

AFRICA RISK CONSULTING

Madagascar Monthly Briefing July 2021

Madagascar Summary 16 July 2021

Opposition party Rodoben'ny Mpanohitra Demokrasia eto Madagasikara (RMDM) calls for protests in response to a Haut Cour Constitutionnelle (HCC) (Constitutional Court) ruling on a statute governing the status of the opposition and opposition parties. The senate passes a bill to amend anti-corruption legislation. The United States Agency for International Development (USAID) donates computing equipment to improve audit of public expenditure. The UN Human Rights Council submits recommendations for the national mining code review. The HCC considers a bill to create a new region in Madagascar. The national assembly and senate pass a bill to implement Southern African Development Community (SADC) extradition policy. Relations between France and Madagascar sour over the disputed Îles Éparses (Scattered Islands). Malagasy press accuses France of implementing new trade restrictions on Madagascar exports as leverage over the islands. The UN World Food Programme cautions that 400,000 individuals are at risk of starvation in southern regions of Madagascar. The World Bank reports the potential loss of 103% real GDP for Madagascar if the world passes the "ecological tipping point". International non-governmental agency Reporters without Borders accuses the government of launching a smear campaign against a French journalist following a social media post about hunger in Southern Madagascar. Madagascar has so far managed to suppress a third wave of Covid-19 infections sweeping sub-Saharan Africa.

Opposition calls for protests ...

Madagascar's opposition movement is calling for street protests in response to a constitutional court ruling on a statute governing the status of the opposition and opposition parties. **Rodoben'ny Mpanohitra Demokrasia eto Madagasikara (RMDM)** leader **Edouard Tsarahame** announced on 15 July a "raid on the streets" in the week beginning 19 July to protest a decision of the **Haut Cour Constitutionnelle (HCC)** (constitutional court) delivered on 21 June, on the statute governing the status of the opposition and opposition parties.¹ The HCC passed judgement on **Law no. 2021-006**, which amends **Law No. 2011-013** removing the term "extra-parliamentary" from the first paragraph of article 5:²

"The leader of the official opposition leads only the parliamentary opposition and not the extra-parliamentary opposition."³

The adjustment requires that the leader of the opposition must be a member of the **Assemblée Nationale** (national assembly), thus preventing opposition party **Tiako Madagasikara (TIM)** from nominating former president **Marc Ravalomanana** (2002-2009) as leader of the opposition.⁴ TIM hold 16 seats in the national assembly, the second highest number of seats held by a single party, after President **Andry Rajoelina's** (2019-present) **Isika Rehetra Miaraka amin'i Andry Rajoelina** party.⁵ TIM is outnumbered by independent MPs, who hold 46 seats, and the **Groupe des Parlementaires Républicains (GPR)**, a coalition formed of 21 independent MPs in July 2019.^{6,7}

¹ [Orange](#), 15 Jul 2021

² [Orange](#), 15 Jul 2021

³ Translated from: [LOI n°2011-013 portant statut de l'opposition et des partis d'opposition](#), Accessed: 15 Jul 2021

⁴ [NewsMada](#), 13 Jul 2021

⁵ [Haut Cour Constitutionnelle](#), 27 May 2019

⁶ [Haut Cour Constitutionnelle](#), 27 May 2019

⁷ [Midi Madagasikara](#), 20 Jul 2019

Senate passes adjustment to anti-corruption bill ...

The **Senate** passed a bill to amend anti-corruption legislation on 30 June, directly impacting the powers of Madagascar's independent anti-corruption court, **Pôle Anti-Corruption (PAC)**.⁸ The PAC was established by Law no. 2016-020 on 22 August 2016 under former president Marc Ravalomanana's government as a means of providing a legislative framework to combat corruption under the **Stratégie Nationale de Lutte Contre la Corruption (SNLCC)** (2015-2025).⁹

Independent MP for **Ampanihy-Ouest** (South-West Madagascar) **Idealson** launched the bill to overhaul the PAC, which the national assembly adopted on 2 July 2020.^{10, 11} Following senate approval, pending HCC approval, the anti-corruption court is no longer permitted to confiscate "*ill-gotten gains*" prior to successful conviction. Idealson stated:

