

# Marine litter: Is the EU legislator doing enough for curbing plastic waste and littering at sea?

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Keywords: marine litter, circular economy, plastic waste, EU waste legislation, 2018 Strategy for Plastics, national implementation, application of EU law

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Marine litter is a “global issue of pressing concern”<sup>i</sup> affecting all the oceans of the world. Increasing amounts of waste end up in the oceans causing harm not only to the ecosystems and wildlife but additionally to human health and the economy. Careless littering on land (see Figure 1) as well as waste from cargo ships and fishing boats form the two main sources of marine litter. Most of this litter is plastic. According to Jambeck and others<sup>ii</sup> globally, 5 to 13 million tonnes of plastics, 1.5 to 4 % of global plastics production, end up in the oceans every year. More importantly in the EU, 150 000 to 500 000 tonnes of plastic waste enter the oceans each year affecting vulnerable marine areas such as the Mediterranean Sea and the Arctic Ocean.<sup>iii</sup> One could therefore ask how can this problem be tackled? Although many answers could, in theory, be given, in practice it is clear that this problem should primarily be tackled at source. It therefore becomes evident that the introduction as well as the successful implementation and application of EU waste legislation and policy form an important prerequisite to prevent plastic litter getting into the water. Apart from various legislative measures already in place, such as the Marine Strategy Framework Directive 2008/56/EC (hereinafter Marine Strategy Framework Directive)<sup>iv</sup> and the Plastic Bags Directive 2015/720/EU (hereinafter Plastics Bags Directive)<sup>v</sup>, the European Commission has just presented through its, first ever, European Strategy for Plastics in a Circular Economy (hereinafter 2018 Strategy for Plastics)<sup>vi</sup>, various legislative initiatives as part of its efforts to curb waste and to promote the transition towards a more circular economy<sup>vii</sup>.

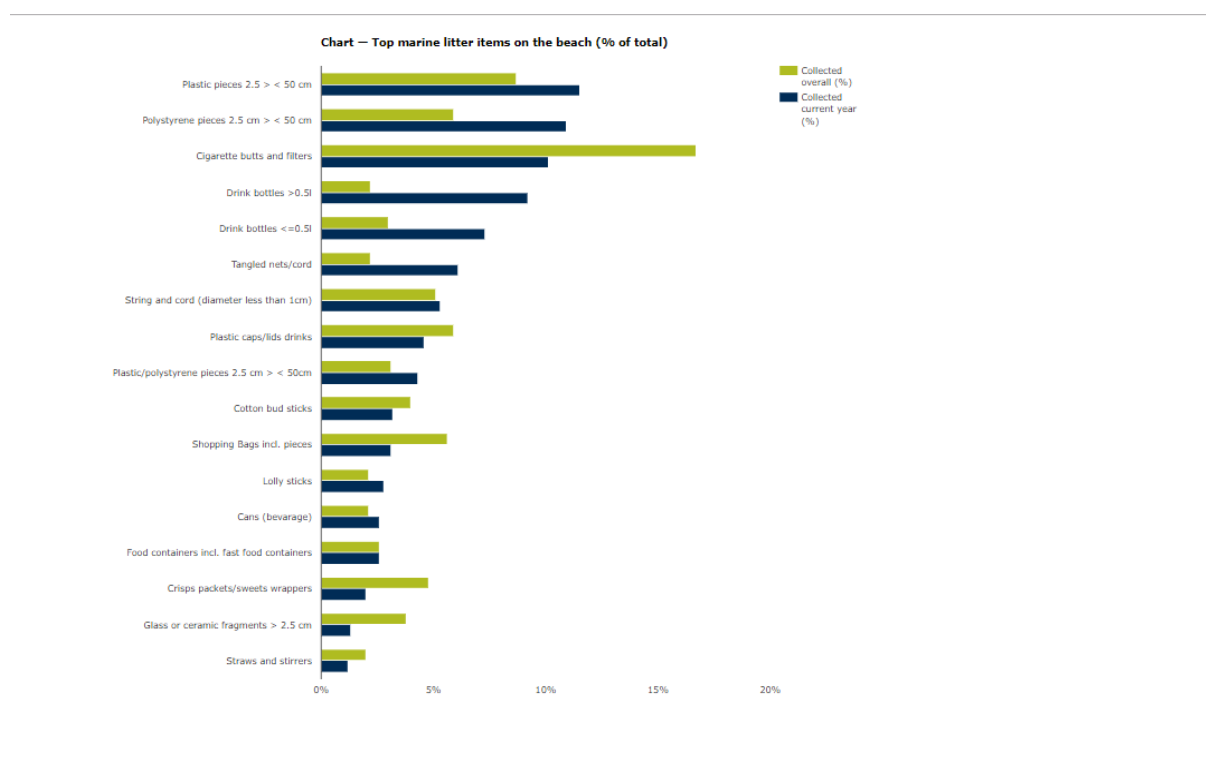


Figure 1: Top marine litter items on the beach (% of total) provided by European Environmental Agency

