



« **SPAIN MOVES TOWARDS THE CIRCULAR ECONOMY:**
imminent approval of the new law on waste and contaminated
soils and start of the new royal decree on packaging
and packaging waste. »



We are at a time of decisive change in which there is an active social demand to reduce the growing generation of waste and its polluting effects on the environment. Added to this is the need to make the best and most profitable use of available resources, given the scarcity of raw materials and the global economic crisis.

In this context, movements towards new business, production and waste management models have accelerated both in the practical and/or operational sphere (with innovative voluntary initiatives by economic and social agents) and in the regulatory framework.

To provide answers to the above situation, at the end of 2015 the European Commission approved a package of measures called the “**Circular Economy Package**” to stimulate Europe’s transition towards a new production and consumption model based on the sustainable use of natural resources, which included a compendium of measures among which was the

approval of a regulatory package that reviewed the key pieces of European Union legislation on waste. Therefore, in 2018, **Directive (EU) 2018/851** of the European Parliament and of the Council of 30 May 2018 amending Directive 2008/98/EC on waste and **Directive (EU) 2018/852** of the European Parliament and of the Council of 30th May 2018 amending Directive 94/62/EC on packaging and packaging waste were adopted. The deadline for transposition of these Directives was 5th July 2020.

In January 2018, the European Commission adopted the “**European Strategy for Plastics in a Circular Economy**”. This strategy lays the foundations for a new plastics economy in which the design and production of plastics and plastic products fully respect the needs for reuse, repair and recycling, as well as the development and promotion of more sustainable materials, repair and recycling needs, as well as the development and promotion of more sustainable materials. As part of this strategy, **Directive (EU) 2019/904** of



the European Parliament and of the Council of 5th June 2019 on the reduction of the impact of certain plastic products on the environment was adopted, with a transposition deadline of 3rd July 2021.

The transposition of these Directives in Spain, although behind schedule, is at a very advanced stage and the time horizon for the effectiveness of the new national legislation is imminent:

- It is at a very advanced stage of processing, the Draft of the new Waste and Contaminated Soil Act (LRSC), which will repeal and replace the current Law 22/2011, of 28th July, on Waste and Contaminated Land. The Bill is already at the stage of discussion of amendments in Parliament for its forthcoming approval.
- The Draft new Royal Decree on packaging and packaging waste (RERE) is at a preliminary processing stage, which will repeal Law 11/1997, of 24th April 1997, on packaging and packaging waste, as well as Royal Decree 782/1998, of 30th April 1998, approving the Regulation for the development and execution of Law 11/1997, of 24th April 1997, on Packaging and Packaging Waste. The public information phase of the Project ended on 28th October 2021.

The keys to the new Law on Waste and Contaminated Soil in the pipeline

In the words of the Minister for Ecological Transition and the Demographic Challenge, the new LRSC “is the cornerstone of the entire regulatory package on circular economy”. The new LRSC incorporates into our legal system the provisions of Directives 2018/851 and 2019/904, as well as the measures derived from the experience acquired during the application of Law 22/2011 in recent years, among which the following stand out (except for possible last-minute modifications):

- A very extensive and detailed regulation of “extended producer responsibility” (EPR) is incorporated, in coherence with European legislation. The new LRSC establishes the framework, principles and requirements to be met by the specific EPR regimes for each waste stream to be regulated, and will have a direct impact on several sectors, including some sectors that have so far remained outside the scope of EPR. In fact, it is expressly established that the WFD for textiles, furniture and furnishings, and agricultural plastics must be developed by regulation within a maximum period of 3 years.

The new EPR system provided for in the LRSC establishes a broader definition of the producer, regulates in detail the obligations of the producer of the product and the form of compliance with these obligations (individually or through a collective system), regulates the mechanisms for controlling compliance with these obligations in order to prevent fraud, establishes the legal form that the collective EPR systems must have and the participation of producers in them, and regulates the financial contribution that producers must pay to the collective system.

- In the **waste prevention** area, includes targets to reduce waste generation in the medium and long term; establishes measures to reduce food waste by encouraging food donation and other types of food redistribution; incorporates a ban on the destruction of non-perishable surpluses; and introduces measures to reduce the consumption of bottled water in single-use containers.
- In the **waste management area**, a mandatory separate collection timetable is established for new wastestreams (textiles, hazardous household waste, used cooking oils), bringing it forward for bio-waste; Community targets for preparing

for re-use and recycling are incorporated for municipal waste, differentiating a percentage of preparing for re-use; and obligations for waste production and management are revised as well as specific obligations for some waste streams such as bio-waste, used oils and construction and demolition waste.

- In the **specific plastics area**, restrictions and bans on the use of certain products, and a regulation of their design and composition are incorporated.
- This includes **the obligation for administrations to adopt economic instruments and incentives**.
- In terms of **environmental taxation**, and to encourage the circular economy, **a new tax is introduced on non-reusable plastic packaging** and a **tax on the deposit of waste in landfills, incineration and co-incineration** of waste, the latter already existing in some Autonomous Communities, but now universalised for the whole of Spain.
- **By-product and end-of-waste procedures are revised**, enabling the possibility of development at regional level.
- **The sanctioning regime is revised**, including new infringements and updating penalties.

The keys to the new Royal Decree on packaging and packaging waste in process

The Draft RERE currently being processed, which incorporates into our legal system in particular the provisions of Directive 2018/852 (although it also includes provisions that emanate from Directives 2018/851 and 2019/904), seeks to advance in the circular economy, establishing specific objectives

and measures for packagers, distribution, holders and administrations, among which the following stand out:

- In **prevention and reuse**, the reduction targets included in the Spanish Circular Economy Strategy are incorporated into the specific flow of packaging; the reuse of packaging is promoted by setting targets, among others, for water, soft drinks and beer, both in the hotel, restaurant and catering channel and in the domestic channel; reuse targets are set for all packaging associated with the household, commercial and industrial channels; it is proposed to provide reusable packaging at the point of sale and to allow consumers to take their own to be refilled; it is envisaged that reusable packaging will be placed on the market through a deposit, return and refund system (DRS), etc.
- It incorporates **recycling and design targets**. These are recycling targets set at EU level for packaging waste, both overall and by material; it sets separate collection targets for household packaging for 2025, 2030 and 2035, overall and by material, and overall targets for commercial and industrial packaging for the same time horizon; and it sets targets for packaging design (recycled plastic).
- The application of **extended producer responsibility (EPR) is extended to commercial and industrial packaging** and the EPR regime is revised in the specific area of packaging in accordance with the guidelines established in the new LRSC currently being processed, establishing general and specific obligations depending on the type of packaging (domestic, commercial or industrial). For the first time,



measures are introduced to promote the eco-design of packaging.

- **Transparency is increased** through the introduction of several mechanisms (creation of the packaging section in the Register of Product Producers and the obligation of annual reporting by the producers concerned; definition of the calculation method to verify compliance with the targets set in the RERE, etc.).



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