



# DR Congo: The Bemba Earthquake

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**What's new?** On 8 June Jean-Pierre Bemba, a charismatic Congolese leader and fierce rival of President Joseph Kabila, was acquitted by the International Criminal Court's appeals chamber of a 2016 war crimes conviction. His likely re-entry into Congolese politics will shake up the campaign ahead of elections slated for December 2018.

**Why does it matter?** Bemba has the profile to contest the presidency. For President Kabila, whose attempts to retain power face stiff domestic and international opposition – or for a successor Kabila anoints – Bemba represents a threat. But his return will also complicate the Congolese opposition's efforts to unite behind a single presidential contender.

**What should be done?** International actors need to maintain pressure for elections at the end of 2018 without Kabila. If Kabila stands aside and prospects of a genuine contest for power improve, credible polls and commitments by contenders to avoid inflammatory campaign language and pursue post-election grievances peacefully will be critical.

## I. Overview

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On 8 June 2018, Jean-Pierre Bemba, a charismatic Congolese leader, was acquitted by the appeals chamber of the International Criminal Court (ICC) of war crimes charges relating to actions of his troops in the Central African Republic in 2002-2003. On 12 June, after a hearing on a related case of witness tampering, he was provisionally released from the court's custody. Bemba's arrest on an ICC warrant in 2008 removed one of President Joseph Kabila's fiercest rivals, and his dramatic acquittal could reshape the political landscape of the Democratic Republic of Congo (DRC) as the country prepares for elections slated for December 2018.

Bemba has the profile to mount a serious bid for top office. He remained politically active in detention, as far as the conditions of his custody would allow, and it seems very likely that he will seek a political comeback. His return to the DRC could force President Kabila, whose attempts to stay in power have met stiff domestic and international opposition, to shift his calculations in the prospective presidential contest. For Kabila, or a successor he picks from his inner circle or the ruling majority, Bemba is a political threat, but his return could also present an opportunity to split

the opposition vote. Similarly, Bemba's release creates major challenges and opportunities for Kabila's rivals.

International actors must remain focused on persuading Kabila to stand aside and for elections to take place in December, as scheduled. If Kabila does step down, Bemba's re-emergence could increase the chances of a genuinely competitive vote. This would be a positive step; indeed, stability in the DRC hinges on a transition of power. That said, a more competitive contest could also prove a flashpoint for violence and will make it all the more important that Congolese citizens and politicians regard the vote as credible.

## **II. Who is Jean-Pierre Bemba?**

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Jean-Pierre Bemba (often called "the chairman" by his supporters in a reference to his business past) was born in 1962 near Gemena in Sud-Ubangui province (part of the former Equateur province) to a family close to long-time dictator Mobutu Sese Seko. Having flourished in his family's business empire, in 1998, as Mobutu fell from power, he established the Movement for the Liberation of Congo (MLC). Part political party, part armed group, the MLC allied itself with Uganda and occupied most of the north of the country in the subsequent civil war. After the 2002 Pretoria power-sharing agreement, he became, in July 2003, one of four vice presidents in the transitional government. In the first round of the 2006 presidential elections, he came in second with 20 per cent of the vote, but lost the run-off with 42 per cent to Kabila's 58 per cent. He scored strongly in the west, north, Kasai and Kinshasa. As influential opposition leader Etienne Tshisekedi and his party, the Union for Democracy and Social Progress (UPDS), boycotted the 2006 elections, Bemba was the uncontested candidate of the west as Kabila dominated in the east.

In January 2007, Bemba was elected senator for the MLC, through an indirect vote by Kinshasa provincial deputies. That March, intense fighting erupted in Kinshasa between Bemba's loyalists and government troops, and was only ended when the Angolan military intervened in support of Kabila. Bemba found refuge at the South African embassy and negotiated his departure to exile in Portugal in April. A year later, he was arrested on an ICC warrant in Belgium.

During his imprisonment in The Hague, Bemba remained president of the MLC and senator, and even hoped to run in the 2011 presidential election. But shorn of its figurehead, his party haemorrhaged support, losing 42 of its 64 seats in parliament in the 2011 elections.

