



# The Gambia

Population <sup>1</sup>	2,213,894
Area (km <sup>2</sup> ) <sup>1</sup>	11,300
GDP per capita (USD) <sup>1</sup>	672.78
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>	0.60

Sources:

1. The World Bank 2017
2. ©IEA 2018, [www.iea.org/statistics](http://www.iea.org/statistics)
3. US Energy Administration (2016) [www.eia.org](http://www.eia.org)

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

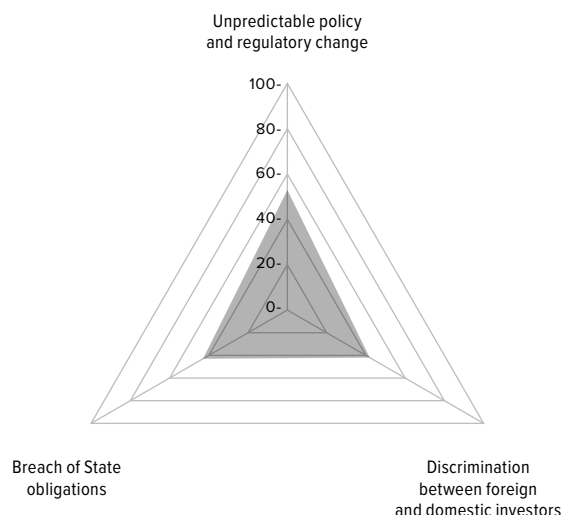
The three EIRA risk areas remain unchanged from last year. *Discrimination between foreign and domestic investors* and *breach of State obligations* continue to be lower compared to *unpredictable policy and regulatory change*.

The Gambia has a good performance on one EIRA indicator. It has a moderate score on two others, and a low score on one indicator. 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 points.

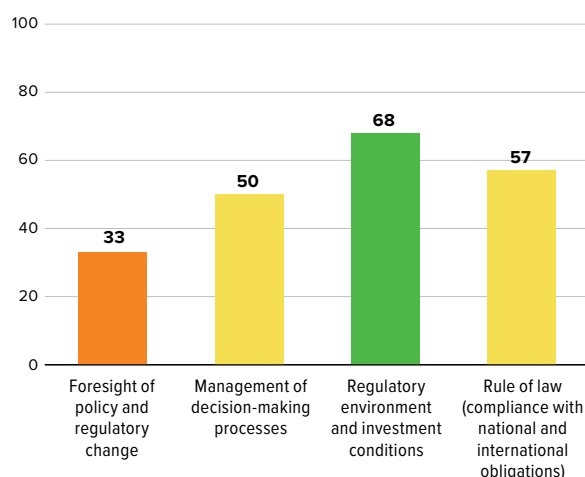
On a more detailed level, The Gambia's overall sub-indicator performance is moderate. The highest-scoring sub-indicators continue to be *restrictions on FDI* with 75 points and *management and settlement of investor-State disputes* with 73 points. On *regulatory effectiveness* (61), *institutional governance*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

While there are some policies and measures in place, more concrete steps must be taken to strengthen The Gambia's performance across all indicators and underlying sub-indicators. Particular attention should be given to increasing the robustness of the country's policy goals and commitments.

## RISK LEVEL



## INDICATOR PERFORMANCE



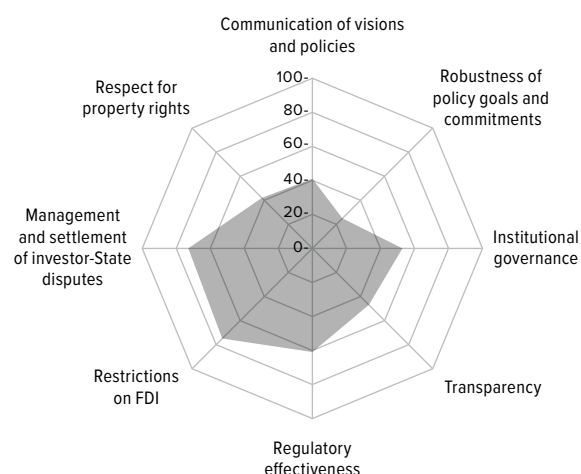
## YEAR-ON-YEAR COMPARISON

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

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

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

### STRENGTHS

Over the past year, The Gambia has increased its efforts to improve electricity access for its population, which has been one of the primary goals for the country. A significant step taken was the commencement of a solar energy and transmission project supported by the European Investment Bank which is expected to increase energy supply in The Gambia by one fifth and provide energy for the next twenty years. At the same time, the project supports the country's commitments to increase renewable energy and decrease its carbon footprint. In addition, the Ministry of Petroleum and Energy participated in a power purchase agreement for supply through a floating power plant. This agreement will ensure 33 per cent of the power demand in The Gambia over the coming two years and will enhance energy security.

The Ministry of Petroleum and Energy is responsible for monitoring the implementation of energy priorities with the support of its technical division. The Public Utilities Regulatory Authority (PURA), which also has monitoring functions, has included in its latest annual report a review on the energy market development and details about its sub-sectors. A report on the implementation of the renewable energy targets prepared by the Ministry of Petroleum and Energy is submitted annually to the Cabinet in accordance with the Renewable Energy Act 2013.

### AREAS FOR IMPROVEMENT

As mentioned last year, the country's targets have been set for a narrow timeframe. A long-term energy policy could pave the way towards the future and help keep the energy goals of The Gambia updated. The policy must provide clear direction and specify baselines, quantify what has to be achieved, and lay down a detailed timeline for the implementation of the suggested measures.

