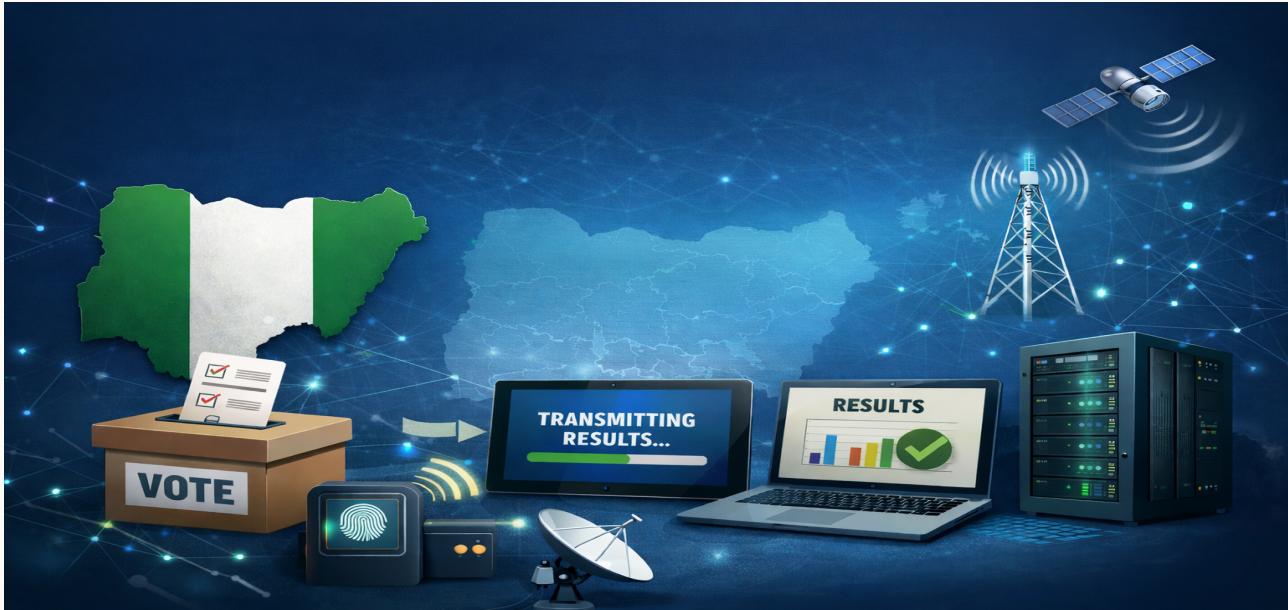


ELECTRONIC TRANSMISSION OF ELECTION RESULTS IN NIGERIA: LEGAL FRAMEWORK, LEGISLATIVE CHOICES, AND IMPLICATIONS FOR VOTERS

(ABRIDGED VERSION)



What This Factsheet Examines

This factsheet explains:

- what Nigerian law currently provides on electronic transmission of election results;
- how courts interpreted these provisions after the 2023 elections;
- the different approaches taken by the Senate and the House of Representatives in the Electoral Bill 2025;
- why key legal and accountability gaps remain; and
- which legislative approach better serves citizens at this stage of reform.

I. The Legal Baseline: What the Electoral Act 2022 Provides

The Electoral Act 2022 introduced technology into Nigeria's electoral framework, most notably by:

- giving explicit legal backing to electronic accreditation through BVAS (**section 47**); and
- allowing results to be “transferred” or “transmitted” between stages of collation (**section 60(5)**).

However, the Act did **not**:

- expressly mandate electronic transmission of polling-unit results; or
- give electronically transmitted results precedence over signed result forms (EC8A–EC8E).

Section 60(5) leaves the manner of transmission to INEC's discretion. This drafting choice became decisive in post-election litigation after 2023.

2. What the Courts Decided After 2023

Across election petitions arising from the 2023 general elections, tribunals and appellate courts adopted a consistent position:

- non-compliance capable of invalidating an election must relate to the Electoral Act itself, not INEC Regulations or Guidelines;
- failure to upload results to IReV, by itself, does not invalidate an election; and
- signed physical result forms remain the primary basis for collation and declaration.

The Supreme Court repeatedly affirmed that electronic tools play a supportive role unless the law clearly provides otherwise. Courts also applied the doctrine of substantial compliance and avoided interpretations that would invalidate elections solely on account of technological failure.

3. IReV: Not Supreme, But Not Irrelevant

A major misconception after 2023 is that the courts declared IReV meaningless. They did not. The Supreme Court clarified that IReV is **not a collation system**, but it is **part of the electoral process**. In the Zamfara governorship case, the Court accepted IReV data to resolve disputed results at the local government level, recognising its value as an aid to correcting disputed figures during collation. The distinction is crucial: IReV is not legally decisive, but it is not legally irrelevant.

