



# EIRA

ENERGY INVESTMENT RISK ASSESSMENT

2020

 COMMON RULES FOR **GLOBAL ENERGY SECURITY**





# EIRA

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2020

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# 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. His efforts 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 March 2020, 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. It was adopted in 2016 to reflect the global nature of the Organisation better.

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 2020, Azerbaijan holds the Chairmanship. The 98 Members and Observers of the Energy Charter Conference represent governments and regional intergovernmental organisations from six continents, including all significant 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.**

# FOREWORD

This year, the world is facing an extraordinary crisis with severe socio-economic consequences. The COVID-19 pandemic has substantially impacted the energy sector. It has led to an unprecedented fall in energy investment, a decline in energy demand, and reduced energy revenues for many countries. While it is critical to take emergency support measures, we should not lose focus on the long-term perspective. Well-designed long-term policy responses can help countries tide over the immediate challenges and also present them with opportunities to steer investments that support sustainable development, minimise job losses, and boost the global decarbonisation agenda.

Policy monitoring and evaluation is fundamental to achieving long-term objectives. Without assessing the current state of play, and taking stock of the work to be done, it will be difficult for countries to navigate these difficult times or set future policies that promote the global energy objectives.

In this context, I am pleased to launch the third edition of the Energy Investment Risk Assessment (EIRA) report. EIRA assesses legal and regulatory risks to energy investment and benchmarks the performance of countries. Its main objective remains tracking the progress of countries in mitigating these risks over time. With this objective in mind, #EIRA2020 introduces a new chapter summarising how far countries have implemented the improvements suggested in EIRA 2018 and 2019, and the measures they have taken to make the legal and regulatory environment more conducive to investment. I hope that policymakers will utilise this information to evaluate the progress made until now, undertake a course correction where needed, and develop future policy trajectories that are predictable and in the national and international interest.

In 2020, the Energy Charter Secretariat also worked on other complementary reports to monitor the progress of some recurrent EIRA participants. For

example, the second edition of the EIRA Extended Profile of Nigeria made in-depth recommendations that will help to reduce legal and regulatory risks in the country. The Secretariat is currently preparing the EU4Energy EIRA monitoring reports on Armenia and Belarus. The reports will assess the progress of these countries in implementing the previously suggested EIRA improvements, and give recommendations to build on the work done until now.

#EIRA2020 also includes energy investment statistics from the Orbis Crossborder Investment database. The data gives readers background information on the investment trends in the participating countries over the last five years, the target industries that received the most attention, the number of projects and deals completed in this timeframe, and their value. This addition to the country assessments will give a broader picture to policymakers and investors on the actual energy investment situation of the participating countries.

The Energy Charter Secretariat is making constant efforts to expand the scope of EIRA, introduce new and meaningful content, and improve the report's methodology so it can meet the expectations of the Energy Charter Constituency and serve it in the best possible way.

I express my sincere gratitude to the countries, the external parties participating in #EIRA2020, as well as the authors. They made this report possible despite the challenges faced due to the COVID-19 pandemic. Finally, I hope that an increasing number of governments will subscribe to EIRA in the future.

**Urban Rusnák**  
Secretary-General  
Energy Charter Secretariat  
Brussels

# MESSAGE FROM THE IAP CHAIRMAN

As the Chairman of the International Energy Charter Industry Advisory Panel (IAP), I welcome the third edition of the Energy Investment Risk Assessment (EIRA) report.

The IAP's mission is to strengthen dialogue between policymakers and the private sector on the main directions of the Energy Charter Process, particularly risk mitigation and improvement of the business climate. In this respect, EIRA furthers the aim of the IAP by guiding policymakers on how to promote and retain investment in the energy sector through a sound legal framework, regulatory stability, and market confidence.

EIRA can be of great value to the industry because it gives a horizontal analysis of energy investment flows, and legal and regulatory risks related to energy sectors. It can be instrumental in investment appraisal, management of financial risks, and effective project planning and development. The report assesses some critical aspects that companies take into consideration before making

investment decisions, such as reliable access to investor-State dispute mechanisms, promotion and protection of energy investments, and a high level of legal security. It can be used as a good starting point of reference by companies looking to venture into jurisdictions less known to them. They can also use it to track the latest legislative and regulatory changes in those participating countries where they are already operating.

Based on the experience of its members, the IAP continues to support the Energy Charter process actively. I congratulate the Energy Charter Secretariat for its work on EIRA 2020 and welcome its efforts to build on the report, so it best meets the vision and expectations of the Energy Charter Constituency.

**Rafael Cayuela Valencia**

Chair of the International Energy Charter Industry Advisory Panel  
Corporate Chief Economist & Strategy Director  
Dow Europe GmbH

# ACKNOWLEDGEMENTS

EIRA is an initiative of Urban Rusnák, Secretary-General of the Energy Charter Secretariat (ECS).

The 2020 edition of EIRA is prepared by the ECS's Investment Unit, under the leadership of Investment Coordinator Ishita Pant. The team members include Edward Safaryan, Anna Pitaraki and Danai Oikonomakou. 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 ECS expresses its appreciation to the participants of EIRA 2020: Afghanistan, Albania, Armenia, Bangladesh, Belarus, Benin, Bosnia and Herzegovina, Colombia, Croatia, Eswatini, The Gambia, Georgia, Greece, Guyana, Jordan, Kazakhstan, Kenya, Kyrgyzstan, the Republic of Moldova, Montenegro, Nigeria, Palestine, Panama, Rwanda, Senegal, Sierra Leone, Tajikistan, Uganda, Ukraine and Uzbekistan.

The ECS thanks the focal points in the participating countries for their invaluable cooperation and support in preparing EIRA 2020.

This edition of EIRA is made possible through the expertise and generous input of more than 215 contributors. Legal and energy experts, members of the academia, financial institutions, think-tanks, business consultants, accountants, and other professionals that are 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
CapEx	Capital Expenditure
DisCos	Distribution Companies
ECS	Energy Charter Secretariat
ECT	Energy Charter Treaty
EIRA	Energy Investment Risk Assessment
EITI	Extractive Industries Transparency Initiative
EU	European Union
EUR	Euro
FDI	Foreign Direct Investment
GDP	Gross Domestic Product
GHG	Greenhouse Gas
IEA	International Energy Agency
IPP	Independent Power Producer
IP	Intellectual Property
kV	Kilovolt
MDA	Ministries Departments and Agencies
MW	Megawatt
NDC	Nationally Determined Contributions
OECD	Organisation for Economic Co-operation and Development
OHADA	Organization for the Harmonization of Business Law in Africa
PPA	Power Purchase Agreement
PPP	Public-Private Partnership
PSC	Production Sharing Contract
TPES	Total Primary Energy Supply
UNFCCC	United Nations Framework Convention on Climate Change
VAT	Value-added tax
WTO	World Trade Organization

# TABLE OF CONTENTS

<b>ABOUT THE INTERNATIONAL ENERGY CHARTER</b>	<b>i</b>
<b>FOREWORD</b>	<b>ii</b>
<b>MESSAGE FROM THE IAP CHAIRMAN</b>	<b>iii</b>
<b>ACKNOWLEDGEMENTS</b>	<b>iv</b>
<b>ABBREVIATIONS</b>	<b>v</b>
<b>EXECUTIVE SUMMARY</b>	<b>1</b>
<b>RISK AREAS AND INDICATORS FOR EIRA</b>	<b>7</b>
What are the risks assessed by EIRA?	8
How are the EIRA indicators selected?	9
What are the EIRA indicators?	9
Indicator 1: Foresight of policy and regulatory change	10
Sub-indicator: Communication of vision and policies	10
Sub-indicator: Robustness of policy goals and commitments	10
Indicator 2: Management of decision-making processes	11
Sub-indicator: Institutional governance	11
Sub-indicator: Transparency	11
Indicator 3: Regulatory environment and investment conditions	12
Sub-indicator: Regulatory effectiveness	12
Sub-indicator: Restrictions on Foreign Direct Investment	12
Indicator 4: Rule of law (compliance with national and international obligations)	13
Sub-indicator: Management and settlement of investor-State disputes	13
Sub-indicator: Respect for property rights	13
<b>EIRA METHODOLOGY</b>	<b>14</b>
How are the respondents for EIRA selected?	15
What is the data collection and validation process for EIRA?	16
How are risks assessed in EIRA?	17
Scoring system	17
Country profile outline	18

<b>COUNTRY PROFILES</b>	<b>20</b>
Afghanistan	22
Albania	26
Armenia	30
Bangladesh	34
Belarus	38
Benin	42
Bosnia and Herzegovina	46
Colombia	50
Croatia	54
Eswatini	58
Gambia (The)	62
Georgia	66
Greece	70
Guyana	74
Jordan	78
Kazakhstan	82
Kenya	86
Kyrgyzstan	90
Montenegro	94
Nigeria	98
Palestine	102
Panama	106
Republic of Moldova	110
Rwanda	114
Senegal	118
Sierra Leone	122
Tajikistan	126
Uganda	130
Ukraine	134
Uzbekistan	138
<b>ANNEX I: IMPLEMENTATION STATUS OF THE EIRA AREAS FOR IMPROVEMENT</b>	<b>142</b>
<b>ANNEX II: ORBIS CROSSBORDER INVESTMENT GLOSSARY AND INDUSTRY CLASSIFICATION</b>	<b>170</b>
<b>ANNEX III: EIRA SCORING GUIDE</b>	<b>174</b>
<b>ANNEX IV: EIRA QUESTIONNAIRE</b>	<b>180</b>
<b>CONTRIBUTORS</b>	<b>188</b>
<b>AUTHORS</b>	<b>196</b>

# EXECUTIVE SUMMARY





EIRA assesses risks to energy investment that can be mitigated by adjusting legal and regulatory frameworks. It benchmarks the performance of countries against international best practices and guides them on how to improve the investment climate.

EIRA evaluates three types of risk: (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, and assists policymakers in designing risk mitigation plans. EIRA recognises that various factors 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 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 sustainable investment in the energy sector. Additionally, it seeks to give the energy industry, investors, and the financial sector insight into the investment climate of 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 and methodology of EIRA 2020 are the same as last year. Like its predecessors, this third 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.

## Highlights of EIRA 2020

**EIRA 2020 assesses 30 countries spanning Africa, Asia, the Americas, and Europe.** 26 of these have participated in the previous editions of the report, and four are new entrants: Colombia, Guyana, Sierra Leone and Tajikistan.

**The ECS invited 137 external parties to participate in EIRA 2020** after conducting extensive research on various aspects, such as their expertise, renown, and previous participation in other international publications. 70% of the invited parties agreed to participate in the assessment. All participants volunteered for the project on a pro bono basis.

**The EIRA website went online and simplified the data collection process.** Government focal points and external parties were able to fill the EIRA questionnaire online and also use it to provide the supporting documents. Those participating in the assessment for the second time could view, copy, and take guidance from last year's answers, as per their needs.

**EIRA 2020 attempts to examine the enforcement of laws and regulations in the participating countries.** The country profiles highlight the progress made by public authorities in translating commitments to actions and give attention to the implementation of projects, programmes and secondary regulations, between April 2019 to April 2020. The report also contains a new annexe which summarises the actions taken by governments to mitigate the EIRA risks and address the improvements suggested in the previous editions. Depending on the progress made in each country, the annexe categorises the work done as fully implemented, partially implemented, ongoing, or pending.

**This year, the country profiles also include new information from Orbis Crossborder Investment on energy projects and deals completed between 2015-2020 in the participating countries.** The purpose of this data is to give readers background information on the investment trends in the participating countries, the target industries that received the most attention, the number of projects and deals completed in this timeframe, and their value.

## Key findings

### For the third consecutive year, unpredictable policy and regulatory change is the highest risk.

It is the topmost risk in 15 out of the 30 countries assessed in 2020.

Countries with the lowest risk of unpredictability are **Greece** and **Moldova**. At the other end of the spectrum are **Palestine** and **The Gambia**.

The risk of unpredictable policy and regulatory change has reduced in 18 of the 26 countries that participated in EIRA previously. **Greece** and **Uzbekistan** have shown the most improvement since last year. The risk level in both countries has dropped by 8 points. In **Greece's** case, this is partly due to the adoption of its National Energy Climate Plan (NECP) and the Long-Term Strategy for 2050. The NECP sets a target of phasing out lignite power generation by 2028 – a crucial achievement. **Uzbekistan's** higher score is attributable to the seven new Presidential Decrees adopted on the energy sector. The main areas covered by these Decrees are the transition to a green economy in the period of 2019-2030, measures to improve energy-efficiency, development of nuclear energy, and reform of the electric power industry. **Palestine** has also made efforts to improve its performance. Its risk level reduced by two points compared to last year, following the adoption of the first Work Plan of the 18th Government in 2019. The Plan lists more than 100 interventions, 207 activities and 277 measurement indices for achieving the national targets.

The risk of unpredictability has gone down primarily because countries have performed better on the “foresight of policy and regulatory change” indicator. In five countries, the indicator score has improved due to the adoption of new long-term energy strategies spanning the period from 2030 to 2050 (**Belarus, Croatia, Jordan, Senegal** and **Uzbekistan**). **Croatia** deserves special mention for its recently adopted climate change adaptation strategy that covers the period until 2040, with a further view to 2070. Ten countries have implemented past recommendations related to this indicator (**Albania, Bosnia and Herzegovina, Croatia, Georgia, Greece, Jordan, Kyrgyzstan, Senegal, Uganda** and **Uzbekistan**). The most significant actions taken in this regard are the setting of short- and long-term sectoral targets, adoption of policy monitoring and evaluation frameworks, and ratification of critical international agreements. Ten countries, (**Albania, Armenia, Belarus, Benin, Georgia, Kyrgyzstan, Montenegro, Panama, Rwanda** and **Uganda**) published new action plans, approved government decrees, or enacted laws to implement the national energy

priorities. In particular, **Kyrgyzstan** is acknowledged for enacting the law ratifying the Paris Agreement.

The motivation to take risk mitigation measures and improve policy predictability is different for each country. In the sub-Saharan countries **Benin, Nigeria, Rwanda, Senegal, Sierra Leone**, and **Uganda**, misalignment of generated electricity and demand load is creating unpredictability for incumbent investors. As a result, these countries have commenced new projects and taken actions that prioritise supply-side management. They are working to attract private investment in the construction and rehabilitation of transmission and distribution lines, reinforcement of the national grid, and decentralised renewable power generation. For example, **Rwanda** has launched the Least Cost Power Development Plan 2019-2040 to tackle high electricity costs and the supply-demand mismatch. **Benin** is undertaking an electricity network restructuring and extension project which involves the construction of 63/20 kV substations and a 63 kV underground link. **Uganda** is developing a policy framework for private sector participation in the electricity transmission segment.

The absence of cost-reflective tariffs poses a substantial regulatory risk in 12 developing and transition economies (**Bangladesh, Belarus, Eswatini, The Gambia, Jordan, Kazakhstan, Kyrgyzstan, Nigeria, Senegal, Sierra Leone, Tajikistan** and **Uzbekistan**). These countries are now revising regulations to introduce tariffs which support electrification, cost recovery, and the efficient use of the electricity grid. In some countries, like **Bangladesh, Jordan, The Gambia, Nigeria, Senegal, Sierra Leone** and **Tajikistan**, transparent tariff methodology guidelines, calculations, and adjustments will also help to lower the revenue deficit of energy utilities and ensure the long-term financial viability of other market players.

Improving grid reliability will undoubtedly facilitate the ease of doing business and boost investment retention. However, most of the developing and transition economies mentioned above intend to integrate variable renewable energy into the grid further - a move that will likely increase fluctuation in electricity production. Policymakers should, therefore, already develop proper demand response and reserve management measures to navigate the associated financial and physical risks. Demand response schemes will be effective in mitigating grid congestion, reducing peak load, and shifting the time of peak demand. Also, countries looking to increase electricity tariffs or eliminate cross-subsidies may be able to encourage

efficient use of existing national power systems by introducing demand-side flexibility through time-of-use tariffs, incentive payments for peak load reduction, and programmes to stimulate efficient energy use.

Countries with low energy access, limited conventional resources, and high energy dependency are prioritising electricity generation from domestic renewable sources. By expanding on-grid and off-grid renewable power generation, these countries are not only tackling low energy access and energy dependency but also making a well-planned transition to clean energy. More than one third of the participating countries fall into this group (**Afghanistan, Armenia, Eswatini, The Gambia, Georgia, Jordan, Guyana, Kenya, Palestine, Rwanda, Senegal and Tajikistan**).

Higher economic growth, job creation, and other national development agendas are shaping the policy trajectory of some developing and transition economies. In these cases, the pledge to increase the share of clean energy has not significantly impacted plans to step up fossil-based power generation. This group includes **Afghanistan, Bangladesh, Benin, Colombia, Guyana, Kazakhstan, Nigeria, Senegal, Sierra Leone, Uganda and Ukraine**. In the last year, these countries introduced long-term policies to steer more investment in the extractives sector, signed concession contracts for coal mining, published new model production sharing contracts, or organised tenders for oil and gas blocks.

With the clean energy transition in full momentum, development pathways that depend on carbon-intensive resources should be reconsidered. Countries relying heavily on fuel-export revenues are particularly vulnerable, so their economic growth forecasts and investment plans should anticipate the declining demand in their primary markets. Policymakers must also identify and support alternative occupations that allow communities dependent on the extractives sector to find other sustainable trades.

Proper policy planning is critical to mitigating unpredictable policy and regulatory change. Key concomitants of policy planning are robust monitoring and evaluation processes, and institutions. When it comes to this aspect, there is a wide gap between theory and practice in the EIRA 2020 countries.

All 30 countries examined this year have outlined procedures to monitor the performance indicators of the energy sector. Despite this, in 26 countries, little information is available on the human and technical capacity of the monitoring authorities, the inclusion of stakeholders in the evaluation process,

and the utilisation of the monitoring and evaluation results.

In 2018 and 2019, 16 countries received recommendations to strengthen the independence, institutional capacity, and financial resources of the policy monitoring and assessment authorities. Of these, only six (**Armenia, Bangladesh, Greece, Kenya, Moldova and Rwanda**) worked towards implementing the suggested improvements.

Eleven countries received recommendations to set legally binding policy monitoring and evaluation processes and to publish progress evaluation reports. These recommendations were addressed adequately only by **Georgia**. Work is ongoing in six countries (**Bangladesh, Eswatini, Nigeria, Palestine, Rwanda and Senegal**), and there has been no progress made in four (**Afghanistan, Benin, The Gambia and Kyrgyzstan**).

**Breach of State obligations is the next most significant risk area – highest in nine countries.**

**Georgia, Rwanda and Moldova** have the least risk in this area as opposed to **Palestine, Eswatini and Bangladesh** which have recorded the most.

Five countries have a “very good” score on the underlying indicator “rule of law”, fifteen have a “good” score, and ten are in the “moderate” zone.

Although the risk of breaching State obligations did not increase in any country compared to last year, it did not undergo any remarkable reduction either. The risk level remained the same in 21 of the 26 countries participating in EIRA for the second consecutive year.

20 out of the 30 countries evaluated this year are undertaking judicial reforms, but in most instances, these have not come to fruition yet. The reforms are geared towards improving case management systems, providing high-quality judicial services, and promoting alternative dispute resolution mechanisms. Top performer **Georgia** signed the Singapore Mediation Convention in August 2019 and adopted a new mediation law establishing the Georgian Association of Mediators. Similarly, the proactive efforts of the **Rwandese** Government towards making the country a regional arbitration hub led the Kigali International Arbitration Centre to register its 100th arbitration in 2019.

Countries made least progress in implementing the recommendations related to the “respect for property rights” sub-indicator. Of the 20 countries that received recommendations in this respect, only two addressed them. **Afghanistan** introduced in its domestic law a criteria to determine the amount of compensation for expropriation. On the other

hand, **Belarus** introduced such a process in a BIT it recently signed with **Uzbekistan**.

Although seven countries received recommendations to strengthen IP rights (**Afghanistan**, **Bosnia and Herzegovina**, **Eswatini**, **Georgia**, **Palestine**, **Greece** and **Nigeria**), only **Eswatini** implemented these by updating the Intellectual Property Tribunal Act, the Patent Act, and the Copyrights and Neighbouring Rights Act.

Another area that has received little attention is the establishment of a single point of reference for conflict resolution between investors and the State. Most of the countries have investment promotion and aftercare programmes. However, few have designated an authority that can resolve problems arising in the course of projects and prevent the escalation of grievances to disputes. Between 2018 and 2020, EIRA recommended to over 15 countries the establishment of an investment ombudsman or similar institution that can resolve investor-State conflicts. However, no progress was made by the countries in this respect.

**In six countries, discrimination between foreign and domestic investors is a more substantial risk than unpredictable policy and regulatory change and breach of State obligations.**

**Greece**, **Moldova**, **Montenegro**, **Georgia** and **Rwanda** have the least risk in this area, whereas **Palestine**, **Tajikistan** and **Eswatini** are the most exposed. Overall, six countries are in the “very low” risk zone. 14 are in the “low” risk zone, and ten in the “moderate” risk zone.

The risk level has reduced in 12 out of 26 recurrent participants, with **Greece** and **Kazakhstan** showing the most improvement. Only **Benin** has a higher risk level compared to last year because of the recently enacted Petroleum Code, which imposes new local content requirements and mandates prior Government authorisation for all petroleum operations.

In three countries the risk level decreased as a result of higher scores on the “management of decision-making processes” indicator. **Armenia’s** score increased due to the establishment of a new Investment Support Center which also acts as a single-window for potential investors. A government restructuring exercise improved **Uzbekistan’s** score. In 2019, the new Ministry of Investment and Foreign Trade was formed through the merger of the State Committee for Investment and the Ministry of Foreign Trade. The recently enacted investment law designates this new Ministry as the authorised State body for regulating investment activities.

Interestingly, the countries promoting investment in extractives are more proactive than others when it comes to improving transparency and public accountability. In some cases, they have complemented long-term plans with sustainable transparency solutions.

**Afghanistan** is taking measures to revalidate its EITI membership. Among others, it has launched the online Transparency Portal and published information on the beneficial ownership of mineral rights. In 2019, **Kazakhstan** also disclosed beneficial ownership data for the first time, and **Nigeria** launched the Beneficial Ownership Register for extractive companies.

**Colombia’s** accession to the OECD and **Uganda’s** membership of the EITI are commendable and likely to improve citizen participation in the decision-making processes of these countries.

A number of countries enacted new laws or introduced legislative bills to improve transparency and stakeholder engagement. **Guyana** passed the Natural Resource Fund Act in January 2019, and the President of **Sierra Leone** granted assent to the Anti-Corruption (Amendment Act) in December 2019. In **Kenya**, the Public Participation Bill of 2019 is currently undergoing discussion in the Parliament. The President of **Ukraine** has signed the tax reform law which sets out three-tiered transfer pricing reporting requirements, general anti-abuse rules and new controlled foreign company rules. In 2019, **Uzbekistan’s** State-owned **Uzbekneftegaz** disclosed its production statistics that were classified as State secrets until last year.

In some countries, the risk of discrimination between foreign and domestic investors decreased because of higher scores on the “regulatory environment and investment conditions” indicator. **Georgia**, for example, benefitted from the enactment of the Law on Energy and Water Supply, which unbundles and grants certification to transmission and distribution system operators. The law introduces new market players and empowers the Georgian National Energy and Water Supply Regulatory Commission to approve the market rules. **Kenya** enacted a law to regulate atomic energy and nuclear technology, which provides for the establishment and financing of the new Nuclear Regulatory Authority as well as the appointment of its board members.

Although 24 of the 30 countries participating in EIRA 2020 have enacted robust legal frameworks establishing independent regulators, there is room for improvement when it comes to practice. The last two editions of EIRA gave 16 countries recommendations in this respect. Countries where the government regulates the energy sector

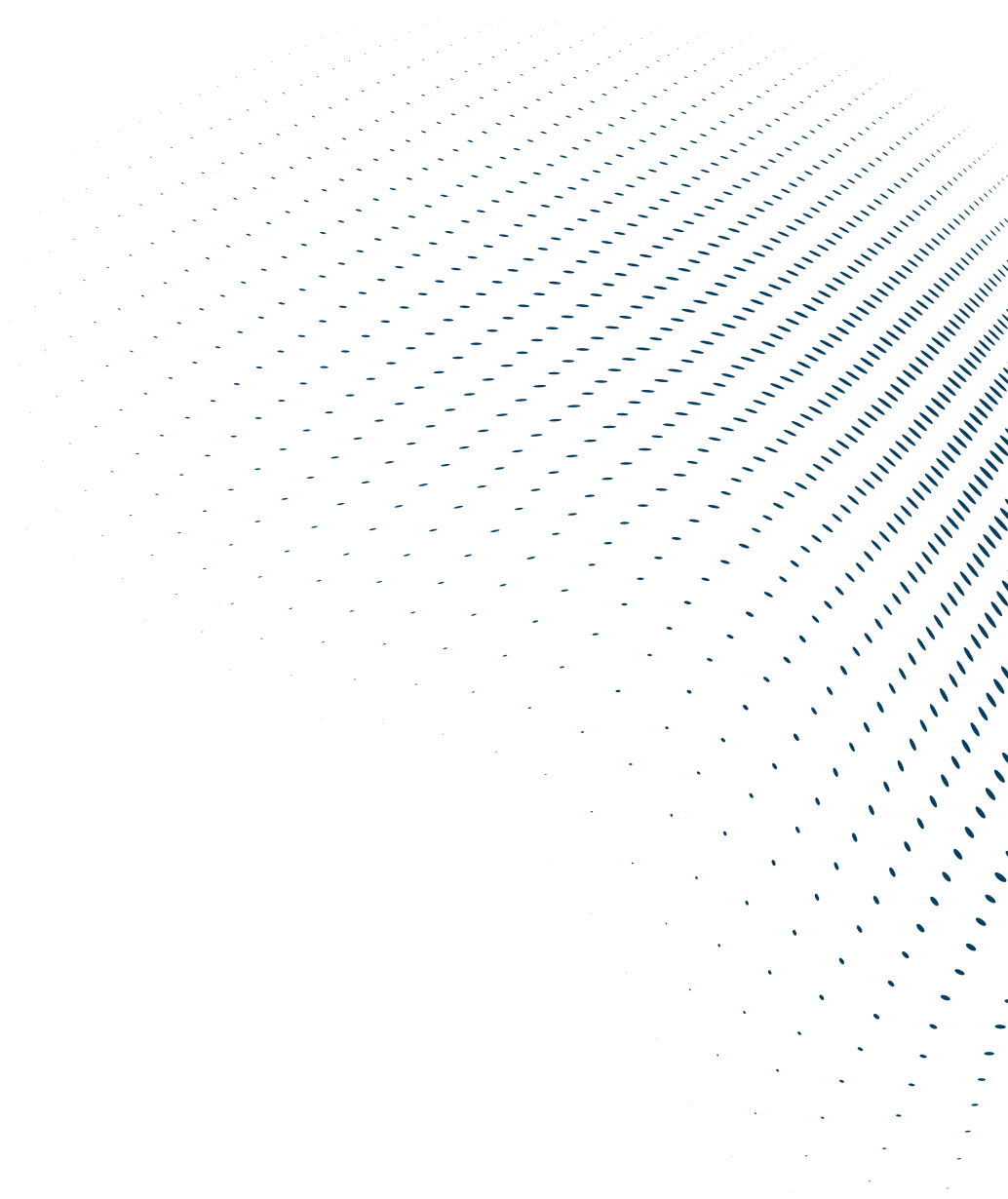


were advised to establish independent national energy regulatory authorities. Others were encouraged to limit the role of the government in making tariff determinations, reinforce the budgetary and functional autonomy of the national energy regulator and ensure that it has adequate staff and finances, and bring more transparency in the appointment of the regulatory boards and commissions.

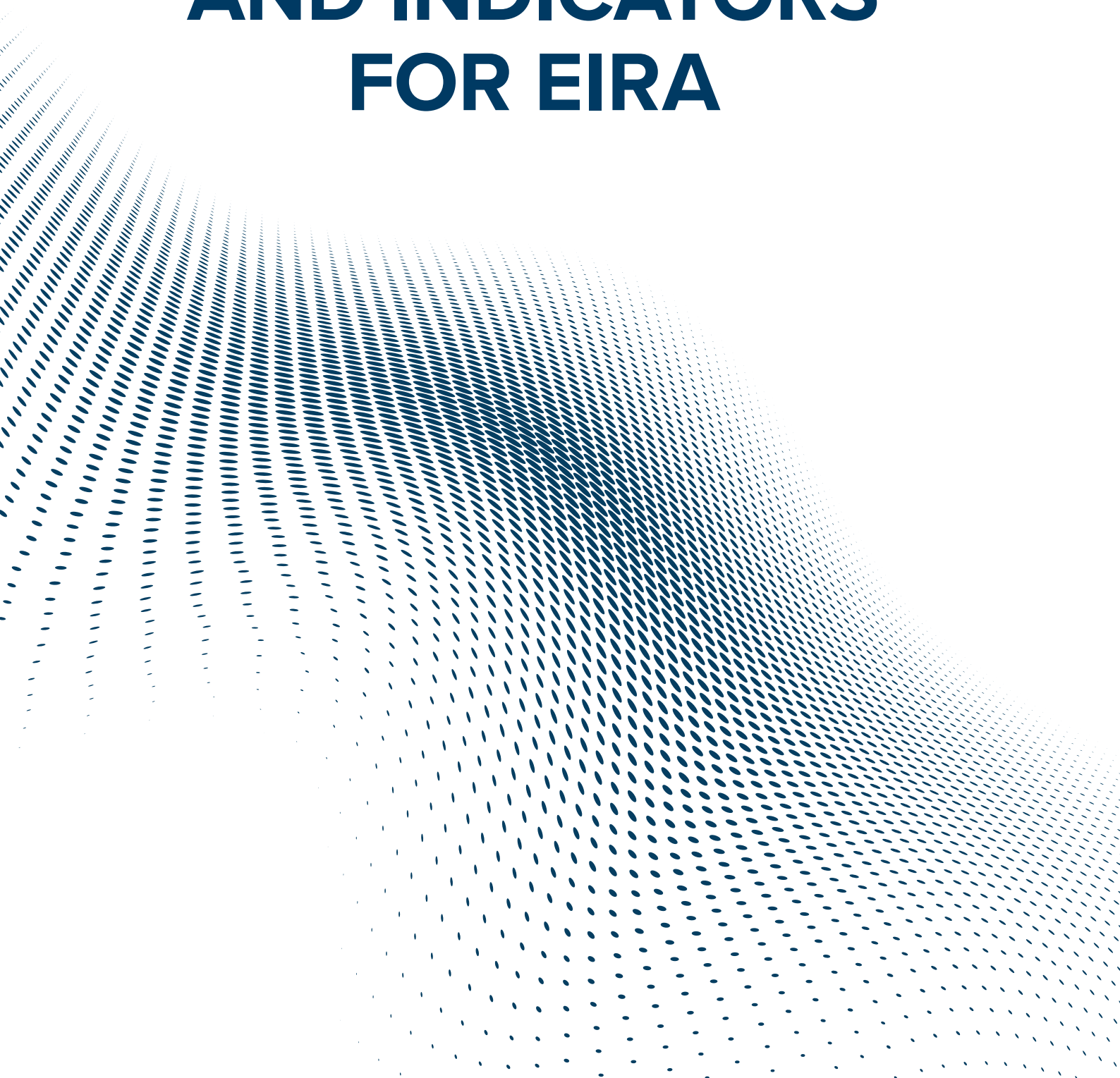
None of the 16 countries have implemented the EIRA recommendations in this respect, although work is ongoing in half of them (**Afghanistan, Bangladesh, Benin, Eswatini, Georgia, Kenya, Ukraine** and **Uzbekistan**). For example, in February 2020 **Afghanistan** dissolved its Ministry of Energy and Water to form two new bodies, the Afghan Energy Authority and the Water Affairs National Regulatory Authority, which will function as

independent budgetary units. Similarly, **Uzbekistan** plans to enact new laws in 2020-2021 on electric energy and the establishment of an independent energy regulator. The new energy market regulator will be a financially independent body accountable to the President and the Parliament of Uzbekistan.

**In summary, analysis of the indicators shows that unpredictable policy and regulatory change is the most prominent risk in the assessed countries.** It is also the area that has seen the most improvement and progress in terms of risk mitigation. Most countries fall in the “low” to “moderate” risk zone on the two other risk areas, namely, discrimination between domestic and foreign investors and breach of State obligations. While there have been some mitigation measures taken in relation to these areas, most of the actions are still in the pipeline and yet to produce results.



# **RISK AREAS AND INDICATORS FOR EIRA**



EIRA evaluates risks to energy investment that can be mitigated by adjusting policy, legal and regulatory frameworks. The performance of countries against the EIRA risk areas is evaluated through four indicators. The indicators reward countries for sound regulation and efficient processes, and capture their ability to cope with the risks through predictable policy objectives, transparent decision-making, strong public institutions, competent market oversight mechanisms, and the successful resolution of investor-State disputes.

## What are the risks assessed by EIRA?

EIRA analyses the following risk areas:

### **Unpredictable policy and regulatory change**

Governments reserve the right to adopt policy and regulatory measures that are necessary to pursue 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 of 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 and regulatory 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, e.g. between energy

resources, technologies and types of investors, EIRA focuses on discrimination between domestic and foreign investors. This risk area assesses the likelihood of an unfair advantage to local investors, as recipients of rights and privileges, to the exclusion of foreign investors, and “protectionist” practices that 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 are constructed from a wide range of variables. They are premised on the objective of governments to guarantee investors a secure, favourable, and transparent investment environment.

Five criteria are applied to determine the appropriate indicators:

**Functionality/actionability** – The indicators are “reform-oriented”. They reflect best practices through which countries can manage the risks, and capture aspects of policy-making and regulation that are under the control of governments.

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

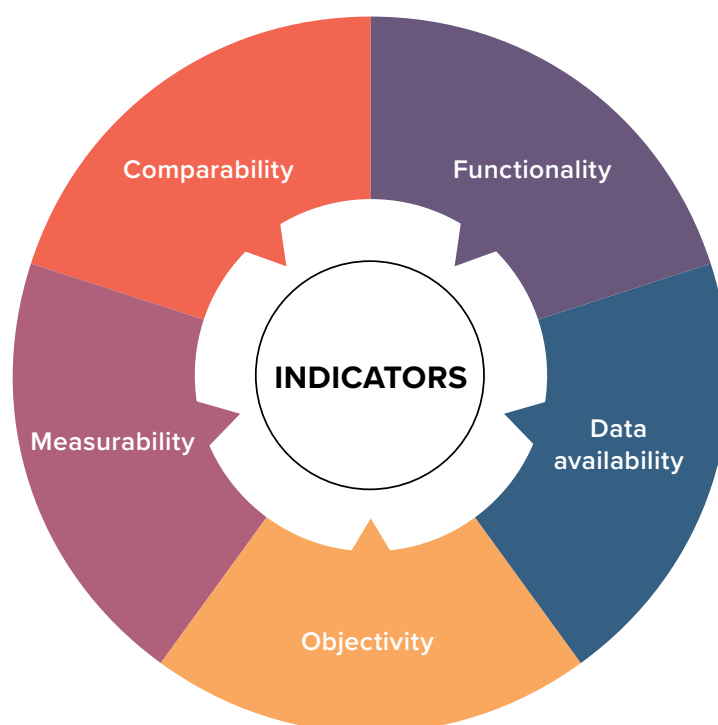
**Measurability** – The indicators provide a quantifiable assessment, are robust, and unaffected by minor changes to their construction methodology.

**Comparability** – The indicators remain comparable over time, and across countries, energy sub-sectors, and the energy value chain.

**Objectivity** – The indicators reflect an accurate overview of the policy, regulatory and legal reality in the countries.



Figure I.1 – Criteria for selection of indicators



## What are the EIRA indicators?

Based on the above criteria, the EIRA indicators developed 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 apply to more than one risk, and consist of two sub-indicators each. They measure the ability of governments to identify whether the assessed risks exist, and the extent to which they can mitigate these risks. The indicators reward countries for taking concrete measures to manage and limit arbitrary or discriminatory policy changes, and for reducing the possibility of breaches of State obligations. Such measures include 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
<b>Unpredictable policy and regulatory change</b>	✓	✓		✓
<b>Discrimination between domestic and foreign investors</b>		✓	✓	✓
<b>Breach of State obligations</b>				✓

## INDICATOR 1

### Foresight of policy and regulatory change

National energy priorities and regulatory frameworks evolve in response to changing circumstances. Ensuring stable investment conditions is a significant 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. Meeting new objectives will result in policy revisions, and governments must be able to anticipate the impact of these revisions on long-term investments. They must, therefore, communicate any adjustments to their energy policy objectives well in advance, and have a realistic plan to implement these adjustments with minimal impact on the country's investment climate. 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 evaluates whether governments are effectively communicating their short- and long-term energy sector vision to investors. It looks into the immediate and future energy sector targets of countries, and the timely adoption and implementation of policies and action plans.

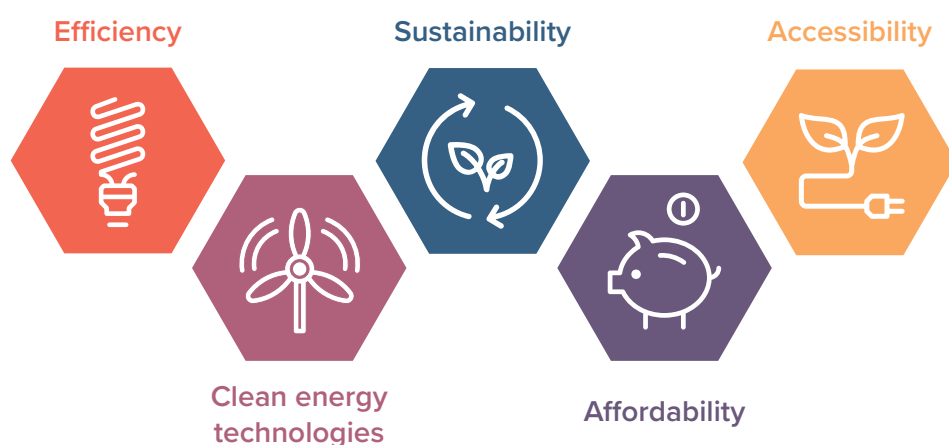
Risk management requires a view of the future. As countries transition to sustainable energy systems, there will be new demands placed upon regulatory frameworks and existing decision-making structures. Understanding the energy landscape, and how it is evolving, is a central element of investment planning. National policies are the most relevant documents for informing investors about the goals governments intend to pursue, and the timeframes they have set for achieving these goals. Accordingly, governments must make investors aware of their current and future national energy priorities, and of any course corrections in these priorities, by adopting clear and timely energy policies. By doing so, they will be able to retain the confidence of investors better, keep them updated on the need, pace and nature of policy changes, and in turn, avert risk.

#### SUB-INDICATOR: ROBUSTNESS OF POLICY GOALS AND COMMITMENTS

Effective monitoring mechanisms play a significant role in assessing how far governments have progressed on achieving their policy goals. Conversely, a fragmented or weakly implemented monitoring and evaluation framework can greatly reduce the ability of policymakers and investors to track if there has been any real progress made on the goals.

This sub-indicator focuses on proper monitoring and evaluation of the energy goals, policies and targets. Monitoring and evaluation authorities, which are financially and institutionally independent of governments, will be more objective in assessing the implementation of the national energy priorities. The existence of independent monitoring authorities will also give investors confidence that policy revisions will be proportionate to the situation, subject to evidence-based evaluations, and not due to arbitrary and unsupported reasons.

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 inclusion of investors in the planning and decision-making phases. The roles and responsibilities of the national and sub-national government levels must be clear to ensure structured and simplified decision-making processes. It is also essential that investors are well informed and consulted whenever governments intend to revise laws or regulations. Stakeholder engagement will allow 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 requires the engagement of multiple government levels. Provinces, municipalities as well as regional and local authorities participate in framing and implementing these policies. Multi-level governance can make the decision-making process complex and result in the risk of overlapping or contradictory decisions. Unless managed and coordinated correctly, policy choices of countries with multi-layered governance structures may end up being sub-optimal, and in turn, inadequately implemented.

This sub-indicator measures how well governments coordinate the decision-making process in their respective countries. 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 for reconciling the diverging perspectives of public agencies. Effective intra-governmental coordination in policy design and implementation is, therefore, an essential precondition for minimising unpredictability and maintaining an investment-friendly climate.

#### SUB-INDICATOR:

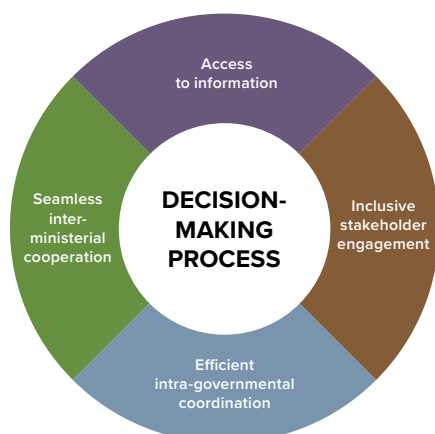
##### TRANSPARENCY

Policy and regulatory changes that are systematised and transparent give investors time to plan and align their business models, operations, and finances according to the changing circumstances. While transparency is beneficial to all types of investors, it is particularly crucial for foreign investors who have to cope with regulatory systems and administrative frameworks that may be unfamiliar to them. This sub-indicator measures inclusiveness shown by governments in designing and implementing their laws and policies.

EIRA understands transparency as (1) the effective communication of information on national laws, regulations and practices that may materially affect investments, and (2) prior notification of and consultation on 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 the existing and proposed regulation. These measures will 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 foresight on the conditions in the host countries. For instance, it may reveal indirect discrimination in secondary measures, even though the enabling legislation does not intend for this. Moreover, affording interested parties the right to comment on policy options and regulatory decisions will allow policy-makers, legislators and regulators to take stock of different opinions, parameters and considerations before modifying the existing framework.

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



## INDICATOR 3

### Regulatory environment and investment conditions

This indicator evaluates the independence energy regulators exercise in taking decisions, setting tariffs, and in performing their functions. Regulatory independence guarantees neutrality and helps to avoid situations where decisions are continuously revised, to the detriment of some market actors and investors. The indicator further examines the restrictions faced by foreign investors in the energy sector. Despite the increasing realisation that international capital flows are crucial for developing the energy sector, persisting restrictions tend to deter foreign investors. Key FDI restrictions include investment screening, local content and other performance requirements, and limitations on currency and investment-related capital transfers.

#### SUB-INDICATOR: REGULATORY EFFECTIVENESS

When an independent and specialised institution monitors the market, there is a lower risk of biased decision-making, discriminatory rules, and anticompetitive behaviour. Political distance gives regulatory authorities credibility because it limits governmental influence, and provides investors assurance that political events will not interfere with regulatory decision-making.

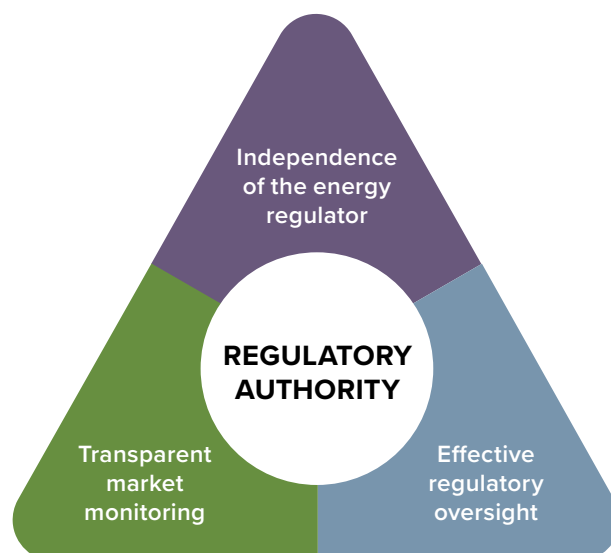
This sub-indicator examines the autonomy of energy regulators through various parameters, such as their legal basis, sources of funding, financial accountability to independent institutions, and their relationship to ministries and other public authorities. It also assesses the level of transparency exercised in the selection of the regulatory staff.

#### SUB-INDICATOR: RESTRICTIONS ON FOREIGN DIRECT INVESTMENT

Policy and regulatory measures that discriminate between domestic and foreign firms can restrict inward investment flows. They can obstruct foreign investments or make the cost of operation financially unviable. Some of the typical restrictive measures foreign investors may face are lengthy investment screening and approval procedures, regional investment restrictions, and operational controls.

This sub-indicator assesses the commitment of countries to accord non-discriminatory treatment to foreign investors. It evaluates whether domestic and foreign investors receive equal treatment in the application of domestic laws and regulations, and gives particular attention to 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*<sup>1</sup>. 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 examines the efficiency of case-management and dispute settlement procedures. International companies tend to invest in low-risk host countries that provide them with transparent and predictable legislation, avoid retrospective changes to laws, and make efforts to resolve disputes through alternative dispute resolution mechanisms, without unnecessary cost or delay.

Well-organised judicial procedures help to foster trust between investors and the State. Timely and cost-effective enforcement of foreign judgements and awards give investors assurance that the domestic courts of host countries will safeguard and uphold 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

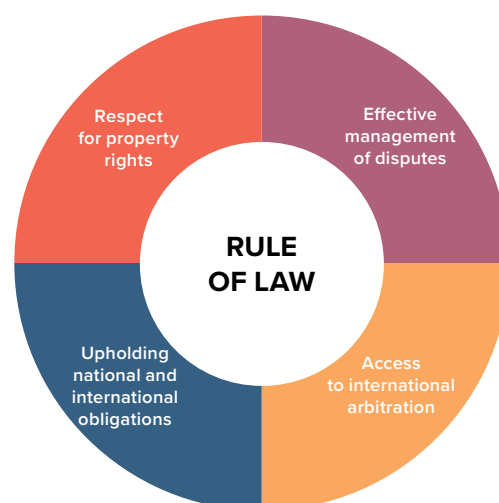
This sub-indicator assesses the risk of companies losing ownership, or control, over their investment as a result of government action. Arbitrary acquisition of property by the State can also lead to the risk of discrimination when foreign investors, in particular, suffer a loss.

In this sub-indicator, the term “investment” refers to tangible and intangible assets, including IP rights. It does not delve into the forms of expropriation. Instead, it focuses on whether expropriation,

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

There are some steps governments may take to reduce the risk of perceived arbitrariness. For instance, they should define in the national laws (1) activities and areas of “public interest” that are grounds for expropriation, (2) the process for determining expropriation compensation, and (3) a timeframe for paying the compensation. These details will give increased security to foreign investors operating under BITs, and also protect investors not covered under these treaties. Investors will also be able to assess better whether the host country’s laws, mechanisms and guarantees are in line with international practice and investment agreements.

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



<sup>1</sup> 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.

EIRA evaluated risks by examining whether countries have adopted the necessary laws, policies and actions. However, legislation and policy measures have maximum impact when they are enforced. EIRA 2020 recognises this and tries to give a clearer picture regarding the enforcement of laws and policies. This year, the country profiles reflect the implementation of the existing policy framework and highlight the progress made by countries in translating their commitments to actions. EIRA 2020 also introduces an annexe summarising the actions taken by governments to implement the improvements suggested in the previous editions of EIRA. Depending on the progress made, it categorises the work done as fully implemented, partially implemented, ongoing, or pending.

There has been no change to the methodology since last year. The indicator scores are derived from a questionnaire, developed over two years, which allows comparability across energy sub-sectors and captures trends over time. The questions are designed to be user-friendly and ensure that the responses received can be easily verified. While most of them are binary, requiring simple “yes” or “no” answers, some are cascading and multiple-choice. The EIRA website allows respondents to give detailed information, clarifications and additional remarks on each question.

## How are the respondents for EIRA selected?

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

The unit of analysis for EIRA is a country. The policies taken into consideration are those framed and implemented at 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 2020, the ECS invited 137 parties to participate in the report. It conducted extensive research on various aspects, such as their expertise, renown, and previous participation in other international reports. 70% of the invited parties agreed to participate. All participants contributed to the project on a pro-bono basis.

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 was collected in a standardised manner through the EIRA questionnaire. The ECS received responses from the national government focal points and the external parties over five months. The respondents provided copies of the source documentation to support their responses. This year, the questionnaire responses, and the supporting documents, were collected through the EIRA website. The new online system helped to streamline the ECS' data collection process. It gave recurrent participants the option to view, copy and take guidance from last year's answers, as per their needs.

The answers provided by the respondents were accepted only to the extent that they relied on laws, regulations, national plans, and strategies that are currently in force. The cut-off date was 1 April 2020. Accordingly, countries are scored only on legislation, regulation, policies, legislative initiatives and regulatory reforms that came into force before this date.

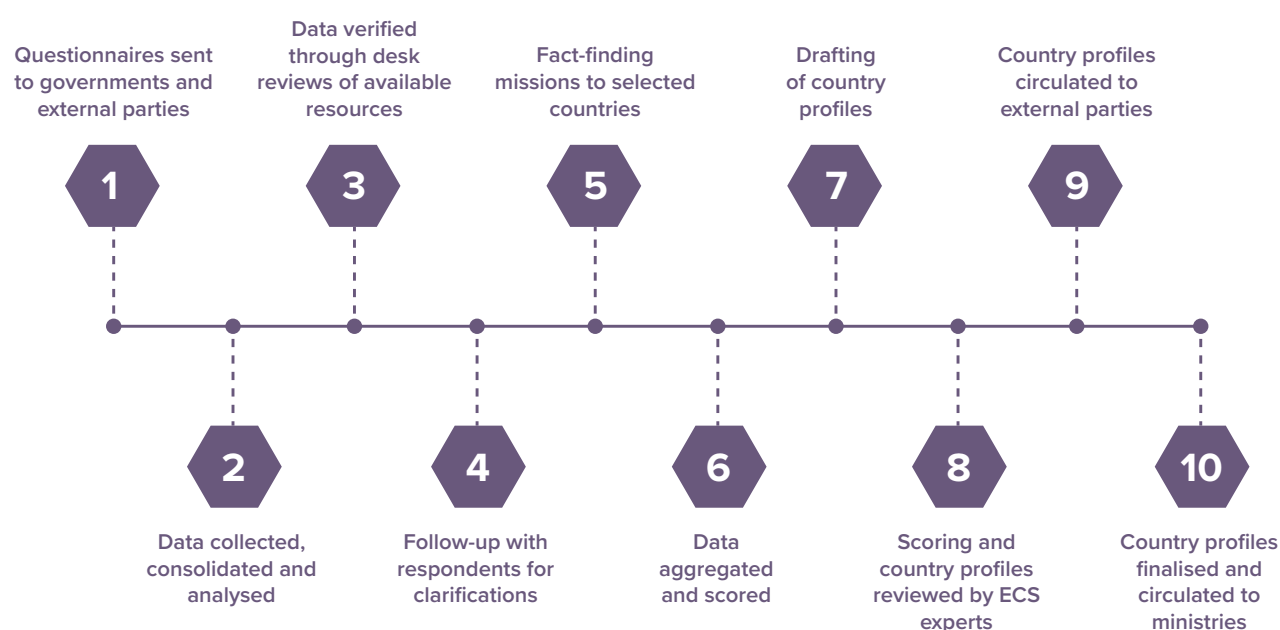
Upon receiving responses to the questionnaire, the ECS in-house experts engaged in an extensive data-validation process. They confirmed that the respondents correctly understood each question, and that the submitted documents supported the responses. In the absence of supporting documents, or if respondents gave conflicting answers, the ECS experts sought clarifications from government officials and external parties through correspondence and phone interviews.

The ECS took steps to address the issue of low data availability in certain countries, but the spread of the COVID-19 pandemic made this challenging. There were no EIRA fact-finding missions organised this year. As an exception, due to the lack of external parties, the country profile of Sierra Leone was based on the information provided by the Government and the desk research conducted by the ECS in-house experts. At the same time, the national government focal points and external parties made substantial efforts to ensure that the ongoing global crisis has minimal impact on the report's quality by providing the ECS with exhaustive information and documents, and continual updates.

Overall, the process of data collection and validation lasted eight months, from December 2019 to July 2020.

The ECS endeavours to improve its methodology and rectify past mistakes that come to its attention. In this light, it is important to acknowledge that despite our best efforts to ensure quality control, errors slipped into EIRA 2019. In particular, Croatia's score on the indicators *management of decision-making processes* and *regulatory environment and investment conditions*, Panama's score on the indicator *regulatory environment and investment conditions*, and Kazakhstan's score on the indicator *rule of law* stand corrected. On 23 July 2020, the ECS published a corrigendum to EIRA 2019 correcting the scores and text of the relevant country profiles. The corrigendum is available on the EIRA website.

Figure I.6 – Data collection and validation process



## How are risks assessed in EIRA?

EIRA assesses countries through a quantitative and qualitative analysis. The quantitative assessment is by a scoring system that shows the performance of the countries on the EIRA indicators. The qualitative evaluation is through “country profiles” that describe their strengths and identify areas for improvement.

### Scoring system

All indicators carry equal weight. The score of each indicator is the average of its component sub-indicators. The score of each sub-indicator

is calculated through a set of questions. The questions are scored between 0 and 100 and are equally weighted. The highest possible score for each question is 100. All the scores are rounded off for the risk areas and the indicators. A country's total indicator score is the average of (1) the score received on the government questionnaire, and (2) the combined average of the external party scores.

Figure I.7 – Scoring an indicator for individual respondents

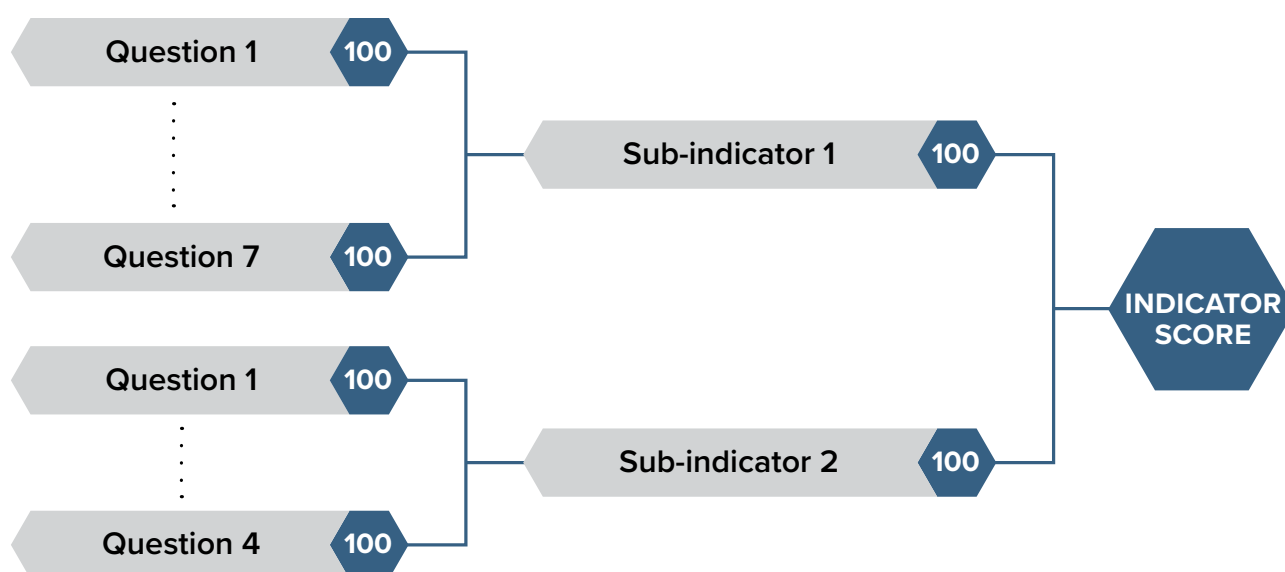
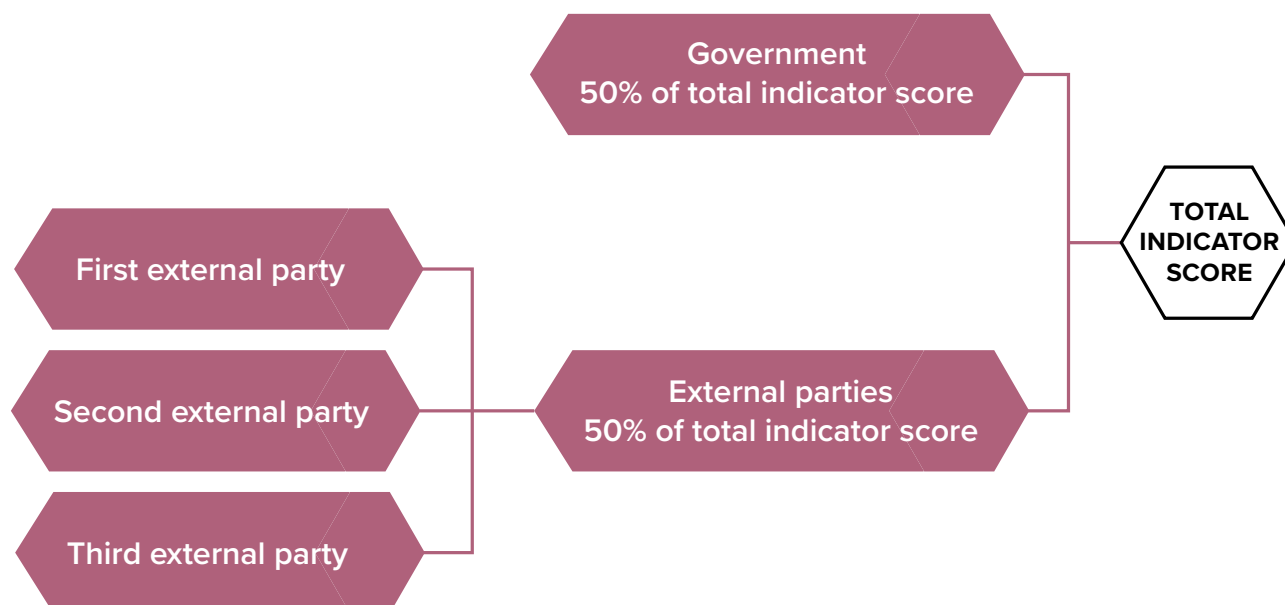


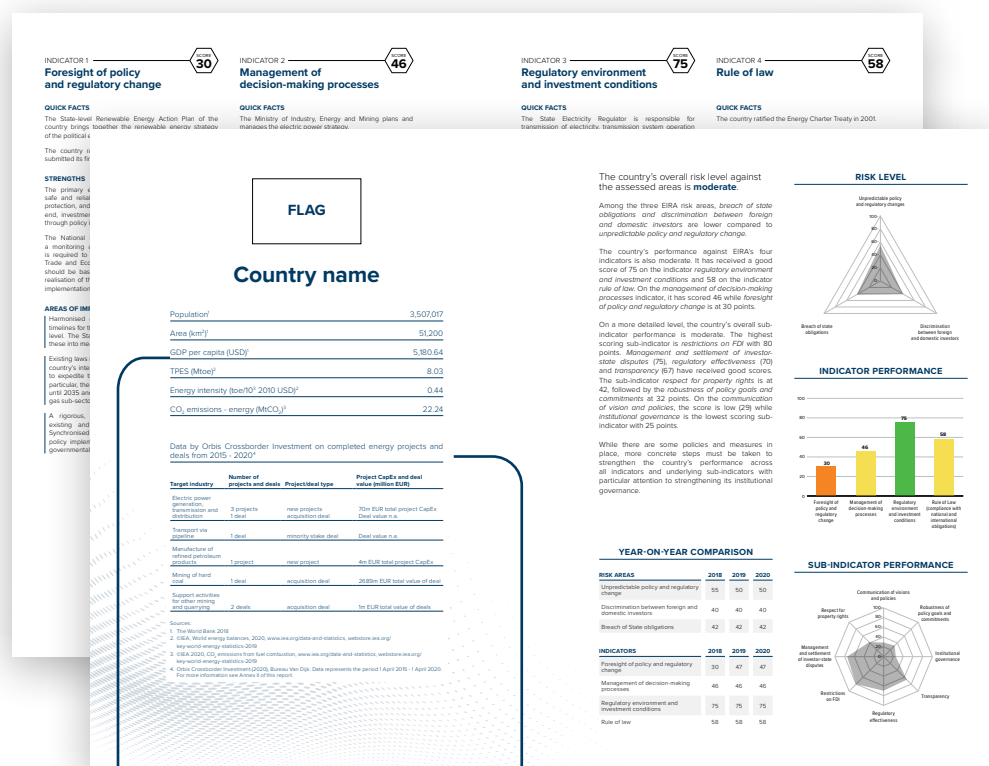
Figure I.8 – Total score of an indicator



## Country profile outline

The qualitative assessment for each country is through a four-page profile. The first page gives background information on the assessed country. It features a table of key metrics on area, population, GDP per capita, total primary energy supply, energy intensity and CO<sub>2</sub> emissions. This year, the page also includes new information from Orbis Crossborder Investment on energy projects and deals completed between 2015-2020 in the participating countries. The second page of the profile contains three charts showing the risk level across the assessed areas, the performance of

the country on the four indicators, and the score on the sub-indicators. A five-colour-coded bar chart depicts the indicator scores. Dark green represents the highest band of scores, while the colour red represents the lowest. In the radial chart, representing the sub-indicator scores, 0 denotes the weakest performance and 100 the strongest. Profiles of the recurrent countries have a table that reflects changes to their performance, vis-à-vis 2018 and 2019. The final two pages of the profile describe the country's strengths on the EIRA indicators and the main areas for improvement.



## KEY METRICS

**Population and surface area:** Data refers to year 2018. *The World Bank 2018, World Development Indicators, World Bank national accounts data and OECD National Accounts data files, <https://data.worldbank.org/> (accessed on 19 June 2020)\**

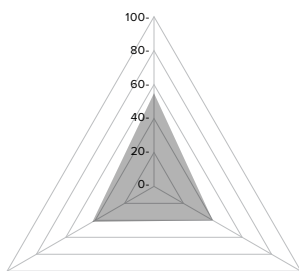
**GDP per capita (current USD):** Data refers to year 2018. *The World Bank 2018, World Development Indicators, World Bank national accounts data and OECD National Accounts data files, <https://data.worldbank.org/> (accessed on 19 June 2020)\**

**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 2017. *World Energy Balances, OECD/IEA 2020, [www.iea.org/data-and-statistics](http://www.iea.org/data-and-statistics), [webstore.iea.org/key-world-energy-statistics-2019](http://webstore.iea.org/key-world-energy-statistics-2019)\**

**Energy intensity:** This is a measure of total primary energy use per unit of gross domestic product. Data refers to year 2017. *World Energy Balances, OECD/IEA 2020, [www.iea.org/data-and-statistics](http://www.iea.org/data-and-statistics), [webstore.iea.org/key-world-energy-statistics-2019](http://webstore.iea.org/key-world-energy-statistics-2019)\**

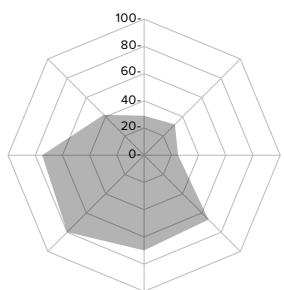
**CO<sub>2</sub> emissions from fuel combustion:** Data refers to year 2017. *OECD/IEA 2020, [www.iea.org/data-and-statistics](http://www.iea.org/data-and-statistics), [webstore.iea.org/key-world-energy-statistics-2019](http://webstore.iea.org/key-world-energy-statistics-2019)\**

\*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.

### DATA FROM ORBIS CROSSBORDER INVESTMENT

Energy projects and deals completed between 2015-2020.

