

AFRICA RISK CONSULTING

Country briefing – Senegal

April 2013

Summary

President Macky Sall personally guided the 15 April 2013 arrest of Karim Wade – the number two in his father Abdoulaye Wade’s administration (2000 – 2012) – and several alleged accomplices for ‘illicit enrichment’. Much of the political class supports the move, which is viewed as a way to eradicate the Wade system of government. The Wade’s are accused of subverting institutions through awarding considerable powers to Karim Wade to launch major projects. However, the investigation and prosecution of Wade is seriously flawed and is increasingly viewed as a political vendetta. The evidence is thin and targeted companies have provided documented evidence challenging the investigators claims of Wade’s ownership. The government also faces pressure from the diplomatic community and human rights monitors over the Wade case. Sall’s broad government coalition is fragmented. The most prominent coalition figure, Idrissa ‘Idy’ Seck – Sall’s rival for Wade’s liberal legacy – is already emerging as a presidential challenger. Thus, coalition fractures have paralyzed government business and stalled economic activity.

President Sall’s anti-corruption programme has its target

Since coming to power a year ago President **Macky Sall** has “personally guided”¹ the ‘illicit enrichment’ investigations **Karim Wade**, the number two² in his father Abdoulaye Wade’s administration (2000 – 2012). Out of some 50 former officials and businessman linked to the Wade government under investigation, the focus is on Karim Wade. Police arrested Wade on 15 April 2013 at his home in **Dakar**. Following, the **Cour de Répression de l’Enrichissement Illicite (CREI)** charged him with ‘illicit enrichment’ on 17 April and transferred him to **Rebeuss** prison in Dakar where he remains. Seven other alleged “accomplices” were also charged and remain in prison. They include **Aviation**

¹ Source, francophone journalist, France

² He held the held the energy, international cooperation, regional development, air transportation and infrastructure portfolios between 2009 and 2012

Handling Services (AHS) executives Ibrahim Abou Khalil 'Bibo Bourgi', Pape Mamadou Pouye 'Albert Paye' and Pierre Agbogba; Omar Diallo, a former Wade advisor; Mbaye Ndiaye, former head of Aéroports du Sénégal (ADS); Alioune Samba Diassé; and Alioune Konaré.

Wade's arrest came less than 30 minutes before his legal team filed a 3,000 page dossier of its defence to the CREI allegations.³ Wade had complied with a one-month deadline to explain the lawful origin of an alleged \$1.37 billion (CFA 694 billion) asset list, including ownership of 15 companies, presented to him on 15 March.⁴ Four judges are assigned to the case and have six months, until 16 October 2013, to hear the case in the **High Court**. It is unclear if Wade will remain in prison in this time.⁵ The prosecution will base its case on "*financial engineering...bank transfers [linked to Wade] were discovered in tax havens.*"⁶ He faces up to 10 years in prison.⁷ In the lead up to the arrest authorities stopped Wade attempting to leave the country on several occasions.⁸ He is under a travel ban enforced since November 2012.

The political class – much of whom are incorporated in President Sall's governing coalition – seeks to eradicate the "*Wade system of government.*"

"Dakar progressives felt Wade subverted the constitution and government institutions and they are infuriated by it. They feel a powerful need to destroy how he ran government and seek revenge.

*"What is really on trial is the Wade system of government. Karim had a different mindset to operating as a minister, by launching quick projects he needed to make quick decisions as opposed to traditionally slow approach in government. He thought it was a normal way to operate... it wasn't transparent and contracts were awarded without tender. Also, in the eyes of the Dakar elite, setting up an offshore company designed to minimise tax, which happens all over the world, is viewed as corruption."*⁹

... as indications of a political agenda grow

There are growing concerns around the investigation, which lend to accusations of a political agenda. The CREI asset list is described as "*seriously flawed.*"¹⁰ Wade's legal team denies his ownership of all

³ RFI, 15 April 2013

⁴ See ARC Senegal briefing March 2013

⁵ There are unverified reports saying Wade and alleged "accomplices" can file applications for provisional release.

