

## AFRICA RISK CONSULTING

### Zimbabwe Monthly Briefing August 2018

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#### Zimbabwe Summary 16 August 2018

*The Zimbabwe Electoral Commission (ZEC) announces President Emmerson Mnangagwa (2017-present) as the winner of the 30 July election, with 50,8% of the votes. Opposition Movement for Democratic Alliance (MDC Alliance) leader Nelson Chamisa obtains 44,3% of the vote. The MDC Alliance challenges the election result at the Constitutional Court. Members of the Zimbabwe Defence Forces (ZDF) and the Zimbabwe Republic Police (ZRP) attack civilians, opposition activists and political leaders in the immediate aftermath of the election, killing six people. The ZDF and ZRP face global criticism over post-election violence and human rights abuses. United States (US) President Donald Trump (2017-present) signs the Zimbabwe Democracy and Economic Recovery Act (ZDERA) into law, effectively extending economic sanctions against Zimbabwe.*

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#### ZEC declares Mnangagwa election winner ...

**Zimbabwe Electoral Commission (ZEC)** commissioner **Justice Priscilla Chigumba** declared President **Emmerson Mnangagwa** (2017-present) the winner of the 30 July presidential election on 3 August.<sup>1</sup> Chigumba's announcement sparked protests and a legal challenge, resulting in the deferment of Mnangagwa's inauguration as the opposition **Movement for Democratic Change Alliance (MDC Alliance)** disputed the fairness of the poll.<sup>2</sup> The ZEC reported that Mnangagwa won the election with 50.8% of the vote, while opposition MDC Alliance leader **Nelson Chamisa** obtained 44.3% of the vote.<sup>3</sup> Chamisa refused to accept the decision, and declared himself winner instead, alleging that **Zimbabwe African National Union (Zanu-PF)** leader Mnangagwa colluded with the ZEC's Chigumba to manipulate the election results.<sup>4</sup>

*"Although other analysts would like to dismiss the MDC Alliance's refusal to accept the results as mere grandstanding, they have merit to a considerable extent. For instance, one of the methods that Zanu-PF reportedly used to rig the election was having the army seize the original **V11 forms**, [which contain polling results for each voting station], and replace them with fake ones, which bore inflated figures that boosted Mnangagwa's overall score. The army would subsequently force polling agents to sign the fraudulent **V11 forms**. In some instances, suspected army operatives made off with unsealed ballot boxes, giving rise to suspicions of ballot-stuffing."<sup>5</sup>*

The ZEC delayed announcing election results, releasing them on 3 August after the polls closed on 31 July, leading to increased political tensions.<sup>6</sup> The ZEC attributed the delay to a

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<sup>1</sup> The Independent, 3 Aug 2018.

<sup>2</sup> The Independent, 3 Aug 2018.

<sup>3</sup> The Independent, 3 Aug 2018.

<sup>4</sup> The Independent, 3 Aug 2018.

<sup>5</sup> Source, analyst, London

<sup>6</sup> Washington Post, 2 Aug 2018.

“verification process”.<sup>7</sup> However, civil society groups and opposition party supporters accused the ZEC of deliberately delaying the results in order to manipulate the outcome in Mnangagwa’s favour.<sup>8</sup> Opposition MDC Alliance supporters staged non-violent protests mainly in the capital, **Harare**, starting on 1 August.<sup>9</sup> The **Zimbabwe Defence Forces (ZDF)** deployed soldiers to quell the demonstrations. Soldiers fired on the unarmed protesters using live bullets, killing six, and injuring several others.<sup>10</sup> Soldiers fired randomly onto the crowds of protesters, while beating bystanders who were not engaged in the mass action.<sup>11</sup> In a statement on 4 August, Mnangagwa said he would establish a commission of inquiry to investigate the army’s conduct.<sup>12</sup> His statement implied that he did not deploy the army, as is his prerogative as the president and commander in chief, thus signifying the presence of two centres of power in the executive.

*“Vice president and former commander of the ZDF **Constantino Chiwenga** holds the key to military power in Zimbabwe. Military power has always been the mainstay of Zanu-PF and former President **Robert Mugabe** (1980-2017)’s prolonged stay in power since 1980. A breakdown in the Zanu-PF-military alliance led to the coup that ousted Mugabe in November 2017. The confusion around the deployment of the army shows that, Mnangagwa is not really in charge of all the tiers of government, particularly the security sector, but Chiwenga is. Apart from being the minister of defence, Chiwenga’s office is also directly responsible for intelligence, and police. Chiwenga has managed to build informal alliances within the security sector, which also give him considerable clout beyond constitutional and institutional demarcations.”<sup>13</sup>*

