



EIRA

ENERGY INVESTMENT RISK ASSESSMENT

2019



E I R A

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ENERGY CHARTER SECRETARIAT PUBLICATION

ISBN: 978-905948-212-8 (paperback)

ISBN: 978-905948-213-5 (pdf)

Depot number: D/2019/7850/2

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Layout and design: lyon.nu

ABOUT THE INTERNATIONAL ENERGY CHARTER

In the early 1990s, after the end of the Cold War, the Dutch Prime Minister at the time, Ruud Lubbers, took the initiative to establish cooperation in the field of energy between the East and the West. This paved the way for the Energy Charter Treaty (ECT) which was signed in December 1994 at Lisbon and entered into force in April 1998.

The ECT establishes a unique multilateral legal framework for facilitating international energy cooperation. Its key principles, namely, openness of energy markets, investment protection and non-discrimination stimulate foreign direct investment and cross-border trade. As of 1 February 2019, the ECT has 56 Signatories and Contracting Parties (including the European Union and Euratom).

The *International Energy Charter* is the informal working name of the Energy Charter Conference, its subsidiary bodies and the ECS. The name was adopted in 2016 to better reflect the global nature of the Organisation.

The Energy Charter Conference is the governing and decision-making body of the Organisation. Each year its Chairmanship is entrusted to a different Contracting Party of the ECT. In 2019, Albania holds the Chairmanship. The 98 Members and Observers of the Energy Charter Conference represent governments and regional intergovernmental organisations from six continents, including all major energy producing, transit and consuming regions.

The Energy Charter Secretariat is based in Brussels, Belgium. It is headed by Secretary-General Urban Rusnák. The main functions of the Secretariat include:

Providing administrative support and facilitating the work of the Energy Charter Conference and its subsidiary bodies;

Monitoring the implementation of the ECT;

Assisting governments in enhancing their investment climate through various instruments;

Offering support for dispute settlement and conflict resolution;

Developing regulation and model agreements for cross-border energy projects;

Organising capacity building and training sessions related to the ECT;

Assisting Observer countries with ECT accession.

MESSAGE OF THE CONFERENCE CHAIR

The Energy Investment Risk Assessment (EIRA) is a valuable publication for assessing policies, identifying gaps, and strengthening the regulatory framework of countries. The further development of EIRA is a priority for the Albanian Chairmanship.

We are pleased to note that this year the reach of EIRA has grown from 30 to 34 countries. It is commendable that of these, 26 are returning participants, and 8 are newcomers. Moreover, EIRA has seen an expansion in its geographical scope and now includes countries from Europe, Africa, Middle East, Asia and Central America. It can be inferred that EIRA has been welcomed as a useful instrument which can pave the way for needed reforms and contribute to economic progress.

We appreciate the efforts of the Energy Charter Secretariat in making EIRA more interactive, by launching a website dedicated to the project. Through this, the Secretariat will highlight the exhaustive information gathered by it and provide a wealth of knowledge to interested readers.

As the Chair of the Energy Charter Conference, I encourage the Secretariat to maintain discussions with the Constituency in developing EIRA further and ensure that it continues to reflect the will of the Contracting Parties and the Observer countries. I thank the Energy Charter Strategy Group and the Energy Charter Implementation Group for their guidance in the evolution of EIRA.

Finally, I urge more countries to take part in EIRA and avail the benefits of this highly valuable assessment.

Belinda Balluku

Chair of the Ministerial
Energy Charter Conference 2019
Minister
Albanian Ministry of Infrastructure and Energy

FOREWORD

Due to the ongoing energy transition, scaling up investments in sustainable energy resources and clean technologies has become critical for countries across the globe. At the same time, countries are trying to maintain and develop the existing infrastructure and conventional energy resources to avoid stranded investments.

The need for a meaningful and well-timed transition is embedded in the International Energy Charter framework. It is rooted in the European Energy Charter of 1991 that is the basis of the Energy Charter Process. The European Energy Charter recognises the importance of environmentally sound and energy-efficient policies. It encourages countries to create mechanisms and conditions for using energy as economically and efficiently as possible, including, as appropriate, regulatory and market-based instruments. Moreover, it calls on them to set market-oriented energy prices that reflect environmental costs and benefits, as well as use new and renewable energies and clean technologies.

In recent times, the urgency of transitioning to low-carbon resources has increased, as has the need to protect incumbent investments. In the midst of this growing dilemma, the Energy Charter Secretariat inaugurated the Energy Investment Risk Assessment – EIRA – last year. The objective was for EIRA to be a timely and effective analytical tool that would assist policymakers navigate these multiple objectives and the inevitable energy transition. EIRA uses four cross-cutting indicators to evaluate the following risk areas: (1) unpredictable policy and regulatory change (2) discrimination between domestic and foreign investors (3) breach of State obligations. It provides countries with feedback on how they can mitigate these risks and prevent disputes with investors.

Now in its second year, the geographical coverage of EIRA has increased, as has the number of its participants. This is primarily because there is a need for instruments, such as EIRA, that help national governments meet different development objectives

and at the same time reconcile diverging courses of action. EIRA 2019 expands and builds on the findings of its predecessor and gives deeper insights into the participating countries. Apart from highlighting the key strengths and areas for improvement in each country, the profiles of the recurrent participants include a year-on-year comparison table. Through this, the countries can benchmark their performance and take stock of any changes to their risk level. By tracking changes to regulatory frameworks, the report will also provide some evidence of the real progress made by countries towards energy transition. Although EIRA is still at a nascent stage, the addition of this new aspect brings it a step closer to one of its key objectives – tracking the progress of countries over time.

This year a website dedicated to EIRA has also been launched. It is intended to offer extensive and updated data on the evolving regulatory regimes of the participating countries. It projects the year-on-year trajectory of the country on different EIRA parameters, provides detailed information for each question on the EIRA questionnaire and includes an online library of over 1,500 primary legal documents. Some of these documents are exclusively available on the EIRA website.

In the coming years, it is our aim to refine the EIRA methodology and make the analysis richer. I am confident that with the ongoing research and finetuning of EIRA, the report will be even better able to serve the Energy Charter Constituency.

On a final note, I express my sincere gratitude to the countries and external parties participating in EIRA 2019, as well as the authors of the report. I hope that an increasing number of governments will subscribe to EIRA in the future.

Urban Rusnák
Secretary-General
Energy Charter Secretariat
Brussels

ACKNOWLEDGEMENTS

EIRA was conceptualised and developed at the initiative of Urban Rusnák, Secretary-General of the ECS.

The 2019 edition of EIRA is prepared by the Investment Unit of the ECS. The core data analysis and drafting team comprises: Ishita Pant, Anna Pitaraki, Danai Oikonomakou and Edward Safaryan. The detailed biographies of the authors are available in the last section of the report.

The team is grateful for the assistance provided by colleagues, both within and outside the ECS. The efforts of Ruslan Galkanov, Can Öğütçü, Natasa Rajovik and Jibrin Ismaila Obokhale are particularly acknowledged.

The ECS expresses its appreciation to the participants of EIRA 2019: Afghanistan, Albania, Armenia, Bangladesh, Belarus, Benin, Bosnia and Herzegovina, Burkina Faso, Croatia, Czech Republic, Eswatini, The Gambia, Georgia, Greece, Jordan, Kazakhstan, Kenya, Kyrgyzstan, Liechtenstein, the Republic of Moldova, Mongolia, Montenegro, Morocco, Nigeria, Palestine, Panama, Romania, Rwanda, Senegal, Slovakia, Uganda, Ukraine, Uzbekistan and Viet Nam. A special word of thanks goes to Benin, Morocco and Viet Nam for hosting fact-finding missions.

The ECS wishes to thank the focal points in the participating countries for their support during the preparation of EIRA 2019 and for their invaluable cooperation.

EIRA is made possible through the expertise and generous input of more than 250 contributors. Legal and energy experts, members of the academia, financial institutions, think-tanks, business consultants, accountants and other professionals, actively engaged in the participating countries, provided the team with in-depth on-the-ground information and data. They are duly acknowledged in the Contributors section of the report.

The project has benefitted from the feedback of the Energy Charter Strategy Group and the Energy Charter Implementation Group delegates, the peer reviewers and the Energy Charter Industry Advisory Panel.

ABBREVIATIONS

BIT	Bilateral Investment Treaty
ECS	Energy Charter Secretariat
ECT	Energy Charter Treaty
EIRA	Energy Investment Risk Assessment
EU	European Union
FDI	Foreign Direct Investment
GDP	Gross Domestic Product
GHG	Greenhouse Gas
IEA	International Energy Agency
INDC	Intended Nationally Determined Contributions
LNG	Liquefied Natural Gas
MDA	Ministries Departments and Agencies
NDC	Nationally Determined Contributions
NGO	Non-Governmental Organisation
OECD	Organisation for Economic Co-operation and Development
OHADA	Organization for the Harmonization of Business Law in Africa
SDG	Sustainable Development Goals
SE4ALL	Sustainable Energy for All
TPES	Total Primary Energy Supply
UN	United Nations
UNCITRAL	United Nations Commission on International Trade Law
UNFCCC	United Nations Framework Convention on Climate Change
WTO	World Trade Organization

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EXECUTIVE SUMMARY



EIRA assesses risks to energy investment that can be mitigated by adjusting legal and regulatory frameworks. It gives guidance to countries on how they can improve their investment climate and benchmarks their performance against international best practices.

EIRA evaluates three types of risks: (1) unpredictable policy and regulatory change, (2) discrimination between domestic and foreign investors and (3) breach of State obligations. It highlights the key strengths and areas for improvement in each country, gives recommendations to improve results, assists in designing risk mitigation plans, and influences governments to work towards such plans. EIRA recognises that various factors, which are outside its scope, can shape investment decisions. For this reason, it does not claim to give a complete picture regarding the investment prospects or attractiveness of a country. Similarly, it does not judge, predict or indicate if one country is better to invest in over another.

The target audience of EIRA is policymakers. Its objective is to assist them in (1) identifying policy and regulatory gaps and (2) taking action to attract the right investments in the energy sector. Additionally, it seeks to give the energy industry, investors and the financial sector insight into particular aspects of the investment climate in the assessed countries. That said, the findings of EIRA are not an alternative to the due diligence that companies must conduct before they invest in the energy sector of an assessed country.

The scope of EIRA 2019 is the same as last year. Like its predecessor, this second edition of EIRA does not delve into commercial and other market-related risks or geopolitical issues. Despite this, its application remains very comprehensive and covers investment across the entire spectrum of the energy sector. The scoring methodology is also the same as in 2018. All indicators carry equal weight and are the average of their component sub-indicators. Each sub-indicator is calculated through a set of questions that are scored between 0 to 100. The indicator scores are depicted through a five-band colour-coding (page 19).

Highlights of EIRA 2019

Participation in EIRA has grown considerably. 9 countries participated in the 2017 pilot version of EIRA. The number has increased to 34 in the 2019 edition of the report. The geographical reach of EIRA has also expanded and now spans countries in Africa, Asia, the Americas, and Europe.

The accuracy of the assessment has improved because participating countries have a better understanding of EIRA. Countries participating for the second consecutive year were more familiar with the data collection and validation process. As a result, the information provided by them was more extensive compared to last year. Understanding of the scope, purpose and practical use of EIRA has also increased. In fact, the project has integrated itself as a core activity in the International Energy Charter framework of many participating countries.

The network of external parties has grown significantly in 2019. This year, the number of external parties and reviewers was higher. The majority of external parties for EIRA 2019 have also contributed to reputed publications of other international organisations. EIRA now has a vast network of globally renowned law firms, industry associations, academia and financial institutions that actively participate in the project and promote it on a voluntary and pro bono basis. The full list of contributors for 2019 is available in the second last section of the report.

The text of the country profiles is more detailed and offers a year-on-year overview. As EIRA enters its second year, it is now better equipped to fulfil its ultimate objective: to track change. In the first year, the country profiles gave a snapshot of the country's legal and regulatory regime. Essentially, they served as a starting point for

measuring future performance. This year, the analysis has a comparative nature and shows how the legal and regulatory regime of countries has evolved in response to the set targets, commitments and policy direction. Profiles of the recurrent countries now have a table that reflects the change in their performance vis-à-vis 2018 on (1) the risk areas and (2) the indicators. It is important to note that the objective of EIRA is for countries to track their own progress over the years rather than to rank countries that have distinct economic, political and social makeups, and different growth trajectories.

EIRA 2019 attempts to address the enforcement and implementation of existing laws and regulations. This year EIRA tries to give a clearer picture regarding the application of laws and policies in the 34 participating countries. The qualitative assessment in the country profiles better reflects the implementation of the existing framework. It highlights the progress made in translating commitments to actions. Attention is given to the implementation of projects, programmes and secondary regulations between 2018 and 2019. With its current approach EIRA tries to tackle the issue to the greatest extent possible but further research is needed on how to embed

Key findings

The political commitment of countries towards the transition to clean energy resources and low-carbon technologies is driving legal and regulatory reforms in the participating countries. In 21 of the 26 recurrent EIRA participants, significant changes were made to the legal and policy frameworks. Some countries, such as Kenya and Uganda, enacted new energy and investment laws to modernise their existing regime and to introduce best practices. Albania, Greece, and Bosnia and Herzegovina updated their national energy policies and plans to give investors clarity on the future trajectory of their energy sectors. In all countries, the policy thrust is largely on migrating to renewable energy systems and clean technologies. While this is a progressive step, enforcement of these policies will be the most defining factor for their success. Actions, by policymakers and investors alike, must be taken in a timely manner to (1) achieve the clean energy goals and (2) maintain stability and predictability in the investment environment. The urgency of energy transition is only going to increase in the future, and this will have an effect not just on government policies and investor decisions but also on consumer attitudes.

this aspect more effectively in the scope and methodology.

EIRA is a source of latest information. All changes observed in the participating countries were tracked and recorded, to the greatest extent possible. For some countries, EIRA is one of the first reports to analyse these changes.

The EIRA website introduces a number of new features. This year a website dedicated to EIRA has been launched (www.eira.energycharter.org). Its purpose is to offer extensive and updated information on the regulatory environment of the energy sectors of the assessed countries. To facilitate data collection, it allows the participating governments and external parties to fill in the EIRA questionnaire online. It also consists of an interactive webpage that projects the year-on-year trajectory of the country on different EIRA parameters. The website hosts a “question explorer” that provides detailed findings on each question and highlights the key changes observed on them. Finally, it has an online library that contains over 1,500 primary policy and legal documents for the 34 participating countries. Some of these documents are exclusively available on the EIRA website.

Countries are pursuing energy transition in diverse ways. The policy objectives of countries differ significantly, ranging from improving energy security to achieving energy access and affordability. There is also variation in the natural resource endowment, energy consumption patterns, emission levels and socio-economic needs of each country. Due to these and other important variables, energy systems across the globe are transitioning in highly diverse ways. For instance, nations with high fossil fuel imports are taking measures to increase the share of power generation from domestic renewables. Morocco is a good example of this. Although its domestic energy demand is currently met by coal, oil and natural gas imports, the country is taking proactive steps to promote its solar industry, attract international green finance and deregulate the electricity market for greater competition in renewables. Similarly, countries with large emission-intensive industries are placing emphasis on the modernisation of the energy infrastructure, investment in R&D, and the adoption of cleaner and more efficient technologies. **Despite the divergence in approach, the underlying commonality observed is that all countries are making positive efforts to actually transform their energy and investment landscape**

in line with the ongoing transition. EIRA assists in this by providing evidence of real and meaningful regulatory reforms in countries, and by tracking the pace of change.

Policy focus needs to shift from short-term motivations to long-term objectives. All the EIRA countries have policy frameworks in place for sustainable energy. In most, short- and medium-term targets have been set for key priorities such as reducing emissions, integrating a larger share of renewable sources in the energy mix and for promoting energy efficient technologies. Despite these efforts, **the link between sustainable energy targets and long-term resource planning is relatively weak and will need to be strengthened.** The absence of seamless policies and targets will create barriers to the energy transition. It can potentially reduce the pace of change, affect the world's ability to meet the Paris Agreement goals, and result in unsustainable investment patterns for the coming years. The European Union serves as a model for countries currently developing long-term policies for the energy sector. In 2018, the European Commission presented its strategic long-term vision for a prosperous, modern, competitive and climate-neutral economy by 2050. The strategy demonstrates how Europe can achieve climate neutrality by investing in realistic technological solutions, empowering citizens, and aligning action in key areas such as industrial policy, finance, or research while ensuring social fairness for a just transition.

Investment in energy infrastructure lacks coherent long-term policy planning even though it is considered a priority. Targets and implementation plans exist in most countries for the development of energy infrastructure. This includes plans for strengthening regional interconnections, building new generation, transmission and distribution infrastructure, and for modernising the existing infrastructure. However, these targets and plans are not always integrated into the economy-wide investment strategy or do not complement the goals set for the development of different energy resources. Actions are focused on the near future and rarely take into account the changing power infrastructure needs. Unplanned investment in long-term fossil fuel projects will create liabilities for energy companies and most likely increase the amount of stranded assets. To avoid this risk, governments will need to design long-term plans for promoting investment in low-carbon energy technologies including smart grids, storage and e-mobility solutions. A clear strategy will also be needed for gradual divestment in dated power infrastructure. **Investors, just as policymakers, will have to align themselves with the changing national objectives and pathways.** Countries with large fossil fuel resources are driving for

sustainability in the oil and gas industry. To avoid an abrupt abandonment of incumbent energy investments, oil and gas companies will have to review their long-term strategies, seriously consider diversifying their portfolios and adapt business models to be in line with a low-carbon energy transition.

In addition to stepping up renewable electricity generation, actions should be directed towards other high-emission sectors. Significant work is being undertaken to reduce CO₂ emissions through renewable electrification. A number of countries from Afghanistan to Viet Nam have set policies, targets and implementing plans in this respect. In contrast, the integration of renewable policies in other sectors is less defined. This is particularly the case of high-emission sectors, such as transport. The penetration of low-emission transportation models should be actively pursued to (1) shift the sector to a sustainable path and (2) contribute to the reduction of urban air pollution. Energy efficiency targets for the heating sector are also low and need to be addressed. This should be done sooner rather than later as it is bound to cause changes in investment patterns, impact the value of assets for certain investors, as well as affect the cost of doing business.

NDC planning and implementation largely remains disconnected from the national development planning. Synchronisation of the NDC targets with the overall development objectives can be improved across countries. Actions and programmes in relation to NDCs continue to be standalone. Synergies between the NDCs and the overall socio-economic objectives such as job creation, education, poverty reduction and health should be explored for holistic and coordinated policy development. In particular, more effective planning is needed to fully integrate the NDC targets in the national energy policies. For example, sectoral targets for GHG emissions and removal from land use, land-use change and forestry (LULUCF) are stated in the NDC of some EIRA countries but rarely find mention in the national energy and climate change strategies. Governments are urged to address this disconnect while making revisions to their NDCs, and use this as an opportunity to better align their international commitments with their national plans.

Monitoring and evaluation (M&E) of energy policies is not sufficient or systematic. Energy policies and plans in most countries contain detailed procedures on monitoring the performance indicators for the energy sector. Information on the lead authorities conducting the evaluation, the data-gathering bodies and the list of activities are also available in certain cases. Some countries have taken a different approach and incorporated

M&E provisions in regulatory impact assessment laws. **Although M&E is considered a significant part of the overall policy-making process, most countries are struggling with its actual implementation.** Conclusions of the M&E activities are rarely accessible to the public. Data collection and sharing between the national and local level can also be better organised. Most importantly, greater clarity is required on how effectively countries are trying to close the gap between the policy actions and associated costs. Disaggregated costs of each action should be calculated and the results of ex post and ex ante cost-benefit analysis for all planned activities must be widely circulated. **M&E of GHG emissions and energy efficiency targets stand out as exceptions since most countries have unified data sources, inventories and evaluation mechanisms in place.** Monitoring mechanisms for these indicators can be used as models for evaluating the performance in other areas.

Although decision-making on the national level is well functioning, coordination between the national and subnational governments needs attention. All EIRA countries make reference to the contribution of local governments in the energy planning through their national laws, policies or plans. They are considered pivotal to monitoring performance standards, bringing changes to behaviour patterns, improving energy efficiency and creating greater awareness of the use of renewable energy sources. Typically, local authorities are responsible for granting permits, certifications and approvals for projects located in their jurisdiction. They conduct land use and spatial planning and in certain cases also contribute to de-risking local energy projects by providing the necessary financial resources or guarantees. Despite the significant role of local authorities in the energy sector, **the link between policies and development plans on the national and local level remains weak.** This raises questions regarding the ability of local governments to implement decisions that are taken with their limited involvement or that do not necessarily complement their individual plans. It also creates administrative burdens for investors who have to juggle overlapping or conflicting regulations on the national and subnational level. At present, there is little evidence to suggest that countries are taking proactive measures to remedy the situation. To avoid a mismatch of priorities and actions, it is urged that the division of roles and responsibilities between the national and local governments should be clarified, including a defined budgetary relationship. In Kenya the new energy law tries to resolve this issue by delimiting the role of the central government to policy coordination, and vesting local planning and implementation in the county governments. Greece has also made efforts

to decentralise the energy processes and engage local communities and administration in the energy planning. In 2018, it enacted a law promoting the direct participation of citizens, municipalities and small- and medium-sized local businesses in the production, distribution and supply of energy.

33 of the 34 EIRA countries have an established legal framework on transparency and information access. Legislative initiatives are now geared towards strengthening the accountability of public and private actors. 23 of the EIRA countries are members of the Open Government Partnership that aims to promote accountable, responsive and inclusive governance. In 2018, the Federal Republic of Nigeria issued a new executive order for adopting higher transparency standards for public authorities, prescribing disciplinary actions and penalties for public authorities and officials found misappropriating government assets. Slovakia also introduced amendments to its Anti-Money Laundering Act to increase accountability in business transactions. **Moreover, countries with rich extractive industries are adopting international best practices and higher standards of public disclosure.** Access to information on government expenditure, transfer of revenue on the subnational level, licence allocation, and state participation in oil and gas projects are receiving particular attention. An example is Ukraine, which adopted a new law to ensure transparency and prevent corruption in the country's extractive industries. Senegal has also adopted a new petroleum code through which all extractive industries are obliged to comply with the principles of the Extractive Industries Transparency Initiative.

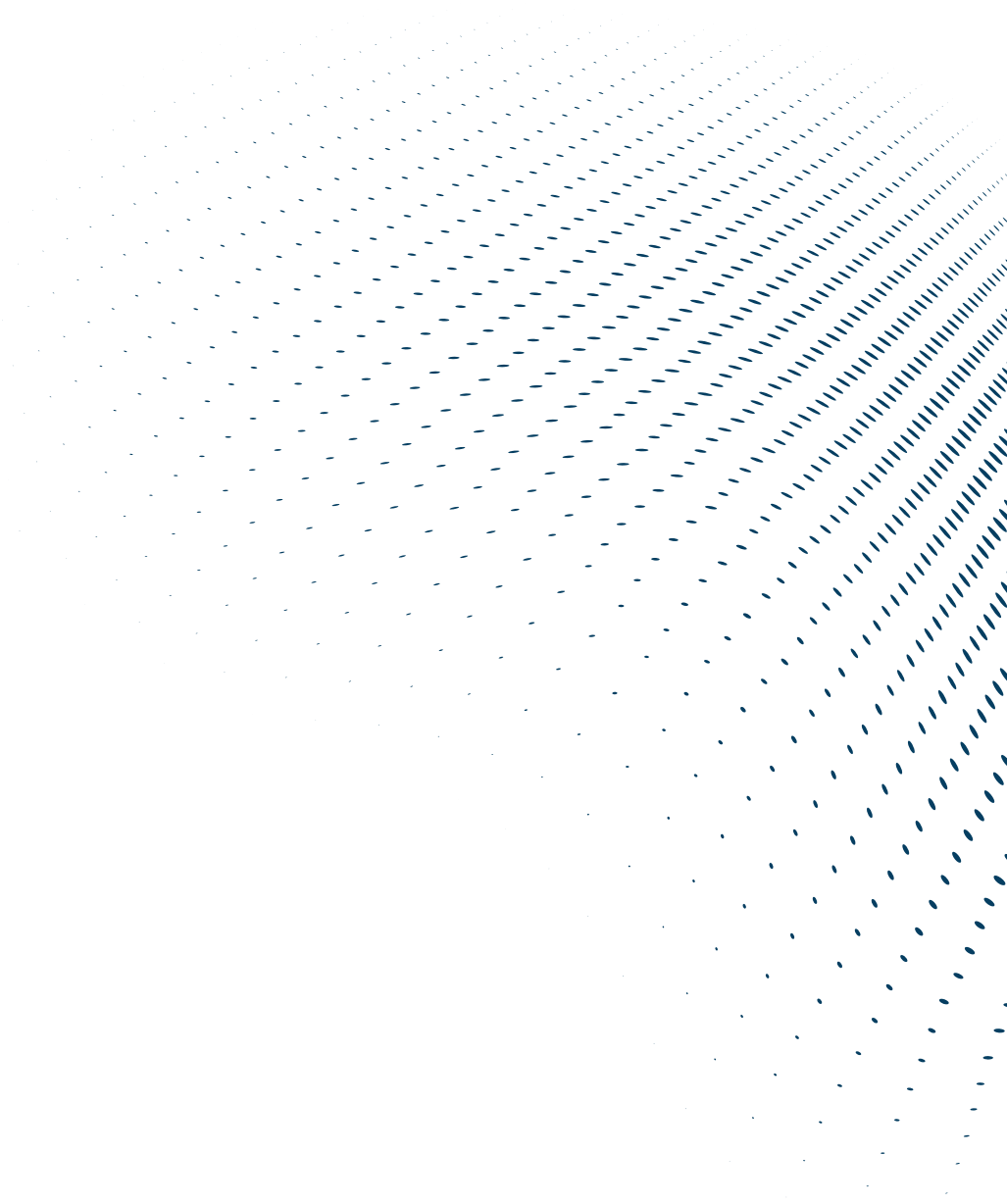
There is a gradual convergence to international best practices for benchmarking the independence of national energy regulators. Each country decides on the type and structure of its national energy regulator based upon a number of country-specific issues such as the size and structure of its market and its traditional legal and administrative setup. Even with these variances, it is notable that most EIRA countries are making efforts to safeguard and guarantee greater independence for their national energy regulators. The decisions of national regulators are binding across all assessed countries and most of them have operational independence. However, **asymmetries exist in how the best practices are applied and this can lead to uncertainty for market players.** In some countries, provisions safeguarding budgetary independence are highly robust whereas those guaranteeing the appointment and governance of Board Members are not up to the same standard. To avoid such irregularities, countries are urged to evaluate whether the concept of independence is applied holistically to all aspects of the regulator. Equal attention must be given to ensuring autonomy

in the institutional setup, human resources, financing, appointment procedures, decision-making and enforcement of decisions across all the assessed countries.

Market liberalisation and non-discriminatory market access still remain issues of significance for a number of EIRA countries. To bring greater legal stability and predictability for investors, a number of countries are consolidating and updating secondary rules, codes and guidelines on technical issues. This includes issues of network and market operations, financial arrangements between market players, and regulatory reforms on network access. In December 2018, Georgia adopted the Concept Design for the Georgian Electricity Market, which describes implementation activities for establishing a competitive electricity market by 2022. Bangladesh also adopted a new Grid Code in 2018 for ensuring transparent, non-discriminatory and economical access to the grid. **In countries with mature regulatory setups, based on well-grounded principles of transparency and a high level of competition, the focus was on fine-tuning existing guidelines rather than undertaking major structural reforms.**

The quality of judicial processes needs to be enhanced and legal provisions on the respect for property rights must be updated. For investors,

actual recourse to courts is less likely and less significant compared to potential recourse. They place a higher premium on the knowledge that in case of potential recourse their rights will be guaranteed. Dated case management systems and dispute resolution mechanisms can considerably reduce the attractiveness of a country in the eyes of investors. It increases their risk of getting embroiled in protracted and costly litigation. For this reason, having a defined length of proceedings, adequate human and financial resources, and easy access to the relevant information gives investors predictability and a feeling of legal security. **While the EIRA countries have well-functioning legal systems, there is a definite need for modernisation and improvement of judicial effectiveness.** Rwanda is one country making consistent efforts to improve the quality of its judiciary. In 2018, it enacted a new legislation introducing provisions for limiting the adjournment of case hearings exclusively for unforeseen and extraordinary situations. **In a similar vein, many countries still have traditional expropriation rules that are not sufficient to address the evolving challenges.** Though legal provisions guaranteeing the property rights of investors exist in all jurisdictions, their ability to give legal protection must be enhanced. This is especially relevant in terms of defining “public interest” and providing timely and adequate compensation.



RISK AREAS AND INDICATORS FOR EIRA



EIRA evaluates specific risks affecting energy investment that can be mitigated through adjustments to policy, legal and regulatory frameworks. The performance of countries against the EIRA risk areas is evaluated through four indicators. The indicators are constructed to reward countries for sound regulation and efficient processes. They capture the ability to cope with the risks through various positive measures such as the creation of predictable policy objectives, transparent decision-making, the establishment of strong public institutions, development of competent market oversight mechanisms, and the successful resolution of disputes with foreign investors.

What are the risks assessed by EIRA?

EIRA analyses the following risk areas:

Unpredictable policy and regulatory change

Governments reserve the right to adopt measures that are necessary for pursuing legitimate public policy objectives. Nevertheless, unsystematic and arbitrary modifications can detrimentally affect the interests of foreign investors. They can lead to increased or stranded costs for operating a business, reduced attractiveness for investment, and an overall distorted competitive landscape. Foreign investors may reconsider investing in the country or relocate the investment. It follows that in exercising their right to regulate, governments must make investors aware of the conditions and nature of policy changes.

Discrimination between domestic and foreign investors

Foreign investors need clarity on the extent to which markets are competitive and whether they offer a level playing field. While discrimination can take various forms, between energy resources, technologies and types of investors, EIRA focuses

on discrimination between domestic and foreign investors. This includes the likelihood of an unfair advantage to local investors, as recipients of rights and privileges, to the exclusion of foreign investors. Discrimination may also occur in the form of 'protectionist' practices intended to restrain trade and give rise to foregone investment gains.

Breach of State obligations

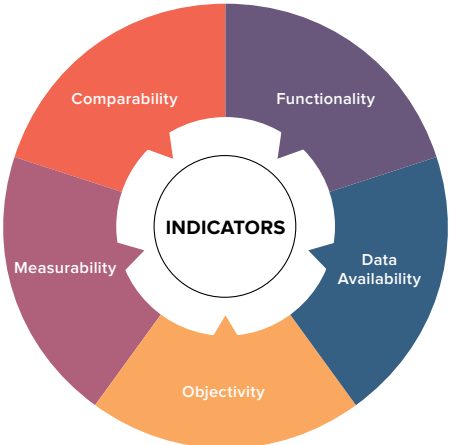
Disputes brought by investors against a State can disrupt the relations between the two parties and even damage the overall investment climate. Investors must have confidence that they will have recourse to mechanisms for dispute resolution and the enforcement of rights if governments default on their obligations. Such obligations include protection against discrimination, expropriation and nationalisation, breach of investment treaties, and limited access to alternative dispute settlement avenues.

How are the EIRA indicators selected?

The indicators have been constructed from a wide range of variables. They bear direct relevance to a government’s overarching objective of creating a secure, favourable and transparent investment environment.

Five criteria are applied to determine the appropriate indicators:

Figure I.1 – Criteria for selection of indicators



Functionality/Actionability – Indicators are ‘reform-oriented’. They reflect best practices through which countries can manage the risks. They capture aspects of policy-making and regulation that are under the control of governments.

Data availability – Data for indicators is available from sources that are reputable and reliable. Indicators are based on data that is relevant, readily accessible and easy to collect.

Measurability – Indicators provide a quantifiable assessment. They are robust and unaffected by minor changes in the method used for their construction.

Comparability – Indicators allow comparability across (1) countries; (2) energy sub-sectors; and (3) the energy value chain. Additionally, they are consistent and comparable over time.

Objectivity – Indicators reflect an accurate overview of the policy, regulatory and legal reality in the assessed countries.

What are the EIRA indicators?

Based on the above criteria the indicators selected are:

- | Foresight of policy and regulatory change
- | Management of decision-making processes
- | Regulatory environment and investment conditions
- | Rule of law (compliance with national and international obligations)

The indicators are cross-cutting and apply to more than one risk. Each indicator consists of two sub-indicators. They measure the ability of governments to identify whether the assessed risks exist and the extent to which they can be mitigated. The indicators reward countries for taking positive measures that manage and limit arbitrary or discriminatory policy changes which could result in a breach of State obligations. Such measures include designing and setting long-term policy objectives and goals, ensuring transparency in decision-making, granting equal treatment to foreign and domestic investors, and effectively managing disputes with foreign investors.

Table I.1 – Correlation between EIRA risk areas and indicators

RISK AREAS	INDICATORS			
	Foresight of policy and regulatory change	Management of decision-making processes	Regulatory environment and investment conditions	Rule of law
Unpredictable policy and regulatory change	✓	✓		✓
Discrimination between domestic and foreign investors		✓	✓	✓
Breach of State obligations				✓

INDICATOR 1

Foresight of policy and regulatory change

National energy priorities and regulatory frameworks evolve in response to changing circumstances. Meeting new objectives may result in policy revisions, and governments must be sensitive to the impact of such revisions on long-term investments. Ensuring stable conditions is a major challenge as the global energy transition is proving to be a highly dynamic process. Policy and investment patterns are likely to evolve as countries seek to decarbonise their energy sectors under the Paris Agreement. Managing this change is crucial, so governments must communicate any adjustments to their energy policy objectives and effectively plan and implement the means to pursue them. Investors can then better manage risk, modify investment portfolios and cope with the policy changes.

SUB-INDICATOR:

COMMUNICATION OF VISION AND POLICIES

This sub-indicator captures the commitment of governments to convey the vision of their energy sector. It also looks into the approach and principles that will guide governmental decisions in this respect.

Risk management requires a view on the future. This forward-looking vision is typically enshrined in strategy documents of governments, which inform investors about the energy goals to be achieved and the timeframes for their achievement. As countries transition to sustainable energy systems, new demands are placed upon regulatory frameworks and existing decision-making structures. Understanding the energy landscape and how it can evolve is a central element of investment planning. Hence, communicating any intended changes in a clear and timely manner contributes to bolstering investor confidence and averting risk. Moreover, the establishment of milestones or short- and medium-term goals indicates to investors the pace of change and the progress made towards the final goals and targeted outcomes.

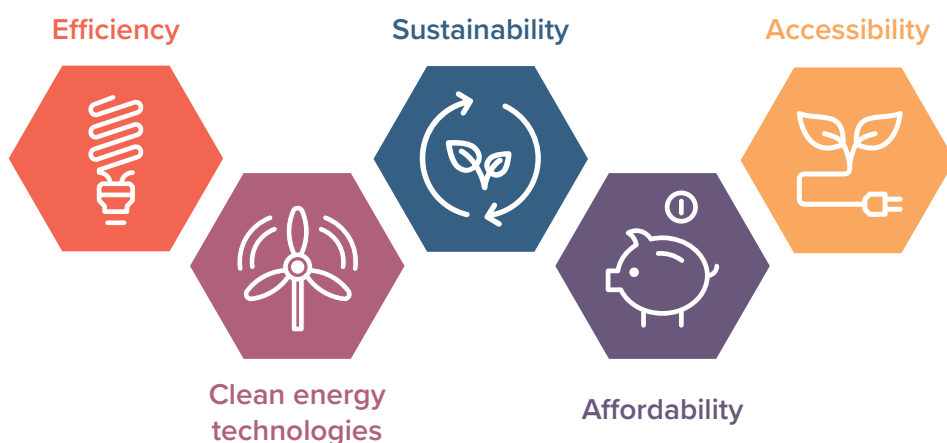
SUB-INDICATOR:

ROBUSTNESS OF POLICY GOALS AND COMMITMENTS

Good governance and the creation of effective monitoring mechanisms indicate the determination of governments to attain their policy goals. Conversely, a fragmented or weakly implemented monitoring and evaluation framework can significantly reduce the ability of policy makers and investors to track if real progress has been made on the goals.

This sub-indicator focuses on monitoring and evaluating the implementation of the energy goals. Monitoring provides an opportunity to assess the progress towards meeting energy objectives and identifying potential gaps. Furthermore, it allows governments to ensure that policies are periodically updated and amended when necessary. In this context, the establishment of an independent and competent authority with the appropriate monitoring and reporting mechanisms is critical. It gives investors the confidence that policies will be evaluated and improved to achieve the desired outcomes and will not be subject to arbitrary modifications.

Figure I.2 – Energy priorities under the UN Sustainable Development Goal 7



INDICATOR 2

Management of decision-making processes

The second indicator addresses the importance of coordinated and transparent policies in eliminating perceived or actual opacity of government initiatives and the exclusion of investors from the planning and decision-making phases. To ensure structured and simplified decision-making processes the role and responsibilities of different governmental levels must be defined. It is also essential that investors are well informed and consulted whenever governments intend to revise laws or regulations. Stakeholder engagement allows foreign investors to participate in decision-making processes actively and take well-informed and timely decisions.

SUB-INDICATOR: INSTITUTIONAL GOVERNANCE

Formulating investment and energy policies may involve several levels of government and ministries. Provinces, municipalities as well as regional and local authorities may also participate in framing policies. This can make the process relatively complicated and result in the risk of overlapping decisions. Unless well managed, complex institutional governance may lead to the adoption of sub-optimal choices or conflicting laws and policies.

This sub-indicator measures how well governments coordinate policy-making. While the degree of centralisation in each country may differ significantly, one central body should ultimately be responsible for coordinating across different levels of government and reconciling the diverging perspectives of public agencies. Effective intra-governmental and inter-ministerial management in undertaking policy design and implementation is, therefore, an essential precondition for minimising unpredictability and maintaining an investment-friendly climate.

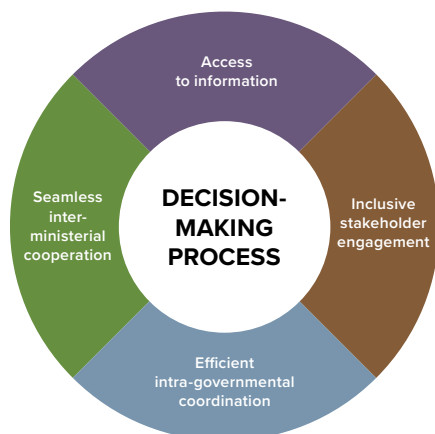
SUB-INDICATOR: TRANSPARENCY

Policy and regulatory changes are always risky for investors. However, if they are systematised and transparent, investors can adapt to them better. Transparency is beneficial to all types of investors, but it is particularly crucial for foreign investors who have to cope with regulatory systems and administrative frameworks that are different from their own. This sub-indicator gauges the openness demonstrated by governments in designing and implementing their laws and policies.

EIRA understands transparency as first, effective communication of information on national laws, regulations and practices that may materially affect investments; and second, prior notification and consultation of regulatory changes that are of interest to investors.

Governments can enhance the quality and predictability of their regulatory framework by reviewing and publishing administrative decisions, codifying legislation, disseminating regulatory materials, and developing registers of existing and proposed regulation. These core transparency measures help to ensure that investors are aware of policies affecting them. Prior consultation on investment and energy-related governmental actions can provide investors with more foreseeable conditions in the host countries. For instance, it may reveal indirect discrimination caused by secondary measures that deviate from the enabling legislation. Moreover, affording interested parties the right to comment may lead legislators and regulatory authorities to reflect carefully before modifying existing laws and consider alternatives.

Figure I.3 – Key aspects of effective decision-making process



INDICATOR 3

Regulatory environment and investment conditions

This indicator evaluates the independence exercised by energy regulators in their decision-making and other functions. Independence from national governments and the industry guarantees neutrality and helps to avoid situations where regulatory decisions are constantly revised to the detriment of some market actors and investors. It further examines the extent of restrictions faced by foreign investors in the energy sector. Despite the increasing realisation that international capital flows are crucial for the development of the energy sector, persisting restrictions act as serious deterrents for foreign investors. Key restrictions include screening and local content requirements, as well as limitations on currency and investment-related capital transfer, which tilt the playing field in favour of domestic investors.

SUB-INDICATOR:

REGULATORY EFFECTIVENESS

Market monitoring by a dedicated and expert institution minimises the risk of biased decision-making, discriminatory market rules and anti-competitive behaviour. Political distance gives the regulatory authority credibility because it limits governmental influence and provides assurance that political events will not interfere with regulatory functions.

This sub-indicator examines the energy regulator's autonomy based on various parameters including whether its duties and powers are embedded in legislation and how they are defined in relation to ministries and government executives. It also scrutinises the regulator's financial autonomy, its accountability as well as the transparency exercised in the selection of its staff.

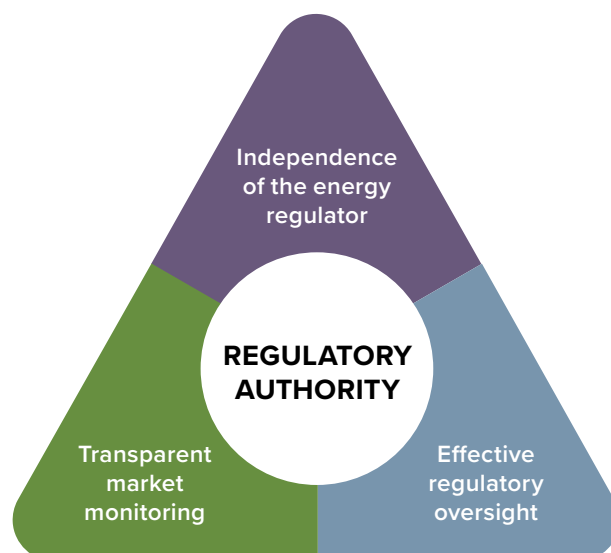
SUB-INDICATOR:

RESTRICTIONS ON FOREIGN DIRECT INVESTMENT

Overt policy and regulatory measures that discriminate between domestic and foreign firms can have a restrictive effect on inward investment flows. They can obstruct foreign investments or make the cost of operation unbearable. Some of the typical restrictive measures foreign investors may face are mandatory screening and approval procedures, regional investment restrictions, and operational controls.

This sub-indicator assesses the countries' commitment not to discriminate in the treatment afforded to domestic and foreign investors. It evaluates whether they receive equal treatment in the application of laws and regulations. Particular attention is given to the national treatment of foreign investment including sectoral restrictions, limits on the transfer of profit and repatriation of capital abroad, and onerous local content requirements.

Figure I.4 – Regulatory environment and investment conditions



INDICATOR 4

Rule of law (compliance with national and international obligations)

EIRA relies on the ‘rule of law’ definition presented in the UN Report “The rule of law and transitional justice in conflict and post-conflict societies”¹. It focuses on three aspects of this definition. First, fair and effective implementation of national laws and international commitments arising from treaties and international agreements; second, settlement of investor-State disputes promptly and according to due process; and third, respect for the property rights of foreign investors. Peace, security and human rights are outside the purview of EIRA.

SUB-INDICATOR:

MANAGEMENT AND SETTLEMENT OF INVESTOR-STATE DISPUTES

This sub-indicator measures the efficiency of case-management and settlement procedures within the assessed countries. Foreign investors place a premium on adherence by the host countries of their obligations to: provide accessible, clear and predictable legislation, avoid retrospective changes to legal acts, ensure equality before the law, resolve disputes without undue cost or delay, and comply with their commitments under international, as well as national laws.

Well-organised judicial procedures help to foster investor-State trust. Effective enforcement of foreign judgments and awards reduces uncertainty because investors are assured that the domestic courts will safeguard their rights. Similarly, the existence of appeal mechanisms and domestic dispute mitigation instruments, such as an investment ombudsman and mediation, provide additional avenues for resolving conflicts between investors and States. Beyond the national legal system, governments must provide an extra layer of protection to investors by granting them recourse to dispute-settlement mechanisms under international law. They may give foreign investors this benefit either through BITs or on a case-by-case basis.

SUB-INDICATOR:

RESPECT FOR PROPERTY RIGHTS

This sub-indicator assesses the risk to investors of losing ownership or control due to governmental actions or restrictions. These actions can also lead to the additional risk of discrimination when foreign investors in particular suffer such loss.

Under this sub-indicator, the term ‘investment’ refers to tangible and intangible assets, including intellectual property rights. It does not delve into the forms of expropriation. Instead, it focuses

on whether expropriation, nationalisation or confiscation (or any action tantamount to these) was undertaken for a legitimate public purpose, following the due process of law, in a non-discriminatory manner and with adequate compensation.

Some steps governments may take to reduce the risk of perceived arbitrariness are first, defining expropriation in their domestic laws; second, describing the process for the determination of compensation; and third, setting the timeframe for the payment of compensation. This gives increased security to foreign investors operating under the existing BITs and also protects investors that are not covered under these treaties. In turn, investors can also assess whether the host country’s laws, mechanisms and guarantees are in line with international practice and investment-related agreements. This adds to the reliability and enforceability of property rights against arbitrary expropriation. By determining the circumstances under which expropriation may take place, foreign investors can take measures to fortify their investments.

Figure I.5 – Rule of law elements covered by EIRA



¹ EIRA interprets ‘rule of law’ as “a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.” United Nations, Report of the Secretary-General, *The rule of law and transitional justice in conflict and post-conflict societies (2004)*. UN Member States reaffirmed their commitment to uphold “rule of law” in the United Nations, Declaration of the High-level Meeting of the UN General Assembly on the Rule of Law at the National and International Levels, A/RES/67/1 (30 November 2012).

EIRA METHODOLOGY



EIRA assesses three types of risk to energy investment. It applies four indicators to (1) identify the actions needed to address these risks and (2) highlight the corrective measures countries may take to mitigate them.

The risks are evaluated by examining whether necessary laws, policies and actions have been adopted by countries. However, legislation and policy measures will have maximum impact when they are enforced. EIRA 2019 recognises this and tries to give a clearer picture regarding the application of laws and policies. This year, the country profiles have been structured to better reflect the implementation of the existing policy framework and highlight the progress made by countries in translating their commitments to actions.

No variations have been made to the methodology since last year. The indicators are based on a questionnaire developed by the ECS over a period of two years. The questionnaire is designed to ensure it is comprehensible to respondents and that information obtained is easily verifiable. It allows comparability across energy sub-sectors and captures trends over time. Most questions are binary, requiring simple “Yes” or “No” answers. Granular options are provided in some cases to obtain more detailed information. Moreover, respondents have the opportunity to offer additional remarks and brief descriptions of policy programmes (these questions are not scored).

How are the respondents for EIRA selected?

The EIRA questionnaire is provided to the governments of the participating countries. To counter the perception of self-assessment and secure an objective viewpoint, it was also sent to selected external parties in the assessed countries.

The unit of analysis for EIRA is a country. The policies taken into consideration are those framed and implemented at the national level. In federal arrangements, the central government is designated as a single point of contact responsible for collecting and processing inputs from relevant ministries/departments at State and municipal level.

External parties are chosen from a pool of experts comprising local and international law firms, legal practitioners, business councils, accounting and consulting firms, think-tanks, energy associations, chambers of commerce, international institutions and non-governmental organisations operating in the assessed countries. In 2019, over 550 external parties were contacted of which 21 per cent were selected based on their expertise, availability, and willingness to participate. Extensive research was conducted before the final decision.

The main parameters for selecting the external parties are:

Expertise in the energy sector: Active involvement in different stages of energy projects, and experience of providing consulting services in multiple energy sub-sectors and on regulatory issues.

Diversity of clients and neutrality: Vast experience working with governmental entities as well as private investors. This ensures the external party has a holistic understanding of issues in the energy sector and contributes to a more balanced approach.

Reputation: Parties with extensive global reach or local partner groups. For law firms, international guides identifying leading providers of legal services (local and global) in each country are consulted.

What is the data collection and validation process for EIRA?

Data for EIRA is collected in a standardised manner. For the 2019 edition, responses from the participating countries and external parties were collected over a period of five months. The respondents provided copies of the source documentation and translations (if required) that supported their responses. The data provided was accepted only to the extent that it was premised on original laws, regulations, national plans and strategies. Legislative initiatives and regulatory reforms not legally in force on 1 April 2019 were not taken into consideration.

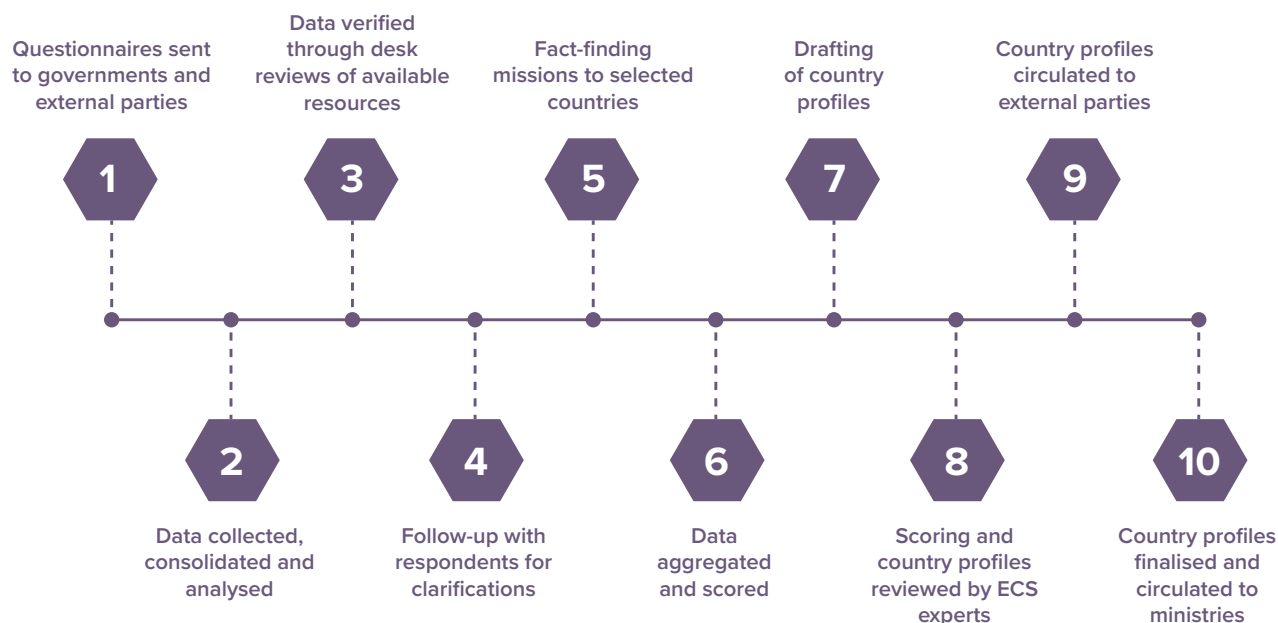
Upon receipt of the questionnaires, the ECS in-house investment, legal, regulatory and energy efficiency experts engaged in an extensive process of validating information provided during the survey. In particular, it was confirmed that each question was correctly understood by the respondents and that the documentation submitted supported the response given. In the absence of documents, or in the case of conflicting answers, clarifications were sought through correspondence and phone

interviews with government officials and external parties. Answers obtained were once again reviewed and cross-checked for consistency with known elements of each country's investment policies and energy sector.

Efforts were made to address the issue of low data availability in certain countries. As an exceptional case, due to the lack of external parties, the country profile of Burkina Faso was based on the information provided by the Government and the desk research conducted by the ECS in-house experts. In selected countries, fact-finding missions were also undertaken to obtain hands-on information. The purpose was to gain insight into their regulatory and investment environment as well as obtain the views of different stakeholders in the energy sector.

Overall, the process of data collection and validation lasted eight months, from December 2018 to July 2019.

Figure I.6 – Data collection and validation process



How are risks assessed in EIRA?

EIRA relies on a blend of quantitative and qualitative analysis. The quantitative analysis is performed using a scoring system that conveys the performance of the countries on the indicators. The more complex dynamics of the assessment are represented through qualitative country profiles that identify areas for improvement using narrative and visuals.

Scoring system

All indicators carry equal weight. The total for each indicator is the average of its component

sub-indicators. Each sub-indicator is similarly calculated through a set of questions. The questions are scored between 0 and 100 and are equally weighted. The highest achievable score for each question is 100. All the scores have been rounded off for the risk areas and the indicators. The overall performance across each indicator is defined as the average of first, the score received in the government questionnaire; and second, the combined average of the external party scores.

Figure I.7 – Scoring an indicator for individual respondents

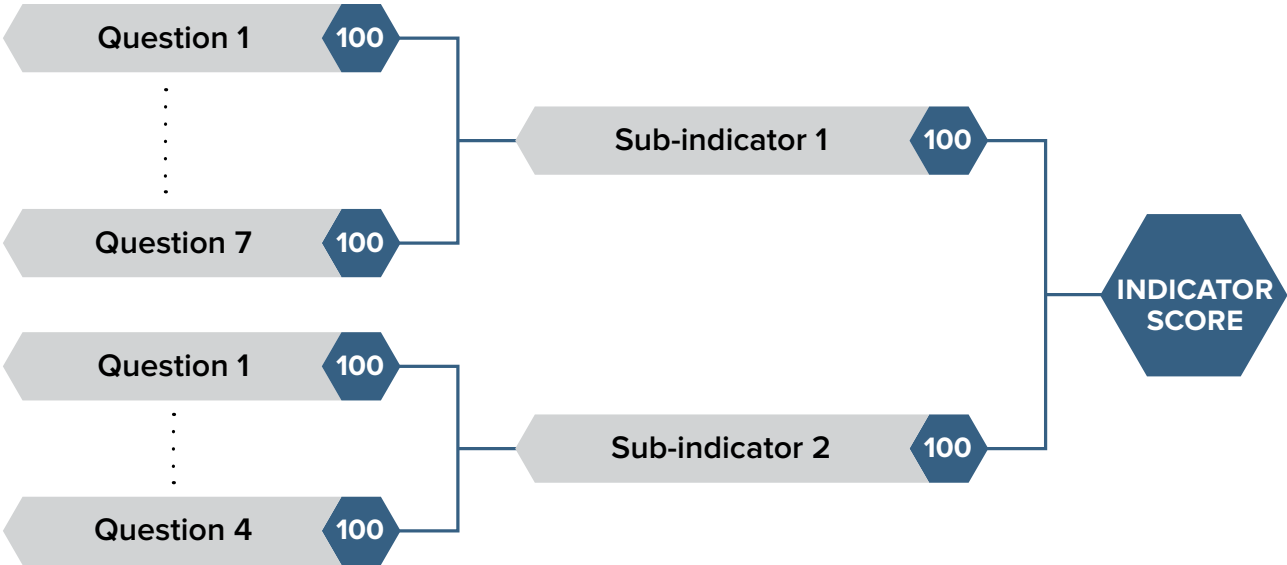
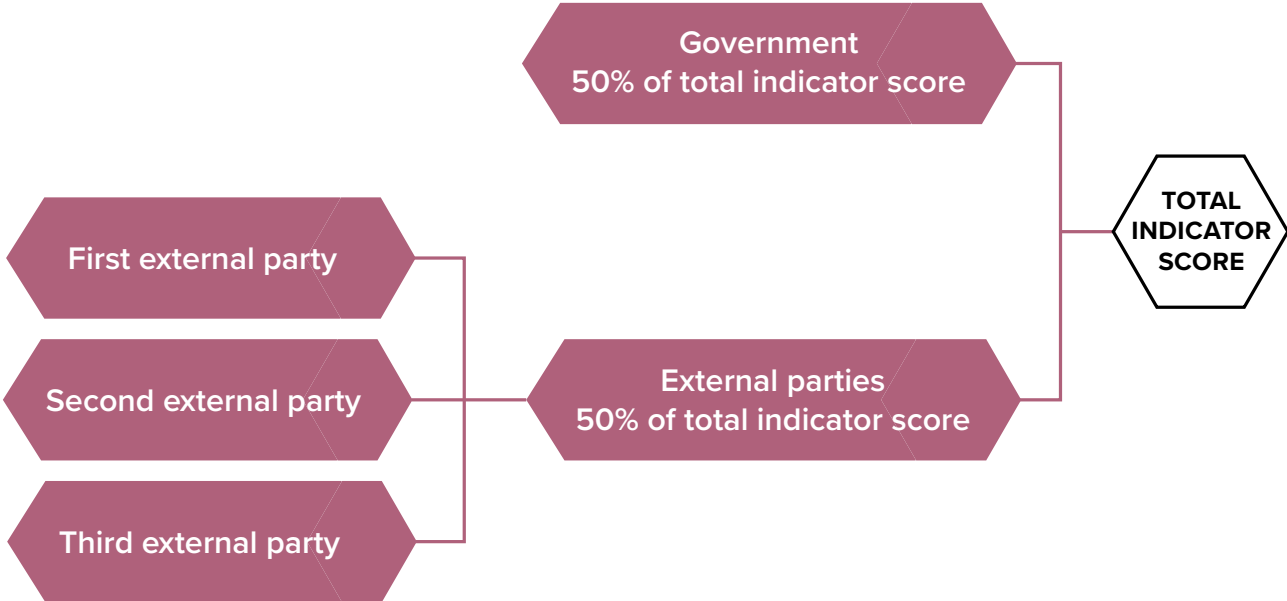


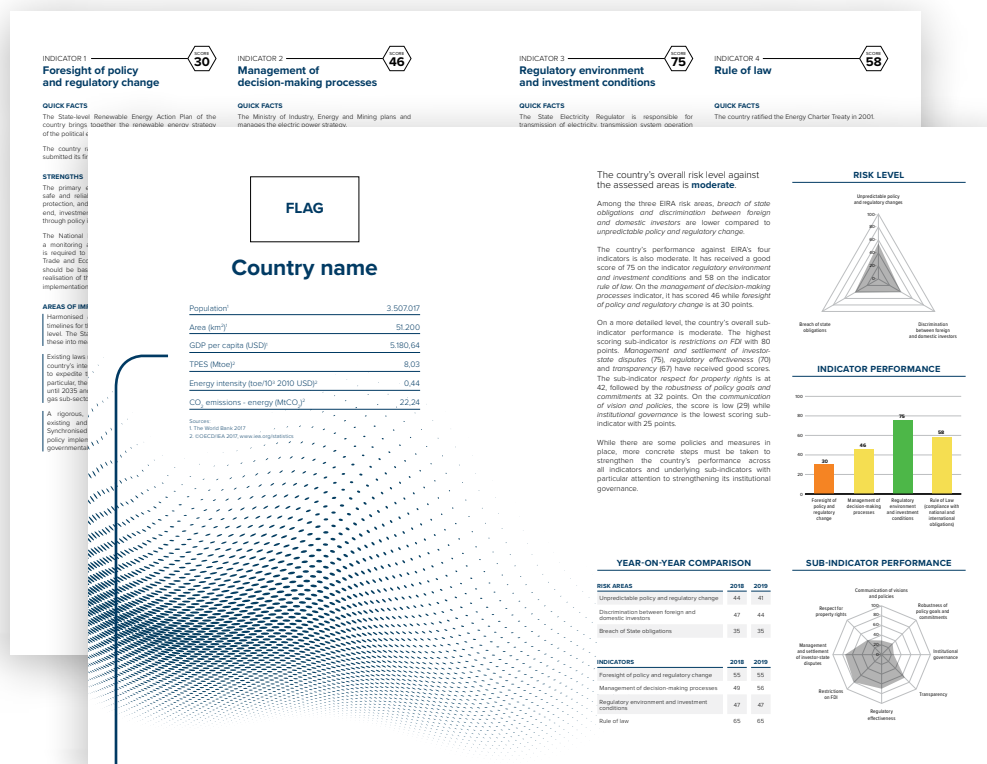
Figure I.8 – Total score for an indicator



Country profile outline

The qualitative assessment for each country is visualised through a four-page profile. The initial two pages provide an overview of the country. They feature a table of the country's key metrics and three charts. The metrics include demographic, economic and energy information and give a background to the country's profile. The first chart illustrates the risk level across the assessed areas. It is followed by a bar chart that shows the performance of the countries on each of the four indicators. A 5-colour coding approach is used for this purpose. Dark green represents the highest

band of scores while red represents the lowest. The third chart breaks down the country's performance across the sub-indicators, where 0 denotes the weakest and 100 the strongest performance. The remaining pages of the profile offer a detailed analysis of the country's performance on each indicator. They present the overall score for each indicator and summarise the key strengths and areas for improvement. Profiles of the recurrent countries now have a table that reflects the change in their performance vis-a-vis 2018 on (1) the risk areas and (2) the indicators.



