



EU4Energy



INTERNATIONAL
ENERGY CHARTER
for EU4Energy

ENERGY INVESTMENT RISK ASSESSMENT



ARMENIA



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*Energy Charter Secretariat
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PREFACE

The EU4Energy Initiative is an international energy cooperation programme. In this specific initiative, the European Union (EU) works with the six Eastern Partnership (EaP) countries (Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine), as well as the five states of Central Asia (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan), to improve energy supply, security and connectivity, as well as to promote energy efficiency and the use of renewables in the region. The EU finances projects and programmes that promote energy market reforms and sustainable energy solutions to assist partner countries in reducing their energy dependency, making them more resilient, whilst also reducing their carbon footprint. These measures also help households and businesses manage more efficiently their energy consumption.



Message from the Secretary General

Within the context of the EU4Energy Programme and based on the principles of the Energy Investment Risk Assessment (EIRA) Report, the Energy Charter Secretariat has developed this Extended Country Risk Profile for Armenia. Hereby we want to provide an effective tool for risk analysis and mitigation as a key ingredient in the process of investment planning in Armenia. The profile takes the perspective of the whole energy sector.

It is my wish, and my hope, that this Extended Country Risk Profile for Armenia serves as a confidence-building instrument, which will help the government of Armenia and investors to reach a mutual understanding on further improving Armenia's investment policy, and aids our joint efforts to ensure energy supply, fuel energy transition, and provide energy access for all.

Brussels, November 2017

Dr Urban Rusnák
Secretary General
Energy Charter Secretariat



ENERGY CHARTER SECRETARIAT
2017



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INTRODUCTION AND METHODOLOGY

The primary objective of this assessment is twofold: on the one hand, it aims to assist Armenia in making its energy sector more attractive to foreign investors. On the other hand, it seeks to provide the energy industry and foreign investors, in particular, an insight into positive and less positive features of the regulatory environment in Armenia. To this end, it draws attention to the policy, regulatory and legal risks currently present in Armenia's energy sector, and highlights the important key strengths and improvements that the government of Armenia has already achieved in this field.

More specifically, this extended investment risk profile of Armenia's energy sector is based on the methodology which has been developed for the Energy Charter Secretariat's Energy Investment Risk Assessment (EIRA) Report and evaluates three risk areas, namely (1) unpredictable policy/regulatory change, (2) discrimination between domestic and foreign investors, and (3) breach of state obligations.

The level of risk within these risk areas is determined by four main indicators, each of which consists of two to three sub-indicators for risk. The indicators measure Armenia's ability to effectively mitigate and manage policy, legal and regulatory risks by means of establishing relatively stable and robust policy objectives, ensuring transparency in the law and policy-making processes, granting equal treatment to foreign and domestic investors, meeting domestic and international commitments (legal and contractual), and effectively managing disputes with foreign investors.

The overall performance of the target countries is presented through (1) a scoring system to convey performance on the main indicators and sub-indicators, and (2) country risk profiles which show the level of risk in each country, and the key areas for improvement by means of providing a narrative as well as visuals.



Energy Charter Secretariat representatives (right) undertook a fact-finding mission to Armenia and met with Deputy Minister of Energy Hayk Harutyunyan (left).

The unit of analysis in the EIRA Report is a country. Data from governments and external parties have been recorded for the purpose of this analysis. The rationale is to use the responses of multiple stakeholders in order to gain better insight into the risks and undertake their assessment. Moreover, the involvement of different parties helps to avoid a one-dimensional approach and counters the perception of self-assessment by countries.

The graphs reflect the performance evaluation: Graph A depicts the level of risk for each risk area, while Graph B depicts the performance of Armenia across the sub-indicators. Graph C shows how the performance of all main indicators works out (see next page). In all graphs 0 represents the lowest score, and 100 is the highest.

The present assessment is structured as follows: it starts with an overview of Armenia's investment climate, evaluates risks in the three targeted risk areas, and measures Armenia's ability to effectively tackle policy, regulatory and legal risks. The assessment concludes with recommendations which are intended to assist the government of Armenia in further enhancing the investment climate.



