



# Ukraine

Population <sup>1</sup>	44,831,135
Area (km <sup>2</sup> ) <sup>1</sup>	603,550
GDP per capita (USD) <sup>1</sup>	2,640.68
TPES (Mtoe) <sup>2</sup>	94.38
Energy intensity (toe/10 <sup>3</sup> 2010 USD) <sup>2</sup>	0.76
CO <sub>2</sub> emissions - energy (MtCO <sub>2</sub> ) <sup>2</sup>	197.70

Sources:

1. The World Bank 2017

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

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

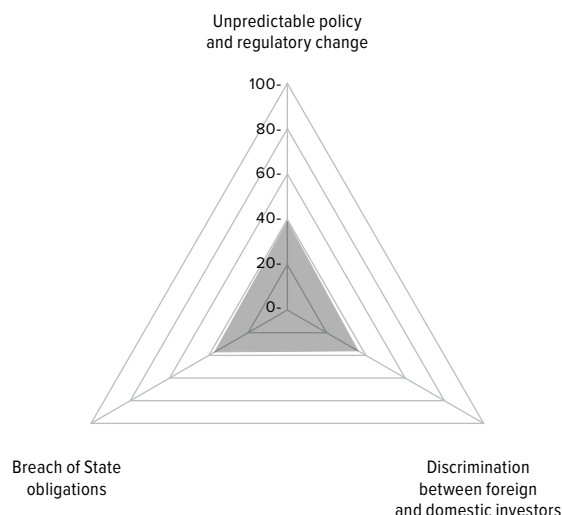
*Discrimination between foreign and domestic investors* continues to be the lowest risk, with a slight decrease *vis à vis* last year. *Breach of State obligations* remains unchanged. The risk of *unpredictable policy and regulatory change* has gone down compared to 2018.

Ukraine has a good score on three of the EIRA indicators and a moderate score on one. It has once again received a score of 67 on *regulatory environment and investment conditions* and 63 on *rule of law*. On *management of decision-making processes*, the score has increased by 3 points and now stands at 62. The performance on *foresight of policy and regulatory change* has also improved from 57 to 59 points.

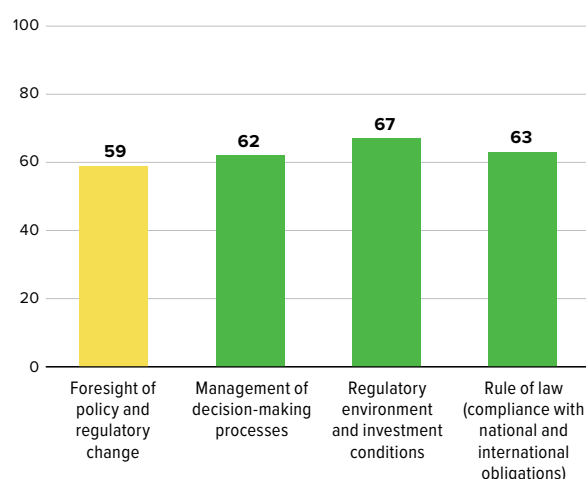
On a more detailed level, Ukraine's overall sub-indicator performance is good. *Regulatory effectiveness* remains the highest-scoring sub-indicator with 83 points. It is on par with *transparency*, for which the score has gone up from 78 to 83 points. It is followed by *management and settlement of investor-State dispute* at 75 points. On *communication of vision and policies* Ukraine's score has increased from 64 to 68. The sub-indicators *robustness of policy goals and commitments*, *restrictions on FDI* and *respect for property rights* have a moderate score of 50 each. The lowest-scoring sub-indicator is *institutional governance* with 41 points.

Ukraine provides attractive conditions for investors and is working in the right direction. Attention should be given to strengthening the country's institutional governance.

## RISK LEVEL



## INDICATOR PERFORMANCE



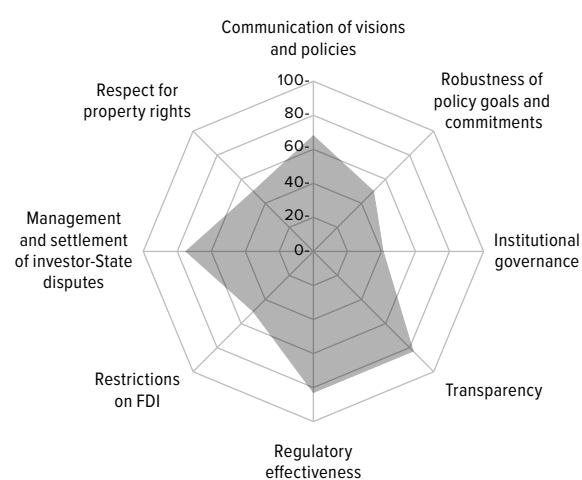
## YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019
Unpredictable policy and regulatory change	40	39
Discrimination between foreign and domestic investors	37	36
Breach of State obligations	37	37