KEY METRICS

Population and surface area: Data refers to year 2017. *The World Bank 2017, World Development Indicators, World Bank national accounts data and OECD National Accounts data files, <https://data.worldbank.org/> (accessed on 10 July 2019)**

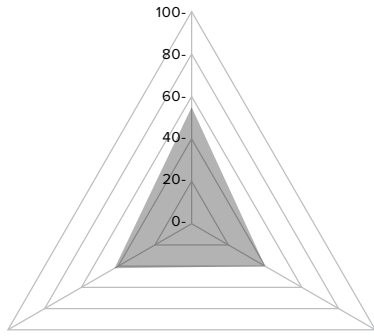
GDP per capita (current US\$): Data refers to year 2017. *The World Bank 2017, World Development Indicators, World Bank national accounts data and OECD National Accounts data files, <https://data.worldbank.org/> (accessed on 10 July 2019)**

Total primary energy supply (TPES): TPES represents inland demand only and, except for world energy demand, excludes international marine and aviation bunkers. Data refers to year 2016. *OECD/IEA 2018, www.iea.org/statistics**

Energy Intensity: This is a measure of total primary energy use per unit of gross domestic product. Data refers to year 2016. *OECD/IEA 2018, www.iea.org/statistics**

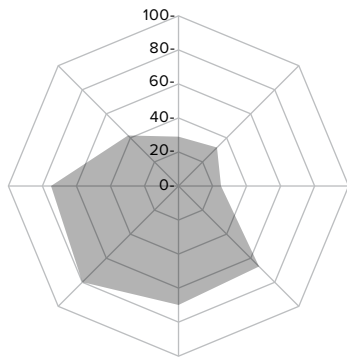
CO₂ emissions from fuel combustion: Data refers to year 2016. *OECD/IEA 2018, www.iea.org/statistics**

*N/A means data is not available for this metric



RISK LEVEL

The risk level is displayed by the grey triangle. Each axis represents a risk area. The smaller the size of the grey triangle, the lower the level of risk.



SUB-INDICATOR PERFORMANCE

Each axis represents a sub-indicator. The larger the size of the grey area, the better the country's performance.

INDICATOR AND SUB-INDICATOR CORRELATION

Indicator 1

1. Communication of vision and policies
2. Robustness of policy goals and commitments

Indicator 2

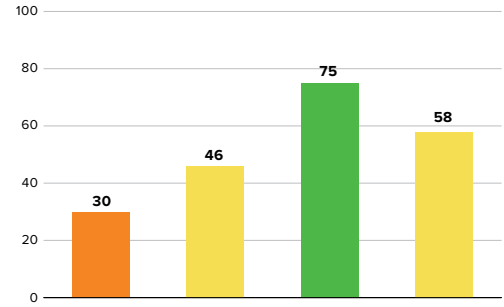
1. Institutional governance
2. Transparency

Indicator 3

1. Regulatory effectiveness
2. Restrictions on FDI

Indicator 4

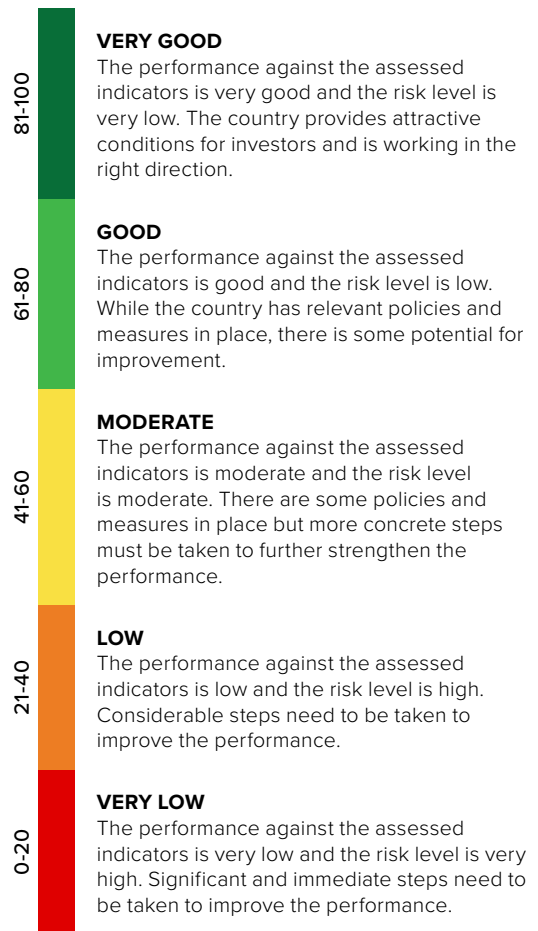
1. Management and settlement of investor-State disputes
2. Respect for property rights

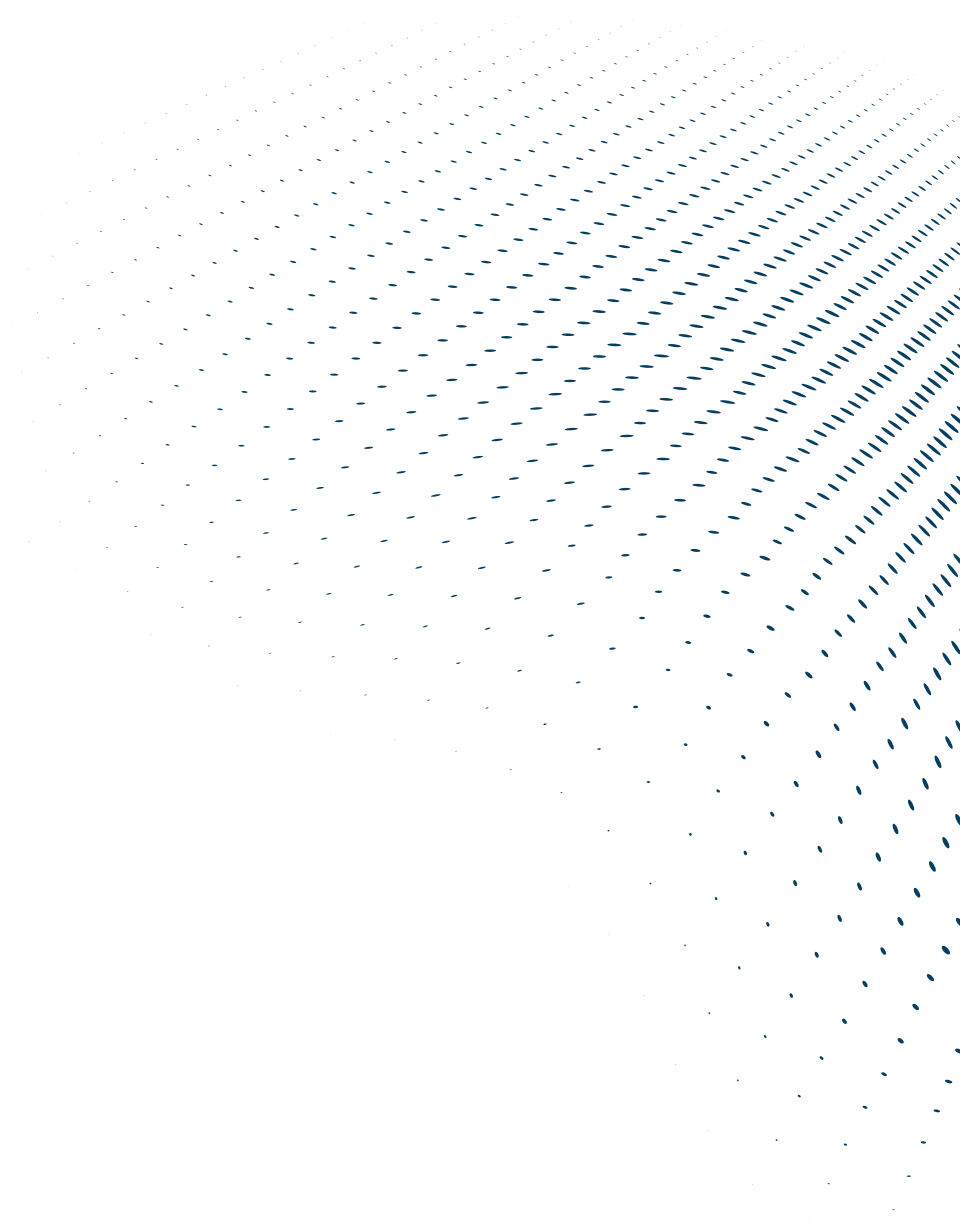


INDICATOR PERFORMANCE

The indicators affect the risk areas differently. For example, rule of law has the highest impact since it influences all three risk areas. For details on the correlation between the indicators and the risk areas, see Table I.1 on page 9.

The bars are colour-coded. Each colour corresponds to a performance level.





COUNTRY PROFILES





Afghanistan

Population ¹	36,296,400
Area (km ²) ¹	652,860
GDP per capita (USD) ¹	556.30
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

Afghanistan’s overall risk level against the assessed areas is **moderate**.

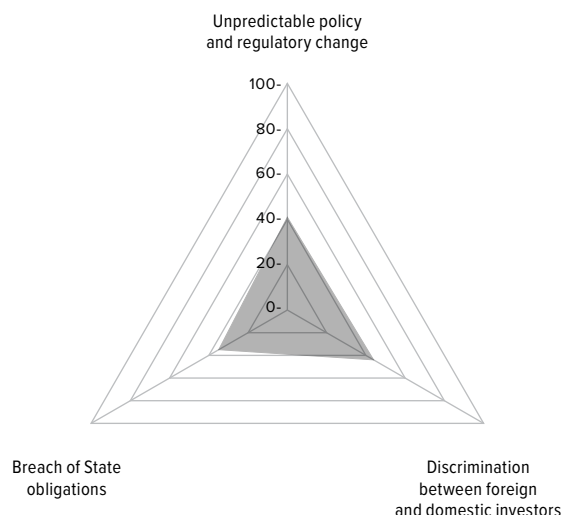
Breach of State obligations continues to be the lowest risk and is on the same level as last year. It is followed by *unpredictable policy and regulatory change* and *discrimination between foreign and domestic investors*. The risk level for these two areas has decreased compared to 2018.

Afghanistan’s performance is moderate on three of the EIRA indicators, and it is good on one indicator. The country has maintained a score of 65 on the indicator *rule of law*. On *management of decision-making processes*, it has improved by 7 points and now stands at 56. The scores for *foresight of policy and regulatory change* (55) and *regulatory environment and investment conditions* (47) remain unchanged from 2018.

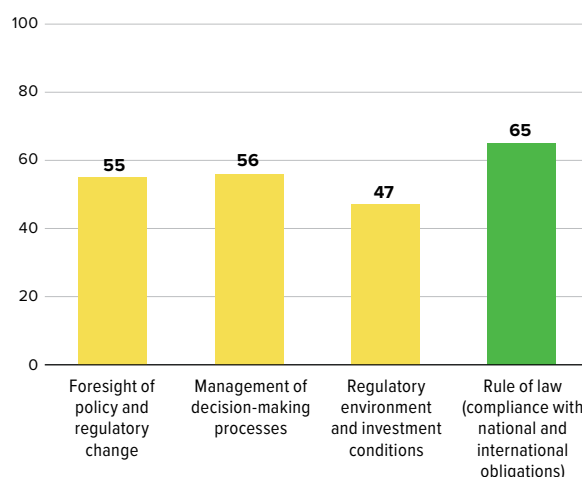
On a more detailed level, Afghanistan’s overall sub-indicator performance is moderate. *Management and settlement of investor-State disputes* continues to be the highest scoring sub-indicator with 80 points. *Communication of vision and policies* (73) and *restrictions on FDI* (60) have also received the same scores as in 2018. The performance on *institutional governance* has improved by 12 points and on *transparency* by 2 points. The two sub-indicators have scored 56 each. On *respect for property rights* (50) and *robustness of policy goals and commitments* (38), there have been no changes observed. *Regulatory effectiveness* is again the lowest-scoring sub-indicator with 33 points.

While there are some improvements in Afghanistan’s performance compared to 2018, further steps must be taken to build on the work done. Particular attention should be given to strengthening the country’s regulatory effectiveness.

RISK LEVEL



INDICATOR PERFORMANCE

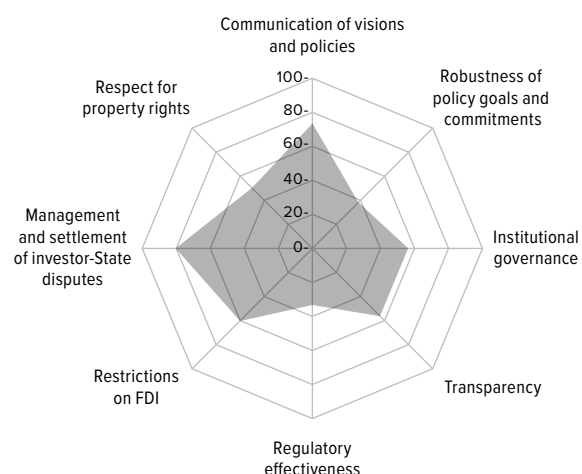


YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019
Unpredictable policy and regulatory change	44	41
Discrimination between foreign and domestic investors	47	44
Breach of State obligations	35	35

INDICATORS	2018	2019
Foresight of policy and regulatory change	55	55
Management of decision-making processes	49	56
Regulatory environment and investment conditions	47	47
Rule of law	65	65

SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

The main strategic document for the energy sector is the Afghanistan National Renewable Energy Policy 2015-2020.

The Power Services Regulation Act 2016 lists some of the country's energy priorities, such as providing affordable and reliable electricity access to the public in exchange for a fair price.

Afghanistan ratified the Paris Agreement in 2017 and has submitted its first NDC.

STRENGTHS

In 2018, Afghanistan took some positive measures towards meeting its energy targets. In particular, efforts were made to bolster the solar industry. The country is currently working on the design and tender of a 40MW solar power plant with assistance from the International Finance Corporation. The project, which will be on a Public-Private Partnership basis, comes on the heels of the Law on Public-Private Partnership enacted in November 2018. The Law aims to provide a robust legislative framework for investment in different sectors, including renewables.

The General Directorate of Energy Sector Projects Supervision, under the Ministry of Energy and Water (MEW), monitors the implementation of the energy targets. Evaluation reports for 2018 were prepared and archived by the MEW. The Renewable Energy Department, also under the MEW, is responsible for assessing the renewable energy potential of the country, making detailed resource maps, and developing technical designs, benchmarks and performance standards for the sector.

AREAS FOR IMPROVEMENT

Afghanistan has set ambitious mid- and long-term targets for its energy sector. To effectively meet these, it must adopt an action plan as soon as possible. While the Government is already working on this, it is urged to expedite its efforts. The final action plan should take into account the budget, timelines and resources needed for its implementation.

As mentioned last year, the Government should make the monitoring and evaluation reports of the relevant ministries publicly available. At present, policy documents designate the authority which will perform this function without explaining the modalities, timeframe, financial arrangements and other steps of the process. A defined and transparent monitoring mechanism will allow the Government to periodically review its performance, receive feedback from interested parties and make timely adjustments to its policies where needed.

Management of decision-making processes

QUICK FACTS

Policy-making for the energy sector is led by the MEW.

The High Economic Council oversees the country's investment policies.

The Afghanistan Central Business Registry was established in 2008 as an investment approval authority.

STRENGTHS

The Law on the Manner of Processing, Publication and Enforcement of Legislative Documents entered into force in 2018. It gives detailed guidance on the country's law-making process. It envisages the establishment of a drafting commission, consisting of officials from relevant departments and external experts. Moreover, it makes provision for the formation of a joint commission when inter-ministerial coordination is required. If deemed necessary, the President of Afghanistan or the Cabinet of Ministers may create a special commission for drafting a sensitive law or regulation.

In 2018, the Government took concrete measures to improve transparency. The Law on Access to Information was enacted and a new Oversight Commission on Access to Information was appointed under it. A new Law on Minerals was also adopted to streamline mining rules and increase transparency in the sector. Finally, the Law on State-Owned Corporations (SOC) was enacted in October 2018 to ensure accountability in SOC's activities. It follows the practices of the the Law on Limited Liability Companies 2018 and clarifies that the financial and accounting report of each SOC must comply with International Financial Reporting Standards.

AREAS FOR IMPROVEMENT

To improve the ease of doing business, Afghanistan should intensify its efforts towards establishing a one-stop shop. Currently, the Central Business Registry issues licences to companies and offers some guidance on investments across different sectors. Energy investors are required to approach different public authorities, such as the Energy Services Regulations Authority (ESRA), the Public-Private Partnership Department, and the Investment Promotion Desk to obtain the relevant information. A dedicated one-stop shop will facilitate information flow, simplify procedures and make the business climate more attractive.

The Government has undertaken commendable legislative initiatives towards guaranteeing transparency. However, steps must be taken to ensure that enacted laws get translated into action. To improve information access, the online registry of laws should be regularly updated. The Government may also consider publishing official translations of its laws and regulations in foreign languages. Finally, the country must reinforce its international commitments and uphold its obligations under global transparency initiatives.

Regulatory environment and investment conditions

QUICK FACTS

The ESRA, under the MEW, regulates the electricity market.

The Ministry of Mines and Petroleum is the regulator for the hydrocarbon sub-sector.

The Power Services Regulation Act and the Law on Hydrocarbons 2017 support the legal framework of the energy sector.

The Law on Private Investment 2005 was enacted to protect private investment in the country.

STRENGTHS

The ESRA continues to regulate the electricity services. It proposes tariffs, grants licences, and protects the interests of electricity consumers. The Power Services Regulation Act contains provisions on preventing anti-competitive practices in activities related to electricity supply. All investment projects are announced as per the international competition bidding procedure.

The Government enacted the Law on Public-Private Partnership in 2018. Its objective is to encourage the participation of private players in different sectors, including the design, development, construction and infrastructure of energy projects. The Law on Limited Liability Companies was also enacted in 2018 to reduce the conflict of interest in companies and strengthen corporate governance. The Government continues to offer private energy investors incentives in the form of project land, tax benefits, a 25 per cent subsidy, and long-term power purchase contracts.

AREAS FOR IMPROVEMENT

As stated in EIRA 2018, the process for making the energy regulator independent of the MEW is currently underway. For a smooth transition, the Government should already develop a roadmap determining the constitution of the body taking over the ESRA's role and responsibilities, the selection criteria of its key decision-makers as well as the measures needed to safeguard its budgetary autonomy.

The Law on Private Investment states that the Government may restrict investment in natural resources and energy infrastructure. However, it does not stipulate the criteria for imposing such a restriction. As suggested last year, the Government should re-evaluate the value and need for discretionary provisions which create ambiguity among investors about the level of state intervention in the energy sector.

Rule of law

QUICK FACTS

Afghanistan is a contracting party to the Energy Charter Treaty since 2013.

Afghanistan ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States in 1968.

Afghanistan acceded to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 2004.

The Law on Private Investment contains provisions protecting property against unlawful expropriation.

STRENGTHS

There were no retroactive changes introduced to laws in the last year. Foreign energy investors were not obliged to exhaust local judicial remedies before recourse to international arbitration. Under the law, disputes on energy supply activities may be settled through negotiation or by the dispute resolution authority stipulated in the specific licence or contract. The Afghanistan Chamber of Commerce and Industries continues to play an active role in resolving disputes by offering mediation and arbitration services.

Changes to the Law on Expropriation 2017 were published in the Official Gazette of October 2018. The updated Law re-defines the terms expropriation, the Expropriating Authority and commercial area. It also establishes a Valuation Committee, states its duties and responsibilities, and determines its membership. The purpose of this Law is to clarify the rules related to the expropriation of immovable property in the public interest. BITs between Afghanistan and other countries, such as Germany and Turkey, classify intellectual property as a type of investment. There are no statutory provisions in national laws or international investment agreements restricting the transfer of technology.

AREAS FOR IMPROVEMENT

As suggested in 2018, the Government may consider organising an investment authority, such as an ombudsman, for resolving conflicts between investors and public authorities. The investment ombudsman should be empowered to impartially process the complaints received from private individuals or companies regarding decisions, actions or omissions of the public administration.

While the Law on Expropriation contains detailed provisions protecting assets against expropriation, this is limited to immovable property. As a result, the Government may consider strengthening guarantees against the expropriation of intangible property under the domestic laws. The existence of such provisions will give clarity and security to investors regarding the legal regime regulating this issue.



Albania

Population ¹	2,873,457
Area (km ²) ¹	28,750
GDP per capita (USD) ¹	4,532.89
TPES (Mtoe) ²	2.25
Energy intensity (toe/10 ³ 2010 USD) ²	0.17
CO ₂ emissions - energy (MtCO ₂) ²	3.70

Sources:

1. The World Bank 2017

2. ©IEA 2018, www.iea.org/statistics

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

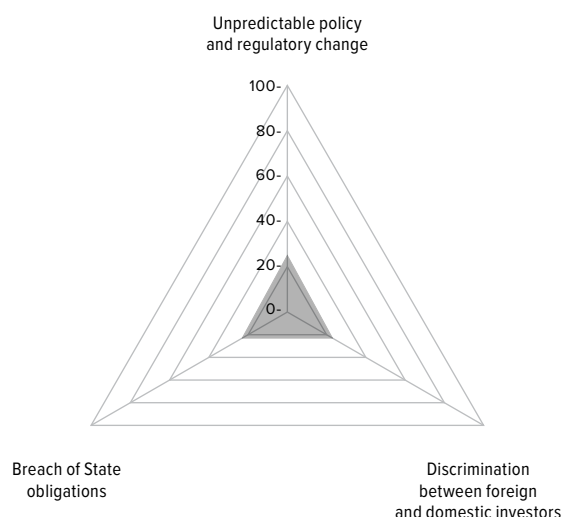
The risk areas *discrimination between foreign and domestic investors* and *breach of State obligations* remain unchanged from last year. On the other hand, the risk of *unpredictable policy and regulatory change* has reduced since 2018.

Albania's performance against EIRA's four indicators is good. It has maintained a good score on the indicators *management of decision-making processes* (79), *rule of law* (77), and *regulatory environment and investment conditions* (76). The score for *foresight of policy and regulatory change* has increased from 46 to 69 points.

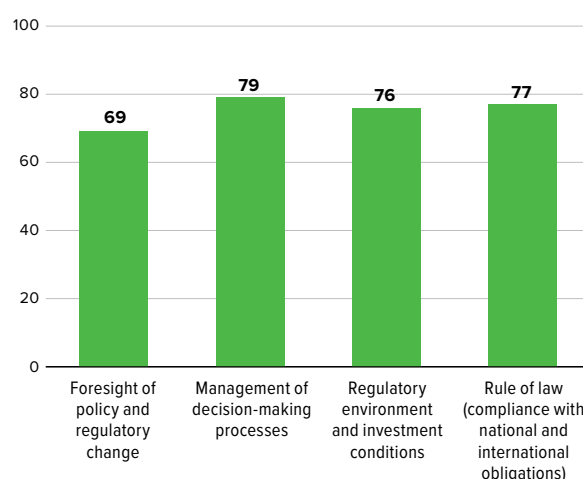
On a more detailed level, Albania's overall sub-indicator performance is good. The highest-scoring sub-indicators are *transparency* and *respect for property rights*, both with 83 points. The performance on the sub-indicators *restrictions on FDI* and *institutional governance* remained unchanged, at 80 and 75 respectively. *Robustness of policy goals and commitments* has improved by 25 points and is now at 75. *Regulatory effectiveness* has once more received a score of 72, while *management and settlement of investor-State disputes* is at 70. The sub-indicator *communication of vision and policies* has a good score of 62 after increasing by 12 points since last year.

Albania provides attractive conditions for investors and is working in the right direction. Attention should be given to better communicating the country's vision and policies.

RISK LEVEL



INDICATOR PERFORMANCE

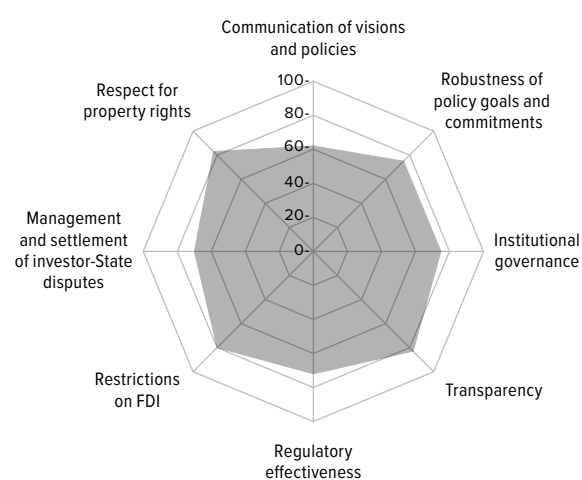


YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019
Unpredictable policy and regulatory change	33	25
Discrimination between foreign and domestic investors	23	23
Breach of State obligations	23	23

INDICATORS	2018	2019
Foresight of policy and regulatory change	46	69
Management of decision-making processes	79	79
Regulatory environment and investment conditions	76	76
Rule of law	77	77

SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

In 2018, the Council of Ministers of Albania approved the National Energy Strategy for 2018-2030.

Law no. 7 “On the Promotion of the Use of Energy from Renewable Sources” was enacted in 2017.

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

STRENGTHS

Albania has increased its efforts towards EU membership after receiving the formal candidacy status in 2014. It has committed to reform the energy sector, and achieve, among others, the establishment of a competitive energy market, the enhancement of energy security and the diversification of its resources. The National Energy Strategy 2018-2030 sets targets in this direction and elaborates the country’s vision for the following decade. In line with its objectives, Albania has been working on expanding the natural gas network and improving the interconnection lines with the European power grids.

The Ministry of Infrastructure and Energy, together with the Energy Regulatory Authority (ERE), the National Agency of Natural Resources (AKBN) and the Energy Efficiency Agency, is responsible for monitoring and ensuring the implementation of the National Energy Strategy 2018-2030. For this purpose, all the relevant institutions are required to provide data to the Ministry annually. Based on the information received, it prepares a report on the fulfilment of the monitoring indicators, which is submitted to the Council of Ministers for their analysis and approval. An extended timeframe report is scheduled for 2020, 2025 and 2030 to allow for the update of the National Energy Strategy. Albania published the Second Annual Report under the Energy Efficiency Directive and the Third Progress Report on promotion and use of energy from renewable energy sources, in March 2019.

AREAS FOR IMPROVEMENT

The Government is currently preparing long-term action plans that will provide the necessary details for the implementation of the newly adopted National Energy Strategy 2018-2030. The finalisation of these plans should be expedited to facilitate the realisation of the targets defined under the Strategy. This is crucial for all issues, but specifically for those with long-term implications such as climate change and transition to low-carbon energy resources.

Monitoring and assessment mechanisms must be strengthened by separating the authorities responsible for implementing the energy strategy from the body which assesses the actual work progress. The impact of existing measures should be carefully analysed to enable their review and improvement, and ensure the harmonised implementation of macroeconomic and sectoral policies.

Management of decision-making processes

QUICK FACTS

The Ministry of Infrastructure and Energy develops policies for the sector and updates the National Energy Strategy for 2018-2030.

The Ministry of Finance and Economy is responsible for framing the overall investment policy.

The Albanian Investment Development Agency was established in 2010 to attract foreign investment and increase the competitiveness of the Albanian economy.

Law no. 146/2014 “On Notification and Public Consultation” was enacted to enhance the accountability of the public authorities.

STRENGTHS

The Ministry of Infrastructure and Energy, the Ministry of Finance and Economy, the Ministry of Tourism and Environment, as well as a number of public authorities, contributed to the adoption of the National Energy Strategy 2018-2030 which touches upon cross-sectoral issues. For the strategies in the area of mining and hydrocarbons, the AKBN is also consulted. To facilitate decision-making, legislative proposals must always be accompanied by a report that justifies the financial costs of its implementation.

Laws and decisions of the Council of Ministers, adopted during the EIRA assessment year, were published in the Official Gazette and are available online. Moreover, the latest decisions of the ERE’s Board of Commissioners are accessible on its website. Government bodies are obliged to ensure public participation in the policy- and law-making process. For instance, in February 2019, the Ministry of Infrastructure and Energy initiated a public consultation regarding the draft law for redesigning the emergency oil stock reserves system. The interested parties were given time to send their comments and recommendations.

AREAS FOR IMPROVEMENT

As mentioned last year, to facilitate information access for foreign investors, the Government should consider translating and publishing statutes in foreign languages.

While documents are available in electronic format, the accessibility and usability of the online database should be enhanced. The Government should work towards making it easier to use the information published in the online version of the Official Gazette, which is a practical tool for potential investors, legal professionals as well as the public authorities.

Regulatory environment and investment conditions

QUICK FACTS

The ERE is responsible for regulating the electricity and natural gas sub-sectors.

The Ministry of Infrastructure and Energy regulates the petroleum sub-sector.

Law no. 7764/1993 “On Foreign Investments” provides a framework for the protection of foreign investors.

Law no. 55/2015 “On Strategic Investments” aims at attracting FDI in strategic sectors by simplifying administrative procedures and services for investors.

STRENGTHS

The ERE maintains the same degree of autonomy it had during the last EIRA assessment year. It cooperates with the Competition Authority on the regulation of anti-monopoly issues in the energy sector. In its efforts to effectively monitor the energy market, the ERE, in March 2019, initiated proceedings for the approval of the Code for the monitoring of the electricity market. This Code is concerned, among other things, with the establishment of necessary mechanisms for the identification of anti-competitive behaviours and price manipulation patterns.

Albania remains open and conducive to foreign investments. The legislative framework does not distinguish between domestic and foreign investors. Investment is promoted in energy, which is a high-potential sector for Albania. Under the Law “On Strategic Investments”, energy and mining projects exceeding EUR 30 million qualify as strategic and are granted incentives. To further promote the country’s objectives, the Council of Ministers in 2018 adopted the Strategic Plan for the Reform of the Energy Sector, and support measures for encouraging energy generation from renewable sources. Last year the Ministry of Infrastructure and Energy launched an auction for the construction of Albania’s first large-scale solar plant.

AREAS FOR IMPROVEMENT

The Government should consider lowering restrictions regarding the acquisition of property and the employment of non-Albanian unskilled personnel. Currently, work permits are issued for a certain quota and under the condition that the number of foreign employees does not exceed ten per cent of the staff on payroll for the previous twelve months.

Rule of law

QUICK FACTS

Albania is a contracting party to the Energy Charter Treaty since 1998. As of 1 January 2019, Albania assumed the Chairmanship of the Energy Charter Conference for the year.

The Convention on the Settlement of Investment Disputes between States and Nationals of Other States was ratified by Albania in 1991.

In 2001 Albania acceded to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

Law no. 8561/1999 “On Expropriations and Temporary Possession of Private Property for a Public Interest” guarantees the protection of property rights.

STRENGTHS

The dispute management system in Albania continues to offer effective protection to foreign investors. Disputes may be submitted to international arbitration, without the exhaustion of local judicial remedies. The domestic law imposes clear time limits on the administrative courts for delivering decisions. Foreign judgments are enforced under the New York Convention or the provisions of the Civil Procedure Code (as amended till 2013). No retroactive changes affecting foreign investors were made in the past year.

Property rights are protected under the current legal framework. There are limited legal grounds on which an expropriation in the public interest may occur. Disputes related to expropriation between foreign investors and the State may be submitted for resolution to the ICSID. No disputes related to the expropriation of foreign energy investments arose in 2018. Intellectual property rights are included in the term “investment” under several BITs. Also, Albania is a party to various international agreements for the protection against expropriation of intellectual property. Currently, there are no restrictions on the transfer of technology.

AREAS FOR IMPROVEMENT

In line with last year’s suggested improvement, a law governing arbitration should be adopted to provide the framework for arbitral proceedings and encourage the extrajudicial resolution of disputes. While Albania has been working on a draft law, its finalisation and adoption is pending since 2013 and should be expedited. Additionally, alternative dispute resolution mechanisms can be employed, such as encouraging mediation in disputes involving a public entity.

Currently, the Minister of State for Protection of Entrepreneurship handles administrative complaints against public institutions, including those of foreign investors. However, an independent investment ombudsman may be established to ensure the necessary distance from the administration and efficiently address the specific bureaucratic obstacles and difficulties faced during the licensing procedures of investment projects.



Armenia

Population ¹	2,944,809
Area (km ²) ¹	29,740
GDP per capita (USD) ¹	3,914.50
TPES (Mtoe) ²	3.03
Energy intensity (toe/10 ³ 2010 USD) ²	0.26
CO ₂ emissions - energy (MtCO ₂) ²	4.90

Sources:

1. The World Bank 2017

2. ©IEA 2018, www.iea.org/statistics

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

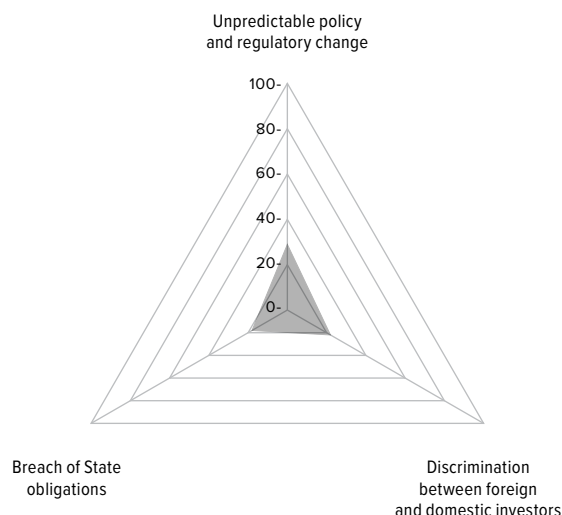
Among the three EIRA risk areas, *breach of State obligations* and *discrimination between foreign and domestic investors* are lower compared to *unpredictable policy and regulatory change*.

Armenia’s performance is very good on two of the EIRA indicators, and it is good on two indicators. It has received 82 points on the indicator *rule of law*. On *regulatory environment and investment conditions* it has retained a very good score of 81. *Management of decision-making processes* is once again at 70 points. The performance on *foresight of policy and regulatory change* has improved by a point and stands at 63.

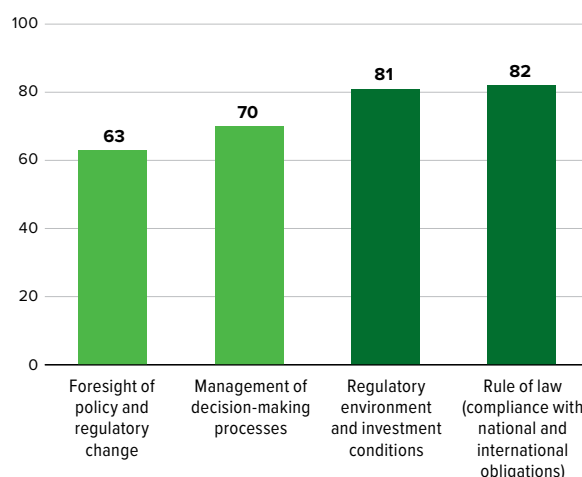
On a more detailed level, Armenia’s overall sub-indicator performance is good. The highest scoring sub-indicator is *restrictions on FDI* with 90 points. It is followed by *transparency* and *respect for property rights*, both with 83 points. On *communication of vision and policies* (82) it has retained the score from last year. The sub-indicator *management and settlement of investor-State disputes* is at 80. The scores for *regulatory effectiveness* (72) and *institutional governance* (56) are the same as in 2018. *Robustness of policy goals and commitments* is the lowest-scoring sub-indicator, though it has improved from 41 to 44 points.

Armenia provides attractive conditions for investors and is working in the right direction. Attention should be given to increasing the robustness of its policy goals and commitments.

RISK LEVEL



INDICATOR PERFORMANCE

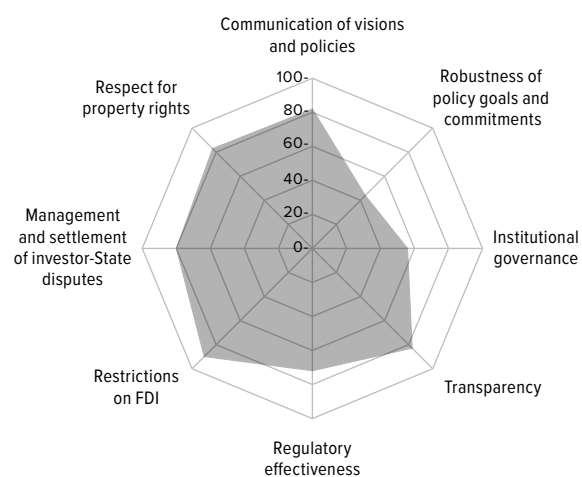


YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019
Unpredictable policy and regulatory change	29	29
Discrimination between foreign and domestic investors	22	22
Breach of State obligations	18	18

INDICATORS	2018	2019
Foresight of policy and regulatory change	62	63
Management of decision-making processes	70	70
Regulatory environment and investment conditions	81	81
Rule of law	82	82

SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

The primary policies governing Armenia's energy sector are the Concept Note on Ensuring Energy Security 2013, the Strategic Program of Prospective Development of the Republic of Armenia for 2014-2025, the National Program on Energy Saving and Renewable Energy 2007, and the Long-Term Development Pathways (up to 2036) for the Energy Sector 2013.

Law no. HO-31-N/2019 "On Amendments and Additions to the Law On the Government Structure and Activity" (Law on Government Structure 2019) became effective on 1 June 2019. This Law merges the Ministry of Energy Infrastructures and Natural Resources with the Ministry of Territorial Administration and Development. The Ministry of Territorial Administration and Infrastructure is now responsible for developing energy policies.

STRENGTHS

The Government policy places emphasis on attracting further investment in the energy sector and increasing energy security. Implementation measures are currently being taken to meet the targets set for enhancing energy efficiency, power reliability, renewable energy and integration into the regional energy system. In the last years, electricity generation from solar power has increased exponentially. Given its substantial potential, the Government has introduced attractive guarantees and feed-in tariffs for power generated from renewable sources.

Monitoring and evaluation mechanisms for the energy policies are in place. Law no. HO-253-N/2018 "On the Government Structure and Activity" stipulates that the Prime Minister shall monitor the implementation of the domestic and foreign policy. It requires the Government to periodically inform the President of the Republic of Armenia on the progress made. The Ministry of Territorial Administration and Infrastructure recently produced the Summary of the Report on the Results of Implementation of the Action Plan and Priorities of the Government of the Republic of Armenia for the Year 2018.

AREAS FOR IMPROVEMENT

Data collection and monitoring of the energy priorities should be conducted by an authority that is independent of the lead ministry. Similarly, individual programmes and projects should be evaluated by entities not involved in their management or implementation. This will provide greater credibility and robustness to the monitoring mechanisms.

A review of the strategic documents should be conducted to evaluate their relevance, and to eliminate any potential duplication or contradictions. With changes being introduced to the governance of the energy sector, the Government should also consider updating all relevant legislation, including Law no. HO-148/2001 "On Energy".

Management of decision-making processes

QUICK FACTS

In 2019, the Ministry of Economic Development and Investments was renamed as the Ministry of Economy.

Business Armenia, established in 2015, acts as a single window for specific investment projects and provides information on the energy sector.

Law no. HO-11-N/2003 "On Freedom of Information" ensures that the public has access to information held by governmental authorities.

STRENGTHS

In the last year, significant efforts were made to improve public administration and decision-making in the country. To this end, the number of ministries was reduced and their portfolios revised accordingly. Measures were also taken to optimise the functioning of the local self-governments. The Government took various legislative initiatives in the energy sector. It has presented an ambitious plan of action for 2019-2023, which includes decisive steps towards the liberalisation of the electricity market. Moreover, in April 2019 the National Assembly adopted, in the second reading, the Law no. HO-127-N/2019 "On Amendments to Law on State Registration of Legal Entities, State Registry of Separated Subdivisions of Legal Entities, Institutions and Individual Entrepreneurs" and Law no. HO-26-N/2019 "On Amendments and Addendum to the Law on Public Service". The revisions aim at enhancing transparency in mining rules by identifying the real owners of mining ore and companies.

Armenia has a well-established system for accessing legal information. The websites, including on Legal Information System and the Electronic Governance of Armenia, contain an exhaustive database of documents including unified registries of enacted laws, Presidential and Government decrees and the Government session agendas. Ministries also publish the relevant data available with them. For instance, the Ministry of Territorial Administration and Infrastructure published in 2018 the Monitoring Report on Transparency, Public Accountability and Participation. In October 2018, the Government adopted a Decree on the procedure for organising and conducting public hearings. The Fourth Action Plan of Open Government Partnership Initiative of the Government of the Republic of Armenia (2018-2020) was approved in November 2018. These initiatives reinforce the country's commitment to make the public administration transparent and accountable.

AREAS FOR IMPROVEMENT

The Government may consider expanding the scope of *Business Armenia* to include pre- and post-investment services for investors. The establishment and development of a one-stop shop for foreign investors, as well as an online step-by-step guide on investment procedures, will also assist foreign investors considerably in obtaining accurate information.

Regulatory environment and investment conditions

QUICK FACTS

The Public Services Regulatory Commission (PSRC) is responsible for regulating the energy market.

The State Nuclear Safety Regulatory Committee coordinates activities on the use of nuclear energy.

The State Commission for Protection of Economic Competition deals with competition issues for all sectors.

Law no. HO-115/1994 “On Foreign Investments” grants protection to foreign investment in the country.

STRENGTHS

The energy regulatory set-up in Armenia is robust. Steps have been taken to streamline and restructure the operations of the PSRC and the energy market in general. Amendments to Law no. HO-148/2001 “On Energy” entered into force in 2018. On this basis, the PSRC intends to amend the relevant legal acts and bring changes to the licensing procedures for the power sector and for natural gas import and export activities. Within a period of eighteen months from the date the amendments enters into force, the PSRC will adopt new rules on the wholesale electricity market, new models of electricity wholesale and retail markets contracts, retail market rules, distribution network rules, and network rules for the electricity system. Due to the above-mentioned changes, it plans to develop a new model for the Armenian Electricity Market and introduce new tools for regulating the power sector.

The legislative framework remains favourable to foreign investment. The annual Government Programme, adopted in February 2019, declares attracting FDI as one of its main priorities. Domestic laws accord equal treatment to local and international investors. Foreign investors may hold a majority stake in energy projects and are guaranteed the right to repatriate financial investments.

AREAS FOR IMPROVEMENT

The Government has effected amendments and reforms to its energy laws and policies with the aim of attracting foreign investment in the sector. To ensure these reforms produce the intended results, the necessary pre-conditions should be created for their smooth implementation. This is particularly relevant to the execution of the country’s electricity market liberalisation programme. Further improvements could be made by simplifying the regulatory process for investors in the energy sector. For instance, steps should be taken to reduce the time taken in liaising with State authorities, identify and eliminate redundant licences and permissions as well as clarify contradictory regulations, especially for investments in renewable energy and energy-efficient technologies.

Rule of law

QUICK FACTS

Armenia is a contracting party to the Energy Charter Treaty since 1998.

Armenia ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States in 1992.

Law no. HO-185-N/2006 “On Alienation of the Property with Purpose of Ensuring Prevailing Interest of the Public” defines the basis for the alienation of property for public and State needs.

STRENGTHS

The case management mechanisms continue to be effective. Law no. HO-110-N/2018 “Civil Procedure Code” grants foreign investors the right to bring disputes before domestic courts. Investors can appeal against regulatory decisions, including on the determination of tariffs, to the PSRC or the general courts. Administrative courts are bound to deliver decisions within thirty days from the registration of the petition. Under the Civil Procedure Code, foreign civil judgments are recognised and enforced based on reciprocity. Alternative dispute resolution mechanisms, such as mediation, are encouraged by the Government. Law no. HO-55-N/2006 “On Commercial Arbitration” regulates all disputes of commercial nature arising from the civil relations.

Protection against the expropriation of property is envisaged in the Constitution. There are defined rules in place for undertaking expropriation and for the payment of compensation. The general rule under the Law “On Alienation of the Property with Purpose of Ensuring Prevailing Interest of the Public” is that compensation must be paid in the manner prescribed under the alienation agreement concluded between the owner and acquirer. If an agreement is not signed between the parties within three months, the acquirer must deposit the payment amount to a court or notary within one month. Armenia protects intellectual property rights under the national law and in its BITs. For instance, the BIT signed with the United States of America protects intellectual property as a form of investment.

AREAS FOR IMPROVEMENT

The Government may consider establishing an investment ombudsman authority to which foreign investors can refer disputes with public authorities. As an alternative, the Government may empower *Business Armenia* with mediation functions to settle post-investment disputes amicably or expand the corresponding responsibilities and authorities of the financial mediator.

A more clear definition of public and State needs in the legislation might prevent disputes in cases when the provisions of the law are enforced, and will help to increase the predictability of the decisions of the judiciary.



Bangladesh

Population ¹	159,670,593
Area (km ²) ¹	147,630
GDP per capita (USD) ¹	1,563.99
TPES (Mtoe) ²	39.55
Energy intensity (toe/10 ³ 2010 USD) ²	0.24
CO ₂ emissions - energy (MtCO ₂) ²	73.30

Sources:

1. The World Bank 2017

2. ©IEA 2018, www.iea.org/statistics

Bangladesh’s overall risk level against the assessed areas is **moderate**.

The risk of *discrimination between foreign and domestic investors* continues to be the lowest and its level has dropped compared to 2018. It is followed by *unpredictable policy and regulatory change*, which has also reduced vis-à-vis last year. *Breach of State obligations* is on the same level and remains the highest risk area.

Bangladesh has a moderate performance on three of the EIRA indicators, and a good performance on one indicator. *Management of decision-making processes* has received the highest score (68). Compared to last year, performance on this indicator has improved by 3 points. The country has maintained its score of 58 on the indicator *regulatory environment and investment conditions* and 56 on *foresight of policy and regulatory change*. On *rule of law* it has again scored 45 points.

On a more detailed level, Bangladesh’s overall sub-indicator performance is moderate. The highest scoring sub-indicator is *institutional governance* with 69 points. The country has improved its performance by 6 points on this sub-indicator. On *transparency* (68), *regulatory effectiveness* (67), *communication of vision and policies* (67), *management and settlement of investor-State disputes* (65), *restrictions on FDI* (50) and *robustness of policy goals and commitments* (45) it has the same scores as in 2018. Performance on the *respect for property rights* sub-indicator continues to be the lowest with 25 points.

While there are some improvements in Bangladesh’s performance compared to 2018, further steps must be taken to build on the work done. Particular attention should be given to strengthening the respect for property rights in the country.

YEAR-ON-YEAR COMPARISON

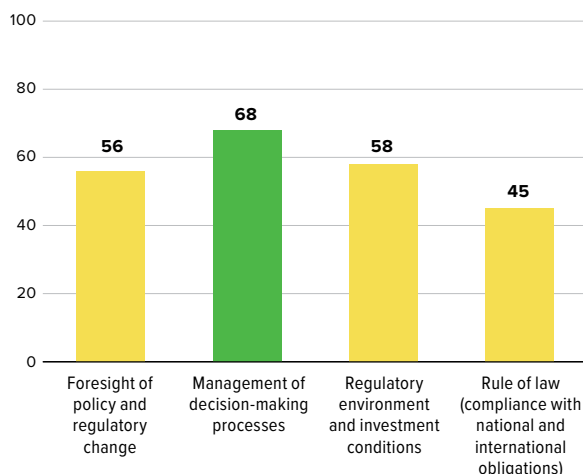
RISK AREAS	2018	2019
Unpredictable policy and regulatory change	45	44
Discrimination between foreign and domestic investors	44	43
Breach of State obligations	55	55

INDICATORS	2018	2019
Foresight of policy and regulatory change	56	56
Management of decision-making processes	65	68
Regulatory environment and investment conditions	58	58
Rule of law	45	45

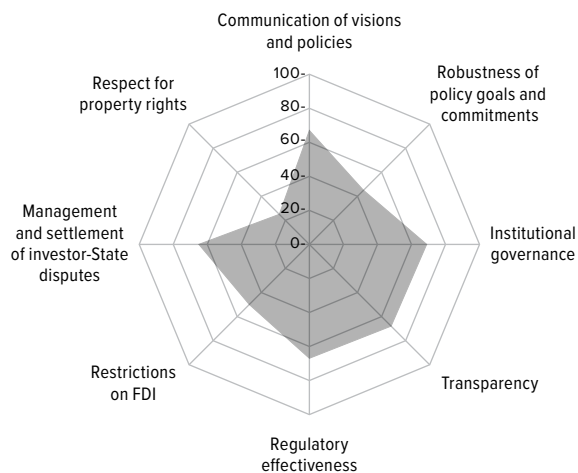
RISK LEVEL



INDICATOR PERFORMANCE



SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

The principal strategy documents for the energy sector are the Bangladesh Vision 2021 and the Energy Roadmap to Help Achieve Vision 2041. More detailed sub-sectoral plans are the Power System Master Plan 2016, the Gas Sector Master Plan 2017 and the Energy Efficiency and Conservation Master Plan up to 2030.

In February 2018, the Government repealed and replaced the Electricity Act of 1910.

STRENGTHS

The Government adopted a new Electricity Grid Code in 2018. This was a significant step forward because overhauling the Grid Code of 2012 was one of the main priorities listed under the Power System Master Plan 2016. The new Grid Code specifies the criteria, guidelines, responsibilities, standards and obligations for the operation, maintenance and development of the electricity transmission system of Bangladesh. It intends to ensure transparent, nondiscriminatory and economical access and use of the Grid. Progress was made on some critical energy projects. For instance, operation of the first LNG import terminal in Bangladesh commenced in 2018. The imported gas is expected to counterbalance the decreasing domestic gas production and help to meet the growing industrial energy demand.

The Seventh Five Year Plan FY2016-FY2020 continues to guide the monitoring and evaluation of priorities on the macroeconomic level. Data for monitoring the energy sector are collected by the Bangladesh Bureau of Statistics and the Power Division, which is under the Ministry of Power, Energy and Mineral Resources. The Implementation Monitoring and Evaluation Division, under the Planning Commission, uploads monthly, quarterly and annual work progress reports regularly on its website.

AREAS FOR IMPROVEMENT

The Seventh Five Year Plan FY2016-FY2020 envisages a detailed monitoring and evaluation mechanism. However, to ensure objectivity in the process, authorities responsible for implementing the energy strategy should be separated from the body that assesses the actual work progress.

Monitoring and Evaluation reports should be made publically and more widely available. At present, some agencies such as the Implementation Monitoring and Evaluation Division consistently report on their activities. However, it is relatively difficult to access the progress reports shared by the Planning Commission with different ministries and institutions. Availability of these documents is critical since they reflect sectoral contributions to the results on an economy-wide level, and cover the issues outlined in the results framework of the Seventh Five Year Plan FY2016-FY2020.

Management of decision-making processes

QUICK FACTS

The Ministry of Power, Energy and Mineral Resources is responsible for framing energy policies and strategies.

Investment policies are developed by the Prime Minister's Office.

The Bangladesh Investment Development Authority (BIDA) was established in 2016 as an investment promotion and facilitation agency.

Bangladesh enacted the Right to Information Act in 2009.

STRENGTHS

During the EIRA 2019 assessment year, ministries worked in close cooperation to pass important legislative bills and policies. In February 2019, after extensive deliberation with the concerned ministries and agencies, the Ministry of Environment, Forest and Climate Change launched a roadmap and action plan to implement Bangladesh's NDC for the transport, power and industrial sectors. To streamline licensing procedures, the Government also passed the One-Stop Service Act in 2018. According to the Act, the BIDA will act as the central one-stop service authority.

The Government has made concerted efforts to increase stakeholder engagement on critical reforms. In December 2018, the Ministry of Power, Energy and Mineral Resources invited feedback from the public on the draft Policy for Import of LNG by the Private Sector. Electronic versions of the laws passed in 2018 were made available by the Ministry of Law, Justice and Parliamentary Affairs. Latest data on the activities of some public agencies, such as the Power Division and the Sustainable and Renewable Energy Development Authority are available on the respective websites.

AREAS FOR IMPROVEMENT

In line with the EIRA 2018 proposal, the Government has developed the legal framework of the country's one-stop service authority. It is now the right moment to address the second part of the recommendation, vis-à-vis the practical aspects. The Government intends to operationalise the one-stop service authority within 2019. To achieve optimal efficiency, the financial and human resource capacity of the BIDA must be carefully evaluated. Moreover, the current functions of the BIDA must be reconciled and adapted with the new ones. This will ensure it can do full justice to its role as an investment promotion agency and a one-stop service authority.

In the last year, the Government consulted interested stakeholders on some proposed laws and regulations. However, such consultations should take place consistently and systematically. Legal provisions should be introduced to make public engagement mandatory. The method and timelines of public participation must be decided at an early stage and made widely known.

Regulatory environment and investment conditions

QUICK FACTS

The Bangladesh Energy Regulatory Commission (BERC) regulates the electricity, natural gas, and petroleum sub-sectors. The BERC falls under the authority of the Ministry of Power, Energy and Mineral Resources.

The Bangladesh Atomic Energy Commission regulates the nuclear sector for certain issues.

The Foreign Private Investment (Promotion and Protection) Act 1980 was enacted to protect foreign investment.

STRENGTHS

The BERC continues to enjoy functional independence and is entitled to adopt its personnel policy, management rules, and salary structure. It is accountable to the Comptroller and Auditor General and the Parliament for its financial and other activities. The BERC has consistently taken measures to reduce its reliance on Government funds and loans. It is noteworthy that between the financial years 2003-2004 to 2016-2017, Government grants constituted merely 1.4 per cent of the BERC's total funds.

The legislative framework remains supportive of foreign investment. The Government observes its commitment to accord *fair and equitable treatment* to foreign private investment. During the EIRA assessment year, steps were taken to increase the incentives granted to foreign investors. In October 2018, the Bangladesh Securities and Exchange Commission issued a notification granting fully (one hundred per cent) foreign-owned companies exemptions from certain provisions of the Securities and Exchange Ordinance 1969.

AREAS FOR IMPROVEMENT

The Government may consider lowering some of the existing restrictions placed on investors, particularly concerning outward remittance such as the repatriation of dividends, interests, royalties and proceeds of capital. At present, the Guidelines for Foreign Exchange Transactions 2018 state that repatriation of sale proceeds of non-listed securities by a non-resident require the prior permission of the Bangladesh Bank. While local investors are free to make an investment in-kind in any form, including a transfer of land, an in-kind investment by a foreign investor can only be through the import of capital machinery. Finally, the BIDA Act 2016 stipulates that outward remittance of any royalties, fees for technical knowledge and technical assistance in an industrial sector, such as energy, will require BIDA's prior approval. While the investment climate in Bangladesh is generally conducive to foreign investors, relaxing some of the above rules may make it more attractive.

Rule of law

QUICK FACTS

Access to arbitration is provided in the Arbitration Act 2001.

Bangladesh ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States in 1980.

Bangladesh acceded to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 1992.

Provisions against expropriation of immovable property are stated in the Acquisition and Requisition of Immovable Property Act 2017.

STRENGTHS

Enforcement of foreign arbitral awards by domestic courts remains effective. The Government did not make any retroactive changes to its laws in the last year. Local courts enforce foreign judgements from reciprocating territories such as India. There were no incidents where foreign energy investors were required to exhaust local judicial remedies before recourse to international arbitration. Voluntary mediation and conciliation are available as part of the Code of Civil Procedure 1908.

The law requires that compensation for the acquisition of immovable property is paid within a stipulated time period. BITs signed by Bangladesh, such as with Italy, Japan, Uzbekistan and India, consider intellectual property as "investment". Protection is granted to all investment against any form of expropriation and through the unqualified operation of *most-favoured-nation* and *national treatment* obligations.

AREAS FOR IMPROVEMENT

As mentioned in EIRA 2018, the country is urged to set timelines in the law for domestic courts to render final judgments. The inclusion of deadlines for various stages of a hearing, such as the first date of hearing and the completion of appeals may also be considered.

An investment ombudsman may be established for resolving conflicts between investors and public authorities. The Bangladesh International Arbitration Centre at times helps settle issues for investors, but its scope is limited to capacity building for the country's arbitration sector.

It is reiterated that a definition of the phrase "public purpose or in the public interest" should be incorporated in the Acquisition and Requisition of Immovable Property Act. Presently, the decision of the Government, the Divisional Commissioner or the Deputy Commissioner (as the case may be) for the acquisition of a property is considered conclusive evidence for establishing public purpose. To avoid perceptions of ambiguity or subjectivity, a clear definition of the term should be included in the law.



