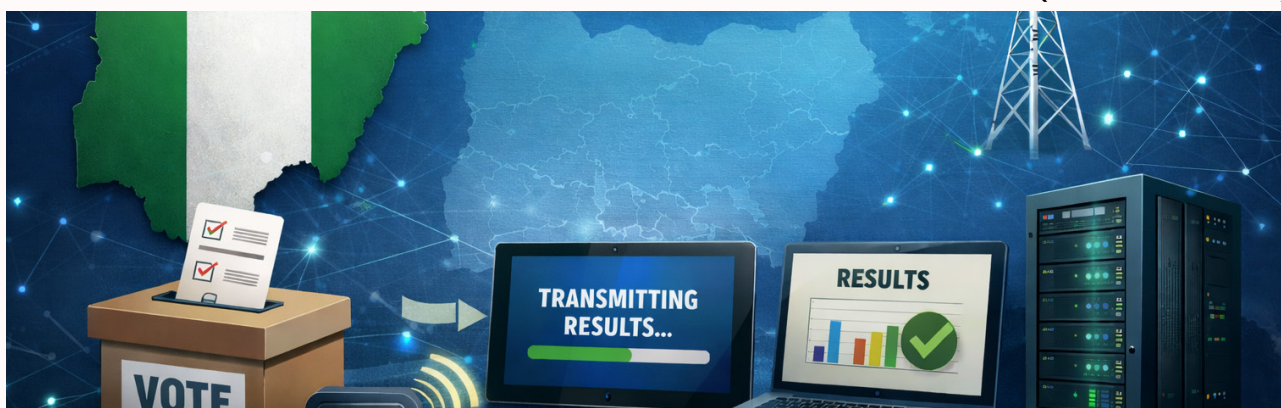


ELECTRONIC TRANSMISSION OF RESULTS IN NIGERIA: LEGAL FRAMEWORK, LEGISLATIVE CHOICES, AND IMPLICATIONS FOR VOTERS

(FULL ANALYSIS)



I. Introduction: Why this Debate is Important

Few issues from Nigeria's 2023 general elections generated as much public expectation and subsequent disillusionment as the promise of electronic transmission of polling-unit results. Before the elections, electoral technology, particularly the Bimodal Voter Accreditation System (BVAS) and the INEC Result Viewing Portal (IReV), was presented as a game changer for transparency and credibility. After the elections, however, the courts made it clear that those expectations were not fully protected by law.

Many Nigerians felt that the judicial outcomes after the 2023 election aligned more closely with prevailing political interests than with voter experience. That concern is understandable. What is less widely understood is that the law itself left room for those outcomes and that gap has still not been fully closed.

Nigeria is now at another critical reform moment. As the National Assembly reviews the Electoral Act, the issue of electronic transmission has returned sharply to the centre of debate. But this time, the two chambers of the legislature have taken clearly different paths.

On Thursday, 23 December 2025, the House of Representatives passed its version of the Electoral Bill 2025, introducing a provision that requires real-time transmission of polling-unit results to the IReV portal alongside physical collation. The House approach reflects the lived experience of voters and observers in 2023, which is that visibility at the polling-unit level matters.

By contrast, on Wednesday, 4 February 2026, the Senate adopted its own version of the Electoral Bill 2025, retaining the existing wording of the Electoral Act 2022 that leaves the manner of result transmission to INEC's discretion. In doing so, the Senate preserved the legal position that governed post-2023 election litigation.

Both versions now proceed to harmonisation. This is no longer a theoretical discussion about technology. It is a concrete choice between two legislative options – one that largely maintains the status quo, and another that, while imperfect, offers citizens greater visibility into what happens to their votes after election day.

How this choice is resolved will determine whether Nigeria simply repeats the ambiguities of 2023, or takes a meaningful step toward rebuilding public trust in the electoral process.

