

AFRICA RISK CONSULTING

South Africa Monthly Briefing December 2017

South Africa Summary 20 December 2017

Delegates at the ruling African National Congress (ANC) national conference vote for deputy president Cyril Ramaphosa to be the party's next president, narrowly beating rival Nkosazana Dlamini-Zuma. Rating's agency Standard & Poor's (S&P) downgrades its rating of South Africa's rand-denominated debt to one notch below investment grade. The Pretoria High Court rules that President Jacob Zuma's (2009-present) appointment of Shaun Abrahams as national director of public prosecutions (NDPP) was invalid, that Abrahams should step down with immediate effect, and that Zuma should have no hand in choosing his successor.

Cyril Ramaphosa wins ANC presidency elections

Delegates at the ruling **African National Congress (ANC)** national conference voted on 18 December for the deputy president, **Cyril Ramaphosa**, to be the party's next president.¹ The vote is one of the most important political events in **South Africa** in the last two decades and is the beginning of the end of the influence of outgoing ANC president and president of the country **Jacob Zuma** (2009-present).² Ramaphosa beat Zuma's favoured candidate and former wife, **Nkosazana Dlamini-Zuma**, by 2,440 votes to 2,261, a relatively narrow margin reflecting the divided nature of the ANC.³ The vote was delayed by over an hour after the Dlamini-Zuma camp asked for a recount.⁴ Ramaphosa is the candidate of moderates within the ANC, including all living former presidents, and has the support of business leaders in South Africa.⁵ The ANC president has the power to recall sitting members of parliament (MPs) and ministers, including the president, and to set the ANC's national legislative agenda.⁶ The new president of the ANC has traditionally become the next presidential candidate for the party, and it is likely that Ramaphosa will run for the ANC in 2019.⁷

"Cyril has played the long game, he left politics in 1999 and waited fifteen years to come back...but his goal has remained the same – become president of South Africa, just like [former president Nelson] Mandela (1994-1999) wanted."⁸

However, Ramaphosa and his allies did not win a clean victory at the elective conference. The 'top six' positions of the ANC remain divided between allies of Ramaphosa and Zuma. **Mpumalanga Province** premier **David Mabuza** won the position of deputy president.⁹ Mabuza is part of the so-called 'premier league' – a group of provincial premiers who have supported Zuma and the **Gupta** family, who are alleged to be behind the capture of many of South Africa's institutions.¹⁰ Mabuza attempted to sit on the fence during the campaign but eventually came out in support of Dlamini-Zuma.¹¹

¹ Daily Maverick, 18 Dec 2017.

² Source, South Africa analyst, London

³ FT, 19 Dec 2017.

⁴ FT, 19 Dec 2017.

⁵ Daily Maverick, 18 Dec 2017.

⁶ FT, 19 Dec 2017.

⁷ Source, South Africa analyst, London

⁸ Source, news editor, Johannesburg

⁹ Daily Maverick, 18 Dec 2017.

¹⁰ Daily Maverick, 18 Dec 2017.

¹¹ Daily Maverick, 18 Dec 2017.

However, some news commentators allege that Mabuza may have struck a deal with Ramaphosa to run against the latter's slated candidate, **Lindiwe Sisulu**.¹²

Another premier league member – **Free State Province** premier **Ace Magashule** – is the incoming secretary general.¹³ The position was closely fought against former **KwaZulu Natal** ANC chairman **Senzo Mchunu**, but Magashule retained the position after three recounts with just seven votes.¹⁴ Magashule has a long history of misappropriating public funds for personal use; he and his family allegedly took a large amount of money from the Gupta family in return for political support.¹⁵ **Jessie Duarte** retained her position as deputy secretary-general.¹⁶ Duarte has cross-factional support in the ANC.¹⁷ However, her son-in-law was linked to the attempt by the Gupta family to take over the finance ministry in 2015.¹⁸ **Gwede Mantashe** retained his position as chair of the ANC.¹⁹ Mantashe has become an increasingly vocal critic of the Zuma camp since 2014, and allied himself firmly to Ramaphosa for this election.²⁰ Another Ramaphosa ally who won his electoral race was ANC **Gauteng Province** chairperson **Paul Mashatile** whom delegates elected as treasurer general.²¹ Mashatile is a consistent ally of Ramaphosa and opponent of Zuma and the Gupta family.²² However, he reportedly worked with Mabuza and Magashule to ensure that senior provincial figures gained control of the top six.²³

