



Bosnia and Herzegovina

Population ¹	3,351,527
Area (km ²) ¹	51,210
GDP per capita (USD) ¹	5,394.59
TPES (Mtoe) ²	6.75
Energy intensity (toe/10 ³ 2010 USD) ²	0.36
CO ₂ emissions - energy (MtCO ₂) ²	22.00

Sources:

1. The World Bank 2017

2. ©IEA 2018, www.iea.org/statistics

Bosnia and Herzegovina's (BiH) overall risk level against the assessed areas is **moderate**.

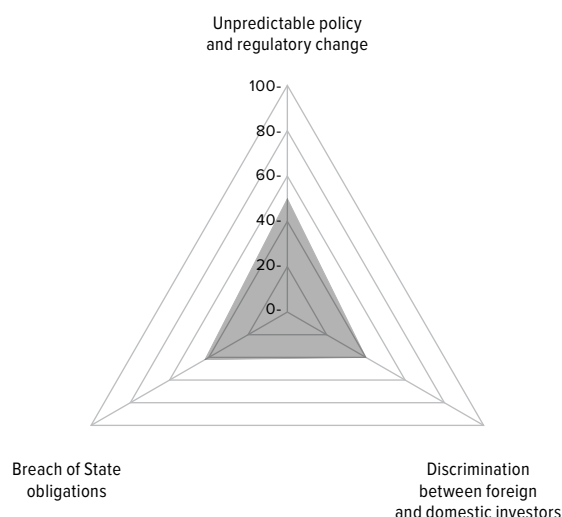
The risk of *discrimination between foreign and domestic investors* continues to be the lowest and is on the same level as last year. It is followed by *breach of State obligations* which also remains unchanged. *Unpredictable policy and regulatory change* is the area with the highest risk, though the level has gone down.

BiH has performed moderately on three of the EIRA indicators, and it has a good performance on one. The country has maintained its score of 75 on the indicator *regulatory environment and investment conditions* and 58 on the indicator *rule of law*. *Foresight of policy and regulatory change* has improved by 17 points, and now stands at 47. On the *management of decision-making processes* indicator, it has again scored 46.

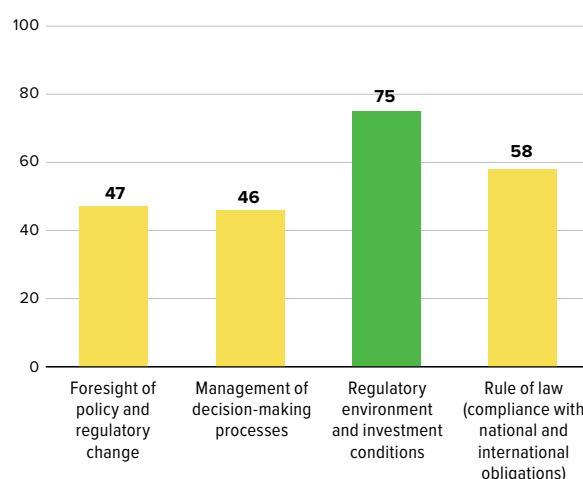
On a more detailed level, BiH's overall sub-indicator performance is moderate. The highest-scoring sub-indicator is *restrictions on FDI* with 80 points. *Management and settlement of investor-State disputes* (75), *regulatory effectiveness* (70) and *transparency* (67) have received the same scores as in 2018. *Communication of vision and policies*, which had a low score of 29 last year, has improved and moved up to 56. It is followed by the sub-indicator *respect for property rights* at 42. *Robustness of policy goals and commitments* has also improved, from 32 to 38 points. *Institutional governance* is again the lowest-scoring sub-indicator with 25 points.

While there are some improvements in BiH'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 institutional governance.

