

Bangladesh

Population ¹	159,670,593
Area (km ²) ¹	147,630
GDP per capita (USD) ¹	1,563.99
TPES (Mtoe) ²	39.55
Energy intensity (toe/10 ³ 2010 USD) ²	0.24
CO ₂ emissions - energy (MtCO ₂) ²	73.30

Sources:

1. The World Bank 2017

2. ©IEA 2018, www.iea.org/statistics

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

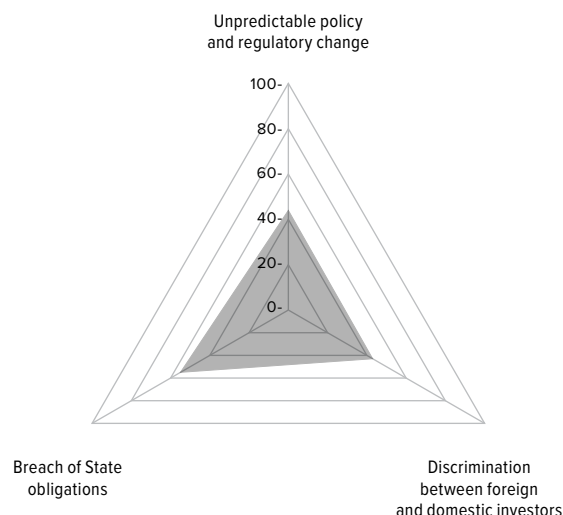
The risk of *discrimination between foreign and domestic investors* continues to be the lowest and its level has dropped compared to 2018. It is followed by *unpredictable policy and regulatory change*, which has also reduced vis-à-vis last year. *Breach of State obligations* is on the same level and remains the highest risk area.

Bangladesh has a moderate performance on three of the EIRA indicators, and a good performance on one indicator. *Management of decision-making processes* has received the highest score (68). Compared to last year, performance on this indicator has improved by 3 points. The country has maintained its score of 58 on the indicator *regulatory environment and investment conditions* and 56 on *foresight of policy and regulatory change*. On *rule of law* it has again scored 45 points.

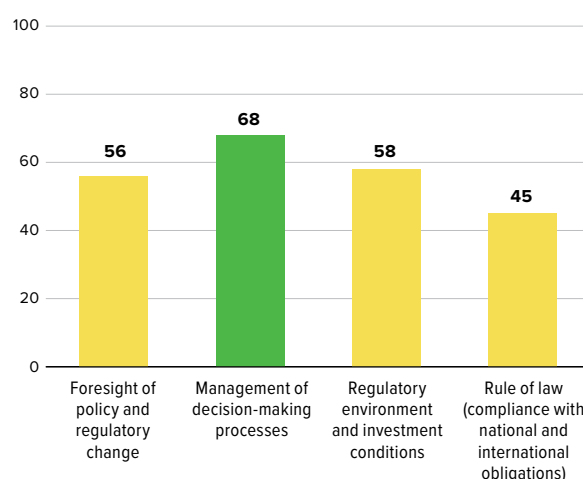
On a more detailed level, Bangladesh's overall sub-indicator performance is moderate. The highest scoring sub-indicator is *institutional governance* with 69 points. The country has improved its performance by 6 points on this sub-indicator. On *transparency* (68), *regulatory effectiveness* (67), *communication of vision and policies* (67), *management and settlement of investor-State disputes* (65), *restrictions on FDI* (50) and *robustness of policy goals and commitments* (45) it has the same scores as in 2018. Performance on the *respect for property rights* sub-indicator continues to be the lowest with 25 points.

While there are some improvements in Bangladesh's performance compared to 2018, 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.

