



Nataliia Khomyk

Ivan Franko National University of Lviv (Ukraine)

ORCID: 0009-0002-3919-209X

The Role of the European Commission in Soil Protection in the European Union

Rola Komisji Europejskiej ds. Ochrony Gleby w Unii Europejskiej

Abstract

The ongoing integration processes within the European Union are driving continued reforms and evolution of its institutions. At the same time, the institutional mechanism of the European Union itself has a complex structure that reflects the gradual nature of European integration. This article focuses on the legal basis for the functioning, organisation and activities of the European Commission in the field of soil protection. This institution enables the European Union to achieve its objectives and fulfil its tasks in this area of public policy.

The article highlights the peculiarities of the European Commission's activities and focuses on its relevant competence in the field of soil protection in the manner determined primarily by the founding treaties. A key role is attributed to the Lisbon Treaty, which reformed the institutional foundations of this supranational international organisation. At the same time, the institutional structure of the EU has a number of features due to its status as a supranational association, whose authority is strictly limited to the competences conferred by its Member States. The article also explores the specific features of the distribution of powers and responsibilities between EU

institutions and the decision-making procedure of the European Commission in the field of soil protection. In particular, the study examines how the institutions of the European Union, acting within the framework of their prerogatives, implement policies in the field of environmental protection and soil as its integral part. The article provides a general overview of the EU as a supranational entity characterised by a unique distribution of powers. It outlines the features of the ordinary legislative procedure and clarifies the role of the European Commission within this process.

Key words: *mechanism, institution, norm, EU law, supranationality, environment, legal regulation.*

Abstrakt

Aktywny rozwój procesów integracyjnych zachodzących w ramach Unii Europejskiej prowadzi do dalszych reform i rozwoju poszczególnych instytucji. Jednocześnie sam mechanizm instytucjonalny Unii Europejskiej ma złożoną strukturę, która odzwierciedla stopniowy charakter rozwoju integracji europejskiej. W niniejszym artykule skupiono się na badaniu podstaw prawnych funkcjonowania, organizacji i działalności Komisji Europejskiej w dziedzinie ochrony gleby. To właśnie za pomocą tej instytucji Unia Europejska zapewnia osiągnięcie wyznaczonych celów i realizację zadań w tej dziedzinie życia społecznego.

W artykule omówiono specyfikę działalności Komisji Europejskiej i skupiono się na jej kompetencjach w zakresie ochrony gleby w porządku określonym przede wszystkim w traktatach założycielskich. Kluczową rolę odgrywa tu traktat lizboński, który zreformował podstawy instytucjonalne tej ponadnarodowej organizacji międzynarodowej. Struktura instytucjonalna UE ma szereg cech szczególnych wynikających z jej statusu ponadpaństwowego związku, który jest jednocześnie ściśle ograniczony kompetencjami przyznanymi jej przez państwa członkowskie. Zwrócono również uwagę na specyfikę podziału uprawnień i funkcji między instytucjami UE oraz procedurę podejmowania decyzji przez Komisję Europejską w zakresie ochrony gleby. W szczególności zbadano, w jaki sposób instytucje Unii Europejskiej, działając w ramach przyznanых im prerogatyw, realizują politykę w zakresie ochrony środowiska i gleby jako jego organicznego składnika. Przedstawiono ogólną charakterystykę UE jako ponadnarodowej struktury o specyficznym podziale uprawnień. Opisano specyfikę zwykłej procedury stanowienia prawa i wyjaśniono rolę Komisji Europejskiej w tym procesie.

Słowa kluczowe: *mechanizm, instytucja, norma, prawo UE, ponadnarodowość, środowisko naturalne, regulacje prawne.*

Introduction

Since integration and membership in the EU are priorities of Ukraine's foreign policy, research aimed at identifying the legal forms and mechanisms for Ukraine's integration into the EU plays a crucial role. This, in turn, requires studying and researching the functioning of the institutional mechanism in the field of soil protection in order to develop recommendations and proposals for the optimal implementation of EU law into the legal system of Ukraine in the event that our country acquires full membership in the EU. Thus, research on this issue is particularly relevant in the context of the need to bring Ukrainian legislation into line with European Union law.

