

Germany 2023 EITI Validation

Consolidated position of the private sector on specific EITI Standard requirements

Starting point of positioning

Following the email from the D-EITI Secretariat on August 1, 2023, the members of the private sector were asked to comment on the following potentially critical points in the validation. Written comments were sent to the coordinator of the private sector over the summer break.

On September 1, 2023, the members of the private sector also discussed the critical points in a video conference and developed a consolidated position on the critical points.

This position was presented to the MSG at the D-EITI meeting on September 6, 2023.

1. Information on the Beneficial Owner - EITI standard requirement 2.5

D-EITI-Secretariat: The private sector is asked to examine in parallel how it views the disclosure options. In particular, question arise whether participating companies of D-EITI would be in a position to provide the information required by the standard on beneficial owners and politically exposed persons (PEPs) in compliance with the applicable legal requirements (e.g. General Data Protection Regulation). For example, is it possible to report whether politically exposed persons are involved in the companies participating in the D-EITI? With regard to beneficial owners as natural persons, would it be possible to publish lists of shareholders (possibly of subsidiaries).

Private sector: The private sector sees no possibility of providing more information than what is already provided within the D-EITI framework.

- The reasons for that are mainly of legal nature: For the disclosure of beneficial owners and PEPs, a legal basis under data protection law is required. If the consent of the data subjects is not used, individual case-by-case assessments are required for each data subject. The assessment process already creates a considerable risk with regard to data protection fines and claims for compensation.
- The act of obtaining information would also be very time-consuming for the IA, as the IA would first have to identify the contact persons in the companies before contacting them. This process would also involve additional work for the companies. The companies would have to check whether the information may be provided. In order to do so, they may have to consult with several superiors. Following the same process with the subsidiaries, it becomes even more complicated. Considering the fact that companies already put in a lot of efforts to provide D-EITI information today, further reporting obligations do not appear to be expedient.

2. Disaggregation of production data at country level - EITI standard requirement 3.2

D-EITI-Secretariat: The private sector is also requested to check whether disclosure options exist via the companies.

Private Sector: The private sector does not see any possibility for the disclosure of further information.

- This is mainly due to competitive reasons, as it involves the disclosure of sensitive company data. If these were disclosed, it would be possible to draw conclusions about individual companies.
- This is different for the oil and gas sector: The BVEG already publishes comprehensive data on natural gas and oil production in Germany, both by federal states and even by individual fields (see <https://jahresbericht.bveg.de/erdgasfoerderung/> and <https://jahresbericht.bveg.de/erdoelfoerderung/>).