

Panama

Population ¹	4,176,873
Area (km ²) ¹	75,320
GDP per capita (USD) ¹	15,592.57
TES (Mtoe) ²	4.3
Energy intensity (toe/10 ³ 2015 USD) ²	0.07
CO ₂ emissions - energy (MtCO ₂) ³	9.3

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	2 new projects 2 acquisition deals	Netherlands: 1 RE project of 895 mEUR United States of America: 1 RE deal of 500.3 mEUR United Kingdom: 1 FF deal of 31.5 mEUR Bermuda: 1 RE project of 15.8 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. Panama 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
FF: Electricity generation from fossil fuels

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

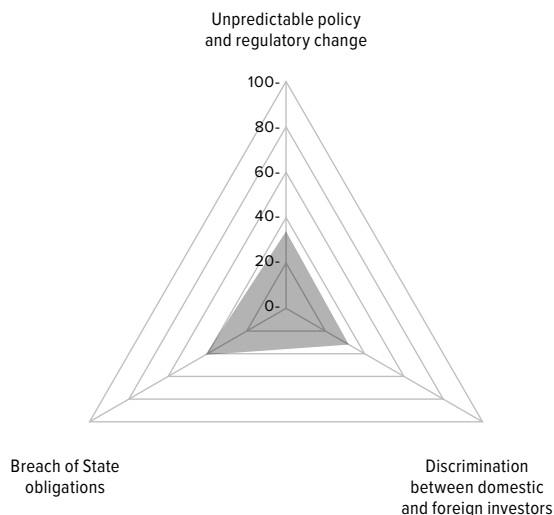
Of the three risks assessed in EIRA, *discrimination between domestic and foreign investors* is lower compared to *unpredictable policy and regulatory change* and *breach of State obligations*.

Panama’s performance is good on three indicators, and it is moderate on one indicator. It has a score of 77 on *management of decision-making processes* and 67 on *regulatory environment and investment conditions*. Its score on *foresight of policy and regulatory change* has increased and now stands at 61. On *rule of law*, it has a score of 59.

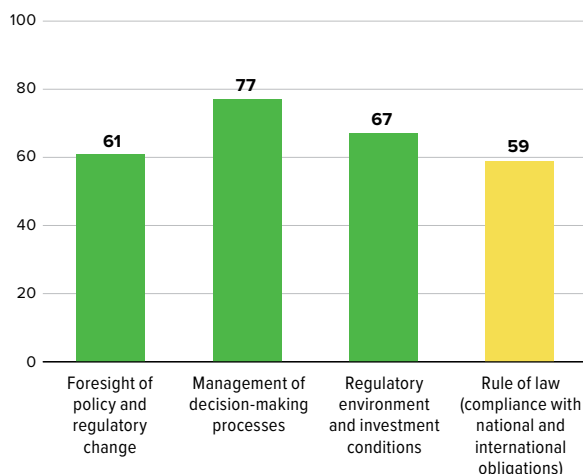
On a more detailed level, Panama’s sub-indicator performance is good. The highest-scoring sub-indicator is *transparency* at 92, followed by *robustness of policy goals and commitments* at 83 and *restrictions on FDI* at 70. The sub-indicators *regulatory effectiveness* and *institutional governance* stand at 64 and 63, respectively. Its performance on the indicators *management and settlement of investor-State disputes* (60) and *respect for property rights* (58) is moderate. The score on *communication of vision and policies* has increased from 29 to 39.

While Panama has the relevant policies and measures in place, there is potential for improvement. Attention should be given to better communicating the country’s vision and policies.

RISK LEVEL



INDICATOR PERFORMANCE

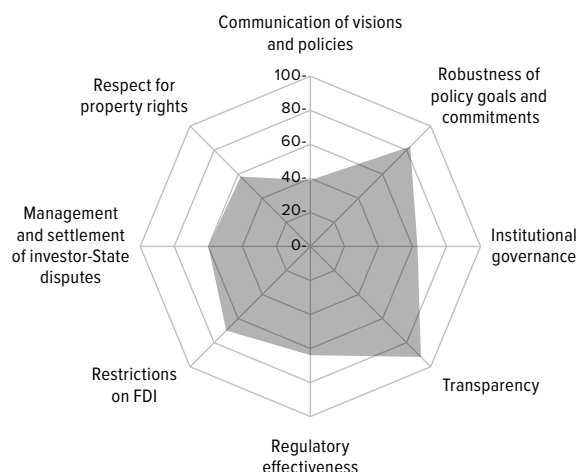


YEAR-ON-YEAR COMPARISON

RISK AREAS	2019	2020	2021
Unpredictable policy and regulatory change	37	37	34
Discrimination between domestic and foreign investors	32	32	32
Breach of State obligations	41	41	41

INDICATORS	2019	2020	2021
Foresight of policy and regulatory change	52	52	61
Management of decision-making processes	77	77	77
Regulatory environment and investment conditions	67	67	67
Rule of law	59	59	59

SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

The National Energy Plan 2015-2050 sets the path to developing Panama's energy sector. In November 2020, the Strategic Guidelines for Panama's Energy Transition Agenda (Energy Transition Agenda) was published in the Official Gazette.

