

## AFRICA RISK CONSULTING

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#### South Africa Summary 26 May 2016.

*President Jacob Zuma (2009-present) pushes back against his enemies within the ruling African National Congress (ANC) by attacking finance minister Pravin Gordhan and removing Kwa-Zulu Natal (KZN) premier Senzo Mchunu from office. The North Gauteng High Court rules that Zuma can face 783 charges of corruption and fraud linked to bribe payments he allegedly received from foreign arms companies. South Africa's economy slips to third largest in Africa behind Nigeria and Egypt according to KPMG data. The fall of the rand and poor political governance are the primary reasons for the drop in place. Gordhan and the parliamentary committee on public finance criticise defence state-owned enterprise (SOE) Denel for a business deal involving a company owned by the Gupta family and President Zuma's son, Duduzane Zuma. Denel reinstates CEO Riaz Saloojee whom it fired without proper disciplinary procedure.*

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#### Zuma strikes back at Gordhan and Mchunu

President **Jacob Zuma** (2009-present) has pushed back against his enemies within the ruling **African National Congress (ANC)**. This has taken the form of attacks on finance minister **Pravin Gordhan** and the removal of **Kwa-Zulu Natal (KZN)** premier and Zuma opponent **Senzo Mchunu** from office. The finance minister is under pressure from the president's deployed allies in the **South African Revenue Service (SARS)** and investigative unit the **Hawks**.<sup>1</sup> SARS commissioner **Tom Moyane** has refused to halt an extensive reshaping of the organisation.<sup>2</sup> Gordhan gave an impassioned speech to the **National Assembly** on 18 May following rumours allegedly leaked by the Hawks that the **National Prosecuting Authority (NPA)** was planning to arrest him for espionage.<sup>3</sup> The charges relate to an investigative unit that Gordhan, while SARS commissioner, established in 2007, and which allegedly investigated NPA figures for tax fraud.<sup>4</sup> Gordhan told the assembly:

*"Millions of people will pay the price (there will be less money to relieve poverty and support job creation programmes) if this subversion of democracy is left unrestrained and unchallenged...I appeal to all South Africans to protect the **National Treasury** staff."<sup>5</sup>*

The NPA announced on 23 May that it had no plans to charge Gordhan, but did reveal that the Hawks had submitted an application to that effect.<sup>6</sup> According to local sources, despite the declaration from the NPA, there is a real danger of Zuma orchestrating Gordhan's arrest and subsequent removal from power:

*"Zuma has decided to double down – he is pulling every lever he has to mitigate the attacks against him from Gordhan and the moderates in the ANC...he, possibly rightly, believes that as the economy and trust cannot get worse, he might as well do his dirty work overtly. Gordhan would not have addressed the nation if he didn't think he really could be arrested."<sup>7</sup>*

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<sup>1</sup> Business Day, 16 May 2016.

<sup>2</sup> Business Day, 16 May 2016.

<sup>3</sup> Business Day, 16 May 2016.

<sup>4</sup> Business Day, 18 May 2016.

<sup>5</sup> Gordhan in Daily Maverick, 18 May 2016.

<sup>6</sup> News24, 23 May 2016.

<sup>7</sup> Source, senior journalist, Johannesburg

Gordhan's speech came a day after former **Independent Police Investigation Directorate (IPID)** chief **Robert McBride**, former SARS deputy commissioner **Ivan Pillay**, and former Hawks chief **Anwa Dramat** issued a similar statement.<sup>8</sup> All three left office following accusations and prosecutions for charges that failed to hold up in court.<sup>9</sup> They spoke in defence of Gordhan saying:

*"It appears that the pattern of questionable processes has also been applied to the recent interactions of the Hawks with the finance minister. Corruption is the biggest threat to our constitutional democracy."<sup>10</sup>*