Ex ante and ex post evaluations need to be carried out for policies and measures. To ensure the effectiveness of a policy, its impact, cost and benefit should be carefully assessed on the basis of systematically collected data. Subsequently, review mechanisms must be used to determine whether the measures introduced are most appropriate for meeting the objectives.

## Management of decision-making processes

### QUICK FACTS

The Parliament of The Gambia comprises a unicameral legislature (National Assembly).

The Ministry of Petroleum and Energy frames the energy policies.

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

The Gambia Investment and Export Promotion Agency (GIEPA), established in 2010, is responsible for the promotion and facilitation of private sector investment and acts as the investors' first point of contact.

The Constitution of the Republic of The Gambia 1997 sets out the principles for good governance.

### STRENGTHS

During the assessment year, the Government took measures aimed at strengthening its investment regime. To this end, in 2018 a review of the GIEPA Act 2015 was put in motion. Inter-ministerial cooperation has played a key role in cross-sectoral issues. According to the Constitution, proposed laws must be published in the Official Gazette at least fourteen days before they are submitted for consideration to the National Assembly.

The Government is committed to reinforcing the accountability of public institutions. To promote transparency, a new draft anti-corruption bill has been finalised and will soon be submitted to the Cabinet for final review and approval. Moreover, the accounts of governmental offices and authorities, the courts, the National Assembly and all enterprises are audited at least once every year by the National Audit Office.

### AREAS FOR IMPROVEMENT

A law on access to information would strengthen the country's efforts towards openness in its decision-making process and promote legal certainty. To guarantee the effective dissemination of regulatory information, the legal documents should be made available on the internet, for example through an online portal of the Official Gazette or by making the publication of laws on governmental websites obligatory.

Public participation in the decision-making process needs to be encouraged. The Competitiveness Improvement Forum and working groups that are foreseen under the GIEPA Act 2015 should be created. These bodies will provide a channel for dialogue between the Government and investors in priority sectors, such as energy. To further increase the stability and predictability of the decision-making process, the country should establish standardised procedures for consultation between public entities and stakeholders.

## Regulatory environment and investment conditions

### QUICK FACTS

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

The regulatory functions of the Ministry of Petroleum and Energy are clearly defined in the Petroleum (Exploration, Development and Production) Act 2004.

The GIEPA Act covers the establishment, treatment and promotion of investment.

### STRENGTHS

PURA continues to act independently and impartially in the performance of its functions. In 2018, it published an Annual Report and its Financial Statement, which includes details on its activities and information about budgetary allocations for the previous year. In its capacity as the regulator for downstream petroleum activities, PURA has been consulting public and private stakeholders on new regulatory actions and the pricing of petroleum products.

The investment climate of The Gambia continues to be liberal. Foreign and domestic investors enjoy non-discriminatory treatment under the national laws. All BITs provide for fair and equitable treatment. No restrictions on investment in the energy sector have been introduced in relation to the ownership of energy projects and the transfer of funds abroad.

### AREAS FOR IMPROVEMENT

PURA currently regulates multiple activities across sectors, which creates constraints in its capacity to perform functions effectively. Since the responsibilities of PURA have only increased with time, there is a risk that its high workload may result in the unbalanced development of different sectors. For instance, PURA's regulatory activities over the past year were mostly focused on the telecommunications sector. In light of this, the Government should increase PURA's institutional capacity and streamline its operations so that it can meet the objectives set for all the regulated sectors.

Efforts should be made to ease access to land. Although the Government has taken steps in this regard, it is necessary that registry mechanisms and comprehensive records are created to provide certainty on land titles.

Under the GIEPA Act, the Government can declare certain areas closed to foreign investors or make them subject to local partnership. The Government may also reserve the right to own some or the majority of shares in strategic industries, such as mining, and petroleum exploration and refining activities. To address these concerns, the possibility of intervention in the status of investments must be minimised. Also, the law should contain clear conditions under which the Government may exercise discretion.

## 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.

The conditions for the expropriation of property are stipulated in the Constitution.

### STRENGTHS

Disputes between investors and the State can be settled through international arbitration, as stipulated in the GIEPA Act. Enforcement of foreign arbitral awards can be sought under the provisions of the Alternative Dispute Resolution Act 2005. While The Gambia is not a State party to the New York Convention, it has fully transposed its provisions and these are applicable for differences arising out of a contract. The Foreign Judgment (Reciprocal Enforcement) Act 1922 provides for the enforcement of judgments on a reciprocal basis. No retroactive changes affecting foreign investors were made in the past year.

The Constitution protects private property rights and provides guarantees against acts of expropriation undertaken for public interest, such as the prompt payment of adequate compensation. The compensation must be determined by the court or another impartial and independent authority. Additional protection against the expropriation of investments is envisaged in the GIEPA Act. Industrial and intellectual property rights are guaranteed under the BITs in force. Transfer of technology is generally promoted.

### AREAS FOR IMPROVEMENT

Currently, there is no specific timeframe prescribed in the law for the delivery of judgments. The Government should consider introducing provisions for effective case management and for setting definitive timelines that will ensure the pronouncement of court judgments without delay.

An independent and impartial body, like an investment ombudsman, should be established to deal with the grievances of foreign investors against the public authorities. The existence of such a mechanism can reduce the risk of maladministration and thus reinforce the confidence of investors.

A law on expropriation of property should be enacted to regulate the process for determining compensation and the timeframe for its payment. The law may also provide a definition of "public interest". Alternatively, a list of core activities that constitute public interest can be included in the GIEPA Act. A detailed mechanism for the determination of public interest and the compensation to be paid will ensure the legitimacy of the decisions to expropriate.