

AFRICA RISK CONSULTING**South Africa Monthly Briefing April 2018**

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Former president Jacob Zuma (2009-2018) appears at the Durban High Court on charges of corruption, fraud and racketeering. Lead prosecutor Advocate Billy Downer asks for a postponement of the trial, resulting in a provisional adjournment until 8 June. Energy minister Jeff Radebe signs 27 renewable energy projects worth R55.92 billion (\$4.7 billion) with independent power producers, despite criticism and a failed court case from the National Union of Metalworkers of South Africa (Numsa) and civil society organisation Transform RSA. United States-based ratings agency Moody's affirms South Africa's investment-grade credit rating and revises its credit outlook from negative to stable due to the gradual strengthening of national institutions.

Zuma's trial adjourned ...

South Africa's former president, **Jacob Zuma** (2009-2018), appeared at the **Durban High Court** on 6 April in relation to 16 charges of corruption, fraud and racketeering stemming from a multi-billion dollar arms deal in the 1990's.¹ The charges are related to 783 payments that Zuma received in return for protecting **France**-based arms company, **Thales SA**, from an investigation into the arms deal.² Advocate **Billy Downer**, deputy director of public prosecutions in the **Western Cape** and the lead prosecutor in the trial, requested a postponement, resulting in a provisional adjournment until 8 June.³ Downer led the **National Prosecuting Authority (NPA)**'s investigation into the arms deal from the early 2000's and successfully prosecuted Zuma's former financial adviser, **Schabir Shaik**, for his role in facilitating bribes.⁴ Shaik was sentenced in June 2005 to 15 years in prison.⁵ NPA head **Shaun Abrahams** announced on 16 March that the charges against Zuma would be reinstated⁶ after former acting NPA head **Mokotedi Mpshe** dropped the charges on 6 April 2009.⁷

Downer stated that he requested the postponement to allow Zuma's lawyers to bring a review application on the decision to prosecute, which should be finalised by mid-May.⁸ Downer said the NPA is ready for the trial and hopes to start on 12 November, although Zuma's lawyer, **Hoosen Gani**, does not agree with the proposed trial date.⁹ It is likely that Zuma's lawyers will attempt to postpone the trial for as long as possible, which could drag the case out over several years. Legal analysts are concerned that Downer and the NPA allowed a third review of the decision to try Zuma.¹⁰ According to section 179(5) of the Constitution, the NPA 'may' grant a review, but is not mandated to do so.¹¹ If the review of the NPA's decision to prosecute is unsuccessful, Zuma may apply to the court for a permanent stay of prosecution on the grounds that there is prejudice against him due to the long

¹ IOL, 6 Apr 2018.

² Times Live, 6 Apr 2018.

³ EWN, 6 Apr 2018.

⁴ News24, 5 Apr 2018.

⁵ Times Live, 6 Apr 2018.

⁶ EWN, 16 Mar 2018.

⁷ The Guardian, 6 Apr 2009.

⁸ EWN, 6 Apr 2018.

⁹ Times Live, 6 Apr 2018.

¹⁰ News24, 6 Apr 2018.

¹¹ News24, 6 Apr 2018.

delay since the charges were first brought.¹² If this is unsuccessful, Zuma may appeal any judgement – first to the **Supreme Court of Appeal** and, if unsuccessful there, to the **Constitutional Court** – which will drag on for many years.¹³

Zuma's influence and support will determine his ability to continually delay and extend his court case. Without endless funds, he would not be able to afford the litany of lawyers needed to continue to appeal. The opposition **Democratic Alliance (DA)** has applied to the **High Court of Pretoria** to stop state funding of Zuma's legal fees for the current trial.¹⁴ The application is expected to be heard in April or May.¹⁵ The DA is determined that Zuma should not receive state funds for any future legal battles. According to DA chairman, **James Selfe**,

*"Zuma has already cost our country dearly. Ensuring that he personally pays the cost of his frivolous legal fees for the [former public protector **Thuli Madonsela's**] State Capture report is only half the battle."¹⁶*

... as ANC appears to fracture in KwaZulu-Natal

The ruling **African National Congress (ANC)** and President **Cyril Ramaphosa** (2018-present) have yet to decide whether to fight the DA's application to stop state funding of Zuma's legal fees for his current trial.¹⁷ On 6 April Ramaphosa stopped the application for appeal against **Gauteng High Court** judge **Dunstan Mhlambo's** December ruling that Zuma must pay the legal costs of trying to block the State Capture report, which the DA estimates to be around R10m (\$830,800).¹⁸ Ramaphosa's decision on whether to support Zuma or not in the current trial will depend on ANC support for Zuma. Former Zuma ally and ANC secretary-general **Ace Magashule** stated on 25 March that ANC members can support Zuma at the trial but not under the banner of the ANC.¹⁹ Zuma supporters, particularly in his home province of **KwaZulu-Natal (KZN)**, attended the case at the Durban High Court on 6 April.²⁰

