Open User Community Meeting Minutes

Publications Office – ESPD EDM

Meeting Date/Time:	2020-10-01 10:00 – 12:00

Attendee Name *(present)*	Organisation / Email
Sofia BERENGUER	OP
Natalie MURIC	OP
Marc Christopher SCHMIDT	DG GROW
Hector RICO	Everis
Maria FONT	Everis
Pedro SOTO	Everis
Andreea ANGHEL	Romania
Beata BALAGOVA	Slovakia
Jason GRECH	Malta
Asen KIRILOV	Bulgaria
Hilde KJØLSET	Norway
Ajda KOSTANJSEK	Slovenia
Stanislav KOVAC	Slovakia
Foteini MICHAILIDOU	Greece
Ansgar MONDORF	Germany
Timo RANTANEN	Finland
Emma REILLY	Ireland
Alexandra RODRIGUEZ	Portugal
Francesco SCATTARETICO	Italy
Jalini SRISGANTHARAJAH	Norway

Summary of Meeting Objectives

- Summary of last meeting on 3 September 2020.
- Presentation of the GitHub issues with two purposes: informative and consultation.

Meeting Agenda

- Summary of the last meeting on 3 September 2020.
- ESPD Releases
- GitHub Issues

  - #253: Alignment of the ESPD validator with eCertis (exclusion grounds).
  - #156, and #250: Combination of roles, Role Naming – continuation of the discussion.
  - #249: missing initial "yes/no" answer for all selection criterion @ Section B and C of Part IV - continuation of the discussion.
  - #273: Criteria #25, 26 - extended - (trade and commercial registers).
  - #275: Criterion #29 - extended - missing field: number of fiscal years.
  - #124, and #220: Need to re-model some data structures as UBL-classes / Codelist (V 2.1) CriteriaTaxonomy - EO_DATA.SHELTERED_WORKSHOP: #57 (CRITERION.OTHER.EO_DATA.SHELTERED_WORKSHOP).

- Next meetings

Summary of the last meeting on 9 July
- A brief explanation of the previous Open User Community (OUC) Meeting.

ESPD Releases

The need for the release of an intermediate version of the ESPD-EDM (it would be 2.12), arose from the analysis of several minor issues.

The discussion was focused on the preferences of the different participants, regarding to the implications of implementing these issues and release an intermediate version. The general quorum was to wait until the next version 3.0.0 which is expected for end of 2020 beginning of 2021.

The agreement was to stick to version 2.1.1, and implement all the updates in the ESPD-EDM 3.0.0.

GitHub Issues

- The issues were presented following the same logic as in the previous OUC.

- **#253:** Alignment of the ESPD validator with eCertis (exclusion grounds):
  - **Summary:** ESPD validator: when testing 2.1.1 self-contained ESPD requests, there are errors if ESPD request does not have all the exclusion grounds selected.
    However, there are two types of exclusion grounds:
      - Mandatory (Part III, A – criminal convictions – and B – payment of taxes –) .
      - Voluntary (Part III, C – insolvency – and D – national grounds –).

  - **Proposed solution:** Update the validator tool to make mandatory just the following Exclusion Grounds:
      - Part III, A – Criminal convictions
      - Part III, B – Payment of taxes

No additional comments offered from either part. There was an agreement to apply the proposed solution.

- **#156, #250**: Combination of roles, Criterion No 59 roles
  - **Summary:** Possibility to add two roles for an EO on one procedure, since an EO can be Other Entity just having to fulfil the requirements without doing any activity, and at the same time, it could act as a subcontractor in the same procedure.

  - **Proposed solution:**
      - For the role naming, the proposal was to use the same current code list EORoleType but including changes. Sole Tenderer instead of Sole Contractor, and Subcontractor instead of Other Entity Not Relied Upon (OENRON).
      - For the combination of roles, the proposal was to combine Other Entities Relied Upon and Subcontractor Roles in one procedure.

The conclusion was to set up a model to ease further discussion in the future.

After discussing the legal implications and the eventual collusions the common consensus reached was to keep the roles as simple as possible with just one role per EO and procedure.

- **#249:** Initial "yes/no" answer for all selection criterion at Section B and C of Part IV
  - **Summary:** Currently Selection Criteria in Section A have an initial "yes/no" to indicate whether the EO fulfils the Selection Criteria or not. It should be possible to add the yes or no for all selection criteria in sections B and C.
    In order to help and ease the process on both sides, the Buyer and the Economic Operator's side, it was presented three options.

- o **Proposed solutions:** The proposed solution was to add the first question in all selection criteria to indicate if the EO has to fulfil the criteria or if relies on other entities to fulfil it. Two options were presented according to other previous discussions.
  - ▪ Option 1 (preferred):
    Question 1: Does the EO fulfil the criteria by itself? Yes / No
    Question 2: in the case of no – Relied upon or not: Yes / No
  - ▪ Option 2:
    Question 1: Does the Tenderer fulfils the criteria? Fulfilled by EO / Fulfilled together with others / No.

