



# Senegal

Population <sup>1</sup>	15,854,360
Area (km <sup>2</sup> ) <sup>1</sup>	196,710
GDP per capita (USD) <sup>1</sup>	1,465.59
TES (Mtoe) <sup>2</sup>	4.57
Energy intensity (toe/10 <sup>3</sup> 2015 USD) <sup>2</sup>	0.21
CO <sub>2</sub> emissions - energy (MtCO <sub>2</sub> ) <sup>3</sup>	8.1

Data by Orbis Crossborder Investment on completed energy projects and deals from 2015-2021<sup>4</sup>

Target industry	Number of projects and deals	Project CapEx and deal value (million EUR) by source country
Electric power generation, transmission and distribution	2 new projects	France: 2 RE projects of 57 mEUR
Manufacture of refined petroleum products	1 new project	Canada: 1 project of 1.7 mEUR
Mining of uranium and thorium ores	1 new project	Egypt: 1 project of 4 mEUR

Sources:

1. The World Bank 2018
2. ©IEA (2021), World Energy Balances (<https://www.iea.org/data-and-statistics>). All rights reserved.
3. ©IEA (2021), CO<sub>2</sub> Emissions from Fuel Combustion (<https://www.iea.org/data-and-statistics>). All rights reserved.
4. Orbis Crossborder Investment (2021), Bureau Van Dijk. Senegal is the destination country of the investment. Data represents the period 1 April 2015 - 1 April 2021 (accessed on 1 July 2021). For more information see Annex II of this report.

RE: Electricity generation from renewable resources

Senegal’s overall risk level against the assessed areas is **low**.

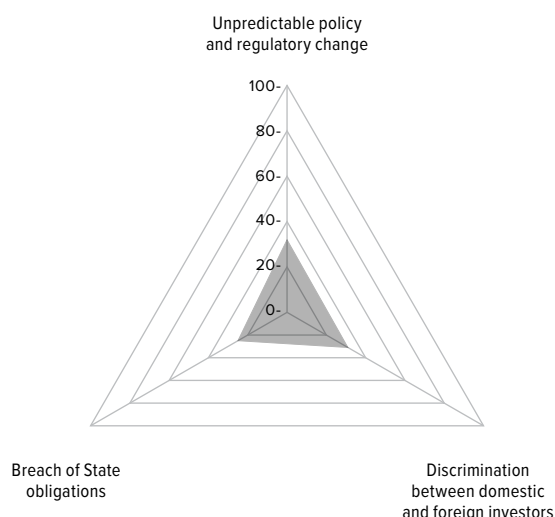
Of the three risks assessed in EIRA, *breach of State obligations* is lower compared to *discrimination between domestic and foreign investors* and *unpredictable policy and regulatory change*.

Senegal’s performance is good on two indicators, and it is moderate on the two remaining indicators. *Rule of law* is the highest-scoring indicator at 75, followed by *management of decision-making processes* at 72. Its score is 60 on the indicator *regulatory environment and investment conditions*. On *foresight of policy and regulatory change*, its score has improved by three points and is now 56.

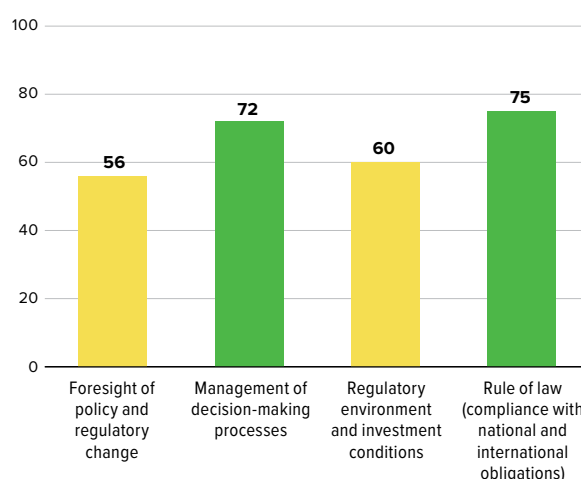
On a more detailed level, Senegal’s overall sub-indicator performance is good. The highest-scoring sub-indicator is *institutional governance* at 94. Its score on *management and settlement of investor-State disputes* and *respect for property rights* is 75. On *restrictions on FDI* and *communication of vision and policies* it has scored 70 and 56, respectively. Senegal has improved its score on the sub-indicator *robustness of policy goals and commitments*, which now stands at 55. *Transparency* and *regulatory effectiveness* are the lowest-scoring sub-indicators, both at 50.

While Senegal has the relevant policies and measures in place, there is potential for improvement. Attention should be given to enhancing transparency and regulatory effectiveness in the country.