This analysis examines:

- what the law currently provides;
- what the courts decided after the 2023 elections;
- what the Senate passed (and retained);
- what the House has proposed;
- why neither position yet fully resolves the core problem; and
- which option serves citizens better

2. The Legal Baseline: What the Electoral Act 2022 actually Says

The Electoral Act 2022 introduced important references to technology, most notably:

- legal backing for BVAS and reference to electronic accreditation (**section 47**), and
- provisions allowing results to be “transmitted directly” or “transferred” between stages of collation (**Sections 60(5) and 64(4)–(6)**).¹

However, critically, the Act never expressly mandated electronic transmission of polling unit results, nor elevated electronic results above physical result sheets (Forms EC8A–EC8E). This is seen in **section 60(5)** of the Act which provides that: “*The Presiding Officer shall transfer the results ... in a manner as prescribed by the Commission.*”

This wording delegates discretion to Independent National Electoral Commission (INEC), but does not prescribe electronic transmission as mandatory, nor define what happens if electronic transmission fails. This drafting choice became decisive in post-election litigation.

3. The Supreme Court: Constraint, Caution, and Institutional Choice

Across the 2023 election petitions, tribunals and appellate courts took a largely unified position: non-compliance that can nullify an election must relate to the Electoral Act itself, not INEC Regulations or Guidelines. The courts repeatedly held that electronic transmission appeared in subsidiary instruments, not in the principal Act, therefore, failure to upload results to IReV could not, by itself, invalidate an election.

¹ Although Sections 64(4)–(9) introduce verification duties and criminal sanctions for false collation, they do not attach a direct legal consequence to the failure to electronically transmit results as such. The provisions regulate how disputes are resolved during collation and how dishonest election officials may be punished, but they do not make electronic transmission a condition for the validity of results or their declaration. As a result, electronic transmission remains procedurally relevant but not outcome-determinative.

In simple terms, the courts said they could only act on what NASS clearly wrote into the Electoral Act. Since electronic transmission was not clearly required in the Act itself, failure to upload results could not automatically cancel an election.

Beyond drafting, the courts also adopted a cautious approach:

- preserving elections where signed hard-copy results existed;
- applying the doctrine of substantial compliance (**section 137**); and
- avoiding interpretations that would invalidate entire elections based solely on technological failure.

The Supreme Court² consistently reaffirmed that manual collation remains the first line of result collation, and electronic tools are supportive, not determinative, unless the law clearly states otherwise. In practice, this meant that technology could assist the process, but could not determine outcomes without clear legislative authority.

4. IReV Clarified: Not a Collation System, But not Irrelevant

One of the most misunderstood outcomes of the 2023 post-election litigation is the legal status of the IReV portal. The Supreme Court has clarified that IReV is not itself a collation system; but it is part of the electoral process.

In key election disputes,³ such as that seen in the Zamfara State governorship election petition, the Supreme Court, overruling the Court of Appeal, accepted the use of IReV to collate disputed results in Maradun local government area (LGA). The apex court accepted IReV :

- as a verification tool,
- as a back-up reference,
- and, where necessary, as an aid to correcting disputed results.

The Court did not hold that IReV is useless. It held that IReV is not supreme. This distinction is important and usually lost in public debate.

5. INEC's Institutional Contradiction

A central feature of the 2023 post-election litigation was INEC's own posture. Before the elections INEC publicly assured Nigerians that results would be electronically transmitted in real time and these assurances shaped voter expectations. After the elections, INEC argued in court that:

- its Regulations and Guidelines are subsidiary
- electronic transmission is not part of the collation system; and
- public assurances by the Commission's officials have no evidential value.

2 See the cases of *Oyetola & Ors. v. INEC & Ors.* (2023) LPELR-60392 (SC) (this set the tone and signalled the court's posture on this subject in 2023) and *Atiku & Anor v. INEC Ors.* (SC/CV/935/2023).

3 See the case of *Lawal v. Matawalle & 3 Ors.* (Unreported) (SC/CV/1165/2023). Judgment delivered on 12th January 2024.

This shift weakened public trust, reinforced institutional reluctance to rely on technology, and diminished the normative force of INEC's own regulatory framework. It exposed a deeper credibility challenge for the electoral management body.