The aim of this paper is twofold. Initially this paper aims to bring forward the key provisions of existing EU legislation in the area of marine litter as well as to assess the main problems and difficulties surrounding this legislation both in terms of content as well as in terms of implementation and application at national level. More specifically this paper will focus on the Marine Strategy Framework Directive descriptor 10 according to which “properties and quantities of marine litter do not cause harm to the coastal and marine environment” and the effect of its legislative and implementing monitoring measures taken at national level giving practical examples. Additionally this paper will present the recent Plastic Bags Directive target of cutting the consumption of lightweight plastic carrier bags, either through economic instruments, such as charges or levies, or marketing restrictions such as bans. More importantly at this stage, by giving once again specific member states paradigms, this paper will shed light on the various exemptions inserted in national implementing legislation as well as on the various delayed national transposing measures and the extent to which these appear to diminish the impact of this directive in practice.

Secondly and most importantly, this paper aims to explore the proposed EU legislative initiatives and their practical significance for curbing plastic waste and littering at sea. More specifically, apart from presenting key EU legislative commitments for actions brought forward within the, first ever, 2018 Strategy for Plastics, such as new rules on packaging for improving plastics recyclability and on single use plastics, it will focus on the proposed rules on port reception facilities for the delivery of waste from ships<sup>viii</sup>. The latter proposal, if adopted, will repeal the Port Receptions Facilities Directive 2000/59/EC<sup>ix</sup> introducing an innovative indirect fee system for waste delivery according to which all ships would need to pay for the total cost of waste discharged in ports, regardless of whether they deliver any waste or not.

In order to reach its conclusions this paper will mainly follow a library based research methodology examining and commenting on primary and secondary legislation in the area of EU waste policy and marine litter as well as various other secondary sources such as academic articles and books. Special attention will additionally be drawn to statistical data from the European Environmental Agency website.

Based on the above analysis this paper will conclude that although the EU legislator is working hard on curbing plastic waste and littering at sea there is still room for improvement both in terms of legislation content as well as in terms of implementation and application of the law at national level. The importance of better co-operation and coordination of legislation at regional and global level will be additionally highlighted as an important factor in combatting and reducing marine litter in practice.

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<sup>i</sup> Proceedings of the United Nations Environmental Assembly of the United Nations Environment Programme at its first session Document UNEP/EA 1/10 (2014) para 64

<sup>ii</sup> Jambeck et al, *Plastic waste inputs from land into the ocean*, Science, February 2015

<sup>iii</sup> Eunomia, Report for European Commission DG Environment, *Study to support the development of measures to combat a range of marine litter sources*, 2016 < <http://ec.europa.eu/environment/marine/good-environmental-status/descriptor-10/pdf/MSFD%20Measures%20to%20Combat%20Marine%20Litter.pdf> >

<sup>iv</sup> Directive 2008/56/EC of the European Parliament and of the Council establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) (OJ L 164, 25.6.2008)

<sup>v</sup> Directive (EU) 2015/720 of the European Parliament and of the Council amending Directive 94/62/EC as regards reducing the consumption of lightweight plastic carrier bags (OJ L 115, 6.5.2015)

<sup>vi</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *A European Strategy for Plastics in a Circular Economy*, COM(2018) 28 final

<sup>vii</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, COM(2015) 614

<sup>viii</sup> Proposal for a Directive of the European Parliament and of the Council on port reception facilities for the delivery of waste from ships, repealing Directive 2000/59/EC and amending Directive 2009/16/EC and Directive 2010/65/EU, COM(2018) 33 final

<sup>ix</sup> Directive 2000/59/EC of the European Parliament and of the Council on port reception facilities for ship-generated waste and cargo residues (OJ L 332, 28.12.2000)