In March 2016, Bemba was convicted by the ICC and sentenced to eighteen years in prison on two counts of crimes against humanity and three counts of war crimes. Later the same year, the court also convicted him of witness tampering. Bemba seemed to be out of the DRC's political game, facing several more years in prison and total exclusion from running for elected office as a convicted war criminal – a provision in Congolese electoral law.

On 8 June 2018, however, ICC appeals judges ruled the prosecution had not proven Bemba's responsibility in crimes committed by soldiers under his command and ordered his release. Despite his acquittal, Bemba was not immediately freed because he is still awaiting final sentence in the separate case in which he was found

guilty of influencing witnesses in relation to the principal case. Regarding the charge of witness tampering, Bemba has already served over 80 per cent of the maximum sentence of five years, given that he was served an arrest warrant in November 2013. The court thus called a status conference in his case on 12 June, and provisionally released him until his final sentence is decided on 4 July 2018.

A return to custody appears unlikely, and even were that to happen and Bemba to serve the maximum sentence, he would be out in time to participate in the electoral campaign, which starts 22 November 2018.

This ICC appeals court's unexpected decision comes at a critical juncture ahead of the Congolese elections scheduled for the end of 2018 and will at least have an important symbolic impact. Many Congolese who interpreted Bemba's 2008 arrest as part of the then significant international support for Kabila will see the release of the president's rival in the context of mounting foreign pressure on Kabila to stand down and a sign that Kabila has fallen out of favour with the outside world. The ICC ruling came on the heels of very clear messages by Angolan President Lourenço, during a visit to French President Emmanuel Macron, that he should respect the Saint Sylvester agreement of December 2016 and not stand for a further term in office.<sup>1</sup>

Bemba's party, the MLC, has been weakened by Bemba's decade-long absence. Several senior members have left to join either the government or other opposition parties. However, the MLC is still one of the major opposition formations and has one of four opposition representatives – with Nadine Mishika Tshishima, who is deputy quaestor (deputy head of finances) – in the electoral commission (CENI). From his cell in The Hague, Bemba kept tight control over the party but there is little doubt it would have suffered further losses in the forthcoming elections without his release. As provincial and senatorial elections were not held in 2011, Bemba remains a senator and as such enjoys parliamentary immunity as well as freedom of movement. This affords him some protection against efforts by the Congolese authorities to use legal challenges, as they have done against Moïse Katumbi, to stop him contesting the vote. Bemba will still have to register in-country as a voter to be allowed to participate in the election as a candidate.

### **III. A Transformed Political Landscape**

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The DRC's opposition is in flux as its leaders attempt to negotiate alliances, with deadlines for nominations of candidates only a month or two away (June for provincial and July/August for presidential and legislative elections). Opposition parties are operating under constraints, as the government continues to impose restrictions on political freedoms, clamp down on their meetings and harass several opposition leaders.

The situation remains fluid, but thus far two opposition blocs are emerging through a process of slow negotiation. Since March, Bemba's MLC, led on the ground in the DRC by Secretary General Eve Bazaiba, the Union for the Congolese Nation (UNC),

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<sup>1</sup> See Crisis Group Africa Briefing N° 139, *Increasing the Stakes in DR Congo's Electoral Poker*, 8 June 2018, for further details on mounting Western and African pressure on Kabila. See Crisis Group Africa Report N° 257, *Time for Concerted Action in DR Congo*, 4 December 2017, for background on the Saint Sylvester deal.

led by Vital Kamerhe, and former Prime Minister Adolphe Muzito have been working toward a joint platform. Eve Bazaiba is the only woman in a prominent role in the DRC's political imbroglio. Muzito, in growing dissidence with his party the Unified Lumumbist Party (PALU), and Kamerhe have complementary political bases – in the west and the eastern Kivus, respectively – but prior to Bemba's release, it was not clear whether the three parties would jointly launch a bid for the presidency.