ZDF commander General **Philip Sibanda** was reportedly unaware of the deployment of the troops.<sup>14</sup> Sibanda met with Mnangagwa on 3 August requesting clarity on the military intervention on 1 August, but did not receive substantive information regarding who had issued the order.<sup>15</sup> Foreign minister **Sibusiso Moyo** also denied that the soldiers were from the ZDF.<sup>16</sup> ZDF spokesman **Overson Mugwisi** similarly denied that the soldiers were from the ZDF, indicating that they were impostors bent on tarnishing the army’s image.<sup>17</sup> However, it is unlikely that armed impostors in army uniforms would invade the city centre and residential areas in ZDF vehicles to attack civilians without the ZDF and ZRP intervening. The ZDF’s statement appears to seek to mask the confusion within the security sector’s chain of command, which Chiwenga controls, in defiance of constitutional and institutional structures.

### **Opposition MDC Alliance challenges election results in court ...**

The MDC Alliance filed a legal challenge on 10 August at the **Constitutional Court of Zimbabwe**, disputing the outcome of the 30 July election.<sup>18</sup> This delayed the presidential inauguration, which had been scheduled for 12 August.<sup>19</sup> The MDC Alliance contends that the

<sup>7</sup> NPR, 2 Aug 2018.

<sup>8</sup> NPR, 2 Aug 2018.

<sup>9</sup> Washington Post, 2 Aug 2018.

<sup>10</sup> Washington Post, 2 Aug 2018.

<sup>11</sup> NPR, 2 Aug 2018.

<sup>12</sup> NPR, 2 Aug 2018.

<sup>13</sup> Source, analyst, London

<sup>14</sup> NewsDay, 7 Aug 2018.

<sup>15</sup> NewsDay, 7 Aug 2018.

<sup>16</sup> NewsDay, 7 Aug 2018.

<sup>17</sup> NewsDay, 7 Aug 2018.

<sup>18</sup> BusinessDay, 10 Aug 2018.

<sup>19</sup> BusinessDay, 10 Aug 2018.

ZEC rigged the result to give President Mnangagwa a fraudulent victory.<sup>20</sup> Although international observers largely commended the ZEC for a peaceful election, they indicated that Mnangagwa had benefitted from unfair practices, including voter intimidation.<sup>21</sup> The court will hear the case on 22 August.<sup>22</sup>

*“This court challenge is a high-stakes affair for both parties. Mnangagwa will seek to prove that his regime upholds the rule of law, and will seek to use the court judgment to legitimise and sanitise his government. From the beginning, Mnangagwa had sought to use this election to attain legitimacy, since he rose to power through a coup. On the other hand, the MDC Alliance will also seek to prove that Zanu-PF fraudulently won the election, and force a run-off, and possibly defeat Zanu-PF and get into power. The outcome of the court challenge remains largely unpredictable, although Zimbabwe’s courts have mostly ruled in favour of the Executive, and the Zanu-PF government in general, particularly in high profile cases.”<sup>23</sup>*

Zanu-PF’s legal team, led by legal affairs secretary **Paul Mangwana**, filed its opposing papers to the MDC’s court challenge on 15 August.<sup>24</sup> Mangwana said the MDC Alliance application lacks merit:

*“It is based on some theoretical calculations by some statistician whose qualification we doubt a lot. The elections are not won in court but in the ballot. They have not even asked for the ballot boxes to be reopened and recounted... The election material is there for everyone to see. Nelson Chamisa was beaten thoroughly and effectively, so there is no basis or any grounds for challenging the victory of President Mnangagwa. Broadly, that is the thrust we are taking in opposing the application.”<sup>25</sup>*

The Constitutional Court will make a ruling within 14 days of hearing the case, and its decision will be final.<sup>26</sup> There are several possible outcomes.<sup>27</sup> The court could declare the election invalid, after which a fresh election will be held within 60 days.<sup>28</sup> The court could also order a recount of votes, or a runoff election between the two candidates with the most votes.<sup>29</sup>

### ... as police and army target opposition leaders

The **Zimbabwe Republic Police (ZRP)** and army targeted opposition activists and leaders for arrest and intimidation in the aftermath of Zimbabwe’s 30 July election, despite global condemnation of the violence and human rights abuses.<sup>30</sup> Their actions have undermined President Mnangagwa’s attempts to portray himself as different from Mugabe.<sup>31</sup> The police and army accuse senior opposition leaders of inciting their supporters to stage the post-election protest on 1 August, which they describe as illegal.<sup>32</sup> Police raided the MDC Alliance

<sup>20</sup> BusinessDay, 10 Aug 2018.

<sup>21</sup> BusinessDay, 10 Aug 2018.

<sup>22</sup> BusinessDay, 10 Aug 2018.

