

"The Khmer Institute of Democracy"(KID) comments on the NEC Draft Regulation on Voters Registration

The "National Election Committee" (NEC) has drafted a Regulation on the Registration of Voters for the upcoming National Assembly Election.

The Constitution and the Election Law do not provide detailed provisions about the registration process but leave it to NEC to fill these gaps with this administrative regulation.

Dedicated to support the ongoing democratic development of Cambodia KID gives the following comments to this important electoral issue:

It is the Commune Council which is the democratically elected representative body of the people whereas the Commune Clerk is selected and appointed by the executive branch (Ministry of Interior). Therefore KID proposes to change the draft regulation and transfer the power of final decision on all registration matters from the Commune Clerk to the Commune Council.

Having noticed that the newly amended Election Law has shortened the deadlines for appeals in some cases from five to only three days KID does not rely so much on mechanisms of appeal against undue acts of registration but favors regulations that guarantee that the very first step of registration is duly conducted by the authorities.

Additionally KID emphasizes that after the Commune Election in 2002 the institution of the "Commune Chief" was abolished. KID proposes to replace the term "Commune Chief" which is used in many articles by "Chief of the Commune Council".

To ensure a more exact information of the voters about their rights - including their right of being registered free of charge - KID suggests that the Commune Council must post the full law text about the right to vote, the right to appeal and the right to complain and about all criminal sanctions on electoral violations and announce these texts by loud speaker as well.

To strengthen the efficiency of the registration process the regulation has to be strict and precise to avoid a too wide interpretation. Consequently KID proposes clarifications of some unclear legal terms in the draft regulation such as "competent authority", "appropriate measures" or "sufficient documents".

KID notices that the English version of the draft regulation was wrongly translated saying in many articles "should" instead of "must". Being aware that the term "should" may be used in different ways in some English speaking countries, KID proposes to correct this translation to ensure a precise information for English speaking international observers.

For the full text of the comment and the regulation feel free to contact the office of KID (lp1.kid@bigpond.com.kh or legal.advisor2@bigpond.com.kh)

Introductory Remarks

At this time Cambodia is preparing to organize the General Election for the National Assembly dated on 27th July 2003. As the act of voting is the very essence of democracy the “Khmer Institute of Democracy” (KID) would like to take this opportunity to make some comments on the “Regulation of the Registration of Voters” as drafted by the National Election Committee (NEC).

These comments are based on the following principles and considerations:

I. Legal framework for the election

1. Articles 34, 76 and 136 of the Constitution of the Kingdom of Cambodia (dated on 21st November 1993 and amended on 4th March 1999):

According to the democratic system the Cambodian people give their power to their representatives by an election, which must be processed in a "free, universal, equal, direct and secret" way. The Khmer citizens therefore "enjoy the right to vote". The Constitution leaves it up to "the Electoral Law" to "determine the preparation for the election and the procedure and the electoral process". The Constitution transfers to the Constitutional Council – as the highest judicial authority – the competency "to examine and decide on contested cases involving the election of the National Assembly".

2. Articles 48 – 69 of the Law on Election of the Members of the National Assembly (LEMNA dated on 19th December 1997 and amended on 21st August 2002):

This part of the Election Law comprises the voter registration phase. First the LEMNA states the conditions which citizens must meet in order to be eligible to vote. The LEMNA furthermore assures the right of the citizens to vote, it regulates the duration of registration, the duration of the appeal-process and the specific competent institutions concerning election conflicts.

II. Experiences made during the electoral process in the past

1. Reports of COMFREL (“Committee for Free and Fair Elections in Cambodia”, local NGO):

- a) **According to COMFREL’s report on the General Election in 1998** (dated 1998, see Comfrel’s homepage: <http://www.bigpond.com.kh/users/comfrel>)

- there was interference not only by NEC, PEC (Provincial Election Committee) and CEC (Commune Election Committee) but also by village chiefs and other officials during the voter registration
- the voter registration process was marred by intimidation cases of collection of voter cards by local authorities occurred
- the voter registration process was incomplete because of organizational and logistic weaknesses within NEC
- COMFREL was threatened to be discouraged from observing

b) COMFREL's report (dated March 2002) on the Commune Council Election of 3rd February 2002.

The report stated that there were irregularities and violations during the voter registration such as:

- inadequate pre-registration publicity
- threats or intimidation of voters
- non-neutral behavior of PEC and CEC
- disrespect of correct procedure
- observers were harassed
- suspect registrations (eg. registrations of suspect and illegal immigrants.)
- complaint forms for voters or written refusal decisions were not provided by the authorities
- multiple registrations of voters
- confiscation of voter cards by local authorities
- non-checking of voter lists.

c) COMFREL's press release dated on 30th October 2002:

There is still political violence and obstruction, such as threats and intimidation, that create an environment of fear prior to the National Election on 27 July 2003.

2. "Cambodia Daily" Report on NEC (dated 8th November 2002)

This newspaper report includes the following facts:

- UN Human rights envoy Peter Leuprecht stated in his latest report on Cambodia to the UN General Assembly that during the commune elections NEC failed to investigate violations of electoral law.
- COMFREL and other independent election observers complained that during the national election 1998 NEC failed to undertake serious investigations into claims of intimidations and vote buying.

- The chairman of the newly appointed NEC said it would compile reports on election violence but it were the task of the Mol (Ministry of Interior) to investigate, decide on a motive and catch the offenders.
- The process of appointing the five members of the NEC by the Mol (Ministry of Interior) has drawn much criticism from the civil society the "Cambodian Human Rights Action Committee" including KID and political observers for not being transparent and for the lack of a public parliamentary hearing of the candidates.

III. Conclusions

In brief these reports demonstrate an increasing number of cases of violence and intimidation that affect and threaten people during the pre-election phase. The reports also show that in the past there have been numerous problems with the proper registration of voters. The reaction of NEC on these violations of the electoral process has been weak and not satisfactory.

To prevent a repetition of such violations during the upcoming national elections, the pertinent laws and regulations must be precise, strict and should avoid any too wide interpretation. Especially, the regulations on the General Election must assure that:

- people receive a free and fair election
- people are aware of their rights to vote and to appeal or complaint without any pressure
- omissions of registrations are prevented
- multiple registrations of voters are prevented.

Concerning these issues the Constitution and the Electoral Law only provide a rough framework of regulations and leave it mainly to the NEC, to determine the details of the election process by a simple administrative regulation. As the performance of NEC as an independent institution of control has raised concern in the past and the appointment of the NEC for the upcoming election has much been criticized the public interest of a democratic society needs to focus on the details of these administrative regulations drafted by NEC.

In particular it is the process of the registration of the voters that deserves attention as it must be ensured that all eligible voters are registered and thereby can enter the voting process. On the other hand it must be ensured as well that people who are not eligible to vote are not registered.

KID recommends to ensure this by regulations guaranteeing the very first step of registration is duly conducted under the close supervision of the Commune Council as an elected body and should not be left to the sole activity of the commune clerks who are not elected but directly appointed by the Ministry of Interior.

KID suggests to concentrate on these regulations rather than to rely on mechanisms of appeal against undue acts of registration, because most of the voters are too uninformed and reluctant to exercise their right to appeal and in reality do not have the time and money to file a complaint to a remote appeal institution. Furthermore the LEMNA amended in 2002 reduces in its Article 57 the deadlines for the appeals to the very short time of only three days (compared to five days in the prior version of this law).

KID gives its comments to the different articles of the draft regulation by footnotes. The footnotes marked with "x" and written in fatprint have been added by the "Khmer Institute of Democracy" (KID) to the draft text. Footnotes with serial numbers (without "x") stem from an other unknown source of comment.

Comments on the occasionally wrong translation from the original Khmer version of the text to the English version have been made by KID to ensure that all international election observers, who presumably only understand English are correctly informed about the authentic text of the regulation on the voters registration.

KID deems it appropriate to emphasize through all the text of the draft regulation that the institution of a "Commune Chief" (who was appointed by the Mol) does not longer exist, but has been replaced by the elected body of the "Commune Council" after the February 2002 commune elections. It needs such a clarification of the draft regulation text because it incorrectly refers to the "Commune Chief" instead of the "Commune Council" in many articles. Otherwise outdated powerstructures which in many cases still prevail in reality would be recognized as competent authorities on the commune level contrary to the law.

The Khmer Institute of Democracy
Phnom Penh 25th November, 2002

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REGISTRATION OF VOTERS

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PART 1

PERMANENT REGISTER OF VOTERS

Pursuant to article 49 of the LEMNA, a permanent register of voters is created for each Commune/Sangkat.

The list of voters used in each Commune/Sangkat for the Commune Council election held on February 3, 2002 becomes the permanent register of voters of each Commune/Sangkat.

The permanent register of voters is composed of the list of voters of each polling station in the Commune/Sangkat.

The Commune/Sangkat Council is the depositary and the guardian of the permanent register of voters.

The list of voters in each polling station composing the permanent register of voters **should**^{x1} be **accessible to the public**^{x2} at the office of the Commune/Sangkat.

^{x1} There is a wrong translation from Khmer into English; it should read: "must" instead of "should".

^{x2} Proposal: Addition to the text as follows: "by posting the list. The Commune Council must post the list in front of the office and must make an announcement by loud speaker and disseminate the information about the right to vote, to appeal or to complain".

PART 2

REVISION OF THE PERMANENT REGISTER

The revision of the voter list and registration of voters in the permanent register of the Commune/Sangkat takes place each year, **from October 1 to December 31**^{x1}.¹

The NEC has delegated its power to revise the voter list and registration of voters in the permanent register to the Commune/Sangkat Councils of the Kingdom of Cambodia.

To effectively carry out this duty, the Commune/Sangkat Councils **should fully**^{x2} delegate the task relating to the operations and the revision of the voter list and registration of voters in the voter register to their Clerk. In that respect, the Clerk is vested with the powers of an electoral officer in charge of the registration.²

The NEC will provide at least one electoral officer to assist the Clerk and the Commune Council in the process of revision of the voter list and registration of voters. If the Clerk is absent or unable to accomplish his duties relating to the revision of the voter list and registration of voters, the assistant will be entitled to replace the Clerk in its capacity of officer in charge of the registration.

The Commune/Sangkat Council should assign one or two of its council members to supervise the work of the Clerk. When the Council is composed of less than seven members, it should assign one member to supervise the Clerk. When the Council is composed of seven members and more, it should assign two members to supervise the Clerk. The duties of these members are further described in the present regulations at Annex 5.

The revision of the voter list and registration of voters in the permanent register is composed of the following phases:

- a) Posting of the list of voters procured by the NEC at the office of the Commune/Sangkat and in each polling station used at the election of the Commune Council;
- b) registration of eligible voters residing in the Commune/Sangkat who are not on the list of any polling station located in the Commune/Sangkat;
- c) removal of the names of the voters who are deceased, who have left the Commune/Sangkat or who have been found ineligible as voters in accordance

^{x1} These dates must be changed because the NEC has just been approved on 25th October 2002 so the registration process should take place from 1st December 2002 to 28th February 2003. Then there is enough time to respect the condition that the voter list must be posted within 90 days before the election day as stated in Art. 48 paragraph 3 of LEMNA.

¹ These dates should be replaced to reflect the exact dates when the public can register.

^{x2} It should read: "can fully or partly delegate".