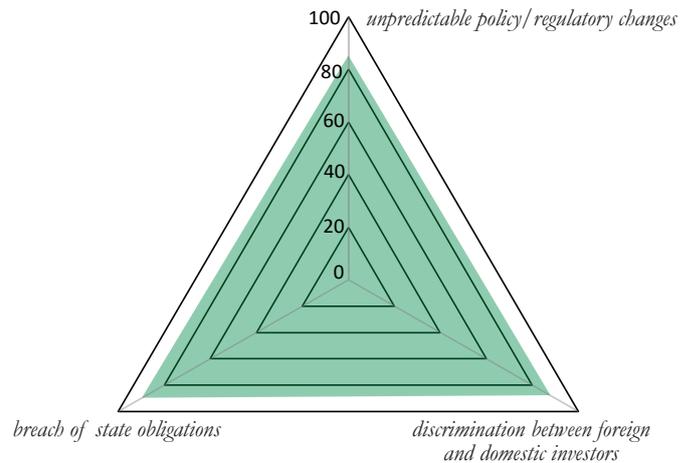
Energy Charter Secretariat representatives undertook a fact-finding mission to Armenia and met with representatives of the Ministry of Energy Infrastructures and Natural Resources.

ENERGY INVESTMENT RISK ASSESSMENT

Overall Performance



Graph A: Assessment of Risk Level



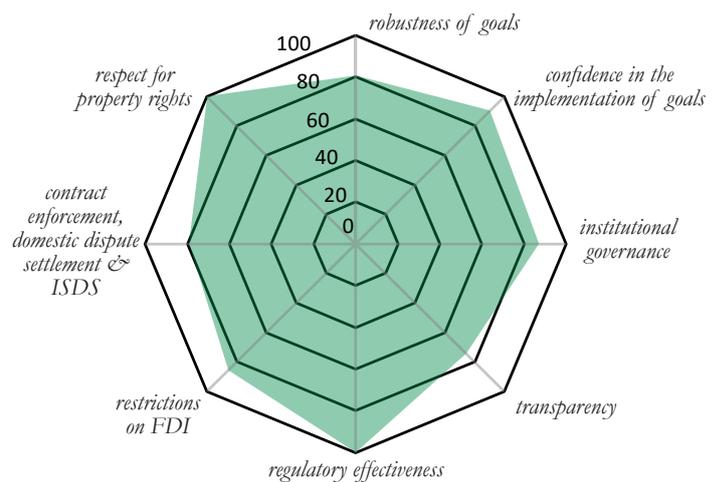
Armenia has a robust legal and regulatory environment to support investment in its energy sector. The risk of breaching state obligations is low as can be observed from Graph A. The performance of Armenia on the related sub-indicators, namely (1) contract enforcement, domestic dispute settlement and ISDS and (2) respect for property rights, is high (Graph B).

The risk of discrimination between foreign and domestic investors is also relatively low (Graph A). This is corroborated by the strong performance of the country on most of the sub-indicators related to this risk area, viz. (1) transparency, (2) institutional governance, (3) restrictions on FDI and (4) regulatory effectiveness (Graph B). In particular, the efficient operations of the regulatory authority and the positive perception among stakeholders regarding its competency are commendable.

