

AFRICA RISK CONSULTING

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South Africa Summary 25 January 2024

Former president Jacob Zuma (2009-2018) on 16 December declares his support for the new uMkhonto weSizwe (MK) Party in a move that causes great consternation within the ruling African National Congress (ANC). The National Prosecuting Authority (NPA) reaches a settlement agreement with German software giant SAP on 11 January over the latter's state capture corruption-related activities. Anti-corruption non-governmental organisation, the Organisation Undoing Tax Abuse (OUTA), on 4 January accuses higher education minister Balde Nzimande of facilitating corruption at the National Student Financial Aid Scheme (NSFAS). The Red Sea security crisis causes an increase in maritime traffic off South Africa's coast but South Africa's ongoing port crisis prevents it from benefiting.

ANC rattled by new party backed by former president

In an announcement which blindsided the ruling **African National Congress (ANC)** party, former president **Jacob Zuma** (2009-2018) announced on 16 December that he would not back the ANC ahead of the 2024 general election but would instead campaign for the newly formed **uMkhonto weSizwe (MK) Party**.¹ Zuma made this announcement at the MK Party's public launch, during which he claimed that he remains an ANC member and would be so until he dies but that the party's current leadership under President **Cyril Ramaphosa** (2018-present) has failed the party. This is a clear effort by Zuma to conflate the ANC and the MK Party in the eyes of voters - the uMkhonto weSizwe was the name of the ANC's armed wing during the struggle against **Apartheid**.

Since 16 December, it has become apparent that Zuma has been an integral part of the MK Party's formation despite the former president not being a founding member listed with the **Electoral Commission (IEC)**. The party was formally founded by MK Party president **Jabulani Sibongiseni Khumalo** on 7 September, however, it has since been reported that Khumalo did this on Zuma's instruction.² Regardless, it is clear that Zuma is the central figure of this new organisation as is evidenced by his public appearances and the party's plans to target its rallies and membership drives at provinces with established Zuma support bases such as **KwaZulu-Natal (KZN)** and **Mpumalanga**.

The ANC has struggled to adapt to Zuma's declaration of support for another party. The defection of a former president to another party is an unheard-of development in South African politics and an embarrassing one for the ANC. This is especially true given the support given to the former president by the party through his numerous corruption and criminal allegations, support which inflicted significant reputational damage to the ANC and is partly responsible for the ruling party's declining support.

ANC secretary-general **Fikile Mbalula** has vocally condemned Zuma's defection and claimed that the former party leader had "*automatically expelled himself*" by declaring his support for a rival party.³ However, the ANC has still not taken any former action against Zuma in the month he has been openly supporting the MK Party and no charges have been laid with the party's disciplinary bodies nor have any steps been taken to initiate suspension or expulsion processes. It appears that the ANC's **National Executive Committee (NEC)** remains paralysed on how to address Zuma's open defiance. This

¹ Reuters, 16 Dec 2023

² Daily Maverick, 9 Jan 2024

³ SABC, 7 Jan 2024

inaction has made the party appear weak and allows Zuma to continue to conflate the ANC and MK Party in the eyes of the voters.

Notably, the ANC registered an official complaint with the IEC in September when Khumalo first registered the party over the use of the MK name.⁴ The IEC is yet to rule on the matter; however, the timeframe for the IEC to act is narrowing as it will soon need to begin preparing the voting ballots after which point it will be too late to amend any party names. The ANC has also threatened to sue the MK Party for copyright infringement.

Although the ANC NEC has yet to take decisive action against Zuma himself, provincial and regional ANC bodies have begun attempting to root out any potential MK Party supporters in their ranks.⁵ This suspicion has arisen after it emerged that the MK Party is actively seeking to recruit Zuma loyalists within the ANC.

The MK Party is not expected to emerge as a major player in the wake of the 2024 general election but the party does have the potential to win a small but significant number of votes, especially in areas where Zuma is most popular such as KZN. The KZN provincial election is expected to be a closely fought affair and if the MK Party even pulls one or two percentage points worth of votes it could ensure that the ANC loses control of the province. It is this danger that is causing the ANC the most concern as it seeks a means to deal with the MK Party. Until the party is willing to initiate disciplinary and expulsion processes against Zuma, he will be able to continue to conflate the MK Party with his faction within the ANC and thus create a permission structure for ANC voters to support the MK Party.