Belarus

Population ¹	9,498,264
Area (km ²) ¹	207,600
GDP per capita (USD) ¹	5,761.75
TPES (Mtoe) ²	25.04
Energy intensity (toe/10 ³ 2010 USD) ²	0.42
CO ₂ emissions - energy (MtCO ₂) ²	53.10

Sources:

1. The World Bank 2017

2. ©IEA 2018, www.iea.org/statistics

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

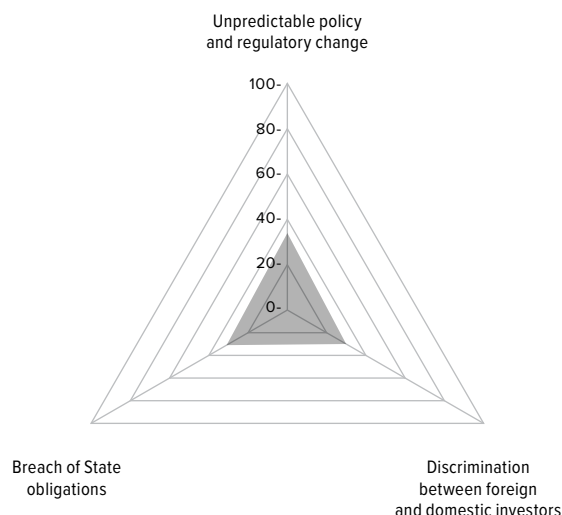
The three EIRA risk areas are on the same level as last year. The risk of *discrimination between foreign and domestic investors* remains the lowest. It is followed by *breach of State obligations* and *unpredictable policy and regulatory change*.

Belarus has a good score on three of the EIRA indicators, and a moderate score on one indicator. *Management of decision-making processes* is the highest-scoring indicator with 72 points. On *regulatory environment and investment conditions* and *rule of law* it has received 69 points each. *Foresight of policy and regulatory change* is at 57.

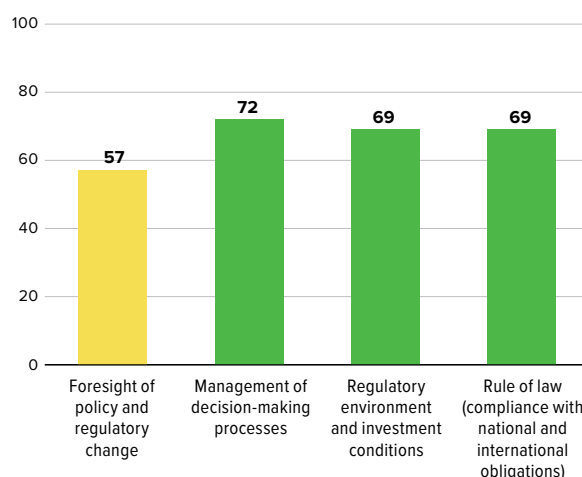
On a more detailed level, Belarus' overall sub-indicator performance is good. *Restrictions on FDI* has the highest score with 100 points. On *management and settlement of investor-State disputes* (85), *transparency* (75), *institutional governance* (69), *communication of vision and policies* (65), *respect for property rights* (53), and *robustness of policy goals and commitments* (48), it has retained the scores from 2018. *Regulatory effectiveness* continues to be the lowest-scoring sub-indicator with 39 points.

While Belarus has the relevant policies and measures in place, there is some potential for improvement. Attention should be given to enhancing the regulatory effectiveness of the country.

RISK LEVEL



INDICATOR PERFORMANCE

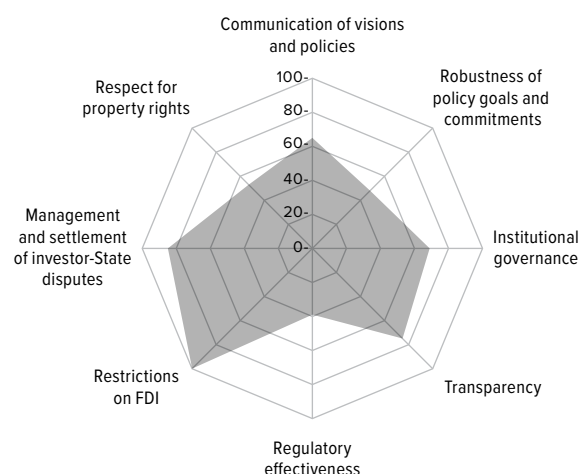


YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019
Unpredictable policy and regulatory change	34	34
Discrimination between foreign and domestic investors	30	30
Breach of State obligations	31	31

INDICATORS	2018	2019
Foresight of policy and regulatory change	57	57
Management of decision-making processes	72	72
Regulatory environment and investment conditions	69	69
Rule of law	69	69

SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

The principal strategy documents for Belarus are the Concept of Energy Security till 2035 (approved in 2015), the Comprehensive Development Plan for the Electricity Sector until 2025 (approved in 2016), the State Energy Saving Programme for 2016-2020 and the National Strategy for Sustainable Socio-Economic Development for the period up to 2030 (approved in 2017).

The Republic of Belarus ratified the Paris Agreement in 2016 and has submitted its first NDC.

STRENGTHS

Several strategies and programmes shape the Government's vision on the development of the energy sector. Short-, medium- and long-term targets have been set for the priority areas of energy security, power reliability, renewable energy and energy efficiency. The Government is currently framing new rules to make domestic renewable energy resources more attractive to investors. In line with the Comprehensive Development Plan for the Electricity Sector until 2025, it is expected that in 2019 the first unit of the Belarus Nuclear Power Plant will be commissioned.

The National Academy of Sciences, the Ministry of Economy, the Ministry of Energy, the State Committee for Standardization, the Belarusian State Concern for Oil and Chemistry, regional executive committees and the Minsk City Executive Committee monitor the progress on all indicators related to energy security. They provide annual reports on their work to the National Academy of Sciences of Belarus. The Academy then submits to the Council of Ministers a summary report on the status of the indicators as well as recommendations for improving the performance. The latest report was submitted in February 2019.

AREAS FOR IMPROVEMENT

Belarus should develop a coherent and long-term investment strategy for the energy sector. It must include a comprehensive vision for sub-sectors with high potential. In particular, the situation of electricity oversupply in the country and the stability of the investment climate for renewable energy should be accounted for.

The adoption of the new draft Law on Electricity has been postponed, after its submission to the Council of Ministers in September 2017. The Government is encouraged to expedite its approval. The Law will create a framework for competitive wholesale and retail markets, facilitate transmission unbundling, determine the role of the regulator in tariff setting and allow large industrial customers to have direct access to the wholesale electricity market.

In light of the country's commitments to reduce carbon intensity, long-term targets should be defined for CO₂ reduction in the energy sector. This is especially crucial since the sector currently accounts for the largest share of emissions.

Management of decision-making processes

QUICK FACTS

The Ministry of Energy frames the country's energy policy.

The Ministry of Economy implements the national investment policies and programmes.

The National Agency of Investment and Privatization, established in 2011, acts as an advisory body with a single window for enquiries regarding investment in various sectors, including energy.

The Ministry of Natural Resources and Environmental Protection monitors the implementation of the country's NDC.

STRENGTHS

A number of ministries and regulatory bodies contribute to the development of energy policies. Policies are prepared through inter-ministerial consultation and coordination. Resolution no. 11/2018 "On the Public Consultative (Expert) Council on Entrepreneurship Development adjunct to the Ministry of Energy" was adopted in April 2018. It establishes the Public Consultative (Expert) Council which is responsible for, among other things, conducting deliberations and collecting comments on new policies, legislation and regulations.

Law no. 130-3/2018 "On Normative Legal Acts" was adopted in July 2018. The Law creates a platform for e-consultation on draft laws and facilitates access to legal information. It also provides for the immediate publication of adopted legislation and regulations. The Government is legally obliged to inform the citizens of these developments through mass media. Most legal information is centralised and accessible online, as well as in print. Information about energy tariffs is available on the website of the Ministry of Energy. The main strategy documents and enacted laws are available in Russian.

AREAS FOR IMPROVEMENT

Information sharing, consultation and dialogue with a broad set of stakeholders should become a standard practice established through law. Timely notification and consultation on policy objectives will allow interested parties to understand the rationale behind the decisions taken and will reduce the risk of prolonged discussions during the later stages of the policy cycle.

The role of the National Agency of Investment and Privatization can be better defined. Though the Agency advises and coordinates the investment process for potential investors, it does not approve investments. In this regard, its functions as a one-stop shop can be strengthened, and information regarding its services made widely available.

Regulatory environment and investment conditions

QUICK FACTS

The Ministry of Energy is responsible for regulating the energy sector.

The Ministry of Antimonopoly Regulation and Trade deals with competition issues across all sectors including energy.

The Law no. 53-3/2013 “On Investments” guarantees fair and equitable treatment to foreign investors.

STRENGTHS

The role and responsibilities of the Ministry of Energy are stipulated in the Council of Ministers’ Resolution no. 1595/2001 “On approval of the Regulation on the Ministry of Energy of the Republic Belarus”. The regulatory functions of the Ministry include preparation of the tariff policies and the regulation of generation and distribution of electricity, gas, steam and hot water. The Ministry is audited by the State Control Committee of Belarus.

Fair and equitable treatment to foreign investors is guaranteed in the national laws. Generally, there are no restrictions on foreign ownership of energy projects, except where the Government has an exclusive right, such as in the nuclear sub-sector. The website of the National Agency of Investment and Privatization provides an overview of the current and planned energy projects. In 2019, a draft Strategy on Attraction of Foreign Direct Investment up to 2035 was made public for consultations with interested stakeholders. It contains a number of planned activities and expected results in terms of attracting further investment in the country.

AREAS FOR IMPROVEMENT

Belarus should pursue its efforts to establish an independent energy regulator that sets tariffs, protects consumers’ rights, regulates natural monopolies and creates conditions for competition in the energy market. The autonomy of the regulator will ensure distance from any potential undue influence and will promote public confidence in the regulatory framework. Moreover, to avoid the perception of discretionary choices, the Government may consider clarifying the eligibility criteria it employs in its investment agreements for granting specific privileges to investors. The policies for investment in energy efficiency should be aligned to reduce the energy intensity, especially with the recently adopted lower tariffs for electricity for residential heating and hot water from January 2019 onwards. These lower tariffs were introduced to stimulate the use of electricity.

Belarus should expedite the adoption of the new Strategy on Attraction of Foreign Direct Investment up to 2035, which also pays attention to energy access for investors, power reliability and investment in the energy sector. To further assist investors, the country may also consider developing step-by-step guidelines for investing in the energy sector.

Rule of law

QUICK FACTS

Belarus signed the Energy Charter Treaty in 1994.

Access to arbitration is provided for in Law no. 279/1999 “On International Arbitration (Arbitral Tribunal) Courts”.

Belarus ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States in 1992.

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

Belarus became a member state of the World Intellectual Property Organization in 1970.

STRENGTHS

Dispute resolution is carried out in an efficient manner. National courts are obliged to deliver their decisions within specified time limits. The enforcement of foreign arbitral awards is guaranteed under domestic law. The Government has enacted the Law no. 58-3/2013 “On Mediation” to promote alternative dispute resolution mechanisms. There have been no retroactive legislative changes in the past years.

Protection of private property is a constitutional right. The Law “On Investments” provides guarantees against the expropriation of foreign investments. Nationalisation or requisitioning of foreign assets is subject to the timely payment of full compensation. The formulation of the term “investment” in most of the country’s BITs is broad and includes movable and intangible property. Regarding the transfer of technology in the energy sector there are no legal restrictions.

AREAS FOR IMPROVEMENT

As mentioned in 2018, Belarus should consider establishing an investment ombudsman to resolve conflicts between foreign investors and public authorities. This will enable the parties to reach a swift settlement instead of engaging in protracted judicial or arbitral proceedings. The draft Strategy on Attraction of Foreign Direct Investment contains an action plan that also includes prior settlement of disputes related to investment. This can be seen as a step in the right direction.

Domestic laws should include well-defined grounds for expropriation, clauses regarding the process for determining the compensation to be awarded to the investor as well as a timeframe for paying the compensation.



Benin

Population ¹	11,175,204
Area (km ²) ¹	114,760
GDP per capita (USD) ¹	827.43
TPES (Mtoe) ²	4.45
Energy intensity (toe/10 ³ 2010 USD) ²	0.49
CO ₂ emissions - energy (MtCO ₂) ²	5.70

Sources:

1. The World Bank 2017

2. ©IEA 2018, www.iea.org/statistics

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

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

Benin has a good performance on two of the EIRA indicators, and a moderate performance on the others. *Rule of law* is the highest-scoring indicator with 78 points, followed by *management of decision-making processes* (72). On *regulatory environment and investment conditions* the score is 59 points, while *foresight of policy and regulatory change* stands at 49.

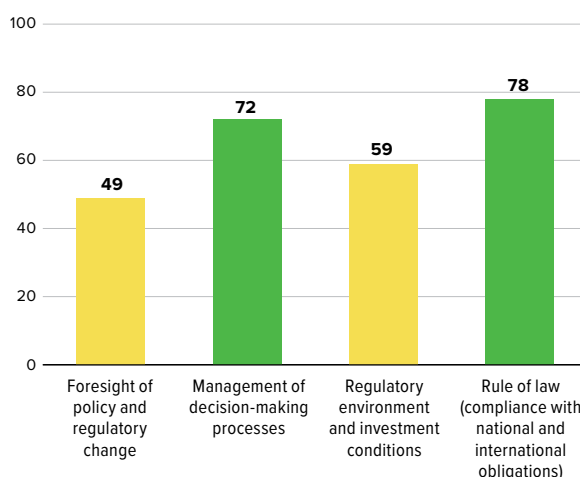
On a more detailed level, Benin’s overall sub-indicator performance is good. *Management and settlement of investor-State disputes* is at 80 points. It is followed by *institutional governance* and *respect for property rights*, both at 75. On *transparency* the score is 68, while *communication of vision and policies* is at 65. Performance on the sub-indicators *restrictions on FDI* and *regulatory effectiveness* is at 60 and 58, respectively. *Robustness of policy goals and commitments* is the lowest-scoring sub-indicator with 33 points.

While Benin 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.

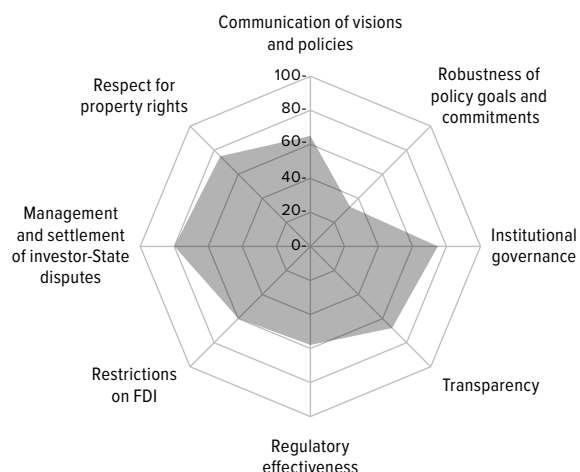
RISK LEVEL



INDICATOR PERFORMANCE



SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

The Government Action Programme 2016-2021 sets the policy direction of the country and guides Government action across all sectors of the economy.

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

STRENGTHS

The Government Action Programme 2016-2021 aims at ensuring energy security and reliable electricity supply across Benin. Priority actions include the expansion of domestic thermal production, development of the country's renewable and subsoil potential, as well as the implementation of an energy efficiency scheme targeting public and residential buildings. Two National Action Plans on Energy Efficiency and on Renewables (adopted in 2015) identify short- and long-term targets for the electricity, heating, cooling and transport sectors. The Government has intensified its off-grid electrification efforts. Moreover, with the technical and financial support of external donors, the Government is currently formulating a National Adaptation Plan. Meanwhile, it has already passed legislation on climate change that contains a range of progressive features, such as the creation of carbon and environmental restoration taxes.

A monitoring and coordination system is envisaged in the Government Action Programme. It consists of the Council of Ministers, the Flagship Project Monitoring Committee supervised by the President of the Republic, the Monitoring and Evaluation Committee, as well as sector-specific Monitoring Committees chaired by Ministers.

AREAS FOR IMPROVEMENT

Though Benin has pledged to promote renewable energy sources, the inaccessibility of necessary capital and new technologies are a barrier to the realisation of this commitment. In light of this, the Government should consider granting financial and regulatory incentives to renewable energy producers, such as prioritised access to the grid and tariffs differentiated by technologies and sizes of the generation plants.

The policy documents envisage a variety of monitoring authorities and implementation agencies without a clear demarcation of their respective roles and responsibilities. It is considered best practice to assign the evaluation of work progress to external experts or to an entity other than the one implementing the programmes. The level of independence should be such that there is no doubt about the objectivity and transparency of the work carried out.

The monitoring and coordination process could also benefit from the introduction of a review process and a requirement for periodic progress reports on renewable energy deployment and energy efficiency.

Management of decision-making processes

QUICK FACTS

The Ministry of Energy develops legislation related to the energy sector.

The Ministry of Environment and Sustainable Development is responsible for all environmental issues, including the implementation of Benin's NDC.

Freedom of information and access to administrative documents is governed by Law no. 2015-07 on information and communication.

STRENGTHS

The Ministry of Energy is required by law to ensure collaboration within its departments and engage with other ministries in the decision-making process. To provide policy coherence, a Quarterly Review ("Revue Trimestrielle") and a Committee of Directors, both of consultative nature, are established. The Committee convenes regularly to coordinate on transversal matters. The Investment and Export Promotion Agency (APIEX) functions as an investment promotion authority and a one-stop office for business start-ups. APIEX has launched an online platform ("iGuide") to inform investors about the operating costs, salaries and taxes related to the conduct of business in the country.

According to national laws, State agents must decide upon a request for information access within five days of its receipt. In case of a default, they may be subject to administrative or judicial penalties. The Official Gazette of Benin and the General Secretariat of the Government disseminate online versions of all legal texts, ordinances and international agreements. The National Electricity Regulatory Authority (ARE) maintains a website that publishes the relevant laws, annual reports and decisions, including those of the ECOWAS Regional Electricity Regulatory Authority. The interests of all affected parties, including operators and consumers, must be duly represented at the meetings organised by the ARE and the Ministry of Energy.

AREAS FOR IMPROVEMENT

The enactment of the Law on information and communication was a positive step towards modernising the public administration, and enhancing its transparency and accountability. The adoption of a law prescribing public consultation on new policies or revisions to the existing ones, will help the Government tap into a broad range of perspectives and implement more effective solutions to local and national development challenges. Moreover, it is advised that draft laws should be made available for public comment and a timeframe for providing requested public documents be explicitly stated.

Regulatory environment and investment conditions

QUICK FACTS

The Ministry of Energy is the main regulatory institution for hydrocarbons. It also oversees activities in the electricity sub-sector.

The ARE was established as an autonomous authority to ensure safety, reliability and competitiveness in the electricity market, and to protect the interests of consumers.

Law no. 90-002 of 1990 introducing the Investment Code grants State-owned and private enterprises the same rights and subjects them equally to the same obligations.

Law no. 2019-06 introducing the new Petroleum Code is currently awaiting Presidential approval.

STRENGTHS

The ARE enjoys a certain degree of independence in its activities and management. Its competences, rights and obligations are clearly defined in Decree no. 2009-182 on the establishment, attributions, organisation and operations of the Electricity Regulatory Authority as amended. The ARE's revenues are separate from the State budget and subject to the fiscal control of the Supreme Court's Chamber of Accounts.

Attracting private investment in infrastructure and power production is one of the main priorities stated in the Government Action Programme 2016-2021. Law No. 2016-24 on Public-Private Partnership codifies the announcements, concessions, contract management and establishment of regulatory bodies. The Law introducing the Investment Code provides fiscal and non-fiscal incentives to investors, and guarantees the free transfer of funds and the repatriation of any capital derived from investments. Currently, national legislation does not impose limitations on the employment of foreign personnel.

AREAS FOR IMPROVEMENT

ARE's institutional and functional autonomy can be further enhanced. Merit-based selection of ARE's National Council of Regulation, through a public procedure and for a time-bound tenure, should be set in place. This will help eliminate perceptions of political bias. Given the role of the Société Béninoise d'Énergie Électrique as the sole utility in charge of power distribution, the reinforcement of ARE's institutional and financial independence is a critical element for fully liberalising the power sector.

The establishment of an independent authority to sanction anti-competitive behaviour across sectors will allow antimonopoly rules to be enforced more efficiently and curtail detrimental business strategies.

The Government is currently contemplating the adoption of local content requirements for the employment of its nationals as well as for local supply agreements. While these policies could boost productivity and help the country increase efficiency in the value chain, they must be made part of an overall development strategy.

Rule of law

QUICK FACTS

Benin ratified the Convention on the Settlement of Investment Disputes between States and Nationals of other States in 1966.

Benin acceded to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 1974.

Benin is a member state of the OHADA. In 2017, OHADA revised the Uniform Act on Arbitration to include provisions on commercial and investment arbitration.

STRENGTHS

The Law introducing the Investment Code and the revised OHADA Uniform Act on Arbitration 2017 offer foreign investors a reliable framework for resolving their disputes against the State without prior recourse to national courts. They also allow public entities to consent to arbitration and encourage the parties to fulfil any preliminary steps, such as mediation, negotiation or conciliation. In addition, the Mediator of the Republic is mandated to investigate complaints launched by natural and legal persons against State agencies. As reflected in its annual report, the Mediator of the Republic has been actively involved in an increasing number of cases. Foreign judgements and arbitral awards are recognised and enforced in Benin.

Deprivation of private property can occur only for reasons of public interest which are stated in the law. In the case of expropriation, compensation must be mutually agreed between the parties and must cover the totality of the direct, material and consequential damage caused by the expropriation. In general, there are no restrictions on the transfer of technology. Intellectual property rights are protected under the national laws, BITs and international treaties, such as the Bangui Agreement.

AREAS FOR IMPROVEMENT

The Government has acknowledged the need for reforms in the judicial system to address issues such as under-resourcing in terms of personnel and material. The introduction of binding time limits for all court proceedings as well as their effective implementation will help expedite the delivery of judgements and reinforce the reliability of the Benin's legal system.



Bosnia and Herzegovina

Population ¹	3,351,527
Area (km ²) ¹	51,210
GDP per capita (USD) ¹	5,394.59
TPES (Mtoe) ²	6.75
Energy intensity (toe/10 ³ 2010 USD) ²	0.36
CO ₂ emissions - energy (MtCO ₂) ²	22.00

Sources:

1. The World Bank 2017

2. ©IEA 2018, www.iea.org/statistics

Bosnia and Herzegovina’s (BiH) overall risk level against the assessed areas is **moderate**.

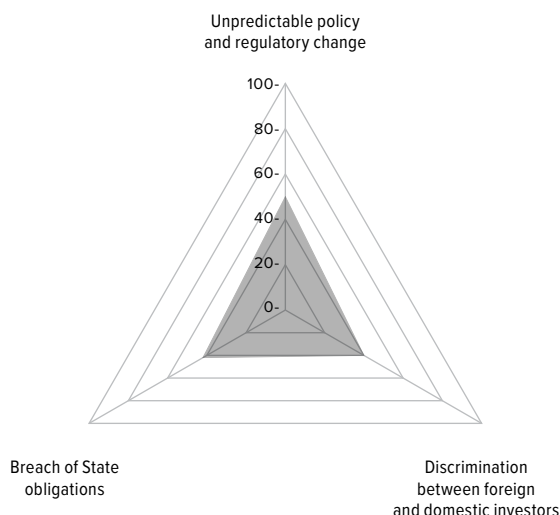
The risk of *discrimination between foreign and domestic investors* continues to be the lowest and is on the same level as last year. It is followed by *breach of State obligations* which also remains unchanged. *Unpredictable policy and regulatory change* is the area with the highest risk, though the level has gone down.

BiH has performed moderately on three of the EIRA indicators, and it has a good performance on one. The country has maintained its score of 75 on the indicator *regulatory environment and investment conditions* and 58 on the indicator *rule of law*. *Foresight of policy and regulatory change* has improved by 17 points, and now stands at 47. On the *management of decision-making processes* indicator, it has again scored 46.

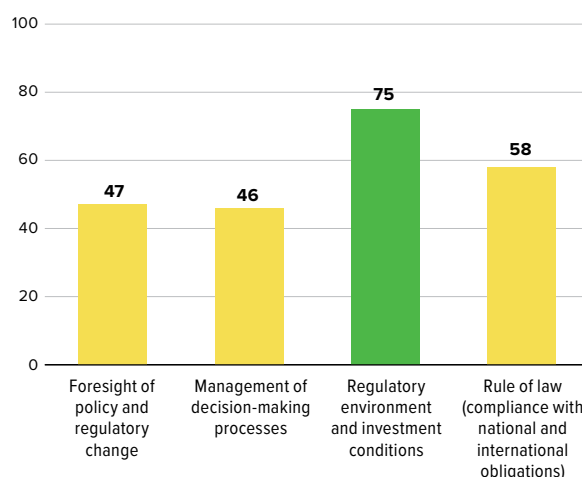
On a more detailed level, BiH’s overall sub-indicator performance is moderate. The highest-scoring sub-indicator is *restrictions on FDI* with 80 points. *Management and settlement of investor-State disputes* (75), *regulatory effectiveness* (70) and *transparency* (67) have received the same scores as in 2018. *Communication of vision and policies*, which had a low score of 29 last year, has improved and moved up to 56. It is followed by the sub-indicator *respect for property rights* at 42. *Robustness of policy goals and commitments* has also improved, from 32 to 38 points. *Institutional governance* is again the lowest-scoring sub-indicator with 25 points.

While there are some improvements in BiH’s performance compared to 2018, further steps must be taken to build on the work done. Particular attention should be given to strengthening the country’s institutional governance.

RISK LEVEL



INDICATOR PERFORMANCE

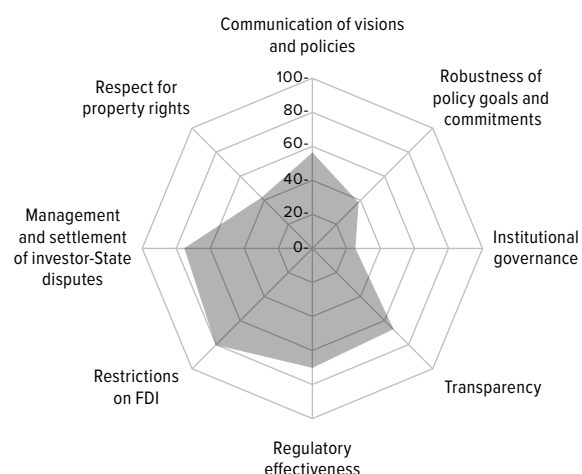


YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019
Unpredictable policy and regulatory change	55	50
Discrimination between foreign and domestic investors	40	40
Breach of State obligations	42	42

INDICATORS	2018	2019
Foresight of policy and regulatory change	30	47
Management of decision-making processes	46	46
Regulatory environment and investment conditions	75	75
Rule of law	58	58

SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

BiH is a decentralised country comprising a national Government (the State), the two political entities of the Republika Srpska and the Federation of Bosnia and Herzegovina (FBiH), and the independent local Brčko District.

BiH ratified the Paris Agreement in 2017 and submitted its first NDC.

STRENGTHS

In 2018, the Framework Energy Strategy of BiH until 2035 was adopted. This was a major step forward since the document set definitive priorities and targets for the energy sector at State level. The main objectives under the Strategy are lowering carbon emissions, increasing the share of renewable resources in the energy mix, and reducing energy consumption. To meet these goals, the Green Climate Fund has approved two projects: (1) scaling up investment in low carbon public buildings and (2) improving the process of drafting the National Plan for Adaptation to Climate Change in Bosnia and Herzegovina. Both projects are of great importance to the country and are intended to increase investments in the energy sector.

The Ministry of Foreign Trade and Economic Relations of BiH (MOFTER) monitors the implementation of the energy priorities at State level. For the entities, the Federal Ministry of Energy, Mining and Industry and the Ministry of Industry, Energy and Mining of Republika Srpska conduct monitoring activities. The Framework Energy Strategy of BiH until 2035 contains an indicative map that provides the names of the key decision-makers for each priority, the measure of interdependency, the timeframe for its achievement and the level of priority.

AREAS FOR IMPROVEMENT

In line with last year's suggestion, BiH has adopted the Framework Energy Strategy of BiH until 2035. To further build on this achievement, the State and the entities are urged to begin the implementation of the targets mentioned in the new Framework Strategy. In particular, BiH should work towards finalising and adopting an updated action plan for energy efficiency since the previous one expired in 2018. Existing laws should also be revised to ensure the country's compliance with its international commitments, particularly for the electricity and gas sub-sectors.

Uniform guidelines and processes for monitoring the energy indicators should be developed across all Government levels. While the new Framework Strategy provides the names of the key decision-makers for each priority, it is important to assess and define how they will coordinate the work in practice.

Management of decision-making processes

QUICK FACTS

The Ministry of Industry, Energy and Mining of Republika Srpska plans and manages the electric power strategy in the Republika Srpska.

The Federal Ministry of Energy, Mining and Industry develops energy policies for FBiH.

FBiH is divided into ten cantons each of which has distinct regulations on environmental protection, spatial planning, water management, forestry and civil engineering.

All Government levels have enacted legislation facilitating access to information.

STRENGTHS

Law-making involves the State, the two political entities and the Brčko District. At State-level, the MOFTER continues to take the lead in formulating policies for the energy sector. Inter-sectoral working groups, such as the State committee for infrastructure investments, may be created for exchanging information on policy decisions, as well as on issues of regulatory oversight and compliance.

In 2018, newly adopted legal acts were published in the Official Gazette of the State, the entities and the Brčko District. The e-consultation website of the Government, E-Konsultacije, gives details on all completed and on-going public consultations on drafts laws. It also provides the 2019 annual plan of legislative activities for all the institutions of the BiH Council of Ministers.

AREAS FOR IMPROVEMENT

As stated in EIRA 2018, due to the complex constitutional structure of BiH, proactive efforts are needed to improve coordination between the Parliaments of the State, the political entities and the Brčko District. Common standards should be developed for sharing information between the different Government levels.

Measures may be taken to give investors more information on the licensing and approval processes in the entities. While the Foreign Investment Promotion Agency (FIPA) provides the overarching framework for investment promotion in the country, one-stop shops should be established at municipal level to provide local assistance to investors and facilitate the ease of doing business.

Translations of by-laws and regulations are available in English but these are not official. Moreover, access to all Official Gazettes is possible only upon the payment of a fee. It is recommended that legal documents be made widely accessible in foreign languages and without cost. This will allow easier flow of information to foreign investors.

Regulatory environment and investment conditions

QUICK FACTS

The State Electricity Regulatory Commission (SERC) is responsible for the transmission of electricity, transmission system operation and international trade in power.

The Federal Commission for Energy Regulation (FERK) is the principal regulatory authority in the FBiH.

The Regulatory Commission for Energy of Republika Srpska (RERS) regulates the electricity market in the Republika Srpska.

FIPA was established to attract and increase FDI in BiH.

STRENGTHS

Efforts to harmonise the regulatory structures at State and entity level continued during the 2019 EIRA assessment year. Regulations of the SERC, FERK and the RERS have been reformulated to ensure complementarity. The regulatory authorities exercise a certain degree of functional independence. In 2018, there were no cases where regulatory decisions were taken without public consultation.

Attracting FDI remains a key priority for BiH. With the adoption of the new Framework Strategy, it is anticipated that investment in the energy sector will increase. Foreign investors are granted legal protection under national laws and international treaties. They are free to incorporate legal entities in BiH under the conditions applicable to domestic investors. They are also allowed to invest and reinvest the profit from such investments in all sectors of the economy, and in the same form and conditions as defined for the residents of BiH. The entities have enacted laws giving similar rights to foreign investors.

AREAS FOR IMPROVEMENT

As mentioned last year, the regulatory processes should be simplified and their uniform application ensured across entities, cantons and municipalities. This will help avoid contradiction in regulations for conducting local business.

Rule of law

QUICK FACTS

BiH ratified the Energy Charter Treaty in 2001.

The Convention on the Settlement of Investment Disputes between States and Nationals of Other States was ratified by BiH in 1997.

BiH succeeded to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 1993.

STRENGTHS

In general, the dispute management and settlement processes remain effective. There have been no retroactive changes introduced to laws in the last year. Disputes between foreign investors and the State may be resolved in domestic courts or through international arbitration directly, without exhausting local dispute resolution mechanisms. International law forms an integral part of the country's legal system. Treaties ratified by BiH prevail over domestic legislation in the case of any contradiction.

BiH continues to uphold its property right commitments to investors. Most of the country's BITs contain the general international formulation that compensation against expropriation should be prompt, adequate and effective. The Law on the Policy of Foreign Direct Investment 1998 states that foreign investment shall be expropriated only against the payment of adequate, effective and prompt compensation. The issue of expropriation is also regulated on the entity level. There are currently no restrictions or limitations imposed on the transfer of technology under any international agreement or under the domestic laws of BiH.

AREAS FOR IMPROVEMENT

In line with the improvement suggested last year, an investment ombudsman may be established to address the grievances of foreign investors. Such a forum may reduce the risk of dispute escalation and also assist in representing the viewpoint of foreign investors to the Government.

Protection against the expropriation of intangible property may be strengthened further under the domestic laws. At present, on the entity level, the expropriation laws grant protection only to real estate or immovable property. Moreover, laws at State level may be revised to explain clearly the term "public purpose" in the case of expropriation. While the right of countries to determine what constitutes "public purpose" is paramount, at the same time a very broad or ambiguous formulation should be avoided.



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**.

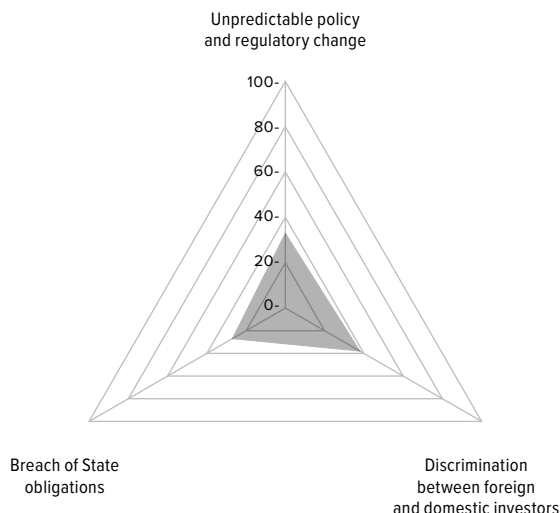
Among the three EIRA risk areas, *breach of State obligations* is lower compared to *unpredictable policy and regulatory change* and *discrimination between foreign and domestic investors*.

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.

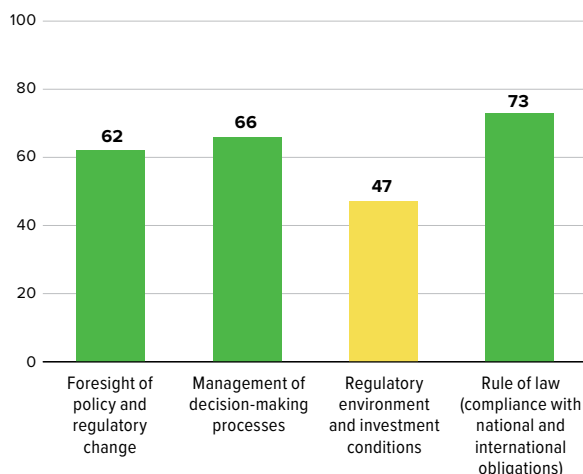
On a more detailed level, Burkina Faso’s overall sub-indicator performance is good. On *communication of vision and policies* it has received 83 points. A good score has been obtained on *respect for property rights* (75) and *management and settlement of investor-State disputes* (70). *Institutional 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.

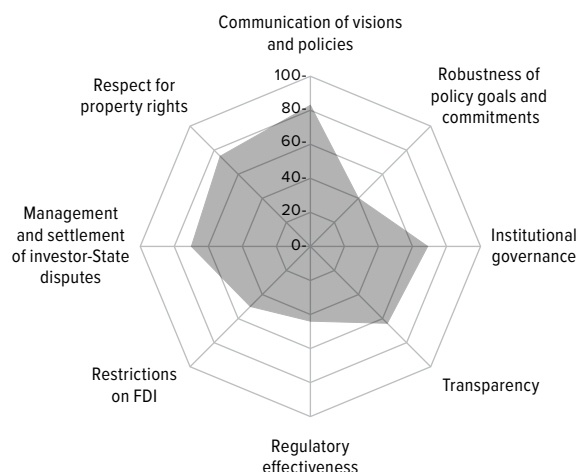
RISK LEVEL



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.



Croatia

Population ¹	4,124,531
Area (km ²) ¹	56,590
GDP per capita (USD) ¹	13,383.68
TPES (Mtoe) ²	8.47
Energy intensity (toe/10 ³ 2010 USD) ²	0.14
CO ₂ emissions - energy (MtCO ₂) ²	15.90

Sources:

1. The World Bank 2017

2. ©IEA 2018, www.iea.org/statistics

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

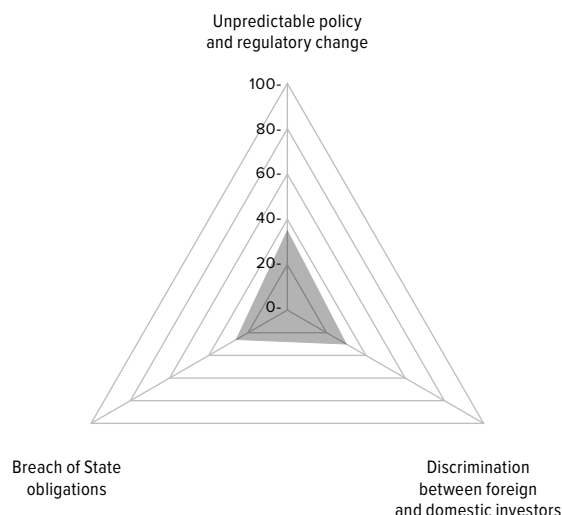
The risks *breach of state obligations* and *discrimination between foreign and domestic investors* are on the same level as in 2018. *Unpredictable policy and regulatory change* remains the area with the highest risk, although its level has gone down by a point.

Croatia has a good performance on three of the EIRA indicators, and a moderate performance on one indicator. It has maintained a score of 74 on the indicator *rule of law*, 69 on *regulatory environment and investment conditions* and 68 on *management of decision-making processes*. The score for *foresight of policy and regulatory change* has increased from 49 to 52.

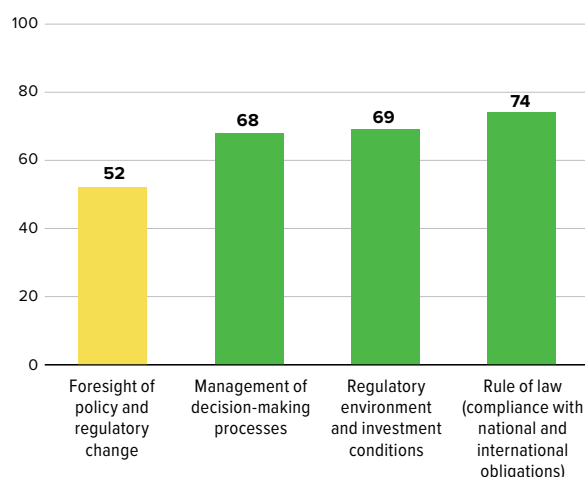
On a more detailed level, Croatia's overall sub-indicator performance is good. The highest scoring sub-indicator is *respect for property rights* with 83 points. *Transparency* (74) and *regulatory effectiveness* (72) have received the same scores as in 2018. They are followed by *management and settlement of investor-State disputes* and *restrictions on FDI*, both at 65 points. *Institutional governance* stands at 63 points. The score for *communication of vision and policies* has increased and is now at 55. *Robustness of policy goals and commitments* remains the lowest-scoring sub-indicator with 48 points.

Croatia provides attractive conditions for investors and is working in the right direction. Attention should be given to better communicating its vision and policies as well as strengthening the robustness of policy goals and commitments.

RISK LEVEL



INDICATOR PERFORMANCE

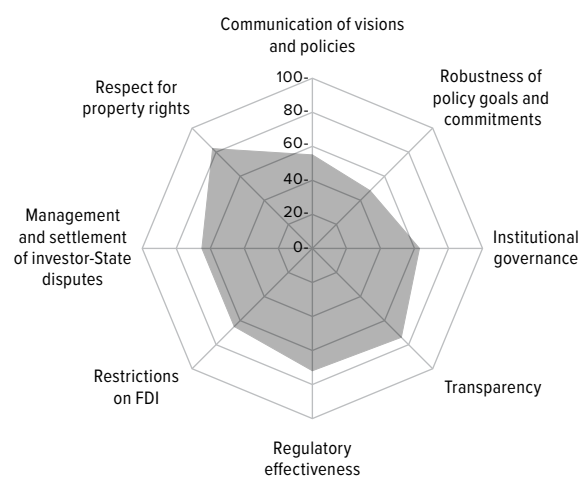


YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019
Unpredictable policy and regulatory change	36	35
Discrimination between foreign and domestic investors	30	30
Breach of State obligations	26	26

INDICATORS	2018	2019
Foresight of policy and regulatory change	49	52
Management of decision-making processes	68	68
Regulatory environment and investment conditions	69	69
Rule of law	74	74

SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

In 2009 Croatia published the Energy Strategy 2020. The Government is presently preparing a new energy strategy with the country's vision for 2030 and 2050.

The Electricity Market Act 2013 was amended in 2018 to enhance the structure of the energy market and align the electricity sector with EU legislation.

The Energy Act 2012 regulates measures to ensure secure and reliable energy supply and efficient power generation.

STRENGTHS

In 2018, Croatia strengthened its legal framework for the energy sector through various legislative and regulatory reforms. Working towards its priorities of resource diversification and the enlargement of the gas market, Croatia adopted a new Gas Market Act 2018. The LNG Terminal Act was also adopted in 2018. The Act intends to ensure the realisation of the Krk floating LNG terminal project and potentially improve the country's energy security. Although Croatia has already achieved its 2020 target for renewable energy, it is still working towards further developing the renewables sector. Actions have also been taken in line with the target set for energy efficiency.

The Ministry of Environment and Energy continues to monitor the progress of the energy targets. In its monitoring duties, it is assisted by the Energy Institute Hrvoje Požar and the Croatian Bureau of Statistics. In 2018, the Bureau published the statistical analysis of the energy data collected in 2017. Additionally, the short-term energy indicators are accessible online for each month of the assessment year. The latest data on GHG emissions is made available annually by the Ministry of Environment and Energy.

AREAS FOR IMPROVEMENT

As the expiration date for Croatia's current energy strategy is approaching, the Government should expedite the finalisation and adoption of the National Energy and Climate Plan for 2021-30, which will provide the overarching framework for future actions. Particular attention should be paid in achieving a seamless transition to the new strategy, and ensuring that the future goals are consistent and coordinated with the existing ones.

It is reiterated that measures should be taken to translate the main priorities into binding action plans with defined responsibilities, deadlines and monitoring mechanisms. This approach will help provide clarity regarding the entire policy process, from agenda setting to its execution and evaluation.

Management of decision-making processes

QUICK FACTS

The main body responsible for implementing the energy goals is the Ministry of Environment and Energy.

Investment-related issues fall under the Ministry of Economy, Entrepreneurship and Crafts.

In 2018, the Ministry of Economy, Entrepreneurship and Crafts took over the responsibilities of the Agency for Investments and Competitiveness related to the promotion and facilitation of investments.

Croatia enacted the Act on the Right of Access to Information in 2013.

STRENGTHS

To streamline the legislative framework, the Government passed amendments to critical laws such as the Energy Efficiency Act 2014, the Act on the Regulation of Energy Activities 2012 and the Thermal Energy Market Act 2013. While the legislative initiative in the energy sector lies with the Ministry of Environment and Energy, multiple ministries were involved in the process to ensure consistency in cross-sectoral issues. To this end, informal consultations were conducted on the ministerial level and between the relevant Government departments.

The right of access to information is monitored by the Information Commissioner. The latest report on the Implementation of the Act on the Right of Access to Information was published in March 2018. The Government has created an open data portal for facilitating access to information. The services are continually updated, and new features have been added. To enhance transparency, Croatia has also established a portal for providing information on electronic public procurement.

AREAS FOR IMPROVEMENT

As mentioned in EIRA 2018, the Government may consider identifying and repealing overlapping laws. Presently, the energy sector is governed by multiple primary legislation, sub-laws and rules. Additionally, there are special laws and secondary frameworks for regulating certain matters. This may give investors the impression that the sector is over-regulated.

Efforts should be made to increase the availability of laws and judicial decisions, both online and in print. Generally, the printed versions in Croatian are official while the electronic versions in other languages are considered unofficial translations. To facilitate the ease of doing business for local and foreign investors, the official translations of laws and strategic documents in foreign languages should be developed.

Regulatory environment and investment conditions

QUICK FACTS

The Croatian Energy Regulatory Agency (HERA) is the authority in charge of regulating energy activities.

The Croatian Hydrocarbon Agency is responsible for monitoring the exploration and exploitation of hydrocarbons.

Competition issues are dealt with by the Croatian Competition Agency.

The Strategic Investment Project Act 2018 regulates the criteria and application procedure for strategic investment projects.

STRENGTHS

The HERA maintains its functional and financial independence. On 1 March 2019, the new Methodology for Determining the Amount of Tariff Items for Guaranteed Electricity Supply entered into force. Under the Methodology, the tariffs will be determined more often and based on a reference price calculated through data obtained from the Hungarian stock exchange (HUDEX). Further, the Gas Market Act 2018 strengthened HERA's powers by reallocating the price regulation of gas supply from the Government to the regulator.

The legislative framework continues to be supportive of foreign investment. In 2018, Croatia increased its efforts to remove obstacles and further facilitate investments. The adoption of the Act on the Exploration and Production of Hydrocarbons 2018 was an important step in this direction. It aims at streamlining licensing procedures and eliminating bureaucratic redundancies. The full process of issuance of exploration licences and the conclusion of contracts for exploitation, fees and other issues are integrated into this Act. In addition, the Renewable Energy Sources and High-Efficiency Cogeneration Act came into force on 1 January 2019, to boost the interest of investors.

AREAS FOR IMPROVEMENT

As mentioned last year, the final decision on whether a project qualifies as strategic lies with the Government. To increase transparency, the role of the Government in this regard may be reduced. Decisions classifying individual projects as strategic may include detailed information on the evaluated parameters. Moreover, efforts should be made to define the implementation and monitoring mechanisms for such projects. The economic, human resource and environmental feasibility of projects should be assessed before being declared strategic.

Rule of law

QUICK FACTS

Croatia ratified the Energy Charter Treaty in 1997.

Croatia ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States in 1998.

Provisions against expropriation of immovable property are stated in the Expropriation and Determining of Compensation Act 2014.

STRENGTHS

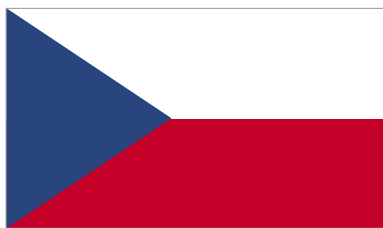
Disputes between foreign investors and the Government may be resolved in domestic courts or through international arbitration directly, without the requirement of exhausting local dispute resolution mechanisms. Judgements rendered in EU Member States are recognised and enforced under the EU regulations. On 29 January 2019 the new Act on International Private Law came into force. The Act provides the legal framework for recognition and enforcement of foreign decisions falling outside EU regulations and international agreements. Arbitration and mediation mechanisms are encouraged and translated into the law. There have been no retroactive changes introduced to laws in the past year.

Property rights of foreign investors are consistently upheld by the Croatian State. There are detailed provisions for calculating the timelines and the amount of compensation that must be paid by the Government for the acquisition of immovable property. Domestic laws exist for the protection of intellectual property rights and BITs signed by Croatia define the term "investment" to include movable property, financial stocks and goodwill.

AREAS FOR IMPROVEMENT

In line with previous recommendations, systemised and effective dispute management measures need to be in place. Timelines for domestic courts to render decisions should be stated in the law and followed through. Moreover, an investment ombudsman may be established to address the grievances of foreign investors and provide advisory services.

The Expropriation and Determining of Compensation Act provides the general framework for expropriation. However, there are concurrent special laws in place that also contain provisions on this issue. This may lead to confusion for investors not acquainted with the country's legal system in terms of the laws and conditions of expropriation applicable to them. For this reason, efforts may be made to streamline the laws and reduce fragmentation.



Czech Republic

Population ¹	10,594,438
Area (km ²) ¹	78,870
GDP per capita (USD) ¹	20,379.90
TPES (Mtoe) ²	41.55
Energy intensity (toe/10 ³ 2010 USD) ²	0.18
CO ₂ emissions - energy (MtCO ₂) ²	101.40

Sources:

1. The World Bank 2017

2. ©IEA 2018, www.iea.org/statistics

The Czech Republic’s overall risk level against the assessed areas is **low**.

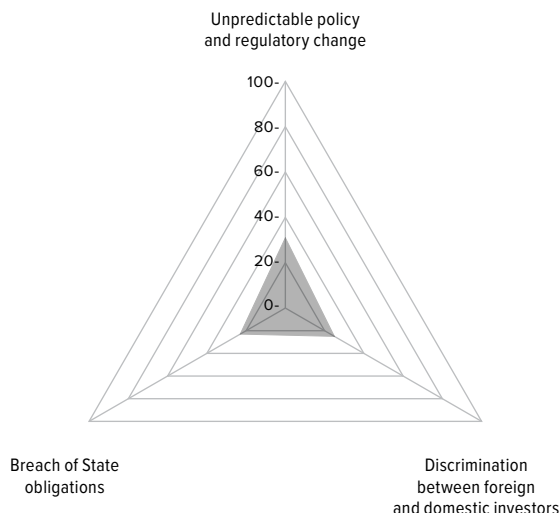
Among the three EIRA risk areas, *discrimination between foreign and domestic investors* is lower compared to *breach of State obligations* and *unpredictable policy and regulatory change*.

The Czech Republic has a very good score on one EIRA indicator, and a good score on three indicators. It has received a score of 81 on *regulatory environment and investment conditions*. The indicators *management of decision-making processes* and *rule of law* are at 77 and 68, respectively. The score for *foresight of policy and regulatory change* is 62.

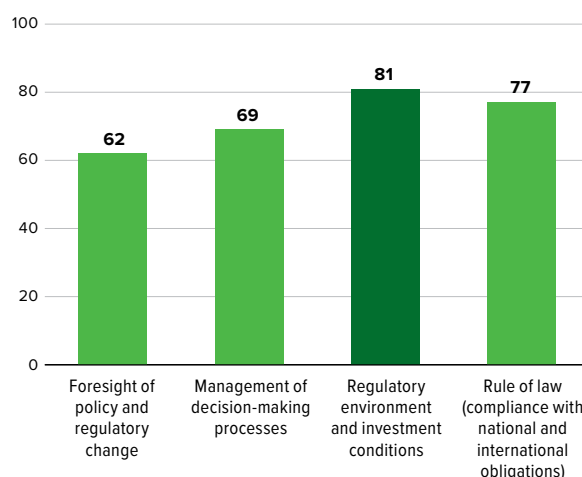
On a more detailed level, the Czech Republic’s overall sub-indicator performance is good. The highest-scoring sub-indicator is *restrictions on FDI* with 95 points. *Respect for property rights* and *transparency* stand at 83 and 75, respectively. On *communication of vision and policies* it has received 73 points, while *management and settlement of investor-State disputes* is at 70. The score for *regulatory effectiveness* is 67, and for *institutional governance* it is 63. The country’s performance on *robustness of policy goals and commitments* is moderate with a score of 50.

Czech Republic provides attractive conditions for investors and is working in the right direction. Attention should be given to strengthening the robustness of its policy goals and commitments.

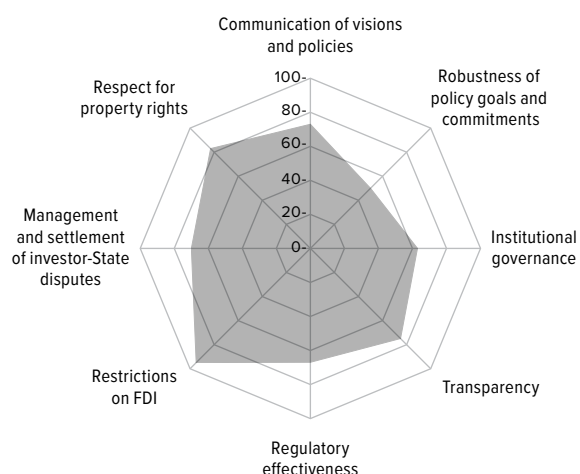
RISK LEVEL



INDICATOR PERFORMANCE



SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

The key strategy documents for the Czech Republic's energy sector are the State Energy Policy 2015 and the Climate Protection Policy 2017.

As an EU Member State, the Czech Republic ratified the Paris Agreement in 2017.

STRENGTHS

The main objectives for the energy sector, set by the State Energy Policy 2015, are ensuring the security of energy supplies, increasing the competitiveness of the country's energy sector and promoting sustainable development. To achieve these objectives, articulate and progressive targets have been set for up to 2040. Creating a low-carbon economy is a key priority for the Czech Republic. For this purpose, it has been gradually replacing coal with nuclear power in the electricity mix. The country also intends to increase the share of renewables and has made great strides on this front. The Climate Protection Policy 2017 was adopted to reach the country's climate change targets.

The State Energy Policy 2015 provides for data collection and monitoring mechanisms. It introduces key performance indicators that allow the assessment of progress made on each target. The Policy also identifies the source of data to be collected and allocates the responsibility for its compilation and analysis to the most appropriate authority. Reports on the Implementation of Instruments of the State Energy Policy are prepared on an annual basis by the Ministry of Industry and Trade and published online. Monitoring of the Climate Protection Policy 2017 falls under the Ministry of the Environment.

AREAS FOR IMPROVEMENT

To achieve its national targets, the Czech Republic has developed a framework of policies and action plans. These documents aim at providing details on the implementation process. However, the large number of documents may result in overlapping responsibilities and actions. It is essential that ex ante and ex post evaluation mechanisms are employed so that the Government can identify any potential gaps and overlaps. This will allow a coherent implementation and will ensure that all measures are aligned with the overarching targets. Close cooperation of the responsible authorities is also advisable to guarantee the coordination of their actions and the consistency of the expected results. It is foreseen that the issue of cooperation will be addressed through the finalisation of the National Energy and Climate Plan of the Czech Republic, which is expected to be submitted to the European Commission by the end of 2019.

Management of decision-making processes

QUICK FACTS

The Czech Republic has a bicameral legislature.

CzechInvest, acting as an investment promotion agency, provides support to investors.

Act no. 106/1999 "On Free Access to Information" regulates the obligation of State bodies to provide access to information.

STRENGTHS

The Constitution vests legislative power in the Parliament. The competences of each ministry are stipulated in the law. The Ministry of Industry and Trade oversees energy and investment policies. The working groups within the Ministry cooperate to ensure consistency in the policies. The Ministry of Environment is responsible for formulating the national climate policies and monitoring the status of the country's NDCs. Inter-ministerial coordination takes place on cross-sectoral issues.

The Constitution guarantees access to information held by State bodies, as well as the right to timely and complete information about the state of the environment and natural resources. To enhance transparency, the Czech Republic enacted Act no. 340/2015 "On the Registry of Contracts" which stipulates the compulsory publication of contracts between the State and private investors. Further, subject to specific criteria under the National Infrastructure for Electronic Public Procurement project, public procurements must be conducted electronically. The Ministry for Regional Development has created a portal that provides comprehensive and transparent information on public procurement. Legislative acts are published in the Collection of Laws, which is also available online. The Ministry of Interior is currently preparing an e-Collection project that will ensure that citizens are easily able to identify the current form of legislation and potential amendments.

AREAS FOR IMPROVEMENT

At present, there is no single window for acquiring all the information needed to establish investments. The creation of such an agency would facilitate the entry of foreign investors in the domestic market and provide greater certainty and security. Additionally, to streamline administrative procedures and reduce the time needed for processing registrations and licence and permit applications, the country should consider the creation of a one-stop approval authority for the energy sector.

Government bodies generally engage the public in the decision-making process. However, while conducting consultations is mandatory for ministries and other central government bodies, details such as the procedure and timelines should be included in a generally binding normative legal act, such as law, government order or decree. This will ensure that the interested parties are given due consideration and will demonstrate the State's commitment to transparency.

Regulatory environment and investment conditions

QUICK FACTS

The Energy Regulatory Office (ERU) is the administrative authority that exercises regulatory powers in the energy sector.

The State Office for Nuclear Safety (SUJB) is responsible for the administration and supervision of nuclear energy.

The Charter of Fundamental Rights and Freedoms provides protection of property irrespective of nationality.

STRENGTHS

The ERU's primary functions are stipulated in Act no. 458/2000 "the Energy Act" as amended. These include licensing, market surveillance in the energy sector and protection of consumer interests. Additionally, the ERU regulates prices for the services in the electricity and gas sectors. The ERU has a dedicated budget within the State budget. Act no. 18/1997 "the Atomic Act" as amended, stipulates the powers and duties of the SUJB. The SUJB is responsible for licensing the construction, commissioning and operation of nuclear installations. While the new Act no. 263/2016 "the Atomic Act" came into force on 1 January 2017, the earlier Act regulating the subject is concurrently applicable until 31 December 2019.

The Czech Republic's legislation reflects a liberal and non-discriminatory approach towards the entry and establishment of foreign investments in the energy sector. While the law does not explicitly provide equal treatment between domestic and foreign investors, it does not contain any discriminatory provisions either. Majority foreign ownership is permitted in energy projects, and there is no obligation to partner with the State. No local content requirements or restrictions on the transfer of investment-related capital, payments and profits exist.

AREAS FOR IMPROVEMENT

The Government may consider re-evaluating the ERU's financial and institutional autonomy. At present, the members of the ERU and its Chairman are appointed and discharged by the Government based on the proposal of the Minister of Industry and Trade. Moreover, ERU's budget could be separated from the State budget and preferably sourced from the regulator's revenues.

Rule of law

QUICK FACTS

The Czech Republic ratified the Energy Charter Treaty in 1996.

The Czech Republic ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States in 1993.

The Act no.184/2006 "On Expropriation" as amended provides protection against unlawful expropriation.

STRENGTHS

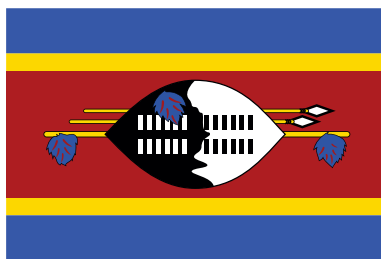
Act no. 99/1963 "Civil Procedure Code" stipulates the general jurisdiction for hearing contractual disputes. There is a system of administrative tribunals in place, dedicated to deal with acts of the administration. Arbitration is governed by the Act no. 216/1994 "On Arbitration Proceedings and on Enforcement of Arbitration Awards". The national laws and International Investment Agreements do not mandate the exhaustion of local judicial remedies before recourse to international arbitration. Recognition of foreign judgments is governed by EU legislation, international agreements or domestic legislation, depending on the country where the judgment was delivered. There have been no retroactive changes to laws in the last five years.