6. The Senate Position: Maintaining the Existing Legal Position

In the current Electoral Amendment process, the Senate:

- rejected a proposal in **Clause 60(3)** of the Electoral Bill that would have required real-time electronic transmission of polling-unit results to the IReV portal after the signing of Form EC8A;
- rejected an additional proposal in **Clause 60(5)** that would have required the Presiding Officer to transmit results, including the total number of accredited voters, to the next level of collation; and
- retained **Section 60(5)** of the Electoral Act 2022 unchanged, which provides that results
- shall be transferred *“in a manner as prescribed by the Commission.”*

The practical effect of these choices is that the Senate preserved the existing legal framework governing result transmission and collation, including the discretion left to INEC and the approach applied by the courts after the 2023 elections. However, these decisions also leave unresolved the ambiguity that weakened public confidence in 2023, particularly around whether and how result transmission should be mandatory, visible, and enforceable.

In essence, the Senate's approach maintains continuity and avoids reopening settled legal positions, but it does so at the expense of clearer public expectations and stronger transparency guarantees for voters.

7. The House Proposal: A Modest but Meaningful Shift Toward Transparency

The House of Representatives proposes a revised approach to result transmission that represents a clear improvement for public transparency, even if it stops short of full legal enforceability. Under the House version, **Section 60(3)** provides that:

“The Commission shall electronically transmit the results from each polling unit to the IReV portal in real time and such transmission shall be done simultaneously with the physical collation of results.”⁴

This provision places a direct and mandatory obligation on INEC to ensure that polling-unit results are uploaded electronically to the IReV portal in real time. The use of “shall” is a deliberate safeguard designed to ensure that results are publicly visible as collation begins.

At the same time, **Section 60(5)** provides that:

“The Presiding Officer shall transmit the results including the total number of accredited voters to the next level of collation.”

⁴ During plenary consideration in December 2025, the House amended the clause by deleting the word “simultaneously,” but retained the words “real time.”

When read together with the interpretation clause of the bill (**section 157**), which defines “transmit” to include both manual and electronic means, the House version seems to establish a dual-track system.

- **Public transparency track:** INEC is required to electronically transmit polling-unit results to IReV in real time for public visibility.
- **Administrative collation track:** Presiding Officers may continue to transmit results through the physical collation chain to the next level of collation.

This structure does not displace the existing manual collation framework. Instead, it strengthens public visibility alongside ongoing physical collation, reflecting a cautious but deliberate effort to align the law more closely with citizens’ expectations after 2023.

However, the limits of this approach are equally clear. While electronic transmission to IReV is mandatory as a matter of process, the House version does not specify the legal consequence of failure to comply with **section 60(3)**. It does not state that non-upload affects the validity of results, overrides paper records, or alters the basis on which courts assess election outcomes. In this sense, electronic transmission is required for transparency, but remains legally non-determinative.

As a result, the House proposal significantly improves transparency and public oversight, but does not yet resolve enforceability and remains vague where conflicts arise between electronic and paper records. As previously stated, this is because the law still treats signed polling unit result sheets as the primary legal record, with electronic records playing a supporting or verification role.

During plenary consideration, the House refined the drafting of this provision by dropping the word “simultaneously,” leaving a requirement that electronic transmission of polling-unit results occur “in real time” without an express obligation of exact parallel timing with physical collation. This technical clean-up reduces rigidity and limits potential procedural disputes over precise sequencing during collation, while still affirming the objective of prompt public visibility of results. However, the law does not define what constitutes “real time,” nor does it attach clear legal consequences to non-compliance. In practice, electronic transmission therefore remains mandatory as a matter of process. As with earlier electoral reforms, strong transparency language without corresponding enforceability risks raising public expectations without delivering clear judicial protection.

Even with these limits, the House version represents a meaningful step forward for citizens. It guarantees real-time access to polling-unit results, reduces information gaps during collation, and strengthens public scrutiny – all of which were absent or uncertain under the framework applied in 2023.

8. The Core Unresolved Question and What Citizens Actually Gain

The more significant long-term issue is not whether election results are transmitted electronically, but the scope and legal effect of electronic transmission within the electoral system. Is it meant to replace manual collation, mirror it, serve as evidence, trigger sanctions, or invalidate results when it fails? Neither the Senate nor the House version of the Electoral Bill answers these questions fully. Yet this does not mean electronic transmission has no value.

In practical terms, IReV as currently set up, is best understood as a mirror of manual collation, not a substitute for it. When results are uploaded from polling units:

- citizens can see what was counted at the source, before results move through multiple collation layers;
- political parties and candidates can compare what they observed on the ground with what appears at ward, local government, and state levels;
- journalists, observers, and civil society can track discrepancies early, rather than discovering them days later.

