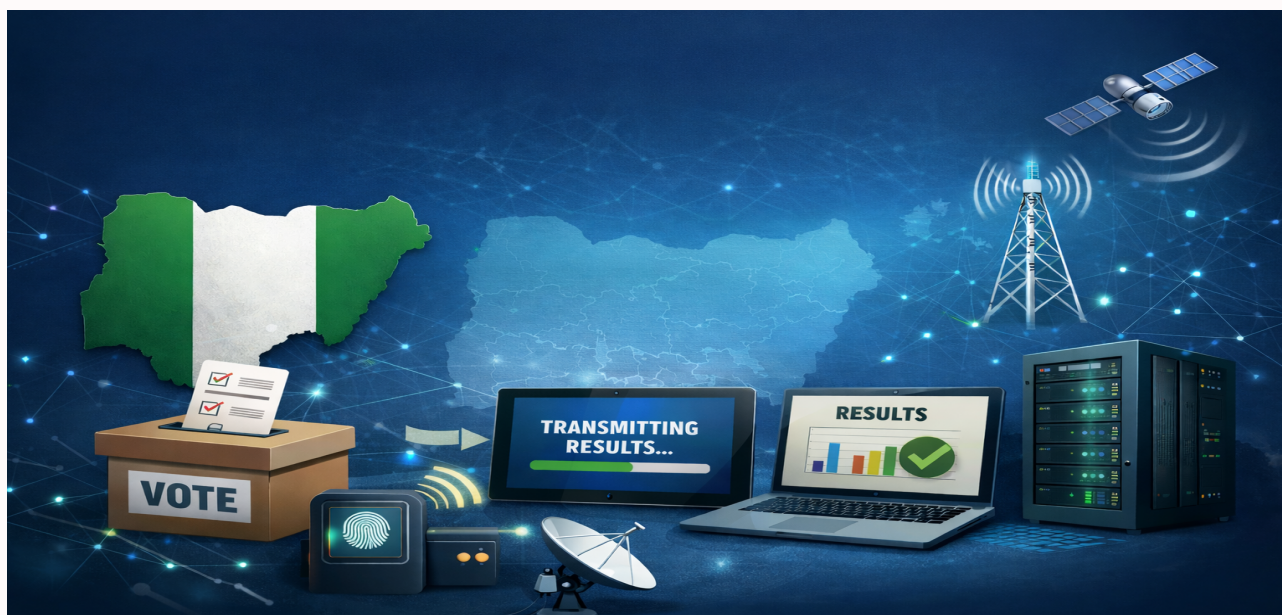


ELECTRONIC TRANSMISSION OF ELECTION RESULTS IN NIGERIA: LEGAL FRAMEWORK, LEGISLATIVE CHOICES, AND IMPLICATIONS FOR VOTERS

(FULL ANALYSIS)



This Factsheet examines:

- what the law currently provides on electronic transmission of election results;
- what the courts decided after the 2023 elections;
- the Senate's position and its implications;
- the House of Representatives' proposed approach;
- why key legal and accountability gaps remain unresolved; and
- which legislative approach better serves citizens at this stage of reform.

I. Introduction: Why this Debate is Important

Few issues from Nigeria's 2023 general elections has 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 legislative debate. This time, however, the two chambers have taken different approaches to how electronic transmission should be mandated and how failure should be treated in law.

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 and that delays or opacity during collation undermine public confidence.

By contrast, on 4 February 2026, the Senate initially adopted a version of the Electoral Bill that retained the existing wording of the Electoral Act 2022, leaving the manner of result transmission to INEC's discretion. This position effectively preserved the legal framework and judicial interpretation that governed post-2023 election litigation.

Following widespread public criticism and civic protests, the Senate subsequently rescinded its earlier position at an emergency plenary session held on 10 February 2025 and adopted a revised approach allowing for electronic transmission of polling-unit results but watered it down by creating an exception for when transmission fails.

Both versions of the Electoral Bill now move to harmonisation. This is no longer a theoretical debate about technology. It is a practical legislative decision about how electronic transmission is provided for in law, what happens when it fails, and how much transparency there is during result collation.

The outcome of this process will determine whether Nigeria repeats the uncertainty seen in 2023, or takes a clearer step toward rebuilding public confidence by defining the role and limits of electoral technology in the results process.

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

The Electoral Act 2022 introduced important references to the use of technology in elections, most notably:

- explicit legal backing for electronic accreditation i.e. Bimodal Voter Accreditation System (BVAS) (Section 47); and
- provisions allowing election results to be “transmitted directly” or “transferred” between stages of collation. Sections 60(5). 64(4)–(6)).