² Here the mechanism through which the Commune Council delegates its power to the Commune Clerk should be explained and a model resolution to that effect should be drafted.

with the requirements of the law and the procedure set out in the present regulations;

- d) compilation and transcription of the data to produce the Preliminary list of voters and transmission to the NEC;
- e) posting of the Preliminary list resulting from the proceeding phases at the office of the Commune/Sangkat and in each polling station used at the election of the Commune Council and the new ones to be established as needed;
- f) management and settlement of the appeals and objections relating to the registration phase and the Preliminary list;
- g) finalization of the corrections made to Preliminary list after all complaints and appeals have been heard and decided upon and transmission of the relevant reports to the NEC.

All operations relating to the review of the permanent register, registration of voters, update of the list of voters, procurement of certificates required to register to vote and the complaint and appeal process should be done at no cost for the citizens.³

It is the duty of the Commune Council to facilitate the registration of eligible voters. In that respect, the Commune Council should ensure that appropriate assistance will be provided to any handicapped person who cannot register by him/herself and requests for such assistance in order to register as voter.

The commune Council **should** ^{x₁} take **appropriate measures** ^{x₂} to ensure that all operations relating to the revision of the voter list and registration of voters take place in a climate of security, without fear, intimidation or coercion.

During the revision of the voter list and registration of voters, it is prohibited to bring weapons, explosives, ammunitions and any other dangerous object inside the Commune/Sangkat office or any other location where the revision of the voter list and the registration of voters takes place.

If anyone threatens the security, causes any trouble or commits any unlawful act to disrupt any phase of the revision of the voter list and registration of voters, the

³ A sanction should be mentioned, at the end of the regulations?.

^{x₁} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x₂} The "appropriate measures" have to be explained more precisely.

Proposal: "The Commune Council has to make a public announcement that all sorts of intimidation and violations of a proper election process are subject to severe punishment (according to Art. 127-133 of LEMNA) by posting a full text of these articles at the Commune Council office and additionally announce this by loud speaker. The Commune Council also has to announce publicly in the mentioned way that it will assure a proper filing of complaints about such violations to the prosecutor and investigation judge."

Commune/Sangkat Chief (Meikhum/Chau Sangkat) ^{x1} must require the intervention of the police or **the competent authority** ^{x2} to maintain the order and security.

^{x1} Proposal: To emphasize that after the Commune Election in February 2002 the institution of the Commune Chief was abolished we suggest to replace "Commune Chief" by "Chief of the Commune Council".

^{x2} There should be a clarification about who "the competent authority" is. It could be a "judicial officer or other officer (see Art. 35 and 36 of the Criminal Procedure Code)".

[Article 35: The judiciary police searches crimes, misdemeanours and minor offenses, gather evidence and handover perpetrators to the jurisdiction in charge of punishment. But the offenders can be arrested and handed over to the court by the judiciary police only in the case where they commit obvious crimes or misdemeanours caught red-handed in the act or when there is an order to appear or a warrant of arrest.

Article 36: The judiciary police or those who can perform the duty of judiciary police are:

- 1 - prosecutors and magistrates in charge of investigation "on duty only",\
- 2 - directors and deputy directors of the departments of the judiciary and economic police,
- 3 - directors and deputy directors of the department of counter terrorism,
- 4 - commissioners and inspectors of municipal and provincial police,
- 5 - chairman of the criminal and economic police,
- 6 - chairman of the office of counter terrorism,
- 7 - chairman of the office of security police,
- 8 - district, provincial and Khan political inspectors,
- 9 - chairman of administrative police station "in regards to criminal offence",
- 10 - commissioners of traffic police or traffic violation section "for traffic violation",
- 11 - chairman and officers of military police or "for military offence",
- 12 - border police officers,
- 13 - customs inspectors "for customs violation"
- 14 - officers of the forestry and fishing,

All operation of the judiciary police is under direct guidance of the prosecutors and under supervision of the prosecutor general of the appeal court.]

PART 3

POSTING OF THE LIST OF VOTERS

The NEC will procure to each Commune/Sangkat six sets of copies of the current list of voters of each polling stations of the Commune/Sangkat.

The Commune Council must, at the date decided by the NEC, use two sets of copies of the list of voters of all stations to be posted or be accessible to the public:

- one set in permanence at the office of the Commune/Sangkat
- one set being divided per polling station, each list being posted on the location of the appropriate polling station as they were set up and used for the election of the Commune Council.

If it is not possible to post the list of voters in the original site of one or more polling station, the NEC can authorize the posting in any adequate location or to regroup the list of voters of few polling stations in order to post them in an appropriate location. The posting location of the list of voters **should**^{x1} be widely disseminated for all voters to be able to consult the list easily.

In cooperation with the department of training and public information of the NEC, the Commune Council **should strive to disseminate**^{x2} **the appropriate information**^{x3} relating to the revision of the voter list and registration of voters.

The Commune Council **should**^{x4} encourage the population of eligible voters who have registered at the last election for the Commune Council to verify that their name appears on the electoral list. These eligible voters **should**^{x5} also be reminded to take note of the number and location of their polling station, and, whenever possible, of their sequence number on the voter list.

The Commune Council **should**^{x6} inform the persons who have become eligible to register as well as the persons who are not yet registered on the electoral list of the Commune/Sangkat of their right to register, of the timetable for registration, of the procedure to follow and of the documents required.

^{x1} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x2} It emphasizes the duty if it says "must disseminate" instead of "should strive to disseminate".

^{x3} Suggested addition: " by informing the public about the right of complaint through loud speaker announcement and posting a note on the public board".

^{x4} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x5} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x6} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

PART 4

PROCEDURE FOR REGISTRATION OF VOTERS

Section I

Scope

The Commune Clerk performs the registration of the eligible voters in the name of the NEC.

The Commune Clerk **must be available** ^{x1} every day, seven days a week from 7am to 5 pm to review the voter list and register voters during the period mentioned above, except during a lunch break

In areas where people are not available to register during the normal hours of registration because of their work in the fields or factories, the Clerk must adjust the hours of registration to best accommodate the citizens.

The Commune Council can cooperate with the Chief of villages to inform the unregistered eligible voters of their right to register with the Commune Clerk, of the period of registration and of the documents required.

The **Chief of Commune/Sangkat** ^{x2} or his deputy has the responsibility to certify the residence, identity and/or age of the applicant in accordance with the law and the procedure of National Election Committee.

In order to allow all eligible voters to register, the Commune Clerk, in his capacity of registration officer, will have to conduct registration in a number of hospitals and villages located more than 5 km away from the Commune Office. In that respect, the NEC will send the list of the geographical locations which are determined as registration stations to the Commune Council for comments. ^{x3}

In consultation with the member(s) of the Commune council who supervise his work, the Commune Clerk should determine a calendar of revision of the voter list and registration of voters in these villages.

In order to perform registration in villages more than 5 km from the Commune/Sangkat office, the Clerk should be accompanied, as supervisors, either by the **Chief of the**

^{x1} In the Khmer version this article provides that the Commune Clerk must "work" every day. This contravenes Art. 137 paragraph 2 of the Labor Law which states that the maximum of working hours is 48 hours per week. The Commune Clerk must not work every day, but must be available everyday for registration. The availability is enough to assure the registration.

^{x2} Proposal: To emphasize that after the Commune Election in February 2002 the institution of the Commune Chief was abolished we propose to replace "Commune Chief" by "Chief of the Commune Council".

^{x3} Suggested addition: "No village and hospital shall remain outside of the service of one registration office".

Commune/Sangkat ^{x1} or one of his deputies duly authorized to certify the residence, identity and/or age of the applicant in accordance with the Law and the regulations.

At all time during the registration period, the Commune Clerk must accept to register applicants from any part of the Commune. Even when the Clerk is reviewing the vote list and performing the registration of voters in a specific village, he must accept applicants from other villages or locations in the Commune/Sangkat.

Unless otherwise **authorized by the NEC** ^{x2}, the Commune Clerk should not review the voter list and perform registration of voters away from the Commune Office for more than a third of the period allowed for voter registration.

Section II

Citizens who are concerned in the revision of the voter list and registration of voters

Residents of the Commune/Sangkat who were registered on the list of the last election of the Commune Council **should verify** ^{x3} that their name appears on the list of voters of the relevant polling station.

The residents of the Commune/Sangkat whose name correctly appears on list of voters in the polling station nearest to his residence need not to show up to register again. The Clerk must not register this person again.

The residents of the Commune/Sangkat whose name does not appear on the list of any polling station located in the Commune/Sangkat can apply to register to the Commune Clerk. ^{x4}

The residents of the Commune/Sangkat whose name is registered in the wrong polling station can apply to the Commune Clerk to get his/her name inserted in the voter list of the polling station nearest to his place of residence

The residents of the Commune/Sangkat whose name is incorrect can require to the Commune Clerk to make the correction. . It is important that the voter's name on the list be the same and spelt in the same way than the name appearing on the identity document of the voter.

^{x1} Proposal: To emphasize that after the Commune Election in February 2002 the institution of the Commune Chief was abolished we propose to replace "Commune Chief" by "Chief of the Commune Council".

^{x2} There should be a condition for the authorization like: "The authorization has to be given if the Commune registration district is very big and more than one third of villages are more than 5 km away."

^{x3} There is a wrong translation from Khmer into English; it should read "must verify" instead of "should verify".

^{x4} Add: "as described in step 6."

Eligibility to Register

To be eligible to register, a person shall:

- be a Khmer citizen;
- be at least 18 years of age on polling day;
- have a place of residence in the Commune/Sangkat where he/she intends to register;

A place of residence can be a building, an apartment, a room or a structure or a part of a structure or a specific location where this person can regularly and normally be reached;

- not be **convicted to a prison term** ^{x₁};

this includes those sentenced to a prison term but whose sentence is being suspended by the Court and have not been rehabilitated.

- not be insane or under guardianship;

This case can only be certified through a certificate of the competent authority, a hospital or health institution;

Any registration agent shall not refuse registration to a qualified applicant although he/she is in the state of insanity and is not certified as such by the **competent institution**. ^{x₂}

- appear in person before the Commune/Clerk of the Commune/Sangkat during the period of registration.

The Clerk will determine the eligibility of any applicant by following the procedure below.

^{x₁} This corresponds with Art. 50 LEMNA. Art. 50 LEMNA may raise concerns regarding Art. 25 of the International Covenant on Civil and Political Rights, which only allows restrictions to the right to vote if they are "reasonable". The general exclusion of all convicts serving a prison term without any distinctions of their crimes committed as stated in Article 50 LEMNA could be discussed as an "unreasonable" restriction on the right to vote.

^{x₂} Which exactly is the "competent" institution"? It should be "the law court" which according to customary law (general opinion and general practice) in Cambodia is the only competent institution to declare someone insane.

Section IV The Seven Steps of Registration

Step 1: Screening Questions to Applicant

The Commune Clerk should ask the following questions to any person who wishes to register:

1) HAVE YOU VOTED AT THE LAST COMMUNE COUNCIL ELECTION?

If the answer is "no", then the Clerk asks the second question

If the answer is "yes", then the Clerk ask the third question

2) ARE YOU REGISTERED AS A VOTER IN ANY COMMUNE, OR HAVE YOU REGISTERED RECENTLY?

If "no", the Clerk continues the registration procedure at the Step 2: *Identification* below.

If "yes", ask question 3

3) IF YOU ARE REGISTERED, WHY DO YOU WANT TO REGISTER AGAIN?