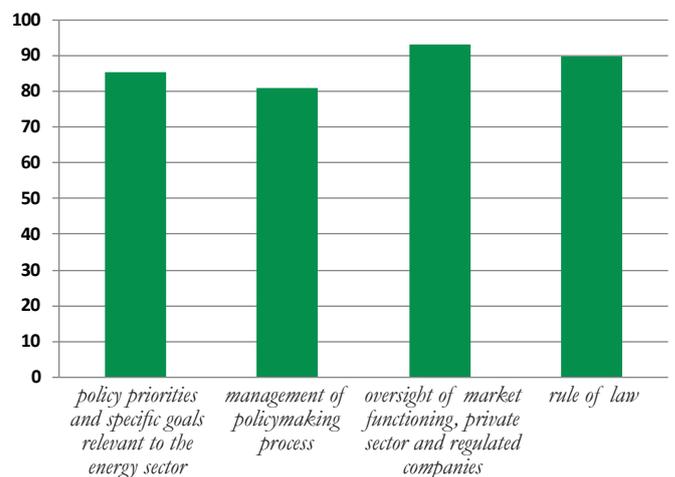
Finally, the risk which relatively deserves most attention is that of unpredictable policy/regulatory changes (as shown in Graph A). While in most sub-indicators used for assessing this risk i.e., (1) existence of policy priorities and specific goals relevant to the energy sector, (2) confidence in the implementation of goals, (3) institutional governance, (4) robustness of goals and (5) respect for property rights Armenia scored fairly well, its performance under the sub-indicators (6) transparency and (7) contract enforcement, domestic dispute settlement and ISDS was comparatively weaker (Graph B). This is probably because while the government undertakes regular consultation with stakeholders on proposed legislative and regulatory changes, this is not a mandatory requirement under law and is perceived as a risk by stakeholders. Another aspect may be that enforcement of foreign judgements is considered weaker compared to enforcement of foreign awards by stakeholders.

In essence, while the legal and regulatory risks in Armenia are quite low, measures may be taken to further improve investor confidence and further strengthen its performance across all sub-indicators (Graph B) and main indicators (Graph C). Detailed analyses on the key strengths and areas of improvement are provided in the next sections.

Graph B: Performance across Sub-Indicators



Graph C: Performance across Main Indicators



MAIN INDICATOR I

POLICY PRIORITIES AND SPECIFIC GOALS RELEVANT TO THE ENERGY SECTOR

Armenia has set specific goals and objectives for the development of its energy sector. The key priorities of Armenia's energy strategy are enhancing energy security and efficiency by means of developing renewable energy, liberalising the power market, and improving energy efficiency. Other key objectives of the government include maximising the use of domestic energy resources, replacing obsolete technologies, strengthening regional integration of the energy sector, and further developing the nuclear power sub-sector.

The main documents that set out the interim energy goals of the Republic of Armenia are the following: (1) the Concept Note on Ensuring the Energy Security of the Republic of Armenia; (2) the Republic of Armenia Development Strategy 2012-2025; (3) the Long-Term (up to 2036) Development Pathways for the Republic of Armenia Energy Sector setting out the ultimate outcomes the government intends to achieve; and (4) the 2014-2020 Schedule of Activities for the implementation of the Energy Security Concept.

The government also has in place long-term investment strategy documents that offer clear guidance to investors regarding which energy sub-sectors need more investment and are to be targeted for investment promotion. The 2014 Investment Plan is the principal document in this respect because it assesses potential projects, estimates costs and proposes amendments to the existing investment framework. In a similar vein, the 2014 Scaling-up Renewable Energy Programme Investment Plan contains comprehensive analyses of renewable energy potential, cost-benefit and viability of specific technologies analyses, as well as a financing plan. Armenia has laws in place for monitoring and reviewing the effective implementation of its energy goals. Moreover, to increase confidence, investors are invited (along with other relevant stakeholders) to comment on proposed laws/regulations/policies prior to their implementation. The agendas along with drafts of all Government and Parliamentary sessions are posted via the e-government initiative.

Robustness and predictability of the goals are high in Armenia. In general, stakeholders (who responded to the EIRA surveys) were of the opinion that energy goals and objectives are realistic and can be reached. However, concern was expressed by the government that since the Republic of Armenia is currently formulating and reforming various laws for making foreign investments more conducive, it is anticipated that there will be obstacles to overcome in the enforcement and implementation of new policies and regulations. This is particularly in relation to the power market which is set to be liberalised by 2019 in the light of Armenia's participation in the Eurasian Economic Union (unified electricity market) and the reforms undertaken in relation to the EU's Eastern Partnership Programme. Finally, while some stakeholders pointed out that the government offers attractive and stable incentives to investors for ensuring the achievement of its stated goals, other stakeholders highlighted that most incentives, such as customs privileges for certain goods, are general in nature and do not target the energy sector specifically.

