its associated environmental and economic costs) or with a reduction of recycled plastics (which also brings about negative environmental impacts).<sup>2</sup>

This trend is also confirmed by the amount of general waste produced (where no selective

separation is applied) per person per year, which has remained constant in recent years on the island and contains a high proportion of light packaging,<sup>3</sup> which is therefore the fraction with less recovery on the island of Menorca. The presence of abandoned waste in the environment and low levels of recycling are an indicator that the actual integrated management systems (SIG) applied throughout the territory is insufficient and does not guarantee the compliance with the Extended Producer Responsibility (EPR) principle.<sup>4</sup>

Due to its natural and cultural values, and like many other Mediterranean islands, Menorca has a socio-economic context highly dependent on tourism, which clearly influences the use of territory and resources both in space, due to the differentiation of traditional and touristic areas, and time, given its high seasonality.<sup>5</sup> While the general waste during summer months is almost double than during the rest of the year, the selective collection does not follow the same trend. That indicates that a large portion of potentially recyclable materials are not properly collected, probably ending up in landfills.<sup>6</sup>

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<sup>1</sup> IUCN-EA-QUANTIS, 2020, National Guidance for plastic pollution hotspotting and shaping action, Country report Menorca

<https://plastichotspotting.lifecycleinitiative.org/pilots/>

<sup>2</sup> Consell Insular de Menorca. (2019). Pla Director Sectorial de Prevenció i Gestió de Residus No Perillosos de Menorca 2019-2025. Memòria justificativa. Menorca. <http://www.biosferamenorca.org/documents/documents/3512doc2.pdf>

<sup>3</sup> Consell Insular de Menorca. (2019). Pla Director Sectorial de Prevenció i Gestió de Residus No Perillosos de Menorca 2019-2025. Memòria justificativa. Menorca.

<http://www.biosferamenorca.org/documents/documents/3512doc2.pdf>

<sup>4</sup> Consell Insular de Menorca. (2018). Costos i ingressos de la gestió de residus a Menorca.

<sup>5</sup> Consell Insular de Menorca. (2017). Pla de Desenvolupament Turístic de Menorca (PDT de Menorca). <http://www.cime.es/documents/documents/3251docpub.pdf>

<sup>6</sup> Consorci de Residus i Energia de Menorca (2018). Memòria de Residus 2010-2018.

<http://cremenorca.org/WebEditor/Pagines/file/memories/Mem%C3%B2ria%202018.pdf>

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# 1. Methodology

The aim of this study is to provide an overview of the legal instruments in Menorca directly tackling marine plastic pollution at local level, in the context of the IUCN’s “Plastic Waste Free Islands-Med” project. Drawing on prior IUCN experience, desk research, and consultation with the main local stakeholders, the report assesses the comprehensiveness and effectiveness of the national and regional legal and regulatory framework governing plastic waste management in order to identify existing gaps and weaknesses that contribute to plastic leakage into the Mediterranean Sea.

The primary methods chosen for collecting data were a literature review and the use of a qualitative questionnaire. The questionnaire was designed to collect information from national sources on existing targets, strategies, policies or legal provisions at national level.

This questionnaire was prepared and reviewed in May 2020 by IUCN staff within the IUCN Mediterranean Cooperation Centre and Environmental Law Programme. The following table shows the final questions included in this questionnaire:

Target	Plastic value chain	Sectors	Clean-up measures	Opinion 1	Opinion 2
Is there any target at the regional level that specifically addresses plastic pollution?	Are there legal instruments at regional level that specifically address plastic waste across the plastic value chain?	Are there additional legal tools in place at regional level to tackle plastic pollution in the tourism and fisheries sectors?	Is there any remedial measure at regional level that directly addresses plastic waste already polluting the marine and coastal environment?	In your opinion, what are the most appropriate legal tools to tackle plastic pollution?	How could the institutional and legal framework be improved to ensure the proper implementation of such tools?

In early June 2020, the questionnaire was sent to the project’s implementing partners on the island, who subsequently circulated it among their local networks to reach the experts working on the topic in Government agencies and Non-Governmental organisations. This report used the answers from the questionnaire and other relevant online sources, including available documents from the Programmes of Measures required by the European Commission from Member States in the context of the Marine Strategy Framework Directive (MSFD). ECOLEX<sup>7</sup>, an information service on environmental law, operated jointly by the Food and Agriculture Organization of the United Nations (FAO), the United Nations Environment Programme (UNEP) and IUCN, was also consulted in search of relevant national legislations on waste that mention plastic or are related to marine plastic pollution, as well as Government websites, and other relevant online sources.

<sup>7</sup> <https://www.ecolex.org/>

## 2. International Legal Framework on plastic waste management

### 2.1 International Treaties, Agreements and Conventions signed by Spain

Spain has signed and ratified many international conventions relating to waste, marine pollution, and addressing the plastic waste issue.

- In 1972, Spain joined the **Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft**, also called the **Oslo Convention**. The Convention prohibited the dumping of non-biodegradable plastics, among other materials, and was replaced by the **Convention for the Protection of the Marine Environment of the North-East Atlantic or "OSPAR Convention"** when it came into force in 1998;
- In 1974, Spain ratified the **Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (1972)**, commonly called the **"London Convention"**, and its Protocol (1996) in 1999, with entry into force in 2006;
- In 1974, Spain signed the **International Convention for the Prevention of Pollution from Ships, MARPOL (1973)** and ratified its Protocol (MARPOL 73/78) in 1984;
- In 1976, Spain signed and ratified the **Convention for Protection of the Mediterranean Sea against Pollution**, and simply referred to as the **Barcelona Convention (1976)**;
- In 1993, Spain ratified the **Basel Convention on the Control of Trans-boundary Movements of Hazardous Wastes and their Disposal (1989)**;
- In 1997, Spain ratified the **United Nations Convention on the Law of the Sea, UNCLOS (1982)**;
- In 2015, Spain also participated in the United Nations meeting that set the seventeen **"Sustainable Development Goals" (SDGs)**, which includes SDG goal 14, "Life below Water" aiming, by 2025, to prevent and significantly reduce marine pollution of all kinds, in particular from land-based activities, including marine debris and nutrient pollution.

