

AFRICA RISK CONSULTING

Gabon Monthly Briefing August 2016

Gabon Summary 15 August 2016

The Commission Electorale Nationale Autonome et Permanente (CENAP) (national electoral commission) finalises the presidential candidates' list, ahead of elections on 27 August. The final list, comprising 14 candidates, appears to favour incumbent president Ali Ben Bongo Ondimba (2009-present) as the opposition fails to unite behind a single candidate. Opposition candidates, including Jean Ping and Guy Nzouba-Ndama, lodge an appeal with CENAP against Bongo's presidential candidacy. President of the opposition Union du Peuple Gabonais (UPG) party, Jean de Dieu Moukagni Iwangou, also launches a legal case against Bongo, but the Court of Appeal rejects his allegations. Former clients of defunct Gabon-based bank Bâtitseur de Richesses SARL (BR SARL) file a lawsuit at the Parquet de Paris (Paris public prosecutor) against three former bank employees, alleging fraud, abuse of confidence, money laundering and illegal banking activity.

Electoral commission validates 14 presidential candidates

The **Commission Electorale Nationale Autonome et Permanente (CENAP)** (national electoral commission) on 15 July officially announced the final list of candidates for the presidential election on 27 August.¹ Reducing the number of candidates from 19 to 14 will marginally increase the likelihood of the opposition uniting behind a single candidate. However, the opposition remains fragmented, which favours incumbent **Ali Ben Bongo Ondimba** (2009-present). Of the candidacies approved, only Bongo's received particular attention, as the CENAP claims it was unable to consensually approve the application, and needed to put the candidacy to a vote at the plenary assembly.² Of CENAP's 19 members, 12 voted in favour of Bongo's candidacy's approval while seven voted against.³ CENAP's official presidential candidates list is as follows:

- **Ali Ben Bongo Ondimba, Parti Démocratique Gabonais (PDG)**. Bongo has a strong support base in the **Haut-Ogooué Province**, where he was a member of parliament (MP) between 1990 and 2001;
- **Jean Ping, Parti Gabonais du Progrès (PGP)**. Ping is considered Bongo's most credible rival, following a two-year campaign throughout Gabon in the lead-up to election. Ping is former **African Union (AU)** secretary general and was co-president of the 1993 **Organization of Petroleum Exporting Countries (OPEC)** Conference;⁴
- **Guy Nzouba-Ndama, PDG Héritage et Modernité (PDG-HM)**. Nzouba-Ndama was president of the **Assemblée Nationale** (parliament) from 1997 to March 2016;
- **Casimir Oyé Mba, Union Nationale (UN)**. Mba was prime minister from 1990 to 1994 and is UN vice-president;
- **Raymond Ndong Sima, independent**.⁵ Sima is a former prime minister and economist;
- **Pierre-Claver Maganga-Moussavou, Parti Social-Démocrate (PSD)**. Mossavou was a presidential candidate in 1993, 1998 and 2009, each time winning less than 10% of the vote;
- **Bruno Ben Moubamba, Union du Peuple Gabonais (UPG)**. Moubamba was a presidential candidate in 2009;

¹ Gabon Eco, 16 Jul 2016.

² Gabon Eco, 16 Jul 2016.

³ Gabon Eco, 16 Jul 2016.

⁴ www.un.org/ga/president/59/office/president.html; www.opec.org

⁵ Sima still aims to create a political alliance with several parties called the **Alliance Patriotique (AP)**.

- **Léon Paul Ngoulakia, Mouvement Patriote et Républicain (MPR)**. Ngoulakia was secretary of the **Conseil National de Sécurité** (national security council) between 2009 and 2013;
- **Dieudonné Minlama Mintogo, Convention Nationale de l'Interposition (CNI)**;
- **Paul Mba Abessole, Rassemblement pour le Gabon (RPG)**;
- **Augustin Moussavou King, Parti Socialiste Gabonais (PSG)**;
- **Gérard Ella Nguema, Rassemblement National des Républicains (RNR)**;
- **Michel Bouka Rabenkogo**, independent;
- **Roland Désiré Aba'a Minko**, independent;
- **Abel Mboumbe Nzoundou**, independent.⁶

CENAP rejected independent candidacy applications from **Jean-Jacques Ndong Mbadinga, Gervais Nzovi Moulengui, Pierre-Claver Mouele Mboumba** and **Michel Bouka Rabenkogo**, but did not provide an explanation.⁷

Several opposition members aim to discredit Bongo's candidacy

Opposition candidates including Ping and Nzouba-Ndama on 19 July lodged an appeal with CENAP against Bongo's presidential candidacy.⁸ They claim Bongo's candidacy is unconstitutional, alleging that he uses a false birth certificate to hide his non-Gabonese nationality.⁹ They claim that Bongo's candidacy would violate Article 10 of the constitution.¹⁰ Prior to this, opposition parties had submitted over 2,500 complaints against Bongo's candidacy.¹¹ President of the PDG Héritage et Modernité party **Alexandre Barro Chambrier** affirmed his doubt as to the birth certificate that Bongo would present, alleging that Bongo admitted he had produced a fake birth certificate in the 2009 elections,