### INDICATOR AND SUB-INDICATOR CORRELATION

#### Indicator 1

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

#### Indicator 2

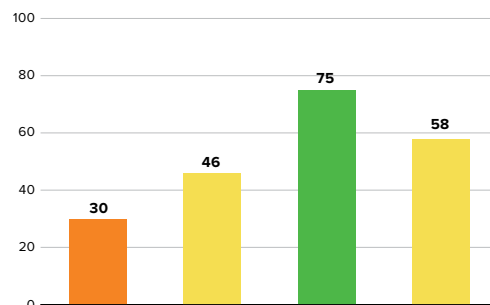
1. Institutional governance
2. Transparency

#### Indicator 3

1. Regulatory effectiveness
2. Restrictions on FDI

#### Indicator 4

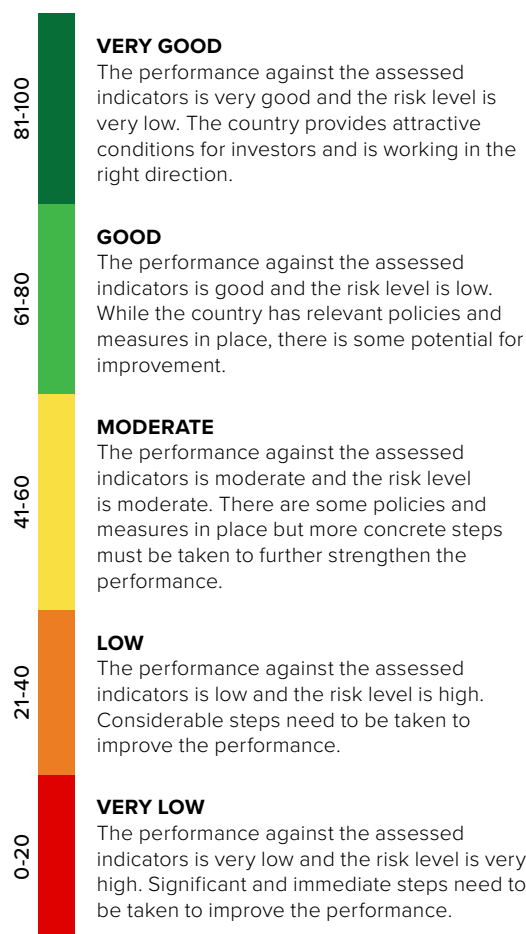
1. Management and settlement of investor-State disputes
2. Respect for property rights



### 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.

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







# COUNTRY PROFILES





# Afghanistan

Population <sup>1</sup>	37,172,386
Area (km <sup>2</sup> ) <sup>1</sup>	652,860
GDP per capita (USD) <sup>1</sup>	520.90
TPES (Mtoe) <sup>2</sup>	N/A
Energy intensity (toe/10 <sup>3</sup> 2010 USD) <sup>2</sup>	N/A
CO <sub>2</sub> emissions - energy (MtCO <sub>2</sub> ) <sup>3</sup>	N/A

There is no data by Orbis Crossborder Investment on completed energy projects and deals from 2015-2020

Sources:

1. The World Bank 2018
2. ©IEA, World energy balances, 2020, [www.iea.org/data-and-statistics](http://www.iea.org/data-and-statistics), [webstore.iea.org/key-world-energy-statistics-2019](http://webstore.iea.org/key-world-energy-statistics-2019)
3. ©IEA 2020, CO<sub>2</sub> emissions from fuel combustion, [www.iea.org/data-and-statistics](http://www.iea.org/data-and-statistics), [webstore.iea.org/key-world-energy-statistics-2019](http://webstore.iea.org/key-world-energy-statistics-2019)

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

The three risks assessed in EIRA, namely, *breach of State obligations*, *unpredictable policy and regulatory change*, and *discrimination between foreign and domestic investors* are on the same level as last year.

Afghanistan's performance is good on one indicator, and it is moderate on three indicators. It has the same score as last year on *rule of law* (65), and *management of decision-making processes* (56). On *foresight of policy and regulatory change*, its score has improved by a point and is now 56. It has again scored 47 on *regulatory environment and investment conditions*.

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 at 80. Its score on *communication of vision and policies* has improved by a point and stands at 74. On *restrictions on FDI* (60), *institutional governance* (56), *transparency* (56), and *respect for property rights* (50) there are no changes to the scores compared to 2019. Its performance on *robustness of policy goals and commitments* (38) is also the same as last year. *Regulatory effectiveness* continues to be the lowest-scoring sub-indicator at 33.

While Afghanistan has the relevant policies and measures in place, there is potential for improvement. Attention should be given to strengthening the country's regulatory effectiveness.

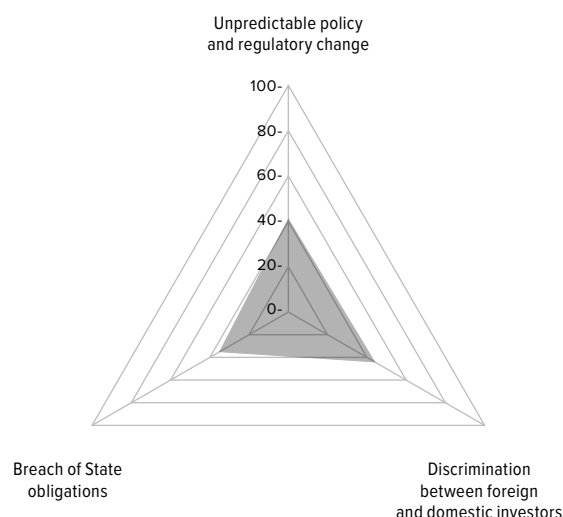
## YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019	2020
Unpredictable policy and regulatory change	44	41	41
Discrimination between foreign and domestic investors	47	44	44
Breach of State obligations	35	35	35

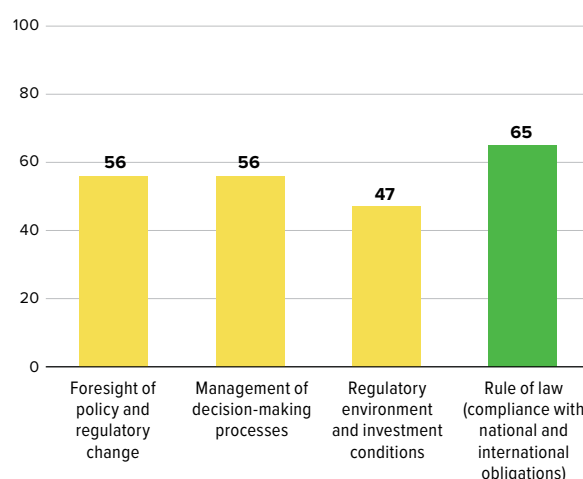
  

INDICATORS	2018	2019	2020
Foresight of policy and regulatory change	55	55	56
Management of decision-making processes	49	56	56
Regulatory environment and investment conditions	47	47	47
Rule of law	65	65	65

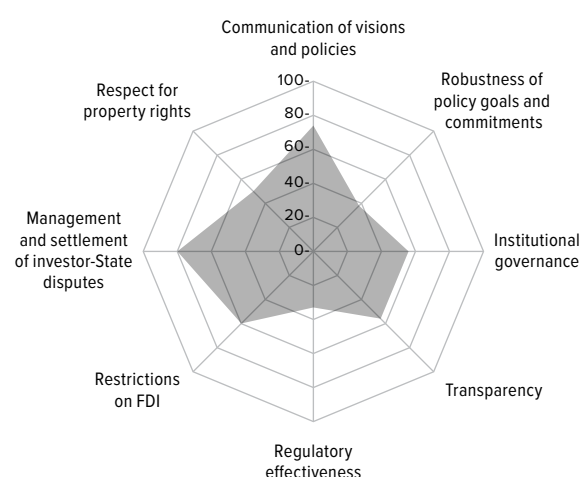
## RISK LEVEL



## INDICATOR PERFORMANCE



## SUB-INDICATOR PERFORMANCE



## Foresight of policy and regulatory change

### QUICK FACTS

In 2019, the Ministry of Mines and Petroleum (MoMP) published the Mining Sector Roadmap + Reform Strategy: Extractive Industries.

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

### STRENGTHS

Afghanistan is making progress towards its energy goals. Electricity access remains low, but it has steadily increased over the last years. In the third quarter of 2019, electricity production increased by 20.98% compared to the same period in 2018. Work has commenced on significant hydro and solar power projects. On 6 February 2020, the President of Afghanistan officially inaugurated work on the Afghan stretch of the CASA-1000 electricity transmission project which will transfer 300 MW of power from Tajikistan and Kyrgyzstan to Afghanistan and Pakistan. Additionally, there are plans to construct a 40 MW solar photovoltaic park in Herat. In 2019, the Government focused on developing the country's mining potential. The new Mining Sector Roadmap contains a comprehensive set of reforms to modernise the sector's governance and ensure accountability in mining operations.

The MoMP monitors the implementation of extractive sector policy targets. It has published the annual progress report on its activities, and the quarterly revenue reports for 2019. Last year's report on implementing the plan to fight corruption is also available on the MoMP's website. The National Statistics and Information Authority has updated its website with quarterly reports for 2019 on the country's economic indicators.

### AREAS FOR IMPROVEMENT

The Government should prepare an integrated national energy policy that sets the path towards strengthening the country's energy security, reducing import dependency, and increasing access to a reliable power supply. Currently, there are few priority areas, such as renewable power generation, which have quantifiable targets. However, the renewable energy targets will expire in 2020, and there will be a gap in this area as well. An integrated policy, which has measurable targets and implementation programmes, will help bring synergies among different energy forms and priorities. It will also assist in better budget allocation, project preparation and coordination.

The Government should update the existing policy documents to define the modalities, timeframe, and other steps of the policy monitoring and evaluation process. An effective feedback mechanism for investors will also increase data availability and allow the Government to assess if policy measures are producing the intended results. Finally, the Afghanistan Energy Information Center should regularly update the energy and power system data on its website so that it can become a useful tool for policymakers, investors, and the public.

## Management of decision-making processes

### QUICK FACTS

As per Presidential Decree No. 36 of 2020, the Afghan Energy Authority is the lead decision-maker for the energy sector. The hydrocarbon sector is under the responsibility of the MoMP.

The Afghanistan Central Business Registry (ACBR) is the country's investment approval authority.

### STRENGTHS

To improve productivity and transparency in energy and water affairs, in February 2020, the Ministry of Energy and Water was divided into separate entities for regulating each of these sectors. The MoMP is also undergoing intensive restructuring. The eventual aim is for the MoMP to retain and strengthen its policy-making role while relinquishing its regulatory and operational functions. In 2018 and 2019, the High Economic Council adopted a Subnational Governance Policy and revised the National Anti-Corruption Strategy. The establishment of the Afghanistan Independent Land Authority (ARAZI) is a commendable step towards improving the ease of doing business in the country.

The Government is taking corrective actions to re-validate Afghanistan's EITI membership. In 2019, it launched the online Transparency Portal to give investors information on the licences issued by the MoMP. The portal lists the names of the licence holders, details on whether the licences are active, the type of minerals extracted, and the payments made in connection to the licences. The Ministry of Industry and Commerce is currently developing new regulations on Beneficial Ownership. The MoMP's website gives information on the beneficial ownership of minerals rights holders. In April 2019, the MoMP also held the National Mining Conference to inform investors and other stakeholders on the main features of the new Minerals Law and how the revised institutional structure will decrease the administrative burden of the MoMP.

### AREAS FOR IMPROVEMENT

The Government should update the e-governance strategy, approved in 2012, to support digital business services. It can conduct business surveys to identify the services that are most used by investors and would benefit from digitalisation. Moreover, reducing the administrative burden involved in business registration and payment of taxes will help to facilitate investment and economic activity. To this end, the Government may consider changing the existing investment registration procedures, which require companies to physically submit all the registration documents at the ACBR's main office or a regional office.

Afghanistan has adopted a law on access to information, but its implementation needs more attention. The Government should ensure that the Anti-Corruption Commission has the financial resources and technical facilities it needs to fulfil its mandate.

## Regulatory environment and investment conditions

### QUICK FACTS

The Energy Services Regulation Department, under the Afghan Energy Authority, regulates the electricity market.

The Afghanistan Oil and Gas Regulatory Authority (AOGRA) regulates the upstream, midstream and downstream sectors.

The Law on Private Investment 2005 protects private investment in the country.

### STRENGTHS

AOGRA is independent of the MoMP and operates under the supervision of a Chief Executive Officer and seven professional board members. The enabling law requires the board members to have expertise in law, finance, accounting, and all aspects of the hydrocarbon sector. It is expected that in future, AOGRA will become a one-stop shop for the hydrocarbon sub-sector and all the parallel government structures will merge into it. A concession-based licensing regime has replaced the contract-based system under which the MoMP negotiated the terms of mining contracts. Royalties will now be set through the law to reduce the MoMP's administrative burden. There is also an independent Mining Technical Committee now to assist with the review and evaluation of mining proposals.

The Government has introduced a flexible tax and duty regime which provides for 20% corporate tax, 0% duty on the import of machinery, 1% duty on the import of raw materials, and carry forward of losses. There is a discretionary tax holiday of up to three years for new and inward investments. The MoMP has announced 43 new tenders for natural resource projects. International companies have received invitations to bid for the 14 largest projects. The Ministry of Finance extended the tax penalty amnesty program through the end of the fiscal year 2019, but it reduced the benefit from 95% to 85%.

### AREAS FOR IMPROVEMENT

The functions and powers of the policy-making, regulatory, executive, and service delivery institutions should be separated. While the Government is taking steps to reduce the MoMP's regulatory role, it is yet to establish an independent electricity regulator that will facilitate transparency in licensing, return on investments, and tariffs. An independent electricity regulator will allow the Afghan Energy Authority to focus on its role as a policymaker and not engage in project implementation or sector regulation. Additionally, the Government must take measures to operationalise the AOGRA fully.

The Law on Private Investment should be revised to streamline investment entry and exit procedures, strengthen investment protection and limit the Government's discretionary powers. For example, the Law currently empowers the Government to restrict investment in natural resources and energy infrastructure, but it does not provide criteria for imposing such a restriction.

## 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 ratified the Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 2004.

The Law on Private Investment protects private investment and assets from unlawful expropriation.

### STRENGTHS

The Government is taking steps to formalise and encourage the prompt, fair, and neutral resolution of commercial and economic disputes through arbitration. The Power Services Regulation Act presents investors with multiple avenues to resolve disputes, such as mediation, arbitration, the Disputes Resolution Board of the Afghan Energy Authority, and the Financial Disputes Resolution Commission. There is a defined mechanism for enforcing foreign court orders. The Law on the Manner of Acquisition of Rights 2018 describes the procedure of how the General Directorate of Rights enforces court orders.

The Government of Afghanistan is making efforts to strengthen the legal framework on land administration. In 2019, it approved a five-year Strategic Institutional Development Programme for Land Administration to support the Land Management Law. It also recently merged the Ministry of Urban Development and ARAZI to establish the Ministry of Urban Development and Land. The purpose of creating this new entity is to streamline and improve land administration. The Ministry of Industry and Commerce is currently drafting new anti-dumping and anti-subsidy laws to demonstrate the Government's commitment to the WTO principles.

### AREAS FOR IMPROVEMENT

The Government may consider establishing an investment ombudsman for resolving conflicts between investors and 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 Land Acquisition Act 2017 grants private investors protection from expropriation, but its scope is limited to immovable property. The Government may consider strengthening guarantees against the expropriation of intangible property in the domestic laws. This approach will give clarity and security to investors on the legal protection afforded to their immovable property and IP rights.





# Albania

Population <sup>1</sup>	2,866,376
Area (km <sup>2</sup> ) <sup>1</sup>	28,750
GDP per capita (USD) <sup>1</sup>	5,268.85
TPES (Mtoe) <sup>2</sup>	2.35
Energy intensity (toe/10 <sup>3</sup> 2010 USD) <sup>2</sup>	0.17
CO <sub>2</sub> emissions - energy (MtCO <sub>2</sub> ) <sup>3</sup>	4.34

Data from Orbis Crossborder Investment on energy projects and deals completed between 2015-2020<sup>4</sup>

Target industry	Number of projects and deals	Project/deal type	Project CapEx and deal value (million EUR)
Extraction of natural gas and crude petroleum	2 deals	acquisition deals	40m EUR total value of deals

Sources:

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

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

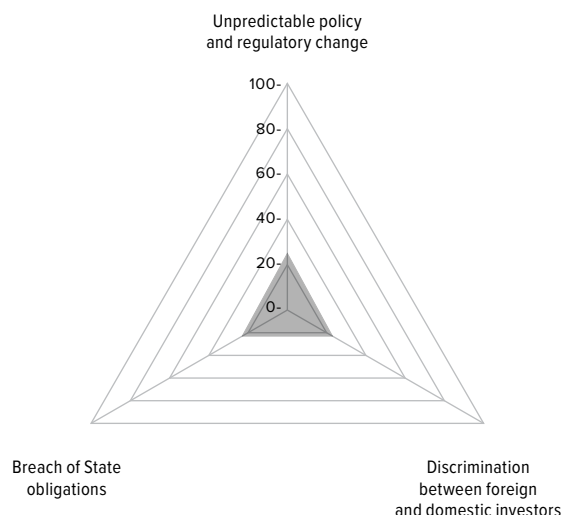
All three risks assessed in EIRA, namely, *discrimination between foreign and domestic investors*, *breach of State obligations*, and *unpredictable policy and regulatory change* continue to be on the same level as in 2019.

Albania's performance against the 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). On *foresight of policy and regulatory change*, it has retained a score of 69.

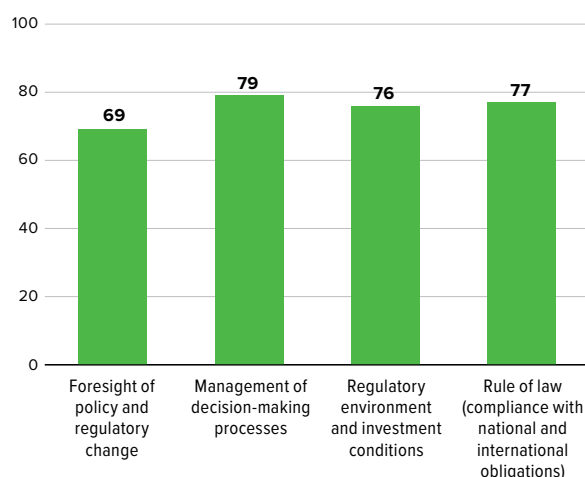
On a more detailed level, Albania's overall sub-indicator performance is good. The highest-scoring sub-indicators are again *transparency* and *respect for property rights*, both at 83. Its performance on the sub-indicators *restrictions on FDI* (80), *institutional governance* (75), *robustness of policy goals and commitments* (75), *regulatory effectiveness* (72), and *management and settlement of investor-State disputes* (70) remains unchanged from last year. *Communication of vision and policies* remains the lowest-scoring sub-indicator at 62.

While Albania has the relevant policies and measures in place, there is potential for improvement. Attention should be given better communicating its vision and policies.

## RISK LEVEL



## INDICATOR PERFORMANCE



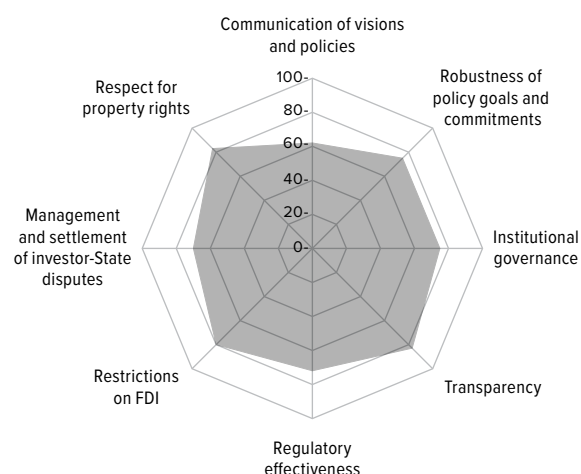
## YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019	2020
Unpredictable policy and regulatory change	33	25	25
Discrimination between foreign and domestic investors	23	23	23
Breach of State obligations	23	23	23

INDICATORS	2018	2019	2020
Foresight of policy and regulatory change	46	69	69
Management of decision-making processes	79	79	79
Regulatory environment and investment conditions	76	76	76
Rule of law	77	77	77

## SUB-INDICATOR PERFORMANCE



## Foresight of policy and regulatory change

### QUICK FACTS

The National Energy Strategy 2018-2030 sets the energy sector targets and describes the country's vision for the next decade.

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

### STRENGTHS

Albania is currently implementing the National Energy Strategy 2018-2030. One of the country's primary objectives is to increase energy efficiency. To this end, the Ministry of Infrastructure and Energy amended Law no. 124/2015 "On Energy Efficiency" to simplify the qualification, accreditation and certification of energy auditors and managers. The changes comply with EU Energy Efficiency Directive 2012/27/EU as transposed for the Energy Community Contracting Parties. The Ministry is also working on the methodology for calculating optimal cost levels for the minimum energy performance requirements of buildings. The National Consolidated Action Plan on Renewable Energy Resources 2019-2020, which amends the previous action plan, was approved to ensure that the country remains on track with its targets. Albania's overall efforts led the EU to open accession negotiations with the country in 2020.

The National Energy Strategy 2018-2030 obliges the Energy Regulatory Authority (ERE), the Energy Efficiency Agency (EE Agency) and the National Agency of Natural Resources (AKBN) to provide the Ministry of Infrastructure and Energy with their data by 30 April each year. The Ministry utilises this data to report on the fulfilment of the monitoring indicators and proposes the necessary actions. Based on the Ministry's reports, the Council of Ministers is currently taking measures to ensure the targeted renewable energy sources percentage is integrated into the energy mix by the end of 2020.

### AREAS FOR IMPROVEMENT

Albania should expedite the finalisation of the National Energy and Climate Plan (NECP), currently expected in 2021. The NECP will set out measures to achieve the intended share of renewable energy sources and GHG reduction by 2023. It will help the country decrease its dependence on hydropower, improve energy security, and multiply investment opportunities. The Government should also adopt a new action plan on energy efficiency because the Second and Third National Energy Efficiency Action Plan 2017-2020 is about to expire.

The Government should strengthen the institutional capacity of the policy monitoring and evaluation authorities to ensure the implementation of the national strategic programmes. It should support the Agency by fully staffing it and making it functional. The country also needs to establish the Energy Efficiency Fund to finance projects, as required by the Energy Efficiency Law.

## Management of decision-making processes

### QUICK FACTS

The Ministry of Infrastructure and Energy formulates the energy policies and updates the National Energy Strategy.

The Ministry of Finance and Economy frames the national investment policy.

The Albanian Investment Development Agency (AIDA) 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 improve accountability in the public sector.

### STRENGTHS

The Ministry of Infrastructure and Energy continues to work in cooperation with public sector entities, particularly on the EU integration process. The Parliament is increasing its legislative initiative and improving its coordination with the Government. To make the economy more robust and stable, the Government has introduced significant changes that harmonise the country's regulatory and fiscal management framework. The Ministry of Finance and Economy is leading the ongoing financial management reassessment to improve, among others, investment planning and control, and the public procurement procedures.

Last year, the Parliament gave the public access to its documents and activities, and it held thematic public meetings. Additionally, "co-governance platforms", which invite citizens to submit their assessments, are improving public sector accountability. Albania is also taking measures to reduce political corruption, such as restricting the immunity of high-level public officials, politicians and judges. The Official Gazette website was fully updated in 2019, resulting in enhanced accessibility and usability of the online database. The new platform provides updates on legislative amendments and repeals. It features an advanced search tool, making the information published in the Official Gazette directly available to citizens, legal professionals and public authorities. The platform is also accessible in English, which makes it user-friendly for foreign investors. Administrative decisions, including the announcement of public procurements, are also published on the website of the Official Gazette.

### AREAS FOR IMPROVEMENT

The Government should improve coordination between public authorities and ministries to ensure policy coherence across all economic sectors. Although it has taken some steps in this direction, the lack of robust regulation and weak institutional capacity may lead to inconsistent decisions and policies.

## Regulatory environment and investment conditions

### QUICK FACTS

ERE regulates 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” establishes a legal framework for safeguarding foreign investment.

### STRENGTHS

The Government is making continual efforts to reform the electricity market. Following the decision of May 2019 to establish the electricity stock exchange with day-ahead and intraday markets, in 2020, the Ministry of Infrastructure and Energy invited bids for participation in the Albanian Power Exchange (APEX), which will operate the power exchange market. ERE intensified its efforts to secure the cooperation of energy regulators in the neighbouring countries. In November 2019, the Ministry of Infrastructure and Energy signed a PSC with Eni to explore, with a 100% equity interest, the onshore Dumre Block. To ensure the smooth functioning of the market, the Competition Authority has launched an investigation against the biggest oil producer operating in the country for possible violations in the production and trade of crude oil.

Albania's legal framework remains open and conducive to foreign investments. FDI inflow has grown substantially over the last two years. The Government is promoting investment in energy, which is a strategic sector for Albania. In January 2020, Albania opened a tender for the construction of a solar park project in the Karavasta area, which attracted considerable interest. More than 20 international companies are competing for the construction, maintenance and operation contract of the 140 MW solar power plant, the most prominent photovoltaic facility in the country.

### AREAS FOR IMPROVEMENT

Albania should accelerate its electricity market reforms and unbundle the distribution and supply activities, which has been postponed by an ERE decision until December 2020. The country should also remove legal and contractual obstacles that may impede regional market integration. The changes will open the internal market to regional producers and result in competitive electricity prices.

The country should consider lowering restrictions on the acquisition of property and the employment of non-Albanian unskilled personnel. Currently, uncertainties over real estate ownership rights may discourage investment. Additionally, work permits are issued only if the number of foreign employees did not exceed 10% of the staff on payroll in the last 12 months, excluding personnel in key positions. An increase in investment can lead to employment generation and better promote national interests.

## Rule of law

### QUICK FACTS

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

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.

### STRENGTHS

Albania is implementing judicial reforms to ensure better quality and higher efficiency of the justice system, and to improve case management. The comprehensive reform, which started in 2016, addresses critical issues such as the independence and accountability of the justice system. The Government anticipates that the reform will also strengthen the business environment. The domestic laws allow foreign investors to submit investment disputes to the national courts or international arbitration, without the prior exhaustion of local judicial remedies. The legislative framework imposes clear time limits on the administrative courts to render decisions.

Albania's legal framework adequately safeguards the property rights of investors. Foreign investors can submit expropriation disputes against the State to the International Centre for Settlement of Investment Disputes. IP rights are protected under the Constitution to the same extent as any other property. The General Directorate of Industrial Property and the Copyright Directorate administer, protect, and promote IP rights in the country.

### AREAS FOR IMPROVEMENT

A law on arbitration should be adopted to regulate national arbitral proceedings and to encourage the extrajudicial resolution of disputes. Although Albania is working on a draft law, its finalisation and adoption, which is pending since 2013, should be expedited.

There should be an independent investment ombudsman, or a similar institution, to handle the complaints of foreign investors against the public authorities on the licensing procedures. This body can contribute to lowering the workload of courts and boost investors' confidence in the State.

Albanian laws do not prescribe timeframes for the payment of compensation in expropriation cases. Currently, it is the Council of Ministers that decides the period for initiating and completing the compensation payment process. To avoid delays and ensure correct budgetary allocation by the responsible bodies, there should be a legally established cap on the timeframe for paying the compensation. The State should ensure the property owner receives compensation before the acquisition, or within a short and specified period after that.



# Armenia

Population <sup>1</sup>	2,951,776
Area (km <sup>2</sup> ) <sup>1</sup>	29,740
GDP per capita (USD) <sup>1</sup>	4,212.07
TPES (Mtoe) <sup>2</sup>	3.19
Energy intensity (toe/10 <sup>3</sup> 2010 USD) <sup>2</sup>	0.26
CO <sub>2</sub> emissions - energy (MtCO <sub>2</sub> ) <sup>3</sup>	5.17

Data from Orbis Crossborder Investment on energy projects and deals completed between 2015-2020<sup>4</sup>

Target industry	Number of projects and deals	Project/deal type	Project CapEx and deal value (million EUR)
Electric power generation, transmission and distribution	1 project 4 deals	new project acquisition deals	2m EUR total project CapEx 644m EUR total value of deals

Sources:

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

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

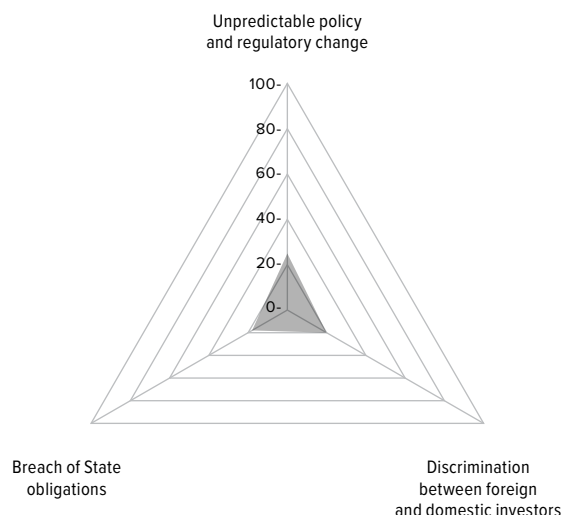
Among the three risks assessed in EIRA, *breach of State obligations* and *discrimination between foreign and domestic investors* are lower compared to *unpredictable policy and regulatory change*.

Armenia's performance is very good on two indicators, and it is good on two indicators. It has received very good scores on the indicators *rule of law* (82) and *regulatory environment and investment conditions* (81). Its score on *management of decision-making processes* has increased by six points and now stands at 76. The country's score on *foresight of policy and regulatory change* is at 63.

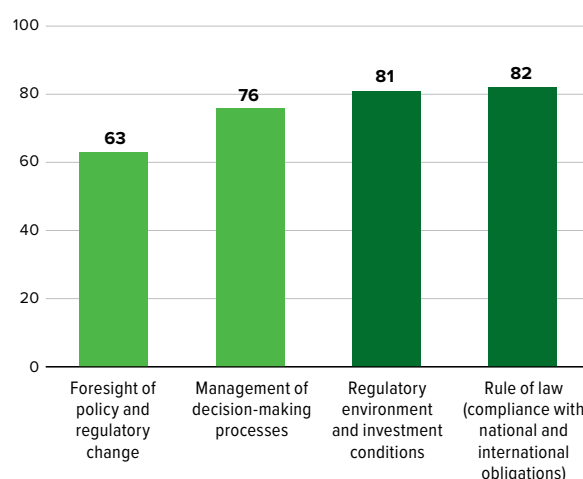
On a more detailed level, Armenia's overall sub-indicator performance is good. The highest-scoring sub-indicator is *restrictions on FDI* at 90, followed by *transparency* and *respect for property rights* at 83. The scores on the sub-indicators *communication of vision and policies* (81), *management and settlement of investor-State disputes* (80), *regulatory effectiveness* (72), and *institutional governance* (69) are the same as last year. *Robustness of policy goals and commitments* is the lowest-scoring sub-indicator at 44.

While Armenia has the relevant policies and measures in place, there is potential for improvement. Attention should be given to increasing the robustness of its policy goals and commitments.

## RISK LEVEL



## INDICATOR PERFORMANCE



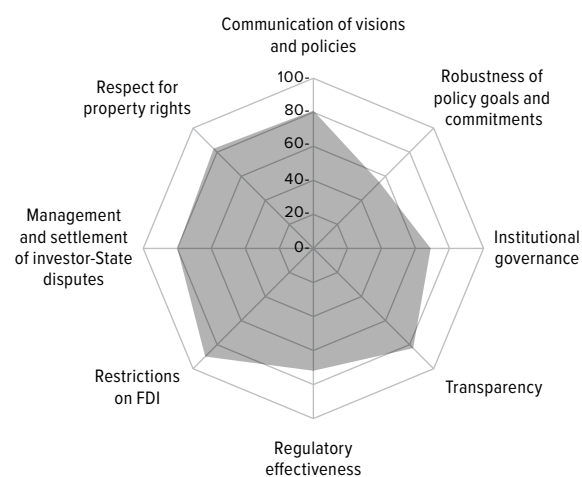
## YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019	2020
Unpredictable policy and regulatory change	29	29	26
Discrimination between foreign and domestic investors	22	22	20
Breach of State obligations	18	18	18

INDICATORS	2018	2019	2020
Foresight of policy and regulatory change	62	63	63
Management of decision-making processes	70	70	76
Regulatory environment and investment conditions	81	81	81
Rule of law	82	82	82

## SUB-INDICATOR PERFORMANCE





## Foresight of policy and regulatory change

### QUICK FACTS

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

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

### STRENGTHS

Government Decree no. 65-A/2019 approves the 5-year Government Programme, which includes measures for gradually liberalising the electricity market, strengthening energy security, further integrating the country into the regional energy systems, developing renewable energy sources, and commencing the construction of a new nuclear power plant. Government Decree no. 650-L/2019 lists measures for implementing the 2019-2023 Government Programme. It sets out various ambitious initiatives such as preparing an energy sector development programme for 2020-2040, a long-term electricity sector development programme for the next ten years, the draft law regulating the energy sector, and the national programme on energy savings and renewable energy for 2021-2030.

There are mechanisms for monitoring and evaluating energy policies. The Government publishes annual reports on the implementation status of the national priorities and targets. Government Decree no. 199-A/2020 contains a report on the implementation status of the 2019-2023 Government Programme and the progress made until now. Among others, the report highlights the projects and activities listed in the 2019-2023 Government Programme, which the Government completed in 2019.

### AREAS FOR IMPROVEMENT

The National Programme on Energy Savings and Renewable Energy covers the period until 2020. The Government should prepare and approve a new programme that sets the priorities and targets for 2021-2030. An action plan, which sets realistic implementation measures and timelines, should accompany this programme.

During 2019-2023, the Government of Armenia plans to increase the country's power generation capacities by developing a new nuclear power plant and stepping up renewable energy production. A comprehensive investment facilitation plan, which outlines strategies and actions for identifying potential investors and donors in these areas, would considerably help the Government in its goal. The investment facilitation plan can supplement the Strategy on Attraction of FDI, which will likely be drafted by December 2020.

## Management of decision-making processes

### QUICK FACTS

The Ministry of Territorial Administration and Infrastructure develops and implements the energy policies.

Government Decree no. 396/1996 regulates the publication of adopted laws and regulations.

### STRENGTHS

In 2019, there were two new entities established to attract investment in the country, namely, the Investment Support Center (ISC) and the Armenian National Interests Fund (ANIF). The ISC is a single-window which provides the public with investment-related information and responds to the inquiries of potential investors, both domestic and foreign. ANIF's objective is to attract foreign investments in the most promising sectors and crucial infrastructure. It aims to create stable and favourable conditions for large and small businesses alike and support job creation in the long-term. ANIF will facilitate the implementation of projects worth almost USD 10 million. The Government has also set up an online platform to inform foreign and local investors on procedures related to starting a business, getting residency, and registering IP and other property rights in Armenia.

The Law on Normative Legal Acts no. HO-180-N/2018 requires the Government to conduct public hearings on draft legislation. It also gives the option to hold discussions on the drafts with citizens and other interested stakeholders. The institutions that draft or adopt legislative bills can initiate public hearings. Government Decree no. 1146-N/2018 regulates the process and procedures of public hearings. There is a dedicated website which publishes draft legal and regulatory acts for public discussions, opinions, comments and suggestions. Law no. HO-18-N/2003 requires that the Public Services Regulatory Commission (PSRC) must announce the place and the time of the public hearings, and it should allow stakeholders to participate in its sittings.

### AREAS FOR IMPROVEMENT

The Government may expand the role of the ISC so it can serve as a one-stop shop for investors. Its services could include receiving and approving business registrations, permits, and licences for some energy-related activities. The online system's utility and quality may enhance if it includes a step-by-step guide on the licensing procedures required to undertake energy projects.

English translation of laws, regulations, policies, and action plans should be made available. Government endorsed translations can reduce interpretational inconsistencies, and also help foreign companies understand the country's legal and regulatory framework better.

## Regulatory environment and investment conditions

### QUICK FACTS

The PSRC is an independent agency responsible for regulating the electricity sector.

The State Commission for the Protection of Economic Competition deals with competition-related issues across sectors.

The Armenian Law no. HO-115/1994 on Foreign Investments gives legal protection to foreign investment in the country.

### STRENGTHS

Armenia has taken a significant step towards completely liberalising the wholesale electricity market by adopting Decision no. 516-N/2019 on Approval of Trade Rules for the Wholesale Market of Electricity of the Republic of Armenia. The updated trade rules streamline the electricity market operations and make them more transparent. Government Decree no. 1010-L/2019 approves the timeline for the liberalisation of the electrical power market and inter-State trade development. It also includes an action plan for gradually implementing the market liberalisation programme.

The Government is implementing an “open door” policy to liberalise economic activities and give foreign investors favourable conditions, in line with international practices. The recently adopted Law no. HO-113-N/2019 on Public-Private Partnership regulates the relations between the State and private investors and sets the corresponding institutional framework. Government Decision no. 45/2015 endorses the action plan, and the timeline, for the Concept for Investment Policy to streamline reforms in the relevant areas. The Government's commitment towards reforming and reinforcing investor rights has resulted in the approval of the investment programme “Masdar Armenia”, and the identification of pre-conditions for an investment project with a total capacity of 400MW.

### AREAS FOR IMPROVEMENT

Following the gradual liberalisation of the country's electricity market, the Government should now focus its efforts on simplifying the regulatory process for energy investors and reducing the time needed to liaise with State authorities. Measures in this direction can be pivotal to boosting investments, particularly in renewable power generation and energy-efficient technologies.

The Government of Armenia expects to publish its FDI promotion strategy by the end of 2020. Therefore, it is a timely moment to identify and introduce specific measures in this strategy to attract foreign investments in the energy sector, which has been declared a priority area by the Government.

## 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.

The Civil Procedure Code (Law no. HO-110-N/2018) regulates the recognition and enforcement of international arbitration decisions in the Republic of Armenia.

### STRENGTHS

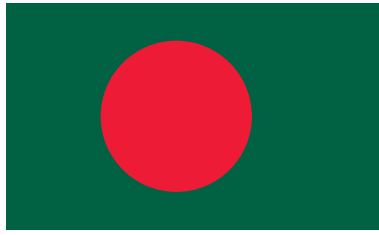
Law no. HO-115/1994 on Foreign Investments governs the resolution of disputes between the State and foreign investors. The Civil Procedure Code of the Republic of Armenia sets the rules on the procedural rights and eligibility of foreign entities to apply before the Armenia courts for the protection of their rights and interests. Per the Judicial Code of the Republic of Armenia, the domestic courts should conclude hearings and pronounce decisions within a reasonable time. There is a well-defined mechanism for appealing against regulatory decisions.

The Constitution guarantees protection against the expropriation of property. National laws define the conditions for the payment of compensation in the case of expropriation. For example, compensation should be the market value of the property plus an additional 15% of the price. The Law on Foreign Investment protects the IP rights of foreign investors. The country's legislation does not have provisions limiting or restricting the transfer of technology in the energy sector. Armenia is a member of the WTO since 2003. It has signed BITs with 43 countries of which 41 are in force, and eight treaties with investment protection provisions of which five are in effect.

### AREAS FOR IMPROVEMENT

The State can offer an arbitration pledge, which would bind it to participate in arbitration proceedings if the investor so chooses. Additionally, it may give the ISC mediation functions to promote the use of amicable dispute resolution mechanisms. For this purpose, the Armenian Government may seek guidance from the Energy Charter Model Instrument on Management of Investment Disputes. The Instrument 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 define the process for determining compensation in the event of expropriation and set a timeframe for paying compensation to the affected parties.



# Bangladesh

Population <sup>1</sup>	161,356,039
Area (km <sup>2</sup> ) <sup>1</sup>	147,630
GDP per capita (USD) <sup>1</sup>	1,698.26
TPES (Mtoe) <sup>2</sup>	40.52
Energy intensity (toe/10 <sup>3</sup> 2010 USD) <sup>2</sup>	0.23
CO <sub>2</sub> emissions - energy (MtCO <sub>2</sub> ) <sup>3</sup>	78.27

Data from Orbis Crossborder Investment on energy projects and deals completed between 2015-2020<sup>4</sup>

Target industry	Number of projects and deals	Project/deal type	Project CapEx and deal value (million EUR)
Electric power generation, transmission and distribution	5 projects	new projects	8561m EUR total project CapEx
Manufacture of refined petroleum products	1 project	new project	4m EUR total project CapEx

Sources:

1. The World Bank 2018
2. ©IEA, World energy balances, 2020, [www.iea.org/data-and-statistics](http://www.iea.org/data-and-statistics), [webstore.iea.org/key-world-energy-statistics-2019](http://webstore.iea.org/key-world-energy-statistics-2019)
3. ©IEA 2020, CO<sub>2</sub> emissions from fuel combustion, [www.iea.org/data-and-statistics](http://www.iea.org/data-and-statistics), [webstore.iea.org/key-world-energy-statistics-2019](http://webstore.iea.org/key-world-energy-statistics-2019)
4. Orbis Crossborder Investment (2020), Bureau Van Dijk. Bangladesh is the destination country of the investment. Data represents the period 1 April 2015 - 1 April 2020. For more information see Annex II of this report. According to the Bangladesh Power Development Board, more than 55 projects for power generation were completed during 2015-2020, with a total CapEx is approximately USD 12 billion. For more information on this data, please contact the Bangladesh Power Development Board.

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

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

Bangladesh has a moderate performance on three indicators, and a good performance on one indicator. On the *management of decision-making processes* indicator, it has scored 68. Its performance on *foresight of policy and regulatory change* has improved by three points and now stands at 59. It has scored 58 on *regulatory environment and investment conditions* and 45 on *rule of law*.

On a more detailed level, Bangladesh's overall sub-indicator performance is moderate. The highest-scoring sub-indicator is *communication of vision and policies* with a score of 70. Next is the sub-indicator *institutional governance* at 69. On *transparency* (68), *regulatory effectiveness* (67), and *management and settlement of investor-State disputes* (65) it has the same scores as in 2019. It has a moderate score of 50 on the sub-indicator *restrictions on FDI*. Compared to last year, its score has improved by three points on *robustness of policy goals and commitments*, and is now at 48. Its performance on the sub-indicator *respect for property rights* continues to be the lowest, at 25.

While there are some improvements in Bangladesh's performance compared to 2019, 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.

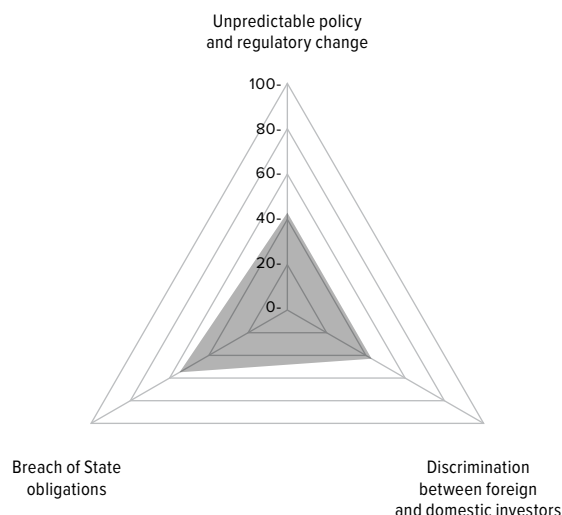
## YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019	2020
Unpredictable policy and regulatory change	45	44	43
Discrimination between foreign and domestic investors	44	43	43
Breach of State obligations	55	55	55

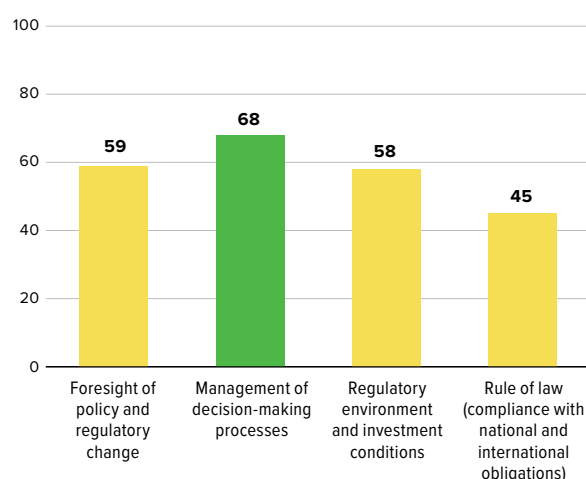
  

INDICATORS	2018	2019	2020
Foresight of policy and regulatory change	56	56	59
Management of decision-making processes	65	68	68
Regulatory environment and investment conditions	58	58	58
Rule of law	45	45	45

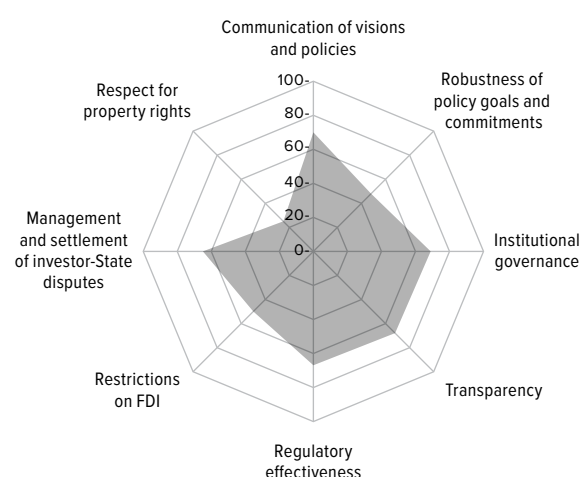
## RISK LEVEL



## INDICATOR PERFORMANCE



## SUB-INDICATOR PERFORMANCE



## Foresight of policy and regulatory change

### QUICK FACTS

Bangladesh's principal energy strategy documents are the Vision 2021 and the Energy Roadmap to Help Achieve Vision 2041.

The Revisiting Power Sector Master Plan 2016, re-examines the electricity generation and transmission targets set in the Power Sector Master Plan of 2016.

### STRENGTHS

Electricity access, coverage, and consumption levels have significantly increased over the last year. Currently, over 90% of the population has access to electricity. From 2008 to 2019, daily load shedding has also reduced. The growth rate of the electricity, gas and water supply sector is likely to be 1.38% higher in 2018-2019 compared to 2017-2018. Bangladesh's second liquified natural gas terminal was commissioned in 2019 and has started feeding gas to the national grid. The project will contribute to improving the country's energy security substantially.

The Power Division and the Energy and Mineral Resources Division, under the charge of the Ministry of Power, Energy and Mineral Resources (MPEMR), have executed separate Annual Performance Agreements (APA) for 2019-2020 with the Cabinet Division of the Government. Each APA summarises the results the respective entity should achieve during the year. It also sets the performance indicators and targets to measure the implementation progress. The half-yearly evaluation of the 2019-2020 APAs is available on the Cabinet Division's APA Management System website.

### AREAS FOR IMPROVEMENT

A large part of the existing power capacity remains unused due to low demand. "Capacity payments" made to non-operational power plants are financially burdensome on the Government, which is now contemplating adjustments to the country's investment plan and a halt on new project approvals. The MPEMR should conduct technical studies to assess the accuracy of future demand forecasts and the methodology for estimating electricity demand. The stability of policies may be adversely affected if there is no long-term plan to deal with the overcapacity risk in a cost-effective manner.

The Integrated Power Development Plan (2016-2041) does not include solar power since the country's peak load is at night. Such a short-term approach undermines the country's future plans to increase renewable power generation. Instead, the Government should channel its efforts towards shifting the peak load to the most appropriate time of the day by creating awareness among consumers on Demand Side Management measures. The MPEMR should also explore cost-effective supply-side options. Finally, it should make the country's future NDC targets ambitious enough to offset the planned increase in fossil-based power generation.

## Management of decision-making processes

### QUICK FACTS

The MPEMR is the central authority responsible for formulating the national energy policy.

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

Bangladesh is making efforts to coordinate investment expansion and promotion planning at the national and sub-national level. In April 2019, the Cabinet Division of the Government of Bangladesh created the Divisional, District and Upazila Investment and Trade Assistance Committee. The Committee will implement a set of recommendations that will integrate local-level administration in the national investment expansion efforts. BIDA has started its Online One Stop Service that provides digital services and documents to domestic and foreign investors. The platform also gives access to the relevant news, statistics, reports, guidelines, and instructions.

The Government continues to engage with stakeholders on critical regulatory issues. In December 2019, the Bangladesh Power Development Board held public hearings on the proposal to increase the bulk power tariff by 20%. The Bangladesh Energy Regulatory Commission (BERC) also held public hearings on its plan to increase gas prices so that it can offset the high cost of imported liquified natural gas. The Anti-Corruption Commission and Transparency International Bangladesh signed a Memorandum of Understanding (MoU) re-affirming their combined efforts to improve information access, improve transparency and combat corruption in the country. The MoU provides for joint data sharing to monitor the country's progress on the 2030 Agenda for Sustainable Development.

### AREAS FOR IMPROVEMENT

In the last year, the Government has consulted interested stakeholders on regulatory changes and decisions. However, it needs to institutionalise such consultations and conduct them regularly. There should be legal provisions to make public hearings on regulatory decisions mandatory. The method and timelines of public participation must be decided at an early stage and made widely known. A systematised approach to public consultation will increase confidence among stakeholders and promote cooperation.

The Sustainable and Renewable Energy Development Authority (SREDA) is the leading organisation responsible for energy efficiency and renewable energy resources in Bangladesh. The Government is encouraged to support SREDA in fulfilling its mandate by ensuring it has effective leadership and adequate funding.

## Regulatory environment and investment conditions

### QUICK FACTS

BERC regulates the electricity, natural gas, and petroleum sub-sectors.

The Foreign Private Investment (Promotion & Protection) Act 1980 protects foreign investment.

### STRENGTHS

The draft BERC (Amendment) Act of 2019 allows BERC to revise the electricity tariff more than once a year. This way, BERC can periodically make tariff adjustments necessary to reduce the revenue deficit of the power utilities. BERC is taking steps to deal with the rapid and unplanned increase of oil-fired power plants. For instance, its Technical Evaluation Committee has recommended the retirement of three old power plants that produce 130 MW of their aggregated installed capacity of 194 MW. These power plants are over 35 years old and have a capacity factor of less than 25%.

In 2018-2019, the public and private sector investment-GDP ratio was 8.17% and 23.40%, respectively. The Government is incentivising private energy investors through tax exemption on income from power generation business, royalties, interest paid on foreign loans, and capital gains from transfer of shares by the investing company. In 2019, the Government approved the Model PSC for exploration in offshore blocks. The Model PSC marginally increases the gas price and withdraws the clause on compulsory drilling of one exploratory well within five years of signing the PSC. The international oil companies operating in newly discovered offshore gas fields can now export gas if Petrobangla, under its right of first refusal, does not buy the gas and if domestic third-party users do not buy the gas. The Government has signed PSCs with Santos, Kris-energy and ONGC Videsh for exploration in three offshore shallow sea blocks.

### AREAS FOR IMPROVEMENT

The Parliament should enact the draft Bangladesh Energy Regulatory Commission (Amendment) Act before the end of 2020. Power utilities should file tariff submissions, and BERC should approve tariff determinations, at more regular and predictable intervals to secure the financial stability of energy utilities. This process will improve the performance of these utilities, and shield businesses from sudden and unexpected tariff hikes.

The Government may relax the existing restrictions on the repatriation of dividends, interest, royalties and proceeds of capital. At present, the repatriation of sale proceeds from non-listed securities by a non-resident requires the prior permission of the Bangladesh Bank. In-kind investment by a foreign investor can only be through the import of capital machinery. Finally, the outward remittance of any royalties, and fees for technical knowledge in an industrial sector, such as energy, requires BIDA's prior approval.

## Rule of law

### QUICK FACTS

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

The enforcement of foreign arbitral awards by domestic courts remains effective. Although appeals against regulatory decisions are not possible, an aggrieved investor may file a Writ Petition against any regulatory decision before the High Court Division of the Supreme Court. This form of recourse is one of the most commonly used by aggrieved investors. There were no retroactive changes to laws and regulations in the last year. There were no incidents where foreign energy investors were required to exhaust local judicial remedies before recourse to international arbitration.

International arbitration provisions in BITs are favourable for investors. The State must pay compensation for the acquisition of immovable property within a stipulated period. The Government should provide the affected persons with compensation at 200% of the market price. If the Government acquires the land for any non-government person, the amount of compensation must be 300%. In case of injuries due to the acquisition of property, an additional 100% compensation must be paid to the affected persons. BITs signed by Bangladesh grant protection to all investors through the unqualified operation of the national treatment and the most-favoured-nation treatment.

### AREAS FOR IMPROVEMENT

The promotion of mediation and conciliation could significantly strengthen dispute prevention and management policies at national and international level. The Government may establish an investment ombudsman to resolve conflicts between investors and public authorities. It can also 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 needs and circumstances.

Timelines should be set in law for domestic courts to render final judgements. The Government may also introduce legally bound deadlines for different stages of a hearing, such as the first date of hearing and the completion of appeals.

A definition of "public purpose or in the public interest" should be incorporated in the Acquisition and Requisition of Immovable Property Act 2017.





# Belarus

Population <sup>1</sup>	9,483,499
Area (km <sup>2</sup> ) <sup>1</sup>	207,600
GDP per capita (USD) <sup>1</sup>	6,330.08
TPES (Mtoe) <sup>2</sup>	25.51
Energy intensity (toe/10 <sup>3</sup> 2010 USD) <sup>2</sup>	0.41
CO <sub>2</sub> emissions - energy (MtCO <sub>2</sub> ) <sup>3</sup>	54.07

There is no data by Orbis Crossborder Investment on completed energy projects and deals from 2015-2020

Sources:

1. The World Bank 2018
2. ©IEA, World energy balances, 2020, [www.iea.org/data-and-statistics](http://www.iea.org/data-and-statistics), [webstore.iea.org/key-world-energy-statistics-2019](http://webstore.iea.org/key-world-energy-statistics-2019)
3. ©IEA 2020, CO<sub>2</sub> emissions from fuel combustion, [www.iea.org/data-and-statistics](http://www.iea.org/data-and-statistics), [webstore.iea.org/key-world-energy-statistics-2019](http://webstore.iea.org/key-world-energy-statistics-2019)



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

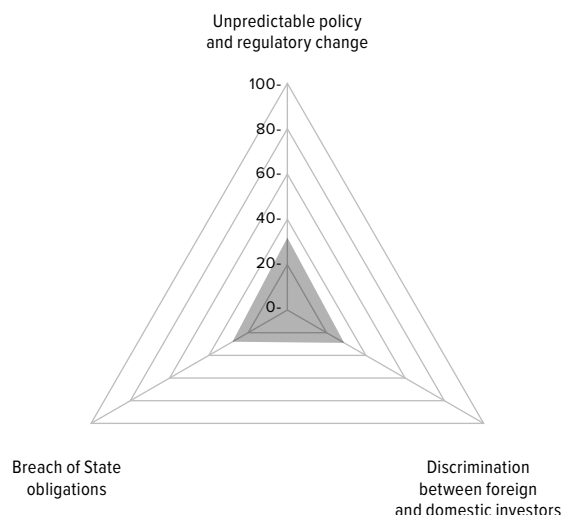
Among the three risks assessed in EIRA, *breach of State obligations* is lower than *discrimination between foreign and domestic investors* and *unpredictable policy and regulatory change*.

Belarus' performance is good on all the EIRA indicators. *Management of decision-making processes* is the highest-scoring indicator with a score of 73. On *rule of law*, it has a score of 72, and on *regulatory environment and investment conditions* 69. It has scored 61 on the indicator *foresight of policy and regulatory change*.

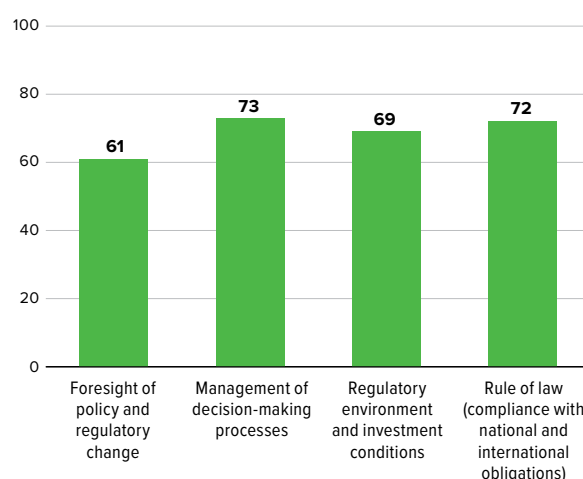
On a more detailed level, Belarus' sub-indicator performance is good. The highest-scoring sub-indicator is *restrictions on FDI* at 100. It is followed by *management and settlement of investor-State disputes*, which has a score of 85. On *transparency*, the country's score has increased from 75 to 77. Its score on the sub-indicator *communication of vision and policies* has also improved by eight points and now stands at 73. It has maintained last years' score on *institutional governance* (69), and there is an increase of five points on *respect for property rights*, which now stands at 58. Its score on *robustness of policy goals and commitments* has improved by a point and is now 49. *Regulatory effectiveness* remains the lowest-scoring sub-indicator at 39.

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

## RISK LEVEL



## INDICATOR PERFORMANCE



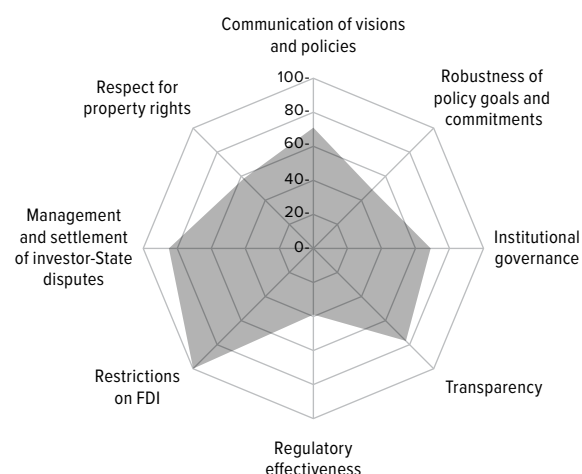
## YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019	2020
Unpredictable policy and regulatory change	34	34	31
Discrimination between foreign and domestic investors	30	30	29
Breach of State obligations	31	31	28

INDICATORS	2018	2019	2020
Foresight of policy and regulatory change	57	57	61
Management of decision-making processes	72	72	73
Regulatory environment and investment conditions	69	69	69
Rule of law	69	69	72

## SUB-INDICATOR PERFORMANCE



## Foresight of policy and regulatory change

### QUICK FACTS

The main energy strategy documents for Belarus are the Concept of Energy Security till 2035, the Comprehensive Development Plan for the Electricity Sector until 2025, and the Concept of Development of Power Generating Capacities and Electricity Grids until 2030.

Belarus deposited the Paris Agreement instrument of acceptance with the United Nations in 2016.

### STRENGTHS

Belarus is taking steps towards strengthening its energy security and developing its electricity export capacity. The construction of the Ostrovets nuclear power plant is close to completion. The country is also diversifying its energy mix by increasing the share of low-carbon sources. The new Concept for Development of Generating Capacities and Electricity Grids until 2030 includes specific goals and timelines for increasing electricity production, including from renewable energy sources, and expanding the total peak capacity. Moreover, the Decree on Renewable Energy Sources no. 357/2019 seeks to enhance the State policy on the utilisation of renewable energy resources. The Government's Energy Saving Programme set the target of GDP energy intensity reduction by 1.3% in 2019. However, according to the country's National Statistics Committee, Belarus exceeded this target by recording a GDP energy intensity drop of 2.5% in 2019.

The National Statistical Committee of the Republic of Belarus publishes annual reports on the country's energy balance. Through Decision no. 65/2019, the Council of Ministers approved the procedures for analysing and evaluating the quality of legislation, enforcement practices, and the efficiency of regulations on social relations. The Decision also seeks to identify underlying deficiencies in social regulations, and it prescribes measures for their improvement and effective implementation.

### AREAS FOR IMPROVEMENT

Belarus is likely to face an electricity surplus after the Ostrovets nuclear power plant becomes operational. Therefore, the Government is encouraged to cooperate and negotiate with prospective buyers, within the Eurasian Economic Union and beyond, who can ensure the successful implementation of the country's energy export plans.

The energy sector would benefit from improvements to the country's policy monitoring mechanism. While the National Academy of Science sets indicators for benchmarking the Government's progress on the national energy priorities, it should also make its monitoring reports publicly available.

## Management of decision-making processes

### QUICK FACTS

The Ministry of Energy is responsible for developing and implementing the national energy policies.

The Ministry of Economy is in charge of implementing the investment policies and programmes.

Coordination among State institutions is regulated by the Council of Ministers Resolution no. 193/2009.

### STRENGTHS

The Government has initiated reforms to improve the country's economic performance. It is currently developing a Roadmap for Structural Reforms, with support from the World Bank, which is likely to be adopted in 2020. In March 2020, the Ministry of Economy invited stakeholders to provide comments on the draft National Strategy for Sustainable Development until 2035. There is also a draft Resolution, undergoing public debate, on the establishment of a new Foreign Investment Council that will have greater responsibilities than its predecessor. The President of Belarus has approved the 2020 annual plan for preparing draft legislation. The plan anticipates changes to 34 legal acts, including amendments to the banking sector, investment, and consumer protection legislation.

Most legal and regulatory acts are accessible online in Russian. For 2019 and 2020, the decisions of the Council of Ministers, Presidential Decrees, policies, and the current electricity tariffs are available on the websites of the Council of Ministers of Belarus, the Ministry of Energy and the Ministry of Economy. The online information portal, Legal Forum of Belarus, serves as a platform for exchanging opinions on draft laws and regulations. In 2020, the draft resolution on the approval of the Strategy for Attraction of Foreign Direct Investments until 2025 was uploaded on the Legal Forum of Belarus to obtain the feedback of stakeholders.

### AREAS FOR IMPROVEMENT

Information sharing and public engagement on legislative and regulatory decisions should be institutionalised and made obligatory. Regular and timely consultation with the public will improve the perception of transparency in the country, allow interested parties to understand the rationale behind the decisions taken, and reduce the risk of prolonged discussions during the later stages of the policy cycle.

The mandate of the National Agency of Investment and Privatization can be expanded, beyond its current advisory role, to include granting project approvals. The Agency may identify energy as a separate field and group energy projects on its website accordingly.

## Regulatory environment and investment conditions

### QUICK FACTS

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

Law no. 53-Z/2013 On Investments stipulates that there are no restrictions on the transfer of investment-related capital, payments and profits.

### STRENGTHS

The Protocol dated 29 May 2019 on Amendment to the Treaty on the Eurasian Economic Union (EAEU), among others, defines the principles for the formation, functioning and development of a common electricity market. The main principles of this market will be ensuring equality among the Member States, respecting the balance of the economic interests between power producers and users, prioritising the implementation of market mechanisms, and giving unrestricted access to the services of natural monopolies. The Government of Belarus is gradually reducing tariff subsidies for energy and heating to make the activities more economically viable. In 2016, VAT was added to the electricity tariffs to make them more market-oriented and cover a more significant portion of the consumers' total real costs. There has been a slight but steady growth in the volume of newly installed renewable generating capacities resulting from recent changes to the sector's regulatory framework.

Belarus has a robust legal and regulatory framework for attracting FDI. According to the National Statistical Committee, foreign investment inflow has been relatively stable in recent years, at around USD 10 billion in 2019. The recently adopted Law no. 153-Z/2018 (the Tax Code) simplifies the tax administration and provides investors with various incentives, including tax exemptions. Law no. 134-Z/2018 expands the list of sector and projects that can be implemented based on the PPP principle. Law no. 226-Z/2003 supports the removal of currency restrictions and foreign exchange controls for foreign investors.

### AREAS FOR IMPROVEMENT

Belarus should consider establishing an independent regulatory agency which will create competitive market conditions and protect consumers. The regulatory body should have a separate budget comprising fees paid by regulated entities. Its board could have a fixed-term appointment, renewable only once.

The Government should complement the Draft Strategy on Attraction of Direct Foreign Investments until 2025 with an action plan, which contains specific measures and timelines for reaching the goals outlined in the Strategy. The proposed action plan should list the annual activities of the Government so that the progress made each year, towards achieving the objectives of the Strategy, can be adequately assessed.

## Rule of law

### QUICK FACTS

Belarus signed the Energy Charter Treaty in 1994.

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

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

### STRENGTHS

Law no. 58-Z/2013 On Mediation applies to a wide range of activities, including those of an entrepreneurial or other commercial/economic nature. Aggrieved parties may opt for mediation either before submitting the dispute to a domestic court or when it is sub judice. Resolution no. 18/2014 of the Plenum of Belarus' Supreme Court states that foreign judgements will be recognised and enforced if this is provided for in an international agreement, or established through reciprocity. Law no. 134-Z/2018 introduces amendments to the PPP Law. It stipulates that disputes between public and private partners should be resolved through negotiations unless there is another approach outlined in the legislation. If an international treaty or a PPP agreement provides for a different dispute resolution procedure, the provisions of a treaty or agreement will prevail. The amendments also expand guarantees for the private sector, including protection of property and other rights.

Chapter V of the Civil Code no. 218-Z/1998 protects IP rights in the country. Belarus is a contracting party of the WIPO, and it has signed the Paris Convention for the Protection of Industrial Property. Belarus has no provisions in its laws or International Investment Agreements restricting the transfer of technology in the energy sector. In August 2019, Belarus signed a BIT with Uzbekistan. The Treaty includes a detailed clause on the process for determining compensation in the event of expropriation or nationalisation.

### AREAS FOR IMPROVEMENT

The Government must make efforts to expedite the country's WTO accession. Formal Membership to the WTO will reduce constraints for cross-border trade, and transit of various types of energy. Its membership will also help to streamline the negotiations on exports and imports of commodities and final products, including hydrocarbons, refinery products and electricity.

The domestic legislation on property rights should include well-defined grounds to expropriate property, a detailed description of the process for determining the compensation amount, as well as a timeframe for concluding the settlement.