INDICATORS	2018	2019
Foresight of policy and regulatory change	57	59
Management of decision-making processes	59	62
Regulatory environment and investment conditions	67	67
Rule of law	63	63

## SUB-INDICATOR PERFORMANCE



## Foresight of policy and regulatory change

### QUICK FACTS

The Energy Strategy of Ukraine until 2035: “Safety, Energy Efficiency, Competitiveness” (adopted in 2017) sets out the principal goals for the energy sector.

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

### STRENGTHS

The Government has done significant work on the introduction of a new electricity market, which started functioning from 1 July 2019. To build on this progress, it intends to take further steps for completing the transition from the previous electricity market model to a new one, in particular by adopting a new law on settling the debt of the State enterprise Energorynok. To ensure greater security of supply and lower dependence on imports, the Cabinet of Ministers of Ukraine (CMU) adopted a Resolution for granting subsoil use licences via online auctions in October 2018. In line with this, three online oil and gas licensing rounds were conducted for the first time ever. One of the main objectives behind this initiative was to set transparent procedures in oil and gas licensing rounds. Bearing in mind the country's commitment under the Paris Agreement, the Strategy on Low Emission Development of Ukraine up to 2050 was adopted in July 2018.

Implementation and evaluation of the Energy Strategy is entrusted to the Ministry of Energy and Coal Industry of Ukraine. In 2018, the Ministry of Energy and Coal prepared and published a report on the state of implementation of the Energy Strategy. The Resolution of the CMU dated 14 February 2018 “Some issues regarding State Inspectorate for Energy Supervision of Ukraine” and the Resolution of the CMU dated 18 December 2018 “On the formation of territorial bodies of State Inspectorate for Energy Supervision” were adopted to establish and operate a central executive body, which carries out state supervision (control) of the electric power industry, and a range of territorial bodies to perform the same functions in different regions of Ukraine.

### AREAS FOR IMPROVEMENT

The Government should prepare an action plan for implementing the Energy Strategy beyond the first phase (until 2020). Progressive yet achievable targets should be set for the period 2021 to 2035. This will allow seamless implementation of the country's short- and long-term actions and ensure that goals are effectively met. Moreover, compliance and enforcement measures must be incorporated in binding documents to ensure concrete efforts are made towards achieving the final goals.

While the implementation status of the energy targets is evaluated regularly, the monitoring authorities should be independent of the Government. Functional and substantive independence of monitoring frameworks is better guaranteed when monitoring entities are self-funded and have sufficient technical and skilled human resources to support them.

## Management of decision-making processes

### QUICK FACTS

The Verkhovna Rada of Ukraine is the country's unicameral parliament.

The Ministry of Energy and Coal Industry is the central executive body responsible for the development of the country's energy policy.

The Ministry of Economic Development and Trade implements the national investment policy.

Law No. 2939 “On Access to Public Information” determines the procedures for securing access to information from government agencies, local government authorities and legal entities financed from the State or local budgets.

### STRENGTHS

During the EIRA assessment year, progress was made on a number of legislative bills. In March 2018, the Parliament adopted the Law of Ukraine “On Deregulation of the Oil and Gas Industry”. Among other things, the Law cancels a number of licensing and registration procedures, and simplifies the process for acquiring land. The Law introducing auctions for renewable power plants was adopted on 25 April 2019. The auctions are to start from 1 January 2020, although at least one pilot auction is expected to be held in the second half of 2019. Moreover, the draft laws “On Ozone Depleting Substances and Fluorinated Greenhouse Gases” and “On Monitoring, Reporting and Verification of GHG emissions” were adopted in the first reading by the Parliament in February 2019.

Measures were taken to increase transparency in the energy sector. In April 2018, the Ministry of Energy and Coal Industry adopted a Resolution on the disclosure of data sets that are managed by it. The Law of Ukraine “On Ensuring Transparency in the Extractive Industries” 2018 was also adopted. It defines the legal framework for the collection, disclosure and dissemination of information to ensure transparency and prevent corruption in the extractive industries of Ukraine. In November 2018, the Cabinet of Ministers adopted a Resolution for the disposal of geological information on mineral resources.