The effectiveness of the European Union's (hereinafter referred to as the EU) functions, objectives and policies is directly correlated with the peculiarities of its internal structure. The EU's activities can only produce the desired and expected results if there is an effectively designed institutional model. The effectiveness of soil protection policy is no exception and is directly dependent on the capabilities available to the EU. The full functioning of the EU's environmental policy in the field of soil is directly dependent not only on the legal regulatory system as a set of normative legal acts that define the rules of conduct in this area. No matter how comprehensive or well-designed the regulatory framework may be, it is not enough to regulate social relations in practice. Yes, it is indeed the foundation of the soil protection sector and the basis for its existence, but without effective institutions capable of directly creating legal norms and ensuring their practical application, the system will remain nothing more than a unified set of rules.

The law and relevant competent institutions and bodies should be viewed not as separate entities, but as elements of a single institutional mechanism, whose synergy is essential to ensure the effective functioning of soil protection mechanisms.

The institutional mechanism in question not only performs a regulatory and coordinating function, but also shapes the context in which environmental policies can be implemented. It is capable of adapting to changing environmental realities, conducting comprehensive assessments and choosing the most appropriate response to challenges. Thus, the success of policies focused on soil protection depends on the existence of responsible bodies and institutions, their empowerment with sufficient authority to carry out their assigned tasks, and, most importantly, on the nature and quality of their internal interaction. In this article, we will explore this issue.

The European Commission as a key EU institution in the field of soil protection

The institutional structure has a number of features resulting from the supranational status of the EU, which is strictly limited by the powers granted to it by its member states. Its distinctive feature is the 'mixing' of functions, among which the 'legislative', "executive" and 'judicial' functions are traditionally distinguished, between different institutions, while ensuring clarity in the distribution of powers between them. As a result, it is impossible to correlate a specific function with one particular institution that would perform exclusively legislative, executive or other powers. (Prokopenko, Rudik & Rudik, 2021)

Today, the list of powers of each institution is set out with sufficient clarity in the founding documents of the EU. The final distribution of these powers between EU institutions and bodies is set out in the Treaty of Lisbon (2007), which amended the Treaty on European Union and the Treaty establishing the European Community. These changes, as rightly noted by scholars V. Muravyov, I. Berezovska, and O. Krayevska created the conditions for strengthening the supranational powers of the union and increased the scope of the EU's competence. (Muravyov, Berezovska, 2009)

It should be noted that within the jurisdiction of the EU, the mandate to govern is not the exclusive prerogative of the internal structural units of the European Union. It is also vested in the members of this independent entity. It is no coincidence that the Lisbon Treaty divides competences between the EU and the Member States by differentiating them according to the criteria of exclusivity, sharing and support. The first type means that powers can only be exercised by the Union's institutions. The second type consists of the ability to exercise powers jointly by the EU and member states. However, if the Union adopts a regulatory act, member states cannot issue an act that contradicts it. Supporting competence involves the EU helping Member States to implement policies at the national level, with limits on its right to harmonise legislation. (Nebeska, 2017)

Environmental issues, including soil protection, fall under shared competence. (Nebeska, 2017) This means that they fall within the shared responsibility of the EU and its Member States, which necessitates extremely close cooperation between the competent European and national authorities. This is the only way to achieve unity and consistency in the adoption of both strategically important and day-to-day decisions, which together determine the overall direction of soil protection policy.

The Treaty of Lisbon implicitly establishes a list of EU institutions, including the European Parliament, the European Council, the Council of the European Union (Council), the European Commission, the Court of Justice

of the European Union, the European Central Bank, and the Court of Auditors. (*Treaty of Lisbon*, 2007)

The vectors of the Union's soil protection policy as part of a more global environmental policy are determined by the provisions of Article 191 of the Treaty on the Functioning of the EU.

Another participant in the law-making process, whose role cannot be overestimated, is the European Commission, which has the right of legislative initiative, which is commonly identified as 'monopolistic.' (Prokopenko, Rudik, O. & Rudik, N., 2021). Such formulations are not unfounded and are based on an analysis of the text of Article 17 of the Treaty on the EU, which literally stipulates that '...Union legislative acts may be adopted only on the basis of a proposal from the Commission, except in cases provided for in the Treaties.' (*Treaty of Lisbon*, 2007) Therefore, as a general rule, legislative initiative belongs entirely to the European Commission.

