



Kazakhstan

Population ¹	18,037,776
Area (km ²) ¹	2,724,902
GDP per capita (USD) ¹	9,030.32
TPES (Mtoe) ²	81.64
Energy intensity (toe/10 ³ 2010 USD) ²	0.43
CO ₂ emissions - energy (MtCO ₂) ²	230.00

Sources:

1. The World Bank 2017

2. ©IEA 2018, www.iea.org/statistics

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

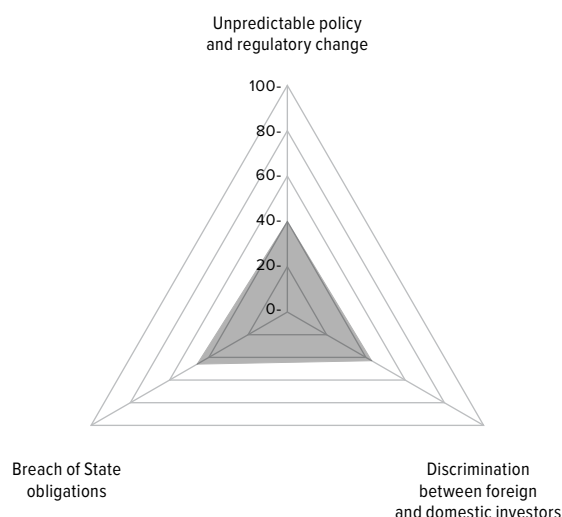
Among the three risk areas, *unpredictable policy and regulatory change* remains lower compared to *discrimination between foreign and domestic investors* and *breach of State obligations*.

Kazakhstan has performed moderately on three of the EIRA indicators, and it has a good performance on one. The country has a score of 72 on *management of decision-making processes*. The scores for *rule of law* and *foresight of policy and regulatory change* are the same as last year (54 and 53, respectively). On *regulatory environment and investment conditions* its performance has decreased by 10 points, and now stands at 44.

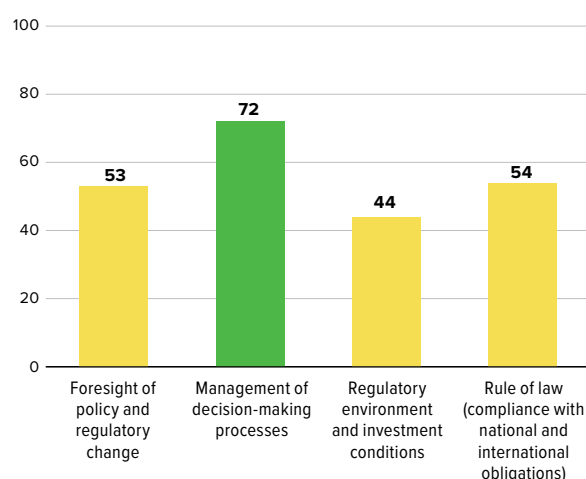
On a more detailed level, Kazakhstan's overall sub-indicator performance is moderate. The highest-scoring sub-indicator is *transparency* with 81 points followed by *management and settlement of investor-State disputes* with 75 points. On *institutional governance* it now has a score of 63, same as on *communication of vision and policies*. The country's performance on *restrictions on FDI* has moved down and stands at 50. It is followed by *robustness of policy goals and commitments* with 42 points and *regulatory effectiveness* with 37 points. *Respect for property rights* remains the lowest-scoring sub-indicator with 33 points.

While there are some policies and measures in place, more concrete steps must be taken to strengthen Kazakhstan's performance across all indicators and underlying sub-indicators. Particular attention should be given to strengthening respect for property rights.

RISK LEVEL



INDICATOR PERFORMANCE

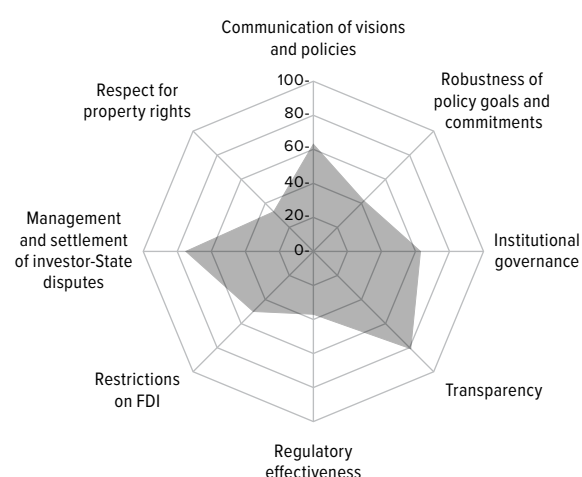


YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019
Unpredictable policy and regulatory change	40	41
Discrimination between foreign and domestic investors	40	44
Breach of State obligations	46	46

