



Joint statement on the publication of the Commission's proposal for a Soil Law

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Joint statement on the publication of the EC proposal for a Directive on Soil Monitoring and Resilience

We, the signatories of this statement, welcome the European Commission's proposal for a Directive on Soil Monitoring and Resilience (Soil Monitoring Law). Unfortunately, the proposal in its current form will not enable the achievement of healthy soils in the EU. The change of the name of the legislation, which was originally planned to be called 'Soil Health Law', is symbolic of its lack of ambition and its shift away from soil health towards largely soil monitoring. With this statement, we would like to express our support for this initiative but also stress how the EC proposal can be improved in order to help the EU achieve the objective of healthy soils by 2050.

The lack of dedicated EU soil legislation has led to very partial protection of soils and highly fragmented governance. A strong Soil Law has the potential to change this. Healthy soil ecosystems connect many of our most important challenges, including tackling the climate, biodiversity and pollution crises, ensuring food security and sustainable water management, as well as nutrient and carbon cycles. These challenges are transboundary and a coherent European approach is long overdue.

However, the EC proposal for the Soil Law lacks ambition and must be significantly improved to lead to effective change. For this, we urge the co-legislators to consider the following elements for improvement:

1. Strengthen the overarching objective

The proposed directive sets overarching objectives to put in place a monitoring framework and to continuously improve soil health with the view to achieve healthy soils by 2050. However, without a roadmap, milestones, legally binding targets and mandatory plans, it remains unclear how the proposal aims to achieve this objective. In addition, the objective

itself is very weak. Achieving healthy soils by 2050 is only mentioned as a perspective and a potential consequence of action.

2. Include legally binding targets

Unfortunately, the proposal does not include legally binding targets. Such targets are necessary tools to measure progress and hold Member States that fail to meet their commitments accountable. For this reason, we suggest including medium- and long-term binding targets, for example for restoring soil biodiversity or reducing pesticide residues in soil.

3. Focus soil monitoring on soil biology and land users

In times of multiple and converging crises, monitoring and assessment of soil health should not only provide general information to the Commission, Member States and the public, but should be part of a farmer- and soil biodiversity-based strategy to improve overall soil health.

Unfortunately, the proposal includes an incomplete list of soil descriptors. While it is positive that the list includes a descriptor to measure the loss of soil organic carbon, the lack of adequate soil biodiversity descriptors is very concerning. Annex I of the proposal should include a mandatory and detailed list of different soil biodiversity descriptors and respective criteria for healthy soil condition.

4. Ensure effective governance

We welcome the reporting provisions for Member States, however reporting should start earlier and be more frequent.

The provisions on information to the public and access to justice are also a positive inclusion. This is a right step towards ensuring better enforcement and implementation of the law and promoting environmental democracy.

However, the proposal does not include an obligation for Member States to draw up national soil health strategies or plans. This is very concerning, as such plans are necessary to define the obligations of competent authorities and ensure effective action, traceability and accountability.

5. Prevent and clean up soil pollution

It is positive that the proposed directive requires Member States to identify and investigate all potentially contaminated sites, that there is a timeframe for the identification of potentially contaminated sites and that a register of contaminated sites is included.

However, the articles on contaminated sites allow significant flexibility to Member States, for example on setting a timeframe for the investigation of potentially contaminated sites and for the management of contaminated sites. This level of flexibility related to sites that can pose a significant risk to human health and the environment is very concerning.

Furthermore, the proposal does not sufficiently address the important issue of the heterogeneity of national legislative frameworks for brownfield redevelopment. Land reclamation actions are often a prerequisite for operators' choice of location in an increasingly internationalized real estate market. However, the important soil related gaps

left by the Industrial Emissions Directive are not sufficiently filled through this proposal. This creates room for environmental dumping and favours operators investing in Member States with less stringent rules.

Also, pesticide residues and other contaminants originating from excessive intentional application and diffuse pollution are not mentioned in the current proposal even though monitoring of these substances is essential to assess distribution risks and trends of soil contamination. The proposal should include a list of key pollutants with threshold for which monitoring and evaluation is mandatory and appropriate recommendations for sustainable soil management practices. Exceedance of these thresholds should lead to concrete action. For both diffuse pollution and contaminated sites, evaluation against these thresholds should be included in binding targets for 2030, 2040 and 2050.

6. Include binding provisions on land take

The proposed directive does not include a target regarding land take – legally binding or not. The language of the article on land take is weak, aiming at reducing the area affected by land take “to the extent possible”. It is unclear why a 'no net land take by 2050' target has not been included, although it is reiterated by the European Commission in the 7th Environment Action Programme to 2020, the Roadmap to a Resource Efficient Europe and the EU Soil Strategy for 2030.

In addition to including a 'no net land take' target, the proposal should ensure application of the 'land take hierarchy' referred to in the Soil Strategy. This would give priority to reusing and recycling land and to quality urban soil as well as phase out financial incentives that would go against this hierarchy.

7. Make polluters pay

The proposed Directive does not introduce concrete mechanisms to ensure the application of the Polluter Pays Principle, such as an Extended Producer Responsibility Scheme. The Soil Law should ensure that big players whose activities degrade soil are held accountable and contribute financially to the monitoring and soil health restoration.

8. Mobilise the necessary financial resources

Referring to voluntary certificates for soil health, for which there is no economically significant market, is not a viable path for mobilizing the financial resources necessary to reversing the trend of soil health degradation in Europe. Instead of building a comprehensive soil health monitoring system - a necessity for such certification - via the private sector, the Commission and Member States should develop such an extensive monitoring and assessment system themselves.

This is also a condition to enable public institutions to develop result-based subsidy schemes. Such schemes can synergistically combine our agronomic (high quality and quantity of yields along with a fair standard of living in agricultural communities) and our ecological imperatives (protection of biodiversity and no disruption of natural cycles).

In order to finance EU wide protection and restoration of soil health and the sustainable use of soils, the Soil Law should require a result-based and soil health focused future CAP as well as make sure that current Strategic Plans focus systematically on soil health.

We call on the European Parliament and the Council to consider these elements when negotiating on this Law. The Commission proposal for a Soil Monitoring Law is a start – now it must be improved upon to secure the future health of European soils.

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