RISK LEVEL



INDICATOR PERFORMANCE

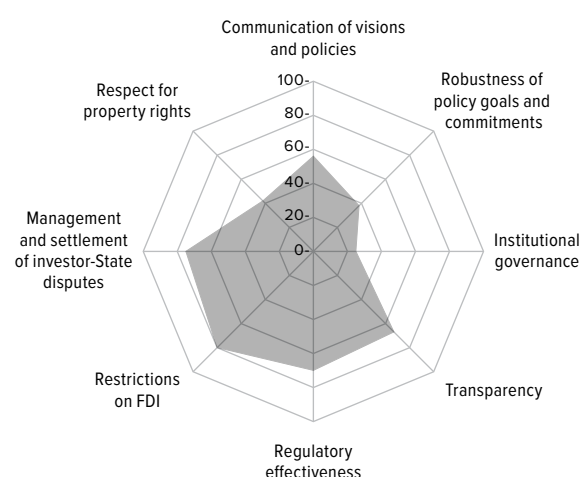


YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019
Unpredictable policy and regulatory change	55	50
Discrimination between foreign and domestic investors	40	40
Breach of State obligations	42	42

INDICATORS	2018	2019
Foresight of policy and regulatory change	30	47
Management of decision-making processes	46	46
Regulatory environment and investment conditions	75	75
Rule of law	58	58

SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

BiH is a decentralised country comprising a national Government (the State), the two political entities of the Republika Srpska and the Federation of Bosnia and Herzegovina (FBiH), and the independent local Brčko District.

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

STRENGTHS

In 2018, the Framework Energy Strategy of BiH until 2035 was adopted. This was a major step forward since the document set definitive priorities and targets for the energy sector at State level. The main objectives under the Strategy are lowering carbon emissions, increasing the share of renewable resources in the energy mix, and reducing energy consumption. To meet these goals, the Green Climate Fund has approved two projects: (1) scaling up investment in low carbon public buildings and (2) improving the process of drafting the National Plan for Adaptation to Climate Change in Bosnia and Herzegovina. Both projects are of great importance to the country and are intended to increase investments in the energy sector.

The Ministry of Foreign Trade and Economic Relations of BiH (MOFTER) monitors the implementation of the energy priorities at State level. For the entities, the Federal Ministry of Energy, Mining and Industry and the Ministry of Industry, Energy and Mining of Republika Srpska conduct monitoring activities. The Framework Energy Strategy of BiH until 2035 contains an indicative map that provides the names of the key decision-makers for each priority, the measure of interdependency, the timeframe for its achievement and the level of priority.

AREAS FOR IMPROVEMENT

In line with last year's suggestion, BiH has adopted the Framework Energy Strategy of BiH until 2035. To further build on this achievement, the State and the entities are urged to begin the implementation of the targets mentioned in the new Framework Strategy. In particular, BiH should work towards finalising and adopting an updated action plan for energy efficiency since the previous one expired in 2018. Existing laws should also be revised to ensure the country's compliance with its international commitments, particularly for the electricity and gas sub-sectors.

Uniform guidelines and processes for monitoring the energy indicators should be developed across all Government levels. While the new Framework Strategy provides the names of the key decision-makers for each priority, it is important to assess and define how they will coordinate the work in practice.

Management of decision-making processes

QUICK FACTS

The Ministry of Industry, Energy and Mining of Republika Srpska plans and manages the electric power strategy in the Republika Srpska.

The Federal Ministry of Energy, Mining and Industry develops energy policies for FBiH.

FBiH is divided into ten cantons each of which has distinct regulations on environmental protection, spatial planning, water management, forestry and civil engineering.

All Government levels have enacted legislation facilitating access to information.

STRENGTHS

Law-making involves the State, the two political entities and the Brčko District. At State-level, the MOFTER continues to take the lead in formulating policies for the energy sector. Inter-sectoral working groups, such as the State committee for infrastructure investments, may be created for exchanging information on policy decisions, as well as on issues of regulatory oversight and compliance.

In 2018, newly adopted legal acts were published in the Official Gazette of the State, the entities and the Brčko District. The e-consultation website of the Government, E-Konsultacije, gives details on all completed and on-going public consultations on drafts laws. It also provides the 2019 annual plan of legislative activities for all the institutions of the BiH Council of Ministers.