<sup>23</sup> Source, analyst, London

<sup>24</sup> TimesLive, 15 Aug 2018

<sup>25</sup> ZANU PF secretary for legal affairs, Munyaradzi Paul Mangwana quoted in TimesLive, 15 Aug 2018

<sup>26</sup> TimesLive, 15 Aug 2018

<sup>27</sup> TimesLive, 15 Aug 2018

<sup>28</sup> TimesLive, 15 Aug 2018

<sup>29</sup> TimesLive, 15 Aug 2018

<sup>30</sup> NPR, 5 Aug 2018.

<sup>31</sup> NPR, 5 Aug 2018.

<sup>32</sup> BBC, 7 Aug 2018.

headquarters on 2 August, accusing the opposition of possessing dangerous weapons and other “*subversive material*”.<sup>33</sup> Soldiers opened fire on the home of opposition MDC Alliance legislator for **Zengeza West, Job Sikhala**, on 2 August.<sup>34</sup> Police have also been attempting to arrest MDC Alliance chairman **Morgan Komichi**, youth leader **Happymore Chidziva**, and several other party officials, who have since gone into hiding.<sup>35</sup> Soldiers and police have also reportedly been beating people in bars and restaurants, accusing them of voting for the opposition, which won the majority of votes in Harare.<sup>36</sup>

The ZRP’s arrest of senior MDC Alliance leader and former finance minister **Tendai Biti** on 9 August became the highest profile example of the government’s crackdown on the opposition.<sup>37</sup> Police accused Biti of illegally announcing that opposition MDC Alliance leader Nelson Chamisa had won the election, before the ZEC had issued the official version of results on 3 August.<sup>38</sup> Biti evaded police and fled to **Zambia** on 8 August, seeking political exile.<sup>39</sup> However, Zambia’s foreign minister, **Joseph Malanji**, indicated that the Zambian government would not grant Biti asylum because his application did not have reasonable grounds.<sup>40</sup> The **Zambian High Court** issued an order prohibiting Biti’s deportation to Zimbabwe, but Zambia’s immigration authorities and police defied the order and handed Biti over to Zimbabwe police on 9 August.<sup>41</sup> Zimbabwe police took Biti to the **Harare Magistrate’s Court**, charging him with inciting public violence and violating electoral law by announcing unofficial results.<sup>42</sup> Magistrate **Francis Mapfumo** released Biti on \$5,000 bail.<sup>43</sup>

The **United Nations High Commission for Refugees (UNHCR)** issued a statement expressing its concerns over Zambia’s decision to return Biti to Zimbabwe.<sup>44</sup> The UNHCR indicated that the forced return of refugees and asylum seekers to their country of origin was a serious violation of international refugee law.<sup>45</sup> However, foreign minister Sibusiso Moyo disputed reports that the government is targeting opposition activists, arguing that this was “*fake news*” from social media.<sup>46</sup>

### ... and international bodies criticise post-election violence and human rights abuses

Several international institutions issued statements in reaction to the army’s conduct. The **United States (US)** embassy in Harare criticised the army’s conduct, saying that the violence stood in the way of building a better future for **Zimbabwe**.<sup>47</sup> The **US Department of State** also issued a statement on 3 August urging calm and indicating that it was reviewing the election results that its own teams and international and local observers had collected in order to draw its conclusions about the elections.<sup>48</sup> **United Nations (UN)** secretary general

<sup>33</sup> Washington Post, 8 Aug 2018.

<sup>34</sup> Washington Post, 8 Aug 2018.

<sup>35</sup> BBC, 7 Aug 2018.

<sup>36</sup> BBC, 7 Aug 2018.

<sup>37</sup> New York Times, 9 Aug 2018.

<sup>38</sup> BBC, 7 Aug 2018.

<sup>39</sup> New York Times, 9 Aug 2018.

<sup>40</sup> New York Times, 9 Aug 2018.

<sup>41</sup> New York Times, 9 Aug 2018.

<sup>42</sup> New York Times, 9 Aug 2018.

<sup>43</sup> New York Times, 9 Aug 2018.

<sup>44</sup> New York Times, 9 Aug 2018.

<sup>45</sup> New York Times, 9 Aug 2018.

<sup>46</sup> BBC, 7 Aug 2018.

<sup>47</sup> NPR, 2 Aug 2018.

<sup>48</sup> VOA, 5 Aug 2018.