The applicant could answer:

- that he/she could not find his name on the list of voters
- that his/her name is incorrect on the list of voters
- that he/she has moved since the last election
- that his/her name appears in the polling station which is far away from his/her place of residence.

In the first case, the Clerk should double-check, asking the applicant to show his latest voter's card or substitute certificate to facilitate the verification.⁴

In the second case, if the voter's name is not correctly written on the list, the Clerk can make the correction on the spot by circling the wrong name with a red pen on his copy of the concerned list of voters and writing the name correctly in the margin, as it is spelt on the identification document that the voter will use on the voting day (usually his last voter's card or one of the documents mentioned in Step 2 below). There is no need for the Clerk to re-register the voter on go through any additional procedure. Once the Clerk

⁴ Not all Clerks will have an assistant to help them in this verification. Could it be give to the "supervisor"?

has taken note of the correction, the voter can leave. **The Clerk should copy the correction in red on the four copies of the list of voter concerned.** ^{x1}

In the two last cases, the Clerk continues the registration procedure at the Step 2: *Identification* below.

If the voter does not want to make any change to his/her registration on the list of voters, the clerk simply informs the voter that there is no need to register again. The Clerk also advises the voter to ensure that his/her name appears on list of voters and to take note of the number and location of the polling station where he/she is registered, and if possible, take note of the serial number of his name on the list of voter concerned. .

Step 2: Identification

The Commune Clerk should ask the applicant to show his/her identity document.

The only documents accepted to prove the identity are the following:

- a) an Identity card issued by the Royal Government of Cambodia with a photo. This includes:
 - the National I.D. card issued pursuant Anukret 36 of July 1996;
 - the Identification card of a civil servant, police or military of the Kingdom of Cambodia;
 - an Identification card with photo delivered to a Monk by Chief of the Pagoda, as authorized by the Ministry of Religion and Cult.
- b) a voter's card for the 2002, 1998 or 1993 election, or substitute certificate with photo;
- c) a passport of the Kingdom of Cambodia;
- d) a family book with photo of the applicant;
- e) a written statement from two eligible voters of the Commune/Sangkat confirming the applicant's identity and age combined with a certification of residence from the **Chief of the Commune** ^{x2} /Sangkat or its deputy.(see Annex 3 below).⁵

Once the applicant has established his/her identity with any of the documents mentioned in **a), b), c)**, the Clerk must register the applicant after verifying his age and place of residence. With documents **a), b), c)**, it is not required to verify citizenship.

^{x1} Suggested addition: "The voter can claim a written certification about the correction of his registration. This certificate can be produced on the election day if the registration list of voters is still incorrect".

^{x2} Proposal: To emphasize that after the Commune Election in February 2002 the institution of Commune Chief was abolished we propose to replace "Commune Chief" by "Chief of the Commune Council".

⁵ This document does not require a photo at that state. However, if it is meant to be used on voting day, a photo will have to be added by the Commune authority.

Any of the above documents presented by the applicant are presumed authentic and **their validity cannot be questioned.** ^{x₁}

If the applicant has identified himself with a Family book or a written statement as mentioned in **d)** or **e)** above, the Clerk must verify his/her citizenship as described in the Step 3 below.

If the applicant shows up only with a family book not containing his/her picture and has not other document, he/she should establish his/her identity by obtaining the document mentioned in **e)**. The Clerk gives to the applicant two copies of the form "Statement of Identity/Age/Residence of the Applicant" to be completed in front of the Chief of Commune. See the procedure at Annex 3.

When the applicant has none of the identification documents mentioned in **a)** to **d)** above, the Clerk should advise the applicant that he/she should seek to obtain one of these documents or to obtain the written statement from two witnesses mentioned in **e)** from the relevant authorities and come back to resume his/her registration. The Clerk gives to the applicant two copies of the form "Statement of Identity/Age/Residence of the Applicant" to be completed in front of the Chief of Commune. See procedure Annex 3.

If the applicant cannot produce or obtain any of the documents **a)** to **e)** mentioned above, the application must be rejected. The Clerk must fill the form "Rejection of an Application to Register" in three copies (see Annex 8). He gives a copy to the applicant mentioning that the application was rejected because the applicant could not prove his identity. The second copy goes to the **Chief of the Commune** ^{x₂} and the third copy is kept in the Clerk's files.⁶

The Clerk should inform the applicant that he/she or his/her representative has three days to appeal to the Commune Council of this decision to reject his/her application. The Clerk should provide the applicant with four copies of the Appeal form required by the present regulations.

Step 3: If Required: Verification of Citizenship

If the applicant has identified himself/herself with any of the documents mentioned in **a)**, **b)**, **c)** above, the clerk shall not be required to verify citizenship (go directly to the Step 4).

^{x₁} Suggested addition: " by the Commune Clerk except in obvious cases of definite evidence of forgery and fraud as mentioned in step 7".

^{x₂} Proposal: To emphasize that after the Commune Election in February 2002 the institution of Commune Chief was abolished we propose to replace "Commune Chief" by "Chief of the Commune Council".

⁶ The Commune Authority must keep one copy of the form "Rejection of an Application to Register" in its archives until the NEC requires the transfer of one or all those form.

If the applicant identified him/herself only with a Family book showing his/her picture, the Clerk **should** ^{x₁} verify that the applicant appears in the Family book as a Khmer citizen. If the applicant's name appears in the Family book as a Khmer citizen, the Clerk must register the applicant after verifying his age and place of residence.

If the applicant has the name and Khmer citizenship written in the family book but with no picture, he/she **should** ^{x₂} further identify himself/herself with any of the identification documents **a)**, **b)** and **c)** mentioned above, or produce the written statement mentioned in **e)**.

If the applicant identified him/herself with a written statement mentioned in **e)** above, the Clerk must ask the applicant to meet the requirement of citizenship to register as a voter. The presentation of the documents mentioned in **a)**, **b)**, **c)** and **d)** above, or one of the following documents are deemed acceptable:

- f)** A birth registration certificate stating the Khmer nationality of the applicant;
- g)** A letter issued by the Royal Government of Cambodia certifying that the applicant is a Khmer citizen;
- h)** A certificate, document or Court decision proving that one parent (father or mother) of the applicant is a Khmer citizen, and a document proving that the applicant is the child of that parent;
- i)** An official document proving that the applicant was born in Cambodia and that the foreign parents of that applicant were also born and lived legitimately in Cambodia, and an official document proving that the applicant is the child of those parents. ^{x₃}

If the applicant does not have Khmer citizenship, the application must be rejected for that reason. The Clerk must fill the form "Rejection of an Application to Register" in three copies (see Annex 8). He gives a copy to the rejected applicant mentioning that the application was rejected because the applicant has admitted that he/she is not a Khmer citizen. The second copy goes to the Commune Council and the third copy is kept in the Clerk's files.

The Clerk **should** ^{x₄} inform the rejected applicant that he/she or his/her representative has three days to appeal to the Commune Council of this decision to reject his/her application. The Clerk **should** ^{x₅} provide the applicant with four copies of the Appeal form required by the present regulations.

^{x₁} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x₂} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x₃} Suggested addition: " It is not allowed to charge any fee for issuing such documents" (see ANNEX 3 as well as the MOI statement made on the CDRI meeting on 26th September 2002 on electoral questions - Meeting Minutes, page 6)

^{x₄} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x₅} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

Any of the above documents presented by the applicant are presumed authentic and **their validity cannot be questioned by the Clerk.** ^{x1}

The declaration of the two witnesses duly certified by the Chief of the Commune/Sangkat mentioned in paragraph e) above does not and cannot establish citizenship.

If the applicant declares that he/she is a Khmer citizen but cannot produce any of the documents mentioned above, the application must be rejected. The Clerk must fill the form "Rejection of an Application to Register" in three copies (see Annex 8). He gives a copy to the applicant mentioning that the application was rejected because the applicant could not produce a proof of Khmer citizenship. The second copy goes to the Commune Council and the third copy is kept in the Clerk's files.

The Clerk **should** ^{x2} inform the rejected applicant that he/she or his/her representative has three days to appeal to the Commune Council of this decision to reject his/her application. The Clerk **should** ^{x3} provide the applicant at his/her request with four copies of the Appeal form required by the present regulations.

Step 4: Verification of the Age of the Applicant

The applicant **should** ^{x4} be born before July 28, 1985 to be eligible to register.

If there is any doubt that the applicant may be younger than 18 years old, the Clerk must verify the age of an applicant.

When there is not doubt that the applicant is older than 18 years old, the Clerk must register the applicant after verifying his place of residence (go to Step 5).

When the Clerk has any doubt that the applicant may not be of legal age to register, he should verify that the applicant was born before July 28, 1985 on the identification document presented by the applicant.

If the identification document presented by the applicant does not mention his/her age or date of birth, the applicant can prove his/her age by presenting any of other additional documents mentioned above in paragraphs "a" to "i", which mentions his/her age, year or date of birth.

In that respect, the applicant **should** ^{x5} be informed of the possibility to produce a written statement from two witnesses duly certified by the **Chief of the Commune/Sangkat** ^{x6}

^{x1} Suggested addition: "except in cases of obvious signs or indications of forgery or fraud"

^{x2} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x3} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x4} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x5} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x6} Proposal: To emphasize that after the Commune Election in February 2002 the institution of Commune Chief was abolished we propose to replace "Commune Chief" by "Chief of the Commune Council".

confirming that the applicant is born before the 28 July 1985. This written statement presented to the Clerk must be made in accordance with the procedure set out in the regulations (see procedure in Annex 3 below). The Clerk must give the applicant two copies of the relevant form.

Once the applicant has proved that he/she is born before 28 July 1985 through one of the documents mentioned above, the Clerk must register the applicant after verifying his place of residence. Go to step 5.

If the applicant cannot produce any of the documents "a" to "i" mentioned above to prove that he/she is at least 18 years-old, the application must be rejected. The Clerk must fill the form "Rejection of an Application to Register" in three copies. He gives a copy to the applicant mentioning that the application was rejected because the applicant was not born before July 28, 1985. The second copy goes to the Commune Council and the third copy is kept in the Clerk's files.

The Clerk **should** ^{x1} inform the rejected applicant that he/she or his/her representative has three days to appeal to the Commune Council of this decision to reject his/her application. The Clerk **should** ^{x2} provide the applicant at his/her request with four copies of the Appeal form required by the present regulations.

Step 5: Verification of the Place of Residence of the Applicant

The documents produced by the applicant should indicate that he/she has a place of residence in the Commune/Sangkat.

The applicant can prove that he has a place of residence in the Commune/Sangkat with any of the documents mentioned above in paragraphs "a" to "i" showing that the applicant has a place of residence in the Commune/Sangkat where he/she wishes to register.

When any of the above documents are showing that the applicant has a place of residence in the Commune/Sangkat, the Clerk must register the applicant with no more questions (go to sixth Step).

If the documents are not showing that the applicant has a place of residence in the Commune/Sangkat, he/she should request a certificate of residence from the Commune Authority. See procedure Annex 4 below.

The place of residence of any person in a Commune/Sangkat is defined as a place where he/she normally lives at the time of revision of the voter list and registration of voter. It can be a building, an apartment, a room, a structure, or a part of a structure or a specific location where this person can regularly and normally be reached.

^{x1} There is a wrong translation from the Khmer into English; it should read "must" instead of "should".

