



Burkina Faso

Population ¹	19,193,284
Area (km ²) ¹	274,220
GDP per capita (USD) ¹	642.04
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

Burkina Faso’s overall risk level against the assessed areas is **low**.

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

Burkina Faso has a good performance on three of the EIRA indicators, and a moderate performance on one indicator. *Rule of law* is the highest-scoring indicator with 73 points, followed by *management of decision-making processes* at 66. On *foresight of policy and regulatory change* it has received 62 points, while *regulatory environment and investment conditions* is at 47.

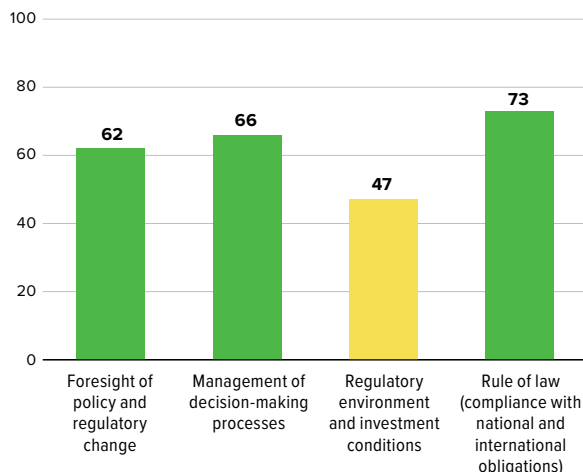
On a more detailed level, Burkina Faso’s overall sub-indicator performance is good. On *communication of vision and policies* it has received 83 points. A good score has been obtained on *respect for property rights* (75) and *management and settlement of investor-State disputes* (70). *Institutional governance* and *transparency* stand at 69 and 64, respectively. Performance on *restrictions on FDI* is at 50, and *regulatory effectiveness* is at 44. *Robustness of policy goals and commitments* is the lowest-scoring sub-indicator with 40 points.

While Burkina Faso 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.

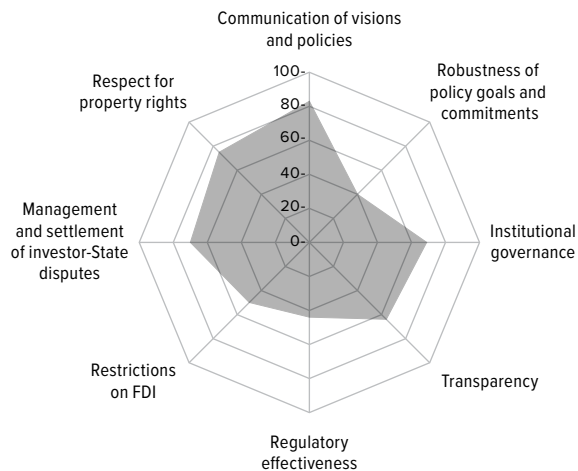
RISK LEVEL



INDICATOR PERFORMANCE



SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

The National Plan for Economic and Social Development (PNDES) 2016-2020 sets out the national policy framework for the structural transformation of the country's economy.

The National Strategy in the Energy Sector 2014-2025 (POSEN) supports the Government's vision for the development of its energy potential.

Burkina Faso ratified the Paris Agreement in 2016 and submitted its NDC. The draft National Strategy for Green Economy is pending official adoption.

STRENGTHS

The Sector Policy Letter (LPSE 2016) describes the approach to achieving the overall targets set under the POSEN 2014-2025. In terms of energy, the country's primary focus is on increasing access to reliable and affordable electricity services and promoting energy efficiency. To attain these goals, the LPSE 2016 contains actions to be implemented across the value chain, including institutional reforms, valorisation of the solar potential, regional integration and rural electrification. In 2017, the country inaugurated the largest solar power plant in West Africa. More recently, the Renewable Energy and Adaptation to Climate Technologies - Efficient Electrification Project was launched for households and SMEs to access solar energy as primary or back-up installations. It is also noteworthy that despite having one of the lowest levels of CO₂ emissions in the region, Burkina Faso was among the first countries to adopt a National Adaptation Plan.

The Minister of Energy presides over the Steering Committee which is tasked with monitoring the POSEN 2014-2025 and the LPSE 2016. The evaluation is conducted through annual performance measurement reports as well as sectoral and regional reviews. The implementation scheme comprises organs and bodies, such as the Cooperative Associations, the Rural Electrification Agency (ABER) and the State-owned power utility, SONABEL. All three play a significant role in rural electrification.

AREAS FOR IMPROVEMENT

Despite the Government's drive to secure sufficient supply, the electrification rate remains low, especially in rural areas. A new, financially and technologically viable, electrification master plan should be put in place. Also, adequately attractive incentives should be offered to mobilise private participation alongside public resources, and mini-grid and off-grid solutions must be ramped up.

While defined goals have been set for developing the energy sector, the responsibilities of national entities in attaining these goals should be described more precisely to prevent overlaps. If the Government moves ahead with the adoption of a new electrification master plan, it should also clarify the responsibilities of ABER and SONABEL, particularly with regard to the latter's mandate in electrifying rural localities.

Management of decision-making processes

QUICK FACTS

The Ministry of Energy is responsible for framing policies and for sector planning. It also oversees the electricity sector development.

The Ministry of Environment, Green Economy and Climate Change is responsible for all environmental issues, including the implementation of Burkina Faso's NDC.

Law no. 051-2015/CNT governs access to public information and administrative documents.

