Environment: strategy for the protection and sustainable use of soil

2006/0086(COD) - 14/11/2007 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by Cristina GUTTIÉREZ-CORTINES (EPP-DE, ES) and amended the proposal for a directive establishing a framework for the protection of soil and amending Directive 2004/35/EC. The resolution was adopted by 496 votes in favour to 161 against with 22 abstentions.

The main amendments were as follows:

Objectives: the objective of this Directive is to establish a framework for the protection and sustainable use of soil, based on the need to prevent soil degradation, in particular due to climate change, to mitigate its consequences and to restore or remediate degraded soils, taking into account the location specific conditions, and recognising that the soil is, like water, a shared resource for mankind, an ecosystem, a non-renewable resource and a platform for the following environmental, economic, social and cultural functions. These include the following: a) a basis for life and biodiversity; (b) storing, acting as a buffer, filtering, and transforming nutrients, substances and water, and preserving ground- and surface water resources; c) basis for biomass production in agriculture and forestry; (d) physical and cultural environment for humans and human activities, including for towns and cities, infrastructure, recreation and other forms of public and economic use; (e) repository of raw materials; (f) acting as carbon pool; (g) archive of geological, cultural , geomorphologic and archaeological heritage. To that end, it lays down measures for the prevention and control of avoidable serious soil degradation, caused by a wide range of human activities, with due account also being taken of natural causes, which undermine the capacity of a soil to perform those functions. It lays down measures that improve the soil characteristics and functions, where appropriate.

Scope: the Directive shall apply to soil forming the top layer of the earth's crust, including the liquid and gaseous components, provided that it performs the functions referred to above. It will not apply to areas of land in respect of which, prior to [date of entry into force of the Directive], by agreement with the competent authorities, remediation decisions have been taken or remediation has already been completed, so that the areas of land in question pose no significant danger to human health or the environment.

Definitions: Parliament amended some definitions, such as "dangerous substances" and inserted new ones, including acidification', compaction', 'valuable soils', 'priority areas which would need special protection', 'contaminated site', 'remediation', and 'loss of organic substance'.

National or regional inventories: Member States must establish national or regional inventories of contaminated sites. The inventory will be made public and updated at least every seven years on the basis of information delivered to them or generated on their behalf, in particular to include new contaminated sites that have been identified and to exclude sites which have undergone remediation and no longer pose a significant risk to human health or the environment. Member States will, where appropriate, give special attention to the distinction between anthropogenic pollution and geogenic contamination. Geogenically contaminated soils will be evaluated in terms of their risks to human health and the environment. They must designate one or more competent authorities to be responsible for the identification of both potentially contaminated sites and contaminated sites and for the management of the related inventory. Within six years from transposition date, they must have identified the location of at least the sites where certain soil affecting activities are taking place or have taken place in the past, such as Seveso and mining installations or landfills of waste. These activities are described in the text. Where a site is to be sold and where changes in the land use of a site occur on which an activity referred to in the text is taking place or has taken place, the owner or the prospective buyer must fulfil certain obligations. The investigation and assessment necessary to decide whether a site is a risk to human health or the environment should always be completed before construction of any new development begins.

Remediation strategies: Member States must, within seven years from [transposition date], ensure that a remediation strategy or strategies are drawn up and made public at the administrative level they consider appropriate, including at least general remediation targets, a prioritisation, a timetable for implementation of remediation measures for the contaminated sites and the funding mechanism.

Member States will notify the Commission of the remediation strategy or strategies. If the means required for remediation are not technically available, or represent a disproportionate cost with respect to expected environmental benefits, sites may be conditioned in such a way that they do not pose any significant risk to the environment or human health, including by restricting access to them or allowing natural recovery. If Member States choose either of these options, they shall monitor the risk to human health and the environment.

Priority areas: within two years from transposition date the Commission shall, in accordance with the regulatory procedure with scrutiny, produce guidelines, based on best practice, for the definition and identification of priority areas. Within five years from transposition date, Member States shall identify the priority areas, which in their estimation require special protection against one or more of a prescribed list of soil degradation processes. This list includes subsidence, soil biodiversity loss, desertification, acidification and adverse effects of climate change on the soil. In identifying the areas, Member States shall take into account the effects of those soil degradation processes in exacerbating greenhouse gas emissions and desertification, the loss of human life and well-being and the damage to cultural heritage. Member States shall take into account present land use practices which aim already at combating these degradation processes. For the purposes of preserving soil functions, Member States shall, in respect of the priority areas identified in accordance with the Directive, ensure that, at what they deem the most appropriate geographical and administrative level, risk reduction targets are formulated to combat the degradation processes and that the necessary measures are taken, including integrated territorial care strategies or programmes of measures, and where possible restoration targets, where there are legitimate grounds for suspicion that one or more of the soil degradation processes has occurred or is likely to occur in the near future, a timetable for the implementation of those measures and an estimate of the allocation of private or public means for the funding of those measures. However, Member States which already have specific national legislation in place to protect their soils shall be exempted from this, on the condition that their legislation secures at least an equivalent level of protection.

Agricultural use of soil: each Member State, in accordance with its climate, soil characteristics and agriculture, as well as its best agricultural practices, may decide upon its own agricultural policy in relation to the soil. No later than two years after the entry into force of this Directive, the Commission shall present a proposal for a biowaste directive setting quality standards for the use of biowaste as a soil improver. In addition, the Commission must promote the use of certain products that contribute most to maintaining and increasing the organic material of

soils and to the prevention of desertification. Member States shall also promote the use of green fertilisers and compost that enhance the fertility and biological activity of soil.

Within five years from transposition date, Member States must develop voluntary codes of good practice as regards soil protection for those activities which may reasonably be expected to hamper significantly the soil functions referred to in the text. These codes of good practice may build on existing national or Community codes and may contain the elements provided for in Annex -I.

Within three years from transposition date, the Commission shall facilitate the distribution and exchange of information on the legislation or codes of good practice already existing in the Member States as regards the protection of soil functions, including the cultural heritage, natural parks and geologically valuable zones.

Soil sealing: Members States will also have to take measures to limit soil sealing and minimise its effects to the extent which is necessary, in particular where a proposed development project involves soil sealing, and where a list of other conditions is applicable.

Cooperation between Member States: where a Member State is aware that any of its priority areas or contaminated sites are likely to have significant negative effects on human health or the environment in another Member State, or where a Member State likely to be significantly affected so requests, the Member State in whose territory the priority areas or the contaminated sites are located shall inform the other Member State and consult it on the measures to be taken to prevent or reduce such negative effects.

Lastly, it should be pointed out that the Annex has been substantially amended.