Zuma has also taken action to shore up his electoral base within the ANC. The regional ANC body ordered KZN premier Senzo Mchunu to resign or face a recall on 20 May.<sup>11</sup> The party told the media that it would redeploy Mchunu to the National Assembly.<sup>12</sup> KZN ANC leader in the provincial assembly and Zuma ally **Willies Mchunu**, no relation of Senzo, is standing in as interim premier until the party can appoint a new one.<sup>13</sup> Mchunu himself has publicly stated his disappointment at being asked to resign, telling the media he is *"concerned about some things that are happening within the ANC"*.<sup>14</sup> He has also hinted that he will not accept the ANC's redeployment of him to the National Assembly, but instead may *"go to Cape Town"*.<sup>15</sup> The rejection of the deployment policy is a powerful symbol within the ANC, which relies on it to retain key members.

Mchunu lost the election for the post of KZN ANC regional chair on November 2015 to **Sihle Zikalala**, Zuma's preferred candidate, effectively guaranteeing his recall at some point in 2016.<sup>16</sup> Zikalala is also the candidate of the so-called premier league of **Free State Province** premier **Sekgobelo Elias "Ace" Magashule**, **Mpumalanga** premier **David Dabede Mabuza**, and **North West** province premier **Supra Mahumapelo**.<sup>17</sup> It is highly likely that Zikalala will soon replace Mchunu as KZN premier.<sup>18</sup>

*"Zikalala was bought by Zuma and the premier league; Mchunu was ahead in the votes up until 5pm then Zuma arrived, they locked the doors and two hours later Zikalala was voted in... he is their man in Bloemfontein."<sup>19</sup>*

Media observers believed that Zikalala would keep Mchunu in his post until after the municipal elections in August.<sup>20</sup> However, Zikalala's backers appear to have sped up the timetable in the current context of Zuma's struggle for political survival:

*"Zuma is on the offensive, pulling Mchunu will be a precursor to a major purge of moderates in KZN and his allies in the KZN **South African Communist Party (SACP)**."<sup>21</sup>*

Control of KZN is vital for Zuma to retain his influence within the ANC, as it holds the largest number of the 4,000 delegates that vote on all party matters, including the recall of sitting presidents.<sup>22</sup> According to sources with access to the KZN ANC, the president's faction is activating a backup plan in order to prevent unexpected moves against him by ANC chairperson **Gwede Mantashe**.<sup>23</sup>

<sup>8</sup> Daily Maverick, 17 May 2016.

<sup>9</sup> Daily Maverick, 17 May 2016.

<sup>10</sup> McBride, Pillay and Dramat in Daily Maverick, 17 May 2016.

<sup>11</sup> Business Day, 25 May 2016.

<sup>12</sup> Business Day, 25 May 2016.

<sup>13</sup> Business Day, 25 May 2016.

<sup>14</sup> Mchunu in Business Day, 25 May 2016.

<sup>15</sup> Business Day, 25 May 2016.

<sup>16</sup> Business Day, 25 May 2016.

<sup>17</sup> Business Day, 25 May 2016.

<sup>18</sup> Source, editor of a major newspaper, Johannesburg

<sup>19</sup> Source, KZN ANC, Durban

<sup>20</sup> Daily Maverick, 20 May 2016.

<sup>21</sup> Source, editor of a major newspaper, Johannesburg

<sup>22</sup> Business Day, 25 May 2016.

<sup>23</sup> Source, KZN ANC, Durban

*“The party went into overdrive last week when the people on the regional executive committee got instructions from Number 1 [Zuma] to make sure KZN remained loyal...I heard that Zuma is worried that Mantashe and [deputy president **Cyril**] **Ramaphosa** are going to try and get rid of him over all the court cases.”<sup>24</sup>*

### **...following High Court ruling that he can face corruption charges**

Zuma’s push back follows a number of court rulings against him. The **North Gauteng High Court** ruled that Zuma is eligible to face 783 charges of fraud racketeering and corruption related to alleged bribe payments he received linked to foreign arms investment.<sup>25</sup> The ruling adds to the **Constitutional Court** ruling that he had not followed the constitution in his handling of the Public Protector’s report in February on the spending on his **Nkandla** homestead (see *ARC Briefing South Africa February 2016*).