However, the Act did not expressly mandate the electronic transmission of polling-unit results, nor did it elevate electronic records above signed physical result sheets (Forms EC8A–EC8E).

This is evident 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.” The provision leaves the method of transmission to INEC's discretion and does not specify electronic transmission as mandatory.

The Act does not define what should happen if electronic transmission fails, is delayed, or conflicts with paper records. Section 64 (4)–(6) is often cited as evidence that the law intended electronically transmitted results to play a role in collation. These provisions introduce important safeguards, for example, they impose verification duties on collation and returning officers, provide for the use of accreditation and transmitted data to resolve disputes during collation, and create criminal sanctions for the intentional collation or announcement of false results.

However, these provisions do not attach a direct legal consequence to the failure to electronically transmit results as such. Rather, they regulate how disputes are resolved during collation, not whether results are valid or can be declared in the absence of electronic transmission.

In effect, the Electoral Act 2022 currently treats electronically transmitted data as a supporting and verification tool within the collation process, not as a condition precedent for the validity of results or their declaration.

This drafting choice and absence of clarity on method, hierarchy, and consequences became decisive in post-election litigation after the 2023 general elections.

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 these subsidiary instruments, not in the principal Act, therefore, failure to upload results to IReV could not, by itself, invalidate 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 Court¹ consistently reaffirmed that manual collation remains the primary basis for result determination, while electronic tools serve a supporting role unless the law clearly states otherwise.

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 the Zamfara State governorship election petition², the Supreme Court, overturning the Court of Appeal, accepted the use of IReV data to resolve disputed results in Maradun Local Government Area. In doing so, the Court recognised IReV:

1 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).

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

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

In short, the Court did not say IReV is useless. It said IReV is not supreme. This distinction is important, and it is often 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, however, INEC adopted a different position in court. It argued, and aligned itself with submissions that:

- its Regulations and Guidelines are subsidiary instruments and cannot override the Electoral Act;
- electronic transmission is not part of the legally recognised collation system; and
- public assurances or statements by INEC officials have no evidential value in election petitions.

This shift had far-reaching consequences. It weakened public trust in the electoral process, reinforced institutional caution around relying on technology, and diminished the normative force of INEC's own regulatory framework. More broadly, it exposed a credibility gap between what the electoral management body promised voters and what it was prepared to defend in law.

6. The Senate Position: Limited Adjustment Within an Existing Legal Framework

In the ongoing Electoral Act Amendment process, the Senate initially:

- rejected a proposal in Clause 60(3) that would have required real-time electronic transmission of polling-unit results to the IReV portal after the signing of Form EC8A;
- 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."

This position preserved the legal framework that governed post-2023 election litigation, including the discretion left to INEC and the judicial approach that treated electronic transmission as supportive rather than decisive. However, following public criticism and civic pressure, the Senate revisited its earlier position at an emergency plenary session and adopted a revised version of Section 60(3).

Under the revised provision, the Presiding Officer is required to electronically transmit polling-unit results to the IReV portal after Form EC8A has been signed and stamped, while expressly providing that where electronic transmission fails as a result of communication failure and it becomes impossible to transmit the result, the signed Form EC8A will be the primary basis for collation and declaration.

The practical effect of the Senate's revised position is a limited adjustment from its earlier position rather than a structural shift. Electronic transmission is now expressly recognised in the principal Act, but the law simultaneously reinforces the primacy of paper results where transmission fails. This preserves continuity with the legal and judicial framework applied after the 2023 elections, while responding, minimally, to public demand for clearer statutory recognition of electronic transmission.

In essence, the Senate’s approach reduces uncertainty about whether electronic transmission is permitted, but it does not fundamentally alter the hierarchy of results (where electronic transmission is successful) or attach enforceable consequences to non-transmission. It therefore leaves unresolved, the broader question of how far electronic transmission should shape outcomes, accountability, and public confidence.

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 though it stops short of making electronic transmission legally outcome-determinative.

In the House bill, the proposed **Section 60(3)** provided 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.”

During plenary consideration in December 2025, the House amended the clause by removing the word “*simultaneously*,” while retaining the requirement of “*real-time*” transmission. This refinement aimed to reduce drafting rigidity and avoided tying the obligation to exact parallel timing with physical collation, which could have generated unnecessary procedural disputes.

By retaining “real time,” the House preserved the core objective of prompt public visibility of results as counting and collation begin, which is an objective strongly supported by citizens.

The revised House version of **Section 60(3)** now provides:

“The Presiding Officer shall electronically transmit the results from each polling unit to IREV portal in real time and such transmission shall be done after the prescribed Form EC8A has been signed and stamped by the Presiding Officer and/or countersigned by the candidates or Polling agents where available at the Polling Unit.”