Moreover, in specialised scientific literature, the European Commission is marked as the leading supranational institution of the EU. (Яковюк, 2014) This is explained by the fact that in its activities it is independent of the influence of the member states and is guided exclusively by the common interests of the member states. It is the European Commission that is vested with the bulk of executive, managerial and coordinating powers. This institution not only proposes draft legislation, but also supervises the application of the law, as expressly stated in Article 17 of the Treaty on European Union. (*Treaty of Lisbon*, 2007)

In addition, the European Commission is responsible for planning the Union's current activities and representing its interests in the foreign policy arena, except for security and common foreign policy issues. At the same time, this institution is accountable to the European Parliament, which is authorised to pass a vote of no confidence in it. (*Treaty of Lisbon*, 2007)

Directorates-General of the European Commission and their competence in the field of soil protection

The European Commission's work is organised through specially created Directorates-General, each of which is responsible for a specific politically significant area of activity. There is no specialised directorate within the European Commission that focuses exclusively on soil issues. As a result, issues related to soil protection are dealt with simultaneously by several different directorates whose areas of competence either overlap with or encompass broader issues than soil protection alone. This division of competences leads to fragmentation of management approaches and may result in a dilution of responsibility for decisions taken. However, this does not mean that soil protection issues

are being ignored or that the institutional framework is not working. On the contrary, it indicates the need to develop a coordinated, cross-sectoral policy that will ensure a unified approach to soil resource management within the EU.

Soil protection policy is implemented, in particular, with the participation of the Directorate-General for Agriculture and Rural Development (DG AGRI). This Commission department deals with all aspects of the common agricultural policy (Directorate-general...), the implementation of which directly affects the condition of soil cover. The fact that soil protection relations fall within the remit of DG AGRI is due to their complex history of development in legal terms and demonstrates the practical implementation of the concept of the 'land-soil' connection. This refers to the traditional understanding of soil primarily as a platform for growing agricultural crops. With the development of the conceptual interpretation of soil, the pan-European policies that regulate it have gone beyond the exclusively agricultural sphere. However, given the undeniable connection between soil and agriculture, DG AGRI continues to exert substantial influence over soil-related decision-making.

A striking illustration of DG AGRI's influence on soil protection policy is its leading role in the Soil Agreement for Europe mission, which aims to promote more sustainable land management, a natural extension of the central ideas of the Green Deal. As part of the soil mission, the plans include testing innovations aimed at soil remediation, developing a harmonised soil monitoring system in Europe, and raising public awareness of the importance of soil (Healthy soils, 2022). In addition, DG AGRI supports the European Joint Programme on Soil Management (EJP SOIL) initiative, which aims to address socially significant issues such as climate change, long-term food security and the preservation of soil's ability to support crop production. (Panagos, Jones, Liedekerke, Orgiazzi, 2020)

Issues related to soil protection are also addressed directly or indirectly by the Directorate-General for Environment (GD ENV), which leads the development and implementation of the European Commission's environmental policy. (Directorate-general Environment) The Directorate-General for Climate Action (GD CLIMA), whose efforts are aimed at preventing climate change and transforming the EU into a climate-neutral sustainable society. (*Directorate-general Climate...*)

As noted by S. Kingston, V. Heyvaert and A. Čavoški, the Directorate-General for Environment (DG ENV) plays a key role in formulating all of the Commission's environmental proposals and ensures the application of the EU's environmental acquis in the Member States. (Kingston, Heyvaert, Čavoški, 2017) At the same time, since most proposals in the field of the environment, including those relating to soil, are technically complex and/or require special scientific knowledge, DG ENV relies heavily

on the contribution of external expert groups. That is why the formulation of proposals relating to soil protection is usually a lengthy process. Another factor that slows down this process is the obligation of the lead directorate to consult with other directorates with overlapping or related competences. At the same time, this requirement is entirely justified, as comprehensive consultations at the level of specialised directorates contribute to the development of higher-quality draft legislation.

Gaps in soil protection and how to fix them

At the same time, in 2006, the European Commission acknowledged the existence of gaps in knowledge in certain areas of soil protection, and that is why it focused on conducting scientific research. (*Commission of the European Communities*, 2016) Today, when analysing the obstacles to the accumulation of knowledge about soils, scientific circles emphasise that the development of knowledge is hampered by barriers to capacity building and economic constraints. The area of harmonisation, organisation and storage of soil data at national and European levels is complicated by the lack of standardised methods for soil sampling, analysis and mapping, as well as outdated information. This leads to data fragmentation and prevents the formation of high-quality databases for decision-making. (Vanino, Pirelli, Di Bene, Bøe, 2023)

Although the accumulation of expert knowledge about soils has seen positive developments, it is premature to talk about meeting the needs of the industry. Soil science needs to develop knowledge about the biological and ecological functioning of soil, and future soil scientists should be taught a more holistic understanding of the subject, rather than just being trained as narrow specialists in a particular field of soil science. (Veenstra, Coquet, Melot, Walter, 2024) in addition, current educational offerings do not cover a wide range of professional profiles. Therefore, there is a clear need not only to adapt existing programmes, but also to create new courses that certify new profiles. (Walter, Veenstra, Melot, Coquet, 2024)

In addition, there are problems with the data that have already been collected: differences between data sets depend on their origin, which may preclude comparability between regions and countries and hinder integration at the EU level; some of the essential soil parameters are not always recorded in most EU country databases; data exchange between participating countries is difficult. (Cornu, Keesstra, Bispo, Fantappie, 2023)

Whatever proposal for a specialised directive is put on the agenda, it will inherently include technical issues related, for example, to the implementation of specific sustainable management practices by the end recipients of regulatory influence (farmers, agrarians, ecologists, etc.).