*"A person who is already accused will be dispossessed definitively in the absence of a conviction pronounced by a justice. This is in contradiction with the sacrosanct principle of the presumption of innocence which appears in the Constitution."*¹²

The senate's repeated delay in passing the bill despite amendments and pressure from the national assembly appears to indicate that senators' sympathies lie with civil society groups.¹³ Anti-corruption institution **Comité pour la Sauvegarde de l'Intégrité (CSI)** president **Sahondra Rabenarivo** in November labelled the bill a "*significant threat to the anti-corruption system, in particular to the Pôle Anti-Corruption (PAC)*".¹⁴ Civil society group **Système anti-corruption (SAC)** also opposed the amendments, which reduce the powers of the PAC.¹⁵ **Harimahefa Ratiaraisoa**, national coordinator for the anti-corruption courts, said of the decision:

*"Because we do not practise confiscation before conviction, if such cases occur, the property will simply be dissipated. This is not good for the fight against corruption."*¹⁶

... as USAID donates equipment to Madagascar's public auditing body...

In a bid to strengthen accountability and oversight of public funds, the **United States (US) Agency for International Development (USAID)** has donated computing equipment to the Malagasy public audit institution, the **Cour des Comptes**.¹⁷ The donation is part of the five-year **TANTANA** programme funded by USAID to improve the governance, communication and public engagement of the courts and enhance audit and judgement quality. Accurate records of public spending and greater accountability are in the interest of the US, Madagascar's largest aid donor, which in 2020 donated \$133.5m.¹⁸ Announcing the donation on 15 July, USAID mission director **John Dunlop** noted:

*"A fully independent, capable Supreme Audit Institution is an essential component of democratic governance."*¹⁹

Cour des Comptes president **Jean de Dieu Rakotondramihamina** acknowledged the importance of the equipment to conduct fieldwork. USAID and the court of accounts will partner with international non-profit organisation the **International Organization of Supreme Audit Institutions'**

⁸ RFI, 2 Jul 2021

⁹ [La Direction de Coordination Nationale des Poles Anti-Corruption et les Poles Anti-Corruption](#), Accessed: 15 Jul 2021

¹⁰ Orange, 25 May 2021

¹¹ [Haut Cour Constitutionnelle](#), 27 May 2019

¹² RFI, 2 Jul 2021

¹³ RFI, 2 Jul 2021

¹⁴ [L'Express de Madagascar](#), 12 Nov 2020

¹⁵ [NewsMada](#), 22 Jun 2021

¹⁶ RFI, 2 Jul 2021

¹⁷ [US Embassy in Madagascar](#), 15 Jul 2021

¹⁸ [US Embassy in Madagascar](#), 15 Jul 2021

¹⁹ [US Embassy in Madagascar](#), 15 Jul 2021

Development Initiative (IDI) to create and administer a records management system for the courts.²⁰

The government's ability to account for funds and its capacity to control corruption has declined in recent years, negatively impacting FDI inflows and investor confidence. The **World Bank's Worldwide Governance Indicators (WGI)** reported a significant decline in Madagascar's 'ability to control corruption', which fell from the 44.5% percentile rank in 2009 to 15.87% rank in 2019 (0 being the lowest rank and 100 being the highest).²¹

... amid recommendations for revisions to mining code

The UN **Human Rights Council (UNHRC)** announced on 21 June that it had submitted recommendations to the government relating to planned revisions of the national mining code and mining taxation processes.²² The UNHRC recommends that the government raise additional revenues from mining companies to combat extreme poverty and contribute to sustainable development, including that of local communities. Amongst the proposed measures are legislation to advance the rights of affected communities and mandatory human rights impact assessments for mining licence request and renewal.²³

Export revenues generated by metals totalled \$594m while minerals exports, including refined petroleum, accounted for \$230m in 2019, according to the **Organisation of Economic Complexity (OEC)**.²⁴ The **Extractive Industries Transparency Initiative (EITI)** report on Madagascar notes an 8% drop in the contribution of the mining sector to GDP in 2018, with an average contribution of 4.6% of GDP since 2015.²⁵ The EITI report highlights a number of human rights and development initiatives implemented by large-scale miners in Madagascar, but notes the main obligations of extractive companies in terms of labour and social protection relate to expatriate workers alone, or exist in general legislation relating to social security fund, **Fond Malgache pour la Formation Professionnelle (FMFP)**.²⁶

A new region for Madagascar?