# Benin

Population <sup>1</sup>	11,485,048
Area (km <sup>2</sup> ) <sup>1</sup>	114,760
GDP per capita (USD) <sup>1</sup>	1,240.83
TPES (Mtoe) <sup>2</sup>	5.10
Energy intensity (toe/10 <sup>3</sup> 2010 USD) <sup>2</sup>	0.53
CO <sub>2</sub> emissions - energy (MtCO <sub>2</sub> ) <sup>3</sup>	6.76

Data from Orbis Crossborder Investment on energy projects and deals completed between 2015-2020<sup>4</sup>

Target industry	Number of projects and deals	Project/deal type	Project CapEx and deal value (million EUR)
Electric power generation, transmission and distribution	2 projects	new projects	233m EUR total project CapEx

Sources:

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

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

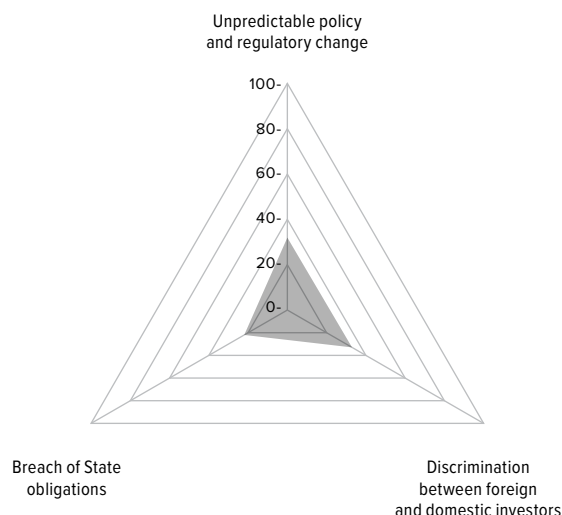
Among the three risks assessed in EIRA, *breach of State obligations* is lower compared to *unpredictable policy and regulatory change* and *discrimination between foreign and domestic investors*.

Benin's performance is good on two indicators, and it is moderate on two indicators. *Rule of law* and *management of decision-making processes* are the highest-scoring indicators this year, both at 78. On *foresight of policy and regulatory change* it is again at 49, while its score on *regulatory environment and investment conditions* has decreased from 59 to 45.

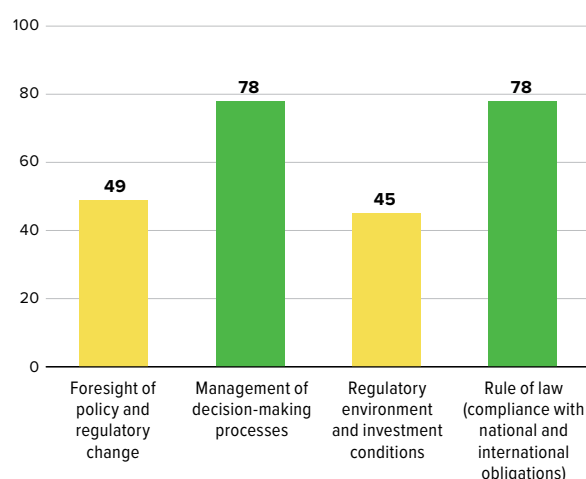
On a more detailed level, Benin's overall sub-indicator performance is good. In 2020, *institutional governance* is the highest-scoring sub-indicator with a score of 88, followed by *management and settlement of investor-State disputes* at 80. It has a good score of 75 on *respect for property rights*. On *transparency* its score is 68, while *communication of vision and policies* is at 65. Its score on the sub-indicators *regulatory effectiveness* and *restrictions on FDI* is at 56 and 35, respectively. *Robustness of policy goals and commitments* remains the lowest-scoring sub-indicator at 33.

While Benin has the relevant energy policies and measures in place, there is potential for improvement. Attention should be given to strengthening the robustness of policy goals and commitments.

## RISK LEVEL



## INDICATOR PERFORMANCE



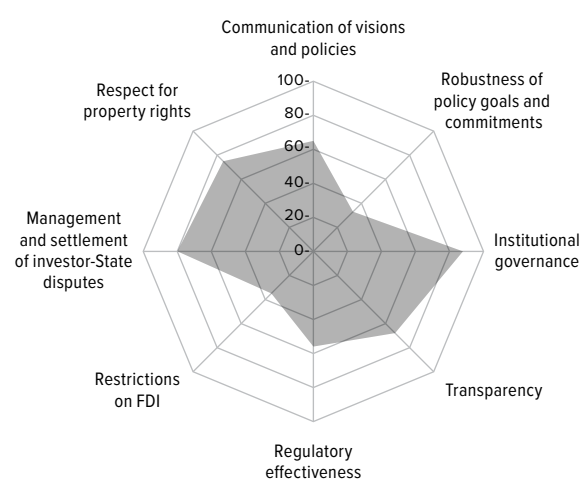
## YEAR-ON-YEAR COMPARISON

RISK AREAS	2019	2020
Unpredictable policy and regulatory change	34	32
Discrimination between foreign and domestic investors	31	33
Breach of State obligations	22	22

INDICATORS	2019	2020
Foresight of policy and regulatory change	49	49
Management of decision-making processes	72	78
Regulatory environment and investment conditions	59	45
Rule of law	78	78

## SUB-INDICATOR PERFORMANCE



## Foresight of policy and regulatory change

### QUICK FACTS

The Government Action Programme 2016-2021 aims to strengthen energy security and ensure reliable electricity supply across Benin.

In April 2020, the new Electricity Code was adopted.

Benin ratified the Paris Agreement in 2016 and submitted an updated version of its NDC which covers the energy sector.

### STRENGTHS

Benin made progress on some of its energy goals during the last year. The Government anticipates that the Societe Beninoise d'Energie Electrique (SBEE) electricity network restructuring and extension project will modernise the energy sector. The project involves the construction of 63/20 kV substations and a 63 kV underground link, as well as the reinforcement of the electricity grids. Its purpose is to increase the electricity access rate in the Atlantic department up to 50%. It will help to improve the availability and quality of electricity and make networks more reliable. It can also play a role in ensuring better voltage distribution and stability while reducing the frequency and duration of power cuts. The new Electricity Code will boost private investment in renewable energy. It will advance the country's participation in global initiatives that seek to finance cost-competitive solar projects such as the Defisol project, which involves the construction of a 25 MW photovoltaic power plant. The Code will also support projects in the context of the Millennium Challenge Account Benin II programme with a total capacity of 50 MW.

An extensive network of actors, including national authorities and regional and international organisations, coordinates and monitors the implementation of the energy priorities. These actors publish annual reports on electricity access, energy efficiency, renewables and clean cooking metrics.

### AREAS FOR IMPROVEMENT

The Government can reinforce its efforts to scale up renewable energy deployment by introducing financial and regulatory incentives, such as prioritised grid access, competitive bidding for generation, and contracts with fixed tariffs for small producers.

The policy monitoring authorities must be independent of the Government and there must be a clear demarcation of roles and responsibilities. Functional and substantive independence is better guaranteed when monitoring entities are self-funded and have sufficient technical and human resources. The monitoring and coordination process will also benefit from a review process and periodic progress reports on the deployment of renewable energy sources and energy-efficiency technologies.

## Management of decision-making processes

### QUICK FACTS

The Ministry of Energy is responsible for the overall energy policy formulation.

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

Law No. 2019-06 of 2019 Introducing the new Petroleum Code has come into force.

In 2015, Benin enacted Law No. 2015-07 "On Information and Communication".

### STRENGTHS

Over the last year, the Government took measures to strengthen the country's investment regime. In addition to working on a new Electricity Code, the Government introduced an updated Petroleum Code. Inter-ministerial cooperation plays a key role in cross-sectoral issues. By Law No. 2018-38 of 2018, national authorities have established a Caisse des Depots et Consignations to better coordinate and channel savings in development projects. The country has now set up a new virtual single window that unifies all regulatory processes needed to open a business. It will supplement the online information platform, iGuide, launched in 2018.

The Government is committed to improving the accountability of public institutions. To this end, the 2019 version of the Petroleum Code promotes transparency and efficiency in procedures related to granting and managing hydrocarbon authorisations. State authorities are under a legal obligation to give the public access to legal texts and administrative documents. Accordingly, they are required to conduct an audit on the completeness and authenticity of information concerning petroleum contracts. The State authorities must submit all the relevant audit reports to the Ministry of Economy and Finance, which makes them publicly available.

### AREAS FOR IMPROVEMENT

As stated in EIRA 2019, the Government must adopt a binding normative act which requires public consultation on new policies and sets the procedure and timelines for it.



## Regulatory environment and investment conditions

### QUICK FACTS

The Ministry of Energy is responsible for the development and oversight of electricity activities.

According to the new Petroleum Code, governance of the petroleum sector is the responsibility of the Ministry of Water and Mines.

Law No. 90-002 of 1990 Introducing the Investment Code prescribes the same rights and obligations for State-owned and private enterprises. There is a revised version of the Code currently pending before the National Assembly.

### STRENGTHS

Decree No. 2009-182 On the Creation, Attributions, Organisation and Functions of the Autorite de Regulation de l'Electricite (ARE), as amended, defines the ARE's role as the national electricity regulator. The new Electricity Code will reinforce the ARE's institutional capacity and financial autonomy. It contains provisions on the selection of ARE's National Council of Regulation members through public competition and their role in the strategic development of the electricity sector. The ARE will enjoy full powers to enforce rules on the control of technical installations of private producers, as well as conditions of access to networks and users. Per the Electricity Code, the ARE must ensure healthy and legal competition in the sector, and protect the interests of consumers and the State.

Benin is currently trying to revive its hydrocarbon production. To achieve this, the new Petroleum Code gives greater clarity on cost recovery and profit oil split, and it facilitates access to the exploration blocks. It also reorganises the financial, customs, and tax regimes by offering a rebate from fixed duties, surface fees, bonuses, ad valorem fees, and penalties paid to the State, at legally defined rates. Similarly, the revised Electricity Code will help to attract more investment by allowing private sector participation in electricity production, transmission, distribution, and marketing, under the same conditions as the SBEE.

### AREAS FOR IMPROVEMENT

Special attention has been given to the improving the ARE's operations and functions. The provisions of the new Electricity Code concerning its independence should be applied effectively on the ground, especially in terms of managing tariff policies.

The Government should establish an appropriate institutional framework for transparently and effectively implementing statutory local content requirements. Moreover, it should make sure that local content policies are part of an overall development strategy and tailored to the size of the sector.

## 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 OHADA. In 2017, OHADA revised the Uniform Act on Arbitration to include provisions on commercial and investment arbitration.

### STRENGTHS

A range of national and international legal instruments, including the 2019 Petroleum Code, guarantee recourse to arbitration. The Petroleum Code states that decisions to withdraw authorisations or forfeiture can be appealed before the Beninese courts or before an arbitral tribunal. The Mediator of the Republic is actively involved in the amicable resolution of conflicts between natural/legal persons and State agencies. In 2019, the Mediator heard 792 cases. There have been no cases of retroactive application of laws reported by energy investors in the last five years. The new Petroleum Code does not have a retroactive effect unless the contract holders have agreed to revise their contractual terms.

Benin upholds its commitment to protect property rights. In the case of expropriation, compensation must be mutually agreed by the parties, and it should cover the totality of the direct, material, and consequential damage. Moreover, the country has undertaken reforms to promote good land governance and secure land rights with the aid of international experts. National laws, BITs and international investment treaties, such as the Bangui Agreement, protect IP rights.

### AREAS FOR IMPROVEMENT

As mentioned last year, the domestic law should set the timelines for national courts to render final judgements, and the courts should follow through on these deadlines. This approach will contribute to effective case management and reinforce the reliability of Benin's legal system.





# Bosnia and Herzegovina

Population <sup>1</sup>	3,323,929
Area (km <sup>2</sup> ) <sup>1</sup>	51,210
GDP per capita (USD) <sup>1</sup>	6,065.67
TPES (Mtoe) <sup>2</sup>	6.76
Energy intensity (toe/10 <sup>3</sup> 2010 USD) <sup>2</sup>	0.35
CO <sub>2</sub> emissions - energy (MtCO <sub>2</sub> ) <sup>3</sup>	22.33

Data from Orbis Crossborder Investment on energy projects and deals completed between 2015-2020<sup>4</sup>

Target industry	Number of projects and deals	Project/deal type	Project CapEx and deal value (million EUR)
Electric power generation, transmission and distribution	2 projects	new projects	20m EUR total project CapEx

Sources:

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

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

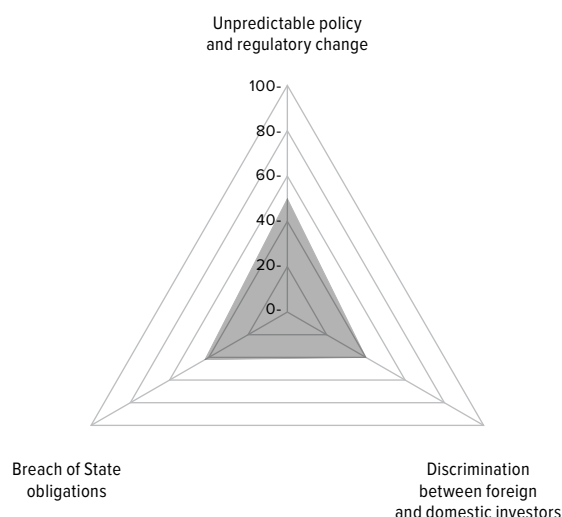
Among the three risks assessed in EIRA, *discrimination between foreign and domestic investors* and *breach of State obligations* are lower compared to *unpredictable policy and regulatory change*.

BiH's performance is moderate on three indicators, and it is good on one indicator. The country has maintained a score of 75 on *regulatory environment and investment conditions*, and 58 on *rule of law*. On the *foresight of policy and regulatory change* indicator it has scored 47. Its score on *management of decision-making processes* is 46.

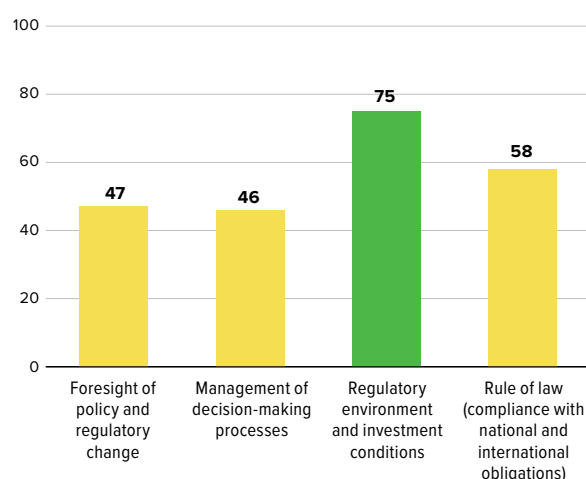
On a more detailed level, BiH's overall sub-indicator performance is moderate. The highest-scoring sub-indicator is *restrictions on FDI* at 80. On *management and settlement of investor-State disputes* (75), *regulatory effectiveness* (70), and *transparency* (67) it has the same score as last year. On *communication of vision and policies* it has scored 56. Following this is the sub-indicator *respect for property rights* at 42. On *robustness of policy goals and commitments* it has scored 38. *Institutional governance* is again the lowest-scoring sub-indicator at 25.

While BiH has maintained its performance from last year, 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



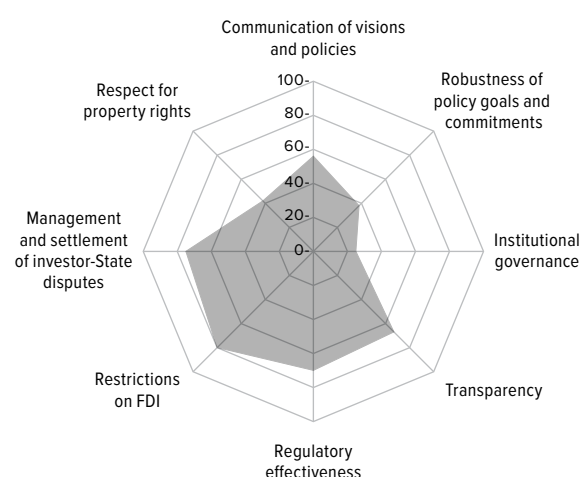
## YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019	2020
Unpredictable policy and regulatory change	55	50	50
Discrimination between foreign and domestic investors	40	40	40
Breach of State obligations	42	42	42

INDICATORS	2018	2019	2020
Foresight of policy and regulatory change	30	47	47
Management of decision-making processes	46	46	46
Regulatory environment and investment conditions	75	75	75
Rule of law	58	58	58

## SUB-INDICATOR PERFORMANCE



## Foresight of policy and regulatory change

### QUICK FACTS

The BiH Framework Energy Strategy until 2035 was adopted by the Government in 2018.

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

### STRENGTHS

The State and the entities are making efforts to align the country's legislative framework with the EU acquis for the energy sector. In 2019, the Ministry of Foreign Trade and Economic Relations (MoFTER) submitted to the Energy Community Secretariat the third progress report under the respective energy efficiency and renewable energy directives. It also presented the first report on the implementation of the National Emission Reduction Plan to the European Environment Agency. In February 2019, BiH created a national working group to develop its National Energy and Climate Plan. Once implemented, this Plan will harmonise the country's energy and climate goals with the EU. The State is updating the Strategy for Adaptation to Climate Change and Low-Emissions Development. It is also revising the country's NDC contributions, and developing the NDC Implementation Action Plan for the period 2020-2030.

MoFTER, and other public institutions, regularly contribute to the Annual Report of BiH on the European Integration Process, and the Report on the Implementation of Measures from the Action Plan for Realisation of Priorities from the European Commission's Analytical Report. MoFTER has prepared a report on the implementation of the Framework Energy Strategy of Bosnia and Herzegovina until 2035. In October 2019, BiH developed the Action Plan for the Implementation of Priorities in the European Commission Analytical Report. The Ministry of Finance and Treasury has submitted to the Council of Ministers of BiH an annual consolidated report on the financial management and control of the public institutions.

### AREAS FOR IMPROVEMENT

The BiH entities have only partially transposed the energy efficiency acquis and the renewable energy directive. The Brčko District does not have a legislative framework on either renewable energy or energy efficiency. Accordingly, the entities and the Brčko District are advised to adopt the related laws as soon as possible. At State-level as well, long-term action plans for these areas should be adopted because the existing action plan on energy efficiency only covers the period up to 2018, and the one on renewable energy will be relevant only until 2020.

The State and the entities should harmonise the guidelines and processes on monitoring the implementation of the energy targets. They should develop a unified system for collecting and processing the country's GHG emissions data, and for ensuring quality control.

## Management of decision-making processes

### QUICK FACTS

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

The Federal Ministry of Energy, Mining and Industry formulates energy policies for the FBiH. The FBiH is divided into ten cantons each of which has distinct regulations on local energy generation.

All government levels have legislation on access to information.

### STRENGTHS

During the last year, MoFTER took steps to improve coordination with other public sector entities. In 2020, MoFTER and the State Concessions Commission continued to work on defining the process of determining "public interest" in concessions. This issue is particularly important because granting energy infrastructure projects the status of "project of public interest" has been a hurdle in the implementation of the Energy Community Treaty. In June 2019, the BiH Council of Ministers adopted a decision establishing an energy management system and an energy efficiency information system. The Foreign Investment Promotion Agency's (FIPA) Medium Term Work Plan 2019-2021 requires collaboration between FIPA and the MoFTER, on trade and economic relations, so they can work together to increase FDI in BiH.

In 2019, the Legislative Office received 215 legislative acts that were published in the Official Gazette of BiH upon adoption by the Council of Ministers. According to the Law on Freedom of Access to Information, during 2019, the Legislative Office received two requests for access to information. The Office issued a decision approving these requests within the set deadline. The e-consultation website of the Government, E-Konsultacije, contains the work reports and work programmes of ministries and public institutions. The annual plan of legislative activities for all the institutions of the Council of Ministers is also available for public consultation and download.

### AREAS FOR IMPROVEMENT

Due to the complex constitutional structure of BiH, proactive efforts are needed to improve coordination between the State, the entities and the Brčko District. The different government levels should develop common standards for sharing information among themselves.

The entity governments should take measures to give investors more information on their respective licensing and approval processes. In FBiH, one-stop shops may be established at the cantonal level to provide investors local assistance and improve the ease of doing business.

All the government levels should make legal documents available in foreign languages, and at no cost.

## Regulatory environment and investment conditions

### QUICK FACTS

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

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

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

The Concession Commission grants concessions that fall under the State's exclusive competence or through the Joint Concession Commission in the case of non-exclusive competence.

### STRENGTHS

The State and the entities are making continuous efforts to harmonise regulatory structures. The draft Law on Regulator, Transmission and Power Market has been prepared, although it is still pending approval. The sections related to electricity are consistent with the EU's third energy package, while those on gas are currently in the harmonisation process. At the entity level, in July 2019, Republika Srpska submitted a new draft Electricity Law for adoption by the entity Parliament. The Law transposes unbundling provisions as required in the third energy package. It is currently undergoing the final public hearing procedure. Republika Srpska has successfully transposed the unbundling and certification requirements in line with the gas acquis. This achievement results from the adoption of its energy law, and a certification rulebook, in March 2019.

Attracting FDI is a priority for BiH. The two entities and the Brčko District have harmonised their respective corporate income tax rates at 10%. Each entity also offers special incentives to investors that undertake operations within their territory. Mandatory electronic submission of VAT declarations was introduced on 1 January 2019. Increased output was recorded (an annual increase of 11.3%) in the production and supply of electric power and gas. Electricity exports have also increased by 24% compared to 2017. In 2019, the Government published its macroeconomic and statistical data after categorising it by reporting periods, incentives and strategies, credit rating, taxes, and production costs.

### AREAS FOR IMPROVEMENT

The multi-tiered legal and regulatory framework can be an obstacle for foreign investors that are not familiar with it. The country should establish a State-level legal framework to coordinate and define the responsibilities of national, regional and local administrative bodies on business registration, as well as on granting authorisation, certification, and licences for energy activities and projects, particularly in renewable energy.

## Rule of law

### QUICK FACTS

BiH ratified the Energy Charter Treaty in 2001.

The Ministry of Justice of BiH has launched the Action plan for implementing the justice sector reform strategy in Bosnia and Herzegovina 2019-2020 (Reform Implementation Plan).

### STRENGTHS

The Reform Implementation Plan is comprehensive, and it spans a range of activities to modernise the country's judicial setup. It sets out the different strategic programmes, the underlying actions and execution deadlines, institutions responsible for implementing the programmes, and the indicators for monitoring the implementation status. The Ministry of Justice has already completed some of the tasks outlined in the Reform Implementation Plan. For example, it has standardised the websites of the judicial institutions, the Judicial Documentation Centre, and the judicial portal. It has prepared consolidated rules to ensure that courts deliver decisions within defined timeframes, and also developed corrective measures for this purpose. The Ministry has also drafted an Alternative Dispute Resolution (ADR) Strategy.

BiH upholds the property rights commitments of investors. The entities and the Brčko District have harmonised their respective expropriation laws. To date, the entities and the Brčko District have not expropriated any foreign investment or assets in the energy sector. In 2019, BiH made progress on its accession to the WTO. It addressed some requests made by the Russian Federation, on access to the market for goods and services. By the end of December 2019, it submitted revised proposals, and reasons thereof, to the Russian Federation.

### AREAS FOR IMPROVEMENT

The State may establish an investment ombudsman to address the grievances of foreign investors. It can seek guidance from the Energy Charter Model Instrument on Management of Investment Disputes to enhance the management of investment disputes. The general investment climate will also benefit from an update of the ADR strategy drafted in 2008.

The expropriation laws of the entities and the Brčko District should be updated to clarify the process for deciding whether an expropriation qualifies the "public purpose" criteria. These laws should specify the timeframe, legal effects, and bodies responsible for making this decision, as well as how the different government levels will coordinate the decision-making process. Moreover, the entity laws primarily protect real estate and immovable property, so extending the scope of protection to cover intangible property may be worth considering.



# Colombia

Population <sup>1</sup>	49,648,685
Area (km <sup>2</sup> ) <sup>1</sup>	1,141,749
GDP per capita (USD) <sup>1</sup>	6,667.79
TPES (Mtoe) <sup>2</sup>	38.36
Energy intensity (toe/10 <sup>3</sup> 2010 USD) <sup>2</sup>	0.10
CO <sub>2</sub> emissions - energy (MtCO <sub>2</sub> ) <sup>3</sup>	75.29

Data from Orbis Crossborder Investment on energy projects and deals completed between 2015-2020<sup>4</sup>

Target industry	Number of projects and deals	Project/deal type	Project CapEx and deal value (million EUR)
Electric power generation, transmission and distribution	3 projects 1 deal	new projects acquisition deal	70m EUR total project CapEx Deal value n.a.
Transport via pipeline	1 deal	minority stake deal	Deal value n.a.
Manufacture of refined petroleum products	1 project	new project	4m EUR total project CapEx
Mining of hard coal	1 deal	acquisition deal	2689m EUR total value of deal
Support activities for other mining and quarrying	2 deals	acquisition deals	1m EUR total value of deals

Sources:

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

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

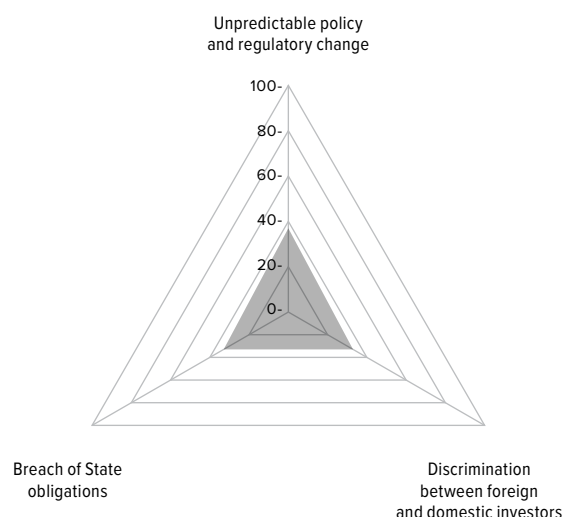
Among the three risks assessed in EIRA, *discrimination between foreign and domestic investors* and *breach of State obligations* are lower compared to *unpredictable policy and regulatory change*.

Colombia has a good performance on three indicators, and a moderate performance on one indicator. It has received a good score of 68 on *regulatory environment and investment conditions*. On *rule of law* it has scored 67, while *management of decision-making processes* and *foresight of policy and regulatory change* are at 65 and 58, respectively.

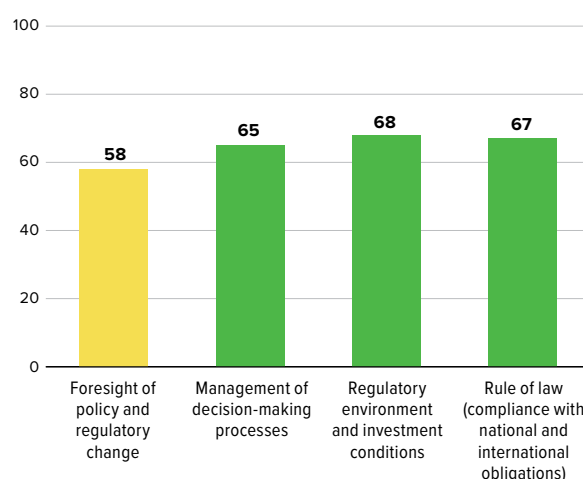
On a more detailed level, Colombia's overall sub-indicator performance is good. The highest-scoring sub-indicator is *transparency* at 81, followed by *restrictions on FDI* at 80. On *management and settlement of investor-State disputes* it has scored 75, and on *communication of vision and policies* it has a score of 65. Its performance on *respect for property rights* (58) and *regulatory effectiveness* (56) is moderate. The lowest-scoring sub-indicators are *robustness of policy goals and commitments* and *institutional governance*, at 50.

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.

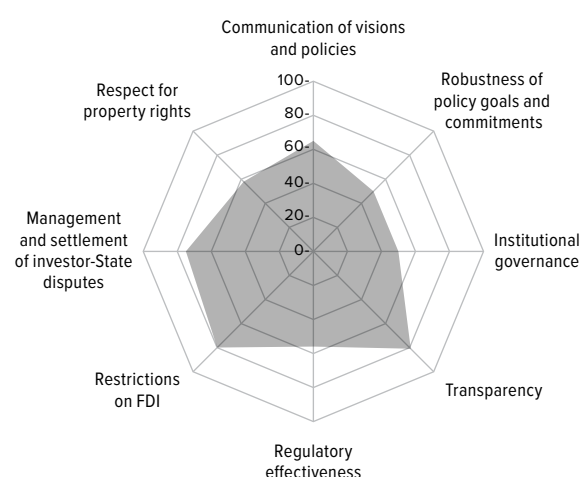
## RISK LEVEL



## INDICATOR PERFORMANCE



## SUB-INDICATOR PERFORMANCE





## Foresight of policy and regulatory change

### QUICK FACTS

The Congress approved the National Development Plan “Pact for Colombia, Pact for Equity” (2018-2022) through Law 1955 of 2019.

Colombia ratified the Paris Agreement in 2018 and submitted its first NDC.

### STRENGTHS

The 3D policy (decarbonisation, digitisation and decentralisation) sets the strategic direction for Colombia's future development. The country is leading the regional goal to ensure 70% renewable energy contribution from Latin America and the Caribbean by 2030. Law 1964 of 2019 requires the use of electric vehicles for public and official transportation to be 100% by 2035. As of 1 January 2023, all diesel vehicles entering or manufactured in the country must use EURO VI or more advanced technology to reduce air particle emissions by 96%. The Government also aims to increase the share of wind, solar and gas projects by giving attractive incentives to market players. The Ministry of Mines and Energy (MME) is working to make the mining industry more competitive and sustainable. According to the Comprehensive Climate Change Management Plan, the Government intends to cut CO<sub>2</sub> emissions by 11.2 million tons by 2030.

The Mining and Energy Planning Unit (UPME) within the MME monitors the evolution and fulfilment of the energy policy objectives. Additionally, the Superintendence of Utilities inspects and controls all matters related to utilities. Law 1955 of 2019 obliges the MME to provide the Congress with an annual report on the resources assigned for subsidy payments. The Law also has provisions on strengthening the audit, monitoring, and control of mining activities. It mandates the creation of the National Statistical System to give citizens and the State quality national and territorial statistics.

### AREAS FOR IMPROVEMENT

It is commendable that the Government is now developing an energy sector policy for 2050. In preparing this policy, it may consider including scenarios that take into account the global decline in coal demand. A long-term perspective in this regard is essential because it will give national and subnational authorities time to identify alternative economic activities and mobilise the financial resources for making the shift. It will also provide the communities that rely on the coal industry time to acquire the skills necessary for transitioning to alternative activities.

The Government is encouraged to conduct a regular impact assessment and cost-benefit analysis of its energy and investment policies. In addition to inspecting and controlling the expenditure of budgets, the Government should periodically evaluate the implementation of the policy measures to ensure they are producing the intended results.

## Management of decision-making processes

### QUICK FACTS

The Government formulates energy policies through the MME.

The Agencia Nacional de Minería (ANM) launched an online platform, “Anna Minería”, for processing mining titles.

Law 1712 of 2014 provides for the right of access to public information in Colombia.

### STRENGTHS

The Colombian Government is trying to streamline and simplify licencing procedures for energy investors. “Anna Minería” brings together the country's environmental mining information. It seeks to reduce the time for procedural approvals in mining activities from one year to three months. The portal facilitates the management of over 7,626 titles in force, representing 3.11% of the country's area. According to Decree 829 of 2020, UPME is the only entity that can evaluate and certify the eligibility of energy efficiency and renewable projects for tax incentives, such as VAT exclusion, exemption from customs duties, accelerated depreciation for non-conventional energy sources projects, and income deduction for energy efficiency projects. The Decree allows UPME to digitalise the procedure to access these tax benefits. Instead of the traditional three-month process of the National Authority for Environmental Licenses, companies certified by UPME can access these incentives in 45 days.

Public bodies are obliged to publish and disclose documents, laws, protocols, among others, that reflect the State's activities. It is expected that citizen participation in the decision-making process will improve significantly following Colombia's accession to the OECD on 28 April 2020. The MME recently invited citizens to submit comments and proposals on a draft resolution which seeks to redefine and categorise energy sources in line with the country's commitment to the energy transition. The electricity regulator, Comisión de Regulación de Energía y Gas (CREG), regularly publishes on its website audit reports, strategic plans, resolutions, budget planning documents and other evaluation and control management reports.

### AREAS FOR IMPROVEMENT

The Government has reduced substantially the time and cost spent by companies in procuring licences and permits. Now, it may also consider establishing a one-stop shop that is authorised to grant approvals exclusively for energy projects. Currently, there is a general participation mechanism that 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 Agencia Nacional de Hidrocarburos (ANH) is a special administrative unit in charge of administrating and regulating hydrocarbons. The ANM is a state agency, attached to the MME, for managing the mining sector.

The CREG, attached to the MME, regulates the activities on electric energy, natural gas, LPG and liquid fuels.

### STRENGTHS

The electricity sector is competitive. It is unbundled and horizontal and vertical integration of utility companies that provide electricity services is prohibited. The Government is implementing new regulations for the oil and gas industry. In December 2019, it awarded 26 blocks in the Permanent Area Allocation Process (PAAP) and signed five offshore contracts after a five-year hiatus. According to the ANH, the PAAP conducted in 2019 had a success rate of 37% on the 70 areas offered. In October 2019, the MME concluded the country's first successful renewable energy auction. The PPAs awarded in this auction will potentially increase the installed capacity for non-conventional generators up to 2,500 MW from the current 60 MW.

The Constitution of Colombia guarantees equal treatment to foreign and domestic investment, except for limited restrictions that are per the OECD index of FDI restrictions. According to Government records, in electrical energy, there are currently 26 thermal, renewable, hydroelectric and transmission energy projects underway, with an estimated investment of COP 17 billion. In La Guajira, there will be nine wind generation projects, with investments exceeding COP 7 billion and generating more than 6,000 jobs. Colombia grants tax incentives, such as a decrease in VAT from 19% to 5%, customs duties reduction of 5% for hybrid vehicles and 0% for electric vehicles and charging systems, and discounts on compulsory insurance to reduce the price of electric cars. The Government has prioritised 35 mining and hydrocarbon projects, which represent 53,000 jobs and investment worth COP 37 billion by 2022. According to the MME, nine of these projects account for 80% of investments and employment. Royalties from these projects will go to the education, health and infrastructure sectors.

### AREAS FOR IMPROVEMENT

The CREG's independence should continue to be reinforced by gradually separating it from the executive branch of the Government. The CREG has a degree of financial autonomy, but this can increase considerably if its budget is not subject to the MME's approval. Restructuring the CREG's composition will also help to limit the role of ministers and public office holders. Finally, re-appointment of the CREG's experts should be possible for only one additional term to avoid indefinite prolongation.

## Rule of law

### QUICK FACTS

Law 1563 of 2012 establishes a comprehensive set of rules on national and international arbitration.

The New York Convention entered into force in Colombia on 24 December 1979.

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

### STRENGTHS

The domestic courts of Colombia have a pro-arbitration and pro-recognition stance. Law 1563 of 2012, based on the UNCITRAL Model Law, defines limited grounds for annulling or declining the recognition of an international arbitration award. The domestic courts typically construe these grounds narrowly. On 20 July 2019, the Ministry of Justice and Law presented before the Senate a bill to amend Law 1563 of 2012. The changes envisaged relate to the duration of the arbitration process, the precautionary measures, and the evidence, among others. The country's new offshore model contract includes terms that are attractive to foreign investors, such as the option of international arbitration, provided they fulfil some of the domestic law requirements.

The Constitution states that expropriation may occur only for reasons of public utility or social interest, upon the payment of compensation, and subject to a judicial decision. Any expropriation by the State must meet the requirements established in Law 388 of 1997, which contains the criteria to conduct an administrative expropriation. The compensation amount should take into account the interests of the community and the individuals concerned. In cases determined by legislators, expropriation may take place by administrative action, subject to subsequent litigation before the administrative law courts, including about the price. Exploration and production contracts typically contain a clause requiring the contractors to endorse scientific and technology-related activities. This obligation can be satisfied with the payment of a fee calculated with a formula which takes into account the area of the field of exploration or production. The Intersectoral Intellectual Property Commission serves at the inter-agency technical body for IP rights issues.

### AREAS FOR IMPROVEMENT

The Constitution of Colombia has provisions that protect the property and assets of investors from expropriation, but these can be updated to reflect best practices. The domestic law should define the procedure for determining whether a compulsory acquisition of private property by the State has been undertaken for "public utility or social interest". It should also 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. This approach will give more clarity and security to investors on the legal regime regulating property rights.



# Croatia

Population <sup>1</sup>	4,087,843
Area (km <sup>2</sup> ) <sup>1</sup>	56,590
GDP per capita (USD) <sup>1</sup>	14,915.37
TPES (Mtoe) <sup>2</sup>	8.75
Energy intensity (toe/10 <sup>3</sup> 2010 USD) <sup>2</sup>	0.14
CO <sub>2</sub> emissions - energy (MtCO <sub>2</sub> ) <sup>3</sup>	16.19

Data from Orbis Crossborder Investment on energy projects and deals completed between 2015-2020<sup>4</sup>

Target industry	Number of projects and deals	Project/deal type	Project CapEx and deal value (million EUR)
Electric power generation, transmission and distribution	2 projects 2 deals	2 new projects 1 acquisition deal 1 minority stake deal	55m EUR total project CapEx 32m EUR total value of deals

Sources:

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

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

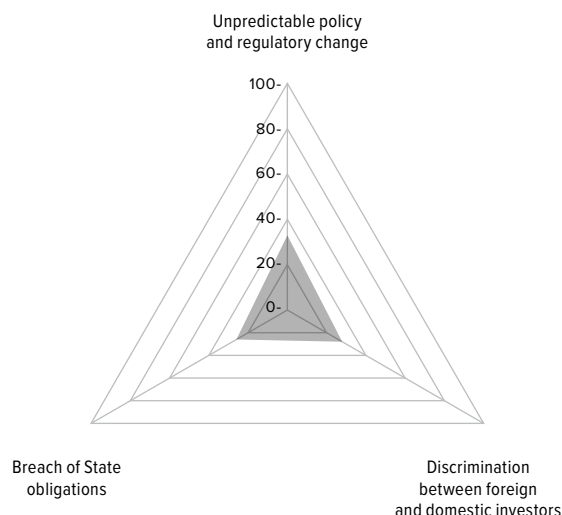
Among the three risks assessed in EIRA, *breach of State obligations* and *discrimination between foreign and domestic investors* are lower compared to *unpredictable policy and regulatory change*.

Croatia has a good performance on three indicators, and a moderate performance on one indicator. It has maintained a score of 74 on the indicator *rule of law*, and 71 on the indicators *management of decision-making processes* and *regulatory environment and investment conditions*. Its score on *foresight of policy and regulatory change* has increased from 52 to 57.

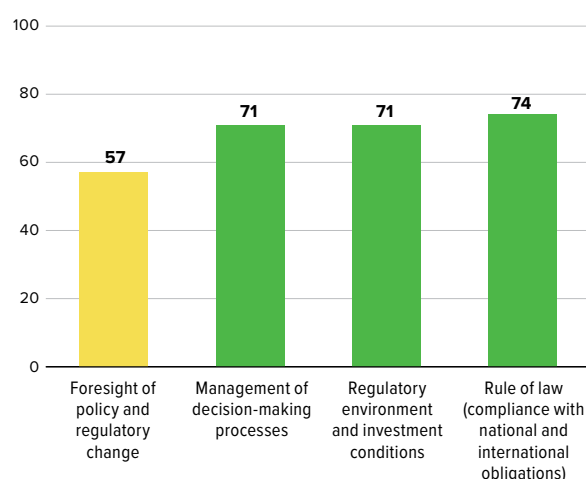
On a more detailed level, Croatia's overall sub-indicator performance is good. The highest-scoring sub-indicator is *respect for property rights* at 83. On *transparency* (79) and *regulatory effectiveness* (72), it has the same scores as last year. Following these sub-indicators is *restrictions on FDI* at 70, and *management and settlement of investor-State disputes* at 65. Its score on *institutional governance* is 63. On the sub-indicators *communication of vision and policies* and *robustness of policy goals and commitments*, its score has increased to 59 and 56, respectively.

While Croatia has the relevant policies and measures in place, there is potential for improvement. Attention should be given to strengthening the robustness of policy goals and commitments.

## RISK LEVEL



## INDICATOR PERFORMANCE



## YEAR-ON-YEAR COMPARISON

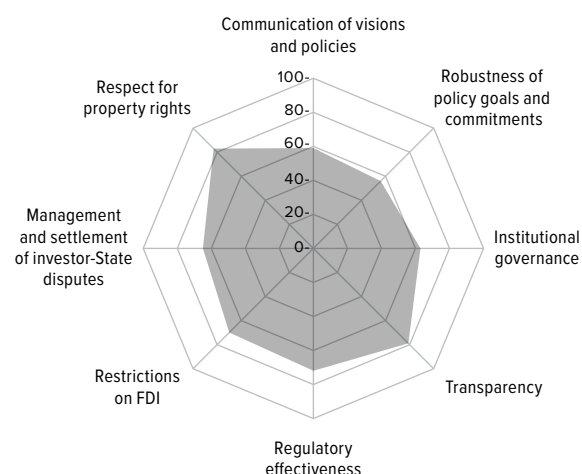
RISK AREAS	2018	2019	2020
Unpredictable policy and regulatory change	35*	34*	33
Discrimination between foreign and domestic investors	28*	28*	28
Breach of State obligations	26	26	26

INDICATORS	2018	2019	2020
Foresight of policy and regulatory change	49	52	57
Management of decision-making processes	71*	71*	71
Regulatory environment and investment conditions	71*	71*	71
Rule of law	74	74	74

\*These numbers have been adjusted due to identified errors in previous editions

## SUB-INDICATOR PERFORMANCE



## Foresight of policy and regulatory change

### QUICK FACTS

In February 2020, the Croatian Parliament adopted the new Energy Sector Development Strategy until 2030 with a view to 2050 (Energy Strategy).

In 2020, the Croatian Parliament adopted the Climate Change Adaptation Strategy for the period until 2040 with a view to 2070.

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

### STRENGTHS

Croatia is committed to the sustainable development goals and the European Green Deal. The newly adopted Energy Strategy aims to strengthen the energy market and integrate it entirely in the EU and international energy market. It sets various initiatives to enhance energy security, gradually reduce energy losses, increase energy efficiency, and limit the country's dependence on fossil fuels. The Energy Strategy is also committed to promoting renewables. The country's ultimate aspiration is to ensure the financial viability of renewable projects without State aid. The Government intends to eliminate renewable energy incentives throughout the Strategy's implementation period and replace them with a favourable tax regime. In December 2019, Croatia submitted to the European Commission its final Integrated National Energy and Climate Plan (NECP) 2021-2030. The NECP sets a 36.4% renewable energy target, one of the most ambitious among the EU Member States. Through the NECP, Croatia seeks to utilise the country's renewable energy potential fully.

The Ministry of Environment and Energy, with the assistance of the Energy Institute, monitors the implementation of the country's energy targets. Croatia must submit to the EU a progress report on the NECP every two years. The European Commission monitors the progress made by the EU Member States, and the EU as a whole, on the NECP targets. In April 2019, the Hrvoje Požar finalised the Green Book, which outlines the analytical foundations for preparing the country's new Energy Strategy. The premise, analysis, and results presented in the Green Book form the basis for public discussions on the transformation of the country's energy sector.

### AREAS FOR IMPROVEMENT

The Energy Strategy, the Climate Change Adaptation Strategy, and the NECP establish the framework for the country's future energy development. Croatia should now translate its priorities into action plans that set indicative targets, milestones, measurable progress indicators, and monitoring mechanisms. This approach will guide future actions at the national and local level, and help Croatia stay on track with its objectives and obligations.

## Management of decision-making processes

### QUICK FACTS

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

The Ministry of Economy, Entrepreneurship and Crafts develops policies for promoting investment in the country.

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

### STRENGTHS

In the last year, the Parliament adopted some amendments to strengthen the legislative framework of the energy sector, such as the Act on Amendments to the Electricity Market Act, and the Act on Amendments to the Act on Oil and Petroleum Products. The new Energy Strategy promotes cooperation among regional self-governments in implementing the energy goals. To this end, the regional energy agencies support national and local energy projects, and develop innovative mechanisms for financing. As required by the NECP, the Government is currently building the capacity of existing regional energy agencies engaged in climate change activities, and establishing new ones around the country.

The Croatian Official Gazette, *Narodne Novine*, is implementing the European Legislation Identifier (ELI) to enhance the quality and reliability of legal information available online. ELI makes information flow more effective and shortens the time for publishing legislation. It allows users to keep track of the work done by the Government. The Official Gazette website implements the first of three ELI phases. The online Sudski registar gives information on companies, associations and other legal or natural persons registered in the Court Register. As of 2020, a certified excerpt from the Court Register can be obtained online, and it can serve as a legally valid document with verification of authenticity.

### AREAS FOR IMPROVEMENT

Following the abolition of the Agency for Investments and Competitiveness in 2018, the central ministries have assumed its responsibilities. However, it is not uncommon for the central government ministries and the local self-governments to have separated, not fully-coordinated, strategies. Foreign investors will greatly benefit from the services of a unified one-stop shop which can help them navigate the country's multi-layered public administration.

The Parliament's Committee on Legislation should regularly publish consolidated versions of legal acts, with all the successive amendments, so interested persons can identify the new and repealed clauses. At present, it only prepares the consolidated versions of laws that have major implications and multiple amendments. For others, the public must rely on private law firms, which give access to the consolidated legal texts through paid subscription.

## 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 (CHA) 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 Croatian Power Exchange (CROPEX) intraday and day-ahead markets continue to grow. In July 2019, following a decision of HERA, the Croatian Energy Market Operator (HROTE) adopted the Rules for Organising the Electricity Market. In August 2019, CROPEX held its first Guarantees of Origin auction. Establishing a sales system for Guarantees of Origin was made possible through amendments, adopted in 2018, to the Renewable Sources and High-Efficiency Cogeneration Act 2015, and to the Regulation Establishing the Guarantee of Origin of Electricity 2012. The sales proceeds from the Guarantees of Origin auctions will be transferred to the incentivised system fund managed by HROTE. There will be auctions every two months moving forward. During the past year, the Ministry of Environment and Energy signed seven onshore oil and gas exploration agreements. Moreover, the CHA announced public calls to select the most competitive bid for geothermal energy exploration in the Križevci area.

Maintaining a regime open to foreign investment is one of Croatia's key priorities. On 17 October 2019, Croatia adhered to the OECD Declaration on International Investment and Multinational Enterprises. Through this Declaration, the Government commits to provide an open and transparent environment for international investment and encourage the positive contribution of multinational enterprises towards economic and social progress. Croatia has also introduced amendments to the Companies Act 1993 and the Court Register Act 1995 to facilitate the incorporation of limited liability companies. The simplified electronic registration replaces a previously costly and time-consuming procedure, and it significantly improves the conditions of conducting business.

### AREAS FOR IMPROVEMENT

The Government may limit its role in determining whether a project has strategic status. Before declaring a project strategic, there should be a publically available assessment of its economic, human resources, and environmental feasibility. The final decision on its status may also include detailed information on the evaluated parameters.

## 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

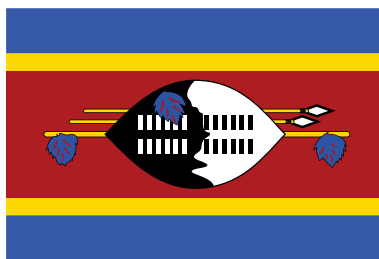
The Government successfully negotiated with the International Bank for Reconstruction and Development (IBRD) a EUR 100 million loan for the Justice for Business project. The project aims to reduce the administrative burden of companies and increase judicial efficiency. Its primary objectives include strengthening electronic communication with the administration, expanding the use of electronic services in the judiciary, reducing the number of old court cases, and creating better infrastructure. In March 2020, the Parliament began discussions on the amendments to the Law on the Bar 1994. The proposed amendments will allow foreign lawyers to provide legal services in Croatia and reduce the requirements for entry in the Directory of Foreign Lawyers.

The Croatian State continues to uphold the property rights of foreign investors. During the last year, there were no adverse changes observed in the legislative framework for expropriation. The Expropriation and Determining of Compensation Act 2014 has provisions on calculating the timelines and the amount of compensation for the acquisition of immovable property. Domestic laws exist for the protection of IP rights. The BITs signed by Croatia broadly define "investment" to include movable property, financial stocks, and goodwill.

### AREAS FOR IMPROVEMENT

Croatia is working towards a more effective administration and judiciary through the Justice for Business project. In keeping with this, the Government should establish systemised and effective dispute management measures. An investment ombudsman may also help effectively address the grievances of foreign investors and de-escalate conflicts.

Croatia should simplify property registration procedures. Currently, the cadastre and the land registry are both responsible for recording real property rights, but they function as two separate entities. This overlap can lead to inconsistent entries and legal uncertainty in real estate transactions. The Government should, therefore, consider consolidating the two parallel systems.



# Eswatini

Population <sup>1</sup>	1,136,191
Area (km <sup>2</sup> ) <sup>1</sup>	17,360
GDP per capita (USD) <sup>1</sup>	4,145.97
TPES (Mtoe) <sup>2</sup>	N/A
Energy intensity (toe/10 <sup>3</sup> 2010 USD) <sup>2</sup>	N/A
CO <sub>2</sub> emissions - energy (MtCO <sub>2</sub> ) <sup>3</sup>	N/A

There is no data by Orbis Crossborder Investment on completed energy projects and deals from 2015-2020

Sources:

1. The World Bank 2018
2. ©IEA, World energy balances, 2020, [www.iea.org/data-and-statistics](http://www.iea.org/data-and-statistics), [webstore.iea.org/key-world-energy-statistics-2019](http://webstore.iea.org/key-world-energy-statistics-2019)
3. ©IEA 2020, CO<sub>2</sub> emissions from fuel combustion, [www.iea.org/data-and-statistics](http://www.iea.org/data-and-statistics), [webstore.iea.org/key-world-energy-statistics-2019](http://webstore.iea.org/key-world-energy-statistics-2019)



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

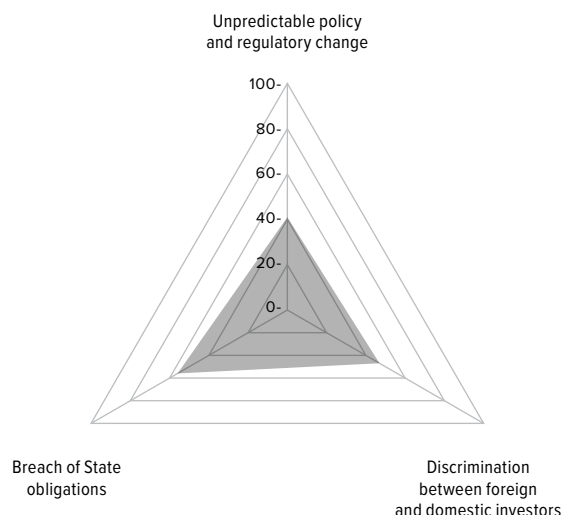
Among the three risks assessed in EIRA, *unpredictable policy and regulatory change* is lower compared to *discrimination between foreign and domestic investors* and *breach of State obligations*.

Eswatini's performance is moderate on three indicators, and it has a good on one indicator. It has maintained a score of 76 on *foresight of policy and regulatory change*. *Regulatory environment and investment conditions* and *management of decision-making processes* are at 60 and 56, respectively. On *rule of law* it has once again scored 44.

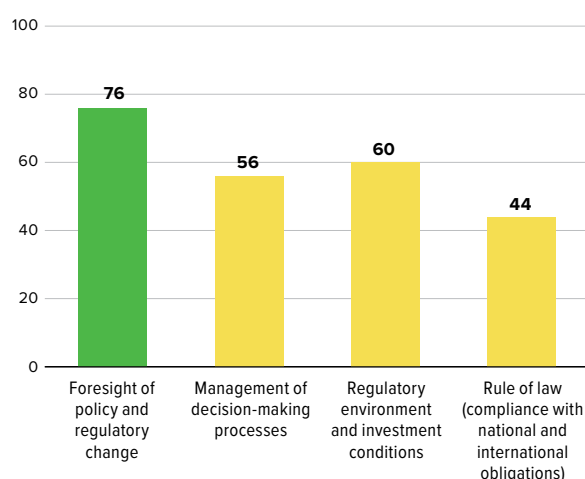
On a more detailed level, Eswatini's overall sub-indicator performance is moderate. *Communication of vision and policies* is once again the highest-scoring sub-indicator (78), followed by *robustness of policy goals and commitments* and *institutional governance*, both at 75. *Restrictions on FDI* stands at 70, while *management and settlement of investor-State disputes* is at 55. On *regulatory effectiveness* it has scored 50. The sub-indicators *transparency* and *respect for property rights* continue to be the lowest-scoring sub-indicators at 36 and 33, respectively.

While Eswatini has maintained its performance from last year, further steps must be taken to build on the work done. Particular attention should be given to reinforcing respect for property rights.

## RISK LEVEL



## INDICATOR PERFORMANCE



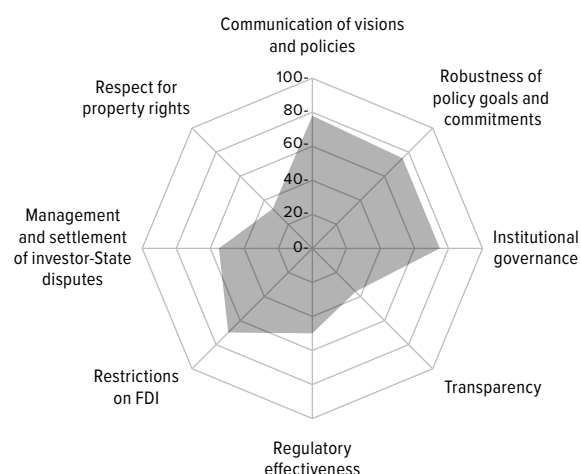
## YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019	2020
Unpredictable policy and regulatory change	40	41	41
Discrimination between foreign and domestic investors	46	47	47
Breach of State obligations	56	56	56

INDICATORS	2018	2019	2020
Foresight of policy and regulatory change	76	76	76
Management of decision-making processes	60	56	56
Regulatory environment and investment conditions	57	60	60
Rule of law	44	44	44

## SUB-INDICATOR PERFORMANCE





## Foresight of policy and regulatory change

### QUICK FACTS

The National Development Strategy, adopted in 1999, addresses challenges to the energy sector's 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 guides the country's approach to climate change mitigation and adaptation, in line with its NDC.

### STRENGTHS

In the last year, the Government intensified its efforts to ensure universal access to modern energy by 2022, as envisioned in the National Energy Policy. The Network Reinforcement and Access Project (NRAP), launched in 2019, will be funded by the World Bank and implemented by the Eswatini Electricity Company (EEC). It targets the least developed region in the country and is likely to strengthen the transmission and distribution network, expand rural electrification, and create employment opportunities for the local workforce. In parallel, the country is working towards utilising its domestic renewable energy resources. The Eswatini IPP Policy intends to stimulate the deployment of IPP capacity, and it addresses issues of funding and bankability, power sector planning, rural electrification, and mini-grids.

The Ministry of Natural Resources & Energy (MNRE) is ultimately responsible for developing and monitoring the country's strategy documents. The EEC aims to establish specific units that will ensure compliance with environmental and social standards and the effective implementation of the NRAP. The units are expected to issue appropriate instructions and systematically report on their performance. Surveillance of the project will be conducted by the Eswatini Environment Authority, based on the supervision monitoring reports.

### AREAS FOR IMPROVEMENT

The Government has adopted progressive reforms to tackle some critical challenges, such as regional power shortages, untapped energy resources, and scarcity of private investment in electricity generation. However, actual progress continues to be hindered by various factors, including an inadequate number of action plans to implement, monitor, and evaluate policies. The Government should adopt the pending action plans to address these challenges better, achieve its energy-efficiency goals, and support the IPP policy.

The MNRE should monitor and evaluate its progress on the actions and objectives stated in the National Energy Policy 2018. It must establish monitoring and evaluation units, such as the ones envisaged in the NRAP, to assist it with tracking the implementation of the country's national and international targets.

## Management of decision-making processes

### QUICK FACTS

The Energy Department of the MNRE is responsible for implementing the national energy policy, and for the overall management of the country's energy resources.

The Ministry of Commerce, Industry & Trade is responsible for formulating the country's investment policy.

The Eswatini Investment Promotion Authority (EIPA) informs investors about business opportunities and facilitates permits and company registrations.

### STRENGTHS

During the EIRA assessment year, the Government took proactive steps to secure external funding for the NRAP. The MNRE is obliged to coordinate with the EEC, the Eswatini Energy Regulatory Authority (ESERA), as well as with the regional administrators and traditional authorities throughout the project preparation phase. The EEC recently completed an environmental and social impact assessment (ESIA) of the NRAP, in line with the Eswatini Environment Act of 2002 and international standards.

Electronic copies of national legislation are available on the Government's portal, and the official websites of the ministries and the State entities. For instance, the EEC has published the ESIA of the NRAP on its website. The ESIA is accompanied by a stakeholder engagement plan (SEP), which defines technical and culturally appropriate means for consultation and disclosure. Based on international best practice, the SEP provides a variety of engagement techniques and target audiences, spanning ministries, State agencies, NGOs, and local communities. Additionally, it envisages a grievance mechanism to resolve complaints raised by any individual or group whose culture, heritage, health, or safety may be adversely affected by project activities.

### AREAS FOR IMPROVEMENT

The Government should continue its efforts to improve transparency in the decision-making process. It should develop a legal framework for this purpose with a defined scope of application and a narrow list of exceptions to the freedom of information rule. Moreover, an online version of the Official Gazette will facilitate access to legal documents for interested parties. The Government is also encouraged to ensure greater public participation in the law- and policy-making process. Instead of holding ad hoc discussions, it should set a legally binding procedure and timelines for soliciting and receiving feedback from stakeholders.

## Regulatory environment and investment conditions

### QUICK FACTS

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

The Minerals Management Board (MMB), under the MNRE, administers the mining and minerals industry, and it monitors compliance with the relevant legislation.

The Eswatini Investment Promotion Act of 1998 guarantees equal treatment to foreign and domestic investments.

### STRENGTHS

ESERA is trying to increase private entity participation in electricity generation. As part of its statutory mandate, ESERA, in collaboration with the MNRE, must prepare and run competitive tenders for new generation capacities. Bidders should then be contracted, in line with the regulations published by ESERA, and approved by the MNRE. In 2019, ESERA issued a request for the qualification of a 40MW solar photovoltaic plant to be developed via the First Tranche Procurement Programme.

The Government seeks to give more investment opportunities to foreign companies. It has already introduced an incentive scheme through the Special Economic Zones Act of 2018. In particular, new enterprises enjoy tax allowances and deductions, as well as the duty-free import of machinery and equipment, and full refunds of customs duties. The entry into force of the Agreement Establishing the African Continental Free Trade Agreement (AfCFTA) in 2019, which Eswatini has signed and ratified, is expected to pave the way to a single continental market for goods and services, with free movement of business persons and investments. As part of the Southern African Development Community (SADC), Eswatini profits from the Economic Partnership Agreement with the EU. Moreover, in 2019, Eswatini signed a new BIT with Taiwan.

### AREAS FOR IMPROVEMENT

The Government has already implemented some much-needed reforms by liberalising the energy market, establishing ESERA, and laying the foundation for renewable energy and IPP market entry. Nevertheless, some challenges remain, including the high cost of initial investment in power infrastructure, financing obstacles, and licensing issues. As a starting point, ESERA's functional and financial independence should be reinforced to give the existing and potential investors greater clarity on the power market structure and the associated rights of market participants.

Given that two-thirds of land surface is considered national property, governed by different rules and procedures, the Government should ease restrictions and overcome land tenure problems to make incentive schemes more meaningful.

## Rule of law

### QUICK FACTS

Eswatini ratified 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.

Eswatini has been a WTO member since 1 January 1995.

The Constitution Act of 2005 guarantees the right to property.

### STRENGTHS

The Government accepts foreign investment agreements with an enforceable clause stipulating the seat of arbitration and the governing law. The Government has adopted the SADC Model Bilateral Investment Treaty, which provides for the mediation of grievances. Part IV of the AfCFTA and the Protocol on the Settlement of Disputes, currently under negotiation, may allow the Member States of the AfCFTA to opt for State-to-State arbitration as an alternative or complement to the ISDS mechanism. Complaints against administrative decisions regarding the electricity sector can be heard by the Electricity Disputes Tribunal.

Eswatini continues to uphold the property rights of investors. There are no instances where the State initiated contract renegotiation with foreign investors. The Government's commitment to strengthening the protection of IP rights is reflected in the recent revision of some key legal instruments, such as the Intellectual Property Tribunal Act, the Patent Act, and the Copyrights and Neighbouring Rights Act. The enactment of these Acts brings the country in line with its international obligations under the Patent Cooperation Treaty, and its membership of the African Regional Intellectual Property Organisation (ARIPO). The latter has introduced a harmonised filing system which allows applicants to be registered in any of the Contracting states by filing a single patent/trademark application.

### AREAS FOR IMPROVEMENT

The Government should move forward with its legal reforms by updating important pieces of legislation, such as the Trade Marks Act of 1981 and the Arbitration Act of 1904. It may draw inspiration from the Energy Charter Model Instrument on Management of Investment Disputes, which aims to assist States in handling investment disputes while keeping in mind their own particular needs and circumstances.

While investment disputes are uncommon, the Government should develop legal guarantees against expropriation, so that investors have more clarity on the activities considered of "public interest" in the compulsory acquisition of property.



# The Gambia

Population <sup>1</sup>	2,280,102
Area (km <sup>2</sup> ) <sup>1</sup>	11,300
GDP per capita (USD) <sup>1</sup>	716.12
TPES (Mtoe) <sup>2</sup>	N/A
Energy intensity (toe/10 <sup>3</sup> 2010 USD) <sup>2</sup>	N/A
CO <sub>2</sub> emissions - energy (MtCO <sub>2</sub> ) <sup>3</sup>	0.60

There is no data by Orbis Crossborder Investment on completed energy projects and deals from 2015-2020

Sources:

1. The World Bank 2018
2. ©IEA, World energy balances, 2020, [www.iea.org/data-and-statistics](http://www.iea.org/data-and-statistics), [webstore.iea.org/key-world-energy-statistics-2019](http://webstore.iea.org/key-world-energy-statistics-2019)
3. ©IEA 2020, CO<sub>2</sub> emissions from fuel combustion, [www.iea.org/data-and-statistics](http://www.iea.org/data-and-statistics), [webstore.iea.org/key-world-energy-statistics-2019](http://webstore.iea.org/key-world-energy-statistics-2019)

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

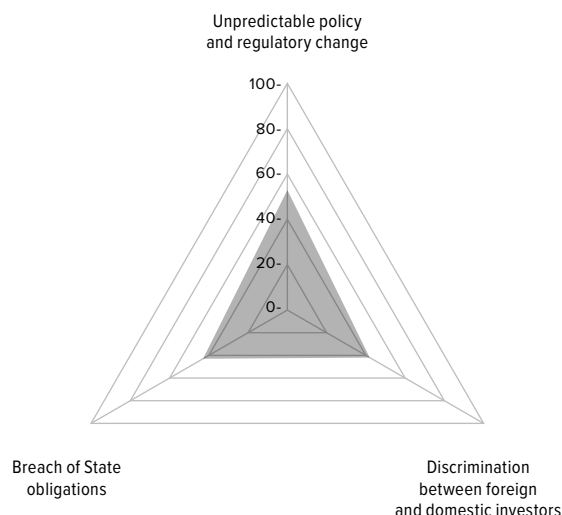
Among the three risks assessed in EIRA, *discrimination between foreign and domestic investors* and *breach of State obligations* are lower compared to *unpredictable policy and regulatory change*.

The Gambia has a good performance on one EIRA indicator. Its performance is moderate on two indicators, and low on one. 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.

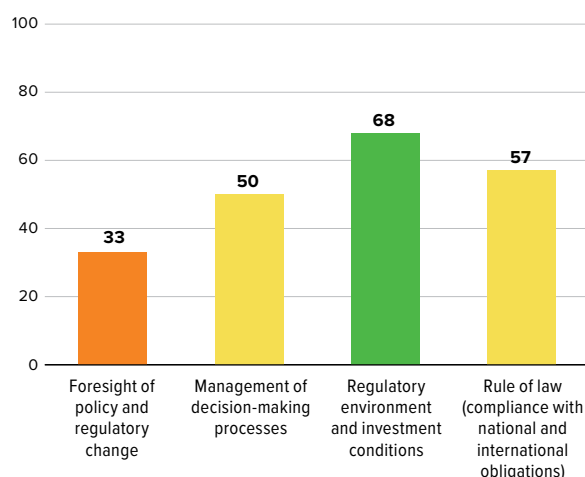
On a more detailed level, The Gambia's overall sub-indicator performance is moderate. The highest-scoring sub-indicators continue to be *restrictions on FDI* at 75, and *management and settlement of investor-State disputes* at 73. On *regulatory effectiveness* (61), *institutional governance* (53), *transparency*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

While The Gambia has maintained its performance from last year, further steps must be taken to build on the work done. Particular attention should be given to increasing the robustness of policy goals and commitments.