The second bloc comprises Moïse Katumbi, former governor of Katanga province, and Félix Tshisekedi, the new leader of the UPDS, which remains the biggest opposition party. Katumbi's recently launched alliance Ensemble had its first major rally in Kinshasa on 9 June. Both leaders have recently held talks with international partners and have discussed a possible electoral pact and prospects for uniting behind a single presidential candidate. It remains unclear whether Katumbi will be able to run, as he is facing numerous legal challenges, including claims that he has forfeited his Congolese citizenship. Tshisekedi, who remains untested, is trying to follow the footsteps of his father, Etienne, who passed away in February 2017. He has a functioning but divided party and lacks the resources to wage a nationwide campaign.

If the 2006 vote is any guide, Bemba could expect to gather strong support in main urban areas – in particular Kinshasa – as well as in his home turf in the north-western former Equateur province (which was divided in 2015 into five provinces: Equateur, Tshuapa, Mongala, Nord-Ubangui and Sud-Ubangui), and in Kongo Central province. To expand his natural base, Bemba will almost certainly have to leap aboard the DRC's merry-go-round of political alliance building.

Coalition building is important for parliamentary and provincial elections as parties will have to meet the respective electoral thresholds (they need 1 per cent of votes nationwide to qualify for parliamentary seats and 3 per cent of provincial votes for provincial council seats). But the focus, inevitably, will be on Bemba's potential impact on the opposition's bid for the presidency. The DRC's single-round presidential vote (introduced in 2011) – whereby the winning candidate just needs more votes than any other candidate, rather than having to win more than 50 per cent, to prevail – puts pressure on the opposition to unite behind a single strong candidate or risk splitting its vote. But while forming alliances for parliamentary and local elections will be relatively straightforward, moving from those alliances to an agreement on a single presidential candidate will be tough – if not impossible – and Bemba's return makes it all the harder.

Moïse Katumbi has already stated his intention to contest, and if he can overcome legal obstacles and return to the country, it seems unlikely he would stand aside. An alliance between Katumbi and Félix Tshisekedi may not be impossible but it is still unclear that either candidate would stand aside to back the other; both will face pressure from their supporters to contest. Bemba also has a strong national stature and is as well placed as Katumbi to attract allies and position himself at the centre of a countrywide coalition. While the leading opposition figures are young enough to fight another day, the DRC's centralised winner-takes-all politics makes executive office overwhelmingly attractive and many believe that once another contender is ensconced in the presidency, it could be many years before they have another good shot at the top office. That a number of opposition leaders maintain the aura of being presidential hopefuls to strengthen their hand in intra-opposition negotiations further complicates efforts to arrive at a consensus.

Furthermore, several of today's opposition leaders are former allies who subsequently fell out or changed sides. Their often opportunistic past trajectories could make alliance building easier, but it also means they may first have to overcome some bad blood. UNC leader Kamerhe, in opposition since 2010, was a key strategist of Kabila's victory over Bemba in 2006, but he also found a compromise when he brokered, as speaker of parliament, Bemba's exile in 2007. Olivier Kamitatu, now the director of cabinet for Moïse Katumbi, previously enjoyed strong personal ties to Bemba – before becoming his number two in the MLC – but split with him shortly before the 2006 elections to form his own party and side with Kabila. Another close Katumbi ally, former rebel leader Mbusa Nyamwisi, also has a difficult past with Bemba – they were on opposing sides in a bloody war in the north east in 2002 and 2003.

Bemba's return to the scene could also reinvigorate the networks of former Mobutu loyalists in politics, business and the security services, to whom he was allied before his arrest. Under the de facto leadership of Senate President Kengo wa Dondo these forces thus far have failed to challenge Kabila. That could change if they rally around Bemba.

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#### **IV. A New Challenge to Kabila?**

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The DRC still faces a worrying number of uncertainties as the candidacy deadlines loom. Which opposition leaders will be able to run? Will the government contrive legal obstacles to Bemba's return, as it has for Katumbi? Will any opposition leader stand aside to avoid a split opposition vote and, if so, which leaders? And, last but not least, is Kabila willing to cede power and not contest the vote?

