



C/2024/887

6.2.2024

Opinion of the European Economic and Social Committee on the proposal for a Directive of the European Parliament and of the Council on Soil Monitoring and Resilience (Soil Monitoring Law)

(COM(2023) 416 final — 2023/0232 (COD))

(C/2024/887)

Rapporteur: **Arnold PUECH d'ALISSAC**

Referral	Council, 21.9.2023 Parliament, 16.10.2023
Legal basis	Articles 192(1) and 304 of the Treaty on the Functioning of the European Union
Section responsible	Agriculture, Rural Development and the Environment
Adopted in section	2.10.2023
Adopted at plenary	25.10.2023
Plenary session No	582
Outcome of vote (for/against/abstentions)	171/2/11

1. Conclusions and recommendations

1.1. The European Economic and Social Committee (EESC) agrees with the European Commission that better monitoring of the condition of European soils is necessary; this will enable measures to be taken to ensure and maintain their good health which is essential for healthy terrestrial ecosystems and for certain activities, primarily agricultural and forestry ones. As such, it welcomes the overall objective of the proposal for a Directive: to establish a robust and coherent soil monitoring framework for all soils in the EU, which will bridge the current gaps in this area. The EESC notes that the establishment of a comprehensive knowledge base on the health of European soils is necessary but is not enough to achieve the target of ensuring that all European soils are healthy by 2050. It emphasises that, in order to achieve this target, the Directive must be supported by appropriate financial resources from funds earmarked for the environment.

1.2. However, the EESC has a number of comments and concerns regarding the methodology and criteria used to assess soil health. According to the Commission's definition, healthy soils are 'in good chemical, biological and physical condition so that they can provide ecosystem services that are vital to humans and the environment, such as safe, nutritious and sufficient food, biomass, clean water, nutrients cycling, carbon storage and a habitat for biodiversity'. The criteria chosen to determine the level of soil health are divided into three categories: criteria determined at EU level, criteria determined by the Member States and non-quantitative soil descriptors. The criteria left to the discretion of the Member States risk distorting competition.

1.3. As regards the financial aspects, the Commission states that measures to promote soil health are able to generate a net benefit compared to the costs of their implementation, even though the primary item of expenditure is remuneration for sustainable soil management practices. The EESC notes that there is no provision for new sources of funding and that the Commission proposes financing action through the national strategic plans drawn up by the Member States under the Common Agricultural Policy (CAP), which the EESC does not consider acceptable.

1.4. While it is necessary to monitor and preserve soil health, the sustainable soil management practices that the Commission wishes to encourage require common rules to be set that are compatible with the characteristics of the various soils, while limiting Member States' room for manoeuvre as much as possible. Not only will this ensure the consistency of soil health data, it will also reduce distortions of competition in soil use, whether agricultural soil, natural soil or soil for urban transformation, and will prevent environmental dumping for the benefit of Member States with less stringent regulations. In this regard, the EESC stresses the importance of ensuring the health of people and ecosystems, and that food

is produced safely, reliably and sustainably on European farmland, in light of international crises affecting the global food market and of the effects of climate change, which are jeopardising biodiversity and food security. Furthermore, the EESC believes that preserving soil health is the most valuable investment to be made at EU level in ensuring our adaptation to climate change and food security for current and future generations of Europeans.

1.5. The EESC endorses the timetable suggested by the Commission, which provides for two stages of implementation: first, soil health would be monitored and analysed, and then sustainable soil management measures would be extended to areas where the soil is deemed to be in poor health. However, the EESC emphasises the need to give financial and technical support to farmers who already play an important role in maintaining soil health through various practices, such as crop rotation, mulching and certain tillage practices that prevent soil degradation, erosion and the loss of fertility in certain areas.

1.6. With regard to the objective of reducing land take, the EESC finds the proposal for a Directive disappointing. Article 11 stipulates principles for mitigating the effects of land take, but these principles are painted in broad strokes: avoid or reduce as much as possible the loss of the soil's capacity to provide multiple ecosystem services, including food production, and compensate for it as much as possible. The EESC calls for the 'no net land take by 2050' target to be strengthened. This can be achieved by prioritising land reuse and recycling, by minimising urban development projects on arable land and by restoring equivalent areas to offset such projects.