Main Indicator I	Score
Existence of policy priorities and specific goals relevant to the energy sector	-
Robustness of goals	80.5
Confidence in the implementation of goals	90.2
Overall Assessment	85.4

Key Strengths

- Specific goals and priorities for the energy and investment sector
- Existence of time-based targets / outcomes (interim and ultimate)
- Action plans / strategy for achievement of goals
- Monitoring and review mechanism in place for assessing policy goals and priorities

Key Areas for Improvement

- Proper implementation and enforcement of laws undergoing reform
- Granting sector-specific incentives to attract investment in the energy sector

MAIN INDICATOR II

MANAGEMENT OF POLICY MAKING PROCESSES

Armenia has an elaborate law and policy making process, including various government institutions and ministries. The Ministry of Energy Infrastructures and Natural Resources (MENR) is responsible for the development of primary legislation guiding energy sector activities. The State Nuclear Safety Regulatory Committee is the regulator for nuclear energy. The Renewable Energy and Energy Efficiency Fund (R2E2), on the other hand, is responsible for the implementation of renewable energy projects. It should be noted that the R2E2 is a non-governmental entity formed in 2006 under the Law on Energy Saving and Renewable Energy with the aim of promoting and facilitating investments in energy efficiency and renewable energy. It operates independently under the auspices of the MENR, the Public Service Regulatory Commission (PSRC), as well as several international organisations.

Policy making goes beyond the MENR and involves the active participation of the Ministry of Economic Development and Investment, the Ministry of Finance, the Ministry of Justice, and the PSRC. Additionally, the administrative and territorial units, known as Marzes, are consulted to the extent that there are sector specific issues, particularly on the operational side.

The main authority responsible for monitoring the development and implementation of the investment strategy is the Ministry of Economic Development and Investments. Within this Ministry, “Invest in Armenia” is a project which provides guidance on investment opportunities and promotion. In 2015, the Government established the Development Foundation of Armenia (DFA), which aims to attract foreign investments by providing a one-stop-shop and post-investment services. More specifically, the DFA supports potential investors by providing macroeconomic information on Armenia, assisting in business setup, and advising on tax and customs issues. Likewise, the R2E2 sponsors renewable energy studies and projects, and supports local energy companies and stakeholders.

Despite the involvement of several bodies in formulating laws and policies, the management of the decision-making process is effective and there are clear lines of responsibilities established for different levels of government and ministries. Further, the level of transparency in the decision making process is high. Enacted laws and regulations are electronically accessible to the public in centralised registries available on the websites of the Ministry of Justice (www.arlis.am) and of the Parliament (www.parliament.am). Draft laws and governmental decisions are regularly published by the Government. Most stakeholders expressed satisfaction with the level of transparency. It was indicated that the time granted to them for studying draft laws and policies is adequate and that all stakeholders typically have an equal right to submit their proposals in the consultation process.

There are, however, some issues that warrant consideration. First, there is no dedicated body responsible for ensuring inter-ministerial coordination. Ad hoc committees and working groups are created on a need basis for facilitating dialogue between different ministries. This system has been criticised by some stakeholders as inadequate. Second, though Armenian law allows the Government to engage in a consultation process, this is not a mandatory requirement under the law. Moreover, it was highlighted by some stakeholders that most private sector actors are unable to properly utilise the consultation process since they are under-resourced to prepare proper analyses. Finally, it was pointed out that although the draft laws are made available to the public on time, they are only exceptionally translated in foreign languages relevant for investors.