Despite the acceptance of the importance of the idea of sustainable soil management and the need for its legally binding establishment, no consensus has yet been reached on the scope of this concept. This hinders the implementation of soil governance measures, which means that soil conservation outside the regulatory requirements is based mainly on voluntary actions by farmers. No work has yet been published that comprehensively analyses the views of stakeholders (farmers, politicians, government institutions, the agricultural and food industries, as well as environmental and social non-governmental organisations) on the agricultural measures necessary to ensure sustainable soil management. (Strauss, Paul, Dönmez, Löbmann, 2023)

In order to maintain the quality of the directive at the appropriate technical level, it is necessary to rely on monitoring data. It allows for the development and implementation of policy measures to protect and support the sustainable use of soils so that they continue to provide ecosystem benefits and services. Since soil monitoring is by its nature a labour-intensive process that takes several years (since it is not static data that is important, but the dynamics of changes, which can only be traced in soils over long time periods), the collection, accumulation and analysis of information is rather slow, which hinders the rapid formation of a comprehensive soil protection approach.

Another difficulty is that monitoring is not a uniformly agreed process. Despite the existence of such practices in Member States, there are significant differences in its methodology, the scope of actual monitoring between national systems and the uneven use of it. (Morvan, Saby, Arrouays, Le Bas, 2008) This shortcoming has been consistently highlighted in the strategies of the European Commission (first in 2006 and then in 2021).

All of the above factors, depending on the stage of development of soil protection policy and legislation, have played and/or continue to play an important role in the development of the area we are studying. It would be wrong to limit the range of obstacles to those outlined above, as this would in fact downplay the complexity of the existing problems. The inhibiting factors listed above are, in our opinion, of primary importance, but they are not exhaustive. Other negative conditions also have an undeniable impact, such as the bureaucracy of the EU system or the low level of digital skills among land surveyors.

Our analysis shows the gradual implementation of the EU Soil Strategy. For example, the group 'Vision and objectives: achieving good soil status by 2050' was fully implemented through the adoption of Regulation (EU) 2024/1991 on nature restoration of 24 June 2024 (Regulation EU 528/2012). What counts here is the development and approval in the Soil Monitoring Act of indicators and threshold values for assessing soil condition, and the granting of a mandate to an extended group of experts to develop appropriate indicators.

The same applies to the 'Promoting the transition to healthy soils' group, which is almost 90% complete, thanks to the European Commission due to its approval of a contract to organise an online seminar on 'Financing soil protection and restoration', which resulted in a guide detailing all available EU funding opportunities related to soil protection. In 2023, the European Soil Observatory (EUSO) bulletin was published. At the same time, the European Commission withdrew the measure to integrate the issue of soil degradation into the pan-European framework of competencies in the field of sustainable development after the issue of soil degradation was not directly reflected in the publication 'Green Comp, the European sustainability competence framework'.

However, it should be understood that it is incorrect to use these groups as a basis for comparison, given their significantly smaller scale. They consist of three areas and include a total of ten implementation measures, which represents 11.11% of the total number of planned actions.

The situation will not change fundamentally if we take into account a slightly larger group of measures related to in-depth soil research. Its three areas provide for 15 actions, or 16.66% of the total. It is important to understand that the limited analytical significance of this group for a full comparison with the more complex and loaded group mentioned above is due not only to its insignificant quantitative content, but also to the relative simplicity of the measures to be taken within it.

The implementation of measures to deepen soil research requires comparatively less effort. In particular, the research and innovation direction of this group include actions that are comparable in nature to planning and preparatory activities. In view of this, it has already been possible to fully implement all the planned measures, namely: roadmaps for soils have been developed within the SOLO project; in terms of ensuring funding for soil biodiversity, degradation and reclamation in 2021-2024, scientific requests have been announced as part of the Soil Mission initiative; moreover, as part of promoting the development of digital solutions for soil quality assessment in 2021-2024, scientific requests have been published under the Soil Mission initiative as annexes to the Soil Monitoring Act.

