

AFRICA RISK CONSULTING

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High courts in Zambia nullify the results of four constituencies in the August general election, including two of ruling Patriotic Front (PF) ministers leading to four by-elections. The presidency releases a statement attacking the judiciary for “usurping the sovereign will of the people”. Finance minister Felix Mutati presents the 2017 budget to parliament, which includes provisions to reduce public spending, freeze capital projects, introduce a new 7.5% copper export tax, and increase the cost of electricity. The budget appears designed to fulfill the requirements of the International Monetary Fund (IMF) to consolidate expenditure in order to qualify for an aid package. The budget draws approval from international investors, but economic observers are concerned that it will increase pressure on consumers.

Judges call by-election in a number of constituencies

High courts across **Zambia** have issued several judgements on contested electoral constituencies in the August elections.¹ The closely fought elections between president **Edgar Lungu**'s (2015-present) **Patriotic Front (PF)** and opposition leader **Hakainde Hichilema**'s **United Party for National Development (UPND)** led to a failed challenge to the national result (see *ARC Briefing Zambia September 2016*).² The courts have now ruled on a number of challenges to individual constituency results where candidates claim there was vote rigging, voter intimidation and other breaches of electoral conduct.³

In total, claimants brought 136 electoral petitions to the courts over mayoral and parliamentary seats. This has resulted in four parliamentary nullifications, 42 seats upheld, 57 withdrawals, three ward level reversals, 11 rejected cases and 24 outstanding judgements.⁴ The **Lusaka High Court** ruled on the four parliamentary nullifications which include the seats of two current ministers:

- **Munali** constituency: the court ruled against PF higher education minister **Nkandu Luo** in favour of UPND candidate **Doreen Mwamba** on 22 November.⁵ The court cited undue advantage due to Luo's ministerial position and a failure of the **Electoral Commission of Zambia (ECZ)** to properly handle the electoral process.⁶
- **Lusaka Central** constituency: the court ruled against PF trade and industry minister **Margaret Mwanakatwe** in favour of UPND candidate **Charlotte Scott** on 24 November.⁷ The court cited Mwanakatwe's use of racist remarks for electoral gain and incitement of electoral violence.⁸

¹ Lusaka Times, 29 Nov 2016.

² Lusaka Times, 29 Nov 2016.

³ Lusaka Times, 29 Nov 2016.

⁴ Source, electoral expert, Lusaka

⁵ Zambia Watchdog, 22 Nov 2016.

⁶ Zambia Watchdog, 22 Nov 2016.

⁷ Zambia Watchdog, 24 Nov 2016.

⁸ Zambia Watchdog, 24 Nov 2016.

- **Itezhi-Tehzi** constituency: the court ruled against UPND MP **Herbert Shabula** in favour of PF candidate **Greyford Monde** on 26 November.⁹ The court found that Shabula orchestrated acts of violence against Monde's supporters.¹⁰
- **Nalolo** constituency: the court ruled against independent MP **George Imbuwa** in favour of PF candidate **Kaywala Mundia**.¹¹ The court found widespread voter buying and other electoral irregularities.¹²

The candidates are free to appeal to the **Constitutional Court** to overturn the rulings and both PF candidates have reportedly done so.¹³ If the higher court upholds the rulings, the ECZ will arrange for by-elections in each of the constituencies.¹⁴ The results have no chance of shifting the overall election result as the PF holds a 22-seat majority in the **National Assembly**.¹⁵

The judiciary appears relatively even-handed in its rulings, throwing the overwhelming majority of claims out. Where it has ruled, it has not shown any particular favour to either the PF or UPND. Electoral experts in Zambia say that the courts have handled the process with speed and efficiency:

*"It is important to acknowledge and appreciate the speed at which this year's electoral petitions at parliamentary and local government levels have been disposed of by the courts. This, indeed, is a great stride towards meeting the provisions of Article 45 of the amended constitution...and further helps to resolve the long standing problem of delayed dispensation of electoral justice in the country."*¹⁶

However, the rulings have drawn the ire of President Lungu and leading PF figures. Presidential spokesperson **Amos Chanda** told the media that there was discomfort with the rulings in the government.¹⁷ He appeared to attack the independence of the judiciary saying:

*"The judiciary must not be like politicians. The judiciary must not push the executive to push judicial reforms. Judges...should not create doubts...let's not have the judiciary that puts itself on trial....no elections are won in a court of law, the judges are usurping the sovereign will of the people."*¹⁸

Opposition UPND spokespersons were also critical of the ruling against UPND candidate Shabula, but welcomed the ruling against the PF:

*"The judges are in the pocket of the presidency, they denied the right of HH [Hakainde Hichilema] to appeal the overall vote and are now removing our MPs from office. They will only act against the government where the PF has been so obvious in its corruption."*¹⁹

Mutati unveils 2017 fiscal consolidation budget...

