



# Benin

Population <sup>1</sup>	11,175,204
Area (km <sup>2</sup> ) <sup>1</sup>	114,760
GDP per capita (USD) <sup>1</sup>	827.43
TPES (Mtoe) <sup>2</sup>	4.45
Energy intensity (toe/10 <sup>3</sup> 2010 USD) <sup>2</sup>	0.49
CO <sub>2</sub> emissions - energy (MtCO <sub>2</sub> ) <sup>2</sup>	5.70

Sources:

1. The World Bank 2017

2. ©IEA 2018, [www.iea.org/statistics](http://www.iea.org/statistics)

Benin's overall risk level against the assessed areas is **low**.

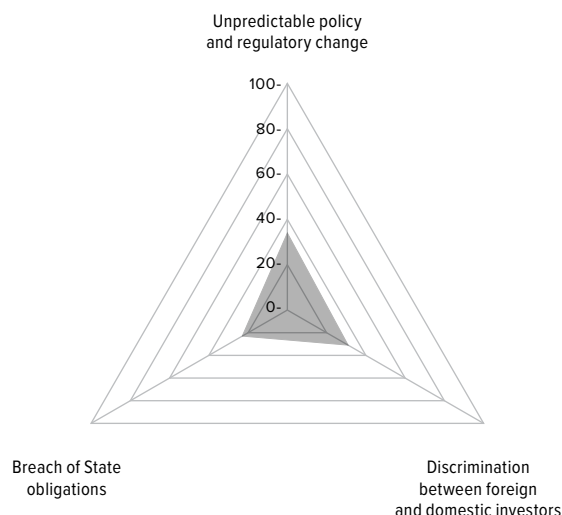
Among the three EIRA risk areas, *breach of State obligations* is lower compared to *discrimination between foreign and domestic investors* and *unpredictable policy and regulatory change*.

Benin has a good performance on two of the EIRA indicators, and a moderate performance on the others. *Rule of law* is the highest-scoring indicator with 78 points, followed by *management of decision-making processes* (72). On *regulatory environment and investment conditions* the score is 59 points, while *foresight of policy and regulatory change* stands at 49.

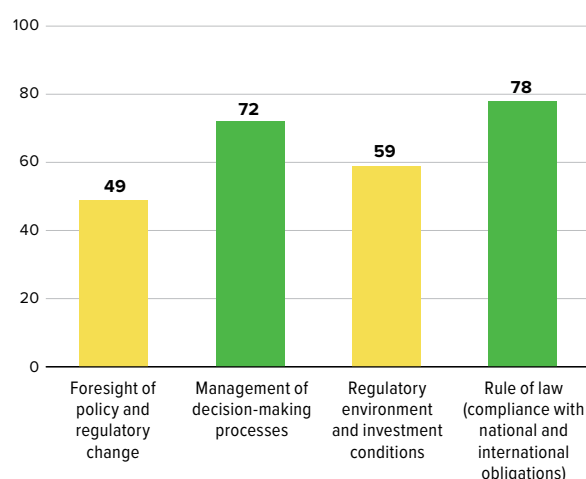
On a more detailed level, Benin's overall sub-indicator performance is good. *Management and settlement of investor-State disputes* is at 80 points. It is followed by *institutional governance* and *respect for property rights*, both at 75. On *transparency* the score is 68, while *communication of vision and policies* is at 65. Performance on the sub-indicators *restrictions on FDI* and *regulatory effectiveness* is at 60 and 58, respectively. *Robustness of policy goals and commitments* is the lowest-scoring sub-indicator with 33 points.

While Benin has the relevant policies and measures in place, there is some potential for improvement. Attention should be given to increasing the robustness of its policy goals and commitments.