The Haut Cour Constitutionnelle (HCC) (constitutional court) on 7 July began review of a law approved by parliament to establish a new region.²⁷ If passed, the legislation will establish a 23rd region, splitting the **Vatovavy-Fitovinany** region in two.²⁸ The law is in line with Madagascar's constitution published in 2010, in which article 143 provides for a return to the **Collectivités Territoriales Décentralisées (CTD)**, a system of communes, regions and provinces.²⁹ Two additional laws were tabled for review by the HCC on 13 July, **Loi no. 2021-011 portant validation de la Lettre de Politique de Décentralisation Emergente** (letter detailing decentralisation policy) and **Loi no. 2014-020** governing resource allocation, electoral processes and function of the **Collectivités territoriales décentralisée (CTD)** (decentralised territorial collectives).³⁰

The government relaunched the decentralisation process on 17-18 December 2019 with the **échanges interministériels sur la Décentralisation** (inter-ministerial exchanges on decentralisation), supported by the **United Nations Development Program (UNDP)** and the international wing of the **German** federal ministry for economic cooperation and development,

²⁰ [US Embassy in Madagascar](#), 15 Jul 2021

²¹ [Worldwide Governance Indicators](#), Accessed: 15 Jul 2021

²² [United Nations Human Rights Council](#), 21 Jun 2021

²³ [United Nations Human Rights Council](#), 21 Jun 2021

²⁴ [Organisation of Economic Complexity](#), Accessed: 15 Jul 2021

²⁵ [Extractive Industries Transparency Initiative](#), Dec 2019

²⁶ [Extractive Industries Transparency Initiative](#), Dec 2019

²⁷ [NewsMada](#), 8 Jul 2021

²⁸ [NewsMada](#), 8 Jul 2021

²⁹ [Friedrich Ebert Stiftung](#), Dec 2014

³⁰ [Republikan'i Madagasikara Haute Cour Constitutionnelle](#), Accessed: 15 Jul 2021

Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ).³¹ The meeting established a strategic vision for the decentralisation process and began the process of drafting the letter detailing decentralisation policy (Loi no. 2021-011).³² The inter-ministerial meeting focused on territorialisation of public policy and the finance of decentralisation.³³

A World Bank review of Madagascar's historical decentralisation policy, published in 2004, notes the first ten years of the process experienced "*reversals, uncertainties and lack of clarity all along*".³⁴ The report notes the reluctance of the central government to decentralise revenue collection.³⁵ Each region manages a budget of \$511,633 (MGA'2 billion) for local projects; however, federal government has provided construction equipment for road rehabilitation in some southern regions in 2021 (see *ARC Briefing Madagascar May 2021*).³⁶ President Andry Rajoelina has chaired two **conseil des gouverneurs de region** (councils of regional governors) since taking up his role, the first in October 2020 and the second on 9 July.³⁷

With the government already facing challenges at the federal level, it remains to be seen whether further devolution of powers will improve administration at a local level. Devolution may increase the opportunity for misappropriation of government funds, and pressure on government revenues is unlikely to be alleviated until the **Covid-19** pandemic is over.

Government authorises SADC extradition protocol ...

Parliament has authorised Madagascar's accession to the **Southern African Development Community (SADC)** extradition protocol. In passing the bill on 24 June, the national assembly noted the necessity of the bill in increasing the effectiveness of judicial cooperation between SADC countries amid an upsurge in both national and transnational crime.³⁸ Although the senate passed the bill on 1 July, it now awaits review by the HCC.³⁹ SADC's extradition protocol came into effect in 2006, with subsequent amendments in 2017 and 2019 but Madagascar, a member of SADC, had delayed in signing on to the protocol.

