

Danube Countries Working Community -16th expert meeting, 19-20. March 2009

Soil Framework Directive: Views from the Czech Republic

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Subsidiarity

The Directive **respects SUBSIDIARITY**

- set their own **levels of ambition**,
- chose their own **environmental targets**,
- chose their own **measures and time-tables**
- Food safety
- Comparability of data in soil contamination
- Soil status report – cross border investments

Common Implementation Strategy: benefits:

- To continue the **partnership with MS** and stakeholders
- To initiate activities to **support MS** in identifying and developing the most cost-effective measures
- To allow **better cooperation between MS** in reaching comparable approaches to soil protection

Art. 1. Subject – matter and scope

3. Member States may decide, on a case by case basis, if so provided under national law, not to apply this Directive to soil where ongoing activities serving national defence purposes are taking place, if they deem that such application would have an adverse effect on those purposes

Art. 2. Definitions

- "contaminated sites" means sites where there is a confirmed presence, caused by human activities, of hazardous substances to such a **degree (level, extent)** that Member States consider that they pose a significant risk to human health or the environment, including groundwater. Such risk is to be assessed taking account of the current and approved future use of the land and all possible known relevant contaminant pathways

Art. 3. Integration

- In the development of [sectoral] policies (plans and programmes) which can significantly exacerbate or reduce soil degradation processes, Member States shall take into account the impacts of such policies on those processes, in particular in areas such as regional and urban spatial planning, transport, energy, agriculture, rural development, forestry, raw material extraction, trade and industry, product policy, tourism, climate change, environment, nature and landscape
- Given that numerous economic, environmental and social activities depend or have an impact on soil, there is a need to ensure that soil protection aspects are integrated into [...] policies which may [...] significantly exacerbate [...] soil degradation processes [...]. This Directive should therefore make provision for Member States to [...] take into account the possible impact [...] on the prevention of soil degradation processes and the protection of soil functions in the concepts and principles which are the basis for decision-making in these areas. Such provisions are of a procedural nature and their requirements should either be integrated into existing procedures in Member States or incorporated into specifically established procedures. With a view to avoiding duplication of the assessment, Member States should take account, where appropriate, of the fact that assessments will be carried out at different policy making levels.

Art. 4. Precautionary and preventive measures

For the purpose of preserving the soil functions.... Member States shall ensure that appropriate and proportionate measures are taken, according to national or regional [...] circumstances:

- (a) to prevent or minimise adverse effects from actions that Member States consider are likely to hamper significantly any of the soil functions referred to in Article 1(1);
- (b) to limit the intentional or unintentional introduction in order to avoid accumulation of those hazardous substances on or in the soil that would significantly hamper soil functions or give rise to significant risks to human health or the environment, **excluding those due to air deposition** and those due to a natural phenomenon of exceptional, inevitable and irresistible character;
- (c) to prevent the intentional and unintentional introduction of relevant hazardous substances on or in the soil by dumping, leaking or spilling.

For the purpose of this Article, Member States may use their existing national, regional and local measures and programmes already set up under national or Community legislation or international agreements as well as voluntary measures.

Art. 4. Precautionary and preventive measures

new recitals:

- "Soil functions may be hampered by air deposition. However, measures at source to prevent air pollution are dealt with in other EC legislation.,,
- "Existing national, regional and local measures and programmes already set up under national or Community legislation, such as under inter alia Directive 2008/01/EC concerning Integrated Pollution Prevention and Control, Directive 2000/60/EC establishing a framework for Community action in the field of water policy and its daughter Directives, and Directive 2004/35/EC concerning Environmental Liability, can be used as basis for precautionary and preventive measures..

Art. 5. Sealing

For the purpose of preserving the soil functions and the sustainable use of soil referred to in Article 1(1), taking into account relevant environmental, social and economic benefits from sealing, Member States shall take appropriate and proportionate measures

- to contain (limit, control) sealing, where necessary, and
- where sealing is to be carried out, to mitigate its effects, for example by the use of construction techniques and products which will allow as many of those functions as possible to be maintained...

