



## INFORMATION NOTE

### Verdict of the Constitutional Council of Côte d'Ivoire

#### LAURENT GBAGBO, RE-ELECTED PRESIDENT OF THE REPUBLIC, WAS SWORN

The chairman of the Constitutional Council of Côte d'Ivoire has rendered the verdict expected in the second round of presidential elections. According to the High court in Ivory Coast, it is the outgoing president, Laurent GBAGBO, who won the majority vote of the electors. He was sworn.

Laurent Gbagbo, outgoing president, will continue for the next five years to preside over the destiny of the Ivorian people. So decided his countrymen who have turned their choice on him, giving him 51.45% of the votes cast, after the second round of presidential elections held in Côte d'Ivoire on Sunday 28 November 2010. Such is the substance of the decision just made public by the Constitutional Council. The high court in Ivory Coast, chaired by Professor Paul NDRE YAO, ruled on the election and announced the final result, as authorized by the electoral law and the Constitution of the Republic of Cote d'Ivoire adopted in 2000.

Contrary to the statement of the President of the Independent Electoral Commission (IEC) of 2 November 2010 and which has caused some confusion in people's mind, only the Constitutional Council is empowered to proclaim the final results of presidential elections in Côte d'Ivoire. **Article 59 of the 2000 Electoral Act states clearly: "The commission in charge of the elections proceeded to the counting of votes and the proclamation of the provisional election results, at the level of administrative districts, in the presence of the candidates' representatives. Three copies of the minutes and supporting documents are submitted to the Committee in charge of the Elections. It makes the collection operations and the proclamation of provisional results in the presence of candidates' representatives.**

The election commission notifies the Constitutional Council a copy of the minutes and supporting documents within three days after the election. Other copies of minutes remain respectively in the archives of the electoral commission of the administrative district of the national commission for elections and the Ministry of Interior. "

Unless one considers that Côte d'Ivoire is a country "without law" or a country where

the word ACT is either a luxury or even the Constitution of this country is a "vulgar rag" that anyone can step on his way, then we do not understand the game of the President of the Independent Electoral Commission (IEC). Indeed, Mr. Youssouf BAKAYOKO and members of his institution could not report provisional results within the time prescribed by the electoral code as described above. They had, at the end of the poll on November 28, 2010, three full days.

This provision of Article 59 is included in Article 24 of Ordinance No. 133 of 14 April 2008 called "ADJUSTMENT OF ELECTION CODE FOR THE GENERAL ELECTIONS TO GET OUT OF CRISIS." The new text states: "**Article 24:** Article 59 is adjusted as follows:

**New Article 59:**

The Independent Electoral Commission proceeded to counting of votes and proclamation of the provisional election results, in the administrative district, in the presence of the representatives of the candidates available.

Three copies of the minutes and supporting documents are submitted to the President of the Independent Electoral Commission. It makes the collection operations and the announcement of provisional results in the presence of candidates' representatives.

The President of the Independent Electoral Commission communicates to the Constitutional Council, the Special Representative of the Secretary General of the UN in Côte d'Ivoire and the Special Representative of the Facilitator a copy of the minutes, and the supporting documents within three (3) days after the election.

Other copies of minutes respectively remain in the archives of the Electoral Commission and the local headquarters of the Independent Electoral Commission."

It is, however, the precision made by the President of the Constitutional Council when he spoke on December 2<sup>nd</sup>, 2010 on national television in Côte d'Ivoire: "*Since yesterday, Wednesday, December 1st at midnight, the time allotted to the independent electoral commission, i.e. three days since the polls closed, Sunday 28 to Wednesday December 1, has expired.*

*It is worth clarifying the role of the IEC and the Constitutional Council in the electoral process. IEC, in accordance with legal provisions, organizes the elections and announces the preliminary results within three days after the polls closed. In this case, the IEC would announce the interim results on Wednesday, 1 December 2010 to midnight at the latest. Due to divergence on the results of certain regions, the CIS has been able to give preliminary results."*

So on Monday, December, 1<sup>st</sup>, 2010 to midnight at the latest, obliged by law, was made to the IEC to declare the provisional results of the presidential election. This was not done.