ANC KZN members reportedly plan to campaign to oust Ramaphosa by voting for other national parties in the 2019 general elections.²¹ Supporters are also reportedly planning to start a new political party with Zuma's blessing, the **African Transformation Congress**.²² However, it is likely that any new party would only splinter the ANC's support in KZN. According to political analyst **Lesiba Teffo**,

"Ramaphosa is not weak enough to be removed in the next five years. Don't forget that people follow power where it is and Ramaphosa has more power than Zuma at this time and the majority will most likely follow Cyril."²³

Investors are unlikely to be fazed by threats of a pro-Zuma ANC splinter group. According to a **Cape Town**-based analyst,

"Further sabre rattling by the KZN leadership is likely to lead to even less support for Zuma by the ANC executive council, which means it may also drop any opposition to stopping state funding for Zuma's legal issues."²⁴

Ramaphosa has consolidated his power in the government and the ANC. ANC members have supported his purging of former Zuma allies from government positions – including **Tom Moyane** as

¹² News24, 6 Apr 2018.

¹³ News24, 6 Apr 2018.

¹⁴ IOL, 8 Apr 2018.

¹⁵ IOL, 8 Apr 2018.

¹⁶ IOL, 8 Apr 2018.

¹⁷ News24, 6 Apr 2018.

¹⁸ IOL, 8 Apr 2018.

¹⁹ Huffington Post, 4 Apr 2018.

²⁰ EWN, 6 Apr 2018.

²¹ Business Tech, 8 Apr 2018.

²² Business Tech, 8 Apr 2018.

²³ The Citizen, 9 Apr 2018.

²⁴ Source, political analyst, Cape Town

head of the **South African Revenue Service** – and his probe into state-owned entities, **Eskom** and **Transnet**.²⁵ Even former pro-Zuma allies, such as Magashule, appear to have put their confidence in Ramaphosa, though this may change if Magashule is made to answer for several corrupt dealings during his tenure as **Free State Province** premier. Zuma is unlikely to find a way to increase his power base.

*“[He] has very limited options. He would be best off playing ball with the ANC to try and give him cover during the court cases instead of reducing his political capital by constantly trying to split the ANC.”*²⁶

Numsa fails to block \$4.7 billion renewable energy deals

Energy minister **Jeff Radebe** signed 27 renewable energy projects worth R55.92 billion (\$4.7 billion) with independent power producers (IPPs) on 4 April.²⁷ The projects, which will be located mainly in rural South Africa, are expected to add 2,300 megawatts of electricity over the next five years.²⁸ Renewable energy organisations and companies welcomed the signing of the programmes, saying the projects will help bring policy and regulatory certainty to South Africa and increase energy investment.²⁹

Support for renewable energy has not been unanimous. The **National Union of Metalworkers of South Africa (Numsa)** and civil society organisation **Transform RSA** attempted to block the projects through the **North Gauteng High Court** on 12 March, arguing that the deals would lead to job losses in the coal sector and higher electricity prices.³⁰ However, the case was struck from the roll on 29 March. Radebe said that, contrary to Numsa’s claims, the projects will provide 61,600 full-time jobs, and lower electricity prices will provide financial relief to the poor.³¹

Numsa has threatened to end its support for the ANC if the government continues with the programmes, calling the contracts an *“insult to the working class and the poor”*.³² Organisations in the coal and nuclear sectors have argued that the deals are a *“waste of money”*³³ that *“should not have been signed.”*³⁴ The arguments against the deals are that employment will only be created during the construction phase and that more jobs will be lost in the coal mining industry if South Africa moves to large-scale use of renewable energy.³⁵ **South African Nuclear Energy Corporation** chair **Kelvin Kemm** says that renewable plants only produce power at certain times, such as when it is sunny or windy, and that Eskom will need back-up capacity in the form of coal or nuclear.³⁶

The IPPs now have to obtain financing for the projects while new grid connections will need to be built to connect the projects to Eskom.³⁷ The **Northern Cape** will receive the largest share of investments with 15 new wind, solar photovoltaic (PV) and concentrated solar power projects, while the **Eastern Cape** will receive four new wind farms and the **North West Province** four new solar plants.³⁸ Energy prices are expected to decrease, as the price of electricity by wind power ranges

²⁵ Multiple sources: IOL, 20 Mar 2018; Eyewitness News, 7 Apr 2018.

²⁶ Source, political analyst, Cape Town.

²⁷ IOL, 4 Apr 2018.

²⁸ Fin24, 4 Apr 2018.

²⁹ IOL, 4 Apr 2018.

