



Ukraine

Population ¹	44,622,516
Area (km ²) ¹	603,550
GDP per capita (USD) ¹	3,095.17
TPES (Mtoe) ²	89.46
Energy intensity (toe/10 ³ 2010 USD) ²	0.70
CO ₂ emissions - energy (MtCO ₂) ³	171.30

Data from Orbis Crossborder Investment on energy projects and deals completed between 2015-2020⁴

Target industry	Number of projects and deals	Project/deal type	Project CapEx and deal value (million EUR)
Electric power generation, transmission and distribution	5 projects 21 deals	5 new projects 10 minority stake deals 11 acquisition deals	186m EUR total project CapEx 355m EUR total value of deals
Extraction of natural gas and crude petroleum	5 deals	2 minority stake deals 3 acquisition deals	163m EUR total value of deals
Transport by pipeline	1 deal	minority stake deal	n.a.
Support activities for petroleum and natural gas extraction	2 deals	acquisition deals	n.a.
Manufacture of refined petroleum products	3 deals	acquisition deals	n.a.
Mining of hard coal and lignite	1 deal	acquisition deal	n.a.
Mining of uranium and thorium ores	1 deal	acquisition deal	n.a.

Sources:

1. The World Bank 2018
2. ©IEA, World energy balances, 2020, www.iea.org/data-and-statistics, webstore.iea.org/key-world-energy-statistics-2019
3. ©IEA 2020, CO₂ emissions from fuel combustion, www.iea.org/data-and-statistics, webstore.iea.org/key-world-energy-statistics-2019
4. Orbis Crossborder Investment (2020), Bureau Van Dijk. Ukraine is the destination country of the investment. Data represents the period 1 April 2015 - 1 April 2020. For more information see Annex II of this report.

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

Among the three risks assessed in EIRA, *discrimination between foreign and domestic investors* continues to be the lowest, followed by *unpredictable policy and regulatory change*, and *breach of State obligations*.

Ukraine's performance is good on all the indicators. It has scored 71 on *regulatory environment and investment conditions*. Its performance on the indicator *management of decision-making processes* has improved by six points and stands at 68. On the indicator *rule of law*, it has again scored 63. The performance on *foresight of policy and regulatory change* has gone up from 59 to 61.

On a more detailed level, Ukraine's overall sub-indicator performance is good. This year the highest-scoring sub-indicator is *transparency* with a score of 82. It is followed by *management and settlement of investor-State disputes* at 75. The score on *regulatory effectiveness* continues to be good although it has dropped from 83 to 72. The performance on *communication of vision and policies* has improved by four points and stands at 72. On *restrictions on FDI* Ukraine's score has improved from 50 to 70 and on *institutional governance*, it has increased from 41 to 53. This year, *robustness of policy goals and commitments* and *respect for property rights* are the lowest-scoring sub-indicators at 50.

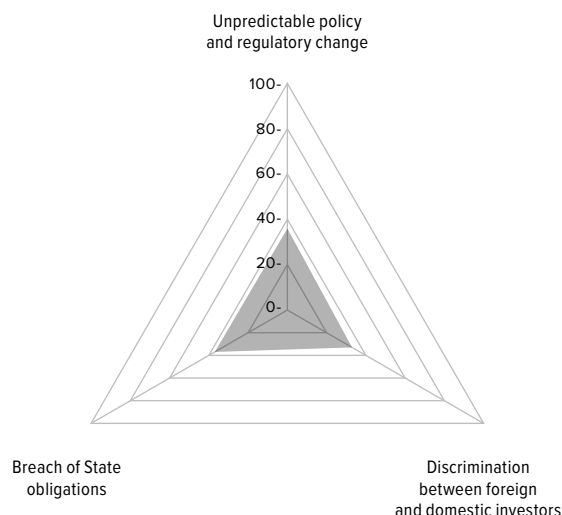
While Ukraine has the relevant policies and measures in place, there is potential for improvement. Attention should be given to strengthening the robustness of its policy goals and commitments, and to reinforcing the respect for property rights.

