



Colombia

Population ¹	49,661,056
Area (km ²) ¹	1,141,749
GDP per capita (USD) ¹	6,716.91
TES (Mtoe) ²	38.86
Energy intensity (toe/10 ³ 2015 USD) ²	0.13
CO ₂ emissions - energy (MtCO ₂) ³	73.1

Data by Orbis Crossborder Investment on completed energy projects and deals from 2015-2021⁴

Target industry	Number of projects and deals	Project CapEx and deal value (million EUR) by source country
Electric power generation, transmission and distribution	3 new projects 1 acquisition deal	Italy: 1 RE project of 62.4 mEUR Spain: 1 RE project of 4 mEUR United States of America: 1 RE project of 4 mEUR Value of 1 deal (Peru) is N/A
Manufacture of refined petroleum products	1 new project	Venezuela: 1 project of 4 mEUR
Transport by pipeline	1 minority stake deal	Value of 1 deal (Cayman Islands) is N/A
Mining of hard coal and lignite	1 acquisition deal	United States of America: 1 deal of 2,689 mEUR
Support activities for other mining and quarrying	2 acquisition deals	Canada: 2 deals of 0.6 mEUR

Sources:

1. The World Bank 2018
2. ©IEA (2021), World Energy Balances (<https://www.iea.org/data-and-statistics>). All rights reserved.
3. ©IEA (2021), CO₂ Emissions from Fuel Combustion (<https://www.iea.org/data-and-statistics>). All rights reserved.
4. Orbis Crossborder Investment (2021), Bureau Van Dijk. Colombia is the destination country of the investment. Data represents the period 1 April 2015 - 1 April 2021 (accessed on 1 July 2021). For more information see Annex II of this report.

RE: Electricity generation from renewable resources

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

Of the three risks assessed in EIRA, *breach of State obligations* is lower compared to *discrimination between domestic and foreign investors* and *unpredictable policy and regulatory change*.

Colombia has a good performance on all the EIRA indicators. Its score on *rule of law* has improved by two points, from 67 to 69, making it the highest-scoring indicator this year. Following this is the indicator *regulatory environment and investment conditions* at 68. On *management of decision-making processes*, its score is 67, up by two points from last year. On the indicator *foresight of policy and regulatory change*, its performance has improved by five points and stands at 63.

On a more detailed level, Colombia’s overall sub-indicator performance is good. The highest-scoring sub-indicator is *transparency* at 84, up by three points compared to EIRA 2020. Its score on *management and settlement of investor-State disputes* has improved by five points and stands at 80, the same as *restrictions on FDI*. Its performance on the sub-indicator *communication of vision and policies* has also improved, from 65 to 75. It has received the same scores as in EIRA 2020 on *respect for property rights* (58) and *regulatory effectiveness* (56). The lowest-scoring sub-indicators continue to be *robustness of policy goals and commitments* and *institutional governance*, with 50 points each.

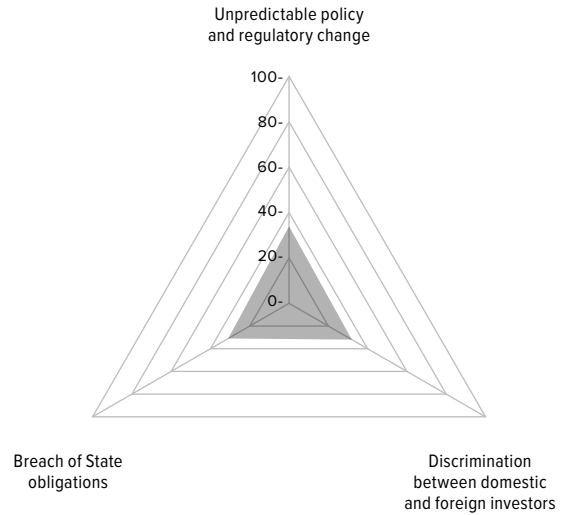
While Colombia has the relevant policies and measures in place, there is potential for improvement. Attention should be given to strengthening the country’s institutional governance and the robustness of its policy goals and commitments.

YEAR-ON-YEAR COMPARISON

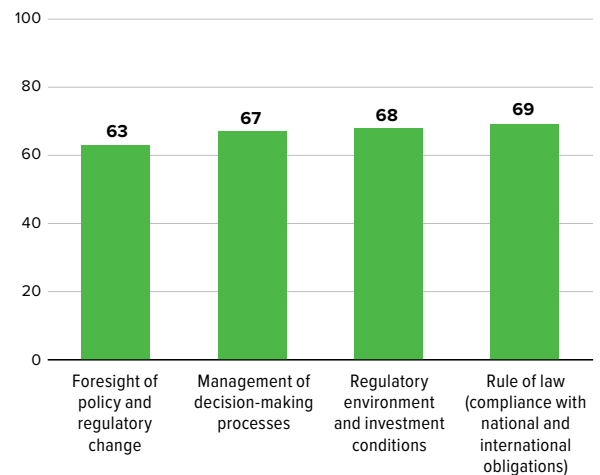
RISK AREAS	2020	2021
Unpredictable policy and regulatory change	37	34
Discrimination between domestic and foreign investors	33	32
Breach of State obligations	33	31