The Charter of Fundamental Rights and Freedoms establishes the right to own property and provides that expropriation or any other mandatory limitation of property rights is permitted in the public interest, based on the law, and after compensation. Court decisions further specify the criteria for expropriation. The Civil Code also contains provisions for the protection of property against expropriation. These provisions apply to both tangible and intangible property. Expropriation in certain cases is dealt with by special laws, such as Act no. 416/2009 "On Acceleration of the Construction of Transport, Water and Energy Infrastructure". BITs signed by the Czech Republic define and protect intellectual property rights as a form of investment. There are currently no restrictions on the transfer of technology.

AREAS FOR IMPROVEMENT

The Government may consider improving current mechanisms providing support for foreign investors operating in the Czech Republic or establishing a new dedicated state agency, such as an investment ombudsman, for addressing the concerns of foreign investors and mediating with the public authorities. An ombudsman or a similar agency could help with the quick resolution of conflicts, and eventually prevent costly and lengthy administrative procedures.

At present, the law stipulates the general rules and conditions for conducting an expropriation. The competent court decides the timeframe for the payment of the compensation. The Expropriation Act may be revised to include specific timeframes within which the expropriation procedure should be completed, and the compensation paid.



Eswatini

Population ¹	1,124,753
Area (km ²) ¹	17,360
GDP per capita (USD) ¹	3,941.90
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

Eswatini’s overall risk level against the assessed areas is **moderate**.

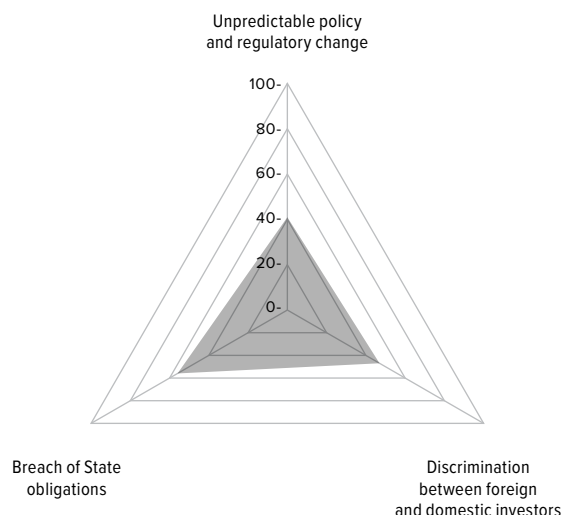
Unpredictable policy and regulatory change remains the lowest risk. It is followed by *discrimination between foreign and domestic investors*, which has increased compared to 2018. *Breach of State obligations* continues to be the highest risk area.

Eswatini has performed moderately on three of the EIRA indicators, and it has a good score on one indicator. It has maintained a score of 76 on *foresight of policy and regulatory change*. The score for *regulatory environment and investment conditions* has gone up by 3 points, and is now at 60. On the other hand, the performance on *management of decision-making processes* has gone down compared to last year and stands at 56. On *rule of law* it has once again scored 44 points.

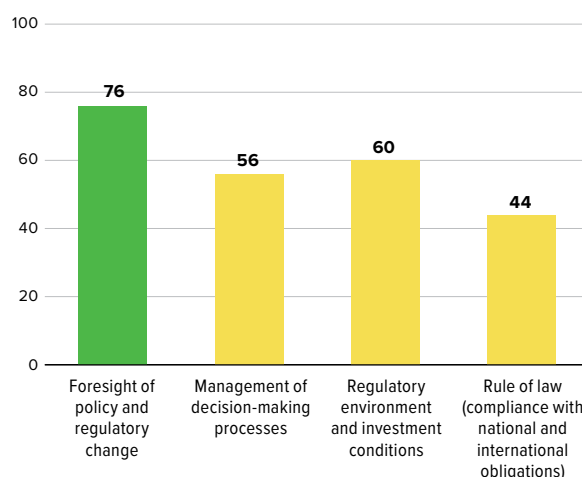
On a more detailed level, Eswatini’s overall sub-indicator performance is moderate. *Communication of vision and policies* continues to be the highest-scoring sub-indicator (78), followed by *robustness of policy goals and commitments* and *institutional governance*, both with 75 points. *Restrictions on FDI* stands at 70, while *management and settlement of investor-State disputes* is at 55. *Regulatory effectiveness* has received a score of 50 after increasing 6 points since last year. The performance on *transparency* has gone down from 44 to 36. *Respect for property rights* continues to be 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 Eswatini’s performance across all indicators and underlying sub-indicators. Particular attention should be given to increasing transparency and reinforcing respect for property rights.

RISK LEVEL



INDICATOR PERFORMANCE

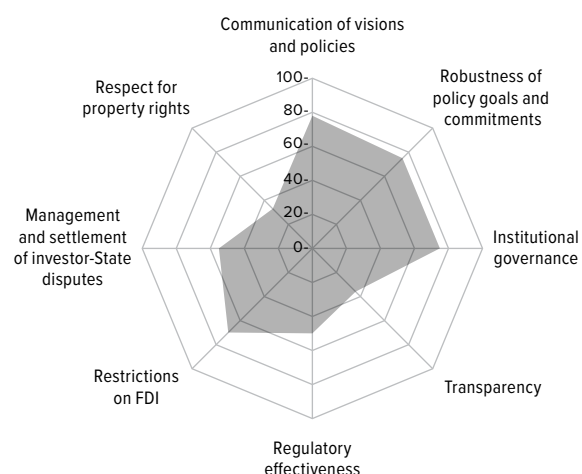


YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019
Unpredictable policy and regulatory change	40	41
Discrimination between foreign and domestic investors	46	47
Breach of State obligations	56	56

INDICATORS	2018	2019
Foresight of policy and regulatory change	76	76
Management of decision-making processes	60	56
Regulatory environment and investment conditions	57	60
Rule of law	44	44

SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

The National Development Strategy (adopted in 1999) addresses the challenges of the energy sector transformation and the overall development of the country.

The updated National Energy Policy 2018 and the National Energy Policy Implementation Strategy 2018 reflect the vision for the energy sector until 2030.

The National Climate Change Policy 2016 provides guidelines for climate change mitigation and adaptation policies.

STRENGTHS

The updated version of the National Energy Policy 2018 builds on the progress already made in terms of security of supply, power reliability and reduction of energy poverty. The Government has been developing mechanisms to fully exploit the country's renewable energy potential and reduce its reliance on imports. In October 2018, the Energy Masterplan 2034 was adopted. It identifies concrete actions for ensuring 50 per cent renewable energy in the electricity mix by 2030. The Plan is based on thorough energy demand and supply assessment. Some of the actions include the deployment of new solar and wind capacity as well as the construction of additional gas power plants. To this end, the Eswatini Electricity Company (EEC) has recently issued a tender for the construction of a 10MW solar park.

The Ministry of Natural Resources and Energy continues to be the principal State authority responsible for evaluating the implementation of the national strategy documents. Initiatives undertaken by the Government, in collaboration with international and regional organisations, involve non-State institutions in the monitoring process. The National Climate Change Committee is charged with the effective coordination of climate change initiatives across sectors.

AREAS FOR IMPROVEMENT

Although the Government has placed emphasis on improving energy efficiency to reduce its reliance on imported electricity, a detailed action plan in this area is needed. In line with the improvement suggested in 2018, the adoption of a cross-sectoral energy efficiency action plan with quantifiable goals will increase the country's capability to realise its priorities.

As acknowledged in the National Energy Policy 2018, the creation of a robust monitoring and evaluation system will assist the Ministry of Natural Resources and Energy to track the progress of its national and international targets and identify any issues in the implementation of its energy policy.

Management of decision-making processes

QUICK FACTS

The Energy Department of the Ministry of Natural Resources and Energy is responsible for the implementation of the national energy policy and the overall management of energy resources in the country.

The Ministry of Commerce, Industry and Trade is responsible for formulating the overall investment policy.

The Eswatini Investment Promotion Authority informs investors about business opportunities and facilitates permits and company registration.

STRENGTHS

The Government has given attention to increasing its institutional capacity and strengthening coordination across ministries. The Inter-Ministerial Committee, comprised of various ministers as well as representatives from the civil society, the private sector and the research community, oversees the implementation of the SE4All Country Action Plan 2014. A designated coordinator within the Ministry of Natural Resources and Energy is tasked with the mobilisation of the required investment and the allocation of resources across the project operations.

The Swazi Legal Information Institute provides free access to national laws, case law from all courts and labour arbitration awards. Electronic copies of national legislation are available on the official ministerial websites and the Government's portal. The Eswatini Energy Regulatory Authority (ESERA) publishes data on electricity tariffs and methodology for their calculation, tenders and licences. Public consultation takes place before the adoption of laws and policies, for instance in the context of the National Energy Policy 2018 and the Energy Masterplan 2034.

AREAS FOR IMPROVEMENT

The Government should take significant measures to ensure greater public access to information and promote the proactive disclosure of information by public authorities. It is recommended that official websites should contain complete and up-to-date data on programmes, outcomes, and procurement procedures. Moreover, the availability of legal information can be streamlined through an online Official Gazette, which is a useful tool for citizens, economic actors, and public authorities. Finally, the currently informal solicitation of stakeholders' input must be institutionalised. A law detailing the process and the timeframes for public consultation would be a step in the right direction.

Regulatory environment and investment conditions

QUICK FACTS

The ESERA was established under the Energy Regulatory Act 2007 to regulate the electricity sector.

The Minerals Management Board (MMB), under the Ministry of Natural Resources and Energy, administers the mining and minerals industry and monitors compliance with the relevant legislation.

The Eswatini Investment Promotion Act 1998 provides for equal treatment of foreign and domestic investors.

STRENGTHS

The ESERA and the MMB have maintained the level of autonomy they enjoyed last year, including the right to collect fees from licensing activities. The ESERA has a dedicated budget and the freedom to implement it. The members of its Board as well as those of the MMB have a limited tenure and are eligible for reappointment once. The ESERA cooperates with the Eswatini Competition Commission, an independent statutory body, to curb monopolistic behaviour in the regulated sectors.

The legal framework of Eswatini remains open to foreign investment. As part of the Common Market for Eastern and Southern Africa and the Southern African Development Community (SADC), Eswatini extends *national treatment* to investors from other States party to these agreements. Investment in the energy sector is prioritised. Independent power producers (IPPs) already operate in the generation of electricity, and the Government proactively seeks to increase private entities' participation. There have been no recent changes to the free currency convertibility and the movement of capital regime.

AREAS FOR IMPROVEMENT

In line with last year's suggested area of improvement, MMB and ESERA's functional and financial independence should be reinforced. Their budget should be subject to thorough audit and oversight by external bodies. Also, a better delineation of responsibilities between the ESERA and the EEC in the area of procurement will help attract IPPs in projects other than cogeneration and small-scale renewable energy undertakings.

The Government has been trying to put in place an effective incentive scheme to encourage foreign investment, including the enactment of a Special Economic Zones Act in 2018. Nevertheless, restrictions on land tenure and complexities in the registration of foreign business as national are liable to hinder, deter or make investment less attractive.

Rule of law

QUICK FACTS

Eswatini ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States in 1971.

Eswatini is not a signatory to the New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitral Awards.

The right to property is guaranteed under the Constitution Act 2005.

STRENGTHS

Recourse to international arbitration continues to be an avenue open to foreign investors under domestic laws. Complaints against administrative decisions regarding the electricity sector can be heard by the Electricity Disputes Tribunal, whereas disputes between the holder of mineral rights and the Government may be referred to the Commissioner under the Mines and Mineral Act 2011. Eswatini has adopted the SADC Model BIT, which contemplates mediation as an amicable and neutral mechanism for dispute resolution. No retroactive changes affecting foreign investors were made in the past year.

The laws prohibit expropriation or nationalisation except where necessary, conducted pursuant to a court order and upon payment of fair and adequate compensation. Protection of intellectual property rights has been reinforced with the enactment of the Intellectual Property Tribunal Act 2018. The Patent Act 2018 repeals and replaces the Patent and Design Act 1997 and the Patent, Designs and Trade Marks Act 1936. Despite the lack of specific legislation providing for enforcement of awards under international conventions, national courts have effectively enforced court decisions and international arbitration awards in the past. Currently, there are no restrictions on the transfer of technology.

AREAS FOR IMPROVEMENT

Steps have been taken to modernise aspects of the legal regime that are relevant to foreign investors. Nevertheless, important pieces of legislation such as the Arbitration Act 1904 and the Trade Marks Act 1981 remain outdated. In line with last year's suggested improvement, the Government should consider revising these legislation and supplementing them with the necessary regulations for their implementation.

As mentioned in EIRA 2018, the introduction of a criteria for what constitutes "public interest" as grounds for expropriation will help eliminate any perception of arbitrariness in cases of deprivation of private property.



The Gambia

Population ¹	2,213,894
Area (km ²) ¹	11,300
GDP per capita (USD) ¹	672.78
TPES (Mtoe) ²	N/A
Energy intensity (toe/10 ³ 2010 USD) ²	N/A
CO ₂ emissions - energy (MtCO ₂) ³	0.60

Sources:

1. The World Bank 2017
2. ©IEA 2018, www.iea.org/statistics
3. US Energy Administration (2016) www.eia.org

The Gambia’s overall risk level against the assessed areas is **moderate**.

The three EIRA risk areas remain unchanged from last year. *Discrimination between foreign and domestic investors* and *breach of State obligations* continue to be lower compared to *unpredictable policy and regulatory change*.

The Gambia has a good performance on one EIRA indicator. It has a moderate score on two others, and a low score on one indicator. It has maintained a good score of 68 on *regulatory environment and investment conditions*. On *rule of law and management of decision-making processes* it has again scored 57 and 50, respectively. *Foresight of policy and regulatory change* is at 33 points.

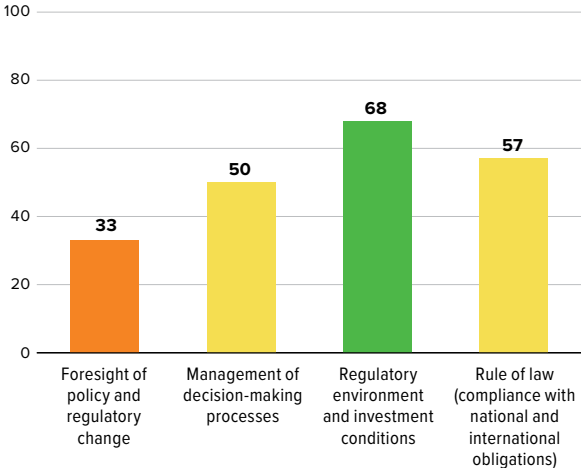
On a more detailed level, The Gambia’s overall sub-indicator performance is moderate. The highest-scoring sub-indicators continue to be *restrictions on FDI* with 75 points and *management and settlement of investor-State disputes* with 73 points. On *regulatory effectiveness* (61), *institutional governance* (53) and *transparency* (47) it has retained last year’s score. They are followed by *respect for property rights* at 42 and *communication of vision and policies* at 41. *Robustness of policy goals and commitments* remains the lowest-scoring sub-indicator with 25 points.

While there are some policies and measures in place, more concrete steps must be taken to strengthen The Gambia’s performance across all indicators and underlying sub-indicators. Particular attention should be given to increasing the robustness of the country’s policy goals and commitments.

RISK LEVEL



INDICATOR PERFORMANCE

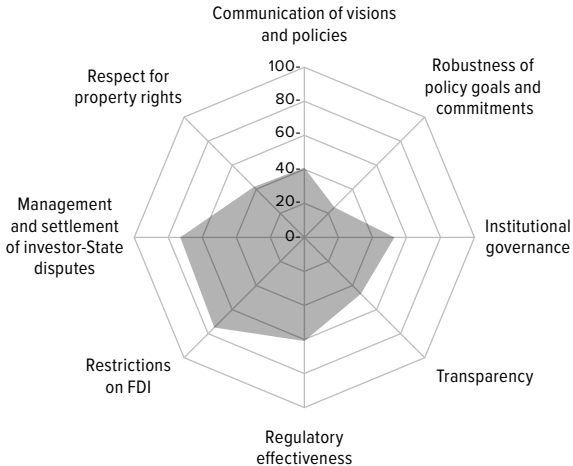


YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019
Unpredictable policy and regulatory change	53	53
Discrimination between foreign and domestic investors	42	42
Breach of State obligations	43	43

INDICATORS	2018	2019
Foresight of policy and regulatory change	33	33
Management of decision-making processes	50	50
Regulatory environment and investment conditions	68	68
Rule of law	57	57

SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

The principal energy strategy document for The Gambia is the National Energy Policy Strategy and Action Plan 2015-2020.

The Gambia's National Development Plan sets the country's medium-term development strategy and investment programme for the period 2018-2021.

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

STRENGTHS

Over the past year, The Gambia has increased its efforts to improve electricity access for its population, which has been one of the primary goals for the country. A significant step taken was the commencement of a solar energy and transmission project supported by the European Investment Bank which is expected to increase energy supply in The Gambia by one fifth and provide energy for the next twenty years. At the same time, the project supports the country's commitments to increase renewable energy and decrease its carbon footprint. In addition, the Ministry of Petroleum and Energy participated in a power purchase agreement for supply through a floating power plant. This agreement will ensure 33 per cent of the power demand in The Gambia over the coming two years and will enhance energy security.

The Ministry of Petroleum and Energy is responsible for monitoring the implementation of energy priorities with the support of its technical division. The Public Utilities Regulatory Authority (PURA), which also has monitoring functions, has included in its latest annual report a review on the energy market development and details about its sub-sectors. A report on the implementation of the renewable energy targets prepared by the Ministry of Petroleum and Energy is submitted annually to the Cabinet in accordance with the Renewable Energy Act 2013.

AREAS FOR IMPROVEMENT

As mentioned last year, the country's targets have been set for a narrow timeframe. A long-term energy policy could pave the way towards the future and help keep the energy goals of The Gambia updated. The policy must provide clear direction and specify baselines, quantify what has to be achieved, and lay down a detailed timeline for the implementation of the suggested measures.

Ex ante and ex post evaluations need to be carried out for policies and measures. To ensure the effectiveness of a policy, its impact, cost and benefit should be carefully assessed on the basis of systematically collected data. Subsequently, review mechanisms must be used to determine whether the measures introduced are most appropriate for meeting the objectives.

Management of decision-making processes

QUICK FACTS

The Parliament of The Gambia comprises a unicameral legislature (National Assembly).

The Ministry of Petroleum and Energy frames the energy policies.

The Ministry of Trade, Industry, Regional Integration and Employment frames and implements the investment policies.

The Gambia Investment and Export Promotion Agency (GIEPA), established in 2010, is responsible for the promotion and facilitation of private sector investment and acts as the investors' first point of contact.

The Constitution of the Republic of The Gambia 1997 sets out the principles for good governance.

STRENGTHS

During the assessment year, the Government took measures aimed at strengthening its investment regime. To this end, in 2018 a review of the GIEPA Act 2015 was put in motion. Inter-ministerial cooperation has played a key role in cross-sectoral issues. According to the Constitution, proposed laws must be published in the Official Gazette at least fourteen days before they are submitted for consideration to the National Assembly.

The Government is committed to reinforcing the accountability of public institutions. To promote transparency, a new draft anti-corruption bill has been finalised and will soon be submitted to the Cabinet for final review and approval. Moreover, the accounts of governmental offices and authorities, the courts, the National Assembly and all enterprises are audited at least once every year by the National Audit Office.

AREAS FOR IMPROVEMENT

A law on access to information would strengthen the country's efforts towards openness in its decision-making process and promote legal certainty. To guarantee the effective dissemination of regulatory information, the legal documents should be made available on the internet, for example through an online portal of the Official Gazette or by making the publication of laws on governmental websites obligatory.

Public participation in the decision-making process needs to be encouraged. The Competitiveness Improvement Forum and working groups that are foreseen under the GIEPA Act 2015 should be created. These bodies will provide a channel for dialogue between the Government and investors in priority sectors, such as energy. To further increase the stability and predictability of the decision-making process, the country should establish standardised procedures for consultation between public entities and stakeholders.

Regulatory environment and investment conditions

QUICK FACTS

PURA regulates, among other sectors, the electricity and downstream petroleum sub-sectors.

The regulatory functions of the Ministry of Petroleum and Energy are clearly defined in the Petroleum (Exploration, Development and Production) Act 2004.

The GIEPA Act covers the establishment, treatment and promotion of investment.

STRENGTHS

PURA continues to act independently and impartially in the performance of its functions. In 2018, it published an Annual Report and its Financial Statement, which includes details on its activities and information about budgetary allocations for the previous year. In its capacity as the regulator for downstream petroleum activities, PURA has been consulting public and private stakeholders on new regulatory actions and the pricing of petroleum products.

The investment climate of The Gambia continues to be liberal. Foreign and domestic investors enjoy non-discriminatory treatment under the national laws. All BITs provide for fair and equitable treatment. No restrictions on investment in the energy sector have been introduced in relation to the ownership of energy projects and the transfer of funds abroad.

AREAS FOR IMPROVEMENT

PURA currently regulates multiple activities across sectors, which creates constraints in its capacity to perform functions effectively. Since the responsibilities of PURA have only increased with time, there is a risk that its high workload may result in the unbalanced development of different sectors. For instance, PURA's regulatory activities over the past year were mostly focused on the telecommunications sector. In light of this, the Government should increase PURA's institutional capacity and streamline its operations so that it can meet the objectives set for all the regulated sectors.

Efforts should be made to ease access to land. Although the Government has taken steps in this regard, it is necessary that registry mechanisms and comprehensive records are created to provide certainty on land titles.

Under the GIEPA Act, the Government can declare certain areas closed to foreign investors or make them subject to local partnership. The Government may also reserve the right to own some or the majority of shares in strategic industries, such as mining, and petroleum exploration and refining activities. To address these concerns, the possibility of intervention in the status of investments must be minimised. Also, the law should contain clear conditions under which the Government may exercise discretion.

Rule of law

QUICK FACTS

The Gambia ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States in 1975.

The Gambia became a member of the WTO in 1996.

The conditions for the expropriation of property are stipulated in the Constitution.

STRENGTHS

Disputes between investors and the State can be settled through international arbitration, as stipulated in the GIEPA Act. Enforcement of foreign arbitral awards can be sought under the provisions of the Alternative Dispute Resolution Act 2005. While The Gambia is not a State party to the New York Convention, it has fully transposed its provisions and these are applicable for differences arising out of a contract. The Foreign Judgment (Reciprocal Enforcement) Act 1922 provides for the enforcement of judgments on a reciprocal basis. No retroactive changes affecting foreign investors were made in the past year.

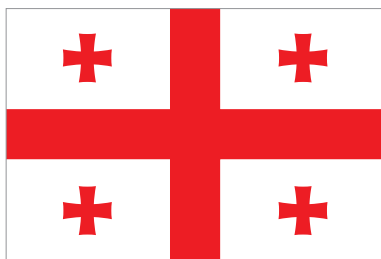
The Constitution protects private property rights and provides guarantees against acts of expropriation undertaken for public interest, such as the prompt payment of adequate compensation. The compensation must be determined by the court or another impartial and independent authority. Additional protection against the expropriation of investments is envisaged in the GIEPA Act. Industrial and intellectual property rights are guaranteed under the BITs in force. Transfer of technology is generally promoted.

AREAS FOR IMPROVEMENT

Currently, there is no specific timeframe prescribed in the law for the delivery of judgments. The Government should consider introducing provisions for effective case management and for setting definitive timelines that will ensure the pronouncement of court judgments without delay.

An independent and impartial body, like an investment ombudsman, should be established to deal with the grievances of foreign investors against the public authorities. The existence of such a mechanism can reduce the risk of maladministration and thus reinforce the confidence of investors.

A law on expropriation of property should be enacted to regulate the process for determining compensation and the timeframe for its payment. The law may also provide a definition of "public interest". Alternatively, a list of core activities that constitute public interest can be included in the GIEPA Act. A detailed mechanism for the determination of public interest and the compensation to be paid will ensure the legitimacy of the decisions to expropriate.



Georgia

Population ¹	3,728,004
Area (km ²) ¹	69,700
GDP per capita (USD) ¹	4,045.42
TPES (Mtoe) ²	4.79
Energy intensity (toe/10 ³ 2010 USD) ²	0.32
CO ₂ emissions - energy (MtCO ₂) ²	8.80

Sources:

1. The World Bank 2017

2. ©IEA 2018, www.iea.org/statistics

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

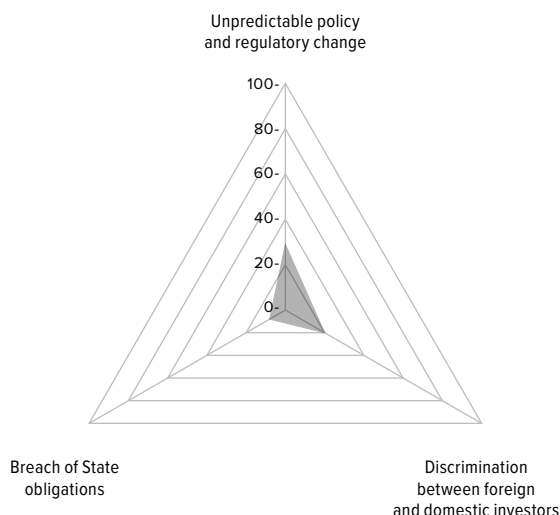
Among the three EIRA risk areas, *breach of State obligations* remains lower compared to *discrimination between foreign and domestic investors* and *unpredictable policy and regulatory change*.

Georgia has a very good performance on one EIRA indicator. It has a good performance on two others, and a moderate performance on one indicator. The indicators *rule of law* and *regulatory environment and investment conditions* are at 92 and 77 points, like in 2018. *Management of decision-making processes* improved by 6 points, and now stands at 71. The indicator score for *foresight of policy and regulatory change* is still moderate, though it went up by 4 points to a score of 50.

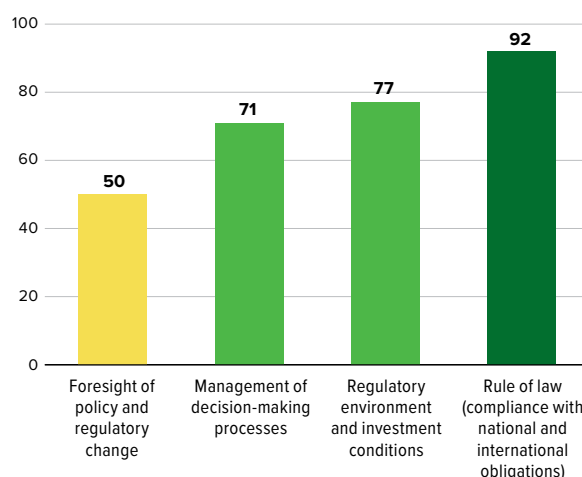
On a more detailed level, Georgia’s overall sub-indicator performance remains good. The highest-scoring sub-indicators are *management and settlement of investor-State disputes* and *restrictions on FDI*, at 100 and 90 points. The performance on the sub-indicator *respect for property rights* is very good, with a score of 83, like in 2018. *Transparency* and *regulatory effectiveness* also kept their scores of 73 and 64 points respectively. The sub-indicator *institutional governance* went up by 13 points, now standing at 69. The score of *communication of vision and policies* increased by 3 points to 59. The performance on *robustness of policy goals and commitments* went up by 7 points but remains the lowest, with 42 points.

Georgia provides attractive conditions for investors and is working in the right direction. Attention should be given to increasing the robustness of its policy goals and commitments.

RISK LEVEL



INDICATOR PERFORMANCE

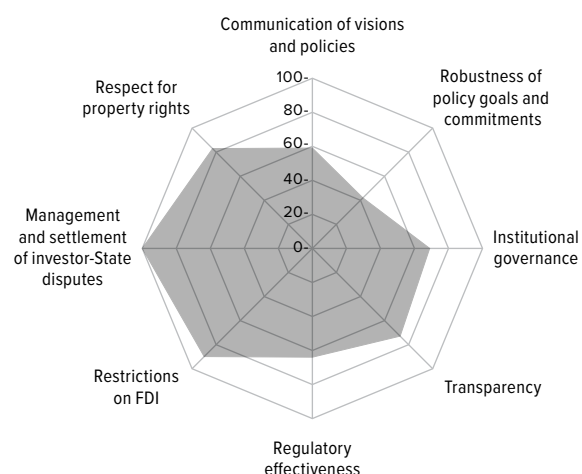


YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019
Unpredictable policy and regulatory change	32	29
Discrimination between foreign and domestic investors	22	20
Breach of State obligations	8	8

INDICATORS	2018	2019
Foresight of policy and regulatory change	46	50
Management of decision-making processes	65	71
Regulatory environment and investment conditions	77	77
Rule of law	92	92

SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

The key energy strategy documents for Georgia are the EU-Georgia Association Agenda 2017-2020, the Social-economic Development Strategy 2020 (adopted in 2014) and the Main Directions of the State Policy in Energy Sector, adopted by Parliament in 2015.

The Law on Electricity and Natural Gas 1997 and the Law on Oil and Gas 1999, set out the structure and basic responsibilities for the energy sector.

Later in 2019, the country intends to adopt a number of new laws and policies, including common rules for the electricity and gas markets.

Georgia approved the Paris Agreement in 2017.

STRENGTHS

Georgia's primary focus is on implementing the EU *energy acquis*, following the EU-Georgia Association Agreement, and its membership of the EU Energy Community. Over the past years, the power sector of Georgia has undergone significant regulatory and market reform. While this has helped improve the quality of power services and promoted privatisation, there is a need for further deregulation. In December 2018, the Ministry of Economy and Sustainable Development approved the Concept Design for the Georgian Electricity Market, which outlines the structure, organisation and operation of the electricity market. Additionally, it describes the implementation activities for establishing a competitive electricity market by 2022. In line with this Concept Design, in May 2019, Georgia opened competition in the electricity market for industrial users.

The Social-economic Development Strategy 2020 requires the Government to monitor and report annually on its implementation. Moreover, the implementation of the EU-Georgia Association Agenda 2017-2020 is subject to annual monitoring and reporting. The state of compliance, including up-to-date statistical indicators on energy efficiency and renewable energy, are available on the website of the Energy Community.

AREAS FOR IMPROVEMENT

While the approval of the Concept Design for the Georgian Electricity Market contributes to long-term security of the electricity system, the energy priorities beyond 2020 are still unclear due to the absence of a policy for the next decade. The Government should pursue its efforts to finalise the Strategy for the Development of the Georgian Energy Sector. Moreover, it should expedite efforts to adopt the new draft Law on Energy and Water Supply. In a similar vein, the Government should provide clarity on its renewable energy and energy efficiency targets and accompanying measures. Finally, given the various changes anticipated in the near future, particular attention should be paid to ensuring policy coherence and predictability in the energy market.

Management of decision-making processes

QUICK FACTS

The Ministry of Economy and Sustainable Development is responsible for framing and implementing the country's energy and investment policies.

The Ministry of Environment Protection and Agriculture is in charge of implementing and monitoring the country's NDC.

Enterprise Georgia was established in 2017, under the Ministry of Economy and Sustainable Development, as a single window for enquiries on investment. It is entitled to represent investors before administrative bodies and to assist them in obtaining necessary licences and permits.

The General Administrative Code 1999 arranges access to public information.

STRENGTHS

In 2018, the integration of the Ministry of Energy in the Ministry of Economy and Sustainable Development was completed. This move has brought policy-making for energy and investment under one roof and is expected to increase the effectiveness of the country's economic policy as well as reduce administrative expenses for investors. In the last year, a number of positive policy and legislative decisions were taken. The Government intends to keep up the momentum and adopt a new Law on Energy and Water Supply this year (based on EU Directives concerning common rules for the electricity and gas markets, access to energy infrastructure and security of supply). It also aims at launching a Strategy for the Development of the Georgian Energy Sector, Laws on Energy Efficiency and Renewable Energy to comply with the EU energy targets, its First National Energy Efficiency Action Plan (NEEAP) 2019-2021 and a National Renewable Energy Action Plan.

The right to public information is prescribed in the General Administrative Code. Only State or commercial secrets and personal data are exempt from disclosure. Legal and regulatory information is made public through the Legislative Herald of Georgia, which operates as a separate entity within the Ministry of Justice. The translation centre of the Legislative Herald provides professional translation of legislative Acts in accordance with EU standards.

AREAS FOR IMPROVEMENT

As was advised in 2018, a one-stop shop dedicated to the energy sector should be set up. Its mandate may include granting easy access to the regulatory bodies responsible for licensing.

Although Georgia established an Investors Council in 2015 to promote dialogue, and in practice stakeholder consultation often takes place during the legislative process, there is no legal requirement for consultation. It is advisable that a requirement be enshrined in law for the consultation of draft laws and policies between the Government and stakeholders.

Regulatory environment and investment conditions

QUICK FACTS

The Georgian National Energy and Water Supply Regulatory Commission (GNERC) regulates the electricity and gas sub-sectors. The State Agency for Oil and Gas (SAOG), under the Ministry for Economy and Sustainable Development, is responsible for licensing and State participation in hydrocarbons.

The Competition Agency is responsible for the enforcement of competition law in Georgia. For the regulated oil and gas sub-sectors, it cooperates with the GNERC on overseeing competition issues.

The Law on Promotion and Guarantees of Investment Activity 1996 governs the establishment and promotion of investments.

STRENGTHS

The GNERC is an independent body. Through the Concept Design for the Georgian Electricity Market, the responsibilities of the GNERC have been aligned with EU Directive 2009/72. It is entitled to issue licences for activities of power generation, dispatch, transmission and distribution, and of transportation and distribution of natural gas. Furthermore, it may determine and adopt operational rules for Universal Retail Suppliers. It is also empowered to enforce payment and tariff obligations. The Competition Agency is obliged to provide GNERC with any complaints it may receive regarding distortion of competition in the energy or water supply sectors.

Georgia has a favourable climate to FDI in the energy sector. The Georgian Tax Code of 2017 is quite liberal with only six flat low-rate taxes. Some changes are expected to the Code in 2019, including profit-based taxation and cancellation of VAT on imported fixed assets. This is intended to further enhance the investment climate of the country. The law grants equal treatment to domestic and foreign investors. There is no notification or screening requirement for investments in the energy sector nor are there legal requirements on local content.

AREAS FOR IMPROVEMENT

To improve transparency the selection procedure of the GNERC's board members should be publically announced. There must be a clear provision in the law, which stipulates that the appointment is restricted to a one-time renewal.

Agricultural land, as a resource of special importance, may only be owned by specified Georgian entities or citizens. The new organic law, which shall regulate the exceptions to this restriction, has not been adopted yet. The Government is advised to provide clarity on the matter to reduce uncertainty for investors and landowners alike.

Rule of law

QUICK FACTS

Georgia ratified the Energy Charter Treaty in 1995.

Georgia ratified the Protocol concerning the Accession of Georgia to the Treaty Establishing the Energy Community in 2017.

Georgia is party to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States since 1992.

Provisions against unlawful expropriation are included in the Law on the Procedure for Expropriation of Property upon the Urgent Necessity of Ensuring Public Needs 1997 and the Law on the Procedure for the Expropriation of Property for Pressing Social Needs 1999.

STRENGTHS

The Law on Arbitration 2009 and the Civil Procedure Code 1997 regulate arbitration in Georgia. The Law on Promotion and Guarantees of Investment Activity 1997 states that disputes between foreign investors and the State must be resolved in Georgian courts unless provided otherwise in an agreement between the parties or by international agreements to which Georgia is a party. The Law on Private International Law 1998 allows the recognition and enforcement of foreign judgments. In the last year, no retroactive legislative changes were introduced to the detriment of foreign energy investors.

Restriction or revocation of property rights is only allowed in case of urgent public necessity, and upon payment of preliminary, full and fair compensation. The grounds for expropriation are limited to specific situations, such as for the development of public infrastructure or to ensure the safety of the State. Georgia joined the World Intellectual Property Organization in 1991, thereby guaranteeing the intellectual property rights of investors. Moreover, the Constitution of Georgia affirms the inviolability of intellectual property.

AREAS FOR IMPROVEMENT

Even though the national law states that compensation in the case of expropriation must be paid in advance, the Government should consider establishing a clear timeframe for the compensation to be paid. Meanwhile, investors have a right to review an expropriation in local court, through which compensation procedures could be expedited.



Greece

Population ¹	10,754,679
Area (km ²) ¹	131,960
GDP per capita (USD) ¹	18,883.46
TPES (Mtoe) ²	22.67
Energy intensity (toe/10 ³ 2010 USD) ²	0.09
CO ₂ emissions - energy (MtCO ₂) ²	63.10

Sources:

1. The World Bank 2017

2. ©IEA 2018, www.iea.org/statistics

Greece’s overall risk level against the assessed areas is **very low**.

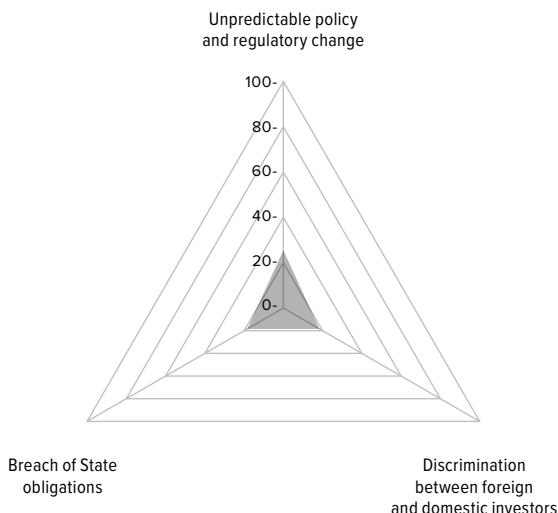
The risks *discrimination between foreign and domestic investors* and *breach of State obligations* are the lowest after their level has dropped compared to 2018. The level of *unpredictable policy and regulatory change* has gone down but it is again the highest risk area.

Greece has a very good performance on two indicators, and a good performance on two. It has maintained a score of 90 on *regulatory environment and investment conditions*. The performance on *rule of law* has improved by 5 points and stands at 82. On *management of decision-making processes* it has scored 75 as in last year’s assessment. The score for *foresight of policy and regulatory change* has increased from 54 to 69 points.

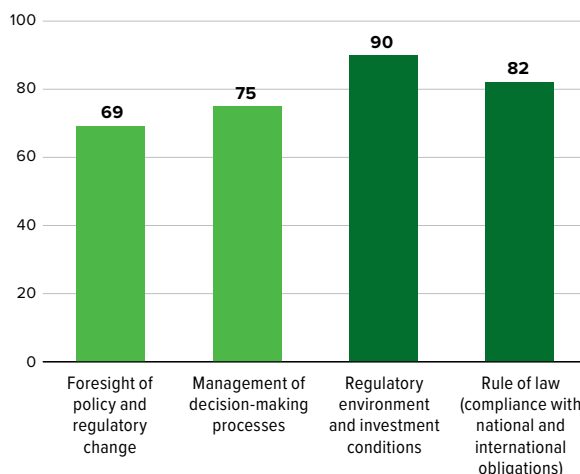
On a more detailed level, Greece’s overall sub-indicator performance is good. The highest-scoring sub-indicator continues to be *regulatory effectiveness* with 94 points. It is followed by *restrictions on FDI* at 85 and *respect for property rights* at 83. The score for *management and settlement of investor-State disputes* has increased and is now at 80. *Robustness of policy goals and commitments, institutional governance and transparency* received 75 points each, for a second year. Performance on *communication of vision and policies* has significantly improved from 32 to 63 points.

Greece provides attractive conditions for investors and is working in the right direction. Attention should be given to better communicating the country’s policies to investors.

RISK LEVEL



INDICATOR PERFORMANCE

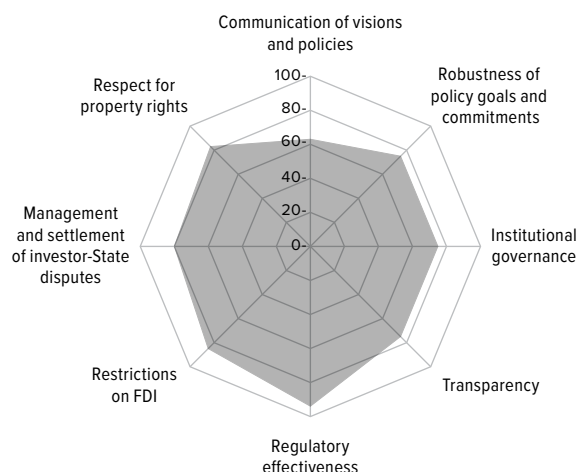


YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019
Unpredictable policy and regulatory change	31	25
Discrimination between foreign and domestic investors	19	18
Breach of State obligations	23	18

INDICATORS	2018	2019
Foresight of policy and regulatory change	54	69
Management of decision-making processes	75	75
Regulatory environment and investment conditions	90	90
Rule of law	77	82

SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

The National Renewable Energy Action Plan, adopted in 2010, and Law no. 3851/2010 are the main strategy documents for promoting the development of renewable energy sources.

In January 2019, Greece finalised the National Energy and Climate Plan 2030.

The National Energy Efficiency Action Plan for the implementation of national energy efficiency improvement targets was adopted in 2017.

As an EU Member State, Greece ratified the Paris Agreement in 2016.

STRENGTHS

The National Energy and Climate Plan 2030 sets targets for three priorities, namely, increasing the share of renewables in energy consumption, reducing GHG emissions, and achieving energy savings in the final consumption. To meet these objectives, the Government enacted Law no. 4602/2019 on Geothermal Energy which supports the framework for the efficient utilisation of the country's geothermal potential. Greece continued to work towards restructuring the energy market. For this purpose, the Ministry and the Hellenic Energy Exchange S.A. took steps to set up the operation of the Day-Ahead Market, the Intraday Market and the Energy Financial Market. The operation of the Markets, scheduled for the end of 2019, will increase transparency and enhance the competitiveness of the wholesale energy market to the benefit of the consumers.

Data on the implementation of the energy targets are regularly collected and analysed. In 2018, the Regulatory Authority for Energy (RAE) submitted to the European Commission the annual National Report on the regulation and performance of the electricity and the natural gas market for the previous year. Statistical data for energy is available on the website of the Ministry of Environment and Energy. Information on GHG emissions and activity data was provided to the UNFCCC in April 2019 through the latest National Inventory Report.

AREAS FOR IMPROVEMENT

In line with last year's suggested improvement, Greece adopted the new action plan to facilitate the implementation of the country's energy objectives. However, the effectiveness of the plan will depend upon, among other things, its effective monitoring. Monitoring and evaluation mechanisms are essential for the achievement of the targets set. Continuous benchmarking and efficient reporting mechanisms can improve the implementation and enforcement of the country's energy policy. Incentives or penalties can also be employed to provide certainty regarding the country's future actions. Additionally, the plan must be periodically reviewed to guarantee progress towards the identified priorities.

Management of decision-making processes

QUICK FACTS

The Ministry of Environment and Energy leads the formulation of energy policies.

The General Secretariat for Investment was established in 2013 as a one-stop investment approval authority for strategic investments.

Enterprise Greece operates as a single window for all enquiries concerning investment policies and applications, under the supervision of the Ministry of Economy and Development.

Greece enacted Law no. 3861/2010 requiring the mandatory online publication of all laws and regulations.

STRENGTHS

The Government is subject to Parliamentary control. In 2018-2019, all submitted questions, interpellations, requests for documents and petitions were made electronically available by the Hellenic Parliament. The Ministry of Environment and Energy exercised the legislative initiative for the energy sector through the submission for discussion of draft bills. Measures were taken for attracting and facilitating the establishment of strategic investments through Enterprise Greece. The agency's website tracked the progress made on projects included in the Fast Track Law no. 3894/2010.

All laws and regulatory decisions adopted during the EIRA assessment year were published in the Official Gazette. In parallel, administrative decisions became effective through their publication on the Diavgeia portal. The decisions of RAE and legislation proposed by the Ministry of Environment and Energy are uploaded on their respective websites. Consultation between the Government and stakeholders played a significant role in 2018. For instance, public deliberation of the new National Energy and Climate Plan was concluded in December 2018. RAE conducted public consultations for the regulations and methodologies regarding the functioning of the Day-Ahead and the Intraday markets.

AREAS FOR IMPROVEMENT

It is important that the country integrates amendments and corrigenda to consolidated texts of legal acts. At present, an amending law may effect changes to multiple laws that are related to different subject matters. This makes it difficult to trace the amendments and users must rely on private legal databases to follow successive changes. Consolidated texts will provide the latest version of the law and facilitate the access of investors to updated and accurate information. To further enhance transparency, investment promotion agencies can make enacted laws and regulations available in English or other foreign languages.

Regulatory environment and investment conditions

QUICK FACTS

RAE regulates the electricity and natural gas sub-sectors and monitors the oil products market.

The Hellenic Hydrocarbon Resources Management SA (HHRM) grants the rights to prospecting, exploration and exploitation of hydrocarbons.

Law no. 2289/1995 on prospecting, exploration and production of hydrocarbons regulates the upstream sector.

STRENGTHS

RAE continues to enjoy financial and functional autonomy. During the past year, RAE announced and successfully carried out competitive procedures for power generation stations from renewable energy sources. Through this, it intends to implement the framework supporting renewables in Greece. Additionally, RAE commenced the development of an energy price comparison tool to ensure a fair and competitive electricity market by facilitating access to objective and neutral information. In February 2019, the regulations for the function of the comparison tool were published for deliberation.

The legislative framework remains liberal and supportive towards foreign investments. As an EU Member State, Greece became a signatory to two new investment promotion agreements, with Japan and Singapore, in 2018. Following last year's recommendation, the State relaxed the capital controls restricting the transfer of funds which have been in place since 2015. From October 2018, the limit on transactions in the course of business activities abroad was raised from EUR 40,000 to EUR 1,000,000 per day, subject to the presentation of the relevant invoices and supporting documents.

AREAS FOR IMPROVEMENT

Following the partial relaxation of the existing capital controls, the country may consider abolishing the measures regarding the transfer of capital abroad. The liberalisation of transactions can promote the flow of foreign funds in the domestic market.

Rule of law

QUICK FACTS

Greece became a Contracting Party to the Energy Charter Treaty in 1997.

The Convention on the Settlement of Investment Disputes between States and Nationals of Other States was ratified by Greece in 1969.

Provisions against the expropriation of immovable property are stated in the Constitution and Law no. 2882/2001 setting out the conditions on expropriation of immovable property.

STRENGTHS

Foreign investors are effectively protected through domestic courts or international arbitration. National laws do not require the exhaustion of local judicial remedies before the initiation of arbitration proceedings. All public decisions of the Supreme Administrative Court and the Administrative Courts of First Instance for the past year have been made available electronically. Greece has established an Investor Ombudsman to assist investors facing difficulties during the licensing procedure and specific bureaucratic obstacles.

The Constitution and the national laws safeguard property rights. Expropriation is permitted only upon the payment of effective compensation, within eighteen months from the publication of the court decision regarding its determination. Intellectual property rights are protected through several laws and BITs to which Greece is a party. The new EU-Japan Economic Partnership Agreement, which came into force in 2019, recognises the importance of intellectual property and includes provisions for its protection. In general, technology transfer is not restricted.

AREAS FOR IMPROVEMENT

Effective case management measures should be adopted to lower the domestic courts' caseload and accelerate judicial proceedings. Alternative dispute resolution mechanisms can be employed, such as encouraging mediation in disputes involving public entities.

Currently, "public interest" is defined on a case-by-case basis within limits prescribed by the Supreme Administrative Court. A general definition of the term may be incorporated in Expropriation Code (Law no. 2882/2001) to clarify its scope and application and to create greater certainty. Additionally, Greece may consider widening the scope of the Expropriation Code, which only applies to real property, to include other types of property.

As mentioned in EIRA 2018, retroactive changes to laws should be avoided to increase investment security.



Jordan

Population ¹	9,779,173
Area (km ²) ¹	89,320
GDP per capita (USD) ¹	4,168.64
TPES (Mtoe) ²	8.98
Energy intensity (toe/10 ³ 2010 USD) ²	0.29
CO ₂ emissions - energy (MtCO ₂) ²	23.90

Sources:

1. The World Bank 2017

2. ©IEA 2018, www.iea.org/statistics

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

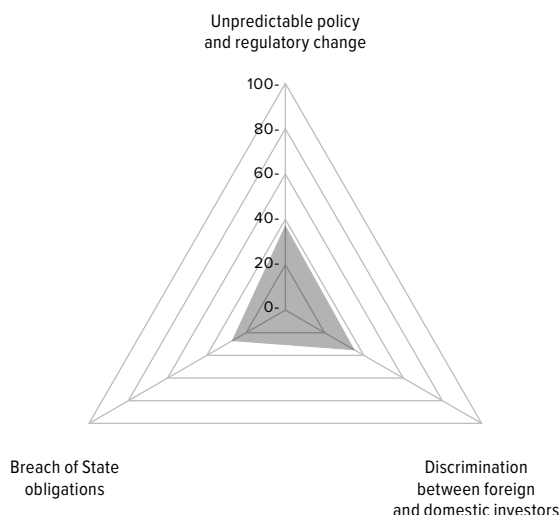
Breach of state obligations is the lowest risk and its level has dropped compared to 2018. It is followed by *discrimination between foreign and domestic investors*, which has also reduced vis-à-vis last year. The level of *unpredictable policy and regulatory change* has gone down but it is again the highest risk area.

Jordan has a good performance on two of the EIRA indicators, and a moderate performance on the remaining two indicators. *Rule of law* has the highest score with 73 points. On *management of decision-making processes*, the score has improved by 3 points and now stands at 67. The country has maintained a moderate score of 56 on *regulatory environment and investment conditions* and 49 on *foresight of policy and regulatory change*.

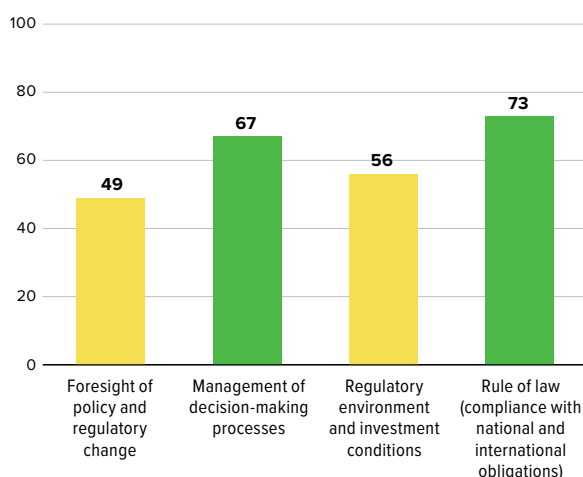
On a more detailed level, Jordan’s overall sub-indicator performance is good. The highest-scoring sub-indicators are again *management and settlement of investor-State disputes* (80) and *institutional governance* (75). Next is *respect for property rights* which has improved from 58 to 67 points. It now has the same score as *regulatory effectiveness* (67). The performance on *transparency* has improved by 5 points and stands at 58. It is followed by *communication of vision and policies* (54) and *restrictions on FDI* (45) which have the same score as last year. *Robustness of policy goals and commitments* continues to be the lowest-scoring indicator with a moderate score of 44.

Jordan provides attractive conditions for investors and is working in the right direction. Attention should be given to increasing the robustness of its policy goals and commitments.

RISK LEVEL



INDICATOR PERFORMANCE

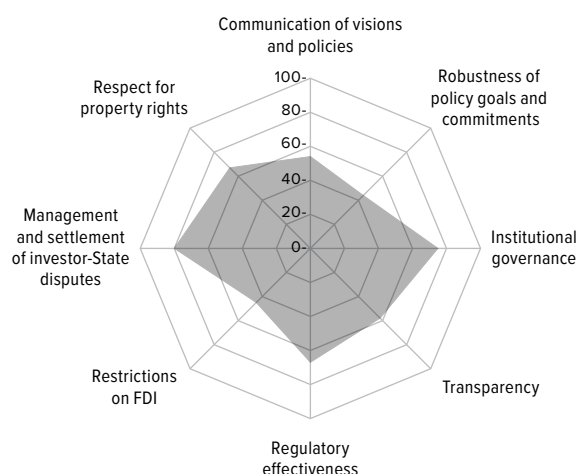


YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019
Unpredictable policy and regulatory change	39	37
Discrimination between foreign and domestic investors	37	35
Breach of State obligations	31	27

INDICATORS	2018	2019
Foresight of policy and regulatory change	49	49
Management of decision-making processes	64	67
Regulatory environment and investment conditions	56	56
Rule of law	69	73

SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

The Updated Master Strategy of Energy Sector in Jordan for the period 2007-2020 and its revised version, the National Energy Strategy 2015-2025, set the priorities for the energy sector's development.

The Government is currently drafting a long-term strategy for the energy sector.

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

STRENGTHS

Measures have been taken to meet the country's key energy priorities, particularly the diversification of resources and the reduction of electricity costs. Various strategic wind and solar projects have commenced operation or are currently in the development phase. Efforts are also underway to increase the share of oil shale in the energy mix of the country. It is anticipated that power generation from oil shale will commence by next year. Moreover, the Greater Amman Municipality has announced plans to make Amman a carbon-neutral city by 2050.

The Ministry of Energy and Mineral Resources (MEMR) continues to ably monitor the overall implementation of the country's energy strategy. Statistics on the progress made, vis-à-vis the performance indicators, are collected by the Department of Statistics and the Energy and Mineral Regulatory Commission (EMRC). Annual reports, as well as data on the energy indicators, were published by the relevant authorities in 2018 and are publicly accessible on the Energy Information System website of the MEMR.

AREAS FOR IMPROVEMENT

As highlighted in EIRA 2018, by setting long-term objectives and targets for the energy sector, the Government and potential investors will have greater visibility and understanding of the country's future needs as well as its development path. A defined and forward-looking plan will also help avoid the risk of abrupt policy adjustments at a later stage. Therefore, the Government should continue its ongoing efforts towards finalising the country's long-term energy strategy.

Given the steady growth and popularity of renewable energy in the country, a clear roadmap is needed for guiding investments in this sub-sector. For this purpose, the Government should expedite the adoption of the Jordan National Renewable Energy Action Plan. Steps should also be taken to manage the transition to new technologies and the resulting trade-offs. Incentive schemes for renewables should be designed bearing in mind future implications as the sector matures. Periodic evaluation of the incentive framework should be undertaken to ensure the industry evolves predictably and progressively.

Management of decision-making processes

QUICK FACTS

The MEMR is responsible for formulating and implementing policies related to all energy sub-sectors.

The Jordan Investment Commission develops the investment policies of the country and provides one-stop shop services.

Law no. 47/2007 on Guarantee of Access to Information establishes the procedure for obtaining information from public authorities.

STRENGTHS

During the EIRA assessment year, proactive steps were taken to adopt legislative bills on the energy sector. For instance, the Natural Resources Bill was signed into law in 2018. Its purpose is to identify high potential areas for exploiting petrol, oil shale, coal and minerals and in turn promote investment in these areas. Moreover, the Government is presently updating and introducing new amendments to the Law on Guarantee of Access to Information. These are intended to improve public sector accountability and bring it in line with international standards.

The Government recently launched the Fourth National Action Plan 2018-2020 Under the Open Government Partnership Initiative. The Plan assesses the progress made until now and sets milestone activities with verifiable deliverables for the coming years. The Legislation and Opinion Bureau website has been updated to reflect all the draft legislation introduced in 2018. Similarly, the online version of the Official Gazette lists and provides copies of the laws adopted and published in the year. Efforts have also been made to increase transparency and efficiency in procurement processes.

AREAS FOR IMPROVEMENT

In line with last year's recommendation, more extensive public discussions should be undertaken for a participatory decision-making process. While consultation took place on some legislative bills during the 2019 EIRA assessment year, this was limited to specific stakeholders. An institutionalised mechanism will give everyone an equal and timely opportunity to provide their input on the draft laws and regulations.

A translation unit within the Legislation and Opinion Bureau should be established. In 2018, significant laws affecting energy investors were adopted, but the official copies were available only in Arabic. Translations of documents in foreign languages will assist in providing accurate information to non-Jordanian investors about the legal and regulatory framework of the country as well as guide them on how to conduct business locally. It is also important to highlight that while all the draft laws and regulations are publicly available, the online resources are down at times and may be difficult to access.

Regulatory environment and investment conditions

QUICK FACTS

The EMRC is the national regulator for all the energy sub-sectors, except natural gas which is under the MEMR.

Law no. 30/2014 on Investment and relevant bylaws set out the conditions for local and foreign investments.

Bylaw no. 77 of 2016 for Regulating Non-Jordanian Investments lists the economic activities that non-Jordanian investors are allowed to undertake. It also identifies the activities in which their participation is prohibited. The Bylaw was amended in May 2019.

STRENGTHS

The EMRC continues to exercise a degree of independence in its operations. Some tariff-related decisions, as well as its annual report for the previous year, are available on its website. In 2018, the Petroleum Derivatives Law was enacted to clarify the roles of the EMRC and the MEMR in petroleum derivatives activities. The law sets out the operations for which approval must be obtained from the EMRC. It provides energy investors clearer guidelines on the requirements for obtaining licences and permits to undertake the relevant activities.

Jordan continues to accord a favourable investment climate to foreign energy investors. Measures were taken to strengthen the rights of shareholders in corporate decisions and to guarantee them adequate protection under the current legal regime. Processes related to taxation, procurement, and access to courts have been made electronic to facilitate the ease of doing business in Jordan.

AREAS FOR IMPROVEMENT

The budgetary autonomy of the EMRC should be guaranteed. For instance, it should be granted the freedom and discretion to utilise any yearly surplus realised from its activities. Moreover, the EMRC should have the exclusive right to prepare its annual budget without the possibility of modifications by the Government. At present, the proposed budget is submitted to the Ministry of Finance for review and amendment before being presented to the Parliament.

The Government may consider easing some of the existing restrictions on FDI. This is particularly relevant to domestic content requirements, which are applied on a case-by-case basis rather than under a defined legal framework. Without a clear strategy or goal, such interventions may create a mismatch between the supply and final demand. They may also lead to distortion of competition or other economic factors. It is, therefore, important to ensure that content targets are realistic, progressive and achievable. They should be based on a clear policy objective that is developed in cohesion with the broader vision of the country. In addition to re-evaluating the local content regime, the Government may also consider setting a fast-track process for investment screening by the Companies Control Department of the Ministry of Industry and Trade.

Rule of law

QUICK FACTS

The Energy Charter Treaty entered into force for Jordan on 11 December 2018.

Jordan ratified the Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 1979.

The Constitution of Jordan grants protection against the expropriation of property.

In 2016 the Government replaced the Ombudsman Bureau and the Anti-Corruption Commission with the Integrity and Anti-corruption Commission.

