

# Panama

Population <sup>1</sup>	4,106,771
Area (km <sup>2</sup> ) <sup>1</sup>	75,420
GDP per capita (USD) <sup>1</sup>	15,166.12
TPES (Mtoe) <sup>2</sup>	4.48
Energy intensity (toe/10 <sup>3</sup> 2010 USD) <sup>2</sup>	0.10
CO <sub>2</sub> emissions - energy (MtCO <sub>2</sub> ) <sup>2</sup>	10.20

Sources:

1. The World Bank 2017

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

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

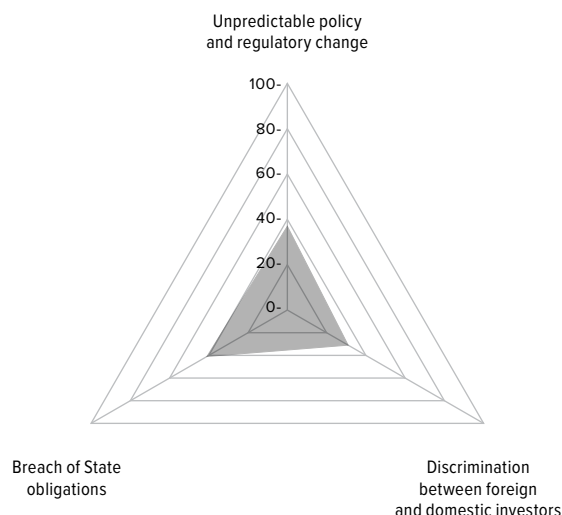
Among the three EIRA risk areas, *discrimination between foreign and domestic investors* and *unpredictable policy and regulatory change* are lower compared to *breach of State obligations*.

Panama's performance is good on two of the EIRA indicators, and it is moderate on two indicators. It has received a score of 77 on the indicator *management of decision-making processes*. The indicator score for *regulatory environment and investment conditions* is 72. On *rule of law* and *foresight of policy and regulatory change* it has received 59 and 52 points, respectively.

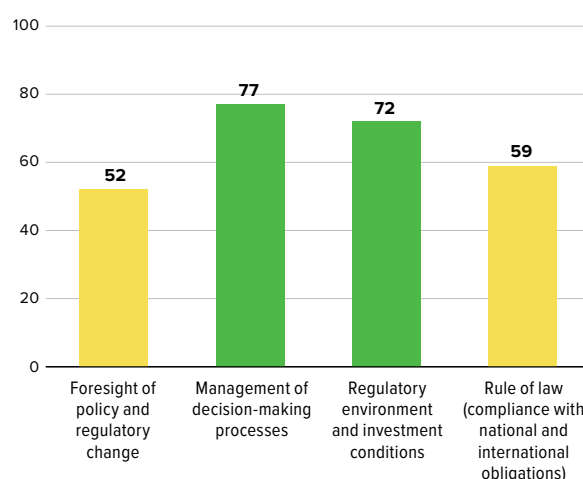
On a more detailed level, Panama's sub-indicator performance is good. The highest-scoring sub-indicator is *transparency* with 92 points, followed by *restrictions on FDI* at 80 and *robustness of policy goals and commitments* at 75. *Regulatory effectiveness* and *institutional governance* stand at 64 and 63, respectively. Performance on *management and settlement of investor-State disputes* (60) and *respect for property rights* (58) is moderate. *Communication of vision and policies* has received a low score of 29.

Panama provides attractive conditions for investors and is working in the right direction. Attention should be given to better communicating the existing policies and plans to investors.

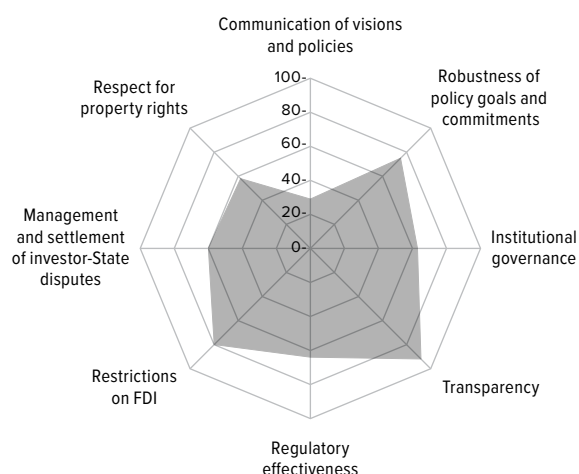
## RISK LEVEL



## INDICATOR PERFORMANCE



## SUB-INDICATOR PERFORMANCE



## Foresight of policy and regulatory change

### QUICK FACTS

The National Energy Plan 2015-2050 sets the priorities for the energy sector.

The Short-term Operational Plan 2015-2019 lays out the actions that need to be taken to meet the country's objectives.

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

### STRENGTHS

The four strategic axes of Panama, as described in the National Energy Plan 2015-2050, are universal access and reduction of energy poverty, decarbonisation of the energy matrix by transitioning to renewable energy, and an increase in energy efficiency and energy security. While Panama currently depends heavily on oil imports, it is working towards diversifying its energy mix. In 2018, new LNG import facilities and an LNG power generation plant, the first in Central America, started operating in the country. Panama intends to become a major gas exporter in the region and attract more investment. Moreover, the Government is currently consolidating the existing legislation on renewable sources under a single law. Through this, it hopes to bring greater clarity regarding the incentives provided to renewable investors.

