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A Cour Constitutionnelle (constitutional court) ruling delays legislative elections until April 2018 at the latest. Moody's downgrades Gabon's long-term issuer and senior unsecured government debt rating from B1 to B3, maintaining a negative outlook. An International Criminal Court (ICC) team conducts a two-day preliminary investigation into post-election violence following the presidential election in August 2016. President Ali Ben Bongo Ondimba (2009-present), Equatorial Guinea's president, Teodoro Nguema Obiang (1979-present), and Republic of Congo's president, Dennis Sassou-Nguesso (1997-present), announce they will jointly sue non-governmental organisation (NGO) Transparency International over court action in France related to "ill-gotten" property.

Constitutional court announces delay to legislative elections

The **Cour Constitutionnelle** (constitutional court), on 18 July, published a ruling that will delay legislative elections until April 2018 at the latest.¹ Interior minister **Lambert Matha** had appealed to the constitutional court to legitimise the declaration of a *force majeure*, claiming that elections would not be able to take place before April 2018.² The constitutional court approved the declaration of a *force majeure*. The legislative election delay could intensify tensions between opposition parties and President **Ali Ben Bongo Ondimba's** (2009-present) ruling **Parti Démocratique Gabonais (PDG)**.³ After the cross-party dialogue held between the PDG and some opposition parties and the signature of the **Accord d'Angondjé** political reform blueprint at the end of May, legislative elections are the next significant event in the political calendar (see *ARC Briefing Gabon May 2017*). Member of parliament (MP) mandates officially expired in December 2016.⁴ Matha announced in December that the **Commission Électorale Autonome et Permanente (CENAP)** (election commission) would delay legislative elections from December 2016 to 29 July 2017 at the latest, due to insufficient funds.⁵ The opposition claimed that this was insufficient reason to justify the delay.⁶ A local source claims that the delay shows several things,

*"The delay creates two reflexions: the financial means are not available to hold the elections in 2017, and that the political situation is entirely in limbo since Bongo formed a government without his main rival Jean Ping."*⁷

On this occasion, however, the Constitutional Court claims that

*"[It cannot] reconcile the time required by the competent authorities to complete the electoral reform process... for the organisation of MPs at the assemblée nationale (parliament)."*⁸

Some government members claim that after the government had committed to increasing the number of members of parliament from 120 to 150, legislative elections in July were not possible.⁹

¹ Gabon Review, 18 Jul 2017.

² AFP, 18 Jul 2017.

³ Gabon Review, 18 Jul 2017.

⁴ Gabon Review, 18 Jul 2017.

⁵ Gabon Review, 4 Dec 2016.

⁶ L'Union, 11 Dec 2016.

⁷ Source, journalist, Libreville

⁸ Gabon Review, 18 Jul 2017.

⁹ Jeune Afrique, 18 Jul 2017.

Furthermore, there is speculation in **Gabonese** press that Ping, the opposition candidate in the August 2016 presidential elections, could call for a boycott of legislative elections due to allegations of electoral fraud in the presidential elections.¹⁰ However, it appears increasingly likely that such a move would not receive full support from opposition parties. **Guy Nzouba Ndama**, president of the minor opposition **Les Démocrates** party, says he does not support Ping's "*radicalism*"¹¹ in opposing Bongo, stating he "*would not follow him.*"¹² Ndama defected from the ruling PDG and his position as president of parliament in March 2016, but supported Ping's candidacy in the August election. Nevertheless, Ndama does not support the delay in legislative elections, criticising the legitimacy of the constitutional court,

*"The constitutional court ... serve[s] the needs of the president and the government."*¹³

Delays in the organisation of the legislative elections, initially scheduled for December 2016, have serious implications for the election result. The opposition was arguably far more unified in December 2016 than it is likely to be in April 2018 – signs of a decrease in support for Ping have been evident since the signature of the Accord d'Angondjé. Meanwhile, higher profile public objections to Ping's stance against Bongo, such as that of Nzouba-Ndama, do little to bolster Ping's attempts to rally the opposition behind him.

