



19 July 2019

Mr. Daniel Calleja y Crespo
Director General for Environment
European Commission
rue de la Loi 200 Wetstraat
1049 Brussels

Dear Director General,

Waste Framework Directive:

Implementation of EU Litter Policy Measures: A Call to Action

Never has the issue of litter been as high on the political agenda as it is today and this is in very large part due to the actions of the European institutions, notably the Commission. We are enormously grateful for that. Yet we are only at the beginning of the journey, not the end, with everything still to gain and potentially much to lose if we do not capitalise on this unprecedented opportunity. Seizing the moment is the purpose of this letter.

You may recall that you kindly met with a small delegation of the **Clean Europe Network** at your offices on 19 January 2016, involving Ms. Inés de la Paz and Ms. María Cabrera of **Paisaje Limpio**, a Clean Europe Network member, and our secretary general. It was a positive and constructive meeting but one that we were unable to build on. Now we are ready to make clear proposals and we hope you will give them serious consideration.

During the meeting with the Network delegation, you expressed the view that it would be helpful to identify a way for your services and our Network to work more closely together on litter prevention, given that the Clean Europe Network is the only association at European level that brings together the leading NGOs, charities and not-for-profit companies that are focused on preventing the litter generated on land. As you know, 80% of marine litter emanates from the land; so, getting land-based litter under control is absolutely critical to the health of the seas and oceans.

Meanwhile, we were delighted that in May 2018 the European Union adopted Directive (EU) 2018/851 amending Directive 2008/98/EC on Waste. ***This established for the first time a balanced and coherent EU policy on litter and the prevention of littering.*** Sadly, this has received very little attention. The Commission could and should change that.

As proposed by the Commission, the 2018 EU litter policy is based on the principle of ***shared responsibility***, with all segments of society required to play their part. Our experience is that this approach is essential to success. In particular, we were delighted that ***the legislation answered our call to ensure that such shared responsibility included an explicit and binding obligation on producers.*** Until now, producers of frequently-littered products have taken no real responsibility for litter prevention in the vast majority of countries. The Waste Directive makes clear that as of July 2020 they must take responsibility for information to consumers to promote behaviour change.

Subsequently, the “Single Use Plastics” Directive made a major contribution with valuable measures introduced as of 2021. It is clearly a significant step forward. However, this directive does not constitute a comprehensive policy on litter and the prevention of littering. We are therefore concerned that all the media and political attention to the “SUP” Directive has overshadowed *the potentially more important long-term framework for litter and the prevention of littering established in the revised Waste Directive*.

Attached, please find the press information that the Clean Europe Network prepared on this new EU litter policy when it came into force just over a year ago. We regret that neither Commission, nor Parliament, nor Council took the opportunity to do the same. As a result, we feel that the tremendous step forward that was made has meanwhile gone unnoticed and will, potentially, be neither properly transposed at national level nor correctly/effectively implemented. That would be an unacceptable outcome in our eyes. We are sure you would agree.

There is, of course, still time for the Commission to be more pro-active about this EU litter policy before the deadline for transposing the Directive and to provide guidance to member state authorities on implementation. *We respectfully urge you to take action.*

Now that the “SUP” Directive has entered into force, we hope that the Commission will turn the spotlight back on the wider policy established in the Waste Directive where the answers to Europe’s broader litter challenge can be found. We are aware that the Commission is under a number of obligations to act regarding the Waste Directive and we think the Network could support those efforts in a practical way drawing on our collective experience and expertise.

Therefore, we would be most grateful if you would kindly agree to meet the Clean Europe Network in September to review this package in a working session. On our side, we would like to:

- **understand the status of relevant preparatory work** by the Commission on implementation;
- **offer our input** to the ongoing process as experienced experts from the field;
- **put forward some clear points of view** as to how some practical challenges can best be tackled based on the adopted provisions in EU law, with the aim of maximising the chances that the breakthrough measures contained in the new EU waste rules carry through effectively at national and/or territorial level.

To this end, we also attach a discussion document in which we refer to most of the key points regarding litter and the prevention of littering that are contained in the Waste Directive.

Yours sincerely,



Lise Keilty-Gulbransen
President of the Clean Europe Network
CEO Hold Norge Rent

cc. Roxana Lesovici, Assistant to the Director General

Waste Framework Directive:

Implementation of EU Litter Policy Measures: A Call to Action

The Clean Europe Network (the Network) is a pan-European platform where organizations active in the field of litter prevention share experience, expertise, best practice and research with a view to improving litter prevention across the EU. It aims to develop common programmes/methodologies in areas where there is added-value in a European approach.

Work covers communications to stakeholder audiences (especially to citizens) to promote litter prevention; measurement and assessment of litter and littering; and, practical improvement of litter management. The Network aims to support existing and new litter prevention groups, and to interact effectively with appropriate national and local authorities and other stakeholders to improve litter prevention techniques across the EU.