4. INEC's Institutional Contradiction

Before the 2023 elections, INEC assured Nigerians that results would be transmitted electronically in real time. After the elections, INEC argued in court that:

- its Regulations cannot override the Electoral Act;
- electronic transmission is not part of its collation system; and
- public assurances by its officials have no evidential value.

This shift weakened public trust and exposed a credibility gap between what voters were promised and what INEC was prepared to defend in law.

5. The Senate Approach: Limited Reform

The Senate initially retained the Electoral Act 2022 framework, rejecting proposals to mandate real-time electronic transmission. Following public criticism, it adopted a revised position. Under the Senate's revised provision:

- polling-unit results must be electronically transmitted after Form EC8A is signed; but
- where transmission fails as a result of communication failure and it becomes impossible to transmit the result, the signed Form EC8A remains the primary basis for collation and declaration.¹

¹ 60(3) The Presiding Officer shall electronically transmit the results from each polling unit to IREV portal and such transmission shall be done after the prescribed Form EC8A has been signed and stamped by the Presiding officer and/or counter signed by the candidates or polling agents where available at the Polling Unit.

Provided that if the electronic transmission of the result fails as a result of communication failure and it becomes impossible to transmit the result contained in form EC8A signed and stamped by the Presiding Officer and/or countersigned by the candidates or polling agents, where available at the polling unit, the form EC8A shall, in such a case, be the primary source of collation and declaration of the Results.

This approach recognises electronic transmission in the principal Act but preserves the primacy of paper results where transmission fails. It introduces very limited reform, without fundamentally altering the legal hierarchy that governed post-2023 litigation. The key concern is that the exception for “failure” or “impossibility” is undefined, making it easy to invoke and difficult to challenge.

6. The House Approach: A Clearer Transparency Signal

The House of Representatives takes a more citizen-focused approach. Its version of **section 60(3)** provides that INEC **shall** electronically transmit polling-unit results to the IReV portal in real time, without exceptions.² Read together with **section 60(5)** and the interpretation clause which defines “transmit” to be electronic or manual, the House framework does not displace manual collation. Instead, it creates:

- a **public transparency track** (mandatory electronic transmission to IReV); and
- an **administrative collation track** (physical transmission through collation centres).

While it aims to strengthen public oversight at the most sensitive stage of the results process, it also does not clarify what happens if results are not transmitted.

7. The Harmonisation Choice

Harmonisation is no longer about whether technology should be used. Both chambers agree that it should. The real question is how the law treats failure and who controls that determination.

- **The Senate approach** clarifies what happens where transmission fails, but risks normalising exceptions that undermine transparency.
- **The House approach** prioritises visibility and public oversight, but is silent on consequences for non-transmission and enforceability will depend on clearer rules and regulations.

While neither version resolves every legal question, the House approach better reflects citizens’ expectations after 2023 by narrowing information gaps during collation and strengthening early accountability.

8. What Citizens Gain and What Still Remains Unresolved

Electronic transmission does not automatically determine winners or cancel elections. What it provides is:

- earlier visibility of polling-unit results;
- deterrence against manipulation during collation; and
- a stronger basis for scrutiny while collation is ongoing.

The remaining reform challenge lies in operating standards. Clear rules are still needed on:

- what qualifies as “real time”;
- how transmission failures are documented;
- who certifies “communication failure” or “impossibility”; and
- whether failed uploads must be publicly disclosed.

2 60(3) 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 counter signed by the candidates or polling agents where available at the Polling Unit.

Without these standards, both real-time transmission and fallback clauses/exceptions risk dilution in practice.

9. Conclusion

The debate on electronic transmission is no longer about technology itself. It is about how clearly the law defines its role and how well it serves citizens' expectations of transparency.

Harmonisation presents a real choice. The Senate approach largely leaves an opening for a repeat of the scenario that disappointed citizens in 2023. The House version, while not resolving every legal question and requiring clearer drafting and INEC Regulations to function effectively, takes a meaningful step forward by mandating real-time transmission and strengthening public visibility at the polling-unit level.

At this stage of reform, citizens have already demonstrated that transparency matters. The task now is to ensure that the legal framework governing electronic transmission and visibility of results is coherent, precise, and worthy of public trust.

Research Basis

This factsheet draws on PLAC's research on post-election adjudication following Nigeria's 2023 General Elections, particularly *From Ballot to the Courts: Analysis of Election Petition Litigation from Nigeria's 2023 General Elections*, alongside PLAC's Election Petitions Case Directory.

- 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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