STRENGTHS

Measures have been taken to implement judicial reforms. An online system has been introduced for users to pay court fees electronically. Amicable dispute resolution, including mediation, is encouraged by the Government. There have been no retroactive changes to laws in the last five years. The domestic courts enforce foreign judgments except for reasons stated in the law. Foreign investors are granted the right to third-party arbitration within the country or abroad under the Law no. 31/2001 on Arbitration.

Jordan continues to uphold the property rights of investors. The accession of Jordan to the Energy Charter Treaty is a significant development. It reinforces the Government's commitment towards attracting energy investments and fortifying protection to investors. There have been no incidents of contractual breach or renegotiation to the detriment of energy investors. Commendably, the Government continues its approach of reaching an amicable settlement with investors and not escalating disputes. BITs signed by Jordan define "investment" to include intellectual ownership. The expropriation clauses in these BITs do not contain any carve-outs restricting protection to intellectual property.

AREAS FOR IMPROVEMENT

As mentioned in EIRA 2018, the mandate of the Integrity and Anti-corruption Commission is quite broad. Therefore, in line with best practices, the establishment of a dedicated foreign investment ombudsman may be considered. The ombudsman could deal with deadlocks on matters of taxation, customs, labour, construction, licensing and land. It may also be given mediation functions to facilitate time- and cost-effective settlement of disputes.

While there are legal provisions in place guaranteeing protection against expropriation, these can be developed further. For instance, more clarity can be given on what activities may be considered of "public interest" in case of compulsory acquisition of property. Moreover, the domestic law could include a timeline for effecting compensation and an explanation for the intended use of the acquired property. For clarity, it may be explicitly mentioned that any act of expropriation will be non-discriminatory.



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**.

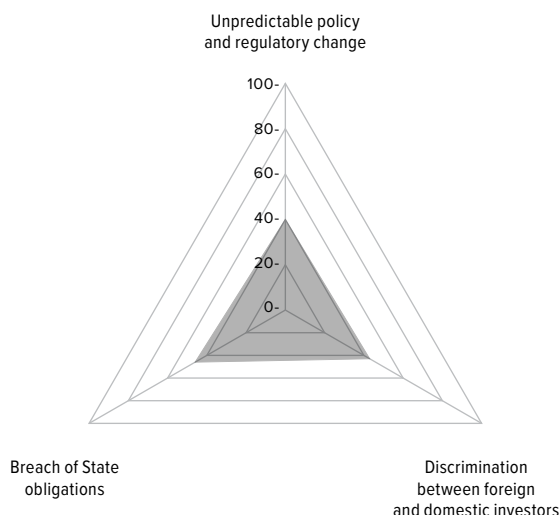
Among the three risk areas, *unpredictable policy and regulatory change* remains lower compared to *discrimination between foreign and domestic investors* and *breach of State obligations*.

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.

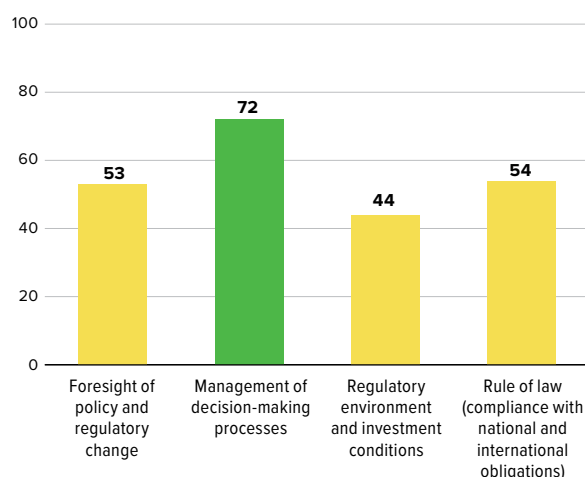
On a more detailed level, Kazakhstan’s overall sub-indicator performance is moderate. The highest-scoring sub-indicator is *transparency* with 81 points followed by *management and settlement of investor-State disputes* with 75 points. On *institutional governance* it now has a score of 63, same as on *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

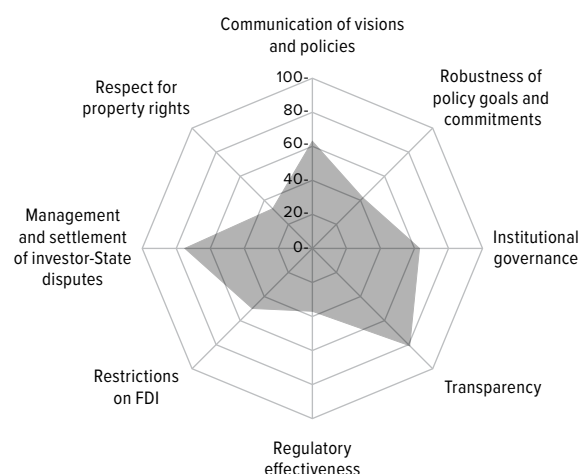


YEAR-ON-YEAR COMPARISON

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.



Kenya

Population ¹	50,221,473
Area (km ²) ¹	580,370
GDP per capita (USD) ¹	1,568.20
TPES (Mtoe) ²	25.99
Energy intensity (toe/10 ³ 2010 USD) ²	0.47
CO ₂ emissions - energy (MtCO ₂) ²	15.70

Sources:

1. The World Bank 2017

2. ©IEA 2018, www.iea.org/statistics

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

Discrimination between foreign and domestic investors as well as *unpredictable policy and regulatory change* continue to be the lower risk areas. The level of risk for both reduced vis-à-vis last year, and they are now on the same plane. *Breach of State obligations* remains the highest risk area.

Kenya has a good performance on two of the EIRA indicators, and a moderate performance on the remaining indicators. It has once again received a score of 78 on *management of decision-making processes* and 63 on *rule of law*. On *regulatory environment and investment conditions*, the score has increased by 2 points and now stands at 60. The indicator *foresight of policy and regulatory change* has improved the most, from 53 to 58 points.

On a more detailed level, Kenya's overall sub-indicator performance is good. *Management and settlement of investor-State disputes* remains the highest-scoring sub-indicator with 85 points. On *transparency* (81), *institutional governance* (75) and *communication of vision and policies* (67), the score is the same as last year. Though the score on *restrictions on FDI* has gone down from 65 to 60, the country's performance on *regulatory effectiveness* has improved by 9 points (from 50 to 59) and on *robustness of policy goals and commitments* by 10 points (from 40 to 50). This year, the lowest-scoring sub-indicator is *respect for property rights* with a score of 42.

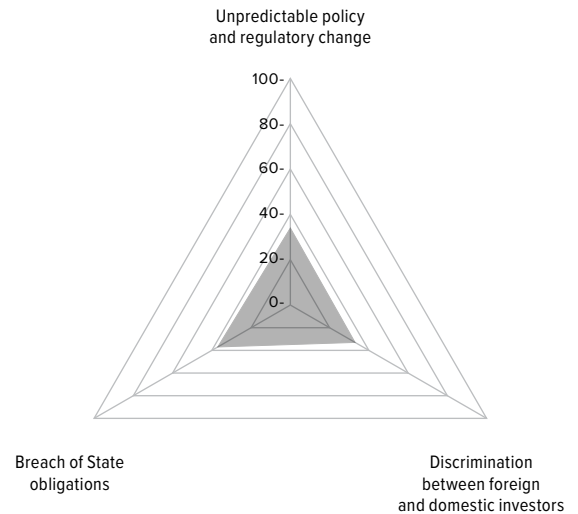
Kenya provides attractive conditions for investors and is working in the right direction. Attention should be given to strengthening the respect for property rights.

YEAR-ON-YEAR COMPARISON

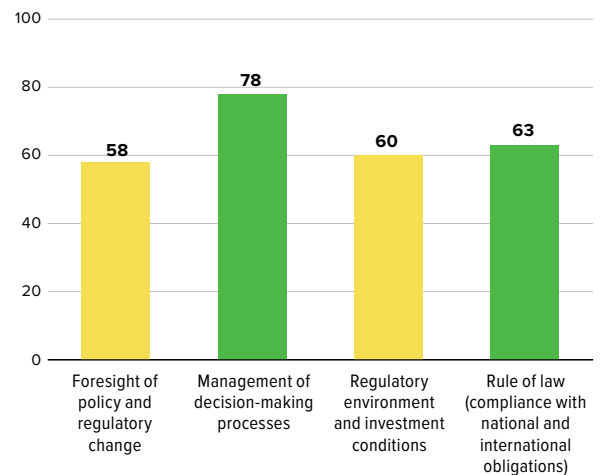
RISK AREAS	2018	2019
Unpredictable policy and regulatory change	35	33
Discrimination between foreign and domestic investors	34	33
Breach of State obligations	37	37

INDICATORS	2018	2019
Foresight of policy and regulatory change	53	58
Management of decision-making processes	78	78
Regulatory environment and investment conditions	58	60
Rule of law	63	63

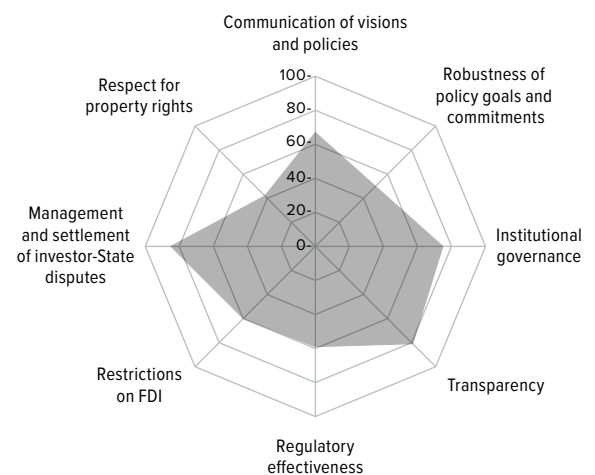
RISK LEVEL



INDICATOR PERFORMANCE



SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

The Sessional Paper No. 4 on Energy, adopted in 2004, defines Kenya's energy approach.

Kenya's long-term development blueprint, Vision 2030, will be realised through successive five-year medium-term plans. This is envisaged in three stages. Currently, the Third Medium Term Plan (MTP III) 2018-2022 is under implementation.

In 2018, the Government launched the Updated Least Cost Power Development Plan 2017-2037.

Kenya ratified the Paris Agreement in 2016 and submitted its NDC.

STRENGTHS

Some key legal reforms envisaged in the MTP III were completed in 2019. Most significantly, the Energy Act 2019 was adopted to consolidate the laws related to energy. The Act places a legal obligation on the Cabinet Secretary responsible for energy to develop and publish the country's energy policy and its underlying plan in consultation with stakeholders. Additionally, a new Petroleum Act 2019 was adopted to streamline governance in the contracting, exploration, development and production of petroleum resources. In 2018, the Government launched the Kenya National Electrification Strategy, which is intended to be a roadmap for achieving universal access to electricity.

With the enactment of the Energy Act 2019 and the Petroleum Act 2019, the periodic review of the country's energy priorities is now a legal requirement. The Energy Act 2019 states that the national energy policy should be reviewed every five years. The Cabinet Secretary responsible for energy must prepare and publish a report on the implementation of the policy. For this purpose, each national energy service provider and County Government is required to develop and submit to the Cabinet Secretary plans for the provision of energy services and requirements. The Cabinet Secretary then must consolidate these into an integrated national energy plan and review it every three years. Similar provisions on monitoring and evaluation are incorporated in the Petroleum Act 2019.

AREAS FOR IMPROVEMENT

By establishing a clear legal framework for the energy sector, the Government has taken a step in the right direction. It is now an opportune moment to develop a long-term energy strategy comprising measurable targets and concrete implementation plans. The adoption of the draft National Energy and Petroleum Policy, pending since 2015, will bring more clarity about the energy goals to be pursued and the timelines for their achievement. Moreover, the Government should fast-track the process of enacting implementing regulations under the Energy Act 2019 to operationalise its key provisions.

Management of decision-making processes

QUICK FACTS

The Energy Act 2019 states that the Cabinet Secretary of Energy is responsible for developing and publishing a national energy policy. The Cabinet Secretary is the head of the Ministry of Energy.

The Fifth Schedule to the Energy Act 2019 stipulates the main functions of the national and county governments in relation to the energy sector.

The Access to Information Act 2016 gives effect to the constitutional right of access to information held by public authorities.

STRENGTHS

The Energy Act 2019 aims at increasing inter-ministerial cooperation in the sector. In particular, it establishes the Renewable Energy Resource Advisory Committee, which is mandated to advise the Cabinet Secretary of Energy on the allocation, licensing and management of renewable resources. The enactment of this legislation is expected to bring Kenya on par with the international industry standards and practices.

Measures were taken by the Government to guarantee public participation in the decision-making process of the country. The Energy Act 2019 contains provisions that require consultation with the relevant stakeholders in developing and reviewing the national energy policy and plan. The Act also states that any decision of the Energy and Petroleum Regulatory Authority (EPRA) should be in writing. All orders must be reasoned, served upon all parties to the proceedings and may be published in the Official Gazette. The Petroleum Act 2019 requires the Cabinet Secretary for petroleum to develop a framework for reporting, transparency and accountability in the upstream petroleum sector.

AREAS FOR IMPROVEMENT

Efforts should be made to increase access to information held by public authorities. Excessive control of crucial statistics and project information should be avoided to ensure that transparency and information flow is not hampered. While there are now laws in place facilitating consultation with stakeholders, it is essential that they are implemented on the ground. Engagement with interested parties during the initial stages of the policy-making process will help avoid objections that may arise, particularly from the private sector, during the policy adoption stage.

Regulatory environment and investment conditions

QUICK FACTS

The EPRA is established as the successor to the Energy Regulatory Commission (ERC). The EPRA is mandated to regulate generation, importation, exportation, transmission, distribution, supply and usage of electrical energy, except for the licensing of nuclear facilities.

The Energy Act 2019 establishes the Rural Electrification and Renewable Energy Corporation for overseeing the implementation of the country's Rural Electrification Programme.

The Constitution of Kenya 2010 protects the right to equality and freedom from discrimination.

STRENGTHS

The Energy Act 2019 has introduced significant changes to the regulatory regime of the energy sector. It creates a new national entity, the Nuclear Power and Energy Agency (NuPEA), for regulating nuclear power and proposing policies and legislation for the successful implementation of the country's nuclear programme. This is particularly relevant given the country's ambition to reduce its reliance on non-renewable resources. The Energy Act 2019 contains detailed provisions on the establishment, mandate, powers, functions and funding of the EPRA and the NuPEA. The law empowers the regulatory bodies to impose penalties in case of infringement.

The Energy Act 2019 states that the Cabinet Secretary of Energy shall create an environment conducive to energy infrastructure development. It also provides that while discharging its functions and exercising its powers under the Act, a licensing authority shall ensure that no particular person is given undue preference or subjected to any undue disadvantage. The Energy Act 2019 and the Petroleum Act 2019 clarify the rules and obligations of investors in terms of local content requirements. The Model Production Sharing Contract 2019 requires the upstream contractor and its sub-contractors to develop a Technology Transfer Programme. The Programme must be aimed at building and designing in Kenya specialised technical, management and professional skills relevant to upstream petroleum operations. It also lists the areas of upstream petroleum activities in which the contractor should transfer technology and business expertise.

AREAS FOR IMPROVEMENT

The Government has recently adopted new laws that give legislative backing to the country's local content requirement policy. In light of this, careful consideration should be given to the need and utility of the local content bill currently pending before the Parliament. Duplication and contradiction should be avoided, and the implications of enacting a new law on the subject re-evaluated. The focus should now be on setting out subsidiary rules to implement the sector laws that deal with local content requirements.

Rule of law

QUICK FACTS

Kenya ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States in 1967.

Kenya acceded to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 1989.

Kenya has been a member country of the WTO since 1995.

STRENGTHS

There continues to be support for arbitration as the preferred means for resolving disputes. The Petroleum Act 2019 states that all disputes between parties to a petroleum agreement shall be resolved through alternative dispute resolution mechanisms in the first instance. The Energy Act 2019 grants any person aggrieved by a decision of the EPRA the right to appeal before the Energy and Petroleum Tribunal. There have been no retroactive changes made in the last five years detrimentally impacting foreign investors.

The Constitution guarantees protection against expropriation and prohibits the State from depriving an individual of its property, including intellectual property. Expropriation of foreign assets is only permitted on public interest grounds. An investor not satisfied with the expropriation decision may request domestic courts to review the amount of compensation and the legality of expropriation. There are no legal provisions that restrict the transfer of technology in the energy sector.

AREAS FOR IMPROVEMENT

Protection against the expropriation of tangible and intangible assets may be strengthened in the national legislation. The State could introduce explicit provisions to determine what constitutes "public or national purpose". Since there is no specific procedure in place about how and when compensation should be made, the domestic law must include a detailed process for this, with clear steps and guidelines.



Kyrgyzstan

Population ¹	6,198,200
Area (km ²) ¹	199,950
GDP per capita (USD) ¹	1,242.77
TPES (Mtoe) ²	3.86
Energy intensity (toe/10 ³ 2010 USD) ²	0.61
CO ₂ emissions - energy (MtCO ₂) ²	9.30

Sources:

1. The World Bank 2017

2. ©IEA 2018, www.iea.org/statistics

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

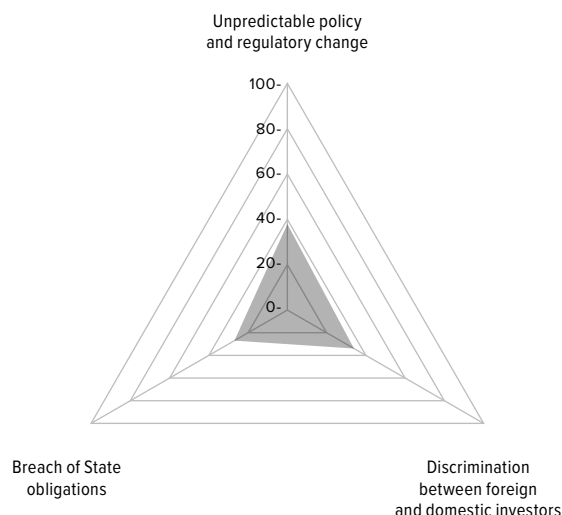
Among the three risk areas, *breach of State obligations* and *discrimination between foreign and domestic investors* remain lower compared to *unpredictable policy and regulatory change*.

Kyrgyzstan’s performance is good on of the two EIRA indicators. It is moderate on one indicator and low on the other. Its score on *rule of law* has improved by 5 points and now stands at 73. On *management of decision-making processes* and *regulatory environment and investment conditions* the score remains the same as last year at 72 and 54, respectively. The indicator *foresight of policy and regulatory change* has improved from 38 to 40 points.

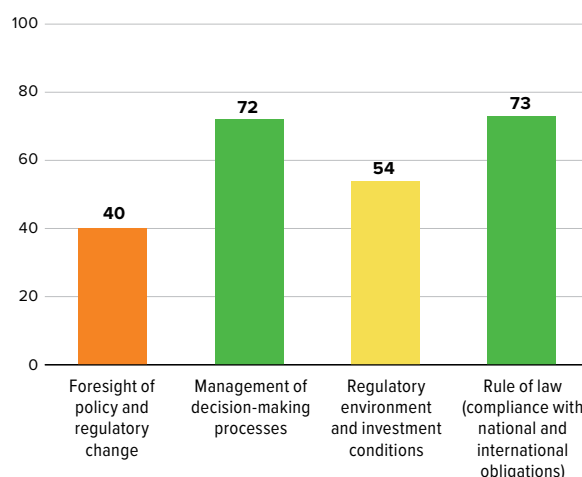
On a more detailed level, Kyrgyzstan’s overall sub-indicator performance is moderate. *Management and settlement of investor-State disputes* is the highest-scoring sub-indicator this year with 95 points, followed by *transparency*, again with 81 points. The score for *restrictions on FDI* remains the same (70). There has been no alteration in the performance on *institutional governance* (63), *robustness of policy goals and commitments* and *respect for property rights* (both at 50). *Regulatory effectiveness* and *communication of vision and policies* continue to be the lowest-scoring sub-indicators with 39 and 31 points, respectively.

While there are some improvements in Kyrgyzstan’s performance compared to 2018, further steps must be taken to build on the work done. Attention should be given to enhancing the country’s regulatory effectiveness and better communicating its energy vision and policies.

RISK LEVEL



INDICATOR PERFORMANCE

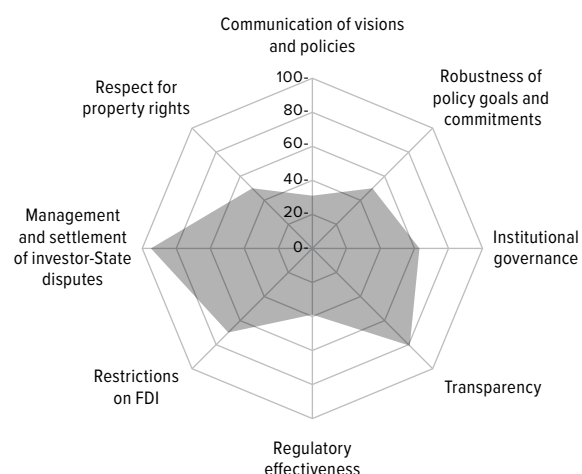


YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019
Unpredictable policy and regulatory change	41	38
Discrimination between foreign and domestic investors	35	34
Breach of State obligations	32	27

INDICATORS	2018	2019
Foresight of policy and regulatory change	38	40
Management of decision-making processes	72	72
Regulatory environment and investment conditions	54	54
Rule of law	68	73

SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

The National Energy Programme for 2008-2010 and the Strategy for Development of the Fuel and Energy Sector until 2025 (approved in 2008) are the country's primary energy policies.

Resolution no. 141 was passed in March 2019 to adopt the economy-wide Action Plan 2019-2023.

The Kyrgyz Republic signed the Paris Agreement in 2016 but its ratification is still pending.

STRENGTHS

Energy security, power reliability and innovative technologies remain the key priority areas for the energy sector. To this end, emphasis has been placed on the construction and rehabilitation of hydropower plants and on the implementation of the smart grid project. Moreover, tariff reforms are envisaged in order to restore the financial viability of the electricity sub-sector and ensure that companies have funds to invest in improving the service delivery. With the support of international donors, the Government has recently launched the Taza Koom 2040 project that will allow the country to become the digital hub of the Central Asia and Eurasia regions.

The State Committee on Industry, Energy and Subsoil Use (State Committee) monitors the progress made on the energy targets and undertakes follow-up activities that are stated in the National Energy Programme for 2008-2010. It is supported by the State Agency for Regulation of the Fuel and Energy Complex (State Agency) in these tasks.

AREAS FOR IMPROVEMENT

The Government is eager to modernise the energy sector by introducing measures focused on a digital revolution. The absence of an updated National Energy Programme could prove counter-productive to leveraging information technologies, exploiting the country's resource endowment and attracting the necessary investment. The Government should give attention to the adoption of a new national strategy that will reflect its vision for an efficient and transparent energy sector.

Action plans, secondary legislation and incentive schemes must be put in place to ensure that the priorities identified in the updated National Energy Programme materialise. Reviewing and reporting requirements should be incorporated in the strategic documents, which permit quality assessment of the Government's actions in accordance with rigorous analytical methods.

The ratification of the Paris Agreement will help align the country's environmental policies with international endeavours to combat climate change. It will also signal the Government's preparedness to design, finance and report on its efforts to mitigate GHG emissions.

Management of decision-making processes

QUICK FACTS

In 2015, the Ministry of Energy and Industry was abolished and its policy-making competences were transferred to the State Committee.

The Investment Promotion and Protection Agency (IPPA) was established in 2017 to support foreign companies in starting business enterprises.

Kyrgyzstan adopted Law No. 213/2016 "On Access to Information Administered by State Bodies and Local Self-Government Authorities" for regulating access to information held by the State.

STRENGTHS

State authorities coordinate with each other while taking decisions on cross-cutting issues, such as those covered under the Taza Koom 2040. Similarly, the IPPA collaborates with State bodies, business entities and international institutions to facilitate investment activities. Together with the Parliamentary Business and Entrepreneurship Development Council, it serves as a platform for interaction between the country's decision makers and entrepreneurs.

The Taza Koom 2040 project aims at improving public sector efficacy and creating greater accountability. It intends to usher e-governance into the country, increase information communication, and streamline administrative processes. All public authorities are required by law to exercise the highest degree of transparency in their decisions. For instance, the State Agency publishes all its regulatory orders and holds regular meetings to inform stakeholders about tariffs and prices. In the most recent meeting, it presented a report on its budget and activities in the last year. It also introduced the new medium-term tariff policy on electric and thermal energy for 2019-2023.

AREAS FOR IMPROVEMENT

As suggested last year, a national climate change plan should be drafted together with the revision of the National Energy Programme. This will allow the Government to bring coherence to the policy agenda, organise activities for achieving its objectives and, increase its readiness to address the adverse effects of climate change.

While some steps have been taken to promote transparent governance, more work must be done in this regard. In keeping with last year's assessment, it is advised that efforts should be made to ensure that all reports and statistics available with State authorities are accessible to the public. Moreover, substantive involvement of stakeholders in the decision-making process will also assist in improving services and foster efficiency in public administration.

Regulatory environment and investment conditions

QUICK FACTS

The State Agency regulates the electricity and gas sub-sectors.

The State Committee grants licences for the exploration and extraction of oil, gas and coal.

The Law No. 66/2003 “On Investments” provides for equal treatment between domestic and foreign investors.

STRENGTHS

The State Agency continues to conduct key economic regulatory activities, including licensing, tariff setting, and performance monitoring. It also has procedures in place for entertaining complaints from individual consumers and companies. The State Agency has maintained the same level of functional and financial autonomy as last year.

The existing legal framework continues to undergo investment-conducive reforms aimed at facilitating business entry and mobilising investment for the rehabilitation of existing energy assets. The Government has aligned electricity tariffs with the cost of services and also made attempts to improve the financial viability of the sector. National legislation does not place any limitations on the foreign ownership or control of energy projects or assets. Investors are not legally obliged to purchase products or services from local suppliers. There are no restrictive currency exchange controls in place.

AREAS FOR IMPROVEMENT

The Government should consider granting more functional, organisational and financial autonomy to the State Agency. In particular, it could benefit from the establishment of a board or commission whose members are appointed for a fixed term, with the possibility of limited renewal, and the option to control and adjust its budget without governmental approval.

The Government should consider reducing the degree of State intervention in the energy sector. For example, the Government currently has the first right to acquire strategic objects as defined in Law no. 94/2008 “About Strategic Objects of the Kyrgyz Republic”. Additionally, investors are required to obtain preliminary governmental consent for mergers or acquisitions in projects of strategic importance. Equally relevant is that although the National Energy Programme for 2008-2010 envisages the transformation of the existing wholesale electricity market into a fully open retail market, the restructuring efforts have not produced the anticipated results since the State-owned shares in the energy companies were transferred to the National Energy Holding Company.

The existing quota system for foreign workers may be perceived as a constraint and result in a misalignment between supply and demand for skilled labour. To the extent that quotas are necessary, they should be administered in a consistent and transparent manner.

Rule of law

QUICK FACTS

Kyrgyzstan ratified the Energy Charter Treaty in 1997.

Kyrgyzstan has signed the Convention on the Settlement of Investment Disputes between States and Nationals of Other States in 1995 but the ratification is still pending.

Kyrgyzstan acceded to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 1996.

STRENGTHS

Foreign investors can resort to national courts or international arbitration to resolve disputes against the State. Prior exhaustion of local judicial remedies is not compulsory. Under Decree no. 647 “On the Authorised Person to Protect the Rights of Business Entities” of December 2018, the Business Ombudsman was established as an independent institution with the competence to hear complaints arising from entrepreneurial activities. Foreign judicial decisions and awards are recognised and enforced in Kyrgyzstan. There were no retroactive changes introduced to laws during the EIRA assessment year.

Domestic laws continue to guarantee a broad scope of investors’ rights, including *national treatment*, repatriation of investment profits and property, as well as protection against expropriation. The latter is permitted only when it is carried out in the public interest, on a non-discriminatory basis, and upon payment of prompt and adequate compensation, including lost profits. A number of BITs promote and protect intellectual property rights as a form of “investment”. Currently, there are no restrictions on the transfer of technology.

AREAS FOR IMPROVEMENT

As mentioned in EIRA 2018, finalising the ratification process of the Washington Convention will offer foreign investors an additional avenue for pursuing alternative dispute resolution.

The incorporation in the legal texts of a definition of the term “public interest”, along with a valuation method for the calculating damages and interest, and a timeframe for the payment of compensation will reduce the risk of arbitrariness and legal uncertainty.



Liechtenstein

Population ¹	37,800
Area (km ²) ¹	160
GDP per capita (USD) [*]	168,146.02
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

* 2015 data

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

The risk of *breach of State obligations* remains the lowest, compared to 2018. It is followed by *discrimination between foreign and domestic investors*, which is also on the same level as last year. *Unpredictable policy and regulatory change* is again the highest risk area, though the level has decreased.

Liechtenstein has a very good performance on one EIRA indicator, and a good performance on two. It has a moderate performance on one indicator. *Regulatory environment* and *rule of law* received 81 and 79 points, as in 2018. On *management of decision-making processes* it has retained a good score of 67 points. The score on *foresight of policy and regulatory change* has gone up from 59 to 60.

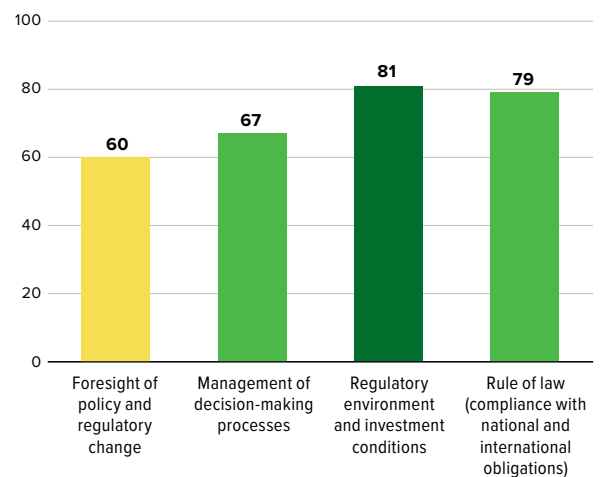
On a more detailed level, Liechtenstein’s overall sub-indicator performance is good. *Restrictions on FDI* is once again the highest-scoring sub-indicator with 100 points. On *respect for property rights* (83), *institutional governance* (75) and *management and settlement of investor-State disputes* (75) it has received the same score as last year. Liechtenstein improved its performance on *communication of vision and policies* (71) by two points. On *regulatory effectiveness* (61) and *transparency* (58), it has retained the scores from 2018. *Robustness of policy goals and commitments* is again the lowest-scoring sub-indicator with 48 points.

Liechtenstein provides attractive conditions for investors and is working in the right direction. Attention should be given to strengthening the robustness of the country’s policy goals and commitments.

RISK LEVEL



INDICATOR PERFORMANCE

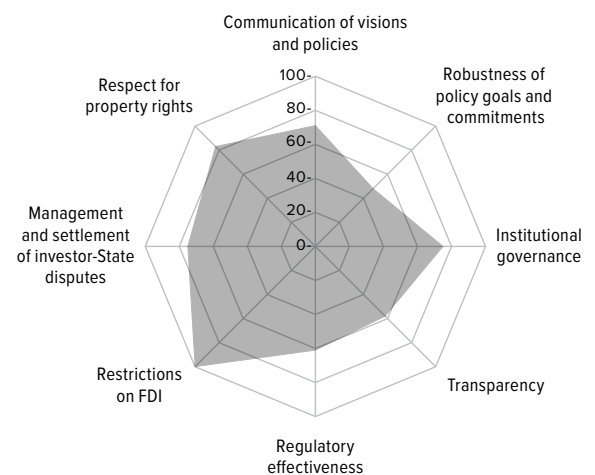


YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019
Unpredictable policy and regulatory change	32	31
Discrimination between foreign and domestic investors	25	25
Breach of State obligations	21	21

INDICATORS	2018	2019
Foresight of policy and regulatory change	59	60
Management of decision-making processes	67	67
Regulatory environment and investment conditions	81	81
Rule of law	79	79

SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

The principal energy strategy document for Liechtenstein is the Energy Strategy 2020 (published in 2012).

Liechtenstein acts within the framework of the European Economic Area (EEA), which includes participation in the EU Emissions Trading System (ETS) and the EU's 2020 Climate and Energy strategy.

In June 2018, the Government published the Climate Change Adaptation Strategy. This Strategy contains a range of measures for several sectors, including energy infrastructure.

Liechtenstein has submitted its NDC and has committed to a forty per cent reduction of GHG by 2030, compared to base year 1990.

STRENGTHS

Security of supply, environmental sustainability and social acceptance are at the core of the Government's energy strategy. In August 2018, the Government launched consultations on the development of an Energy Vision 2050 and an Energy Strategy 2030, as a follow-up on the 2020 Energy Strategy and to comply with the EU 2030 goals. The aim is to adopt the Energy Strategy 2030 before the end of 2019. It is also expected that the current Emissions Trading Act 2012 will undergo a major revision in the course of 2020. In addition, the Government is preparing a Blockchain Act. This Act is expected to lower the costs of digital transactions and open new opportunities for all sectors, including energy.

The Office for Energy, under the Ministry for Infrastructure, Economic Affairs and Sport, monitors the implementation of the country's energy strategy. It keeps track of several categories of measures targeted at attaining the goals. In 2017, Liechtenstein published the Mid-term Review of the Energy Strategy 2020. The Office of Statistics publishes the countries' energy statistics on an annual basis and makes them available on the Government website.

AREAS FOR IMPROVEMENT

As recommended in 2018, the efforts towards developing and adopting the new Energy Vision 2050 and Energy Strategy 2030 should be pursued as the current strategy will soon expire. Balancing and aligning the long-term goals for 2050 and the medium-term goals for 2030 will enhance predictability for investors. In particular, the country's ambition to reduce energy dependency should be balanced with its goals to decarbonise whilst keeping energy transition affordable.

The objectives in the new Energy Strategy 2030 should be supported by binding action plans that will ensure its execution. The ambition to reduce GHG emissions by 2030 should be codified, as was announced in the country's NDC. Moreover, it is suggested that the expected share of emissions reduction from the energy sector should be specified in its next NDC.

Management of decision-making processes

QUICK FACTS

The Office for Energy, under the Department for Economy of the Ministry for Infrastructure, Economic Affairs and Sport, is responsible for developing, implementing and monitoring the country's energy policy.

The Department for Economy is in charge of investment-related issues. It is under the Ministry for Infrastructure, Economic Affairs and Sport.

Law no. 172.015/1999 "On Information for the Population" envisages the right to information.

STRENGTHS

The institutional set-up in Liechtenstein is strong. The legislative process is stipulated in the law. The right to initiate legislation lies with the Parliament and the Reigning Prince. The national Energy Commission is responsible for developing the energy sector policies. The Commission is supported by the Office for Energy, which prepares all energy policies. The Office for Energy also organises consultations for the Government and acts as single window for all enquiries regarding investment in the energy sector.

The Government makes all legal and regulatory documents available, electronically and in print. The Government has recently started publishing selected decrees and laws in English. Though it is not a legal requirement, in practice the Government organises public consultations on proposed policies and laws. The Law "On Information for the Population" entitles the public to receive information from Government authorities.

AREAS FOR IMPROVEMENT

The Government should consider reorganising the tasks of the Office for Energy, so that its responsibilities can be managed effectively. Its monitoring and regulatory functions should be transferred to bodies that are independent of the Government. The Government could consider establishing a one-stop shop for the energy sector, which approves investments and arranges licences. This could be set up as a joint operation of the different departments of the Department for Economy.

Transparency and consultative processes can be further enhanced. As was recommended in 2018, all regulatory decisions should be made available, preferably through an easily accessible online repository. Access to information on tariff methodology can improve the transparency in the regulatory framework. The Government should expedite its efforts to make all relevant laws and regulations available in a foreign language. This can contribute to attracting more investors in the energy sector. Though in practice the Government often conducts consultations, Liechtenstein should have legal provisions on consultation with stakeholders during the policy, law-making and regulatory processes, including a provision to make the results of such consultations available.

Regulatory environment and investment conditions

QUICK FACTS

The Commission for Energy Market Oversight regulates the electricity and gas markets, based on the Law no. 730.3/2002 “On the Electricity Market (Electricity Market Act)”, Law no. 733.2 “On the Gas Market (Gas Market Act)” and in alignment with the EU’s energy market directives.

Competition issues are dealt with by the Economic Department of the Ministry for Infrastructure, Economic Affairs and Sport.

Within the framework of the EEA agreement, Liechtenstein provides equal treatment to domestic and foreign investors.

STRENGTHS

The Commission for Energy Market Oversight is responsible for market supervision, the adoption of non-discriminatory price-setting mechanisms and the designation of transmission and distribution system operators. The Parliament and the Commissions for Company Oversight and Financial Oversight exercise public control on the Commission for Energy Market Oversight. The Commission has the right to levy fees and allocate its financial resources without prior approval from the Government.

The legal framework of Liechtenstein does not have any barriers to FDI. Screening of investment is limited to notification and is applied on a non-discriminatory basis. Foreign companies are allowed to hold a majority stake in energy projects and are not legally obliged to partner with State or local enterprises. Transfer of invested capital and related profits is fully permitted. There are no limits on the employment of foreign personnel. In addition, the EEA Agreement ensures free movement for workers in the EEA.

AREAS FOR IMPROVEMENT

To further strengthen the regulatory environment, the Government should consider granting more functional and organisational independence to the Commission for Energy Market Oversight. In particular, its Secretariat should be separated from the Office for Energy. The selection procedure of the Commission’s members should be open and transparent. Ideally, their mandate should be renewable only once. These measures would enhance the accountability and impartiality of the Commission as supervisory authority.

The transposition of the EU Electricity and Gas Market Directives 2009/72/EG and 2009/73/EG, which includes the role of the Commission for Energy Market Oversight as national regulator, is pending in Parliament. The Parliament may consider expediting the adoption of the relevant implementing acts.

The Government could consider opening up the ownership of the national public network entities for electricity and gas for private investors.

Rule of law

QUICK FACTS

Liechtenstein joined the WTO on 1 September 1995.

Liechtenstein ratified the Energy Charter Treaty in 1997.

Liechtenstein acceded to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention) in 2011.

Law no. 711.0/1887 “On the Procedure in Cases of Expropriation” determines the process for expropriation.

STRENGTHS

The procedure for hearing contractual disputes with foreign investors is stated in Law no. 272.0/1912 on Court Jurisdiction. Arbitration is included in Law no. 271.0/1912 “On the Legal Proceedings in Civil Cases (Code of Civil Procedure)”. Moreover, parties may apply arbitration rules prepared by the Liechtenstein Chamber of Commerce and Industry in 2012. The Regulation no. 730.311/2009 “On the Regulatory Authority and Arbitration under the Electricity Market Act and the Gas Market Act” also mandates the Commission for Energy Market Oversight to arbitrate. Liechtenstein encourages the amicable resolution of disputes and has adopted the Law no. 275.1/2004 “On Mediation in Civil Matters”.

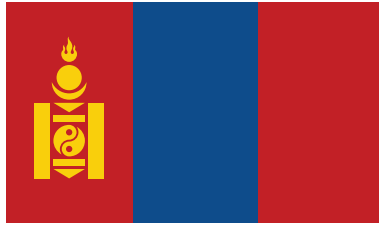
Liechtenstein’s Constitution 1921 guarantees the inviolability of private property. The Civil Code of Procedure contains detailed provisions protecting property rights. Intellectual property is safeguarded by a variety of laws including the Law on Swiss Patent 1954 (as amended in 2012), as the countries have a unified territory of protection. The Constitution and Law no. 711.0/1887 “On the Procedure in Cases of Expropriation” explain in detail the process of expropriation. Expropriation may take effect only after the payment of appropriate compensation.

AREAS FOR IMPROVEMENT

The Government can take additional measures to improve domestic dispute resolution processes. An investment ombudsman could be established to address potential complaints of foreign investors. Also, a time limit for domestic courts and administrative tribunals to deliver final judgments may be enshrined in law.

Liechtenstein could consider becoming contracting party to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the ‘ICSID’ or ‘Washington’ Convention).

The Government should define the situations and circumstances under which expropriation may occur, as the Constitution and the Law on the Procedure in Cases of Expropriation do not set out the circumstances under which such expropriation would be justified. At present, only the case laws of the Liechtenstein State Court define the requirements for expropriation.



Mongolia

Population ¹	3,113,779
Area (km ²) ¹	1,564,120
GDP per capita (USD) ¹	3,671.95
TPES (Mtoe) ²	4.96
Energy intensity (toe/10 ³ 2010 USD) ²	0.42
CO ₂ emissions - energy (MtCO ₂) ²	18.00

Sources:

1. The World Bank 2017

2. ©IEA 2018, www.iea.org/statistics

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

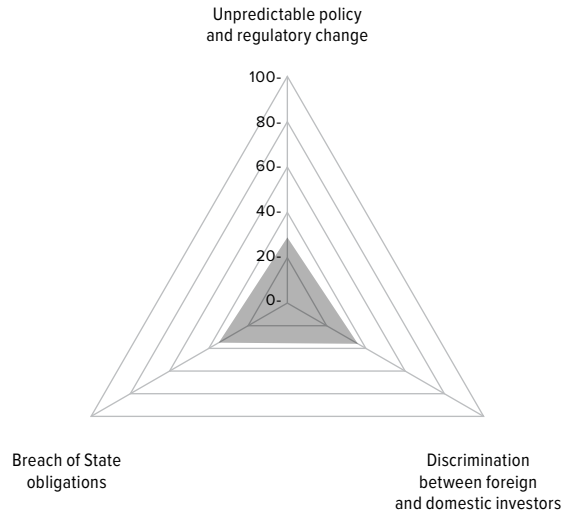
The risk of *unpredictable policy and regulatory change* continues to be lower compared to *discrimination between foreign and domestic investors* and *breach of State obligations*. The three risk areas are on the same level as last year.

Mongolia has a good performance on three EIRA indicators, and a moderate performance on one indicator. *Foresight of policy and regulatory change* has maintained the highest score with 75 points. On *management of decision-making processes* and *rule of law*, it has received 73 and 65 points, respectively. The score for *regulatory environment and investment conditions* stands at 53.

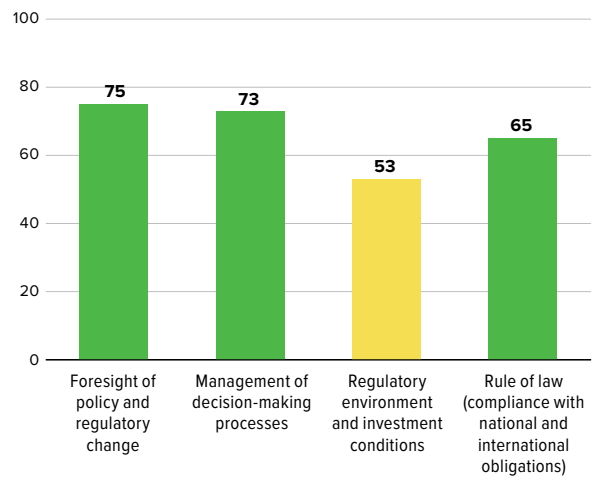
On a more detailed level, Mongolia’s overall sub-indicator performance is good. *Institutional governance* is once again the highest-scoring sub-indicator with 88 points. The country has retained its scores from 2018 on *management and settlement of investor-State disputes* (80), *communication of vision and policies* (77), *robustness of policy goals and commitments* (72), *transparency* (58) and *regulatory effectiveness* (56). *Restrictions on FDI* and *respect for property rights* continue to be the lowest-scoring sub-indicators with 50 points each.

Mongolia provides attractive conditions for investors and is working in the right direction. Attention should be given to lowering the current restrictions on FDI and enhancing the respect for property rights.

RISK LEVEL



INDICATOR PERFORMANCE

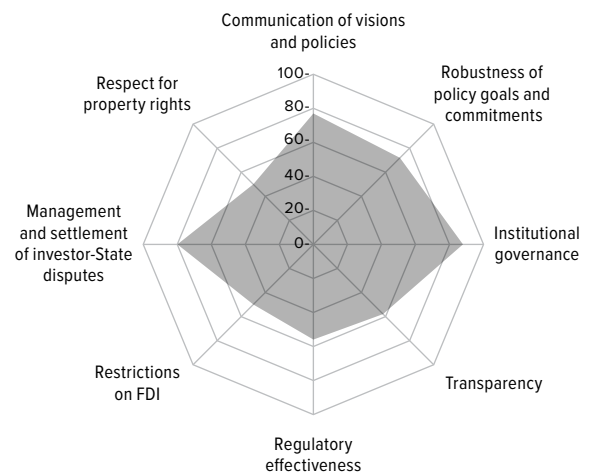


YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019
Unpredictable policy and regulatory change	29	29
Discrimination between foreign and domestic investors	36	36
Breach of State obligations	35	35

INDICATORS	2018	2019
Foresight of policy and regulatory change	75	75
Management of decision-making processes	73	73
Regulatory environment and investment conditions	53	53
Rule of law	65	65

SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

The main strategic document for Mongolia's energy sector is the State Policy on Energy 2015-2030.

In 2018, the Mid-term National Program for Implementation of the State Policy on Energy 2018-2023 was adopted.

The operational planning documents for the energy sector include the National Energy Efficiency Action Programme 2014-2020 and the National Renewable Energy Program 2005-2020.

Mongolia ratified the Paris Agreement in 2016 and submitted its INDC.

STRENGTHS

The newly launched Mid-term National Program 2018-2023 announces a wide range of public and private projects for coal, hydropower and energy transmission infrastructure. It articulates measures for establishing a cost-reflective tariff and pricing system, commissioning of solar PV and wind power farms. It also provides a blueprint for developing a power and gas transit infrastructure under the framework of the economic corridor between the Russian Federation, China and Mongolia. The Minister of Energy, Minister of Finance and the National Development Agency (NDA) are responsible for arranging the finances needed to execute the Mid-term National Program 2018-2023. As a first step, in April 2019, the Government signed an agreement with the Asian Development Bank to obtain financial support for the country's first distributed renewable energy system. It is also noteworthy that in 2018, Mongolia started setting up a Public-Private Green Finance Corporation.

The Law of Mongolia on Development Policy and Planning 2015 sets out a review processes for the state policies and national programs. The Ministry of Energy, the Energy Regulatory Commission (ERC) and the National Statistical Office are tasked with the implementation and monitoring of the State Policy on Energy 2015-2030. The Ministry of Energy is required to submit annual reports to the Government about the implementation of the Mid-term National Program 2018-2023. The Government assesses the implementation of its NDC through an annual review.

AREAS FOR IMPROVEMENT

While the process of goal-setting and planning is quite robust, the Government should consider whether the aggregated measures will attain the criteria set for the mid term (2023) and the longer term (2030). Though the Mid-term National Program 2018-2023 sets out measures for increasing the share of renewable resources in the energy mix, it also contains a range of actions to ramp up coal-based power generation and export. To balance out these diverging interests, incentives should be devised to ensure energy efficiency measures are implemented and renewable sources are made competitive. Moreover, building upon the envisaged physical interconnections could expedite Mongolia's efforts to set up a market mechanism jointly with its neighboring countries.

Management of decision-making processes

QUICK FACTS

The Ministry of Energy sets the energy policies of the country.

The NDA, under the Prime Minister, frames the investment policies. The NDA acts as a single window for all enquiries concerning investment policies. It also provides business facilitation services to investors.

Mongolia enacted the Law of Mongolia on the Information Transparency and Right to Information in 2011, and the Law of Mongolia on Promoting Economic Transparency in 2015.

STRENGTHS

Lead ministries have well-defined mandates and responsibilities in terms of guiding the implementation of the country's energy and investment strategy. The Ministry of Energy, the ERC and the NDA can consult each other while framing new policies and revising the existing ones. In February 2019, the NDA opened the "Invest in Mongolia Center", a one-stop service centre for assisting foreign investors. The Law of Mongolia on Minerals 2006 requires minerals exploration and mining licence holders to collaborate with the local administrative bodies and establish agreements on issues of environmental protection, development of the infrastructure and employment.

Law and regulations are made accessible both electronically and in print through a Government gazette. Information requests may be directed to public authorities per the Law of Mongolia on the Information Transparency and Right to Information. These requests must be complied with except when such information is classified or its disclosure is prohibited. The Law of Mongolia on Law 2015 aims to ensure consultation and involvement of stakeholders before the adoption of legislation. Most regulatory decisions of the ERC are made available to the public. The ERC annually publishes information on the power sub-sector.

AREAS FOR IMPROVEMENT

Efforts should be made to promote greater inter-ministerial cooperation. For this purpose, a standing committee may be created to coordinate actions and decisions on investment in the energy sector. It will allow active dialogue between the concerned ministries, help to harmonise policy positions, and streamline the investment processes.

As indicated in 2018, measures should be taken to codify the steps and timeframes for informing, consulting, and collaborating with stakeholders on proposed laws and policies. Although stakeholders are notified and consulted in certain cases, there is no legal requirement to do so. Moreover, steps can be taken to release official translations of laws, policies and regulations in foreign languages. At present, the online registry of laws contains legislation only in Mongolian.

Regulatory environment and investment conditions

QUICK FACTS

The ERC regulates the generation, transmission, distribution, dispatch and supply of energy.

The mining sub-sector is under the authority of the Ministry of Mining and Heavy Industry.

The Authority for Fair Competition and Consumer Protection is responsible for enforcing the Law of Mongolia on Competition 2010.

The Law of Mongolia on Investment 2013 protects the legal rights and interests of investors operating in the country.

STRENGTHS

The mandate and responsibilities of the ERC are determined by the Law of Mongolia on Energy 2001. The ERC is financially independent since it is primarily funded by the service fees and charges it levies. The Chairman and Regulators of the ERC can hold office only for a fixed period which can only be renewed once. The ERC is entrusted with responsibilities including the issuance of licences, monitoring compliance, setting the tariff methodology and resolving disputes between licence holders and those between consumers and licence holders. The ERC has developed an online tool for companies to obtain licences.

Mongolia gives equal treatment to domestic and foreign investors. The Law of Mongolia on Investment 2013 protects the legal rights and interests of investors in Mongolia. It establishes legal guarantees and incentivises investment in different forms, such as tax breaks and tax stabilisation measures. Foreign investors are not subject to local content requirements such as the procurement of products or services from domestic suppliers. The Law of Mongolia on Investment gives investors the right to transfer their assets and revenues, including profits, dividends, royalties, interests as well as shares of leftover properties after liquidation of a business entity, out of Mongolia without hindrance on the condition of having properly fulfilled their tax payment obligations.

AREAS FOR IMPROVEMENT

The Government may consider reducing the level of State intervention in certain energy sub-sectors. For instance, foreign State-owned entities need prior approval from the National Development Agency before investing in the mining sector. Moreover, in the case of “strategic mineral deposits” the Government has the right to take an equity interest of up to 50 per cent or to impose a special royalty in lieu of such interest. Finally, the Law of Mongolia on VAT 2015 does not allow investors to reclaim VAT on certain capital equipment as well as some categories of exploration works and pre-mining activities. To retain the attractiveness of the sector, the Government may consider relaxing such discretionary provisions to the extent possible.

Rule of law

QUICK FACTS

Mongolia ratified the Energy Charter Treaty in 1999.

Mongolia is a contracting party to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States since 1991.

The Law of Mongolia on Investment protects the assets of foreign investors from illegal confiscation.

STRENGTHS

Dispute resolution mechanisms, available to domestic or foreign investors, are set out in the Civil Code of Mongolia 2002. Foreign investors are not required to exhaust local judicial remedies as a pre-condition to initiating international arbitration. The Government adopted the revised Law of Mongolia on Arbitration 2017 to ensure conformity with international arbitration standards. The Investment Protection Council was established in 2017 as an investment ombudsman to amicably resolve issues arising between investors and public authorities.

Property rights of foreign investors are upheld by the Mongolian State. Expropriation may only take place for public interest purposes and, on the condition of full compensation. The Law of Mongolia on Land 2002 provides a timeframe within which compensation should be effected for the acquisition of land by the Government. Intellectual property rights are protected by a number of domestic laws. Moreover, Mongolia is a member of the World Intellectual Property Organization.

AREAS FOR IMPROVEMENT

Attention should be given to strengthening the domestic case management processes. For instance, a timeframe should be set for national courts to deliver final judgments. Efforts should also be made to ensure that hearings are set closely and not suspended for indefinite periods.

Legal provisions protecting foreign investors against expropriation should be strengthened. At present, the Constitution only safeguards citizens against illegal confiscation or requisition of private property. While the Law of Mongolia on Investment offers a degree of protection to foreign investors, it does not mention that expropriation should be non-discriminatory in nature nor does it set certain timeframes within which compensation must be paid, in case of expropriation.

Measures should be taken to streamline and clarify provisions related to land use. While Mongolia respects property rights, the central and local governments exercise a high degree of discretion in re-acquiring land for “special needs”. This makes strategic sectors such as mining, which have previously been subject to investor-State disputes, particularly vulnerable.



Montenegro

Population ¹	622,373
Area (km ²) ¹	13,810
GDP per capita (USD) ¹	7,784.07
TPES (Mtoe) ²	0.97
Energy intensity (toe/10 ³ 2010 USD) ²	0.21
CO ₂ emissions - energy (MtCO ₂) ²	2.10

Sources:

1. The World Bank 2017

2. ©IEA 2018, www.iea.org/statistics

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

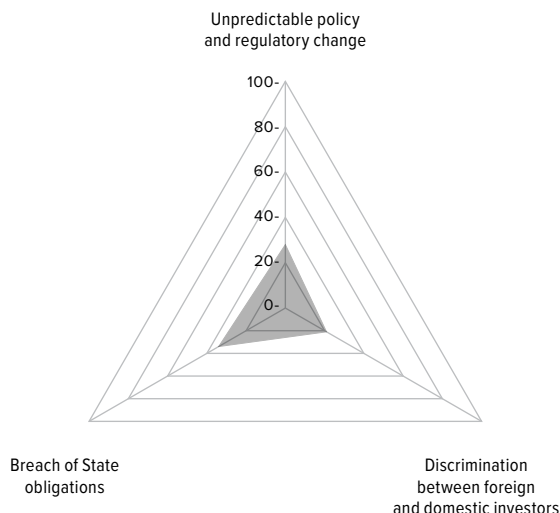
Among the three risk areas, *discrimination between foreign and domestic investors* and *unpredictable policy and regulatory change* continue to be lower compared to *breach of State obligations*.

Montenegro has a very good performance on two EIRA indicators, and a good performance on two indicators. It has obtained 90 points on *regulatory environment and investment conditions*. The country has improved its score by 4 points on *management of decision-making processes*, and it now stands at 87. *Regulatory environment and investment conditions* is at 85. *Rule of law* has the same score as in 2018 (66), while *foresight of policy and regulatory change* has decreased by 2 points, and it is now at 64.

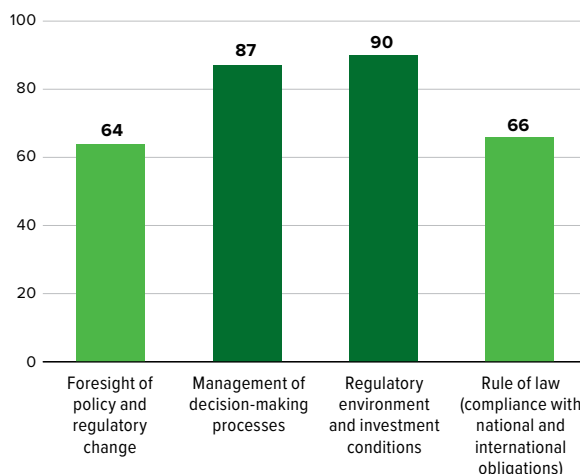
On a more detailed level, Montenegro’s overall sub-indicator performance is good. The highest-scoring sub-indicator is again *regulatory effectiveness* (100) and is followed by *institutional governance* (94). The performance on *transparency* has improved by 9 points and now stands at 81. *Restrictions on FDI* and *robustness of policy goals and commitments* and are at 80 and 75, respectively. There have been no changes observed in *respect for property rights* (67) and *management and settlement of investor-State disputes* (65). The performance on *communication of vision and policies* has gone down from 58 to 53 points. It remains the lowest-scoring sub-indicator.

Montenegro provides attractive conditions for investors and is working in the right direction. Attention should be given to better communicating the country’s vision and policies.

RISK LEVEL



INDICATOR PERFORMANCE

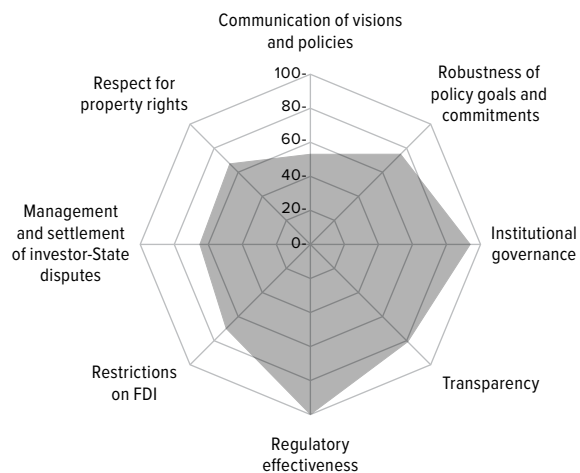


YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019
Unpredictable policy and regulatory change	28	28
Discrimination between foreign and domestic investors	20	19
Breach of State obligations	34	34

INDICATORS	2018	2019
Foresight of policy and regulatory change	66	64
Management of decision-making processes	83	87
Regulatory environment and investment conditions	90	90
Rule of law	66	66

SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

The Energy Policy 2030 (adopted in 2011) and the Action Plan 2016-2020 of the Energy Development Strategy 2030 outline the policies and objectives of Montenegro with respect to the energy sector.

Montenegro ratified the Paris Agreement in 2017 and submitted its first NDC.

STRENGTHS

In 2018, Montenegro took a significant step forward on its accession path by opening negotiations with the EU on environment and climate change. Security of supply, energy efficiency, infrastructure and promotion of renewables remain the key priorities of the country. To further pursue these objectives, the Government has launched ambitious projects such as the Energy Efficient Home Programme, aimed at cutting heating costs and reducing CO₂ emissions in the household sector. The anticipated interconnections with neighbouring countries will improve cross-border exchange and enhance power transmission efficiency. Montenegro has already met its 33 per cent target of energy from renewable sources in the gross final energy consumption by 2020 and is expected to switch from a feed-in tariff to an auction-based system. Moreover, the Decree on incentive fees has been amended to encourage production from renewables and high-efficient cogeneration.