Finance minister **Felix Mutati** revealed his budget for 2017 to parliament on 11 November.²⁰ The budget is the first test of the new finance minister's ability to balance the need to reduce government spending with generating growth, investing in new power generation, and supporting food prices during a period of inflation. Introducing the budget, he told parliament:

⁹ Zambia Watchdog, 26 Nov 2016.

¹⁰ Zambia Watchdog, 26 Nov 2016.

¹¹ Zambia Reports, 23 Nov 2016.

¹² Zambia Reports, 23 Nov 2016.

¹³ Lusaka Times, 29 Nov 2016.

¹⁴ Lusaka Times, 29 Nov 2016.

¹⁵ Lusaka Times, 29 Nov 2016.

¹⁶ Source, electoral expert, Lusaka

¹⁷ Lusaka Times, 28 Nov 2016.

¹⁸ Lusaka Times, 28 Nov 2016.

¹⁹ UPND spokesperson, Kitwe

²⁰ Lusaka Times, 11 Nov 2016.

"We are all agreed that the task of restoring stability and accelerating growth will not be easy. We have to be bold and decisive."²¹

Mutati presented a K64.5 billion (\$6.6 billion) budget based on projected government income and domestic borrowing of 2% of gross domestic product (GDP), up from 1.2% in 2016.²² The treasury predicts that the economy will grow by 3.4% of GDP in 2017, up from 3% in 2016. The conservative growth estimate is based on a number of restrictive factors – notably the low price of copper – that are currently holding back growth. The projection is higher than that of the **International Monetary Fund (IMF)**, which completed an assessment of the economy in June, and forecasts 3% growth for 2017 (see *ARC Briefing Zambia June 2016*).²³

Mutati announced that the government planned to reduce its fiscal deficit to 7% of GDP in 2017, down from 10% currently.²⁴ It will do so by cutting public expenditure across the board and restricting new capital projects in order to preserve liquidity and avoid a 'cash crunch' where it has to borrow to keep up expenditure.²⁵ It will also raise revenues by introducing an export duty on copper concentrates of 7.5% from January 2017.²⁶ However, the government has no plans to increase any other mining taxes, and mining houses will be able to pass on the taxation burden to large scale purchasers of the commodity.

"We [mining companies] are not overly concerned about the export duty....it will be balanced out by a restoration of good electricity supply."²⁷

Mutati also announced plans to review state-owned enterprises and recapitalise those that are profit making and sell off those that are not.²⁸

"There could be an opportunity for investors in a sell-off of parastatals, often they are unprofitable due to poor management. Put in the right management team and diversify the services and these could turn around."²⁹

Finally, the government will increase the price of electricity to reflect the cost of production by the end of 2017.³⁰ Zambia faces rolling power shortages in and around its dry season (from May to October) due to an overreliance on hydro-electric generation. Five provinces – **Eastern, Muchinga, Northern, Luapula and Central Provinces** – had a four-day power cut from 20-24 November.³¹ The government currently pays for large-scale diesel generation at considerable cost.³² These costs will pass to the consumer by the end of next year.³³ There are a number of power projects under construction in Zambia which will help bring the cost of electricity down. **United Kingdom (UK)**-based **Cleantech** signed a \$120m memorandum of understanding (MoU) on 22 November to develop two power plants in 2017 and 2018.³⁴

²¹ Lusaka Times, 11 Nov 2016.

²² Lusaka Times, 11 Nov 2016.

²³ Reuters, 1 Nov 2016.

²⁴ Lusaka Times, 11 Nov 2016.

²⁵ Reuters, 1 Nov 2016.

²⁶ Lusaka Times, 11 Nov 2016.

²⁷ Source, mining executive, Johannesburg

²⁸ Lusaka Times, 11 Nov 2016.

²⁹ Source, Africa fund manager, Johannesburg

³⁰ Lusaka Times, 11 Nov 2016.

³¹ Zambia Reports, 24 Nov 2016.

³² Zambia Reports, 12 Nov 2016.