First, this version places the obligation directly on the Presiding Officer at the polling unit and not on INEC broadly.

Second, the timing of transmission is now clearly anchored to a defined procedural milestone: the completion, signing, and stamping of Form EC8A, and countersignature by candidates or polling agents where available. This improves precision. It ensures that upload occurs only after the official polling-unit result has been finalised and authenticated. By linking transmission to the signed result form, the House version reduces ambiguity and avoids the procedural rigidity that might have arisen from earlier references to “simultaneous” transmission.

The retention of the phrase “in real time” preserves the objective of prompt public visibility. In this structure, “real time” operates within a clear sequence: votes are counted, Form EC8A is completed and signed, agents countersign where present, and the result is then uploaded to IReV. While the law does not define “real time” in minutes or hours, the sequencing makes the intention clear that polling-unit results should become publicly visible immediately after formal certification at that unit. Note however that, **Section 60(5)** of the House version provides that:

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

When read together with the interpretation clause of the bill (**Section 157**), which defines “transmit” to include both manual and electronic means, the House framework establishes a dual-track framework:

- **Public transparency track:** Presiding Officer required to electronically transmit polling-unit results to IReV 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.

At the same time, the provision does not specify the legal consequences of delay or non-compliance, nor does it clarify what happens if electronic and paper records differ. In the absence of such direction, the courts can still infer that signed polling-unit result forms remain the primary legal record, while electronic transmission functions as a transparency tool that is mandatory as a matter of process, but not yet outcome-determinative in law.

8. The Harmonisation Choice: When Does Technology Count and Who Decides When It Failed?

As the Electoral Bill moves to harmonisation, the National Assembly faces a decisive choice. The question is no longer whether electronic transmission should be part of Nigeria’s elections, as both chambers now accept that it should. The real question is how it is framed in law, what happens when it fails, and who controls that determination.

At the centre of this choice are two different legislative approaches, each with distinct implications for transparency, accountability, and public trust.

If the Senate Approach Prevails

The Senate’s revised position treats electronic transmission as conditional and secondary. While it requires polling-unit results to be uploaded to IReV after Form EC8A is signed, it also provides a clear fallback: where electronic transmission fails due to “communication failure” or “impossibility,” the signed Form EC8A becomes the primary basis for collation and declaration.

This approach, raises important concerns for transparency:

- electronic transmission may occur, but failure carries no meaningful consequence for collation or declaration;
- courts are likely to continue defaulting to paper records where disputes arise; and
- results transparency depends largely on administrative discretion rather than enforceable standards.

The key risk is not the fallback or exception itself, but how easily it can be invoked. Without clear rules on what counts as “communication failure” or “impossibility,” the exception may become routine rather than exceptional. This approach offers limited public assurance that electronic transmission will strengthen accountability beyond what was experienced in 2023.

If the House Approach Prevails

The House takes a different approach by making electronic transmission to the IReV portal after signing of form EC8A mandatory in the Electoral Act itself, without built-in exceptions.

It also clarifies sequence: counting is completed, Form EC8A is certified, and then transmission occurs. In this context, “real time” now means prompt upload immediately after formal certification of the result at source.

This strengthens transparency at the most sensitive stage of the electoral process. It ensures that what has been signed at the polling unit becomes publicly visible without waiting for results to travel through multiple collation layers.

However, important legal questions remain open. The House version:

- does not define “real time” in precise operational terms (e.g., minutes or hours); and
- does not specify what happens if upload is delayed or fails.

In jurisdictions where electronic transmission works effectively, the law clearly defines its legal status; whether it supplements paper records, serves as verification evidence, or prevails in defined circumstances. That clarity reduces uncertainty in both election administration and judicial review.

Unlike the Senate version, the House text does not include an express fallback clause stating that paper results automatically become the primary basis where transmission fails. In that sense, the House drafting avoids building a statutory escape route into the law itself and keeps the transparency obligation clear and mandatory.

However, this does not mean courts would not still interpret the law in a similar direction. Even without an express proviso, a court faced with failed transmission could still default to signed paper results, especially since the Act does not expressly alter the existing structure of collation or clearly elevate electronic records above manual ones. In other words, the absence of an exception strengthens the House version symbolically and structurally, but it does not, on its own, eliminate interpretive risk.

The House version also retains the term “*real time*,” which conveys immediacy but is not defined in operational terms. Without clarity on what timeframe qualifies as “real time,” enforcement may depend largely on administrative practice and judicial interpretation.

Even with these gaps, the House approach represents a clear advance over the Senate version. It does not embed a formal statutory escape clause that automatically elevates paper results where transmission fails. Instead, it affirms a mandatory transparency obligation in the Electoral Act itself and strengthens citizens’ right to see polling-unit results as they are certified.