### RISK LEVEL



### INDICATOR PERFORMANCE



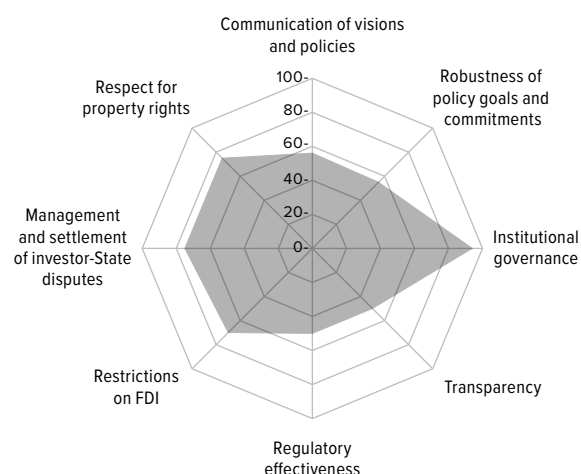
### YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019	2020	2021
Unpredictable policy and regulatory change	33	35	34	32
Discrimination between domestic and foreign investors	30	33	32	31
Breach of State obligations	23	25	25	25

INDICATORS	2018	2019	2020	2021
Foresight of policy and regulatory change	53	52	53	56
Management of decision-making processes	70	70	70	72
Regulatory environment and investment conditions	63	58	60	60
Rule of law	78	75	75	75

### SUB-INDICATOR PERFORMANCE



## Foresight of policy and regulatory change

### QUICK FACTS

The Emerging Senegal Plan (PSE) 2014-2035 sets the country's economic and social development strategy.

The Letter of Energy Sector Development Policy was adopted in 2012 and updated in 2019. It is fully integrated within the PSE.

Senegal ratified the Paris Agreement in 2016 and submitted its NDC.

### STRENGTHS

Ensuring universal access to clean, modern, and low-carbon energy by 2025 is a critical pillar of the PSE phase II (2019-2023). In line with this ambition, in May 2020, the Government of Senegal secured funding from the Green Climate Fund and the West African Development Bank to deploy 100% solar mini-grids in a thousand isolated villages across Senegal. Moreover, in April 2021, the World Bank announced a USD 300 million pledge to two electrification projects. A third of this financing will enable the electrification of 24% of households currently without access to electricity. Commissioned in 2019, Taiba N'Diaye, the first utility-scale wind farm, already pumps 55 MW of renewable energy into the national grid. When fully completed by 2021, the wind farm will provide a total of 158 MW. In addition, the project developer plans to invest up to USD 20 million in community development efforts over the wind farm's 20-year lifespan.

The Senegalese Rural Electrification Agency (ASER), under delegation by the Ministry of Petroleum and Energy (MPE), is responsible for channelling concessional funding, easing grid connectivity for beneficiaries of the concessional funding, and facilitating access to productive users of energy. ASER's rural electrification programme is registered under the United Nations Framework Convention on Climate Change Clean Development Mechanism. The latter offers a recognised monitoring, reporting and verification framework that enables international donors to track the GHG impact of invested funds over time and subsequently integrate them into Senegal's NDC accounting and reporting. In parallel, ASER participates in various regional initiatives such as the Regional Off-Grid Electricity Access Project overseen by the Economic Community of West African States Centre for Renewable Energy and Energy Efficiency.

### AREAS FOR IMPROVEMENT

To replicate the success story of the Taiba N'Diaye wind farm, the Government should design and implement renewable energy auctions that can rapidly scale clean energy at low prices and advance national economic and clean energy goals. Auctions can facilitate an open and transparent procurement process, thereby increasing competition and improving efficiency. Additional investment incentives should include financial instruments and innovative de-risking packages for tendered projects.

## Management of decision-making processes

### QUICK FACTS

The Ministry of Petroleum and Energy formulates the energy sector policies.

The Ministry of Investment Promotion, Partnerships and the Development of the State Teleservices is responsible for the national investment planning.

The National Agency for the Promotion of Investment (APIX) provides information on investment procedures and assist investors in obtaining permits and approvals.

Law no. 2021-23 of 2021 On Public-Private Partnership Contracts (PPP Law), was recently adopted by the National Assembly of Senegal.

### STRENGTHS

The new PPP Law, adopted after intense collaboration between 20 MDAs, international organisations and members of civil society, introduces a four-tiered institutional framework on public procurement. The overall supervisory control is vested in the Direction Centrale des Marchés Publics. The Comité National d'Appui aux Partenariats Public-Privé acts as an advisory body that gives its opinion to the contracting authorities on whether or not to conclude PPP contracts. The Autorité de Régulation des Marchés Publics and the Inter-ministerial Council have been assigned complementary regulatory functions. The latter takes over the Prime Minister's role in authorising requests to initiate a PPP contracts award procedure. A support fund will also be established to finance the preparation, awarding and execution of the relevant projects.

