



## GAP ANALYSIS

### Participation of local stakeholders in Germany's EITI

Participation of local stakeholders in Germany's Extractive Industries Transparency Initiative (EITI) process is so far low, although local communities are directly affected by the extraction sector activity. Civil society is organized in a multitude of local action groups and initiatives that serve as watchdogs for extractive activities. Despite this important role, local civil society stakeholders and their interests are not directly represented in the MSG.

#### Introduction

Local communities are substantially affected by mining and extraction activities in Germany. On the one hand, a significant amount of the tax payments and fees from the extracting sector goes to the local communities. They receive about a quarter of the total tax and fees paid from the extractive sector. On the other hand, local communities are directly affected by environmental, economic, and social problems connected to the development but also shutdown of mines. Measured against the impact the extractive sector has on local communities and its influence on their lives and livelihoods the involvement of local actors generally and local civil society actors particularly in the German EITI process (D-EITI) is quite low.

While extractive activity promises local development and added value through jobs for the local workforce, potential infrastructure investments, income from tax and fees, and increased local demand, there are also many negative effects on local communities. Noise, environmental degradation, air pollution, dissemination of poisonous substances and potential re-settlements take a toll on health and quality of life. It also has an impact on local companies.

To name but two examples, increased demand for housing can increase revenue for masons and roofers, while the increased dispersal of poisonous matter can decrease crop yields for farmers. Some extractive activities also increase the risks of seismic activity and landslides. Those advantages and disadvantages for extractive activity on local level led to the establishment of many local community initiatives and groups supporting or opposing the respective industry, which are currently not included in the D-EITI process.

This gap analysis will quickly explain the implementation of the EITI process in Germany. It will then analyze the local involvement on government, industry and civil society level. Finally, it will map different local civil society actors and identify opportunities how to integrate their interests into the D-EITI process more effectively.

#### Governance structure in Germany's EITI

The implementation of EITI in Germany (D-EITI) is overseen by three main actors, none of which substantially involves the local level in the process. The lead agency for the

implementation of D-EITI is the [Ministry for Economic Affairs and Energy](#) (BMWi). It coordinates actions between ministries and agencies and mobilizes the financial resources for the implementation (EITI International Secretariat 2018). The national secretariat is responsible for information collection, public relations and support of the other actors. It is positioned within the [German Corporation for International Cooperation](#) (GIZ), which is already familiar with the EITI implementation processes in partner countries (EITI International Secretariat 2018). Neither the BMWi nor the secretariat are operating on local level.

The body governing the EITI process and the drafting of the [EITI report](#) is the multi-stakeholder-group (MSG). It is formed by each five representatives from government, industry and civil society. The MSG is the key organ of the national EITI process and also the only one that has intersections with the local level.

#### **Local involvement on government level**

The German federal states, which are not considered to be local actors - are major stakeholders in the D-EITI process. Local authorities are not directly involved in the MSG process, but are part of the financial reporting on case of the local business tax.

The government constituency of the MSG is comprised of representatives of the BMWi and the Ministry of Finance on the federal level as well as three representatives from state ministries and mining authority on the state level. The prominent position of federal states, the so-called Bundesländer, within the MSG framework is relevant as they are major stakeholders in the extraction legislation. Although the Mining Act is passed on federal level, it is supervised and implemented by the 16 states. They are beneficiaries of half the revenues derived from corporation tax as well as the full revenues from mine site and extraction royalties (D-EITI Secretariat 2016). To facilitate coordination and information sharing and include every Bundesland into the process, the government set up a working group with representatives from federal and state ministries (Bund-Länder Gruppe) (D-EITI Secretariat 2015, EITI International Secretariat 2018). This underlines the key role the government attributes to the state level.

While the inclusion of Bundesländer is expedient, due to the federal character of the German democratic order states are not considered as "local level" in the D-EITI process (D-EITI n.d.). The inclusion of local actors into the D-EITI process is less smooth, despite local authorities being central stakeholders. As recipients of trade tax (local business tax), municipalities receive about 25% of the overall tax and fees derived from the extracting sector. In five of the federal states, local authorities function as state-wide mining authorities and are thus involved in the authorization and approval process for the extraction of public and private natural resources (EITI report, p.22f). One of those,

the Arnsberg local government, is a representative in the government constituency. Although a local entity, as it takes on state functions it is not regarded as a local actor within the process. Thus, the two state representatives and the Bund-Länder Group are responsible to facilitate smooth communication and input from the sub-state level. Specifically the connection to finance and mining authorities is strong (EITI International Secretariat 2018). However, direct representation of the local level in the MSG has not yet been envisaged.

