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The following document is being circulated in accordance with paragraph 1 (i) of resolution 4/6 of the Conference of the States Parties to the United Nations Convention against Corruption and rule 17, paragraph 3 (b), of the rules of procedure for the Conference.

* The present document is processed in the form in which it was received.





The Gambia: Civil Society Report by Public-Private Integrity

An input to the UNCAC Implementation Review Mechanism:
Fifth year of review of UNCAC Chapters II and V

14 November 2023

This is the executive summary of a civil society parallel report from August 2022 reviewing The Gambia's implementation and enforcement of selected articles in UN Convention against Corruption (UNCAC) Chapters II (Preventive Measures) and V (Asset Recovery). The report was supported by the UNCAC Coalition and is intended as a contribution to the UNCAC peer review process of The Gambia covering those two chapters. The full report is available on the UNCAC Coalition's website.¹

While Gambian legislation requires transparent governance, preventive anti-corruption measures on a national scale have minimal impact. A lack of information sharing, outdated bureaucratic systems and lax sanctioning render the public service prone to corruption. The 2012 Gambia Anti-Corruption Commission has not yet been implemented. Civil society's reporting on corruption and engagement in public debates has increased since the 2016 political impasse. Overlapping responsibilities among investigative financial bodies complicate confiscation and the direct recovery of property.

Assessment of the Review Process

Has the government disclosed information about the country focal point?	Yes
Was the review schedule published somewhere?	No
Was civil society consulted in the preparation of the self-assessment checklist?	Yes
Was the self-assessment checklist published online or made available to civil society?	No

¹ The parallel report was published on the UNCAC Coalition website in August 2022:
<https://uncaccoalition.org/new-civil-society-report-on-the-gambia-gaps-in-the-legislative-framework-hamper-uncac-implementation-and-enforcement/>

Did the government agree to a visit to the country?	Yes
Was a country visit undertaken?	Not yet
Was civil society invited to provide input to the official reviewers?	No
Was the private sector invited to provide input to official examiners?	No
Has the government committed to publishing the full country report?	Unknown

Main Findings and Recommendations (R)

Preventive Anti-Corruption Policies and Practices

The legal framework promotes the rule of law, transparency and accountability in public offices. However, there is a lack of information sharing and poor cooperation, weakened by an ineffective ICT system. Internal anti-corruption monitoring and application measures are not enforced or non-existent.

R: Identify and analyze factors undermining the drivers and dynamics in anti-corruption implementation, focusing on the role of broader objectives and processes encompassing the fight against corruption.

Anti-Corruption Bodies

Independent anti-corruption bodies² are equipped to improve anti-corruption reporting mechanisms. Nevertheless, the 2012 Gambia Anti-Corruption Commission Act has not been implemented.

R: Ensure that an anti-corruption commission is in place and anti-corruption policies are implemented.

Political Financing

Political parties cannot accept donations from non-citizens, corporations or bodies, must disclose revenues and assets, and publish audited financial statements annually. However, this is poorly enforced. Legal definitions of donations or contributions and restrictions on donations to political parties and candidates are missing, in addition to poor identification of donors and whether third-party donations or loans are acceptable, restricted or prohibited.

R: Pass a comprehensive electoral law on political party financing and scrutinize the sources of campaign funds for presidential candidates.

² Including the Gambia Financial Intelligence Unit (GFIU), the Gambia Public Service Commission (GPSC), the Gambia Public Procurement Authority (GPPA) and the Assets Recovery and Management Corporation (AMRC).

Codes of Conduct and Asset Declarations

Public officials' conduct is regulated; however, assets declared by officials of the Ombudsman's office are kept by the Finance and Public Accounts Committee of the National Assembly and never made public. Sanctions for non-compliance are ineffective.

R: Ensure monitoring of asset declarations and strict enforcement of sanctions for non-compliance. Make asset declarations publicly accessible.

Public Procurement

The Procurement Act prohibits offering, giving, receiving, or soliciting anything to influence the procurement process. The Gambia Public Procurement Authority (GPPA) published a list of updated registered suppliers and contractors on the GPPA website in 2022, and has since updated periodic procurement reports, conforming with the Gambian Procurement Act.

R: Publish contract notices and awards without delay in a commercial bulletin and on the GPPA website.