1.7. The EESC recommends that the indicators of good soil health relating to excess nutrients in soils, contamination from heavy metals and organic contaminants, and a reduction in the soil's capacity to retain water (listed in part B of Annex I), which are currently left to the discretion of the Member States, be harmonised in order to limit any distortions of competition.

1.8. The EESC supports the objective of ensuring that all soils are healthy by 2050 but believes that the definition of good health proposed by the European Commission is too restrictive. In parts A and B of Annex I, the Commission lists a set of criteria to be monitored in order to analyse soil health, specifically: salinisation, erosion, loss of organic carbon, compaction, excess nutrients (phosphorus), contamination (heavy metals) and capacity to retain water. The Commission considers soil to be in poor health if one of these criteria is not met. The EESC therefore recommends that failure to meet all the criteria listed in parts A and B of Annex I should not result in soil being considered to be in poor health. It suggests establishing a multi-criteria rating system to more accurately assess soil health and measure the progress made following the implementation of sustainable soil management methods.

2. Background

2.1. The European Commission's legislative proposal follows an initial proposal on soil that was put forward in 2006 but was unsuccessful. As a result, the EU currently has no harmonised soil legislation, even though, according to the Commission, 60-70 % of soils in the EU are in poor health ⁽¹⁾ and even though there is already similar legislation for air and water ⁽²⁾, and the Pathway to a Healthy Planet for All was drawn up in 2021 ⁽³⁾. Some Member States have already been carrying out national soil health monitoring activities and can implement management measures (in particular through the national strategic plans established under the CAP), but these monitoring methods and management measures are not harmonised and will not meet the objective of ensuring that all soils are healthy by 2050.

2.2. This widespread poor soil health across the EU generates costs for Member States and poses risks to the environment and human health, according to the Commission's estimates. Soil provides important ecosystem services, but only when it is healthy. Soil health can thus have an impact on certain income-generating activities, in particular agriculture.

⁽¹⁾ Caring for soil is caring for life (European Commission).

⁽²⁾ Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe (OJ L 152, 11.6.2008, p. 1), Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

⁽³⁾ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Pathway to a Healthy Planet for All EU Action Plan: 'Towards Zero Pollution for Air, Water and Soil' (COM(2021) 400 final).

2.3. The Commission also identifies risks associated with soil contamination. Among these risks, it is particularly important to stress that soil contamination can affect the health security of the food produced and thus food security, in a global context where markets are increasingly exposed to international crises and to the consequences of climate change in terms of the increased intensity and frequency of extreme weather phenomena, such as droughts, forest fires, floods and storms, which have put these concerns back on the agenda. Soil health and fertility are thus becoming geostrategic issues.

2.4. This legislative proposal has also been published against the backdrop of increased pressure on EU soils, in particular due to agricultural and forest land take by economic activities and infrastructure. The Commission estimates that 4,2 % of the EU's land has now been subject to land take through these practices, which poses risks in terms of water resource management and reduces the area of agricultural land available.

2.5. As the EESC has mentioned in previous opinions ⁽⁴⁾, soil degradation is an issue of growing concern, associated with increased damage due to extreme events, to loss of terrestrial biodiversity, to disruption of biochemical cycles, affecting greenhouse gas emissions, to air and water pollution, and to related risks to human and animal health. The activities mainly affected by this Directive include agriculture and forestry, for which soil use is paramount. The European Commission estimates that soil erosion could lead to an annual agricultural productivity loss of EUR 1,25 billion in the EU.

2.6. Many measures and sources of funding are already available to Member States for the preservation of soil and soil health. The Commission lists eight programmes that are an opportunity for this proposal: the 'Soil Deal for Europe' under the Horizon Europe programme, which aims to protect and restore soil health by 2030; the first three pillars of the Horizon Europe programme, which aims to facilitate cooperation between Member States in the field of research and innovation; the CAP, in particular through conditionality, eco-schemes and support under the second pillar; cohesion policy funds; the Programme for Environment and Climate Action (LIFE); the Technical Support Instrument (TSI); the Recovery and Resilience Facility; and InvestEU. The proposal for a Directive thus builds on the practices already in place and proposes a harmonised monitoring framework to assess their impact.