Conclusions

The formation of environmental policy, an integral part of which is soil protection, is ensured through the coordinated activities of EU institutions and bodies. The distribution of powers within this supranational entity determines the effectiveness of the adoption and implementation of relevant policies.

Soil protection is part of the shared competence of the EU and its Member States, which necessitates coordinated interaction between them.

The institutions responsible for the regulatory process play a key role in developing environmental standards and implement them in practice: the consolidated efforts of the European Parliament, the Council and the European Commission lead to the adoption of binding acts. Each of these institutions has a specialised body (committee, configuration, directorate, etc.) that works exclusively on discussing and resolving issues in the field of the environment and soil as one of its intrinsic components. Equally important is the functioning of advisory bodies – the Committee of the Regions and the Economic and Social Committee, which express the common will of various public groups on regulatory initiatives, including those relating to soil and its protection.

Bibliography

- Commission of the European Communities* (2006). *Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions*. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52006DC0231>, 03.07.2025.
- Consolidated version of the Treaty on European Union*. <https://surl.lt/dbdipg>, 03.07.2025.
- Cornu, S., Keesstra, S., Bispo, A., Fantappie, M., et. al. (2023). “National soil data in EU countries, where do we stand?”. In: *European Journal of Soil Science*, vol. 74(4).
- Directorate-general Agriculture and Rural Development*. <https://surl.li/dzknch>, 03.07.2025.
- Directorate-general Climate Action*. https://commission.europa.eu/about/departments-and-executive-agencies/climate-action_en, 05.07.2025.
- Directorate-general Environment*. https://commission.europa.eu/about/departments-and-executive-agencies/environment_en, 05.07.2025.
- Healthy soils, a necessity for the EU* (2022). <https://surl.lt/gbiavc>, 04.07.2025.
- Kingston, S., Heyvaert, V., Čavoški, A. (2017). *European Environmental Law*. Cambridge: Cambridge University Press.
- Morvan, X., Saby, N.P.A., Arrouays, D., Le Bas C., et. al. (2008). “Soil monitoring in Europe: a review of existing systems and requirements for harmonization”. In: *Science of the Total Environment*, no 391(1).

- Panagos, P., Jones, A., Liedekerke, M., Orgiazzi, A., et. al. (2020). *JRC support to the European Joint Programme for soil (EJP SOIL)*. Luxembourg: Publications Office of the European Union: Luxembourg.
- Prokopenko, L.L., Rudik, O.M., Rudik, N.M. (2021). *Institutional system of the EU. Study guide*. Dnipro: DIDU NADU.
- Regulation (EU) 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products. An official website of the European Union. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02012R0528-20240611>, 18.06.2025.
- Strauss, V., Paul C., Dönmez C., Löbmann M., et. al. (2023). "Sustainable soil management measures: a synthesis of stakeholder recommendations". In: *Agronomy for Sustainable Development*, no 43:17.
- Vanino, S., Pirelli, T., Di Bene, C., Bøe, F., et. al. (2023). "Barriers and opportunities of soil knowledge to address soil challenges: Stakeholders' perspectives across Europe". In: *Journal of Environmental Management*, vol. 325.
- Veenstra, J., Coquet, Y., Melot, R., Walter, C. A (2024). "European stakeholder survey on soil science skills for sustainable agriculture". In: *European Journal of Soil Science*, no 75(2).
- Walter, C., Veenstra, J., Melot, R., Coquet, Y. (2024). "Identification of soil-related professional profiles for the future from a survey of European stakeholders". In: *European Journal of Soil Science*, vol. 75.
- Yakoviuk, I.V. (2014). "The European Commission: the order of formation and powers". In: *Legal scientific electronic journal*, no 6.
- Краєвська, О. (2016). „Трансформація моделей формування спільних політик єс у компетенції єс за лісабонським договором”. In: *Вісник Львівського університету*, вур. 38.
- Муравйов, В.І., Березовська, І.А. (2009). „Види компетенцій реформованого Європейського союзу”. In: *Вісник Київського національного університету імені Тараса Шевченка. Міжнародні відносини*, вур. 37.
- Небеська М. С. (2017). “Особливості компетенції Європейського Союзу. розмежування компетенції між Європейським Союзом і державами-членами”. In: *Альманах міжнародного права*, вур. 16.

Correspondence concerning this paper should be addressed to

Dr. Nataliia Khomyk, Department of European Law, Ivan Franko National University of Lviv (Ukraine).

E-mail: n.khomyk5@gmail.com