9. What Citizens Actually Gain and What they Still Don't

A central long-term issue is not whether election results are transmitted electronically, but the scope and legal effect of electronic transmission within Nigeria's electoral system. In practical terms, the IReV portal, as currently structured, is best understood as a mirror of manual collation, not a substitute for it. This mirroring function does not alter the legal status of results, but it significantly reshapes the information environment. And in elections, information is power.

Under both the Senate and House approaches, electronic transmission does not replace manual collation or automatically determine outcomes. Citizens should be clear about this. What electronic transmission currently provides is **not automatic victory or cancellation**, but greater visibility of results, deterrence against manipulation, and earlier accountability.

In practical terms, when results are uploaded:

- citizens can see what was counted at the polling unit before results move through multiple collation layers;
- parties and observers can compare on-ground records with collated figures early; and
- discrepancies can be flagged while collation is still ongoing.

10. The Real Reform Test

At this stage, the reform test is not whether the law mentions "electronic transmission." Both chambers do. The real test is whether the Act, and more importantly INEC's Regulations, will define the operational standards clearly enough to make the obligation meaningful.

Key questions must be answered:

- What timeframe qualifies as "real time"?
 - Does it mean - before results leave the polling unit? before collation begins at the ward level? or simply "without undue delay"?
- How should delays be documented and explained?
- What constitutes a failed transmission attempt or communication failure?
- How many transmission attempts must be made and logged before failure can be claimed?
- Who certifies that transmission became "impossible," and how is this recorded?
- Must INEC publish a list of polling units where uploads failed, with reasons?

If these standards are not clearly set, real-time transmission risks becoming a promise diluted by practice, while the Senate's fallback clause risks becoming a convenient route around transparency.

11. Closing the Exception Gap: Raising the Evidentiary Bar

In Nigeria's highly litigious electoral environment, rules and standards must be precise. Where provisions are vague, courts tend to defer to administrative explanations. Also, Nigeria's electoral reform debate takes place in a real political environment, where competing interests shape final outcomes. To avoid liberal judicial interpretation and make the provision on transmission meaningful, the law must be clear and any exception must be structured and evidence-based. That means naming the responsible officer, fixing the timing of documentation, and requiring objective proof, not narrative explanation.

The aim is not to assume failure, but to pre-empt uncertainty. Courts will be asked to interpret these provisions. If “*communication failure*” or “*real time*” (depending on which version is adopted) is left undefined or loosely framed, the requirement for electronic transmission may weaken in practice.

To safeguard the reform objective, the law should clearly state who records a communication failure, when it must be recorded, and what proof must exist. That clarity helps prevent the obligation from being diluted through interpretation or post-hoc explanation.

For instance, the bill could state that “*where transmission is not possible due to technical failure, the failure shall be recorded by the Presiding Officer at the polling unit at the time the failure occurs in a prescribed incident report and supported by objective technical evidence, in accordance with regulations issued by the Commission for that purpose.*” It should also state that such failure shall not be presumed and shall be strictly proved in accordance with this requirement.

This approach does not eliminate operational flexibility. It disciplines the exception. In doing so, it raises the evidentiary bar, limits potential implementation gap, and aligns legal drafting with public expectations of transparency.

A further drafting issue deserves attention: the Senate and House bills refer specifically to the “**IReV portal**.” While this reflects current practice, naming a particular technological platform in primary legislation can be overly rigid. Technology evolves. INEC may redesign, rename, or replace the portal in future. A more durable legislative approach would refer descriptively to “the Commission’s designated electronic results viewing platform” or similar language, allowing flexibility without requiring statutory amendment whenever systems change.

12. Conclusion

The current debate on electronic transmission is no longer about whether technology should be used in elections. It is about how clearly the law defines its scope, and how well it serves citizens’ expectations of transparency.

Harmonisation now presents a real choice. The Senate approach largely maintains the framework that governed 2023, where electronic tools existed but carried little legal weight and disappointed citizens. The House version, while not resolving every legal question, takes a meaningful step by mandating real-time electronic transmission at the polling-unit level without exceptions. While the House approach leaves room for interpretation and will require detailed regulations to operate effectively, it better aligns the law with citizens’ demand for openness.

Looking ahead, Nigeria’s next phase of electoral reform will require greater clarity and consensus among stakeholders on the scope of technology in elections: whether to merely inform, to verify, or to play a role in determining outcomes. Lawmakers must then be prepared to legislate that choice with precision and courage. When that happens, transparency will no longer end at visibility of results, and trust can be built not just in process, but in outcomes.

The task now is to ensure that the legal framework governing electronic transmission is coherent, precise, and worthy of public trust.

*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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