Art. 6. Priority areas

Article 6(2)

Member states shall

- (a) **evaluate, based on but not restricted to the elements set out in the indicative list in Annex I**, the extent to which their national territory is subject or likely to be subject in the near future to such degradation processes
- (b) **establish the levels of risk acceptability** of the soil degradation processes, having regard to the objective of preserving soil functions pursuant to Article 1(1) and the sustainable use of soil;
- (c) **identify priority areas** on their national territory, **at the administrative level and geographical scale that Member States consider appropriate**, that exceed the levels of acceptability established in point (b).

Art. 8. Action programmes

Risk reduction targets

Measures to reach those targets

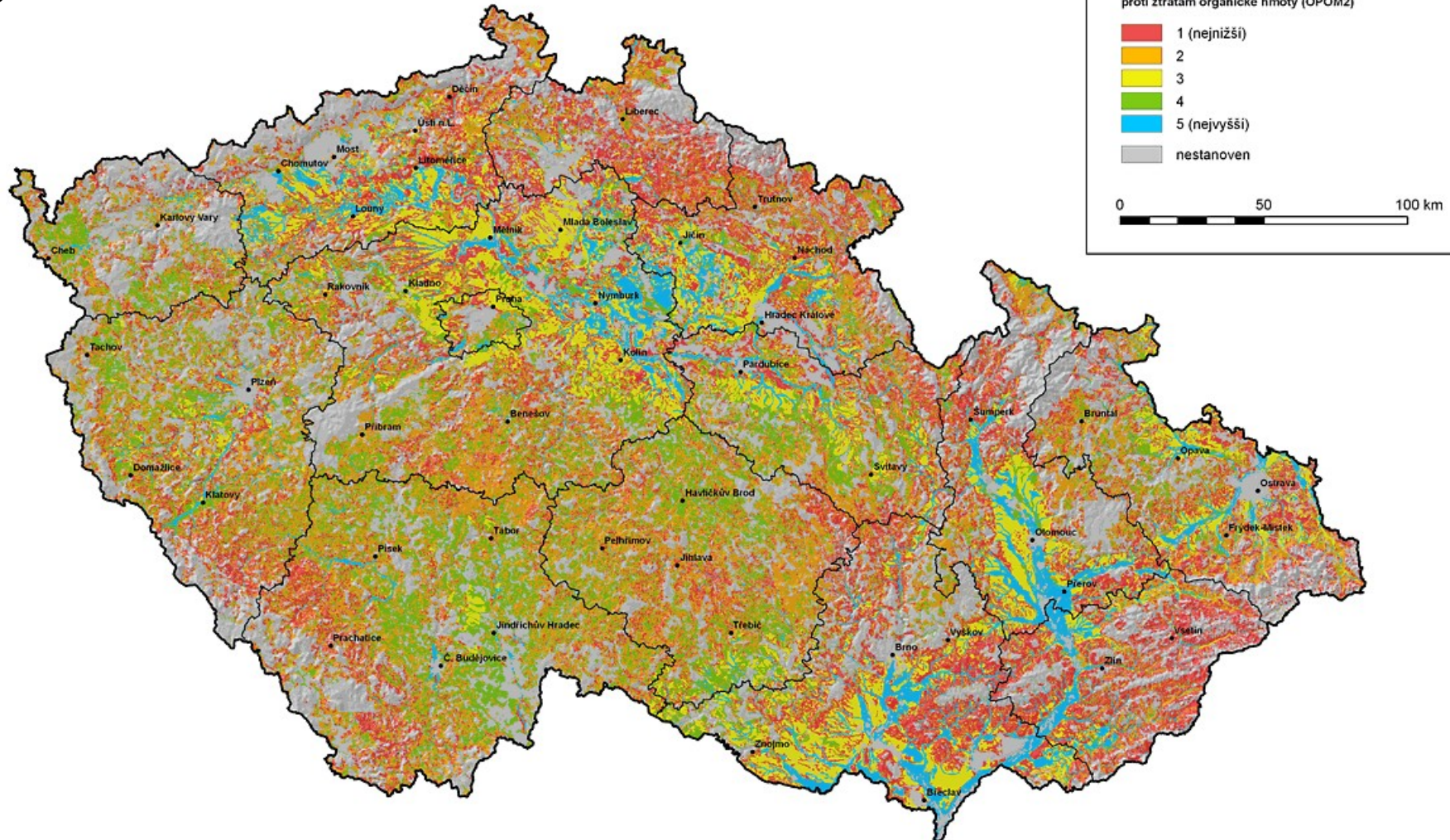
Timetable for the implementation of measures
and an estimate of the allocation of financial
resources for their implementation.