Madagascar's accession to the extradition protocol is timely. Three Malagasy nationals were arrested in **South Africa** in January and are accused of smuggling 73.5 kilograms of gold (see *ARC Briefing Madagascar January 2021*).⁴⁰ Madagascar's justice minister, **Johnny Richard Andriamahefarivo**, confirmed that his ministry had made a repatriation request to South Africa in January, but had not received a response,

*"We must have an answer in this month of July."*⁴¹

Progress on the extradition bill and establishment of a parliamentary commission of inquiry into gold trafficking have suffered a series of delays since the January arrests. National assembly president **Christine Razanamahasoa** announced on 21 June that the examination of a motion to establish the gold trafficking enquiry had been delayed for an unconfirmed period, as the committee had yet to receive the investigative report and motion.⁴² **Fenerive-Est** district (North East Madagascar) MP **Mohamad Ahmad** is leading the commission, but was reported absent on the day the committee was scheduled to meet.⁴³

³¹ [United Nations Development Programme](#), 17 Dec 2019

³² [United Nations Development Programme](#), 17 Dec 2019

³³ [United Nations Development Programme](#), 17 Dec 2019

³⁴ [World Bank](#), Jun 2004

³⁵ [World Bank](#), Jun 2004

³⁶ [Madagascar Tribune](#), 9 Jul 2021

³⁷ [Madagascar Tribune](#), 9 Jul 2021

³⁸ [2424](#), 1 Jul 2021

³⁹ [2424](#), 1 Jul 2021, [NewsMada](#), 1 Jul 2021

⁴⁰ [News24](#), 4 Jan 2021

⁴¹ [2424](#), 1 Jul 2021

⁴² [2424](#), 21 Jun 2021

⁴³ [2424](#), 21 Jun 2021

Tension with France increases ...

The foreign affairs ministry issued a statement on 2 July responding to a **French** decree issued on 8 June to create a national nature reserve in the **Îles Éparses** (Scattered Islands). Tension over the disputed islands in the **Indian Ocean** off Madagascar's west coast began when Madagascar claimed the territory in 1973, and increased in October 2019 when President **Emmanuel Macron** (2017-present) stated "*Here is France*" when visiting one of the five islands, **Grande-Glorieuse**.⁴⁴ A joint commission conducted its first meeting on 18 November 2019 in **Antananarivo**, acknowledging a dispute of sovereignty over the islands (see *ARC Briefing Madagascar December 2019 & June 2021*).^{45,46} However, the Covid-19 pandemic halted the commission's activities in March 2020.

In its statement, the Malagasy government noted its regret of the French government's "*arbitrary approach*", which it claims goes against the two parties' commitment to refrain from any unilateral act during the negotiations for the peaceful settlement of the dispute relating to the Glorious Islands, **Juan de Nova, Europa and Bassas da India**. The foreign affairs ministry accuses the French government of ignoring Madagascar's call for restraint and says its actions contradict the joint statement resulting for the commission's session in November 2019,

"... in which the two parties have agreed to continue the dialogue in a positive, constructive spirit and in good faith".⁴⁷

Relations between the two nations soured during the Covid-19 pandemic, and President Rajoelina snubbed Macron when he chose not to attend a **Paris**-based conference for **African** heads of state on 18 May (see *ARC Briefing Madagascar June 2021*).⁴⁸ Malagasy newspapers have described trade restrictions placed on Malagasy goods exported to France as a "*power move*" and a "*political response to [Madagascar's] opposition to make Glorieuses a nature reserve for France*".⁴⁹ Malagasy exports to France are subject to a number of customs regulations from 28 June, impacting the export of homeopathic remedies, cigarettes, alcohols and any product with a metal component.⁵⁰ France was the export destination of 18% of Madagascar's exports in 2019, according to OEC.⁵¹ Any additional trade barriers imposed by either France or the **European Union (EU)** will have significant implications for the Madagascan economy, already hard hit by the supply and demand shock caused by the global coronavirus pandemic.⁵²

UN warns of starvation risk ...