The president's intentions remain unclear at this late stage. Prime Minister Bruno Tshibala's 12 June statement that Kabila would respect the terms of the Saint Sylvester agreement and stand down was important, but not the first time a senior figure has indicated this without the president providing subsequent confirmation; nor is Tshibala from Kabila's inner circle.<sup>2</sup> If the president does find a way to run, then opposition politicians would likely boycott the vote.<sup>3</sup> If, on the other hand, Kabila stands aside for another candidate from the ruling majority, Bemba may be able to mount a serious challenge, despite an enormously skewed playing field and the government's control of state resources.

His return may induce a shift in the ruling majority's tactics, however. Rather than working to exclude Kabila's most potent rivals, it may instead relax its obstruction and let even Katumbi run. This would increase prospects of an opposition vote splintered among different major candidates, each largely relying on votes from their respective regional strongholds. Kabila's anointed successor could then exploit the government's control of state resources and the national reach of its newly created Common Front for Congo, which includes the majority and several of its allies in the government of current prime minister, Bruno Tshibala, to mobilise votes across the country.

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<sup>2</sup> "Congo President Kabila will not seek third term – DR Congo PM", Reuters, 12 June 2018.

<sup>3</sup> Crisis Group Briefing, *Increasing the Stakes in DR Congo's Electoral Poker*, op. cit.

The government may even be tempted to stimulate further communal tensions in the provinces to prise apart opposition candidates and make alliance building harder. A particularly dangerous move, for example, would be to stoke friction in Haut-Katanga and Lualaba provinces, where tension is already high between “native” Katangese and “newcomers” Kasaians, in an attempt to drive a wedge between Tshisekedi (whose base is in the Kasai) and Katumbi (Katangese) in the event that they form an electoral alliance. Citizens in eastern DRC (including Katanga) may have concerns about Bemba, a strong candidate in the west, winning the presidency. They fear that people from the west could take revenge on the Swahili speakers from the east, associated with the Kabila regime since 1997. In short, there are multiple possibilities countrywide for unscrupulous politicians to play communities against one another.

It is unclear at present how a Bemba bid for the presidency would sit with regional leaders. On the one hand, Bemba’s stature makes him a realistic alternative to Kabila, at a time when leaders in central and southern Africa are increasing diplomatic efforts to persuade the president to stand aside, fearing that the crisis in the DRC would worsen if he refuses, and that instability could spill into neighbouring countries.

On the other hand, some regional leaders may regard Bemba warily, given his mixed record in the region. At times during the DRC’s civil war, his troops fought Rwandan and Angolan troops or proxies – Rwanda and Angola are the very two countries spearheading African pressure on Kabila. As a former close ally of Uganda’s President Yoweri Museveni, Bemba may pull Uganda back into a prominent role in the DRC’s crisis. That said, some distance from regional powers could play well among a domestic audience eager to see a candidate with more perceived independence from “meddling” neighbours.

## **V. Conclusion**

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Six months from the December 2018 elections, the ICC appeals chamber’s unexpected decision has sent a shock wave through Congolese politics. Bemba has yet to announce his next steps, but on 9 June, a day after his acquittal, the MLC announced the organisation of a party congress on 12 and 13 July. Bemba’s plans are likely to be made public on that occasion, if not before, as Bemba will have to register as a candidate shortly in order to run for office. For now, it appears highly likely that he will rejoin the political fray: winning the presidency would represent the culmination of his long struggle to gain power in the DRC.

Ideally, of course, Kabila will step aside and permit opposition leaders to run. Any attempt by the president to extend his tenure would likely provoke a major political crisis. But even if Kabila stands down and opposition candidates contest the vote, serious risks would remain, particularly given that such a vote would open up real competition. International actors, particularly the African leaders whose pressure has been instrumental in moving electoral preparations forward thus far, should continue their push for Kabila to stand aside, for the government to allow opposition politicians to stand and for a credible vote. If the president decides not to run and elections go ahead on a competitive basis, African and Western powers should urge

Congolese leaders and political parties to commit to peaceful and non-inflammatory campaigns and the United Nations mission in the DRC (MONUSCO) should redouble efforts to react swiftly to outbreaks of violence or unrest.

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