### 2.1. European policy framework

At European level, the final aim of **Directive 2008/56/EC**, establishing a framework for community action in the field of marine environmental policy (**Marine Strategy Framework Directive**, (MSFD), is to achieve or maintain a good environmental status (GES) of the marine environment by 2020 at the latest. The MSFD was incorporated into Spanish legislation by means of **Law 41/2010**, on the **Protection of the Marine Environment**. That law establishes the general legal framework for

the protection of the Spanish marine environment.<sup>8</sup>

In the context of the implementation of the EU MSFD, each Member State having marine waters had to elaborate a **Programme of Measures (PoM)**. In Spain, it was defined in 2015 and its implementation began in 2016. The Programmes of Measures are the executive part of the marine strategies, detailing the measures that Spain is going to carry out over the 2016-2021 period in order to achieve or maintain the GES of the marine environment, and they imply

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<sup>8</sup> [https://ec.europa.eu/environment/marine/public-consultation/pdf/ES\\_PoMs\\_executive\\_summary.pdf](https://ec.europa.eu/environment/marine/public-consultation/pdf/ES_PoMs_executive_summary.pdf)



the formal commitment of all the competent authorities involved.

There are 4 relevant targets in the Spanish Programme of Measures under the EU MSFD:

- Prevention of marine litter from maritime sources
- Prevention of marine litter from land sources
- Removal of marine litter
- Awareness-raising and information measures on the problem of marine litter

Spain also joined the recent **United Nations Environment Assembly (UNEA)** meetings, and among those, the Fifth UN Environment

### 2.1.1. EU waste management law

The **Directive 94/62/EC**<sup>10</sup> sets out the EU's rules on managing **packaging and packaging waste** and has been amended by the Directive (EU) 2018/852<sup>11</sup>, which contains updated measures designed to prevent the production of packaging waste, and promote the reuse, recycling and other forms of recovering of packaging waste, instead of its final disposal, thus contributing to the transition towards a circular economy.

EU countries must take **measures**, such as national programmes, incentives through extended producer responsibility schemes and other economic instruments, to prevent the generation of packaging waste and to minimise the environmental impact of packaging. They should encourage the increase in the share of **reusable packaging** put on the market and of systems to reuse packaging without compromising food safety. This may include deposit-return schemes, targets, economic incentives, minimum percentages of reusable packaging placed on the market for each type of packaging, etc.

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[https://papersmart.unon.org/resolution/uploads/chair\\_summary\\_final.pdf#overlay-context=Fourth-adhoc-oeeg](https://papersmart.unon.org/resolution/uploads/chair_summary_final.pdf#overlay-context=Fourth-adhoc-oeeg)

<sup>10</sup> European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, pp. 10-23).

Assembly (UNEA-5) established the **ad hoc open-ended expert group (AHEG) on marine litter and microplastics**.<sup>9</sup> The group is “reviewing the present situation and analyzing the effectiveness of existing and potential response options related to marine plastic litter and microplastics”. It is also discussing the possibility to “develop a new global agreement, framework or other form of instrument to provide a legal framework of global response and to facilitate national responses especially for those countries with limited resources and capacities that could contain either legally binding and/or non-binding elements”.

EU countries must also take the necessary measures to meet certain **recycling targets**, which vary depending on a packaging material. By 31 December 2025, at least 65% by weight of all packaging must be recycled, with a 50% recycling target for plastics.

By 31 December 2030, at least 70% of packaging must be recycled, with a 55% recycling target for plastics.

EU countries should ensure that **packaging recovery systems** are set up to provide for the return and/or collection of used packaging and/or packaging waste, as well as the reuse or recovery including recycling of the packaging and/or packaging waste collected.

By 2025, EU countries should ensure that **producer responsibility schemes** are established for all packaging. Producer responsibility schemes provide for the return and/or collection of used packaging and/or packaging waste and its channeling to the most appropriate waste

<sup>11</sup> Directive (EU) 2018/852 of the European Parliament and of the Council of 30 May 2018 amending Directive 94/62/EC on packaging and packaging waste (OJ L 150, 14.6.2018, pp. 141-154).

management option, as well as for reuse or recycling of the collected packaging and packaging waste.

The **Directive 1999/31/EC on the landfill of waste** provides measures and procedures to prevent or reduce the negative environmental impacts from the landfill of waste. According to the Directive (Article 5), Member States must set up a national strategy for the implementation of the reduction of biodegradable waste going to landfills. This strategy should include measures to achieve the targets of the Directive by means of in particular, recycling, composting, biogas production or materials / energy recovery. It has been amended by the **Directive (EU) 2018/850**.<sup>12</sup>

The **Directive 2000/76/EC on the incineration of waste** and Directive 2008/98/EC concerning the performance of waste incineration impose stringent operational conditions and technical requirements for plants incinerating or co-incinerating waste. Conditions are also imposed on the efficiency of incineration plants in order to achieve maximum recovery.

The **Directive 2008/98/EC**<sup>13</sup> on waste (**Waste Framework Directive**) establishes a legal framework for treating waste in the EU and sets the basic concepts and definitions related to waste management, such as definitions of waste, recycling, recovery. Article 4 establishes the waste hierarchy, which shall apply as a priority order in waste prevention and management according to which prevention is the most desirable option and disposal the least desirable (prevention, re-use, recycling, recovery for other purposes such as energy and disposal).

