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Madagascar Summary 29 May 2018

Madagascar's Haute Cour Constitutionnelle (HCC) (high constitutional court) orders President Hery Rajaonarimampianina (2014-present) to dissolve his government and appoint a new prime minister who has the support of all the political parties by 1 June. Lemur Holdings, a subsidiary of United Kingdom-based Bushveld Minerals, concludes a 30-year concession agreement with Madagascar's government to construct a 60 megawatt coal-to-power station using coal from Lemur Resources' Imaloto project.

Constitutional court calls for dissolution of government

Madagascar's **Haute Cour Constitutionnelle (HCC)** (high constitutional court) ordered President **Hery Rajaonarimampianina** (2014-present) on 28 May to dissolve his government and appoint a new prime minister who has the support of all the political parties by 1 June.¹ The HCC ruling came in response to the ongoing political crisis in which protestors have opposed a new electoral law that could have prevented former presidents **Marc Ravalomanana** (2002-2009) and **Andry Rajoelina** (2009-2014) from running in the presidential elections planned for the end of 2018.² The new law required presidential candidates to produce a report on all previous judicial convictions.³ For Ravalomanana this would include his in-absentia sentencing for murder of protestors during the 2009 political crisis.⁴ The in-absentia sentencing went against the agreed **Southern African Development Community (SADC)** roadmap that ended the crisis, which stated that the main political actors would receive amnesty.⁵

Rajaonarimampianina's party, **Hery Vaovao ho an'i Madagasikara (HVM)**, announced on 26 May that it is open to negotiations with the opposition but appears to have no interest in dissolving the government.⁶ HVM also convinced 18 opposition members of parliament (MPs) to cross the floor to join the ruling party on 29 May, which led to an opposition party petition to the courts to unseat those MPs who had crossed the floor.⁷ **Assemblée Nationale** (national assembly) numbers will be crucial for parties, as MPs will appoint the prime minister ahead of the general elections. According to the constitution, the president must step down 60 days before the election and power is vested in the prime minister, who is chosen by the national assembly. If the 18 defectors lose their seats, the opposition will have the upper hand in the selection process. If they are allowed to remain with HVM, than the ruling party will choose the prime minister.

Madagascar's parliament easily passed the new electoral laws on 3 April due to an opposition boycott of the final vote.⁸ The contentious law led Ravalomanana to partner with former president Rajoelina, who removed Ravalomanana as president in a coup in 2009, to oppose the law and organise protests.⁹ Protests began on 21 April. The government regarded the protests as illegal and police were sent to

¹ MedAfrica Times, 29 May 2018.

² IOL, 23 Apr 2018.

³ EWN, 21 Apr 2018.

⁴ EWN, 21 Apr 2018.

⁵ Daily Maverick, 10 May 2018.

⁶ News24, 26 May 2018.

⁷ Modern Ghana, 29 May 2018.

⁸ African Arguments, 24 May 2018.

⁹ IOL, 23 Apr 2018.

disperse the protestors. Since the protests began, two people have died and 17 have been injured in clashes with police.¹⁰ The government's heavy-handed response to the protests has led to further calls for the government to be held accountable. Opposition members, including **Paul Bert Rahasimanana** of Rajoelina's **miaraka amin'ny Prezida Andry Rajoelina (MAPAR)** political party, have called for Rajaonarimampianina to resign over the protests and the electoral law:

"Hery Rajaonarimampianina has to resign. He attacks members of parliament, who are acting in their line of duty. We just wanted to [report] on the adoption of electoral law and he sends us forces of repression."¹¹

Rajaonarimampianina announced on 29 April his refusal to resign:

"I am the president by the will of the Malagasy people. There are millions of people who voted for me, it would really betray the people to resign."¹²

The HCC rejected parts of the new electoral law on 3 May, stating that some elements of the law were against the constitution.¹³ The HCC annulled articles that shortened the second round of campaigning from two weeks to a week, and also annulled the use of single ballots over lists, as critics argued that single ballots are more vulnerable to fraud and cost more to prepare.¹⁴ However, rather than send the electoral legislation back to parliament for review after the HCC rejection, Rajaonarimampianina unilaterally amended the laws and published them on 11 May.¹⁵ Civil society organisation **Sehatra Fanaraha-maso ny Fiainam-pirenena (Sefafi)** claims that in bypassing parliament, the HCC has legislated, with the complicity of the executive, in violation of all democratic and constitutional principles.¹⁶

While Ravalomanana and Rajoelina should now be allowed to run, there are outstanding issues that opposition members would like the government to address, such as campaign funding and media coverage.¹⁷ Rajoelina, particularly, will want fewer restrictions on campaign funding as he reportedly will rely on campaign funding from **Mamy Ratovomalala**, who is reportedly the cousin of new **Office des Mines Nationales et des Industries Stratégiques (OMNIS)** (Office for national mining and strategic resources) head, **Voahangy Nirina Radarson**.¹⁸ Ratovomalala reportedly directs the oil and mining sector in Madagascar.¹⁹

