



Afghanistan

Population ¹	36,296,400
Area (km ²) ¹	652,860
GDP per capita (USD) ¹	556.30
TPES (Mtoe) ²	N/A
Energy intensity (toe/10 ³ 2010 USD) ²	N/A
CO ₂ emissions - energy (MtCO ₂) ²	N/A

Sources:

1. The World Bank 2017

2. ©IEA 2018, www.iea.org/statistics

Afghanistan's overall risk level against the assessed areas is **moderate**.

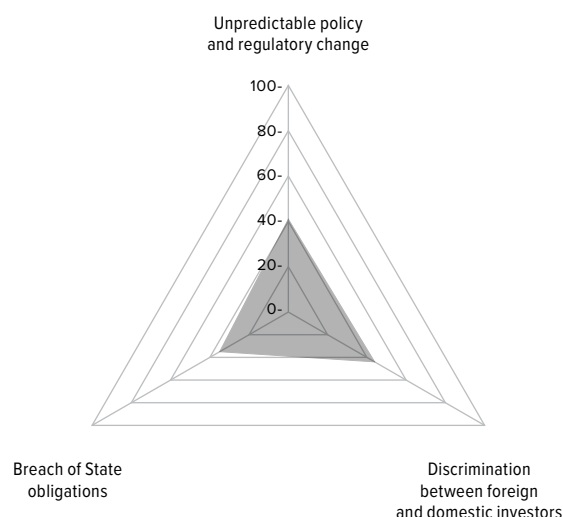
Breach of State obligations continues to be the lowest risk and is on the same level as last year. It is followed by *unpredictable policy and regulatory change* and *discrimination between foreign and domestic investors*. The risk level for these two areas has decreased compared to 2018.

Afghanistan's performance is moderate on three of the EIRA indicators, and it is good on one indicator. The country has maintained a score of 65 on the indicator *rule of law*. On *management of decision-making processes*, it has improved by 7 points and now stands at 56. The scores for *foresight of policy and regulatory change* (55) and *regulatory environment and investment conditions* (47) remain unchanged from 2018.

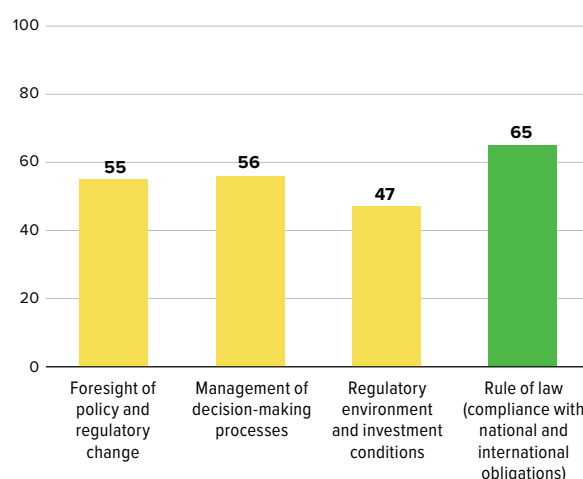
On a more detailed level, Afghanistan's overall sub-indicator performance is moderate. *Management and settlement of investor-State disputes* continues to be the highest scoring sub-indicator with 80 points. *Communication of vision and policies* (73) and *restrictions on FDI* (60) have also received the same scores as in 2018. The performance on *institutional governance* has improved by 12 points and on *transparency* by 2 points. The two sub-indicators have scored 56 each. On *respect for property rights* (50) and *robustness of policy goals and commitments* (38), there have been no changes observed. *Regulatory effectiveness* is again the lowest-scoring sub-indicator with 33 points.

While there are some improvements in Afghanistan's performance compared to 2018, further steps must be taken to build on the work done. Particular attention should be given to strengthening the country's regulatory effectiveness.