Moody's downgrades Gabon's credit rating

International ratings agency **Moody's** has downgraded Gabon's long-term issuer and senior unsecured government debt ratings from B1 to B3 and maintained its negative outlook.¹⁴ Moody's also downgraded Gabon's local currency and foreign currency bond and deposit ceilings from Ba1 to Ba3. Moody's said the main reasons for the downgrades were:

- deteriorating public finances due to persistently low oil prices and limited policy adjustment capacity;
- acute government liquidity pressures;
- uncertainties regarding the government's strategy to refinance maturing debt and fund its deficit despite support from official creditors, which remains conditional.¹⁵

Gabon continues to face a difficult fiscal environment due to the continued low international oil price.¹⁶ Low oil prices have led to a marked drop in government revenue to 17% of gross domestic product (GDP) in 2016 from 30% in 2013.¹⁷ Moody's noted that,

*"As revenues decreased, the government faced a difficult policy trade-off between cutting expenditure, especially capital spending, which peaked at 7% of GDP in 2014, and supporting its non-oil economy. While fiscal deficits have been relatively limited on a cash basis to about 5% of GDP on average over 2015/16, this has been to the detriment of the government's accumulation of arrears. In turn, government arrears have affected non-oil economic activity, disrupting in particular cash-flows for goods and services providers to the government."*¹⁸

Hence, the government's debt has also increased, from 33% of GDP in 2014 to 55% of GDP in 2016. The government has turned to the private debt market to cover some of its financing needs.¹⁹ Private sector debt, including Eurobonds, loans from commercial banks and domestic debt, excluding the debt

¹⁰ Gabon Review, 18 Jul 2017.

¹¹ Gabon Review, 17 Jul 2017.

¹² Gabon Review, 17 Jul 2017.

¹³ RFI, 19 Jul 2017.

¹⁴ www.moody's.com

¹⁵ www.moody's.com

¹⁶ www.moody's.com

¹⁷ www.moody's.com

¹⁸ www.moody's.com

¹⁹ www.moody's.com

owed to the **Banque des États de l'Afrique Centrale (BEAC)** (bank of Central African states), represented an estimated 77% of the total government debt at the end of 2016.²⁰

*"Faced with such large financing needs as well as associated pressures on the balance of payments, the government of Gabon had to resort to an **International Monetary Fund [IMF]** program that provides \$642m (4.6% of GDP) in financing under the extended fund facility (EFF). The EFF plays a catalysing role for other external financing from the official sector with the aim of closing any financing gaps. That being said, disbursements will remain contingent upon the government of Gabon meeting the conditions set by the program. Given the country's weak institutions, the implementation of the EFF faces execution risk."*²¹

The IMF programme could boost foreign investors' confidence, supporting the government's capacity to roll-over its December 2017 Eurobond (\$193m or 1.4% of GDP).²² However, Moody's downgrade of Gabon's debt ratings has instant negative implications for the government's ability to raise money on international markets. Furthermore, the oil price environment appears to have stagnated, which complicates a non-debt based solution to the government's debt woes.²³ Moody's negative outlook does not instil confidence in investors, as a robust economic recovery in the medium-term appears unlikely.

ICC completes preliminary post-election violence investigation

An **International Criminal Court (ICC)** team conducted a two-day preliminary investigation, from 21 June until 22 June, into the violence following the much-disputed 2016 presidential election.²⁴ The ICC team will forward the findings of the preliminary investigation to the ICC prosecutor's office, which could lead to the initiation of a full investigation of the alleged crimes against humanity committed during the protest against Bongo's re-election in August 2016.²⁵ The ICC conducted a preliminary examination of the complaints lodged against the Gabonese government, by Jean Ping and 15 non-governmental organisations, regarding post-election violence in August 2016.²⁶ The opposition claims government security forces killed 26 people during riots and protests following the election, which contradict the government's claim that only three people died.²⁷ During its preliminary investigation, the ICC team interviewed members of the government, the opposition, civil society, public prosecutors and diplomats.²⁸ However, according to one source, the investigation concerns both camps,

*"The responsibility for the protests will be shared between the two camps (ruling PDG and opposition)."*²⁹

Chief analyst at the ICC **Emeric Rogier** stated in an interview that the investigations were positive and unimpeded by any party. Rogier said that both the government and the opposition offered contradictory versions of the events of post-election violence, as well as contradictory numbers of people killed.³⁰ The Gabonese government issued a statement echoing Rogier's report that the investigations were unimpeded, but strongly refuted opposition claims that there are mass graves hiding hundreds of victims of post-election violence who are unaccounted for.³¹ However, Ping's spokesman, **Clay Martial Obame** cited restrictions on access to funeral homes and massacres in the

²⁰ www.moody.com

²¹ www.moody.com

²² www.moody.com

²³ www.nasdaq.com

²⁴ RFI Africa, 23 Jun 2017.