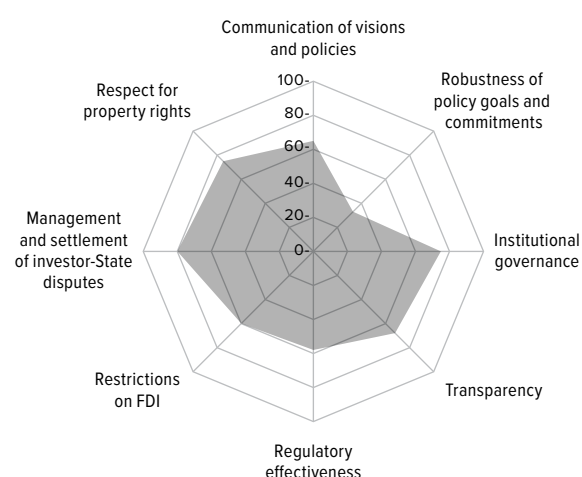
## RISK LEVEL



## INDICATOR PERFORMANCE



## SUB-INDICATOR PERFORMANCE



## Foresight of policy and regulatory change

### QUICK FACTS

The Government Action Programme 2016-2021 sets the policy direction of the country and guides Government action across all sectors of the economy.

Benin ratified the Paris Agreement in 2016 and has submitted its NDC.

### STRENGTHS

The Government Action Programme 2016-2021 aims at ensuring energy security and reliable electricity supply across Benin. Priority actions include the expansion of domestic thermal production, development of the country's renewable and subsoil potential, as well as the implementation of an energy efficiency scheme targeting public and residential buildings. Two National Action Plans on Energy Efficiency and on Renewables (adopted in 2015) identify short- and long-term targets for the electricity, heating, cooling and transport sectors. The Government has intensified its off-grid electrification efforts. Moreover, with the technical and financial support of external donors, the Government is currently formulating a National Adaptation Plan. Meanwhile, it has already passed legislation on climate change that contains a range of progressive features, such as the creation of carbon and environmental restoration taxes.

A monitoring and coordination system is envisaged in the Government Action Programme. It consists of the Council of Ministers, the Flagship Project Monitoring Committee supervised by the President of the Republic, the Monitoring and Evaluation Committee, as well as sector-specific Monitoring Committees chaired by Ministers.

### AREAS FOR IMPROVEMENT

Though Benin has pledged to promote renewable energy sources, the inaccessibility of necessary capital and new technologies are a barrier to the realisation of this commitment. In light of this, the Government should consider granting financial and regulatory incentives to renewable energy producers, such as prioritised access to the grid and tariffs differentiated by technologies and sizes of the generation plants.

The policy documents envisage a variety of monitoring authorities and implementation agencies without a clear demarcation of their respective roles and responsibilities. It is considered best practice to assign the evaluation of work progress to external experts or to an entity other than the one implementing the programmes. The level of independence should be such that there is no doubt about the objectivity and transparency of the work carried out.

The monitoring and coordination process could also benefit from the introduction of a review process and a requirement for periodic progress reports on renewable energy deployment and energy efficiency.

## Management of decision-making processes

### QUICK FACTS

The Ministry of Energy develops legislation related to the energy sector.

The Ministry of Environment and Sustainable Development is responsible for all environmental issues, including the implementation of Benin's NDC.

Freedom of information and access to administrative documents is governed by Law no. 2015-07 on information and communication.

### STRENGTHS

The Ministry of Energy is required by law to ensure collaboration within its departments and engage with other ministries in the decision-making process. To provide policy coherence, a Quarterly Review ("Revue Trimestrielle") and a Committee of Directors, both of consultative nature, are established. The Committee convenes regularly to coordinate on transversal matters. The Investment and Export Promotion Agency (APIEX) functions as an investment promotion authority and a one-stop office for business start-ups. APIEX has launched an online platform ("iGuide") to inform investors about the operating costs, salaries and taxes related to the conduct of business in the country.

According to national laws, State agents must decide upon a request for information access within five days of its receipt. In case of a default, they may be subject to administrative or judicial penalties. The Official Gazette of Benin and the General Secretariat of the Government disseminate online versions of all legal texts, ordinances and international agreements. The National Electricity Regulatory Authority (ARE) maintains a website that publishes the relevant laws, annual reports and decisions, including those of the ECOWAS Regional Electricity Regulatory Authority. The interests of all affected parties, including operators and consumers, must be duly represented at the meetings organised by the ARE and the Ministry of Energy.