INDICATORS	2018	2019
Foresight of policy and regulatory change	53	53
Management of decision-making processes	74	72
Regulatory environment and investment conditions	54	44
Rule of law	54	54

SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

The Development Strategy of Kazakhstan focuses on the fuel and energy sector of the country and has been developed for the period until 2030 (announced in 1997) and 2050 (announced in 2012).

The strategic documents for Kazakhstan's energy sector are the Concept for the Transition of the Republic of Kazakhstan to Green Economy (adopted in 2013) and the Concept for the Development of the Fuel and Energy Complex of the Republic of Kazakhstan until 2030 (adopted in 2014).

Kazakhstan ratified the Paris Agreement in November 2016.

STRENGTHS

The Development Strategy 2050 identifies the main objectives for the energy sector, such as enhancing energy efficiency, increasing the share of renewable sources in the energy mix, reducing GHG emissions and attracting foreign investment. In line with its objective to generate half its energy from renewables by 2050, the Government held the first renewable energy auctions in 2018, aimed at selecting the most effective projects and setting competitive market prices. To stay on track with its commitment to reduce GHG emissions, Kazakhstan has launched an online platform for monitoring, reporting and verifying emission sources and levels. This will allow the major emitters to transmit and record data, as well as trade online. As part of its plan to lower its share of participation in the economy and attract foreign investors, the Government has sought strategic partners for the national oil (KMG), power generating (Samruk Energy JSC) and mining (TKS) companies.

The responsibility for monitoring progress towards the identified goals is divided between the Ministry of Energy and the Ministry of Industry and Infrastructural Development. Consultative bodies such as the Council for the Transition to Green Economy and the Oil and Gas Council have been set up to develop proposals on the implementation of the planned reforms in the energy sector. Statistical data and reports on the results of the policy implementation are published on the official website of the Ministry of Energy.

AREAS FOR IMPROVEMENT

Kazakhstan is currently facing challenges in relation to security of supply, affordability, and environmental sustainability. Although a number of initiatives covering these aspects have already been taken, they need to be better coordinated and integrated with market mechanisms and international commitments. A streamlined and combined approach should be applied to the overall energy sector planning, market liberalisation, use of innovative technologies and inflow of private capital.

Regular and thorough monitoring of the energy goals will reassure interested parties that the planned actions are being properly implemented. Having an independent entity to verify compliance with the goals will give greater credibility to the evaluation process.

Management of decision-making processes

QUICK FACTS

The Ministry of Energy is the leading policy-maker for the energy sector. The recent amendment of its Regulations as well as of the Subsoil and Subsoil Use Code envisage that the Ministry of Energy will be the competent authority to grant and terminate subsoil use rights.

In 2019, the Presidential Decree no. 24 "On Measures for further Improvement of the System of Public Administration" was adopted.

The general process of developing national legislation and public consultations is defined in the Law no.480-V "On Legal Acts" of 2016.

STRENGTHS

The Presidential Decree of 2019 consolidates several ministries and shuffles their responsibilities to accelerate the administrative setup of the Government and make it more efficient. As a result, the Ministry of Investments and Development has been reorganised and its functions and powers handed over to the Ministry of Industry and Infrastructural Development. Coordination between ministries on energy and investment matters is undertaken within the Cabinet of Ministers as well as in the context of joint committees, such as the one constituted for the preparation of the new Subsoil and Subsoil Use Code.

Relevant ministries regularly publish various reports, analyses and statistics. For instance, information on the public procurement plans and tenders is available on the website of the Ministry of Industry and Infrastructural Development. Special provisions on public participation in the decision-making process and on public hearings are contained in the Environmental Code (as amended in 2017) and in Law no. 204-VI "On Natural Monopolies". The Public Council, a consultative mechanism composed of State officials and representatives of NGOs, develops proposals for improving interaction and cooperation between the public administration and the citizens.