INDICATORS	2020	2021
Foresight of policy and regulatory change	58	63
Management of decision-making processes	65	67
Regulatory environment and investment conditions	68	68
Rule of law	67	69

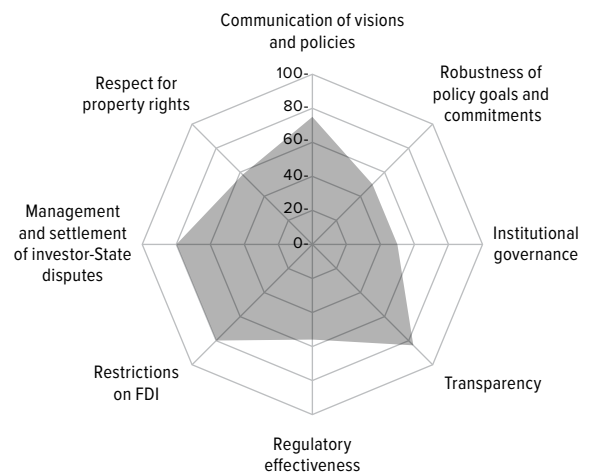
RISK LEVEL



INDICATOR PERFORMANCE



SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

On 19 January 2021, the Mining and Energy Planning Unit (UPME) released the National Energy Plan 2020-2050: Energy Transformation that Enables Sustainable Development (PEN 2050).

In 2020, Colombia submitted its updated NDC.

STRENGTHS

The PEN 2050 sets four strategic “pillars” to focus policy actions: the security and reliability of electricity supply, climate change mitigation and adaptation, competitiveness and economic development, and knowledge management and innovation. It defines quantifiable actions, monitoring indicators and baselines to measure the progress made in achieving strategic results under the pillars. PEN 2050 targets that the share of non-conventional renewable energy (FNCR) in the primary energy supply must increase from 3.1% in 2019 to 12-20% by 2050. It also aims to ensure that users with smart meters increase from 1.2%-2.4% in 2019 to 90%-100% by 2050. In September 2020, the Government adopted regulations to develop a pilot research project using fracking technology and explore new techniques for scaling up domestic resource utilisation. In October 2020, the Ministry of Mines and Energy (MME) issued Resolution 40311, which sets the conditions for assigning connection points to generation projects and prioritising transmission grid connections for projects awarded in energy auctions.

The UPME published its 2021 Action Plan with details on each activity, sub-activity, the deliverable product under each sub-activity and the related monitoring indicators. The MME published its quarterly financial execution reports for 2020 on its budget implementation and operational and investment expenditure. The Internal Control Office of the MME prepared a report evaluating the Annual Action Plan's (PA) progress as of 30 June 2020. It developed 39 programmes and executed these from 12 to 30 June 2020 to comply with the PA's indicators. In the first quarter, four programmes were completed with 100% progress. For the second quarter, five programmes were planned, but eight were executed with 160% progress. In 2021, the MME published a follow-up report on the fiscal controls established by the Office of the Comptroller General of Colombia.

AREAS FOR IMPROVEMENT

The Government should develop a roadmap, with quantifiable actions, to gradually phase out coal production, consumption and export and reduce fiscal dependence on coal. It is encouraged to continue its ongoing efforts to identify alternative economic activities to coal mining, diversify its mineral matrix, and ramping up renewable power generation in regions with the highest coal production, such as La Guajira and Cesar.

Management of decision-making processes

QUICK FACTS

The Government formulates energy policies through the MME.

Decree 230 of 2021 creates the National System of Accountability (SNRdC) to coordinate State and private sector activities on accountability.

STRENGTHS

The SNRdC comprises institutions, principles, policies, programmes, methodologies and mechanisms to ensure accountability and facilitate citizen monitoring and evaluation of public administration entities at the national, departmental, district and municipal levels. One of its objectives is to formulate and implement institutional and inter-institutional accountability strategies taking territorial, thematic, and sectoral approaches. It also aims to harmonise institutional and inter-institutional commitments on social, political, disciplinary, and fiscal control exercises. The SNRdC comprises a high-level National Committee of representatives from ministries, the Parliament, and the Colombian Association of Universities. It also has Territorial Committees composed of regional and departmental entities. The SNRdC requires all public administration entities and State-owned companies undertaking commercial operations to maintain their financial accounts continually. Entities from the judicial and legislative branches and autonomous bodies may volunteer to the SNRdC.