The Directive sets out important provisions and timeframes for implementation with respect to prevention (Article 9), reuse, recycling and recovery (Articles 10 and 11) and disposal (Article 12). Other provisions concern the application of the principle of proximity and self-sufficiency (Article 16) and the application of the “polluter pays principle” and the “extended producer responsibility” (Article 14) for the distribution of waste management costs.

The Directive requires that competent national authorities of the Member States adopt waste management plans and waste prevention programmes. The Directive also includes measures and targets to implement the waste hierarchy, e.g. the establishment of recycling targets by 2020, such as the preparing for re-use and the recycling of plastic waste materials, which must be increased to a minimum of 50% by weight.

The **Directive (EU) 2019/904** — on the reduction of the impact of certain plastic products on the environment<sup>14</sup> (**single-use plastics ban**) delivers on the EU’s plastic strategy, an important element in the EU’s move towards a circular economy. It aims to prevent and reduce the impact on the environment of certain plastic products by introducing a mix of measures tailored to the products covered by the directive, including an EU-wide ban on single-use plastic products whenever alternatives are available.

The Directive has to become law in the EU countries by 3 July 2021. The market restrictions and marking of product rules apply from 3 July 2021, while the product design requirements for bottles apply from 3 July 2024. The Extended Producer Responsibility measures apply from 31 December 2024.

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<sup>12</sup>

[https://www.ecoembes.com/sites/default/files/directiva\\_2018-850-ue.pdf](https://www.ecoembes.com/sites/default/files/directiva_2018-850-ue.pdf)

<sup>13</sup> Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain directives (OJ L 312, 22.11.2008, pp. 3–30).

<sup>14</sup> Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment (OJ L 155, 12.6.2019, pp. 1-19).

### 3. National institutions governing plastic waste management

The Waste and Contaminated Soils Act sets the legal framework for waste management and waste prevention at the national scale. The Act transposes Directive 2008/98/EC on waste and outlines tasks and responsibilities across the three main administrative levels in Spain, namely the national government, the Autonomous Communities (ACs), and local entities (municipalities).

#### 1) At the National level:

The *Ministerio para la Transición Ecológica y el Reto Demográfico* is responsible for implementing, amending and enforcing the Act at the national level. It is also responsible for developing a Prevention Program and National Waste Management Plans, which set out the policy orientation, minimum targets, objectives and measures. Additionally, the Ministry is responsible for authorizing and monitoring foreign trade of waste and for adhering to reporting requirements on the progress of waste management policies.

#### 2) At the Autonomous Communities (ACs) level:

It is at the ACs level where most of the responsibility for planning and implementation lies. ACs are responsible for:

- The development of regional waste management and prevention plans, both general and sectorial (i.e. municipal waste). These plans must set specific regional targets, in line with, or exceeding, those set by the Ministry. Moreover, they outline which financial resources are available and how the budget will be allocated.
- Surveillance, authorization, inspection and the application of sanctions on waste management.
- Monitoring, recording and reporting data on waste management to the Ministry;
- Developing specific legislation on waste.

#### 3) At the local level:

The **Consortium of Waste and Energy of Menorca**, which encompasses all the municipalities, is responsible for the collection, transport and treatment of municipal waste. Municipalities may choose to develop their own waste management and prevention programs.

At the intersection of these three administrative levels sits the **Commission for the Coordination on Waste** (*Comisión de Coordinación en materia de residuos*), which is formed by representatives from the three main administrative levels in order to trigger cooperation and collaboration between them. Its functions cover:

- Reporting and elaborating recommendations for collaboration;
- Analysing the application of regulation and their consequences;
- Ensuring knowledge on waste management is up to date and ensuring it is easily disseminated (particularly on packaging);
- Providing justifications in cases where the waste hierarchy is not followed;
- Exchanging information and developing recommendations on authorisations regarding the collective systems of extended producer responsibility.

## 4. National legal framework on plastic waste management

There are a number of pieces of legislation and policies related to plastic production, at national level:

- The **National Framework Waste Management Plan** (*Plan Estatal Marco de Gestión de Residuos, PEMAR*)<sup>15</sup> for the period 2016-2022;
- The **Spanish Programme of Measures** (in the framework of the MFSD) includes a number of related measures under Measure 29.<sup>16</sup>

While the national policies addressing plastic waste disposal are:

### General plastic waste management

- **Law 22/2011, on Contaminated Waste and Soil**,<sup>17</sup>
- **Royal Decree No. 1481/2001**, regulating the disposal of waste by landfill: establishes requirements for waste landfills and calls for the closure of landfills not complying with these requirements by 16 July 2009.

### Systems of deposit, devolution and return

- **Law 11/1997**, of 24<sup>th</sup> April,<sup>18</sup> on **packaging and packaging waste**: Art. 6, obligations of the **SDDR (deposit-return system)**;
- Law 22/2011, of 28 July, on waste and contaminated soils: Art. 31, conditions for the implementation of the SDDR, voluntary nature (limit of the cases of Art.31.2.d);
- **National Waste Prevention Programme** (2014-2020): measure to reuse urban waste from households, voluntary agreements to promote the use of reusable packaging such as the establishment of SDDR.