### AREAS FOR IMPROVEMENT

A one-stop shop can be established and empowered to grant approvals and licences for energy investment activities. At present, Ukraine has a document service centre that provides support for few investment activities, such as the registration of legal entities. Some approvals may also be obtained from Ukrenergo. A unified procedure for administrative decisions, such as for investment project screening, must be created and discretionary choices avoided to the extent possible.

## Regulatory environment and investment conditions

### QUICK FACTS

The National Energy and Utilities Regulatory Commission (NEURC) is the regulator vested with functions of licensing and tariff-setting for utilities.

The Law of Ukraine “On the Regime of Foreign Investments” lays the legal foundation for foreign investment in Ukraine.

### STRENGTHS

Initiatives were taken by the NEURC towards streamlining and implementing the country's electricity market reforms. Rules governing the contractual relations between market participants were defined. For instance, in March 2018, new market rules, retail market rules, Distribution System Code and Commercial Metering Code were adopted. Regulation of the oil and gas sector also underwent significant improvements. For the first time since 2012, Ukraine offered oil and gas blocks to investors under Production Sharing Agreements in 2018. The PSA tenders stipulate attractive conditions, such as a 50-year term and standard provisions on legislative stability, access to international arbitration and a special regulatory and fiscal regime. To complement the PSA tenders, legislative reforms were also undertaken for simplifying and deregulating the rules governing the oil and gas sector.

In 2018, efforts were made to streamline the rules for corporate reorganisation, particularly in relation to Limited Liability Companies (LLCs) and Joint Stock Companies. Since LLCs are the most popular business vehicles for foreign investors, the clarity in laws is likely to have a positive impact on the investment climate. On 7 February 2019, a new legal framework governing foreign currency regulation entered into force. It includes the Law of Ukraine “On Currency and Currency Operations” dated 21 June 2018 and ten core regulations approved by the National Bank of Ukraine (NBU) on 2 January 2019. In June 2019, the NBU proceeded with the reforms and cancelled the requirement for the businesses to exchange 30 per cent of the received foreign currency into Ukrainian hryvnias. The aim is to simplify cross-border currency transactions and reduce currency controls.

### AREAS FOR IMPROVEMENT

Further structural changes should be implemented to increase the institutional, functional and financial independence of the NEURC. In particular, budgetary approval from the Committee on State Budget of the Parliament should be granted within the time frame stipulated in the law (one month). All decisions of the NEURC should be published on time in the Official Gazette to ensure they are effected without delay.

Steps may be taken to reduce the remaining restrictions on foreign investors operating in the country. For instance, the Government may consider increasing the scope of land ownership for foreign companies and limiting local content requirements in certain energy sub-sectors.

## Rule of law

### QUICK FACTS

Ukraine ratified the Energy Charter Treaty in 1998.

Ukraine ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States in 2000.

Ukraine ratified the Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 1960.

In 2009 the Parliament adopted the Law of Ukraine “On alienation of privately owned land plots and real estate located on them for public needs and for social necessity”.

### STRENGTHS

Ukraine's court management system is streamlined. The domestic laws set timelines for hearing cases in the first instance and on appeal and before the Supreme Court. All judicial decisions are available to the public on the website of the State Registry of Court Decisions. Decisions rendered by foreign courts are recognised and enforced either on the basis of international treaties or under the principle of reciprocity. There were no retroactive changes introduced to laws in the last EIRA assessment year.

Protection against acts of expropriation is envisaged in the national laws. While there is no definite timeframe prescribed for the payment of compensation, the Law of Ukraine “On alienation of privately owned land plots and real estate located on them for public needs and for social necessity” 2010 as amended, provides for prompt, effective and adequate compensation. Intellectual property rights are protected from expropriation to the same extent as other types of investments. There are no legal provisions restricting the transfer of technology in the energy sector.

### AREAS FOR IMPROVEMENT

As suggested in EIRA 2018, detailed provisions on mediation and conciliation may be stipulated in a special law or as part of already existing procedural legislation. Access to such alternative dispute resolution mechanisms will allow the parties to identify their interests, develop settlement options and reach amicable solutions with reduced time and cost.

The Government may consider revising the national laws to give a more detailed definition of the term “public purpose” in the case of expropriation. While the right of countries to determine what constitutes “public purpose” is foremost, it is also important that a definition that is not overly broad or vague is stipulated in the law.