Main Indicator II	Score
Institutional Governance	87.2
Transparency	74.3
Overall Assessment	80.7

Key Strengths

Clearly defined roles and responsibilities on intra-governmental and inter-ministerial levels

Dedicated investment promotion authority

Existence of centralised registry of laws

Stakeholders consultation while formulating regulatory changes

Key Areas for Improvement

Creating a mechanism or body for inter-ministerial cooperation

Making consultation with stakeholders on draft legislation mandatory under the law

Increasing accessibility and availability of laws and regulations in foreign languages

Formulating coherent and clear legislation and regulations

MAIN INDICATOR III

OVERSIGHT OF MARKET FUNCTIONING, PRIVATE SECTOR AND REGULATED COMPANIES

The PSRC is the main energy regulator. Its powers, duties and functions are enshrined in the Energy Law as well as the Law on the Regulatory Body for Public Services. PSRC is endowed with nation-wide competences for regulating public services in the electricity, gas sectors, and renewables, including the right to impose sanctions (e.g. warning, reduction of tariffs, suspension or revocation of license). PSRC is independent from other public and private entities, and is prohibited from seeking or taking direct instructions from any of these bodies. It has a board of Commissioners with clear criteria regarding their qualifications. Armenia has recently adopted a law amending the Law on the Regulatory Body for Public Services which introduces some limitations on the reappointment of the Commissioners. Nevertheless, the provisions regarding reappointment are expected to take effect no later than a year from the appointment of the new President. The PSRC is not granted a separate budget line within the state budget.

The PSRC maintains transparency in its functioning and operations. It publishes its decisions and assessments on its official website. It also conducts periodic and regular consultations on regulatory matters with private sector stakeholders. The announcements of such consultations are published on the official website. Moreover, the Law on the Regulatory Body for Public Services provides that PSRC's decisions may be appealed before administrative courts, which nevertheless cannot modify the amount of tariffs. Decisions remain effective pending the appeal.

Armenia has a dedicated authority in place to ensure fair competition. The State Commission for the Protection of Economic Competition of the Republic of Armenia (SCPE) is the authority dealing with competition issues across various sectors, including energy. It is independent from other state bodies in implementing its objectives and performing its functions.

The general investment climate of the energy sector in Armenia may be considered quite conducive to foreign investment. This is evidenced by the simplification of starting-business procedures and the adoption of a one-stop-shop that has merged a very broad range of procedures, including name reservation, business registration, obtaining a tax identification number, and the possibility of online company registration. Thanks to the wide breadth of its one-stop-shop, Armenia has managed to maintain start-up costs considerably lower than most countries in Europe and Central Asia. In addition, Armenia has streamlined post-registration procedures (currently 4 working days) and eliminated several bureaucratic nuisances regarding construction permits (currently 116 working days), and registration procedures (currently 4 working days).

All licensing procedures for undertaking activities in the energy sector have been streamlined by the PSRC. Under the Energy Law and the Licensing Act, licenses are required for: (1) generation, transmission and distribution of electricity, thermal energy, and gas; (2) implementation of system operator services in the electric energy and natural gas; (3) construction or reconstruction of new generating capacities; (4) import and export of electricity and natural gas; and (5) power market provision, sale, and purchase activities.

Licensing procedures are lengthy and costly, especially in the case of imports and exports, thus rendering short-term trade unattractive. In general, the PSRC must consider an application and reach a relevant decision within 60 working days, but when it comes to energy imports and exports, the procedure may take longer – up to 80 working days. In addition, the PSRC registers import/export contracts, which means that the licensing procedure is further protracted by another 10 working days. The license provisions may be modified only with the consent of the licensee. Moreover, the importer/exporter must pay about USD 10,000 annually and provide a bank guarantee for about USD 1,000. Market rules apply only to energy exports and require the exporter to sign contracts with

Main Indicator III	Score
Regulatory effectiveness	100
Restrictions on FDI	85.7
Overall Assessment	92.9

Key Strengths

Regulatory authority established under the law

Transparent and efficient operations of the regulatory authority

Streamlined licensing procedures

Equal treatment of foreign and national investors

Key Areas for Improvement

Supporting and assisting investors in removing bureaucratic obstacles (i.e. facilitating visa, work permits)

Defining clearly the discretionary powers of the regulator vis-à-vis stakeholders

MAIN INDICATOR IV

RULE OF LAW

a generation unit, the Electro Power System Operator (EPSO), TSO, and the Settlement Centre, which are under no obligation to sign the contracts within a clearly defined period of time.