## RISK LEVEL



## INDICATOR PERFORMANCE



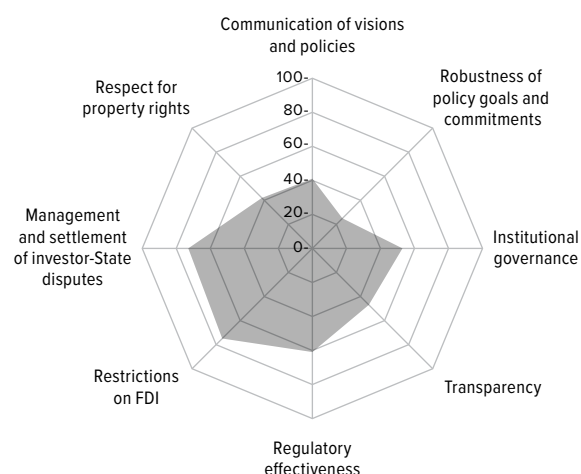
## YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019	2020
Unpredictable policy and regulatory change	53	53	53
Discrimination between foreign and domestic investors	42	42	42
Breach of State obligations	43	43	43

INDICATORS	2018	2019	2020
Foresight of policy and regulatory change	33	33	33
Management of decision-making processes	50	50	50
Regulatory environment and investment conditions	68	68	68
Rule of law	57	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.

### STRENGTHS

The Government is trying to meet the country's energy accessibility and affordability targets, increase the renewable generation capacity and secure adequate energy supplies. The Gambia Electricity Restoration and Modernisation Project, funded by the World Bank and the EU, aims to improve access to reliable electricity services. The World Bank has also come in to finance the ECOWAS-Regional Electricity Access Project. The African Development Bank is complementing this regional electricity project in The Gambia. With the backing of the European Investment Bank and the World Bank, The Gambia has launched a tender for a 20 MW solar project. Apart from this, it has also launched a feasibility study for a 150 MW solar plant. The Gambian River Basin Development Organisation Energy Project commenced in 2019. This project aims to create a regional electricity market to facilitate energy trade and improve electricity supply. The Gambia's target to unconditionally reduce CO<sub>2</sub> emissions is among the most ambitious in the world. It is considered compatible with the overall goal of keeping the global temperature increase below 1.5°C.

In 2019, the Government produced a Progress Report to assess the implementation of the National Development Plan 2018-2021 for each public sector. According to this Progress Report, the most substantial advancement was observed, among others, in the infrastructure and energy sector. The Public Utilities Regulatory Authority (PURA) published its latest Annual Report containing information on the energy market development. The Public Enterprises Committee of the National Assembly adopted the PURA Annual Report.

### AREAS FOR IMPROVEMENT

Since the current energy strategy expires in 2020, the Government should develop and adopt, as soon as possible, a new strategy that establishes the framework for future actions. This new strategy must specify baselines and actionable measures, quantify the expected outcomes, and set a timeline for implementing the measures.

The Ministry of Petroleum and Energy should carefully assess the impact, cost, and benefit of the policies in force through systematically collected data. To this end, the new energy strategy should require the ex-ante and ex-post evaluation of sectoral policies and measures. The Ministry should also utilise review mechanisms to determine whether the policy implementation measures are appropriate for meeting the objectives.

## Management of decision-making processes

### QUICK FACTS

The Ministry of Petroleum and Energy frames and implements the energy policies.

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

The Gambia Investment and Export Promotion Agency (GIEPA) promotes and facilitates private sector investment, and acts as investors' first point of contact.

### STRENGTHS

The Government is undertaking a constitutional review to strengthen the country's institutional governance. In 2020, there will be a referendum on the proposed Constitutional amendments that are based on the Constitutional Review Commission's (CRC) conclusions. To ensure public engagement, the CRC conducted nationwide public consultations on the proposed amendments, and it circulated the final draft of the Constitution for comments. GIEPA continues its efforts to promote the business regime, in collaboration with the Ministry of Trade, Industry, Regional Integration and Employment, through the Entrepreneurship and Private Sector Development Project and by establishing the Business Incubation Centre, which will enhance capacity in entrepreneurship.

The country has taken a big step forward by introducing the Access to Information Bill of 2019 in the National Assembly. The Bill's primary aim is to enforce the right to access information, resulting in higher Government accountability. In line with its aspiration to foster good governance, the Government has also finalised the Anti-Corruption Bill, which it will present to the National Assembly during 2020. The Bill establishes an Anti-Corruption Commission and provides effective measures for the eradication, suppression, and prevention of corruption.

### AREAS FOR IMPROVEMENT

The Gambia is beginning to develop its natural resources, so transparency and clarity on the contractual terms are essential. Periodic engagement with investors, milestone announcements, declaration of revenues, as well as their allocation, should be publically available to ensure the proper use of the country's resources. The Government could consider joining the EITI, which supports the open and accountable management of oil and gas resources.

The Gambia should expedite the adoption of the Access to Information Bill, which will significantly contribute to openness in decision-making and promote legal certainty. Legal documents should be made available on the internet to guarantee the effective dissemination of regulatory information. For example, the Government can make legal information available through an online portal of the Official Gazette or by making it mandatory for governmental websites to publish laws relevant to their respective areas of work.

## Regulatory environment and investment conditions

### QUICK FACTS

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

The Petroleum (Exploration, Development and Production) Act of 2004 defines the regulatory functions of the Ministry of Petroleum and Energy.

### STRENGTHS

Reforms in the National Water and Electricity Company (NAWEC), aimed at increasing generation capacity and user coverage, have been a major driver in the electricity sector. Capacity building of NAWEC is one of the main components of the Gambia Energy Access Project. The Government has conducted an audit to assess the financial health and corporate governance of NAWEC, and ensure its viability and efficiency. PURA approved and published the Tariff Methodology Guidelines, which provide the calculation methodology and parameters for electricity revenues and tariffs. The Ministry of Petroleum and Energy negotiated and signed a Petroleum Exploration, Development and Production License with BP.

Attracting FDI remains a priority for the Government. On 2 April 2019, The Gambia ratified the National African Continental Free Trade Area (AfCFTA). Trading under the AfCFTA, from 1 July 2020, will result in tariff removal for 90% goods and create the world's largest trade zone. The Gambia and UAE signed a BIT to protect investments from non-commercial risks. It covers the transfer of profits and revenues in convertible currency, grants investors most-favoured-nation treatment in the management of investments, and guarantees non-interference in all investment-related subjects.

### AREAS FOR IMPROVEMENT

PURA currently regulates multiple activities across highly demanding sectors, such as electricity and downstream petroleum. As a result, the continually increasing workload creates constraints in PURA's capacity to perform its functions effectively. The Government should consider establishing an independent body dedicated exclusively to regulating energy activities. Alternatively, it may increase PURA's institutional capacity, and streamline its operations, so it can meet the objectives set for all the regulated sectors.

The Government should expedite the liberalisation of the energy market, and gradually reduce the State's role in NAWEC. The role of private investors is still limited in the electricity sector, and transmission and distribution remain the exclusive domain of NAWEC. Opening up the electricity market will help to ensure adequate energy supply, and remove constraints on growth and competition.

## 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.

IP rights are guaranteed by the Industrial Property Act 2007 and the Industrial Property Regulations 2010.

### STRENGTHS

The Government continues to make good on its desire to lay a solid foundation for good governance, democracy, and the rule of law. Accordingly, constitutional, institutional, and legal reforms are underway in line with the National Development Plan. Investor-State disputes can be settled through the national legal system or submitted to international arbitration according to the provisions of the GIEPA Act. The Alternative Dispute Resolution Act of 2005 provides for the enforcement of foreign arbitral awards.

The Constitution guarantees private property rights. Expropriation for reasons of "public interest" is only possible upon the prompt payment of adequate compensation, as determined by a domestic court or another impartial and independent authority. The GIEPA Act provides additional protection against the expropriation of investments. National laws, and the BITs currently in force, protect industrial and IP rights. The Gambia is also a member of the African Regional Intellectual Property Organization (APIRO) since 1986.

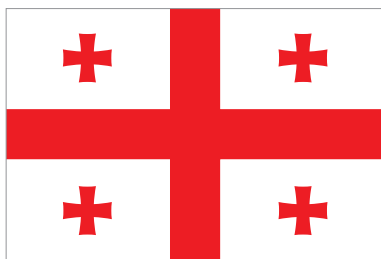
### AREAS FOR IMPROVEMENT

Currently, there is no legally binding timeframe for domestic courts to deliver judgements. The Government should consider introducing provisions for effective case management and for setting definitive timelines that will ensure swift pronouncement of court judgements.

As investments in The Gambia are increasing, the establishment of an independent and impartial body, like an investment ombudsman, could assist foreign investors with potential grievances against public authorities. The existence of such a mechanism can reduce the risk of maladministration and reinforce the confidence of investors.

While the Government is reforming its institutional governance and enhancing the country's democratic values, it could consider enacting a law on the expropriation of property. This law could include provisions on compensation determination and set a timeframe for its payment. It may also define "public interest" to ensure the legitimacy of expropriation decisions.





# Georgia

Population <sup>1</sup>	3,726,549
Area (km <sup>2</sup> ) <sup>1</sup>	69,700
GDP per capita (USD) <sup>1</sup>	4,722.78
TPES (Mtoe) <sup>2</sup>	4.81
Energy intensity (toe/10 <sup>3</sup> 2010 USD) <sup>2</sup>	0.30
CO <sub>2</sub> emissions - energy (MtCO <sub>2</sub> ) <sup>3</sup>	8.72

Data from Orbis Crossborder Investment on energy projects and deals completed between 2015-2020<sup>4</sup>

Target industry	Number of projects and deals	Project/deal type	Project CapEx and deal value (million EUR)
Electric power generation, transmission and distribution	1 deal	acquisition deal	8m EUR total value of deal

Sources:

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

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

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

Georgia's performance is very good on two indicators, good on one indicator, and moderate on one. It has retained a score of 92 on the indicator *rule of law*. Its score on *regulatory environment and investment conditions* has improved by four points and stands at 81. It has maintained a score of 71 on *management of decision-making processes*. Its score on *foresight of policy and regulatory change* has improved by four points to 54.

On a more detailed level, Georgia's overall sub-indicator performance is good. The highest-scoring sub-indicators are *management and settlement of investor-State disputes* and *restrictions on FDI*, at 100 and 90. Its performance on the sub-indicator *respect for property rights* is also very good, with a score of 83, like in 2019. It has once again scored 73 on *transparency*, followed by *regulatory effectiveness* which has improved by eight points, and stands at 72. It has a score of 69 on the sub-indicator *institutional governance*. The score of *communication of vision and policies* is 59. Its performance on *robustness of policy goals and commitments* went up by six points, but remains the lowest at 48.

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

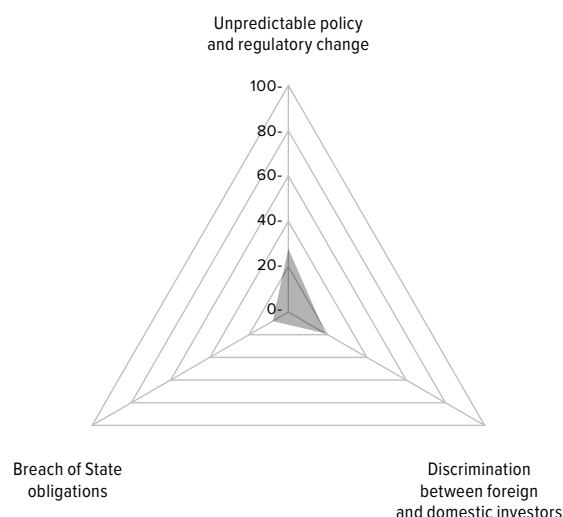
## YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019	2020
Unpredictable policy and regulatory change	32	29	28
Discrimination between foreign and domestic investors	22	20	19
Breach of State obligations	8	8	8

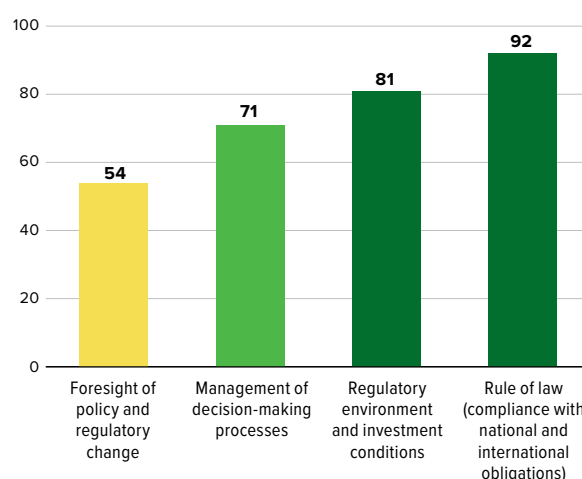
  

INDICATORS	2018	2019	2020
Foresight of policy and regulatory change	46	50	54
Management of decision-making processes	65	71	71
Regulatory environment and investment conditions	77	77	81
Rule of law	92	92	92

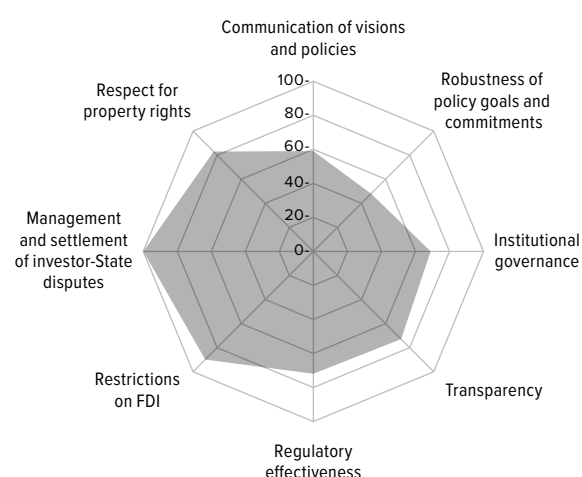
## RISK LEVEL



## INDICATOR PERFORMANCE



## SUB-INDICATOR PERFORMANCE



## Foresight of policy and regulatory change

### QUICK FACTS

The Law on Energy and Water Supply of Georgia was adopted on 20 December 2019.

In December 2018, the Government adopted the Concept Design for the Georgian Electricity Market, which outlines measures towards establishing a competitive electricity market by 2022.

Georgia ratified the Paris Agreement in 2017 and submitted its NDC.

### STRENGTHS

The key priority of Georgia is to meet its electricity demand through local renewable resources, and in turn, reduce its import dependency. To this end, the Government has taken some concrete measures. The Law on the Promotion of Energy Production and Use from Renewable Sources (Renewable Energy Law), adopted in 2019, sets mandatory national targets for renewable energy consumption. The National Renewable Energy Action Plan for 2020 supports the implementation of this Law. The new National Energy Efficiency Action Plan (2019-2020) aims to optimise and reduce energy consumption compared to the business-as-usual scenario. The Government has prepared a ten-year network development plan (2020-2030) to bolster the electricity transmission infrastructure.

The Government has adopted a set of Resolutions to introduce results-oriented policy planning and establish quality assurance mechanisms. Government Resolution no. 35 of 2020 sets the process for conducting regulatory impact assessments. It lists the types of reports to be prepared, the analytical stages, and the submission and reporting rules. Similarly, Resolution no. 629 of 2019 defines the process for developing and approving policy documents, and creates the framework for monitoring and evaluating policy implementation. The Renewable Energy Law mandates that the Government must submit a report to the Energy Community Secretariat on the progress made in the production and use of renewable energy. The report must be submitted once every two years until 31 December 2024.

### AREAS FOR IMPROVEMENT

The adoption of the Energy Efficiency Law in May 2020 is commendable. The Ministry of Economy and Sustainable Development is encouraged to keep up the momentum and ensure that it prepares on time the secondary legislation necessary to implement this law.

The country will benefit from a defined climate change action plan that sets long-term emissions reduction targets and strategies for achieving those targets.

## 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 General Administrative Code 1999 grants access to information held by public authorities.

### STRENGTHS

In the last year, the Georgian Government worked to improve coordination in the policy-making process, particularly on climate change and open governance. The Climate Change Council was established through Government Resolution no. 54 of 2020 to coordinate and facilitate the implementation of the Paris Agreement commitments. Similarly, Resolution no. 110 of 2020 created an Intergovernmental Coordinating Council to promote and coordinate the implementation of the country's open government policy. Efforts were also made to transpose and implement parts of the EU energy acquis. In December 2019, the Parliament of Georgia adopted the Law on Energy Labelling to transpose Directive 2010/30/EU. This Law is intended to ensure compliance with the relevant technical regulations applicable to energy consumer products in the Georgian market.

The Law on Energy and Water Supply reiterates and reinforces the obligations concerning public consultation and hearings stipulated in the General Administrative Code of Georgia of 1999. The Renewable Energy Law requires the Government to provide the public with information on the availability of energy received from all types of renewable sources used in transport, and on environmental benefits. An Official Gazette app has been developed for the iOS and Android platforms to improve access to legal information. Users can now enjoy the services more easily and conveniently.

### AREAS FOR IMPROVEMENT

To deliver high-quality public services efficiently, and streamline regulatory and licensing processes for businesses, the Government may consider setting up a one-stop shop that gives foreign investors assistance in undertaking business locally. The mandate could be vested in the existing investment promotion agency or a separate public entity.

## 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 of Oil and Gas regulates oil and gas operations in accordance with the main directions of State policy set by the Ministry of Economy and Sustainable Development.

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

### STRENGTHS

The Law on Energy and Water Supply has contributed to the development of a more competitive market by unbundling and granting certification to transmission and distribution system operators. It introduces new market players (such as power suppliers, universal service providers, supplier of last resort) and adopts an imbalance settlement mechanism. It has also increased the authority of the GNERC that can now approve the market rules. By the end of 2019, the GNERC made modifications to the Service Quality rules. On 27 March 2020, it approved certification rules for the transmission system operators. In 2019, the Georgian State Electrosystem and Electricity System Commercial Operator founded the Georgian Energy Exchange on a 50-50% co-participation basis.

Foreign investment in the energy sector is encouraged. The share of reinvestments in total FDI increased from 34.6% in 2018 to 48.3% in 2019. The energy sector recorded the second-largest share of FDI, with USD 193.9 million. Per the Renewable Energy Law, the Ministry of Economy and Sustainable Development is preparing support schemes to attract renewable energy investors. Such incentive mechanisms may include tax relief, direct price support schemes, and fixed and variable premium payments, including feed-in tariffs, Contracts for Difference, green certificates or auctions. The Government will approve the final list of support schemes and respective implementation conditions within one year of the adoption of the Law.

### AREAS FOR IMPROVEMENT

The tenure of the GNERC's Chairperson has been decreased from six to three years. The reduction in tenure may be worth reconsidering since it may break the continuum of decision-making.

Although there are no direct restrictions imposed on foreign ownership of land, as per the Law on the Ownership of Agricultural Land, adopted on 25 June 2019, a foreigner may only own inherited agricultural land. In the case of a foreign legal entity, or a legal entity with a foreign shareholding majority, agricultural land ownership is subject to the approval of the Government, based on the investment plan. The Government may consider relaxing these restrictions on foreign investors. Discretionary decision-making should be minimal to retain investor confidence and ensure predictability in rules.

## Rule of law

### QUICK FACTS

Georgia ratified the Energy Charter Treaty in 1995.

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

In the last year, the Government took proactive steps to promote alternative dispute resolution mechanisms. On 7 August 2019, Georgia signed the Singapore Mediation Convention. Moreover, the Parliament of Georgia adopted the Law on Mediation on 18 September 2019. The Law establishes the Georgian Association of Mediators which will set the standards for accreditation of mediators and will maintain a list of accredited mediators. In addition to this, it makes the agreement to mediate enforceable. It also guarantees the suspension of the limitation period during mediation proceedings and the confidentiality of the process.

The Law on the Procedure for the Expropriation of Property for Pressing Social Needs establishes the rules for expropriation in Georgia. It stipulates that expropriation can only occur for the specific public needs mentioned in the Law. It sets out a mechanism for negotiating the valuation and payment of compensation. Investors may approach local courts to review an expropriation, and also request expedited payments. No laws restrict the transfer of technology in the energy sector.

### AREAS FOR IMPROVEMENT

The legal framework protecting foreign investors against expropriation is quite robust. The only point that needs attention is the relatively low coverage of protection given to IP rights against expropriation. While there is no exclusion of IP listed in the relevant legislation, the definitions of "pressing public needs" and "urgent public necessities" relate only to the expropriation of immovable property. In light of this, The Government may consider extending the scope of protection to intangible rights of foreign investors in the national law.



# Greece

Population <sup>1</sup>	10,731,726
Area (km <sup>2</sup> ) <sup>1</sup>	131,960
GDP per capita (USD) <sup>1</sup>	20,316.57
TPES (Mtoe) <sup>2</sup>	23.28
Energy intensity (toe/10 <sup>3</sup> 2010 USD) <sup>2</sup>	0.09
CO <sub>2</sub> emissions - energy (MtCO <sub>2</sub> ) <sup>3</sup>	63.21

Data from Orbis Crossborder Investment on energy projects and deals completed between 2015-2020<sup>4</sup>

Target industry	Number of projects and deals	Project/deal type	Project CapEx and deal value (million EUR)
Electric power generation, transmission and distribution	1 project 3 deals	1 new project 2 acquisition deals 1 minority stake deal	300m EUR total project CapEx 320m EUR total value of deals
Extraction of natural gas and crude petroleum	2 deals	minority stake deals	13m EUR total value of deals
Manufacture of refined petroleum products	1 project	new project	4m EUR total project CapEx

Sources:

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

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

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

Greece has a very good performance on three indicators, and a good performance on one indicator. *Regulatory environment and investment conditions* continues to be the highest-scoring indicator at 92 after increasing by two points. The country has improved its performance on *management of decision-making processes* from 75 to 90. It has maintained a very good score of 82 on the indicator *rule of law*. The score on *foresight of policy and regulatory change* has increased from 69 to 78.

On a more detailed level, Greece's overall sub-indicator performance is very good. The highest-scoring sub-indicator continues to be *regulatory effectiveness* at 94, followed by *transparency* which has gone up from 75 to 92. On the sub-indicator *restrictions on FDI*, it has gained five more points compared to last year and improved its score from 85 to 90. The score on *institutional governance* has increased by 13 points and is now at 88. *Respect for property rights* is at 83, the same as in 2019, while the score on *robustness of policy goals and commitments* has increased from 75 to 81. *Management and settlement of investor-State disputes* is at 80. Its score on *communication of vision and policies* has improved from 63 to 75.

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

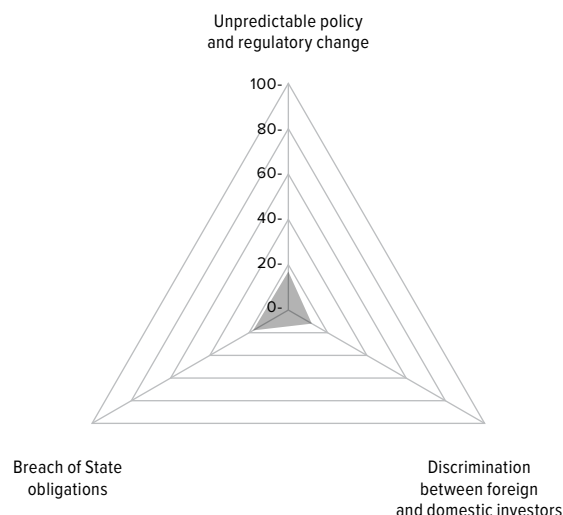
## YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019	2020
Unpredictable policy and regulatory change	31	25	17
Discrimination between foreign and domestic investors	19	18	12
Breach of State obligations	23	18	18

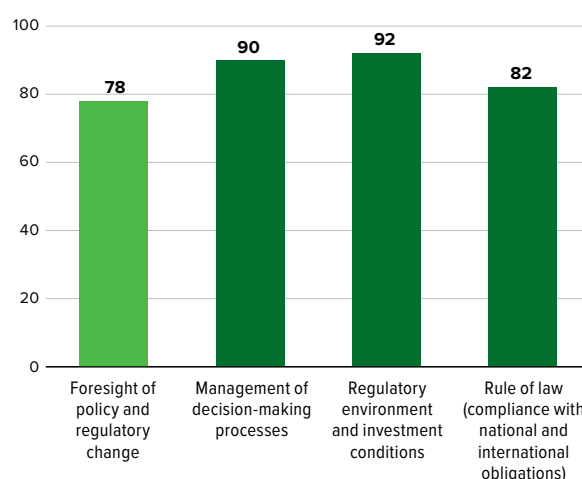
  

INDICATORS	2018	2019	2020
Foresight of policy and regulatory change	54	69	78
Management of decision-making processes	75	75	90
Regulatory environment and investment conditions	90	90	92
Rule of law	77	82	82

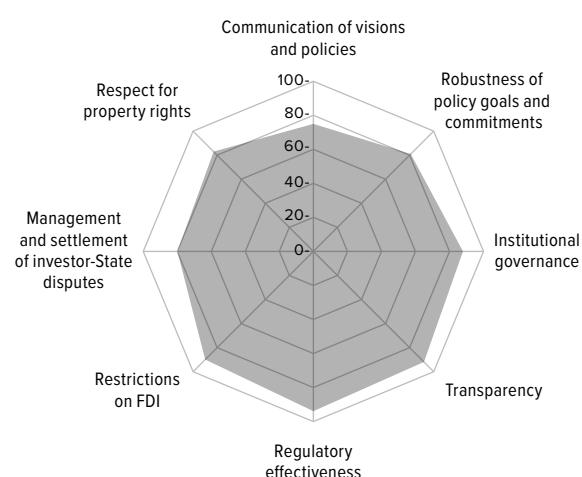
## RISK LEVEL



## INDICATOR PERFORMANCE



## SUB-INDICATOR PERFORMANCE





## Foresight of policy and regulatory change

### QUICK FACTS

In December 2019, Greece adopted the National Energy and Climate Plan (NECP) 2030 and the Long-Term Strategy for 2050.

The National Energy Efficiency Action Plan was adopted in 2017 to implement the national energy efficiency improvement targets.

In 2016, Greece ratified the Paris Agreement as an EU Member State.

### STRENGTHS

Taking account of the European Commission's recommendations, the Government revised the NECP 2030 and adopted the final text. The NECP contains well-articulated and clear goals. It sets an ambitious target for 2030 of at least 42% GHG emission reduction compared to 1990, demonstrating Greece's commitment to protect the environment and address climate change. One of its most important targets is to shut down all the lignite-fired thermal power plants currently in operation by 2023, and put a complete end to the use of lignite for power generation in Greece by 2028. The revised objectives of the NECP also provide for higher renewable energy penetration shares in gross and final energy consumption, and greater energy efficiency improvement that translates into lower forecasts of final energy consumption. Another key priority is to increase energy security by reducing imports and developing domestic energy sources. The Long-Term Strategy for 2050 sets a roadmap on climate and energy issues in the context of the country's participation in the collective goal of a climate-neutral EU by 2050.

The NECP envisages a single governance framework to monitor and assess policy measures in a cohesive manner. A fundamental component of the single governance framework is the integrated monitoring mechanism for the NECP targets, as well as the impact assessment of each policy measure through the use of relevant critical performance indicators. The Government has established the Inter-Ministerial Committee for Energy and Climate to develop and implement the governance framework for the monitoring mechanism.

### AREAS FOR IMPROVEMENT

Following the adoption of the NECP, the Government should develop, as soon as possible, detailed action plans which will guide the implementation of the set goals. The achievement of Greece's ambitious targets within the foreseen timeframe will largely depend on the swift reaction of the concerned authorities, and their ability to set a regulatory and statutory framework to support the implementation of the policy measures.

## Management of decision-making processes

### QUICK FACTS

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

The General Secretariat for Private Investments and Public-Private Partnerships is the one-stop-shop which facilitates the licencing procedure for strategic investments.

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

### STRENGTHS

Coordination between governmental and institutional bodies plays a critical role in the country's governance framework. The Inter-Ministerial Committee for Energy and Climate addresses issues relevant to the Long-Term Strategy for 2050. It comprises officials from multiple ministries and public authorities. Among other things, it formulates the national priorities and guidelines for Greece's energy planning, promotes proposals for energy policies and ensures consultation and coordination at the national and regional level. The Government has also set up an inter-ministerial committee to develop the Just Development Transition Master Plan which will serve as a roadmap towards the post-lignite era. The Government is taking various measures to digitalise public administration and facilitate transactions between the State and businesses. For instance, it has established the Ministry of Digital Governance and adopted Law no. 4608/2019 on the Attraction of Strategic Investments to introduce a safer and more transparent fast-track licencing procedure.

Law no. 4622/2019 on Organisation, Operation and Transparency of Government, Governmental Institutions and Central Public Administration was adopted in August 2019. It includes provisions for improving the legislative process and the impact assessment carried out during the law-proposal preparation phase. According to the Law, the Secretariat General for Legislative and Parliamentary Affairs is responsible for the quality assurance and subsequent approvals of draft laws before their submission to the Parliament. The Secretariat ensures the timely publication of regulatory acts and use of rules of good law-making across the central administration. Under the Law, public consultation is an integral part of the legislative process.

### AREAS FOR IMPROVEMENT

While all legislation is centralised in the Official Gazette, it is challenging to trace law amendments, and users must rely on private legal databases to follow successive changes. To fulfil its mission, the Official Gazette should provide information on the relationship between different pieces of legislation by linking basic acts and related amendments, corrigenda and repeals, or by establishing a nexus between the consolidated resources and the changes they incorporate. This approach will allow users to identify the latest version of laws, and it will facilitate access to updated and accurate information.

## Regulatory environment and investment conditions

### QUICK FACTS

The Regulatory Authority for Energy of the Hellenic Republic (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 provides the framework for licencing in the upstream sector in line with European standards.

### STRENGTHS

Developing the new electricity market model, and making it fully operational, is a top priority for Greece in the immediate future. RAE has a critical role to play in the prompt delivery of this priority. In this context, the Government has adopted Law no. 4643/2019 to strengthen RAE's powers to control and monitor the energy market and to impose sanctions in case of breach of EU or national law. This Law includes provisions which address issues of corporate governance and financial viability of the Public Power Corporation (PPC). It also deals with the restructuring and privatisation of the Public Gas Company (DEPA). The Hellenic Energy Exchange, in cooperation with the Ministry of Environment and Energy, RAE and the Natural Gas Transmission System Operator (DESFA), is finalising a gas trading platform plan with the aim to start negotiations on the spot market by 2021. The gas trading platform will be operated and managed by the Hellenic Energy Exchange and will create the basis for Greece becoming a regional gas hub.

The Government is committed to supporting and encouraging foreign investment. Law no. 4608/2019 on the Attraction of Strategic Investments was adopted to establish a more attractive and effective framework for prospective investors. It offers a wide range of benefits which include tax incentives, spatial development incentives, and expenditure grants. The new framework aims to upgrade all the sectors of the economy and increasing employment opportunities through the establishment of investments. Moreover, capital transfer restrictions, imposed in 2015, were entirely removed as of September 2019 by Law no. 4624/2019.

### AREAS FOR IMPROVEMENT

The Government should implement measures that will reduce RAE's consistently increasing workload on project licencing, especially for renewable energy projects. The application of a simplified, efficient and fast licencing process will allow RAE to manage its resources better and encourage the flow of foreign funds in the domestic market. A positive step in this direction was taken in May 2020, with the adoption of Law no. 4685 to modernise environmental legislation.

## 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.

### STRENGTHS

Law no. 4635/2019 introduces mandatory electronic filing and processing of legal documents by the administrative courts. It also gives parties to judicial proceedings remote access to case files. These new provisions, effective from January 2021, will increase the speed and efficiency of administrative justice. The new Law no. 4640/2019 on mediation abolishes previous legislation and extends the requirement of mandatory initial mediation to a broad category of civil and commercial law disputes of national and cross-border nature. It further harmonises Greek legislation with the provisions of Directive 2008/52/EC on Certain Aspects of Mediation in Civil and Commercial Matters.

Expropriation is permitted only upon the payment of effective compensation, within 18 months from the publication of a court decision regarding its determination. IP rights are protected through several laws and BITs to which Greece is a party. Additionally, the European Union Intellectual Property Office (EUIPO) protects the IP rights of businesses and innovators across the EU and beyond. The Greece-Kuwait BIT, which came into force in 2019, protects all types of investment from expropriation, including IP rights. In general, technology transfer is not restricted.

### AREAS FOR IMPROVEMENT

While Greece is making efforts to accelerate judicial proceedings, it should make greater efforts to lower the domestic courts' caseload. For instance, mediation, currently regulated only for private civil and commercial cases, should also be encouraged in disputes involving public entities.

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



# Guyana

Population <sup>1</sup>	779,004
Area (km <sup>2</sup> ) <sup>1</sup>	214,970
GDP per capita (USD) <sup>1</sup>	4,979.00
TPES (Mtoe) <sup>2</sup>	N/A
Energy intensity (toe/10 <sup>3</sup> 2010 USD) <sup>2</sup>	N/A
CO <sub>2</sub> emissions - energy (MtCO <sub>2</sub> ) <sup>3</sup>	N/A

Data from Orbis Crossborder Investment on energy projects and deals completed between 2015-2020<sup>4</sup>

Target industry	Number of projects and deals	Project/deal type	Project CapEx and deal value (million EUR)
Extraction of natural gas and crude petroleum	1 project	new project	4m EUR total project CapEx
Support activities for other mining and quarrying	1 deal	acquisition deal	Deal value n.a.

Sources:

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

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

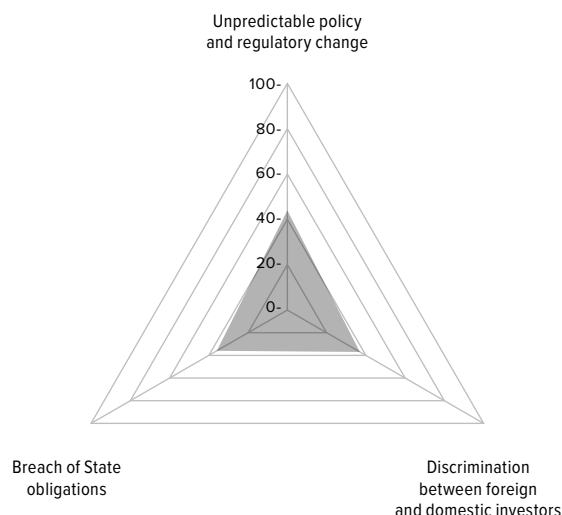
Among the three risks assessed in EIRA, *breach of State obligations* and *discrimination between foreign and domestic investors* are lower compared to *unpredictable policy and regulatory change*.

Guyana's performance is good on three indicators, and moderate on one indicator. It has a score of 64 on the indicator *rule of law*, 63 on *management of decision-making processes*, and 62 on *regulatory environment and investment conditions*. Its score on *foresight of policy and regulatory change* is 41.

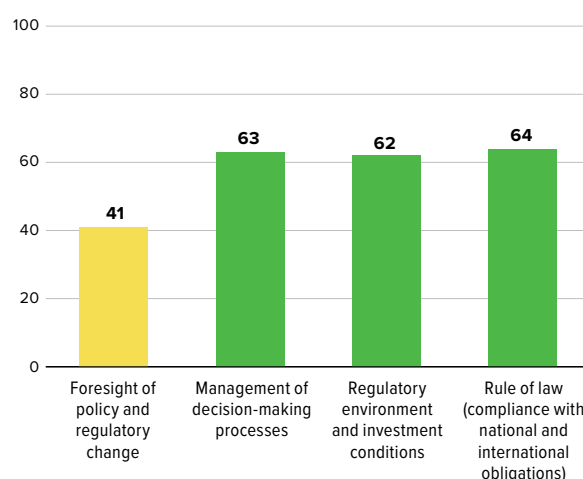
On a more detailed level, Guyana's sub-indicator performance is moderate. The highest-scoring sub-indicator is *management and settlement of investor-State disputes* at 70, followed by *regulatory effectiveness* at 65. The sub-indicators *institutional governance* and *transparency* are both at 63. Its performance on the indicators *restrictions on FDI* (60), *respect for property rights* (58), and *communication of vision and policies* (50) is moderate. On *robustness of policy goals and commitments* it has a low score of 31.

While Guyana has the relevant policies and measures in place, there is potential for improvement. Attention should be given to increasing the robustness of policy goals and commitments.

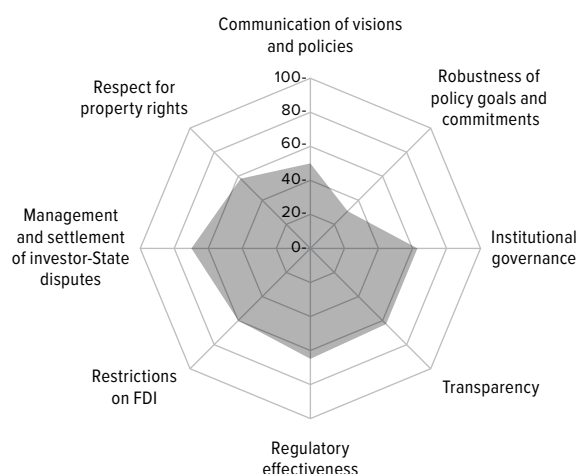
## RISK LEVEL



## INDICATOR PERFORMANCE



## SUB-INDICATOR PERFORMANCE



## Foresight of policy and regulatory change

### QUICK FACTS

The Green State Development Strategy 2020-2040 states Guyana's long-term development agenda towards a green economy.

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

### STRENGTHS

The Green State Development Strategy 2020-2040 sets ultimate targets for the energy sector and provides the overarching framework for the national energy policy. The Strategy aims to create a modern energy sector in Guyana. One of its central targets is the transition to 100% renewable electricity generation by 2025. Within the same timeframe, the Strategy seeks to achieve 100% grid-connectivity for rural households and uninterrupted 24-hour electricity supply to the main regional towns. A Draft National Energy Policy was prepared in 2017 to update the Energy Policy 1994. In 2018, the Government organised public consultations on this draft policy. The overall goals of the draft policy are to secure a stable, reliable, and economical supply of energy, reduce dependency on imported fuels, promote the use of domestic resources, and ensure the environmentally sound and sustainable use of energy. The country also has in place the Guyana Power Sector Policy 2010 with a 15-year long-term outlook. This policy provides measures for energy efficiency and conservation, reduction of distribution and transmission losses, expansion of solar electricity generation, hydropower, wind and bio-fuel sources, and access to financing through the Clean Development Mechanism.

The Ministry of Public Infrastructure and the Guyana Energy Agency (GEA) ensure the implementation of the energy policy. The Ministry of the Presidency, and its Department of Energy, monitor the petroleum exploration sector. Additionally, the Guyana Geology and Mines Commission (GGMC) also monitors oil and gas activities. The Office of Climate Change (OCC) leads the development and implementation of national policies and actions on climate change.

### AREAS FOR IMPROVEMENT

The Government must adopt a new national energy policy as soon as possible. Although the Green Development Strategy describes Guyana's overall objectives for the energy sector, the lack of a specific policy may hinder the sector's development and the achievement of its ultimate goals. The country needs to set detailed short-, medium- and long-term targets. Quantifiable and time-bound targets will ensure that implementation measures have an impact 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

GEA, upon the request of the Minister of Public Infrastructure, develops the national energy policy.

The Ministry of Business formulates policies for promoting and facilitating private investment.

The Guyana Office for Investment (GO-Invest), established in 1994 as a semi-autonomous body, advises the Government on national investment policies.

Guyana enacted the Access to Information Act 2011 to secure access to information held by public authorities.

### STRENGTHS

The legislative power in Guyana is vested in the National Assembly. Bills passed by the National Assembly must receive the President's assent to become law. The Investment Promotion Council is established by the Investment Act 2004 to ensure cross-sectoral cooperation in encouraging investments. The Council comprises officials from government ministries and agencies, as well as members of private business organisations. The Guyana Office for Investment serves as the primary point of contact for investors and is responsible for liaising with government agencies throughout the investment process. It provides information necessary to commence business operations in Guyana and assists with the establishment of investments.

The Access to Information Act 2011 sets the criteria to classify information as confidential and restricting access to it. The Natural Resource Fund Act 2019 was passed by the Parliament in January 2019 to increase transparency and accountability. The Act establishes a Natural Resource Fund to efficiently manage the natural resource wealth of Guyana according to international best practices, including the Santiago Principles. Guyana is also trying to improve transparency through its EITI membership. For example, it intends to release data on the revenues expected from the new oil and gas industry. The Public Procurement Commission was established in 2016 as an independent body to ensure fair, competitive and cost-effective procurement of goods and services. Efforts are also underway to strengthen the legal framework discouraging money laundering and financial crimes.

### AREAS FOR IMPROVEMENT

To further facilitate new investments, the Government could consider organising a one-stop shop or assign this function to the Guyana Office for Investment. The one-stop shop may act as a single point of entry, either physical or electronic, for the submission and handling of all documents necessary for the establishment of investments in the country. This approach will mitigate complex administrative procedures which may impede the investment process. To achieve its purpose, 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 Public Utilities Commission (PUC) controls and supervises the public utilities in all sectors, including electricity.

The Investment Act 2004 was enacted to attract and facilitate investment.

### STRENGTHS

The Ministry of Public Infrastructure is the principal regulatory authority for the electricity sector. Its responsibilities include granting licences to public utilities and independent power producers and approving the development and expansion plans, as well as operating standards and performance targets for the Guyana Power & Light Inc., the principal supplier of electricity. The Minister of Public Infrastructure also adopts regulations on petroleum and petroleum products. GEA can formulate and implement measures for improving the energy market and sources, with the approval of the Minister of Public Infrastructure. The GGMC manages mining in Guyana under the Mining Act 1989. The Act states that before any exploration activity can begin, including for petroleum, the contract holder must obtain the necessary approvals from the GGMC.

Guyana offers a favourable business environment for foreign investment. Foreign investors receive the same treatment as domestic investors. Guyana provides an array of investment incentives, including a flat business tax rate, tax holidays, waivers of customs duties, and export tax allowances. Moreover, there are no currency restrictions, or foreign exchange controls applied, and foreign investors can freely transfer capital, payments and profits outside the country.

### AREAS FOR IMPROVEMENT

The Government should expedite the adoption of the legal and regulatory framework to support the implementation of the Local Content Policy 2020. Currently, the Ministry of the Presidency decides whether an investor's plan conforms to the Policy. To facilitate the active participation of the Guyanese workforce and suppliers in the petroleum sector, the Government must develop specific criteria for the investors. Thorough technical studies will help assess the potential future demand and supply of goods and expertise and set realistic targets that will benefit the local industry, economy, and society.

## Rule of law

### QUICK FACTS

Guyana ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States in 1969.

Guyana signed the Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 2014.

Arbitration and mediation in Guyana are governed by the Arbitration Act 1916 and the Alternative Dispute Resolution Act 2010.

### STRENGTHS

The Investment Act 2004 stipulates that in the event of a dispute between an investor and the Government on an investment enterprise, the parties may submit it to arbitration under the Arbitration Act 1916 or to the International Centre for Settlement of Investment Disputes. Domestic law does not require the exhaustion of local remedies before going to international arbitration. Final foreign judgements are recognised and enforced in the courts of Guyana through the Foreign Judgments (Reciprocal Enforcement) Act 1961. The country has not made retroactive changes to the law in the last five years.

The Investment Act 2004 protects the property rights of investors. Compulsory acquisition is permitted only in accordance with the procedures established by the law, on a non-discriminatory basis, and with the prompt payment of adequate compensation. Intellectual and industrial property of foreign investors is protected as a form of investment in all five BITs currently in force. In general, there are no restrictions on the transfer of technology.

### AREAS FOR IMPROVEMENT

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

Guyana should enhance its efforts to develop the efficiency of the judiciary and reduce court delays. The Government needs to increase the human resources and institutional capacity of the court system. It can introduce electronic registry systems and document submission to facilitate communication and information exchange between the courts and the disputing parties. The Government may also relieve the pressure on courts by further developing and using alternative dispute resolution mechanisms.





# Jordan

Population <sup>1</sup>	9,956,011
Area (km <sup>2</sup> ) <sup>1</sup>	89,320
GDP per capita (USD) <sup>1</sup>	4,241.79
TPES (Mtoe) <sup>2</sup>	9.27
Energy intensity (toe/10 <sup>3</sup> 2010 USD) <sup>2</sup>	0.30
CO <sub>2</sub> emissions - energy (MtCO <sub>2</sub> ) <sup>3</sup>	25.55

Data from Orbis Crossborder Investment on energy projects and deals completed between 2015-2020<sup>4</sup>

Target industry	Number of projects and deals	Project/deal type	Project CapEx and deal value (million EUR)
Electric power generation, transmission and distribution	1 project 1 deal	new project institutional buy-out deal	170m EUR total project CapEx Deal value n.a.

Sources:

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

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

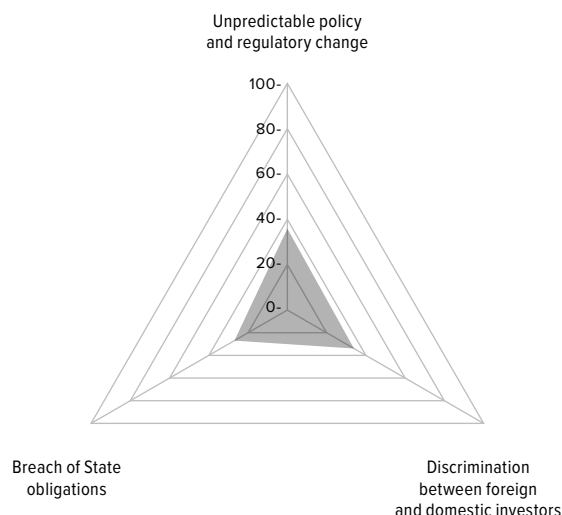
Among the three risks assessed in EIRA, *breach of State obligations* and *discrimination between foreign and domestic investors* continue to be lower than *unpredictable policy and regulatory change*.

Jordan's performance is good on two indicators, and it is moderate on two indicators. *Rule of law* continues to be the highest-scoring indicator at 73. On *management of decision-making processes*, its score has improved by one point and now stands at 68. It has maintained a moderate score of 56 on the indicator *regulatory environment and investment conditions*. Its performance on *foresight of policy and regulatory change* has gone up from 49 to 51.

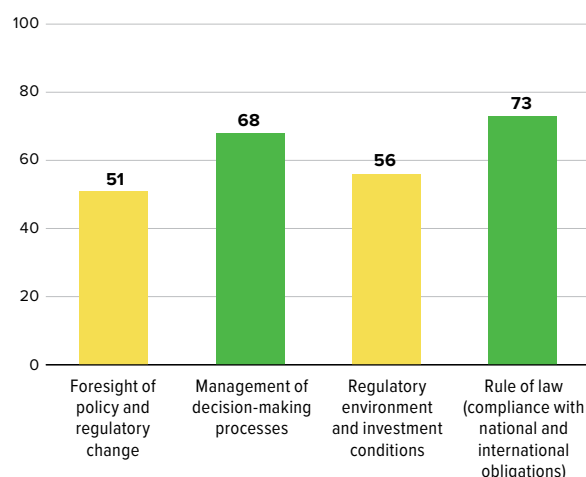
On a more detailed level, Jordan's overall sub-indicator performance is good. The highest-scoring sub-indicators are once again *management and settlement of investor-State disputes* (80) and *institutional governance* (75). Next are the indicators *respect for property rights* and *regulatory effectiveness*, both at 67. Its performance on *transparency* has improved by four points and stands at 62. Following this is *communication of vision and policies*, on which the score has gone up from 54 to 57. On *restrictions on FDI* it has the same score as last year (45). *Robustness of policy goals and commitments* remains the lowest-scoring sub-indicator with a moderate score of 44.

While Jordan has the relevant policies and measures in place, there is potential for improvement. Attention should be given to enhancing the robustness of policy goals and commitments.

## RISK LEVEL



## INDICATOR PERFORMANCE



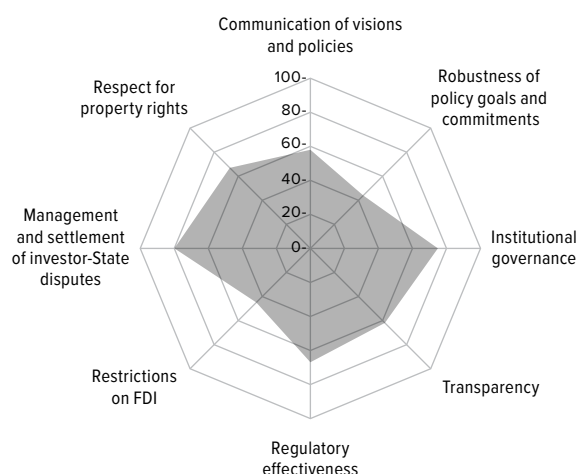
## YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019	2020
Unpredictable policy and regulatory change	39	37	36
Discrimination between foreign and domestic investors	37	35	34
Breach of State obligations	31	27	27

INDICATORS	2018	2019	2020
Foresight of policy and regulatory change	49	49	51
Management of decision-making processes	64	67	68
Regulatory environment and investment conditions	56	56	56
Rule of law	69	73	73

## SUB-INDICATOR PERFORMANCE



## Foresight of policy and regulatory change

### QUICK FACTS

The Jordan National Energy Strategy Plan 2007-2020 and its updated version, the National Energy Strategy 2015-2025, set the priorities for the energy sector's development.

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

On 7 July 2020, the Ministry of Energy and Mineral Resources (MEMR) launched the Energy Sector Strategy for the years 2020-2030.

### STRENGTHS

The new Energy Sector Strategy for 2020-2030 intends to increase the share of local renewable energy sources in electricity generation to more than 48%. It also aims to reduce foreign fuel imports and steer the country on a more self-sufficient path. In 2019, several solar PV IPP projects, such as the 50 MW Risha project, the 40 MW East Amman project, the 51 MW Al-Safawi project, the 5 MW Al-Azraq project, and the 40 MW South Amman project, commenced operations. Moreover, the 89.1 MW Al-Fujaij wind IPP project started commercial operations. Improving energy efficiency is a high priority for the Government. The country's total energy losses are falling slowly but consistently. The combined-cycle gas turbine in Zarqa of 485 MW has been commissioned to replace the now obsolete Hussein Thermal Power Station. The Zarqa project supports the national target of increasing power generation capacity by 40% in 2020. The first oil shale fueled power plant of Jordan, with a generation capacity of 470 MW, will commence by the end of 2020, contributing to 15% of electrical energy.

The MEMR is ably monitoring the overall implementation of the country's energy strategy. For 2019-2020, it disseminated the national statistics on the country's annual energy balance, final energy consumption, primary energy supply, the cost of consumed primary energy, and daily peak load. The Department of Statistics website has exhaustive information on the economic indicators for every quarter of 2019 and 2020. The MEMR and the Energy and Mineral Regulatory Commission (EMRC) websites have published an assessment of the targets achieved in 2019, and a list of implemented and potential projects.

### AREAS FOR IMPROVEMENT

Since 9 January 2019, the MEMR has suspended new applications for renewable energy projects exceeding 1 MW until it finalises technical studies on the grid capacity and adopts the national energy strategy for 2030. Now that it has published the long-term energy strategy for 2020-2030, the MEMR must conclude its technical studies on the grid capacity within a specific time-frame to promote investor confidence. This way, the Government and potential investors will have greater visibility about the future outlook of the energy sector. It will also help to avoid the risk of unexpected regulatory adjustments at a later stage.

## Management of decision-making processes

### QUICK FACTS

The MEMR formulates and implements energy policies and laws.

The Access to Information Act 2007 establishes the procedure for obtaining information from public authorities.

### STRENGTHS

The Government of Jordan is undertaking a series of ambitious economic reforms to curb the growing public debt, strengthen financial stability and stimulate investment. The Government has also reaffirmed its commitment to the decentralisation project. Local councils are currently carrying out technical studies to address the challenges in implementing the project. The new Ministry of Digital Economy & Entrepreneurship was created in May 2019. One of the priorities in the Ministry's 2019-2020 Annual Plan is to simplify procedures that enable companies to establish and develop investment projects.

The Government has amended the Integrity and Anti-Corruption Law 2016 to improve the accountability of public institutions. The 2020 national budget of Jordan, and the new Income Tax Law 2018, aim to root out tax evasion and increase the national revenue, thereby reducing the public debt. To ensure greater transparency in public procurement, the Unified Procurement By-Law of 2019 establishes a single competent authority to deal with public sector tenders and procurement. The Government continues to improve and maintain its open data website portals. As suggested in EIRA 2018 and 2019, the Legislative and Opinion Bureau has launched an updated website that is user-friendly, contains updated tools and is available in a foreign language. It gives access to the latest judicial decisions, draft laws, by-laws, regulations as well as an exhaustive collection of Jordanian legislation.

### AREAS FOR IMPROVEMENT

To improve governance, the Government of Jordan has introduced important political reforms, such as the enactment of the Decentralization Law 2015, the Municipalities Law 2015 and amendments to the Elections Law 2016. The Government's endeavours are commendable, and it should continue with the necessary institutional reforms that will encourage participatory decision-making, and support the decentralisation and electoral reform.

The Government has introduced a number of energy reforms, such as the recently enacted Oil Derivatives Law 2018 and the Natural Resources Law 2018. However, it still needs to update some critical legislation and policies, such as the National Energy Efficiency Plan 2018-2020 and the Law on Guarantee of Access to Information 2007. The Government is encouraged to finalise the revised versions of these documents through the participation of concerned State and non-State actors.

## Regulatory environment and investment conditions

### QUICK FACTS

The EMRC is the national regulator for all energy activities. The National Electric Power Company (NEPCO) is the sole buyer of electricity, which it sells to the operators of the distribution networks.

The Regulation for Organising Non-Jordanian Investments No. 77 of 2016, as amended on 16 June 2020, lists the economic activities that non-Jordanians investors are allowed to undertake.

### STRENGTHS

The Government is undertaking reforms to reduce the debt of NEPCO and promote private investment. It intends to restructure the tariff-adjustment mechanism to ensure the sustainability of NEPCO's operations. The Government is also implementing a set of cost-saving measures and removing cross-subsidies in the sector. Reduced electricity costs for the business sector will bring relief to large consumers that bear high costs to support cross-subsidies. The Government has set a fixed value for the tax on oil derivatives, instead of calculating a percentage of the current price. Through this, it aims to protect consumers from the impact of increased tax amounts if global oil prices rise.

The Government has waived fees on real estate transactions to encourage investment. It has also amended the Insolvency Law 2018 so that non-performing companies may leave the market smoothly. The amendments also help viable, but financially distressed, firms to restructure their operations and debt. The Ministry of Planning and International Cooperation intends to relax foreign ownership restrictions in specific sectors. In February 2020, the Jordanian-Czech Business Forum on investment in transformational energy resources was organised. Its purpose was to enhance bilateral relations between the countries and to highlight investment opportunities in both countries.

### AREAS FOR IMPROVEMENT

The Government should implement a symmetrical tariff-adjustment mechanism that meets the requirements of the new preliminary agreement under the Extended Fund Facility of the IMF. The modified tariff must be sustainable for local businesses and families, otherwise, it will have to be revised again, and this may result in regulatory uncertainty. The Government should already conduct technical studies on how it will protect low income and vulnerable households from the impact of the inevitable tariff hike.

The MEMR should remove the temporary suspension on the issuance of permits for specific renewable projects. The status of projects with preliminary approvals and those under development should also be clarified publically to boost confidence. Finally, the Jordan National Renewable Energy Action Plan should be adopted as soon as possible so that investors know the Government's expectations and strategy.

## Rule of law

### QUICK FACTS

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

The Constitution of Jordan 1952 grants protection against the expropriation of property.

### STRENGTHS

The Government is committed to reforming its judicial processes. Amendments introduced to the Insolvency Law 2018 allow the enforcement of a foreign judgement on insolvency through Jordanian Courts, thereby increasing the scope of foreign investment protection. There were no retroactive changes introduced to legislation in the last year. Domestic courts generally enforce foreign judgements, except for reasons stipulated in the law. The Arbitration Law 2001 grants foreign investors the right to third-party arbitration within and outside the country.

Jordan continues to uphold the property rights of investors. While there has been no reform or amendment to the expropriation provisions, the current regime provides a degree of protection to investors. 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 IP. The Jordan Enterprise Development Corporation, in collaboration with Italy, Greece, Spain and Tunisia, has launched an ambitious programme to upgrade IP practices of small and medium enterprises.

### AREAS FOR IMPROVEMENT

An investment ombudsman institution may become an effective channel for resolving deadlocks between investors and public authorities on matters of taxation, customs, labour, construction, licencing, and land. It may also have mediation functions to facilitate time- and cost-effective dispute settlement. The Government may also seek guidance from the Energy Charter Model Instrument on Management of Investment Disputes, which aims to assist States in handling investment disputes while keeping in mind with their own particular needs and circumstances.

The Government may amend the Investment Law 2014 and the Expropriation Law 1984 to identify and list the "public interest" activities for which State authorities can expropriate private property and assets. Moreover, there should be a legally binding timeline for paying compensation, and an explanation of the acquired property's intended use. For clarity, there must be explicit mention that any act of expropriation will be non-discriminatory.



# Kazakhstan

Population <sup>1</sup>	18,272,430
Area (km <sup>2</sup> ) <sup>1</sup>	2,724,902
GDP per capita (USD) <sup>1</sup>	9,814.79
TPES (Mtoe) <sup>2</sup>	84.99
Energy intensity (toe/10 <sup>3</sup> 2010 USD) <sup>2</sup>	0.43
CO <sub>2</sub> emissions - energy (MtCO <sub>2</sub> ) <sup>3</sup>	255.77

Data from Orbis Crossborder Investment on energy projects and deals completed between 2015-2020<sup>4</sup>

Target industry	Number of projects and deals	Project/deal type	Project CapEx and deal value (million EUR)
Extraction of natural gas and crude petroleum	2 deals	1 acquisition deal 1 joint venture deal	Deal value n.a.
Support activities for petroleum and natural gas extraction	3 deals	2 acquisition deals 1 joint venture deal	168m EUR total value of deals
Manufacture of refined petroleum products	1 project	new project	78m EUR total project CapEx
Mining of uranium and thorium ores	1 project	new project	1000m EUR total project CapEx

Sources:

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

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

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

Kazakhstan has a moderate performance on two indicators, and it has a good performance on the other two. The country has improved its score in *management of decision-making processes*, which now stands at 78. Its score on *rule of law* is once again 63. Its score on *foresight of policy and regulatory change* is the same as last year (53). On the indicator *regulatory environment and investment conditions* it has maintained a score of 44.

On a more detailed level, Kazakhstan's overall sub-indicator performance is good. The highest-scoring sub-indicator is *transparency* at 81, followed by *management and settlement of investor-State disputes* and *institutional governance*, both at 75. On *communication of vision and policies*, it has again scored 63. Its score on *restrictions on FDI* and *respect for property rights* stands at 50, respectively. Next is the sub-indicator *robustness of policy goals and commitments* at 42. *Regulatory effectiveness* is the lowest-scoring sub-indicator at 37.

While Kazakhstan has the relevant policies and measures in place, there is potential for improvement. Attention should be given to strengthening the country's regulatory effectiveness.

## YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019	2020
Unpredictable policy and regulatory change	37*	38*	36
Discrimination between foreign and domestic investors	37*	41*	39
Breach of State obligations	38*	38*	38

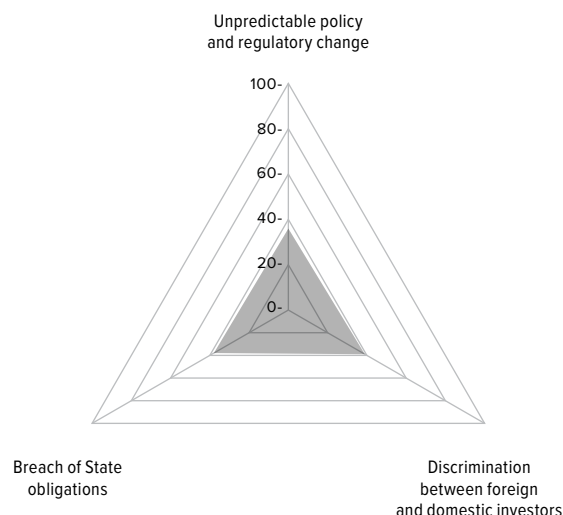
  

INDICATORS	2018	2019	2020
Foresight of policy and regulatory change	53	53	53
Management of decision-making processes	74	72	78
Regulatory environment and investment conditions	54	44	44
Rule of law	63*	63*	63

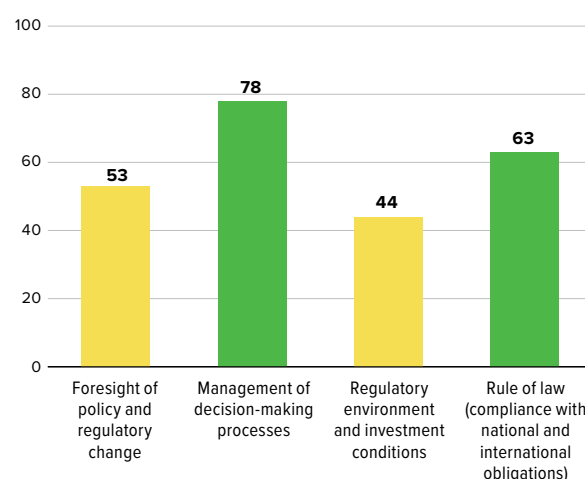
\*These numbers have been adjusted due to identified errors in previous editions

## COUNTRY PROFILES

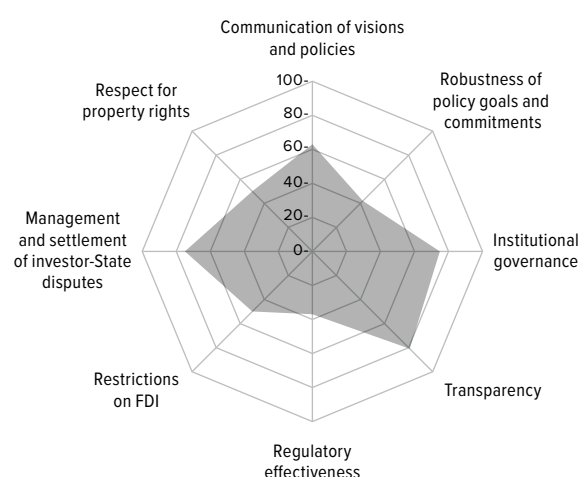
## RISK LEVEL



## INDICATOR PERFORMANCE



## 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. The Government has developed the Strategy for the period until 2030 (announced in 1997) and the period until 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 December 2016.

### STRENGTHS

Kazakhstan has committed to generate half its energy from renewables by 2050. In keeping with this commitment, the country doubled its capacity of existing renewable energy facilities to 1,050.1 MW in 2019. Renewables accounted for 2.3% of the total electricity generated in 2019. There are new wind parks and solar plants, with a total capacity of 150 MW, planned for 2020. Moreover, international donors have pledged fresh funds to support transmission and distribution, and renewable projects that will facilitate the trade of surplus electricity, improve regional energy security, and reduce reliance on external actors. The Government anticipates that these initiatives will reduce CO<sub>2</sub> emissions by at least 500,000 tonnes per year, and in turn, help to address the implications of climate change.

The Ministry of Energy is the lead authority for monitoring the Government's energy strategy. International partners oversee the realisation of specific projects, while the Council for the Green Economy Transition advises the Ministry of Energy on future policies. The Government is currently assessing the implementation of the Concept for the Transition to Green Economy because its first phase of targets will end in 2020. It plans to integrate environment- and climate-related strategic documents in the revised Concept to produce a single, comprehensive strategy.

### AREAS FOR IMPROVEMENT

The Government's efforts to ensure a larger share of renewable energy in the generation mix are commendable. However, given the large number of planned mining and petrochemicals projects and the high energy-intensity of the sector, a more coordinated approach should be taken towards the overall strategic planning.

Institutional reforms are needed to ensure the substantive independence of the monitoring framework currently in place. For better and transparent planning, all interested individuals and organisations should be able to review the progress achieved and provide feedback to the Government on how to improve implementation processes.

## Management of decision-making processes

### QUICK FACTS

The Ministry of Energy is the leading policy-maker for the energy sector.

In 2019, the Presidential Decree "On measures for further improvement of the system of public administration of the Republic of Kazakhstan" was adopted.

The general process of developing national legislation and public consultations is defined in the Law "On Legal Acts" of 2016.

### STRENGTHS

The Government is determined to carry forward its public sector transformation agenda. In 2019, there were several institutional reconfigurations, including the creation of a new Ministry of Ecology, Geology and Natural Resources that holds the environment-related divisions formerly housed in the Ministry of Energy and the Ministry of Agriculture. After consolidating several State authorities and setting their respective mandates, the Government is now pursuing further reforms to curtail bureaucracy and to digitalise its economy per the "Digital Kazakhstan" economic development strategy.

The Government is taking significant steps to improve the transparency and accountability of State authorities. A market auction mechanism, characterised by openness, security, and simple implementation rules, has already been set up for the selection of renewable energy projects. All the information regarding public procurement and tenders is available online. Starting in 2019, the Ministry of Industry and Infrastructure Development (MIID) disclosed for the first time beneficial ownership data on its website. It also intends to establish a beneficial ownership register in 2020-2021 as part of a digital data bank. In December 2019, the Government launched a pilot project called "budget with wide public participation". The Ministries of National Economy and Finance and the National Bank will develop a unified digital register of external debt by the end of 2020.