### Producer's responsibility

- Law 22/2011, of 28 July, on waste and contaminated soils: Art. 31 and 32 give a coherent legal framework, under which producers of products that with their use become waste are involved in promoting reuse, recycling and recovery of waste. There are collective systems of extended responsibility for many product flows (packaging, WEEE, batteries and accumulators, used oils, etc.);

### Reduction of the consumption of single-use plastic bags

**Royal Decree No. 293/2018 - Reducing the consumption of plastic bags** and creating the Registry of Producers<sup>19</sup>, which implements the European Parliament and Council **Directive 94/62/EC on packaging and packaging waste**;

<sup>15</sup> Ministerio de Agricultura, Alimentación y Medio Ambiente. (2015). Plan Estatal Marco de Gestión de Residuos (PEMAR) 2016-2022. Madrid

[https://www.miteco.gob.es/es/calidad-y-evaluacion-ambiental/planes-y-estrategias/pemaraprobado6noviembrecondae\\_tcm30-170428.pdf](https://www.miteco.gob.es/es/calidad-y-evaluacion-ambiental/planes-y-estrategias/pemaraprobado6noviembrecondae_tcm30-170428.pdf)

<sup>16</sup> [http://www.mapama.gob.es/es/costas/participacion-publica/anexos4\\_12\\_tcm7-406649.pdf](http://www.mapama.gob.es/es/costas/participacion-publica/anexos4_12_tcm7-406649.pdf)

<sup>17</sup> <https://www.boe.es/eli/es/l/2011/07/28/22/con>

<sup>18</sup> Ley 11/1997, de 24 de abril, de envases y residuos de envases. Boletín Oficial del Estado núm. 99, 25 abril 1997 <https://www.boe.es/boe/dias/1997/04/25/pdfs/A13270-13277.pdf>

<sup>19</sup> [https://www.ecolex.org/details/legislation/real-decreto-no-2932018-medidas-para-reducir-el-consumo-de-bolsas-de-plastico-y-por-el-que-se-crea-el-registro-de-productores-lex-faac182314/?q=Oxodegradable&type=legislation&xdate\\_min=&xdate\\_max=](https://www.ecolex.org/details/legislation/real-decreto-no-2932018-medidas-para-reducir-el-consumo-de-bolsas-de-plastico-y-por-el-que-se-crea-el-registro-de-productores-lex-faac182314/?q=Oxodegradable&type=legislation&xdate_min=&xdate_max=)

## 4.1. Summary of Legislative Framework for Plastic Waste Management

The table below sets out the correlation between European and Spanish legislation with regard to plastic waste management:

EUROPEAN LEGISLATION	SPANISH LAW
<b>WASTE</b>	
<ul style="list-style-type: none"> <li>➤ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (replaces Directive 2006/12/EC (formerly 75/442/ EEC) and repealing Directive 91/689/EC on hazardous waste and 75/439/EC on used motor oils)</li> <li>➤ Directive (EU) 2018/851, amending Directive 2008/98/EC</li> <li>➤ Directive (EU) 2019/904 — on the reduction of the impact of certain plastic products on the environment</li> </ul>	<ul style="list-style-type: none"> <li>➤ Law 22/2011 on Waste and Contaminated Soils, which repeals Law 10/1998 on waste and its subsequent modifications (Law 11/2012 of July 20<sup>th</sup> and Law 5/2013 of June 11<sup>th</sup>). These pieces of legislation set out the framework for planning, defining roles and allocating tasks regarding waste management at the national, regional and municipal level.</li> <li>➤ Pending transposition into the national law</li> </ul>
<b>LANDFILL WASTE</b>	
<ul style="list-style-type: none"> <li>➤ Directive 1999/31/EC on landfill of waste</li> <li>➤ Directive (EU) 2018/850, amending Directive 1999/31/EC</li> </ul>	<ul style="list-style-type: none"> <li>➤ Royal Decree 1481/2001, and its subsequent modifications (i.e. Royal Decree 1304/2009 of July 31<sup>st</sup> and Order AAA/661/2013 of April 18<sup>th</sup>).</li> <li>➤ Ban on landfilling tyres as outlined in the Landfill Directive: Royal Decree 1619/2005 of December 13<sup>th</sup>.</li> </ul>
<b>INCINERATION OF WASTE</b>	
<ul style="list-style-type: none"> <li>➤ Directive 2000/76/EC on the incineration of waste (replacing the earlier Directives 94/67/EC on hazardous waste, 89/369/EEC and 89/429/EC on household waste)</li> </ul>	<ul style="list-style-type: none"> <li>➤ Royal Decree 815/2013 of October 18<sup>th</sup> and Act 16/2002 of July 1<sup>st</sup>. The most recent regulation is Royal Decree 180/2015 on waste transfers between ACs.</li> </ul>
<b>PACKAGING AND PACKAGING WASTE</b>	
<ul style="list-style-type: none"> <li>➤ Directive 94/62/EC on packaging and packaging waste</li> <li>➤ Directive (EU) 2018/852, amending Directive 94/62/EC</li> </ul>	<ul style="list-style-type: none"> <li>➤ Law 11/1997 of April 24<sup>th</sup>, on packaging and packaging waste</li> <li>➤ Royal Decree 782/1998 of April 30<sup>th</sup>, approves the Regulation for the development and execution of Law 11/1997</li> <li>➤ MAM Order 3624/2006 of November 17<sup>th</sup> modifies Annex 1 of the Regulation for the development and execution of Law 11/1997</li> <li>➤ Royal Decree 252/2006 of March 3<sup>rd</sup>, reviews the recycling and recovery objectives established in Law 11/1997</li> <li>➤ Law 9/2006, of April 28<sup>th</sup>, on evaluation of effects of</li> </ul>

EUROPEAN LEGISLATION	SPANISH LAW
	certain plans and programs on the environment <ul style="list-style-type: none"> <li>➤ Order AAA/1783/2013 of October 1<sup>st</sup>, modifies Annex 1 of the Regulation for the development and execution of Law 11/1997</li> <li>➤ Royal Decree No. 293/2018 - Reducing the consumption of plastic bags and creating the Registry of Producers</li> </ul>

## 4.2. Waste Management Plans

At the national level, the **National Framework Waste Management Plan** (*Plan Estatal Marco de Gestión de Residuos, PEMAR*)<sup>20</sup> for the period 2016-2022 was approved in November 6th 2015. It is subsequent to the National Integrated Waste Management Plan (Plan Nacional Integrado de Residuos), which was established in 2008, for the period 2008-2015. Additionally, the **National Waste Prevention Programme** (*Programa Estatal de Prevención de Residuos*)<sup>21</sup> was adopted in November 2013 for the period 2014-2020, complementing the above mentioned plans in prevention issues.