^{x2} There is a wrong translation from the Khmer into English; it should read "must" instead of "should".

The applicant **should** ^{x₁} have a place of residence in the Commune/Sangkat on the day of his/her application to register. The Clerk cannot require that the applicant be a resident for a certain time before registration. However, a person who comes for a visit or travels through a Commune/Sangkat should not register in this Commune/Sangkat. This person should register in the Commune/Sangkat where he/she normally resides. A Khmer citizen who has more than one place of residence in the Kingdom of Cambodia **shall** ^{x₂} choose only one place to register as voter;

Any worker, student, civil servant, police and military are entitled to register in the Commune/Sangkat where they have a temporary place of residence. In such case, if the applicant is already registered at the place of his/her permanent residence in another Commune/Sangkat, the Clerk **should** ^{x₃} **not forget to fill** ^{x₄} and get the applicant to thumbprint the form "Deletion of the Name from the Electoral List" authorizing the NEC to remove his name from the voters list in the other Commune/Sangkat or polling station where he was previously registered. See procedure in **Annex 2 below** ^{x₅}.

Once the applicant has proved that he/she has a residence in the Commune/Sangkat through the means mentioned above, the Clerk must register the applicant.

If the applicant cannot produce a certificate of residence of any of the documents mentioned above showing that he/she has a place of residence in the Commune/Sangkat, the application must be rejected. The Clerk must fill the form "Rejection of an Application to Register" in three copies (see Annex 8). He **gives** ^{x₆} a copy to the applicant mentioning that the application was rejected because the applicant could not prove that he/she has a place of residence in the Commune/Sangkat. The second copy goes to the Commune Council and the third copy is kept in the Clerk's files.

The Clerk **should** ^{x₇} inform the rejected applicant that he/she or his/her representative has three days to appeal to the Commune Council of this decision to reject his/her application. The Clerk **should** ^{x₈} provide the applicant at his/her request with four copies of the Appeal form required by the present regulations.

Step 6: Fill the Registration Form

When the applicant has demonstrated his/her eligibility to register by showing the documents required in the above procedure, the Clerk must complete the form "**Registration of Voter**" (see Annex 1 below).

^{x₁} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x₂} There is a wrong translation from Khmer into English; it should read "must" instead of "shall".

^{x₃} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x₄} Take out the words in fatprint and write instead: "must fill and must send this form to the other Commune which must delete the name".

^{x₅} Proposal: Add here the following sentence: "The Clerk must send this form to the other commune, which subsequently must delete the name on the voters list".

^{x₆} There is a wrong translation from Khmer into English; it should read "must give" instead of "gives".

^{x₇} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x₈} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

The Clerk **should** ^{x₁} write on the form the name of the voter exactly as it is written on the identity document that the voter intends to use on the voting day.

The Clerk **should** ^{x₂} determine in which polling station to register the applicant. He should register the applicant in the polling station closest to his/her place of residence. If an error is made in the Registration form, the Clerk cancels the form by writing "Cancelled" across the whole form (including the receipt) and starts again with a new form.

Once the form is filled, the Clerk **should** ^{x₃} sign and put the seal of the polling station provided by the NEC on both sides of the form.

The Clerk must tear out the receipt section of the registration form and give it to the applicant as a proof of registration and reminder of the number and location of the polling station where he/she is registered.

The Commune Clerk has no right/discretion to refuse registration to anyone who has produced any of the documents mentioned above that satisfies the registration requirements of the above procedure.

The Commune Clerk has no right/discretion to register anyone who produces none of the documents mentioned above or produces a document that does not satisfy the requirements of the above procedure.

When the applicant was previously registered elsewhere, the Clerk **should not forget to fill** ^{x₄} in two copies and require this person to thumbprint the form "Deletion of the Name from the Electoral List" authorizing the NEC to remove his name from the voters list in the other Commune/Sangkat or polling station where he was previously registered. See procedure Annex 2 below.

When the applicant was previously registered in the same Commune but in another polling station, the Clerk **should** ^{x₅} prevent double registration by striking out manually the name of the voter in the relevant polling station. To do so, he uses the information contained on the form "Deletion of a Name on the Voters List" to strike out the name appearing in the former polling station of the voter. The Clerk performs this operation in the four copies of the list of voters of the relevant polling station. See procedure Annex 2 below.

^{x₁} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x₂} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x₃} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x₄} Take out the words in fat-print and write instead: " must fill and must send this form to the other Commune which must delete the name".

^{x₅} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

Step 7: Procedure for Rejection of an Application

The Commune Clerk must not register anyone who produces none of the documents mentioned above or produces a document that does not satisfy the requirements of the above procedure.

He **may** ^{x₁} also refuse to register an applicant when there is definite evidence proving that the document produced by the applicant is a forgery or has been obtained by fraud.

When the Commune Clerk rejects an application, he **should** ^{x₂} get the opinion of the member(s) of the Commune Council who supervise his work. **Nevertheless, the Clerk is not bound by the opinion of the accompanying member of the Commune Council and can decide to reject the application against the opinion of the accompanying member(s) of the Commune Council.** ^{x₃}

The clerk can reject an application only for the following motives:

- No valid identity document (documents "a" to "e)" (as per Step 2 above)
- No proof of Khmer citizenship when required by regulations (as per Step 3 above)
- No proof of age when required by regulations (as per "Step 4" above)
- No proof of residence when required by regulations (as per Step 5 above)
- The application is late: it was presented after the end of the registration period
- The applicant is not eligible to register for reason of insanity or guardianship as per certificate of the hospital or health institution.
- The applicant is not eligible to register because he/she has been sentenced to a prison term, has not purged the sentence and has not been rehabilitated.

The Clerk **should** ^{x₄} fill the form "Rejection of an Application to Register" in three copies (see Annex 8), mentioning one of the above reasons for the rejection. The Clerk must not reject any application on any other motives than the ones mentioned above. If these motives do not apply, the application **should** ^{x₅} be accepted.

^{x₁} Proposal: "must"

^{x₂} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x₃} Cut off the part in fat-print. The Commune Clerk should - of course - be bound by the opinion of the Commune Council because this is the democratically elected representative body of the people whereas the Commune Clerk is selected and appointed by the executive branch i.e. the Ministry of Interior (see also footnotes to Annex 5)

^{x₄} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x₅} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

The Clerk must give one copy of the form “Rejection of an Application to Register” to the applicant and one copy must be given to the Commune Council. The Clerk **should** ^{x6} keep the third copy for his file. The NEC could require the Clerk to forward his copy of the form “Rejection of an Application to Register” at any time.

The Clerk notifies the rejected applicant that he/she or his/her representative has three days to appeal in writing to the Commune Council of the present decision to reject his/her application. The Clerk **should** ^{x1} give four copies of the Appeal form to the applicant at his/her request.

PART 5

APPEAL AGAINST THE REJECTION OF AN APPLICATION

Section I

Appeal to the Commune Council

Any applicant for voter registration or his/her representative, whose application has been rejected by the Clerk, has the right to appeal in writing to the Commune/Sangkat Council within 3 days of the notification of the rejection.

The applicant who wants to appeal the decision of the Clerk **should** ^{x2} use the appeal form duly filled in four copies.

The appeal form **should** ^{x3} be received by the Commune/Sangkat council, within three days of the date of notification mentioned on the form "Rejection of an Application to Register".

If the appellant or his/her representative brings his appeal untimely after the date mentioned above, Commune Council must write “appeal received after the deadline, (date of reception)”. The Commune Council hands back one copy to the appellant or his/her representative and keep the other two copies for the Commune’s files and one copy is sent to the National Election Committee through the PEC’s secretariat..

If no appeal are received within the timeframe mentioned above by the Commune Council, it is considered that no appeal has been lodged against the decision of the Clerk on the Rejection of an Application to Register.

^{x6} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x1} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x2} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x3} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

The Commune/Sangkat Council must hold a public meeting to decide of the appeal by an absolute majority vote of its members within three (3) days of the reception of the appeal ^{x4}.

When the representative of the Commune Council receives an appeal, he **should** ^{x1} assign the date, time and place where the public hearing will be held and writes this information on the four appeal forms presented by the appellant or his/her representative. He gives back a copy to the appellant or his/her representative as notification of the hearing and keeps two copies for the Commune Council to use in the hearing.

The representative of the Commune/Sangkat must post at the Commune office one remaining copy of the appeal form as a public notice

The public hearing follows the same rules as an ordinary meeting of the Commune Council

During the public hearing, the appellant must show the document or documents proving his/her right to be registered in accordance with the Law and the regulations and procedures of the NEC.

The criteria on which the Commune/Sangkat Council must base its decisions of the appeal are the same as described in the regulations and procedures of the NEC to decide on the eligibility of an applicant for registration. The Commune/Sangkat Council does not have the power to base its decision on any other criteria than those prescribed by the Law on the Amendment to the Law on the Election of Members of the National Assembly and the regulations and procedures of the NEC. When the Commune Council decides to reject an appeal, it **should justify** ^{x2} its decision with the reason on which the decision to reject an application to register was made by the Clerk". ^{x3}

If the Commune Council decides in favor of the appellant, it should instruct the Commune Clerk to register the name of the appellant as prescribed by the procedure set out in the regulations and procedures of the NEC.

The Commune Council Chief (or the member of the Commune Council) who presides the hearing **should** ^{x4} fill the form "Decision on Appeal" in three copies, mentioning that the appeal has been granted for registration. He **should** ^{x5} sign, date and put the Commune/Sangkat seal on the document. He **should** ^{x6} also make a note on the two

^{x4} Proposal: There should be a fiction: "If there is no decision taken within the three-days-deadline the appeal is regarded as accepted and the applicant has to be registered".

^{x1} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x2} Proposal: Instead of " should " the regulation should state "must" to give the appellant the opportunity to understand the rejection and prepare a proper appeal.

^{x3} Proposal: Add here the following sentence: "It can also base the rejection on any other legal ground as mentioned in step 7."

^{x4} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x5} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x6} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

appeal forms that it has been granted with his/her signature and date on it. He should give one copy of the "Decision on Appeal" and appeal form showing the mention that the appeal has been granted to the appellant or his/her representative and to the Clerk to justify and facilitate the applicant concerned. The copy given to the Clerk is later kept in the Commune Council's files. The third copy **should** ^{x1} be sent to the NEC via the secretariat of the PEC.

If the Commune Council decides to reject the appeal, the Chief of the Commune Council (or the member of the Commune Council) who presides over the hearing should make a note on two appeal forms that it has been rejected with his/her signature and date on it, and then should fill the form "Decision on Appeal" in three copies, mentioning clearly the reason for the rejection. The Chief must give one copy of the decision on the rejection of appeal and appeal form showing the mention that the appeal has been rejected to the appellant and keep one copy of the decision of the rejection of appeal and appeal form showing the mention the appeal has been rejected for the Commune Council's records. The third copy of decision of rejection of appeal should be sent to the NEC via the secretariat of the PEC.

The **Chief of the Commune** ^{x2} must notify the appellant that he/she or his/her representative has five days to appeal in writing to the NEC of the decision of the Commune Council to reject his/her application. He **should** ^{x3} also provide two copies of the appeal form to the applicant or his/her representative.

Section II Appeal to NEC

Any applicant for voter registration or his/her representative, whose application has been rejected by the Commune Council, has the right to appeal in writing to the NEC within 5 days of the notification of the rejection.