The PPP Law 2021 introduces innovations to ensure greater transparency, such as establishing a body responsible for the a priori control of public procurement and a regulatory entity to carry out a periodic audit of PPP contracts. The new PPP Law guarantees equity in the treatment of candidates bidding for the project and requires economic operators to respect human rights. The monitoring and evaluation mechanism of the PSE Priority Action Plan (2019-2023) provides for the centralisation of information and other statistical data and their dissemination to both decision-makers and interested stakeholders.

### AREAS FOR IMPROVEMENT

The Government should develop an overarching legal framework to integrate transparency in the policy- and law-making process. It should include a defined scope of application, a narrow list of exceptions, and a procedure for obtaining information.

The adoption of the PPP Law 2021 is a commendable effort to modernise the legal regime for PPP projects. The Government should now develop secondary legislation to implement the PPP Law, such as the decrees specifying the nature and prerogatives of the PPP support fund and the relevant regulatory body.

## Regulatory environment and investment conditions

### QUICK FACTS

The Electricity Sector Regulatory Commission (CRSE) was constituted under Law no. 98-29 of 1998 On the Electricity Sector, as amended in 2002 and Decree no. 98-333 of 1998 On the Organisation and Functions of the Electricity Sector Regulatory Commission. The CRSE oversees licensing, operation, and sales of electricity and holds a competition mandate in the sub-sector.

In June 2021, the National Assembly adopted a new Electricity Code and an amended Law On the Creation, Organisation and Powers of the CRSE.

The Ministry of Petroleum and Energy regulates the oil and gas sub-sectors.

### STRENGTHS

Over the last two years, the Government has embarked on a tariff harmonisation process that brings all electricity tariffs in line with those charged by the national utility, Société nationale d'électricité du Sénégal (Senelec). Operators are compensated for the difference between their cost-reflective and harmonised tariffs through the Special Fund for Energy Sector Support. The CRSE determines the exact levels of the subsidy and the process for obtaining it. Moreover, the CRSE is currently collaborating with stakeholders to develop a Grid Code.

On 1 January 2021, trade commenced under the African Continental Free Trade Agreement (AfCFTA) of which Senegal is a member. The AfCFTA eliminates tariffs on 90% of goods produced on the continent, tackles non-tariff barriers to trade and guarantees the free movement of persons. Starting in January 2020, the Government has focused its attention on the Economic and Social Resilience Programme, seeking to encourage PPPs, lend macroeconomic and financial assistance and support private sector recovery. Locally manufactured goods used to produce renewable energy and companies producing such energy can deduct 30% of their taxable profits when calculating corporate income tax. Similarly, Law no. 2019-03 of 2019 On Petroleum Code offers a range of advantages, including foreign exchange guarantees to oil companies and sub-contractors. It also grants them the right to transfer funds for the contractual amortisation of debts related to their operations in Senegal.

### AREAS FOR IMPROVEMENT

The CRSE can become more independent, particularly with regard to recruiting its Commissioners. The selection criteria and process should be competitive and publicly announced.

The PPP Law 2021 substantially modernises the institutional framework for PPP projects and brings greater transparency and simplicity to the award procedure. The Government should consider extending its application to sectors that play an essential role in the national economy but are currently excluded, such as energy and mining.

## Rule of law

### QUICK FACTS

Senegal ratified the Convention on the Settlement of Investment Disputes between States and Nationals of other States in 1967.

Senegal acceded to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 1994.

Senegal is a Member State of the OHADA, which has designed and enforced a substantial body of commercial laws among its Member States.

### STRENGTHS

The PPP Law 2021 aims to introduce a streamlined and speedy dispute resolution process. It distinguishes between the various stages of a PPP contract to determine the appropriate dispute resolution mechanism. More concretely, any grievances arising from the procurement process are heard by the contracting authority before the parties can initiate any court proceedings. On the other hand, complaints regarding the execution or termination of a PPP contract are heard by the dispute resolution committee of the PPP regulatory body. Should this amicable settlement fail, the parties can refer the dispute to national or international arbitration. Moreover, the PPP Law explicitly states that contracts signed before its entry into force remain valid until the expiry of their term.

BITs, regional investment agreements, and the national laws of Senegal protect private property against expropriation. They also specify that international legal standards apply to any case of expropriation and the payment of compensation. For instance, Senegal's BIT with the Netherlands allows for a prompt review of a decision to expropriate private property, the valuation of the investment, and compensation payment. Senegal is a member of the African Intellectual Property Organization (OAPI), which has established a common system to obtain and maintain patents, trademarks and industrial designs and ensure these are adequately protected. Such protection can be obtained through a single filing either with the OAPI IP office or through the relevant Senegalese agency and is automatically effective in all its Member States.