AREAS FOR IMPROVEMENT

As stated in EIRA 2018, due to the complex constitutional structure of BiH, proactive efforts are needed to improve coordination between the Parliaments of the State, the political entities and the Brčko District. Common standards should be developed for sharing information between the different Government levels.

Measures may be taken to give investors more information on the licensing and approval processes in the entities. While the Foreign Investment Promotion Agency (FIPA) provides the overarching framework for investment promotion in the country, one-stop shops should be established at municipal level to provide local assistance to investors and facilitate the ease of doing business.

Translations of by-laws and regulations are available in English but these are not official. Moreover, access to all Official Gazettes is possible only upon the payment of a fee. It is recommended that legal documents be made widely accessible in foreign languages and without cost. This will allow easier flow of information to foreign investors.

Regulatory environment and investment conditions

QUICK FACTS

The State Electricity Regulatory Commission (SERC) is responsible for the transmission of electricity, transmission system operation and international trade in power.

The Federal Commission for Energy Regulation (FERK) is the principal regulatory authority in the FBiH.

The Regulatory Commission for Energy of Republika Srpska (RERS) regulates the electricity market in the Republika Srpska.

FIPA was established to attract and increase FDI in BiH.

STRENGTHS

Efforts to harmonise the regulatory structures at State and entity level continued during the 2019 EIRA assessment year. Regulations of the SERC, FERK and the RERS have been reformulated to ensure complementarity. The regulatory authorities exercise a certain degree of functional independence. In 2018, there were no cases where regulatory decisions were taken without public consultation.

Attracting FDI remains a key priority for BiH. With the adoption of the new Framework Strategy, it is anticipated that investment in the energy sector will increase. Foreign investors are granted legal protection under national laws and international treaties. They are free to incorporate legal entities in BiH under the conditions applicable to domestic investors. They are also allowed to invest and reinvest the profit from such investments in all sectors of the economy, and in the same form and conditions as defined for the residents of BiH. The entities have enacted laws giving similar rights to foreign investors.

AREAS FOR IMPROVEMENT

As mentioned last year, the regulatory processes should be simplified and their uniform application ensured across entities, cantons and municipalities. This will help avoid contradiction in regulations for conducting local business.

Rule of law

QUICK FACTS

BiH ratified the Energy Charter Treaty in 2001.

The Convention on the Settlement of Investment Disputes between States and Nationals of Other States was ratified by BiH in 1997.

BiH succeeded to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 1993.

STRENGTHS

In general, the dispute management and settlement processes remain effective. There have been no retroactive changes introduced to laws in the last year. Disputes between foreign investors and the State may be resolved in domestic courts or through international arbitration directly, without exhausting local dispute resolution mechanisms. International law forms an integral part of the country's legal system. Treaties ratified by BiH prevail over domestic legislation in the case of any contradiction.

BiH continues to uphold its property right commitments to investors. Most of the country's BITs contain the general international formulation that compensation against expropriation should be prompt, adequate and effective. The Law on the Policy of Foreign Direct Investment 1998 states that foreign investment shall be expropriated only against the payment of adequate, effective and prompt compensation. The issue of expropriation is also regulated on the entity level. There are currently no restrictions or limitations imposed on the transfer of technology under any international agreement or under the domestic laws of BiH.

AREAS FOR IMPROVEMENT

In line with the improvement suggested last year, an investment ombudsman may be established to address the grievances of foreign investors. Such a forum may reduce the risk of dispute escalation and also assist in representing the viewpoint of foreign investors to the Government.

Protection against the expropriation of intangible property may be strengthened further under the domestic laws. At present, on the entity level, the expropriation laws grant protection only to real estate or immovable property. Moreover, laws at State level may be revised to explain clearly the term "public purpose" in the case of expropriation. While the right of countries to determine what constitutes "public purpose" is paramount, at the same time a very broad or ambiguous formulation should be avoided.