Any appeal of a decision of the Commune Council **should** ^{x4} be lodged on the appeal form duly filled in two copies.

The appeal **should** ^{x5} be received by the NEC within five days of the date of notification mentioned on the form "Decision on Rejection of Appeal" that the NEC has received from the Commune/Sangkat concerned.

The Legal Department of the NEC is in charge of receiving the appeals.

Upon reception of an appeal, the Legal Department **should** ^{x6} assign the date time and place where the public hearing will be held after consultation with the Secretary General

^{x1} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x2} Proposal: To emphasize that after the Commune Election in February 2002 the institution of the Commune Chief was abolished we propose to replace "Commune Chief" by "Chief of the Commune Council".

^{x3} Comment: In the original Khmer Version it says "must" instead of "should"; so the English version has to be corrected.

^{x4} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x5} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x6} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

and writes this information on both appeal forms presented by the appellant. He gives back a copy of the appeal form with the mention that it has been received to the appellant as notification of the hearing.

The Legal Department **should** ^{x1} make 2 additional photocopies of the appeal form and distribute as follow: one copy for the Legal Department, the second copy and the original of the form **should** ^{x2} be handed to the Secretariat of the NEC.

The NEC **should** ^{x3} hold a public hearing to decide of the appeal within five (5) days of the reception of the appeal

*If the NEC decides in favor of the appellant, it **should** ^{x4} :*

- *fill the form Decision form (1203) in three copies mentioning that the appeal has been granted;*
- *one copy of the Decision form should be given to the appellant or his/her representative;*
- *one copy is sent/communicated to the Commune/Sangkat council, directing it to order the Commune/Sangkat clerk to register the name of the rejected person as prescribed by the procedure set out in the t regulations and procedures of the NEC. This copy will be later kept in the files of the Commune/Sangkat.*

*If the NEC decides to reject the appeal, it **should** ^{x5} :*

- *fill up a Decision form (1203) by indicating the reasons and date of the rejection;*
- *provide a copy of the rejection form to the appellant;*
- *inform to the appellant or his/her representative that he/she may file an appeal of the NEC's decision in writing to the Constitutional Council within five(5) days of the reception of the notification of the decision.*
- *send a copy of the rejection file to the Constitutional Council for information.*

Section III

Appeal to the Constitutional Council

Any person whose registration is rejected by the NEC, or the representative of this person, may file an appeal in writing to the Constitutional Council within five (5) days of the reception of the notification of NEC's decision.

*The Constitutional Council **shall** ^{x6}, through an open public hearing, decides on that appeal within ten (10) days from the reception of the appeal.*

^{x1} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x2} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x3} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x4} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x5} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x6} There is a wrong translation. It should read "must" instead of "shall"

*If the Constitutional Council decides to accept or reject the appeal, it **shall**^{x7}:*

- *command the National Election Committee to register or refuse to register the name of the applicant who was rejected earlier by the Clerk ;*
- *send a copy of their decision to the appellant, or his/her representative;*

*If the decision of the Constitutional Council requires to register the name of the appellant rejected earlier by the Clerk, the NEC **shall**^{x1} order the Commune/Sangkat Council to register the name of that person as prescribed by the procedure set out in the regulations and procedures of the NEC^{x2}, then **shall**^{x3} send a copy of that newly modified voter list to the Constitutional Council.*

PART 6

THE PRELIMINARY LIST

Section I

Update of the Lists and Transmission of the Registration Results to NEC

As soon as possible during the registration process, the Clerk must copy on the form "Supplementary Voters List" in four copies for each polling station the names of voters whose registration has been accepted and the relevant information taken from the "Registration of Voter" form.

Similarly, he should ensure that the correction of the names done manually with a red pen have been copied in all four copies of the lists. If the Clerk is assisted by one or two assistants provided by the NEC, this task can be performed by the assistant(s).

The Clerk must also strike out the names of the registered voters who are deceased or who have become ineligible as provided for in the procedure of Annex 2. To do so, he uses the information contained on the form "Deletion of a Name on the Voters List" to strike out the name of the voter in the relevant lists of voters. The clerk **should**^{x4} do so in the four copies of the list of voters.

In order to avoid double registration, the Clerk must also strike out manually the names of the voters who have moved from one polling station to another in his Commune. To do so, he uses the information contained on the form "Deletion of a Name on the Voters List" to strike out the name of the voter in the four copies of the relevant lists of voters.

^{x7} There is a wrong translation. It should read "must" instead of "shall"

^{x1} There is a wrong translation. It should read "must" instead of "shall".

^{x2} Proposal: Add here: "within 3 (three) days after having received the decision of the Constitutional Council".

^{x3} There is a wrong translation. It should read "must" instead of "shall".

^{x4} There is a wrong translation. It should read "must" instead of "should".

At this stage, the Clerk has the right to delete the names of registered voters who have left the Commune/Sangkat. He can do so only when there is official documented evidence either from the **Commune authority or the police** ^{x₁} that a person has declared to the authorities that he/she was leaving definitely the Commune/Sangkat. In such case, the Clerk **should** ^{x₂} fill a form "Deletion of a Name from the Electoral List" authorizing the deletion of a name in his Commune/Sangkat. After that, the Clerk strikes out the name of the voter concerned in the four copies of the relevant lists of voters.

The Clerk has no right to delete any name of registered voters for any other reason than those mentioned above.

Once the four copies of the list have been updated, the Clerk must reconcile all the data to ensure that:

- the total number of names struck out from the list correspond to the number of form "Deletion of a Name on the Voters List" ;
- the total number of names on the "Supplementary List of Voters" correspond to the number of valid "Registration of a Voter" forms.

The Clerk fills a report of this reconciliation that will accompany the list to be transmitted to the NEC.. He **should** ^{x₃} sign and date this statement and put the seal. At the time of the reconciliation report, the Clerk also indicates, at the end of the updated list of voters on the four copies, the total number of names struck out. Similarly, at the end of four copies of the Supplementary List of Voters, the Clerk **should** ^{x₄} indicate the total number of voters contained in the supplementary lists, sign, date, and seal the statement.

The Clerk assembles the Preliminary list of each polling station by attaching the "Supplementary Voters List" at the end of the voter's list of the concerned polling station.

The Clerk **should** ^{x₅} wait three days after the end of the voter revision and registration period to make sure that there is no appeal against his decisions on rejection of an application to register. If there is no outstanding appeal, the Clerk **should** ^{x₆} send one copy of the Preliminary list to the NEC as explained below. In such case, the transmission takes place on the forth day after the day ending the registration period.

When there is an outstanding appeal, the Clerk **should** ^{x₇} wait for the decision of the Commune Council. Then, if required, the Clerk should make the relevant addition to the forms "Supplementary Voters List" on the four copies of the list concerned to reflect the decision taken by the Commune Council in appeal.

^{x₁} Proposal: Replace words in fat-print by: "Chief of the Commune Council or his/her deputy."

Reason: Art.18, 19, 22 and 55 LEMNA show that uniform bearers should be kept out of the whole electoral process including the registration phase.

^{x₂} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x₃} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x₄} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x₅} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x₆} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x₇} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

When all the appeals regarding registration (if any) have been settled at the Commune level the Clerk must send one complete set of the Preliminary lists of voters of all polling stations to the NEC.⁷

The complete Preliminary list to be sent to the NEC is composed of the following:

- The updated list of voters of each polling station in the Commune/Sangkat;
- The "Supplementary Voters List" for each polling station in the Commune/Sangkat;
- one copy of all the forms "Deletion of Name from the Electoral List" that were filled up during the registration process;
- one copy of all decision on appeals made by the Commune/Sangkat council (form 1203).

This complete preliminary list **should** ^{x1} be sent to NEC via the secretariat of the PEC. The limit date to transmit this list to the NEC is seven days after the end of the registration period from February 4 to February 10, 2003.

Section II Assembling and Posting of the Preliminary List

The Preliminary lists to be posted are composed of the undated list of voters of each polling station in the Commune/Sangkat with the "Supplementary Voters Lists" attached at the end.

The Commune Council must post one copy of the Preliminary list of all stations at the Commune Office. Another copy, divided per polling station, **should** ^{x2} be posted at the location of the respective polling station as it was done originally when the list of voters was first posted (see above Section 3 "Posting of the List of voters") or at the new polling stations that have been created.

The last copy **should** ^{x3} be kept by the Clerk as a temporary permanent register.

The date of the posting of the Preliminary list may vary as follow:

- a) if the Commune Council has received no appeal regarding the rejection of registration, the Preliminary list **can** ^{x4} be posted four days after the end of the registration period.

⁷ Here more details relating to the packaging etc. are needed.

^{x1} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x2} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x3} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

- b) if there were one or many appeals submitted to the Commune Council during the period allowed for submission of appeal, the Preliminary list **can**^{x₁} be posted 5 days after the latest decision of the Commune Council .
- c) If there is an appeal of the decision of the Commune Council submitted to the NEC during the period allowed for submission of appeal, the Preliminary list **can**^{x₂} be posted seven days after the decision of the NEC.
- d) If there is an appeal of the decision of the NEC submitted to the Constitutional Council during the period allowed for submission of appeal, the Preliminary list **can**^{x₃} be posted the next day following the decision of the Constitutional Council.

Before posting the Preliminary list, the Clerk **should**^{x₄} ensure any addition of a voter ordered in the appeal decisions has been done on the voters list concerned.

Both lists **should**^{x₅} be posted publicly for five days during which any person can lodge an appeal or objection.

The Clerk records when such posting takes place in a statement mentioning the time, date and location of the posting.⁸ One copy of this statement is posted at the office of the Commune/Sangkat, one copy is sent to the NEC and one copy is kept for the files of the Commune/Sangkat.

The political parties that are registered in conformity with the Law on Political Parties have the right to request a copy of the Preliminary list of voters by paying a fee that **should**^{x₆} not exceed the production cost.

If, at the end of the fifth day from posting, no complaint or objection has been submitted to the Commune Council, the Clerk **should**^{x₇} prepare a written statement (signed and with the Seal of the NEC) mentioning that no complaint or objection have been received during the posting and send it immediately to the NEC.

^{x₄} Proposal: It should say "must" instead of "can".

^{x₁} There is a wrong translation from Khmer into English; it should read "must" instead of "can".

^{x₂} There is a wrong translation from Khmer into English; it should read "must" instead of "can".

^{x₃} There is a wrong translation from Khmer into English; it should read "must" instead of "can".

^{x₄} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x₅} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x₆} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x₇} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

Section III

Appeals/Objections Relating to the Preliminary List

Any person has the right to file a written appeal or objection to the Commune/Sangkat Council relating to the Preliminary list.

To be receivable, such appeal/objection must meet the following conditions:

- ✍ The plaintiff should use the appeal form available at the Commune Office during working hours.
- ✍ The form **should** ^{x1} be filled in four⁹ copies for appeal and in five copies for objection⁹.
- ✍ The form **should** ^{x2} be received by the **Chief of the Commune** ^{x3} or his Deputy at the Office of the Commune/Sangkat within five (5) days from the first day of the posting of the preliminary list.
- ✍ The appellant or objector **should** ^{x4} mention in writing that he/she has evidence to prove at least one of the following motives:
 - a) a person registered on the list is not an eligible voter because either he/she:
 - is not a Khmer citizen,
 - is not of legal age to register,
 - does not have a place of residence in the Commune/Sangkat,
 - has been condemned to a prison term or is insane as per a certificate
 - b) a person has his/her name registered in the list of voters in more than one polling station;
 - c) a person has duly registered his/her name with the Commune Clerk and has the receipt to prove it, but, his/her name does not appear on the Preliminary list at the assigned polling station;
 - d) a person has his/her name registered in the list of voters of the last election and meets sufficient requirements to register as a voter but his/her name is omitted from the preliminary list of voters;

^{x1} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

⁹ It could be only four copies when there no other person involved than the appellant.