### AREAS FOR IMPROVEMENT

A significant gap exists between the country's CO<sub>2</sub> reduction goals and the efforts towards their achievement. The Government should set up tracking and verification mechanisms for all sectors of the economy. It should also direct more resources to the decommissioning of old, inefficient units, as well as require environmental impact assessments for all projects. These measures will facilitate and allow Kazakhstan to achieve the ambitions stated in its NDC.

## Regulatory environment and investment conditions

### QUICK FACTS

The Ministry of Energy is vested with regulatory responsibility in the electric power, oil and gas sub-sectors.

The MIID is authorised to grant and terminate subsoil use rights for solid minerals, except uranium.

The Committee for Regulation of Natural Monopolies is the key regulator of natural monopolies. The Committee has been divided into two: Committee for Regulation of Natural Monopolies and Committee for Protection of Competition and Consumer Rights, both under the Ministry of National Economy.

The Entrepreneurial Code 2015 provides for non-discrimination between domestic and foreign investors.

### STRENGTHS

The Ministry of Energy is one of the first in the region to introduce a competitive wholesale electricity market, including a liquid spot market. The Government has taken the first steps towards changing the long-term tariff regulation to stimulate the economic involvement of utility firms and reduce their operating costs. A new performance-based tariff methodology, envisaged in the Law “On Natural Monopolies”, has been approved by the tariff regulator. The new methodology will apply to the water, district heating and electricity distribution sectors most likely before 2021.

Improving Kazakhstan’s investment climate and the business environment is a national priority. Over the past two years, the Government has introduced legislative changes to boost investment in infrastructure development, and geological exploration and technology. It has enacted a new public-private partnership law and improved the legal framework on concessions by amending the Law “On Natural Monopolies” and the Subsoil and Subsoil Use Code. The said amendments provide fairer bidding opportunities, simplified licensing procedures such as online services, and delineate the State’s role, especially with regards to its pre-emptive purchase rights.

### AREAS FOR IMPROVEMENT

The Government should consider gradually phasing-out the regulatory responsibilities of ministries. It should reassess organisational aspects of the current regulatory structure, such as the employment duration of key staff members, the composition of the executive board and its budget, and update it in line with international best practice.

There should be efforts made to limit State-led sector management and to implement the multi-market model (capacity market, bilateral, spot, balancing, and ancillary services) so that the power sector is more competitive and appealing to investors.

The Government should proceed with the phasing out of its local goods and services requirements, in line with its international 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

Over the past years, State authorities have adopted an increasingly pro-arbitration stance. The Astana International Financial Centre (AIFC), incorporating the AIFC Court and the International Arbitration Centre (IAC), is intended to become an arbitration hub in the region. As an arbitral institution, the IAC is not limited to administering disputes arising out of transactions within the AIFC but is available for dispute settlement generally. It has state-of-the-art rules and a panel of international arbitrators and mediators. The decisions are directly enforceable in the territory of Kazakhstan. In 2019 the Law “On Arbitration” was amended to ease the requirements for arbitration agreements, limit the grounds for the annulment of awards, internationalise the grounds for refusing the recognition of awards, and restrict State parties from retracting their consent to arbitrate.

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 IP rights. Recently introduced amendments to the national trademarks and service marks regime provide, among other things, stricter time limits for examining applications, and for their mandatory publication after the preliminary examination. The Government has adopted initiatives for the establishment and operation of the Eurasian technology transfer network, in the context of the Eurasian Economic Union.

### AREAS FOR IMPROVEMENT

The Law “On Investment” of 2014 established the institution of Investment Ombudsman, in line with international best practice. Currently, the Prime Minister is responsible for this institution. However, the Government should consider making this a fully independent institution to ensure effective and fair decisions, and to promote confidence in private investors.

The Government should set the core requirements for fair and rightful expropriation, and introduce a robust compensation procedure with a specified timeframe for its payment.



# Kenya

Population <sup>1</sup>	51,393,010
Area (km <sup>2</sup> ) <sup>1</sup>	580,370
GDP per capita (USD) <sup>1</sup>	1,710.51
TPES (Mtoe) <sup>2</sup>	27.04
Energy intensity (toe/10 <sup>3</sup> 2010 USD) <sup>2</sup>	0.47
CO <sub>2</sub> emissions - energy (MtCO <sub>2</sub> ) <sup>3</sup>	16.26

Data from Orbis Crossborder Investment on energy projects and deals completed between 2015-2020<sup>4</sup>

Target industry	Number of projects and deals	Project/deal type	Project CapEx and deal value (million EUR)
Electric power generation, transmission and distribution	3 projects	new projects	51m EUR total project CapEx

Sources:

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

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

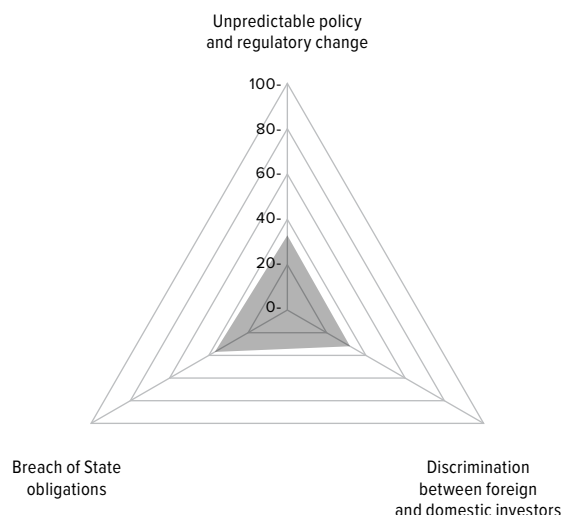
Among the three risks assessed in EIRA, *discrimination between foreign and domestic investors* is the lowest, followed by *unpredictable policy and regulatory change*, and *breach of State obligations*.

Kenya has a good performance on three indicators, and a moderate performance on one indicator. It has once again scored 78 on the indicator *management of decision-making processes*, and 63 on *rule of law*. On *regulatory environment and investment conditions*, its score has increased by two points and now stands at 62. Its score on *foresight of policy and regulatory change* has improved by a point and is at 59.

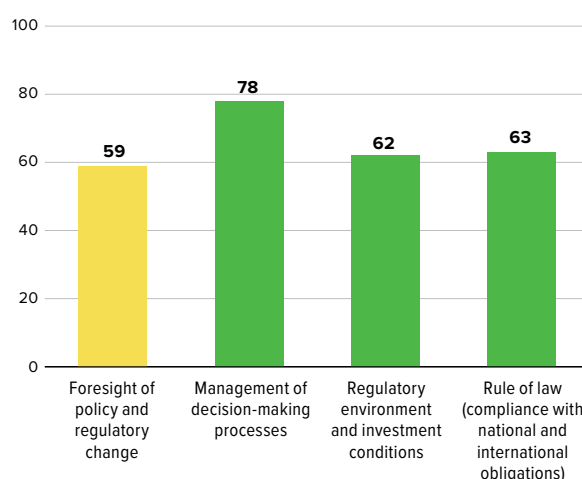
On a more detailed level, Kenya's sub-indicator performance is good. *Management and settlement of investor-State disputes* remains the highest-scoring sub-indicator at 85. On *transparency* (81) and *institutional governance* (75), its score is the same as last year. On the sub-indicator *communication of vision and policies* Kenya's performance has improved by a point and is now 68. Its score on *regulatory effectiveness* has improved by five points, from 59 to 64. It has maintained a score of 60 on *restrictions on FDI*. On *robustness of policy goals and commitments*, it has once again scored 50. The lowest-scoring sub-indicator is *respect for property rights* at 42.

While Kenya has the relevant policies and measures in place, there is potential for improvement. Attention should be given to strengthening respect for property rights.

## RISK LEVEL



## INDICATOR PERFORMANCE



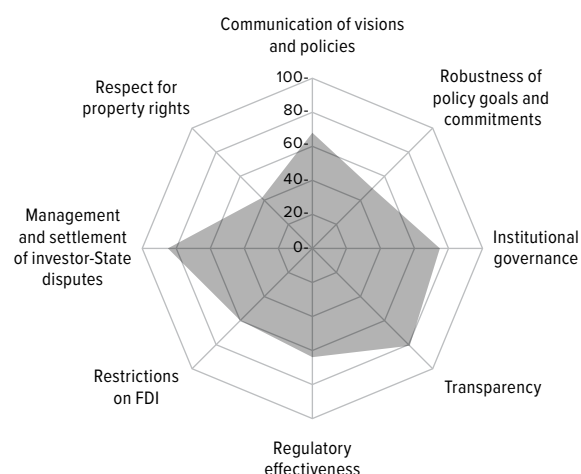
## YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019	2020
Unpredictable policy and regulatory change	35	33	33
Discrimination between foreign and domestic investors	34	33	32
Breach of State obligations	37	37	37

INDICATORS	2018	2019	2020
Foresight of policy and regulatory change	53	58	59
Management of decision-making processes	78	78	78
Regulatory environment and investment conditions	58	60	62
Rule of law	63	63	63

## SUB-INDICATOR PERFORMANCE



## Foresight of policy and regulatory change

### QUICK FACTS

Sessional Paper No. 4 of 2004 sets the policy framework for Kenya's energy sector.

The National Climate Finance Policy of 2018 establishes the institutional and reporting framework to access and manage climate finance.

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

### STRENGTHS

In 2020, the Government of Kenya focused on ensuring affordability, investment, and competitiveness in the energy sector. The main initiatives expected during the year include the development of a Transition Least Cost Power Development Plan 2019-2039 and the alignment of subsidiary regulations with the Energy Act of 2019. The Government also wants to improve the licensing procedures for renewable energy projects so that electricity prices are more competitive. It is developing Africa's largest wind power farm to increase the country's electricity generating capacity and achieve universal energy access by 2022. The excise duty on electric-powered vehicles has been reduced from 20% in 2018 to 10% in 2019. The reason is primarily to encourage vehicles that utilise environmentally friendly technologies.

The Energy Act of 2019 requires a review of the national energy policy every five years. The Central Planning and Project Monitoring Unit, under the Ministry of Energy, is responsible for monitoring and evaluating the Ministry's projects and programmes. It also coordinates the process of performance contracting in the Ministry. For 2019, it has prepared quarterly and annual performance progress reports, as per the targets in the Ministry's performance contract. Kenya's climate change adaptation monitoring and evaluation system is currently under development.

### AREAS FOR IMPROVEMENT

By establishing a clear legal framework for the energy sector, the Kenyan government is taking steps in the right direction. Now it is a timely moment for the Ministry of Energy to develop a long-term energy strategy comprising measurable targets and concrete implementation plans. This issue is particularly relevant to the country's climate policy planning. The existing action plans have a vision for the medium term, but there are no quantified emissions reduction targets set for the long-term. Moreover, tracking the progress of climate change mitigation and adaptation measures can be improved. As a starting point, the climate change registry should be made accessible to the public.

## Management of decision-making processes

### QUICK FACTS

The Cabinet Secretary of energy is responsible for developing the national energy policy.

The Intergovernmental Relations Act of 2012 establishes a framework for consultation and cooperation between the national and county governments and amongst the county governments.

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

### STRENGTHS

Each county government has prepared a development plan covering the period 2018-2022 to coordinate its activities with the national government and improve decision-making. In 2019, KenInvest launched the County Investment Handbook to support the county governments in developing investment promotion programmes and adopt best practices on investment facilitation. The combined efforts of the national and county governments are likely to increase investment growth to at least 32% of Kenya's GDP by 2030, in line with the Kenya Vision 2030 target. In November 2019, the Ministry of Energy adopted a Gender Policy to promote a healthy work culture among public sector staff. It is the first such legislative instrument on the African continent.

The Government is taking measures to guarantee public participation in critical policy and regulatory issues. For instance, it launched a stakeholder consultation on the Draft Energy (Solar Photovoltaic) Regulations of 2019. The Regulations set the framework for enforcing standards in the import, design and installation of solar PV systems and for collecting energy data as required by the Energy Act of 2019. The Public Participation Bill of 2019 is currently undergoing discussion in the Parliament. The Bill seeks to establish a legal framework for the public consultation process, set the parameters for such consultation, and define the obligations of State organs during the process. The State authorities are also required to inform citizens of the follow-up actions taken on the discussed issues. All the State authorities must provide notice of 21 days to the public before starting the consultations.

### AREAS FOR IMPROVEMENT

The Government should make efforts to increase access to the information held by public authorities. It should avoid excessive control over crucial statistics and project information, so the information flow is updated, uninterrupted, and accurate. The engagement of interested parties during the initial stages of the policy-making process will help avoid objections which may arise, particularly from the private sector, during the policy adoption stage. The Public Participation Bill of 2019 is a positive step because it sets clear ground rules for consultation, and the Government should enact it into law at the earliest.

## Regulatory environment and investment conditions

### QUICK FACTS

The Energy and Petroleum Regulatory Authority (EPRA) regulates the generation, import, export, transmission, distribution, supply, and usage of electrical energy, except for the licensing of nuclear facilities.

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

### STRENGTHS

The Government enacted the Nuclear Regulatory Authority Act in 2019. It creates a comprehensive framework for regulating atomic energy and nuclear technology. The Act provides for the financing of the Nuclear Regulatory Authority and the appointment of its board members. In December 2019, the President of Kenya signed the Competition (Amendment) Bill of 2019 into law. The new Act expands the scope of the prohibition against the abuse of buyer power and creates a separate section to address this issue. It also enhances the enforcement powers of the Competition Authority. The Competition Rules of 2019 were recently adopted to complement and implement the provisions of the new Act.

The legislative framework is well-established for the grid, off-grid and micro-grid projects. In 2019, Kenya launched the green bond market. The Policy Guidance Note on Issuance of Green Bonds, and the amended NSE Listing Rules by the Capital Markets Authority set the legal framework for the market. Moreover, per the Finance Act of 2019, interest income accruing from green bonds with at least three years maturity is exempt from tax. The Government expects this exemption will promote projects that reduce natural resource depletion and encourage climate change mitigation and adaptation.

### AREAS FOR IMPROVEMENT

Kenya plans to shift from the “take-or-pay” to the “take-and-pay” tariff model for long-term Power Purchase Agreements. Under the new model, the Government will pay IPPs only for the power evacuated onto the grid. The Ministry of Energy should conduct thorough technical evaluation and feasibility studies before implementing the new model because it will increase the financial and operations risks of IPPs. The Ministry of Energy should also consult the new model with investors to avoid a situation where projects become economically unviable, and investors trigger the termination clause. The new model should be applied only to future projects and not lead to a renegotiation of the existing agreements.

The Government should reconsider section 2 of the Tax Law (Amendment) Bill of 2020, recently introduced in the Parliament, which proposes to remove the exemption on interest income accruing from green bonds with at least three years' maturity.

## 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.

### STRENGTHS

The Judiciary is taking steps to improve its processes, including the roll-out of the Court Recording and Transcription System, production of Speech-to-Text judgements and proceedings, and an operational E-filing system to file cases online. The Judiciary has deployed a tracking system to monitor the progress of cases. In the last year, the Business Court Users Committee held discussions on improving the delivery of services in the Commercial Division of the High Court and on clearing the case backlog. The Energy Act of 2019 grants any person aggrieved by a decision of the EPRA the right to appeal before the Energy and Petroleum Tribunal.

The Constitution prohibits the State from depriving an individual of its property. Some of the BITs signed by Kenya stipulate that the State must pay compensation against expropriation without any restriction or delay. The compensation amount should include interest at a commercial rate, established on a market basis from the date of dispossession of the expropriated property until the time of actual payment. An investor aggrieved by an expropriation decision may request domestic courts to review the amount of compensation and the legality of expropriation. The BITs grant unqualified national treatment and most-favoured-nation treatment to all investment, including IP rights.

### AREAS FOR IMPROVEMENT

The Foreign Investments Protection Act requires the State to pay prompt compensation in the case of property acquisition, but it does not set a deadline for making the payment. Similarly, the Land Act of 2012 states that if the National Land Commission deems a matter urgent, State authorities may take possession of the land before paying the compensation. The Land Act should be amended to include a detailed process for the acquisition of property and set clear timelines for paying compensation. The Foreign Investments Protection Act should be reconciled with the Land Act to avoid conflicting interpretations.

According to the State of the Judiciary and the Administration of Justice Report 2018-2019, the maximum desirable timeline for finalising a case is one year from the date of filing. Statistics on the adjudication of commercial claims should be regularly updated to keep track of any delays in decisions. There should be timelines set for dealing with interim/injunctive applications and, where needed, the judiciary should restructure directorates and court stations to maximise efficiency.





# Kyrgyzstan

Population <sup>1</sup>	6,322,800
Area (km <sup>2</sup> ) <sup>1</sup>	199,950
GDP per capita (USD) <sup>1</sup>	1,279.95
TPES (Mtoe) <sup>2</sup>	3.84
Energy intensity (toe/10 <sup>3</sup> 2010 USD) <sup>2</sup>	0.58
CO <sub>2</sub> emissions - energy (MtCO <sub>2</sub> ) <sup>3</sup>	8.91

Data from Orbis Crossborder Investment on energy projects and deals completed between 2015-2020<sup>4</sup>

Target industry	Number of projects and deals	Project/deal type	Project CapEx and deal value (million EUR)
Electric power generation, transmission and distribution	1 project	new project	73m EUR total project CapEx
Support activities for other mining and quarrying	1 deal	acquisition deal	20m EUR total value of deal

Sources:

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

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

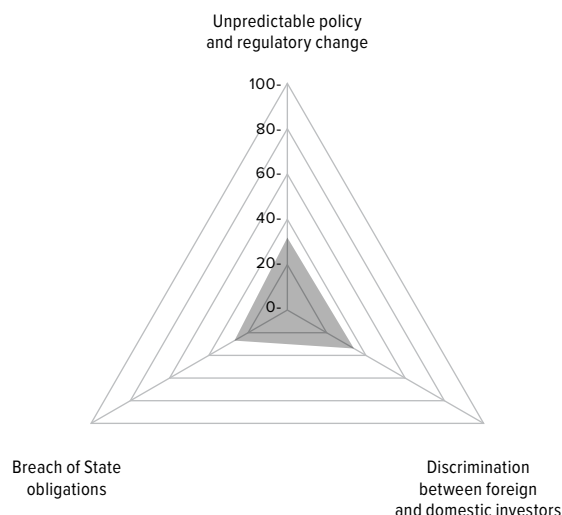
Among the three risks assessed in EIRA, *breach of State obligations* and *unpredictable policy and regulatory change* are lower compared to *discrimination between foreign and domestic investors*.

Kyrgyzstan's performance is good on two indicators, and it is moderate on two indicators. The country has retained its scores from 2019 on the indicators *rule of law* (73) and *management of decision-making processes* (72). Its score on *foresight of policy and regulatory change* has improved from 40 to 58. Its performance on *regulatory environment and investment conditions* is the same as last year (54).

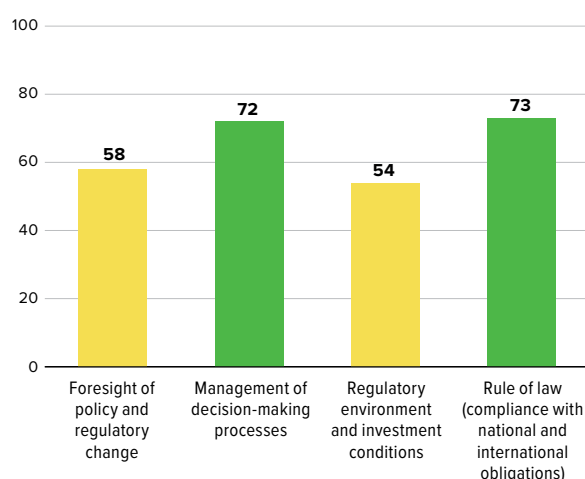
On a more detailed level, Kyrgyzstan's sub-indicator performance is good. *Management and settlement of investor-State disputes* is the highest-scoring sub-indicator at 95, followed by *transparency* at 81, and *restrictions on FDI* at 70. On the sub-indicator *communication of vision and policies* its score improved compared to last year, rising from 31 to 66. Its performance on *institutional governance* is the same as last year (63). Its score on the sub-indicators *robustness of policy goals and commitments* and *respect for property rights* is 50, respectively. *Regulatory effectiveness* is the lowest-scoring sub-indicator at 39.

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

## RISK LEVEL



## INDICATOR PERFORMANCE



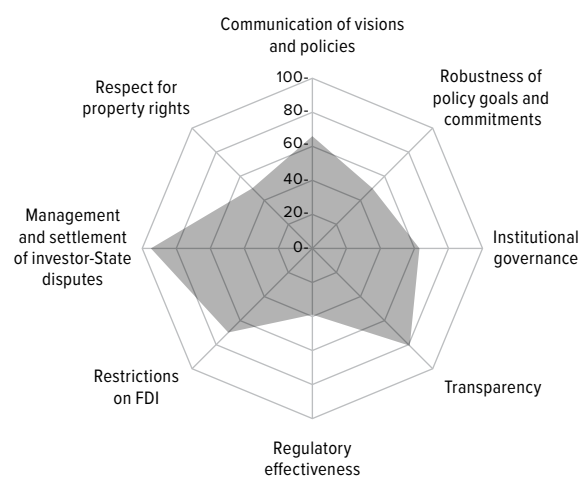
## YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019	2020
Unpredictable policy and regulatory change	41	38	32
Discrimination between foreign and domestic investors	35	34	34
Breach of State obligations	32	27	27

INDICATORS	2018	2019	2020
Foresight of policy and regulatory change	38	40	58
Management of decision-making processes	72	72	72
Regulatory environment and investment conditions	54	54	54
Rule of law	68	73	73

## SUB-INDICATOR PERFORMANCE



## Foresight of policy and regulatory change

### QUICK FACTS

The Law no. 99/2019 on Amending Several Legal Acts in the Area of Renewable Energy Sources was enacted in 2019.

Kyrgyzstan ratified the Paris Agreement in 2019.

### STRENGTHS

Improving energy security, power reliability, access to energy, and investment attraction are the main priorities for the energy sector. The Government's Plan for 2019-2023 on the implementation of the Activity Programme of the Government (Government Plan for 2019-2023) contains measures for improving energy policies, the development and re-construction of renewable generation capacities, and enhancement of energy efficiency. The Law on Renewable Energy provides incentives to investors such as a tax exemption for five years and other tax and customs benefits for new electricity producers and district heating. In December 2019, the President signed the Law on Ratification of the Paris Agreement UNFCCC Convention. This Law seeks to create favourable conditions for sustainable development, and facilitates the country's access to international support for developing mechanisms and methodologies on implementing the Paris Agreement.

The Government has developed the annual action plan for executing the Government Plan for 2019-2023. The annual action plan includes a list of activities to be undertaken through the fiscal year, the government agencies responsible for completing these activities, and the targets to be met. The Ministry of Economy is responsible for collecting information on the implementation of the annual action plan and submitting a monthly monitoring report to the Government.

### AREAS FOR IMPROVEMENT

The targets in the National Energy Programme for 2008-2010 are outdated, and although the Government is preparing strategies to develop the fuel and energy complex, these are yet to be adopted. The Government should draft a comprehensive National Energy Programme that sets a long-term vision for the energy sector, contains targets and timelines for achieving the vision, and identifies the means to do so. Moreover, the country has a significant potential for energy efficiency and energy savings, so the Government should develop a comprehensive mid-term strategy to identify policy goals and targets in this field.

The Government should streamline the policy monitoring mechanisms so that it can monitor the annual action plan's implementation more effectively. The monitoring and evaluation process will benefit from an analysis of the outcomes achieved on each activity, the measures taken to obtain the intended results, and access of stakeholders to regular updates on the Government's performance.

## Management of decision-making processes

### QUICK FACTS

The State Committee on Industry, Energy and Subsoil Use (State Committee) develops and implements the State policies on fuel, energy and subsoil.

The Ministry of Economy frames and implements the country's investment policies.

### STRENGTHS

Kyrgyzstan is currently implementing the Concept of Digital Transformation "Digital Kyrgyzstan 2019-2023". The programme will provide quality digital service to national and local authorities, legal entities and individuals. Its purpose is to increase the efficiency, performance, and accountability of the public administration system. The programme will also promote citizens' involvement in decision-making at the central and municipal levels. According to the Government Plan for 2019-2023, 45 State authorities should be connected to the digital platform "Tunduk" by 2023, and the share of digital services provided by these authorities must equal that of traditional service providers.

The opinions of various stakeholders, including the legislative and executive branch of government, scientific organisations, and civil society, are taken into account in the law-making process. The State authorities of Kyrgyzstan have public councils that act as consultative bodies and represent civil society. The objective of these public councils is to coordinate with the State institutions and monitor their activities. Legal information is centralised and accessible in an electronic library on the website of the Ministry of Justice. Newly adopted legislative acts are available both electronically and in print.

### AREAS FOR IMPROVEMENT

The State authorities should update information on their websites regularly. For instance, the State Committee's website currently has data only on electricity generation and transmission, which are considered priority areas. It has no data on energy planning and forecasting for after 2017. The website lists the ongoing projects and their expected outcomes but does not update their implementation status.

Taza Koom 2040 seeks to improve the public sector's daily work, promote e-governance in the country, and streamline administrative processes. However, the performance of Taza Koom's digital platform should be improved so that users have uninterrupted access to it.

The Investment Promotion and Protection Agency (IPPA) can increase the quantity and quality of its services. To facilitate licencing and approval procedures, the IPPA may consider providing one-stop shop services to investors of small and medium-size generating facilities. It can also prepare step-by-step guidelines for investing in different areas, including energy production, transmission, distribution and energy efficiency.

## Regulatory environment and investment conditions

### QUICK FACTS

The State Regulatory Agency for Fuel and Energy Complex (State Agency) regulates the electricity, heating and natural gas sub-sectors.

Law No. 66/2003 on Investments and Law no. 95/2019 on Public Private Partnership grant equal treatment to domestic and foreign investors.

### STRENGTHS

The State Agency undertakes regulatory activities, including licencing, tariff setting, and performance monitoring. It also has procedures for addressing complaints of individual consumers and companies. The existing legal framework continues to undergo investment-conducive reforms that will facilitate business entry. The Government is looking to improve the financial viability of the sector by mobilising investment for the rehabilitation of existing assets. The Government Plan for 2019-2023 envisages the development of a new, mid-term tariff policy.

The new Law on Public-Private Partnership establishes the legal framework for implementing PPP projects. It identifies the relevant economic sectors, defines the term PPP, sets the procedure for selecting projects, and lists the potential benefits for private investors. It gives information on the nature and kind of support the State will provide, as well as the rights, responsibilities, and risks of the parties. The PPP Agency was created in 2019 through Government Resolution no. 333/2019, and it is adjunct to the Ministry of Economy. The PPA Agency has various functions, including giving methodological support, conducting training, and coordinating with State authorities on the promotion, preparation, implementation, and monitoring of PPP projects.

### AREAS FOR IMPROVEMENT

The State Agency could benefit from the establishment of a board or commission that has a fixed-term appointment, a limited possibility of renewal, and the option to control and adjust its budget without Government approval.

The State Agency must take measures to support the financial rehabilitation of the energy system and attract much-needed investments. For this purpose, it should conduct technical studies and consider viable policy options for gradually adjusting electricity and heating tariffs which are currently at levels below the real costs, and for phasing out the substantial subsidies given to specific categories of end-users. It should encourage tariff setting based on a realistic estimation of the production costs.

## Rule of law

### QUICK FACTS

Kyrgyzstan ratified the Energy Charter Treaty in 1997.

Kyrgyzstan 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

In the case of a dispute with the State, foreign investors have the option to approach different forums, such as national courts, mediators or international arbitration. Exhaustion of local judicial remedies is not compulsory. For example, the new Law on Public-Private Partnership stipulates that in the case of a dispute, the parties can agree to employ alternative dispute resolution mechanisms, including mediation or international commercial arbitration. Foreign judicial decisions and awards are recognised and enforced in Kyrgyzstan. The Business Ombudsman Institute is an independent agency established in 2018. The Ombudsman was appointed in August 2019. Foreign investors can submit complaints resulting from their entrepreneurial activities to the Institute. Starting 12 March 2020, businesses and individual entrepreneurs can submit applications to the Institute either personally or through a dedicated website. Kyrgyz courts recognise and enforce foreign judicial decisions and awards if there is a provision in the law to this effect, or there is an appropriate BIT on the recognition and enforcement of judicial awards, or reciprocity status exists.

The Law on Investment establishes guarantees for protecting investments from expropriation. The new Law on Public-Private Partnership states that private investors, partners, and project companies are guaranteed legal protection from nationalisation or equivalent measures. There are no restrictions on the transfer of technology in the energy sector. The country is a member of the WIPO since 1991, and of the WTO since 1998.

### AREAS FOR IMPROVEMENT

The ratification of the Washington Convention will give foreign investors more guarantees and opportunities to pursue alternative methods of dispute resolution.

The legal framework of Kyrgyzstan on the acquisition of property should be updated to define the term “public interest”, and it should introduce detailed provisions to determine compensation in the event of expropriation. These inclusions to the relevant legislation will reduce uncertainties for foreign investors and promote transparency.



# Montenegro

Population <sup>1</sup>	622,227
Area (km <sup>2</sup> ) <sup>1</sup>	13,810
GDP per capita (USD) <sup>1</sup>	8,845.91
TPES (Mtoe) <sup>2</sup>	1.02
Energy intensity (toe/10 <sup>3</sup> 2010 USD) <sup>2</sup>	0.21
CO <sub>2</sub> emissions - energy (MtCO <sub>2</sub> ) <sup>3</sup>	2.21

Data from Orbis Crossborder Investment on energy projects and deals completed between 2015-2020<sup>4</sup>

Target industry	Number of projects and deals	Project/deal type	Project CapEx and deal value (million EUR)
Electric power generation, transmission and distribution	1 deal	minority stake deal	14m EUR total value of deal

Sources:

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

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

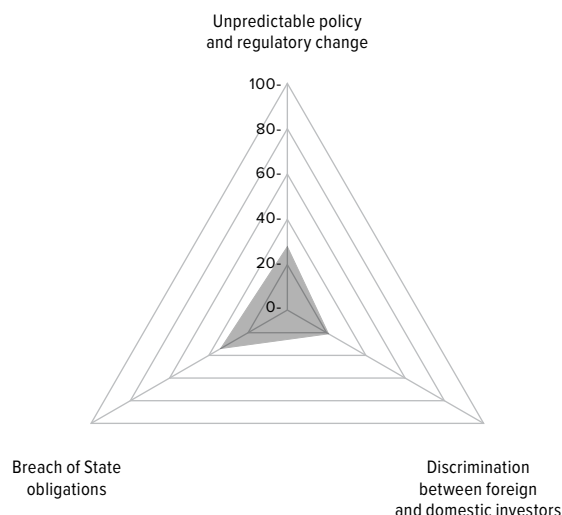
Among the three risks assessed in EIRA, *discrimination between foreign and domestic investors* and *unpredictable policy and regulatory change* are lower compared to *breach of State obligations*.

Montenegro's performance is very good on two indicators, and it is good on two indicators. It has maintained a very good score on *regulatory environment and investment conditions* (90) and on *management of decision-making processes* (87). On *rule of law*, it has again scored 66, while its score on *foresight of policy and regulatory change* has increased by two points, and is also at 66.

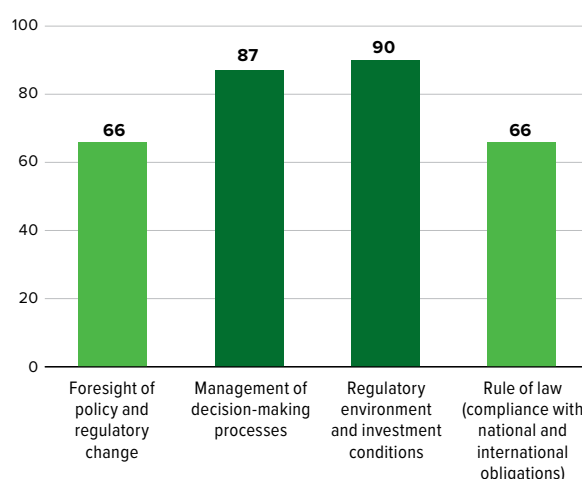
On a more detailed level, Montenegro's overall sub-indicator performance is good. The highest-scoring sub-indicator is *regulatory effectiveness* (100), followed by *institutional governance* (94). Its score on *transparency* stands at 81. *Restrictions on FDI* and *robustness of policy goals and commitments* are at 80 and 75, respectively. There are no changes to its scores on *respect for property rights* (67) and *management and settlement of investor-State disputes* (65). Although the score on *communication of vision and policies* has improved since 2019, from 53 to 56, it remains the lowest-scoring sub-indicator.

While Montenegro 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



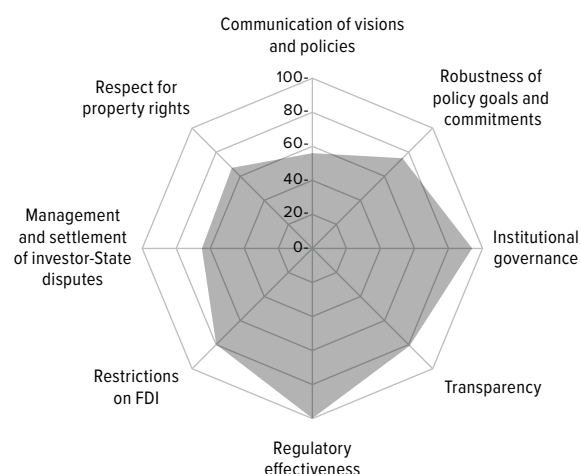
## YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019	2020
Unpredictable policy and regulatory change	28	28	27
Discrimination between foreign and domestic investors	20	19	19
Breach of State obligations	34	34	34

INDICATORS	2018	2019	2020
Foresight of policy and regulatory change	66	64	66
Management of decision-making processes	83	87	87
Regulatory environment and investment conditions	90	90	90
Rule of law	66	66	66

## SUB-INDICATOR PERFORMANCE





## Foresight of policy and regulatory change

### QUICK FACTS

Montenegro's energy objectives are outlined in the Energy Policy 2030 (2011) and the Action Plan 2016-2020 of the Energy Development Strategy 2030.

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

### STRENGTHS

In 2019, Montenegro made progress on further legislative alignment with the EU energy policies, particularly in energy efficiency. The Government has adopted the relevant Action Plan for the period 2019-2021, which includes the overall 2020 consumption cap target and a 1% annual target for central government buildings. The construction of new energy supply capacities advanced with the launch of a 50 MW wind park and the issuance of several licences to build and operate solar power plants, including a 250 MW plant. Moreover, the Italian electricity transmission system operator Terna and Montenegrin power transmission system operator Crnogorski Elektroprenosni Sistem officially put into operation an undersea power cable linking Montenegro to Italy. To promote electricity production from renewables, the Government has adopted an incentive fee for end-customers, which, in 2019, was double in value compared to previous years (EUR 0.9439 per kWh). Similarly, the market operator has concluded PPAs with electricity suppliers who are obliged to purchase a certain percentage of electricity from renewable sources.

Most of the monitoring responsibilities are divided between the Ministry of Economy and the Ministry of Sustainable Development and Tourism, while some are carried out by the Energy Regulatory Agency (REGAGEN). A functional reporting system for monthly energy data is already in place. The Statistical Office of Montenegro (MONSTAT) collects and publishes annual energy balances. It has harmonised the data collection methodology and formats with international standards.

### AREAS FOR IMPROVEMENT

The Government should revise and adopt, in a timely fashion, policies such as the Action Plan on Compulsory Strategic Reserves of Oil and Petroleum Products, and laws including the draft Law on Security of Supply of Oil Products and draft Infrastructure Law. The revised documents should conform to the objectives under the EU energy and environmental *acquis*.

The Government should enhance the independence of the monitoring bodies and increase the implementation capacities of certain agencies such as the new Inspectorate for Energy Efficiency and the Eco Fund.

## Management of decision-making processes

### QUICK FACTS

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

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

The Law on Free Access to Information, adopted in 2012, regulates the manner and procedure for exercising the right to access information held by public authorities.

### STRENGTHS

The Public Administration Strategy 2016-2020 and the Public Administration Optimisation Plan 2018-2020 give priority to the public administration reform, which aims to improve the competitiveness of the economy and to meet the EU membership requirements. The Government is optimising administrative services through initiatives that facilitate the exchange of data between authorities, and online information portals ("e-Regulations Montenegro") which give detailed, up-to-date information on establishing a business.

Draft laws and regulations are required to undergo public consultation. In 2020, the Government received comments on proposed amendments to the Energy Law that will simplify the method of connecting structures to the grid, set up a framework for electricity trading in the domestic market and promote the status of "prosumers". Citizens can initiate consultative hearings before parliamentary committees through NGOs. This mechanism provides business sector representatives, and citizens that are directly affected by a policy, an opportunity to participate in the decision-making process.

### AREAS FOR IMPROVEMENT

In recent years, the Government has undertaken considerable activities to improve the quality of the Montenegrin administrative apparatus. It should direct further reforms towards ensuring proactive disclosure and timely exchange of information held by public authorities, as well as inter-operability of registers (e.g. of business entities, of immovable property title holders etc.), and accessibility by users of data from registers.

## Regulatory environment and investment conditions

### QUICK FACTS

The Energy Law 2015, as amended in 2017, establishes REGAGEN and states its competences. REGAGEN joined the Agency for the Cooperation of Energy Regulators (ACER) working groups in January 2018.

The long-pending PPP legislation was adopted in December 2019.

### STRENGTHS

During the last year, REGAGEN demonstrated its functional independence and market orientation, especially in relation to regional interconnections and regulatory harmonisation with neighbouring countries. In the same vein, it has also developed end-user electricity prices for household customers until 2022 based on the Hungarian Derivative Energy Exchange (HUDEX), after having examined practices from the energy exchanges of countries located near Montenegro.

Several mechanisms to increase market competitiveness and attractiveness are already in place. The Updated Single Project Pipeline - List of priority infrastructure projects includes special investment programmes and incentives for foreign investors, improvements to the digital sector infrastructure, and transport connectivity reform measures. Renewables continue to be the most appealing energy sub-sector, with electricity producers receiving a total of EUR 8.08 million in State incentives during the first seven months of 2019. The revisions introduced to public procurement, PPP, and State aid regimes will help the country secure full compliance with applicable EU standards.

### AREAS FOR IMPROVEMENT

As mentioned in 2018 and 2019, annual quotas that limit the number of foreign workers, in conjunction with the restrictions imposed by the 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.

## 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

The Government is committed to the ongoing reforms aimed at strengthening the capacity and effectiveness of the judiciary system. The full implementation of the Information Communication Technologies Strategy for the Justice System will result in a centralised and unified information system to replace the one currently used for tracking cases. The utilisation of alternative dispute resolution mechanisms has gained significant ground with the adoption of the relevant Action Plan for 2019-2021. During the last year, the Government did not make any retroactive changes affecting foreign investors.

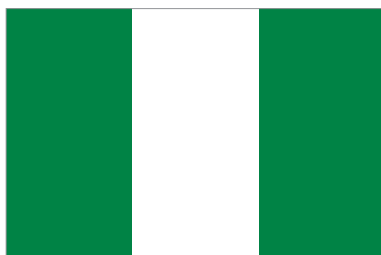
The Government is under a legal obligation not to arbitrarily interfere with private property rights. The assets of foreign investors may not be subject to expropriation, except when a compelling "public interest" is determined based on law, in which case compensation at fair market value is due. The relevant procedure, including the determination of compensation, is administered by a designated body. The country grants a satisfactory level of protection to IP rights. In general, there are no statutory provisions in national laws or international investment agreements restricting the transfer of technology.

### AREAS FOR IMPROVEMENT

The Government should step up efforts to improve the efficiency of the judiciary, enhance backlog monitoring, and reduce the number of cases pending. Introducing timeframes for the completion of proceedings, and the delivery of judgements at all stages will guarantee the reasonableness of the case duration.

As the inflow of FDI increases, 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.

Despite the amendments of 2018 to the Law on Expropriation, challenges remain over the ambiguity of the term "public purpose" as grounds for alienation of private property. Introducing a set of criteria will further reduce the risk of legal uncertainty and ensure alignment of the country's legal framework with international obligations, including those derived from the European Convention on Human Rights and the Stabilisation and Association Agreement.



# Nigeria

Population <sup>1</sup>	195,874,740
Area (km <sup>2</sup> ) <sup>1</sup>	923,770
GDP per capita (USD) <sup>1</sup>	2,028.18
TPES (Mtoe) <sup>2</sup>	157.14
Energy intensity (toe/10 <sup>3</sup> 2010 USD) <sup>2</sup>	0.34
CO <sub>2</sub> emissions - energy (MtCO <sub>2</sub> ) <sup>3</sup>	85.99

Data from Orbis Crossborder Investment on energy projects and deals completed between 2015-2020<sup>4</sup>

Target industry	Number of projects and deals	Project/deal type	Project CapEx and deal value (million EUR)
Electric power generation, transmission and distribution	1 project 1 deal	new project joint venture deal	91m EUR total project CapEx Deal value n.a.
Extraction of natural gas and crude petroleum	2 projects 1 deal	new projects minority stake deal	1004m EUR total project CapEx 127m EUR total value of deal
Transport by pipeline	2 deals	minority stake deals	176m EUR total value of deals
Support activities for petroleum and natural gas extraction	2 deals	1 minority stake deal 1 joint venture deal	49m EUR total value of deals
Manufacture of refined petroleum products	1 deal	acquisition deal	4m EUR total value of deal

Sources:

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

Nigeria's overall risk level against the assessed areas is **moderate**.

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

Nigeria's performance against EIRA's four indicators is moderate. It has maintained the scores from last year on the indicators *management of decision-making processes* (59) and *rule of law* (58). On *foresight of policy and regulatory change* its performance has improved by a point and now stands at 56. The score on *regulatory environment and investment conditions* is the same as last year, at 53.

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* at 75. Its score on *communication of vision and policies* has improved by one point and it now stands at 66. On *transparency* (63), *regulatory effectiveness* (57), *institutional governance* (56), *restrictions on FDI* (50), and *robustness of policy goals and commitments* (46) it has maintained the scores from last year. The lowest performance was again on the sub-indicator *respect for property rights* at 42.

While there are some improvements in Nigeria's performance compared to 2019, 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.

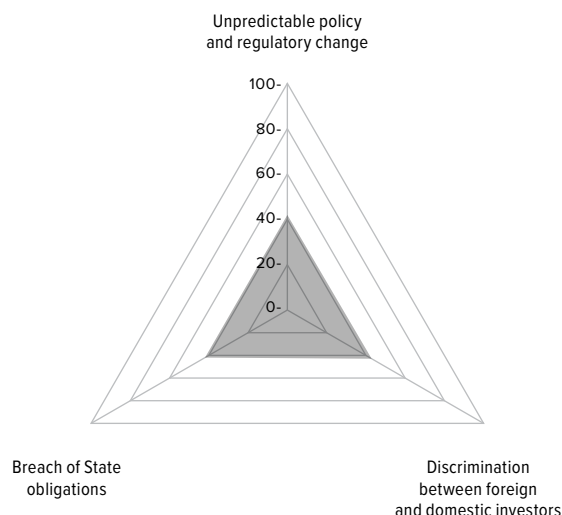
## YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019	2020
Unpredictable policy and regulatory change	43	43	42
Discrimination between foreign and domestic investors	44	43	43
Breach of State obligations	43	43	42

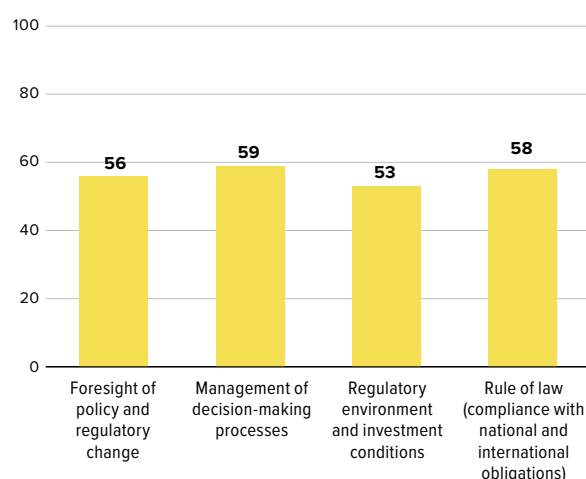
  

INDICATORS	2018	2019	2020
Foresight of policy and regulatory change	54	55	56
Management of decision-making processes	59	59	59
Regulatory environment and investment conditions	51	53	53
Rule of law	58	58	58

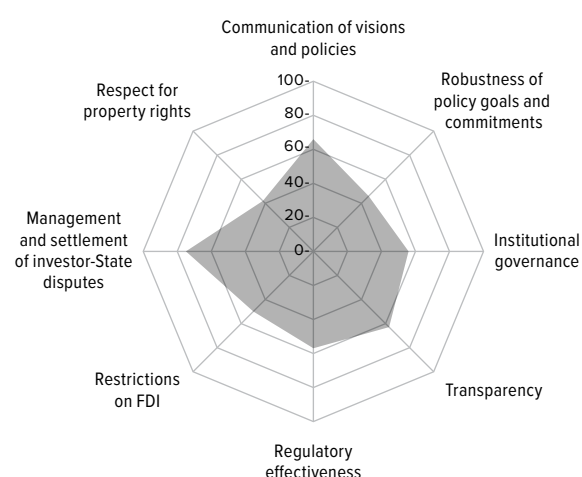
## RISK LEVEL



## INDICATOR PERFORMANCE



## SUB-INDICATOR PERFORMANCE



## Foresight of policy and regulatory change

### QUICK FACTS

The main strategy documents of Nigeria are the National Energy Policy 2003 and the Nigeria Vision 20:2020.

The primary action plans for implementing the energy policies are the Energy Sector Strategy Plan 2010-2020 and the National Infrastructure Master Plan 2015.

### STRENGTHS

In the last year, the Government introduced a number of policy and legislative measures to meet its national energy targets. On 4 November 2019, the President of the Federal Government of Nigeria assented to the Deep Offshore and Inland Basin Production Sharing Contract (Amendment) Act 2019. This Act seeks to increase the Government's share in the revenues generated from upstream oil and gas operations. The Nigerian National Petroleum Corporation (NNPC) is also looking to expand the domestic gas market by doubling the capacity of the Escravos-Lagos Pipeline System (ELPS) II from 1.1 billion standard cubic feet (bscf) of gas to 2.2 bscf. The Nigerian Gas Transportation Network Code of 2020 intends to give open and competitive access to gas transport infrastructure. The Gas Flaring (Prohibition and Punishment) Bill 2020 was introduced in the Parliament to meet the country's ultimate target of eliminating flared gas by 2020.

Lead ministries are assigned to implement energy priorities. In 2018, the Government established an inter-ministerial Committee to harmonise its approach on data collection and policy evaluation. The Committee will act as a focal point for MDAs of the Federal Government involved in information collection, authentication, and publication. The Nigerian National Petroleum Corporation and the Department of Petroleum Resources represent the energy sector in the Committee. In 2020, the President of the Federal Republic of Nigeria designated the Energy Commission of Nigeria (ECN) as the country's focal point on the Africa Renewable Energy Initiative (AREI).

### AREAS FOR IMPROVEMENT

Some of the targets set in the action plans and policies will expire by the end of this year. For instance, the targets for increasing oil production, expanding the power sector infrastructure, boosting local refining, and becoming a net exporter of petroleum products by 2020 will expire soon. The Federal Government should prepare a timely and well-planned strategy for revising these targets.

An independent authority should monitor the energy policies and programmes. The Government is encouraged to give the public access to the progress reports of the MDAs. It should also establish compliance and enforcement mechanisms to support the implementation of legislation and regulatory measures.

## Management of decision-making processes

### QUICK FACTS

The Presidential Enabling Business Environment Council (PEBEC) was established in July 2016 to remove bureaucratic constraints to doing business in Nigeria.

Nigeria enacted the Freedom of Information Act in 2011 to make public records and information available.

### STRENGTHS

In 2019, PEBEC worked in collaboration with MDAs and other public and private sector partners to improve the Nigerian business environment. On 4 February 2020, PEBEC launched its National Action Plan 5.0. The Plan seeks to bring various reforms, including the automation of the land registration process in the Lagos and Kano States. It will reduce the number of inspections in construction by implementing a system of joint inspections by related agencies in Lagos. Moreover, PEBEC has launched a new reporting web application in Lagos which gives the public an opportunity to interact with the MDAs on service delivery and conflict resolution.

In 2019, the Federal Government launched the Beneficial Ownership Register for extractive companies. The register demonstrates Nigeria's commitments to a more transparent and accountable governance of the extractive sector. On 30 July 2019, the Independent Corrupt Practices and Other Related Offences Commission inaugurated the ECN chapter of the Anti-Corruption and Transparency Unit. Stakeholder engagement on critical regulatory issues, particularly by the Nigerian Energy Regulatory Commission (NERC), received an impetus. NERC conducted public consultation and hearings on various topics such as the extraordinary tariff review of the Multi-Year Tariff Order of 2015, on the framework for the collection of competition transition charges from the eligible consumers, on the capping of estimated billing, and on setting the electricity distribution franchising regulations.

### AREAS FOR IMPROVEMENT

There can be better coordination between MDAs on cross-sectoral issues. Currently, there are multiple bodies engaged in framing and implementing energy policies. This multi-layered system can give rise to contradictory strategies and overlapping actions. It can also stall legislation, such as the Petroleum Industry Governance Bill, that are critical for attracting investment in the energy sector. Active dialogue at the national and sub-national level is required to ensure swift and consistent decisions.

The Federal Government should make efforts to intensify stakeholder consultation at different stages of the policy-making process. Instead of ad hoc discussions, the methods and timelines of public participation should be decided at an early stage and made publically known. An institutionalised consultation mechanism will increase investor confidence and promote cooperation.

## Regulatory environment and investment conditions

### QUICK FACTS

NERC regulates electricity generation, transmission, distribution, and trading.

Foreign investments are protected by the Nigerian Investment Promotion Commission Act 1995.

### STRENGTHS

NERC is undertaking reforms to improve the electricity industry's performance. On 31 March 2020, it issued an Order on the need to raise end-user tariffs charged by DisCos and increase the rates paid by the Transmission Company of Nigeria to GenCos. The tariff hike is intended to make up for the revenue shortfalls of DisCos resulting from the growing gap in generation, distribution and end-user costs. DisCos must submit to NERC a detailed cost recovery plans by June 2021. NERC has repealed the Regulation on Estimated Billing Methodology of 2012, and capped the billing amount for unmetered consumers, to speed up metering by the DisCos and phase out the estimated billing practice.

The VAT (Modification Order) of 2020 expands the list of exempted goods and services. There are fourteen items exempted under the downstream gas utilisation category. Fifteen items listed as petroleum products including kerosene, natural gas, and other liquefied petroleum gases are also exempt. Eight renewable energy equipment types are in the list of exempt items, including solar-powered, wind-powered or Solar DC generators and photosensitive semiconductor devices. In 2019, the Nigerian Content Development and Enforcement Bill was introduced in the National Assembly. The Bill broadens the local content requirements for the oil and gas sector, and it implements a similar regime for the ICT, power, solid minerals, and construction sectors.

### AREAS FOR IMPROVEMENT

With the postponement of the electricity tariff increase, there is a need for collaborative efforts at proactive metering of customers, and ultimately an increase in the tariff of all metered customers through a payment system based on actual electricity usage. This approach will give better revenue assurance to the industry. It is also worth remembering that while the tariff hike is imperative, it is likely to increase the burden on end-users. The Government should, therefore, create more public awareness on the use of energy-saving technologies and their role in reducing energy consumption.

The Deep Offshore and Inland Basin Production Sharing Contract (Amendment) Act of 2019 imposes additional royalties in upstream oil and gas operations. However, introducing an additional price-based royalty and increasing water depth-based royalties on top of the other taxes, fees, and levies may reduce the sector's competitiveness. The Government should revise the fiscal regime only to the extent that planned oil and gas investments remain financially viable, and there is minimal risk of declining production.

## Rule of law

### QUICK FACTS

Nigeria ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States in 1965.

Nigeria is a party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

### STRENGTHS

The Federal Government is taking steps to encourage a pro-arbitration legislative regime. The Arbitration and Conciliation Act (Repeal and Enactment) Bill passed its First Reading in the National Assembly on 11 July 2019. Once enacted, the Bill will reduce the scope for courts to review arbitral awards, thereby facilitating swifter enforcement of awards. It also introduces "Third Party Funding" (TPF) in arbitration proceedings by allowing its inclusion in the costs of arbitration. On 7 May 2020, NERC approved the reappointment of a 12-member Dispute Resolution Panel for the Nigerian Electricity Supply Industry. The functions of the Panel include the arbitration and settlement of disputes between market participants such as the system operator, the market operator, and other licensees engaged in electricity trading.

During the last year, there were no adverse changes made to the legislative framework on the protection of property rights. Per the NIPC Act, nationalisation or expropriation of foreign investment can only be in the national interest or for a public purpose. Any person who owns, either wholly or in part, capital of any enterprise cannot be compelled by law to surrender his interest in the capital to any other person. The law requires the payment of fair and adequate compensation in the case of any compulsory acquisition. Any person aggrieved by the expropriation decision or the amount of compensation may approach the national courts for redress.

### AREAS FOR IMPROVEMENT

While the progressive approach taken by the Government in the Arbitration and Conciliation Act (Repeal and Re-Enactment) Bill is commendable, there are some aspects of TPF that need more attention. Since the legitimacy of TPF is implicit, it is unlikely to prevail over the conflicting common law rules against champerty and maintenance. The Bill's current text also gives rise to the likelihood that a party may challenge the validity of its opponent's funding or an award obtained through the funding party. TPF agreements must be given explicit legitimacy so that their scope and application is clear. There should be defined rules regulating the enforcement of such contracts, and a more flexible approach taken in the use of historical common law concepts.

In domestic law, expropriation refers only to physical property. National legislation may include provisions granting protection from expropriation to intangible property such as equity, shares, and IP.





# Palestine

Population <sup>1</sup>	N/A
Area (km <sup>2</sup> ) <sup>1</sup>	N/A
GDP per capita (USD) <sup>1</sup>	N/A
TPES (Mtoe) <sup>2</sup>	N/A
Energy intensity (toe/10 <sup>3</sup> 2010 USD) <sup>2</sup>	N/A
CO <sub>2</sub> emissions - energy (MtCO <sub>2</sub> ) <sup>3</sup>	N/A

Data from Orbis Crossborder Investment on energy projects and deals completed between 2015-2020<sup>4</sup>

Target industry	Number of projects and deals	Project/deal type	Project CapEx and deal value (million EUR)
Electric power generation, transmission and distribution	1 project	new project	Total project CapEx n.a.

Sources:

1. The World Bank 2018. According to the Palestinian Central Bureau of Statistics, the population of Gaza and West Bank in 2019 was 4,976,684; the area of Gaza was 5,660 sq. km and of West Bank 365 sq. km; GDP per capita in the fourth quarter of 2019 was USD 849.
2. ©IEA, World energy balances, 2020, [www.iea.org/data-and-statistics](http://www.iea.org/data-and-statistics), [webstore.iea.org/key-world-energy-statistics-2019](http://webstore.iea.org/key-world-energy-statistics-2019)
3. ©IEA 2020, CO<sub>2</sub> emissions from fuel combustion, [www.iea.org/data-and-statistics](http://www.iea.org/data-and-statistics), [webstore.iea.org/key-world-energy-statistics-2019](http://webstore.iea.org/key-world-energy-statistics-2019)
4. Orbis Crossborder Investment (2020), Bureau Van Dijk. Palestine is the destination country of the investment. Data represents the period 1 April 2015 - 1 April 2020. For more information see Annex II of this report. According to the Palestinian Energy and Natural Resources Authority, it granted licenses of up to 53 MW to private investors between 2015 – 2020. For more information on this data, please contact the Palestinian Energy and Natural Resources Authority.

Palestine's overall risk level against the assessed areas is **moderate**.

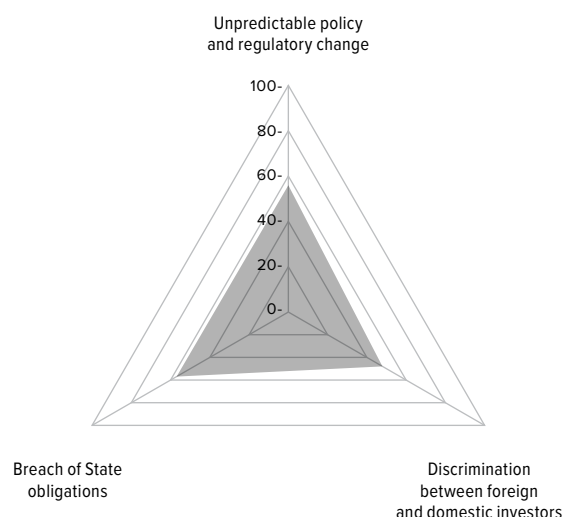
Among the three risks assessed in EIRA, *discrimination between foreign and domestic investors* is lower compared to *unpredictable policy and regulatory change* and *breach of State obligations*.

Palestine's performance is moderate on three indicators, and it is low on one. It has scored 57 on the indicator *regulatory environment and investment conditions*, and 56 on *management of decision-making processes*. On *rule of law*, its score is 43. Its performance on the indicator *foresight of policy and regulatory change* has improved by six points and stands at 34.

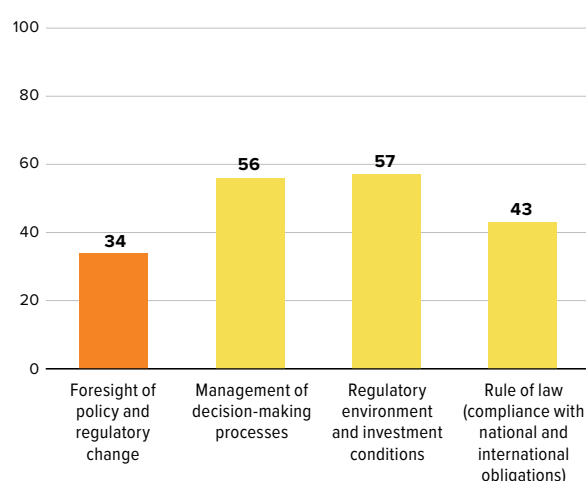
On a more detailed level, Palestine's overall sub-indicator performance is moderate. The highest-scoring sub-indicator is *restrictions on FDI* with a good score of 70. It has maintained the scores from last year on the sub-indicators *institutional governance* (69), *management and settlement of investor-State disputes* (60), and *regulatory effectiveness* (44). On *transparency*, its score has increased by a point and stands at 42. Its score has improved by 13 points on the sub-indicator *robustness of policy goals and commitments* and is now 38. It has a score of 31 on the sub-indicator *communication of vision and policies*. *Respect for property rights* continues to be the lowest-scoring sub-indicator at 25.

While there are some improvements in Palestine's performance compared to 2019, further steps must be taken to build on the work done. Particular attention should be given to strengthening respect for property rights.

## RISK LEVEL



## INDICATOR PERFORMANCE



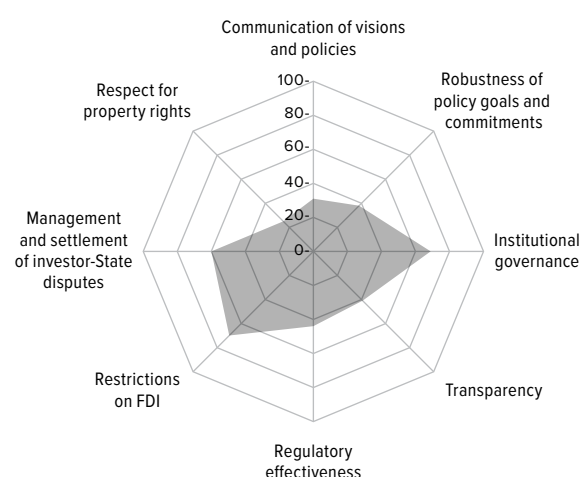
## YEAR-ON-YEAR COMPARISON

RISK AREAS	2019	2020
Unpredictable policy and regulatory change	58	56
Discrimination between foreign and domestic investors	48	48
Breach of State obligations	58	57

INDICATORS	2019	2020
Foresight of policy and regulatory change	28	34
Management of decision-making processes	55	56
Regulatory environment and investment conditions	57	57
Rule of law	43	43

## SUB-INDICATOR PERFORMANCE



## Foresight of policy and regulatory change

### QUICK FACTS

The Comprehensive National Strategy for the Energy Sector in Palestine (2017-2022) sets the priorities for the energy sector.

The first Work Plan for the 18th Government (Work Plan) was approved through Cabinet Session Decisions no. 6 on 25 May 2019.

### STRENGTHS

Palestine's main energy priorities are reducing energy dependency and attaining self-sufficiency. To this end, it has made some progress on the interventions planned up to 2020. In 2019, its first-ever solar power station of 7.5 MW was inaugurated at the Noor Jericho Photovoltaic Park. There are plans to utilise landfills for developing waste-to-energy projects. Rooftop solar panels will be installed in 500 public schools to generate an additional 35 MW of power. The Palestinian Energy and Natural Resources Authority (PENRA) is currently undertaking studies to frame a comprehensive energy sector plan for 2019-2035. The study aims to provide a long-term methodology for developing the electricity sector at least cost. It will include approaches for expanding the electricity generation, transmission and distribution segments in the Gaza Strip to meet the future load.

The 18th Government's first Work Plan lists the ministries and public institutions that are responsible for its implementation. It establishes special committees that will follow up on the progress made, collect data on projects and activities, and submit monthly reports to the Council of Ministers. On 22 September 2019, the Council of Ministers published the First Summary of Government Performance (April-August 2019). In 2019, the Palestine Central Bureau of Statistics (PCBS) released a survey to measure the utilisation of statistics in decisions taken by the public and private sector. The results show that the percentage of public entities using statistical data in policy-making and planning has increased from 71% in 2012 to around 80% in 2018. Similarly, the rate of private institutions relying on the PCBS data for taking business decisions has increased from 21% in 2014 to 42% in 2018.

### AREAS FOR IMPROVEMENT

There should be evidence-based targets and performance indicators set for benchmarking the progress made towards achieving the energy objectives. Regular data collection, follow up, and evaluation should be strengthened in the administrative units of the ministries and public institutions.

Collection and availability of energy statistics should be improved, so public authorities can use up-to-date and accurate data for structuring policy analysis and strategies. Training the public sector administrative staff on improving data quality, maintaining and updating public records and understanding statistical indicators can enhance the production and usage of data.

## Management of decision-making processes

### QUICK FACTS

PENRA is the main policy-making body for the electricity sub-sector.

The Palestinian Electricity Regulatory Council (PERC) and PENRA are the central authorities responsible for formulating energy policies.

### STRENGTHS

The 18th Government's first Work Plan was set in 2019 through the coordinated efforts of the Cabinet Secretariat of the Council of Ministers, all the ministries, and national institutions. The Work Plan contains the main policy interventions, time schedules, and estimated financial costs. The Cabinet Secretariat will give the ministries technical and administrative support in preparing monthly progress reports that highlight the implementation rate of the national objectives. There are 28 new committees formed to enhance the roles of ministries and public departments in implementing the Work Plan. The committees have issued 55 recommendations that contributed towards preparing, implementing, and achieving the overarching objectives of Palestine.

Public participation in decision-making received an impetus in the last year. Per official records, there were more than 150 public meetings held with the governorates and 150 with civil society institutions and universities. Forty press statements were released by public authorities to disseminate critical information. Since the commencement of the 18th Government's term, more than 2,900 complaints have been received by all public institutions through the electronic complaint system. Approximately 75% of these complaints have been addressed. In 2019, the Cabinet of Ministers adopted a resolution to protect whistleblowers, witnesses, informants, and experts in corruption cases. The Anti-Corruption Commission published the National Cross-sectoral Strategy to Enhance Integrity and Combat Corruption 2020-2022.

### AREAS FOR IMPROVEMENT

The draft law on access to information should be enacted as soon as possible. It should define the scope of application, the procedure for obtaining information and the obligation of public authorities to facilitate the flow of information. There should also be definitive timelines set for receiving suggestions, comments and feedback from the public. The timeframe of the consultation should depend on the issues raised and the number of affected people.

An amendment to the Anti-Corruption Law requires that the President's to appoint the Anti-Corruption Commission's Head based upon the recommendation of the Council of Ministers. However, the decision does not need the approval of the Palestinian Legislative Council's absolute majority. While this change may be to prevent the office from falling vacant if the Legislative Council is not in session, it may undermine the Commission's independence.

## Regulatory environment and investment conditions

### QUICK FACTS

PERC regulates the electricity, renewables and energy efficiency sub-sectors.

Law no. 1 of 1998 on the Encouragement of Investment in Palestine (Investment Law), as amended, establishes the legal framework for investment activities.

