

AFRICA RISK CONSULTING

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A Kinshasa appeal court reduces the sentence of DRC political heavyweight Vital Kamerhe, former chief of staff for President Felix Tshisekedi (2019-present) and former president of the Assemblée Nationale (national assembly), on corruption charges but upholds his conviction on charges of misappropriation of public funds. The government introduces new restrictions to curb the spread of the coronavirus amid a third wave of infections. Canada-based Ivanhoe Mines' joint venture mining operation, Kamo-a-Kakula Copper Project, signs a 10-year deal to process some of its copper concentrate at a nearby smelter. New mining minister Antoinette N'Samba Kalambayi addresses a Mining Week Online event under the theme "The DRC's Investments Rating: An Inaccurate Perception".

Political tension rises as Kamerhe loses his appeal...

A Kinshasa appeal court has reduced the jail sentence for former chief of staff to President **Felix Tshisekedi** (2019-present), **Vital Kamerhe**, from 20 years to 13 years.¹ The **District Court of Kinshasa-La Gombe** sentenced Kamerhe to 20 years' hard labour in June 2020 in an unusually swift trial (see *ARC Briefing DRC June 2020*).² Kamerhe, the highest profile politician to face graft charges in the **Democratic Republic of the Congo (DRC)**, claimed the trial was politically motivated and a ploy to stop him from running for president in 2023; his prison sentence bars him from running for presidency for ten years after completing his sentence.³

Kamerhe was convicted in June 2020 of embezzling public funds of over \$50m with **Lebanese** businessman **Jammal Samih**. The charges against Kamerhe related to his co-ordination of the 100-day emergency socio-economic plan that President Tshisekedi launched following his election in January 2019.⁴ These include the award of a contract for the construction of 4,500 prefabricated houses across five provinces – **Kinshasa, Kasai-Central, Kasai-Oriental, Kongo-Central and Sud Kivu** – to two companies, **Samibo Congo Sarl** and **Husmah Sarl**, both owned by Samih.⁵ Following the award of the contract, which was never executed, Kamerhe and Samih allegedly misappropriated \$48.8m from March 2019 to January 2020.⁶ A further \$2.1m was embezzled through another contract, for 3,000 prefabricated houses destined for Kinshasa's police and military.⁷ Kamerhe was also found guilty of receiving \$1.1m from third co-accused **Jeannot Muhima Ndoole**, who was in charge of the import-export service of the presidency, in exchange for clearing and transporting the prefabricated houses.⁸ Samih was arrested in February 2020. The appeal court reduced his sentence from 20 years to six years, and Ndoole's sentence from two years to one year in prison.⁹

Kamerhe has been a powerful player in DRC's politics for more than 15 years.¹⁰ He helped lead former President **Joseph Kabila's** (2001-2019) first election campaign in 2006, after which he became head

¹ Africa News, 18 Jun 2021

² Jeune Afrique, 20 Jun 2020

³ BBC, 20 Jun 2020

⁴ RFI, 11 Apr 2020

⁵ Jeune Afrique, 4 May 2020

⁶ Jeune Afrique, 4 May 2020

⁷ The Africa Report, 18 Jun 2021

⁸ The Africa Report, 18 Jun 2021

⁹ The Africa Report, 18 Jun 2021

¹⁰ Africa Briefing, 22 Jun 2020

of the **Assemblée Nationale** (National Assembly).¹¹ Kamerhe broke with Kabila in 2009 and came third in the 2011 presidential race. He became Tshisekedi's chief of staff after the two men brokered an agreement in 2018 that was supposed to let Kamerhe run for president in 2023.¹² His earlier conviction disqualified him from running for public office, and voting or serving in government for 10 years. However, Kamerhe's legal counsel, **Jean-Marie Kabengele Ilunga**, said details surrounding the appeal ruling are still unclear, particularly regarding the 10-year period during which Kamerhe is disqualified from holding public office.¹³

The opposition **Union pour la Nation Congolaise (UNC)**, of which Kamerhe is the former cabinet director, denounced the sentence and trial as a "*political trial*".¹⁴ The UNC is part of the **Union Sacrée** government, inaugurated on 26 April, several months after Tshisekedi ended the governing coalition between his **Union pour la Démocratie et le Progrès Social (UDPS)** and Kabila's **Front Commun pour le Congo (FCC)**.¹⁵ Tshisekedi convinced members of Kabila's alliance to defect to the Union Sacrée and in January appointed close ally **Jean-Michel Sama Lukonde Kyenge** as DRC's prime minister after former prime minister and Kabila ally **Sylvestre Ilunga** resigned on 28 January following a vote of no confidence in parliament.¹⁶ Commenting on the appeal court's judgement, UNC secretary general **Billy Kambale** said:

*"This kind of political machination will never pass. This appeal judgment confirms what we said from the start, that it is all a huge conspiracy."*¹⁷

The UNC held talks on 16 June to discuss the way forward. Kambale said the UNC might withdraw its participation in state institutions, which could create instability in the Union Sacrée government. Although the UNC holds only 16 of 500 seats in the Assemblée Nationale, it has strong representation in government, including high-ranking officials such as budget minister **Aimé Boji Sangara**, land affairs minister **Aimé Molendo Sakombi**, and deputy justice minister **Bahibazire Mirindi Amato**.¹⁸

This places Tshisekedi in a precarious position. On the one hand, he seeks to portray an image of rooting out corruption and running a clean government, while on the other, he needs to secure his political power. For now it is unclear whether the UNC will pull out, and if so, whether its withdrawal will destabilise and undermine the Tshisekedi government.¹⁹ Tshisekedi faces the risk that other political parties may follow suit, amidst a new round of complex political negotiations among members of the heterogeneous majority formed around the head of state, including former Kabila supporters and opposition parties of **Moïse Katumbi** and **Jean-Pierre Bemba**.²⁰

DRC tightens coronavirus restrictions amid third wave of infections

Health minister **Jean- Jacques Mbungani** announced on 4 June that the DRC had entered the third wave of **Covid-19** infections.²¹ Mbungani described Kinshasa as the epicentre of the illness, blaming increased numbers of infections on relaxed compliance with the barrier measures put in place, the importation of cases following movements at the borders, and low vaccine coverage against Covid-19. The government claims some residents believe the pandemic no longer exists in the DRC and are ignoring public safety instructions.²²

¹¹ Africa Briefing, 22 Jun 2020.

¹² Africa Briefing, 22 Jun 2020.

¹³ Africa News, 18 Jun 2021

¹⁴ Africa News, 18 Jun 2021

¹⁵ Reuters, 7 Dec 2020

¹⁶ Al Jazeera, 28 Jan 2021

¹⁷ Africa News, 18 Jun 2021

¹⁸ Africa News, 18 Jun 2021

¹⁹ DRC analyst

²⁰ The Africa Report, 18 Jun 2021

²¹ The East African, 4 Jun 2021

²² The East Africa, 4 Jun 2021

President Tshisekedi on 16 June announced several new measures to curb the spread of the third wave of Covid-19. All public places will be required to have hand-washing facilities or provision for people to use alcohol-based hand sanitisers. Social gatherings and social functions are restricted and entertainment venues closed.²³ Other measures include:

- Curfew from 10pm to 4am, enforced by military and police patrols;
- Mandatory wearing of face masks in public places;
- Limit of 20 people at funerals and other vigils
- Entry into public markets is subject to temperature taking, hand-washing and wearing a mask;
- Burials must take place on the day that bodies are retrieved from mortuaries, while health checks at national posts and border will be reinforced.
- Presentation of a negative Covid-19 test carried out within 72 hours of commencing travel to DRC;
- Closure of discos and nights clubs for 15 days but restaurants remain open under conditions of strict compliance with health guidelines;
- Churches remain open at reduced capacity.

Schools, universities and the borders will remain open for now.

Covid-19 infections in the DRC are at their peak, with roughly 370 new infections reported daily, as of 21 June, compared to 118 daily new infections on 31 May. DRC has recorded a total of 37,807 infections in its population of 86.79 million, and 879 Covid-19 related deaths since the start of the pandemic, with 27,938 recoveries.²⁴

Ivanhoe signs deal to process copper smelter ...

Canada-based **Ivanhoe Mines'** joint venture mining operation, **Kamoa-Kakula Copper Project**, has signed a 10-year deal to process some of its copper concentrate at a nearby smelter.²⁵ The Kamoa-Kakula Copper Project is a joint venture between Ivanhoe Mines (39.6%), with **China-based Zijin Mining Group** (39.6%), **Crystal River Global Limited** (0.8%) and the DRC government (20%). Initial production of copper concentrate at the Kakula Mine processing plant began on 25 May.²⁶

Ivanhoe will process up to 150,000 wet metric tonnes of concentrate a year from the Kamoa-Kakula mine at the **Lualaba Smelter**, majority-owned **China Nonferrous Mining Corp Ltd (CNMC)** and 40 km by road from the mine, in return for a treatment charge and market-based realisation fee.²⁷ The smelter has a processing capacity of 400,000 tonnes per year and will produce blister copper ingots containing around 99% copper.²⁸ The Ivanhoe-Zijin joint venture will collect these from a storage area.