^{x2} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x3} Proposal: To emphasize that after the Commune Election in February 2002 the institution of the Commune Chief was abolished we propose to replace "Commune Chief" by "Chief of the Commune Council".

^{x4} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

- e) a person has his/her name registered in the list of voters but the entry is incorrect and needs to be corrected.

Appeals or objections that do not meet the above requirements are not receivable and must be rejected on the spot.

The Commune/Sangkat Council must convene a public hearing to decide on any appeal or objection relating to the Preliminary list within three (3) days from the reception of the complaint.

When the **Chief of the Commune**^{x1} or his deputy receives an appeal or objection about the Preliminary list, he **should**^{x2} assign the date, time and place where the public hearing will be held and writes this information on the four copies of appeal forms¹⁰. The **Chief of the Commune**^{x3} then disposes of the copies as follow:

- one copy handed to the appellant or objector on the spot;
- one copy posted at the Office of the Commune;
- two copies for the Commune Council;
 - one copy dispatched to the person against whom an objection is filed (in case of objection).

When an objection concerns another person than the plaintiff, the **Chief of the Commune**^{x4} must assign the date of the public hearing in a way to allow sufficient time to notify the person concerned.

The public hearing is held by the Commune Council and presided by the **Chief of the Commune**^{x5} or, in his absence, by his deputy.

During the public hearing, the appellant or objector must show the document or documents proving his/her protest or allegation. If so required by the Commune Council, the appellant or objector must provide additional information regarding his/her protest or allegation.

The person concerned by the objection can refute the arguments of the objector by showing the documents entitling him/her to be registered on the list of the relevant polling station.

^{x1} Proposal: To emphasize that after the Commune Election in February 2002 the institution of the Commune Chief was abolished we propose to replace "Commune Chief" by "Chief of the Commune Council".

^{x2} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

¹⁰ It could be only four copies when there no other person involved than the appellant.

^{x3} Proposal: To emphasize that after the Commune Election in February 2002 the institution of the Commune Chief was abolished we propose to replace "Commune Chief" by "Chief of the Commune Council".

^{x4} Proposal: To emphasize that after the Commune Election in February 2002 the institution of the Commune Chief was abolished we propose to replace "Commune Chief" by "Chief of the Commune Council".

^{x5} Proposal: To emphasize that after the Commune Election in February 2002 the institution of the Commune Chief was abolished we propose to replace "Commune Chief" by "Chief of the Commune Council".

The criteria on which the Commune/Sangkat Council must base its decisions on the appeal or objection are the same than those described in the regulations and procedure of the NEC to decide on the eligibility of an applicant for registration (see above Section 4, Step 2 to 5).

If the appeal is about the correction of a name or a change of polling station, the criteria to accept or reject such complaint are the same than those described in the regulation and procedure of the NEC (see above Section 4, Step 2 to 5).

The Commune/Sangkat Council does not have the power to base its decision on any other criteria than those prescribed by the LEMNA and the regulations and procedures of the NEC.

If the appellant or objector does not produce any evidence to substantiate his/her allegation, the appeal or objection must be rejected.

The Clerk **should** ^{x1} be present at the public hearing. He should publicly provide all information relevant to the appeal or objection to the Commune Council.

When the Commune council decides to reject the appeal or objection, the **Chief of the Commune** ^{x2} or his deputy must fill, date and sign, the form "Decision on Complaint" (form 1203) in four copies¹¹, stating clear reasons of the rejection, sign and date. The four copies of the form are distributed as follow:

- one copy for the Commune's files;
- one copy for the NEC via the secretariat of the PEC¹².
- one copy to the appellant or objector or his/her representative as a notification of the Commune Council's decision. The **Commune Chief** ^{x3} should provide the appellant or objector or his/her representative two copies of the appeal form if he/she requests as well as informing him/her that an appeal of this decision to the NEC can be filed within five (5) days from the receipt of notification of decision of the Commune Council;
- one copy to the person against whom an objection is filed .

If the Commune council decides to accept the appeal or objection, the **Chief of the Commune** ^{x4} or his deputy must fill, the form "Decision on Complaint" (form 1203) in four copies¹³ with a date and his/her signature. The copies are distributed as follow:

- one copy for the Commune's files;

^{x1} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x2} Proposal: To emphasize that after the Commune Election in February 2002 the institution of the Commune Chief was abolished we propose to replace "Commune Chief" by "Chief of the Commune Council".

¹¹ It can be only three copies if there is no other person involved than the appellant.

¹² To be sent all at the same time once all appeals/objection have been settled at the Commune level, see below IV) Final Steps.

^{x3} Proposal: To emphasize that after the Commune Election in February 2002 the institution of the Commune Chief was abolished we propose to replace "Commune Chief" by "Chief of the Commune Council".

^{x4} Proposal: To emphasize that after the Commune Election in February 2002 the institution of the Commune Chief was abolished we propose to replace "Commune Chief" by "Chief of the Commune Council".

¹³ It can be only three copies if there is no other person involved than the appellant.

- one copy for the NEC via the secretariat of the PEC¹⁴.
- one copy to the appellant or objector or his/her representative;
- one copy to the person against whom an objection is filed as a notification of the Commune Council's decision to remove his/her name from the list of voters of the Commune/Sangkat. The **Chief of the Commune** ^{x1} should provide two copies of the appeal form to this person or his/her representative and informing him/her that an appeal can be filed to the NEC within five (5) days from the receipt of notification of the decision of the Commune Council.

The **Chief of the Commune** ^{x2} must also, according to the decision, either:

- a) instruct the Clerk to correct the names and related data immediately into the remaining copy of the Preliminary list of voters in the relevant polling station;
- or
- b) instruct the Clerk to delete the name of the person who was the object of the objection from the remaining Preliminary list of voters in the relevant polling station.

If there is sufficient evidence that a person against whom an objection is filed has moved out of the Commune/Sangkat, or has deceased, there is no need to notify this person that a request has been made to remove his/her name from the Preliminary list of voters or that a decision to that effect has been taken.

There is no need to fill the form "Deletion of a Name from the Electoral List": the decision of the Commune Council is sufficient to authorize the Clerk to perform the Deletion of the name of the person against whom an objection is filed.

The person concerned by a decision of the Commune Council following an appeal or objection relating to the Preliminary list has the right to appeal in writing to the NEC within 5 days of the notification of the decision of the commune council.

The Legal Department **should**^{x3} immediately inform the Council of the Commune/Sangkat concerned that the NEC has received an appeal or objection of one of its decision and that it requires the Commune Council to notify the appellant or the person against whom an objection is filed. In this case, the Legal Department can use fax machine, communication radios to inform the Commune Councils.

The Commune Council must do the necessary to notify the appellant or the person against whom an objection is filed of the date and place where the NEC will decide of the appeal or the objection. Because of the relatively short delay, the Commune Council

¹⁴ To be sent all at the same time once all appeals/objection have been settled at the Commune level, see below IV) Final Steps.

^{x1} Proposal: To emphasize that after the Commune Election in February 2002 the institution of the Commune Chief was abolished, we propose to replace "Commune Chief" by "Chief of the Commune Council".

^{x2} Proposal: To emphasize that after the Commune Election in February 2002 the institution of the Commune Chief was abolished we propose to replace "Commune Chief" by "Chief of the Commune Council".

^{x3} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

should ^{x1} not wait to get the copy of the appeal or objection form from the NEC to duly notify the appellant or the person against whom an objection is filed. ¹⁵

The NEC **should** ^{x2} hold a public hearing to decide of the appeal or objection within five (5) days of the reception of the appeal. It **should** ^{x3} ensure that the appellant, objector or the persons against an objection is filed have been properly notified by the National Election Committee.

The appeal or objection process to the NEC and to the Constitutional Council is dealt with in the Part 5, Points 2 and 3 “Appeal or Objection to National Election Committee and the Constitutional Council” above for information.

Section IV Final Steps for the Preliminary List

Once all the appeal or objection have been settled at the Commune level, the Commune Clerk updates the remaining copy of the Preliminary List to reflect the decision taken by the Commune Council. He does so in the following way:

- When the decision is to allow the registration of a name that fails to be inserted in the Preliminary list:
 - the Clerk writes the name on the "Supplementary Voters List" of the relevant polling station.

- When the decision is to allow the correction in the spelling of a name or relevant data wrongly registered:
 - the Clerk immediately makes the correction by circling the wrong name or relevant data with a red pen on the copy of the list of voters and writing the name or relevant data correctly in the margin, as mentioned in the decision.

- When the decision is to remove a name from a voters list:
 - the clerk **should** ^{x4} strike out this name in the copy of the Preliminary list of the relevant polling station.

Once the updating of the Preliminary list is done, the Clerk **should** ^{x5}prepare a report/statement mentioning that he executed the decision made by Commune Council

^{x1} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

¹⁵ There may be a need to clarify this

^{x2} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x3} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x4} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x5} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

on the appeals or objection relating to the Preliminary list. With this report/statement, the Clerk **should** ^{x₁} send to the NEC the copy of the “Decisions” (form 1203) taken by the Commune Council on the appeals or objection.

The remaining copy of the Preliminary list becomes the Permanent register of voters which is in the possession of the Clerk of the Commune/Sangkat temporarily.

Up until the day set by the law for the final settlement of the complaints by the Constitution Council, the Clerk has the obligation to inform the NEC of the voters who have deceased in the Commune/Sangkat.

When the Clerk gets **sufficient documented evidence** ^{x₂} that a registered voter in the Commune/Sangkat has deceased, he **should** ^{x₃} fill and sign the form “Deletion of a Name from the Electoral List”. He **should** ^{x₄} attach the document certifying the death and, if possible the voter card of the deceased and send the forms to the NEC through the secretariat of the PEC.

The NEC will update and computerize the list of voter based on all the relevant information and print a consolidated list of voters for all the polling station of the Commune/Sangkat.

(to be continued with the production of the list by NEC in 5 copies, verification by Clerk and promulgation of the updated Permanent register of voter of the Commune/Sangkat by the Commune Council.)

^{x₁} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x₂} Proposal: Add here : " (for example by a family book, a doctor's attestation, or a written police or commune report)"

^{x₃} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x₄} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

ANNEX 1

REGISTRATION OF VOTER FORM (1 COPY) Serial No.:

PROVINCE:

COMMUNE/SANGKAT OF

POLLING STATION #

Family name: _____ **First name:** _____

Date of birth: _____ (Should be before 28 July 1985) **Place of birth** _____

Gender: ? M ? F **Address:** _____

Document proving identity:

A) ? I.D. Card **B) ? Voter card** **C) ? Passport**

D) ? Family book **E) ? Statement of Identity**

*Previously registered: ?