The PEMAR refers to household and commercial waste (including bio-waste), packaging waste, waste from electric and electronic equipment (WEEs), used tyres, end-of-life vehicles, waste batteries and accumulators, construction and demolition waste, oil waste, sewage sludge, PCB & PCT, contaminated soils, non-hazardous industrial and agricultural waste, sanitary waste and end-of-life ships. The PEMAR fully addresses all the provisions of Article 28.3 of the Waste Framework Directive and specifies what the regional plans should consider in accordance with this Article. It outlines how the principle of waste hierarchy is applied to the waste prevention and management policies in Spain, defining qualitative and quantitative objectives and measures for the achievement thereof for the various waste streams. It also refers to some other mandatory content for the regions, outlined below (PEMAR, pages 14-15):

- The type, quantity and source of waste generated within their territory, which is expected to be shipped to other Member States, and where possible to and from other regions;
- An assessment of the future evolution of waste streams;
- Existing waste collection schemes and major disposal and recovery installations, including any special arrangements for waste oils, hazardous waste or waste streams addressed by specific legislation;
- Information on the location criteria for site identification and on the capacity of future disposal of major recovery installations
- An assessment of the need for: new collection schemes, closure of existing waste installations, additional waste treatment facilities and related investments;
- Waste management policies, including planned waste management technologies and methods and identification of waste that pose specific management problems.

Moreover, PEMAR suggest additional contents in coherence with the Law 22/2011:

- Organisational aspects related to waste management, including a description of the allocation of responsibilities between the public and private operators that deal with the management of residues;

<sup>20</sup> Ministerio de Agricultura, Alimentación y Medio Ambiente. (2015). Plan Estatal Marco de Gestión de Residuos (PEMAR) 2016-2022. Madrid

[https://www.miteco.gob.es/es/calidad-y-evaluacion-ambiental/planes-y-estrategias/pemaraprobado6noviembrecondae\\_tcm30-170428.pdf](https://www.miteco.gob.es/es/calidad-y-evaluacion-ambiental/planes-y-estrategias/pemaraprobado6noviembrecondae_tcm30-170428.pdf)

<sup>21</sup> <http://www.boe.es/boe/dias/2014/01/23/index.php?d=20&s=3>

- Awareness and information campaigns targeting the general public or a particular group of consumers; and
- Identification of historically contaminated waste disposal sites and measures for their rehabilitation.

According to PEMAR, in order to ensure the fulfilment of the national targets, the Autonomous Communities should meet at least, the same targets as those proposed at national level (PEMAR, page 15). Considering the recommendations of the European Commission, following the approval of the PEMAR, the Autonomous Communities should review their Regional Waste Management Plans to adapt their structure, targets, period of validity and frequency of revision to PEMAR, in order to fulfil the targets.

### 4.3. Summary of Policy Mechanisms and Instruments to Meet Targets

The main instruments used in Spain over the last few years in order to help meet the targets outlined in the Landfill Directive and the Waste Framework Directive are:

#### 1) Legal Instruments:

- Adoption of Law 22/2011, of July 28<sup>th</sup> on Waste and Contaminated Soils, which transposes the Waste Framework Directive;
- Adoption of the Royal Decree 1304/2009 of July 31<sup>st</sup> and Order AAA/661/2013 of April 18<sup>th</sup>, which amend the Royal Decree 1481/2001 that transposes the Landfill Directive;
- Adoption and implementation of the National Waste Management Plan, PEMAR 2016-2022;
- Implementation of the National Waste Prevention Plan 2014-2020.

#### 2) Economic/Fiscal Instruments:

- Application of Extended Producer Responsibility to packaging;
- Implementation of landfill taxes in several Autonomous Communities;
- Grants awarded to the regional governments for the closure or conditioning of landfills;
- Introduction of taxes or fixed prices in some regions for disposable plastic bags.

#### 3) Administrative Instruments:

- Completion of the network of waste treatment facilities, although there are still gaps in the network for facilities on recovery and recycling;
- Adaptation of landfills and incinerators to new requirements arising from EU regulations;
- Closure of illegal landfills across Spain;
- Improving systems for monitoring of environmental crimes, particularly those infringements related to illegal dumping;
- Creation of the Coordination Commission on Waste, consisting of members of the Government, the regional governments and local authorities;
- Promotion of voluntary agreements with associations and companies to move towards a more efficient use of resources and better waste management.

#### 4) Informative Instruments:

- Improving information available on waste, establishing common requirements and exchange of information between the competent authorities and the sectors concerned;
- Development of information systems and collaboration with the National Statistics Institute for implementing EU regulations on waste statistics;
- Public awareness campaigns on recycling, conducted in collaboration with regional and local authorities and private entities. In particular, there have been several campaigns to reduce the use of disposable plastic bags.

#### 4.4. The preliminary draft of the new Waste Law

The preliminary draft of the new Waste Law has already been presented to the Ministries Council and approved in June 2020. It is currently in the process of public consultations and it is going to be reviewed and approved by the Parliament no earlier than June 2021.

