

Trends to Watch Uganda in 2024

Grow | Protect | Operate | Finance

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Introduction

Uganda's legal and regulatory landscape is set for another eventful year in 2024. We are delighted to share with you our "2024 Outlook," where leading lawyers at Dentons Uganda provide their take on key trends expected to define 2024 in Uganda. We cover developments in the areas of energy, environment, finance, employment, technology, and digital transformation.

There are over 75 presidential and parliamentary elections being held around the world in 2024, including in the United States of America, the European Parliament, the United Kingdom, India, and several other strategically important countries. The outcome of these elections will significantly influence the direction of travel for foreign investment, military intervention, and climate policy across the world, including in Uganda, as many countries prepare for the 2030 milestone under the United Nations "Agenda for Sustainable Development."

Uganda continues to respond robustly to the unpredictable political and economic tides arising from changes on the global stage, and remains attractive to investors from a wide range of sectors and markets. Dentons Uganda takes a look at several key areas which will lay the groundwork for shaping the investment landscape in Uganda in 2024 and beyond.

Energy Transition, David Mpanga, Senior Partner and Chairman

Uganda has a unique standing on the global stage. In 2025, Uganda is set to become an oil producer and exporter for the first time. Most large economies are moving away from their heavy reliance on fossil fuels whereas Uganda is focusing on decreasing its reliance on biomass, which contributes to deforestation and adversely impacts local communities and biodiversity. Uganda could be seen as "swimming against the tide" as it prepares to launch the Tilenga, Kingfisher, Refinery and Crude Oil Pipeline projects. To understand Uganda's ambitions for sustainable energy growth, market players should look to the recently published Energy Transition Plan (ETP) released by the Ministry of Energy and Mineral Development in December 2023 at the COP28 UN Climate Change Conference in Dubai, the United Arab Emirates.

The ETP is a roadmap for the development and modernization of Uganda's energy sector. Its objectives are: universal energy access by 2030; modernizing energy systems; improving energy security and affordability; mitigating greenhouse gas emissions; and positioning Uganda as a regional energy hub.

From a legal and regulatory standpoint, Government is developing an Integrated Energy Resource Master Plan to support the ETP which is expected to introduce mandatory minimum energy performance standards (MEPS) for buildings and appliances, requiring contractors and suppliers to quickly adapt to a new way of delivering projects. Government is also expected to revisit the Renewable Energy Policy 2007 to support a growing and more sophisticated renewable energy sector. The Energy Efficiency and Conservation Bill first drafted in 2014 may also be reviewed in 2024 to address energy efficiency standards, new energy codes and other requirements such as mandatory energy audits.

The period covered by the Third National Development Plan (NDP III) is drawing to a close, so we expect to see renewed momentum during 2024 to drive the flagship projects forward to completion. Renewable energy projects and energy system improvements are likely to dominate, as well as road infrastructure and vehicle efficiency. Investors and stakeholders are preparing for a variety of infrastructure opportunities related to upgrading transmission and distribution grids infrastructure, battery storage and the manufacture of electric vehicles. Public-private partnerships, international climate finance for green projects and regional co-operation will play a significant role in Uganda's ability to successfully deliver key projects during 2024.

The ETP envisages US\$325 billion of investment in Uganda's energy sector over 30 years. Energy transition projects will bring new investors, contractors and diverse market demands, given the broad spectrum of expected opportunities in solar, hydroelectric and geothermal power, as well as in oil and gas and other mineral projects. Uganda stands at a critical juncture in its energy transition journey. By aligning investments with Uganda's energy transition goals, investors can take advantage of a diverse energy economy and will find themselves at the forefront of universal energy access and economic growth for the region.

Perfecting Security in Loan Financings, Pearl Nyakabwa, Managing Partner

In the recent past, changes to the law have expanded the type of security that can be perfected in Uganda. In 2019, we saw the creation of the Security Interest in Movable Property Registry (SIMPR) which, upon becoming operational, increased access to finance for many businesses in the country. Financial institutions were able to expand their lending portfolios through diversified opportunities for secured lending. The downside of the SIMPR system was that lenders were now required to perfect security interests over movable assets in multiple registries (particularly in the case of companies): SIMPR, the Companies Registry and the Motor Vehicles Registry, if applicable.