(fill form)

When required, regarding citizenship: If the applicant produces only the document **E)** above, indicate the document showing that he/she meets the requirement of the electoral law regarding citizenship : **F) ?** **G) ?** **H) ?** **I) ?** (see reverse)(
 Note: please specify each of these points F, G, H, I on this front page.)

The applicant is born before 28 July 1985 as per document:
A) ? **B) ?** **C) ?** **D) ?** **E) ?** **F) ?** **G) ?** **H) ?** **I) ?**

The applicant has a residence in this Commune/Sangkat:
 - as mentioned in document from A to I above: ? **OR** - by virtue of a Certificate of residence: ?

REGISTRATION ACCEPTED ON _____ **200**

SIGNATURE OF THE CLERK **SEAL OF THE REGISTRATION STATION**

RECEIPT

Serial No: **000000**

The Officer authorized by the NEC has accepted the application to register of:

_____ in the permanent register of voters
of the Commune/Sangkat of _____ Code No.....Province/Municipal.....
in the electoral list of the polling station # _____ located _____

Signature of the Clerk

Seal of the Registration Station

ANNEX 2

PROCEDURE FOR DELETION OF A NAME FROM THE LIST

The form “Deletion of a Name from the Electoral List” **should** ^{x₁} be filled:

1. Each time that an applicant for registration declares that he/she is already registered on any list of voter anywhere in the Commune/Sangkat concerned or another Commune/Sangkat in Cambodia.
2. When the Clerk receives **documented evidence**^{x₂} that the person is dead.
3. When the Clerk receives documented evidence that a person has lost his/her eligibility as a result of **imprisonment** ^{x₃} or **insanity** ^{x₄}.
4. When the Clerk receives documented evidence from the **Commune Authority or the Police** ^{x₅} that a person has definitely moved out of the Commune/Sangkat.

In the first case, the Clerk **should** ^{x₆} ensure that the applicant is fully registered with the proof of document or receipt before filling this form.

When the applicant was previously registered in the same Commune but in another polling station, The Clerk **should** ^{x₇} fill and sign the form “Deletion of a Name from the Electoral List” by requiring the applicant to thumbprint it as an identity sign. the Clerk **should** ^{x₈} prevent double registration by striking out manually the name of the voter in this former polling station. The Clerk performs this operation in the four copies of the list of voters of the relevant polling station.

If an applicant moves in from another Commune/ Sangkat, the applicant should produce his/her voter card or substitute certificate used at the Commune Council election. The number of the card is needed to facilitate the operation of deletion at the NEC. The Clerk transcribes the number on the form and hands the card back to the applicant.

When the Clerk gets documented evidence that a registered voter has deceased, he should fill and sign the form “Deletion of a Name from the Electoral List”. He **should** ^{x₉} attach the document certifying the death and, if possible the voter card of the deceased.

^{x₁} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x₂} Proposal: Add: "(for example by a family book, a doctor's attestation or a written police or commune report)".

^{x₃} Proposal: Add: "in order to serve a prison sentence as mentioned in Article 50 Nr.5 LEMNA."

^{x₄} Proposal: Add: "as certified by the competent institution (see Article 50 Nr.6 LEMNA); this means, certified by a law court decision (see footnote x₂ on page 14)

^{x₅} Proposal: Replace words in fat-print by: "Chief of the Commune Council or his/her deputy."

Reason: Art.18, 19, 22 and 55 LEMNA show that uniform bearers should be kept out of the whole electoral process including the registration phase.

^{x₆} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x₇} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x₈} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x₉} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

Then, the Clerk **should** ^{x1}strike out manually the name of the voter in the four copies of the relevant list of voters.

When the Clerk gets documented evidence that a registered voter has become ineligible as a result of imprisonment or insanity, he should fill and sign the form “Deletion of a Name from the Electoral List”. He should attach the document certifying that the person has been condemned to a prison sentence or the certificate of the hospital declaring the person insane and, if possible the voter card of the person concerned. Then, the Clerk should strike out manually the name of the voter in the four copies of the relevant list of voters.

When the Clerk receives documented evidence either from the **Commune authority or the Police** ^{x2} that a registered voter officially informed the authorities that he/she was definitely leaving the Commune/Sangkat, Commune/Sangkat, the Clerk is authorized to fill and sign the form “Deletion of a Name from the Electoral List” mentioning on which evidence this deletion is made. After that, the Clerk **should** ^{x3} strike out the name of the voter concerned in the four copies of the relevant lists of voters.

All the forms “Deletion of a Name from the Electoral List” are sent to the NEC at the same time with the updated list of voters as prescribed in Part 6, I) *Transmission to NEC* of the regulations and procedures of the NEC.

^{x1} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x2} Proposal: Replace words in fatprint by: "Chief of the Commune Council or his/her deputy."

Reason: Art.18, 19, 22 and 55 LEMNA show that uniform bearers should be kept out of the whole electoral process including the registration phase.

^{x3} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

The Statement of Identity or Age of the Applicant is produced in two copies, the duly certified original is immediately handed to the applicant. The other copy is kept in the archives of the Commune/Sangkat.

The applicant can then proceed to register by producing the statement to the Commune Clerk. At this stage, the photo is not obligatory on the document. The Clerk can examine the document but **should** ^{x1} hand it back to the applicant.

The **Chief of the Commune** ^{x2} or his Deputy cannot refuse to certify the statement if the above conditions are met.

The **Chief of the Commune** ^{x3} or his Deputy who refuses to certify a statement made in conformity with the Law and the regulations and procedures of the NEC can be **sanctioned by Law** ^{x4}.

If the above conditions are not met, the **Chief of the Commune** ^{x5} or his Deputy must refuse to certify the statement for the applicant.

In such case, the **Chief of the Commune** ^{x6} or his Deputy must direct the applicant to the Commune Clerk who officially rejects the application to register by filling the "Rejection of an Application to Register" in three copies (see Annex 8). The Clerk **should** ^{x7} give a copy to the applicant mentioning that the application was rejected because the applicant could not prove his identity and/or age and/or residence. The second copy goes to the Chief of the Commune and the third copy is kept in the Clerk's files.

The Clerk **should** ^{x8} inform the applicant that he/she has three days to appeal to the Commune Council of this decision to reject his/her application. The Clerk **should** ^{x9} provide the applicant with four copies of the Appeal form required by the regulations and procedures of the NEC.

The Statement of Identity or Age can be used on polling day to validly identify the voter. In that case, a photo of the voter should be affixed to the upper-right corner of the form and bear the Seal of the Commune/Sangkat.

^{x1} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x2} Proposal: To emphasize that after the Commune Election in February 2002 the institution of the Commune Chief was abolished we propose to replace "Commune Chief" by "Chief of the Commune Council".

^{x3} Proposal: To emphasize that after the Commune Election in February 2002 the institution of the Commune Chief was abolished we propose to replace "Commune Chief" by "Chief of the Commune Council".

^{x4} Comment: The only lawful sanctions can be found in Art. 122 to 133 LEMNA. The question is, whether Article 122 point 4 is applicable. Does "refusing to certify a statement of identification" mean "prevent a citizen from registering" as mentioned in Art. 122 point 4 LEMNA? If not, there would be no sanction.

^{x5} Proposal: To emphasize that after the Commune Election in February 2002 the institution of the Commune Chief was abolished we propose to replace "Commune Chief" by "Chief of the Commune Council".

^{x6} Proposal: To emphasize that after the Commune Election in February 2002 the institution of the Commune Chief was abolished we propose to replace "Commune Chief" by "Chief of the Commune Council".

^{x7} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x8} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x9} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

When the applicant makes his/her statement in front of the **Chief of Commune/Sangkat**^{x1} or his deputy, he/she can provide two photos of him/herself to be affixed to the original and the copy of the Statement. Those photos should be of passport-size, taken from the face and showing only the head and upper shoulders of the applicant. The photos have to be of sufficient quality to allow a proper identification of the applicant.

The photos, duly affixed to the original and the copy of the statements, must then be stamped with the Seal of Commune/Sangkat. **The seal of**^{x2} **should** be applied in a way to cover a portion of the lower half of the photo. The original of the Statement is then handed to the applicant and the copy is kept in the archives of the Commune Council. If the applicant has no photo when the Statement is made but nevertheless requires a document of identity to be allowed to vote on the Day of the election, the **Chief of Commune/Sangkat**^{x3}, his deputy or the authorized member of the Commune Council must take a photo of the applicant according to the following procedure:

The NEC will provide each Commune/Sangkat authority with a camera and film required to provide an identification photo to the applicant who does not have photo and the Statement of Identity or Age to obtain a Statement of Identity/Age as a valid identification document for voting purpose on the polling Day.

On both copies of the Statement of Identity/Age, the authorized member of the Commune/Sangkat Council **should**^{x4} put a reference number to eventually match the forms with the right photo and the concerned Statement.

Example: the authorized member of the Commune/Sangkat Council writes the number 1 on both copies of the Statement, then he should take a picture of the applicant from the belt up. The applicant should hold a board, cardboard or paper on which the same reference number is written, in this case, the number 1. The number has to be written in a large format, (6 or 7 Cm high) to allow easy recognition on the printed photo. The applicant holds the board just above his/her belt: the authorized member of the Commune/Sangkat Council makes sure that the board showing the reference number will show on the photo.

Once the registration is over, the authorized member of the Commune/Sangkat Council sends the rolls of films to the secretariat of the PEC. A photo finishing company will get the rolls from the Secretariat of the PEC to develop and print in a passport format, in two copies for each shot.

The secretariat of the PEC will ensure that each roll is duly identified by Commune/Sangkat.

^{x1} Proposal: To emphasize that after the Commune Election in February 2002 the institution of the Commune Chief was abolished we propose to replace "Commune Chief" by "Chief of the Commune Council".

^{x2} Addition: "Commune/Sangkat" as written in the Khmer version.

^{x3} Proposal: To emphasize that after the Commune Election in February 2002 the institution of the Commune Chief was abolished we propose to replace "Commune Chief" by "Chief of the Commune Council".

^{x4} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

This company will bring the final prints back to the secretariat of the PEC, which will deliver the prints to relevant Commune/Sangkat.

The authorized member of the Commune/Sangkat Council will then match the prints with the forms, using the reference number appearing on the print. He will then call the applicant, informing him that his/her identification photo has arrived and that he/she should come to the Commune office with his copy of the "Statement of Identity/Age" form to get the photo duly affixed and sealed on the forms.

Before doing so, the authorized member of the Commune/Sangkat Council will cut off from the photo the lower part of the print showing the reference number. The photo will then be glued to both copies of the Statement of Identity/Age form. Then, he will put the seal of the Commune/Sangkat in a way to cover a portion of the lower half of the photo.

The authorized member of the Commune/Sangkat Council hand a copy of the document to the applicant and keep the other copy in the Clerk's files.

This document will be accepted as a valid identification document to give access to the voting station on the voting day.

The whole process is **entirely free**^{x1} for the applicant.

^{x1} Comment: In the original Khmer version it says "free of charge" in the sense of gratuitous. This ensures that there is no financial burden for the applicant. But the English version could be more precise: Instead of just saying "free" it should explicitly say "free of charge.". (See page 18).

**STATEMENT OF IDENTITY AND AGE
AND CERTIFICATE OF RESIDENCE**

photo
only required
for use of this
form on voting
day.