The **UN World Food Program (WFP)** cautioned on 25 June that 400,000 Malagasy are at severe risk of starvation following a series of droughts. WFP **Southern Africa** regional director **Lola Castro** cited a "*dramatic and desperate situation*", comparing Madagascar's famine to the **Bahr el-Gazal** (formerly **Sudan**, now **South Sudan**) crisis in 1998.⁵³ WFP chief in Madagascar **David Beasley** reported on social media platform **Twitter** that 14,000 Malagasy are exposed to famine conditions, noting that "*climate change is tearing families apart*":

"If we do not act ASAP, the number of people facing starvation will reach 500K in a few short months."⁵⁴

In its "*Economic Case for Nature*" report published on 30 June, the World Bank outlines an "*ecological tipping point*" and claims that Madagascar stands to suffer the greatest loss of real GDP growth (-

⁴⁴ [TeleReport](#), 30 May 2020

⁴⁵ [L'Express de Madagascar](#), 19 Jun 2019

⁴⁶ [RFL](#), 18 Nov 2019

⁴⁷ [Anadolu Agency](#), 2 Jul 2021

⁴⁸ [L'Express de Madagascar](#), 19 May 2021

⁴⁹ [La1ER](#), 29 Jun 2021

⁵⁰ [L'Express](#), 29 Jun 2021

⁵¹ [Organisation of Economic Complexity](#), Accessed: 15 Jul 2021

⁵² [World Bank – Madagascar Economic Update](#), Dec 2020

⁵³ [France24](#), 26 Jun 2021

⁵⁴ [Twitter](#), 25 Jun 2021

103%) without significant investment and intervention.⁵⁵ Madagascar is currently the only country not involved in active conflict to be classified as facing "*famine and humanitarian catastrophe*" on the **Integrated Food Security Phase Classification (IPC)** established by a partnership of 15 UN agencies and international humanitarian organisations.⁵⁶

A regional conference for the **Emergence du Sud de Madagascar** (emergence of the south of Madagascar) held on 11-12 June adopted several resolutions to combat food and water insecurity in the southern regions (see *ARC Briefing Madagascar June 2021*).⁵⁷ These included access to water for all, rehabilitation of 700 km of roads, access to energy at an affordable cost, a drive against malnutrition, support for youth and sport, and agricultural development. No roadmap for implementation of the resolutions was presented at the conference, however, President Rajoelina announced several development projects in **Anosy** and **Androy** regions.⁵⁸

Rajoelina called on private sector and international investor participation to help the government meet its objectives. Madagascar's net inflow of **Foreign Direct Investment (FDI)** reached just \$474.3m in 2019, less than half that invested in 2009, \$1.29 billion.⁵⁹ FDI inflows to Madagascar dropped by 20% in 2020, compared to an average fall of 11% for **sub-Saharan Africa**.⁶⁰ The global coronavirus pandemic pushed the Madagascan economy into recession in 2020, with the related supply and demand shock negatively impacting export revenues and consequently government spending capacity.⁶¹

Meanwhile, international non-profit and non-governmental organisation (NGO) **Reporters sans Frontières (RSF)** alleges that the government has launched a smear campaign against French journalist and **Pulitzer Prize** winner **Gaëlle Borgia** after she posted a video to social media on 21 June highlighting the famine in southern Madagascar.⁶² Androy region governor **Lahimaro Tsimandilatse Soja** accused Borgia of "*peddling false information*" on 23 June⁶³ while national TV broadcaster **TVM** published a report claiming Borgia paid individuals in the video to eat zebu leather to demonstrate their hunger. RSF published a statement on 1 July condemning the government's treatment of the journalist. Borgia responded by posting a second video to social media, with the same individuals confirming that armed men had solicited the defamatory statements for the televised report.⁶⁴

Covid-19 update

Madagascar has so far managed to suppress a third wave of Covid-19 infections sweeping sub-Saharan Africa.⁶⁵ As of 16 July, Madagascar had registered a total of 42,479 cases of Covid-19 in its population of 28.4 million, with 934 Covid-19-related deaths and 40,862 recoveries.⁶⁶

Prime minister **Christian Ntsay** in a televised address on 27 June confirmed a 15-day extension of the national **État d'urgence sanitaire** (state of health emergency).⁶⁷ The lockdown restrictions have been altered, curfew now runs from midnight to 4am and limits on the size of public gatherings have been revised upwards from 200 to 400 people.⁶⁸ Concerts and outdoor shows remain banned in the **Antananarivo-Renivohitra, Antananarivo Avaradrano, Antananarivo Atsimondrano,**

