

## AFRICA RISK CONSULTING

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#### Uganda Summary 24 February 2016

**President Yoweri Museveni (1986- present) wins the 18 February presidential election with 60.8% of the vote, avoiding a second round run off. Forum for Democratic Change (FDC) candidate Kizza Besigye wins 35.4%. Logistical problems, allegations of electoral fraud and violence undermine the credibility of the election. Domestic and international observers criticise the conduct of the election. The opposition considers legal redress or popular protests. Parliament passes the Financial Institutions Amendment Bill 2015 which restructures the retail banking sector.**

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#### Museveni wins presidential election ...

The **Independent Electoral Commission (IEC)** has declared President **Yoweri Museveni** (1986-present) winner of the 18 February presidential election.<sup>1</sup> The elections lacked credibility, undermining **Uganda's** political risk profile and investor perceptions. According to the IEC results, Museveni won 60.8% of the vote, while leading opposition candidate **Kizza Besigye** of the **Forum for Democratic Change (FDC)** won 35.4%.<sup>2</sup> It is notable that Museveni's vote share declined markedly from 68.4% in 2011, while Besigye's increased from 26%. This suggests that the ruling **National Resistance Movement (NRM)** should not remain complacent with regard to its dominant position in Ugandan politics, and must adapt to stay relevant to younger voters. However, Museveni won more than 50% of votes, sufficient to avoid a second round run-off. The other presidential candidates, including former prime minister **Amama Mbabazi**, each won less than 1.5%.<sup>3</sup>

The conduct of the elections was poor. Logistical problems meant that several polling stations opened late or not at all.<sup>4</sup> Other polling stations had incorrect ballot papers.<sup>5</sup> The majority of reported problems were in opposition urban areas including **Kampala, Wakiso, Mukono** and **Entebbe**.<sup>6</sup> According to a defeated presidential candidate,

*"I characterise the election as a mixed bag of fortune because in some places it was fair while in others it was not free at all. Polling stations which are hardly a kilometre from the headquarters of the IEC received voting materials just two hours before the end of the exercise and this left many people disenfranchised."*<sup>7</sup>

Numerous sources alleged electoral fraud. According to the defeated presidential candidate,

*"There was also open bribing of voters and ballot stuffing."*<sup>8</sup>

According to a journalist close to the Museveni campaign,

*"This was a clearly rigged and manipulated election."*<sup>9</sup>

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<sup>1</sup> Daily Monitor, 20 Feb 2016.

<sup>2</sup> Daily Monitor, 20 Feb 2016.

<sup>3</sup> Daily Monitor, 20 Feb 2016.

<sup>4</sup> The Independent, 18 Feb 2016.

<sup>5</sup> The Independent, 18 Feb 2016.

<sup>6</sup> The Independent, 18 Feb 2016.

<sup>7</sup> Source, defeated presidential candidate, Kampala

<sup>8</sup> Source, defeated presidential candidate, Kampala

<sup>9</sup> Source, journalist, Kampala

The poor conduct of the election raises questions about the independence and capacity of the IEC.

*“It seems to me that before the presidential elections, Uganda was fully under military rule. It also seems and maybe it was apparent that the so-called Independent Electoral Commission was not in charge of the elections. An invisible hand seemed to have appropriated the powers and responsibilities of the Commission. It was an exercise in deception that the people were electing when figures were just being allotted from an unofficial source.”<sup>10</sup>*

There were also limited clashes between opposition supporters and security forces who used tear gas and rubber bullets to disperse crowds in **Ggaba** (Kampala).<sup>11</sup> The government also notably – if not entirely successfully – attempted to close down online social media sites citing security concerns. Security forces detained Besigye before, during and after the election. On 15 February security forces temporarily detained Besigye as he attempted to address a rally near the **University of Makerere** (Kampala).<sup>12</sup> The **Uganda Police Force (UPF)** used teargas and rubber bullets to disperse FDC supporters, resulting in at least one death.<sup>13</sup> On election day, security forces temporarily detained Besigye in Kampala as he attempted to enter a building that the FDC alleged the NRM was using for vote rigging.<sup>14</sup> Security forces placed Besigye under house arrest on 22 February and stormed the FDC headquarters in Kampala as Besigye planned to lead a march to the Electoral Commission. There is still a high security presence in Kampala.