²⁵ Africanews, 23 Jun 2017.

²⁶ Africanews, 24 Jun 2017.

²⁷ Africanews, 24 Jun 2017.

²⁸ RFI Africa, 23 Jun 2017.

²⁹ Source, journalist, Libreville

³⁰ RFI Africa, 23 Jun 2017.

³¹ RFI Africa, 23 Jun 2017.

Prison Centrale de Libreville (Libreville central prison) as evidence of government cover-ups of killings.³²

The contrasting reports of post-election violence in the wake of the August 2016 presidential elections increase doubt surrounding the extent of the Bongo regime's repressive measures. The ICC appears serious about conducting a thorough investigation into the opposition's allegations against Bongo. The timeframe for publication of the final investigation's report is unclear. However, with **Gambia's** exit from the ICC in October, and the increasingly popular criticism of the ICC for its alleged exclusive targeting of African leaders, it could become politicised as ICC investigators examine the case further.³³

Bongo & two other presidents plan to sue Transparency International

President Bongo together with **Equatorial Guinea's** president, **Teodoro Nguema Mbasogo Obiang** (1979-present), and **Republic of the Congo's** president, **Denis Sassou Nguesso** (1997-present), announced they will jointly sue global non-governmental organisation (NGO) **Transparency International** over continual court action in **France** related to "*biens mal acquis*"³⁴ property, according to media reports on 8 July.³⁵ The leaders' move aims to challenge the seizure of property and funds that they and their families own in France, allegedly purchased from funds embezzled from their respective countries.³⁶ France-based human rights lawyer **William Bourdon** instigated the investigation in 2007 on Transparency International's behalf, which led to Obiang's son, current vice president **Teodorín Obiang**, being charged with embezzlement, and the seizure of a six-storey home in **Paris** (France) and a fleet of high end vehicles, in 2012.³⁷ Bongo and Sassou-Nguesso are also the subject of investigation into their ownership of high-end real estate in France.³⁸ Teodorín Obiang denies any wrongdoing, claiming that neither national nor international law prohibit the purchase of property in **Europe**.³⁹ He further argues that there was no basis for the charge that properties bought in France with money earned in Equatorial Guinea could be regarded as products of ill-gotten wealth.⁴⁰ However, France-based financial prosecutor **Jean-Yves Lourgouilloux** said that Teodorín Obiang, who served as agriculture and forestry minister prior to assuming the vice president's role in 2012, spent over 1,000 times his annual salary of \$80,000.⁴¹ The Bongo family reportedly owns 40 luxury mansions and apartments in Paris alone, while Sassou-Nguesso owns 24 properties in Paris.⁴²

Local sources believe that without Transparency International's allegations, there would be little interest in the three presidents' assets,

*"This 'biens mal acquis' case in Gabon, Congo and Equatorial Guinea was favoured by many westerners, who found that their own stakes in a corrupt and well-oiled system were escaping them due to the insatiable appetite of African leaders, many of which hold much illegal money in their countries."*⁴³

Obiang's lawyer, **Emmanuel Marsigny**, says that France has begun a vendetta against Central African leaders which has no legal basis,

"What competence does the French judiciary have to rule on acts carried out by foreigners, abroad, in respect of foreign law? This is a judicial aberration which relies on the premise that it

³² RFI Africa, 24 Jun 2017.

³³ Multiple sources: The Economist, 4 Feb 2016; Quartz, 26 Oct 2016.

³⁴ Translated as "*ill-gotten gains*."

³⁵ The Independent, 8 Jul 2017.

³⁶ The Independent, 8 Jul 2017.

³⁷ The Independent, 8 Jul 2017.

³⁸ The Independent, 8 Jul 2017.

³⁹ Daily Nation, 8 Jul 2017.

⁴⁰ Daily Nation, 8 Jul 2017.

⁴¹ Daily Nation, 8 Jul 2017.

⁴² Daily Nation, 8 Jul 2017.

⁴³ Source, journalist, Libreville

*seeks to criminalise this so-called 'biens mal acquis' affair. There is a problem of sovereignty here, as the French judiciary has given itself the right to interfere in internal matters of Equatorial Guinea, without any competence to do so."*⁴⁴

The French case places Bongo in a delicate situation in which he needs to manage his image and minimise the negative implications to his reputation of the allegations made against him and his family. Bongo appears to believe the most convincing stance against such allegations is to enter litigation, in order to seek to reverse the damage to his image.

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⁴⁴ Le Monde, 17 Jul 2017.