In 2020, State authorities in the energy sector made their data publicly available. The Agencia Nacional de Hidrocarburos (ANH) issued an update on the country's hydrocarbon exploration contracts registry as of September 2020 and the list of breached hydrocarbon contracts as of 30 November 2020. The Commission for Energy and Gas Regulation (CREG) and the MME published justifications for upcoming regulations, and stakeholders were allowed to comment on these per the OECD standards. In the first quarter of 2021, the CREG released for public consultation its resolutions on liquefied petroleum gas supply prices from wholesalers to distributors and on adjustments to the temporary natural gas supply plan. The CREG strengthened citizen participation through 22 online workshops, two public-theme hearings and one accountability hearing. The initiatives were attended by around 15,542 people resulting in a 29% participation increase compared to 2019.

AREAS FOR IMPROVEMENT

The Government has reduced substantially the time and cost spent by companies in procuring licences and permits. Now, it may consider establishing a one-stop shop that can grant approvals exclusively for energy projects. Currently, a general participation mechanism allows citizens to submit queries and applications to the National Planning Department on investment policies by presenting a personal request. A unified and automated system will further facilitate the ease of doing business in the country.

Regulatory environment and investment conditions

QUICK FACTS

The ANH is a special administrative unit in charge of administrating hydrocarbons.

The CREG regulates electric energy, natural gas, liquefied petroleum gas and liquid fuels.

STRENGTHS

The CREG's 2021 regulatory agenda defines its main activities for the year, such as setting procedures on reliability charge auctions, modifying regulations for self-generation and distributed generation projects, establishing regulations on power subsidies applicable to off-the-grid zones, setting the procedure to award generation projects and e-transportation capacity, and periodically updating the tariff methodologies for regulated services including power distribution and transmission. MME's Resolution 40295 of 7 October 2020 sets the mandatory technical requirements to undertake drilling activities, well intervention, and hydrocarbons production in shallow, deep and ultra-deep waters. Its provisions are compulsory unless the ANH, in its capacity as the auditing entity, decides otherwise. The ANH also issued Agreement 1 of 2021, which establishes criteria for the extension, granting of terms, and termination by mutual agreement of contracts to evaluate, explore, exploit, and produce hydrocarbons.

In March 2021, the MME published the terms for organising a new auction in renewable energy that will contribute around 5.8 GW to the installed capacity, attract more than USD 6.8 billion and generate up to 32,000 jobs. On the oil and gas front, the ANH concluded the Third Round of the Permanent Area Allocation Process (PPAA) and gave two Canadian companies the exploration rights to four onshore blocks. The associated investments for the blocks are estimated to be around USD 40 million. For the Fourth Round of the PPAA, ANH has offered 12 areas for technical exploration agreements and 20 for exploration and production contracts. On 29 October 2020, the UPME announced a call to select investors for providing LNG storage, regasification, natural gas transportation and associated services to the Pacific gas import infrastructure. In January 2021, it also published specifications for the design, construction, operation, and maintenance of electrical energy storage systems with batteries to mitigate the national grid's failures or insufficiencies. This tender call for storage was the first of its kind in Latin America and was successfully awarded in July 2021. In early 2021, it also launched three tender processes to design, construct, operate, and maintain new transmission lines.

AREAS FOR IMPROVEMENT

The Government is encouraged to increase the CREG's financial autonomy by making budgetary approval subject only to the Parliament and not the MME.

Rule of law

QUICK FACTS

The National Congress approved through Law 2080 of 2021 the modification of the Code of Administrative Procedure and Contentious-Administrative Matters (CPACA amendment).

The Constitution guarantees private property and other rights acquired under civil laws.

STRENGTHS

The CPACA amendment aims to digitalise judicial procedures, among other things. As per its provisions, petitions may now be submitted electronically, and case files can be accessed online. It also clarifies the role of the Council of State in mining disputes. Until now, Article 295 of the Colombian Mining Code required that actions on mining matters, apart from contractual actions, are under the Council of State's sole jurisdiction. However, the repealed CPACA Law 1437 of 2011 was silent on the subject, leading to ambiguity on the Council of State's role in this respect. The CPACA amendment expressly repeals article 295 of the Mining Code. It reduces the Council of State's competence since mining matters, other than contractual ones, will not be heard by the Council in the first instance, but by the administrative judges or by the administrative court per the general rules of jurisdiction established in the relevant law.

Colombia continues to uphold the property rights of its foreign investors. The Constitution states that expropriation may occur only for reasons of public utility or social interest and subject to a judicial decision. Law 388 of 1997 requires that compensation in the case of expropriation should be paid in one unique payment or through an initial payment of 40%-60% of the price and the pending value paid within the following five years recognising an interest equivalent to the banking interest at the time of the expropriation. An ICSID tribunal recently decided in favour of Colombia in a claim brought by Naturgy Electricidad Colombia for the administrative takeover of the public electricity distribution company, Electricaribe. The tribunal found that Colombia did not violate the investment standards invoked under the Colombia-Spain BIT, and the takeover was a valid regulatory measure given Electricaribe's impending insolvency.