Monitoring responsibilities are divided between the Ministry of Economy and the Ministry of Sustainable Development and Tourism. The Energy Regulatory Agency (REGAGEN), coordinating committees of the relevant ministries and local authorities are required to report the results of the implementation process. The participation of independent experts and NGOs is also envisaged, as in the case of the Working Group and the “Coalition of 27” established under the National Strategy with Action Plan for the Transposition, Implementation and Enforcement of the EU acquis on Environment and Climate Change 2016-2020.

AREAS FOR IMPROVEMENT

The Government should ensure that the Action Plan 2016-2020 is revised as soon as possible, and a new Energy Efficiency Action Plan replaces the outdated 2016-2018 version. The updated Plans must define national targets that are consistent with the EU energy and environmental acquis, as well as the country's long-term goals. Moreover, they should contain a list of activities, responsibilities, timelines and sources of funding. Outcome-oriented objectives for energy efficiency may also be included in the Energy Development Strategy 2030.

Efforts can be made to enhance the independence of the monitoring bodies. The establishment of the Department of Implementation of the Action Plan 2016-2020 will improve coordination between the development, execution and evaluation of the energy policy and ensure effective feedback.

Management of decision-making processes

QUICK FACTS

The Ministry of Economy is responsible for setting the country's energy policy.

Investment strategies are coordinated through the Directorate for Investment, SME Development and Management of EU Funds at the Ministry of Economy.

The Ministry of Sustainable Development and Tourism is in charge of environmental and climate mitigation issues.

The Montenegrin Investment Promotion Agency assists investors with starting and operating a business.

STRENGTHS

The line ministries collaborate with scientific institutions on energy projects run by international organisations. The new Law on Environmental Impact Assessment 2018 sets higher quality standards regarding the content of the study. It also mandates public awareness, transboundary consultations and cooperation among public authorities which have to issue a reasoned decision when approving or rejecting the study.

In November 2018, the National Action Plan for Implementing the Open Government Partnership in Montenegro (2018-2020) was adopted. It identifies actions for securing access to information, encouraging citizen participation, and promoting public integrity. Draft laws and regulations are required to undergo public consultation. For instance, since the beginning of 2019, the Government has already made two calls for public participation in the dialogue regarding the draft Law on Cross-Border Energy Infrastructure Project and the draft Conservation Plan for Detailed Geological Research and Exploitation of Mineral Raw Materials.

AREAS FOR IMPROVEMENT

Important steps have been taken towards guaranteeing transparency. To enhance information access for both national and foreign investors, the Government agencies and regulatory authorities should make sure that their websites are regularly updated and information is disseminated in a holistic and timely fashion. This includes the Ministry of Economy, the REGAGEN, as well as the Concession Commission and the Privatisation and Capital Investment Council, which currently publish limited data on their activities, types of concessions and contracts with investors.

Regulatory environment and investment conditions

QUICK FACTS

The Energy Law as amended in 2017 establishes the REGAGEN and states its competences. The REGAGEN joined the Cooperation of Energy Regulators (ACER) working groups in January 2018.

Montenegro is in the process of drafting a new Public-Private Partnership (PPP) legislation which will replace the current Law on Concessions, the Law on Participation of the Public Sector for the Delivery of Public Services, and other sectoral laws.

STRENGTHS

The REGAGEN continues to be an operationally and financially independent authority which supervises operations of energy undertakings and monitors the functioning of the energy market. It submits annual reports to the Parliament on its finances and on the market conditions. Its Work and Financial Plans for the year 2019 are posted on its official website. Conflict of interest provisions exist to restrict REGAGEN's Board members and staff from seeking outside employment or compensation from an energy undertaking during employment and for a certain period after the expiration of such person's term or dismissal.

The Government puts emphasis on maintaining favourable investment conditions. As of October 2018, the Montenegro Citizenship Investment Programme will offer to non-EU investors a permanent residence status within three weeks. There are no legal provisions that require investors to meet targets measured as a percentage of investment, local procurement, or job creation. Profits and capital can be repatriated without limitations or restrictions.

AREAS FOR IMPROVEMENT

As mentioned in EIRA 2018, the existence of annual quotas on the number of foreign workers in conjunction with the restrictions imposed by Law on Foreigners 2019 on intra-corporate transfers may be perceived by foreign investors as a restriction. The Government should ensure that work permits and investment incentives are allocated in a sound and transparent manner.

The adoption of the long-pending law on PPP will contribute to the creation of a comprehensive strategic and regulatory framework. It will also enable the Government to identify projects where State institutions would transfer responsibility to private investors.

Rule of law

QUICK FACTS

Montenegro ratified the Energy Charter Treaty in 2015.

Montenegro ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States in 2013.

Montenegro is a party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards since 2006.

STRENGTHS

No retroactive changes were introduced to laws in the last year. Investment disputes can be brought before domestic courts or an arbitral tribunal without prior exhaustion of local judicial remedies. National courts recognise and enforce foreign arbitral awards. They also enforce foreign court judgments upon their recognition as authoritative and final.

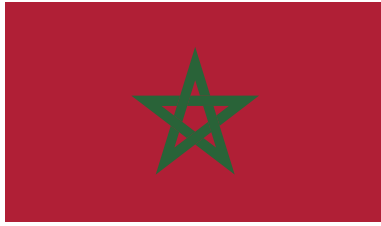
Under the Law on Foreign Investment 2011, investors are protected against expropriation, which can occur only for a compelling public purpose and against compensation at fair market value. The relevant procedure, including the determination of compensation, is administered by a designated body. Intellectual property rights are protected under multinational agreements, BITs and national legislation. In general, there are no statutory provisions in national laws or international investment agreements restricting the transfer of technology.

AREAS FOR IMPROVEMENT

In keeping with last year's assessment, the introduction of timeframes for the completion of proceedings and the delivery of judgments at all stages will guarantee the reasonableness of the case duration.

The Government should consider establishing additional alternative dispute resolution mechanisms, such as an investment ombudsman to process private parties' complaints against public administration. Similarly, the possibility of mediating disputes with State authorities should be extended to investors.

While there has not been a case of expropriation of foreign assets in Montenegro, the introduction of a clear definition of "public purpose" in the Law on Expropriation, instead of ad hoc determination by separate law or government decision, will further reduce the risk of legal uncertainty.



Morocco

Population ¹	35,581,294
Area (km ²) ¹	446,550
GDP per capita (USD) ¹	3,036.17
TPES (Mtoe) ²	19.50
Energy intensity (toe/10 ³ 2010 USD) ²	0.17
CO ₂ emissions - energy (MtCO ₂) ²	55.30

Sources:

1. The World Bank 2017

2. ©IEA 2018, www.iea.org/statistics

Morocco’s overall risk level against the assessed areas is **moderate**.

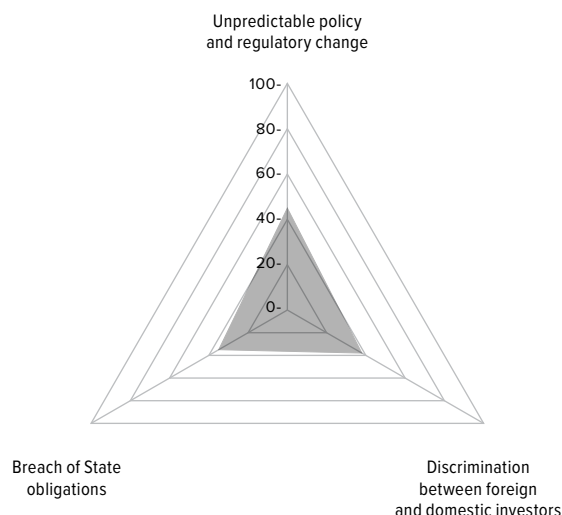
Among the three EIRA risk areas, *breach of State obligations* is lower compared to *discrimination between foreign and domestic investors* and *unpredictable policy and regulatory change*.

Morocco has a good performance on two of the EIRA indicators, and a moderate performance on the other indicators. It has received a good score of 65 on *rule of law*. *Regulatory environment and investment conditions* is at 61, while *management of decision-making processes* and *foresight of policy and regulatory change* are at 59 and 41, respectively.

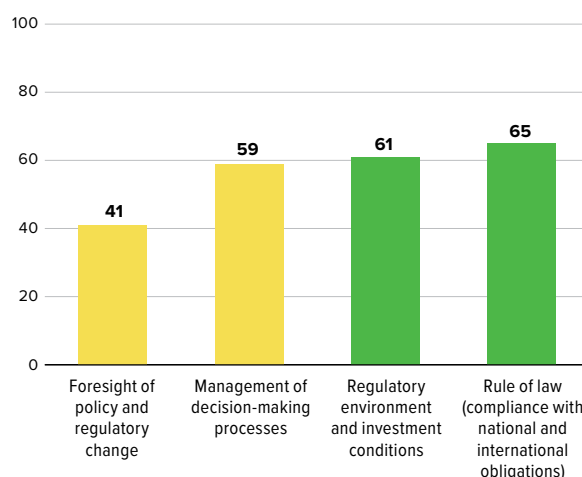
On a more detailed level, Morocco’s overall sub-indicator performance is moderate. The highest-scoring sub-indicator is *management and settlement of investor-State disputes* with 80 points, followed by *restrictions on FDI* at 70. On *transparency* it has received a score of 63. The performance on *institutional governance* (56), *communication of vision and policies* (52), *regulatory effectiveness* (52) and *respect for property rights* (50) is moderate. The lowest-scoring sub-indicator is *robustness of policy goals and commitments* with 31 points.

While there are some policies and measures in place, more concrete steps must be taken to strengthen Morocco’s performance across all indicators and underlying sub-indicators. Particular attention should be given to increasing the robustness of the country’s policy goals and commitments.

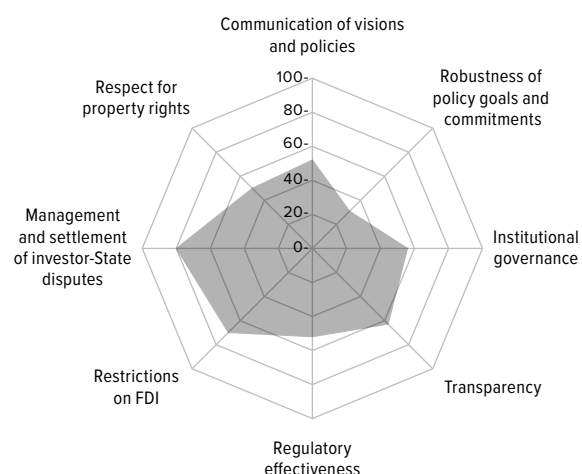
RISK LEVEL



INDICATOR PERFORMANCE



SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

The National Energy Strategy 2009 sets out the policy direction for the energy sector of Morocco. In 2009, Morocco launched its National Renewable Energy Strategy for 2030.

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

STRENGTHS

One of the key priorities for Morocco's energy sector is reducing dependence on imported carbon-based resources. For this reason, considerable efforts have been made to step up the integration of domestic renewable resources in the energy mix. Morocco is on track with its 2020 targets in this regard and it has developed one of the world's most ambitious solar plans. Considerable reforms have been introduced to improve the competitiveness of the electricity market. The Government has also set definitive targets for increasing energy efficiency and is working towards their implementation.

Monitoring and evaluation functions are vested in the Ministry of Energy, Mines and Sustainable Development (MEMDD), the Ministry of Economy and Finance and the Ministry of Industry, Investment, Trade and the Digital Economy. Apart from these, there are governmental agencies and directorates that monitor specific indicators and targets. For instance, the Moroccan Agency for Sustainable Energy gathers and monitors data on renewable energy. Data on the energy efficiency indicators is collected by the Directorate of Observation, Cooperation and Communication under the MEMDD. The National Agency for Energy Efficiency (AMEE) implements the Government policy for reducing energy dependence, through the democratisation of renewable energy. It also monitors and coordinates energy audits.

AREAS FOR IMPROVEMENT

To effectively meet the renewable targets, sectoral policies should be updated. The current Energy Strategy 2009 provides a strong framework but new measures and policies are needed to meet the evolving needs and strategic direction of the country. Accompanying action plans should also be developed to ensure the implementation of the energy strategy.

Measures should be taken to improve the monitoring and evaluation of the energy indicators. Currently, monitoring activities are undertaken by various ministries and governmental agencies. To avoid conflicting outcomes, the roles of the different authorities should be defined. The strategy document should specify which authority will be held accountable for the progress made, which bodies will provide support, and how activities will be coordinated between them. Finally, the rules of data collection should be systematised and ideally incorporated in a law.

Management of decision-making processes

QUICK FACTS

Morocco is a constitutional, democratic, parliamentary and social monarchy. The King is the Supreme Head of the country.

MEMDD has the primary responsibility of framing the country's energy policies. The Ministry of Interior supervises the performance of the public entities in charge of distributing power in large urban areas.

The Ministry of Economy and Finance exercises oversight on the financial aspects of the energy sector. It is responsible for granting approval to the investment plans and activities of State-owned energy enterprises and utilities.

AMEE is in charge of implementing Morocco's energy efficiency policy.

Law no. 31-13 "On the Right of Access to Information" was adopted in February 2018. It establishes for the right to access information held by the public administration, the elected institutions and the organs vested with missions of public service.

STRENGTHS

Although there are a number of ministries and public agencies involved in framing energy sector policies, efforts are made to ensure that their roles and responsibilities are coordinated. Consultations take place under the supervision of the MEMDD. The Moroccan Investment Development Agency was established in 2009 as the national body in charge of promoting and developing investment in Morocco. It facilitates the completion of procedural requirements that are necessary for undertaking business activities. It also puts potential investors in contact with the relevant authorities in the energy sector.

The Law "On the Right of Access to Information" states that all public organisations and agencies are obliged to publish maximum information by all means, including electronically via national websites. This includes enacted and draft laws, regulations, proposals to the Parliament and the budget of the territorial collectives. The Constitution stipulates that all laws must be published in the Official Bulletin of the Kingdom within a maximum period of one month from the date of their promulgation. Interested individuals can obtain printed copies of the Official Bulletin and also have access to electronic copies from the website of the General Secretariat of the Government.

AREAS FOR IMPROVEMENT

Steps should be taken to enhance stakeholder dialogue. At present, there is no legal provision that requires mandatory public consultation on draft legislation, policies and regulations. The currently informal solicitation of stakeholders' feedback must be institutionalised. Setting out legal provisions on the process and the timeframe for public consultation would be a step in the right direction.

Regulatory environment and investment conditions

QUICK FACTS

The National Office of Hydrocarbons and Mines, under the MEMDD, manages upstream hydrocarbon resources. The Ministry of General Affairs and Governance oversees price and competition matters, including the pricing policy for electricity and fuel.

The National Office of Electricity and Drinking Water is a vertically integrated State-owned company. It is a single buyer of the power generated by different parties (except for renewables generation).

The open segment of the electricity market (renewable and self-generators) is regulated by the National Authority for Electricity Regulation (ANRE) which was established in 2016.

STRENGTHS

ANRE was established as a step towards making the electricity market competitive and open. It is subject to minimal control of the Government in term of its operations. It is mandated to prepare an annual report on its activities which is debated in the Parliament. The execution of its budget is reviewed by the Court of Auditors. The Director of ANRE was appointed in 2018 and the decision was made publicly available. Morocco is also seeking collaboration on an international level to improve its energy regulation. For instance, the EU twinning programme has been launched to bring, among other things, alignment between Morocco's regulatory regime and the EU *acquis*.

The Government has taken steps to promote and facilitate private investors, particularly in renewable energy. Licensing and permitting procedures have been simplified and the legal regime has been updated to improve investment conditions. Holders of oil titles and their contractors and subcontractors are exempted from all duties and taxes on the importation of equipment, materials and consumable products intended for use in the survey, exploration and exploitation of hydrocarbons, and in activities ancillary to it. There are no specific obligations upon operators to prefer or use a minimum amount of locally sourced goods or services.

AREAS FOR IMPROVEMENT

Morocco has taken commendable measures towards liberalising its electricity sector. To build on the work done, ANRE should be made fully functional and empowered to carry out its functions. In particular, the budgetary independence of ANRE should be given attention. Moreover, to make the electricity market truly competitive, the Government must progressively expand the mandate of ANRE to include all operations on the generation, transmission and distribution side and also allow it to set tariffs on the three levels.

Rule of law

QUICK FACTS

Morocco ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States in 1967.

Morocco acceded to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 1959.

STRENGTHS

Arbitration and mediation are promoted as means of alternative dispute resolutions under the Code of Civil Procedure. Morocco has a regional centre for arbitration, the Casablanca International Mediation and Arbitration Center. It aims to usher a modern and streamlined alternative dispute resolution system so that Morocco can become a popular destination for arbitration in Africa. An ombudsman institution is established under the law. Its primary purpose is to examine complaints and grievances of citizens related to administrative decisions and acts found to be contrary to the rule of law and principle of equity. The Constitution prohibits the retroactive application of laws.

The Constitution states that no expropriation can take place except in certain cases provided by law. Intellectual property is recognised and protected under Moroccan law. The Law no. 7-81 "On Expropriation for Public Purposes and Temporary Occupation" sets out the process for the determination of compensation in the case of expropriation. It also details a set of rules domestic courts must follow when determining the amount of compensation. There are no restrictions imposed on the transfer of technology. Tender documents may indicate the need for encouraging specific technologies such as renewable energies.

AREAS FOR IMPROVEMENT

The Government may consider setting up a foreign investment ombudsman dedicated to the resolution of conflicts between investors and public authorities. The investment ombudsman should have the mandate to impartially process the complaints received from private companies regarding decisions, actions or omissions of the public administration. Alternatively, the mandate of the Ombudsman Institution, established under the Constitution, could be expanded to include this function.

The national laws provide investors a degree of protection against expropriation. However, this can be fortified further through the inclusion of detailed legal provisions, such as on the timeframe for the payment of compensation. Moreover, Law no. 7-81 "On Expropriation for Public Purposes and Temporary Occupation" has a broad understanding of situations in which expropriation can occur legitimately. The Law also allows the State to delegate its right to expropriate but does not stipulate a criteria for when or to whom such delegation is possible. It is recommended that unambiguous and defined legal provisions on these issues should be set. This will give investors greater security in relation to the expropriation regime.



Nigeria

Population ¹	190,873,311
Area (km ²) ¹	923,770
GDP per capita (USD) ¹	1,968.56
TPES (Mtoe) ²	149.96
Energy intensity (toe/10 ³ 2010 USD) ²	0.33
CO ₂ emissions - energy (MtCO ₂) ²	86.00

Sources:

1. The World Bank 2017

2. ©IEA 2018, www.iea.org/statistics

Nigeria’s overall risk level against the assessed areas is **moderate**.

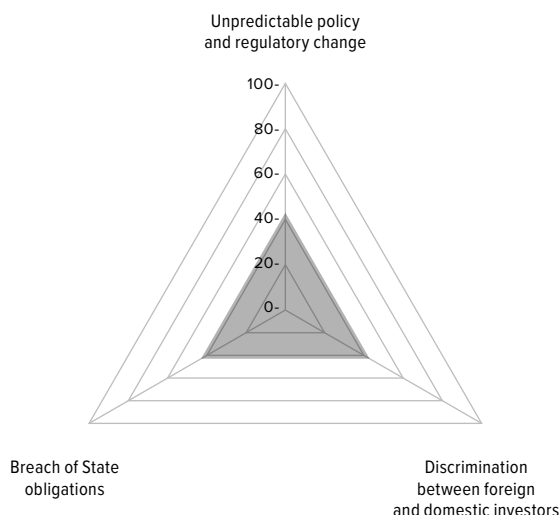
The risk areas *unpredictable policy and regulatory change* and *breach of State obligations* are on the same level as last year, while *discrimination between foreign and domestic investors* has reduced by a point.

Nigeria’s performance against EIRA’s four indicators is moderate. It has received a score of 59 on the indicator *management of decision-making processes* and 58 on *rule of law*. On *foresight of policy and regulatory change* its performance has improved by 1 point and now stands at 55. The score for *regulatory environment and investment condition* has also moved up from 51 to 53 points.

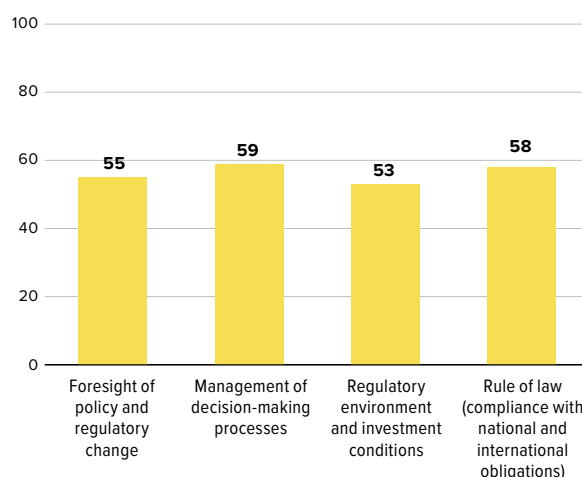
On a more detailed level, Nigeria’s overall sub-indicator performance is moderate. The highest-scoring sub-indicator is once again *management and settlement of investor-State disputes* with 73 points. The performance on *communication of vision and policies* has improved by 4 points and it now stands at 65. The score for *transparency* has also gone up from 61 to 63. The next sub-indicator is *regulatory effectiveness*, which has moved from 56 to 57 points. On *institutional governance* it has the same score as last year (56), while *restrictions on FDI* is now at 50 instead of 47. The score on *robustness of policy goals and commitments* remains 46. The lowest performance was again observed on the sub-indicator *respect for property rights*, which has 42 points.

While there are some improvements in Nigeria’s performance compared to 2018, further steps must be taken to build on the work done. Particular attention should be given to strengthening the respect for property rights in the country.

RISK LEVEL



INDICATOR PERFORMANCE

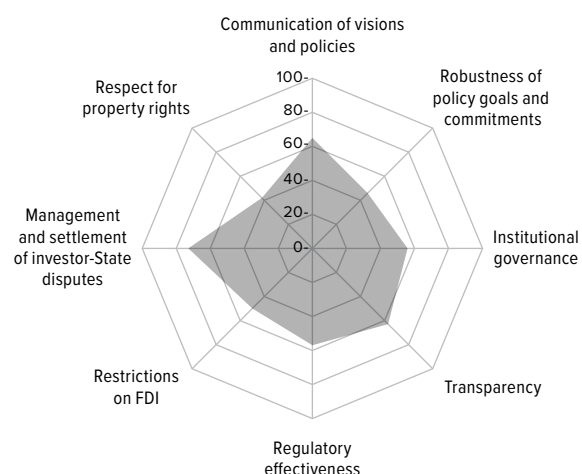


YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019
Unpredictable policy and regulatory change	43	43
Discrimination between foreign and domestic investors	44	43
Breach of State obligations	43	43

INDICATORS	2018	2019
Foresight of policy and regulatory change	54	55
Management of decision-making processes	59	59
Regulatory environment and investment conditions	51	53
Rule of law	58	58

SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

The main strategic documents for Nigeria's energy sector are the National Energy Policy 2003 and the Nigeria Vision 2020.

The principal action plans for implementing the energy policies are the Economic Recovery and Growth Plan 2017-2020 and the National Integrated Infrastructure Master Plan 2015.

STRENGTHS

Nigeria made progress on some of its energy goals during the EIRA assessment year. To meet its ultimate target of eliminating flared gas by 2020, the Flare Gas (Prevention of Waste and Pollution) Regulation was introduced in 2018. The Regulation now allows licencees to take flared gas from sites. The Federal Government also signed a regional pipeline agreement with the Kingdom of Morocco. Through this, it intends to provide gas in West Africa, create job opportunities and encourage the diversification of energy resources in the country.

Lead ministries have been appointed for implementing the energy priorities. In 2018, the Government established an inter-ministerial Committee for harmonising data collection and evaluation for the country. The Committee is chaired by the Statistician-General of the Federal Republic of Nigeria. It acts as a focal point for collecting, authenticating and publishing information. Representatives on the Committee, from the energy sector, include the Nigerian National Petroleum Corporation and the Department of Petroleum Resources.

AREAS FOR IMPROVEMENT

In line with the improvement suggested last year, initial steps have been taken to set the key performance indicators for the energy sector. The Government is encouraged to work further in this direction and develop ultimate outcomes consistent with the existing short- and medium-term targets. It is also suggested that priorities and targets should be incorporated into binding documents.

A rigorous evaluation of the existing policies should be undertaken to examine whether they are continually and systematically executed. This will better position decision makers to assess the real impact of the policies measures and restructure them if needed. New strategies should be drafted only after examining the implementation status of the instruments already in force, and after conducting a thorough cost-benefit analysis.

More periodic reporting of the monitoring and evaluation findings is encouraged. The final reports should be made widely available. They should give a balanced account and contain relevant recommendations. It must be ensured that these recommendations are duly considered and followed up.

Management of decision-making processes

QUICK FACTS

Nigeria has a bicameral legislature.

The Nigerian Investment Promotion Commission encourages and coordinates all the investment activities.

Nigeria enacted the Freedom of Information Act in 2011 to make public records and information available, subject to certain conditions stipulated in the Act.

STRENGTHS

The Energy Commission of Nigeria continues to play an active role in bringing together different Government and non-government agencies on critical issues. Progress was made on some significant legislative bills after vigorous discussions in Parliament. For instance, the Companies and Allied Matters Bill, which intends to restructure Nigerian business practices to match global standards, was passed by the Senate and House of Representatives during the EIRA assessment year. Moreover, in 2019 the President of the Federal Republic of Nigeria signed into law the Federal Competition and Consumer Protection Act.

Information from public authorities is available and accessible. In 2018, Executive Order 6 was signed by the President of the Federal Republic of Nigeria to adopt higher transparency standards for public authorities. It prescribes, among other things, disciplinary actions and penalties for public authorities and officials found misappropriating Government assets. Ministries, Departments and Agencies of the Federal Government, in consultation with the Attorney General of the Federation, are required to identify and adopt best practices for implementing the Order.

AREAS FOR IMPROVEMENT

Coordination between Ministries, Departments and Agencies of the Federal Government should be ensured on cross-sectoral issues. Presently, there are multiple bodies engaged in framing and implementing the energy policies. This can create a significant risk of contradicting strategies and overlapping actions. It can also stall legislation, such as the Petroleum Industry Governance Bill, that are critical for attracting investment in the sector. Active dialogue on all levels should be undertaken to ensure swift and consistent decisions, and to streamline their implementation.

Proactive efforts are needed to ensure greater public participation in policy development. Instead of ad hoc discussions, the procedure and timelines for commenting and providing feedback should be decided at an early stage and made publicly known. This will increase confidence and promote cooperation.

Regulatory environment and investment conditions

QUICK FACTS

The Nigerian Electricity Regulatory Commission (NERC) regulates the generation, transmission, distribution and trading of electricity. The Department of Petroleum Resources is the oil and gas regulator.

The substantive provisions granting protection to foreign investors are enshrined in the Nigerian Investment Promotion Commission Act 1995.

STRENGTHS

The NERC has made attempts to improve its operations and ensure affordable access to electricity consumers. For this purpose, it adopted the Meter Asset Provider Regulations in 2018. These seek to permit companies, other than the distribution companies that already have exclusive distribution licences, to supply and install smart meters for customers. Additionally, the Federal Competition and Consumer Protection Act 2018 was enacted to enhance the monitoring of competition issues. It envisages the establishment of the Federal Competition and Consumer Protection Commission as well as the Consumer Protection Tribunal to penalise restrictive trade and business practices.

The legislative framework remains supportive of foreign investment. Steps have been taken to incentivise private investors in different activities, including refinery projects. Full repatriation of capital invested through foreign sources is permitted. The Central Bank of Nigeria released a revised edition of its Foreign Exchange Manual, effective from 1 August 2018. The Manual introduces the latest policy developments into the Nigerian foreign exchange regime. It also aims at harmonising the documentation requirements and ensuring compliance by stakeholders in the foreign exchange market. The Nigerian Code of Corporate Governance was released by the Financial Reporting Council of Nigeria in January 2019 to institutionalise corporate governance best practices in Nigerian companies on an apply-and-explain basis.

AREAS FOR IMPROVEMENT

As mentioned last year, it is essential that the roles and responsibilities of the different regulatory authorities are streamlined. The need for regulators that perform similar functions or obsolete functions should be periodically evaluated. Moreover, in line with the commitment made last year, the establishment of an independent mining commission should be realised as soon as possible.

As stated in EIRA 2018, the success of policy interventions, such as those related to local content, depends on the progress made in other areas such as developing infrastructure and improving the quality of education. A rigorous and periodic review should be undertaken to evaluate if the content targets are realistic. It should be noted that over-ambitious targets may (1) lead to a mismatch between supply and final demand, and (2) detrimentally affect competition in the market.

Rule of law

QUICK FACTS

Access to arbitration is provided in the Arbitration and Conciliation Act 2004.

Nigeria ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States in 1965.

Nigeria acceded to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 1970.

STRENGTHS

Local courts recognise contractual provisions that allow direct access to international arbitration. National courts enforce foreign judgments on a reciprocal basis. Nigerian law recognises the right of parties to choose the dispute resolution forum. There were no retroactive legislative changes introduced in the last year. Reciprocal arrangements continue to govern the recognition and enforcement of foreign judgments. The Foreign Judgements (Reciprocal Enforcement) Act 2004 applies to court judgments obtained from any part of the Commonwealth other than Nigeria.

The Nigerian Investment Promotion Commission Act provides guarantees against the expropriation of foreign investments. In recent years, the Government has entered into Put-Call Option Agreements (PCOA) for certain energy projects. BITs signed by Nigeria, such as with China, Finland, Germany, Spain, Singapore and Turkey consider intellectual property as "investment". Protection is granted to all investment against any form of expropriation and through the unqualified operation of *most-favoured-nation* and *national treatment* obligations.

AREAS FOR IMPROVEMENT

The Government may consider establishing an investment ombudsman for resolving conflicts between foreign investors and public authorities. This is particularly relevant to Nigeria because a significant number of public bodies are responsible for different aspects of energy projects. Lengthy administrative procedures can lead to time and cost difficulties for investors, which can precipitate into disputes. An ombudsman dedicated to resolving such obstacles can help to de-escalate conflicts.

Under domestic law, expropriation refers to physical property and acquisition of enterprises. National legislation may contain provisions for granting protection against the expropriation of intangible property such as equity/shares.



Palestine

Population ¹	N/A
Area (km ²) ¹	N/A
GDP per capita (USD) ¹	N/A
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

Palestine’s overall risk level against the assessed areas is **moderate**.

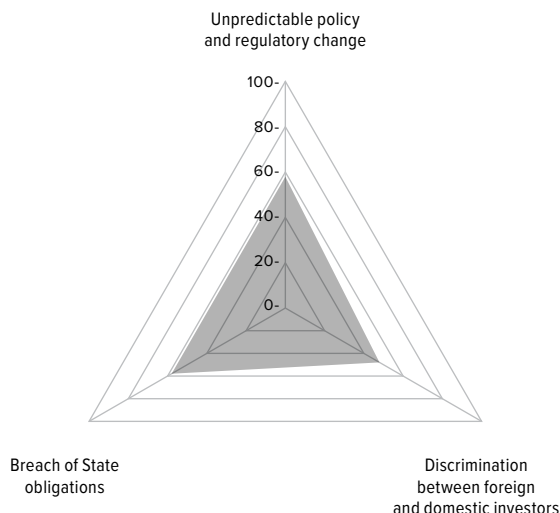
Among the three EIRA risk areas, *discrimination between foreign and domestic investors* is lower than *unpredictable policy and regulatory change* and *breach of State obligations*.

Palestine’s performance is moderate on three of the EIRA indicators, and it is low on one indicator. It has received 57 points on the indicator *regulatory environment and investment conditions* and 55 on *management of decision-making processes*. On *rule of law* the score stands at 43 while *foresight of policy and regulatory change* is at 28 points.

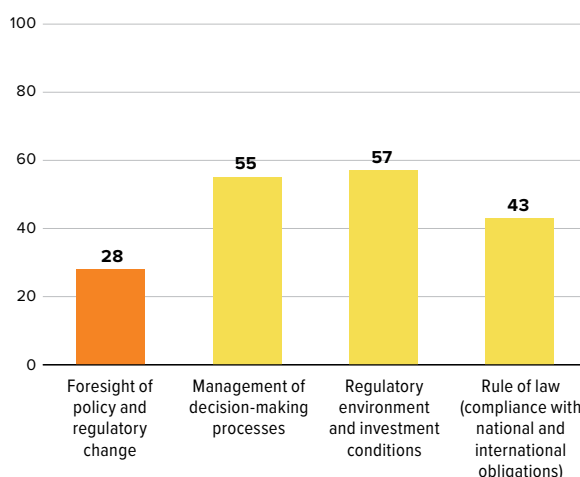
On a more detailed level, Palestine’s overall sub-indicator performance is moderate. The highest-scoring sub-indicator is *restrictions on FDI* with a good score of 70. It is followed by *institutional governance* at 69. Next is *management and settlement of investor-State disputes* with a score of 60 points. Palestine has obtained a moderate score of 44 on the sub-indicator *regulatory effectiveness*. *Transparency and communication of vision and policies* are at 41 and 31 respectively. On the sub-indicators *robustness of policy goals and commitments* and *respect for property rights*, it has received 25 points each.

While there are some policies and measures in place, more concrete steps must be taken to strengthen Palestine’s performance across all indicators and underlying sub-indicators. Particular attention should be given to enhancing the robustness of its policy goals and commitments and respect for property rights.

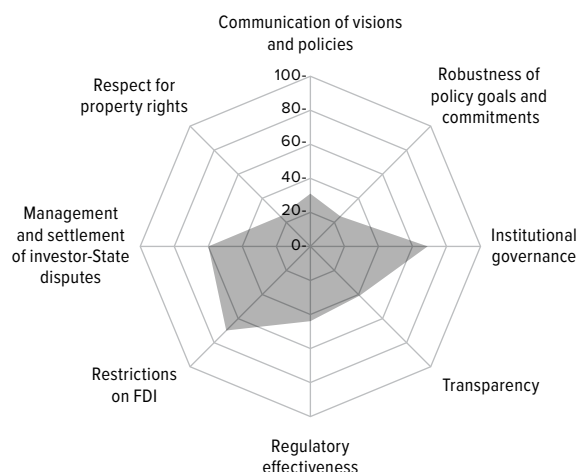
RISK LEVEL



INDICATOR PERFORMANCE



SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

The 2017-22 National Policy Agenda: Putting Citizens First constitutes Palestine's fourth National Plan since 2008.

The Comprehensive National Strategy for the Energy Sector in Palestine (2017-2022) sets the priorities for the energy sector.

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

STRENGTHS

The main priorities of Palestine are ensuring greater energy security, implementing higher efficiency standards and strengthening its institutional framework. To achieve these strategic objectives, the Comprehensive National Strategy for the Energy Sector in Palestine (2017-2022) proposes a set of measures to be undertaken by 2020. Projects to ensure reliable electricity connection systems are underway. Attempts are also being made to diversify the energy mix, establish strategic oil and gas storage reserves and develop the power transmission and distribution infrastructure.

The Palestinian Energy and Natural Resources Authority (PENRA) is in charge of monitoring activities in the energy sector. The Palestinian Central Bureau of Statistics, established under Law no. 4 of 2000 on General Statistics, collects and integrates the data used for monitoring different sectors, including energy. It gathers statistics on energy balance, energy use in households, consumption by industry, pollution and emissions. It also compiles data on the balance of international investment in various economic sectors.

AREAS FOR IMPROVEMENT

While commendable efforts have been made to streamline growth in the energy sector, further work is needed to produce the intended results. As a starting point, energy priorities must be linked to performance-oriented targets. At present, the strategy documents describe Palestine's objectives but do not envisage a mechanism for assessing their achievement. Clear targets allow policy makers to identify the right implementation measures, facilitate better planning and assist in effectively monitoring the progress made.

Robust monitoring mechanisms should evaluate the impact of policy instruments and the real progress made on their intended outcomes. Defined and independent monitoring bodies are necessary from an answerability perspective since public institutions can be held accountable for the delivery or non-delivery of their targets. In light of this, it is suggested that the roles and tasks of the implementing agencies and the monitoring authorities be stipulated in the primary strategy documents. It is equally important to set out the monitoring procedure, the reporting lines and the timeframe for undertaking the evaluation.

Management of decision-making processes

QUICK FACTS

Palestine has a unicameral Parliament.

Law no. 4 of 1995 on the Procedures for the Preparation of Legislation sets out the process of legislative drafting.

PENRA is the main policy-making body in the energy sector.

The Ministry of National Economy is the central authority responsible for developing energy policies. It is assisted by the Palestinian Investment Promotion Agency, which also supervises the evaluation of investment policies.

STRENGTHS

The competent Ministry prepares laws in conjunction with the Office of the Advisory and Legislation Bureau of Palestine (ALB). The ALB is a specialised institution that is responsible for formulating, studying, drafting and amending legislation. It has to consult and coordinate with the relevant ministries and other public authorities while formulating the drafts. The Council of Ministers and the President of the National Authority approve the issuance of all laws. Publishing enacted laws in the Official Gazette is mandatory.

Legal information is easily accessible online. Enacted laws and regulations in force are available on the websites of the relevant ministries and public authorities. The online version of the Official Gazette is published by the ALB. The Palestinian Electricity Regulatory Council (PERC) uploads relevant decisions online. For instance, the electricity tariffs and the connection fees for 2018 are listed on its website.

AREAS FOR IMPROVEMENT

A legal framework should be developed to integrate transparency in the decision-making process. For this purpose, the draft law on access to information should be finalised and enacted as soon as possible. The law should include a defined scope of application, a narrow list of exceptions to the rule of access, the procedure for obtaining information and the obligation of public authorities to facilitate the flow of information.

Provisions mandating public consultation on draft legislation and regulations should be incorporated in the existing laws. Definitive timelines should also be prescribed for receiving comments and feedback from the public. The duration of the consultations should be fixed based on the nature of the document, the issues raised and the number of people likely to be affected. Institutionalised stakeholder engagement mechanisms will give equal opportunity to the public for providing input on the draft laws and regulations.

A translation unit within the ALB should be established. Official translations of laws and policy documents in foreign languages will help provide accurate information to foreign investors about the legal and regulatory framework as well as guidance on how to conduct business locally.

Regulatory environment and investment conditions

QUICK FACTS

The regulator for the energy sector is the PERC.

Law no. 1 of 1998 on the Encouragement of Investment in Palestine, as amended, provides the legal framework for investment activities.

STRENGTHS

The PERC is established under the law and has legal personality. Decree-Law no. 13 of 2009 on General Electricity Law stipulates that it shall have financial and administrative independence. The State Audit and Administrative Control Bureau is responsible for auditing the accounts and expenditures of the PERC. Its Board of Directors comprises representatives from the public and private sectors. They are appointed for a term of four years renewable only once.

Over the past years, progressive changes have been introduced to the Law on the Encouragement of Investment in Palestine. Restrictions imposed on some sectors, such as electricity generation and distribution, have been removed and replaced with attractive incentive schemes. To promote the utilisation of local products and workforce, new benefits were introduced for investors in 2016. Moreover, in 2017, a new incentive package was launched for renewable energy projects.

AREAS FOR IMPROVEMENT

Palestine has undertaken commendable work towards updating and harmonising its laws, including the Law on the Encouragement of Investment in Palestine. Now is a proper moment to modernise other legal instruments that affect the investment climate and its attractiveness. In particular, the efforts to unify and update the legal framework regulating the establishment and registration of companies and intellectual property rights should be expedited. Gaps in the implementation of the existing laws should also be identified and rectified.

Rule of law

QUICK FACTS

Arbitration provisions are established in the Law no. 3 of 2000 on Arbitration.

Palestine acceded to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 2015.

The Basic Law of 2005 amending certain provisions of the amended Basic Law for the year 2003 grants protection to private property against expropriation.

Conditions for the expropriation of land are envisaged in Law no. 2 of 1953 on Acquisition, as amended.

STRENGTHS

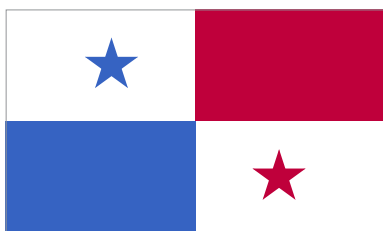
There is no requirement to exhaust local judicial remedies unless the parties expressly agree to do so in their contractual arrangements. The Code of Civil and Commercial Procedure Promulgated by Law no. 2 of 2001 prescribes time limits for specific stages of the judicial proceedings, such as for filing an appeal before the local courts. It also stipulates the international jurisdiction of the domestic courts. Mediation and conciliation are encouraged and specified in the law.

The Law on the Encouragement of Investment in Palestine, as amended, prohibits the nationalisation or expropriation of any investment in Palestine except by the operation of the law. It also states that an investor should be compensated at fair market value for the losses suffered because of the expropriation. At present, there are no restrictions on the transfer of technology in the energy sector. Palestine has two BITs in force that define "investment" to include intellectual property.

AREAS FOR IMPROVEMENT

Steps can be taken to enhance the effectiveness of domestic judicial processes. For instance, the establishment of specialised commercial courts will give investors more confidence, foster trust and increase the efficiency of the legal system. Additionally, an ombudsman may be created to deal with issues arising in the course of investment activities. The ombudsman could deal with deadlocks on matters of taxation, customs, labour, construction, licensing and land. It may also be given mediation functions to facilitate time- and cost-effective settlement of disputes.

The Acquisition Law needs to be updated to reflect best practices and grant investors more protection. Though the Law states the process for evaluating compensation in the case of expropriation, there is scope for further explanation. Criteria must be set for determining the activities which constitute "public interest". Moreover, it should stipulate the authorities that will decide whether a case for expropriation exists. Finally, a timeline for paying compensation to the affected investor and an explanation of the intended use of the acquired property can also be included.



Panama

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

Sources:

1. The World Bank 2017

2. ©IEA 2018, 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.

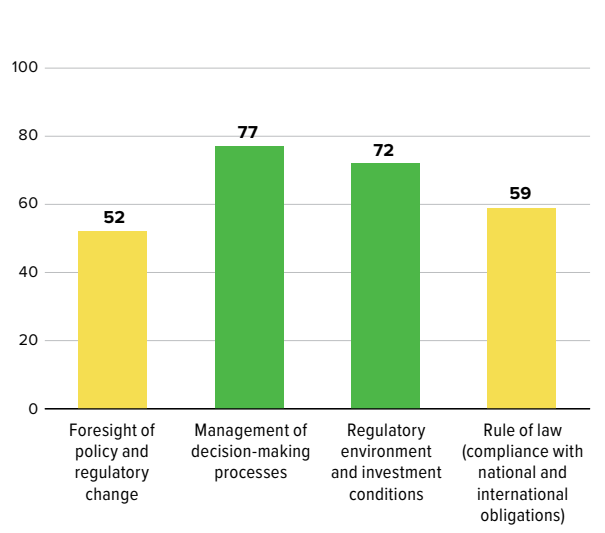
On a more detailed level, Panama’s sub-indicator performance is good. The highest-scoring sub-indicator is *transparency* with 92 points, followed by *restrictions on FDI* at 80 and *robustness of policy goals and commitments* at 75. *Regulatory effectiveness* and *institutional governance* stand at 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.

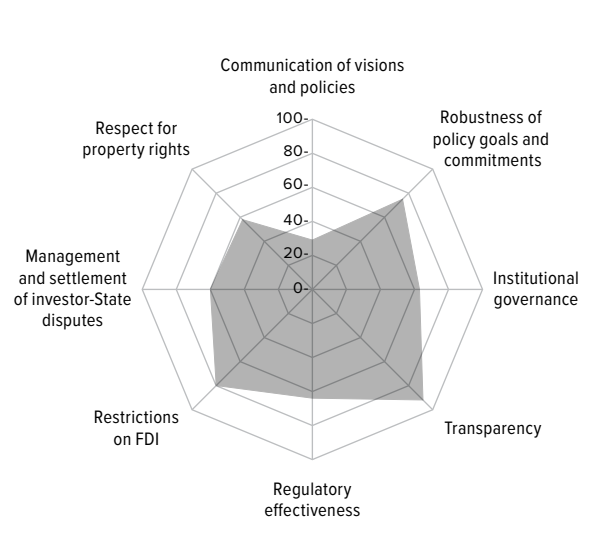
RISK LEVEL



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.



Republic of Moldova

Population ¹	3,549,196
Area (km ²) ¹	33,850
GDP per capita (USD) ¹	2,724.49
TPES (Mtoe) ²	3.80
Energy intensity (toe/10 ³ 2010 USD) ²	0.52
CO ₂ emissions - energy (MtCO ₂) ²	7.70

Sources:

1. The World Bank 2017

2. ©IEA 2018, www.iea.org/statistics

Moldova’s overall risk level against the assessed areas is **very low**.

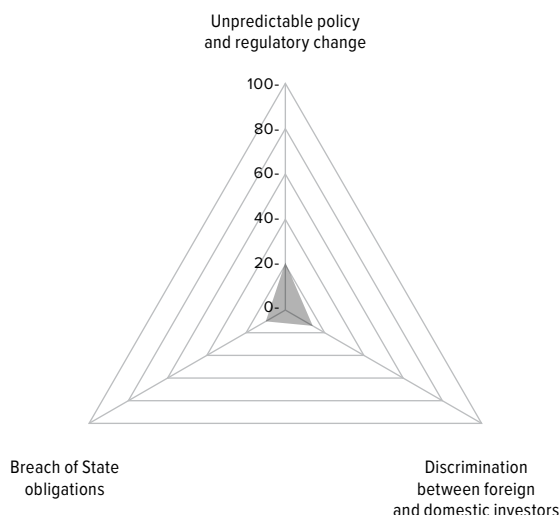
Among the three EIRA risk areas *breach of State obligations* and *discrimination between foreign and domestic investors* continue to be lower compared to *unpredictable policy and regulatory change*.

Moldova’s performance is very good on three of the EIRA indicators, and it is good on one indicator. Its score on the indicators *rule of law* (90), *regulatory environment and investment conditions* (85), and *management of decision-making processes* (83) continues to be very good. The performance on *foresight of policy and regulatory change* has dropped by 1 point and now stands at 63.

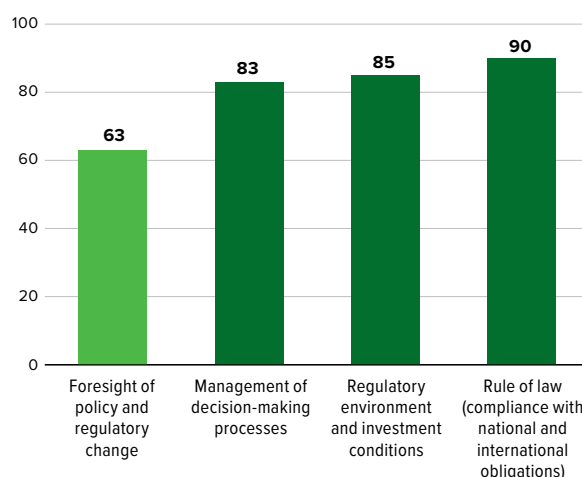
On a more detailed level, Moldova’s overall sub-indicator performance is very good. The highest-scoring sub-indicators are *regulatory effectiveness* and *respect for property rights*, with 100 points each. There are no changes to the scores on *transparency* (85), *institutional governance* (81), *management and settlement of investor-State disputes* (80) and *restrictions on FDI* (70). On *communication of vision and policies* its performance has gone down by 2 points. This now has a score of 63, the same as *robustness of policy goals and commitments*.

Moldova continues to provide attractive conditions for investors. Attention should again be given to better communicating the country’s vision and policies.

RISK LEVEL



INDICATOR PERFORMANCE

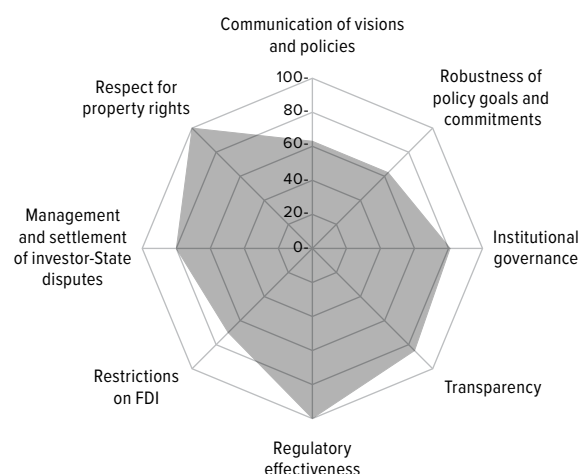


YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019
Unpredictable policy and regulatory change	21	21
Discrimination between foreign and domestic investors	14	14
Breach of State obligations	10	10

INDICATORS	2018	2019
Foresight of policy and regulatory change	64	63
Management of decision-making processes	83	83
Regulatory environment and investment conditions	85	85
Rule of law	90	90

SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

The main strategic document for the energy sector is the Energy Strategy of the Republic of Moldova until 2030 (adopted in 2012). In October 2018, a revised version of the Energy Strategy 2030 was submitted for public consultation.

Moldova ratified the Paris Agreement in 2017 and submitted its first NDCs.

STRENGTHS

The key strategic objectives of Moldova are ensuring the security of supply, promoting the sustainability of the energy sector and fulfilling the prerequisites for market liberalisation. In 2018, Moldova took significant steps to enhance energy security and diversify its resource base. In particular, progress was made on the development of a significant gas pipeline project. Moreover, national legislation came into force to scale up investment in renewable energy and transpose the principles set in the EU's Guidelines on State aid for environmental protection and energy 2014-2020. The legislation supports development of small-scale, community-based renewable energy projects as a means to achieve local autonomy and distributed energy generation. Additionally, the new Law no. 139 of 2018 "On Energy Efficiency" provides the necessary legal basis for the adoption of measures such as the rehabilitation of public buildings, the introduction of energy efficiency criteria in public procurement, and the promotion of energy performance contracts.

The Energy Strategy 2030 envisages data collection and monitoring mechanisms. The responsibility for implementing the energy goals belongs to various bodies, including ministries, the National Energy Regulatory Agency (ANRE), and the Energy Efficiency Agency. The latter is mandated to make country-wide efforts towards achieving the country's energy efficiency and renewable targets. Following its restructuring in 2018, the Energy Efficiency Agency is also responsible for providing financial support to relevant projects through the State budget, and from regional and international financial markets.

AREAS FOR IMPROVEMENT

The short- and mid-term targets in the Energy Strategy 2030 must be supplemented with the inclusion of long-term objectives and specific timelines for their achievement. This is particularly the case for renewables, where the target set for 2020 has already been achieved.

To fully realise the impact of the new renewable energy law, secondary regulations and implementation plans underpinning it should be devised, after impact assessment and deliberation with experts and stakeholders. They should clarify outstanding matters such as documentation for tendering procedure and eligibility for small renewable electricity producers.

Management of decision-making processes

QUICK FACTS

The Ministry of Economy and Infrastructure is responsible for formulating energy and investment policies.

The new Moldovan Investment Agency provides information and assistance to potential investors.

The Ministry of Agriculture, Regional Development and Environment oversees the implementation of the country's NDC.

In 2018, Law no. 100 of 2017 "On the Normative Acts" came into force.

STRENGTHS

Coordination among State bodies at national and regional level is required under Law no. 239 of 2008 "On Transparency in the Decision-Making Process". In 2018, the Government adopted the Action Plan 2018-2020 on the implementation of the Reform Strategy for Entrepreneurship (2013-2020) as part of an overall scheme to optimise the regulatory framework for business activity. The Action Plan is structured around two main axes, namely, the implementation of trade- and investment-facilitating mechanisms and the improvement of strategic communications between private and public actors.

The Constitution and Law no. 982 of 2000 "On Access to Information" establish a "right-to-know", which can be restricted only for a limited number of cases. All State authorities, including ANRE, are obliged to publish relevant laws as well as data on their activities. The creation of a State Registry of Legal Acts represents a significant effort towards systematising the publication process and facilitating access to legal information. Government bodies generally engage the public in the decision-making process. To enhance openness and inclusiveness, the recently amended Law no. 131 of 2015 "On Public Procurement" requires the electronic availability of the awarding documentation and the organisation by the contracting authority of market consultation with economic operators and independent experts.

AREAS FOR IMPROVEMENT

The Government should accelerate the adoption of business-enabling reforms contained in the Action Plan 2018-2020. This includes the creation of a one-stop shop and the possibility of online registration. This will assist in alleviating the administrative burden of private investors, who are currently subject to multiple and lengthy registration, licence and permit application processes.

The country has a robust legislative framework to guarantee transparency and public participation in the country's decision-making process. Public authorities should abide by these requirements in practice by making sure that their reports are regularly published and their websites are properly updated.

Regulatory environment and investment conditions

QUICK FACTS

Law no. 174 of 2017 “On Energy” complies with the EU acquis regarding the role and competences of the ANRE.

Equal treatment to domestic and foreign investors is guaranteed under Law no. 81 of 2004 “On Investments in Entrepreneurial Activity”.

STRENGTHS

In December 2018, Decision no. 334 “On the Approval of the Regulation for the Organisation and Functioning of ANRE” was adopted. It reaffirms the status of ANRE as a separate legal entity and reinforces its political and functional independence. The ANRE is headed by a Board of Directors, appointed by the Parliament following an open competition. The Board members cannot seek or accept instructions from private actors and public authorities, including the Parliament. The Director General employs ANRE’s staff in accordance with regulations approved by the Management Board, and on the basis of defined, transparent and non-discriminatory qualification criteria. Vacancy announcements are posted on its website.

The transposition of core EU energy legislation has resulted in the adoption of competitive and liberalised market principles, especially in the electricity and natural gas fields. These reforms have enhanced the investment environment of the country. Law no. 10 of 2016 “On the Promotion of the Use of Energy from Renewables Sources”, in force since 2018, provides for new support mechanisms for large renewable projects. It also guarantees non-discriminatory access to the grid and priority dispatch. Capacity auctions are planned for 2019. The recently approved regulation on tendering provides an initial framework for organising auctions that grant “eligible producer” status to large investors. This is done through the establishment of unequivocal, objective, transparent and non-discriminatory procedures, conditions and criteria.

AREAS FOR IMPROVEMENT

Special attention has been given to the improvement of the ANRE’s work. In line with the recommendation made in 2018, the provisions concerning its independence should be effectively applied on the ground, especially in terms of managing tariff policies and curbing monopolistic behaviour of certain actors in energy procurement.

Efforts should be intensified to ensure the much-anticipated unbundling of the supply from the transmission system in the country’s gas sub-sector. To this end, a detailed action plan must be prepared, consulted with the civil society and foreign partners, and duly published.

Rule of law

QUICK FACTS

Moldova ratified the Energy Charter Treaty in 1996.

Moldova ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States in 2011.

Moldova acceded to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 1998.

STRENGTHS

The Code of Civil Procedure no. 225-XV of 2003 stipulates the general jurisdiction for hearing contractual disputes. Alternative dispute resolution mechanisms are envisaged in national legislation. Prior exhaustion of local remedies is not a prerequisite for arbitration. As part of a wider policy to promote alternative dispute resolution mechanisms, the Supreme Court of Justice has devoted significant efforts to unifying court practice of recognition and enforcement of foreign arbitral awards and aligning it with the international standards. There have been no retroactive changes to laws, detrimentally affecting foreign investors, in the last five years.

In general, the expropriation procedures are governed by Law no. 488 of 1999 “On Expropriation for a Cause of Public Utility” and detailed by Government Decision no. 660 of 2006. The expropriating authority has to value the property both at market value and normative value. Cash compensation at market rate or normative rate, whichever is higher, is paid to the affected party prior to expropriation. The 2018 amendments in the Law “With Regard to Natural Gas” and the Law “With Regard to Electricity” set forth additional conditions for lawful takings in the case of energy-related projects. They also list the criteria for determining the compensation owed due to damage caused by system operators in the exercise of the rights of use and servitude. Moldova is a party to various international treaties and conventions in the field of intellectual property rights. It also has in place domestic laws and BITs that recognise and protect intellectual property rights as a form of investment.

AREAS FOR IMPROVEMENT

Significant efforts have already been undertaken to improve the judicial framework and processes. However, as recommended in 2018, the introduction of timeframes for the examination of cases and the delivery of judgments will ensure effective access to justice. Consequently, it will help the country secure compliance with its obligations under the European Convention for the Protection of Human Rights and Fundamental Freedoms.



Romania

Population ¹	19,587,491
Area (km ²) ¹	238,400
GDP per capita (USD) ¹	10,792.96
TPES (Mtoe) ²	31.74
Energy intensity (toe/10 ³ 2010 USD) ²	0.16
CO ₂ emissions - energy (MtCO ₂) ²	67.90

Sources:

1. The World Bank 2017

2. ©IEA 2018, www.iea.org/statistics

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

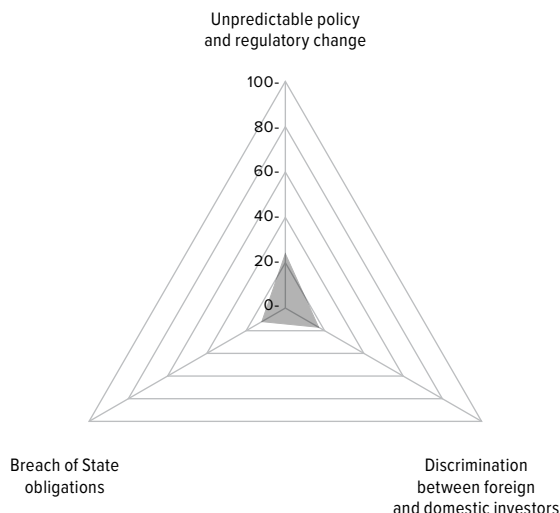
Among the three EIRA risk areas, *breach of State obligations* continues to be lower compared to *discrimination between foreign and domestic investors* and *unpredictable policy and regulatory change*.

Romania has a very good performance on two of the EIRA indicators. It has a good performance on one indicator and a moderate performance on one. It has maintained a score of 88 on the indicators *rule of law*, and 81 on *regulatory environment and investment conditions*. *Management of decision-making processes* is again at 80, while *foresight of policy and regulatory change* is at 59.

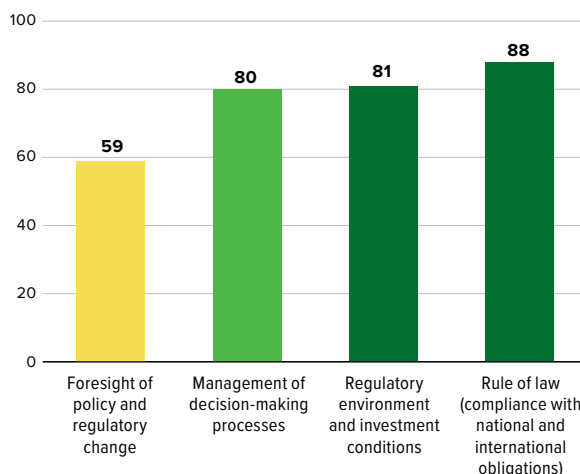
On a more detailed level, Romania’s overall sub-indicator performance is also good. *Respect for property rights* and *restrictions on FDI* remain the highest-scoring sub-indicators with 100 and 90 points, respectively. *Institutional governance* stands again at 88 and *management and settlement of investor-State disputes* at 75. A good score has been obtained for *transparency* and *regulatory effectiveness*, both with 72 points. Performance on *robustness of policy goals and commitments* is good with 68 points. *Communication of vision and policies* remains the lowest-scoring sub-indicator with 50 points.