NPA secures important win in battle against state capture

In a significant announcement in the fight against state capture corruption, the **National Prosecuting Authority (NPA)** announced on 11 January that it had reached a corporate alternative dispute resolution (resolution) with **German** software giant **SAP**.⁶ Under this agreement, SAP will pay over R2.2 billion (\$118m) in restitution payments as well as R750m (\$40.28m) into South Africa's **Criminal Assets Recovery Account** as a punitive reparation. This agreement relates to SAP's corrupt dealings with government officials and intermediaries to secure lucrative tenders with government agencies and departments. These entities include state-owned power utility **Eskom**, state-owned ports and railways firm **Transnet**, the cities of **Johannesburg** and **Tshwane**, the **Gauteng** provincial department of finance, the **South African Revenue Service (SARS)**, and the state-owned **Passenger Rail Agency of South Africa (PRASA)**.

This development comes as the result of SAP's decision to self-report its past actions to **United States (US)** officials which then triggered investigations by the US department of justice, and the **US Securities and Exchange Commission (US SEC)**. The NPA was then brought in as a party to these investigations. Investigations by the NPA and US agencies detailed how SAP bribed South African officials with sponsored overseas trips to **New York (US)**, luxury golf outings, and direct cash payments.⁷

SAP likely decided to self-report these actions after being subject to several state capture-related corruption investigations in South Africa. Illustrative of this, in 2022, the special tribunal in two separate rulings ordered the company to pay back a combined R496m (\$26.6m) to the department of water and sanitation after being subject to an investigation by the **Special Investigating Unit (SIU)**.⁸ By self-reporting and subjecting itself to investigations in the US, SAP was able to secure a less severe settlement than would have otherwise been the case.

It should be noted that the NPA also confirmed that several **Gupta** family-linked entities were connected with this corrupt activity. Gupta-linked companies, including include **CAD House (Pty)**

⁴ News24, 19 Sep 2023

⁵ News24, 28 Dec 2023

⁶ NPA, 11 Jan 2024

⁷ Daily Maverick, 11 Jan 2024

⁸ SIU, 22 Sep 2022

Ltd, Global Softech Solutions Pty (Ltd), and Lejara Global Solutions, acted as intermediaries between SAP and corrupt officials.⁹ The NPA believes that these firms received more than R100m (\$5.37m) in kickbacks from SAP's various corrupt government contracts in South Africa.

This is a significant victory for the NPA in its fight against state capture and potentially illustrates a path for the prosecuting authority to secure more wins. Coordinating with US authorities enabled the NPA to benefit from that country's more substantial resources and law enforcement heft. The US can better target companies which have engaged in corrupt activities due to its dominant economic size and the enhanced capacity of its federal anti-corruption infrastructure. It was likely the fear of being targeted by a US criminal investigation which pressured SAP to voluntarily report on its corrupt activities.

Through enhanced cooperation with US and **European** agencies, the NPA may be able to target the international firms that benefitted from state capture corruption. As is the case with the SAP matter, this can result in the recovery of millions of funds lost due to this corruption and ensure these companies' future cooperation. This latter point is particularly key as it will strengthen the NPA's criminal cases against the individuals and officials involved in these crimes. As a result of this settlement, the NPA will likely have strong evidence-backed cases against the SAP executives, intermediaries and local officials involved in the corrupt SAP contracts.

Higher education minister accused of corruption

In yet another corruption-related development, the anti-corruption non-governmental organisation, the **Organisation Undoing Tax Abuse (OUTA)** on 4 January accused higher education minister **Blade Nzimande** of corruption and called for his resignation.¹⁰ This comes after OUTA released two recordings it claims depict Nzimande and the **National Student Financial Aid Scheme (NSFAS)** chairperson **Ernest Khoza** discussing kickbacks received from NSFAS service providers. Notably, these allegations come at a time when NSFAS is facing criticism over its failure to pay student bursaries on time.