*"The provincial administrations have a crippling reliance on the central ANC apparatus for funding, the plot that nobody saw coming was an alliance between Mashatile and Mabuza to make sure the provinces took back control."*²⁴

The presence of strong Zuma allies in the top six impedes Ramaphosa's ability to take unilateral action to check the influence of President Zuma.²⁵ The conference has reflected the fundamentally divided nature of the ANC.²⁶ The leadership race between Ramaphosa and Dlamini-Zuma reflected and compounded the splits left by eight years of Zuma's leadership.²⁷ Ramaphosa now has to work with the top six to try to push forwards his agenda of economic reforms and better management at state-owned enterprises (SOEs). Key battlegrounds will be the February 2018 budget and the appointment of a new chair for Eskom.²⁸ Ramaphosa is a master consensus builder who finally has the the job he always wanted – president of South Africa – within reach.²⁹ He will push for every advantage he can get in order to achieve this. The Zuma faction will push back. Zuma faces prison time for the 789 counts of corruption he is now liable to face in court (see below), and needs continued power to avoid them.³⁰ The ANC has until 2019 to turn the country around and resolve its internal battles or else it faces the prospect of losing its majority for the first time since 1994.³¹

¹² Business Day, 20 Dec 2017.

¹³ Daily Maverick, 18 Dec 2017.

¹⁴ Business Day, 20 Dec 2017.

¹⁵ Daily Maverick, 18 Dec 2017.

¹⁶ Daily Maverick, 18 Dec 2017.

¹⁷ Source, South Africa analyst, London

¹⁸ Daily Maverick, 18 Dec 2017.

¹⁹ Daily Maverick, 18 Dec 2017.

²⁰ Daily Maverick, 18 Dec 2017.

²¹ Daily Maverick, 18 Dec 2017.

²² Daily Maverick, 18 Dec 2017.

²³ Rand Daily Mail, 20 Dec 2017.

²⁴ Source, political analyst, Johannesburg

²⁵ Source, South Africa analyst, London

²⁶ Source, South Africa analyst, London

²⁷ Source, South Africa analyst, London

²⁸ Source, South Africa analyst, London

²⁹ Source, South Africa analyst, London

³⁰ Source, South Africa analyst, London

³¹ Source, South Africa analyst, London

S&P downgrades South Africa's domestic debt to junk status

Rating's agency **Standard & Poor's (S&P)** downgraded its rating of South Africa's rand-denominated debt to one notch below investment grade on 24 November.³² The South African government has been unable to address poor growth, high unemployment and failing state-owned enterprises (SOEs) in recent years, leading to multiple threats of a downgrade from ratings agencies.³³ Ramaphosa's election as ANC president has increased market confidence, leading to some hope for positive ratings changes in the future.³⁴ S&P and fellow ratings agency **Moody's** warned that finance minister **Malusi Gigaba's** medium term budget statement (MBTS) of 25 October did not contain sufficient measures to address the country's economic problems (see *ARC Briefing South Africa November 2017*).³⁵ S&P has now joined other ratings agency **Fitch** in rating South Africa's domestic debt below investment grade, reducing it to BB+ from BBB.³⁶ S&P also reduced South Africa's foreign denominated debt one notch further to BB from BB+.³⁷ The decision has led to the expulsion of South African bonds from the **Barclays Capital Global Aggregate Bond Index** that is tracked by roughly \$2 trillion in capital.³⁸ The rand dropped 2% against the dollar on the downgrade.³⁹ S&P stated,

*"South Africa's economy has stagnated and external competitiveness has eroded...We expect that offsetting fiscal measures will be proposed in the forthcoming 2018 budget in February next year, but these may be insufficient to stabilise public finances in the near term, contrary to our previous expectations."*⁴⁰

However, Moody's, which also released a new assessment of South Africa on 24 November, opted not to downgrade its rating of domestic debt holdings.⁴¹ This has mitigated the impact of the S&P downgrade, causing the rand to bounce back by 3.3% by 27 November.⁴² It also keeps South Africa's bonds in the \$8 trillion **Citi World Government Bond Index**.⁴³ However, the agency noted that this was entirely dependent on Ramaphosa's ability to influence economic policy.⁴⁴ That influence also needed to be quickly realised, at least by the time of the February 2018 budget.⁴⁵ However, it pointed to the positive response of the markets to news as evidence that investor confidence is ready to turn.⁴⁶ The rand strengthened to 12.74/\$ on Ramaphosa's election, down from 13.66/\$ on 1 December, and has stabilised at 12.64/\$ at time of writing.⁴⁷ Other sources also note that in order to regain wider confidence the government will have to work as a whole to address underlying structural instability:

*"It is not just that Cyril has to get his vision of a more market-friendly economic policy cross, he has to work with Gigaba and other ministers to reduce unemployment, increase growth and tackle issues such as poor education standards that underpin almost a decade of poor economic performance."*⁴⁸

³² FT, 25 Nov 2017.