At the end of 2023, SIMPR was linked to the Motor Vehicle Registry to allow the seamless registration of security interests over motor vehicles with both registries. This is a welcome move in the banking sector because of the convenience and ease in perfection of interests that it creates. It will also be crucial in preventing competing interests, leading to potential enforcement challenges and legal disputes, arising from perfection of security undertaken with one registry and not the other.

We hope to see the linkage of more registries in 2024, especially the Registrar of Companies and the SIMPR system. Like many players in the financial services sector, Dentons has experienced challenges in the perfection of security interests across these two registries, especially with regards to Debentures, Deeds of Assignments and Share Pledges, among others. Having two independent systems has led to unfortunate results, such as duplicity in perfection and the rejection of registration of certain security interests by the Registrar of Companies. Stakeholders are now calling for the two registries to be harmonised as soon as possible and the enabling laws to be amended.

In the meantime, banks and financial institutions should remain cautious when conducting their legal due diligence and perfecting security interests, to ensure that all relevant registries are consulted or updated, as applicable.

Digital transformation, Dennis Otatiina, Partner

Over the past decade, digital connectivity in Africa has witnessed a remarkable surge. This growth has prompted the adoption of digital technologies in various sectors of the African economy such as agriculture, education, government, and manufacturing.

In 2024, we expect digital transformation to soar in Uganda and across the East African region, embracing the latest data-driven technologies, adopting innovative payment structures, and pushing into new fintech markets. The ability to anticipate future risks, protect sensitive customer information, and recover critical operations after a cyberattack is becoming ever more of a necessity. With the right tools, businesses can securely share encrypted data both within their organization and externally with customers, all while maintaining compliance with the law.

The digital transformation carries significant challenges such as an increasing number of cyber-attacks targeting prominent companies and agencies, which highlights the critical need to prioritize cybersecurity in business strategies and policy formulation. With the increasing reliance on technology and digital platforms, protecting personal information and data is crucial.

Companies, being data collectors, processors, or controllers, are required by Ugandan law to implement strict measures to safeguard personal data and comply with data privacy regulations. This includes obtaining proper consent from data subjects such as customers and employees, securely storing data and providing transparency about how data is used. In Uganda, The Personal Data Protection Office (PDPO) is Uganda's independent data protection office. It is established as an independent office under the National Information Technology Authority, Uganda (NITA-U) and is responsible for overseeing the implementation of and enforcement of the Data Protection and Privacy Act, 2019.

Mitigating risk in the digital transformation era also means updating data loss prevention and creating governance policies to keep up with an ever-evolving landscape of threats, especially now, considering increased remote working.

In a bid to promote public awareness about personal data protection and privacy, the PDPO commenced its 2024 Data Privacy campaign under the theme "Stop, Think, Own Your Privacy". The 2024 Data Privacy Campaign focusses on amplifying public awareness and understanding of the data protection and privacy principles, rights and responsibilities as enshrined in the Data Protection and Privacy Act, 2019.

As we enter 2024, Uganda and the broader East African region are poised for accelerated digital transformation, so we expect to see an increase in new market entrants, as well as a few unexpected exits of businesses who are unable to adapt quickly enough to new technologies and take adequate protective measures.

Employment Law, Isaac Newton Kyagaba, Partner

Many employers are still adapting to the groundbreaking decision of the Court of Appeal made in March 2023 when it declared it unlawful for an employer to pay an employee salary in lieu of notice of termination without the employee's express consent (*Stanbic Bank (U) Ltd V Okuo, Civil Appeal No.60 of 2020*). This nuanced development exposes employers to potential legal action, similar to the claims brought against Stanbic Bank Uganda in this case, should an employee file a claim for unlawful termination.

In September 2023, the Court of Appeal of Uganda also affirmed an employer's right to terminate a contract of employment with or without providing a reason, provided the employer adheres to the required notice period and/or obtains the employee's acceptance to receive payment in lieu of notice (*Immelda Nassanga V Stanbic Bank, Civil Appeal No.10 of 2005*). This overturned the previous position of the Industrial Court of Uganda, which required employers to provide reasons for termination. Consequently, we anticipate a decline in the number of legal suits on the grounds that the employer did not give reasons before termination. However, employers should remain cautious – and seek legal advice – when terminating contracts as some terminations may still require justifiable reasons notwithstanding contractual provisions.

We anticipate that the President will assent to the Employment Amendment Bill of 2022. The Bill finally resolves the confusion in the current employment act relating to the interchangeable use of the words 'dismissal' and 'termination' within the same provision. The Bill distinguishes 'dismissal' from employment and 'termination' of an employment contract by setting out elaborate grounds for each, including new statutory grounds for dismissal from employment.

