



## **WHAT YOU NEED TO KNOW ABOUT PRESIDENTIAL ASSENT TO THE ELECTORAL BILL 2021**

### **Background**

- The ninth National Assembly has since 2019 undergone a comprehensive process of electoral and constitution reform to improve the electoral process of Nigeria.
- Following numerous consultations, public hearings, and technical sessions, the National Assembly passed the Electoral Bill 2021 and transmitted it to President Muhammadu Buhari on 19 November 2021.
- The Bill aims to repeal the Electoral Act 2010 (as amended), and enact a new law governing elections in Nigeria.
- Some of the provisions of the Bill include giving the Independent National Electoral Commission (INEC) the discretion to determine the mode of voting and results transmission, requiring political parties to conduct direct primaries, and adjusting timelines to make election administration more effective.

### **What is Presidential Assent?**

- The law-making process involves three main actors: The Senate (upper chamber of the National Assembly), the House of Representatives (lower chamber of the National Assembly), and the President.
- Presidential assent is usually the final stage in the law-making process, after both chambers of the National Assembly have passed the bill.
- According to section 58(4) of the 1999 Constitution of Nigeria (as amended), where a bill is presented to the President for assent, he has thirty days to signify whether he assents or withholds assent.
- If he provides assent, the bill immediately becomes law. If he withholds assent, the bill goes back to the National Assembly.

## President Buhari Withholds Assent to the Electoral Bill 2021

- On 20 December 2021, President Buhari declined assent to the Electoral Bill 2021.
- The President cited the mandatory requirement for direct primaries as the reason for withholding assent to the Bill, as it would put a financial strain on the country's resources.<sup>1</sup>
- President Buhari also noted that mandatory direct primaries would violate citizens' rights, marginalise smaller parties, and generate more litigation by party members.<sup>2</sup>
- The President posited that it would be best for political parties to determine the best way to conduct primaries, whether direct or indirect, and urged the National Assembly to review this clause in the Bill.<sup>3</sup>

## What Happens Next?

- Now that President Buhari has withheld assent to the Bill, there are two options available to the National Assembly.
- The first option is for the National Assembly to review the clause on direct primaries and revert to the previous position where parties were given the discretion to choose either direct or indirect primaries. In this case, they would have to pass the Bill and transmit it again to the President for assent.
- The second option is for the National Assembly to override presidential assent and simply pass the Bill with a two-thirds majority in each chamber. According to section 58(5) of the Constitution, if the National Assembly does this, the Bill shall become law and the assent of the President will not be required.
- It is also worth noting that the National Assembly could decide to use the second option and pass the Bill now, then address the direct primaries clause at a later date through an amendment to the Bill.

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<sup>1</sup> <https://guardian.ng/news/why-i-declined-assent-to-electoral-act-amendment-buhari/>

<sup>2</sup> Ibid

<sup>3</sup> <https://www.channelstv.com/2021/12/21/breaking-buharis-letter-declining-assent-to-electoral-act-amendment-bill-read-at-nass/>

## **About The Electoral Hub**

The Electoral Hub is a multidisciplinary strategic think tank committed to strengthening electoral governance, and accountability in Nigeria. The Electoral Hub works to enhance electoral integrity and credibility through research, documentation, electoral education, policy and legal influencing, and impact advocacy.

The main focus of The Electoral Hub's intervention in the electoral governance process is on complementing the roles and activities of the different institutions, stakeholders and drivers of the electoral process by providing back-end support services to them. Since its establishment, The Electoral Hub has grown into a leading research, knowledge and advocacy hub with the capacity to conduct ground-breaking research and analysis of electoral issues.