#### **Local involvement on industry level**

Local industry actors are not directly represented in the MSG but are included through associations where local companies are members, such as the [Association of German Chambers of Industry and Commerce](#). Companies are obliged by law to be member of this association.

The Industry constituency is coordinated by the largest German industry association, the [Federation for German Industries](#) (BDI), with the [Chamber of Commerce](#) acting as the deputy. Four sector-specific associations share two seats. Companies are represented through K+S AG, the biggest salt producer in the world, and Wintershall, the biggest German petroleum producer (D-EITI n.d.). Although operating local facilities, both companies act on a global scale and thus do not represent interests of locally operating industry actors. The three associations that are ordinary representatives within the MSG are organized on the federal level. The BDI as well as the [German Commodities and Mining Federation](#) and the [German Building Materials Association](#) unite federal and state-level associations of different extractive sectors and thus do not represent local actors. The three deputy association - the Chamber of Commerce, the [Federal German Association of Lignite Producing Companies](#) and the [German Association of the Minerals Industry](#) - have (local) extractive companies as members amongst others. Therefore, they can be seen as the voice of consolidated interests of local industry actors within the MSG. Due to the defined materiality threshold for EITI reporting (100 k€ per revenue stream), small and medium-sized enterprises, particularly from the construction minerals sector, which are often more connected to the local level they operate in, do not qualify to participate in the D-EITI reporting framework, giving them no entry point for participation (D-EITI Secretariat 2016).

#### **Local involvement on civil society level**

The civil society is represented by four CSOs - Transparency International, NGO Forum on Environment and Development, Open Knowledge Foundation, Green Budget Germany - and the Union for the Industries Mining, Chemical and Energy. Just as the industry representatives, the CSO representatives are operating on the national level. Local actors and initiatives are not yet included in the civil society constituency (D-EITI n.d.). Although the national

groups are partly connected to local subsidiaries, there is little influence or input from the local level.

The representatives of the civil society constituency engage with other CSOs regularly in coordinated meetings (EITI International Secretariat 2018). Although there is potential for coordination with local and regional CSOs or initiatives, in reality exchange with local actors is rare. Mainly there is coordination with other nationally-active CSOs. This can be problematic, as the local civil society is among the groups most heavily influenced by the extracting industry. There is a lot of potential for more local civil society inclusion in the D-EITI process from many divers' civil society initiatives, which will be discussed in the next chapter.

### Local involvement in the MSG

An instrument to include local actors in the MSG decision making process is by inviting them as experts into the working groups, which are formed to discuss special tasks and topics. The invitation of experts is provided for in the Terms of Reference and thus an institutionalized instrument for the representatives to involve the local level (D-EITI 2016). It is not, however, a possibility for local actors to get involved without the invitation of an MSG member.

In the 2016 D-EITI report, the independent administrator recommended including municipalities stronger in the D-EITI process by ensuring stronger local representation within the MSG, as a large amount of financial means go to the local level (D-EITI Secretariat 2016). This recommendation was not followed with the justification that the government has established a good cooperation with the Association of Towns and Municipalities ("Städte- und Gemeindebund") through which the government constituency has access to the relevant actors when needed (EITI International Secretariat 2018).

Overall, the local level is not yet integrated sufficiently in the D-EITI process. No local actor is present in the MSG. Though the government constituency has built mechanisms to cooperate with local actors, the industry constituency has representatives which may advocate local interests and the civil society groups have some linkages to local CSOs e.g. through the AK Rohstoffe, a civil society coalition that works on Germany's raw material policy from a development perspective, there is no formal participation of the local level in the German EITI. Changes to the MSG structure to include the local level would however mean that all three constituencies include stakeholders from the local level to keep the principle of parity.

## Local CSO Stakeholder Mapping

There is a multitude of local action groups and initiatives in Germany that shape the local debate and decision-making process on extractive business. Nearly every raw material extraction project in Germany is opposed or supported by

a citizen initiative looking out for the rights and interests of the local population. Usually, groups are fighting against impairment or decline of living conditions for the local population. Initiatives take different forms, e.g. discussion meetings, petitions, demonstrations, or even civil disobedience. Action groups concerning the sectors lignite and salt/ potash are the most frequent alliances. This stakeholder overview gives an idea about the wide spectrum of actors:

### Local initiatives in favor of raw material extraction

Initiatives in favor of raw material extraction, usually argue that the extraction business is vital for social and economic development, prosperity and wellbeing in the region or municipality. They are often connected to the companies operating in the sector, e.g. workers from the company are also members in the initiatives. In the lignite sector, which is highly politicized in Germany, pro-extraction initiatives are most common.