STRENGTHS

The 2017-2019 Action Plan on open government partnership gives priority to coherent and participative decision-making. The Economic and Social Council acts as a forum for dialogue and coordination on issues of governance across all sectors. It brings together representatives from State authorities, the private sector and civil society organisations. The Investment Promotion Agency conducts investment facilitation activities. One-stop shops for land transactions and enterprise registration centres have been established in key localities.

The National Authority for Access to Public Information is an autonomous body responsible for upholding the right to access public information and investigating petitions filed by citizens for lack of response. The Supreme State Audit and Anti-Corruption Authority carries out and publishes the results of the annual budget management audits. The Regulatory Authority for the Electricity Sector (ARSE) maintains a website that publishes the relevant laws, annual reports and public tenders. The 2018 report regarding the performance on energy projects identified in the POSEN 2014-2025 is made available by the Ministry of Energy.

AREAS FOR IMPROVEMENT

While the country is effectively implementing structural reforms, additional steps need to be taken for simplifying administrative procedures. The role of one-stop shops can be strengthened, particularly in relation to the issuance of the required permits and licences in an expeditious and centralised manner.

Law no. 051-2015/CNT on public information and administrative documents creates a solid basis for establishing a system to protect the citizens' "right to know". Increasing the volume of information that is available online and ensuring the functionality of websites will contribute further to reducing the number of requests for information access.

At present, the participation of non-governmental stakeholders in policy-making is primarily through the Economic and Social Council. To complement the work of the Council, the Government may consider adopting a law prescribing mandatory consultation on all new policies or changes to regulations. This will help ensure that the needs and priorities of private actors are reflected in the decisions taken.

Regulatory environment and investment conditions

QUICK FACTS

The ARSE was established in 2007.

The Law no. 62/95/ADP of 1995 introducing the Investment Code, revised in October 2018, guarantees equal treatment of all legally established firms operating in Burkina Faso, whether foreign or domestic.

STRENGTHS

The Electricity Law no. 014-2017/AN and the implementing Decree no. 2017/1016 on the attributions, organisation and function of the ARSE introduced progressive changes to its structure and made it a separate legal entity. Under this law, the ARSE is mandated to regulate the operators of the sector, protect electricity users' interests, settle disputes between the various actors and ensure fair competition. The ARSE's revenues are separate from the State Budget, controlled by auditors and submitted to the Court of Accounts and the Prime Minister.

The Government is determined to improve its investment climate. It provides operations preference schemes, which are equally applicable to all investments, mergers, and acquisitions. Under the 2018 version of the Investment Code, the scope of these schemes has extended to include renewable energy projects, as well as the protection of the environment. The revised incentives include reducing the criteria of the investment threshold and the number of jobs to be created, as well as the introduction of a degressive exemption from corporate tax. Moreover, the Electricity Law of 2017 contributes to liberalising the electricity sector through the creation of a competitive wholesale market and the abolition of SONABEL's single buyer arrangement. The Investment Code guarantees foreign investors the right to the overseas transfer of any funds associated with an investment, including dividends, receipts from liquidation, assets, and salaries. Such transfers are authorised in the original currency of the investment.

AREAS FOR IMPROVEMENT

The ARSE's autonomy must be reinforced in both functional and financial terms. The risk of undue influence could be minimised if its leadership is elected through open and transparent procedures and the cool-off period for its members is extended beyond the six months currently stipulated in the law. Moreover, the ARSE should be allowed to determine its funding needs and derive its resources from cost-recovery fees.

The Electricity Law of 2017 is a significant step towards reforming the sector since it introduces important innovations, including ARSE's power to regulate the entire energy sector. Nevertheless, important implementing instruments are still missing. The Government should expedite the adoption of secondary legislation that will clarify outstanding issues such as access by third parties to transmission networks and the production and distribution of renewable energy.

Rule of law

QUICK FACTS

Burkina Faso acceded to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 1987.

The Convention on the Settlement of Investment Disputes between States and Nationals of Other States was ratified by Burkina Faso in 1966.

Burkina Faso has been a member of the WTO since 1995.

Burkina Faso is a member state of the OHADA. The Uniform Act on Arbitration of 2017 has unified the arbitration laws of its signatories.

STRENGTHS

The Investment Code and the revised OHADA Uniform Act on Arbitration of 2017 encourage the resolution of disputes against the State through arbitration without prior recourse to national courts. Long-standing issues that remain unresolved after administrative jurisdictional hearings must be submitted to arbitration. The Arbitration, Mediation and Conciliation Centre of Ouagadougou promotes the practice of alternative dispute resolution through information, training and publications. Moreover, the OHADA Uniform Act on Arbitration creates a favourable regime for the recognition and enforcement of arbitral awards. It renders their execution conditional upon proof of the award's existence. The Mediator of Burkina Faso has the competence to review complaints by natural and legal persons made against public authorities. There have been no cases of retroactive application of laws reported in the past five years.

Expropriation may occur only for a public purpose in accordance with due process of law, in a non-discriminatory manner and on payment of compensation. The recently enacted Law no. 009-2018/AN on expropriation for reasons of public utility and compensation for affected parties lists the grounds that qualify as "public interest". It also stipulates the procedure for expropriation of real estate and the calculation of compensation. In general, there are no restrictions on the transfer of technology. The Investment Code guarantees foreign investors the same rights and protection as Burkinabe enterprises for trademarks, patent rights, labels, copyrights, and licences. Alongside the BITs and international treaties, the country is a member of the African Intellectual Property Organisation, which advocates a centralised system for the administration of relevant matters, including registration of trademarks through a single application.

AREAS FOR IMPROVEMENT

Delivery of time-bound decisions by domestic courts should be encouraged. Stipulations to this effect may also be incorporated in the domestic laws.