³³ Lusaka Times, 11 Nov 2016.

³⁴ Reuters, 22 Nov 2016.

...laying the groundwork for an IMF programme

These measures are part of a government effort to meet the requirements of the IMF for a structured loan facility (SLF) aid package. IMF Zambia mission director **Tsidi Tsikata** told the media on 1 November that the fund would be looking for

*"the removal of fuel and electricity subsidies...coupled with structural reforms to reduce inefficiencies and increase capacity utilisation in the energy sector would go a long way towards increasing Zambia's growth potential."*³⁵

The IMF will return to Zambia in the first quarter of 2017 to discuss a potential programme.³⁶ Mutati has repeatedly told the media that the country will feel the pain of fiscal consolidation before any economic benefit can come of the programme (see *ARC Briefing Zambia September and October 2016*). The programme will help reduce Zambia's growing debt burden. It currently has externally denominated debt of \$6.7 billion, equivalent of 35% of GDP, and internal debt of K26 billion (\$5.05m).³⁷ The **Bank of Zambia (BoZ)** (central bank) has also spent a portion of the country's foreign exchange reserves to control the level of the kwacha, and low copper receipts have not replenished them.

The budget drew mixed responses from business and economic commentators. Sources in business are more positive:

*"The budget is honest – Zambia needs to reign in debt levels and increase cash reserves, this will not be easy but the government is not going down the dangerous route of extracting all of the cash from business."*³⁸

Some commentators are concerned about the impact that the budget could have on consumers. However, economic pressure on consumers eased across November. The BoZ released statistics on 24 November showing year-on-year consumer price index (CPI) inflation fell to 8.8% in November from 12.5% in October.³⁹ While most of the fall is due to high inflation in November 2015, food and fuel prices also eased across the month. The BoZ monetary policy committee (MPC) kept its baseline interest rate at 15.5% at a quarterly meeting on 16 November to keep up the pressure driving inflation down.⁴⁰ The kwacha remained stable at around K9.5/\$ across the month.⁴¹ Some sources are concerned that the budget will undo this:

*"The IMF think like macro-economists, they see an inflation spike as a necessary part of fiscal consolidation, but many businesses and households are at their financial limit...it is years of high import prices, rising fuel costs and high food costs – the supply side economy cannot sustain these cuts."*⁴²

Implications

The court rulings against two PF sitting ministers have kept post-election tensions high. However, they demonstrate some independence of the judiciary against the PF. Following the dismissal of the UPND contest of the election results in September, the independence of the courts appeared less than certain. The results will not alter the current government, but will raise questions about the electoral process – particularly in Lusaka constituencies. Amos Chanda's attack on the judiciary is a familiar return to populist rhetoric for the PF, but the government does not appear to be planning any reform of judicial process or structures.

³⁵ Reuters, 1 Nov 2016.

³⁶ Reuters, 1 Nov 2016.

³⁷ Lusaka Times, 11 Nov 2016.

³⁸ Source, mining executive, Johannesburg

³⁹ Zambia Daily Mail, 24 Nov 2016.

⁴⁰ BoZ press release, 16 Nov 2016.

⁴¹ XE.com

⁴² Source, journalist, Lusaka

The budget follows the requirements of the IMF's fiscal consolidation package. Mutati had little room to manoeuvre when selecting what expenditure to reduce – fuel and electricity spending, and food subsidies are major costs. The selection of conservative growth targets, as well as a moderate public expenditure reduction target of 3% of GDP are realistic. However, the economy's high exposure to the price of copper may make them unachievable. What was missing from the budget were measures to stimulate growth or diversify the economy. These may come in future legislation, however a focus on consolidation alone will reduce domestic productivity. Mutati is correct to say that there will be a period of pain before growth, but if he is to free Zambia from its copper dependency, meaningful progress on encouraging growth in other sectors should start as soon as possible.

Concerns over the impact of the budget and probable IMF programme on consumers are justified. Increasing the cost of electricity at a time when food prices are high will increase inflation. Several years of high inflation and a weak currency have depleted national levels of savings, and a reduction in spending across the board will leave the state unable to provide aid to those in need. A freeze in capital projects may also mean a slowdown in infrastructure spending. However the government still appears to be funding projects in the crucial power sector. Overall, if the government is to develop a more resilient currency and bring inflation down in the long run, the consolidation measures are necessary. Mutati will need to ensure that this long-term gain does not come at the cost of short-term instability.

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