RISK LEVEL



INDICATOR PERFORMANCE

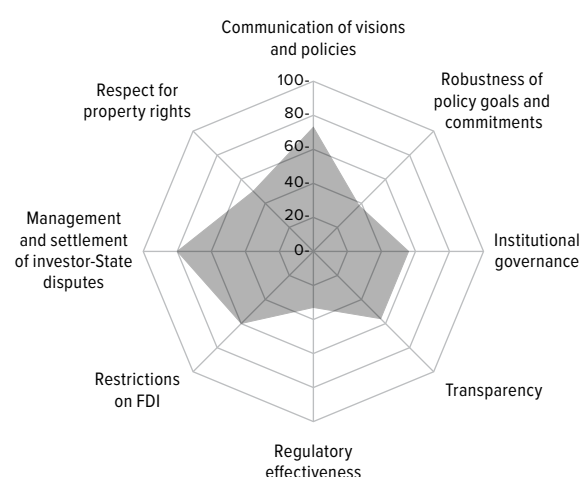


YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019
Unpredictable policy and regulatory change	44	41
Discrimination between foreign and domestic investors	47	44
Breach of State obligations	35	35

INDICATORS	2018	2019
Foresight of policy and regulatory change	55	55
Management of decision-making processes	49	56
Regulatory environment and investment conditions	47	47
Rule of law	65	65

SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

The main strategic document for the energy sector is the Afghanistan National Renewable Energy Policy 2015-2020.

The Power Services Regulation Act 2016 lists some of the country's energy priorities, such as providing affordable and reliable electricity access to the public in exchange for a fair price.

Afghanistan ratified the Paris Agreement in 2017 and has submitted its first NDC.

STRENGTHS

In 2018, Afghanistan took some positive measures towards meeting its energy targets. In particular, efforts were made to bolster the solar industry. The country is currently working on the design and tender of a 40MW solar power plant with assistance from the International Finance Corporation. The project, which will be on a Public-Private Partnership basis, comes on the heels of the Law on Public-Private Partnership enacted in November 2018. The Law aims to provide a robust legislative framework for investment in different sectors, including renewables.

The General Directorate of Energy Sector Projects Supervision, under the Ministry of Energy and Water (MEW), monitors the implementation of the energy targets. Evaluation reports for 2018 were prepared and archived by the MEW. The Renewable Energy Department, also under the MEW, is responsible for assessing the renewable energy potential of the country, making detailed resource maps, and developing technical designs, benchmarks and performance standards for the sector.

AREAS FOR IMPROVEMENT

Afghanistan has set ambitious mid- and long-term targets for its energy sector. To effectively meet these, it must adopt an action plan as soon as possible. While the Government is already working on this, it is urged to expedite its efforts. The final action plan should take into account the budget, timelines and resources needed for its implementation.

As mentioned last year, the Government should make the monitoring and evaluation reports of the relevant ministries publicly available. At present, policy documents designate the authority which will perform this function without explaining the modalities, timeframe, financial arrangements and other steps of the process. A defined and transparent monitoring mechanism will allow the Government to periodically review its performance, receive feedback from interested parties and make timely adjustments to its policies where needed.

Management of decision-making processes

QUICK FACTS

Policy-making for the energy sector is led by the MEW.

The High Economic Council oversees the country's investment policies.

The Afghanistan Central Business Registry was established in 2008 as an investment approval authority.

STRENGTHS

The Law on the Manner of Processing, Publication and Enforcement of Legislative Documents entered into force in 2018. It gives detailed guidance on the country's law-making process. It envisages the establishment of a drafting commission, consisting of officials from relevant departments and external experts. Moreover, it makes provision for the formation of a joint commission when inter-ministerial coordination is required. If deemed necessary, the President of Afghanistan or the Cabinet of Ministers may create a special commission for drafting a sensitive law or regulation.

In 2018, the Government took concrete measures to improve transparency. The Law on Access to Information was enacted and a new Oversight Commission on Access to Information was appointed under it. A new Law on Minerals was also adopted to streamline mining rules and increase transparency in the sector. Finally, the Law on State-Owned Corporations (SOC) was enacted in October 2018 to ensure accountability in SOC's activities. It follows the practices of the the Law on Limited Liability Companies 2018 and clarifies that the financial and accounting report of each SOC must comply with International Financial Reporting Standards.