YEAR-ON-YEAR COMPARISON

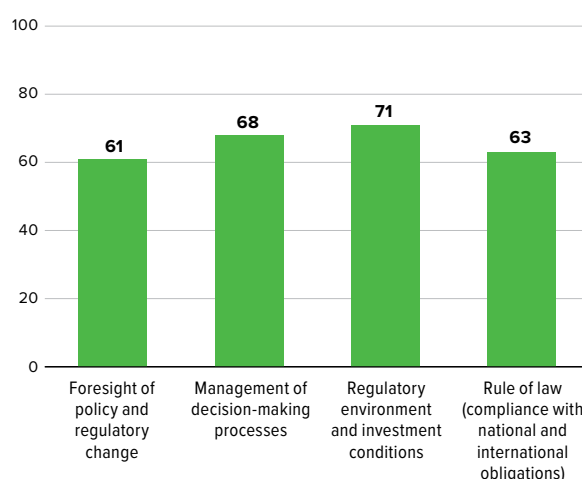
RISK AREAS	2018	2019	2020
Unpredictable policy and regulatory change	40	39	36
Discrimination between foreign and domestic investors	37	36	33
Breach of State obligations	37	37	37

INDICATORS	2018	2019	2020
Foresight of policy and regulatory change	57	59	61
Management of decision-making processes	59	62	68
Regulatory environment and investment conditions	67	67	71
Rule of law	63	63	63

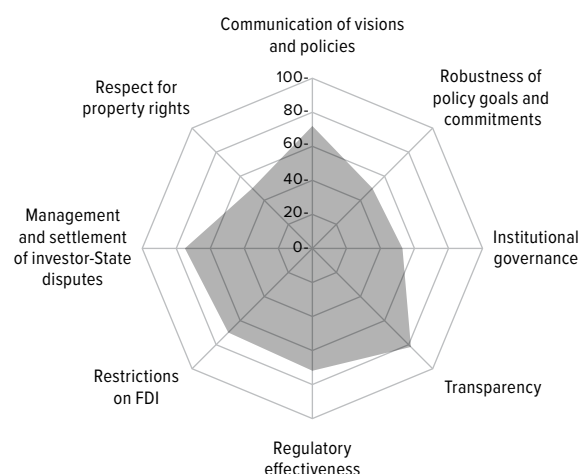
RISK LEVEL



INDICATOR PERFORMANCE



SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

The Energy Strategy of Ukraine through 2035: Security, Energy Efficiency, Competitiveness was adopted in 2017.

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

STRENGTHS

Ukraine has set forth an ambitious set of legislative initiatives and plans for 2020 to improve energy security. The Cabinet of Ministers (CoM) is currently preparing the draft laws for (1) creating minimum reserves of oil and oil products in line with the EU requirements, (2) revising the Subsoil Code of Ukraine, and (3) updating the national program for the development of mineral resources until 2030. The CoM is also going to establish mechanisms for stimulating the economical use of energy resources by all categories of consumers. On 30 September 2019, the President of Ukraine signed Decree no. 722/2019 "On Sustainable Development Goals of Ukraine until 2030". Building on this, on 21 January 2020 the erstwhile Ministry of Energy and Environmental Protection of Ukraine presented a longer-term vision through the Draft Concept of the Green Energy Transition of Ukraine through 2050. On 30 December 2019, Naftogaz and Gazprom signed a set of agreements to continue Russian gas transit through Ukraine to Europe until 2024 inclusive. These agreements provide minimal transit volumes of 65 billion cubic metres (bcm) per year for 2020, and 40 bcm per year for 2021 to 2024.

On 12 December 2019, the Ukrainian Parliament adopted Law no. 377-IX, effective from 1 January 2021, which offers a legal basis to the monitoring, reporting and verification (MRV) of Ukraine's GHG emissions. The Government is now finalising the subsidiary rules to implement this Law. In May 2020, the Ministry of Ecology and Natural Resources of Ukraine presented draft Resolutions of the CoM "On Approval of the List of Activities Covered by MRV of GHG emissions" and "On Approval of the Procedure on Verification of the Operator's Report on Emissions of GHG". It is expected that the draft Resolutions will be adopted upon the conclusion of public discussions. On 19 March 2020, the erstwhile Ministry of Energy and Environmental Protection published a progress report for the last year. It also published, on 31 March 2020, a report on the implementation of the State Target Economic Program on Energy Efficiency.

AREAS FOR IMPROVEMENT

The Government must work on an action plan for implementing the Energy Strategy of Ukraine through 2035 beyond the first phase (until 2020).

While the Government regularly evaluates the implementation status of its energy targets, it should take steps to make the monitoring authorities, institutionally independent, self-funded, and equipped with sufficient technical skills and human resources.

Management of decision-making processes

QUICK FACTS

Per the CoM Resolution no. 425 dated 27 May 2020 "On some issues of optimizing the system of central executive bodies", the Ministry of Energy and Environmental Protection of Ukraine is divided into the Ministry of Energy of Ukraine and the Ministry of Ecology and Natural Resources of Ukraine.

Law No. 2939 "On Access to the Public Information" determines the procedures for securing access to information from government agencies.