The purpose of the new draft Law<sup>22</sup> is to transpose Directive (EU) 2018/851, which modifies Directive 94/62/EC, as well as Directive (EU) 2019/904, referring to the single-use plastic packaging, also reviewing in depth all the regulations on packaging and packaging waste, and adopting the necessary measures to meet the new challenges, including:

- The promotion of prevention in the production of packaging waste as a priority, as well as its reuse, as a more efficient way in the use of resources and reduce the effects of waste on the environment.
- The achievement of the new recycling targets for 2025 and 2030, according to the new calculation method established in the Commission's Implementing Decision (EU) 2019/665, which modifies Decision 2005/270/EC.
- The modification of the Extended Producer Responsibility (EPR) regime according to the new community guidelines, so that the affected producers assume the real and total cost of the management of packaging waste.
- The application of the EPR system to all packaging and packaging waste.

Concerning plastics, the objectives of the new draft Law are:

- **Reduction of single-use plastics:** the draft transposes the objectives contemplated both in the 2018 waste directive and in the 2019 single-use plastics directive. In relation to the latter, for the first time Spanish legislation includes limitations on certain single-use plastics, restricting the introduction on the market of some of them and establishing **a tax for the reduction of non-reusable plastic containers. This new tax responds to the recommendations made by the European Commission, which in numerous reports has indicated that Spain has scope for action in the field of green taxation.** For the single-use plastics products identified in the law, a 50% reduction in marketing must be achieved by 2026, compared to 2022; and in 2030, that reduction should be 70%, also with respect to 2022. To meet these objectives, all the actors involved in the commercialisation will promote the use of reusable alternatives or other non-plastic material. In any case, as of January 1, 2023, its free distribution is prohibited, and a price must be charged for each of the plastic products that is delivered to the consumer.
- **Restrictions on commercialisation:** according to the text of the draft, as of July 3, 2021, the introduction on the market of the certain products will be prohibited. Likewise, any plastic product made with oxo-degradable plastic and the use of cosmetics and detergents containing intentionally added micro-plastics are prohibited.
- **Prevention in the generation of waste:** the draft law includes concrete and quantifiable objectives. The timetable for reducing the weight of waste produced, which is added to the current 10% in 2020, is as follows: in 2025, 13%, and in 2030, 15%, in all cases with respect to that generated in 2010.
- **Boosting the circular economy:** the draft law clearly determines how and when a waste material can be reused and enables the Autonomous Communities to apply this principle in their territories.
- **Obligation of adopting economic instruments and incentives:** the draft law reinforces the waste hierarchy by urging the adoption of economic instruments and other incentive measures by the

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<sup>22</sup> <https://www.miteco.gob.es/es/prensa/ultimas-noticias/arranca-la-tramitaci%C3%B3n-del-anteproyecto-de-ley-de-residuos-para-impulsar-una-econom%C3%ADa-circular-mejorar-la-gesti%C3%B3n-de-residuos-en-espa%C3%B1a-y-luchar/tcm:30-509531>



public administrations. Among the incentives: establishment of fees on landfilling or incineration, promotion of payment systems for waste generation.

- **Registry of Waste Production and Management:** it will be established in order to ensure traceability and increase transparency in waste management and it will incorporate information related to waste producers and managers, but also related to annual management reports. One of the novelties of the draft is the obligation to keep a chronological record of the entities or companies that generate by-products and those that use them.
- **Revision of the regulation on Extended Producer Responsibility (EPR)** in line with EU legislation, including provision for its application to **agricultural plastic waste**.

The current draft law responds to the need of transposing two European directives (EU 2018/851 on waste and EU 2019/904 on single-use plastics), but does not go much further. Among the main **shortfalls** of the new draft law, it is worth mentioning:

- The **reduction target in plastic waste generation** of 15% by 2030 compared to 2010, cannot be considered sufficient. The single-use plastics directive did not, in itself, set a binding plastics reduction target for member countries, but stressed that the reduction should be significant.
- **Reuse** is not considered and promoted as it should be: to reuse, it is essential to have a **deposit and return system** (SDDR). The new draft law does not foresee the obligation of SDDR, which could be the lever to minimise the waste generation and improve its management.
- The draft law establishes a **tax on disposable plastic items** but its value is minimal and it will put the charges on the consumers. Therefore, it is likely not to ensure that consumers are discouraged from use and throw away the containers, as their explicit ban or the introduction of a system that encourages reusable containers, including for takeaway food, would.
- There is no compulsory and sufficiently high tax to discourage **incineration and dumping**, leaving it to the Autonomous Communities' decision and responsibility. The preliminary draft will continue to allow the incineration of waste, which is not in line with the circular economy.

## 5. Regional institutions governing plastic waste management

The **Consortium of Waste and Energy of Menorca** is the institution managing waste production and is made of the eight city councils and the main Island Council, allowing for a coherent approach when dealing with waste management. Due to the management of waste through the administration of the seven waste collection centres of Menorca, as well as the main treatment plant known as Milà Waste Plant, the Consortium has lots of valuable information regarding the typologies and quantities of waste produced on the island.

Regarding the institutional governance of the waste management, the **Government of the Balearic Islands** maintains competence in the planning of hazardous waste management, in the authorisation, monitoring, inspection and sanctioning of waste production and management activities, in the transfer of waste and in the regulatory power in the areas covered by the Waste Law. On the other hand, the **Menorca Island Council** maintains the competence in the planning of non-hazardous waste management, and in the mandatory treatment of mixed domestic waste. Similarly, the Island Council must be responsible for collection and monitoring, inspection and sanctioning in the area of domestic waste.