Nzimande has denied these allegations and described them as reckless, threatening to sue OUTA for making these claims. The NGO has welcomed this and stated that it is willing to defend its claims and its wider report into mismanagement at NSFAS in court.¹¹ For his part, Khoza announced on 10 January that he would take a leave of absence from the NSFAS board so that the allegations could be investigated. This likely marks the start of a protracted scandal for Nzimande. The official opposition, the **Democratic Alliance (DA)**, announced on 9 January that it had opened a corruption case against the minister as has **Economic Freedom Fighters (EFF)** member of parliament (MP) **Mandla Shikwambana**.¹²

OUTA's claims are the latest in a series of allegations of corruption and mismanagement at NSFAS. In October, the scheme dismissed its then-CEO **Andile Nongogo** after a forensic report by the law firm, **Werksmans**, found evidence of fraud and corruption related to NSFAS's payment tender.¹³ The Werksmans investigation was commissioned after the NSFAS payment system collapsed resulting in the failure to pay bursaries to at least 20,000 students. The four suppliers who secured these direct payments- **Coinvest Africa (Pty) Ltd, Tenet Technology (Pty) Ltd, Ezaga Holdings (Pty) Ltd** and **Norraco Corporation (Pty) Ltd** – appear to have been ill-equipped and unqualified to do so.

Nzimande has openly refused to resign, and he is unlikely to be removed by Ramaphosa given his role in ensuring that the **South African Communist Party (SACP)** continues to back the president. As such, NSFAS and the higher education department could be emerging as the next high-profile government corruption scandal.

⁹ NPA, 11 Jan 2024.

¹⁰ OUTA, 4 Jan 2024

¹¹ Mail & Guardian 12 Jan 2024

¹² SABC News, 9 Jan 2024

¹³ Mail & Guardian, 12 Jan 2024

Logistics crisis highlighted by surge in maritime traffic

The **Maritime Business Chamber (MBC)** on 29 December said that South Africa has “*missed a rare and lucrative opportunity*” to benefit from the spike in maritime travel along our costs due to the **Red Sea** security crisis.¹⁴ Major shipping firms began rerouting vessels around the **Cape of Good Hope** in mid-December, a decision necessitated after the **Yemen-based Houthi Movement** militant group began attacking vessels transiting the Red Sea, **Gulf of Aden**, and the **Bab el-Mandeb** strait which connects the two. As a result, most maritime traffic between **Europe** and **Asia** currently needs to circumnavigate **Africa**. This has, in turn, led to a surge in demand for refuelling, harbouring, and bunkering operations on this route.

Typically, South Africa would be ideally placed to benefit from this given the country's comparatively sophisticated ports. However, this development occurred amid the country's ongoing ports and logistics crisis which has seen South African ports experiencing prolonged disruption and an extended backlog of vessels due to the poor performance of the Transnet.

This lost opportunity was further compounded by SARS' decision in September to ban **Off Port Limits (OPL)** marine bunkering services due to a dispute over fuel taxes. This means that South Africa is not able to offer OPL bunkering services at any of its ports. These factors have combined to compel many vessels to seek services at competitor ports along the route most notably **Port Louis in Mauritius** and **Walvis Bay in Namibia**. South Africa has lost out on an important potential source of revenue for the maritime sector which has highlighted Transnet's ongoing poor performance.

Planner

8 Feb 2024 **Cape Town (South Africa)** State of the Nation Address (SONA)
 21 Feb 2024 **Cape Town (South Africa)** Annual budget speech expected
 2024 **(South Africa)** General election

Chronology

21 Jan 2024 **Johannesburg (South Africa)** *EWN*. At least two people are killed and around 200 others displaced after a building catches fire in central Johannesburg;

21 Jan 2024 **Cape Town (South Africa)** *My Broadband*. Defence minister **Thandi Modise** reveals that the **South African National Defence Force's (SANDF)** deployment at power stations across the country has cost R250m (\$13.12m);

21 Jan 2024 **Cape Town (South Africa)** *Defence Web*. **Germany** and **South Africa** begin naval exercises off the coast of the **Western Cape** province;

20 Jan 2024 **Pretoria (South Africa)** *Bloomberg*. Political newcomer, **Rise Mzansi**, releases its party election manifesto;

20 Jan 2024 **Durban (South Africa)** *News24*. The **Democratic Alliance (DA)** launches its electoral campaign in **KwaZulu-Natal (KZN)** province;

19 Jan 2024 **Hong Kong (China)** *Fitch Ratings*. **United States**-headquartered rating agency **Fitch Ratings** affirms South Africa's **Long-Term Foreign-Currency Issuer Default Rating (IDR)** at 'BB-' with a Stable Outlook;