2.7. The legislative proposal's primary objective is to establish a harmonised monitoring system for all soils across the Member States, as the Commission has identified a lack of data and indicators to monitor soil health and quality at EU level. Articles 1 to 9 therefore specify the framework for this monitoring system and the indicators used to establish soil health. The Commission believes that healthy soils are 'in good chemical, biological and physical condition so that they can provide ecosystem services that are vital to humans and the environment, such as safe, nutritious and sufficient food, biomass, clean water, nutrients cycling, carbon storage and a habitat for biodiversity'. Annex I sets out several criteria that will be subject to monitoring by Member States. Four of these criteria are established at EU level, four are not quantified and, for the last three, the Commission proposes ranges for the Member States which are free to determine national thresholds.

2.8. To meet the proposal's second objective of continuously improving soil health in the EU with a view to achieving healthy soils by 2050, the Commission has established principles for sustainable soil management. On the basis of these principles, the Member States must establish sustainable soil management practices which are not compulsory at this stage, but which the Member States must encourage, in particular by utilising CAP funding. Furthermore, good soil health resulting from these practices will be accredited by a certification of healthy soil: this should increase the value of the land and enable the production of higher quality food, which will be remunerated by the market, according to the Commission.

⁽⁴⁾ Opinion of the European Economic and Social Committee on the communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Pathway to a Healthy Planet for All — EU Action Plan: 'Towards Zero Pollution for Air, Water and Soil' (COM(2021) 400 final) (OJ C 105, 4.3.2022, p. 143) and Opinion of the European Economic and Social Committee on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on EU Soil Strategy for 2030 — Reaping the benefits of healthy soils for people, food, nature and climate (COM(2021) 699 final) (OJ C 290, 29.7.2022, p. 131).

2.9. In relation to the second objective, the Commission calls for potentially contaminated sites to be identified and assessed in order to implement management measures to avoid unacceptable risks to human health and the environment. Articles 12 to 16 thus provide that, within four years of the entry into force of the Directive, the Member States must take a risk-based approach to identifying and investigating potentially contaminated sites and managing contaminated sites. In this regard, Member States must also define what constitutes an unacceptable risk to human health and the environment, taking into account existing scientific knowledge, the precautionary principle, local characteristics, and current and future land use. Member States will have seven years after the entry into force of the Directive to identify all potentially contaminated sites and register them in the public register provided for in Article 16.

2.10. Lastly, the proposal for a Directive contains provisions to limit land take for the development of infrastructure. Article 11 establishes principles to limit land take. It therefore recommends avoiding or reducing as much as technically and economically possible land take leading to soil losing its capacity to provide multiple ecosystem services, including food production, and compensating for it as much as possible.

2.11. The European Commission plans to evaluate the Directive six years after its entry into force to assess the progress made towards achieving its objectives. The European Commission can then potentially draw up a new proposal including binding requirements to ensure soil regeneration and achieve the objective of ensuring that all soils are healthy by 2050.

3. General comments

3.1. Three indicators of good soil health are left to the discretion of Member States, to be adapted to local characteristics: an excess of nutrients in the soil (phosphorous), soil contamination (concentration of heavy metals and of a selection of organic contaminants) and a reduction in the soil's capacity to retain water. This risks distorting competition — an issue that could arise when determining the value of land (in particular, agricultural land), with the Member States each using different criteria to assess soil health.

3.2. There is also a risk of distorting competition with regard to sustainable soil management practices, due to the flexibility left to the Member States on how to define and remunerate such practices.

3.3. With regard to contaminated sites, the EESC stresses the need to carefully monitor both the measures imposed to decontaminate the sites and how the associated costs are covered. Soil contamination can affect a community as a whole or individuals and landowners who are not responsible for the contamination. This is particularly true for farmers who take over a farm and cannot possibly identify all the sources of contamination that were there already. It is therefore important to clarify the responsibilities of the various stakeholders and how the costs will be covered. As far as possible, this should be done in accordance with the polluter pays principle, in order not to impose on the public authority or the new owner the consequences of past actions, while taking into account the conditions and legislative framework under which those actions were carried out, in particular in the agricultural sector.

3.4. The EESC stresses, as part of the right to a healthy environment⁽⁵⁾, the related role of soil in biodiversity, climate-change adaptation and mitigation, and in particular water retention, in line with its call for a European Blue Deal⁽⁶⁾.