Public Finances

Management of public finances is regulated by the Government Budget Management and Accountability Act (GBMA) and the Public Finance Act. National Assembly supervision of monetary transactions is weak. While the Minister of Finance and Economic Affairs is accountable to the latter, along with the President, for budgetary decisions within the ministry, the distinction between the roles of the permanent secretary within the ministry and the minister are ambiguous.

R: Publish the budget execution progress, providing a timetable for publication, including the examination and inspection of systems of financial management, books and accounts in every budgetary authority. Responsible bodies should submit government financial statements to the Auditor General and release them publicly.

Access to Information and Participation of Society

The Access to Information Bill was approved by the National Assembly and assented to by the President in 2021. The number of private print, electronic, radio stations and other media operations has increased considerably since 1994, including communication tools for the public. While civil society's active engagement in governance issues on corruption has increased since 2016, there are few measures promoting periodic review and reporting on corruption in the public administration.

R: Raise awareness publicly on the right to access information and ensure requests are replied to. Ensure, maintain and increase civil society participation through active engagement on corruption prevention.

Judiciary and Prosecution Services

The Judges Supplementary Code of Conduct Act requires judges to uphold and exemplify judicial independence, integrity, impartiality, avoid improper judicial conduct, avoid civic and charitable activities and political engagement. Nevertheless, weaknesses exist regarding the

independence of the Department of Public Prosecutions, operating under the remit of the Attorney General and the Minister of Justice. The President may appoint the Chief Prosecutor at the Attorney General's office, not subject to public review.

R: Expand the role and functions of the Office of the Director of Public Prosecution in the administration of justice and grant it administrative and financial independence.

Private Sector Transparency

A partial beneficial ownership registration and disclosure system is in place, and the legal ownership registry requires companies to register legal owners. However, this is generally not available online. Registered companies must publish annual and audited accounts and file a copy with the Corporate Division of the Ministry of Justice. However, there is weak enforcement.

R: Ensure the business register is updated annually and disclose beneficial and financial ownership information publicly online. Ensure cooperation between law enforcement and the private sector to promote integrity in the private sector.

Anti-Money Laundering

Recently, The Gambia implemented a payment system reducing the use of cash in the economy through so-called 'Gamswitch' projects. The FIU is functional but needs to assume investigative functions and share information about how it conducts its duties. There is no provision in domestic anti-money laundering/countering terrorist financing (AML/CFT) regulations prohibiting financial institutions from entering into correspondence banking with shell banks.

R: Ensure the implementation of FATF Recommendation 25 on Transparency and Beneficial Ownership of Legal Arrangements. Take steps to prevent abuse of money laundering or terrorist financing laws, and initiate countermeasures independently, effectively and appropriately according to the risks.

Direct Recovery of Property and Confiscation Tools

The Gambia has yet to actively pursue the recovery of assets acquired through fraud from public officials, individuals and groups mentioned in the 2018 Janneh Commission report.³ Whilst the Janneh Commission seized properties believed to have been fraudulently obtained by the former President, the sale of these assets is not transparent and has not been publicly disclosed since 2018.

The AML/CFT Act contains provisions on restraint, seizure and forfeiture of assets in relation to ML and TF. However, there is no effective mechanism ensuring efficient tracing and identification of ML and TF cases. The FIU lacks the capacity to receive and analyze suspicious transaction reports to assist law enforcement agencies in AML/CFT cases.

R: The Central Bank of The Gambia should conduct regular risk assessments for the financial and non-financial (or informal) sectors to determine the level of oversight

³ <https://www.moj.gm/downloads>.

required in a low-risk sector. Provide FIU staff with specialized training on the application of freezing and confiscation measures.

International Cooperation and Asset Recovery

The court or competent authority may receive requests from other states' courts or other competent authorities to identify, trace, freeze property, proceeds or funds, confiscate or forfeit in connection with money laundering offenses and take appropriate measures. Despite having a bilateral agreement with the Republic of Senegal, The Gambia has not established an asset forfeiture fund or authorized asset sharing with other countries. Privileges are only granted to countries that have treaties with The Gambia under the AML Act.

There are no provisions for the disposal and return of confiscated foreign-origin assets. Although it has established The Assets Recovery and Management Corporation, The Gambia is unable to pursue effective disposition of confiscated property, constrained by the challenges of tracking assets abroad.

R: *Conclude bilateral or multilateral agreements to improve international cooperation regarding extradition, mutual legal assistance, transfer of sentenced persons or criminal proceedings, law enforcement cooperation, joint investigations and special investigative techniques.*