⁵⁵ [World Bank](#), 30 Jun 2021

⁵⁶ [Integrated Food Security Phase Classification](#), Accessed: 15 Jul 2021

⁵⁷ [Anadolu Agency](#), 13 Jun 2021

⁵⁸ [Madagascar Tribune](#), 14 Jun 2021

⁵⁹ [World Bank Data](#), Accessed: 15 Jul 2021

⁶⁰ [United Nations Conference on Trade and Development](#), 24 Jan 2021

⁶¹ [World Bank – Madagascar Economic Update](#), Dec 2020

⁶² [Reporters without Borders](#), 1 Jul 2021

⁶³ [Kapital Afrik](#), 24 Jun 2021

⁶⁴ [Reporters without Borders](#), 1 Jul 2021

⁶⁵ [Deutsche Welle](#), 17 Jun 2021

⁶⁶ [Worldometers](#), accessed 16 Jul 2021

⁶⁷ [Madagascar Tribune](#), 28 Jun 2021

⁶⁸ [Midi-Madagasikara](#), 28 Jun 2021

Ambohidratrimo, Ambatondrazaka and Fianarantsoa districts.⁶⁹ Nightclubs remain closed nationwide and Madagascar's borders remain closed to foreign citizens unless granted an exemption by the council of ministers.⁷⁰

Prime minister Ntsay announced on 16 June that Madagascar had joined the **African Union (AU) African Vaccine Acquisition Task Team (AVATT)** programme.⁷¹ Ntsay confirmed that 166,600 doses of **Johnson & Johnson's Janssen** Covid-19 vaccine will be delivered from the **World Health Organisation (WHO) COVAX** in early August.⁷²

Planner

2023 (**Madagascar**) Potential presidential elections

Chronology

15 Jul 2021 **Antananarivo (Madagascar)** *US embassy*. The **United States Agency for International Development (USAID)** donates computing equipment to the **Cour des Comptes** (Court of Accounts) as part of a five-year **TANTANA** programme to enhance auditing of public expenditure;

7 Jul 2021 **Antananarivo (Madagascar)** *NewsMada*. The **Haut Cour Constitutionnelle (HCC)** (constitutional court) begins a review of a bill to create a new district of Madagascar, dividing the **Vatovavy – Fitovinany** region;

1 Jul 2021 **Antananarivo (Madagascar)** 2424. The Senate pass a bill adopting the **Southern African Development Community (SADC)** extradition protocol;

30 Jun 2021 **Antananarivo (Madagascar)** *World Bank*. The **World Bank** publishes the **Economic Case for Nature** report citing the potential loss of 103% of real GDP for Madagascar should the world reach it's "*ecological tipping point*";

28 Jun 2021 **Antananarivo (Madagascar)** *L'Express*. **France** issues new trade restrictions on Madagascan exports, disrupting the export of homeopathic remedies, food and products containing metals;

22 Jun 2021 **Antananarivo (Madagascar)** *NewsMada*. Senate postpones review of the bill to overhaul Madagascar's independent anti-corruption court, **Pôle Anti-Corruption (PAC)**;

21 Jun 2021 **Antananarivo (Madagascar)** 2424. National assembly president **Christine Razanamahasoa** announces a delay in the establishment of a parliamentary commission of inquiry into gold trafficking, previously tabled for 21 June, as the committee has yet to receive the motion file;

16 Jun 2021 **Antananarivo (Madagascar)** *Midi-Madagasikara*. Prime minister **Christian Ntsay** announces in a live broadcast that Madagascar has joined the **African Union (AU) African Vaccine Acquisition Task Team (AVATT)** programme;

⁶⁹ *Madagascar Tribune*, 28 Jun 2021

⁷⁰ *Madagascar Tribune*, 28 Jun 2021

⁷¹ *Midi-Madagasikara*, 16 Jun 2021

⁷² *Midi-Madagasikara*, 28 Jun 2021

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