

AFRICA RISK CONSULTING**Zambia Monthly Briefing April 2017**

Zambia Summary 27 April 2017

Police in Zambia arrest opposition United Party for National Development (UPND) leader Hakainde Hichilema on charges of treason for obstructing president Edgar Lungu's (2015-present) motorcade. Hichilema remains in prison as the charges are non-bailable. The Zambia Electricity Supply Corp (Zesco) introduces a flat electricity tariff for copper miners roughly 30% higher than the average fluctuating tariff. Zesco announces increases for commercial customers of 75% between April and September this year. The government will sign a \$1.6 billion extended credit facility (ECF) with the International Monetary Fund (IMF) in June.

Hichilema arrested on treason charges

Police in **Zambia** arrested opposition **United Party for National Development (UPND)** leader **Hakainde Hichilema** on charges of treason on 11 April.¹ The charges raise questions about the political ties between ruling **Patriotic Front (PF)** president **Edgar Lungu** (2015-present) and the **National Prosecution Authority** which filed the charges. UPND supporters are appealing to the government and to the international community to prevent what they describe as politically motivated charges.² UPND protestors took to the streets on 24 April to protest the decision, and set a number of state-owned buildings on fire in capital **Lusaka**.³

*"If anyone doubted that Lungu and the PF are crooked, now they can see how they use the state against the UPND...Hichilema hurt Lungu's pride so the president is taking petty revenge with the courts...it is an insult to Zambian democracy."*⁴

While addressing a rally in Lusaka on 15 April Lungu denied that the charges have any political connection. He told his supporters that he could no more intervene in Hichilema's case than he could intervene in any of the cases against PF cadres who faced charges of violence and intimidation during the election.⁵

Police arrested Hichilema at his home in Lusaka.⁶ The initial treason charge relates to an incident that took place on a motorway between Lusaka and **Mongu** in **Western Province** on 8 April.⁷ Both Hichilema and Lungu were on the way to a traditional **Kuomboka** ceremony in Mongu. Hichilema's motorcade refused to give way to Lungu's motorcade on the motorway.⁸ Both motorcades involved a number of cars carrying a total of 120 people.⁹ Police ordered Hichilema to give way to the presidential motorcade, but Hichilema allegedly refused.¹⁰ Prosecutors charged Hichilema and five others in his motorcade with treason on 12 April, with the reasoning that:

¹ Lusaka Times, 11 Apr 2017.

² Lusaka Times, 11 Apr 2017.

³ Reuters, 24 Apr 2017.

⁴ Source, UPND-linked journalist, Lusaka

⁵ Reuters, 15 Apr 2017.

⁶ Lusaka Times, 11 Apr 2017.

⁷ Lusaka Times, 11 Apr 2017.

⁸ Lusaka Times, 11 Apr 2017.

⁹ Lusaka Times, 11 Apr 2017.

¹⁰ Lusaka Times, 11 Apr 2017.

“Hichilema and over 60 other unknown people and being on a convoy of motor vehicles on the Mongu–Limulunga road, did obstruct the presidential motorcade, an act that was likely to cause death or grievous harm to the President, in order to usurp the executive powers of the State.”¹¹

Prosecutors also alleged, that in a further act of treason on 5 April:

“Hichilema together with others conspired to mobilise an advance party to ensure that he was to be accorded the status of President of Zambia at the Kuomboka ceremony in Mongu.”¹²

They also charged Hichilema with one count of disobeying a police officer and one charge of publicly using insulting language.¹³ According to a Zambia-based lawyer:

“The treason charge is pure politics, not even Lungu is unsubtle enough to force the courts to make that stick... Lungu is trying to teach Hichilema a lesson, humiliate and intimidate him...but it is the lesser charges that might stick and they can each carry a prison sentence, although both can each carry a small fine.”¹⁴

Treason is a charge that is non-bailable and Hichilema will remain in custody until a court rules on the charge.¹⁵ The charge also carries the death sentence if the courts find him guilty.¹⁶ Hichilema’s lawyers filed a petition at **Lusaka Magistrates Court** on 26 April to have the treason charges thrown out on the grounds that they did not have elements that constitute treason.¹⁷ However, magistrate **Greenwell Malumani** told the court that only the **Lusaka High Court** had the power to throw out the charges.¹⁸ He told a crowded courtroom that:

“The law does not place power in the subordinate court to quash the indictment. The motion to quash the treason charge is untenable.”¹⁹

Malumani reprimanded the prosecution, however, for not including enough specific detail in their treason charges. He also ordered the **Zambia Correctional Service** to allow Hichilema access to reading materials, which he has been denied so far.²⁰ The High Court is due to hear the case against Hichilema from 8 May.²¹ According to the legal source:

“The judiciary are not blind, they know that their credibility is on the line here and, closer to home, the judges who put Hichilema away on trumped up treason charges know that if the UPND win the next election their time in office could be very short. However, they will need to rule on the facts and while I would be very surprised if the treason charges stuck, they might give Hichilema a year or two for disobeying the police.”²²

The decision to charge Hichilema with treason has led to considerable criticism of the police and the prosecution service in Zambia. Lusaka police chief **Kakoma Kanganja** defended his actions, and told the media on 12 April that his force was not acting under any political pressure:

“I wish to reiterate that the actions by the opposition leader were unreasonable, reckless and criminal. Therefore members of the public are being warned that as police we are not going to watch such kind of behaviour by any person, irrespective of their status.”²³

¹¹ Zambia Daily Mail, 12 Apr 2017.

¹² Zambia Daily Mail, 12 Apr 2017.

¹³ Zambia Daily Mail, 12 Apr 2017.

¹⁴ Source, senior lawyer, Lusaka

¹⁵ Zambia Daily Mail, 12 Apr 2017.

¹⁶ Zambia Daily Mail, 12 Apr 2017.

¹⁷ Zambia Reports, 27 Apr 2017.

¹⁸ Zambia Reports, 27 Apr 2017.

¹⁹ Zambia Watchdog, 27 Apr 2017.

²⁰ Zambia Watchdog, 27 Apr 2017.

²¹ Zambia Watchdog, 27 Apr 2017.

²² Source, senior lawyer, Lusaka

²³ Lusaka Times, 12 Apr 2017.

The rivalry between Lungu and Hichilema has drawn national and international attention for some time now. The two leaders have a strong personal and political rivalry that explains Hichilema's decision to seemingly frustrate the progress of Lungu's convoy to arrive at the event first. The arrest will stoke tensions between PF and UPND supporters that have already turned violent and would certainly become more so if the courts find Hichilema guilty. In the reportedly highly unlikely case that the courts find Hichilema guilty and sentence him to death, it would pose an immediate and severe threat to the political stability of the country.

Lungu's alleged use of the courts to suppress opposition is concerning. Many commentators criticised the decision of Zambian judges not to allow Hichilema the right to a full recount of the closely fought 2016 elections. Inconsistencies in the judicial process raised legitimate questions about the possibility of political interference. The immediate culprit is the prosecution service, which charged Hichilema with sedition in October 2016 for criticising Lungu in public – charges are that still pending. It is not possible to establish to what extent Lungu is pulling the strings behind their actions – or if he even needs to. The decision to charge Hichilema with treason – when the charge of obstruction of police is the more relevant of the two – is a clear attempt to imprison him for as long as possible. Even if Lungu is not directly responsible, the lack of a response from government shows that he is at the very least complicit.

Zesco to introduce flat tariff for miners

State-owned **Zambia Electricity Supply Corp (Zesco)** announced plans on 4 April to offer copper miners a flat electricity tariff at an increased rate.²⁴ Zesco has previously increased electricity prices by as much as 30% due to supply shortages related to a region-wide drought in 2015 and 2016. This has had an adverse impact on copper mining, as mines have had to restrict operations in order to avoid losses. Zesco plans to introduce a flat 0.093\$/kilowatt hour (kWh) tariff backdated to January.²⁵ Previously, individual companies negotiated rates with Zesco that averaged 0.06\$/kWh, meaning that the flat rate represents a 30% increase in supply costs.²⁶ Zesco managing director **Victor Mundende** defended the decision, telling the media that Zesco is offering companies certainty and transparency about the rising cost of electricity in Zambia.²⁷ Mundende also revealed that Zesco would increase electricity prices for retail customers by 50% in May and a further 25% in September 2017.²⁸ Mundende said that miners and other commercial customers were understanding of the situation and that talks had *"by and large been successful"*.²⁹ According to a source in the mining sector in Zambia the price increase will hurt business but is not unexpected:

*"This is going to reduce our output and our margins, there is no way around that as power is one of our core costs...the government is going to have to accept that there may be job losses as a result... however, we remain committed to Zambia as a market and I would be lying if I said that this came as a surprise."*³⁰

Energy minister **David Mabumba** told the media on 4 April that mining companies were involved in the discussions over the new tariff system.³¹ Some mining companies were still opposed to the increase and the government remains in talks with them over the arrangements.³² Zambia's **Energy Regulation Board (ERB)** still has to approve the proposed changes and could choose to alter or reject them entirely.³³ Zesco has justified the decision to the ERB on the basis that it is now

²⁴ Zambia Watchdog, 4 Apr 2017

²⁵ Zambia Watchdog, 4 Apr 2017

²⁶ Lusaka Times, 4 Apr 2017.

²⁷ Lusaka Times, 4 Apr 2017.

²⁸ Lusaka Times, 4 Apr 2017.

²⁹ Lusaka Times, 4 Apr 2017.

³⁰ Source, mining executive, Kitwe

³¹ Lusaka Times, 4 Apr 2017.

³² Zambia Watchdog, 4 Apr 2017.

³³ Zambia Watchdog, 4 Apr 2017.

purchasing power from independent producers at a higher cost.³⁴ Mudende told the media that investors in power plants needed a return on investment:

"We are attracting financing from the same international markets. Investors won't go to a country where they will not get a return on their investment."³⁵

Zesco is facing increasing power prices as independent power generation slowly enters the energy mix. However, it is the decision to move tariff increases onto copper mines and businesses rather than consumers that raises questions. The energy ministry has to choose whether to burden consumers, creating political dissatisfaction and reducing purchasing power, or businesses, hurting growth and possibly leading to job losses and wage freezes for a section of consumers. Zesco has chosen the latter, but at a time when Zambia's economy remains highly copper-dependent, this will have a negative impact on growth.

Zambia close to signing \$1.6 billion IMF deal

The government of Zambia is close to signing a \$1.6 billion extended credit facility (ECF) with the **International Monetary Fund (IMF)**, the presidency revealed on 18 April.³⁶ Zambia has been in talks with the IMF for over a year for a deal to help the government rebalance public finances, following poor economic performance from 2014 to 2016. Presidential spokesperson **Amos Chanda** told the media that the current figure for the deal is \$1.6 billion, an increase from a \$1.2 billion figure that he mentioned earlier in the month on 7 April.³⁷ Chanda said that the agreement was subject to a final review meeting in June this year, and that the details of the ECF would be made public then before the programme started in September:

"Our budget is in October, so they want to ensure that all the things that come with the IMF programme are part of our budget. It is likely to be \$1.6 billion over a three-year period starting in September so that it fits into our budget cycle."³⁸

The details of the IMF programme are likely to include reducing government subsidies for energy and food, cuts to the public sector wage bill and liberalisation of regulation to attract further international investment. The government is aware that many of the fiscal consolidation reforms are likely to be very unpopular so is keeping quiet about elements of the deal until it is in its final form. The finance ministry will be planning to avoid having to extend the three-year ECF, but will need to balance this against the impact it could have on consumer finances. In this context the increases to the Zesco tariffs for businesses (see above) make more sense.

³⁴ Zambia Watchdog, 4 Apr 2017.

³⁵ Lusaka Times, 4 Apr 2017.

³⁶ Lusaka Times, 18 Apr 2017.

³⁷ Reuters, 7 Apr 2017.

³⁸ Lusaka Times, 18 Apr 2017.

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)