

RISK ALERT

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Different rules of law

The recent eight-day **taxi strike in Cape Town** that led to five deaths and 120 arrests for damage to property, looting and public violence, came to an end on Thursday. In contrast to elsewhere in the country, the municipal authorities held firm in the face of threats, intimidation, and violence from the taxi industry – not deviating from upholding the **rule of law**. The significance of this extends beyond the mere facts of the dispute: it is a signal by a Democratic Alliance (DA)-led government that it will maintain its course of doing things differently to the African National Congress (ANC) government.

Meanwhile, on Friday morning, former president **Jacob Zuma** was released from Estcourt Prison after serving less than two hours of a fifteen-month sentence for contempt of court. ANC spokesperson Mahlengi Bhengu-Motsiri welcomed Mr. Zuma's release, expressed the party's confidence in the judiciary and law enforcement agencies, and added that there was no truth that there was a failed state. It appears that Mr. Zuma was the first of over 9 000 prisoners to benefit from a new '**special remission**' scheme aimed at addressing overcrowding in the country's prisons. Data from the Judicial Inspectorate for Correctional Services show that Estcourt Prison currently has 510 prisoners, with a total capacity of 513. President Ramaphosa reportedly signed off on the scheme on Thursday.

These two stories present South Africans with two different versions of the implementation of the letter of the law – but also different understandings of the spirit of the law.

A grand coalition for SA?

The possibility of a **post-2024 coalition** between the Economic Freedom Fighters (EFF) and the ANC has dominated public attention since the 2021 local government elections. But recent comments from journalists and some ANC leaders – including the secretary-general, Fikile Mbalula, and the head of the Veterans' League, Snuki Zikalala – have surfaced the possibility of a 'grand coalition' between the **ANC and the DA**.

While any dwindling of the prospects of EFF involvement in government is to be welcomed, joining a grand coalition with the ANC poses considerable risks to the DA. It is unlikely that the DA would secure any significant **policy concessions** from the ANC, and it would struggle to fulfil campaign promises. Governance failures could be attributed to the DA as much as the ANC. Past experience shows that junior partners often get punished in subsequent elections, the Liberal Democrats in the UK in 2015 being a recent example. Furthermore, the opposition parties scheduled to meet with the DA on Wednesday and Thursday this week to discuss a coalition to oust the ANC would not take kindly to being jilted in favour of the ANC. They would point out, as would many DA supporters, that there is a clear expectation that the **DA should oppose the ANC**, not join it in government.

However, this thread of speculation could be moot. After the votes are counted in 2024, the ANC will probably find it has options more attractive than a coalition with either the DA or the EFF. Firstly, despite its weakening, it could still **win the elections outright**. Its support in rural South Africa remains remarkably strong, and if loadshedding is reduced and the economy shows a bit of life, disgruntled voters could forgive the ANC once more. Secondly, even if the party fails to win more than 50% of the vote, it is likely to miss this mark by just a few percentage points. Then it would likely turn to smaller parties, such as GOOD, the UDM, or Al Jama-Ah, to stay in power.

BEE for retirement homes

The Minister of Human Settlements, Mmamoloko Kubayi, wants to impose **race-based procurement** rules on community schemes, including retirement housing schemes, sectional title complexes, homeowners' associations, share block companies and housing cooperatives. There are about 70 000 such schemes in South Africa, representing 27% of the value of the **residential property market** and R800 billion in assets.

The minister's proposal is of questionable legality, as preferential procurement is not obligatory for private entities. Government action to impose such mandates on community schemes would likely be **ultra vires** and subject to legal challenge. The timing of these remarks ahead of the 2024 elections also raises suspicions of **politicking through policy**. With key developmental trends stalling or even reversing, the ANC has been left with wedge issues like race-based policies to earn political capital.

The minister's remarks should give pause to businesses which, in seeking to be a moderating influence on ANC policies, collaborate with the government on race-based transformation programs. Such cooperation helps further the progressive **alienation of investors** put off by the tangle of racial diktats in trade and employment, while supporting the growth of a rent-seeking class. In government services, energy generation and mining, among other sectors, such groupings have caused extensive damage by incentivising resource inefficiency, tenderpreneurship and corruption, leading to **declining global competitiveness**.

Under pressure

Nedbank's 2023 interim results provide a snapshot of the pressure currently bearing down on the South African **middle class**. An analysis of Nedbank clients shows that while income increased by 4% year-on-year for the January to May period, home loan repayments registered an 18% increase, vehicle finance a 10% increase, while groceries were up by 16% and education by 8%. While consumer price inflation should ease over the coming year in line with global developments, **interest rates could remain elevated** because South Africa's risk premium is high and unlikely to decline in the absence of substantive policy reforms.

Mining's long-term decline

Mining output and sales for the 12 months to May 2023 declined by 4.6% and 4.2% year-on-year, according to new data from the Minerals Council of South Africa. The last time output was at a similar level was before the COVID-19 pandemic. According to Henk Langenhoven, chief economist at the Council, 'output in May was down 7.8% from **pre-pandemic levels**.'

Despite higher demand for coal from Europe over the last few months, exports have been hampered by Transnet's inability to maintain and upgrade its rail networks. Once materials reach the ports, they are also held back by slow operations and a general lack of capacity. Professor Jan Havenga from Stellenbosch University estimates the direct and induced costs of the rail and ports problems at almost R400 billion for 2022. This figure was more than five times that estimated for 2019. **Lower mining output and exports** filter through into less revenue for government, with implications for the Treasury and the currency.

Meanwhile, one of South Africa's prime export markets, especially for commodities, could be entering a period of economic slowdown. With the value of **Chinese exports declining** by 14.5% in July on an annualised basis (the biggest decline since the beginning of the COVID-19 pandemic), Chinese factory gate prices index declining by 4.4%, and the country's consumer price index for July down by 0.3% year-on-year, concerns of deflation are accelerating. Consumer prices have declined steeply since the start of this year. A Chinese slowdown will further dampen demand for raw materials and components from South Africa, in turn impacting negatively on economic growth, job creation, and the fiscus.

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