The National Energy Secretariat (SNE) monitors the implementation of the country's energy goals. In the performance of its duties, it collects and publishes energy statistics and data on the energy market every month. The National Authority of Public Services (ASEP) also undertakes monitoring activities in the electricity sub-sector and makes monthly statistics available on its website. Additionally, the ASEP is required to report annually on the state of public services to the President of the Republic and the National Assembly, and recommend improvements.

### AREAS FOR IMPROVEMENT

While the objectives for the energy sector are described in the strategy documents, the country has yet to articulate specific short-, medium- and long-term targets. Quantifiable and time-bound targets will ensure the effectiveness of the implementation measures and will help the Government take result-oriented decisions. The targets must be kept ambitious yet achievable. They should take into account the country's existing infrastructure and institutional resources.

## Management of decision-making processes

### QUICK FACTS

SNE develops the energy policies of the country.

Panama enacted Law no. 6 On Transparency in Public Management and the Establishment of the Habeas Data Action in 2002.

### STRENGTHS

Law-making powers are vested in the National Assembly. The national laws encourage coordination among different ministries and public agencies in the legislative process. SNE is responsible for determining the energy policies that attract private capital in the sector, while the Ministry of Economy and Finance is in charge of Government investments. Law no. 43/2011 On the Reorganisation of the National Energy Secretariat states that decisions about the generation, transmission and distribution of electricity must be coordinated with the ASEP. The Ministry of Environment is also consulted on issues under its competence.

The Constitution guarantees the right to access information held by public authorities. The law prescribes the criteria under which public information may be classified as confidential, and access to it restricted. Panama established the National Authority of Transparency and Access to Information (ANTAI) for ensuring compliance with the right to access information. The ANTAI publishes monthly reports on its website assessing the level of transparency exercised by public institutions. Moreover, PanamaCompra, an electronic system of public procurement, promotes openness in governmental purchases. The decision-making bodies regularly conduct public consultations on regulatory proposals.

### AREAS FOR IMPROVEMENT

The creation of a single window for enquires would facilitate the access of investors to the existing legal framework for the energy sector in Panama. To further simplify and expedite licensing procedures, the Government could also consider organising a one-stop shop. This agency may act as a single point of entry, either physical or electronic, for the submission and handling of all documents which are necessary to establish an investment in the country. The one-stop shop must be created in close cooperation with all the authorities involved in the establishment phase and have the power to administrate the relevant procedures.

## Regulatory environment and investment conditions

### QUICK FACTS

The ASEP is responsible for the control and supervision of public services, including electricity.

Hydrocarbons are regulated by the SNE which is organised under the Ministry of the Presidency.

Law no. 54 On Investment Stability was enacted in 1998 to ensure equal treatment for national and foreign investors.

### STRENGTHS

The functions and duties of ASEP are stated in its establishing law. ASEP is a financially autonomous body, independent of central Government funds. It is responsible for promoting competition and efficiency in the activities of public services and investigate possible monopolistic, anti-competitive or discriminatory behaviour in businesses and institutions operating in the public services. ASEP is administered by a General Administrator, appointed by the Government for a period of seven years. It is subject to the oversight of the Comptroller General.

Panama has established an open and supportive environment for foreign investment. The Government does not screen investments in the energy sector. Foreign investors are allowed to undertake activities in all regions and zones of the country, with some exceptions for security reasons. Additionally, foreign companies can hold a majority stake in energy projects, and freely transfer capital, payments and profits outside the country.

### AREAS FOR IMPROVEMENT

Currently, no more than 10 per cent of non-skilled and 15 per cent of skilled personnel can be foreign nationals. The restrictions are calculated as a percentage of the number of employees and as a percentage of the wages paid. While the State should take measures to promote the local workforce, it is important that this does not hinder foreign investment. Attention must be paid that the prescribed percentages can be absorbed by the local market and no inefficiencies are created in the supply chain.

## Rule of law

### QUICK FACTS

Panama ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States in 1996.

Panama acceded to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 1984.

Arbitration in Panama is governed by Law no. 131/2013 On Domestic and International Commercial Arbitration.

### STRENGTHS

Investor-State disputes regarding public contracts may be brought before the Supreme Court. Arbitration is recognised as an alternative dispute resolution process by the Constitution. In addition, Panama is a signatory to the Inter-American Convention on International Commercial Arbitration. Final foreign judgments are recognised and enforced in the courts of Panama through exequatur proceedings. The country has not made retroactive legislative changes to the detriment of foreign investors in the past five years.

Expropriation against the property of natural and legal persons is only permitted for the purpose of public utility or social interest. The Law On Investment Stability, as amended, further strengthens the protection against expropriation of foreign investments. Intellectual and industrial property of foreign investors is accorded national treatment and protected as a form of investment in all 20 BITs currently in force. In general, there are no restrictions on the transfer of technology.

### AREAS FOR IMPROVEMENT

Panama may consider establishing an investment ombudsman to mediate between investors and Governmental bodies. Such an institution may help investors overcome potential bureaucratic obstacles in the licensing procedures and address issues arising in the course of investment activities. The ombudsman will serve as a step prior to litigation, and promote the fast and effective resolution of grievances against the State.

To ensure the effective protection of private property, the Government should enact a law governing the rules, standards and procedure for expropriation. It must address issues regarding the valuation process, the appointment of the competent authorities and specify the timeframe for the payment of compensation. In addition, the law should stipulate a list of core activities that constitute public utility or social interest.