### STRENGTHS

In 2019, PERC evaluated the mid-term results of the electricity distribution companies' performance indicators. It also reviewed the requirements issued by the Cabinet Secretariat for preparing the final report in the first quarter of 2020, and for auditing the reports issued by the distribution companies. There are Special Committees formed to examine the financial status of the Jerusalem District Electricity Company, and to study the electricity debts due to the local councils. There are plans to make PENRA the lead policymaker of the hydrocarbon sub-sector and to establish a separate entity for regulating the related commercial activities. In terms of renewable energy sources, its share in total energy production reached 28% in 2019. 3% of the total energy demand in West Bank and Gaza is currently being met by local solar PV systems.

In 2018, the total stocks of non-residents invested in Palestine were USD 4,969 million. FDI contributed to 55.5% of the total stocks, while portfolio investments accounted for 14.7%. The higher share of FDI indicates growing interest from investors in exploring long-term business prospects in Palestine. In 2019, 54 projects received incentives as per the Investment Law. The projects are worth nearly USD 65 million, with an increase of 68% compared to 2018, and generate or maintain 1,400 direct jobs. The renewable energy sector accounted for around 10% of the total investment in 2019. Fixed assets are exempt from customs duties. Imported spare parts are exempt from customs duties provided that their value does not exceed 15% of the fixed assets.

### AREAS FOR IMPROVEMENT

Palestine has undertaken commendable work towards modernising its investment regime. However, reinvestment and newly registered investment continue to be primarily by local investors. To increase the share of foreign investment, a unified and updated legal framework should be created to regulate the establishment and registration of companies, bankruptcy, competition, and IP rights.

The share of renewable energy in the total final energy consumption has gone down from 13.8% in 2014 to 10.7% in 2018. Palestine's commitment to step up renewable energy production and consumption will yield better results if there is a legal framework underpinning work in this direction. PENRA and distribution companies should support this prospective framework by ensuring that the technical aspects, such as the training of technical staff and the availability of power meters, are in place.

## Rule of law

### QUICK FACTS

Palestine acceded to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards on 2 February 2015.

Conditions for the expropriation of land are envisaged in the Acquisition Law no. 2 of 1953, as amended.

### STRENGTHS

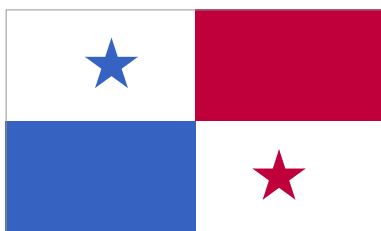
Comprehensive reforms are being undertaken to improve the domestic judicial system. Resolution no. 17 of 2019 forms a seven-member transitional Supreme Judicial Council that is entrusted with developing the judiciary in a way that guarantees the rule of law, the independence of the judiciary, access to justice, and the separation of powers. Decree no. 7 of 2019 forms a High Coordination Council (HCC) for the Justice Sector that is headed by the President of the Supreme Judicial Council. The HCC will work towards unifying and harmonising different aspects of the justice sector in accordance with the Basic Law and international standards. The Ministry of Justice is also looking to promote alternative dispute resolution mechanisms so that the caseload of the judiciary is reduced. For this purpose, amendments to the arbitration Act are undergoing discussion in the Cabinet of Ministers.

The Basic Law 2003, as amended, states that private property, both real estate and movable assets, can be expropriated only for reasons of public interest, upon the payment of fair compensation, and following the due process of law. The Acquisition Law stipulates the procedure for estimating the compensation amount. If the expropriating authority and the landowner cannot agree on the compensation amount, either of them may approach the court for a decision. The Law also lays down the rules domestic courts should apply in determining the amount of compensation. Plans are currently underway to introduce new criteria for the purchase of real estate by non-Palestinian nationals.

### AREAS FOR IMPROVEMENT

The establishment of specialised commercial courts will give investors more confidence, foster trust, and increase the efficiency of the legal system. Additionally, an ombudsman institution may be established to deal with conflicts arising in the course of investment activities.

Efforts towards creating a comprehensive land registry should be expedited. The process of issuing land registrations should also be simplified. The Acquisition Law 1953 should be updated to reflect best practices and grant investors more protection. It should stipulate the authorities which will decide whether a case for expropriation exists. A timeline for paying compensation to the affected investor and an explanation for the intended use of the acquired property can also be included.



# Panama

Population <sup>1</sup>	4,176,873
Area (km <sup>2</sup> ) <sup>1</sup>	75,420
GDP per capita (USD) <sup>1</sup>	15,575.07
TPES (Mtoe) <sup>2</sup>	4.64
Energy intensity (toe/10 <sup>3</sup> 2010 USD) <sup>2</sup>	0.10
CO <sub>2</sub> emissions - energy (MtCO <sub>2</sub> ) <sup>3</sup>	9.61

Data from Orbis Crossborder Investment on energy projects and deals completed between 2015-2020<sup>4</sup>

Target industry	Number of projects and deals	Project/deal type	Project CapEx and deal value (million EUR)
Electric power generation, transmission and distribution	2 deals	acquisition deals	532m EUR total value of deals

Sources:

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

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

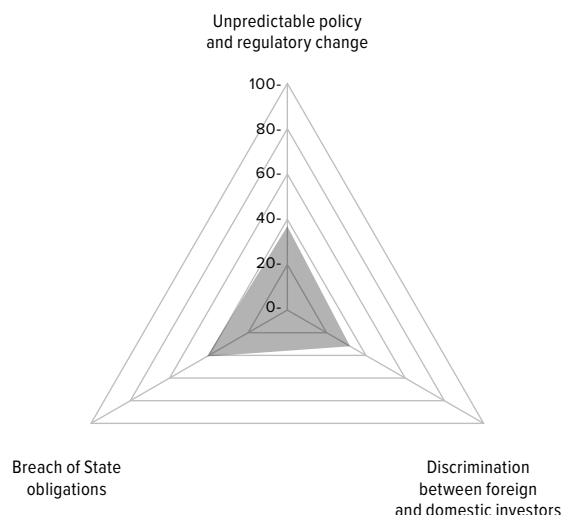
Among the three risks assessed in EIRA, *discrimination between foreign and domestic investors* and *unpredictable policy and regulatory change* are lower compared to *breach of State obligations*.

Panama's performance is good on two of the EIRA indicators, and it is moderate on two indicators. It has a score of 77 on *management of decision-making processes*, and a score of 67 on *regulatory environment and investment conditions*. The indicators *rule of law* and *foresight of policy and regulatory change* are at 59 and 52, respectively.

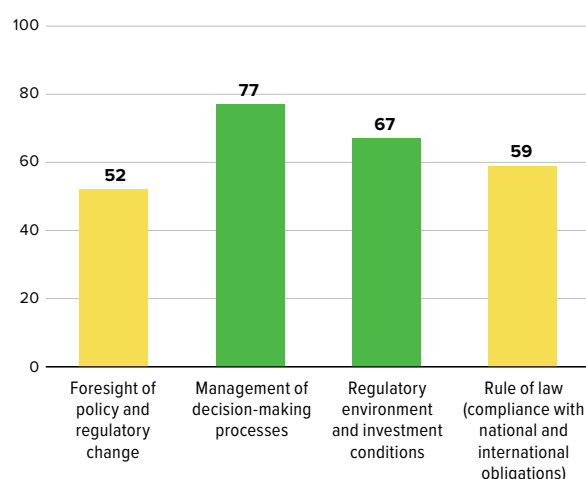
On a more detailed level, Panama's sub-indicator performance continues to be good. The highest-scoring sub-indicator is *transparency* at 92, followed by *robustness of policy goals and commitments* at 75, and *restrictions on FDI* at 70. The sub-indicators *regulatory effectiveness* and *institutional governance* stand at 64 and 63, respectively. Its performance on the sub-indicators *management and settlement of investor-State disputes* (60) and *respect for property rights* (58) is moderate. On *communication of vision and policies*, it has a low score of 29.

While Panama has the relevant policies and measures in place, there is potential for improvement. Attention should be given to better communicating the existing policies and plans to investors.

## RISK LEVEL



## INDICATOR PERFORMANCE



## YEAR-ON-YEAR COMPARISON

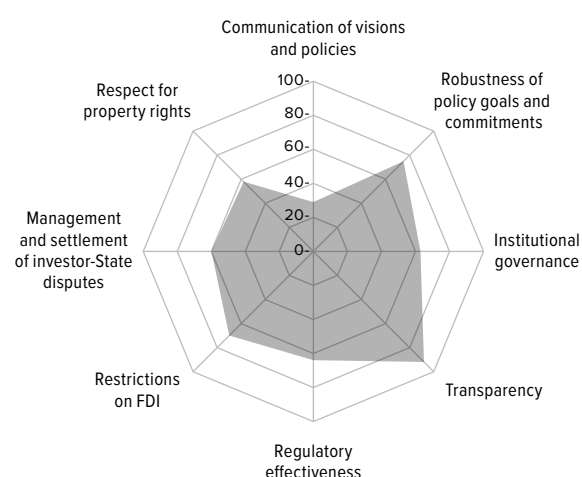
RISK AREAS	2019	2020
Unpredictable policy and regulatory change	37	37
Discrimination between foreign and domestic investors	32*	32
Breach of State obligations	41	41

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

\*These numbers have been adjusted due to identified errors in previous editions

## SUB-INDICATOR PERFORMANCE





## Foresight of policy and regulatory change

### QUICK FACTS

The National Energy Plan 2015-2050 sets the priorities for the energy sector's development in Panama.

The recently updated Short-Term Operational Plan 2019-2024 lists actions the Government should take towards meeting the country's objectives.

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

### STRENGTHS

The Government has intensified its efforts to meet the country's increasing energy demand. The current administration has prioritised the use of renewable energy sources. By the beginning of 2020, there were over 16 licenses granted for solar projects, and 14 projects received provisional approval. The largest one, a 120 MW solar farm, is expected to be commissioned in December 2020. The administration also seeks to reinforce the transmission system to transport electricity from natural gas projects between Colon and Panama City. Plans are underway to build a 500 km transmission line to connect Panama and Colombia. This line will have a capacity of 400 MW and will help the country control and stabilise electricity prices, particularly during drier periods. Moreover, the Government has made strides in improving household electrification rates in the past decades, reaching the country's goal of 95% by 2020.

The National Energy Secretariat (SNE) oversees the development and implementation of national energy policy to guarantee the security of energy supply, electricity access for the entire country, and efficient and rational energy use. The National Authority of Public Services (ASEP) also monitors the electricity sub-sector. The SNE and ASEP collect and publish online data on the energy market every month, as well as energy statistics. According to a report recently published by ASEP, the country's installed solar capacity will increase almost threefold by 2030 compared to the 2018 levels.

### AREAS FOR IMPROVEMENT

Although the national energy policies and plans describe the sectoral objectives, the Government needs to set short-, medium- and long-term targets that are quantifiable and time-bound, particularly for renewables. Also, it is encouraged to develop a national strategy that will improve the power system planning and modelling, and determine a set of implementable solutions that will strengthen the investment environment.

## Management of decision-making processes

### QUICK FACTS

The SNE is responsible for framing the 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.

### STRENGTHS

The Government is working on its institutional capacity reform agenda that is necessary to maintain the country's high potential growth. Panamanian authorities coordinate their decisions on the key challenges, such as improving the capacity of tax and customs administrations and rationalising the recording of fiscal accounts by limiting deferred payment contracts in public investment projects. Procedures on registering foreign and domestic businesses are available on the Ministry of Commerce and Industry's website. Foreign investors may register their company or create a branch of a registered business through the site. In some cases, other government offices may work with investors to ensure they comply with the regulations and requirements for land use, employment, special investment incentives, business licencing, and other conditions.

The new Tax Procedure Code and Law no. 129/2020 on Private Registry System of Final Beneficiaries of Legal Entities reflects the Government's commitment to improve transparency. The Tax Code introduces and defines the concepts of criminal tax fraud, administrative tax evasion, and tax avoidance. It establishes an independent entity, Defensoria del Contribuyente, to ensure tax authorities uphold taxpayers' rights. The Defensoria del Contribuyente establishes the regulatory framework for a registry system that will facilitate access to information on beneficial owners of legal entities, collected by attorneys who provide resident agent services. The Code also aims to assist with preventing money laundering. The National Authority of Transparency and Access to Information (ANTAI) has launched a public consultation on proposed amendments to the Law on Transparency. The amendments seek to strengthen ANTAI and its functions as the governing and supervisory body for issues concerning transparency, access to information, and open data.

### AREAS FOR IMPROVEMENT

In line with last year's recommendation, there is a need for coordinated governance structures comprising representatives of all State authorities. Better coordination will improve cohesion between administrative processes and reduce the processing time for customer services. A single window may be created to address all the queries of foreign investors, and to guide them through a step-by-step procedure to successfully develop and implement their projects. The Government should also organise a one-stop shop that will facilitate and accelerate investments by reducing bureaucratic and administrative procedures. It will provide investors with a single point of contact for all dealings with the public authorities.

## 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 the SNE, which is organised under the Ministry of the Presidency.

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

### STRENGTHS

ASEP issues regulations, and grants licences and concessions to new market entrants. Following public consultation with energy companies, ASEP approved the Expansion Plan of the National Interconnected System (Pecin) 2019-33 of the State-owned electricity transmission company, Empresa de Transmisión Eléctrica (ETESA) in 2020. DisCos prepare the tariff structure for every four years, which is approved by ASEP. The DisCos develop the structure based on, among other things, their anticipated investments on maintaining and expanding the grid, marketing activities, public lighting and unavoidable energy losses. In approving the end-user tariff rates submitted by DisCos, ASEP takes into account the real costs of services, the distribution area, and other factors it considers significant.

Panama continues to work towards making the investment environment attractive. Capacities and prices within the contract electricity market, including for renewable energy, are determined through auctions arranged by ETESA on behalf of Panama's distribution companies. Tendering of energy and power is conducted as per ASEP's guidelines. Companies that hold a license under the Special System of the Multinational Corporation Headquarters (MHQ) enjoy legal stability in their investment and a favourable tax regime. Incentives are available for renewable energy projects, including a tax exemption on imported equipment and an income tax credit of up to 25% of project investment, which companies can utilise up to 10 years from the date of commissioning. Wind- and solar-specific schemes provide for accelerated depreciation on relevant equipment, separate auctions, and exemption from transmission or distribution fees.

### AREAS FOR IMPROVEMENT

Resolution no. 4480, effective from October 2019, facilitates the employment of foreign skilled and technical personnel in the energy sector, in a percentage higher than 15% of the total number of workers. This resolution is a positive development, and the Government should continue to work towards lowering barriers in hiring foreign personnel, and on promoting quality training programmes.

## Rule of law

### QUICK FACTS

Panama ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States in 1995.

Panama signed 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

Commercial and investment disputes between private entities and the State can be resolved through international arbitration. Panama is a signatory to the Inter-American Convention on International Commercial Arbitration (Panama Convention). The Convention provides for the validity of an agreement to arbitrate either a present or a future dispute. Domestic courts may order the recognition and execution of an arbitral award in the same manner as judgements handed down by national or foreign courts.

Panama's national legislation, and the international treaties signed by it, offer coverage against expropriation of private property. There is a robust legal framework for protecting IP rights, including patents, trademarks and digital copyright products. The Committee for Intellectual Property, under the Ministry of Commerce and Industry, is responsible for developing the relevant policies. The Government has also introduced a prosecutor with country-wide competence to simplify the prosecution of certain types of cases. In general, there are no restrictions on the transfer of technology.

### AREAS FOR IMPROVEMENT

As advised last year, an independent and impartial body, like an investment ombudsman, should be established to deal with grievances of foreign investors against the public authorities. Such a mechanism can reduce the risk of maladministration, promote the expeditious and effective resolution of disputes, and reinforce the confidence of investors.

The Government should enact a law to protect foreign investors against the expropriation of property, and to regulate the process of determining compensation and the timeframe for its payment. A definition of "public interest" and a list of activities which constitute public utility can also be included in this law to ensure the legitimacy of the decisions to expropriate.



# Republic of Moldova

Population <sup>1</sup>	2,706,049
Area (km <sup>2</sup> ) <sup>1</sup>	33,850
GDP per capita (USD) <sup>1</sup>	4,228.92
TPES (Mtoe) <sup>2</sup>	3.85
Energy intensity (toe/10 <sup>3</sup> 2010 USD) <sup>2</sup>	0.50
CO <sub>2</sub> emissions - energy (MtCO <sub>2</sub> ) <sup>3</sup>	7.53

There is no data by Orbis Crossborder Investment on completed energy projects and deals from 2015-2020

Sources:

1. The World Bank 2018
2. ©IEA, World energy balances, 2020, [www.iea.org/data-and-statistics](http://www.iea.org/data-and-statistics), [webstore.iea.org/key-world-energy-statistics-2019](http://webstore.iea.org/key-world-energy-statistics-2019)
3. ©IEA 2020, CO<sub>2</sub> emissions from fuel combustion, [www.iea.org/data-and-statistics](http://www.iea.org/data-and-statistics), [webstore.iea.org/key-world-energy-statistics-2019](http://webstore.iea.org/key-world-energy-statistics-2019)

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

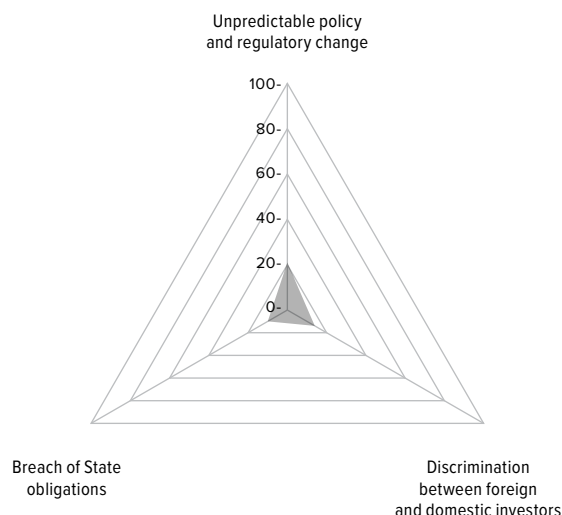
Among the three risks assessed in EIRA, *breach of State obligations* and *discrimination between foreign and domestic investors* continue to be lower compared to *unpredictable policy and regulatory change*.

Moldova's performance is very good on three indicators, and it is good on one indicator. The country has maintained a very good score of 90 on the indicator *rule of law*, as well as on *regulatory environment and investment conditions* (85), and *management of decision-making processes* (83). The score on *foresight of policy and regulatory change* stands at 63.

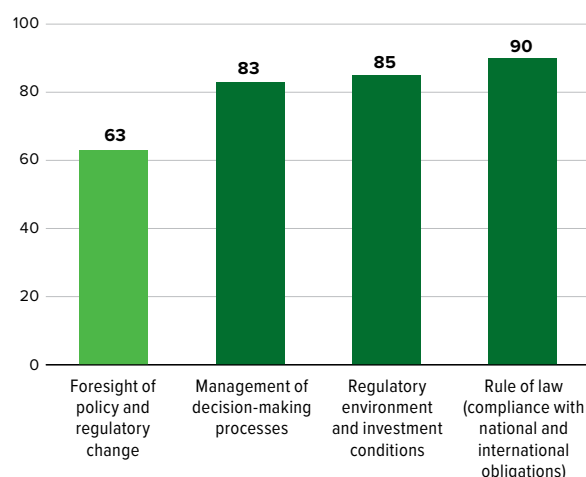
On a more detailed level, Moldova's overall sub-indicator performance is very good. The highest-scoring sub-indicators are *regulatory effectiveness* and *respect for property rights*, both at 100. There have been no changes to its scores on *transparency* (85), *institutional governance* (81), and *management and settlement of investor-State disputes* (80). The score on *restrictions on FDI* is 70. It has scored 63 on the sub-indicators *communication of vision and policies* and *robustness of policy goals and commitments*.

Moldova provides attractive conditions to investors and is working in the right direction. Attention should be given to better communicating the country's vision and policies, and to strengthening the robustness of its goals and commitments.

## RISK LEVEL



## INDICATOR PERFORMANCE



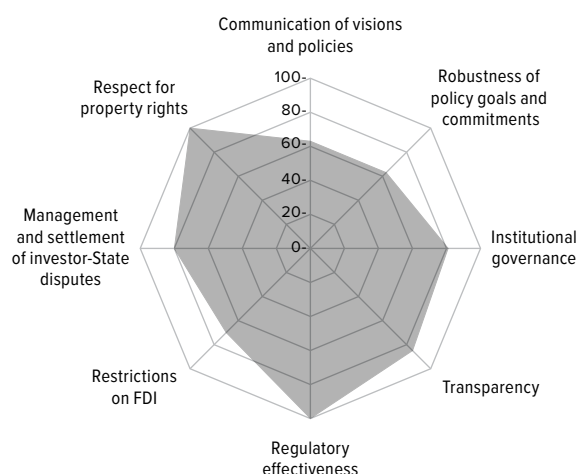
## YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019	2020
Unpredictable policy and regulatory change	21	21	21
Discrimination between foreign and domestic investors	14	14	14
Breach of State obligations	10	10	10

INDICATORS	2018	2019	2020
Foresight of policy and regulatory change	64	63	63
Management of decision-making processes	83	83	83
Regulatory environment and investment conditions	85	85	85
Rule of law	90	90	90

## SUB-INDICATOR PERFORMANCE



## Foresight of policy and regulatory change

### QUICK FACTS

The Energy Strategy of the Republic of Moldova until 2030 was adopted in 2013. A revised version of the Strategy is currently undergoing consultation.

Moldova ratified the Paris Agreement in 2017. In March 2020, Moldova became the fourth country to submit its 2020 NDC.

### STRENGTHS

The Government is taking steps to strengthen the country's energy security and diversify its electricity and gas supply. In 2019, additional contracts on the acquisition of works related to the construction of the Ungheni-Chisinau natural gas transmission pipeline were signed, which brings the project closer to its full completion. The Government is also looking to build gas-fired power plants, rehabilitate co-generation units, and encourage the uptake of gas in public transport. The Power System Development Project supports the interim objectives of the Energy Strategy 2030 (through 2025), such as consolidating the country's role in energy transit, modernising the underdeveloped infrastructure and gas storage facilities, and creating an institutional framework for a competitive electricity market. In its updated NDC, Moldova's new economy-wide unconditional target is to reduce its GHG emissions by 70% below its 1990 level by 2030, instead of 64-67% as previously committed.

Various bodies, including ministries, the National Energy Regulatory Agency (ANRE), and the Energy Efficiency Agency work closely with international institutions to implement the energy goals envisaged in the Energy Strategy 2030 and externally-funded projects. The 2020 version of the NDC outlines associated interventions, agencies responsible, and estimated financial resources.

### AREAS FOR IMPROVEMENT

The Government should follow through on its plans to develop a long-term energy system optimisation model that will assess different energy futures. It should revise key documents, mainly the Energy Strategy 2030, to include long-term objectives and timelines for their achievement. This is particularly the case for renewables, where the target set for 2020 has been achieved.

While the country has stepped up efforts towards expanding the deployment of renewables, additional policy and regulatory actions are required to address the sector's key challenges. The future long-term framework for renewables should be premised on thorough production cost modelling studies, encourage the use of bioenergy, and establish an effective market with stable demand and supply sources. Secondary legislation and implementation plans should be framed to improve the bankability and financing of renewable projects.

A clear demarcation of monitoring and implementation functions will ensure independence and objectivity in the policy evaluation process.

## Management of decision-making processes

### QUICK FACTS

The Ministry of Economy and Infrastructure is responsible for formulating energy and investment policies.

The Moldovan Investment and Export Promotion Organization (MIEPO) acts as an investment promotion centre and a single window.

The Ministry of Agriculture, Regional Development and Environment oversees the implementation of the country's NDC.

### STRENGTHS

Following a change of government in June 2019, the Moldovan authorities have engaged in significant structural reforms, as specified in the EU-Moldova Association Agreement. Consequently, the EU has resumed its budget assistance, and the International Monetary Fund has re-established relations with the Government. They are currently supporting projects in the country that focus on good governance and strengthening institutional frameworks.

State authorities, including ANRE, are required to publish the relevant laws as well as data on their activities. In 2019, ANRE opened public consultations on the draft Natural Gas Networks Code. Also, certain other drafts of normative acts (to be approved in compliance with Law no. 108 of 2016 "On Natural Gas") were made available for public consultation, such as a regulation on the quality of natural gas transmission and distribution services, the methodology of calculation, approval and application of the tariffs for natural gas transmission services, and the regulation on access to natural gas transmission networks and congestion management. The authorities have also improved reporting of expenditures and access by citizens to budget information. Similarly, the Court of Accounts also took action to make its audits more effective and ensure more effective oversight of the budgetary implementation.

### AREAS FOR IMPROVEMENT

The Government should step up its efforts to create a one-stop shop and on the possibility of online registration. These measures will relieve private investors of the administrative burden related to multiple and lengthy registrations, licences, and permit applications.

Moldova has a robust legislative framework for guaranteeing transparency and participatory decision-making. National authorities should now focus on consistently applying this framework by making sure that all the State authorities regularly publish their documents, and properly maintain their respective websites.

## Regulatory environment and investment conditions

### QUICK FACTS

Law no. 174 of 2017 “On Energy” and the Regulation on Organisation and Functioning of ANRE (approved by Parliament Decision no. 334 of 2018) consolidates the independence, authority, and transparency of ANRE.

The Competition Council oversees compliance with anti-trust and State aid provisions under Law no. 183 of 2012 “On Competition” and Law no. 139 of 2012 “On State Aid”.

Equal treatment to domestic and foreign investors is guaranteed in Law no. 81 of 2004 “On Investment in Entrepreneurial Activity”.

### STRENGTHS

In September 2019, ANRE and its Romanian counterpart signed a Cooperation and Assistance Programme. The two regulators seek to intensify their collaboration in the context of implementing the Clean Energy Package, as well as in the areas of technical and market regulations in electricity and natural gas, especially with regards to monitoring and control of licensed activities. In December 2019, ANRE approved and published the Rules of the natural gas market, which will be implemented from December 2020. The Rules aim to establish the legal framework for carrying out sale-purchase transactions and related products on the wholesale and retail market, as well as for the provision of system services. As a result, the operators of the natural gas transmission systems will report quarterly on the actions taken towards implementing the rules of the natural gas market.

The country has made good progress on the legal approximation of the electricity and gas sub-sectors, in line with the EU third energy package and the Energy Community acquis. Accordingly, Moldovatrangaz is expected to comply with the unbundling requirements of the Third Gas Directive by October 2020, per the Action plan it submitted to ANRE. Moreover, the Natural Gas Networks Code, which came into force in February 2020, regulates the modalities of natural gas pipeline interconnections and ensures efficient activity in the relevant market. Following the adoption of Law no. 10 of 2016 “On the Promotion of the Use of Energy from Renewables Sources”, which transposes the EU Guidelines on State aid for environmental protection and energy 2014-2020, the Moldovan authorities are currently in the process of launching renewable energy auctions for on-shore wind and solar photovoltaic projects.

### AREAS FOR IMPROVEMENT

The Government has introduced competition and market principles. It must keep up the efforts to unbundle vertically integrated entities in the natural gas and electricity sub-sectors. To this end, ANRE should promote fair competition in practice, prepare detailed action plans and present these for consultation with the civil society and foreign partners.

## 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 Government has prepared draft legislation to ensure the judicial system's good functioning and the impartiality of all the judges of the Supreme Court of Justice, and the Office of the Prosecutor General. In this regard, the Government has sought the opinion of the Venice Commission on its draft laws and has opened up public consultations. ANRE has jurisdiction to hear disputes between gas and electricity companies and consumers, within deadlines set by the respective laws. Alternative dispute resolution mechanisms are also available without prior exhaustion of local remedies. The recent efforts of the Supreme Court of Justice have facilitated the recognition and enforcement of foreign arbitral awards, aligning the country with international standards.

Appropriate laws guaranteeing the right to property are in place, such as the Law no. 488 of 1999 “On Expropriation for a Cause of Public Utility”, as detailed by the Government Decision no. 660 of 2006. Additional conditions for lawful expropriation in the case of energy-related projects are provided in the 2018 amendments to Law no. 108 of 2016 “On Natural Gas” and Law no. 107 of 2016 “On Electricity”. The country is also a party to several international instruments relating to the deprivation of business interests or property, including IP rights.

### AREAS FOR IMPROVEMENT

Although the country's performance on contractual and property rights is satisfactory, the Government can work towards reducing the cost and time taken in the delivery of judgements, as well as ensure the consistent and proper application of the existing legal framework.





# Rwanda

Population <sup>1</sup>	12,301,939
Area (km <sup>2</sup> ) <sup>1</sup>	26,340
GDP per capita (USD) <sup>1</sup>	772.94
TPES (Mtoe) <sup>2</sup>	N/A
Energy intensity (toe/10 <sup>3</sup> 2010 USD) <sup>2</sup>	N/A
CO <sub>2</sub> emissions - energy (MtCO <sub>2</sub> ) <sup>3</sup>	N/A

There is no data by Orbis Crossborder Investment on completed energy projects and deals from 2015-2020

Sources:

1. The World Bank 2018
2. ©IEA, World energy balances, 2020, [www.iea.org/data-and-statistics](http://www.iea.org/data-and-statistics), [webstore.iea.org/key-world-energy-statistics-2019](http://webstore.iea.org/key-world-energy-statistics-2019)
3. ©IEA 2020, CO<sub>2</sub> emissions from fuel combustion, [www.iea.org/data-and-statistics](http://www.iea.org/data-and-statistics), [webstore.iea.org/key-world-energy-statistics-2019](http://webstore.iea.org/key-world-energy-statistics-2019)

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

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

Rwanda has a very good performance on one indicator, and a good performance on three indicators. It once again has a score of 91 on the indicator *rule of law*. On *regulatory environment and investment conditions*, its score has gone up by two points and stands at 79. Its score on *management of decision-making processes* has also improved from 73 to 74. The score on *foresight of policy and regulatory change* has increased from 66 to 67.

On a more detailed level, Rwanda's sub-indicator performance is very good. *Respect for property rights* continues to be the highest-scoring sub-indicator at 92. On *management and settlement of investor-State disputes* (90) the score remains the same as in 2019. Its scores on the sub-indicators *restrictions on FDI* and *communication of vision and policies* have gone up from 83 and 82, respectively, to 85. The performance on *transparency* has improved by three points and is now at 83. The scores on *regulatory effectiveness* (72) and *institutional governance* (66) are unchanged from last year. Its performance on *robustness of policy goals and commitments* has improved from 49 to 50, although this is again the lowest-scoring sub-indicator.

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

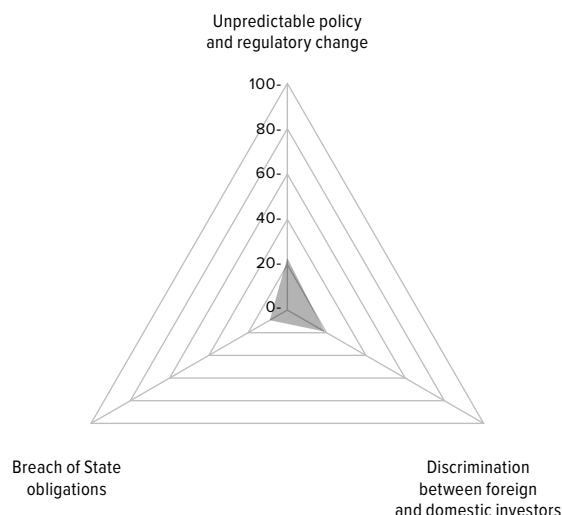
## YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019	2020
Unpredictable policy and regulatory change	24	24	22
Discrimination between foreign and domestic investors	20	20	19
Breach of State obligations	9	9	9

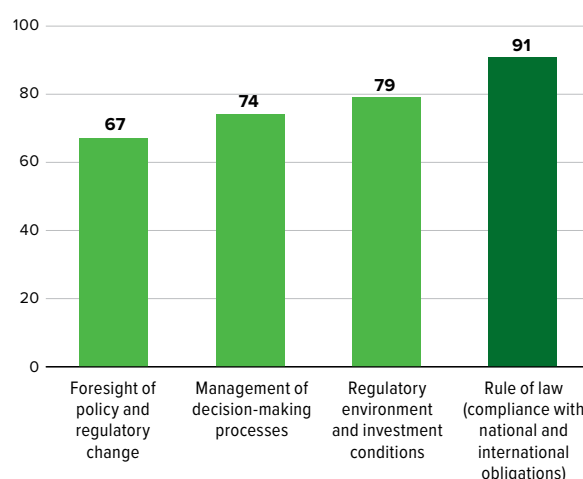
  

INDICATORS	2018	2019	2020
Foresight of policy and regulatory change	64	66	67
Management of decision-making processes	73	73	74
Regulatory environment and investment conditions	77	77	79
Rule of law	91	91	91

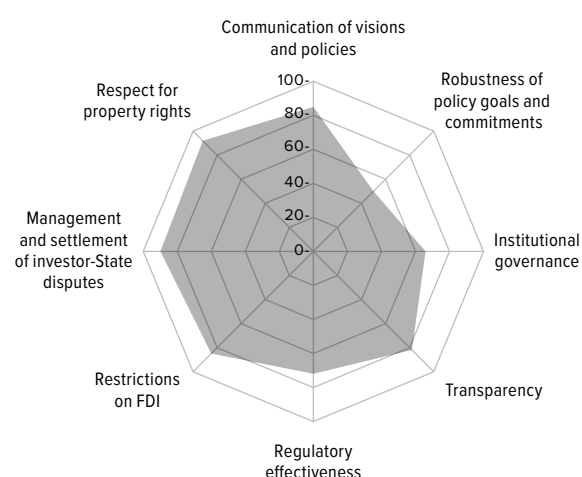
## RISK LEVEL



## INDICATOR PERFORMANCE



## SUB-INDICATOR PERFORMANCE



## Foresight of policy and regulatory change

### QUICK FACTS

In 2018, the Government launched the Energy Sector Strategic Plan for 2018/19-2023/24 (ESSP 2018-2024). It builds on the earlier 2013/14-2017/18 ESSP.

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

### STRENGTHS

Ensuring the timely implementation of committed generation projects in hydropower, methane and peat as well as of the regional hydropower plants is a key Government priority for 2020. In 2018-2019, the addition of electricity generation capacity from newly upgraded micro hydropower plants increased the country's installed capacity from 218 MW to 225 MW. The Government envisages private sector support for reaching off-grid electrification targets through result-based financing. In 2018-2019, household access to electricity surpassed 50% for the first time in the country's history. The Biomass Energy Strategy Plan (2019-2030) was updated to ensure households have access to clean cooking. The Plan promotes the use of biomass alternatives such as Liquefied Petroleum Gas, pellets, briquettes and biogas systems. The Government is also focussing on network upgrade initiatives and transmission system expansion. To tackle the issue of high electricity costs, in June 2019, the Government launched the Rwanda Least Cost Power Development Plan 2019-2040.

In October 2019, the Ministry of Infrastructure (MININFRA) submitted its Energy Backward Looking Joint Sector Review Report 2018-2019. The Report summarises the energy sector performance against the set targets. The President, local governments, and the line ministries have signed performance contracts (Imihigo) among themselves. The MININFRA has signed Imihigo with the Rwanda Utilities and Regulatory Authority (RURA) and Rwanda Energy Group (REG). These implementing institutions are required to prepare quarterly progress reports. In October 2019, the Ministry of Environment also published its Backward Looking Review Report 2018-2019. The National Institute of Statistics of Rwanda published the Third National Strategy for the Development of Statistics 2019/20-2023/24 in September 2019. This is Rwanda's first statistical strategy to incorporate Imihigo data requirements and evaluations in the national framework for statistical development.

### AREAS FOR IMPROVEMENT

Unlike its predecessor, the ESSP 2018-2024 does not state that its full assessment should be carried out by an independent evaluation consultancy. Consequently, the Government is encouraged to reinstate and promote the independence of the policy monitoring mechanisms. It should separate the bodies responsible for implementing the energy strategy from the authority that evaluates the work progress.

## Management of decision-making processes

### QUICK FACTS

The MININFRA is responsible for developing and implementing energy policies.

Law No 04/2013 Relating to Access to Information enables public access to information from government agencies and certain private bodies.

### STRENGTHS

Acknowledging the need for coordinated policy planning and implementation in the energy sector, the MININFRA published its Energy Sector Capacity Development Strategy 2019-2024. The Strategy aims to reinforce the ability of sectoral institutions to deliver the objectives and targets stated in the ESSP 2018-2024. It requires the establishment of a common toolset across REG, RURA and the MININFRA for undertaking investment planning, and calculating the long-run financial consequences of different investment and demand scenarios. The Ministry of Environment has introduced a new Environment and Climate Change Policy to better align Rwanda's overarching medium-term National Strategy for Transformation, the long-term Vision 2050, as well as its multilateral commitments.

Citizen participation and home-grown solutions, such as Imihigo and Umuganda (communities working together in the public interest), are actively employed in political decision-making processes. The Rwanda Development Board (RDB) released the National Skills Development and Employment Promotion Strategy 2019- 2024. The Strategy highlights the need to equip the country's workforce with English and French language skills to internationalise the country's businesses. The Parliament of Rwanda recently passed two laws to counter money laundering. The Financial Intelligence Centre (FIC) has been established as an independent body under the supervision of the Ministry of Finance. The FIC is mandated to conduct financial intelligence to counter, among others, money laundering and related crimes. Compared to their repealed predecessors, the new laws impose stricter penalties for non-compliance. They align Rwanda's anti-money laundering legal framework more closely with international standards.

### AREAS FOR IMPROVEMENT

While the Government has created the Rwanda Green Fund 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 finalised in this regard as soon as possible. A gap also exists in the production and collection of timely, reliable, and accurate environment and climate change data. Key areas that should be addressed are green investment monitoring, mechanisms to monitor the implementation of environment, and climate-related regional, continental and global commitments, including the Paris Agreement.

## Regulatory environment and investment conditions

### QUICK FACTS

RURA is a multi-sectoral body regulating electricity, renewable energy, gas, and downstream petroleum.

REG is a Government-owned holding company responsible for the import, export, procurement, generation, transmission, distribution, and sale of electricity in Rwanda. It has two wholly owned subsidiaries, the Energy Utility Corporation Limited (EUCL) and the Energy Development Corporation Limited.

Law no. 06/2015 Relating to Investment Promotion and Facilitation promotes and facilitates investment in Rwanda.

### STRENGTHS

RURA and REG continue to perform their functions effectively. As of December 2019, the cumulative connectivity rate for Rwandan households is 52.8%. 38.5% of the population is connected to the national grid, and 14.3% has access through off-grid systems. The MININFRA has approved guidelines setting minimum requirements for off-grid solutions that are consistent with international best practice. REG has approved an incentive scheme to make off-grid solutions affordable for low-income households. New electricity end-user tariffs became effective on 21 January 2020. The tariffs were reviewed by RURA to meet the operational expenditures incurred by the EUCL from its network expansion and maintenance activities. The tariffs will now be adjusted every quarter to keep pace with fluctuating costs that are beyond the control of the EUCL, such as currency exchange rates and fuel cost.

The investment climate of Rwanda is very attractive, especially for energy investors. The Rwanda Development Board registered investments worth USD 2.46 billion in 2019, an increase of 22.6% from the previous year. This was the country's highest investment registration to date. The energy sector accounted for 45% of all investments registered. The increase is primarily due to two major energy projects, namely the Ruzizi III Energy (USD 613 million) and Gasmeth Energy (USD 442 million). The Government is proactively taking measures to close the skills gap of the country's workforce. Instead of imposing local content requirements, it is granting incentives to foreign investors that employ the local workforce. In June 2019, the United Arab Emirates and Rwanda signed a Memorandum of Understanding to facilitate labour mobility between the countries.

### AREAS FOR IMPROVEMENT

It would be beneficial to clarify the role of REG in a legal instrument, particularly on investment planning where its mandate potentially overlaps with the MININFRA. Similarly, the division of responsibility for resource development among the REG, MININFRA, and the Rwanda Mining and Petroleum and Gas Board (RMPGB) can be better defined. Finally, the Government should clarify the RMPGB's in the petroleum sector since RURA now regulates this sub-sector.

## Rule of law

### QUICK FACTS

Access to arbitration is provided in the 2008 Law on Arbitration and Conciliation in Commercial Matters.

Rwanda is a party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

Provisions against expropriation are incorporated in Law no. 32/2015 relating to Expropriation in the Public Interest.

### STRENGTHS

The Government is taking measures to increase the efficiency of domestic judicial processes. To deal with the rising case backlog, the Ministry of Justice intends to improve the work space of the Supreme Court, Court of Appeal, and newly merged primary courts, and emphasise the court mediation approach. The Instructions of the President of the Supreme Court governing court mediation in civil, commercial, labour and administrative cases no. 001/2019 was adopted in December 2019. In the coming year, the Government also intends to draft the country's Alternative Dispute Resolution Policy to promote peaceful conflict resolution. It is noteworthy that in 2019, the Kigali International Arbitration Centre registered its 100<sup>th</sup> arbitration. Implementation of the Rwanda Law Revision project is a key priority. The focus of this project is on developing an online portal that will allow stakeholders to participate in the legislative process.

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. In December 2019, Rwanda ratified its BIT with the United Arab Emirates on the promotion and reciprocal protection of investments. The BIT provides for investor-State Dispute Settlement and extends the most-favoured-nation treatment to the pre-establishment phase. Other BITs signed by Rwanda, such as with Belgium-Luxembourg, the United States, and the Republic of Korea define the term "investment" broadly to include movable property, financial stocks, and IP rights.

### AREAS FOR IMPROVEMENT

An institutionalised ombudsman authority can significantly contribute to addressing the grievances of foreign investors and provide them with advisory services. Alternatively, the mandate of the Ombudsman Office can be expanded to include representation of foreign investors before public authorities. The Government may seek guidance from the Energy Charter Model Instrument on Management of Investment Disputes. The Instrument aims to assist States in handling investment disputes as per their own particular needs and circumstances.

Compensation in the case of expropriation should be paid without delay and within the timeframe stipulated in domestic law. The Government should consider imposing penalties for non-compliance by amending the Law relating to Expropriation in the Public Interest.



# Senegal

Population <sup>1</sup>	15,854,360
Area (km <sup>2</sup> ) <sup>1</sup>	196,710
GDP per capita (USD) <sup>1</sup>	1,521.95
TPES (Mtoe) <sup>2</sup>	4.31
Energy intensity (toe/10 <sup>3</sup> 2010 USD) <sup>2</sup>	0.19
CO <sub>2</sub> emissions - energy (MtCO <sub>2</sub> ) <sup>3</sup>	8.31

Data from Orbis Crossborder Investment on energy projects and deals completed between 2015-2020<sup>4</sup>

Target industry	Number of projects and deals	Project/deal type	Project CapEx and deal value (million EUR)
Electric power generation, transmission and distribution	2 projects	new projects	57m EUR total project CapEx
Manufacture of refined petroleum products	1 project	new project	2m EUR total project CapEx
Mining of uranium and thorium ores	1 project	new project	4m EUR total project CapEx

Sources:

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

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

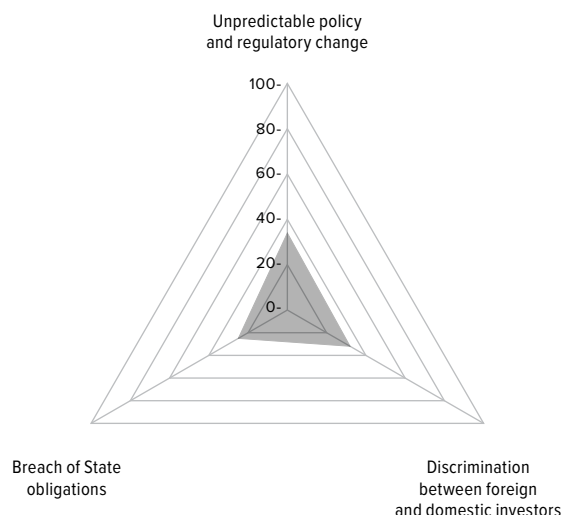
Among the three risks assessed in EIRA, *breach of State obligations* continues in 2020 to be lower compared to *discrimination between foreign and domestic investors* and *unpredictable policy and regulatory change*.

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 at 75, followed by *management of decision-making processes* at 70. On the indicator *regulatory environment and investment conditions*, it has scored 60, while its performance on *foresight of policy and regulatory change* has improved by one point, and is now at 53.

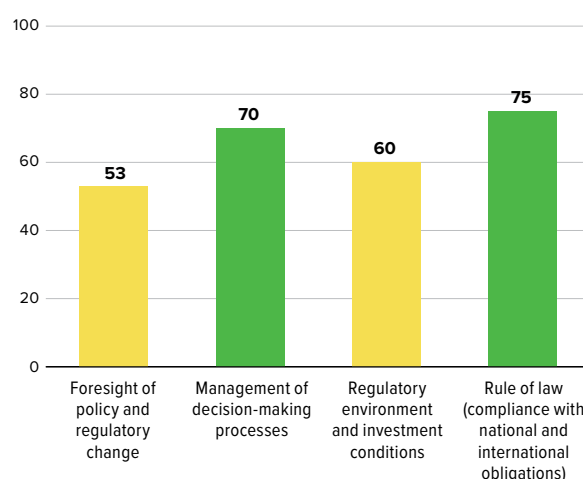
On a more detailed level, Senegal's overall sub-indicator performance is good. The highest-scoring sub-indicator continues to be *institutional governance* at 94. The score on *management and settlement of investor-State disputes* and *respect for property rights* is again 75. Its score on *restrictions on FDI* is 70, while on *communication of vision and policies* its score has increased from 53 to 56. It has maintained a moderate score of 50 on *robustness of policy goals and commitments* and *regulatory effectiveness*. *Transparency* remains the lowest-scoring sub-indicator at 46.

While Senegal has the relevant policies and measures in place, there is potential for improvement. Attention should be given to enhancing transparency in the country.

## RISK LEVEL



## INDICATOR PERFORMANCE



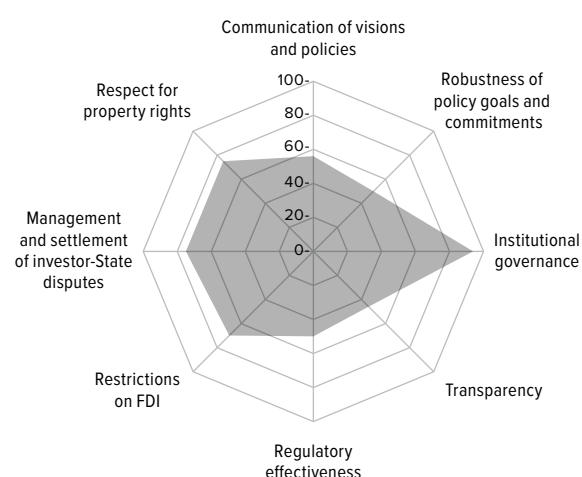
## YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019	2020
Unpredictable policy and regulatory change	33	35	34
Discrimination between foreign and domestic investors	30	33	32
Breach of State obligations	23	25	25

INDICATORS	2018	2019	2020
Foresight of policy and regulatory change	53	52	53
Management of decision-making processes	70	70	70
Regulatory environment and investment conditions	63	58	60
Rule of law	78	75	75

## SUB-INDICATOR PERFORMANCE





## Foresight of policy and regulatory change

### QUICK FACTS

The Emerging Senegal Plan (PSE) 2014-2035 sets out the country's economic and social development strategy.

The Letter of Energy Sector Development Policy (LESDP) was adopted in 2012 and consequently updated in 2019. It is fully integrated in the PSE.

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

### STRENGTHS

The LESDP 2019-2023 describes the Government's revised vision to ensure reliable and affordable access to electricity for all, in a sustainable manner. It contains ambitious medium-term and long-term objectives, such as improving energy security by reducing dependence on imported heavy fuel oil, diversifying the energy mix to include lower carbon options, and leveraging indigenous resources. The Government aims to increase the electrification rate in rural areas through network densification, off-grid projects for non-interconnected areas, and harmonised rural tariffs. It is conscious that a more dynamic and competitive market will help tackle the challenges of high energy generation costs and unreliable supply. Following the accounting separation of the National Electricity Company of Senegal (SENELEC), there are efforts to unbundle transmission to facilitate third-party access as well as regional trade.

The Government recently finished evaluating the progress made under the Priority Action Plan (PAP), which has now entered its second implementation phase (2019-2023). The Ministry of Petroleum and Energy (MPE) maintains the lead in monitoring the implementation of the energy-related targets identified in the PSE and the LESDP. Monitoring tasks are also vested in the Electricity Sector Regulatory Commission (CRSE). To create a clear institutional framework on rural electrification, the Government has transferred the functions of the Senegalese Agency for Rural Electrification (ASER) to a new rural electrification department in SENELEC. SENELEC is responsible for cancelling non-operational concessions, and for creating an affermage model outside the preferential concession areas that will boost investment in rural electrification.

### AREAS FOR IMPROVEMENT

Further actions are needed to ensure that the energy mix transitions from oil-fired generation to renewable energy and natural gas. Natural gas strategies should be successfully implemented across the entire value chain, including end uses (gas-to-power). A transparent and simplified procurement process will help the Government to identify effective and impactful projects for renewable energy generation, as well as financial instruments and innovative de-risking packages for tendered projects. Such measures will also incentivise the private sector to invest in clean energy transition.

## Management of decision-making processes

### QUICK FACTS

The MPE formulates the energy sector policies.

The Ministry of Investment Promotion, Partnerships and the Development of the State Teleservices is responsible for the national investment planning.

The National Agency for the Promotion of Investments and Major Projects (APIX) was created in 2000 to provide companies information on investment conditions and procedures, and to assist them in obtaining permits and approvals.

### STRENGTHS

The PSE continues to be the overarching strategic framework for the long-term economic development of the country. It seeks to achieve an emerging market status for Senegal by 2035. The Government recognises good governance and institutional robustness as prerequisites for the country's structural transformation and for an improved business environment that attracts high investment. Since 2016, the Government has made digitalisation of government services, particularly business-facilitation services, a priority through the Digital Senegal Strategy 2025. Efforts are underway across multiple national authorities to digitise business registration, collection of taxes and duties, and the process of obtaining permits.

The Government is making progress on its commitment to improving transparency in public administration. Since the evaluation of the IMF in 2018, internal audit structures have revitalised. The Ministry of Finance and Budget regularly reports on its website about the quarterly budget appropriations and informs the public about their execution. A Medium-Term Revenue Mobilisation Strategy (SRMT) will be implemented from 2020 onwards to secure the recovery of budget revenue, allow development programs included in the PSE to be financed, and to maintain the macro-fiscal stability of the country. The SRMT's main tax policy measures include, among other things, reform of the corporate income tax and a reduction in tax expenditures. Given the complex nature of these reforms, consultations between private and public stakeholders have taken place, such as in the case of the Digital Economy domain.

### AREAS FOR IMPROVEMENT

The Government should adopt the long-anticipated law guaranteeing the right to information. Additionally, it needs to undertake deeper reforms and attract higher investment to increase the whole-of-government efficiency and transparency, and enhance services delivery to businesses. The implementation of these activities requires interoperability and data-sharing, improvement of the functionality of existing platforms, and simplified processes.

## Regulatory environment and investment conditions

### QUICK FACTS

The CRSE oversees licencing, operation, and sale of electricity and holds a competition mandate in the sub-sector.

The MPE regulates the oil and gas sub-sectors.

### STRENGTHS

The Government and the CRSE aim to implement various structural measures to increase confidence in the regulatory framework and ensure the energy sector's viability. Ongoing reforms seek to expand CRSE's role in the intermediate and downstream gas sub-sector. A gas code for regulating the sub-sector is in the process of being adopted. Moreover, a financial plan for the electricity sector, currently under preparation, includes strategies on the payment of public sector arrears and coverage of funds needed by SENELEC for tariff compensation. The CRSE has agreed to modify the maximum allowed revenue tariff formula. Through the CRSE's Decision no. 2019-48, tariffs for low-voltage customers will be adjusted by 10% to protect poorer customers. The reduction will be absorbed by the medium and high voltage customers who will now pay a tariff increased by 6%.

Senegal's growth is driven increasingly by investment. In line with PAP2, the Government plans to let private investors take the lead in strategic projects, such as in the establishment of a gas transportation company, in which the State-owned oil company (PETROSEN) will hold the public sector's participation. It is expected that SENELEC's re-organisation into separate transmission and distribution, and generation subsidiaries will reinforce its technical and operational robustness. The 2019 Petroleum Code offers a range of advantages and guarantees to petroleum contractors and subcontractors. It allows them to borrow funds from abroad for executing their activities, as well as to transfer funds for the contractual amortisation of debts related to their operations in Senegal.

### AREAS FOR IMPROVEMENT

Reinforcing the CRSE's functional and institutional autonomy is essential for improving regulation in the energy sector. A step in the right direction would be selecting its Commissioners based on merit through a public procedure, and making them accountable only to the National Assembly.

The 2019 Law "On Local Content in the Hydrocarbons Sector" should be supplemented with subsidiary regulations, so that it is fully implemented. The details of these regulations must be developed in collaboration with industry stakeholders, research institutions and international organisations to strengthen the competitiveness and the productive capabilities of local companies.

## 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 has adopted measures to modernise its investment protection regime, both in its domestic legal framework as well as in the context of the OHADA. These measures come in many forms, including domestic legislation (Investment Code, Petroleum Code), and bilateral and regional treaties and agreements (ECOWAS Energy Protocol, revision by the OHADA of the Uniform Act on Arbitration of 2017). As evidenced by the recent ICC rulings, arbitration of disputes stemming from an investment in Senegal's energy sector is a viable alternative to domestic litigation. The courts can scrutinise the legality of all administrative decisions upon the request of foreign and local persons. The court review must be initiated within two months from the administrative decision.

National law facilitates ownership of private property and guarantees its protection. Petroleum title-holders must contribute to the maximum technological transfer with the Senegalese companies. The National Committee of the Local Content Monitoring develops a strategic plan for technology and skills transfer. Senegal is a member of the African Intellectual Property Organization (OAPI). Its most distinctive characteristic is that trademark, patent, and design protection can be obtained through a single filing either with the OAPI IP office or through the relevant Senegalese agency, and is automatically effective in all its Member States.

### AREAS FOR IMPROVEMENT

The commercial court, established in 2017, has, thus far, ruled on more than 10,000 cases, thereby speeding up the resolution of disputes. In addition, since February 2020, the commercial court has set up a system that allows proceedings to be initiated and followed online. As advised previously in EIRA, timeframes for examining cases will help to further reduce delays and increase the celerity of justice in Senegal.

It is commendable that the Government has committed to not renegotiating the existing contracts under the 2019 Petroleum Code and the Law on Local Content in the Hydrocarbons Sector. It is encouraged to take this approach since the retroactive application of new legislation may erode the country's attractiveness as a foreign investment destination.



# Sierra Leone

Population <sup>1</sup>	7,650,154
Area (km <sup>2</sup> ) <sup>1</sup>	72,300
GDP per capita (USD) <sup>1</sup>	533.99
TPES (Mtoe) <sup>2</sup>	N/A
Energy intensity (toe/10 <sup>3</sup> 2010 USD) <sup>2</sup>	N/A
CO <sub>2</sub> emissions - energy (MtCO <sub>2</sub> ) <sup>3</sup>	N/A

There is no data by Orbis Crossborder Investment on completed energy projects and deals from 2015-2020

Sources:

1. The World Bank 2018
2. ©IEA, World energy balances, 2020, [www.iea.org/data-and-statistics](http://www.iea.org/data-and-statistics), [webstore.iea.org/key-world-energy-statistics-2019](http://webstore.iea.org/key-world-energy-statistics-2019)
3. ©IEA 2020, CO<sub>2</sub> emissions from fuel combustion, [www.iea.org/data-and-statistics](http://www.iea.org/data-and-statistics), [webstore.iea.org/key-world-energy-statistics-2019](http://webstore.iea.org/key-world-energy-statistics-2019)

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

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

Sierra Leone has a moderate performance on all the EIRA indicators. The highest-scoring indicator is *regulatory environment and investment conditions* at 56. On *rule of law*, it has a score of 53, followed by *management of decision-making processes* at 48, and *foresight of policy and regulatory change* at 44.

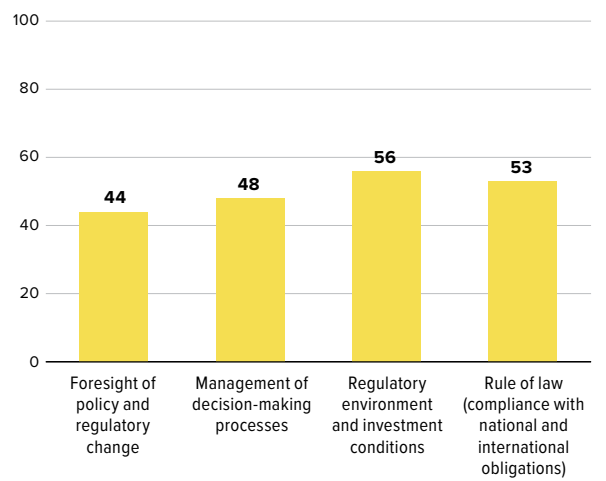
On a more detailed level, Sierra Leone’s overall sub-indicator performance is moderate. The highest-scoring sub-indicator is *restrictions on FDI* at 60. On *management and settlement of investor-State disputes*, it has scored 55, followed by *regulatory effectiveness* at 52. It has a score of 50 on the sub-indicators *communication of vision and policies*, *institutional governance*, and *respect for property rights*. Its performance on *transparency* is moderate, at 46. The lowest-scoring sub-indicator is *robustness of policy goals and commitments* at 39.

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

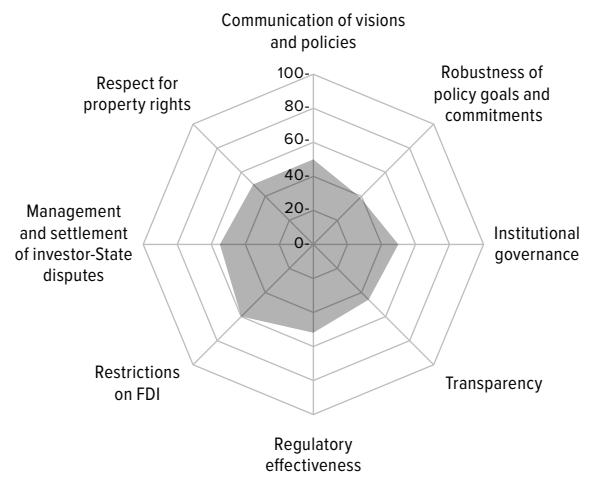
RISK LEVEL



INDICATOR PERFORMANCE



SUB-INDICATOR PERFORMANCE



## Foresight of policy and regulatory change

### QUICK FACTS

The main strategy document of Sierra Leone is the Medium-term National Development Plan (2019-2023).

Sierra Leone is a party to the UNFCCC Paris Climate Agreement, and it has submitted its first NDC.

### STRENGTHS

Sierra Leone's strategic objective for 2019-2023 is to produce and distribute adequate electricity from renewable sources. The Government intends to scale up electricity access from the current 15% to 44% by 2023. It aims to increase the installed generation capacity from 167.62 MW to 650 MW for the same period, and reduce the transmission and distribution losses from 38% to 20%. Promoting energy-efficient practices and clean technologies is also a national priority. There are plans to increase the percentage of the population with access to improved cookstoves from 18% to 45% by 2023. The Government is also preparing a strategic vision to make Sierra Leone Africa's first zero-carbon middle-income economy by 2040. In 2019, the Government entered into a number of agreements with private companies for the construction of mini-hydro plants and solar mini-grids, on a PPP basis. The West Africa Power Pool Project is on track, and three of the five stations that are to be in Sierra Leone are complete.

Sierra Leone's Medium-term National Development Plan (2019-2023) introduces an implementation and result tracking mechanism that distinguishes it from previous plans. There is a dedicated activity cluster for financing, actor mapping, and defining the roles and responsibilities of MDAs in implementing, monitoring, and evaluating projects and programmes. There is an accompanying results framework, which sets the parameters for measuring progress. The Plan requires that by 2021 Public Expenditure Reviews (PERs) must be prepared by the energy-related MDAs.

### AREAS FOR IMPROVEMENT

The mismatch between the generated electricity and the demand load, as well as the congested transmission and distribution network, pose significant hindrances to doing business in the country. Grid reliability is substantially compromised during the dry season because a large share of generated electricity comes from hydropower. The further integration of variable renewable energy into the grid will intensify system unreliability so the Government should devise adequate demand response schemes that can reduce the overall energy consumption and shift peak demand.

The Government should develop a legal and regulatory framework to support the development and implementation of renewable energy. It should also create support instruments on pricing and tariff structure, which promote renewable power generation.

## Management of decision-making processes

### QUICK FACTS

Sierra Leone has a system of local governance, comprising five city councils, one municipal council, and 13 district councils.

The Ministry of Energy of Sierra Leone formulates and implements energy policies, projects, and programmes.

The Sierra Leone Import Export Promotion Agency (SLIEPA) is responsible for policies to improve the investment climate.

### STRENGTHS

The Government is taking steps to promote decentralisation. In 2020, the President of Sierra Leone launched a EUR 10 million programme to finance development projects in the Bombali, Kenema, Pujehun and Kambia districts. In 2020, it officially launched the EU funded "Support to Civil Society and Local Authorities for Local Development" programme, which will also facilitate the decentralisation plan. To coordinate actions on climate change, the Government intends to establish, by 2023, mechanisms for the National Climate Change Secretariat to organise stakeholders and streamline the use of scarce resources. The Government has announced that it will soon introduce a "single application point" within SLIEPA, which will provide one-stop shop services to investors and exporters seeking project approvals.

Per the Medium-term National Development Plan (2019-2023), the Government intends to increase the number of anti-corruption policies related to the public sector from six in 2018 to 26 in 2023. In December 2019, the President of Sierra Leone assented the Anti-Corruption (Amendment Act), 2019. Compared to its predecessor, this new law increases the minimum term of imprisonment and the fine amount for major corruption offences. It enhances the enforcement powers of the Anti-Corruption Commission, which can now prosecute corrupt public officers or recover from them all monies they misappropriate plus a minimum of 10% interest. It can also impose a mandatory exclusion from holding public office for at least three years.

### AREAS FOR IMPROVEMENT

Foreign investors may find themselves engaging with a single ministry in the initial stages of a project, but face delays in conducting a proper due-diligence when other public authorities and ministries become involved. Therefore, it is advised that SLIEPA should give energy investors information on all the relevant State authorities involved in energy activities, and set mechanisms to approach them in a coordinated manner. SLIEPA can also be instrumental in providing "investor aftercare" to support established investments. The Government should also set clear guidelines for investors to consult and engage with local communities on large-scale energy projects throughout the implementation cycle.

## Regulatory environment and investment conditions

### QUICK FACTS

The Sierra Leone Electricity and Water Regulatory Commission (EWRC) regulates electricity and water services.

The Petroleum Directorate monitors upstream petroleum operations, while the Petroleum Regulatory Agency (PRA) supervises downstream operations.

### STRENGTHS

Establishment of the EWRC and the PRA by acts of Parliament gives them credibility. The President appoints the PRA's board members, subject to the Parliament's approval. In October 2019, the EWRC held its first public hearing on a tariff application from the Electricity Distribution and Supply Authority (EDSA). This application aims to minimise the EDSA's operational losses by allowing it to sell power at a higher rate. At the hearing, the EWRC also outlined other plans to mitigate the losses of power utilities, and how it will use the gains to enhance the quality and quantity of utility services. To catch up with its West African neighbours in attracting international oil companies, the Government opened up the country's entire offshore acreage to potential explorers in the Fourth Offshore Petroleum Licensing Round. It concluded the Round on 28 February 2020, and the six bids received are currently undergoing preliminary assessment by a multi-sectoral Bid Evaluation Committee.

The Government is making efforts to reduce reliance on foreign aid and diversify investment opportunities beyond the mining sector. As per official records, FDI has considerably increased over the last years, reaching USD 560 million in 2017. Carbon capture storage, particularly in forestry and plantation activities, is receiving attention from foreign investors. The Government is granting incentives to infrastructure projects of over USD 20 million, including tax exemptions for 15 years from start-up, duty-free imports on plants, equipment and other inputs required for project execution, and tax relief on costs incurred in training the local staff.

### AREAS FOR IMPROVEMENT

The EWRC can be made more independent, particularly in terms of recruiting its board members and administrative staff. The criteria and process of selecting the board members should be competitive, and publically announced. The Government's role in appointing board members should be limited, and that of the Parliament increased.

The EWRC should reconsider the electricity tariff subsidies it offers. Cost-reflective tariffs should be introduced at the earliest to reinforce the EWRC'S credibility, and ensure the Government's plans to increase energy investment are successful. Other measures that can improve sector regulation are reducing reliance on expensive thermal generation and directing investment and donor assistance into transmission and distribution infrastructure.

## Rule of law

### QUICK FACTS

Sierra Leone has a two-tiered legal system based on English common law.

Sierra Leone ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States in 1966.

The Investment Promotion Act protects foreign and domestic private investment from unlawful expropriation, whether direct or indirect.