³³ Source, South Africa analyst, UK

³⁴ Moody's press release, 19 Dec 2017.

³⁵ Source, South Africa analyst, United Kingdom

³⁶ FT, 25 Nov 2017.

³⁷ FT, 25 Nov 2017.

³⁸ Bloomberg, 27 Nov 2017.

³⁹ Bloomberg, 27 Nov 2017.

⁴⁰ FT, 25 Nov 2017.

⁴¹ FT, 25 Nov 2017.

⁴² Bloomberg, 27 Nov 2017.

⁴³ Bloomberg, 27 Nov 2017.

⁴⁴ Moody's press release, 19 Dec 2017.

⁴⁵ Moody's press release, 19 Dec 2017.

⁴⁶ Moody's press release, 19 Dec 2017.

⁴⁷ XE.com

⁴⁸ Source, economic analyst for a major bank, Johannesburg

The downgrade by S&P shows the deterioration of market confidence in South Africa. The ratings agencies have not downgraded South Africa lightly, giving successive finance ministers repeated warnings that they could not remain at investment grade with such poor economic measures. The immediate result of the downgrade of domestic debt will be a reduction of investment and limited capital flight. It adds another barrier between the finance ministry and improved growth. The election of Ramaphosa provides South Africa with a rare moment of optimism from the markets. Gigaba would be wise to use this to draw investment and activity back into the market. However, the political fighting within the ANC may prevent this from happening, letting another opportunity pass by.

Courts fires Abrahams as head of NPA

The **Pretoria High Court** ruled on 8 December that President Zuma's appointment of **Shaun Abrahams** as national director of public prosecutions (NDPP) was invalid and that Abrahams should step down with immediate effect.⁴⁹ The ruling is linked to Zuma's bid to avoid facing 783 counts of corruption and money laundering from the 1990s that the **National Prosecuting Authority (NPA)** – which the NDPP heads – dropped when Zuma became president.⁵⁰ The **Supreme Court of Appeal (SCA)** ruled on 13 October that Abrahams and the NPA should reconsider the corruption charges against Zuma.⁵¹ However, non-governmental organisations (NGO) **Corruption Watch** and **Freedom Under Law** and the **Council for the Advancement of the South African Constitution** launched further cases to prove that Zuma's ability to appoint the head of the NPA was a conflict of interest.⁵² Judge **Dunstan Malambo** ruled that Abrahams should step aside within 60 days, and that the president should not appoint the next NDPP:

*"In our view President Zuma would be clearly conflicted in having to appoint an NDPP...particularly the ever-present spectre of the many criminal charges against him that have not gone away."*⁵³

Malambo ruled that sections 12(4) and 12(6) of the **National Prosecution Authority Act**, giving the president sole discretion to extend or suspend the NDPP, were unconstitutional as they undermined the separation of powers.⁵⁴ Malambo referred the matter to Parliament to debate.⁵⁵ The judge attacked the president's record of using court cases to delay the disproving of indefensible position:

*"There is a broader pattern of the President's conduct in litigation, of defending what ultimately turns out – on the President's own concession – to have been the indefensible all along, banking on any advantage that the passage of time may bring. This pattern has played out in well-publicised cases in the Courts, and would be naïve to ignore."*⁵⁶

Malambo also ruled that Zuma had been "reckless" in his removal of former NDPP **Mxolisi Nxasana** by offering him a \$1.2m settlement package.⁵⁷ Zuma tried to argue that Nxasana had demanded the settlement package to leave his position, and that the courts could not consider it an inducement or a misuse of public funds.⁵⁸ However, an email trail between Zuma and Nxasana demonstrated that the former NDPP did not want to leave his position, allowing Malambo to rule that Zuma knowingly acted unlawfully.⁵⁹ Malambo ruled that both Zuma and Nxasana were "reckless"⁶⁰ in their actions – although

⁴⁹ Daily Maverick, 9 Dec 2017.