Further, the PSRC is responsible for setting tariffs and selecting the methodology for doing so. Tariff review can be performed upon request by either the PSRC or the licensee, and it is rather time-consuming compared to the similar procedure in European countries. PSRC has to conclude its tariff review within 90 working days.

There are few restrictions imposed on FDI in the energy sector and foreign investors are treated on par with domestic investors. Foreign companies are allowed to hold a majority stake in energy projects and are not required by law to partner with state owned or local enterprises. Foreign investors and foreign employees are also entitled to freely transfer their property, profits, revenues and others means legally gained as a result of investments or as a payment for labour or as compensation. In principle, the employment of foreign personnel is limited to the duration of the visa or the work permit. However, an exception from these requirements has recently been established for representatives of foreign investors and executives of companies with a foreign investment based in Armenia.

The above aspects demonstrate a favourable investment regime and a sound regulatory framework, owed partly to the substantial regulatory reforms that Armenia sustained in the context of the “Regulatory Guillotine Reform” Programme that was launched in 2011 by the Armenian government in collaboration with a multi-donor consortium. Nevertheless, there are some aspects that need attention.

First, in principle there is no restriction to invest in any area or region of the country, the Law on Free Economic Zones (FEZ) subjects the right to invest in an FEZ to a governmental decision, which sets the borders of the FEZ and the types of activities to be carried out within this area. If not specifically authorised by the government, energy sector investments may not be eligible in FEZs. Second, although companies registered by foreign citizens can own land, foreign citizens themselves are not allowed to own land. Finally, it must be highlighted that while Armenia has initiated the restructuring of its electricity sector through liberalisation of production and transmission, the energy market in Armenia has not fully opened. More specifically, generation of electricity may be performed by publicly and privately-owned companies. In contrast, transmission, distribution and sale of electricity are regulated; a state-owned company owns the transmission network whereas a private company holds an exclusive license for distribution, which includes supply. As a result, it is not yet possible for foreign or domestic investors to invest in this sector. Additionally, there are restrictions on FDI in the gas sector which impede entry of foreign market players. A single gas market within the Eurasian Economic Union to which Armenia is a member, is foreseen by the 2020s. However, there are no concrete plans yet to this effect.

Armenia has significantly strengthened its domestic judicial system in recent years. Stakeholders emphasised that there has been considerable improvement in case management processes, including rendering of judgements and awards in a timely and cost-efficient manner. In fact, the cost of pursuing a claim in Armenian courts is significantly lower than the average cost in the wider European and Central Asia region but the overall length of proceedings, including filing a claim, trial and enforcement of the judgment period is 570 days. To encourage transparency most administrative, judicial and arbitral decisions related to the energy sector are made publicly available. Additionally, though alternative dispute resolution between the state and private sector stakeholders is not mandatory, it is highly encouraged.

Stakeholders generally expressed confidence in the ability of national courts to enforce foreign judgments and foreign arbitral awards. Enforcement of foreign arbitral awards by domestic courts is considerably efficient and stipulated in the national laws. In fact, it appears possible to have arbitral awards rendered against public entities enforced provided that the state or state agents have waived their immunity by giving their consent to arbitration.

Armenia adopted the Arbitration Act 2006 based on the UNCITRAL Model Law on International Commercial Arbitration, and is a Contracting Party to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, the International Convention on the Settlement of Investment Disputes Between States and Nationals of Other States, and the Energy Charter Treaty. Moreover, Armenia has entered into forty-two Bilateral Investment Treaties. Today there have been only two investment arbitration cases brought against Armenia. Stakeholders also generally expressed confidence in the ability of national courts to enforce foreign judgments and foreign arbitral awards.