*"Bongo in 2009 said that he had produced a fake birth certificate. Has he presented this same birth certificate or another? We cannot condone someone who would lead our country without fulfilling the requirements."*¹²

However, the ruling PDG party sees this as an unlikely outcome and a distraction from the opposition's inability to consolidate behind a single candidate against Bongo,

*"The opposition... will focus on the president's birth certificate and they will call on their supporters to cry foul. That is their strategy which reveals a profound condition: they are incapable of choosing a sole opposition candidate."*¹³

Following the launch of a separate case against Bongo, the **Court of Appeal** on 28 July summoned Bongo to appear before the court.¹⁴ The second case also concerns Bongo's nationality and the legitimacy of his candidacy in the presidential election (see above).¹⁵ President of the opposition UPG party, **Jean de Dieu Moukagni Iwangou**, who started the legal case against Bongo, says that he instigated litigation after interior minister **Pacome Moubelet Boubeya** did not respond to a dossier Iwangou delivered that outlined the opposition's concerns.¹⁶ The legal procedure against Bongo's candidacy could have lent credence to opposition allegations that he was born outside Gabon, however the plaintiff was unable to provide evidence that would have confirmed the allegations.

⁶ Multiple sources; Gabon Eco, 16 Jul 2016; Source, journalist, Libreville.

⁷ Gabon Eco, 16 Jul 2016.

⁸ RFI, 20 Jul 2016.

⁹ RFI, 20 Jul 2016.

¹⁰ RFI, 19 Jul 2016.

¹¹ Bloomberg, 14 Jul 2016.

¹² RFI, 14 Jul 2016.

¹³ RFI, 20 Jul 2016.

¹⁴ Gabon Review, 28 Jul 2016.

¹⁵ Gabon Review, 28 Jul 2016.

¹⁶ Gabon Review, 28 Jul 2016.

Iwangou alleges that Bongo acquired his Gabonese birth certificate under uncertain conditions.¹⁷ Iwangou claimed to have “*overwhelming evidence*” to support this.¹⁸ The court delayed proceedings until 1 August, while Iwangou’s lawyers called for the recusal of the Court of Appeal judge, **Paulette Ayo Mba**.¹⁹ Iwangou’s lawyers claim that Ayo Mba has ruled in favour of Bongo in the past, and therefore could not demonstrate impartiality.²⁰

When Iwangou appeared before court on 12 August, however, the court rejected his claims.²¹ The court deemed that the proof Iwangou provided was insufficient to indict Bongo.²² Iwangou presented several documents to the court, including one of Bongo’s several publically available birth certificates and documents that the defence claimed was false.²³ The court ruled that the only legitimate proof would have been adoption papers, a marriage act or any other document that could justify an acquired nationality.²⁴ The court ordered Iwangou to pay compensation for legal fees.²⁵

Alleged Ponzi scheme goes to court in Paris

Former clients of defunct Gabon-based bank **Bâtisseur de Richesses SARL**²⁶ (**BR SARL**) on 5 August filed a lawsuit at the **Parquet de Paris** (Paris public prosecutor) against three former bank employees alleging fraud, abuse of confidence, money laundering, and illegal banking activity.²⁷ The case will undermine investor confidence as it alleges both inadequate oversight from the economy ministry and political meddling in the Gabonese judiciary. **Franck Charles Agondjot**, president of the **Bureau Collectif des Clients Spoliés par la BR SARL (BCCS)** (Association of clients defrauded by BR SARL) delivered the dossier in conjunction with the **Réseau des Organisations Libres de la Société Civile pour la Bonne Gouvernance au Gabon** (Network of civil society organisations for good governance) and **On ne m’achete pas** (I can’t be bought).²⁸ France-based lawyer **Maitre Norbert Tricaud**, will represent the parties.²⁹

Prior to its collapse in October 2015, BR SARL is alleged to have diverted over \$40m.³⁰ In November 2015, the economy ministry noted that BR SARL was unregistered as a company, and therefore undertaking illegal banking activity.³¹ The company, when operational, reportedly offered monthly interest rates of 20% (242% annually).³² The plaintiffs claim that this would have affected over 30,000 Gabonese and French clients.³³ The accused employees are:

- Former CEO, **Yves David Mapakou**;³⁴
- Founding shareholder, **Ignace Koubla**;
- Founding shareholder, **Aristide Kodjo Guenzo**.³⁵

¹⁷ Gabon Review, 28 Jul 2016.

¹⁸ Gabon Review, 29 Jul 2016.