Option 1 was unanimously preferred since it keeps the same question structure followed in other parts of ESPD. There was an agreement on the implementation of this option 1.

- **#273:** Criteria #25, 26 - extended - (trade and commercial registers)
  - o **Summary:** The issue reports a logical error on how the criteria #25 (professional register) and #26 (trade register) require information about the EO Registered in Trade Registers and Professional Registers.

    Currently, the CA can include a requirement about in which professional and trade register should be registered an EO. This fact does not make sense, CA can ask or require the registration but not a specific register to be registered in.

  - o **Proposed solution:** Remove the current requirements (name of the register and URL).
    In the case of the Professional Registries, the specification of the type of registry is provided as a requirement (e.g. Register Type).
    Include a question subgroup asking for the Name of the register, the URL, and the registration number. Moreover, keep the question "Why the economic operator is not registered".

During the discussion, the need to have all possible values registered arose, but as the OUC pointed out, this would differ greatly from country to country, and an obligation in this aspect would be a Breach of Fundamental principles of the Treaty.

It was asked for the OUC member to provide their registry CL.

It was agreed to ask for detailed data regarding particular registry CL and continue gathering information on the different types of Register, area, CPV, and elements that would fit the purpose of the code list.

So far, Italy provided the first list for the Register type code list approach:

- Stockbrokers (28)
- Agronomists and Foresters (20,993)
- Agrotechnics (14,712)
- Architects (142,035)
- Social Assistants (37,460)
- Actuaries (874)
- Lawyers (198,041)
- Biologists (30,671)
- Chemists (9,978)
- Chartered accountants and accounting experts (112,414)
- Labour Consultants (27,572)
- Pharmacists (79,069)
- Geologists (15,369)

- Geometers (111,145)
- Journalists (106,990)
- Nurses (379,213)
- Engineers (213,399)
- Doctors and Dentists (397,456)

Agreed to collect CL from OUC members and apply it to the proposed solution.

- **#275:** Criterion #29 - extended - missing field: number of fiscal years
  - **Summary:** In the case of 'General Yearly Turnovers' each required amount represents an additional fiscal year. It was reported this case of use is not clear enough for the users.

  - **Proposed solution:** Two options were proposed:
    - Option 1: follow the suggested solution and define explicit labels depicting each required amount purpose, i.e. "fiscal year 1", "fiscal year 2", etc.

      The same would apply to "Specific average turnover" and "Specific yearly turnover".
    - Option 2: the CA can include a common threshold per all fiscal years (mock-up 1) or if needed, assign a threshold per each FY (mock-up 2).

At the meeting, the need to specify a particular interval for each Fiscal Year was discussed as well as the best option from EO view.

Option 2 was the preferred one although, as mentioned by some of the participants, the actual year should be cleared out from the literal (i.e., "FY 1: Minimum Requirement" instead of "FY 1: 2015 Minimum Requirement").

There was an agreement on the implementation of option 2 with slight changes commented in the paragraph above.

- **#124:** Need to re-model some data structures as UBL-classes
  - **Summary:** The possibility to transform "other criteria" to UBL classes as these criteria are not actual criteria (Exclusion Ground nor Selection Criteria). These criteria are modelled as criteria but they are information concerning the economic operator, asked in the Part II of the ESPD.

  - **Proposed solution:** Keep the usage of the other criteria as per today. Except: OTHER-CA-Lots. The information is asked in the CN coming from the eForms. This notice establishes how the EO will be. In the ESPD Response the EO says how it is.

After discussing with the participants, the agreed solution is that if the information asked in Other Criteria is requested in eForms, it also should be included in the ESPD Response and the link between both should be kept.

- **#220:** Need to re-model some data structures as UBL-classes / Codelist (V 2.1) CriteriaTaxonomy - EO_DATA.SHELTERED_WORKSHOP: #57 (CRITERION.OTHER.EO_DATA.SHELTERED_WORKSHOP)
  - **Summary:** The possibility to add a new criterion for representing the "reserved participation" as eForms does. Currently, the ESPD has included both terms in the same question under PART II, Section A (information about the EO).

  - **Proposed solution:** As it cannot be mapped with a UBL class (issue #124), it has to remain at the other criteria questions. To be as tightly aligned as possible with eForms (BT-71), it could be created a new criterion to represent "organisations pursuing a public service mission".

The discussion did not go against the proposed solution, it was agreed to keep the criteria but taking into account that it should only appear in the ESPD response if eForms CN has it.

Next Meetings
- The next Open User Community Meeting (OUC) is on the 29th of October.
- The Annual Seminar is scheduled on the 3rd of December in the morning.