

ECN feedback on the Commission's proposal for a Soil Law

11 October 2023

The European Compost Network ECN welcomes the opportunity to provide feedbacks on the Commission's public consultation concerning the new proposal for a directive on soil monitoring and resilience.

Being the association representing the bio-waste recycling sector at European level, the ECN has been a strong advocate for sustainable management of soils since its creation in the early 2000s. In fact, bio-waste recovery through composting and anaerobic digestion produces organic soil improvers and fertilisers – compost and digestate – whose application is nowadays all the more important since degraded soils account for 60-70 % of European land. High-quality compost and digestate improve soil health and productivity in many different ways, by increasing soil organic matter and soil biodiversity, reducing soil compaction, improving water holding capacity and by being sources of recycled nutrients which are held in the soil longer thanks to the positive effect of the increased organic matter on soil buffering capacity, thus requiring fewer mineral fertilisers.

Against this background, the ECN supports the general objectives of the initiative from the European Commission, since the lack of a dedicated legislation on soil has had - and could still have - a negative effect on soil protection and governance. Despite this, we think there is room for changes and improvement on certain aspects addressed by the Soil Monitoring Law (SML), above all those which can highlight the need and foster the utilisation of organic materials for the benefit of soil in a circular economy perspective.

BINDING TARGETS

The ECN acknowledges the staged approach taken by the EC while drafting the proposal and recognizes that Member States (MSs) need time to set up monitoring and assessment

systems accordingly. In this sense, we support the inclusion of a fitness-check of the directive after six years from its entry into force. Still, the lack of legally binding targets in the adopted proposal is a missed opportunity from the EC, and a setback from the EU Soil Strategy's ambition of having all soils in healthy states by 2050. Targets are necessary to evaluate the progress of MSs and assess their compliance; we therefore call on the Commission to set long-term target on soil health by the time of the aforementioned fitness-check at the very latest, since a first assessment of soil health should have already been carried out by the Member States.

SOIL DESCRIPTORS

The ECN fully supports setting descriptors and criteria for assessing soils' health that, in our view, should be harmonised as much as possible in order to provide all MSs and the EU with robust instruments when monitoring soil health. Among the descriptors provided by the proposal, we express our concerns about the possible counterproductive effect of the excess of nutrients descriptors, as they are currently proposed in annex I. In fact, the proposed concentration limits for the extractable Phosphorous (according to Olsen methodology) is likely to be exceeded in large agricultural soils in e.g., Germany, the Netherlands and Flanders, where much higher P values based on other analytic methods (extractable P with CAL or DL) are common and necessary for good agronomic practices, without causing environmental problems or risks.

Moreover, the proposed determination of total Nitrogen in soils is uncommon and potentially in conflict with the ambition to increase organic matter in soils, since the organic matter include non-negligible amounts of organic nitrogen that provides a long lasting and not harmful reserve of this nutrient for crops. In this respect, mineral nitrogen is a better indicator for the mobility of the nitrogen and therefore potential environmental risks which may occur when (mineral) nitrogen levels are high.

We do hope for a thorough assessment and revision of these indicators, to avoid composts and digestates from separately collected biowaste to be excluded or restricted in application, since they contain N and P alongside organic matter, and to align with the green deal's objectives of sustainable organic fertilisation and increase in carbon storage through a better humus management in soils.

SOIL HEALTH CERTIFICATION

ECN welcomes the obligation for EU countries to introduce a soil health certification mechanism – although voluntary – that would complement the certification framework of carbon removals which is being currently discussed by the co-legislators. In this regard, carbon farming practices, such as the application of quality-assured compost and digestate, should be given priority when developing specific certification methodologies given their proven benefits for both soil health and carbon storage in the soil. In this sense, financial

resources should be mobilised through EU funding to create a viable market for these certificates. The directive should also address potential land speculation driven by this certification scheme and lay down appropriate social safeguards.

SUSTAINABLE SOIL MANAGEMENT

The ECN fully supports the inclusion of sustainable soil management principles that MSs shall respect when establishing sustainable practices. If the EU wants to reverse degradation trends affecting European soils, sustainable soil management is an essential element of its action plan. On this note, we are glad that organic, circular solutions for fertilisation are favoured and are included among the principles to which EU countries have to conform. However, we regret that more specific, mandatory soil management practices didn't make the final cut in the adopted text, instead of solely including general principles. The impact assessment accompanying the Soil Monitoring Law draws an exhaustive list of practices for agriculture, forest and urban environment addressing different types of soil degradation which should be taken up by the EC in the final text. The list would be then adapted to the specific pedoclimatic conditions of defined soil regions or districts determined by MSs.

GOVERNANCE

We welcome the assessment and reporting provisions set for MSs; however, we believe that the deadline of 5 years' time for a first assessment of soil health could be not appropriate. Indeed, 5 years by the entry into force of the Directive could be seen as far too long time for a first assessment of soil health conditions from EU countries, which will in turn delay the implementation of sustainable and effective measures, push forward land degradation and raise costs of inaction. For the same reason, sustainable soil management and regeneration practices should be established by MSs before the timeline proposed by the EC, which currently sets the starting date for their definition 4 years after the entry into force of the Soil Law, insufficient to properly address the issue that the Directive aims to solve. Finally, we call on the EC to mandate MSs to set up national plans and set up funding opportunities for their implementation, which is lacking in the proposal. We call on the EU legislators to strengthen the synergies between the SML and the other objectives of the Green Deal, and especially to ensure that its provisions support circular economy goals helping to closing the carbon and nutrient cycles through the use of waste-derived organic soil improvers and fertilisers.

About the ECN

The ECN is the leading European membership organisation promoting sustainable recycling practices by composting and anaerobic digestion of organic resources and guarding over the quality and safe use of the recovered organic fertilisers and soil improvers. With 67 members from 28 European Countries ECN represents more than 4500 experts and plant operators with more than 45 million tonnes of biological waste treatment capacity.