### STRENGTHS

In 2010, the Government established Fast Track Commercial Courts (FTCC) to reduce the time taken to resolve commercial disputes. Currently, two FTCCs are running with three full-time judges. The Government has made it a priority to establish an effective and efficient justice delivery system. In the Medium-term National Development Plan (2019-2023), the Government has set a target that by 2023 it will ensure the number of cases awaiting judgement for six months or more is considerably lower than in 2018. The courts of Sierra Leone generally recognise foreign judgements coming from jurisdictions with whom they have reciprocity arrangements, such as Ghana, Nigeria, Guinea and Gambia.

Historically, there are no cases of unlawful expropriation concerning the property of foreign investors. Per the Constitution, a State authority can compulsorily acquire private property only in the interest of defence, public safety, public order, public morality, public health, town and country planning, and for any project that promotes the public benefit or welfare of the citizens. The Government is trying to streamline land administration. According to the Medium-term National Development Plan (2019-2023), it intends to enact, by 2020, a Land Commission Bill for establishing a three-tier decentralised National Land Commission. It also plans to set up an Administrative Land Tribunal by 2022. There are no technology transfer requirements applicable to foreign investments in Sierra Leone. Investors are not required to invest in manufacturing, research and development, or service facilities in Sierra Leone to secure approval for major procurements.

### AREAS FOR IMPROVEMENT

The Parliament of Sierra Leone has approved the country's accession to the New York Convention, but it has not yet deposited its instrument of accession with the United Nations. The Government should conclude all pending actions in this respect, including the enactment of the draft arbitration bill, as soon as possible. Accession to the Convention will send a strong signal to foreign investors that the State is committed to promoting dispute resolution through international arbitration, rather than domestic means, and that it will support the enforcement and recognition of foreign awards within its territory.





# Tajikistan

Population <sup>1</sup>	9,100,837
Area (km <sup>2</sup> ) <sup>1</sup>	141,380
GDP per capita (USD) <sup>1</sup>	826.62
TPES (Mtoe) <sup>2</sup>	3.25
Energy intensity (toe/10 <sup>3</sup> 2010 USD) <sup>2</sup>	0.36
CO <sub>2</sub> emissions - energy (MtCO <sub>2</sub> ) <sup>3</sup>	5.84

There is no data by Orbis Crossborder Investment on completed energy projects and deals from 2015-2020

Sources:

1. The World Bank 2018
2. ©IEA, World energy balances, 2020, [www.iea.org/data-and-statistics](http://www.iea.org/data-and-statistics), [webstore.iea.org/key-world-energy-statistics-2019](http://webstore.iea.org/key-world-energy-statistics-2019)
3. ©IEA 2020, CO<sub>2</sub> emissions from fuel combustion, [www.iea.org/data-and-statistics](http://www.iea.org/data-and-statistics), [webstore.iea.org/key-world-energy-statistics-2019](http://webstore.iea.org/key-world-energy-statistics-2019)

Tajikistan's overall risk level against the assessed areas is **moderate**.

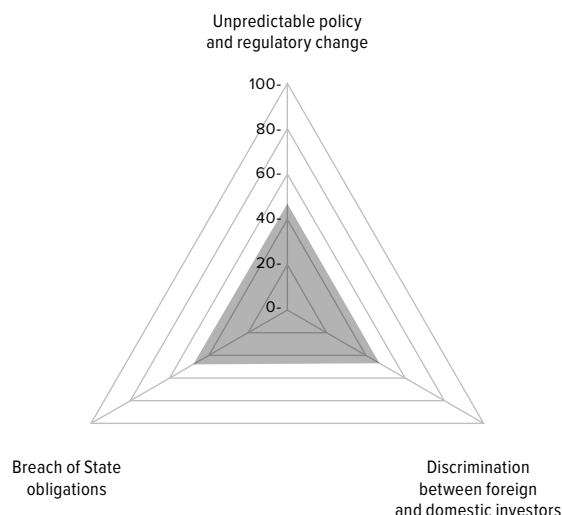
The three risks assessed in EIRA, *unpredictable policy and regulatory change*, *discrimination between foreign and domestic investors*, and *breach of State obligations* are on the same level.

Tajikistan's performance is good on one EIRA indicator, and it is moderate on three indicators. The country has a score of 61 on the indicator *management of decision-making processes*, and 54 on *rule of law*. It has scored 47 on the indicators *foresight of policy and regulatory change* and *regulatory environment and investment conditions*.

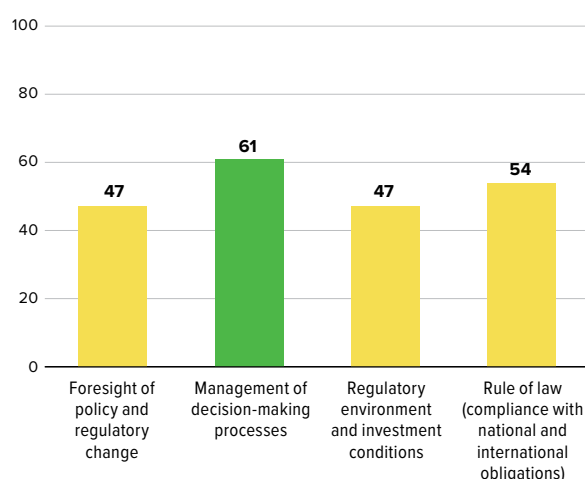
On a more detailed level, Tajikistan's overall sub-indicator performance is moderate. *Institutional governance* is the highest-scoring sub-indicator at 75. It has a score of 58 on *respect for property rights*, followed by 56 on *communication of vision and policies*. On *restrictions on FDI*, and *management and settlement of investor-State disputes* it has a score of 50, each. Its performance on *transparency* (47) and *regulatory effectiveness* (44) is moderate. *Robustness of policy goals and commitments* is the lowest-scoring sub-indicator at 38.

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

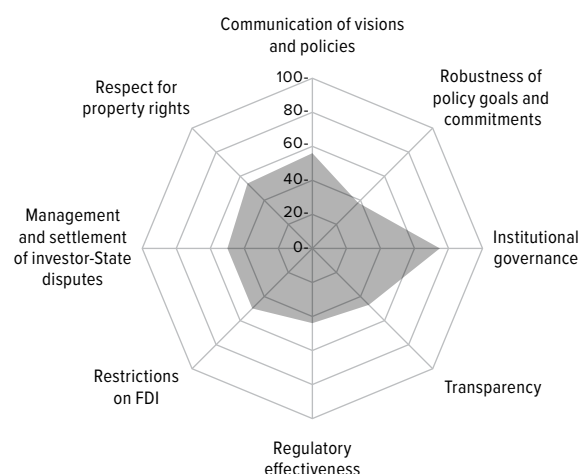
## RISK LEVEL



## INDICATOR PERFORMANCE



## SUB-INDICATOR PERFORMANCE



## Foresight of policy and regulatory change

### QUICK FACTS

The laws regulating Tajikistan's energy sector are the Law on Energy, the Law on Energy Savings and Energy Efficiency, the Law on Electrical Connection, and the Law on Use of Renewable Energy Sources.

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

### STRENGTHS

Tajikistan is making steady progress towards improving its energy security. The commencement of the Roghun hydropower plant, with a projected capacity of 3,600 MW, will increase electricity production considerably. The project will also contribute to economic development, meet the growing domestic demand, and expand the potential for electricity export. Tajikistan is cooperating with foreign governments and international financial institutions to secure financing for the construction, rehabilitation, and modernisation of critical energy infrastructure. It is also participating in regional energy projects such as the Central Asia-South Asia (CASA)-1000 and the Turkmenistan-Uzbekistan-Tajikistan-Afghanistan-Pakistan (TUTAP) power transmission line implemented under the Central Asia Regional Economic Cooperation (CAREC) Program.

In 2018, Tajikistan published the national monitoring and assessment report on the implementation of the Government's strategies and programmes on the Sustainable Development Goals. In January 2020, it also released the third national report on the implementation of the EITI. The Statistical Agency, under the President of the Republic of Tajikistan, publishes annual reports on the socio-economic situation of Tajikistan and the "Tajikistan in numbers" report.

### AREAS FOR IMPROVEMENT

The Government should prepare an integrated national energy strategy for the next ten to twenty years. The national energy strategy should outline the energy sector priorities, and be compatible with the National Development Strategy 2030, the Concept for Transition to Sustainable Development 2030, and the CAREC Energy Strategy 2030. The Government should also prepare a comprehensive action plan to support the national energy strategy. The action plan must identify implementation measures for achieving the objectives of the national energy strategy, mechanisms for securing adequate financial resources, deadlines, and potential stakeholders and parties to be involved.

Tajikistan should develop an up-to-date policy monitoring and evaluation system, based on best international practice. An updated system will help the Government to assess better the energy goals achieved, and guide its future actions. Finally, the Ministry of Energy and Water Resources should regularly publish all the relevant energy data, and give updates on its progress towards meeting the national energy targets.

## Management of decision-making processes

### QUICK FACTS

The Ministry of Energy and Water Resources develops and implements energy policies.

The State Committee on Investments and State Property Management (State Committee) frames national policies on investment.

The Consultative Council on the Improvement of the Investment Climate (CCIIIC) provides a platform for public-private dialogue.

### STRENGTHS

In 2018, the Government published its biennial report on the inventory of the GHG emissions. It also intends to produce the 4th National Communication under the UNFCCC by the end of 2020. There is a working group responsible for compiling an inventory of GHG emissions. The working group comprises representatives of various ministries and departments. The Committee for Environmental Protection and the UNDP manages its work. The Government adopted the Concept on State Policy for Attraction and Protection of Investment in 2012 to outline the strategic vision and policy direction for investment attraction. It has established an e-registry for business licences and permits, a Single Window Center system to register legal entities and individual entrepreneurs, and an electronic system to submit tax declarations. These services are intended to contribute towards facilitating investment and entrepreneurship in the country.

The President of the country chairs the meetings of the CCIIIC. Its members include representatives of State agencies, international organisations, and the private sector (non-permanent). The objective of the CCIIIC is to address issues related to private sector development and investment promotion. It also gives solutions to reduce and eliminate existing barriers to investment. Regulatory decisions and legislative acts must undergo public consultation. The State agency initiating the draft must notify the public at least 30 calendar days before the date of the consultation hearing. Individuals, legal entities, and State bodies can give proposals to improve the drafts.

### AREAS FOR IMPROVEMENT

Tajikistan has legislation which guarantees access to information, but its implementation needs more attention. The Government is encouraged to digitalise public services and promote State agencies to use electronic communication and public administration tools in their daily work. The official websites of the State agencies should also be updated regularly.

The Government may consider expanding the scope of Tajinvest, a State unitary enterprise under the supervision of the State Committee, to provide one-stop shop services. It may also launch an investment portal, similar to the successful trade portal run by the Ministry of Economic Development and Trade.

## Regulatory environment and investment conditions

### QUICK FACTS

The Anti-Monopoly Service under the Government of the Republic of Tajikistan regulates the electricity market.

The Law on Subsoil and the Law on Production Sharing Agreements regulate the extractive industries.

The Law on Investment protects private investment in the country.

### STRENGTHS

The Government is introducing various reforms in the energy sector. In 2017, it approved a new electricity pricing methodology to improve the tariff policy and address cost recovery. As a result, the Anti-Monopoly Service gradually raised tariffs for industry and households from 2017-2019. In 2018, Barki Tojik (BT), the State-owned power generation, transmission, and distribution monopoly, was split into separate entities. The second phase of the reform (2021-2024) aims to ensure BT's financial self-sufficiency. The Government is also implementing a detailed plan to reduce BT's debts and to improve collection rates. In April 2019, it approved the Programme for Financial Recovery of the Power Utility. The goal of this programme is to improve BT's operational efficiency and financial situation through the application of a cost-recovery tariff.

The Law on Investment grants equal treatment to domestic and foreign investors. It guarantees 100% foreign ownership of local enterprises, free conversion of currency, and transfer of investment-related capitals, payments and profits abroad. The Law on Public-Private Partnership defines the term PPP, the institutional mechanisms of the PPP, the selection process of the projects, and the rights and responsibilities of the parties. The Centre on Implementation of Public-Private Partnership Projects is responsible for undertaking PPP projects in the country. The Law on Concession allows the Government to grant concessions for thermal power plants, power transmission and distribution networks and supporting objects, oil and gas pipelines, oil and gas infrastructure, and prospective fields of oil, gas and coal. The Law on State Protection and Business Support protects and promotes business activities.

### AREAS FOR IMPROVEMENT

Tajikistan should establish an independent regulatory agency that will ensure a competitive and fair energy market. Moreover, to secure the financial rehabilitation of the power sector, it should reconsider the electricity subsidies currently given to State-owned entities, such as the Tajik Aluminium Company (TALCO) which consumes almost 50% of the total electricity produced in Tajikistan.

The Government should publicise the economic sectors open to PPP projects, the potential benefits for private partners, the criteria for pre-feasibility and feasibility studies, and the list of State institutions involved in the selection committees.

## Rule of law

### QUICK FACTS

Tajikistan ratified the Energy Charter Treaty in 1997.

Tajikistan is a member of WTO since 2013.

Tajikistan acceded to the Convention on Recognition and Enforcement of Foreign Arbitral Awards in 2012.

### STRENGTHS

The Law on Investment establishes a sound legal framework. It creates conducive conditions for dispute resolution between the investor and the State through domestic and international arbitration. Decisions by international arbitration tribunals are recognised and enforced by the courts of the Republic of Tajikistan in compliance with the provisions of the investment agreement, applicable procedural legislation, or international agreements ratified by the Republic of Tajikistan.

Public authorities cannot, directly or indirectly, expropriate investments or assets, except in the interest of the State or society. The expropriation must be non-discriminatory and must comply with the procedure established in the national laws. The compensation for expropriation should be timely, adequate, and effective. The Civil Code of the Republic of Tajikistan protects IP rights. Tajikistan is a contracting party of the Convention on Establishment of the World Intellectual Property Organization and the Paris Convention for the Protection of Industrial Property. It has signed and ratified BITs with 35 countries of which 24 are in force, and eight treaties with investment protection provisions of which six are in effect.

### AREAS FOR IMPROVEMENT

Tajikistan should consider amending the national laws to set the criteria for "public interest" as grounds for expropriation. There must also be a clear description of the process for determining compensation in the event of expropriation.

The Government may consider establishing an investment or business ombudsman institution to resolve disputes between investors and public authorities. It may also utilise the Energy Charter Model Instrument on Management of Investment Disputes that aims to assist States in enhancing their management of investment disputes, while keeping in mind their own particular needs and circumstances.



# Uganda

Population <sup>1</sup>	42,723,139
Area (km <sup>2</sup> ) <sup>1</sup>	241,550
GDP per capita (USD) <sup>1</sup>	642.78
TPES (Mtoe) <sup>2</sup>	N/A
Energy intensity (toe/10 <sup>3</sup> 2010 USD) <sup>2</sup>	N/A
CO <sub>2</sub> emissions - energy (MtCO <sub>2</sub> ) <sup>3</sup>	N/A

There is no data by Orbis Crossborder Investment on completed energy projects and deals from 2015-2020

Sources:

1. The World Bank 2018
2. ©IEA, World energy balances, 2020, [www.iea.org/data-and-statistics](http://www.iea.org/data-and-statistics), [webstore.iea.org/key-world-energy-statistics-2019](http://webstore.iea.org/key-world-energy-statistics-2019)
3. ©IEA 2020, CO<sub>2</sub> emissions from fuel combustion, [www.iea.org/data-and-statistics](http://www.iea.org/data-and-statistics), [webstore.iea.org/key-world-energy-statistics-2019](http://webstore.iea.org/key-world-energy-statistics-2019)

Uganda's overall risk level against the assessed areas is **moderate**.

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

Uganda's performance is good on one indicator and it is moderate on three indicators. It has maintained the scores from last year on the *management of decision-making processes* (67) and *rule of law* (59). The score on *foresight of policy and regulatory change* has improved from 52 to 57. On *regulatory environment and investment conditions*, it has again scored 42.

On a more detailed level, Uganda's overall sub-indicator performance is moderate. *Institutional governance* continues to be the highest-scoring sub-indicator at 75. It is followed by *management and settlement of investor-State disputes* at 60. The country's score on *robustness of policy goals and commitments* has gone up from 54 to 58. On *transparency and respect for property rights*, it has scored 58, the same as last year. On *communication of vision and policies*, its performance has improved from 50 to 55. The sub-indicator *regulatory effectiveness* stands at 44. Its performance on *restrictions on FDI* continues to be the lowest at 40.

While there are some improvements in Uganda's performance compared to 2019, 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.

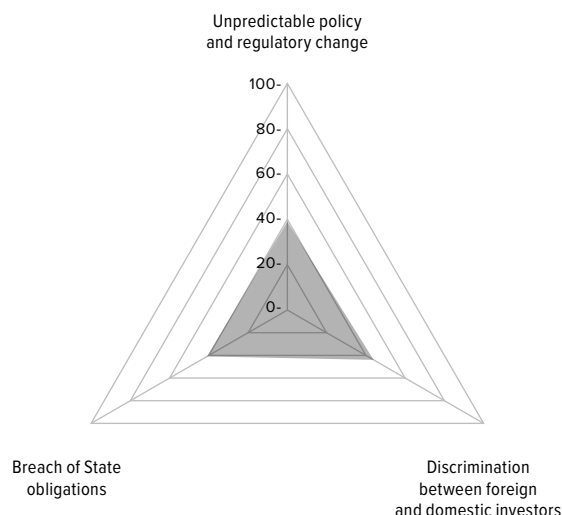
## YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019	2020
Unpredictable policy and regulatory change	42	41	39
Discrimination between foreign and domestic investors	46	44	44
Breach of State obligations	41	41	41

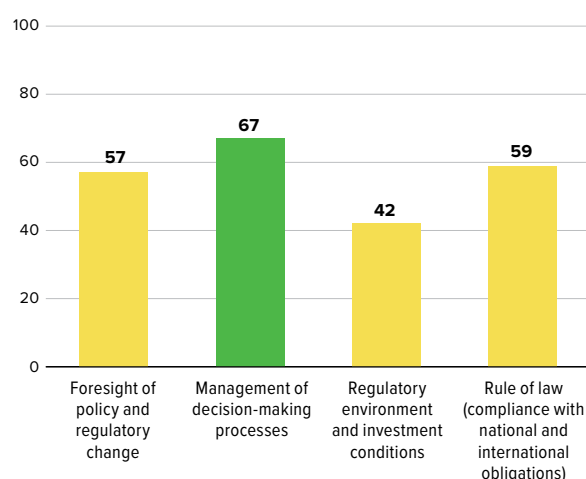
  

INDICATORS	2018	2019	2020
Foresight of policy and regulatory change	49	52	57
Management of decision-making processes	67	67	67
Regulatory environment and investment conditions	37	42	42
Rule of law	59	59	59

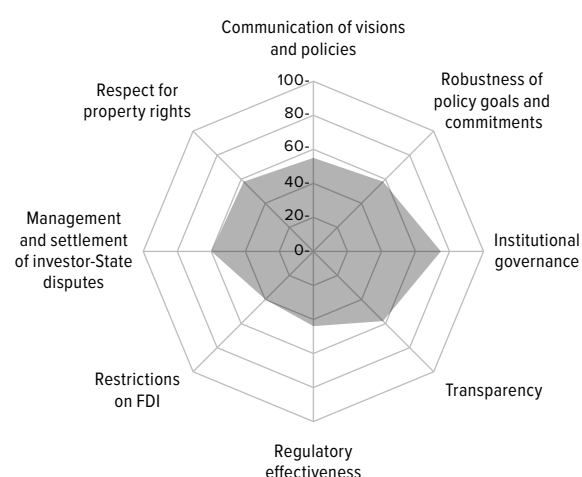
## RISK LEVEL



## INDICATOR PERFORMANCE



## SUB-INDICATOR PERFORMANCE





## Foresight of policy and regulatory change

### QUICK FACTS

In January 2020, the Parliament of Uganda approved the Third National Development Plan (NDPIII) 2020/21–2024/25.

The Revised Draft National Energy Policy of 2019 replaces the 2002 Energy Policy for Uganda.

### STRENGTHS

Uganda has transitioned from a supply deficit to a surplus generation capacity because of an increase in private capital investment. The number of private companies providing stand-alone solar services has grown. Electricity access increased from 5% in 2002 to 28% in 2019. Electricity losses also reduced from over 35% in 2002 to 17.4% in 2017. The country is now focusing on the construction and rehabilitation of transmission and distribution lines, stimulating demand, and promoting decentralised generation and consumption to absorb the excess electricity. The NDPIII sets more ambitious and detailed targets than its predecessor. It introduces new measurable targets for reducing biomass in cooking, increasing the transmission capacity, and achieving higher grid reliability.

On 17 September 2019, the Ministry of Energy and Mineral Development (MEMD) commenced its 9th annual Joint Sector Review. The purpose of this review is to analyse the sector's performance in 2018–2019. It also assesses the progress made in 2019–2020 on implementing last year's review. The NDPIII describes the main monitoring and evaluation reforms, the roles and responsibilities of stakeholders, reporting and dissemination mechanisms, and required monitoring and evaluation capacities. It includes a results framework that will guide the data collection, analysis and reporting, and information needed to assess the progress in realising the NDPIII development goals.

### AREAS FOR IMPROVEMENT

The transmission and distribution infrastructure needs significant investment to address the problem of electricity over-supply and low demand. Low power reliability among domestic users has also affected consumption patterns and encouraged the use of unappealing alternative energy sources such as firewood, charcoal, and crop residues. Modernising and expanding the transmission and distribution infrastructure will improve reliability and ensure that generated power is evacuated from the grid, and reaches consumers. The Government should also consider restructuring and potentially delaying the construction of new large power stations until it can balance the grid supply and demand at least cost.

It is commendable that the Government has revised the Energy Policy of 2002 to address the emerging challenges in the energy sector. It should now make efforts towards updating the Mineral Policy of 2001 and the Renewable Energy Policy of 2007 which contain outdated targets.

## Management of decision-making processes

### QUICK FACTS

The MEMD develops and implements the national energy policy.

The Ministry of Finance, Planning and Economic Development frames the country's economic policies.

The Access to Information Act 2005 establishes the procedure for obtaining information from public authorities.

### STRENGTHS

Over the last year, the Parliament of Uganda made progress on important legislative bills and policies. The First Parliamentary Counsel received the Minerals and Mining Legislation of 2018 for discussion and debate. The Cabinet of Ministers approved the principles for the revision of the Electricity Act 1999, and the amendment Bill is currently in the drafting stage. The Council of Ministers received for approval the final draft of the Energy Efficiency and Conservation Bill. The draft Nuclear Energy Policy is also undergoing review. A Regulatory Impact Assessment was conducted on the Geothermal Policy of Uganda. The One Stop Centre is now operational. The Uganda Registration Services Bureau, the Uganda Revenue Authority and the National Environment Management Authority have consolidated their respective registration documents into the One Stop Centre.

Demonstrating its commitment to accountability and transparency in the oil and gas sector, Uganda joined the EITI in March 2020. As a member of the EITI, Uganda must now make its oil and gas contracts public. It should also release information on the allocation and ownership of licences, contractual, legal and fiscal terms of these contracts, production and exports numbers, revenue collection, and social and economic spending. On 10 October 2019, the Electricity Regulatory Authority (ERA) held a public hearing on an application of the Uganda Electricity Transmission Company Limited to renew its licenses for bulk power supply, high voltage transmission grid, power export and import, and system operator. ERA also consulted the public, on 6 December 2019, regarding the tariff review applications for the year 2020.

### AREAS FOR IMPROVEMENT

By joining the EITI, the Government of Uganda has taken a substantial step towards improving transparency in its oil and gas sector. This initiative is in line with the actions suggested in EIRA 2018 and 2019. It is now a timely moment to implement the EITI commitments and publish the relevant information at the earliest. To keep up the momentum, public engagement in the law-making process should be institutionalised and made a legal requirement. This step will help in fostering greater accountability.

## Regulatory environment and investment conditions

### QUICK FACTS

ERA regulates the generation, transmission, distribution, sale, export, and import of electrical energy.

The Petroleum Authority of Uganda (PAU) regulates and monitors the petroleum sub-sector.

The Investment Code Act 2019 lays down the conditions for local and foreign investments in the country.

### STRENGTHS

ERA launched the “PawaKapo” Media Campaign in November 2019 to implement the Electricity Connections Policy of 2018. It encourages all qualified but unlicensed electrical technicians to take free certification training. In 2019, ERA published its Compliance and Enforcement Manual. The Manual prescribes requirements and procedures ERA should follow in assessing risks derived from noncompliance and how it must respond to such situations. In the petroleum sector, the PAU has invited companies to bid for five prospective blocks. Uganda, together with its joint venture partners, is working to expedite the development and production stage of commercial discoveries. It has concluded the Front-End Engineering Design study, and the Environment and Social Assessment for the East African Crude Oil Pipe Line project, required to reach first oil.

In 2019, foreign investors accounted for 73.3% of the total investment, translating into 204 projects. The Government has introduced several sector-specific exemptions to support energy investors. The remission of import duty is 0% for inputs used in the production of solar panels. There are also tax exemptions for equipment used in the oil and gas sector. The Government is currently developing a framework for private-sector participation in the electricity transmission segment. This framework will give prospective investors certainty and predictability on the procedure and structure of investment recovery while maintaining the transmission network's financial soundness. The country is also looking to increase the country's oil and gas resources, with 90% of the Albertine basin currently unlicensed.

### AREAS FOR IMPROVEMENT

While ERA and the PAU enjoy a degree of functional and financial independence, the Government may take measures to enhance this. Currently, ERA's autonomy is subject to any policy of the Government that declares otherwise. Moreover, salaries of the PAU Board members need to be approved by the Government. Such conditions may compromise the decision-making powers of these authorities.

The Government should expedite the adoption of the Competition Bill pending since 2004. Additionally, it must create the pre-conditions necessary for organising a competition commission as envisaged in the Bill.

## Rule of law

### QUICK FACTS

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

The Constitution of Uganda 1995 grants protection from deprivation of property.

### STRENGTHS

Investors may resolve disputes through the national courts or international arbitration. The Electricity Dispute Tribunal can hear appeals against the decisions of ERA. For the first time since its inception, on 16 August 2019, the Government fully constituted the seven-member Electricity Disputes Tribunal to hear and determine electricity-related complaints. The Ministry of Justice is developing the Uganda Electronic Court Case Management Information System (ECMIS) to establish transparent court processes and improve the justice sector's performance. The ECMIS will automate and track all the stages of a case from initial filing to disposition and appeal. The system will provide online services for case filing and payments, automated reminders and free online access to summonses and judgements, as well as expedite the disposition of cases and diminish case backlogs.

The Investment Code Act of 2019 protects foreign investors against expropriation. In 2019, the Government introduced the Land Acquisition Bill that will repeal the Land Acquisition Act of 1965. Although the proposed Bill allows the Government to compulsorily acquire land for infrastructure and investment projects, at the same time it also establishes a tribunal that will allow parties dissatisfied with the compensation to raise disputes. The Investment Code Act prohibits conditions within agreements that restrict technology transfer or the use of competitive techniques.

### AREAS FOR IMPROVEMENT

Since the Land Acquisition Bill 2019 is currently under debate in the Parliament, it is an opportune moment for the Government to clarify key provisions on the expropriation of property. The Bill should be updated to include the list of activities for which compulsory acquisition can take place. Moreover, it should outline the procedure for ascertaining whether an acquisition is for a public purpose or not, and who will be the key decision-makers in this process. Legal provisions along these lines will give investors clarity and security about the legal regime on the acquisition of immovable property.

An investment ombudsman may be established to mediate conflicts arising between public authorities and investors on licensing procedures. The Government may seek guidance from the Energy Charter Model Instrument on Management of Investment Disputes that aims to assist States in handling investment disputes as per their needs and circumstances.



# Ukraine

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

Data from Orbis Crossborder Investment on energy projects and deals completed between 2015-2020<sup>4</sup>

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

Sources:

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

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

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

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

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

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

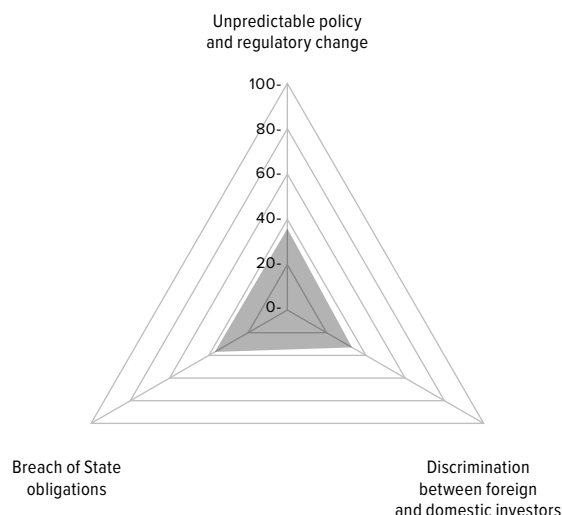
## YEAR-ON-YEAR COMPARISON

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

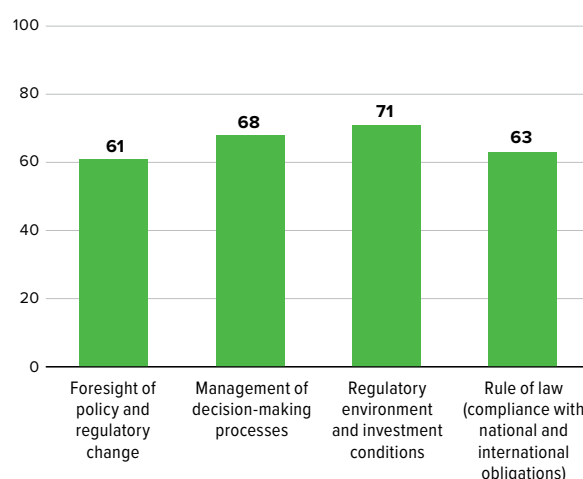
  

INDICATORS	2018	2019	2020
Foresight of policy and regulatory change	57	59	61
Management of decision-making processes	59	62	68
Regulatory environment and investment conditions	67	67	71
Rule of law	63	63	63

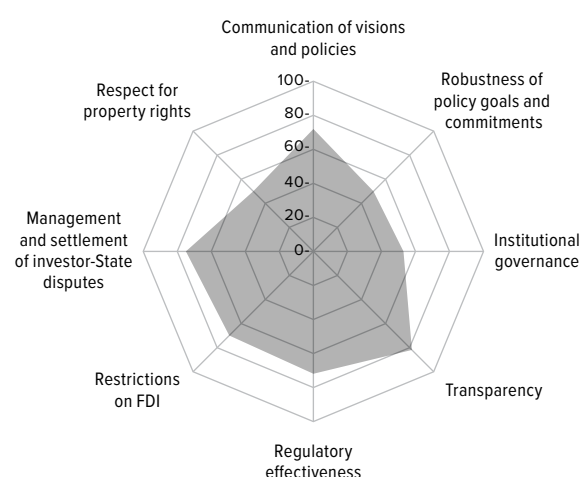
## RISK LEVEL



## INDICATOR PERFORMANCE



## SUB-INDICATOR PERFORMANCE



## Foresight of policy and regulatory change

### QUICK FACTS

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

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

### STRENGTHS

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

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

### AREAS FOR IMPROVEMENT

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

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

## Management of decision-making processes

### QUICK FACTS

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

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

### STRENGTHS

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

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

### AREAS FOR IMPROVEMENT

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

## Regulatory environment and investment conditions

### QUICK FACTS

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

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

### STRENGTHS

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

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

### AREAS FOR IMPROVEMENT

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

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

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

## Rule of law

### QUICK FACTS

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

In 2009 the Parliament adopted the Law of Ukraine “On alienation of privately owned land plots and real estate located on them for public needs and for social necessity.”

### STRENGTHS

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

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

### AREAS FOR IMPROVEMENT

Provisions on mediation and conciliation should be stipulated in a special law or as part of already existing procedural legislation. Access to alternative dispute resolution mechanisms will allow the parties to identify their priorities, develop settlement options, and reach amicable solutions with reduced time and cost.

The Government may consider revising the national laws to give a more detailed definition of the term “public purpose” in the case of expropriation. While the right of countries to determine what constitutes “public purpose” is paramount, it is also important that a definition which is not overly broad or vague is stipulated in the law.





# Uzbekistan

Population <sup>1</sup>	32,955,400
Area (km <sup>2</sup> ) <sup>1</sup>	447,400
GDP per capita (USD) <sup>1</sup>	1,532.37
TPES (Mtoe) <sup>2</sup>	33.83
Energy intensity (toe/10 <sup>3</sup> 2010 USD) <sup>2</sup>	0.51
CO <sub>2</sub> emissions - energy (MtCO <sub>2</sub> ) <sup>3</sup>	81.16

Data from Orbis Crossborder Investment on energy projects and deals completed between 2015-2020<sup>4</sup>

Target industry	Number of projects and deals	Project/deal type	Project CapEx and deal value (million EUR)
Extraction of natural gas and crude petroleum	2 projects	co-location projects	2000m EUR total project CapEx
Transport by pipeline	1 project	co-location project	40m EUR total project CapEx

Sources:

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

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

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

Uzbekistan's performance is good on three indicators, and it is moderate on one indicator. It has retained a score of 72 on the indicator *rule of law*. Its performance on *management of decision-making processes* has improved by six points and stands at 71. On *regulatory environment and investment conditions*, it has again scored 63. The performance on *foresight of policy and regulatory change* has gone up by 16 points and the score is now 46.

On a more detailed level, Uzbekistan's overall sub-indicator performance is good. It has a very good 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. Compared to last year, the score on *institutional governance* has improved by 13 points and is now 69. An increase of 32 points has been recorded on the sub-indicator *communication of vision and policies*, which now stands at 67. On *respect for property rights*, the score is 58, while *regulatory effectiveness* is at 56. Its performance on *robustness of policy goals and commitments* continues to be the lowest at 25.

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

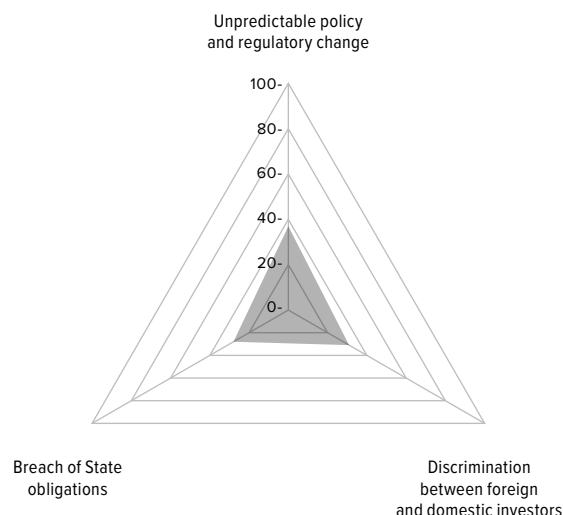
## YEAR-ON-YEAR COMPARISON

RISK AREAS	2019	2020
Unpredictable policy and regulatory change	45	37
Discrimination between foreign and domestic investors	34	32
Breach of State obligations	28	28

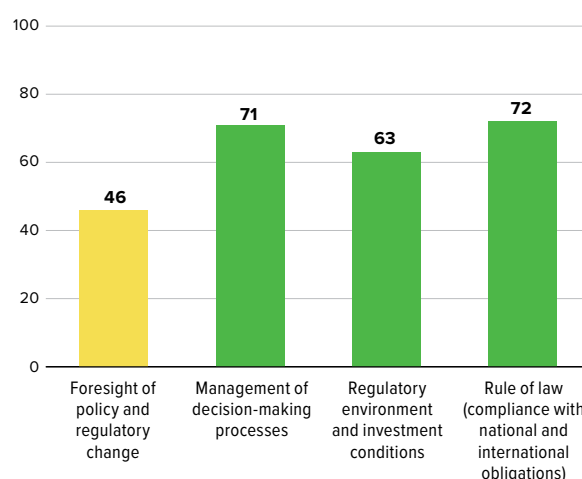
  

INDICATORS	2019	2020
Foresight of policy and regulatory change	30	46
Management of decision-making processes	65	71
Regulatory environment and investment conditions	63	63
Rule of law	72	72

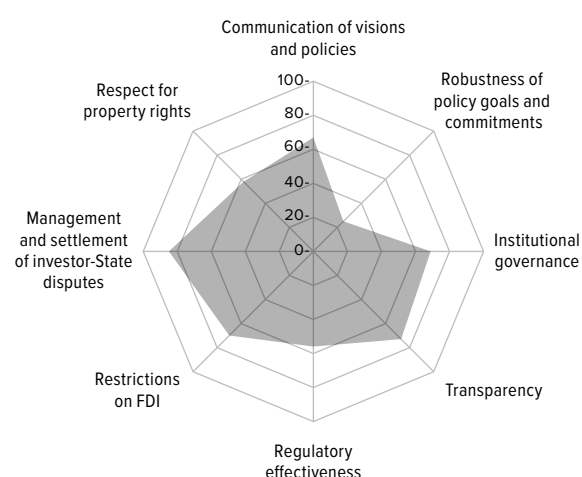
## RISK LEVEL



## INDICATOR PERFORMANCE



## SUB-INDICATOR PERFORMANCE



## Foresight of policy and regulatory change

### QUICK FACTS

In May 2020, the Government of Uzbekistan approved the Concept Note for the Supply of Electric Power 2020-2030 (Concept Note).

Uzbekistan ratified the Paris Agreement in 2018 and submitted its first NDC.

### STRENGTHS

The new 2020-2030 Concept Note defines the medium-term and long-term objectives for the power sector. It envisages the modernisation of the existing power plants, the construction of new energy-efficient generation assets, improvement of the power-metering systems, and the expansion of renewable energy generation capacities. By 2030 the country plans to increase its installed generation capacity to 29.2 GW (after the decommissioning of outdated assets). By 2025, the electricity loss in transmission is expected to reduce to 2.4% and in distribution to 7.9%. The capacity of wind and solar power plants will be increased to 3 GW (10.4%) and 5 GW (17.3%), respectively. The Government also plans to build its first nuclear power plant to meet the country's growing electricity demand and to cut its CO<sub>2</sub> emissions. The capacity of the nuclear power plant will be 2.4 GW or 7.5% of the country's total generation capacity.

The Cabinet of Ministers (CoM), the Prime Minister and, ultimately, the President of the Republic of Uzbekistan monitor and evaluate the implementation of the energy sector reforms. The Ministry of Energy is responsible for coordinating and managing projects in most areas, including energy efficiency, renewable energy, nuclear energy, and the electric power industry. It reports to the authorities mentioned above on the implementation of the projects. The new Concept Note has the necessary provisions in place to ensure that it can be adjusted, based on continual analysis, as per the changing needs and circumstances.

### AREAS FOR IMPROVEMENT

Monitoring and evaluation of energy policies and projects should be conducted by an independent authority. This approach will guarantee the assessment's objectivity. The Government is also encouraged to conduct progress evaluation more consistently, and make the evaluation results publically available.

## Management of decision-making processes

### QUICK FACTS

The Ministry of Energy leads the policy-making process for the energy sector.

The Law no. LRU-598/2020 "On Investment and Investment Activity" entered into force on 27 January 2020.

Law no. LRU-369/2014 "On the Openness of the Activities of State Authorities and Management" supports the public's right to access information held by State authorities.

### STRENGTHS

In 2019, the CoM adopted decrees that reaffirm the obligation of the Ministry of Energy and the Ministry of Investments and Foreign Trade to carry out activities in cooperation with public administration authorities, local executive authorities, and other organisations. The Interdepartmental Council on Promotion and Implementation of Green Economy was established in October 2019 to coordinate and manage the implementation of Uzbekistan's NDC targets. As of July 2019, the Investment Promotion Agency under the Ministry of Investments and Foreign Trade must provide information and legal support to foreign investors, as well as create and maintain an information database of prospective and ongoing investment projects. The new Investment Law assigns the Ministry of Investment and Foreign Trade and its territorial units as one-stop shops for investors. Through this approach, the Government hopes to reduce the bureaucratic rigours investors undergo while coordinating with multiple State bodies.

The new Investment Law reaffirms the obligation of State and local government bodies to publish through the media, including government websites, decisions made in the field of investment. The Law also makes it mandatory for investment agreements to carry an anti-corruption and anti-monopoly clause. In 2019, the State-owned company Uzbekneftegaz (UNG) disclosed its production statistics, classified as State secret until last year. The UNG and its companies-successors of unbundled Uzbekenergo, will apply a list of corporate reporting standards in 2020, including the International Financial Reporting Standards. The Ministry of Energy has launched its website which gives access to the relevant laws, Presidential Decrees, Resolutions and Orders, Government Decrees and Orders, and regulatory documents registered with the Ministry of Justice.

### AREAS FOR IMPROVEMENT

The Government invites citizens and other stakeholders to comment on laws and regulations through the unified electronic system of drafting regulations and agreements, [project.gov.uz](http://project.gov.uz). In addition to this website, the Government may consider defining in law the modalities and timeframe of public participation. Institutionalised and legally binding consultations 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.

Resolution of CMRU no. 310 approves major directions of the electricity tariff policy of Uzbekistan for the period until 2030.

The new edition of the Law “On Currency Regulations” was signed into law on 22 October 2019.

### STRENGTHS

In 2019, JSC Uzbekenergo was reorganised into three independent companies. The restructuring aims to modernise the production, transmission and distribution of electricity. The new Concept Note envisages legal reforms to improve tariff policies and ensure the transition to the wholesale market by 2023. Per Resolution of CMRU no. 310, effective from 1 January 2020, electricity tariffs will remain unchanged for at least three years from 2023. There are 17 principles, including accessibility, transparency, tariff flexibility, and environmental responsibility which will form the basis of the electricity pricing policy. To unbundle the commercial and regulatory functions of the UNG, it has also been split into separate production, transmission and distribution units. In May 2019, the CoM adopted a decree for organising the activities of the Antimonopoly Committee of the Republic of Uzbekistan.

The share of FDI in the total investment increased from 10.5% in 2018 to 37% in 2019. The new Investment Law retains the guarantees and incentives provided by the old 1998 law, such as free use, transfer and repatriation of funds, protection against nationalisation and against adverse changes in legislation. It also introduces new investor support mechanisms such as investment tax credit and subsidies. Foreign investors can now enter into long-term leases of non-agricultural land plots for up to 50 years. The Law on the Use of Renewable Energy Sources grants exemptions from the payment of property and other taxes. The Law on Currency Regulations introduces progressive reforms such as the right of free disposal by residents and non-residents of their respective currency in foreign exchange transactions. It also removes a number of licensing procedures required for undertaking foreign exchange operations.

### AREAS FOR IMPROVEMENT

The Government is encouraged to continue its efforts towards enacting the new versions of the laws on electric energy and on the establishment of an independent energy regulator. Technical studies must be conducted for setting the subsidiary rules on market operations and the licensing of market participants, the models of the wholesale electricity market, and the electricity balancing model. The approval of the relevant rules will give investors more certainty on the market operations for the coming period.

## Rule of law

### QUICK FACTS

Uzbekistan became a Contracting Party to the Energy Charter Treaty in 1995.

Law no. LRU-598/2019 “On Investment and Investment Activity” grants protection against the expropriation of property.

### STRENGTHS

The new Investment Law promotes alternative dispute resolution mechanisms for settling investor-State investment disputes. It outlines a three-tiered approach, which requires negotiations as a first step. If the parties are unable to settle the matter through negotiations, they shall resort to mediation before bringing it to the local courts. The new Investment Law gives exclusive competence of Uzbek courts over investment disputes unless there is an international treaty in place that provides for the exclusive competence of a foreign court or an international arbitration tribunal. The Investment Law reaffirms that a higher regulatory authority or court can hear appeals against those decisions, actions or omissions of State bodies which violate the rights, freedoms and legitimate interests of investors.

The Investment Law upholds the commitment of the State to protect investments established under domestic legislation and international treaties. The Law specifies that assets of investors can be expropriated only in cases of natural disasters, accidents, epidemics, epizootics, and in other situations of an extraordinary nature. The CoM should adopt all decisions on expropriation. The decisions must be non-discriminatory and accompanied by the payment of adequate compensation. The State is the guarantor of the timely payment of compensation.

### AREAS FOR IMPROVEMENT

The Investment Law addresses critical issues on the expropriation of investments and other assets. However, it is not the law but PPAs that stipulate the conditions for determining the compensation amount and the time of payment. While this approach gives the parties negotiation flexibility, the Government may still consider updating the Investment Law to outline a time-bound structure for paying the compensation or identify payment stages for this purpose. This addition to the law will give investors more certainty on the rules governing expropriation and strengthen the credibility of the Government's commitments.

# **ANNEX I: IMPLEMENTATION STATUS**



## Afghanistan

PROPOSED IN	EIRA AREAS FOR IMPROVEMENT	IMPLEMENTATION STATUS AS OF 1 APRIL 2020
<b>Indicator 1</b>		
2018	Set evidence-based measurable targets for the energy sector.	Pending
	Adopt a national action plan to implement the energy targets.	Pending
	Publish the performance evaluation reports of the Ministry of Energy and Water and the Ministry of Mines and Petroleum.	Pending
2020	Update the renewable energy targets expiring in 2020.	Improvement suggested in 2020. Status will be updated in 2021.
	Regularly update the energy and power system data on the Afghanistan Energy Information Center's website.	Improvement suggested in 2020. Status will be updated in 2021.
<b>Indicator 2</b>		
2018	Set up a one-stop shop for all business-related services related to the energy sector.	Work ongoing. The Ministry of Mines and Petroleum is currently merging all the related parallel government structures to establish a one-stop shop for the hydrocarbon industry.
	Publish official translations of laws and regulations in foreign languages.	Pending
	Adopt legal provisions guaranteeing public consultation on draft legislation, policies, and regulations.	Work ongoing and partially implemented. The Law on Access to Information was enacted in 2018, and a new Oversight Commission on Access to Information was appointed under this law.
2019	Reinforce Afghanistan's international commitments under global transparency initiatives.	Work ongoing. The Government has started taking corrective actions to revalidate Afghanistan's membership to the EITI.
2020	Update the e-governance strategy (2012) to encourage the digitalisation of business services.	Improvement suggested in 2020. Status will be updated in 2021.
	Operationalise the Anti-Corruption Commission and equip it with an adequate budget and technical facilities.	Improvement suggested in 2020. Status will be updated in 2021.
<b>Indicator 3</b>		
2018	Establish an independent electricity regulator that will facilitate transparency in licensing, return on investments, and tariffs.	Work ongoing. Presidential Decree No. 36 of 9 February 2020 dissolves the Ministry of Energy and Water. The energy sector will now be regulated by the Afghan Energy Authority and the water sector will be regulated by the Water Affairs National Regulatory Authority. These two authorities will function as independent budgetary units.
	Develop a clear criteria for the Government's right to restrict investment in natural resources and energy infrastructure.	Pending
2020	Make the Afghanistan Oil and Gas Regulatory Authority fully operational.	Improvement suggested in 2020. Status will be updated in 2021.
<b>Indicator 4</b>		
2018	Establish a foreign investment ombudsman authority to settle conflicts arising in the course of energy projects.	Pending
	Set a legally binding process to determine the compensation for expropriation and a payment timeframe.	Fully implemented. The updated Law on Expropriation 2017 (effective in late 2018) establishes a compensation valuation committee and clarifies the rules for determining the amount of compensation.
2020	Update the domestic laws to increase the scope of protection granted to intangible rights of foreign investors against expropriation.	Improvement suggested in 2020. Status will be updated in 2021.



## Albania

PROPOSED IN	EIRA AREAS FOR IMPROVEMENT	IMPLEMENTATION STATUS AS OF 1 APRIL 2020
<b>Indicator 1</b>		
2018	Set measurable targets and long-term energy goals, particularly to facilitate the clean energy transition.	<b>Fully implemented.</b> In 2018, the Council of Ministers approved the National Energy Strategy for 2018-2030.
	Strengthen the policy monitoring and evaluation mechanisms.	<b>Pending</b>
2019	Finalise the National Energy and Climate Plan (NECP), which is currently expected in 2021.	<b>Work ongoing.</b> Since December 2018, the Ministry of Infrastructure and Energy is preparing the integrated National Plan on Energy and Climate Change (NECP) to be adopted by 2021.
2020	Adopt a new energy efficiency action plan because the Second and Third National Energy Efficiency Action Plan 2017-2020 is about to expire.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
	Operationalise and fully staff the Energy Efficiency Agency which was set up in 2016.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
	Establish the Energy Efficiency Fund to finance projects per the Energy Efficiency Law.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 2</b>		
2018	Enhance the accessibility and interface of the online Official Gazette to facilitate the use of legal information.	<b>Fully implemented.</b> In 2019, the website of the Official Gazette was fully updated to provide updates on amendments and repeals. It features an advanced search tool, and is accessible in English. Administrative decisions, including the announcement of public procurements, are also published on the website.
	Publish statutes in common foreign languages.	<b>Pending</b>
2020	Develop and promote stronger coordination mechanisms among ministries, public bodies, and institutions to guarantee policy consistency.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 3</b>		
2018	Lower restrictions on the acquisition of property by foreigners, and on the employment of non-Albanian unskilled personnel.	<b>Work ongoing.</b> Albania is working on the first registration of property titles across its territory.
2020	Unbundle the distribution and supply activities, which has been postponed until December 2020 by a decision of the Energy Regulatory Authority.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
	Remove legal and contractual obstacles that may impede regional market integration.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 4</b>		
2018	Adopt the law on arbitration which is pending since 2013.	<b>Work ongoing.</b> Albania is working on a draft law governing arbitration.
	Establish a foreign investment ombudsman authority to settle conflicts on licencing procedures arising in the course of energy projects.	<b>Pending</b>
2020	Set a legally binding cap on the timeframe for paying compensation in the case of compulsory property acquisition or expropriation.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.

## Armenia

PROPOSED IN	EIRA AREAS FOR IMPROVEMENT	IMPLEMENTATION STATUS AS OF 1 APRIL 2020
<b>Indicator 1</b>		
2018	Ensure that the authorities implementing the national energy policy are independent of those assessing the implementation progress.	<b>Work ongoing.</b> Data collection is partially undertaken by independent agencies.
2019	Review the energy policies and laws to evaluate their relevance and eliminate any potential duplication or contradictions.	<b>Pending</b>
2020	Prepare and approve a new programme on energy savings and renewable energy that sets the priorities and targets for 2021–2030.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
	Develop a comprehensive investment facilitation plan to accompany the Strategy on Attraction of FDI, which will be drafted by December 2020.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 2</b>		
2018	Publish official translations of all relevant energy strategy documents, legislation, and regulations.	<b>Work ongoing.</b> The Translation Centre of the Ministry of Justice issues official translations of legal acts. The relevant State agencies can request these documents from the Centre based on necessity. The translations are available on the Centre's website although the number of translated documents is limited.
	Provide pre- and post-investment services through Business Armenia.	<b>Pending.</b> Business Armenia is not functional anymore.
2020	Expand the role of the Investment Support Center so it can serve as a one-stop shop for energy investors.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 3</b>		
	Strengthen the financial autonomy of the Public Services Regulatory Commission (PSRC).	<b>Pending</b>
2018	Create the necessary pre-conditions for implementing the ongoing energy sector reform.	<b>Work ongoing.</b> The Law on Additions and Amendments to the Energy Law of the Republic of Armenia N100-N dated 7 February 2018 (which came into force on 1 July 2018) sets the pathway towards making the electricity wholesale market competitive. The Concept of the Investment Policy, and the corresponding Action Plan, refers to investments in the energy and allied sectors.
2019	Reduce the time for liaising with State authorities on licencing procedures, identify and eliminate redundant licences and permissions, as well as clarify contradictory regulations, especially those related to investment in renewable energy and energy-efficient technologies.	<b>Partially implemented.</b> The Law on Amendments to the Law on Energy Law no. HO-100-N, dated 7 February 2018, removes licences for some economic activities, including the import and export of electricity. The PSRC adopted Decision N 516-N dated 25 December 2019 that invalidates previous, temporary rules, and streamlines the electricity market rules.
2020	Identify and introduce specific measures in the Strategy on Promotion of Foreign Direct Investments to promote FDI in the energy sector, which is a priority economic area of the country.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 4</b>		
2018	Consider establishing a foreign investment ombudsman authority to resolve conflicts between investors and public authorities.	<b>Pending</b>
	Update the domestic law to define the term “public purpose or in the public interest” in the context of expropriation.	<b>Pending</b>
2020	Consider offering an arbitration pledge which will bind the State to participate in arbitration proceedings if the investor opts for international arbitration to resolve a dispute.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
	Develop and approve clear regulations on the process to determine compensation in the event of expropriation and define a specific timeframe for the payment of the compensation.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.

## Bangladesh

PROPOSED IN	EIRA AREAS FOR IMPROVEMENT	IMPLEMENTATION STATUS AS OF 1 APRIL 2020
<b>Indicator 1</b>		
	Make the policy impact assessment reports publically available.	<b>Work ongoing.</b> Annual Performance Agreements (APAs) concluded between public entities and the Government are publically available. The public entities have published their quarterly performance reports for 2019. However, the half-yearly evaluation of APAs for 2019-2020 is not accessible to the public.
2018	Ensure that the authorities implementing the national energy policy are different from those evaluating its progress.	<b>Work ongoing and partially implemented.</b> The Government of Bangladesh implements, monitors and evaluates the national energy policy goals through separate authorities. The Ministry of Power, Energy and Mineral Resources implements the national energy policy whereas the Planning Commission and the Cabinet Division of the Government monitors and evaluates the performance.
	Conduct technical studies to assess the accuracy of future demand forecasts and the methodology for estimating electricity demand.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
	Review the Integrated Power Development Plan and update it to incorporate renewable energy sources.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
2020	Set future NDC targets that are ambitious enough to offset the planned increase in fossil-based power generation.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
	Create greater awareness among citizens on Demand Side Management measures to shift the peak load time from night to day.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
	Set clear policy options to address the low efficiency of existing thermal power plants.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 2</b>		
	Create a legislative framework for a one-stop investment centre and make it operational.	<b>Fully implemented.</b> Bangladesh adopted the One Stop Service Act in 2018. The Online One Stop Service under BIDA became operational in 2019.
2018	Introduce legal provisions for regular and mandatory public consultation on draft laws and regulations.	<b>Work ongoing and partially implemented.</b> The Bangladesh Energy Regulatory Commission (BERC) and the Ministry of Power, Energy and Mineral Resources consulted stakeholders on critical draft laws and regulations in 2019 (such as the consultation on the gas tariff hike). However, consultation is not a legal requirement.
<b>Indicator 3</b>		
2018	Increase the share of operating revenue in the BERC fund and reduce reliance on government resources and loans.	<b>Work ongoing and partially implemented.</b> There has been a consistent fall in government funding to BERC. Between 2003-2004 to 2016-2017, government grants constituted 1.4% of BERC's total funds.
	Lower restrictions on the repatriation of dividends, interests, royalties and proceeds of capital.	<b>Pending</b>
2020	Enact the draft Bangladesh Energy Regulatory Commission (Amendment) Act 2019 in 2020.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
	Encourage regular filing of tariff submissions by power utilities. BERC should approve tariff determinations at consistent and predictable intervals.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 4</b>		
	Set legally binding timelines for domestic courts to deliver final judgements.	<b>Pending</b>
2018	Set deadlines for various stages of a hearing, such as the first date of hearing and the completion of appeals.	<b>Pending</b>
	Consider establishing a foreign investment ombudsman authority to settle conflicts arising during energy projects.	<b>Pending</b>
	Define the term "public purpose or in the public interest" in the Acquisition and Requisition of Immovable Property Act 2017.	<b>Pending</b>

## Belarus

PROPOSED IN	EIRA AREAS FOR IMPROVEMENT	IMPLEMENTATION STATUS AS OF 1 APRIL 2020
<b>Indicator 1</b>		
2018	Develop a long-term investment plan for the energy sector.	<b>Work ongoing and partially implemented.</b> In 2020, the Government published the Draft Strategy on Attraction of Direct Foreign Investments until 2025 for discussion on the National legal portal and the Ministry of Economy's website. The 2017-2030 National Infrastructure Strategy (NIS), approved in 2017, serves as a guidance document for the business community. At the end of 2019, the Inter-agency Infrastructure Coordination Council held a meeting to align the NIS with the country's other strategic documents.
	Define long-term targets to reduce carbon emissions in the energy sector.	<b>Pending</b>
	Implement institutional reforms to make the monitoring authorities independent of the policy-making bodies.	<b>Pending</b>
2019	Adopt the new Law on Electricity.	<b>Pending</b>
2020	Cooperate with prospective buyers, within the Eurasian Economic Union and beyond, to ensure the successful implementation of the country's energy export plans.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
	Develop a well-designed system to monitor the implementation of the national energy priorities.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 2</b>		
2018	Institutionalise and make it legally mandatory for State authorities to consult stakeholders on legal and regulatory decisions.	<b>Work ongoing and partially implemented.</b> According to Law no. 130-Z "On Normative Legal Acts" of 2018, draft legal acts can be submitted for consultation via the Legal Forum of Belarus website, as well as through Parliamentary hearings. Mandatory public discussion on draft legal acts are required during consultative (expert) meetings. In 2018, the Public Consultative (Expert) Council on Entrepreneurship Development (adjunct to the Ministry of Energy) was established. In 2020, the Council of Ministers submitted for public discussion a draft resolution on the establishment of a Council for Foreign Investment.
	Enhance the role of the National Agency of Investment and Privatization as a one-stop shop.	<b>Pending</b>
<b>Indicator 3</b>		
2018	Establish an independent energy regulator responsible for setting tariffs, protecting consumers' rights, regulating natural monopolies, and creating competitive conditions in the energy market.	<b>Pending</b>
	Clarify the eligibility criteria for availing benefits under investment agreements which grant specific privileges to investors.	<b>Pending</b>
2019	Develop step-by-step guidelines to support foreign companies investing in the energy sector.	<b>Pending</b>
2020	Complement the Draft Strategy on Attraction of Direct Foreign Investments until 2025 with an action plan which contains specific measures and timelines to reach the goals outlined in the Strategy.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 4</b>		
2018	Consider establishing an investment ombudsman.	<b>Pending</b>
	Amend the domestic laws to include well-defined grounds to expropriate private property, clauses explaining the process to determine the compensation and a timeframe for its payment.	<b>Work ongoing.</b> Domestic legislation still needs to be amended. However, in 2019, Belarus signed a BIT with Uzbekistan which defines the process for determining compensation in the event of expropriation or nationalisation.
	Make efforts to expedite the country's accession to the WTO.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.

## Benin

PROPOSED IN	EIRA AREAS FOR IMPROVEMENT	IMPLEMENTATION STATUS AS OF 1 APRIL 2020
<b>Indicator 1</b>		
2019	Introduce incentives to further promote renewable energy.	<b>Work ongoing.</b> The new Electricity Code promotes private investment in renewable energy. Additional solar projects have been deployed in 2019-2020.
	Ensure clear delineation of responsibilities between the bodies performing monitoring tasks and implementing the energy policy.	<b>Pending</b>
	Introduce a policy review process and periodic assessment.	<b>Pending</b>
<b>Indicator 2</b>		
2019	Adopt an overarching law prescribing public consultation.	<b>Pending</b>
<b>Indicator 3</b>		
2018	Integrate local content requirements in the overall development strategy and set up an appropriate agency for their transparent and efficient administration.	<b>Work ongoing.</b> The 2019 version of the Petroleum Code has formalised local content requirements.
2019	Reinforce the functional and institutional autonomy of the Electricity Regulatory Authority (ARE).	<b>Work ongoing.</b> The new Electricity Code will reinforce ARE's independence and liberalise the generation, transmission, and distribution of electricity.
	Designate a competent authority to regulate competition in the energy sector.	<b>Fully implemented.</b> Under the new Electricity Code, the ARE must ensure healthy and legal competition in the sector and protect the interests of consumers and the State.
<b>Indicator 4</b>		
2019	Introduce frameworks for the examination of cases and the delivery of judgements.	<b>Pending</b>

## Bosnia and Herzegovina

PROPOSED IN	EIRA AREAS FOR IMPROVEMENT	IMPLEMENTATION STATUS AS OF 1 APRIL 2020
<b>Indicator 1</b>		
2018	Adopt the Framework Energy Strategy of Bosnia and Herzegovina (BiH) until 2035 at State level.	<b>Fully implemented.</b> The Framework Energy Strategy of Bosnia and Herzegovina until 2035 was adopted in late 2018.
	Finalise and adopt the draft legislation for the electricity and gas sub-sectors at State level.	<b>Work ongoing.</b> The Draft Law on the Regulator of Electricity and Natural Gas, Transmission and Electricity Market in BiH is ready. The sections related to electricity are consistent with the third energy package, while those on gas are currently in the harmonisation process.
2019	Draft and adopt an updated action plan on energy efficiency as the previous one expired in 2018.	<b>Work ongoing.</b> The process of preparing a new National Energy Efficiency Action Plan (NEEAP), in line with requirements of the Energy Efficiency Directive, has commenced. The new NEEAP will report on the progress made towards achieving savings in final energy consumption between 2016-2018.
2020	Adopt entity-level legislation on renewable energy and energy efficiency, completely transposing the energy efficiency acquis and the renewable energy directive.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
	Develop a legislative framework for energy efficiency and renewable energy in the Brčko District.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
	Draft and adopt an updated action plan for renewable energy as the existing one covers the period 2016-2020.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
	Develop a system for data collection and processing, quality assurance, and control of input data for GHG emissions.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
	Harmonise policy monitoring and evaluation mechanisms at State and entity level.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 2</b>		
2018	Publish the enacted and draft laws, regulations, and policies in foreign languages and make the translations available free of cost.	<b>Pending</b>
	Set up one-stop investment shops in the entities and the Federation of BiH cantons.	<b>Pending</b>
<b>Indicator 3</b>		
2018	Harmonise licensing procedures for energy projects across entities and in the Brčko District.	<b>Pending</b>
<b>Indicator 4</b>		
2018	Consider establishing a foreign investment ombudsman authority to settle conflicts arising in the course of energy projects.	<b>Pending</b>
	Update the expropriation laws of the entities and the Brčko District to define "public purpose or in the public interest".	<b>Pending</b>
2020	Update the Alternative Dispute Resolution strategy that was framed in 2008.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.



## Croatia

PROPOSED IN	EIRA AREAS FOR IMPROVEMENT	IMPLEMENTATION STATUS AS OF 1 APRIL 2020
<b>Indicator 1</b>		
<b>2018</b>	Finalise and adopt a long-term energy strategy, which sets the overarching framework for future actions, and ensure a seamless transition to the new strategy.	<b>Fully implemented.</b> In February 2020, the Croatian Parliament adopted the new Energy Sector Development Strategy until 2030 with a view to 2050. The newly adopted Energy Strategy sets in place a wide range of initiatives to enhance energy security, gradually reduce energy losses and increase energy efficiency, and reduce dependence on fossil fuels. In addition, it aims to strengthen the energy market and to integrate it entirely in the EU and international energy markets.
	Develop action plans that set indicative targets, milestones, measurable progress indicators, and monitoring mechanisms to ensure the implementation of the energy priorities.	<b>Work ongoing.</b> In December 2019, Croatia submitted its final Integrated National Energy and Climate Plan (NECP) 2021-2030, which describes actions for implementing a number of national energy priorities.
<b>Indicator 2</b>		
<b>2018</b>	Identify and repeal overlapping or contradictory provisions in energy sector legislation, sub-laws, and rules.	<b>Pending</b>
	Publish all the strategic documents and laws in foreign languages.	<b>Pending</b>
<b>2020</b>	Develop consolidated versions of legal acts, which integrate all the successive amendments.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
	Establish a one-stop shop or similar agency to assist investors with complex administrative procedures, like obtaining permits and licenses for energy projects.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 3</b>		
<b>2018</b>	Reduce the role of the Government in declaring a project strategic and include detailed information on the evaluation parameters.	<b>Pending</b>
<b>Indicator 4</b>		
<b>2018</b>	Set systemised and effective dispute management measures. Timelines for domestic courts to render decisions should be stated in the law and followed through.	<b>Work ongoing.</b> The Government successfully negotiated with the International Bank for Reconstruction and Development (IBRD) a loan of EUR 100 million for the Justice for Business project aimed to strengthen the country's economic climate. The primary measures include strengthening electronic communication with the administration, expanding the use of electronic services in the judiciary, reducing the number of old court cases, and creating better infrastructure.
	Streamline and reduce fragmentation of the legal framework on expropriation.	<b>Pending</b>
<b>2020</b>	Simplify property registration procedures and expedite the consolidation of the cadastre and land registry.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.