⁵⁰ Daily Maverick, 9 Dec 2017.

⁵¹ Moneyweb, 13 Oct 2017.

⁵² Daily Maverick, 9 Dec 2017.

⁵³ Daily Maverick, 9 Dec 2017.

⁵⁴ Daily Maverick, 9 Dec 2017.

⁵⁵ Daily Maverick, 9 Dec 2017.

⁵⁶ Daily Maverick, 9 Dec 2017.

⁵⁷ Daily Maverick, 9 Dec 2017.

⁵⁸ Daily Maverick, 9 Dec 2017.

⁵⁹ Daily Maverick, 9 Dec 2017.

⁶⁰ Daily Maverick, 9 Dec 2017.

he stopped short of ruling that they had definitively breached the law.⁶¹ Zuma has launched an appeal to the ruling which will now return to the Supreme Court of Appeal in early 2018.⁶²

Zuma is running out of places to turn in his decade-long battle to avoid trial for these corruption charges. The courts remain the guardians of the rule of law in South Africa, pushing for better governance and process at all levels. The constitution requires the NDPP to act freely and without fear of prejudice, which has clearly not been the case under the Zuma administrations.⁶³ Zuma will lodge an appeal to the ruling in order to buy further time to make the charges go away.⁶⁴ If the president has a single goal, it is that he leave office safe from any prosecution on these charges which could put him in prison for much of his old age.⁶⁵ The election of Ramaphosa as ANC president (see above) will limit his ability to corral ANC MPs to select his preferred candidate of NDPP.⁶⁶ Zuma has never been as vulnerable as he is now.⁶⁷

⁶¹ Daily Maverick, 9 Dec 2017.

⁶² Daily Maverick, 9 Dec 2017.

⁶³ Source, South Africa analyst, London

⁶⁴ Source, South Africa analyst, London

⁶⁵ Source, South Africa analyst, London

⁶⁶ Source, South Africa analyst, London

⁶⁷ Source, South Africa analyst, London

Planner

May 2019: Next presidential election

Feb 2018: Finance minister to deliver 2018/2019 budget

Chronology

20 Dec 2017 **Johannesburg (South Africa)** *Financial Times*. The **JSE FTSE Top 40** index rises 1.8% and the rand rises 3.3% against the US dollar;

19 Dec 2017 **(South Africa)** *Bloomberg*. Ratings agency **Moody's** notes Ramaphosa's election as ANC president "opens up the tentative prospect of a shift in policy and a rise in business confidence."

18 Dec 2017 **Johannesburg (South Africa)** *Business Day*. The ruling **African National Congress (ANC)** elects vice president **Cyril Ramaphosa** as its new president during its national conference;

8 Dec 2017 **Pretoria (South Africa)** *Business Day*. The **Pretoria High Court** rules that President **Jacob Zuma's** (2009-present) appointment of **Shaun Abrahams** as national director of public prosecutions (NDPP) is invalid and that the president should have no hand in choosing his successor;

6 Dec 2017 **(South Africa)** *Business Day*. Shares of **Johannesburg Stock Exchange**-listed **Steinhoff International Holdings NV** fall 60% after CEO **Marcus Jooste** resigns;

5 Dec 2017 **Johannesburg (South Africa)** *Business Day*. The board of state-owned **Eskom Holding SOC Ltd** reportedly confirms claims that its former chair **Zola Tsotsi** made, who claimed that President **Jacob Zuma** played a role in the decision to suspend three senior Eskom executives in March 2015;

24 Nov 2017 **Pretoria (South Africa)** *Business Day*. **S&P Global Ratings** lowers South Africa's long-term foreign currency sovereign credit rating to **BB** from **BB+**, and lowers its local currency debt to 'junk' status at **Baa3**;

23 Nov 2017 **Pretoria (South Africa)** *Business Day*. The **South African Reserve Bank** (central bank) holds its benchmark repo rate at 6.75%;

23 Nov 2017 **Johannesburg (South Africa)** *Bloomberg*. Partially state-owned **Sasol Ltd** says it will avoid large new investments and focus on completion of its \$11.13 billion **United States**-based chemicals plants, and will not invest in further new gas-to-liquids or crude-oil refining capacity;

22 Nov 2017 **Pretoria (South Africa)** *Business Day*. President **Jacob Zuma** appoints **General Khehla Sitole** as national police commissioner;