1. Executive Summary: Litter and the new EU Waste Rules

In July 2018, *Directive (EU) 2018/851 amending Directive 2008/98/EC on Waste* came into force. That means that member states (with some help from the Commission) are obliged to implement the revised provisions (for the most part) by July 2020. That is less than a year away as we write.

The expected focus on the Waste Directive following its entry into force has been somewhat dissipated until now by all the attention given to the “Single Use Plastics” Directive. In any event, it is clear that there is now a lot of preparatory work to be done by the Commission on the revised Waste Directive, the Single Use Plastics Directive and the revised Packaging & Packaging Waste Directive, although the latter is unlikely to be too relevant for litter (unless the revision of the so-called essential requirements for packaging deals with litter-related aspects).

With this in mind, the Clean Europe Network would be most grateful for a structured dialogue with the Commission on some or all of the following 8 topics (based on the explicit requirements of the revised Directive on waste):

- **the need for official EU guidance on definition of “litter” and “littering”** given the translation challenges that exist around these words;
- the results of the Network’s 2016 survey on **the legal status of litter as an offence** around the EU and how the research could be taken forward;
- as every member state is required to include a **national/territorial litter prevention strategy** in the national Waste Management Plans, we would like to explore with the Commission the key elements that should be included in such strategies so that these could be included in a guidance document or similar from the Commission;
- the need for a Commission-financed study to see where there are gaps in national law and practice in **linking land-based litter measures with marine litter obligations**;
- the need for much more work at national level to better characterise the litter challenge in order to be able to address it effectively and, notably, to **identify products littered** (and in this context the relevance of the Network’s common European litter measurement and monitoring methodology);

- the grey areas about where **EPR for litter prevention communications campaigns** end and **national government education and awareness-raising** starts;
- the need for **guidance on effective prevention communications** – in other words, what the programmes mentioned in the previous point should ideally contain;
- the need for a formal structure to facilitate **information exchange** on how best to apply litter prevention actions and campaigns and provide **guidance to public agencies & independent bodies overseeing EPR schemes**.

2. Tackling Litter in the revised EU Waste Rules

Below we provide a checklist of what the EU Waste Directive is set to tackle relating to litter and where there is an opportunity for the Network to interact with the Commission. Some of this is in fact repeated in relation to the products covered by the “Single Use Plastics” Directive. From a litter prevention point of view, it may be important to ensure that there is appropriate balance between what measures are put in place for single use plastics items vis-à-vis the range of other items that contribute (in some cases significantly) to the litter problem.

2.1 Clarify the definition of litter

The English language terms “*litter*” and “*littering*” used in the Waste Directive *do not translate easily into most EU languages*. Although the Network was not involved in lobbying on the detail of the revision of the Directive, at the explicit request of Simona Bonafè, MEP, (then European Parliament rapporteur on the revision of Directive 2008/98/EC on waste), we nevertheless developed a definition of litter. This was taken up in parliament’s negotiating position but, regrettably, was not retained in the final package because it was rejected by member states.

This situation is likely to create uncertainty in national implementation measures. It would, therefore, be appropriate for the Commission to provide guidance to member states on the definitions of “litter” and “littering” so that the litter-related provisions of the revised Waste Directive are uniformly interpreted by national governments and to ensure that what is considered litter/littering is harmonised across the EU.

Proposed Action: *we hereby kindly invite the Commission to highlight this issue in an official guidance note for Member States. We are ready to prepare a submission to assist in this exercise.*

2.2 Littering to be an offence

→ Article 36 on “Enforcement & penalties” – Para 1 expanded to refer explicitly to littering

Citizens who do not take their responsibility seriously will be breaking the law and should be subject to fines or other sanctions. According to the revised Waste Directive, Member states must now police this, saying “*Member States shall take the necessary measures to prohibit the abandonment, dumping or uncontrolled management of waste, including littering.*” In other words, dropping litter must be made an offence in all EU countries. Furthermore, Article 36 already requires that “*the penalties shall be effective, proportionate and dissuasive*”.

The Network carried out a survey of national legislation in 2016 to determine where littering is an offence and subject to sanctions.

Proposed Action: *we would like to share the results of our research and explore if funds are available to take this work further – greater public knowledge of the situation would put pressure on governments to take more action and enforce.*

2.3 Mandatory National Litter Prevention Strategies

→Article 28 on “Waste management plans” – A new point (f) on littering is added to Para 3

Member states are required by the Waste Directive to develop and implement so-called national/territorial **Waste Management Plans**, which they are required to submit periodically to Brussels. The revised Waste Directive requires that **a litter prevention strategy must also be included as an integral part of these WMPs**. In future, the Directive states that WMPs will be required to have “**measures to combat and prevent all forms of littering and to clean-up all types of litter**”. All types of litter would include, for example, tobacco waste, chewing gum, packaging, newspapers and magazines, paper personal hygiene products, and others.