*“In Kampala, there is a heavy police and military presence and there’s also ongoing crackdown on opposition supporters. Many have been rounded up by security officials and incarcerated.”<sup>15</sup>*

Nevertheless, the election campaign has not had the violent street protests and heavy-handed response of security forces that undermined the credibility of the 2006 and 2011 elections. Analysts argue that the NRM has not needed to resort to violent tactics as it enjoys a significant financial advantage over the opposition parties. The non-governmental organisation (NGO) **Alliance for Election Campaign Finance Monitoring** claims that the NRM and its candidates spent \$35m on campaigning in November and December alone, approximately 87% of all party election spending.<sup>16</sup> The NGO estimates that Museveni spent \$8m on his campaign during the same period, approximately 12 times the amount that the other presidential candidates spent combined.<sup>17</sup>

Domestic and international observers have raised concerns about the credibility of the election. The domestic **Citizens’ Election Observers’ Network Uganda** has said that the election did not meet international standards for a free and fair election.<sup>18</sup> In interim reports, the **Commonwealth** said the election “fell short of democratic benchmarks”<sup>19</sup> and the **European Union** said the NRM’s political dominance “distorted”<sup>20</sup> the election. The **United States (US)** state department called on the government to better control its security forces.<sup>21</sup> There is uncertainty about whether international donors will impose aid cuts in response to the election.

*“The international community will react, yes, but in the same old passive stand – a few condemnations and just that.”<sup>22</sup>*

<sup>10</sup> Source, policy analyst, Kampala

<sup>11</sup> The Independent, 18 Feb 2016.

<sup>12</sup> Daily Monitor, 16 Feb 2016.

<sup>13</sup> Daily Monitor, 16 Feb 2016.

<sup>14</sup> Reuters, 18 Feb 2016.

<sup>15</sup> Source, journalist, Kampala

<sup>16</sup> Mail and Guardian, 15 Feb 2016.

<sup>17</sup> Mail and Guardian, 15 Feb 2016.

<sup>18</sup> Daily Monitor, 21 Feb 2016.

<sup>19</sup> www.thecommonwealth.org

<sup>20</sup> The Monitor, 20 Feb 2016.

<sup>21</sup> www.state.gov

<sup>22</sup> Source, journalist, Kampala

Nevertheless, the conduct of the election will have a negative economic impact as it undermines investor perceptions of Uganda.

*"This election had many flaws such as failure to deliver voting materials on time, ballot stuffing and allegations of results forging. The overall result is that the credibility of Museveni as a duly elected president is affected. For as long as we have an angry population we will have a Uganda over the next six months that is seen by the rest of the world to be a risky area in which to invest."*<sup>23</sup>

The results of the parliamentary and local elections, which the NRM is expected to dominate, are not yet fully known. However, interim results indicate that 17 ministers have lost their parliamentary seats, including high profile appointments: interior minister **Rose Akol**, defence minister **Crispus Kiyonga**, justice minister **Kahinda Otafiire** and attorney general **Fred Ruhindi**.<sup>24</sup>