This mirroring function does not change the legal status of results, but it changes the information environment. And in elections, information is power.

For petitioners, electronic transmission provides early documentation of results, helps narrow disputes to specific polling units, and supports verification where discrepancies arise. Even where electronic records do not override paper results, they strengthen transparency and accountability.

The core limitation is that the law still does not define what happens when electronic transmission fails or conflicts with paper records. Without clear rules on status, hierarchy (e.g. whether electronic results can override paper records in post-election judicial review), and consequences (including whether non-transmission should invalidate results or prevent collation and declaration), electronic transmission remains informative but not decisive.

In the absence of explicit statutory direction on hierarchy and consequences, tribunals and courts in 2023 defaulted to the only records the law clearly recognised as outcome-determinative, i.e. manually collated and signed paper result forms. By contrast, in jurisdictions that use electronic transmission effectively, the law does not merely permit technology but clearly specifies its legal status, such as whether electronic records mirror paper forms, supplement them as evidence, or take precedence in defined circumstances. This reduces uncertainty in both administration and adjudication.

9. Conclusion: Choosing the Option That Serves Citizens Better

At this stage of harmonisation, the National Assembly is no longer debating ideas in the abstract. It must make a clear choice between preserving the status quo and taking a step forward that better reflects citizens' expectations of transparency and accountability.

The Senate's approach maintains existing interpretations of the law, but it leaves Nigerians exactly where they were in 2023: able to hear promises of technology, yet unable to rely on those tools when it matters most. For citizens who want to see what happens to their votes after election day, this offers little reassurance.

The House version, while not perfect, moves closer to what citizens experienced and valued at the polls. By requiring real-time transmission of polling-unit results alongside physical collation, it strengthens public visibility, narrows the space for silent manipulation, and affirms the public's right to see results as they are counted. Even without making electronic transmission legally determinative, it provides a stronger foundation for trust, scrutiny, and post-election accountability.

Harmonisation is therefore an opportunity to choose the option that works better for citizens now, while leaving room to strengthen enforceability in the future. In the next phase of electoral reform, there needs to be better clarity and consensus among citizens about what technology should do in elections; whether to merely inform, verify, or go beyond to determine outcomes; and lawmakers must be prepared to legislate that choice with precision and courage. When that happens, transparency will no longer end at visibility, and trust can be built not just in process, but in outcomes.

*This factsheet draws on evidence from PLAC's research on post-election adjudication following Nigeria's 2023 General Elections, particularly its report, **From Ballot to the Courts: Analysis of Election Petition Litigation from Nigeria's 2023 General Elections**. The report provides an in-depth analysis of tribunal and court decisions arising from the 2023 elections, assessed against the constitutional and statutory framework for elections, including the Electoral Act 2022. It documents key issues, trends, and challenges in election petition litigation and sets out practical recommendations for reform.*

The full report and an abridged version are publicly available, alongside PLAC's Election Petitions Case Directory - an online database containing summaries and judgments from over 1,500 post-election cases - which together informed the analysis and conclusions presented in this factsheet.

- This comprehensive report is available via this link: <https://placng.org/i/wp-content/uploads/2025/04/FROM-BALLOT-TO-THE-COURTS.pdf>
- An abridged version of the report is available here: https://placng.org/i/wp-content/uploads/2025/04/Abridged-Report_From-Ballot-to-the-Courts-Analysis-of-Election-Petition-Litigation-from-Nigerias-2023.-General-Elections.pdf
- Explore the case directory here: <https://electioncases.placlibrary.org/>

About PLAC

Policy and Legal Advocacy Centre (PLAC) is a non-governmental organization committed to strengthening democratic governance and citizens' participation in Nigeria. PLAC works to enhance citizens' engagement with state institutions, and to promote transparency and accountability in policy and decision-making process.

The main focus of PLAC's intervention in the democratic governance process is on building the capacity of the legislature and reforming the electoral process. Since its establishment, PLAC has grown into a leading institution with capacity to deliver cutting-edge research, policy analysis and advocacy. PLAC receives funding support from donors and other philanthropic sources.

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