AREAS FOR IMPROVEMENT

Kazakhstan has made significant progress in aligning its national environmental policies with international standards. To successfully implement its NDC, the Government should also consider setting up tracking and verification mechanisms for all sectors of the economy. This will not only facilitate the creation of a comprehensive database but will also build confidence in the integrity of the information reported.

To avoid overlaps and contradictory decisions, especially in the field of investment promotion and facilitation, a clearer delineation of competences between the authorities that act as a one-stop shop and single-window is necessary. Information on investment opportunities, contracts and sectoral requirements should appear on a dedicated web portal where investors can also submit applications and register their business.

Regulatory environment and investment conditions

QUICK FACTS

The Ministry of Energy regulates the power, oil and gas sub-sectors.

The Committee for Regulation of Natural Monopolies, Protection of Competition and Consumers' Rights is the regulator of natural monopolies.

The Entrepreneurial Code 2015 provides for non-discrimination between domestic and foreign investors.

STRENGTHS

The activities and expenditure of the regulatory authorities are scrutinised by the Prosecutor's Office. Effective from January 2019, the Law "On Natural Monopolies" aims to enhance the transparency. It determines spheres of natural monopolies, establishes a State register, and provides for the regulation of tariffs which can be applied for a period of no less than five years.

In 2018, significant amendments were introduced to the Subsoil and Subsoil Use Code. The said amendments seek to simplify administrative procedures and attract investment in the geological study of subsoil, exploration and production of hydrocarbons, and extraction of uranium and solid minerals. The Code reinstates the licensing regime for the mining industry and introduces a mechanism of auction or direct negotiation with the national company in the case of subsoil use rights on oil and gas deposits. Moreover, to limit the application of the State's pre-emptive purchase right, the Code now defines the "fields and deposits of strategic significance", expands the list of cases where consent of the State authorities for the transfer is not necessary and provides a new procedure for notifying changes of control over a subsoil user.

AREAS FOR IMPROVEMENT

The Government may consider reducing State control exercised in different energy activities. For instance, the import and export of electricity is currently possible only through the State-owned company Samruk Energy JSC. Moreover, there is a monopoly over transmission by the State-owned operator of the national grid and price caps for the wholesale electricity market exist. Therefore, it is suggested that some of the above-mentioned restrictions be relaxed and an auction-based capacity model for the generation tariffs be introduced.

The Government should take a cautious approach to imposing minimum levels of local goods and services on international businesses. Under the amended Subsoil and Subsoil Use Code, the requirement for a minimum level of local goods and services has been retained, but the minimum level cannot exceed 50 per cent. The Government should proceed with the phasing out of such restrictions, in line with its WTO commitments.

Rule of law

QUICK FACTS

Kazakhstan ratified the Energy Charter Treaty in 1995.

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

Kazakhstan acceded to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 1995.

STRENGTHS

According to the Code of Civil Procedure, the court of Astana has jurisdiction over disputes between foreign investors and State agencies. The International Arbitration Centre and the Investment Court attached to the International Financial Centre of Astana hear civil and commercial disputes in accordance with English Common Law. Their decisions are directly enforceable in the territory of Kazakhstan. Investor-State arbitration without prior exhaustion of local remedies is envisaged in the national laws. Domestic courts are required to deliver decisions within a defined time limit.

Foreign investors can raise a claim of expropriation under national law and international agreements. Expropriation is only permitted in exceptional cases and upon the payment of compensation. The international investment agreements, to which Kazakhstan is a party, contain provisions on the protection of intellectual property rights. In July 2018, amendments to national trademarks and service marks regime have been introduced. They set stricter time limits for the examination of applications as well as for their mandatory publication after a preliminary examination. Initiatives for the establishment and operation of the Eurasian technology transfer network have been adopted in the context of the Eurasian Economic Union.

AREAS FOR IMPROVEMENT

The role of an investment ombudsman should be entrusted to an independent institution. Such an institution would be more suitable to handle complaints from private individuals and companies against actions or omissions of State authorities in an impartial and effective manner.

Given the increasing number of investment arbitration cases filed against Kazakhstan, it is important that the concept of "public interest" is adequately defined in national legislation. The establishment of core requirements for fair and rightful expropriation along with the introduction of a robust compensation procedure and a specified timeframe for the payment of compensation will minimise the risk of discretionary or discriminatory expropriation.