In December 2020, Panama submitted its updated NDC.

STRENGTHS

Panama has pledged to become carbon-neutral by 2050 in its updated NDC, which sets a higher target than its predecessor. Under the Business-as-Usual scenario, it aims to cut energy sector emissions by at least 11.5% by 2030 and about a quarter by 2050. It has also reaffirmed its commitment to have by 2050 30% of the installed capacity from non-conventional renewable energy sources. The "4D" concept drives the 2020 Energy Transition Agenda: Decarbonisation, Decentralisation, Democratisation and Digitalisation. Based on this concept, the Agenda identifies universal access, efficient use of energy, electric mobility, innovation of the National Interconnected System (SIN), and distributed generation as the five priorities of the electricity sector. Apart from this, it also outlines strategies for the hydrocarbon sector's sustainable development. Following the Panama Canal expansion, the Government aims to turn the country into an energy hub for LNG. To do so, it intends to develop a national hydrocarbons policy, with support from external organisations and stakeholders and adopt legislation to provide the LNG business with free infrastructure access. The Agenda also foresees the establishment of a Hydrocarbons Sector Committee that will review existing laws and decrees and analyse the country's legal and regulatory framework against international standards and practices.

The Energy Transition Agenda establishes the National Energy Transition Council (NECT) to support the National Secretariat of Energy (SNE) and the National Authority of Public Services (ASEP) in policy monitoring and evaluation. The NECT will comprise Government officials and external parties and monitor the implementation of the targets outlined in the Agenda. In 2021, the Ministry of the Environment and the SNE will launch, with support from the Partnership for Market Readiness of the World Bank, a monitoring, reporting and verification mechanism to automate the quantification and periodic analysis of GHG emission reductions. SNE's website has exhaustive information on the energy market and a list of implemented and potential projects.

AREAS FOR IMPROVEMENT

The Energy Transition Agenda establishes goals for the country's energy development. The Government is encouraged to continue preparing action plans that will guide the set of goals. The achievement of these goals within the foreseen timeframe will largely depend on public authorities' ability to establish a regulatory framework to support the implementation of the policy measures.

Management of decision-making processes

QUICK FACTS

The SNE is responsible for developing the country's energy policy.

Panama enacted Law no. 6 on Transparency in Public Management and the Establishment of the Habeas Data Action (Law on Transparency) in 2002. A revised version is currently under consultation.

STRENGTHS

The Energy Transition Agenda is the result of the joint efforts of multiple ministries and public entities. Its chapter 2 identifies actions to reinforce the institutional capacity of public entities, such as energy planning and digitisation of SNE processes. An Energy Cabinet has been established to ensure coordination and foster dialogue among all actors involved in implementing the Energy Transition Agenda. In 2020, the Government introduced significant changes in the national fiscal framework. For instance, it created a Fiscal Council (FC) comprising three independent public finance and macroeconomics experts. The FC is expected to evaluate the macro-fiscal policy in collaboration with the Ministry of Economy and Finance and issue a non-binding report on fiscal plans and performance.

The National Transparency and Access to Information Authority (ANTAI) seeks to advance the transparency and open data agenda. The 2020 Open Government Partnership's independent report on Panama's implementation of the 2017-2019 Action Plan emphasises the role of the civil society and ANTAI in the assessment process. Furthermore, ASEP is following through on its commitment to increase citizens' participation by conducting stakeholder consultation on the public distribution and marketing services tariff regime. In a similar vein, the Ministry of Commerce and Industries, in coordination with the SNE, has launched consultations on various projects, including the technical specifications for the commercialisation of inverter-type air conditioners and the specifications for quantifying and reporting GHG emissions. The SNE has also organised seminars with municipalities on energy efficiency in public buildings and energy production in small-scale plants near the point of consumption.

AREAS FOR IMPROVEMENT

The Government should increase its efforts to create a one-stop shop and a single window to relieve private investors of the administrative burden related to multiple and lengthy registrations, licence procurement, and permit applications.

Regulatory environment and investment conditions

QUICK FACTS

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

The hydrocarbons sub-sector is regulated by SNE, which is organised under the Ministry of the Presidency.

Law no. 54/1998 on Investment Stability was enacted to ensure equality of treatment between national and foreign investors.

STRENGTHS

ASEP continues to perform its functions effectively. In 2020, it conducted some 180 inspections to ensure that distribution companies comply with quality standards. In September 2020, ASEP presented its budget proposal amounting to 25.1 million Panamanian Balboa before the designated Committee of the National Assembly. Following ASEP's approval, in 2020, the Empresa de Transmisión Eléctrica (ETESA) prepared a plan to expand the SIN. It also organised two auctions to construct new transmission lines that will transport energy from various parts of the country to the new Panama III substation in the Panama City area. Moreover, in 2021, ETESA will invest more than USD 5 million in installing a new transformer (T1) of 100 MVA, which will allow greater power delivery to the distribution company.