Much of Zuma’s career and actions are shaped by the ever-present threat of the corruption charges that the NPA dropped in 2009.<sup>26</sup> The opposition **Democratic Alliance (DA)** party has fought a seven-year-long legal battle to get evidence that former investigative unit the **Scorpions** collected against Zuma, the so-called spy tapes, re-admitted to court and the charges reinstated.<sup>27</sup> **Mokotedi Mpshe**, the Director of Public Prosecutions (DPP) in 2009, dropped the charges on the basis that they were politically motivated. However the High Court ruled that his reasons were “irrational”<sup>28</sup> and that Mpshe had “ignored the importance of the oath of office which demanded him to act independently and without fear or favour”.<sup>29</sup>

The president now faces the NPA re-opening the case against him.<sup>30</sup> However, sources in South Africa say that the president’s appointees within the NPA may stop this from happening.<sup>31</sup> Sources describe DPP **Shaun Abrahams** and deputy DPP **Nomgcobo Jiba** as being “totally owned by Zuma”.<sup>32</sup> The NPA announced that it would file an appeal against the ruling, which will go to the **Supreme Court of Appeal**, on 23 May.<sup>33</sup> Abrahams gave a lengthy statement saying that he had made his decision after lengthy consideration and not under any political pressure.<sup>34</sup> However, sources within the judiciary dispute this narrative:

*“The NPA cannot be trusted, they are implicit in Zuma’s endgame: to get out of office without going to prison...they will drag this [the appeal process] on as long as possible...however the justice system is not compromised and eventually Zuma will sit in court and face the facts.”<sup>35</sup>*

### **South Africa’s economy slips to third largest in Africa**

International business services firm **KPMG** released data on 11 May showing that the economy of South Africa is now the third largest on the continent.<sup>36</sup> South Africa lost its place as the largest economy on the continent to **Nigeria** in 2014, and has now slipped a further place as **Egypt’s** economy continues to grow.<sup>37</sup> The report based itself on the **International Monetary Fund’s (IMF)**

<sup>24</sup> Source, KZN ANC, Durban

<sup>25</sup> Daily Maverick, 29 Apr 2016.

<sup>26</sup> Source, ANC insider, Johannesburg

<sup>27</sup> Daily Maverick, 29 Apr 2016.

<sup>28</sup> Daily Maverick, 29 Apr 2016.

<sup>29</sup> Daily Maverick, 29 Apr 2016.

<sup>30</sup> Daily Maverick, 29 Apr 2016.

<sup>31</sup> Source, investigative journalist, Johannesburg

<sup>32</sup> Source, investigative journalist, Johannesburg

<sup>33</sup> Business Day, 23 May 2016.

<sup>34</sup> News24, 23 May 2016.

<sup>35</sup> Source, senior judge, Johannesburg

<sup>36</sup> Business Day, 11 May 2016.

<sup>37</sup> Business Day, 11 May 2016.

**World Economic Outlook (WEO)** data from April.<sup>38</sup> The primary driver of the shift in place is the declining value of the rand against the dollar. The value of South Africa's GDP has declined year-on-year from 12.80/\$ to 15.54/\$ at time of writing.<sup>39</sup> South Africa's low growth, which the treasury predicts will be just 0.6% this year, has compounded this problem. In contrast, Egypt's dollar-valued GDP expanded on average 7.5% a year across the 2012 to 2015 period while the Egyptian pound devalued against the dollar at a much slower rate than the rand.<sup>40</sup> South Africa's economy is still the most developed on the continent, and according to the KPMG report:

*"Were it not for the rand's slump, South Africa would not have surrendered its second place during 2015."*<sup>41</sup>

