

REPUBLIC OF COTE D'IVOIRE

Union - Discipline - Work

**DECISION # CI-2010-EP-34/03-12/CC/SG
for proclamation of final results of
the presidential election on November 28th, 2010**

ON BEHALF OF THE PEOPLE OF COTE D'IVOIRE,

THE CONSTITUTIONAL COUNCIL

Considering the law # 2000-513 of bearing August 1st 2000 Constitution of the Republic of Côte d'Ivoire;

Considering the law # 2000-514 of August 1st 2000 electoral code;

Considering the Organic Law # 2001-303 of determining June 05th 2001 the organization and the operation of the Constitutional Council;

Considering the decision # 2005-01/PR of May 05th 2005 related to the designation, exceptionally, of the candidates for the presidential election of October 2005;

Considering the decision # 2008-15/PR of bearing April 14th 2008 special methods adjustments with the electoral code;

Considering the ordinance # 2008-133 of bearing April 14th 2008 adjustments to the electoral code;

Considering the decree # 2010-207 of bearing August 5th 2010 convening of the electoral college of the Republic of Côte d'Ivoire for the election of the President of the Republic;

Considering the decree # 2010-282 of October 12th 2010 fixing the duration of the electoral campaign for the election of the President of the

Republic;

Considering the decisions of the Constitutional Council # CI-2009-EP/028/19-11/CC/SG of November 19th 2009, CI-2010-EP-32/06-11/CC/SG of 06 November 2010; CI- 2010-EP-33/08-11/CC/SG of November 08th 2010 and CI-2010-EP-34/03-12/CC/SG of December 02nd 2010;

Considering the official reports of the examination of the vote and other parts annexed there, transmitted by the Independent Electoral Commission and delivered by the General Secretary of the Constitutional Council on November 30th and December 1st 2010;

Considering the requests of Mr. Gbagbo Laurent recorded with the Secretariat of the Constitutional Council on December 1st 2010;

YES ladies and gentlemen advisors in their reports;

Considering that under the terms of articles 32 and 94 of the Constitution, the Constitutional Council controls the regularity of the operations of the election of the President of the Republic, rules on the disputes relating thereto and proclaims the final results of them;

Considering that article 60 of the Electoral Code, amended by Ordinance No. 2008-133 of bearing April 14th 2008 adjustments to the Electoral Code, lays out: "Any candidate with the election of the President of the Republic can present, by written request addressed to the Chairman of the Constitutional Council, a complaint concerning the regularity of the vote or its recount. The request as well as the part produced with the support of its means must be deposited within the three (3) days which follow the closure of the vote;

Considering that at dated December 1st 2010, Mr. Gbagbo Laurent, candidate of the election of President of the Republic brought near the president of the Constitutional Council, five complaints for the cancellation of the second round of the vote in the departments of Bouaké, KORHOGO, BOUNDIALI, DABAKALA, FERKESSEDOUGOU, KATIOLA, BEOUMI, and SAKASSOU because of serious irregularities which would have sullied the sincerity of the poll;

Considering that the requests were made and deposited within the forms and the times consistent with the with the law;

It is necessary to declare them admissible.

Considering that to the support of his requests, the candidate Gbagbo Laurent exposes that during the second round of the presidential election on the poll of the presidential election of November 28th 2010 and to which he took share, certain irregularities intervened;

Thus, he denounces serious and many irregularities likely to sully sincerity and the regularity with the result of the vote in the known departments indicated

That these irregularities include:

- The absence of his representatives and delegates in the polling stations;
- Ballot stuffing;
- Transport of official reports by unauthorized persons;
- The prevention of voters to exercise their constitutional right;
- Lack of voting booths;
- Increase of the votes cast;

On the complaint regarding the absence of his representatives and delegates

Considering that the Electoral Code as amended by Ordinance # 2008-133 of bearing April 14th 2008 adjustments to the Electoral Code envisages in its Article 35 that each polling station includes two representatives of each candidate;