¹⁹ Gabon Review, 29 Jul 2016.

²⁰ Gabon Review, 3 Aug 2016.

²¹ Gabon Review, 13 Aug 2016.

²² Gabon Review, 13 Aug 2016.

²³ Gabon Review, 13 Aug 2016.

²⁴ Gabon Review, 13 Aug 2016.

²⁵ Gabon Review, 13 Aug 2016.

²⁶ Translated as ‘builder of wealth’

²⁷ Jeune Afrique, 3 Aug 2016.

²⁸ Jeune Afrique, 3 Aug 2016.

²⁹ Jeune Afrique, 3 Aug 2016.

³⁰ Jeune Afrique, 25 May 2016.

³¹ Jeune Afrique, 3 Aug 2016.

³² Jeune Afrique, 25 May 2016.

³³ Jeune Afrique, 25 May 2016.

³⁴ Jeune Afrique, 25 May 2016.

³⁵ Jeune Afrique, 3 Aug 2016.

The Gabonese press, during **Libreville**-based court proceedings in April, reported that French authorities had detained Mapakou.³⁶ Mapakou then accused Koubla and Guenzo of misappropriating clients' money in accounts in **China**.³⁷ Commentators also accuse the Bongo government of complicity,

*"The BR SARL case is making a lot of noise in Gabon because the bank would have had trade ministry support, who are equally complicit in the [Ponzi scheme]. The majority of its clients were in Gabon... the great surprise is that the clients are being compensated by Bongo. The initiative is seen as a form of recovering a part of his electorate."*³⁸

Agondjot claimed that a parallel case against the company at the Libreville tribunal of first instance is "suffocating" and therefore the parties sought legal action in another jurisdiction.³⁹ This is indicative of concerns about political interference in the Gabonese judiciary. The allegations, if proven, may damage investor confidence in Bongo's government.⁴⁰ This is significant because there have been several other allegations of political meddling in the judiciary, for example, in the ongoing court case against Bongo's presidential candidacy.

Implications

Bongo appears to be the favourite in the lead-up to elections. The largest concern for Bongo is if the opposition rallies behind a single candidate – something that seems unlikely so close to the election. The close historic ties of many opposition candidates to the ruling PDG cloud their true political affiliations and could lend credence to the accusations of puppet opposition candidates that the PDG expects will divide the opposition.

The legal cases against Bongo highlight the will of some opposition candidates and members to discredit his candidacy. The collapse of Iwangou's case against Bongo, however, underlines the unlikelihood of any meaningful judgment before the elections that could prevent Bongo from standing for re-election.

The BR SARL scandal points to mismanagement and insufficient oversight on behalf of the regulator and economy ministry. Other allegations claim government involvement in preventing a court case against BR SARL from progressing or even making compensation pay-outs to former BR SARL clients. The case will prove detrimental to Gabon's investor profile.

³⁶ Jeune Afrique, 3 Aug 2016.

³⁷ Jeune Afrique, 25 May 2016.

³⁸ Jeune Afrique, 3 Aug 2016.

³⁹ Jeune Afrique, 3 Aug 2016.

⁴⁰ Jeune Afrique, 3 Aug 2016.

About Africa Risk Consulting:

Africa Risk Consulting (ARC) is a pan-African consulting company that provides timely, relevant information and advice that enables its clients to take informed investment decisions and to safeguard their reputations.

ARC's core consulting services include integrity due diligence and corporate investigations, political advisory and country assessments, opportunity monitoring and reputation risk management. Most relevant to private equity firms is ARC's integrity due diligence and corporate investigations capability. Specifically, ARC offers pre-deal integrity checks to highlight red flags before negotiations start; full detailed multi-jurisdictional reputation due diligence; and supplier and senior hire vetting and repeat due diligence for compliance programmes. ARC is unique in that it offers a 10-day delivery for a routine integrity due diligence. ARC also offers a suite of corporate investigations services from immediate investigation, evidence gathering, e-discovery, forensic accounting and whistleblower support on one end to crisis media management and regular monitoring on the other.

www.africariskconsulting.com

About ARC Briefing:

ARC Briefing is ARC's essential online business information service.

Companies at any stage in their Africa expansion, whether building or communicating an Africa strategy, investing directly, expanding current operations, financing other investors, doing the legal leg-work or researching the Africa growth trend, need ARC Briefing.

ARC Briefing is an online information service keeping you:

- Up to date with Country Chronologies of business-critical events
- In the know via Country Briefings on political, economic, business and operating trends. Written in-country, ARC experts analyse and comment
- Ahead with Country Planner which details future elections, budgets, regulatory changes etc.

www.briefing.africariskconsulting.com

Getting in touch

Please contact us by email info@africariskconsulting.com or call + 44 (0) 20 7078 4080

Follow us on Twitter: [@ARCBriefing](https://twitter.com/ARCBriefing)