A SADC heads of state summit on 24 April in **Luanda (Angola)** noted that there is an urgent need for intervention in Madagascar and appointed former **Mozambican** President **Joaquim Chissano** (1986-2005) as the special envoy to facilitate a national dialogue to de-escalate tensions.²⁰ Chissano led the mediation in Madagascar during the 2009 and 2013 political crises, which led to the ouster of Ravalomanana in 2009 and the "ni-ni" (neither nor) compromise in 2013.²¹ This barred both Ravalomanana and Rajoelina from running in the 2013 elections.²² Supporters and politicians of Ravalomanana's opposition **Tiako I Madagasikara (TIM)** party will therefore not trust Chissano's intentions during this political crisis. National assembly vice-president and TIM party member **Hanitra Razafimanantsoa** said Chissano's mediation would be ineffective, particularly for the opposition:

¹⁰ IOL, 23 Apr 2018.

¹¹ eNCA, 21 Apr 2018.

¹² SNA, 30 Apr 2018.

¹³ News24, 4 May 2018.

¹⁴ SNA, 5 May 2018.

¹⁵ African Arguments, 24 May 2018.

¹⁶ African Arguments, 24 May 2018.

¹⁷ African Arguments, 24 May 2018.

¹⁸ Africa Energy Intelligence, 24 Apr 2018.

¹⁹ Africa Energy Intelligence, 24 Apr 2018.

²⁰ IOL, 25 Apr 2018.

²¹ Reuters, 23 Apr 2009.

²² Reuters, 23 Apr 2009.

"[Chissano] has been here for a number of years but has not brought anything for us. Do we want him to bring back all the problems he has created?"²³

The **African Union (AU)** and the **United Nations (UN)** have also sent envoys in an attempt to quell the crisis. AU high representative **Ramtane Lamamra** said on 11 May that negotiations to date had been successful:

"In the wake of all these efforts ... the international community emissaries were able to get the main parties to open high level political consultations to reconcile their points of view, [which should lead to a] draft political agreement to allow a calm and orderly evolution towards the holding of presidential election[s] on a date provided for by the constitution."²⁴

However, UN envoy **Abdoulaye Bathily** appears to be listening to the opposition calls to leave the crisis to the Malagasy:

"The Malagasies themselves have the solution to the current political issues in Madagascar."²⁵

An **Antananarivo**-based political analyst says the solution is complicated than it appears:

"Obviously, the best case scenario would be more transparency during the making of laws like this and free and fair elections where anyone would be allowed to run and the person with the most votes becomes president. But this is unlikely to happen for this election. Hery [Rajaonarimampianina] obviously wants to hold on to power and has made some big mistakes, but that is because he knows he cannot win against Ravalomanana or Rajoelina. This alliance between those two is also going to be troubling, because it will only last as long as the government keeps opposing their candidacy. Once campaigning begins, it is every man for himself."²⁶

Ravalomanana is no stranger to these tactics to remove threats to power. Leading up to the 2006 elections, he banished opposition candidate **Pierrot Rajaonarivelo** into exile and then closed the airports each time Rajaonarivelo attempted to fly back to Madagascar to register to run for office, which had to be done in person.²⁷ Rajaonarivelo missed the deadline to submit his paperwork, allowing Ravalomanana an easy victory.²⁸

The **Commission électorale nationale indépendante (CENI)** (national independent electoral commission) suggested on 8 May that the election could be brought forward in an effort to diffuse tensions.²⁹ CENI chair **Hery Rakotomanana** said the constitution provided for CENI to hold an early election:

"If this solution is acceptable to everyone, then CENI proposes 29 August 2018 for the first round of the presidential election."³⁰

Opposition members have refused to discuss earlier elections until Rajaonarimampianina steps down.³¹ Both Rajoelina and Ravalomanana would benefit from earlier elections after the government's heavy-handed action during the protests. Neither Rajoelina nor Ravalomanana have made a statement on Rakotomanana's proposal to hold early elections and instead are playing a 'wait-and-see' game on the outcome the HCC ruling against the government and Rajaonarimampianina. With Rajaonarimampianina out of the picture, it would be a two-horse race between the former presidents.

²³ Reuters, 28 Apr 2018.

²⁴ Modern Ghana, 25 Apr 2018.

²⁵ The East African, 7 May 2018.

²⁶ Source, political analyst, Antananarivo.

²⁷ Foreign Policy, 21 May 2018.

²⁸ Foreign Policy, 21 May 2018.