The anticipated enactment of the Employment Amendment Bill of 2022 is expected to bring clarity to ambiguous terms and introduce new provisions aimed at protecting the rights of employees, including provisions related to breastfeeding mothers, sick leave, sexual harassment policies, and dispute resolution mechanisms, including repealing the powers of Labour Officers to arbitrate and adjudicate labour disputes.

Employers should stay informed about the developing jurisprudence arising from the Court of Appeal decisions, as well as new legislative changes. We recommend seeking legal guidance as early as possible to ensure compliance and mitigate potential legal risks.

Sustainable Financing, Pearl Nyakabwa, Managing Partner

The environment, social and governance (ESG) framework remains a key issue for banks and financial institutions and corporates who are vital contributors to the successful integration of ESG and sustainability in Uganda's marketplace.

New regulations relating to ESG compliance are expected to be published by the Bank of Uganda this year. Certain banks and financial institutions have already pioneered their own voluntary practices such as Stanbic Bank's "Report to Society" and the certification of the Bank of Uganda, Uganda Development Bank and Housing Finance Bank, among others, under the Sustainability Standards Certification Initiative (SSCI) issued by the European Organisation for Sustainable Development.

The National Environment Act provides a legal foundation for environmental conservation and sustainable development, for example by addressing pollution control and waste management. Financial institutions must also conduct environmental and social impact assessments before undertaking projects, reinforcing sustainability in financing decisions. Social matters are addressed through the Employment Act, which regulates working conditions and hours, as well as under the Land Act, which addresses land use and compensation for affected communities. Corporate governance is regulated by laws like the Companies Act and the Anti-Corruption Act, along with regulations and guidelines from bodies like the Uganda Securities Exchange, the Bank of Uganda and the Insurance Regulatory Authority. These measures aim to promote transparency, accountability, and stakeholder protection in Ugandan companies.

The new ESG regulations are expected to address reporting and risk management relating to ESG. At this stage, we anticipate that the new regulations could be similar to the regime already in place in Kenya (ESG reporting by public companies and guidelines for climate-related risk mitigation, corporate governance and reporting in banks and financial institutions). It is unlikely that the regulations will address "green-washing" but all banks, financial institutions and corporates reporting and disclosing ESG products, services or investments should be cautious do potential reputation impacts, both locally and as regards their international stakeholders.

In the carbon credit sector, new regulations are being developed by the Ministry of Water and Environment which will impact the bankability of carbon credit projects and could influence climate financing for the voluntary market. In Kenya, the draft Climate Change (Carbon Markets) Regulations 2023 have already been published and include forming a National Carbon Registry, adopting procedures for developing carbon market projects and annual social contribution for carbon market projects.

As the activities in Uganda's oil and gas sector ramp-up, we expect that there will be a degree of international political and economic pressure on Uganda to showcase its green and sustainability projects. The extent to which the green market will take-off in 2024 depends on the outcome of certain key political elections, including in South Africa, the European Union, India and the USA where many commentators report that "ESG is on the ballot." To the extent that there are political changes this year, this may create uncertainty for project guidelines and requirements to the extent that they depend on international investors, financiers or stakeholders.

Looking Ahead

The Ugandan business environment is characterized by its dynamic nature, constantly adapting to new laws and regulations as well as evolving best practices and international influence. Investors and stakeholders in Uganda's diverse marketplace must be well-informed and prepared to respond resiliently to market changes and even take advantage of them. The President recently signed the Competition Bill 2022 into law, which means that companies in Uganda will now be required to obtain approval from the Ministry of Trade and Industry as a condition to mergers and joint ventures. Working with our Competition Law advisers across Dentons Africa and Europe, we are well-positioned to advise

our clients on the legal and practical implications of this new law.

To navigate the evolving legal landscape, Ugandan businesses must remain flexible and responsive. By embracing market changes, companies can position themselves for sustainable growth and contribute to a more ethical and vibrant business environment.

At Dentons Uganda, we are committed to supporting our clients in navigating the complexities of legal and regulatory developments. Whether it is new laws, policies or guidelines, or groundbreaking court decisions or even global best practices that influence business in Uganda, our expert team is here to assist you every step of the way. Contact us today via email at pearl.nyakabwa@dentons.com to learn how we can help address your needs in 2024.



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