AREAS FOR IMPROVEMENT

The Constitution of Colombia has provisions that protect investors' property and assets from expropriation. However, to adequately balance and protect the interests of businesses and local landowners, the Government should implement robust transparency and accountability measures, such as a monitoring system that can record the results of land restitution proceedings between business owners and landowners, follow up on the implementation of the decisions, and publish all the documents and data in this respect on a dedicated online portal. Moreover, there is scope for the Government to strengthen guarantees in domestic laws against indirect expropriation and the expropriation of IP rights.

IMPLEMENTATION STATUS



Colombia

PROPOSED EIRA AREAS FOR IMPROVEMENT IN

IMPLEMENTATION STATUS AS OF 1 APRIL 2021

Indicator 1

Set a long-term perspective with quantifiable measures to gradually phase out of coal production, consumption and export and reduce revenue dependence on this resource.

Work ongoing. To reduce Colombia's revenue dependence on coal, the Government aims to diversify its mineral matrix, doubling the production of gold by 2030 and increasing sevenfold the production of copper by 2030. Coal production peaked in 2017 and the Government does not anticipate surpassing this level of production.

Identify alternative economic activities and mobilise the financial resources to transition from coal to cleaner resources. Equip the communities reliant on the coal industry with skills necessary for migrating to alternative activities.

Work ongoing. Although a clear national-level action plan is missing, a number of recent private and public sector developments have taken place in this respect. In particular, there are plans to ramp up renewable power generation in regions with the highest coal production, such as La Guajira and Cesar. It is expected that in La Guajira there will be 16 wind farms and two transmission lines operational, which will represent investments of more than USD 10 billion and create approximately 11,000 jobs. Also, Colombia is developing its National Hydrogen Strategy that will identify opportunities for this resource in the coal producing regions. Progress has been made in the private sector as well. In November 2020, the coal mine Cerrejon (owned jointly by Anglo American, BHP, and Glencore) reached a preliminary agreement with the traditional owners to comply with environmental and health requirements in its operations, build a community health centre, rehabilitate the environment and carry out other measures ordered by the Colombian Constitutional Court. Moreover, in February 2021, Glencore's Colombian subsidiary, Prodeco, commenced the process of handing its mining contracts back to the Agencia Nacional de Minería. Prodeco will engage with its employees, contractors and host communities on the impact of relinquishing the titles. It has recommenced the voluntary redundancy programme.

2020

Conduct a regular impact assessment and cost-benefit analysis of the national energy and investment policies. Periodically evaluate the implementation of the policy measures.

Work ongoing. The Mining and Energy Planning Unit published its 2021 Action Plan with details on each activity, sub-activity, the deliverable product under each sub-activity and the related monitoring indicators. The Internal Control Office of the Ministry of Mines and Energy reported on the monitoring and evaluation of the Annual Action Plan (PA) as of 30 June 2020. It developed 39 programmes and executed these from 12 to 30 June 2020 to comply with the PA's indicators. In the first quarter, four programmes were completed with 100% progress. For the second quarter, five programmes were planned, but eight were executed with 160% progress.

Indicator 2

2020

Set up a one-stop shop for all energy sector-related business services.

Pending

Indicator 3

2020

Subject the Commission for Energy and Gas Regulation (CREG) budget approval only to the Parliament and not the MME.

Pending

Restructure the CREG's composition to limit the role of ministers and public office holder. Fix the reappointment of the CREG's experts to only one additional term.

Work ongoing and partially implemented. Legislative Bill no. 365 of 2020 titled "The Energy Transition Law Project" proposes, among other things, to fix the re-appointment of the CREG's experts to only one additional term and to guarantee an interdisciplinary composition in the CREG. Although the cut-off date for EIRA this year is 1 April 2021, readers should note that on 10 July 2021, Bill no. 365 was enacted into Law 2099 of 2021

Indicator 4

2020

Define the procedure to determine whether a compulsory acquisition of private property by the State has been undertaken for "public utility or social interest". Specify the timeframe, legal effects, and bodies responsible for making this decision, as well as outline measures to ensure the procedure is well-coordinated at the national and sub-national level.

Work ongoing. Article 56 of the Law 142 of 1994 (law about domiciliary utilities) states that all those works carried out for the development and execution of works to supply public services are of public interest. Also, Law 143 of 1994 and Law 388 of 1997 declare the activities of electricity generation, transmission and distribution to be of public interest.

2021

Implement robust transparency and accountability measures, such as a monitoring system in the land restitution process to balance and protect the interests of businesses and local landowners.

Improvement suggested in 2021. Status will be updated in 2022.