



ALERT

DiXi Group calls on the government and extractive companies to publish the essential terms and conditions of the signed PSAs, as well as information about paid bonuses

“**#DiscloseTheDeal** in 2021” is the motto of this year’s PWYP global campaign¹, dedicated to the entry into force of the relevant requirements of the Extractive Industries Transparency Initiative (EITI)² Standard on January 1, 2021.

What it means in practice?

Starting from January 1, 2021, countries implementing the EITI³ are required to disclose the full text of any agreements (contracts, concessions, production sharing agreements or other agreements concluded on behalf of the government), **which contain the terms and conditions of the production of oil, gas and other minerals.**

On December 31, 2020, Ukraine concluded 7 production sharing agreements (PSAs) for the Sofiyivska, Uhnivska, Balakliiska, Ivanivska, Zinkivska, Buzivska and Berestianska hydrocarbon fields⁴, and on January 14, 2021 - another PSA for the Varvynska field⁵. There are also a number of agreements concluded in previous years, e.g. for the Yuzivska field.

According to the above-mentioned EITI Standard, these agreements should be disclosed – as well as the PSAs previously concluded. However, these requirements have not been incorporated into Ukrainian legislation yet, this might be the task of the draft law #3790⁶, which is supposed to ensure that Ukraine fully complies with the EITI requirements.

¹ <https://www.disclosethedeal.org/>

² <https://eiti.org/document/eiti-standard-2019>

³ Ukraine joined the EITI in 2013. See more <http://eiti.org.ua/>

⁴ <https://ua.interfax.com.ua/news/economic/713708.html>

⁵ <https://www.ukrinform.ua/rubric-economy/3171050-minenergo-pidpisalo-ugodu-pro-rozpodil-sodo-dilanki-varvinska.html>

⁶ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=69368

However, there is some information about PSAs that needs to be disclosed now. The Law of Ukraine “On Ensuring Transparency in Extractive Industries”⁷ requires disclosing the **essential terms and conditions of extractive agreements** (together with the relevant extracts from such agreements), in particular:

- name of the agreement, number, date of conclusion, names of the parties;
- date of entry into force, term of its validity;
- subject of the agreement;
- rights and obligations of the parties regarding the use of subsoil, other rights to natural resources;
- guarantees on the stability of legislation (if any);
- conditions regarding the procedures of making payments;
- operational commitments, including work programs;
- commitments on environmental protection measures;
- provisions on safety and labor protection;
- social obligations, including participation in the development of local infrastructure and regulations on the use of works, goods and services performed, supplied or provided by economic entities, etc.

The information to be disclosed in accordance with this Law also includes bonuses paid by the company in favor of the government - as those related to the definition of “payments” under Article 1 of the Law.

In addition, we draw attention to the fact that the draft Subsoil Code⁸, published by the Ministry of Environmental Protection and Natural Resources, does not contain any commitment to publish neither production sharing agreements nor their essential conditions. As the draft Code is supposed to summarize all subsoil use legislation, it seems strange to ignore extractive transparency requirements.

EITI is an independent and internationally supported standard implemented in 55 countries, including Ukraine. In order to implement this standard and the EU-Ukraine Association Agreement in terms of reporting of extractive companies (Directive 2013/34/EU), in 2018 the Law “On Ensuring Transparency in Extractive Industries” was adopted.

Publish What You Pay (PWYP) is an international coalition that promotes an open and responsible extractive industry, a global movement working to ensure that revenues from oil, gas and minerals are used for development.

⁷ <https://zakon.rada.gov.ua/laws/show/2545-19#Text>

⁸ <https://mepr.gov.ua/files/%D0%9F%D1%80%D0%BE%D1%94%D0%BA%D1%82%20%D0%9A%D0%BE%D0%B4%D0%B5%D0%BA%D1%81%D1%83%20%D0%A3%D0%BA%D1%80%D0%B0%D1%97%D0%BD%D0%B8%20%D0%BF%D1%80%D0%BE%20%D0%9D%D0%B0%D0%B4%D1%80%D0%B0.pdf>