I, _____, applying for registration on the electoral list of

The Commune of _____, solemnly declare that I was born before
28 July, 1985 and that my residence in the Commune/Sangkat is located at:

(address):

SIGNATURE (thumbprint)

We, _____ and _____, being
eligible voters in the Commune/Sangkat of _____ hereby declare
that we know the applicant and that the his above statement is true.

SIGNATURE (thumbprint)

SIGNATURE (thumbprint)

**The above statement has been done before me on day ___ month ___ year 200
and I certify that the applicant has a place of residence in this Commune/Sangkat.**

Signature of the **Chief of the Commune**^{x1} or his Deputy, SEAL OF THE COMMUNE

^{x1} Proposal: To emphasize that after the Commune Election in February 2002 the institution of the Commune Chief was abolished, we propose to replace "Commune Chief" by "Chief of the Commune Council".

ANNEX 4

PROCEDURE FOR THE ISSUANCE OF THE CERTIFICATE OF RESIDENCE

The Commune Clerk requires a certificate of residence only when the documents presented by the applicant contain no indication proving that he/she has a place of residence in the Commune/Sangkat where he/she wishes to register.

Upon request from the applicant, the Commune authority should provide a certificate of residence to any person who has a place of residence in the Commune/Sangkat as defined in the LEMNA and NEC's regulations and procedures ^{x1}.

The Commune authority is the Chief of the Commune/Sangkat, or his deputy.

The place of residence of any person in a Commune/Sangkat is defined as a place where he/she normally lives at the time of registration. It can be a building, an apartment, a room, a structure, or a part of a structure or a specific location where this person can regularly and normally be reached.

The applicant **should** ^{x2} have a place of residence in the Commune/Sangkat on the day of his/her application to register. The Clerk cannot require that the applicant be a resident for a certain time before registration. However, a person who comes for a visit or travels through a Commune/Sangkat **should**^{x3} not register in this Commune/Sangkat. This person should register in the Commune/Sangkat where he/she normally resides.

A Khmer citizen who has more than one place residence in the Kingdom of Cambodia **shall** ^{x4} chose only one place to register as voter;

Any worker, student, civil servant, police and military are entitled to register in the Commune/Sangkat where they have a temporary place of residence. In such case, if the applicant is already registered at the place of his/her permanent residence in another Commune/Sangkat, the Clerk **should not forget to fill** ^{x5} and require this person to thumbprint the form "Deletion of the Name from the Electoral List" authorizing the NEC to remove his name from the voters list in the other Commune/Sangkat or polling station where he was previously registered ^{x6}. See procedure in Annex 2.

For the purpose of voter registration, the Commune Authority should issue the required certificate of residence in the shortest possible delay, at the latest 48 hours after receiving the request. The certificate **should** ^{x7} be issued **without charge** ^{x8} on the form prescribed by the regulations and procedures of the NEC.

^{x1} Proposal: Add here the word "below" thus referring to the NEC regulations in the following sections of the text.

^{x2} Proposal: Replace the word "should" by the word "must".

^{x3} There is a wrong translation from Khmer into English; it should read "can" instead of "should".

^{x4} There is a wrong translation from Khmer into English; it should read "must" instead of "shall".

^{x5} Proposal: It should read "must fill" instead of "should not forget to fill".

^{x6} Proposal: Add the following sentence: "and must send this form to the previous Commune which must delete the name".

^{x7} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x8} Comment: It is not allowed to charge any fee for issuing such documents" (see p. 18 as well as the MOI statement made during the CDRI meeting on 26th September 2002 on electoral questions - Meeting Minutes, page 6)

The Commune Authority can use any **appropriate administrative channel**^{x1}, including the information detained by the police of administrative post, to confirm the residence of a citizen.

The Commune Authority should presume the good faith of the person who requests a certificate of residence. **The certificate of residence should be issued unless the Commune Authority is fully convinced that the person who makes the request does not reside in the Commune/Sangkat** ^{x2}.

The Commune Authority must provide the statement duly certified without charge.

The Certificate of Residence is produced in two copies, the duly certified original is handed to the applicant and the other copy is kept in the archives of the Commune/Sangkat.

The applicant can then proceed to see the Clerk in order to register by presenting the certificate of residence. The Clerk **can**^{x3} examine the document but **should** ^{x4} hand it back to the applicant.

The Chief of the Commune or his Deputy who unlawfully refuses to issue a certificate of residence when the person actually resides in the Commune/Sangkat as defined by the LEMNA and the regulations and procedures of the NEC **can be sanctioned by Law** ^{x5}.

If the Commune Authority is fully convinced that the person who makes the request for a certificate of residence does not reside in the Commune/Sangkat, the Chief of the Commune or his Deputy must refuse to issue the certificate.

In such case, the **Chief of the Commune**^{x6} or his Deputy must direct the applicant to the Commune Clerk who officially rejects the application to register by filling the "Rejection of an Application to Register" in three copies (see Annex 8). The Clerk **should** ^{x7} give a copy to the applicant mentioning that the application was rejected because the applicant could not prove that he/she has a place of residence in the Commune/Sangkat. The second copy goes to the Chief of the Commune and the third copy is kept for the Clerk's files.

The Clerk **should** ^{x8} inform the applicant that he/she has three days to appeal to the Commune Council of this decision to reject his/her application. The Clerk **should** ^{x9}

^{x1} Comment: It needs to be clarified what is the "appropriate administrative channel".

^{x2} Proposal: Replace the words in fat-print by the following sentence: "But the certificate of residence should only be issued if the Commune Council is fully convinced by documents or declaration of two witnesses that the person who makes the request does reside in the Commune/Sangkat".

^{x3} There is a wrong translation from Khmer into English; it should read "must" instead of "can".

^{x4} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x5} Comment: see comment on page 43 (footnote x4)

^{x6} Proposal: To emphasize that after the Commune Election in February 2002 the institution of the Commune Chief was abolished we propose to replace "Commune Chief" by "Chief of the Commune Council".

^{x7} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x8} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x9} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

provide the applicant with four copies of the Appeal form required by the regulations and procedures of the NEC.

REQUEST FOR A CERTIFICATE OF RESIDENCE FOR ELECTORAL PURPOSE

I, _____ currently having a residence in the e

Commune/Sangkat of _____

at the following address _____

request that the Commune/Sangkat Authority delivers a certificate confirming that I have a residence in this Commune/Sangkat for electoral purpose.

SIGNATURE(thumbprint) OF THE APPLICANT

DATE: _____

**IN MY CAPACITY OF CHIEF, FIRST DEPUTY OR SECOND DEPUTY OF THE
COMMUNE/SANGKAT OF**

I HEREBY CERTIFY THAT

HAS A RESIDENCE IN THIS COMMUNE.

MADE ON __ DAY _____ MONTH _____ YEAR 200

**COMMUNE
SIGNATURE FOR THE COMMUNE AUTHORITY**

SEAL OF THE

ANNEX 5

DUTIES OF THE MEMBER(S) OF THE COMMUNE COUNCIL WHO MONITORS THE COMMUNE CLERK:

The Commune Council must assign at least one of its members to **monitor** ^{x₁} the work of the Commune Clerk.

If the Commune Council is composed of 7 members or more, it must assign two of its members to monitor the Commune Clerk.

The Commune Council member(s) assigned to monitor the work of the Commune Clerk should not intervene in the work of the Commune Clerk ^{x₂}.

However, if the accompanying member(s) of the Commune Council is convinced that the Commune Clerk is not following the procedure set out by the NEC for the registration of voters, **he can inform the Commune Clerk of which aspect of the procedure is not properly followed.** ^{x₃}

The Commune Clerk is the sole person in charge of the registration process. He/she is the only person entitled to make a decision on the sufficient criteria for an applicant to register to vote based on the document(s) presented to him. He is the only person who decides to accept or reject an application to register ^{x₄}.

When the Commune Clerk decides to reject an application, he **should** ^{x₅} get the opinion of the member(s) of the Commune Council who **monitors** ^{x₆} his work. **Nevertheless, the Clerk is not bound by the opinion of the accompanying member of the Commune Council.** ^{x₇}

In case of disagreement on any aspect of the registration process between the accompanying member of the Commune Council and the Commune Clerk, the **decision of the Clerk must prevail.** ^{x₈}

^{x₁} As in the Khmer version the English version should also read "supervise" instead of "monitor".

^{x₂} Comment: The phrase in fat-print should be abolished.

Reason: The Commune Council should - of course- intervene because it is the Commune Council which is the democratically elected representative body of the people whereas the Commune Clerk is selected and appointed by the executive branch i.e. the Ministry of Interior

^{x₃} The phrase in fat-print should be abolished. Reason: see footnote x2.

Proposal: Add the following sentence "If he does not correct the procedure, these members must report to the Commune Council".

^{x₄} Comment: The phrase in fat-print should be abolished. Reason: see footnote x2.

^{x₅} There is a wrong translation from Khmer into English; it should read "must" instead of "should".

^{x₆} There is a wrong translation from Khmer into English; it should read "supervises" instead of "monitors".

^{x₇} The phrase in fat-print should be abolished. Reason: see footnote x2.

^{x₈} The phrase in fat-print should be abolished. Reason: see footnote x2

Proposal: Add the following sentence " The Commune Council must decide after carrying out a public hearing (following the same rules like stated in Part 5 Section I p.18):"

The **Chief of the Commune** ^{x1} or his Deputy **must accompany** ^{x2} the Clerk who undertakes mobile registration in a number of villages and hospitals of the Commune.

When required, the **Chief of the Commune** ^{x3} or his Deputy should issue a certificate of the residence, identity and/or age of the applicant in accordance with the Law and the regulations and procedures of the NEC.

During the registration period at the Commune office, the **Chief of the Commune** ^{x4} of his deputy should be present at his/her working place to provide the certificate of residence or certify the statement of identity/age of the applicants who require it.

The Commune Council member(s) assigned to **monitor** ^{x5} the work of the Commune Clerk should report to the Commune Council about the progress of all phases of the revision of the permanent register of voters. If, in the opinion of the members, there are irregularities committed by the Clerk or any significant problem relating to the operations of the revision of the permanent register, the monitoring members should immediately report to the Commune/Sangkat Council and the NEC ^{x6}.

^{x1} Proposal: To emphasize that after the Commune Election in February 2002 the institution of the Commune Chief was abolished we propose to replace "Commune Chief" by "Chief of the Commune Council".

^{x2} Comment: It seems to be sufficient if the Commune Chief is available to accompany the Clerk on request. Therefore this section could read: "The Chief of the Commune Council or his/her Deputy must be available on request to accompany the Clerk when it is necessary to issue certificates of identity or age in remote villages.

^{x3} Proposal: To emphasize that after the Commune Election in February 2002 the institution of the Commune Chief was abolished we propose to replace "Commune Chief" by "Chief of the Commune Council".

^{x4} Proposal: To emphasize that after the Commune Election in February 2002 the institution of the Commune Chief was abolished we propose to replace "Commune Chief" by "Chief of the Commune Council".

^{x5} There is a wrong translation from Khmer into English; it should read "supervise" instead of "monitor".

^{x6} Proposal: The following sentence should be added: "The NEC must decide within one month after receiving the report but not later than 90 days prior to the election. If it does not decide after one month the voter has to be registered."

ANNEX 7

DECISION (form 1203) to be revised (4 copies)

one copy for the Commune's files

one copy to the NEC via the secretariat of the PEC

one copy of the form to the appellant or objector or his/her representative

one copy to the person who is the defendant of the objection .