### ... and the opposition considers its response

The FDC has alleged electoral fraud and called for an independent audit of results.<sup>25</sup> The FDC may seek legal redress but Besigye said before the election that he has no faith in the judiciary after his petitions failed to challenge either the 2006 or 2011 elections.<sup>26</sup> Museveni has used a large number of senior judicial appointments to ensure the courts tend to favour the NRM.<sup>27</sup> However, Mbabazi has repeatedly used the courts to challenge the NRM, including following his expulsion as NRM secretary general in December 2014. Mbabazi's legal team has said, *"legally speaking, the election is fundamentally flawed"*.<sup>28</sup> Mbabazi additionally on 1 January petitioned the **International Criminal Court (ICC)** to investigate allegations that the Uganda Police Force (UPF) detained opposition members and disrupted opposition activities during the general election campaign.<sup>29</sup> The ICC has the jurisdiction to investigate any allegation that the national court system is unable or unwilling to rule on. The ICC has not yet responded to Mbabazi's petition, but is unlikely to launch proceedings while domestic investigations into alleged UPF violence continue. Mbabazi may therefore bring a domestic or international legal challenge against the election results. The security forces could, however, argue that their actions were entirely legal under the wide-ranging **Public Order Management Act of 2015**.

It is possible that the FDC will organise anti-government protests as it did following the 2011 election, some of which turned violent.

*"Right now those who associated with the losers are very bitter and this could lead to civil strife. The significance of this sham election is that people are now too cynical and are vowing never again to participate in any election until this current regime leaves power."*<sup>30</sup>

The government's ongoing security crackdown on the opposition may exacerbate tensions.

*"There is too much discontent among the populace and the state is reacting with too much force and this will make people look for alternative ways of defending themselves."*<sup>31</sup>

Protests will disrupt business activity.

*"In Kampala city centre business will be disrupted and also it will affect foreign investment, but temporarily."*<sup>32</sup>

<sup>23</sup> Source, investor, Kampala

<sup>24</sup> New Vision, 22 Feb 2016.

<sup>25</sup> Daily Monitor, 21 Feb 2016.

<sup>26</sup> Daily Monitor, 21 Feb 2016.

<sup>27</sup> Source, senior western diplomat, Uganda

<sup>28</sup> Daily Monitor, 21 Feb 2016.

<sup>29</sup> Daily Monitor, 1 Jan 2016.

<sup>30</sup> Source, defeated presidential candidate, Kampala

<sup>31</sup> Source, journalist, Kampala

<sup>32</sup> Source, journalist, Kampala

It will also undermine Uganda's political risk profile.

*"The significance of it will certainly be felt in the short, medium and long-term. Already many Ugandans have lost confidence in the electoral process and the institution that governs the elections. In the medium term we shall have enhanced authoritarianism and high-handedness. You know what that means. In the long-term we shall have instability and a more divided country."*<sup>33</sup>

However, the 2011 'walk to work' protests only gained national support because the opposition was able to harness popular economic grievances about increased fuel prices and inflation.

### Parliament restructures banking sector

Parliament has passed the **Financial Institutions Amendment Bill 2015** which restructures the retail banking sector.<sup>34</sup> The new regulatory framework will encourage the entry of new retail banking operators, with **Kenya**-based banks well positioned to take advantage. The bill replaces elements of its 2004 predecessor, which – in combination with the **Financial Institutions Regulations 2005** – introduced a risk-based supervision approach following the banking crisis of September 1998 and May 1999. The government liberalised the financial sector in the early 1990s and actively encouraged competition in the banking sector that state-owned banks had previously dominated. Between 1990 and 1995, the government licensed 11 private banks.<sup>35</sup> The crisis followed a banking sector-wide audit that revealed illegal levels of insider lending to companies linked to bank owners or directors.<sup>36</sup> In response to the audit, the **Central Bank of Uganda (BoU)** closed the **International Credit Bank** and **Trust Bank**. The BoU took day-to-day control of **Greenland Bank**, where insider lending accounted for 55% of the loan portfolio, before closing it in March 1999, after it was involved in the allegedly corrupt privatisation of **Uganda Commercial Bank**.<sup>37</sup> Uganda's second largest bank, **Cooperative Bank**, closed after \$7m losses amid large non-performing loans to politicians and shareholders.<sup>38</sup> All the banks were operating with weak internal governance controls, which allowed audits to portray their operations as sound, even as non-performing assets increased.<sup>39</sup> The increased regulation of the sector encouraged an increase in merger and acquisition activity, which increased competition and product availability in the increasingly well-capitalised banking sector.