³⁰ The Citizen, 4 Apr 2018.

³¹ Fin24, 4 Apr 2018.

³² Fin24, 5 Apr 2018.

³³ IOL, 6 Apr 2018.

³⁴ IOL, 6 Apr 2018.

³⁵ IOL, 6 Apr 2018.

³⁶ IOL, 6 Apr 2018.

³⁷ Daily Maverick, 4 Apr 2018.

³⁸ Fin24, 4 Apr 2018.

between R0.56 (\$0.04) and R0.76 (\$0.06) and by solar power between R0.77 (\$0.06) and R0.87 (\$0.07) compared to around R1.20 (\$0.10) a kilowatt an hour by coal-fired power stations.³⁹

Moody's affirms investment-grade credit rating, revises credit outlook to stable

United States-based ratings agency **Moody's** affirmed South Africa's investment-grade credit rating and revised its credit outlook from negative to stable on 23 March due to the gradual reversing of Zuma's weakening of national institutions.⁴⁰ Investors had feared that South Africa's credit would be reduced to 'junk' rating, but Moody's decided to keep South Africa's debt rating at 'Baa3', one rung above junk.⁴¹ Moody's stated that the reason for the rating and the revised outlook was the potential for South Africa's institutions to strengthen under "*a more transparent and predictable policy framework*".⁴²

A downgrade to junk could have resulted in up to R100 billion (\$8.2 billion) in asset sales as foreign investors attempted to reduce their risk.⁴³ South Africa would also have been removed from **Citi's World Government Bond Index**, a widely-used benchmark that comprises sovereign debt from over 20 countries.⁴⁴ The **JP Morgan Emerging Market Bond Index Global** dropped South Africa from its index in April 2017 due to the country's poor credit rating.⁴⁵

Investment friendly policies as well as good growth will be needed to prevent Moody's moving South Africa's rating to junk status. Other ratings agencies, including **Fitch Ratings Ltd** and **S&P Global Ratings**, have already lowered South Africa's debt to non-investment junk status and the government will hope that these will be revised. S&P is scheduled to make a ratings announcement on 25 May.⁴⁶

Planner

15 May 2018: Review of Zuma's charges to be finalised May 2019: Next presidential election

25 May 2018: S&P ratings announcement scheduled

30 Aug 2018: Committee to present report on amending constitution for expropriation of land without compensation

12 Nov 2018: Proposed date for the start of Zuma's trial

2019: General elections

Chronology

6 Apr 2018 (**South Africa**) *Reuters*. President **Cyril Ramaphosa** orders the **Special Investigating Unit** to look into allegations of maladministration at state-owned power company **Eskom** and logistics company, **Transnet**;

6 Apr 2018 (**South Africa**) *Reuters*. Former president **Jacob Zuma** appears in court on corruption charges as supporters protest the charges outside the court;

4 Apr 2018 (**South Africa**) *Moneyweb*. Energy minister **Jeff Radebe** signs R55.92 billion (\$4.7 billion) of renewable energy contracts with independent power producers;

³⁹ The Citizen, 15 Mar 2018.

⁴⁰ Sunday Times, 24 Mar 2018.

⁴¹ Sunday Times, 24 Mar 2018.

⁴² Sunday Times, 24 Mar 2018.

⁴³ Sunday Times, 24 Mar 2018.

⁴⁴ www.citigroup.com

⁴⁵ Sunday Times, 24 Mar 2018.

⁴⁶ BizNews, 24 Mar 2018.

4 Apr 2018 **(South Africa)** *Reuters*. **South Africa**-based glassmaker **Consol** prepares to list on the **Johannesburg Stock Exchange**;

4 Apr 2018 **(South Africa)** *Reuters*. South Africa-based construction group **Murray & Roberts** states that **Germany**-based **ATON** buyout bid is undervalued and should be R22 (\$1.85) per share;

3 Apr 2018 **(South Africa)** *Reuters*. South Africa-based private education group **ADvTECH** buys schools in **Kenya** and **Uganda** to expand its **African** footprint;

2 Apr 2018 **(South Africa)** *Reuters*. Anti-apartheid campaigner **Winnie Madikizela-Mandela** dies following a long illness;

29 Mar 2018 **(South Africa)** *Reuters*. State-owned airline **South African Airways** reports R5.6 billion (\$475m) in losses during the 2016/2017 financial year;

29 Mar 2018 **(South Africa)** *Reuters*. A South African court dismisses a **National Union of Metalworkers of South Africa (NUMSA)** bid to block \$4.7 billion in renewable energy contracts;

29 Mar 2018 **(South Africa)** *BBC*. Victims of the listeria outbreak file a class action lawsuit against South Africa-based food company, **Tiger Brands**;