Therefore, the statement in the afternoon of December 1<sup>st</sup>, 2010, i.e. four days after the election is totally illegal, unbecoming from the president of such an institution, a career diplomat, former Minister of Foreign Affairs, in this very sensitive period.

The same statement on provisional results of the presidential election would not have caused such outrage or controversy if it was published within the constitutional deadline of three days. However, the method of validation of results, by consensus, adopted within the Central Committee led to a blockage, when it came to deciding on further violence and irregularities that marred the elections in the north. Irregularities denounced by many international observers from Africa, accredited by the IEC, who saw objective factors leading to the invalidation of the vote in those areas.

What makes the intervention made alone by Youssouf BAKAYOKO more than suspect is that he has made it outside the official headquarters of the IEC, in a hotel which also serves as headquarters to one of the candidates, the absence of representatives of the candidate Laurent GBAGBO, and the absence of other members of this institution in charge of organizing elections and without the knowledge of the national media including the official Ivorian television which has previously broadcasted, live, The results that were announced.

So, it is only the Constitutional Council that is entitled to play fully its role: to study the litigation, if there is any, and proclaim the final results.

It is moreover, what the Ivorian Constitution adopted by referendum in 2000 states in its "**Article 94**:

*The Constitutional Council controls the regularity of referendums and announces the results.*

*The Council shall decide on:*

- *The eligibility of candidates for presidential and legislative elections; Any disputes concerning the election of the President of the Republic and deputies. The Constitutional Council announces the final results of presidential elections. "*

However, as far as the litigation is concerned, the candidate Laurent GBAGBO appealed to the Constitutional Council to rule on the "numerous and serious irregularities" that marred the election in the north. The candidate GBAGBO noted in particular, the absence of its representatives and delegates in many polling stations, they were hunted by the military rebels of Forces Nouvelles who do not hide their support to Alassane Ouattara; the stuffing ballot boxes in favor of his opponent; the transport of minutes by unauthorized persons; the lack of voting booth; the increase of the votes cast in favor of his opponent.

From the foregoing, it is surprising, and impermissible under Ivorian laws that, without awaiting the decision of the Constitutional Council, Alassane Ouattara is declared winner of the elections. Moreover, he allows himself, a winner's statement, as if he is the winner of the election confirmed by the only Ivorian court competent in such case.

The Constitutional Council has decided. As recognized in the Constitution of Côte d'Ivoire. On the decision, the Constitution of Côte d'Ivoire adopted in 2000 is very clear in its article 98: "**Article 98**

*The decisions of the Constitutional Council are not subject to appeal. They are binding on governments at all administrative authorities, judicial, military and any person or entity. "*

Unless you have contempt for the sovereign people of Cote d'Ivoire, does the representative of UN Secretary General, Mr. CHOI have the right to make the

statements he allows himself to do? Certainly no.

So, it is naturally, that the president elected after the election aimed to end the crisis has taken the oath without delay according to Article 39 of the Constitution of Côte d'Ivoire. "**Article 39**

The powers of the President of the Republic shall expire on the date of taking office the President-elect, which takes place upon oath.

Within forty-eight hours after the announcement of final results, the elected President of the Republic takes an oath before the Constitutional Council gathered in a formal session.

The oath is:

*"Before the sovereign people of Côte d'Ivoire, I solemnly swear and to honor to respect and faithfully defend the Constitution, protect the rights and freedoms of citizens, to conscientiously fulfill my duties in the best interests of the Nation. May the Ivoirian people withdraw his confidence and I should undergo the rigor of the law, if I betray my oath ""*

Abidjan December 3, 2010

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