The Government has expanded its fiscal incentive regime to promote investment. Law no. 159/2020 was enacted in 2020 to provide tax benefits to multinational companies operating in Panama and providing manufacturing services, such as quality control and stability testing. Fiscal, migratory and labour incentives are already in place for gas and renewable (wind, solar, biomass) power generation. Three natural gas projects have been granted licences, and one is already in operation. Moreover, a 66 MW wind power plant in the Province of Coclé is under construction, and 25 MW of solar photovoltaics in the Central Region of Panama will be operational by 2021. Furthermore, 46.1 MW of installed solar energy capacity for distributed generation (self-consumption modality) is in place and showing exponential growth.

AREAS FOR IMPROVEMENT

The Government should lower barriers in hiring skilled and technical foreign personnel that can help achieve some short-term objectives, such as promoting the local workforce, but are perceived as restrictive by foreign investors.

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

Starting with the adoption of Law no. 15/2008 On Digital Transformation of Judicial Proceedings, Panama has introduced reforms to improve access to justice and modernise legal processes. These reforms concern the digitalisation of the judicial management system, thus allowing the updating of judicial services and electronic filing. Case hearings can now be conducted by videoconference or through other forms of technology-aided communication. Foreign awards are enforced subject to the limited grounds for challenge exhaustively listed in national law and international treaties. This approach aims to prevent local courts from reviewing the merits of the dispute. The country also has a favourable legal structure for the enforcement of foreign judgements. The exequatur procedure requires a foreign judgement to comply with public policy, as established in Article 156 of the Code of International Private Law and Article 1421 of the Judicial Code of Panama.

National laws are sufficiently robust to prevent arbitrary expropriation of foreign investments, including IP rights. Recently, an ICSID tribunal ruled in favour of the State of Panama in a case concerning trademarks as a protected form of investment under the US–Panama Trade Promotion Agreement. The Intellectual Property Law no. 35/1996, as amended by Law no. 61/2012 and regulated by the Executive Decree no. 85/2017, fulfils the TRIPS requirements. The General Offices of Copyright and the Industrial Property Registry (DIGERPI) at the Ministry of Commerce and Industries are responsible for ensuring compliance with the IP regime.

AREAS FOR IMPROVEMENT

The Government may consider establishing an investment ombudsperson to deal with grievances of foreign investors against the public authorities. It can seek guidance from the Energy Charter Model Instrument on Management of Investment Disputes that aims to assist States in handling investment disputes while keeping in mind their own particular needs and circumstances.

The existing legislation should be updated to include a definition of “public interest” as grounds for expropriation of private property and set a timeframe for paying compensation to the affected parties.

IMPLEMENTATION STATUS



Panama

PROPOSED IN	EIRA AREAS FOR IMPROVEMENT	IMPLEMENTATION STATUS AS OF 1 APRIL 2021
Indicator 1		
2019	Set quantifiable, time-bound, and realistic energy sector targets for the short-term, medium-term and the long-term.	Work ongoing. The Government adopted the Energy Transition Agenda in 2020.
2021	Develop action plans which will guide the country's energy goals, including those in the Energy Transition Agenda 2020, and support the implementation of its energy sector policy.	Improvement suggested in 2021. Status will be updated in 2022.
Indicator 2		
	Set up a single window to give companies information on energy projects and investment facilitation.	Work ongoing. The office of Panama's Vice Minister of International Trade, within the Ministry of Commerce and Industry, is the principal entity responsible for promoting and facilitating foreign investment and exports.
2019	Establish a one-stop shop for documenting and approving all licences, registrations, permits, and procedures related to energy projects.	Work ongoing. Information on registering domestic and foreign businesses is available on the Ministry of Commerce and Industry's website (https://www.panamaemprende.gob.pa/). The website allows foreign companies to register their businesses online, create a branch for a registered business, or register as individual traders from any part of the world.
Indicator 3		
2019	Lower the restrictions imposed on investors regarding the employment conditions of skilled and technical personnel.	Work ongoing. The Labour legislation establishes that companies in Panama can hire a maximum of 15% of foreign technical or specialised personnel. However, companies can hire more foreign personnel if they prove there are no Panamanians with the same skills and qualifications available. The National Energy Secretariat published Resolution 4480 on 31 October 2019, allowing energy companies to apply for an additional 15% foreign technical or specialised personnel.
Indicator 4		
	Establish an investment ombudsperson to deal with grievances of foreign investors against public authorities.	Pending
2019	Enact a law that defines "public interest" in the context of expropriation, and addresses issues regarding the valuation of the compensation and the timeframe for its payment.	Pending