### AREAS FOR IMPROVEMENT

The establishment of commercial courts and the promotion of alternative dispute resolution mechanisms reflect the Government's intention to improve investor-State dispute settlement mechanisms. In light of this goal, the judiciary may consider digitalising commercial court procedures and setting binding deadlines to conclude trials and deliver final judgements.

# IMPLEMENTATION STATUS



## Senegal

PROPOSED IN	EIRA AREAS FOR IMPROVEMENT	IMPLEMENTATION STATUS AS OF 1 APRIL 2021
<b>Indicator 1</b>		
2018	Adopt a revised version of the Petroleum Code 1998 and the Priority Action Plan (PAP) for the period beyond 2018.	<b>Fully implemented.</b> The Government adopted the revised Petroleum Code in 2019. It has also adopted the PAP 2019-2023 and the Energy Sector Development Policy Letter 2019-2023.
	Establish a robust policy review process that can measure the progress made towards achieving the national targets.	<b>Work ongoing.</b> The Government has completed the evaluation of the PAP, which has now entered its second implementation phase (2019-2023).
2020	Establish a transparent and simplified procurement process as well as financial instruments and innovative de-risking packages for tendered projects.	<b>Work ongoing.</b> In 2020, the Government secured funding from the Green Climate Fund and the West African Development Bank to deploy 100% solar mini-grids in a thousand isolated villages across Senegal.
2021	Design and implement auctions that can rapidly scale clean energy at low prices.	<b>Improvement suggested in 2021.</b> Status will be updated in 2022.
<b>Indicator 2</b>		
	Institutionalise inter-ministerial policy coordination mechanisms.	<b>Work ongoing.</b> Collaboration has increased in the context of the PAP 2019-2023 and the Digital Senegal Strategy 2025. Moreover, the PPP Law 2021 was adopted after collaboration between MDAs, international organisations and civil society.
2018	Improve transparency by adopting a law guaranteeing the right to access information.	<b>Work ongoing.</b> The Government is yet to adopt a law on access to information. However, transparency requirements have been included in the Petroleum Code 2019. The PPP Law 2021 introduces further innovations, such as a body responsible for the a priori control of public procurement and a regulatory entity to carry out a periodic audit of PPP contracts.
	Promote stakeholder engagement in the decision-making process by disseminating draft laws and regulations, setting timeframes for soliciting public comments, and regularly updating electronic legal databases.	<b>Work ongoing.</b> Discussions with private stakeholders and international organisations have taken place in the context of the PAP 2019-2023, the Digital Senegal Strategy 2025, and the PPP Law 2021.
2021	Develop secondary legislation to support the PPP Law's implementation, including the decrees specifying the nature and prerogatives of the PPP support fund and the relevant regulatory body.	<b>Improvement suggested in 2021.</b> Status will be updated in 2022.
<b>Indicator 3</b>		
2018	Reinforce the Electricity Sector Regulatory Commission's (CRSE) independence by promoting merit-based selection of its commissioners and by making them accountable only to the National Assembly of Senegal.	<b>Pending</b>
2019	Adopt secondary legislation to implement the Law On Local Content in the Hydrocarbons Sector 2019.	<b>Work ongoing.</b> Details regarding the implementation of local content requirements are provided, inter alia, in the Petroleum Code 2019, the PPP Law 2021, and the Decree no. 2020-2047 of 2020 On the Organisation and Functioning of the National Committee for Monitoring Local Content in the Hydrocarbons Sector.
2021	Extend the application of the PPP Law 2021 to sectors that play an essential role in the national economy but are currently excluded, such as energy and mining.	<b>Improvement suggested in 2021.</b> Status will be updated in 2022.
<b>Indicator 4</b>		
2018	Speed up civil and commercial adjudication and set deadlines for the conclusion of judicial proceedings.	<b>Work ongoing and partially implemented.</b> The commercial court has thus far ruled on more than 10,000 cases, thereby speeding up the resolution of disputes. However, there are no strict deadlines set in law to render final judgements in court proceedings. Moreover, the PPP Law 2021 aims to introduce a streamlined and speedy dispute resolution process by determining the appropriate dispute resolution mechanism according to the stage of the contract.
2019	Limit the retroactive application of laws, particularly the Petroleum Code 2019 and the Law On Local Content in the Hydrocarbons Sector 2019.	<b>Work ongoing.</b> The Government has so far refrained from renegotiating existing contracts under the Petroleum Code 2019 and the Law On Local Content in the Hydrocarbons Sector 2019. Moreover, the PPP Law 2021 states that PPP contracts signed before its entry into force remain valid until the expiry of their term.