



# 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**.

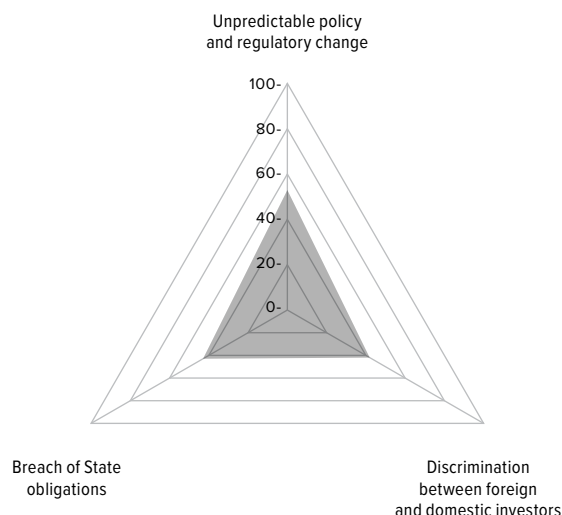
Among the three risks assessed in EIRA, *discrimination between foreign and domestic investors* and *breach of State obligations* are lower compared to *unpredictable policy and regulatory change*.

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.

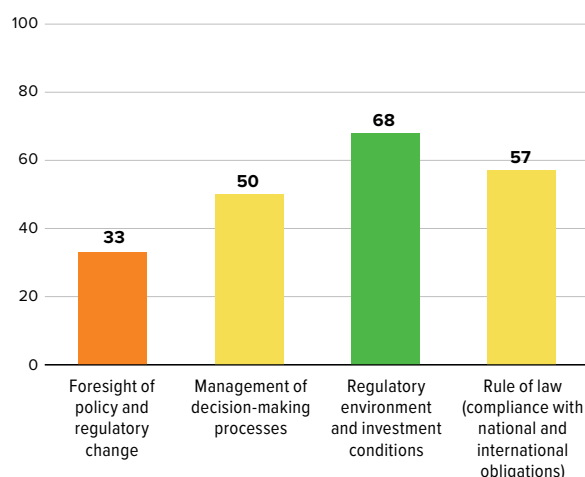
On a more detailed level, The Gambia's overall sub-indicator performance is moderate. The highest-scoring sub-indicators continue to be *restrictions on FDI* at 75, and *management and settlement of investor-State disputes* at 73. On *regulatory effectiveness* (61), *institutional governance* (53), *transparency* (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



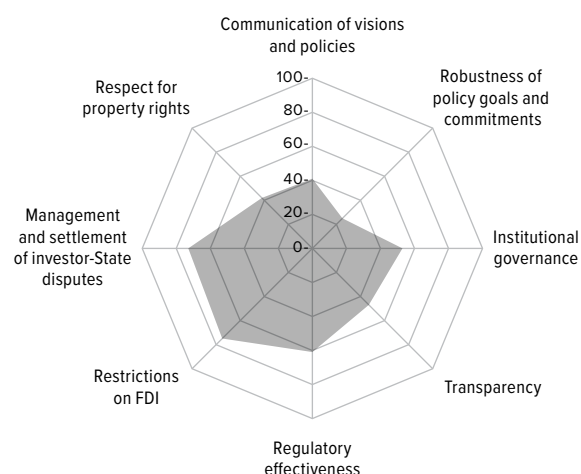
## YEAR-ON-YEAR COMPARISON

| 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.

# IMPLEMENTATION STATUS



## Gambia (The)

| PROPOSED IN        | EIRA AREAS FOR IMPROVEMENT  | IMPLEMENTATION STATUS AS OF 1 APRIL 2020   |
|--------------------|---|--|
| <b>Indicator 1</b> |   |  |
| <b>2018</b>        | 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> |   |  |
| <b>2018</b>        | 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>   |
| <b>2020</b>        | 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> |   |  |
| <b>2018</b>        | 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>   |
| <b>2020</b>        | 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> |   |  |
| <b>2018</b>        | 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>   |