Ivanhoe says international mining consultant **Wood Mackenzie** has independently ranked Kamoa-Kakula as the world's largest, undeveloped high-grade copper mine.²⁹ Ivanhoe expects the mine to produce approximately 200,000 tonnes of copper per year in phase 1, while phases 1 and 2 combined are forecast to produce approximately 400,000 tonnes of copper per year.³⁰ Based on independent benchmarking, the project's phased expansion scenario to 19 Mtpa would position Kamoa-Kakula as

²³ The Africa Report, 18 Jun 2021

²⁴ AfricaCDC, 21 Jun 2021

²⁵ Reuters, 2 Jun 2021

²⁶ [Ivanhoe website](#)

²⁷ Reuters, 2 Jun 2021

²⁸ Reuters, 2 Jun 2021

²⁹ [Ivanhoe website](#)

³⁰ [Ivanhoe website](#)

the world's second-largest copper mining complex, with peak annual copper production of more than 800,000 tonnes.³¹

DRC authorities on 26 May reiterated a long-standing ban on copper concentrate exports, saying only mining companies with waivers will be allowed to export concentrate.³² The ban has been in place since 2013 in order to encourage domestic processing.³³ However, the mines ministry has replaced the sector-wide ban with a framework allowing it to grant individual derogations on a case-by-case basis.³⁴

Ivanhoe confirmed it is aware of the order issued to customs officials by **Katanga Province's Customs and Excise** director. However, the company said a subsequent letter confirms that companies with a derogation letter from the minister of mines will be allowed to export concentrates. Ivanhoe said the sector-wide derogation from the concentrate export prohibition expired on 12 April. Ivanhoe president and CFO **Marna Cloete** noted that the concentrate export ban is not new, but the rules now recognise that a derogation may be justified for a number of reasons:

"Kamoa Copper has filed the necessary application materials and we have had constructive discussions with the Minister of Mines on obtaining a derogation for Kamoa-Kakula given current limitations on smelting capacity in-country."³⁵

Cloete said Ivanhoe intends to use local smelter capacity "to the extent possible" as part of its objective to operate responsibly in the DRC "for generations to come" and for the benefit of all of its stakeholders, including the DRC government. Kamoa-Kakula and Kipushi will be powered by clean, renewable hydro-generated electricity and will be among the world's lowest greenhouse gas emitters per unit of metal produced.³⁶

... as new mining minister addresses online Mining Week event

DRC's new mining minister, **Antoinette N'Samba Kalambayi**, addressed the **DRC Mining Week Online**, which took place from 14-15 June. Several dignitaries joined Kalambayi on a panel to discuss the theme "*The DRC's Investments Rating: An Inaccurate Perception*".³⁷ These included presidency representative **André Wameso**; **United Kingdom (UK)** prime minister's trade envoy to the DRC, **Lord Dolar Papat**; **DRC Chamber of Mines** president **Louis Watum**; and **Standard Bank DRC** deputy CEO **Marie-Gabrielle Kalenga Opese**.

Kalambayi described the mining sector as a key driver of economic growth in DRC and central to its development. Kalambayi emphasised the importance of mining companies adhering to the country's mining legislation and giving back to local communities.³⁸ Kalambayi noted that DRC's legal instruments offer local and international mining investors many benefits,

"... as they encompass attractive measures such as the implementation of processes that are fast, objective and transparent for granting or renewing mining and quarry rights along with the establishment of fiscal, custom and currency exchange regimes that are competitive and specific to the mining sector".³⁹

Kalambayi was appointed mining minister on 12 April, becoming DRC's first female mining minister. She outlined her ministry's political agenda based on five key pillars: certification of mineral resources; valuation of mining assets in the country; combating fraud in the sector; eradication of the use of child labour and pregnant women at artisanal mining sites; and adding value to DRC's mining

³¹ [Ivanhoe](#) website

³² Mining Weekly, 28 May 2021

³³ Mining Weekly, 28 May 2021

³⁴ Mining Weekly, 28 May 2021

³⁵ Mining Review, 28 May 2021

³⁶ Mining Africa Review, 28 May 2021

³⁷ Mining Weekly, 14 Jun 2021

³⁸ Mining Weekly, 14 Jun 2021

³⁹ Mining Review Africa, 14 Jun 2021

products through beneficiation.⁴⁰ Kalambayi says the government intends to foster a better business climate, not only through cooperation between various stakeholders but also by strengthening bilateral relationships with neighbouring countries, especially with regard to security.⁴¹

However, the DRC needs to reassure investors by establishing a stable and transparent regulatory framework. The Canada-based **Fraser Institute**'s 2020 Annual Survey of Mining Companies highlights the negative perception of investment and ease-of-doing business in the DRC. The annual survey assesses how mineral endowments and public policy factors such as taxation and regulatory uncertainty affect exploration investment. Chamber of Mines president Louis Watum noted the DRC mining ministry needs to strengthen mining administration:

"I really support the sharing programme between the administration and mining companies so that there is a better understanding of what each party does, and this will create a climate that will reassure investors."⁴²