**Antonio Guterres** urged Zimbabwe's political leaders and the population in general to exercise restraint during the waiting period for the results.<sup>49</sup> The **United Kingdom (UK)** minister of state for **Africa, Harriet Baldwin**, expressed the UK government's concerns with the level of violence that the army exhibited, and urged the authorities to maintain peace and release the election results speedily and impartially.<sup>50</sup>

The **European Union (EU)** delegation, the Heads of Missions of EU members states present in Harare (**France, Germany, Greece, Italy, The Netherlands, Portugal, Romania, Spain, Sweden**, and the UK), and the heads of missions of **Canada, Switzerland** and the US issued a joint statement on 7 August expressing concern over the post-election violence and human rights abuses.<sup>51</sup>

*"The Heads of Mission of the EU, Canada, Switzerland and the United States of America note with grave concern the eruption of violence and occurrence of serious human rights violations following the peaceful election on 30 July 2018... the Heads of Mission condemn the violence, attacks, and acts of intimidation targeted at opposition leaders and supporters. These human rights violations have no place in a democratic society and contravene the fundamental tenets of international human rights standards. The Heads of Mission urge the government to respect the rights of the Zimbabwean people as enshrined in the Constitution. All allegations of incitement to violence or violent acts, as well as vandalism and destruction of property, should be investigated in accordance with the rule of law, and perpetrators held legally responsible..."*<sup>52</sup>

US President **Donald Trump** (2017-present) signed into law an updated version of the **Zimbabwe Democracy and Economic Recovery Act (ZDERA)** on 8 August, in response to the post-election violence and human rights abuses in Zimbabwe.<sup>53</sup> The law will weaken the chances of Zimbabwe's re-establishment of cordial political and economic relations with the US.<sup>54</sup> The **US Congress** initially passed the law, which also imposes several economic sanctions on Zimbabwe, in 2001 after the controversial land reform programme.<sup>55</sup> This demonstrates the US belief that Mnangagwa's administration has not effected a clear shift from that of former President Mugabe.<sup>56</sup> This will limit the level of investment that Zimbabwe will receive from the US, given the level of state-sanctioned violence and political instability.<sup>57</sup>

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<sup>49</sup> NPR, 2 Aug 2018.

<sup>50</sup> VOA, 5 Aug 2018.

<sup>51</sup> Heads of Missions' press release, 7 Aug 2018.

<sup>52</sup> Excerpts from the Heads of Missions' press release, 7 Aug 2018.

<sup>53</sup> ZBC, 10 Aug 2018.

<sup>54</sup> NewsDay, 10 Aug 2018.

<sup>55</sup> ZBC, 10 Aug 2018.

<sup>56</sup> Source, analyst, London

<sup>57</sup> Source, analyst, London

### Planner

22 Aug 2018. Harare **(Zimbabwe)** Constitutional Court hearing on the electoral outcome challenge;

6 Sep 2018. Bulawayo **(Zimbabwe)** **Sanganai/Hlanganani** World Tourism Expo;

26 Sep 2018 **Bulawayo (Zimbabwe)** Mining Engineering and Transport Expo (MINE ENTRA);

23 Apr 2019 **Bulawayo (Zimbabwe)** **Zimbabwe International Trade Fair (ZITF)** business days;

### Chronology

10 Aug 2018. Harare **(Zimbabwe)** *NPR*. Opposition **Movement for Democratic Change Alliance (MDC Alliance)** files legal challenge to protest the election results;

10 Aug 2018 Harare **(Zimbabwe)** *Sky News*. Authorities delay the presidential inauguration ceremony after the **MDC-Alliance** files court application disputing President **Emmerson Mnangagwa's** win;

8 Aug 2018. **(Zimbabwe)** *BBC*. Police arrest opposition legislator **Tendai Biti** after **Zambian** immigration refuses to give him asylum and deport him back to **Zimbabwe**;

8 Aug 2018. **(Zimbabwe)** *The Guardian*. Opposition political leaders and activists go into hiding, as the **Zimbabwe Republic Police (ZRP)** and **Zimbabwe Defence Forces (ZDF)** intensify attacks and arrests;

7 Aug 2018. Harare **(Zimbabwe)** *Newsday*. President **Emmerson Mnangagwa** (2017-present) condemns post-election violence, expressing ignorance on who deployed the army to attack civilians;

7 Aug 2018. **(Zimbabwe)** *New Zimbabwe*. **South Africa**-based **Impala Platinum** announces that it will not implement job cuts in its **Zimbabwe**-based operations, after it revealed plans to slash 13,000 jobs in its **South Africa**-based operations;

2 Aug 2018. Harare **(Zimbabwe)** *IOL*. **Zimbabwe Defence Forces (ZDF)** soldiers attack civilians peacefully protesting delays in the release of election results, killing six people;

2 Aug 2018. Harare **(Zimbabwe)** *News24*. Election observers from the **European Union (EU)**, **United States**, **Commonwealth**, **African Union (AU)** denounce the army's use of excessive force and urge the **Zimbabwe Election Commission (ZEC)** to release election results speedily;

30 Jul 2018. **(Zimbabwe)** *BBC*. Zimbabwe's first election since the removal of former President **Robert Mugabe** (1980-2017) gets underway;

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