## Eswatini

PROPOSED IN	EIRA AREAS FOR IMPROVEMENT	IMPLEMENTATION STATUS AS OF 1 APRIL 2020
<b>Indicator 1</b>		
2018	Adopt action plans to implement the national energy priorities, such as improving energy efficiency, and policies such as the IPP Policy.	<b>Pending</b>
	Establish policy monitoring and evaluation mechanisms to track the progress made against planned actions and objectives.	<b>Work ongoing.</b> The Network Reinforcement and Access Project (NRAP) contains a monitoring and evaluation mechanism that should be replicated in other strategic documents.
<b>Indicator 2</b>		
2018	Adopt a legislative framework on the freedom of information, create an online version of the Official Gazette, and solicit feedback from stakeholders on legal and regulatory decisions.	<b>Work ongoing.</b> In 2019, the Eswatini Electricity Company (EEC) completed an Environmental and Social Impact Assessment (ESIA) that was published on the EEC's website. The ESIA was accompanied by a Stakeholder Engagement Plan (SEP), which defines technical and culturally appropriate means for consultation, disclosure, and grievance redressal.
<b>Indicator 3</b>		
2018	Reinforce the functional and financial independence of the Eswatini Energy Regulatory Authority (ESERA).	<b>Work ongoing.</b> ESERA has made attempts to increase private entity participation in the generation of electricity, which is in line with its statutory mandate to prepare and run competitive generation-capacity tendering processes in collaboration with the Ministry of Natural Resources & Energy.
	Relax restrictions on land tenure.	<b>Pending</b>
<b>Indicator 4</b>		
2018	Modernise the legal framework for IP rights and investment arbitration.	<b>Work ongoing.</b> The Government has enacted the Intellectual Property Tribunal Act of 2018 and the Patent Act of 2018.
	Update the national law to define the term "public purpose" in the context of expropriation.	<b>Pending</b>

## Gambia (The)

PROPOSED IN	EIRA AREAS FOR IMPROVEMENT	IMPLEMENTATION STATUS AS OF 1 APRIL 2020
<b>Indicator 1</b>		
2018	Prepare and adopt, at the earliest, a new energy strategy that sets the overarching framework for actions after 2020.	<b>Pending</b>
	Create ex-ante and ex-post policy evaluation and review mechanisms.	<b>Pending</b>
	Facilitate the integration of renewable energy solutions in local communities.	<b>Work ongoing.</b> A significant step was the launch of solar and electricity transmission projects with the support of international donors. These projects will help to increase energy supply and promote renewable energy, as well as decrease the country's carbon footprint.
<b>Indicator 2</b>		
2018	Draft and adopt a law facilitating public access to information held by State authorities.	<b>Work ongoing.</b> The Access to Information Bill of 2019 is under discussion in the National Assembly. The Bill aims to enforce the right to access information and ensure greater accountability in government functions.
	Disseminate regulatory and legal documents through different channels, including government websites.	<b>Work ongoing.</b> Some documents are available on the websites of the relevant authorities, such as the Gambia Public Utilities Regulatory Authority (PURA).
	Establish the Competitiveness Improvement Forum as required in the Gambia Investment and Export Promotion Agency Act of 2015.	<b>Pending</b>
	Introduce standardised procedures for consultation between public entities and stakeholders.	<b>Pending</b>
2020	Give the public access to natural resource contracts and all the relevant information on periodic engagement with investors, milestone announcements, declaration of revenues, as well as their allocation. Consider joining the EITI, which supports open and accountable management of oil and gas resources.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 3</b>		
2018	Increase PURA's institutional capacity and streamline its operations so that it may effectively perform its functions.	<b>Pending</b>
	Ease access to land and provide certainty on land titles by creating registry mechanisms and comprehensive records.	<b>Pending</b>
	Limit government discretion in declaring certain areas closed to foreign investors or making investments conditional to a local partnership.	<b>Pending</b>
	Limit the Government's right to own some, or the majority, of shares in strategic industries, such as mining, and petroleum exploration and refining activities.	<b>Pending</b>
2020	Liberalise the energy market at the earliest and limit the State's involvement in the National Water and Electricity Company.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 4</b>		
2018	Enact legal provisions to set definitive timelines that will ensure the pronouncement of court judgements without delay.	<b>Work ongoing.</b> Constitutional, institutional, and legal reforms are underway in line with the National Development Plan 2018-2021.
	Establish an independent and impartial body, like an investment ombudsman, to assist foreign investors in addressing grievances against public authorities.	<b>Pending</b>
	Enact a law protecting investors against the expropriation of property. The law may define the conditions of "public interest" that can prompt an act of expropriation, the procedure to determine the compensation, and the timeframe for its payment.	<b>Pending</b>

## Georgia

PROPOSED IN	EIRA AREAS FOR IMPROVEMENT	IMPLEMENTATION STATUS AS OF 1 APRIL 2020
<b>Indicator 1</b>		
<b>2018</b>	Finalise and adopt the Energy Strategy 2020.	<b>Fully implemented.</b> The Energy Strategy is being utilised by the Government of Georgia as a guiding document for future actions.
	Finalise and adopt the new draft Energy Law in line with the EU's third energy package.	<b>Fully implemented.</b> On 20 December 2019, the Law of Georgia on Energy and Water Supply (hereinafter the "Energy Law") was adopted.
	Adopt the country's National Energy Efficiency Action Plan.	<b>Fully implemented.</b> The National Energy Efficiency Action Plan (2019-2020) was adopted in 2020.
	Create a defined framework for policy monitoring and evaluation.	<b>Fully implemented.</b> In 2019, the Government of Georgia adopted Resolution no. 629 "On the approval of the rules for the development, monitoring and evaluation of policy documents".
<b>2020</b>	Prepare on time the secondary legislation necessary to implement the Energy Efficiency Law.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
	Adopt a climate change action plan that sets long-term emissions reduction targets and strategies to achieve those targets.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 2</b>		
<b>2018</b>	Set up a dedicated one-stop investment approval authority for energy projects.	<b>Pending</b>
	Make official translations of laws and regulations available in foreign languages.	<b>Work ongoing and partially implemented.</b> The Official Gazette website is now available in English but translations are not official. The Ministry of Economy and Sustainable Development makes available on its website all the relevant documents in English.
<b>2019</b>	Create a legal requirement for public consultation on draft laws and policies.	<b>Fully implemented.</b> Legal provision included in the Law of Georgia on the Promotion of Energy Production and Use from Renewable Sources. It is also included in the Government of Georgia Resolution no. 629 (2019) and Resolution no. 35 (2020).
<b>Indicator 3</b>		
<b>2018</b>	Publically announce the nomination and selection of the Georgian National Energy and Water Supply Regulatory Commission (GNERC) board members, and those of the State Agency of Oil and Gas.	<b>Work ongoing and partially implemented.</b> Information on the board members of the GNERC is available on its public website.
	Limit the appointment renewal of GNERC's board member to one term.	<b>Fully implemented.</b> The recently enacted Energy Law provides for this.
<b>2020</b>	Adopt a law clarifying the rules on foreign ownership of agricultural land.	<b>Fully implemented.</b> The Law on the Ownership of Agricultural Land was adopted on 25 June 2019.
	Consider reinstating the six-year tenure of GNERC's Chairman instead of the current three-year approach.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 4</b>		
<b>2020</b>	Update the domestic laws to increase the scope of protection granted to intangible property against expropriation.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.

PROPOSED IN	EIRA AREAS FOR IMPROVEMENT	IMPLEMENTATION STATUS AS OF 1 APRIL 2020
<b>Indicator 1</b>		
2018	Finalise and adopt a national action plan to facilitate the implementation of the country's energy objectives.	<b>Fully implemented.</b> In January 2019, Greece finalised the National Energy and Climate Plan (NECP) 2030, which was revised and adopted in December of the same year.
	Set quantifiable short- and medium-term targets, as well as ultimate outcomes, for the country's energy priorities. There should be a timeframe and detailed actions to ensure the implementation of the targets.	<b>Fully implemented.</b> The NECP contains well-articulated and clear targets, such as the country's pledge to shut down by 2023 all lignite-fired thermal power plants and put a complete end to the use of lignite for power generation by 2028. It also sets an ambitious target for 2030 of at least 42% GHG emission reduction compared to 1990.
	Develop monitoring and evaluation mechanisms to improve the implementation and enforcement of the country's energy policy.	<b>Work ongoing.</b> The NECP envisages a single governance framework to monitor and assess the set policy measures. A fundamental component of the single governance framework is an integrated monitoring mechanism to monitor the NECP targets, and to assess the impact of each policy measure. The Inter-Ministerial Committee for Energy and Climate was established to develop and implement the governance framework of the monitoring mechanism.
2020	Expedite the development of action plans that will guide the implementation of the NECP goals.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 2</b>		
2018	Ensure that enacted and draft laws, as well as regulations in force, are made available in English or other foreign languages.	<b>Work ongoing.</b> All the new strategy documents and national plans of Greece are available in English, for instance, the NECP 2030.
2019	Integrate amendments and corrigenda to consolidated texts of legal acts.	<b>Pending</b>
2020	Ensure that the Official Gazette provides information on the relationship between different pieces of legislation by establishing the link between basic acts and related amendments, corrigenda and repeals, or between a consolidated resource and the changes it incorporates.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 3</b>		
2018	Abolish measures that limit the transfer of capital abroad.	<b>Fully implemented.</b> Capital transfer restrictions that were imposed in 2015 were completely removed as of 1 September 2019 by Law no.4624/2019.
2020	Take measures to reduce the Regulatory Authority for Energy's (RAE) consistently increasing workload on project licensing, especially in relation to renewable energy projects.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 4</b>		
2018	Adopt effective case management measures to lower the domestic courts' caseload and accelerate judicial proceedings. Make alternative dispute resolution mechanisms widely available and applicable.	<b>Work ongoing.</b> Law no. 4635/2019 introduced mandatory electronic filing and processing of legal documents in administrative courts. Parties to the judicial proceedings will now be allowed remote access to the case files. Law no. 4640/2019 on Mediation, published in the Official Gazette in November 2019, enhanced the requirement of mandatory initial mediation for a broad category of civil and commercial disputes of either national or cross-border nature, and harmonised the Greek legislation with the provisions of Directive 2008/52/EC.
	Incorporate a general definition of the term "public interest" in the Expropriation Code (Law no. 2882/2001) to clarify its scope and application. Widen the scope of the Expropriation Code, which only covers real property, to include other types of property.	<b>Pending</b>
	Avoid the retroactive application of laws to increase investment security.	<b>Fully implemented.</b> In 2014, the total amount of State aid (feed-in-tariff) received by the renewable energy producers was retroactively amended by Law no. 4254/2014. However, since 2014 Greece has not made any retroactive changes to the law.

## Jordan

PROPOSED IN	EIRA AREAS FOR IMPROVEMENT	IMPLEMENTATION STATUS AS OF 1 APRIL 2020
<b>Indicator 1</b>		
	Adopt the Energy Strategy for the years 2020-2030.	<b>Fully implemented.</b> The Energy Strategy for the years 2020-2030 was not published as of 1 April 2020. However, on 7 July 2020, the Ministry of Energy and Mineral Resources (MEMR) adopted this strategy.
2018	Periodically evaluate the energy sector's incentive framework to ensure it evolves predictably and progressively.	<b>Work ongoing.</b> The MEMR is conducting a technical study on the capacity of the national grid to absorb more variable renewable energy.
	Ensure that the authorities implementing the national energy policy are different from those evaluating the progress made towards achieving the policy.	<b>Pending</b>
2019	Adopt the Jordan National Renewable Energy Action Plan.	<b>Pending</b>
	Update the National Energy Efficiency Plan 2018-2020.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
2020	Conclude technical studies on the grid capacity within a specific time-frame, and lift the suspension on the applications for new renewable projects with a capacity exceeding 1 MW.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 2</b>		
2018	Introduce institutionalised stakeholder engagement mechanisms to obtain the public's input on draft laws and regulations.	<b>Partially implemented.</b> The new Income Tax Law 2018, amendments to the Insolvency Law 2018, and the Cybercrime Law 2020 were widely discussed. However, consultations on changes to tariffs and tariff methodology need to be institutionalised.
	Establish a translation unit within the Legislative and Opinion Bureau that will prepare official versions of laws and policies translated in foreign languages.	<b>Partially implemented.</b> The Legislative and Opinion Bureau has launched an updated website that is user-friendly and available in a foreign language. However, the translations of draft and enacted laws are unofficial.
2020	Continue to support the decentralisation and electoral reform.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
	Adopt, after public consultation, amendments to the Law on Guarantee of Access to Information 2007.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 3</b>		
2018	Appoint an independent auditor to perform controls over the Energy and Mineral Regulatory Commission's (EMRC) annual accounts. Grant the EMRC an exclusive right to prepare its annual budget without the possibility of modifications by the Government.	<b>Pending</b>
	Relax/fast-track investment screening procedures of the Ministry of Industry and Trade.	<b>Pending</b>
	Implement a new tariff-adjustment mechanism that is symmetrical and meets the requirements of the new preliminary agreement under the Extended Fund Facility of the IMF.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
2020	Conduct technical studies on shielding low income and vulnerable households from the electricity cost hike that will result from NEPCO's ongoing reforms.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
	Following the suspension of new applications for renewable projects with a capacity exceeding 1 MW, the MEMR should give a public clarification on the status of projects with preliminary approvals or under development.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 4</b>		
2018	Establish a foreign-investment ombudsman to resolve licensing and other permits-related conflicts arising in the course of projects.	<b>Pending</b>
	Amend the Investment Law 2014 and the Expropriation Law 1987 to include a timeline for paying compensation in the case of expropriation. Make explicit mention that any act of expropriation will be non-discriminatory.	<b>Pending</b>



## Kazakhstan

PROPOSED IN	EIRA AREAS FOR IMPROVEMENT	IMPLEMENTATION STATUS AS OF 1 APRIL 2020
<b>Indicator 1</b>		
2018	Improve coherence and alignment in the objectives identified under the different strategy documents, and revise the national energy documents in a timely fashion.	<b>Work ongoing.</b> The Government is currently revising the Concept for the Transition to a Green Economy.
	Enhance the independence of policy monitoring and evaluation bodies.	<b>Pending</b>
	Establish tracking mechanisms and incentive schemes, and conduct environmental impact assessments, to implement the country's NDC successfully.	<b>Work ongoing.</b> New wind and solar projects are planned for 2020, and external funding has been secured to support renewable energy.
<b>Indicator 2</b>		
2018	Improve and streamline the division of responsibilities between different State entities.	<b>Work ongoing.</b> In 2019, the Government amended regulations and adopted decrees to define the responsibilities of the lead ministries, the Investment Committee, Kazakh Invest National Company JSC, and the Astana International Financial Centre (AIFC).
	Promote public consultation in decision-making.	<b>Work ongoing.</b> Most recent reforms include the launch of a pilot project called "budget with wide public participation" which aims to ensure greater involvement of citizens in drafting government agencies' budgets.
<b>Indicator 3</b>		
2018	Phase out local content requirements in the energy sector.	<b>Work ongoing.</b> In 2019, the new Subsoil and Subsoil Use Code was amended to state that the minimum level of local content cannot exceed 50%.
	Reduce State control in different energy activities.	<b>Pending</b>
<b>Indicator 4</b>		
2018	Adopt alternative dispute resolution mechanisms such as mediation and a foreign investment ombudsman authority.	<b>Work ongoing.</b> The AIFC became fully-functional in 2019 and the Law "On Arbitration" was amended to ease the requirements for arbitration agreements, limit the grounds for the annulment of awards, internationalise the grounds for refusing the recognition of awards, and restrict State parties from retracting their consent to arbitrate.
	Introduce criteria to determine which activities constitute "public purpose" in the context of expropriation.	<b>Pending</b>

## Kenya

PROPOSED IN	EIRA AREAS FOR IMPROVEMENT	IMPLEMENTATION STATUS AS OF 1 APRIL 2020
<b>Indicator 1</b>		
<b>2018</b>	Adopt the draft National Energy Policy pending since 2015.	<b>Work ongoing.</b> The National Energy Policy 2019 is drafted but has not been tabled before the Parliament for approval.
	Incorporate policy review and reporting requirements in the national energy policy.	<b>Partially implemented.</b> A new review mechanism is stipulated in the Energy Act of 2019 and the Petroleum Act of 2019.
	Include affected communities in the policy monitoring and evaluation process.	<b>Partially implemented.</b> Participation of county governments is provided for in the Energy Act of 2019 and the Petroleum Act of 2019.
<b>2020</b>	Set a long-term climate policy plan that contains quantitative emissions reduction targets.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
	Make the national climate change registry accessible to the public.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 2</b>		
<b>2018</b>	Set a legal and institutional framework for public consultation on draft laws, regulations, and policies.	<b>Work ongoing.</b> The Public Participation Bill of 2019 was recently introduced in the Senate to address this issue.
<b>Indicator 3</b>		
<b>2018</b>	Set in law the criteria for the selection of the Energy and Petroleum Regulatory Authority's (EPRA) commissioners.	<b>Partially implemented.</b> The Energy Act 2019 stipulates the criteria for the selection of the EPRA commissioners.
	Give the EPRA a separate budget, and the right to adjust it without needing Government approval.	<b>Pending</b>
	Set a legal framework on the local content policy of the country.	<b>Fully implemented.</b> The Energy Act of 2019, the Petroleum Act of 2019, and the Model PSC 2019 introduce detailed provisions on local content obligations.
<b>2019</b>	Fast-track the adoption of subsidiary regulations under the Energy Act 2019 to operationalise its key provisions.	<b>Work ongoing.</b> The National Energy Policy of 2018 has been adopted. The Nuclear Regulatory Authority was created in 2019 per the provisions of the Energy Act of 2019. The Energy (Solar Photovoltaic) Regulations 2019 have been drafted. The full range of subsidiary laws and regulations are yet to be effected.
	Re-evaluate the need for a dedicated law on local content to avoid duplication and contradictions with the Energy Act of 2019 and the Petroleum Act of 2019.	<b>Work ongoing.</b> The provisions of the Local Content Bill are undergoing evaluation in the Parliament of Kenya.
<b>2020</b>	Conduct technical evaluation and feasibility studies before replacing the "take-or-pay" model with the "take-and-pay" tariff model in longer-term Power Purchase Agreements. Conduct detailed stakeholder consultations before adopting the new model. Apply changes only to new IPPs with minimal impact on existing investors.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
	Reconsider section 2 of the Tax Law (Amendment) Bill 2020 that proposes the removal of exemption on interest income accruing from green bonds with at least three years' maturity.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 4</b>		
<b>2018</b>	Update the domestic law on expropriation to include a definition of "public purpose or in the public interest".	<b>Pending</b>
	Set deadlines for the first date of a hearing, timelines for domestic courts to render final judgements, and deadlines for the completion of appeals.	<b>Work ongoing.</b> The timeline for judgements under the Civil Procedure Rules is 60 days after the hearing.
<b>2020</b>	Regularly update statistics of adjudication of commercial cases and set timelines for dealing with interim/ injunctive application.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.

## Kyrgyzstan

PROPOSED IN	EIRA AREAS FOR IMPROVEMENT	IMPLEMENTATION STATUS AS OF 1 APRIL 2020
<b>Indicator 1</b>		
<b>2018</b>	Update the National Energy Programme which sets the main energy priorities for the period 2008-2010.	<b>Pending</b>
	Set short- and long-term targets for the development of the energy sector.	<b>Work ongoing and partially implemented.</b> The Government Plan for 2019-2023 contains targets for improving energy policies, developing renewable generation capacities, and enhancing energy efficiency. The draft Green Economy Development Programme for 2019-2023, currently under discussion, has a matrix of targets and an action plan for its implementation.
	Set policy monitoring mechanisms to track the progress made on the country's energy targets.	<b>Pending</b>
	Ratify the Paris Agreement to signal Kyrgyzstan's participation in the global effort to reduce GHG emissions.	<b>Fully implemented.</b> The Law N125 on ratification of the Paris Agreement UNFCCC Convention was adopted on 11 November 2019.
<b>2020</b>	Develop a comprehensive mid-term strategy on energy efficiency.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
	Develop a summary on the completion of activities listed in the annual action plan to implement the Government Plan for 2019-2023.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 2</b>		
<b>2018</b>	Prepare a climate change mitigation plan.	<b>Pending</b>
	Publish regular reports and statistics on the past and future actions of the State Committee for Industry, Energy and Subsoil Use.	<b>Work ongoing.</b> Resolution no. N141 stipulates that all the State agencies should submit monthly updates on their activities to the Ministry of Economy, which will then provide a summary of these activities to the Government.
	Develop minimum consultation standards for public discussions on draft legislation.	<b>Pending</b>
<b>2020</b>	Regularly update the website of the State Committee on Industry, Energy and Subsoil Use and improve the performance of Taza Koom's digital platform.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
	Give the Investment Promotion and Protection Agency one-stop shop functions. The Agency should prepare step-by-step guidelines for investing in different sectors.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 3</b>		
<b>2018</b>	Establish an independent board for the State Regulatory Agency for Fuel and Energy Complex (the State Agency) with a fixed-term appointment and limited renewal possibility.	<b>Pending</b>
	Make the State Agency accountable only to the Parliament.	<b>Pending</b>
	Limit the Government's preferential right to obtain strategic objects and remove the requirement of Government consent for mergers or acquisitions in strategically important projects.	<b>Pending</b>
	Administer the quota system for foreign workers in a consistent and transparent manner.	<b>Pending</b>
<b>2020</b>	Support the financial rehabilitation of the power transmission and distribution system.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 4</b>		
<b>2018</b>	Finalise the ratification process of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States.	<b>Pending</b>
	Update the national laws to define "public interest" as a criteria for the expropriation of investment.	<b>Pending</b>
	Update the national laws to define a valuation method for calculating damages and interest in the case of expropriation, and introduce a reasonable timeframe for paying compensation.	<b>Pending</b>

## Montenegro

PROPOSED IN	EIRA AREAS FOR IMPROVEMENT	IMPLEMENTATION STATUS AS OF 1 APRIL 2020
<b>Indicator 1</b>		
<b>2018</b>	Adopt national action plans that set long-term and outcome-oriented targets for the energy priorities.	<b>Work ongoing.</b> The 4th National Energy Efficiency Action Plan was adopted in 2019.
	Reinforce the independence of policy monitoring and evaluation bodies.	<b>Pending</b>
<b>Indicator 2</b>		
<b>2018</b>	Reinforce stakeholder engagement.	<b>Work ongoing.</b> Reforms are expected on the actual implementation of the legal initiatives taken in this regard. In 2020, the Government invited comments on proposed amendments to the Energy Law.
<b>Indicator 3</b>		
<b>2018</b>	Relax annual quotas on the number of foreign workers that can be employed in the country.	<b>Pending</b>
<b>Indicator 4</b>		
<b>2018</b>	Set concrete timelines for the delivery of judgements on all levels (first instance and appeal) and by all courts (civil, administrative, and penal).	<b>Pending</b>
	Adopt alternative dispute resolution mechanisms such as mediation and a foreign investment ombudsman authority.	<b>Pending</b>
	Establish criteria to determine which activities constitute "public purpose" in the context of expropriation.	<b>Pending</b>

## Nigeria

PROPOSED IN	EIRA AREAS FOR IMPROVEMENT	IMPLEMENTATION STATUS AS OF 1 APRIL 2020
<b>Indicator 1</b>		
<b>2018</b>	Carry out a rigorous impact assessment of the existing laws and policies.	<b>Pending</b>
	Set key performance indicators for the energy sector.	<b>Pending</b>
<b>2020</b>	Regularly publish the policy monitoring and evaluation reports.	<b>Work ongoing.</b> In 2018, the Government established an inter-ministerial Committee to harmonise data collection and evaluation of the country's objectives.
	Revise the policy targets that are expiring in 2020, such as for increasing oil production, expanding the power sector infrastructure, boosting local refining, and becoming a net exporter of petroleum products.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 2</b>		
<b>2018</b>	Conduct regular public consultations and introduce legal provisions which require public consultation by MDAs on draft laws and regulations.	<b>Work ongoing.</b> The Nigerian Energy Regulatory Commission (NERC) conducted public consultation and hearings on various topics such as the extraordinary tariff review of the Multi-Year Tariff Order of 2015, on the framework for the collection of Competition Transition Charge from the eligible consumers, on the capping of estimated billing, and on setting the electricity distribution franchising regulations.
	Promote better coordination among MDAs on the implementation of the national energy policies and plans.	<b>Work ongoing.</b> The first Energy and Climate Change Summit was held in 2018 as a step towards bringing together the relevant stakeholders and fostering constructive discussions.
<b>Indicator 3</b>		
<b>2018</b>	Define the roles and responsibilities of the different regulatory authorities.	<b>Pending</b>
	Create a comprehensive legal framework on local content across sectors. Ensure that content targets are based on a realistic estimation of available domestic human resources and technical expertise.	<b>Work ongoing.</b> In 2019, the Nigerian Content Development and Enforcement Bill was introduced in the National Assembly for discussion. The Bill seeks to broaden the existing local content requirements for the oil and gas sector and it implements a similar regime for the ICT, power, solid minerals, and construction sectors.
<b>2020</b>	Apply cost-reflective electricity tariffs at the earliest. Take collaborative and proactive measures to ensure metering of all electricity customers.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
	Reconsider the newly introduced additional price-based royalty and increased water depth-based royalties.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 4</b>		
<b>2018</b>	Establish a foreign investment ombudsman authority to settle conflicts arising in the course of energy projects.	<b>Pending</b>
	Grant broader protection against expropriation to intangible property such as equity, shares, and IP rights.	<b>Pending</b>
<b>2020</b>	Define clear rules to regulate the use and enforcement of Third Party Funding agreements.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.

## Palestine

PROPOSED IN	EIRA AREAS FOR IMPROVEMENT	IMPLEMENTATION STATUS AS OF 1 APRIL 2020
<b>Indicator 1</b>		
2019	Set evidence-based targets and performance indicators to benchmark the progress made towards achieving the energy objectives.	<b>Work ongoing.</b> PENRA is working on a comprehensive energy sector plan for 2019-2035. The first Work Plan for the 18th Government, approved in 2019, lists more than 100 interventions, 207 activities, and 277 measurement indices for the national targets.
	Define the roles and tasks of the policy implementation agencies and the monitoring authorities.	<b>Work ongoing.</b> The first Work Plan for the 18th Government, approved in 2019, lists the ministries and public institutions that are responsible for its implementation. It establishes special committees that will follow up on the progress achieved, collect data on projects and activities, and submit monthly reports to the Council of Ministers.
	Ensure that the authorities implementing the national energy policy are different from those evaluating the progress made towards achieving the policy.	<b>Pending</b>
2020	Train the public sector administrative staff on data collection, maintenance of public records, and understanding statistical indicators.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 2</b>		
2019	Enact the draft law on access to information.	<b>Pending</b>
	Conduct regular public consultations and introduce legal provisions making consultation on draft laws and regulations mandatory.	<b>Work ongoing.</b> Per official records, in 2019, more than 150 meetings were held with the governorates and 150 with civil society institutions and universities. 40 press statements were released by public authorities to disseminate relevant information to the public. Legal provisions on mandatory public consultation are pending.
	Establish a translation unit within the Office of the Advisory and Legislation Bureau of Palestine, which will produce official translations of laws and policies in foreign languages.	<b>Pending</b>
2020	Reinstate the original language of Article 3 in the Anti-Corruption Law of 2005, which requires approval by an absolute majority of the Palestinian Legislative Council to the appointment of the Anti-Corruption Commission's Head.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 3</b>		
2019	Unify and update the legal framework on the establishment and registration of companies and IP rights.	<b>Pending</b>
2020	Unify and update the legal framework regulating issues of bankruptcy and competition.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
	Develop a legal framework to underpin the growth of the renewables sub-sector, the incentive schemes, and the tariff methodology.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
	PENRA and distribution companies should give the necessary technical training to their staff and make electricity metering available to promote renewable energy consumption.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 4</b>		
2019	Establish specialised commercial courts.	<b>Pending</b>
	Set up a foreign investment ombudsman authority to resolve conflicts arising in the course of projects.	<b>Pending</b>
	Define "public purpose or in the public interest" in the 1953 Acquisition Law.	<b>Pending</b>
	Set a timeline in the 1953 Acquisition Act for paying compensation to the affected investor in the case of expropriation.	<b>Pending</b>
2020	Create a comprehensive land registry and simplify the process of issuing land registrations.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.



## Panama

PROPOSED IN	EIRA AREAS FOR IMPROVEMENT	IMPLEMENTATION STATUS AS OF 1 APRIL 2020
<b>Indicator 1</b>		
2019	Set short-, medium- and long-term energy sector targets that are measurable, time-bound and realistic.	<b>Pending</b>
<b>Indicator 2</b>		
	Set up a single window to give companies information on energy projects and investment facilitation.	<b>Work ongoing.</b> 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.	<b>Work ongoing.</b> Information on the procedure for registering foreign and domestic businesses is available on the Ministry of Commerce and Industry's website. The online portal allows foreign investors to register their company, create a branch of a registered business, or register as an individual trader from any part of the world.
<b>Indicator 3</b>		
2019	Reduce restrictions on the employment of foreign skilled and technical personnel.	<b>Work ongoing.</b> The Government has made some progress by adopting Resolution no. 4480/2019 which facilitates the hiring of foreign personnel in the energy sector in a percentage higher than 15% of the total number of workers, as well as through the local content exemptions under the Special System of the Multinational Corporation Headquarters.
<b>Indicator 4</b>		
	Establish an investment ombudsman or similar institution to resolve conflicts between investors and State authorities.	<b>Pending</b>
2019	Enact a law that defines "public interest" in the context of expropriation, and address issues regarding the valuation of the compensation and the timeframe for its payment.	<b>Pending</b>

## Republic of Moldova

PROPOSED IN	EIRA AREAS FOR IMPROVEMENT	IMPLEMENTATION STATUS AS OF 1 APRIL 2020
<b>Indicator 1</b>		
2018	Adopt the revised version of the Energy Strategy 2030.	<b>Work ongoing.</b> The updated version of the Strategy is undergoing consultation.
	Enact secondary legislation and adopt action plans to implement the primary laws, such as Law no. 10 of 2016 "On the Promotion of the Use of Energy from Renewables Sources".	<b>Work ongoing.</b> Following the adoption of Law no. 10 of 2016 "On the Promotion of the Use of Energy from Renewables Sources" in 2018, the regulation on renewable energy tendering was approved. It provides an initial framework for organising auctions that grant "eligible producer" status to large investors. The Moldovan authorities are in the process of launching renewable energy auctions for on-shore wind and solar photovoltaic projects.
	Ensure that the authorities implementing the national energy policy are different from those evaluating the progress made towards achieving the policy.	<b>Work ongoing.</b> The Energy Efficiency Agency was re-structured in 2018 and made responsible, among others things, for providing financial support to relevant projects through the State budget, and from regional and international financial markets. Following a change of government in June 2019, the Moldovan authorities have engaged in significant structural reforms, as specified in the EU-Moldova Association Agreement.
<b>Indicator 2</b>		
2018	Establish a one-stop shop for documenting and approving all licences, registrations, permits, and procedures related to energy projects.	<b>Work ongoing.</b> Some actions in this respect are included in the 2018-2020 Action Plan on the Implementation of the Reform Strategy for Entrepreneurship.
	Ensure that all the State authorities regularly publish their documents, public expenditure and other relevant reports, and properly maintain their respective websites.	<b>Work ongoing.</b> The State authorities are taking measures to improve reporting of expenditures and access by citizens to budget information. The Court of Accounts is taking action to make its audits more effective and ensure better oversight of the budget implementation. In 2019, the Government made the State Registry of Legal Acts the only source of updated information on Moldovan legislation. This way, all legislation will be available in a unified and automated system.
<b>Indicator 3</b>		
2018	Reinforce the independence of the energy regulator, National Energy Regulatory Agency (ANRE).	<b>Pending</b>
	Promote market liberalisation in the gas sub-sector.	<b>Work ongoing.</b> In February 2020, ANRE approved and published the rules of the natural gas market, which will be implemented from December 2020. Moldovatransgaz is expected to comply with the unbundling requirements of the Third Gas Directive. Moreover, the draft natural gas network codes, which will come into force by the end of 2020, regulate the modalities of natural gas pipeline interconnections and ensures efficient activity in the relevant market.
<b>Indicator 4</b>		
2018	Introduce timeframes for national courts to examine cases and deliver judgements.	<b>Pending</b>

## Rwanda

PROPOSED IN	EIRA AREAS FOR IMPROVEMENT	IMPLEMENTATION STATUS AS OF 1 APRIL 2020
<b>Indicator 1</b>		
<b>2018</b>	Allow all the interested individuals and organisations to review the Government's performance and provide feedback on how to improve policy implementation.	<b>Partially implemented.</b> Unlike its predecessor, the Energy Sector Strategic Plan for 2018/19-2023/24 does not state that its full assessment should be carried out by an independent evaluation consultancy. However, the Monitoring & Evaluation Unit in the Ministry of Infrastructure (MININFRA) receives external expertise and support in internal evaluation projects. Imihigo and Joint Sector Review Reports are publically available.
<b>Indicator 2</b>		
<b>2018</b>	Establish the Technical Coordinating Committee and the Centre for Climate Knowledge for Development.	<b>Pending</b>
<b>2020</b>	Produce and collect timely, reliable, and accurate data on green investment monitoring mechanisms, and on the implementation of Rwanda's Paris Agreement targets.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 3</b>		
<b>2018</b>	Define the roles of the Rwanda Energy Group (REG), the Rwanda Utilities and Regulatory Authority, the MININFRA, and the Rwanda Mining and Petroleum and Gas Board in the petroleum sub-sector.	<b>Work ongoing.</b> This is Institutional Priority 1 under the recently published MININFRA Capacity Development Strategy 2019-2024.
<b>2020</b>	Define the role of REG in a legal instrument.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 4</b>		
<b>2018</b>	Establish a foreign investment ombudsman authority or expand the mandate of the Ombudsman Office to include representation of foreign investors before the Government.	<b>Pending</b>
<b>2020</b>	Consider imposing penalties in cases where timelines set for paying compensation in the case of expropriation are not respected.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.

## Senegal

PROPOSED IN	EIRA AREAS FOR IMPROVEMENT	IMPLEMENTATION STATUS AS OF 1 APRIL 2020
<b>Indicator 1</b>		
2018	Adopt a revised version of the Petroleum Code 1998 and the Priority Action Plan (PAP) for the period beyond 2018.	<b>Fully implemented.</b> The Government adopted the revised Petroleum Code in 2019. It has also adopted the Priority Action Plan 2019-2023 and the Energy Sector Development Policy Letter 2019-2023.
	Establish a robust policy review process that can measure the progress made towards achieving the national targets.	<b>Work ongoing.</b> The Government has completed the evaluation of the Priority Action Plan (PAP), which has now entered its second implementation phase (2019-2023).
<b>Indicator 2</b>		
2018	Institutionalise inter-ministerial policy coordination mechanisms.	<b>Work ongoing.</b> Collaboration has increased in the context of important strategies, such as the Priority Action Plan (PAP) 2019-2023 and the Digital Senegal Strategy 2025.
	Improve transparency by adopting a law guaranteeing the right to access information.	<b>Work ongoing.</b> The Government is yet to adopt a law on access to information. However, transparency requirements have been included in the 2019 Petroleum Code. Internal audits have taken place and fiscal information is available with regular publication of quarterly budget appropriations and information on their execution on the website of the Ministry of Finance and Budget.
	Promote stakeholder engagement in the decision-making process by disseminating draft laws and regulations for public consultation in advance, setting timeframes for soliciting public comments and opinions, and regularly updating electronic legal databases.	<b>Work ongoing.</b> Discussions with private stakeholders and international organisations have taken place in the context of legislative reforms, such as the Priority Action Plan (PAP) 2019-2023, and the Digital Senegal Strategy 2025.
<b>Indicator 3</b>		
2018	Reinforce the Electricity Sector Regulatory Commission's (CRSE) independence by selecting its commissioners based on merit, through a public procedure, and by making them accountable only to the National Assembly.	<b>Pending</b>
2019	Adopt secondary legislation to implement the 2019 Law "On Local Content in the Hydrocarbons Sector".	<b>Pending</b>
<b>Indicator 4</b>		
2018	Speed up civil and commercial adjudication and set deadlines for the completion of judicial proceedings.	<b>Work ongoing and partially implemented.</b> The commercial court, established in 2017, has thus far ruled on more than 10,000 cases, thereby speeding up the resolution of disputes. Moreover, since February 2020, the commercial court has set up a system that allows proceedings to be initiated and followed online. However, there are no strict deadlines set in law to render final judgements in court proceedings.
2019	Limit the retroactive application of laws, particularly the 2019 Petroleum Code and the Law "On Local Content in the Hydrocarbons Sector".	<b>Work ongoing.</b> The Government has thus far refrained from renegotiating existing contracts under the 2019 Petroleum Code and the Law "On Local Content in the Hydrocarbons Sector".

## Uganda

PROPOSED IN	EIRA AREAS FOR IMPROVEMENT	IMPLEMENTATION STATUS AS OF 1 APRIL 2020
<b>Indicator 1</b>		
<b>2018</b>	Update the 2002 Energy Policy for Uganda.	<b>Work ongoing.</b> The final draft of the new National Energy Policy has been prepared. It is expected that the new policy will be approved by December 2020.
	Update the Mineral Policy of 2001.	<b>Work ongoing.</b> The draft Mining and Mineral Policy is ready. The Minerals and Mining Legislation 2018 is pending before the First Parliamentary Counsel.
	Update the Renewable Energy Policy of 2007.	<b>Work ongoing.</b> The final draft of the new Renewable Energy Policy has been prepared. It is expected that the new policy will be approved by December 2020.
	Design energy delivery systems that are compatible with the local conditions.	<b>Work ongoing and partially implemented.</b> The Electricity Connections Policy 2018-2027 provides simple approaches that can enable faster connection to electricity.
<b>2019</b>	Implement the Electricity Connections Policy 2018-2027.	<b>Work ongoing.</b> The Electricity Regulatory Authority (ERA) launched the "PawaKapo" Media Campaign in November 2019 to implement the Electricity Connections Policy 2018-2027.
<b>2020</b>	Increase investment in the transmission and distribution infrastructure to balance grid supply and demand at least cost.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 2</b>		
<b>2018</b>	Consider publishing Uganda's extractive industry contracts in line with international best practices.	<b>Work ongoing.</b> Uganda joined the EITI in March 2020.
<b>2020</b>	Make it legally mandatory for public authorities to consult the public on draft laws and regulatory decisions.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 3</b>		
<b>2018</b>	Limit the Government's role in ERA's decision-making process.	<b>Pending</b>
	Remove the requirement of Government approval on the salaries of the Petroleum Authority of Uganda's board members.	<b>Pending</b>
	Adopt the Competition Bill pending since 2004.	<b>Pending</b>
	Set the same eligibility requirements for registering and issuing investment licenses to domestic and foreign companies. Streamline the land tenure system to ensure the realisation of planned projects.	<b>Work ongoing and partially implemented.</b> The Investment Code of 2019 imposes the minimum investment capital requirement on both foreign and domestic investors to qualify for the registration and issuance of an investment license.
<b>Indicator 4</b>		
<b>2018</b>	Consider establishing a foreign investment ombudsman authority to settle conflicts arising in the course of projects.	<b>Pending</b>
	Identify (1) the procedure to ascertain whether an acquisition is for a "public purpose" and (2) the key decision-makers in this process.	<b>Work ongoing.</b> The Land Acquisition Bill of 2019 streamlines provisions on the compulsory acquisition of property by the Government.

## Ukraine

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



## Uzbekistan

PROPOSED IN	EIRA AREAS FOR IMPROVEMENT	IMPLEMENTATION STATUS AS OF 1 APRIL 2020
<b>Indicator 1</b>		
2019	Adopt a national energy strategy that will provide the overarching framework for future actions.	<b>Fully implemented.</b> In 2020, the Concept Note for the Supply of Electric Power 2020-2030 was adopted. The Strategy for the transition of the Republic of Uzbekistan to a green economy in the period of 2019-2030 was adopted in April 2019.
	Ensure that the authorities implementing the national energy policy are different from those evaluating the progress made towards achieving the policy.	<b>Pending</b>
<b>Indicator 2</b>		
2019	Develop institutional mechanisms and a legal framework to integrate stakeholders in regulatory decision-making.	<b>Pending</b>
<b>Indicator 3</b>		
2019	Establish an independent energy regulator that has institutional, functional, and financial autonomy.	<b>Work ongoing.</b> During 2020-2021, the Government intends to introduce an energy market regulator that will undertake regulation, licensing and control of the electricity and natural gas market. The regulator will be a financially independent body accountable to the President and the Parliament of Uzbekistan.
2020	Enact new versions of the laws on electric energy and the establishment of an independent energy regulator.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
	Approve the subsidiary rules on market operations and licensing of its participants, models of the wholesale electricity market, and the electricity balancing model.	<b>Improvement suggested in 2020.</b> Status will be updated in 2021.
<b>Indicator 4</b>		
2019	Consider setting a legally binding timeframe to pay compensation in the case of expropriation.	<b>Pending</b>



# **ANNEX II: ORBIS CROSSBORDER INVESTMENT GLOSSARY AND INDUSTRY CLASSIFICATION**



## Terms used in EIRA 2020 from Orbis Crossborder Investment\*

<b>Acquisition deal</b>	A deal in which the acquiror ends up with a stake of 50% or more in the target's equity. Even deals involving the purchase of a very small stake will be defined as an acquisition if the final stake held by the acquiror is 50% or above.
<b>Co-location project</b>	The same company (investor) investing into the same location (city) in a different business activity (for example, XYZ company could be setting up a regional distribution center as well as a manufacturing plant). Sometimes companies will create a new warehouse to complement an existing manufacturing plant.
<b>Completed project status</b>	If a company has opened a facility or a location is deemed to be operational, the project will be deemed to have been completed.
<b>Completed deal status</b>	This is the date when the deal has officially completed.
<b>Institutional buyout (IBO) deal</b>	A deal in which a private equity firm has purchased a stake of 50% or more in a company. As with acquisitions, even deals involving the purchase of a very small stake will be defined as an IBO if the final stake held by the acquiror is 50% or above. The only difference between a standard acquisition and an IBO is that the acquiror in an IBO is a private equity firm.
<b>Joint venture deal</b>	A deal in which two or more companies create a new, jointly-owned entity. The two or more companies that have established the new entity continue to exist.
<b>Minority stake deal</b>	A deal in which the acquiror has purchased a number of shares in the target and the resulting final stake is less than 50%. A deal involving the purchase of a 2% stake could be defined as an acquisition if the acquiror's overall final stake is 50% or more, such as if a buyer increases its stake from 49% to 51%.
<b>New project</b>	A new operation, whether it is a manufacturing plant, regional headquarters, sales office, and so on.

\*For more information on the Orbis Crossborder Investment methodology, data collection and definitions please visit <https://www.bvdinfo.com/orbis>

## Industry Classification used in EIRA 2020 from Orbis Crossborder Investment

The data for EIRA 2020 is compiled using the following NACE Rev. 2 classes. \*\*

Electrical energy		
<b>35.11</b>	<b>Production of electricity</b>	This class includes the operation of generation facilities that produce electric energy; including thermal, nuclear, hydroelectric, gas turbine, diesel and renewable.
<b>35.12</b>	<b>Transmission of electricity</b>	This class includes operation of transmission systems that convey the electricity from the generation facility to the distribution system.
<b>35.13</b>	<b>Distribution of electricity</b>	This class includes operation of distribution systems (i.e., consisting of lines, poles, meters, and wiring) that convey electric power received from the generation facility or the transmission system to the final consumer.
<b>35.14</b>	<b>Trade of electricity</b>	This class includes the sale of electricity to the user; activities of electric power brokers or agents that arrange the sale of electricity via power distribution systems operated by others; operation of electricity and transmission capacity exchanges for electric power.
Petroleum and gas		
<b>06.10</b>	<b>Extraction of crude petroleum</b>	This class includes extraction of crude petroleum oils; extraction of bituminous or oil shale and tar sand; production of crude petroleum from bituminous shale and sand; processes to obtain crude oils: decantation, desalting, dehydration, stabilisation etc.
<b>06.20</b>	<b>Extraction of natural gas</b>	This class includes production of crude gaseous hydrocarbon (natural gas); extraction of condensates; draining and separation of liquid hydrocarbon fractions; gas desulphurization; mining of hydrocarbon liquids, obtained through liquefaction or pyrolysis.
<b>09.10</b>	<b>Support activities for petroleum and natural gas extraction</b>	<p>This class includes oil and gas extraction service activities provided on a fee or contract basis:</p> <ul style="list-style-type: none"> <li>• In exploration services in connection with petroleum or gas extraction, e.g. traditional prospecting methods, such as making geological observations at prospective sites</li> <li>• In directional drilling and re-drilling; "spudding in"; derrick erection in situ, repairing and dismantling; cementing oil and gas well casings; pumping of wells; plugging and abandoning wells etc.</li> <li>• In liquefaction and regasification of natural gas for purpose of transport, done at the mine site</li> <li>• In draining and pumping services, on a fee or contract basis</li> <li>• In test drilling in connection with petroleum or gas extraction</li> </ul>
<b>19.20</b>	<b>Manufacture of refined petroleum products</b>	This class includes production of motor fuel: gasoline, kerosene etc.; production of fuel: light, medium and heavy fuel oil, refinery gases such as ethane, propane, butane etc.; manufacture of oil-based lubricating oils or greases, including from waste oil; manufacture of petroleum briquettes; blending of biofuels, i.e. blending of alcohols with petroleum (e.g. gasohol); manufacture of peat briquettes; manufacture of hard-coal and lignite fuel briquettes.
<b>49.50</b>	<b>Transport via pipeline</b>	This class includes transport of gases via pipelines. It also includes the operation of pump stations.

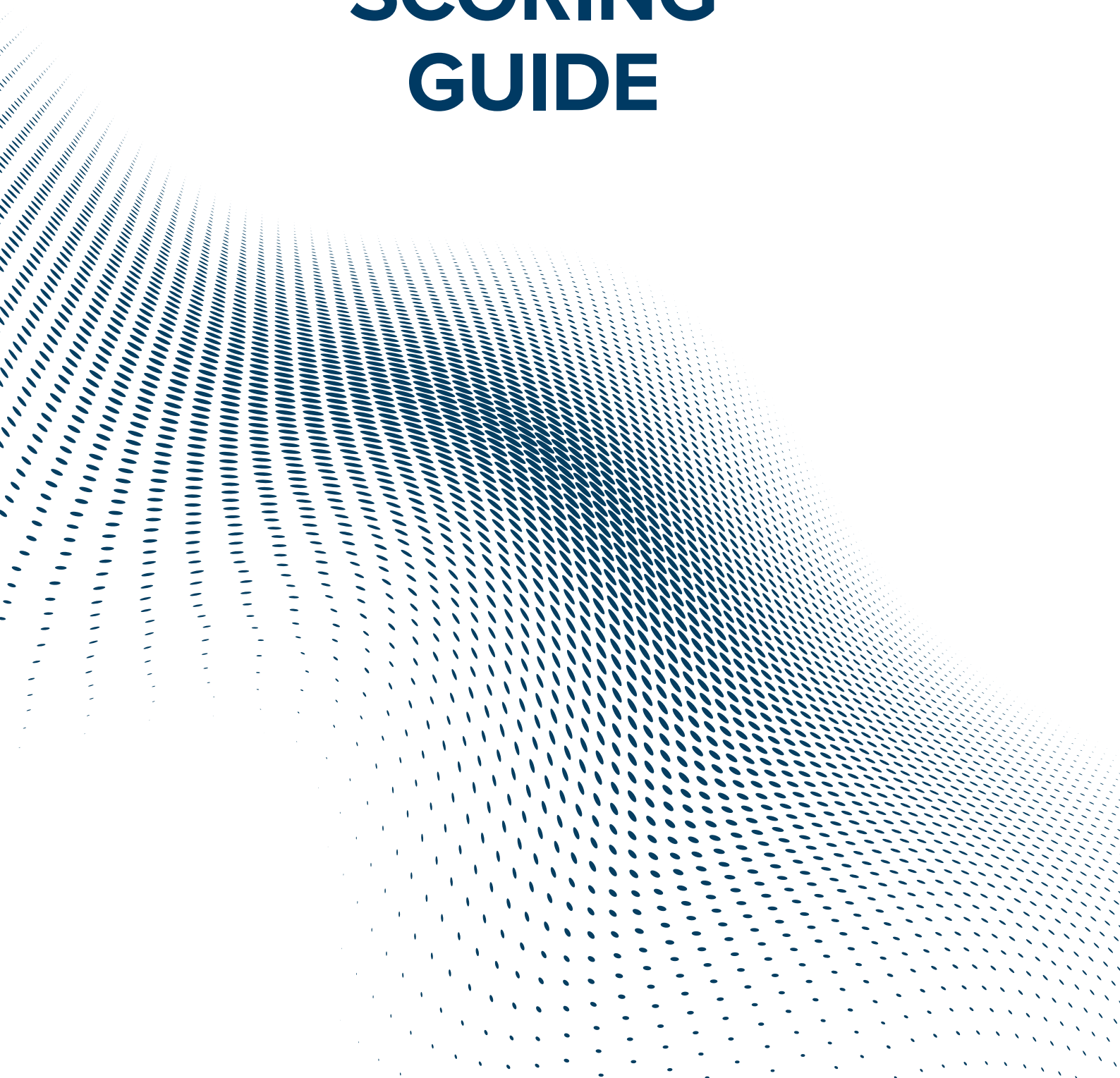
Coal		
<b>05.10</b>	<b>Mining of hard coal</b>	This class includes the mining of hard coal: underground or surface mining, including mining through liquefaction methods; cleaning, sizing, grading, pulverising, compressing etc. of coal to classify, improve quality or facilitate transport or storage; recovery of hard coal from culm banks.
<b>05.20</b>	<b>Mining of lignite</b>	This class includes mining of lignite (brown coal): underground or surface mining, including mining through liquefaction methods; washing, dehydrating, pulverising, compressing of lignite to improve quality or facilitate transport or storage.
<b>08.92</b>	<b>Extraction of peat</b>	This class includes peat digging; preparation of peat to improve quality or facilitate transport or storage.
<b>09.90</b>	<b>Support activities for other mining and quarrying</b>	<p>This class includes support services on a fee or contract basis, required for mining of coal and lignite, among other:</p> <ul style="list-style-type: none"> <li>• In exploration services, e.g. traditional prospecting methods, such as taking core samples and making geological observations at prospective sites</li> <li>• In draining and pumping services, on a fee or contract basis</li> <li>• In test drilling and test hole boring.</li> </ul>
Nuclear energy		
<b>24.46</b>	<b>Processing of nuclear fuel</b>	This class includes the production of uranium metal from pitchblende or other ores; smelting and refining of uranium.
<b>07.21</b>	<b>Mining of uranium and thorium ores</b>	This class includes mining of ores chiefly valued for uranium and thorium content: pitchblende etc.; concentration of such ores; manufacture of yellowcake.

\*\* For more information on the NACE Rev. 2 statistical classification of economic activities please visit <https://ec.europa.eu/eurostat/web/nace-rev2>.

Electrical energy, petroleum, gas, coal and nuclear energy are covered by Annex EM I “Energy Materials and Products” of the ECT (as amended).



# **ANNEX III: 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
<b>Sub-indicator 1: Communication of vision and policies</b>			<b>66.7</b>
<b>1. What are the key priorities or goals of the energy sector policy?</b> <b>a. Energy security [Y/N]</b> <b>b. Power reliability [Y/N]</b> <b>c. Affordability – energy poverty [Y/N]</b> <b>d. Access to energy [Y/N]</b> <b>e. Investment in the energy sector [Y/N]</b> <b>f. CO<sub>2</sub> reduction [Y/N]</b> <b>g. Renewable energy [Y/N]</b> <b>h. Energy efficiency [Y/N]</b> <b>i. Innovation [Y/N]</b> <b>j. Others issues related to the energy sector</b> <b>(like air quality, water quality job creation etc). Please specify.</b>	Not Scored	5 goals selected: Energy security; power reliability; access to energy; CO <sub>2</sub> reduction; and Innovation  (100/5=20 for each goal in the related questions)	–
<b>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]</b>	Based on the number of goals selected in the previous question proportionate scores are allocated	Energy strategy document for 3 goals: Energy security; CO <sub>2</sub> 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
<b>Sub-indicator 1: Regulatory effectiveness</b>			<b>66.7</b>
<b>1. Does the energy regulator derive its authority from a law? [Y/N]</b>	Yes-100 No-0	Yes	100
<b>2. Are the functions and obligations of the energy regulator stated in a law? [Y/N]</b>	Yes-100 No-0	No	0
<b>3. Does the energy regulator have a budget that is separate from the government’s budget? [Y/N]</b>	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
<b>Sub-indicator 2: Restrictions on FDI</b>			<b>50</b>
<b>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]</b>	Yes-0 No-100	No	100
<b>2. Are foreign investors required to purchase a certain percentage/ value/quantity of products or services from local suppliers? [Y/N]</b>	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
<b>Sub-indicator 1: Transparency</b>			<b>83.3</b>
<b>1. Does the country make available legal and regulatory information to the public?</b>		1-b	50
a. Yes, all information is made available	100		
b. Only some information is available	50		
c. No information is available	0		
<b>2. How are laws and regulations made accessible to public?</b>		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		
<b>3. Does the energy regulator make available its decisions (on tariffs, tariff methodology, market access etc.) to the public?</b>		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
<b>Sub-indicator 2: Restrictions on FDI</b>			<b>50</b>
<b>1. Is there a pre-screening or prior-authorization requirement for investing in the energy sector? [Y/N]</b>	Yes-0 No-100	Yes	0
<b>If yes:</b>			
<b>1a. Is pre-screening applicable to both domestic and foreign investors? [Y/N]</b>	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
<b>Sub-indicator 1: Management and settlement of investor-State disputes</b>			<b>50</b>
<b>1. Is the country a Contracting Party to:</b>			
<b>1a. The Convention on the Settlement of Investment Disputes Between States and Nationals of Other States? [Y/N]</b>	Yes-50 No-0	Yes	50
<b>1b. The Convention on the Recognition and Enforcement of Foreign Arbitral Awards? [Y/N]</b>	Yes-50 No-0	No	0





# **ANNEX IV: EIRA QUESTIONNAIRE**



## Indicator 1: Foresight of policy and regulatory change

QUESTIONS	CLARIFICATIONS TO QUESTIONS	SCORING
<b>Sub-indicator 1.1: Communication of vision and policies</b>		
<b>1.1.1 What are the key priorities or goals of the energy sector policy?</b> 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 <sub>2</sub> 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
<b>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]</b>	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
<b>1.1.3 Has the country set any short-, medium- term targets for the priority areas selected above? [Y/N]</b>	This may include any specific short-, medium-term outcomes/targets for the energy sub-sectors.	Based on the number of goals selected
<b>1.1.4 Has the country set any ultimate/final outcomes for the priority areas selected above? [Y/N]</b>	This may include any specific final outcomes or end game for the energy sub-sectors.	Based on the number of goals selected
<b>1.1.5 Is there a timeframe for achieving the ultimate/final outcomes for the priority areas selected above? [Y/N]</b>		Based on the number of goals selected
<b>1.1.6 Is there a binding national action plan in place for implementing the priorities selected above? [Y/N]</b>		Based on the number of goals selected
<b>1.1.7a Is the country a party to the United Nations Paris Climate Agreement? [Y/N]</b>		Yes-50 No-0
<b>1.1.7b If yes, does the country's NDC contain details on energy sector CO<sub>2</sub> contribution? [Y/N]</b>		Yes-50 No-0
<b>Sub-indicator 1.2: Robustness of policy goals and commitments</b>		
<b>1.2.1 Is there a body responsible for monitoring the implementation of each energy priority? [Y/N]</b>		Based on the number of goals selected
<b>1.2.2 Is the monitoring body independent of the authority/ministry responsible for implementing the energy priorities selected above? [Y/N]</b>	For instance a technical/statistics body.	Based on the number of monitoring bodies
<b>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]</b>		Based on the number of monitoring bodies
<b>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]</b>	Please provide relevant legal acts/provisions.	Yes-100 No-0
<b>Additional remarks:</b> 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
<b>Sub-indicator 2.1: Institutional governance</b>		
<b>2.1.1 Indicate the levels of government involved in framing energy legislation:</b> 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
<b>2.1.2 Is there a central authority responsible for the overall energy policy formulation process? [Y/N]</b>	Please provide the name of the institution and its website.	Yes-100 No-0
<b>2.1.3 Is there a central authority responsible for the overall investment policy formulation process? [Y/N]</b>	Please provide the name of the institution and its website.	Yes 100 No-0
<b>2.1.4 Do the energy and investment authorities consult each other while formulating policies related to their respective sectors? [Y/N]</b>	This includes consultation within working groups, etc.	Yes-100 No-0
<b>2.1.5 Is there an authority responsible for the overall implementation and monitoring of the country's NDC? [Y/N]</b>	Please provide the name of the institution and its website.	Yes-100 No-0
<b>2.1.6 Is there a process that requires the government to periodically review the implementation of its NDC? [Y/N]</b>		Yes-100 No-0
<b>2.1.7a Has the country established a one-stop shop investment approval authority? [Y/N]</b>	Please provide the name of the institution and its website.	Yes-50 No-0
<b>2.1.7b If yes, does it also give approval for the energy sector? [Y/N]</b>		Yes-50 No-0
<b>2.1.8a Is there a single window for all enquiries concerning investment policies and applications? [Y/N]</b>	Please provide the name of the institution and its website.	Yes-50 No-0
<b>2.1.8b If yes, does it also give information for the energy sector? [Y/N]</b>		Yes-50 No-0
<b>Sub-indicator 2.2: Transparency</b>		
<b>2.2.1 Does the country have a law on transparency? [Y/N]</b>		Yes-100 No-0
<b>2.2.2a Do exceptions to transparency rules exist? [Y/N]</b>	Such exceptions can include national security, public interest, law and order etc.	Yes-0 No-100
<b>2.2.2b If yes, are these exceptions clearly defined in law or regulation? [Y/N]</b>		Yes-100 No-0
<b>2.2.3 Does the country make available legal and regulatory information to the public?</b> 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
<b>2.2.4 How is law and regulation made accessible to the public? [Y/N]</b> 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
<b>2.2.5 Does the energy regulator make available its decisions (on tariffs, tariff methodology, market access etc.) to the public?</b> 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
<b>2.2.6 Are energy strategy documents and national plans available in any of the UN languages? [Y/N]</b>	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
<b>2.2.7 Are enacted laws available in any of the UN languages? [Y/N]</b>	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
<b>2.2.8 Do the bodies responsible for monitoring and implementing energy priorities/objectives publish their data? [Y/N]</b>	This question refers to monitoring bodies mentioned in question 1.2.1.	Yes-100 No-0
<b>2.2.9 Is legal information centralised?</b> 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
<b>2.2.10 Is consultation between the government and the stakeholders required under any law/regulation/rule? [Y/N]</b>	Stakeholders may include affected public and private investors, energy agencies, local government administration, non-governmental organisations, and wider community.	Yes-100 No-0
<b>2.2.11 Is consultation between the energy regulator and the stakeholders required under any law/regulation/rule? [Y/N]</b>		Yes-100 No-0
<b>2.2.12 Are stakeholders notified and consulted in advance when new laws and regulations are enacted? [Y/N]</b> a. Notified and consulted in advance b. Notified but not consulted c. Not notified or consulted		100 0 0
<b>Additional remarks:</b> 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
<b>Sub-indicator 3.1: Regulatory effectiveness</b>		
<b>3.1.1 Which institution is responsible for regulating the energy sector?</b> 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
<b>3.1.2* Does the energy regulator derive its authority from a law? [Y/N]</b>	Please provide the name of the legal act which establishes the energy regulator.	Yes-100 No-0
<b>3.1.3* Are the functions and obligations of the energy regulator stated in a law? [Y/N]</b>	Please provide the name of the legal act which specifies the obligations of the energy regulator.	Yes 100 No-0
<b>3.1.4* Is the energy regulator subject to the public control conducted by other institutions?</b> 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
<b>3.1.5* Does the energy regulator have a budget that is separate from the government's budget? [Y/N]</b>	This means the budget is not determined by the government.	Yes-100 No-0
<b>3.1.6* Does the energy regulator have a dedicated budget for itself? [Y/N]</b>	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
<b>3.1.7* Does the energy regulator have the right to allocate its budget?</b> 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
<b>3.1.8a* Is there a fixed term appointment for the board of the energy regulator? [Y/N]</b>		Yes-50 No-0
<b>3.1.8b* If so, is the term renewable more than once? [Y/N]</b>		Yes-0 No-50
<b>3.1.9* Is the selection procedure of the board and its finalisation publically announced? [Y/N]</b>		Yes-100 No-0
<b>3.1.10a Does the energy regulator deal with competition issues? [Y/N]</b>		Yes-100 No-0
<b>3.1.10b If no, is there a separate governmental body dealing with competition issues, including the energy sector? [Y/N]</b>		Yes-100 No-0
<b>Sub-indicator 3.2: Restrictions on FDI</b>		
<b>3.2.1a Does the country give equal treatment to domestic and foreign investors? [Y/N]</b>	Please provide legal acts which grant equal treatment to domestic and foreign investors.	Yes-50 No-0
<b>3.2.1b If yes, is this equal treatment established in law? [Y/N]</b>		Yes-50 No-0
<b>3.2.2a Are investors in the energy sector allowed to invest in all zones or regions within the country? [Y/N]</b>	This can include restrictions on undertaking activities in the Exclusive Economic Zones, special economic zones, free trade zones.	Yes-100 No-0
<b>3.2.2b If no, is this applicable to domestic and foreign investors alike? [Y/N]</b>		Yes-50 No-0

\* For electricity and hydrocarbon regulators

QUESTIONS	CLARIFICATIONS TO QUESTIONS	SCORING
<b>3.2.3a Is there a pre-screening or prior-authorization requirement for foreign investors in the energy sector? [Y/N]</b>	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
<b>3.2.3b If yes, is it only a notification requirement? [Y/N]</b>		Yes-50 No-0
<b>3.2.4 Are foreign companies legally allowed to hold a majority stake in energy projects? [Y/N]</b>		Yes-100 No-0
<b>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]</b>		Yes-0 No-100
<b>3.2.6 Are there limitations on the employment of foreign personnel?</b> 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
<b>3.2.7 Are foreign investors required to employ specific percentages of local work force?</b> 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
<b>3.2.8 Are foreign investors required to purchase a certain percentage/value/quantity of products or services from local suppliers? [Y/N]</b>	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
<b>3.2.9a Are there any currency restrictions and/or foreign exchange controls applied to foreign investors under a law or regulation? [Y/N]</b>		Yes-0 No-100
<b>3.2.9b If yes, do these exchange controls include:</b> a. Banning use of foreign currency? [Y/N] b. Limiting currency exchange to government approved exchangers? [Y/N] c. Fixed exchange rates? [Y/N]		
<b>3.2.10a Do restrictions on the transfer of investment related capital, payments and profits exist?</b>	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
<b>3.2.10b If yes, do they apply equally on foreign and domestic investor?</b>		Yes-50 No-0
<b>Additional remarks:</b> 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
<b>Sub-indicator 4.1: Management and settlement of investor-State disputes</b>		
<b>4.1.1 Is the jurisdiction for hearing contractual disputes with foreign investors defined in the domestic law? [Y/N]</b>		Yes-100 No-0
<b>4.1.2 Is there a separate mechanism for appealing against regulatory decisions?</b> 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
<b>4.1.3 Are national courts and administrative tribunals required by law to deliver decisions within a defined time limit? [Y/N]</b>		Yes 100 No-0
<b>4.1.4 Is arbitration included in:</b> 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
<b>4.1.5 Is voluntary mediation, conciliation or both included in:</b> 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
<b>4.1.6 Is there an investment ombudsman to whom foreign investors can refer disputes with the government? [Y/N]</b>	Please provide the name of the institution and its website.	Yes-100 No-0
<b>4.1.7a Do national laws allow the recognition and enforcement of foreign judgments? [Y/N]</b>		Yes-50 No-0
<b>4.1.7b If yes, then are these laws equally applicable to different jurisdictions? [Y/N]</b>		Yes-50 No-0
<b>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]</b>	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
<b>4.1.9 Has the country made retroactive changes to its laws in the past 5 years? [Y/N]</b>		Yes-0 No-100
<b>4.1.10 Is the country a Contracting Party to:</b> 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
<b>Sub-indicator 4.2: Respect for property rights</b>		
<b>4.2.1 Are the criteria for 'public interest' as grounds for expropriation clearly stated? [Y/N]</b>	Please provide the legal act that specifies these criteria.	Yes-100 No-0
<b>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]</b>	e.g., determination of compensation by independent auditors.	Yes-100 No-0
<b>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]</b>	Please provide the law which states this time frame.	Yes-100 No-0



QUESTIONS	CLARIFICATIONS TO QUESTIONS	SCORING
<b>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]</b>		Yes-50 No-0
<b>4.2.4b Is the country a Member State of the World Intellectual Property Organization? [Y/N]</b>		Yes-50 No-0
<b>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]</b>	Please provide the law which states this restriction.	Yes-0 No-100
<b>4.2.6 Is the country a Member State/Contracting Party to:</b> a. The World Trade Organization? [Y/N] b. The Energy Charter Treaty? [Y/N]		Yes-50 No-0 Yes-50 No-0
<b>Additional remarks:</b> Are there any risks related to investor state disputes in the energy sector which you anticipate? <i>Please describe.</i>		

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as of 1 March 2020

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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 Repulic
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
	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

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