AREAS FOR IMPROVEMENT

To improve the ease of doing business, Afghanistan should intensify its efforts towards establishing a one-stop shop. Currently, the Central Business Registry issues licences to companies and offers some guidance on investments across different sectors. Energy investors are required to approach different public authorities, such as the Energy Services Regulations Authority (ESRA), the Public-Private Partnership Department, and the Investment Promotion Desk to obtain the relevant information. A dedicated one-stop shop will facilitate information flow, simplify procedures and make the business climate more attractive.

The Government has undertaken commendable legislative initiatives towards guaranteeing transparency. However, steps must be taken to ensure that enacted laws get translated into action. To improve information access, the online registry of laws should be regularly updated. The Government may also consider publishing official translations of its laws and regulations in foreign languages. Finally, the country must reinforce its international commitments and uphold its obligations under global transparency initiatives.

Regulatory environment and investment conditions

QUICK FACTS

The ESRA, under the MEW, regulates the electricity market.

The Ministry of Mines and Petroleum is the regulator for the hydrocarbon sub-sector.

The Power Services Regulation Act and the Law on Hydrocarbons 2017 support the legal framework of the energy sector.

The Law on Private Investment 2005 was enacted to protect private investment in the country.

STRENGTHS

The ESRA continues to regulate the electricity services. It proposes tariffs, grants licences, and protects the interests of electricity consumers. The Power Services Regulation Act contains provisions on preventing anti-competitive practices in activities related to electricity supply. All investment projects are announced as per the international competition bidding procedure.

The Government enacted the Law on Public-Private Partnership in 2018. Its objective is to encourage the participation of private players in different sectors, including the design, development, construction and infrastructure of energy projects. The Law on Limited Liability Companies was also enacted in 2018 to reduce the conflict of interest in companies and strengthen corporate governance. The Government continues to offer private energy investors incentives in the form of project land, tax benefits, a 25 per cent subsidy, and long-term power purchase contracts.

AREAS FOR IMPROVEMENT

As stated in EIRA 2018, the process for making the energy regulator independent of the MEW is currently underway. For a smooth transition, the Government should already develop a roadmap determining the constitution of the body taking over the ESRA's role and responsibilities, the selection criteria of its key decision-makers as well as the measures needed to safeguard its budgetary autonomy.

The Law on Private Investment states that the Government may restrict investment in natural resources and energy infrastructure. However, it does not stipulate the criteria for imposing such a restriction. As suggested last year, the Government should re-evaluate the value and need for discretionary provisions which create ambiguity among investors about the level of state intervention in the energy sector.

Rule of law

QUICK FACTS

Afghanistan is a contracting party to the Energy Charter Treaty since 2013.

Afghanistan ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States in 1968.

Afghanistan acceded to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 2004.

The Law on Private Investment contains provisions protecting property against unlawful expropriation.

STRENGTHS

There were no retroactive changes introduced to laws in the last year. Foreign energy investors were not obliged to exhaust local judicial remedies before recourse to international arbitration. Under the law, disputes on energy supply activities may be settled through negotiation or by the dispute resolution authority stipulated in the specific licence or contract. The Afghanistan Chamber of Commerce and Industries continues to play an active role in resolving disputes by offering mediation and arbitration services.

Changes to the Law on Expropriation 2017 were published in the Official Gazette of October 2018. The updated Law re-defines the terms expropriation, the Expropriating Authority and commercial area. It also establishes a Valuation Committee, states its duties and responsibilities, and determines its membership. The purpose of this Law is to clarify the rules related to the expropriation of immovable property in the public interest. BITs between Afghanistan and other countries, such as Germany and Turkey, classify intellectual property as a type of investment. There are no statutory provisions in national laws or international investment agreements restricting the transfer of technology.

AREAS FOR IMPROVEMENT

As suggested in 2018, the Government may consider organising an investment authority, such as an ombudsman, for resolving conflicts between investors and public authorities. The investment ombudsman should be empowered to impartially process the complaints received from private individuals or companies regarding decisions, actions or omissions of the public administration.

While the Law on Expropriation contains detailed provisions protecting assets against expropriation, this is limited to immovable property. As a result, the Government may consider strengthening guarantees against the expropriation of intangible property under the domestic laws. The existence of such provisions will give clarity and security to investors regarding the legal regime regulating this issue.