18 Jan 2024 **Pretoria (South Africa)** *Daily Maverick*. **Nasiphi Moya** of opposition party **ActionSA** is appointed as the deputy mayor of **Tshwane Metropolitan Municipality** as agreed under the terms of its coalition agreement with fellow opposition party, the **Democratic Alliance (DA)**;

¹⁴ News24, 29 Dec 2024

18 Jan 2024 **Mangaung (South Africa)** *Daily Maverick*. **Democratic Alliance (DA)** opposition party successfully retains the Ward 7 councillor seat in the **Mantsopa Local Municipality** in the **Free State** with 59%;

18 Jan 2024 **Johannesburg (South Africa)** *Daily Maverick*. Mineral resources and energy minister **Gwede Mantashe** announces that his department will soon unveil South Africa's long-awaited updated mining cadastre;

18 Jan 2024 **Davos (Switzerland)** *Mail & Guardian*. Finance minister **Enoch Godongwana** comments during a panel at the **World Economic Forum** that South Africa would benefit from "delinking" from the West and diversifying its trade partners;

18 Jan 2024 **Johannesburg (South Africa)** *Daily Maverick*. High-profile politician **Ghaleb Cachalia** of the opposition **Democratic Alliance (DA)** quits the party due to differences with the DA's **Israel-Palestine** policy;

12 Jan 2024 **Johannesburg (South Africa)** *Mail & Guardian*. Reports citing leaked audio tapes allege that the **Patriotic Alliance (PA)** opposition party has received funding from criminal gangs;

11 Jan 2024 **The Hague (The Netherlands)** *UNTV*. **South Africa** presents its genocide case against **Israel** before the **International Court of Justice (ICJ)**;

10 Jan 2024 **Johannesburg (South Africa)** *Times Live*. The **Municipal Demarcation Board** rejects an **African National Congress**-backed proposal to merge the **Democratic Alliance**-run **uMngeni Local Municipality** with the ANC-led **Mpofana** and **Impendle** municipalities;

9 Jan 2024 **Johannesburg (South Africa)** *News24*. State power utility **Eskom** announces petrochemical firm **Sasol's** executive vice president **Priscillah Mabelane**, as the new chairperson of the **National Transmission Company of South Africa (NTCSA)**;

9 Jan 2024 **Johannesburg (South Africa)** *Business Day*. **ActionSA** calls on the **Electoral Commission (IEC)** to investigate the **African National Congress'** R102m (\$5.4m) debt settlement with the **Kwa-Zulu Natal** marketing firm, **Ezulweni Investments** for possibly breaching the **Political Party Funding Act**;

8 Jan 2024 **Johannesburg (South Africa)** *Business Day*. The **Competition Appeal Court** dismisses the **Competition Commission's** case against 23 of the 28 banks the commission is seeking to charge with currency manipulation;

5 Jan 2024 **Pretoria (South Africa)** *ENCA*. President **Cyril Ramaphosa** approves a memorandum of understanding (MoU) better demarcating powers between electricity minister **Kgosientsho Ramakgopa** and public enterprises minister **Pravin Gordhan**;

4 Jan 2024 **Musina (South Africa)** *TimesLive*. The **Patriotic Alliance** opposition party claims its members forcibly sent back hundreds of **Zimbabwean** nationals attempting to enter the country illegally as part of the party's campaign to stop illegal immigration via unsanctioned border patrols. The PA's claims have not been verified but underscore the extent to which anti-immigrant sentiment will be a leading issue in the upcoming general election;

4 Jan 2024 **Pretoria (South Africa)** *Bloomberg*. The department of mineral resources and energy gazettes the government's new **Integrated Resource Plan 2023 (IRP 2023)** for public comment. This new plan envisions the development of more than 100 gigawatts (GW) of additional generation capacity by 2050.

29 Dec 2023 **The Hague (Netherlands)** *Al Jazeera*. **South Africa** lodges a case of genocide against **Israel** with the **International Court of Justice (ICJ)**;

17 Dec 2023 **Johannesburg (South Africa) BBC**. South Africa's **Gift of the Givers** confirms it has facilitated the unconditional release of **Gerco van Deventer**, who was kidnapped by an unknown armed group in **Libya** in 2017 before being sold to Islamists in **Mali** in 2018.

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Getting in touch

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

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