Romania provides attractive conditions for investors and is working in the right direction. Attention should be given to better communicating the country’s vision and policies.

RISK LEVEL



INDICATOR PERFORMANCE

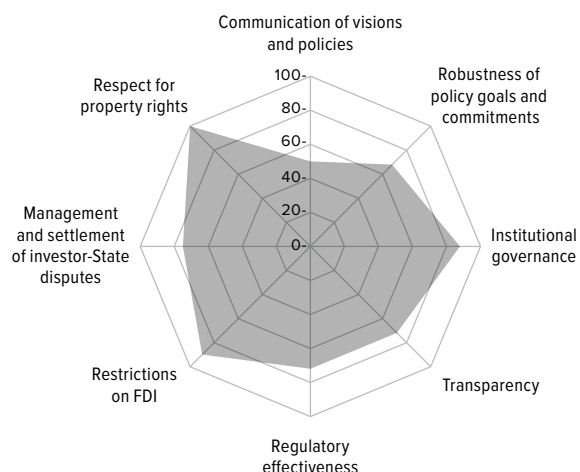


YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019
Unpredictable policy and regulatory change	25	25
Discrimination between foreign and domestic investors	17	17
Breach of State obligations	13	13

INDICATORS	2018	2019
Foresight of policy and regulatory change	59	59
Management of decision-making processes	80	80
Regulatory environment and investment conditions	81	81
Rule of law	88	88

SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

The Energy Strategy 2007-2020 continues to be the main energy strategy document in force.

The draft of the first National Energy and Climate Plan sets the national targets for 2030 regarding the reduction of GHG emissions, the share of renewable resources in the final energy consumption, and the increase of energy efficiency.

Romania ratified the Paris Agreement in 2017 and submitted its NDC together with all Member States of the EU.

STRENGTHS

Romania has achieved a balanced and diversified electricity mix. The policy targets in terms of energy transformation are stated in the Energy Strategy 2007-2020. Significant progress has been achieved in the renewables sub-sector with the 2018 revisions in the relevant regime ("E-Res Promotion Act"). Provisions have been drafted on prosumers, the process for supplying the network with the produced energy, as well as on exemptions from tax obligations. The latest initiative for supporting the transition to a low-carbon economy is the establishment of a Specialised Energy Efficiency Investment Fund. This comes in addition to existing financing options, such as the Operational Programme for Large Infrastructure 2014-2020 and the Regional Operational Programme 2014-2020.

The Ministry of Energy maintains its role as the lead authority for monitoring the implementation of the overall energy strategy. The National Authority for Energy Regulation (ANRE) monitors the implementation of the National Energy Efficiency Action Plan and the Law no. 121/2014 on energy efficiency. It submits an annual report to the Government and the European Commission on the progress made towards the national energy efficiency objectives. According to the data presented by the ANRE in the 2018 report, Romania is on track with its renewable energy target for 2020.

AREAS FOR IMPROVEMENT

The energy policies should be comprehensively reviewed to meet the current challenges and fill in gaps in the country's vision for the energy sector. The adoption of the draft Energy Strategy 2019-2030 will provide clarity about the prospects of the national energy sector. The new Energy Strategy should be supplemented by secondary legislation that is aligned with the EU 2030 framework for climate and energy.

Although the energy transition is an ongoing process and targets for renewable energy have been achieved, regulatory coherence is imperative. Achieving affordability and security of supply by investing in the fossil-based industries can undermine the country's de-carbonisation efforts. In light of this, the Government may consider creating sustainable strategies that will help Romania fully exploit its potential for wind and solar energy.

Management of decision-making processes

QUICK FACTS

The Ministry of Energy is responsible for the overall development of the energy sector.

The Ministry for Business Environment, Commerce and Entrepreneurship designs and implements investment-related laws and policies.

InvestRomania was established in 2016 to provide professional support and advice to foreign investors.

Romania enacted Law no. 544/2001 on free access to information of public interest and Law no. 52/2003 on decisional transparency in public administration.

STRENGTHS

The Ministry of Energy consults with other ministries and regulatory bodies on cross-cutting issues, such as investment incentives in the energy sector. Coordination between the Ministry of Energy and the National Agency for Mineral Resources (ANRM) took place during the process of revising Law no. 85/2003 on mining activities and Law no. 238/2004 on petroleum. The Ministry of Environment regularly reports to the European Commission and the UN on its GHG emissions, and climate change policies and measures.

National legislation contains detailed mechanisms for ensuring the participation of relevant stakeholders in the overall decision-making process. Public consultation announcements must be accompanied by a draft of the document, a feasibility study and an impact assessment. Legislative and regulatory proposals made by the Ministry of Energy and ANRE, during the EIRA assessment year, can be found on their respective website. For instance, the Ministry of Energy has posted on its official website the new draft of the Energy Strategy 2019-2030 which will be approved only upon the completion of public consultation and the conclusion of the environmental impact assessment. Moreover, national authorities are required to draw up and publish an annual report, which includes information regarding the number of debates organised, the participants, the quantity and impact of the recommendations received, and cases in which the public authority has been sued for failure to comply with these requirements.

AREAS FOR IMPROVEMENT

As suggested in 2018, the availability of official translations for key energy documents and laws currently only in Romanian will facilitate access to information for foreign investors. Moreover, it should be ensured that all public entities, including ANRM, update their website on a regular basis to contain the entirety of information required by the relevant laws.

Regulatory environment and investment conditions

QUICK FACTS

The ANRE regulates the electricity, heat (produced in cogeneration) and natural gas sub-sectors under Law no. 160/2012 for the approval of Government Emergency Ordinance no. 33/2007 on the organisation and functioning of ANRE, as further amended by Law no. 1/2018.

The ANRM regulates and supervises upstream oil and gas operations.

The equal treatment of domestic and foreign investors is provided in the Government Emergency Ordinance no. 92/1997 on the stimulation of direct investment.

STRENGTHS

Amendments to Law no. 123/2012 on electricity and gas have created new rights and obligations for the electricity and gas sub-sectors. The concept of “natural gas trader” as a physical or legal person purchasing and selling natural gas exclusively on the wholesale gas market has been introduced. Regulations detailing the issuance of natural gas trading licences were enacted in 2019 by the ANRE. Through these, entities with a gas supply licence will be able to trade gas on the wholesale market without obtaining a separate trading licence. Moreover, an EU licensed entity may carry out gas trading or supply activities in Romania without holding a gas trading or supply licence issued by the ANRE.

The legal regime for foreign investment continues to provide access in all areas of the Romanian economy. Under the Government Emergency Ordinance no. 85/2008 on fostering investments, energy investors can be granted certain facilities subject to prior approval by the European Commission. For example, non-reimbursable financial support from European and national funds is granted to investments related to the production of energy from biomass, biogas and geothermal energy.

AREAS FOR IMPROVEMENT

In 2019, the Government increased the quota of non-EU/EEA workers admitted in Romania. This measure contributes to a higher mobility of foreign workers. The Government should pay attention to some remaining practices that may be perceived as burdensome, such as the three-year limitation on the stay of ICT workers holding leadership positions and the one-year limitation for trainees assigned in Romania.

In light of the growing need for investment in clean and cost-effective new capacities, the Government should consider employing additional mechanisms for tendering new wind and PV power projects. These mechanisms may include contracts for difference and power purchase agreements that are available for all participants in the electricity market, along with additional norms and instruments to handle energy price volatility and mitigate contractual risks.

Rule of law

QUICK FACTS

With the entry into force of Law no. 18/2017 on the termination of Bilateral Investment Treaties concluded between Romania and European Union Member States, Romania has moved to gradually phase out all its intra-EU BITs.

Romania ratified the Energy Charter Treaty in 1996.

Romania ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States in 1975.

Romania acceded to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 1961.

STRENGTHS

Disputes between foreign investors and Romania may be settled, at the investor’s choice, by the national courts or an arbitral tribunal without prior exhaustion of local remedies. The Civil Procedure Code 2013 provides the possibility of mediation in civil and commercial matters. The Romanian courts enforce foreign judgments and foreign arbitral awards.

The current legal system continues to offer adequate protection of private property. Guarantees against expropriation, nationalisation and other measures of equivalent effect are provided by legal acts and international treaties on investment protection. Moreover, national laws define “public interest” and enumerate various public utility projects of national, regional or local interest as legitimate grounds for expropriation. The procedure and the calculation of compensation are also described in these laws. The determination of the value of expropriated assets and the amount of compensation can be challenged before the competent courts. Intellectual property rights constitute a form of protected investment. Currently, there are no restrictions on the transfer of technology.

AREAS FOR IMPROVEMENT

In line with last year’s suggested area of improvement, an investment ombudsman may be established to promote cost-effective and swift extra-judicial resolution of complaints against public authorities.

The introduction of binding time limits for all stages of a trial and the delivery of final judgments will further expedite court proceedings.



Rwanda

Population ¹	11,980,937
Area (km ²) ¹	26,340
GDP per capita (USD) ¹	762.50
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

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

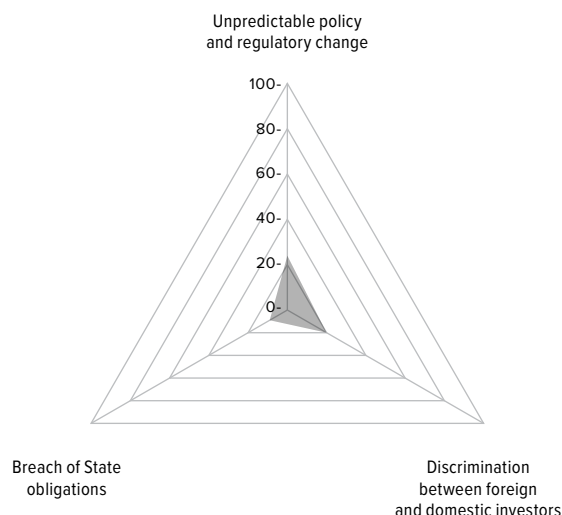
The three EIRA risk areas are at the same level as in 2018. *Breach of State obligations* is the lowest risk. It is followed by *discrimination between foreign and domestic investors* and *unpredictable policy and regulatory change*.

Rwanda has a very good performance on one of the EIRA indicators, and a good performance on three indicators. It has once again received 91 points on *rule of law*. On *regulatory environment and investment conditions* (77) and *management of decision-making processes* (73) it has maintained the scores from last year. *Foresight of policy and regulatory change* has improved from 64 to 66.

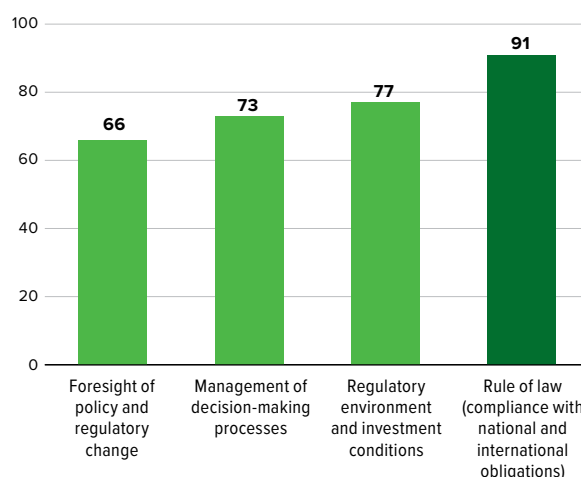
On a more detailed level, Rwanda’s overall sub-indicator performance is good. *Respect for property rights* continues to be the highest-scoring sub-indicator with 92 points. On *management and settlement of investor-State disputes* (90) and *restrictions on FDI* (83), the score remains the same as in 2018. The score for the sub-indicator *communication of vision and policies* has gone up from 80 to 82 points. The performance on *transparency* (80), *regulatory effectiveness* (72) and *institutional governance* (66) is unchanged. *Robustness of policy goals and commitments* is again the lowest-scoring sub-indicator with 49 points.

Rwanda provides attractive conditions for investors and is working in the right direction. Attention should be given to enhancing the robustness of the country’s policy goals and commitments.

RISK LEVEL



INDICATOR PERFORMANCE

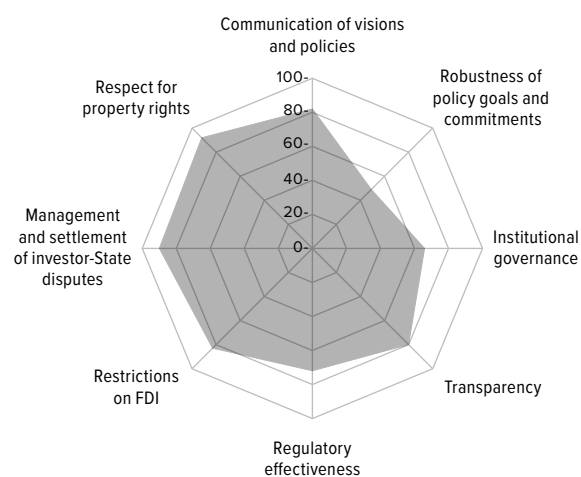


YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019
Unpredictable policy and regulatory change	24	24
Discrimination between foreign and domestic investors	20	20
Breach of State obligations	9	9

INDICATORS	2018	2019
Foresight of policy and regulatory change	64	66
Management of decision-making processes	73	73
Regulatory environment and investment conditions	77	77
Rule of law	91	91

SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

The National Energy Policy 2015 is the primary policy document that guides and influences decisions on the extraction, development and use of Rwanda's energy resources.

In 2018, the Government launched the Energy Sector Strategic Plan for 2018/19-2023/24 (ESSP 2018-2024).

Rwanda Energy Group Ltd (REG) is a Government-owned holding company responsible for executing the energy policies of the country and translating them into actual projects.

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

STRENGTHS

The ESSP 2018-2024 sets more ambitious targets than its predecessor, in terms of increasing the country's on- and off-grid electricity supply, enhancing energy efficiency and improving access. Bearing in mind the work already done, the new ESSP revises the nature of many targets from short- or mid-term to final. In line with the country's overall goal of achieving universal energy access by 2024, the Government has committed to new power projects. It has also introduced the Rwanda Cooling Initiative, which encourages the transition of households and companies to climate-friendly and energy-efficient cooling technologies.

The monitoring and evaluation mechanism envisaged in ESSP 2018-2024 is along the lines of the last Energy Sector Strategy Plan. The Ministry of Infrastructure and the Ministry of Finance and Economic Planning continue to jointly monitor the high-level energy targets. The REG is required to provide the Ministry of Infrastructure with accurate and up-to-date information and reports. The Ministry then reviews the performance by comparing the outcomes against the pre-defined targets. To improve data collection, the REG and the Ministry of Infrastructure are currently modernising and updating the Management Information System.

AREAS FOR IMPROVEMENT

Institutional reforms are needed to make the existing monitoring mechanisms independent. Bodies responsible for implementing the energy strategy should be separate from the authority that evaluates their work progress. Unlike the previous Energy Sector Strategy Plan, ESSP 2018-2024 does not state that its full assessment should be carried out by an independent evaluation consultancy for accountability and transparency. For better and transparent planning, it is important that all interested individuals and organisations can review the performance of the country and provide feedback to the Government on how to improve implementation processes.

Management of decision-making processes

QUICK FACTS

Rwanda has a bicameral legislature.

The Ministry of Infrastructure is responsible for formulating the energy policies.

Law no. 04/2013 Relating to Access to Information enables public access to information held by Government agencies and certain private bodies.

STRENGTHS

Collaboration and cooperation among ministries is encouraged in policy-making. The Government takes a coordinated approach towards meeting its high-level target objectives. In 2018, it successfully launched multiple implementation-oriented policies, such as the Biomass Energy Strategy 2018 and the Energy Efficiency Strategy 2018. The Forward-Looking Joint Sector Review for 2018/2019 was prepared by the Energy Sector Wide Approach Program Secretariat and made publicly available. The Rwanda Development Board took measures to make business registration easier for investors. For instance, to reduce time and cost for applicants, it introduced a free-of-charge online application and registration system.

During the EIRA assessment year, various reforms were undertaken by the Government to improve transparency standards. Rwanda is the first African country to introduce e-government procurement systems on a national level. In September 2018, Law no. 62/2018 Governing Public Procurement was enacted to promote e-procurement processes further, prevent corruption in public procurement activities as well as adopt international best practices. In addition to this, Law no. 54/2018 on Fighting against Corruption was enacted. It aims at preventing and punishing corruption in public organs, civil society private institutions and international organisations operating in Rwanda.

AREAS FOR IMPROVEMENT

The Government needs an implementation plan for achieving its NDC targets and managing the transition to low-carbon technologies. While Rwanda's Green Fund has been created to promote green growth, the NDCs Technical Coordinating Committee and the Centre for Climate Knowledge for Development are yet to come into existence. Work should be expedited in this regard.

Regulatory environment and investment conditions

QUICK FACTS

The Rwanda Utilities and Regulatory Authority (RURA) is a multi-sectoral body that regulates the electricity, renewables, gas and downstream petroleum sub-sectors.

Law no. 06/2015 Relating to Investment Promotion and Facilitation promotes and facilitates investment in Rwanda.

Law no. 05/2011 Regulating Special Economic Zones in Rwanda regulates the establishment, development, operation and maintenance of special economic zones.

STRENGTHS

RURA continues to effectively perform its regulatory functions in the energy sector. New electricity tariffs were introduced in 2018 for end-users. In particular, the power tariffs for industries were reduced to attract foreign investment and increase their competitiveness. At the same time, the lifeline tariff was not changed to ensure affordability for low-income households. Law no. 52/2018 Modifying Law no. 21/2011 Governing Electricity in Rwanda as Modified to Date was enacted in 2018. It redefines the role of the Minister in charge of electricity in setting the electricity tariff methodology. Instead of obtaining the Minister's approval, RURA is now only required to consult on this. The amended Law expressly requires RURA to publish the determined tariffs.

The country continues to support and encourage foreign investment in the energy sector. There is a favourable tax regime in place for foreign investors. Reforms have been introduced to facilitate the ease of doing business in the country. To reduce the time needed for procuring an electricity connection, the REG has launched an online facility for its customers. Investment in green energy remains a key priority for the country. While there are no local content requirements per se, foreign investors that employ local workforce are granted certain incentives.

AREAS FOR IMPROVEMENT

The Government may consider limiting the role of policy institutions in regulatory functions. Rwanda has already taken measures in this regard by placing the downstream petroleum sector under the authority of RURA. A similar approach can be taken in the case of upstream activities.

Rule of law

QUICK FACTS

Rwanda ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States in 1979.

Rwanda acceded to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 2008.

Access to arbitration is provided in Law no. 005/2008 on Arbitration and Conciliation in Commercial Matters.

Provisions against expropriation are incorporated in the Law no. 32/2015 Relating to Expropriation in the Public Interest.

STRENGTHS

In 2018, measures were taken to increase the efficiency of domestic judicial mechanisms. Rwanda enacted Law no. 22/2018 Relating to the Civil, Commercial, Labour and Administrative Procedure. The Law introduces a new clause which limits the adjournment of case hearings only to unforeseen and extraordinary situations. It also encourages judges to use conciliation if they believe it is the most appropriate way to resolve a dispute. There were no retroactive legislative changes introduced in the last year.

Respect for property rights continues to be highly robust. The Law Relating to Expropriation in the Public Interest stipulates a timeframe for the payment of compensation. The Law on Investment Promotion and Facilitation establishes the right of investors to own private property. BITs, such as with Belgium-Luxembourg, the United States, and the Republic of Korea define "investment" broadly to include movable property, financial stocks and intellectual property. Domestic legislation actively promotes technology transfer and innovation.

AREAS FOR IMPROVEMENT

As mentioned last year, a formal investment ombudsman may be established to address the grievances of foreign investors and to provide them with advisory services. Alternatively, the mandate of the Ombudsman's Office can be expanded to include representation of foreign investors before the State. At present, the Ombudsman's Office acts as a link between the citizens, and public and private institutions. However, its mission is limited to ensuring the prevention of injustice, corruption and related offences in public and private entities.



Senegal

Population ¹	15,419,381
Area (km ²) ¹	196,710
GDP per capita (USD) ¹	1,367.22
TPES (Mtoe) ²	4.32
Energy intensity (toe/10 ³ 2010 USD) ²	0.26
CO ₂ emissions - energy (MtCO ₂) ²	8.20

Sources:

1. The World Bank 2017

2. ©IEA 2018, www.iea.org/statistics

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

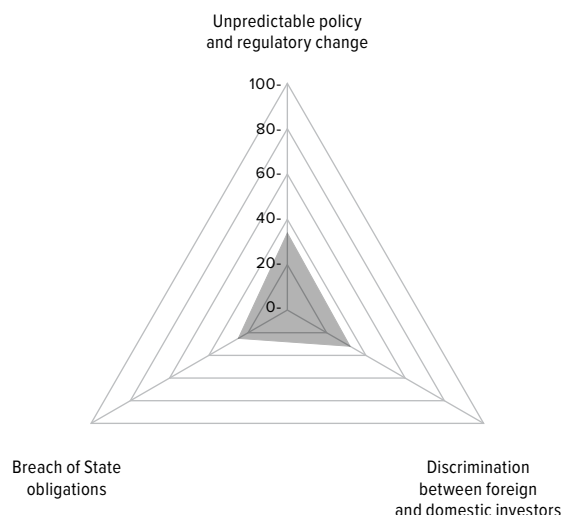
Among the three EIRA risk areas, *breach of State obligations* continues to be lower compared to *discrimination between foreign and domestic investors* and *unpredictable policy and regulatory change*.

Senegal’s performance against two of the EIRA indicators is good, and it is moderate on the other two. *Rule of law* remains the highest-scoring indicator with 75 points, followed by *management of decision-making processes* at 70. Performance on *regulatory environment and investment conditions* has decreased by 5 points and stands at 58, while *foresight of policy and regulatory change* is now at 52.

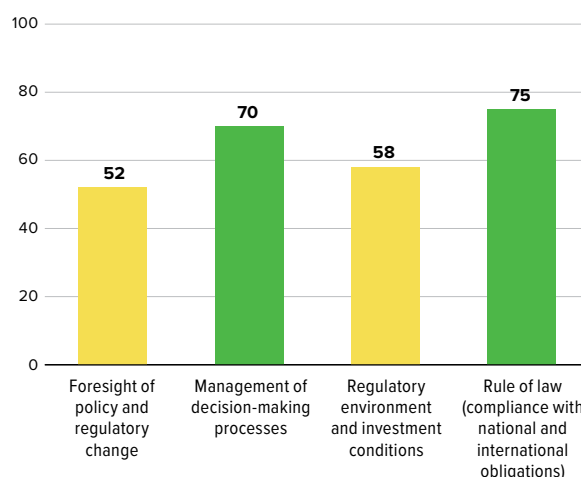
On a more detailed level, Senegal’s overall sub-indicator performance is good. It has maintained a very good score on *institutional governance* (94). This year, the score for *management and settlement of investor-State disputes* and *respect for property rights* stands at 75. The performance on *restrictions on FDI* has decreased by 10 points, while that on *communication of vision and policies* has decreased by 3 points, and are now at 65 and 53, respectively. A moderate score of 50 points has again been obtained for *robustness of policy goals and commitments* and *regulatory effectiveness*. *Transparency* remains the lowest-scoring sub-indicator with 46 points.

While Senegal has the relevant policies and regulations in place, there is potential for improvement. Attention should be given to enhancing transparency in the country.

RISK LEVEL



INDICATOR PERFORMANCE

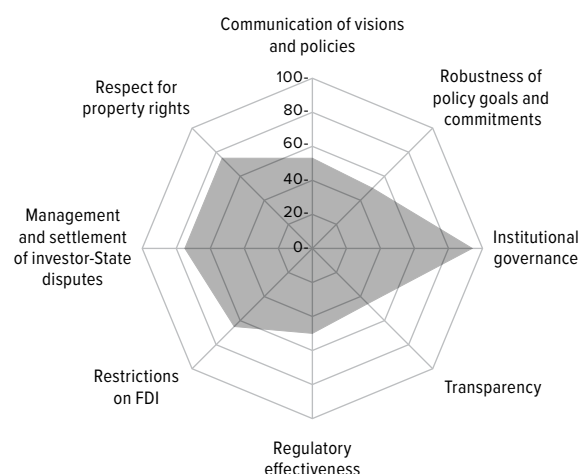


YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019
Unpredictable policy and regulatory change	33	35
Discrimination between foreign and domestic investors	30	33
Breach of State obligations	23	25

INDICATORS	2018	2019
Foresight of policy and regulatory change	53	52
Management of decision-making processes	70	70
Regulatory environment and investment conditions	63	58
Rule of law	78	75

SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

The Emerging Senegal Plan 2014-2035 (ESP) sets out the country's economic and social development strategy.

The Energy Sector Development Policy Letter 2012 outlines the energy sector policy objectives.

Senegal ratified the Paris Agreement in 2016 and submitted its NDC.

STRENGTHS

The Government has taken steps to encourage the involvement of private companies in the energy sector and to boost their confidence. To this end, it has adopted a revised version of the 1998 Petroleum Code incorporating international good practices and environmental standards. Moreover, the Government has launched a plan for the financial recovery of the National Electricity Company of Senegal, which is currently the largest electricity generator and the only concessionaire for on-grid transmission and distribution. The conclusion of the inter-governmental cooperation agreement with Mauritania, for the development of cross-border resources, is aligned with the country's overall objectives of achieving greater energy security and universal electricity access.

With an increased budget and support from external consultants, the Ministry of Petroleum and Energies continues to oversee the implementation of Government policies in the energy sector. Monitoring tasks are also entrusted to the Electricity Sector Regulatory Commission (CRSE). Other independent specialised agencies, such as the Senegalese Agency for Rural Electrification (ASER) and the Center for Studies and Research on Renewable Energy, are involved in the execution of sector-specific programmes.

AREAS FOR IMPROVEMENT

Since Senegal is in the process of revising its energy policies and laws, some issues need to be taken into account. The Government must update the Priority Action Plan (PAP) to operationalise the ESP for the period beyond the first phase (2014-2018). Moreover, efforts to exploit the offshore natural gas and oil resources should go hand in hand with the inclusion of more alternative sources to its energy mix. The deployment of a sound strategy in this regard requires assessing the national grid's capacity and connectivity to renewable energy sources, as well as supporting private sector developers to identify investment opportunities.

For the better management of its energy resources, the Government must set up a more robust monitoring mechanism. The inclusion of a review process will allow the Government to glean useful insights from previous projects, measure progress towards its targets, and develop any necessary adjustment scenarios.

Management of decision-making processes

QUICK FACTS

The Ministry of Petroleum and Energies sets the energy sector policies.

The Ministry of Investment Promotion, Partnerships and the Development of the State Teleservices is responsible for national investment planning.

The National Agency for the Promotion of Investment (APIX) was created in 2000 to provide information on investment conditions and procedures and give assistance in obtaining permits and approvals.

STRENGTHS

Coordination between public authorities takes place on cross-sectoral investments envisaged in the ESP 2014-2035. For instance, Law no. 2014-09 of 2014 "Regarding Public-Private Partnerships" (PPP) sets up an institutional framework to promote collaboration among the relevant ministries, APIX, as well as the PPP National Committee and Infrastructure Council. The National Climate Change Committee also offers a platform for inter-ministerial cooperation on climate change issues.

The Government is committed to increasing transparency in public administration. Pursuant to Law no. 2019-03 of 2019 "On Petroleum Code" all extractive industries are obliged to comply with the principles of the Extractive Industries Transparency Initiative to which the country is a member. Moreover, in 2018, Senegal became the first sub-Saharan African state to volunteer for a fiscal transparency evaluation by the International Monetary Fund. The CRSE and the National Committee for Hydrocarbons (CNH) consult with consumer associations and operators in the relevant sub-sector before adopting regulations.

AREAS FOR IMPROVEMENT

Since investment in energy is strategic to Senegal's development vision, the Government should take a holistic and coordinated approach towards promoting the sector. As was advised last year, institutionalising intra-ministerial coordination can help to avoid the duplication of work, catalyse joint decision-making and, in the longer term, result in more coherent national policies.

Due to their narrow focus, the transparency requirements introduced in the new Petroleum Code should be complemented by broader legal reforms aimed at reducing discretion in the public sector. Hence, in line with last year's suggested improvement, the Government must intensify its efforts to adopt an overarching law that will promote access to information by setting out the procedural basis for requesting and receiving the information. Moreover, to foster meaningful public deliberations on legal and regulatory changes, draft documents must be disseminated in advance, electronic databases should be functional and regularly updated, and timeframes for soliciting public comments and opinions be established.

Regulatory environment and investment conditions

QUICK FACTS

The CRSE was constituted under Law no. 98-29 of 1998 “On the Electricity Sector”, as amended in 2002 and the Decree no. 98-333 of 1998 “On the Organisation and Functions of the Electricity Sector Regulator Commission”. The CRSE oversees licensing, operation, and sales of electricity.

The Ministry of Petroleum and Energies is responsible for regulating the oil and gas sub-sectors. Under its umbrella, the CNH gives opinions on licence requests, while Petrosen drafts and negotiates oil contracts.

STRENGTHS

The CRSE enjoys the same level of institutional and financial autonomy as last year. It has a dedicated budget for its activities, paid directly by the licence holders. Its financial statements are scrutinised by the Court of Auditors. Moreover, the CRSE is headed by a Board of Commissioners whose mandate is time-bound and renewable only once.

National legislation continues to guarantee non-discrimination against businesses conducted or owned by foreign investors. The new Petroleum Code sheds light on the terms for the award of blocks and the granting of corresponding mining rights, as well as on the fiscal regime regulating oil and gas operations. To support the new Petroleum Code, Law no. 2019-04 of 2019 “On Local Content in the Hydrocarbons Sector” was also recently adopted. It stipulates detailed requirements regarding the procurement of local workforce, products, and services. It also establishes the National Local Content Monitoring Committee to review and assess local content plans developed by operators.

AREAS FOR IMPROVEMENT

The CRSE’s independence from other governmental entities should be reinforced. To achieve this, its Commissioners should be selected on merit through a public procedure and held accountable to the National Assembly. The reinforcement of CRSE’s functional and institutional autonomy will help in its establishment as a key actor capable of objective regulation and provide a positive signal to potential investors.

With the enactment of the new Law “On Local Content in the Hydrocarbons Sector”, emphasis should now be given to the adoption of secondary rules for supporting its implementation. This will ensure consistency, transparency and non-discriminatory application of local content interventions. Moreover, the Government should consider encouraging collaborative partnerships among State authorities, research institutions and the industry to strengthen the competitiveness of local companies as well as their productive capabilities.

Rule of law

QUICK FACTS

Senegal ratified the Convention on the Settlement of Investment Disputes between States and Nationals of other States in 1967.

Senegal acceded to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 1994.

Senegal is a member state of the OHADA, which has designed and enforced a substantial body of commercial laws among its member states.

STRENGTHS

Senegal maintains a pro-arbitration stance. The Investment Code and the new Petroleum Code reaffirm investors’ right to resort to extra-judicial mechanisms should a dispute with the Government arise. It is also bound by the ECOWAS Energy Protocol as well as the OHADA revised Uniform Act on Arbitration of 2017, which introduces dual-track arbitration (institutional or ad hoc). Other alternative dispute resolution platforms include mediation and the Ombudsman (“Mediator of the Republic”). National laws do not require the exhaustion of local judicial remedies before recourse to international arbitration. From 2017 onwards, commercial courts have been established in major cities to facilitate the protection of economic operators.

The right to property is safeguarded under the Constitution. Private assets can be expropriated only for reasons of public utility and against just compensation paid in advance. The Conciliation Commission is responsible for amicably fixing the amount of compensation to be paid while the Lands Operations Control Commission gives its opinion on the amount of compensation proposed for expropriation on the reasons of public utility. In general, there are no restrictions on the transfer of technology. Intellectual property rights are protected under national laws, BITs and international agreements.

AREAS FOR IMPROVEMENT

The adoption of the Decree no. 2013-1071 of 2013 amending the Code of Civil Procedure and the establishment of commercial courts reflect the Government’s intention to expedite civil and commercial court proceedings. As mentioned in EIRA 2018, setting deadlines for the completion of judicial proceedings will further reduce delays and increase the celerity of justice in Senegal.

The new Petroleum Code and the Law “On Local Content in the Hydrocarbons Sector” require the re-negotiation of existing contracts within a specific timeframe to ensure their conformity with the new legislation. The Government should avoid retroactive imposition of obligations that may have a detrimental effect on existing legal relations and established investments.



Slovakia

Population ¹	5,439,232
Area (km ²) ¹	49,030
GDP per capita (USD) ¹	17,579.26
TPES (Mtoe) ²	16.50
Energy intensity (toe/10 ³ 2010 USD) ²	0.16
CO ₂ emissions - energy (MtCO ₂) ²	30.20

Sources:

1. The World Bank 2017
2. ©IEA 2018, www.iea.org/statistics

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

The risk of *discrimination between foreign and domestic investors* remains unchanged from the last year, whereas *unpredictable policy and regulatory change* has reduced. They are now on the same level. *Breach of State obligations* continues to be the area with the highest risk.

Slovakia has a very good performance on one of the EIRA indicators, and a good performance on three indicators. It has maintained a very good score of 81 on the indicator *regulatory environment and investment conditions*. Its performance on *foresight of policy and regulatory change* has improved by 3 points and now stands at 80. The score on *management of decision-making processes* has increased from 76 to 77 points. On *rule of law* it has the same score as last year (68).

On a more detailed level, Slovakia's sub-indicator performance is good. *Restriction on FDI* continues to be the highest-scoring sub-indicator with 90 points. On *robustness of policy goals and commitments* the score has improved by a point, and now stands at 88. On *transparency* (78) and *institution governance* (75), it has retained the scores from last year. The performance on *communication of vision and policies* has gone up by 6 points and is at 72. The score for *regulatory effectiveness* (72) is unchanged. The sub-indicator *management and settlement of investor-State dispute* has once again received a good score of 70. *Respect for property rights* remains the lowest-scoring sub-indicator with 67 points.

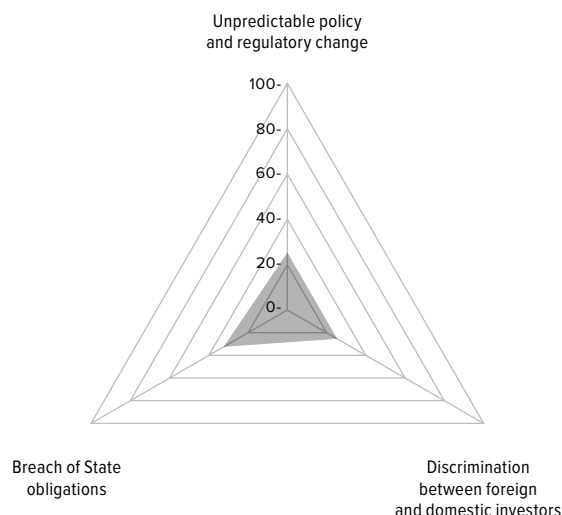
Slovakia provides attractive conditions for investors and is working in the right direction. Attention should be given to reinforcing the respect for property rights.

YEAR-ON-YEAR COMPARISON

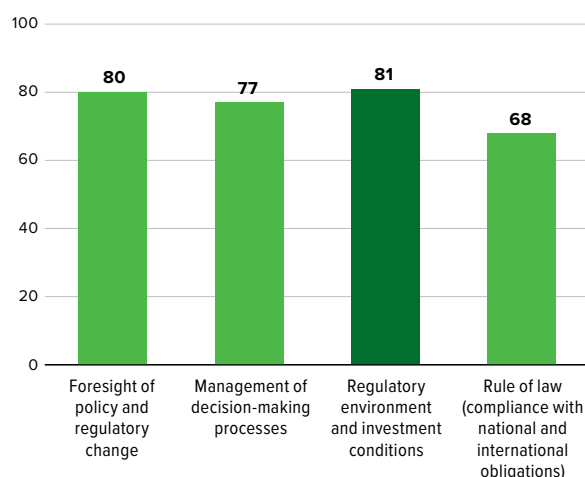
RISK AREAS	2018	2019
Unpredictable policy and regulatory change	26	25
Discrimination between foreign and domestic investors	25	25
Breach of State obligations	32	32

INDICATORS	2018	2019
Foresight of policy and regulatory change	77	80
Management of decision-making processes	76	77
Regulatory environment and investment conditions	81	81
Rule of law	68	68

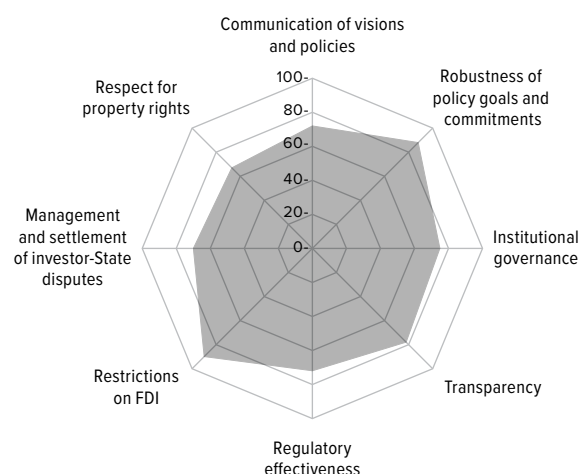
RISK LEVEL



INDICATOR PERFORMANCE



SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

The key strategy documents for Slovakia's energy sector are the Energy Policy of the Slovak Republic 2014 and the Energy Security Strategy 2008.

In 2018, amendments were introduced to Act no. 309/2009 Coll. on the Promotion of Renewable Energy Sources and High-Efficiency Cogeneration.

As an EU member state, Slovakia ratified the Paris Agreement in 2016.

STRENGTHS

Efforts were made to meet the country's decarbonisation, renewable and energy efficiency targets. In 2018, regulatory changes were introduced to make renewable subsidies more market-oriented and to enhance price stability for end-consumers. As of January 2019, new renewable energy producers are supported through auctions for feed-in premiums. The Ministry of Economy decides the producer eligible for support through competitive bidding. The feed-in premiums are guaranteed for 15 years from the date the facility begins operation. Feed-in Tariff support is still available (1) to the new plants with an output of up to 500kW (2) to existing producers already availing it.

Data collection, monitoring and evaluation of the energy priorities and targets was undertaken in 2018. Statistics on emissions, projections of emissions till 2035 (including sectoral break-down for energy, industrial processes, agriculture, and land use and waste) were updated and are available on the website of the National Inventory System. The system includes the 2018 review reports submitted to the UNFCCC and the European Commission. Latest data on the achievement of the national energy efficiency targets is accessible on the website of the Energy Efficiency Monitoring System. Its annual reports are published online and open to the public.

AREAS FOR IMPROVEMENT

Since the Government is currently updating its energy strategy for 2030, it is a timely moment to consider some critical issues. First, more ambitious targets should be set for the country's energy transition goal. Policy options should be designed for encouraging renewable resources that are currently under-developed or at a nascent stage. Second, the new strategy must be holistic and should take into account parallel agendas and policies set for high-emission sectors, such as transport. Awareness and public support should be raised on the benefits of low-carbon technologies. The Government is encouraged to continue its ongoing innovation and efficiency initiatives in this regard.

Management of decision-making processes

QUICK FACTS

The Ministry of Economy is responsible for formulating the energy and investment policies.

The Regulatory Office for Network Industries (URSO) is responsible for the Regulatory Policy (period 2017-2021).

The Slovak Investment and Trade Development Agency (SARIO) was established in 2001 as the investment promotion agency of the country.

Slovakia adopted Act no. 211/2000 Coll. the Freedom of Information Act for governing the conditions, procedures and extent of information access.

STRENGTHS

Measures were taken to improve coordination and information exchange between public authorities. For instance, Act no. 177/2018 Coll. on Certain Measures to Reduce Administrative Burden through Use of Public Information Systems became effective on 1 January 2019. It relieves citizens and entrepreneurs from the obligation to submit certain categories of information available on public systems. Authorities are mandated, and allowed, to share such information or documents among themselves.

Laws and regulations, adopted in 2018, are available on the websites of the relevant authorities and in the Collection of Laws (Slov-Lex). Certain amendments to Act no. 343/2015 Coll. on Public Procurement came into effect as of 1 January 2019. The changes aim to reduce application problems for potential bidders, simplify the public procurement process and enhance its transparency.

AREAS FOR IMPROVEMENT

As mentioned in last year's assessment, URSO is encouraged to improve the implementation of its transparency measures. To reduce the perception of opacity among market players, decisions of URSO on methodological guidelines, market indicators and other internal acts should contain all the relevant information. Moreover, administrative proceedings related to the setting of regulated prices, such as tariffs and maximum caps, should explain the evaluation and provide detailed reasoning.

Regulatory environment and investment conditions

QUICK FACTS

URSO is responsible for regulating the network industries including the electricity, gas, and heat power sub-sectors.

The general rule of equal treatment for domestic and foreign investors is established in the Constitution.

STRENGTHS

URSO maintains the level of autonomy it had in the last EIRA assessment year. In 2018, there were new regulations introduced for gas and thermal heating. Under the new gas price regulation, the calculation of eligible costs was adjusted to better reflect real gas prices. The updated thermal heating price regulation revised the calculation of maximum fixed costs to ensure it does not affect thermal energy prices. This change aims at facilitating access to the distribution system by new customers and to increase energy efficiency of thermal energy production and distribution.

The legislative framework remains open and supportive of foreign investment. Measures have been taken to improve the business climate. For instance, the Government introduced amendments to Act no. 5/2004 Coll. on Employment Services, effective from 1 May 2018, for simplifying the process of hiring third-country nationals. New regulations have been put in place for promoting investment in innovation. To increase accountability in business transactions and to transpose the Fourth EU Directive (2015/849), Act no. 297/2008 Coll. Anti-Money Laundering Act has been amended. According to the latest version of the law, from 1 November 2018, it is mandatory for Slovak legal entities to register their ultimate beneficial owner with the Commercial Register.

AREAS FOR IMPROVEMENT

It is reiterated that the URSO's financial and institutional autonomy may be revisited. At present, the law stipulates that the Chairman of the URSO shall be appointed by the Government. The other members are chosen on the proposal of the Government and the Parliament. They are appointed or dismissed by the President of the Slovak Republic. It must be ensured that appointments to the URSO are independent of market interests, the national Government and all other Government entities that carry our regulatory functions. Moreover, legislation must recognise its right to set the budget without Government approval and to exercise freedom in spending its revenue. This will not only increase URSO's impact but also assist in improving the legislative and regulatory environment of the energy sector.

Rule of law

QUICK FACTS

Slovakia ratified the Energy Charter Treaty in 1995.

The Convention on the Settlement of Investment Disputes between States and Nationals of Other States came into effect for Slovakia in 1994.

The Constitution contains provisions protecting property against unlawful expropriation.

STRENGTHS

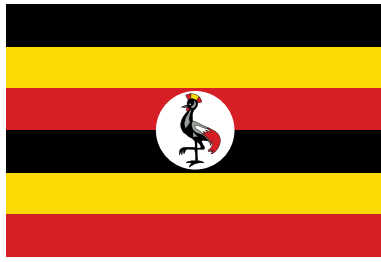
The dispute management and settlement processes remain effective. There have been no retroactive changes introduced to laws in the last year. National laws do not mandate the exhaustion of local judicial remedies before recourse to international arbitration. Similarly, International Investment Agreements do not impose such an obligation on investors. Positive measures have been taken to encourage arbitration, voluntary mediation and conciliation.

Slovakia continues to uphold its property right commitments to investors. Its BITs adopt the standard international formulation that compensation against expropriation should be prompt, adequate and effective. Some BITs go a step further and stipulate a timeframe for the payment. For instance, the Slovak-United Arab Emirates BIT, valid as of 5 February 2018, states that the compensation must be paid within 30 days from the expropriation decision. Protection is granted to all investment against any form of expropriation and through the unqualified operation of *most-favoured-nation* and *national treatment* obligations. There are currently no restrictions or limitations imposed on the transfer of technology under any international agreement or under the domestic laws of Slovakia.

AREAS FOR IMPROVEMENT

As mentioned in EIRA 2018, to resolve issues between foreign investors and public authorities, the Government may consider establishing a dedicated investment ombudsman. Currently, the SARIO and the SIA provide some services, such as assistance with the identification of suitable real estate and with the implementation of investment projects. However, a distinct body with functions including grievance settlement, provision of mediation services and representation of investors' views to the Government could significantly help attract and retain investment.

It is urged that the conditions granting protection against expropriation may be explained further in legislation. For instance, the types of activities that can constitute "public interest" should be defined in the law. At present, the scope of this term is generally interpreted through case laws and legal commentaries. While the right of countries to determine "public purpose" is paramount, it is also important for investors to have clarity on its scope and how it may be applied in the context of expropriation.



Uganda

Population ¹	41,162,465
Area (km ²) ¹	241,550
GDP per capita (USD) ¹	631.52
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

Uganda’s overall risk level against the assessed areas is **moderate**.

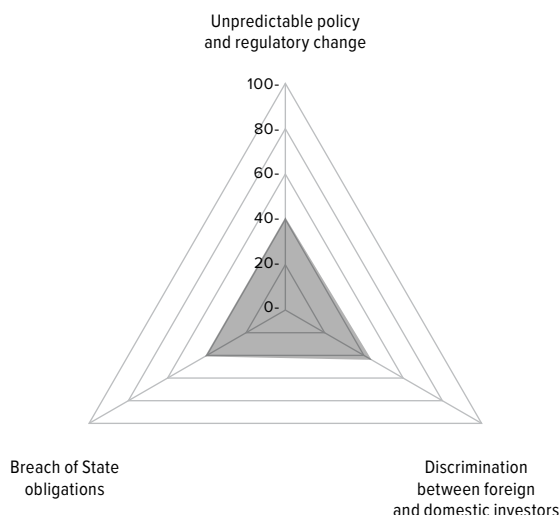
The risk of *unpredictable policy and regulatory change* has dropped compared to 2018. It is now on the same level as the risk *breach of State obligations*. *Discrimination between foreign and domestic investors* continues to be the highest risk area for the country.

Uganda has performed moderately on three of the EIRA indicators, and it has a good score on one. It has maintained the scores from last year on the indicators *management of decision-making processes* (67) and *rule of law* (59). The score on *foresight of policy and regulatory change* has improved from 49 to 52 points. Its performance has also gone up from 37 to 42 on *regulatory environment and investment conditions*.

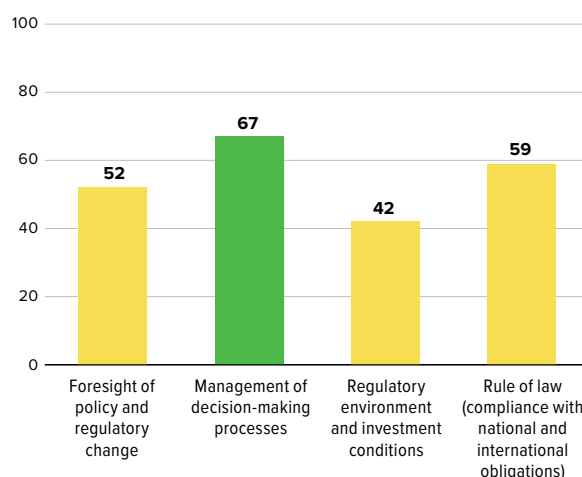
On a more detailed level, Uganda’s overall sub-indicator performance is moderate. *Institutional governance* continues to be the highest-scoring indicator with 75 points. *Management and settlement of investor-State disputes* (60), *transparency* (58), *respect for property rights* (58) and *robustness of policy goals and commitments* (54) have also received the same scores as in 2018. On *communication of vision and policies*, the country’s performance has moved up from 43 to 50 points. The sub-indicator *regulatory effectiveness* stands at 44. The performance on *restrictions on FDI* continues to be the lowest with 40 points.

While there are some improvements in Uganda’s performance compared to 2018, further steps must be taken to build on the work done. Particular attention should be given to lowering the restrictions on FDI that are currently in effect.

RISK LEVEL



INDICATOR PERFORMANCE

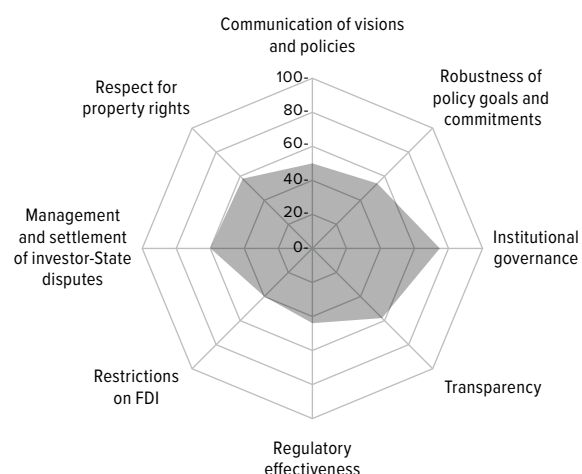


YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019
Unpredictable policy and regulatory change	42	41
Discrimination between foreign and domestic investors	46	44
Breach of State obligations	41	41

INDICATORS	2018	2019
Foresight of policy and regulatory change	49	52
Management of decision-making processes	67	67
Regulatory environment and investment conditions	37	42
Rule of law	59	59

SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

Uganda Vision 2040 (published in 2013) states the socio-economic aspirations of the country.

The Energy Policy for Uganda 2002 sets the policy framework for the energy sector. It is currently being reviewed and updated by the Government.

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

STRENGTHS

New policies and plans have been introduced to implement the country's energy targets. For instance, the Electricity Connections Policy 2018-2027 was adopted to resolve the challenge of low connection rates that previous policies did not address sufficiently. Moreover, the Isimba Hydropower Plant was commissioned in 2019 to add 183MW to the National Grid. The project supports the Government's energy access targets. On 26 June 2018, Uganda signed a three-year NDC Partnership Plan for Climate Action in Africa. The Plan aims at creating an enabling environment for NDC implementation, coordination, prioritisation, and evaluation. It builds on and aligns the country's existing institutional arrangements and policy frameworks on energy, climate change and CO₂ reduction.

Progress on the energy sector performance indicators was monitored and reported during the EIRA assessment year. In February 2019, the Office of the Prime Minister organised the 7th Uganda Evaluation Week. The event brought together policy makers, Government officials, civil society representatives, development partners as well as monitoring and evaluation experts. In October 2018, the Government launched the Roadmap for Creating an Enabling Environment for Delivering on SDGs. Its purpose is to ensure that the SDGs' planning, financing, monitoring, evaluation and reporting are integrated within the country's institutional and policy framework.

AREAS FOR IMPROVEMENT

Efforts to update and launch some critical strategies and action plans should be expedited. At present, there are various policies, such as the Energy Policy 2002, the Mineral Policy 2001 and the Renewable Energy Policy 2007, which contain outdated targets. These need to be revised and aligned with the existing and future needs of the country.

Targets for the energy sector should be consistent with the socio-cultural values of the country. This will ensure they are workable and produce the intended results. In particular, to meet the country's rural electrification targets, the Government must design energy delivery systems that are compatible with the local conditions. While the adoption of the Electricity Connections Policy 2018-2027 is a commendable step in this direction, measures should now be taken towards its implementation.

Management of decision-making processes

QUICK FACTS

The Ministry of Energy and Mineral Development is responsible for developing and implementing policies related to the energy, minerals and petroleum sub-sectors.

The Ministry of Finance, Planning and Economic Development formulates the economic policies of the country.

A new Investment Code Act was enacted by the Parliament in 2019.

The Uganda Investment Authority (UIA) was established in 1991 as an investment promotion agency.

The Access to Information Act 2005 establishes the procedure for obtaining information from public authorities.

STRENGTHS

Inter-Ministerial consultations played a significant role in framing the country's new strategic documents. Policies have been drafted to ensure coordinated action and enhance cooperation between ministries, departments and agencies. Whereas the repealed Investment Code Act 1991 did not expressly oblige ministries and Government agencies to cooperate with the UIA, its successor makes this a legal requirement. Agencies such as the Uganda Registration Services Bureau, the Uganda Revenue Authority and the National Environment Management Authority, are already in the process of consolidating their respective registration documents into the UIA's one-stop-centre.

The website of the Parliament has been updated to reflect all the official parliamentary debates. It also provides information on the pending legislative Bills, such as the type of bill, the date it was tabled, its status, and the sponsor. During the EIRA assessment year, quarterly tariff review reports and adjustments to the methodology were published by the Electricity Regulatory Authority (ERA). It also held public hearings for the determination of the 2019 End-User Base Tariffs applicable to the different categories of electricity consumers.

AREAS FOR IMPROVEMENT

As mentioned last year, the Government may consider publishing its extractive industry contracts in line with international best practices. This will foster accountability since affected communities will be able to obtain information on the procedures for awarding exploration and production rights. They will also get an opportunity to assess the potential environmental impact of the projects, their economic benefit, and the planned allocation of revenue by the Government.

Regulatory environment and investment conditions

QUICK FACTS

The Ministry of Energy and Mineral Development is the overarching regulator for the energy sector. The Electricity Act established the ERA to regulate the generation, transmission, distribution, sale, bulk purchase, exportation, and importation of electricity in Uganda.

The Petroleum Authority of Uganda (PAU) regulates and monitors the petroleum sub-sector. The Bio Fuels Act 2018 regulates activities related to the production and blending of biofuels.

STRENGTHS

In the last year, the ERA has undertaken significant work to streamline electricity regulation. In November 2018, it issued the Electricity Procurement and Disposal Guidelines to Companies Licensed to Generate, Transmit, and Distribute Electricity in Uganda. The Guidelines aim at helping licensees develop procurement manuals that correspond to the scale and scope of their operations. They also intend to provide a levelled platform for investment approval and verification, and ensure the recovery of investments through the electricity tariffs approved by the ERA.

The recently enacted Investment Code Act introduces a number of robust changes to the legal framework governing investments in the country. It reinforces Uganda's commitments under international agreements and aims to promote cross-border trade and business. Apart from the enactment of this Law, efforts have been made to better structure local content regulations. As per the statutory requirement of employing Ugandans in the oil and gas sector, in early 2019, the PAU launched the National Oil and Gas Talent Register. This is an online database that will act as an employment reference point in the growing oil and gas sector. On the demand side, it allows investors and Government agencies to offer employment opportunities in the industry. On the supply end, it lists individuals who meet the eligibility criteria for the listed work opportunities.

AREAS FOR IMPROVEMENT

While the ERA and the PAU enjoy certain functional and financial independence, measures may be taken to enhance this. Currently, the ERA's autonomy is subject to any policy of the Government that declares otherwise. Moreover, the salaries of PAU's Board members need to be approved by the Government. Such stipulations may compromise the decision-making powers of these authorities. Therefore, greater operational and budgetary freedom must be granted to the regulatory bodies.

The Government should expedite the adoption of the Competition Bill pending since 2004. Additionally, the prerequisites for setting up a competition commission, as envisaged under the Bill, should be met.

Rule of law

QUICK FACTS

Uganda ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States in 1966.

Uganda acceded to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 1992.

The Constitution of Uganda grants protection from deprivation of property.

STRENGTHS

Investors have the right to settle disputes either under the domestic law or through international arbitration. Exhaustion of local remedies depends on the provisions of the specific contract. Appeals against the decisions of the ERA may be filed before the Electricity Disputes Tribunal. Mediation may be incorporated in agreements by the parties as a mechanism for dispute resolution. Ugandan courts also adopt court-annexed mediation to settle a dispute amicably. In case the parties reach a settlement, it is recorded as a Consent Judgment.

The Investment Code Act guarantees the property rights of foreign investors. It envisages prompt payment of compensation at fair market value within a defined period. In terms of land, there are extensive provisions in the Land Acquisition Act 1965 on the determination of compensation, appeal against the compensation amount and timeframe for its payment. Uganda is a member of the African Regional Intellectual Property Organization and guarantees protection to various forms of intellectual property. The Investment Code Act prohibits conditions within agreements that restrict the use of other competitive techniques.

AREAS FOR IMPROVEMENT

An investment ombudsman may be established and entrusted with the responsibility of mediating between the parties during licensing procedures. This will provide the parties with time- and cost-effective solutions and allow investment projects to run smoothly.

The Constitution defines "public purpose" widely. This leaves room for interpretation and can create ambiguity regarding its scope of application. Therefore, it is suggested that the list of activities that constitute "public purpose" should be incorporated in the law. Moreover, the procedure for ascertaining whether an acquisition is for a public purpose activity or not and who will be the key decision makers in this process should be outlined. This will assist in providing clarity and security to investors regarding the legal regime on expropriation.



Ukraine

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

Sources:

1. The World Bank 2017

2. ©IEA 2018, www.iea.org/statistics

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

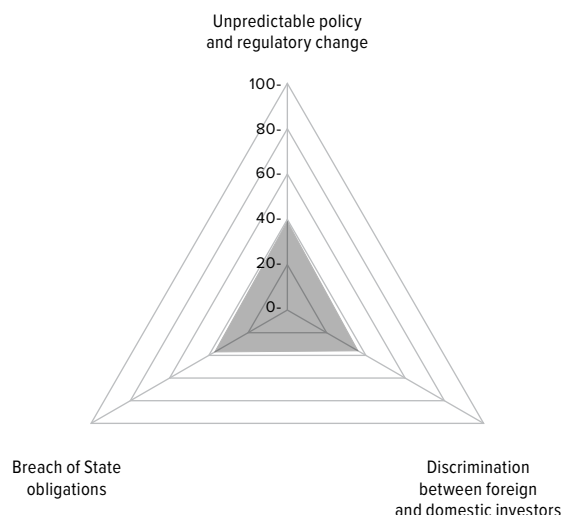
Discrimination between foreign and domestic investors continues to be the lowest risk, with a slight decrease *vis à vis* last year. *Breach of State obligations* remains unchanged. The risk of *unpredictable policy and regulatory change* has gone down compared to 2018.

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.