Mining investors also face financing issues, as banks need to understand risk factors in order to establish funding structures that are adaptable to the needs of the mining value chain and junior mines in the DRC.⁴³ Popat noted the DRC's significant potential for investment, especially in the aftermath of **Brexit**. He encouraged UK businesses to start investing in the DRC by using insightful information to make informed business decisions.⁴⁴

The government has started to implement targeted reforms that will make the country more investor friendly. However, there are still concerns around issues such as security, legislative uncertainty, taxes and underage labour in the mining industry. Wameso noted that President Tshisekedi wants to place DRC's mines at the centre of the country's development:

"Therefore, there needs to be a foundation that enables the mining sector to live up to its potential. This foundation is built on peace, security, good governance and the fight against corruption."⁴⁵

⁴⁰ Mining Weekly, 14 Jun 2021

⁴¹ Source, analyst, DRC

⁴² Mining Weekly, 14 Jun 2021

⁴³ Mining Weekly, 14 Jun 2021

⁴⁴ Mining Review Africa, 14 Jun 2021

⁴⁵ Mining Review Africa, 14 Jun 2021

Planner

20 Dec 2021 **Kinshasa (DRC)** End date of peacekeeping mission **Mission de l'Organisation des Nations Unies pour la stabilisation en République démocratique du Congo (MONUSCO)**.

2023 **(DRC)** Scheduled presidential and parliamentary elections

Chronology

16 Jun 2021 **Kinshasa (DRC)** *The East African*. President **Felix Tshisekedi** re-imposes restrictive measures aimed at combating **Covid-19** infections after declaring a “*third wave*” on 3 June;

16 Jun 2021 **Kinshasa (DRC)** *RFI*. Former presidential aide **Vital Kamerhe**'s lawyers say a **Kinshasa** appeal court decision has reduced Kamerhe's 20-year sentence for public embezzlement of nearly \$50m by seven years;

15 Jun 2021 **Kinshasa (DRC)** *EMPEA*. Consortium of investors led by **CDC Group**-backed **Gridworks Development Partners** signs concession agreement with DRC government to build and operate three off-grid solar-hybrid electricity facilities;

9 Jun 2021 **Kinshasa (DRC)** *Reuters*. **United Nations (UN)** employee has been placed under investigation following the murder of **Italian** ambassador **Luca Attanasio** on 6 February, for “*failing to take sufficient precautions to prevent the fatal attack*”;

8 Jun 2021 **Kinshasa (DRC)** *The Africa Report*. President **Félix Tshisekedi** retracts his bid for a non-permanent seat on the **United Nations Security Council** – a seat reserved for **Central Africa** from 2022;

7 Jun 2021 **Kinshasa (DRC)** *Al Jazeera* The **Democratic Republic of Congo (DRC)** will start the process of a phased return of residents who fled **Goma** in the aftermath of a volcanic eruption that destroyed thousands of homes and threatened to overrun the city;

4 Jun 2021 **Kinshasa (DRC)** *Mining Review*. New mines minister **Antionette N'Samba Kalabayi** will address a delegation at a mining event taking place from 14-15 June;

3 Jun 2021 **Kinshasa (DRC)** *AL Jazeera*. **Democratic Republic of the Congo (DRC)** politicians vote to extend the state of siege declared on 6 May in the violence-hit eastern **North Kivu** and **Ituri Provinces**;

3 Jun 2021 **Kinshasa (DRC)** *The East African*. Health minister **Jean- Jacques Mbungani** officially announces the third wave of **Covid-19** in the **Democratic Republic of the Congo (DRC)**, with the capital **Kinshasa** as the epicentre;

31 May 2021 **Beni (DRC)** *Al Jazeera*. At least 55 people are killed overnight in two attacks on villages in eastern Congo, which the army and the civil groups blame on the **Allied Democratic Forces (ADF)**; The **United Nations (UN)** estimates that this could be the worst night of violence the area has seen in the last four years;

28 May 2021 **Geneva (Switzerland)** *Reuters*. The **World Health Organisation (WHO)** is facing pressure following an investigation into allegations into sexual abuse in the DRC against WHO aid workers, which is expected to issue findings at the end of the August;

23 May 2021 **Kinshasa (DRC)** *Al Jazeera*. **Mount Nyiragongo** has erupted for the first time in nearly two decades, sending lava down the hillside towards the eastern city of **Goma** and forcing thousands of people to flee;

18 May 2021 **Kinshasa (DRC)** *Al Jazeera*. **Uganda** and **Democratic Republic of the Congo (DRC)** say they have agreed to share intelligence and coordinate a new push by Kinshasa to combat fighting the **Allied Democratic Forces (ADF)**.

About Africa Risk Consulting:

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