29 Mar 2018 **Nelson Mandela Bay (South Africa)** *News24*. Mayor **Athol Trollip's** impeachment hearing postponed for two weeks after a day of protests in **Nelson Mandela Bay**;

28 Mar 2018 **(South Africa)** *Bloomberg*. **South African Reserve Bank** (central bank) governor **Lesetja Kganyago** cuts interest rates to 6.5% from 6.75% to prevent overvaluation of the rand;

26 Mar 2018 **Cape Town (South Africa)** *Bloomberg*. **African National Congress (ANC)** secretary-general **Ace Magashule** says ANC members are welcome to support former President **Jacob Zuma** during his corruption trial but cannot wear ANC regalia while doing so;

26 Mar 2018 **Johannesburg (South Africa)** *Reuters*. **South African Police Service** spokesman states that a court summons may be issued to former President **Jacob Zuma** this week in relation to corruption charges;

26 Mar 2018 **(South Africa)** *Reuters*. **Germany**-based **ATON GmbH** plans to buy out South Africa-based construction company **Murray & Roberts** for R15 (\$1.29) per share;

24 Mar 2018 **(South Africa)** *Sunday Times*. US-based ratings agency **Moody's** affirms South Africa's investment-grade credit rating and upgrades credit outlook from negative to stable;

24 Mar 2018 **Johannesburg (South Africa)** *Reuters*. **Dondo Mogajane**, the head of South Africa's national treasury, states that the government will consider partially privatising struggling state-owned companies;

23 Mar 2018 **(South Africa)** *Citizen*. South Africa-based **Naspers** sells 2% of **China**-based **Tencent** for \$9.8 billion;

23 Mar 2018 **(South Africa)** *IOL*. President Cyril Ramaphosa urges South Africans to embrace foreign nationals as part of the **African Continental Free Trade Area**, which 44 **African** leaders, though not Ramaphosa, signed on 21 March;

22 Mar 2018 **(South Africa)** *Mining Review*. South Africa's state-owned **Industrial Development Corporation** states it is keen to invest in copper, cobalt and zinc mining projects in the **Democratic Republic of the Congo**;

22 Mar 2018 **(South Africa)** *Reuters*. **China's** foreign ministry confirms that senior diplomat **Yang Jiechi** will visit South Africa this week, the first foreign visit since **China's** government reshuffle;

22 Mar 2018 **Cape Town (South Africa)** *News24*. Opposition **Democratic Alliance** indefinitely postpones **Cape Town** mayor **Patricia de Lille**'s disciplinary hearing;

22 Mar 2018 **Cape Town (South Africa)** *Reuters*. State-owned transport company **Transnet** signs a deal with South Africa-based mining company **South32** to export 2.6 million tonnes of manganese to **Europe** and China;

20 Mar 2018 **Cape Town (South Africa)** *News24*. Deputy president **David Mabuza** tells parliament that "*land must be given back to the rightful owners*";

19 Mar 2018 **(South Africa)** *Reuters*. President **Cyril Ramaphosa** suspends **South African Revenue Service** commissioner **Tom Moyane** and appoints **Mark Kingon** as acting commissioner;

19 Mar 2018 **(South Africa)** *Reuters*. South Africa's high court grounds a **Gupta**-owned jet after the **Canada**-based credit agency, **Export Development Canada**, cancelled the \$41m loan to the Gupta family;

18 Mar 2018 **(South Africa)** *BusinessTech*. **Australian** foreign minister, **Julie Bishop**, states that it will not fast-track white **South African** farmers' entry into Australia, despite previous comments from Australian home affairs minister, **Peter Dutton**;

16 Mar 2018 **(South Africa)** *BBC*. South Africa's **National Prosecuting Authority** head, **Shaun Abrahams**, announces it will reinstate corruption charges against former President Jacob Zuma;

16 Mar 2018 **(South Africa)** *BusinessTech*. South African foreign minister **Lindiwe Sisulu** issues a diplomatic demarche to **Australia** over comments that white farmers are being persecuted;

14 Mar 2018 **(South Africa)** *Engineering News*. Business confidence in **South Africa** rises 11 points in the first quarter of 2018 compared to the fourth quarter of 2017;

14 Mar 2018 **(South Africa)** *Times Live*. **Australia**'s home affairs minister, **Peter Dutton**, considers fast-tracking visas for white South African farmers, leading to condemnation from South Africa's government;

14 Mar 2018 **(South Africa)** *Reuters*. President **Cyril Ramaphosa** reiterates that he will not allow illegal land grabs as tensions rise over the issue of expropriation of land without compensation;

14 Mar 2018 **Cape Town (South Africa)** *News24*. The opposition **Democratic Alliance** asks for more information on the over R15m (\$1.2m) the state has paid for former President **Jacob Zuma**'s legal fees;