The Waste Law also foresees the future creation of the **Balearic Islands Waste Management Agency**, competent for environmental matters, with its own separate legal personality and responsible for the execution of the Waste Prevention and Management Fund, in accordance with the directives established by the Government of the Balearic Islands.

## 6. Regional legal framework on plastic waste management

Most of the responsibilities regarding waste management have been transferred to the Autonomous Communities. Most of them have also implemented regional legislation on waste management. The first Balearic Islands Waste and Contaminated Lands Law 8/2019<sup>23</sup> (**Ley 8/2019, de 19 de febrero, de residuos y suelos contaminados de las Illes Balears**) was adopted on the 19<sup>th</sup> February 2019 by the Parliament of the Balearic Islands, and is the transposition of the Directive (EU) 2019/904 (single-use plastics ban). This pioneering legislation, which has been echoed in other countries, is quite ambitious and ahead of the directive itself.

By voting this law on **waste prevention and plastics reduction**, the Balearic Islands' government proved that the Circular Economy should not be reduced to recycling and paved the way for what should become the norm all across the EU, accelerating the transition towards zero waste. Waste prevention has an important role and is a top priority in the new regulatory framework that establishes clear and binding reduction targets for the generated waste.

The **targets** set out in the new legislation go further than those established by the European Commission. The aim is that, by 2021, waste generated will have to be reduced by 10% with respect to 2010, through the implementation of these targets, and by 20% by 2030. To achieve this, it will be necessary to substitute many single-use plastic products with more sustainable alternatives.

This pioneering law first focuses on single-use plastic items by banning them. Moreover, it encourages the use of reusable packaging through the installation of water fountains or the inclusion of waste prevention criteria in public procurement. This goes beyond what required by the EU Directive, setting the example for successful implementation at the national and local level.

The Waste Law offers all actors involved two years to adapt. However, it must be highlighted that many of these actors, such as large food distribution chains or municipal administrations, are already taking measures in line with the articles.<sup>24</sup>

Hereafter, we will analyse the regional policy and legislation according to the various stages of the plastic value chain:

### Production

#### *EPR Mechanisms*

A key aspect of this Law is the development of measures to implement the Extended Producer Responsibility principle (EPR), requiring transparency on data about products placed on the market,

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<sup>23</sup> Llei 8/2019, de 19 de febrer, de residus i sòls contaminats de les Illes Balears. Butlletí Oficial de les Illes Balears núm. 23, 21 de febrer de 2019.

<https://www.boe.es/buscar/pdf/2019/BOE-A-2019-5577-consolidado.pdf>

<sup>24</sup> Josep Manuel Gómez González (2019). Derecho y políticas ambientales en las Islas Baleares. *Revista Catalana de Dret Ambiental Vol. X Núm. 1 (2019): 1-56*

about waste generation and its management as well as the obligation for producers to cover 100% of the waste collection and management costs. It also determines the framework for the future implementation of return systems for specific products, for beverage containers for example, to favour the recuperation of high quality materials and to stop littering as a measure to protect the environment. These measures will suppose a substantial change in the production and management models as they obligate producers to guarantee specific environmental requirements and to assume the full cost coverage for packaging (including non-sorted waste and clean-ups).

According to the new Law, in Menorca the Extended Producer Responsibility can be implemented through integrated management or deposit and return systems, individually or collectively. For the implementation of a **deposit and return system**, the following obligation will be observed: manufacturers, importers, wholesale or retail distributors, intermediaries, traders will be obliged to charge clients, up to the final consumer, an individualised amount for each product that is the object of transaction and which will be fixed by the Government of the Balearic Islands. This amount will not be considered as a price, nor will it be subject to taxation. The aim is to reduce littering, promote prevention and improve reuse, high-quality recycling and material recovery of waste.

In the context of the Autonomous Community of the Balearic Islands, the Extended Producer Responsibility for **packaging waste** will be applicable to all packaged products included in Directive 94/62/EC on packaging and packaging waste, whether generated by households, commercial or industrial sources. EPR systems for packaging waste have to compensate the government for the full costs of the management cycle of all packaging waste destined for recovery, including the proportional part for packaging waste collected non-selectively and for packaging waste deriving from road and beach clean-ups.

## **Trade, Import and Export**

One of the milestones of the Law is that it prohibits the import of waste for treatment in public facilities in the Balearic Islands, thus closing the controversy of previous legislatures with regard to waste incineration imported from other European Union states, which limited the capacity of response of other active policies in the islands' territory.

## **Retail and consumer use**

### *Single-use plastic items' ban*

As of March 20<sup>th</sup>, 2021,<sup>25</sup> the following restrictions will be placed:

- Distribution of one-use-only plastic bags will be prohibited (except for composting ones);
- Use, distribution and sale of one-use-only plastic plates, glasses and cutlery will be forbidden, except for those that are compostable;
- Use of single-dose food products and one use-only tools at HORECA (Hotel/Restaurant/Café) sector for the consumption of food or drink at the same place will be forbidden, except for those made of cellulose;
- Plastic straws, lollypop sticks and cotton swabs will only be distributed if they are made of compostable products;
- One-use-only coffee, herbal teas and beverages capsules sold at the Balearic Islands must be made of compostable materials or (organically or mechanically) easily recyclable materials;
- Distribution and sale of products containing microplastics and nanoplastics will be prohibited;

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<sup>25</sup> <http://www.caib.es/govern/sac/fitxa.do?codi=4433660&coduo=919&lang=ca>

- Distribution of beverages in one-use-only packages will not be allowed in buildings hosting public institutions; in public events, supported by the public administration, alternatives to the sale and distribution of one-use-only beverages and one-use-only glasses must be implemented and access to non-packaged water supply or in reusable bottles must be guaranteed; in the line of preventing the excessive generation of packaging waste, the installation of drinking water sources or the supply in reusable containers will be promoted;
- HORECA sector establishments must offer non-packaged water supply to customers, free of charge and in a complimentary manner.