The programmes may build upon existing national, regional and local measures and programmes already set up under national or Community legislation or international agreements

The CAP measures and GAEC measures should be taken into account

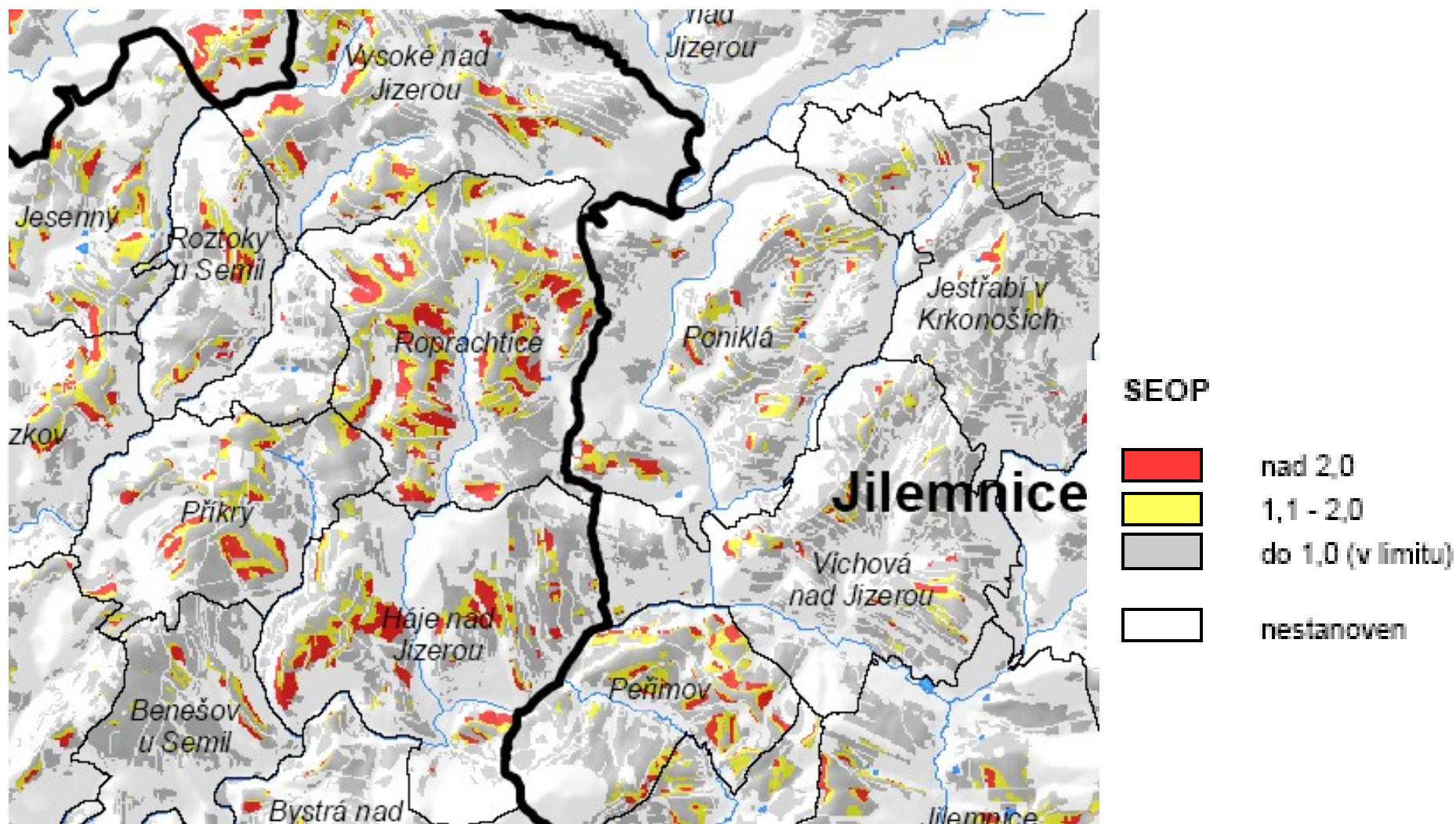
Soil threats

Degree of threat of OM decline - CR



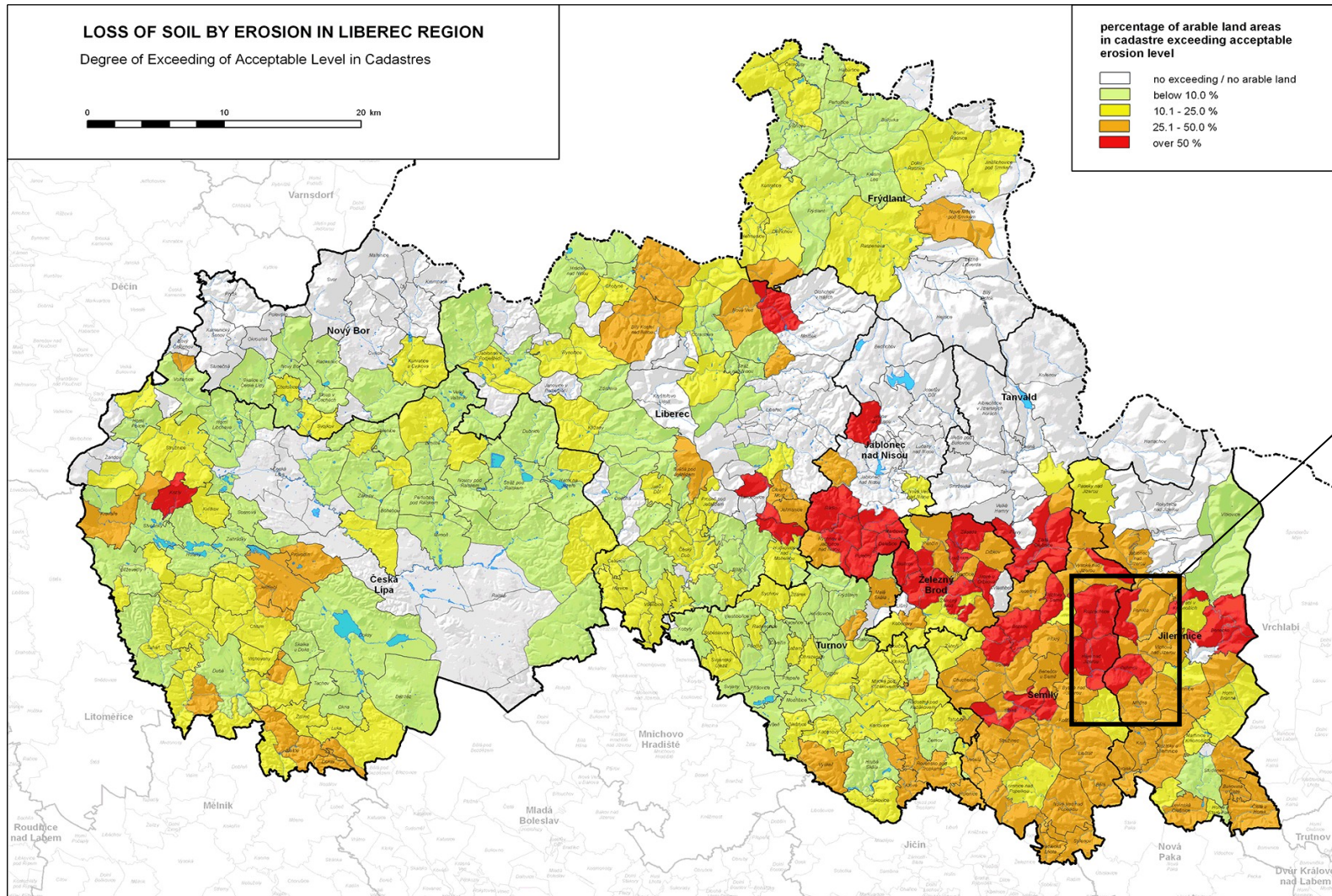
Soil threats

Degree of soil erosion threat - detail

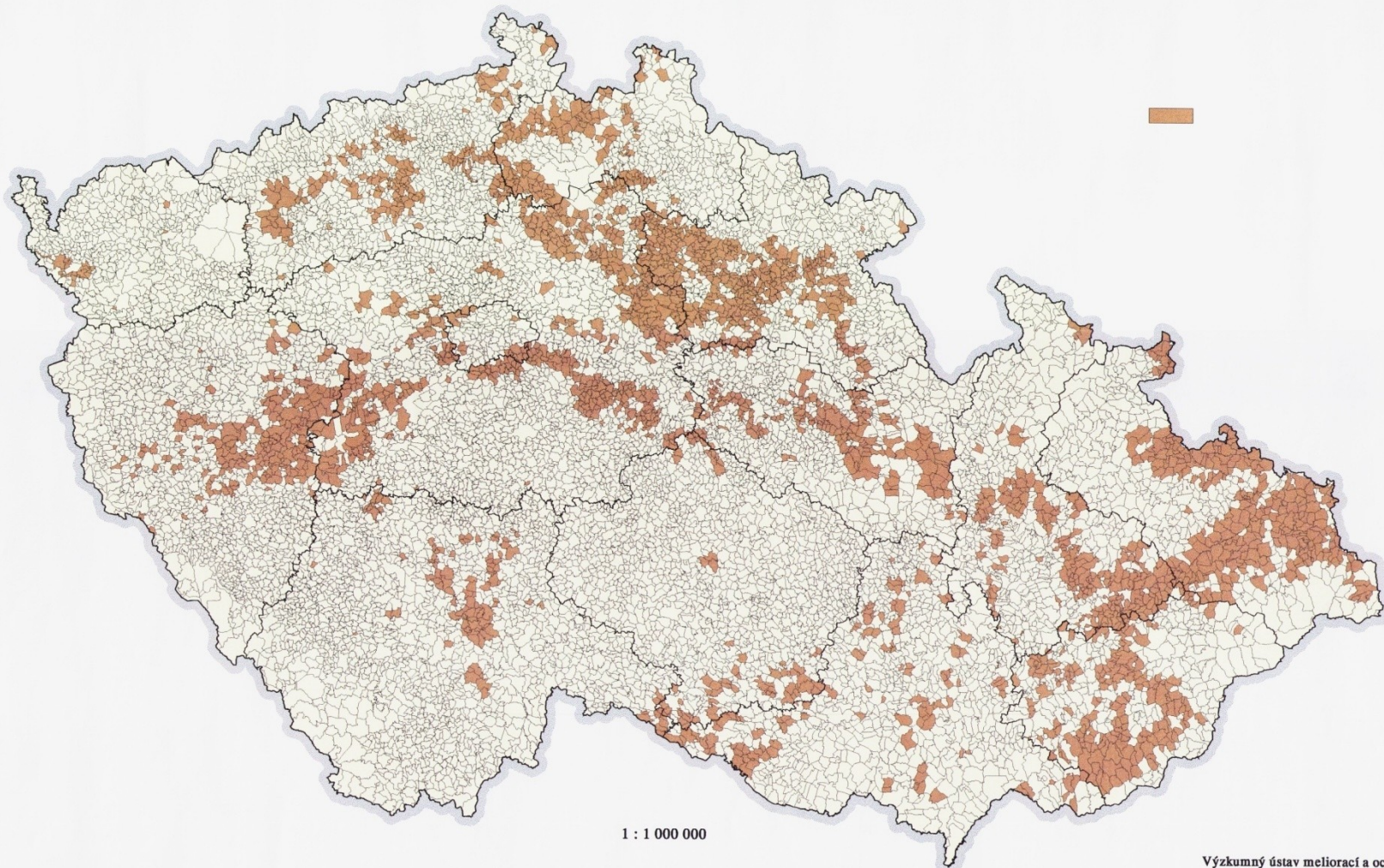


Soil threats