Expropriation is only permitted as an extreme measure in case of emergency declared by law and ordered by a court with full and prior compensation. A well-defined mechanism for determining compensation is provided in the Law On Expropriation (Alienation) of Property for Public and State Needs of the Republic of Armenia. Stakeholders noted that there has been no breach of contracts by the government or any renegotiation of contracts in the past 5 years. This, in general, indicates that Armenia maintains stable contractual relationships with foreign investors.

In addition to granting protection for tangible property, Armenia also gives emphasis to the protection of intellectual property rights. It has adopted several laws, along with implementing Rules and Regulations, for Copyright and Related Rights, Patents, Trademarks and Geographical Indicators. Moreover, there are no restrictions on the transfer of technology or intellectual property rights in the energy sector.

MAIN INDICATOR IV (continued)

RULE OF LAW

Although these elements show a strong respect of the rule of law in Armenia, there are still some inconsistencies to be addressed. First, there is no formal investment ombudsman or similar institution that foreign investors can refer to in case of conflict with the government. Some investors have mentioned that the DFA helps resolve issues for investors. However, this is done informally since the DFA does not have a specific ombudsman office or function.

Second, there exist certain restrictions on the transfer of licence ownership. Under the Armenian Law on Licensing, licences are issued to specific entities or persons and therefore cannot be alienated freely. No more than 25% of the shares of an Armenian energy sector licensee may be transferred to another licensee, without the prior approval of the PSRC. This rule does not apply to small hydro power plants and other renewable energy licensees.

Third, in some instances the Armenian legal framework requires exhaustion of local judicial remedies before commencement of international arbitration proceedings. Therefore, investors who cannot benefit from a bilateral or multilateral investment treaty, which provides for Armenia's direct consent to arbitration, may have to exhaust every local remedy before any recourse to international arbitration.

Finally, the recognition of judgments and decisions made by courts of foreign states on civil cases is not as certain as the execution and enforcement of arbitral awards. This recognition depends on the bilateral agreement concluded with the related country. This uncertainty may represent a risk for foreign investors.

Main Indicator IV	Score
Contract enforcement, domestic dispute settlement and ISDS	79.4
Respect for property rights	100
Overall Assessment	89.7

Key Strengths

Effective enforcement of arbitral awards

Protection against undue expropriation

Protection against intellectual property rights

Key Areas for Improvement

Establishment of a designated investment ombudsman

Extending the recognition of foreign court judgements

Removing the requirement of exhausting local judicial remedies

Reforming judicial enforcement institutions and rules

RECOMMENDATIONS

The government of Armenia has a key role to play in stimulating investment in the energy sector and bolstering investors' confidence in Armenia's regulatory framework. Recognising Armenia's commitment to maintain a favourable investment climate, the Energy Charter Secretariat puts forward a number of recommendations aimed at aiding Armenia to eliminate risks – in relation to the EIRA's Main Indicators – that could jeopardise its investment climate and increase the cost of doing business in the energy sector.

Main Indicator 2: Management of Policy Making Processes

Deficient coordination decreases the ability to formulate comprehensive policy actions. It generates overlapping and conflicting rules and procedures, which result in administrative burdens. Conversely, effective inter-ministerial policy coordination can help eliminate duplication of mandates and prerogatives of governmental agencies that are responsible for policy-making and regulatory implementation. Currently, in Armenia there is a wide range of governmental agencies that operate in the field of energy and investment policy-making: the MENR, the State Nuclear Safety Regulatory Committee, the PSRC, and the R2E2. Moreover, the Ministries of Economic Development and Investments, Finance, and Justice, as well as the Marzes also play a role in the management of policy making process. However, as several stakeholders have pointed out, there is no inter-ministerial coordinating mechanism which could bring together under its auspices all these actors. There are only ad hoc committees and working groups established on a need basis.