As of January 1<sup>st</sup>, 2025, distribution and sale of non-rechargeable shaving razors will be forbidden. Rechargeable ones will also have to be made of recyclable materials.

### ***PAYT schemes***

The Law also establishes a “Pay-As-You-Throw” system, as the most effective tool to increase recycling rates and pay for services associated with waste management. “Pay-As-You-Throw” fees will be introduced for the various waste categories and a bonus system for best practices.

### **End of life**

#### ***Recovery and Recycling***

The Waste Law establishes a recycling target of 50% for 2021 that, if not achieved, will lead the Government of the Balearic Islands to possibly implement a full SDDR for disposable packaging in the archipelago. On the other hand, the law establishes a series of objectives for the reuse of beverage containers in the HORECA channel (40% for water containers, 80% beers and 70% soft drinks) and other channels (15%) which, without the deployment of return systems, can hardly be achieved.<sup>26</sup>

These objectives aimed at improving recycling levels and reducing packaging waste through reuse promotion are in line with the new European regulatory framework. In fact, the Directive (EU) 2019/904 establishes that Member States will be required to recycle 90% of single-use plastic beverage bottles by 2025 by using, for example, deposit and return systems.

Another remarkable aspect is the commitment to boost reuse, through the establishment of a “prepare for reuse” target of 3% of municipal waste by 2025 and 5% by 2030. Clear targets are set for recycling. By 2021 municipalities will have to achieve 50% recycling in materials such as paper, metals, glass, plastic and bio-waste from household waste. By 2030 this figure will have to reach 65%. With regard to packaging, 75% will have to be recycled by 2030.

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<sup>26</sup> Consell Insular de Menorca. (2017). Pla de Desenvolupament Turístic de Menorca (PDT de Menorca). <http://www.cime.es/documents/documents/3251docpub.pdf>

## 7. Implementation Gaps and Challenge

### Inadequate waste segregation and separate collection

Waste collection rate (84%) is below average than compared to high income countries (96%) and waste bin design does not prevent leakage while waiting for collection.<sup>27</sup>

The levels of separate collection of light packaging in Menorca, as in many other regions of the Balearic Islands and Spain, are quite low. This trend is also confirmed by the amount of general waste produced (where no selective separation is applied) per person per year, which has remained constant in recent years on the island and contains a high proportion of light packaging.<sup>28</sup>

In Menorca, the collection of the main fractions of municipal waste in containers on public streets has remained fairly constant, between 53,000 and 58,000 tons over the last few years (2010 - 2018).<sup>29</sup> During the same period, on average, only 18.9% of the municipal waste was collected separately while more than the other 80% was collected as general waste. Moreover, light packaging has been the fraction whose separate collection has increased less over an 8-year period, with only a 4% increment, while glass selective collection increased on a total 14%.<sup>30</sup>

With a study to assess the effectivity of the collection system of Menorca, that considers both the total quantity of waste within the processing facilities as well as the composition by fractions of the average waste bag, it has been estimated that less than 30% of light packaging waste produced in the island is properly collected. Light packaging is thus

the fraction with less recovery on the island of Menorca. The presence of abandoned waste in the environment and low levels of recycling are an indicator that the actual integrated management systems (SIG) applied throughout the territory is insufficient and does not guarantee the compliance with the EPR principle.<sup>31</sup>

A “waste characterization” performed in Menorca during 2018 and 2019 by the company Ecoembes,<sup>32</sup> provided detailed information about waste composition regarding beverage containers. The study focused on the fractions of general waste and light packaging, since these are the most probable destination of beverage containers. The results showed that within the general waste fraction, up to 16.4% correspond to beverage light containers, and 3.3% consisted of other plastic containers. This suggests that, with the proper valorisation of the material, for example through a return system with incentives for the population, it should be easier to recover the beverage containers and avoid that they end up in landfills. On the other hand, within the light packaging fraction it was seen that almost 21% of its composition in weight corresponded to inadequate materials for that fraction, making it more difficult to properly recycle the rest. Of this same fraction, 29.4% corresponded to PET plastic and 9.3% to HDPE plastic, both commonly used for beverage containers, which could be better valorised and properly returned to the production chain, if collected separately. Again, the scheme based on a containers' return system could potentially address that issue.

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<sup>27</sup> IUCN-EA-QUANTIS, 2020, National Guidance for plastic pollution hotspotting and shaping action, Country report Menorca

<https://plastichotspotting.lifecycleinitiative.org/pilots/>

<sup>28</sup> Consell Insular de Menorca. (2019). Pla Director Sectorial de Prevenció i Gestió de Residus No Perillosos de Menorca 2019-2025. Memòria justificativa. Menorca. <http://www.biosferamenorca.org/documents/documents/3512doc2.pdf>

<sup>29</sup> Consell Insular de Menorca (2019). Pla d'acció de la Reserva de Biosfera de Menorca. Lavola. Menorca.

<http://www.menorcabiosfera.org/Contingut.aspx?IdPub=3124>

<sup>30</sup> Consorci de Residus i Energia de Menorca (2018). Memòria de Residus 2010-2018. <http://cremenorca.org/WebEditor/Pagines/file/memories/Mem%C3%B2ria%202018.pdf>

<sup>31</sup> Consell Insular de Menorca. (2018). Costos i ingressos de la gestió de residus a Menorca.

<sup>32</sup> <https://www.ecoembes.com/es/ciudadanos/sala-de-prensa/notas-de-prensa/basura-illes-balears-organica>





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