STRENGTHS

The CoM of Ukraine has substantially restructured ministries to improve their efficiency. The division of Ukraine's Ministry of Energy and Environmental Protection seeks to strengthen the institutional capacity of the new ministries to frame and implement policies on energy and environment, and to remove any conflict of interest in these areas. The new Ministry of Ecology and Natural Resources of Ukraine is now responsible for implementing the State policy on climate change and adaptation, and ensuring compliance with the requirements of the UNFCCC as well as the Paris Agreement. The CoM has also merged the Ministry of Economic Development of Ukraine with the Ministry of Agrarian Policy of Ukraine to form the new Ministry for Development of Economy, Trade and Agriculture of Ukraine. The new Ministry is a central executive body whose activities are directed and coordinated by the CoM. It has an enhanced role in developing the State policy on investment, management of State-owned objects, promotion of entrepreneurship, PPP projects, IP rights, and public procurement.

The President of Ukraine has signed the tax reform law which sets out three-tiered transfer pricing reporting requirements, general anti-abuse rules, and new controlled foreign company rules. The provisions of this law will come into force over the period 2020 to 2023. On 7 June 2018, the Ukrainian Parliament passed the bill on the High Anti-Corruption Court in its second reading. In April 2019, the President of Ukraine appointed 38 judges to the High Anti-Corruption Court and the court's Chamber of Appeal, and on 5 September 2019, the court started its work.

AREAS FOR IMPROVEMENT

A one-stop shop can be established and empowered to grant approvals and licences for energy investment activities. Presently, Ukraine has a document service centre, which provides support for a few investment activities, such as the registration of legal entities. Also, a unified procedure for investment project screening must be created to avoid discretionary decisions.

Regulatory environment and investment conditions

QUICK FACTS

The National Energy and Utilities Regulatory Commission (NEURC) regulates the energy and utilities sectors.

Law No. 264-IX “On Amendments to Certain Laws due to Unbundling of Natural Gas Transmission Activity” (Unbundling Law) came into force on 17 November 2019.

STRENGTHS

The Unbundling Law seeks to liberalise the gas market, ensure efficiency in operations, and consistency with the EU’s third energy package. Effective from 1 January 2020, Naftogaz and the transmission system operator are independent entities. A bilateral market model, day-ahead, and intraday markets have replaced the single buyer model of the wholesale electricity market. NEURC has also approved a ten-year Transmission Network Development Plan. Law No. 2712-VIII, effective from 22 May 2019, provides for competitive renewable energy auctions in Ukraine. It introduces a new support scheme for renewable energy projects, the timeframes for conducting auctions, the approval procedure of the annual support quotas and their allocation by renewable energy source type, auction schemes and prices, and provisions on bank guarantees. The launch of auctions is expected in 2021.

From 10 July 2019, the National Bank of Ukraine (NBU) has removed the EUR 12 million monthly cap on the repatriation of dividends from foreign investments. On 9 September 2019, the NBU also cancelled the monthly limit of EUR 5 million on payments to foreign investors for the sale of securities, corporate rights, and on payments of funds received as a result of a decrease of the share capital of legal entities and withdrawal from a company. Resolution No. 113 (2019) of the NBU cancels all restrictions that applied until now to the transfer of funds, including from Ukrainian hryvnia and foreign exchange accounts of non-residents in Ukraine. On 31 March 2020, the Ukrainian Parliament adopted Law No. 2178-10 lifting the moratorium on the sale of agricultural land and establishing the framework for the launch of the land market. The law will enter into force on 1 July 2021.

AREAS FOR IMPROVEMENT

The Government is encouraged to adopt legislation that makes NEURC compliant with the EU’s third energy package. In particular, NEURC should be made independent of the CoM of Ukraine.

Although the Government has taken measures to give foreign investors conditional access to agricultural land, it may relax this restriction further. For now, the purchase of land by foreign investors is subject to approval by referendum.

The recently introduced reduction of FiT support for solar and wind power plants should apply only to new projects. Changes made to support schemes for existing investments should be re-considered to retain the confidence of investors.

Rule of law

QUICK FACTS

Law No. 193-IX “On amending the Judiciary and Status of Judges Law and Some Laws of Ukraine on Activities of Judicial Authorities” was adopted in 2019. It entered into force on 1 January 2020.

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 is undertaking reforms to strengthen the judiciary’s independence. Law no. 193-IX of Ukraine lays down new rules to restructure the High Council of Justice, define the composition and status of the High Qualification Commission of Judges of Ukraine, and outline disciplinary actions to improve judicial accountability. Law No. 2712-VIII of Ukraine allows companies, which have a minimum of 10% foreign investment, to choose international commercial arbitration as a means for dispute resolution in PPAs. It also requires the establishment of a special fund to cover the arbitration costs of the guaranteed buyer. Companies that opt for international arbitration must contribute to this fund. Although NEURC will determine the payment’s amount and periodicity, it should be not less than once a quarter, and the amount should not exceed 1% of the net profits generated from the relevant power plant.