1. [Pro Lausitzer Braunkohle \(Pro Lausitz Lignite\)](#) is an initiative advocating the continuing extraction of lignite to secure welfare and life quality in the region. The group operates through awareness raising, information sharing and silent vigils.
2. [Unser Revier Unsere Zukunft \(Our District Our Future\)](#) is advertising lignite production in the Ruhr area to keep wealth in the region and secure German independence from energy imports.

There are few local initiatives in favor of continuing extraction and those that exist are not organized on a state or federal level. Therefore, there is no consolidation of interests of different groups and no organized transregional approach.

### Local initiatives against raw material extraction

Initiatives against one or another form of extraction activity in Germany are numerous and divers. Initiatives exist for virtually all extractive sectors and projects. There are two main motives for initiatives. Most groups speak against negative impacts on the living conditions of the local communities, some promote environment protection, and many see both reasons as two sides of the same coin.

3. [Buirer für Buir](#) is a local initiative fighting for communities and forests that are threatened by the Hambach lignite mine.
4. [Grüne Zukunft Welzow](#) is a similar initiative in the other main lignite mining area in the Lausitz.
5. The [Kohle erSetzen \(rePlace coal\)](#) initiative protests against coal mining near Leipzig through civil disobedience. They also conduct information workshops in various cities all over Germany.
6. [Zukunft statt Braunkohle Region Lützen \(Future Instead of Coal\)](#) is protesting for the future of the region,

environment preservation and climate protection. They do bike tours, demonstrations and distribute information.

7. [Bürgerinitiative Bergbaubetroffener](#) (Initiative of Affected Persons) is a North Rhine-Westphalian initiative demanding compensation for damages, protection of housing development, and strengthening of civil society interests amongst others.
8. [Lausitzer Initiative gegen Rohstoffpiraterie](#) (Lausitz Initiative Against Raw Material Piracy) managed to postpone extraction of copper in the Lausitz region by handing in an [objection](#) to the mining authority.
9. [Bergerinitiative GiesenSchacht \(Initiativ GiesenTunnel\)](#) is protesting for sustainable extraction of salt and potash in the K+S mine in Giesen to prevent deteriorating living conditions for locals through emissions, dust, noise, etc.
10. [Bürgerinitiative der Salzbergbaugeschädigten NRW](#) (Initiative for Salt Mining Victims) wants to protect the region and the inhabitants from the consequences of salt mining. Important projects revolve around infrastructure, soil and legislation.
11. [Bürgerinitiative Rückmersdorf](#) is rejecting the extraction of gravel in the Leipzig neighborhood. Main problems are dust and noise, which could mean a grave impairment of living conditions.
12. [Bürgerinitiative Kiesabbau](#) wants to preserve nature around the town, present worries of citizens to the politicians, and force the industry to comply with the contracts.
13. [Bürgerinitiative Steinbruch Stop](#) (Initiative stone pit stop), fighting against the further extension of the stone pit in Hesse, has written over 500 letters and is raising awareness in the media.
14. In the [Hambach forest demonstrations](#) in fall 2018 thousands of people protested the clearing of the woodland of Hambach forest and the planned development of lignite extraction.

#### Transregional consolidation of local interests

Especially in the coal, gas and salt sector, supra-regional or transregional associations help consolidating the interest of different local initiatives opposing extraction and connecting the different local actors on state level or higher.

15. [Landesverband Bergbaubetroffener NRW](#) is an association of many local citizen initiatives in North Rhine-Westphalia that represents the interests of citizens who are affected by hard coal, lignite and salt extraction.

16. [Landesverband der Bergbaubetroffener Saarland](#) is an association of local initiatives in the Saarland representing interests of affected citizens. It is similar to the NRW association, but smaller.

17. [Gegen Gasbohren](#) consolidates the interests of roughly 50 local anti-gas and fracking initiatives in Germany. The initiatives within the organizations act independently on local level.