²⁹ News24, 9 May 2018.

³⁰ News24, 9 May 2018.

³¹ News24, 9 May 2018.

Lemur wins 30-year coal-to-power project concession in Madagascar

Lemur Holdings, a subsidiary of United Kingdom-based **Bushveld Minerals**, concluded a 30-year concession agreement with Madagascar's government on 22 May to construct a 60 megawatt coal-to-power station using coal from Lemur Resources' **Imaloto** project, located in the **Sakoa** region in southwest Madagascar.³² Bushveld Minerals' CEO, **Fortune Mojapelo**, said the company would monitor political developments in the country, but said he was satisfied with the on-going positive cooperation with the Malagasy government.³³

The power plant will heavily boost Madagascar's power capability, which is only around 500MW of installed generation capacity as of 2016.³⁴ The project includes over 250 kilometres of transmission, which is expandable, greatly increasing electricity access for those in the south where there is currently very little infrastructure in place.³⁵ Rajaonarimampianina has pushed for more renewable energy projects, particularly solar off-grid projects which do not require large infrastructure, though large-scale projects like Imaloto will be able to deliver more electricity to a large number of people if the government can put in place the needed transmission lines and infrastructure. Although the government has attempted to improve its electricity infrastructure, only 22.9% of Malagasy have reliable access to electricity.³⁶ In rural areas of Madagascar, this number drops to below 18% in rural areas, which is where 65% of the population is located.³⁷ The Imaloto project aims to use the estimated 136 million tonnes of coal at Imaloto to supply reliable electricity by 2021.³⁸

The success of Lemur's concession – both in regards to increasing Madagascar's electricity supply but also increasing Bushveld Mineral's bottom line and share price – will encourage other energy suppliers to also look at investing in power generation in Madagascar. However, this is contingent on a stable political environment, which is currently lacking. Potential changes to the mining code, which was on the agenda for several years before Rajaonarimampianina finally scrapped the idea in April (see *ARC Briefing Madagascar April 2018*), could inhibit long-term investment if companies think the rules may change at any moment. Potential and current investors should watch the political landscape closely. If history is a guide, mining and oil companies should hope that Ravalomanana becomes president and runs the country as he does his companies, which led to massive investments during his tenure in both oil and mining.³⁹ Rajoelina, on the other hand, does not have the same track record during his tenure, which led to a huge decline in both sectors.⁴⁰ This was in part due to the coup and political instability, but also to Rajoelina's desire to control the economy as much as possible, cutting off mining permits and reducing investor confidence.

³² Mining MX, 22 May 2018.

³³ Mining MX, 22 May 2018.

³⁴ www.usaid.gov

³⁵ Engineering News, 22 May 2018.

³⁶ www.data.worldbank.org

³⁷ www.data.worldbank.org

³⁸ Engineering News, 22 May 2018.

³⁹ Africa Confidential, 7 Oct 2005.

⁴⁰ Reuters, 2 Dec 2013.

Planner

Nov-Dec 2018 (**Madagascar**) Scheduled presidential and parliamentary elections;

Chronology

29 May 2018 **Antanarivo (Madagascar)** *L'Express Madagascar*. Eighteen opposition members of parliament cross the floor to join the ruling **Hery Vaovao ho an'i Madagasikara (HVM)** party;

28 May 2018 (**Madagascar**) *Reuters*. The **Haute Cour Constitutionnelle (HCC)** orders President **Hery Rajaonarimampianina** to dissolve the government and appoint a new prime minister to ease the political crisis;

26 May 2018 (**Madagascar**) *L'Express Madagascar*. Rajaonarimampianina announces the government is open to negotiations with the opposition to come to a political solution, but does not appear to intend to resign;

24 May 2018 **Luanda (Angola)** *News24*. **Southern African Development Community** heads of state appoint former **Mozambican** President **Joaqim Chissano** as special envoy to de-escalate tension in **Madagascar**;

22 May 2018 (**Madagascar**) *Mining MX*. **Lemur Holdings** concludes 30-year concession to construct a 60MW coal-to-power station using coal from **Imaloto** project;

11 May 2018 (**Madagascar**) *Citizen*. Rajaonarimampianina unilaterally changes electoral law, bypassing parliament, but scrapping many contentious parts of the law;

3 May 2018 (**Madagascar**) *The East African*. Madagascar scraps part of its contested new electoral law after two weeks of popular protests;

21 Apr 2018 **Antanararivo (Madagascar)** *BBC*. Thousands protest electoral legislation alleged to block opposition to President **Hery Rajaonarimampianina**;

3 Apr 2018 (**Madagascar**) *L'Express Madagascar*. The **Assemblée Nationale** passes contentious electoral law as opposition boycotts the vote;