Policy actions to consider:

- » The creation of a standing (permanent) inter-ministerial body on investment in Armenia's energy sector in lieu of the existing ad hoc committees and working groups could guarantee coordination throughout the entire process of policy-making, namely policy initiation, formulation, implementation, evaluation and monitoring, both horizontally and vertically.
- » Horizontally, this inter-ministerial body could cut across the various ministries and regulatory bodies maintaining reform oversight and management authority.
- » Vertically, the same body could engage with local institutions dealing with groundwork as well as the Marzes in order to provide guidance and assistance to investors on how to set their business and secure financing, licenses, and permits.
- » To this effect, the inter-ministerial body could also collaborate with the DFA in order to improve the quantity, quality and extent of assistance they provide to investors.

In addition to attaining effective management and coordination among the various governmental layers, stakeholder engagement is an essential precondition for securing an investment-friendly climate. The present legal and regulatory context in Armenia does provide for an official consultation process. Nevertheless, the current consultation practice is not mandatory and, apparently, not accessible to some private sector actors.

Policy actions to consider:

- » It is imperative that investors are well informed and consulted whenever the government proposes revisions to its policy goals or policy mechanisms. Investors should be confident that the government exercise its powers responsibly and, in doing so, it gives due consideration to investors' concerns.
- » Thus, it is necessary that the government of Armenia establishes a permanent forum for frequent communication with investors. This forum could take various forms: it could be a separate committee responsible for bringing together all the relevant stakeholders, or it could be an electronic platform for exchange of information and communication. Alternatively, the inter-ministerial coordination mechanism discussed above could be vested with the added task of maintaining a constant and uninterrupted channel of dialogue between investors, on the one hand, and government authorities, on the other, ensuring that the latter will speak with one voice.

Main Indicator 3: Oversight of Market Functioning, Private Sector and Regulated Companies

An independent energy regulator is necessary when a country intends to liberalise its energy sector and introduce competition, including by private sector participation. PSRC already exhibits several important features of independence: it is a separate agency and not part of a ministry, it takes independent decisions within the scope of its responsibilities as defined in state laws. There are, though, some aspects of its structure and functions that could be further strengthened. The first two proposed actions concern PSRC's impartiality, whereas the third one concerns PSRC's functionality.

Policy actions to consider:

- » The independence of the PSRC could be further improved by introducing limitations on reappointment of its members, in addition to the limitations envisaged in the amending law, which are to take effect no later than a year after the election of the new President.

- » The PSRC should have authority over its own budget and it could be financed from regulatory fees instead of the state budget. The PSRC should be in charge of its budget allocation, and its expenditures should consequently be checked and approved by an independent auditor. This means that the PSRC may neither seek or receive any instructions from the government on its budget spending and that the approval of PSRC's budget may not be used as a means of influencing its priorities or jeopardising its ability to carry out its duties and exercise its powers in an effective way.
- » PSRC's rules regarding energy import and export transactions are unduly cumbersome and impose restrictions on sectoral development. The energy market and customers who are currently restricted from importing electricity from neighbouring countries will ultimately benefit from unhindered import and export energy flows. Hence, the regulator should revise and simplify its export and import rules, as well as rationalise the fees required for these activities.

Main Indicator 4: Rule of Law

Over the last decade, Armenian authorities have undertaken significant efforts to upgrade the investment climate and remove unnecessary burdens for future investors. However, there are additional steps that should be taken in the direction of alternative dispute resolution mechanisms.

Policy actions to consider:

- » The establishment of an ombudsman to be in charge of investigating and handling complaints from foreign investors would be a step in the right direction. As evidenced by other countries' experience, the existence of an investment ombudsman may indeed prove to be crucial in terms of both pre-empting disputes as well as settling grievances in an objective and timely fashion.
- » An ombudsman may play an important role in preventing potential disputes by means of: informing investors of their rights and obligations; liaising with relevant state agencies, and recommending policy improvement to the government.
- » The dispute resolution role, on the other hand, may include conducting analysis and identifying grievances, designating staff in exclusive charge of settling disputes for different regions, industry sectors, or foreign investment, conducting on-site visits, and hosting one-on-one consultations.

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