18. [Aktionsbündnis Zukunft statt Braunkohle](#) is an association of independent national, international and local actors opposing lignite mining that partnered up to increase their impact. It engages in demonstrations and online petitions.

19. [AK Rohstoffe](#) is advocating for globally fair and democratic raw material policy. It is a network of German NGOs with three key demands: (1) lowering raw material consumption, (2) effectively protecting human rights, and (3) protecting and strengthening civil society. It consolidates the interests of different groups, including the worries of local population affected by extraction and mining activity.

These associations unite local actors and their interests transregionally and to some extent transnationally, however there is currently no effective mechanism to organize and combine interests at national level in the EITI process.

Furthermore, the consolidation of interests between local stakeholders is not easy. Initiatives' demands do not only vary from sector to sector but also between the regions. Partly, the demands contradict each other in essential points, which is why it is difficult to unify the positions and needs of local groups. This makes a representation on national level, specifically in the MSG which only has five representatives per constituency, difficult. It is thus a challenge to integrate local interests and local representatives in the D-EITI process (concerning civil society).

#### Integration of local actors into the D-EITI process

There are several ways to include local civil society actors in the D-EITI process more efficiently. The inclusion process of local actors should (1) not significantly increase the workload of civil society representatives; (2) be sensitive to not further hardening any fronts, e.g. through disillusionment or aversion towards the D-EITI process due to slow progress; and (3) prevent that the MSG has to process similar issues from different groups without gaining new insights or expertise.

Firstly, to start including the local level, the identification and mapping of relevant local civil society stakeholders is vital. A list of relevant stakeholders including local initiatives, action groups, supra-regional associations as well as the local subsidiaries of national organizations should be established.



Secondly, it is important to identify the potential for cooperation with the local level. What are the current blind spots of civil society representatives? Which of those can the local actors bridge? Even more important is to manage expectations of different actors. What contribution can local actors make and in which forms? Which topics go beyond the E-EITI scope? It is paramount to identify the expectations and possibilities to ensure smooth cooperation and prevent disillusionment.

After the first two steps, there are different possible ways to include the local level of civil society in the D-EITI process.

At the least institutionalized level, civil society organization can do outreach to the local level sectors to actively distribute information about the process and the decisions. They can ask for constructive feedback and points that have so far not been considered in the discussions. Potentially, a questionnaire could be sent to the initiatives to get an overview of the most pressing issues for local actors and receive fairly standardized answers. The goal of this process would be to understand local actor needs, upon which they can be brought into the MSG discussions.

One possibility of involving local actors through a mechanism provided by the Terms of Reference is to involve the local level increasingly in the working groups, e.g. by making sure to hear a certain number of local experts from the civil society for each topic. The MSG could even create a working group specifically addressing local civil society interests. This kind of involvement would establish contact between local civil society actors and representatives from the government and industry constituencies. As local initiatives often deplore the missing access to authorities, this would provide an opportunity for all actors to understand each other's problems and motives.

To fully institutionalize the local level in the D-EITI process, a sixth representative could be added to the MSG. For the civil society constituency this could be beneficial, as local actors would be directly involved, without adding work for the current representatives. Although it is challenging to choose which of the numerous local initiatives should be assigned, there are, as we saw in the stakeholder mapping, associations consolidating local actors interests that would certainly be able to add the relevant perspectives. However, the sixth representative would have to be added for all constituencies, which was refused before. A motion in this direction should be carefully considered.

## Concluding remarks

While the local level is heavily involved and affected by extraction activities – ranging from local authorities over local industry to civil society – the actors are only indirectly involved in the D-EITI process. This paper focused on the

gaps in local civil society participation in the German EITI process. To identify how to involve local CSOs most efficiently, it is vital to analyze the potential and expectations of relevant actors first, to tailor their role to their possibilities and needs.

## FURTHER INFORMATION

- Website of the German EITI project: <https://www.d-eiti.de/en/>
- 2016 D-EITI Report: [https://eiti.org/sites/default/files/documents/2016\\_germany\\_eiti\\_report.pdf](https://eiti.org/sites/default/files/documents/2016_germany_eiti_report.pdf).
- Data portal of D-EITI: <http://www.rohstofftransparenz.de/en/#start>

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## IMPRINT

Forum Ökologisch-Soziale Marktwirtschaft (FÖS) / Green Budget Germany

Executive Director: Uwe Nestle

Authors: Florian Zerkow und Johanna Kresin, May 2019

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