RISK LEVEL



INDICATOR PERFORMANCE

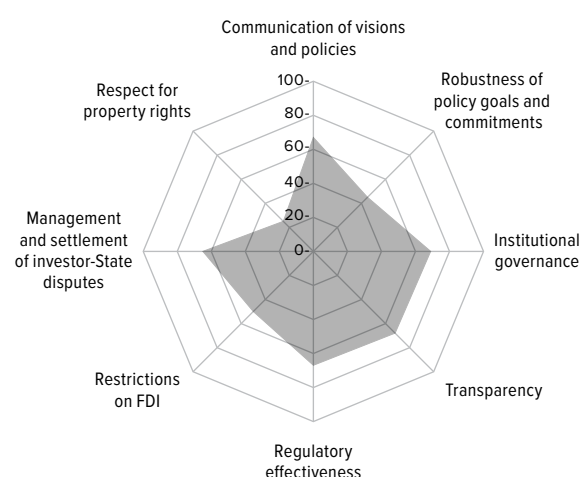


YEAR-ON-YEAR COMPARISON

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

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

SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

The principal strategy documents for the energy sector are the Bangladesh Vision 2021 and the Energy Roadmap to Help Achieve Vision 2041. More detailed sub-sectoral plans are the Power System Master Plan 2016, the Gas Sector Master Plan 2017 and the Energy Efficiency and Conservation Master Plan up to 2030.

In February 2018, the Government repealed and replaced the Electricity Act of 1910.

STRENGTHS

The Government adopted a new Electricity Grid Code in 2018. This was a significant step forward because overhauling the Grid Code of 2012 was one of the main priorities listed under the Power System Master Plan 2016. The new Grid Code specifies the criteria, guidelines, responsibilities, standards and obligations for the operation, maintenance and development of the electricity transmission system of Bangladesh. It intends to ensure transparent, nondiscriminatory and economical access and use of the Grid. Progress was made on some critical energy projects. For instance, operation of the first LNG import terminal in Bangladesh commenced in 2018. The imported gas is expected to counterbalance the decreasing domestic gas production and help to meet the growing industrial energy demand.

The Seventh Five Year Plan FY2016-FY2020 continues to guide the monitoring and evaluation of priorities on the macroeconomic level. Data for monitoring the energy sector are collected by the Bangladesh Bureau of Statistics and the Power Division, which is under the Ministry of Power, Energy and Mineral Resources. The Implementation Monitoring and Evaluation Division, under the Planning Commission, uploads monthly, quarterly and annual work progress reports regularly on its website.

AREAS FOR IMPROVEMENT

The Seventh Five Year Plan FY2016-FY2020 envisages a detailed monitoring and evaluation mechanism. However, to ensure objectivity in the process, authorities responsible for implementing the energy strategy should be separated from the body that assesses the actual work progress.

Monitoring and Evaluation reports should be made publically and more widely available. At present, some agencies such as the Implementation Monitoring and Evaluation Division consistently report on their activities. However, it is relatively difficult to access the progress reports shared by the Planning Commission with different ministries and institutions. Availability of these documents is critical since they reflect sectoral contributions to the results on an economy-wide level, and cover the issues outlined in the results framework of the Seventh Five Year Plan FY2016-FY2020.

Management of decision-making processes

QUICK FACTS

The Ministry of Power, Energy and Mineral Resources is responsible for framing energy policies and strategies.

Investment policies are developed by the Prime Minister's Office.

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

During the EIRA 2019 assessment year, ministries worked in close cooperation to pass important legislative bills and policies. In February 2019, after extensive deliberation with the concerned ministries and agencies, the Ministry of Environment, Forest and Climate Change launched a roadmap and action plan to implement Bangladesh's NDC for the transport, power and industrial sectors. To streamline licensing procedures, the Government also passed the One-Stop Service Act in 2018. According to the Act, the BIDA will act as the central one-stop service authority.

The Government has made concerted efforts to increase stakeholder engagement on critical reforms. In December 2018, the Ministry of Power, Energy and Mineral Resources invited feedback from the public on the draft Policy for Import of LNG by the Private Sector. Electronic versions of the laws passed in 2018 were made available by the Ministry of Law, Justice and Parliamentary Affairs. Latest data on the activities of some public agencies, such as the Power Division and the Sustainable and Renewable Energy Development Authority are available on the respective websites.

AREAS FOR IMPROVEMENT

In line with the EIRA 2018 proposal, the Government has developed the legal framework of the country's one-stop service authority. It is now the right moment to address the second part of the recommendation, vis-à-vis the practical aspects. The Government intends to operationalise the one-stop service authority within 2019. To achieve optimal efficiency, the financial and human resource capacity of the BIDA must be carefully evaluated. Moreover, the current functions of the BIDA must be reconciled and adapted with the new ones. This will ensure it can do full justice to its role as an investment promotion agency and a one-stop service authority.

