

EURACOAL Opinion and Recommendations on the European Commission proposal for a Soil Monitoring and Resilience Directive (Soil Monitoring Law, COM(2023)0416)

The proposal by the European Commission for a Soil Monitoring Law would have a significant, negative impact on the mining sector as it does not consider the specific characteristics of raw materials extraction. According to the Commission proposal, raw material deposits in the ground (as well as the surrounding rocks and soils) would be defined as “soil”. Thus, the extraction of raw materials would be categorised as “soil degradation” and would no longer be permitted.

This would be a *de facto* ban on mining, which is certainly not the intention of the European Commission or co-legislators. There is therefore a need for specific amendments to the Soil Monitoring Law to allow the extraction of raw materials in the EU and to meet EU goals on industrial transformation, digitalisation, security of food supply and energy security.

For a secure supply of raw materials, it is essential that the [Committee on Agriculture and Rural Development \(AGRI\) amendments of 6 December 2023 be ADOPTED](#) – not only in the AGRI committee but also in the ENVI committee and by the European Parliament in plenary.

Article 2 – Scope

Amendment 192 to Article 2, paragraph 1

The Soil Monitoring Law should not apply to installations and activities that are already subject to specific national legislation on soils (*i.e.* construction law, mining law and agricultural law).

Article 3 – Definitions

Amendment 195 to Article 3, paragraph 1, number (1) on ‘soil’ definition

The definition of ‘soil’ in the Commission proposal does not contain a depth limit, so ‘soil’ would in principle include very deep parts of the earth’s crust and thus also raw material deposits. Hence, it is crucial to clarify that raw materials are not ‘soil’ within the meaning of the proposed directive and so not within the scope of the Soil Monitoring Law. Otherwise, it would co-regulate the extraction of raw materials at EU level by defining ‘soil’ too broadly. That would clearly contradict the subsidiarity principle because the competence to regulate mining lies with EU Member States.

[EURACOAL also welcomes the following AGRI amendments be ADOPTED:](#)

Article 9 – Assessment of the soil health

Amendments 360 & 361 to Article 9, paragraph 2, subparagraph 2

Consideration of heavily modified soils and geogenic background values.

Amendment 365 to Article 9 paragraph 2, subparagraph 3

Consideration of soil functions and uses in the assessment of soil health.

ENVI Committee Amendments

Below is our assessment of the amendments by Rapporteur MEP Martin Hojsík (24 October 2023) and the Environment Committee (28 November 2023) which do not yet address the specific impacts on raw materials extraction:

Article 1 – Objective and Subject matter

The following amendments are positive and should be **ADOPTED**:

Consideration of technical feasibility and economic proportionality:

AM 218 (taking into account technical feasibility and economic proportionality)

Directive should be more flexible:

AM 223 (flexible ... framework for **relevant soils ... with the **aim** to achieve healthy soils ...)**

The following amendments are negative and should be **REJECTED**:

Introduction of legally binding or stricter targets:

AM 25 (Rapporteur) (... **put in place measures to ensure that by 2050 all soils are in a healthy condition)**

AMs 149, 150 & 151 (Rapporteur)

AMs 216 & 233 (binding targets of healthy soils by 2050)

AMs 233 & 225 (ensure that all soils in the Union are in a healthy condition by 2050 at the latest)

Introduction of binding interim targets:

AM 230 (intermediate targets by 2035, 2040 and 2045)

AMs 236, 237 & 238 (introduction of a new Article 1a on heathy soil targets)

Article 3 – Definitions

The following amendments are positive and should be **ADOPTED**:

AMs 250, 251, 252, 254 & 255 to paragraph 4 on ‘soil health’ and consideration of soil functions (... **taking account of land use and the purpose thereof)**

AM 271 to paragraph 16 on ‘artificial land’ (... means **soil sealing or land used)**

AMs 282 & 283 to paragraph 20 on ‘soil contamination’ (... that **are harmful)**

The following amendments are negative and should be **REJECTED**:

AMs 280 & 281 (soil contamination)

Article 9 – Assessment of the soil health

The following amendments are positive and should be **ADOPTED**:

Deletion of the “one-out, all-out” approach:

AMs 424, 425, 446 & 447

Possible derogations due to special conditions or historical and natural background values:

AM 412 (Esther de Lange) (... **while taking into account the historical and natural circumstances of the soil**)

AMs 426, 444 & 450 (Marlene Mortler et al)

Only relevant soil descriptors should be taken into consideration:

AMs 414, 434 & 440 (Emma Wiesner et al)

Classification as “non-healthy” only when significantly deteriorated:

AM 453 (Andreas Glück et al)

Derogations for artificial or heavily modified soils:

AM 459 (... **Artificial land shall be excluded from meeting the conditions for healthy soil.**)

Consideration of soil functions:

AMs 411 & 412 (Jan Huitema)

AMs 461 & 463 (relating to the intended function of the soil)

Deletion of paragraph 5 on soil certificate:

AM 470 (Marlene Mortler et al), also **AMs 471 & 472**

The following amendments are negative and should be **REJECTED**:

Introduction of five soil categories etc.:

AMs 28, 29, 60, 122 & 123 (Rapporteur)

Introduction of soil district plans (similar to EU Water Framework Directive):

AM 65 (Rapporteur)

MS have to ensure that the soil condition is improved:

AM 66 (Rapporteur)

Stronger requirements for voluntary soil certificates (paragraph 5):

AMs 68, 69 & 70 (Rapporteur)

Land owners shall carry out a soil health diagnosis (paragraph 5):

AM 480 (Pascal Canfin)

Article 10 – Sustainable soil management

The following amendments are positive and should be **ADOPTED**:

Deletion of Article 10 and Annex III:

AMs 489, 524 & 724 (Marlene Mortler et al), **AM 725** (Jessica Polfjärd, Henna Virkkunen)

Article 11 – Land take mitigation principles

The following amendment is negative and should be **REJECTED**:

Aim of zero net land take by 2050:

AM 83 (Rapporteur)

Article 24 – Evaluation and review

Following amendments are positive and should be **ADOPTED**:

AM 697 (deletion of “**and the need to amend its provisions ... to ensure ... all soils will be healthy by 2050.**”)

AM 715 (Esther de Lange) (assessment of **the socio-economic consequences**)

AM 713 (deletion of Article 24, paragraph 1e on soil descriptors)

Following amendment is negative and should be **REJECTED**:

AM 698 (Manuela Ripa) (to ensure that **75% of the soils of the EU are healthy or improving by 2035 ...**)

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