### AREAS FOR IMPROVEMENT

The enactment of the Law on information and communication was a positive step towards modernising the public administration, and enhancing its transparency and accountability. The adoption of a law prescribing public consultation on new policies or revisions to the existing ones, will help the Government tap into a broad range of perspectives and implement more effective solutions to local and national development challenges. Moreover, it is advised that draft laws should be made available for public comment and a timeframe for providing requested public documents be explicitly stated.

## Regulatory environment and investment conditions

### QUICK FACTS

The Ministry of Energy is the main regulatory institution for hydrocarbons. It also oversees activities in the electricity sub-sector.

The ARE was established as an autonomous authority to ensure safety, reliability and competitiveness in the electricity market, and to protect the interests of consumers.

Law no. 90-002 of 1990 introducing the Investment Code grants State-owned and private enterprises the same rights and subjects them equally to the same obligations.

Law no. 2019-06 introducing the new Petroleum Code is currently awaiting Presidential approval.

### STRENGTHS

The ARE enjoys a certain degree of independence in its activities and management. Its competences, rights and obligations are clearly defined in Decree no. 2009-182 on the establishment, attributions, organisation and operations of the Electricity Regulatory Authority as amended. The ARE's revenues are separate from the State budget and subject to the fiscal control of the Supreme Court's Chamber of Accounts.

Attracting private investment in infrastructure and power production is one of the main priorities stated in the Government Action Programme 2016-2021. Law No. 2016-24 on Public-Private Partnership codifies the announcements, concessions, contract management and establishment of regulatory bodies. The Law introducing the Investment Code provides fiscal and non-fiscal incentives to investors, and guarantees the free transfer of funds and the repatriation of any capital derived from investments. Currently, national legislation does not impose limitations on the employment of foreign personnel.

### AREAS FOR IMPROVEMENT

ARE's institutional and functional autonomy can be further enhanced. Merit-based selection of ARE's National Council of Regulation, through a public procedure and for a time-bound tenure, should be set in place. This will help eliminate perceptions of political bias. Given the role of the Société Béninoise d'Énergie Électrique as the sole utility in charge of power distribution, the reinforcement of ARE's institutional and financial independence is a critical element for fully liberalising the power sector.

The establishment of an independent authority to sanction anti-competitive behaviour across sectors will allow antimonopoly rules to be enforced more efficiently and curtail detrimental business strategies.

The Government is currently contemplating the adoption of local content requirements for the employment of its nationals as well as for local supply agreements. While these policies could boost productivity and help the country increase efficiency in the value chain, they must be made part of an overall development strategy.

## Rule of law

### QUICK FACTS

Benin ratified the Convention on the Settlement of Investment Disputes between States and Nationals of other States in 1966.

Benin acceded to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 1974.

Benin is a member state of the OHADA. In 2017, OHADA revised the Uniform Act on Arbitration to include provisions on commercial and investment arbitration.

### STRENGTHS

The Law introducing the Investment Code and the revised OHADA Uniform Act on Arbitration 2017 offer foreign investors a reliable framework for resolving their disputes against the State without prior recourse to national courts. They also allow public entities to consent to arbitration and encourage the parties to fulfil any preliminary steps, such as mediation, negotiation or conciliation. In addition, the Mediator of the Republic is mandated to investigate complaints launched by natural and legal persons against State agencies. As reflected in its annual report, the Mediator of the Republic has been actively involved in an increasing number of cases. Foreign judgements and arbitral awards are recognised and enforced in Benin.

Deprivation of private property can occur only for reasons of public interest which are stated in the law. In the case of expropriation, compensation must be mutually agreed between the parties and must cover the totality of the direct, material and consequential damage caused by the expropriation. In general, there are no restrictions on the transfer of technology. Intellectual property rights are protected under the national laws, BITs and international treaties, such as the Bangui Agreement.

### AREAS FOR IMPROVEMENT

The Government has acknowledged the need for reforms in the judicial system to address issues such as under-resourcing in terms of personnel and material. The introduction of binding time limits for all court proceedings as well as their effective implementation will help expedite the delivery of judgements and reinforce the reliability of the Benin's legal system.