That Article 38 of the Code adds that any candidate has the right, through one of his delegates, to control all voting operations, examination of ballots and calculation of the votes at the premises where these operations are carried out, and to require the registration in the official reports of all the observations, protests or disputes on the aforementioned operations;

That in this case, the complainant explains that his representatives and delegates in the polls have been expelled or prevented from having access to the polls and sometimes they were kidnapped, their mandates and electoral documents destroyed;

Thus his representatives and delegates were not able to supervise neither the conduct of voting nor the counting of ballots;

That he states that these actions were observed at various locations in the Eastern Valley of Bandama, particularly in Bouaké (Koko-Bamoro, Ahougnassou, Belleville) and in the Savannah Region, particularly in the department of Korhogo district and prefecture as evidenced by the report of the Chief of the Integrated Command Centre (ICC) and the various exploits of hearing added to the file;

That it follows that the absence of representatives and delegates due to abuse constitutes a serious irregularity engraves likely to sully the sincerity with the poll, justifies thus cancellation of the poll in the departments mentioned above;

On the complaint regarding stuffing of ballot boxes

Considering that the applicant supports that in the village of Konanprikro, the ballot boxes were filled by a score of people before being transported to the headquarters of the local IEC;

That in the polling stations of Alloko-Yaokro, the local chairpersons of the IEC have allowed not registered people to vote for absentee voters;

Considering that it appears from the combined reading of Articles 5 and 34 of the Electoral Code as amended by Ordinance # 2008-133 of bearing April 14th 2008 adjustments to the Electoral Code as "qualified elector is proven by the registration on the voters list "and that" no person shall be eligible to vote if not listed on the electoral roll";

That it follows that such practices, as confirmed by the reports of hearing dated of November 29th 2010 are sufficiently serious facts and likely to distort the results of the poll;

On the complaint regarding the transportation of the official reports by unauthorized persons

Considering that the complainant argues that the official reports of the polling stations of Alloko-Yaokro were carried by elements of the Forces Nouvelles;

Considering that the investigations carried out showed that the transport of ballot boxes by the elements of the Forces Nouvelles was widespread during the poll of November 28th , 2010, in violation of Article 58 *in fine* of the Electoral Code as amended by Ordinance # 2008-133 of bearing April 14th 2008 adjustments to the Electoral Code according to which each Chair of the polling station shall forward copies of the official reports to the Central Commission of the IEC;

That it results from it that such practices have led to the manipulation of electoral documents;

On the prevention of vote

Considering that the applicant mentions that many of his voters were prevented from voting and others were constraint, under threat of arms, to vote the candidate of the RDR;

That in support of his request, the applicant produces testimonies and official reports of hearings of the victims who could not exercise their constitutional right to vote;

Considering that Article 33 of the Constitution provides freedom of the vote;

Considering that acts of such gravity undermine the free expression of the vote and distort the poll;

On the complaint alleging absence of voting booth

Considering that the applicant argues that in Nabromandougou, the ballot box was installed in the open air and that the vote took place in full sight of everyone, thus violating the principle of the secrecy of the vote;

Considering that the secrecy of the vote is a principle proclaimed by the Constitution in its Article 33 and that the Electoral Code as amended by Ordinance # 2008-133 of bearing April 14th 2008 adjustments to the Electoral Code organizes in its Article 36 by granting each polling station with one or more voting booths, which aims at preserving for each voter, the vote, in all conscience for the candidate of his choice;

Considering that the lack of polling booth constitutes a substantial defect likely to sully the regularities of the election;

On the complaint of the increase in votes cast

Considering that the candidate GBAGBO Laurent raised an increase of votes to the profit of the candidate OUATTARA Alassane and placed on file a record of official counting of votes of the Regional Electoral Commission of Bouake;