Degree of soil erosion threat for cadasters



Potential vulnerability to soil compaction – vulnerable areas



Výzkumný ústav meliorací a ochrany půdy Praha

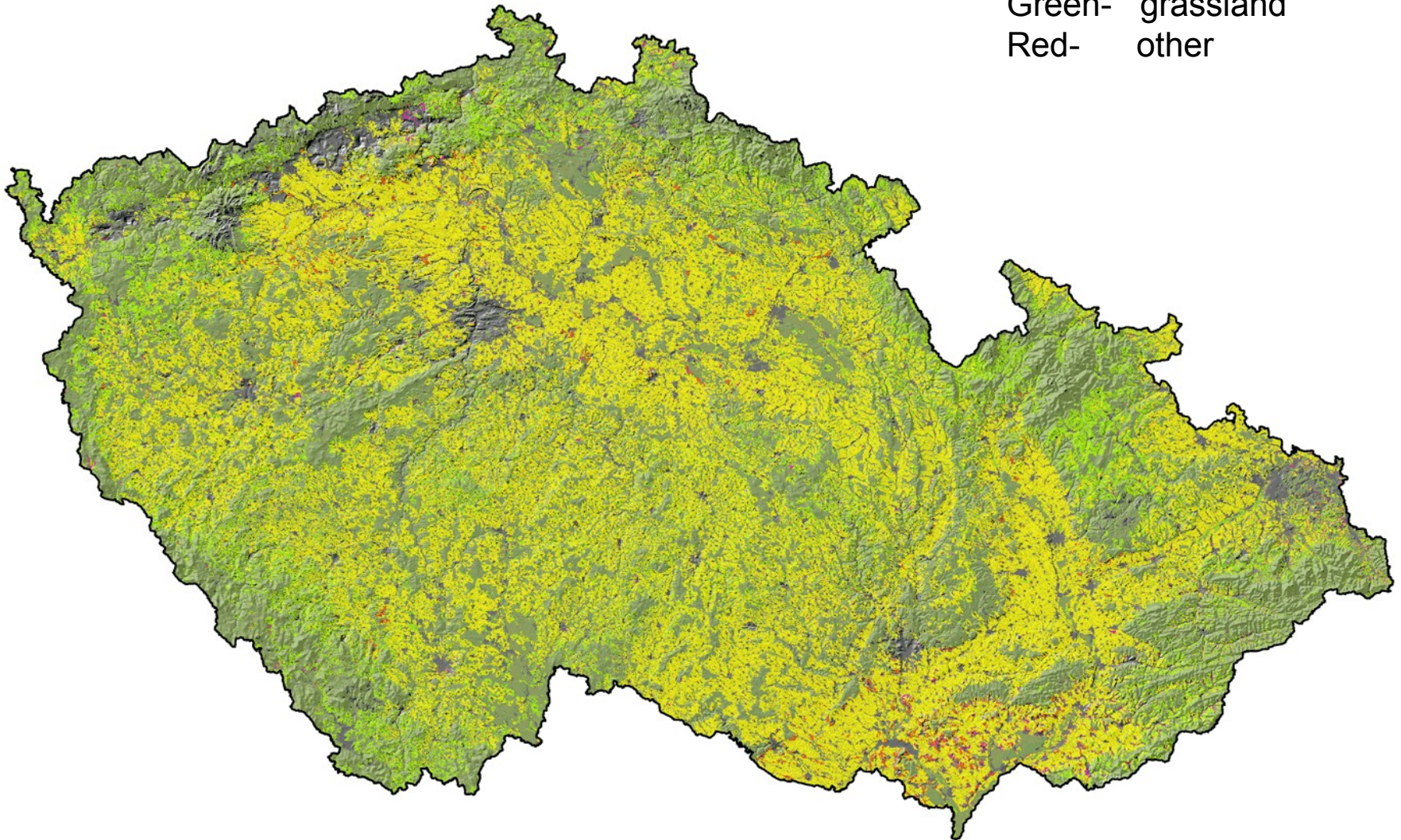


Žabovřeská 250
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Potential vulnerability to soil compaction - Area of arable land in the CR

Yellow- arable
Green- grassland
Red- other



Does the Identification of Priority areas and Action programmes really help to protect soil?