⁶ Jeune Afrique, 17 April 2013

⁷ Source, foreign journalist, Senegal

⁸ Source, francophone journalist, Senegal

⁹ Source, francophone political analyst, France

¹⁰ Jeune Afrique, 2 April 2013

corporate assets on the list and provided detailed documentation of ownership structures on each alleged asset in its defence dossier. CREI has little corporate documentation to support its claims and carried out the investigation without international legal and accounting consultants.¹¹ A key criticism is that the CREI investigation, conducted from the research section of the Gendarmerie headquarters in Dakar, lacks a solid understanding of international corporate structures.¹² In addition, the some CREI evidence is based on “*disgruntled former employees*” and police interrogation to extract testimonies against the companies in question.¹³

The main target companies on the list also dispute Wade’s ownership through documented evidence. Lawyers from Dakar port operator **DP World** provided the government with corporate documentation to dispute Wade’s ownership in its local affiliate.¹⁴ Similarly, businessman Ibrahim Abou Khalil claims he owns airport ground handling company **Aviation Handling Services (AHS)** and provided supporting documentation.¹⁵

“The way it [the investigation] has been conducted has reversed the presumption of innocence. Is there any basis in law for all of this? Where is the wrongdoing? They need evidence to back up the CREI list. You cannot have a government going after one person for an entire year. It all indicates we are looking at a witch hunt rather than a legitimate process.”

“The \$1bn figure is very convenient for the press and the general public which want to see Karim in jail. It’s lost in the argument how they arrived at this figure. But you have to unpack this local response. Karim has never been popular, he doesn’t speak Wolof and is seen as an outsider. It’s the rancor built up in the last few years.”¹⁶

The government also faces increasing pressure from the diplomatic community and human rights monitors. On 25 March **Economic Community of West African States (ECOWAS) Commission** president **Kadré Désiré Ouédraogo** wrote to the government demanding it uphold a 22 February decision in the ECOWAS Court of Justice to remove Wade’s travel ban and respect the presumption of innocence.¹⁷ Government lawyers replied that ECOWAS did not have jurisdiction to rule on an internal procedure and accused it of interference.¹⁸ Thus, the government is ordered to appear at the ECOWAS Court of Justice on 2 May following a complaint filed by Abdoulaye Wade’s lawyers.¹⁹ A group of

¹¹ Source, several including a business executive and foreign journalist, Senegal

¹² Source, business executive, Senegal; francophone journalist, Senegal

¹³ Source, several including business executive, foreign journalist and Jeune Afrique, 2 April 2013

¹⁴ Jeune Afrique, 28 March 2013

¹⁵ Jeune Afrique, 2 April 2013

¹⁶ Source, foreign journalist, Senegal

¹⁷ Source, francophone journalist, Senegal

¹⁸ Nettali, 12 April 2013

¹⁹ Jeune Afrique, 26 April 2013

prominent local human rights organisations²⁰ also released a statement on 2 April urging the government to comply with the ECOWAS ruling. After Wade's imprisonment, local human rights organisation **L'Organisation Nationale des Droits de L'homme (ONDH)** claimed that the prosecutors have ignored "*guiding principles of justice*"²¹.

Wade's **Parti Démocratique Sénégalais (PDS)** is mostly united around Wade's cause and launched weekly street protests starting on 23 April to demand his release from prison. "*It will be perceived as a witch hunt inevitably by Wade's camp.*"²² The PDS are "*extra embittered*" because Sall came from the PDS family. He fell out with the Wade's and left the PDS in November 2008. Several sources claim that the investigation is a way for Sall to seek revenge and end Wade's political future. A West Africa correspondent says Sall did not seek to conduct the Wade investigation with international forensic and legal experts because, "... if a complete audit was carried out Sall would be implicated too."