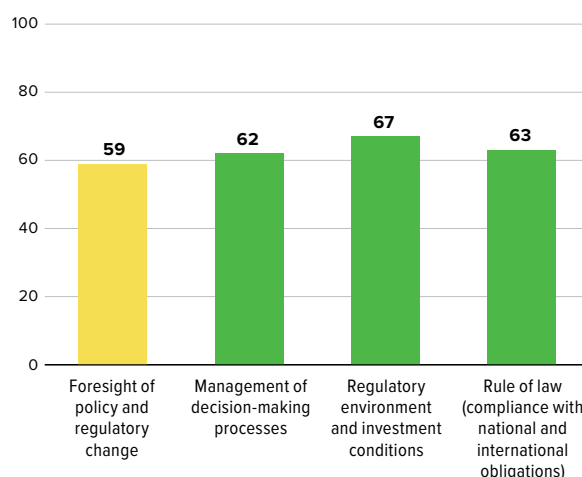
On a more detailed level, Ukraine’s overall sub-indicator performance is good. *Regulatory effectiveness* remains the highest-scoring sub-indicator with 83 points. It is on par with *transparency*, for which the score has gone up from 78 to 83 points. It is followed by *management and settlement of investor-State 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

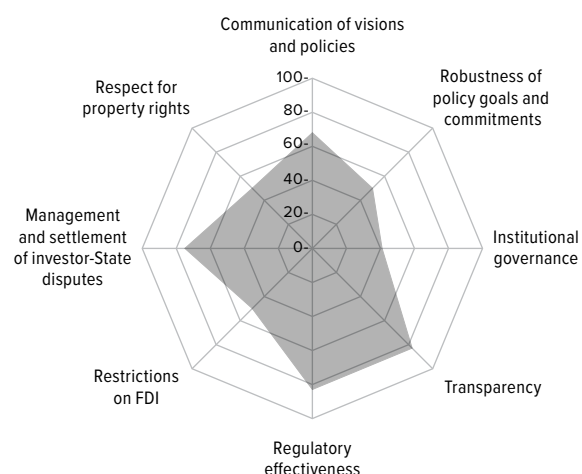


YEAR-ON-YEAR COMPARISON

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

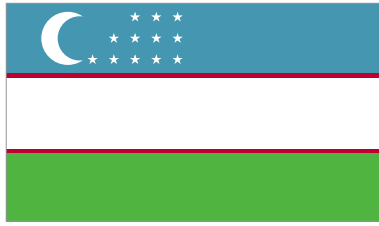
Ukraine’s court management system is streamlined. The domestic laws set timelines for hearing cases in the first instance and on appeal and before the Supreme Court. All judicial decisions are available to the public on the website of the State Registry of Court Decisions. Decisions rendered by foreign 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.



Uzbekistan

Population ¹	32,388,600
Area (km ²) ¹	447,400
GDP per capita (USD) ¹	1,826.57
TPES (Mtoe) ²	37.59
Energy intensity (toe/10 ³ 2010 USD) ²	0.60
CO ₂ emissions - energy (MtCO ₂) ²	85.30

Sources:

1. The World Bank 2017

2. ©IEA 2018, www.iea.org/statistics

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

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

Uzbekistan’s performance is good score on three of the EIRA indicators, and it is low on one indicator. It has received a score of 72 on the indicator *rule of law*. *Management of decision-making processes* and *regulatory environment and investment conditions* are at 65 and 63 points, respectively. The score for *foresight of policy and regulatory change* is 30.

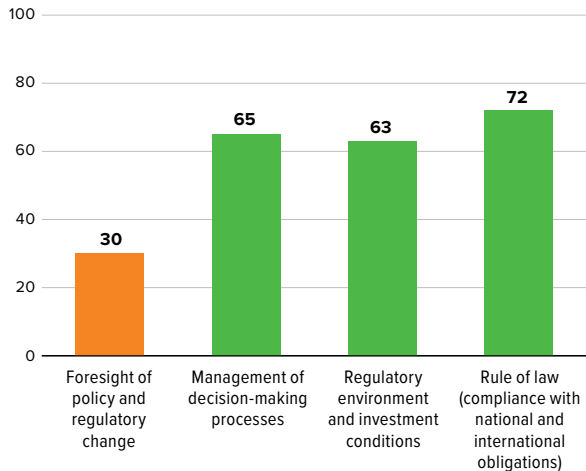
On a more detailed level, Uzbekistan’s overall sub-indicator performance is moderate. It has received a high score of 85 on *management and settlement of investor-State disputes*. The sub-indicators *transparency* and *restrictions on FDI* stand at 73 and 70, respectively. On *respect for property rights* the score is 58, while both *institutional governance* and *regulatory effectiveness* are at 56. The score for *communication of vision and policies* is 35. Its performance on *robustness of policy goals and commitments* is low with a score of 25 points.

While there are some policies and measures in place, more concrete steps must be taken to strengthen Uzbekistan’s performance across all indicators and underlying sub-indicators. Particular attention should be given to strengthening the robustness of its policy goals and commitments.

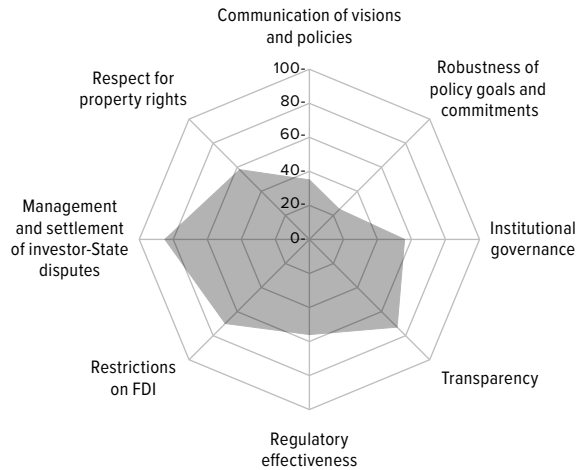
RISK LEVEL



INDICATOR PERFORMANCE



SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

The Action Strategy for the Further Development of the Republic of Uzbekistan 2017-2021 defines the five priority areas of the country.

Uzbekistan ratified the Paris Agreement in 2018 and submitted its first NDC.

STRENGTHS

The Action Strategy 2017-2021 lists the key economic priorities of Uzbekistan, including the reduction of energy and resource intensity, the introduction of energy-saving technologies in production and the increased utilisation of renewable energy sources. The Strategy also stipulates priorities for the country's social development, such as improving electricity access through the construction and upgradation of power-generating facilities. In addition, it envisages the update of low-voltage electrical networks and transformer points, as well as the diversification of the energy mix. To create a competitive power market, Uzbekistan is currently improving the institutional and legal framework for the generation and supply of electricity. As part of the transition to modern methods of organising the production, distribution and transportation of electric energy, in March 2019, JSC Uzbekenergo was unbundled into three companies.

The Ministry of Energy of the Republic of Uzbekistan, which was established in 2019, has been assigned the responsibility of monitoring the progress made on the country's energy priorities. For this purpose, the Ministry can request and receive information from the State agencies, economic management authorities and local Government bodies. Also, it has the right to receive statistical data from the State statistical agencies.

AREAS FOR IMPROVEMENT

The Government should adopt an energy strategy that will provide the overarching framework for future actions. Effective communication of the policies can create a secure investment environment, and enable investors to assess the impact of new policies. The strategy must establish quantifiable targets, specify a timeframe for their accomplishment, and provide guidance on the overall implementation process.

Monitoring and evaluation mechanisms should be further developed to improve the implementation and enforcement of the country's energy policy. To maintain the objectivity of the assessment, it is strongly recommended that monitoring activities are conducted by a body independent of the policy-implementation authorities. Evaluation of the progress should be performed periodically to ensure that the country's targets are achieved in the specified timeframe.

Management of decision-making processes

QUICK FACTS

The Ministry of Energy leads the policy-making process for the energy sector.

Legislative power is vested in the Oliy Majlis which comprises two chambers and is the supreme State representative body of Uzbekistan.

The Agency for Attracting Foreign Investments was established in January 2019 under the Ministry of Investment and Foreign Trade. Its primary objective is to provide foreign investors with information and legal support on the establishment of businesses in the country.

Law no. 3PY-369/2014 On the Openness of the Activities of Public Authorities and Management and Law no. 3PY-443/2017 On the Dissemination and Use of Legal Information support the right to access information held by public authorities.

STRENGTHS

The Ministry of Energy was established at the beginning of 2019 to develop and implement a unified state policy in the fuel and energy sector. It is responsible for drafting laws and normative legal acts on matters related to its field of activity. To facilitate investment, from 1 July 2019, the interaction of the Ministry of Investment and Foreign Trade with investors is based on the "one window" principle. The purpose is to provide potential investors advice and support in the delivery of public services and offer assistance in the conclusion of investment contracts. To this end, Ministry employees have already been seconded to the relevant public services centres in different districts.

Openness and transparency are promoted by the Government. The right to Government-held information is guaranteed in the Constitution. Only information classified by law as a state secret or other protected secret is subject to non-disclosure. Legal texts, in Uzbek and Russian, are made available both in print and electronically on the national database of laws and regulations. The online database provides easy access to laws, decrees and resolutions. It enables the user to track amendments and navigate through the relevant documents.

AREAS FOR IMPROVEMENT

While stakeholders are generally involved in decision-making, efforts should be made to develop tools for the engagement of the public in the regulatory process. The newly established Ministry of Energy should actively pursue interaction with the interested parties and the public. The methods and timelines of public participation should be defined in the law. This will boost the confidence of investors in the Government and promote cooperation.

Regulatory environment and investment conditions

QUICK FACTS

The Ministry of Energy regulates the energy sector.

Law no. 609-I/1998 On Foreign Investments guarantees the rights of foreign investors in Uzbekistan.

STRENGTHS

The responsibilities and obligations of the Ministry of Energy are defined in the national legislation. To perform its functions, the Ministry is allocated resources from the State budget. Additionally, the law envisages establishment of an extra-budgetary fund for the development of the fuel and energy industry under the Ministry. The fund will be used for strengthening the material and technical base of the Ministry, training of its employees and other purposes aimed at increasing its efficiency. Audits for evaluating the effectiveness and legality of expenses incurred by State bodies are performed by the Accounting Chamber.

Uzbekistan is taking measures to create a favourable investment environment. The Ministry of Investment and Foreign Trade was established in January 2019 to promote foreign investment. The principles of *fair and equitable* and *national treatment* are enshrined in the law. Following the liberalisation of the country's exchange regulations in 2017, no currency restrictions or foreign exchange controls are applied. Moreover, foreign investors have the right to independently and freely dispose of the income received from their investment activities, after fulfilling their obligations towards the State. The new Law No. 3PY-537/2019 On Public-Private Partnership was adopted in May 2019 to provide a clear framework for the realisation of investment projects, and ensure transparency and non-discrimination for investors. A number of large scale energy projects are currently being implemented under the PPP Law.

AREAS FOR IMPROVEMENT

Since Uzbekistan is taking steps to reform its energy sector, it should consider establishing a regulatory authority with institutional, functional and financial autonomy. A dedicated independent institution will minimise the risk of governmental or private sector influence. It will also aid in improving the legislative environment and strengthen the country's energy sector.

Rule of law

QUICK FACTS

Uzbekistan became a Contracting Party to the Energy Charter Treaty in 1995.

The Convention on the Settlement of Investment Disputes between States and Nationals of Other States was ratified by Uzbekistan in 1995.

Law no. 611-I dated 30 April 1998 On Guarantees and Measures of Protection of Foreign Investors provides protection against the expropriation of property.

STRENGTHS

Disputes related to foreign investments can either be submitted to the Economic Courts of Uzbekistan or to international arbitration. The law prescribes specific time limits for the delivery of decisions by courts of all instances. In exceptional cases, the duration of the trial may be extended by the president of the court for no more than one month. National laws do not require the exhaustion of local judicial remedies before the initiation of arbitration proceedings. By Decree of the President no. УП-5690/2019, the Commissioner for the Protection of the Rights of Entrepreneurs was assigned more responsibilities. As of 1 April 2019, it is mandated to monitor the compliance of supervisory authorities with the requirements of the legislation, thus preventing unreasonable interference by State bodies in the activities of business entities. Adherence to the decisions of the Commissioner is obligatory for the authorities.

The right to own and possess property is protected under the Constitution. Foreign investment and other foreign assets are not subject to requisition by the State, except for claims, accidents, epidemics and outbreaks. Decisions on the requisition of investments are made by the Cabinet of Ministers. Law no. 609-I/1998 On Foreign Investments recognises all types of tangible and intangible goods and related rights as foreign investment. In general, there are no restrictions on the transfer of technology.

AREAS FOR IMPROVEMENT

The legal framework for the expropriation of property should define a timeframe for the payment of compensation. The absence of a legally imposed deadline reduces the certainty of payment and can result in delays.



Viet Nam

Population ¹	94,596,642
Area (km ²) ¹	331,230
GDP per capita (USD) ¹	2,365.62
TPES (Mtoe) ²	80.99
Energy intensity (toe/10 ³ 2010 USD) ²	0.49
CO ₂ emissions - energy (MtCO ₂) ²	187.10

Sources:

1. The World Bank 2017

2. ©IEA 2018, www.iea.org/statistics

Viet Nam’s overall risk level against the assessed areas is **low**.

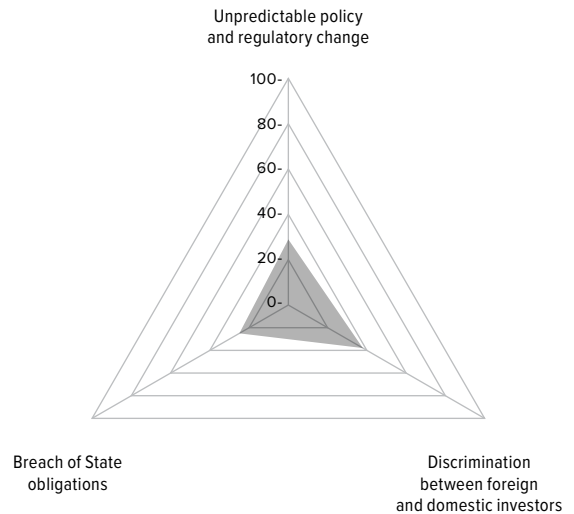
Among the three EIRA risk areas, *breach of State obligations* and *unpredictable policy and regulatory change* are lower compared to *discrimination between foreign and domestic investors*.

Viet Nam has a good performance on three of the EIRA indicators, and a moderate performance on one indicator. *Rule of law* and *management of decision-making processes* are at 75 and 70 points. It has also received a good score (67) on *foresight of policy and regulatory change*, while *regulatory environment and investment conditions* is at 42.

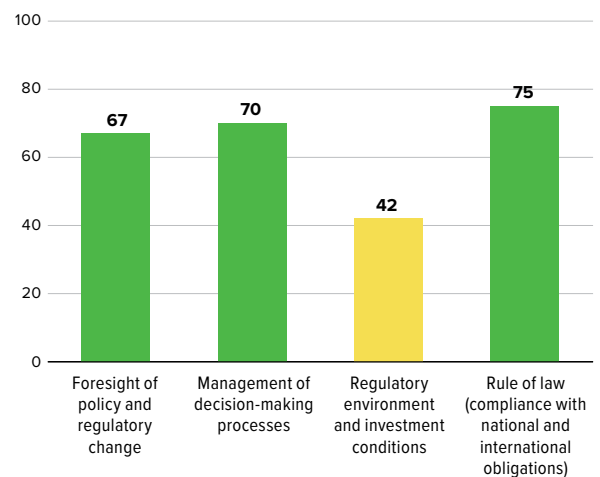
On a more detailed level, Viet Nam’s overall sub-indicator performance is good. The highest-scoring sub-indicators are *management and settlement of investor-State disputes* and *respect for property rights*, both at 75. The performance on *transparency* is also good, with a score of 72. It is followed by *communication of vision and policies* with 71 points. *Institutional governance* and *robustness of policy goals and commitments* have received 69 and 63 points, respectively. *Regulatory effectiveness* is at 44. The lowest-scoring sub-indicator is *restrictions on FDI* with 40 points.

Viet Nam provides attractive conditions for investors and is working in the right direction. Attention should be given to lowering the restrictions on FDI which are currently in effect.

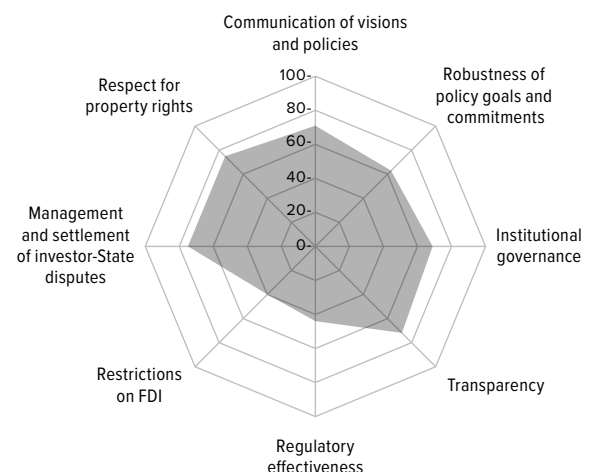
RISK LEVEL



INDICATOR PERFORMANCE



SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

The National Energy Development Strategy of Viet Nam up to 2020 with 2050 Vision (approved in 2007) prioritises the development of sustainable energy.

Master Plans are drafted every five years providing for a ten-year period detailed planning and provisional forecast of sectoral development for another ten years.

Viet Nam signed the Paris Agreement in 2016.

STRENGTHS

The sharp increase in electricity demand as a result of the rapid economic growth is a key issue for the energy sector. To address this, the Government developed the National Power Development Master Plan for the 2011-2020 period with the Vision to 2030 (PDP). For meeting new and emerging issues, such as the diversification of energy sources, the development of renewable energy and the ultimate goal of limiting CO₂ and GHG emissions of the energy sector, the Government introduced the Renewable Energy Development Strategy 2016-2030 with a Vision to 2050 (Renewable Strategy). In 2016, the PDP was adjusted (PDP VII) to ensure its alignment with the targets envisaged in the Renewable Strategy. In the context of PDP VII, important projects in power generation and transmission, as well as for the modernisation of power infrastructure have been undertaken.

Reporting mechanisms are stipulated in various strategic documents. The Ministry of Industry and Trade (MOIT) takes the lead in monitoring the country's energy indicators. It conducts activities in collaboration with other relevant ministries and State agencies. The Inter-Ministerial Coordinating Board oversees the implementation of the National Green Growth Strategy for the period 2011-2020. Law no. 21/2017/QH14 "On Planning" and the Master Plans envisage the possibility of revising the strategic direction, priorities and targets set for the energy sector in response to the country's evolving needs and challenges. In fact, an amended version of the PDP VII is currently under consultation.

AREAS FOR IMPROVEMENT

To meet the ambitious carbon-reduction goals set forth in the Renewable Strategy, and in the country's NDC, the Government should facilitate the utilisation of renewable sources. The finalisation of a dedicated national Master Plan for renewable energy could help the Government change its short-term and local approach to renewables. Additionally, the improved bankability of power-purchase agreements and more attractive feed-in tariffs, especially for wind and solar projects, will increase their viability for developers and lenders.

Management of decision-making processes

QUICK FACTS

The MOIT is responsible for the overall energy planning and policy development.

The Ministry of Planning and Investment participates in the appraisal of Nationally Important Projects, submitted to the Prime Minister for consideration. It also monitors investments made under the Master Plans.

Law no. 104/2016/QH13 "On Access to Information" guarantees the right to access data generated by State authorities.

STRENGTHS

Governmental decrees require the lead ministries, responsible for energy and investment, to coordinate their actions and work in cooperation with other relevant ministries, regulatory agencies and local governments. In 2016, the Government adopted the Action Plan for the Implementation of the Paris Agreement. It provides for the review of national policies related to the mitigation of GHG emissions and a periodic assessment of the same. The Ministry of Natural Resources and Environment is mandated to cooperate with relevant ministries and industries in preparing the inventory of GHG emissions. The National Single Window allows for the submission of data and information, synchronous processing of information, and decision-making related to customs release and clearance.

All legal acts are published in the Official Gazette of the State and provinces, as well as in the national legal database. Notification of and consultation with relevant stakeholders is a prerequisite for the validity of legal acts. More specifically, the public authority promulgating the law must publish the draft on its website at least sixty days in advance, collect comments and reply to them in writing within 20 days from their receipt. In some cases, feedback may be obtained through personal invitation to specific stakeholders, public debates, and presentations in the media.

AREAS FOR IMPROVEMENT

In the last years, the Government has taken commendable measures towards modernising its public administration. However, initiatives such as the establishment of one-stop shops nationwide will become more meaningful once they are better streamlined and fully implemented. At present, one-stop shops exist on various government levels, and investors need to approach them separately, depending upon the type of approval needed. For instance, provincial-level departments offer certain services that are not available on the district or commune level due to their specialty or province-wide nature. Therefore, it is urged that greater efforts should be made to improve the quality of public services and alleviate administrative burdens.

Regulatory environment and investment conditions

QUICK FACTS

The Prime Minister's Office maintains oversight of the oil and gas industry and the electricity sector.

The MOIT manages and regulates energy sector activities. The Electricity Regulatory Authority of Viet Nam (ERAV) was established under MOIT to promote a competitive power market.

Viet Nam Oil and Gas Group (PVN) is the State-owned oil and gas corporation. Its activities span all aspects of the oil and gas industry.

STRENGTHS

The Government is committed to replacing the vertically integrated model of a single State-owned power utility (EVN) with a fully competitive electricity market, including at the retail level. A number of independent power projects are in the planning or realisation stage, especially in the gas sector. The Government is also creating an institutional framework for the enforcement of regulations necessary to provide a level playing field between public and private investors. The MOIT and the ERAV are audited by the State Auditor. The new Competition Law, effective in July 2019, establishes the National Competition Council. It is intended to take over the role and responsibilities of the Competition Authority and the Competition Committee, which currently functions under the MOIT.

Viet Nam's membership to ASEAN creates a favorable investment environment, which will be reinforced with the entry into force of the EU-Viet Nam FTA. In 2015, the Government adopted Resolution no. 36a/NQ-CP "On e-Government" to modernise public administration and facilitate the ease of doing business. The Resolution prioritises the development of an integrated electronic system compiling electronic documents and data, as well as the creation of the national public service portal to provide information on administrative procedures, land construction and licence granting.

AREAS FOR IMPROVEMENT

Despite the creation of the ERAV as a legal entity, regulatory power remains vested in the MOIT. At the same time, the oil and gas sub-sector lacks an economic, technical and safety regulator. The reinforcement of ERAV's authority and the establishment of a similar entity in the gas industry will signal a stronger commitment to creating a competitive and transparent energy market.

Power transmission remains a publicly owned monopoly and PVN continues to dominate petroleum and hydrocarbon exploration and production activities. The ring-fencing of EVN and PVN's business functions will allow market forces to operate at the retail level and introduce new players in the oil and gas industry.

Rule of law

QUICK FACTS

Viet Nam has been a signatory to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards since 1995.

Viet Nam became a member of the WTO in 2007.

The 1992 Constitution as amended in 2013 protects the right to lawfully acquired property against nationalisation.

STRENGTHS

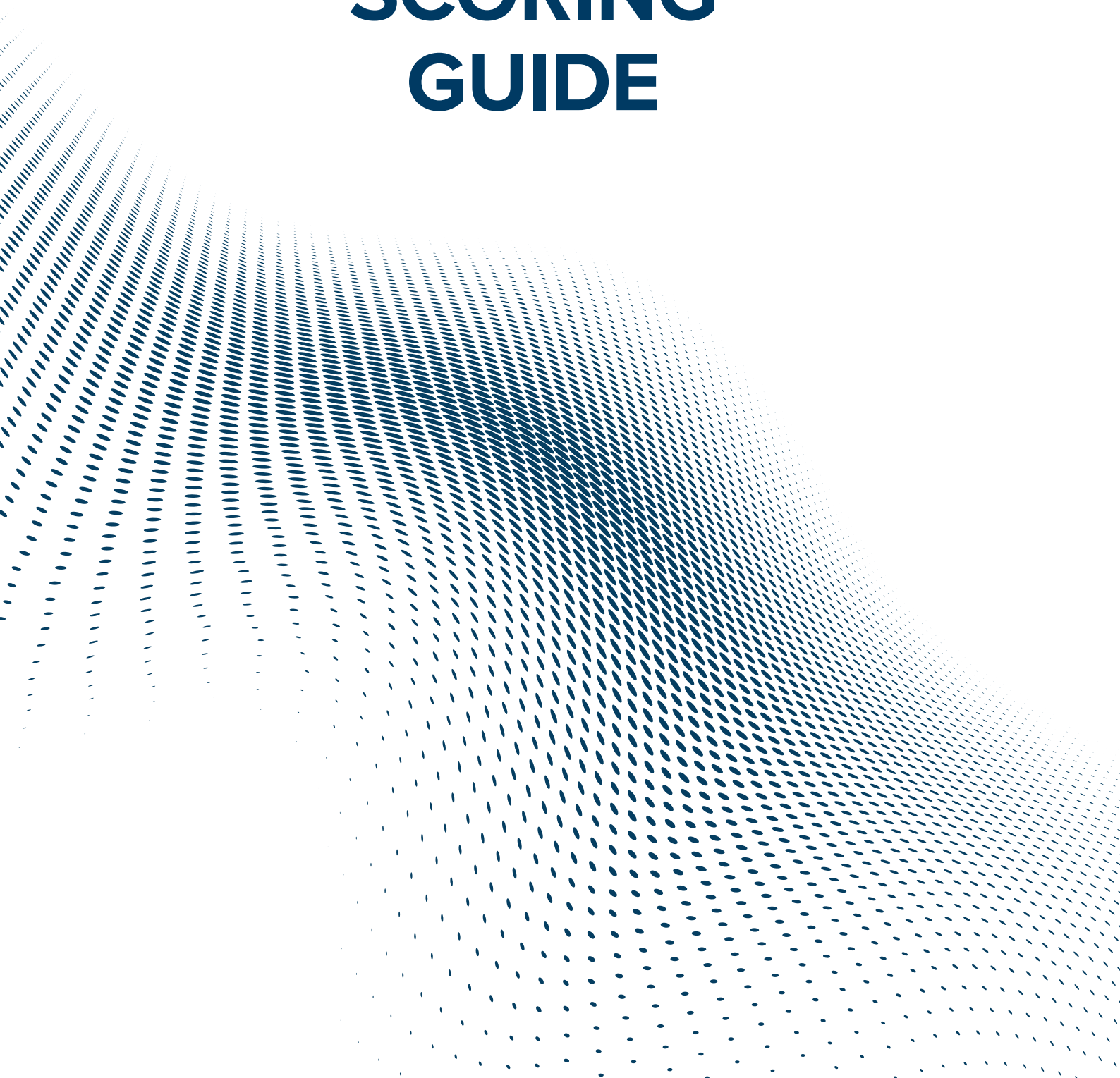
The Law "On Investment" provides investors the choice of approaching different fora of dispute resolution, such as the Vietnamese courts, Vietnamese arbitration or international arbitration. Judges are expected to create favourable conditions for the disputing parties and enable the amicable settlement of grievances. Decree no. 22/2017/ND-CP "On Commercial Mediation" provides detailed rules on the scope, principles, and procedures (institutional and ad hoc), as well as on the selection of the mediators. The Civil Procedure Code guarantees the enforcement of an agreement reached through mediation. The Vietnam International Arbitration Center was established to encourage alternative dispute resolution mechanisms. According to its 2018 Report, the Center's caseload has grown considerably over the years. Law no. 02/2011/QH13 "On Complaints" sets a two-tiered system and strict timeframes for launching an appeal against administrative decisions.

Private property can be subject to forceful purchase or requisition only on grounds of national defence, security and national interest, against compensation. The domestic legal framework provides the method for determining the amount due as well as definitive timelines for the payment of the compensation. Intellectual property rights enjoy protection as a form of "investment". According to the recently amended Law no. 07/2017/QH "On Technology Transfer" and its implementing decree, transfer of energy-related technology is promoted.

AREAS FOR IMPROVEMENT

Although there have been no recent cases of expropriation of foreign investment in Viet Nam, the term "public interest" in relation to forceful purchase or requisition should be clearly defined in domestic legislation. A list of activities that constitute "public interest" would provide additional clarity to investors.

ANNEX I: SCORING GUIDE



The score for each indicator is the average of its component sub-indicators. The score of each sub-indicator is the average of its underlying questions. The scoring rules for different types of questions are as follows:

1. Questions with proportionate scores

This category is scored based on the number of energy policy goals set by the country. In the example given below, the first sub-indicator of Indicator 1 allows the respondents to list the energy priorities of the country. Under the first question, there are nine identified options for respondents to select. Additionally, they are given the opportunity to specify other priorities considered relevant to their respective energy sectors. The response to the first question sets the premise on which the following questions will be answered and scored. For example, a country has set 5 goals. As a result, 20 points are attributed to each of the selected goals for the scoring of the next questions. Subsequently, the respondent identifies an energy strategy document for three out of the five selected goals, and the country receives 60 points on that question. The scores for the third and the fourth questions are calculated likewise. The final score of this sub-indicator is the average scores of its component questions, which in this case is 66.7.

Sample Question Type 1

INDICATOR 1: FORESIGHT OF POLICY AND REGULATORY CHANGE	SCORING	RESPONSE	SCORE
Sub-indicator 1: Communication of vision and policies			66.7
1. What are the key priorities or goals of the energy sector policy? a. Energy security [Y/N] b. Power reliability [Y/N] c. Affordability – energy poverty [Y/N] d. Access to energy [Y/N] e. Investment in the energy sector [Y/N] f. CO₂ reduction [Y/N] g. Renewable energy [Y/N] h. Energy efficiency [Y/N] i. Innovation [Y/N] j. Others issues related to the energy sector (like air quality, water quality job creation etc). Please specify.	Not Scored	5 goals selected: Energy security; power reliability; access to energy; CO ₂ reduction; and Innovation (100/5=20 for each goal in the related questions)	–
2. Does the country have an energy strategy document for the key priority areas selected above (e.g. a Vision document/ Roadmap etc.)? [Y/N]	Based on the number of goals selected in the previous question proportionate scores are allocated	Energy strategy document for 3 goals: Energy security; CO ₂ reduction; and innovation	3x20=60

2. Binary questions

These questions can be answered with a simple “yes” or “no”. In the example below, the respondent must answer “yes” to all three questions to obtain the highest score. However, the respondent gives two positive answers and a negative one. As a result, the score for the sub-indicator is 66.7.

Sample Question Type 2a

INDICATOR 3: REGULATORY ENVIRONMENT AND INVESTMENT CONDITIONS	SCORING	RESPONSE	SCORE
Sub-indicator 1: Regulatory effectiveness			66.7
1. Does the energy regulator derive its authority from a law? [Y/N]	Yes-100 No-0	Yes	100
2. Are the functions and obligations of the energy regulator stated in a law? [Y/N]	Yes-100 No-0	No	0
3. Does the energy regulator have a budget that is separate from the government’s budget? [Y/N]	Yes-100 No-0	Yes	100

In some cases, a negative response may yield a high score while a positive answer may be scored 0. In the following example, the respondent must answer “no” to all the questions to obtain the highest score. However, the respondent gives one negative and one positive answer. As a result, the score for the sub-indicator is 50.

Sample Question Type 2b

INDICATOR 3: REGULATORY ENVIRONMENT AND INVESTMENT CONDITIONS	SCORING	RESPONSE	SCORE
Sub-indicator 2: Restrictions on FDI			50
1. Are foreign investors required by law to partner with State/ State-owned enterprises or local enterprises before undertaking projects in the energy sector? [Y/N]	Yes-0 No-100	No	100
2. Are foreign investors required to purchase a certain percentage/ value/quantity of products or services from local suppliers? [Y/N]	Yes-0 No-100	Yes	0

3. Questions with alternative responses and granulated scores

In some cases, the respondent is asked to select an answer from a group of alternatives. The answer reflecting best practice is scored 100, whereas the score for the rest of the options is granulated. In the table below, the respondent states that only some legal and regulatory information is made available. This alternative is not considered optimal and, thus, yields only 50 points. In the following question, the respondent states that laws and regulations are accessible both electronically and in print. This is considered best practice and gets a score of 100. Similarly, the respondent answers that the energy regulator makes available all its decision to the public, which again is considered best practice and gets 100. The overall score for this sub-indicator is 83.3.

Sample Question Type 3

INDICATOR 2: MANAGEMENT OF DECISION-MAKING PROCESSES	SCORING	RESPONSE	SCORE
Sub-indicator 1: Transparency			83.3
1. Does the country make available legal and regulatory information to the public?		1-b	50
a. Yes, all information is made available	100		
b. Only some information is available	50		
c. No information is available	0		
2. How are laws and regulations made accessible to public?		2-a	100
a. Both electronically and in print	100		
b. Only electronically	66.7		
c. Only in print	33.3		
d. Available only upon request/or payment of fee	0		
3. Does the energy regulator make available its decisions (on tariffs, tariff methodology, market access etc.) to the public?		3-a	100
a. Yes, all decisions are made available	100		
b. Only some decisions are made available	50		
c. No decisions are made available	0		

4. Questions with alternative sub-questions

This type of question provides alternatives to the respondents, in case a negative answer to the main question is compensated by other measures. In the example provided below, the respondent claims that investors need authorisation before investing in the energy sector. Since this imposes a restriction on investors, the answer to the main question gets a 0. Where the prior authorisation requirement results in restrictiveness but is not discriminatory in nature, 50 points are 'recovered' by answering "yes" to question 1a.

Sample Question Type 4

INDICATOR 3: REGULATORY ENVIRONMENT AND INVESTMENT CONDITIONS	SCORING	RESPONSE	SCORE
Sub-indicator 2: Restrictions on FDI			50
1. Is there a pre-screening or prior-authorization requirement for investing in the energy sector? [Y/N]	Yes-0 No-100	Yes	0
If yes:			
1a. Is pre-screening applicable to both domestic and foreign investors? [Y/N]	Yes-50 No-0	Yes	50

5. Divided questions

For some sub-indicators the main question is bifurcated into sub-questions, which are awarded identical scores since they are equally important. The sub-questions develop a joint perfect score of 100, when answered positively. In the example below, the country scores 50 because it is a Contracting Party only to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States.

Sample Question Type 5

INDICATOR 4: RULE OF LAW (COMPLIANCE WITH NATIONAL AND INTERNATIONAL OBLIGATIONS)	SCORING	RESPONSE	SCORE
Sub-indicator 1: Management and settlement of investor-State disputes			50
1. Is the country a Contracting Party to:			
1a. The Convention on the Settlement of Investment Disputes Between States and Nationals of Other States? [Y/N]	Yes-50 No-0	Yes	50
1b. The Convention on the Recognition and Enforcement of Foreign Arbitral Awards? [Y/N]	Yes-50 No-0	No	0



**ANNEX II:
EIRA
QUESTIONNAIRE
2019**

Indicator 1: Foresight of policy and regulatory change

QUESTIONS	CLARIFICATIONS TO QUESTIONS	SCORING
Sub-indicator 1.1: Communication of vision and policies		
1.1.1 What are the key priorities or goals of the energy sector policy? a. Energy security [Y/N] b. Power reliability [Y/N] c. Affordability – energy poverty [Y/N] d. Access to energy [Y/N] e. Investment in the energy sector [Y/N] f. CO ₂ reduction [Y/N] g. Renewable energy [Y/N] h. Energy efficiency [Y/N] i. Innovation [Y/N] j. Others issues related to the energy sector (like air quality, water quality job creation etc). Please specify.	This is not an exhaustive list and countries are only expected to tick the boxes relevant to them. Countries may add priorities or goals not listed.	Not scored
1.1.2 Does the country have an energy strategy document for the key priority areas selected above (e.g. a Vision document/Roadmap)? [Y/N]	Kindly provide details of the energy strategy (such as date when the document was endorsed). Please also provide a link to the document or send the pdf version.	Based on the number of goals selected
1.1.3 Has the country set any short-, medium- term targets for the priority areas selected above? [Y/N]	This may include any specific short-, medium-term outcomes/targets for the energy sub-sectors.	Based on the number of goals selected
1.1.4 Has the country set any ultimate/final outcomes for the priority areas selected above? [Y/N]	This may include any specific final outcomes or end game for the energy sub-sectors.	Based on the number of goals selected
1.1.5 Is there a timeframe for achieving the ultimate/final outcomes for the priority areas selected above? [Y/N]		Based on the number of goals selected
1.1.6 Is there a binding national action plan in place for implementing the priorities selected above? [Y/N]		Based on the number of goals selected
1.1.7a Is the country a party to the United Nations Paris Climate Agreement? [Y/N]		Yes-50 No-0
1.1.7b If yes, does the country's NDC contain details on energy sector CO₂ contribution? [Y/N]		Yes-50 No-0
Sub-indicator 1.2: Robustness of policy goals and commitments		
1.2.1 Is there a body responsible for monitoring the implementation of each energy priority? [Y/N]		Based on the number of goals selected
1.2.2 Is the monitoring body independent of the authority/ministry responsible for implementing the energy priorities selected above? [Y/N]	For instance a technical/statistics body.	Based on the number of monitoring bodies
1.2.3 Is the monitoring body required to provide feedback to the authority/ministry responsible for implementing the energy priorities selected above? [Y/N]		Based on the number of monitoring bodies
1.2.4 Is there a legal provision that allows the government to review the energy priorities selected above, and sets out the process in which the review should be performed? [Y/N]	Please provide relevant legal acts/provisions.	Yes-100 No-0
Additional remarks: Are there any regulatory measures/legal changes that you anticipate in the coming year? <i>Please describe.</i>		

Indicator 2: Management of decision-making processes

QUESTIONS	CLARIFICATIONS TO QUESTIONS	SCORING
Sub-indicator 2.1: Institutional governance		
2.1.1 Indicate the levels of government involved in framing energy legislation: a. Central government [Y/N] b. Provincial [Y/N] c. Municipal [Y/N] d. More than 3 [Y/N] e. How many levels are involved in total?		For one level 100 For two levels 50 For three levels 25 For more than three levels 0
2.1.2 Is there a central authority responsible for the overall energy policy formulation process? [Y/N]	Please provide the name of the institution and its website.	Yes-100 No-0
2.1.3 Is there a central authority responsible for the overall investment policy formulation process? [Y/N]	Please provide the name of the institution and its website.	Yes 100 No-0
2.1.4 Do the energy and investment authorities consult each other while formulating policies related to their respective sectors? [Y/N]	This includes consultation within working groups, etc.	Yes-100 No-0
2.1.5 Is there an authority responsible for the overall implementation and monitoring of the country's NDC? [Y/N]	Please provide the name of the institution and its website.	Yes-100 No-0
2.1.6 Is there a process that requires the government to periodically review the implementation of its NDC? [Y/N]		Yes-100 No-0
2.1.7a Has the country established a one-stop shop investment approval authority? [Y/N]	Please provide the name of the institution and its website.	Yes-50 No-0
2.1.7b If yes, does it also give approval for the energy sector? [Y/N]		Yes-50 No-0
2.1.8a Is there a single window for all enquiries concerning investment policies and applications? [Y/N]	Please provide the name of the institution and its website.	Yes-50 No-0
2.1.8b If yes, does it also give information for the energy sector? [Y/N]		Yes-50 No-0
Sub-indicator 2.2: Transparency		
2.2.1 Does the country have a law on transparency? [Y/N]		Yes-100 No-0
2.2.2a Do exceptions to transparency rules exist? [Y/N]	Such exceptions can include national security, public interest, law and order etc.	Yes-0 No-100
2.2.2b If yes, are these exceptions clearly defined in law or regulation? [Y/N]		Yes-100 No-0
2.2.3 Does the country make available legal and regulatory information to the public? a. Yes, all the information is made available b. Only some of information is made available c. No information is made available	Legal and regulatory information includes enacted laws, draft laws, regulations, draft regulations. If the information is limited, please state reasons for this answer.	100 50 0
2.2.4 How is law and regulation made accessible to the public? [Y/N] a. Both electronically and in print b. Only Electronically c. Only in print d. Available only upon request or payment of fee	On request means investors can approach public authorities for hard copies.	100 66.7 33.3 0
2.2.5 Does the energy regulator make available its decisions (on tariffs, tariff methodology, market access etc.) to the public? a. Yes, all the decisions are made available b. Only some decisions are made available c. No decisions are made available		100 50 0

QUESTIONS	CLARIFICATIONS TO QUESTIONS	SCORING
2.2.6 Are energy strategy documents and national plans available in any of the UN languages? [Y/N]	The UN languages are Arabic, Chinese, English, French, Russian and Spanish. For the purpose of this question, unofficial translations are not relevant.	Yes-100 No-0
2.2.7 Are enacted laws available in any of the UN languages? [Y/N]	The UN languages are Arabic, Chinese, English, French, Russian and Spanish. For the purpose of this question, unofficial translations are not relevant.	Yes-100 No-0
2.2.8 Do the bodies responsible for monitoring and implementing energy priorities/objectives publish their data? [Y/N]	This question refers to monitoring bodies mentioned in question 1.2.1.	Yes-100 No-0
2.2.9 Is legal information centralised? a. In an electronic centralised registry of laws and regulations b. Centralised registry/official gazette in print c. No centralisation of laws and regulations		100 50 0
2.2.10 Is consultation between the government and the stakeholders required under any law/regulation/rule? [Y/N]	Stakeholders may include affected public and private investors, energy agencies, local government administration, non-governmental organisations, and wider community.	Yes-100 No-0
2.2.11 Is consultation between the energy regulator and the stakeholders required under any law/regulation/rule? [Y/N]		Yes-100 No-0
2.2.12 Are stakeholders notified and consulted in advance when new laws and regulations are enacted? [Y/N] a. Notified and consulted in advance b. Notified but not consulted c. Not notified or consulted		100 0 0
Additional remarks: Are there any concerns regarding the transparency in the country or its decision making that you wish to highlight? <i>Please describe.</i>		

Indicator 3: Regulatory environment and investment conditions

QUESTIONS	CLARIFICATIONS TO QUESTIONS	SCORING
Sub-indicator 3.1: Regulatory effectiveness		
3.1.1 Which institution is responsible for regulating the energy sector? a. A separate energy regulatory body b. An agency under the control of the Ministry c. A Ministry d. Multiple ministries/agencies regulating sub-sectors separately	Hereafter referred to as 'the energy regulator'.	Not scored
3.1.2* Does the energy regulator derive its authority from a law? [Y/N]	Please provide the name of the legal act which establishes the energy regulator.	Yes-100 No-0
3.1.3* Are the functions and obligations of the energy regulator stated in a law? [Y/N]	Please provide the name of the legal act which specifies the obligations of the energy regulator.	Yes 100 No-0
3.1.4* Is the energy regulator subject to the public control conducted by other institutions? a. Supreme Audit Office which is independent from the central government and/or Parliament b. Governmental institution c. None of the above		100 0 0
3.1.5* Does the energy regulator have a budget that is separate from the government's budget? [Y/N]	This means the budget is not determined by the government.	Yes-100 No-0
3.1.6* Does the energy regulator have a dedicated budget for itself? [Y/N]	Dedicated budget means that the energy regulator is not required to transfer or share its funds with any other governmental entities.	Yes-100 No-0
3.1.7* Does the energy regulator have the right to allocate its budget? a. Yes, it has full right to do so b. Yes, but it needs approval from the governmental/ministry c. No, it cannot allocate the budget on its own		100 50 0
3.1.8a* Is there a fixed term appointment for the board of the energy regulator? [Y/N]		Yes-50 No-0
3.1.8b* If so, is the term renewable more than once? [Y/N]		Yes-0 No-50
3.1.9 Is the selection procedure of the board and its finalisation publically announced? [Y/N]		Yes-100 No-0
3.1.10a Does the energy regulator deal with competition issues? [Y/N]		Yes-100 No-0
3.1.10b If no, is there a separate governmental body dealing with competition issues, including the energy sector? [Y/N]		Yes-100 No-0
Sub-indicator 3.2: Restrictions on FDI		
3.2.1a Does the country give equal treatment to domestic and foreign investors? [Y/N]	Please provide legal acts which grant equal treatment to domestic and foreign investors.	Yes-50 No-0
3.2.1b If yes, is this equal treatment established in law? [Y/N]		Yes-50 No-0
3.2.2a Are investors in the energy sector allowed to invest in all zones or regions within the country? [Y/N]	This can include restrictions on undertaking activities in the Exclusive Economic Zones, special economic zones, free trade zones.	Yes-100 No-0
3.2.2b If no, is this applicable to domestic and foreign investors alike? [Y/N]		Yes-50 No-0

* For electricity and hydrocarbon regulators

QUESTIONS	CLARIFICATIONS TO QUESTIONS	SCORING
3.2.3a Is there a pre-screening or prior-authorization requirement for foreign investors in the energy sector? [Y/N]	Screening mechanisms include requiring the foreign investors to show that the project is in the national interest of the Host State. However, in some cases, they are automatic and amount to a simple pre-notification requirement for investors.	Yes-0 No-100
3.2.3b If yes, is it only a notification requirement? [Y/N]		Yes-50 No-0
3.2.4 Are foreign companies legally allowed to hold a majority stake in energy projects? [Y/N]		Yes-100 No-0
3.2.5 Are foreign investors required by law to partner with the State/State-owned enterprises or local enterprises before undertaking projects in the energy sector? [Y/N]		Yes-0 No-100
3.2.6 Are there limitations on the employment of foreign personnel? a. There are no limitations [Y/N] b. Limitation by percentage [Y/N] c. Limitation on the number of times work permit/visa can be renewed [Y/N]		100 0 0
3.2.7 Are foreign investors required to employ specific percentages of local work force? a. There are no such requirements [Y/N] b. Yes, for the managerial level (board of directors etc.) [Y/N] c. Yes, for the unskilled labour and non-technical/administrative staff [Y/N]		100 0 0
3.2.8 Are foreign investors required to purchase a certain percentage/value/quantity of products or services from local suppliers? [Y/N]	Local content provisions require foreign investors to purchase a minimum threshold of goods (e.g. raw materials) and services (e.g. human resources) locally.	Yes-0 No-100
3.2.9a Are there any currency restrictions and/or foreign exchange controls applied to foreign investors under a law or regulation? [Y/N]		Yes-0 No-100
3.2.9b If yes, do these exchange controls include: a. Banning use of foreign currency? [Y/N] b. Limiting currency exchange to government approved exchangers? [Y/N] c. Fixed exchange rates? [Y/N]		
3.2.10a Do restrictions on the transfer of investment related capital, payments and profits exist?	e.g. profits, dividends, interest and royalty receipts, original capital, capital appreciation, proceeds from liquidation, payments received as compensation for property expropriation, settlement of disputes etc., and earnings of personnel engaged from abroad in connection with an investment.	Yes-0 No-100
3.2.10b If yes, do they apply equally on foreign and domestic investor?		Yes-50 No-0
Additional remarks: Are there any measures by the regulator or restrictions on investment you wish to highlight? <i>Please describe.</i>		

Indicator 4: Rule of Law (compliance with national and international obligations)

QUESTIONS	CLARIFICATIONS TO QUESTIONS	SCORING
Sub-indicator 4.1: Management and settlement of investor-State disputes		
4.1.1 Is the jurisdiction for hearing contractual disputes with foreign investors defined in the domestic law? [Y/N]		Yes-100 No-0
4.1.2 Is there a separate mechanism for appealing against regulatory decisions? a. Yes, appeals can be heard by the regulator in the first instance b. Appeals can only be heard by general courts c. There is no appeal process		100 50 0
4.1.3 Are national courts and administrative tribunals required by law to deliver decisions within a defined time limit? [Y/N]		Yes 100 No-0
4.1.4 Is arbitration included in: a. An investment law b. A separate arbitration law c. As a chapter/section in the code of civil procedure d. There is no law that refers to arbitration		100 100 100 0
4.1.5 Is voluntary mediation, conciliation or both included in: a. An investment law b. Arbitration and mediation law c. As a chapter/section in the code of civil procedure d. There is no law that refers to mediation and/or conciliation		100 100 100 0
4.1.6 Is there an investment ombudsman to whom foreign investors can refer disputes with the government? [Y/N]	Please provide the name of the institution and its website.	Yes-100 No-0
4.1.7a Do national laws allow the recognition and enforcement of foreign judgments? [Y/N]		Yes-50 No-0
4.1.7b If yes, then are these laws equally applicable to different jurisdictions? [Y/N]		Yes-50 No-0
4.1.8 Do national laws and/or International Investment Agreements require exhaustion of local remedies (e.g. domestic courts) before recourse to international arbitration? [Y/N]	Foreign investors are required to go through the administrative and judicial system of the State before initiating international proceedings directly against the State.	Yes-0 No-100
4.1.9 Has the country made retroactive changes to its laws in the past 5 years? [Y/N]		Yes-0 No-100
4.1.10 Is the country a Contracting Party to: a. The Convention on the Settlement of Investment Disputes Between States and Nationals of Other States? [Y/N] b. The Convention on the Recognition and Enforcement of Foreign Arbitral Awards? [Y/N]		Yes-50 No-0 Yes-50 No-0
Sub-indicator 4.2: Respect for property rights		
4.2.1 Are the criteria for 'public interest' as grounds for expropriation clearly stated? [Y/N]	Please provide the legal act that specifies these criteria.	Yes-100 No-0
4.2.2 Does the State provide in its laws and/or its International Investment Agreements a process for determining compensation in the event of expropriation in the energy sector? [Y/N]	e.g., determination of compensation by independent auditors.	Yes-100 No-0
4.2.3 Does the State provide in its laws and/or its International Investment Agreements a time frame within which compensation needs to be paid? [Y/N]	Please provide the law which states this time frame.	Yes-100 No-0

QUESTIONS	CLARIFICATIONS TO QUESTIONS	SCORING
4.2.4a Does the State include in its laws and/or International Investment Agreements protection against the expropriation of intellectual property rights? [Y/N]		Yes-50 No-0
4.2.4b Is the country a Member State of the World Intellectual Property Organization? [Y/N]		Yes-50 No-0
4.2.5 Does the State have in its laws and/or International Investment Agreements any provisions restricting the transfer of technology in the energy sector? [Y/N]	Please provide the law which states this restriction.	Yes-0 No-100
4.2.6 Is the country a Member State/Contracting Party to: a. The World Trade Organization? [Y/N] b. The Energy Charter Treaty? [Y/N]		Yes-50 No-0 Yes-50 No-0

Additional remarks:

Are there any risks related to investor state disputes in the energy sector which you anticipate? *Please describe.*

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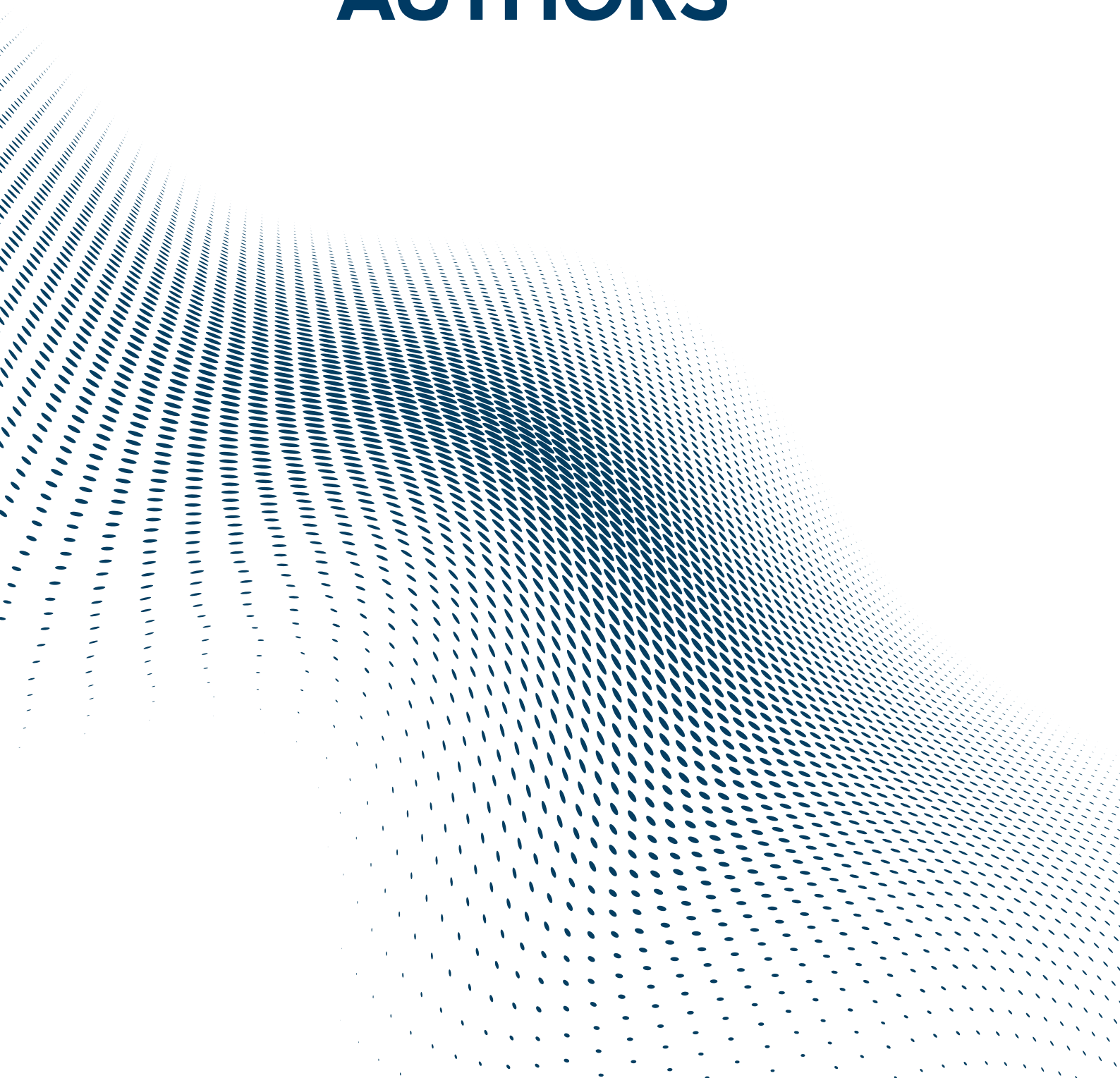
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Edward Safaryan joined the EIRA project in 2019. He provides support in the preparation of the Implementation Group meetings where discussions take place on the development of EIRA. He also liaises with the Energy Charter Industry Advisory Panel for gathering feedback on the report and its future development. He is the lead author of the country profile for Armenia and has also worked on the profile of Belarus. Edward acted as a liaison between the Energy Charter Secretariat and government entities as well as external parties in Armenia, Belarus and Uzbekistan. He is also responsible for the EIRA launch event of 2019.

Edward is an Investment Official at the Energy Charter Secretariat. He holds an MSc degree from the State University of Armenia and a Master's Degree in Environmental and Energy Policy from the University of Delaware. Prior to joining the International Energy Charter, he worked in various international organisations, including 7 years with the Organization for Security and Co-operation in Europe. His work had special focus on economic development and government strengthening programs in Armenia, Tajikistan and the US. His areas of expertise are energy and environmental policy, and project management.



MEMBERS AND OBSERVERS OF THE ENERGY CHARTER CONFERENCE

as of 18 Feb 2019

OBSERVERS (42)

MEMBERS (56)

Sig	Rat	EEC	IEC	Country
1994	2013	2006	2015	Afghanistan
1994	1997	1991	2015	Albania
1994	1997	1991	2015	Armenia
1994	1997	1991		Australia
1994	1997	1991	2015	Austria
1994	1997	1991	2018	Azerbaijan
1994	1997	1991	2015	Belarus
1994	1998	1991	2015	Belgium
1995	2001	1995	2016	Bosnia and Herzegovina
1994	1996	1991	2015	Bulgaria
1994	1997	1993	2015	Croatia
1994	1998	1991	2015	Cyprus
1995	1996	1993	2015	Czech Republic
1994	1997	1991	2015	Denmark
1994	1998	1992	2015	Estonia
1994	1998	1991	2015	European Union
1994	1998	1991	2015	EURATOM
1994	1997	1991	2015	Finland
1994	1999	1991	2015	France
1994	1995	1991	2015	Georgia
1994	1997	1991	2015	Germany
1994	1997	1991	2015	Greece
1995	1998	1991	2015	Hungary
1994	2015	1991		Iceland
1994	1999	1991	2015	Ireland
1995	2002	1991	2015	Japan
1995	2018	2007	2015	Jordan
1994	1995	1991	2015	Kazakhstan
1994	1997	1992	2015	Kyrgyzstan
1994	1995	1991	2015	Latvia
1994	1997	1991	2015	Liechtenstein
1995	1998	1992	2015	Lithuania
1994	1997	1991	2015	Luxemburg
1994	2001	1991	2015	Malta
1994	1996	1992	2015	Moldova
1999	1997	2015		Mongolia
2015	2012	2015		Montenegro
1994	1997	1991	2015	Netherlands
1998	1996	2015		North Macedonia
1995	1991	2015		Norway
1994	2000	1991	2015	Poland
1994	1997	1991	2015	Portugal
1994	1996	1991	2015	Romania
1994	1991			Russian Federation
1994	1995	1993	2015	Slovakia
1994	1997	1992	2015	Slovenia
1994	1997	1991	2015	Spain
1994	1997	1991	2015	Sweden
1994	1996	1991	2015	Switzerland
1994	1997	1991		Tajikistan
1994	2001	1991	2015	Turkey
1994	1997	1994	2015	Turkmenistan
1994	1998	1991	2015	Ukraine
1994	1996	1991	2015	United Kingdom
1995	1995	1991	2015	Uzbekistan
2018	2014	2015		Yemen

INTERNATIONAL ENERGY CHARTER 2015 (91)

EUROPEAN ENERGY CHARTER 1991 (69)

ENERGY CHARTER TREATY 1994 (56)



Country	EEC	IEC
Bangladesh		2015
Benin		2015
Burkina Faso		2017
Burundi	2015	2015
Cambodia		2015
Canada	1991	
Chad	2015	2015
Chile		2015
China		2015
Colombia		2015
EAC		2016
ECCAS		2016
ECOWAS		2015
Eswatini		2015
G5 Sahel		2016
Gambia		2017
Guatemala		2016
Guyana		2018
Indonesia	2009	
Iran		2016
Iraq		2016
Italy	1991	2015
Kenya		2017
Mali		2017
Mauritania	2014	2015
Morocco	2012	2015
Niger	2015	2015
Nigeria		2017
Pakistan	2005	2015
Palestine	2014	2015
Panama		2017
Rwanda		2016
Senegal		2016
Serbia	2001	2015
Sierra Leone		2018
South Korea		2015
Syria	2010	
Tanzania		2015
UAE		2017
Uganda		2015
USA	1991	2015
Vietnam		2018

INTERNATIONAL ORGANISATIONS WITH OBSERVER STATUS (by decision of the Energy Charter Conference):



**EIRA ENERGY INVESTMENT RISK ASSESSMENT
ENERGY CHARTER SECRETARIAT PUBLICATION**

ISBN: 978-905948-212-8 (paperback)

ISBN: 978-905948-213-5 (pdf)

Depot number: D/2019/7850/2

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