Proposed Action: *we would like to discuss this requirement with the Commission and present the Network’s recommendations on:*

- *what a typical national litter prevention strategy should contain (conceptually only as details will need to be fixed locally in any event); and,*
- *how the Commission might assess national litter prevention strategies ex post ante when submitted;*

The Network believes that the Commission could usefully prepare a guidance document for member states on this topic.

2.4 Linking land, water and marine litter strategies

→Article 9 on “Prevention of waste” – Para 1 expanded (indent k) to aim to halt marine litter.

→Article 28 on “Waste management plans” – Para 5 expanded to link litter prevention to EU marine environment & water rules.

National prevention obligations will now require member states to take full account of EU marine environment and water directives when litter prevention strategies are developed and implemented, notably through their national Waste Management Plans.

Proposed Action: *we believe that it would be helpful if the Commission would define and finance a study to see where gaps exist in member state policy in this regard.*

2.5 Identify and address products that get littered

→Article 9 on “Prevention of waste” – Para 1 is expanded (indent k) to create this new obligation.

As part of the general requirement to prevent waste generation, member states must identify products that are the main sources of littering, notably in the natural and marine environments, and take measures to prevent and reduce litter from such products.

While many problem products are already known, there are variations between individual member states’ local litter challenges. This requirement will help member states clarify the right combination of measures to tackle local litter situations. To some degree, the “Single Use Plastics”

Directive has meanwhile “jumped the gun” in setting out what some of the “problem products” are and proscribing measures. Nevertheless, it is still essential to ensure that this requirement of the Waste Directive is implemented by member states.

Therefore, easy, cost-effective litter measurement and monitoring becomes a vital tool. Most member states have no established tool/system or experience with this.

Proposed Action: *it is only by characterising the local situation/problem that effective strategies for prevention can be addressed. This requirement should be built into all litter prevention strategies in national Waste Management Plans.*

The Network would like to organise a workshop with the Commission to determine what can be feasibly and cost-effectively delivered when it comes to measurement and monitoring and to present the Network’s common methodology concept.

2.6 Litter prevention campaigns, education and awareness

For Producers:

→New **Article 8a** on “General minimum requirements for producer responsibility schemes” – **Paras 2, 3 (c) and 4 (a)** create this new obligation.

→**Article 28** on “Waste management plans” – **A new point (f)** on littering is added to **Para 3**.

For Member States:

→**Recital 30**

→**Article 9** on “Prevention of waste” – **Para 1** is expanded (**indent 13**) to create this new obligation.

→A new **Annex IVa** on “Examples of economic instruments” – **Example 13** refers to public awareness on litter reduction.

The revised Waste Directive laid out a new arrangement for litter prevention communications. In the proposal, it appeared that a clear emphasis was to be placed on producers via the essential requirements that would be applied to producer responsibility organisations (e.g. packaging recovery organisations). Indeed, member states are required to ensure that the fees paid into relevant EPR schemes cover this requirement. Products not covered by an existing scheme will also have to be tackled by Member States (see points 2.3 and 2.5, above).

However, a potential point of confusion has emerged by the inclusion (on the recommendation of MEPs) of a provision that member states would be responsible for developing and supporting information campaigns to raise awareness about waste prevention and littering. This creates a bit of a grey zone as to who-will-do-what.

In practice, we suppose that this requirement is likely to see governments working with producer responsibility organisations to raise awareness and promote behavioural change. One way for government to control the cost will be to require relevant sectors to contribute to producer responsibility schemes to promote behaviour change.

Subsequently, the SUP Directive duplicated these requirements but with a “twist”. It states that member states should run campaigns but that producers should pay. It remains to be seen how this will all work out in practice. However, one thing is clear – ***there is supposed to be more and better litter prevention communications***. This is a core activity for many of our members either directly or indirectly.

Proposed Action: *the Network would like to review these potential grey areas with the Commission, explore the possibility of developing a “template” for what a good litter prevention communications programme might cover/include and the launching of a scheme/programme to support the creation of litter prevention organisations and programmes in Member States where there is currently little or no experience or expertise.*

2.7 The Commission and Information Exchange

→Article 8 on “Extended producer responsibility” – A new Para 5 creates this new obligation.

The Commission is charged with promoting information exchange between member states and the actors involved in producer responsibility schemes on practical implementation of the new requirements, including best practices, to ensure – among a range of other things – the prevention of littering. The Commission will publish the results of this exercise and may provide guidelines where relevant. Given our vocation in the area of prevention communications, we should be involved too, we believe and could make a substantial contribution.

Proposed Action: *the Network would like to explore with the Commission the creation of a formal structure to facilitate information exchange on how best to apply litter prevention actions and campaigns (e.g. education and awareness, changing behaviour, setting up and improving enforcement, cleaning & litter infrastructure, etc.) and provide guidance to public agencies & independent bodies overseeing EPR schemes.*

3. Conclusion

The Clean Europe Network would like to request a roundtable working meeting with Director General Calleja y Crespo and his team in September 2019 to review all these elements with a view to identifying practical paths forward in assuring effective implementation of the EU’s new litter policy at national level.

July 2019