... while Sall's coalition fragments

Sall's large **Benno Bokk Yaakaar (BBY)** government coalition that brought him to power "*is reaching the end of its lifecycle*".²³ It comprises a number of different parties "*with little in common, including socialists, liberals and communists...The only reason it is holding together is that all the coalition partners have a presence in the cabinet.*"²⁴ Several members of the coalition have "*one leg in and one leg out of the coalition.*"²⁵ They hang on to position but criticise Sall and the governments performance, "...*They are hostages of each other.*"²⁶ The municipal elections scheduled for March 2014 will be a litmus test for the coalition government.

The political rivalry between Sall and his "*old nemesis*" **Idrissa 'Idy' Seck** is in full swing. Seck is the mayor of **Thiès**, leads the **Rewmi** party and is also a former PDS official – he is Sall's main rival for Wade's liberal legacy. He wants more of his party officials in government but at the same time he is "*turning up the heat*" on Sall and the government, "...*He also wants to create a platform for himself separately.*"²⁷ Seck has called for Sall to settle the Wade affair quickly so the government can concentrate on the "*real concerns*" of the Senegalese such as youth unemployment and power cuts.²⁸

²⁰ Rencontre africaine pour la défense des droits de l'homme (Raddho), Ligue sénégalaise des droits humains (LSDH) and Amnesty International, 2 April 2013

²¹ Le Soleil, 19 April 2013

²² Source, francophone political analyst, France

²³ Source, Foreign journalist, Senegal

²⁴ Ibid

²⁵ Ibid

²⁶ Ibid

²⁷ Source, foreign journalist, Senegal

²⁸ Speaking to Leral, 22 April 2013

“Idy is preparing the ground for the presidency. He has something Macky doesn’t – charisma, and lots of it. He is the real Wade successor”.²⁹

There are internal divisions emerging within Sall’s **Alliance pour la République (APR)** too.

Dissenting voices are calling for the need to build the party base at the expense of the broad coalition.

“These voices say the APR needs to be like Wade’s PDS and build up their own base...they want to do it on their own, and the first target is the 2014 municipal elections. They want to build their own profile – but they don’t have one. They don’t have a ticket to run on, they come from the PDS family and so does Idy... they are both liberals. So it will come down to personality between Macky and Idy.”

...and the economy stalls...

Fractures within Sall’s coalition are *“paralyzing government”* and stalling economic activity.³⁰ A financier in negotiations with the government also complains of unnecessary bureaucracy and *“difficulties getting anything done.”* CREI threats to seize alleged Wade companies and assets also increase business caution. *“Sall is focusing on the wrong things... by concentrating on Wade it is detracting from policies which could improve the economy.”³¹*

Despite these business concerns the government targets 7% economic growth by 2015. A 27 March – 10 April **International Monetary Fund (IMF)** mission confirmed economic growth of 3.5% in 2012 and an estimated 4% in 2013. The IMF urged the government to cut electricity subsidies, which totaled \$320m (CFA160 billion) in 2012, and to accelerate energy sector reform.

Implications

Sall’s strategy presents increasing business risk due to the lack of economic progress and slow government business. In the immediate term he secured general support among the electorate through the arrest of Wade. However, like business the electorate is more concerned with economic development, employment growth and better service provision. Moreover, as problems surrounding the Wade investigation emerge that indicate a political agenda, the focus on the case also brings to the fore questions of Sall’s own role in the alleged impropriety of the former administration.

Concurrently, Sall is viewed as weak for losing control of his government coalition. The coalition fractures combined with the focus on the Wade case further supports the impression that the

²⁹ Source, foreign journalist, Senegal

³⁰ Source, foreign journalist, Senegal

³¹ Source, political communications advisor, Senegal



economy is stalled and business confidence is low. As previously noted, the Wade case heightens business reputation risk. The Wade investigation and local press reports have implicated several foreign companies in alleged corruption and political exposure with unreliable and unverifiable information.