In the last year, the Government consulted interested stakeholders on some proposed laws and regulations. However, such consultations should take place consistently and systematically. Legal provisions should be introduced to make public engagement mandatory. The method and timelines of public participation must be decided at an early stage and made widely known.

Regulatory environment and investment conditions

QUICK FACTS

The Bangladesh Energy Regulatory Commission (BERC) regulates the electricity, natural gas, and petroleum sub-sectors. The BERC falls under the authority of the Ministry of Power, Energy and Mineral Resources.

The Bangladesh Atomic Energy Commission regulates the nuclear sector for certain issues.

The Foreign Private Investment (Promotion and Protection) Act 1980 was enacted to protect foreign investment.

STRENGTHS

The BERC continues to enjoy functional independence and is entitled to adopt its personnel policy, management rules, and salary structure. It is accountable to the Comptroller and Auditor General and the Parliament for its financial and other activities. The BERC has consistently taken measures to reduce its reliance on Government funds and loans. It is noteworthy that between the financial years 2003-2004 to 2016-2017, Government grants constituted merely 1.4 per cent of the BERC's total funds.

The legislative framework remains supportive of foreign investment. The Government observes its commitment to accord *fair and equitable treatment* to foreign private investment. During the EIRA assessment year, steps were taken to increase the incentives granted to foreign investors. In October 2018, the Bangladesh Securities and Exchange Commission issued a notification granting fully (one hundred per cent) foreign-owned companies exemptions from certain provisions of the Securities and Exchange Ordinance 1969.

AREAS FOR IMPROVEMENT

The Government may consider lowering some of the existing restrictions placed on investors, particularly concerning outward remittance such as the repatriation of dividends, interests, royalties and proceeds of capital. At present, the Guidelines for Foreign Exchange Transactions 2018 state that repatriation of sale proceeds of non-listed securities by a non-resident require the prior permission of the Bangladesh Bank. While local investors are free to make an investment in-kind in any form, including a transfer of land, an in-kind investment by a foreign investor can only be through the import of capital machinery. Finally, the BIDA Act 2016 stipulates that outward remittance of any royalties, fees for technical knowledge and technical assistance in an industrial sector, such as energy, will require BIDA's prior approval. While the investment climate in Bangladesh is generally conducive to foreign investors, relaxing some of the above rules may make it more attractive.

Rule of law

QUICK FACTS

Access to arbitration is provided in the Arbitration Act 2001.

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

Enforcement of foreign arbitral awards by domestic courts remains effective. The Government did not make any retroactive changes to its laws in the last year. Local courts enforce foreign judgements from reciprocating territories such as India. There were no incidents where foreign energy investors were required to exhaust local judicial remedies before recourse to international arbitration. Voluntary mediation and conciliation are available as part of the Code of Civil Procedure 1908.

The law requires that compensation for the acquisition of immovable property is paid within a stipulated time period. BITs signed by Bangladesh, such as with Italy, Japan, Uzbekistan and India, consider intellectual property as "investment". Protection is granted to all investment against any form of expropriation and through the unqualified operation of *most-favoured-nation* and *national treatment* obligations.

AREAS FOR IMPROVEMENT

As mentioned in EIRA 2018, the country is urged to set timelines in the law for domestic courts to render final judgments. The inclusion of deadlines for various stages of a hearing, such as the first date of hearing and the completion of appeals may also be considered.

An investment ombudsman may be established for resolving conflicts between investors and public authorities. The Bangladesh International Arbitration Centre at times helps settle issues for investors, but its scope is limited to capacity building for the country's arbitration sector.

It is reiterated that a definition of the phrase "public purpose or in the public interest" should be incorporated in the Acquisition and Requisition of Immovable Property Act. Presently, the decision of the Government, the Divisional Commissioner or the Deputy Commissioner (as the case may be) for the acquisition of a property is considered conclusive evidence for establishing public purpose. To avoid perceptions of ambiguity or subjectivity, a clear definition of the term should be included in the law.