However, the banking sector remains uncompetitive and risk appetite low resulting in high commercial lending rates and banks dependent on lending to the government rather than the private sector. As well as encouraging competition, the new legislation is to cover the new financial products and improve the banking sector's penetration rate. The legislation allows for limited scale banking services, including deposit taking and money transfers, to take place through licensed representatives of banks outside traditional retail branches.<sup>40</sup> Agency banking will increase banking access.

The legislation also means that the BoU will regulate all telecoms operators' transfer services, and prohibits them from directly engaging in mobile banking.<sup>41</sup> The new regulations will additionally strengthen the hand of banks in their partnerships with telecommunications companies to deliver mobile banking and money transfer services. The new legislation will cap the amount of capital that telecommunications companies can handle. Mobile money transfer services currently serve more than 15 million Ugandans compared to the five million who use traditional bank services.<sup>42</sup> The

<sup>33</sup> Source, political analyst, Kampala

<sup>34</sup> East African, 17 Jan 2016.

<sup>35</sup> Harvard University, Nov 2003.

<sup>36</sup> Harvard University, Nov 2003.

<sup>37</sup> East African, 19 Feb 2002.

<sup>38</sup> East African, 6 Jun 1999.

<sup>39</sup> CBU, 1999

<sup>40</sup> East African, 17 Jan 2016.

<sup>41</sup> East African, 17 Jan 2016.

<sup>42</sup> East African, 17 Jan 2016.

increased regulation may slow the roll-out of mobile banking but will ensure greater safeguards for deposits.

The legislation also allows conventional commercial banks as well as stand-alone sharia-compliant institutions to offer Islamic banking services.<sup>43</sup> This is subject to the establishment of a regulatory **Central Sharia Advisory Board** in the BoU. The sharia regulation will encourage closer financial links between Uganda and the **Organisation of Islamic Cooperation (OIC)**, which has already provided interest free loans.

The new amendments also provide for bancassurance, whereby banks in partnership with insurance companies provide life assurance and other insurance products. The insurance sector also has a low penetration rate, which currently stands at 0.8% of gross domestic product (GDP).<sup>44</sup>

The amendments do not impact the BoU's power to close commercial banks, license financial institutions and vet all senior appointments at commercial banks. Uganda's legislation does not, however, stipulate internationally recognised standards for 'Know Your Customer' verification, exposing operators to money counterfeiting and identification fraud risks.

### Implications

It is likely that opposition allegations of vote rigging and electoral fraud are credible. It is, however, impossible to determine their impact on the result. Outside opposition urban heartlands, Museveni retains high levels of support in rural areas. Observer missions are likely to repeat their previous findings that the election, while deeply flawed, broadly represents the will of Ugandans. If donors do impose cuts, an immediate concern would be Uganda's balance of payments and whether Uganda would be able to finance its fiscal and current account deficit.

The opposition, which recruited youth militias ahead of the election, is likely to resort to street protests. These will result in sporadic, localised outbreaks of violence. The government's heavy security presence and Museveni's popularity in rural areas make widespread unrest unlikely.

The amended banking sector regulations will attract new market entries. Kenya-based banks are increasingly looking for regional expansion opportunities. The **Commercial Bank of Africa**, Kenya's largest privately owned bank, expects to enter **Rwanda** in the first half of 2016. Uganda will increasingly compete for this regional banking investment, as well as Islamic investment from **The Gulf** states. While the banking sector is more secure than prior to the banking crisis, the increase in commercial lending rates as the government looks to curb inflation may result in increases in non-performing loans.

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<sup>43</sup> East African, 17 Jan 2016.

<sup>44</sup> East African, 17 Jan 2016.

### About Africa Risk Consulting:

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

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