- In MS with good legislation in soil protection – support of the valid legislation – necessity of only minor changes
- In MS with insufficient legislation – substantial help
- Identification of PA and drawing up the Action Programmes should be cost-effective
- Great flexibility enables to adapt the PA to National conditions (eg. the whole area of arable land is a PA for compaction)

Art. 10. Identification and inventory of contaminated sites

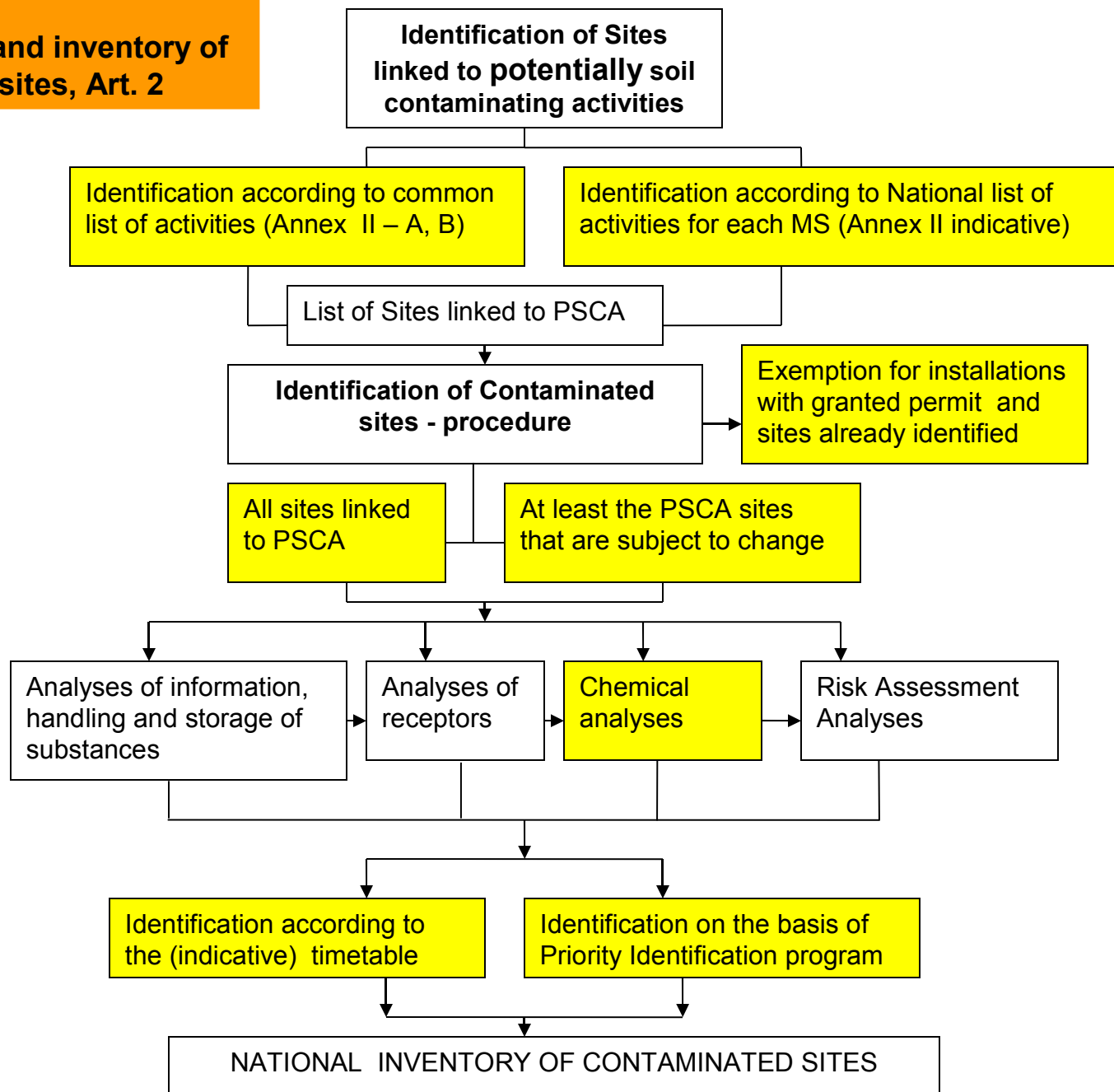
1. In order to ensure that soil contamination is addressed systematically, it is necessary for Member States to define and apply a general policy for contaminated sites, which shall rely on the obligations for:

- identification of sites linked to potentially soil-contaminating activities,
- identification of contaminated sites,
- **establishment of soil status reports,**
- remediation of contaminated sites.

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Chapter III

Identification and inventory of contaminated sites, Art. 2



Art. 10. Identification and inventory of contaminated sites

The specific procedure to determine whether the site is a contaminated site is applied._

- (i) an analysis of the existing information
- (ii) an analysis of the presence of human or environmental receptors
- (iii) if the analysis carried out under points (i) or (ii) indicate a significant possibility of a site being a contaminated site, Member States shall apply one of the following alternatives:

either

- ensure that the concentration levels of relevant hazardous substances linked to the activities carried out on the site are measured, and for that purpose, Member States shall establish the methodology necessary for determining those concentration levels. For those sites where the concentration levels of relevant hazardous substances are such that there are sufficient reasons to believe that they may pose a significant risk to human health or the environment, Member States shall ensure that a site-specific risk assessment is carried out, which also takes into account the risk to groundwater;

or

- ensure that a risk assessment is carried out which also takes into account the risk to groundwater, and for that purpose, Member States shall establish the risk assessment methodology.

Art. 12. Soil status report

1. On a site on which an activity included in the **national list established pursuant to Article 10(2)(a)** is taking place, or for which the official records, such as registers, show that it has taken place, Member States shall ensure that a soil status report is made available to the competent authorities as referred to in Article 10(6):

- by the owner of that site or the prospective buyer when the site is sold, making it also available to the other party in the transaction,

and

- by the owner of that site or a relevant third party, when there are land use changes, including development which the Member State considers relevant.

6. Without prejudice to Community and national liability regimes, the soil status report shall be issued by a body or person authorised by the Member State.

Exception for small private houses

The content of SSR

Art. 13. Remediation

1...The contaminated sites listed in their inventories of contaminated sites, pursuant to Article 10(4), are remediated ... prioritization

Art. 13. Remediation

2. Remediation shall consist of actions on the soil aimed at the **removal, control, containment or reduction** of contaminants so that the contaminated site, taking account of its current use or approved future use, no longer poses any significant risk to human health or the environment. **Remediation action may consist of natural recovery.** When deciding on the appropriate remediation actions, Member States shall give **due consideration to social, economic and environmental impacts, cost-effectiveness and technical feasibility** of the actions envisaged. In case of proven risks on water resources, remediation objectives shall be established taking into consideration relevant Community water legislation.

Art. 13. Remediation

3. If the means required for remediation are not technically available or only available at 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 human health or the environment, including by restricting access to and use of them. For the same reason [...] Member States may change the approved land use of a site to a less sensitive use , provided it will not pose any significant risk to human health or the environment.

- + 4 – monitoring
- + 5- polluter pays principle

Art. 14. Remediation strategy

1. Member States shall, on the basis of the inventory of contaminated sites draw up a remediation strategy or strategies covering the whole of their national territory, including at least remediation targets, a prioritisation, taking particular account of significant risks to human health or the environment, a timetable and financial resources for implementation years after entry into force.

Need for EU legislation in soil protection

- Protection of soil as non renewable natural source in European context
- Protection of soil protection legislation in individual MS

The old Indian proverb:

“We don’t inherit soil from our grandparents. We borrow it from our children.”