That in effect the review of official reports and the crossing of the figures reveals that the total number of votes obtained by the candidate OUATTARA Alassane in the Bandama Valley totaled 244,471 votes;

That actually, the candidate OUATTARA Alassane has obtained only 149,598 votes, claiming by fraud, with the complicity of the Regional Electoral Commission 94,873 illegal additional votes;

That such a typical act is of a clear intention to disguise the truth and seriously vitiates the sincerity of the poll throughout the Region of the Bandama Valley;

Considering that the total of various complaints were corroborated by testimony from national and international observers who were deployed in central and northern areas of the country, during the election on November 28th, 2010, and by investigations ordered by the Constitutional Council with different constitutional organs of the State, both civil and military;

That these actions show well enough that in several polling stations in some regions of the country, voting was not conducted in conditions of freedom, equality and confidentiality as prescribed by the Constitution in its Article 32 and in compliance with the electoral laws;

Thus, the electoral process that took place in these various zones were vitiated by obvious irregularities likely to sincerity with the poll and to affect the results in the polling stations where they were noted;

That these irregularities were noted more particularly in the departments of Bouaké, Katiola Dabakala in the region of the Bandama Valley and in

the departments of Korhogo and Ferkessedougou and Boundiali in the Savannah region;

That it is appropriate to cancel the results in these various departments;

Considering, moreover, that the review of the official reports made it possible the raise of the serious irregularities which occurred during both the voting process and the counting of ballots in the department of Seguela;

That indeed, the great majority of the official reports resulting from the polling stations in this department do not comprise the signature of the representative of the candidate of the Presidential Majority (LMP);

That, even when this such signature exists, it is different for the same person, depending on whether it is on the act official report or tally sheet or counting of votes;

That furthermore, it results from NGO reports and observers accredited by the Independent Electoral Commission, that acts of violence were perpetrated on representatives of the candidate of the presidential majority and the population itself, thus they could neither exercise their right to vote or ensure the representation of their candidate, as prescribed by law;

That it follows that these irregularities must involve the cancellation of the results of the poll in the department of Seguela;

Considering that after the adjustment made after the cancellations, the election results of November 28th 2010 arise as follows:

Registered voters:	5,725,721
Voters:	4,081,765
Turnout:	71.28%
Invalid votes:	88,556
Votes cast:	3,993,209

Obtained:

Candidate	Votes	Percentage
Mr. Gbagbo Laurent:	2,054,537	51.45%

Mr. Ouattara Alassane: 1,938,672 48.55%

Considering that in accordance to Article 44 paragraph 3 of the Electoral Code, amended by Ordinance # 2008-133 of bearing April 14th 2008 adjustments to the Electoral Code, the election of the President of the Republic is acquired in a majority of the votes cast;

DECIDES:

- Article 1:** The requests of the candidate Gbagbo Laurent are admissible but partially founded;
- Article 2:** The results of the poll in the departments of Bouake, Korhogo, Ferkessedougou, Katiola, Boundiali, Dabakala, Seguela, are canceled;
- Article 3:** Mr. Gbagbo Laurent is proclaimed elected President of the Republic of Côte d'Ivoire;
- Article 4:** The present decision will be posted, published in the Official Gazette of the Republic of Côte d'Ivoire and notified to the interested parties.

DELIBERATED by the Constitutional Council in its session of December 03rd 2010.

Attended by:

Mr	YAO-N'DRE Paul	Chairperson
Mr	Timothy AHOUA N'GUETTA	Adviser
Mr	DALIGOU Monoko Jacques Andre	Adviser
Mr	WALE Ekpo Bruno	Advisor
Madame	Hortense KOUASSI Angora, Epse SESS	Advisor
Mr.	Felix TANO Kouakou	Advisor
Mrs.	Josephine TOURE Suzanne Epse Ebah	Advisor

Assisted of the Secretary General of the Constitutional Council, who

signed with the President.

The Secretary General

The President

GBASSI Kouadiané

YAO N'DRE Paul