4. Specific comments

4.1. The first of the criteria that the Commission proposes in Article 13 for identifying potentially contaminated sites is operation of an active or inactive activity with a potential contamination risk. To define this criterion, Member States will have to draw up a list of potentially contaminating activities. The EESC warns of the risk of certain agricultural activities being included in these lists. Alternative market outlets unrelated to food must be a solution.

4.2. It is important that all types of agriculture have access to sustainable soil management practices and certification of healthy soil in order to avoid distortions of competition. A close watching brief must be ensured when the Member States draw up the criteria for which they are responsible.

⁽⁵⁾ Opinion of the European Economic and Social Committee on 'Sustainable water management and climate emergency: circular and other solutions for the EU agri-food system in a future "Blue Deal"' (own-initiative opinion) (OJ C 349, 29.9.2023, p. 80).

⁽⁶⁾ EESC information report *Environmental protection as a prerequisite for respect for fundamental rights*.

4.3. The Commission does not propose binding targets regarding land take, meaning that this phenomenon will not be curbed even though it results in less agricultural and forest land being available across Europe. The target of 'no net land take by 2050', set in 2013 as part of the 7th EU Environment Action Programme, must be strengthened.

4.4. The cost of identifying contaminated soil (EUR 29 billion over 15 years) is estimated to be higher than that of soil remediation or containment (EUR 24,9 billion over 25 years). Given the magnitude of these costs and the uncertainties surrounding their estimation according to the Commission's impact assessment, the EESC believes that the impact assessment needs to look deeper into this point. It is therefore important to provide sufficient sources of funding to ensure that the cost to landowners and farmers is not intolerable and to give them visibility. This requires identifying who is responsible for soil contamination and distributing the costs fairly.

4.5. With regard to soil health indicators, the descriptive criteria need to be monitored. These criteria risk distorting competition between Member States, in particular those relating to the loss of soil biodiversity, since Member States may choose to select different criteria such as metabarcoding of bacteria, of fungi, of protists and of animals, abundance and diversity of nematodes, microbial biomass, abundance and diversity of earthworms (for cropland), and invasive alien species and plant pests.

4.6. The EESC supports the Commission's approach of implementing certification of healthy soil in order to increase the value of the land in question and thus of the sustainable management practices put in place in these areas, as long as this approach remains voluntary. However, it expresses reservations regarding the idea that the certificate will lead to a gain in terms of land value or through the price of the food produced there. The EESC therefore recommends that the proposal for a Directive do more to regulate the valuation of good soil health.

4.7. The definitions of 'natural land' and 'semi-natural land', as opposed to 'artificial land', used to define the parameter 'land take', are problematic. The EESC therefore proposes deleting the definitions of 'natural land' and 'semi-natural land', and defining 'land take' as 'the conversion of land into artificial land' for the extension of buildings, infrastructure, quarries and so on. It would also be useful to have a list of examples of forms of land cover so that all Member States could follow the same criteria to monitor land cover in the many cases where there may be doubts regarding the classification of artificial land.

Brussels, 25 October 2023.

*The President
of the European Economic and Social Committee*
Oliver RÖPKE

ANNEX

The following amendment, which received at least a quarter of the votes cast, was rejected in the course of the debate (Rule 74(3) of the Rules of Procedure):

AMENDMENT 1

Point 1.3

Amend as follows:

Section opinion	Amendment
As regards the financial aspects, the Commission states that measures to promote soil health are able to generate a net benefit compared to the costs of their implementation, even though the primary item of expenditure is remuneration for sustainable soil management practices. The EESC notes that there is no provision for new sources of funding and that the Commission proposes financing action through the national strategic plans drawn up by the Member States under the Common Agricultural Policy (CAP), which the EESC does not consider acceptable.	As regards the financial aspects, the Commission states that measures to promote soil health are able to generate a net benefit compared to the costs of their implementation, even though the primary item of expenditure is remuneration for sustainable soil management practices. The EESC notes that there is no provision for new sources of funding and that the Commission proposes financing action through the national strategic plans drawn up by the Member States under the Common Agricultural Policy (CAP), which the EESC does not consider acceptable. <i>The EESC advises the Commission to call on the Member States to put in place sustainable soil management practices, which are not mandatory at this stage but which the Member States should encourage, by means of specific funds other than the CAP.</i>

Outcome of vote:

In favour: 72
Against: 89
Abstentions: 16