Ukraine continues to uphold the property rights of foreign energy investors. The Law of Ukraine “On the Regime of Foreign Investments” states that the State may not seize foreign investments or assets except in specific emergency cases such as a natural disaster, accidents, epidemics or epizootics. Law No. 155-IX “On Concession” of 2019, as amended in 2020, states that in the event the State or local authorities adopt decisions that violate the rights of concessionaires, losses incurred as a result of such decisions are subject to full compensation in the manner specified by the concession agreement. The Civil Code of Ukraine stipulates that any person has the right to address the court to protect his/her IP rights covering a wide range such as invention, useful model and industrial pattern.

AREAS FOR IMPROVEMENT

Provisions on mediation and conciliation should be stipulated in a special law or as part of already existing procedural legislation. Access to alternative dispute resolution mechanisms will allow the parties to identify their priorities, 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 paramount, it is also important that a definition which is not overly broad or vague is stipulated in the law.

IMPLEMENTATION STATUS



Ukraine

PROPOSED IN	EIRA AREAS FOR IMPROVEMENT	IMPLEMENTATION STATUS AS OF 1 APRIL 2020
Indicator 1		
2018	Develop the action plan to implement the Energy Strategy of Ukraine through 2035 beyond the first phase (2020).	Work ongoing. The Draft Action Plan on the implementation of the second stage of the Energy Strategy "Optimization and Innovative Development of Energy Infrastructure (until 2025)" will be submitted to the Cabinet of Ministers of Ukraine by 1 December 2020. The draft action plan for the third stage (until 2035) will be submitted to the Cabinet of Ministers of Ukraine (CMU) by 1 December 2025.
	Make the body responsible for monitoring the energy policies independent of the Government of Ukraine.	Pending
Indicator 2		
2018	Set up a one-stop shop for all business-related services relevant to the energy sector.	Work ongoing. The Law of Ukraine "On Preparation and Implementation of Investment Projects under "One-Stop" Principle" is in effect since 2012 but the CMU still has to approve the subordinated legislation to make it operational.
	Appoint a unit/ministry to lead the implementation of the country's NDC.	Fully implemented. In May 2020, the Ministry of Ecology and Natural Resources was established. Its tasks include framing and implementing the State policy on climate change and adaptation, and ensuring compliance with the requirements of the UNFCCC as well as the Paris Agreement.
Indicator 3		
2018	Comply with the EU's third energy package by making the National Energy and Utilities Regulatory Commission (NEURC) independent of the Government of Ukraine.	Work ongoing. Following the Constitutional Court of Ukraine's decision of 13 June 2019, the NEURC Law was amended on 19 December 2019 to state that NEURC is a permanent central executive authority with special status, created by the CMU. It is expected that by the end of March 2021 there will be legislation to make NEURC compliant with the EU's third energy package.
	Increase the scope of land ownership for foreign companies.	Work ongoing. Starting from 1 July 2021, foreigners and legal entities, the founders or ultimate beneficiaries of which are foreigners (except entities controlled by citizens of an aggressor State or by persons or organisations registered in any of the FATF list States), will be able to buy agricultural land subject to approval by a national referendum. However, even after the referendum, it is prohibited to enter into transactions through which foreigners or foreign legal entities can obtain agricultural land in an area 50 km from the State border. On 18 June 2020, the Parliament of Ukraine passed the draft law No. 3612 "On Direct Democracy Through National Referendum" in the first reading.
	Lower the currency controls and restrictions on capital transfer.	Fully implemented. Starting from 20 June 2019 the National Bank of Ukraine (NBU) withdrew the requirement obliging entrepreneurs to sell 30% of their foreign currency proceeds. From 10 July 2019, the NBU removed the EUR 12 million monthly cap on the repatriation of dividends from foreign investments. On 9 September 2019, the NBU also cancelled the monthly limit of EUR 5 million on payments to foreign investors for the sale of securities, corporate rights, and also on payments of funds received as a result of a decrease of the share capital of legal entities and withdrawal from a company.
	Remove local content requirements that may be applied under the Law of Ukraine "On Production Sharing Agreements" 1999 as amended in 2017.	Pending
	Avoid the application of the recently introduced reduction in FiT support for solar and wind power plants to existing investments.	Improvement suggested in 2020. Status will be updated in 2021.
Indicator 4		
2018	Include provisions on mediation and conciliation in a special law or as part of already existing procedural legislation.	Work ongoing. As of 1 April 2020 this was a pending activity, however, in May 2020, two alternative draft laws "On mediation" (No. 3504 and No. 3504-1) were registered with the Parliament of Ukraine.
	Amend the domestic laws to define the term "public purpose" in the case of expropriation.	Pending

IMPLEMENTATION STATUS