However, the rand itself has largely collapsed as a result of domestic issues, including the mismanagement of politics and the economy. According to one commentator:

*"The primary drivers behind the collapse of the rand over and above other African currencies in the current commodities environment are domestic – firing the finance minister, poor handling of parastatals, scandals in the ANC– it is more likely South Africa falls another place than retakes second place."*<sup>42</sup>

These processes continue to occur. The energy department told the media that it plans to conduct a successful nuclear energy procurement process by 2018 on 10 May.<sup>43</sup> South Africa's plans to install 9,600 megawatts (MW) of nuclear energy by 2030 will cost an estimated \$100 billion.<sup>44</sup> Energy minister **Tina Joematt-Peterson** is a key ally of Zuma.<sup>45</sup> Former finance minister **Nhlanhla Nene** opposed the scheme and it was reportedly a major factor in Zuma's decision to remove him from office in December 2015.<sup>46</sup> Gordhan said in January that the programme would not move ahead without a review by the treasury.<sup>47</sup> However, the latest announcement contradicts this and the energy department plans to put out tender documents later in 2016.<sup>48</sup>

South Africa also faces a crisis in the once lucrative mining sector. Production fell a record 18% year-on-year in March, **Statistics SA** revealed on 12 May.<sup>49</sup> The mining industry remains in freefall due to continued low demand from **China**, and a number of large producers have implemented planned cuts to scale back operations.<sup>50</sup> Output fell in the platinum group metals (PGM), iron ore, manganese ore and gold.<sup>51</sup> PGM and iron ore output are the primary drivers of the fall, with averaged quarter production down 6.2% on Q1 2015.<sup>52</sup>

### Parliament and Gordhan criticise Denel over Gupta joint venture

Defence state-owned enterprise (SOE) **Denel** is under pressure from parliament and the finance ministry for its business practices. The parliamentary committee on public finance questioned Denel's directors for entering into a joint venture with **VR Laser Asia**, a company linked to the **Gupta** family.<sup>53</sup> The Gupta family's business empire is at the heart of allegations of capture of state-owned

<sup>38</sup> Business Day, 11 May 2016.

<sup>39</sup> Business Day, 11 May 2016.

<sup>40</sup> Business Day, 11 May 2016.

<sup>41</sup> KPMG report, in Business Day, 11 May 2016.

<sup>42</sup> Source, financial analyst, Johannesburg

<sup>43</sup> Mail and Guardian, 10 May 2016.

<sup>44</sup> Mail and Guardian, 10 May 2016.

<sup>45</sup> Mail and Guardian, 10 May 2016.

<sup>46</sup> Mail and Guardian, 10 May 2016.

<sup>47</sup> Mail and Guardian, 10 May 2016.

<sup>48</sup> Mail and Guardian, 10 May 2016.

<sup>49</sup> Business Day, 12 May 2016.

<sup>50</sup> Business Day, 12 May 2016.

<sup>51</sup> Business Day, 12 May 2016.

<sup>52</sup> Business Day, 12 May 2016.

<sup>53</sup> Business Day, 3 May 2016.

enterprises by the family, who are financial backers of President Zuma. Denel subsidiary **Denel Asia** is in the process of setting up the deal with VR Laser Asia, which Gupta business partner **Salim Essa** wholly owns. Essa is also the majority shareholder of VR Laser's South African parent company, another shareholder is **Duduzane Zuma**, President Zuma's son.<sup>54</sup> Denel moved ahead with the deal without informing the treasury or the department of public enterprises, its main shareholders.<sup>55</sup> Denel chairman **Daniel Mantsha** told parliament that he had not broken the law in doing so. However, Gordhan warned that Denel's board was in contravention of the law as it had not sought treasury permission to go ahead with the deal.<sup>56</sup> Gordhan used the start of his budget debate in parliament on 4 May to criticise the "arrogance" of some SOE boards, a pointed criticism of Mantsha and Denel.<sup>57</sup> Gordhan and public enterprises minister **Lynne Brown** are fighting to reign in the boards of SOEs that have strong ties to other political figures, as well as records of firing executives who contradict them and poor financial management.<sup>58</sup> According to a local source:

*"Gordhan managed to bring **South African Airways (SAA)** to heel in January, he needs to do the same with Denel. However, he is already fighting a war with the president on multiple fronts and it is far from clear whether he can win this battle."<sup>59</sup>*

Parliamentarians also questioned why Denel's board suspended and quickly terminated the contracts of chief executive **Riaz Saloojee**, chief financial officer **Fikile Mhlontlo** and group secretary **Elizabeth Africa** in September 2015.<sup>60</sup> The board did so without completing a disciplinary action against them or, indeed charging them with any offence.<sup>61</sup> Local media reports suggest that Saloojee, who turned around Denel's financial performance from 2011 to 2016, was opposed to working with the Gupta family.<sup>62</sup> Denel reappointed Saloojee on 20 May and have reinstated disciplinary action against him.<sup>63</sup> Acting Denel CEO **Odwa Mhlwana** told the media that Saloojee had refused a previous offer of a disciplinary hearing. However, Saloojee has publically denied this is the case and accused Mhlwana of misleading parliament and the press.<sup>64</sup>

## Implications

Zuma's propensity for political survival is something his political rivals and South Africa's media have underestimated over and over again. The president's latest fightback has ensured his current immunity from recall by an ANC emergency congress, and lays the ground for removing Gordhan as finance minister. Zuma has also been touting his initial replacement for Nene – **Des van Rooyen** – as "the most qualified man for the job"<sup>65</sup> on the basis of his correspondence degree in finance. Gordhan is a long-standing Zuma loyalist who has worked with Zuma since before 1991. The split between the two shows the depths of the divisions within the ANC, as well as the lengths to which Zuma will go to ensure his survival. Zuma is still under considerable pressure due to the court ruling on the 783 counts of corruption. Much of his political activity can be seen as an effort to avoid these charges which would effectively condemn him to life in prison if found guilty. However, the NPA will be able to drag the process of appeal and then the process of actually charging Zuma out, mitigating their impact. For the moment, Zuma has reinforced his position of authority, however the major players arrayed against him: including the unlikely alliance of Ramaphosa and Mantashe, have yet to make their next move.

<sup>54</sup> Business Day, 20 May 2016.

<sup>55</sup> Business Day, 3 May 2016.

<sup>56</sup> Business Day, 20 May 2016.

<sup>57</sup> Business Day, 4 May 2016.

<sup>58</sup> Business Day, 4 May 2016.

<sup>59</sup> Source, investigative journalist, Johannesburg

<sup>60</sup> Business Day, 3 May 2016.

<sup>61</sup> Business Day, 3 May 2016.

<sup>62</sup> Business Day, 3 May 2016.

<sup>63</sup> Business Day, 20 May 2016.

<sup>64</sup> Business Day, 20 May 2016.

<sup>65</sup> Business Day, 20 May 2016.

The political uncertainty has fed into the poor performance of the rand, which is nearly back at lows against the dollar of December. The news that South Africa is now the third largest economy in Africa confirms that the international business image of the country is tarnished. Given that growth is already at 0.6%, inflation has not spiked and there are no unexpected drops in key sectors, the rand will not fall much below its current value. However ongoing poor political and economic governance will keep the economy stagnant and the currency weak. The weakness in the mining sector is part of the long-running commodities downturn and is likely to continue until international demand picks up.

Denel's dealings with the Gupta family and Duduzane Zuma are further examples of state capture. Gordhan and Brown are unable to shift board members whom the president appointed, despite their poor governance and skirting of laws and regulations. It is likely that Denel will continue to do business with the VR Laser Asia for as long as Zuma remains in power protecting the company from oversight from its primary shareholder, the government.

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